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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, March 31, 1988*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Instruct us, O God, to walk the way of truth and not to follow the way of falsehood, to choose the harder right instead of the easier wrong. May the depth of our faith and the seriousness of our beliefs cause us to make these choices that benefit people, that assist people, that bring people together in appreciation and respect. Help us, O God, to make those choices that express faithfulness to You and are beneficial to one another. This we pray. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1900) "An act to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts."

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 2616) "An act to amend title 38, United States Code, to improve healthcare programs of the Veterans' Administration," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CRANSTON, Mr. DECONCINI, Mr. MATSUNAGA, Mr. MURKOWSKI, and Mr. SIMPSON to be the conferees on the part of the Senate.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUPPORT FOR INCREASED COAST GUARD FUNDING TO ASSIST DRUG INTERDICTION

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I rise today in support of President Reagan's request for a $60 million reprogramming to assist the Coast Guard.

As a member of the Subcommittee on Coast Guard and Navigation, I have heard testimony by the Coast Guard regarding the $103 million shortfall in their fiscal year 1988 budget.

We heard of the need to close bases, to defer maintenance, curb training, and restrict spare parts purchases.

However, the most distressing action taken in response to this funding shortage was the need to cut drug interdiction patrols by 55 percent. This is certainly the wrong signal to send to drug smugglers that the United States is sounding retreat in its fight against illegal drugs.

At a time when the war against drug smuggling should be intensified, we should not have our Coast Guard tied up at the dock.

Fortunately, this body can take action to restore these needed drug interdiction patrols by agreeing to the President's reprogramming request. The drug smugglers must not gain an advantage over our Coast Guard through a funding shortfall.

I urge the leadership of this House to expedite the President's reprogramming request so that the war on drugs can be fought by our Coast Guard.

UNITED STATES SHOULD CONTINUE PRESSURING NORIEGA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the desperation of General Noriega to hold on to power in Panama is evident from the latest reports from Panama City.

Noriega's use of the defense forces to raid a major hotel, round up opposition leaders, rough up international journalists and crush a protest demonstration shows he is obviously prepared to go to any lengths to maintain his control on Panama.

It is clear that Noriega has no intention of putting his nation's interests before his own.

For the interests of both Panama and the United States, we must be prepared not only to continue pressuring Noriega to leave Panama but also to act to protect American citizens and American property in Panama.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses today subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROWLAND of Connecticut. Reserving the right to object, Mr. Speaker, I inquire of the majority leader: Is it the intention to recess and come back only if it is for the Contra aid request? Is that the only business that will be taken up, if something happens in the Senate?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. ROWLAND of Connecticut. I yield to the majority leader, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, it would be necessary for us to come back in any event to adjourn, but basically that is the purpose of the recess, to have the House in session while the other body is considering the legislation we adopted yesterday.

Mr. ROWLAND of Connecticut. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON APRIL 28, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, April 28, 1988, for the Speaker to declare a recess for the purpose of a ceremony honoring Mrs. Lyndon B. Johnson.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON THURSDAY, APRIL 28, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, April 27, 1988, it adjourn to meet at 10 a.m. on Thursday, April 28, 1988.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 13, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 13, 1988.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, April 11, 1988, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

ATTORNEY GENERAL EDWIN MEESE SHOULD STEP DOWN

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the time has come to return a sense of trust and confidence to the Office of the Attorney General, and to the Department of Justice. Allegations of misconduct have demoralized the Department. Grand jury investigations continue to point to the highest levels.

Recently, we have seen an exodus of Justice Department officials who no longer feel comfortable associating themselves with the Attorney General's office. The dark cloud of suspicion has tarnished the Department of Justice.

For the good of the Department, for the good of the country, I urge Attorney General Edwin Meese to do us all a favor and step down.

WHY I WOULD HAVE VOTED FOR THE CONTRA AID PACKAGE OF YESTERDAY

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, 2 months ago I would not have considered voting for the package that passed this House yesterday, not because it was too much aid for the freedom fighters of Nicaragua, but because it was too little.

But circumstances have changed primarily because the majority of this body refused to provide the wherewithal for the Contras to continue what was emerging as a successful struggle for freedom in their homeland.

The Contras were in desperate straits following our refusal to help them further and they had no choice but to concede to the demands of the Sandinistas and make the best deal for peace.

That is what we did yesterday; we made the best deal we could under the circumstances and voted for a package of humanitarian aid for the people we had abandoned just last month.

It is too little, too late, but it is all we could do. That is why, Mr. Speaker, had I not been unintentionally detained off the Hill at the time of the vote I would have cast my vote for the Contras and for the package that was before the House.

STUDENT LOAN INTEREST

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHUHZE. Mr. Speaker, one of the most egregious errors made in the 1986 Tax Reform Act was the classification of student loan interest as nontax deductible consumer interest. In addition, home equity loans allow higher income taxpayers to deduct student loan interest, while renters and lower income citizens may not.

H.R. 592, legislation I have introduced to correct this mistake, now has over 180 cosponsors. Suggestions from my colleagues to pay for reinstating educational loan interest include increasing sin taxes. In fact, the cost for reinstating loan deductibility could be offset by one-half cent per shot-glass increase in liquor taxes, a 1-cent per pack increase in tobacco taxes, or raising wine taxes to equal those on beer.

Mr. Speaker, deducting student loan interest is an investment in our Nation's future and sound tax policy.

WE MUST INSIST ON THE DEMOCRATIZATION OF NICARAGUA

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I am pleased that yesterday the House was able to pass a limited, minimal package of assistance to aid the freedom fighters in Nicaragua. While the House has decided to disarm the Contras, it has at least not agreed to let them starve.

Now the freedom fighters are negotiating the terms of their surrender—negotiations forced upon them by the U.S. Congress. So it becomes the responsibility of Congress to back up the Contras as they struggle to secure a place in the political life of their homeland.

Congress must not allow the Sandinistas to bludgeon the Contras into submission. We must insist that the Soviet Union cease their lethal assistance to the Sandinistas—$100 million worth of military aid since January, and a total of $2 billion worth of cannon, tanks, helicopter gunships and other offensive armament over the last few years.

If we continue to allow the Soviets to arm the Sandinistas, we can fully expect the increased destabilization of Central America. Fledgling democracies will be under siege, as illustrated by recent statements from the Salvadoran rebels that they will push for a full scale insurrection, including the killing of Americans.

Our worst fears are coming to pass. If we don't insist on the democratization of Nicaragua, the tide of Communist oppression will accelerate its spread over our neighbors to the south.

THE FIRE SERVICES CAUCUS

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, this past Sunday I had the high honor of addressing, in the keynote address, 6,000 members of the leadership of the fire service of this Nation in Cincinnati. I received an overwhelming response from these fire service leaders on the recent formation of the Fire Services Caucus which I chair here on Capitol Hill along with my colleagues DOUG WALGREN and SHERWOOD BOEHLERT.

To date, since January, 84 Members of Congress, including 11 from the other body have joined this caucus to speak out to the needs and concerns of the fire service of America.

On April 19 of this year we will host a reception in the Cannon Building from 6 to 8 where leadership from the fire service throughout America will be here to recognize those Members who have joined the caucus and who are willing to put their names on the line for the needs of the fire service in America.

I am very happy to report that both the Speaker and the minority leader have agreed to join us on that evening. I would encourage my other colleagues in the House and in the other body to join us in this caucus before the reception to be held on the 19th to speak out for the needs of the fire service in this country.

A TRIBUTE TO THE JAYHAWKS OF THE UNIVERSITY OF KANSAS AND THE WILDCATS OF KANSAS STATE UNIVERSITY

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, as a Representative of the great State of Kansas, I am very proud of the strong basketball tradition in the Sunflower State. It is fitting that in this 50th year of the NCAA basketball tournament, the finals will be held in Kansas City.

I want the Nation to take note of the Jayhawks of the University of Kansas and the Wildcats of Kansas State University. Both teams are a part of the Big Eight Conference, which sent five teams to the NCAA tournament this year. These two teams have given me the distinct honor of representing the only congressional district in the Nation that had two universities advance to the "Great Eight" in the NCAA tournament.

My hat is off to Coach Larry Brown of the Jayhawks, Coach Lon Kruger of the Wildcats, and the young men on both teams who have shown the entire Nation that Kansas is truly the home of great basketball.

I am confident the Jayhawks will carry this great tradition into the championship game and will bring home the gold. I salute Kansas basketball, and to the Hawks I say: "Rockchalk, Jayhawk, go KU."

LEGISLATION TO RESTORE CEILING ON URBAN MASS TRANSPORTATION ADMINISTRATION OPERATING EXPENSES TO LEVELS AUTHORIZED IN PUBLIC LAW 100-17

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, today I am introducing legislation designed to correct the disastrous situation that has resulted from an uneven reduction in operating assistance available from the Urban Mass Transportation Administration [UMTA].

H.R. 2, the Surface Transportation Act of 1987—Public Law 100-17—provided a statutory ceiling of $912 million on the amount of transit funding that can be expended on operating expenses. This limitation was established by a clearly verified need for assistance in small, midsize and large urban areas.

However, the continuing Appropriations Act for Fiscal Year 1988 placed a cap of $804 million on operating subsidies. This limitation represented a reduction of $108 million. To make matters worse, this reduction is not being applied evenly. Instead, an increase for small urban areas mandated by the authorizing statute was first implemented and then across-the-board reductions in operating assistance were made. This sequence of events has resulted in an 8.5-percent reduction for large urban areas and a devastating cut of 11.8 percent for midsize urban areas while small urban areas continue to enjoy an increase of 4 percent. These reductions have been greeted throughout the Nation with proposals for excessive fare hikes and intolerable reductions in service.

The bill I introduce today would relieve this situation in the most equitable manner possible; it would restore the ceiling for operating subsidies to the level specified in the transit reauthorization section of last year's omnibus surface transportation reauthorization. Such action would not require the appropriation of any new funds and would not create new budget authority. However, it would allow transit systems access to operating assistance necessary for the continuation of computer services across the Nation.

Mr. Speaker, our Nation's highways are congested and deteriorating. The National Council on Public Works Improvement recently reported that our infrastructure is "barely adequate to fulfill current requirements and insufficient to meet the demand of future economic growth and development." I strongly believe that part of the solution to this national dilemma is to get people off the highways and onto public transit. The Federal Government must encourage this process. Trains and buses are efficient and convenient. Perhaps most significantly, public transit provides tremendous economic benefit, especially to areas beset by economic transition. For example, in northwest Indiana, riders of the South Shore Computer Railroad employed in Chicago brought $91 million in wages and salaries back into our area in 1987.

However, public transit cannot plan effectively and operate efficiently without a reliable source of funding. My goal in introducing this legislation today is to restore the reliability of operating assistance so that our transit systems might continue to function effectively.

Mr. Speaker, in March of last year, this body voted resoundingly to override the President's veto of H.R. 2, the Surface Transportation Act. The enactment of that historic legislation reaffirmed our national commitment to public transit. Today, I ask this body to again reaffirm that commitment. I urge my colleagues to join with me in cosponsoring legislation to restore the ceiling on transit operating assistance to the level established last year.

□ 1115

ARMY PLAN FOR BIOLOGICAL WARFARE LAB

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, when I sought election to the Congress in 1980, I endorsed the need for a stronger national defense because of my belief that our defense capabilities had so deteriorated that we could not have effectively deterred aggression and defend our vital national interests.

I believe Congress has a particular obligation to review, with the greatest care, each and every proposal put forward by our Defense Department. For several years, this body debated the folly of new chemical weapons production and the critical need to reach an international agreement to ban the use of these terrible weapons forever. The events in Iraq earlier this week again support the urgency of this requirement.

But then this morning, I read in the Washington Post that the U.S. Army has been planning to construct a new supersecret laboratory for the development of a new round of biological warfare weapons. This is an outrage. It would seem that the Army is taking a significant step forward in a major policy change without considering the Biological Weapons Convention signed in 1972 which outlaws the development, production, and possession of germ and toxic weapons. And, is the Army concerned about the major foreign policy implications this effort would have on our adversaries?

Where is the rational decisionmaking process in the Pentagon?

I would urge the Armed Services and Foreign Affairs Committees look into this matter before this Nation takes another unnecessary, inhumane, and historic leap into a new, and ill-advised, policy direction.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TODAY DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule today, Thursday, March 31, 1988.

The purpose of the permission is to mark up the following:

H.R. 4222, to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program; and

H.R. 4243, Genocide Convention Implementation Act of 1988.

The minority has been consulted.

The **SPEAKER.** Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THE 20TH ANNIVERSARY OF ASSASSINATION OF DR. MARTIN LUTHER KING, JR.

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, next Monday, April 4 marks the 20th anniversary of the assassination of Dr. Martin Luther King, Jr.

I was in the city of Memphis that day and I vividhy recall the shock, the grief, and the pessimism which the residents of Memphis and the citizens of our Nation felt when they heard the news of Dr. King's murder. Dr. King's dream, which had become our own, seemed even more unattainable.

In the 20 years since that event, our citizens have worked hard to realize many of Dr. King's goals. And we have, in fact, made substantial progress. We all enjoy greater civil rights since 1968. But we also realize that a great amount of work lies before us, particularly for the economic equality of all of our citizens.

Next week, Mr. Speaker, as Members of this body meet and talk with their constituents, I hope we will pause to observe the anniversary of Dr. King's death. And, as we do, I hope we will ask ourselves what we all can do to move Dr. King's goals closer to realization.

TRIBUTE TO GEORGE KERBY JENNINGS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, having heard the complimentary remarks of my friend and colleague, the gentleman from Kansas [Mr. SLATTERY], regarding the accomplishments of the University of Kansas and Kansas State University in the 1988 NCAA Basketball Tournament, I'm tempted at this time to speak about the basketball achievements of Murray State University, University of Kentucky, and University of Louisville in the NCAA tournament.

However, my purpose in speaking now on the House floor is to pay tribute to a longtime friend of mine, George Kerby Jennings, who died January 26 at age 84 at his home in Murray, KY.

Kerby Jennings published the Murray Democrat newspaper with a fearless style of journalism—winning majy honors—for more than 35 years. He also published a history of Calloway County, KY, in 1980.

Kerby Jennings served with distinction as an outstanding State representative in the Kentucky General Assembly from 1946-50.

The only political campaign Kerby Jennings lost was a contest for the U.S. House of Representatives in the early 1940's against then-Congressman Noble J. Gregory, of western Kentucky.

From 1956 to 1960, he was a member of Calloway County Board of Education. During this time, he never accepted any compensation for his services, turning the money back to be used for purchasing school lunches for needy students. He also was instrumental in getting the parking lots paved at many of the county schools.

In recognition of his efforts to establish park sites along the Calloway and Marshall County shores of Kentucky Lake during this time, a lengthy trail alongside the lake is named in his honor, the Kerby Jennings Trail.

In this effort, he went to Knoxville, TN, and secured from the Tennessee Valley Authority an allotment for 18 easement locations.

Among the park areas and boat launching sites established along this trail were the Happy Chandler Park, the Harry Lee Waterfield Park on Jonathan Creek, at Cypress Creek and Pine Bluff.

Survivors are his wife, Mrs. Dorothy Jennings; three daughters, Mrs. Doris Frazer, Chattanooga, TN, Mrs. Jane Gresham, Taylor, MI, and Mrs. Edna Kerby Merrell, Murray; two sons, O.J. Jennings III, Shelbyville, KY, and Edwin Hagen Jennings, Murray.

His 13 grandchildren are Dorisanne Conners, Gene Dale, (Chip) Steely Jr., Caroline Kerby Starks, James Hagen Jennings, John Kerby Jennings, Shawnee Gay Hill, Renee Grace, Cory LeeAnn Jennings, Dorothy Ann Merrell, Shellie Perusse, Monica Nichols, Mike Gresham, and Mark Gresham.

Also surviving are 13 great-grandchildren and 1 brother, Charles Jennings, Imperial, CA.

One daughter, Dorothy Caroline Jennings, died in 1942.

My wife Carol and I extend to our friend Dorothy Jennings and the other members of the Kerby Jennings family our sympathy and best wishes.

PROPOSED LEGISLATION WOULD REQUIRE EVALUATION OF WATER RESOURCES PROJECTS

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, today I will introduce legislation requiring the Army Corps of Engineers to consider the impact of any water resource project on recreational and commercial development.

Recreation is of paramount importance to the entire Great Lakes region, as well as other sections of our Nation. While its primary mission must always be to improve the navigation of waterways, the corps should not be allowed to continue to ignore the recreational and commercial uses of many water resource projects. My bill does not require the Corps of Engineers to build recreational projects, but merely to more closely examine the effects of construction and repair projects on existing recreational and commercial activity.

A recent Corps of Engineer's project to strengthen a breakwater in a harbor in Holland, MI clearly illustrates what can happen if this consideration is neglected. While the corps evaluated the impact of this project on water quality, aquatic life, historical values, and endangered species; it failed to consider the effect of the project on recreational and commercial fishing along the Holland piers.

This oversight had a long-term detrimental impact on the local economy. According to local merchants, sportsmen, and even the Michigan Department of Natural Resources, it resulted in decreased revenues of $300,000 annually to the area.

My bill—at no appreciable cost to the taxpayer—will ensure that the corps will carefully consider the effects of recreation on future corps projects. Our experience in Holland provides an excellent example of what can go wrong if this important consideration is ignored. I urge my colleagues to support this bill to ensure that this unfortunate situation will not occur again.

CALLING FOR THE RESIGNATION OF ED MEESE

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, 30 years ago the President's close friend and Chief of Staff, Sherman Adams, accepted a vicuna coat from a friend looking for some favors from the Federal Government.

President Eisenhower responded to the ensuing debate like a President should respond. He put the public interest before personal concerns. He asked Sherman Adams to resign.

Now it's time for Attorney General Meese under the cloud of far more serious allegations to resign. We now know from his own deputies that his personal difficulties are coming into conflict with his public duties.

As one Justice Department official said after yesterday's resignations: "The proud traditions of the Justice Department [are] being dragged down by this. We [are] becoming a laughingstock."

Enough is enough, Mr. President. For the sake of the Justice Department, for the sake of the country, act like a President: demand that Ed Meese resign.

COOPERATION OF AMERICAN COMPANIES SOUGHT TO FORCE NORIEGA OUT

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KOSTMAYER. Mr. Speaker, the Central American tyrant and drug merchant Manuel Noriega clings to power in Panama, in spite of economic sanctions by our Government, and in spite of a general strike which has brought the economy of Panama to a near standstill, but appears now to be weakening.

In Panama last week, Mr. Speaker, I saw that our sanctions were working, that Noriega's government was being hurt, and that the Panamanian people supported the steps we are taking.

But Noriega is in firm control of the military, is digging in, and is in no hurry to leave.

Now we find, Mr. Speaker, that a source of much-needed cash to the Noriega regime is coming from American companies in the form of excise tax payments which they provide to the government in the normal course of doing business.

Yesterday, Congressman ACKERMAN and I met in my office with officials of one such company, Texaco. Texaco transferred some $300,000 in cash just last week to the Noriega government to cover petroleum excise taxes collected at Texaco's large refinery in Panama, the only refinery in the country.

It is time our Government, Mr. Speaker, demands the full cooperation of American companies and their subsidiaries doing business in Panama.

Eastern Airlines, United Brands, Texaco, and others have provided Noriega with some $3 million in cash in recent days, cash which that corrupt despot needs to pay his troops.

The legal head of Government in Panama, President Delvalle, has asked United States companies to suspend these payments and put them into escrow pending restoration of consitutional authority.

Let us act at the request of President Delvalle and in concert with our Latin American neighbors.

This is no time for business as usual in Panama, and United States businesses must honor the wishes of those in the region. The people of Panama look to us for leadership, and the administration and American business in Panama should do what is right, and what is moral, and terminate this indirect support to the Noriega regime.

THE STATE GRAIN FUND PROTECTION ACT OF 1988

(Mr. BRUCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRUCE. Mr. Speaker, today I am introducing legislation which will correct a situation which has made farmers vulnerable to severe financial losses resulting from the failure of a grain elevator.

For various reasons, grain elevators occasionally fail. When they do, farmers are often last in line to recover their losses. As an Illinois State senator, I sponsored a bill which established the Illinois Grain Insurance Fund. As insurance costs skyrocketed during the 1970's, this proved to be safest approach for both grain dealers and farmers. Other States have taken similar action. Now, however, the integrity of such funds is in jeopardy due to a recent court decision.

A U.S. district court ruled that elevators that are federally licensed do not have to participate in State insurance funds. Now, in many situations federally licensed elevators have opted to participate in State grain funds voluntarily—but some have not. In these situations, farmers would only be protected by inadequate Federal law.

The legislation that I am introducing will amend the U.S. Warehouse Act to allow States to require that all elevators particpate in State grain funds whether they are licensed by the Federal Government or the State government.

The State Grain Fund Protection Act of 1988 is an opportunity to demonstrate common sense and fairness to State grain funds, elevator operators, rural communities and most importantly, our farmers.

DELAY ASKED FOR IMPLEMENTATION OF COLLECTION OF EXCISE TAX ON DIESEL FUEL

(Mr. JONTZ asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr JONTZ. Mr. Speaker, tomorrow is April 1, the day on which the game is to try to fool someone else. But for America's farmers it is more than just getting fooled for 1 day; it is more like getting fooled for a year, because as of tomorrow the IRS begins collecting 15 cents of excise tax on each gallon of diesel fuel that is purchased by farmers and other off-road diesel fuel users.

The economy may be getting better down on the farm, but I do not think anyone can claim that farmers are doing well enough to be making interest-free loans to the Federal Government, which is what this collection amounts to.

Fortunately, there is overwhelming support in both the House and the Senate to correct this problem, including the support of the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of our Committee on Ways and Means. However, it is obvious that we do not have enough time to pass corrective legislation prior to the April 1 deadline. For that reason, my hope is that Treasury Secretary Baker will delay the implementation of this tax provision until Congress has time to act.

I am confident we can solve this problem, as over 200 Members of the House are cosponsoring one of several bills to exempt farmers from the collection of this tax. However, we need time, and I hope that the Treasury Department will give us the time we need for delaying the implementation of this tax and, in doing so, give farmers on April Fools' Day present that is no joke.

QUALIFICATIONS FOR THE PRESIDENCY

(Mr. DELLUMS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, as we proceed through this process of attempting to select a President of the United States, there is a great deal of discussion as to who has or does not have experience to be the President. I would submit that the Office of the Presidency of the United States is extraordinarily unique and incredibly powerful.

□ 1130

I would further assert that there is no avenue that one can journey that fully qualifies one to be the President of the United States or gives them the necessary experience to be fully capable of being the President of the United States without developing on-the-job training as all of us develop in any job we proceed through.

The U.S. Senate is not a training ground for the Presidency. The House of Representatives is not a training ground for the Presidency, nor is the governorship, nor is the legislature, nor is the mayor's office or city council; so whatever journey one travels to become the President of the United States, there are tremendous gaps in one's experience.

It is my hope that the American people will focus on this reality and determine the efficacy of a candidate based upon the accuracy of their analysis, the depth of their compassion, the length of their prospective, the nature of their character, the nature of their integrity, the nature of their values and the feasibility of their courage and integrity.

In that regard, Mr. Speaker, the American people will come to decide who the President shall be, not based upon some absurd notion that any one of us are fully qualified to be President. The nature of that office is too powerful, too awesome and too unique to be otherwise.

PRESIDENTIAL PRIMARY CAMPAIGN—ABSOLUTELY AWFUL

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the Presidential primary campaign has been absolutely awful. The American people think so, too. As I have been making speeches over the past 4 or 5 weeks and have made a point of saying so, each time I get a large wave of applause.

Why? Because the candidates—almost all of them—have failed to speak to the issues that face our country, have failed to lay out their agendas and visions for the future and the media has failed to force them to do so.

Because all that plays on our television sets and screams from the front pages of our newspapers is the trivia, the garbage of these campaigns, who's called who a name, who's running negative ads about what other candidate, who has a mole in the other guy's campaign, who lied about his record, who has raised more money, what do the polls say the results will be.

Isn't it time the American media stop demeaning the intelligence of the American electorate and treat us to the candidates positions and what they propose to do to address our serious problems?

Isn't it time we stop being treated to the results of the latest polls—which often discourage people from participating in the actual election and going to the actual poll on election day—and hear instead the visions for our country and the world of those who seek to lead us?

Mr. Speaker, let's tell the candidates and the media that this is too important a process to be left with so little information and so much trivia.

PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

The SPEAKER. Pursuant to House Resolution 415 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3932.

□ 1133

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3932) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President, with Mr. SLATTERY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, H.R. 3932 authorizes appropriations under the Presidential Transition Act of 1963 to fund the transition activities of the incoming and outgoing Presidents after the 1988 Presidential election, and for subsequent transitions. It increases the authorization for the incoming President from $2 to $3.5 million; the authorization for the outgoing President and Vice President would remain at $1 million.

H.R. 3932 also requires disclosure of the source of any private funding used for transition purposes and requires that the President-elect and Vice President-elect make available information that would be needed to audit both private and public funds used in the transition. It also requires the disclosure of a limited amount of information about individuals who are given the power to contact Federal agencies on behalf of the incoming administration.

Several other relatively minor amendments to the 1963 Transition Act are made by H.R. 3932. These include provisions authorizing the use of Government aircraft by the transition on a reimbursable basis and allowing payment of relocation expenses to transition personnel who receive appointments with the new administration.

Mr. Chairman, the national interest clearly is served by a smooth and orderly transition from one Chief Executive to another. Continuity in the office of the President is vital to us as a nation. This means that the new occupant of that office must be ready to begin business the day his term of office begins. Similarly, we owe it to the institution of the Presidency to assist the outgoing Chief Executive in closing out his term of office efficiently. The Presidential Transition Act of 1963, and the amendments to the Transition Act that are made by H.R. 3932, fulfill those purposes by providing support to the incoming and outgoing President and Vice President.

The increase in the authorization for transition expenses for the President-elect and Vice President-elect, from $2 to $3.5 million, reflects the inflation in the costs of transition goods and services that has occurred since the authorization was last raised 12 years ago. In one real-world example of the effects of inflation on transition costs, we heard testimony that office space here in Washington that GSA rented for the Reagan transition team for $8.75 per square foot in 1980 would cost $27 per square foot in today's market. Mr. Chairman, as I mentioned earlier, H.R. 3932 contains several provisions requiring disclosure of a limited amount of information about transition funding and about the people who are authorized by the new President to go into the agencies and undertake inquiries about their operations on his behalf.

It is important that transition activities be undertaken in a manner that upholds the public's confidence in the integrity of the process.

At the same time, we recognize that the transition is a unique occurrence with a narrow purpose and an extremely limited timeframe. We do not want to burden down the transition with heavy bureaucratic disclosure and reporting requirements. H.R. 3932 strikes a balance between these two interests.

Mr. Chairman, a smooth Presidential transition is in the national interest. I hope H.R. 3932 will be approved swiftly.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, a smooth and efficient Presidential transition is important to all of us. Adequate resources are certainly a necessity. We determined some 25 years ago that in order to promote the orderly transfer of Executive power when a Presidential administration changes, public funds should be made available.

As written in the statute:

> The national interests require that such transitions in the office of President be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs of the Federal Government, both domestic and foreign. Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people. Accordingly, it is the intent of the Congress that appropriate actions be authorized and taken to avoid or minimize any disruption.

That is the statute.

The amount of $900,000 authorized in 1963, which was 26 years ago, was intended to cover the transition expenses of both incoming and outgoing administrations. Recognizing that the authorization was no longer adequate, we increased the amount in 1976 to provide $2 million for the President-elect and Vice President-elect as well as $1 million for the outgoing President and Vice President.

Now, 12 years later, it is time again to adjust the authorization. We heard expert testimony recently from the General Accounting Office, the General Services Administration, and the Office of Management and Budget, citing the need for an increase. We know we are going to have a new administration next January, and we must ensure that adequate resources are available for the transition.

H.R. 3932, which I was pleased to cosponsor with Chairman BROOKS, proposes a reasonable increase to cover the legitimate and necessary expenses of the Presidential transition. This measure authorizes appropriations of $3.5 million for providing transition services to the incoming administration, which is an increase from the current authorization of $2 million; while making no change in the current authorization of $1 million for the outgoing President.

On this point, Mr. Chairman, I must say that I question whether the $1 million authorization will be adequate for the outgoing administration. As I have stated, H.R. 3932 provides an increase for the incoming administration from $2 to $3.5 million. In addition, the bill also provides that the authorizations for both the incoming and outgoing administrations may be adjusted for inflation in future years. These adjustments, however, do not apply to the next transition. I do not disagree with the merits of these provisions—I support them. I would only point out that we are addressing every contingency except the adequacy of transition funds for the current administration. I am very hopeful that our colleagues in the other body, during their consideration of this measure, will include an increase for the outgoing administration.

In the case of Mr. Carter, he moved to Plains, GA, and that is quite different from Los Angeles.

It also should be pointed out that in the transition from the Carter administration there were Federal buildings available, and so that expense was not nearly what it will be transporting material of the current administration to Los Angeles and hiring areas to store the outgoing administration's documents, and so forth. So I feel that that amount is inadequate, and I hope the other body can correct that situation.

In H.R. 3932, we have also included requirements for disclosure of private transition contributions as well as transition personnel. In this connection, Mr. Chairman, I believe it is important to point out that any process that would require very detailed and intrusive invasions into personal and family finances would unquestionably inhibit the participation of many talented potential transition personnel.

Also, I do not want to see any additional paperwork, because having served as the chairman of the Paperwork Commission, I am very concerned that we eliminate as much paperwork as we possibly can.

We have made every effort in this bill to protect volunteer participants' right to privacy while also preserving the public's right to know the individuals who are involved in the transition process.

Mr. Chairman, I support H.R. 3932 as reported from the Committee on Government Operations. It is a good bill, and I urge my colleagues' support.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time.

At the appropriate time I am going to be offering an amendment to the bill that deals with the problem of transition slush funds. I will talk about the amendment in detail at that point; but I want to put it in the context of the overall bill at this particular time.

As has been mentioned by the chairman in his very good overview of the bill, this bill and this act was enacted to promote the orderly transfer of Executive power in connection with the expiration of the term of the office of the President and the inauguration of the new President.

Furthermore, according to the committee report, what this bill does is it assures the faithful execution of the laws and the conduct of the affairs of the Federal Government, both domestic and foreign. That is the purpose behind what we are doing here today. We are reauthorizing that.

I have to tell you that that is a purpose with which this gentleman agrees.

Furthermore, what this bill says is that in order to do that, what we ought to do is use public funds, that we ought not to be in a position of having administrations come into office and be doing essentially public duties, but doing it with nonpublic funds.

□ 1145

So the idea behind this authorization was that we would supply sufficient public funds in order to do the job.

The gentleman from New York raises the question whether $3.5 million included in this bill is sufficient public funds to do the job. I will tell the gentleman that in subcommittee and in full committee we came to the conclusion that that is sufficient money. The testimony was clear, and the testimony was that $3.5 million is enough money to accomplish this transition.

The next question then comes in, what about additional moneys that have traditionally gone into these campaigns?

Yes, traditionally what they have done is gone out and gotten private money into these campaigns. There is some real concern about those private funds. Why do I know there is real concern on the part of the committee about those private funds? One of the major sections we are adding to the bill is a new disclosure section about those private funds, in other words we have reason to believe that those private funds may not always be exactly clean. So it raises some real questions about that private contribution stream that flows into these transition processes.

Here is my point: if in fact the private money may not be the best thing for us to do and if the $3.5 million of public money is sufficient, why have the public money at all? The chairman was absolutely correct a few moments ago when he said that what we want to have as a part of this whole thing is a smooth transition without any redtape. I will tell my colleagues that we can eliminate a lot of the redtape if we eliminate private funding. That was we need no disclosure, no disclosure requirement, no redtape is required because public moneys will pay the bill, and we will not have all of the potentially dirty money flowing in.

It strikes me as somewhat ludicrous that we have decided as a country that we will publicly fund Presidential campaigns in order to keep the special interests away from the Presidential campaign, and then after the campaign is over and the guy gets elected, then we are going to allow the special-interest money to flow in to help him get inaugurated. That just makes no sense.

If my colleagues buy the idea that we are separating the President from special-interest power in the campaign, why should we not separate him from special-interest power in the transition?

My colleagues will hear later that the administration opposes my amendment. Let me tell my colleagues this: the administration is also up here with information on the Republican side that they oppose public disclosure, too. In other words, the administration is not for doing anything about this private money that is flowing in, so it is true they are probably opposed to my amendment, but they are also opposed to the public disclosure section in this bill.

I would suggest that they cannot be opposed to both and be responsibly addressing this concern. I would suggest to the House that we take a close look at my amendment because it seems to me that it does what we want to accomplish. It assures that we have a transition, it assures that it is done with public money, and it assures that potentially dirty private money does not get into the hands of the people who are trying to accomplish the transition. I will talk more about the specifics of my amendment in a few minutes.

Mr. HORTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment, and each section is considered as having been read.

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Presidential Transitions Effectiveness Act".

SEC. 2. PRESIDENTIAL TRANSITION AUTHORIZATIONS.

(a) AMENDMENTS.—Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102, note) is amended—

(1) by redesignating such section as section 6;

(2) by inserting before such section the following heading:

"AUTHORIZATION OF APPROPRIATIONS";

(3) by inserting "(a)" after the section designation;

(4) in paragraph (1), by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000"; and

(5) by adding at the end thereof the following new subsection:

"(b) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, which shall be included in the budget transmitted to the Congress under the provisions of section 1105 of title 31, United States Code, by the President for each fiscal year preceding the fiscal year in which the term of office of such President shall expire.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective upon enactment, except that the amendment made by paragraph (5) of such subsection shall take effect on October 1, 1989.

SEC. 3. PRESIDENTIAL TRANSITION FINANCING AND PERSONNEL.

The Presidential Transition Act of 1963 (3 U.S.C. 102, note) is further amended by inserting after section 4 the following new section:

"DISCLOSURES OF FINANCING AND PERSONNEL

"SEC. 5. (a)(1) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all money, other than funds from the Federal Government, and including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand, received either before or after the date of the general elections for use in the preparation of the President-elect or Vice-President-elect for the assumption of official duties as President or Vice President.

"(2) The President-elect and Vice-President-elect (as a condition for receiving such services and funds) shall make available to the Administrator and the Comptroller General all information concerning such contributions as the Administrator or Comptroller General may require for purposes of auditing both the public and private funding used in the activities authorized by this Act.

"(3) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 30 days after the inauguration of the President-elect and President and the Vice-President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under section 6(a)(1)) shall make available to the public—

"(A) the names and most recent employment of all transition personnel (full-time or part-time, public or private, or volunteer) who are members of the President-elect or Vice-President-elect's Federal department or agency transition teams; and

"(B) information regarding the sources of funding which support the transition activities of each transition team member.

"(2) Disclosures under paragraph (1) shall be made public before the initial transition team contact with a Federal department or agency and shall be updated as necessary.".

SEC. 4. LIMITATION ON EXPENDITURES OF CERTAIN FUNDS.

(a) USE OF AIRCRAFT.—Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)",

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice-President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice-President-elect, or the designee of the President-elect or Vice-President-elect, aircraft may be chartered for transition purposes; and any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 6 of this Act;".

(b) DURATION OF EXPENDITURES.—Section 3(b) of the Presidential Transition Act of 1963 is amended to read as follows:

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice-President-elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code; or

"(2) after 30 days the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice-President.".

(c) COMMENCEMENT OF EXPENDITURES.—Section 4 of the Presidential Transition Act of 1963 is amended by striking out "six months from the date of the expiration" and inserting "seven months from 30 days before the date of the expiration".

SEC. 5. TRAVEL AND TRANSPORTATION EXPENSES.

Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out "or (B)" and inserting "or (C)";

(2) in subsection (a), by adding at the end thereof: "In the case of an appointee de-

scribed in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(3) in subsection (c), by adding the end thereof the following: "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

The **CHAIRMAN** pro tempore (Mr. Gray of Illinois). Are there amendments?

AMENDMENT OFFERED BY MR. BROOKS

Mr. **BROOKS.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brooks: Page 2, beginning on line 22, strike out "which shall be included" and all that follows through line 26 and insert the following: "and shall be included in the proposed appropriation transmitted by the President under the last sentence of subsection (a).".

Mr. **BROOKS** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. **BROOKS.** Mr. Chairman, this amendment is a technical provision to ensure that the President will include in the budget that he submits to Congress and the authorization for transition expenses, and that this amount for transitions after the 1988-89 transition will be adjusted to reflect increases in transition cost since the most recent Presidential transition. The transition amount shall be included in the President's budget submission for the fiscal year in which the present term expires.

Mr. Chairman, it is a technical amendment and has been discussed at some length with the distinguished gentleman from New York [Mr. Horton].

Mr. **HORTON.** Mr. Chairman, will the gentleman yield?

Mr. **BROOKS.** I am happy to yield to the gentleman from New York.

Mr. **HORTON.** Mr. Chairman, I have no objection to the amendment, and I urge its adoption.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. Brooks].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. **WALKER.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: Page 3, beginning on line 10, strike out all of section 5(a) through line 10 on page 4 and insert the following:

"PROHIBITION OF PRIVATE FUNDING AND DISCLOSURE OF PERSONNEL

"Sec. 5. (a) The President-elect and Vice-President-elect, as a condition for receiving services under section 3 and for funds provided under section 6(a)(1), shall not accept any private funds for the purposes of carrying out activities authorized by this Act.

Mr. **WALKER** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. **WALKER.** Mr. Chairman, this is the amendment that I referred to a few moments ago. Let me tell my colleagues about this amendment. I offered this amendment in subcommittee, and I lost. I offered it in the full committee, and I lost. I decided to come to the floor and I do not know what the outcome is going to be, but I think that maybe the House ought to reflect on what it is I am trying to achieve because I think if my colleagues listen to what this amendment does they will not want this bill to go forward without this kind of language in it because what this bill is aimed at doing is eliminating those private moneys that now can flow into transition expenses that up until now we have had no accounting for.

Mr. Chairman, under this bill we have some accounting for providing the administration that opposes it does not get its will.

I would suggest that we are far better off if we have sufficient public money provided in this bill for a transition paid for by those public moneys to eliminate the private funds. That is what this bill will do with my amendment.

Let me talk about it a little bit in detail because there have been some red herrings thrown out about what my amendment does. It is said, for example, that it would prohibit people from coming to town to help the administration with the transition.

I say to my colleagues, we must read my amendment. What my amendment is saying is that the only ban on private funds is for the purpose of carrying out the activities authorized under this act. In other words, it is the activities of the transition team that could not be paid for with these private slush funds under my amendment. If somebody wants to come to town and give advice to the new administration at their own expense, there is nothing in my amendment that would prohibit that.

What it would prohibit them from doing is taking on official duties, the official duties of the new transition team would have to be paid for out of public moneys.

Why do I think maybe that is a good idea? I think maybe we ought to look at our own experience. Several years ago this House of Representatives had a policy which said that if one had expenses over and above one's official expenses that they could go out and collect private moneys and use those private moneys pursuant to one's official duties. We found out that that was a pretty abusive system so what did Congress do, Congress eliminated the slush funds. We no longer permit them. I think it is a good rule. I do not think there ought to be private fat cats out there that are funding what are essentially public duties. We ought to be doing that on our own.

Now we come to the tradition and Congress is going to say that the slush funds by the fat cats for the President are OK but they are not OK in Congress. I think we setup a double standard that cannot be defensed by anyone.

I would also make a pitch to some of those of my colleagues who believe in public financing of campaigns. We have had a lot of debate about that. I happen to think there are problems with public financing because it freezes incumbents in office, but if my colleagues are believers in public financing of campaigns, how in the world can they suggest it is a good thing for the Presidential transition team to be receiving unlimited fat cat money? We are not talking about the little guy here contributing to Presidential transitions. If my colleagues believe the transition team is going to go out and raise this money for the President in $10 contributions from the average public, I will say that I have some swamp land that I would love to sell.

The fact is they are going to go to the big fat cat, they are going to go to big labor, they are going to go to big business, they are going to go to big government bureaucrats, and so on, and say to them, "We want your money."

So it is going to be the fat cats involved. It is going to be the big boys that pay this expense, and guess what they are not going to do that just because they are a little friendly about the new administration. They are going to do it because they believe it buys them entree. That is exactly why I say to my friends that while we are continuously being told that we ought to eliminate private financing of congressional campaigns because it allows the special interests to buy too much in the way of influence, that is exactly what would happen here. So I would suggest that we ought to adopt this amendment and say that the public function of transitioning to a new administration ought to be paid for by public moneys. We ought to get away from the idea of private fat cat slush funds paying for a part of those expenses.

All my amendment does is eliminate the need for the disclosure requirements in the bill because it eliminates all the problems that those disclosures requirements speak to. It eliminates the private slush funds.

Mr. Chairman, I ask my colleagues to support my amendment. I think it is a way of cleaning up the process and assuring that potentially dirty money never reaches the Presidential transition team.

Mr. BROOKS. Mr. Chairman, I rise reluctantly in opposition to the amendment.

Mr. Chairman, I oppose the amendment of my friend from Pennsylvania. What we are trying to do in H.R. 3932 is to provide a level of public funding for transition activities that should be sufficient to cover those activities for the incoming President. If the President-elect, for some reason of his own, wants to conduct a more elaborate transition operation involving private funding, H.R. 3932 provides safeguards in the form of disclosure of the source of such private contributions. I do not believe that we should tie the hands of the President-elect in the unique process of shaping his new administration, provided that the safeguards I just mentioned are in place.

The amendment also raises questions about how inkind contributions would be handled. Unless we are going to guard against any involvement of private resources in transition activities by setting up some elaborate reporting and monitoring mechanism for inkind contributions such as exists in Federal election law, I think it would be wiser to let the funding of this unique activity remain as it is in the bill before us: public funding for this public function that should be adequate, with an option for private funding if the President-elect feels that is necessary.

I urge a "no" vote on the amendment of the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, would the gentleman yield for a legislative history point?

Mr. BROOKS. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman from Texas [Mr. Brooks] raises an important point with respect to inkind, but if we go to my amendment we will see that the amendment says "shall not accept any private funds."

It seems to me that in saying that, it is clear that what we are trying to do is prevent the contribution of moneys to the campaign and that the inkind contributions are not at all referenced here because of the fact that it is funds for the purposes of carrying out the activities authorized by the act.

So it is this gentleman's intention to eliminate the moneys that flow into the campaigns under the language that is in the bill.

Mr. BROOKS. Reclaiming my time, I would tell the gentleman from Pennsylvania that this is not the worst amendment I have seen him offer.

Mr. WALKER. I thank the generous chairman, I think.

□ 1200

Mr. HORTON. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment, also reluctantly.

Mr. Chairman, I agree with my friend from Pennsylvania that the intent of the bill is to ensure the availability of sufficient public funds for the orderly transition of a new administration. If legislative intent were always transformed into sound public policy, then I would feel more comfortable with this amendment. We know better. This bill is a perfect example of a situation where legislative intent is not fully addressed. The authorization increase to $3.5 million we provide in this measure allows fewer resources for a President-elect than were available in 1976 in terms of purchasing power.

The transition process is critical to the success of any administration; this amendment could unduly restrict that process and tie the hands of the President-elect. On the other hand, private funds, the source and amounts of which we propose to make matters of public record, provide an accountable auditable resource base available to a President-elect, should he or she require its use.

This issue was raised during our Legislation and National Security Subcommittee hearing on the bill at which time Joseph R. Wright, Deputy Director of the Office of Management and Budget, stated his opposition to such a prohibition.

Subsequently, Mr. Wright sent me a letter in which he underscored again the administration's opposition to any provision that would prohibit the incoming President and Vice President from accepting private donations. In his letter of March 18, 1988, he states:

> Such a prohibition would be detrimental to the President's ability to seek the advice and support necessary to ensure a smooth transition and a well planned policy agenda. The Federal funds provided to the incoming President and Vice President are only an estimate of the funding needs for a transition. Every President, past and future, will have different needs during his or her transition. To try to control the amount a President can spend on transition would arbitrarily limit a President'a ability to run his transition in a way that meets his or her needs. Furthermore, the proposed increase to $3.5 million does not even provide the new incoming President and Vice President with the same purchasing power as was provided in 1976, when the $2 million level was established.

I believe he makes an important point: the $3.5 million authorization is only an estimate of the funding needs for a Presidential transition. While we know that private funds have been used in previous transitions to augment public resources, we have no specific information about the amount or the expenditure of those funds since we have not required disclosure of such information in the past. The disclosure requirements in H.R. 3932 will permit us to take a look at some of these facts after which we will be in a much better position to make a judgment about whether or not private funds should be prohibited.

Mr. Chairman, the increased authorization, together with the disclosure requirements for private contributions, both of which we provide in this bill, allow a more adequate level of funding and a more responsible framework for participation by the private sector. A President-elect should have this flexibility.

Our committee, as the gentleman from Pennsylvania [Mr. Walker] indicated, rejected this amendment during its consideration of this bill. The administration opposes it, and I urge my colleagues to oppose it.

The CHAIRMAN pro tempore (Mr. Gray of Illinois). The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Walker].

The question was taken; and on a division (demanded by Mr. Walker) there were—ayes 4, noes 5.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 187, not voting 41, as follows:

[Roll No. 50]

AYES—203

Archer
Ballenger
Bartlett
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Brennan
Broomfield
Brown (CO)
Buechner
Burton
Byron
Callahan
Cardin
Chandler
Chapman
Clement
Clinger
Coats
Craig
Crane
Crockett
Daub
Davis (IL)
DeFazio
Dellums
Derrick
DeWine
Dicks
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dymally
Dyson
Eckart
Erdreich
Fields
Flake
Florio
Foglietta
Frank
Gallegly
Gejdenson
Gekas
Gibbons
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Green
Hansen
Harris
Hawkins
Hayes (IL)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (SD)
Jontz
Kasich
Kennedy
Kildee
Kolbe
Konnyu
Kostmayer

Kyl
LaFalce
Lagomarsino
Leach (IA)
Leath (TX)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Mack
MacKay
Madigan
Markey
Martin (IL)
Martinez
McCandless
McCloskey
McCollum
McDade
McMillen (MD)
Michel
Miller (CA)
Miller (WA)
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Nagle
Neal
Nelson
Nichols
Nielson
Oberstar
Obey
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Pease
Penny
Porter
Pursell
Ravenel
Ridge
Rogers
Roth
Roukema
Russo
Sabo
Sawyer
Schaefer
Scheuer
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solarz
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Studds
Stump
Sweeney
Swindall
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Vander Jagt
Vucanovich
Walgren
Walker
Weber
Weiss
Weldon
Wheat
Williams
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOES—187

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Baker
Barnard
Barton
Bateman
Bennett
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brooks
Bruce
Bryant
Bunning
Bustamante
Campbell
Carper
Carr
Chappell
Cheney
Clarke
Coble
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coughlin
Coyne
Darden
de la Garza
DeLay
DioGuardi
Dixon
Dowdy
Downey
Duncan
Early
Edwards (CA)
English
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Foley
Ford (MI)
Frenzel
Frost
Gallo
Garcia
Gaydos
Gephardt
Gilman
Grandy
Grant
Gray (IL)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hastert
Hatcher
Hayes (LA)
Hefner
Horton
Houghton
Hoyer
Hughes
Jacobs
Johnson (CT)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kleczka
Kolter
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lightfoot
Lloyd
Luken, Thomas
Martin (NY)
Matsui
Mavroules
Mazzoli
McGrath
McHugh
McMillan (NC)
Meyers
Mfume
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Morrison (WA)
Murtha
Myers
Natcher
Nowak
Oakar
Olin
Owens (NY)
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (NC)
Rahall
Rangel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Saiki
Saxton
Schneider
Schuette
Shumway
Sikorski
Slattery
Slaughter (NY)
Smith (FL)
Smith (NE)
Smith (NJ)
Snowe
St Germain
Staggers
Stokes
Stratton
Sundquist
Swift
Synar
Thomas (CA)
Towns
Traficant
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Watkins
Waxman
Whittaker
Whitten
Wilson
Wise
Wortley
Wylie

NOT VOTING—41

Ackerman
AuCoin
Badham
Biaggi
Boulter
Boxer
Brown (CA)
Clay
Coleman (MO)
Conte
Courter
Dannemeyer
Davis (MI)
Dickinson
Dingell
Dwyer
Edwards (OK)
Emerson
Flippo
Ford (TN)
Kemp
Latta
Lent
Lungren
Manton
Marlenee
McCurdy
McEwen
Mica
Montgomery
Murphy
Pashayan
Price (IL)
Quillen
Ray
Rose
Savage
Smith, Robert (OR)
Stark
Taylor
Traxler

□ 1229

The clerk announced the following pair:

On this vote:

Mr. Robert F. Smith for, with Mr. Quillen against.

Messrs. SLATTERY, ANDREWS, BOEHLERT, HUGHES, HASTERT, and FAZIO changed their votes from "aye" to "no."

Mrs. MARTIN of Illinois, Mrs. SCHROEDER, Messrs. TAUKE, HERTEL, GEJDENSON, ECKART, ORTIZ, MARKEY, SCHEUER, McMILLEN of Maryland, SHARP, WEBER, SKELTON, DERRICK, MARTINEZ, DICKS, HERGER, TAUZIN, SHAW, BROOMFIELD, BILIRAKIS, NIELSON of Utah, BLILEY, SCHAEFER, RAVENEL, HEFLEY, LOTT, VANDER JAGT, HENRY, and HAYES of Illinois changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1230

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3932, the Presidential Transitions Effectiveness Act. This important bill recognizes the need for a smooth and effective transition between Presidential administrations. It would bring about the first increase in transition funds since 1976. In accord with the best procedures for openness in Government, the bill would require Presidents-elect to disclose private contributions to their transition operations and require the disclosure of names and previous employment of transition team employees. These are very worthwhile provisions and should insure a sufficient degree of "sunlight" into these important activities.

But it is also important for the success of the transition to address a subject that has not yet received sufficient attention: The application of the ethics-in-Government laws and regulations to paid and unpaid transition team members. What are the conflict of interest rules that apply to this work force which will soon be scrutinizing the various executive branch agencies and who will have special access to information about agency activities? I do not have a preconceived notion of what those rules should be, but some balance is obviously required. We would not wish to discourage talented people from joining the transition, but at the same time we have an obligation to try to prevent unethical conduct.

It is not surprising that this laudable bill does not address this issue, since very little information was available to the Committee on Government Operations about it. I would, however, propose that we encourage soon a study of that issue. I would hope that such a study could be undertaken, prior to November, by a body such as the Administrative Conference of the United States, an independent, advisory agency with members from all major Federal agencies, whose mission it is to undertake studies and make recommendations on agency procedures. The Administrative Conference has undertaken useful studies of similar issue in the past and could with the cooperation of agencies like the Office of Government Ethics, make a significant contribution to this issue before the election.

I would urge that the legislative history of H.R. 3937 reflect the need for work in this area, and with that comment, I am pleased to support the bill.

The CHAIRMAN. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. SLATTERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3932) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of Executive power in connection with the expiration of the term of office of a President, pursuant to House Resolution 415, he report the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the

Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **BROOKS**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were yeas 374, nays 15, not voting 42, as follows:

[Roll No. 51]

YEAS—374

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coughlin
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Madigan
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—15

Brown (CO)
Coble
Crane
Frenzel
Holloway
Inhofe
Jacobs
Miller (OH)
Pursell
Sensenbrenner
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Sundquist
Upton

NOT VOTING—42

Ackerman
AuCoin
Badham
Biaggi
Boulter
Boxer
Brown (CA)
Clay
Coleman (MO)
Conte
Courter
Dannemeyer
Davis (MI)
Dickinson
Dwyer
Edwards (OK)
Emerson
Flippo
Florio
Ford (TN)
Kemp
Latta
Lent
Lungren
Manton
Marlenee
Martin (NY)
McEwen
Mica
Montgomery
Murphy
Pashayan
Price (IL)
Quillen
Ray
Rose
Roukema
Smith, Robert (OR)
Stark
Tauke
Taylor
Traxler

□ 1255

The Clerk announced the following pairs:

On this vote:

Mr. Quillen for, with Mr. Robert F. Smith against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **BROOKS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3932, the bill just passed.

The **SPEAKER** pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 272. Concurrent resolution providing for a conditional adjournment of the House and Senate until April 11, 1988.

GENERAL LEAVE

Mr. **COOPER**. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

(Mr. **SCHEUER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **SCHEUER**. Mr. Speaker, today I am introducing legislation to help stem the alarming global decline in the diversity of animal and plant life on this planet.

Scientists warn us that we may lose 20 percent of the Earth's species before the end of the century—a rate of species destruction greater than any since the mass extinctions of the dinosaurs 65 million years ago.

The difference is that this mass extinction is the work of man.

What is at stake in the biological diversity crisis is more than simply saving cute and appealing creatures. We depend upon biological diversity for our economic well-being. Biological resources provide food, fuel, shelter, and medicine, among other important products. They are sources of intellectual and scientific knowledge, including the promising new field of biotechnology. And they provide, of course, opportunities for recreation and aesthetic pleasure.

Biological diversity is an essential characteristic of healthy ecosystems which support plant and animal life. These finely tuned ecosystems directly affect us by: Moderating climate, governing nutrient cycles, producing and conserving soil, controlling pests and diseases, and degrading wastes and pollutants.

The loss of biological diversity could have devastating impacts on human welfare. As the Office of Technology Assessment has warned in its report," "Technologies to Maintain Biological Diversity":

> The most optimistic view of the consequences of reduced diversity is that resources that otherwise might improve the quality of human life will not be available. At worst, reductions could mean a serious disruption of the ecological processes on which civilization depends.

Maintaining biological diversity assures future generations a full range of genetic and biological materials to meet future needs—many which we cannot foresee today.

The United States has been a leader in trying to reduce the destruction of rich ecosystems in the developing world that contain much of the world's remaining biological diversity. But the problem is not one of the developing world alone. The impoverishment of biological diversity in the United States is also a serious problem.

Since the Pilgrims landed at Plymouth Rock, nearly 500 species and subspecies of plants and animals have become extinct in North America. The U.S. endangered species list nears 1,000 species—about half of which are in the United States—and there are 3,000 candidates waiting for inclusion on the list.

There are existing national laws—particularly the Endangered Species Act—which attempt to address the loss of biological diversity in the United States. But the focus of these laws is on saving species one by one, after their habitats have shrujk and their ecosystems have been disrupted, a process which is ultimatehy costly and inefficient.

In addition to the ecological safety net afforded by our existing laws, it is time for new legislation that recognizes what our scientists tell us—that the way to save the trees is to save the forest and that the way to save endangered species is to prevent them from becoming endangered.

The National Biological Diversity Conservation and Environmental Research Act makes a national commitment to maintain diversity of life through planning and prevention, based on our best scientific information and understanding.

It reflects the recommendations of the Office of Technology Assessment by:

Establishing the conservation of biological diversity as a national goal;

Creating a National Center for Biological Diversity which will improve our scientific knowledge about our biological resources and ways to manage them to protect diversity;

Requiring impacts on biological diversity to be included in environmental impact statements; and

Requiring a coordinated Federal program for maintaining and restoring biological diversity in the United States.

A section-by-section analysis of this bill is attached to these remarks.

I urge my colleagues to join with me and the other cosponsors of this bill in addressing this critical issue.

SECTION-BY-SECTION SUMMARY OF NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

SEC. 1. SHORT TITLE

Sets out the short title of the bill as the "National Biological Diversity Conservation and Environmental Research Act."

SEC. 2. FINDINGS

States that Congress finds that: the Earth's biological diversity is rapidly being reduced; most losses of biological diversity are unintended and largely avoidable; reduced biological diversity may have serious consequences for human welfare as resources are irretrievably lost and ecosystem functioning may be endangered; inadequate knowledge regarding biological diversity hampers the efficiency of resource policy and management decisions; present laws only address the protection of individual endangered species rather than maintaining ecosystem conditions necessary for sustaining diversity; existing laws are largely uncoordinated and inadequate; a comprehensive Federal strategy is needed to arrest the loss of biological diversity and to restore it, where possible; increased ecological and biological research is needed to provide the knowledge to maintain biological diversity; increased understanding by the public is necessary for effective conservation; the most prudent course is to save the diversity of living organisms in their natural habitats.

SEC. 3. DEFINITIONS

Contains definitions of terms, including "biological diversity" and "conservation".

SEC. 4. PURPOSES

States the purposes of the Act, namely: to undertake a nationally coordinated effort to collect, synthesize, and disseminate adequate information for understanding biological diversity; to support basic biological and ecological research necessary for the conservation of biological diversity; to require explicit assessment of effects on biological diversity in environmental impact statements; to establish a Federal strategy for conservation of biological diversity; to establish mechanisms for coordinating efforts to preserve biological diversity and natural environments; to educate the citizens of the United States regarding the importance of biological diversity.

SEC. 5. NATIONAL BIOLOGICAL DIVERSITY AND ENVIRONMENTAL POLICY

States that conservation of biological diversity is a national goal and a national priority and that all Federal actions shall be consistent with this goal. Section 5(d) amends the National Environmental Policy Act to explicitly require assessment of impacts on biological diversity in environmental impact statements. Section 5(e) directs the Council on Environmental Quality to develop guidelines for consideration of biological diversity in impact statements and to identify biotic communities, species, and populations in decline or otherwise of special concern.

SEC. 6. NATIONAL CENTER FOR BIOLOGICAL DIVERSITY AND ENVIRONMENTAL RESEARCH

Establishes a National Center for Biological Diversity and Environmental Research to set national priorities and provide leadership and coordination to promote knowledge of the biota of the Nation including the effects on the biota by the activities of people, and to make this knowledge accessible to the people of the United States. Directs the Center to establish a cooperative network for the collection of information regarding the biota; oversee a review of existing information; develop a strategic plan, initiate and provide financial support towards an ongoing survey of the biota of the Nation; provide for field surveys through contracts or otherwise; make recommendations to agencies regarding the use of the latest technology; further interaction between collection of data and utilization of data for conservation, management, and sustainable use; publish information relevent to understanding and conserving biological diversity; prepare lists of biotic communities, species, and populations that appear to be in decline or are otherwise of special concern; provide information useful in the preparation and implementation of the Federal strategy described in Section 8; work closely with the national network of state natural heritage programs; to raise additional funds necessary to support these activities.

SEC. 7. INTERAGENCY WORKING COMMITTEE ON BIOLOGICAL DIVERSITY

Establishes an Interagency Committee composed of members from specified Federal agencies that manage or study biological natural resources. Directs the Interagency Committee to coordinate Federal activities for conservation of biological diversity and to prepare and implement a Federal strategy for the conservation of biological diversity set out in Section 8.

SEC. 8. FEDERAL BIOLOGICAL DIVERSITY STRATEGY

Directs the Interagency Committee, with the advice and guidance of the Scientific Advisory Committee established under Section 10, to develop a coordinated strategy for conservation of biological diversity. Sets out specific areas to be addressed by the strategy. Requires a progress report on the development of this strategy to be submitted to the Congress within one year and the completed strategy within two years. Requires a progress report on the implementation of the strategy to be submitted every two years. Directs the Scientific Advisory Committee established under Section 10 to review the reports and include its written comments.

SEC. 9. RESEARCH, AND TRAINING

Authorizes each agency represented on the Interagency Committee to engage in partnership grants with public agencies, private individuals, and organizations for projects to maintain or restore biological diversity. Requires Federal funds made available for grants under this subsection to be matched by the grantee, unless the grantee is a State.

Directs each agency represented on the Interagency Committee to assess the adequacy of their existing environmental research and training programs for (A) long-term ecological research and monitoring and (B) training of personnel in basic principles of ecology and systematics.

SEC. 10. NATIONAL SCIENTIFIC ADVISORY COMMITTEE ON BIOLOGICAL DIVERSITY

Establishes a National Scientific Advisory Committee of 15 non-Federally employed scientists. Directs the Scientific Advisory Committee to assist the Interagency Committee established in Section 7 in preparation of the Federal Strategy for the Conservation of Biological Diversity and to evaluate the progress in implementing the strategy, to assist in coordinating the Interagency Committee and the Center and in evaluating the impacts of proposed Federal actions on biological diversity.

SEC. 11. APPROPRIATIONS

Authorizes the appropriations of $5 million in FY 1989, $10 million in FY 1990, and $10 million in FY 1991.

H.R. 4330 TO ENSURE FAIRNESS FOR MARIEL CUBAN DETAINEES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, I am pleased to cosponsor, with my colleague from Kentucky, Mr. MAZZOLI, H.R. 4330. This bill would ensure that the decision to deport Mariel Cuban detainees to Cuba would be made only after each detainee is afforded a truly "full, fair and equitable" review. The call for this legislation is clear; the need is resounding.

I believe that a little background to this situation is required. During the first half of 1980 approximately 125,000 Cubans, with the encouragement of our Government, migrated from Cuba to the United States via the Cuban port of Mariel. Upon their arrival to this country, the Cubans received the status of "conditional entrants" because they lacked valid passports or visas. As such, they were technically "excludable" from the United States, were entitled to no procedural rights under our laws and theoretically could have been deported at any time.

Over the years, the overwhelming majority of these Mariel Cubans were released into this country on "parole" status. A small number, however, were never released and remained housed as "detainees" at the antiquated Federal Penitentiary in Atlanta, GA. In addition, some of the Mariel Cubans who were initially released were subsequently reincarcerated for allegedly committing crimes or parole violations in the United States.

Initially, Cuba refused to accept the return of these or any other Mariel Cubans. In 1984, however, the United States and Cuba entered into an agreement whereby Cuba agreed to take back 2,746 Mariel Cubans who were currently being detained in the United States. The United States had returned 201 detainees to Cuba pursuant to this agreement when, allegedly in retaliation for the United States' commencement of radio service on Radio Marti, Cuba abruptly terminated the agreement. The United States continued to house Mariel Cuban detainees who had no realistic expectation of being returned to Cuba or hope of being released into the community.

In November 1987 the United States and Cuba reinstated the 1984 repatriation agreement and normalized immigration relations with Cuba. At that time, there were approximately 3,830 Mariel Cubans serving prison sentences in State and local jails, and 3,800 Mariel Cubans detainees in INS custody in State, local, and Federal facilities. Though the agreement concentrated on the original list of 2,746, all of the Mariel Cuban detainees were potentially eligible for deportation to Cuba. The news of this agreement combined with the general sense of hopelessness and despair apparently caused the detainees to riot and violently take over the two correctional facilities at Atlanta and Oakdale.

Exactly whom will be deported according to the 1987 agreement will be determined by a review plan established by the Attorney General. The Attorney General had promised that this plan would provide detainees with a "full, fair and equitable" review prior to any final deportation determinations.

The plan ultimately adopted by the Attorney General established two levels of review that detainees would undergo to determine whether they were releasable. The first level is conducted by an INS panel. At this level of review detainees are either deemed releasable or slated for the second level of review. The second level of review is conducted by a Department of Justice review panel. If this panel does not find a detainee releasable, then the detainee will remain in detention and presumably will be eligible for deportation to Cuba at some later date.

Noticeably lacking from the plan are many vestiges of due process. At no time in the review process will detainees be provided with the opportunity to appear at a hearing before a neutral decisionmaker, such as a judge or an administrative law judge. Similarly, even though many of the detainees cannot afford or obtain a lawyer, none will be provided for them under the plan.

The absence of these basic due process rights is particularly glaring given the magnitude of the consequences to be imposed on the detainees. Many of the detainees have family and other relations in the United States from whom they will be permanently separated if they are deported to Cuba. Moreover, past experience demonstrates that a significant number of detainees who are returned to Cuba can expect to serve additional sentences in Cuba prisons for crimes that they allegedly committed in the United States. These are the same Cuban prisons, I might add, that the U.S. Ambassador to the United Nations has publicly condemned as brutal and inhumane.

It has been a basic principal in our legal system that standards of due process should be greatest when, as in this instance, the risks of error and potential negative consequences are most severe. Without including basic due process protections into the Attorney General's review plan, we cannot be confident that we have justly evaluated the cases of detainees before sending them back to Cuba. To maintain the integrity of the review process, therefore, I believe that the review plan must be revised to incorporate the minimal due process protections that are commonly encompassed by the phrase "full, fair and equitable" review.

Before deciding to propose legislation that would incorporate due process protections into the current review plans, I formally urged the Department of Justice to make such changes on its own. The Department, however, rejected my suggestions stating that it was satisfied with the Review Plan as written

One explanation that I have received from the Department of Justice for its refusal to inject due process into the Review Plan is that, even as is, the current Plan affords the detainees greater legal rights than those to which they are legally entitled. Technically this argument is correct. I do not, however, find this argument compelling given the legal, but nonetheless embarrassing and inhumane, manner in which these detainees have been treated over the past 8 years. The structure of our laws on "excludable aliens" is premised on the practical availability of returning an alien to his or her place of origin. In the case of the Mariel Cubans, the refusal of Cuba to accept their return—an act for which the Marielitos are now bearing the consequences—challenges that structure and compels us to seek a unique solution to the case at hand.

We simply cannot stick our heads in the sand, hiding behind the legal fiction that the Mariel Cubans are not really here and therefore are not due any legal rights. We are a country that prides itself in its insistence on taking the moral high ground, even when "the law" provides differently. Just look at our policies toward countries like South Africa and the Soviet Union where we deplore State actions despite their being permitted by law. If, in fact, our laws do not provide for the humane treatment of the Mariel Cubans, then we should write new laws that do. That is the purpose of H.R. 4330.

Moreover, even the current Review Plan, as implemented, is riddled with problems and seeming inequities. I have received letters from attorneys who have tried to represent detainees under the current plan in which they complain of such things as: insufficient notice prior to INS panel interviews; denied access to key documents in detainees' files; substantial limits on the degree of representation they can provide; lack of trained hearing officers or neutral decisionmakers; inadequate translators; and the absence of any permanent record of the interviews.

It is clear that the detainees are not receiving the "full, fair and equitable" review to which they were promised. Having unsuccessfully turned to the Department of Justice to resolve this issue on its own, I see no other option than to introduce legislation that will provide the detainees with the fair and humane treatment that has been their due for the past 8 years and which this Government committed to provide to them just 4 months ago.

The review provided for in H.R. 4330 differs from the Attorney General's Review Plan only in so far as the nature of the review to be provided the detainees. Specifically, H.R. 4330 will provide those detainees who have been determined to be "unreleasable" at both the INS and DOJ levels of review a final and definitive hearing before an administrative law judge. At this hearing, detainees may be represented by counsel—at Government expense if they cannot obtain one of their own—may present evidence and witnesses on their behalf, and may challenge the evidence presented against them by the Government. Detainees found releasable under this plan will be released in the same manner that detainees released pursuant to the Attorney General's Review Plan would be released. Detainees who are not found releasable will be eligible for deportation to Cuba, but will be afforded another review each year they remain in Federal detention.

There will be some who might argue that adding this final due process hearing will be unduly costly. I believe, however, that the cost of implementing this legislation will be substantially less than the approximately $50 million per year it has cost to house the Cuban detainees in Federal institutions and the close to $100 million that we have lost as a result of the November riots. Failing to implement this legislation on the other hand, not only will have significant consequences for the detainees but also will diminish this Nation's international stature on a fundamental question of human rights. These latter costs are ones that we cannot afford and ones that H.R. 4330 is designed to prevent. I, therefore, urge quick movement on the passing of this bill.

□ 1300

CODEL TO MOSCOW

The SPEAKER pro tempore (Mr. Torres). Under a previous order of the House, the gentleman from Washington [Mr. Miller] is recognized for 5 minutes.

Mr. MILLER of Washington. Mr. Speaker, the gentleman from New York [Mr. Gilman] and I are going to share our special orders if there is no objection, and hopefully the two of us within 5 minutes time will be able to finish and certainly within 10 minutes that we would have separately. The purpose of our having these special orders is to discuss and recount a trip that the two of us along with a congressional delegation took earlier this year to Moscow in the Soviet Union. We are not going to go into all the details of the official meetings that we had, because we had many of them. The gentleman from New York [Mr. Gilman] and I had the privilege in addition to the official meetings of meeting unofficially with many citizens and we wanted to explain for the Members some of those meetings and what took place, because it offered an interesting contrast with the official meetings where glasnost and human rights and perestroika were discussed and spoken about, highlighting the contrast between that openness and positive spirit that we had in the official meetings and some of our experiences that we had in our unofficial meetings.

I recall our meetings on three successive evenings, the first evening being when we met with a group of Jewish refuseniks in Moscow in a rather bleak and cramped apartment.

Mr. Speaker, at this time I yield to the gentleman from New York [Mr. Gilman] so that he might give us his impressions of the meetings on that Thursday that we had with the 40 or 50 Jewish refuseniks.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Washington [Mr. Miller] for yielding me this time. I want to commend the gentleman from Washington for his consistent and long pursuit of human rights, not only in the Soviet Union, but in so many other areas and for so many other people around the world. There is a Talmudic saying, in the Old Testament, that to save one life is to save the world, and I do commend the gentleman from Washington for his persistence in continually attempting to save lives and to improve the human rights aspects of so many nations around the world.

Yes, I do vividly recall our recent opportunity to meet with several hundred refuseniks, while we were in the Soviet Union. Some of them were from Moscow, some from the Leningrad area. The most significant message that they gave us was that while glasnost and perestroika sound good, there has been minimal movement in improving human rights behind the Iron Curtain. Their plea to us was that we must continue in our efforts, in the Congress and they were so proud of the efforts of so many of our colleagues in the House of Representatives in continually raising our voices to try to convince the Soviet authorities to change their hard-nosed approach to the human rights issue. Despite the fact that the General Secretary, Mr. Gorbachev, has indicated that there would be a lessening of some of the restrictions, they are still confronted with many obstacles in seeking the right to emigrate. For example, there is still the state's secrets provision that prevents so many from coming out, people who have not been employed in those security positions for more than 10 to 15 years, as was stressed by a professional group from Leningrad that the gentleman from Washington [Mr. Miller] arranged for us to meet in our Embassy in Moscow. Those professional refuseniks had traveled all night from Leningrad to relate to us their sad plight, most of whom had not worked in their occupations for 10 to 15 years.

The gentleman from Washington [Mr. Miller] referred to on another evening meeting with another group of 40 to 50 courageous refuseniks who stressed varying aspects of the problems they were having, in seeking the freedom to emigrate. Most had lost their jobs upon declaring their intention to leave the U.S.S.R. and most were relegated to having to perform menial tasks for a livelihood. Despite one OVIR refusal after another, they still maintained their hope and courageously refiled their applications for visas.

Mr. MILLER of Washington. Mr. Speaker, my time is expiring, and we will continue this special order into the special order of the gentleman from New York [Mr. Gilman].

MEETING WITH JEWISH REFUSENIKS IN THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Gilman] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, I am pleased to yield further to the gentleman from Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Speaker, I think the point made by the gentleman from New York [Mr. Gilman] is a very good one. We met so many people that Thursday evening at the Embassy that had been waiting 10, 12, and 14 years. I remember one family in particular, the Besprozzanny's from Leningrad, possibly the best example, a man who had been waiting 14 years. His in-laws live in the Puget Sound area that I come from, and they have been waiting 14 years, having been told 14 years ago that he would be able to leave. He has not been able to leave. He was told he cannot leave now, and that his son cannot leave because he worked in a shipyard 18 years ago and allegedly had state secrets. It was truly moving to talk with people like that who continue to struggle. I happened to take that family down to the immigration office, the OVIR, to see if that office would somehow let these people go.

They have not done that yet. That struggle goes on.

Since we have limited time, I wanted to move on to the meetings we had the following two nights, and particularly that meeting on Friday on that Sabbath dinner we went to which I think gave us insight as to why Jewish refuseniks want to leave the Soviet Union.

We will remember at that Sabbath meal that we met with that young man from Odessa, Vladimir Karlin, who as far as I know he had not wanted to leave, and he had been arrested in any event. My colleague will remember that he told us he had been arrested in Odessa because he tried to organize a Jewish study group. He was taken to a prison and while there he was beaten. While he was there his apartment was stripped, the clothes he had except those on his back were taken from him. When he left the prison they would not give him his passport back. They gave him one document, a prison document, and he showed that document to us and at the bottom was his picture. If one had looked closely at the picture, we would see that he was being beaten while in the prison. So that drove home again how important it is to have religious freedom, true religious freedom.

Mr. GILMAN. The most important message that these courageous Soviet refuseniks left with us is how important it is for us to continually raise our voices here in the United States, in the Congress, that these messages are followed closely by the Soviet authorities and they do have an impact, and their plea to us and to our colleagues not to diminish any of our efforts in trying to make certain that the doors to freedom will open.

This is an appropriate time of the year to remind the world of the Soviets' restrictions on human rights as Jews throughout the world prepare to celebrate the Passover holiday, the holiday that commemorates the exodus of the Jews from Egypt, as Pharaoh heeded Moses' plea of "let my people go."

It is extremely important that we continue to remind the Soviets of the importance of giving attention to the human rights violations with the U.S.S.R., particularly at a time when the Soviets are trying to develop normalcy of relations with our Nation, and as they serve to reduce the trade barriers and an exchange of technology. It is important that they be reminded that environment of human rights in the Soviet Union must be improved before there can be any real progress in those directions.

Mr. MILLER of Washington. If the gentleman from New York will yield for a moment, I agree with him completely and I want to thank my distinguished colleague from New York for the leadership he has given over the years in battling for human rights around the world and in this case human rights within the Soviet Union. It was so important when we talked with people to see their appreciation of the fact that we as Representatives of the American people had not forgotten them.

Mr. GILMAN. Mr. Speaker, as we adjourn to observe the Easter-Passover recess, and as we prepare to join our families in worship, let us remember there are many millions around the world who do not enjoy that opportunity, who do not have the blessings of those freedoms to pursue their own religious beliefs. I would hope that this message will help to remind other nations of their responsibility to preserve and permit these freedoms.

Our congressional delegation had the opportunity to meet with a number of Soviet officials, with whom we reiterated our unequivocal support for the human rights of Soviet Jews, Pentacostalists, Baptists, Evangelical Christians, and others denied basic religious and cultural rights guaranteed by the Helsinki Final Act. The Soviets would have us believe, though, that all those Soviet Jews who wanted to previously emigrate, have done so, and this is most definitely not the case. As I previously noted, during our few days in Moscow, we had the opportunity to meet scores and scores of long-term refuseniks. They crowded into apartments and meeting rooms at every opportunity, determined to demonstrate to Members of the U.S. Congress that thousands of them remain.

I have gathered the names of those who were in attendance at those various meetings, and I ask that this list be inserted in the Congressional Record. We also received a large number of direct appeals to the Congress, which I also would like to share with our colleagues and which I request that they also be inserted in the Record.

The issues that were raised at those meetings are numerous indeed. Despite the aura of glasnost, and in spite of a summit atmosphere, there remain thousands of Soviet Jews who are arbitrarily refused permission because of outdated security classifications or perceived financial obligations. While we recognize and appreciate that last year's emigration figure of 8,155 is well over the 914 allowed to leave in 1986, the individuals we met with are clear proof that there are many more long-term refuseniks left in the Soviet Union than we have been led to believe.

In the past few weeks, a number of those with whom we met have since received permission, which is gratifying indeed. However, as my colleagues will note, the material we have brought back with us reflects the signatures of several hundred individuals and their families. They are representative of the many thousands more who, without our speaking out on their behalf, will continue to languish as, "the Jews of silence."

Mr. Speaker, in 2 months we will again be conducting a summit meeting with the Soviet Union, though this time it will take place in Moscow. President Reagan and Secretary of State Shultz, as well as Ambassador Richard Schifter and Ambassador Warren Zimmermann, have continued to reiterate their personal commitment to the rights accorded Soviet Jews under the Helsinki Final Act. We will continue to stress compliance with its provisions, which do not recognize the arbitrariness of the first degree relative rule, the financial obligation requirement, nor the newest obstacle we heard about—that of a military waiver for a teenage son.

We have received reports that families with teenage sons are being asked to provide the OVIR office with a waiver from the military, stating in fact that it does not have any interest in the young man. The family with a teenage son therefore faces a potential 10 years in refusal, calculated in this manner: from age 16, a refusal by the military to provide the young man with a waiver. Two years later, at age 18, he is drafted, and serves for 3 years. Then, following military service, he is designated a security risk for 5 years, for having been privy to some unknown state secrets during his term of service. A young man of 16 then, becomes a refusenik for an additional 10 years before he has even turned around.

Many long-term Soviet Jewish refuseniks are slowly being granted permission to leave. However, many among them, such as Yuli Kosharovsky, continue to wait. Yuli has waited for 17 years, and he has been refused for 17 years. His security classification was lifted a number of years ago, yet OVIR authorities then designated him as lacking a first degree relative. I must persist in pointing out to my colleagues that no such requirements exist in the Helsinki Final Act. It is to its precepts that we cling as the preeminent human rights document of its kind. Only with full compliance with the Helsinki Act can we assert that the Soviet Union is living up to its agreements. Until this occurs, we will continue to meet with Soviet Jews, attempt to correspond with them, and speak out on their behalf at every opportunity.

Mr. Speaker, I include for the Record the list of some of the Soviet refuseniks who asked to be listed in the Congressional Record. They are courageous people who wanted it to be known that they are still desirous of seeking freedom in other lands around the world.

Jewish Refuseniks in Attendance at January 1988 Meeting in Moscow

1. Bella Gulko.
2. Vladimir Kislik.
3. Yuriy Semenovsky.
4. Igor Uspenskiy.
5. Yuriy Ziman.
6. Eugene Grechanovskiy.
7. Evgenia Shvartzman.
8. Tanya Rosenblit.
9. Olga Grossman.
10. Matus Pobereyskiy.
11. Tanya Kolchinskiy.
12. George Samojlovich.
13. Vladimir Meshkov.
14. Mikhail Feodorov.
15. Sergey Mkertchyan.
16. Yuliy Kosharovskiy.
17. Nataliya Khassina.
18. Gregory Rosenstein.
19. Boris Cherobilskiy.
20. Yuriy Chernyak.
21. Benjamin Charnyy.
22. Naum Meiman.
23. Gennadiy Resnikov.
24. Sulamith Reznikov.
25. Anatoliy Shvartsman.
26. Evgenia Nenomnyaskaya.
27. Judith Lurie.

28. Emmanuel Lurie.
29. Anatoliy Genis.
30. Tsilya Reitburd.
31. Vladimir Dashevskiy.
32. Alexander Feldman.
33. Igor Gurvich.
34. Irena Gurvich.
35. Yakov Strelchin.
36. Alyosha Zavrazhnov.
37. Julian Khassin.

JEWISH REFUSENIKS FROM LENINGRAD, AT MOSCOW MEETING ON JANUARY 16, 1988

1. Faina Zhukovska.
2. Mark and Freda Budnyelsky.
3. Anatoly Pintchasovich.
4. M. Konson.
5. Blinov.
6. Vladimir and Asya Knokh.

DEPARTMENT OF PROPAGANDA, CC CPSS, MID, CCCP GERASIMOV

(Editorial offices, Izvestiya, Soviet Culture Vechernaya Moskva, Trud)

We Jewish refuseniks, protest against the campaign of slander and harassment unleashed by the mass media: in print, on the radio and television of the USSR.

The Soviet press insults us, calling (us) renegades, demogogues, hooligans, persons pursuing selfish goals, violators of public order. They try to depict us as people "who were not pleased by the meeting in Washington of the leaders of the two nations", who would like to "hold back the clock of history".

This is a lie! We are for disarmament. We are for peace without bombs, without rockets, and without refuseniks.

Kolchinskaya.
Poberezhsky.
Yurovitsky, V.
Kosharovsky, Yu.
Belyakov, M.
Lakhman, M.I.
Sadykov, E.A.
Levitsky, G.Ya.
Nadgorny, B.E.
Nadgornaya, N.M.
Gutman, S.R.
Vanyan, D.I.
Vanyan, N.D.
Mlechina, L.I.
Mlechin, S.V.
Svishchev, A.V.
Ovsepyan, G.E.
Ashikyan, Zh.O.
Shmuilovich, M.
Gorovaya, K.M.
Turkeltaub, V.
Ostroverkh, V.N.
Gonorovskaya, L.M.
Rozenblit, T.M.
Rozenblit, E.I.
Langman, E.I.
Kogan, A.M.
Gutman, M.R.
Mkrtchyan, S.
Genis, A.
Grinberg, A.Kh.
Strelchin, Ya.L.
Vainshtok, L.
Kremen, T.
Gorelikova, V.M.
Lyubshitz, F.
Uspensky, I.
Ioffe, I.
Volovik, A.D.
Liverman, E.A.
Meshkov, V.
Zonis, A.
Gashumin, A.

Moscow, *January 14, 1988.*

To the Congressmen of USA:

DEAR SIRS: The attitude of the Congress of the United States to the problem of Jewish emigration from the USSR has always been based on lofty principles of morality and human rights. We are deeply thankful for that and want you to be informed of the real state of affairs.

During preparations to the summit meeting the Soviet leadership demonstrated and skillfully advertised certain signs of progress: emigrational quotas were somewhat increased, a number well-known long term refusniks were allowed to leave and family reunification became possible for a broad circle of people.

American firm stands on the human rights issue, numerous assurances by Soviet official representatives, including those on the highest possible level, that a progress in Soviet disarmament priorities and in a trade will be accompanied by a real progress in the field of emigration, and also the earlier mentioned sign of improvement gave birth to hopes that a successful summit will result in tangible improvement im emigration.

Now the summit is over and successfully due to historical breakthrough in the area of disarmament and even more impressive prospects for the future envisaged. As to the Jewish emigration, the presummit signs of progress began to disappear one after another: (a) beginning January 1, the Visa Office once again demands "invitations" from the first degree relatives before one can apply or even reapply (for refusniks) to leave. This denies some 90% of people of the possibility to emigrate; (b) as before there is a lot of arbitrariness and direct lawlessness in cases of state secrecy refusals, all refusals are verbally communicated without any argumentation and any mention of how long the security restriction will last; (c) applications are again considered during much longer time etc. The Soviet propaganda now demonstrates a ridiculous combination of attempts to speak about the brain drain problem and at the same time to state that Jewish emigration has naturally exhausted.

In our opinion, all that clearly indicated, that the Soviet side is determined to further diminish if not cancel Jewish emigration. In the period of so called "glasnost" and democratization the Soviet Jewry, devoid of any institutes of national protection is subject to increasing pressure from neofascist and nationalistic organizations of the "Pamyat" (Memory) and "Otechestvo" (Fatherland) type and hundreds of thousands of people stay before the closed doors of the Exodus.

Today a new danger seems to appear, that in relations between Soviets and Western democracies a disproportion will develop, potentially very detrimental to the problem of human rights and to the problem of emigration. And this bias, especially for the internal use in the USSR is endorsed by the high prestige of the recent summit.

This cannot be tolerated and we appeal to you to draw attention of the Soviet leadership to it.

Yours sincerely,

Yuli Kosharovsky, Anatoly Genis, Yuri Cherniak, Gregory Rozenshtein, Vladimir Kislik, Gennady Reznikov, Tanya Pobereysky, Tanya Kolchinskaya, George Samuelovich, Mikhail Feoderov, Sergei Mkrtchyan, Vladimir Meshkov, Anatoly and Eugenia Shvartsman, Julian Khasin, Igor Uspensky, Emmanuel and Judith Lurie, Leonid Grossman, Tanya Rosenblit, Eugene Grechanovsky, and Irina Gurvich.

AN APPEAL

Moscow, *January 13, 1988.*

To the U.S. Congress:

We are a group of Jewish refuseniks, united by a common pretext for being refused permission to leave the USSR. We appeal to Congress of the USA.

The reason we are refused permission to emigrate is the so-called "poor relatives" problem. According to the regulations for entering and leaving the USSR, in order to apply to leave one must submit a notarized affidavit from family members remaining behind and from ex-spouses, when minor children are involved, that they have no outstanding claims.

This vague formulation refers to financial and property commitments. There is no procedure in the Soviet Union, legal or notarial, obligatory for both sides, for obtaining such an affidavit, whether or not there are claims.

A situation has thus been created whereby one's right to emigrate is virtually restricted and made dependent on the willingness or unwillingness of relatives and former spouses. To us, this situation is reminiscent of feudalism.

The hopelessness of the situation led to the formation of the "Poor Relatives" group in 1987. From the beginning, our group aimed at a juridical solution to our problem. Numerous appeals to official Soviet offices elicited no reply. The USSR Ministry of Justice rejected two of our drafts for a legislative solution.

It has become clear that the authorities are uninterested in improving our situation. Instead, various cosmetic steps are taken to beat down our wave of protests. Rumors were circulated that the problem would soon be solved. In December 1987, the USSR OVIR informed active members of our group that as an exception, a list of some 20 families have been allowed to apply to leave without affidavits from their relatives. Applications are not accepted from members of our group who missed appearing on the mysterious list. Their cases are not considered. In addition, as of January 1, 1988, the old rule is again in force by which applications to leave are accepted for consideration only if they include "invitations" from blood relatives.

Everything indicates that the policy of restricting departure from the USSR continues. The problem of "poor relatives" remains an important component of that policy.

We therefore once again appeal to Congress to discuss our problem in the context of Soviet compliance with the International Pact on Civil and Political Rights, signed and ratified by the Soviet Union.

1. Sergei Mkrtchyan, Moscow.
2. Yury Semenovsky, Moscow.
3. Vladimir Meshkov, Moscow.
4. Sergei Mlechin, Moscow.
5. Natalya Samarovich, Moscow.
6. Yulia Shurukht, Moscow.
7. Vladimir Dashevsky, Moscow, suburb Troitsk.
8. Alla Dubrovskaya, Moscow.
9. Yakov Strelchin, Moscow.
10. Gennady Khlopotin, Moscow.
11. Anatoly Genis, Moscow.
12. Gennady Krochek, Moscow.
13. Yury Klyaitis, Moscow.
14. Rita Vinokurova, Moscow.

15. Olga Messerman, Moscow.
16. Olga Goldfarb, Moscow.
17. Boris Bekker, Moscow.
18. Yakov Katz, Moscow.
19. Vyacheslav Royak, Bendery.
20. Boris Chernobylsky, Moscow.
21. Yevgenia Meskina, Moscow.
22. Ilis Benzionov, Moscow, suburb Khimki.
23. Igor Mirovich, Moscow.
24. Yeva Tendler, Moscow.
25. Alyona Kagan, Moscow.
26. Klara Koyfman, Moscow.
27. Rauf Khabibulin, Moscow.
28. Mark Barencholk, Moscow.
29. Dmitry Golovaty, Moscow.
30. Olga Ilyinskaya, Moscow.
31. Ernst Gonopolsky, Moscow.
32. Inna Perlova, Moscow.
33. Pyotr Perlov, Moscow.
34. Viktor Berlyavsky, Moscow.
35. Mark Berenfeld, Moscow.
36. Irina Sterkina, Moscow.
37. Olga Buber, Moscow.
38. Boris Odessky, Moscow.
39. Tatyana Olshanetskaya, Moscow, suburb Krasnogorsk.
40. Yury Lugovik, Moscow.
41. Alexander Milman, Moscow.
42. Felix Milman, Moscow.
43. Alla Prilutskaya, Moscow.
44. Josef Latynsky, Leningrad.
45. Lev Fayn, Leningrad.
46. A. Eldin, Leningrad.
47. D. Dyskin, Leningrad.
48. L. Janishvily, Leningrad.
49. A. Zaretskaya, Leningrad.
50. Lilianna Varvak, Kiev.
51. Genrikh Perchenko, Moscow.
52. Vladimir Bord, Minsk.
53. Grigory Gorodetsky, Kishinev.
54. Alexander Kogan, Kishinev.
55. Roman Rosentul, Kishinev.
56. Izik Roytman, Kiahinvev.
57. Arkady Aptekar, Kishinev.
58. Leonid Reshkovan, Kishinev.
59. Eduard Vainshtein, Soroki (Moldavia).
60. Alisa Litinskaya, Dnepropetrovsk.
61. Viktoria Zinevich, Dnepropetrovsk.
62. Alexander Porotsky, Dnepropetrovsk.
63. Leonid Markov, Dneprodzerjinsk.
64. Genya Cherkasskaya, Odessa.
65. Mordekhai Ionesas, Kaunas.
66. Matvei Firmeinin, Vilnius.
67. Alexander Kushkulei, Riga.
68. Arthur Uritsky, Riga.

[An Appeal from Sergei Mkrtchyan, 115533, Nagatinskaya Naberejnaya 18 APT. 101 Moscow, JANUARY 5, 1988]

To The Executive Committee of the Moscow City Soviet:

We inform You that on the 15th of January, 1988 at 10-10:30 a.m. near the OVIR's building (address: Moscow, Kolpachny pereulok, 10) a demonstration of Jewish refuseniks' group "Poor Relatives" will be held in token of the solidarity with the group's activist Sergei Mkrtchyan.

The Demonstration's subject: "A Protest Against the Dominance of Bureaucracy and Red Tape in Ovir."

The demonstration will be Peaceful on principle. If we'll be arrested or blocked on the ways to the place of the demonstration, we would come out again on Monday, Tuesday etc.

We ask You to provide Safety for the demonstration.

Activists of "Poor Relatives" group:

1. Sergei Mkrtchyan.
2. Yury Semenovsky.
3. Vladimir Meshkov.
4. Sergei Mlechin.
5. Natalya Samarovich.

[From the Executive Committee of the Moscow City Soviet to Sergei Mkrtchyan, Moscow, Nagatinskaya naberejnaya 18 apt. 101, January 13, 1988]

Your application (sent on the 5th of January, 1988) is examined in the Committee.

Problems on departure from the USSR are being considered by the City OVIR. in accordance with the law. Your application is being considered the same way.

The Committee has not found grounds to give permission for the demonstration which is to be held on the 15th of January as well as on the next days, because the activists of the demonstration pursue an objective to create a wrong deliberately perverted impression of the consideration procedure of departure from the USSR. The Committee also takes into account the Moscow inhabitants attitude towards such kind of actions as well as the fact that such kind of actions recently has already led to the breach of the peace in the Kolpachny pereulok.

A.I. KOSTENKO,
Deputy Chairman
of the Committee.

THE PROBLEM OF ONE'S PARENTS' PERMISSION TO LEAVE THE COUNTRY

In the Soviet newspapers and the information intended for the West the Soviet officials assert that the Soviet state takes care of the parents and does not allow the children to leave the country in case their parents are against their leaving.

But every person has the right to decide where he prefers to live and whether he can leave his parents. Millions of people and their parents reside in different countries but they are allowed to visit each other.

The Soviet officials should allow the people who left the country to visit their parents instead of preventing the grown-up children from leaving the country on the pretext that it is immoral to leave the parents without having a possibility to see them from time to time.

To apply for permission to leave the country one has to present a paper from his or her parents that they have no material claims to him or her. The paper does not include the permission of the parents for their children to leave the country.

Thus OVIR leaves the moral aspect aside and puts emphasis on material claims only. But the Code (§ 77) on the marriage and family states that the Soviet government guarantees the necessary pensions to the people and that the children are not obliged to pay alimony duties to their parents. Therefore OVIR has no right to require from the people the paper that his or her parents have no material claims.

From the point of reason it is quite clear that if a person has do debts or alimony duties he must be allowed to leave the country. In case he has some debts or alimony duties he must pay them and after this be allowed to leave the country.

At one of the demonstrations I carried a slogan which said: "I do not owe, let me go".

The paper of the Soviets of the Peoples' Deputies of the USSR, Izvestiya, December 2, 1987, published an open letter to the members of the USA Congress, that is to you.

This open letter is entitled: "These Problems We Must Solve Ourselves".

This letter is nothing but a cry for help of Jewish mothers whose children decided to leave the country. Being loving mothers they do not want to part with their children in spite of the fact that their children decided to leave the country.

What do these mothers want the USA Congress to do? They want the Congress not to interfere and leave the things as they are: the mothers are to decide the fate of their children.

By the way of Joke: Why did the Soviet mothers address the USA Congress by writing to the paper of the Soviets of the Peoples' Deputies of the USSR. Evidently the Soviets of the Peoples' Deputies of the USSR is unable to settle the matter and they try to address a more competent organ: the Congress of the USA.

Who put their names under the letter? The letter of Jewish mothers to the USA Congress has five signatures. Three of the women are Russian, two of them are aunts and not mothers.

Among the names given under the letter there are those of my mother-in-law and her sister.

My wife and I were shocked by the event and sent a letter to the USA Congress trying to describe the situation: we have been trying for six years to leave this country for Israel where my father-in-law lives. We are not allowed to do so because my mother-in-law is unwilling to sign the document which OVIR demands.

At the same time she makes our lives very hard by writing denunciations to KGB and the Soviet police which persecute for Jewish activity, i.e. teaching Hebrew, Jewish history and culture.

APPEAL BY "THE HOSTAGE" REFUSENIK GROUP, JANUARY 10, 1988

In November 1987 a group of long time "regime" refuseniks held a symposium "Refusal to Eiigrate from the Country on Security Grounds. Legal and Humanitarian Aspects". The situation was given a thorough consideration in 48 papers submitted for the Symposium. The enclosed statement was issued by the Working Group of the Symposium.

As was noted in papers and at the Symposium discussions, the "regime" refuseniks are actually political hostages to USA-USSR relations. This finds its confirmation in General Secretary Gorbachev's statement at the Washington press conference on December 10, 1987, about 220 refuseniks being kept in the USSR on security grounds for unspecified term, probably for their lifetimes.

Presently the group that has organized the Symposium bears the name "The Hostage" and is planning to:

Organize seminars for discussions of various refusal problems;

Publish a periodical magazine;

Try open discussions of the problem with Soviet officials, press, scientific, legal and governmental bodies; and

Prepare an international conference on the problem of security refusals.

We will be happy to receive your help and cooperation. Thank you.

Sincerely,

Eugene Grechanovsky, Grigory Grinberg, Bella Gulko, Michael Gutman, Tatyana Ziman, Vladimir Kislik, Oscar Mendeleyev, Emil Mendgeritsky, Tsilya Reitburd, Gennady Resnikov, Georgy Samoilovitch, Julian Khasin.

Statement of the Working Group of the Symposium "Security Refusal," Moscow, November 25, 1987

From 23 to 25 of November in Moscow there was held the Symposium "Refusal to Emigrate from the Country on Security Grounds: Legal and Humanitarian Aspects". The aim of the Symposium was to discuss thoroughly and to analyze the practice of regime restrictions on leaving the Soviet Union and to work out means of solving the problem. The preparation of the Symposium was conducted by the Working Group of 18 regime refuseniks.

More than 130 people from Moscow, Leningrad, Kiev, Gorky, Novosibirsk, Minsk, Vilnus and Odessa took part in the Symposium. 48 papers and reports were presented and are in the 2 volumes of the proceedings to be published.

As the Moscow City Council refused to provide a hall for the Symposium, it was held in three private apartments. This reduced the number of those willing to take part.

The Soviet organizations, academic institutes and the press had been invited but ignored the Symposium.

The participants of the Symposium noted:

1. The absence of legal norms regulating the issuing of refusals, especially on so called "regime considerations".
2. Complete arbitrariness and absence of "Glasnost" in issuing refusals.
3. Preposterous terms of refusals, 5–10–15 and more years.
4. The absence of rights for legal defense.
5. Extending regime restrictions to relatives and to other people having no access to classified information.
6. Anti-human practice of emigration restrictions which go against the international obligations of the Soviet Union.

As a result, refuseniks and their families during periods of time commensurable to life-span find thermselves in a situation of complete uncertainty and of limited human rights and vital interests.

Besides, the present practice of Soviet regime restrictions undermines the foundations of international confidence.

To break the present deadlock, the participants of the Symposium consider it necessary:

1. Soviet restrictions on emigration from the country should be in accord with the international norms and practices.
2. Until the Soviet law is changed,

(i) to limit the maximal term of regime refusals by 5 years (from termination of security work) with possibility of its further reductions;

(ii) the refusals should be issued in written form with the indication of exact reasons and term;

(iii) to forbid the practice of extending the regime limitations to people without security clearance.

3. To publish periodically the list of people applied for visas with the date of the first application.
4. To establish means for international monitoring of the fulfillment of the abovementioned requests.

January 14, 1988.

First of all I would like to say some words about the situation with scientists-refuseniks. In 1986 I saw off just two scientists. In 1987, not less than 15 Moscow scientists, known to me, left and 11 more received their permissions and are leaving now. This should be admitted as a positive change in the trend.

Nevertheless, the problem has not been solved completely. And moreover, the authorities seem to never miss an opportunity to deny the exit visa for a scientist. That is if the application of a scientist is new enough, say about 5 years, the visa is almost surely denied.

It is also worth emphasizing that the cases of old refuseniks like the one of professor N.N. Meiman and Yulii Kosharovsky and a great many of others have not been still solved positively.

The terms during which scientists are kept here still exceed 10 years and no ultimate term was officially announced. Moreover, the very right of the citizen of the USSR to leave the country has never been clearly stated in a document issued for internal use. When people turned to the court to confirm their right and to defend it, the judges refused to admit the existence of the right as such.

I would like to stress that each scientist does possess useful and sometimes valuable information, because almost any scientific information is valuable, but it is shocking injustice to claim this information to be classified.

There remains a lot of unsolved problems for those who are still kept here—

(i) the applicants are usually fired out or forced to quit;

(ii) refuseniks cannot find and keep adequate jobs; and

(iii) when a refusenik is lucky to have an adequate job he is discriminated by his employers, the ways to publish his papers are blocked, the international conferences are usually forbidden, the contacts with his even Soviet colleagues are complicated.

I want to lay emphasis on the fact that these circumstances are particularly painful for scientists-refuseniks.

Such is the situation in Moscow and Leningrad. As to the other cities, it is by far worse. So we are very privileged here.

The consideration procedure for the exit visas is determined by the instructions of Domestic Affairs Ministry and remains unknown to the public. That is we do not know who and how and on which pretext denies us from our right. The activity of the Supreme Soviet Committee is fairly vague and contradictory. Some people do not even believe in its existence.

The secrecy of consideration procedure also opens the way for the former chiefs of the applicant to revenge upon him for the difficulties the application brought about. In some cases the scientist can, after his departure, reveal for the whole world that his scientific authorities and colleagues just pretend to be experts and to work hard in their field (I am afraid that it is exactly my case).

One more comment about the procedure of the consideration. The visa-office requires the certificates signed by the close relatives that there are no unfulfilled obligations on the part of the applicant. First, it surely violates the presumption of innocence; second, there are methods, other than to rotten a man in the country he does not want to live in, to settle the claims (there is so called Foreign Juridical Board to deal with the cases like this).

With the time flying, the long term refusal often turn to real tragedy. Thus, children are growing up and then may marry or be drafted into the army which can completely block the emigration of the whole family. All this develops on the background of very harsh attitude of the authorities towards refuseniks which sometimes can be classified as direct murder as in the case with late Inna Meiman.

Finally, I should dwell on the latest development, i.e. on the events of the current year. The visa-office authorities require the invitations just from the first-grade relatives which makes emigration impossible for the majority. This is being done contrary to the official claims made last summer.

Yuri Chernyak,
11-year refusenik.

Legal Defense of the Civil Law—Myth or Reality?

The declaration of Glasnost and Perestroika in the USSR, the enforcement in 1987 of the Law on entrance and exit of the USSR, some increase in the number of people getting exit visas, especially of the well-known refusniks caused an animation in the Jewish emigration movement. This movement was increasingly supported by the democratically-minded people in the West.

However, it is precisely here that the main problem came to the foreground, in other words the main brake: the absence of legal norms regulating the exit procedure and complete arbitrariness of the organs of the Ministry of the Interior in the practice of executing these laws. It became clear at once that the new Law not only had not made things clear, but, on the contrary, it had muddled the situation still more, having cemented the stand of the supporters of arbitrary solutions.

As a result, there appeared tendencies among refusniks of more serious understanding of the problems of emigration from the USSR, with a more scientifically grounded approach to various aspects of emigration. One of the manifestations of this tendency was the preparation for and holding the Symposium on regime refusal in Moscow on November 23–25. The symposium evoked a wide response in the West and was absolutely ignored by the Soviet authorities and legal scientific and practical organizations. So, the "silence conspiracy" was broken through only from one side.

To break through this "conspiracy" from the other side, it is necessary, as we believe, to have a mechanism of promulgation. This mechanism could be a consultative-practical seminar with the periodical press organ: "Legal problems of refusal to Emigration."

The principal task of this seminar and its publications is revealing the discrepancy between the current procedure of making decisions concerning exit refusals and the system of Soviet law and international obligations of the USSR. The practical implementation of this task can be effected through legal assistance from the seminar in holding individual and collective actions in courts, organs of justice and their research centres, organs of the Ministry of the Interior etc. and the promulgation of the documents in the press organ.

The first practical step of our seminar was the preparation and realization of the attempt of legal defense of our civil law on emigration violated by the organs of Visas and Registrations of the Ministry of the Interior. The substantiation of the jurisdiction of this legal right to Soviet law is given below.

At present about forty Moscow refusniks have brought suits to the Department of Visas and Registrations. All our suits were rejected by the judges of the Kalininski district court on account of "non-jurisdiction" (again "zones of non-jurisdiction" condemned by the leaders of the CPSU and Soviet State).

The decisions of the first sessions of the cassation instance (Moscow city court) were not consoling for us either. True, we did not expect the "miracles" of instant success in the breakthrough of the old ills of the long stagnation period in Soviet law practice. Perestroika has not actually become a "realized necessity."

However, we would like to hope that our small contribution to the clarification of this relatively narrow field of Soviet law (the freedom of movement, or according to Article 10 of the Civil Code of the RSFSR, the freedom to chose the place of residence) will eventually bear fruit.

The contents of the first booklet are the legal cases of Moscow's refusniks against the Department of Visas and Registrations, violating their civil right to emigration.

The subsequent booklets will be published with the accumulation of the material.

(Seminar Supervisors: Bella Gulko, Eugene Grechanovsky, Veadimir Kiseik, Gennady Resnikor.)

SUBSTANTIATION OF JURISDICTION

Soviet law recognizes that all citizens have civil rights and duties (Article 9 of the Civil Code of the RSFSR). For example, Article 10 of the Civil Code reads: "Citizens can, in accordance with law . . . choose . . . the place of residence, . . ." The choice of the place of residence must necessarily be associated with the freedom to quit one place and move to another place of residence, i.e., with the freedom of movement. Consequently, Article 12.2 of the international covenant on Civil and Political Rights ("Every person has the right to quit any country, including his own country") is in complete correspondence with Soviet law.

As can be seen, the legal basis of the exit of citizens from the USSR is determined by Soviet law and international obligations of the USSR taken during the ratification of the Pact. It should also be noted that in accordance with Soviet law (Article 19, "on conclusion, execution and denunciation of international treaties of the USSR" dated June 6, 1978, "international treaties of the USSR should be strictly observed by the USSR in accordance with the norms of international law and the rules of international treaties and agreements of the USSR have priority over the rules of Soviet law in case of their mutual discrepancy (Article 569, Civil Code).

So, according to the laws of the USSR, citizens have the right to leave the country.

Having ratified the Pact, the USSR took the obligation to provide any person whose rights and freedoms, underlined in this pact, have been violated, an efficient means of legal defense, even if this violation was effected by the people acting in the official capacity . . . (Article 2.3).

In accordance with Article 12 of the Civil Law, the limitations of civil rights are possible only "in cases and order envisaged by law". The limitations concerning the exit rights have been determined by the Law of the Council of Ministers of the USSR N 1064 (Law on entrance/exit from the USSR. However, in case of illegal limitation of this right, any interested person can appeal to court.)

On the basis of Article 6 of the Civil Law of the RSFSR, the defense of the civil right is effectd by court, except the cases specially envisaged by law when the defense is carried out in the administrative order. The defense of the civil right to exit by administrative organs is not determined by law, consequently, it should be effected by the court.

On the basis of article 25 of the Civil Practice Code, courts consider the cases arising from civil legal relations, provided at least one of the sides is represented by a citizen. Exceptions are made for such cases when the settlement of such conflicts is effected by administrative or other organs.

Soviet law does not envisage a law regulating the conflicts between a citizen and the Department of Visa and Registrations.

However, guided by Article 10 of the Civil Practice Code of the RSFSR, the court should apply the law regulating similar relations, and if this law is non-available, the court should proceed from general practice and fundamental ideas of Soviet law.

Refusing to consider the suits of citizens to the Department of Visas and Registrations, the court acts in contradiction to Soviet law and international obligations of the Soviet Union.—Bella Grelko, Moscow.

STATEMENT TO THE MINISTER OF THE INTERIOR, VLASOV

Each of us has appealed to the court for the defense of the civil right to quit the USSR, the right which has been for many years violated by the Department of Visas and Registrations of the Chief Department of the Interior at the Moscow City Executive Soviet. Each of us has been refused to defend the civil right by the court which stipulated that the defense of the civil right to quit the country is within the jurisdiction of the Ministry of the Interior of the USSR.

Many years of experience of appealing to the organs of the Ministry of the Interior have shown that your ministry did not only fail to admit its competence in defending the civil right, but it also actively supported the leadership of the Department of Visas and Registrations in their violations.

The refusal to defend the civil right to exit can be regarded only as a refusal of the USSR to fulfill its obligation taken during the ratification of the International Covenant on Civil and Political Rights, contrary to the clauses of Articles 19, 20, 21 of the USSR Law "On the order of conclusion, execution and denunciation of international treaties of the USSR" dated June 6, 1978.

If the decisions of the judges of the Kalininski district court of Moscow correspond to the reality and at present the defense of the civil right to quit the USSR is within the jurisdiction of the Ministry of the Interior of the USSR, then in accordance with Article 13 of the Civil Practice Code of the RSFSR we appeal to you for defense of the right, violated by the Department of Visas and Registrations of the Moscow City Executive Soviet, and demand to effect the defense procedure with our participation in the atmosphere of Glasnost and Observation of Law.

Please, inform us about your decision. Our address: 119048, Moscow, Komsomoski Prospect 48/22 apartment 37. Gulko B.F.

(Signed by all members of the Seminar)

LIST OF REFUSENIKS WHO APPLIED TO THE COURT FOR DEFENCE OF THE CIVIL RIGHT TO EXIT

Michael Belyakov, Ella Varshavskaya, Asja Golomshtok, Zoya Golomshtok, Grigory Grinberg, Lenoid Gonorovskiy, Eugene Grechanovsky, Victoria Gorelikova, Michael Gutman, Irina Gurvitch, Bella Gulko, Leonid Grossman, Vladimir Kislik, Tatyana Kolchinskaya, Jenja Lanman, Marina Lachman, Aaron Lachman, Judith Jurje, and Emmanuel Lurje.

Oscar Mendeleyev, Galina Pilmenshtein, Irina Pilmenshtein, Elia Pilmenshtein, Joseph Pilmenshtein, Matus Poberehskiy, Gennady Resnilov, Tatyana Rozenblit, Moshe Rozenblit, Alexander Feldman, Julian Khasin, Sevpol Hotimskiy, Inna Ioffe, Jury Chernijak, Igor Shmuelovich, Sergey Rtishchev, Evgeny Rubinstein, Elia Resnilov, and Anna Sapozhnikova.

To the Presidium of the Supreme Soviet:

In 1981, N.A. Bokhman and his wife R.P. Gruzman were, without justification, refused permission by the Kiev UVIR to emigrate abroad. (The Kiev OVIR) referred to the fact that their son had been a student in the mechanical-mathematics department at the Tomsk University. The period of time for this illegal refusal was defined as being until 1986. In March 1986, the unjustified limitation was dropped, and in July the Kiev OVIR gave permission to emigrate to the entire family. At the demand of OVIR, R.P. Gruzman's education records were turned over to the factory where she worked more than eleven years previously. Subsequently, the deputy director (of the factory?, trans) made calls, as he put it, "through his channels". As a result, the Kiev OVIR "changed its mind" about giving permission, which was a heavy blow to a serious ill individual. Gruzman is a category II disabled person who has suffered six myocardial heart attacks. Indeed, the OVIR's refusal was a contributing factor to a series of heart attacks, the last of which occurred in October 1987, and was serious ("krupnoochagovy", literally "going to the source"). The family sent a complaints to the Supreme Soviet on November 19, 1987, but received no answer.

We request that this cruel, illegal action of the Kiev OVIR be terminated, and that the family of N.A. Bokhman and R.P. Gruzman be given the opportunity to reunited with their son in Israel.

(Address: Kiev 252222, Ulitsa Nikolaeva, bldg, 1/24, a apt. 19, tel: 545-52-81)

Kolchinskaya, Poberezhsky, Kaplanskaya, B.F. Gulko, Lakhman, R. Lifshitz, B. Lifshitz, Meshkov, Boris Chernobilsky, Natalya Khasina, A.N. Sofman, Pezhikova, Gonorovskaya, Kapuzksky.

Mr. Speaker, I am pleased at this time to yield to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I just hope that over the next year before we reach the next Passover and Easter season that within the Soviet Union we will see some progress toward religious freedom and freedom of emigration.

TECHNICAL CORRECTIONS ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to introduce today H.R. 4333, the Technical Corrections Act of 1988. The purpose of this legislation is to make technical corrections to the Tax Reform Act of 1986, other tax legislation enacted during the 99th Congress, and the tax provisions of the Omnibus Budget Reconciliation Act of 1987. This legislation is cosponsored by the Honorable JOHN J. DUNCAN (R., Tennessee), ranking minority member of the Committee on Ways and Means. An identical bill is being introduced in the Senate today by the Honorable LLOYD M. BENTSEN (D., Texas) chairman of the Senate Finance Committee, and the Honorable ROBERT PACKWOOD (R., Oregon), ranking minority member of the Senate Finance Committee.

Last year, on June 10, 1987, Chairman BENTSEN and I jointly introduced the Technical Corrections Act of 1987—(H.R. 2636, S. 1350. That legislation was the product of our staffs working with the staff of the Joint Committee on Taxation, the two minority staffs, the staff of the Treasury Department, and the Offices of the Legislative Counsel, to review the Tax Reform Act of 1986 and make recommendations for technical corrections and clarifications. That legislation also reflected the input of many practitioners and professional associations throughout the Nation.

At the time of the introduction of the Technical Corrections Act of 1987 last year, I asked the public for written comments on the bill. The committee received over 1,000 comments on the bill. I instructed my staff to continue its efforts along with the other congressional tax writing staffs to review and, where appropriate, incorporate additional public comments into the technical corrections legislation.

As a result of these comments and further staff analysis, a modified version of the technical corrections legislation was approved by the Committee on Ways and Means and was passed by the House of representatives as part of title X of H.R. 3545, the Budget Reconciliation Bill of 1987. The Senate Finance Committee passed a similar, although not completely identical, version of technical corrections in title IV of S. 1920.

Under last year's Economic Budget Summit Agreement between the Congress and the administration, all provisions which lost revenue, including technical corrections, were required to be deleted from the Omnibus Budget Reconciliation Act of 1987. Accordingly, Chairman BENTSEN and I again instructed our staffs to review the technical corrections legislation, including the revenue provisions of the Omnibus Budget Reconciliation Act of 1987, and produce an updated bill.

I am pleased that the bill I introduce today reflects the input from Members, staff, and the public to provide clarification and necessary correction of the provisions of both the Tax Reform Act of 1986 and the Omnibus Budget Reconciliation Act of 1987. I wish to thank particularly members of the public, including many tax practitioners, who have expended countless hours reviewing this legislation and have provided invaluable comments on the provisions of these recent tax acts. In order to assist taxpayer analysis of this bill, Chairman BENTSEN and I have instructed the staff of the Joint Committee on Taxation to issue a pamphlet describing the provisions of the bill. This explanation is expected to be available within a few days.

Mr. Speaker, H.R. 4333 will greatly improve the ability of taxpayers to understand and comply with both the Tax Reform Act of 1986 and the Omnibus Budget Reconciliation Act of 1987. Because of the unfortunate delay in enacting the technical corrections bill, I am requesting the Internal Revenue Service and the Treasury Department to allow taxpayers to rely on these technical corrections as they did in a more limited way last year when the original technical corrections bill was introduced. I think that such assurance is necessary and appropriate in light of Treasury's statement last year and in light of the fact that taxpayers need such guidance when filing current tax returns.

Mr. Speaker, I want to assure my fellow Members and taxpayers, as I did last year when first introducing technical corrections legislation, that this bill is not intended or designed to make substantive changes to recent tax acts. Like last year's bill, this legislation is nearly revenue neutral. Given the responsibilities of the Committee on Ways and Means with respect to the Federal budget deficit, I do not anticipate making changes to H.R. 4333 which would cause any further loss of revenue as measured against last year's legislation.

Mr. Speaker, I wish to thank Congressman JOHN DUNCAN and Chairman BENTSEN for their continued support in developing this legislation. I would also like to thank all the staffs involved for their continued analysis and work on this legislation. I want to assure taxpayers that it is my intention to have the Committee on Ways and Means process this essential legislation as expeditiously as possible. This is critical legislation to which I am fully committed, and which I expect to be enacted prior to adjournment of the 100th Congress later this year.

Mr. DUNCAN. Mr. Speaker, today, I am joining the chairman of the Committee on Ways and Means in introducing new legislation to make needed corrections to the 1986 Tax Reform Act and other tax legislation enacted during the 99th Congress.

Although this bill includes provisions contained in the technical corrections measure—H.R. 2636—which was introduced last June, it is different in two respects. First, it is a more comprehensive measure because it corrects additional technical errors identified after June 1987. Second, the new bill also makes important corrections to the recently enacted Revenue Act of 1987, embodied in the Omnibus Budget Reconciliation Act.

As we are painfully aware, technical corrections has been sidetracked twice following the passage of the 1986 Tax Reform Act. Since then, the bill has grown from approximately 80 pages to a 700-plus-page document. That fact alone suggests the importance attached to the bill. As was the case with its predecessor—H.R. 2636—this legislation makes perfections and clarifications which are needed by taxpayers and practitioners to understand and comply with the new laws. It is, for the most part, a "nuts and bolts" bill.

I cannot say that I agree with every provision in this massive bill. However, I believe it accomplishes the intended objectives of providing accuracy and clarity which better reflect the decisions and the intent of Congress. The introduction of this bill will give the public an opportunity to review proposed additions to the technical corrections measures previously considered.

ACID RAIN ABATEMENT ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 5 minutes.

Mr. COOPER. Mr. Speaker, today I am introducing legislation that would require a major reduction in the air pollution that causes acid rain. My bill, the Acid Rain Abatement Act of 1988, would reduce emissions of sulfur dioxide by approximately 10 million tons per year by 2003 from 1980 levels. It would require this reduction in two phases—3.5 million tons per year by Dec. 31, 1996, and the remaining 6.5 million tons per year by Dec. 31, 2003—and it would require that polluters pay for their own reduction costs.

This is a far more gradual reduction requirement than under any other acid rain bill currently being considered in either the House or Senate. Indeed, it is even more gradual than I had considered proposing until very recently. I am introducing this bill today, however, for several reasons.

First, I believe Congress should move forward this year with an acid rain abatement program. The debate on this issue has been protracted. Acid rain bills have been introduced, but have failed to move for the past three sessions of Congress. I believe acid rain is an environmental problem, and although the severity of the problem is a matter of some dispute, further delay is neither in the national interest nor is it in the interest of Members like me with specific concerns about the social and economic costs of an abatement program. I represent a coal district and I support a strong coal economy. This bill is an invitation to all Members to negotiate a reasonable bill that can claim broad support.

Second, we have a special opportunity this year to enact acid rain legislation. Last fall, a vote in Congress for a short-term extension, instead of a long-term extension for areas that failed to meet the deadline for attaining the ozone and carbon monoxide air quality standards, kept pressure on this Congress to reauthorize the Clean Air Act. An amendment to the Clean Air Act will almost certainly reach the floor of the House this year, and if one does, chances are it will be reported with an acid rain component. It is high time to begin the search now for a consensus acid rain bill.

Third, an alternative acid rain bill to Representative SIKORSKI's H.R. 2666, which presently defines the debate in the House, is needed to engage the significant block of Members who have opposed acid rain legislation in the parts. My bill offers an invitation to those Members to come to the table and negotiate a reasonable solution. I have worked closely with key Members of the House Energy and Commerce Committee who have historically opposed any form of acid rain legislation, and they have indicated a willingness to take this proposal seriously and negotiate in good faith.

Finally, while this bill incorporates a more gradual phasing of reductions than I had earlier considered, it maintains its commitment to progressive and innovative reduction strategies. Conservation and energy efficiency are encouraged not only because they reduce pollutant emissions, but also because they represent cornerstones to a sound long-term energy policy. The bill's stretched-out deadlines provide time for innovative clean coal technologies to mature and play a major role in achieving cost-effective reductions. A $1.2 billion clean coal technology demonstration program, funded over 4 years, is built into the bill to encourage the use of progressive technologies. [The bill allows maximum flexibility for States and utilities to achieve their share of reductions in the most cost-effective way they can.] And since there is no subsidy to help utilities pay for pollution control devices, additional emphasis is placed on cost-effective decision-making.

In short, I've introduced a bill today in an effort to get us moving on acid rain. Acid rain legislation is necessary, but it is only possible if its benefits outweigh its costs. We have a special opportunity this year to produce a bill, expand the scope of the debate and then move toward a real consensus. I look forward to hearing from Members with input, ideas and responses to my proposal, and I look forward to playing a constructive role in this debate.

□ 1315

LEGISLATION TO BAN CREDIT DISCRIMINATION BASED ON COURSE OF STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, I am today introducing legislation to ban the ridiculous but quite injurious practice of refusing credit to an individual based on that person's course of study.

Recent news accounts indicate that Citibank, the largest bank in the United States and a major player in the credit card market, engaged in systematic discrimination against cared applicants who were humanities majors in college while granting credit to business and engineering majors. Certain majors, according to some skewed statistics, were deemed to be bad credit risks.

This is a reprehensible practice. In the modern marketplace, access to credit is less a privilege than a necessity. The law should not allow Citibank, which apparently will curtail this noxious practice, or any other credit arbiter to blackball an applicant because a person chose to study history rather than business. By this peculiar logic, one of the more memorable CEO's in the history of Citibank, Walter Wriston, would have had trouble obtaining a post-collegiate VISA card from Citibank. His credit mistake? His college major was history, as it was for Richard S. Braddock, the head of Citibank's retail banking division.

The victims of such a narrow-minded and needlessly exclusive policy are, of course, not bad credit risks because they chose a particular course of study. As such, the law should protect them against capricious discrimination.

Unfortunately, it does not. The Equal Credit Opportunity Act of 1974 prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, or age. In addition, the law bars discrimination in credit because all or part of the applicant's income derives from public assistance. The legislation I introduce today would amend the act to add to the list of prohibitions discrimination on the basis of a course of study pursued, or intended to be pursued.

I am pleased to have as original cosponsors of this legislation Mr. FAUNTROY, Mr. TORRES, Mr. SOLARZ, Mr. DEFAZIO, Mr. BIAGGI, Mr. WALGREN, Mr. HORTON, Mr. PRICE of North Carolina, Mr. KASTENMEIER, Mr. WEISS, and Mr. FAZIO.

At this point, I am including in the RECORD the text of the legislation and pertinent newspaper articles:

[From the Los Angeles Times Mar. 20, 1988]

CREDIT CARD FEUD—HUMANITIES NOT A MAJOR TO BANK ON

(By Douglas Frantz, Times Staff Writer)

Back in the 1960s, the hot issues at UC Berkeley were free speech and the Vietnam War. Today, it's equal access to credit cards.

The new controversy erupted this week when the campus newspaper disclosed that Citibank, the nation's largest bank and biggest purveyor of credit cards, has regularly denied credit cards to students who majored in humanities.

The New York bank has marketed its MasterCard and Visa credit cards on college campuses for four years, even setting up tables to hand out applications at Berkeley and a few other select universities beneath signs that proclaim, "No Previous Credit History Required."

But throughout the period, the bank has routinely rejected students who list majors in the humanities, such as English, history or art. The bank's basic rationale that these students are less likely to repay debts because they will not land the high-paying jobs that go to business or engineering graduates.

"It's obvious discrimination," said Molly F. Sorkin, an art history major turned down by Citibank shortly before her graduation in December. "A friend who majors in business got one as a freshman, and they are raising her credit limit to $6,000."

For Citibank, which counts a million college students among its 18.2 million credit card customers, the controversy is embarrassing, and the bank is beating a hasty retreat from the policy.

"This story is a nightmare," one official at the New York headquarters said Wednesday.

Another bank official, Bill McGuire, said the company has been phasing out a student's major as a factor in determining credit worthiness following complaints from around the country. But he defended the past use of a student's major as a factor.

"In the absence of a credit history, we looked at field of study as one indicator of an individual's ability to repay debt," he said.

The controversy started when Citibank refused a MasterCard to Kennedy K.S. Yip, 22 a senior rhetoric major at Berkeley.

Yip already had an American Express card and a Visa card from Bank of America and Citibank. American Express and B of A did not require him to list his major and he got the Citibank Visa when he was a mathematics major at UC Santa Cruz.

After transferring to Berkeley and switching majors. Yip applied for a Citibank MasterCard with the idea of consolidating his cards with one bank. But on Feb. 13, he received a letter from Citibank that listed "field of study" as the sole reason for turning him down.

Yip said Wednesday that he was angered about the reasoning behind the denial. "In essence, they are telling me that rhetoric majors do no pay back their debts," he said.

He posted signs about Citibank at the school and complained to a friend, Irene Chang, an English major who wants to become a journalist. Chang found other students with similar stories and decided to find out for herself by talking to a Citibank canvasser on campus.

"I told her that I was an English major and I had heard rumors about humanities majors being denied credit and I asked her what I should do." Chang said Wednesday. "She told me that I could fake my major as business administration or engineering. She said lots of students lie about their majors.

CONSIDERED LEGAL

Chang wrote a story that appeared Monday in the Daily Californian an independent campus paper.

The law prohibits using race or sex in deciding credit. But Edwin L. Rubin, a law professor at Berkeley, said Citibank could legally consider a student's major. But he questioned the social responsibility of the policy.

"With so many motivations for students to abandon the humanities and go into a professional career, it seems a pity and not responsible corporate behavior for a bank to send this additional signal," he said.

Questions can also be raised about the value of a major as an indicator of success. Walter B. Wriston, head of Citibank for many years before his retirement in 1984, and Richard S. Braddock, its chief of retail banking, were history majors. The current chairman of parent Citcorp, John S. Reed, has degrees in science and American literature.

[From the New York Times, Mar. 17, 1988]

CITIBANK TO PHASE OUT POLICY AGAINST LIBERAL ARTS MAJORS

BERKELEY, Calif., March 16.—Citibank said today that it would abandon a policy that denied credit cards to some liberal arts majors after students at the University of California at Berkeley demanded the bank's representatives be barred from campus because of the policy.

Bill McGuire, a spokesman for Citibank in New York, said the policy would be discontinued by the end of June. He said the company had received complaints from several universities.

Mr. McGuire said a student's major "was a good indicator of future earning potential and of students' ability to pay debt," but said other factors would now be used to judge credit worthiness. He would not elaborate.

ART HISTORY MAJORS COMPLAIN

A spokesman for the United States Comptroller of the Currency said Tuesday that the Equal Credit Opportunity Act does not prohibit using a student's academic major to judge credit worthiness.

Spokesmen for American Express and the Bank of America said they were surprised by the Citibank policy, since their organizations had found that students were good credit risks. They said they did not use academic majors as part of their credit scoring system for students.

The students at Berkeley said they were denied credit cards because of their studies in such areas as English, rhetoric, art history and Italian. They said the bank's representatives would be barred from campus unless there was a change in the policy.

SENSELESS DISCRIMINATION

"This was obvious, senseless discrimination, that in effect said students in business or engineering majors are the ones who will be making all the money and that only they could be trusted," said Molly Sorkin, a 22-year-old art history major. She said Citibank rejected her application for a Visa card last fall because of her "field of study."

Another student, Kennedy Yip, said he was turned down by Citibank on Feb. 13 because he was majoring in rhetoric. But he said he received a Visa last year while attending a different college as a mathematics major.

The Citibank policy was uncovered last week when a reporter for a campus newspaper, The Daily Californian, asked a bank representative how to apply for a credit card.

The reporter, Irene Chang, said the representative advised her to fill in the credit application by listing business administration or electrical engineering as her major instead of English.

[From the San Francisco Chronicle, Mar. 17, 1988]

CITIBANK LIFTS RESTRICTION ON CREDIT FOR LIBERAL ARTS STUDENTS

(By Steve Massey)

A red-faced Citibank is backing off a nationwide policy of denying credit cards to many college students simply because they are liberal arts majors.

After scattered student protests, including one this week at the University of California at Berkeley, the giant New York bank yesterday said it is dropping "field of study" from its list of credit criteria for collegians.

The change, which takes effect in June, follows a report in the Daily Californian newspaper that students pursuing humanities degrees routinely were turned down for Citibank credit cards.

One rejected applicant, Molly Sorkin, said yesterday that she was led to believe that she would have no problems obtaining a Citibank credit card when, as an art history senior, she applied last fall.

"But about a month later, I got a letter that said, "Thank you for applying. However, we are not going to issue you a credit card at this time because of your field of study," she said.

Citibank spokesman Bill Hughes denied that the UC Berkeley uproar over its policy had anything to do with the bank's change of heart.

Field of study was included in credit decisions because "in the absence of credit history of younger people, it was regarded as one indicator of future earnings potential and the ability of that person to repay debt," he said.

[From the New York Times, Mar. 21, 1988]

LIBERAL ARTS, TIGHT CREDIT

College students who major in liberal arts—good for the mind but not necessarily for the purse—know they may not end up in the money. Haven't their parents been pointing out to them all this time that it's just as easy to study business as it is, say, semiotics?

But until Irene Chang, a reporter for a campus newspaper at the University of California at Berkeley, did a little digging, liberal arts students probably didn't know that their majors also flag them as potential welshers.

At least they do for Citibank.

According to Ms. Chang, Citibank had a policy of denying credit cards to some students at the University of California at Berkeley and several other schools, simply because of their liberal arts majors.

She discovered the policy when a bank representative advised her to list her major on a credit application as electrical engineering rather than English.

Investigating, Ms. Chang found a student who had been approved for credit, when he was a mathematics major at another college but was denied it when he switched to Berkeley and to rhetoric. Students of art history and Italian were denied credit as well.

Now Citibank has decided to abandon its policy—and a good thing, too. Liberal arts may or may not be impractical. But how could the study of Elizabethan drama or Renaissance art possibly be thought a character flaw?

[From the Los Angeles Times, Mar. 21, 1988]

WELL, MY MOTHER LOVES ME

The recent flap at Berkeley over Citibank's discrimination against humanities majors in issuing credit cards to college students didn't surprise Spencer Nilson, publisher of a credit card industry news-letter called the Nilson Report, which is based in Santa Monica.

"All I know is that Citibank is one of the sharpest outfits in the world and if they were rejecting humanities majors, you can be darn sure they had a reason for doing it," Nilson said. "I remember when I was a credit manager. I rejected every used-car salesman and lawyer who ever applied for credit. Actors and actresses, too."

H.R. 4342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 701(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) in paragraph (2), by striking out "or" the second place it appears; and

(3) by inserting after paragraph (2) the following:

"(3) on the basis of any course of study pursued or intended to be pursued by the applicant; or".

LEGISLATION TO HAVE HISTORIC SITE NEAR VINCENNES, IN, INCLUDED UNDER NATIONAL PARK SYSTEM

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, today I am pleased to introduce legislation to have an historic site near Vincennes, IN, included under our National Park System. This site, referred to as Fort Knox II, was one of several forts built and garrisoned in the area to protect settlers and to control the strategic Wabash River.

The first Fort Knox, built in 1787, was for a time the westernmost post on the far frontier. Fort Knox II, built in 1803 just north of town, was fortified in 1809 and became the center of military activity for the Indiana territory but was abandoned a few years later in order to build Fort Knox III which provided more protection for the town.

Of further historic significance is the association of the fort with several people of national importance. The construction of Fort Knox II was completed by Capt. Zachary Taylor, later to become the 12th President, and the fort was the staging ground for the preparation of troops under Gen. William Henry Harrison, first Governor of the Indiana Territory and 9th President, for the Battle of Tippicanoe against Indian tribes led by the prophet. In addition, the Indian Chief Tecumseh and 400 armed warriors stopped at the fort on the way to a conference with Governor Harrison in Vincennes.

The Department of the Interior has recognized the significance of Fort Knox II by including it on the National Register of Historic Places. This legislation allows the Indiana Historical Society to donate the approximately 39.5 acres to the U.S. Government, to become a part of the George Rogers Clark Historical Park. Under Public Law 89-517, the Secretary of the Interior is authorized to accept property in Vincennes "Historically associated with George Rogers Clark and the Northwest Territory for the inclusion of such property in the George Rogers Clark National Historical Park."

Those of us in Washington often hear the phrase that we are making history by passing certain pieces of legislation, or by voting a particular way. We spend countless hours and reams of paper commemorating any number of organizations, causes, and people. What we need is a real sense of what our forbearers went through in order to provide the opportunities we have in this great country. We must do everything we can to preserve and protect the artifacts and sites of historical significance so that we can build a strong sense of patriotism and heritage.

I want to commend the members of the Indiana Historical Society for their recognition of this goal and for their generosity in offering this land to the people of America, and I commend this legislation to my colleagues for their consideration.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. TORRES). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, it is said in the Scriptures that the bird has his nest, the fox has his hole, but the son of man has no place to rest his head.

In America today unfortunately what we had feared on December 4, 1982, when the Subcommittee on Housing and Community Development that I have the honor of chairing had the first hearing and, thereby, the first national attention to what was then an unperceived, though to us growing menacing problem of homelessness, the most disturbing feature having been for a few months before that in 1982 of the nature of homelessness the like of which I for one had not seen since the Depression era.

America had become accustomed to considering what we used to call the hobo, the ne'er-do-well, the unfortunate alcoholic, roaming our streets and countrysides wandering homeless, rootless, but the new nature that was most aggravating and most disturbing to me even as early as the summer of 1982 was the case of a father and mother with a 2-year old living in an automobile in a public park area in my hometown, because they simply had no place to go or live. I thought, well, this is an ad hoc situation, yes, they did have a very pathetic story to tell. Nevertheless, it seemed that even then under those circumstances it was impossible to conceive of an American family living that way.

I intervened and found it difficult even on an emergency basis to get that family temporary emergency housing with the housing authority. Then as we went into the autumn here in the District of Columbia, I received letters and phone calls from some private church supported facilities that were inquiring as to what, if any, Federal program existed, and being that I was chairman of this Housing Subcommittee, the calls were referred to me. They had called the Department of Housing and Urban Development, but could not find any one place to get results, which illustrates what I have said all along, and that is that that is the reason why the Constitution provides for this office, that we are attempting to discharge an office that has been shaped to be as close and as accessible to the people as it is humanly possible to devise.

The rest is history. It was the December 4, 1982, hearing, for instance, that first brought forth such later nationally established personalities as Mitch Snyder, and it also gave impulse to our efforts, up to then by letter, to convince GSA, the General Services Administration, to allow the use of the old Federal City College facility.

In any event, the rest is history. Just 1 year and 2 months ago, we had almost everybody in the leadership position in the so-called Emergency Homeless Assistance Act joining, but just that year, last year, was the first year that the President sent a budgetary request that recognized that problem by inserting a $100-million provision which he had steadfastly fought us for 3 years in a row. As difficult as it has been, the most unfortunate thing is that it has developed into a national disgrace. We have literally our fellow Americans, too many, rootless, wandering our land, homeless, and in effect refugees in their own home land.

The causes we have been speaking about ad nauseam for years. The purpose of my address today, which I feel will be succinct, is to report that I have introduced H.R. 4292, the Emergency Home Ownership Assistance Act. I have reformed it a little, perfected it from the 1983 version, which this House of Representatives approved and, incidentally, it is the only so-called new program that under the Reagan administration has been approved by the House of Representatives. Unfortunately in May 1983, it went over to the Senate where it languished and died, not even a hearing, not even one Senator asking questions.

I might point out also by way of parentheses, that the U.S. Senate until last year, since 1981, never even so much as called 1 half-hour of hearings on any housing matter, so that in working with our conferees within the context of the Congress, we finally did last year manage to produce the first freestanding authorization or reauthorization bill on housing and community development which, in effect, is a sort of a standby.

The Emergency Home Owners' Assistance Act of 1983 was motivated because of the hearings that I referred to in December 1982, and the subsequent incremental increases reported to us in homelessness of this nature, that is, where families, children, mothers, not single males, but families were homeless.

The cities in the Sun Belt and in the temperate zones of the west coast were beginning to report problems with "homelessness."

I feel that it is fine to give emergency attention to a problem that is assailing us, but if we do not address the cause of the problem, the factors that are motivating and creating homelessness, of what avail is it that we tread water in an endless renewal and extension of homelessness assistance programs?

This bill today is what I consider to be the preventive. We have estimated that had it been accepted, as modest as it was, in 1983, we would have at least 10 percent prior homeowners now homeless not homeless. We had targeted not less than 100,000 homeowning American families to have been assisted if that act had been placed into law.

Today I want to point out that over the last 20 years, through public policy, the Congress has solved many of the consequences of what the economists call cyclical problems or periods related to housing.

Housing does not stand alone as we constantly have to remind colleagues and witnesses. If we speak of housing, we have to talk about streets, drainage, sewage, water facilities, known by the very highfallutin' term of infrastructure, as I have been reporting because the title of the subcommittee that I chair is Housing and Community Development, and I have been into 33 States, into every single rural area where there is any kind of migratory or rural labor or housing situation, and I have been into every single dense urban area in this country from New York to Florida, from Minnesota to Alabama, Texas, the Midwest, California. I can tell you there is no question about it, we have a serious housing crisis on our hands and one that is growing. It cannot help but grow.

Up to now, we had had a different environment under which all of these corollary activities involved in what we call housing were operative, including the financial institutional framework of reference, the savings and loan.

There is no such thing. They have all been made banks since 1982. Our financial institutions from credit unions to banks themselves are now homogenized, and we have as yet not found a substitute. We must if we are ever going to resume production of affordable housing available to the average family.

At this point about 6 percent of American families are able to purchase a brand new single-family dwelling unit. Through these years in the last 20 years, we have created what is known as a secondary mortgage institution activity, known as various entities such as the Government National Mortgage Association, Ginnie Mae, the Federal National Mortgage Association, Fannie Mae, and the Federal Home Loan Mortgage Corporation, Freddie Mae. There were structured to make available allocations of credit or availability of credit for housing funds during periods of tight money or of credit restraints.

However, as I often again have to remind these very institutional officials, those are known as secondary mortgages. Secondary implies there is a primary, but if the primary is sick, how can a secondary be well, meaning available?

In sum, while we have been able to address the critical problem of mortgage capital for homeowners in an indirect way through the secondary mortgage institution facilities, Congress up to now has not dealt with the equally serious regional as well as cyclical problem of delinquencies and foreclosures due to the economic circumstances which eventually lead to families losing their homes.

□ 1330

When these families lose their homes, they lose all. Homeownership represents achievement as well as stability and a sense of control over one's life. No government should stand by, as I have said in vain for 7 years, without offering help to thousands of citizens who are losing their homes and their savings as well as pride and hope and, above all, family stability; not because they have been careless, not because they have been foolish, but only, and only because they have been caught up in an economic cycle over which they have no control.

Therefore, I am reintroducing this legislation somewhat spruced up and perfected because there is no such thing as any perfect bill being written at one given time.

I believe it is urgently needed today and maybe more today than in 1983. It is similar, as I said, to the one in 1983, but I think improved. And, if accepted—and I almost feel certain this time we are going to have luck, because I have even had the private sector, the mortgage banking institutions, at least a segment of them, indicating that they had made a mistake when they opposed us in 1983. Of course, I could understand then, because it was a different environment under which that mortgage and mortgage banker was operating as compared to today. They could very well have been cavalier in saying, "We will be reluctant to foreclose, we will forebear."

But for 1½ years, no matter how much they wanted to, they simply cannot.

Now a good chunk or segment of that financial community is in touch with me saying that they are certainly sympathetic. It looks to me as if we will have some support that we did not have in 1983.

I am offering for the record a summary, in summary form, the clauses contained in this act known as H.R. 4292; also a table showing the 60-day default statistics by Federal Home Loan Bank districts as of last year. However, the most up-to-date account by the mortgage tabulators as of March 18, that is this month, indicates that the problem continues to be deepening and getting more serious insofar as foreclosures are concerned.

I am not talking about delinquencies, I am talking about foreclosures.

So that at this point I will place a summary of emergency housing assistance, the table of 60-day default statistics and a copy of H.R. 4292.

The documents referred to are as follows:

SUMMARY OF EMERGENCY HOUSING ASSISTANCE ACT OF 1988

A. EMERGENCY MORTGAGE RELIEF

The Emergency Housing Assistance Act of 1988 would provide temporary financial assistance for homeowners of non-FHA insured single-family homes who are faced with the threat of foreclosure due to involuntary unemployment or substantial loss of income. The primary features of the program would be:

Mandatory Activation

Would require HUD to institute the program when the average default rate, over a 3-month period, as measured by the Federal Home Loan Bank Board (FHLBB) 60-day default series, by Federal Home Loan Bank Board District rises to 2.0 percent of mortgage funds represented by the series and to suspend the program when the default rate drops to an average of 1.9 percent over a 3-month period. Would require that the Secretary notify financial institutions when the program is activated.

Qualifications for Assistance

Property secured by the mortgage is the primary residence of the homeowner and is a one-to four-family residence, a cooperative or condominium unit, or a manufactured home and lot on which the home is situated;

The mortgage payments are 90 days delinquent or the homeowner has been notified that the lender intends to foreclose; homeowners in foreclosure may also apply;

The original mortgage amount does not exceed the maximum mortgage amount that could be insured by FHA; the maximum ranges from $67,500 to $101,250;

The homeowner has suffered a substantial loss of income due to a loss or reduction in his or her employment, his or her self-employment, or returns from the pursuit of his or her occupation, or any similar loss or reduction by any person contributing to the income of such mortgagor.

Assistance Payments

Would cover the difference between what the homeowner is capable of paying and the total amount actually needed to cover principal, interest, taxes, assessments, ground rents, hazard insurance, and mortgage insurance, but in all cases the homeowner would have to contribute 38 percent of monthly net effective income;

Would include an amount necessary to make mortgage payments current to the date assistance is awarded;

May be provided to 18 months plus any period of default and may be extended for an additional 18 months if the Secretary determines it is necessary to avoid foreclosure;

Must be secured by a lien on the property and shall be repaid upon terms established by the Secretary except that any interest rate charged on the repayments shall be either the rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt or 8.5 percent, whichever is less; Secretary may establish, with consent of mortgagor, incentives for early repayment of loan including forgiveness of part of interest charges on loan.

Must be repaid at an amount that ensures that monthly repayment and total monthly housing expense does not exceed 38 percent of monthly net effective income of homeowner.

Authorization

$500 million is authorized for a revolving loan fund.

60-Day default statistics by Federal Home Loan Bank Districts

[Rate as of September 1987]

Federal Home Loan Bank of:	
Boston; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	0.87
New York; New Jersey, New York, Puerto Rico, and Virgin Islands	1.86
Pittsburgh; Delaware, Pennsylvania, and West Virginia	1.87
Atlanta; Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia	1.64
Cincinnati; Kentucky, Ohio, and Tennessee	2.33
Indianapolis; Indiana and Michigan	1.28
Chicago; Illinois and Wisconsin	1.86
Des Moines; Iowa, Minnesota, Missouri, North Dakota, and South Dakota	2.29
Dallas; Arkansas, Louisiana, Mississippi, New Mexico, and Texas	6.45
Topeka; Colorado, Kansas, Nebraska, and Oklahoma	3.23
San Francisco; Arizona, Nevada, and California	1.62
Seattle; Alaska, Hawaii and Guam, Idaho, Montana, Oregon, Utah, Washington, and Wyoming	2.02

Trigger in emergency bill is 2.0.

H.R. 4292

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Housing Assistance Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the uncertain economic conditions that have existed in various parts of the Nation during the past several years have contributed to a continuing high rate of delinquencies and foreclosures;

(2) many homeowners are suffering from the impact of the economic downturn in their regions and are struggling to meet their mortgage obligations; and

(3) many such homeowners could retain their homes if they received temporary financial assistance until economic conditions improve.

(b) PURPOSE.—It is the purpose of this Act to establish a program that will preserve and promote forbearance with respect to mortgages and, through emergency mortgage relief payments, prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) District.—The term "district" means any Federal Home Loan Bank district established by the Federal Home Loan Bank Board under section 3 of the Federal Home Loan Bank Act.

(2) Federal supervisory agency.—The term "Federal supervisory agency" means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

(3) Fund.—The term "Fund" means the Homeowners Emergency Relief Fund established in section 9.

(4) Monthly net effective income.—The term "monthly net effective income" means the monthly gross income of a mortgagor, less any Federal, State, or local income or employment taxes due with respect to such income.

(5) Mortgage.—The term "mortgage" includes a land contract or other instrument providing for the sale and purchase of property referred to in section 5(a)(1), and the terms "mortgagor" and "mortgagee" include the parties to the agreement of sale and purchase.

(6) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(7) State.—The term "State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) Total monthly housing expense.—The term "total monthly housing expense" means the sum of—

(A) the monthly payment of principal, interest, taxes, assessments, ground rents, hazard insurance, and mortgage insurance premiums due by a mortgagor with respect to a property assisted under this Act;

(B) the reasonable monthly maintenance costs of the mortgagor with respect to the property; and

(C) the reasonable monthly utility costs of the mortgagor with respect to the property.

SEC. 4. EFFECTIVE MORTGAGE DELINQUENCY RATE.

(a) Availability of Assistance.—

(1) General authority.—The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, carry out the program established in this Act.

(2) Conditions requiring implementation.—For purposes of carrying out the program established in this Act, the Secretary shall contract to make, and make, assistance available under this Act in any district when, on an average monthly basis for a period of 3 consecutive months for the district, the amount of funds represented by mortgage loans and contracts that are accounted for in the 1- to 4-family permanent mortgage delinquency series maintained by the Federal Home Loan Bank Board, and for which payments have been delinquent for 60 days or more, exceeds 2.0 percent of all funds represented by mortgage loans and contracts accounted for in the series.

(3) Months considered.—For purposes of determining when assistance is to be made available pursuant to paragraph (2), the Secretary shall take into account all months beginning with or after the third month before the month in which this Act is enacted.

(4) Initial assistance.—With respect to the initial occurrence, after the date of the eanctment of this Act, of the delinquency rate condition described in paragraph (2), the Secretary shall begin to contract to make, and make, assistance available at the beginning of the first month after the month in which the mortgage delinquency series referred to in such paragraph indicates that the condition has occurred.

(5) Availability of date.—The mortgage delinquency series referred to in paragraph (2) shall be made available by the federal Home Loan Bank Board to the Secretary and the Congress on a monthly basis and shall contain data on the mortgage delinquency rate during the previous month for each district.

(b) Termination of assistance.—

(1) In general.—Once assistance is made available under this Act in any district, the Secretary shall continue to contract to make, and make, the assistance available until the date on which the mortgage delinquency series referred to in subsection (a)(2) indicates that the amount of funds represented by 60-day delinquent mortgage loans and contracts accounted for in the series has declined, on an average monthly basis for a period of 3 consecutive months for the district, to below 1.9 percent of all funds represented by mortgage loans and contracts accounted for in the series, except that—

(A) the assistance shall continue to be made available pursuant to contracts entered into before such date; and

(B) the Secretary shall reinstitute the program established in this Act in the district whenever the delinquency rate condition described in subsection (a)(2) reoccurs.

(2) Reinstitution after termination.—In any case in which the program is reinstituted in any district, the Secretary shall begin to contract to make, and make, assistance available beginning with the date after the date on which the mortgage delinquency series indicates that the delinquency rate condition has reoccurred.

(c) Notification of Mortgagees.—The Secretary shall promptly notify each financial institution or other mortgagee holding a mortgage on property in any district in which the Secretary had determined to institute or reinstitute the program of assistance established in this Act.

SEC. 5. ELIGIBILITY FOR ASSISTANCE.

(a) Eligibility Conditions.—Assistance may be made with respect to a mortgage under this Act only under the following terms and conditions:

(1) Eligible properties.—The property securing the mortgage (or other security interest in the case of units in cooperative or condominium projects, or in the case of any manufactured home and the lot on which the home is situated) is a one- to four-family residence (including one-family units in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and any manufactured home and the lot on which the home is situated) and is the principal residence of the mortgagor involved.

(2) Impending foreclosure.—Either—

(A) the mortgagee involved has indicated to the mortgagor its intention to foreclose; or

(B) payments under the mortgage have been delinquent for at least 90 days.

(3) Exclusion of federally insured or assisted housing.—The mortgage is not insured under the National Housing Act or assisted under title V of the Housing Act of 1949.

(4) Involuntary reduction in income.—The mortgagor has incurred a substantial reduction in income as a result of—

(A) an involuntary loss of, or reduction in—

(i) his or her employment, other than as a result of any willful repeated or felonious misconduct by the mortgagor;

(ii) his or her self-employment, other than as a result of a willful repeated or felonious misconduct by the mortgagor; or

(iii) returns from the pursuit of his or her occupation, other than as a result of any willful repeated or felonious misconduct by the mortgagor; or

(B) any similar loss or reduction by any person contributing to the income of the mortgagor; which reduction in income renders the mortgagor unable to correct a mortgage delinquency within a reasonable time or to resume full mortgage payments.

(5) Income limitation.—The aggregate annual income of the mortgagor and the members of the family of the mortgagor residing with the mortgagor, for the 12-month period preceding the date of the application of the mortgagor for assistance under this Act, does not exceed whichever of the following is higher:

(A) Area median income.—The median income for a family of 4 persons in the metropolitan statistical area involved.

(B) National median income.—The national median income for a family of 4 persons.

(6) Establishment of payment plan with mortgagee.—The Secretary has determined that the mortgagor, if contacted by the mortgagor, has cooperated with the mortgagee in attempting to establish a reasonable plan for the making of partial payments of the amounts due under the mortgage or, considering the financial circumstances of the mortgagor, any other reasonable plan to correct the mortgage delinquency of the mortgagor without financial assistance under this Act.

(7) Prospect of resumption of full mortgage payments.—The Secretary had determined that payments under this Act are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to—

(A) resume full mortgage payments within 36 months after the beginning of the period for which payments under this Act are provided or upon termination of assistance under this Act; and

(B) make the payments under the mortgage in full by its maturity date or by a later date agreed to by the mortgagor and mortgagee.

(8) Principal obligation of mortgage.—

(A) Maximum original principal obligation.—An amount equal to the original principal obligation of the mortgage does not exceed the principal amount that could be insured, at the time the mortgagor applies for assistance under this Act, with respect to the property of the mortgagor under section 203(b) of the National Housing Act (or under section 203(n) or 234(c) of such Act with respect to a unit in a cooperative housing project or condominium project, respectively).

(B) Current principal obligation.—A mortgagor may not be determined to be ineligible for assistance under this Act on the basis of the relationship between the fair market value of the home and the outstanding principal obligation of the mortgage.

(b) Eligibility Limitation.—Upon a determination that the conditions of eligibility in subsection (a) have been met by a mortgagor, the mortgagor shall become eligible for the assistance described in section 7, to the extent amounts are available under section 9 for the assistance.

SEC. 6. APPLICATION FOR ASSISTANCE.

(a) Submission of Application.—During any period in which the program established in this Act is in effect in any district, each financial institution or other mortgagee shall, not less than 30 days prior to instituting any foreclosure proceeding with respect to any property described in paragraphs (1), (3), and (8) of section 5(a), assist the mortgagor involved in the preparation and submission to the Secretary of an application for assistance under this Act. The application shall not be required if the mortgagor executed a waiver of assistance under this Act after full disclosure of his or her possible eligibility.

(b) Postponement of Foreclosure Proceedings.—If any mortgagor submits an application for assistance under subsection (a), the financial institution or other mortgagee involved may not institute foreclosure proceedings with respect to the mortgagor prior to the receipt of notification from the Secretary under section 7(g) with respect to approval or disapproval of the application for assistance.

(c) Stay of Foreclosure Proceedings.—A mortgagor may submit an application for assistance after foreclosure proceedings have been instituted, in which event the proceedings shall be automatically stayed until receipt of notification from the Secretary under section 7(g).

(d) Proof of Compliance.—In States that require judicial approval of foreclosure, compliance with this section shall be pleaded and proved as a precondition to foreclosure of any mortgage eligible for assistance under section 5. In all States, failure to comply with the provisions of this section shall be the basis of an action to enjoin a foreclosure. Proof of the refusal of the mortgagor involved either to submit an application or to execute a waiver under this section shall satisfy the burden of proof established in this subsection.

SEC. 7. ASSISTANCE PAYMENTS.

(a) Form of Assistance.—Assistance under this Act shall be provided in the form of emergency mortgage relief payments made by the Secretary to mortgagees on behalf of mortgagors. The payments shall be made using amounts available in the Homeowners Emergency Relief Fund.

(b) Amount of Assistance.—

(1) In general.—Payments with respect to any mortgage under this Act shall be in an amount that, together with the contribution of the mortgagor involved, is equal to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, expenses of the mortgagee involved in connection with payments or repayments under this Act, and mortgage insurance premiums due under the mortgage, and the initial payment shall include an amount necessary to make the payments on the mortgage current.

(2) Maximum amount.—Payments under this Act shall not exceed amounts that the Secretary determines to be necessary to supplement the amounts, if any, that the mortgagor involved is capable of contributing toward the mortgage payments.

(3) Minimum amount.—Payments on behalf of any mortgagor under this Act shall not be less than the amount required to ensure that the total monthly housing expense of the mortgagor does not exceed 38 percent of the monthly net effective income of the mortgagor.

(c) Duration of Assistance.—

(1) In general.—Payments under this Act may be provided for a period of not to exceed 18 months plus any period of delinquency.

(2) Extension.—The period shall be extended for a period not to exceed 18 months if the Secretary has determined that the extension is necessary to avoid foreclosure.

(3) Change in financial circumstances.—

(A) Review procedures.—The Secretary shall establish procedures for—

(i) each mortgagor, on whose behalf payments are made under this Act, to inform the Secretary of any significant increase or decrease in income; and

(ii) periodic review, to be conducted not less then once annually, of the financial circumstances of the mortgagor of the purpose of determining the necessity for continuation, termination, or adjustment in the amount of the payments.

(B) Discontinuation of payments.—The payments shall be discontinued at any time if the Secretary determines that, because of changes in the financial circumstances of the mortgagor, the payments are no longer necessary to avoid foreclosure.

(d) Terms of Assistance.—

(1) Security.—All payments under this Act shall be secured by a lien on the property involved and by such other obligation as the Secretary may require. The lien shall be subordinate to all mortgages existing on the property on the date on which the initial assistance payment is made under this Act on behalf of the mortgagor involved.

(2) Repayment.—

(A) In general.—Payments under this Act shall be repayable upon terms and conditions prescribed by the Secretary, and the terms and conditions may include requirements for repayment of any amount paid by the Secretary toward the expenses of a mortgagee in connection with the payment or repayments made under this Act.

(B) Interest.—

(i) Rate.—The Secretary may establish interest charges on payments made under this Act, except that the interest charges on the payments made on behalf of any mortgagor shall be set at a single rate that does not exceed whichever of the following rates is less:

(I) 8.5 percent.—8.5 percent.

(II) Treasury borrowing rate.—A rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the month preceding the month in which the initial payment is to be made on behalf of the mortgagor.

(ii) Accrual.—The interest charges on any payments made on behalf of a mortgagor under this Act shall not begin to accrue until termination of the payments.

(iii) Preemption of state and local limits.—The interest charges shall be payable notwithstanding any provisions of any State constitution or law or local law that limits the rate of interest on loans or advance of credit.

(3) Amount of monthly repayment.—

(A) General limit.—The Secretary shall establish the monthly repayment to be made by any mortgagor under this Act at an amount necessary to ensure that the sum of the monthly repayment and the total monthly housing expense of the mortgagor does not exceed 38 percent of the monthly net effective income of the mortgagor.

(B) Incentives for early repayment.—The Secretary may, at the option of any mortgagor, establish appropriate incentives for early repayment of the amount owed to the Secretary under this Act, including forgiveness of part of the interest charged on the payments made on behalf of the mortgagor.

(C) Review of financial circumstances.—The Secretary shall establish procedures for—

(i) each mortgagor making repayments under this Act to inform the Secretary of any significant increase or decrease in income; and

(ii) periodic review, to be conducted not less than once annually, of the financial circumstances of the mortgagor for the purpose of determining the necessity for adjustment in the amount of the repayments.

(4) Deposit of receipts in fund.—All receipts from repayments made to the Secretary under this Act shall be deposited in the Homeowners Emergency Relief Fund established in section 9.

(e) Aggregate Limitation on Assistance.—Payments by the Secretary under this Act may be made without regard to whether the Secretary has previously taken action under this Act on behalf of a mortgagor, except that payments may not be provided on behalf of a mortgagor under this Act for more than an aggregate of 36 months.

(f) Counseling Assistance.—The Secretary shall provide, in accordance with section 106(c) of the Housing and Urban Development Act of 1968, homeownership counseling to mortgagors on whose behalf payments are made under this Act.

(g) Processing of Applications.—The Secretary shall process applications for assistance under this Act in as expeditious a manner as is practicable. In carrying out this Act, the Secretary shall provide that, within not more than 45 calendar days from the receipt of an application for assistance under this Act, the mortgagor and mortgagee involved will be notified by the Secretary of the determination of the Secretary to approve or disapprove the application for assistance.

(h) Allocation of Assistance.—

(1) In general.—In providing assistance under this Act, the Secretary shall—

(A) seek to ensure a reasonable distribution of funds among districts in which the program established in this Act is in effect; and

(B) take into consideration the rates of residential mortgage foreclosure and unemployment in the units of general local government in which the properties involved are located and whether the units of general local government are eligible for assistance under section 119 of the Housing and Community Development Act of 1974, giving particular consideration to units of general local government that have rates of unemployment exceeding the national average or are eligible for assistance under such section 119.

(2) Use of most recent data.—In carrying out the provisions of this subsection, the Secretary shall utilize the most recent information available from the Secretary of Labor with respect to rates of unemployment.

SEC. 8. AUTHORITY OF THE SECRETARY.

(a) REGULATIONS.—The Secretary may make rules and regulations that are consistent with the provisions of this Act and are necessary to carry out the provisions of this Act.

(b) ADDITIONAL AUTHORITY.—

(1) POWERS UPON DEFAULT.—In the performance of, and with respect to, the functions, powers, and duties vested in the Secretary by this Act, the Secretary shall—

(A) have the power, notwithstanding any other provision of law, whether before or after default, to provide by contract or otherwise for the extinguishment upon default of any redemption, equitable, legal, or other right, title in any mortgage, deed, trust, or other instrument held by or held on behalf of the Secretary under the provisions of this Act; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary be law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which assistance has been provided pursuant to this Act.

(2) MANAGEMENT AND DISPOSITION OF ACQUIRED PROPERTY.—In the event of any such acquisition, the Secretary may (notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States) complete, remodel and convert, dispose of, lease, and otherwise deal with, the property.

(c) COLLECTION OF CLAIMS.—Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by the Secretary in connection with any security, subrogation, or other rights obtained by the Secretary in administering this Act. Any funds collected by the Secretary under this section shall be deposited in the Homeowners Emergency Relief Fund established in section 9.

SEC. 9. HOMEOWNERS EMERGENCY RELIEF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the Homeowners Emergency Relief Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts for purposes of carrying out this Act;

(2) any amount received by the Secretary as repayment for payments made under this Act;

(3) any amount collected by the Secretary under section 8; and

(4) any amount received by the Secretary under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary for purposes of carrying out the provisions of this Act, including—

(1) the making of emergency mortgage relief payments to mortgagees on behalf of mortgagors under section 7; and

(2) the administrative expenses of the Secretary in carrying out the provisions of this Act.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this Act shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; LIMITATION ON BUDGET AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this Act $500,000,000 for fiscal year 1989. Any amounts so appropriated shall be deposited in the Fund and shall remain available until expended.

(b) LIMITATION ON BUDGET AUTHORITY.—The aggregate amount of assistance made available over the duration of the contracts entered into under this Act may not exceed $500,000,000.

SEC. 11. ACTIONS BY FEDERAL SUPERVISORY AGENCIES.

(a) PROMOTION OF FORBEARANCE.—Each Federal supervisory agency, with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall, not later than 14 days following the date of the enactment of this Act—

(1) communicate in writing with each such institution or mortgagee encouraging it to exercise forbearance (including the acceptance of partial payment), to the maximum extent possible, with respect to residential mortgage foreclosures;

(2) waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies, to the extent the waiving or relaxing of the limitations is not inconsistent with laws relating to the safety and soundness of such institutions or mortgagees; and

(3) take such actions as may be necessary to ensure that each such institution or mortgagee complies with the requirements established in section 6.

(b) SPECIAL CONSIDERATION FOR INSTITUTIONS EXERCISING FORBEARANCE.—

(1) FEDERAL HOME LOAN BANKS.—In considering applications for advances, the Federal Home Loan Banks shall give special consideration to institutions that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

(2) FEDERAL RESERVE BANKS.—In considering applications for advances or discounts, the Federal Reserve Banks shall give special consideration to depository institutions and other borrowers that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

(3) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—In considering applications for extensions of credit, the National Credit Union Administration Board, on behalf of the National Credit Union Central Liquidity Facility, shall give special consideration to members that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

SEC. 12. REPORTS TO CONGRESS.

(a) DELINQUENCIES AND FORECLOSURES.—The Secretary shall submit annually to the Congress a report on—

(1) the current rate of delinquencies and foreclosures in the housing market areas of the Nation that should be of immediate concern if the purpose of this Act are to be achieved;

(2) the extent of, and prospect for continuance of, voluntary forbearance by mortgagees in such housing market areas;

(3) actions being taken by governmental agencies to encourage forbearance by mortgagees in such housing market areas;

(4) actions taken and actions likely to be taken with respect to making assistance under this Act available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and

(5) the current default status and projected default trends with respect to mortgages covering multifamily properties, with special attention to mortgages insured under the various provisions of the National Housing Act and with recommendations on how the defaults and prospective defaults may be cured or avoided in a manner that, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy the multifamily properties.

(b) ALTERNATIVE MORTGAGE DELINQUENCY SERIES.—

(1) STUDY.—The Secretary shall conduct a study to determine if a mortgage delinquency series other than the mortgage delinquency series referred to in section 4(a)(2) would be a more effective and efficient series to utilize in carrying out this Act.

(2) REPORT.—Within 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress the findings and conclusions of the study along with any legislative recommendations concerning the program established in this Act.

SEC. 13. REPEAL OF EMERGENCY HOMEOWNERS' RELIEF ACT.

The Emergency Housing Act of 1975 is amended by striking title I.

IMPLICATIONS FOR CONGRESS OF RISING DISTRICT OF COLUMBIA DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 60 minutes.

Mr. PARRIS. Mr. Speaker, when I became the ranking member of the Committee on the District of Columbia, I began a systematic assessment of a number of issues which I felt the committee should consider. Toward that end, I have held countless meetings and discussions with representatives of the business community, the city council, and the executive branch of the city government. These meetings are continuing and will form an important component of my activities in carrying out my responsibilities as vice chairman of the committee that has oversight of our Nation's Capital.

Among the issues which I have focused upon have been the form of city governance, public safety, and finance. While much remains to be done in the areas of governance and public safety, my view on these subjects is already quite well known.

Less well known are my views on the state of the city's finances. The vagueness of that position has been somewhat deliberate because I have not wanted—nor do I want today—to interfere with the elected Mayor's and City Council's budget prerogatives, the budget formulation and review process. The priorities which the Home Rule government establishes are rightly their's just as they are rightly the prerogatives of every other municipality in our land.

On the other hand, unlike other municipalities, the District of Columbia anticipates receiving this year more than $430 million or 16 percent in a Federal payment toward an annual operating budget of $2.5 billion. It is this fact that prompts me to review and make these comments concerning the stewardship by the city of its finances.

What I have found troubles me. As a result of the work which City Councilmember John A. Wilson, who is also the Chairman of the Council's committee on finance and revenue, has completed with the publication of his "white paper" on the District of Columbia's debt, I have to conclude that the current debt is both staggering and increasing alarmingly. In a phrase, unless someone does something about the debt, it is out of control. Let me cite some figures:

First, the District of Columbia is currently over $6 billion in debt. Put another way, every man, woman, and child in the District would have to contribute $8,658 in order to satisfy the city's existing debt.

Second, the largest portion of the debt, or some $3.4 billion at the end of 1986, is attributable to the unfunded pension liability for teachers, firefighters, police, and judges. That amount is not the end of this saga for the unfunded pension liability alone is projected to increase by an additional $9.5 billion over the next 17 years to $12.9 billion in 2005.

The impact that this singular item—the unfunded pension liability—will have on the operating budgets in the future is nothing short of staggering. For example, in fiscal year 1988, $164.7 million is budgeted for the net pay-as-you-go costs of the pension system. Unless something is done about funding the projected unfunded liability, the net pay-as-you-go costs will rise to $794.6 million in 2005 for that one year.

I should not have to note the impact that such a liability will necessarily have on future budget policies and the hopes and aspirations of those who are then the residents and employees of this city. That the city has budgeted $14.8 million toward the annual amortization of the difference between the projected unfunded liability as of September 30, 2004, and the unfunded liability as of September 30, 1979, is simply ludicrous.

Third, the next largest portion of the debt, $2.249 billion at the end of fiscal year 1986, is attributable to borrowings to finance capital projects. Without intending to pass any judgment on the efficacy of these projects, I will simply repeat what Councilmember Wilson stated in his report: "This particular debt has grown at a phenomenal rate, increasing 93.4 percent since fiscal year 1980." Chairman Wilson goes on to note that debt service for fiscal year 1988 is expected to be $256.3 million or an increase of more than $100 million over the amount paid in fiscal year 1980.

Over the next 5 years, interest payments will exceed $1.2 billion without taking into account payments that will be required on the $883 million in debt that the city expects to issue by the end of fiscal year 1992, the $757.5 million for which the city already has authority to issue or, finally, an additional $324 million which the Mayor has requested. All in all, total projected capital spending authority—that is, projects not under construction—amounts to $1.964 billion. If all of the possible projects represented by this amount were funded, total outstanding capital debt would be $4.213 billion.

While the debt service on such an amount might still be within the 14-percent limitation as established and defined by the Home Rule Act, it would almost surely exceed the Federal payment which is almost one-half of a billion dollars per year.

Let me just note that while section 483(c) of the Home Rule Act provides that the Federal payment shall, in the absence of other funds, be used to first pay any principal and interest due on general obligation bonds and notes, the Home Rule Act is equally clear that the full faith and credit of the United States is not pledged.

I want to emphasize that. While the statute might be quite clear, the prospect that the Capital City of the United States might at some future date be unable to pay its obligations has to, for us, be both unsettling and simply intolerable. Since a part of our oversight is to sound warnings and offer suggestions as might be appropriate, I am taking this moment to do both. I know, and Chairman Wilson has pointed out in his report, that the mayor and council are presently engaged in several efforts to get better control over the debt. Efforts, however, will not be enough. Actions—successful and meaningful actions—are required along with some innovative thinking.

Let me be quite clear about how I view this debt situation.

First of all, I do not intend to tell the city which projects it should cut, or fund, or for which it should create alternative financial strategies. That is why we have an elected mayor and city council. On the other hand, I am quite willing to meet with anyone who would like to have my thoughts on any of several options available to us all. Persons who have talked to me and to the committee staff are well aware that there are options, and many of them should be considered.

Second, I want to make it clear that I reject the notion that the Federal payment is something Congress gives to the District of Columbia because we, the Federal Government, are a burden on them and cause the city to lose substantial amounts of revenue. The Federal payment is not made because of revenue foregone or in lieu of tax receipts. Congress provides a Federal payment because Washington, DC, is the Nation's Capital and the host to millions of Americans who come to our national shrines and because we are the seat of the world's strongest democracy. In meeting those responsibilities the trustees, if you want to call them that, of our capital incur various costs which should be borne, not just by the citizens here, but by all Americans.

That is what the Federal payment is about and that is why we provide it. The amount we provide must, therefore, be a function of need—not of a blind formula or of a platitude of unjustified rationalizations. Therefore, if there is a thought, anyplace, that somehow Congress will simply cough up the additional dollars required to pay for the aggrandizement of local government officials, let that thought dissipate quickly. There will be no funds for such undertakings. On the other hand, whatever funds are needed to run the Capital City will be there if the stewardship is also there.

Toward that end, let me make a few specific comments. I begin by referring to the concerns that the City Council's finance Chairman, John Wilson, and I both share about the pension fund. I do not believe that the $14.8 million which the city has budgeted toward the annual amortization of the differences between the projected unfunded liability as of September 30, 2004, and the unfunded liability as of September 30, 1979, is enough. I know that there is a council committee which is working on this matter; but let me note that while Congress has assumed responsibility for a very substantial portion of the unfunded liabilities and may well do more, we need a stronger and better commitment from the city itself. All of us need to understand that the unfunded pension liability was not created solely by the Congress. Unless a stronger city commitment is forthcoming, I cannot foresee asking Congress unilaterally to provide more help.

What is particularly troubling in this matter, however, is the city's resolute position that it will not fully fund the administrative expenses of the retirement board as is provided in the statute. The board submitted a request for $6,948,000 of which $4,800,000 were expenses attributable to investment advice and properly chargable to the fund's income. Under the law, the city should pay the difference or $2,148,000. The city's recommendation for its share is a mere $807,000 only about one-third of what is needed. While it is true that Congress has gone along with that practice in past years, I ought to point out that the difference between the amount paid by the city and the full costs of administrative expenses have been taken from the Federal Government's contribution to the unfunded liability. This year, that amounts to $1,341,000 which could have gone into the fund. The future value of that amount, and on amounts similarly spent in past years, have to be substantial. In my view, therefore, this practice needs to end.

Beyond this, let me note and close by suggesting that the city needs to look for some new and innovative ways to accomplish tasks which at an earlier time were simply done, built or fully paid for with governmental funds. Some programs might be better served if done by the private sector or in a partnership with the local government. It is simply unfair both to the taxpayers in this city and to the taxpayers across this country, who live in communities that do not receive a $430 million Federal payment, that this city proposes to increase city government employment by an additional 3,244 persons for a total of 44,480 persons.

Put another way, approximately 1 out of every 14 residents in a city with a population of 622,000 work for the city government. Neither this city, nor any other governmental entity at any level, can do everything for everyone, all the time. Neither can it be the employer of last resort. It needs to set some priorities; and it needs to set them now. If the city wants help; if it would like guidance; if it wants suggestions; if it wants ideas for innovation, I extend an invitation to cooperate in arranging expert assistance at this, an early date, as opposed to later, when the financial problems rising from the current profligacy will surely be upon us.

□ 1345

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McEwen (at the request of Mr. Michel), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Saiki) to revise and extend their remarks and include extraneous material:)

Mr. Gilman, for 5 minutes, today.

Mr. Miller of Washington, for 5 minutes, today.

(The following Members (at the request of Mrs. Cooper) to revise and extend their remarks and include extraneous material:)

Mr. Cooper, for 5 minutes, today.

Mr. Kleczka, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

(The following Member (at the request of Mr. Parris) to revise and extend his remarks and include extraneous material:)

Mr. Gonzalez, for 60 minutes, April 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Saiki) and to include extraneous matter:)

Mr. Madigan.

Mr. Schaefer.

Mr. Frenzel in two instances.

Mr. Crane.

Mr. Ritter.

Mr. Pursell.

Mr. Shaw.

Mrs. Johnson of Connecticut.

Mr. McEwen in two instances.

Mr. Barton of Texas.

Mr. Dornan of California.

Mr. Michel.

Mr. Goodling.

(The following members (at the request of Mr. Cooper) and to include extraneous matter:)

Mr. Traficant.

Mr. Miller of California.

Mr. Richardson in two instances.

Mr. Solarz.

Mr. Lowry of Washington.

Mr. Stokes in three instances.

Mr. Gray of Illinois in four instances.

SENATE ENROLLED JOINT RESOLUTIONS

The **SPEAKER** announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 206. Joint resolution to designate April 8, 1988, as "Dennis Chavez Day;"

S.J. Res. 223. Joint resolution to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week;"

S.J. Res. 245. Joint resolution to designate April 21, 1988, as "John Muir Day;" and

S.J. Res. 260. Joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On March 30, 1988:

H.R. 4263. An act to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway;"

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A.;"

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact; and

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

ADJOURNMENT TO MONDAY, APRIL 11, 1988

Mr. PARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The **SPEAKER** pro tempore. Pursuant to the provisions of House Concurrent Resolution 272 of the 100th Congress, the House stands adjourned until 12 o'clock meridian, Monday, April 11, 1988.

Thereupon (at 1 o'clock and 50 minutes p.m.), pursuant to House Concurrent Resolution 272, the House adjourned until Monday, April 11, 1988, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3284. A letter from the Commissioners, National Commission on Dairy Policy, transmitting the Commission's report and recommendations on the federal milk price support program and the future of the dairy industry, pursuant to 7 U.S.C. 1446 nt, to the Committee on Agriculture.

3285. A letter from the Secretary of Housing and Urban Development, transmitting the 1988 consolidated annual report on the community development programs administered by the Department, pursuant to 42 U.S.C. 5313(a); to the Committee on Banking, Finance and Urban Affairs.

3286. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the 1987 annual report of the Council, pursuant to 31 U.S.C. 719(c)(3); to the Committee on Banking, Finance and Urban Affairs.

3287. A letter from the Director, Peace Corps, transmitting the third annual report of the actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3288. A letter from the Director, Bureau of Justice Statistics, Department of Justice, transmitting a report of the activities of the Bureau during fiscal year 1987, pursuant to 42 U.S.C. 3789e; to the Committee on the Judiciary.

3289. A letter from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1989 and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 3146. A bill to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities; with an amendment (Rept. 100-557, Pt. 2). Ordered to be printed.

Mr. FRANK: Committee on the Judiciary. H.R. 3997. To amend the Ethics in Government Act of 1978 to extend the authorization of appropriations for the Office of Government Ethics for six years; with an amendment (Rept. 100-558, Pt. 1). Ordered to be printed.

Mr. HAWKINS: Committee on Education and Labor. H.R. 1834. To amend the Fair Labor Standards Acts of 1938 to restore the minimum wage to a fair and equitable rate and for other property; with an amendment (Rept. 100-560). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 1385. A bill for the relief of Travis D. Jackson (Rept. 100-545). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 1864. A bill for the relief of Helen Lannier (Rept. 100-546). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 2682. A bill for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Madalena, Jr., Dennis P. Magdalena, Anthony M. Pecos, Lawrence A. Seonia, Jose R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie (Rept. 100-547). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 2889. A bill for the relief of Frances Silver (Rept. 100-548). Referred to the Committee of the Whole House.

Mr. FRANK: Committee the Judiciary. H.R. 3185. A bill for the relief of James P. Purvis (Rept. 100-549). Referred to the Committee of the Whole House.

Mr. FRANK: Committee the Judiciary. H.R. 3347. A bill (Rept. 100-550). Referred to the Committee of the Whole House.

Mr. FRANK: Committee the Judiciary. H.R. 3388. A bill for the relief of Benjamin H. Fonorow (Rept. 100-551). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 3439. A bill for the relief of Marisela, Felix, and William Marrero (Rept. 100-552). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 3606. A bill for the relief of Brenda W. Gay (Rept. 100-553). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 3625. A bill for the relief of Joanne Salyards (Rept. 100-554). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 3941. A bill for the relief of Samuel R. Newman (Rept. 100-555). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 4099. A bill for the relief of Melissa Johnson (Rept. 100-556). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 2711. A bill to settle certain claims arising out of activities on the Pine Ridge Indian Reservation with an amendment (Rept. 100-559). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRUCE (for himself, Mr. de la Garza, Mr. Durbin, Mr. Evans, Mr. Foley, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Horton, Mr. Johnson of South Dakota, Mr. Lipinski, Mr. Lowry of Washington, Mr. Madigan, Ms. Oakar, Mr. Perkins, Mr. Stallings, and Mr. Traficant):

H.R. 4329. A bill to amend the United States Warehouse Act to specifically allow States to require grain elevators with Federal warehouse licenses to participate in State grain indemnity funds or to require collateral security; to the Committee on Agriculture.

By Mr. MAZZOLI (for himself, Mr. Kastenmeier and Mr. Swindall):

H.R. 4330. A bill to provide for a hearing before an administrative law judge respecting the release of certain Mariel Cuban detainees; to the Committee on the Judiciary.

By Mr. COOPER:

H.R. 4331. A bill to amend the Clean Air Act to provide further controls of certain stationary sources of sulfur dioxides and nitrogen oxides to reduce acid deposition, to provide for the commercialization of clean coal technologies for existing stationary sources, and for other purposes; jointly, to the Committees on Energy and Commerce and Science, Space and Technology.

By Mr. DeFAZIO:

H.R. 4332. A bill to amend the Internal Revenue Code of 1986 to make permanent the exlusion from gross income for educational assistance furnished under certain educational assistance programs, to exclude graduate students form the annual limitations on such exclusion, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself and Mr. Duncan):

H.R. 4333. A bill to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. DeFazio, Mr. Henry, Mr. Traxler, Mr. Broomfield, Mr. Vander Jagt, Mr. Roe, Mr. Hastert, Mr. Ballenger, Mr. Hammerschmidt, Mrs. Martin of Illinois, Mr. Davis of Illinois, Mr. Gallo, Mr. Houghton, Mr. Pursell, Mr. Kildee, Mr. Holloway, Mr. Baker, Mr. Inhofe, Mr, Lightfoot, and Mr. Levin of Michigan):

H.R. 4334. A bill to direct the Secretary of the Army, in planning any water resource projects, to give consideration to the impact of the project on recreation uses and commercial development; to the Committee on Public Works and Transportation.

By Mr. SCHEUER (for himself, Miss Schneider, Mr. Brown, of California, Mr. Waxman, Mr. Lowry of Washington, Mr. Walgren, Mr. Kastenmeier, Mr. Henry, Mr. Towns, Mr. Gilman, Mr. Ackerman, Mr. MacKay, Mrs. Saiki, Mr. Buechner, Mr. Valentine, Mr. Weiss, Mr. Boehlert, and Mr. Hochbrueckner):

H.R. 4335. A bill to establish a national policy for the conservation of biological diversity; to support environmental research and training necessary for conservation and sustainable use of biotic natural resources; to establish mechanisms for carrying out the national policy and for coordinating related activities; and to facilitate the collection, synthesis, and dissemination of information necessary for these purposes; jointly, to the Committees on Science, Space and Technology and Merchant Marine and Fisheries.

By Mr. DioGUARDI:

H.R. 4336. A bill to prohibit the Secretary of Agriculture from extending financial assistance under the Consolidated Farm and Rural Development Act to persons who have defaulted on a loan made or insured under such Act or whose loans are restructured and remain outstanding, to prevent delinquent borrowers from repurchasing farm property at a discount, and to provide for the termination of certain restructured loans that are 180 days delinquent; to the Committee on Agriculture.

By Mr. FRENZEL:

H.R. 4337. A bill to temporarily suspend the duty on high resolution cathode ray tubes; to the Committee on Ways and Means.

By Mr HUGHES (for himself, Miss Schneider, and Mr. Saxton):

H.R. 4338. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to impose special fees on the ocean disposal of sewage sludge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HUNTER:

H.R. 4339. A bill to expand Japan's market for United States agricultural products; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Moorhead, Mr. Boucher, Mr. Cardin, Mr. Frenzel, Mr. Baker, Mr. Espy, Mr. Frank, Mr. Montgomery, Mr. Robinson, Mr. Slattery, Mrs. Smith of Nebraska, Mr. Fauntroy, Mr. Quillen, Mr. Smith of Florida, Mr. Wilson, Mr. Mazzoli, Mr. Sisisky, Mr. Sikorski, Mr. Wheat, Mrs. Vucanovich, Mr. Chapman, Mr. Berman, and Mr. Morrison of Connecticut):

H.R. 4340. A bill to provide for retirement and survivors' annuities for bankruptcy judges and United States magistrates, and for other purposes; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. KENNEDY:

H.R. 4341. A bill to amend the Immigration and Nationality Act to extend the legalization program to aliens who entered the United States before March 31, 1988; to the Committee on the Judiciary.

By Mr. KLECZKA (for himself, Mr. Fauntroy, Mr. Torres, Mr. Solarz, Mr. DeFazio, Mr. Biaggi, Mr. Walgren, Mr. Horton, Mr. Price of North Carolina, Mr. Kastenmeier, Mr. Weiss and Mr. Fazio):

H.R. 4342. A bill to prohibit discrimination in the provision of credit on the basis of the applicant's course of study; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LOWRY of Washington (for himself, Miss Schneider, Mr. Bonker, Mr. Foglietta, and Mr. Hochbrueckner):

H.R. 4343. A bill to require the preparation of an energy plan regarding the oil and gas reserves within the Arctic National Wildlife Refuge, and for other purposes; jointly to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Energy and Commerce.

By Mr. McCLOSKEY:

H.R. 4344. A bill to direct the Secretary of the Interior to accept the donation of the tract of land known as Fort Knox II and to add such tract to the George Rogers Clark National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. MADIGAN (for himself, Mr. de la Garza, Mr. Brown of California, Mr. Roberts, Mr. Glickman, and Mr. Marlenee):

H.R. 4345. A bill to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes; to the Committee on Agriculture.

By Mr. RINALDO:

H.R. 4346. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SHAW (for himself, Mr. Lehman of Florida, Mr. Lewis of Florida, Mr. Mica, and Mr. Smith of Florida):

H.R. 4347. A bill for the relief of the State of Florida; to the Committee on Ways and Means.

By Mr. SLATTERY:

H.R. 4348. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles; to the Committee on Public Works and Transportation.

By Mr. SWINDALL:

H.R. 4349. A bill to amend the Immigration and Nationality Act to limit the period of detention of excluable aliens pending removal in the same manner as such detention is limited for deportable aliens pending deportation, to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 4350. A bill to alter the tariff treatment of certain printed advertisements; to the Committee on Ways and Means.

By Mr. VENTO (for himself, Mr. St Germain, Mr. Wylie, Mr. Gonzalez, Mrs. Roukema, Ms. Oakar, Mr. Fauntroy, Mr. Flake, Mr. Garcia, Mr. Hubbard, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy, Mr. Lehman of California, Mr. Manton, Mr. Mfume, Mr. Neal, Ms. Pelosi, Mr. Schumer, and Mr. Torres):

H.R. 4351. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend the housing and shelter programs for the homeless; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VENTO (for himself, Mr. Lowry of Washington, Mr. Foley, Mr. Coelho, Mr. St Germain, Mr. Wylie, Mr. Gonzalez, Mrs. Roukema, Mr. Hawkins, Mr. Waxman, Ms. Oakar, Mr. Panetta, Mr. Rangel, Mr. Downey of New York, Mr. Kildee, Mr. Leland, Mr. Ackerman, Mr. Applegate, Mr. Biaggi, Mr. Brown of California, Mr. Bruce, Mrs. Collins, Mr. Conyers, Mr. Coyne, Mr. Crockett, Mr. DeFazio, Mr. Dicks, Mr. Fauntroy, Mr. Fazio, Mr. Flake, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Frank, Mr. Frost, Mr. Garcia, Mr. Gilman, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Hubbard, Mrs. Johnson of Connecticut, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy, Mr. Kostmayer, Mr. Lantos, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Levine of California, Mr. Lewis of Georgia, Mr. Manton, Mr. Markey, Mr. Matsui, Mr. Mfume, Mr. Miller of California, Mr. Miller of Washington, Mr. Moakley, Mrs. Morella, Mr. Neal, Mr. Oberstar, Mr. Owens of New York, Ms. Pelosi, Mr. Pepper, Mr. Perkins, Mr. Rodino, Mr. Scheuer, Mr. Schumer, Mr. Shays, Mr. Smith of Florida, Mr. Torres, Mr. Towns, Mr. Traxler, Mr. Weiss, and Mr. Wyden):

H.R. 4352. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, Ways and Means, Education and Labor, Veterans' Affairs, and Agriculture.

By Mr. VISCLOSKY:

H.R. 4353. A bill to establish a limitation of $912,598,392 on the amount of funds which may be used for operating assistance under the Urban Mass Transportation Act of 1964 in fiscal year 1988; jointly, to the Committees on Public Works and Transportation and Appropriations.

By Mr. WATKINS:

H.R. 4354. A bill to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. DORNAN of California (for himself, Mr. Hunter, Mr. Moorhead, Mr. Stangeland, Mr. Gray of Illinois, Mr. Solomon, Mr. Bliley, Mr. Daub, Mr. Packard, Mr. Shumway, Mr. Donald E. Lukens, Mr. Nielson of Utah, Mr. DeWine, Mr. Smith of New Hampshire, Mr. Hyde, Mr. Weber, Mr. Swindall, Mr. Kolter, Mr. Dannemeyer, Mrs. Bentley, Mr. Petri, Mr. Holloway, Mr. Wortley, Mr. DeLay, Mr. Bilirakis, Mr. Armey, Mrs. Smith of Nebraska, Mr. Emerson, Mr. Inhofe, Mr. Coats, Mr. Bunning, Mrs. Vucanovich, Mr. Boulter, Mr. Weldon, Mr. Smith of New Jersey, Mr. Burton of Indiana, Mr. Mollohan, and Mr. Hansen):

H.J. Res. 529. A joint resolution declaring that the preborn are persons entitled to the guarantees contained in the 5th, 13th, and 14th amendments to the Constitution of the United States of America and prohibiting abortion within the United States; to the Committee on the Judiciary.

By Mrs. VUCANOVICH (for herself, Mr. Udall, Mr. Madigan, Mr. de la Garza, Mr. Lowry of Washington, Mr. Gray of Illinois, Mr. Henry, Mr. Owens of New York, Mr. Wortley, Mr. Fauntroy, Mr. Lewis of Florida, Mr. Horton, Mr. Matsui, Mr. Lagomarsino, Mr. McDade, Mr. Neal, Mr. Smith of Florida, Mrs. Collins, Mr. Hatcher, Mr. Chapman, and Mr. Fuster):

H.J. Res. 530. A joint resolution designating May 1988 as "Take Pride in America Month"; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H. Con. Res. 276. A concurrent resolution expressing the sense of Congress that the Surgeon General should declare that drunk driving is a national crisis; to the Committee on Energy and Commerce.

By Mr. AuCOIN:

H. Res. 424. A resolution expressing the sense of the U.S. House of Representatives on the importance of tax incentives for homeownership and that no additional restrictions or caps should be placed on homeownership tax benefits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CONTE:

H.R. 4355. A bill for the relief of William D. Benoni; to the Committee on the Judiciary.

By Mr. STENHOLM:

H.R. 4356. A bill for the relief of Elizabeth M. Hill; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of March 30, 1988]

H.R. 4277: Mr. Biaggi, Mr. Lowry of Washington, Mr. Dellums, Mr. Roybal, Mr. Richardson, Mr. Fauntroy, Mr. McHugh, Mr. de Lugo, Mr. Swift, Mr. Lewis of Georgia, Mr. Bonker, Mrs. Collins, Mr. Bates, Mr. Torres, Mr. Weiss, Mr. Solarz, Mr. Skaggs, and Mr. Lantos.

[Submitted March 31, 1988]

H.R. 47: Mrs. Roukema.

H.R. 578: Mr. Holloway and Mr. Lancaster.

H.R. 592: Mr. Traficant, Mr. Murtha, Mr. Shays, and Mr. Shumway.

H.R. 593: Mr. Gingrich, Mr. Latta, Mrs. Smith of Nebraska, and Mr. Blaz.

H.R. 936: Mr. Gilman, Mr. Horton, and Mr. Boehlert.

H.R. 1580: Mr. Roybal, Mr. Pease, Mr. Pepper, and Mr. Schumer.

H.R. 1801: Mr. Clay, Mr. Jontz, Mr. Moakley, Mr. Owens of New York, and Mr. Nagle.

H.R. 1957: Mrs. Vucanovich.

H.R. 2052: Mr. Lowry of Washington and Ms. Pelosi.

H.R. 2260: Mr. Konnyu and Mrs. Martin of Illinois.

H.R. 2383: Mr. Morrison of Washington and Mr. Matsui.

H.R. 2626: Mr. Jontz and Mr. Gray of Pennsylvania.

H.R. 2640: Mr. Coble, Mr. Stallings, Mr. Fascell, Mr. Nelson of Florida, Mr. Weiss, Mr. Grant, Mr. McMillan of North Carolina, Mr. McCollum, Mr. Smith of Iowa, Mr. Lagomarsino, Mr. Bonker, Mr. Mineta, Mr. Coughlin, Mr. Perkins, Mr. Tauzin, Mr. Hoyer, Mr. Skelton, and Mr. Swift.

H.R. 2642: Mr. Lewis of Georgia.

H.R. 2859: Mr. Horton.

H.R. 2883: Mr. Leland.

H.R. 3071: Mr. Towns, Mr. Bonker, Mr. Hughes, Mr. Ackerman, Mr. Vento, and Mr. Traficant.

H.R. 3143: Mr. Manton.

H.R. 3292: Mrs. Boxer and Mr. Shays.

H.R. 3392: Mr. Mazzoli, Mr. Rinaldo, Mr. Thomas A. Luken, Mr. Crockett, Mr. Eckart, Mr. Olin, Mr. Ray, and Mr. DeFazio.

H.R. 3481: Mr. Hatcher and Mr. Tauzin.

H.R. 3485: Mr. Espy.

H.R. 3585: Mr. Kolter, Mr. de la Garza, Mr. Fauntroy, Mr. Dymally, Mr. Owens of New York, Mr. Penny, Mr. Roberts, Mr. Evans, Mr. Lancaster, Mr. Fazio, Mr. Stallings, Ms. Oakar, Mr. Boehlert, and Mr. de Lugo.

H.R. 3588: Mr. Lewis of Georgia, Mr. Fish, Mr. Owens of New York, Mr. Fauntroy, Mr. Yates, Mr. Scheuer, Mr. Beilenson, Mrs. Collins, Mr. Olin, Mr. Neal, Mr. Matsui, and Mr. Fuster.

H.R. 3624: Mr. Hayes of Illinois.

H.R. 3660: Mr. Moody, Mr. Annunzio, Mr. Dicks, Mr. Carper, and Mr. Pepper.

H.R. 3664: Mr. Feighan.

H.R. 3703: Mr. Jontz, Mr. Walker, Mr. Herger, Mr. Craig, Mr. Ballenger, Mr. DioGuardi, Mr. Donald E. Lukens, Mr. Gingrich, Mr. Pursell, Mr. McCloskey, Mr. Holloway, and Mr. Dornan of California.

H.R. 3724: Mr. Baker.

H.R. 3794: Mr. McGrath, Mr. Bartlett, Mr. Smith of New Hampshire, Mr. Coats, Mr. Roberts, Mr. Ballenger, Mr. Inhofe, Mr. Marlenee, Mr. Craig, Mr. Goodling, and Mr. Fish.

H.R. 3826: Mr. Gray of Illinois, Mr. Pepper, and Mr. Chappell.

H.R. 3842: Mr. Russo.

H.R. 3845: Mr. Staggers.

H.R. 3893: Mr. Packard and Mr. Sweeney.

H.R. 3939: Mr. Ballenger.

H.R. 3953: Ms. Oakar and Mr. Markey.

H.R. 3954: Mr. Hyde.

H.R. 3991: Mr. Oberstar and Mr. Foglietta.

H.R. 4011: Mr. Hatcher, Mr. Stangeland, Mr. Obey, Mr. Penny, Mr. Boucher, Mr. Lightfoot, Mr. Schuette, Mr. Lungren, Mr. Petri, and Mr. Gordon.

H.R. 4060: Mr. Durbin, Mr. Moakley, Mr. Bonior of Michigan, Mr. Applegate, Mr. Markey, Mr. Kildee, Mr. Feighan, Mr. Kostmayer, Mr. Gray of Illinois, Mr. Swift, Mrs. Schroeder, Mr. Perkins, Mr. DeFazio, and Mr. Fascell.

H.R. 4078: Mr. Traficant.

H.R. 4152: Mr. Markey, Mr. Gejdenson, Mr. Gray of Pennsylvania, Mr. Torres, Mrs. Boxer, Mr. Leland, Mr. Smith of Florida, Mr. Mfume, Mr. Hayes of Illinois, Mr. Annunzio, Ms. Slaughter of New York, and Mr. Fazio.

H.R. 4213: Mr. Edwards of California, Mr. Applegate, Mr. Mica, Mr. Stump, Mr. McEwen, Mr. Burton of Indiana, Mr. Penny, Mr. Bilirakis, Mr. Staggers, Mr. Rowland of Georgia, Mr. Rowland of Connecticut, Mr. Bryant, Mr. Florio, Mr. Smith of New Hampshire, Mr. Gray of Illinois, Mr. Davis of Illinois, Mr. Kanjorski, Mr. Robinson, Mr. Stenholm, Mr. Harris, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, Mr. Denny Smith, Mr. Clarke, Mr. Espy, Mr. Owens of New York, Mr. Lewis of Georgia, Mr. Lehman of Florida, Mr. Brown of California, Mr. Horton, Mr. Roe, Mr. DeFazio, Mr. Torres, and Mr. Matsui.

H.R. 4230: Mr. MacKay, Mr. de Lugo, Mr. Ackerman, Mr. Coleman of Texas, Mr. Inhofe, Mr. Coelho, Mr. Kleczka, Mr. Lagomarsino, Mr. Rangel, Mr. Bilbray, Mr. Hochbrueckner, Mrs. Roukema, Mr. Lehman of Florida, Mr. McGrath, Mr. Torres, Mr. Watkins, Mr. McCurdy, Mr. Dyson, Mr. Akaka, Mr. Synar, and Mr. Grant.

H.R. 4243: Mr. Hughes.

H.R. 4245: Mr. Boehlert.

H.R. 4268: Mr. Shays and Mr. Carper.

H.R. 4275: Mr. Madigan, Mr. Sharp, Mr. Lightfoot, Mr. Gilman, Mr. Murtha, Mr. Walker, Mr. Durbin, Mr. Kolter, Mr. McDade, Mr. Huckaby, Mr. Ridge, Mr. Wilson, Mr. Hubbard, Mr. Thomas of Georgia, and Mr. Horton.

H.R. 4283: Mr. Richardson.

H.R. 4308: Mr. Parris and Mr. Wolf.

H.J. Res. 145: Mr. McCollum, Mr. Manton, Mr. Fawell, Mr. Solarz, and Mr. Smith of Florida.

H.J. Res. 388: Mr. Lott, Mr. Miller of Washington, and Mr. Coble.

H.J. Res. 414: Mr. Anderson, Mr. Atkins, Mr. Ballenger, Mr. Barnard, Mr. Bartlett, Mr. Bates, Mr. Bennett, Mrs. Bentley, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Blaz, Mr. Bliley, Mr. Borski, Mrs. Boxer, Mr. Bryant, Mr. Burton of Indiana, Mr. Bustamante, Mr. Campbell, Mr. Cardin, Mr. Carper, Mr. Chapman, Mr. Clay, Mr. Clement, Mr. Clinger, Mr. Coats, Mr. Coelho, Mrs. Collins, Mr. Conte, Mr. Conyers, Mr. Cooper, Mr. Coughlin, Mr. Courter, Mr. Crockett, Mr. DeFazio, Mr. Dellums, Mr. de Lugo, Mr. Derrick, Mr. Dingell, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Dornan of California, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Espy, Mr. Fauntroy, Mr. Fawell, Mr. Fazio, Mr. Fish, Mr. Flake, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Frenzel, Mr. Frost, Mr. Fuster, Mr. Garcia, Mr. Goodling, Mr. Gordon, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Hamilton, Mr. Hammerschmidt, Mr. Hansen, Mr. Harris, Mr. Hatcher, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Henry, Mr. Horton, Mr. Hoyer, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Jacobs, Mr. Jenkins, Mr. Johnson of South Dakota, Ms. Kaptur, Mr. Kennedy, Mr. Kolbe, Mr. Kolter, Mr. Kostmayer, Mr. LaFalce, Mr. Lancaster, Mr. Leland, Mr. Levin of Michigan, Mr. Lewis of California, Mr. Lipinski, Mr. McCloskey, Mr. McDade, Mr. McGrath, Mr. McMillen of Maryland, Mr. Mack, Mr. MacKay, Mr. Manton, Mr. Martinez, Mr. Matsui, Mr. Mfume, Mr. Miller of California, Mr. Molinari, Mr. Mollohan, Mr. Moody, Mr. Morrison of Washington, Mr. Murphy, Mr. Neal, Mr. Nichols, Ms. Oakar, Mr. Oberstar, Mr. Owens of New York, Mr. Owens of Utah, Mr. Panetta, Mr. Parris, Mrs. Patterson, Ms. Pelosi, Mr. Pickle, Mr. Price of Illinois, Mr. Quillen, Mr. Rangel, Mr. Ravenel, Mr. Richardson, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Rowland of Georgia, Mr. Savage, Mr. Schuette, Mr. Schulze, Mr. Skelton, Ms. Slaughter of New York, Mr. Spence, Mr. Spratt, Mr. Stangeland, Mr. Sunia, Mr. Swindall, Mr. Tallon, Mr. Tauzin, Mr. Thomas of Georgia, Mr. Towns, Mr. Traxler, Mr. Volkmer, Mr. Walgren, Mr. Waxman, Mr. Whitten, Mr. Wilson, Mr. Weiss, Mr. Wolpe, Mr. Wortley, and Mr. Yatron.

H.J. Res. 418: Mr. Bustamante, Mr. Crane, Mr. Fish, Mr. Goodling, Mr. Horton, Mr. Kostmayer, Mr. Lent, Mr. McEwen, and Mr. Skelton.

H.J. Res. 475: Mr. Cardin, Mr. Coyne, Mr. Dornan of California, Mr. Dyson, Mr. Fawell, Mr. Flake, Mr. Hochbruechner, Mr. Matsui, Mr. Sikorski, Ms. Slaughter of New York, Mr. Volkmer, Mr. Waxman, Mr. Young of Florida, and Mr. Young of Alaska.

H.J. Res. 491: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. Pursell, and Mr. Parris.

H.J. Res. 492: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. Pursell, and Mr. Parris.

H.J. Res. 493: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 494: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 495: Mr. Ackerman, Mr. Bennett, Mr. Lantos, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 496: Mr. Ackerman, Mr. Bennett, Mr. Lantos, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 497: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 498: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 499: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 500: Mr. Ackerman, Mr. Bennett, Mr. Stratton, Mr. Ford of Michigan, Mr. English, Mr. Pursell, and Mr. Parris.

H.J. Res. 506: Mr. Foglietta, Mr. de Lugo, Mr. Wortley, Mr. Dyson, Mr. Blaz, Mr. Wolf, Mr. Solomon, Mr. Traficant, Mr. Hochbrueckner, Mr. Valentine, Mr. Fauntroy, Mr. Horton, Mr. Bevill, Mr. Russo, Mrs. Collins, Mr. Erdreich, Mr. Espy, Mr. Chappell, Mr. Mazzoli, Mrs. Lloyd, Mr. Tallon, Mr. Matsui, Mr. Lagomarsino, Mrs. Boxer, Mr. Chapman, and Mr. Hatcher.

H. Con. Res. 262: Mr. Davis of Michigan, Mr. Lantos, Mr. Stark, Mr. Morrison of Connecticut, Mr. McGrath, Mr. Durbin, Mr. Guarini, Mr. Sawyer, Mr. Dyson, Mr. Nowak, Mr. Hoyer, Mr. Pursell, Mrs. Boxer, Mr. AuCoin, Mr. Gonzalez, Mr. Hochbrueckner, Mr. Mavroules, Mr. Smith of New Jersey, Mr. Boland, Mr. Savage, Mr. Torres, Mr. Mrazek, Mr. Markey, Mr. Sikorski, Mr. Espy, Mr. McEwen, Mr. Atkins, Mr. Owens of Utah, Mr. Williams, Mr. Stallings, Mr. Gephardt, Mr. Evans, Mr. Rowland of Connecticut, Mr. Hayes of Illinois, Mr. Dellums, Mr. Alexander, Mr. Rinaldo, Mr. Staggers, Mr. Gilman, Mr. Moakley, Mr. Saxton, Mr. Bonior of Michigan, Mr. Ford of Michigan, Mr. Fauntroy, Mr. Waxman, Mr. McCloskey, Mr. Horton, Mr. Edwards of California, Mr. Matsui, Mr. Lehman of California, Ms. Pelosi, Mr. Miller of California, Mr. Dymally, Mr. Levine of California, Mr. Berman, Mr. Haw-

KINS, Mr. COELHO, Mr. PANETTA, Mr. FAZIO, Mr. DOWDY of Mississippi, Mr. GORDON, Mr. SCHUMER, Mr. LOWRY of Washington, Mr. RANGEL, Mr. NAGLE, and Mr. JACOBS.

H. Res. 374: Mr. BALLENGER.

H. Res. 382: Mrs. COLLINS.

H. Res. 400: Mr. ACKERMAN, Mr. BEILENSON, Mr. CHAPMAN, Mr. CLAY, Mr. CLEMENT, Mr. DYMALLY, Mr. FASCELL, Mr. GINGRICH, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. HOUGHTON, Mr. KLECZKA, Mr. LIPINSKI, Mr. OBERSTAR, Mr. OWENS of New York, Mr. PERKINS, Ms. SLAUGHTER of New York, Mr. SUNDQUIST, Mr. TORRES, Mr. VALENTINE, and Mr. WISE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

143. By the SPEAKER: Petition of the Association of Pacific Island Legislatures, Agana, Guam, relative to the payment of referral costs of FSM patients at outside medical institutions; to the Committee on Foreign Affairs.

144. Also, petition of Mr. David L. Trowbridge, Stanwood, WA; relative to the Supreme Court of the United States; to the Committee on the Judiciary.

145. Also, petition of the Association of Pacific Island Legislatures, Agana, Guam, relative to U.S. sovereignty over the 200 mile extended economic zone adjacent to the waters of the Northern Mariana Islands; to the Committee on Merchant Marine and Fisheries.

146. Also, petition of the Association of Pacific Island Legislatures, Agana, Guam, relative to the reinstatement of the eligibility of certain students for financial assistance in postsecondary educational institutions; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

147. Also, petition of the Association of Pacific Island Legislatures, Agana, Guam, relative to amending Public Law No. 99-658 to provide continuity of Federal programs for the next 15 years; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

148. Also, petition of the Association of Pacific Island Legislatures, Agana, Guam, relative to the continuation of Pell Grants to Micronesian students; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

SENATE—*Thursday, March 31, 1988*

The Senate met at 10 a.m., and was called to order by the Honorable Tom Harkin, a Senator from the State of Iowa.

The PRESIDING OFFICER. Our prayer today will be offered by the Reverend Richard C. Halverson, Jr., pastor of the Chesterbrook Presbyterian Church in Falls Church, VA.

PRAYER

The Reverend Richard C. Halverson, Jr., pastor, Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

Let us all pray together:

"Our Father, who art in heaven,"

We gather around You now as little children equally in need of their father's love and attention.

"Hallowed be thy name,"

For truly Your presence is glorious, Your reputation is to be increased among all peoples, and it is right for us to bow before You, our God and Creator.

"Thy Kingdom come, Thy will be done, on Earth as it is in Heaven,"

Drive back evil forces of darkness that bring harm to people and let Your kingdom of light pour out upon the nations of the Earth as well as into the open hearts of men.

"Give us this day our daily bread,"

Both from the produce of the Earth to feed our bodies and by the manna from heaven to nourish our souls.

"And forgive us our debts, as we forgive our debtors,"

Help us to receive Your forgiveness by awakening our conscience to the accumulation of debts against You and do not let us cling to bitterness against those who have wronged us.

"And lead us not into temptation, but deliver us from evil,"

Help us to find the way of escape from those abiding temptations which, when fulfilled, only contaminate these vessels created by You for holiness.

"For Thine is the kingdom and the power and the glory forever."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, March 31, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Tom Harkin, a Senator from the State of Iowa, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. HARKIN, thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE RESURRECTION AND THE LIFE

Mr. BYRD. Mr. President, I thank today's guest chaplain, who is the son of the Senate Chaplain. I thank him for his prayer.

As we gather today for the last day of business before the Easter break, let me as one Senator say that, to me, Easter is that time of the year which gives me hope, hope that I can again see my own grandson again.

We are told that on the morning of the first day of the week those who went to visit the tomb found the stone rolled away and they were told by an angel that "He is risen."

That is the hope, the hope that those whom we love and lose will indeed live again and that we ourselves have the promise of eternal life, that we too might live again. It would seem to me that, without that hope, this life would be bleak indeed.

I am sure that others in this Chamber can say with equal faith and confidence, as I can say, we were taught at our mother's knee that there is life beyond the grave, that man's soul is immortal, and that this life merely prepares us for something better. I believe that, and I do not believe that we will achieve that happy life beyond the grave through our work alone. I think we all fall short of the glory of perfection, far short. But we do have the promise, and I think that by faith, we can achieve the fulfillment of that promise.

I have often said that one of these days each of us will probably be in a hospital somewhere, if God blesses us with some few hours before we say goodbye, and there will be four walls around us. There will be those who will be sitting by. There will be the needles, the feeling of the pulse, the taking of the temperature, and for a little while we will get lots of mail. There will be flowers brought, lots of post cards. And then after a while the number of letters will begin to dwindle, the flowers will wither and fewer flowers will be received to replace them.

Those who at first come to see will soon find that their busy lives require their presence elsewhere. And all that will then be left to tarry with us will be that wife of mine with whom I have lived now almost 51 years or our children or our grandchildren and in some cases great-grandchildren. And if, perchance, we should still hold office, I find around here that people are not remembered very long. A Senator is taken away and there are speeches made and eulogies proclaimed. Of course, the maneuvering and the jockeying for position to be the appointee begin before the final rites are said, and then someone is appointed and we see him march up and take his oath and he is sworn in as the new Senator. And the former Senator is soon forgotten.

The planes will continue to take off from National and out of Dulles. The bridges will be congested then as before during the morning rush hour traffic. The seasons will come and go. The snow will fly, the leaves will fall, the winds will blow, and spring will come again. Life will go on here as it did before.

And so if I can just bring myself to realize, once in a while, how minute this mortal man really is. I wonder how small this speck of Earth may have appeared to man placed by America on the Moon when he looked down and to reflect how small, how infinitely small, this little finite man is who dwells upon this little speck of dust.

I sometimes say, "Hold on a minute. Why do you take yourself so seriously? Slow down a little bit. Take stock of where you are. The world is not going to miss you very much after you are gone."

It is a sobering reflection.

I am no minister. I would not be worthy to stand in the place of a minister. But I believe that there is a God and, in my own heart and especially in these recent years, Easter has come to mean more to me than any other religious holiday.

I would like to remember if I can, and I will close, a few words from the

Prince of Peace spoken by William Jennings Bryan. He said:

> In Cairo I secured a few grains of wheat that had slumbered for more than thirty centuries in an Egyptian tomb. As I looked at them this thought came into my mind: If one of those grains had been planted on the banks of the Nile the year after it grew, and all its lineal descendants had been planted and replanted from that time until now, its progeny would today be sufficiently numerous to feed the teeming millions of the world. An unbroken chain of life connects the earliest grains of wheat with the grains that we sow and reap. There is in the grain of wheat an invisible something which has the power to discard the body that we see, and from earth and air fashion a new body so much like the old one that we cannot tell the one from the other. If this invisible germ of life in the grain of wheat can thus pass unimpaired through three thousand resurrections, I shall not doubt that my soul has power to clothe itself with a body suited to its new existence when this earthly frame has crumbled into dust.

EXTENSION OF MORNING BUSINESS FOR 20 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended an additional 20 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr BYRD. May I ask the distinguished acting Republican leader, if it might be possible for us to get consent to go to the joint resolution that came over from the House involving Contra aid.

Mr. SIMPSON. Mr. President, that is certainly something we are working diligently on. We hope we can reach some accord to bring that to the floor, at least, and then proceed. I think those on either side of the issue want to get some resolution today rather than leave it until after the Easter recess. And so, we should know that soon. Senator Stevens and Senator Wallop are working on that. I am going to yield to them, to one of them.

However, I would just comment that I was listening to your remarks and then became so intrigued I came here myself because I have heard you in that vein and it is intriguing. You and I have shared that discussion about renewal and our meaning here. That is very appropriate.

I just wanted to say that in the promise of Easter those things they have an ever special meaning and I do realize the nature of this transitory existence. And you capsuled it when you came to the part, at least for me, that marvelous ability to laugh at ourselves. We get so very, very serious. Even a shade of pompousness might enter our lives, Heaven forbid.

But that is so important. Some days when it gets pretty rocky, you just look in the mirror and say, "Well, aren't you something?" And it helps us and you have crystallized again and I thank you for that.

Mr. STEVENS. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. STEVENS. I would like to join first in commenting on my good friend's statement so apropos to the season. I remember so well when I was a boy going down and participating in the singing on the steps of the Capitol on Easter sunrise morning. We all have great memories of those days, and I agree with that. And you have done so well to respond to the Chaplain this morning.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. STEVENS. Mr. President, I would just like to ask my good friend from West Virginia whether it is possible that we could get some kind of a time agreement now that would give the leaders the opportunity to call up a bill if the House does send us one later this year in pursuance to the letter of the Speaker outlining procedures to expedite such a bill. We would like to have some understanding of the length of time that such a bill from the House could remain in a committee. It would be an appropriations bill, as I understand. That is why I informed the leadership last night I felt we should be involved. It was my amendment last year that dealt with this subject.

I would like to see if we could give the leader the authority to call up such a bill and not have any problem about a motion to proceed so that we could make it a privileged matter at the leader's call, after consultation with our leader. But to set the stage now, we do not need an amendment to the bill. We can deal with this by a time agreement here. I think from my conversation last night, here on the floor, that most of us on this side will be very anxious to work out those procedural agreements that could be put in the form of a time agreement now; not dealing with this bill today. We would like to see this bill passed without amendments. I think that is your desire; the leadership desire upon both sides.

But all we are saying is if the House later, in response to the Speaker's letter, sends the Senate a bill—and I say parenthetically the Speaker through the rules procedure in the House can carry out the commitments in that bill—we would like to see the Senate leadership with the authority by virtue of an agreement today that that bill if it comes over here during this session could be called up without debate, waive the necessity for any kind of, other than a vote—I guess we would have to have a vote on the motion to proceed if that was required—but at least no chance for delay of taking it up; and some parameters for the eventual final action on that. I think it would be subject to amendment.

I just wonder if my friend would be willing to see if we could clear out some sort of agreement like that which would just go in the Record now.

I might say I would personally be more than willing to accept the majority leader's commitment that this would be called up. But I am sure he realized that anyone could object at that time, and we would be off to a problem of delay that we would like to avoid, in the event the House ever sends us a bill.

For myself, I do not seek the right to initiate such a bill here. I think we have to rely on the fact that it is an appropriations bill and by tradition it will originate in the House.

Does my friend have any feelings about trying to pursue such an agreement at this time, put it on the record so we might proceed with this bill that came over from the House yesterday?

Mr. BYRD. I do not believe that we could, today, achieve an agreement of the kind that the distinguished Senator has mentioned here. Sight unseen, I would be hesitant to think that we could do that.

But I would say this to the Senator, and he has my word and my commitment, if such a bill comes over here from the House, he has my word and my commitment to proceed as expeditiously as we possibly could proceed to take up such a measure.

Mr. STEVENS. Could we get an understanding that it would go to the committee and back out of the committee within a time certain and that the leader be authorized to call it up as a privileged matter and there be no potential for delay on the motion to proceed? I understand reluctance in entering into a full time agreement closing off the debate. I am interested in the question of time, should that contingency arise.

I believe we accept the finality of the fact that we are not going to originate this because it takes an appropriations bill to originate under the time agreement we are talking about now. It is entirely possible on a later bill, defense appropriation or other bill, we might face this issue, but in terms of this bill that comes from the House, I would like to see some procedure and some agreement that would give the leader the right to call this up. I think my colleagues over here, many of whom at times disagree with the idea of consent to proceed and not having that motion to proceed be debatable, in this instance would agree to that. I would urge the leader at this time to try to seek such an agreement and to limit the referral to the committee.

Those two portions of such an agreement I think are fairly basic to considerations of getting that bill to the floor. As to the limitations on amendments or limitations on the time for debate, time for final debate, I can see not pursuing that now. But I would like to arm the leader with the right to treat this bill if it ever comes here as a privileged matter with the right to proceed and the right to limit committee referrals.

Mr. BYRD. Let me give the Senator this assurance. Mr. President, if and when such a bill comes to the Senate from the House, not only will it be sent to the committee but, through the procedures of rule XIV, I will put it on the calendar. And, if the Senator will recall, I was able to put the constitutional amendment offered by Senator HOLLINGS on the calendar in 1 day, without unanimous consent. It was the day before yesterday, I believe. I had the parliamentary stages all set. We adjourned twice in the same day. I initiated the action the day before yesterday. The very next day it was on the calendar in a position for the majority leader to move it.

I will assure the distinguished Senator that I will initiate that rule XIV procedure, I will be in a position to move quickly and I would assume that the committee would act quickly. But there is a double assurance to the Senator that it is on the calendar, I am in a position to move, and there are certain ways and times in which the majority leader, if he can get himself into the right position—maybe I will not be able to—can move and the motion will not be debatable.

So I will just do everything I can to assure the Senator.

Mr. STEVENS. Well, I accept that, but what about arming the leader with the right to proceed with such a bill without delay?

Mr. BYRD. That will be fine with me if the Senate would like to do that, I would feel all the more better about it and then would know that——

Mr. STEVENS. I believe that this side is ready to give you that unanimous-consent agreement today: Should such a bill be reported from committee or you request it be taken from the calendar and we proceed immediately to it, that that may not be debatable and we get on it immediately.

Mr. BYRD. I would like to get that assurance now. I will say that I will put that request.

I say to the distinguished Senator that I assume that such a bill, if it came from the House, would not have an automatic—would not have an expedited procedure mechanism in it. That is a mechanism that is giving some Senators problems because——

Mr. STEVENS. It is my assumption it will not have, and I discussed the matter with Members of the House. It is not in this current bill that came over from the House at all. They rely upon the letter from the leader in the House to the President, which I respect and believe he can fulfill if he decides to move such a bill. But here I do not think that without some agreement now that the bill in the Senate would have the same procedural guarantees, notwithstanding the commitment the leader makes which I think we all accept. And I believe the leader can get this bill on the calendar. I believe we can also guarantee it will come out of the committee, if the leader requests. He has got a vote in that committee, too. It will be on an appropriations bill, as I said.

So it does seem to me that the one thing that is lacking is the ability of the leader to call that bill up without debate on the motion to proceed and I would urge him to seek that today. And I do not know of anyone—I talked to Members of the other side—I do not know anybody now that would object to that. But they might later if they see the type of assistance that the House might approve by a narrow vote.

Mr. BYRD. Mr. President, the chances are I could put myself under that position without such a unanimous-consent agreement.

Mr. President, I ask unanimous consent that at such time, understanding the majority leader will exercise his discretion, and would certainly discuss the matter with the Republican leader or his designee and with all Senators, I ask unanimous consent that the majority leader be authorized to make a nondebatable motion to proceed to the consideration of a bill dealing with Contra aid upon its receipt in this body from the other body.

I clothe that request with a protection that is inherent in the word "discretion" so that if such a bill would come over from the House and would have extraneous matters in it, I want it to be perfectly, clearly understood that the majority leader will use his discretion.

I think that gives the Senator the protection he needs, and I am not trying to play games with words or give myself wiggle room except in the kind of circumstance that I have tried to state here as being an example.

Mr. STEVENS. Reserving the right to object, Mr. President, and, of course, I shall not object, for myself, I understand what the leader is saying. I do believe that discretion is implied. Also, in the statement he just made, that if such a bill does come over, he will use his prerogatives as the leader to get the bill either on the calendar or out of the committee on time. That is all a discretionary matter.

We do not anticipate any extraneous matters entering into such bill from the House. If they did, we would have to take care of them in committee or somewhere else. Maybe here on the floor.

Again, for myself, and I see my friends from Wyoming here and Mississippi who have dealt with me on this matter before, I think that is sufficient. We need to have the Senate be on notice that if the House moves on such a bill that it will become a privileged matter in the Senate and will be handled expeditiously in response to what we would presume would be an emergency situation. I believe it would have to be an emergency for the House to react on the basis of Speaker WRIGHT's letter. I would not object to that. I hope no one else will.

I think the leader should be authorized to treat such a bill as a privileged matter and to bring it before the Senate without debate on the motion to proceed. As I understand the leader's request for unanimous consent, that will be accomplished.

May I ask the Chair, with the advice of the Parliamentarian, am I correct it would authorize the leader to treat this bill as privileged matter and to proceed on the motion to proceed without debate?

The ACTING PRESIDENT pro tempore. Will the Senator please state his question one more time?

Mr. STEVENS. I asked a parliamentary inquiry, if my understanding is correct, that the leader's unanimous-consent request would authorize the leader in his discretion to call up the House-passed bill on Contra aid, and that matter would be treated as a privileged matter, and the motion to proceed would be brought before the Senate without debate.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. I thank the leader.

Mr. BYRD. Mr. President, I understand there is an objection from my side. I will say to Senators on my side, if they cannot trust me after 22 years in the leadership in one position or another, then I have failed somewhere. So I am going to proceed with this and, as I said, I would certainly counsel with those Senators and without this request, if it were objected to, I would do everything I could to position myself at a given moment to offer such a motion, and it would not be debatable.

I hope I will not have any problems with Senators because I am going to press ahead with this request.

Mr. WALLOP. Mr. President, will the leader yield just for an inquiry?

Mr. BYRD. I am interested in proceeding with the Contra aid package this morning. The longer we debate this matter, the longer we are going to be getting to that package. This was one of the problems we had last night in getting consent last night.

I respect every Member on my side, his objection. I almost always honor, and I do not know when I have not honored such an objection even in the absence of the Senator.

But in this instance, I think I have clearly laid out in the record enough protections that I am satisfied with, I am sure, and I would hope that Senators will understand in this instance the exigencies that require me to press this request.

There are Senators on this floor who represent both sides of this question, and they are well positioned to offer objections if they wish to do so. If the Chair could respond to the Senator.

The ACTING PRESIDENT pro tempore. The Chair responded to the Senator by saying that his interpretation of the unanimous-consent request was correct.

Is there objection to the unanimous-consent request of the majority leader? Hearing none, it is so ordered.

Mr. STEVENS. Let me thank the leader for his understanding and pledge to him we certainly will abide by the understanding and honor his discretion that is implied in it.

Mr. BYRD. I thank the Senator.

Mr. President, I wonder now could we get consent to proceed with the Contra aid legislation as soon as morning business has been completed? There are several Senators who are here. And could we also get consent that there be no amendments to the legislation?

Mr. STEVENS. Mr. President, if I might respond, we had some objections contingent upon whether or not we had this agreement the leader has just obtained. We now have to determine whether that agreement meets those objections. If he could just give us a few minutes, we are anxious to proceed with the bill. I am hopeful we can work it out in just a few minutes.

Mr. BYRD. Very well. I am going to yield the floor. May I say that if there are amendments to this legislation, this matter will have to go back to conference, the House may have difficulty getting a quorum at some point fairly early in the day, and I would urge Senators to restrain themselves in offering amendments; of course, recognizing that every Senator has a right to do that.

Can we at least get the consent to take it up after morning business?

Mr. STEVENS. It is my understanding my inquiry is one that delayed the matter last night. I have no objection. I think it would be in order for the Senator to call up the bill at his discretion.

Mr. BYRD. I will wait until the distinguished assistant leader is on the floor. For a moment, I will yield the floor.

Mr. STEVENS. May I just ask the Senator, Mr. President, to yield to me again? I want to state I have been in conference with the White House people who have been handling this matter last night and this morning, and their urgent request is the bill be passed today. We are going to do everything we can to assist the leader to get the bill passed without amendment because of the problem of our exit from the city tonight.

Mr. BYRD. I thank the distinguished Senator. Let me make sure there is enough time for morning business to accommodate the Senators. The Senator from Wisconsin waited very patiently. How much time will the distinguished Senator need? Five minutes?

Mr. MURKOWSKI. Five minutes.

Mr. BYRD. Senator BUMPERS, I believe, wants some time, does he not?

Mr. BUMPERS. Yes.

Mr. BYRD. How much time does the Senator need?

Mr. HATFIELD. I wonder if the majority leader will yield for just one quick question?

As I understand, having just arrived on the floor, if the majority leader sees fit to propose the agreement at some point in time, that it would be without amendments?

Mr. BYRD. I hoped that we could get an agreement not to call up amendments to the Contra aid package, but any Senator certainly has a right to offer amendments, and to object to such an agreement.

Mr. HATFIELD. I happened to be here for the purpose of trying to introduce for our future consideration, whenever that Contra aid package would be called up under whatever agreement, and I would like to have at least discussed—whether or not we move to a vote or adoption is another story but at least to be able to present an amendment to that package.

Mr. BYRD. To the one that we are talking about disposing of today?

Mr. HATFIELD. From the House.

Mr. BYRD. Yes. It is already here. Does the Senator want to offer an amendment?

Mr. HATFIELD. I would like to introduce such an amendment to that package and call up that amendment for a brief discussion period.

Mr. BYRD. I see.

Mr. HATFIELD. Whether I would push it through for a vote is not a question at this time I would insist on, but I would like to be able to at least discuss a very important part of this whole aid program that relates to some thousands, 10,000 amputees and the proposal that we bring some kind of trauma center there that would be helpful to those particular victims. I would like to have that be seen, or at least listened to for a brief period of time.

Mr. BYRD. Very well. I will not press the request at the moment and perhaps by the time morning business closes we can have such agreement or at least proceed with the measure.

MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that there be a period now for morning business not to extend beyond 30 minutes; that Senators may speak therein for 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

THE INF TREATY

Mr. WALLOP. Mr. President, shortly after the INF Treaty was signed in December I delivered a statement cautioning my colleagues not to act precipitously on that proposed agreement.

The proper course, I said then, was to hold intensive hearings on the treaty and to study it in detail to see if the agreement actually does what it purports to do and to assess whether its implications—political and military—are in the national security interest of the United States.

Mr. President, my study has led me to the conclusion—a conclusion supported, I might add, by the Armed Services Committee report on the treaty—that there are serious flaws in this agreement. In my judgment, these flaws, if left uncorrected, could prevent the United States from exploiting whatever few benefits there are to this agreement.

Without such a debate, Mr. President, we will not only be shirking our very basic constitutional responsibility, but we will be responsible down the road for actions or consequences that may adversely affect America's security and the future role of the Senate in the treatymaking process.

Why is such a debate needed, especially after hearings have been held in three committees? First, Mr. President, important problems in the INF Treaty have been identified in those hearings. The Armed Services Committee in particular has identified a number of possible ambiguities, drafting errors, and loopholes in the treaty.

Moreover, on Tuesday of this week we discussed in closed session a potential situation of serious concern—the possibility that the Soviets might maintain or construct a covert SS-20 force after the treaty enters into force.

Regardless of whether Senators believe these problems need to be corrected through further negotiation or Senate understandings, or whether the risk of leaving them uncorrected is acceptable, individual Senators should know before they vote exactly what are the constraints to which they are committing the United States and whether those constraints shall apply equally to the Soviet Union.

I think one of the positive results of the closed session—and here let me thank the majority leader, and the acting minority leader for their cooperation in setting up that session—one of the benefits was that Senators learned in 3 hours of debate just how fragile and tenuous the verification provisions of this agreement are.

I believe a similar process must be repeated for the other major issues that have emerged from the committee hearings.

Second, Mr. President, I believe that many of the flaws in the agreement, if left uncorrected—or even unaddressed—by this Senate, will fester and surely result in compliance problems later on.

Senators know how compliance problems affect the confidence we have in current agreements, as well as the arms control process itself.

The irony of all this, Mr. President, is that the failure to correct these deficiencies in the INF Treaty—the correction of which the administration calls killer amendments—may end up being the real treaty killers after the agreement has been implemented and serious compliance problems arise.

Let me suggest that arms control advocates should be the ones most concerned about this prospect.

Frankly, Mr. President, a third reason for undertaking a rigorous debate by the full Senate is the administration's cavalier "take-it-or-leave-it" approach to the Senate's role in the consideration of this treaty.

This approach is exemplified by the view of Ambassador Glitman who said in Armed Services Committee hearings that even an amendment to change a couple of words in one paragraph correcting a drafting error would be considered a so-called killer amendment by the administration.

Mr. President, I recall Senator LEVIN arguing on the floor last year at the time of the debate on the ABM Treaty interpretation that, in his view, the failure to pass the Nunn-Levin amendment would give the administration a "blank check" on the ABM Treaty and the SDI Program.

Mr. President, if we are to accept the administration's logic, we then cede them an absolutely blank check in treatymaking, not treaty-interpreting. Why even hold hearings on the treaty? To what end? Let us just get it to the floor immediately and vote on it without one single word of debate, in effect, rubber-stamping whatever the administration and the Soviets come up with.

They would have us say, "To Hell with our constitutional responsibilities, just fill your role and get out of the way!" Mr. President, the time for the Senate to fill in that check is before it votes on whether to consent to the INF Treaty.

Finally, Mr. President, I believe that we must heed the lessons of the ABM Treaty reinterpretation exercise. To the extent we can, the Senate must establish a clear and agreed meaning that binds the Soviets as tightly as it binds ourselves.

Some would have us bind our country unilaterally. Therein lie the seeds of truly contentious future debates on interpretation—if the Soviets permit us the luxury.

Let us be mindful that absent Soviet consent, no representation by the executive branch on the meaning of unclear or problematic provisions—no matter how authoritatively conveyed—will bind the U.S.S.R. unless they are supported by the negotiating record or clear Soviet acquiesence to our understanding.

Mr. President, I have reviewed the floor debate on the ABM Treaty. It is misleading, I must say, to call it, a debate at all. The floor managers of the treaty were almost begging Senators to come to the floor to express their views on the treaty. Few Senators availed themselves of that opportunity, and even fewer immersed themselves in the substance of the debate.

I cannot help but think, with all due respect to the Senate of 1972, that had a truly vigorous debate taken place, we would have been able to avoid the acrimonious exercise over the ABM Treaty that continues to this day. And I predict, that if there is only perfunctory debate on the INF Treaty, some future Senate will find itself wrapped around the same axle.

Indeed, Mr. President, the concern that the majority leader expressed on Tuesday over the ambiguity in the ban on "future type" systems in the INF Treaty is eerie in its resemblance to the ambiguity over future systems in agreed statement D of the ABM Treaty. We must not repeat this mistake. Nor must we at all costs subject only America to any view not specifically shared by the Soviet Government.

Mr. President, beginning the week after the recess I plan to begin a series of floor statements in morning business on various problems I have noted and how the Senate might proceed to correct those problems.

It would be my hope that other Senators join me by adding their own views to the debate so that by the time we come to the floor many of the problems with which we must grapple will be well defined.

Mr. President, we have all been impressed over the last year with the vehemence with which many of our colleagues have defended the Senate's role in the treatymaking process. Now is the time, Mr. President, for the Senate to be heard on this treaty, not 5 or 10 or 15 years later, as in the case of the ABM Treaty. Now is when our role truly counts—not in some future partisan wrangle.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair.

[The remarks of Mr. BUMPERS, pertaining to the introduction of legislation, appear later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions."]

Mr. MURKOWSKI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

CONSTRUCTION AGREEMENT

Mr. MURKOWSKI. Mr. President, this week, after over 2 years of negotiations, Commerce Secretary Verity and Deputy Chief Cabinet Secretary Ozawa of the Japanese Government announced an agreement between the United States and Japan on the issue of construction services and supplies, including architectural engineering design and, of course, building supplies.

I am very encouraged by this announcement because it appears to be a very workable agreement with the potential to resolve this longstanding trade dispute, which we have had in generating access into the Japanese construction market.

I have been briefed by Ambassador Yeutter and Deputy U.S. Trade Representative Mike Smith, who negotiated the package, on the details of the agreement. However, because it has not been finalized in writing, I refrain from endorsing it until I have had the opportunity to examine it in detail.

Based on my discussions with Ambassador Yeutter, the agreement outlines bidding procedures to facilitate the participation of United States firms in 14 major construction projects in Japan. In our discussions with Japan, we have consistently indicated that we are seeking an across-the-board market opening, not token opportunities. The agreement encompasses access to projects controlled directly by the Government of Japan.

In addition, I understand that the Japanese Government will be sure procurement procedures approved for Government projects will be followed on all parts of major projects controlled by the private sector and the prefectural governments. This includes such projects as Airport terminals at Haneda, Hiroshima, Narita, and Kitakyushu airports, in which U.S. firms stand to be very competitive.

In the past, to be invited to bid on Government projects in Japan, firms had to have generated expertise and experience in the Japanese market. That was a catch-22. However, now the Government has agreed to recognize the international experience and management expertise of foreign firms in licensing and designating potential bidders for the listed projects by their general experience overseas.

The agreement sets up a monitoring committee consisting of United States and Japanese Government representatives, and provides for a review of the overall agreement after 2 years. I fully expect that at that time, the agreement will be expanded to other projects allowing for a comprehensive market opening.

Mr. President, Japanese construction firms have enjoyed total access to our construction market. In the 2 years in which we have been negotiating this issue, they have won in excess of $5 billion in contracts. We have sought to insure that American companies are given the same opportunities to competitively bid on projects in Japan.

The agreement does not assure us contracts. However, from a preliminary analysis, it appears to establish a framework in which our firms can offer responsive proposals and have them evaluated on a fair and nondiscriminatory basis.

Mr. President, the ultimate success or failure of this agreement will depend on the efforts of all parties involved. It will take followthrough by the Government and industry in Japan. But the responsibility for implementing the agreement will also lie in the hands of U.S. firms who have expertise and supplies to offer on these projects.

This agreement presents a challenge to our firms. A procedure will be in place that a monitoring committee will be available to enforce. U.S. firms that now can provide state-of-the-art supplies and services for existing projects must step forward. For example, those who provide construction equipment, design people movers, baggage handling systems, and food service systems to name a few areas where we are very competitive. Our firms must now enter the Japanese market in force and with enthusiasm. We cannot afford to give the Japanese any excuses for protecting their construction market. The worst thing that could happen is for the Japanese to say to us, "No U.S. firms appear to be interested, now that the market is opening."

Secretary Verity will be meeting with industry leaders this week to outline the details of the agreement, and encourage them to aggressively put it to the test. However, the industry should know that Congress is 100 percent behind them, and will be carefully monitoring the progress of their efforts.

I am pleased that the legislation approved by this body as part of the continuing resolution, which requires reciprocity in bidding for federally funded major projects, has had a positive impact bringing about this agreement. The so-called Brooks-Murkowski amendment, which I coauthored with the Representative from Texas, provided our negotiations with leverage we have needed to get to this point. It demonstrates the importance of a clear and consistent response in fighting unfair trade barriers without resorting to protectionism.

It must remain in force until the agreement is tested and proven. In addition, the provision passed by both Houses and approved by the conferees on the trade bill, calling for a 302 investigation on this issue, will provide added incentive for the Government and industry in Japan to ensure the agreement is upheld.

I compliment Secretary Verity, Ambassador Yeutter, Deputy Chief Cabinet Secretary Ozawa, Chief Cabinet Counselor Kunihiro, Director General Peter Sato, Deputy Under Secretary Mike Farren and Deputy Under Secretary Mike Smith, and Deputy Assistant Secretary Maureen Smith for their efforts in reaching this agreement.

When it is finalized, the agreement could very well be the subject of congressional hearings. This will allow the administration and the U.S. industry to place on the record their expectations from the agreement by which future progress can be measured. I hope that after aggressive followthrough by the U.S. industry, we will not just have a box that is wrapped in lovely paper and ribbon. I trust there will be something meaningful inside of it—namely, access to the Japanese construction market in the same manner that Japanese firms have enjoyed the open markets of America.

U.S.-ALLIED BURDEN SHARING

Mr. STEVENS. Mr. President, I have sought the floor now to discuss burdensharing between the United States and our allies relative to our economic capabilities. This issue is particularly relevant to our relationship as an ally of Japan.

The November 20, 1987, budget summit agreement between the administration and Congress capped U.S. defense spending at $299.5 billion for fiscal year 1989 and made some limited assumptions about future growth. That agreement was not a judgment on defense requirements. It was a statement that we cannot afford to spend more for defense now, in the face of our Federal deficits. Since I accept the statement from the Secretary of Defense that the resulting $33 billion reduction from the President's original 1989 budget request poses risks to U.S. national security, I believe that we must focus on how those risks may be mitigated.

Faced with this reduced budget, the task of carrying more than our fair share of United States-Japan burden sharing has become increasingly difficult. Japan's defense budget of $22 billion for 1987 was 1 percent of that country's gross national product. Its major Western allies spent much greater proportions of their gross national products for defense—between 5 and 6 percent. The U.S. defense budget this year is about 6 percent of our Nation's economic output.

With one of the highest standards of living in the world, Japan dedicates only $100 per capita each year to our defense burdens. Our allies in NATO spend an average of $500 to $600 per capita annually. Even the country of Luxembourg spends more money per capita in sharing the defense burden of the free world than does Japan.

If we look at defense spending as a percentage of overall Government spending, Japan again ranks toward the bottom, with just under 7 percent of their total Government spending. Most NATO countries average between 10 and 20 percent. We are currently carrying closer to 30 percent of all our Government spending for Defense.

Rather than assuming more of this burden in the defense area, Japan is forcing greater United States Federal expenditures in order to provide Japan's defense.

I say that because Congress received from the President, on March 17, a request for increases in appropriations—that is, transfer authority—for the Defense Department in the range of $1.5 to $4 billion for this year. This request was due, in part, to increased costs associated with our overseas commitments. There are more than 52,000 service men and women stationed at bases throughout Japan alone. The overseas allowances for personnel stationed in Japan increased 40 percent between 1986 and 1987. The Department of Defense has informed us that they expect an increase this year of another 35 percent. That is a 75-percent increase since 1986.

These cost increases are a direct byproduct of currency fluctuations. In fact, the yen-to-dollar exchange rate dropped from 163 to 1 on December 23, 1986, to 123 to 1 on March 28, 1988—a 25-percent decrease in only 15 months. That change alone will increase defense spending of the United States in Japan this year by over $½ billion.

Remember, we are operating under the ceiling imposed by the budget agreement. That means that just to pay that exchange rate variation in Japan is going to cut out other needed defense programs to the tune of $½ billion.

By restricting its own defense expenditures, Japan concentrates its resources and expertise toward commercial enterprise, expanding export production, and competing with us in our traditional markets abroad, while we are forced to increase our deficit position to ensure our troops a reasonable standard of living in Japan.

In the future, I am going to make some comments about the problem that has been created by the over valuation of Japanese securities. They have now increased their valuation so that they value their stock between 45 and 60 times their annual earnings. That has had a dramatic effect on the currency exchange rate I mentioned.

For today, I simply point out that the contribution they are making to our relationship is unacceptable, in view of the corresponding deficit in our balance of trade. I believe we must insist that our allies must do more to share our common defense burden. I intend to take steps to assess these U.S. commitments and make them consistent with the action of our allies—our defense partners.

It is irresponsible to pass our deficit burdens—deficit costs and trade—onto our children and grandchildren. Future generations of Americans should not be debtors to the Japanese of tomorrow because we are paying for their defense costs today.

Mr. President, I have barely scratched the surface of an issue which I know is extremely complicated. In particular, I plan to focus on the cost of stationing forces in Japan; defense contributions they say they make and what they actually spend that money for; the financial impact of forced appreciation of the yen—I mentioned that in part, already—and the additional Japanese support of the United States forces required if deployment of our forces in Japan is to continue.

I also believe we should discuss the relationship of the economic capability of each country to make defense contributions.

Later this year, I intend to go to Japan and examine these and other issues, as the Defense Appropriations Committee, on which I served, did in December 1986.

To me, this imbalance, together with a failure of the Japanese to increase purchases of our goods and services—they are increasing their purchase of goods and services from all other trading partners but us—must be addressed. I think we have to find ways to solve our defense deficit problems by insisting that they carry more of the burden of our common defense.

I yield the floor, Mr. President.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the morning business be extended 8 minutes and that Senators may speak therein.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. BYRD. Mr. President, is the House message at the desk on the Contra aid?

The PRESIDING OFFICER. Yes, it is.

Mr. BYRD. Mr. President, I do not need unanimous consent to go to that.

This is not a formal House message, so I would need unanimous consent.

I will suggest the absence of a quorum. Let me suggest that it would be well if we could proceed with this Contra aid package fairly soon. The House would need to know if there is going to be any amendment to it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 15 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:28 a.m., recessed until 11:44 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WIRTH].

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extension of morning business for not to exceed 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Tennessee.

STUDENT ACTION AT MARTIN LUTHER KING SCHOOL, NEWARK, NJ

Mr. BRADLEY. Mr. President, the sale of illegal drugs to our Nation's youth is an outrage. The cost in terms of human suffering is enormous and is all the more vile when drugs take their tragic toll in the lives of our children.

The Congress must act in every way possible to first deter and then eliminate this social scourge.

But we are helpless without the active participation of our fellow citizens. The schoolyard gate no longer serves as a protection. Dealing takes place in the hallways and on the playgrounds. Strict laws and severe penalties have been insufficient deterrents. Resisting both the temptation of drugs and the intimidation by the street-level drug dealer requires our young people to summon great courage.

The students of Martin Luther King School in Newark, NJ, have summoned such courage, turning over to the authorities the names of drug dealers operating in and around their school and setting an example for young people and adults across the country. They should be praised and supported. I commend their action as a reminder that each of us must act with the same sense of responsibility for ourselves and for our fellow citizens. Individual responsibility carried out in concert with a sense of community is essential if we are to stop the poisoning of our country by illegal drugs.

I ask unanimous consent that the attached copy of my letter to the students of Martin Luther King School and a copy of an article which appeared in the March 11 issue of the Star Ledger announcing their actions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 25, 1988.

Mr. ERNEST THOMPSON,
Principal, Martin Luther King School, Newark, NJ.

DEAR MR. THOMPSON: Your students are to be commended. It is an act of courage to stand against the lure of drugs and the possibility of personal intimidation, insisting that drug pushers be removed from the school and the community. Students at Martin Luther King School have acted to protect themselves and their neighborhood. From such acts of personal courage flow the beginnings of a real solution to the drug problem that infects our Nation.

Laws, like those imposing stiff penalties for dealing illegal drugs within 1,000 feet of a school, provide a powerful weapon to deter dealers. However, without the active support of students, like those of Martin Luther King, no progress can be made in arrest and prosecution. All students throughout New Jersey and the Nation should look to the actions of your student body as a signal to all of us that now is the time to make a stand.

Through such actions, we reaffirm our sense of shared responsibility for each other. Through such acts, we find our sense of meaning and value as individuals, as neighbors, and as a society. Through such hard choices, we assure the continuation of our freedoms: freedom to learn, to develop, and to succeed.

Your student body's actions represent the best form of citizenship, a citizenship which secures freedom for both oneself and for one's fellows.

Sincerely,

BILL BRADLEY,
U.S. Senator.

[From the Newark (NJ) Star Ledger, Mar. 11, 1988]

STUDENTS TURN IN DRUG SUSPECTS

(By Diane Curcio)

Students at the Martin Luther King School in Newark turned in two women suspected of peddling marijuana outside the school, Essex County Prosecutor Herbert H. Tate announced yesterday.

Tate said a school administrator called his office saying that 12- and 13-year-old students "kept coming in with more and more information" about drug dealing on the street. Following the arrest of the two suspected marijuana dealers and another man accused of selling vials of cocaine, Tate said he hopes to send his investigators back to the school "to thank the students for their cooperation."

The prosecutor wants to encourage civic participation in his crackdown on narcotics trafficking.

When the school administrator notified authorities, the prosecutor's Narcotics Task Force investigated. The task force includes officers from the Newark, East Orange and Orange police departments, as well as prosecutor's investigators.

Initially, the lawmen arrested a suspected cocaine dealer, Chris Shewmakie, 26, Shewmakie, who lives on South 10th Street, was selling vials of cocaine in the area of South Ninth Street, according to Investigators Edward Jones and Louis Portella.

They said they found him with eight vials. Since the illegal dealing was within 1,000 feet of a school, Shewmakie faces stiff penalties if he is convicted under the new drug enforcement code.

Shewmakie was arrested Wednesday. Yesterday the task force continued its surveillance of the school area and arrested the two women pointed out by the students. Undercover agents bought marijuana from the women, identified as Sherry Lavern, 29, and Cynthia Orr, 22, both of South 10th Street. Tate said police found 50 bags of marijuana in the women's possession. Five police officers took part in the surveillance and arrest of the women: Newark Detective Sgt. Edward Lucas and Detective Domingo Rivera, Orange Detectives Gregory Kirksey and Edgar Pinckney and East Orange Detective William Garvin.

Like Shewmakie, the two women face stiff penalties because they are accused of operating near a school.

Mr. BRADLEY. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that anent House Joint Resolution 523, the joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America, there be a time limitation thereon of 2 hours, to be equally divided and controlled by the two leaders or their designees, there be no amendments in order, there be no motions to commit or recommmit, with or without instructions, that the agreement be in the usual form, and that there be no time for debate on a motion to reconsider.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Chair.

It is understood, I believe, is it not, may I say to my friend, the assistant leader on the other side—I have a list of Senators here with times indicated as to each. It seems to me there would be about 55 minutes required just for the Senators who are named here—if we need more time, we could get it from the other side?

Mr. SIMPSON. Mr. President, I have one Member on our side of the aisle who has requested 15 minutes, and then eight additional Senators that might vary from 2 to 3 to 4 minutes. So I think we can accommodate that and we will attempt to try to relinquish 5 minutes if that is possible. This is quite a sizable list.

Mr. BYRD. Does the Senator think we ought to increase that time not to exceed 2 hours and a half just to be on the safe side?

Mr. SIMPSON. Mr. President, it might be well to modify the agreement to that effect.

Mr. BYRD. Very well. I ask unanimous consent that the time be limited not to exceed 2½ hours.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. BYRD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 523.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 523) to provide assistance and support for peace, democracy, and reconciliation in Central America.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, under the unanimous-consent agreement that was just entered into, it is my understanding that no amendments are in order. I ask the majority leader, is that correct?

Mr. BYRD. That is correct.

Mr. President, I yield 5 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I have long felt that the issues of Central America are questions related to economic growth and economic health of the region as well as significant security considerations. After all, poverty is the breeding ground for revolution. I have felt also that to address only the security dimension of the problem of Central America was to ignore the underlying causes that the security efforts address.

Therefore, Mr. President, I had intended on this bill to offer an amendment that would have provided over $500 million in direct economic assistance through the form of debt relief, of official government debt and private debt, and raising the sugar quotas. But, Mr. President, since amendments are not in order on this piece of legislation, I will at a subsequent time offer such an amendment, because I think it is absolutely essential that the countries of Central America have the economic means to provide their people with a better standard of living, which is the ultimate insulation against revolution.

Mr. President, I intend to send not an amendment to the desk but at the appropriate time to send what would have been my amendment to this bill to the desk in the form of a bill and ask that it be referred to the appropriate committee, so that everyone will be on notice that at a future time, on an appropriations bill or, should there be one, another request pursuant to the resolution that we are addressing today, there will be an amendment offered which would provide for significant economic assistance in the form of debt relief and access to the United States for sugar from Central America.

Mr. President, I send that bill to the desk and ask that it be referred to the appropriate committee.

The PRESIDING OFFICER. If there is no objection, the bill will be received and referred appropriately.

Mr. BRADLEY. I thank the Chair.

The PRESIDING OFFICER. Under the unanimous-consent request, who yields time?

Mr. BYRD. Mr. President, I yield 30 minutes to the control of the distinguished Senator from Connecticut.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BYRD. Will the Senator yield?

Mr. DODD. Mr. President, I will be glad to yield to the majority leader.

CONDITIONAL ADJOURNMENT OF THE HOUSE AND SENATE UNTIL APRIL 11, 1988

Mr. BYRD. Mr. President, now that the Senate has entered a time agreement on the Contra aid resolution, the House will not need to wait further because there will be no conference thereon; the agreement takes care of that. The House, therefore, is desirous that the Senate pass the adjournment resolution. If the distinguished assistant leader has no problem with that——

Mr. SIMPSON. No. Mr. President, I think that quite appropriate. We have no objection.

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate House Concurrent Resolution 272.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 272) providing for a conditional adjournment of the House and Senate until April 11, 1988.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 272) was agreed to, as follows:

H. CON. RES. 272

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, March 31, 1988, it stand adjourned until 12 o'clock meridian on Monday, April 11, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the Senate adjourns or recesses, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, on Thursday, March 31, 1988, it stand in recess or stand adjourned until 11 o'clock ante meridiem on Monday, April 11, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The minority leader.

Mr. SIMPSON. Mr. President, I thank the majority leader.

At this time I would like to designate the Senator from Arizona, Mr. MCCAIN, to control the time under the time agreement that has just been entered into.

The PRESIDING OFFICER. Who yields time?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, parliamentary inquiry: under the unanimous consent agreement there are 2½ hours of debate equally divided. I would suggest that on this kind of matter the time back and forth not be for or against. I presume most people will be supportive of trying to go back and forth on the minority and majority side, if the ranking minority manager of the bill would agree to that. It makes sense to proceed on that basis.

The PRESIDING OFFICER. The Chair will note that as a general understanding when a Senator seeks recognition he or she will be recognized.

Mr. DODD. I thank the Chair.

I yield myself 5 minutes, if I may.

Just briefly, Mr. President, let me try to describe what this package includes, and why the Senator intends to support this package as it has been proposed.

It is the same package that passed the House of Representatives yesterday. It is not a complicated package, I say to my colleagues. Resolution 523 is designed for the sole purpose to aid and abet the peace process in Central America.

As we all know, that process got a significant boost March 23 when Humberto Ortega and Adolfo Calero signed a 60-day cease-fire agreement in the Nicaraguan border town of Sapoa.

In recognition of the fundamental importance and historical significance of the Sapoa agreement, House Joint Resolution 523 states clearly:

> No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaragua democratic resistance.

In other words, Mr. President, this legislation is basically designed to do the same thing, and only one thing: It is designed to support the interim cease-fire agreement and to help lay the groundwork for a permanent cessation of hostilities.

In order to achieve these objectives, Mr. President, the legislation before us authorizes the transfer of $17.7 million through September 30 to be used for humanitarian assistance for the rebel forces. Humanitarian assistance is narrowly defined to cover only "food, clothing, shelter, medical services, and medical supplies * * *." The only exception to this is an allowance for basic communication equipment, and providing such equipment is consistent with the Sapoa agreement.

Mr. President, the total package is $47.9 million, roughly $48 million. The $17.7 million that I have already referred to is in humanitarian assistance. There is an additional $17.7 million to be provided for children who have been wounded and maimed in that conflict in Nicaragua, who have been victimized by this conflict. And that money will be handled through nonpolitical and voluntary organizations, and international relief organizations.

There is $10 million in this legislation for the purpose of assisting the activities of the verification commission established by the Sapoa agreement. As my colleagues know, this commission is composed of His Eminence Cardinal Miguel Obando y Bravo and His Excellency Ambassador Joao Baena Soares. They are charged with verifying compliance with the cease-fire accord and these funds will assure that they can effectively carry out their responsibilities.

Last, there is $2.5 million to the Agency for International Development to be used by them in order to carry out and to provide the delivery of humanitarian assistance.

With respect to the transportation and delivery of these items, the legislation once again insists that the Agency for International Development be the agency charged with the responsibility for providing those deliveries, and it also does not permit the delivery of any mixed loans. That would be self-evident.

Mr. President, again the details, I am sure, people will want to explore a little bit further today. I think it is worthwhile to note that in the House Chamber yesterday there was a strong bipartisan vote in support of this resolution which was 345 to 70. It was an overwhelming vote in favor of this resolution. It is the first time in 7 years that we have had a vote of that magnitude on this issue. Normally it has been one or two or three votes that divided.

Certainly in this Chamber we have seen most recently a margin of one or two votes that separated those in favor and those opposed to the Contra aid package.

I want to emphasize that this package, of course, like anything else is not completely satisfying to either side of this issue. I know my colleagues have supported Contra aid and would like to see expedited procedures. They want to see some military assistance included. Obviously, had that been the case, this package would have been approved. On the other side, there are people who think we should not be providing any Contra aid, and they would not have approved of this no matter what was up.

This package strikes a balance, and it is designed specifically and for the sole purpose of assisting that agreement reached in Sapoa. In the absence of that Sapoa agreement we would not be here doing this today.

Obviously, the agreement is fragile. It has been a serious and violent conflict now for almost 7 years. So one can only hope that this agreement will not only be complied within the cease-fire, but it will ultimately bring democratization inside Nicaragua, stability and peace in that nation, and that example may spill over into El Salvador and Guatemala because we have serious problems yet to be resolved in those Central American countries.

So, Mr. President, in conclusion of my 5 minutes I would urge my colleagues, those who have both been for Contra aid assistance, and those who have been opposed to it, to support this resolution. We need a strong vote out of this body today to demonstrate to the Nicaraguan people, both those in the government and those with the resistance forces, that we stand squarely behind the agreement that they signed, to see to it that the process has a chance to succeed.

I urge the adoption of the resolution.

Mr. President, I yield, and I withhold the balance of my time.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCAIN. Mr. President, I yield 5 minutes to my distinguished colleague from Oklahoma, Senator BOREN.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BOREN. Mr. President, I thank the Senator from Arizona for yielding time to me.

I rise in support of this resolution. I think at this point in the peace negotiations with the cease-fire now in place, it is absolutely essential that we take this action before the Easter recess and send a strong signal that the Contras are not being abandoned. To have a meaningful peace process, to have meaningful negotiations each side must come to the table with a certain amount of leverage and a certain amount of strength.

If the Sandinista government were to know that they could simply wait out the Contras, they would simply wait until their supplies ran out, until they did not have the basic necessities of food and shelter and medicine that is needed. They would simply have no incentive to continue to negotiate meaningful changes.

Therefore, it is very important if we want real peace to have a chance that the balance be restored in terms of the assets and the resources available to each side.

When I talk about peace, I do not mean simply the peace that comes from a surrender. I do not simply mean the end of the shooting. I do not mean simply the disappearance of the military forces, particularly the disappearance of the resistance forces.

I talk about a meaningful peace, one which will see the withdrawal of the foreign forces, including the immense Soviet and East bloc presence in Nicaragua; one that will bring an end to the hundreds of millions and billions of dollars—over $6 billion—of Soviet aid, principally military aid, poured into Nicaragua in the last few years.

When I talk about a real peace, I talk about the end to that kind of outside, Soviet military aid; the end to East bloc and Cuban military presence; the reduction in the size of the very large standing army of the Sandinistas, far larger than those of surrounding countries. Above all, I talk about real democracy being returned to Nicaragua, a democracy which changes the constitution so that the army is no longer the arm of the Marxist government, the Marxist party, in power; a real democracy that allows for all parties to participate and run their candidates for election; a commitment on the part of the Sandinista government to allow the will of the people to operate, even if it means turning over power voluntarily to the opposition parties if they win an election.

That is what we are talking about—real peace, and real peace with democracy. Meaningful change in that country cannot come unless there is some balance put in the scales.

Mr. President, there cannot be an adequate balance without it also being known by the Marxist government in Nicaragua that if they do not agree to make these changes over a period of time, we stand ready, once again, to consider military aid to the Contras.

I am pleased that both Speaker WRIGHT and Senator BYRD have indicated a willingness to have expeditious consideration of any additional requests for military aid if they are made at a later time, under changed conditions, by the President.

I am sorry that we were not able to write those fast-track requirements into the legislation itself and that we are not operating under time constraints and under a negotiated agreement, the delicacy of which could have been upset. It would have been my desire to offer an amendment to provide, in concrete, those expedited procedures, so that we would not have the possibility of a minority in this body or the other body utilizing the parliamentary rules, such as a filibuster in this body, to block consideration of military aid if it was called for.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOREN. I ask for 3 additional minutes.

Mr. McCAIN. Mr. President, I yield 3 additional minutes to the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 additional minutes.

Mr. BOREN. I thank my colleague.

Mr. President, while I support the action we are now taking, I feel that I should share with my colleagues an honest transcript of my thinking about what has happened in the last several weeks.

I hope I am proven wrong, but I want to put it into the RECORD, so that 5 or 10 years down the road it will be available to those who are interested in how we made the decisions at this time and how some of us felt about it.

I think that the failure of the Congress of the United States to continue to provide aid to the Contras at a critical period of time in the peace negotiations a few weeks ago, including the willingness to hold out, in explicit terms, the real possibility of a new extension of military aid, will be remembered historically, several years and several decades from now, as one of the gravest mistakes in American foreign policy ever made.

I want to register, in the strongest terms, my dissent from those decisions that were made. I am still fearful, because of the history of the Marxist government and their general unwillingness to share power, to reinstate the democratic process voluntarily, that it will never happen in Nicaragua.

I view the current agreements with great skepticism. I view the developments in El Salvador, the increased guerrilla activity, as not unrelated to the fact that there is a perception in the region that the United States is willing to withdraw and create a power vacuum that the Marxist forces can fill in our own backyard and our own hemisphere. It is not coincidental that the level of guerrilla activity in Guatemala and the level of guerrilla activity in El Salvador diminished greatly as the Contras began to achieve more success, both military and economic, within Nicaragua, and as the determination of the United States was demonstrated with our $100 million aid package in the past.

If there ever comes a time when young Americans have to fight and die in this hemisphere in the future, I think that circumstance will be traceable to a direct result of the impasse which developed in Congress and the refusal of the Members of Congress to act in a responsible way to give the tools to the people in Central America with which they could fight the Marxist intrusion here in our own hemisphere.

We are not talking about Vietnam; we are not talking about an area halfway around the world. We are talking about our own hemisphere, our own neighborhood, our own sphere of influence, countries that border those that border us.

Mr. President, it is a grave error. It is an error that I fear we will come to regret for many, many years to come. I can only hope that the action we are taking today will minimize, in some way, the great impact of the past mistakes that we have made.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time does my distinguished colleague from North Carolina desire?

Mr. SANFORD. About 9¾ minutes.

Mr. DODD. I will be more than generous and yield 10 minutes to my distinguished colleague.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 10 minutes.

Mr. SANFORD. Mr. President, I am pleased to support this resolution to provide humanitarian aid for the Nicaraguan resistance forces, the children who are victims of the long regional conflict, and the Indians of Yatama.

It is a matter of national honor and national interest that we make these funds available as quickly and as effectively as possible.

Two warring camps have taken the initiative to negotiate terms which nearly 8 years of conflict have been unable to produce, and it is our responsibility to encourage that diaglog. At the same time, it is in the best interests of the United States that we use our resources and energy to assist Central Americans in their development of free and open societies.

But we should recognize, Mr. President, that this aid is a temporary measure. The resolution we are considering will provide assistance for 6 months only. No one of us should be under the illusion that this provides solutions to long-term Central American problems.

I think we have a way to assure that the dire fears of my distinguished friend from Oklahoma will simply not come true.

It is essential that we look to the long-term if the region is to become a free, peaceful, and productive member of the international community. For that to happen, the first requirement is the most carefully constructed development blueprint. For nearly a year, an extraordinary Commission for the Recovery and Development of Central America has been at work on designing precisely that kind of blueprint for the future.

Philosophically, this Commission follows the pattern of the regional peace negotiations—that is, the recommendations crafted with the dominant influence of Central Americans themselves. The initiative must be theirs. They know best what is needed and what is possible.

But they will not be alone. A splendid collection of dedicated leaders from 14 countries make up the Commission's membership, including representatives from the United States, Europe, Japan, Latin America, and Canada.

The Commission held an initial meeting in Costa Rica and its committees will discuss their first, tentative recommendations in Stockholm in June where they are the guests of the Swedish Government. In November, the refined recommendations will be presented in a Washington meeting of the Commission and circulated to a large number of Members of Congress who have agreed to review and evaluate them.

This Commission, Mr. President, is organized to produce a plan that takes into account all previous and existing development programs in the region and goes beyond them. We all know the problems: poverty, disease, foreign debt, illiteracy, hunger, unemployment, economic uncertainty. They are the litany of third-world dilemmas and they are the stuff of conflict. This Commission is analyzing Central American problems and will provide recommendations for multilateral solutions. That is the way to go about it; a blueprint designed to respond to regional needs with regional proposals, assisted by the best economic advice available.

I do not know what the Commission's proposals will be for we have deliberately made its work independent of political influence and direction. Its deliberations are entirely supported by Foundation grants whose contributions total nearly a million dollars at this point. No Government funding has been involved.

This Commission has a vision. It looks to the time when Central America can put an end to deprivation and take its place among the peaceful and productive areas of the world.

The resolution we are debating today is a first step, Mr. President, and it properly establishes the opportunity for the region, the United States, and the democratic countries of the world to undertake a bold and pragmatic long-range plan to help a region that has shown already that it is fully capable of taking charge of its own affairs.

This very positive step that we take today is our assurance to them that we believe in their capacity to develop their own future and that is the best way to assure peace, that is the best way to assure democracy, that is the best way to assure freedom. I have great faith that working together with this positive attitude we will all be successful and for decades and generations to come we will see a prospering Central America that will be an even stronger ally than it has been in the past and that the people of that region so long plagued by all kinds of abuse will once again be able to look up in freedom and to look to hope in their own future.

I am pleased to support this effort today, Mr. President.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise in support of the resolution before us. I think it is an important measure. I think it is of vital importance that we pass this resolution before this body leaves for recess next week, and I think it can make a significant difference in helping move forward the negotiations which are taking place between the freedom fighters and the Sandinistas.

I, like my colleague, Senator BOREN, have joined in seeking an amendment to this resolution that would have put into law a requirement for expedited procedures in case of requests on the part of the President for renewed lethal aid to the freedom fighters. At the same time, I recognize that that could have prevented this resolution from being enacted by both bodies, and like, I believe, the majority of my colleagues, both here and in the House, I will rely on the word of the Speaker of the House and our distinguished majority leader. I think it must be made very clear for the record that the crucial aspect of this resolution to many of us who have been in support of the aid to the Contras lies exactly on the committee on the part of the leaders in both Houses that if indeed the time arrives when the peace process is broken down and there is a requirement for this body to consider a resumption of lethal aid to the Contras, then that facility will be provided to the Members of this body and it will not be blocked by a minority on either side of the issue.

Mr. President, I also agree with my colleague from Oklahoma who said that historians will look back and view the vote which not only cutoff lethal aid but prevented humanitarian aid from being extended to the Contras as a low point in American history. A signal was sent throughout Central America and the world that the United States had again abandoned a friend.

I am convinced that the increase in activities that we see in El Salvador and Guatemala and soon possibly in Costa Rica and Honduras are directly attributable to the perception that the United States no longer supports the people that it arms, equips, supplies and provides with morale and material assistance in their struggle for freedom.

I hope, as I know that all Americans and all Central Americans, indeed people throughout the world hope and pray, that these negotiations will lead to the full implementation of the Arias peace plan and, indeed, the fulfillment of the commitments made by the Sandinista Government as far back as 1979. When they came to power, the Sandinistas promised their own people, the Organization of American States, and the United States of America, which provided them with over $100 million in aid, that they would provide their people with a free and open society.

Is that the case today? Mr. President, clearly no.

The Turbas, the divine mobs as they are called, continue to intimidate those in opposition. Beatings have taken place. Block committees have been reactivated. Intimidation and arrests continue throughout Nicaragua. Indeed, several opposition leaders have been killed. Censorship laws remain. We still have only one newspaper. Two radio stations are allowed to operate.

I say to my colleagues it has been a long time since August 7. It has been many months since the Sandinista government signed an agreement that committed them to democratization and freedom in their country, and so far what we have seen is minimal compliance.

I was frankly astonished, absolutely astonished to see that the headlines of the major newspapers in this city and in New York that trumpeted the fact that 100 political prisoners were released by the Sandinistas. On August 7, they committed and promised to release all political prisoners, the numbers of which vary, some believe as high as 8,500, some believe as few as 3,500. Is the release of 100 political prisoners a signal move on the part of the Sandinista government?

If they are serious, I say to my friends, I would say that all 3,500 or 8,500, depending on whose figures you believe, should be released. On that issue, I have had numerous discussions with my good friend and colleague, Senator DODD. If there is question about the number of political prisoners that are being held in the Sandinista prisons, then let us allow the International Red Cross or another organization to go in and find out so we will all know. But unfortunately the Sandinista government will not do so.

Also, again, this resolution and indeed the peace talks do not address one of the most crucial aspects of the U.S. national security interest in the region, and that happens to be the continued flow of Soviet military equipment into Managua and to the Sandinistas. There seems to be some thought that because of a conversation between Mr. Gorbachev and the President that the Soviet Union is reducing the supply of military equipment into Managua. The Pentagon figures unclassified show us that in January and February of this year 3,400 tons of weapons have gone into Nicaragua in 10 different shipments, a higher level than last year.

It is very clear that there has not only been a cessation of the arms supplies and equipment by the Soviet Union into Nicaragua, but something of an increase. Until we address that crucial issue, there can be no resolution of the problem and crisis that continue to take place in Central America.

Finally, I am not overwhelmed by the statements of the Sandinista's foreign ministry. They are very glib and articulate. An individual called Mr. Bendana on Nightline stated the Sandinista government would determine what kind of character their government would have.

I think the people of Nicaragua should determine that kind of government by a free and open election. The Sandinistas have promised municipal elections. I hope that those elections will be brought about at the earliest date.

Finally, Mr. President, I support this joint resolution. I think all of us should. I think we should send a message, as my friend from Connecticut said, that the United States has not abandoned the Contras. I think we should continue our efforts to help the helpless children who are the innocent victims of this conflict.

At the same time, let us not forget that there is a serious crisis in the region which will not be resolved through the release of 100 political prisoners. The requirement of the Sandinista government to fulfill the commitments they made as far back as 1979, and again, by being a signatory to the Arias Peace Plan are a long way from being fulfilled.

We hope the assistance we will be voting for today will lead to that ultimate goal.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, my colleague from South Carolina, I know, requested some time. I would say to my good friend from South Carolina I have a number of requests. Would 10 minutes be adequate?

Mr. HOLLINGS. I know the Senator will give me more if we need it.

Mr. McCAIN. I would be glad to yield more time to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. HOLLINGS. Mr. President, I have a tremendous respect for the distinguished Senator from Connecticut. I respect his longstanding involvement and study of Central America. However, I would call his attention to several facts which are especially relevant to this debate on humanitarian aid to the Contras.

I ask unanimous consent, Mr. President, to have printed a table illustrating U.S. foreign aid from 1981 until 1988 to Costa Rica, Honduras, Guatemala, and El Salvador.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FOREIGN AID, 1981–88

[In millions of dollars]

	Economic assistance	Military assistance
Costa Rica	1,035	35
Honduras	900	440
Guatemala	485	16
El Savador	2,020	885
Total	4,440	1,376

Mr. HOLLINGS. It is all too easy to say, "I am against war and I am for peace and what we need is a Central America Marshall Plan." Let the record show that United States aid to just those four countries in Central America since 1981 totals $5,816,000,000, and is already on the scale of a Marshall Plan. Over $1 billion has gone to Costa Rica alone. Yet that is a country that will not even defend itself.

I had the privilege, I say to Senator DODD, of holding discussions with his leader in the so-called peace process, President Arias. President Arias tried to tell me that his is a neutral country like Switzerland and Sweden. I said, "Well, you know, in Sweden they at least have got an army to protect their neutrality. They have got a draft in Switzerland. But in Costa Rica it is against the law even to put on a uniform. And I can tell you no marines are coming down here to save you if you will not even fight to save yourself. It's time to sober up."

Arias and Costa Rica have gotten a billion dollars since 1981. No wonder he is satsified with the status quo. I wish we had given a billion dollars to the Contras, then we would truly have found out who has the will to win in Nicaragua; $5,816,000,000 for Honduras, Guatemala, El Salvador, and Costa Rica. But peanuts for the Contras.

To be exact, $231 million over a 7-year period. Contrast that to the $5 billion the Soviets have put into Nicaragua. The Soviets poured in money at a rate of $50 million a month in 1986; in 1987, it was $60 million a month.

Yet we hear wishful talk of "peace in our time" under the Arias peace plan—give peace a chance; give peace a chance.

The House voted to cut off Contra aid. The idea was that we were going to give peace a chance. Let us see now what the facts really are. The facts are that the Sandinistas do not want peace. And, whether we like it or not, I say to Senators, the United States of America is inescapably involved in Nicaragua and in Central America. Our fate is tied to those nations.

Earlier this month, I spent a week in Central America, and I can tell you the great impression made on me is that the Marxist cancer is spreading. The House thought it had disposed of this issue by voting down military aid. The House thought the lid would stay on Central America until after the elections. But this is a naive wish.

It is a doomed wish because the Sandinistas do not want peace. The Senator from Arizona has alluded to Sandinista aid to insurgencies throughout the region. I asked President Arias about the AK-47 assault rifles that were supplied to the Costa Rican Communist guerrillas, what they call the "popular vanguard party." I asked about the Communists' infiltration of his government. For example, in the media. I say to Senator Dodd, I was absolutely shocked to hear the hysteria in Costa Rica—stirred up by the media—that Americans are kidnaping Costa Rican babies to be shipped back to the United States so that their baby parts can be used in medical operations to save American children. That is the kind of disinformation and ignorance they are contending with down there.

Let us not be naive about the prospects of genuine dialog and negotiation. The Marxist junta in Managua is dedicated. It knows exactly what it wants. It is stepping up the training of guerrillas in El Salvador. It has supplied Soviet heat-seeking missiles to the Salvadoran rebels.

The Communists have stepped up street crime and gang-type warfare on the streets of Honduras and Guatemala. They have brought in Guatemalan rebels to train with the Nicaraguan infantry.

The Sandinistas abolished their Justice Department and replaced it with the Turbas, the street gangs. We saw the Turba gangs in operation on a Sunday afternoon, with 400 Nicaraguan mothers marching to protest their children's forced service in the army. The Sandinista army has a 10 to 15-percent desertion rate.

Families are afraid to form a line in Managua in order to get into a theater because these gangs go in and grab the young kids and put them in the army.

We saw the 400 mothers trying to march. They were beaten up and thrown in the gutter by some 5,000 of those Turbas, the goon squads. And this is the crowd that supposedly wants peace.

I was shocked. I wanted Senator Dodd to hear about this. If anybody is revered down there, in addition to the Cardinal, it is Violeto Charmorro, a heroine of the revolution who dared to break with the Contras. Her husband was killed by Somoza and she was flown to Costa Rica. Danny Ortega came and said, "We want you to come back and head up the freedom movement. We want free elections, freedom of religion, freedom of the press, freedom of expression, and everything else. We want democracy." That's the same thing Ortega told me when I met with him back in 1979.

On that promise, she came back and became the first chairman of the Sandinista junta.

Well, you ought to see how they depict her now. She now works at La Prensa, and the Sandinistas depict her as a Nazi adulteress, wallowing around in American dollars. I have the video from Sandinista television, and I'll be happy to show it to my fellow Senators.

Yet Senators around here talk about a long-term plan of economic aid; they want more economic, not lethal aid; let us give peace a chance; we have a dialog going between the resistance and the Sandinistas. We had better sober up and understand what is really going on in Central America.

I met with Cardinal Obando y Bravo. He was in shock because he had been fired by Ortega. He had been picked by Arias as a mediator; but fired by Ortega.

None of the anti-Contra crowd in Washington complained. But we kept on hearing "Peace in our time"? When I talked to him on his porch he said: As you know, the Soviet KGB is listening 200 yards away. They are recording everything we say. But still he said, "yes, I am for humanitarian aid."

The Cardinal is now in limbo. When the aid is cut off and you get fired by Ortega and nothing happens, then he is confronted by the choice between trying to save his country and trying to save his flock. If the U.S. Congress is going to vote away all aid, then obviously he must choose to save his flock. He watches his language. He is fearful of exile.

But he favors the bill before us. He favors aid to the Contras—humanitarian aid. I found that all of the Central American presidents also want humanitarian Contra aid, because they are very fearful of the Sandinista intentions, and know exactly what is going on.

The crowd that allegedly wants peace, the Sandinistas, of course, has invaded Honduras. This is the crowd we are supposed to rely on for peace in our time.

And let us not hear the argument that the Marxists have come to the table because of their collapsed economy. For 30 years, the economy in Cuba has been collapsed. We have heard, "Oh, it is in terrible shape; Castro is in trouble." He is in so much trouble that he has exported his mercenaries and goons to Africa, the Mideast, and all over Central America. So don't shed a tear for the Nicaraguan economy. It will not hinder the Sandinistas' ambitions. Other than the campesinos out on the farms, Nicaragua is nothing more than a military camp in the service of Russia and Cuba.

The fundamental truth that I learned from each of the Presidents, whether it was Arias, Azcona, or Cerezo, or other leaders, was that they favored humanitarian aid to the Contras. I have listened on the Senate floor during the last several debates on Contra aid, and been told that the presidents down there want to give peace a chance and that the problem was the Contras.

The problem in Central America and Nicaragua is not the Contras. The problem is the Sandinistas. President Cerezo in Guatemala told me he favored humanitarian aid. He could not speak out for military aid for the simple reason that he had only gotten $7 million in military aid and last year while he had given the Contras $100 million, that is $100 million out of the $231 million total we have given them. He said it was a political embarrassment to him, but he pointed out the fact that the so-called Arias peace plan is a false symmetry.

You have down there four democratic governments and one democratic resistance in Nicaragua. On the other side, you have one Communist government and two Communist insurgencies, in El Salvador and Guatemala. But we refuse to help the democratic insurgency while the Soviets pour massive assistance to the Marxist guerillas.

We have to correct this nonstarter Arias peace plan because Arias himself knows it will not work. He telegraphs this when he finally says, "My moral authority, Senator; that is what my hopes are based on." I said, "Mr. President, how do you exercise moral authority with people—the Sandinistas—who have no morals?"

He says, "Well, if necessary, your Marines will come and save us." And I said, "No, sir. They will not."

I repeat: It is a false symmetry. They all want the United States and our military forces down there, and they all want this humanitarian aid bill more than anything else. They want the resistance supported.

Our friend President Azcona of Honduras said he would come to Washington and testify for both humanitarian and military aid. Yet, I have heard from those opposing the Contras that everyone is against the Contras. He said he would come here and testify for aid. He said, and I think every Senator on this floor ought to understand this, that while we are diddling around about $20, $30, and $40 million, it will eventually cost us much more. He has told our Government that if the Contras are defeated and the Sandinistas take over with complete control that he will need $250 million a year to take care of the refugees.

The refugees out of Cuba, the Marielistas, cost the U.S. Government $1.8 billion. People think we are saving money if the Contras lose. They are incredibly naive and wrong.

They say, well, the Contras cannot win. Well, nobody thought the Afghans could win. Nobody thought the Vietcong could win. Nobody thought that the Sandinistas could win. They had 5,000 men when they took over from Somoza. There are now 17,000 Contras—three times more than the Sandinistas had at the time of their takeover.

The truth of the matter is that it was the middle class that ran Somoza out, but the Sandinistas were the only ones who had the weapons.

Maybe the Contras won't win, but they are at least winning democracy for us in these other four countries. It is a sad thing to say, but the Contras have been holding the line while we have been sending aid to Costa Rica and Honduras, El Salvador, and Guatemala.

Now, with the refusal of lethal aid, as the Senator from Arizona has pointed out, the guerrillas in El Salvador see the United States as vascillating and they are moving in to take over that country. Democracy will be going down the tubes there if we do not act.

Let me say here, that this vote is a very important signal to our friends, the Contras. I knew good and well when the House voted down lethal aid that they would be coming back, asking for humanitarian aid, not really for the resistance but to save their political hides.

I talked to Alfredo Cesar while I was in Costa Rica. I talked to several commandantes, too. Senator DODD has always been quoting commandantes. Well now. I have a few commandantes to quote.

Alfredo Cesar said: "Senator, we need at least a symbol of continued American support." Whether you believe it or not, the policy of the U.S. Government, Mr. President, has been to support the resistance. We have appropriate money throughout the 1982- to 1987 timeframe until it ran out on February 29. Secretary Shultz said at the Budget committee that the policy is the same even though the House of Representatives may have voted down the money. I can tell you here and now the policy is the same: To support the democratic resistance on Central America.

This vote does not have everything in it that you want or that I want, but it is an important symbol. It will let the Contras hold on while this Congress grows up and sobers up to reality. I hope they will, and I hope that we will resist communism in Central America.

I thank both the Senator from Connecticut and the Senator from Arizona.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I thank the Senator from South Carolina. As always, he had made an important contribution to this debate. I would like to recognize my colleague from Idaho, Senator SYMMS, for 10 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. SYMMS. I thank the Senator. I want to start by complimenting my good friend from South Carolina, Senator HOLLINGS, for what I think is an insightful description of what exactly is happening. There should be no mistake about it. We are witnessing the failure of the Congress of the United States to achieve a victory of freedom versus oppression in Central America by having not made the correct action to keep the support for the resistance alive during these past 12 months.

I am reminded that 40 years ago President Truman was written off. They said he would never win the election. We went out and started running against the 80th "no-good" Congress. Mr. President, it looks as though the Vice President of the United States is going to be the nominee of my party. I believe all he has to do is start running against the 100th "no-good", "gutless" Congress. He will get elected President if it is explained to the American people what is happening.

I agree with the Senator from South Carolina; we have no choice but to give these people what meager aid we can give them.

What is the opposition doing? In today's Washington Times, Contra chief Bermudez makes the statement:

> I saw a list recently. They got 650 million rounds of AK-47 [automatic rifle] ammunition. Six hundred fifty million! Can you imagine? They have plenty of ammunition left to fight many years of war.

The Senator from South Carolina already went into the details of how many billions of dollars and millions of pounds of equipment the Communist Sandinista government has received from our adversary, the Soviet Union. Yet, we have fiddled around in this Congress this year and failed to give them the meager means to fight for their own freedom.

The Senator from Oklahoma [Mr. BOREN] was correct when he said if American troops were called upon to preserve freedom in that region of the world, the 100th Congress will be the responsible faction.

There is probably a little bit more blame to go around than just the 100th Congress. When President Reagan took office, he talked about the Reagan doctrine. The Reagan doctrine was very simple and easy to understand. We were going to roll back the borders of communism and expand the frontiers of freedom. We would support those resistance movements in order to accomplish it.

The problem was the signals that came from the White House in the 1980's—1982, 1983, and 1984—were somewhat blurred and mixed. No one at the White House ever wanted to say that the purpose of aid to the Contras is to overthrow the Communist Nicaraguan Government, so the people in Nicaragua would have a chance to be free.

Here we are today in 1988 after several years of having an indecisive message being sent down there. We have now reached the point where we have a 60-day cease-fire. I agree with my colleague from South Carolina, many people think Mr. Arias is some kind of a hero. He got the Nobel Prize. Well, Le Duc Tho got the Nobel Prize, too, and everybody said give peace a chance in Cambodia. What happened was as soon as they got the American aid out and there was no one else who could resist the Communists, they went in and killed all the people who had been part of the resistance.

I pray that will not be the case in Nicaragua, but it is a very similar situation to what happened in Cambodia to what is happening in Nicaragua today. I believe the President is going to have to act, and he is going to have to act boldly. He may not even have the time to wait because what these people will do, if there is any sense of consistency of history of a Marxist-Leninist dictatorship, is continue to talk peace, talk opportunity for people, really do very little, do just enough to try to keep the Congress from voting aid to the resistance until they have totally ensconced themselves in power.

They are in the process of brainwashing their children to the fact that somehow the United States is their enemy. They are in the process of developing an infrastructure so that they have a secret police to terrorize people. That is what is going on down there. People are afraid to oppose the government in power, the Communist government. Yet, we stand by. The best we can do is send a meager bit of aid so those who have been out on the battlefield risking their lives trying to achieve freedom in their country, can be relocated and not starve to death.

The freedom they are fighting for and have fought for in Nicaragua is not just the freedom of the people in Nicaragua. It is for the freedom of all people. I have found it very frustrating to know that we can get aid through this Congress for the Afghan freedom fighters, which I support and for the Angolan freedom fighters, which I support which is 10 time zones away. However, we cannot get aid to help the resistance in Nicaragua through this Congress, the 100th "gutless" Congress.

It is just shocking they way I see it. Here we are celebrating the 200th birthday of our Constitution, the 100th Congress, and we will not help Americans on our own continent to regain the freedom that was betrayed them.

The revolution has been betrayed, and we have given and given, and all the time the supplies keep pouring in from the Soviet Union. They keep pouring in through Cuba.

Nothing has changed. So now we have another 60 days. I might add to the record and mention the fact that it is not all the Congress' fault. I think the State Department, although there are many people there who I have witnessed in Central American that have really been working to try to achieve freedom and help those people. But if you look at neighboring El Salvador, when the people recently voted 2 weeks ago for a laissez-faire free enterprise economy, they voted to get rid of the socialists who were holding them down.

It is true all over the world. Every place in the world where freedom comes up against oppression and communism, people are choosing freedom over and above communism and oppression. Every place in the world. Yet we would not give it just the slightest nurture in this country to allow freedom to work or have an opportunity in Nicaragua.

So I think it is a close call. There are plenty of things that should have happened. The President should have vetoed the Boland amendment when it passed. He should have insisted on the Reagan doctrine and should have made it an issue with the people.

The sad part of it is, and I think the people at the White House have not figured this out yet, even if the peace plan would have worked, that during Ronald Reagan's watch, we have witnessed the communism of Nicaragua take place, and there are no terms for political reform from the Sandinistas.

They have talked a good game, but their actions have been very slim. And the problem with the cease-fire agreement, which I said at the outset, is that it was only one sided. It was only to withdraw the support of the United States. They keep getting the support from the Soviet Union, and then somehow we are going to "give peace a chance."

The difference between that statement, "Give peace a chance," is that the definition of "peace" in the dictionary that Daniel Ortega uses is very different from the definition of peace in the dictionary that we use in the U.S. Senate. Their definition of peace is not have anybody interfering with the dictators who are running the government. They do not mind having people sacrifice their freedom.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SYMMS. Will the Senator give me another 30 seconds?

Mr. McCAIN. Mr. President, I yield an additional minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 additional minute.

Mr. SYMMS. I personally believe we have now reached the point, because of the failure of the gutless 100th Congress to give aid to the freedom fighters in Nicaragua, that it will take strong, bold, decisive action by the President of the United States. He is going to have to break diplomatic relations eventually with the Communist government in Nicaragua. He is going to have to recognize the Contras as the freedom fighters, and then give them what support is necessary to achieve victory.

It could have been done without the use of the U.S. military. It is questionable now if young, United States soldiers will not end up sometime in the future fighting in Central America or, the least of which, they will be fighting in southern Mexico if we allow the ensconcement of the Sovietization of Nicaragua to take place, which appears to me is what is happening.

I do not think we have much choice which way to vote on this issue. The least we can do as Americans is try to help the people that we promised help to and we failed to deliver the help, but at least give them the meager medical supplies and food so they may sustain themselves. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that a copy of the Sapoa agreement be printed in the Record.

There being no objection, the agreement was ordered to be printed in the Record, as follows:

[Informal Translation]

Agreement Between the Nicaraguan Government and the Nicaraguan Resistance

The constitutional government of the Republic of Nicaragua and the Nicaraguan Resistance, meeting in Sapoa March 21-23, 1988, with the aim of contributing to reconciliation within the framework of the Esquipulas II Agreement and in the presence of witnesses, Cardinal Miguel Obando y Bravo, President of the Episcopal Conference of Nicaragua, and Ambassador Joao Baena Soares, Secretary General of the OAS, have arrived at the following agreement:

(1) Cessation of offensive military operations in the entire national territory for a period of sixty days beginning April 1 of this year, during which there will occur a negotiating process for a definitive cease-fire whose effective implementation will occur jointly with the other commitments contemplated in Esquipulas II. Both parties agree to meet at the highest level in Managua on April 6 to continue the negotiations on a definitive cease-fire.

(2) During the first 15 days, the forces of the Resistance will locate themselves in zones whose locality, size, and modus operandi will be mutually agreed to by a special commission in a meeting in Sapoa to begin Monday, March 28.

(3) The government of Nicaragua will decree a general amnesty for those tried and sentenced for violation of the Law of Maintenance of Order and Public Security, and for the members of the army of the previous regime sentenced for crimes committed before July 19, 1979. In the case of the first group, the amnesty will be gradual, and taking into account the religious sentiments of the Nicaraguan people on the occasion of Holy Week, will begin with the liberation of the first 100 prisoners on Palm Sunday. Subsequently, upon verification of the entry of the Nicaraguan Resistance forces in the zones mutually agreed upon, there will be freed 50 percent of the prisoners. The remaining 50 percent will be freed on a date after the signing of the definitive cease-fire and will be agreed upon in the meeting April 6 in Managua.

In the case of the prisoners referred to in the second category of the first paragraph under this number, their liberation will begin with the signature of the definitive cease-fire under guidelines of the Inter-American Human Rights Commission of the OAS.

The Secretary General of the OAS will be the guarantor and the trustee of the implementation of the amnesty.

(4) With the objective of guaranteeing food and basic supplies for the irregular forces, they will arrange for and accept exclusively humanitarian assistance, consistent with article 5 of the Esquipulas II agreement. The aid will be channeled through neutral organizations.

(5) The Government of Nicaragua will guarantee unrestricted freedom of expression as contemplated in the Esquipulas II Agreement.

(6) Once the forces of the Nicaraguan Resistance are concentrated in the zones mutually agreed to, (the Resistance) can send to the national dialogue as many delegates as the political organizations that make it up, up to a maximum of eight. In the national dialogue there will be considered, among other topics, that of military service.

(7) There is guaranteed to all persons who, for political motives or any other reason, have left the country, the ability to return to Nicaragua, be integrated into the political, economic, and social processes without any type of condition other than those established in the laws of the republic. They will not be judged, punished, or persecuted, for the activities of a political/military nature that they may have undertaken.

(8) The government of Nicaragua confirms that those persons who have been reintegrated into a peaceful life can participate with equal conditions and guarantees in the elections for the Central American

Parliament, and the municipal elections on the dates that are established for these, as well as in the national general elections on the dates established by the constitution.

(9) To put into effect the verification of compliance with this agreement, the verification commission will be established, composed of the President of the Episcopal Conference of Nicaragua, his eminence Cardinal Miguel Obando y Bravo, and the Secretary General of the OAS, his excellency Joao Baena Soares.

The technical assistance and the services necessary for this commission, that would permit and expedite compliance, follow-up, and verification of this agreement, will be solicited and entrusted to the Secretary General of the OAS.

ADDENDA

Both sides agreed to extend to April 1 of this year the cessation of offensive military operations previously agreed to by both parties on March 21, 1988.

STATEMENT DELIVERED BY SECRETARY SHULTZ

STATEMENT ON CEASE-FIRE AGREEMENT

Yesterday the leadership of the Nicaraguan Resistance met on Nicaraguan soil with members of the Sandinista regime and reached an agreement which calls for an immediate truce and steps toward an amnesty and respect for free speech in Nicaragua. This agreement is the product of the determination and the sacrifices of the freedom fighters through years of struggle, including their heroic resistance last week to a Sandinista offensive designed to eliminate them. Their strength and perseverance have created this opportunity for peace and freedom, and we welcome it as an important step forward.

There is much work to be done to take full advantage of this opportunity. The agreement provides for continued aid to the freedom fighters, but there is no aid. Congress should provide that aid immediately, before the Easter recess, to sustain the freedom fighters while these negotiations continue.

We will now be consulting with the freedom fighters and with the four democracies on how the United States can best further the prospects for peace and freedom in Nicaragua. Others can also play a positive role. Just as the ceasefire agreement does not envisage any further U.S. military assistance at present, so is there absolutely no excuse for any further deliveries of arms from the Soviet Union, Cuba or the Eastern Bloc to Nicaragua.

Yesterday's agreement provides that negotiations will resume in Managua on April 6. The return to Managua of the leadership of the Nicaraguan Resistance will mark a triumph for their cause.

The U.S. will continue our relentless effort for peace with freedom in Central America.

Mr. DODD. Before yielding some time to my colleague from the State of Washington, I would like to inform my colleagues who may be listening that we wish to move this matter along. I only have one colleague on the floor, Senator ADAMS, of Washington, who is prepared to speak at this point. There are others who have indicated they would like to speak on this issue, Mr. President. I urge them to come over as soon as possible. Some of our colleagues have flights later this afternoon they would like to catch. So if we could get this matter going we could complete it. For those who indicated they wanted to speak and decided to reserve comment for later, we will deal with that then. But at this particular juncture I am delighted to yield to my colleague from Washington 8 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 8 minutes.

Mr. ADAMS. I thank the Chair and I thank the Senator from Connecticut for yielding time.

Mr. President, I rise in opposition to this $47.9 million package of Contra aid. I know I will be one of only a few who will vote in this fashion.

I am reminded, as I stand here, of the vote that occurred on the Gulf of Tonkin resolution before I arrived in Congress. I was present in the Congress of the United States in February 1965 when we were assured that a Marine division landing at Danang would close off the military zone and that we would win an internal civil war in which we had been supporting one side as opposed to the other. This policy led to an American foreign policy disaster and a disaster for all of the peoples concerned.

As I listen to this debate today, I must tell you that I have a terrible feeling of having been here before, not just in the eighties when people discussed Contra aid but also in the seventies and the sixties.

Time and again we have faced the fact that only the United States maintains a Contra force in the field. Without our continued aid, lethal or humanitarian, the Contras would not exist. This vote today is a vote to maintain a fighting force in existence.

We have heard comments by those in support, and they are honestly held—I am not critical of their statements because I know they believe in them—but it is very clear that many of them would like to vote for a lethal aid package today and they expect to vote for a lethal aid package in the future.

Mr. President, I support the Arias package. I support a Caribbean initiative of aid to people. When the day comes, and it surely will come, that these people need to be resettled, I will support resettlement, but that is not what we are doing today.

Mr. President, no military man that I know in the United States or elsewhere has ever said there would be a victory in a military sense by a Contra force. There is not an indigenous base for the Contras. They have been created, maintained, and funded by the United States.

We have seen what happens when we try to fund, maintain, and direct a conflict where we know in advance there is no military victory. Military pressure has been something we have tried before.

I have not tried, and will not in this debate, to debate what I consider the technical parts of the bill. There are parts in it that we all support, of course. For example, we all want to provide assistance to injured people. But the real purpose of this resolution is to maintain a viable fighting force for another day.

I want the peace process to work. I realize the recent cease-fire agreement signed between the Contras and the Sandinistas permits humanitarian aid to the Contras. I disagree with that proviso. I believe it is counterproductive to long-term peace in the area. If we examine what has happened and we want to bring about a peaceful resolution of the conflict in Nicaragua, we should assist in the reconciliation effort, aiding all of the Nicaraguan people, those in resistance, those in the countryside who have suffered immeasurably because of this war.

Mr. President, during my last campaign for the Senate in the State of Washington I stated I would not support $1 of aid to the Contras. I have tried to keep that promise. I continue to believe that the United States' attempts to create a government through the Contras is a historic mistake; just as it was a mistake to try to create governments in Southeast Asia. We ought to learn from the past. My vote demonstrates, I hope, that I have.

The principle, Mr. President, in which our people believe and which supports and sustains a long-term foreign policy is the principle of democracy. We believe that we should not be involved in civil war. Ours has not been a population which has felt that the Contras were the answer to peace in Central America. I have taken this time—and I thank the Senator from Connecticut and others for listening to me—because I want my feelings to be heard and I want the American people to know that some of us in the Senate stand for what we believe is a basic underlying American principle in foreign policy: Reliance on and respect for the peoples within a whole area.

I do not believe the Sandinista government is a good government. I do not believe the Castro government is a good government. But I would remind you that we created both. We created them when we supported the oppression which brought them to power; and then we tried to create them in a new image by giving them aid after they came to power.

Mr. President, our foreign policy must operate for the self-interest of the United States. There may be a place in Central America where our military or economic involvement will be necessary. But Nicaragua is not such a place. To involve ourselves in determining the structure of that government will leave us with a constant temptation to manipulate their structure in the future. But that is not what we, as a democracy, are about. What we can be about, what we should be about, is funding programs that will build the economic future of that area.

We are, again, in the position of supporting a military force in a war without victory. And I do not think we should do it.

I thank you, Mr. President. I thank the Senator from Connecticut for giving me the time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield 7 minutes to the Senator from Minnesota [Mr. DURENBERGER].

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to speak briefly on the matter before us. From the comments I have already heard, I feel we could spend a good part of the day and the week on the subject. I do not think it is going to do any good for me to talk about who is to blame for where we are here today.

I just want to state for the RECORD that the comments that I heard today that the 100th Congress is to blame if we lose Nicaragua, and remarks like "the gutless 100," and so forth, I do not think belong in the debate on a relatively serious part of American foreign policy. I think it is inappropriate today that we attempt to spend time assessing blame while we are working instead on dealing with a rather serious problem that others have taken charge of.

As my colleague from Idaho said, maybe the President is going to have to get tough. I had to smile when he said maybe he is going to have to break relations with Nicaragua.

I have got to tell you, everybody in Minnesota has been asking me for 7 years, "Why is it that we have to keep this threat over the continent and yet we recognize the government? Maybe the President is going to have to get tough and say, 'Let's blockade Soviet arms.'" That is what people have been asking me. "If this problem is so insurmountable, why do we permit Soviet arms in the hemisphere?" They ask me, "Why didn't we get tough with Shevardnadze when he was in town talking about things?" They ask me, "Why don't you have real guerrillas down there? Do you really think a 10,000-farmer army is ever going to accomplish whatever the ends of U.S. policy may be?"

So, Mr. President, without delving further in either the past or the future, let me say that America is very, very seriously divided over the issue which brings us together today. And I would caution my colleagues and I caution my constituents not to let the superficial appearance of the consensus around this package, which I am sure will be here today as it was in the House yesterday, a consensus around a temporary means disguising the very difficult choices that lie ahead in this Chamber, and in this Government in the months and the years ahead.

I do not think that the course we are on or the Central Americans and Nicaraguans are on in Nicaragua today is the beginning of the end of this problem that has faced us. I think very simply, Mr. President, that it is a hiatus. It is the end of one American policy awaiting the beginning of another.

I, as all of my colleagues, pledge my support for the efforts on both sides and on all sides of the negotiating process to bring the differences of the people of Nicaragua to a Nicaraguan end. I hope and pray like everyone in this Chamber that it can be done. But I have my doubts and I fully expect that we will be back here again hopefully debating something other than an agreement on which none of us can offer amendments.

Mr. President, the matter that is before us is a $47.9 million aid package, largely a humanitarian aid package which is designed to implement the accord engaged in by the Central Americans, implemented most recently by the cease-fire agreement at Sapoa. As we all know, a large part of it is going to go to some of the victims of the civil war. A large part of it is going to go to those Nicaraguans that we encouraged to take up arms against the Sandinista junta in Nicaragua and some part of it is going to go to implement the OAS Verification Commission which is an essential part of the Central American peace arrangement.

I understand, Mr. President, that we are under a unanimous-consent agreement today, that we cannot offer amendments to this bill. I had an amendment prepared which I will ask be printed in the RECORD at this point which were it not for the unanimous-consent agreement I would have offered, and ask my colleagues to act on it.

The amendment very simply says that it is the sense of the Senate that in any future bill or resolution to provide humanitarian assistance to the democratic resistance in Nicaragua, additional humanitarian assistance be made available to all the people of Nicaragua in a manner consistent with the terms and the conditions of section 8(b) of this joint resolution.

Mr. President, the importance of that amendment, and I think the importance of the thought behind it is not new, and it is not novel with me.

The PRESIDING OFFICER. Does the Senator from Minnesota ask permission for that to be included in the RECORD.

Mr. DURENBERGER. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

DURENBERGER AMENDMENT NO. 1923 (ORDERED TO LIE ON THE TABLE)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the Joint Resolution 523, supra; as follows:

At the appropriate place in the resolution, add the following new section:

Section .

It is the sense of the Senate that in any future bill or resolution to provide humanitarian assistance to the democratic resistance in Nicaragua, additional humanitarian assistance be made available to all the people of Nicaragua, in a manner consistent with the terms and conditions of section 8(b) of this joint resolution.

Mr. DURENBERGER. Mr. President, this is not a new matter to the debate on the appropriate relationships between the people of our country and the people of Nicaragua. We have discussed this in the past many times and in many forums. I think it is going to be somewhat difficult for Cardinal Obando y Bravo to be distributing humanitarian aid over the next 6, 7, 8, 9 months to the 8,000, 9,000, or 10,000 members at the FDN and bypassing a lot of very, very needy campesinos in Nicaragua who may have the same attitude toward the Sandinista government but have not been able for one reason or another to take up arms against that government. I think the country is very different today from what it was 8 or 9 years ago. It is the people of that country that have suffered. I think if the United States wants to demonstrate its real bona fides, and its real demonstrated concern for a resolution of this problem, the humanitarian aid would be expanded to include all Nicaraguans and the channel is provided in section 8(b).

I will close my remarks simply by saying that one of the reasons I intend to support the matter before us is that the Central Intelligence Agency is going to finally be removed from running the little American war in Nicaragua. More importantly than that, I say to my colleagues——

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. DURENBERGER. I ask unanimous consent that I might continue for 1 minute.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield an additional minute to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for one additional minute.

Mr. DURENBERGER. I thank my colleague.

More importantly than the removal, at least as far as the distribution of aid of the CIA is the fact that maybe this is going to be the beginning of taking the U.S. direct involvement in support of the resistance in Nicaragua out of the hands of the two intelligence committees which have labored mightily now for 7 or 8 years to try to provide some legitimate input into United States activities in Nicaragua.

I would say, as a former chairman of the committee, it is impossible to task. It has been demonstrated to be impossible given the nature of all of the hearings that we have had that have been labeled Iran-Contra. I welcome the opportunity for 100 Senators to be involved in this process, not the 15 who are assigned to the work of the Intelligence Committee.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time does my colleague from Florida wish? I yield 10 minutes.

Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 38 minutes, the Senator from Arizona has 30 minutes.

Mr. DODD. I yield 10 minutes to my colleague.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

Mr. GRAHAM. Mr. President, I want to express my appreciation to my colleague, Senator DODD, for his courtesy and generosity in allowing me a few moments to speak on this important matter.

We have arrived, Mr. President, at a point which has been the result of an arduous and sometimes frustrating process. We are now at a point where we may be able to glimpse the first promise of a real peace in Central America. It is not much more than that today, a glimpse. There are steps we can take to help bring that glimpse to a clear and permanent focus.

I support the package that the House has endorsed and sent to us today. It is a judicious application of both pressure and sustenance. Our continued support for the Contras will urge the peace process forward, and underscore our commitment to keep our promises to stand by those who have pledged to help. The Contra aid package is a recognition of political reality in Nicaragua, and acknowledges our own stake in a peaceful hemisphere.

Mr. President, there have been disagreements as to how we would achieve our destination, but I believe there has been broad American support for what that destination should be. That destination should be a hemisphere at peace, a hemisphere which is free from foreign military presence, a hemisphere which is democratic, a hemisphere which is developing a strong and broadly shared economic prosperity, a hemisphere which is prepared to support human rights, and a hemisphere in which we can all live together as partners.

I do not believe that the purpose of our support for the Contras was to secure a World War II type victory. I do not believe it was realistic to see Contra troops marching through Managua in the way that the United States troops marched back into Paris in 1944. I do believe that the Contras have provided a critical external pressure on the Sandinista regime, without which that regime would not have gone to the negotiating table at Guatemala City or would have implemented the plan to the point they have implemented the plan to date.

I recognize that there are disagreements as to whether that is in fact the reality. Historians will give us some greater answer to that. But I believe that the position we are taking here today, maintaining the Contras as a viable external pressure, should that be necessary, and the commitments which have been made by the leadership in Congress to the President of the United States and to the membership in Congress, and ultimately to the American people, are constructive in terms of maintaining that external pressure.

I believe it is fair to comment that the examples of a Leninist regime which has voluntarily agreed to share power are virtually without example in the history of the world.

So we are crafting a program of incentives and pressure and regional goals sufficient in order not to achieve the objective of the elimination of combat but, rather, broader objectives of democratization, economic growth, and human rights in the region.

Mr. President, I ask unanimous consent to have printed in the RECORD a "Statement of Congress," which was entered into the Foreign Assistance Act by the House of Representatives, which contains the standards by which that body felt the United States should evaluate the compliance of the Sandinistas with the Guatemala City peace accords. I believe they are thoughtful, well reasoned, and, where appropriate, quantifiable as benchmarks of the progress we will be looking to as the next logical extension of a cease-fire.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(b) STATEMENT OF CONGRESS.—The Congress urges the Government of Nicaragua to enter into direct negotiations immediately with the Directorate of the Nicaraguan Resistance in order to bring about a mutual and verifiable cease fire and to reach a political settlement with the Nicaraguan Resistance, so that the spirit of the Esquipulas II Accord may be fulfilled and democracy, peace, and economic stability will become reality for Central America.

(c) ACTIONS WHICH SHOULD BE UNDERTAKEN BY NICARAGUA.—It is the sense of the Congress that Nicaragua should undertake the following reforms in order to bring about lasting peace, pluralism, and democracy in Nicaragua:

(1) IN GENERAL.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop disciminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including Campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(H) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(I) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of the Committees for the Defense of Sandinismo's (CDS) and other party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow Cardinal Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join Sandinista farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

Mr. GRAHAM. Mr. President, if, after this period of cease-fire, if, even after the full implementation of the Arias plan, the United States then removes itself from Central America, we will be true to our tradition, because the tradition of the United States in Central America has been one of crisis orientation. We moved in, either with our own troops or in support of somebody else's troops, when there was a crisis. When the crisis, as we defined it, was resolved, we left. We went into a siesta mentality. We forgot about our neighbors until the next crisis. If that is the legacy of this current experience, it will have added to a sad chapter in the book of American hemispheric history.

Rather, what we must commit ourselves to is to continue this process of U.S. involvement beyond crisis response. If we are to take a proactive role in improving the chances of democracy throughout this hemisphere we need to expand, for example, our trade relations; we need to create new markets for our own goods and services, if we are going to develop the emerging colonies in Central America, the Caribbean, and Latin America.

People who conceive and clothe their children, who can see their dreams for a better life coming true, will not turn to revolution, violence, and repressive leadership in order to realize those dreams.

The Caribbean Basin Initiative reform, the expansion of the original Caribbean Basin Initiative, is an existing legislative means by which we can foster development and strengthen democracy among our closest neighbors. We cannot speak eloquently of peace on one hand and dismiss a practical approach to regional economic stability on the other.

The earliest implementation of the Caribbean Basin Initiative has shown us that the more support we give it, the better it works. The future political stability of the region mandates our strong support for expanded trade as a means of reaching economic stability.

I am pleased that we have on the floor today Senator ARMSTRONG and Senator DURENBERGER, both of whom are members of the Senate Finance Committee, where this legislation is currently pending. I know of their strong support for a long-range interest in this region, and I hope they will give this matter their attention.

We can make our point with economics. We have recently seen that graphically demonstrated in Panama. But the eradication of despotism and repression and belligerence in the developing nations of this hemisphere can only come from within those nations

A people with a viable stake in their own future will not tolerate the domination of outlaw drug cartels or widespread official corruption or totalitarian regimes. People with a choice will choose what we have—education, opportunity, independence, self-governance. People mired in hopeless and degrading poverty are prey to perpetual abuses of power. For us to be shortsighted and crisis-oriented—is to abet the continuation and the deepening of that poverty.

Mr. President, one of the most promising aspects of what we do today and what our colleagues in the House did yesterday is the emergence of a spirit of bipartisanship and a spirit of shared American responsibility between Congress and the President. I hope we can build upon that with a longer range vision. I think we have come a long and circuitous way. We are headed in the right direction. We can stay on track for regional peace, for peace in Central America, for peace in Nicaragua, and focus on our responsibilities as a good neighbor, as an economic and political partner, and our continued attention not just to the crisis but to the long-range help and well-being of our neighbors. This attention will make the difference.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield 15 minutes to the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. Mr. President, is the United States prepared to have a Communist regime on the North American mainland forever? Is that the desire and wish of the U.S. Senate? Is that what our colleagues in the House of Representatives have in mind? Are we ready to say that a Communist government in Nicaragua is something we can live with?

Mr. President, I am not asking whether or not that is our preference. I do not think there is a Senator who would say that is the preference. I do not know that there is a Member of the House of Representatives who would say that he or she actually preferred to have a Communist government in Nicaragua. But the question is whether or not we are ready to put up with it. It is a question that thoughtful men and women in this Chamber and elsewhere cannot help but ask, in light of the way our policy has developed in the last couple of months.

A month or so ago, our colleagues in the House decided they were going to cut off the aid for the democratic resistance in Nicaragua.

Our friend and colleague, JOHN McCAIN, of Arizona, commented, I thought thoughtfully and accurately, when he described that action as a choice by the other body between honor and dishonor. I believe he was absolutely right in saying that for whatever reason the House of Representatives chose a dishonorable course.

It is probably too soon, just a few weeks later, to draw full conclusions and to know how history will evaluate what has happened in the month or so since and what may happen next, but I do not think it is too soon to at least put in some perception what has actually transpired.

Mr. President, I am a lot like Will Rogers. I only know what I read in the newspaper.

In fact, on issues like this if I am in possession of information from secret sources, I try to discount it until I read it in the newspaper. If I get a briefing from the CIA or the State Department my tendency is to put that on the back burner until published sources, impartial sources, wire services, and newspapers, radio and TV reports confirm what I have been told from official sources because honestly the official sources in many cases are tainted.

But on the public record we can draw some conclusions about what has happened. Almost immediately after Congress withdrew financial support from the democratic resistance, the Communist government in Nicaragua crossed the border into Honduras. Although it was denied for a few hours that this was happening, we know now that indeed they did attack across the Honduras border with the aim of destroying an important supply depot at a time when the resistance was already low, when the Contra forces, the freedom fighter forces, were suffering from a staggering blow to their morale, in the wake of the withdrawal of support by the Congress of the United States.

Their mission did not succeed. But it might well have, and it is very, very clear, at least to me—someone may have a different view—but it is very, very clear that the reason they were emboldened to make such a strike was because of the action of the Congress of the United States.

The response by leaders of the democratic resistance was predictable, but I think should be a part of this RECORD, and I will in a moment ask for consent to enter some of their comments in the RECORD. Adolfo Calero, who has been fighting the battle, summed it up succinctly, I think. He said, "Once again the United States has abandoned an ally."

In the Washington Post, March 13, shortly after the action which our colleague characterized correctly as dishonorable, Bosco Matamoros the Contras' chief spokesman said in an interview, and I now quote: "The specter of starvation has become a real possibility for our forces," referring, of course, to the democratic resistance, "and would have to be taken into account in the planning of disposition of forces in the weeks ahead."

I continue to quote Matamoros:

> The Sandinistas have enjoyed consistent and predictable support from their ally, the Soviet Union, but we have not had that from the United States. It has made it almost impossible to carry out a long-term strategy of war, and we have paid the highest costs.

Predictably while the freedom fighters were dismayed, disillusioned perhaps, the Communists were buoyed up. And at almost the same time and in fact on the same date an article I quoted a moment ago in the New York Times quoted a story of captured documents by the Communist guerrillas in neighboring El Salvador.

The long and short of it is that they interpreted events in the United States to be to their great advantage and saying that it was just a matter of time before there would be a total collapse of willpower by the United States permitting them to carry the day in El Salvador and to overthrow the lawfully elected government there.

Possibly the toughest appraisal of the situation appeared under the byline of Charles Krauthammer, a columnist, who writes for the Washington Post, and very often it seems to me gets the sitiutation just about right. What he says, and I will just paraphrase his article, but I will in a moment ask consent that it be entered in the RECORD, what he says is that this is not really a peace treaty, it is simply a negotiation by which the Communist regime in Nicaragua is legitimatized and the negotiation for the demise of their principal remaining opposition.

I hope his assessment of it is too gloomy, but I am not so sure that it is.

Predictably, not only were our allies, the democratic resistance, dismayed and disheartened and the Communist emboldened, but it is not surprising that neighboring countries began to make an accommodation to the situation as it developed, and the New York Times a couple weeks later, on March 27, carried a story under a headline that sums the whole thing up. "Honduran Cooperation in Support of Contras is Cooling," and of course it is.

If you saw the will of Congress, the will of America faltering, and you were right there on the front line and you knew you were going to face the Communist regime in Nicaragua day after day and year after year and had every expectation that the Soviet engine would continue to support them and there was every likelihood the United States would not support those fighting for freedom, you would begin to make little gradual accommodations to the situation.

Then, yesterday, I believe it was in yesterday's Post, a further development in Salvador, "El Salvador Rebels Vow To Escalate Their Attacks," just playing out the plan that was reported 2 or 3 weeks earlier in the documents that were captured.

What we are seeing is very little different than the collapse of will on the fight for freedom in Central America.

The Communist government there and their friends around the world knew that they could not win in Central America, but they could win in Washington, DC.

I do not think my colleague from Idaho was very far off the mark in his characterization of it a few moments ago.

Oh, yes, another development is that there has been a peace conference and a cease-fire agreement was signed in Sapoa on March 23. In general it provides for a cease-fire and amnesty for those tried and sentenced for public disorder and security violations, with a promise by the Communist government to release a number of prisoners, the first 100 by Palm Sunday, this past Sunday, and then when the democratic resistance, the freedom fighters, have arrived at the prescribed cease-fire zones, 50 percent of the prisoners will be released and another 50 percent will be released, the first witness to a definitive agreement to be negotiated starting on April 6.

The Communists also in this document will guarantee unrestricted freedom of expression as required in the peace plan first proposed by President Oscar Arias, and there are various verification proposals in there. The cease-fire agreement provisions will be verified by a commission composed of leaders of the church and by the OAS General Secretary in the area.

Is this something we should celebrate? Mr. President, forgive me if I am a little skeptical but this smells to me and sounds to me and feels to me like the Paris Peace Accords.

I was in the House of Representatives when those peace accords were signed and at the time I was cynical. In fact I inserted in the CONGRESSIONAL RECORD when those were signed a gloomy appraisal of the situation, none of which has been disproved by events and all of which has been verified by what has happened.

Maybe this is going to be different. But I want to call the attention of my colleagues to the fact that every one of the promises which were contained in the agreement signed at Sapoa have been signed previously and broken previously by the Communist government.

In July 1979 the Sandinista-dominated Government of National Reconstruction promised genuine political representation, the full range of human rights, freedom of the press, freedom of religion, private enterprise, mixed economy, and nonaligned foreign policy, and so on. They broke every one of those promises.

In the August 21, 1979, Sandinista bill of rights covering the standard list of individual civil, political, economic, social, cultural, and other rights they promised that nearly a decade ago and broke all those promises.

They have broken the promises they made in the American Convention of Human Rights, which the Communist government ratified on September 25, 1979. They have broken the promises contained in the United Nations' international covenants and civil and political rights along with the optional protocol which the Sandinista government ratified on March 12, 1980.

There was the constitution of January 9, 1987, which extended all the usual rights and guarantees, including the right to strike, privacy, so on and so on, almost all of which have been suspended or violated.

They have broken the promises contained in the Arias peace plan of August 7, 1987, by which the Sandinistas promised to implement by November 5 complete amnesty of political prisoners and a dialog with the political opposition and negotiated cease-fire including freedom for television, radio, and the press, rights of political parties, and so on, ceasing support to the insurgents in neighboring Salvador.

Most of those promises have already been broken, although it is fair to note, I think, that they have permitted the reopening of the Catholic radio station and of LaPrensa.

Against this kind of a record, the promises which the Communist government of Nicaragua made at Sapoa do not seem to me to be very promising. But even if they honor every single one of the promises that they have made, an assumption about which there is grave doubt, but if they honor every promise that they have now again made, thoughtful people cannot help wondering about issues that have not been addressed.

What about the Nicaraguan military establishment? What about the Interior Minister Thomas Borge's apparatus of repression? Besides the Cuban and East German-assisted secret police, this encompasses a whole range of various kinds of neighborhood, citizen and youth groups, all of which are the standard apparatus by which Communist governments terrorize and subjugate the people who are unfortunate enough to be under their governments.

What about the continuing public ownership of the press and media and party control of the means of production? What about—well, Mr. President, you get the point.

Mr. President, I believe that probably the very best summary of this regrettable situation in which we find ourselves appeared in the Washington Times on Friday, March 25. Michael Novak, who is one of the most thoughtful and perceptive observers of the 20th century, has written an article which I commend to my colleagues. Particularly, let me say to those who are interested in the political process, it is a very tart appraisal not only of the situation but it addresses the matter in very partisan terms. More partisan, perhaps, than I would have myself wished to do.

But I make the point that while he criticizes the Democratic Party, Michael Novak is himself a Democrat. I believe his article recites—and if it does not, it certainly should recite—that there are honorable exceptions to the broad indictment which he makes of the policy which we have pursued and of the political conclusions which he draws.

Mr. President, a generation ago, an American President said something to the effect that every nation on Earth, our friends and foes, should be on notice that Americans are prepared to pay any price and bear any burden to defend the cause of freedom. When President John Kennedy said that, I believe he was expressing a broad and deep consensus in this country, a consensus which I regret to say does not exist in 1988.

If we are really serious about human freedom, if we are really serious about our own safety, about the strategic concerns that have often been spoken of on this floor, we need to rebuild somehow in this country that kind of a consensus; not just to honor the tradition of the past, but to lay the groundwork for a future, not only of peace—not for what Theodore Roosevelt called peace at any price—but a peace with freedom, a peace with human liberty, a peace with dignity.

I do not think this resolution that we are acting on today is wrong. I just do not think it means a great deal. Somebody may think that is is a bold and courageous step for the Congress of the United States to agree to send some nonmilitary supplies to the freedom fighters, and I endorse that. Certainly they have to have blankets and food and boots and all the paraphernalia it takes to keep a guerrilla in the army in the field alive.

But if, at some point, they have to face the guns and tanks and helicopters of the Communist government, supplied by the Soviet Union, they are going to need bullets.

Mr. President, if that time comes—and it may—if the democratic resistance retains the will to fight after having been betrayed over and over again, if it comes to that, if it comes to that kind of a confrontation, having blankets and food is not going to make that much difference. And, at that moment, I hope the Congress will then summon up the courage which it lacks today to send military aid as well.

Mr. President, I ask unanimous consent that the text of the various newspaper articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CONTRAS LIKELY TO SCALE BACK FORCES

(By John M. Goshko)

With their U.S. funding ended, Nicaragua's contras are losing their ability to keep up their anti-Sandinista guerrilla war and probably will have to scale back considerably their fight on Nicaraguan soil, the Reagan administration's top Latin America expert said yesterday.

"The limiting of the contras' resources at a time when the Soviet Union continues to pour in aid to the Sandinistas has caused an attrition of contra forces inside Nicaragua that began in early February," said Elliott Abrams, Assistant Secretary of State for inter-American affairs. "I would say that by the end of March there will have been a substantial reduction in the ability of the resistance to keep men in the field."

In a telephone interview, Abrams appeared to agree with the assessment, voiced with increasing urgency by contra leaders this past week, that their military effort may collapse soon.

The contra insurgency, for six years the centerpiece of President Reagan's U.S. policy against alleged Sandinista aggression in Central America, is reeling from Congress' refusal to vote more money for the effort.

On Feb. 3, Congress rejected Reagan's request for $36.2 million in new aid to the contras. On March 3, the House also rejected an alternative $32 million package prepared by the Democratic leadership and limited strictly to humanitarian aid that would have sustained the contras inside Nicaragua for several months.

At Reagan's behest, a bipartisan group of five senators is trying to ready a new package, but there seems little chance that it could be considered before mid-June.

Various contra leaders began a campaign last week to tell the U.S. news media that their fighters will soon be at the point of starvation. They added that while no firm decisions have been made, it might soon be necessary to withdraw the bulk of the 12,000 guerrillas they claim to have inside Nicaragua into neighboring Honduras and Costa Rica.

It was not immediately clear whether the contras are in such dire straits or whether their leaders are attempting to create a sense of urgency to influence Congress.

However, even their principal Sandinista foe, Nicaraguan President Daniel Ortega, told The New York Times Friday that the aid cutoff had put the contras in "a position of weakness."

Ortega said that he expects the contras to approach a new round of peace negotiations scheduled to begin March 21 in a more conciliatory mood prompted by their "new situation."

Abrams, while stopping short of saying that the contra insurgency appears to be finished as an important instrument of U.S. policy, agreed that if the present situation continues, the rebels will be unable to remain in Nicaragua in significant numbers.

"It isn't anything imminent in the sense of the contra leaders sitting down at a table and making a conscious decision that on X date, they will order X number of troops to come out," he said. "Instead it's exactly what President Reagan said would happen on the eve of the Feb. 3 vote.

"Without resources, the natural result is that with each passing week, the contras progressively have to shrink their area of operations, their ability to conduct even limited actions and ultimately their ability to stay on the scene.

"It's happening. The president warned it would happen. It was utterly predictable, and now no one should be surprised that it's happening."

Abrams refused to estimate the number of contras that might withdraw from Nicaragua, "because that would be giving vital battlefield information to the Sandinistas." But he acknowledged that under present conditions, by the end of the month, the contra strength in the field is likely to be substantially less than it was at the beginning of February.

Recriminations already have been heard from the contra leaders such as Adolfo Calero, who told a news conference in Miami that "once again the United States has abandoned an ally."

Bosco Matamoros, the contras' chief spokesman, said in telephone interviews yesterday that the "specter of starvation has become a real possibility for our forces" and would have to be taken into account in planning the disposition of forces in the weeks ahead.

"The Sandinistas have enjoyed consistent and predictable support from their ally in the Soviet Union," Matamoros said. "But we haven't had that from the United States. It's made it almost impossible to carry out a long-term strategy of war, and we have paid the highest cost."

He also conceded that inability to project strength on the battlefield will "put a great weight on us" in the upcoming talks with the Sandinistas on a cease-fire.

Last week, in response to reports that many contras were abandoning their positions deep inside Nicaragua and moving closer to the Honduran border, Ortega ordered Sandinista forces to stage a major new push against the guerrillas in an apparent attempt to spur them into further retreat.

(Staff writer Julia Preston contributed to this report from Managua.)

HONDURAN COOPERATION IN SUPPORT OF CONTRAS IS COOLING

(By Joseph B. Treaster)

TEGUCIGALPA, HONDURAS, March 24.—Roberto Castillo, a 40-year-old Honduran legislator and real estate developer, stood in a passageway in the National Assembly, quietly talking about the thousands of Nicaraguan rebels who have been camping in his country for the last seven years.

"The contras should be living and fighting in Nicaragua," he said. "We don't want to get stuck with them here."

Like many Hondurans, Mr. Castillo was skeptical that the cease-fire that the contras and the Sandinistas signed this week meant that the last shots had been fired in the Nicaraguan civil war.

But many Honduran political leaders say that it seems less and less likely that the contras could defeat the Sandinistas and that it is probably in the Hondurans' interest to reduce their cooperation with the United States in support of the contras and to try to reach an accommodation with the Government in Managua.

DEFEAT IN CONGRESS CITED

Many say the Congressional defeat of the latest United States aid packages for the contras has shaken their confidence in a Reagan Administration that they had once regarded as invincible.

"You cannot rely on them," Mr. Castillo said. "The Administration might take one point of view and Congress might take the other."

The Honduran Assembly is considered less influential in determining policy than the country's armed forces. But the usually cooperative military has itself balked at some recent United States requests in behalf of the contras. Western diplomats say they believe that the views being expressed in the Assembly are indicative of a trend running through the Honduran elite.

"There is a growing dissatisfaction with following the U.S. line too closely," a Western diplomat said.

The Hondurans want to continue receiving the benefits of a close relationship with the United States, many civilian leaders and foreign diplomats say, while at the same time developing a more moderate policy toward Nicaragua.

U.S. TROOPS TO PULL OUT

The debate on Hondura's relations with the United States, the contras and Nicaragua has intensified in the last week in the aftermath of Sandinista attacks on contras on the Honduran-Nicaraguan border, followed by a show of force from Washington in which more than 3,000 American combat troops were sent to Honduras.

The American troops, which Washington officials say will start pulling out on Monday, have stayed away from the area of the latest fighting and have spent their time in joint training exercises with Honduran forces.

Despite the clamor over the contras, Honduras officially clings to the diplomatic fiction that there are no contras on its territory. Without conceding that position, Foreign Minister Carlos López Contreras suggested in a speech in December before the Organization of American States in Washington that a program be developed to monitor the border with Nicaragua. That would make it difficult for the contras to continue to use Honduras as a refuge.

Just last month, after Congress refused to provide further aid to the contras, the usually cooperative Honduran military command rejected an American request to take over the task of transporting contra supplies and commanders around Honduras.

During the confrontation at the border last week, Western diplomats said, the United States urged the Honduran Air Force to bomb the town of Bonanza, about 48 miles inside Nicaragua, where the Sandinistas had established a headquarters and supply center.

American officials here, who deny that the United States asked the air force to do anything, believed that when Honduran jets took to the air last week they were heading for Bonanza. Instead, the Honduran planes dropped a few bombs at the border. No significant damage was reported.

CONTRAS INITIALLY WELCOMED

Initially, many Hondurans saw the 15,000 or so contras as providing a measure of security for conservative and largely anti-Communist Honduras against possible expansion by the neighboring Marxist regime.

So it did not take a great deal of persuasion, many acknowledge, for Honduras to accept the role of host to the contras. And Honduras welcomed the lavish amounts of United States economic and military aid that it began to receive.

More and more, however, the Hondurans say they have come to regard the contras as a liability.

"As far as the Hondurans are concerned, they're entering the end game," a Western diplomat said.

The Hondurans are particularly worried that the United States will ultimately abandon the contras on their territory to become refugees or perhaps embittered bandits.

SANDINISTAS SEEN AS STAYING

The relative strengths of the two Nicaraguan forces is another grave concern. "I'm almost convinced that the Sandinistas are going to be there forever," Mr. Castillo said.

"I think we should go into a peace process with them," he added. "I don't see ourselves going into a war, and the Americans don't see themselves going into a Vietnam-type war in Central America. We have to start looking after ourselves."

Mr. Castillo is no radical, but he is a member of the opposition National Party. A few minutes after Mr. Castillo's conversation with a reporter, Edmond L. Bogran, a banker and member of the governing Liberal Party of President Jose Azcona Hoyos, introduced a resolution in the Assembly urging that the contras be disarmed and moved away from the border and possible clashes with the Sandinistas.

His resolution was not adopted, but Western diplomats took it as another piece of evidence of Honduran disenchantment with United States policy in Central America.

THE CONTRAS SURRENDER: THE DEMOCRATS GET THEIR WAY

(By Charles Krauthammer)

Peace appears to be breaking out in Nicaragua. The contras, in a position of extreme military weakness and demoralized by their American abandonment, have negotiated the terms of their surrender. There was hardly the time and no longer the will even to disguise the nature of the transaction. In keeping with contemporary mores, contra leader Adolfo Calero was not asked to hand over his sword, only his army.

To see the meaning of the cease-fire accord there is no need to read between the lines. It is all in the lines. During the initial truce, the contras will retreat to enclaves. At which point, the Sandinistas will release half their supply of political prisoners. The other half will be kept in reserve, to be released after the signing of a final cease-fire detailing how the contras will lay down their arms and reintegrate themselves into Nicaraguan life. Humanitarian aid to the retreating contras is permitted, but only through "neutral organizations," such as the Red Cross or the U.N. High Commission for Refugees. The transformation of the contras from guerrilla army to refugee band will be official.

In return for the contras' surrender, the Sandinistas promise, once again, free speech. Also promised is free participation for returning exiles in elections, starting with municipal elections (already postponed by the Sandinistas) and elections for the powerless (and yet to be created) Central American parliament. Contras will be permitted representation in the "national dialogue" now going on internally in Nicaragua and to which the Sandinistas have yielded not an ounce of their power. Indeed, last week they successfully managed to split the internal opposition in two. There is not a word in the accord about cessation of Soviet military aid to the Sandinistas. Not a word about the departure of Cuban and East Bloc advisers. Not a word about curbing the growth of the massive Sandinista army, by far the largest in Central America and growing. Not a word about power sharing. Not a word about separating the army and the secret police from Sandinista control.

As one Sandinista official said during the last hours of the talks. "We are not negotiating our Revolution in there." And so they did not. The Revolution, meaning Sandinista rule, is secure. What was negotiated at Sapoa was the demise of the only remaining threat to that rule.

One can hardly blame the contras for giving up. They had had enough, trying to fight an enemy armed with billions of dollars of Soviet weaponry while daily checking Congress' mood to see whether they would be permitted any bullets with which to fire back.

The last straw was the congressional cutoff of aid to the contras, followed less than two months later by last week's massive Sandinista assault on retreating contras in northern Nicaragua. When the Sandinista attack moved across the Honduran border, a border that no one can find and till recently nobody cared about, the American reaction turned farcical. There was puzzlement at yet another Ortega blunder. The New York Times, for example, opined that "Managua knows how to snatch defeat from the jaws of political victory." But the Sandinista attack made perfect sense. What is the threat of contra aid if there are no contras left? Since Feb. 29 the contras had not been able to be resupplied by air because of the congressional ban. They had to get their supplies from depots on the Nicaraguan-Honduran border. And that is exactly the area the Sandinistas attacked and from which they routed the retreating contras. Some blunder.

We've been through this before. In March 1986 the Sandinistas mounted a similar offensive into Honduras two days after Congress voted down aid to the contras. Tip O'Neill, enraged that Ortega should be more interested in winning his war than in providing political cover for his American friends, denounced Ortega as a "bumbling, incompetent Marxist-Leninist communist." Ortega has now negotiated his enemy's capitulation. Some bumbler.

The Democrats have gotten their way. Two months ago, they voted to give peace a chance by entirely disarming one side of the Nicaraguan civil war. In fact, they gave defeat a chance, and it worked. The war appears to be ending. The anticommunist resistance, which had made remarkable political and military gain before the latest congressional cutoff, has been starved into submission. Starved not by its enemy, which did not have that power, but by its American patron. It takes cynicism to let people who have tied their fate to America be beaten into surrender, and call the result peace. But we have practice. Congress brought a similar speedy peace to Indochina in 1975.

Ten years later Ted Koppel had Le Duc Tho on "Nightline." Tho asked for "a few words to the American people." Koppel obliged. "On the occasion of the celebration of 10 years of liberation of the south," said Tho, "we wish to profess gratitude to the American people for their support and contribution to our recent victory."

Wednesday night, immediately after signing the cease-fire accord, Daniel Ortega gave a speech thanking all those who have "heroically defended" the peace process: "the Nicaraguan people, the EPS [Sandinista army] fighters, the peasants, the workers, the women, the mothers, the international community, the American people and U.S. representatives like Mr. Jim Wright."

There may be little to salvage now in Nicaragua. But there is still something to be salvaged in this country; accountability. The Democrats have calculated, correctly, that destroying the contras is not a political liability in 1988. But who lost Central America will become an issue some day. And on that question, it is worth keeping the record straight and the memory fresh.

SALVADOR REBELS REPORTED TO PLAN BIG CAMPAIGN

(By James LeMoyne)

SAN SALVADOR, March 9.—A batch of documents reported to have been captured from Marxist guerrillas here indicate that the rebels are planning a major political and military offensive over the next 10 months, according to Salvadoran officials and several foreign diplomats.

The documents indicate that the rebels of the Farabundo Marti National Liberation Front still believe they can eventually lead a mass insurrection against the Government, a goal they have repeatedly failed to achieve in eight years of war.

The documents, which were given to several reporters by the Government, predict that elections in El Salvador and the United States will produce a moment of extreme political vulnerability here in which the rebels will step up their attacks. The documents also say the Central American peace plan now in effect aids the rebels by weakening the Reagan Administration's policy in Central America.

The documents say the Government will be weakened by political infighting surrounding the coming presidential and legislative elections here, as well as by the presidential election campaign in the United States and the departure of the Reagan Administration.

"The unity of the Yankee Congress in relation to aid to El Salvador will only be broken with the strategic advance of the revolutionary movement," one paper states. "The electoral period in the United States is the best moment to favor such a division."

Documents that the Government distributes, saying they have been captured, must be read with caution since they could be falsified. But several foreign diplomats, as well as Salvadoran and American officials, say that they believe the documents are authentic.

Army officers said most of the papers were captured last month when the army killed a rebel courier who evidently was carrying them from one rebel commander, Joaquin Villalobos, to another, Fermán Cienfuegos.

The documents include what appears to be a letter from Mr. Villalobos to Mr. Cienfuegos and seem to summarize the conclusions of a meeting of the rebel general command in January. The documents indicate that the rebels feel they are gaining strength and that they will form new political groups directly under the command of rebel military leaders to exploit the Government's willingness to permit rebel political leaders to return to El Salvador under the terms of the Central American peace plan.

The documents state repeatedly that the rebels view the Central American peace plan and negotiations with the Government not as a way to reconcile differences but as a way to take power by political means.

"The tendency of the war is to grow stronger and this will be the dominant direction in Central America despite the movement to negotiations," one of the paper states.

RISING REBEL ACTIVITY

The documents appear to corroborate other evidence that the rebels have been able to maintain themselves as a significant military and political force in El Salvador.

In the last year the guerrillas have begun to rebuild their presence in urban trade unions and student groups. They also have stepped up sabotage and appear able to manufacture a significant portion of their own rockets, land mines and mortars. The rebels regularly ambush the army, which has failed to establish a continuing presence in key rebel areas.

Although the army is militarily far more capable than in the past, it appears unable to coordinate with the civilian Government to offer a political program that might fundamentally weaken the guerrillas. Several foreign diplomats and military analysts here say the United States will have to maintain at least the present level of military aid to keep the guerrillas at bay.

One memorandum states that the inability of the army and the United States to find a policy capable of defeating the guerrillas outright offers the rebels "objective conditions" for rebuilding their strength and escalating the war.

According to the documents and to several officials who have analyzed them, the Salvadoran guerrillas will step up urban attacks and try to create a new rebel-dominated civilian front organization called "Fire" to lead strikes and building takeovers and challenge the Government.

The documents also state that the guerrillas will try to exploit the recent return to El Salvador of rebel political leaders to the advantage of the armed guerrilla movement.

That plan had led Government officials to reconsider the wisdom of allowing rebel civilian leaders to become politically active in El Salvador after they return. Rubén Zamora, leader of the Democratic Revolutionary Front, has been allowed to organize supporters in El Salvador even though he has not broken his alliance with the rebel military front.

PLACING TOO MUCH FAITH IN OUR FOES?

(By Michael Novak)

The Democrats are the only party in the United States that can conduct a war. As the majority party, their dissent guarantees insufficient public support.

Yet the conditions for a major war in Central America are being set in place by a substantial number of Democrats, led by New England senators such as Christopher J. Dodd of Connecticut and John Kerry of Massachusetts and by House members such as Speaker Jim Wright and Rep. David E. Bonior of Michigan.

Democratic leaders boast openly of their illusion about the Sandinista government of Nicaragua. Not only do they want the Sandinista government to prevail over the democrats of Nicaragua. They offer through their staffs a constant stream of advice and counsel to that government. The Democratic Congress is deeply embroiled in the daily conduct of the foreign policy of the United States.

This violation of the Constitution of the United States is in itself an evil of the first order. A nation divided against itself abroad cannot stand.

Equally evil, however, is the inability of congressional Democrats to grasp the cynicism of communist governments.

The war in Vietnam was begun under the leadership of Democratic Presidents John F. Kennedy and Lyndon B. Johnson. In an effort to avoid such a "mistake" in the future, the Democrats in Congress are determined to outlaw any similar effort on behalf of democracy. This is a case of committing the same "mistake" by an equal and opposite route. An error at one extreme is now matched by an error at the other extreme.

In Vietnam, Democratic presidents are now said by Democratic congressional leaders to have put too much faith in the government of Vietnam. In Nicaragua, the same congressional leaders are erring by putting too much faith in the government of Nicaragua.

In Vietnam, the Democrats were anti-communist. In Nicaragua, the Democrats are anti-anti-communist.

The communists won in Vietnam. They renamed Saigon Ho-Chi Minh City. Once prosperous, the people of Vietnam now live in dire poverty and oppression, under strict Leninist government. Some 2 million boat people fled that regime in horror. The war did not stop. Communist Vietnamese armies are still marching against neighboring states.

Why do the Democrats in Congress think communists in Nicaragua will do differently than communists in Vietnam? Do they need to have Managua renamed Moscow to learn their own lesson about the nature of communism?

Because of Democratic illusions, the whole world has now learned that Americans are not to be trusted in foreign policy; that American allies will sooner or later be abandoned to slaughter and to oppression; that Americans lack endurance under fire and fidelity to their word; and that Americans at home are willing to be taken in by massive, worldwide communist efforts to discredit American policy.

Last week in Nicaragua, in an operation planned during preceding weeks and timed to follow the Democratic-led cutoff of funding for the anti-communist revolution, a large Sandinista force armed with Soviet helicopters, artillery and ammunition fell upon the latest American ally to be abandoned in the field.

As I write, complete casualty figures are not in. But brave young peasants in the field cannot fight well when they are down to their last 30 bullets, far from a secure base and hospital care and reinforcements.

Rebel leaders in Nicaragua are forced to say "the United States has demonstrated that it abandons its allies." "The sad thing," they say, exposed in the field to the full weight of Soviet weaponry, "is that the Soviet Union has proven to be a consistent and permanent ally [of its friends] while the United States has not."

Democrat Gary Hart was forced from the presidential race because of infidelity to his wife. But congressional Democrats have again been unfaithful to the allies of this nation.

For six years, the U.S.S.R. has supplied communist Nicaragua with military muscle, to the tune of $600 million in 1986 and $505 million in 1987. In the first two months of 1988, during the "peace process," the Soviets almost doubled their support of January-February last year, just as the Democrats campaigned to cut U.S. support.

By contrast, only in one year has U.S. aid to its Nicaraguan allies reached $100 million. During that year, 1987, the rapidly growing revolution in Nicaragua forced the Sandinista government to seek "negotiations."

This was illusion enough for a Democratic Congress. They fell for communist propaganda. They cut off aid. The communist armies began bombing and strafing three weeks later.

The lesson is clear. The Democratic leadership cannot be trusted to support anticommunists. The Soviet Union can be trusted to support communists.

The Democrats have virtually guaranteed that the looming war throughout Central America will be reinforced consistently, steadily and unfailingly by the U.S.S.R., until the people of the United States awaken to the illusions of congressional Democrats.

I have a son training in Alabama to fly Army helicopters. I hope the Democrats awaken to reality before my son is obliged to pay for their illusions. They have already made wider war all but certain in Central America.

The victims of communist aggression have only just begun to fall. Central America is going the way Southeast Asia went.

It was a group of Democrats who did it.

Mr. DODD. Mr. President, I yield 5 minutes to the distinguished chairman of the Foreign Relations Committee, the Senator from Rhode Island, Senator PELL.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I thank the Senator.

Mr. President, in a true bipartisan spirit rarely seen in these past years of bitter struggles over aid to the Contras, we are giving expeditious consideration to the humanitarian assistance package passed yesterday by the House. I believe it is a package that most of us can support. I have long opposed military aid to the Contras, and I am pleased that the legislation before us contains no military aid. In discussing the issue of Contra aid with my constituents in Rhode Island, one of the issues that has come up is whether a meaningful distinction can be made between military and nonmilitary aid—the argument being that any kind of aid serves the purpose of continuing or prolonging the war. In responding to such concerns, I have said that I wished to keep open the option of supporting nonmilitary aid if the circumstances warranted it.

The circumstances today clearly warrant, in my view, the provision of the nonmilitary aid in the package before us. First of all, it is truly humanitarian aid, not simply nonlethal aid. Second, it comes in the context of a cease-fire agreement agreed to by the Contras with the Sandinista government of Nicaragua. In that agreement, it is specifically provided that humanitarian aid to the Contras is permitted. In the context of this cease-fire agreement, humanitarian aid serves the cause of peace. Without the assurance that they would be able to receive food and basic supplies such as medicine and clothing, I doubt that the Contras would have agreed to or been able to maintain an effective cease-fire and to enter into broader peace negotiations with the Sandinistas. Finally, in order to ensure that only genuinely humanitarian aid is provided, the supply process will be monitored by the Verification Commission set up under the cease-fire agreement. I am, therefore, confident that this aid package will serve the cause of peace, not further conflict.

I would add that I believe we have a genuine responsibility to the Contras, whether we like it or not. We have encouraged them to leave their homes and land, excited them, and helped unsettle them. We now have a responsibility to help put together their fragmented lives.

I am hopeful that this vote signifies an end to one era in U.S. policy in Central America and the beginning of another: an end to U.S. military assistance to the Contras and the beginning of United States support for national reconciliation in Nicaragua and the Central American peace process. It will take the solid will of all the parties involved, including the United States, to bring this hope to fruition.

Mr. McCAIN. Mr. President, I yield 10 minutes to the Senator from North Carolina, Senator HELMS.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the distinguished manager of the legislation and I thank the Chair.

Mr. President, frankly, there are a few problems with this proposal that ought to be addressed. The tendency is to say it is good and it is better than nothing and that sort of thing. But that may not be the case.

For my part, it is too little, too late, too limited, and too loaded with the stench of betrayal.

The proposal is nothing more than a Band-Aid on the conscience of the Congress. It is a "feel-good" move, it is a "cover-my-hide" move. Because people in the other House, having betrayed the cause of freedom, are attempting to camouflage that betrayal by so-called humanitarian aid to the Contras.

I suppose there is no alternative to going along with this thing, but there are some of us who feel uncomfortable about it because we remember the consistent pattern of betrayal of freedom fighters by this country. You could begin with Hungary, if you wish. You could follow it on down to Vietnam. You could talk about Africa.

It is dangerous to be a friend of the United States. It is dangerous to stand up for freedom. It is dangerous for freedom fighters to say to the United States, "Look, we will fight for our own freedom, just help us a little bit." That is what the freedom fighters of Nicaragua have been saying to us. And too many in the House and too many in the Senate have said, "No, we will give you nothing."

So here we are, faced with the proposition that has a distinct odor about it, an odor that has permeated foreign policy in this country for far too long.

This is not aid to the freedom fighters. This ultimately will be aid to the Sandinistas.

Now, of course, some of the food and some of the medicine will reach the freedom fighters. There certainly should be no doubt in anybody's mind that the courageous freedom fighters do need help. But they need more than this. They deserve more than this. But they are not getting more than this.

That is the disgrace on the doorstep of the United States. This is not the kind of help the Contras need. What they need is the help to win their country back from a Marxist-Leninist regime that has extinguished the freedom of the Nicaraguan people. Real humanitarian aid would be the kind of military aid that would enable the freedom fighters to reestablish freedom in Nicaragua. What this package does is to put the final seal of doom on the hopes of the Nicaraguan resistance to get rid of Communist Sandinistas. No other face can be put upon it.

That is why this is really aid to the Sandinistas. It gives the Sandinistas everything they want. It removes the only effective opposition to their rule, and paves the way for the final consolidation of the Communist regime. There is nothing humanitarian about condemning the Nicaraguans to Communist rule. This is blood money, pure and simple.

Of course, the Sandinistas have put on a few cosmetic touches to make sure that Congress votes this aid. They have done this time and time again. For a few days, or even weeks, they will pretend that a political opposition is allowed to function. They will open up the press for a few issues. They will let a few political prisoners out of jail. But none of these actions is irreversible.

Mark my words, Mr. President, they will reverse them. They have done it before. It is a characteristic of communism everywhere: deceit and duplicity.

As soon as the freedom fighters are out of business, freedom will disappear.

I remember in this Chamber when $75 million was appropriated for the Sandinistas in the first place to set them up to put them in business. We were told then that a new day for Central America was dawning. Look at what happened.

Right now, of course, they want and need this money to be spent in Nicaragua. In the end, the Sandinistas will get the benefit. It will strengthen Communist control and weaken democracy. We have heard all this before. Yesterday's Wall Street Journal published an editorial that was written by the present Secretary of State, and a former Secretary of State, Dr. Kissinger. Of course these two distinguished gentlemen did not realize that they were writing an editorial. Secretary Shultz was simply repeating the cliches about this cease-fire creating "this opportunity for peace and freedom." And immediately afterwards, the Journal juxtaposed appropriate quotations from the 1973 Paris agreement, "ending the war and restoring peace in Vietnam."

Senator HOLLINGS of South Carolina had it exactly right earlier on this floor this afternoon. He called it what it is. It is a betrayal.

We know what kind of peace there is in Vietnam today, and we can guess what kind of peace will be in Nicaragua tomorrow.

Mr. President, it is only a few sentences, but I think it is worthwhile to read it in full. It his headed:

GIVING PEACE A CHANCE, AGAIN

Yesterday, the leadership of the Nicaraguan resistance met on Nicaraguan soil with members of the Sandinista regime and reached an agreement that calls for cessation of all hostilities, beginning immediately, and extending 60 days after April 1st; high-level negotiations, April 6th, on terms of a definitive cease-fire; arrangements for amnesty; respect for freedom of speech in Nicaragua; measures for political dialogue and full political rights; and measures for verification of this agreement.

This agreement is the product of the determination and sacrifice of the freedom fighters through years of struggle, including their heroic resistance last week to a Sandinista offensive designed to destroy them. Their strength and perseverance have created this opportunity for peace and freedom.

Secretary of State SHULTZ,
March 24, 1988.

AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM

Paris, Jan. 27, 1973:

ARTICLE 9

The Government of the United States of America and the Government of the Democratic Republic of Vietnam undertake to respect the following principles for the exercise of the South Vietnamese people's right to self-determination:

(a) The South Vietnamese people's right to self-determination is sacred, inalienable, and shall be respected by all countries.

(b) The South Vietnamese people shall decide themselves the political future of South Vietnam through genuinely free and democratic general elections under international supervision.

(c) Foreign countries shall not impose any political tendency or personality on the South Vietnamese people.

ARTICLE 10

The two South Vietnamese parties undertake to respect the cease-fire and maintain peace in South Vietnam, settle all matters of contention through negotiations, and avoid all armed conflict.

ARTICLE 11

Immediately after the cease-fire, the two South Vietnamese parties will:

—achieve national reconciliation and concord, end hatred and enmity, prohibit all acts of reprisal and discrimination against individuals or organizations that have collaborated with one side or the other;

—ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of residence, freedom of work, right to property ownership, and right to free enterprise.

ARTICLE 14

South Vietnam will pursue a foreign policy of peace and independence. . . .

ARTICLE 20

(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao peoples' fundamental national rights, i.e., the independence, sovereignty, unity and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries.

(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments munitions and war materiel.

I shall conclude by saying the hypocrisy of 1973 and 1988 are identical. There is no freedom any time you negotiate this kind of thing with the Communists. It has never happened before. It is not going to happen now, or in the future.

They are going to sell us for a bunch of suckers, again, just like they did a decade ago when they came up here and conned the Congress of the United States into providing seed money, $75 million, to get that government started down there. This Communist government is the same one to which last year alone the Soviet Union and the Soviet Union's satellites contributed $1 billion, while we niggled around in the United States Senate and let the freedom fighters virtually die on the vine.

Mr. President, I shall hold my nose and vote aye. I thank the Chair.

The PRESIDING OFFICER (Mr. FORD). Who yields time?

Mr. DODD. I yield 5 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN, is recognized for 5 minutes.

Mr. HARKIN. Mr. President, I have come to the conclusion that now is the time to bury the hatchet, to put our past political battles behind us and for me, to support this package of aid to the Contras.

I would like to outline very briefly why I will support this package.

First, the package is in accordance with the Guatemala peace accords. If it were not, I could not support it.

Second, this package also is in accordance with the agreements reached between the Contras and the Sandinistas at Sapoa Nicaragua. Otherwise, I could not support it. It does track the Sapoa accords and is in full agreement with them.

Third, this is only humanitarian aid only. No military aid. No lethal aid. It comes after a temporary cease-fire has been agreed to. I have said before that I would support humanitarian aid to the Contras but only after a cessation of hostilities. If we were to give aid before a halt in hostilities, I do not think the Contras would ever sit down and agree to one. Events over the past few weeks have proven that out.

Also, this humanitarian aid is delivered through neutral organizations; not the CIA, not the U.S. military, but through neutral organizations, as provided for in the Sapoa accords.

Also, the package includes $17.7 million to aid the children, both in Nicaragua and outside of Nicaragua, the real innocent victims of this war, many of whom I have seen on my travels to Nicaragua. I believe this particular aid is a giant step forward in trying to heal the wounds of the war and to move toward easing the hatred and division that has taken place there.

I also am supporting this package because it provides $2 million package for the Miskito Indians.

I ask the distinguished chairman of the Western Hemisphere Subcommittee, Mr. DODD: I notice there is $2 million for Yatama, a Miskito Indian organization. I want to make sure, is that the same organization that is headed by Brooklyn Rivera?

Mr. DODD. I say in response to my distinguished colleague's question, the answer is yes.

Mr. HARKIN. Second, I ask the distinguished Senator from Connecticut: There is a third round of meetings between the Yatama, headed by Brooklyn Rivera, and the Sandinistas taking place the second week of April. If, and I say if, Yatama and the Sandinistas agree at that time on a delivery mechanism, would that be the delivery mechanism used by AID to deliver the humanitarian aid to Yatama?

Mr. DODD. I believe the answer to that question is also yes. I refer my colleague to page 6 of the House Joint Resolution 523, line (a), beginning subparagraph 2: "The Agency for International Development shall ensure assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord."

It seems to me that particular phrase makes it clear that if there is an agreement, the mechanism reached between the Government of Nicaragua and the Yatama, whatever mechanism they choose, will be the one they use.

Mr. HARKIN. I thank my colleague for clarifying that issue.

Again, I want to say I appreciate the fact there is money here for the Miskito Indians. I hope this is not the end of our assistance for them. If there is one group that has been treated unjustly in Nicaragua, it is the Miskito Indians. They have been treated unjustly by the Contras, the Sandinistas, and the United States. The Miskitos have been caught in the crossfire of this conflict, and they have been abused by both sides.

I think it is incumbent upon us, as we proceed down the path, that we not only give humanitarian aid to the Miskito Indians, but help them in rebuilding their villages, resettling them and rebuilding the economy in the eastern part of Nicaragua. The Miskito Indians have been treated most unjustly by all sides in this issue and it is incumbent upon us to help them.

Lastly, I want to talk about this idea of "selling out" the Contras. Quite frankly, contrary to that, the administration has "sold out" the Contras. Failing in its efforts to bring about a military solution in Nicaragua, the administration refused to compromise with House Democratic leaders in crafting an aid package for the Contras.

I point out, Mr. President, that on March 3, it was the administration and the Republicans in the House who led the fight to defeat the Contra aid package. It was that vote—and the administration's cynical ploy to defeat the Democratic package and then paint the Democratic Party as selling the Contras down the river—that convinced the Contras that for the hardliners in this administration, their war was a political war. The Contras finally realized that they were expendable; that, to the Reagan administration, their cause would be sacrificed, if necessary, to win the political war here in Washington.

I ought to end this talk of selling out the Contras. We should put that behind us, and begin talking about reconciliation to heal the wounds of war. One step that we need to take is to pass this package.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I yield 1 additional minute to the Senator from Iowa.

Mr. HARKIN. As soon as a cease-fire is permanently in place in Nicaragua, we should lift the economic embargo against Nicaragua. If we do not, the Nicaraguan Government will necessarily have to maintain its close ties to the Soviet Union. I believe it would be in their best interest, the best interest of further democratic reforms in Nicaragua, the best interest of this country, if we lift the economic embargo so we can trade openly with Nicaragua.

Again, I want to compliment both the Senator from Connecticut and the Senator from Arizona for their leadership in this area. I want to compliment them as well as the Democratic leaders in the House for their work in putting together this package.They have done a remarkable job in drafting and supporting a package that looks forward toward the future of a peaceful and democratic Nicaragua and does not look backward at a Nicaragua ravaged by bloodshed and war.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much remains on this side?

The PRESIDING OFFICER. Eighteen and a half minutes.

Mrs. KASSEBAUM addressed the Chair.

Mr. DODD. Mr. President, how much time does the Senator need?

Mrs. KASSEBAUM. Two minutes.

Mr. DODD. I will be delighted to yield 2 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mrs. KASSEBAUM. Mr. President, I also would like to extend my appreciation and congratulations to the Senator from Arizona and the Senator from Connecticut who have worked many months in trying to help shape a successful and constructive policy regarding Nicaragua.

We finally have, in both the House and Senate, a broad-based bipartisan package. It is all one could have hoped. But I think the important message we send is that both the House and Senate have spoken clearly in support of this particular package.

The cease-fire begins tomorrow. The cease-fire zones are in place. Negotiations begin April 6, but it seems to me that we must remember this is an important step, but it is not the end of the game. For those parties so engaged, it really behooves them to show an act of good faith.

We must make it very clear that the Western Hemisphere is watching. The burden of proof will be on the Sandinistas because they are the ones in control of Nicaragua. For all of us in the United States Congress and President Reagan, who has been very forceful in his support for the opposition in Nicaragua, we have, I think, a responsibility to show not only our care, concern, and compassion, but also to put them on clear notice that indeed we will continue to be engaged.

Mr. President, I yield back any time that I may have remaining.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

IS PEACE BREAKING OUT IN NICARAGUA?

Mr. CRANSTON. Mr. President, there is a distinct possibility that real peace may break out in Nicaragua in the weeks ahead.

But until the terrorist Contra war against the Nicaraguan people is completely and totally ended, I will oppose giving any United States taxpayer dollars to the Contras.

Congress' unwillingness to keep funding the Contra war effort at the administration's request has proven to be a key factor in the Contras' decision to sign the cease-fire agreement and to hold negotiations in Managua next month.

We should not resume any form of aid until a peace agreement has been signed.

Let us not commit the fault of now sending out a contradictory signal.

This proposed $48 million aid package is linked to agreements to consider more military aid under possible future circumstances.

This proposed $48 million aid package is, I know, viewed by supporters of military aid a way to keep Contra fighting forces in place until the battle is resumed.

For more than 7 years, the administration has been exploiting the east-west dimensions of the conflict—real or imaginary—instead of dealing with the situation on the ground and supporting the peace process.

Now the Contras have finally come to the negotiating table. They have realized that the U.S. Congress was unwilling to finance endless skirmishing with Sandinista forces, a war without purpose, a war without end, a war without victory.

The Contras have realized that Congress is unwilling to continue to fund acts of terrorism.

The Contras have realized the futility of continuing a war which has taken tens of thousands of Nicaraguan lives, but which has not liberated 1 inch of Nicaraguan soil.

The democratically controlled United States Congress has been more interested in supporting the peace process started by President Arias than in continuing to fuel the futile fighting in Nicaragua.

The United States Government now has a profound responsibility not to do anything except what is in strict conformity with the precise terms of the cease-fire, neither more nor less. We must not tinker with what the Nicaraguans themselves have agreed to.

I have refused to support military aid to the Contras because I do not believe that the United States should fund an army to overthrow a sovereign nation, no matter how much we disagree with that Nation's governing ideology, unless we are in a declared war. I carry no brief for the Sandinistas. But, I believe that U.S. funding of the Contras to overthrow the Sandinista government is a violation of the basic tenets of our constitution and a violation of international law.

The Contra and the Sandinista armies have been at war for the last 7 years. They have agreed to a cease-fire in order to hold further talks. Both sides have had to make concessions to get this far.

The Reagan administration must support that peace effort and make concessions toward peace, too.

It is essential that the U.S. Government show a willingness to support an end to the violence in Central America.

It is essential that the U.S. Government respect the agreement made by the Contras and the Sandinistas.

Now that the Sandinistas and the Contras have begun negotiations, the Reagan administration should begin bilateral negotiations with the Sandinista regime.

In the past, the administration has placed direct negotiations with the Contras as a condition that must be met before the United States returns to the bargaining table with the Sandinistas.

The United States does have legitimate security concerns in Central America.

What are our goals?

What is our policy?

We should be working toward peace, democracy, and development in Central America.

This will require an end to the conflicts and a reduction of the militarization in the region.

It will require a genuine will on all sides to work our way through all the obstacles of misunderstanding, poverty, underdevelopment, and fear of change.

The Central American nations must forge their own future. But the United States can and should help so that these choices are made freely and so that democratic institutions are fostered.

The United States should work out a plan for aid to the region and look for ways to improve our trade relations. Our aid should support education and growth. Our aid should be directed at transferring the educational and technological tools necessary to help people in Central American nations develop democratic institutions, stimulate and diversify their economies and improve their standard of living. The observance of human rights and support of independent judicial institutions are key to this process.

But the essential first step remains an end to civil war, to acts of terrorism. Although the Sapoa Agreement is a very positive move in that direction, until the war is completely and totally over, I oppose spending even $1 of taxpayer moneys for the Contras.

Mr. CHAFEE. Mr. President, I intend to support the Contra aid resolution approved yesterday by the House of Representatives. This will be the first time I have supported any Contra aid since February 1985.

Up until 1985, I supported Contra aid because the administration presented the Contras as an effective force for interdicting Sandinista arms shipments to the rebels in El Salvador. Then, in February of that year, the President indicated that the true intention of the Contra Aid Program was to overthrow the Nicaraguan Government—a government with which we maintained, and continue to maintain, diplomatic relations. I was not willing to support that goal and at that point ended my support for Contra aid.

I viewed all the Contra aid proposals that came before the Senate in the last 3 years as counterproductive. While I agree with the administration's assessment of the Sandinista regime as a Marxist, undemocratic government with expansionist tendencies, I did not believe Contra aid was an effective remedy. To the contrary, the program seemed only to solidify the Sandinistas' power by giving Daniel Ortega a convenient excuse for the policies he implemented as he consolidated his power. I never saw the Contras as a viable military or political force with potential for gaining significant support among the Nicaraguan people.

The Contra aid resolution before us today is different from all those we have considered in the past, and it is presented under far different circumstances. How is it different?

Half of the actual aid contained in this package—that is, excluding administrative funding—will assist the children of Nicaragua who are victims of the civil war. To me, assisting these innocent victims of the Contra-Sandinista conflict is an extremely important and worthwhile initiative for the U.S. Government to undertake. This resolution's $17.7 million in aid for children is a concrete way of healing the war's worst wounds, and of demonstrating what should be our country's true interest in this conflict—the future of this hemisphere, which is represented by its children.

This package is also different from previous ones because it was put together not to maintain the war, not to achieve an overthrow of a foreign government, but as part of the peace and democratization process. It does not consist of weapons but of humanitarian aid—$17.7 million in food, clothing and medical supplies. Indeed, one of the main reasons I will vote for this aid is that it will strengthen the peace process. On March 23 the Contras and the Sandinistas came together and signed an interim truce under which the Contras will move into five cease-fire zones and then participate in a national dialogue. The stated goal of the Contras is to make Nicaragua a pluralistic, democratic society. One of the main conditions they demanded was release of all political prisoners.

Although no one should be carried away with optimism that this "Sapoa Agreement" will succeed, so far it is an encouraging development. This Contra aid package will strengthen its chances of succeeding by ensuring that those on the Contra side of the bargaining table are not dependent on the Sandinista government as the dialogue continues. As I see it, the intention is to keep the negotiations fair and effective, and to provide for the true humanitarian needs of the Contras as they lay down their arms.

Whether or not one has supported Contra aid over the last few years, and I have not, there is no denying that the United States is in large part responsible for the continued Contra efforts. Therefore, it is reasonable to say that this Government has a real duty to provide humanitarian help to the Contras as they participate in the search for peace.

Mr. President, I am skeptical as I vote for this resolution. While I hope that both sides in the Nicaraguan conflict will negotiate in good faith and work for democratic reform, I am not sure we will see the results we would like to see. On the Contra side, it remains to be seen whether this disorganized politico-military organization, with its poor human rights record will be a true defender of democratic ideals. The Contras will have to prove that they believe their own democratic rhetoric and can be a force for positive change in Nicaragua.

On the Sandinista side, Daniel Ortega has given no indication that he or his party intends to yield the iron grip they hold on power. The Sandinistas have promised to release all political prisoners, of which there are at least 3,500 and possibly many more. Thus far, they have released only 100.

Economically, the cease-fire will give the Sandinistas an opportunity to reverse the disastrous decline that the war and socialist planning have wrought in Nicaragua. We will see if the leadership there can turn the economy around.

The Sandinistas have received billions of dollars in military assistance from the Soviet Union. Now one hopes they will turn off that weapons pipeline and cut their ties to the totalitarian regimes of the Communist bloc.

Finally, the Sandinistas will have to prove they are serious about being partners in the Central American community, and that they will respect the independence and the borders of their neighbors.

In summary, Mr. Pesident, I will support today's Contra aid resolution because it stands for all the right things: for the children, for negotiation, for peace, and for democratization. As I vote in favor of this measure, however, I reserve the right to vote differently on any future Contra assistance proposals. Let us first see how this resolution contributes to the process, and how successful the Contras and the Sandinistas are in resolving their differences.

Mr. LEAHY. Mr. President, today marks the beginning of the end of the U.S. funded Contra war. For the first time in 7 years I am genuinely, albeit cautiously, optimistic about the prospects for peace in Nicaragua.

The Central Americans, and especially Costa Rican President Arias, deserve the credit for this dramatic change of events. No one expected it. Two weeks ago there was fierce fighting on the Honduran-Nicaraguan border. Today the two sides are finalizing the terms of a 60 day cease-fire, and of a process for negotiating an end to the war and reintegrating the Contras into the social and political life of the country.

Any cease-fire is fragile. I would be surprised if this one isn't broken. There may be sporatic fighting, the negotiations may stall. But I am optimistic, because I believe that both sides realize there is no turning back. After 7 years the Contras have achieved none of their objectives. And the Sandinistas are facing a political crisis of their own caused by years of heavy-handed policies and the collapse of the Nicaraguan economy.

The Contras can't win. They know that the Congress will not approve more military aid. If the talks break down, some of them may keep fighting for a while, but they won't last long without aid from us, which they are not going to get.

The Sandinistas have everything to lose if the war drags on. In the long run, reconciliation is the only way out for both sides.

For 7 years the Reagan administration tried everything in its power to thwart the peace process. When a majority of the American people opposed the Contra policy, the administration broke the law and lied to Congress to keep it going.

I am not so naive to think that the ideologues in the State Department will give up their obsession with running the Sandinistas out of power. But, like it or not, events in Central America have overtaken them. It is time to face the music. The United States should throw its full weight behind the Sapoa agreement.

Mr. President, I have always opposed Contra aid of any kind—lethal, nonlethal or so-called humanitarian, whose purpose was to keep the war going. I have said time and time again, as have an overwhelming majority of Vermonters, that lasting peace in Nicaragua would never be achieved by force of arms. Reasonable people could disagree about whether it was the Contra policy or Congress' decision to cutoff aid last month that brought the two sides together. Rather than join in that debate, I would prefer to look forward.

I intend to vote for this aid because I am satisfied that it is consistent with the Sapoa agreement and a step in the direction of peace. I do not make this decision easily. But the agreement specifically allows for the delivery of food, clothing, shelter and medicine to the Contras. Delivery is to be by a neutral organization, not the CIA, and not any other agency of the United States. It will require the cooperation of the Sandinistas to ensure that the aid gets to its intended recipients.

There is no provision for lethal or nonlethal military aid. The Verification Commission, composed of the Catholic Primate of Nicaragua, the Protestant head of the interfaith organization, and the Secretary General of the OAS, will monitor the aid to ensure that it is strictly humanitarian.

For the first time, we will be providing aid to the thousands of Nicaraguan children injured in the war. Many have had their legs and arms blown off by land mines paid for with American tax dollars.

I believe this aid can contribute to peace. The Contras and the Sandinistas have each said publicly that it will enable the Contras to change from an armed insurgency to participants in the political process. That has been the goal of Contra opponents from the beginning.

It can also inaugurate a new era in United States-Nicaraguan relations. President Ortega has asked for economic aid from the United States. We should seize this opportunity to try a new, positive approach, by ending the embargo, intensifying trade, and developing a new aid program to help the Nicaraguan economy.

We should give the Nicaraguans an option other than dependence on the Cubans and Soviets. Once they no longer fear a U.S. attempt to overthrow their revolution, the Sandinistas will need a lot more than the Russians to rebuild their country.

It is also time for the administration to make good on its promise to renew bilateral talks with the Sandinistas once the Sandinistas agreed to negotiate with the Contras. Those talks should address the overriding concern of U.S. security. If we can negotiate a verifiable INF Treaty with the Soviet Union, we and Nicaragua can negotiate a verifiable agreement that the Soviets and Cubans will not establish a military threat in Nicaragua. The Sandinistas have offered to sign such an agreement for the past 4 years.

Mr. President, the Contras and the Sandinistas have finally agreed to settle their differences peacefully. That is what the Nicaraguans want and what the American people want. It is time for the Congress to speak with one voice and pass this resolution.

Mr. KASTEN. Mr. President, I would like to engage in a colloquy with Senator INOUYE, the distinguished chairman of the Subcommittee on Foreign Operations.

Mr. INOUYE. I would be pleased to engage in a colloquy with the distinguished Senator.

Mr. KASTEN. Mr. Chairman, with regard to support of the Yatama Indians resistance force, I understand that the agreement of February 2, 1988, may have been rejected by the Yatama leadership, and the principal negotiator expelled from the Indian leadership. If that is so, it should be left to the judgment of the Agency for International Development as to how best to reach the needy majority of the Yatama Indians. Is my understanding correct?

Mr. INOUYE. The Senator is correct. I have been informed that the agreement has in fact been abrogated. If that is the case, it should be left to the judgment of AID in consultation with the Committee on Appropriations as to the best method of assisting these people.

Mr. KASTEN. I thank the Senator for that clarification.

Mr. KASTEN. Mr. President, I would like to echo some of the comments made by my friend and colleague, the chairman of the Foreign Operations Appropriations Subcommittee, with reference to this legislation.

I agree with the procedure being utilized here today in order to quickly pass this legislation, but as Senator INOUYE has stated, the fact that we have not insisted the legislation come to the Appropriations Committee is not because of a lack of interest as indeed we will be exercising oversight over this program as mentioned last night by the majority leader of the House, Mr. FOLEY.

Mr. President, while I am somewhat nervous about thrusting the Agency for International Development into this matter, I do understand the reasons for this compromise and support it. However, I must caution the Agency for International Development that I believe it is very important for them to set up a separate office to handle this matter rather than operating through their regular programs.

I trust that the Agency for International Development will find someone who is a strong operational person to head this office and I am sure that Senator INOUYE and I and our subcommittee will have some recommendations as we exercise oversight on the program.

Mr. President, I would like to address three concerns that my colleagues have expressed with respect to this compromise—namely the expedited procedures question for consideration of any future military assistance to the Contras, concern about the specific role of the Verification Commission as far as the utilization of the funds which are provided in this resolution, and support of Yatama Indian resistance force.

With respect to expedited procedures, it is my understanding that this matter has been satisfactorily resolved—that is, satisfactory to the White House—through the provision of a letter by the Speaker of the House in which he gives his assurance that should the crease-fire and peace negotiations break down and the President submit a request for military assistance for the Contras, that such a request will not be bottled up in committee and that the rule for consideration of such assistance will allow for a Republican substitute. While I know that many had hoped for specific expedited procedure language in the resolution, this compromise has been accepted.

With respect to the question of the role of the Verification Commission, I would like to refer to section 2 of the resolution which states that the assistance provided by this resolution shall be administered consistent with the Sapoa agreement, and that the Commission should have a role in addressing the question of whether such assistance is consistent with that agreement. My understanding is that this language is not intended to give veto power to the Verification Commission over how AID uses the funds transferred to them, but rather that it states what is simply an intent of Congress that assistance be made available in the context of the agreements reached by the Central Americans. The language merely reinforces the concept expressed in the first sentence of the section which states that assistance shall be provided consistent with the Sapoa agreement, with the verification committee serving in an advisory capacity.

With regard to support of the Yatama Indian resistance force, we understand that the agreement of February 2, 1988, may have been rejected by the Yatama leadership, and the principal negotiator expelled from the Indian leadership. If that is so, it should be left to the judgment of the Agency for International Development as to how best to reach the needy majority of the Yatama Indians.

Mr. President, I would urge my colleagues to support this compromise.

Mr. INOUYE. Mr. President, today we take up the latest measure designed to provide nonlethal assistance to the Nicaraguan resistance. We do so, however, in an atmosphere and under conditions markedly different from those which prevailed just 2 months ago.

The agreement signed between the Government of Nicaragua and the Nicaraguan resistance on March 23, at the town of Sapoa, represents what we all hope will be the beginning of peace and national reconciliation in the region. Under the agreement, the two sides have agreed to a cease-fire and a disengagement of their forces while negotiations proceed on a permanent peace accord. This historic development comes as a direct result of the initiative undertaken by President Arias of Costa Rica, the Guatemala peace accord of August 7, 1987, and the declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988.

Mr. President, the new willingness of both the Sandinista and Contra leaderships to engage in constructive dialog also is a direct consequence of the actions taken in the Congress of the United States. Our willingness to fund, or not to fund, the Contras has an immediate bearing on the climate in which peace discussions may either germinate or wither on the vine. In any instance, the actions of the Congress telegraph a message from the people of the United States to the people of Nicaragua—a message which is of direct and lasting consequence to their lives and that of their children. This assistance signals that the United States remains solidly behind the cause of peace and wishes to provide the parties to the Nicaraguan conflict with every incentive to continue their constructive dialog.

Mr. President, today we are being asked to vote on a measure which would provide humanitarian assistance to the Contras through a direct transfer funds from the Department of Defense, rather than by the normal process of appropriations. We are being asked to do so on an urgent basis because the fate of the Contra movement hangs in the balance. The case has been made successfully in the House that without this humanitarian assistance, the Contras would have little hope, but would be forced into defeat if the present peace negotiations fail and conflict once again resumes.

Mr. President, the conditions under which this measure is moving through the Senate is unusual. But these are unusual times. As chairman of the Subcommittee on Foreign Operations of the Appropriations Committee let me say that I will be scrutinizing closely the future of this legislation and the procedure under which it is now being considered. The Committee on Appropriations wishes to assert its jurisdiction on all matters connected with its implementation and reserves the right to take whatever corrective action may be necessary in the future to deal with the issue of Contra funding.

Mr. DOLE. Mr. President, I support this package of humanitarian assistance to the Nicaraguan freedom fighters, but with decidedly mixed emotions.

It is sad, and dangerous to American security interests and the cause of freedom in Nicaragua, that this is the best we can do. But—sad though it is—this is the best we can do. It would be irresponsible and a break in faith with the freedom fighters themselves to defeat or delay this package, simply washing our hands of the whole affair.

I hope that those who believe this package offers the best chance to bring both peace and democracy to Central America are right. But I can't say that I have any great confidence they are right.

Communist leopards do not change their spots. I believe as strongly as I can state it that Daniel Ortega and his Sandinista supporters are proceeding on a long-term strategy aimed at the total consolidation of a Communist state in Nicaragua; and that they see their current negotiations with the Contras, the cease-fire agreement and their other diplomatic and political activities as part of that long-term strategy—not as a good faith effort to set the groundwork for democratization of Nicaragua.

It may be that a small opening toward democratization could unleash such a ferocious "tiger" of democratic ferment in Nicaragua that even Daniel Ortega couldn't put that tiger back in the cage. That seems to be the logic, and the hope, of those who have crafted this package; and, in fact, the underlying logic of the Arias plan.

But I hope all of us will remember that the Sandinistas have all the guns, or certainly soon will; and with sufficient firepower, even ferocious tigers can usually be tamed, or turned into trophies.

I don't want to see freedom end up as a trophy on the walls of Daniel Ortega's den.

I wish we could continue a policy which has been successful; which has pressured Ortega to the table; which has at least kept open the possibility that our very real and important security interests in the region can be addressed. I wish we could continue to provide military assistance to the Contras at least until we have really solid guarantees in place that that democratization could go forward and our security interests would be addressed. I wish as a minimum that we could have a guaranteed vote on military aid if the cease-fire talks, and the other political negotiations break down, or if the Sandinistas turn their backs on their own commitments—as they have so often before.

I wish we could have legislation covering all those things. But—as I said recently in another context—I can count. I know we can't get that kind of legislation.

So I must accept what we do have. I do it with hope, but not with great expectation. And I do it with this personal commitment: That I have not given up on the freedom fighters; I have not given up on the policy and strategy that I believe was working; I have not given up on doing everything I can to see that both peace and freedom can be restored to Nicaragua.

Mr. THURMOND. Mr. President, I rise in reluctant support of providing only humanitarian assistance to the democratic resistance in Nicaragua. The underlying issue is quite simply whether the United States Congress will assist in freeing an enslaved people, who are quite willing to fight for their freedom, or whether we will stand by as communism is consolidated first in Nicaragua and then spread throughout the region. Unfortunately, the Congress has forced the resistance into what can only be called a surrender.

It has often been said that it is better for a man to die on his feet than to live on his knees. Congress is ensuring that the people of Nicaragua will live permanently on their knees like the South Vietnamese, the Cambodians, and the Laotians. Once again we have vouchsafed totalitarian control over people who are willing to die on their feet rather than live on their knees.

The sad truth of the matter is that there is no hope for democratic reform whatesoever in Nicaragua so long as the Sandinistas remain in power. There is also the danger that they pose to their neighbors, because the Sandinista dictatorship has stated unequivocally that their Marxist revolution is a revolution without borders.

Mr. President, there has been a great deal of false information concerning the popularity of the counterrevolutionary forces in Nicaragua. Opponents of aid to the Contras repeatedly make the claim that this is not a popular counterrevolution. Nothing could be further from the truth.

It took the Sandinistas more than 15 years to assemble a movement of between 5,000 and 7,000 soldiers. In less than 5 years the Contras have assembled nearly 20,000 soldiers. In fact, the Contra forces today exceed the total number of men in Samoza's National Guard, which in 1979 totaled only 14,000 men both active and reserve. This is clearly a popular revolt against the Sandinistas.

Mr. President, there are critics of support for the Contras who would have us believe that there is no hope for success, even if we support the Contras consistently. This is also untrue. We must remind ourselves that the Sandinista revolt took more than 15 years to succeed against a small National Guard force. The Contras face the largest and most powerful army in Central America. The Contras who have swelled in ranks to their current size are fighting against an active army of 75,000 Sandinista soldiers, backed by another 60,000 reservists and militiamen.

There are those who keep saying give peace a chance. We gave peace a chance once before with the Sandinistas, and it failed. More than 8 years later they are making similar hollow promises to buy time.

Give peace a chance will go down in history with other great quotes such as "Peace in our time" and "peace with honor." We can have peace in Nicaragua by cutting off aid to the Contras. The problem is we will have peace without democracy. Let us give democracy a chance and then give peace a chance.

Since 1981, the Soviets and her allies have provided the Sandinistas with more than $4.5 billion in assistance. During this same timeframe we have provided the democratic resistance with about $225 million. This Congress has stood by and watched as the largest land army in Central America has been armed, equipped, and trained by our adversaries.

Mr. President, the Sandinistas offer nothing but totalitarian despair to the people of Nicaragua. The only hope of the people is through the success of the Contra movement. It would do us all well to remember the history of our own country, and be thankful that the French Government did not send Lafayette to our shores with only humanitarian aid, or the empty phrase, "give peace a chance." We should also remember that it was the United States Congress who helped give peace a chance in South Vietnam. The South Vietnamese liked their peace so much millions of them fled the country while countless others died trying to flee. I urge all of my colleagues to support the democratic resistance.

Mr. CONRAD. Mr. President, I rise in support of this new aid package, which provides assistance and support for peace, democracy, and reconciliation in Central America.

I have opposed the administration's policy of providing military aid to the Contras because I believed that course of action would damage prospects for peace in Nicaragua. Today, a cease-fire agreement is in place. The Sandinistas and the Contras are engaged in direct negotiations. For the first time in 7 years, there is real hope that the war will end and that the bitter divisions between the Sandinistas and Contras will begin to heal.

The cease-fire agreement shows that both the Sandinistas and the Contras understand that their problems are not going to be solved on the battlefield. Their conflict was transformed into a war of attrition which neither side can win. Resolving differences at the negotiating table has finally been recognized as the only alternative to prolonged conflict and the threat of wider war in Central America.

Mr. President, I support this package of nonmilitary assistance as a means of reinforcing the objectives of the negotiations. The $47.9 million package consists of $17.7 million in strictly humanitarian aid to the Contras, $17.7 million for medical care to the children survivors of this conflict, $10 million to fund the verification commission monitoring compliance with the cease-fire, and $2.5 million to the Agency for International Development to meet expenses of administering this assistance package. It addresses the immediate needs for humanitarian assistance in a manner consistent with the cease-fire process. The aid will be provided through nonpolitical, international organizations. The assistance package will continue to provide the Contras with food, shelter, and medical supplies during the cease-fire process consistent with the cease-fire agreement as well as specific assistance to Nicaraguan children who are survivors of this war. These are the first, necessary requirements for reconciliation within Nicaragua of the forces that have long been in opposition.

Much needs to be done within Nicaragua. Serious political and economic problems continue to plague the Nicaraguan people. This aid package does not address these problems nor is it intended to. It does show, however, the sincere intent by the Congress of the

United States to demonstrate our long-term support for a negotiated peace in Nicaragua and eventual return to normalcy. The future success of the peace process is dependent upon all parties exhibiting good-faith efforts to support the process. I am hopeful that our efforts serve to accelerate this peace process and bring an end to this long and protracted conflict.

Mr. D'AMATO. Mr. President, here we are again. For better or worse, aid to those struggling for democracy in Central America has become one of the defining issues of Ronald Reagan's Presidency. I imagine that the President is not all unhappy about that; were he to be remembered in history as the staunch advocate of America's support for, and willingness to take risks on behalf of, freedom-loving peoples in this hemisphere, I cannot help but think he would be satisfied.

What neither he nor we can be satisfied with, Mr. President, is the manner in which the question has been handled by the Congress. Time and again this Congress has proven itself more prone to politics than to policy, quicker to make a partisan point than to look clearly at America's interest in the promotion and protection of freedom. When the long, sorry tale of the contentious relations between Congress and the President on this issue is written, I dare say it will be something other than a "profile in courage."

We are now voting upon a package to support the present cease-fire in Nicaragua. But we all know, Mr. President, what it is that brought that cease-fire about: Only the persistence and political courage of the President, and his demonstrated willingness to be committed and decisive in the cause of Nicaraguan freedom, even against overwhelming odds in his own government. We in the Senate have a little less to be ashamed of, Mr. President, as we have supported by the narrowest of margins the President's refusal to abandon the freedom fighters.

We should be doing much more. We cannot stand idly by and acquiesce in the Cubanization of our hemisphere. However, the principle benefit of this act is that it places the burden squarely on Managua. The future peace of their country, and the nature of America's involvement with it, is in Managua's hands. If they pursue negotiations in peace and good faith, then the cease-fire will last. If they don't, then, Mr. President, we will be back here yet another time—this time with the opportunity—and in my view the obligation—to send military assistance to those hoping for a better and freer life.

Mr. President, I urge my colleagues to vote for this package. It is, literally, the least we can do.

Thank you, Mr. President.

Mr. WIRTH. Mr. President, we have, with today's vote in the Senate, an excellent opportunity to facilitate peace in Central America between the Nicaraguan Government and the Contra rebels.

I have in the past opposed United States assistance to the Contras, because I have felt that this administration has pursued a military solution to the conflict in Nicaragua, without first vigorously pursuing diplomatic efforts. Fortunately, the Presidents of five Central American nations seized the diplomatic initiative, signing the Guatamala peace accord in August 1987, and the Nicaraguan Government and the Nicaraguan resistance only last week negotiated a 60-day cease-fire agreement, known as the Sapoa accord.

The humanitarian aid package before us today is in strict compliance with both the Guatamala peace accord and the 60-day cease-fire agreement, and has sufficient safeguards to ensure that no military hardware or supplies will be part of the aid shipments. At the same time, this aid will provide the Contras and their families the means to survive as they participate in the negotiations intended to produce a peaceful solution to the conflict which has dangerously raised tensions throughout the region.

Perhaps most importantly, this assistance will address, for the first time, the war's most tragic victims, the children of the region who have been physically injured during conflict.

For these reasons, but primarily because the assistance is consistent with the Guatemala peace accords, I intend to support the package today.

The package provides $17.7 million in humanitarian assistance to the Contras, consisting only of food, clothing, shelter, medical services, and medical supplies. Aid will be distributed by a neutral organization identified by the Agency for International Development, such as the International Red Cross, and can only be delivered to the Contras in designated zones within Nicaragua identified by the Sapoa accord.

The Verification Commission established by the Sapoa accord, led by Nicaraguan Cardinal Miguel Obando y Bravo and Joao Baena Soares, Secretary General of the Organization of American States, will receive up to $10 million in funding to verify compliance with the cease-fire agreement and ensure that humanitarian assistance is properly distributed.

Finally, perhaps the most vital component of this package is the $17.7 million to provide medical care and other relief for children who have been injured during the Nicaraguan strife. That funding will be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims and help children who have been orphaned during the war. Nonpolitical international relief organizations, such as the United Nations Children's Fund, CARE, International Committee of the Red Cross, and Catholic Relief Services, will distribute this medical aid.

The administration's policy of providing military arms to the Nicaraguan resistance, a force which has never enjoyed the popular support of the Nicaraguan people and never had a chance of winning on the battlefield, has failed. Our job now is to do all within our power to ensure that the diplomatic efforts underway, embodied by the Guatemala peace accord, succeed, and that any negotiated peace that emerges guarantees democratic freedoms for all parties in the nation of Nicaragua.

Given the dramatic progress of peace negotiations and the safeguards built into this bill prohibiting all U.S. military aid to the Contras, I believe this aid package will bring us closer to that goal.

Mr. HEINZ. Mr. President, today the Senate will vote on the package of assistance to the Nicaraguan resistance put together by the House of Representatives. I support that package. Like many on the House side, I am encouraged by the first bipartisan Contra aid package that has been achieved in a long time. For if the Contra policy has always had a major flaw, it has been the lack of consensus within the Congress over the correct course to take in Central America.

The recent cease-fire negotiations between the Contras and the Nicaraguan Government are a breakthrough that has already become part of the landscape, but I think we need to remember just how dramatic a breakthrough it represents. In the past years of acrimonious debate over Contra aid, supporters of military assistance such as myself were told by opponents of the policy that direct, face-to-face negotiations between the Contras and the Sandinistas would never take place.

But today, in a small village in southern Nicaragua, exactly this sort of negotiation is taking place. I supported military assistance to the Contras in order to achieve these sorts of face-to-face talks.

Adopting the package before the Senate will help ensure that these talks bear fruit. No less a figure than the Sandinista deputy defense minister, Maj. Gen. Joaquin Cuadra, has been quoted as saying that nonlethal aid to the Contras at this point will support the peace process in Nicaragua. I think that the Senate can infer that such assistance right now is essential to maintaining momentum toward a negotiated settlement to the war.

Every supporter of today's package of assistance to the Nicaraguan resistance hopes that the negotiations in Sapoa and soon in Managua will produce a framework that allows the peaceful reintegration of the Contras into Nicaraguan society while establishing irreversible and significant progress toward openness and democracy in Nicaragua. That has always been the objective of Contra aid, in my view, and at last we are in sight of success.

I applaud the bipartisan support this package has attracted, and hope that this unity will continue so that the parties in Central America have maximum incentive to come to meaningful agreement.

Mr. LEVIN. Mr. President, our overriding concern is to find a way to help resolve the war in Nicaragua that not simply brings peace, but also helps bring political freedoms and economic justice.

The resolution we have before us states that "it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord" and the Sapoa Agreement. It is important that this resolution specifically states that the assistance and support provided shall be administered consistent with the Sapoa Agreement, and no authority contained in this resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that agreement or any subsequent agreement between the Nicaraguan Government and the Contras.

Mr. President, this resolution's purpose is to assist the peace process. It is specifically structured in such a way to achieve that goal, and it is not counter to the Sapoa Agreement. With the hope that it will assist in resolving the Nicaraguan war, and help bring justice and freedom to Central America, I support it.

Mr. EVANS. Mr. President, I rise today in support of House Joint Resolution 523, to provide assistance and support for peace, democracy, and reconciliation in Central America.

Several days ago, I joined a number of my colleagues in offering a bipartisan proposal for emergency support for the Contras. The proposal was designed to do several things: continue aid to the Contras so they would not disappear as a force; establish a framework for an extensive economic rehabilitation program for Central America; extend economic and redevelopment aid to Nicaragua itself—if it complied with the peace accords; and, provide expedited procedures for requests from the President for additional aid.

The resolution before us today has a number of the elements set out in our proposal. It provides emergency assistance to the Contras, it provides the beginnings of a rehabilitation and redevelopment program and, with the assurance from our majority leader, provides the opportunity for the President to request additional assistance should the Sandinistas not live up to the terms of the Guatemala peace agreement or the cease-fire agreement.

Once the immediate needs are met we simply must get on with the important task of devising a comprehensive, expanded program for economic and development assistance for the region. Without such a program, the conflicts and the suffering will only worsen. I believe that if Nicaragua comes into compliance with the terms of the Guatemala peace agreement, it should receive a share of this assistance.

Finally, I would like to express my appreciation to the majority leader for his assurance that we will be afforded the opportunity to act on future requests for additional assistance, if such is requested by the President and passed by the House of Representatives. We all hope that peace will come through the current negotiations for a permanent cease-fire and through the national dialog, that will include Contra leaders. Nonetheless, we must continue to watch events in Nicaragua very carefully. We must encourage all in the region to come into compliance with the peace accords. I believe we must have the guaranteed vote the majority leader has assured us to let the Sandinistas and the Contras know we are still watching and we do still care about what happens in Nicaragua.

Mr. KERRY. Mr. President, for the first time in the 7 year history of our policy toward Nicaragua, we are finally voting on a package that promotes peace and not war in Central America.

It should be stated by those of us who have consistently opposed aid to the Contras that nothing in this package implies that the Contras represent a viable alternative in the region. This vote is consistent with the Central American Peace Plan, agreed upon by the five Presidents of the region last August in Esquipulas, Guatemala.

This plan, we are voting upon today, is exactly what I have been arguing in support of for the past 4 years. We have an agreement signed between the Government of Nicaragua and the Contras at Sapoa, Nicaragua on March 23, 1988. This plan provides the financial resources to implement the Sapoa Agreement.

Just as importantly, Mr. President, by providing $10 million to fund the activities of the Verification Commission, we have now multilateralized the solution to the Central American conflict.

The Organization of American States is now the body responsible for the implementation of the Sapoa Agreement. The OAS is now the body responsible for determining compliance with the Sapoa Agreement.

This is what the Contadora effort envisioned from the very beginning; and this is what President Oscar Arias of Costa Rica has pursued with such persistence and wisdom when he moved the Central American nations to seize the initiative in determining their own destinies—free of outside interference. All along, this is what I have been fighting for.

The elements of this package are as follows: $17.7 million in humanitarian assistance is made available to the Contras during this peace talk period for the provision of food, clothing, shelter, medical services, and medical supplies. This is the assistance which will make possible the transition to cease-fire, termination of the conflict, and a reintegration of the Contras into Nicaraguan society.

While funds are transferred to the U.S. Agency for International Development for these purposes, the actual disbursement of this assistance to the Contras will be made through neutral organizations consistent with the Sapoa Agreement. In other words, the parties to the Sapoa Agreement will determine what organizations are acceptable for the delivery of these services. The Verification Commission will have the final signoff on any organization deliverying assistance to the Contras.

It should be made very clear that we are talking about humanitarian assistance. We are not talking about nonlethal equipment which could include trucks, jeeps, and helicopters.

The sum of $17.7 million is provided for the children of Nicaragua, on both sides of this conflict, who have been the tragic victims of this senseless war. Such assistance will be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife.

Ten million dollars to fund the activities of the Verification Commission, which the OAS will bear the responsibility for disbursing. This in itself is one of the most important elements of this package. We are now doing what we should have been doing all along. We are placing the responsibility for judging compliance with this agreement in the hands of a commission comprised of representatives from both parties to the conflict, as well as neutral observers.

These are the major elements of this package we are voting upon today. This package provides resources for a process which the Central American Presidents themselves envisioned as leading to a peaceful resolution to the region's conflicts. It is unfortunate it has taken us so long to reach the point we have reached. It is tragic that so much human suffering has been endured by far too many in the region for far too long, before the Government of the United States finally responded in a manner consistent with the views, hopes, and aspirations of the Central Americans themselves.

Now that we are responding in a manner which I believe is consistent with our own values and interests, I can support this package and I urge my colleagues to do likewise.

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes, forty-eight seconds.

Mr. McCAIN. Mr. President, I yield my remaining time to the Senator from California [Mr. WILSON].

The PRESIDING OFFICER. The Senator from California [Mr. WILSON] is recognized for 2 minutes and 48 seconds.

Mr. WILSON. Mr. President, I think the statement just made by the Senator from Kansas is an eloquent one. She took little time, but she expressed clearly what many of us on this floor feel. Many who have before and continue to support military aid to the Contras will vote grudingly for this joint resolution not because our hope for peace is any less, but because we are skeptical that this cease-fire will, in fact, produce it.

We are once again giving negotiations a chance, as we have so many times in the past, and it is with no less fervent hope that they will be successful.

As the Senator from Kansas has stated, this is a first step. It must lead to the kind of negotiations that will produce real democratization in Nicaragua for there to be any realistic hope of peace either there or in the region.

There is none of the provisions in this joint resolution that provide for humanitarian aid of any kind that any of us could possibly find fault with.

The joint resolution contains no language for expedited handling of a future aid request should the cease-fire break down, so let us simply reemphasize, those who have voted for military aid before, that as fervently as we hoped for the success of this step—as the Senator from Kansas has said, all eyes are on Nicaragua—it is unilaterally within the discretion of the Sandinista Government to make this succeed or fail. If they want peace, Mr. President, they will allow participation. They will bring peace only by democratizing their nation in a way that they have given no indication previously that they are willing to do. Let us hope that they are, in fact, willing because, as the Senator from Kansas has said, those who have sought to give negotiations and peace a chance by the process of negotiation rather than through military confrontation expect that the Sandinistas will now do so themselves. If they do not, Mr. President, we will be on this floor once again in the unhappy role of having to insist that military pressure be applied, as the President of El Salvador has suggested is necessary, in order to bring the kind of democratization that will also bring peace. I thank the Chair. I yield back such time as the Senator from Arizona may have.

The PRESIDING OFFICER. The Senator was on point. All time has expired. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Sixteen minutes and fifteen seconds.

Mr. DODD. Mr. President, I am aware that the distinguished leader would like to be heard for a couple of minutes on this side. I see a couple of other colleagues that I know have had an interest in the subject matter before.

While I am waiting, Mr. President, I will yield myself such time as I consume.

The distinguished Senator from Massachusetts, Senator KERRY, unfortunately will be unable to make this vote because of a prior commitment. He asked, however, that I announce were he here he would vote in favor of the joint resolution.

Mr. President, let me take a minute or two while I am waiting for the majority leader to come over. There has been a lot of talk this afternoon going back and rehashing. In fact, the comments in some respects have been frenzied in all of this. There is progress here. There has clearly been a step forward in this process. We get a lot of numbers thrown around. Statistics are always a dangerous game to play. Our distinguished colleague from North Carolina says there has been some $5 billion spent in Central America over the last 5, 6, or 7 years. That is an accurate figure. We have also spent, as he pointed out, $231 million in Contra aid. That is roughly an accurate figure as well, although I suspect probably a bit higher if you start getting into some of the funds that we cannot quite account for. The point is we have 10,000 to 14,000 Contras which is about $231 for each of them. We have 27 million people in Central America on which we spent $5 billion. If we are going to use those numbers, at least some comparative analysis ought to be made as to how those dollars are spent and where we are going.

The point is we are beyond that. At this particular juncture we have an agreement here for the first time, as I pointed out earlier, in a bipartisan way to try to move the Sapoa agreement forward. No one is always correct. No one can predict with any certainty what can happen. In fact, I suppose if you wanted to be a wagering person, you would bet against everything. Some of my colleagues put this statement in the RECORD because they said they will guarantee in 5 years Central America will be as troublesome. That is a pretty safe bet if you want to write something in the RECORD. The point is you have to keep trying if you want to improve things. The Sapoa agreement at least offers improvement in this relationship. I am willing to wage—I think most of us are here today—on I hope a strong vote—I suppose not a great bet, if you wanted to put odds on it, but, nonetheless, you try and that is all this is really about.

You can go back and revisit every problem you have seen for the last 10 or 20 or 100 years in Central America and find more justification than you care to be against this agreement because it may not work. But I think a majority of us are willing to take that chance and see if it will produce the results we all hope it will.

Mr. President, I urge as I did some 2 hours ago that this joint resolution be supported. Again, we have heard from colleagues on this issue on both sides, those who would prefer it were a stronger document, those who think it is too strong. There will be some I gather who will vote against this because it does nothing, some will vote against it because it does not do enough. I suppose if you wanted to draft an agreement or document around here that was going to please everybody you would be trying forever. I think we have done the best we can under the circumstances.

With that in mind, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yielded time?

Mr. DODD. How much time remains?

The PRESIDING OFFICER. Ten minutes.

Mr. DODD. Mr. President, I yield whatever time the majority leader may need.

The PRESIDING OFFICER. The Chair recognizes the majority leader for what time he might consume of the 9 minutes 45 seconds.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote occur on the completion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the vote will occur in 3 or 4 minutes, and I would suggest the Cloakrooms so advise Senators. It will be a 15-minute rollcall vote. I ask unanimous consent that the call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. So in the next 3 or 4 minutes Senators might be starting for the Chamber.

Mr. President, today we are voting on a package that provides humanitarian assistance to the Contras. I support this humanitarian aid package because it supports and furthers the peace negotiations in Nicaragua. This aid will keep the pressure on the Sandinistas to finalize the peace arrangements. This package also upholds the authority of the Verification Commission, consisting of the Secretary General of the Organization of American States, and places verification where it belongs, in the hands of Central Americans. This package acknowledges support toward the victims of this long period of fighting by providing funds for medical care and relief for injured children.

While I support the package, I think there is still a deficiency in that there is no requirement for opening bilateral negotiations with the Nicaraguan Government on the matter of Soviet-Cuban bloc military involvement in Nicaragua.

If we really want to protect the long-term United States security interests, then I think the administration should take the Nicaraguan leaders up on their promise, on their offer. They have offered to enter into bilateral negotiations saying that they would be willing to eliminate Soviet and Cuban bloc influence, advisers, equipment, and we ought to take them up on it. Let us accept the offer, and challenge them, put them to the test. We all want Soviet and Cuban military advisers out of Nicaragua. We want no Soviet bases in Nicaragua. We want the level of Soviet offensive weapons in Nicaragua reduced. We want a binding commitment that the Government of Nicaragua will not attempt to subvert its neighbors.

The Nicaraguan Government has repeatedly offered to negotiate these concerns. We believe that they are vital to long-term U.S. national security and should be the focus of immediate bilateral negotiations. So let us now also turn to the negotiation track and sit down with the Nicaraguan people to try to resolve the thorny problem of United States regional security concerns. Let us give U.S. diplomacy a chance.

I hope that this package gets the widespread support and that it be the widespread, bipartisan support that it commanded in the House. Let us hope that this refreshing change in the votes in the Congress on this issue presages a long-run resolution of the issues between the Government of Nicaragua and its neighbors, and the United States, which meets the political goals and security needs of our hemisphere.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, I ask for the yeas and nays on this joint resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (House Joint Resolution 523) was ordered to a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? On this question, the yeas and nays been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Massachusetts [Mr. Kerry], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. Rudman] is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire [Mr. Rudman] would vote "yea."

The PRESIDING OFFICER (Mr. Heflin). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—87

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—7

Adams
Cranston
Hatfield
Matsunaga
Melcher
Proxmire
Stafford

NOT VOTING—6

Biden
Gore
Kennedy
Kerry
Rudman
Simon

So the joint resolution (H.J. Res. 523) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMANIAN ECONOMIC SANCTIONS

Mr. BYRD. Mr. President, I have a resolution which has been cleared all around.

It is a resolution which is supported by the administration and by the State Department. I will ask that the clerk read it.

I ask unanimous consent that the time thereon not exceed 3 minutes, and that no amendments will be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am offering a Senate resolution on behalf of myself and Senators Dole, Pell, Dodd, Helms, Durenberger, Graham, Simpson, Heinz, Stevens, and Sasser.

This resolution would express the sense of the Senate that the President should forthwith invoke his authority to prevent any future transfer to the Noriega regime of any credit or currency subject to the jurisdiction of the United States, and to consider placing in escrow any financial resources due to be transferred to the Panamanian Government.

Mr. President, General Noriega has been brutally repressing the people of Panama in their efforts to secure representative democracy. He has beaten and jailed many of the political opposition. He is daily threatening and repressing the people of Panama. Shopkeepers, laborers, bankers, all sectors of Panamanian society are being deprived of their freedom to work and provide for their families.

In carrying out this repression as he attempts to break the general strike that the people of Panama have spontaneously mounted against his dictatorial rule, Noriega has used taxes and fees paid into the Panamanian treasury by U.S. companies operating in Panama. The use of these moneys has enabled General Noriega to buy himself time and prolong himself in power as he ruthlessly continues in his efforts to thwart the democratic will of the people of Panama and crush the general strike.

Mr. President, last evening I heard on television that Texaco, Eastern Airlines, and United Brands I believe it was, had transferred several million dollars to Panama, and it occurred to me that we ought to call on the administration to put a stop to this.

This resolution is an indication of the Senate's desire to help the people of Panama to be rid of this corrupt dictator and urges the President to act immediately to cutoff the flow of any U.S. credit and currency subject to jurisdiction of the U.S. Government. It also urges the President to consider placing in escrow for the time being any financial resources due to be transferred to the Noriega regime. General Noriega should no longer be able to use funds under the jurisdiction of our Government to break the general strike and continue to cling to power. These must be cutoff, and I urge my colleagues to support this resolution.

The State Department I am advised supports it and the administration would like to have it.

So I ask unanimous consent that the clerk read it and that the Senate immediately vote on the resolution.

The PRESIDING OFFICER. The clerk will report the amendment and will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 403) urging the use of the International Emergency Economic Act against the Noriega Regime.

Whereas, on February 26, 1988, President Reagan reaffirmed that the United States continues to recognize President DeValle as head of the government of Panama;

Whereas, General Noriega has refused to accept an offer of asylum from the government of Spain and has rejected all efforts to enable him to peacefully relinquish his position as head of the Panamanian Defense Forces;

Whereas, General Noriega has arbitrarily replaced officers of the Panamanian Defense Forces who have attempted to support civilian control of the military and has allegedly brought into Panama large quantities of arms shipped by the Government of Cuba;

Whereas, General Noriega has used the military and security forces of Panama to brutally repress the general strike being conducted by the people of Panama seeking to restore the democratic process;

Whereas, General Noriega has used taxes and fees paid in cash by U.S. companies operating in Panama to aid him in breaking the general strike and continuing to deny the people of Panama representative democratic government;

Whereas, it is the policy of the United States to support the restoration of genuine democracy in Panama, to assist the DeValle government in its effort to establish civilian control over the Panamanian Defense Forces and to encourage the Defense Forces as a professional military institution: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President, using the authority granted under Sec. 201 of the National Emergencies Act (50 USC 1621) and Secs. 202 and 203 of the International Emergency Economic Powers Act (50 USC 1701 et seq.)

(a) find that, with respect to the events in Panama, an international economic emergency exists with respect to the events in Panama which poses an unusual and extraordinary threat to the national security, the foreign policy and the economy of the United States.

(b) exercise his authority under Sec. 203 of the International Emergency Economic Powers Act, in particular to prevent future transfers to the Noriega regime in Panama of credit or currency subject to the jurisdiction of the United States.

(c) consider the placing into an escrow account pending such disposition as the President may decide, any financial resources which would otherwise be transferred to the Noriega regime of Panama.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. CHILES. I would like to cosubmit the resolution. I wonder if we might have a moment to be cosponsors.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. CHILES, Mr. EXON, Mr. JOHNSTON, Mr. NUNN, Mr. BENTSEN, Mr. DECONCINI, Mr. MELCHER, Mr. DIXON, Mr. LEVIN, Mr. CONRAD, Mr. FORD, Mr. LEAHY, Mr. D'AMATO, Mr. THURMOND, Mr. HATCH, Mr. BOND, Mr. SPECTER, Mr. WILSON, Mr. SIMPSON, Ms. MIKULSKI, Mr. METZENBAUM, Mr. SHELBY, Mr. BUMPERS, Mr. BURDICK, Mr. MCCAIN, and any other Senators who may wish to add their names to be cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the Senate proceeding to an immediate vote without further debate?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I have a brief inquiry. I would just like to ask the sponsor of the bill a question.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. Mr. President, I commend the majority leader on this resolution. I am a cosponsor of it. As he said, we are all aware, as we saw last night, about the transfer of assets of American corporations to the Panamanian Government.

My question to him is this: Does he know if there are other means available to the administration to blocking, as this resolution properly intends, the transfer of cash to the—may we have order, Mr. President?

The PRESIDING OFFICER. Senators will clear the well. Let us have order. Clear the well.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I was wondering if the majority leader knew if there were other means, other than the International Emergency Economic Powers Act, available to the administration to do what the majority leader and this resolution intends?

Mr. BYRD. Mr. President, I do not know of such and I am advised that there are no such. The proper authorities are cited in the resolution and the Senate is asking the administration to invoke those authorities. It is my understanding the administration, particularly the State Department, would welcome this action.

Mr. HEINZ. Mr. President, I cannot dispute the majority leader. I would only add if, in further research, we discover other means to accomplish the same objectives, or the administration can find them, I would rather they found those other means than to use the International Emergency Economic Powers Act. This is not, in the normal sense of the term, an economic emergency. If this is all we have, then so be it, and we should use it. If there are other powers, I hope that we make legislative history that those other powers would be used in preference.

I thank the majority leader.

Mr. DURENBERGER addressed the Chair.

Mr. DURENBERGER. Mr. President, very briefly, this resolution is much like the concurrent resolution, Senate Concurrent Resolution 108, that we voted on almost unanimously—I believe it was unanimously—last Friday. I urge all of my colleagues to reinforce their commitment and the commitment of this country to the Panamanian people and their republic.

I also ask unanimous consent that Senator TRIBLE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, while I commend the action of the majority leader and my colleagues in the Senate who have sponsored this resolution, let us make it clear that there have been a number of us who, for weeks upon weeks, have predicted exactly what is taking place today—the disintegration of Panama and the Cubanization.

It is going to take some very real action. Basically, while I am going to support this, this is too little, too late. The administration had better wake up and respond and use all of the measures at its disposal, measures that it could have—and I am not talking about invasion—and that it should have used.

We have not sent the proper signal to Noriega and to his thugs.

Mr. KERRY. Mr. President, I support the resolution in the Senate to condemn United States corporate cash payments to Panama. I regret very much that such payments were made. These payments have the effect of propping up the corrupt Noriega regime. While unfortunately this resolution is too little, too late, it at least sends a message that Noriega must go. And that is the right message for us to be sending to Panama.

According to press reports, Noriega has managed to raise almost $3 million in recent days by taxes and fees from United States companies operating in Panama, including Texaco, Eastern Airlines, and the Chiriqui Land Co. of United Brands. Many of these payments were made in cash.

General Noriega desperately needs U.S. dollars. Panama's economy is especially vulnerable because it depends on United States dollars, which are the official currency of Panama. It is estimated that Panama needs $22 to $30 million every 2 weeks to meet its current expenses. These expenses include paying the military and 140,000 public employees in Panama. We should not be helping General Noriega to meet those payments.

The people of Panama have expressed their feelings about General Noriega by conducting massive street demonstrations, and by conducting a general strike. The United States has expressed strong support for the legitimate government of President Eric Delvalle and for the people of Panama. We have a strong bipartisan consensus on this foreign policy issue.

It is nothing less than an outrage that U.S. companies would take actions which undermine that bipartisan foreign policy, by making payments to the Noriega regime. There can be no business as usual with Noriega. He is a drug trafficker and an international outlaw. He must be forced to surrender his power and leave Panama.

The hearings which my Subcommittee on International Narcotics and Terrorism held last month clearly demonstrated Noriega's deep involvement in the flow of cocaine into this country. Manuel Noriega is literally poisoning the bloodstream of America's youth. And the shame of the matter is that, for too long, our own Government has been cooperating with Noriega. We have treated him as a security asset in this hemisphere. The truth is exactly the opposite. Noriega is a national security threat to this country.

We cannot continue to give aid and comfort to the Noriegas, the drug thugs, the Colombian cartel, and the narcotraffickers. We have got to get tough on drugs and drug traffickers. There are no other interests that come first, because nothing is more important than stopping the drug traffic.

Next week, I will hold more hearings on this subject, which will further detail the extent of the drug empire in which Noriega played an integral part. This is truly an "empire of evil." We must send a strong national message that we are serious about the fight against drugs. Noriega must go.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. RUDMAN] and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Hatfield

NOT VOTING—7

Biden
Gore
Kennedy
Kerry
Rudman
Simon
Stafford

So the resolution (S. Res. 403) was agreed to.

The preamble was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

PERMITTING CERTAIN EMPLOYEES OF THE PANAMA CANAL COMMISSION PRIVILEGES AT COMMISSARY AND EXCHANGE STORES IN THE REPUBLIC OF PANAMA

Mr. THURMOND. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 111) to express the sense of Congress regarding the temporary waiver of the prohibition of the United States from permitting certain employees of the Panama Canal Commission to purchase food and other necessities at commissary and exchange stores of the Department of Defense in the Republic of Panama.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

Mr. BYRD. Mr. President, insofar as I know, there is no objection on this side. The other side will speak for themselves.

Mr. BOND. There is no objection.

Mr. DODD. I have no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

Mr. THURMOND. Mr. President, we have just passed a joint resolution from the House which some feel may be amending the treaty, which we cannot do by that legislation.

We have a concurrent resolution which we think is a good way to handle a matter.

The joint resolution we just passed provides that those employees of the Panama Canal Commission who are United States citizens are authorized to purchase food and any other goods in any commissary or exchange store located in Panama which is operated by any military department of the United States Government.

That is fine, if we had that authority. But under the treaty, you have to get the permission of the Panamanian Government to do that.

Therefore, Senator HELMS, Senator DODD, Senator D'AMATO, and I are presenting a concurrent resolution. I will not take the time to read the entire concurrent resolution. I will read the resolving clause.

It is the sense of Congress (1) that in order to ensure the safety of the employees of the Panama Canal Commission who are citizens of the United States and to ensure the uninterrupted and efficient operation of the Panama Canal, the Government of the Republic of Panama, headed by President Delvalle, should, until such time as such employees can safely purchase food and other necessities in the Republic of Panama in adequate quantities, waive—

And that is the key point.

any restrictions in the Panama Canal Treaty of 1977 that prohibit the United States from permitting such employees to make purchases in commissary and exchange stores operated under the jurisdiction of the Department of Defense in the Republic of Panama.

The next provision was added by the distinguished Senator from Connecticut [Mr. DODD].

(2) That such waiver shall be in effect until the current crises in Panama, brought about by General Noriega's refusal to step down, continues.

Mr. President, we offer this concurrent resolution because we think this is the right way to do it. It is the right way, we feel, from a legal standpoint, and it is the right way from a psychological standpoint. If that treaty provides you have to get the Panamanian Government's permission, passage of a bill here would not have that effect, to amend the treaty. This concurrent resolution would request the Panamanian Government to go along and allow this to be done, which we think is the proper way to do it.

Mr. President, this concurrent resolution expresses the sense of the Congress regarding the authority of some 1,200 Federal employees of the Panama Canal Commission to shop temporarily at military commissaries and exchanges on military bases in Panama during the current crisis.

Our Federal employees are prohibited under the Panama Canal Treaty from shopping in U.S. military stores. They have to purchase food, medicine, and necessities of life for their families from Panamanian civilian stores in Panama City. It is a great risk to their lives if they attempt to shop because of the riots, turmoil, and the anti-American sentiment.

Mr. President, this situation has reached the desperate stage. These American families are restricted to shop at shoppettes, which do not provide meats, medicines, clothing and other essential items for these isolated families. The high level American officials in the Commission Headquarters in Panama already have authority under the treaty to shop in military stores.

Families of American employees who actually operate the canal traffic feel that they have been deserted by their Government. Their pleas to the Panama Canal Commission, the State Department and the Congress for the past several weeks have not brought any relief. They feel that their lives are in great danger as the political situation becomes more explosive.

Mr. President, efforts by the State Department and our Panama Canal Commission have been unsuccessful so far in convincing Panamanian authorities to temporarily lift the Panama Treaty restrictions. Efforts to establish emergency alternatives have fallen short of meeting the needs of our people. Greater pressure must be put on Panamanian authorities to at least temporarily waive the restriction in the Panama Canal Treaty.

Consequently, we are submitting a concurrent resolution to convince Panamanian authorities in a mutual agreement to temporarily authorize our employees and their families to shop at military stores, as an exception to the treaty until the crisis ends. This is a critical and an emergency situation for United States employees working in Panama. We must help them. I strongly urge prompt action by my distinguished colleagues.

Mr. President, I ask unanimous consent that a letter from a family who are suffering down there in Panama because they cannot purchase anything because the Government of Panama has not permitted them to do so, be printed in the RECORD. They cannot buy from the commissaries because they do not have the authority. We are trying to get immediate relief for those people down there.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Washington, DC, March 23, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: We are writing to you about the serious situation that the Panama Canal Commission employees and their dependents are facing. We reside in the Republic of Panama which has been experiencing political unrest since last June. This year the circumstances surrounding Noriega and the United States' relations with Panama has put Americans living here at a much greater risk than ever before. We are still expected to live off a tiny shoppette located in the canal area which does not supply us with meat, medicines, clothing and other necessities. We have met repeatedly with the Commission to voice our concerns of the dangers of shopping in Panama. Several wives have reported near muggings or a feeling of unease in the city where they must travel to purchase our daily needs.

Several families have stated that they are running out of food for their families. The simple solution would be to open the U.S. Army Commissaries to us on a limited basis. The State Department would object to this because it would be against the Panama Canal Treaty. However, this is clearly a desperate situation for many U.S. citizen employees of the Panama Canal Commission. The response of the Panama Canal Commission officials (all of whom shop in the Commissary) has been to offer us C-rations and no offers of protection until such time as some U.S. citizen is physically assaulted.

As Americans living overseas and working for our Government, we had hoped for a better response to our plea for help.

Yours truly,

THOMAS A. CLARKE.
MARILYN K. CLARKE.

Mr. THURMOND. Mr. President, I yield to the able Senator from Connecticut.

Mr. DODD. I thank my colleague for yielding.

The Senator from South Carolina has described the situation accurately. There are two or three points that I would reiterate that deserve repetition.

One is I believe he is correct that legislation from the House regarding a similar problem was, by statute, an attempt to modify a provision of a treaty. I believe that such an effort would fail on constitutional grounds.

What the Senator from South Carolina has done is offer a concurrent resolution which says this is what ought to be done. This, I think, is a better way to achieving that goal.

Second, he has graciously accepted a provision which I asked him to add to this concurrent resolution which would not have an open-ended waiver, which is, again, kind of a dangerous way to proceed, but defines the waiver in terms that as long as this crisis continues, upon the termination of the crisis, then the termination of the waiver. It would not be needed any longer.

Last, in the correspondence which the Senator from South Carolina has put into the RECORD, it dramatizes the problem. Our colleagues may not have noticed the other evening on one of the nightly news programs the significant problem that Americans working in the zone who are not military are having in getting food because of the strike and the shutdown of stores.

When the treaties were adopted, one of the provisions was that non-U.S. military personnel working in the zone buy their food and commodities at the local markets. It makes it very difficult for them under these circumstances.

Mr. President, I am delighted to cosponsor this concurrent resolution by my colleague from South Carolina. I think it is appropriate. We will be away for a few days. This will relieve the pressure on those citizens in the zone area having difficulty in acquiring the basic necessities. I urge my colleagues to support this concurrent resolution and I urge its adoption.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 111) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 111

Concurrent resolution to express the sense of Congress regarding a temporary waiver of the prohibition on the United States from permitting certain employees of the Panama Canal Commission to purchase food and other necessities at commissary and exchange stores of the Department of Defense in the Republic of Panama

Whereas the security of employees of the Panama Canal Commission who are United States citizens has been seriously threatened when they were shopping in the Republic of Panama and, as a result, their mobility has been severely limited;

Whereas the recent political unrest in the Republic of Panama has resulted in the closing of shops and other businesses in that country and thereby seriously hampered the ability of such employees to purchase food and other commodities;

Whereas the operation of the Panama Canal is seriously jeopardized by the inability of such employees to purchase food and other necessities safely and in adequate quantities;

Whereas paragraph 4 of Article I of the Panama Canal Treaty of 1977 requires the United States and the Republic of Panama to assure the uninterrupted and efficient operation of the Panama Canal;

Whereas since employees of the Panama Canal Commission who are citizens of the United States are essential to the uninterrupted and efficient operation of the Panama Canal, it is imperative that such employees be permitted for a temporary period of time to purchase food and other necessities at commissary and exchange stores operated under the jurisdiction of the Department of Defense in the Republic of Panama; and

Whereas the Government of the Republic of Panama has refused to waive restrictions in such treaty that prohibit the United States from permitting employees of the Panama Canal Commission who are citizens of the United States from making purchases in such stores;

Resolved by the Senate (the House of Representatives concurring), It is the sense of Congress that in order to ensure the safety of the employees of the Panama Canal Commission who are citizens of the United States and to ensure the uninterrupted and efficient operation of the Panama Canal, the Government of the Republic of Panama, headed by President Delvalle, should, until such time as such employees can safely purchase food and other necessities in the Republic of Panama in adequate quantities, waive any restrictions in the Panama Canal Treaty of 1977 that prohibit the United States from permitting such employees to make purchases in commissary and exchange stores operated under the jurisdiction of the Department of Defense in the Republic of Panama; and

(2) that such waiver shall be in effect until the current crises in Panama, brought about by General Noriega's refusal to step down continues.

Mr. **THURMOND**. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. **DODD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **THURMOND**. Mr. President, I thank the distinguished Senator from Florida for allowing me to proceed.

FIVE THOUSAND RECORD VOTES CAST BY SENATOR LUGAR

Mr. **SIMPSON**. Mr. President, I would like to join in commending the Senator from Indiana. I congratulate him for his spartan dedication to duty and his able representation of the people of Indiana.

He has compiled a 98.3-percent voting record in his 12 years of Senate service. That is a remarkable record. His commitment has given the best voting record of any Senator ever, I am told.

He has not only surpassed the record of Benjamin Harrison, but other prominent Hoosiers as well, including Thomas Hendricks and Charles Fairbanks, who both served as Vice Presidents; James Watson, who served as Senate majority leader; Sherman Minton, who also served on the U.S. Supreme Court; Albert Beveridge, the great Progressive leader; and Jesse Bright, who was the last Senator to be expelled from the body for supplying guns to the Confederacy.

During the 98th Congress, the Senator from Indiana had a perfect voting record while serving in the Republican leadership as chairman of the Republican Senatorial Campaign Committee. That leadership position required travel around the country on behalf of Senate candidates, yet Senator LUGAR missed no votes during 1983–84.

Senator LUGAR is one of the "workhorses" in the Senate, and he is most effective because he is here, voting and participating in legislation. It is indeed most fitting that we take just a moment to stop and pay tribute to him on this achievement of casting his 5,000th vote in his Senate career.

SENATOR LUGAR'S 5,000TH VOTE

Mr. **DURENBERGER**. Mr. President, I rise to hail one of the signal achievements of our colleague, the senior Senator, DICK LUGAR, from the State of Indiana. Senator LUGAR has been known for many things as a Member of this body over many years, but one of the things of which he has taken the most pride other than individual accomplishments in the making of policy has been his constant and faithful attendence to Senate business.

Mr. President, the last vote, that is, the vote on the Panama resolution, sponsored by the majority leader, myself, and others, was the 5,000th vote in the career of Senator RICHARD LUGAR. In addition to that, Senator LUGAR over the period of time since he came to the Senate in 1977 has a 98.6 percent voting record, all of which is the envy of his colleagues as is his record in general. We all rise to compliment DICK LUGAR on this occasion.

BIG CYPRESS NATIONAL PRESERVE ADDITION

Mr. **CHILES**. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 90.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 90) entitled "An Act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes", do pass with the following amendments:

Page 3, line 17, strike out "The", and insert: (a) BIG CYPRESS NATIONAL PRESERVE ADDITION.—The

Page 4, lines 14 and 15, strike out "Big Cypress National Preserve Addition."", and insert: *'Big Cypress National Preserve Addition'* and shall be managed in accordance with section 4.

Page 4, strike out all after line 15 over to and including line 17 on page 5.

Page 5, line 18, strike out " "(c)", and insert: "*(d)*

Page 6, line 21, strike out "SEC. 5.", and insert: SEC. 4.

Page 9, line 12, strike out "SEC. 6.", and insert: SEC. 5.

Page 9, line 15, strike out " "SEC. 11.", and insert: "SEC. 10.

Page 10, line 1, strike out "SEC. 7.", and insert: SEC. 6.

Page 10, line 4, strike out " "SEC. 12. Not later than one year" , and insert: "SEC. 11. Not later than two years

Page 10, lines 13 and 14, strike out " all access rights for public and private use;", and insert: the access points developed pursuant to section 10;

Page 11, line 5, strike out "SEC. 8." and insert: SEC. 7.

Page 11, strike out line 15, and insert: tion and such sums as may be necessary for development.".

Page 11, line 16, strike out "SEC. 9", and insert: SEC. 8.

Page 11, line 20, strike out " "SEC. 13.", and insert: "SEC. 12.

Page 11, strike out all after line 23, over to and including line 8 on page 12, and insert: regulations governing the exploration for and development and production of non-Federal interests in oil and gas located within the boundaries of the Big Cypress National Preserve and the Addition, including but not limited to access on, across, or through all lands within the boundaries of the Big Cypress National Preserve and the

Addition for the purpose of conducting such exploration or development and production,

Page 12, strike out lines 21-23, inclusive, and insert: activities may not be undertaken, except pursuant to a permit issued by the National

Page 13, line 3, strike out "or access".

Page 14, lines 14 and 15, respectively, strike out "or access".

Page 14, lines 17 and 18, strike out "access on, across or through federally owned or controlled lands or".

Page 15, line 2, strike out "access or".

Page 15, lines 9 and 10, strike out "access on, across or through federally owned or controlled lands and".

Page 15, lines 20 and 21, strike out "access across federally owned or controlled lands and".

Page 16, line 4, strike out all after "for", down to and including line 8, and insert: the exploration or development and production of non-Federal oil and gas rights located beneath the surface of lands within the boundaries of

AMENDMENT NO. 1925

Mr. CHILES. Mr. President, I move that the Senate concur in the House amendments with three amendments I now send to the desk. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES] proposes an amendment numbered 1925.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Purpose to clarify the intent of the bill with respect to the continuation of traditional hunting and fishing opportunities within the Addition:

"Section 10 of the Act of October 11, 1974, as added by section 5 of the bill, is amended by striking "appropriate wildlife protection and, where appropriate, hunting, fishing, frogging, and other recreational opportunities" and inserting "wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities".

Section 10 of the Act of October 11, 1974, as added by section 5 of the bill, is amended by striking "Not more than 3" and inserting "Three".

Section 8 of the Act of October 11, 1974, as amended by section 7 of the bill, is amended by striking "Addition and such sums as may be necessary for development." and inserting "Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition."

Mr. CHILES. Mr. President, I might say that the amendment and the bringing up of the bill have been cleared on the minority side with Senator WALLOP.

Mr. CHILES. Mr. President, I am delighted that the Senate is taking final action today to protect environmentally sensitive habitat at a reasonable cost by approving S. 90. This legislation will add 146,000 acres to the Big Cypress National Preserve in south Florida, a region nationally recognized for its wide variety of plant and animal species and home to the endangered Florida panther.

Acquisition for the preserve addition will be in conjunction with the planned construction of Interstate 75. This construction will sever existing access to private property north and south of the highway, requiring the payment of damages to the property owners by the Florida Department of Transportation. By passing this legislation today, we will be able to utilize the DOT severance damage funds, and thus make it possible for the public to acquire these unique lands for substantially less cost than would otherwise be possible.

As an original sponsor of the Federal legislation establishing the Big Cypress National Preserve, I am keenly aware of the role water quality and quantity plays in ensuring the livelihood of Everglades National Park which is directly south of the preserve. The Everglades ecosystem is fragile and totally dependent on the complex hydrology of the entire region. The Big Cypress Preserve was established by Congress in 1974 to make sure this important watershed area was not further developed or disrupted. Passage of S. 90 will guarantee an improved system of protection for the watershed.

This legislation will also assure that the traditional recreational opportunities including hunting and fishing allowed in the existing preserve shall occur on the addition. Although there have been disagreements in the past over management policies, I hope that the National Park Service will begin to work seriously with, and follow the guidance of, the Florida Freshwater Fish and Game Commission in the management of recreational activities including hunting and fishing. Any change in the number of hunting days or types of allowable activities should be the result of thorough study and analysis, public comment and proper documentation of degration of the resource.

I have looked forward to expanding this spectacular preserve for some time now, Mr. President, and I know that any further delay will prevent us from enjoying the cost-savings provisions of this bill. When the Federal Government has an opportunity such as this, we ought to seize it. I am pleased that the Senate will do just that today.

Mr. GRAHAM. Mr. President, I stand before my colleagues today to urge your support and approval of S. 90 with the three cleared amendments. I comment my distinguished colleague and good friend, Senator CHILES, for his diligent work over the years on this bill. It is only fitting that Senator CHILES participate in the final passage and witness enactment of this bill before his retirement from the Senate.

The Big Cypress National Preserve Addition Act authorizes the Department of Interior to participate with the State of Florida in the acquisition of a 146,000 acre addition to the Big Cypress National Preserve.

It is our hope that within the next few months, agreement will be reached on a proposed land exchange between the Department of Interior and the Collier family of Florida. This exchange would include the acquisition of much of the acreage in the preserve addition which S. 90 designates. The exchange would also include other lands in Florida criticaly important to protecting sensitive areas and species—including the 10,000 islands. As I have stated before, once agreement is reached, I stand ready to support legislation approving the exchange.

The action you take today can save one of the most significant and endangered natural resources on this continent. It is absolutely unique—one of a kind. It is the key to the survival of countless endangered species—plants and animals and reptiles—all dependent on this one fragile linchpin for their own continued existence.

A primary goal in this effort is to create an envelope of protection around Everglades National Park. If we fail to act, the 146,000 acres comprising the Big Cypress addition are likely to be developed into citrus groves and subdivisions. The resulting alterations in water flow and the degradation of water quality could be drastic. One of the most important investments in our National Parks System would be wasted.

We have an obligation to the rest of the world—not just to Floridians or even Americans—to preserve the mysterious beauty of the Everglades and the complexities of its function as a water provider—to preserve also the singular plant and animal and marine life species only found in the Everglades hammocks and marshes.

State and Federal cooperation in the purchases of the Big Cypress addition is profoundly important to the future and our quality of life. The Federal Government has as grave a responsibility to protect its considerable investment in the Big Cypress and in the Everglades National Park as it does to join Florida in preserving an environmental treasure for the rest of America—and for the world.

I encourage my colleagues to approve S. 90.

THE PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the motion.

The motion was agreed to.

EL SALVADOR II

Mr. BOND. Mr. President, today we have dealt with a matter involving Panama. We have taken steps to send money to the Contras to allow them to continue to fight for democracy in Nicaragua. I think it is also important for us at this point to look at the situation in El Salvador and its implications for United States national security.

The recent elections in El Salvador, once again, have proved a strong desire of the people of that country to live in a democratic government. The U.S. observer mission, of which I was a member, concluded that the elections were conducted in a fair and proper manner. At this time, there is still not a final resolution of all races, but it appears clear the ARENA party has done much better than in the past elections.

That party is headed by Mr. Alfredo Cristiani, a moderate businessman who studied at Georgetown University in Washington and is highly regarded by our embassy officials in San Salvador. I know my colleagues will join me in the hope the newly elected officials will dedicate themselves to ending the violence that has wracked El Salvador for most of this decade, improving the economy and especially ensuring human rights and demonstrating its commitment for all citizens.

The challenge for the Government of El Salvador will be to continue its commitment to democracy, resisting the temptation to react to the provocation of the Communist guerrillas with excessive use of force. This is one area in which the United States can be of assistance, specifically by making available dollars for additional police training to deal with urban strife caused by groups fronting for the FMLN.

The Government of El Salvador can only hope to keep the support of its citizens if they are treated fairly and humanly.

It is a difficult task, fighting against a well-financed group of Communist guerrillas, to make the government sound, stable, and secure. The FMLN, which is backed by regimes in the Soviet Union, Cuba, and Nicaragua, has made it very difficult for the still-fragile democracy in El Salvador to survive. In attacking the country's infrastructure—major public utilities such as electricity, water and telephone—the guerrillas hope to force the government to divert resources toward repairing these facilities and then give government critics the opportunity to complain that the government is not meeting other needs.

Mr. President, the Communist guerrillas are not just attacking the physical infrastructure of the country. They are attacking its people and its governmental framework as well. Documents recently recovered from a captured FMLN courier reveal extensive plans to use front groups to pursue the takeover of the government and to use peace talks merely as a means of furthering their goals of Communist domination. The documents which were captured on February 10 of this year in Chalatenango Department from a courier en route from Commandante Joaquin Villalobos to Commandante Ferman Cienfuegos provide an alarming picture of the FMLN's plans.

One document stressed that 1988-1989 is an optimal period for insurrection and talks of the need to create third forces not directly linked to the FMLN.

The document emphasizes the importance the guerrillas place on establishing and infiltrating legitimate groups in carrying out the FMLN political agenda.

Another document details a plan to create a national women's organization controlled by the FMLN and to work to get that group affiliated with international solidarity and women's organizations. The plan names specific groups which could be used as sources of recruits for the new organization. Other captured documents establish the guerrillas' intent to use peace talks to achieve the victories they have been denied on the battlefield, not to achieve peace.

For example, one document entitled "Strategic Appreciation" states:

> The value of negotiations is not to be seen in terms of the value of negotiating * * * but rather, from the perspective of the weakening of the Yankee Administration * * * of its inability to bring to bear its own power, and of its international isolation * * *.

The document goes on to discuss how the elimination of the Nicaraguan Contras through the vehicle of the Arias peace talks will work to the benefit of the Communists in El Salvador. The document states:

> The acceptance by the U.S.A. of the Nicaraguan revolution will be the consequence of a strategic defeat of global proportions which will eventually affect the U.S. counterinsurgency program and support for the government of El Salvador.

I continue:

> Because of all of this, Esquipulas II is, was and will continue to be a positive instrument for the revolution, even at the most complex margins of play, as long as the revolutionary forces use it offensively to divide and conquer * * *.

Mr. President, I could go on and on reading excerpts such as these from the captured documents. But I believe it is clear already that the FMLN is a severe threat to democracy in El Salvador. Certainly the statements made earlier this week by Comandante Villalobos make it clear that the FMLN plans to step up its war against the people of El Salvador.

It is my firm belief that the United States must continue to assist the government in fighting the FMLN and in repairing the damages caused by the guerrillas just as we have provided assistance in response to the natural disaster of the Salvadoran earthquake. We must also continue to support the government in resisting the FMLN strategy aimed at provoking government repression and forcing a cutoff of U.S. aid. Finally, by helping and promoting the growth of a strong free market economy, we can help the Salvadoran people to achieve an economically-strong country.

Mr. President, I wish to conclude with the full text of my prepared remarks.

Mr. President, the situation in Central America has been in the news even more than usual during the past few weeks. First, we were shocked to see thousands of Communist Sandinista troops pour over the border into Honduras—blatantly violating the terms of the Arias peace plan in an attempt to crush the Contras, capture their remaining supplies, and force them to concede defeat at the negotiating table.

Next we saw the surprise cease fire agreement between the Sandinistas and the Contras—an agreement which we all are hopeful will lead to true democratic reforms. I for one remain skeptical that the Sandinistas will fulfill the promises they have made. For this reason I have voted to provide the Contras at least with a minimal amount of aid which we hope will allow them to continue to exist as a viable opposition force.

This dangerous situation can have major impacts on Nicaragua's neighbors especially El Salvador. March 20, El Salvadorans went to the polls for the fourth time since 1982 to elect their representatives democratically. But now the Communist guerrillas in El Salvador are saying that they will begin a new push to overthrow the government.

I think that today while we are taking steps to send money to the Contras to allow them to continue to fight for democracy in Nicaragua, it is important to look also to the situation in El Salvador and its implications for U.S. national security.

The recent elections in El Salvador once again have proved the strong desire of the people of that country to live in a democratic country. The U.S. observer mission, of which I was a member, concluded that the elections were conducted in a fair and proper manner. At this time there is still not a final resolution of all races, but it appears clear that the ARENA party has done much better than in past elections.

We are all aware of the past human rights abuses in El Salvador, including some associated with the ARENA party. Certainly, anyone watching the evening news in the past few days has heard time and time again of ARENA's and Roberto D'Aubisson's alleged links to right-wing death squads. I do not suggest that we should brush these facts aside, rather, I believe the United States should make it clear that we will be watching closely to ensure that human rights are respected and that the democratic process is followed. At the same time, I believe it is critical to note that Mr. D'Aubisson is no longer the ARENA leader. Rather, the party is now headed by Alfredo Cristiani. Mr. Cristiani, a moderate businessman who studied at Georgetown University is highly regarded by our embassy officials in San Salvador.

It faces a difficult task in fighting against a well-financed group of Communist guerrillas. The FMLN, which is backed by the regimes in the Soviet Union, Cuba, and Nicaragua has made it difficult for the still-fragile democracy in El Salvador to survive. In attacking the country's infrastructure—major public utilities such as electricity, water, and telephone—the guerrillas hope to force the government to divert resources toward repairing these facilities and, at the same time, give government critics an opportunity to complain that the government is not meeting other high-priority needs of the people.

But Mr. President, the Communist guerrillas are not just attacking the physical infrastructure of the country, they are attacking the people, and the governmental framework as well. Documents recently recovered from a captured FMLN courier reveal extensive plans to use front groups to pursue the takeover of the government and to use peace talks merely as a means of furthering their goal of a Communist regime.

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It is my firm belief that the United States must continue to assist the government in fighting the FMLN and in repairing the damages caused by the guerillas just as we have provided assistance in response to the natural disaster of the Salvadoran earthquake. We must also continue to support the government in resisting the FMLN strategy aimed at provoking government repression and forcing a cutoff of U.S. aid. Finally, by helping and promoting the growth of a strong free market economy, we can help the Salvadoran people to achieve an economically-strong country.

The United States has a strong interest in helping its Central American neighbors, like El Salvador, to mature into full-fledged democracies. In the short term there are several steps that the United States can take to be supportive of El Salvador during this process. Some I have already mentioned, in addition we should make it clear that our support for President Duarte as the elected leader of El Salvador remains strong and that we will not back down from our commitment. Also, we should make it absolutely clear that we will watch closely to ensure that both parties demonstrate a strong respect for human rights and eliminate corruption from within.

Mr. President, Monday's edition of La Prensa contained an editorial praising the Salvadorans for their strong support of democracy on March 20. The editorial said: "The Salvadoran people have written another golden page in the book of their history. And have made known with clarity their will and desires. We ask, then, that their will and desires be respected. * * *" I share this sentiment, as I hope my colleagues in the Congress do as well share it. I hope also that my colleagues in the Congress will realize the threat posed by the Communist guerrillas in El Salvador and take actions to continue to support democracy in that country. Finally, hope that the newly elected officials in El Salvador will work to see that the will of the people is implemented and that democracy and respect for human rights becomes a lasting figure in El Salvadoran life.

Although we will have to wait and see what the election means for El Salvador's future, the turnout Sunday showed that El Salvador is clearly committed to democracy. The statistics that have come in are ones of which all El Salvadorans can be proud. Approximately 70 percent of eligible voters went to the polls—despite the facts that they faced long trips to the polls, long lines at the voting booths and threats of violence from the Communist FMLN guerrillas. I only wish that here in the United States where voting is both quick and easy, we could get so large a percentage of the electorate to the polls.

I know that my colleagues join me in the hope that the newly elected officials will dedicate themselves to ending the violence that has wracked El Salvador for most of this decade improving the economy, and especially ensuring human rights and demonstrating its commitment freedoms for all citizens.

The challenge for the Government of El Salvador will be to continue its commitment to democracy, resisting the temptation to react to the provocation of the Communist guerrillas with excessive use of force. This is one area in which the United States can be of assistance—especially by making available dollars for additional police training to deal with urban strife caused by groups fronting for the FMLN.

The Government of El Salvador can only hope to keep the support of its citizens if they are treated fairly and humanely.

PANAMA CANAL TREATIES POSE IMPENDING THREAT

Mr. HEFLIN. Mr. President, in the last 48 hours it has become clear that Gen. Manuel Antonio Noriega has managed to maintain his control of the dictatorship in Panama, despite the general strike waged against him by the people of Panama and despite the economic measures imposed by the United States in an effort to oust him from power.

Indeed, it appears that Noriega has become even more entrenched as dictator of Panama. In the last few days he has been successful in efforts to raise much-needed capital to keep his dictatorship running and has, thereby, temporarily forestalled the immediate crisis with which he was faced.

A more alarming development, however, are reports that Fidel Castro has sent Noriega tons of Cuban weapons and ammunition, and roughly 35 Cuban military and political advisers to help him maintain his oppressive dictatorship over the people of Panama.

If my predecessor in the U.S. Senate, the late Senator Jim Allen, who led the opposition to the Panama Canal Treaties, were alive today to learn of these developments, I am sure that he would be tempted to say, "I told you so."

Months before he died 10 years ago, while arguing against the Panama Canal Treaties, Senator Allen warned of a danger which appears to be coming true today. "We do not know," he said, "what the situation is going to be in the year 2000. Is there any prophet here who is able to say what the governmental status of Panama will be in the year 2000. Panama might be a Cuban satellite * * *."

It appears that Senator Allen may have been that prophet. It looks as if his fears have been realized and the Panamanian dictatorship is moving closer and closer to Cuba and the Soviet Union than ever.

In the last weeks I have watched the developments in Panama with growing alarm. I think my position on the Panama Canal Treaties is clear. Although I was not a Member of the U.S. Senate in 1978, I opposed Senate ratification of the Panama Canal Treaties during my campaign for the Senate, and am still opposed to the Treaties. I have voiced my opposition to these treaties on a number of occasions, and voted against implementation of the treaties.

Because of the current developments in Panama and the fact that Noriega is receiving arms and advisers from Cuba, I again urge the administration and the U.S. Senate to consider the possibility of rescinding the Panama Canal Treaties.

The Panama Canal Treaties are already restricting the ability of the United States to help the people of Panama oust their oppressive dictator. The people of Panama have repeatedly sought U.S. assistance in ousting Noriega from power. However, both the Panama Canal Treaty and the Treaty Concerning Permanent Neutrality and Operation of the Canal deny any right of the United States to intervene "in the internal affairs of Panama" (Panama Canal Treaty, Reservation (1); Treaty Concerning the Permanent Neutrality and Operation of the Panana Canal, Amendment (1), paragraph 2.)

Another provision of the Panama Canal Treaty poses an impending threat to the national security of our Nation. Although the Panama Canal Treaties of 1977 do not provide for the giveway of the canal to Panama until the year 2000, they do provide that in 1990, less than 2 years from now, a Panamanian national will take over as the Administrator of the Panama Canal Commission, the U.S. agency which governs the operation of the Panama Canal.

Specifically, the Panama Canal Treaty directs that, "beginning January 1, 1990, a Panamanian national shall be employed as the Administrator" of the Panama Canal Commission. "Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions," (Article III, section 2, paragraphs (c) and (d)).

I have nothing against Panamanians. However, when you realize that this Panamanian administrator for the Panama Canal Commission will be selected by the Panamanian Government—which is saying that this administrator could be appointed by Gen. Manuel Noriega should he be in power in Panama at that time—you realize that this administrator could likely be a person who will be under the direct control of Noriega and the Panamanian dictatorship.

It is therefore conceivable the Panamanian dictatorship could have some control over operations of the Panama Canal in less than 2 years. Possibly the most troubling prospect is that the Panama Canal Commission maintains control over all vessel movement through the canal. Thus, it is possible, Mr. President, that vessel movement through the Panama Canal could be controlled by a corrupt lackey appointed by Gen. Manuel Noriega. Indeed, if Noriega is still in power at that time, he could decide to appoint himself as Administrator of the Panama Canal Commission. The only qualification that is evident from the terms of the Panama Canal Treaty is that the Administrator be a Panamanian national.

I believe it is clear, Mr. President, that because of the control a Panamanian Administrator could have over the Panama Canal Commission in less than 2 years, the citizens of America could be faced with a serious threat to the control and successful operation of the Panama Canal.

In 1990, when this provision of the treaty takes effect, there is a strong possibility that Noriega will be able to appoint anyone he wishes to be Administrator of the Panama Canal Commission—no matter what his background is in drug smuggling, no matter what his ties may be to Cuba and Fidel Castro, no matter what his ties may be to the Soviet Union—and this person will be the Administrator of a U.S. agency which has control over the Panama Canal, a structure which is vital to our national security and economic strength.

Senator James Allen also warned of this danger almost exactly 10 years ago, on February 20, 1978, in the following statement:

> Instead of waiting until the end of this century for Panama to get full control (of the canal), it looks like, with the Administrator coming in, the Panamanian in 1990, Panama pretty well has control rights from the start. So Mr. Torrijos could send over the names of any * * * Panamanians he might wish to send over, no matter what their reputation, no matter what their background, no matter what their ties to other governments * * *

It is clear from Senator Allen's words that, while some of the names in Panama have changed in the last 10 years, other names, the corruption, the sordid practices, and potential threats to the canal remain the same.

One name which has been associated with corruption and drug smuggling in Panama for some time, Mr. President, has been that of Manuel Antonio Noriega. As many of my colleagues may remember, during a closed session the Senate conducted on February 21, 1978, then Colonel Noriega was recognized by Senator Birch Bayh as having "sometimes cooperated with and sometimes frustrated U.S. (drug) enforcement efforts." (CONGRESSIONAL RECORD; February 21, 1978; page 3980 of the permanent RECORD; unclassified.)

About 2 weeks later, according to a report from the New York Times on March 4, 1978, Senator Bayh "did assert that General Torrijos had tolerated drug dealing by 'a very popular figure' in the Panamanian National Guard * * * Col. Manuel Antonio Noriega, the head of the intelligence service." (New York Times, March 4, 1978, page 5, column 4.)

Mr. President, we do not know what kind of government there will be in Panama next year, next month, or even tomorrow, much less 11 years from now when we are scheduled to move our soldiers out of Panama and give the canal away. It is entirely possible—even likely—that the Panamanian Government will be worse than it is today. It is certainly heading in that direction. Ten years ago not many Senators realized that Fidel Castro would be sending arms and Cuban advisers to bolster the strength of a Panamanian dictator. Not many Senators who supported the Panama Canal

Treaties throught that, instead of having a dictator down in Panana whose brother was a drug smuggler—and I am referring here to Omar Torrijos and his brother—not many Senators believed then that Panama would today be ruled by a dictator who was, himself, involved in smuggling drugs to the United States.

Unpredictable, left-leaning, drug-dealing government officials have been the norm in Panama for years. I do not believe that there is going to be some miraculous transformation in Panama in the next days, months, years, or even in the next decade.

Bearing in mind the Cuban military assistance General Noriega has received, the unsettling involvement of officials and leaders of the Panamanian Government with Cuba and the Soviet Union, drug trafficking, and other corruption, and the long history of unpredictability and instability within the Panamanian Government, I believe the U.S. Senate and the administration should begin examining the dangers we face as a Nation in Panama and relative to the Panama Canal, should implement steps to prevent Panama from taking control of the Panama Canal Commission in the immediate future, and should begin examining long-term remedies, including the rescission of the Panama Canal Treaties or parts of the Panama Canal Treaties.

The crisis America now faces in Panama will not go away and must be dealt with.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

DEATH PENALTY FOR COP KILLERS

Mr. WILSON. Mr. President, on February 5 of this year, George Montoya and Paul Seema were murdered in Pasadena, CA. They were shot in the head at point-blank range.

Mr. President, shortly I will introduce a bill that will seek to impose a Federal death penalty. It will also provide for an increase to $100,000 from the present benefit of $50,000, set many years ago, for the survivor benefit for those who live after the trauma of the slaying of a Federal officer.

This, it seems to me, is the least that a grateful Nation can do. It seems to me, as well, that it is not enough that we simply seek to compensate the widow and children who are left behind when a Federal officer is gunned down, as were Paul Seema and George Montoya, in cold blood, because those families clearly would prefer never to receive those survivor benefits.

They would prefer, instead, that this Nation do what it should, through its laws, to protect those they love, who are sworn officers of the law, on our streets and in foreign countries, fighting what we have termed the war against drugs.

George Montoya and Paul Seema were both special agents of the U.S. Drug Enforcement Administration. They were shot to death by drug traffickers.

These were not accidental slayings, nor did they occur in the heat of passion. They were premeditated murder for profit. The two officers were set up in what was clearly intended to be a ripoff. The officers thought they were setting up an undercover buy. The two pushers clearly intended never to deliver the illegal drugs but simply to take the $80,000 they had requested as payment. Hardly a crime of passion. Hardly done in the heat of the moment.

These were cold-blooded, premeditated murders of Federal drug agents, shot at close range by members of an organized crime group, apparently connected to a heroin cartel in the Far East. These murders were not simply attacks on two dedicated law enforcement officers. They were attacks on the Federal justice system and, in fact, no less an attack upon society itself.

Yet, the only way in which the perpetrators of these crimes against the Federal Government and its officers may be subject to the death penalty is for them to be prosecuted and convicted under State law.

Mr. President, the lack of a constitutionally sound Federal death penalty is an outrage. It is an insult to the men and women who work for the Federal law enforcement agencies who do, in my judgment, the most dangerous job imaginable. And it is a signal that the Congress is not willing to do all that is necessary and constitutionally sound to wage a war against drug traffickers and to protect those who have the courage to fight it each day out on the line, be they undercover street cops, deputy sheriffs, or Drug Enforcement Administration and customs officers working in foreign countries.

Mr. President, the death penalty is a deterrent to murder. It is a deterrent to the kind of premeditated killing that occurs not in the heat of passion, but the kind of crime that is done with great malice and planning aforethought as was the case in the killing of these two officers in Pasadena.

If we are not willing to apply the dealth penalty to those who, in cold blood, kill an FBI or DEA agent, or a policeman or policewoman, or a deputy sheriff who is fighting our Nation's fight against drugs, then we are not willing to protect our own, not our own children and not the officers who are sworn to protect them.

Our streets are becoming ever more dangerous for law-enforcement officers, who are often outgunned and outmanned by drug gangs and pushers. A drug dealer may have second thoughts about pointing a gun at a cop if he knows that he may pay the ultimate price for his crime. He will have no second thought if he has the absolute knowledge that he can pull the trigger with impunity as did the two who murdered Paul Seema and George Montoya.

Unless we act to redress this situation, we let drug traffickers know that they can walk up to a DEA agent, put a gun to his head, and pull the trigger—and yet not suffer the ultimate penalty of capital punishment. This must be changed.

We should also let the law enforcement community know, and the public that is also struggling with the problems created by illicit drugs, that the Government will exact retribution for the killing of law enforcement officials. Along with deterrence, retribution is an appropriate goal of criminal punishment. It is appropriate that we let those who would pull the trigger know that it is going to cost them.

Fortunately Mr. President, most States do have death penalties. My home State of California has a death penalty statute in place.

But unfortunately, the presence of certain justices, notably former Chief Justice Rose Bird and others of like mind, made the State penalty a nullity for all too many years until in 1986 she and several others were removed by vote of the people of California.

The present court, lead by Chief Justice Malcolm Lucas, will allow executions of convicted murderers when the State's statutory procedures have been followed. With this in mind, U.S. Attorney Robert Bonner has referred the Montoya and Seema murders to local prosecutors, who have indicated that they will seek the death penalty. But, the Federal Government should not have to depend on local prosecutions in order to redress an attack against its law enforcement officers and, as I have said, against society itself.

The Congress has declared war against drug trafficking. In that war, we not only must make use of Federal personnel, but also the thousands of State and local law enforcement officers who are engaged in the same fight around the Nation.

Joint task force operations are absolutely vital. They are essential to the success of the antidrug effort, an effort not only to stop drug dealing at the site of the joint law enforcement operation but also to stop the flow at major distribution points throughout the United States.

For example, Mr. President, a heroin seizure in New York or in Los Angeles may very well prevent the sale of heroin in the streets of Kansas City.

At the time that agents Montoya and Seema were killed, they were engaged, along with Special Agent Jose Martinez, in an undercover, joint operation with the Monterey Park, CA, Police Department. The target of the operation was a drug ring dealing East Asian heroin—a violation of the Federal Controlled Substances Act. Had operational decisions been somewhat different, Monterey Park undercover police may have been the ones in the car when the drug dealers entered and started shooting.

Mr. President, if we are going to enlist successfully State and local law enforcement officers in our national war against drugs, as we must to be successful, then we must, if we are to have a chance of that success, see to it that Federal criminal sanctions should apply to drug dealers who attack them.

Mr. President, with these needs in mind, I am today introducing the Law Enforcement Officers Protection Act.

This bill will create a constitutionally valid, capital punishment statute. It will serve to protect all Federal law enforcement officials as well as State and local law enforcement officials engaged in enforcing Federal drug laws.

Section 2 of my bill makes it a capital offense, punishable by death, to murder a Federal law enforcement agent, prosecutor, judge, prison official, or parole or probation officer.

Section 3 of my bill makes it a capital offense, punishable by death, to murder a State or local law enforcement officer, such as a sheriff's deputy or a policeman or woman, a State or local prosecutor, or a judge when the murderer commits his crime while committing a violation of Federal drug laws, or while trying to avoid apprehension or prosecution for such a violation. It also would apply to the murder of State or local correctional officers if the murderer is serving a sentence in a State facility for the commission of a Federal drug crime.

Thirteen States at present do not have in place constitutionally sound death penalty statutes—including New York, where drug dealers recently murdered a 22-year old police officer. Even if the legislators in the States do not want to deter the murder of their law enforcement officials by drug traffickers, the Federal Government should, for as I have said, they are all fighting in the national war against drugs.

Both sections 2 and 3 establish sentencing procedures to be followed upon the finding of guilt by the jury, or the judge in a nonjury trial. Both aggravating and mitigating circumstances would have to be considered before a death sentence could be imposed, and only upon a finding beyond a reasonable doubt of the existence of the aggravating circumstances and a determination that they outweigh any mitigating circumstances.

Finally, my bill would increase to $100,000 the Federal death benefit paid to the survivors of a police officer killed in the line of duty. Since the benefit level was set at $50,000 many years ago, inflation has greatly reduced its real value. An increase to $100,000—especially in light of the increased risks to law enforcement officers—is more than appropriate.

And again I would point out, Mr. President, that there is no accident about the coupling of these provisions. It is quite deliberate. We do need to protect the families of those officers who are so much at risk but more to the point for the benefit of those families and our own selfish benefit, we need to reduce that risk to the officers whom they love, those officers sworn to protect our young people.

The streets of this Nation are needlessly dangerous and in no small measure because those who make them dangerous know they can kill without being killed as a result. They know that they can pull the trigger and never pay with their own lives if they are in fact apprehended by Federal officers for a Federal offense.

Mr. President, that is an intolerable situation.

I see my friend, the junior Senator from New York. He has been eloquent on this floor and elsewhere about the necessity for this kind of change in the law. It is not surprising, I must say, that he has been eloquent long before the recent tragedy in New York which claimed the life of Patrolman Byrne.

Mr. President, it is for that reason that I am particularly grateful to him and particularly proud to announce that he is a cosponsor of this legislation.

Mr. President, I thank the Chair and yield the floor to the Senator from New York.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. EXON). The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me at this time pay tribute to Senator WILSON for his dedicated leadership in this area and for taking the initiative in the area as it relates to the decertification of Mexico, a nation which has not lived up to its international agreements or its agreements with the United States in regard to drug enforcement. Senator WILSON's efforts, I believe, strike a very real blow against drug dealers by sending the message that we are not going to continue to do business as usual with those who sponsor international drug terrorism. That international terrorism is being spawned in our streets throughout America and it is about time that we began to have more concern, or at least as much concern, for the lives of those who are charged with defending us—our police officers on the local level, our State officers, our Federal narcotics officers—so that we do not have a situation where they are gunned down with impunity.

Let me suggest that somehow we have mixed up our priorities. The bill that Senator WILSON has carefully crafted is long overdue. We cannot afford to have the drug lords in this country, or in foreign countries, giving orders to execute our law enforcement officers. And that has happened in New York and it has happened in California. It is the kind of thing that we have seen take nations down to their knees—Colombia, where the Justice Minister is murdered, where the Attorney General is murdered, where those judges who dare preside truthfully and fairly and render justice are murdered and eliminated by the drug cartel—where no one dares preside over a drug trial; where you have now the Attorney General of Panama who says they are not going to live up to the extradition treaty they signed with the United States.

PANAMA

Mr. D'AMATO. Mr. President, today we voted on a series of resolutions. We voted on the resolution that said we are going to urge the President to use the extraordinary powers that he can invoke as it relates to cutting off all trade and bringing about the kind of economic embargo in Panama that should have been brought about much earlier, but that we have done halfheartedly.

Today we have seen legislation introduced that would deny foreign tax credits to United States companies in Panama which pay taxes to General Noriega, who is not the legitimate president of that country. And yet, at the same time, Mr. President, within the past 24 hours, we have seen at least four major United States companies pay millions of dollars over to Noriega directly so that he could continue to employ his goons, his thugs; and he rules with that barrel of a gun.

Now, why did that happen, Mr. President? How is it that this administration that proclaims that it wants to do all that it can to aid the Panamanian people and their quest for democracy, how is it that mixed signals can be sent from this administration saying, whether it is to Eastern Airlines or United Brands, or whatever other company, "Yes, give tax money that belongs to Panamanian people in cash and turn it over to Noriega"?

It would seem to me that if we were worried about them facing the consequences of not yielding to a thug, to a blackmailer, why, then, we should be willing to back up our U.S. citizens and our U.S. companies if indeed he were to attempt a takeover.

I am just suggesting that what we have done is put the Panamanian people out on the line. On the one hand, we recognize President Delvalle and we say, "We want Noriega out. He is an indicted drug runner." On the other hand, when it comes time to give action to back up those Panamanian people who have gone without food, who have gone without money, who went out on strike and are looking to the United States for hope, what do we do? We have an administration that says to U.S. companies, "Pay him. Pay him in cash and this way you will protect your own interest."

Now, how long do you think the Panamanian people will have trust in the United States of America? We have led them half-way across the desert and we have now stopped in the middle of the desert and will not allow them to go forward. They have nothing else to do but to turn back to the coercive power of Noriega and his drug runners.

And so while I support the legislation that would withhold foreign tax credits to U.S. companies, I have to ask: How is it that we would have said to those companies within the past 24 hours, "Give this bandit, give this outlaw, give this tyrant, give this representative of the forces of evil and the drug cartel millions of dollars in cash"?

I want to tell you that it is mind-boggling. We have not had any debate with respect to that, we have not had sufficient inquiry, and that certainly is a wrongheaded policy.

Mr. President, I would like to read just part of a letter that I received today from an American citizen who was a resident of New York whose husband works at the Panama Canal. Just let me read a small excerpt. It says:

> Now, they know that Americans have money, so we are lucky to make it to the grocery store, get our supplies, and head back home again, without being robbed. The cops stop us and they either want money or will take whatever we have.

The woman goes on to say:

> We have been told that if it gets worse here in Panama—and we all know that it will, by the way—we are not allowed on the Army base for protection. Our only protection is Noriega's men. We have a letter from the Army stating that if an evacuation should arise, the children at school will be left for their parents to pick up, but the Army children will be taken back to safety. Let us hope the roads are open so that the parents are able to reach them.

It goes on to say:

> The Army has passed out evacuation packs last week. The answer to our question, when we asked "Where is ours?" was that our goal is to keep the canal running no matter what.

Signed Nancy Riley, Box 82, Speculator, NY.

And so to those who say, "Well, are you really exaggerating the threats to U.S. citizens?", here is a citizen who says that when they go shopping they are robbed, their money is taken, their goods are taken; they are told that they cannot use the Army base in the event of an emergency, do not turn there; and when they are asked what should they do if things get difficult, they are told, "Well, your job is simply to continue to run the canal."

I want to say, Mr. President, it is about time that we understood that you are not going to get Noriega to step out with sweet talk; that the Cubans have come in and have begun to fill a vacuum there; that the Cubanization of Panama indeed is underway; that currency is currently being printed by the Cuban team so that they will no longer look to the United States, and the economic impact that we have will be minimized in the days and weeks to come; that vast supplies of ammunition have been flown in and arms have been flown in from Cuba to Panama; that intelligence teams and teams of all aspects from Cuba are presently in Panama operating.

And what do we do? We send down a Deputy Assistant Secretary of State to ask Noriega if he might be willing to go to Spain.

I have to tell you, you do not approach a thug who respects power by sending a Deputy Assistant Secretary of State to ask him if he would please like to leave and go to Spain. You send someone who commands some force, who can deliver the kind of message to Manuel Noriega that should be delivered and should have been delivered a long time ago with the respect and authority of power.

I would suggest that if we had sent the same kind of message to Marcos or to Baby Doc in the same kind of manner that they would probably still be there.

I suggest that a great nation at times must stand and act like a great nation and take the kinds of steps that are necessary. I do not buy the logic that says: Let us wait for things to get worse. Let us wait until we really have more in the way of situations that directly affect the United States. The American people recognize the importance of Panama, the importance of the Panama Canal, the importance of fighting for democracy and liberty, the importance that that canal should not fall into the hands of the Noriega-Castro conspiracy. And every day we delay we occasion that drift, we cause more and more Panamanian people who look to us for leadership to become disheartened and indeed they are turning against the United States. They feel betrayed. And I understand that.

That is why they are beginning to open up the shops, to go back to work. And they do it with despair and the feeling that the United States of America has abandoned them.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

BLACK AND WHITE PHOTOGRAPHIC PRINTS ON DISPLAY IN THE ROTUNDA

Mr. SIMPSON. Mr. President, I do want to again alert my colleagues to a display of black and white photographic prints which will be on display in the Rotunda of the Senate Russell Building, Monday through Friday of next week for the enjoyment of Senators, staff, and visitors to the Nation's Capital.

The exhibition includes prints of Gannett Peak, the Absaroka and Washakie Wilderness, as well as the Wind River Mountains. They are all the work of R. Charles Phillips of my native State of Wyoming who has studied under the world renowned Ansel Adams. I do commend them to you.

THE DEMILITARIZATION OF THE REPUBLIC OF CYPRUS—THE FIRST STEP ON THE ROAD TO PEACE

Mr. PRESSLER. Mr. President, as a long time supporter of the Republic of Cyprus and its quest for freedom from Turkish oppression, I commend newly elected Cyprus President George Vassiliou for his recent efforts to promote a lasting settlement of that 14-year-old conflict. While President Vassiliou's initiatives have yet to bear fruit, I am hopeful that his optimism and determination will convince Turkey that it is time to end its illegal occupation of Cyprus and allow the people of that country to settle their differences without external interference.

Clearly, the time is right for action in this regard. The positive "spirit of Davos" resulting from the January 31 meeting between Prime Minister Papandreou and Prime Minister Ozal has given new impetus for resolving the major issue dividing those two NATO allies, the conflict in Cyprus. Rhetoric notwithstanding, Prime Minister Ozal must recognize that without a resolution of this issue, any progress made toward a rapprochment between Turkey and Greece will soon be lost.

The leadership in Turkey has stated on numerous occasions that they do not consider the removal of their troops from Cyprus a viable option because of their security interests and the security interests of the Turkish Cypriots. Clearly, such a position defies logic. The island of Cyprus is 40 miles off the coast of mainland Turkey. As such, Turkey has the acknowledged ability to transport a significant invasion force from the mainland to Cyprus within hours of any "threat" to its security interests. Why then do these interests require the maintenance of a force of 35,000 heavily armed Turkish troops on Cyprus, artifically dividing that country and its people?

Any legitimate Turkish security concerns about threats by Cyprus are addressed in the recent initiative by President Vassiliou to demilitarize the Republic of Cyprus. Under this plan, the Republic of Cyprus would be willing to dismantle its own defense system and the Cyprus National Guard upon the withdrawal from Cyprus of all Turkish troops and the 65,000 illegal Turkish settlers. In addition, the plan includes the withdrawal of all Greek and Turkish troops in Cyprus under the 1960 Treaty of Alliance. Finally, the plan envisions effective international guarantees and an international peace force under UN auspices to ensure Cyprus' internal security.

Clearly, a demilitarized Republic of Cyprus can pose no threat to Turkey. Prime Minister Ozal should recognize President Vassiliou's offer to dismantle the Cyprus' own defenses for what it is: an unprecedented opportunity to resolve the one factor preventing any improvement in relations with Greece and the world community generally. I ask my colleagues to join me in urging Prime Minister Ozal to agree to this demilitarization program as the first real step toward a lasting solution to the Cyprus problem.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, appoints Dr. Johnnetta Cole, of Georgia, to the Board of Trustees of the American Folklife Center.

TRAGEDY IN SOVIET ARMENIA

Mr. DOLE. Mr. President, 12 days ago, I wrote to Soviet leader Gorbachev, expressing my deep concern about the suppression of human rights in Soviet Armenia, and the widespread violence being directed at Armenian citizens, both in their home "republic" and in neighboring Azerbaijian. According to some reports, hundreds of Armenians may have died—men and women whose only crime was demonstrating peacefully for what they believed to be their political and cultural rights.

In my letter, I told Mr. Gorbachev that the Soviet response to the "legitimate demands of many national groups in the Soviet Union"—including in Soviet Armenia—"would be one key test" of whether the Soviets' so-called "new policy on nationalities" would be real or a sham. I ask unanimous consent that the full text of my letter to Mr. Gorbachev be made a part of the RECORD.

I have not yet received a personal reply from Mr. Gorbachev. But, tragically, in the Armenian case at least, all of us can now view for ourselves the Soviet answer to the concerns I expressed. The Kremlin has chosen to reject all of the demands of ethnic Armenians, and has decided to suppress further expressions of Armenian cultural and political identity, forcibly if necessary.

Mr. President, glasnost has become part of our vocabulary. But it has not yet become a real part of the Soviet system.

"Glasnost" is a word. But the forceful repression of human rights in Armenia—and in Latvia and Lithuania and many, many other places in the Soviet Union—drives home to us once again that Soviet action speaks far louder than words.

Mr. President, I appeal again to Mr. Gorbachev and his Kremlin colleagues to match their action to their words, and to live up to the commitments that the Soviet state has made again and again—in the U.N. charter, in the Helsinki accords, and in all the propaganda or Mr. Gorbachev's glasnost.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

March 19, 1988.

His Excellency MIKHAIL S. GORBACHEV,
General Secretary of the Central Committee of the Communist Party of the Soviet Union, The Kremlin, Moscow.

DEAR MR. GENERAL SECRETARY: I am deeply concerned about widespread violence recently directed against Armenians in the Soviet Union, who were only engaging in peaceful demonstrations demanding their political and cultural rights.

Hundreds of thousands of Armenians resident in Armenia and Azerbaijian have joined together in peaceful demonstrations demanding unification. Those demonstrations have been met with violence originating from other residents of Azerbaijian, leading to the death and injury of hundreds of Armenians. Indeed, the seriousness of the unrest was demonstrated by the need for your personal intervention, calling for a restoration of order.

The legitimate grievances of the Armenian people of the Soviet Union must be addressed with more than violence and repression. You have promised a new nationalities policy, dealing fairly with the legitimate demands of many national groups in the Soviet Union for greater freedom and cultural autonomy. Many in the United States and around the world will consider your response to the situation of the Armenian population of your country as one key test of the sincerity and efficacy of any new policies which do emerge.

Sincerely yours,

BOB DOLE,
U.S. Senate.

BICENTENNIAL MINUTE

MARCH 31, 1842: HENRY CLAY QUITS THE SENATE

Mr. DOLE. Mr. President, when we think of the Senate's early years, we conjure up images of fiery oratory and impassioned debate. One such memorable event occurred 146 years ago today, on March 31, 1842. The occasion was Senator Henry Clay's retirement from the Senate, bringing to a close, at least for the time being, a congressional career that had spanned nearly 40 years.

Henry Clay chose to leave the Senate for several reasons. The 63-year-old Senator had been suffering from poor health—both physically and financially. His relations with long-time rivals John C. Calhoun and Daniel Webster had become unusually acrimonious. Two years earlier, he had been passed over for the Whig Party's Presidential nomination and he was determined, as that party's most prominent leader, to consolidate his leadership, unite his party, and plan his 1844 Presidential campaign from the comfort and security of his estate at Lexington, KY.

One biographer has called Clay's valedictory address "an epoch in the history of the Republic."

> At the time of my entry into this body, which took place in December 1806,

Clay began in a voice trembling with emotion,

> I regarded it, and still regard it, as a body which may be compared, without disadvantage, to any of a similar character which has existed in ancient or modern times. * * * And now, in retiring, I beg leave to deposit with it my fervent wishes, that all the great and patriotic objects for which it was instituted, may be accomplished—that the destiny designed for it by the framers of the Constitution may be fulfilled—that the deliberations, now and hereafter, in which it may engage for the good of our common country, may eventuate in the restoration of its prosperity, and in the preservation and maintenance of her honor abroad, and her best interests at home.

When Clay concluded, Calhoun—tears streaming down his face—silently crossed the Chamber, and the two adversaries embraced. Clay's retirement proved to be premature, for he returned in 1849 and served until his death in 1852.

UCONN WINS NIT

Mr. WEICKER. Mr. President, I would like to take this opportunity to congratulate the entire University of Connecticut basketball team. Last night, in a much-deserved victory, the Huskies downed the Buckeyes of Ohio State 72-67 to win their first National Invitational Tournament championship.

Trailing in the second half, the Huskies of Connecticut fought back, displaying the never-say-die spirit they have played with all season, and eventually prevailed over a tough Big Ten opponent. Junior guard Phil Gamble had a season-high 25 points to lead UConn. He had seen some tough times with this team in the past few years, but he never gave up. The same goes for the entire team. Coach Jim Calhoun gave them hope and confidence, and no one on this UConn team quit.

Cliff Robinson had a fantastic season controlling the boards and leading the team in scoring, as did Phil Gamble and Tate George at the guard positions. Connecticut natives Steve Pikiell and Murray Williams, from Bristol and Torrington respectively, did a great job. King, DePriest, McCloud, Ursery, Economou, Kibbe, Simmons, Spradling, the entire team, and, of course, Coach Calhoun and his assistants, Dickenman, Leitao, Woodward, Miller—they all deserve congratulations.

They lost several tight Big East games this season. Many people counted them out, but the Huskies played with spirit and put it all together to win the NIT. I think it is a fitting and well-earned ending to their season, and it lays the foundation for even better things to come next year and beyond for the UConn basketball program.

Connecticut salutes the Huskies on their 1988 NIT championship, and the entire university for standing behind this program.

THE UNIVERSITY OF CONNECTICUT'S NIT CHAMPIONSHIP

Mr. DODD. Mr. President, the Nation has not heard a great deal from the University of Connecticut men's basketball team over the last few years. However, that is changing. Last night, the UConn Huskies defeated the Ohio State Buckeyes 72 to 67 to win the 51st annual National Invitational Tournament. I rise to congratulate the University of Connecticut for that accomplishment.

At the beginning of the season, I doubt many people expected much from the Huskies. Coming off a 9 and 19 season, the common hope was that UConn would improve enough to be competitive and set the ground work for success in the somewhat distant future.

Well, the future arrived a lot sooner than most expected. In addition to the NIT championship, the Huskies achieved a 20-win season, ending the year with a won-loss record of 20 and 14. Furthermore, the win over Ohio State gave Connecticut a remarkable record of 14 and 1 against nonconference opponents.

The credit must first go to coach Jim Calhoun and his assistants and the players. Clearly, they had expectations; clearly, they believed from the beginning. The Huskies victory over a strong Pepperdine team during a road trip to the west coast was a strong hint that this was a quality basketball team. Its impressive play in the Big East, arguably the finest conference in division I basketball, strengthened that claim, especially the victories over Syracuse and Georgetown.

Becoming a quality team after struggling for a few years is a significant achievement. However, to then become a championship team requires stepping up yet another level. During the NIT, UConn conquered that challenge as well. The Huskies defeated five talented teams on its way to the championship, West Virginia, Louisiana Tech, Virginia Commonwealth, Boston College, and Ohio State.

The University of Connecticut is celebrating today, dutifully enjoying the spoils of victory. However, the true glory days actually lie ahead. The NIT may no longer be the equivalent of the NCAA but, judging from the recent past, the college basketball world ought to be wary of the UConn Huskies. Consider for a moment some of the teams that have played in the NIT championship game over the last few years, Indiana, Notre Dame, Wyoming, and Michigan.

The University of Connecticut is experiencing basketball mania. The students, the faculty, the alumni and the citizens of Connecticut are expressing their pride and gratitude for their basketball team. Because the program is fundamentally sound, committed to academic excellence, the students, faculty, alumni, and citizens of Connecticut can take great pride in the accomplishments of this basketball team. Likewise, I would like to express my gratitude and admiration.

INF VERIFIABLE GREAT NEWS FOR FUTURE ARMS CONTROL

Mr. PROXMIRE. Mr. President, the administration's Arms Control Agency has reported that the terms of the INF Treaty will enable our country to effectively verify Soviet compliance. This is a critical conclusion for several reasons. First, the Arms Control Agency has been consistently skeptical and critical of arms control agreements in the past. It has been highly suspicious of Soviet compliance with arms control agreements. Even in this report the ACDA concludes that Soviet declarations for total numbers, locations, and characteristics of their intermediate missiles could be false. For that reason the ACDA report tells us that the Soviet declarations will not be used to verify Soviet compliance.

Why then does the Arms Control Agency have such faith that the United States can effectively verify Soviet compliance? Because ACDA reports that the verification measures required by the treaty, "pose significant risks for the Soviets of United States detection and impose considerable complexity on the Soviets should they seek to acquire a militarily useful covert force." Some opponents of the treaty have expressed concern about the Soviet announcement that they plan to destroy only 650 SS-20's. In January, Defense Secretary Carlucci testified before the Senate Armed Services Committee that this number is approximately right. But the Defense Intelligence Agency [DIA] says that the Soviets have at least 165 additional intermediate nukes. Opponents of the INF Treaty have charged that the Soviets have concealed these additional nuclear weapons for possible use against free Europe.

The Arms Control Agency concedes that INF opponents may be right on this point. But ACDA responds that the following provisions of the INF Treaty will require militarily effective compliance with the treaty's terms.

First, all launch critical equipment will be destroyed in the presence of U.S. experts. Note this would include the trucks, the storage facilities, the maintenance facilities, all the equipment that is essential to enable the INF missiles to work—all of this must be destroyed and accounted for in the presence of NATO experts.

Second, the INF Treaty prohibits all flight tests of intermediate nuclear missiles. The treaty triggers that prohibition to take effect 6 months after the treaty goes into effect. Without at least occasional flight tests it will be impossible for the Soviet Union to know if the remaining intermediate missiles are useful or reliable. Any such flight tests would be easily detected by U.S. satellite intelligence.

Third, once the provisions of the treaty requiring the destruction of all missiles and all auxiliary facilities necessary to maintain and operate and test the missiles have been destroyed, the verification problem becomes far simpler. From that point on, it will not be the problem of United States intelligence agencies to determine how many intermediate Soviet missiles there are. It will simply be a matter of determining if there are any, I repeat any, intermediate missiles or any facilities designed to maintain, operate or test Soviet intermediate missiles still in existence. If the Soviets at that point have any such missiles, or facilities, they are in violation of the treaty.

Would the Soviets be likely to violate a treaty that would require such wholesale breaches to be effective? ACDA says they would not. The Soviets like the United States would certainly make the "worst case" judgment that military powers always make, that is that the other side—in this case the United States, has the competence and capability to detect significant violations. As the ACDA puts it:

> Soviet officials would not know fully and precisely United States monitoring capabilities and would be expected to adopt a conservative view of their own ability to escape United States detection.

Mr. President, this report of the Arms Control and Disarmament Agency is crucial. It is not only critical for the INF Treaty. It is far more important in what it tells us about the practicality of the proposed Strategic Arms Reduction Talks [START] that would cut the strategic deterrent of both the United States and the Union of Soviet Socialist Republics by 50 percent. It also has great relevance to the prospects for a treaty that could slow or even stop the enormously costly conventional arms race. The INF Treaty only reduces a tiny 4 percent or so of the nuclear arsenals of the two superpowers. It, of course, does nothing to ease the immense burden of the conventional arms race. But in its far-reaching, precedent-setting verification provisions, it goes a very long way to make the prospects of a START treaty and even a treaty ending the conventional arms race, a reality.

The Achilles heel of arms control has for many years been the lack of trust that arms control treaties with the Soviet Union will win compliance on both sides. The detailed compliance provisions of the INF Treaty clearly assure us that in the case of INF we will secure compliance. Those INF provisions also suggest that far more critical arms control agreements with the Soviet Union in the future can also be designed to ensure effective compliance by both superpowers.

Mr. President, I ask unanimous consent that an excellent article from the March 10 Washington Post by Jeffrey Smith, headlined "INF Pact Verifiable, ACDA Says," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Mar. 10, 1988]

INF PACT VERIFIABLE, ACDA SAYS

(By R. Jeffrey Smith)

A classified report by the Arms Control and Disarmament Agency (ACDA) has concluded that the U.S. intelligence community can effectively verify Soviet compliance with the Intermediate-Range Nuclear Forces (INF) Treaty without knowing the exact size of the Soviet arsenal covered by the pact.

The report, sent Tuesday to members of the Senate Foreign Relations Committee, stated that "U.S. intelligence cannot achieve a total count" of the Soviets' medium-range and shorter-range nuclear-armed missiles and launchers to be eliminated under the INF pact.

But it added that even without determining exactly how many missiles and launchers existed, the treaty's "verification measures posed significant risks for the Soviets of U.S. detection and imposed considerable complexity on the Soviets should they seek to acquire a militarily useful covert force."

The report appeared to reject the arguments of Sen. Jesse Helms (R-N.C.) and other critics that Soviet compliance with the INF Treaty cannot be verified because the intelligence community remains uncertain about the size of the Soviets' SS20 medium-range missile force.

Late last year, the Soviets said they planned to destroy 650 deployed or stored SS20s, a number that Defense Secretary Frank C. Carlucci called "approximately right" in January testimony before the Senate Armed Services Committee.

However, analysts at the Defense Intelligence Agency, an arm of the Defense Department, have insisted that the Soviets have at least 165 additional SS20s. Helms said this raised the possibility that some of these missiles had been hidden for potential use against Western Europe.

The ACDA report said U.S. officials assumed at the outset of the negotiations that "Soviet declarations for total numbers, locations, and characteristics of their treaty-limited items could be false" and would not be used to verify Soviet compliance.

The report said Soviet retention of SS20s or other missiles could not be ruled out, but noted that "all launch-critical equipment" will be destroyed under U.S. scrutiny and all flight tests will be barred beginning six months after the treaty takes effect.

"The ban on flight testing of INF systems will make it difficult over time" for the Soviets to ensure that any remaining missiles are "operationally useful," the report said.

The report also said that once all declared missiles have been eliminated, "the verification task will be solely to detect (not count) mobile INF systems" such as SS20 missiles and launchers. It said this is "a still demanding but much less complicated task" than determining how many such systems there are.

In addition, Soviet officials "would not know fully and precisely U.S. monitoring capabilities" and "would be expected to adopt a conservative view of [their] . . . ability to escape U.S. detection."

"We must recognize . . . there is no such thing as perfect verification, especially in a treaty involving mobile and sometimes small weapons possessed by a party [the Soviet Union] with a record of noncompliance and whose territory is the largest in the world," said the ACDA report, which was prepared by acting director Manfred Eimer and approved by the White House.

"Despite these inevitable uncertainties, I believe that the verification regime . . . will be effective in permitting us to achieve the considerable benefits offered by the treaty," Eimer concluded.

EXPLANATION OF MANAGERS' AMENDMENT TO S. 1886

Mr. PROXMIRE. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD the Explanation of Managers' Amendment to S. 1886 presented on behalf of myself and Senator GARN.

There being no objection the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF MANAGERS' AMENDMENT TO S. 1886 BY SENATORS PROXMIRE AND GARN

This explanation covers key provisions of the managers' amendment. The managers' amendment also contains technical, clarifying, and conforming changes that are not discussed below.

Page and line references in the explanation, like those in the amendment itself, are to the bill as reported by the Committee on March 22, 1988.

TITLE I

Page 47, line 13: Under section 4(c)(15)(G)(i) of the Bank Holding Company Act of 1956 (added by section 102 of the bill), a bank holding company that has obtained the Federal Reserve Board's approval to engage in certain underwriting, distribution, and dealing activities under section 4(c)(8) of the Act must obtain the Board's approval under section 4(c)(15) or discontinue those activities. The amendment makes that requirement effective six months after the bill becomes law in order to allow time for such bank holding companies to apply for approval under section 4(c)(15) and for the Board to consider those applications.

Page 52, line 2: "As enacted into law" is deleted as superfluous; the activities covered by section 4(c)(15)(K)(ii) would not be "authorized pursuant to a joint resolution" unless the joint resolution were enacted into law.

Page 57, line 2: The amendment makes the civil money penalty provisions of section 18(j)(4)(A) of the Federal Deposit Insurance Act applicable to violations of the restrictions imposed by the following amendment.

Page 57, line 25: Section 18(j)(3) of the Federal Deposit Insurance Act (amended by section 107 of the bill) restricts affiliations between FDIC-insured banks and securities underwriters and dealers. The definition of "security" in section 18(j)(3) is drawn from section 3(a)(10) of the Securities Exchange Act of 1934. The amendment provides that a contract of insurance is not a "security" for purposes of section 18(j)(3), even if that contract is a security under section 3(a)(10).

Page 57, between lines 2 and 3: Section 4(c)(15)(F)(iii) of the Bank Holding Company Act (added by section 102 of the bill) prohibits a bank or thrift institution affiliated with a securities affiliate from directly or indirectly extending credit—or issuing or entering into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility—for the purpose of enhancing the marketability of securities that are being underwritten or distributed by the securities affiliate.

The amendment applies the same rule to securities underwritten or distributed by any FDIC-insured bank or any subsidiary or other affiliate of such a bank, if the underwriting or dealing involves the new municipal revenue bond authority granted by section 108(a) of the bill.

Pages 58, lines 22 and 25: "Authorizing" is inserted before "statute" to make it clear that "statute" refers to the statute that specifically authorizes national banks to underwrite the securities in question, rather than to the Investment Company Act of 1940.

Page 59, line 4: "Organized" is deleted as redundant. Similar amendments are made to Title IV of the bill (page 97, line 10, and page 98, lines 11 and 22).

Page 62, lines 20-22: Under section 110 of the bill, a company can qualify as a diversified financial holding company if, inter alia, it devotes 80 percent or more of its consolidated assets to activities permissible under section 4(c)(8), 4(c)(13), 4(c)(14), or 4(c)(15) of the Bank Holding Company Act. Section 4(c)(13) applies to activities of a company that does no business in the United States except as an incident to its international or foreign business. Section 110 would currently permit a foreign insurance company to acquire a U.S. bank or bank holding company without being subject to normal capital and examination requirements and activity restrictions—requirements that apply to bank holding companies and to the U.S. activities of foreign banks.

The amendment provides that assets devoted to insurance activities that are permissible only because they are conducted outside the United States (i.e., under section 4(c)(13)) do not count toward meeting the 80-percent test to the extent that those assets exceed 10 percent of the parent company's consolidated assets.

Page 75, lines 19-23: Under section 113 of the bill, Congress will vote on or before April 1, 1991, under expedited procedures, on a joint resolution permitting securities affiliates to underwrite, distribute, or deal in equity securities. As part of the expedited procedures, section 113(b)(4) provides that it shall be in order to move to proceed to the consideration of the joint resolution not later than 90 calendar days after the first day of session of the 102nd Congress.

The amendment provides that the motion to proceed may be made by any Member of the House in question.

TITLE II

Page 86, line 22: Section 206(d) of the bill creates a limited exemption from the Depository Institution Management Interlocks Act for directors of diversified savings and loan holding companies. The amendment is intended to ensure that an interlock permissible under section 206(d) is not prohibited by section 408(i)(2) of the National Housing Company Act.

Page 87, line 22: Section 206(d) permits a proposed interlock to be disapproved, under certain circumstances, by the primary Federal supervisor of either (1) the diversified savings and loan holding company or (2) the other depository holding company or depository institution. The amendment authorizes either such supervisor to require that the interlock be terminated if circumstances change such that the interlock could be disapproved if it were being proposed after the change in circumstances.

TITLE III

Page 93, lines 5-6: This amendment changes the list of entities to which banks may sell securities through private placements without triggering the requirement for broker-dealer registration under the Securities Exchange Act of 1934. A State or its political subdivisions are no longer on the list. But added to the list are: certain employee benefit plans; and corporations that have both assets exceeding $50 million and net worth exceeding $5 million.

Page 93, line 23: This amendment clarifies that the "registered" broker-dealer referred to in the bill is one that is registered under section 15 of the Securities Exchange Act of 1934 as opposed to any other provision of that Act.

Page 96, after line 21: Title III of the bill restricts the current exemption of a bank from registration as broker or dealer, and requires a bank that falls within the definition of "broker" or "dealer" to transfer certain brokerage or dealing activities to a subsidiary or affiliate that is registered as a broker or dealer. Under the amendment, Title III becomes effective 270 days after enactment in order to allow time for achieving compliance with the transfer and registration requirements.

TITLE IV

Page 97, line 10, and page 98, lines 11 and 22: "Organizer" is deleted as redundant.

Page 105, Between Lines 12 and 13: Title IV of the bill restricts the current exemption of a bank or bank holding company from registration as an investment adviser. Under the amendment, Title IV becomes effective 270 days after enactment in order to allow time for achieving compliance with the registration and other requirements of the title.

TITLE VIII

Page 192, Line 17: The bill adds a new section 4(j) to the Bank Holding Company Act that restricts a bank holding company from engaging in most insurance activities outside of its home State. However, new section 4(j)(1)(B) creates a limited exception where the activities are otherwise authorized by certain parts of section 4(c)(8) and are also authorized under State law. This amendment clarifies that this particular exception applies only to State bank subsidiaries of bank holding companies and their subsidiaries.

Page 193, lines 16 and 17: This amendment clarifies that the bill's restrictions on insurance do not apply to insurance activities engaged in by bank holding companies pursuant to either a grandfather provision found in section 4(a)(2) of the Bank Holding Company Act or a separate provision of the act applying to savings banks.

Page 194, lines 19 and 20: This amendment includes three grandfather provisions. The first provision grandfathers the insurance activities of an Indiana State-chartered bank owned by an out-of-state bank holding company, so long as the bank engages in these activities in Indiana or contiguous States. The second provision permits certain Oregon State-chartered banks that are subsidiaries of out-of-state bank holding companies to engage in certain insurance activities within Oregon. The third provision permits a New York State-chartered bank or its subsidiary to engage in financial guaranty insurance activities, as that term is defined, outside New York, but does not preclude any interested party from challenging the legality of such activities under section 4(c)(8) of the Bank Holding Company Act.

Page 195, line 7: This is a technical amendment which clarifies that a resident of a State includes a natural person who is a resident of that State.

Page 195, line 21: This amendment provides that a bank holding company that acquired a bank or bank holding company outside of its home State after October 15, 1982, may not engage in insurance activities through that bank or bank holding company under the grandfather provision found in section 4(c)(8)(C)(iv), unless Federal Reserve Board approval to engage in such activities under that section was obtained prior to March 2, 1988.

Page 197, line 8: This amendment is a grandfather provision that provides that the restrictions on the insurance activities of national banks imposed by this bill do not apply to title insurance activities lawfully engaged in as of March 2, 1988, so long as such activities are confined to the State in which the national bank is located, and so long as the bank is not acquired by an out-of-state bank holding company. However, this would not affect in any way any litigation concerning the authority to engage in such activities under current law.

Page 198, lines 17 and 18: This amendment is a grandfather provision that provides that the restrictions on a national bank's insurance activities in places with a population of 5,000 or fewer shall not affect the ability of a national bank located in Oregon or Washington to engage in insurance activities lawfully engaged in outside of such places as of March 2, 1988, so long as such activities are limited to the State in which the bank is located. Thus it would not apply to any national bank in Oregon or Washington that was not selling insurance outside such places as of March 2, 1988. The provision also provides that a particular bank may continue to engage in insurance activities under the town of 5000 provision within 30 miles of its main office, even if such activities are carried out in another State. This amendment would not affect in any way any litigation concerning the authority to engage in such activities under current law.

TITLE IX

Page 203, between lines 2 and 3: The Competitive Equality Banking Act of 1987 subjects diversified savings and loan holding companies to the same joint-marketing restrictions as owners of grandfathered nonbank banks. Section 903 of the bill changes these restrictions for owners of grandfathered nonbank banks, and this amendment makes the same changes to these restrictions for diversified savings and loan holding companies.

AT END OF BILL

Section 906: Section 305(b) of the Federal Power Act prohibits any person from serving as an officer or director of both an electric utility and a firm that is authorized to underwrite or market securities of a public utility, unless approval is obtained from the Federal Power Commission. Under the Commission's interpretation of section 305, a securities affiliate's authority to underwrite the debt securities of a public utility (section 102 of the bill) would be attributed to the bank itself. There are currently hundreds of officer and director interlocks between banks and public utilities.

To avoid requiring the Commission's approval for such interlocks to continue, the amendment permits officer or director interlocks between banks and utilities so long as neither the bank nor any of its affiliates underwrites or markets securities of that utility.

Section 907: This section amends the Expedited Funds Availability Act to provide that the Federal Reserve Board may establish reasonable exceptions from the time limitations of that Act for amounts deposited in excess of $5,000 by Government checks and depository institution checks, such as a certified check or teller's check. The Board may also exempt from the time restrictions Government checks and depository institution checks which have been returned unpaid and are re-deposited, or which are deposited into an account which has been repeatedly overdrawn. However, a depository institution issuing a certified check or other depository instituton check in excess of $5,000 must notify the customer that the funds involved may not be available within the time limits prescribed by the Expedited Funds Availability Act.

Section 908: Section 2(c)(2)(D) of the Bank Holding Company Act exempts certain trust companies from the definition of "bank." The amendment broadens section 2(c)(2)(D) so as to encompass certain payroll tax filing service activities.

Section 909: Under this section, if the President or his designee has determined that a foreign country denies national treatment to U.S. banks and bank holding companies, a Federal banking agency may deny any application and disapprove any notice filed by a foreign bank or a company controlling a foreign bank that is chartered or incorporated in that country, has its principal place of business in that country, or is directly or indirectly controlled by a person that resides, is incorporated, or has its principal place of business in that country.

The authority granted by this section is purely discretionary; neither the President nor the banking agencies are required to act.

The definition of national treatment in this section (that the country in question "accord[s] to United States banks and bank holding companies the same competitive opportunities as it accords to domestic banks and bank holding companies") is drawn from, and intended to have the same meaning as, the definition in the Treasury Department's National Treatment Study.

This section applies to any application by a foreign bank or bank holding company that requires the approval of a Federal banking agency, including an application to acquire shares of a bank or bank holding company, to engage in nonbanking activity, to establish a Federal branch or agency, or to obtain Federal deposit insurance. It applies equally to any notice by a foreign bank or bank holding company that is subject to disapproval by a Federal banking agency, such as a notice under the Change in Bank Control Act.

Section 910: This section establishes for securities brokers and dealers rules similar to those established by section 909 for banks and their parent companies. If the President has determined that a foreign country denies national treatment to U.S. brokers and dealers: (1) a person of that country may not acquire a U.S. broker or dealer without giving 45 days prior notice to the Securities and Exchange Commission, and the Commission may by order prohibit the acquisition; and (2) the Commission may deny any application for registration as a broker or dealer filed by a person of that country.

Section 911: This section requires the Federal Reserve Board to conduct a study of the need, if any, to continue the separation of commercial banking and commerce in the United States. Within one year from the date of enactment, the Board is to report its findings to the Congress.

Section 912: This section increases the potential criminal and civil penalties which may be imposed for violating the provisions of the Bank Holding Company Act. With respect to corporations, the criminal penalty for a willful violation is increased from $1,000 per day to $50,000 per day. In the case of an individual, the criminal penalty for a willful violation is increased from $10,000 to $100,000, and the term of imprisonment is increased from one year to three years. With respect to the civil penalties, the possible fine is increased from $1,000 per day to $5,000 per day.

Section 913: This section provides that if a State statute establishes a consumer membership organization to inform and represent consumers in the financial services area, and is subject to statutorily prescribed rules of governance, and the State also requires State chartered depository institutions to include in their statement mailings a statutorily prescribed insert concerning such organization, the same requirement shall apply to federally chartered banks, savings associations, and credit unions.

Section 914: The Community Reinvestment Act currently requires the Federal Reserve Board, when evaluating a bank holding company's application to acquire a bank, to take into account the bank holding company's record of meeting the credit needs of the communities served by the bank holding company's subsidiary banks. The amendment requires the Board to also consider that record when evaluating applications to engage in nonbanking activities.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3396. An act to provide for the rehiring of certain former air traffic controllers; and

H.J. Res. 445. Joint resolution to designate the week beginning April 24, 1988, as "Mining Awareness Week."

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 206. Joint resolution to designate April 8, 1988, as "Dennis Chavez Day";

S.J. Res. 223. Joint resolution to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week";

S.J. Res. 245. Joint resolution to designate April 21, 1988, as "John Muir Day"; and

S.J. Res. 260. Joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. STENNIS]

At 3:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3933. An act to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of February 3, 1988, the Secretary of the Senate on today received, a message from the House of Representatives, delivered by Mr. Duncan, one of its clerks, announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STENNIS) under the authority of the order of February 3, 1988.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3396. An act to provide for the rehiring of certain former air traffic controllers; to the Committee on Commerce, Science, and Transportation.

H.R. 3933. An act to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes; to the Committee on Governmental Affairs.

H.R. 4256. An act to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States; to the Committee on Armed Services.

H.J. Res. 445. Joint resolution to designate the week beginning April 24, 1988, as "Mining Awareness Week"; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 31, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 206. Joint resolution to designate April 8, 1988, as "Dennis Chavez Day";

S.J. Res. 223. Joint resolution to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week";

S.J. Res. 245. Joint resolution to designate April 21, 1988, as "John Muir Day"; and

S.J. Res. 260. Joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on the Budget, without amendment:

S. Con. Res. 113: A concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991 (Rept. No. 100-311), additional minority views filed.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1960: A bill to designate the Federal Building located at 215 17th Street in Omaha Nebraska, as the "Edward Zorinsky Federal Building."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Kenneth J. Beirne, of Virginia, to be an Assistant Secretary of Housing and Urban Development;

David L. Chatfield, of Alaska, to be a member of the National Credit Union Administration Board for the remainder of the term expiring August 2, 1989; and

Jesse D. Winzenried, of Wyoming, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS:

S. 2237. A bill to exempt organization determination letters from the user fee program; to the Committee on Finance.

By Mr. BENTSEN (for himself and Mr. Packwood):

S. 2238. A bill to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

By Mr. HATFIELD (for himself and Mr. Chafee):

S. 2239. A bill to authorize the provision of trauma care for victims of the Nicaraguan civil war; to the Committee on Foreign Relations.

By Mr. JOHNSTON:

S. 2240. A bill to amend the Act to reauthorize the State Mining and Mineral Resources Research Institute program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2241. A bill to amend title 5, United States Code, to prohibit reimbursement by the United States of costs incurred by contractors in connection with proceedings relating to violations of laws or regulations; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 2242. To provide for the continuation of certain basic services of the Postal Service consistent with Postal policies under section 101 of title 39, United States Code, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SASSER:

S. 2243. A bill to amend title XVIII of the Social Security Act to make certain improvements in the program for voluntary certification of Medicare supplemental policies, and for other purposes; to the Committee on Finance.

By Mr. MELCHER (for himself and Mr. Leahy):

S. 2244. A bill to extend the provisions of the Temporary Emergency Food Assistance Act of 1983; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MELCHER (for himself and Mr. Leahy):

S. 2245. A bill to provide that surplus products should be provided to carry out the Temporary Emergency Food Assistance Program before certain dairy export programs, to extend such dairy export programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUMPERS (for himself, Mr. Pryor, Mr. Cochran, Mr. Sasser, Mr. Simon, Mr. Stennis, Mr. Breaux, Mr. Dixon, Mr. Ford, Mr. Gore, Mr. Bond, Mr. Danforth, and Mr. Johnston):

S. 2246. A bill to establish the Lower Mississippi Delta Development Commission; to the Committee on Environment and Public Works.

By Mr. TRIBLE (for himself and Mr. Warner):

S. 2247. A bill to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. COHEN (for himself and Mr. Mitchell):

S. 2248. A bill to designate the U.S. Courthouse located at 156 Federal Street in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse; to the Committee on Environment and Public Works.

By Mr. DURENBERGER (for himself, Mr. Kennedy, Mr. D'Amato, Mr. Kerry, Mr. Helms, Mr. Garn, Mr. Wilson, Mr. Boren, Mr. Nickles, Mr. Boschwitz, Mr. Symms, and Mr. Dole):

S. 2249. A bill to amend the Internal Revenue Code of 1986 with respect to the creditability of taxes paid to the Republic of Panama; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Inouye, and Mr. DeConcini):

S. 2250. A bill to ensure that Federal lands are managed in a manner that does not impair the exercise of traditional American Indian religion; to the Select Committee on Indian Affairs.

By Mr. WILSON (for himself, Mr. D'Amato, and Mr. Karnes):

S. 2251. A bill to protect all Federal law enforcement officers and State and local law enforcement officers and corrections officers involved in drug law enforcement by providing for the imposition of the death penalty for killing any such law enforcement officer or corrections officer and to increase the Federal public safety officer death benefit; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. Lautenberg):

S. 2252. A bill to encourage economic development in Central America, and to increase the sugar import quota; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. Breaux):

S. 2253. A bill to authorize the purchase of additional lands adjacent to or close to the Bayou Bodcau Wildlife Management Area; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself, Mr. Gramm, Mr. Dixon, and Mr. Wirth):

S. 2254. A bill to amend title 10, United States Code, to make miscellaneous improvements in the management of Department of Defense acquisitions; to the Committee on Armed Services.

By Mr. DURENBERGER (for himself, Mr. Rockefeller, Mr. Bond, Mr. Stennis, Mr. Danforth, Mr. Pryor, Mr. Wallop, Mrs. Kassebaum, Mr. Grassley, and Mr. Kasten):

S. 2255. A bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly Medicare beneficiaries residing in rural areas; to the Committee on Finance.

By Mr. PROXMIRE (for himself, Mr. Riegle, Mr. Dodd, Mr. Wirth, Mr. Domenici, Mr. Chafee, Mr. Bond, Mr. Stevens, and Mr. McCain):

S. 2256. A bill to provide for intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself and Mr. Pressler):

S. 2257. A bill to authorize additional appropriations for the WEB rural water development project; to the Committee on Energy and Natural Resources.

By Mr. KARNES (for himself, Mr. Danforth, Mr. D'Amato, Mr. Helms, Mr. Boren, Mr. Conrad, Mr. Dixon, Mr. Cochran, Mrs. Kassebaum, Mr. Pressler, Mr. Grassley, and Mr. Wallop):

S. 2258. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain agricultural and firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. NUNN (for himself, Mr. Weicker, Mr. Bumpers, and Mr. Boren):

S. 2259. A bill to amend the Small Business Investment Act of 1958 to expand the availability of surety bonds for small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. KERRY:

S.J. Res. 285. Joint resolution expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and, therefore, should be subject to the certification process mandated by section 481(h) of that Act; to the Committee on Foreign Relations.

By Mr. KERRY:

S.J. Res. 286. Joint resolution expressing the sense of Congress that Honduras falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and consequently should be subject to the certification procedure mandated by section 481(h) of that Act; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself, Mr. Heinz, Mr. Chiles, Mr. Pryor, Mr. Durenberger, Mr. Shelby, Mr. McClure, Mr. Hecht, Mr. Grassley, Mr. Kasten, Mr. Sarbanes, Mr. Metzenbaum, Mr. DeConcini, Mr. D'Amato, Mr. Dole, Mr. Hatch, Mr.

Specter, Mr. Cochran, Mr. Inouye, Mr. Lugar, Mr. Glenn, Mr. Burdick, Mr. Reid, Mr. Matsunaga, Mr. Simon, Mr. Wilson, Mr. Bradley, and Mr. Pressler):

S.J. Res. 287. Joint resolution designating May 1988 as "Older Americans Month"; to the Committee on the Judiciary.

By Mr. BOREN (for himself, Mr. Cohen, Mr. Bentsen, Mr. Bradley, Mr. Cranston, Mr. DeConcini, Mr. Hatch, Mr. Hecht, Mr. Hollings, Mr. Metzenbaum, Mr. Murkowski, Mr. Nunn, Mr. Roth, Mr. Specter, and Mr. Warner):

S.J. Res. 288. Joint resolution to designate the week of June 5, 1988, through June 11, 1988, as "National Intelligence Community Week"; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. Packwood, and Mr. Heinz):

S.J. Res. 289. Joint resolution to designate the month of November 1988 as "National Hospice Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. Dole, Mr. Pell, Mr. Dodd, Mr. Helms, Mr. Durenberger, Mr. Graham, Mr. Simpson, Mr. Heinz, Mr. Stevens, Mr. Sasser, Mr. Trible, Mr. Karnes, Mr. DeConcini, Mr. Cochran, Mr. Chiles, Mr. Exon, Mr. Johnston, Mr. Nunn, Mr. Bentsen, Mr. Melcher, Mr. Dixon, Mr. Levin, Mr. Conrad, Mr. Ford, Mr. Leahy, Mr. D'Amato, Mr. Thurmond, Mr. Hatch, Mr. Bond, Mr. Specter, Mr. Wilson, Ms. Mikulski, Mr. Metzenbaum, Mr. Shelby, Mr. Bumpers, Mr. Burdick, and Mr. McCain):

S. Res. 403. A resolution urging the use of the International Emergency Economic Act against the Noriega regime; considered and agreed to.

By Mr. HECHT:

S. Res. 404. A resolution expressing the sense of the Senate regarding the importance of tax incentives for homeownership and that no additional restrictions or caps be placed on homeownership tax benefits; to the Committee on Finance.

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 405. Considered and agreed to.

By Mr. THURMOND (for himself, Mr. Helms, Mr. D'Amato, and Mr. Dodd):

S. Con. Res. 111. Concurrent resolution to express the sense of Congress regarding a temporary waiver of the prohibition on the United States from permitting certain employees of the Panama Canal Commission to purchase food and other necessities at commissary and exchange stores of the Department of Defense in the Republic of Panama; considered and agreed to.

By Mr. BAUCUS:

S. Con. Res.. 112. Concurrent resolution expressing the intent of Congress regarding certain provisions of Public Laws 100-202 and 100-223; to the Committee on Commerce, Science, and Transportation.

By Mr. CHILES:

S. Con. Res. 113. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991; from the Committee on the Budget; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS:

S. 2237. A bill to exempt organization determination letters from the user fee program; to the Committee on Finance.

EXEMPTION FROM IRS USER FEE

Mr. SYMMS. Mr. President, in the recent tax bill Congress imposed a user fee for IRS services, such as the preparation of tax determination letters and rulings. For the most part, these determination letters are businesses to know in advance where they stand in relation to some detail in the tax laws. Businesses ordinarily hire accountants and lawyers and pay their professional fees, as a proper cost of doing business. Congress decided to put the IRS on the same footing for businesses as the accountants and lawyers who work in the private sector.

There is one area, however, that has inadvertently fallen under the same category. A user fee is presently imposed on tax exempt organizations just to get a letter from the IRS affirming that they are tax exempt. Mr President, this seems wrong to me. If an organization is not supposed to come under the U.S. tax laws, then it should be entitled to a letter from the IRS saying they are exempt without the requirement that they buy it from the Internal Revenue Service's lawyers.

I am introducing a bill today to exempt such tax-exempt organizations from the user-fee requirements.

By Mr. BENTSEN (for himself and Mr. Packwood):

S. 2238. A bill to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

TECHNICAL CORRECTIONS ACT OF 1988

● Mr. BENTSEN. Mr. President, I am pleased to introduce today the Technical Corrections Act of 1988. I am joined in introducing this bill by the distinguished ranking minority member of the Finance Committee, Senator Packwood. An identical bill is being introduced today in the House of Representatives by the chairman and ranking minority member of the Ways and Means Committee, Mr. Rostenkowski and Mr. Duncan.

The bill we are introducing is an updated version of a similar bill introduced by us last year. Congress failed to enact last year's bill because of the time pressure resulting from the budget summit negotiations between the Congress and the President. the Technical Corrections Act of 1988, like last year's bill, proposes hundreds of technical modifications to the Tax Reform Act of 1986 and to other recent tax acts. Added to this year's bill are modifications to the Revenue Act of 1987.

The updated bill is the product of a cooperative effort between both bodies of Congress and the administration. The staffs of the Finance Committee, Ways and Means Committee, Joint Committee on Taxation, and Treasury Department have analyzed hundreds of suggested technical modifications and corrections to the tax laws. They compiled a comprehensive package of modifications to recommend to the sponsors. This bill is the result of those recommendations. The bill corrects hundreds of clerical and drafting errors and resolves dozens of ambiguities in the tax laws.

It is our intention to make every effort to enact this bill this year. While many provisions in the bill merely correct clerical errors, many other provisions provide badly needed guidance to taxpayers in interpreting recent tax acts. In the sound administration of the tax laws, it is our desire to provide the best possible guidance to taxpayers. Moreover, this bill is important to many Members of the Senate; many of the provisions in this bill were suggested by our colleagues in an effort to provide better guidance to their constituents.

Mr. President, I would ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the "Technical Corrections Act of 1988".

(b) Definitions.—For purposes of this Act—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) Reform act.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(c) Clerical Amendment.—Paragraph (29) of section 7701(a) of the 1986 Code is amended by striking out "of 1954" and inserting in lieu thereof "of 1986".

TITLE I—TECHNICAL CORRECTIONS TO TAX REFORM ACT OF 1986

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE REFORM ACT.

(a) Amendments Related to Section 101 of the Reform Act.—

(1) Paragraph (2) of section 6867(b) of the 1986 Code is amended by striking out "at a 50-percent rate" and inserting in lieu thereof "at the highest rate of tax specified in section 1".

(2)(A) Section 531 of the 1986 Code is amended to read as follows:

"SEC. 531. IMPOSITION OF ACCUMULATED EARNINGS TAX.

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) Amendments Related to Section 102 of the Reform Act.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) Amendment Related to Section 111 of the Reform Act.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) Rounding.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) Amendments Related to Section 123 of the Reform Act.—

(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(e) Amendment Related to Section 131 of the Reform Act.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) Amendments Related to Section 132 of the Reform Act.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Coordination With Other Limitation.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) Determination of Adjusted Gross Income in Case of Estates and Trusts.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(A) with respect to cooperatives and real estate investment trusts, and

"(B) except as provided in regulations, with respect to estates and trusts."

(g) Amendments Related to Section 142 of the Reform Act.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C),

(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

(C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

(h) Amendments Related to Section 143 of the Reform Act.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting in lieu thereof "trade or business (or rental activity)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) Amendments Related to Section 201 of the Reform Act.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

(2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Special rule.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) Transactions covered.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) Exception for certain property subject to United States tax and used by foreign person or entity.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 percent declining balance method in certain cases.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) Applicable Recovery Period.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(2) Property for which 150 percent method elected.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) Cross reference.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) Termination.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) Sound recordings.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)" and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out "any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(l)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) AMENDMENTS RELATED TO SECTION 202 OF THE REFORM ACT.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF DISALLOWED DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

(c) AMENDMENTS RELATED TO SECTION 203 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) SECTION 202.—

"(A) IN GENERAL.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) SPECIAL RULE FOR FISCAL YEARS INCLUDING JANUARY 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and

"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."

(d) AMENDMENTS RELATED TO SECTION 204 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:

"(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Technical Corrections Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

"(E) such facility is to serve Haverhill, Massachusetts."

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following:

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project",

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "$400,000,000" and inserting in lieu thereof "$500,000,000", and

(ii) by striking out "letter of intent" and inserting in lieu thereof "memorandum of terms",

(B) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(C) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(D) in subparagraph (D), by striking out "and 7th Avenue", and

(E) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows:

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows:

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985."

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000 barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant".

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30) Paragraph (4) of section 204(c) of the Reform Act is amended to read as follows:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $9,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments.

"(L) $14,000,000 of television transmitting towers placed in service by Media General, Inc., which were subject to binding contracts as of January 21, 1986, and will be placed in service before January 1, 1988.

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $300,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately

$15,000,000 that was purchased pursuant to a contract entered into during March of 1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expenditure, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and—

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction,

"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) Amendments Relating to Section 211 of the Reform Act.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) In general.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) No carryback for years straddling July 1, 1987; gross up of carryforwards.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) In general.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years."

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) Ordering Rules.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) In general.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) Components of investment credit.—The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) Credits no longer listed.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(f) Amendments Related to Section 212 of the Reform Act.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following:

"(2) Special rule.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for restructuring.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) Tentative Refunds.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Paragraph (2) of section 212(f) of the Reform Act is amended by adding at the end thereof the following new sentence:

"In the case of the corporation referred to in the preceding sentence, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) Amendment Related to Section 213 of the Reform Act.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) Amendment Related to Section 231 of the Reform Act.—Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(i) Amendment Related to Sections 241 and 242 of the Reform Act.—Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) Certain Property Not Treated as Depreciable.—

"(1) In general.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to—

"(A) any trademark or trade name expenditure, or

"(B) any railroad grading or tunnel bore.

"(2) Definitions.—For purposes of this subsection—

"(A) Trademark or trade name expenditure.—The term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name.

"(B) Railroad grading or tunnel bores.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(j) Amendments Related to Section 243 of the Reform Act.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Application of Section 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "TO BEGIN IN 1987".

(k) Amendments Related to Section 251 of the Reform Act.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California".

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland marble Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th Street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the Bristol Carpet Mill project rehabilitating 2 buildings for approximately 156 apartment units and accompanying commercial and office use,

"(CC) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(DD) the Warehouse Row project in Chattanooga, Tennessee,

"(EE) any project described in section 204(a)(1)(F) of this Act,

"(FF) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(GG) the John Fitch Court in Windsor, Connecticut,

"(HH) any project described in section 803(d)(6) of this Act,

"(II) Union Station, Indianapolis, Indiana,

"(JJ) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(KK) Union Station in Providence, Rhode Island,

"(LL) Plat 141, lot 10.4, Newport, Rhode Island,

"(MM) South Pack Plaza, Asheville, North Carolina,

"(NN) Old Louisville Trust Project, Louisville, Kentucky,

"(OO) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(PP) Bernheim Officenter, Louisville, Kentucky,

"(QQ) Springville Mill Project, Rockville, Connecticut, and

"(RR) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Expensing of rehabilitation expenses for the Frankford Arsenal.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement.

"(7) Special rule.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'."

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba".

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) Amendments Related to Section 252 of the Reform Act.—

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows:

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) Special rules for certain transfers.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure."

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such unit were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) TIME FOR MAKING ALLOCATION.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) EXCEPTION WHERE BINDING COMMITMENT.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) EXCEPTION WHERE INCREASE IN QUALIFIED BASIS.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17)(A) Subparagraph (B) of section 42(h)(6) of the 1986 Code is amended by adding after clause (i) the following new clause:

"(ii) CARRYFORWARD WHERE SECRETARY DETERMINES UNFORESEEN DELAY IN PLACING BUILDING IN SERVICE.—A housing credit dollar amount which was allocated to a building for a calendar year after 1987 may be carried forward to the succeeding calendar year for such building if—

"(I) it was reasonable to believe that such building would be placed in service during the earlier calendar year but was not solely because of unforeseen conditions which, as determined by the Secretary, were not within the control of the taxpayer, and

"(II) such building is placed in service during such succeeding calendar year."

(B) Clause (i) of section 42(h)(6)(B) of the 1986 Code is amended by striking out "The portion" and inserting in lieu thereof "Except as provided in clause (ii), the portion".

(18) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO PLACED IN SERVICE CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(19) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(20)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(21) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(22) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(23) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(24) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(25)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(26) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(27) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back to a taxable year ending before January 1, 1987."

(28) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(29) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses:

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(30) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(31) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building."

(32) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(33) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62/ (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsection (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) AMENDMENT RELATED TO SECTION 321 OF THE REFORM ACT.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 Per Year Limitation.—

"(1) In general.—To the extent that the aggregate fair market value of stock with respect to which incentive stock options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall be treated as options which are not incentive stock options.

"(2) Ordering rule.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) Determination of fair market value.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

(a) Amendments Related to Section 405 of the Reform Act.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) Coordination of exclusions.—

"(A) Title 11 exclusion takes precedence.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) Insolvency exclusion takes precedence over qualified farm exclusion.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "in Title 11 Case or Insolvency" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) Special Rules for Discharge of Qualified Farm Indebtedness.—

"(1) Discharge must be by qualified person.—

"(A) In general.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) Qualified person.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) Qualified farm indebtedness.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) Amount excluded cannot exceed sum of tax attributes and business and investment assets.—

"(A) In general.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) Adjusted tax attributes.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) Qualified property.—For purposes of this paragraph, the term 'qualified property' means any property which is used or is held for use in a trade or business or for the production of income.

"(D) Coordination with insolvency exclusion.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) Special rules for qualified farm indebtedness.—

"(A) In general.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) Qualified property.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) Certain rules made applicable.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "Subsections (a), and (b)" and inserting in lieu thereof "Subsections (a), (b), and (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "Subsections (a) and (b)" and inserting in lieu thereof "Subsections (a), (b), and (g)".

(b) Amendment Related to Section 406 of the Reform Act.—Section 406 of the Reform Act is amended—

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) Amendment Related to Section 413 of the Reform Act.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Adjustment for amounts included in gross income under section 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) Amendments Related to Section 501 of the Reform Act.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) In general.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) Income from prior years.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ", and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	65
1988	40
1989	20
1990	10.

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to preenactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b)) taking into account only pre-enactment interests."

(b) AMENDMENTS RELATED TO SECTION 502 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows:

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) AMENDMENTS RELATED TO SECTION 511 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—

"(i) IN GENERAL.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act), and

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the spouse's or former spouse's interest in the qualified residence as of the time of the transfer, or

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 601 OF THE REFORM ACT.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.—

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting "'1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows:

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating to qualified workouts) shall apply to such debt restructuring."

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended by striking out "or reorganization".

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS UNDER REGULATIONS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which accrued before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(e) AMENDMENTS RELATED TO SECTION 631 OF THE REFORM ACT.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5) Subsection (d) of section 337 of the 1986 Code is amended—

(A) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(B) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

"(2) CORPORATE DISTRIBUTEE.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF PARTNERSHIP OR TRUST INTERESTS.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) GENERAL RULE.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) BASIS.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) PARAGRAPHS (2) AND (3) NOT TO APPLY TO CERTAIN SECTION 361 TRANSACTIONS.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments as shall be provided in regulations, the preceding sentence shall not apply if the transferee is a corporation controlled (within the meaning of section 368(c)) by a domestic corporation or by members of the same affiliated group of corporations (within the meaning of section 1504)."

(B) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "SECTION 311, 336, OR 337 TRANSACTIONS" and inserting in lieu thereof "NONRECOGNITION TRANSACTIONS".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) CROSS REFERENCE.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN LIQUIDATING DISTRIBUTIONS BY S CORPORATIONS.—IF—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment of the stock by reason of section 453(h)(1),

then, except for purposes of applying section 1374, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) AMENDMENTS RELATED TO SECTION 632 OF THE REFORM ACT.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the net recognized built-in gain of the S corporation for the taxable year shall be treated as the taxable income."

(4) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(5) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(6)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) NET RECOGNIZED BUILT-IN GAIN.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognition period, the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account. If the S corporation is treated as an S corporation by reason of an election made before March 31, 1988, the net recognized built-in gain for any taxable year shall not exceed such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(3) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) RECOGNIZED BUILT-IN LOSSES.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which accrued before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENT TO NET UNREALIZED BUILT-IN GAIN.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) TREATMENT OF CERTAIN PROPERTY.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(8) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) MODIFICATIONS.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) IN GENERAL.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) SUBSECTION (C)(1) NOT TO APPLY.—Subsection (c)(1) shall not apply.

"(9) REFERENCE TO 1ST TAXABLE YEAR.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) CREDITS NOT ALLOWABLE.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(7) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(8) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 633 OF THE REFORM ACT.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows:

"(b) BUILT-IN GAINS OF S CORPORATIONS.—

"(1) IN GENERAL.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) APPLICATION OF PRIOR LAW.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

" '(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED GROUP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-YEAR OWNERSHIP REQUIREMENT NOT TO APPLY IN CERTAIN CASES.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) ATTRIBUTION RULES.—

"(i) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) Special holding period rules.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) Controlled group of corporations.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) Application to nonliquidating distributions.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,".

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) Amendments Related to Section 641 of the Reform Act.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Certain Partnership Transactions.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Cross Reference.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) Amendments Related to Section 642 of the Reform Act.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Related persons.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "TRADITIONAL" and inserting in lieu thereof "TRANSITIONAL".

(j) Amendments Related to Section 643 of the Reform Act.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) Treatment as Offset to Interest Payments.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) The amendment made by subparagraph (A) shall apply in the case of obligations acquired after October 14, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out "issued after" and inserting in lieu thereof "acquired after".

(k) Amendments Related to Section 646 of the Reform Act.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows:

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and".

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) Agreement.—

"(A) In general.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) Permissible acquisitions.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) BEGINNING OF PERIOD FOR WHICH ELECTION IS IN EFFECT.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) SPECIAL RULE FOR PERSONS HOLDING INCOME INTERESTS.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)".

(l) AMENDMENTS RELATED TO SECTION 651 OF THE REFORM ACT.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) REDUCTION BY NET ORDINARY LOSS FOR CALENDAR YEAR.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) NET CAPITAL GAIN.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) NET ORDINARY LOSS.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended), "(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) Amendments Related to Section 654 of the Reform Act.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof of the following new paragraph:

"(3) Special rule for abnormal redemptions.—

"(A) In general.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) Abnormal redemptions.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) Determination of net asset value.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) Limitation.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) Amendments Related to Section 662 of the Reform Act.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall apply to taxable years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) Treatment of liquidating gains.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) Treatment of income received under certain agreements limiting interest rate risk.—

"(i) In general.—In the case of any agreement described in clause (ii)—

"(I) any payment to the real estate investment trust under such agreement (and any gain from the sale or other disposition of such agreement) shall be treated as income qualifying under paragraph (2), and

"(II) such agreement shall be treated as a security for purposes of paragraph (4)(A).

"(ii) Description of agreement.—An agreement is described in this clause if such agreement is a bona fide interest rate swap or interest rate cap agreement which protects the real estate investment trust from interest rate fluctuations under any variable rate indebtedness of such trust incurred to acquire (or carry) real property or interests in real property or committed to such an acquisition."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) Amendments Related to Section 663 of the Reform Act.—

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) In general.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents, then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) Interest.—

"(1) In general.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) Special rule.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)), then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor."

(r) Amendment Related to Section 664 of the Reform Act.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments".

(s) Amendments Related to Section 668 of the Reform Act.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) Capital gain net income.—

"(A) In general.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) Reduction for net ordinary loss.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) Net ordinary loss.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable

income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) Amendments Related to Section 671 of the Reform Act.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) Amounts treated as ordinary.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Exceptions.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) Regular interest.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) Residual interest.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) Startup day.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occurring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Tax on Income From Foreclosure Property.—

"(1) In general.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) Net income from foreclosure property.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Tax on Contributions After Startup Date.—

"(1) In general.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) Exceptions.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includible in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies."

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursuant to a binding written contract in effect on such date.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to taxable years beginning after December 31, 1988.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences:

"Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B)."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).
(B) Section 860F(a)(2)(A)(iii).
(C) Section 860F(a)(2)(C).
(D) Section 860F(b)(1)(C)(ii).
(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7 of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Variable Insurance Contracts.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(u) Amendments Related to Section 672 of the Reform Act.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) Amendments Related to Section 675 of the Reform Act.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows:

"(a) General Rule.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987."

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) Study.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)."

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) Amendments to Section 55 of the 1986 Code.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) Amendments to Section 56 of the 1986 Code.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) Standard Deduction and Deduction for Personal Exemptions Not Allowed.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired (in a taxable year beginning after December 31, 1986) pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply with respect to options exercised after October 16, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying the clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation; reduced by the aggregate amount of the depreciation deductions determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 168(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—In the case of any property subject to a lease where the income of the taxpayer for book purposes with respect to such property is determined without an allowance for depreciation, the excess of—

"(I) the alternative minimum taxable income from the lease (determined without regard to this subsection and any allowance for depreciation), over

"(II) the income from such lease reported for book purposes,

shall be treated as the depreciation deduction determined with respect to such property determined for book purposes. In the case of property described in the preceding sentence, the rules of clause (vi) shall apply whether or not the taxpayer makes an election under such clause.

"(viii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have

been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) Transitional Provisions.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c)(1) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000."

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) Agreement vessel depreciation adjustment.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) Miscellaneous Amendments.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) Regular investment tax credit may offset 25 percent of minimum tax.—

"(A) In general.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) Portion of regular investment tax credit not used against normal limit.—For purposes of subparagraph (A), the portion of the regular investment tax credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) Limitation.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1).

(3) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), 263(c), and 1016(a)(23) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)".

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) Amendments Related to Section 801 of the Reform Act.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) Use of related parties, etc.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) Special rule for spudding of oil or gas wells.—

"(A) In general.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) Deduction limited to cash basis.—

"(i) Tax shelter partnerships.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) Other tax shelters.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) Cash basis defined.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) Termination.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts".

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for paragraphs (2) and (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of the filing of a notice of exemption from registration with a State agency described in section 461(i)(3)(A)."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(b) Amendments Related to Section 803 of the Reform Act.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) Coordination with section 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "of" before "Expenses" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

(8) Subsection (h) of section 263A of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing, in the case of any taxpayer who is an individual actively engaged in the trade or business of producing property described in the last sentence of subsection (b), simplified procedures for capitalization and cost recovery with respect to property so described."

(9) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year.

(c) Amendments Related to Section 804 of the Reform Act.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) Special rules.—

"(A) Simplified method of cost allocation.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) Look-back method not to apply to certain contracts.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)".

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) Amendment Related to Section 805 of the Reform Act.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166".

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) Amendments Related to Section 806 of the Reform Act.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) Majority interest taxable year; limitation on required changes.—

"(A) Majority interest taxable year defined.—For purposes of paragraph (1)(B)(i)—

"(i) In general.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) Testing days.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) Further change not required for 3 years.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Application with other sections.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corporation) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) Taxable Year of Common Trust Fund.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

(B) For purposes of section 806(e)(2) of the Reform Act, a participant in a common trust fund shall be treated in the same manner as a partner.

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)".

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended—

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary to permit an automatic change of a taxable year.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) Basis, etc. rules.—

"(A) Basis rule.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) Treatment of dispositions.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) Amendments Related to Section 811 of the Reform Act.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu".

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) Excess allocable installment indebtedness.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) Special rules.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) Revolving credit plans, etc.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) Certain dispositions deemed made on first day of taxable year.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been

enacted immediately before the enactment of the Revenue Act of 1987.

(g) AMENDMENTS RELATED TO SECTION 812 OF THE REFORM ACT.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year	15
2nd taxable year	25
3rd taxable year	30
4th taxable year	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving installment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) AMENDMENT RELATED TO SECTION 821 OF THE REFORM ACT.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) AMENDMENT RELATED TO SECTION 822 OF THE REFORM ACT.—Paragraph (1) of section 703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) AMENDMENTS RELATED TO SECTION 824 OF THE REFORM ACT.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement".

SEC. 109. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 901 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION BINDING ON ALL MEMBERS OF GROUP.—Any election under this subsection made by a member of a parent-subsidiary controlled group shall be binding on all banks which are members of such group for the taxable year of the election."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended—

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue (determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)".

(7) Paragraph (4) of section 902(f) of the Reform Act is amended—

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) AMENDMENTS RELATED TO SECTION 903 OF THE REFORM ACT.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) AMENDMENTS RELATED TO SECTION 905 OF THE REFORM ACT.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) ELECTION TO TREAT AS ORDINARY LOSS.—

"(A) IN GENERAL.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) LIMITATIONS.—

"(i) DEPOSIT MAY NOT BE FEDERALLY INSURED.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

"(ii) DOLLAR LIMITATION.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) ELECTION.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 110. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1011 OF THE REFORM ACT.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows:

"(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) AMENDMENTS RELATED TO SECTION 1012 OF THE REFORM ACT.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows:

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization."

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(C) Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall revise the tables used in determining the amount of the charitable contribution in the case of annuity contracts so that such determination will reflect the value of such contribution based on market interest rates at the time such contract was issued and more recent mortality experience.

(c) AMENDMENTS RELATED TO SECTION 1021 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) TREATMENT OF COMPANIES WHICH BECOME TAXABLE UNDER SECTION 831(a).—

"(i) EXCEPTION TO PHASE-IN FOR COMPANIES WHICH WERE NOT TAXABLE, ETC., BEFORE 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(b) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) PHASE-IN BEGINNING AT LATER DATE FOR COMPANIES NOT 1ST TAXABLE UNDER SECTION 831(a) IN 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be applied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses, subparagraphs (B) and (C) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses."

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if—

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) Amendments Related to Section 1023 of the Reform Act.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph:

"(4) Application of fresh start to companies which become subject to section 831(a) tax in later taxable year.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) Amendments Related to Section 1024 of the Reform Act.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "or Mutual" in the heading and inserting in lieu thereof "Insurance Companies", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

(g) Amendments Related to Section 1031 of the Reform Act.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment".

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) Special Rule for Mutual Life Insurance Company.—

(1) In general.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) Effect of election on subsidiaries of electing parent.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

(3) Revenue loss limited.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year.

(i) Delay in Effective Date for Diversification Requirements With Respect to Accounts for Certain Immediate Annuities.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989, with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if—

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) Treatment of Alternative Minimum Tax With Respect to Shareholders Surplus Account.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjustments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

(2) Effective Date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) Treatment of Certain Items as Not Interest for Source Rules, Etc.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Items described in section 807(c) treated as not interest for source rules, etc.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 111. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) Amendment Related to Section 1101 of the Reform Act.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) Special rule for married individuals filing separately and living apart.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) Amendments Related to Section 1102 of the Reform Act.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "Excess contributions" in the heading and inserting in lieu thereof "Contributions".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sen-

tence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) Penalties Relating to Nondeductible Contributions.—

"(1) Overstatement of designated nondeductible contributions.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) Failure to file form.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) Amendments Related to Section 1105 of the Reform Act.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "Required distribution" in the heading thereof and inserting in lieu thereof "Distribution".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Partial distributions.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Years of service.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) Limitations on elective deferrals.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) Limitations on elective deferrals.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) Reporting requirements.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence:

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) Amendments Related to Section 1106 of the Reform Act.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) Arrangement elective; time for election.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986.

(6) Section 1107(c)(3) of the Reform Act is amended—

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows:

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows: "(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears" and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term 'social security retirement age' has the meaning given such term by section 415(b)(8)."

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph."

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan".

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(i) AMENDMENTS RELATED TO SECTION 1113 OF THE REFORM ACT.—

(1) Section 203(a)(2) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking out "following" the first place it appears, and

(B) by striking out "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting in lieu thereof "3(37)(A)(ii)".

(2) Section 1113(e)(3) of the Reform Act is amended by striking out "Section 202(B)(i)" and inserting in lieu thereof "Section 202(a)(1)(B)(i)".

(3) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(4) Section 1113(f) of the Reform Act, as redesignated by paragraph (3), is amended by adding at the end thereof the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such 1st plan year."

(5)(A) Section 411(a)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(B) Paragraph (3) of section 203(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code."

(6)(A) Section 411(a)(4)(A) of the 1986 Code is amended to read as follows:

"(A) years of service before age 18,".

(B) Subparagraph (A) of section 203(b)(1) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(A) years of service before age 18,".

(j) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(k) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(l) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY.—

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan.

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the employee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an".

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph (B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(m) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)."

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(n) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 111A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) PLANS MAY INCORPORATE SECTION 401(a)(9) REQUIREMENTS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) AMENDMENTS RELATED TO SECTION 1122 OF THE REFORM ACT.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by adding after subsection (c) the following new subsection:

"(d) Treatment of Employee Contributions Under Defined Contribution Plans as Separate Contracts.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-year" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

"A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) Special lump-sum treatment.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) Special rule for state plans.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(c) Amendments Related to Section 1123 of the Reform Act.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) Exceptions for distributions from employee stock ownership plans.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-plan-year period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for distributions under an annuity contract.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) Amendments Related to Section 1124 of the Reform Act.—

(1) Section 1124(a) of the Reform Act is amended to read as follows:

"(a) In General.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) Lump Sum Distribution.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) Amendments Related to Section 1131 of the Reform Act.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) Nondeductible Contributions.—For purposes of this section—

"(1) In general.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) Ordering rule for section 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) Contributions which may be returned to employer.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such taxable year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) Pre-1987 contributions.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) Qualified employer plan.—

"(A) In general.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) Exemption for governmental and tax exempt plans.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) Special rules for collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) Coordination with subsection (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

(f) Amendments Related to Section 1132 of the Reform Act.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ⅛ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978".

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for employee stock ownership plans.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) No credit or deduction allowed.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) Amount transferred to include income thereon, etc.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) Amendments Related to Section 1133 of the Reform Act.—

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) Exemption of Accrued Benefits in Excess of $562,500 on August 1, 1986.—For purposes of this section—

"(1) In general.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) Reduction in amounts which may be received without tax.—If this subsection applies to any individual—

"(A) Excess distributions.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) Excess retirement accumulation.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) Eligible individual.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) Certain amounts excluded.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) Election.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) Rules for computing excess retirement accumulation.—The excess retirement accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) Election by spouse to have excess distribution rule apply.—

"(A) In general.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) De minimis exception.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Additional Tax Under Section 4980A.—For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d)."

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Excess retirement accumulation tax.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Return required if excess retirement accumulation tax.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) Amendments Related to Section 1134 of the Reform Act.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) Period to which subparagraph (A) applies.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) Amendments Related to Section 1135 of the Reform Act.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the

employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) Amendments Related to Section 1136 of the Reform Act.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) Plan must designate type.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) Determinations as to profit-sharing plans.—

"(A) Contributions need not be based on profits.—".

(k) Amendment Related to Section 1139 of the Reform Act.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January".

(l) Amendments Related to Section 1140 of the Reform Act.—

(1) Subsection (a) of section 1140 of the Reform Act is amended by striking out "or subtitle C" and inserting in lieu thereof ", subtitle C, or title XVIII of this Act".

(2) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(3) Section 1140(c) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act."

(m) Amendments Related to Section 1145 of the Reform Act.—

(1) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking out "July 24, 1984" and inserting in lieu thereof "July 17, 1984".

(2)(A) Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(B) Paragraph (3) of section 205(b) of the Employee Retirement Income Security Act of 1974, as added by section 1145(b) of the Reform Act, is redesignated as paragraph (4).

(n) Amendments Related to Section 1147 of the Reform Act.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 111B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) Amendments Related to Section 1151 of the Reform Act.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) Year of inclusion.—

"(A) In general.—Except as provided in subparagraph (B), any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(B) Election to delay inclusion for 1 year.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) Employees covered by more than 1 plan.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Paragraph (6) of section 89(g) of the 1986 Code (relating to operating rules) is amended by striking out "subsection (d)(1)(A)(ii) or of" and by striking out "Eligibility requirements and" in the heading thereof.

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) Employers with only highly compensated employees.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) Loss of exemption for certain plans.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(l)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) General Rule.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (a) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) Benefits provided under certain employee benefit plans.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) Benefits Provided Under Certain Employee Benefit Plans.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) Certain plans maintained by educational institutions.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Tax on Funded Welfare Benefit Funds Which Include Discriminatory Employee Benefit Plan.—

"(1) In general.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) Amount of tax.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Limitation in case of benefits to which section 89 applies.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess benefits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(g)(6)(B) of the 1986 Code is amended by striking out "and (C)" and inserting in lieu thereof ", (C), and (D)".

(29) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(30) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(31) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(32)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) Excluded employees.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(33) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 compensation limit.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(34) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph (19), and by redesignating paragraph (20) as paragraph (19).

(35)(A) Section 89(g)(3)(B) of the 1986 Code shall not apply to years beginning before the date which is 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans. The Secretary may provide in such rules a date which is later than the date determined under the preceding sentence.

(B) In the case of years beginning after December 31, 1988, and before the 1st year to which the rules described in subparagraph (A) apply—

(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 162(k)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, such value under clause (i) may be determined under any other reasonable method selected by the employer maintaining the plan.

(b) Amendments Related to Section 1161 of the Reform Act.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance

costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2 and the Social Security Act."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—No amount shall be excluded under paragraph (1) for dependent care services provided during a taxable year to the extent that the dependent care assistance provided with respect to such dependent care services (whether such assistance is provided in such taxable year or another taxable year) exceeds $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—If the dependent care assistance provided to an employee exceeds the limitation of subparagraph (A), such excess shall be included in gross income—

"(i) in the taxable year in which the dependent care services were provided, or

"(ii) in the case of a payment to an employee for dependent care services provided to dependents of the employee, the taxable year in which such payment was received.

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B)(i) Except as provided in this subparagraph, the amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

(4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

(1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

(h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to—

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows:

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) Amendments Related to Section 1174 of the Reform Act.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401(a)(11) and 417, with the consent of the participant's spouse elects".

(j) Amendments Related to Section 1175 of the Reform Act.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) Qualified election period.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) Dispositions to meet diversification requirements.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) Exception where employee elected diversification.—Paragraph (1)(A) shall not apply with respect to the portion of the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) Coordination with distribution rules.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) Amendments Related to Section 1176 of the Reform Act.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) Amendments Related to Section 1177 of the Reform Act.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.

SEC. 112. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT.

(a) Amendments Related to Section 1201 of the Reform Act.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) Financial services income.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) General description of financial services income.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) Exceptions.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) Exception for certain high withholding tax interest.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out "none of its income" and inserting in lieu thereof "none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C))", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(J) Treatment of affiliated group filing consolidated return.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) Clarification of application of section 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following: "except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and the taxpayer was a United States shareholder in such corporation".

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (C).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (C).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (C)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—If—

"(1) gain from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) would be sourced in the United States under this section,

"(2) under a treaty obligation of the United States (applied without regard to this section), such gain would be sourced outside the United States, and

"(3) the taxpayer chooses the benefits of this subsection with respect to such gain,

such gain shall be sourced outside the United States (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain)."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows—

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) AMENDMENTS RELATED TO SECTION 1215 OF THE REFORM ACT.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—

"(A) IN GENERAL.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) NONAFFILIATED 10-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) EARNINGS AND PROFITS OF LOWER TIER CORPORATIONS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) STOCK OWNERSHIP REQUIREMENTS.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) STOCK OWNED THROUGH ENTITIES.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) COORDINATION WITH SUBPART F, ETC.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Section 864(e)(1) not to apply.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of bank holding companies.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) Transitional rules.—

"(A) General phase-in.—

"(i) In general.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) General phase-in amount.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	The applicable percentage is:
1st taxable year...	75
2nd taxable year .	50
3rd taxable year..	25.

"(iii) Lower limit where taxpayer reduces indebtedness.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) Consolidation rule not to apply to certain interest.—

"(i) In general.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) Special phase-in amount.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-year phase-in amount.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year..	8⅓	10
2nd taxable year	16⅔	25
3rd taxable year	25.............	50
4th taxable year	33⅓	100
5th taxable year	16⅔	100.

"(iv) 4-year phase-in amount.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year..	5................	6¼
2nd taxable year	10..............	16⅔
3rd taxable year	15..............	37½
4th taxable year	20..............	100
5th taxable year	0................	0.

"(v) 5-year debt amount.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-year debt amount.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) Paydowns.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	The applicable percentage is:
1st taxable year...	90
2nd taxable year .	80
3rd taxable year .	70
4th taxable year..	60
5th taxable year..	50
6th taxable year..	40
7th taxable year..	30
8th taxable year..	20
9th taxable year..	10.

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return."

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

"(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

(C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

(6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—If any person is treated under paragraph (1) as a United States shareholder with respect to any foreign corporation, for purposes of section 1248, such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 shall be taken into account."

(25) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.".

"(iii) COORDINATION.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(j) AMENDMENT RELATED TO SECTION 1224 OF THE REFORM ACT.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) AMENDMENT RELATED TO SECTION 1225 OF THE REFORM ACT.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986".

(l) AMENDMENTS RELATED TO SECTION 1226 OF THE REFORM ACT.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) Disallowance of foreign tax credit.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) Coordination with treaties.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) Coordination with section 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) Amendments Related to Section 1228 of the Reform Act.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Technical Corrections Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Technical Corrections Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) Amendments Related to Section 1231 of the Reform Act.—

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) Transitional rule for increase in gross income test.—

"(A) In general.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied without regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) Determination of shortfall.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) Special rule.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A) shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows:

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) Amendment Related to Section 1234 of the Reform Act.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) Amendments Related to Section 1235 of the Reform Act.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) In general.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "Dispositions" in the paragraph heading and inserting in lieu thereof "Transfers".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) In general.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) Recognition of Gain.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7) Paragraph (5) of section 1291(a) of the 1986 Code is hereby repealed.

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Cross Reference.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Options.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) Look-thru applies to passive foreign investment company inclusion.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution" and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) Application of part where stock held by other entity.—

"(A) In general.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign investment company.

"(B) Amount treated in same manner as previously taxed income.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Determination of earnings and profits.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) Amounts included in gross income under section 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) Treatment of certain foreign corporations owning stock in 25-percent owned domestic corporation.—

"(A) In general.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) Qualified stock.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Loans to Shareholder.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences:

"A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Additional election for shareholder of controlled foreign corporations.—

"(i) In general.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) Post-1986 earnings and profits.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) Coordination with section 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) Adjustments.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) Treatment of inclusions under section 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out "section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Other Special Rules.—

"(1) Exception for income subject to high foreign taxes.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11.

"(2) Prevention of double inclusion.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33)(A) Paragraph (2) of section 1295(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, such an election may be made later than as required by the preceding sentence in cases where the company failed to make a timely election because it reasonably believed it was not a passive foreign investment company."

(B) The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

(q) Amendments Related to Section 1241 of the Act.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) Limitation.—

"(i) In general.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) Accumulated effectively connected earnings and profits.—For purposes of clause (i), the term 'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code.

(2)(A) Paragraph (1) of section 884(e) is amended to read as follows:

"(1) Limitation on treaty exemption.—No income tax treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) Coordination with withholding tax.—

"(A) In general.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) Limitation on certain treaty benefits.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) Coordination with income tax treaties.—

"(A) Payor must be qualified resident.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any income tax treaty between the United States and the foreign country of which such corporation is a resident shall apply unless such foreign corporation is a qualified resident of such foreign country.

"(B) Recipient must be qualified resident.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any income tax treaty between the United States and the foreign country of which such corporation is a resident shall apply unless such corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Corporations owned by publicly traded domestic corporations.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (f) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Exception for international organizations.—This subsection shall not apply to any interest paid by an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Cross Reference.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) Effectively connected items.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(r) Amendments Related to Section 1242 of the Reform Act.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) Treatment of certain property transactions.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) Treatment of certain deferred payments, etc.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) Amendments Related to Section 1246 of the Reform Act.—

(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

"(a) General Rule.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocable under section 704 to a foreign partner, such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) Amount of Withholding Tax.—

"(1) In general.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) Effectively Connected Taxable Income.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent included in the distributive share of any partner who is not a foreign partner.

"(d) Treatment of Foreign Partners.—

"(1) Allowance of credit.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) Credit treated as distributed to partner.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) Foreign Partner.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)).

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out the "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) Amendments Related to Section 1247 of the Reform Act.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Treatment as resident.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Limitation on Exclusion.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) Amendment Related to Section 1249 of the Reform Act.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) Treatment of losses of separate business units.—To the extent provided in regulations, any loss of a separate unit of a domestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

"(4) Income on assets acquired after the loss.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) Amendments Related to Section 1261 of the Reform Act.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) Foreign Taxes.—

"(1) In general.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) Foreign income taxes.—For purposes of paragraph (1), "foreign income taxes" means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) Earnings and Profits and Distributions.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Special rules where taxpayer takes or makes delivery.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for certain contracts, etc.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) Payment date.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) Special rule for partnerships.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a) (3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) Amendments Related to Section 1274 of the Reform Act.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) Special Rule for Applying Section to Tax Imposed in Virgin Islands.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) Residents of the Virgin Islands.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) Amendment Related to Section 1275 of the Reform Act.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) Amendment Related to Section 1276 of the Reform Act.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) Amendment Related to Section 1277 of the Reform Act.—

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) Exemption From Withholding.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) Coordination With Treaties.—

(1) In general.—Subsection (d) of section 7852 of the 1986 Code is amended—

(A) by striking out "this title shall" and inserting in lieu thereof "this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall", and

(B) by striking out "in effect on the date of the enactment of this title" and inserting in lieu thereof "in effect on August 16, 1954".

(2) Certain amendments to apply notwithstanding treaties.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(C) Except as provided in the Reform Act or in paragraph (3) of this subsection, any other amendment made by the Reform Act.

(3) Certain amendments not to apply to the extent inconsistent with treaties.—The following amendments made by the Reform Act shall not apply to the extent

the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

(4) TREATMENT OF TECHNICAL CORRECTIONS.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows:

"(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this part as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904(g).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determing any such shareholder's DISC-related deferred tax liability under subsection (f)."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) Treatment of certain amounts previously taxed under section 1248.—

(A) In general.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

(B) Effective date.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) Treatment of shared FSC's.—

(A) In general.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Shared FSC's.—

"(1) In general.—Except as provided in paragraph (2), each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) Certain requirements applied at shared FSC level.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) Shared FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretry may by regulations prescribe."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

SEC. 113. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) Amendments Related to Section 1301 of the Reform Act.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Treatment of governmental bonds to which volume cap allocated.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) Special rules for scholarship funding bond issues and volunteer fire department bond issues.—

"(A) Scholarship funding bonds.—In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

"(B) Volunteer fire department bonds.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause (II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) Subparagraph (B) of section 103A(c)(1) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, is amended by striking out "1987" each place it appears and inserting in lieu thereof "1988".

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunded bond is a part is later than the average maturity date of the bonds to be refunded by

such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988.

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections:

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in paragraph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986' " before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "CURRENT" and inserting in lieu thereof "CERTAIN".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) CERTAIN REFUNDINGS.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation. For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) Clause (iii) of section 103(b)(6)(N) of such Code (as so in effect), as redesignated by subparagraph (A), is amended by striking out "'1988'" and inserting in lieu thereof "'1989'".

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended—

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1314 OF THE REFORM ACT.—

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The treatment under the preceding sentence shall also apply to a bond issued before September 26, 1985, but only for purposes of determining whether any bond issued after June 10, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) AMENDMENTS RELATED TO SECTION 1315 OF THE REFORM ACT.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) AMENDMENTS RELATED TO SECTION 1316 OF THE REFORM ACT.—

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a maturity date not later than the date which is 20 years after the date on which the original bond was issued."

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Technical Corrections Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.' "

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1317 OF THE REFORM ACT.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof 'coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team."

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985,

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)]" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"'(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

"'(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

"'(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

"'(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.'"

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by inserting "at least" before "900 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) CERTAIN BONDS TREATED AS QUALIFIED 501(C)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

"(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

"(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) AMENDMENTS RELATED TO SECTION 1318 OF THE REFORM ACT.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended—

(1) by inserting "(a) DEFINITIONS.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) MINIMUM TAX TREATMENT.—

"(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any ond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. Sections 1316(g)(5) and 1317(52) shall not apply to any refunding bond which meets the requirements of this subsection.

"(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

SEC. 114. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1401 OF THE REFORM ACT.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—

"(1) IN GENERAL.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) AMENDMENT RELATED TO SECTION 1402 OF THE REFORM ACT.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) POSTPONEMENT OF DATE SPECIFIED FOR REACQUISITION.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement."

(c) AMENDMENTS RELATED TO SECTION 1403 OF THE REFORM ACT.—

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) AMENDMENTS RELATED TO SECTION 1404 OF THE REFORM ACT.—

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof

"Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) Trusts" and inserting in lieu thereof " '(l) Trusts".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) Estates and Trusts.—

"(1) In general.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) Exception for estates and certain trusts.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) Exception for charitable trusts and private foundations.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) Special rule for annualizations.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) Time for making election.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Extension to last year of estate.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) Amendments Related to Section 1411 of the Reform Act.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Coordination with section 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(II) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(II) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) Certain Unearned Income of Minor Children Taxed as if Parent's Income.—

"(1) In general.—In the case of any child to whom section 1(i) applies, the tax imposed by section 55 shall be equal to the greater of—

"(A) the tax imposed by section 55 without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by section 55 if—

"(I) the alternative minimum taxable income of such child for the taxable year were reduced by the net unearned minimum taxable income of such child, and

"(II) the regular tax of such child for the taxable year were reduced by the portion of such tax attributable to net unearned income (as defined in section 1(i)(4)), plus

"(ii) such child's share of the allocable parental minimum tax.

"(2) Allocable parental minimum tax.—For purposes of this subsection—

"(A) In general.—The term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent's alternative minimum taxable income if—

"(I) such income included the net unearned minimum taxable income of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the amount of the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies to the extent such taxes are attributable to net unearned income (as defined in section 1(i)(4)) of such children, over

"(ii) the tax imposed by section 55 on the parent without regard to this subsection.

For purposes of clause (i), the net unearned minimum taxable income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

"(B) Child's share.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(C) Coordination with section 644.—Rules similar to the rules of subparagraph (C) of section 1(i)(3) shall apply.

"(3) Net unearned minimum taxable income.—For purposes of this subsection, the term 'net unearned minimum taxable income' means net unearned income (as defined in section 1(i)(4) computed with the adjustments provided in sections 56, 57, and 58; except that, notwithstanding section 56(b)(1)(E), the deduction under section 63(c) shall be allowed.

"(4) Other rules made applicable.—For purposes of this subsection, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(f) Amendment Related to Section 1421 of the Reform Act.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

(g) Amendments Related to Section 1431 of the Reform Act.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Taxable termination not to include direct skip.—For purposes of this chapter, the term 'taxable termination' shall not include any transfer which is a direct skip."

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Special Rules for Charitable Lead Annuity Trusts.—

"(1) In general.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) Adjusted GST exemption.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) Definitions.—For purposes of this subsection—

"(A) Charitable lead annuity trust.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) Charitable lead annuity.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) Coordination with subsection (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987.

(5)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) Special Rules for Certain Inter Vivos Transfers.—Except as provided in regulations—

"(1) In general.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035), any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) Valuation.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) Estate tax inclusion period.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) Treatment of spouse.—Any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) Coordination with subsection (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the transfer to the trust (or the direct skip)."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(6)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Look-thru rules not to apply.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(7) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Certain support obligations disregarded.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(8) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(9) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "nominal interests" in the paragraph heading and inserting in lieu thereof "interests", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(10) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(11) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(12) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) Treatment of certain charitable organizations and governmental entities.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(13) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(14) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) Certain Trusts Treated as Separate Trusts.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(15) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for the preceding sentence."

(16) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof "may elect to treat all of the property in such trust".

(17) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) Certain partial terminations treated as taxable.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(18) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1)) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(19)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) Treatment of Certain Direct Skips Which Are Nontaxable Gifts.—

"(1) In general.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) Exception for certain transfers in trust.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) Nontaxable gift.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after October 14, 1987.

(20) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(21) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in

lieu thereof "a spouse (or former spouse) of the transferor".

(h) AMENDMENTS RELATED TO SECTION 1433 OF THE REFORM ACT.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—

"(A) IN GENERAL.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) TREATMENT OF TRANSFERS IN TRUST.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed to such grandchild not less frequently than annually.

"(C) COORDINATION WITH SECTION 2653(a) OF THE 1986 CODE.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) COORDINATION WITH TAXABLE TERMINATIONS AND TAXABLE DISTRIBUTIONS.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) TREATMENT OF GRANDFATHERED PORTION OF TRUST.—If the amendments made by this subtitle do not apply to generation-skipping transfers from any portion of a trust, notwithstanding section 2654(b) of the Internal Revenue Code of 1986, such portion shall be treated as a separate trust for purposes of applying chapter 13 of such Code.

"(5) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

SEC. 115. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF THE REFORM ACT.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) AMENDMENTS RELATED TO SECTION 1503 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) COORDINATION WITH SECTION 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return."

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment."

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

(c) AMENDMENT RELATED TO SECTION 1504 OF THE REFORM ACT.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) AMENDMENTS RELATED TO SECTION 1511 OF THE REFORM ACT.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "SHORT-TERM FEDERAL RATE" in the heading of subsection (b) and inserting in lieu thereof "FEDERAL SHORT-TERM RATE".

(e) AMENDMENTS RELATED TO SECTION 1521 OF THE REFORM ACT.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) PROHIBITION OF SEPARATE CHARGE FOR FILING RETURN.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "REAL ESTATE BROKER" in the heading of paragraph (2) and inserting in lieu thereof "REAL ESTATE REPORTING PERSON".

(f) AMENDMENT RELATED TO SECTION 1522 OF THE REFORM ACT.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) EXCEPTION FOR CERTAIN CLASSIFIED OR CONFIDENTIAL CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) REPORTING REQUIREMENT.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) DESCRIPTION OF CONTRACT.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) Amendments Related to Section 1523 of the Reform Act.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", Dividends, and Royalties" in the heading for subsection (b) and inserting in lieu thereof "and Dividend".

(h) Amendments Related to Section 1542 of the Reform Act.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence:

"In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) Amendment Related to Section 1551 of the Reform Act.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) Provision Related to Section 1556 of the Reform Act.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.

(k) Amendment Related to Section 1557 of the Reform Act.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed.

(l) Amendments Related to Section 1561 of the Reform Act.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "and Summoned Party" after "Recordkeeper" in the subsection heading.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) Amendment Related to Section 1562 of the Reform Act.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) Amendment Related to Section 1563 of the Reform Act.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) Amendment Related to Section 1565 of the Reform Act.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) Amendment Related to Section 1581 of the Reform Act—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) General Requirement of Return, Statement, or List.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) Certain Refundable Credits To Be Assessed Under Deficiency Procedures.—

(1) Subsection (a) of section 6201 of the 1986 Code is amended by striking out paragraph (4).

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6213 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act.

SEC. 116. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) Amendments Related to Section 1603 of the Reform Act.—

(1) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—"

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) Special rules for organizations described in section 501(c)(25).—

"(i) In general.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) Description of amounts.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) Disqualified holder.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) Repeal of Section 1608 of the Reform Act.—Section 1608 of the Reform Act is hereby repealed.

SEC. 117. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) Amendments Related to Section 1701 of the Reform Act.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) Amendment Related to Section 1702 of the Reform Act.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) Amendments Related to Section 1703 of the Reform Act.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) In general.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale, of gasoline by the refiner or importer thereof or the terminal operator.

"(2) Rates of tax.—

"(A) In general.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) Rates.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) Termination.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of payment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i)."

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'."

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this section."

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅛ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Application to sales under subsection (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose."

SEC. 118. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) Amendment Related to Section 1801 of the Reform Act.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows:

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) Amendments Related to Section 1802 of the Reform Act.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended—

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) Tax-exempt controlled entity.—

"(I) In general.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) Only 5-percent shareholders taken into account in case of publicly traded stock.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) Section 318 to apply.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) TREATMENT OF CERTAIN TRANSFERS TO CREDITORS.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a distribution to its shareholders pursuant to the plan of reorganization.

"(4) COORDINATION WITH OTHER PROVISIONS.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF NONRECOGNITION PROPERTY IN CASE OF SECTION 361 EXCHANGE.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization,

in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) EXCEPTION FOR LIQUIDATIONS WHICH ARE PART OF A REORGANIZATION.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR CERTAIN AMOUNTS DERIVED FROM A CORPORATION PREVIOUSLY TREATED AS A DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) Provision Related to Section 1806 of the Reform Act.—If—

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) Amendments Related to Section 1807 of the Reform Act.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,"

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) Clarification of Taxation of Certain Funds.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) Amendments Related to Section 1810 of the Reform Act.—

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) Amendment Related to Section 1821 of the Reform Act.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) Dividends From Certain Subsidiaries Not Included in Gross Investment Income.—

"(1) In general.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 percent dividend defined.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) Certain dividends out of tax-exempt interest, etc.—The term '100 percent dividend' does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) Certain dividends received by foreign corporations.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

(i) Amendment Related to Section 1822 of the Reform Act.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

(j) Amendment Related to Section 1825 of the Reform Act.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

(k) Amendments Related to Section 1842 of the Reform Act.—

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Transfers between spouses or incident to divorce.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(l) Amendments Related to Section 1866 of the Reform Act.—

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(m) Amendments Related to Section 1869 of the Reform Act.—

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(n) Amendments Related to Section 1875 of the Reform Act.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner."

(o) Amendment Related to Section 1878 of the Reform Act.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(p) Amendments Related to Section 1879 of the Reform Act.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out

"treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended—

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) TAX-EXEMPT PORTION.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(6)(A) Subparagraph (A) of section 126(b)(1) of the 1986 Code is amended by inserting "or the Secretary of the Interior (whoever is appropriate)" after "Agriculture".

(B) For purposes of applying section 126(a)(10) of the 1986 Code to grants made after September 30, 1979, a State surface mining reclamation program which is primarily for 1 or more purposes specified in such section shall be treated as such a program primarily for such purposes whether or not such program is denoted as a program for public health and safety.

(q) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(r) MISCELLANEOUS PROVISIONS—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969.

(s) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing".

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A".

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

(B) Paragraph (1) of section 4402(h) of the Employee Retirement Income Security Act of 1974 is amended by striking out "January 12, 1982" the second place it appears and inserting in lieu thereof "January 16, 1982".

(C) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

(D) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or "(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) Amendment related to section 1875 of the Reform Act.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)".

(6) Amendments related to section 1879 of the Reform Act.—

(A) Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(B) Subsection (u) of section 1879 of the Reform Act is amended—

(i) by striking "206(h)" each place it appears in paragraphs (1) and (4)(B) and inserting in lieu thereof "204(h)";

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3) the following:

"(4) Correction of cross reference.—Section 4218(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1398(1)(A)) is amended by striking out 'section 4062(d)' and inserting in lieu thereof 'section 4069(b)'."

(7) Amendments related to section 1895 of the Reform Act.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B)(i) Section 106(b)(2) of the 1986 Code (relating to exception to certain plans) is amended by striking out the last sentence thereof.

(ii) Section 601(b) of the Employee Retirement Income Security Act of 1974 is amended by striking out the last sentence thereof.

(iii) Section 2201(b) of the Public Health Service Act is amended by striking out "subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employees under common control)" and inserting in lieu thereof "subsections (b), (c), (m), (n), and (o) of section 414 the Internal Revenue Code of 1986 (relating to aggregation rules)".

(iv) The amendments made by this subparagraph shall apply to years beginning after December 31, 1986.

(C) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)".

(D)(i) Section 162(k)(7)(A) of the 1986 Code is amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))."

(ii) Sections 607(2) of the Employee Retirement Income Security Act of 1974 and 2208(2) of the Public Health Service Act are each amended by striking out "the individual's employment or previous employment with an employer" and inserting in lieu thereof "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)."

(iii) The amendments made by this subparagraph shall apply to plan years beginning after December 31, 1988.

(E)(i) Clause (iv) of section 162(k)(2)(B) of the 1986 Code is amended to read as follows:

"(iv) Medicare eligibility.—In the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv), the date on which the qualified beneficiaries first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(ii) Section 602(2)(D) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(D) Medicare eligibility.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title 18 of the Social Security Act."

(iii) Section 2202(2)(D) of the Public Health Service Act is amended to read as follows:

"(D) Medicare eligibility.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 2207(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title 18 of the Social Security Act."

(iv) The amendments made by this subparagraph shall apply to plan years beginning after December 31, 1988.

(F)(i) The last sentence of section 162(k)(2)(C) of the 1986 Code is amended to read as follows:

"In no event may the plan require the payment of any premium for any period of continuation coverage before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(ii) The last sentence of section 602(3) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"In no event may the plan require the payment of any premium for any period of continuation coverage before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(iii) The last sentence of section 2202(3) of the Public Health Service Act is amended to read as follows:

"In no event may the plan require the payment of any premium for any period of continuation coverage before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage."

(8) Amendments related to section 1898 of the Reform Act.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B)(i) Clause (ii) of section 417(a)(3)(B) of the 1986 Code (defining applicable period) is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(ii) Clause (ii) of section 205(c)(3)(B) of the Employee Retirement Income Security Act of 1974 is amended by striking out subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation."

(C) Section 1898(b)(8) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) Effective date.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act."

(D) Paragraph (12) of section 1898(b) of the Reform Act is amended by striking out all of subparagraph (B) from "(B) Amendment" through "follows:" and inserting the following:

"(B) Amendment to ERISA.—Section 205(h) of the Employee Retirement Income Security Act of 1974 is amended—

"(i) by striking out 'the term' in paragraphs (1) and (3) and inserting in lieu thereof 'The term';

"(ii) by striking out the comma in paragraph (1) and inserting in lieu thereof a period; and

"(iii) by striking out paragraph (2) and inserting in lieu thereof the following:".

(E) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(F) Subparagraph (B) of section 1898(d)(1) of the Reform Act is amended by striking out "Paragraph (1)" and inserting in lieu thereof "Subsection (e)(1)".

(G) Subsection (e)(1) of section 203 of the Employee Income Security Act of 1974 is amended—

(i) by inserting "(e)" before "(1)", and

(ii) by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(H) Subclause (IV) of section 205(c)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 is amended by striking out "401(a)(11)" and inserting in lieu thereof "205".

(I) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking out "Subparagraph (C) of section 205(b)(1)" and inserting in lieu thereof "Clause (i) of section 205(b)(1)(C)".

(J) Section 205(e)(2) of the Employee Retirement Income Security Act of 1974 is amended by striking out "nonforfeitable accrued benefit" and inserting in lieu thereof "nonforfeitable right (within the meaning of section 203)".

(K) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(L) Section 1899A of the Reform Act is amended by striking out paragraph (13).

(M) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(N) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution requirements) is amended by inserting ", 403(b)," after "section 401".

(O) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies."

(t) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out "1222(b)" and inserting in lieu thereof "1122(b)".

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out "recovery deductions" and inserting in lieu thereof "depreciation deductions".

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after "section 189)" and by striking out the closing quotation marks following "subparagraph (B)".

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

"(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B)."

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out "Initial separate tax".

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out "the".

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out "subclause (II)" and inserting in lieu thereof "clause (ii)".

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out "Which" and inserting in lieu thereof "which".

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out "the GST tax" and inserting in lieu thereof "The GST tax".

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out "Subsection (b)" and inserting in lieu thereof "Subsection (a)".

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out "last sentence of section 514(c)(9)(B) (relating to exceptions)" and inserting in lieu thereof "second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))".

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out "is amended" and inserting in lieu thereof ", and the last sentence of such section, are amended".

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out "any association" and inserting in lieu thereof "Any association".

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized".

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting "smokeless tobacco," after "cigarettes," in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out "Paragraph (1) of section 9506(b)" and inserting in lieu thereof "Subsection (b) of section 9506".

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out "Deep Water" each place it appears and inserting in lieu thereof "Deepwater".

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out "section 6511(d)(6)" and inserting in lieu thereof "section 6511(d)(4)".

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

"(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

"(22) for amounts allowed as deductions under section 59(d) (relating to optional 10-year writeoff of certain tax preferences);

"(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

"(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d)."

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out "not qualified withdrawal" and inserting in lieu thereof "not a qualified withdrawal".

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

"Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties."

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out "subsection (g)" and inserting in lieu thereof "subsections (g)".

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out "payment to be" and inserting in lieu thereof "payments to be".

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out "section 856" and inserting in lieu thereof "section 858".

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out "such capital loss such" and inserting in lieu thereof "such capital loss shall".

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Part IV. Real estate mortgage investment conduits."

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after "section 585(a)(2)".

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

"Part II. Other insurance companies.

"Part III. Provisions of general application."

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out "section 501(c)(17)" and inserting in lieu thereof "section 501(c)(17)(A)", and

(B) by striking out "duties consists" and inserting in lieu thereof "duties consist".

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out "Saving" and inserting in lieu thereof "Savings".

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out "or section 6678" and inserting in lieu thereof "or part II of subchapter B of this chapter".

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 865. Source rules for personal property sales."

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out "personal property" and inserting in lieu thereof "inventory property".

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after "this subpart".

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out "section 6601" and inserting in lieu thereof "section 6601(b)".

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "mean" and inserting in lieu thereof "means".

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7475. Practice fee."

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting "(3)" before "SPECIAL" in the paragraph heading,

(B) by inserting a 1 em dash after "PAYMENTS." in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out "the Secretary—" and inserting in lieu thereof "The Secretary—".

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988".

SEC. 121. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 201. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) REFUNDS DIRECTLY TO EXPORTER.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) MODIFICATIONS TO LIST.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) AMENDMENTS RELATED TO SECTION 516 OF THE ACT.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION FOR RIC'S AND REIT'S.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Paragraph (2) of section 59A(b) of the 1986 Code (defining modified alternative minimum taxable income) is amended by striking out "section 164(a)(5)" and inserting in lieu thereof "section 164(a)(6)".

(B) The paragraph (5) of section 164(a) of the 1986 Code added by section 516(b) of the Superfund Revenue Act of 1986 is redesignated as paragraph (6).

(d) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1)(A) The amendment made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) GASOLINE USED IN AVIATION.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX ON GASOLINE USED IN TRAINS.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents".

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by inserting "and by substituting '⅒ cent' for '0.1 cent' " before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅚ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4901(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅒ cent per gallon."

(B) Paragraph (4) of section 4901(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

(B) Definitions.—For purposes of subparagraph (A)—

"(i) Regular tax rate.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) Incentive tax rate.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(e) Effective Date.—The amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates.

SEC. 202. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) Order of Enactments.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) Rates.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	The tax per gallon is:
Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents.

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) Cargo Transported Between Possessions, Etc.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) Delay in Due Date for Study of Cargo Diversion.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "July 1, 1988".

(d) Effective Date.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

SEC. 203. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) Amendment Related to Section 1011 of the Act.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) Amendments Related to Section 8011 of the Act.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) Amendment Related to Section 8041 of the Act.—

(1) In general.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", Etc." after "Deduction" in the paragraph heading.

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) Amendment Related to Section 9002 of the Act.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

(e) Amendments Related to Section 9202 of the Act.—

(1) Section 411(b)(2) of the 1986 Code and section 204(b)(2) of the Employee Retirement Income Security Act of 1974 are each amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Section 411(b)(2)(C) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3) Section 204(b)(2)(C) of the Employee Retirement Income Security Act of 1974, as redesignated by paragraph (1), is amended by striking out "(C) and (D)" and inserting in lieu thereof "(B) and (C)".

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 9202 of the Omnibus Budget Reconciliation Act of 1986.

(f) Amendments Related to Section 9203 of the Act.—

(1) Sections 411(a)(8)(B) of the 1986 Code and 3(24)(B) of the Employee Retirement Income Security Act of 1974 are each amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan."

(2) The amendments made by this subsection shall take effect as if included in the amendments made by section 9203 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 204. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) Amendments Related to Section 10102 of the Act.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(b) Amendment Related to Section 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant".

(c) Amendments Related to Section 10202 of the Act.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by

adding at the end thereof the following new subparagraph:

"(C) Certain dispositions deemed made on 1st day of taxable year.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) Certain rules made applicable.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Technical Corrections Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(d) Amendments Related to Section 10206 of the Act.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) Tiered structures, etc.—

"(A) In general.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) Exceptions for structures consisting of certain entities with same taxable year.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) Personal Service Corporation.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Personal service corporation.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Net required payment balance.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) Refund of Payments.—

"(1) In general.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) Termination of elections, etc.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) Date on which refund payable.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following the calendar year in which the year referred to in paragraph (1) or (2) ends; or

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) Treatment of guaranteed payments.—

"(A) In general.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) Guaranteed payment.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) Adjusted taxable income.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(e) Amendments Related to Section 10211 of the Act.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) Coordination with passive-type income requirements.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(f) Amendment Related to Section 10212 of the Act.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Coordination with subsection (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(g) Amendment Related to Section 10214 of the Act.—Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(h) Amendment Related to Section 10221 of the Act.—Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)".

(i) Amendments Related to Section 10222 of the Act.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) In general.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of certain excess loss accounts.—

"(i) In general.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis.

"(ii) Special rules.—For purposes of this subparagraph—

"(I) Unrecaptured amount.—The term 'unrecaptured amount ' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) Coordination with binding contract exception.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Adjustments.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Application of section 312(n)(7) not affected.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows:

"(B) Exception.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contact, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(j) Amendments Related to Section 10223 of the Act.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of members of affiliated group.—For purposes of subparagraph (A), all distributees which are members of the same affiliated group shall be treated as 1 distributee."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended—

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(k) Amendment Related to Section 10224 of the Act.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(l) Amendments Related to Section 10226 of the Act.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) General Rule.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) Gain corporation.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) Control.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) Treatment of members of same group.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) Treatment of predecessors and successors.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) Acquisition date.—The term 'acquisition date' means—

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) Exception Where Corporations Under Common Control.—

"(1) In general.—Subsection (a) shall not apply to the preacquisition loss of any corporation if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) Controlled group.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) Shorter period where gain corporation not in existence for 5 years.—If the gain corporation was not in existence throughout the 5-year period referred to in paragraph (1), the period during which the gain corporation was in existence shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Coordination with Section 172(b) Carryover Rules.—If any preacquisition loss may not offset a recognized built-in gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d)."

(m) Amendments Related to Section 10228 of the Act.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "Gain Recognized" in the subsection heading and inserting in lieu thereof "Amount Recognized".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) Administrative Provisions.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(n) Amendment Related to Section 10301 of the Act.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV)".

(o) Amendments Related to Section 10402 of the Act.—

(1) Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) Treatment of certain transfers.—

"(A) In general.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property equal to the paragraph (1) inclusion (or proportionate amount thereof).

"(B) Coordination with paragraph (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) Definitions.—For purposes of this paragraph—

"(i) Original transferor.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) Original transferee.—The term 'original transferee' means the person to whom the transfer referred to in paragraph (1) is made. Such term includes any member of the original transferor's family to whom the property is subsequently transferred.

"(iii) Paragraph (1) inclusion.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A)."

(2) Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(p) Amendments Related to Section 10512 of the Act.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) Exception for United States.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "Distilled Spirits Plants, Bonded Wine Cellars, or Breweries" in the heading and inserting in lieu thereof "Controlled Premises".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Coordination of Taxes Under Section 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(q) Effective Date.—Any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 205. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) Definitions.—For purposes of this section—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

(b) Amendments Related to Section 9303.—

(1)(A) Subclause (II) of section 412(l)(3)(C)(ii) of the 1986 Code is amended by inserting "(but not below zero)" after "reducing".

(B) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(2)(A) Clause (i) of section 412(l)(4)(B) of the 1986 Code is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(B) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(3)(A) Section 412(l)(5)(A) of the 1986 Code is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(B) Section 302(d)(5)(A) of ERISA is amended by striking out "October 17, 1987" and inserting in lieu thereof "the first plan year beginning after December 31, 1988".

(4)(A) Section 412(l)(7)(D) of the 1986 Code is amended—

(i) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) Election.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary."

(B) Section 302(d)(7)(D) of ERISA is amended—

(i) by striking out "and" at the end of clause (iii)(I), by striking out the period at the end of clause (iii)(II) and inserting in lieu thereof ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) Election.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury."

(5)(A) Section 412(l)(8) of the 1986 Code is amended—

(i) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) Deduction for credit balances.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection."

(B) Section 302(d)(8) of ERISA is amended—

(i) by striking out "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection."

(6)(A) Section 412(c)(9) of the 1986 Code is amended—

(i) by striking out "3 years" and inserting in lieu thereof "year", and

(ii) by striking out "3-YEAR" in the heading and inserting in lieu thereof "ANNUAL".

(B) Section 302(c)(9) of ERISA is amended by striking out "3 years" and inserting in lieu thereof "year".

(7) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(8) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(7)(A) Subparagraph (C) of section 412(l)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of ERISA is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(c) AMENDMENTS RELATED TO SECTION 9304.—

(1)(A) Subparagraph (A) of section 412(c)(10) of the 1986 Code is amended—

(i) by inserting "defined benefit" before "plan other", and

(ii) by striking out "PLANS" in the heading and inserting in lieu thereof "DEFINED BENEFIT PLANS".

(B) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(2)(A) Subparagraph (B) of section 412(c)(10) of the 1986 Code is amended—

(i) by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)", and

(ii) by striking out "MULTIEMPLOYER" in the heading and inserting in lieu thereof "OTHER".

(B) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking out "multiemployer plan" and inserting in lieu thereof "plan not described in subparagraph (A)".

(3)(A) Section 412(m)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(B) Section 302(e)(1) of the 1986 Code is amended by inserting "defined benefit" before "plan (other".

(4)(A) Subparagraph (D) of section 412(m)(4) of the 1986 Code is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (l) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent."

(B) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent."

(5)(A) Section 101(d)(1) of ERISA is amended by striking out "an employer of a plan" and inserting in lieu thereof "an employer maintaining a plan".

(B) Section 502(c) of ERISA is amended by adding at the end thereof the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper."

(C) Section 9304(d) of the Pension Protection Act is amended by striking out "Section" and inserting in lieu thereof "Effective with respect to plan years beginning after December 31, 1987, section".

(6)(A)(i) Subparagraph (B) of section 412(m)(1) of the 1986 Code is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(ii) Clause (ii) of section 412(d)(1)(A) of the 1986 Code is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(B)(i) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B))."

(ii) Section 303(d) of ERISA is amended—

(I) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2),

(II) by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), and

(III) by inserting "(including adjustments under section 302(b)(5)(B))" after "costs" in paragraph (1)(B) (as so redesignated).

(d) AMENDMENTS RELATED TO SECTION 9306.—

(1) The last sentence of section 412(f)(4)(A) of the 1986 Code is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(2) The last sentence of section 303(e)(1) of ERISA is amended by striking out "the benefit liabilities" and inserting in lieu thereof "for benefit liabilities".

(3) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (B).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988."

(e) AMENDMENTS RELATED TO SECTION 9307.—

(1)(A) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(B) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(C) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

(2)(A) Clause (iii) of section 412(b)(5)(B) of the 1986 Code is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(B) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking out "for purposes of this section and for purposes of determining current liability,".

(3)(A) Section 302(b)(5)(B) of ERISA is amended by inserting the following matter after the heading and before clause (i): "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(B) Section 302(b)(5) of ERISA is amended by striking out the matter following the heading thereof and preceding subparagraph (A).

(C) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking out "average rate" and inserting in lieu thereof "the weighted average of the rates".

(4) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988."

(f) AMENDMENTS RELATED TO SECTION 9311.—

(1) Section 9311(a)(2) of the Pension Protection Act is amended by striking out "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "residual plan assets upon termination".

(2) Section 9311(d) of the Pension Protection Act is amended—

(A) by striking out "section 4041(c)" and inserting in lieu thereof "section 4041" in paragraph (1), and

(B) by adding at the end thereof the following new flush sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987."

(3) Section 9311(a)(2) of the Pension Protection Act is amended by striking out the last sentence.

(g) AMENDMENTS RELATED TO SECTION 9312.—

(1) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(A) by striking out "section 4022(c)(1)" in subclause (I) and inserting in lieu thereof "section 4022(c)(3)", and

(B) by striking out "subparagraph (B) of section 4022(c)(1)" and inserting in lieu thereof "subparagraph (C) of section 4022(c)(3)".

(2) Section 9312(b)(3)(B)(ii) of such Act is amended by striking out "section 4022(c)(1)(B)" and inserting in lieu thereof "section 4022(c)(3)(C)".

(3) Section 4062(a) of ERISA is amended—

(A) by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2), and

(B) by striking out "subsection (d)" in paragraph (2) (as so redesignated) and by inserting in lieu thereof "subsection (c)".

(4)(A) Section 4064(b) of ERISA is amended by striking out "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting in lieu thereof "and section 4068(a)".

(B) Section 4068(a) of ERISA is amended by striking out the last sentence.

(5) Section 4022(c)(1) of ERISA is amended by striking out "(or in the case of a deceased participant)".

(6) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(7) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking out clause (ii).

(8) Section 4041(c) of ERISA is amended—

(A) by striking out "(or its designee under section 4049(b))" in paragraph (2)(A)(iii)(II),

(B) by striking out "section 4049" in paragraph (2)(A)(iii)(II) and inserting in lieu thereof "section 4022(c)", and

(C) by striking out the last sentence of paragraph (3)(C)(i).

(9) Section 4070(a) of ERISA is amended by striking out "4049,".

(10) Section 9312(d)(1) of the Pension Reform Act is amended by striking out "section 4041(c)" and inserting in lieu thereof "section 4041".

(h) AMENDMENTS RELATED TO SECTION 9313.—

(1) Section 4041(d)(1) of ERISA is amended by striking out "sufficient for benefit commitments" and inserting in lieu thereof "sufficient for benefit liabilities".

(2) Section 4041(c)(2)(B) of ERISA is amended by inserting "proposed" before "termination" in the parenthetical in the second sentence.

(3) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(A) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification",

(B) by inserting "and, if applicable, the proposed distribution date" after "termination date" in subclause (I), and

(C) by striking out "date" and inserting in lieu thereof "dates" in subclauses (II) through (V).

(i) AMENDMENTS RELATED TO SECTION 9341.—

(1)(A) Section 401(a)(29)(C)(i)(II) of the 1986 Code is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(B) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment".

(2) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(3)(A) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under subsection (a) shall notify the Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require."

(B) Section 4071 of ERISA is amended—

(i) by striking out "or subtitle A, B, or C" and inserting in lieu thereof ", subtitle A, B, or C, as section 302(f)(4) or 307(e)", and

(ii) by inserting "or such section" after "such subtitle".

(4)(A) Clause (i) of section 401(a)(29)(A) of the 1986 Code is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(B) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(5) Section 9341(c) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(j) AMENDMENT RELATED TO SECTION 9342.—

(1) Paragraph (11) of section 103(d) of ERISA is amended—

(A) by striking out "60 percent" and inserting in lieu thereof "70 percent", and

(B) by striking out "such percentage" and inserting in lieu thereof "the percentage which such value is of such liability.".

(2) Section 502(a)(6) of ERISA is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (c)(2) or (i)".

(3) Section 502(c)(2) of ERISA is amended—

(A) by inserting "against any plan administrator" after "civil penalty", and

(B) by striking out "a plan administrator's" and inserting in lieu thereof "such plan administrator's".

(k) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(l) AMENDMENTS RELATED TO SECTION 9345.—

(1) Section 407(d)(9) of ERISA is amended by striking out "such arrangement" and inserting in lieu thereof "such individual account plan".

(2) Section 407(f) of ERISA is amended by striking out paragraph (3).

SEC. 206. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

SEC. 207. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) INCOME.—Section 1612(b) of the Social Security Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) RESOURCES.—Section 1613(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph.

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

SEC. 208. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) TECHNICAL CORRECTIONS.—(1) Section 205(c)(2)(C)(iii) of the Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3) The last sentence of section 226(b) of such Act (as added by section 9010(e)(3) of Public Law 100-203) is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.".

(4)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or ".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and and subparagraphs (B) and (C) of paragraph (3)".

(5) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "312(b)" and inserting "3121(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and

(C) by striking "after 'service' " and inserting "before 'performed' ".

(6) Section 9006(b)1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

By Mr. HATFIELD (for himself and Mr. CHAFEE):

S. 2239. A bill to authorize the provision of trauma care for victims of the Nicaraguan civil war; to the Committee on Foreign Relations.

TRAUMA CARE FOR NICARAGUAN WAR VICTIMS

● Mr. HATFIELD. Mr. President, while we have been busy with our debates over delivery systems and aid levels, the people of Nicaragua have been suffering. More than 10,000 of them have lost limbs—40,000 have been killed. A lot of those suffering in Nicaragua today are not Contras or Sandinistas, but just people caught between sides in a bloody civil war—at least half of the people killed in the 7 years of fighting were civilians.

I think it is high time we do something for those people—for the Contras and the Sandinistas and the tens of thousands caught between them. Rarely has the need, the desperate need, for compassion and healing been so compelling.

I rise today to introduce legislation which would establish a system of integrated trauma care for the victims—all the victims—of the Nicaraguan civil war. It is identical to legislation introduced yesterday in the House of Representatives by my friend and fellow Republican JIM LEACH.●

By Mr. JOHNSTON:

S. 2240. A bill to amend the act to reauthorize the State Mining and Mineral Resources Research Institute Program, and for other purposes; to the Committee on Energy and Natural Resources.

REAUTHORIZATION OF STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTE PROGRAM

● Mr. JOHNSTON. Mr. President, today I am introducing legislation to reauthorize the State Mining and Mineral Resources Research Institute Program. Public Law 98-409, an act to establish a State Mining and Mineral Resources Research Institute Program, is due to expire September 30, 1989. The purpose of this program is to stimulate research and training of engineers and scientists in mining and minerals resources and technology. Research conducted by the 32 institutes under this program is yielding practical results and is making a significant contribution to mining and mineral development in this country. I believe this is a worthwhile program and recommend that my colleagues support this reauthorization legislation.

The bill authorizes to be appropriated to the Secretary of Interior for each fiscal year 1990 through 1994 $400,000 per participating State for a minerals institute at one eligible public college or university to conduct research relating to mining and mineral resources. This authorization is the same as the level currently authorized for fiscal year 1986 through fiscal year 1989. These funds are to be available for grants on a matching basis of no less than two non-Federal dollars for each Federal dollar. The bill also authorizes to be appropriated to the Secretary $15 million for each fiscal year 1990 through 1994 for specific mineral research and demonstration projects. This represents a modest increase from current authorized levels.

The composition of the Committee on Mining and Mineral Resources Research is changed by adding an additional mining industry representative. This committee is responsible for reviewing all funding applications, and making recommendations to the Secretary on all matters relating to mining and mineral resources research.

Lastly, the bill requires the committee to annually update the national plan for research in mining and minerals resources required in the original legislation.●

By Mr. GRASSLEY:

S. 2241. A bill to amend title 5, United States Code, to prohibit reimbursement by the United States of costs incurred by contractors in connection with proceedings relating to violations of laws or regulations; to the Committee on Governmental Affairs.

CONTRACTOR LEGAL FEES REFORM ACT

Mr. GRASSLEY. Mr. President, as my colleagues know, I have spent much of my 7 years in this Chamber urging for reforms of the way the Defense Department conducts business with its largest defense contractors. It so happens I am going to introduce a bill today that has resulted from costly contracts because of legal fees as a result of fraudulent practices by defense contractors. I think that we have to solve this problem not only to save the taxpayers money but also to keep equity between defense contractors doing business with the Federal Government and any other individual or corporation in any other area that does business with the Federal Government.

There is evidence that procurement fraud problems are as serious today as they were years ago. A January 1988, GAO report supports this theory, with respect to evidence of cost mischarging, defective pricing, and product substitution: For example, during a 1-year period between April 1985 and March 1986, there were 148 open procurement fraud cases reported to the Secretary of Defense, with an estimated dollar loss to the Government of more than $387 million.

In one of the cost and/or labor mischarging open cases, an audit by the defense contract audit agency uncovered suspected cost escalations on over 300 spare parts in 3,200 contracts, resulting in an estimated loss to the Government of over $100 million. The defense contractor in question was allegedly manipulating cost transfers from one contract to another over a 6-year period.

In one of the defective pricing open cases, a subcontractor was allegedly overpricing spare parts for a missile warning system contract. Based on the subcontractor's overpricing, the contractor was charging from 70 percent to an incredible 2,472 percent more than the Federal supply schedule prices, resulting in an estimated loss to the Government of $2 million.

I, and others, have also focused attention on the "blind eye" that has been too often cast on waste and fraud perpetrated by some in the defense industry. Waste, fraud, and abuse works a dual harm on our Nation, because as the Packard Commission report so correctly pointed out, waste and fraud by Government contractors are more than a ripoff of the taxpayer; they're a blow to the security of the Nation, as well.

Years of effort have yielded some positive results. Specialized departments within DOD have been created to investigate and punish defense procurement fraud.

The January 1988 GAO report found that punitive actions against fraudulent defense contractors are increasing. DOD's total suspensions and debarments of contractors totaled 898 in 1987, over 3 times the 280 such actions taken in 1983.

New laws and tough amendments have been pursued by the Congress to increase the antifraud weapons available to both the Government and private parties. The False Claims Amendments Act and the 1986 Defense Authorization Act are examples.

After much prodding, the Justice Department has also attacked the problem of cheating, lying, and deception committed by companies doing business with the Federal Government, especially in defense industries. For example, criminal convictions of DOD contractors by the Justice Department increased almost 50 percent from 207 in 1983 to 307 in 1987.

I commend the Justice Department for their strides in protecting the taxpayer and for making defense procurement fraud a high priority in the area of white collar crime.

As one who has followed developments relating to the prosecution of defense fraud, I was dismayed to learn of certain statutory and regulatory provisions which severely undermine the vigorous prosecution of culpable contractors.

In particular, it has come to my attention that defense contractors are currently permitted to bill the Government for the full cost of their legal expenses in fraud cases, as an element of contract cost. The anomolous result: The same Government that prosecutes the fraud case pays the cost of the defense. Actually, we as taxpayers pay twice—we fund the prosecution by DOJ and DOD through the agency's budgets, then we subsidize the contractor and their high-priced lawyers.

Such an arrangement, by the way, is wholly unprecedented in more than 200 years of American jurisprudence. In no other case—whether it be a white collar, or other economic crime, or a "street crime" case—is a criminal defendant permitted to recover the cost of his legal defense from the Government. I might add that the guilt or innocence of the defendant is irrelevant to this general prohibition on recovery of legal fees. Criminal defendants who are acquitted have never been entitled to recover legal expenses incurred in their defense.

In civil cases, private parties that prevail over the Government can recover legal expenses only by specific statutory authorization, such as the Equal Access to Justice Act, which generally limits legal fee recovery to $75 per hour.

Rest assured, Mr. President, defense contractors and their high-priced lawyers who currently bill the Government for their legal bill, charge far, far more than $75 per hour.

Indeed, there were public reports that General Dynamics Corp. billed the Government some $21 million for attorneys fees, when it defended itself during a grand jury investigation in New Haven, CT. When the Government dropped other criminal fraud investigations against General Dynamics last year, the taxpayers were exposed to several million dollars in attorney fee liability.

In a recent fraud case against the Bell Helicopter Division of Textron, settled by the Government just this month, attorney costs of about $3.5 million could have been billed to the Government as an element of allowable cost.

In another case, it was reported that the Government had potentially millions of dollars of legal fees exposure after the Justice Department decided not to indict the Pratt & Whitney Group for allegedly overcharging the Government by $22 million on contracts at its West Palm Beach facility.

Mr. President, how can this be? Why do defense contractors—some of the wealthiest corporations in America—get a benefit available to no other business or individual in this country?

First, tucked away in this 1986 defense authorization bill is a provision that permits a defense contractor's recovery of attorney fees and other expenses, as a matter of allowable cost, in any fraud case that does not result in a finding of civil liability or a criminal conviction.

Second, an analagous contract cost principle is buried in the massive Federal Acquisition Regulations in chapter 1 of title 48 at section 31.205-47. The "FAR" provides that costs, including costs of legal services, incurred in connection with defense of any criminal or civil investigation, grand jury proceeding or prosecution, civil litigation, or administrative proceeding, brought by the Government against a contractor, its agents or employees, are unallowable only when the charges which are subject of the investigation, proceedings, or prosecution involve fraud or similar offenses on the part of the contractor and only when the result is conviction, judgment against the contractor, its agents or employees, or a decision to debar or suspend, or are resolved by consent or compromise.

Incredibly, prior to the addition of this provision, the board of contract appeals had ruled that costs in defense of a fraud case which ended in conviction were also allowable! Thus, the Government was responsible for payment of the legal bills of convicted felons!

This bill is a response to both the FAR and to the 1986 defense authorization bill. It has a limited and direct purpose. That is to treat the legal bills of defense contractors the same way we do for other businesses and individuals involved in litigation with the Federal Government.

This bill would bar the recovery of legal fees as a matter of contract cost in any fraud case brought by the Government that resulted in an indictment, conviction, civil judgment of liability, administrative finding of liability, or a decision to suspend or debar the contractor.

In no case—even where there is a finding of no civil liability or acquittal—will the contractor recover legal fees in excess of $75 per hour. With the enactment of this bill, the taxpayers won't have to pick up the tab for the contractor's high-priced lawyers.

Just as in the Equal Access to Justice Act, the bill provides an exception to the $75 per hour limit where there is a special factor, such as the limited availability of qualified attorneys to represent the contractor.

The bill thus equalizes the attorney fees treatment of these civil and criminal defendants with all other defendants.

The bill is consistent with the recommendations of the Attorney General's 1985 Economic Crime Council, which specifically reported to the Attorney General on matters surrounding the investigation and prosecution of fraud cases.

The bill is also consistent with a Justice Department proposal, called the "Anti-Fraud Enforcement Act," which would change the current FAR cost principles as they apply to procurement fraud and attorney fees.

Mr. President, I know it is a terrible thing to be wrongly accused of law violations by the Federal Government. That is why I have supported attorney fees provisions in the past. I sponsored the 1984 and 1985 Senate amendments to the Equal Access to Justice Act, to provide small businesses and individuals a more equal footing when they prevail in litigation over the Federal Government.

But I cannot support the current disparate treatment and special benefits afforded some of our Nation's biggest and wealthiest companies. I urge my colleagues to join with me in support of the Contractor Legal Fees Reform Act of 1988.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contractor Legal Fees Reform Act of 1988".

SEC. 2. LIMITATION ON REIMBURSEMENT OF COSTS OF CONTRACTORS INCURRED IN PROCEEDINGS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"§ 505. Limitation on reimbursement of costs of contractors incurred in proceedings

"(a) PROHIBITION ON REIMBURSEMENT OF COSTS.—The United States shall not pay as a cost incurred by a contractor in connection with any proceeding that relates to a violation of, or failure to comply with, any Federal, State, or local law or regulation on the part of the contractor if the proceeding results in any of the following:

"(1) CIVIL, CRIMINAL, OR ADMINISTRATIVE ACTION.—The return of an indictment, a conviction (including a conviction pursuant to a plea of nolo contendere), a civil judgment, or an administrative finding of liability, by reason of a violation of, or failure to comply with, any Federal, State, or local law or regulation on the part of the contractor.

"(2) DEBARMENT OF CONTRACTOR OR RESCISSION OF CONTRACT.—A decision to debar or suspend the contractor or rescind, void, or terminate the contract.

"(b) LIMIT ON ATTORNEYS FEES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the United States shall not pay as a cost incurred under a Government contract any costs in excess of a rate of $75 per hour for attorney or agent fees incurred by a contractor in connection with any proceeding that relates to a violation of, or failure to comply with, any Federal, State, or local law or regulation on the part of a contractor that does not result in any of the actions described in paragraph (1) or (2) of subsection (a).

"(2) EXCEPTION.—The United States may pay attorney or agent fees, in excess of a rate of $75 per hour if the contracting officer, the board of contract appeals of the agency involved, or the person or body representing the agency involved, as the case may be, finds that a special factor (such as the limited availability of qualified attorneys or consultants) justifies an award of higher fees.

"(c) DEFINITIONS.—For purposes of this section:

"(1) AGENCY.—The term 'agency' means an executive department as defined in section 101, an independent establishment as defined in section 104 (excluding the General Accounting Office), a military department as defined in section 102, a wholly owned Government corporation as defined in section 9101(3) of title 31, the United States Postal Service, and the Postal Rate Commission.

"(2) CONTRACTOR.—The term 'contractor' means a party to a Government contract other than the Government. The term includes the agents and employees of the party.

"(3) PROCEEDING.—The term 'proceeding' means a civil, criminal, or administrative investigation, prosecution, or proceeding.

"(4) PROCEEDING COSTS.—The term 'proceeding costs' means all costs relating to a proceeding incurred before, during, or after the commencement of the proceeding. The term includes—

"(A) administrative and clerical expenses;

"(B) the cost of legal services, whether performed by in-house or private counsel.

"(C) the cost of the services of accountants and consultants retained by a contractor; and

"(D) the salaries and wages of employees, including officers and directors.

"(d) APPLICABILITY.—This section shall apply to proceedings commenced more than 180 days after the date of the enactment of the Contractor Legal Fees Reform Act of 1988.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 504 the following:

"505. Limitation on reimbursement of costs of contractors incurred in proceedings.".

By Mr. DASCHLE:

S. 2242. A bill to provide for the continuation of certain basic services of the Postal Service consistent with Postal policies under section 101 of title 39, United States Code, and for other purposes; referred to the Committee on Governmental Affairs.

FREE POSTAL DELIVERY PROTECTION ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation that, once and for all, will make clear the intent of Congress that citizens shall be guaranteed the right to comprehensive and efficient postal service.

Every year, small communities throughout the country, and especially in predominately rural states like South Dakota, are threatened with a reduction in their postal service. Rumors of wholesale closings of small community post offices seem to be an annual ritual.

Most recently, basic rural free delivery has come under attack by the President's Commission on Privatization. This commission has recommended to the President that he propose legislation to repeal the private express statutes for rural delivery immediately. Absent heavy subsidies, repeal of these statutes—effectively privatizing the Postal Service—would be devastating to rural America.

I am confident that Congress will not tamper with the private express statutes. My legislation, the "Free Postal Delivery Protection Act of 1988," would underscore our commitment to a universal postal service and end any discussion of administrative attempts to reduce service to rural areas.

My bill would simply reaffirm three ideals—free delivery, maximum delivery schedules, and standardized service.

FREE DELIVERY

Cost of delivery is not today, nor should it be tomorrow, based on a person's location or proximity to large population centers. We have committed ourselves to a unified Postal Service that is charged with uniting all parts of the Nation. A guarantee of free delivery at uniform rates is the strongest public signal we can send to the Postal Service and to the public about Congress' commitment to a unified U.S. Postal Service.

Thus, this legislation would once again write into Postal Service law a commonly held perception that postal patrons shall be guaranteed free delivery of mail. Enactment of my bill would turn this perception into law.

MAXIMUM DELIVERY SCHEDULES

The needs of urban and rural residents are similar. Many people rely on 6-day mail delivery for timely publications and urgent needs. The clearest example of this comes from the small town of Buffalo, SD. This town recently lost its drugstore. As a consequence, the residents in the area have placed an increased reliance on regular delivery of mail for urgent medications from the next nearest stores which are about 50 miles away. The thought of absolute reliance on the Postal Service for high blood pressure medication, insulin, or other prescription medicines is virtually unknown to many people. However, to the citizens of northwestern South Dakota, this reliance is real.

My bill would simply put into law a mandate for maximizing and maintaining delivery schedules important to all postal patrons.

STANDARDIZED SERVICE

Currently, Congress requires that the Postal Service follow certain steps before closing or consolidating a post office. One glaring deficiency, however, is the lack of an objective standard of measurement. This bill will mandate that the service to be provided under the proposed closing or consolidation be measured against the service for similar areas throughout the postal division. This will force the Postal Service to maintain a comparable level of service to all patrons.

In addition, the Postal Service would be required to provide members of a community—threatened by the loss of their post office—with alternatives for postal services, ranging from a contract station to a regular, in person, delivery service. These alternatives, in turn, must maintain service levels in the area.

Mr. President, mail service is one of the most heavily relied upon vehicles for the receipt of information and basic necessities in many parts of rural South Dakota. I suspect that with nearly 43,000 rural mail routes nationwide, many of my colleagues have similar constituencies and that those people share the concerns over the threats to rural free delivery through privatization efforts.

The "Free Postal Delivery Protection Act of 1988" simply addresses those areas where we have an opportunity to restore public confidence in the Postal Service and the services that are guaranteed to postal patrons. With that in mind, I ask my colleagues to join me, today, in reaffirming support for the basic principle that postal services in this Nation are basic and fundamental.

I thank the Chair, and ask that the entire text of my bill be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Free Postal Delivery Protection Act of 1988".

FINDINGS

SEC. 2. Consistent with Postal policy under section 101 of title 39, United States Code, the Congress finds that—

(1) there is a need for a reaffirmation of the basic policies under such section, including the operation of the Postal Service as a basic fundamental service;

(2) postal needs of urban and rural residents are similar and there is a need to maintain quality office service;

(3) wholesale privatization of basic services, specifically free delivery, poses a direct threat to the bond between the Government and citizens;

(4) postal patrons need six-day mail delivery, and such patrons rely on six-day delivery for timely publications such as newspapers, and for urgent needs such as medication; and

(5) closures and consolidations of offices need to be evaluated on objective criteria and measured against service within the same Postal Service division.

FREE DELIVERY AND SIX-DAY DELIVERY SERVICE

SEC. 3. 403(b) of title 39, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof;

(2) in paragraph (3) by striking out the period at the end of thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraphs:

"(4) consistent with Postal policies under section 101 of this title, to provide for, and maintain a delivery service for the free delivery of mail serving the entire urban and rural population of the United States to the greatest extent practicable; and

"(5) consistent with Postal policies under section 101 of this title, to maintain a six-day mail delivery schedule in all areas to the greatest extent practicable, and to maintain the minimum delivery level of such delivery schedules at the fiscal year 1983 level.".

CLOSING AND CONSOLIDATION OF POST OFFICES

SEC. 4. 404(b) of title 39, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (D) by striking out "and" at the end thereof; and

(B) by redesignating subparagraph (E) as subparagraph (F) and inserting after subparagraph (D) the following new subparagraph:

"(E) whether such closing our consolidation may substantially change the character and nature of delivery relative to delivery service for other post offices in the same Postal Service division; and "; and

(2) in paragraph (3) by inserting ", along with proposed alternatives for service," in the second sentence after "finding".

By Mr. SASSER:

S. 2243. A bill to amend title XVIII of the Social Security Act to make certain improvements in the program for voluntary certification of Medicare supplemental policies, and for other purposes; to the Committee on Finance.

MEDIGAP INSURANCE ABUSE

● Mr. SASSER. Mr. President, hearings I conducted last year on the increasing problem of insurance abuse on our Nation's elderly shed light on a growing problem in the sale of so-called MediGap insurance policies. The problem, stated simply, is that many senior citizens are regularly and systematically taken advantage of by unscrupulous insurance salesmen that prey on the elderly's fears of catastrophic illness.

My colleagues will recall that MediGap policies are private policies designed to fill some of the gaps in Medicare coverage. Regulations governing these policies were first implemented in 1980. The guidelines formed at that time were very effective in preventing fraud and abuse in the sale of MediGap policies. But since that time, some who sell MediGap policies have developed new tactics which effectively circumvent the 1980 reforms.

Consequently, today I am introducing legislation that will help prevent many of the most commonly employed abusive tactics used in the sale of MediGap policies. We simply must put a stop to those practices that take unfair advantage of the anxieties of our senior population.

Mr. President, 70 percent of those on Medicare own MediGap policies. Most MediGap policies are very useful in providing senior citizens coverage for their health risks that are not covered by Medicare.

However, a growing number of seniors are buying policies that they don't really need. In too many cases, vulnerable people are persuaded to invest in insurance plans that, quite frankly, do not do what they purport to do.

Most senior citizens know that they stand a greater chance of contracting a serious illness than do younger Americans. Most have a deep and abiding fear of becoming a burden on their children.

As a result, many seniors would prefer to make a mistake on the side of excessive coverage rather than insufficient coverage. Clearly, those circumstances create a context in which abuses can occur.

Mr. President, one MediGap policy is all that is required to satisfy the needs of most people on Medicare. Having more than one policy is generally unnecessary because MediGap policies are very similar. Having more than one policy almost always duplicates coverage. Yet surveys show that as many as 33 percent of the people who own MediGap policies own more than one.

I know of one Tennessean who owned 12 virtually identical policies. This woman was 95 years old and in feeble health. Every time salesmen came to her door, they were able to convince her that she needed more coverage. The only reason that her predicament was discovered was because her bank contacted her next of kin when she had exhausted her entire life's savings paying for all her policies.

The Department of Health and Human Services released a report last fall on MediGap policies which showed that less than half of all MediGap owners are aware of the hospital and nursing home coverage limitations in their policies. In other words more than half of all MediGap owners think that all hospital and nursing home costs are covered by their MediGap policies. And that simply isn't the case.

Indeed, this Federal Government report estimates that for every $1 spent on a MediGap policy, 50 cents to $1 in additional costs must be paid out of the policy holder's own pocket.

In my hearings, I had several witnesses testify that they learned the realities of their MediGap policies the hard way. In Memphis, one woman testified that her mother paid $2,100 a year for many years for a MediGap policy. Her mother was told when she bought the policy that it was all she needed in addition to Medicare to cover her needs. But when her mother became sick and tried to collect, the policy would only pay $150 a year for over $16,000 a year in costs.

Fortunately, that woman's family was able to help her out with her bills. Others are not so lucky.

The legislation that I am introducing will address many of the most common MediGap abuses by revising the already existing Federal statutes dealing with MediGap policies. My legislation will in no way discourage the use of MediGap policies or inhibit legitimate companies that sell them. Rather, my bill will instigate revisions that will make seniors more knowledgeable about the policies they are buying. Furthermore, my legislation will make it more difficult for unscrupulous agents to deceive the unsuspecting elderly.

Mr. President, I would like to ask that a copy of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENTS IN PROGRAM FOR VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.

(a) Additional Requirements Relating to Marketing of Policies.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 4081(b) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(1) in subsection (b)(1)(B), by striking "(2) and (3)" and inserting "(2), (3), and (4)"; and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; and",

(C) by inserting after paragraph (3) the following new paragraph:

"(4)(A) is marketed in accordance with the requirements of the last sentence of this subsection; and

"(B) includes in large print—

"(i) a statement of any lapse in coverage that may occur if the policy is changed or upgraded,

"(ii) a telephone number of the Consumer Affairs Division of the Commissioner (or Superintendent) of Insurance of the State in which the policy is issued, and

"(iii) a statement that duplication of existing coverage is not required.", and

(D) by adding at the end the following new sentence: "For purposes of paragraph (4)(A), a policy is marketed in accordance with the requirements of this sentence if the benefits provided under the policy are described (where appropriate) in terms of the benefits for which payment is made under this title, a clear distinction is made between benefits provided under this title and long term care services which are not covered under this title, and there is no suggestion that the policy is a government-financed policy.".

(b) Use of Actual Claim Loss Ratios.—

(1) In general.—Section 1882(c) of such Act (42 U.S.C. 1395ss(c)), as amended by subsection (a) of this section, is further amended—

(2) (A) by striking paragraph (2) and inserting the following:

"(2)(A) returns to policyholders in the form of aggregate benefits provided under the policy (as determined on an actual, means-tested basis), at least 70 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies, or

"(B) to the extent the policy does not meet the requirement of subparagraph (A)—

"(i) provides for an automatic adjustment in premiums imposed under the policy (and appropriate refunds), and

"(ii) includes a statement of the failure of such policy to meet such requirement (which statement shall also be included in any literature used to sell or market the policy);"; and

(B) by inserting immediately before the last sentence the following new sentence: "For purposes of such paragraph, in the case of any policy for which there is not sufficient data available to implement the requirement of subparagraph (A) or for which the implementation of such requirement would not be appropriate under the circumstances, the requirement under subparagraph (A) shall be the requirement of paragraph (2) of this subsection as in effect on the day before the date of enactment of the requirement of subparagraph (A)."

(c) Uniform Free-Look Period.—Section 1882 of such Act, as amended by subsections (a) and (b) of this section, is further amended—

(1) in subsection (b)(1)(B), by striking "and (4)" and inserting "(4), and (5)"; and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) affords a period of not less than 30 days after the date of purchase of the policy to rescind the purchase.".

(d) Effective Date.—

(1) General rule.—The amendments made by this section shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

(2) State legislation.—In the case of a State which the Secretary of Health and Human Services identifies as—

(A) having an approved State regulatory program meeting the standards and requirements of section 1882(b)(1) of the Social Security Act,

(B) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of paragraphs (2), (4), and (5) of section 1882(c) of such Act (as added by the amendments made by this section), and

(C) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered;

the date established under this subparagraph with respect to medicare supplemental policies issued in the State is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in subparagraph (B) may be considered.

SEC. 2. STUDY ON CURBING IMPROPER MARKETING PRACTICES.

The Supplemental Health Insurance Panel (established under subsection (b)(2)(A) of section 1882 of the Social Security Act) shall study methods by which States can cooperate to exchange information with respect to companies (located in more than one State) that engage in improper practices in marketing medicare supplemental policies certified under such section and shall issue a report containing recommendations based on such study not later than 12 months after the date of enactment of this Act.●

By Mr. MELCHER (for himself and Mr. Leahy):

S. 2244. A bill to extend the provisions of the Temporary Emergency Food Assistance Act of 1983; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2245. A bill to provide that surplus dairy products should be provided to carry out the temporary emergency food assistance program before certain dairy export programs, to extend such dairy programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PROVISION OF SURPLUS COMMODITIES

Mr. MELCHER. Mr. President, along with Chairman Leahy, I am today introducing legislation to extend the Temporary Emergency Food Assistance Act to provide surplus commodities for hungry Americans. Several million people put part of their meals on the table by using this food distributed around the country.

In addition, we are introducing a bill that combines the extension of this program with authorization for more dairy surplus to be available for these hungry Americans. Dairy, cheese, and dried milk stocks have been drawn down. This bill would make more of these nutritious commodities available for community distribution to the hungry. Passage of these provisions is needed immediately.

Mr. President, I ask unanimous consent that the text of the two bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) Authorization.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (as amended by section 813 of the Steward B. McKinney Homeless Assistance Act (Public Law 100-77)) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 is amended by striking out "20" and inserting in lieu thereof "50".

(c) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(b)(2) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "fiscal year ending September 30, 1988" and inserting "fiscal year 1990".

(d) PROGRAM TERMINATION.—

(1) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(a) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "1988" and inserting "1990".

(2) CONFORMING AMENDMENT.—Section 202A(a)(1) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 812 of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "To the extent" and all that follows through "fiscal year 1988" and inserting in lieu thereof "For the period ending on the date specified in section 212".

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF SURPLUS DAIRY PRODUCTS FOR TEFAP.

Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this Act.".

SEC. 2. EXTENSION OF TEFAP.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (as amended by section 813 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77)) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 is amended by striking out "20" and inserting in lieu thereof "50".

(c) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(b)(2) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "fiscal year ending September 30, 1988" and inserting "fiscal year 1990".

(d) PROGRAM TERMINATION.—

(1) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(a) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "1988" and inserting "1990".

(2) CONFORMING AMENDMENT.—Section 202A(a)(1) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 812 of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "To the extent" and all that follow through "fiscal year 1988" and inserting in lieu thereof "For the period ending on the date specified in section 212".

SEC. 3. EXTENSION OF DAIRY EXPORT INCENTIVE PROGRAM.

Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking out "1989" and inserting in lieu thereof "1991".

SEC. 4. EXTENSION OF EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended—

(1) in subsection (a), by striking out "fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1986 through 1991"; and

(2) in subsection (c), by striking out "1988" and inserting in lieu thereof "1991".

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. COCHRAN, Mr. SASSER, Mr. SIMON, Mr. STENNIS, Mr. BREAUX, Mr. DIXON, Mr. FORD, Mr. GORE, Mr. BOND, Mr. DANFORTH, and Mr. JOHNSTON):

S. 2246. A bill to establish the Lower Mississippi Delta Development Commission; to the Committee on Environment and Public Works.

LOWER MISSISSIPPI DELTA DEVELOPMENT ACT

Mr. BUMPERS. Mr. President, today on behalf of Mr. PRYOR, Mr. COCHRAN, Mr. SASSER, Mr. SIMON, Mr. STENNIS, Mr. BREAUX, Mr. DIXON, Mr. FORD, Mr. GORE, Mr. BOND, Mr. DANFORTH, and Mr. JOHNSTON, I am introducing the Lower Mississippi River Delta Development Act, a bill which I believe will be the first step in the economic development of the least advantaged region in the United States, the lower Mississippi River Valley that stretches from southernmost Illinois to the mouth of the Mississippi River in Louisiana. Located along one of the great rivers of the world, and including some of its finest farmland, this region has long surpassed every region of the country in terms of measurable poverty—numbers of poor counties, low per capita income, and unemployment. According to the Congressional Research Service, there are only three counties in the delta region that are not well below the national average.

Mr. President, our bill will create a nine-member Commission to study the economic problems of our region and submit a report to Congress and State and local governments making detailed and comprehensive recommendations for economic progress in the region. Seven members of the Commission will be appointed by the Governors of the seven affected States—Arkansas, Louisiana, Mississippi, Tennessee, Missouri, Kentucky and Illinois—and there will be two Federal members. The Commission, which will have a life of no longer than 2 years, will conduct hearings and meetings in each State and take testimony on the problems of the region and possible solutions.

One hundred and thirty-eight years ago Daniel Webster opined "ere long the strength of America will be in the valley of the Mississippi." Mr. President, there is strength in the Mississippi Valley—strength in families, in character, in hope, and in our institutions. But Daniel Webster's prophecy about the region's economic strength has not come true. The economic problems of this region are immense. Poverty has been pervasive and persistent. Let me quote from a very recent report prepared by Jan Christopher of the Congressional Research Service, entitled the "Economic Health of the Lower Mississippi River Valley":

> The States of the lower Mississippi river valley region have a higher percentage of families, households, and individuals in poverty than any other section of the United States, despite major efforts to alleviate poverty.

In short, Mr. President, there is more economic misery in the Mississippi Delta than any other region of the country.

Tunica County, MS, for example, the epicenter of the crisis area, is located on the banks of the Mississippi, just south of Memphis, TN. It is the poorest county in the country with 52.9 percent of its population living in poverty. The per capita income is a mere $6,643—48 percent below the national average. Lee County, AR, just across the Mississippi River from Tunica County, has a lower per capita income at only $6,452, with 44.3 percent of the population living in poverty. The unemployment rate in Lee County, AR, is a staggering 23.4 percent, but would you believe that the unemployment rate in bordering St. Francis County is 26.4 percent, more than four times the national average?

I can give many other examples. In Madison Parish, LA, a crushing 42.7 percent of the population are living in poverty. The per capita income in Lake County, in western Tennessee is 46.5 percent below the national average, and 31.3 percent of the population live in poverty and misery. In Pulaski County, in southern Illinois, the unemployment rate is 17.7 percent, with 30 percent of the population in poverty. In Pemiscot County in southeastern Missouri 33.1 percent of the people live in poverty.

Mr. President, I could go on and on, but let me set out just a few more statistics. The poorest State in the Union has consistently been Mississippi, with Louisiana ranking second and Arkansas fourth. One family in five in Mississippi lives in poverty, twice the national average. The region has also been the lowest in disposable personal per capital income. According to the most recent data, Mississippi ranked 50th, Arkansas 47th, Kentucky 43d, Tennessee 41st, and Louisiana 40th. Virtually every county in the region has an unemployment rate above the national average, and as I said, many counties have rates that are a whopping three to four times the national average.

Despite the herculean efforts of State and local officials, the region ranks lowest in almost every education statistic. Since 1900, Louisiana and Mississippi have consistently ranked first and second in illiteracy, and Arkansas has ranked in the bottom 10. Louisiana, Mississippi, Tennessee and Kentucky are all in the worst 20 States in terms of public school dropout rates, with rates in excess of 30 percent. Five States in the region spend less than $2,700 annually per public schools—Arkansas ranks 45th in spending per pupil; Tennessee 46th, Kentucky 48th and Mississippi ranks last.

With respect to health, Mississippi and Arkansas had the dubious distinction of ranking one and two in teen pregnancy rates in 1985. Even though they are trying valiantly to reverse the trend, the states of Louisiana, Arkansas, and Mississippi ranked in the lowest one-fifth of all States in their 1985 infant mortality rates, with rates far in excess of the shameful national average of 10.6 deaths per 1,000 live births.

So, Mr. President, the Senators from those seven States come to the Senate this morning with a piece of legislation designed to begin the economic development of this region. We ask for your help in enacting this bill. It is a modest approach. Again, the bill creates a Commission to study the problems of the delta and report to Congress and the States with specific recommendations for change. Instead of proposing a comprehensive Federal solution, we are asking for the people of the region to come before this Commission and give their ideas for solutions to the region's problems. We want the proposed solutions to initiate with the people, not with the Government, and that is the basic thrust of this bill.

Our bill will provide the initial vehicle by which the 11 million citizens of this region will be able to share in the development opportunities long available to those in every other region of the country. Ever since I was Governor of Arkansas during the early 1970's, I have worked diligently to assist in the economic redevelopment of eastern Arkansas. It is a concern that followed me into the Senate, and I am proud that I have 13 years of experience in this body pursuing effective relief and assistance that will be permanent and beneficial to my constituents in this region of Arkansas.

However, the assistance that I have rendered has been necessarily limited in scope. What is needed is a program that looks at the big picture—a realization that coordinated rural economic development of the lower Mississippi River delta region is needed, not just the comparatively uncoordinated assistance that has been provided by all Representatives and Senators representing the delta. A program of greater vision is needed.

The entire lower Mississippi River valley is a distinct region that shares strong cultural, social, and economic ties. Its proximity to the Mississippi River, and the opportunities associated with this location, make it feasible and necessary to treat this area as a unique region.

Rural economic development is not just an agricultural problem that can be adequately addressed by changing Federal farm policy, although improving the agricultural economy is very important. Nor is this type of development program likely to be implemented, or effective, if it becomes just a big-ticket, pork-barrel bill that creates new bureaucracies and attempts to funnel massive amounts of Federal dollars. This is not my objective, nor is it the desire of the concerned, active citizens of the region. What is needed is the effective coordination of available Federal, State, and local assistance in the areas of education, housing, health, tourism, recreation, natural resource development, small business development, industrial development, capital availability, power availability, and infrastructure development. Ultimately the reliance of citizens in this region on much-needed and appreciated Federal entitlements and antipoverty assistance will be dramatically reduced. Jobs will be created, tax revenues will be increased, and economic prosperity will hopefully abound. It is a tall order, but it can happen if we are willing to take the risks necessary to make our dream a reality.

It is a shame that this region borders the Nation's greatest single natural resource, the Mississippi River, and yet has been largely unable to develop an economy that makes maximum use of this resource. Something is amiss in this region, because it is obvious that Federal, State, and local antipoverty programs have not been effective in addressing the causes or eliminating the pervasive poverty in this seven-State area. In many ways, this delta region has Third World status, economically speaking, but it is the home of some of the friendliest, hardest working, most caring people I know, and they deserve more than a benevolent nod or a passive handout.

The form of direct Federal assistance that is sure to prove to be the most cost effective will be in the area of infrastructure development—a delta parkway system, adequate river crossings, slack water and fast water harbor facilities, convenient and sufficient secondary roads, sewer and water projects, and other development that will allow the citizens of this area to be economically integrated with the rest of the Nation's economy. Advances in education, housing, and health will also greatly benefit this region that suffers under serious burdens that can't be eliminated overnight.

Regional cooperation will have to be promoted to help ensure cost-effective assistance, as well as cooperation with State and local government, other funding sources, and private institutions.

I have many ideas on what is needed for the development of this area, but I have purposefully refrained from incorporating my agenda in this bill so as not to prejudge or predetermine the important work of this Commission. Finally, any development program must take into account that government can't offer all the solutions or assistance—private investment must be encouraged, cultivated, and rewarded.

I would like to close by stating that none of us have all the answers for rural economic development. I hope that Congress, the administration, State, and local governments can borrow successful ideas like those implemented by the Appalachian Regional Commission, and incorporate innovative ideas that will be offered by the citizens of the region, the people who will ultimately determine whether any program is a success or failure.

I hope my colleagues will study and cosponsor this bill. Please work with me and the other Senators from the delta region in initiating the successful development of the lower Mississippi River Delta.

Mr. President, I have two charts here, one showing the percentage of families by State living in poverty, and the other showing poverty counties in the United States, which I would like to allude to. The bar graph on the right is color coded to show just precisely how devastating this problem is. Here in yellow is the average percentage of poor families in the United States. Look at this chart. About 9 percent of the people in the United States are living below the poverty line, and here is Mississippi; 20 percent of its total families live below the poverty line, well over twice as many as the rest of the country. Here is Louisiana with almost twice as many of its people living below the poverty line. Here is my beloved State of Arkansas. Almost twice as many people as the national average are living below the poverty line.

But if you want to see the chart that graphically verifies what the Congressional Research Service said about poverty in the Mississippi River Delta Valley, look at this second chart. Here is the Mississippi River. The delta area goes from the bottom of southern Illinois down to where the river goes between Tennessee, Missouri, Arkansas, and Kentucky, to where it goes between Arkansas and Mississippi, and Louisiana and Mississippi all the way down to where it comes into the gulf below New Orleans. Mr. President, this green coded county on the chart is Tunica County which is the only county in America with over 50 percent of its people living below the poverty line.

Mr. President, look at the many red coded counties on the chart. Those are counties with 40 percent or more of the families living in poverty. The blue coded counties represent 30 percent or more. Look at the rest of the Nation and then look along the Mississippi River Delta.

This economic stagnation and pervasive poverty has gone on an unconscionable length of time, Mr. President. We cannot allow this to go any longer without an effort to redress what is a critical problem in this region and Nation. It is a cancer on the Nation.

Mr. President, I would like to go on with all of these statistics, but I will close by saying I hope my colleagues will not treat this as a parochial piece of legislation, because it is not. If I were from California or New York or any other State, and one of their Senators stood on the floor and showed the dramatic evidence of 11 million people in one region of the country, about 40 percent of whom are living below the poverty line, I would say for God's sake, let us do something about that.

I am hoping that the commission to be established will hold many hearings, listen to the people, develop a strategy and come up with a comprehensive plan that will show that with some effort on the part of the United States we can redevelop this area and get a return on our investment. We have counties in Arkansas that account for as much as $25 to $30 million a year spent on food stamps alone. If we make a massive effort to alleviate the poverty in counties such as these we will actually save money on what we are spending on AFDC, food stamps, Medicaid, and all the other social programs.

Mr. COCHRAN. Mr. President, will the Senator yield for an observation?

Mr. BUMPERS. I am happy to yield.

Mr. COCHRAN. I am a cosponsor of this legislation with the distinguished Senator from Arkansas. I want to commend him for his work in developing the proposal and getting the unanimous cosponsorship of all the Senators from this region of our country.

Another example, and I will yield back to the Senator, of the problem we are facing is the fact that since 1980, 115,000 textile and clothing industry jobs have been lost in this region. There have been fundamental changes in agriculture and manufacturing which have had a very serious effect on the employment opportunities and quality of life for the people in this region. This commission can provide us with recommendations for policy changes that can alleviate that suffering and can give new opportunities and new hope to the thousands of people who lie in the lower Mississippi River Valley.

I thank the distinguished Senator for yielding to me and for his leadership in this area.

Mr. BUMPERS. I thank the Senator.

Mr. President, we have been working on this bill in my office for 9 months. As we readied the bill for introduction I read an interview on our revered and beloved colleague, JOHN STENNIS. He said in the interview that one of the great regrets of his life was that he had not been able to do more to address the problem of poverty in the Mississippi Delta while he was in the Senate.

Mr. President, I am pleased to be joined by Senator STENNIS and my other colleagues in this opportunity to do something about it.

I ask unanimous consent that a one page summary of the bill and that the text of the bill itself be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE LOWER MISSISSIPPI DELTA DEVELOPMENT BILL

The bill will create a nine-member commission with the authority to study the problems of the Lower Mississippi Delta, and report its findings to Congress, the President, and the respective governors within 12 months of its creation.

The area of study will include portions of Louisiana, Mississippi, Arkansas, Tennessee, Kentucky, Missouri, and Illinois.

The Commission will be composed of one member from each state to be appointed by the respective governors, one member appointed by the President, and the Administrator of the Small Business Administration.

The Commission will study jobs creation, education, public health, housing, industrial development, infrastructure development (including highway, bridge, harbor, water, and sewer probjects), resource development, capital availability, power availability, and recreation and tourism needs of the region.

The Commission will make recommendations on modifications or additions to current State, federal, and local laws that affect economic development, public health, housing, and education; on policies and programs to better attract private investment in industrial, commercial, and recreational projects; on tax policy which would further economic growth and business opportunities in the region; and on the creation of necessary interstate compacts to further interregional cooperation.

The Commission will study the role of small business in jobs creation in the region; study the creation of a Delta parkway system, evaluate the distribution and impact of federal spending in the region; and develop an inventory of natural resources.

The Commission will be empowered to hire a staff, to hold hearings, to conduct surveys and other research, to use the U.S. mails as any federal agency, to acquire necessary information from any federal agency or bureau, and to provide a forum for all citizens and groups who are interested in the economic development of the region.

Three million dollars is authorized to be appropriated to carry out the purposes of this bill.

S. 2246

Be it enacted by the Senate and the House of Representatives of the Congress of the United States assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Lower Mississippi Delta Development Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the lower Mississippi River Valley region lags behind the rest of the country in economic growth and prosperity;

(2) this region suffers from a greater amount of measurable poverty and unemployment than any other region of the country;

(3) a concerted Federal, State, and local effort is needed if this region is to share in the general prosperity of the nation;

(4) the creation of jobs and expansion of small business offer the greatest hope for economic growth and revitalization in the region;

(5) the availability of capital, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development is essential to successful small business development and for attracting complementary industrial expansion;

(6) the transportation needs through highway and bridge construction, air service availability, and river transport development must be addressed; and

(7) because of the social, historical, and cultural ties of this region through its proximity to the Mississippi River, as well as common economic problems, planning for this unique region is desirable and urgently needed.

PURPOSE

SEC. 3. The purpose of this Act is to establish a Commission to study and make recommendations regarding the economic needs and economic development of the Lower Mississippi Delta.

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) the term 'Commission' means the Lower Mississippi Delta Development Commission; and

(2) the term 'Lower Mississippi' means those areas within a reasonable proximity of the Mississippi River in Arkansas, southern Illinois, western Kentucky, Louisiana, Mississippi, southeastern Missouri, and western Tennessee that share common eco-

nomic, social, and cultural ties, and that suffer from any combination of high unemployment; low net family income; agriculture and oil industry decline; a decrease in small business activity; or poor or inadequate transportation infrastructure, health care, housing, or educational opportunities, areas including, but not limited to—

(A) the Arkansas counties of Ashley, Chicot, Drew, Bradley, Union, Desha, Lincoln, Arkansas, Cleveland, Jefferson, Lonoke, Prairie, Monroe, Lee, Phillips, St. Francis, Crittenden, White, Woodruff, Cross, Poinsett, Jackson, Mississippi, Craighead, Calhoun, Lawrence, Greene, Clay, Randolph, White, Independence, Sharp, Ouachita, Dallas, Grant, Fulton, Izard, Stone, Searcy, Marion, Van Buren, and Baxter;

(B) the southern Illinois counties of Alexander, Pulaski, Massac, Union, Johnson, Pope, Hardin, Gallatin, Saline, Williamson, and Jackson;

(C) the western Kentucky counties of Fulton, Hickman, Carlisle, Ballard, Graves, McCracken, Calloway, Marshall, Livingston, Crittenden, and Union;

(D) the Louisiana parishes of East Carroll, West Carroll, Morehouse, Union, Lincoln, Ouachita, Jackson, Caldwell, Winn, Grant, LaSalle, Richland, Madison, Franklin, Tensas, Catahoula, Concordia, Avoyelles, Pointe Coupee, St. Landry, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Iberville, Assumption, Washington, Allen, Evangeline, Acadia, Ascension, St. James, and St. John the Baptist;

(E) the Mississippi counties of DeSota, Tunica, Tate, Marshall, Benton, Tippah, Union, Coahoma, Quitman, Panola, Bolivar, Sunflower, Tallahatchie, Lafayette, Yalobusha, Washington, Humphreys, Holmes, Grenada, Carroll, Leflore, Montgomery, Issaquena, Sharkey, Yazoo, Warren, Attala, Madison, Claiborne, Copiah, Jefferson, Adams, Lincoln, Pike, Amite, Wilkinson, Franklin, Rankin, Simpson, Lawrence, and Walthall;

(F) the southeastern Missouri counties of Dunklin, Pemiscot, New Madrid, Mississippi, Scott, Studard, Butler, Ripley, Carter, Wayne, Bollinger, Cape Girardeau, Oregon, Shannon, Reynolds, Iron, Madison, Perry, St. Genevieve, St. Francis, Washington, Crawford, Dent, Texas, Howell, Ozark, Douglas, Wright, and Phelps; and

(G) the western Tennessee counties of Tipton, Lauderdale, Dyer, Obion, Fayette, Crockett, Haywood, Hardeman, McNairy, Hardin, Chester, Gibson, Weakley, Henry, Carroll, Madison, Decatur, Benton, Lake, and Henderson.

(H) and such other adjoining counties as the Commission may determine are necessary for inclusion in order to carry out the purposes of this Act, including the counties of Pulaski in Arkansas, Shelby in Tennessee, and Hinds in Mississippi, and the parishes of Rapides, East Baton Rouge, West Baton Rouge, St. Charles, Jefferson, Orleans, and St. Bernard in Louisiana.

ESTABLISHMENT

SEC. 5. (a) There is established the Lower Mississippi Delta Development Commission.

(b) The Commission shall be composed of nine members, as follows:

(1) One member shall be appointed by each of the governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee.

(2) The Administrator of the Small Business Administration.

(3) One member shall be appointed by the President.

(c) Members of the Commission shall be appointed for the life of the Commission.

(d) Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(e) The Administrator of the Small Business Administration shall be the interim chairman for the first meeting of the Commission, at which time the members of the Commission shall appoint a chairman from among the members appointed by the governors of the several States.

(f) All appointments made pursuant to this Act shall be made within 30 days after the date of enactment of this Act.

(g) The first meeting of the Commission shall be called by the Administrator of the Small Business Administration and shall be held within 60 days after the date of enactment of this Act. The Commission shall conduct such additional meetings as it deems appropriate.

(h) A vacancy on the Commission resulting from the death or resignation of a member shall not affect its power and shall be filled in the same manner in which the original appointment was made.

(i) The Commission shall conduct at least one public hearing in each state listed in subsection (b)(1) of this section.

DUTIES OF THE COMMISSION

SEC. 6. The Commission shall—

(1) investigate and study the economic needs of the Lower Mississippi region for the 10-year period beginning after the date of enactment of this Act; recommend plans, projects, and programs which will alleviate economic needs and problems identified;

(2) sponsor and conduct investigations, research, studies, and filed hearings;

(3) study and evaluate Federal, State, and local business development and financing programs and planning in the region, including the economic development programs, minority small business and capital ownership development programs, procurement assistance programs, and management assistance programs of the Small Business Administration; develop an inventory of business resources in the region and compare the availability of such resources with those available in other regions of the Nation;

(4) review and study existing or proposed Federal, State, and local public and private programs and projects, and where appropriate, make recommendations to the Congress and the States on modifications or additions to these programs and projects to help the promotion of regional development;

(5) make recommendations to the Congress, and state and local governments, on policies or programs that will better attract private investment in industrial, commercial, and recreational projects;

(6) make recommendations to Congress, and state and local governments, on tax policies which might be used to further economic growth and business opportunities in the region;

(7) make recommendations to the Congress, and state and local governments, on the suggested creation of interstate compacts and other forms of interstate or interregional cooperation to help further the purposes of this Act;

(8) study and report on the role of small business in creating jobs in the region, and compare the numbers and types of jobs arising in small businesses with those arising in large businesses in the last ten years in the region;

(9) evaluate the distribution and impact of federal spending in the region, including grant-in-aid programs, research, and federal procurement, and compare the level of spending in these catagories in the region with spending in other regions of the country; evaluate the extent to which reliance on federal, state, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

(10) develop an inventory of water, mineral, energy, timber, agriculture, and other natural resources in the region;

(11) assess the availability and cost of electrical power in the region and the impact of these factors on business growth; compare the availability and cost of electrical power in the region with other regions of the Nation;

(12) study the feasibility of and make recommendations on establishing a system of joint Federal and State-funded limited-access highways interconnecting the region, and connecting the region to other major transportation routes;

(13) study and report on the feasibility of targeting federal loan and guaranty programs toward the region;

(14) provide a forum for consideration of problems of the region and proposed solutions, and establish and utilize, as appropriate, citizens, special advisory councils, and public hearings and conferences;

(15) seek and encourage the participation of interested citizens, public officials, groups, agencies, and others in developing a ten-year comprehensive plan;

(16) make the Commission accessible to such groups, agencies, and individuals by holding at least one well publicized public hearing in every state throughout the region; and

(17) study and report on such other issues affecting the region which the Commission believes are relevent to future economic development.

COMPENSATION OF THE COMMISSION AND COMMITTEE

SEC. 7. Each member of the Commission appointed by a governor of the several States shall be compensated by the State he or she represents at the rate established by the law of such State. The compensation of the member appointed by the President, who is not otherwise employed by the United States Government, shall receive compensation at a rate equal to the highest daily rate prescribed for GS-13 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed by the United States Government for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Commission is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the

Chairman and the Administrator of General Services.

(c) The Commission is authorized to procure supplies, services, and property, and make contracts in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) The Commission or, on the authorization of the Commission, a member thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of books, records, memoranda, papers, and documents as the Commission or such member deems advisable.

(f) The Commission, or on the authorization of the Commission, any member thereof, may, for the purpose of carrying out the provisions of this title, have such printing and binding done, enter into contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and make such expenditures as the Commission or such member deems advisable.

(g) The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chairman.

(h) The Chairman of the Commission is authorized to appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter II of chapter 53 of such title relating to classification and General Schedule pay rates, of an Executive Director and such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. The annual rate of compensation of the Executive Director may not exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of such title and the annual rate of compensation of all other personnel may not exceed a rate equal to the maximum rate for GS-13 of the General Schedule under section 5332 of such title.

(i) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this Act, unless the head of such agency determines that overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Commission and so notifies the Chairman in writing.

(j) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(k) Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(l) The Commission may expend funds made available for purposes of this Act for printing and binding, notwithstanding any other provision of law.

ADDITIONAL POWERS

SEC. 9. The Office of Advocacy of the Small Business Administration is authorized and directed to provide research support to the Commission as needed, on request by the Chairman. The Chief Counsel for Advocacy of the Small Business Administration is authorized and directed to testify before the Commission, with respect to policies or programs which either foster or hinder business growth.

REPORTS

SEC. 10. Not later than 1 year after the date of its first meeting, and thereafter upon the request of the Congress, the Commission shall prepare and transmit to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Committees on Small Business in both the Senate and the House of Representatives, the President, and the governors of the States specified in section 5(b)(1) a report describing the findings and activities of the Commission, together with recommendations regarding specific actions necessary to be taken on a region-wide basis in the areas of small business development, industrial development, infrastructure development through public projects (including projects relating to highways, bridges, harbors, water, and sewer), public health, education, natural resource development, capital availability, housing, power availability, recreation, and tourism to help spur redevelopment. Such recommendations shall deal with all of the issues set out in section 6.

LIFE OF THE COMMISSION

SEC. 11. The life of the Commission shall extend not later than 1 year after the date of submission of the report required by section 10, during which time members of the Commission may be called upon to submit additional reports, to respond to inquiries from Congress, State, and local governments, and to submit testimony to Congress and other legislative bodies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There is authorized to be appropriated $3,000,000 to carry out this Act.

Mr. COCHRAN. Mr. President, I have joined my friend from Arkansas in this effort because we must work together in our region to solve these complex economic problems that affect our area in such an intolerable way.

Southern agriculture has suffered the highest rates of farm failure in the Nation.

More than 115,000 textile and clothing industry jobs have been lost in the region since 1980.

Local tax revenues have been seriously eroded because of the declines in manufacturing and farming.

Fundamental changes have occurred in our rural economies which need to be understood better so that new initiatives in the public and private sector can be developed.

We must have profitability on our farms, and we must see improvements in education, job training, housing, and health care.

The Commission created by this bill could give us what we need now: Sound policy recommendations that can lead to better lives for the people of this region.

Fifty years ago a commission appointed by President Roosevelt called the South "the nation's number one economic problem." That is no longer true. But, in the MIssissippi River Delta there are areas where there is very serious economic distress that resembles the suffering on the 1930's.

This region has some of the most underdeveloped and the poorest counties in the country.

There are high rates of unemployment which have to be addressed, and they will be with the passage of this legislation.

This bill will complement and enhance the efforts of individual States through the regionwide study and planning necessary for regional growth and development.

This region offers an abundance of opportunity for entrepreneurship and growth for existing businesses. But leadership on a regional basis is needed.

I am committed to seeing the wealth of natural and human resources of my State and this region fully utilized and enjoyed, and I urge the Senate to approve this bill so that hope may become reality.

Mr. SASSER. Mr. President, I thank the distinguished majority leader.

Mr. President, I want to commend the distinguished senior Senator from Arkansas, Mr. BUMPERS, for his leadership this morning in introducing the lower Mississippi Delta development bill.

I am pleased to be one of the initial cosponsors of this very important legislation, and I think this bill introduces in a reasoned and prudent way a part of the so-called other America that simply has not gotten its proper share of attention.

The Mississippi Delta is a region of paradox: it has some of the richest traditions and the richest soil in this country. But for generations, it has also had some of the country's poorest inhabitants in terms of per capita income and unemployment.

The truth is, we are dealing here with the kind of poverty that has persisted decade after decade, regardless of the swings of the business cycles and regardless of what is happening with the gross national product.

For example, the counties in my State of Tennessee that are included in the study area of the Lower Mississippi Delta Development Act are as representative as any.

And those 21 west Tennessee counties demonstrate clearly why this legislation is needed.

In 1984, the national average for per capita income was $12,772. The average of the State of Tennessee was $10,400. Of the 21 counties we are discussing, 19 of these counties were below the Tennessee average. They were even below the Tennessee average.

In 1985, the national unemployment rate was 7.2 percent. Tennessee's unemployment rate for that year was 8 percent. And, again, of the 21 counties covered by this bill, 20 had unemployment rates higher than the national and also the State average. Twelve of these counties had unemployment rates in excess of 10 percent.

That statistical picture makes the case in the starkest of terms. These are some of the poorest counties in the poorest region of the United States.

The issue here is ingrained, wrenching poverty that has characterized the Delta area for decades. This bill acknowledges that the solutions are not going to be quick and they are not going to be easy.

We are not talking about trying to throw money at this problem.

In the years since the New Deal, we have learned something about what Government programs can and cannot do. They can do some good, and they can work and elevate the quality of life of our people.

With the Appalachian Regional Commission, the Tennessee Valley Authority and some of the water projects in the Western States, we have a documented record of successes and failures. We know something about the kind of development strategies that can bear fruit.

This bill would simply create a Commission to apply the lessons we have learned from experience to the problems of the Delta region.

Admittedly, it is just a start, but there is an ancient Chinese proverb that a journey of 1,000 miles starts with the first step, and this is an absolutely crucial start.

The Commission would provide the first comprehensive structure for attacking rural poverty in the seven-State Delta region.

We are all aware of the budgetary constraints. We know what the limits are.

But if we are ever going to put an end to our two-tier society, if we are ever going to do away with a society in which the rich get richer and, unfortunately, the poor to get poorer, if we are ever going to merge these two Americas, we have to move forward with projects like this one.

Mr. President, I yield the floor.

By Mr. TRIBLE:

S. 2247. A bill to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission; to the Committee on Commerce, Science, and Transportation.

MODIFICATION OF RESTRICTIONS ON USE OF CERTAIN LANDS

Mr. TRIBLE. Mr. President, in 1947 the United States conveyed property in Newport News and York County, VA, to the Peninsula Airport Commission. However, the act allowing the transfer did not authorize the Secretary of Transportation to grant releases from a restriction in the deed of conveyance that the property be used only for airport purposes. Therefore the Congress must provide authorization for release of deed restrictions on formerly federally owned land. Releases such as this one have been granted for many similarly situated airports.

In 1986 Congress passed a law allowing a limited release of deed restrictions on property at the Patrick Henry Airport in Newport News, VA. The Peninsula Airport Commission which operates Patrick Henry Airport has requested that deed restriction releases be obtained on an additional three lots.

The three lots total about 13 acres. These parcels have been conveyed to the city of Newport News and two private entities by the Airport Commission. Both the commission and the new property owners would like to have a clear title on these properties.

By amending the earlier property restriction release bill, the Federal Aviation Administration will be authorized to consider a request from the commission to grant releases for these three properties. The FAA retains final control over the releases and the commission still must prove the merits of its request. I hope that we can move this bill quickly and ask that this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs 3 and 4 of subsection (b) of the first section of the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes", approved November 6, 1986 (Public Law 99-618; 100 Stat. 3490) are repealed.

By Mr. COHEN (for himself and Mr. Mitchell):

S. 2248. A bill to designate the U.S. courthouse located at 156 Federal Street in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse;" to the Committee on Environment and Public Works.

EDWARD THAXTER GIGNOUX UNITED STATES COURTHOUSE

● Mr. COHEN. Mr. President, today I am introducing legislation to designate the U.S. courthouse in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse." I am pleased that Senator Mitchell is joining me in sponsoring this legislation to honor a gentleman whom we both greatly admire and respect.

For over a quarter of a century, the people of Maine have had the distinct honor and good fortune to have Judge Gignoux serving on the U.S. district court for the district of Maine. Appointed to the Federal bench by President Eisenhower in 1957, Judge Gignoux was, at the time, the youngest district judge in the country and, until 1979, he was the only Federal trial judge in Maine. To quote U.S. Circuit Judge Frank M. Coffin,

> For two generations of Mainers, he was the only embodiment of the Federal court system with whom they were acquainted. The system could not have had a better representative.

Judge Gignoux has consistently served the people of Maine and the Federal bench with excellence and dedication. His opinions and writings are thoughtful and well reasoned, and reflect his superb legal ability and scholarship. Throughout his legal career, he has demonstrated a singular talent for combining justice and flexibility for the litigants, concern for the public welfare, and development of the law.

Judge Gignoux has established a reputation as an outstanding jurist both within and beyond his own district. He has gained the respect and admiration of all those who have practiced before him and all who have had the benefit of his wisdom and expertise. He is known as a man of unquestionable integrity, character, and graciousness. He has also received national recognition as one of the best and most brilliant members of the Federal judiciary, has been considered for an appointment to the U.S. Supreme Court, and has sat by designation in countless important trials and districts throughout the country.

In an article entitled "Judge Edward T. Gignoux—A Personal Appreciation," published in the Maine Law Review in 1984, Judge Frank Coffin wrote:

> Judge Gignoux has proven himself a judge for all seasons and circumstances. A small city lawyer, he has proven more than adequate for some of the nation's most demanding litigation. A citizen of the country's northeastern outpost, he has earned the respect and affection of his countrymen of the center, the west, and the south. As the solitary federal judge in his district for most of his judicial career, he has built a remarkable record of collegiality in his increasingly responsible committee work. His own style of thinking like a judge combines "thinking like a lawyer" with a disciplined adherence to method, patience, courtesy, a timely willingness to decide, compassion, courage, common sense, and openness to novel approaches in handling novel cases. A trial judge par excellence, he graces an appellate bench with equal aplomb. Truly, we can be forgiven for feeling that the ninth judge in the first 190 years of the United

States District Court for the District of Maine is that court's consummate practitioner of the art of judging.

Few other jurists have matched Judge Gignoux's high quality of performance and dedication to the Federal bench. Giving his name to the courthouse where he has served with such excellence for so many years is an appropriate way to honor and thank him for his many years of service to the State of Maine and to the Nation.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at 156 Federal Street in Portland, Maine, shall be known and is designated as the "Edward Thaxter Gignoux United States Courthouse".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Thaxter Gignoux United States Courthouse".●

By Mr. DURENBERGER:

S. 2249. A bill to amend the Internal Revenue Code of 1986 with respect to the creditability of taxes paid to the Republic of Panama; referred to the Committee on Finance.

CASH PAYMENTS TO THE NORIEGA GOVERNMENT

Mr. DURENBERGER. Mr. President, I rise to introduce legislation on behalf of myself, and Senators KENNEDY, D'AMATO, KERRY, HELMS, GARN, WILSON, BOREN, NICKLES, BOSCHWITZ, SYMMS, and DOLE, that would deny American companies the benefit of the foreign tax credit for tax payments made to the illegitimate Panamanian Government run by Gen. Manuel Noriega. In effect, the American taxpayer is not going to subsidize the illegal Noriega regime.

Like many, I was very distressed to learn that American companies operating in Panama have as recently as yesterday, made cash payments to the Noriega government. These payments were made despite the fact that the lawful President of Panama, Eric Delvalle, has issued a decree which makes clear that payments by multinational businesses to the Noriega front men will not be considered payments to the Government of Panama. Such tax payments should, instead, be deposited in the Delvalle government's Federal Reserve escrow account in the United States.

By making these tax payments to the Noriega regime, American companies have significantly undermined the bipartisan policy of the Congress and the administration—a policy which was as recently as a half-hour ago restated in the Senate—which has sought to place financial pressure on the Noriega regime and encourage the efforts of the Panamanian people to rid themselves of this despicable despot.

Just last week, the Senate unanimously adopted a resolution declaring its support for President Delvalle and calling for measures to assist the people of Panama in their struggle to restore genuine democracy to their country. So it is not as though any of the companies involved did not have notice of their government's policy.

Efforts to get at the heart of Noriega's financial power—the Panamanian banking system—have received the support of the United States Government and have proven very effective. United States banks holding Panamanian Government assets had those assets frozen through legal action. Payments from the Panama Canal Commission have been placed in escrow pending an outcome of the political crisis.

Mr. President, the whole purpose of these concerted actions has been to dry up Noriega's source of American dollars and thus deny him the ability to finance his dictatorial regime. And that policy has been successful. Banks have been closed for more than a month. Noriega has not been able to pay civil servants and retirees and has been forced to use coins to make some small payments.

Yet, despite the decree of President Delvalle, American companies have been making tax payments to Noriega's government and thus have helped in loosening the economic pressure on Noriega. Indeed, these large multinationals have been making their payments to Noriega in cash. This, Mr. President, is totally unprecedented. When was the last time a Member of the Senate heard of an instance where a multibillion dollar American corporation paid taxes in cash?

Mr. President, the legislation I am introducing would make it clear that the only tax payments that would qualify for the foreign tax credit would be payments made to the escrow account established by President Delvalle. Although the Treasury Department may soon issue a notice stating that payments made to this escrow account qualify for the foreign tax credit, this legislation is needed to make clear that companies which make payments to the Noriega regime cannot claim the benefit of U.S. tax laws, especially the foreign tax credit.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD and that articles from the New York Times and the Washington Post concerning tax payments to the Noriega government in Panama be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 901 of the Internal Revenue Code of 1986 (relating to the foreign tax credit) is amended by inserting after subsection (j) the following new subsection:

"(k) Denial of foreign tax credit, etc., with respect to the Republic of Panama.

"(1) IN GENERAL.—Notwithstanding any other provision of this part, no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) after March 24, 1988, to the Republic of Panama, except for any such taxes paid or accrued (or deemed paid under section 902 or 960) to the constitutional government of Panama.

"(2) CONSTITUTIONAL GOVERNMENT OF PANAMA.—For the purposes of this subsection, the term "constitutional government of Panama" means that government, and officials thereof, recognized by the United States as the legitimate constitutional authority of the Republic of Panama.

"(3) NO DEDUCTION ALLOWED.—No deduction shall be allowed for any tax which is not allowable as a credit under this subsection.

"(4) TERMINATION.—This subsection shall apply for taxes that are paid or accrued after March 24, 1988, and prior to the date the Secretary of State certifies to the Congress that genuine progress toward restoration of constitutional government in Panama has been made."

SEC. 2. TECHNICAL AMENDMENT.—Subsection 901(k) of such code is redesignated as 901(l).

[From the New York Times, Mar. 31, 1988]

NORIEGA APPEARS TO BE PREVAILING IN GENERAL STRIKE: TAX PAYMENTS BY SOME U.S. COMPANIES ARE REPORTED, EASING THE CASH CRISIS

(By David E. Pitt)

PANAMA, March 30.—The Panamanian Government appeared today to have all but broken protest strikes by middle-class businessmen and public employees.

Longshoremen returned to work and supermarket chains reopened in the clearest sign yet that the military leader, Gen. Manuel Antonio Noriega, was weathering the economic challenges to his rule.

At the same time, with banks reportedly planning to reopen briefly next week for the first time in a month, the military Government appeared to have put together the beginnings of a makeshift economy. It's effort was apparently aided by tax payments—most if not all in cash—by Texaco, Eastern Airlines, United Brands and possibly other American corporations operating in Panama.

DEFIANT SPEECH BY NORIEGA

Although Panama's economy has been shattered by the combined effects of the strikes, bank closings and United States economic sanctions, General Noriega appears to have thrown a key segment of his civilian opposition into disarray in recent days by a combination of threats and force.

At the same time, the 54-year-old general seems more determined than ever to hang on to power.

On Tuesday night, only hours after the country's Roman Catholic bishops offered to mediate between the Government and the opposition and publicly called for the first time for General Noriega to resign "as soon as possible," the military leader gave a fiery speech in which he again portrayed himself as defending Panama against American imperialism.

"No one will ever put us on our knees," he declared.

Discussing the reported tax payments by American corporations, financial sources here said that the Chiriqui Land Company, a part of United Brands, a fruit exporter, recently paid $2.5 million in taxes to the Noriega Government, $700,000 of which represented an advance.

The same sources said that Texaco, which operates a refinery in Panama, paid $300,000 in taxes, apparently all in cash, while Eastern Airlines gave the Government $172,000 in cash.

Asked about the reports, United Brands spokesmen declined to comment, but someone close to the company said some tax payments had been made "in the normal course of business."

Spokesmen for Eastern and Texaco in the United States both acknowledged that the companies had recently paid taxes to the Panamanian Government, but stressed that they had had no choice under Panamanian law.

U.S. REPORTED NOT TO OBJECT

Both K. Peter Maneri, the Texaco spokesman, and Virginia Sanchez, an Eastern spokeswoman in Miami, said the Reagan Administration, which has been seeking General Noriega's ouster, was aware of the payments and had not asked that they be stopped.

"We have been in contact with the State Department as recently as today," Mr. Maneri said, "and we have not been directed in any way to change the methods by which we normally pay our taxes to the Government."

Ms. Sanchez said that Eastern had paid $172,000 in cash to Panama "basically to cover operational expenses, landing fees, navigational aids, airport rental and other communications expenses." She said the payment had been in cash "because the banking system is closed."

Asked if the dollars given to the Government represented money already circulating in Panama or an infusion of new money, Ms. Sanchez said: "As far as we're concerned, that's not an issue. Whether we flew the cash down or whether it was already there, I can't give you an answer."

It was also apparent today that the Noriega Government, which has been so wounded by American economic sanctions that it had to put off paying the 15,000-member armed forces last week, was trying to create an atmosphere in which its own paychecks would in effect supplement scarce dollars as a form of currency.

The longshoremen at the port of Balboa, who walked off the job for what they said were financial, not political reasons, voted Tuesday to return to work after the Government pledged that they could exchange their checks for their full cash value.

But dockers at Pier 6 in Balboa said they were instructed by the port police to take their checks to a duty-free store in a cordoned-off area of the pier owned by a man named Molchon or Mochon who was exchanging them for cash provided they bought a large quantity of goods in the store. The store owner was said to have some kind of an association with the military Government.

One disgusted longshoreman, who displayed a shopping bag full of laundry detergent, chocolates and potato chips, said he had shopped, then presented two $50 Government paychecks to the cashier, who handed him $60 in change.

"I don't want any more of this stuff," said the burly young man, who declined to give his name. "I don't need it. I need money."

Although department stores and other major retail outlets in the capital's commercial center remained shuttered, the supermarket owners' decision to open their doors today was widely expected to set off a chain reaction by other businessmen. Many of these are members of the National Civic Crusade, a coalition of business and civic groups, who vowed March 21 to close their stores until General Noriega was out of power.

[From the Washington Post, Mar. 31, 1988]

Pressure, Fresh Dollars Help Noriega Break Strike: Hard Currency Obtained by Government Includes Payments From U.S. Companies

(By Loren Jenkins)

Panama City, March 30.—With a combination of private pressures and stop-gap currency collections, military strongman Gen. Manuel Antonio Noriega today appeared to have broken the back of a 10-day-old nationwide general strike called to oust him.

Critical to the general's success are an agreement published today to get the nation's shuttered banks to reopen for at least limited services next week and the government's apparent ability to scrape together enough U.S. dollars—in part from local tax payments of U.S. companies doing business here—to meet some of its end-of-the-month payrolls.

With strike organizers in disarray after a crackdown Monday against their leaders, dock workers at Balboa port were back at work this morning and major supermarkets were again open for business for the first time since the general strike began March 21. It is expected that more shops and businesses will start opening after the Easter holidays now that the solidarity of Noreiga's opponents has fractured.

The most recent developments appear to indicate that U.S. economic sanctions imposed by Washington last month to try to force Noriega to resign and leave the country have failed, according to a growing number of the general's Panamanian critics. [The Reagan administration is preparing a new sanction to stop the flow of tax money to Noriega from U.S. companies, the Los Angeles Times reported from Washington.]

"Noriega seems to have outmaneuvered his enemies once again, at least for the moment," said one senior Latin American diplomat here today. "If he hasn't yet won the war to survive, he has, at least, won * * * more breathing room."

A key member of the National Civic Crusade, the coalition of civic and business leaders that organized the strike, insisted tonight that despite the reopening of some supermarkets, the strike would continue.

"Industry, commerce and the banks are still closed down," said Crusade supporter Pierre Leignadier, a vice president of the Panamanian Chamber of Commerce. He said that "the supermarkets decided to open because they were being leaned on heavily."

While private threats of expropriation and other sanctions have done much to soften the resistance of executives such as supermarket owners, according to Noriega's opponents, it is his ability to find scarce supplies of restricted U.S. dollars that has done most to crack the general strike.

Panama does not have its own currency and depends on U.S. dollars to fuel every economic activity. Getting dollars is thus the key to Noriega's survival. Noriega, foreign analysts said, has found sufficient dollars from sources that range from collection of regular taxes from U.S. companies here in cash instead of checks, to the conversion to hard currency in Europe of assets of the Panamanian-owned Latin American Export Bank (BLADEX).

Well-informed sources here said that in recent days Noriega has managed to raise close to $3 million from taxes and fees owed by such U.S. companies operating in Panama as Texaco, Eastern Airlines and the Chiriqui Land Co. of United Brands, which grows Chiquita bananas in Panama.

Texaco, the sources said, paid $300,000; Eastern Airlines $172,000 and Chiriqui Land $2.5 million, according to these sources.

After Noriega fired president Eric Arturo Delvalle last month, Delvalle urged U.S. companies here to suspend their payments to what he characterized as the illegitimate government of acting President Manuel Solis Palma, whom Noriega installed. Delvalle said the companies should put their payments—for Panamanian taxes and services—into escrow pending his return to office.

[U.S. officials in Washington said the Internal Revenue Service will issue a new regulation this week instructing American companies that they will receive credit on their U.S. tax returns for taxes paid to Panama only if they pay them to deposed Panamanian President Eric A. Delvalle, the Los Angeles Times reported. Officials said the new IRS order would apply to corporations such as United Brands, Standard Oil of Ohio and Texaco, which pay many millions of dollars in Panamanian taxes each year. Under Panamanian law, income taxes are due Thursday, the report said.]

Spokespersons for Texaco and Eastern, either here or in the United States, today confirmed that their firm had continued payments to Panama after consultations with the State Department.

[Eastern Airlines spokeswoman Virginia Sanchez said that Eastern pays Panama about $180,000 a month in taxes and fees for landing, navigational aid and communications. "As far as I know, the last amount paid was due for the month of February," she said. She added, "We are simply paying fees that are justified, and we have not been advised to withhold such payments."

[A Texaco Spokesman, Peter Maneri, said: "We have met with the State Department as recently as this morning. State has not instructed the company to withhold tax revenues due the Panamanian government."

[Sandra Heimann, spokeswoman for United Brands, said she was unable to confirm that her company had paid $2.5 million, but said she believed "that figure was incorrect." She added, "Any payments that we made were in the ordinary course of business."]

Sources here said the Solis Palma government has requested that the payments be made in hard currency rather than checks, as had been the practice in the past. An executive for Texaco's Panamanian subsidiary, Rafinerias Panama SA, confirmed today that his company was making some of its payments in cash.

That sort-term cash is being supplemented, well-informed sources here said, by cash that the export bank BLADEX was trying to raise in European money markets by cashing in its reserves. The source said that BLADEX had up to $35 million in assets and that the Noriega government was trying to convert $29 million of that into hard currency. Panama is believed to need from $22 million to $30 million every two weeks to meet its current expenses, including twice-monthly salary payments to 140,000 public employees.

It was the government's inability to meet that payroll fully on March 14 that triggered the series of public strikes, such as the dock workers', that 10 days ago turned into a general protest strike.

"Every bit of money the government can get stretches out how long they can hold on," said one western diplomat.

The military-imposed Solis Palma government still seems to be short of the currency that it needs. But it is hoping to alleviate those shortages through the cooperation of some Noriega-dependent businesses and a plan to create a temporary paper currency of government checks once the banks reopen for business next week, according to informed sources.

That is the way the government convinced the striking dockworkers to return to work today. The government agreed to pay them all the salary they were owed, but in government checks of $50 that it promised they could cash at a duty-free shop where normally they would not have been allowed to shop.

At the shop this morning, dozens of dock workers converged, clutching from three to four $50 checks. The use of $50 government checks, the government seems to be hoping, will become as common as $50 bills once the banks reopen for limited business next week. The government press today published an agreement under which banks are to begin settling their accounts with each other Thursday and, starting next week, to allow customers to cash checks and withdraw a limited percentage of their deposits.

By Mr. CRANSTON (for himself, Mr. Inouye, and Mr. DeConcini):

S. 2250. A bill to ensure that Federal lands are managed in a manner that does not impair the exercise of traditional American Indian religion; to the Select Committee on Indian Affairs.

AMERICAN INDIAN RELIGIOUS FREEDOM ACT AMENDMENTS

Mr. CRANSTON. Mr. President, I am pleased to introduce S. 2250, an amendment to the American Indian Religious Freedom Act of 1978. The measure I am introducing today would ensure that Federal lands are managed in a manner that does not impair the exercise of a traditional American Indian religion. I am delighted to be joined in introducing this measure by the distinguished Chairman of the Select Committee on Indian Affairs, the Senator from Hawaii [Mr. Inouye] and the distinguished Senator from Arizona [Mr. DeConcini].

Mr. President, on August 11, 1978, Congress passed the American Indian Religious Freedom Act of 1978 [AIRFA]. AIRFA sets forth the policy of the United States to protect and preserve the right of American Indians, Eskimo, Aleut, and Native Hawaiian people to believe, express and exercise their traditional religions.

Pursuant to the provisions of AIRFA, Federal agencies are required by law to respect the customs, ceremonies and traditions of Native American religions. The act provided that within 1 year of enactment, Federal agencies would examine their policies and procedures, and work with Native traditional and tribal leaders to assure minimal interference with the religious practices of Indian people. In August 1979, the Federal Agencies Task Force charged with this responsibility submitted its report to Congress. The report contained the results of the evaluation of the various Federal agencies' policies and procedures as they affected the practice of Native religions and addressed administrative concerns and legislative changes necessary for the protection and preservation of the religious cultural rights and practices of Native Americans.

The Federal Agencies Task Force report concluded that due to ignorance and attitudes, Federal policies and practices were directly or indirectly hostile toward Native traditional religions or simply indifferent to their religious values. There were indications that Native American people were denied access to sacred sites on Federal land for the purpose of worship and in cases where they did gain access, they were often disturbed during their worship by Federal officials and the public. In addition, some sacred sites were needlessly put to other uses which have desecrated them. Further, Native Americans have been denied the opportunity to gather natural substances which have a sacred or religious significance, and have been disturbed in their use of these natural substances. Lastly, Indian beliefs involving care and treatment for the dead have not been respected by the public institutions, such as schools and prisons, on the rights of Native Americans to practice their religious beliefs.

The 1979 report made recommendations for uniform administrative procedures. Where it had been determined that administrative accommodations could not be made under existing statutory authority, the task force developed recommendations for legislative action concerning Federal land-use designations for Native sacred sites, Native religious use of site-specific lands, protection of sites against vandalism and non-tribally controlled excavations, strengthening of conservation and antiquities laws and the exportation of significant objects in Native religious use.

Although the various recommendations regarding legislative action went through a review process under the Carter administration, no recommendations were ever forthcoming on the issue of removal of the identified barriers to Indian religious freedom.

I believe the time has come for Congress to take steps to halt the increasing infringement on the religious prerogatives of American Indians. The purpose of the amendment I am introducing today is to strengthen the American Indian Religious Freedom Act by requiring Federal agencies to manage Federal lands so as not to impair or interfere with the exercise or practice of traditional American Indian religion. Further, it will provide U.S. district courts with the authority to issue orders to enforce this requirement.

Mr. President, the amendment I am introducing today is long overdue. I look forward to working with Chairman Inouye to ensure that the rights of Indian people to practice their own religion without the interference of governmental agencies—a right that is taken for granted by most other Americans—is enacted into law. Toward this end, I hope that it will be possible for hearings to be scheduled soon.

Finally, Mr. President, I ask that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 95-341 is amended by adding at the end thereof the following new section:

"Sec. 3. (a) Except in cases involving compelling governmental interests of the highest order, Federal lands that have been historically indispensable to a traditional American Indian religion shall not be managed in a manner that would seriously impair or interfere with the exercise or practice of such traditional American Indian religion.

"(b) United States district courts shall have the authority to issue such orders as may be necessary to enforce the provisions of this section.".

By Mr. WILSON (for himself, Mr. D'Amato and Mr. Karnes):

S. 2251. A bill to protect all Federal law enforcement officers and State and local law enforcement officers and corrections officers involved in drug law enforcement by providing for the imposition of the death penalty for killing any such law enforcement officer or corrections officer and to increase the Federal public safety officer death benefit; to the Committee on the Judiciary.

(The remarks of Mr. Wilson and Mr. D'Amato on this legislation appear elsewhere in today's Record.)

By Mr. JOHNSTON (for himself and Mr. Breaux):

S. 2253. A bill to authorize the purchase of additional lands adjacent to or close to the Bayou Bodcau Wildlife Management Area; to the Committee on Environment and Public Works.

PURCHASE OF ADDITIONAL LANDS FOR THE BAYOU BODCAU WILDLIFE MANAGEMENT AREA

● Mr. JOHNSTON. Mr. President, I am pleased today to introduce legislation adding 12,000 acres of bottomland hardwoods near and adjacent to the Bodcau Wildlife Management Area in Bossier Parish, LA, to the lands the Army Corps of Engineers is authorized to consider for acquisition in mitigation of fish and wildlife losses caused by the Red River waterway project.

The Bodcau tract is one of the few remaining forested wetland areas in northwest Louisiana. As such, it is the habitat of a wide variety of flora and fauna, including species increasingly threatened with extinction. The overhead canopy of hardwoods in the Bayou Bodcau floodplain consists of water oak, overcup oak, willow oak, shumard, white and cow oak. Bayou Bodcau is home to one of the few wild turkey populations remaining in north Louisiana, as well as to whitetail deer and game animals. Woodducks and migratory ducks visit these wetlands on their way south, and birds of many species use them for nesting, feeding, and cover.

Bayou Bodcau is a resource for naturalists, for sportsmen and for all those concerned with flood control, abundant supplies of clean water, and the preservation of our wildlife heritage for the next generation. Its acquisition has the support of the Louisiana Legislature, the Red River Valley Association, and the Red River Wetlands Coalition, a coalition of community and statewide citizen groups and individuals committed to saving Louisiana's vanishing wetlands.

On behalf of Senator BREAUX and myself, I ask unanimous consent that the text of this bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized to acquire approximately 12,000 acres adjacent to or close to Bayou Bodcau Wildlife Management Area. The lands purchased shall go toward fulfilling the mitigation obligation of the Chief of Engineers for fish and wildlife losses on the Red River Waterway, Louisiana.

(b) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.●

By Mr. BINGAMAN (for himself, Mr. GRAMM, Mr. DIXON, and Mr. WIRTH):

S. 2254. A bill to amend title 10, United States Code, to make miscellaneous improvements in the management of Department of Defense acquisitions; to the Committee on Armed Services.

DEFENSE INDUSTRY AND TECHNOLOGY ACT

● Mr. BINGAMAN. Mr. President, together with Senator GRAMM, Senator DIXON, and Senator WIRTH, I am introducing today the Defense Industry and Technology Act of 1988. This bill reflects the efforts of the Subcommittee on Defense Industry and Technology of the Senate Armed Services Committee, which I chair, to enhance the technological superiority of the United States over potential adversaries and to promote the effective application of that technology to meet national defense needs. This has been a bipartisan effort, and I have worked closely with Senator GRAMM, the ranking minority member of the subcommittee, to identify and address issues of importance to the vitality of our defense industries.

In our hearings last year on the viability of our industrial and technological bases, the subcommittee heard repeated references to the change in government-industry relations from an arm's-length, healthy, and creative situation to a hostile, adversarial, and counterproductive relationship. Witnesses from both Government and industry agreed that there was a significant problem that needed to be addressed.

In August of last year, the subcommittee—in an effort to promote a constructive dialog between government and industry, which the Packard Commission and others had called for—established an Ad Hoc Defense Industry Advisory Committee with a view toward identifying those aspects of the acquisition process that stifle innovation, drain good talent away from defense industries, and threaten the technological and industrial lead that is the foundation of our Nation's security. On February 5, the Advisory Committee provided us with a report which addressed three broad themes:

First, the people—enhancing the quality of the procurement workforce.

Second, the process—looking for ways to do more with less by cutting out the nonvalue-added aspects of our procurement system, while maintaining—and increasing—our investment in the types of research and development that will enhance our technological advantages over potential adversaries.

Third, restoring trust—creating a sense of trust and confidence in government-industry relationships in an environment that establishes clear lines of responsibility and firm procedures for accountability.

The Advisory Committee's report reflected the hard work and dedication of the industry executives who generously gave of their time in this endeavor. I ask unanimous consent that the membership of the Advisory Committee be printed at the conclusion of my remarks.

Their work, however, represented merely the first step in the process of addressing the issues confronting our defense acquisition system. In order to reach the many other individuals in industry, government, and academia who have so much to contribute in this area, Senator GRAMM and I encouraged wide distribution of the report through the general media, trade press, associations, and other individuals and groups with active interest in the acquisition process.

To date, we have received over 80 responses with many thoughtful comments on the issues raised by the Advisory Committee and related matters. The comments generally agreed with the descriptions of the problems in the Advisory Committee report. There were differences of opinion, however, concerning a number of the proposed solutions. In addition, some of the comments suggested that both DOD and industry were suffering from regulatory overload, and that we should permit time for the system to fully digest recent changes before making major revisions at this time.

Based on the comments, my colleagues and I have developed the bill which we are introducing today. The bill seeks to promote a healthy dialog between government and industry while avoiding an unduly burdensome round of regulatory changes. Here are some of the key features of the bill:

Development of an integrated contract finance investment and risk sharing plan: All too often, policies regarding progress payments, return on investment, and risk sharing are considered as discrete matters, with insufficient attention to the long-term implications of these policies for the vitality of our industrial and technological bases. I do not believe that Congress should engage in detailed management of these financing issues, but I also believe that Congress must ensure that Department considers these matters within a framework that furthers our national defense interests. The bill requires the Secretary of Defense, in conjunction with the development of the 5-year defense program, to establish an integrated plan that will ensure that the Department's long-term needs for industrial and technological resources. The goal of this plan will be to ensure that DOD's financing policies enhance the ability of industry to invest in technology innovation, production efficiencies, and capital improvements.

Limitations on fixed price development contracts: There has been considerable concern that the services have made inappropriate use of fixed price type contracts in situations where the program to be developed involves such a degree of innovation that realistic pricing is not possible. In these cases, the contractor takes on an inordinate share of the risk, which will result in either the contractor bearing unanticipated costs or the Government renegotiating the contract. Neither result makes sense when there are other appropriate contract types to properly allocate the risk and manage the costs when flexibility is necessary. The bill codifies and revises a requirement established last year that the Under Secretary of Defense for Acquisition approve certain fixed price development contracts.

Authority and responsibility of DOD acquisition officers: The proliferation of "advocates" within the acquisition system, along with the expansion of audit and oversight functions, have led to concern that program managers and contracting officers do not necessarily have the authority to accomplish the basic task of developing and procuring weapons systems in an efficient and effective manner. The legislation requires that the Secretary of Defense develop rules to ensure that acquisition program managers and contracting officers are provided with decisionmaking authority that is commensurate with their responsibilities.

Regulatory simplification: Under Secretary of Defense Costello has promoted a number of actions, such as the Pilot Contracting Program and the "should cost" system, to reduce unnecessary regulatory burdens in the acquisition process. To ensure proper followup in the coming year, the bill requires the Secretary to make an assessment of these programs and to establish a timetable to effectuate regulatory reform measures based on the lessons learned from the conduct of these programs.

Duplication of oversight activities: Last year, the Deputy Inspector General of DOD, in testimony before our subcommittee, confirmed what many others have told us—duplicative audit and oversight continues to be a problem within DOD. While an appropriate degree of oversight is essential to the integrity of the acquisition process, repetitive examination of the same issues is simply another form of waste. To address this problem, the bill requires the Under Secretary of Defense for Acquisition to require an annual plan for the conduct of audit and oversight functions within each contracting activity. The bill also takes note of the Under Secretary's efforts to work with the Inspector General and the Comptroller General on this problem, and requires him to report on the results of his efforts.

Foreign selling costs: Sales to foreign governments have become an important source of revenue for our industrial and technological base. There has been concern in the past, however, that treating the costs of such sales as allowable does not permit an appropriate degree of monitoring to ensure that such costs are consistent with the Government's interests. To address this concern, the bill would treat such costs as allowable to the extent provided for in advance agreements between the contractor and the Department of Defense.

Uncompensated overtime: The bill establishes a standard for evaluating hourly labor costs in proposed contracts for employees who are not covered by the Fair Labor Standards Act's wage and hour limitations. This standard will ensure uniformity in bid evaluation. It does not apply to contract audit, and is not intended to affect the Fair Labor Standards Act.

DOD advisory panel on government-industry relations: In order to further the dialog that was initiated in the advisory committee process on such issues as the role that should be played by corporate self-governance programs and the purposes of department and suspension procedures, the bill requires the Secretary of Defense to establish an advisory panel composed of persons from government, private industry, and academia.

Acquisition personnel: There was general agreement in the comments on the advisory committee report that the quality of the acquisition work force is the key to improvement of the acquisition process. The proposed legislation builds on the recommendations of the Packard Commission and the recent Defense Science Board report on technology base management. It would essentially enable the Department, in conjunction with the Office of Personnel Management, to apply the alternative personnel management system developed at the Navy's laboratories at China Lake and San Diego to all the acquisition organizations of the Department. The goal is to give DOD acquisition managers more flexibility in managing and rewarding their work forces and thereby to resolve the recruitment and retention problems so evident in our DOD acquisition organizations.

The subcommittee will hold hearings on this legislation on April 13 and 14. In addition to discussing the bill, we shall also review a wide variety of acquisition matters such as the role of the Under Secretary of Defense for Acquisition, independent research and development, management of multiyear procurement and defense enterprise programs, the 2-year budget, contractor liability and indemnification, incentives for innovation, DOD's report on nondevelopmental items, the impact of conflict of interest legislation, and the DOD's implementation of last year's acquisition legislation. We encourage persons with interest in these matters to submit testimony for the record of our hearings.

Mr. President, this bill and our subcommittee's other efforts reflect our intent to promote a healthy, vigorous, and effective defense acquisition program that will strengthen the relationship between government and industry. I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill and committee membership were ordered to be printed in the RECORD, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Industry and Technology Act of 1988".

SEC. 2. INTEGRATED FINANCING POLICY

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated contract finance, investment, and risk-sharing plan

"(a) IN GENERAL.—The Secretary of Defense shall prescribe and submit to Congress each year, at the same time as he submits the five-year defense program to Congress under section 114(g) of this title, a five-year plan that ensures that Department of Defense policies referred to in subsection (b) are structured to meet the Department's needs for industrial resources and technology innovation under such five-year defense program and Department mobilization plans. In developing such a plan, the Secretary shall take into account the different characteristics of separate segments and tiers of private industry.

"(b) APPLICABILITY.—Subsection (a) applies to the following policies applicable to Department of Defense contractors:

"(1) Policies relating to progress payments or other financing of contractors by the Department.

"(2) Policies relating to the return on contractor investment under Department contracts.

"(3) Policies relating to the division of contract risk between the Department and a contractor.

"(c) EXPLANATION OF PLAN.—The five-year plan submitted to Congress in any year under subsection (a) shall include an explanation of the manner in which such plan and the policies (referred to in subsection (b)), as reflected in the budget, meet the needs referred to in subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated contract finance, investment, and risk-sharing plan.".

(b) DATE FOR SUBMISSION OF FIRST PLAN.—The first five-year plan required by section 2330 of title 10, United States Code (as added by subsection (a)), shall be submitted to Congress not later than April 1, 1989.

SEC. 3. LIMITATIONS ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS

Section 2306 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The head of an agency may not award a firm fixed-price contract in excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines, in writing, that—

"(A) program risk has been reduced to the extent that realistic pricing can occur; and

"(B) the use of a firm fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

"(2) The Under Secretary of Defense for Acquisition may not delegate his authority under paragraph (1) to any person who holds a position outside the Office of the Secretary of Defense or a position below the level of Assistant Secretary of Defense.

"(3) The Under Secretary shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives once each quarter a written report containing a list of all contracts described in paragraph (1) that have been awarded during such quarter.".

SEC. 4. AUTHORITY AND RESPONSIBILITIES OF DEPARTMENT OF DEFENSE ACQUISITION OFFICERS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

"§ 2303a. Authority and responsibilities of program managers and contracting officers

"The Secretary of Defense shall specify in regulations the authority and responsibilities of Department of Defense acquisition program managers and contracting officers. The Secretary shall ensure that such regulations provide acquisition program managers and contracting officers with decision-making authority that is commensurate with their responsibilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2303 the following new item:

"2303a. Authority and responsibilities of program managers and contracting officers.".

(b) IMPLEMENTATION.—The Secretary of Defense shall issue the regulations required by section 2303a of title 10, United States Code (as added by subsection (a)), not later than 180 days after the date of the enactment of this Act.

SEC. 5. REGULATORY SIMPLIFICATION

Not later than February 1, 1989, the Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense and an assessment of the results of those programs. The Under Secretary shall include in such report a schedule or timetable to effectuate regulation reform measures based upon the lessons learned from the conduct of such programs.

SEC. 6. DUPLICATION OF OVERSIGHT ACTIVITIES

(a) AMENDMENT TO SECTION 133(d) OF TITLE 10.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall include a requirement for an annual plan for the conduct of audit and oversight functions within each contracting activity.".

(b) REPORT.—(1) Not later than February 1, 1989, the Under Secretary of Defense for Acquisition shall submit to Congress a report on the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplication by different elements of the Department of Defense.

(2) The Under Secretary shall include in such report a discussion of the feasibility and desirability of—

(A) tailoring the degree of audit and oversight conducted by the Department of Defense to the degree of risk assumed by a contractor in the types of contracts entered into with the Department;

(B) granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities; and

(C) establishing a means of ensuring quality, integrity, and professionalism in the conduct of audit and oversight activities.

SEC. 7. FOREIGN SELLING COSTS

Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that foreign selling costs, including costs incurred at domestic and international exhibits to promote the export of products of the United States defense industry, shall be allowable to the extent that such costs are—

"(A) allocable, reasonable, and not otherwise unallowable; and

"(B) within dollar ceilings established in advance agreements negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements.".

SEC. 8. UNCOMPENSATED OVERTIME

It is the sense of Congress that the evaluation by the Department of Defense of professional and technical services contract proposals should be computed on the basis of a 40-hour work week and a 2,080-hour work year standard.

SEC. 9. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) ESTABLISHMENT OF ADVISORY PANEL.—The Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) appropriate recognition by the Secretary of Defense of self-governing oversight programs of defense contractors; and

(3) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) MEMBERSHIP OF ADVISORY PANEL.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate balance of persons from government, private industry, and academia.

(c) REPORT DEADLINE.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 11. CIVILIAN PERSONNEL

(a) ALTERNATIVE PERSONNEL MANAGEMENT SYSTEM.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 85 the following new chapter:

"CHAPTER 87—CERTAIN PROFESSIONAL, ADMINISTRATIVE, AND TECHNICAL EMPLOYEES

"Sec.
"1641. Purpose.
"1642. Definitions.
"1643. Establishment of alternative personnel management system.
"1644. Career paths and pay bands.
"1645. Pay-for-performance plan.
"1646. Bonuses.
"1647. Relationship to other laws.
"1648. Conversion procedures.

"§ 1641. Purpose

"It is the purpose of this chapter to promote better management of the civilian work force in the acquisition and logistics organizations of the Department of Defense by providing the Secretary of Defense with flexibility to prescribe rates of basic pay for certain professional, administrative, and technical employees in order effectively to recruit, motivate, and retain a well-qualified professional, administrative, and technical work force.

"§ 1642. Definitions

"In this chapter:

"(1) The term 'alternative personnel management system' means the alternative personnel management system established by the Secretary under section 1643 of this title.

"(2) The terms 'class', 'grade', and 'position' have the same meanings as provided in section 5102(a) of title 5.

"(3) The term 'career path' means a group of those occupations that are determined by the Secretary to be sufficiently similar to warrant the applicability of the same set of pay bands to positions in such occupations.

"(4) The term 'Department' means the Department of Defense.

"(5) The term 'occupation' means a group of positions in which the work and qualifications required of personnel in such positions are similar.

"(6) The term 'pay band' means a range of rates of basic pay that includes all of the rates of basic pay for two or more grades (or, when determined appropriate by the Secretary in any case, for one grade) of the General Schedule under section 5332 of title 5.

"(7) The terms 'professional position', 'administrative position', and 'technical position' mean a position that has been designated by the Secretary as professional, administrative, and technical, respectively, for the purposes of this chapter, but do not include—

"(A) a Senior Executive Service position;

"(B) a position under the prevailing rate system described in subchapter IV of chapter 53 of title 5;

"(C) the position of an employee paid from nonappropriated funds;

"(D) the position of an officer or member of a crew of a vessel;

"(E) a position classified at a grade below GS-5 of the General Schedule under section 5332 of title 5; or

"(F) a position the duties of which are primarily clerical in nature.

"(8) The terms 'professional employee', 'administrative employee', and 'technical employee' mean an employee who is employed in a professional position, an employee who is employed in an administrative position, and an employee who is employed in a technical position, respectively.

"(9) The term 'Secretary' means the Secretary of Defense.

"§ 1643. Establishment of alternative personnel management system

"(a) In General.—The Secretary, with the approval of the Director of the Office of Personnel Management, may establish and implement an alternative personnel management system for the professional, administrative, and technical positions of those components of the Department of Defense that, as determined by the Secretary, primarily perform acquisition and logistics functions.

"(b) Limitations.—(1) The Secretary shall ensure that the aggregate cost (including administrative cost) directly and indirectly incurred by the Department of Defense in the operation of the alternative personnel management system does not exceed the cost which would have been incurred by the Department if the system had not been established. In the computation of aggregate costs, administrative costs shall be included, but documented savings realized by the Department as a result of improved productivity of Department personnel that is attributable to the establishment and implementation of such system shall be excluded.

"(2) The alternative personnel management system may not cover more than 300,000 employees.

"(c) Advanced Planning.—Before establishing the alternative personnel management system under subsection (a), the Secretary shall develop a plan for the operation of the system. The plan shall set forth—

"(1) the scope of the alternative personnel management system;

"(2) the actions to be taken by the Secretary in order to carry out the requirement in subsection (b)(1);

"(3) the career paths, pay bands, classification criteria, and qualification requirements proposed for the system under section 1644 of this title;

"(4) a performance appraisal system as provided in chapter 43 of title 5;

"(5) a pay-for-performance plan as required by section 1645 of this title;

"(6) a merit promotion program that is consistent with regulations issued by the Office of Personnel Management that are applicable to all merit promotion programs of the Federal Government; and

"(7) procedures for designating positions for conversion to coverage under the alternative personnel management system.

"§ 1644. Career paths and pay bands

"(a) In General.—The Secretary shall establish career paths and pay bands for the alternative personnel management system.

"(b) Classification Criteria.—The Secretary shall develop and publish criteria, in such form as the Secretary considers appropriate, for—

"(1) determining the appropriate occupational classification for particular positions;

"(2) determining the appropriate career path for particular occupations; and

"(3) applying pay bands to covered positions.

"(c) Qualification Standards.—Except as provided in subsection (d), the qualifications of any individual for appointment to a position covered by the alternative personnel management system (taking into consideration the occupation and career path of the position and the pay band applicable to the position), shall be determined on the basis of—

"(1) qualification standards issued by the Office of Personnel Management for positions under chapter 51 of title 5; or

"(2) qualification standards developed for such positions under the alternative personnel management system,

as the Secretary, in his sole discretion, may direct.

"(d) Special Career Paths, Pay Bands, Classification Criteria, and Qualification Standards.—If the Secretary determines that the career paths, pay bands, classification criteria, or qualification standards otherwise applicable under subsection (a), (b), or (c) to the positions in any military department, Defense Agency, or component thereof, or to positions at any location or in any occupation or group of occupations are not appropriate to carry out the purpose of this chapter, the Secretary may develop appropriate career paths, pay bands, classification criteria, or qualification standards specifically for the positions in such department, agency, or component, or at such location, or in such occupation or group of occupations.

"(e) Pay Band Ranges.—The minimum rate of basic pay for the alternative personnel management system shall be the minimum rate of basic pay for grade GS-5 of the General Schedule under section 5332 of title 5, and the maximum rate of basic pay shall be the rate of basic pay payable for grade GS-18 of the General Schedule. The range of the rates of basic pay provided in any pay band shall be equivalent to the range of rates of basic pay for one or more grades of the General Schedule under section 5332 of title 5 and shall be adjusted to maintain such equivalency whenever the rates of basic pay of the General Schedule are adjusted under section 5305 of such title.

"(f) Initial Pay Rate.—An individual initially appointed in a position covered by the alternative personnel management system shall be paid at the lowest rate in the pay band applicable to such position that the Secretary determines, on the basis of the individual's qualifications and labor market conditions, is necessary to recruit such individual for the position.

"(g) Special Adjustments for Recruitment and Retention.—When the Secretary determines that the recruitment or retention of well-qualified employees for positions covered by the alternative personnel management system is, or is likely to become, seriously handicapped because the rates of basic pay provided for other Federal Government employees or for employees outside the Federal Government are higher than the rates of basic pay provided under the applicable pay band, or because of undesirable working conditions or the remote geographical location of such positions, the Secretary may take any of the following actions:

"(1) Increase rates of basic pay (other than the maximum rate of basic pay) within the applicable pay band, but only to those rates that are sufficient for recruitment or retention of well-qualified employees for such positions.

"(2) If the maximum rate of such pay band is not sufficient for recruitment or retention of such employees, expand the range of rates of basic pay provided in the pay band, subject to the following limitations:

"(A) The rates of basic pay, including the maximum rate of basic pay, provided for the pay band may be increased, but only to those rates that are sufficient for recruitment or retention of well-qualified employees for such positions.

"(B) The maximum rate of basic pay provided under such pay band, as expanded under this paragraph, may not exceed the amount described in clause (i) by more than the amount computed under clause (ii), as follows:

"(i) The amount described in this clause is the minimum rate of basic pay provided for the highest grade under the General Schedule that, with respect to such pay band, is referred to in section 1642(6) of this title.

"(ii) The amount computed under this clause is the amount equal to two times the difference between the maximum and minimum rates of basic pay provided under the General Schedule for the grade referred to in clause (i).

"(C) The maximum rate of basic pay provided under such pay band, as so expanded, may not exceed the maximum rate of pay payable under section 5308 of title 5.

"(3) Pay bonuses to such employees, as appropriate, subject to the conditions specified in section 1646. Bonuses may be paid under this paragraph regardless of whether the Secretary has also taken an action authorized by paragraph (1) or (2).

"(h) Adjustments for Individual Employees.—If the rate of basic pay of an employee is below the minimum rate of basic pay provided for the pay band available to the employee's position because of increases in such minimum rate and a failure of such employee, on the basis of performance, to receive pay increases, the next lower pay band shall be the pay band applicable to the position of such employee unless such next lower pay band is below the minimum pay band specified for the career path of an employee in such a position. The rate of basic pay of an employee may not be reduced as a result of any action taken under this subsection.

"(i) Special Pay for Certain Scientific and Technical Positions.—The Secretary may designate not more than 200 scientific and technical positions under the alternative personnel management system as positions which require specially qualified employees. The Secretary may prescribe a rate of basic pay for each such position that is competitive with the rates of basic pay for personnel employed in similar positions outside the Federal Government, including, in exceptional cases individually approved by the Secretary, the rates of pay of scientific and technical personnel at any national research laboratory of the Federal Government not operated by the Federal Government.

§ 1645. Pay-for-performance plan

"(a) In General.—The alternative personnel management system shall include a pay-for-performance plan that contains the following features:

"(1) Procedures for advancement of employees within a pay band (except as provided by section 1644(h)) on the basis of—

"(A) performance, as determined under the applicable performance appraisal system; and

"(B) the relative position in the range of rates of basic pay provided for such pay band.

"(2) An incentive and performance awards system which meets the requirements of chapter 45 of title 5.

"(3) Procedures for determining the amounts available for payment of incentive awards, performance awards, and increased rates of basic pay to employees advanced within pay bands.

"(b) EMPLOYEES NOT APPRAISED.—The Secretary shall prescribe in regulations procedures for providing benefits under the pay-for-performance plan in the case of an employee for whom a determination under section 4302 of this title for the latest appraisal period is not available.

"(c) PERFORMANCE AWARDS.—The Secretary may pay a performance award to an employee under the pay-for-performance plan. The selection of an employee for receipt of such an award and the amount of such award shall be determined on the basis of an appraisal of the employee's performance under the performance appraisal system applicable to the employee. A performance award shall be subject to section 3502 of title 5.

"§ 1646. Bonuses

"(a) SERVICE AGREEMENT.—A bonus may be paid to an individual under section 1644(g)(3) of this title pursuant to a service agreement entered into between the Secretary and the individual. The service agreement shall require the individual to complete a specified period of service in return for such bonus. Not more than two years of service may be required under a single agreement. An individual who fails to complete the specified period of service provided for in an agreement shall repay the amount of the bonus unless—

"(1) the period of service is not completed by reason of the death or disability of the individual; or

"(2) the Secretary determines that such failure to complete the specified period of service is for the convenience of the Government.

"(b) LUMP SUM PAYMENT.—A bonus may be paid in a lump sum or in two or more separate payments.

" (c) LIMITATION.—The sum of the basic pay and bonuses paid to an individual in any 12-month period may not exceed the amount of basic pay payable to an individual in a position in level V of the Executive Schedule during the same 12-month period.

"§ 1647. Relationship to other laws

"(a) GENERAL SCHEDULE CLASSIFICATION AND PAY SYSTEM.—(1) The personnel management system established to carry out the purpose of this chapter is an alternative to the classification and pay system established under chapter 51, subchapter III of chapter 53, and chapter 54 of title 5.

"(2) Chapter 51 of title 5 (relating to classification of positions) shall not apply to a position in the Department of Defense that is subject to the alternative personnel management system and an employee of such Department who is subject to such system.

"(b) GENERAL PAY ADMINISTRATION.—The Secretary shall prescribe such regulations as may be necessary to ensure that the provisions of chapter 55 of title 5, and any other relevant provisions of law are applicable to the administration of pay under the alternative personnel management system notwithstanding differences between the pay bands prescribed under this section and the General Schedule under section 5332 of such title.

"(c) PAY RETENTION.—Under regulations prescribed by the Secretary, an employee covered by the alternative personnel management system whose rate of basic pay is reduced for any reason other than (1) action initiated by such employee, (2) misconduct of such employee, or (3) unacceptable performance by such employee shall be entitled to basic pay at a rate computed under section 5363 of title 5 instead of basic pay at the reduced rate that would otherwise apply.

"(d) PHYSICIAN'S COMPARABILITY ALLOWANCE.—Under regulations prescribed by the Secretary, an allowance may be paid under section 5948 of title 5 to a physician in a position covered by the alternative personnel management system, subject to the conditions set out in that section.

"(e) ALLOWANCES BASED ON CERTAIN LIVING CONDITIONS.—For the purposes of section 5941 of title 5 (relating to allowances based on certain living conditions), rates of basic pay prescribed under this chapter shall be considered rates of basic pay fixed by statute.

"(f) BONUSES.—A bonus paid under section 1644(g)(3) of this title may not be considered as basic pay for the purposes of subchapter V, subchapter VI or section 5595 of chapter 55, chapter 81, 83, 84, or 87 of title 5, or other benefits or entitlements related to basic pay.

"(g) PERFORMANCE APPRAISAL.—For the purposes of chapter 43 of title 5, a reduction of an employee to a lower pay band under the alternative personnel management system shall be considered a reduction in grade. Section 4303 of title 5, however, shall not apply in the case of such a reduction.

"(h) LABOR-MANAGEMENT AND EMPLOYEE RELATIONS.—(1) For purposes of chapter 71 of title 5, the following matters under the alternative personnel management system shall be treated as conditions of employment:

"(A) A determination of the career path of a position.

"(B) The pay band applicable to a position.

"(C) The procedures for advancement of an employee within a pay band.

"(2) Nothing in chapter 71 of title 5 shall affect the authority of the Secretary to determine which positions and employees are covered by the alternative personnel management system.

"(3)(A) Except as provided in subparagraph (B), section 7121 of title 5 does not apply to the matters referred to in paragraph (1).

"(B) The exception provided in subparagraph (A) shall not apply in the following cases:

"(i) A determination referred to in paragraph (1)(A) in the case of any position if that determination results in a reduction in the basic pay provided for an employee in such position.

"(ii) A reduction in the rate of basic pay provided for an employee that is made for any reason other than action initiated by the employee, misconduct of the employee, or unacceptable performance by the employee.

"(i) ADVERSE PERSONNEL ACTIONS.—(1) For the purposes of subchapter II of chapter 75 of title 5, the term 'grade' includes a pay band under the alternative personnel management system.

"(2)(A) Except as provided in subparagraph (B), such subchapter shall apply to a reduction in an employee's rate of basic pay as a result of a change of the pay band applicable to such employee or such employee's position from one pay band to a lower pay band.

"(B) Such subchapter shall not apply to a reduction in the rate of basic pay as a result of an action under section 1644(h) of this title.

"§ 1648. Conversion procedures

"(a) POSITIONS AND EMPLOYEES.—The Secretary shall prescribe in regulations, subject to approval by the Office of Personnel Management, procedures for converting positions and employees covered by other Federal Government personnel management systems for coverage by the alternative personnel management system.

"(b) ORGANIZATIONAL COMPONENTS.—The Secretary shall prescribe in regulations procedures for designating components of the Department of Defense and civilian employees of such components for conversion for coverage under the alternative personnel management system.

"(c) NOTIFICATION REQUIREMENT.—Procedures prescribed under this section shall include a requirement that each individual serving in a position at the time the position is identified for conversion to the alternative personnel management system be given notification of the conversion not less than 30 days before the conversion is made.

"(d) PAY RETENTION.—The rate of basic pay of an employee may not be reduced by reason of the conversion of the employee's position for coverage by the alternative personnel management system.

"(e) NONAPPEALABILITY OF COVERAGE.—Notwithstanding any other provision of law, the conversion of any position for coverage under the alternative personnel management system is not subject to review or appeal except as may be provided by the Secretary. The Secretary may not delegate the authority to provide exceptions under this subsection.".

(2) The tables of chapters at the beginning of subtitle A and the beginning of part II of subtitle A of such title are each amended by inserting after the item relating to chapter 85 the following new item:

"87. Certain Professional, Administrative, and Technical Employees 1641".

(3) The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

(b) CONVERSION OF DEMONSTRATION PROJECT.—(1) Section 10 of Public Law 99-574 (100 Stat. 3238) is repealed.

(2) The positions and personnel covered by the demonstration project provided for under section 10 of Public Law 99-574 on the day before the date of the enactment of this Act shall be covered, to the maximum extent practicable, by the alternative personnel management system established under section 1643 of title 10, United States Code (as added by subsection (a)).

(3) The Secretary of Defense may continue the demonstration project provided for under section 10 of Public Law 99-574 as may be necessary in order to provide for transition of coverage of the positions and personnel referred to in paragraph (2) from coverage under such project to coverage under the alternative personnel management system referred to in such paragraph.

(c) DUAL COMPENSATION.—(1) Section 5532 of title 5, United States Code, shall not apply to any Department of Defense employee who is in a scientific, engineering, or acquisition position designated by the Secretary of Defense.

(2) The number of employees of the Department of Defense designated by the Secretary of Defense for the purposes of paragraph (1) may not exceed 1,000.

(3) An employee of the Department of Defense may not be designated for the pur-

poses of this subsection unless the designation is necessary to meet special employment needs of the Department which result from a shortage of well-qualified applicants, as determined by the Secretary of Defense.

(d) REPORT ON GOVERNMENT CONTRACTING EDUCATION.—(1) Not later than April 1, 1989, the Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which institutions of higher education offer and conduct educational programs and courses on Government contracting and acquisition management.

(2) The report shall include—

(A) a description of graduate-level programs and courses on Government acquisition that are currently offered in the fields of public administration, business, and law;

(B) an assessment of the extent to which such programs meet the needs of the Department of Defense and defense industries for highly qualified, entry-level specialists in Government contract administration, Government contract financing, and Government contract law; and

(C) a plan for determining and prescribing appropriate education and training qualifications for applicants for Government contracting and acquisition management positions.

AD HOC DEFENSE INDUSTRY ADVISORY COMMITTEE

John D. Rittenhouse, Chairman, GE/RCA Aerospace and Defense
Norman R. Augustine, Martin Marietta Corporation
Kent M. Black, Rockwell Corporation
Robert A. Fuhrman Lockheed Corporation
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Donald H. White, Hughes Aircraft Company

● **Mr. GRAMM.** Mr. President, I join my colleague and friend, the junior Senator from New Mexico, in sponsoring the Defense Industry and Technology Act of 1988. This legislation is the culmination of a process Senator BINGAMAN and I initiated last August. We had been concerned for some time that the health of our defense industry was receiving inadequate consideration in the development of defense acquisition policies and legislation. It appeared that, in our quest for short-term savings, we were not taking sufficient account of the continuing need to make long-term investment in defense business an attractive proposition.

The warning signals were increasing in number. Our subcommittee received compelling evidence that Defense Department reviews of contractor operations were in many cases duplicative and excessive. Innovative contractors with strong research and development capabilities are being disadvantaged in some competitive procurements. Contractors are being asked to assume increasing risk while accepting lower returns on investment. It is not surprising, then, that on Wall Street defense stocks are selling at significant price/earnings discounts to the Standard and Poor 400 index.

One of the root causes for this state of affairs was the poor state of the government-industry dialog over the last several years. The horror stories of overpriced spare parts and management inefficiencies in the industry and resulting congressional and DOD policies have created an atmosphere of mistrust and suspicion. It seemed unlikely to us that any constructive consensus could be reached unless better channels of communication could be established.

To that end, we asked John Rittenhouse, senior vice president, RCA Aerospace and Defense, the General Electric Co., to help us form a group of knowledgeable, committed business executives to target the most critical issues in the maintenance of a healthy defense and technology base. The resulting Industry Advisory Group included 13 such individuals who gave us generous use of their time over the last fall and winter.

The several meetings that the Subcommittee on Defense Industry and Technology conducted with the Industry Advisory Group were a great source of information on the perspective of the defense industry in today's budget and acquisition policy environment. In February, we received their formal views on the nature of the obstacles to the maintenance of a strong defense industry. Included in their views were specific recommendations for legislative and policy changes.

We sent advisory group recommendations to a large number of government agencies, industry associations and private citizens for comments and we have received over 80 thoughtful responses. The great majority of those responding agreed that the issues raised by the Industry Advisory Group were of critical importance. Since the beginning of March, the members of the subcommittee and the staff have sifted through both the original Industry Advisory Group recommendations and the comments in an attempt to craft a package of legislation to move these critical issues on to the defense agenda.

In drafting these provisions, we have followed a philosophy of avoiding legislating specific, restrictive solutions to the problems, but rather providing clear policy guidelines and a coherent structure for congressional oversight. Rather than a repudiation of the thrust embodied in acquisition legislation and policies that have been implemented in the last 5 years, this legislation is intended to provide for a more balanced consideration of all the factors necessary to ensure a healthy and innovative defense industry in a time of austere defense budgets.

Provisions in this legislation cover the need to increase our ability to attract and retain bright, qualified acquisition professionals at all levels in the Department of Defense. We would also require the Department of Defense to develop an integrated, balanced approach to finance, risk and return-on-investment policy and relate this approach to America's needs under the 5-year defense plan. Other provisions address the need to streamline regulations and rationalize the oversight of defense contractors. Finally, we would establish a better dialog between the Department of Defense and industry on the issues of contractor self-governance and the impact of recent policies on administrative suspension and debarment by establishing a joint advisory panel for this purpose.

Mr. President, we must continue to rely on the private sector to provide our soldiers, sailors, airmen and marines with the equipment they need to deter our adversaries. This system is much preferable to relying on a nationalized industry. Under our current system, supplies and equipment must be procured using competitive and efficient procedures, but we must also provide a reward to the defense industry that is commensurate with the risk assumed. Over the last few years, the need for this balanced approach received inadequate attention. The Defense Industry and Technology Act of 1988 should begin the process of better striking the balance.●

By Mr. DURENBERGER (for himself, Mr. ROCKEFELLER, Mr. BOND, Mr. STENNIS, Mr. DANFORTH, Mr. PRYOR, Mr. WALLOP, Mrs. KASSEBAUM, Mr. GRASSLEY, and Mr. KASTEN):

S. 2255. A bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly medicare beneficiaries residing in rural areas; referred to the Committee on Finance.

RURAL LONG TERM CARE DEMONSTRATION ACT

Mr. DURENBERGER. Mr. President, I rise today to introduce the Medicare Rural Long Term Care Demonstration Act of 1988. This bill addresses one of the most serious problems facing the elderly living in rural America. The absence of long term care for the rural elderly can no longer be ignored. The elderly living in rural areas want to live in their homes and remain in their communities just like their urban counterparts. When forced to leave their communities and homes because of lack of long term care health and human services, the only alternative is institutional care. Institutional care is more expensive and far less pleasant. Under the best of circumstances, seniors and disabled dread having to take that step.

Mr. President, the need for this legislation is best demonstrated by the plight of Margaret and Harry Knowlan from rural Gand Marais, MN. Harry Knowlan is 65 years old and has been totally bedridden for the past 3 years. His wife, Margaret Knowlan, has provided all the care in their home and community. The only assistance she has required is nursing visits once per month and assistance with bed baths once each week. Recently Margaret broke her wrist and is in need of additional homemaker-home health assistance at least three times each week to provide proper care for her husband. Because these services are not paid for by Medicare, financially impossible for Margaret, and not readily available, we have been advised by Joyce Allen, director of the Area Agency on Aging at Duluth, MN, that Harry Knowlan may need to be institutionalized in a long term care facility nearly 100 miles from his home. A little help for Margaret now could save their home, the family, and the Government thousands of dollars in long term care expenditures in the future. We must find better ways to finance and deliver long term care to Margaret and Harry and all our rural elderly.

Fiscal responsibility requires comprehensive studies to determine the best methodology and cost effective means to provide long term care for the rural elderly. Compassion mandates that the rural elderly not be driven from their homes and families by inadequate services. Mr. President, these demonstration projects are absolutely vital to provide us with the necessary information and options to be both fiscally responsible and compassionate to the rural elderly.

Hospital discharges to home health care have increased 37 percent since prospective payment for hospitals was implemented. Rural families have fewer community based services to assist them when discharged from hospitals. Availability of adult day care was 24 percent for urban families and only 3 percent for rural families. In many rural areas there are no systematic links between the myriad of health and social services which may be alternatives to institutionalization. In addition, there are too few planned linkages between rural and urban systems of long term care and acute care.

The problems of long term care for the rural elderly are compounded by rural poverty, closure of rural hospitals, and declining population. During the 1980's, there was a migration of elderly away from the cities and back to the rural areas. According to the 1980 census, there were already 6.5 million elders, or one in four, living in rural America. Twenty-three percent of all white elders live in rural areas. Further, half of older people in America with poverty level incomes live in rural areas and small towns. Median incomes of older farm and nonfarm rural families were 71 percent and 65 percent respectively of that of older urban families. Many farm families pay higher costs for certain essential goods and services such as fuel and transportation. There are higher rates of chronic disorders and impairment among the rural aged even after age, sex, and race are taken into account in the statistical calculations.

As we develop national health policy for long term care, we must take into consideration the special needs and unique problems of the rural elderly. Lack of home health care, homemaker-home health aides, escort services, adult day care, and respite care in rural areas leads to premature institutionalizaton. We must learn more about how to deliver these needed services to the rural elderly in a cost-effective way that will preserve freedom, individuality, dignity, the family, and the rural community.

Currently, there are serious gaps in our knowledge of how best to finance and deliver health and human services to the rural elderly. This legislation is designed to: One, develop, test, and evaluate models for long term care delivery in rural areas; two, study quality of care, community and client acceptance, alternative administrative structures, financial impact of programs on communities, and cost analysis of various models; and three, evaluate the financial impact of these systems on titles XVIII, XIX, and XX.

The rural long term care demonstration projects will provide incentives for development of long term care networks and services for the elderly in rural areas. These long term care services could be administered by rural hospitals or other community based programs. Agencies which may be affiliated or project sponsors could include, but not be limited to, universities, health maintenance organizations, and rural hospitals.

The services provided by the project could include home health care, day care, respite care, and case management. There should be different types of demonstration projects to assure a range of experiences, evaluative information, and alternatives for delivering long term care services to the rural elderly. The care of the elderly in rural areas represents a great challenge to American health care. There is no ideal model for the delivery of long term care in rural areas. This bill will go far to help create workable models for long term care in rural areas that can become the framework for national policy. This legislation will also ensure that the rural elderly have every opportunity to maintain their independence, remain in their home, and live in their community with family and friends.

Mr. President, I urge my colleagues to work to move this bill to final passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Long-Term Care Demonstration Act of 1988".

SEC. 2. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary') shall conduct 25 demonstration projects, by agreement with rural health care providers submitting applications in accordance with subsection (b), for the purpose of developing, testing, and evaluating models for furnishing long-term care in rural areas to elderly individuals eligible to receive benefits under title XVIII of the Social Security Act.

(b) APPLICATIONS.—

(1) SUBMISSION OF APPLICATIONS.—(A) Any rural health care provider that desires to participate in a demonstration project under this section may submit an application to the Governor of the State in which it is located. The application shall be in such form as the Secretary may require and shall specify the nature of the project proposed by the provider (including a description of the long-term care services to be furnished under the project, the method by which such services are to be furnished, and the area in which such services are to be furnished).

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(2) APPROVAL OF APPLICATIONS.—In determining which rural health care providers making application under paragraph (1) will participate in demonstration projects under this section, the Secretary shall—

(A) take into account the extent to which the proposed project will—

(i) provide an effective model for testing and evaluating the delivery of long-term care to the rural elderly, and

(ii) test the use of volunteers and paraprofessionals in the delivery of such care; and

(B) ensure that—

(i) approximately 75 percent of the projects are community-based while approximately 25 percent are hospital-based, and

(ii) the projects are of a sufficient variety (both in type and geographic location) to provide a range of experience and evaluative information regarding the alternative approaches for delivery of long-term care to the rural elderly.

(c) PROGRAM ADMINISTRATION.—

(1) EVALUATION OF PROJECTS.—(A) The Secretary shall provide for an appropriate, ongoing evaluation of each demonstration project conducted under this section and may require each rural health care provider participating in any such project to furnish the Secretary with such information as may be necessary to conduct such evaluation.

(B) The on-going evaluation of a demonstration project under subparagraph (A) shall include an analysis of the quality of care provided under the project, the community and recipient acceptance of the project, and the financial impact of the project on the programs under titles XVIII, XIX and XX of the Social Security Act.

(2) CONSULTATION WITH OFFICE OF RURAL HEALTH POLICY.—In administering the demonstration projects conducted under this section, the Secretary shall consult with the Office of Rural Health Policy of the Department of Health and Human Services (established under section 711 of the Social Security Act).

(d) DESCRIPTION OF PROJECTS.—

(1) PROJECT SERVICES.—The long-term care furnished pursuant to a demonstration project under this section may include home health care, day care, respite care, and case management services but shall be limited to—

(A) services furnished by the rural health care provider with an agreement under this section (or by others under arrangements with such provider); and

(B) services for which payment is not otherwise made with respect to the elderly individual under titles XVIII and XIX of the Social Security Act.

(2) RESTRICTIONS ON INDIVIDUALS WHO MAY RECEIVE SERVICES.—No services shall be furnished pursuant to a demonstration project under this section to any individual who—

(A) is not eligible to receive benefits under title XVIII of the Social Security Act, or

(B) does not reside in a rural area;

(3) DEFINITION.—In this section, the term 'rural health care provider' means any hospital, health maintenance organization, home health agency, or other health care provider that is located in a rural area.

(4) RURAL AREA.—In determining whether an individual resides in a rural area (for purposes of paragraph (2)(B)) or whether a hospital, health maintenance organization, or other health care provider is located in a rural area (for purposes of paragraph (2)), the Secretary shall apply the criteria used under section 1886(d)(3)(D) for determining whether a hospital is located in a rural area.

(e) COMMENCEMENT, DURATION, AND TERMINATION OF PROJECTS.—

(1) COMMENCEMENT AND DURATION.—Each demonstration project under this section shall commence not later than October 1, 1988, and (subject to paragraph (2)) shall be conducted for a period of five years.

(2) TERMINATION.—The Secretary may terminate a demonstration project under this section before such project has been conducted for the period described in paragraph (1) if the Secretary determines the project is not being conducted in accordance with the terms of the agreement or the provisions of this section (and may, in accordance with this section, enter into an agreement with another rural health care provider to conduct a demonstration project in place of the terminated project).

(f) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration projects.

(g) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress on the results of the demonstration projects conducted under this section by not later than January 1, 1994.

(h) FUNDING.—

(1) IN GENERAL.—Expenditures for the demonstration projects under this section shall be made from the Federal Hospital Insurance Trust Fund.

(2) METHOD OF PAYMENT.—Grants and payments under agreements under this section may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(3) ADMINISTRATIVE COSTS.—Funding for the total administrative costs (including the costs of the on-going evaulation described in subsection (c)) of the demonstration projects under this section shall not exceed—

(1) $25,000,000 for each of the fiscal years 1989, 1990, and 1991; and

(2) $30,000,000 for each of the fiscal years 1992 and 1993.

● Mrs. KASSEBAUM. Mr. President, I am pleased to join as a cosponsor of legislation introduced by Senator DURENBERGER calling for the establishment of 25 rural long-term care demonstration projects. The purpose of these projects is to provide specific data on the most effective means for delivering long-term care services to elderly persons living in rural areas.

Today, people who require assistance in conducting routine activities due to chronic conditions often find it difficult to obtain the help they need. Not only are appropriate services in short supply, but they are also beyond the means of many Americans. No matter how hard one has tried to plan for the future, it becomes nearly impossible for most to meet the costs of continuing care year after year after year.

As our older population grows, particularly in the 85-plus age group, the need for quality long-term care services will become even more pressing. Given these concerns, it is not surprising that there is growing attention to the inadequacies in current long-term care arrangements. A number of legislative proposals have been put forward, and Congress will undoubtedly be taking action in this critical area over the next few years. I think it is terribly important that we do so.

The demonstration projects authorized by Senator DURENBERGER's legislation would offer important guidance as to how we best structure any long-term care program to meet the needs of the rural elderly. Currently, there are over 500 rural counties in which at least 15 percent of the total population is comprised of individuals age 65 and over. A substantial number of these counties are located in my State of Kansas, so I am very much aware that programs which work well in urban areas do not always make sense for rural America.

Too many times in the past, the realities of life in rural America have been ignored in the design of Federal legislation. The special problems faced by rural hospitals under the Medicare prospective payment system is but one of many such examples.

I believe that careful evaluation of the broad range of demonstration projects envisioned by this legislation will allow us to avoid this kind of problem in the development of long-term care legislation. These demonstrations will encompass the full range of supportive services. Because most of these services are not covered under existing Federal programs, the demonstrations will also give us a better sense of the costs involved.

Meeting long-term care needs poses many complex questions. In the absence of solid information, it will be extremely easy for rural interests to get lost in the shuffle. The legislation introduced today helps assure that we will have a basis for designing programs which make sense for the rural elderly, and I hope the Senate can move promptly in approving it. ●

By Mr. PROXMIRE (for himself, Mr. RIEGLE, Mr. DODD, Mr. WIRTH, Mr. DOMENICI, Mr. CHAFEE, Mr. BOND, Mr. STEVENS, and Mr. MCCAIN):

S. 2256. A bill to provide for intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

INTERMARKET COORDINATION ACT

● Mr. PROXMIRE. Mr. President, today I join with Senators RIEGLE, DODD, WIRTH, CHAFEE, BOND, DOMENICI, STEVENS, and MCCAIN to introduce the Intermarket Coordination Act.

This bill is intended as a modest but necessary step to restore confidence shaken by the extraordinary market volatility suffered during the last 6 months. The disaster of October 19, 1987, represents only a warning shot of further financial calamity.

Former Senator Nicholas Brady, commissioned by the President to perform an autopsy on that crash, minces no words when he tells us that "we are looking down the barrel and the gun is still loaded."

Nor is New York Stock Exchange president John Phelan reassuring about the chances of another crash:

> There is no guarantee. * * * I'm not confident it won't happen again. * * * I don't think that we can rest assured that we have everything in place that will protect the public.

I. LESSONS FROM THE CRASH

In the 6 months since the crash, Congress and the world have focused on market mechanisms. We have benefited from a 400-page report from a Presidential Commission led by Brady;

a 1,000-page report by the Securities and Exchange Commission; a three-volume study by the Commodities Futures Trading Commission; and a number of studies by self-regulatory exchanges. Among the many lessons, one theme is common to all: The markets are one.

Stock, futures and options markets are all interdependent. Investors and traders consider them as a single market.

Despite this, regulatory oversight is divided. Futures are policed not by the Securities and Exchange Commission, but by self-regulatory organizations supervised by the Commodities Futures Trading Commission. The Federal Reserve exercises margin authority over stocks and options, but its authority over futures is disputed. Futures trading is structurally dependent on stock prices, but the CFTC has no policing authority over stock trading, nor of rules to keep this trading open.

These various agencies can cooperate and their joint efforts are laudable. But divided regulation is fraught with systemic problems. Separate exchanges suffer from an incentive to soften regulation in order to compete for business.

Divided regulation frustrates surveillance. Intermarked front-running, where firms with inside knowledge about imminent stock trade profit by investing their own funds in the futures markets, is a clear example of a problem that falls through the regulatory cracks.

There's no emergency system in place to address the crash.

Because of these glaring problems, we walk the edge on the black pit of complete collapse. On October 20, 1987—Terrible Tuesday—our fragmented regulatory network was in no strong position to protect us from free fall.

We survived with a large dose of luck—certainly not because of a regulatory safety net.

It required the apocalypse of Black Monday, where American stock investors lost a collective $1 trillion, to dramatize the finding that the markets are linked.

Let us not suffer another cataclysm by failing to respond.

As the President's Commission, headed by Senator Brady concluded:

> The pressing need for coordination of intermarket issues is the chief lesson to be learned from the October experience. Rationalizing intermarket issues is the key to avoiding future market crisis and insuring the efficiency and competitiveness of U.S. markets.

ELEMENTS OF THE LEGISLATION

This legislation constitutes a modest strengthening in the sound regulatory architecture necessary for today's market.

The Intermarket Coordination Act of 1988 is designed to enhance and restore investor confidence in our equity markets by providing a formal structure of coordination between the markets for stock, stock index futures and stock options. In addition, the bill provides for an improved response to the international regulatory issues arising from the increasing worldwide linkages between markets.

Under the bill, Congress appoints a three-member committee that includes the Chairman of the Federal Reserve, the Securities and Exchange Commission, and the Commodities Futures Trading Commission.

This triad would be authorized to:

First, improve intermarket coordination of the separate clearing organizations.

Second, harmonize margin requirements across marketplaces to control excessive speculation and financial leverage.

Third, establish circuit breaker mechanisms that are coordinated across marketplaces to protect the market system.

Fourth, establish information systems adequate for market surveillance and enforcement needs.

Fifth, establish coordinated contingency plans for market emergencies.

Sixth, establish effective methods for detecting and prohibiting intermarket frontrunning as well as other trading improprieties; and

Seventh, establish the basis for international coordination of intermarket concerns.

STABLE MARKETS ARE VITAL TO CAPITAL FORMATION

The goal of these measures is to restore confidence and stability to the market. Why are stable, efficient markets important? Because markets serve as a means for American enterprise to raise capital, the lifeblood of the economy.

Markets are a venue for corporations to raise the capital needed to grow. When markets are deep, efficient and active, there is plenty of investment interest, the spread between selling and buying prices are small, and price movements are relatively small. There's usually plenty of interest in new issues.

As measured by all these standards, the postcrash market is frightened: It is less deep, less efficient, less active.

There are fewer investors in the market today. The volume of transactions has diminished.

The crash has sharply reduced the number of initial public offerings. From August through October 19, there were 114 initial public offerings in the over-the-counter market, seven at the New York Stock Exchange, and eight on the American. From the crash to February 8, an identical period, there have been only 27 on OTC; three on the Big Board; and only one on the American Stock Exchange.

Secondary public offering data shows the same severe retrenchment: 41 such offerings on the OTC from August until the crash; 6 between the crash and February 8; 23 on the Big Board before, 7 after; 9 on the American before; 3 after.

The bid-ask spread in the secondary market, a measure of market efficiency and an indicator of risk, widened for many stocks during the market crash and remains wider today than it was before the crash.

Securities firms are retrenching. Merrill Lynch alone has plans to lay off some 3,000 employees.

Volume is declining. Fed Chairman Greenspan testified that "trading in the S&P futures contract recently has been 30 percent or more below average daily volumes in pre-crash months." Institutional Investor says that futures trading has declined to about 60 percent of precrash levels.

Individual investors are clearly wary. The North American Securities Administrations Association hotline recorded 2,500 calls the week after the crash:

"The individual investor has been squeezed out because of Wall Street's casino mentality," says Hugo Quackenbush, according to the Wall Street Journal. Quackenbush is senior vice president at Charles Schwab & Co., the Nation's largest discount brokerage firm, and consequently well tuned to investor confidence.

Equity mutual fund sales slumped to $2.9 billion in November. That's less than half the $6.5 billion recorded the previous August.

Pollster Albert Sindlinger claims that the investing public has withered from 53.3 million last September to 44.9 million as of year-end. Ten million people have left the market entirely. He summarizes their comments: "I always thought the stock market was a crap game. Now, I know it is."

DEALING WITH DEFICITS WILL REQUIRE STRONG MARKETS

Protecting our markets is particularly vital currently. Equity capital provides a cushion that gives our productive economy resilience through periods of macroeconomic adjustment and austerity.

With no resolution to the U.S. trade and budget deficits in sight the large accumulation of indebtedness to foreigners will only increase over the next 15 months. As a result, the difficulties of conducting monetary policy on a knife's edge that maintains domestic growth while continually reassuring foreign investors of the value of their claims will test the Federal Reserve continuously. Another market crash could erupt at any time in such a climate.

INTERMARKET COORDINATION NEEDED TO OVERCOME COUNTERPRODUCTIVE UNILATERAL INITIATIVES

Self-regulation serves as the primary method of market supervision. Without an overarching body to coordinate intermarket issues, however, we have witnessed individual exchanges adopt measures that may be counterproductive to the health and efficiency and even safety of other markets.

Most notable is the unilateral initiative by the Big Board that closes it's electronic order system [DOT] for program trading whenever the Dow index moves 50 points in a day. Closing the DOT effectively bars arbitrage between Big Board stocks and the futures market in Chicago. While this may have reassured stock investors, it's unfuriated futures traders.

At a recent industry conference, Chicago Board Options Exchange chairman Alger Chapman said:

> If we should have a sharp market break, the markets would unlink automatically. It would be worse than in October.

Robert Glauber, staff director of the Brady Commission, agrees that unilateral circuit breaker would make the next crisis potentially worse. It breaks the links in the markets and diminishes liquidity in each marketplace. It is contrary to the findings and recommendations of the Brady Commission which emphasized that circuit breakers must be coordinated across marketplaces. Such defensive and potentially destructive actions are evidence that, left to themselves, the exchanges and their regulators are not acting in a constructive manner.

EXAMINATION OF THE LEGISLATION

In detail, here are the mechanics of the committee and the justification for its powers.

THE INTERMARKET COORDINATING COMMITTEE

The Chairman of the Federal Reserve Board will serve as Chairman of the Intermarket Committee and in this role will act as tie breaker when necessary on issues of irreconcilable difference between the SEC and the CFTC. The new Committee will have the authority to maintain its own staff in order to preserve its objectivity in overseeing the industry. However, the three regulatory agencies and the self-regulatory agencies will be directed to cooperate with the Committee and the regulators are authorized to share their resources with the Committee. The independent budgetary requirements of the new group will be met by equal assessments on the three regulatory agencies. The new Committee will be empowered to require reports and information from the regulators and the markets and to adopt rules as necessary to conduct business and further the purposes of the act.

DUTIES OF THE INTERMARKET COORDINATING COMMITTEE

The Intermarket Coordination Act lists seven specific areas in which the new Committee is expressly directed to act, based largely on the recommendations of the Brady Report:

1. ESTABLISH IMPROVED INTERMARKET COORDINATION OF THE SEPARATE CLEARING ORGANIZATIONS

In the Brady Report analysis of the market events occurring on October 19 and 20, 1987, failures in the clearing systems were described as bringing "the financial system to the brink on Tuesday, October 20." The report noted that:

> The crisis of confidence raised the specter of a full-scale financial system breakdown and required the Federal Reserve to provide liquidity and confidence. The complexity of the clearing and credit mechanisms, rather than a substantive problem of solvency, was at fault.

Based on these findings, Brady concluded:

> * * * what is needed is unified clearing with stocks, stock index futures and stock options, all cleared through a single mechanism.

At hearings before the Agriculture Committee on March 18, 1988, Senator Brady reiterated this conclusion and stressed that this was perhaps the most critical matter among all of his recommendations. He again urged immediate action in the direction of improved clearing system coordination.

SEC Chairman David Ruder and Fed Chairman Greenspan shared Mr. Brady's concern on this issue.

2. ESTABLISH HARMONIZED MARGIN REQUIREMENTS ACROSS MARKETPLACES TO CONTROL EXCESSIVE SPECULATIONS AND FINANCIAL LEVERAGE

Margin is one of the most sensitive subjects in the debate regarding market reform. By definition, margin is the minimum investment required to control a security.

Before 1929, the Federal Government didn't regulate margin and those established by exchanges and brokerage firms were low. Low margins encouraged investment. Unfortunately, as we have learned all too well, during the euphoria of the roaring twenties, bulls ran wild through Wall Street and minimal margin requirements allowed reckless investors to bid stocks to outrageous plateaus. Price-earnings ratios, normally about 12 or 15, shot to 100 and more for many stocks. Collapse was inevitable. And when it came, there was literally not enough margin of capital to cover these losses.

Does this pathology apply to the crash of 1987?

Many economist say it does. While margin on stock is set at 50 percent, margin on futures is established by the exchanges. Before the crash, it stood at less than 5 percent.

For many institutional investors, financial futures represent a form of insurance. They purchase huge blocks of stocks. If they worry that the price of the basket may fall, they can "sell" financial futures to buttress against loss. In this way, if the basket of stocks decline, they gain in the futures. What's especially attractive is that the margin required in the futures is minimal. To protect a $100 million investment in stocks, the institutional investor need only put about $3 million in financial futures. Indeed, in the absence of true margin requirements, the institution can borrow the $3 million.

The existence of low futures margins fosters stock futures speculation and facilitates the creation of speculative bubbles. And bubbles, as we all sadly know, burst.

Defenders of Chicago's margin stress that margin for futures is different than margin for stock. They point out that variation on futures prices from initial margin is collected each day. If the futures index matched to the investors $100 million stock portfolio declines, the investor who has sold the future earns that increment on the very next day. In a sense, futures investment is covered by a 100-percent downpayment. No major futures firms failed. The futures clearing system held firm.

But this argument does not address the issue of the speculative bubble. This defense ignores the theoretical and now real evidence that low futures margin requirements can drive stock prices to unnatural peaks. The price earnings ratio of Big Board issues soared passed the historical plane of 12 to about 23. Given that most firms rarely pay more than 80 percent of earnings out as dividends, this irrational ratio translated into a dividend yield of about 2 cents on the dollar. That's less than inflation. Passbook savings accounts were a goldmine to any with the reason to compare the two. Never mind the appeal of Government bonds offering 9 percent.

In 1984, the Fed's economic staff produced a report on margin requirements. Chapter 6 of that report notes that one objective in regulating margin is to restrain leverage, to limit the formation of speculative bubbles. I quote:

> The key issue that must be evolved is that whether leveraged trading of stock index futures has the same potential for influencing the behavior of stock prices and creating risks for customers as their brokers as those trading in the underlying market.

As the economist of this report concludes:

> If margins in the letter market are to be regulated, so should margins in the closely related futures market.

Endorsing this conclusion, Fed Chairman Greenspan told this committee that this "made a good deal of sense."

Of all the stock related instruments, only the stock index futures are exempt from Government control of margin setting. The self-regulatory organizations are very capable of setting margins to guarantee contracts. They have every incentive to do so. But they cannot be expected to set margins to curb speculative excesses because doing so would diminish the profitability of the exchanges. They will not cripple their own enterprise for the benefit of the integrity of the whole stock market system.

Both the Brady Report and the Katzenbach study for the New York Stock Exchange reiterated that margins are more than just collateral; they also control the effective economic leverage achievable in any financial instrument and constraints onleverage dictate the level of speculative investment activity.

The Brady Report noted that margin requirements are currently not coordinated between the stock, stock index futures, and stock options markets. Lower margins in derivative instruments may permit a greater degree of speculation in the stock market than would be permissible by a direct investment in stock. Moreover, margins in the three markets are not set by any single regulatory body or coordinated by any oversight authority. The Brady Report warned:

> The clear implication is that margin requirements affect intermarket risk and are not the private concern of a single marketplace. * * * Margins need to be rationalized across markets.

Finally, the SEC also highlighted the problem with uncoordinated margin requirements.

3. ESTABLISH CIRCUIT BREAKER MECHANISMS THAT ARE COORDINATED ACROSS MARKETPLACES TO PROTECT THE MARKET SYSTEM

The Brady Report described possible circuit breaker mechanisms with the examples of price limits, position limits, volume limits, and trading halts. The report concluded that "circuit breakers cushion the impact of market movements, which would otherwise damage market infrastructures. They protect markets and investors."

Central to Brady's recommendation on circuit breakers is the requirement that these mechanisms be coordinated and rationalized across all markets. The report observed that the October market break was worsened by the operation of limits in one market while other markets continued to trade. In particular, the overall destabilizing effect was noted when the New York Stock Exchange computerized trading system was unavailable for use by traders with positions in the index futures markets.

A number of individual markets have acted unilaterally to impose circuit breakers since last October. Unfortunately, the actions taken have not been coordinated and actually contradict the Brady recommendation for mechanisms which are rationalized across all markets. Senator Brady advised the Agriculture Committee on March 18, 1988, that these unilateral actions may have actually worsened the potential for another market break and he urgently called for coordination between markets on rational circuit breakers.

4. ESTABLISH INFORMATION SYSTEMS ADEQUATE FOR MARKET SURVEILLANCE AND ENFORCEMENT NEEDS TO INCLUDE, AT A MINIMUM, INFORMATION ON THE TRADE, TIME OF THE TRADE, AND THE NAME OF THE ULTIMATE CUSTOMER IN EVERY MAJOR MARKET SEGMENT

The Brady Report found that the futures markets currently maintain adequate information systems but the stock exchanges have no system which details trades and trading times by customer. The report advised that information on "the trade, time of the trade and the name of the ultimate customer in every major market segment is critical to assess the nature and cause of a market crisis to determine who bought and who sold. This information can be used to diagnose developing problems as well as to uncover potentially damaging abuses."

Chairman Ruder concurred with this recommendation as well.

5. ESTABLISH COORDINATED CONTINGENCY PLANNING FOR MARKET EMERGENCIES

In a Banking Committee hearing immediately following the October market break, it became apparent that the emergency plans of the regulatory and self-regulatory organizations were nonexistent or inadequate. Indeed, it has been argued that the regulatory disarray and confusion during the break contributed to the severity of the decline. In particular, it was clear that no plan existed which had been developed on an intermarket basis to anticipate the potential cross market of unilateral market action.

In addition, at the committee's hearings last February, Chairman Ruder acknowledged the need for coordinated emergency planning. He also announced that the Commission had determined it needed additional statutory emergency authority.

6. ESTABLISH EFFECTIVE METHODS FOR DETECTING AND PROHIBITING INTERMARKET FRONT-RUNNING AS WELL AS OTHER TRADING IMPROPRIETIES

Perhaps one of the clearest examples that demonstrates the need for intermarket coordination in surveillance is front-running.

Front-running is the insidious practice of making investments ahead of their clients. This practice is directly policed on the stock exchanges and the futures exchanges. But in the case where the trader makes a futures investments on knowledge of a stock trade, there's not direct policing.

How big is this problem? Federal regulators are examining a case on December 19, 1986, when one major brokerage firm may have delayed a customer's buy order on the New York Stock Exchange so as to profit on the firm's position on a future contract in Chicago.

Former Attorney General Nicholas Katzenbach, commissioned by the Big Board to study futures, worried not only about the proliferation of front-running but also about the inadequacy of present law as to pertains to this practice.

Or consider this from the Wall Street Journal March 17, 1988:

> A classic case of suspected front-running, traders say, involved the New Jersey retirment system's planned divestiture of $4 billion of stock in drug, chemical, technology and other concerns with South African operations.
>
> For several months through May 1987, the State held weekly auctions for shares valued at a total of $1.3 billion. It invited bids for each package of stocks from Morgan Stanley, First Boston, Goldman, Salomon, and others.
>
> But traders say some dealers and aggressive investors, before each auction would sell stocks in the divesture program, temporarily depressing prices. Thus, on auction day, they say, New Jersey received artificially low bids. Sellers profited, they add, because they could buy back the shares at lower prices, once New Jersey's sales were done.

Some institutions investors have publicly boycotted some securities firms because of frontrunning.

In his forthcoming book on markets, Martin Mayer writes at length about front-running. He explains that it originated with index funds. These are baskets of stocks selected to mimic a popular index, such as the Dow Jones Index. To make sure the mimic is accurate, fund managers must constantly buy and sell. The cost of transactions, however, constantly threaten to hamper the actual performance of the fund.

> The remedy for the fund, recommended by brokers, was to purchase selected stocks, well weighted in their index, during the last few minutes of trading. Early in the day, the fund would notify the broker that he had perhaps $50 million dollars to spend at the end of the day "to guarantee the close."
>
> The broker could then "front-run" the client in ways difficult to trace, typically through the purchase of one of the stock index futures contracts late in the trading day—usually the Major Market Index, trade at the Chicago Board of Trade, which measured the prices of only 20 stocks, all but three of them part of the Dow industrial average.

Mayer writes that manipulating the markets and the futures index has become sadly common. And he concludes;

> It is at least possible that practice at manipulating (the MMI) came in very handy during the market meltdown.

The Brady Report specifically identified front-running as warranting review by the appropriate regulatory authorities.

Finally, SEC Chairman Ruder testified that:

> The market relationships dramatically revealed during the market break demonstrate the need for common protections in these markets against "front-running."

7. INTERNATIONAL COOPERATION

Finally, this legislation encourages international coordination. Not only are American financial markets linked, but increasingly, global markets are linked as well.

American securities firms now trade in markets round the world, with one trader in New York "handing the book to Tokyo" after a day's work, and that trader handing it over to London.

Concussion shocks from Black Monday rocked the entire world market. And just as the American markets have suffered from the shock since, so too, have foreign markets suffered.

American regulators are responsibly and affirmatively reaching out to foreign counterparts. The Fed has a long history of dealing with central banks in other nations.

SEC Chairman Ruder recently travelled to London and Tokyo, and stresses his dedication to international cooperation.

This committee will help American regulators work with foreign regulators by acting as a single voice, and avoiding problems that may help one type of market regulation to the detriment of another.

These seven areas identified for action by the new Intermarket Committee are clearly critical to stabilizing the markets, avoiding another crash and improving investor protection. The intermarket nature of these issues reinforces the need for a regulatory body with cross-market perspective and authority. If the Intermarket Committee finds that either the markets or the regulatory agencies have been unable to take steps adequate to address these intermarket issues, the Committee would make specific legislative recommendations to Congress necessary to fulfill the purpose of the act.

The Intermarket Coordination Act creates a formal and politically accountable structure to oversee the design and implementation of coordinated intermarket regulation of the stock, stock index futures and stock options markets.

CONCLUSION

Clearly, the stakes of market reform are high. The apocalypse of October 19, not only cost American investors a collective $1 trillion, it has jeopardized confidence in our financial markets.

We have two choices. Either we can make the necessary adjustments and protect our markets; or we can succumb to parochial battles.

Internecine warfare will wreak havoc, havoc that will export our status as the preeminent financial center in the world to London, Tokyo, or other market centers who prove able to meet the challenge of modernization. This is not a zero-sum game between Chicago and New York.

We can ill hardly afford this acrimonious stalemate at this time. If Congress does not act this year then there will be no structure put in place until late 1989 at the earliest.

Despite the maladies in our equity market, some suggest that no legislation is needed. We've weathered the crash, they say. Congress can only interfere with a finely-tuned market machine. Let the regulators repair any broken parts.

Franky, I view the President's executive order calling for a Working Group on Financial Markets with one part enthusiasm and three parts suspicion. Enthusiasm that the President has appointed good minds to put their expertise together on a terrible problem.

But skepticism that by including the Treasury Secretary, an envoy of a White House that bills itself as committed to deregulation, this input will dilute the effort to coordinate regulation.

And suspicion that this effort is redundant. We are already awash in studies—from the SEC, the CFTC, the Big Board, the Merc, the CBOT, not to mention the President's own Brady Commission. Why study the studies? I worry the President will only want to study the study of the studies.

And finally, suspicion of the additional time this working group may absorb. Read the Executive order:

> The Working Group shall report to the President initially within 60 days (and periodically thereafter on its progress).

We shouldn't be misled that this is a 60-day Commission; it could outlast the Reagan administration altogether.

The call for legislation is loud and clear. A survey by Financial World of 1,000 executives with Fortune 500 companies, of 500 leading investment managers, and 1,000 large private investors, revealed clear agreement on the need for change.

To be sure, 55 percent of investment managers and top corporate officers call for new regulation of program trading. A full 71 percent of private investors want stringent control on program trading.

In reference to an investigation of financial practices in this country early in the 20th century, Louis Brandeis said:

> The battlefield has been surveyed and charted. The hostile forces have been located, counted and appraised. That was a necessary first step—and a long one—towards relief.

Nicholas Brady and his staff have done a tremendous service to the American public. Their timely, accurate analysis and strong recommendations provides that first, long step toward relief from the gyrations of the incompatible marketplaces struggling to coexist in a tightly integrated market. It is up to Congress to take the second short step toward relief by facilitating intermarket coordination. As Nicholas Brady said in his testimony before the Banking Committee: "The cost is small, the benefit is great."

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF INTERMARKET COORDINATION ACT OF 1988

Findings.—The markets for equity securities, stock index futures and stock index options have become one market; there is a need for a more carefully coordinated system both domestically and internationally; a failure to develop a more coordinated system threatens to erode the confidence of investors in the integrity of our financial markets.

Purpose.—To develop a more coordinated regulatory system in order to: reduce the likelihood of a major market mechanism malfunction and provide an improved accountability structure for the future; and establish mechanisms for responding to capital market emergencies.

INTERMARKET COORDINATION COMMITTEE

There is established an Intermarket Coordination Committee consisting of the Chairman of the Federal Reserve Board, Securities and Exchange Commission, and the Commodity Futures Trading Commission.

The Committee is directed to promptly establish: (1) improved intermarket coordination of clearance and settlement systems; (2) harmonized margin requirements across marketplaces to control excessive speculation and financial leverage; (3) circuit breaker mechanisms to protect the market system; (4) information systems adequate for market surveillance and enforcement needs to include, at a minimum, information on the trade, time of the trade, and the name of the ultimate customer in every major segment; (5) coordinated contingency planning for market emergencies; and (6) effective methods for detecting and prohibiting intermarket frontrunning.

The Committee is directed also to promptly initiate discussions with the appropriate regulators of financial institutions and financial markets in major financial centers for the purpose of (1) enhancing the exchange of information relating to financial institutions and markets; and (2) coordinating regulatory activities with respect to those institutions and markets.

The Chairman of the Federal Reserve Board will chair the Intermarket Coordination Committee; the Committee will meet at least quarterly; and the Committee shall make an annual report to Congress on both domestic and international intermarket coordination and include any specific recommendations for legislative or administrative actions.

The Fed, SEC and CFTC and the self-regulatory organizations are directed to cooperate with the Intermarket Coordination Committee. To the extent these organizations are able to implement the appropriate actions needed to achieve the goals of the Intermarket Coordination Committee they are directed to do so. If the Committee determines that these bodies lack the necessary legal authority to implement the decisions of the Committee, the Committee shall report that determination to the Congress together with its legislative recommendations.

The Intermarket Coordination Committee is directed to utilize the expertise of the self-regulatory organizations and the Fed, SEC and CFTC.

ADMINISTRATIVE PROVISIONS

The regulatory agencies shall each pay the Intermarket Coordination Committee an amount equal to one-third of the Committee's expenses as assessed by the Committee.

The Committee shall also have general power to, among other things, obtain the services of such experts and consultants as are necessary; require reports, data and other information from the regulatory agencies and self-regulatory organizations; enter into contracts; sue and be sued; use the mails in the same manner as other Federal agencies; and adopt, amend and repeal regulations relating to the conduct of its business.●

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 2257. A bill to authorize additional appropriations for the WEB rural water development project; to the Committee on Energy and Natural Resources.

ADDITIONAL APPROPRIATIONS FOR WEB RURAL WATER DEVELOPMENT PROJECTS

● Mr. DASCHLE. Mr. President, I am introducing legislation today to amend the WEB rural water pipeline authorizing law—Public Law 96-355, 94 Stat. 1175—to adjust for errors made by the Bureau of Reclamation that would effectively deny balance of Federal funding necessary to complete the WEB rural water pipeline in northeastern South Dakota.

The need for this legislation arises from errors made by the administration annually in applying the indices used to figure the level of WEB's funding ceiling. The result of these bookkeeping errors, which were discovered just this month by a Bureau analyst, and of which WEB had been unaware, is that the WEB funding ceiling Congress has assumed for budgetary purposes the last several years has been overstated. The Bureau's newly revised computations result in an adjusted statutory funding ceiling, which will be reached soon and under which the project cannot be completed, leaving substantial numbers of WEB consumers without the safe drinking water the project was intended to make available.

It is important to note that this bill is not a response to a WEB cost overrun, a fact that no one disputes. In fact, WEB has repeatedly been praised by the Bureau of Reclamation and Members of Congress as one of the few Federal water projects currently being constructed ahead of schedule and within its budget. The administration adjustment in indexing procedures 6 years into the WEB construction schedule effectively constitutes a "changing of the rules in the middle of the game" for WEB. The bill I am introducing today simply adjusts WEB's original authorization language to accommodate for the Bureau of Reclamation's administrative decision to alter the economic variables applied to WEB's fiscal plan.

Mr. President, WEB project sponsors and consumers should not be punished because of the earlier errors, not of their making, in computing project indexing procedures. WEB has done an admirable job of constructing this project in a frugal manner. The legislation I am introducing today establishes a new appropriation ceiling which will enable completion of the project in an orderly and timely fashion. I urge my colleagues to approve this corrective legislation posthaste, so that we may complete the important job of bringing clean drinking water to the people of northeast South Dakota.●

● Mr. PRESSLER. Mr. President, today, Senator DASCHLE and I are introducing legislation to increase the authorization ceiling for the WEB project in South Dakota. The increase is necessary because of a miscalculation of the cost indexing by the Bureau of Reclamation. The WEB project has been one of the most successful and cost effective Bureau of Reclamation projects. Most of the bids have been below the estimated cost and the State and local people have increased their financial contributions to the project. Unfortunately, when the project was authorized, the Bureau miscalculated the cost index. For many years, the administration and Congress have been requesting and appropriating funds for this project based on an estimated total cost of $109 million. This is the amount everyone agreed the project would cost. Recently, the Bureau detected an error in the calculation of this figure. The spending cap for the project was lowered to $94 million. The project simply cannot be completed at this level. Over one-fourth of the project users would not receive water. Without these users, WEB would never be able to repay its Federal loans.

The legislation we are introducing today simply establishes the spending cap at the level everyone thought it was all along. This increase is not needed because of any cost overruns or changes in the project, but simply because of a miscalculation by the Bureau of Reclamation several years ago.

Mr. President, I urge our colleagues to approve this legislation quickly so that this project can be completed.●

By Mr. KARNES (for himself, Mr. DANFORTH, Mr. D'AMATO, Mr. HELMS, Mr. BOREN, Mr. CONRAD, Mr. DIXON, Mr. COCHRAN, Mrs. KASSEBAUM, Mr. PRESSLER, Mr. GRASSLEY, and Mr. WALLOP):

S. 2258. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain agricultural and firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL MOTOR VEHICLE DRIVERS LICENSES

● Mr. KARNES. Mr. President, I want to make it clear, and Congress needs to make it clear to the Secretary of Transportation that vehicles operated by farmers and by emergency service providers, including firefighters, should not be included under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986. For this reason, I am introducing this bill to amend the Commercial Motor Vehicle Safety Act of 1986 to ensure that this exemption will be provided.

I have already stated my views before the Senate on this matter. I have emphasized the importance of exempting those vehicles which the authors of the Commercial Motor Vehicle Safety Act did not intend to be included as commercial motor vehicles under this act. I am particularly pleased to be able to introduce this legislation with 11 of my colleagues, including Senator DANFORTH who was one of the principal authors of the 1986 act we are amending.

Mr. President, many of my colleagues have pointed out their similar concerns with this act. I am introducing this bill to ensure that the farmers and providers of emergency services of our Nation are treated appropriately under the law.●

● Mr. DANFORTH. Mr. President, I would like to commend Senator KARNES for introducing this legislation. He is right on target.

As the author of the Commercial Motor Vehicle Safety Act of 1986, I can say that it was intended to address safety problems with commercial truck and bus drivers. It was not intended to unnecessarily burden farm families and firefighters.

The Department of Transportation [DOT] is currently crafting a regulatory exemption for farmers and firefighters from the 1986 act. Senator KARNES' bill is supportive of Secretary of Transportation Burnley's efforts. Senator KARNES' bill provides Secretary Burnley guidance about congressional support for a farmer exemption. In addition, this bill shows congressional willingness to act if there should be unforeseen delays in DOT action on a farmer exemption.

Mr. President, again, I commend Senator KARNES for introducing this bill.●

● Mr. D'AMATO. Mr. President, I rise today along with my distinguished colleagues Senators KARNES and DANFORTH, to introduce a bill to exempt firefighters and farmers from having to secure commercial motor vehicle drivers licenses. This bill refines an earlier bill, S. 2116, that Senator KARNES and I introduced on March 2, 1988, to create these important exemptions for our Nation's hardworking farmers and firefighters.

The legislation introduced today provides exemptions for vehicles used only for firefighting purposes as well as vehicles used for emergency rescue or medical purposes. Many vehicles used for emergency rescue or medical purposes are used in connection with firefighters' work. This new language will enable fire departments to continue to perform the full range of services related to their lifesaving work, without the burden of securing commercial motor vehicle drivers licenses. It will also relieve drivers of various emergency rescue/medical vehicles from the requirement of securing the new licenses.

It is gratifying that the Secretary of Transportation recently announced that he will initiate a process to exempt certain categories of operators from the commercial driver licensing requirements. Farmers, firefighters, and other persons not generally considered commercial drivers are to be considered for exemptions. This is a good sign; however, it is still important to press forward with this legislation. Our bill will assure the inclusion of these exemptions on a timely basis.

Mr. President, I urge my Senate colleagues to support this bill.●

By Mr. NUNN (for himself, Mr. WEICKER, Mr. BUMPERS, and Mr. BOREN):

S. 2259. A bill to amend the Small Business Investment Act of 1958 to expand the availability of surety bonds for small business concerns, and for other purposes; referred to the Committee on Small Business.

PREFERRED SURETY BOND GUARANTEE PROGRAM ACT

● Mr. NUNN. Mr. President, I rise today to offer the Preferred Surety Bond Guarantee Program Act of 1988. This legislation will make important improvements to a Small Business Administration Program that is vital to many small business contractors and subcontractors in the construction industry—the SBA Surety Bond Guarantee Program. Without access to performance bonds, payment bonds, and bid bonds, these firms cannot even bid on contracting opportunities offered by Federal agencies, State and local governments, and many private sector purchasers of construction services. Access to adequate bonding continues to be a critical issue to most small business construction firms, but especially to small firms owned and controlled by socially and economically disadvantaged individuals. The approach of this bill is simple and direct. It established a pilot program designed to encourage the participation of the so-called standard surety companies, the very largest players in the industry, into the SBA Surety Bond Guarantee Program. I am delighted to have Senators WEICKER and BUMPERS, the ranking minority member and the chairman of the Committee on Small Business, join me as original cosponsors of this legislation.

Mr. President, as I mentioned, the performance bonds, payment bonds, and bid bonds, made available by the surety industry are essential to construction contractors and subcontractors. Federal law requires a contractor to provide a performance bond and a payment bond on every Federal construction contract in excess of $25,000. Most States and many local governments have imposed similar bonding requirements by statute or regulation. Bonds are also required by many private purchasers of construction. Small firms have traditionally found it difficult to obtain bonding in the commercial marketplace. They are considered to be much higher risks: short track records and thin capitalization. They are seeking bonds for smaller dollar value jobs; yet their applications require almost equal effort to evaluate as a larger job, and the bond premium fee structure is based upon the dollar value of the contract. Mr. President, the problems faced by small construction firms generally are magnified several times when they are minority owned.

The SBA Surety Bond Guarantee Program was created in 1971 to provide the assistance needed for small firms to obtain the necessary bonding. By statute SBA is authorized to guarantee any participating surety company against 90 percent of any loss incurred by the surety firm on a bond issued to a small firm. SBA reviews and approves the application of each small firm before the surety firm can issue the bond with the SBA guarantee. By regulation, SBA has reduced the guarantee to 80%, to provide more contract coverage with the funds available. For the same reason, the size of the contract cannot exceed $1,250,000. The total guarantee authority is limited to $1.25 billion. Since the inception of the program in 1971, over 200,000 contracts to small firms, valued at more than $17 billion, have been guaranteed through the program.

Initially, the standard surety firms participated in the SBA Surety Bond Guarantee Program, but their participation declined rapidly and is virtually negligible today. To fill the void, a group of so-called specialty surety companies were created to meet the needs of the small business community under the program. They have carried the program, and the legislation has been crafted so as not to impede their continued participation.

Mr. President, the reason given for the departure of the standard surety companies from the Surety Bond Guarantee Program was the costs and administrative burdens associated with the review process used by SBA to approve each bond guarantee. There was also a certain amount of resentment in having their underwriting judgments, based upon standards that had made them successful companies, "second-guessed" by SBA employees, too often new to the surety business.

After some revealing oversight hearings conducted by the Small Business Committee under the leadership of my colleague from Connecticut [Mr. WEICKER], then chairman of the committee, the SBA approached the standard surety companies to explore ways to encourage their return to the program. Their proposal, dubbed plan B, is the basis of the legislation that I am introducing today.

The bill would create a Preferred Surety Bond Program, similar to the Preferred Lender Program already enacted for SBA's Guaranteed Loan Program. Surety companies that meet a very stringent set of standards to be prescribed by the SBA would be freed from the review and approval requirements for each bond application, which are now applied to all surety firms participating in the program. SBA would only approve the firm's standards and procedures for underwriting, administration, and claims. Individual bond applications, with the SBA guarantee, would be handled in the same manner as the firm's business outside the SBA Program. In the jargon of the industry, the preferred surety would be given the pen to write bonds with the SBA guarantee.

To obtain freedom from SBA prior approval for the underwriting and administration of bonds guaranteed under the program, the standard surety firms were willing to take a reduced guarantee level to demonstrate their faith in their own business judgments. My bill takes them up on that offer. It sets a maximum guarantee level of 70 percent. Thus, a firm obtaining preferred surety status will have a loss exposure at least 10 percent higher than that faced by the surety companies presently in the program.

Mr. President, with this bill, we have taken the standard surety industry's offer and implemented plan B. We certainly look forward to their participation, for it will certainly improve the program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 2259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preferred Surety Bond Guarantee Program Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) construction contractors, including small business concerns, are required by law, regulation, or industry practice to furnish performance bonds and payment bonds in order to compete for construction contracting opportunities offered by Federal, State and local governments, and many private owners;

(2) small business construction contractors and subcontractors, especially firms owned and controlled by socially and economically disadvantaged individuals, have traditionally found it extremely difficult to obtain bonds from the commercial surety industry;

(3) the Small Business Administration's Surety Bond Guarantee Program, authorized by Public Law 91-609, was designed to provide increased access to bonding and foster broader participation in construction contracting opportunities by small business;

(4) over 200,000 contracts (valued at more than $17 billion) have been guaranteed through the Small Business Administration Surety Bond Guarantee Program between 1971 and February 1988;

(5) direct outlays for the Program's operation are approximately $20 million annually and provide over $1 billion in bond guarantee authority, as a result of income from participation fees and a favorable loss ratio;

(6) a 1986 review of the Program by the United States General Accounting Office, undertaken at the request of the Senate Committee on Small Business, showed improved Program management, despite a decrease in staff;

(7) the overwhelming majority of Small Business Administration guaranteed bonds have been issued by specialty surety companies, organized to meet the needs of small business concerns under the Program, but which meet the same standards prescribed by the Department of the Treasury for any surety company offering a bond acceptable under a Federal construction contract;

(8) the standard commercial surety companies have not participated in the Program, principally because of—

(A) the requirement for Small Business Administration's prior approval of individual decisions relating to bond underwriting and administration, essentially "second guessing" the business judgment of some of the most successful firms in the surety industry;

(B) the high administrative costs associated with the small dollar contracts being bonded under the Program; and

(C) the increased risks associated with bonding small business construction contractors;

(9) substantially increased participation in the Small Business Administration Surety Bond Guarantee Program by standard surety companies can improve the Program by—

(A) increasing bonding capacity available to the Program; and

(B) fostering the establishment of business relationships that can benefit small business concerns, and disadvantaged small business concerns once they outgrow their "small business" status.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) encourage the participation of standard surety companies in the Small Business Administration Surety Bond Guarantee Program by establishing, on a pilot basis, a "Preferred Surety Bond Guarantee Program", which delegates to participating companies control over bond underwriting and administration decisions in exchange for a lower guarantee;

(2) expand the availability of surety bonds to small business concerns owned and controlled by socially and economically disadvantaged individuals by increasing the amount of the guarantee applicable to bonds issued to such firms under the Program;

(3) clarify various matters pertaining to administration of the Program, including eligibility to participate and operation of the Program's revolving fund; and

(4) direct the United States General Accounting Office to conduct an assessment of the results of the program modifications made by this Act to determine if the purposes enunciated in paragraphs (1) and (2) of this section have been attained.

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

SEC. 101. AUTHORITY OF THE ADMINISTRATION.

Subsection 411(a) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)) is amended to read as follows:

"SEC. 411. AUTHORITY OF THE ADMINISTRATION.

"(a)(1) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereafter provided, as the result of a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary, by a principal on any contract up to $1,250,000.

"(2) The terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety.

"(3) The Administration may authorize any surety, without further Administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee.

"(4) No such guarantee may be issued, unless—

"(A) the person who would be principal of the bond is a small business concern;

"(B) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(C) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and

"(D) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required, and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.".

SEC. 102. INDEMNIFICATION.

(a) IN GENERAL.—Subsection 411(b) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(b)) is amended—

(1) by striking paragraph (3),

(2) by striking "; and" and inserting a period at the end of paragraph (2),

(3) by redesignating paragraph (2) as paragraph (3),

(4) by inserting after paragraph (1) the following new paragraph:

"(2) a surety must obtain approval from the Administration prior to making any payments pursuant to this subsection unless the surety is participating under the authority of section 411(a)(3); and", and

(5) by inserting at the end the following new sentence:

"In no event shall the Administration pay a surety pursuant to this subsection an amount exceeding the maximum amount of the bond guarantee available to such surety pursuant to subsection (a).".

(b) AMOUNT OF INDEMNIFICATION.— Subsection 411(c) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)) is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum—

"(1) not to exceed 70 percent of the loss incurred and paid by a surety authorized to issue bonds subject to the Administration's guarantee under subsection (a)(3);

"(2) not to exceed 90 percent of the loss incurred and paid (less any amounts paid pursuant to subsection (b)) in the case of a surety requiring the Administration's approval for the issuance of such bond;

"(3) equal to 90 percent of the loss incurred and paid by a surety, if the bond was issued to a small business concern owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act; or

"(4) determined pursuant to subsection (b), if applicable.".

(c) LIMITATION ON ADMINISTRATION'S LIABILITY.—Subsection 411(e) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) the surety has breached a material term or condition of such guarantee agreement, or

"(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).".

TITLE II—ADMINISTRATION, EVALUATION, AND TERMINATION OF THE PILOT PROGRAM

SEC. 201. REPORTS AND AUDITS OF PARTICIPATING SURETIES.

Subsection 411(g) of the Small Business Investment Act (15 U.S.C. 694b(g)) is amended to read as follows:

"(g)(1) Each participating surety shall make reports to the Administration at such times and in such form as the Administration may require.

"(2) The Administration may at all reasonable times audit, in the offices of a participating surety, all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(3) Each surety participating under the authority of paragraph (3) of subsection (a) shall be audited at least once each year by examiners selected and approved by the Administration.".

SEC. 202. REGULATIONS.

The Administration shall promulgate final regulations to implement the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

SEC. 203. EVALUATION AND REPORT.

Not later than 3 years after the date of enactment of this Act the Comptroller General of the United States shall transmit a report to the Small Business Committees of the Senate and House of Representatives, which evaluates—

(1) the amendments made by this Act,

(2) whether participation in the Program by standard surety firms has been expanded, and

(3) whether access to bonds by small business concerns especially small business concerns owned and controlled by socially and economically disadvantaged individuals has been improved.

The report shall cover the first 2 full fiscal years following the date of enactment of this Act.

SEC. 204. SUNSET.

The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(3)), shall cease to be effective on September 30, 1991, or on the last day of the third full fiscal year after the date of enactment of this Act, whichever is later.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. FUND.

Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694c) is amended—

(1) by inserting an "(a)" before "There", and

(2) by adding at the end of subsection (a), the following new subsection:

"(b) Sums obligated from the fund for the guarantee of a bond shall be deobligated upon receipt by the Administration of the surety's notice of release and such sums shall become available for subsequent bond guarantees under the Program.".

SEC. 302. SIZE STANDARDS.

Section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694b) is further amended by adding at the end thereof the following new subsection:

"(j) In prescribing special size standards for participation in the program authorized by this section, the Administration shall ensure that a firm meeting such size standard may be determined to be a small business concern under the size standard establishing its eligibility to participate in the other programs of the Administration.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall become effective 180 days after the date of enactment.●

● Mr. WEICKER. Mr. President, I am pleased to join with Senators NUNN and BUMPERS in introducing this legislation to authorize the Small Business Administration [SBA] to conduct a pilot "Preferred Surety Bond" Program. The purpose of this legislation is to improve the operation and to encourage the participation of standard commercial surety companies in the program. With greater participation by the standard sureties we hope to increase the bonding capacity for small business, and particularly minority business contractors.

Mr. President, as many of my colleagues realize surety bonding is a prerequisite to the award of a government contract which exceeds $25,000. Many State and local governments have adopted requirements similar to the Federal Standard. Thus, without a bond a company cannot bid, even if it has the technical capability to perform the work called for under the contract. The SBA Surety Bond Program over the years has become a valuable resource for small business contractors who are required to provide bid and performance bonds in order to compete for and receive a contract.

The SBA Surety Bond Guarantee Program was authorized in 1970 in order to assist small businesses to obtain bid, payment or performance bonds which are not otherwise available. The program also was designed to enable small and emerging contractors to eventually before more bondable in their own right, without the need for the SBA guaranteed bond. Under the program the SBA can guarantee a surety company for up to 90 percent of the losses incurred as a result of the small business' breach of the bond. Since the program's inception, guarantees have been issued on over 200,000 contracts totaling more than $17 billion. SBA estimates that over $500 million in net savings have been realized by Federal, State, and local governments as a result of the program, and over the years, the loss rate for the program has been only about 2.2 percent.

Let me briefly explain how the program works. The SBA does not issue bonds but it does review and approve each bond guaranteed. Under the program, a small contractor first applies to a surety agent by providing various background, credit, and financial information. The agent in turn submits this information to the surety company. If the surety company decides to execute the bond with SBA's guarantee, the agent submits the application, along with its underwriting analysis and fees to the SBA. SBA then reviews the application package and decides to accept or reject it. In the event of default by the contractor, the surety company is obligated to complete the contract. Under the terms of the SBA guarantee agreement, the surety is responsible for paying losses. Under current regulations, SBA reimburses the surety for 80 percent of its unreimbursed losses.

In the early years of the program, it is my understanding that the standard surety companies were encouraged to write bonds and were very involved with the program. But gradually the standard companies became less involved with the program because of the paperwork requirements and burdensome nature of SBA's review of company underwriting decisions, which they viewed as "second guessing." A group of specialty surety companies which specialized in writing bonds guaranteed by SBA emerged to fill the void made by the departure of standard surety companies. Today, over 90 percent of the bonds in the program are written by specialty companies. While there are around 40 specialty companies that write SBA-guaranteed bonds, only about 10 companies are active in the program.

In the past decade, there have been several reviews of this program conducted by congressional oversight committees and the General Accounting Office. In 1979 and 1986 the General Accounting Office reviewed the program at the request of the Senate Small Business Committee, and in 1982, as chairman of the Senate committee, I conducted oversight hearings following a 5-month staff investigation of the program.

The 1979 GAO audit and the hearing revealed serious problems in the program. For example, the committee heard that SBA approved bonds for small contractors without adequate documentation and paid claims without verification which made the program vulnerable to the most insidious types of fraud. The most striking instance was that the committee learned that an associate of organized crime had taken advantage of the program costing the SBA millions of dollars in losses. The SBA inspector general testified at those hearings and made several recommendations to improve the program. Some of those recommendations were that SBA: Issue new underwriting guidelines; develop an automated data management system; require documentation; and establish claims handling guidelines. While the SBA disagreed with some of the suggested programmatic changes, I am pleased that in September 1986, the GAO reported that there has been some significant administrative improvements in the program.

During the 1982 hearings I suggested to the SBA that it find a way to attract the larger standard companies to participate in the program. The legislation that we are introducing today is designed to do just that. Following the oversight hearings on the program the SBA met with the association representing major standard surety companies and developed the concept of a Preferred Surety Bond Program, which has also been referred to as plan B. The legislation we are introducing today would incorporate the major provisions of this plan. Specifically, SBA could delegate to preferred sureties the underwriting and claims responsibilities for SBA bonds. These preferred sureties would have to meet SBA criteria and demonstrate to SBA certain capabilities to underwrite bonds and to handle claims. To ensure the prudent use of this authority, the bill would reduce SBA's maximum guarantee to 70 percent. Basically, the proposal seeks to encourage standard securities to come back into the program by reducing the amount of Federal redtape. To ensure proper performance, the legislation increases surety companies' risk exposure from 20 to 30 percent. I believe this tradeoff is appropriate and places a greater reliance on the expertise of the private sector.

Mr. President, as I mentioned the American Surety Bond Association which helped develop the concept supports enactment of a Preferred Surety Bond Program. They indicate that many of the standard surety companies may be interested in this program particularly for minority contractors. The committee has frequently heard about the difficulties minority businesses have in obtaining bonds. While SBA reports that about 25 percent of its bonds currently go to disadvantaged businesses, one of the benefits of this would be to foster relationships between standard companies and minority firms which could continue once the firm outgrows the limits of the SBA Program. It would be my expectation that under this program the surety companies would at least do as well in placing bonds with minority owned firms.

To give preferred sureties an incentive to write surety bonds for minority businesses, the bill provides that sureties may receive a 90-percent guarantee on bonds for disadvantaged businesses. Some informal comments submitted on the bill have recommended that this provision be deleted. When the committee holds hearings on the bill, I am sure that we will receive comments on it. If this approach is flawed, I urge the commentators on the bill to suggest another alternative to assure that this important policy objective is achieved.

Last year as a part of its legislative proposals accompanying the President's budget proposal on SBA, the administration included legislation to authorize a Preferred Surety Bond Program. The bill we are introducing today is slightly different in that we are authorizing a pilot program to test the concept for 3 years. The bill directs the General Accounting Office to conduct an evaluation of the program to determine how well the new program has worked.

On April 12, 1988, the Committee on Small Business has scheduled a hearing to review this legislation. I hope that soon thereafter, the committee would act on this proposal and I would urge my colleagues to support its passage.●

● Mr. BUMPERS. Mr. President, as chairman of the Committee on Small Business, I am especially pleased to join my friend from Georgia, Senator NUNN, the senior Democratic member of the committee, as an original cosponsor of the preferred Surety Bond Guarantee Program Act of 1988. This legislation will make important improvements to an SBA Program that is absolutely vital to small business construction contractors and subcontractors.

Construction contractors must have access to surety bonds in order to be able to compete for construction work offered by Federal agencies, most States and local governments, and many private owners. If you cannot offer the required performance bond and payment bond, you are out of the running. The SBA Surety Bond Guarantee Program bridges the gap between what the commercial surety bond market will provide and what is needed, but otherwise unavailable to small business construction firms.

The so-called standard surety companies have not been major participants in the program for some time. Rather, the needs and opportunities provided by the program have been met by a group of firms that were created to fulfill the bonding requirement of the small firms under the SBA Program. Many of these so-called specialty surety firms have served the program well. This legislation is not a judgment on their participation, but rather an invitation for the standard sureties to join the program. Their participation, under the program authorized by Senator NUNN's legislation, can only enhance the SBA Surety Bond Guarantee Program.

Mr. President, with Senator NUNN's leadership, I am confident that this legislation will move forward rapidly. He will certainly have my strong support for early hearings and swift movement to markup.●

By Mr. KERRY:

S.J. Res. 285. Joint resolution expressing the sense of Congress that Haiti falls under the definition of major drug-transit country as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that act; to the Committee on Finance.

CLASSIFICATION OF HAITI AS A MAJOR DRUG-TRANSIT COUNTRY

● Mr. KERRY. Mr. President, on March 1, the Bureau of International Narcotics Matters of the Department of State delivered to Congress its International Narcotics Control Strategy Report for 1988. Included in this report are the Bureau's updates on the level of narcotics trafficking and of the effort to combat the drug trade in countries around the world. The section dealing with Haiti begins as follows:

> Haiti remained a significant transshipment point for the movement of illegal narcotics, particularly cocaine, into the United States during 1987.

The report goes on to say that the slight rise in cocaine seizures in Haiti over the past year "reflects the increased volume of trafficking through Haiti," and that "the prospects for Haitian control of narcotics trafficking in Haiti are not good."

Earlier this month, a Miami grand jury returned an indictment against Col. Jean Claude Paul, the commander of the Haitian Army's Dessaline Brigade, and arguably the most powerful military officer in Haiti. In a country where the military is acknowledged as the power behind the government, Colonel Paul's political influence in Haiti is immense.

According to DEA agents, his prominence in the world of narcotrafficking is equally impressive. By paying junior officers from his own pocket, he has transformed the Dessaline Brigade into his own private army which provides protection to drug traffickers who use Haiti as a refueling and cargo transfer point for cocaine bound from Colombia to the United States. Colonel Paul is one of the most powerful drug traffickers in the Western Hemisphere as well as being one of the most powerful men in Haitian politics.

Mr. President, in light of these facts, which have been known to the Bureau of International Narcotics Matters, I find it tremendously disturbing that Haiti is not included in the list of countries defined as major drug-transit nations which must be certified by the President of the United States under section 481(h) of the Foreign Assistance Act of 1961, on the basis of their cooperation with the United States in combating the trafficking of illegal narcotics.

For the State Department to be aware of the level of drug trafficking in Haiti—and to label the country "a significant transshipment point—but to deny that it is a major drug-transit nation, seems to me to be an exercise in rhetorical gymnastics." It is precisely this kind of contradiction in its anti-drug policies that has undermined the credibility of the Reagan administration's war on drugs.

This resolution calls on the State Department to include Haiti among the major drug-transit nations, and consequently to require the President to include Haiti in the certification process on anti-drug cooperation. If we mean what we say about getting tough with drug traffickers, then it is time we act on what we say.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 285

Whereas the Bureau of International Narcotics Matters of the Department of State, in its International Narcotics Control Strategy Report of March 1988, reported that "Haiti remained a significant transshipment point for the movement of illegal narcotics, particularly cocaine, into the United States during 1987", and that a significant rise in seizures of illegal narcotics in Haiti in 1987 "reflects the increased volume of trafficking through Haiti";

Whereas the same report states that "there are widespread rumors alleging that some Haitian military personnel and government officials are themselves involved in the drug trade," and that "the prospects for Haitian control of narcotics trafficking in Haiti are not good";

Whereas on March 10, a Miami grand jury returned an indictment against Colonel Jean Claude Paul, commander of the Haitian Army's Dessaline Brigade, on drug trafficking charges; and

Whereas the continued presence in the Haitian military of senior officers who are involved in the drug trade drastically undermines the efforts of the Haitian people to bring genuine democracy to Haiti: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the determination by the Bureau of International Narcotics Matters of the Department of State, as received by the Congress on March 2, 1988, that Haiti is not a major drug-transit nation, within the meaning of section 481(i)(5) of the Foreign Assistance Act of 1961, for the trafficking of illegal narcotics into the United States.

SEC. 2. The President should mandate that Haiti be classified as a major drug transshipment nation and be subject to section 481(h) of the Foreign Assistance Act of 1961.●

By Mr. KERRY:

S.J. Res. 286. Joint resolution expressing the sense of Congress that Honduras falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and consequently should be subject to the certification procedure mandated by section 481(h) of that act; to the Committee on Foreign Relations.

CLASSIFICATION OF HONDURAS AS A MAJOR DRUG TRANSIT COUNTRY

● Mr. KERRY. Mr. President, section 481(i)(5) of the Foreign Assistance Act of 1961 establishes the criteria for determining whether a country is a major drug-transit nation. If a country fits these criteria, then the President of the United States is required to include the country in the certification process under section 481(h) of the same act. A country is certified only if it has cooperated fully with U.S. efforts to combat the trafficking of illegal narcotics through its territory.

The process of defining a country as a major drug-transit nation and of including these countries in the certification process seems perfectly clear. The President is assisted in this process by the international narcotics control strategy report issued each year by the Bureau of International Narcotics Matters of the Department of State. This report was released to Congress on the 1st of March.

The section on Honduras in the State Department report begins as follows:

> Three important cocaine seizures in 1986-87 have established that Honduras is being used as a transfer point for shipments from Colombia to the United States.

Last November, drug enforcement agents in Florida seized 8,000 pounds of cocaine with a street value of $1.4 billion in a single shipment from Honduras.

In addition to the individual instances of drug seizures, the attitude of the Honduran Government toward the drug trade indicates that the narcotrafficking situation in that country is gravely serious. For example, the Honduran Government has refused United States requests to extradite Juan Ramon Matta Ballesteros, a Honduran under indictment in the United States on drug trafficking charges. Matta has been described as the executive director of the largest drug trafficking organization in Central America and Mexico, yet he operates openly and with impugnity in Honduras.

It seems clear that there is serious drug trafficking activity in Honduras—serious enough that the President of the United States should be required to consider Honduras among the major drug-transit nations in the certification process under section 481(h). and yet while the State Department acknowledges the drug trafficking in Honduras, and the extradition problem, it fails to require the President to certify Honduras.

This kind of contradiction is at the root of the Reagan administration's failure to wage an effective war on drugs. This administration has talked tough about fighting drugs, but has been unwilling to confront the countries that supply narcotics to the United States.

This resolution calls on the Department of State to include Honduras among the major drug-transit nations which the President is required to include in the certification process. The conclusions of the State Department report are clear. The certification process is straightforward. It is time for the administration to act on the facts, rather than on political considerations, and to address the issue of cooperation in the war on drugs.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 286

Whereas there have been at least 13 seizures since 1984 of shipments of cocaine or marijuana which were in transit through Honduras;

Whereas the Bureau of International Narcotics Matters of the Department of State, in its International Narcotics Control Strategy Report of March 1988, reported that "three important cocaine seizures in 1986-87 have established that Honduras is being used as a transfer point for shipments from Columbia to the United States";

Whereas Drug Enforcement Agents in Florida seized 8,000 pounds of cocaine with a street value of $1,400,000,000 in a single shipment of cocaine bound from Honduras in November 1987;

Whereas the Honduran Government has failed to respond to United States requests to extradite the acknowledged narcotrafficking boss, Juan Ramon Matta Ballesteros, who has been indicted in the United States on drug trafficking charges, but who continues to operate openly and with impugnity in Honduras; and

Whereas United States drug agents have expressed concern that Honduran military officers are involved in drug running: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the determination by the Bureau of International Narcotics Matters of the Department of State with respect to Honduras, as received by the Congress on March 2, 1988, that Honduras is not a major drug-transit nation within the meaning of section 481(i)(5) of the Foreign Assistance Act of 1961 for the trafficking of illegal narcotics into the United States.

SEC. 2. The President should mandate that Honduras be classified as a major drug-transit nation and be subject to section 481(h) of the Foreign Assistance Act of 1961.●

By Mr. GRAHAM (for himself, Mr. HEINZ, Mr. CHILES, Mr. PRYOR, Mr. DURENBERGER, Mr. SHELBY, Mr. MCCLURE, Mr. HECHT, Mr. GRASSLEY, Mr. KASTEN, Mr. SARBANES, Mr. METZENBAUM, Mr. DECONCINI, Mr. D'AMATO, Mr. DOLE, Mr. HATCH, Mr. SPECTER, Mr. COCHRAN, Mr. INOUYE, Mr. LUGAR, Mr. GLENN, Mr. BURDICK, Mr. REID, Mr. MATSUNAGA, Mr. SIMON, Mr. WILSON, Mr. BRADLEY, AND Mr. PRESSLER):

S.J. Res. 287. Joint resolution designating May 1988 as "Older Americans Month;" to the Committee on the Judiciary.

OLDER AMERICANS MONTH

● Mr. GRAHAM. Mr. President, I am introducing today a joint resolution to designate May as "Older Americans Month." I am pleased to be joined in offering this resolution by my distinguished colleague from Florida, Senator LAWTON CHILES, and by Senator JOHN HEINZ, the ranking minority member of the Aging Committee. Joining us as well are Senators PRYOR, DURENBERGER, SHELBY, MCCLURE, HECHT, GRASSLEY, BURDICK, REID, MATSUNAGA, PRESSLER, KASTEN, SIMON, WILSON, BRADLEY, and PRESSLER.

Recognition of May as "Older Americans Month" is a longstanding tradition of the Congress, going back to 1963. That tradition is well-founded. The vitality, experience, productivity, and selfless service to family and to community evidenced by America's older citizens are a bedrock of strength and wisdom in our society.

Last year Congress reauthorized the Older Americans Act, acknowledging that we owe a debt in quality of life to senior citizens. We honor their contributions with programs and ceremonies and activities for this 1 month—but the true measure of our gratitude is in the programs for preventive health care and for continued independence and for opportunities for productivity and economic security.

I urge my colleagues to pay tribute with me to the elderly, by designating May as "Older Americans Month" and submit the resolution to be included in full in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 287

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1988 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.●

By Mr. BOREN (for himself, Mr. Cohen, Mr. Bentsen, Mr. Bradley, Mr. Cranston, Mr. DeConcini, Mr. Hatch, Mr. Hecht, Mr. Hollings, Mr. Metzenbaum, Mr. Murkowski, Mr. Nunn, Mr. Roth, Mr. Specter, and Mr. Warner):

S.J. Res. 288. Joint resolution to designate the week of June 5, 1988, through June 11, 1988, as "National Intelligence Community Week"; to the Committee on the Judiciary.

NATIONAL INTELLIGENCE COMMUNITY WEEK

● Mr. BOREN. Mr. President, it is a pleasure to once again introduce a resolution to recognize the continuing dedication of the intelligence community to our Nation. These men and women, who must work with little recognition, provide our Nation a first line of defense second to none.

The entire Select Committee on Intelligence join the vice chairman and me in this endeavor. We work with the community on a daily basis and are continually impressed with the highly skilled personnel, who from their understanding of the modern world, provide our policymakers with the type of analysis necessary to make informed decisions.

Not only faced with the threats from terrorism, technology transfer, illegal drug trafficking and the proliferation of modern weapons, our leaders must have a good understanding across the spectrum from the politics in the rapidly changing Third World countries to humanitarian needs such as the North African refugees fleeing from famine. The intelligence community is tasked and performs admirably an unending list of demands.

This is one small way in which we can say "thank you" to the vast majority of the men and women who dedicate their careers, often at great personal sacrifice, to ensure the continued security of the United States of America.●

By Mr. BENTSEN (for himself, Mr. Packwood, and Mr. Heinz):

S.J. Res. 289. Joint resolution to designate the month of November 1988 as "National Hospice Month"; to the Committee on the Judiciary.

NATIONAL HOSPICE MONTH

● Mr. BENTSEN. Mr. President, on behalf of myself, Senator Packwood and Senator Heinz, I am pleased to introduce a joint resolution designating November 1988 as National Hospice Month. An identical bill was introduced yesterday by Congressman Gradison in the House of Representatives.

November 1, 1988 marks the fifth anniversary of the Medicare hospice provision, which became a permanent covered benefit under Medicare and an optional Medicaid benefit in April 1986. In 1974, only one hospice existed in the United States. By 1987, the number had increased to 1,683, evidencing the rising public demand for alternatives to hospitalization for the terminally ill. Hospices currently exist in each of the 50 States. In my home State of Texas, there are 48 hospices currently providing care to the terminally ill and their families. These hospices provide a humane and cost-effective alternative to traditional care for the terminally ill and their families by offering palliative and supportive services in both home and in-patient settings.

I am pleased to have this opportunity to recognize the contribution that hospices have made and will continue to make towards maintaining a high quality of life for those suffering from a terminal illness, as well as their families. In many circumstances a hospice is better equipped to meet the psychological, spiritual, social and physical needs of this group than institution-based caregivers. Hospices have become an increasingly important resource in treating individuals with acquired immune deficiency syndrome. Particularly as AIDS claims more and more victims, families and patients will require the specialized services which these providers offer. I urge my colleagues to support this legislation, acknowledging the value of hospice care in meeting the needs of the terminally ill.●

● Mr. PACKWOOD. Mr. President, it gives me a great deal of pleasure to introduce today, in concert with Senator Bentsen and Senator Heinz, a joint resolution designating November, 1988 as National Hospice Month. Similar resolutions were introduced and passed in 1984, 1985, 1986, and 1987, receiving enthusiastic bi-partisan support.

Hospice provides support and care for persons in the last phase of life. It enables the terminally ill person to live as fully and comfortably as possible with a sense of dignity and provides family members with a sense of emotional support at a particularly stressful time.

The first U.S. hospice was established near New Haven, CT, in 1974. Since that time, the hospice movement has grown dramatically and public awareness and support for the program has grown as well. By 1987, the number of hospices had increased to 1,683, reflecting public interest in the need for alternatives to hospitalization for the terminally ill. In my own State of Oregon, more than 1,500 patients and families were served through hospice programs over the least year. Oregonians are aware of the valuable service provided by hospice. These individuals are focusing on the quality of life, not just on how long life lasts. These patients and families are looking for an alternative to spending their last days in an institution and hospice care provides that alternative.

Most importantly, however, hospice care recognizes that terminal illness can involve months of agonizing pain for the patient and a sense of helplessness and frustration for the family. Hospice care seeks to control pain and support the patient and family members when the illness has moved beyond therapeutic control. Services are provided through the use of home health aides, social workers, registered nurses, clergy, and trained volunteers. Physicians, psychiatrists, psychologists, pharmacists, physical therapists, nutritionists and others also serve on the hospice team.

Congress demonstrated its support for the hospice concept of care through the enactment in 1982 of legislation which provides for the inclusion of hospice benefits under Medicare. The House of Representatives and U.S. Senate revisited hospice in 1986, reaffirming congressional commitment to the program by enacting legislation to make it a permanent covered benefit under Medicare and an optional Medicaid benefit. I was pleased to play a leadership role in the enactment of that legislation.

In recognition of the special meaning it has for terminally ill individuals and their families and the important contribution that hospices have made toward maintaining a high quality of life for those suffering from a terminal illness, I am most pleased to propose the adoption of this joint resolution and I urge my colleagues to support its enactment.●

● Mr. HEINZ. Mr. President, I am pleased to join with Senators BENTSEN and PACKWOOD in introducing a resolution designating November as "National Hospice Month" in 1988. This resolution will mark the fifth consecutive year in which Congress has designated a National Hospice Month to recognize the role of hospice care as a humane response to the needs of those who are terminally ill.

The first hospice in the United States was established in 1974 in Hew Haven, CT. Since then, hospice has been wholeheartedly embraced by health care professionals, the terminally ill, and their families.

In response to growing public awareness and support for hospice, I was pleased to introduce the original Medicare hospice legislation in the Senate, which was enacted into law as part of the Tax Equity and Fiscal Responsibility Act in August 1982. Congress reaffirmed its support for the hospice benefit this year, when both House and Senate passed catastrophic loss prevention legislation to ensure Medicare hospice benefits will continue if a terminally ill patient outlives his or her original prognosis.

This has been an enormously successful and popular program. Last year, according to the Joint Commission on Accreditation of Hospitals, there were an estimated 1,700 hospice programs in the United States, providing service to about 100,000 patients.

Mr. President, hospice care is very different from traditional hospital care. While traditional hospital care is committed to treating and curing disease, for most hospice patients there is no cure. Pain control and family support are often the only antidotes for these patients. As a result of their illness, most hospice patients face months of severe pain and suffering. Their families must deal with feelings of anger, helplessness, and frustration.

Hospice provides support and care for these persons in the last phase of life. It enables terminally ill persons to live out the end of their lives in dignity, as fully and comfortably as possible. Hospice provides family members with emotional support and understanding during this very difficult time.

Hospice is an alternative for these patients—an alternative to institutionalization, separation from families, and purely clinical treatments. Hospice focuses not just on how long life lasts, but on the quality of that life.

Mr. President, this resolution also recognizes the thousands of people who work together every day to make hospice care a successful and valued service. Hospice care is provided through the hard work of home health aides, social workers, registered nurses, clergy, and volunteers—united by the common goal of helping those most in need.

I urge my colleagues to support this resolution to celebrate the hope and caring that hospice brings to terminally ill patients and their families.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 237

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 237, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. GLENN], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Arkansas [Mr. BUMPERS], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1366

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. HEINZ], was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1600

At the request of Mr. FORD, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from California [Mr. WILSON], the Senator from Alabama [Mr. SHELBY], the Senator from Iowa [Mr. HARKIN], the Senator from Florida [Mr. GRAHAM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1660, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1751

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1751, a bill to require vessels to manifest the transport of municipal or other vessels nonhazardous commercial wastes transported offshore to ensure that these wastes are not illegally disposed of at sea.

S. 1787

At the request of Mr. DASCHLE, the names of the Senator from Tennessee [Mr. GORE] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1817

At the request of Mr. KENNEDY, the names of the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1848

At the request of Mr. WILSON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1848, a bill to authorize a Minority Business Development Administration in the Department of Commerce.

S. 1851

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1960

At the request of Mr. MATSUNAGA, his name was added as a cosponsor of S. 1960, a bill to designate the Federal Building located at 215 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building."

S. 2021

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of S. 2021, a bill to protect children from sexual exploitation.

S. 2075

At the request of Mr. Daschle, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

S. 2100

At the request of Mr. Lautenberg, his name was added as a cosponsor of S. 2100, a bill to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 2115

At the request of Mr. Danforth, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2128

At the request of Mr. Warner, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2128, a bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use by fishery vessels.

S. 2129

At the request of Mr. Baucus, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2139

At the request of Mr. Boren, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 2139, a bill to amend the Natural Gas Policy Act of 1978 to protect consumers who use natural gas fuel for agricultural irrigation pumps from certain price increases.

S. 2156

At the request of Mr. Lugar, the names of the Senator from Maryland [Ms. Mikulski] and the Senator from Michigan [Mr. Riegle] were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2205

At the request of Mr. DeConcini, the names of the Senator from Arizona [Mr. McCain], and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2206

At the request of Mr. D'Amato, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2215

At the request of Mr. Chiles, the name of the Senator from Arkansas [Mr. Pryor] was added as a cosponsor of S. 2215, a bill to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes.

S. 2216

At the request of Mr. Cochran, the names of the Senator from Alabama [Mr. Heflin], the Senator from Hawaii [Mr. Inouye], the Senator from Alabama [Mr. Shelby], the Senator from Kansas [Mr. Dole], the Senator from Iowa [Mr. Grassley], the Senator from Rhode Island [Mr. Pell], the Senator from Maine [Mr. Mitchell], the Senator from Massachusetts [Mr. Kerry], the Senator from Arkansas [Mr. Bumpers], the Senator from Arizona [Mr. DeConcini], and the Senator from Florida [Mr. Chiles] were added as cosponsors of S. 2216, a bill to designate the National Space Technology Laboratories in Bay St. Louis, MS, as the "John C. Stennis Space Center."

SENATE JOINT RESOLUTION 197

At the request of Mr. Dole, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of Senate Joint Resolution 197, a bill to designate the month of April 1988, as "Prevent-a-Litter Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. Quayle, the names of the Senator from Ohio [Mr. Metzenbaum], the Senator from Alabama [Mr. Shelby], the Senator from South Dakota [Mr. Pressler], the Senator from Arkansas [Mr. Bumpers], the Senator from Kansas [Mrs. Kassebaum], the Senator from Oregon [Mr. Packwood], the Senator from Rhode Island [Mr. Chafee], the Senator from Texas [Mr. Bentsen], the Senator from Vermont [Mr. Leahy], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. Durenberger, the names of the Senator from Nebraska [Mr. Exon] and the Senator from Alaska [Mr. Stevens] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 282

At the request of Mr. Byrd, his name was added as a cosponsor of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

SENATE RESOLUTION 394

At the request of Mr. Heinz, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of Senate Resolution 394, a bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

AMENDMENT NO. 1908

At the request of Mr. Bentsen, the names of the Senator from Hawaii [Mr. Inouye], the Senator from South Carolina [Mr. Thurmond], the Senator from Kansas [Mrs. Kassebaum], and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of amendment No. 1908 intended to be proposed to S. 2223, an original bill to promote and protect taxpayer rights, and for other purposes.

SENATE CONCURRENT RESOLUTION 111—RELATIVE TO PURCHASES BY EMPLOYEES OF THE PANAMA CANAL COMMISSION

Mr. THURMOND (for himself, Mr. Helms, Mr. D'Amato, and Mr. Dodd) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 111

Whereas the security of employees of the Panama Canal Commission who are United States citizens has been seriously threatened when they were shopping in the Republic of Panama and, as a result, their mobility has been severely limited;

Whereas the recent political unrest in the Republic of Panama has resulted in the closing of shops and other businesses in that country and thereby seriously hampered the ability of such employees to purchase food and other commodities;

Whereas the operation of the Panama Canal is seriously jeopardized by the inability of such employees to purchase food and other necessities safely and in adequate quantities;

Whereas paragraph 4 of Article I of the Panama Canal Treaty of 1977 requires the United States and the Republic of Panama to assure the uninterrupted and efficient operation of the Panama Canal;

Whereas since employees of the Panama Canal Commission who are citizens of the United States are essential to the uninterrupted and efficient operation of the Panama Canal, it is imperative that such employees be permitted for a temporary period of time to purchase food and other necessities at commissary and exchange stores operated under the jurisdiction of the Department of Defense in the Republic of Panama; and

Whereas the Government of the Republic of Panama has refused to waive restrictions in such treaty that prohibit the United States from permitting employees of the Panama Canal Commission who are citizens of the United States from making purchases in such stores;

Resolved by the Senate (the House of Representatives concurring), It is the sense of Congress (1) that in order to ensure the safety of the employees of the Panama Canal Commission who are citizens of the United States and to ensure the uninterrupted and efficient operation of the Panama Canal, the Government of the Republic of Panama, headed by President Del Valle, should, until such time as such employees can safely purchase food and other necessities in the Republic of Panama in adequate quantities, waive any restrictions in the Panama Canal Treaty of 1977 that prohibit the United States from permitting such employees to make purchases in commissary and exchange stores operated under the jurisdiction of the Department of Defense in the Republic of Panama; and (2) that such waiver shall be in effect until the current crises in Panama, brought about by General Noriegas' refusal to step down continues.

SENATE CONCURRENT RESOLUTION 112—EXPRESSING THE INTENT OF CONGRESS REGARDING CERTAIN PROVISIONS OF PUBLIC LAWS 100-202 AND 100-223

Mr. **BAUCUS** submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 112

Whereas in 1987 Congress enacted Public Laws 100-202 and 100-223 directing the Federal Aviation Administration to promulgate regulations (1) requiring Mode C transponders (a device that allows radar to track the location and altitude of a plane) in terminal airspace where air traffic control radar service is provided; and (2) requiring Mode C transponders, in all other controlled airspace above a minimum altitude determined by the Federal Aviation Administration;

Whereas the Federal Aviation Administration has issued proposed regulations, pursuant to this authority, requiring Mode C transponders in virtually all aircraft flying at least 6,000 feet above ground level and in all aircraft flying at any altitude within 40 nautical miles of a radar-equipped airport;

Whereas radar service is not available in large quantities of airspace west of the Mississippi River below 12,500 feet mean sea level, and transponder equipped aircraft, with or without Mode C, cannot be seen on radar at these altitudes;

Whereas if the en route altitude is lowered to 6,000 feet above ground level, it is highly probable that en route facilities at locations where radar coverage is available will be forced to suppress available radar data because many Federal Aviation Administration radar sites are saturated at this time and will not be able to handle an added workload;

Whereas there is no conclusive evidence that Mode C is needed between 6,000 feet above ground level and 12,500 feet mean sea level, and outside of terminal airspace. Furthermore, future Traffic Alert and Collision Avoidance Systems equipped air carriers need not fly these altitudes en route;

Whereas there has been no consideration of the economic effects of this notice of proposed rulemaking on pilots who fly aircraft which do not participate in the national airspace system, including aerial applicators, helicopters, and other forestry aircraft;

Whereas the 40-mile radius of the terminal radar as a standard blanket rule is an unreasonable requirement in low density traffic areas and, in addition, the 40-mile radius coverage to the surface exceeds the technical limits of airport radars; and

Whereas the Federal Aviation Administration regulation exceeds the Congressional mandate on which it purportedly is based; and giving non-Mode C aircraft access to areas outside of high density terminal airspace is not a threat to safety: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in enacting Public Laws 100-202 and 100-223, it was the intent of Congress that—

(1) the Federal Aviation Administration should use the Mode C requirement to tie the high altitude en route to terminal airspace as a provision for safe transition;

(2) Mode C should be required in all aircraft for all terminal areas where activity levels and traffic mix create the potential for conflict;

(3) Mode C is not needed outside of terminal areas where activity levels and traffic mix do not create the potential for conflict; and

(4) Mode C should not be required at lower altitudes where there is not a mix of commercial and general aviation traffic.

● Mr. BAUCUS. Mr. President, today I am introducing a concurrent resolution to express the intent of Congress concerning certain provisions contained in two pieces of legislation, the continuing resolution and the Airport and Airway Capacity Expansion Act. These statutes were passed just before Christmas last year. The provisions I am concerned about instruct the Federal Aviation Administration [FAA] to promulgate regulations specifying which aircraft will be required in the future to be equipped with altitude reporting (Mode C) transponders.

On February 12, 1988, pursuant to this legislation, the FAA issued a Notice of Proposed Rule Making [NPRM] that would require: First, all general aviation aircraft flying at 6,000 feet and higher be equipped with Mode C transponders; and second, all aircraft operating at any altitude within 40 nautical miles of an airport which utilizes terminal radar to have a Mode C transponder.

This proposal simply goes too far. It imposes blanket restrictions on all aircraft and represents and unacceptable urban bias toward general aviation. It does not take into consideration the well known fact that some aircraft fly in low density airspace, such as exists in Montana. While I recognize the need to enhance safety for passengers by requiring Mode C on all aircraft operating in high density, urban terminal airspace, the FAA's proposal imposes regulation where none is needed.

Montana, like many of the States west of the Mississippi, is a large, sparsely populated State. Farmers and ranchers, business people, doctors and outfitters all depend on small aircraft to conduct business efficiently. Mountain terrain, high altitude and unpredictable weather present a greater concern to our Western aviators than does air traffic congestion. Yet the FAA proposal mandates the same requirements designed to enhance air safety in high traffic areas to the wide open spaces of the West. This is an unreasonable approach to solving air congestion problems.

In addition to the fact that low density air traffic areas should not be subjected to restrictions that are intended to solve problems in high density traffic areas, this proposal is unworkable and unnecessary for several technical reasons.

First, radar service is not even available in large amounts of airspace west of the Mississippi River below 12,500 feet mean sea level. This means that while the FAA regulation would require aircraft to buy and install the Mode C transponder, the plane would still not be seen on radar at these altitudes. In addition, I know of no conclusive evidence that shows that Mode C is actually needed between 6,000 feet above ground level and 12,500 feet mean sea level, outside of terminal airspace.

Second, the 40-mile radius of terminal control areas as a standard blanket rule is an unacceptable and unreasonable requirement in low density traffic areas. Radar controlled separation in these areas is not a significant problem because large aircraft simply do not operate at low altitudes for extended periods of time. This coverage actually exceeds the technical limits of many existing airport radars.

Third, there has been no consideration of the economic effects of the NPRM on pilots who fly aircraft that do not participate in the national airspace system, including aerial applicators, and helicopters and other forestry-use aircraft. We in the West often use airplanes as necessary farming and ranching equipment. Those aircraft may never see a paved runway or come into contact with radar. Yet the FAA would require these planes to operate as if they were flying in and out of Washington, DC's, National Airport on a daily basis.

Finally, if the en route altitude is lowered to 6,000 feet above ground level, it is highly probable that en route facilities, at locations where radar coverage is available, will be forced to suppress available radar data because many FAA radar sites are saturated at this time and will not be able to handle an added workload.

For these reasons, I find it necessary to clarify the intent of Congress so that the FAA will be better able to implement these statutes correctly. Without additional clarifying direction, I fear that the FAA will regulate the entire country as if it were nothing more than the Boston-DC eastern corridor. We cannot allow this to happen. I urge my colleagues to support this resolution.●

SENATE CONCURRENT RESOLUTION 113—ORIGINAL CONCURRENT RESOLUTION SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1989, 1990, AND 1991

Mr. CHILES, from the Committee on the Budget, reported the following original concurrent resolution; which was placed on the calendar:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1989 is established and the appropriate budgetary levels for fiscal years 1990 and 1991 are set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $964,600,000.

Fiscal year 1990: $1,043,200,000,000.

Fiscal year 1991: $1,123,200,000,000.

(2) The appropriate levels of total budget authority are as follows:

Fiscal year 1989: $1,231,000,000,000.

Fiscal year 1990: $1,302,800,000,000.

Fiscal year 1991: $1,385,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,100,600,000,000.

Fiscal year 1990: $1,158,100,000,000.

Fiscal year 1991: $1,215,700,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $136,000,000,000.

Fiscal year 1990: $114,900,000,000.

Fiscal year 1991: $92,500,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $706,100,000,000.

Fiscal year 1990: $760,800,000,000.

Fiscal year 1991: $817,200,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $0.

Fiscal year 1990: $0.

Fiscal year 1991: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.

Fiscal year 1990: $68,200,000,000.

Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $972,500,000,000.

Fiscal year 1990: $1,020,300,000,000.

Fiscal year 1991: $1,079,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $886,700,000,000.

Fiscal year 1990: $932,900,000,000.

Fiscal year 1991: $979,000,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $180,600,000,000.

Fiscal year 1990: $172,100,000,000.

Fiscal year 1991: $161,800,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,825,400,000,000.

Fiscal year 1990: $3,065,300,000,000.

Fiscal year 1991: $3,289,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:

(A) New direct loan obligations, $28,300,000,000.

(B) New primary loan guarantee commitments, $110,600,000,000.

(C) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New direct loan obligations, $27,100,000,000.

(B) New primary loan guarantee commitments, $122,900,000,000.

(C) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New direct loan obligations, $26,700,000,000.

(B) New primary loan guarantee commitments, $132,100,000,000.

(C) New secondary loan guarantee commitments, $0.

(b) The Congress hereby determines and declares that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $312,300,000,000.

(B) Outlays, $304,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $325,000,000,000.

(B) Outlays, $316,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:

(A) New budget authority, $16,600,000,000.

(B) Outlays, $16,200,000,000.

(C) New direct loan obligations, $5,900,000,000.

(D) New primary loan guarantee commitments, $9,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $6,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,200,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $6,100,000,000.

(D) New primary loan guarantee commitments, $10,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $13,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:

(A) New budget authority, $4,900,000,000.

(B) Outlays, $4,200,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $3,700,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $14,600,000,000.

(B) Outlays, $14,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $27,000,000,000.

(B) Outlays, $23,200,000,000.

(C) New direct loan obligations, $15,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $21,900,000,000.

(C) New direct loan obligations, $14,200,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,200,000,000.

(B) Outlays, $19,900,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $63,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $8,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $67,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $3,600,000,000.

(C) New direct loan obligations, $2,800,000,000.

(D) New primary loan guarantee commitments, $74,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,400,000,000.

(B) Outlays, $27,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,900,000,000.

(B) Outlays, $28,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,600,000,000.

(B) Outlays, $30,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $6,800,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $36,600,000,000.

(B) Outlays, $35,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $37,900,000,000.

(B) Outlays, $36,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $38,700,000,000.

(B) Outlays, $37,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,900,000,000.

(B) Outlays, $48,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $54,400,000,000.

(B) Outlays, $54,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $59,500,000,000.

(B) Outlays, $58,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,700,000,000.

(B) Outlays, $86,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,100,000,000.

(B) Outlays, $108,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $176,200,000,000.

(B) Outlays, $138,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $181,000,000,000.

(B) Outlays, $145,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $213,000,000,000.

(B) Outlays, $152,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,800,000,000.

(B) Outlays, $28,400,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $30,900,000,000.

(B) Outlays, $29,900,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,400,000,000.

(B) Outlays, $30,500,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,900,000,000.

(B) Outlays, $8,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,100,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,300,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,500,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,100,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,600,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $161,600,000,000.

(B) Outlays, $161,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $171,700,000,000.

(B) Outlays, $171,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $176,800,000,000.

(B) Outlays, $176,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$33,000,000,000.

(B) Outlays, −$45,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$34,100,000,000.

(B) Outlays, −$46,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$35,400,000,000.

(B) Outlays, −$36,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than April 29, 1988, the committees named in subsections (b) through (______) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(c) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(d) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(e) The Senate Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $110,000,000 in fiscal year 1989.

HOUSE COMMITTEES

(f) The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(g) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(h) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(i) The House Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $710,000,000 in fiscal year 1989.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to the committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of such Act.

(c) For purposes of this section—

(1) the term "asset sales" does not include asset sales authorized by law before September 18, 1987, and routine, ongoing asset sales and loan payments at levels consistent with agency operations in fiscal year 1986; and

(2) the term "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987).

FUNDING FOR THE WELFARE REFORM AND CATASTROPHIC INSURANCE INITIATIVES

SEC. 6. (a)(1) In the Senate, it is assumed that budget authority and outlays for fiscal year 1988 or 1989 (or both) shall be allocated to the Senate Committee on Finance to provide for the welfare reform and medicare catastrophic health insurance initiatives, and the aggregates for fiscal years 1989, 1990, and 1991 in sections 2 and 3 of this resolution shall be adjusted accordingly, when the Committee on Finance, the committee of conference on the welfare reform initiative, or the committee of conference on the catastrophic insurance initiative reports legislation that will, if enacted, make funds available for such initiative and ensure that such legislation will not increase the deficits for fiscal years 1988, 1989, 1990, and 1991.

(2) Upon the reporting of legislation pursuant to paragraph (1), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

SENATE RESOLUTION 403—URGING USE OF THE INTERNATIONAL EMERGENCY ECONOMIC ACT AGAINST THE NORIEGA REGIME

Mr. BYRD (for himself, Mr. DOLE, Mr. PELL, Mr. DODD, Mr. HELMS, Mr. DURENBERGER, Mr. GRAHAM, Mr. SIMPSON, Mr. HEINZ, Mr. STEVENS, Mr. SASSER, Mr. TRIBLE, Mr. KARNES, Mr. DECONCINI, Mr. COCHRAN, Mr. CHILES, Mr. EXON, Mr. JOHNSTON, Mr. NUNN, Mr. BENTSEN, Mr. MELCHER, Mr. DIXON, Mr. LEVIN, Mr. CONRAD, Mr. FORD, Mr. LEAHY, Mr. D'AMATO, Mr. THURMOND, Mr. HATCH, Mr. BOND, Mr. SPECTER, Mr. WILSON, Ms. MIKULSKI, Mr. METZENBAUM, Mr. SHELBY, Mr. BUMPERS, Mr. BURDICK, and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 403

Whereas, on February 26, 1988, President Reagan reaffirmed that the United States continues to recognize President Delvalle as head of the Government of Panama;

Whereas, General Noriega has refused to accept an offer of asylum from the Government of Spain and has rejected all efforts to enable him to peacefully relinquish his position as head of the Panamanian Defense Forces;

Whereas, General Noriega has arbitrarily replaced officers of the Panamanian Defense Forces who have attempted to support civilian control of the military and has allegedly brought into Panama large quantities of arms shipped by the Government of Cuba;

Whereas, General Noriega has used the military and security forces of Panama to brutally repress the general strike being conducted by the people of Panama seeking to restore the democratic process;

Whereas, General Noriega has used taxes and fees paid in cash by United States companies operating in Panama to aid him in breaking the general strike and continuing to deny the people of Panama representative democratic government;

Whereas, it is the policy of the United States to support the restoration of genuine democracy in Panama, to assist the Delvalle government in its effort to establish civilian control over the Panamanian Defense Forces and to encourage the Defense Forces as a professional military institution: Now, therefore, be it

Resolved That it is the sense of the Senate that the President, using the authority granted under section 201 of the National Emergencies Act (50 U.S.C. 1621) and sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(a) find that, with respect to the events in Panama, an international economic emergency exists with respect to the events in Panama which poses an unusual and extraordinary threat to the national security, the foreign policy and the economy of the United States.

(b) exercise his authority under section 203 of the International Emergency Economic Powers Act, in particular to prevent future transfers to the Noriega regime in Panama of credit or currency subject to the jurisdiction of the United States.

(c) consider the placing into an escrow account pending such disposition as the President may decide, any financial resources which would otherwise be transferred to the Noriega regime of Panama.

SENATE RESOLUTION 404—RELATING TO HOMEOWNERSHIP EQUITY

Mr. HECHT submitted the following resolution; which was referred to the Committee on Finance:

Expressing the sense of the Senate regarding the importance of tax incentives for homeownership and that no additional restrictions or caps be placed on homeownership tax benefits.

S. RES. 404

Resolved, That this resolution may be cited as the "Homeownership Equity Resolution".

SEC. 2. It is the sense of the Senate that—

(1) the goal of homeownership is a fundamental concept deeply rooted in the hearts of most Americans. Until 1980, homeownership rates had increased for 35 years. Since the beginning of this decade, however, these rates have declined. Tax incentives must be provided which assist young people in purchasing their first home and current homeowners in maintaining and upgrading their residences;

(2) tax incentives such as deductions for mortgage interest, mortgage loan fees, and interest on home equity loans are vital to homeowners and future homeowners. These incentives are an efficient and cost effective way to stimulate and encourage homeownership; and

(3) the Senate recognizes that tax incentives must be made available to every American who wants to own a home and fulfill the "American dream," and it realizes the importance of these incentives. Additional restrictions or caps should not be placed on homeownership tax benefits.

Mr. HECHT. Mr. President, I rise to introduce legislation designed to protect the tax benefits of homeownership. The goal of homeownership is a fundamental concept deeply rooted in the heart of most Americans. Homeownership leads to a more stable form of government and a citizenry that is more involved in improving community life.

Today it is tough enough for young people to afford the purchase of their first home. It is tough enough for current homeowners to maintain or upgrade their residence. However, I have seen a clear trend being established by many in Congress to enact laws which will dig deep into the pockets of homeowners and future homeowners.

Mr. President, I am particularly concerned about the home mortgage interest deduction. Congress recently placed a dollar limit on the amount of interest a homeowner can deduct from his Federal income tax return. This cap was initially set very high so that the average homeowner would not be immediately affected. Yet, legislation has already been introduced in the house to place further restrictions on the home mortgage interest deduction. This is ludicrous. We need to encourage homeownership, not discourage it.

There are other areas that are cause for concern by homeowners throughout America. The deduction for mortgage fees and expenses has been modified and new restrictions have been placed on home equity loans. These are creative new proposals which will effectively single out homeowners for tax increases; and I am opposed to them.

Mr. President, my legislation entitled the homeownership equity resolution, will put the Senate on record as to the importance of tax incentives for homeowners and states that no additional restrictions or caps be placed on homeownership tax benefits. By doing so, the Congress can go a long way toward assuring that the American dream of homeownership lives on.

SENATE RESOLUTION 405—AUTHORIZING THE RELEASE OF CERTAIN RECORDS

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 405

Whereas, during the past five months the Committee on Governmental Affairs has been conducting an inquiry into an Electronic Tandem Network telecommunications procurement by the General Services Administration, RFP-ETN-87-0001;

Whereas, that procurement is now the subject of a protest by AT&T Communications, Inc. before the General Services Administration Board of Contract Appeals, Case No. GSBCA 9252-P;

Whereas, the Board of Contract Appeals has requested access to records of the Committee's investigation in order to facilitate the Board's adjudication;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Governmental Affairs, acting jointly, are authorized to provide to the Board of Contract Appeals, in Case No. GSBCA 9252-P, records of the Committee's investigation of the Electronic Tandem Network telecommunications procurement, subject to any assurances they deem necessary to protect the interests of the Senate.

AMENDMENTS SUBMITTED

ASSISTANCE AND SUPPORT FOR DEMOCRACY IN AND RECONCILIATION IN CENTRAL AMERICA

HATFIELD AMENDMENT NO. 1922

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 523) to provide assistance and support for peace, democracy, and reconciliation on Central America; as follows:

SECTION 1. TRAUMA CARE VICTIMS OF THE NICARAGUAN CIVIL WAR.

(a) FINDINGS.—The Congress finds as follows:

(1) According to CARE, in 1985 there were 10,000 paraplegics and quadraplegics in Nicaragua due to the civil war and earthquakes.

(2) The International Committee of the Red Cross rehabilitation unit at Aldo Chavarria in Managua reports 600 amputations each year.

(3) The Central American Historical Institute reports approximately 40,000 Nicaragua casualties as the result of the civil war.

(4) 20 leading Nicaraguan surgeons, in an appeal for assistance in treating the victims of the war, declared that, "In our hospitals, we lack materials, equipment, medicines, and surgical instruments to a dramatic degree."

(5) Qualified personnel are lacking in all phases of medical care and education in Nicaragua, especially in the provision of trauma care, which requires 75 percent of Nicaraguan hospital beds.

(6) The assistance authorized by this section will demonstrate the good will of the American people in a region of the world that is vital to our national security. At the present time, the only serious external programs to treat the wounded in Nicaragua are funded, equipped, and staffed by Soviet and Eastern Bloc countries.

(7) The assistance authorized by this section should provide important education and research opportunities. By emphasizing education the assistance would enable local doctors to gain self-reliance in the provision of essential services. Research would, as in the Vietnam War, result in raising the standard of care for trauma patients everywhere.

(b) AUTHORIZATION OF ASSISTANCE.—Subject to subsection (e), the Agency for International Development shall use the funds appropriated pursuant to this section to provide for the victims of the Nicaraguan civil war. For this purpose the Agency shall enter into a contract with the Brown University Medical School's International Health Institute (hereinafter in this section referred to as the "contractor").

(c) DESCRIPTION OF CARE.—The integrated system of trauma care established pursuant to this section shall include—

(1) a medical evacuation system for the purpose of rapid transport of the severely injured;

(2) a trauma care hospital center capable of high-level operative, intensive, and extensive care for both acute and chronic medical problems resulting from an injury; and

(3) a rehabilitation capability, including prosthetics and limb fitting, for minimizing permanent disability and maximizing functional recovery of injured patients.

(d) GUIDELINES.—The trauma care provided pursuant to this section—

(1) shall be provided in accordance with guidelines specified by the American College of Surgeons;

(2) shall be provided to victims of the Nicaraguan civil war on a nondiscriminatory basis; and

(3) shall be provided consistent with the requirements of the 1977 Protocols to the Geneva Conventions of 1949, the Esquipulas II Accord of August 1987, and the ceasefire agreement signed by leaders of the Government of Nicaragua and the Nicaraguan Resistance at Sapoa, Nicaragua, on March 23, 1988.

(e) APPROVAL BY THE GOVERNMENT OF NICARAGUA AND THE NICARAGUAN RESISTANCE.—The assistance authorized by this section may be provided—

(1) only if the Government of Nicaragua and the Nicaraguan Resistance approve of the establishment of the integrated trauma care system authorized by this section, and

(2) only if they provide explicit assurances that no reprisals will be taken against wounded persons and that the trauma care center established with such assistance would not be subject to any harassment.

(f) LA TRINIDAD HOSPITAL.—It is the sense of the Congress that, as the first option in obtaining the site of the trauma care center to be established pursuant to this section, the contractor should pursue negotiations with the hospital in La Trinidad, Nicaragua, which was formerly under the control of the Seventh Day Adventists.

(g) COOPERATION.—In carrying out this section, the contractor shall operate in conjunction with the Pan American Trauma Association and shall solicit the advice of the Peace Corps and other medical outreach organizations.

(h) WAIVER OF CERTAIN RESTRICTIONS.—Section 620(q) of the Foreign Assistance Act of 1961, section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and any similar provision concerning countries in default shall not be construed to prohibit the assistance authorized by this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1988 and $7,500,000 for each of the fiscal year 1989 through 1993. Amounts appropriated pursuant to this section are authorized to be made available until expended.

DURENBERGER AMENDMENT NO. 1923

(Ordered to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 523, supra; as follows:

At the appropriate place in the resolution, add the following new section:

Section .

It is the sense of the Senate that in any future bill or resolution to provide humanitarian assistance to the democratic resistance in Nicaragua, additional humanitarian assistance be made available to all the people of Nicaragua, in a manner consistent with the terms and conditions of Section 8(b) of this joint resolution.

DISTRIBUTION OF SURPLUS DAIRY PRODUCTS

MELCHER AMENDMENT NO. 1924

(Ordered referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 2147) to provide that surplus dairy products should be provided to carry out the temporary emergency food assistance program before certain dairy export programs, to extend such dairy export programs, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (as amended by section 813 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77)) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 is amended by striking out "20" and inserting in lieu thereof "50".

(c) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(b)(2) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "fiscal year ending September 30, 1988" and inserting "fiscal year 1990".

(d) PROGRAM TERMINATION.—

(1) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(a) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "1988" and inserting "1990".

(2) CONFORMING AMENDMENT.—Section 202(a)(1) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 812 of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "To the extent" and all that follows through "fiscal year 1988" and inserting in lieu thereof "for the period on the date specified in section 212".

BIG CYPRESS NATIONAL PRESERVE ADDITION

CHILES AMENDMENT NO. 1925

Mr. CHILES proposed an amendment to the amendments of the House to the bill (S. 90) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes; as follows:

Section 10 of the Act of October 11, 1974, as added by section 5 of the bill, is amended by striking "appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities" and inserting "wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities".

Section 10 of the Act of October 11, 1974, as added by section 5 of the bill, is amended by striking "Not more than 3" and inserting "Three".

Section 8 of the Act of October 11, 1974, as amended by section 7 of the bill, is amended by striking "Addition and such sums as may be necessary for development." and inserting "Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition."

DEFENSE INDUSTRIAL BASE PRESERVATION ACT

DIXON AMENDMENT NO. 1926

(Ordered referred to the Committee on Armed Services.)

Mr. DIXON submitted the following amendment intended to be proposed by him to the bill (S. 1892) to amend title 10, United States Code, and other provisions of law to maintain and improve the defense industries base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources; as follows:

S. 1892

On page 2, strike out line 1 and all that follows through the end of the bill and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Industrial Base Preservation Act of 1988".

SEC. 2. FINDINGS

The Congress finds that—

(1) a strong defense industrial base in the United States significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity to meet the demands of a national emergency;

(2) a strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace;

(3) a series of studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States;

(4) despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy;

(5) reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized;

(6) the development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management;

(7) existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management; and

(8) procurement policies, regulations, and practices of Defense do not encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient producers, especially small businesses, from the commercial sectors of the economy into the defense procurement market; and

(C) continued participation of efficient producers in the defense procurement competitions.

TITLE I—DEFENSE INDUSTRIAL BASE

SEC. 101. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

(a) IN GENERAL.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 169 the following new chapter:

"CHAPTER 170—DEFENSE INDUSTRIAL BASE MANAGEMENT AND SUPPORT PROGRAMS

"Subchapter	Sec.
I. Definitions	2871
II. Management and Planning for Industrial Readiness	2881
III. Fostering Manufacturing Technology Improvements and Investment	2891
IV. Encouraging Improvement of the Defense Industrial Base	2901
V. Unfair Foreign Competition	2911

"SUBCHAPTER I—DEFINITIONS

"Sec.

"2871. Definitions

"§ 2871. Definitions

"In this chapter:

"(1) The term 'domestic source', with respect to a contract awarded by the Department of Defense, means a business entity that performs substantially all of the research and development, engineering, and production required under the contract within the United States.

"(2) The term 'free trade area source', with respect to a contract awarded by the Department of Defense, means a business entity that performs substantially all of the research and development, engineering and production required under the contract with Canada or any other nation with which the United States, before February 29, 1988, entered into a trade agreement establishing a free trade area under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).

"(3) The term 'nondomestic source' means any business entity which is not a domestic or free trade area source.

"(4) The term 'major defense acquisition program' has the same meaning as provided in section 2430 of this title.

"SUBCHAPTER II—MANAGEMENT AND PLANNING FOR INDUSTRIAL READINESS

"Sec.

"2881. Centralized guidance, analysis, and planning for programs affecting the defense industrial base.

"2882. Analysis of the capability of the defense industrial base to support certain defense acquisition programs.

"2883. Increased reliance on commercial manufacturing processes and commercial items.

"2884. Defense Production Innovation Centers.

"§ 2881. Centralized guidance, analysis, and planning for programs affecting the defense industrial base

"The Under Secretary of Defense for Acquisition shall, subject to the authority, direction, and control of the Secretary of Defense—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze, on a continuing basis, the capabilities of the defense industrial base of the United States to fulfill the requirements of the national defense strategy in time of peace and the expanded requirements of the national defense strategy in time of war or national emergency; and

"(3) develop and direct the implementation of plans and programs that promote the ability of the defense industrial base to meet the requirements referred to in clause (2).

"§ 2882. Analysis of the capability of the defense industrial base to support certain defense acquisition programs

"(a)(1) The Under Secretary of Defense for Acquisition shall ensure that the program management and acquisition plan for each major defense acquisition program, and the program management and acquisition plan for any other acquisition program of the Department of Defense designated by the Under Secretary, includes an analysis of the capability of the defense industrial base to manufacture the system to be acquired under such program and to support the maintenance of such system during the service life of such system.

"(2) In the conduct of the analysis required by paragraph (1) in the case of any program referred to in such paragraph, the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components or essential subsystems essential for—

"(i) the production of a system that is fully capable of performing its purpose;

"(ii) the maintenance and repair of such system; or

"(iii) the operation of such system.

"(C) The production capacity of the prime contractor, subcontractors at all tiers, and component suppliers to maintain peacetime production rates and to accelerate production to production rates planned for times of national emergency.

"(D) The availability of required production test equipment to assure quality.

"(E) The identification of components or subsystems that are available solely from sources outside the United States.

"(F) Any planned alternatives for meeting requirements that, during peacetime, the United States depends solely on sources outside the United States to meet.

"(3) In the conduct of the analysis required by paragraph (1) in the case of any program referred to in such paragraph—

"(A) the paperwork burden on the contractor, its subcontractors, and suppliers shall be minimized; and

"(B) the budgetary constraints associated with and the program adjustments needed for implementation of each proposed means for minimizing such burden shall be identified and considered.

"(b) The Under Secretary of Defense for Acquisition shall be responsible for compiling and analyzing the data obtained under subsection (a) in order to insure that, in the case of each program referred to in such subsection—

"(1) the capabilities of the defense industrial base of the United States to meet program requirements has been assessed by the military department or Defense Agency carrying out such program; and

"(2) the capabilities of the defense industrial base of the United States to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"§ 2883. Increased reliance on commercial manufacturing processes and commercial items

"The Under Secretary of Defense for Acquisition shall establish and implement to the maximum extent practicable acquisition policies which provide for—

"(1) expanded use of commercial manufacturing processes rather than military standard requirements;

"(2) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts;

"(3) encouragement of the military departments and the Defense Agencies to identify commercial items that are suitable substitutes for military standard items incorporated into weapon systems or other items of equipment; and

"(4) encouragement of the military departments and the Defense Agencies to use commercial items rather than military standard items to meet future requirements.

"§ 2884. Defense Production Innovation Centers

"(a) ESTABLISHMENT.—There is a Defense Production Innovation Center in the Office of the Under Secretary of Defense for Acquisition. The head of the Center is the Defense Production Base Advocate.

"(b) FUNCTIONS.—(1) The Under Secretary of Defense for Acquisition shall utilize the Defense Production Base Advocate and the Defense Production Innovation Center exclusively in the performance of the Under Secretary's responsibilities for planning and conducting programs for the improvement of the defense industrial base of the United States.

"(2) The Defense Production Base Advocate shall—

"(A) develop proposed plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

"(B) encourage the utilization of advanced manufacturing technology and processes by the defense industries of the United States;

"(C) encourage Department of Defense contractor investment in improved productivity;

"(D) propose, consistent with existing law, the repeal or amendment of such Defense Acquisition Regulations and other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity;

"(E) as authorized by the Under Secretary, evaluate and test (through demonstrations or otherwise) or provide for testing innovative ideas received from the military departments, the Defense Agencies, or the private sector for improving defense industrial readiness in the United States, including ideas for improving—

"(i) manufacturing processes utilized by domestic sources which have contracts with the Department of Defense; and

"(ii) the acquisition procedures of such departments and agencies; and

"(F) perform such other functions as may be assigned by the Under Secretary.

"SUBCHAPTER III—FOSTERING MANUFACTURING TECHNOLOGY IMPROVEMENTS AND INVESTMENT

"Sec.

"2891. Providing for the efficient manufacture of weapon systems.
"2892. Advanced Manufacturing Technology Demonstration Centers.
"2893. Encouragement of investment in advanced manufacturing technology and processes.
"2894. Recognition of modernized production systems and equipment in the award and administration of contracts.

"§ 2891. Providing for the efficient manufacture of weapon systems

"The Under Secretary of Defense for Acquisition shall require the military departments and Defense Agencies to take such actions as may be appropriate, during all phases of the acquisition of a weapon system (including the research and development phase), to facilitate—

"(1) achievement of efficiency in manufacturing by Department of Defense contractors; and

"(2) increased use of advanced manufacturing technology, processes, and systems by such contractors.

"§ 2892. Advanced Manufacturing Technology Demonstration Centers

"(a) PROGRAM AUTHORIZED.—The Under Secretary of Defense for Acquisition shall conduct an Advanced Manufacturing Technology Demonstration Program. The purpose of the program is to furnish financial assistance and certain contract assistance to private, nonprofit organizations for the operation of one or more Advanced Manufacturing Technology Demonstration Centers.

"(b) DEFINITION.—The term 'Advanced Manufacturing Technology Demonstration Center' means a facility at which any private, nonprofit organization receiving assistance under this section demonstrates—

"(1) uses of advanced manufacturing technologies, equipment, and processes; and

"(2) those productivity improvements that result from the utilization of such technologies, equipment, and processes.

"(c) FINANCIAL ASSISTANCE.—(1) The Under Secretary of Defense for Acquisition, in conducting the Advanced Manufacturing Technology Demonstration Program, may—

"(A) award a grant to a private, nonprofit organization; or

"(B) enter into a cooperative agreement with such an organization that provides for the Under Secretary to furnish financial assistance to such organization.

"(2) A grant may be awarded and a cooperative agreement may be entered into under paragraph (1) only on a competitive basis.

"(d) CONTRACT ASSISTANCE.—(1) Under regulations prescribed pursuant to subsection (f), the Secretary of each military department and the head of each Defense Agency may award a contract for the production of supplies to an Advanced Manufacturing Technology Demonstration Center primarily for the purpose of affording such center the opportunity to utilize an advanced manufacturing technology or process in one or more demonstrations described in subsection (a).

"(2) A contract referred to in paragraph (1) may be awarded on a noncompetitive basis under the conditions set out in section 2304(f) of this title.

"(e) OPERATION OF ADVANCED MANUFACTURING TECHNOLOGY DEMONSTRATION CENTERS.—An organization receiving assistance under this section shall provide, to the maximum extent practicable, for the participation of manufacturers, equipment and material suppliers, manufacturing and related management system developers, and educational institutions in the demonstrations carried out by such organization in the operation of an Advanced Manufacturing Technology Demonstration Center.

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"§ 2893. Encouragement of investment in advanced manufacturing technology and processes

"The Under Secretary of Defense for Acquisition shall prescribe and implement acquisition policies that encourage Department of Defense contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes. Such policy shall provide for—

"(1) an increased allowance for profit under a Department of Defense contract if the contractor invests in any such technology, equipment, or process in connection with the performance of such contract; and

"(2) assignment of increased weight, in the evaluation of proposals for any Department of Defense contract, to source selection criteria relating to the efficiency of production.

"§ 2894. Recognition of modernized production systems and equipment in the award and administration of contracts

"(a) IN GENERAL.—(1) The Secretary of each military department, with respect to each major defense acquisition program conducted by the department and any other acquisition program of such department designated by the Secretary, and the head of each Defense Agency, with respect to each major defense acquisition program conducted by such agency and any other acquisition program of such agency designated by the head of such agency, shall ensure that, to the maximum extent practicable, the acquisition plan provides for contract solicitations to include provisions which encourage competing offerors to acquire, for utilization in the performance of the contract, modern production systems (including hardware and software) and other modern production equipment that increase the productivity of the offerors and reduces the costs of production.

"(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

"(1) An evaluation advantage to apply in the contract award determination.

"(2) An increase of not more than 10 percent in the percentage which would otherwise apply in the computation of the amount which the Secretary of a military department or head of a Defense Agency is required to reimburse the contractor as the department's or agency's share of costs incurred by the contractor for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

"(3) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract:

"(A) The acquisition and utilization of modern production systems (including hardware and software) and other modern production equipment for the performance of the contract.

"(B) The utilization of other manufacturing technology improvements in the performance of the contract.

"SUBCHAPTER IV—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

"Sec.

"2901. Support for the development and application of emerging technologies.

"2902. Procurement of critical items of supply.

"2903. Recognition of planned mobilization sources in contract competition.

"§ 2901. Support for the development and application of emerging technologies

"(a) RESTRICTED COMPETITION AUTHORIZED.—The Secretary of each military department and the head of each Defense Agency may restrict to domestic and free trade area sources the competition for all or a portion of a contract opportunity to fulfill such department's or agency's requirements for materials, components, or items of supply that are the products of, or are manufactured through the application of, an emerging technology listed pursuant to subsection (c). Any procurement requirement to be set aside under this subsection shall be defined on a case-by-case basis and shall represent not more than the minimum aggregate quantity necessary to sustain at least one domestic or free trade area source determined by the Under Secretary of Defense for Acquisition to be essential to national security.

"(b) COORDINATION WITH UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—The Under Secretary of Defense for Acquisition, in consultation with the Secretary of each military department and the head of each Defense Agency, shall ensure that the authority provided in subsection (a) is exercised only in connection with a coordinated program that provides for development and application of emerging technology by domestic sources and free trade area sources.

"(c) EMERGING TECHNOLOGIES.—The Under Secretary of Defense for Acquisition shall, for the purposes of subsection (a), develop, maintain, and publish in the Department of Defense Supplement to the Federal Acquisition Regulation a list of emerging technologies that will substantially enhance the capabilities of the industrial base of the United States to meet national security requirements.

"§ 2902. Procurement of critical items of supply

"(a) RESTRICTED COMPETITION AUTHORIZED.—The Secretary of each military department and the head of each Defense Agency is authorized to restrict to domestic sources and free trade area sources the competition for all or a portion of a contract opportunity to fulfill such department's or agency's requirements for the procurement of critical items of supply, if such Secretary or head of a Defense Agency would otherwise be likely to procure more than 50 percent (determined on the basis of cost) of such items in such fiscal year from nondomestic sources. The decision to restrict competition under this subsection shall be made on a case-by-case basis.

"(b) MAINTAINING DOMESTIC SOURCES.—The Secretary of a military department and the head of a Defense Agency may award a contract in any fiscal year, under the authority provided in section 2304(c)(3)(A) of this title, for the procurement of any critical item of supply to a domestic source or free trade area source if such Secretary or head of a Defense Agency would otherwise be likely to procure more than 70 percent (determined on the basis of cost) of such items in such fiscal year from nondomestic sources. The requirements of section 2304(f) of this title shall apply to a contract awarded pursuant to this subsection.

"(c) MULTIPLE AWARDS TO SUSTAIN DOMESTIC SOURCES.—The Secretary of a military department and the head of a Defense Agency may award more than one contract for the procurement of any critical item pursuant to one solicitation if—

"(1) the contractor that has submitted the apparently successful offer in the case of such solicitation is a nondomestic source;

"(2) it is necessary to award one or more additional contracts to one or more domestic sources or free trade area sources in order to ensure that at least a percentage, specified in the solicitation and determined on the basis of cost, of the items to be supplied are manufactured or produced in the United States or a country referred to in section 2871(2) of this title; and

"(3) the solicitation includes a statement that multiple contracts may be awarded as provided in this subsection as a result of such solicitation.

"(d) SUBCONTRACTING.—(1) Each solicitation issued by a military department or Defense Agency for the procurement of a weapon system or other item of equipment pursuant to a major defense acquisition program shall—

"(A) specify any critical items of supply that are components of such weapon system or other item of equipment or are needed for the operation, maintenance, or repair of such system or equipment;

"(B) specify, with respect to each such critical item of supply, the minimum percentage, stated on the basis of cost, of such item that must be furnished by one or more domestic source or free trade area sources in connection with the performance of any contract awarded to a nondomestic source pursuant to such solicitation; and

"(C) include a provision that requires each nondomestic source submitting a bid or proposal pursuant to such solicitation to include in the bid or proposal a subcontracting plan that provides for one or more domestic sources or free trade area sources to furnish each such critical item of supply at least to the extent of the percentage specified in the solicitation pursuant to clause (B).

"(2) In the event that a nondomestic source is awarded a contract to which paragraph (1) applies, it shall be a material element of the performance of the contract for the contractor to implement the subcontracting plan that such source submitted pursuant to such paragraph.

"(e) CRITICAL ITEMS OF SUPPLY.—The Under Secretary of Defense for Acquisition shall—

"(1) determine, for the purposes of this section, what items of supply are critical items; and

"(2) publish a list of such critical items in the Department of Defense Supplement to the Federal Acquisition Regulation.

"§ 2903. Recognition of planned mobilization sources in contract competition

"(a) IN GENERAL.—In evaluating offers for a contract for the procurement of a planned item of supply from a producer designated by the Secretary of a military department or the head of a Defense Agency, such Secretary or the head of such agency, as the case may be, may provide an award evaluation preference in the case of each domestic source or free trade area source which is designated by such Secretary or head of an agency as a planned source for the procurement of such item in time of war or other national emergency.

"(b) NOTICE OF PREFERENCE.—An award evaluation preference provided under subsection (a) in the case of any contract shall be specified in the contract solicitation.

"SUBCHAPTER V—UNFAIR FOREIGN COMPETITION

"Sec.

"2911. Evaluation of offers from sources other than domestic sources.

"2912. Suspension and debarment for engaging in an unfair trade practice.

"§ 2911. Evaluation of offers from nondomestic sources other than domestic sources

"(a) In General.—The Secretary of Defense, through the Under Secretary of Defense for Acquisition, shall establish a policy for the evaluation of contract offers received from nondomestic sources or free trade area sources. The policy shall provide for counteracting any unfair advantage that nondomestic sources or free trade area sources have over domestic sources.

"(b) Definition.—As used in this section, the term 'unfair advantage' means—

"(1) direct or indirect subsidization of a nondomestic source or a free trade area source by a foreign government or other foreign entity;

"(2) exemption of a nondomestic source or a free trade area source from the application of a law of the foreign country of such source that is applicable to domestic sources; and

"(3) any other advantage determined by the Secretary of Defense to be unfair that a nondomestic source or a free trade area source has over domestic sources in competing for award of a Department of Defense contract.

"§ 2912. Suspension and debarment for engaging in an unfair trade practice

"(a) Findings.—The Congress finds that the commission of any of the following acts by a contractor, whether a domestic firm or a foreign firm, may indicate a lack of business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or a subcontract under such a contract:

"(1) An unfair trade practice, as determined by the International Trade Commission.

"(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

"(3) A false certification concerning the foreign content of an item of supply, as determined by the Secretary of Defense.

"(b) Suspension or Debarment Authorized.—Any contractor that has committed any act referred to in subsection (a) may be suspended for a period of 12 months and may be debarred for a period not to exceed 36 months if the Secretary of Defense determines that such violation—

"(1) is likely to have a serious adverse effect on the defense industrial base of the United States; or

"(2) is likely to have a less than serious effect on the defense industrial base of the United States, but is the latest instance of a pattern of business activities of such contractor that cumulatively might significantly contribute to the deterioration of the defense industrial base of the United States.

"(c) Waiver.—(1) The Secretary of a military department or the head of a Defense Agency may award a contract for supplies or services to a contractor suspended or debarred under subsection (b) or approve an award of a subcontract under such a contract to such contractor if the Secretary of Defense has determined that the vital defense interests of the United States will be harmed unless the supplies or services are procured from such contractor.

"(2) The Secretary of Defense may not delegate the performance of his responsibility to make a determination under paragraph (1).

"(d) Definitions.—In this section:

"(1) The term 'debar' means to exclude a contractor from Government contracting and Government-approved subcontracting for a specified period.

"(2) The term 'suspend' means to disqualify a contractor temporarily from Government contracting and Government-approved subcontracting.".

(b) Conforming Amendment.—The tables of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 169 the following:

"170. Defense Industrial Base Management and Support Programs .. 2871".

SEC. 102. EXPANSION OF THE MANUFACTURING TECHNOLOGY PROGRAM

Funds appropriated for the use of the Army, Navy, Marine Corps, Air Force, and Defense Agencies of the Department of Defense for procurement in each of fiscal years 1989, 1990, and 1991 shall be available to the Secretary of Defense to carry out the Department of Defense Manufacturing Technology program as follows:

(1) For fiscal year 1989, an amount equal to ¼ of one percent of such funds.

(2) For fiscal year 1990, an amount equal to 4/10 of one percent of such funds.

(3) For fiscal year 1991, an amount equal to ½ of one percent of such funds.

SEC. 103. EXPANSION OF THE INDUSTRIAL MODERNIZATION INCENTIVES PROGRAM

Funds appropriated for the use of the Army, Navy, Marine Corps, Air Force, and Defense Agencies of the Department of Defense for procurement in each of fiscal years 1989, 1990, and 1991 shall be available to the Secretary of Defense to carry out the Department of Defense Industrial Modernization Incentives program as follows:

(1) For fiscal year 1989, an amount equal to ½ of one percent of such funds.

(2) For fiscal year 1990, an amount equal to 6/10 of one percent of such funds.

(3) For fiscal year 1991, an amount equal to ¾ of one percent of such funds.

SEC. 104. DEFENSE PRODUCTS EXPORTING ASSISTANCE

(a) Purpose.—The purpose of this section is to authorize assistance under the Procurement Technical Assistance Cooperative Agreement Program for the purpose of encouraging the exporting of defense-related products and services by United States firms.

(b) Amendment to Title 10.—Section 2412 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause (3):

"(3) to encourage eligible entities to furnish to business entities, especially small businesses, procurement technical assistance that facilitates the exporting of defense-related products and services by such business entities.".

(c) Authorization of Appropriations.—There is authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991, the sum of $5,000,000 to conduct that part of the Procurement Technical Assistance Cooperative Agreement Program that carries out the purpose set out in section 2412(3) of title 10, United States Code (as added by subsection (b)).

SEC. 105. PROCUREMENT OF MACHINE TOOLS BY THE DEPARTMENT OF DEFENSE

(a) In General.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2409 the following new section:

"§ 2410. Procurement of machine tools

"(a) In General.—Except as provided in subsection (b), the head of an agency may not procure machine tools manufactured in whole or in part outside the United States.

"(b) Waiver.—The head of an agency may waive the prohibition in subsection (a) in the case of any contract for the procurement of machine tools referred to in such subsection if—

"(1) the head of such agency determines that—

"(A) no such tools are manufactured in the United States; or

"(B) the manufacturers or other suppliers of machine tools manufactured in the United States are unable to supply, on a timely basis, sufficient quantities of such tools to meet the agency's needs; or

"(2) the tools are not to be used in any facility owned or otherwise under the control of the Federal Government.

"(c) Applicability.—This section applies only to machine tools specified in the Federal supply classes for metalworking machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(d) Definitions.—In this section:

"(1) The term 'head of an agency' has the same meaning as is provided in section 2302 of this title.

"(2) The term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2409 the following:

"2410. Procurement of machine tools.".

(c) Effective Date.—The amendment made by subsection (a) shall take effect with respect to contracts for the procurement of machine tools awarded by an agency named in section 2303 of title 10, United States Code, on or after October 1, 1989.

(d) Termination of Effectiveness of Amendment.—Section 2410 of title 10, United States Code, (as added by subsection (a)), shall not be effective after September 30, 1994.

TITLE II—INVOLVEMENT OF MILITARY FACTORIES, ARSENALS, AND DEPOTS IN INDUSTRIAL READINESS

SEC. 201. REVISION OF AUTHORITY TO MANUFACTURE ARMY AND AIR FORCE SUPPLIES AT FACTORIES, ARSENALS, AND DEPOTS OWNED BY THE UNITED STATES

(a) Manufacture of Army Supplies.—Subsection (a) of section 4532 of title 10, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Army shall procure supplies needed for the Department of the Army from private sector sources that manufacture or produce such supplies in privately owned facilities located in the United States.

"(2) The Secretary of the Army may have supplies needed by the Department of the Army manufactured in factories or arsenals owned by the United States to the extent that—

"(A) it is necessary to manufacture the supplies in those factories or arsenals in order to maintain an adequate industrial capacity in the United States to meet the needs of the Army for such supplies in time of war or other national emergency; and

"(B) those factories and arsenals can manufacture the supplies on an economical basis determined in accordance with a cost evaluation formula prescribed by the Secretary of Defense for the purpose of this paragraph.".

(b) Manufacture of Air Force Supplies.—Subsection (a) of section 9532 of title 10, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Air Force shall procure supplies needed for the Department of the Air Force from private sector sources that manufacture or produce such supplies in privately owned facilities located in the United States.

"(2) The Secretary of the Air Force may have supplies needed by the Department of the Air Force manufactured in factories, arsenals, or depots owned by the United States to the extent that—

"(A) it is necessary to manufacture the supplies in those factories, arsenals, or depots in order to maintain an adequate industrial capacity in the United States to meet the needs of the Air Force for such supplies in time of war or other national emergency; and

"(B) those factories, arsenals, or depots can manufacture the supplies on an economical basis, determined in accordance with a cost evaluation formula prescribed by the Secretary of Defense for the purpose of this paragraph.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect with respect to supplies procured by the Army and the Air Force on or after October 1, 1989.

TITLE III—DEPARTMENT OF DEFENSE OFFSET POLICY

SEC. 301. FINDINGS

Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", may contribute significantly to a decline in United States competitiveness in foreign markets.

(2) United States subcontractors are especially injured by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms. The transfer of such technology frequently gives foreign firms a competitive advantage against United States firms in world markets for products utilizing such technology.

(4) The manufacture by foreign firms, under contractual offset arrangements, of weapon systems developed by United States firms significantly and adversely affects the United States defense industrial base.

(5) The cost of a weapon system purchased subject to a contractual offset arrangement is frequently increased because such an arrangement results in inefficiencies in the production of the system.

SEC. 302. AMENDMENT TO TITLE 10

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Offset policy; requirements; and limitations

"(a) Establishment of Offset Policy.—The Secretary of Defense, through the Under Secretary of Defense for Acquisition and in consultation with the Secretary of Commerce, shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements. Except as provided in subsection (h), such policy shall be applicable to any contract entered into by the United States or a United States firm involving the purchase or sale of a weapon system to or from a foreign country or foreign firm. In formulating such policy, the Secretary shall consult with representatives from industry and shall take into consideration the consequences that such arrangements may have on the defense industrial base of the United States.

"(b) Multilateral Negotiations.—(1) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, shall enter into multilateral negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of a weapon system from the United States. The Secretary shall conduct such negotiations with a view to achieving a multilateral agreement among the countries concerned (A) that would limit the adverse effects that such arrangements have on the defense industrial base of each such country, and (B) that would prohibit such arrangements between the United States and the countries concerned after a specified date.

"(2) The Secretary of Defense shall make every effort to achieve, within one year after the date of the enactment of this section—

"(A) an initial agreement that would limit the adverse effects that offset arrangements have on the industrial bases of the countries concerned; and

"(B) within 3 years after the date of the enactment of this section, a final agreement that would prohibit such arrangements after a specified date.

"(3) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative shall report to Congress at least once a year, for a period of 3 years, on the progress of the negotiations referred to in paragraph (2). The first such report shall be submitted not later than one year after the date of the enactment of this section.

"(4) If the United States and one or more foreign countries referred to in paragraph (1) have failed to enter into an initial agreement referred to in paragraph (2)(A) by the end of a one-year period following the date of the enactment of this section, the provisions of subsections (c) through (i) shall become effective with respect to such foreign country or countries.

"(5) If one or more countries referred to in paragraph (1) and the United States have entered into an initial agreement referred to in paragraph (2)(A), but have failed to enter into a final agreement referred to in paragraph (2)(B) by the end of a 3-year period following the date of enactment of this section, the provisions of subsections (c) through (i) shall become effective with respect to such foreign country or countries.

"(c) Reciprocal Offset Requirement.—In any case in which the Department of Defense enters into an agreement with a foreign country or a foreign firm for the purchase of a weapon system from that country or firm and that country or the country of that firm has a policy of requiring an offset arrangement in its favor when that country or a firm of that country purchases weapon systems from United States firms, the Secretary of Defense shall require that the agreement include an offset arrangement at least as favorable to the United States as the offset arrangement normally required by that country in its own favor. To the maximum extent practicable, the Secretary of Defense shall require an offset arrangement that will benefit those United States firms that are injured by the application of the offset policy of the foreign country concerned.

"(d) Prohibition.—As part of the policy formulated by the Secretary of Defense pursuant to subsection (a), the Secretary shall require, in any case in which a United States firm contracts to sell a weapon system to a foreign country or to a foreign firm and the contract is subject to an offset arrangement in favor of that country, that the contract contain a provision that prohibits the payment for all or any portion of the weapon system with the proceeds of any grant or loan made (or guaranteed) by the United States to that country or to any firm, organization, or institution of that country.

"(e) Technology Transfer; Certification Requirement; Right of Protest.—(1) Neither the Secretary of Defense nor any other official of the United States may enter into a memorandum of understanding or other agreement that would permit or provide for the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement unless the Under Secretary of Defense for Acquisition, in consultation with the Secretary of Commerce, determines and certifies to Congress that the transfer of such technology under the terms of such memorandum of understanding or other agreement would not adversely affect the defense industrial base of the United States and would not result in a substantial financial loss to a United States firm.

"(2)(A) If a United States firm is required, under the terms of a memorandum of understanding or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country or foreign firm, the United States firm may protest the determination made by the Under Secretary of Defense for Acquisition under paragraph (1) on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States or would result in substantial financial loss to the protesting firm.

"(B) A protest under subparagraph (A) shall be made to the Secretary of Defense. The Secretary of Defense may not delegate the authority to hear and decide a protest under this paragraph except to the Deputy Secretary of Defense or to the Secretary of a military department.

"(C) In the case of a protest under this subsection—

"(i) the burden shall be on the Department of Defense to show by clear and convincing evidence that the transfer of the technology in question will not adversely affect the defense industrial base of the United States; and

"(ii) the burden shall be on the firm making the protest to show by clear and convincing evidence that the transfer of such technology would result in substantial financial loss to such firm.

"(D) A decision by the Secretary of Defense on any protest made under this section shall be final.

"(f) Notification Regarding Offsets.—If at any time a United States firm enters into a contract for the sale of a weapon system to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

"(g) Reimbursement for Offset Losses.—(1) In any case in which—

"(A) a foreign country or foreign firm purchases a weapon system from a United States firm;

"(B) the foreign country or the foreign firm's country requires an offset arrangement in favor of such country in connection with the purchase of such weapon system; and

"(C) equivalent reciprocal action by the United States is not possible because the United States does not purchase any weapon system from such country or from a foreign firm of such country,

the Secretary of Defense, after consultation with the Secretary of Commerce, shall promptly notify the President of such arrangement and the amount involved in the offset arrangement.

"(2) Upon receipt of a notification under paragraph (1), the President shall take such action as may be reasonably available to him to recover from the foreign country concerned an amount equal to the profit lost to United States firms (including subcontractors) under the offset arrangement. Such action may include a reduction in the defense assistance which would otherwise be provided to or on behalf of such country in any fiscal year or a reduction in any other type of assistance that would otherwise be provided by the United States to such country.

"(h) Exceptions for Coproduction Contracts.—(1)(A) Subsection (c) shall not apply to a coproduction contract entered into by a United States firm and one or more foreign firms. If, however, the foreign country of such firm or the foreign countries of such firms have a policy described in such subsection, the Secretary of Defense shall make every effort to prevent an offset arrangement in favor of such country or countries from being included in the coproduction contract or to restrict the scope of any such offset arrangement that is included in such contract and to ameliorate the injury that such offset arrangement causes to United States firms.

"(B) The exception provided in subparagraph (A) shall not apply in the case of an agreement between a United States firm and a foreign firm that is not specifically provided for in the coproduction contract even though such agreement provides equipment, supplies, or services necessary to carry out the coproduction contract.

"(2) Subsections (e), (f), and (g) shall not apply to a coproduction contract.

"(i) Waiver Authority.—The Secretary of Defense may waive, on a case by case basis, the requirements of subsections (e)-(g) if the Secretary determines that the national security interests of the United States require such action and promptly notifies Congress of the exercise of such waiver and the reasons for the exercise of such waiver.

"(i) Definitions.—In this section:

"(1)(A) The terms 'offset' and 'offset arrangement', in connection with the purchase or sale of any weapon system, mean a contractual arrangement under which—

"(j) not less than a specified percentage of work under, or monetary amount of, the contract for such system must be purchased from domestic sources of the country purchasing the weapon system;

"(ii) not less than a specified amount must be expended for goods or services unrelated to the business of the contractor and such goods or services must be purchased from domestic sources of the country purchasing the weapon system;

"(iii) not less than a specified quantity of goods or services unrelated to the business of the contractor must be purchased from domestic sources of the country purchasing the weapon system; or

"(iv) not less than a specified amount must be invested by the contractor in a domestic business of the purchasing country.

"(B) In any case in which a weapon system is purchased under a coproduction contract, such terms mean a contractual arrangement under which a specified percentage of work under, or dollar amount of, the contract for such system must be purchased from domestic sources of one or more countries other than the country of the prime contractor.

"(2) The term 'coproduction', with respect to a weapon system, means production of the weapon system outside the United States by a United States firm and one or more foreign firms. Such term does not include production pursuant to a commercial licensing arrangement between a United States firm and one or more foreign firms.

"(3) The term 'foreign firm' means a business entity, other than a free trade area firm, that performs substantially all of its manufacturing, production, and research and development activities outside the United States.

"(4) The term 'free trade area firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities within Canada or any other nation with which the United States, before February 29, 1988, entered into a trade agreement establishing a free trade area under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).

"(5) The term 'technology transfer' includes the following:

"(A) Research and development conducted outside the United States by a foreign country or a foreign firm for the United States or for a United States firm.

"(B) Technical assistance furnished by the United States or a United States firm to a subsidiary of a United States firm or to a foreign country or a foreign firm engaged in a joint venture with a United States firm.

"(6) The term 'United States firm' means a business entity other than a foreign firm and a free trade area firm.

"(7) The term 'weapon system' includes any component of a weapon system.".

(b) Technical Amendment.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410. Offset policy; requirements; and limitations.".

● Mr. DIXON. Mr. President, today I am introducing an amendment in the nature of a substitute for my bill S. 1892, the "Defense Industrial Base Preservation Act of 1987." I introduced S. 1892 on November 20, 1987, as the starting point for legislative review of issues that I have been studying over the past 2 years. When I introduced the legislation, I made it clear that I was seeking comments on the proposal, and that there would be further efforts on my part to refine the issues and the language.

Over the past several weeks, I have made several statements to the Senate on the deterioration of the defense industrial base. I have received a large number of comments on S. 1892 from Government agencies, trade associations, large and small businesses, and academia. In addition to recommending modifications to provisions already incorporated in S. 1892, my further research and their comments convinced me of the need to address the critical area of "offsets" in our international contracting. On this past March 1, I addressed the Senate on my intention to offer legislation on offsets.

In addition, on Tuesday, March 29, and yesterday, the Subcommittee on Defense Industry and Technology of the Senate Armed Services Committee, chaired by my good friend from New Mexico, Senator Bingaman, held hearings on my bill and other initiatives in the area of enhancing the defense industrial base. I was pleased to have participated in those hearings as a member of that subcommittee. On balance, I believe there is growing support for the concepts and suggested solutions included in my legislation.

However, I believe it is also critically important that the dialog continue. Over the past several weeks, I have indicated that changes will have to be made to my proposal. Today, I am prepared to incorporate many of them into this amendment in the nature of a substitute. In addition, I have included in this amendment, for the first time, specific language regarding offsets.

Mr. President, this amendment is not the end of the process. On the contrary, I want to encourage everyone to carefully study the language that I have incorporated here, whether it is a redraft of prior language or a new provision. I have said repeatedly that I am not committed to a single phrase, to a single sentence or to a single section. I am committed to expeditiously preparing effective comprehensive legislation to address this critical national defense policy matter, and I will be receptive to thoughtful comments from any quarter that will assist me in achieving that goal.●

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, the Committee on Small Business has scheduled a hearing to receive further testimony on the impact to small business Government contractors and the procuring agencies, flowing from a series of amendments to the Small Business Act contained in section 921, small business set-asides of Public Law 99-661, the fiscal year 1987 Department of Defense Authorization Act, and to consider remedial legislation. Testimony will be received on S. 1559, the Small Business Federal Contracting Restoration Act of 1987, introduced by Senator DIXON, as well as a proposed amendment in the nature of a substitute.

The hearing has been scheduled for Thursday, April 14, 1988, commencing at 9:30 a.m. It is to be held in the committee's hearing room, SR-428A. Testimony will be received from an array of private sector and governmental witnesses. Senator DIXON will serve as acting chairman.

This full committee hearing is a continuation of our committee's efforts to assess and address the fundamental changes to small business procurement assistance programs required by the amendments to the Small Business Act contained in fiscal year 1987 DOD Act. Senator DIXON's bill, S. 1559, introduced on July 28, 1987, was the beginning of this effort. A hearing was held on September 21, 1987, by the Subcommittee on Government Contracting and Paperwork Reduction, chaired by Senator DIXON. Some corrective action was taken through section 809, Small Business Set-Aside Program Amendments of Public Law 100-180, the National Defense Authorization Act for fiscal years 1988 and 1989, but serious problems still remain, especially regarding the size standard reduction mechanism created by section 921. These will be the focus of our hearing and remedial legislation.

Further information concerning the committee's hearing, or the remedial legislation to be considered, may be obtained from the committee's procurement policy counsel, William B. Montalto. Bill may be reached at 224-5175.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Organized Crime: 25 Years After Valachi.

The hearing schedule is as follows:

April 11, 1988, 10:00 a.m.; SH-216.
April 15, 1988, 9:15 a.m.; SH-216.
April 21, 1988, 9:30 a.m.; SD-342.
April 22, 1988, 9:00 a.m.; SD-342.

For further information, please contact Eleanore Hill or John Sopko of the subcommittee staff at 224-3721.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold markup on Thursday, April 14, at 9:30 a.m. on the nominations of Frank Schwelb, to be an associate judge of the District of Columbia Court of Appeals; Cheryl Long, to be an associate judge of the District of Columbia Superior Court; S. 2037, the Presidential Transition Effectiveness Act; S. 1856, Reauthorization of National Historical Publications and Records Commission Amendment Act of 1987; S. 1381, the Cash Management Improvement Act of 1987; S. 533, Elevation of Veterans Administration to Cabinet status; and S. 1081, National Nutrition Monitoring and Related Research Act of 1987; and other pending business. For further information, please call Len Weiss, staff director, at 224-4751.

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging will hold a field hearing on the nurse shortage "Vanishing Nurses: Diminishing Care."

The hearing will take place on Wednesday, April 6, 1988, at 9 a.m. in the Ceremonial Court Room, Nix Federal Building, 9th and Market Streets, Philadelphia, PA. The hearing will be chaired by Senator JOHN HEINZ, ranking minority member.

For further information, please contact Larry Atkins, at (202) 224-1467.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public the oversight hearings have been scheduled before the full Committee on Energy and Natural Resources.

The hearings will take place Tuesday, April 19 at 2 p.m., and Thursday, April 21 at 2 p.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on the implementation of the United States-Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.

For further information, please contact Lisa Vehmas (202) 224-7555 or Patricia Beneke (202) 224-2383.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks, and Forests.

The hearing will take place on April 19, 1988, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on bills currently pending before the subcommittee. The measures are:

H.R. 900, a bill to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes;

S. 1720, a bill to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; S. 1850, a bill to amend the Wild and Scenic Rivers Act to designate a section of the Columbia River in Washington as a study area for inclusion in the National Wild and Scenic Rivers System and for other purposes; and

S. 1914, a bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and and Scenic Rivers System.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff, at (202) 224-7933.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on April 14, 1988, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on bills currently pending before the subcommittee. The measures are:

S. 1052, a bill to provide a National Center for the United States Constitution within the Independence National Historical Park in Philadelphia, PA;

S. 1513, a bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes;

S. 1682, a bill to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site; and

S. 1690, a bill to amend the Historic Sites, Buildings, and Antiquities Act of 1935, and for other purposes.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff, at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, March 31, 1988, to conduct hearings on the regulators' recommendations for legislation dealing with the stock market crash of October 19, 1987.

The committee will also be voting on the nominations of: David L. Chatfield, of Alaska, to be a member of the National Credit Union Administration Board; Kenneth J. Beirne, of Virginia, to be an Assistant Secretary of Housing and Urban Development; and Jesse D. Winzenried, of Wyoming, to be a Director of the Securities Investor Protection Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 31, 1988, at 10 a.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on March 31, 1988, at 9:30 a.m., to hold a hearing on S. 1407, S. 635, antitrust remedies, title II, subtitle A and B.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Thursday, March 31, 1988, in open session to receive testimony on the fiscal year 1989 authorization request for Department of Energy atomic energy defense activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Thursday, March 31, 1988, in open/closed session to receive testimony on overseas base agreements and associated military construction programs in review of the amended fiscal year 1989 defense authorization request; and on the GAO review of the administration of U.S. maneuver damage claims in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 31, 1988, at 10 a.m. to hold a hearing on S. 314, the Hearing Aid Compatibility Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GRAND RAPIDS, MI: A SPECIAL PLACE

● Mr. LEVIN. Mr. President, 150 years ago on April 5, 1838, in the West Michigan frontier, the village of Grand Rapids was granted its first charter. It was a town with approximately 750 inhabitants. There were few buildings and the only transportation was on rough roads which were hewn from the Michigan forest or on steamboats that plied the Grand River. The original settlers were mostly frontiersmen and traders, but they were soon joined by a variety of merchants and skilled craftsmen as the economy grew and transportation improved.

Through their hard work and commitment, and with the help of the settlers and immigrants who came later, Grand Rapids eventually flourished and became the largest city in west Michigan. It was one of the first cities in the world to construct a hydroelectric power facility in 1880, and has been chosen three times by the National Municipal League as an All-American City.

Grand Rapids was the hometown of the late Senator from Michigan, Arthur H. Vandenberg, who joined with President Harry S. Truman in forging America's post-World War II bipartisan foreign policy. Senator Vandenberg will always be remembered as the personification of bipartisan statesmanship and serves as a model for all public servants.

Gerald R. Ford, the 38th President of the United States who helped heal our Nation following Watergate, had the honor of representing its citizens for over a quarter of a century as the Congressman from the 5th District.

Grand Rapids has been on the cutting edge of progress many times. It is a city of firsts. Two of its physicians produced the whooping cough vaccine, thus ending that horrible scourge of childhood. One of its citizens invented the first carpet sweeper. In 1948, Grand Rapids became the first municipality in the country to flouridate its water system.

The first regularly scheduled airplane passenger service was between Grand Rapids and Detroit in 1926. The Sunshine Hospital was the first municipally owned tuberculosis hospital in the United States.

Grand Rapids was a pioneer in the area of equal opportunity for women. The Grand Rapids telephone exchange was the first in the country to hire a woman operator back in 1879. In 1920, Eva Hamilton of Grand Rapids was elected to the State senate and became the first woman to serve in the State legislature.

Today Grand Rapids is Michigan's second largest city and is known world-wide as the Furniture City due to its very successful furniture industry. It is also a city of strong neighborhoods and churches (in fact, Grand Rapids has more churches per capita than any other city in the country). It is a city that cares for its people. It is a city with a keen sense of community—a city where people pull together and work for the common good.

I believe that Grand Rapids is the only urban area in the country where you can catch a coho salmon in the middle of downtown while watching a peregrine falcon fly overhead. I am proud to join with my colleagues in wishing the residents of the city of Grand Rapids a happy birthday on this sesquicentennial celebration, and in saluting Mayor Gerald R. Helmholdt and his colleagues on the city commission for their efforts in keeping Grand Rapids such a supremely attractive place in which to live.●

TAX PENALTIES WAIVED

● Mr. MELCHER. Mr. President, I am pleased to be able to inform my colleagues that the Internal Revenue Service has determined that it will waive estimated tax penalties for 1987 retirement income. This decision came in response to a letter from me and nine other members of the Special Committee on Aging, requesting that the waiver granted earlier for 1987 wage and salary income be extended to 1987 retirement income. This is good news for the retired elderly. Commissioner Gibbs is to be commended for recognizing that the principle of equal treatment under the Tax Code makes necessary the extension of the penalty waiver to 1987 retirement income.

Mr. President, I ask that the letter to the Commissioner from the 10 members of the Special Committee on Aging and the Commissioner's letter of March 30, together with the IRS news release mentioned therein, be printed in the RECORD.

The material follows:

SPECIAL COMMITTEE ON AGING,
Washington, DC, March 1, 1988.

Hon. LAWRENCE GIBBS,
Commissioner, Internal Revenue Service, Washington, DC.

DEAR COMMISSIONER GIBBS: We are receiving complaints from retirees that your Service is assessing the estimated tax penalty against retirees who find themselves underwithheld on income taxes on their retirement income for 1987.

Your earlier announced decision to waive the penalty for underwithheld income on wages for 1987, recognized that the major tax law changes in the Tax Reform Act of 1986 complicated, and made difficult, the computation of withholding on wages for 1987.

Additional major changes by that 1986 Act, affecting only the elderly, such as the reduction in their personal exemption and the change in their standard deduction, made the withholding computation for 1987 even more complicated for the elderly.

We respectfully request that you favorably consider extending the penalty waiver for 1987 to the retired elderly.

Best regards.

Sincerely,

John Melcher, Chairman; Richard Shelby, Member; Bill Bradley, Member; Pete Wilson, Member; Charles E. Grassley, Member; Lawton Chiles, Member; Quentin Burdick, Member; Harry M. Reid, Member; David Pryor, Member; John Heinz, Ranking Minority Member.

INTERNAL REVENUE SERVICE,
Washington, DC, March 31, 1988.

Hon. JOHN MELCHER,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your letter of March 1, 1988, requesting that the IRS extend the estimated tax penalty waiver program for tax year 1987 to retirement income.

We agree that this extension of the penalty waiver is appropriate given the numerous tax reform changes first affecting the elderly in 1987. Enclosed is a copy of a news release announcing this waiver for retirement income. We would greatly appreciate your sharing this information with your elderly constituents.

With kind regards,

Sincerely,

LARRY GIBBS.

NEWS RELEASE

WASHINGTON.—The Internal Revenue Service today announced that it will waive estimated tax penalties for 1987 for certain individuals with retirement income.

The waiver applies to estimated tax penalties attributable to taxable retirement income that must be reported on line 16b of Form 1040. Such income includes pension and annuity income, IRA distributions, and distributions from profit-sharing plans, retirement plans and employee savings plans.

The IRS said that it has set up procedures so that in most cases taxpayers affected by the estimated tax penalty on retirement income will not have to do anything for the waiver to apply.

For taxpayers who have not yet filed a return, the IRS will automatically take the waiver into account in computing any estimated tax penalty that may apply.

For taxpayers who have already filed a return and paid the estimated tax penalty, the IRS will automatically recompute the penalty and refund any overpayment.

Taxpayers who have received a notice of estimated tax penalty dated before May 2, 1988, to which they have not yet responded should call the toll-free taxpayer assistance telephone number, 1-800-424-1040, for help. However, taxpayers with retirement income who have not yet filed and prefer to compute their own estimated tax penalty should change line 28 of Form 2210, "Underpayment of Estimated Tax," to read: Enter the total of the amounts from Form 1040, lines 7 and 16b.●

TISHMAN REALTY'S 90TH ANNIVERSARY

● Mr. D'AMATO. Tishman Realty & Construction, a company that is helping to build America, is celebrating its 90th anniversary on April 4. It is known for the landmark developments it has built from coast to coast, including such extraordinary structures as the World Trade Center in New York City, John Hancock Center in Chicago, the Renaissance Center in Detroit, Century City in Los Angeles, and Epcot Center in Florida. In all, the company is responsible for constructing some 150 million square feet of commercial, residential, medical, educational, and institutional space.

The company is renowned for the know-how to bring in projects on time and within budget—from the dramatic 600-acre Epcot Center to the acclaimed restoration of the venerable New York concert hall, Carnegie Hall. Its current projects include one of the largest convention-style hotels in the country, the $375 million Walt Disney World Dolphin and Swan complex in Orlando, and 180 Allyn Street in Hartford, the tallest office building in Connecticut.

The company is not only a builder and developer—but an innovator and leader in developing new technology that has made our built environment safer, more comfortable, and more gracious. Tishman Realty & Construction has also helped various government entities to perfect codes that guide the industry and protect the public.

Tishman Realty & Construction is improving the quality of life for Americans throughout our Nation, contributing to our economy and well-being, and providing a shining example of enlightened industrial leadership.●

PANAMA

● Mr. BOREN. Mr. President, of the many articles and analyses written about the current situation in Panama, I wanted to draw attention to one particular piece which I felt to be most insightful and compelling.

In an article written for the Tulsa World, longtime columnist Malvina Stephenson captures the courage and commitment demonstrated by Panamanian Ambassador Juan B. Sosa and the Panamanian people in their efforts to forge a democratic and peaceful Panama.

While depicting this spirit, Stephenson also clearly presents the contrasting visions for Panama held by the different factions in Panama. On the one hand, Sosa and the legally elected President, Eric Delvalle, express a commitment to peaceful change and democratization through the processes spelled out in the nation's constitution while General Noriega has spurned Panamanian law and has resorted to the use of force on his own people.

Stephenson, who arrived in Washington in 1940 to start a one woman news bureau, has covered national and international news as a syndicated columnist for papers all across the Midwest. She is well known for her ability to write about complex issues in an interesting, enlightening, and creative manner.

In our efforts to understand better the personalities and predilections of the leading figures involved in the Panama crisis, this piece by Malvina Stephenson, a columnist well known and respected both in Oklahoma and in Washington, will help significantly.

The article follows:

[From the Tulsa (OK) World, Mar. 2, 1988]

PANAMA'S AMBASSADOR SOSA DEFYING NORIEGA

(By Malvina Stephenson)

WASHINGTON.—On the Washington front, a courageous businessman at his first diplomatic post is holding the line for democracy at the Panamanian Embassy while defying the ruthless military dictator who has overrun that strategic country in Central America.

Ambassador Juan B. Sosa, 46, refuses to budge for Leonardo Kam, who was sent here by Gen. Manuel Noriega. Sosa bases his credentials on appointment by the "constitutional president" of Panama, Eric Delvalle, a close friend and fellow Republican.

Sosa, a graduate of the University of Oklahoma, rejected a personal appeal from Noriega, siding with Delvalle, who is in hiding in Panama and trying to regain his leadership. Both Sosa and Delvalle were deposed by Noriega, but are still officially recognized by the United States.

"I have the keys to the embassy and I am in charge here," Ambassador Sosa declared, in barring the Noriega appointee. "I am the ambassador and I am remaining here."

"Hang on to those keys," Oklahoma Sen. David Boren told Sosa, after they appeared on a network TV show. "The actions you have taken are completely justified."

Boren, chairman of the Senate Intelligence Committee, is maintaining a "very close oversight" on the unfolding crisis in Panama. He salutes Sosa as the "rightful" ambassador and Delvalle as the constitutional president.

On the most critical issue, Boren says that nobody in the U.S. right or left, would want to "hand over the canal" to Panama under "unstable circumstances" there. However, he considered such a decision premature because the treaty does not specify transfer until the year 2000.

Sosa has repeatedly warned against military intervention in his country, and Boren agrees. "Noriega is not only corrupt, but he is crafty and shrewd," Boren said. "We must not fall in his trap and let him use latent anti-Americanism about the Big Bully from the North to strengthen his position." Both Boren and Sosa would consider various degrees of economic intervention.

As OU alumni, Sosa and Boren have an added bond. In 1960, Sosa first went to Ada, to East Central, then completed his degree in business administration at Norman.

Sosa's early background in Oklahoma has served him well in this challenging assignment. He speaks English with little accent.

"I never give up," Sosa said. He worked his way through college in a mutual self-help program with his widowed mother and three brothers.

As a young college student, Sosa says he absorbed some of the plucky pioneer spirit which characterizes the Sooner State. He lived there not long after Oklahoma celebrated its 50th anniversary.

"The pioneers in Oklahoma fought all kinds of wilderness, all kinds of weather and negatives, and they prevailed," Sosa said. "Those people prevailed and they made a beautiful state. I think some of that must be left in me from my days in Oklahoma, and I am not about to quit."

Sosa's business education led to connections with multi-national companies and finally his own operation as a marketing consultant in Panama City. He was the first Panamanian to head the American Chamber of Commerce there.

Sosa and Delvalle have been criticized as previous figureheads for Noriega. But as Sosa points out, they were working to reduce military power in Panama by "evolution and not revolution." Finally, however, they could tolerate Noriega no longer and decided to risk confrontation.

After Noriega was indicted in Florida by two grand juries for drug-trafficking and racketeering. Delvalle took the bold step to oust Noriega as chief of military forces, but in fact all-powerful Noriega would not go and forced the Panamanian assembly to oust Delvalle. Noriega then phoned Sosa to seek his "loyalty," but the ambassador stuck to the "constitutional president."

Boren supports that position. "The Panamanian constitution, like ours, has an impeachment process, but that was ignored," Boren said. "Under the guidance of Noriega, the assembly took exactly 10 minutes to oust Delvalle, who is still the rightful president of Panama. That is why I think we are absolutely right to continue to recognize Delvalle as president and Ambassador Sosa."

In this crisis, Sosa has shown courage in his personal life. He and his British-born wife Margaret are living without special protection. Their 8-year-old twins are continuing to attend school.

But all the doors are always locked now, against intruders like the new "pretender" to this diplomatic post.

THE 20TH ANNIVERSARY OF REYNOLDS ALUMINUM RECYCLING

● Mr. WARNER. Mr. President, it is with great pride that I rise today to recognize the outstanding achievement of Reynolds Metals Co.'s consumer aluminum recycling business.

Twenty years ago this month, Reynolds Metals Co. launched the Nation's first consumer-oriented recycling business. This business has since grown to involve millions of people, hundreds of millions of dollars and billions of aluminum cans. This private recycling effort is without parallel in industry, and has proven to be not only successful for Reynolds Metals but, indeed, a boon to the entire Nation.

In March 1968, Reynolds Metals opened its first consumer recycling center and began paying cash to the public for used aluminum cans—a concept that was widely received with skepticism, even from within its own industry. Reynolds recycled 1 million pounds of aluminum in that first year, and, amazingly, by 1983 exceeded that amount daily. Today Reynolds alone is recycling the equivalent of more than 100 percent of the cans that it produces, and doing it with amazing speed and efficiency. In fact it is entirely possible for an aluminum beverage can to go from the supermarket shelf to the consumer, to a recycling center, to the factory and back onto the grocer's shelf in as little as 6 weeks.

This effort has led to increased liberation from litter and waste in America, created thousands of jobs, conserved enormous amounts of energy, relieved us of our reliance on imported ore, and strengthened our domestic aluminum supply. Reynolds estimates that so far it has paid out $3.75 billion to Americans for their recycling efforts. More importantly, each time aluminum is recycled we save 95 percent of the energy required to produce the metal originally. So far, aluminum recycling has conserved enough energy to supply the District of Columbia with its electricity needs for the next 6½ years. In addition, recycling has saved us the need to import more than 18 million tons of bauxite ore from overseas because nearly one-third of America's annual metal supply comes from reclaimed aluminum.

Currently, the industry is recycling about 50 percent of the cans it produces each year. Based on the success of these first 20 years, Reynolds believes it is feasible to set a national aluminum can recycling goal of 80 percent or better by the year 2000. In an era when America is faced with a staggering solid waste problem and landfill space is at a premium, recycling programs on this grand a scale are more than just attractive, they are essential.

Earlier this week, I had the pleasure of accompanying President Reagan to a Reynolds Metals plant in Richmond, VA, where I had the opportunity to show him a company that was going head-to-head in international markets and beating the competition. I was proud to inform the President that Reynolds Metals Co. is doing this, while also making immeasurable contributions to energy conservation and preserving the Nation's environment.

On behalf of the Commonwealth of Virginia, I congratulate the Reynolds Metals Co. on the 20th anniversary of an extremely efficient and effective aluminum recycling campaign. It has set an impressive standard for all industries to follow, and I wish the company every future success in meeting the long range goals of this program.●

OFFICE OF FEDERAL PROCUREMENT POLICY

● Mr. PRYOR. Mr. President, I rise today to cosponsor S. 2215, a bill to reauthorize the Office of Federal Procurement Policy for a period of 4 years, from fiscal years 1989 through 1993. OFPP is charged with improving the economy, efficiency, and effectiveness of procurement processes by providing overall direction of policies, regulations, and procedures.

I want to commend Senator CHILES for his leadership in this critical area. This legislation, of which he is the author, represents a positive effort to create a stronger and more effective OFPP.

Having said I support reauthorization, I also must say that more aggressive attention is necessary to an area of Federal contracting that I have long had concerns with: The purchase by Federal agencies of consulting or advisory service contracts. These contracts range from the purchase of studies to implement agency programs, advice on how to conduct operations, and guidance on how to use hardware. Mr. President, these are just a few examples of a vast area of Federal contracting.

As a result of the loopholes in the current system of reporting, millions of dollars are being reported while billions are actually being spent for consultantlike services. Therefore, as we reauthorize OFPP, I believe we must encourage OFPP—or require in statutory language if necessary—to develop sufficient management tools to control billions of dollars of consultant or advisory services contracts. I believe under the current system such controls are lacking. As a demonstration of my own personal concern about this situation, I will hold hearings in the coming months in the Federal Services Subcommittee—which I Chair—to examine this issue in more detail.

As I mentioned, I'm troubled with the Government's reporting system, and this involves the integrity and usefulness of the Federal procurement data system [FPDS]. The FPDS provides information to those who are interested—including Members of Congress—about the characteristics of Government contracts. It is my experience that this system is currently of little use in terms of actually determining how much is being spent by the Government for advice. As I said earlier, substantial underreporting has occurred because of a poorly conceived definition which has been in effect for

8 years. I am convinced, unless we have a reporting system that we can count on to provide reliable data, Congress will never know what is going on in what has sometimes been referred to as a "shadow government."

Mr. President, over the past few weeks, my staff has been involved in a dialog with OMB and OFPP. During these communications, they have been made aware of the new OMB Circular A-120, issued in January of this year, which seeks to redefine what were previously "consultant" contracts, and are now "advisory assistance contracts."

Although I believe we are moving in the right direction by broadening the definition of contracts which involve selling advice to the Government—which will result in a truer picture of the billions of dollars spent in this area, rather than the millions which are currently being reported—I'm still concerned about the commitment of OFPP to the issue. For example, my staff has been told that only one person at OFPP is involved in monitoring the implementation of the new circular!

Mr. President, billions of dollars are being spent under the contract actions which fall within this circular and one person is responsible for monitoring within OFPP. This is incredible and dismaying, and fails to demonstrate the priority level I believe essential to effective management control.

Mr. Chairman, I think it particularly appropriate—as April 15 rapidly approaches—to ensure each taxpayer dollar expended on goods or services brings the greatest possible return. As we go about the process of reauthorizing OFPP, I intend to encourage OFPP to be aggressive in monitoring the Government's use of consultants. Federal procurement of these services must be based on a demonstrated need, must be purchased using competitive purchasing practices, and must be out in the sunshine for all to see. Taxpayers will accept no less.●

IN RECOGNITION OF THE MUNCIE CENTRAL BEARCATS, 1988 INDIANA HIGH SCHOOL BOYS BASKETBALL STATE CHAMPIONS

● Mr. QUAYLE. Mr. President, on the evening of March 26 a dream came true for not only a group of young men and their coach, but for an entire town as well. Some 18,000 Hoosiers packed into Market Square Arena, and thousands more from around the State tuned their radios to the only game in town—the Indiana High School Boys Basketball Championship.

For the eighth time since the inception of the tournament in 1911, the Muncie Bearcats emerged on top. Since winning their first State crown back in 1928 in a 13 to 12 thriller over Martinsville, the Bearcats have gone on to dominate hardwood history in Indiana with seven more State crowns in 1931, 1951, 1952, 1963, 1978, 1979, and now in 1988. As if that record were not enough, the Bearcats have also taken the runners-up spot five times. Those were surely rebuilding years.

As a graduate of nearby Huntington High School, I know too well the rich winning tradition of the Bearcats as we fell victim to the State title-hungry Cats more than once during my years as a Viking.

Anytime a school wins the coveted crown it is always the result of a team effort, moreover, a community effort. However, there are two individuals who stand out even in this group.

First, I want to recognize Sam Long, who received the Arthur L. Trester Mental Attitude Award. This award recognizes an individual who not only excels in the gymnasium, but the classroom and community as well. Sam has maintained a "B" average and has become a force to be reckoned with at both the chalkboard and on the backboard.

Second, I want to congratulate Coach Bill Harrell who has led the Bearcats to three of their eight State crowns. Coach Harrell's instructions to his team before taking the floor that night were "play your best, have fun, and remember it's only a game." It is that attitude along with years of coaching experience that has made it possible for Coach Harrell and his teams to be recognized as champions in Indiana where basketball is played at its best.

Mr. President, I congratulate both Muncie and the Bearcats on their championship as they have become chapter 78 in a continuing story we call Hoosier Hysteria.

From Griffith to Galena, from Mount Vernon to Nevada Mills all Hoosiers hail the Bearcats for a job well done.●

INF TREATY COMPLIANCE

● Mr. KARNES. Mr. President, President Reagan's policy of modernizing our defenses and negotiating with the Soviet Union from a position of strength is now bearing fruit. Last December, President Reagan signed the so-called INF Treaty, which will eliminate two classes of nuclear missiles. This agreement achieves asymmetrical reductions by requiring the Soviet Union to withdraw more than three deployed warheads for every one deployed warhead to be withdrawn by the United States. Also, the INF Treaty has the most exhaustive and intrusive verification regime ever agreed to by the Soviet Union. The Senate Committee on Foreign Relations completed its review of this agreement just yesterday. There are also favorable reports about achieving an agreement with the Soviets to reduce strategic nuclear systems. The object of these negotiations is to reduce each side's strategic nuclear arsenal by 50 percent.

As a Senator who is planning to support the INF Treaty, I believe the treaty will be approved by the Senate. Thus, the INF Treaty will become a critical component of our national security policy, particularly with regard to security in Europe. A strategic nuclear agreement will have even more far-reaching implications for our security. Since the INF Treaty, and potentially a start agreement, are likely to become important elements of our national security policy, it is extremely important that careful attention is paid to the implementation of these agreements. It must be remembered that the contributions of successful arms control are derived from the actual implementation of agreements and the elimination of weapons. The signing of an agreement is the start, not the end, of successful arms control. As we move forward with these agreements, we also have a responsibility to focus the attention of the American people on ensuring that the Soviets live up to the terms of these agreements.

The most important issue associated with the implementation of arms control agreements is that of Soviet compliance. The failure of the Soviet Union to fully comply with past arms control agreements poses a serious threat to the entire arms control process. The President's report on Soviet noncompliance with arms control agreements, issued on December 2, 1987, states that the Soviet Union is in violation of the ABM Treaty, the Biological and Toxin Weapons Convention, and the Limited Test Ban Treaty. The administration also states that the Soviets may be in violation of the Helsinki final act's arms control provisions. While not all these violations pose an immediate security threat to the United States and its allies, they deserve the attention of the American people. We should be prepared to take all appropriate actions to ensure that the Soviet Union lives up to its obligations.

We have a direct interest in defending the integrity of the arms control agreements that have been the object of the administration's negotiations with the Soviet Union over the last several years. These agreements will have an important impact on our security for the foreseeable future. We must not allow these agreements to become a means for the Soviet Union to weaken the position of the United States.

Under generally recognized principles of international law, the United States can respond to uncorrected

Soviet noncompliance with arms control treaties in two ways. If the Soviets violate a treaty in a serious manner, the United States can withdraw from the agreement. This sort of violation is the least likely to occur. Obviously, it is the hope of all of us that the United States will not have to withdraw from an arms control treaty because of a material breach by the Soviet Union. Nevertheless, we should be prepared to withdraw if Soviet behavior warrants such action.

The second option for responding to future violations of arms control agreements by the Soviet Union is to undertake proportionate responses. Proportionate responses allow a party to a treaty to take action to protect its interests when facing violations by the other party without abandoning the object of the treaty. These less serious violations by the Soviets are the ones most likely to occur. While such violations may not warrant withdrawal from an agreement, it is wrong to assume that they are insignificant or should be ignored. Anytime an arms control agreement is violated it undermines the integrity of the agreement and threatens the arms control process. The United States should be fully prepared to undertake proportionate responses to Soviet violations, which the United States is entitled to undertake under international law.

Mr. President, it is the issue of developing a workable proportionate response policy that I wish to raise with this body. Currently, the United States has no policy for responding to Soviet violations of arms control treaties, other than to raise these questions with Soviet officials through diplomatic channels. While international law sanctions the practice of proportionate response, recent history shows that the United States has not exercised its rights under international law in this area. I believe that it is necessary for the Senate to craft a workable proportionate response policy.

Mr. President, I point out public opinion seems to support establishing a prudent policy for responding to Soviet violations. In January of this year Market Opinion Research undertook a survey of 1,000 Americans to get their views on issues related to national security. This survey resulted in a report called Americans Talk Security. According to the report, 55 percent of those interviewed said that the Soviets could not be trusted in the area of nuclear arms control. Further, 71 percent of those interviewed stated that if the Soviets do not keep their part of arms control agreements and the United States keeps its part that it would put the United States in a dangerous position. The results of this survey make it clear to me that the American people want the United States to reach agreements with the Soviets in nuclear arms control. But the survey also makes it clear that they expect the United States to respond swiftly and effectively to Soviet treaty violations.

Mr. President, Senator WALLOP and I, along with other Senators, are drafting a proposal to establish a mechanism for implementing an effective proportionate response policy. We are preparing to offer this language as an amendment to the resolution of ratification to the INF Treaty, which would not require renegotiation of the treaty. While this language is not yet fully drafted, it is intended to require the executive branch to report to the Senate if the Soviet Union is complying with the INF Treaty on a continuing basis and undertake proportionate responses if uncorrected violations are found. This language, while leaving discretion to the executive branch, will be intended to ensure that the United States responds to future Soviet violations of the INF Treaty.

I believe that the establishment of a strong arms control treaty compliance policy is consistent with the twin principles of achieving effective agreements with the Soviet Union to reduce nuclear arsenals and protecting the security interests of the United States and its allies. While we should applaud the Reagan administration for what it has achieved in the area of arms control with the Soviet Union, we should also make it clear to the American people that we will protect both the integrity of arms control agreements and the security of the United States. This body should state unequivocally that it supports a policy of responding swiftly and effectively to Soviet violations of arms control agreements.

Arms control treaties can have enormously important implications for the security of the United States. Success in foreign policy is most often based on vigilance and arms control is no exception to this rule. The United States must be vigilant in protecting the security of the United States in implementing arms control agreements. President Reagan has already demonstrated vigilance in arms control negotiations. The same vigilance should be demonstrated after agreements come into force. I urge my colleagues to give serious attention to the question of compliance as they prepare for the floor debate on granting consent to the INF Treaty.●

LA PLATA, MD, CELEBRATES ITS 100TH ANNIVERSARY

● Mr. SARBANES. Mr. President, it is a great pleasure to bring to the attention of my colleagues in the U.S. Senate the celebration of the 100th anniversary of La Plata, MD. Located in Charles County, La Plata has a unique history, which adds special meaning to this celebration.

La Plata began its growth as a settlement in 1869 when land was given to the Pennsylvania Railroad to build a railroad. The stop in La Plata was named La Plata Station. With its coming, it brought increasing interest to the small town. The Chapmans, who had given land to the railroad company, owned land east of the train station known as Chapman's "La Plata Farm." It was after this farm that both the town and the station got their names.

In 1895, the seat of Charles County was to be moved from Port Tobacco. An election was held to determine a new location for the seat. La Plata won over Chapel Point because of the railroad.

Today the bustling town of La Plata boasts a population of 2,400. Residents enjoy both its rich history and its present opportunities as they celebrate their 100th anniversary.

Mr. President, I ask my colleagues to join with me in congratulating the people of La Plata and in wishing them the best of luck for their next 100 years.●

OPPOSITION TO INCREASE IN SUGAR IMPORT QUOTA

● Mr. WALLOP. Mr. President, I rise today to voice my opposition to the Senator from New Jersey, Mr. BRADLEY's bill to encourage economic development in Central America and to increase the sugar import quota. I take this opportunity to express my concern about the sugar section.

The bill proposes to restore the quota of sugar imported into the United States to the 1982-83 levels. The quota from Central American countries would be increased without a corresponding decrease in the quotas from other countries which export sugar to the United States. The bill makes no concession for domestic sugar producers whose prices will fall dramatically due to the flood of sugar into U.S. markets. This just will not do.

The bill makes substantial changes to the Sugar Program, an agricultural program which is a success. As a brief reminder to my colleagues, after the expiration of the 40-year-old U.S. Sugar Act in 1974, sugar prices fluctuated wildly and many domestic sugar producers were driven out of business. In 1981, in order to address the instability in the sugar industry, Congress included the Sugar Program as part of the farm bill. The program was enthusiastically extended in the 1985 farm bill.

Mr. President, it is important to note that the Sugar Program is run at no cost to the Federal Government. The administration maintains the domestic price, currently 18 cents per pound, through the use of import quotas. By increasing the limit of sugar imported into the United States, the domestic price will fall. We cannot turn our backs on our domestic sugar industry. By offering this assistance to the Central American sugar producer, we are pulling the rug out from under the sugar producers at home. We will have sufficient opportunity to debate the Sugar Program when we consider the next farm bill. Until then, I cannot support the Senator from New Jersey's bill and will do all I can to assure its defeat when and if it reaches the Senate floor.●

THE FINANCIAL MODERNIZATION ACT OF 1988

● Mr. BINGAMAN. Mr. President, I rise today to explain my reasons for supporting S. 1886, the Financial Modernization Act of 1988. Last night, the Senate passed this measure by an overwhelming vote of 94 to 2. I believe this measure is a carefully considered and prudent effort to reform current banking laws that have become outdated.

S. 1886 would repeal sections 20 and 32 of the Glass-Steagall Act and allow bank holding companies to deal in securities through a separate affiliate. These securities affiliates would be allowed to engage in the underwriting of securities, private placements, and investment advice. The affiliates would also be permitted to underwrite corporate debt and mutual funds following a delay of 180 days after enactment of the bill. Banks would continue to be permitted to underwrite securities such as Treasury bonds and certain municipal bonds.

I have had serious concerns about the potential dangers that could result from banks and bankholding companies entering nonbanking activities. I strongly feel that stringent safeguards must be established to ensure that the necessary separations between banking and commercial activities are preserved. After carefully reviewing this legislation, I believe it establishes the necessary firewalls to ensure the safety of bank deposits and to avoid conflicts of interests between the banking and securities interests of an institution. The numerous safeguards created by this measure include disallowing banks from lending to their securities affiliates, and not permitting banks to improve the value of securities being underwritten by their affiliates.

In addition to these sections, the measure includes other important provisions to protect the security and stability of the financial system and to benefit the consumer. S. 1886 provides bank and thrift regulators with enhanced authority to prevent unsafe and unsound banking practices. It also contains truth in savings provisions that require depository institutions and mutual funds to fully disclose all terms and conditions of their savings and investment products. Lastly, the bill protects consumers with home equity loans. Title VII of the measure requires lenders to make disclosure of all terms and conditions on these loans and disallows these lenders from unilaterally changing the terms of a contract after the agreement has been signed.

I believe this measure strikes the proper balance between providing banks appropriate new securities powers and ensuring that necessary divisions between commercial and investment activities are maintained. I feel this measure is in the best interest of both the American consumer and our financial system. I strongly support the aims of this legislation and I am pleased it was passed by the Senate. I hope the House of Representatives will soon consider this important reformation of our banking laws.●

HOMEWORKERS EMPLOYMENT RESTRICTIONS

● Mr. COHEN. Mr. President, I was very pleased to learn that the Wage and Hour Division of the Department of Labor has issued a proposed rule to lift the restrictions on the employment of homeworkers in certain industries.

The lifting of these restrictions in the gloves and mittens category is welcome news in northern Maine, where many women find this to be an ideal work situation. In northern Maine, there are many individuals with young children who do not have access to child care facilities. Because they live in an isolated rural area, these individuals are unable to find, or accept, employment out of their homes. The women with whom I have spoken have been unanimous in their support of the homeworking industries.

I appreciate the time and consideration given to this issue by various officials and staff at the Department of Labor. They have carefully reviewed this subject in great detail and have expended considerable effort to develop an understanding of the unique factors that have given rise to a homeworking industry in Maine. I share the Department's view that present restrictions on homeworking are in need of adjustment based on Maine's experience and the absence of evidence of exploitative practices which would be of concern to all of us.

I am confident that the incorporation of additional provisions into the current requirements will strengthen the Fair Labor Standards Act. This will ensure that the Department of Labor can monitor and enforce compliance with existing law.

However, I am disappointed that the Department felt it necessary to continue homeworking restrictions on women's apparel. I look forward to working with the Department of Labor when it reconsiders this matter. I have many constituents who would like to do this type of work in their home and for whom it may be the only employment available.

Again, I commend Secretary McLaughlin and her staff for their continuing efforts on behalf of the homeworking industry.●

SETTING THE RECORD STRAIGHT ON THE SENATE JUDICIARY COMMITTEE

● Mr. BRADLEY. Mr. President, last week I received a number of calls from leaders of New Jersey's legal and judicial community. They had all been asked to call to express concern to their Senators that if the pending nominee for the Federal District Court for New Jersey were not scheduled for hearing on March 29, there would be no opportunity to confirm the nomination prior to adjournment sine die.

On the face of it, this information seemed unlikely. On closer examination, I found that the New Jersey nomination was submitted by the White House to the Judiciary Committee only 3 weeks ago. I also found that the rumored March 29 deadline was totally untrue. This rumor apparently was started by the Justice Department, in spite of the fact that the Justice Department knew that several confirmation hearings had already been scheduled in April

Mr. President, I am deeply concerned about the backlog in cases before our Federal judiciary. And the Federal District Court for New Jersey is one of the most beleaguered Federal courts in the country. But I have found the Senate Judiciary Committee to be extremely cooperative in promptly scheduling judicial appointments for hearing and I have no reason to believe that they will not give expeditious consideration to the nomination pending before the committee.

The Mid-Atlantic Conference of Bar Presidents recently wrote to Senator LEAHY on the delays in filling judicial appointments in the region. I found Senator LEAHY's response to be most enlightening and I would like to enter both letters in the RECORD. I think it makes clear where the delays are taking place.

The letters follow:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 7, 1988.

Mr. BERNARD F. CONWAY,
President, New Jersey State Bar Association, Trenton, NJ.

DEAR MR. CONWAY: Thank you for the letter which you, along with your fellow bar presidents from four other mid-Atlantic states, recently sent me concerning federal district court vacancies in your region of the country.

I agree that there are an inordinate number of federal judicial vacancies in the mid-Atlantic states. Your letter vividly describes the dangers this situation poses for the efficient administration of justice in your region.

As a member of the Senate Judiciary Committee since 1979, I have participated in the confirmation proceedings for hundreds of federal judges. My involvement in this process deepened last year, when I agreed to serve as chairman of an informal task force of Judiciary Committee members on judicial nominations. My perspective on the causes of what you describe as a "state of emergency facing the Federal judiciary" in the mid-Atlantic states may be helpful to you.

If you have not already done so, I urge you to direct your appeal for action to the President and the Attorney General as well as to the members of the Senate Judiciary Committee. The record shows that the principal responsibility for undue delay in filing federal trial court vacancies lies in the Executive Branch, not the Senate.

The relevant statistics have changed, but only slightly, since you wrote your letter. I am aware of 13 current vacancies in district court judgeships in the five states involved. For eight of these 13 vacancies—four in Pennsylvania, three in New York, and one in Maryland—the President has not yet submitted a nomination to the Senate. Some of these eight judgeships have been vacant for a long time; in fact, two of them have been vacant since 1985.

The record also shows that when the President does submit nominations for District Court vacancies in the mid-Atlantic states, the Senate Judiciary Committee acts promptly on them. Since the establishment of the judicial nominations task force early last year, the Committee has reported the nominations of six district judges from New York, four from Pennsylvania, two from Maryland. In each case, the full Senate followed the recommendation of the Judiciary Committee and confirmed the nomination. More new judges have been approved this Congress from New York and Pennsylvania than from any other state in the nation.

These thirteen nominations were to fill vacancies which had existed, on the average, nearly fifteen months prior to the submission of a nomination by the President. The average time between nomination and approval by the Committee was less than four months. In other words, about four-fifths of the period during which these thirteen judgeships remained vacant is attributable to the time the Executive Branch consumed in submitting a nomination; less than one-fifth of the average vacancy period is attributable to the process of investigation, hearing, and consideration by the Judiciary Committee.

These numbers do not tell the whole story. One of the principal goals of the Judiciary Committee in this Congress has been to reform the process by which judicial nominations are considered. All too often in the past, the Judiciary Committee had treated these appointments as routine matters to be rushed through the Committee within days after the President announced his choice. Those days are gone, I hope forever. Lifetime appointments to the federal courts are too important for "rubber-stamp" treatment. The Senate's constitutional role to advise and consent to these crucial appointments requires that each nomination be thoroughly investigated and carefully reviewed before the Senate acts. I believe the Judiciary Committee has made a good start in the 100th Congress toward improving the Senate's performance in this field.

As I noted above, the President has submitted nominations for only five of the thirteen District Court vacancies that now exist in the mid-Atlantic states. One of these five nominations was received by the Judiciary Committee in late November. Three more were submitted in late December, just before the First Session of the 100th Congress adjourned. The fifth pending nomination was received just last week.

I anticipate that hearings will be held on at least two of these five nominations before the end of this month. More importantly, I will make every effort to ensure that each of these nominations—like every judicial nomination—receives prompt, fair, and thorough consideration by the Committee. I welcome your assistance toward that end, and solicit your comments on any pending judicial nomination, and your suggestions for further improvements in the way federal judges are selected.

Thank you for taking the time to write to me about this important topic.

Sincerely,

PATRICK LEAHY,
U.S. Senator.

MID-ATLANTIC CONFERENCE OF BAR PRESIDENTS,
January 20, 1988.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: As presidents of the respective bar associations of the Mid-Atlantic states, we join together to alert you to the state-of-emergency facing the Federal judiciary in our region. We are convinced that long-standing district court vacancies threaten to permanently handicap the administration of justice at the Federal level. Swift action must be taken.

Recent statistics document the gravity of the problem. Of the 84 district court positions authorized for the states of New York, New Jersey and Pennsylvania, 13 remain unfilled. The situation is equally severe in Maryland and Delaware where the combined vacancy rate exceeds 10 percent. Overall, 16 of the 43 vacancies nationwide are concentrated in the Mid-Atlantic region.

Those judges remaining on the bench are confronted with an ever-increasing workload and are asked to assume a continually rising burden of cases. During the period extending from 1980 to 1985, federal court filings nationally increased by 58.7 percent to nearly 300,000 annually. This averages nearly 520 cases per district judge. The situation is further exacerbated by the fact that the vacancies are not evenly distributed among the various districts, and thus produce a more severe effect in some areas. In the Southern District of New York, for example, which has 27 judges authorized, there are four vacancies. When this disproportionate number of vacancies is coupled with heavy case filings and protracted trials, the burden on the sitting judges becomes excessive. Protracted delay will be inevitable; justice will suffer and public confidence in the judicial system will diminish.

In the face of this rising crisis, we respectfully request that every reasonable step be taken to fill these vacancies expeditiously. In these times of fiscal concern, we are not asking for additional judges, only that the federal judiciary be given its full authorized complement.

While the Federal courts have a longstanding tradition of effectively administering justice, we are fearful that the additional pressures generated by delays in the appointment process will do irreparable harm to that tradition. Thus we urge you, for the sake of the public good, to do all in your power to assure that these critical appointments are made immediately.

Respectfully yours,

SUSAN C. DEL PESCO,
President, Delaware State Bar Association.

CLEAVELAND D. MILLER,
President, Maryland State Bar Association.

JOSEPH H. JONES,
President, Pennsylvania State Bar Association.

BERNARD F. CONWAY,
President, New Jersey State Bar Association.

MARYANN SACCOMANDO Freeman,
President, New York State Bar Association.●

● Mr. LAUTENBERG. Mr. President, I rise to concur in the remarks of my colleague about the cooperation of the Senate Judiciary Committee, in promptly but carefully reviewing nominations to the Federal courts in New Jersey.

The New Jersey courts are overloaded. The U.S. Judicial Conference recently proposed that Congress increase the number of Federal district court judges in the State by 30 percent. It proposes the addition of 3 permanent and 1 temporary judgeship to the current complement of 14 judges.

Because of the overwhelming workload of the court, cases have had to be transferred out of the State. Judges are straining to keep up. Litigants, in the end, are not as well served as they should be.

It is for these reasons, that it has been important that nominations to fill vacancies in the existing complement of judges be filled promptly. Mr. President, the Judiciary Committee has moved expeditiously in this regard.

That is why it was so disturbing to hear concerns from members of the bar in New Jersey that the Judiciary Committee was about to delay, or perhaps even deny, a hearing on the nomination of John Lifland to fill the remaining vacancy on the New Jersey court.

These understandable concerns were, unfortunately, sparked by at best unfounded and at worst mischievous reports from the Justice Department. The information from Justice was that the committee would hold no hearings after April 1 and that Mr. Lifland would not be included in the hearings already scheduled for March.

I am informed that the Judiciary Committee plans to hold two hearings in April, and that Mr. Lifland will in all likelihood be considered at that time.

This nomination was only received by the Senate February 29. The file on this nomination was only completed later this month. The committee is moving without delay, while fulfilling its responsibilities to carefully review the qualifications and suitability of the nominee. It is worth noting that Mr. Lifland is well regarded in New Jersey. He received an ABA rating of well qualified/exceptionally well qualified. He has the endorsement of the Association of the Federal Bar of the State of New Jersey. There has been no controversy about his nomination and I do not expect any that would delay the nomination.

I would add Mr. President, that the vacancy to which Mr. Lifland has been nominated was created on October 1, 1987, by the retirement of Judge Clarkson Fisher. The administration took 5 months to fill a vacancy it knew well in advance was to occur.

As the correspondence between Senator LEAHY and the presidents of several State bar associations reflects, the administration has moved slowly on a number of nominations.

Mr. President, the bar and the bench in New Jersey should be advised that the administration, not the Senate, is to blame for delays in filling vacancies on the Federal courts.●

COURT FINDS PIPELINE USER FEES UNCONSTITUTIONAL

● Mr. NICKLES. Mr. President, on October 2, 1986, I delivered a floor speech drawing my colleagues' attention to a lawsuit—Mid-America Pipeline Co. versus Elizabeth H. Dole—which had been filed in the Federal district court for the northern district of Oklahoma. That suit challenged the constitutionality of a portion of the Omnibus Budget Reconciliation Act of 1985. Specifically, the challenge was directed at section 7005 of the act, which granted to the Department of Transportation the power to tax interstate pipelines in order to cover the cost of administering the Hazardous Liquid Pipeline Safety Act and the National Pipeline Safety Act.

I rise today to inform this body that, on December 30, 1987, the U.S. District Court for the Northern District of Oklahoma granted the plaintiff Mid-America Pipeline Co.'s motion for summary judgment. Basically, the district court affirmed and adopted a magistrate's findings that the so-called user fee imposed by section 7005 is, in fact, a tax and that the section therefore constitutes an impermissible delegation of the legislative power to assess taxes.

The decision of the district court confirms the concerns I expressed in October 1986. At that time, I warned:

> While the new levy is technically described in the legislation as a user fee, the fact is that for the first time in our history, Congress, in enacting section 7005, has sought to hand over its power to tax to an executive agency.

At that time, I also warned that Congress would be tempted to adopt similar expedients to fund the budgets of Federal agencies. Indeed, we have done just that. For example, we have enacted a similar fee to cover the cost of regulation by the Federal Energy Regulatory Commission. It is not surprising that that fee is also being challenged in court on basically the same grounds.

As a matter of general principle, I do not oppose the concept of true user fees that require payment from those who benefit from the use of Federal facilities. The Supreme Court has approved the congressional delegation of rate setting to Federal agencies when true user fees are involved.

It is a very different matter for an administrative agency to be delegated the power to set fees on a regulated industry in order to offset the costs of administering regulations where those regulations benefit the general public, not the regulated industry. In that instance, those fees are taxes, not user fees. If Congress decides to tax an industry to pay for the administration of the regulations, it is empowered by the Constitution to do so. However, to confer this taxing power on an executive department is contrary to our system of government.

It is my understanding that the administration is likely to file an appeal of the Mid-America Pipeline decision. Such an appeal would go directly to the Supreme Court. I hope that the Supreme Court will hear this appeal, and will clarify the constitutionality of this user fee question. In the event that the Supreme Court rule's that this pipeline user fee is constitutional, I hope that my colleagues would still recognize that taxation is a purely legislative function. It is one of the most important functions granted to Congress, and is granted to Congress alone under Article I of the Constitution. The taxpayers' of this Nation should have the right not be taxed other than by their duly elected representative in the Congress, who they may then hold accountable. The power to tax—or impose regulatory user fees—should not be delegated to another branch of Government.●

ARIZONA: STATE OF CHAMPIONS

● Mr. DeCONCINI. Mr. President, for the first time since 1974 a university other than Iowa or Iowa State has captured the NCAA wrestling team title. The school responsible for this feat—the Arizona State University Sun Devils team coached by Bobby Douglas.

I want to congratulate, as I know all of the people of Arizona do, the Sun Devil team for their fine effort. The squad surprised everyone by vaulting from a fourth-place standing after the first day of competition to first place. The Sun Devils did not capture one individual title at the championship meet but dominated the consolation round with seven wrestlers finishing no worse than sixth place in their respective weight class. On their march to the NCAA Championship, the Sun Devils team finished the year with a dual record of 16 wins and only 2 losses. They once again dominated the PAC-10 Conference taking home their fourth straight title. Since 1973, when Coach Douglas arrived at A.S.U. He has produced 39 All-Americans, including 7 on the 1987-88 squad.

Team members include: Mike Davies, Chip Park, Dan St. John, Jimmy Gressley, Tommy Ortiz, Rod Severn, Zeke Jones, Glenn McMinn, Travis Fagen, Jim Sinadinos, John Ginther, Jerry Garcia, and Julio Moreno. Sun Devil Assistant Coaches are Joe Gonzales, Fletcher Carr, Eddie Urbano, and Tom Kolopus. The team manager is Shawn Tribioli, and the trainers are Bruce Kalish and Mike Rada.●

ART WILLARD

● Mr. BOSCHWITZ. Mr. President, of the many good things that accompany life in the political arena, the best is surely the people one gets to know—those who, because they believe in America and the American dream, take an active part in the public process.

Art Willard was one such individual. Eighty-seven and going strong, Art spent a good part of every day working in my State office and at the Minnesota Republican headquarters, continuing a tradition of voluntarism he began long before retiring from his career as an electrical engineer. I'm told, in fact that Art stopped counting his volunteer hours sometime during the Eisenhower administration.

Art brought humor, a sharp eye—you couldn't get a wrong ZIP Code past him—and a fine sense of dedication to the office. I think, indeed, that he'd have been working on the Presidential campaign of the year 2000 if his life hadn't ended accidentally on his way home from work one Friday afternoon in late February.

Art believed in the system and worked to preserve and strengthen it. He was a fine, principled American, and just a wonderful example of working patriotism.●

THE ROAD TO THE FINAL FOUR

● Mr. DECONCINI. Mr. President, with much pride I would like to congratulate the greatest collegiate basketball team in the history of my State, the University of Arizona Wildcats. These fine young men and their coach, Lute Olson, have brought new meaning to the term "team play" while capturing the hearts and imaginations of all Arizonans.

This weekend the Wildcats will face the toughest test of their brilliant 35 and 2 season when they compete in the final four of the NCAA Basketball Tournament at Kansas City. When the starting five step on the court, the "sixth man" will undoubtedly be the entire State of Arizona. No matter what the outcome of the tournament, whether they win or not, we are all very proud of them and will never forget the many accomplishments they have made in just a few short months.

Although I am an alumnus of the University of Arizona, and admittedly biased for that reason, I can truly say that I have never seen a more unselfish team in all of my years as a sports fan. Both on and off the court, these young men put others before themselves. They are all sportsmen in the truest sense of the word.

As any knowledgeable sports fan would quickly point out, Arizona has never been known as a mecca of college basketball. When you think of great Arizona sports teams, you think of the many national championships that the University of Arizona, Arizona State University, and Grand Canyon College have won in baseball. You think of 1986 when the ASU Sun Devils won the Rose Bowl and were ranked second in the Nation at the end of the season. And you think of the long string of tremendous athletes that have gone from Arizona's universities to the professional sports ranks. Without a doubt, I believe the 1987-88 Arizona Wildcat basketball team, PAC-10 champions, has now earned a prominent spot on that impressive roster.

With the inspirational leadership of Steve Kerr, the All-American play of Sean Elliot, the rugged inside-the-key play of Tom Tolbert and Anthony Cook, and the tenacity of Craig McMillen, this team was destined for greatness. Add to the starting five a tremendous coach and Kenny Lofton, Harvey Mason, Joe Turner, Matt Muehlebach, Jud Buechler, Brian David, Mark Georgeson, Sean Rooks, and Craig Bergman, and you have all of the ingredients for a championship team.

I am traveling to Kansas City this weekend to cheer for the Wildcats. I don't expect to depart until they have received their national championship trophy. Go Wildcats.●

EXPRESSING APPRECIATION TO MINORITY STAFF

● Mr. GARN. Mr. President, yesterday the Senate passed landmark legislation: the Proxmire Financial Modernization Act of 1988. Part of the credit for this achievement belongs to the staff of the Senate Banking Committee, who worked long and hard to produce this very complicated bill. I am very grateful for these efforts, and I particularly want to thank those members of the minority staff who worked directly with me during this process: Lamar Smith, John Dugan, Ray Natter, Patti Mietla, and Nan Freitag. They have done a very fine job.●

SUFFERING CHILDREN OF SOUTHERN AFRICA

● Mr. MOYNIHAN. Mr. President, I rise today to direct my colleagues' attention to a speech by Matilda R. Cuomo in Harare, Zimbabwe, on March 2, 1988. Mrs. Cuomo, wife of the distinguished Governor of the State of New York, makes a learned and eloquent case for doing far more to alleviate the suffering of children than we do at present. This is particularly true in the case of the "Frontline" nations of southern Africa. Mrs. Cuomo states that "we have come to observe, firsthand, the impact of destabilization by South Africa on children and families of the Frontline States, and to join in the effort to help them overcome their deprivation and suffering." Mrs. Cuomo proposes concrete measures to alleviate this suffering, drawing on her own experience in addressing the needs of children in New York.

Mr. President, as Mrs. Cuomo's speech is of most special interest to my colleagues, I ask that this speech be printed in the RECORD following my remarks.

The speech follows:

REMARKS BY MATILDA R. CUOMO, UNITED NATIONS CHILDRENS FUND "INTERNATIONAL SYMPOSIUM FOR THE SURVIVAL AND DEVELOPMENT OF THE CHILD" WEDNESDAY, MARCH 2, 1988, HARARE, ZIMBABWE

Distinguished fellow members of the panel: Mrs. Graca Machel, Mrs. Lisbet Palme, Mrs. Jean Young, and Ms. Diane Abbott;

Your excellencies of the Diplomatic Corps,

Honorable Ministers,

Distinguished officials of the United Nations Children's Fund,

Distinguished Participants, observers, and invited guests,

Ladies and gentlemen:

I want to extend my gratitude to our hosts his excellency, President Robert Mugabe, the First Lady Mrs. Sally Mugabe and the people of Zimbabwe for their warmth, generosity, and all they have done to accommodate us, and make this symposium meaningful.

We are also grateful to our hosts from UNICEF especially UNICEF's dynamic and committed Ambassador-At-Large Harry Belafonte and its dedicated Executive Director, Jim Grant.

It is an honor and a privilege to participate on this panel with Mrs. Graca Machel, Mrs. Lisbet Palme, Mrs. Jean Young and Ms. Diane Abbott. Each is a distinguished and accomplished woman. Their contributions will be invaluable for mobilizing international compassion and assistance for the children on the frontline.

It also is a special honor that our chairperson of the symposium is the First Lady Sally Mugabe. Her commitment over many decades to securing freedom, justice and prosperity for the people of this proud country, and especially its children, has been remarkable.

Only eight years ago, Zimbabwe made the transition from minority rule to majority government chosen through free and fair elections.

Since that time, Zimbabwe has made dramatic progress toward achieving universal primary school enrollment, expanding community health care and raising food production.

Americans and Zimbabweans know that, though the journey to a peaceful, nonracial society is often rocky, it is well worth the effort.

We share the unshakable belief that ethnic, religious and racial diversity brings beauty and strength to all of the people.

We know that when children of all races are given full and equal opportunities to develop to their potential the entire nation benefits.

In my country, two hundred years after the adoption of our Constitution, we also know that preserving liberty, justice and the democratic fabric of our Nation requires constant vigilance.

History has proven that the benefits of this vigilance are well worth the sacrifices required.

We have come to Harare to join UNICEF's "Grand Alliance for Children"—to extend our hands to our African sisters and brothers who seek to protect the lives and the futures of our most precious resource, our children.

We have come because too few New Yorkers, too few Americans, and too few people around the word know about the plight of "Children on the Frontline."

We have come to observe, firsthand, the impact of destabilization by South Africa on children and families of the Frontline States, and to join in the effort to help them overcome their deprivation and suffering—suffering that has been aggravated enormously, and even caused, by South African destabilization.

We come in solidarity with the people of Southern Africa and around the world who are gravely concerned about bringing peace, dignity and well-being to these children and their families.

If there is one desire common to all mothers and fathers worldwide, it is for healthy, happy and productives lives for their children.

If there is one burning passion all parents share, it is for a world where their children and grandchildren can have dreams of hope for their future, rather than living nightmares of fear, poverty or war.

When a parent reads and hears about suffering among children and families, anywhere in the world, he or she relates to that suffering and feels it deeply.

Children have a simple confidence and trust that their parents, and their community, will do right by them. They have a simply confidence that we will put their well-being first—to assure their needs are met.

It is every child's right to expect this care and our obligation as parents and a society to provide it.

What kind of legacy will be leaving our own children, and what kind of world will we be leaving them, if we know of suffering among the vulnerable and innocent—and do not work to eliminate its causes, and help make the world a better place to live?

No matter how we profess our faith, if we pray for love among neighbors and human kind, then we have an obligation to live with that love in our schools, our businesses, our communities, our laws and in the full reach of our lives.

At this conference, we are saying that the rights of children are sacrosanct, that they transcend politics.

Children have a God-given right to be raised in a protective and nurturing environment.

They have a right to decent shelter, good clothing, nutritious food, and a proper education. They have a right to loving and caring parents.

They have a right to live in dignity, to dream dreams, and to develop to their full potential.

This is what the world will be saying when it ratifies the United Nations Convention on the rights of the child in 1989.

It is a convention all nations which profess to value children and families should support.

In the year that the Organization of African Unity has declared "The Year for the Protection, Survival and Development of the African Child";

And in the year that my husband, the Governor of New York State, has declared "The Decade of the Child";

We all come together under UNICEF's "Grand Alliance for Children."

This commitment to children on all continents grows out of an awareness that our future survival and well-being will crumble, if we continue to neglect the future generation.

And they grow out of an awareness that if we do not put children first, they will end up last—and the entire human family will suffer.

As my husband stated in his first inaugural address—and has repeated often over the last six years—we are a family, "we must feel one another's pain and share one another's blessings, without respect to geography or race or political affiliation."

As his Holiness, the Pope, emphasized in his recent encyclical, "it is essential to recognize each people's right to be seated at the table of the common banquet, instead of lying outside the doors * * *"

Wherever children are suffering, we have to say we care, because it affects us too.

We have to say we care and respond in my own country where one in four children is growing up in poverty; where 12 million children go to sleep every night hungry, and where infant mortality rates in some communities compare to those in some of the world's less developed nations.

Nor can we remain silent when suffering is caused by racism, anywhere. And all of us must continue to speak out when that racism is apartheid.

In my own country and in my own State, racism is a "disease" that threatens us all.

"It blinds us," my husband has said, "from seeing one another as members of the same human family."

"It is a disease produced by ignorance, and in turn, it produces fear and even hate and violence."

If racism is a disease, then apartheid and destabilization are unthinkable plagues as endemic and dangerous to the children of the frontline as malaria.

But in many ways apartheid and destabilization are far more deadly—because there is no ready vaccine to immunize children from their impacts.

UNICEF has documented well the terror children and families on the frontline have been suffering, largely in silence.

Many of you know the grim statistics:

Since 1980, over one million children have died due to destablization.

That means, every four minutes, a child who would have lived is dying.

The infant and child mortality rates in Angola and Mozambique are among the highest in the world—one in three die before age five. And, horribly, half of these child deaths result from conflict that the children have no part in creating.

UNICEF tells us the economic cost of destablization for the Frontline States has been staggering—amounting to $25 billion dollars in the first six years of this decade. That equals the region's total economic production for all of 1985.

Even the word "destabilization" is dangerous—for it is a political term that fails to communicate the chilling human dimensions of what is occurring, daily. It sanitizes the intentions of one regime to crush the hopes and aspirations of its neighbors.

By whatever terminology we use, these policies called destabilization are evil!

Dr. Martin Luther King, Jr., once said:

"He who passively accepts evil is as much involved in it as he who helps to perpetrate it. He who accepts evil without protesting against it is really cooperating with it."

No one can be aware of what is going on in southern Africa wihout being moved. No one who is aware of the suffering of children can help but be outraged.

Our task is to communicate that suffering in a way that is thoughtful and compelling.

Using artists, writers and intellectuals as communicators, we are trying to force the world to confront the reality of what is happening here. They have a unique opportunity to portray events to large audiences in a way that will be memorable and moving.

Harry Belafonte has demonstrated this brilliantly. His leadership and direction were instrumental in mobilizing the 45 artists who recorded "We Are The World", and in creating the immensely successful "USA for Africa" campaign.

In movie theaters across our Nation, millions have seen Richard Attenborough's "Cry Freedom", the critically acclaimed film about the life of Stephen Bikko which was filmed right here in Zimbabwe.

In my own State, one of the most popular broadway plays is "Sarafina", an emotional musical about the lives of teenagers in Soweto. A small stage in Manhattan has become a powerful medium for communicating the drama of young lives in South Africa.

We see the importance of the stage again in the play "District 6"—the story of the Pretoria Government's destruction of a vibrant, multi-racial community—that is now playing to multi-racial sell-out crowds in Johannesburg.

The role that these and other Artists can play is enormous! We must work together to enlist their talent and support in carrying the message of suffering and hope in Southern Africa to the world's audiences.

As long as the Front Line States are forced by geography to co-exist with apartheid—and we hope that won't be long—we need to help the children who are the innocent victims.

We want to promote UNICEF's low-cost, high-impact child survival and development program for the 15 million children under age five living on the Frontline. The pillars of the program include:

Reaching universal child immunization by the year 1990;

Expanding the use of oral rehydration therapy from 12 percent of the world's parents currently using it today, to 50 percent by 1990;

Promoting breast-feeding;

Teaching parents careful growth monitoring of their children;

Providing clean water and sanitation; and

Promoting better knowledge of nutrition.

The task of communicating, of educating, of getting this information into all villages and rural communities remains a difficult challenge.

"The next generation of advance in human health," Jim Grant has said, "will come not from new medical breakthroughs, but from informing and supporting ordinary people in putting into practice what is already known."

Already there has been important movement to achieve these goals. Recently, the African Health Ministers announced the "Bamako Initiative"—to intensify the pace of immunication and improve community based health care throughout Sub-Saharan Africa.

These efforts to promote child survival need to be coupled with parallel commitments in child development.

We must assure that the babies who are being saved today grow up with every opportunity to lead dignified, meaningful lives tomorrow.

I, therefore, encourage the international community to advance these seven goals.

First, through aid and technical assistance, we need to help the Frontline States continue to build schools, train teachers and achieve universal primary school enrollment.

Second, while in school, every child should receive health and nutrition education. This is UNICEF's proposal; it is vital for children everywhere.

Five years ago, one of my first programs to promote the total well-being of every child in New York State involved implementing a statewide Nutrition curriculum in all schools, for all students, in all grades. We call the curriculum "Nutrition for Life."

The program is the only one of its kind in my country. And I am pleased to say my prior work with Jean Young during the "International Year of the Child" was very inspirational in this effort.

Third, the international community needs to help raise adult literacy rates focusing especially on women. An educated mother is better equipped to provide the care and support her children need.

Fourth, we need to expand parenting education programs. Even in New York State, for all of our progress, too few mothers and fathers know all of the essentials to nurture and help assure a healthy child.

This year, we are launching an ambitious Hospital and community based parenting education program for expectant and new parents.

Similar efforts, geared to local needs, might be helpful in Southern Africa.

Fifth, we need to help promote economic development in Southern Africa:

To ease the burden of foreign debt;

To provide more job opportunities for parents; and,

To offer the children hope for productive futures.

I am pleased that at the request of the Governor of New York State, my delegation includes a specialist in economic development.

Henry Miller is exploring possibilities for new economic links between the Frontline States and New York State, under the Governor's international partnership program.

Sixth, these children must have peace.

When we look at a map of Southern Africa, the countries with the highest rates of famine, childhood diseases, infant mortality, illiteracy, homelessness and poverty are all nations that have not just been victimized by natural disasters.

In addition, all have been plagued by war.

This is insanity.

I was introduced today as co-chair of the New York State Citizen's Task Force on Child Abuse and Neglect. While our concerns are primarily domestic battles fought in homes, we know there can be no crueler form of child abuse than war—than the destruction of health clinics, schools, crops, drinking water, entire villages, and, most importantly, the destruction of human life.

Two years ago, in Nairobi, the African Network for the Prevention and Protection Against Child Abuse and Neglect adopted an important recommendation.

The conference urged combatants in all wars to establish zones of peace to protect women, children and the aged from being caught in their crossfire.

We know that terrorists and bandits operate without respect for the rights of anyone. But we also know how important it is to try wherever possible to protect children from the madness of those who know only war and destruction.

Seventh, in the spirit of UNICEF's "Grand Alliance for Children," there is no better time for all of us to affirm, in one voice, our support for a 1989 United Nations Convention on the rights of the child.

When I return home, I will seek to bring together as many people as possible including the first ladies of all of the fifty States to assure, and reinforce, our national support for this important declaration for children.

I join with Mrs. Mugabe, Mrs. Machel, Mrs. Palme, Mrs. Young, and Ms. Abbott at this crucial time, in an international appeal.

For over four decades, UNICEF has been doing the Lord's work, feeding, healing, and caring for the lives of countless millions of children—children who would otherwise have been forgotten, children who would otherwise have been left to suffer or die.

Crossing all borders and oceans, UNICEF has demonstrated brilliantly how so much can be accomplished when indifference is replaced with compassion; when mistrust is erased through cooperation; and, when the forces of peace conspire to overwhelm the forces of war and destruction.

I will not forget the National Gallery of Zimbabwe and all the artistic renditions of the children.

Remembering what the children from Zimbabwe and Mozambique came to tell us—"Stop the War", "Stop Apartheid and Give us Peace." They are asking just to live a normal life and to be happy with their families.

Are they asking for too much?

Imagine if our program for child survival and development not only achieved our goals but exceeded them.

So that children everywhere were raised in nurturing and protective environments;

So that they received decent housing, clean water, nutritious food, health care and education;

So that no child would live among national divisions or with hatred; be trapped in the crossfire of war, or walk on an exploding mine.

At this symposium of poets and painters, singers and scholars, we can imagine all of that, and much more.

Let us imagine as the great artist John Lennon did, and let me conclude by paraphrasing his beautiful words:

"You may say we are dreamers; but we are not the only ones; we hope someday they all will join us and the world will live as one."

Let this symposium energize us and renew our commitment to these goals. For the sake of our children and our future, we have to work together to make it happen.

Thank you.●

THE UNITED STATES-JAPANESE BEEF AND CITRUS AGREEMENT

● Mr. WALLOP. Mr. President, I offer my strong support to Secretary Lyng and Ambassador Yeutter in their eleventh hour effort to persuade Japan to abolish its beef import quotas.

The 1984 agreement with Japan on high quality beef expires at midnight tonight and the United States has consistently presented a firm and united position on this issue. The administration, the United States Congress and the United States beef industry all fully expect complete liberalization of the Japanese beef market, including an end to the restrictive quotas now in place, as well as, all alternative trade barriers.

It is a matter of simple fairness. American beef producers are entitled to the same market access which Japan enjoys in this country. After 4 years of preparing to liberalize their beef market there is no excuse for these trade barriers to continue to exist.

If the Japanese are unwilling to dismantle their beef quotas I recommend that the response by this country be swift and strong. Such unfair trade practices can no longer be tolerated and if retaliation is the only avenue left to compel the Government of Japan to respond then we should act without further delay. American beef producers deserve no less.●

ON JAMES J. COMERFORD'S PASSING

● Mr. MOYNIHAN. Mr. President, I note with sadness the passing of James J. Comerford, chairman of the New York City St. Patrick's Day parade from 1965 through 1984. Judge Comerford, who served 11 years in New York City's Criminal Court of Special Sessions, ruled over the nomination of parade grand marshals with a firmness, and fairness, not likely to be surpassed. And as Calvin Trillin wrote in the New Yorker of March 21, 1988, "the men chosen by the Judge to fulfill these duties were worthy men all." Mr. President, I ask that Mr. Trillin's essay be printed in the RECORD.

The essay follows:

AMERICAN CHRONICLES

(Democracy in action)

Before there was democracy, there was Judge James J. Comerford. "He was a man of his generation," someone who knew the Judge in his heyday said recently. "Self-assured. Strong-willed. He ruled with an iron hand." The Judge ruled the New York St. Patrick's Day parade, and, like a number of his predecessor, he ruled it well into his eighties. (According to Paul O'Dwyer, the former president of the City Council, parade-committee chairmen have had "an arrangement with the Creator that established longevity.") During the Judge's reign, it is said, the man who was to have the honor of being grand marshal of the parade was not elected but anointed. An election was held, of course. Three delegates from every single organization that had a marching unit in the parade—whether the unit was as grand as the United Irish Counties Association or as simple as a high-school pipe band—had the right to vote for grand marshal, just as every single member of an old-fashioned Democratic clubhouse might have had the right to vote for precinct captain. In both cases, it was customary to present only one candidate. The Judge's choice would be nominated, sometimes by the monsignor who served as chaplain of the parade committee. The Judge would ask if anybody had any other nominations. Nobody would have any other nominations. The Judge's candidate would emerge victorious. Some of the grumblers among the delegates referred to the process as "democracy in action."

They didn't say that in a public meeting. James J. Comerford, Judge of the Criminal Court of New York County, was a man who inspired widespread respect, and almost widespread fear. He was a stalwart of the Roman Catholic Church and the Regular Democratic Party and the Ancient Order of Hibernians—the fraternal organization that presides over the St. Patrick's Day parade. As a young man in Ireland, he had been wounded while fighting for the Irish Republican Army. He assumed the authority on the platform that he had on the bench of the Criminal Court, and, as he got older, he was capable of dealing with some trifling objection from the floor with a direct order: "Shut up and sit down. The people didn't come to hear you talk."

But Judge Comerford was not a dictator. He was a boss. In their chapter on the Irish in "Beyond the Melting Pot," Nathan Glazer and Daniel Patrick Moynihan wrote, "The principle of Boss rule was not tyranny, but order." There was nothing arbitrary about the Judge's decision on who would be grand marshal. This, after all, was the greatest honor the Irish-American community had to offer. The grand marshal would lead the parade up Fifth Avenue. He would stop at St. Patrick's Cathedral to pay his respects and to introduce his aides to the Cardinal. He would, after completing the route, join the mayor and the senators and the other dignitaries on the reviewing stand to take the salute of tens of thousands of his countrymen.

The men chosen by the Judge to fulfill these duties were worthy men all. They were selected in a way that spread the honor around his various constituencies—a police commissioner one year, a labor leader the next year, a loyal soldier of the parade committee the year after that—and they were quietly confirmed in advance by a few men of influence. A worthy candidate need only wait his turn, and, in the view of Glazer and Moynihan, the Irish-Americans' "phenomenally effective capacity for political bureaucracy" was based partly on a belief that waiting one's turn was somewhere between necessary and positively virtuous: "The incredible capacity of the rural Irish to remain celibate, awaiting their turn to inherit the farm, was matched by generations of assistant corporation counsels awaiting that opening on the City Court bench." When people who are active in the parade recall Judge Comerford's reign, the phrase of his they most savor is the one he often used when someone mentioned himself as just the sort of public-spirited benefactor of the Irish-American community who should be named grand marshal. The Judge would fix his eye on the supplicant and say, in a brogue still redolent of County Kilkenny, "It's not your year."

All in all, Judge James J. Comerford was not the kind of man one would expect to see bowled over by a tidal wave of democracy. That's what happened, though, in the early eighties. The Judge was getting on in years by then, and he had also given evidence that he was not omnipotent. When Judge Comerford took over as parade-committee chairman, in 1966, the time was passing when a great Irish institution like the St. Patrick's Day parade had so many "friends downtown" that it could simply brush aside the forces of darkness that constantly conspired against it—the forces that complained about its interfering with business or tying up midweek traffic. But the Judge, as he often reminded his troops, had continued to stave off the enemies of the parade. He had waved away the Protestant mayor who wanted the parade moved to Central Park ("We told him to go to hell") and fought the powerful Fifth Avenue Association to a standstill. Then, in December of 1981, he announced—suddenly and unilaterally—that the 1982 parade would be held not on March 17th but on the nearest Sunday. It was widely assumed that what the Mayor and the merchants had failed to do had been managed by the Cardinal, who had publicly expressed horror at the "outrageous public behavior" seen on March 17th, mainly among suburban teen-agers who had come to regard St. Patrick's Day in New York as a spring rite of falling-down drunkenness.

The response to the Judge's announcement was hardly the sort of ritualistic confirmation he was accustomed to receiving. He had apparently underestimated his people's allegiance to the Saint's Day itself. ("This is a subculture with its own gods," Paul O'Dwyer has said, "and the St. Patrick's Day parade had become a symbol of that subculture.") The troops rebelled. Some organizations informed the Judge that they had no intention of marching past thin crowds on a Sunday, as if they were in some lesser ethnic event put on by the Germans or the Greeks or the Puerto Ricans. Only six days after the original announcement, the Judge was forced to reverse himself. He did so with his usual swagger. ("It's the only day for the New York Irish. Marching on a Sunday is for the villages outside the city.") But, as they say in politics, he had begun to look vulnerable.

Naturally, the issue that actually led to the first democratic election of a grand marshal, a year later, was Northern Ireland. There had never been any doubt about where the parade stood on the question of a united Ireland. Some of the old-timers who served on the parade committee with the Judge dated from the era when many Irish immigrants to this country were diehards who had left Ireland after fighting on the anti-treaty side in the civil war that followed the Irish Rebellion—the war that broke out in 1922 after the new Irish government accepted a treaty that left the six northeastern counties under English control. For many years, the only placard allowed in the New York St. Patrick's Day parade has been "ENGLAND GET OUT OF IRELAND." Still, the Judge and his colleagues had over the years become essentially conservative people. They regarded the parade as nonpolitical, and they didn't want it turned into a forum. In 1983, a time when the I.R.A. hunger strikes had brought emotional involvement in the latest Irish troubles to its peak among Irish-Americans, the Judge's candidate for grand marshal was Al O'Hagan, a prominent Hibernian who works in government liaison for the Brooklyn Union Gas Company. Just about everybody else's candidate, as it turned out, was Michael Flannery, one of the founders of the Irish Northern Aid Committee.

In the words of the Irish Echo, the largest of New York's four Irish tabloids, Mike Flannery is "probably the most admired man in the Irish-American community." A contemporary of the Judge's, Flannery had fought as a lad against both the English and the pro-treaty government, and had found nothing in the events of the next sixty or seventy years to change his views on the issues involved. Just a couple of months before the voting for grand marshal, he had been among five members of the Irish Northern Aid Committee, or Noraid, tried for running guns to the Provisional I.R.A. (Attorneys presented any number of persuasive arguments in defense, not including a denial that the defendants had been running guns to the I.R.A., and all five Noraid men were acquitted.) A soft-spoken, self-effacing man who was retired from an office job at Metropolitan Life, Flannery had devoted his life to Irish affairs—not just nationalism but the Tipperary Men's Association and the Irish Institute and the United Irish Counties Association and, particularly, the Gaelic Athletic Association. He was, of course, a member of the Ancient Order of Hibernians, and thus fulfilled the single official prerequisite for being elected grand marshal of the St. Patrick's Day parade. In fact, he had declined the Judge's offer of the grand marshalship a couple of times before. This time, he said he wanted it—for the Cause.

Al O'Hagan showed himself to be a man who can recognize an occasion for graceful withdrawal when he sees one, and by the night of the election one of Flannery's supporters was Judge James J. Comerford. One candidate, a construction man from Brooklyn, remained in the race against Flannery, and was defeated 299 to 5. The election of Flannery touched off a great furor. The government of Ireland, which has taken the position that the people Flannery seeks to arm are what the Irish Prime Minister at the time called a "band of murderers," withdrew its participation from the parade, and so did such prominent Irish-American political figures as Senator Daniel Patrick Moynihan and former Governor Hugh Carey. The Cardinal did not emerge from St. Patrick's Cathedral for the traditional greeting of the parade until Flannery had passed. Noraid supporters pointed to Flannery's victory as an indication that in the future nobody who was not an outspoken Irish nationalist could be elected grand marshal. What connoisseurs of parade politics saw in Mike Flannery's election, though, was that the days of anointing the grand marshal were over. Judge James J. Comerford, the last of the great bosses, retired from the chairmanship the following year.

In 1984, it was apparent that everything had changed. A number of candidates were nominated—none of them by the parade chaplain. The year after that, the grand marshalship was sought by a woman—Dorothy Hayden Cudahy, who was widely known in the community as the hostess of "Irish Memories," a radio show she had inherited from her father in the forties. There had certainly never been a woman grand marshal of the St. Patrick's Day parade; it had been only two years since women were first allowed on the dais at the grand marshal's installation ceremony, despite the fact that the honor of sitting on the dais was so broadly distributed that, in the words of one installation regular, "they had just about everyone up there but the waiters." Mrs. Cudahy's nomination was rejected by the new chairman, Frank Beirne, a man who had served many years under Judge Comerford. Beirne said that she was ineligible. Although she was a member of the Ladies Auxiliary of a Hibernian chapter in Queens, the rules clearly stated that the grand marshal must be a member of the Ancient Order of Hibernians. In other words, not quite everything had changed.

The reason that Mike Flannery had thought the Cause could be served by his leading the parade on St. Patrick's Day was summed up by one of his supporters this way: "It's the only day of the year we can get the world to pay attention to the Irish." Before Flannery, the people in charge had treated the grand-marshal election not as a way to put forward someone who symbolized Irish-American priorities but as a way to reward someone who had served the Irish-American community through its duly constituted organizations. There has been a governor here and a police commissioner there, but for the most part the grand marshals of the St. Patrick's Day parade have been people whose distinction was absolutely clear only to someone who attended the same meetings they attended. That in itself is a symbol of Irish-American priorities—particularly when compared with the approach taken by the Italians, whose Columbus Day parade is the only other ethnic event that can command Fifth Avenue on a business day. In selecting their grand marshals, the Italians go straight for glory, no questions asked. In 1979, when the grand marshal of the St. Patrick's Day parade was John Sweeney, then the president of a union local that represented building cleaners, the grand marshal of the Columbus Day parade was Frank Sinatra. In 1980, the Irish had William Burke, a Transit Authority employee who had been executive secretary of the parade committee for many years; the Italians had Luciano Pavarotti. The Columbus Day parade is regularly led up Fifth Avenue by such celebrated Italian-Americans as Yogi Berra and Lee Iacocca. In 1983, the year Judge Comerford had planned to bestow the St. Patrick's Day honor on Al O'Hagan, of the Brooklyn Union Gas Company, the Italians selected Sophia Loren.

In a grand-marshal-nominating speech this year, Judge John Collins, of the Bronx Criminal Court, said that in the old days the message the Irish meant to send to the establishment on St. Patrick's Day was "Despite your religious and racial prejudice toward us, this is what we Irish have accomplished: We are good citizens and proud of it." That was accompanied, of course, by a fear that people still afflicted with such prejudice would never think of the Irish as good citizens, and would be looking for any excuse to label any St. Patrick's Day event an Irish brawl. Traditionally, the St. Patrick's Day parade committee went further than the sponsors of other ethnic parades in maintaining discipline among the marchers. when the Cardinal's criticism brought home the fact that St. Patrick's Day had come to be associated with, of all things, rowdy drunks, the Irish tightened whatever laxity had crept into the line of march and used the muscle they still had in the city to insist on a police crackdown. Teen-agers who arrived in the city that March 17th with their usual St. Patrick's Day beer supply had it confiscated before they could get out of the train station.

But even a March 17th of unprecedented decorum wouldn't pass without some imprecations against the Irish. A lot of New Yorkers who think of themselves as people of unshakable tolerance take a sort of easement when it comes to the Irish, and their nastiest opinions tend to rise to the surface on St. Partick's Day. "St. Patrick's Day in New York!" a character in William Styron's "Set This House on Fire" says. "Christalmighty! A whole city at the mercy of a bunch of garbage collectors and bartenders." The New York St. Partick's Day parade has been held in one form or another for two hundred years—it's an American invention; in Ireland, March 17th is observed as a non-festive holy day of obligation—and in that time it has grown to a size that almost guarantees a certain amount of irritation. It's not unusual to have a million people on the streets as spectators, and there often seem to be at least a million others in the bars. The marchers themselves can equal the population of a middle-sized city—so many of them that it can take six hours for the parade to pass a single point. "On a sunny day, we'll march as many as a hundred and twenty thousand people," someone long connected with the parade said recently. "We think it's the biggest parade in the world. Someone said that the May Day parade in Moscow might be bigger, but, of course, we don't march tanks." Nobody blames the Italians or the Greeks for having a parade, but venom seems to rise at the sight of so many Irishmen marching up Fifth Avenue, wearing their County Association sashes and playing their pipes and carrying their banners about the English oppressors. In a country that has assimilated so many Irish for so long—a country where one out of five citizens has some Irish ancestry, a country where people with names like Robert McNamara and Ronald Reagan and Sandra Day O'Connor are thought of as mainstream Americans, a country where most people with Irish names think of a strong Republican as somebody like Robert Dole rather than somebody like Eamon de Valera—there are those who find it irritating that some people remain so willfully, maddeningly Irish.

The reason that a lot of them seem so Irish, as it happens, is that they're from Ireland. Although most Americans think of Irish immigration in connection with the potato famine of the eighteen-fifties, the last great wave of Irish migration to the United States was in the nineteen-fifties—from the end of the Second World War to the immigration-law changes in the sixties that ended favored treatment for the countries of Northern Europe and the British Isles. The marchers on Fifth Avenue every March 17 obviously include a lot of native-born Americans whose Irishness comes out once a year. Irish burghers join the Ancient Order of Hibernians—which until recently required its members to be "practicing Catholics"—the way their neighbors might join the Masons or the Odd Fellows. After the Second World War, Emerald Societies grew up in institutions like the Police Department, more or less as a way of looking after Irish interests—before the war, an organization of Irish policemen in New York might have resembled a committee of the whole—and an Irish policeman might join the Department's Emerald Society as routinely as an Italian policeman would join the Columbian Society. But the people active in the County Kilkenny Association, the people who organize the Irish football league for the Gaelic Athletic Association, the people who stand for office in the Hibernian chapters, the people who run organizations like the St. Patrick's Day parade committee tend to be immigrants or sons and daughters of immigrants. It's axiomatic among Irish-Americans that most of the third generation disappears into non-ethnic America. The parade committee has simply passed from the hands of the twenties immigrants to the fifties immigrants. Frank Beirne, the retired bus dispatcher who now serves as chairman of the parade committee, is twenty-five years Judge Comerford's junior, but his brogue is slightly thicker.

"Just what is the Ladies Auxiliary part of—B'nai B'rith or the Daughters of Italy?" the Irish Echo wrote in 1985 in response to Beirne's ruling that Dorothy Hayden Cudahy was not a bona-fide member of the Ancient Order of Hibernians. The issue was put to rest at the national convention of the Hibernians: the delegates voted to change the auxiliaries into A.O.H. chapters for women. The nomination of Mrs. Cudahy for grand marshal was accepted in 1986. By that time, the election process would have been unrecognizable to someone accustomed to Judge Comerford's democracy in action. Without the Judge's guiding hand, it turned out, all sorts of people had ideas about who should be grand marshal of the St. Patrick's Day parade. In 1984, the year after the Flannery election swept away the boss system, some people from the longshoremen's union had realized that the grand marshalship was there for the taking by any group that could put together an effective campaign for a respected candidate—even a candidate who might not have attended enough officer installations and Gaelic festivals to impress Judge Comerford. The candidate they had in mind, not surprisingly, was their boss, Teddy Gleason, then the president of the International Longshoremen's Association.

Putting together a campaign to capture a purely honorary office has problems that might seem daunting even to people acknowledged to have a genius for politics. It's not that there's a problem figuring out where most of the votes are. The Hibernians, with marching units for chapters all over the metropolitan area, have more delegates than any other organization, and they are also considered more likely to show up on election night. Emerald Societies, which have now spread from institutions like the Police Department to institutions like the Transit Authority and the phone company and Consolidated Edison, have a lot of delegates, and so do the various county associations. Of course, a delegate might belong to two or three different organizations and also feel a strong association with something outside any organization at all—the Cause, for instance, or organized labor. Even assuming institutional loyalty, why should the delegates from, say, the Emerald Society of the United States Customs Service or a Hibernian chapter in Yonkers—not to speak of the marching band of Cardinal Hayes High School—cast their votes for one candidate rather than another? A grand-marshal candidate, after all, has no patronage to dispense; he does't even choose the aides who march with him at the head of the parade. He can hardly claim that on the strength of his record he is likely to do the job better than his opponents, since the job consists of walking up Fifth Avenue once.

As the longshoremen demonstrated, though, endorsements can be won. Pledges can be gathered. There are reminders of old loyalties and promises of future alliances. There are connections from counties like Nassau and counties like Tipperary. An Emerald Society may back a candidate because it has been asked to by an influential Emerald, or because the candidate came out in the snow for its installation of officers, or because the candidate's father was a cop. The people backing Teddy Gleason in 1984 began to round up delegates as they might for a Democratic National Convention. They ran full-page ads in the Irish Echo listing endorsements for Hibernian chapters and county associations and Emerald Societies and more labor organizations than anyone thought existed. They even leaked some endorsements to the Daily News. They won easily. The following year, the hard-liners on Northern Ireland were determined to elect one of the people who had lost to Gleason-Peter King, a Queens politican with strong ties to the I.R.A. King's ads in 1984 had said his election would "send the right message." He had endorsements not just for Mike Flannery but from the family of the martyred hunger striker Bobby Sands. In 1985, he ran a high-powered campaign—it was said he used professional pollsters—and he won.

By 1986, even some of the people who had grumbled about Judge Comerford's ways were beginning to wonder whether democracy might have its limitations as a method of selecting a grand marshal. Was it really a good idea for candidates to launch advertising campaigns for what was supposed to be an honor bestowed by the community? Was it healthy for the parade to be used by people—the nationalist hard-liners, for instance—who had an agenda of their own? Should the delegates have to choose among half a dozen candidates? According to Flannery, "The present chairman said to me, 'Well, Mike, you started something, all right. There's people now trying to get themselves nominated just to get their name in the paper.' "

And where did this sort of free-for-all leave someone like Al O'Hagan? The man who had withdrawn in the face of the Flannery tidal wave in 1983—the man known to some as Mr. Hibernian—had finished second to both Gleason and King. Jack Irwin, a former New York state president of the A.O.H., became the leader of a campaign to make 1986, the hundred-and-fiftieth anniversary of the Hibernians, Al O'Hagan's year. It was a quieter campaign in 1986—or, to put it another way, a more orderly campaign. No one objected when the chairman of the parade committee let it be known that advertisements supporting candidates for the office of grand marshal should cease. It had been assumed that O'Hagan's principal competition would come from William Burke, the senior vice-president of the Bank of Ireland's New York office (and no relation to the 1980 grand marshal), who had entered the 1985 race late with an expensive flurry of ads. Burke agreed to step aside for O'Hagan. All sorts of influential people—nationalists, traditional parade-committee people, and particularly Hibernians—seemed to agree in advance that Al O'Hagan should be elected at last. He was. He got a hundred and eighty-one votes—fifty-six more than his nearest rival, Dorothy Hayden Cudahy. To outsiders, 1986 was noted as the first year that women ran for grand marshal—Mary Holt Moore, a women long active in both Irish cultural affairs and the Cause, was also nominated—but to people deeply involved in the politics of the Irish-American subculture it may have been more noteworthy as the year that the revisionists began to creep back into the temple.

"I do not want to be pushy, but there is no reason to wait," Dorothy Hayden Cudahy had said in 1985 when Frank Beirne suggested that she not attempt to be nominated while the old rules were in effect. No reason to wait! That was not the sort of talk the officers of the parade committee were accustomed to hearing. They were not reformers, after all; they had all served for years under Judge Comerford, waiting their turns to move up in the parade-committee hierarchy. From the beginning, they seemed unhappy with Mrs. Cudahy's candidacy. There were any number of theories to account for their unhappiness. It was said that they thought Mrs. Cudahy's son—Sean Cudahy, a federal Department of Labor employee, who campaigned relentlessly for his mother—was being too pushy. It was said that they blamed Mrs. Cudahy for forcing the issue upon them. It was said that some of them simply didn't want a woman to be grand marshal of the St. Patrick's Day parade. It was said that they resented being portrayed in the press as the sort of people who simply didn't want a woman to be grand marshal of the St. Patrick's Day parade. For whatever reason, the feeling lingered long after the 1985 nomination was rejected that the parade-committee officers were not on Mrs. Cudahy's side.

The press was very much on her side—not just the Irish press but the Daily News, which has always had a large Irish readership, and even the Times. Feature stories displayed distinctly unthreatening-looking pictures of her sitting in the living room of her bungalow in Queens—an ample, smiling grandmother in her sixties—and carried headlines like "Can a Woman Lead Them?" The Echo, which does not back specific candidates, took a strong editorial stand for electing a woman, and the Times, taking its first fling at advising its readership in the election for grand marshal of the St. Patrick's Day parade, more or less endorsed Dorothy Hayden Cudahy. The news stories seemed to show her making steady progress. In 1987, the year after she finished fifty-six votes behind Al O'Hagan, Mrs. Cudahy finished only twenty votes behind John Lawe, the leader of the Transport Workers Union. As this year's election approached, it seemed clear that if she made a similar improvement in her position she would be the first woman to lead the St. Patrick's Day parade.

That may have been how it looked in the news stories, but that's not how it looked to the people the Echo has referred to as "the boys in the know." To the boys in the know, Mrs. Cuday's success in narrowing the margin of victory in the two previous elections may have seemed less significant than the fact that both winners—Al O'Hagan, a man who works for a utility company, and John Lawe, a labor leader—had been nominated by the same person and had received almost precisely the same number of votes. The nominator with the magic touch was Jack Irwin, the Hibernian leader who had used the hundred-and-fiftieth anniversary of the A.O.H. to gather the forces for O'Hagan. It appeared that Irwin and a few other people had, in effect, taken on the role of keeping order through an old device of the Judge's—passing around the grand marshalship to one constituency at a time. They had backed a strong Hibernian one year, a labor leader the next year, and, as it worked out for 1988, a businessman the year after that. Bill Burke, of the Bank of Ireland, had stepped aside again. To put it in terms that would be appreciated by Judge Comerford, who has now withdrawn from the fray to the St. Patrick's Home for the Aged and Infirm, in the Bronx, Bill Burke had waited his turn. In 1988, he would be the candidate of an alliance that included Al O'Hagan and Jim McNamara, who is in charge of public relations for both the parade committee and the International Longshoremen's Association. The nominating speech would be delivered by Jack Irwin.

Publicly, the election campaign was not easy to discern. In the world of Irish-American organizations—the Emerald Society dinner dances and the Gaelic Athletic Association award ceremonies and the benefits for families down on their luck—both candidates had, in a way, been campaigning for decades simply by showing up. Like many people who vote in the election for grand marshal, Dorothy Hayden Cudahy has had a life divided between the routine of a city bureaucracy and the small glories of the Irish-American subculture. For twenty-two years, her days belonged to the New York City Department of Transportation—she began as a meter maid—and her evenings were devoted to the Irish Institute or the County Kilkenny Association or Division 14, Ladies A.O.H. of Queens County. Bill Burke hasn't been to as many dinner dances and installations and board meetings, and Irish festivals as Mrs. Cudahy, but that's only because he's nearly twenty years younger. She is president of the County Kilkenny Association, and he is president of the County Sligo Association. She has been the Grand Council of Emerald Societies Woman of the Year, and he has been the installing officer of the United Irish Counties. Both of them have strong connections to the mother country. She is the daughter of James Hayden, a County Kilkenny man who made a name for himself on the Irish dance-hall circuit around New York and eventually became the host of the "Irish Memories" show on WEVD—a radio station so receptive to New York's ethnic subcultures that it carries a weekly half hour in Albanian. Burke came here from Tubbercurry, County Sligo, twenty-seven years ago, and his accent is still so thick that when he refers to Mrs. Cudahy by her first name it's easy to get the impression that he's talking about some third candidate named Daugherty.

Issues didn't surface. Although there were undoubtedly delegates who would vote for or against Mrs. Cudahy on the basis of her sex, people were not publicly organized that way. Those delegates who believed that the only question in the grand-marshal election—or in just about any other election, for that matter—was its effect on "the English colonial rule in Ireland" were for Mrs. Cudahy, partly because she had participated in demonstrations for the Cause and partly because Burke's connection with the Bank of Ireland gave him some guilt by association with the government of the Republic of Ireland. ("The choice of a Grand Marshal for New York's St. Patrick's Day parade is always carefully monitored by the British and Dublin," the Irish People, a New York tabloid associated with Noraid, said in an editorial supporting Mrs. Cudahy. "Her election would be perceived as a defeat for the British and Free State, as well as a victory for the victims of British rule.") But Mrs. Cudahy as not really been identified strongly enough with the Cause to bring out its forces, and even among St. Patrick's Day paraders the Northern Ireland issue no longer carries the emotional impact it had around the time of Flannery's election. Although a speaker can still draw applause with a line about a united Ireland, the current American immigration law's effect on Irish immigration may now be a bigger issue than the Cause. Flannery favored Mrs. Cudahy partly because he believed that electing a woman grand marshal was a human-rights issue that should have the support of people concerned with human rights in Ireland, but he also thought Burke was young enough to wait for another year. "Dorothy probably wouldn't like me to say this," Flannery, who is himself eighty-seven, told a visitor a few weeks before the election. "But she's quite a good age." Burke had used the Bank of Ireland's promotion budget so lavishly in support of Irish-American activities—the Gaelic festival here, the Hibernian chapter's project there—that some people grumbled that he was trying to "buy the election" with the bank's money. But that didn't become an issue. It had never occurred to anyone, after all, that the political bosses who used to send around turkeys on Christmas paid for them out of their own pockets.

"It's one delegate at a time," Sean Cudahy said as the election grew near. "With us, it's more of a grass-roots campaign." Mrs. Cudahy was thought to have considerable strength in her home borough of Queens and in the county associations beyond just Kilkenny and Clare, where her husband is the president. Apparently, some of the older members of the county associations are particularly attached to the sort of music played on "Irish Memories"—songs like "My Lovely Rose of Clare" and "The Stone Outside Dan Murphy's Door." On the Burke side, Irwin assigned supervisory responsibility for each of the largest voting blocs, reserving the Hibernians for himself. Burke worked on the county associations, and the Emeralds were approached by Tom Connaughton, an old friend of Burke's who's the president of the Grand Council of United Emerald Societies. A week before the election, Sean Cudahy seemed cautiously optimistic. It was close, he said, but "I think we've turned the corner." Around the same time, Jack Irwin and Bill Burke sat down at the Bank of Ireland to do a count. Going down the list unit by unit, they figures that, counting conservatively, they were a hundred votes ahead. Irwin said, "I honestly think that if we lose now it's because we didn't turn our people out."

The election for the grand marshal of the St. Patrick's Day parade is normally held at the Sheraton Centre Hotel, on the northern edge of the theatre district, and a lot of the strategy sessions are held across the street at a restaurant called Rosie O'Grady's. This year, the votes were cast on a cold Tuesday night in late January. The delegates, crowded into one of the Sheraton's meeting rooms, were mostly middle-aged or older. The Hibernians presumably have the same problem other fraternal organizations have these days in attracting young men—problems that may be compounded by the close association with the Church. Most of the county associations, which were founded basically to assist immigrants, are now shrinking banks of older people. Because of some dismal economic times in Ireland, there have been a good number of immigrants in the past decade, but almost all of them are undocumented; their interest in joining Irish organizations is limited by, among other factors, their disinclination to put their names and addresses on a mailing list.

Before the nomination speeches, Frank Beirne asked Mary Holt Moore—a commanding-looking gray-haired woman who tends to give her speeches partly in Gaelic—to offer a tribute to Sean MacBride, a widely respected jurist and human-rights activist, who had died the previous week in Dublin. Then Jack Irwin placed the name of Bill Burke in nomination, emphasizing Burke's connection with the Hibernians and the Emerald Societies and the county associations and the Gaelic Athletic Association. "Through Bill Burke's encouragement, the Bank of Ireland has offered financial support to scores of Irish-American organizations through the years," Irwin reminded the delegates. The nomination was seconded by, among other people, Al O'Hagan.

In a nominating speech for Dorothy Hayden Cudahy, Judge John Collins said, "Let this be the year for the first woman grand marshal." These days, Collins said, the grand marshal of the St. Patrick's Day parade had an opportunity to send a message beyond simply the traditional display of good citizenship. Through television and through the press, as well as on Fifth Avenue, the grand marshal could "lead a crusade for the minds and hearts of all New Yorkers and all Americans and some in Ireland as well. This parade must stand squarely for the principles of a free, united, thirty-two-county Ireland and a fair U.S. immigration law for the Irish." The chairman of the election committee explained the procedure by which delegates would be called, would mark their ballots, and would drop them into a pasteboard box that had been placed in front of the speakers' platform. It was announced that Frank Beirne would temporarily withhold the vote he had as a parade-committee officer, just in case a tie had to be broken. Then the balloting began.

It took an hour and a half. The delegates lined up in the aisles, waiting to cast their ballots. Two or three election-committee workers called off the names of the various parade units. Mrs. Cudahy bustled around trying to shore up her commitments. ("Don't change your mind.") Jack Irwin sat in the back of the room during much of the voting. Irwin is an affable, businesslike man with snow-white hair—a former child actor who now works for Merrill Lynch. He said he was confident of his count. After the couple of elections that he thinks of as "just chaos," the process is once again orderly enough to permit careful counting. It's true that the grand marshal is no longer anointed but elected—and by secret ballot. Promises can be broken. But Irwin couldn't see any developments that might have altered the picture since he and Burke had done their count a week or so before. There had been a startling development on the actual day of the voting: Sean Cudahy had twice suggested to Bill Burke that he withdraw in Mrs. Cudahy's favor, permitting the first woman grand marshal to be elected, and assuring himself the job in 1989. But that had been dismissed by the Burke forces as another example of Sean Cudahy's being overaggressive in his mother's behalf. Irwin hadn't left the turnout of Burke delegates totally to chance. Some of O'Hagan's loyalists from Brooklyn had been delivered by chartered buses.

While the ballots were being counted, reporters and television crews drifted into the room and collected in front of the platform. Then the chairman of the election committee announced the results. Bill Burke had won by more than a hundred and thirty votes. Mrs. Cudahy made a gracious little concession speech, which ended with her hopes for March 17th: "I hope the sun shines all day on Bill Burke." When Burke took the microphone, he said, "It was a tough race. We both campaigned hard for this. That's the democratic way." Later, the reporters who crowded around Burke asked him how he explained the results of the election, and he said, "I laid back for two years." Asked the same question, Frank Beirne said more or less the same thing. The reporters, apparently lacking a well-developed appreciation of the art of waiting your turn, seemed puzzled by the notion of lying back for two years as an effective campaign strategy.

Burke was asked a lot of questions about when there would be a woman grand marshall. He said that the next election would almost certainly be fought among three women, and that he had already committed himself to campaigning for one of them. Although he wouldn't say which one, he did mention Mary Holt Moore as someone who was expected to run. Burke's certainty about an all-female race was a way of saying that those who had restored some order to the process were planning to see to it that a woman—a representative of one more constituency—was elected in 1989. There are people who think that having all women candidates would smack of ladies' night at the lodge hall. There are people who think that some of the parade-committee officers will hold out against a woman as long as possible. But the boys in the know seem to think that if the votes are lined up even the most conservative parade-committee officers will come around. They couldn't have served the Judge for all those years, after all, without absorbing one of the basic lessons of orderly rule: in the long run, the important question is not who the officeholder is but who appears to decide who the officeholder is. "Next year, without a shadow of a doubt, there'll be a woman grand marshal," Burke said to a radio interviewer. What he was telling reporters, in effect, was that women would have their turn. This just hadn't been their year. (Calvin Trillin)●

THE OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

● Mr. CHAFEE. Mr. President, today I am proud to join my colleagues Senator D'AMATO and Senator DECONCINI in sponsoring S. 2205, the Omnibus Anti-Drug Abuse Act of 1988. The prevalence of drug abuse in this Nation is a threat to us all. We lose precious human resources, our crime rate skyrockets, and our productivity plummets, all as a result of the multibillion dollar business of drugs.

In my home State of Rhode Island, we spend approximately $9 million a year on substance abuse treatment and prevention; $1.89 million of that is Federal money, distributed as a block grant through the Alcohol, Drug Abuse and Mental Health block grant [ADAMH]. Four million dollars is funded directly from the State, and an additional $3 million includes the cost of the Rhode Island Detoxification Unit. Unfortunately, this $9 million does not include the incalculable cost of drug-related crimes that claim hundreds of victims every year in my State.

The cost of drug abuse in my State is not limited to dollars and cents. The cost of human capital is also extraordinary. Two thousand two hundred and twelve Rhode Islanders are currently receiving treatment for drug abuse. It is estimated that at least three times that number need services of this kind. That means that there are over 5,000 people that need help with a drug abuse problem, but aren't getting it.

As an effort to address this problem, in my home State and nationwide, 2 years ago the Congress declared a war on drugs and passed the $1.7 billion Anti-Drug Abuse Act of 1986. As a strong supporter of this measure, I was delighted to see it signed into law by President Reagan on October 27, 1986. The act constitutes a comprehensive approach to the drug problem, including provisions for drug enforcement both here in the United States and abroad.

But we have only begun to fight.

When thousands of Rhode Islanders, and millions of Americans continue to become victims of drugs, whether through their use, or actions taken by others while under their influence, it is clear we have many more battles to fight in this war. And fight we will.

The Omnibus Anti-Drug Abuse Act of 1988 provides the focus and the funding to continue our war against drugs with the momentum and success with which we started it. This $2.4 billion measure is expected to pay for itself by generating $3.3 billion through Internal Revenue tax collection efforts and accelerated collection of Government debt.

The act attacks the drug problem on four fronts: supply and demand, and domestic and foreign markets.

In our battle against the supply of drugs, this act steps up funding for drug enforcement and adds 800 new Coast Guard positions, 600 new Customs positions, 500 new Border Patrol positions, 224 new Drug Enforcement Agency positions, 400 new FBI positions and hundreds more positions in the Marshals Services, the Immigration and Naturalization Service, and State and local narcotic control agencies.

The act also provides for construction of more prison facilities, authorizes deportation for violent criminal aliens, and provides funds for drug detection development.

To attack the demand for drugs in this country, this act provides an additional $485 million over the President's budget next year for alcohol and drug abuse block grants, including, for the first time, authority to spend up to 40 percent of these grants for construction and renovation of existing alcohol and drug treatment facilities.

The act also increases the President's drug education effort by $50 million in 1989 and tightens controls so that the most effective and innovative programs are funded and closely monitored.

On the domestic front, the act continues to follow through on the 1986 act's focus on State and local law enforcement agencies—including providing for $250 million next year in narcotics control block grants.

Finally, on the foreign front, this act establishes an International Special Operations Drug Eradication Squadron within the State Department to target source countries. The act also provides $600 million over 3 years for use as economic incentives to source countries to eradicate 40 percent of their drug crop. This money will be distributed by AID (Agency for International Development) and compliance verified by the DEA (Drug Enforcement Agency).

All in all this bill is a well-constructed, economically feasible, and desperately needed piece of legislation. I do not intend to let the war on drugs be lost, especially considering the cost of such defeat. We need to make it quite clear to all Americans that we are committed to the war on drugs, and we are prepared to do battle.●

VIGIL ON SOVIET JEWRY

● Mr. PRYOR. Mr. President, I rise today as a participant in the congressional call to conscience vigil on behalf of Soviet Jewry. I am pleased to add my voice to this important appeal.

Current Soviet policies make it increasingly difficult for people to emigrate. Applicants are now required to be invited by a first degree relative—a parent, child or sibling—in the country to which they wish to emigrate. Applicants face additional obstacles if they ever had access to state secrets through their work or if they have served in the army and were exposed to classified information. Soviet officials have also denied visas to applicants who are accused of owing money to Soviet relatives.

I would to bring to your attention the plight of Arkady Ainvarg. He has been refused the right to emigrate from the Soviet Union for over 10 years. In 1978, Mr. Ainvarg first applied to emigrate with his wife, Veta, his daughter, Anna, his son, Ilya, and his mother, Enta. The application for the family was denied. The Soviet officials stated that the application was denied because Mr. Ainvarg had knowledge of state secrets.

The Ainvarg family was then denied permission to leave twice a year for 6 years. Finally, in 1984, Mr. Ainvarg's family was granted the right to emigrate, however, Mr. Ainvarg was not. Again Mr. Ainvarg was refused because of his alleged knowledge of state secrets. The family was put in the position of having to choose between staying together or being indefinitely divided. They decided that Mr. Ainvarg would stay behind in the Soviet Union to allow his wife, daughter, son, and mother the opportunity to emigrate to Israel, where they could establish a new life free from persecution.

For 4 years now, Mr. Ainvarg, has been living alone in the Soviet Union, deprived of his family. Further, he endures the life of second-class citizen. Immediately after his first application to emigrate in 1978, Mr. Ainvarg, a Ph.D, engineer, was demoted to the position of junior engineer. As a result, he must work far below his capability with no hope of advancement. This situation, combined with the day-to-day stigma and harassment that every refusnik faces in the Soviet Union, is untenable.

Mr. President, the last time Mr. Ainvarg was refused, he was told by Soviet authorities that his application will not be considered again until 1990. This is simply unacceptable.

Mr. President, the time has come for the Soviet Union to allow Mr. Ainvarg to emigrate and join his family in Israel. Mr. Ainvarg has waited and suffered long enough. I call on the Soviet Union to let Mr. Ainvarg emigrate, and join his family.●

BUDGET AND ECONOMIC DEVELOPMENT PROGRAMS

● Mr. ROCKEFELLER. Mr. President, I am pleased to know that the Senate Budget Committee was able to approve yesterday a budget resolution for fiscal year 1989 with bipartisan support. This helps to ensure that the remainder of the budget process awaiting us will be constructive and consensus-oriented.

All of us are aware of the tight constraints that have been imposed by last year's deficit summit agreement. Tough choices have to be made to meet the fiscal year 1989 deficit target of $136 billion in compliance with the "rules" on revenues, entitlements, and discretionary spending embodied in that agreement. The Budget Committee acted accordingly and made the effort to continue spreading the burden of deficit reduction evenly and fairly.

Today, I would like to highlight my concerns about the treatment of community and economic development programs in the budget process thus far. I believe it is essential to bring an end to the pattern started by President Reagan of targeting these programs and forcing them to bear the brunt of budget cuts and deficit reduction. In my view, we are jeopardizing future jobs and growth if we allow another round of cuts to be made in these programs.

When the President's budget request for fiscal year 1989 arrived, it had an all-too familiar ring to it. This year, as in each of the previous 7 years, the Reagan administration has called for severe cuts in funds that go to States for highways, mass transit, sewage treatment plants, and a series of community and economic development programs. I made my opposition to those cuts known as soon as Congress received the administration budget, and I wish to say today that I continue to believe that we should not reduce funding for these programs any further.

Once again, we heard from the President that he wants to eliminate the Appalachian Regional Commission, the Economic Development Administration, and the Urban Development Action Grant Program. In his budget, he called for a 14-percent cut in the Community Development Block Grant Program and a 19-percent cut in the Community Services Block Grant Program.

Mr. President, these programs are vital to the economic development and to jobs in many, many of our communities. In my State of West Virginia, a grant from the Appalachian Regional Commission for a road connected to an industrial park or a grant from EDA for a water line extension has been the key factor in convincing a manufacturing firm to locate in a community. Without the Community Development Block Grant Program, there are many communities in my State that would not have drinkable water.

With many highways still unfinished, even the 5.7-percent reduction proposed by the administration in the highway program will be harmful and force delays or cancellations of critical repairs and renovations. A major report recently released on the Nation's infrastructure gave a C+ rating to our highway system. We must not allow cuts that will allow our roads to deteriorate further. In order to generate more economic growth and jobs in distressed areas, highways must be completed and maintained.

I have been especially disturbed about the substantial cut proposed by the President in EPA's sewage treatment program. It violates an agreement once made with the administration that seems to have been long forgotten by the White House. At a meeting with President Reagan early in 1982, the Nation's Governors accepted drastic cuts and the phasing out of Federal involvement in sewage treatment construction. In return, however, the President agreed then to support Federal grants for sewage treatment until all those projects already in the pipeline were completed and to enable communities to meet Federal water quality standards.

Instead, the President's budget for fiscal year 1989 included a request for yet another major cut—this time, a 35-percent cut—in EPA's program, far below the levels authorized by Congress. To add further insult, the Environmental Protection Agency advised State governments in January that Federal money counted on to fund permanent revolving loans for sewage treatment projects would be given in the form of letters of credit rather than cash. Using letters of credit will stifle many States' plans to raise substantial amounts of money they need to comply with the Clean Water Act's important but strict water quality standards. Letters of credit, as opposed to cash, can't be used to issue tax exempt bonds—and these bonds are the only way many communities have any hope of financing water treatment projects. According to the National League of Cities, this letter of credit system will double the cost of the construction of the remaining secondary treatment systems.

Like many other small rural States, West Virginia faces severe hardship in trying to comply with the Clean Water Act. In my State alone, there are 59 communities that will not be in compliance with the Clean Water Act as of July 1, 1988. Because they don't have the financial means, they do not have secondary treatment facilities in operation or under construction. If Congress allows a further reduction in EPA's wastewater treatment program, the situation will only get worse. West Virginia communities literally face bankruptcy for noncompliance as a result of fines that will be slapped on them. In recent meetings with mayors from my State, I was told some of them may resign rather than be subject to court action. Others have told me that the towns and cities affected may turn in their charters and cease to be incorporated.

Over the past month, I have received numerous letters from localities detailing this critical situation. For example, the city of Welch will have to come up with twice the money available in their budget to build a water treatment system that would be in compliance with Clean Water Act standards. The town of Bramwell would have to charge customers an average of $53 per month to undergo the necessary construction—the people of Bramwell simply cannot afford this amount. The list of stories like this goes on and on.

West Virginians have a right to wonder about the promises made to them about Federal assistance. Congress must live up to the agreements that have been formed over the years with our States and communities—agreements, in some cases, that President Reagan himself was a partner to, along with our Governors and mayors.

Too many times the President hasn't kept his part of the bargain. I have just spelled out the example related to EPA's water treatment program. Another example is one that has had a tremendous impact on my State. I can still remember clearly the administration's promise to the States that are part of the Appalachian Regional Commission. As one of the Governors then of the 13 States, I reluctantly agreed to a plan proposed by the administration that essentially called for finish up funding for the ARC—we were told the President would back adequate funding to complete the Appalachian corridor road system, and we in turn would accept a phasing out of the ARC upon completion of the corridors. Well, instead of supporting funding sufficient to achieve this goal, the administration has year after year fought for cuts and the immediate abolishment of the ARC. Thus, we have been forced to hobble along and fall far behind the goal of setting up a transportation system in Appalachia that would bring countless jobs and economic benefits to the people of this distressed region. It is time to speed up the completion of these roads. The economic future of West Virginia and neighboring States is at stake.

Mr. President, the members of the Senate Budget Committee represent States and communities facing many of the same difficulties, challenges, and needs confronting West Virginia. It obviously was not easy for them to come up with a budget for fiscal year 1989 that adheres to the mandates embodied in the deficit summit agreement. However, they clearly listened to the views of this Senator and many others who urged them to restore funding for community development, water quality, and related programs.

Instead of agreeing to eliminate programs such as EDA and the Appalachian Regional Commission, the Budget Committee's resolution approved a level of funding for community and regional development programs that could limit cuts to less than 6 percent. Rather than accepting the President's proposed cut of over $1 billion for EPA construction grants, the resolution provides for enough funding to avoid any cut. Though all these programs would not escape harm under the budget resolution, the blueprint approved by the Budget Committee is a significant improvement over the President's proposal.

Mr. President, for those of us who care about these programs, we have more work ahead. I will continue trying to persuade my colleagues and the administration of the need to provide more support in these critical areas. My hope is that we can find ways to bring about even better results than what was adopted by the Budget Committee yesterday. I recognize that the deficit reduction targets constrain our ability to restore funds beyond the levels of the budget resolution just approved, but I hope to use every opportunity to make changes and shift priorities during the remaining steps of the process to improve the budget.

Mr. President, we cannot continue to slash funds in programs that provide the basic tools for generating jobs and economic growth in America. The Federal Government must be partner in reinvesting in and rebuilding our local communities. I urge my colleagues to join me in making sure that the final budget resolution for fiscal year 1989, approved by Congress, reflects these priorities.●

TRADE QUID PRO QUO

● Mr. GRAHAM. Mr. President, in 1984, the United States and Japan entered into a trade agreement that was to lead to the eventual liberalization of Japanese import quotas on beef and citrus. This agreement expires today. It is my strong belief that the United States should not extend the existing agreement, but rather demand the Japanese fulfill their promise to end trade restrictions on beef, citrus, and citrus products.

A partnership of trade interests is not a unilateral acquiescence to the demands of the other partner. The United States deserves the same open access to the Japanese consumer that the Japanese want to the American consumer. That is a reasonable quid pro quo. Can we say to our cattle and citrus producers: Limit your markets and your expectations because we don't want to demand reciprocity from Japan? Of course not. Our trade relations with the Japanese are not an exercise in philanthropy—they are efforts to be progmatic, and to be profitable.

After March 31, all Japanese restrictions on beef and citrus should end. Ambassador Clayton Yeutter, the U.S. Trade Representative, has consistently maintained that only total liberalization will realize the understanding reached during negotiation of the 1984 agreement. I support Ambassador Yeutter's firm stand on this important issue.

The key to an effective trade policy is American competitiveness in the international marketplace. The United States can compete in Japan for a share of the beef and citrus markets, but that competition should take place on the level field of cooperation and reciprocity.●

COSPONSORSHIP OF OMNIBUS ANTIDRUG ABUSE ACT OF 1988

● Mr. LEVIN. Mr. President, I am pleased to add my name as a cosponsor of S. 2205, the Omnibus Antidrug Abuse Act of 1988, which was introduced last week by Senators DECONCINI and D'AMATO.

This bill picks up from where Congress left off when we passed the Antidrug Abuse Act of 1986. Like that earlier bill, S. 2205 takes a balanced approach to our Nation's narcotics problem, attacking both the demand and supply sides of the drug trade. It builds on the experience of the past 2 years, expanding and enhancing those programs which have worked and redirecting those which haven't been as successful. While Congress can't legislate an end to the drug problem in this country, we can make things more difficult for the drug growers and traffickers, encourage demand reduction through education, and address the social costs of drug abuse by improving treatment and rehabilitation programs. This bill moves us in the right direction in all these areas.

S. 2205 authorizes $2.4 billion beyond the President's recommendation for antidrug programs. The bill pays for these additional funds by adding IRS and BATF personnel, and by improving Federal debt collection practices. These provisions are intended to raise sufficient revenues to cover the full cost of the new and expanded programs under this bill. Because the fight against drugs is a long-term effort, in addition to the revenue sources provided for by this bill, we should also consider other means of financing that would provide more certain and secure means of paying for these important programs.

I support this bill because it provides important Federal support to the effort to rid our country of the scourge of drugs. It will enable us to reenergize the process we started in 1986, while making important adjustments where they are needed.●

DEARBORN HEIGHTS

● Mr. RIEGLE. Mr. President, I rise today to commemorate the 25th anniversary of the city of Dearborn Heights. This one-time small suburb of Detroit became an independent city on April 8, 1963. Since 1950, the population of Dearborn Heights has more than tripled. With a population of more than 67,000 people, the city has grown and developed into a thriving community.

Dearborn Heights is a community which engulfs the true essence of America. It is a diverse city and one which embraces many different ethnic groups. Many of the residents of Dearborn Heights work for Michigan's auto industry and have endured the struggles faced by the auto industry. Their hard work and dedication has helped keep Michigan's spirit alive through difficult times.

I am pleased to have the opportunity of paying tribute to the city of Dearborn Heights on their 25th anniversary. I congratulate the residents who have worked so hard to ensure the continued growth and productivity of their city.●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader whether or not the calendar has been cleared with respect to Calendar Order No. 591, Calendar Order No. 601, and Calendar Order No. 606.

Mr. SIMPSON. Mr. President, I respond to the majority leader that those items have been cleared on this side of the aisle.

Mr. BYRD. I thank the distinguished leader.

Mr. President, I ask unanimous consent that the Senate proceed to the aforementioned items seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG MARKETING ACT

The PRESIDING OFFICER. The clerk will state the first bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1207) to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care entities, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MATSUNAGA. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 1207, a bill which would protect the American consumer by establishing stricter controls over the distribution of prescription drugs manufactured in the United States. H.R. 1207 is similar to my own bill, S. 368, which I introduced last year and which now has 29 cosponsors in the Senate. The measure was the subject of public hearings in the Senate and the House of Representatives. These hearings and related investigations conducted over a number of years have revealed that consumers purchasing prescription drugs can no longer do so in full confidence that such drugs will be safe and effective.

The problem is not one of inadequate controls in the manufacturing process. Our system of testing, manufacturing, and introducing drugs into the marketplace is the safest in the world.

But what happens to a prescription drug once it leaves the manufacturer? Too often it enters a gray market known as the diversion market where it may be sold and resold, improperly relabeled, improperly stored, repackaged and even counterfeited before it reenters the normal distribution chain and is resold to an unsuspecting druggist or consumer.

Prescription drugs enter the diversion market in a variety of ways. Sometimes it is through out and out fraud. For example, a bogus charity may be established to purchase drugs from the manufacturer for shipment and sale overseas. Such shipments of drugs have been known to circle the globe two or three times, sitting unattended and improperly stored on docks for weeks, before arriving back in the United States to be resold at a marked up price.

Sometimes, too, a perfectly reputable hospital may purchase an excess supply up a prescription drug and then resell the excess.

Free samples of prescription drugs intended for use by physicians may be sold or traded by a manufacturers' sales representative before reaching the physician.

The Prescription Drug Marketing Act would close these loopholes in existing law and make it easier to keep track of prescription drugs once they leave the manufacturer. The bill would: one, prohibit, except in case of emergency, the reimportation of prescription drugs intended for sale overseas; two, prohibit the resale of prescription drugs by hospitals and hospital groups; and three, require manufacturers to keep better track of samples intended for use by physicians.

While the bill would require manufacturers of prescription drugs to obtain written requests from physicians who wish to obtain samples and retain written receipts indicating that such samples were actually delivered to the physician who requested them, no change would be made in a physician's ability to receive samples and provide them to patients. Moreover, no extra burden would be imposed on the Postal Service or common carrier if a manufacturer decided to mail samples to a physician. The manufacturer would be responsible for making sure he obtained a signed receipt from the physician.

Mr. President, H.R. 1207 has widespread support from prescription drug manufacturers, retail and wholesale druggists, hospitals and others for whom the safety of prescription drugs is a matter of concern. I strongly urge the passage of the bill.

I thank the majority leader for yielding.

Mr. BENTSEN. Mr. President, I am pleased to support passage of this bill. H.R. 1207 makes needed changes in the law, including a ban on reimportation, designed to curb the diversion market for prescription pharmaceuticals. This diversion market, which operates outside the normal channels of distribution for prescription drugs, makes it difficult for State and Federal regulators to prevent the marketing of mislabeled, adulterated, subpotent, or counterfeit drugs.

In order to enhance the ability of regulators to control and monitor the marketing process, this bill, in addition to prohibiting the reimportation of prescription drugs—subject to limited exceptions—bans the sale of drug samples; prohibits the resale of prescription drugs purchased by health care entities for their own use; establishes storage, handling, and accounting requirements for drug samples; and bars the wholesale distribution of drugs in interstate commerce from States that do not license wholesalers or whose licensing requirements do not meet minimum standards.

I commend the Senate sponsor of this legislation, Senator Matsunaga, for his work in bringing this matter before the Senate and for his efforts, together with Senator Pryor and others in the Finance Committee, to ensure that the concerns of all segments of the pharmaceutical industry were taken into account in the legislation and the committee's report. I recommend that the Senate pass H.R. 1207.

Mr. DOLE. Mr. President, I join my colleagues in supporting this measure which will strengthen and protect the health and safety of American consumers. H.R. 1207, the Prescription Drug Marketing Act of 1987, is intended to safeguard our people from mislabeled, adulterated, counterfeit, or expired pharmaceuticals.

I am aware of the dangers to our well-being, if we fail to insure the integrity of the system of handling and distribution of prescription drugs. Too often, unscrupulous vendors, sales representatives, and practitioners have abused the process.

Nevertheless, we must recognize the additional cost of doing business created by this legislation. Recently, I was contacted by a Kansas pharmaceutical manufacturer about his serious reservations regarding sections of this act. He is concerned and distressed that enactment of H.R. 1207 will substantially increase his overhead, despite the fact that his company has never failed to meet all standards for handling and shipping of drug samples.

It is my strong hope and expectation that the Secretary of Health and Human Services will be particularly sensitive to the burdens of small businessmen when issuing guidelines and regulations related to this legislation.

Mr. CHAFEE. Mr. President, I would like to engage my colleague from New Hampshire, Senator Rudman, in a brief discussion about section 3 of the bill that is now before us, which would prohibit the reimportation of U.S.-produced prescription drugs except by the manufacturer of the product or as authorized by the Secretary of Health and Human Services for emergency purposes.

I wish to clarify that this bill does not affect parallel imports or "gray market" goods. Parallel imports are genuine, trademarked articles manufactured abroad and purchased on the world markets by independent American importers. Many of these products are sold to American consumers at discounts of 25 to 40 percent less than identical products, often manufactured in the same plants, but imported and sold through different channels at vastly different prices. H.R. 1207 deals with U.S.-manufactured products which are reimported.

The distribution of gray market goods by independent importers has long been legal in this country and in all the countries which are our major trading partners. In order to clarify the law in this area and maintain the availability of these products for American consumers, I have joined with Senator Rudman in introducing S. 1097, which would essentially codify the Customs Regulations and restate what we believe congressional intent was over 50 years ago. This legislation is currently before the Finance Committee. I believe it is important to clarify that the bill now before us, H.R. 1207, should not be interpreted to restrain the flow of gray market goods. Does my colleague from New Hampshire share this concern?

Mr. RUDMAN. I share the Senator's concern. H.R. 1207 deals with U.S.-manufactured products which are reimported. The term "gray market" has on occasion been incorrectly used in association with this bill. The parallel market, or gray market, arises when foreign manufacturers seek higher prices for their products in the United States than overseas. Independent importers purchase the product overseas at the world price, import it, and pass the discount along to U.S. consumers. I have long supported the gray market because I believe the competition from independent importers benefits the U.S. consumer by preserving price and choice competition and lowering prices.

A group of multinational manufacturers have been attempting to prevent gray market imports and have utilized various strategies to this end. For example, an attempt was made to add an amendment to the 1986 continuing appropriations resolution to restrict parallel imports of foreign-made wines, liquor, and beer under the guise of protecting public health and safety. Fortunately, the Senate conferees, including this Senator, rejected the House amendment. When the issue was raised on the House floor, the House of Representatives wisely rejected the amendment, which would have restricted gray market alcohol imports, by an overwhelming vote of 297 to 113.

The manufacturers have also mounted a series of attacks in the courts against U.S. Customs regulations which have for decades permitted parallel imports. Most courts have rejected these challenges, but one case, Copiat versus U.S., is currently pending before the U.S. Supreme Court. On March 7, 1988, the Supreme Court decided that it had jurisdiction over the case and scheduled reargument for April 26, 1988. I believe it is most important to note here, in the context of H.R. 1207, that the Congress is not in this bill dealing with or expressing any intent regarding the issue currently before the Supreme Court, that is, whether section 526 of the Tariff Acts of 1922 and 1930 authorized section 133.21 of the Customs Regulations which permit parallel importation of foreign-manufactured goods.

Although H.R. 1207 does not affect gray market imports in the classical sense, I have some concern that section 3 may unnecessarily impose a restraint of trade under the guise of protecting public health. The reason U.S.-manufactured goods are reimported is that the price charged to the U.S. consumer is higher than the price charged overseas for the same product. Banning reimportation may preserve the ability of drug manufacturers to price discriminate against American consumers. I am informed that in every case of importation of an FDA-regulated product, the Customs Service notifies FDA to inspect the shipment. If the FDA is inadequate to the task of protecting us from U.S.-made drugs which are shipped abroad and come back through Customs, how much protection can FDA be giving us over foreign-manufactured imported drugs, or, for that matter, over domestically distributed drugs where FDA can only sample drugs on retail shelves or in response to reports of adulterated pharmaceuticals? FDA has testified that the agency is currently capable of protecting public health.

In sum, while I am not convinced of the merits of section 3, it should be noted that it does not deal with gray market or parallel imports, and does not in any respect change the law with regard to parallel imports under section 526 of the Tariff Acts of 1922 or 1930.

Mr. CHAFEE. As my colleague has indicated, this is a very important distinction which should be made. Section 3 of H.R. 1207 does not deal with the gray market issue and does not change in any way the law with respect to parallel imports under the statute which my colleague has cited.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1207) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORPHAN DRUGS

The PRESIDING OFFICER. The clerk will state the next item by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3459) to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs, and for other purposes.

The Senate proceeded to consider the bill.

Mr. QUAYLE. Mr. President, I rise today not to discuss any particular position on the orphan drug bill, but to express my concerns over the handling of health legislation, particularly public health and food and drug bills, under the jurisdiction of the Committee on Labor and Human Resources.

Generally, I support the reauthorization of the Orphan Drug Act; this law provides incentives to drug manufacturers to develop drugs for rare diseases. It has been reauthorized twice since its initial approved by Congress in 1983, it is a good law, and this bill, H.R. 3459 makes some necessary changes which I support.

However, I am very concerned with the way this measure is being handled here on the Senate side. No companion bill has been introduced in the Senate, and there have been no hearings on this issue. This bill is not being referred to the Senate Labor and Human Resources Committee for our review of this important issue.

Instead, I am told we must be content with the fact that a few committee staff have worked on this bill behind the scenes with Congressman WAXMAN, and that this is a compromise that the Senate can support—without the benefit of review by members of the appropriate committee of jurisdiction.

Mr. President, my staff learned about the intended disposition of this measure from the Republican cloakroom, not from committee staff. We learned the content of this measure from private sector newsletters and from Congressman WAXMAN's statement in the CONGRESSIONAL RECORD upon final passage by the House. We were given less than an hour to decide whether we approved of the unanimous-consent agreement to place this measure on the Senate calendar. During this short period of time, my staff had to find out what changes this measure contained and how we felt about passage of this measure into law without any formal consideration by the Senate Labor and Human Resources Committee.

This is another example of poor legislative management by this committee—an issue I have raised here on the Senate in the past few days.

I would like to know why the Labor and Human Resources Committee appears to care so little about public health and food and drug issues that the distinguished chairman of this committee and his staff devote so little time to formal consideration?

Rather than abdicate our committee's jurisdiction over public health and food and drug issues, perhaps it is time to set up a health subcommittee.

I might suggest to my distinguished colleague from Massachusetts that many of the members of his committee would be perfectly happy to spend more time having hearings on such interesting and compassionate issues as infant mortality, public health manpower shortages, preventive health, alcohol, drug abuse, and mental health services, and community health centers for the poor and indigent, and less time on the contentious labor-related bills which lately have been taking up so much of the Senate's time.

A few weeks ago, on March 2, the committee reported substantial changes to the HMO Assistance Act, reauthorization of grants to primary health centers and for health care to the homeless, reauthorization of the ADAMHA block grant, and reauthorization of the Organ Procurement Act. I received draft bills for three of these measures a week before the markup—no summary of changes or side-by-side cordon prints of the bills, as the committee rules specify. I did not receive a draft of the primary health centers bill until 4 or 5 days before the markup. No hearings were held on any of the bills and the markup lasted about 80 seconds.

Mr. President, the Labor and Human Resources Committee has reported a large number of public health measures during the 100th Congress, but has held hearings on few. Following is a list of bills reported in 1987 and 1988 for which no hearings were held:

H.R. 558, Health Care for the Homeless;

S. 1158, Public Health Service Amendments;

S. 769, Minority Health Education and Care Act;

S. 1402, Nursing Shortage Reduction Act;

S. 1441, Infant Mortality Amendments;

S. 1579, Preventive Health and Health Services Block Grant;

S. 1726, Employee Health Promotion and Disease Prevention;

H.R. 3235, HMO Assistance Act Amendments;

H.R. 3097, Organ Procurement Act;

S. 1943, Alcohol, Drug Abuse and Mental Health Block Grant; and

A bill reauthorizing funding for migrant and community health centers and health care for the homeless.

Mr. President, the committee has held hearings on only 2 public health bills—AIDS and family planning. Yet we have had several hearings on the chairman's mandatory health insurance bill, and even one on catastrophic coverage under Medicare—a topic over which the Labor and Human Resources Committee has no jurisdiction.

Yesterday the committee held a hearing on reauthorization of the National Institutes of Health; the committee is also planning a hearing on the health manpower reauthorization, but these hearings were agreed to only upon the insistance of Senator HATCH.

I should also note that when the committee met to mark up S. 1265, the mandatory health insurance bill, many members of the committee indicated that they had significant problems with the way the bill was drafted, and that they would seek correction of these problems when the bill is brought up before the full Senate. Then all Democratic members of the committee voted for the bill.

Mr. President, is it proper for a committee to put off making substantive changes in legislation—particularly S. 1265, which makes drastic changes in the way employers provide benefits to their workers—until floor consideration? If so, what then is the purpose of assigning legislation to a committee in the first place?

I would like to close my statement today with a quote from the report of the 1984 Temporary Select Committee to Study the Senate Committee System. As many of my colleagues will recall, that committee, made up of 6 Republicans and 6 Democrats, made unanimous recommendations for changes both in the committee system and in the Senate rules. The passage is as follows:

> The committee believes that the Senate committee system should serve as a legislative filter and refiner. Bills should be referred to the committee of appropriate jurisdiction so that the committee members, a group of experts in their area, may carefully analyze, critique and alter proposed legislation, then report it to their colleagues on the Senate floor after thorough consideration or not report at all, as they deem best. In this way not only would poorly-crafted or ill-considered legislation be filtered out and kept off the Senate Calendar, but a bill emerging from committee would be a refined product, technically sound, thoroughly understood by committee members and ready for consideration by the Senate. The committee report and minority and additional views would further crystallize the issues for floor consideration.

I would like to thank you, Mr. President, and the distinguished chairman of the Labor and Human Resources Committee for permitting me to raise these important issues of Senate rules and committee responsibilities with my Senate colleagues today.

Mrs. KASSEBAUM. Mr. President, I want to express my support for H.R. 3459, the Orphan Drug Amendments of 1988. This legislation will permit the continuation of efforts to assure that drugs and related products are made available for the treatment of rare diseases and conditions.

Since the original Orphan Drug Act was signed into law in January 1983, approximately 190 drugs have received orphan designation, and 24 have been approved. As I have watched orphan drug activities over the past 5 years, I have been impressed by the extraordinary level of commitment to making the act work.

By any measure, the act has been a great success. Certainly, there are many rare diseases and conditions for which treatments are yet to be found, but the success stories of the act have offered hope to millions of Americans whose plight had previously been given little attention.

The reauthorization bill now before the Senate makes minor changes in the Orphan Drug Act. It extends for 3 years a grant program administered by the Food and Drug Administration to support independent research of promising orphan drugs. Eligibility for grant funds is expanded to include research on orphan medical foods and devices as well. In addition, the bill calls for a study of whether other incentives in the act should be extended to companies involved with orphan medical foods and devices. It also provides that a company provide 1 year's notice of its intent to discontinue production of an approved orphan drug, in order to permit time for the Food and Drug Administration to seek another manufacturer for the drug.

This legislation does not include a provision which was part of an earlier version of H.R. 3459 dealing with the exclusive marketing of approved orphan drugs.

To understand the controversy which has surrounded this particular issue, it is helpful to review some of the history of the Orphan Drug Act. The purpose of the original legislation was to encourage drug manufacturers to develop drugs which otherwise would not be produced because the potential market for their use was too small to be profitable. Recognizing the valid economic concerns of drug manufacturers, we sought to create incentives which would permit some recoupment of investments made in drugs for rare diseases and conditions. A 7-year exclusive marketing period for an approved orphan drug is among these incentives.

So, Congress did intend to help companies reduce or avoid financial loss from orphan drug development. It was not our intention that the exclusive marketing provision be used to shield highly profitable drugs from competition.

A situation which has developed with respect to human growth hormone suggests that some are perceiving the act as a means for accomplishing purposes other than those intended. A number of companies wish to produce this drug for the treatment of dwarfism, but most are prevented from doing so by the exclusive marketing provision. Both the high price of the drug—$10,000 or more per person each year—and the level of company interest in it lead to the conclusion that this is a profitable drug which would have been produced without the incentives offered by the Orphan Drug Act.

Because the exclusivity provision has proven to be a very important incentive for the development of drugs which otherwise would not have been produced, I believe it was a wise decision not to modify it at this point. Moreover, it is still unclear whether a significant problem exists. In testimony before the House Energy and Commerce Committee, FDA Commissioner Frank Young indicated that only 7 of the 190 designations involved simultaneous development of the same drug. The circumstances in each case were unique, and no pattern has emerged.

Nevertheless, the issues raised by the human growth hormone controversy bear careful watching—as the perception that the act is being misued can easily overshadow the enormous good it has accomplished. Should similar situations arise in the future, I will support whatever legislative action necessary to assure the act continues to serve its intended purpose.

Mr. METZENBAUM. Mr. President, the bill before us, H.R. 3459, is a reauthorization of a relatively simple and straightforward program. It is a program whose costs are small in scale for this day and age. But it happens to be one of the most significant and successful programs implemented by the Federal Government. It is called the Orphan Drug Act.

We passed the Orphan Drug Act in 1983 in an effort to encourage the research and development of drugs to treat rare diseases. That effort is paying off, Mr. President, and I am proud to be a part of it. This legislation has given hope to individuals who previously had nowhere to turn.

While a great deal of attention is focused on the struggle to cure the diseases which take the lives of millions of Americans, we don't hear much about the battle to cure diseases that afflict relatively few people. Most of these disorders are hardly household words—in fact, most have names that are nearly impossible to pronounce: mucopolysaccharidoses, ichthyosis, scleroderma, osteogenesis imperfecta, amyotrophic lateral sclerosis, sjogren's syndrome.

There are over 5,000 separate rare diseases. Together, they attack over an estimated 8 million Americans. Half of these are childhood maladies. Sometimes only a few hundred or a few dozen people in the country are stricken. Make no mistake, however; people who suffer from rare diseases suffer no less than those felled by a more common illness.

Before the Orphan Drug Act, treatments for rare diseases simply were not being developed on a meaningful basis. But in the last 5 years, 24 orphan drugs have been approved for use, and—at last count—188 are either being tested or developed. In the fight against rare disorders, that is a giant step forward.

H.R. 3459 extends the basic incentives in place to encourage drug companies to go forward with this research—namely the tax credit and the 7-year marketing exclusivity. To my delight, we are also increasing the authorization levels for the grant portion of the act. This increased authority is badly needed and every dollar under the grant program has been well spent. The program now will also allow for research into the development of orphan medical devices and orphan medical foods. As in the past, I will continue to fight to ensure that funding is available for as many qualified grant applications as possible.

Mr. President, there are indications that, in a few instances, the original intent of the Orphan Drug Act has been violated. I share the concerns of Congressman WAXMAN that the act is being used by some companies to block competitors on drugs that technically qualify as an orphan, but actually have a significant commercial value. I intend to work with him in the future in an effort to maintain the act's proper focus on people instead of profits.

Mr. President, the Orphan Drug Act was an excellent idea 5 years ago, and it's proven itself an excellent law. This bill makes it even better. I commend my colleagues, Senator KASSEBAUM and Senator HATCH, for their strong support for the act. They are truly friends of every American suffering from a rare disease. I simply cannot say enough in tribute to my friend in the House, Health Subcommittee Chairman HENRY WAXMAN. He has tirelessly and forcefully provided the leadership necessary to make this law work, and I am proud to be associated with him in this continuing endeavor.

I strongly urge my colleagues to support this legislation, and to continue their commitment to people with rare disorders and their families.

Mr. HATCH. Mr. President, I rise in support of H.R. 3459, the Orphan Drug Act amendments, which will extend the funding authority for research and development of drugs for rare diseases. This is indeed one of the finest programs in our Government, because it provides incentives to commercial sponsors to develop drugs for diseases which would otherwise have little commercial value but are necessary to save lives of patients with rare diseases.

This program, funded through Food and Drug Administration, began in 1983. I was pleased to be an active participant in its creation. Largely as a result of the initiative provided by enactment of the Orphan Drug Act in the 97th Congress, there has been very encouraging progress in bringing to market existing drugs and in developing new drugs to alleviate suffering from a number of so-called "Orphan" diseases. The Orphan Drug Act was a bipartisan effort enacted to encourage the development of drugs for diseases which affect fewer than 200,000 people in the United States or when it can be shown that the drug will not make a profit over a 7-year period. Continued cooperation between the Government and the private sector, spurred by clear congressional interest, provides hope for individuals who suffer from such rare but devastating conditions as Tourette syndrome, Huntington's disease, neurofibromatosis, and, despite what my colleagues might think, AIDS. While the number of individuals suffering from any one of these orphan diseases is small, in the aggregate, orphan conditions affect several million Americans. For example, there are 250 Utahns alone who suffer from autism that may benefit from this work on treating rare disorders.

As of October 26, 1987, there have been 165 orphan drugs designated for 128 different uses. As of October 16, 100 firms have used the orphan designation process.

As with other drugs, it must be demonstrated that an orphan drug is safe and effective before they can be marketed. This is a long and deliberate process and too often, extremely costly. Under the Orphan Drug Act, the FDA may provide grants to undertake clinical trails to determine the efficacy of a drug or device. These grants, which have totaled over $10 million, have gone to individual researchers, or academic institutions, or to commercial sponsors to study a product used to treat rare diseases or conditions.

The reauthorization bill I am supporting today extends and expands the grant program for an additional 3 years. The eligibility for grants funds are also made available for promising orphan devices and foods. I am well aware of companies developing such devices and foods—and they may need financial help in getting approval. I am anxious to see if this approach works and intend to will monitor it closely.

Mr. President, I want to take this moment to congratulate the Food and Drug Administration, especially the Orphan Products Board and the Office of Orphan Products; the pharmaceutical industry; participating clinical investigators; and voluntary and professional disease organizations for their excellent efforts to help alleviate the suffering of our citizens who just a few years ago despaired of finding an understanding ear and a helping hand.

I think the progress that has been made in finding sponsors for orphan drugs, and in getting these products to market, illustrates well what private sector-Government cooperation can produce. This progress also illustrates the strength of Americans who join together for a cause that has merit; there surely is strength in numbers in America, and the national organization for rare diseases has shown us that there is also tremendous strength in dedication and commitment.

During the time before the next reauthorization, I urge my colleagues to review and evaluate all aspects of this legislation. We should ensure that we are providing adequate incentives for the developments of drugs for orphan diseases. But, today, we must move forward with this reauthorization and ensure its expeditious approval. This law alone stands as hope for many Americans in treating and curing their disease. I urge my colleagues to support passage of H.R. 3459.

● Mr. KENNEDY. Mr. President, I am pleased to speak on behalf of H.R. 3459, the Orphan Drug Amendments of 1987, recently passed by the House of Representatives. This legislation reauthorizes and extends the Orphan Drug Grant Program to orphan foods and medical devices. In addition, the Secretary of Health and Human Services is directed to determine whether application of the benefits of the orphan drug provisions to orphan medical devices and orphan medical foods would encourage the development of these devices and foods. Last, the bill extends the date for the report from the National Commission on Orphan Diseases evaluating the research of the National Institutes of Health concerning rare diseases. In total, this legislation extends one of the most successful provisions in the Food, Drug and Cosmetic Act aimed at stimulating the development of drugs for orphan diseases.

The original Orphan Drug Act was signed into law in 1983, and was amended in 1984 and 1985. This bill was originally cosponsored by Senators HATCH, KASSEBAUM, and myself, and was guided through the House of Representatives by Congressman HENRY WAXMAN. The intent of this legislation was to facilitate the development of drugs for orphan diseases—those relatively rare diseases affecting fewer than 200,000 individuals here in the United States. At that time it was obvious that pharmaceutical and biotechnology companies had very little incentive to develop drugs for rare diseases, because of the limited potential for profit. The families of patients with so-called orphan diseases urged Congress to pass legislation to stimulate the development of drugs to help their loved ones. The Orphan Drug Act contains a grant program for development of orphan drugs, and a system of tax credits for part of the costs of the human clinical trial portion of developing an orphan drug. Of greater importance, though, is the provision which allows a 7-year marketing exclusivity for approved orphan drugs. This was deemed necessary to stimulate companies to increase their efforts to develop and bring to market critically important drugs for rare, orphan diseases.

Without a doubt, the Orphan Drug Act has been very successful. At the time of its enactment, there were only 34 drugs on the market for orphan diseases. As of January 1, 1988, 183 orphan drugs have been designated and 20 have been approved for marketing. Examples of orphan drugs that hold great potential for reducing morbidity and mortality include erythropoietin for use in anemia associated with end stage renal disease, human growth hormone for the treatment of growth failure in children due to a lack of this factor, Mazindol for the treatment of Duchenne muscular dystrophy, and AZT for patients with AIDS. Many companies, small and large, have devoted considerable resources toward development of drugs which will benefit thousands of Americans stricken by orphan diseases as a result of this legislation. The Orphan Drug Act is an excellent example of a Federal stimulus to private development of products which benefit individuals, families, and our society in general.

With all that has been accomplished, the future holds promise for many more drugs which will save lives and provide enhanced capability to detect disease. The Food and Drug Administration has done an excellent job in carrying out the Orphan Drug Act. The National Commission on Orphan Diseases has provided helpful recommendations to further guide Congress and the FDA in the development of orphan drugs. Most of all, the National Organization of Rare Diseases has continued to inform Congress and the American people about the plight of those with orphan diseases. This outstanding organization also supports research on orphan diseases, and provides information through their rare disease database.

Mr. President, I join my colleague Senator HATCH, the ranking minority member of the Committee on Labor and Human Resources, in urging favorable consideration of H.R. 3459.●

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3459) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEGOTIATIONS ON LONG-TERM AGREEMENT ON AGRICULTURAL TRADE WITH THE SOVIET UNION

The PRESIDING OFFICER. The clerk will state the next item by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 377) to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 377) was agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

Resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union

Whereas United States grain surpluses remain at near record levels;

Whereas the cost of United States farm programs continues to be excessive as a result of low farm prices;

Whereas this Nation's farmers are dependent on export sales for one-fourth of their income;

Whereas every billion dollars in United States farm exports creates thirty-five thousand jobs and generates another $1,400,000,000 of economic activity;

Whereas the export of value-added products generates significant opportunities for new employment and economic growth in the food processing industry;

Whereas the Soviet Union has already exceeded the minimum purchase requirements for the 1987-1988 agreement year for wheat and has bought substantial quantities of corn and soybeans under the current long-term grain agreement;

Whereas agricultural exports benefit the United States transportation sector, including railroads, trucking, inland waterway users, ocean shipping and support industries; and

Whereas the Congress and the President are committed to the growth of our agricultural economy, the reputation of the United States as a reliable supplier, and the recapture of our fair share of world markets for farm products: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) as soon as practical after the date of the adoption of this resolution, report to the Congress his intention to initiate negotiations on a new long-term agreement on agricultural trade with the Government of the Soviet Union;

(2) seek to include in the terms of the new long-term agreement; (A) higher minimum and maximum supply guarantees than in the agreement in effect on the date of adoption of this resolution; (B) provision for the export of value-added products; and (C) take appropriate actions to ensure that the Soviets will actually purchase in a timely manner the minimum quantities specified for each commodity;

(3) no later than May 30, 1988, report to the Congress on the potential impact of a new and expanded long-term agreement on economic growth and employment in United States agriculture and in related food processing and transportation industries; and

(4) take all other appropriate measures to assure the free movement of increased quantities of United States agricultural products to the Soviet Union.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDWARD ZORINSKY FEDERAL BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1960.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1960) to designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building."

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask that my colleague, Senator DAVID KARNES of Nebraska, be added as a cosponsor of the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, time does fly by but just a little over a year ago, very suddenly and very startlingly, my colleague, Senator Ed Zorinsky of Nebraska, was suddenly taken from us. Subsequently, we looked for a suitable memorial which the Senate could select for this great Nebraskan, who was a great Member of the Senate. I introduced a bill to accomplish that. I thank the committee; it acted very promptly on this matter. It sped through the process and I assume it is about to be passed this afternoon.

I also take the liberty of expressing the sincere thanks of Cece Zorinsky, the widow of Senator Zorinsky, who asked me to, at the appropriate time, thank her husband's former colleagues for their consideration.

The Federal Building in Omaha, NE, has been known since its construction as a Federal Building only. Since this is a building where Ed Zorinsky, myself, and Congressman HAL DAUB had offices, along with the other Federal officers, I think it is indeed proper that the actions being suggested by this measure and as unanimously recommended by the committee be acted upon promptly and that the Federal Building in Omaha be known hereafter as the "Edward Zorinsky Federal Building."

I thank the majority and minority leaders for clearing this bill. I hope we are ready to vote its passage at this time.

Mr. MATSUNAGA. Mr. President, I rise to support the bill introduced by the senior Senator from Nebraska, Mr. EXON, to name the Federal Office Building in Omaha, NE, the "Edward Zorinsky Federal Office Building." Our late colleague was a dear friend of mine and I miss him greatly. His long record of dedicated service to the people of Nebraska will be remembered for years to come, and recalled by virtue of this action which his memory richly deserves. My wife, Helene, and I also enjoyed a close friendship with his widow, Cece, for whom we retain fond aloha, Mr. President.

I would add that all of us in this body, Members and staff alike, will have reason to remember Senator Zorinsky for his parting gift to us: the April 11 Cholesterol Awareness Week, which I believe was his last legislative accomplishment before his death. He wanted us to be aware of this threat to life, even as heart disease, indeed, cut short his own. We would all do well to remember him, Mr. President, by taking advantage of his final gift to the Senate community; namely, arranging for the free medical service of cholesterol blood test during Cholesterol Awareness Week for all who take the time to avail themselves of it.

Mr. President, I ask unanimous consent to be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is before the Senate and open to amendment. If there by no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 215 North 17th Street in Omaha, Nebraska, shall hereafter be known and designated as the "Edward Zorinsky Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Zorinsky Federal Building".

Mr. EXON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WITHDRAWAL OF CERTAIN PUBLIC LANDS IN NEVADA

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 519.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 519) to continue the withdrawal of certain public lands in Nevada.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 519) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF TRACEY McFARLANE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2819.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2819) for the relief of Tracey McFarlane.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2819) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT—S. 640

Mr. BYRD. Mr. President, I ask unanimous consent that a message from the House on S. 640 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RELEASE OF COMMITTEE DOCUMENTS

Mr. BYRD. Mr. President, I send to the desk a Senate resolution on behalf of myself and Mr. DOLE to authorize the conditional release of records by the Committee on Governmental Affairs. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 405) to authorize the conditional release of records by the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

Mr. BYRD. Mr. President, during the past several months, the Office of Special Investigations at the General Accounting Office has been working with the Committee on Governmental Affairs to review the Electronic Tandem Network procurement, a procurement of telecommunications switches by the General Services Administration. That matter is also the subject of a protest by a disappointed bidder, AT&T Communications, Inc., and other intervenors.

The Board of Contract Appeals at GSA, where the protest is being adjudicated, has written to the leadership of the committee on Governmental Affairs seeking access to certain committee records that may assist the Board in its deliberations. To accommodate that request, this resolution would authorize the chairman of the committee [Mr. GLENN] and its ranking minority member, Mr. ROTH, acting jointly, to provide limited documents that may be useful in the adjudication, subject to assurances they deem necessary to protect the interests of the Senate.

In that regard, it is the understanding of the chairman and the ranking minority member that the Board will prepare a suitable protective order pursuant to which it will make these records available to attorneys for the parties. Mr. President, I urge adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 405) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, during the past five months the Committee on Governmental Affairs has been conducting an inquiry into an Electronic Tandem Network telecommunications procurement by the General Services Administration, RFP-ETN-87-0001;

Whereas, that procurement is now the subject of a protest by AT&T Communications, Inc. before the General Services Administration Board of Contract Appeals, Case No. GSBCA 9252-P;

Whereas, the Board of Contract Appeals has requested access to records of the Committee's investigation in order to facilitate the Board's adjudication;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Governmental Affairs, acting jointly, are authorized to provide to the Board of Contract Appeals, in Case No. GSBCA 9252-P, records of the Committee's investigation of the Electronic Tandem Network telecommunications procurement, subject to any assurances they deem necessary to protect the interests of the Senate.

AUTHORIZATION TO SIGN BILLS AND JOINT RESOLUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the junior Senator from Hawaii, Mr. MATSUNAGA, be authorized to sign all duly enrolled bills and joint resolutions through April 11, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN UNTIL 6 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today for statements and filing of reports until 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 6 p.m. today to submit bills, resolutions, or statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished leader on the other side as to whether or not the following nominations have been cleared on that side of the aisle: Nominations under the Department of State, on page 1; Calendar Orders Nos. 545 and 547 under the Department of State, on page 3; Calendar Orders Nos. 576 and 577 under the Judiciary, on page 3; all nominations on page 4; all nominations on page 5; and all nominations placed on the Secretary's desk in the Coast Guard, and National Oceanic and Atmospheric Administration, on page 6.

Mr. SIMPSON. Mr. President, all of those items on the calendar have been cleared on this side of the aisle.

Mr. BYRD. Mr. President, I thank my good friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations en bloc, that they be considered and confirmed en bloc, that the motion to reconsider en bloc be laid on the table, that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, the nominations are considered, and confirmed en bloc.

The nominations confirmed are as follows:

DEPARTMENT OF STATE

Richard Huntington Melton, of Virginia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nicaragua.

DEPARTMENT OF STATE

Eugene J. McAllister, of Virginia, to be an Assistant Secretary of State, vice Douglas W. McMinn, resigned.

Bill K. Perrin, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

THE JUDICIARY

Kenneth M. Hoyt, of Texas, to be U.S. district judge for the southern district of Texas.

George M. Marovich, of Illinois, to be U.S. district judge for the northern district of Illinois.

DEPARTMENT OF JUSTICE

Roger J. Marzulla, of California, to be an Assistant Attorney General.

Deborah J. Daniels, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years.

Grover W. Garrison, of Louisiana, to be U.S. marshal for the middle district of Louisiana for the term of four years.

AMBASSADOR

Daniel G. Amstutz, of New York, for the rank of Ambassador during his tenure of service as Chief Agricultural Negotiator in the Uruguay Round of Multilateral Trade Negotiations.

NATIONAL TRANSPORTATION SAFETY BOARD

Joseph Trippe Nall, of North Carolina, to be a member of the National Transportation Safety Board for the term expiring December 31, 1992 (reappointment).

DEPARTMENT OF COMMERCE

Marc G. Stanley, of Maryland, to be an Assistant Secretary of Commerce.

William Evans, of California, to be Under Secretary of Commerce for Oceans and Atmosphere (new position).

Robert H. Brumley II, of Virginia, to be general counsel of the Department of Commerce.

DEPARTMENT OF TRANSPORTATION

Barbara McConnell Barrett, of Arizona, to be Deputy Administrator of the Federal Aviation Administration.

Robert L. Pettit, of the District of Columbia, to be Associate Deputy Secretary of Transportation.

Edward R. Hamberger, of Maryland, to be an Assistant Secretary of Transportation.

COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Thomas T. Matteson.
Richard I. Rybacki.
Martin H. Daniell, Jr.
Robert T. Nelson.
Marshall E. Gilbert.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

Ronald M. Polant.
William P. Leahy, Jr.
Joel D. Sipes.
Richard A. Appelbaum.
Arthur E. Henn.

Rear Adm. Clyde E. Robbins as Commander, Pacific Area, U.S. Coast Guard with the grade of vice admiral while so serving.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coast Guard nominations beginning John M. Jacobs III, and ending Allen B. Cleveland, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1988.

Coast Guard nominations beginning Vicent J. Spagnolo, and ending Harry F. Gwynne, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1988.

National Oceanic and Atmospheric Administration nominations beginning Gerry C. Mckim, and ending Steven M. Nokutis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 2, 1988.

THE NOMINATION OF JUDGE GEORGE M. MAROVICH

● Mr. SIMON. Mr. President, I would like to take this opportunity to express my support for Judge George Marovich whose nomination to the district court for northern district of Illinois is being considered today. Judge Marovich is one of my distinguished constitutents from Illinois.

A well-respected member of the Illinois legal community, Judge Marovich's experience makes him a fine candidate for the Federal bench. Since 1985 he has been assigned to the powerful and prestigious Chancery Division of the Cook County Court. In this position he handles requests for injunctive relief—a power given to a limited number of State court judges and an important tool of Federal judges.

The list of those supporting this nomination is impressive. The American Bar Association's Standing Committee on the Federal Judiciary unanimously found him to be well qualified. According to the Illinois State Bar Association he is exceptionally well qualified for the Federal bench. He has the support of his local bar associations as well—the Chicago Council of Lawyers and the Chicago Bar Association. I have received letters from several of Illinois' more prominent attorneys along with a personal endorsement from Governor Thompson.

After receiving both a Bachelor of Science and a Juris Doctor degree from the University of Illinois, Judge Marovich became an attorney for Chicago Title and Trust Co. At the same time he maintained a small general practice in Richton Park, IL. In 1959 he became a partner in the firm of Jacobs and Marovich where he represented several villages and school districts and played a significant role in the development and creation of the suburban areas of Cook County. From

1966 to 1976 he served as vice president and trust officer of the South Holland Trust and Savings Bank, performing work in the areas of finance, taxation, and trusts.

In 1976, Judge Marovich was elected to the Circuit Court of Cook County. After successfully completing his first 6-year term he won reelection to a second term. As a judge, Mr. Marovich has served in housing court, criminal court, and the chancery division.

The Illinois State Supreme Court has relied on Judge Marovich to play a role in development and dissemination of several areas of State law. In addition, he is a member of the Cook County Circuit Court Nominating Committee which chooses candidates for associate judgeships, Board of Elections Commissioners, and other court-appointed county offices.

In his 12 years on the bench, Judge Marovich has clearly demonstrated a commitment to public service. Before being elected a judge, he devoted a considerable amount of time to his community and continues to teach evidence and criminal law classes at the community college where he, himself, received an Associate of Arts degree over 30 years ago.

I believe that George Marovich will prove to be a respected and valued member of the district court of the northern district of Illinois. I ask my colleagues to give him their highest consideration in considering his nomination.●

Mr. DIXON. Mr. President, I am pleased to speak on behalf of George M. Marovich, who has been nominated by President Reagan to serve as a judge on the U.S. District Court for the northern district of Illinois.

George M. Marovich earned both his undergraduate and law degree from the University of Illinois, my own alma mater. Following his graduation in 1954, Judge Marovich became an attorney for Chicago Title & Trust Co. dealing with all types of chancery proceedings. Simultaneously, he maintained a general practice in Richton Park, IL. In 1959, he became a partner in the firm of Jacobs & Marovich, a general practice in South Holland, IL. There, Judge Marovich handled a wide variety of criminal and civil litigation.

From 1966 to 1976, he served as vice president and trust officer at the South Holland Trust & Savings Bank. He had legal responsibility in the areas of commercial law, probate, real estate, taxation, trust law and estate planning.

In 1976, he was elected to the Circuit Court of Cook County, where he has served with distinction for the last 11 years. In his first 9 months on the Cook County bench, Judge Marovich was assigned to the criminal division and tried major felony cases. In this capacity, he presided over the first repeat offender court and disposed of more than 3,000 major cases involving violent crimes. Since 1985, Judge Marovich has been assigned to the chancery division, where he has tried complex civil litigation, involving equitable injunctive relief.

Further, Judge Marovich has been active in the Illinois Judicial Conference, serving as chairman of the conference's section on evidence, and vice chairman of the committee on injunction and declaratory relief. He also serves on the nominating committee of the Circuit Court of Cook County, which is a five-judge committee that screens and nominates candidates for associate judgeships, board of election commissioners and other court appointees.

The degree to which Judge Marovich is respected is reflected by the fact that he has been rated exceptionally well qualified by the Illinois State Bar Association, well qualified by the Federal Bar Association and qualified by the Chicago Bar Association. The Chicago Bar Association praised Marovich saying he "has proven ability in both the criminal and civil areas of law. He is hardworking and possesses judicial common sense. He has also demonstrated his ability to learn new areas of law." The Chicago Council of Lawyers declares, he "possesses the intellectual ability to write well and that his exceptional abilities in other areas would make him a solid addition to the Federal district court bench."

Finally, in addition to his professional credentials, Judge Marovich is highly praised by attorneys who have practiced before him for his fairness, integrity, intellectual capacity, practical judgment, and ability to conduct trials.

Mr. President, I believe that this review of Judge Marovich's record demonstrates his strong qualifications for a seat on the Federal District Court. I believe he will be a valuable addition to the Federal bench. I urge my colleagues to support this nomination.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, does the distinguished assistant Republican leader have any further statement he would like to make or any business he would like to transact?

Mr. SIMPSON. Mr. President, I do not.

Again, I thank the majority leader for his courtesies to me during my time as acting leader. I have been very appreciative of that, and it has been a distinct pleasure trying to move the business of the Senate along. After the recess, our leader, Senator DOLE, will indeed be ready to proceed as he does so well with his full duties, and to begin that process. I, indeed, enjoyed working with the majority leader. It has been a splendid privilege.

I have nothing further.

Mr. BYRD. Mr. President, I thank the distinguished leader.

I shall remember my experience in working with the distinguished Senator from Wyoming in his capacity as the leader on the other side of the aisle for these several weeks. I shall remember that experience with pleasure.

Again, I wish to thank him for his kindness to me, for his consideration and courtesy at all times, his splendid cooperation, and for the fine workmanship and skill that he has demonstrated as the leader on the other side of the aisle.

ORDERS FOR MONDAY, APRIL 11, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday, April 11, no motions or resolutions over under the rule come over; that the call of the calendar under rule VIII be waived; that the period for morning business following the recognition of the two leaders under the standing order be limited to 30 minutes; that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

FILING OF REPORT BY COMMITTEE ON THE BUDGET

Mr. BYRD. Mr. President, it will be my intent to go on April 11 to the budget resolution.

I ask unanimous consent that the Budget Committee may have until 7 o'clock today to file its report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, APRIL 11, 1988, AT 11:A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 272, that the Senate stand in adjournment until the hour of 11 o'clock a.m. on Monday, April 11, this year of our Lord, 1988.

The motion was agreed to; and at 4:58 p.m. the Senate adjourned until Monday, April 11, 1988, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 31, 1988:

DEPARTMENT OF DEFENSE

MICHAEL P.W. STONE, OF CALIFORNIA, TO BE UNDER SECRETARY OF THE ARMY, VICE JAMES R. AMBROSE, RESIGNED.

DEPARTMENT OF JUSTICE

MARGARET P. CURRIN, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS, VICE SAMUEL T. CURRIN, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

F. CLIFTON WHITE, OF CONNECTICUT, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM OF 2 YEARS (NEW POSITION).

CONFIRMATIONS

Executive nominations confirmed by the Senate March 31, 1988:

DEPARTMENT OF STATE

RICHARD HUNTINGTON MELTON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

EUGENE J. MCALLISTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE.

BILL K. PERRIN, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

AMBASSADOR

DANIEL G. AMSTUTZ, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF AGRICULTURAL NEGOTIATOR IN THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS.

NATIONAL TRANSPORTATION SAFETY BOARD

JOSEPH TRIPPE NALL, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1992.

DEPARTMENT OF COMMERCE

MARC G. STANLEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

WILLIAM EVANS, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

ROBERT H. BRUMLEY II, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

ROBERT L. PETTIT, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION.

EDWARD R. HAMBERGER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

BARBARA MCCONNELL BARRETT, OF ARIZONA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

KENNETH M. HOYT, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

GEORGE M. MAROVICH, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

DEPARTMENT OF JUSTICE

ROGER J. MARZULLA, OF CALIFORNIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEBORAH J. DANIELS, OF INDIANA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF INDIANA FOR THE TERM OF 4 YEARS.

GROVER W. GARRISON, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

THOMAS T. MATTESON;
RICHARD I. RYBACKI;
MARTIN H. DANIELL, JR.;
ROBERT T. NELSON;
MARSHALL E. GILBERT.

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOPINTMENT TO THE GRADE OF REAR ADMIRAL, LOWER HALF:

RONALD M. POLANT;
WILLIAM P. LEAHY, JR.;
JOEL D. SIPES;
RICHARD A. APPELBAUM;
ARTHUR E. HENN.

REAR ADM. CLYDE E. ROBBINS AS COMMANDER, PACIFIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING GERRY C. MCKIM, AND ENDING STEVEN M. NOKUTIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 1988.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JOHN M. JACOBS III, AND ENDING ALLEN B. CLEVELAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 1988.

COAST GUARD NOMINATIONS BEGINNING VINCENT J. SPAGNOLO, AND ENDING HARRY F. GWYNNE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 1988.

EXTENSIONS OF REMARKS

IMPROVING CAPITAL INVESTMENTS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DUNCAN. Mr. Speaker, my constituent, Van R. Michael, has prepared a novel approach to the taxation of capital investments. Van works with the National Christmas Tree Association, Inc., and has prepared the following article on the subject.

IMPROVING CAPITAL INVESTMENTS

The "Tax Simplification" Act of 1986 (TSA-86) resulted in an unexpected windfall for the securities business. But, that windfall has caused a major problem for our system of providing capital for American industry.

The TSA-86's elimination of the "capital gain exclusion," in effect, made ordinary income out of returns on capital investments. Beginning with the first business day of 1987, many security dealers advised their customers that there was no advantage in holding investments. The tax consequences of buying and selling short term, they said, were now the same as long term holding. Brokers across the country were quick to suggest "better buys" for their customers in place of present holdings.

Market volume immediately surged as customers responded to recommendations to sell their old investments and buy new ones. Every sale, every new purchase resulted in additional brokerage fees. No wonder Wall Street found itself unable, or unwilling, to discourage the churning of the market. The great bull market of 1987 fed by the brokers constant urging of "buy" and "sell," followed.

Like all markets supported only by hot air rather than basic changes in real value, someone, somewhere, finally said, "sell but don't buy."

Suddenly, the market heard a vast voice saying in unison, "sell!." No one asked, "What will be the tax consequences of my decision to suddenly liquidate everything."

There were none.

The reason for the holding period rule, lost in the euphoria of "tax reform," had reasserted itself. The fall out of tax simplification created the volatility in the stock market, and ultimately resulted in the crash of October 1987.

Congress, the securities industry, and economists immediately began to look for the reason for the crash. Programmed trading, index futures, option trading and the "Bell witch" were all suspected of being the "cause." However, no one bothered to look at the question of what caused market volatility in the first place.

Basically, Congress had treated a bet at the horse track and a Douglas fir forest, that would not mature for seventy years, as the same kind of investment. When there is no penalty for sudden liquidation of all holdings and, in fact, a benefit from such short sighted planning, the blame for market volatility and the resulting panic must lie squarely with tax policy that changed the rules.

How can this poorly crafted tax policy be corrected?

One method might be to establish an "investment income adjustment" for investments declared as "long term investments" at the time the investment is made and held for at least a minimum period of time. The adjustment would be in the form of a sliding scale exclusion depending on the length of time the investment is held. If the investment was voluntarily liquidated prior to the minimum holding period, the income would be subject to an "early withdrawal" surcharge or penalty. The result would be to inhibit the liquidation of long term investments in a "panic" market as well as correcting the present tax policy of taxing the inflation of long term investments as well as the real income.

The key points of this program are: (1) the pre-declared long term investments; (2) the sliding scale exemption depending on the length of holding; and (3) the penalty for early liquidation.

The primary objective of this policy would be to encourage investment in long term high risk enterprises and to make capital available to new and expanding industries as well as discouraging sudden liquidations and reducing market volatility.

Under the present tax rules, and assuming a 4 percent rate of inflation, a timber grower raising pulp wood in the South over a 19-year rotation would have to realize a 230 percent growth in his investment in order to break even. Obviously, this tax on inflation discourages investment and our renewable natural resources will ultimately suffer the consequences of a bad policy.

While we do not intend to create "tax shelters" or "loopholes," we do feel that long term capital investment in natural resources must be encouraged and that market volatility must be reduced.

TRIBUTE TO SI KENEN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. SOLARZ. Mr. Speaker, I rise to honor the memory of a dear friend of many of us in the Congress, and one of our Nation's most respected statesmen. I.L. (Si) Kenen passed away last week at the age of 83 after a lifetime of devotion to the precious causes of Israel and United States-Israel relations.

More than any other individual, Si was responsible for transforming the United States-Israel relationship from the iciness that marked it during the Eisenhower years to the close friendship of today. He was the founder of the American Israel Public Affairs Committee [AIPAC] and the first editor of the Near East Report. Si's excellent command of the subject matter, his gentle yet persuasive manner and his magnificent knack for making friends made him one of the most influential lobbyists Washington has ever seen. He will be sorely missed.

Mr. Speaker, I would like to commend to my colleagues a touching tribute to Si Kenen written by M.J. Rosenberg, who is currently special assistant to Senator CARL LEVIN. M.J. was the long-time editor of the Near East Report and one of Si's protegés.

REMEMBERING I.L. "SI" KENEN

(By M.J. Rosenberg)

An era ended with the death of I.L. Kenen on March 23. Si's death was no shock to those of us who knew him. He had been in failing health for the last few years. But he looked good, far younger than 83, and there was always the hope that he would rally and, once again, be as he was in his prime.

Si was lucky. His prime lasted a long time. He was already in his late sixties when I first came to work at AIPAC in 1973. I came in as a volunteer, anxious to do anything I could to help Israel during the Yom Kippur War.

The AIPAC of 1973 was not the operation we know today. I doubt that there were more than ten people working in the office on 13th and G. The "Jewish lobby" was run on a shoestring. Si's secretary would parcel out postage stamps like they were gold. And she would want to see the letter you were mailing to make sure you didn't swipe a stamp for your mother's birthday card.

Si ran a tight ship. He made all the key decisions. In those days, only Si's treasured long-time aide, Esther Chesney, and legislative liaison Ken Wollack, dared to question a Kenen decision. But he rarely budged. He knew how to run AIPAC. After all, he had invented the place.

In his old age, newcomers to AIPAC would think of Si (who dropped in once a week, or so) as a "sweet old man." But his demeanor deceived. Si may have been sweet (sometimes) but he was not benign.

He was a tough boss. In late 1973 I wrote my first article for Near East Report. He made me rewrite it a half dozen times and didn't compliment me on the final product. (Not then anyway. Over the next 15 years Si repeatedly told me—with great exaggeration—how "brilliant" that first story was.)

It wasn't much fun arguing with him, about the Mideast or about his determination to reduce the size of every item in Near East Report by about 60 percent. Trained as a lawyer, he was a skilled debater.

His demeanor was disarmingly gentle. Si rarely raised his voice. He would express anger by lowering it, forcing you to lean in close to hear him. That manner was an asset on Capitol Hill. He was liked on both sides of the aisle and by Senators and House members of every stripe. Si didn't have an enemies list. On the contrary, he believed that every member of Congress was either a friend or a potential friend. And he treated them accordingly.

He was effective. When he began his work in Washington, Israel was receiving not one dollar in U.S. aid. By the time he left, Israel was receiving $2.2 billion. Si didn't accomplish that alone. He had a good product to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sell. But it is hard to imagine that the job would have been done at all if Si hadn't decided that Israel needed a lobby in Washington.

In recent years, there were those who said that Si must have been ambivalent about the new "up front" AIPAC. But Si derived pleasure from the success of AIPAC and of Tom Dine, who has served as AIPAC's director since 1980.

And AIPAC is Si's monument. Not the staff (huge by Si's standard). Or the new offices on the Hill (palatial when compared to Si's hole in the wall). No, Si's monument is AIPAC's presence on Capitol Hill and its reputation for effectiveness.

For me, the best way to remember him is to picture him in the grand ballroom at the Washington Hilton, sitting on the dais at AIPAC's annual policy conference. He would sit there, smiling to himself, as the names of Senators and House members present would be called out. Close to half of the Senate. A third of the House. All there to declare support for a strong U.S.-Israel relationship.

Looking out at that assemblage, Kenen had every reason to be proud. And he was. He knew, as few of us can know, that his life had made a difference. For Israel and the Jewish people.

SUPPORT H.R. 2666

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. VENTO. Mr. Speaker, as the House continues to debate legislation to control acid rain, I would like to call to the attention of my colleagues a disturbing article about the acidification of our Nation's streams in the March 23, 1988, Washington Post. The Environmental Protection Agency's National Streams Survey has compiled data on 62,000 streams in the Mid-Atlantic and Southeastern United States which show levels of acidification much higher than previously estimated. The results of this survey are not surprising. Acid rain continues to be a threat to our Nation's lakes, streams, forests, and other natural resources. While it is clear that a long-term solution to the problem of acid rain may be expensive, failing to take action against this threat would be much more costly to our environment and economy than not acting. I urge my colleagues to support H.R. 2666, legislation introduced by our Minnesota colleague, Congressman GERRY SIKORSKI, which will reduce emissions of nitrogen oxides and sulfur dioxides to deal with the threat posed by acid rain.

[From the Washington Post, Mar. 23, 1988]

STREAM ACIDIFICATION ALARMS NATURE GROUP

(By Michael Weisskopf)

Nearly half the streams in the mid-Atlantic and southeastern states are acidified or are in danger of acidification, according to preliminary data from an Environmental Protection Agency survey.

The data, released by the Natural Resources Defense Council, shows that the effects of acid rain are more serious than previously estimated for thousands of streams in the two regions, said Deborah Sheiman, a NRDC resource specialist.

The Chesapeake area had the largest number of acidified streams and the largest number "extremely sensitive" to further acid deposits, according to the data.

"These streams are dead or dropping dead," Sheiman said, noting that continued acidification would threaten aquatic life.

Sheiman said the analysis was based on preliminary results of the EPA's National Streams Survey internally circulated in February 1987 and obtained by the NRDC. The environmental group was denied a Freedom of Information Act request for the final data, she added.

She accused the agency of "sitting on" the data so as not to fuel efforts in Congress to control factory emissions of nitrogen oxides and sulfur dioxide, which acidify in the atmosphere and descend as acid rain.

"They like the scientific information to support their political position, which is to oppose acid rain legislation," she said of the EPA.

Bill Fallon, an EPA acid rain research specialist, said he knows of "no radical differences" between the preliminary data and the final report scheduled for public release in late May or early June. In a brief telephone interview, he asked a reporter for time to review the data, promising to call back. He failed to call back or respond to subsequent telephone calls.

EPA spokesman Chris Rice said later that preliminary results for some areas were 10 percent to 15 percent higher than data exposed to peer review. But he declined to specify the differences or interpret the findings until the report is released.

"I guarantee you that conclusions that the NRDC have drawn may not be the same as conclusions that others draw," he said.

Asked why the report had not been released, Rice said that "we had raw data. It's taken us that long to review the data. We want to make sure the science done is thorough, well thought out and well reviewed."

Previous studies by the EPA have quantified the impact of acid rain on lakes, identifying victims of acidification or sensitivity in the upper Midwest, Northeast, South and high altitude regions of the West.

The data circulated in February 1987 represent the first comprehensive study of streams. More than 62,000 of the small water bodies were analyzed in an area bordered by the Appalachian Mountains on the east, the Ozark Mountains on the west, the Catskill Mountains on the north and the Florida panhandle on the south.

A term known as acidic neutralizing capacity (ANC) measures acidity of water. When ANC drops to zero or lower, water becomes acidified. At zero to 50 ANC, it is "extremely sensitive" to acidification, and at 50 to 200 it is "moderately sensitive."

According to its preliminary data, EPA found 4,858 acidified streams, 7.8 percent of those surveyed. The Chesapeake area—covering portions of Maryland, Virginia, southern New Jersey, Delaware and North Carolina—had 1,346 acidified streams.

There also were 1,277 acidified streams in the northern Appalachians, 1,086 in the Florida panhandle and 642 in a wedge of western Maryland, Pennsylvania and West Virginia.

Another 25,643 streams were identified as "extremely" or "moderately" sensitive to acidification, including 4,882 in the Chesapeake area, 4,882 in the northern Appalachians, 3,607 in the Piedmont Mountains and 2,858 in the Ozark and Oauchitas Mountains, according to the data.

Florida had the largest percentage of streams acidified—51 percent—compared to 14 percent in the north Appalachians, 11 percent in the Chesapeake area and 8 percent in the Poconos and Catskill Mountains, according to the survey.

Nearly all the acidified streams in the Chesapeake area and half in the north Appalachians registered a pH of 5 or lower, according to the survey.

As pH drops, acidity increases. Some scientists believe that damage to aquatic life occurs at pH levels as high as 6.

A federal task force reported last September that relatively few lakes have become acidic enough to kill sport fish and that there is no evidence of damage to forests, crops or human health. The study was sharply criticized by environmentalists and scientists for listing only those water bodies with a pH of 5 or lower.

"What you're hearing from the administration is that acid rain is less of a problem than we thought it was," Sheiman said. "What their own information shows is that the problem is more severe than we previously anticipated."

HAIL TO THE CHIEF

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. GINGRICH. Mr. Speaker, I urge my fellow colleagues to read the following article about a true servant of the public. I am referring to Chief W.M. Moss, the police chief for 34 years in Cedartown, GA, who retired in January of this year. This editorial from the Cedartown Standard pays a fitting tribute to Mr. Moss and his accomplishments for Polk County over the years.

Mr. Speaker, I believe we all can gain something by looking at Chief Moss as an example of a dedicated and hard-working American.

[From the Cedartown Standard, Jan. 28, 1988]

HAIL TO THE CHIEF

(By Joe Williams)

W.M. Moss is by far the most complete law enforcement officer it has ever been my privilege to know.

I've known some who were tops when it came to criminal investigation, or administration, or public relations, or employee relations, or taking charge when a street situation threatened to get out of hand. But Moss is the only one I've ever run across who excels at every single aspect of his profession. Considering the times in which he's served, it is a truly awesome accomplishment.

When you think about it, you realize that he has guided the Cedartown Police Department through the longest, most turbulent, and most demanding era in the history of American law enforcement.

For openers, the courts have completely scrambled the legal ground rules that were in effect when Moss first pinned on a badge.

Legislators and bureaucrats at the state and federal levels have multiplied laws and regulations, and the day-to-day complexities that go along with them, almost beyond belief.

Technologists have produced an avalanche of ever-more-sophisticated gadgets and techniques that (1) challenge the ability of police administrators to keep abreast of the changes, and (2) often benefit the criminal as much as they benefit the policeman who's trying to catch him. Just in the vital area of communications alone, the red light on top of city hall has given way to global satellite transmissions.

Even more difficult to cope with have been the dramatic shifts in attitudes across the whole spectrum of human relations—from race to sex to religion. Standards of behavior accepted as perfectly normal today were unthinkable anywhere in this nation when Moss first joined the force.

The pressures generated by all of this massive upheaval cannot be adequately described. Only those who have personally experienced them can fully appreciate their impact. And nowhere have they imposed themselves more strongly than upon law enforcement—at every level.

Throughout this period of unprecedented chaos, Chief Moss saw to it that his department not only met the demands of the times but mastered them—and mastered them so well that he won the respect and admiration of his colleagues in Georgia and in other parts of the country as well. He also won the respect, admiration and gratitude of the citizens of Cedartown—including this one. If retirement serves him half as well as he served us, he'll be the happiest man in Polk County for many more years to come.

THE PROFESSIONALS' LIABILITY REFORM ACT OF 1988

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. RITTER. Mr. Speaker, the litigation explosion has had staggering negative impacts on practically every sector of our society. Liability insurance premiums are terribly expensive for all Americans, the courts are flooded with frivolous lawsuits, small businesses are closing their doors because they cannot afford insurance protection, doctors willing to deliver babies cannot be found in some parts of the Nation, innovation is being stifled for fear of being sued, insurance is unavailable to engineers who work in cleaning up the Nation's hazardous waste sites, and everyone pays for the exorbitant costs paid by America's corporations to defend themselves against liability suits.

Congress is trying right now to pass legislation aimed at helping manufacturers, distributors, and sellers of products to redress the balance between those suing and those being sued. Our jobs in manufacturing, our standard of living, our ability to compete as a nation are all at stake. Indeed, individuals who have been injured and who have legitimate claims will be well served by product liability reform.

But there is yet another crying out for reform and that is the area of professionals' services. Professionals who provide necessary services to consumers, government, and business need the same fair treatment that Congress has been considering for manufacturers, distributors, and suppliers of products. Professionals' liability reform can be viewed as a kind of human resources counterpart to product liability reform.

Professionals in all fields—doctors, dentists, nurses, midwives, accountants, engineers, architects, surveyors, and even lawyers—are being subjected to "litigation pollution" and its costs. They live and work in fear of getting sued. For example, consulting engineers—who apply their ingenious talents to design the Nation's needed infrastructure, our roads, bridges, and buildings—are paying two to three times more for professional liability insurance coverage than they were just 3 years ago, according to the American Consulting Engineers Council. Some firms pay over 10 percent of the gross revenue for liability protection. Now that's the margin at which a business lives or dies. Every time a lawsuit is brought against a consulting engineering firm it costs the firm an average of $8,000 of its own money to defend, whether or not the plaintiff prevails. In other words, once sued an engineer loses even if the case is resolved in his favor. And in 40 percent of the suits brought against engineers there is no payment whatsoever to the plaintiff—indicating that those suits should never have been brought in the first place. Consulting engineering firms are typically small businesses operating in our cities and towns across America and the cost of insurance and legal defense is practically wiping them out. This has got to change.

That is why the Professionals' Liability Reform Act of 1988 is needed. This legislation sets a negligence standard for lawsuits against professionals, which simply means that a professional should not be found liable unless his or her services were negligently rendered. Today, a professional runs the risk of being included in a lawsuit just by being involved in a project which results in harm whether or not they had anything to do with the harm.

This issue demands Federal attention because of implications for interstate commerce. Whether it's increased medical expenses paid through reimbursements that M.D.'s receive from the Federal Government, or the vulnerability of CPA's, engineers, or brokers who work for companies active in interstate commerce, the situation is getting worse. The need to be covered for worst-case scenarios leads to peak premiums. Through this legislation, uniform Federal standards would be established to reduce the uncertainties and heightened costs of liability exposure caused by different standards in the 51 separate court jurisdictions.

This bill bases awards on fault or wrongdoing, not on who has the deepest pockets—abolishing joint-and-several liability. Defendants would be required to pay only the amount of any judgment for which they are responsible.

It encourages alternative procedures to resolve disputes, expedite adjudication, and compensate for harm. Rather than bringing every case to the courts, both money and time may be saved by alternative mechanisms.

It provides periodic payments for damages. Structured settlements would provide for payment of awards in a timely manner to avoid the burden of a lump-sum payment.

It limits plaintiff's attorneys' fees based on a sliding scale with the ability to petition the court in extreme cases. Currently, twice as much money goes to attorneys' fees and litigation expenses as to compensate victims.

It prohibits multiple payments for damages. Awards would be reduced by insurance, wage-continuation programs, workers' compensation, and other payments and benefits intended to compensate the plaintiff for the damage injury.

It sets limits on punitive-damage awards to plaintiff. Amounts of awards over three times the compensatory damages will be given to the State to offset court and other expenses.

It holds claimant's attorney liable for frivolous suits. Attorneys would be liable for costs when they bring suits without reasonable basis strictly to achieve a monetary settlement as determined by the court.

And, it also requires privity, so that those who were not originally party to a service, but who use it without the knowledge or consent of the provider would not have the right to sue the professional.

In a recent parody on this uniquely American situation entitled "500,000 Attorneys," Jeff Greenfield struck a nerve when he editorialized about exporting that many lawyers to Japan to bring the Japanese down to a more competitive level. Obviously, that's not a solution, but to address this growing problem I am introducing the Professionals' Liability Reform Act of 1988.

The legislation introduced today will not let any professional off the hook if there was negligence that caused injury or damages to an innocent party. No one, including professionals themselves, would want a system that does not require persons who make mistakes to pay for them. The provisions of the Professionals' Liability Reform Act simply puts professionals on an equal footing when they are sued—it requires that they are liable if negligent, but does not allow them to be the targets of people who are trying to make a fast buck from those who are thought to have deep pockets. The bill also sets standards for timely payment of awards, attorney compensation, double recovery, and defendants paying only their fair share of an award—all of which creates a much more equitable system and lowers the consumer's and society's cost of the current litigation explosion.

Joining me as original cosponsors of this legislation are my colleagues: Representative ROBERT LAGOMARSINO, Representative JACK DAVIS, Representative GEORGE WORTLEY, and Representative SHERWOOD BOEHLERT .

I urge my colleagues to join me in supporting this legislation. American enterprise and labor deserve relief from this crisis. The Professionals' Liability Reform Act will go a long way to provide that relief.

If you would like more information or would like to cosponsor this bill, please contact Jean Perih in my office.

THE CENSUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 30, 1988, into the CONGRESSIONAL RECORD:

THE CENSUS

The federal government does only a few things more important than counting its people. The results of the national census, taken every ten years, are used for many purposes, including dividing up federal grants, determining the number of congressional seats in each state, and planning business and economic development. Indiana plays a major role in taking the census, and Hoosiers should take some measure of satisfaction in that.

The 10-year, or "decennial", census is the nation's primary statistical activity, providing much information about the nation not available from other sources. It tells us how many people there are in the United States, and provides us with national data on housing, employment, transportation, income, education, energy usage, and ethnic origins. This information is used year-round by the private and public sectors for many purposes. It is used to draw congressional, state, and local political boundaries, to distribute billions of dollars in federal grants to states, and to collect taxes. Businesses use census results for planning everything from mail-order marketing to the location of new shopping centers. School districts use census data to decide where to build new schools. Experts use it to better our understanding of disease, poverty, unemployment, and crime. Urban and rural planners use it in planning housing, roads, and economic development. Without the census information, we would not understand our own nation very well.

The Data Preparation Division (DPD) in Jeffersonville, Indiana is the Census Bureau's main processing facility. Established as a temporary facility in 1958, the Jeffersonville DPD covers a million square feet, employs thousands of Hoosiers, and supports over 150 active Census Bureau projects, including extensive participation in the 10-year national census. The monthly foreign trade deficit figures and the 5-year agriculture census are also processed in Indiana. The Jeffersonville office plays a vital role in the nation's ongoing efforts to compile accurate, complete data about the make-up of the United States.

The United States was the first nation to make a census part of its constitution. With the Fourteenth Amendment, the Census Bureau's mission has been to count the "whole number" of persons who are residents in the United States. Since the first census in 1790, the Census Bureau's task has expanded with the population of the U.S., which has grown from 4 million to 250 million today. Advances in technology have helped the Census Bureau to obtain an increasingly accurate "snapshot" of our country on census day. For the 1990 census, the Census Bureau will use a new computerized mapping system to improve the accuracy of the count, replacing the laborious hand-drawn maps of the past. The Jeffersonville DPD was instrumental in developing this new mapping system. The Census Bureau has also greatly expanded its program to allow local governments the opportunity to review maps and counts before and after the census for inaccuracies. With these improvements, the Bureau expects its statistical error in 1990 to be less than 2 percent.

The methods of taking the census generate controversy, partly because of the growing importance of census results. One controversy is the undercount. By comparing counts of representative samples taken after the census with the actual census count, the Census Bureau can estimate how many residents it missed in the actual count. While the undercount for the entire population was only 1.4 percent in 1980, it was 5.9 percent for blacks and similarly high for other minorities. For 1990, the Census Bureau had for the first time considered using these procedures to adjust for the undercount in their final tally, but the Office of Management and Budget (OMB) reportedly ruled against their plans. Some allege that this decision was politically motivated. The Congress is currently considering legislation to require an undercount adjustment.

There are other controversies. Some Members of Congress argue against the counting of illegal aliens for purposes of drawing congressional districts, and for counting American citizens who are overseas residents, such as military and foreign service personnel. Other concerns are the difficulty of counting the homeless and the Census Bureau's efforts to reduce the information collected on Asian Americans. Several months ago, OMB was widely criticized for its proposal to cut by one-third the census data collected in 1990. OMB's plans were scaled back as a result of strong protests by the Census Bureau, Members of Congress, local governments, businesses, and private citizens.

What will the Census Bureau see when it looks at Indiana in 1990? The Department of Commerce estimates that Indiana will have 5.6 million residents in 1990. From 1980 to 1987, Indiana dropped from the 12th to the 14th most populous state. It is not expected to change positions before 1990. Indiana's population growth will likely be less than 1 percent this decade, compared to around 20 percent for states such as Florida and Texas. If the Ninth Congressional District continues to grow at its current rate, by 1990 it will contain some 3 percent more Hoosiers than its 1980 count of 545,000.

Because of Indiana's low growth rate compared to other states, it is a state with some risk of losing a congressional seat. After the 1980 reapportionment, Indiana lost its 11th seat by only 7,000 persons. Indiana challenged the Census Bureau's reapportionment in court and in the Congress, but was not successful.

The 10-year census—often described as the federal government's largest peacetime program—affects us all. The results will influence the make-up of the Congress, how federal dollars are distributed, and even the economic future of localities. No matter how the several controversies concerning the census are resolved, come April 1, 1990, the Census Bureau will undertake the major task of counting every resident of the United States. With so much riding on the count, we should try hard to get it right.

A TRIBUTE TO HYMAN JEBB LEVY UPON RECEIVING THE SEPHARDIC HERITAGE AWARD FOR 1988

HENRY A. WAXMAN

CALIFORNIA

HOWARD L. BERMAN

CALIFORNIA

MEL LEVINE

CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. WAXMAN. Mr. Speaker, we are honored to bring to the attention of the members the tribute which Sephardic Temple Tifereth Israel will bestow upon Hyman Jebb Levy as recipient of the highly prestigious Sephardic Heritage Award. The theme of the gala dinner dance, which will be held on May 1, 1988, has been wisely chosen: "A Man For All Causes." Throughout his life, Mr. Levy has truly proven his deep interest in and his tireless and unstinting commitment to a wide variety of religious, educational, and humanitarian organizations in our community and in Israel.

Hyman Jebb Levy, a prominent businessman, served proudly in the U.S. Navy from 1944, and was honorably discharged in 1946. A native of Rochester, NY, he moved to Los Angeles after his discharge.

Mr. Levy has used his success compassionately and wisely in countless generous and selfless contributions. The extent and variety of his many concerns is testament to his outstanding role as leader and philanthropist. The understanding of and respect for his Sephardic heritage have been clearly evident through the many accomplishments made during his presidency of Sephardic Temple Tifereth Israel in 1981 and 1982. Since then, he has continued to serve as a temple officer and is currently a vice president of temple operations.

It is often said that "actions speak louder than words." We find that words seem inadequate in trying to describe a man whose substantial donations and gargantuan efforts have been responsible for contributing so much to our community. Some of the major elements in Sephardic Temple Tifereth Israel's landmark, award winning religious building include school classrooms, a social hall and kitchen, and a three-story library and museum. The Jeff Levy Foundation additionally funds the library staff and book acquisition program, as well as a much needed child care center in Tel Aviv.

Hyman Jebb Levy has, in keeping with the highest standards of Jewish tradition, made all of these contributions quietly, modestly, and without publicity. In keeping with this spirit, all of the proceeds of the dinner dance being held in his honor will be shared by a variety of worthy causes—many of which Mr. Levy founded or now leads.

It is clear that Mr. Levy is an outstanding individual who has devoted his life to enriching the lives of those in our community. His wife, Donna, children—Kathy, Lori, and Jack, and grandchildren—Danielle, Michael, and Christopher, are all very proud of him.

We ask our colleagues to join us in wishing Mr. Levy continued good health and continued success in his role as one of the most respected leaders of the Los Angeles community.

INTERNATION FAMILY PLANNING GOALS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. KOSTMAYER. Mr. Speaker, we do not own the planet we inhabit, we are its temporary guardians. While human ingenuity has brought us a world of luxuries and conveniences only dreamed of 100 or even 50 years ago, it is also a world whose resources and environment have been taken for granted. Mounting and continuing pressures on our forests, soils and other natural systems portend tragic consequences for the quality of life on this planet by the time our children and grandchildren become its guardians.

Irrefutable evidence exists that much of the responsibility for these pressures lies with rapid population growth. The Earth's sustainability depends upon a more reasonable balance between our human numbers, our resources, and our environment. It is a responsibility that cannot be postponed for another generation or two; it must begin now. There are some 400 million people in the world today who want and need to determine the size and spacing of their families, but to whom family planning services are unavailable or unaccessible. These people were the paramount consideration when the Public Policy Committee of the Population Institute—a group of 42 distinguished citizens including 10 Members of the U.S. Congress—recently formulated its 1988 goals for the legislative and executive branches of the U.S. Government. I urge all of my colleagues, who share concern for the quality of life of future generations, to give thoughtful attention to these recommendations:

1988 BACKGROUND STATEMENT OF THE PUBLIC POLICY ADVISORY COMMITTEE

The planet we all share is in trouble:

The world's deserts are increasing at the rate of 23,000 square miles a year.

Tropical rain forests are shrinking at the rate of 42,000 square miles annually, resulting in the extinction of thousands of plant and animal species and an increase in atmospheric carbon dioxide levels.

The earth's climate is becoming warmer, threatening much of the most productive agriculture lands.

In turn, the world's oceans are slowly but surely rising, threatening over time many heavily populated coastal regions.

Topsoil, that took millennia to produce, is disappearing at the rate of 26 billion tons a year, reducing the food producing capacity of the globe.

These trends all have several factors in common. They affect all mankind. They can all be slowed and even reversed, but it will take money, time, and changes in human practices to do so. They are all driven by a common variable—a rate of population growth which is unprecedented and unsustainable. Efforts to address any of these problems, without lowering current population growth rates, will fail.

On a regional scale, we have already had a preview of the havoc that can be caused by unrestrained population growth. Sub-Saharan Africa currently experiences the highest population growth rates ever recorded for a large population. At the same time, per capita income and food production have declined over the past two decades, while deserts have expanded, forests and fertile lands have shrunk, and large populations of rural and urban refugees have been created. Clearly all attempts to aid Africa are doomed to failure if population growth continues to swamp development efforts.

We in the United States cannot sit back in the comfort of our own affluent society and ignore these trends. Our climate is changing, the shore line of our children is endangered, and our borders will continue to be crossed by immigrants desperately seeking a better living. Our national security is threatened if political turmoil engulfs developing countries, and hostile and despotic regimes take power. And the world will be a poorer place for future generations if the rich variety of plant and animal life we inherited is destroyed.

While it is in our own economic, political, and aesthetic interests to help save our planet, there are also overwhelming moral and humanitarian reasons that the United States should address the population issue:

In many countries, increasing the interval between births to at least two years would prevent one in every five infant deaths.

Half a million women die each year from complications related to pregnancy. Improved control over their own fertility greatly reduces such mortality.

The great majority of women in developing countries wish to control the size of their family, but lack the knowledge and means to do so.

Abortions, both legal and illegal, are the last resort for women who do not have access to family planning.

The United States historically was among the first countries to recognize the imperative of making family planning services available in the developing countries. We were at first a lonely leader, with many spokesmen in developing countries arguing that family planning was an alien concept which threatened their customs and national independence. By the early 1980s, this attitude had changed in almost every country. All of the largest developing countries now have in place a family planning program. Every developing country joined in the 1984 UN International Conference on Population to declare that all couples and individuals should be able, as a recognized human right, to decide on the number and spacing of their children.

At precisely the time when clear evidence around the world demonstrates the need for reduced population growth rates, and when all developing countries accept the need for family planning programs, the United States has withdrawn from its leadership role. It has dropped out of the United Nations Population Fund (UNFPA), and imposed unacceptable conditions on U.S. nonprofit organizations which historically have undertaken many of the most imaginative and effective family planning programs abroad. While other countries have filled the gap financially, at least temporarily, no other country can play the kind of leadership role in political and moral terms as can the United States.

This Congress will now turn its attention to the budget and conditions which will affect the funding of population programs in Fiscal 1989, most of which will actually be conducted by a new Administration and a new Congress. It is critical that adequate resources be provided, so that the new Administration will be able to have the opportunity to once again restore the United States to its position of world leadership in the population field. Our self interest, our moral self respect, and our humanitarian concern for those suffering from ill health, hunger and poverty abroad, require that we do so. For that reason, the Population Institute's Public Policy Advisory Committee has formulated the attached set of objectives for 1988.

1988 GOALS FOR THE LEGISLATIVE AND EXECUTIVE BRANCHES

We, the members of the Population Institute Public Policy Advisory Committee, urge that in 1988 the Institute pursue the following legislative and administrative objectives:

1. *Funding Levels:* Resources made available by the U.S. for population programs are woefully inadequate when compared to demand for family planning services in the developing countries. Ideally funding should at least be restored to the $290 million level provided in FY 85. Current overall budget constraints make this unlikely. At a minimum, Congress should provide $200 million in the functional account, plus an additional $56.6 million through programs funded by the Development Fund for Africa and the Child Survival Fund (see below). Without adequate funding for family planning, all other development efforts will be overwhelmed by sheer population growth.

2. *Africa:* The international community has poured hundreds of millions of dollars into development programs and emergency relief for the African continent. Its people are worse off today than they were a decade ago. Africa's population growth is also the highest in the world. There is no more dramatic evidence of the folly of conducting development programs adequately without providing for family planning. A minimum of 10 percent of all funds made available for the Development Fund for Africa should be explicitly for population programs.

3. *Child Survival Fund:* Studies indicate that the single most powerful method of improving the survival rate of children is through encouraging at least a two-year spacing between births. Such spacing also greatly reduces maternal death. Yet family planning has received little attention in programs operated with Child Survival funds. Congress should require that at least 10 percent of such resources be spent on programs for family planning, and that all community level programs have some family planning component.

4. *AIDS:* The AIDS epidemic is a serious health problem, particularly in Africa. Family planning programs have the expertise, technical capability and experience to make a major contribution to solving the AIDS problem. Funding to address the AIDS crisis should be in conjunction with family planning programs to maximize the effect of our family planning and AIDS efforts.

5. *United Nations Population Fund (UNFPA):* The UNFPA has effectively worked with 140 governments throughout the world in helping to establish family planning programs, and has always had an outstanding record of working with the U.S. government. All government reviews of UNFPA have indicated that the organization does not support programs involving coercion or the promotion of abortion. Con-

gress should reinstate the requirement that no less than 16 percent of all funds made available for population activities again be channeled through the UNFPA. A provision should be added that no U.S. funds be made available to China until a review has been conducted of the UNFPA program in the country during the first four months of the next Administration.

6. *Non-governmental Organizations (NGOs):* NGOs provide flexible, effective family planning programs all over the world. The U.S. government should continue to support their activities, and should not impose requirements on NGOs overseas which it would not or could not impose on similar organizations in this country. Legislation sponsored by Reps. Chet Atkins of Massachusetts and Olympia Snowe of Maine seeks to accomplish this. In particular, the Congress should require the restoration of funding for the International Planned Parenthood Federation.

7. *Cultural Sensitivity:* The U.S. should continue to insist that the programs it funds are strictly voluntary on the part of its participants and do not include use of U.S. government funds for abortion as a means of birth control. The government should not, however, attempt to design a detailed set of universal criteria for programs in many countries with cultural, social and medical conditions which are often radically different from each other and from those in the United States.

8. *Human Rights:* The U.S. government should be guided by the principle, agreed to by all governments which participated in the 1984 International Conference on Population, that all couples and individuals should be able to "exercise their basic human right to decide freely, responsibly and without coercion, the number and spacing of their children and to have the information, education and means to do so."

EULOGY FOR SENATOR SAM REYNOLDS

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DAUB. Mr. Speaker, it was with sadness that Nebraskans learned last week of the passing of Senator Sam Reynolds. Senator Reynolds died March 20 in Omaha.

Senator Reynolds started building up a coal business in Nebraska in the 1920's, and he continued to run that business until he retired in 1984 at the age of 93. He was appointed to the U.S. Senate in 1954 where he served our State with distinction.

Senator Sam Reynolds was a respected gentleman who will be sadly missed by his fellow Nebraskans.

EX-U.S. SENATOR SAM W. REYNOLDS, 97, DIES—HE WAS COAL MAN, CHAMPION GOLFER

Sam W. Reynolds, coal man, champion golfer and former U.S. senator from Nebraska, died Sunday at his home.

Funeral services for Reynolds, 97, of 6625 State St., will be at 11 a.m. Wednesday at All Saints Episcopal Church, 9302 Blondo St., a family spokesman said.

Reynolds died of natural causes, the spokesman said. Reynolds's wife, Louise died in 1981.

The man who began his career in an Omaha coal yard for $35 a month later owned a wholesale coal company, served in the U.S. Senate, represented President Eisenhower at the inauguration of former Cuban President Fulgencio Batista, and golfed with the late actor Gary Cooper.

Reynolds also earned seven Nebraska State Golf Championships, served on the Omaha City Council, and worked as Omaha's civil defense director during the 1952 flood.

After graduating in 1908 from Omaha High School, now Omaha Central High School, now Omaha Central High, Reynolds went to work at the West Omaha Coal and Ice Co.

MAJOR BUSINESS

In 1920, he and Wood Allen formed the Allen and Reynolds Coal Co. Four years later, Reynolds became a partner in the Updike Lumber and Coal Co. and in Reynolds-Updike Coal Co.

Reynolds was in the coal business during the days when it was a major commercial and residential fuel. He pulled coal through the streets and most homes had coal bins in their basements.

Sixty years later, in 1984, Reynolds retired as owner and president of Reynolds-Updike. The company was by then the only coal wholesaler left in the state, and it was closed when Reynolds retired.

Reynolds' daughter, Emily Baker, said her father was proud of the fact that he remained in the coal business until he was well in his 90s.

Coal wasn't Reynolds sole interest.

At various times, he presided over Omaha's Chamber of Commerce and was chief of the Community Chest drive, commander of Omaha American Legion Post No. 1, a national Legion committee member and member of the Omaha Bridge Commission.

CIVIL DEFENSE

In 1950, Omaha Mayor Glenn Cunningham appointed Reynolds to organize and direct the city's first Civil Defense unit.

Fear of the Soviet Union inspired the project, but in 1952, the unit battled a different foe: the Missouri River.

Reynolds directed the effort of some 35,000 people, nearly all volunteers, who barely managed to keep the river from devastating Omaha.

President Eisenhower later awarded Reynolds the Freedom Foundation of Valley Forge medal for his efforts. He later recounted the ceremony:

"I had a little fun," he said in a news story. "I told the president, 'Mister President, I've always wondered how a general felt when they pinned a medal on him for what the boys did out in the mud.'"

Reynolds said Eisenhower replied: "'I know just what you mean, Reynolds. I know just what you mean.'"

In 1953, Reynolds decided against developing plans to evacuate Omaha in case of a bomb attack.

APPOINTED BY GOVERNOR

When Sen. Hugh Butler died in 1954, Gov. Robert Crosby appointed Reynolds, a Republican, to serve the remaining six months of Butler's term. Reynolds did not seek reelection. In a 1954 interview, he said he broke a lifelong rule when he accepted the appointment.

"Whenever I have been urged to run for public office, I have said, 'No thanks. I'd rather be the cusser than the cussee,'" he said.

"Needless to say, I am very appreciative of the great honor. I am very humble. I feel the great responsibility to my state and the Republican Party."

In 1957, Reynolds edged Wray M. Scott by a 14-vote margin for a seat on Omaha's City Council.

Reynolds' stay on the council was short: A year later, he and his family moved to their State Street home—outside the city limits, which forced his resignation.

Despite his busy schedule, Reynolds managed to find time for a leisure passion: golf.

Reynolds won his first Nebraska amateur golf championship in 1912 at age 22. His six other titles came in 1914, 1916, 1919, 1921, 1922 and 1926. He finished second five times.

During the 1930s and later, Reynolds shied away from competition. He once explained:

"I was in the coal business and I was raising a family. I didn't want to be known (only) as a golf player. I had to be known as a coal man, and the only way to get your name off the sports page was to quit playing and disappear."

But Reynolds later returned to the sports pages.

Fifty years after his first title, he competed in the Nebraska Men's Amateur Golf Tournament. His caddie, as in the 1912 tournament, was Dr. Eugene Slattery.

Five years later, at age 77, Reynolds won the first flight in the amateur tournament with rounds of 76, 78 and 72.

He continued golfing until age 92. His home overlooks several holes of the Omaha Country Club, and Reynolds kept his cart at home and rode it to the course.

"REYNOLDS HOLE"

The 10th hole of the Omaha Country Club was named "Reynolds Hole" in 1980.

Reynolds often told the story of how he golfed his age for the first time when he was 69, on an 18-hole round.

"And I've shot it every year since," said 87-year-old Reynolds in a 1977 interview. "If you think I get a kick out of shootin' an 87, you're nuts."

Survivors include daughters Louise Haugh of LaJolla, Calif., Emily Baker of Omaha and Aurel Couch of Omaha; brother Edward C. "Ned" Reynolds of Omaha; six grandchildren and three great-grandchildren.

REYNOLDS CALLED MAN OF MANY ABILITIES

Sam Reynolds, a longtime political, business and social figure in Omaha and across Nebraska, was remembered Sunday as a man of multiple interests and abilities.

Former U.S. Sen. Roman Hruska of Omaha said Reynolds, who died Sunday, was "one of the few full, all-time citizens I've ever known."

Hruska, who replaced him in the U.S. Senate in 1954, said Reynolds was active in business and military service and was a strong family man.

Reynolds served six months as a Republican senator, appointed to fill the vacancy left when Hugh Butler died. Hruska ran on the Republican ticket when Reynolds opted not to compaign for election.

"Where he could lend a hand, he did it." Hruska said. He called Reynolds a man with "a steady hand and vision."

Former U.S. Sen. Carl Curtis, a Republican from Lincoln, said, "Sam Reynolds was in the Senate but a short time, but he made his mark there.

"He had strong principles, but he was a friendly man, and people liked him," Curtis said. "He was a true patriot and a man we could all be proud of."

Members of Omaha's business community also hailed Reynolds' importance to the city and the state.

"Sam had a lot of interest in this town, and the town is better off because of him. No question," said Willis Strauss, former chief executive officer of InterNorth, now Enron Corp.

Phil Giltner, president of the First National Bank of Nebraska holding company, said Reynolds had broad contacts in his social and business life.

"He was a remarkable delightful man to know," Giltner said.

Giltner said Reynolds/Updike Coal Co., under the direction of Reynolds, had one of the longest-running accounts at First National Bank—more than 50 years.

Edward Owen, chairman of Owen Industries and Paxton & Vierling Steel Co., said he remembered Reynolds for his role in protecting Omaha when the Missouri River flooded in 1952.

"He did a wonderful job for the city of Omaha. It was a wonderful hour in his life." Owen said.

Reynolds also was remembered by Bob Popp, head golf pro at the Omaha Country Club. Reynolds' home flanks the golf course near the sixth and 10th holes, Popp said.

The club's Sam Reynolds Tournament, going into its 20th year, is "the golfing and social highlight of the Omaha Country Club," Popp said.

"I would go to visit Mr. Sam once a week," Popp said. "Mr. Sam will be missed."

ANTHONY D. CORTESE

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. ATKINS. Mr. Speaker, I am pleased and honored to rise to inform my distinguished colleagues that the Massachusetts chapter of the Leukemia Society is presenting it's first annual leadership award to Dr. Anthony D. Cortese, a tireless worker for a better environment and a better life for leukemia patients.

The newly created Anthony D. Cortese Award is designed to honor leadership in the fight against leukemia and to honor individuals who help others with the disease live a full and productive life. Certainly Tony Cortese is an appropriate model for this award.

Tony's professional life has been devoted to environmental matters. He started his career with the Public Health Service assigned to the National Air Pollution Control Administration—now part of the Environmental Protection Agency—where he worked in the areas of air, water supply, and pesticides programs and on the development of the EPA cancer assessment policy. From 1976 through 1984, Dr. Cortese served the Commonwealth of Massachusetts' Division of Environmental Quality Engineering, first as director of the division of air and hazardous materials and then as the director of DEQE. In the later position, he was responsible for managing the State's programs to control air and water pollution, manage solid and hazardous waste, and protect our drinking water and wetlands.

Tony Cortese is currently associate professor of environmental engineering and policy at Tufts University, and serves as the director of the Tufts University Center for Environmental Management, a comprehensive research, education and policy center working on solutions to problems of environmental pollution. He also serves on the National Research Council and is a member of the Science Advisory Board of the EPA. In addition, he is currently a consultant to the U.N. Environment Program on air quality problems in China.

While engaged in all of these professional activities, Tony finds time to serve as faculty adviser to a Tufts University student organization dedicated to community service volunteering. Moreover, Tony volunteers his time to help the Leukemia Society in a variety of ways such as fundraising, working with researchers and meeting patients. In 1979, Tony was diagnosed with acute lymphocytic leukemia; he is currently in remission.

It is my pleasure to know Tony Cortese, and I am pleased to take this opportunity to honor him.

THE 50TH ANNIVERSARY OF THE OCEANSIDE FREE LIBRARY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. LENT. Mr. Speaker, on May 15, the Oceanside Free Library celebrates its 50th anniversary. On this important occasion, it gives me great pleasure to recognize the library for its many years of outstanding service to the local community. The board of trustees and library staff have made a significant contribution to the educational and cultural growth of our citizens and they deserve our highest commendation.

Through books, a person can explore faraway lands, fight battles alongside history's most famous leaders, and adventure into the future. Libraries provide a wealth of information on subjects ranging from government to science. How true are the words of William Shakespeare who once wrote: "My library was dukedom enough for me."

Since it opened on Washington's birthday, February 22, 1938, the Oceanside Library has been an integral part of our local community. Back then, its primary collection of 2,000 volumes was donated by members of the community. However, it soon became apparent that the community would have to provide larger facilities for the fast-growing library. Through the generous donations of local residents, a plot of ground on Davison Avenue was purchased, and 3 years later in 1941, the new library building was dedicated. The library doubled in size by 1950, and in May of 1955, the school district approved the purchase of six adjoining lots as the site for library expansion. Three more expansion projects would be necessary for the library to reach its current capacity.

In 1964, the library embarked upon a long range program of providing more books and services to meet the diversity of needs and interests in the Oceanside community. Between 1964 and 1973, the book collection increased over 120 percent. The Oceanside Free Library has earned its reputation as an excellent source of information, nonprint materials, and special library services.

The Oceanside Free Library and its staff have demonstrated an outstanding commitment to public service and education. I congratulate them and wish them many more years of continuing success.

BICYCLE PART DUTY SUSPENSION BILL

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. McEWEN. Mr. Speaker, I am pleased today to offer legislation providing for the suspension of the regular U.S. customs duties on certain bicycle parts. The regular duties on a variety of bicycle parts not manufactured in the United States have been suspended since 1971. This prior legislation, and the measure I am introducing today, recognize that the suspension of the regular customs duties on bicycle parts not manufactured in commercial quantities in the United States is critical to maintaining the international competitiveness of U.S. bicycle manufacturers.

As Mr. Speaker is well aware, a conference committee is close to completing its work on omnibus trade legislation initially proposed during the last Congress. The pending trade bill would, among many other things, renew through December 31, 1990, certain provisions in the Appendix to the Tariff Schedules of the United States that suspended the regular duties on a variety of bicycle parts through June 30, 1986. The pending legislation also, for the first time, suspends the duties on a number of bicycle components (such as bicycle tires and tubes and bicycle chains) for which domestic sources of supply became unavailable during the last temporary period of suspension.

During the almost 2-year period that the omnibus trade bill has been pending, domestic sources of supply for a number of additional bicycle components have been eliminated. These include certain aluminum alloy bicycle seat posts and handlebar stems, stem rotor assemblies and quick release hubs. The purpose of the bill I am introducing today is to provide for the suspension of the regular customs duties applicable to these components through the end of 1992. Seat posts, handlebar stems and stem rotor assemblies are normally dutied at 10 percent ad valorem; quick release hubs bear duties of 6 or 10 percent, depending on whether the hub is variable speed or not.

Mr. Speaker, the pending trade bill makes only too clear the differences of opinion that exist within the Congress on how best to assist the competitiveness of U.S. manufacturing industries. I believe we can all agree, however, that the competitiveness of our domestic industries is only damaged when we continue to impose import duties on materials and components that are not produced in the United States, but are essential to the manufacturing operations of U.S. industries. The legislation I am introducing today is consistent with this fundamental tenet of a sound national trade policy. I urge my colleagues to support this legislation.

A TRIBUTE TO DR. JOHN FREEMAN

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DONALD E. LUKENS. Mr. Speaker, I would like to call attention to a dedicated and hard working doctor who not only helps the sick and needy in the United States but extends his generous assistance to the people of Central America.

Dr. John Freeman, an emergency physician at Rogue Valley Medical Center in Medford, OR, has dedicated much time and effort in gathering medical supplies for hospitals and refugee camps in Central America.

In the past year, Dr. John has sent over a ton of medical supplies to the hospitals and refugee camps in Honduras. He has personally sent medicine and surgical equipment including a slit lamp, catheters, local anesthetics, and orthopedic hardware.

Whenever a piece of equipment or specific medicine is needed, Dr. John has gone above and beyond the call of duty to see that it is found. He has made endless phone calls and written letters to insure that the supplies have been delivered.

The refugee camps and hospitals have been greatly enhanced by the efforts of Dr. Freeman. They depend on the supplies they receive because they are unable to obtain them elsewhere.

I applaud Dr. John Freeman and his family for their efforts on behalf of the people of Central America. He is truly a dedicated doctor and a great American.

LEGISLATION TO EXTEND THE RECORD RENTAL AGREEMENT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MOORHEAD. Mr. Speaker, the music heard across America today is a true reflection of its people. It can be as sophisticated as the Park Avenue rhythms of Stephen Sondheim or as down home as the picking of Merle Watson. It can be as cool as the jazz of Wynton Marsalis. The American music industry is one which has set the standards by which the world measures today's music, talent and creativity.

I rise today to help maintain those standards, by introducing legislation, along with my distinguished colleague from Wisconsin, BOB KASTENMEIER, to renew the Record Rental Agreement for an additional term of 5 years. Prior to the enactment of this legislation, record rental stores made it possible to rent an album for a modest fee, buy a tape on which to copy the album at home, and then return the record to the rental store. Record rental stores existed to derive a commercial profit from the practice of home taping. The result was displaced sales and lost royalties.

The practice of record renting exacts a heavy toll on both the retail marketplace as we know it and the creators and copyright owners whose efforts give birth to the wide array of music available today.

Reenactment of the Record Rental Amendment of 1984 for an additional 5-year period, will continue to protect legitimate record retailers from the unfair competition represented by record rental stores; and will ensure that creators and copyright owners will be compensated for the commercial exploitation of their creative property. It would prohibit commercial record rentals unless authorized by the copyright owners of the sound recordings. The law applies only to commercial rentals and provides for the exemption of nonprofit libraries and educational uses.

We can be forewarned of the impact of record rental outlets by data from the retail record business in Japan. Surveys there have shown that 97.4 percent of the Japanese rental outlet users admitted that they taped the albums they rented. Not surprisingly, record sales by retail stores located in the vicinity of rental outlets had fallen by 30 percent. These figures are a clear omen of what could happen in the United States if the legislation is not reenacted.

It is for these reasons that I am reintroducing the record rental amendment. I want to express my appreciation for the prompt consideration that Mr. KASTENMEIER will be giving to this legislation. And I urge all Members to support prompt enactment, in the interest of fairness and equity.

DURFEE REIGNS SUPREME

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. FRANK. Mr. Speaker, once again the Durfee High School Basketball Team, under the leadership of Coach Skip Karam has won the State championship for Division I. This is a team which combines a great fighting spirit with their superior skills. It is tough to be down 7 points with 4½ minutes to go in the last game of a championship. It is even tougher to fight off the enormous pressure that this represents, to come from behind, and to win. That's what Durfee did. To Coach Skip Karam, who has a great record of leadership at Durfee, and to the players on his team and those in the school and in their families who have worked with them, congratulations.

Mr. Speaker, I include the article from the Fall River Herald News chronicling the victory of Durfee and the Division I finals here, because Tim Geary of the Herald News staff did an excellent work of describing it.

DURFEE REIGNS SUPREME—HILLTOPPERS OUTLAST CHICOPEE COMPREHENSIVE IN DIVISION I FINALS

(By Tim Geary)

WORCESTER.—Four years ago, against Springfield Tech, it was a leisurely walk in the park. Saturday night here at the Centrum, it was like fighting though a gauntlet of crazies wielding chainsaws.

The Durfee High basketball team had to dig deep into its reservoir of intestinal fortitude last night but the Hilltoppers had the right answers at the end.

The Toppers clawed their way past a dogged Chicopee Comprehensive team, 68-64 to win their second state championship in four years and their fourth overall.

Durfee trailed the Colts throughout most of the game. But never did things seem as bleak as when the Toppers trailed by seven, 56-49, with 4:35 left. It was then that Coach Skip Karam called time and rallied his troops.

The Hilltoppers responded by scoring the next 10 points.

Judd McDonald, who finished with 15 points and eight assists, kick-started the rally by bearing a three pointer from deep in the left corner. With 4:04 left, Mike Herren (game high 22 points) clicked on both ends of a pressurepacked one-and-one. Two more Herren free throws with 3:40 left tied it at 56.

Jason Correiro (16 points) put the Toppers ahead to stay with 3:04 left when he swished a three pointer from the left corner.

With 57 seconds left, the Colts trailed by two, 64-62. But McDonald came up with the steal of the year with 36 seconds showing, when he swiped a Damon Franklin pass. McDonald was fouled and cashed in both ends of a one-and-one at the other end.

Chicopee never quit and was still in the game until the final six seconds, when Herren sealed it with a free throw.

"The first one and this one feel the same," said Karam, as he was surrounded by a throng of well-wishers. "What I liked about this is the guts the kids showed. When things got very dismal, they hung in."

"We just decided that we were inches away from disaster," said Durfee junior swing man Herren who finished the night with a game high 22 points. "We had guys crying here. We just pulled together. I said: 'Guys, we've got to believe in each other. We grew up together and we've got to win this game.' "

McDonald, who had a rough time in the first half, had to dig deep down. "I looked up at the clock in the third quarter and I couldn't believe we were down," said McDonald who scored 15 points and dished out eight assists.

"When we fell behind by six in the fourth quarter we just dug down deep and pulled it out. We had some big shots."

"There were runs back and forth all night," said Chicopee Coach Alec Vyche. "They had the last one."

Chicopee was sparked by Damon Franklin with 15 points, Ken Hamil had 14, Steve Kijack 13, and Glenn Bogdanovich chipped in 11 points to the well-balanced Colts attack.

Chicopee led after the first quarter 13 to 12. It was tied at 27 at the half, and the Colts led at the close of three by 2, 45-43.

"They're (Colts) a well coached team," said Karam. "They played good team ball. Our patience has gotten us in trouble all year and it got us in trouble again. We were lethargic out there early, but then realized near the end that we've got to get going."

The victory confirmed all the pre-season polls which picked Durfee as the number one team in the state, although Karam didn't agree with them early.

"We were under a lot of pressure before we scored a single basket this season," he said. "I thought everyone was crazy but I guess they were right."

Correiro, who scored 16 points, said the shooting in the Centrum was tough but still came up with some clutch shots. "I wasn't hot tonight. It was not one of my better shooting days," said the senior guard. "But the big shots went in and I guess that's what counts.

"When we were down by seven in the fourth quarter, my hands were shaking. But then we started to click."

"All year, every coach talks about mental toughness," said Vyche. "There's no definition to it, but you saw it tonight. The kids on both of these teams wrote the book on it. It's too bad somebody had to lose."

But on this night, it wasn't Durfee.

RECYCLING MARKETS DEVELOPMENT ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DREIER of California. Mr. Speaker, today I am joining my colleague, Mr. HAWKINS, in introducing a bill H.R. 4290, to establish recycling as the primary method of waste management at both the Federal and State level. Our bill, entitled the "Recycling Markets Development Act of 1988," is designed to facilitate market demand for materials recovered from the solid waste stream by the vast and growing number of local recycling programs nationwide.

Each year, about 150 million tons of solid wastes are collected in the United States. These waste materials include products of every description—billions of cans, appliances, paper packages, autos, and household goods. These consumer items, plus the waste generated by industry and government, comprise vast tonnages of metals, paper, textiles, rubber, and glass. Only a small portion of the waste stream is recycled. Most of it is hauled away to dumps, incinerated, or disposed of in our oceans or in rivers and streams.

It is anticipated that one-half of all major U.S. cities will run out of landfill space by the year 1990. Public officials are searching at great lengths to find alternative waste disposal solutions that are both environmentally safe and economically feasible. Recycling is the most practicable approach.

There are an estimated 4,000 recycling programs nationwide, and a growing number of States and local communities are mandating separation and recycling of the solid waste stream. In fact, recently in Los Angeles County, the local sanitation districts recommended that cities there implement mandatory recycling programs as a first step toward addressing the impending waste disposal crisis facing the county.

However, these recycling programs will not succeed unless the tremendous growth in the supply of recovered materials is accompanied by a simultaneous increase in the demand for those materials. Without a stable and dependable market, separated materials will not be recycled, and the collection of those materials will be economically unfeasible.

The Recycling Markets Development Act attempts to spur the development of the recovered materials markets, and to eventually establish recycling as the top solid waste management strategy in the country. Specifically, the bill would require labels for certain products that are not recyclable or made from recycled materials. With increased public awareness of the growing garbage crisis in many cities, and the benefits of recycling, I believe that consumers will avoid purchasing those products which do not contribute to a reduction in the waste stream. In turn, manufacturers will be encouraged not to produce them.

Second, 4290 requires mandatory uniform minimum content standards for paper and other products procured by Federal agencies and State and local governments. The lack of uniform content standards has made it difficult for industries such as paper to produce a standard recycled product that meets different Federal and State requirements.

Because information about recycling is scarce, the bill would also establish a new Office of Resuse, Reduction, and Recycling within the EPA's Office of Solid Waste. Its purpose would be to encourage waste reduction techniques in the manufacturing process, assist Federal agencies and State and local governments in developing reuse and recycling programs, enhance consumer awareness of the benefits of recycling, and develop and disseminate information about recycling.

Finally, H.R. 4290 requests that the Office of Technology Assessment do technical studies on economic disincentives effecting the recycling industry, and examine the advantages of recycling programs in foreign countries.

Mr. Speaker, there are tremendous benefits to recycling, both environmentally and economically, and public attitudes toward recycling are improving. In a recent survey of my constituents, nearly 72 percent said recycling should be our highest waste management priority.

But as I stated, the key to a successful nationwide recycling effort is to develop incremental markets for recovered solid waste materials, rather than focusing only on waste separation and collections. The Recycling Markets Development Act will help to spur demand for recovered materials, and improve the chances that local recycling programs will succeed.

I would like to submit for the RECORD a summary of the Recycling Markets Development Act, and urge my colleagues to join Representative HAWKINS and me in cosponsoring H.R. 4290.

SUMMARY OF THE RECYCLING MARKETS DEVELOPMENT ACT, MARCH 30, 1988

OBJECTIVE

To establish waste reduction, reuse and recycling as the primary method of solid waste management at both the Federal and State level.

SECTION 1. POST CONSUMPTION LABELING

This section would require that products that can not be recycled, or are not made from recycled materials, be labeled accordingly. Such products would include paper and cardboard products, and all beverage and food containers.

The EPA would be provided with the flexibility to develop the appropriate regulations regarding labeling. In the development of those regulations, the EPA would insure that packaging and container labeling regulations not involve a significant cost in the manufacturing process. The EPA would promulgate the regulations required within one year after the date of enactment. Priority would be given to those products and containers for which labeling will likely result in the greatest degree of recycling. The regulations would take effect no later than two years after date of enactment.

The word "recycling" is defined as the reuse of products or containers for the purpose for which they were manufactured or for another beneficial use (other than energy production), and the recovery of materials from previously used products or containers for any beneficial use (other than energy production. Hazardous materials are excluded from the definition.

SECTION 2. STATE AND FEDERAL PROCUREMENT OF RECYCLED GOODS

This section would require preference of recycled goods in State and Federal procurement guidelines. Under the 1984 Resource Conservation and Recovery Act (RCRA) Amendments, the EPA is required to issue guidelines requiring each procuring agency to "procure such items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition."

This bill would go further by requiring the EPA to develop uniform minimum content standards for all paper procured, except for paper used for communication purposes. The Administrator would prescribe mandatory uniform standards applicable nationwide for all procuring agencies. The uniform standards shall specify a minimum content of the highest percentage of post consumer recovered materials practicable, but not less than 10 percent.

States would be required to conform to the mandatory federal uniform standards for paper, or else loose eligibility for assistance under section 4008 of the Solid Waste Disposal Act.

The EPA would also study other materials for recycling, such as used oil and plastics.

Certification would be established by specifying in the contract the percentage of recovered materials to be used in the performance of the contract.

SECTION 3. EPA OFFICE OF RECYCLING

This section establishes an Office of Waste Reduction, Reuse, and Recycling within the EPA's Office of Solid Waste. The Office would be under the direction of a Deputy Assistant Administrator, who would carry out the responsibilities of the Administrator with respect to labeling guidelines and mandatory uniform content standards for paper procurement.

The Deputy Assistant Administrator would also carry out certain functions to assist Federal agencies and State and local governments in developing recycling programs, to enhance consumer awareness of recycling, and to dispel the perception that goods manufactured from recycled materials are inferior to goods manufactured from virgin materials. These functions include:

(1) Provide a centralized information clearinghouse on recycling to collect, evaluate, and disseminate information regarding recycling actions taking place in various areas throughout the nation and to some as a data base for strategic planning to improve and expand recycling activities.

(2) Perform testing and demonstration of recycled products, in cooperation with the National Bureau of Standards.

(3) Provide education and technical studies on recycling, including environmental

problems, materials-related problems, and the manufacturing and recycling process.

(4) Carry out studies regarding the economics of recovering and reusing materials from solid waste.

(5) Establish a program to provide for greater recycling of products entering the waste stream which require special waste handling or disposal techniques of the unavailability of adequate recycling opportunities.

(6) Carry out studies regarding technologies for producing communications quality paper from fibers recovered from solid waste.

SECTION 4. OTA STUDIES

This section requires the Office of Technology Assessment (OTA) to do a comprehensive study on economic incentives and disincentives provided by Federal and State governments which affect competition between recycled and virgin materials. The study shall include, but shall not be limited to, an analysis of tax policies and freight rates.

OTA would also undertake a study of recycling operations in foreign countries to determine if any programs utilized in those countries may be implemented in the United States. The study shall also examine the use of recycled fibers in the Canadian newsprint market, as well as options that may be considered by the Congress to encourage foreign manufacturers (such as Canadian newsprint mills) to use recycled materials from the United States.

The OTA would have the full cooperation of the EPA and the Department of Commerce in carrying out these studies. All reports would be submitted to Congress within two years after the date of enactment.

PUERTO RICAN DEMOCRATIC DEVELOPMENT

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. FUSTER. Mr. Speaker, questions often arise about the development of the Commonwealth of Puerto Rico. I would like to take this opportunity to share with my colleagues a useful and basic document prepared by a long-time friend and aficionado of Puerto Rico, my good friend Scott Runkle, which succinctly reviews some of the highlights of the Puerto Rican democratic experience and which can be used as a primer on useful democratic development for anyone interested in learning about or advancing democracy:

THE COMMONWEALTH OF PUERTO RICO: WHAT IS IT, WHY IS IT IMPORTANT TO THE UNITED STATES?

(By Scott F. Runkle)

Puerto Rico's choice of self-determination as an American Commonwealth has been singularly creative and constructive for both the United States and Puerto Rico.

Elsewhere, self-determination was seen as leading inevitably to independence. In the breakup of the European empires after World War II, almost all the former colonies of the British, French, Dutch and Belgian empires demanded and obtained complete independence, in a world which was destined to become increasingly interdependent.

Puerto Rico chose a new and uncharted path to self-determination, that of voluntary association with the United States as an Estado Libre Asociado, or Free Associated State within the U.S. federal system. Under this unique status, Puerto Rico enjoys a full measure of local self-government while recognizing the preeminence of the federal government in defense, foreign affairs, currency and other such areas where the national interest clearly predominates.

The result today is one of dramatic success—both for Puerto Rico and the United States. Puerto Rico, formerly one of the most impoverished places in the Hemisphere, now has a dynamic, growing economy with a per capita income topping that of any Latin American country. It has also proved to be a valuable partner for the United States in international affairs, to the point where it has become recognized as the "keystone" of the Caribbean Basin Initiative, the main policy thrust of the United States in the strategic Caribbean Basin.

PUERTO RICO'S UNIQUE AND CREATIVE FORMULA FOR SELF-DETERMINATION

Before the Commonwealth, or Estado Libre Asociado, was created it had long been believed that the only resolution of Puerto Rico's colonial status was a choice between independence or statehood—either complete separation from the United States or complete assimilation, with Puerto Ricans accepting all the traditional obligations of statehood, including adoption of English as their primary language. The Philippines, which had become a U.S. colony in 1898 at the same time as Puerto Rico, opted for independence in 1946. The unique Puerto Rican formula, on the other hand, was devised in 1952 to meet the island's special needs and desires while also respecting U.S. interests.

Unlike the peoples of the European empires, often embittered toward their colonial masters, the great majority of Puerto Ricans had little or no animosity toward Americans. Their principal complaint was that Americans knew little and understood less about an island which had more than four centuries of Spanish heritage. The Puerto Rican passion for self-determination was profound, but it did not require political separation from the United States. Once the U.S. made it clear that Puerto Ricans could have independence if they wished, the way was opened for a new and highly-creative solution.

Independence would have meant probable loss of advantageous economic conditions that Puerto Rico needed to achieve prosperity, such as total free access to the U.S. market, a ready source of development capital and unrestricted access to the U.S. workforce and education centers. Close economic ties with the United States seemed necessary in order to cope with the economic problems of a densely populated island with almost no resources, and in order to provide a decent living standard for its people. Democratic Puerto Rico also has a great affinity for the democratic United States. Puerto Ricans value their American citizenship, as they have shown in many ways, including serving in the U.S. Armed Forces, where Puerto Ricans have been noted for their valor on many fields of battle. On the other hand, neither the U.S. nor Puerto Rico was prepared to consider statehood seriously, for cultural, economic, and political reasons. Puerto Rico treasures its Hispanic heritage and intends to preserve it. Moreover statehood implies economic restrictions and burdens that both Puerto Rico and the United States rejected.

THE SOLUTION: AN AUTONOMOUS COMMONWEALTH WITHIN THE U.S. FEDERAL SYSTEM

The solution chosen by both the United States and Puerto Ricans was to create an autonomous Commonwealth within the framework of the U.S. federal system. Puerto Ricans tax themselves for running their own government, but are not subject to federal income taxation unless they move to the mainland or unless they work for the federal government in Puerto Rico. The island's primary language remains Spanish, the tongue that Puerto Ricans learned at their mother's knee for nearly 500 years, ever since the island was first settled a few years after being discovered by Colombus in 1493.

The Spanish language and cultural heritage have indelibly shaped and defined Puerto Rican society. At the same time, Puerto Rico has become profoundly influenced by its intimate political and economic ties with the United States. These are now so close that 96% of Puerto Ricans who voted in the 1984 island-wide elections supported parties which espouse permanent ties with the United States; only 4% opted for independence. This is an astonishing fact to many former colonies which chose to become wholly independent. To this day, some of these countries urge Puerto Rico toward classical independence, even while Puerto Ricans firmly reject it.

The Commonwealth of Puerto Rico was inaugurated in July of 1952 as a result of an agreement between the federal government and political leaders of Puerto Rico, an agreement which was overwhelmingly ratified by the island's voters. It was not a sudden decision on either side, but the culmination of long and thoughtful deliberation. As a wholly new concept of political association, it was also an act of faith on both sides. Moreover, that unique political status has been repeatedly ratified by the judiciary, including the U.S. Supreme Court.

COMMONWEALTH TRIGGERS EXPLOSION OF ENERGY, RAPID GROWTH

Inauguration of the Commonwealth triggered an explosion of energy and creativity in Puerto Rico under the governorship of Luis Muñoz Marin. The island's innovative economic development program, called "Operation Bootstrap", gained world-wide fame. There followed a rapid transition from an impoverished, rural society to a burgeoning industrial island. This ushered in a period of remarkable growth: per capita income soared from $121 in 1940 to $4,594 in 1987; life expectancy has jumped from 46 years to 73.6 years, one of the highest in the world. Enrollment in Puerto Rico's universities has expanded from 5,426 students in 1940 to 158,620 in 1987. The island's exports have risen dramatically from $221 million in 1940 to $12.07 billion in 1987.

In the process of this growth, Puerto Rico has become a socially healthy, politically stable and relative prosperous island. It is anchored on a society which is well-educated, largely middle-class and passionately democratic.

HOW THE COMMONWEALTH WORKS

Following the creation of the Commonwealth, the United States formally advised the United Nations that Puerto Rico ceased to be a "non-self-governing territory". The U.N. in turn recognized Puerto Rico's status in 1953, declaring that the United Nations:

Recognizes that the people of the Commonwealth of Puerto Rico, by expressing their will in a free and democratic way, have achieved a new constitutional status;

". . . Recognizes that, in the framework of their Constitution and the Compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with the attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity;"

With this recognition by both the United States and the United Nations of its autonomous status, Puerto Rico's history as an autonomous entity within the framework of the United States formally began.

Under the Commonwealth, Puerto Ricans have the protection of both the U.S. and Puerto Rican constitutions. The U.S. monetary, military, judicial and postal systems are in force in Puerto Rico in the same way as in the United States. Puerto Rico's constitution, drafted in 1952 by a freely elected convention, is similar to that of the United States, and in some respects is more progressive. It provides for a separation of powers among the executive, legislative and judicial branches of government, and the governor and bicameral legislature are elected every four years. Evidence of the vitality of the democratic process in Puerto Rico is shown in the high participation in elections: 88% of qualified voters went to the polls in 1984.

As a Commonwealth, Puerto Rico exercises large control over its internal affairs. However, Puerto Ricans do not vote in national elections for President. They select their own Resident Commissioner who sits in Congress and on several congressional committees in which he votes, but he does not have a vote on the floor of the House of Representatives. The Governor of Puerto Rico is elected on the same day as the President of the United States, along with all the legislative and municipal posts throughout the island. The cabinet is then appointed by the Governor, with the advice and consent of the Senate. The government is highly centralized, partly an inheritance from the Spanish tradition and partly because the small size of the island (100 miles long by 35 miles wide) makes a centralized government more efficient than a more diffuse one would be.

The bicameral legislature has 27 senators and 51 representatives, who play a very active role in the government of the Commonwealth. Puerto Rico also has its Supreme Court, composed of a Chief Justice and six Associate Justices. There are also 13 superior courts, 38 district courts and 48 municipal courts as well as a Federal District Court and a U.S. Bankruptcy Court in Puerto Rico.

PUERTO RICO'S IMPORTANCE TO THE UNITED STATES

The advantages to Puerto Rico of its close ties with the United States have become self-evident. But it is legitimate for Americans to ask: What's in it for the United States? How does the Commonwealth serve American interests?

It comes as a surprise to many Americans to learn that Puerto Rico makes many valuable contributions to the interests of the United States—internationally, economically, and in terms of security. Little known to most Americans is the important role that Puerto Rico plays in the Caribbean Basin. Not only is Puerto Rico considered a model of democracy which serves to reinforce democratic institutions and government throughout the Basin, but it also plays a dynamic role in strengthening the hard-pressed economies of Caribbean countries. Many of these countries suffer from deep poverty and unemployment to a degree which could threaten their political stability and security—and thereby the security of the region and the United States.

Puerto Rico, wanting to help its neighboring countries, and aware of the need of buttressing their economies, plays an important role in stimulating industrial and economic development throughout the Basin. Its principal tool is the creation of "twin" or complementary industrial plants in the Caribbean, whereby a manufacturer based in Puerto Rico reaches out and establishes a complementary plant in, for example, the Dominican Republic—thereby generating income and jobs in the Caribbean countries and in Puerto Rico itself. In early 1988, 42 companies in Puerto Rico had established or were in the process of establishing complementary plants in 11 countries in the Caribbean and Central America, with many more "in the pipeline".

The larger significance of this dynamic role Puerto Rico has played has been recognized by the U.S. Department of Commerce, whose spokesman calls Puerto Rico the "keystone" of the Caribbean Basin Initiative.

PUERTO RICO'S EDUCATIONAL ROLE IN THE DEVELOPING WORLD

Puerto Rico's role in the Caribbean and in the developing world has not been limited to industrial promotion. It has also made large contributions in education and training. Since 1950, over 36,000 visitors from 186 nations and territories have been trained in the Commonwealth in a wide variety of areas, ranging from economic development to health, public administration and housing. Today states in the United States look to Puerto Rico for trained teachers, policemen and other personnel with bicultural and bilingual skills in short supply in the mainland. Officials, technicians and students mostly from the developing world, studied and admired Puerto Rico's rapid transition from a poor agricultural island to a fast-growing industrial center.

Today the Commonwealth has an impressive accumulation of educational and technical expertise, which it is happy to share with its Caribbean neighbors. The island's educational institutions, especially its universities, are already playing a major role in the achievement of CBI goals. These institutions are particularly important for training engineers, business managers, marketing specialists, computer technicians and business and industry-oriented professionals, the men and women most needed to achieve technologically-sophisticated economies.

PUERTO RICO A SURPRISINGLY BIG MARKET FOR U.S. PRODUCTS

It is likewise suprising to most Americans to discover the importance of Puerto Rico as a market for U.S. goods. In the year ending June 30, 1987, the Commonwealth purchased $6.997 billion in products from the United States, which generated upwards of 150,000 direct and indirect jobs in the United States. Puerto Rico's purchases from the United States exceed the combined purchases of Brazil, Argentina, Chile and Colombia, whose aggregate population tops 206 million, as contrasted with Puerto Rico's 3.5 million—astonishing though this sounds.

At the same time, American corporations and individuals have invested over $20 billion in Puerto Rico, from which they realize substantial profits while simultaneously creating jobs and income in Puerto Rico.

PUERTO RICO HAS A VITAL DEFENSE ROLE IN THE CARIBBEAN

Puerto Rico is also a key strategic and military asset to the United States. The top U.S. commander in the Caribbean, Admiral William O'Connor, states that "Puerto Rico has a vital defense role in the Caribbean", and is "irreplaceable" to the United States. Likewise, a leading scholar of the Caribbean, Dr. George Fauriol, cites the "priceless strategic value" of Puerto Rico—its unique geographic position as the "Malta" of the Caribbean and the vital military importance of the huge U.S. base at Roosevelt Roads (on the eastern tip of Puerto Rico). He points out:

"Caribbean sea lanes of communications are absolutely vital to the country . . . . In peacetime, half of all U.S. foreign trade tonnage and crude oil imports pass through Caribbean sea lanes." Admiral O'Connor adds, "whoever controls the Caribbean controls access to the United States."

Puerto Rico's contribution to U.S. security is not simply its importance as a strategic military base. It is even more a matter of people. Puerto Ricans have fought in three of the country's wars, often as volunteers. In the Korean War, the all-Puerto Rican 65th Infantry Regiment played a distinguished and critical part in that hard-fought conflict. They received 125 Silver Stars and four Distinguished Service crosses for exceptional bravery in action. The commanding general of U.S. troops in Korea, Matthew W. Ridgway, said of the Puerto Ricans: "We are damn lucky to have them here at this time."

PROMINENT PUERTO RICANS IN THE UNITED STATES

Puerto Rico has 3.5 million inhabitants, but another two million Puerto Ricans now reside in the United States, largely in northeastern cities. Although most of these live in modest circumstances, a number of distinguished Puerto Ricans are already making an appreciable contribution to the cultural, artistic and sports fabric of the United States.

A small sampling of these includes Vice Admiral Diego Hernandez of the Navy, Marta Casals Istomin, Artistic Director of the John F. Kennedy Center, former ambassador to Spain, Admiral Horacio Rivera, Oscar-winning actress Rita Moreno, actors José Ferrer and and Raúl Juliá, Tony-winner Chita Rivera, Grammy-winner José Feliciano, jockey Angel Cordero, golfer Juan "Chi-Chi" Rodriguez and opera singer **Justino Díaz.**

THE UNITED STATES DYNAMIC PARTNER IN THE CARIBBEAN

At the time of the birth of the Commonwealth in 1952, most Americans would have found it hard to believe that it would become such a valuable partner to the United States after only 36 years of existence. The wisdom and faith of the Puerto Ricans and Americans who were "present at the creation" have been richly justified. Puerto Ricans are legitimately proud to be able to lend significant support to the United States in an unsettled but ever-more interdependent world at the same time, Americans can be proud that their hope for the Commonwealth back in 1952 have been more than realized.

Puerto Rico's growing economic-diplomatic role as the "keystone" of the Caribbean

Basin Initiative has complemented its strategic value to the Unites States. The Commonwealth has thereby become doubly important to the overall U.S. position in the region. It is a key asset for American security in the far-flung Caribbean Basin and the United States" dynamic partner in the process of buttressing democracy in the Caribbean.

LEGISLATION TO INCREASE THE TARIFF ON BONE CHINAWARE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. GOODLING. Mr. Speaker, today I am introducing legislation to amend the tariff schedules of the United States to increase the tariff on bone chinaware. This proposed increase is necessary to ensure the successful attempt of an infant U.S. industry to enter the bone chinaware market in the United States. No U.S. company is currently manufacturing bone chinaware in the United States. The Pfaltzgraff Co., of York, PA, a U.S. manufacturer of dinnerware and accessory items made of earthenware, has made the decision to change that situation by establishing U.S. manufacturing operations producing bone chinaware.

The Pfaltzgraff Co., is currently manufacturing, but has not yet begun the sale of, bone chinaware in its factory in Pennsylvania. In attempting to gain a foothold in its home market, Pfaltzgraff is confronted by the presence of numerous low-priced imports of bone chinaware with which they must be competitive to establish a U.S. industry in this field. The very low prices at which many of those imports are sold—prices in many cases below Pfaltzgraff's cost of production—raise concerns as to the ability of this infant industry to become established.

For example, in 1987 imports of bone chinaware from Japan accounted for 45 percent of all bone chinaware imports, making Japan the single largest exporting country of this product. Despite the dramatic exchange rate fluctuations which have occurred in the value of the dollar vis-a-vis the yen, the Japanese bone chinaware producers are continuing to sell bone chinaware in the United States at roughly the same prices at which bone chinaware was sold several years ago. Other countries with a significant presence and name-recognization in the U.S. market are also selling bone chinaware at very low prices in the United States.

These circumstances make it very difficult for any U.S. company to enter the bone chinaware market. The Pfaltzgraff Co., is one of the few U.S. producers of earthen dinnerware that has continued as a viable company in the United States despite the impact of low-priced imports on its business operations. Pfaltzgraff is a well-run, modern, and efficient company. Unfortunately, when competing with very low-priced and often unfairly traded foreign goods, even modern and efficient companies such as Pfaltzgraff have difficulty being competitive in their home market.

To assist in the success of Pfaltzgraff's efforts to establish a new American industry and to create additional jobs in the United States, I have proposed this tariff increase. The initial tariff increase would permit the Pfaltzgraff Co., a period of time to establish a sales base in this market, and the ultimate tariff level would ensure that Pfaltzgraff could maintain its competitive posture in the United States.

The legislation that I have proposed would raise the current tariff on bone chinaware of 8 percent to a level of 35 percent ad valorem. This rate would be gradually reduced in stages over a period of 7 years, to result in a 26-percent ad valorem rate of duty at the end of that period of time.

The 35 percent rate proposed is the rate currently applicable to imported hotel and restaurant chinaware. Prior to 1980, both bone chinaware and hotel and restaurant chinaware were governed by the same tariff category and subject to a 17.5-percent rate of duty. As of January 1, 1980, this category was divided into two items. The rate for institutional chinaware was increased to 47 percent, from which it has been gradually reduced to its current level of 35 percent. The rate for bone chinaware, however, was reduced to 16.3 percent in 1980, from which it has been continually reduced to its current level of 8 percent. Thus, a significant disparity exists in the rates applicable to the institutional chinaware and the bone chinaware.

The ultimate rate of duty of 26 percent which is proposed to result at the end of the 7 year period of time is the rate of duty currently applicable to chinaware sold in sets at a value not over $56. I believe this is a realistic permanent tariff on bone chinaware in that the bone chinaware category, unlike the category for non-bone chinaware sold in sets, is not subdivided into a low and high end of prices with varying tariffs for each subdivision. Therefore, imports of bone chinaware at very low prices equivalent to a set sold at not over $56 would all be classified under the same tariff number. These low-priced imports will provide significant competition for Pfaltzgraff in the long-term in its efforts to compete in the bone chinaware industry. Accordingly, it is reasonable to make the permanent tariff on bone chinaware equivalent to the rate applicable to low-priced non-bone chinaware, which is 26 percent ad valorem.

To assist the efforts of a U.S. industry to establish operations and to be competitive with foreign goods, I urge my colleagues to favorably consider this proposed legislation.

RAIL LINE PRESERVATION AND EMPLOYEE PROTECTION ACT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. TAUKE. Mr. Speaker, last week I introduced legislation to equitably resolve the current uncertainties surrounding the creation of regional railroads. The Rail Line Preservation and Employee Protection Act, H.R. 4261, strikes a balance between the legitimate concerns of railroad employees who face job termination and the interests of the sellers and purchasers of new regional railroads.

Before describing the content of my bill, I would first like to offer my perspective on how we arrived where we are today. In the years leading up to 1980, the railroad industry was suffering the negative effects of cumbersome Federal regulation. Nearly 25 percent of the Nation's railroads had fallen into bankruptcy and much of the rest of the industry was in deep financial trouble. In an effort to reduce operating costs, railroads attempted to restructure their light density lines. However, Federal laws required labor protection payments whenever a railroad attempted to consolidate, merge, or abandon a rail line.

In response to the stiff labor protection requirements, railroads embarked on a strategy of abandoning service in order to abandon lines. By driving business off light density lines, railroads could reduce the number of workers who would qualify for labor protection benefits when the line was eventually abandoned. During the decade of the 1970's, the mileage of our Nation's largest railroads declined by 37,000 miles.

The Staggers Rail Act of 1980 brought about dramatic changes in the railroad industry through deregulation. Under Staggers, railroads were given a new opportunity to rationalize their systems through line sales. These line sales have become a popular alternative to abandonment.

The Staggers Rail Act allowed the Interstate Commerce Commission [ICC] to exempt line sales from labor protection requirements if the purchaser was a nonrailroad entity. The ICC further expanded this authority by voting to exempt all sales to nonrailroad companies, and to consider these transactions under expedited procedures.

Regional railroads are generally not encumbered by the same work rule restrictions used by major rail carriers. This enables regional railroads to turn profits on what would otherwise be very marginal lines for major carriers.

The ICC's blanket exemption from labor protection standards has enhanced the financial feasibility of sales of light density lines and has led to tremendous growth in regional railroads. Since 1980, 179 new regional railroads, including 10 in my own State, have been created. These railroads now operate more than 17,000 miles of line.

Although employment in the railroad industry continues to fall, a majority of the Nation's regional railroads employ more people today than they did on their first day of operation. In addition, a majority of the employees of these railroads work under union contracts. Nevertheless, the authority of the ICC to exempt line sales from labor protection requirements has been questioned.

The authority of the ICC to exempt line sales from labor protection requirements has been the subject of judicial review. Unfortunately, conflicting Federal court decisions have now clouded, more than clarified, the issue. It appears that final judicial resolution of this issue will not be forthcoming for at least 2 years, until a case reaches the U.S. Supreme Court. In the meantime, it is highly unlikely that any sales will occur while this uncertainty exists. In fact, it is likely that some railroads may return to policies of abandonment. And it is very clear to me that abandoned lines don't employ people, but regional railroads do.

In an effort to resolve the issue of railroad labor protection in a balanced way, I have worked with representatives from the Regional Railroads of America [RRA] to craft legislation which creates a clear process for lines sales under the jurisdiction of the Interstate Commerce Act. My bill provides a separation allowance of up to $30,000 in larger transactions and up to $15,000 in smaller transactions. It also provides for seniority hiring while providing the new carrier with some hiring flexibility. And finally, the bill resolves the current uncertainties over the authority of the ICC to adjudicate line sales.

This legislation offers a reasonable middle ground in settling the issue of labor protection in short-line rail sales. I welcome the support of my colleagues for this measure.

CONGRATULATIONS COOPERTOWN SCHOOL LADY EAGLES BASKETBALL TEAM

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CLEMENT. Mr. Speaker, recently, the Coopertown School Lady Eagles basketball team won first place in the James C. Hale State Invitational Basketball Tournament in Murfreesboro, TN.

I would like to join the team's friends and supporters in congratulating the team players and coaches as well as the Coopertown School staff and students. The team members have distinguished themselves by the long hours of hard work and dedication. The tournament win is an impressive achievement for which they can be proud.

The Coopertown players are Amanda Osborne, Elizabeth Hamby, Nicole Rawls, Christie Champion, Penny McDaniels, Shelly Heathman, Jennifer Hulsey, Jennifer Ventress, Heather Young, Deeana Betts, Jennifer Ellis, Meleah Biggs, and Lavina Dorris. They are all talented athletes—guided by an equally talented coach, Cheryl Hudgens.

The citizens of Robertson County are proud of the Coopertown Lady Eagles team and I join my voice to the chorus singing the team praises.

AN ARMS CONTROL STRATEGY FOR CHEMICAL WEAPONS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. FASCELL. Mr. Speaker, Congress has an opportunity this year to implement a comprehensive arms control strategy on chemical weapons, to make a significant contribution toward arresting the proliferation of chemical weapons, to save one-fourth of a billion dollars that would otherwise be squandered on a weapons system which just does not work, and to stimulate progress at Geneva in the multilateral chemical weapons negotiations.

Congressional concern about arms control and congressional activism on arms control have made a real contribution to our national security policy. Congress has consistently included the issue of chemical weapons as part of its overall arms control agenda for the past 8 years. The lack of a clear majority mandate in both Houses in the last few years has just recently allowed some minimal binary production to begin and questionable moves by the administration have released more production funds.

This year Congress should be firm and clear when it delivers its arms control message on chemical weapons. A firm stance is required otherwise our country embarks on wasteful production amounting to over one-fourth of a billion dollars this year and further billions in the future, hampers rather than stimulates negotiations for a chemical arms control agreement, and allows the Soviet Union propaganda advantage from its announced halt in production and negotiating concessions.

A coherent and reasonable arms control policy on chemical weapons can set a positive course now which should help avoid troublesome problems in the future regarding chemical weapons. The objective is to strengthen our national defense, stimulate progress toward a chemical arms control agreement, and eliminate wasteful spending on weapons systems that either don't work or don't have any justifiable role in our defense.

Our primary concern should be to make absolutely sure that no more money is wasted on a weapons program, the Bigeye binary nerve gas bomb, that most of us now recognize as doomed to failure. We are being asked to authorize a total of $223.8 million, almost one-fourth of a billion dollars, for production money for a bomb that even the Secretary of Defense admits is not reliable yet. The fiscal year 1989 request for $99.4 million in production money should be denied and the $124.4 million in prior year authorizations—$90 million fiscal year 1986 production facilities, $34.4 million fiscal year 1987 procurement for the Army and Navy—released by the Presidential certification of January 19, 1988 should be deauthorized.

In a February 18, 1988, letter by Secretary of Defense Carlucci to our colleague LES ASPIN, chairman of the Armed Services Committee, Secretary Carlucci admitted that the Bigeye bomb is not "mature" and has not yet met the reliability standard. It would be a mistake to allow a precedent to develop by granting the Department of Defense request to begin low-rate production runs of the Bigeye bomb and then do more testing. Under such circumstances Congress would risk relinquishing all control over faulty weapons systems in the future if it allows the fatally flawed Bigeye bomb to proceed into production. Recalls are expensive, wasteful, and difficult to mandate once production has begun. We should decide now to halt production.

The threat of a new binary chemical weapons program by our country has been made and, depending on your assessment of what makes the Soviets bargain, the Soviets have responded by stopping their chemical weapons production in April 1987, and making significant concessions at the negotiating table in Geneva. The Bigeye has been publicly exposed as a dud and no matter how you try to dress it up now as a tough, deep-strike retaliatory capability its bargaining chip value has been nullified by its own performance and it will not be the reason for Soviet negotiating movement and serious intent in Geneva.

During this past year the Soviet Union and the United States have exchanged visits to their chemical weapons facilities. The exchange of these expert delegations represents an important confidence-building measure which should help improve the prospects for a mutual and verifiable agreement to eliminate chemical weapons.

In November 1985, President Reagan and Soviet leader Gorbachev pledged to work for a worldwide ban on chemical weapons. Consistent reports of progress toward a worldwide ban on chemical weapons have been received from the 40-nation U.N. Disarmament Conference negotiation in Geneva. During this past year the Soviet Union has been active on the chemical weapons issue and there have been some public Soviet concessions which could be quite significant once they are negotiated into a treaty. For example, the Soviet Union announced that it had halted production of chemical weapons and begun building an incinerator to destroy its present chemical weapons stocks. The Soviets also agreed to "on-site" and "quick-challenge" inspections. They have also presented some new ideas on the question of chemical weapons data exchange. This seemingly positive chemical arms control attitude by the Soviets must, of course, be translated into the necessary written provisions in the arms control document. An adequate verification regime will probably be the most difficult problem to resolve in addition to the problems of treaty organization and funding and of worldwide adherence to the treaty. Despite these remaining problems this movement on chemical weapons arms control sets the stage for a truly historic opportunity to reach agreement on the worldwide elimination of all chemical weapons.

The recent reported use of chemical weapons in the Iran-Iraq war should heighten our sense of urgency concerning the negotiations. The British have worked hard for an agreement on chemical weapons at the multilateral negotiations in Geneva. The Germans have a large stake in an agreement. The Soviets have announced a halt in their chemical weapons production and they have made important concessions. It is definitely time that our country made some significant gestures to support the negotiations. A moratorium on all binary chemical weapons production could be one such positive gesture to the chemical weapons negotiations. The moratorium would only last as long as we have no evidence proving renewed Soviet production of chemical weapons. The moratorium would apply to all production money, Bigeye and 155 mm. artillery shell, but not research and development nor to further testing of the Bigeye.

Chemical defense to protect our troops from chemical attack has been strongly supported in both the House and the Senate. This year for the first time the Department of Defense has requested a reduction in funding for defense at a time when we are beginning to hear very positive reports of improved equipment and decontamination procedures. It would be wise for Congress to maintain a strong united support for full funding for defense and not accept any tradeoffs involving offense for defense. The House and the Senate have also been united in their stand regarding the current deployment of unitary chemical weapons in Europe and their opposition to the withdrawal of those stocks if they cannot be replaced with the new binary weapons. The House has yet to be informed about the "Reagan-Kohl Agreement in Tokyo" regarding the withdrawal of unitary chemical weapons. Normally, Congress should be informed of agreements under the Case-Zablocki Act, or, in this case, a disarmament agreement should follow the notification procedure of the Fountain amendment to the Arms Control and Disarmament Act.

These are the elements which form, in my mind, a realistic, viable, and effective arms control policy for chemical weapons. Our efforts should be based on using the arms control process to eliminate Soviet and American chemical weapons as part of a global ban rather than taunting the Soviets back into a chemical weapons arms race with our new production of binary nerve gas weapons.

NORTH DAKOTA NATIONAL GUARD SUPPORTS NATIONAL SECURITY THROUGH COMMUNITY DEVELOPMENT PROJECT AT KWAJALEIN ATOLL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. LAGOMARSINO. Mr. Speaker, recently, a North Dakota National Guard unit carried out a remarkable community development project and good will program in the Republic of the Marshall Islands, a newly emerged nation and staunch ally of the United States in the Pacific. It is fitting that this project be recognized here, and in order to do so properly I want to provide some important background.

Kwajalein Atoll, in the Marshall Islands, is the largest coral atoll in the world. After World War I, the League of Nations placed the Micronesian Islands, including Kwajalein, under the administration of Imperial Japan, and it was from Kwajalein that the Japanese deployed elements of the force that attacked Pearl Harbor in December 1941. Liberation of the atoll from the Japanese cost this Nation dearly: 372 Americans died and 1,582 were wounded in 3 days of fighting.

At the end of World War II the United States accepted responsibility for administration of Kwajalein and several other island groups in the region under a United Nations trusteeship classified as strategic under the United Nations Charter. The United States has fostered democracy in the islands and recognized the right of the people to self-determination. As a result, on October 21, 1986, the trusteeship was terminated in favor of constitutional self-government for the Republic of the Marshall Islands, which includes Kwajalein Atoll.

The Compact of Free Association, which is the treaty governing United States relations with the Marshall Islands, contains provisions which secure United States military use rights at Kwajalein Atoll—which is the site of the United States Army's missile testing program. This program is important to my constituents because the 19th Congressional District is the home of Vandenburg Air Force Base, which is the launch site of the missiles that splash down in the Kwajalein Atoll test range. The missile development program which requires testing at Kwajalein is vital to this Nation's ability to defend itself, and provides the Soviet Union with an incentive to negotiate meaningful nuclear disarmament agreements.

Thus, Kwajalein is vital to the national security of the United States, and has a critical role to play in the preservation of world peace. Under the compact, the United States has made arrangements to compensate the Marshallese landowners from whom the defense sites at Kwajalein are leased by the Marshall Islands Government, and those arrangements were approved by the people in a United Nations-observed plebiscite on the compact.

However, the local population has become dependent on employment at the United States facility, and overcrowding has occurred due to the desire of people from the undeveloped neighboring islands to come to the more developed area adjacent to the Kwajalein base. Thus, in addition to compensation of the landowners, there are social needs which must be addressed. Consequently, the Government of the Marshall Islands and the United States have agreed to channel funds into community development programs which promote private enterprise, expansion of habitable land areas, and increased self-sufficiency.

As a member of the Committee on Interior and Insular affairs and the Committee on Foreign Affairs, I have supported the compact and the programs which have been established by the two governments to benefit the people of Kwajalein Atoll. The economic and social advancement of the people of that atoll is desirable in light of our national security mission at Kwajalein, and the improved well-being and self-reliance of the local population is a goal of the Government of the Marshall Islands and the United States.

It is in that light that we can appreciate the recent accomplishments of the North Dakota National Guard. Departing Bismarck, ND., in subfreezing weather and traveling 6,000 miles to the tropical humidity of remote and undeveloped outer islets of Kwajalein Atoll, the guardsmen carried out community development projects at the islands of Ebadon, Ennubirr, and Ebeye. These projects included a 2,000-foot runway to make medical care and travel to and from the isolated islands possible, a medical dispensary, baseball fields and recreation areas, school desks, roads, airport terminal facilities, and church pews.

In addition to an excellent training opportunity for the 28 National Guard construction engineers involved, the program promoted friendship between the United States and the people of the atoll. The departure of the unit for the trip back to Bismarck was preceded by island-style feasts and tearful farewells. These are the bonds that are earned by sweating and laboring side by side with the people we are trying to help, and these bonds will endure because the people were involved in the project and will be responsible for maintenance of the improvements.

In a very concrete manner, the North Dakota National Guard has shown the people of those islands the human face of our great nation, and the project itself demonstrated that the United States recognizes and cares about the human needs of the Marshallese people.

All of this was possible because of the enlightened and sensible policies toward relations with the Marshallese people and their government being carried out by the Department of Defense and the United States Army at Kwajalein Atoll. These creative policies start at the top with Adm. William J. Crowe, Chairman of the Joint Chiefs fo Staff, who organized the Office of Micronesian Status Negotiations many years ago, and who was one of the architects of United States policy in favor of ending the trusteeship in favor of self-government. In addition, Assistant Secretary of Defense Richard L. Armitage, and Deputy Assistant Secretary of Defense Karl D. Jackson have made significant contributions to effective implementation of the compact.

Adm. Ronald J. Hays, commander in chief of the Pacific, and Col. Richard G. Chapman, Jr., commanding officer, United States Army-Kwajalein Atoll, have been responsible for a dramatic turnaround in community relations at Kwajalein, and for the establishment of strong cooperation with the government of the Marshall Islands. Finally, Lt. Gen. Charles W. Bagnal, commanding officer, U.S. Army Western Command, who conceived of the project, Maj. Richard A. Moszer, NDNG, OIC for the project, and S. Sgt. James Schenatzki, NDNG, NOIC for the project, each made the operation a success.

However, the heroes of this story are the guardsmen who did the work, and the people of the islands who are taking their destiny into their own hands in order to improve their way of life. This is a story that deserved telling, and all Americans should be proud of this effort. Where Kwajalein was once ruled by foreign powers and used as a base for international agression, it is now playing a role in preservation of strategic stability and world peace, as well as the promotion of understanding and cooperation between our people and democratic governments.

WHY WOULDN'T EVERYONE BE FOR SDI

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. HEFLEY. Mr. Speaker, 5 years to the day, after the President made his speech introducing the concept called the strategic defense initiative [SDI], ground was broken at Falcon Air Station east of Colorado Springs for the new SDI facility. This building will be 360,000 square feet of space, costing $100 million, and which will house computer simulating equipment and eventually approximately 2,000 people.

It will be here where much of the research will be conducted to determine the feasibility of a protective sheild that holds the potential of making intercontinental ballistic missiles obsolete. This is the place where, for the first time since we gave up our anti-ballistic missile system in 1972, as a result of the Anti-Ballistic Missile Treaty, we can begin planning a defensive system.

Since the ABM Treaty was inaugurated, our only defense against missile attack has been the immoral policy of mutually assured destruction. This is based on the premise of holding each other's population hostage—you blow us up and we'll blow you up. With this approach, we have no defense against incoming missiles. If a missile is fired at us, it lands, explodes and kills American people and there is nothing we can do about it.

SDI offers hope of changing all of that. It offers hope of being able to destroy enemy missiles as they leave their pads. It offers hope for a defense rather than the present nuclear blackmail.

Why then all the fuss? Why wouldn't everyone be for SDI? Why would Ted Kennedy and others dub it "star wars" and make fun of it? These are hard questions to answer.

Some feel it won't work, that it is too complex. Others complain that it would never be 100 percent effective. Still others feel that it is too expensive, we can't afford it. And finally some simply do not want to offend the Soviets.

What, then, are the facts?

We do not have any defense against missile attack. Most Americans want a defense and are not aware of how vulnerable we are. We have the technology to make a missile defense work. It may never be 100 percent effective, but it will be effective enough to deter the Soviets from risking an attack.

It will be expensive, but so is our present offensive missile system which presently serves as our deterrent. As SDI is brought into place, less emphasis and thus less expense would need to be devoted to offensive systems.

SDI will offend the Soviets. You hear many saying SDI will never work, but you don't hear Milhail Gorbachev saying that. He believes it will work and, in spite of the fact that the Soviets have been working on their own SDI since the 1960's, he feels we can make it work and they can't.

So where are we? Keeping the Nation secure is the primary responsibility of the Federal Government. We have the capability to more adequately defend our Nation so let's get on with it.

That is exactly what we're doing with the ground breaking for the SDI facilities this week—we are getting on with it. As one top negotiator for the administration told me recently, "The Soviets will never beat us on technology." They may, however, beat us in a test of resolve.

With the beginning of SDI, we are showing our resolve to keep our Nation free and secure. SDI can help assure this.

THE COST OF IMPEACHMENTS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. KLECZKA. Mr. Speaker, today the House is being asked to authorize an additional $375,000 to investigate the impeachments of Judges Walter Nixon and Alcee Hastings. In 1987, the Judiciary Committee spent $150,000 on investigating impeachments and for 1988 it has already been granted $350,000 to investigate these impeachments. So by the time the House Judiciary Committee completes its investigation of these two judges it will have spent over $850,000. If you add the amount of staff time that the full House and the full Senate will spend you will see that impeachments of Federal judges not only comsume a great deal of the Congress' time but an enormous amount of taxpayers' money.

Further the Congress is duplicating the exhaustive investigations that the U.S. Judicial Conference has already undertaken. The conference has already concluded that sufficient grounds do exist to impeach these two individuals.

I don't oppose this funding request. Obviously under current law the Congress has no choice but to authorize the funds needed to expeditiously remove these two judges. But is this the best system to remove Federal judges.

The present system does not function smoothly. Almost 200 years ago Thomas Jefferson called "impeachment a bungling way of removing Federal judges" and during the 1986 impeachment of Judge Harry Claiborne one Senator estimated that as many as 30 Senators didn't hear a word of the proceedings.

What's the solution? Well most States have adopted judicial panels to remove States judges. I think we should follow the lead of the States and consider giving the judicial branch of Government the authority to remove Federal judges. This would be easy to do since a system already exists within the judicial branch to discipline judges. All that we would have to do is to empower the Judicial Conference not only to discipline judges but to remove Federal judges.

A resolution has been introduced by the chairman of the Senate Judiciary Subcommittee on Courts to modify the current removal system for Federal judges. With the support of Congressmen FRANK and FRENZEL I have introduced a similar bill, House Joint Resolution 364 to allow the Congress to establish a new system for removing Federal judges. As the Congress moves ahead with the cumbersome process of impeaching these two judges I hope that Members will consider supporting this legislation.

H.R. 1663, PROMPT PAYMENT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to thank you for allowing me to bring to your attention a very important piece of legislation now before the House, the Prompt Payment Act. This legislation passed the Senate in October and is currently pending in the Government Operations Subcommittee on Legislation. Through the concentrated efforts of many members, staff, and interested parties, it is clear that prompt payment will soon be deservedly at the forefront of our legislative agenda. This is good news for all businesses that deal with the Federal Government.

The issue of prompt payment is first and foremost a small business issue. The delegates to the 1986 White House Conference on Small Business recognized the importance of prompt pay when they placed it 34th on an agenda for congressional action which ultimately included more than 400 resolutions.

Simply put, small business cannot afford to carry the Federal Government on its back, nor should they be expected to. One only has to speak with the presidents of the small high-tech companies and other businesses in my district to realize that Public Law 97-777 is in need of tightening and modification. They know that, despite agency claims to the contrary, our present prompt payment law is flawed.

The present situation leaves our small business men and women who are not paid on time with two alternatives—stop doing business with the Federal Government, or take out loans to cover expenses until the Government decides to pay. I believe that you will agree that these two alternatives are neither sound business practices nor are they fair.

However, there is an answer, Mr. Speaker. I believe that it is found in our bill, H.R. 1663. This legislation will eliminate the existing 15-day grace period to ensure that bills are paid within 30 days of receipt of invoice. Second, the excuse that an invoice was incorrect or lost in the mail will no longer apply because an agency will have 5 days in which to either accept an invoice as valid or return it to the vendor.

Next, I would like to briefly mention two sections of H.R. 1663 which have created some interest. The first is in the reports section, and represents the only difference between S. 328 and H.R. 1663. This section requires the following reports:

One from the Office of Small and Disadvantaged Business Utilization for each of the Federal agencies. This report will detail the impact of this law on small and disadvantaged business within each agency. The analysis would include a break down of interest payments made to both small and large businesses.

The other is a review by the chief counsel for advocacy at the Small Business Administration of agency compliance with this act and its impact on small business. I feel that this section is particularly important in that it fits in with the advocate's ombudsman role. In addition, it will allow SBA to define those problems identified by the White House Conference delegates and others and, in turn, provide us with the opportunity to resolve future problems, hopefully without the need for legislation.

Finally, let me touch upon section 7 of the bill. Under present law, general contractors have the opportunity to receive payment from the Government, put this money in the bank, and collect interest, even though the money is owed to a subcontractor who has participated in a Federal construction project.

Testimony has been presented in previous hearings in both the House and Senate that this practice has occurred many, many times. It is important to remember that the money in question does not belong to the general contractor, but to a subcontractor.

However, the issue here is not how often a general contractor has used this so-called float. Nor does the answer necessarily lie in requesting a GAO report to see how often this practice indeed has occurred. Rather, this is simply a matter of a bad public policy that should be changed now.

I find it ironic that the opponents of section 7 are strong proponents of prompt payment until it is applied to their industry. I believe, however, that no group or individual should be allowed to accrue a benefit from Government money that is owed to subcontractors.

Opponents of section 7 have argued that they need to withhold subcontractor payment to ensure the completion and quality of a subcontractor's work. The Senate compromise version of this legislation deals with this issue or retainage. The Senate amendments, which I support, explicitly authorize withholding and retainage by the prime contractor, but ensures that any money withheld or retained is held by the Government until the prime contractor certifies that the subcontractor is entitled to these funds.

Mr. Speaker, I hope that the importance of this legislation is apparent to you and the rest of my colleagues. I look forward to working with House Small Business Subcommittee on Exports, Tourism, and Special Small Business Problems in an effort to get H.R. 1663 reported favorably from the floor of the House during this session. Again, I thank you for the opportunity to express my views on this vital legislation.

IS THERE GLASNOST IN SOVIET ARMENIA?

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. GALLO. Mr. Speaker, in recent weeks, large demonstrations have broken out in two Soviet republics where ethnic Armenians are demanding that the autonomous region of Nagorno-Karabakh, which was put under Azerbaijani control in 1921, be allowed to reunite with Armenia.

With protesters reportedly numbering in the hundreds of thousands, the demonstrations were among the largest unauthorized mass protests ever held in the Soviet Union.

On February 27, the leaders of the protests decided to suspend demonstrations until March 26 to give the Soviet leadership an opportunity to address their request. A few days ago, the Soviets gave the Armenian people their answer—Nyet.

Mr. Speaker, many of my Armenian-American friends and associates, including New Jersey Assembly Majority Leader Chuck Haytaian, have expressed their disappointment that the Armenian request was denied and their concern that Secretary Gorbachev's policy of glasnost may now be in retreat.

The people in Nagorno-Karabakh, who have been separated from their brethren and religious believers since 1921, should be reunited. And the failure to listen to these reasonable demands has led many Armenians to question Secretary Gorbachev's commitment to develop a new and fair nationalities policy.

Mr. Speaker, now that the Soviet Government has denied the Armenians' request, I am concerned that activists will be persecuted. In the aftermath of these events, I strongly urge Secretary Gorbachev to show that glasnost is more than just a popular word. Armenian protesters and activists should not be punished for voicing their opinions.

I join my Armenian-American friends and constituents in calling upon Secretary Gorbachev to reconsider this unfortunate decision.

CHILD SURVIVAL AID SUPPORTS CEASE-FIRE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, contrary to many people's expectations, there is now a ceasefire between the Sandinista government of Nicaragua and the Contras. The question for us becomes what we can do to help the peace process and also support the legitimate needs of the people of that country. Today I am introducing a bill, cosponsored by Congressmen BONIOR, JEFFORDS, LEACH, PENNY, and LELAND, to help those people least able to help themselves, and most in need of our support: the tens of thousands of Nicaraguan children who are victims of war. This bipartisan bill provides $18 million in aid to children, to be distributed based on need, not on politics. Our aim is to provide effective assistance as rapidly and efficiently as possible to children in need.

This bill provides the Agency for International Development [AID] with the flexibility to determine the precise amounts to allocate to each of the named types of assistance and designated groups, with the understanding that the aid is for, and only for, innocent children in need. The aid should be allocated equitably by AID, based on the needs of the children, only to private voluntary and international agencies such as UNICEF, CARE, and others, with at least one-half of the funds benefiting children living in Nicaragua.

None of this money is to go to or through the Government of Nicaragua.

This bill would provide assistance for:

Some of the 2,000 Nicaraguan children who have lost a limb, usually a leg, because of mines planted as part of this war. Funds may be used to provide noncombatant children with artificial limbs as well as rehabilitation services so that they can function adequately with their prosthetic device.

The many children who have suffered severe burns as a result of flying shrapnel and explosions associated with armed attacks.

Some of the 10,000 Nicaraguan children have been orphaned by war, and who are being cared for by private groups.

Some of the more than 100,000 children who have not received life-saving immunizations against killer diseases such as diptheria, tetanus, polio, measles, and whooping cough.

The countless children in need of additional medicines and other essential health supplies.

We have focused this bill on the most pressing health needs of these children. Hundreds of thousands of children in Nicaragua do not have access to adequate medicine or medical treatment. Even simple treatments, such as oral rehydration therapy [ORT] and vitamin A supplements, are not available to many of these children. Yet, ORT is an effective, low-cost treatment—a few pennies per dose—against diarrhea, and diarrhea remains one of the leading causes of child disease and death in Nicaragua. Vitamin A, which costs less than 2 cents per dose, prevents blindness and reduces child mortality. It is our intention that such treatments, as well as other effective medicines, be provided to Nicaraguan children in need.

These children do not understand why there has been war in their country, or why their brothers, sisters, and parents have been killed or maimed. They do understand, though, what it means to be healed. This bill begins that healing process. I, and many other Members of Congress, are proud to support a bill to help bind these wounds.

UNIFORM HEALTH AND SAFETY WHISTLEBLOWER PROTECTION ACT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. HAWKINS. Mr. Speaker, today I rise to introduce the Uniform Health and Safety Whistleblower Protection Act. This measure will strengthen the protection for private sector working people against employer reprisals they may otherwise face. Private sector employees should feel more free to report illegal or improper activities they reasonably feel endanger public health standards.

On February 23, 1988, Senator HOWARD METZENBAUM introduced legislation identical to that which I introduce today. In his statement, he made reference to his bipartisan effort to encourage Federal employees to "report illegal or improper activities that endanger the pubic health or safety without fear of personal reprisal" characterizing the need for such freedom as a "fundamental principle of good government." I wish to echo his concerns as I introduce this legislation in the House of Representatives.

Existing statutes protect whistleblowers but confusion exists as to the extent of the protection available under the statutes. The legislation which I introduce today will clarify the process and ensure appropriate enforcement. The protection of whistleblowers is in the best interest of the general public and is good government. Their protection will significantly enhance the Federal Government's efforts to ensure a high standard for public health and safety.

DOUG WILLIAMS: A LESSON WORTH A LIFETIME

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DYMALLY. Mr. Speaker, on April 6, 1988, a Los Angeles based organization, "One Hundred Black Men," will host a dinner honoring the Washington Redskins quarterback Doug Williams.

I would like to take this opportunity to pay a special tribute and say thank you to an American whose story is a lesson worth a lifetime.

By setting off the most explosive quarter in professional football history, and orchestrating a record-shattering Super Bowl XXII victory, Doug Williams became one of the most celebrated athletes of our time; 602 net yards of total offense, 340 passing yards and four touchdowns in one quarter are achievements which will take some playing to best.

But perhaps more important than the display of his athletic talents, than becoming the first black quarterback to start at a Super Bowl, than being named the Most Valuable Player of professional football's ultimate game, is Doug Williams' contribution to the education of Americans and mankind.

The Doug Williams story teaches us the strengths of endurance and perseverance in overcoming personal and societal obstacles.

It is a lesson in the potential of American opportunities which have become the envy of the entire world.

Through his achievements, Doug Williams shared with the world the advantages of destroying the barriers of race and discrimination.

For many who are convinced they are at the end of the line in whatever walk of life, Doug Williams' story is certainly encouragement to endure and carry on. The loss of a loved one, single parenthood, racial hostilities, and an uncertain career, could easily have been the end. Overcoming these trials? Doug just deals with them.

Undoubtedly, young black athletes will idolize Doug Williams as their hero. As a professional black quarterback, his success is a tremendous boost for black collegiate and high school quarterbacks.

The benefits of the Doug Williams' story, however, should not be limited to the black athlete. Doug Williams should be a role model for all young athletes, an example of how an athlete can succeed on perseverance alone.

Doug Williams should also be a lesson for the National Football League. It certainly has taken a long time to break certain barriers within this organization. Doug Williams has proven that athletic skills and talents transcend any racial or discriminatory practices within the NFL system.

As I observed the unity of the Nation's Capital in support of its team, I could not help but admire the beauty of that sight.

I also attempted to picture a similar view across a nation which was unquestionably glued to their television sets and radios on that memorable super Sunday afternoon; a smile, a tear, a wish, a dream.

Doug Williams' triumph has, even if for just 1 day, captured the attention of a country which saw nothing other than an American professional football player at his best.

Moreover, the entire world witnessed this very special moment for both Doug Williams and America. Again, America has shown the strength of a democracy which is empowered by its people.

Doug Williams' victory makes me extremely proud to be an American, and it should make every American proud of their country. This is yet another measure of our greatness, and a reminder that there can indeed be a better America.

Mr. Speaker, I hope that Doug Williams has taught us all something about ourselves, about our communities, about our future, and about our country. I would like to thank Mr. Williams for the encouragement and the memories. Doug, your story has truly been a lesson worth a lifetime.

A TRIBUTE TO SAM HAMETT

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to Mr. Sam Hamett. It is with great pleasure that I take this opportunity to honor him on his 100th birthday. He will be honored at a dinner on April 23, 1988, at the Unione Calabro Club in New Castle, PA.

Born in Syria, Sam came to the United States in 1913 from the village of Sofitain in northeast Syria. He ventured to New Castle seeking a job in the tin mills. Unable to find a job, he left New Castle, settling in Ellwood, IN, where he worked a tin mill job for several years before he was drafted into the U.S. Army in 1918.

While in the U.S. Army he was sent to France as part of the 28th Army Division. Five days after landing, his unit was loaded in trucks and driven to the frontlines.

After World War I, he got a job in the Shenango Tin Mill where he worked for 30 years until the mill pulled out.

On July 28, 1920 he married Mary Hamed. They had 11 children, 32 grandchildren, and 17 great-grandchildren.

Sam is still active. He is especially proud of his large garden. He shares the fruits of his efforts with his family and neighbors.

I would like to wish Sam a healthy and prosperous future. He should be very proud of his life accomplishments.

DIESEL FUEL EXCISE TAX CRISIS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. TALLON. Mr. Speaker, the 1980's have not been kind to our Nation's farmers. The road to economic recovery has been long and difficult. And, just as the future has started to look achievable, we throw up another obstacle.

Lodged in the recesses of the 1987 Budget Reconciliation Act is a minor change in diesel fuel excise tax collection that will create serious problems for farmers. This change will require wholesalers to collect the diesel fuel excise tax rather than the retailers. Although off-highway users, such as farmers, are exempt from the diesel fuel tax, they will now have to pay it and then apply for a refund.

The result is more costs, more paperwork, and more regulation, all at a time when farmers must cut expenses and increase efficiency to simply get by. It forces our farmers to make an interest-free loan to the Federal Government. The IRS will not pay farmers the millions in interest that might normally be due for such "loans."

The small farmer, who could least afford to shoulder such a burden in the first place, is the one who will feel the crunch. The typical farm operation would have to pay more than $1,000 a year in taxes to the highway trust fund for off-road diesel use.

All total, America's farmers would pay $420 million every year—money that shouldn't and doesn't belong to the Government. Yet, the Treasury is going to have the use of this money, interest free, for as long as a year. And in order for farmers to get their money back, they would fill out yet another IRS form.

If we fail to act before April 1, the new law could disrupt the distribution system as farmers and other off-road users top off their storage tanks to avoid paying the extra 15 cents per gallon. Undoubtedly, this will create a sudden, artificial demand for billions of gallons of diesel fuel which could not be supplied by the current refining and distribution system. This problem is especially serious since it would take place in the early spring, the peak fuel use period for spring planting.

Many of my colleagues have joined me in support of legislation to permit tax free sales of diesel fuel for use on a farm. But time is running out. If we fail to act, these regulations will go into effect on April 1. I urge my colleagues to act now and end unfair farm taxation. Don't make April 1, April Fuels Day.

DIVIDED SPOUSES: "WORSE CANNOT BE THAN THIS"

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. SHAW. Mr. Speaker, Pyatras Pakenas and his wife, Dr. Galina Vileshina, have been separated for 8 long years. The Soviets have refused Pyatras an exit visa 18 times. He writes to his wife every day, and I would again like to have printed in the RECORD an excerpt from these letters, which have been previously published by the Fort Lauderdale News/Sun Sentinel. I call on the Soviet Government to allow all divided spouses to be reunited.

DECEMBER 29, 1987.

Like you see, it's the end of the year. But we're still in separate parts of the world. This is very sad and very bad. Worse cannot be than this. But, my love, in our heart we never separated. We always were together, and we always will be together. We always were one, and this is the main thing.

How many people around us, who live together like man and wife, but at the same time, they live separate. * * * They sleep in one bed, but their thinking is different. * * * They sometimes hate each other, but they live under one roof. It's very good that we belong to the people who live with one heart. * * * We are the people nobody can separate. * * *

I had a lot of hope that our case would be resolved in this year, in '87. I still believe this today. And I never will fall into pessimism, if it won't happen this year.

I understand why they don't want to give me permission. I think that first is because for seven years they hold me without any reason, and now it's not convenient for them to show that they hold me so many years without any reason.

LARGE ACCOMPLISHMENTS BY TWO SMALL SCHOOLS

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. SUNDQUIST. Mr. Speaker, each year some of the richest stories about championship basketball have to do with small schools with big dreams, who play with heart and great effort and reach the goal of a State championship. In so doing, they bring great credit to themselves and great pride to their communities.

This year, two schools from one of Tennessee's least populated counties, Wayne, met to decide the State class A girls basketball championship. The Trojanettes of Collinwood High School won, defeating their archrival from 12 miles up Highway 13, Wayne County High School.

For Collinwood, the victory capped what had been a year-long effort and made good on a promise team members had made to themselves after last season's tournament.

For Wayne County High School, the tournament runners-up, there is the knowledge that its team, too, accomplished something special, rallying together after the death of a team member early in the season.

The young ladies on both the Collinwood and Wayne County teams have acquitted themselves well and honorably. They are champions in the finest sense of the word. And I join with my constituents in Wayne County, who beam with pride at the accomplishments of the Collinwood Trojanettes and the Wayne County High School Lady Cats.

MENTAL HEALTH AND AGING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. ROYBAL. Mr. Speaker, for far too long, mental health care has been a neglected priority in American health care. This neglect is clearly documented in a report, "Mental Health and Aging: The Need for an Expanded Federal Response," which I include in the RECORD.

Now is the time to acknowledge that mental health care is no less essential than other health care and must be an integral part of our total health care system. Now is the time for federal action.

After over a year's worth of study and with a March 2 Committee on Aging hearing and this report as a backdrop, I will be introducing a new elderly mental health initiative to rectify major deficiencies in Medicare, Medicaid, the mental health block grant and Federal research and training programs and to give mental health greater visibility through a new National Mental Health Education Program.

The time has come for us to do more than just talk about upgrading mental health care in America. Concrete Federal action, such as that detailed in my elderly mental health initiative and in other mental health legislation being pushed by Representative WAXMAN and Senator KENNEDY, must be taken quickly to better protect other elderly and nonelderly Americans from the devastating effects of mental disorders.

MENTAL HEALTH AND AGING: THE NEED FOR AN EXPANDED FEDERAL RESPONSE

(A report by the Chairman of the House Select Committee on Aging)

The time has come for vigorous federal action to overcome the growing problem of mental illness in America. According to the National Institute of Mental Health (1987), nearly 30 million Americans now require professional treatment for mental illness during any six-month period. One-third of America's homeless people are mentally ill, and over three million of America's children suffer from serious mental disorders. As compared to the general population, racial and ethnic minorities face even greater economic, social and psychological problems. Current direct costs of mental illness are estimated to exceed $20 billion dollars per year. Tragically, the problem of mental illness has now reached the point where "the personal and social costs of mental illness are similar in scale to those for heart disease and cancer" (National Institute of Mental Health, 1987).

Unfortunately, though not surprisingly given the magnitude of this national problem, America's elderly in general have not been spared from the destructive effects of mental illness. Indeed, elderly persons, especially those of racial and ethnic minorities, are particularly vulnerable to mental health problems and are particularly in need of improved mental health services. Research suggests that between 15 and 25 percent of the 28 million Americans over the age of 65 suffer from significant mental health problems (Action Committee to Implement the Mental Health Recommendations of the White House Conference on Aging, 1986). This means that as many as 7 million of our elderly Americans may currently need professional mental health services; yet very few of these persons are receiving the treatment they so desperately need and deserve.

Although the situation is troublesome for elderly Americans as a whole, minority elderly people are threatened by a sort of "double jeopardy," being both elderly and a racial/ethnic minority. Minority elderly people are more likely to experience psychological problems than the elderly population as a whole. The situation is made worse by the fact that racial and ethnic minorities are much less likely to have the psychological and social resources to deal with mental health problems.

As is the case with people in other age groups, elderly individuals suffer from a wide range of mental health problems (Action Committee, 1986; Bulter and Lewis, 1982; Kermis, 1986). Elderly persons often experience problems of adjustment related to stressors such as bereavement, poor physical health, or the demands of caring for a chronically ill spouse. Several disorders, however, are of particular concern among the elderly population. Depression, for instance, is a major problem whose seriousness cannot be underestimated, especially in light of the fact that elderly men over the age of 75 display the highest suicide rate of any age group, young or old. Alcohol abuse is also a serious problem, as is the misuse of prescription drugs.

Dementia, including Alzheimer's Disease, and other forms of severe cognitive impairment are increasingly prevalent with advanced age. The United States Congress Office of Technology Assessment (1987) estimates that about 1.5 million Americans now suffer from severe dementia, including about 25 percent of persons over the age of 85. Between two and four million additional persons probably suffer from mild to moderate dementia. Clearly, dementia and cognitive impairment will become an even greater problem over the next several decades as the number and proportion of elderly persons over the age of 85 grows dramatically. Moreover, many chronically mentally disabled persons, mentally retarded persons, and developmentally disabled persons are not living into old age and need support from the mental health system in order to maintain their day-to-day lives. Elderly persons are also more likely than younger persons to be afflicted with multiple health problems including situations in which both physical problems and mental health problems contribute to the patient's suffering.

Unfortunately, the mental health needs of our elderly Americans are not being met adequately (Action Committee, 1986; United States General Accounting Office, 1982). Only a fraction of elderly persons with mental health problems are now receiving professional treatment. As a result, elderly persons, especially minority elderly, are seriously under-represented among people who receive mental health services. Elderly persons, who make up almost 12 percent of the American population, represent only about 6 percent of the persons served by Community Mental Health Centers and only about 2 percent of those served by private therapists (Alcohol, Drug Abuse, and Mental Health Administration, 1987; Action Committee 1986, 1984). In spite of very great need, homebound elderly persons have little or no access to mental health services, and elderly nursing home residents almost never receive active treatment for mental health problems. The result is tragic and needless suffering among far too many elderly Americans.

ELDERLY MENTAL HEALTH: BARRIERS IN THE SYSTEM

Negative social stereotypes and limited access

A whole range of impediments prevents adequate delivery of mental health services to the elderly and utilization of mental health services by the elderly (Butler and Lewis, 1982; United States General Accounting Office, 1982). Negative social stereotypes about aging and the elderly may prevent mental health professionals from reaching out to elderly clients in the erroneous belief that therapeutic efforts with older people are likely to be difficult or unproductive. At the same time, negative stereotypes regarding emotional problems and mental illness may prevent elderly persons from seeking appropriate treatment. Many elderly people are reluctant to admit to emotional problems and prefer to deal with such problems on their own, without the assistance of health or mental health professionals.

Elderly persons also face a number of practical barriers which seriously limit their access to mental health services. Misinformation and lack of knowledge about the availability of mental health services certainly contribute to the underutilization of these services on the part of the elderly, as does the fact that mental health services are rarely provided in ways which encourage utilization by elderly individuals. Frail and homebound elderly, nursing home elderly, and elderly persons with transportation problems have great difficulty obtaining mental health services, in part because in-home mental health services are virtually non-existent.

Even healthy, mobile elderly persons are frequently discouraged from seeking mental health services. These services are usually not delivered in locations to which elderly persons have easy access or in which they feel comfortable seeking assistance. Moreover, many elderly persons become intimidated by the often confusing regulations and paperwork imposed by federal and state programs like Medicare and Medicaid, and by private insurance companies and local service agencies. Those elderly who are racial and ethnic minorities often face additional financial, language and cultural barriers. As a result, these people are deprived of much needed mental health treatment and of the relief from suffering that this treatment can provide.

Lack of trained professionals

When elderly persons do seek treatment, the tend not to seek help from mental health professionals but to present their symptoms to general practice physicians instead (Waxman, Larner, and Klein, 1984). Often their complaints are couched in terms of physical symptoms rather than in terms of emotional or mental problems, so that physicians must be especially attuned to sometimes subtle indications of mental health concerns and must be equipped to respond to those concerns in an appropriate fashion. Unfortunately, because most physicians have had little formal training in geriatric medicine or in geriatric mental health, and because other providers of services to the elderly also lack appropriate training in this area, potentially treatable mental health conditions among elderly adults too often go unrecognized.

This lack of specialized training in geriatric mental health extends not only to general practice physicians and service providers, but also to mental health professionals. (Kermis, 1986). Psychiatrists, psychologists, social workers, and nurses all have a potentially important role to play in the treatment of mental health problems in the elderly, but only a small proportion of practitioners in any of these disciplines have as yet been specifically trained to work with elderly persons. Even fewer are prepared to work with the special problems of racial and ethnic minorities. This is especially unfortunate because the multiple physical and mental health problems commonly displayed by elderly persons often call for team approaches utilizing the expertise of several mental health disciplines for optimal treatment. Perhaps partly as a result of the serious shortage of trained mental health professionals, there is also a critical lack of specialized Community Mental Health Center programs and outreach efforts for elderly persons.

Lack of specialized programs and outreach

This lack of specialized mental health programming and targeted outreach for the elderly is particularly troublesome. According to the Alcohol, Drug Abuse, and Mental Health Administration (1987), participation by elderly persons in Community Mental Health Center Programs can be more than doubled when special programs are designated for geriatric mental health and when these programs are staffed with mental health professionals who have specialized geriatric training. Unfortunately, the consolidation of federal support for mental health services into the Alcohol and Drug Abuse and Mental Health Services Block Grant (enacted through the Omnibus Budget Reconciliation Act of 1981) was accompanied by a dramatic decrease in federal funding for mental health services which appears to have had a direct and negative impact on mental health programs for the elderly.

The Action Committee to Implement the Mental Health Recommendations of the White House Conference on Aging (1986) found that many Community Mental Health Centers, facing cuts from $549 million in federal mental health support in 1981 to $495 million in 1987, have actually decreased their services on behalf of elderly persons with mental health problems. As of 1985, nearly 40 percent of the Community Mental Health Centers surveyed by the Action Committee reported reductions in service delivery to older persons. Almost half of these Centers lacked staff with specific training in geriatric mental health, and a similar number reported having no specialized services for the elderly.

Special problems of racial and ethnic minorities and rural elderly

Minority elderly and rural elderly face particular difficulties when it comes to access to mental health sevices. The Alcohol, Drug Abuse, and Mental Health Administration (1987) has indicated that reliable data are simply not available concerning the representation of racial and ethnic minorities among persons receiving community mental health center services. In general, very little data is available regarding the mental health needs of racial and ethnic minorities and relatively little research has been done on how to improve minority access to mental health services and to improve the effectiveness of services for minority persons. However, cultural barriers, language barriers, and discrimination certainly decrease the likelihood of minority elderly obtaining access to appropriate mental health services (Butler and Lewis, 1982). Access problems are further complicated because only a relatively small number of minority individuals make it into the ranks of mental health professionals and are available to help serve elderly minority individuals.

Agencies delivering mental health sevices in rural areas rarely have the resources needed to provide adequate, let alone optimal, care for all the people they serve, especially elderly individuals. Transportation to mental health centers is a problem even for rural elderly in relatively good physical health and is virtually impossible for frail or homebound individuals. Moreover, the economic crisis in farm areas has resulted in an increased incidence of mental health problems a greater number of people must cope with the stresses created by the depressed farm economy and as greater numbers of elderly persons are left without an extended-family support system (Rosenberg, 1986).

Mental health sevices under prepaid health plans

Of additional concern is the delivery of mental health services by Health Maintenance Organizations (HMOs) and other prepaid health plans. Federal regulations provide little substantive direction regarding HMO mental health services, with the result that the coverage, access, and quality of services for mental health/illness vary widely across HMOs, much more so than for physical health/illness (Levin, Glasser, and Roberts, 1984). Medicare beneficiaries, and health care consumers of all ages, deserve to receive appropriate and reasonable mental health coverage from prepaid health plans, just as they deserve to receive such coverage from other types of insurance plans.

Inadequate Medicare benefits

Present Medicare psychiatric benefits, which have not changed since the program was established over 20 years ago, are outmoded and markedly inferior to benefits for physical illness (President's Commission on Mental Health, 1978). Inpatient psychiatric hospital treatment under Part A of Medicare is limited to 190 lifetime days, an arbitrary limitation that ignores the chronic and/or recurring nature of many mental disorders. Outpatient mental health treatment under Part B of Medicare is restricted by a dollar cap and requires a 50% copayment by the beneficiary. Coverage for care in intermediate care nursing facilities, which is appropriate for patients with chronic disorders like Alzheimer's Disease, is not available at all under Medicare.

The Medicare mental health benefit structure is grossly inadequate and fails to encourage the most medically appropriate and cost effective forms of care. Although the inpatient psychiatric benefit is itself quite limited, the virtually non-existent outpatient benefit encourages costly hospitalizations at a time when the most advanced therapeutic approaches emphasize outpatient, community based care. Treatment by mental health professionals such as clinical psychologists, clinical social workers, and psychiatric nurse specialists is also discouraged because Medicare does not recognize these professionals as independent providers even though they are a source of excellent, cost effective treatment for many types of mental health disorders. Clearly, this inadequate mental health benefit structure under Medicare deprives beneficiaries of health care services which are vital to their well-being.

Inadequate Medicaid benefits

Medicaid mental health benefits, which vary considerably from state to state, are also failing to meet the mental health needs of the elderly population. Critical community based mental health services provided by free standing mental health clinics, for example, are optional rather than mandatory under the Medicaid program (Intergovernmental Health Policy Project, 1984), and two Medicaid requirements relative to nursing home treatment are particularly detrimental to elderly nursing home residents with mental health problems.

By statute, Medicaid denies reimbursement for non-elderly patients of "Institutions for Mental Disease" which Medicaid regulations, in effect, define as facilities that primarily engage in providing care for mental diseases to more than 50 percent of their residents, regardless of age. The threat of being classified an "Institution for Mental Disease," and thereby losing Medicaid reimbursement for non-elderly patients, provides a strong incentive for nursing homes to avoid providing any mental health services to any of their patients. As a result, almost no mental health assessment or treatment is provided in nursing homes even though research indicates that a significant proportion of elderly nursing home residents suffer from mental health problems and that elderly persons often suffer from multiple health problems which may be physical and/or mental in nature (Intergovernmental Health Policy Project, 1986; National Institute of Mental Health, 1986).

Elderly persons suffering from chronic disorders like Alzheimer's Disease eventually require long term, institutionalized care as caregiving becomes impossible for families to manage (United States Congress Office of Technology Assessment, 1987). However, Medicaid eligibility requirements, even in states with the most generous benefit structures, are so stringent that both the patient and the patient's spouse must literally become impoverished before Medicaid nursing home benefits become available. Such a system is detrimental not only to the patient, but also to the otherwise healthy spouse who is placed at risk physically and mentally, and financially.

ELDERLY MENTAL HEALTH: REDESIGNING THE SYSTEM

The health care system for America's elderly must be strengthened and restructured to encourage delivery of desperately needed mental health services to elderly persons, rather than discourage delivery of such services as is now the case. Mental health services must be provided in environments which facilitate, rather than hamper, service delivery to elderly persons. Incentives must be built into the sytem so that elderly persons have access to mental health services wherever they reside, including nursing homes. Long term care for persons with chronic disorders must be provided without requiring impoverishment before such care can be obtained.

Elderly Americans need a continuum of mental health services designed to help them remain optimally functional and in the community whenever possible and to facilitate their transfer to high quality institutional care when such care is warranted. These services should include a variety of support systems both for elderly persons themselves and for their families and caregivers. Mechanisms are needed to ensure not only that elderly persons and their families have access to the full range of needed services but also that the care provided is cost effective and of high quality. Coordination and cooperation among federal, state, and local agencies whose responsibilities include aging, health, and mental health must be ensured if elderly persons with mental health needs are to be served adequately.

A MENTAL HEALTH INITIATIVE FOR ELDERLY PERSONS

Clearly the time has come to provide for a federal "Elderly Mental Health Initiative" in response to the growing mental health needs of elderly Americans. In order to stimulate such an initiative, we need to lay the foundation for a strong and expanded federal mental health effort in three critical areas: (1) the development of an effective mental health service system to adequately care for elderly persons; (2) modification of Medicare and Medicaid mental health service coverage and cost containment; and (3) improvements in quality assurance and access protection.

Development of an effective service system

This "Mental Health Initiative" should be designed to encourage the development of the mental health service system to care more effectively for the elderly. These proposals should directly address the delivery of services, and address the research and training foundations necessary for developing effective service delivery systems.

Services.—In the short term, it is essential that action be taken immediately to expand mental services for elderly and non-elderly Americans. For that reason, this initiative would increase annual funding for community mental health services under the Alcohol, Drug Abuse, and Mental Health Services Administration by $100 million and would require increased services, access, and quality assurance for mentally impaired children, elderly persons and their families. In addition, a joint Federal and State matching grant program, providing $10 million in Federal funds, should be developed to encourage development and coordination of community based services for elderly persons and public education about the mental health needs of elderly Americans.

Research and Training.—Over the long term, research and demonstration programs to meet the mental health needs of elderly Americans must be stepped up in order to improve assessment and identify the best intervention strategies and methods of service delivery. Education and training efforts are also needed to ensure that the mental health problems of elderly persons are accurately identified and referred for appropriate treatment. Special research and training efforts must be made due to the greater needs of racial and ethnic minorities and the appropriate services must be developed to meet those needs. In recognition of these needs, this Mental Health Initiative would (a) require development of a federal research plan for elderly mental health to be implemented through the National Institute of Mental Health (NIMH), the National Institute on Aging (NIA), and the Administration on Aging (AoA), (b) an increase in biomedical, prevention, treatment, and services research (NIMH, NIA, and AoA) by $42 million by 1991; and (c) increase in NIMH, NIA, and AoA training programs by $30 million funding by 1991.

Medicare and Medicaid services and cost containment

While improving services, training, and research are critical, the Medicare and Medicaid programs must also be modified to encourage delivery of the most appropriate and effective mental health treatments. Benefit structures must be redesigned to provide an appropriate level of inpatient services together with a broad array of outpatient services. Costs must be controlled, but in ways which do not compromise the quality of care. This "Mental Health Initiative" would include several modifications.

Inpatient treatment.—Medicare would shift its emphasis toward outpatient mental health treatment whenever possible while still providing a moderate inpatient benefit for persons in need of such treatment. This proposal would abolish Medicare's 190-day lifetime limit on inpatient psychiatric hospital treatment in favor of a 60-day annual limit (extendable based upon a medical necessity review) on treatment in psychiatric hospitals or in psychiatric units of general hospitals. Any resources freed up by this shift should be put into outpatient treatment.

Outpatient treatment.—Medicare's outpatient mental health benefit would be expanded by (a) abolishing its 50% percent copayment requirement and its annual $1100 reimbursement limit in favor of a 20 percent copayment with a 20 visit annual reimbursement limit (extendable based upon a medical necessity review); (b) making medical management a physician service rather than a limited mental health service; and (c) covering the following community based mental health services: partial hospitalization and day treatment, outpatient mental health services and psychotherapy, services in community mental health centers, and services provided by clinical psychologists, clinical social workers, and psychiatric nurse specialists. This proposal would also provide a Medicare in-home respite care benefit of up to 120 hours per year. As for the Medicaid program, this proposal would include community based services, on the same basis as physician services, for eligible recipients.

In the area of mental health care in nursing homes, it is necessary to refine the definition of "institutions for mental disease" (IMD) under Medicaid so that nursing home can be required to include mental health needs in patient assessments and ensure that patient's have access to mental health services without penalizing the nursing homes. Finally, this proposal would ensure cost containment under Medicare through mandatory assignment, utilization review, and prospective and indexed pricing of mental health services.

Quality assurance and access protection

In the strong belief that quality assurance and access protection are essential components of any health care reform package, this Mental Health Initiative contains a number of proposals designed to ensure that mental health services funded under federal programs are of high quality and that access to those programs is strongly protected. For Medicare and Medicaid, this proposal would (a) establish strict conditions of participation for mental health services; (b) clarify that mental health services shall be incorporated into peer review organization reviews; and (c) require sanction procedures, including intermediate level sanctions, for agencies, programs, and services which are not in compliance with access and quality assurance requirements.

Moreover, this proposal provides for studies investigating the quality of and access to mental health services (including services under prepaid health plans and in state and local mental health facilities), minority access to community mental health centers, and mental health manpower and training (with a special emphasis on minority personnel). It clarifies that Ombudsman activities under the Older Americans Act shall include advocacy on behalf of concumers of covered mental health services and establishes a health care consumer bill of rights.

ELDERLY MENTAL HEALTH—ONLY A FIRST STEP

Although the proposals outlined here constitute an "Elderly Mental Health Initiative," we must not forget that the mental health needs of the elderly are but one component of a broader, national problem which affects people of all ages. The American health care system must recognize, and take action to address, the mental health needs of *all* our people. Just as this system must become more responsive to the mental health needs of our elderly, it must also become more responsive to the mental health needs of our children, adolescents, and non-elderly adults.

This "Elderly Mental Health Initiative" is not just a series of proposals to help the elderly, but are a first step in reforming the mental health delivery system for all Americans, regardless of age or background. Even if all the proposals in this "Elderly Mental Health Initiative" were to be enacted today, however, much would still remain to be done for Americans of all ages. We must not rest until all Americans are provided with a comprehensive system of basic and catastrophic health protection, which effectively and completely meets both physical and mental health care needs.

HONORING ROBERT McGUIRK

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MOAKLEY. Mr. Speaker, I rise today to ask my colleagues to join me, along with the students and faculty of Bristol County Agricultural High School, in my home State of Massachusetts, in honoring Mr. Robert McGuirk, for 26 years of dedicated service to the students of Bristol County.

Robert McGuirk, for over a quarter of a century, has broadened the minds of students in my district as an instructor of history, government, political science, and English. He has, since 1962, served as the senior class adviser of Bristol County Agricultural High School, strenghtening the character of graduating seniors, and helping to make their future something they could be proud of. For the 26 years, Mr. McGuirk's outstanding work has been reflected in the high school's seniors, as well as his underclassmen students.

This spring, Mr. McGuirk will retire, but his intelligence, good will, and style will forever be elements that his colleagues and students will cherish.

Robert McGuirk's accomplishments have benefited the students and faculty of Bristol County Agricultural High School for 26 years. His quality of leadership, and charisma, have made a long-standing impression in my district, and for this he deserves a fond farewell, and our sincerest congratulations.

TRIBUTE TO RICHARD P. CONLON ON TWENTIETH ANNIVERSARY AT DSG

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. LOWRY of Washington. Mr. Speaker, 20 years ago this month, Richard P. Conlon became director of the Democratic Study Group. During the past two decades, few staff members have had a greater impact on this institution. He has not only played an important role in many of our national policy debates, he has had an enormous impact on the decisionmaking process itself. As principal strategist of the reform effort in the 1970's that transformed the House of Representatives, he has made a unique and enduring contribution to the legislative process, to us as Members, and to the people we serve.

Mr. Speaker, as chairman of the Democratic Study Group, I rise today to pay special tribute to Dick Conlon on the occasion of his 20th anniversary as DSG's executive director. On behalf of all DSG members, I take this opportunity to honor Dick for his overriding commitment to protecting the integrity of the political process, his commitment to the use of the Democratic Party to promote the public interest, and his unwavering dedication to strengthening the House as an institution.

Today we congratulate and salute Dick Conlon for his extraordinary achievements in reforming House organization and procedures, and in building DSG into the preeminent research institution in the Congress.

In recognition of Dick Conlon's years of leadership at DSG and dedicated service to its members, I would like to take a moment on this special occasion to relate some of his most important accomplishments over the past 20 years, and particularly his instrumental role in congressional reform.

Richard Conlon became the third DSG executive director in March 1968. The first was William G. Phillips, who served from 1959 through 1965, and the second was John Morgan, who served from 1966 until 1968.

Dick accepted the position against the advice of many of his friends and colleagues. They saw a bleak future for the organization after the heavy losses in the 1966 election and the prospects for further dwindling of liberal Democratic strength in 1968.

But Dick saw it differently. He recognized that there would be an even greater need for an organization to act as a focal point for mobilizing liberal Democrats in the House. He saw an opportunity to expand DSG's operations as a research and policy institution, and to establish the Democratic Study Group as the vanguard of the congressional reform movement.

Dick Conlon was the right man at the right time. His activist, pragmatic approach, his intense interest in reform, his political insight, his shrewd tactical skills, his commitment to progressive Democratic policies, all melded perfectly with the needs and interests of DSG members at the time.

Congressional reform soon became the top priority of DSG. There was broad consensus among DSG members on the objectives of the reform effort: to end secrecy in the House, to democratize House and caucus procedures, to assure that committee chairman are accountable to the full Democratic caucus, and to give junior Members an opportunity to participate in the legislative process.

Dick played a vital role in the achievement of those goals. Working with key DSG reform leaders, he conceived and drafted most of the rules changes, devised the political strategy to win their approval, and managed the overall execution of the reform effort.

He was also the contact point with a coalition of outside groups and worked closely with them to rally public opinion and mobilize Democratic members in support of the reform proposals.

Dick made two strategic decisions at the beginning of the reform effort that were critical to its eventual success: First, to pursue a limited number of achievable reforms, Congress by Congress, rather than attempt a comprehensive reform package; and second, to revitalize the party caucus as the basic determinant of party policy and as the instrument of reform.

Dick had the foresight to recognize that changes in basic caucus procedures would open the door to fundamental reform.

The first procedural changes occurred in 1969, with the approval of DSG proposals to require monthly meetings of the Democratic caucus, and to permit individual Members to bring matters before the caucus for debate and vote. Another basic reform reestablished caucus control over committee assignments, thus paving the way for the automatic secret ballot vote on committee chairmen.

It was also Dick Conlon's idea to create a caucus committee to study and recommend changes in the seniority system and other House and party procedures. His rationale was that such a committee would legitimize the reform effort, and insulate the reform proposals from attack as radical changes advocated by liberal DSG members.

Of course, Dick continued to play a key role in the reforms proposed by the "Hansen" committee, and does so today in the deliberations of that committee, now chaired by our colleague MARTIN FROST.

Conlon's proposal to create a caucus committee illustrates his selfless commitment to the success of the reform effort. He would readily submerge his own involvement and downplay the association with DSG if it would ultimately help win approval of the reforms.

Dick followed that strategy in the case of the record teller vote reform in 1970. He devoted his considerable energies to mobilizing support both inside and outside the House for this crucial reform to permit recorded votes on amendments.

He generated favorable public opinion through a massive press campaign, prepared detailed reports on secrecy in the House, and recruited support from labor, education, and public interest groups. He worked with DSG leaders to form a bipartisan coalition in the House, and enlisted Members who had not been identified with the reform movement to sponsor this rules change.

Dick masterminded and executed every aspect of this effort to permit record votes on amendments, while minimizing the public perception of DSG's role in achieving one of the most significant rules changes in the history of the House.

In addition to the record teller vote and other antisecrecy reforms, the principal target of DSG's reform effort in the 1970's was the seniority system. The objective was not to abolish the system, but rather to assure that those who gain power through seniority are accountable and responsive to the Democratic caucus. Dick's strategy in that effort established the model that has been used again and again in DSG's initiatives to influence substantive policy decisions.

That basic strategy is to survey Members to determine their attitudes on the issue and selected policy options, prepare comprehensive analyses based on a thorough documentation of the facts, mobilize public opinion, and use the caucus to build support for policy initiatives.

In the case of the seniority system, DSG launched an educational effort after a survey of Members revealed considerable misunderstanding of seniority rule and its impact on power relations within the House. Dick prepared a report documenting the voting patterns of conservative Democrats in opposition to national Democratic programs and policies; and a second report tracing the evolution of the seniority system.

These two reports—based on meticulous research and analysis, thoroughly objective, presenting the arguments on both sides of the issue—had a tremendous impact on Democratic Members and won their support for the effort to break the iron grip of seniority rule.

Dick Conlon also built DSG into a highly respected research operation—the acknowledged best source of legislation research in the Congress. Dick devoted a great deal of time and effort to expanding DSG's research services, and insisted on the highest standards of objectivity and accuracy. Now nearly all Democratic Members, and a score of Republicans, rely on DSG's daily and weekly legislative reports and periodic special reports on major political issues.

DSG's prodigious research output on legislation and policy issues is phenomenal. Under Dick's supervision, hundreds of reports numbering thousands of pages are published every year. The staff prides itself in preparing a summary of every bill that comes before the House, even if doing so requires working through the night in order to provide Members with what is sometimes the only available analysis of the pending bill.

Dick recognized from the beginning that the credibility of the research services would enhance DSG's prestige and establish the foundation for its policy initiatives.

Those policy initiatives are carefully selected by the DSG leadership, and are generally limited to issues of overriding national importance, such as tax and budget policy, or to issues on which DSG has developed a specific expertise, such as campaign finance reform.

On the issue of tax reform, for example, DSG has a long history of leading progressive Democrats in efforts to close loopholes and eliminate inequities in the tax code. In recent years, Dick spearheded DSG initiatives to achieve deficit reduction through tax reform, working with key Ways and Means Committee members and others in 1983 to develop a series of tax reform measures to met deficit reduction targets. He directed similar efforts in 1985 to mobilize and document broad public and Member support for using revenues from tax reform for deficit reduction rather than rate reduction.

In this Congress, DSG has been extremely active in the debate on Contra aid, publishing a long series of reports on developments in Nicaragua and the peace process. Dick was personally involved in the development of the Democratic alternative considered earlier this month, and worked tirelessly to help Members understand the issues involved in the Contra debate.

Dick also worked long hours with me in developing the DSG court challenge of the President's failure to report to Congress on the reflagging of Kuwaiti tankers in the Persian Gulf. A total of 109 Members have joined me in the filing of this most important challenge under the War Powers Act. It would not have been possible without Dick's efforts.

The issue of overriding interest to Dick Conlon, however, is the one that he has worked on assiduously over the years: campaign finance reform. DSG undertook major long-term campaign in 1978 to win support for partial public financing of elections to the House of Representatives.

Dick played a key role in the development and execution of the reform effort on H.R. 1, which was defeated in committee in early 1979, and the subsequent effort on the Obey-Railsback limit on PAC contributions, which passed the House later that year but was filibustered in the Senate.

More recently, he developed the idea to minimize Members' dependence on PAC contributions, and encourage participation of individual citizens, by providing a 100-percent tax credit on small contributions from people in the Member's home State. In support of that effort, he directed a comprehensive analysis of campaign funding trends over the past 10 years to document the increasing dependence of congressional candidates on PAC money and the decline in individual campaign contributions.

The 100-percent tax credit proposal was the only successful floor amendment to the 1986 Tax Reform Act. Dick was instrumental in achieving support for the proposal in the Democratic caucus and narrowly in the House. It was dropped in conference, but we can be sure that Dick will turn his attention to that proposal again at the appropriate time.

Dick has had a significant impact in other ways in the campaign process itself. He rejuvenated the DSG campaign fund and began an extensive program of services for nonincumbent candidates. He also conceived and engineered highly successful direct-mail campaigns usually written by him. He developed special campaign workshops in 1970 which served as a model for similar workshops sponsored by the party campaign committees. Dick also invented a new polling concept, using DSG professional pollsters and volunteers trained by them, which enabled candidates to conduct at-cost professional polls.

In addition to helping candidates compete more effectively, Dick also helps newly-elected Members make a smooth transition as they begin their service in the House. Under his guidance and direction, DSG began the practice in 1970 of sponsoring orientation briefings for new Members before the start of the Congress.

Mr. Speaker, perhaps the greatest tribute that would be paid to Dick Conlon is that he has made a difference. The House of Representatives is truly a far more democratic institution because of his work here.

I am sure all of my DSG colleagues join me in saluting Dick Conlon for his remarkable contributions to this House over the past 20 years.

Dick, we congratulate you, we thank you, and we look forward to your continued leadership at DSG for many years to come.

CRT DUTY SUSPENSION BILL INTRODUCED

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. FRENZEL. Mr. Speaker, today I have introduced a bill which will temporarily suspend the tariff on high resolution cathode ray tubes. Currently, the column 1 tariff on CRT's is 6 percent ad valorem.

This bill has been introduced for a company in my area which manufacturers high resolution displays which include CRT's as a component. The company states that it has long sought a domestic supplier of its particular needs, but does not believe one exists.

Because the 6-percent tariff on the component threatens the competitiveness of the final product, I believe this tariff suspension is justified. Since the suspension is temporary, it would give the company relief, yet give any potential suppliers in this country time to develop a product that would be price competitive.

It is my hope that this bill will be included in the 1988 group of tariff bills considered by the Trade Subcommittee of the Ways and Means Committee.

THE U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1988

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MADIGAN. Mr. Speaker, I have introduced a bill this date on my own behalf and that of Chairman DE LA GARZA; the chairman and ranking Republican of the Subcommittee on Department Operations, Research, and Foreign Agriculture, Congressman GEORGE BROWN and Congressman PAT ROBERTS; and the chairman and ranking Republican of the Subcommittee on Wheat, Soybeans, and Feed Grains, Congressman DAN GLICKMAN and Congressman RON MARLENEE.

The Secretary's letter to the Speaker enclosing the draft legislation provided the background and the need to extend the authorization for Federal grain inspection services:

The amendments in the Omnibus Budget Reconciliation Act effective for the period October 1, 1981, through September 30, 1984, required collection of user fees to cover administrative and supervisory costs related to official grain inspection and weighing, imposed a 35 percent limitation on administrative and supervisory costs, authorized appropriations for standardization, compliance, and foreign monitoring activities, and required establishment of an advisory committee. The amendments enabled the Federal Grain Inspection Service (FGIS) to facilitate the orderly and timely marketing of grain in carrying out its responsibilities to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to regulate the weighing and certification of the weight of grain.

Public Law 98-469 enacted October 11, 1984, extended the 1981 amendments through the end of fiscal year 1988, authorized the Secretary of Agriculture to invest sums collected from user fees, and increased to 40 percent the limitation on administrative and supervisory costs.

The Grain Quality Improvement Act of 1986, Public Law 99-461, was enacted November 10, 1986, to improve the quality of U.S. grain. This law prohibits dockage or foreign material once removed from grain from being recombined with any grain, and prohibits dockage or foreign material from being added to grain. The Department was directed to publish a final rule to more accurately reflect the levels of insect infestation in grain; conduct studies of premiums for high quality grain and uniform end-use value tests; and publish the optimal grain grading proposal. On June 30, 1987, FGIS published amendments to the regulations and the Official U.S. Standards for Grain to implement provisions of this law.

COAST GUARD CUTS: ENOUGH IS ENOUGH

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. DEFAZIO. Mr. Speaker, earlier this week a serious accident occurred on the Oregon coast in my district.

Two men in a 16-foot boat attempted to cross the bar at Bandon, OR. The bar conditions were rough and the boat flipped. They were left in the ocean for 25 to 30 minutes.

Bandon was one of the victims of the recent cuts announced by the Coast Guard. I was outraged by the announcement that 52 vital Coast Guard patrols and stations across the country would be closed permanently. I voted against these reductions, and I am currently working with several other Members to restore the Coast Guard's full operating budget.

We depend on the Coast Guard to protect our resources, keep our coastal waters safe and curtail drug trafficking. The Coast Guard serves an essential purpose. If the patrol had still been in Bandon, speculation is that it would not have taken more than 5 to 10 minutes to reach them. The Coast Guard helicopter did not arrive for 30 minutes.

These men were experienced sailors, were dressed properly and knew how to handle this situation. Despite this, they were close to frozen. One registered a body temperature of 89 degrees. If it had been anyone less experienced, they probably would not have survived for 30 minutes.

Clearly, moving the patrol can mean the difference between life and death. This episode turned out alright. We might not be so lucky the next time.

I believe that the Nation must honor its commitment to maintain an adequate presence along our coasts and waterways. This is a clear example of the need to reorder our national priorities and reform the Federal budget process. Despite reports of fraud and excess at the Pentagon, we continue to increase the military's budget by billions of dollars every year. At the same time we are significantly reducing the funding for dozens of important domestic programs—including the Coast Guard. Enough is enough.

WHO'S MINDING THE KIDS: EMPLOYERS CAN HELP

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MILLER of California. Mr. Speaker, the lack of safe, quality child care is a pressing concern among parents in every region of our country, at every income level and in every ethnic group. In 1987, 28.3 million American children under the age of 15 were in need of some type of child care while their parents worked. Existing spaces in licensed child care centers and regulated family day care homes, however, could accommodate only 1.9 million children—scarcely more than 10 percent of the estimated need.

Addressing the national child care need will require commitment from all sectors of our society. With a pool of skilled workers shrinking, some employers have found that providing child care assistance, flexible work arrangements, such as job sharing and flex-time, and parental leave can be valuable tools in recruiting and retaining employees. Others have found that providing these benefits helps their bottom line in the form of reduced absenteeism and job turnover, reduced error and accident rates, and improved employee morale and productivity.

Between 1982 and 1987, the number of corporate firms offering employees child care benefits increased by 400 percent. Most of the growth has been in salary reduction or flexible benefits plans. Also growing in popularity among employers are corporate consortia, information and referral services, and corporate-Government partnerships.

Although growing support from employers is encouraging, only about 3,000 of the Nation's 6 million employers offer any form of child care assistance. In 1985, only 1 percent of employees in large and mid-sized firms were eligible, through their employers, for even partial defrayment of costs associated with day care for their children.

While employers are just beginning to recognize their role in stemming the child care crisis, Jane Bryant Quinn pointed out in Newsweek recently that child care may yet become the most essential employee benefit of the 1990's. Her article, which outlines the need and options for employers, follows:

[From Newsweek, Feb. 15, 1988]

A CRISIS IN CHILD CARE

(By Jane Bryant Quinn)

Picture Mother Goose slumped over her writing table, pen in hand, composing verse. Suddenly the kids act up, and her response makes history; she fed them some broth without any bread, whipped them all soundly and put them to bed.

Would that tending children were still so easy. Today's working parents shop for day care even before conception. Finding infant care is arduous. Ditto for sitters who will come to your home when your child is sick. Child-care centers pay workers a low $9,000 to $12,000 a year, which makes it tough to keep a good staff. Yet even at those rates, fees consume 10 to 20 percent of a parent's income.

Massachusetts recently raised pay to an average of $16,600 for workers in day-care centers that receive state aid. Anecdotal evidence suggests that some families there are dropping out because they cannot pay the freight. Around 40 percent of preschoolers are watched by relatives, sometimes by the parents working serial shifts.

Such desperate scrambling is raising the political consciousness of liberal and conservative alike. Two senators—Christopher Dodd of Connecticut and Orrin Hatch of Utah—are sponsoring bills to improve child-care services. Among the presidential candidates, Sen. Paul Simon endorses the Dodd bill. Gov. Bruce Babbitt, for whom child care is a high priority, would establish a voucher system with payments scaled to family income. Gov. Michael Dukakis has already turned his state of Massachusetts into a model for garnering public and private aid.

Minding the children has also become a hot corporate issue. In the past, hard-pressed mothers zipped their lips at the office. "If I mention that the baby cried all night it raises questions," a female senior TV producer told me once. "Am I concentrating on my job? Am I promotable?"

Today, by contrast, the push for day care usually comes from outspoken female employees, perhaps led by an executive woman who has just had her first child. They're backed by young male executives who themselves have brought toddlers to the office when the sitter was sick.

At least five major corporations will announce plans this year to open day-care centers for employees' children, reports Dana Friedman of The Conference Board. That brings to roughly 3,000 the number of companies that provide some form of support, and many more are looking at it. Just as company-paid medical plans were created to help men meet their family responsibilities, child care will become the benefit for the female work force on which this country now depends. Here's what's around:

Emergency care.—The Washington, D.C., law firm Wilmer, Cutler & Pickering provides temporary care for those days when an employee's regular arrangements fail.

Discounts.—The company might arrange for a 10 percent discount, usually with national child-care chains. It might also pick up 10 percent of the fees. Estimated savings to employees: $250 to $500 a year.

Vouchers.—The company makes payments toward whatever child-care arrangements the parent chooses. Polaroid Corp. helps families with incomes under $30,000. Measurex Corp. offers a $100-a-month subsidy during the baby's first year. Some companies even pay for babysitters who are working off the books, reports consultant Susan Velleman of Mercer-Meidinger-Hansen.

Referral services.—Many companies run networks that identify—and even recruit—good day-care help, and pass that information to employees. In Texas the Corporate Child Development Fund brings together centers that need money with altruistic companies willing to fund them.

On-site day-care centers.—Many parents prefer centers closer to home. But on-site care is a joy if you want to pop in on your toddler for lunch. The Senate and House of Representatives, which have been so reluctant to help families nationally, provide on-site day-care centers for the members and their employees. A growing number of real-estate developers are designing centers into their office parks.

Flexible benefits.—Here, employees choose their own benefits—including child care—from a menu of possibilities. Under "cafeteria plans," you might get a company subsidy, typically ranging from $100 to $1,000. Under "flexible spending plans," your pay is reduced by enough to cover the child-care cost (up to a $5,000 maximum). You pay no federal taxes on this money, although skipping the tax may lower the size of your social-security pension.

One point: if your family income is less then $24,000 or so, the child-care credit on your income-tax return might yield more than the company plan. Expenses paid through employee benefits don't qualify for the tax credit.

While middle- and upper-income employees have been moving toward more tax-subsidized help, the poor have been getting less, says Helen Blank of the Chidren's Defense Fund and a supporter of the Dodd bill. Federal child-care funds dropped sharply in the Reagan years; 28 states now spend less on these programs than they did in 1981. Day care is integral to any strategy for helping mothers work their way out of poverty. Somehow, money must be found.

PRESS FORWARD WITH TRADE BILL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RICHARDSON. Mr. Speaker, I bring to the attention of my colleagues a recent article by Alan Wolff on the need for prompt completion of the conference on the trade bill. As Mr. Wolff so aptly points out, we must look beyond narrow interests and remember the true purpose of this bill: to give the present and future administrations the authority to negotiate on behalf of the United States in the ongoing GATT negotiations, the so-called Uruguay Round. I certainly commend the conferees for the progress they have made to date on the trade bill and recommend this article to all of my colleagues who are not sure of the need for action.

[From the Journal of Commerce, Feb. 4, 1988]

PRESS FORWARD WITH TRADE BILL

(By Alan Wm. Wolff)

Not since the World Bank, the International Monetary Fund and the General Agreement on Tariffs and Trade were put into place just over 40 years ago has there been so great a need for international economic cooperation.

Far-reaching changes have to be accommodated. The United States must move both its federal budget and its current account toward balance. Ultimately, to grow out of its net debtor position, the United States will have to produce a trade surplus. For this to happen without major economic dislocations, economic expansion must be accelerated in Europe, in Japan and in the developing countries, international monetary arrangements must provide stable conditions in which these changes can take place, and there must be increased growth in world trade.

Getting this done is no mean task. Despite the increasing share of world income represented by Europe, Japan, and the more advanced developing countries, the basic requirement for reaching international agreements on these difficult issues is still vigorous American leadership.

No one needs to be reminded that cooperation between the president and Congress is essential to cut the budget deficit. Less evident of late is the fact that under our constitutional framework, the ability of the U.S. executive branch to participate in international economic arrangements depends very heavily on the consent of Congress. This support can be tacit, as it most often is in international monetary affairs, where the executive is given the greatest flexibility and Congress is rarely called upon for any specific action. Where explicit congressional approval is required, as when capital contributions to multilateral lending agencies are required, authorizations and appropriations may be passed after international agreement is reached.

But in the area of trade, the Constitution so clearly gives full powers to the Congress that, as a practical matter, any president who does not get a mandate from Congress endorsing his negotiations in advance is taking an unwarranted risk. Given the overwhelming endorsement of the last major multilateral trade negotiation, the Tokyo Round ending in 1979, it is easy to forget that U.S. history is littered with trade agreements rejected by the Congress—the still-born International Trade Organization and the World Trade Organization in the 1940s and 1950s, the Kennedy Round nontariff barrier agreements in the 1960s and the U.S.-U.S.S.R. Trade Agreement in the 1970s.

The United States is now embarked upon major GATT negotiations, called the "Uruguay Round," with over 80 countries. Issues vital to the export interests of the country are on the table—including opening national markets to trade in services, protecting intellectual property rights and seeking major liberalization, including an effective curb on subsidies, in the field of agriculture.

Much more is at stake than in prior negotiations, however. If the United States is to service and reduce its debt, if higher rates of growth are to be restored to the developing countries and if the multilateral world trading system is to be preserved and strengthened, markets must be opened further. Without strenuous efforts to do so, they in fact begin to close. The alternatives are not attractive, but they are real. World trade could shrink, regional trading blocs could supplant the multilateral trading system, and financial instability and economic dislocation could become widespread.

If all of this is so important, our trading partners can well ask, where is Congress' approval for these negotiations? The answer is that the trade bill is in conference, awaiting action. It has proceeded slowly and ponderously, both because the administration's lack of enthusiasm has denied executive branch leadership for the project, and because it has been assailed, most often by people who would not consider reading it, as protectionist.

Despite all the overblown rhetoric about the risks of protectionism, this bill has nothing in common with the 1930 Smoot-Hawley Tariff Act. On the whole, it is a sincere effort by the Congress to address legitimate concerns. The bill provides a mandate for the GATT negotiations as well as a number of useful changes in domestic law. It calls for adjustment measures when industries apply for import protection, consolidates trade authority at the Cabinet level and prescribes more coordinated responses to trade-distorting foreign industrial policies. To be sure, it also contains provisions that are not well-considered and that require revision or deletion. But there is nothing that is beyond repair in an intensive cooperative process that has full administration participation.

There has been some debate as to whether the bill should be enacted this year. But this is not a time for timidity, nor for nagging doubts as to whether our domestic political process can produce responsible results. The challenges will not diminish with the passage of time. Concerted international actions are needed now. Trade is an integral part of the solutions that are required. The administration and Congress should press forward to work out their differences and enact the trade bill within the next few months.

OSGOOD'S GOOD NEWS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. McEWEN. Mr. Speaker, recently, CBS Radio commentator Charles Osgood remarked about the astonishing strength of the American economy. His comments contradict those who say our Nation is in decline and our standard of living is eroding.

Mr. Osgood's commentary makes for enlightening reading for those who doubt the American resurgence. I commend it to the attention of my colleagues in the House.

THE OSGOOD FILE

I'm Charles Osgood, CBS News.

Investors have sent the stock market up to its highest point since the October collapse. Do investors have some reason for bidding prices up again or are they just being crazy, or what? Standby.

The Dow Industrials jumped almost 50 points and traders were unusually cheerful for a blue Monday. Are they whistling in the graveyard? Or do they have something to be cheerful about. The Economist magazine this week cites the annual report of the President's Council of Economic Advisers. You may think that their opinions are biased—but what they have to say can't be brushed aside so easily.

For example you may have the impression that America's economy is in decline . . . but actually the council says, the Gross National Product has grown more than four percent in the past six years. That's faster than the economic growth of Japan and four major European powers. In that time, ten million new jobs were created in the United States—five times as many as Japan, almost 100 times as many as West Germany.

There's more. Unemployment has fallen dramatically in the United States. You've seen all the hand wringing about productivity. Productivity has grown at an annual rate of more than four percent. Inflation has been tamed.

There's more.

The chairman of the council, Beryl Sprinkel, debunks some myths that have popped up about the economy in recent years. For example, you hear about blacks and hispanics not doing well economically. Between 1982 and 1987 job rates for the two groups grew at a higher rate than jobs in general.

There's more. Sprinkel also debunks the myth that most of those jobs are in the low paying fast food field. He says, most of them are in skilled and managerial positions, and that half of them pay more than 20 thousand dollars a year.

What about the declining American standard of living? Declining my foot. Real income for the average family went up 9 percent between 1981 and 1986. Blacks did better on average—their income went up about 15 percent versus about 13 percent for whites.

But what about imports? Haven't they caused a drop in our own manufacturing? No. The report says manufacturing has been stable and that it's been going up because of growing exports. And the report says cause of the trade deficit is over consumption by Americans, not unfair trade practices by foreigners.

What about the country's 400 billion dollar net debt? Sprinkel says it can be serviced with less than five-tenths of one percent of the GNP.

What this adds up to is that we're not going to hell in a handbasket. That's going to come as a terrible disappointment to some people—but there it is. (The Osgood File, Tuesday, March 1, 1988.)

JESSE JACKSON'S CANDIDACY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. STOKES. Mr. Speaker, in the wake of Jesse Jackson's political campaign for the Presidency, I am pleased to share with my colleagues two enlightening articles that exemplify the problem of race in this country. The first article entitled "If Jackson Loses—So What?" appeared in the Cleveland Plain Dealer on March 24, 1988. The article deals with the realities of Jesse's bid for the Democratic nomination.

The second article entitled, "A New Kind of Racial Put-Down" appeared in the Washington Post on March 28, 1988. This article discusses a new phenomenon of hidden racial prejudice in this country relative to the Jackson campaign.

Mr. Speaker, I am pleased to share these articles with my colleagues.

[From the Cleveland (OH) Plain Dealer, Mar. 24, 1988]

IF JACKSON LOSES—SO WHAT?

(By Mike Royko)

It's possible that when the primaries are over and the Democratic National Convention begins. Jesse Jackson will have the most delegates. Not enough to automatically win the nomination, but more than any of the other bumblers.

If that happens, what do the Democrats do?

From what they're now saying, they'll look at the other candidates, decide which one is the least feeble, then try to convince the voters that they have found someone of heroic stature.

Then this person will run and almost certainly lose to George Bush, who will be propped up by Ronald Reagan, and all these tens of millions of dollars in paid TV political propaganda will have been wasted.

Since they're almost certain to lose anyway, why don't the Democrats show some imagination and do something different, make a little history, put some pizzazz into the whole thing.

What they should do is this: If Jesse Jackson has the most delegates going into the convention, they should nominate him, make him the Democratic candidate for president.

That would be the fairest thing to do. After all, the Democrats have gone to great pains to get away from the old-time backroom dealing, the delegate swapping and the brokering. When George McGovern came in with the most delegates, he was nominated. When Walter Mondale was the leader, they threw the convention to him.

So why not do the same if Jackson is the leader?

What's that you say? Jackson will be a cinch to lose? That's probably true, but so what? George McGovern was a cinch to lose, but that didn't stop the Democrats. Walter Mondale was a cinch to lose and they went right ahead and let him do it.

Not only did they lose, but they left no legacy that would benefit the Democratic Party in future campaigns.

By nominating Jackson, the Democratic Party would create a legacy by putting the national conscience to a true test. We would be having a referendum on racial discrimination, which is the most destructive and persistent of all our domestic problems.

Name any of our urban miseries—poverty, crime, unemployment, education, housing—and it boils down to race. Add up the costs, not only in dollars, but in fear and distrust, and the bottom line is race.

So why should the country waste time listening to some white neo-liberal, pseudo-liberal, old-time liberal or whatever the rest of these Democrats are, talking about all these social problems when we can have the genuine article—someone who has lived the social problems. In fact, some might even say that he is a living, breathing, social problem himself.

And what a perfect match-up it would be—Jackson vs. Bush. The Southern-born black man from the humblest of backgrounds against the white Eastern aristocrat.

If Jackson got up and talked about what it was like to ride in the back of the bus, to be told he couldn't eat at a greasy spoon lunch counter, to have the job doors slammed in his face, to sip from a separate drinking fountain, how would Bush respond—by describing the difficulty finding reliable domestic help these days?

It's said that despite our glorious Constitution, our statement of commitment to equality, we are really a racist nation. Even our allies say it. The British scolded us all during the 1960s civil rights demonstrations. After all, it's one thing to shoot a few troublesome Irishmen, but what we did in Selma was absolutely unsporting.

So this will be our opportunity to demonstrate that maybe we aren't as bad as they, and many of us, think we are. Or maybe we will find that we are as bad. Either way, we'd learn something.

[From the Washington Post, Mar. 28, 1988]

A NEW KIND OF RACIAL PUT-DOWN

(By Meg Greenfield)

The white people I know who remain trapped in the residual racial prejudice of our culture—and that, I fear, includes great numbers of them who would swear otherwise—do not use racial epithets or comparable invective in their speech and probably do not even think such things in private. On the contrary, the tip-off that they are concerned exclusively with the skin color of a black person and don't begin to think of him as an equal comes not in rudeness, but in its ostensible opposite. This is the adoption of a heavy-handed, clearly simulated, relentlessly smiling and ultimately friendship-suffocating tone of "respect"—or what is meant to pass for respect. It is unyielding and impenetrable, and the black person can get no other response, no matter how hard he tries. All this adds up to the new voice and body language of racial put-down. If you want to see the phenomenon in action, turn on your television set almost any day of the week and notice how many of his white critics, competitors, interlocutors and even admirers approach Jesse Jackson this way.

Maybe it was inevitable, and is merely a way station en route from a bad place to a much better one that we will reach in time. But right now this well-mannered and impenetrable indifference isolating the black from all others strikes me as simply a new form of segregation. Certainly it is a defining feature of this campaign where Jackson is concerned. Fellow Democrats, who do each other the courtesy of combat, just smile condescendingly at Jackson, unwilling to argue with him in public. They and the million or so political kibitzers and analysts on the case have apparently also not realized until lately how racially arrogant it looked to keep on asking, as Jackson racked up one success after another, "What does he really want?" Belatedly the implication of the question—that he could neither have nor surely even suppose he could have the presidency—became plain to them. They were then at pains to say that they didn't mean Jackson couldn't be nominated or that they did mean he couldn't be nominated, but that was only because he couldn't win, which in turn was either not because he was black but because he was controversial or because other people wouldn't vote for a black. Or something. Meanwhile, Jackson of course flourished, not because of their trepidation but because he is a hell of a campaigner.

The Democrat's preoccupation with and anxiety about Jackson's race and the pitiful way so many of them have of addressing it has been, first, mainly diversionary. It has spared them the inconvenience of having to talk about what Jackson is actually saying. Some, including presumably the other candidates, have been afraid to argue with him on the ground that this will be misinterpreted by other blacks and give offense. True, people running for office are always pretty chicken about anything that risks alienating a big constituency. But it is really patronizing to refuse to take Jackson's pronouncements seriously, and I think this has to do not just with fear of offending black voters, but also with an assumption, buried deep down somewhere, that in fact Jackson can't be nominated or elected and therefore he is not worth arguing with.

Is their assumption that he cannot be elected based on his race or on his record of having said and done extremely inflammatory things in the past, some but not all of which he has repudiated? My own guess is that the party which has as its Senate leader a onetime member of the Ku Klux Klan and which forgave the Kennedys their dalliance with Sen. Joseph McCarthy and which has made innumerable other accommodations with the changing politics of changing politicians could surmount those episodes and tendencies of Jackson, too; indeed, there is evidence in his white liberal support this time around, especially among some Jewish liberals who have absolved him of the charge of anti-Semitism, that that process is under way. No, I think it is still the unspoken and unadmitted anxiety about his race that is causing so many of his fellow Democrats, who oppose him to behave in that neurotic way. But they are taking refuge in this. Conveying the idea that he cannot win because of race (someone else's prejudice, of course), they finesse the question of whether he should win strictly on the basis of his positions.

Both the neurosis and the expedient dodge are reflected in everything they do, not just their studiously refusing to argue with him on the issues, but also their penchant for habitually congratulating him on being "responsible" or for saying unexceptionable things that you would require from any other (white) candidate. He is commended for not being wild and crazy, for (imagine!) being against drugs—as if a black man urging discipline among young people and inveighing against the use of drugs were not a commonplace.

Of course the question still is real in 1988; can a black man be nominated for president by one of our two major parties with any hope of election? As it is generally, if conceivably erroneously, assumed that it is the conservative right that would be most opposed to a black candidate, it is sometimes argued that a black conservative will be the first to succeed. But even though no one can answer the question of whether politically in this country a black—any black—could make it, it seems obvious to me that the matter of Jackson's blackness has deformed and distorted the argument about his politics.

Jackson has a considerably larger white following than many suppose, and it is owing to his passionate and articulate championship of some of the most important, defining (and, to my mind, questionable, if not downright wrong) ideas the Democrats have espoused over the years. Their patronizing failure to take him seriously, to even notice, let alone to think about and respond to what he has actually been saying has been a kind of metaphor for a corresponding failure to address their own larger unresolved differences over policy, their 20-year-old left-right ideological split. The question is not what does Jackson want instead of the presidency, but what he wants to do as president—what he wants of the presidency. Though they pretend otherwise, too many of Jackson's colleagues have worried about his race and not his platform. I think they have got it absolutely backward.

JOE COOKSEY DIES—END OF AN ERA

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RUSSO. Mr. Speaker, America has been made great through the hard work of countless people in communities all over the country. Today I rise to remember one such person, who lived and worked in my hometown in Chicago and who made a real difference there. Joe Cooksey, founder and publisher of the Downtown and Lake Shore News, passed away on March 1 and his loss is already deeply felt.

It was the privilege of my community to have such a caring, concerned person as Joe Cooksey. He was truly a man who exemplified the essence of Chicago. Joe unearthed the good in all men and never had a bad word for anyone. He won the respect of everyone that he knew through his gentle actions and kind words. From Joe's beginnings, he was very active in many charities, and up until his final days, was working to improve the lot of all people in Chicago.

Jim Feeley of the Downtown and Lake Shore News has written an article paying tribute to this man of rare dedication which I would like to bring to the attention of my colleagues. Mr. Feeley's words, which so poignantly describe Joe Cooksey's rare devotion, are well suited for all of us who serve the public.

The article follows:

JOE COOKSEY DIES—END OF AN ERA

(By Jim Feeley)

The life of one of Chicago's special breed of individuals ended last week with the sudden March 1st death of The Downtown/Lake Shore News newspaper's founder Joseph M. Cooksey. He was a mild mannered man who earned the respect of everyone through his supportive nature to fellow human beings and many life long friendships in all walks of life.

Born in Sikeston, Missouri on June 9, 1910 he was one of six children, four sisters and one brother.

His father, Guy Cooksey, was in the newspaper publishing business and son, Joe, successfully followed his footsteps learning the skills of printing, publishing, and advertising.

He married Kate Jucius on June 10, 1939 in Chicago. Their long and happy marriage produced three children: daughters Pamela (Mrs. Jerry Walczuk) and Linda (Mrs. Steve Pratico) and son Joseph Jr. who died in a 1963 auto accident.

An ambitious, self-made man, he founded "The Downtown News" newspaper in 1968. It was distributed free every week in office buildings, high rises, and other high traffic areas. The paper was soon expanded to include a "Lake Shore News" edition and later combined into one weekly publication with even greater distribution and circulation. The paper has prospered through the years serving Chicago and the lakefront communities as an advertising outlet and a source of local and community news for its many readers.

Mr. Cooksey was also noted as a devote Catholic who attended mass daily in appreciation of his life which he so enjoyed before starting his long and busy day.

Through the years this giant of a man was active in many charities that ranged from those of the Catholic Church to the Red Cross, the March of Dimes, the Lambs Farm in Libertyville, and past president of the Kiwanis Club, and a host of others too numerous to mention. His community activities included the State Street Council, the Greater Michigan Avenue Association, the Better Business Bureau, and Convention Tourist Bureau which often left one to wonder how he found so much time to devote himself to others.

He was always known as a man with a soft spot in his heart for children—the smaller they were, the softer the spot. He was often overheard saying how blessed he was to have been gifted with his own children plus four grandchildren, all receiving his love, affection.

Most people slow down as they get older, but Joe Cooksey's daily schedule increased with each new day. He was active daily building the newspaper with advertising and reading content—plus his endless list of involvements. His death at age 77 was attributed to a sudden heart attack death after encountering flu. * * *

Joe, our dear friend, knowing you has enriched all of our lives. A person's time is said to be their greatest asset, and we are thankful for the time you shared with us. However, your passing has now left an empty hole in our lives. Your newspaper, loving family, and friends will all continue as living memorials in tribute to you. You will be dearly missed by everyone!

HOMELESS IN AMERICA: A PHOTOGRAPHIC PROJECT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RANGEL. Mr. Speaker, the arrival of spring weather may well mean a hiatus in the media stories about America's homeless freezing to death or huddling under cardboard boxes against a blizzard. As attention shifts to other matters, though, I hope that my colleagues and all Americans will remember the plight of the homeless. Warm weather diminishes the threat, but it does not diminish the underlying tragedy of hundreds of thousands of or fellow citizens living without shelter. The suffering of the homeless is no less, their need not reduced, no matter the season.

A vivid reminder of the plight of the homeless can be found at the Corcoran Gallery of Art, through April 10. It is an exhibit of powerful and dramatic photographs depicting the daily anguish of our neediest fellow Americans. Homeless in America: a photographic project, is a cooperative private sector venture organized by Families for the Homeless, a nonpartisan coalition of congressional, administration and media families, and the National Mental Health Association. Principal funding was provided by Triangle Industries, Inc., the largest manufacturing and packaging company in the world. The Federal National Mortgage Association [Fannie Mae], Eastman Kodak, and the Public Welfare Foundation also provided generous assistance.

HIAPP's goal is to draw attention to the alarming increase in homelessness across the United States, particularly among families who now comprise nearly 75 percent of all the newly homeless. The photo exhibit, which will travel to cities and towns across America in the coming months, is only a part of this project. Each of us in the Congress recently received a book of the photographs, taken by some of the leading photojournalists in the country. I urge my colleagues to display it in their offices, for staff and constituents alike, as a stark reminder of the needs of so many.

HIAPP is also a symbol of what can be accomplished when concerned leaders in business, politics and the media chose to devote their resources, experiences and expertise toward bringing a national tragedy to the Nation's attention.

I especially want to single out Triangle Industries' top officers, chairman of the board and chief executive officer, Nelson Peltz, and president, Peter May, for special praise. They are examples of businessmen who will put their resources to work for broader social purposes.

And their support for the homeless does not stop with underwriting the exhibit. Triangle has made significant contributions to numerous programs for the homeless around the country, including Valley Lodge, a center for homeless senior citizens on Manhattan's West Side. In addition, they are providing funds to the Homelessness Information Exchange for the production of its newsletter, Homeworks, a clearinghouse of information on programs, and services to the homeless. And they are about to expand their efforts by funding transitional housing projects in various cities to help move homeless families from dependency to self-sufficiency.

Mr. Speaker, Homeless in America: a Photographic Project is a powerful documentary which can help share the curtain of apathy toward the homeless which hangs over our country. I urge my colleagues to visit the exhibit and to support the project when it travels to their States. Indeed, I urge them to take steps to bring the project to their communities. For only when a broad cross-section of Americans demand action will elected officials at all levels, and the private sector, truly tackle the problems that contribute to homelessness.

Draft Letters for Congressman Rangel To Send to Nelson Peltz and Peter May Regarding Opening of Valley Lodge Medical Clinic

Mr. Nelson Peltz,
Chairman and Chief Executive Officer, Triangle Industries, Inc., New York, NY.

Dear Nelson: I thought you'd like to see the enclosed Congressional Record statement about Homeless in America: a Photographic Project and Triangle's other activities in the area of homelessness. I regret that Alma and I were unable to attend the opening of the exhibit at the Corcoran.

You and Claudia, as well as Peter and Leni May, are to be commended for your commitment and efforts to alleviate the suffering of homeless Americans. Valley Lodge, which is in my District and to which Triangle Industries generously contributed, will be opening its medical clinic within the next couple of months. I would be delighted to accompany you on a tour of the clinic, near or during the time it is to be dedicated, so that we all can see first hand fruits of your support.

Those of us in the Congress who have long had a commitment to helping the homeless are appreciative of your commitment, and that of others in the business community. I hope to see you again soon.

Sincerely,

Charles Rangel,
Member of Congress.

Mr. Peter W. May,
President and Chief Operating Officer, Triangle Industries, Inc., New York, NY.

Dear Peter: I thought you'd like to see the enclosed Congressional Record statement about Homeless in America: a Photographic Project and Triangle's other activities in the area of homelessness. I regret that Alma and I were unable to attend the opening of the exhibit at the Corcoran.

You and Mrs. May, as well as Nelson and Mrs. Peltz, are to be commended for your commitment and efforts to alleviate the suffering of homeless Americans. Valley Lodge, which is in my District and to which Triangle Industries generously contributed, will be opening its medical clinic within the next couple of months. I would be delighted to accompany you on a tour of the clinic, near or during the time it is to be dedicated, so that we all can see first hand fruits of your support.

Those of us in the Congress who have long had a commitment to helping the homeless are appreciative of your commitment, and that of others in the business community. I hope to see you again soon, and I will be in touch about visiting Valley Lodge.

Sincerely,

Charles Rangel,
Member of Congress.

TRIBUTE TO MS. KAREN FELD

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. GRAY of Illinois. Mr. Speaker, Washington is not only the Nation's Capital, it is a city filled with outstanding journalists and TV and radio celebrities. One of the most outstanding personalities that has a broad range of experience and expertise in all three fields is Ms. Karen Feld, who recently signed with Universal Press Syndicate for distribution of her works to hundreds of outlets nationwide and around the world.

Mr. Speaker, on Monday, March 28, my distinguished colleagues, Congressmen William Gray III of Pennsylvania and Phil Crane of Illinois cohosted a reception in Washington that was attended by hundreds of outstanding journalists and Washington celebrities. Officials of Universal Press Syndicate announced the launching of the Karen Feld Column sometime in the next few weeks. I had the privilege of being master of ceremonies for the introduction of my colleagues in Congress and others in attendance, including Ms. Feld.

Karen Feld, who began her journalistic career covering Congress almost two decades ago, has signed an agreement with Universal Press Syndicate based in Kansas City, MO, to distribute her twice-a-week Washington celebrity column nationwide.

Karen, whose column began in Roll Call newspaper in 1969, and more recently appeared in the Washington Times, will appear in major dailies in congressional districts throughout the country beginning in April.

She has won the trust and respect of Members of Congress on both sides of the aisle, who appreciate her fairness and accuracy in reporting on issues, as well as her humor and flair in covering the lighter side of congressional life.

In recent years, Karen's articles have been published in Parade, Time, People, Vogue, Family Circle, American Politics, and have been distributed by the Los Angeles Times and New York Times syndicates to major dailies including the Baltimore Sun, Chicago Tribune, Boston Globe, Los Angeles Times, Newsday, Dallas Morning News, Detroit News, and more.

She's been recognized nationally by the National Federation of Press Women for excellence in both print and broadcast journalism. And locally by Capitol Press Women for works both print and broadcast.

In addition to her excellent coverage of political Washington, she's made a contribution to public health through her clear and concise medical reports which were broadcast on the Voice of America and have been published in both trade journals and general interest periodicals. She contributed a chapter to "Readings In Brain Injury," 1984.

Mr. Speaker, Ms. Feld is a much sought after talk show guest and speaker on the lecture circuit, where she brings to the podium an insider's perspective of how Washington works, and shares with her audience amusing anecdotes from her experience as a reporter and columnist covering both political and social Washington.

She currently serves as vice president of Capital Press Women, and is a member of Sigma Delta Chi, National Federation of Press Women, Women in Communications, the American Society of Journalists and Authors, the National Press Club, AFTRA, and the U.S. Senate Press Gallery.

She has received dozens of awards for excellence in both print and broadcast journalism including recognition by the National Federation of Press Women. A native Washingtonian, Ms. Feld is a graduate of the American University.

Mr. Speaker, I am indeed happy to share with you and my colleagues the information that our long-time friend and Capital Hill award-winning journalist, Karen Feld, will soon be spreading the news across America, and we all share in her pride in being selected by Universal Press Syndicate to disseminate valuable information and fun to the millions who will be reading her column. Congratulations, Karen!

LET'S MAKE REAL DEFICIT REDUCTION OUR TOP PRIORITY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. SCHAEFER. Mr. Speaker, last week I opposed the budget adopted by the House providing spending of $1.098 trillion in fiscal year 1989. With Government receipts estimated to be $964 billion, this budget projects a deficit of $134 billion. Although this deficit figure appears to meet the Gramm-Rudman target of $136 billion, it is likely that the actual deficit will far exceed this target.

Not only do I think this budget will fail to make major spending reductions, it continues the deficit reduction agreement enacted in December, which you may recall required $23 billion in additional taxes over 2 years. In fact, according to some estimates, this agreement may produce a deficit exceeding last year's of $146 billion. This is not deficit reduction. I supported two budget proposals offered as substitutes which would have achieved real deficit reduction.

One proposal I supported was the Porter-Frenzel budget. This proposal called for an across-the-board freeze on Federal outlays at last year's level. However, some additional funding would be provided to entitlement programs to accommodate new entrants into these important programs. This proposal also based its deficit projection on more conservative estimates, yielding a more realistic deficit figure while meeting the Gramm-Rudman requirement.

The Dannemeyer budget, which I also supported, would have significantly reduced Federal interest payments on the national debt, which is 14 percent of Government costs, saving nearly $20 billion. This reduction would occur through the issuance of long-term bonds that would be redeemable in gold on maturity. The prospect of redeeming the bonds for gold would lower the risk factor for the investor, and a lower interest rate could be offered. This innovative budget also called for a tax amnesty to raise an additional $15 billion to meet the deficit reduction goal. Congress must be willing to consider new approaches to save money, and I will support any reasonable effort to reduce Government expenses.

The House approved budget provides over $40 billion in additional spending over last year. The answer to significantly reducing the deficit is to hold down the constant growth in spending. With Government receipts expected to increase nearly $55 billion this year, the same increase as last year, the deficit could be eliminated in as few as 3 years, without a tax increase. I call on my colleagues to join me in opposing ever-increasing spending, and to make real deficit reduction our top priority.

GOOD AS GOLD

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. CRANE of Illinois. Mr. Speaker, in today's world economy the key to prosperity is stability. Yet, highly fluctuating exchange rates, budget deficits at home, and reckless Government spending have sent the international economic order through a virtual tailspin. Now is the time to take action. We cannot continue to live at the mercy of a volatile world economy. I urge my colleagues to consider the merits of reestablishing the gold standard.

For an in depth view of the gold standard and its many virtues, I highly recommend an editorial in the February 4 Wall Street Journal titled "Good as Gold."

GOOD AS GOLD

As the Iowa caucuses loom, the words "The Wall Street Journal" are being thrown around from Sioux City to Strawberry Point. So we ought to make clear: We think that Rep. Jack Kemp is performing a public service by introducing the issue of gold into the campaign. We think that econometric predictions based on campaign proposals are a joke. And by the way, these columns are directed by a graduate of Ames High School.

We add the last point because on the Democratic side Rep. Richard Gephardt seems to be running against us, castigating "editorial writers for The Wall Street Journal." Anyone educated in Ames will immediately understand this as an attempt to tap an ancient root of anti-Eastern resentment that most Iowans have outgrown, but that still may be good for something in a splintered caucus field. We also remember when the farm country was a bastion of free trade, and when Rep. Gephardt himself was not only a free trader but also a tax cutter. For that matter, we remember many times when Iowa voters recognized rank opportunism when they saw it.

On the Republican side, Pat Robertson is running ads that also include our name, charging that Rep. Kemp's economic program would "result in five years of depression." If you listen carefully, you can tell that this prediction was made not by us but by Washington Econometrics Forecasting, a consulting outfit that makes extreme forecasts its stock in trade. The ad cites a report of this in our paper, gratuitously dragging in our name to lend credibility to an outfit few in Iowa (or anywhere else) have ever heard of.

It's true that we carried an article on Washington Econometric's presidential forecasts, including that Rep. Kemp's gold proposals would cause a depression. The article was what our private jargon labels an "orphan," in the lower left-hand corner of the second front page. This week's orphans concerned research into snow, a competition to be the first to visit 308 different countries, professional wrestling on prime-time TV, the dangers of tampering with lobster traps and a controversy over raisins and rat droppings. In the forecasts orphan, we thought we indicated the seriousness of the subject by including the prediction that by the year 2000 the price of a man's suit would climb to $9,549. This part of our article is not cited in the good reverend's ad.

Rep. Kemp, by contrast, is saying something entirely serious with his pledge to make the dollar "good as gold." We aren't hitching ourselves into any candidate's baggage, thinking for example that Rep. Kemp goes too far with drumbeating for the Social Security vote. But we also know how hard it is to explain the complexities of monetary policy in these columns, and admire him for tackling the issue on the stump. We certainly agree with him that the value of money is "the single most overriding issue in America."

Nowhere is this more evident than in Iowa. As many of the state's leaders understand quite well, the root cause of the farm crisis Rep. Gephardt bewails is instability in the value of the dollar. The low dollar of the 1970s created huge export markets for foodstuffs, inflated the value of farmland, generated big loans to carry the land, and in general called forth a large expansion in agricultural capacity. When the dollar firmed in the 1980s, the markets dried up, the price of land fell, the loans turned bad and the excess capacity pushed crop prices lower than they otherwise would have been. With the dollar again low, we are in danger of repeating the cycle, which also affects other industries in much the same way.

No cycles of this degree happened until we broke up the Bretton Woods monetary system with its gold link. An international debate on how to repair this damage is well under way. At the International Monetary Fund-World Bank meeting last fall, Treasury Secretary Baker suggested a joint economic policy based in part on "the relationship among our currencies and a basket of commodities, including gold." Federal Reserve Governor Wayne Angell (a Kansan) has been toying with a commodity index. French Finance Minister Edouard Balladur has said we "are living in the end of a period of floating exchange rates," and chatted about gold on TV with his nation's leading economic journalists. In an interview with our Seth Lipsky the other day, Bundesbank President Karl Otto Poehl said that after the U.S. elections Europe will be receptive to the idea of international monetary reform seeking "stability of the dollar—vis-a-vis other reserve currencies."

When the next president takes office, he'll quickly find himself facing the issue of the value of money, surely including the issue of gold. Potential presidents owe us their views, but so far as we can see only one of them even recognizes the issue. Only Rep. Kemp has anything to say.

THE ARCTIC NATIONAL WILDLIFE REFUGE ENERGY PLAN ACT

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. LOWRY of Washington. Mr. Speaker, today I am introducing a bill which deals with the Arctic National Wildlife Refuge [ANWR]. This bill, the Arctic National Wildlife Refuge Energy Plan Act, is similar to a proposal put forth by Senators EVANS, WIRTH, and BUMPERS in the other body. I want to commend them for their efforts which would require the development of a national energy policy prior to any oil and gas development in ANWR.

I feel that the bill I am introducing today is a rational approach to the issues surrounding ANWR. This bill calls for a comprehensive long-term plan that would: First, include information on the cost and relative value of exploration and development of such resources compared to energy alternatives; and second, incorporates the energy policy goals of increasing efficiency and conservation of nonrenewable resources such as petroleum, minimizing damage to the environment from energy production or use, and promoting the diversification of domestic supplies of energy resources in order to reduce vulnerability to a supply disruption of any particular resource.

This approach to energy planning has actually worked quite effectively in the Pacific Northwest where a regional energy plan has been developed pursuant to the Northwest Power Act—Public Law 98-561. This approach is intended to identify "least-cost" energy alternatives, and it is based largely on "portfolio theory" which is a fairly straightforward business decisionmaking principle which has been tested over the years in the field of financial management.

The bill that I am introducing today is modeled after a substitute amendment that was offered by Senators EVANS, WIRTH, and BUMPERS during consideration of an ANWR leasing bill by the Committee on Energy and Environment. This substitute amendment failed by a very close vote of 10 to 9.

Mr. Speaker, what this bill would do is give us much better information about where ANWR, as a resource, fits among other energy resource alternatives, including conservation. At a time when automobile fuel use standards are being weakened by this administration, we have before us the so-called 1002 Report, which proposed to open up the fragile ANWR area to extensive oil and gas leasing and development. Yet we don't know where this resource fits, among others.

Mr. Speaker, in closing, it is my hope that the bill I am introducing today will assist in laying the groundwork necessary for achieving a consensus in support of a legislative proposal that can be favorably acted upon in the near future.

LESSON FROM CANADA ON AN UNFAIR TRADE CASE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. FRENZEL. Mr. Speaker, printed below is an editorial from the Journal of Commerce of March 29, 1988, relating to the Canadian Import Tribunal ruling that Canadian domestic automobile manufacturers were not injured by Korean imports. The domestic manufacturers had sought to limit the entry of such vehicles under a dumping petition. While the Canadians found there was dumping evidence, there was no injury to the domestic producers.

The message is one that we need to remember in this country as well—that imports are easy to attack, but they don't have much to do with the size of the trade deficit or the health of U.S. industries.

[From the Journal of Commerce, Mar. 29, 1988]

UNFAIR AND IRRELEVANT

The Trade Laws designed to protect U.S. companies from "injury" due to imports have become a major weapon in corporate competitive struggles. But an important legal ruling in Canada last week shows how that weapon can wound the company that would wield it.

Whether the industry is textiles or television, steel or semiconductors, more than a few American firms have used the threat of proceedings before the U.S. International Trade Commission to intimidate their foreign counterparts into competing less aggressively in the U.S. market—in other words, into raising prices and cutting back their market share. Even if the foreigners believe thay are doing nothing that violates the international rules of trade, the prospect of having to go through expensive legal proceedings, to face years of uncertainty about whether their way of doing business will be deemed unfair under U.S. law, to post bonds and perhaps to pay penalties for imports of merchandise that has long since been sold in enough to put the damper on their competitive instincts.

Precisely that sort of intimidation was the object of the Canadian anti-dumping complaint that the Canadian subsidiaries of two U.S. carmakers, Ford Motor Co. and General Motors Corp., brought against South Korea's Hyundai Motor Co. Hyundai, which began selling cars in Canada only in 1984, managed to conquer a 9.4 percent share of Canada's auto market within two years. GM and Ford, the No. 1 and No. 2 carmakers in Canada, cried foul, claiming that they had suffered "material damage" due to Hyundai's practice of selling the cars at less than it cost to bring them to market—a practice that enabled Hyundai to price its vehicles starting below $5,000.

In February, Revenue Canada ruled that Hyundai was indeed guilty of selling too cheap. Nonetheless, on March 23 the Canadian Import Tribunal ruled that GM and Ford had suffered no material injury due to Hyundai's practices. Their demand that the Canadian government impose antidumping duties raising the price of Hyundai's Pony hatchback by $800 was flatly rejected.

The decision is sure to chill the carmakers' discussion about bringing a similar anti-dumping complaint in the United States, where Hyundai's sales topped 250,000 last year. An official Canadian government ruling that a company isn't being harmed in the least by imports is not, after all, the sort of thing its lawyers like to wave around in front of the U.S. International Trade Commission.

In fact, the ruling reaffirms precisely the sort of message that the companies bringing the complaint least wanted to send. "Unfair imports" may be convenient to attack in public debate, but they really don't have much to do with the size of the U.S. trade deficit or the health of U.S. manufacturers.

THE NATIONAL AGRICULTURAL PRODUCT TECHNOLOGY DEVELOPMENT ACT OF 1988

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MADIGAN. Mr. Speaker, yesterday I introduced for myself and the distinguished chairman of the House Agriculture Committee, Mr. DE LA GARZA, a bill that contains some concepts we believe are worth looking at.

This proposal would expand applied agricultural research and development through a program of matching competitive grants to research institutions to accelerate and expand production of new commercial products from U.S. farm commodities, and to find and implement new ways of lowering agricultural production and processing costs.

The approach suggested in this bill would add an element that many believe is critical to the ultimate success of new agricultural product research—a direct link to potential commercial markets. The program would require that any research and development project proposal for new products must include a commercial U.S. company willing to invest at least 20 percent of the total cost of the project and to engage in commercial production of the product under licensing or royalty agreements.

One of the most serious problems that we have faced over the years in new-product agricultural R&D is the lack of an effective mechanism to move commercially viable products off the research shelf, into the final development stage and out into the market. Recently we have been seeing progress in that direction. This bill would move another step toward that goal.

The program proposed in this bill would be open to all colleges and universities, public agencies at any level of government, and consortiums of public and private entities. It would be administered separately from, but complementary to the existing publicly supported U.S. agricultural research system by an independent Institute within the USDA, headed by a nine-member board appointed by the Congress and the administration from nominees of producer and processor groups, the agricultural research community and others.

The board would set research and development priorities through a public process and disperse financial support to projects from a revolving fund. The program's exclusive goals would be to accelerate research and development along two basic tracks through biotechnology and other new and traditional methods. New product grants would concentrate on new uses of familiar crops. Cost reduction grants would spur innovative technologies to lower the costs of production and processing of agricultural commodities.

Already, important new agricultural products are moving into commercial markets. Two that immediately come to mind are super-slurper and starch-based biodegradable plastic. Both can be used in a variety of ways, including applications that relate directly to pressing environmental problems such as oil spills and plastic litter.

In the long term, increased development and use of products made from renewable materials can help us get the best uses from nonrenewable materials such as petroleum. And, this kind of development of our agricultural resources may result in unique products that can open new industries in rural areas—helping the farmer and his small-town neighbors as well.

Beyond that, even as U.S. agriculture slowly regains market share, and prospects improve for producers, the economic pressure is still intense. Economic viability for U.S. agriculture both here and abroad remains dependent on expansion of both traditional and new markets wherever we can find them, and on continuing to push production, processing and other costs down.

For these and other reasons we believe the approach presented in this bill is worth considering. It is not, however, offered as a perfected product, but as a package of concepts and ideas from many sources, as a vehicle and hopefully, a catalyst to stimulate further thought and action in the area of agricultural research legislation.

Our committee's Subcommittee on Department Operations, Research, and Foreign Agriculture chaired by our distinguished colleague from California, GEORGE BROWN, and on which our good friend the gentleman from Kansas, PAT ROBERTS, so ably serves as ranking minority member, is currently looking at a number of issues in the whole broad area of agricultural research.

This bill addresses only one segment of their larger agenda, and we hope it will be helpful to them in their task of defining issues and identifying mechanisms to better help us do what we need to be doing in agricultural research and development to ensure that the United States can continue into the next century as the world's preeminent producer, processor, and exporter of traditional and new agricultural commodities and products.

Following is a more detailed explanation of the provisions of this bill:

THE NATIONAL AGRICULTURAL PRODUCT TECHNOLOGY DEVELOPMENT ACT OF 1988

This bill proposes an expanded U.S. applied research and development program in agriculture to:

(1) find new uses for farm commodities, and new products to expand domestic and export markets; and

(2) improve the competitiveness of U.S. agricultural producers and processors through accelerated development and transfer of cost-reducing, environmentally safe technologies.

PROJECT GRANT PROGRAM

A new 12-year program of competitive grants complementary to, but outside of the existing federal agricultural research support system would provide additional funding and focus on new uses, trade and competitiveness. The program's exclusive goals would be to accelerate new product development and cost-reduction applications through biotechnology and other new and traditional research and development methods.

These federal grants would require in nearly all cases at least 50/50 matching by project applicants. Commercial production agreements with private industry, and incubation projects for development of rural industries based on new products and technologies would be important parts of the total program.

TWO TYPES OF GRANTS

Two types of grants would be available to the most promising projects of any public or private institution in the U.S. including non-land grant universities, public agencies at any level of government, and consortiums of public and private entities. "New Product" grants would concentrate on new uses of familiar crops. "Cost Reduction" grants would spur innovative technologies to lower the costs of production and processing of agricultural commodities.

NEW PRODUCTS

A project proposal for development of a new use or product of an agricultural commodity would be eligible for consideration only if the applicant institution has entered into a joint development agreement with a U.S. company willing to invest at least 20 percent of the total cost of the project and engage in commercial production of the product under licensing and royalty agreements. A substantial commitment of applicant resources would also be required.

COST-REDUCTION

A proposal for a cost-reduction project would be eligible for consideration only if the applicant institution has obtained a commitment of other public or private funds for at least half of the total cost of the project. Allowable reprogramming or redirection of existing available federal or non-federal research funds would also qualify toward meeting this matching requirement.

INFORMATION NETWORKING AND TECHNOLOGY TRANSFER

The program would provide for cooperative efforts in the collection of relevant and useful scientific information from around the world to assist institutions in carrying out their projects, and for transfer of technological information from successful projects to producers and processors through electronic and other means.

NATIONAL AGRICULTURAL PRODUCT TECHNOLOGY INSTITUTE

The program would be administered separately from the existing publicly-supported U.S. agricultural research system by an independent Institute within the USDA, headed by a nine-member board appointed by the Administration and the Congress. Two members would be appointed by the House and two by the Senate. Five members would be appointed by the Administration through nominations from agricultural producer and commodity groups, agricultural processors, and the agricultural research community. One of these members must be a producer nominee, one a processor nominee, and one a nominee of the research community.

Board members would be appointed for staggered terms of one to three years. A sunset provision would end the entire program in 12 years. The Board would set research and development priorities through a public process, and disperse funds to support the projects. It would also establish advisory groups and a unique peer review system of scientists, processors, producers and others to help select projects and oversee their progress. An effective accountability and reporting system would be required.

REVOLVING FUND

A revolving fund would provide a mechanism for handling program money. Fees and royalties collected from industry commercialization of products developed through the program would be deposited in the fund.

Of the total funds available for the program annually, 85% would be allocated to competitive grants. Information networking and technology transfer would be allocated 10%, and 5% would be held for administrative expenses of the Institute. Sixty percent of the total funds would be available for awards to the best project proposals of any qualified applicants, including the Land-Grant system of 1862 and 1890 institutions. The remaining 25%, however, would be set aside to assure that funding would be available for the most promising projects of the 1862 and 1890 institutions that survive the general competition among all qualified applicants.

IMPROVED RURAL OPPORTUNITIES

A successful program could provide significant benefits to the U.S. economy and to rural areas through increased farm and agricultural-related income and employment opportunities.

This legislation incorporates concepts and specific elements of numerous other recent proposals on these issues.

PEARL BUCK CENTER CELEBRATES 35TH ANNIVERSARY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. DEFAZIO. Mr. Speaker, I rise today to congratulate the Pearl Buck Center for 35 years of dedicated service to the mentally retarded and multiply handicapped citizens of Lane County.

The Pearl Buck Center was founded in 1953 with the purpose of meeting the needs of Lane County children with mental retardation and handicaps at a time when there were no services available. The success of the Pearl Buck School helped make possible the success of the public school classroom for mildly and severely handicapped children.

In 1967 the center opened the first sheltered workshop in Eugene to meet the employment and training needs of adults with developmental disabilities. This program has grown to provide employment and training to 24 adults in crews and individual jobs in a variety of community settings.

Today the Pearl Buck Center is committed to providing integrated work environments and the necessary on-going support to all of the adults with disabilities that it serves.

Mr. Speaker, the Pearl Buck Center has always strived to be in the forefront of providing services to people with disabilities. For 35 years the center has had the gift of seeing each of us for our abilities, not our disabilities. I congratulate and thank the Pearl Buck Center for its 35 years of dedication and commitment to the people of Lane County.

REPRESENTATIVE GEORGE MILLER COMMEMORATES LEGACY OF DR. KING

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MILLER of California. Mr. Speaker, on April 4, 1988, we will mark the 20th anniversary of one of the most tragic events in the modern history of our Nation.

On that date, the Reverend Martin Luther King, Jr., the leading voice for civil rights, human freedom, and peace in this country was assassinated. It is a loss of incalculable proportions.

That loss is still strongly felt throughout this country. In a recent poll by the Peter Hart organization, a majority of young Americans cited Dr. King as the American they most admired. The fact that this man of compassion, of peace, and of nonviolence was cut down by an assassin's bullet, only compounds the tragedy that time in no way diminishes.

In the wake of his assassination, many of our cities erupted into violence—a spontaneous outburst of the frustration, anguish, and anger generated by his murder. And shortly thereafter, the President of the United States appointed a commission to study the causes of those disorders.

That panel, the Kerner Commission, issued its report 20 years ago, and it warned that we were rapidly moving toward two societies—black and white, separate and unequal. The same America which mourned Dr. King read that report and, for the most part, ignored its findings and its warnings. And the net result is, that in many respects, the condition of black Americans today is not terribly much better than two decades ago.

While the demographic nature of American families has changed across the board, black families continue to endure greater poverty, more widespread unemployment, lower incomes, greater levels of single parent families, and higher infant mortality rates. Tragically, this Congress, and particularly the Reagan administration, have failed to respond to this continuing crisis in the black community, and among poor Americans in general.

Since 1981, we have cut low-income discretionary programs by 54 percent—programs that provide a basic opportunity for millions of Americans, especially children, to compete, to grow, to learn, and to thrive.

We have slashed housing programs, and created an army of the homeless—mostly families with children—who are rapidly becoming permanent fixtures in every city in America.

We have cut compensatory education, special education, school nutrition, and student loans. And that is why the National Commission on Educational Excellence concluded that "for the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents."

We have engaged in rhetorical bantering and symbolism while drugs, and the crime and violence which they spawn, have consumed millions of young Americans and ended the lives of hundreds of teenagers in street gang warfare just this year. Today, for whatever reason, millions of Americans can't say "no" to drugs, which has become a $130 billion a year industry in the United States.

As a result, according to the Committee for Economic Development, by 2000 we will have produced 20 million people with no productive place in our society.

This isn't partisan politics. It isn't even softhearted humanitarianism. It's economics, it's investment, and it's the future of this country.

As Pete Peterson, former Republican Secretary of Commerce, says the "most astonishing success of Reaganomics is the myth of our own invincibility. Reaganomics has either opted for or acquiesced in some of the worst, future-averting choices America has ever made, the full implications of which will not be known for years."

But perhaps the worst decision of the Reagan years has nothing to do with fiscal planning. What is most disappointing, and most outrageous, is that just weeks before the 20th anniversary of Dr. King's assassination, President Reagan demonstrated his failure to understand the King legacy by vetoing—over the nearly unanimous vote of the Congress—the Civil Rights Restoration Act.

It should be a fact of outrage and embarrassment to every American that in 1988, a President of the United States was willing to sanction discrimination in any form. And it should be similarly embarrassing that that same President, earlier in his term, favored tax benefits for schools which openly discriminate against black Americans. And it should outrage every citizen that this same President opposed, and continues to oppose, the Equal Rights amendment to the Constitution.

I don't say President Reagan is racially intolerant, but he is insensitive to the needs, the rights, and the history of black people in America. And that ignorance is illustrated not only in his views on civil rights legislation, but on his budgetary policies which have plunged 2.5 million children into poverty, and withdrawn many of the basic protections and assistance which, in the 1960's, provided millions of Americans with the opportunity to escape poverty.

As John Kenneth Galbraith has written. "It is far, far better to have a firm anchor in nonsense than to put out on the troubled seas of thought." That observation surely captures the dream world in which the President and his administration have been living.

Today, we can no longer afford to ignore the crisis which increasingly are eating away at the bedrock of our society. We cannot ignore the poverty of the ghetto, or the failure of the inner city schools, or the absence of job opportunities. We cannot find satisfaction in the right of black citizens to attend schools if they lack the financial resources and the educational training to compete. We cannot, in short, turn our heads and pretend that we do not see.

As Martin Luther King, Jr., wrote in an Alabama jail a quarter century ago, "Injustice anywhere is a threat to justice everywhere." It is true in America of 1988 just as it was true in Birmingham in 1963.

Let us commemorate the anniversary of Dr. King's assassination not with quiet dignity, but with righteous outrage—outrage that the discrimination, the anguish, and the hatred which he combatted throughout his life are still a terrible part of a troubled America 20 years after he gave his life for the cause of human freedom.

And let us commit ourselves to meeting that national agenda, with at least as much regard for the human cost of failure as the fiscal cost of success.

CONGRATULATIONS TO IVAN HILTON ON THE OCCASION OF HIS 90TH BIRTHDAY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RICHARDSON. Mr. Speaker, last month, the New Mexico Legislature passed a memorial recognizing one of my constituents, Mr. Ivan Hilton of Las Vegas, NM, on his 90th birthday. Mr. Hilton's countless contributions to New Mexico deserve our recognition as well because it is not often that we find a person as devoted to the progress and well-being of his community as this fine gentleman.

Mr. Hilton moved from Illinois to New Mexico in 1930 after serving as an officer in World War I. In New Mexico he has had a varied career. He has operated a ranch, owned a Buick-Oldsmobile dealership, organized and served as president or CEO of the First National Bank of Las Vegas, and managed a manufacturing company which was a major employer of the residents of the city of Las Vegas.

The people of Las Vegas hold Mr. Hilton in very high esteem and have demonstrated it by electing him to numerous positions of leadership. He has served as a member of the New Mexico Senate, as chairman of the New Mexico State Highway Commission, and as mayor of the city of Las Vegas for five terms. He was president of the Las Vegas Chamber of Commerce and was later appointed to the board of regents of New Mexico Highlands University where he served as president of the board for many of his 16 years as a regent.

Ivan Hilton has left his mark on the city of Las Vegas through his many successful efforts to promote the city and to implement changes which have allowed the city to develop a modern economy. In the forties and fifties he attracted Federal money for modern roads and bridges, street lighting systems, and an airport. Through his work on the Highlands University Board of Regents, he successfully promoted the construction of at least six major buildings on that campus.

The people of Las Vegas owe a great deal to Mr. Hilton for his years of public service. I, too, am grateful to him for his unending efforts on behalf of northern New Mexico. I congratulate him on his 90th birthday and wish him many more happy and productive years.

CHILLICOTHE SMALL BUSINESS OWNER MAKES A GOOD POINT

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. McEWEN. Mr. Speaker, today I received a letter from Mr. Ron Fields, president of Mound Co., Inc., a small business located in Chillicothe, OH.

Mr. Fields attached an article which talks about the need for Government to strike a balance between providing reasonable safeguards for citizens and allowing risk takers and entrepreneurs to go forward with innovative inventions and ideas.

Mr. Speaker, I want to commend the article to the attention of my colleagues in the House.

RISK-FREE LIVING COSTS MORE THAN IT'S WORTH

There is no sure thing. As every developer knows, anything worth doing involves some risk. Yet we live in a society that seems intent on eliminating risk from our lives. Unfortunately there is a trade-off involved. When risk is eliminated there is also a loss of independence, personal initiative, self-determination and diversity of experience.

As many of you already know, this is my last column as editor of this publication. I suppose I could take this opportunity to sum up my years here, but I'd rather explore what I feel has been the central problem in our nation for the past several decades and perhaps even longer—the issue of risk.

For some time it has been an implicit goal of our government to protect its citizens from all of life's hazards, both major and minor. That is an admirable intention, but given the difficulties our society currently faces, it is an extraordinary misallocation of resources.

When the "safe" approach is the officially-sanctioned path, nothing is gained but the growth of our increasingly bland and homogeneous built environment.

My new offices overlook a quaint, 18th century scene—a millpond with two mills and a waterfall spanned by a cast-iron bridge. It's a very peaceful setting and one that could not be recreated today because of code and zoning restrictions. The bridge can't handle two-way traffic. The millpond isn't fenced. The older mill's waterwheel is an exposed mechanism.

Don't misread me. I believe people need protection from truly hazardous situations. But I think every level of government has exceeded reasonable safeguards in its overzealous promulgation of decreasingly useful regulations.

From the very start—beginning with Christopher Columbus or Leif Ericson—this country was built on foundations laid by people willing to take risks. Eliminate risk, and opportunity goes with it.

LAWSUITS PROLIFERATE

There is no easy solution to the problem, however. We live in a country where lawsuits have replaced baseball as the national pastime. That's the source of the liability problem, and the liability problem is one of the sources of our quest for a risk-free environment.

It's simple to say that there are too many bureaucrats or too many lawyers, but that doesn't go to the heart of the problem. While all of us probably cherish diversity and respect rugged individualism, when we ourselves are affected by some unpleasant situation our conditioned response is, "The government ought to do something about this." That automatic response is the heart of the problem.

It's a far cry from Thomas Jefferson's dictum: "That government is best which governs least." Despite recent presidents' efforts to the contrary, the federal government is more entwined in our lives than ever before. And our local governments seem to be monitoring our every move. In most towns across the country you can't blow your nose without first getting a permit.

We clearly have a pressing need to revamp our entire legal and regulatory system. We somehow need to retain appropriate safeguards for consumers and the environment without the rigidity of regulation that stifles our national creativity.

If you're unconvinced that attempting to eliminate risk carries far greater dangers, consider this: During the French Revolution, the main tool of the Committee for Public Safety was the guillotine.

A SALUTE TO REV. LUTHER HILL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. STOKES. Mr. Speaker, it is a signal honor to join with the Mount Sinai Baptist Church family and community in saluting Rev. Luther Hill. Reverend Hill retired in January following 38 years of service as pastor of this great institution.

Both church members and community leaders will assemble on Saturday, April 16, 1988 at Cleveland's Stouffer Tower City Plaza Hotel to pay tribute to this dynamic human being and servant of God. Speaking from my personal association with Reverend Hill and on behalf of all 21st District residents, it is a privilege to salute him for his dedication and leadership over the years.

Mr. Speaker, there are few individuals in the Cleveland area who have made such a profound impact on the area's citizens and the programs of various institutions as Reverend Hill has done. He has been a tower of strength and foundation of inspiration for those persons who know him personally and for those who are acquainted with him through his ministry.

At this time, I would like to share some of Reverend Hill's experiences and achievements with my colleagues.

Reverend Hill was born in Washington, DC, the oldest of seven children born to the late Rev. D.W. and Alice Hill. After his family moved from Washington, Reverend Hill attended elementary, junior high, and Central High School in Cleveland.

He accepted a call to the ministry in 1934, preparing to follow in the footsteps of his father, not knowing he was destined to lead the Second Mount Sinai and Mount Sinai Baptist Church, as its pastor for 38 years.

The year 1938 was a memorable one for young Luther Hill. He graduated magnum cum laude from Morehouse College in June. During this same period he married the late Ruth Byrdell Sanders, a Spellman College graduate. To this union four children were born; Luther, Jr., Sandra, Gloria, and Alice.

Mr. Speaker, the zeal for education and love for the ministry compelled this young man to pursue and complete his post graduate studies at Andover Newton Theological Seminary in Newton Center, MA, as well as Oberlin Graduate School of Divinity. In 1950 he graduated from Cleveland Marshall School of Law.

During World War II Reverend Hill was commissioned a first lieutenant in the Chaplain's Corps of the U.S. Army.

The year 1950 was begun in glorious style, as Reverend Hill was elected pastor of the Second Mount Sinai Church, thereby relieving his father of his vast pastorial duties. He looked with pleasure upon the fact that he served exactly 1 year as the church's assistant pastor, and had the opportunity to work with the junior church.

Within the Mount Sinai Baptist Church, Reverend Hill was the catalyst for the creation of the church's credit union and other support programs to serve the congregation and the community. The church also moved to its present location at 7510 Woodland Avenue. A Job Skills Bank and Hunger Center proved successful additions to the church.

Reverend Hill has also devoted many hours to various community organizations. His memberships include: the Baptist Ministers Conference of Cleveland, the Baptist Pastors Council, the Cleveland Council of Churches, the Interdenominational Ministerial Alliance, the NAACP, Eureka Lodge No. 52 of Free and Accepted Masons, Omega Psi Phi Fraternity, and the Regional Transit Authority. Reverend Hill is also the recipient of an honorary doctor of divinity degree from the Institute of African Methodist Episcopal Church in Monrovia, Liberia. In June 1987, Reverend Hill enriched his life by marrying the former Girlie Andrews.

Mr. Speaker, Reverend Hill has been an asset to the church, those of us who know him and to the entire Cleveland metropolitan area. He has made an indelible mark on the hearts and minds of countless people.

I ask my colleagues to join me in saluting Reverend Hill and wishing him Godspeed during his retirement.

CITIZENS' TRAIN

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. RUSSO. Mr. Speaker, it is with great enthusiasm this afternoon that I, along with Members of Congress from both sides of the aisle, hail the timely arrival of the Citizens' Train and all those passengers aboard who have journeyed by rail from coast to coast in an historic move to present their ideas for a responsible citizens' budget to the Congress of the United States of America. I would like to send a special welcome to my neighbors from the Greater Chicago area and salute all involved for the active interest and involvement they have taken in the future of their

Government—for themselves as well as for their families and friends.

Aboard this train rode passengers from all walks of life, and from all regions of the United States with one unifying goal linking them: To communicate to their leaders in Washington their belief that the true security of our Nation lies not in the number of missile silos or nuclear arms we possess but, on the contrary, our Nation's real security lies in the well-being and prosperity of our citizenry. How appropriate is the arrival of the Citizens' Train on a day when Congress is considering President Reagan's proposed budget for fiscal year 1989 which again allocates exorbitant sums to defense spending while vital domestic programs, uncertain of continued survival, go begging for funds.

The goal of the Citizens' Train is one which I applaud. I share their conviction that we, as congressional leaders, hold the responsibility to develop a budget reflecting the reality that our true national defense begins at home. The citizens' budget calls for a reprioritization of our budgetary goals. Should we continue to follow the pattern which has persisted in Congress for far too long of building our military while our neglected domestic problems continue to grow? Or should we, as policymakers and leaders of our country, follow the lead of the Citizens' Train and make a dramatic and much-needed departure in policy by reexamining our priorities as a nation and developing a budget reflective of the peoples' values.

The idea of a Citizens' Train is long overdue, but now its day has come and our time has come to welcome its arrival. My hope is that these citizens' efforts in their bold "March on Washington" will prove successful in laying the groundwork for long-term change in achieving our national goals through our Federal budget—goals that will reflect a government based on equal opportunity, compassion, and the welfare of its people.

EASTER IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RANGEL. Mr. Speaker, I rise today to remind each of us that we must continue to promote the end of the oppressive system of apartheid in South Africa.

As Federal legislators, we must realize that while we can be proud of the stand for justice that we took by passing the Anti-Apartheid Act of 1986, it was only a first step in dismantling the system of legally sanctioned racism that exists in that nation. During the last session of Congress, we also signed into law a bill, that I introduced, repealing the foreign tax credit to companies that do business in South Africa. This was an important step in strengthening our policy of opposing the pernicious system of apartheid in which children are incarcerated for asserting their basic human rights and families are dispossessed from their homes and resettled in poverty ridden areas. Obviously, much more has to be done.

Recent events are proof that the South African Government still maintains its campaign of repression and terror against the majority of that nation's citizens. This Easter, Anglican Arch Bishop Desmond Tutu and the Reverend Dr. Allan Boesak of the World Alliance of Reformed Churches have called for a nationwide celebration of liberation in South Africa. In the Christian faith, Easter is symbol of liberation and salvation for all humans.

By contrast, the white South African Government has again chosen to oppose the causes of freedom, justice, and brotherhood. In line with its continued detention of Nelson Mandela, Walter Sisulu, and scores of black and colored children, its refusal to allow all citizens equal political participation and its segregation of schools, hospitals, and housing, this government also intends to prevent this Easter Sunday celebration.

I ask that all members of our Nation rededicate themselves to the struggle for peace and freedom in South Africa. I, therefore, hope that the following article from the Civil Rights Journal on Easter in South Africa will be of particular interest to each of us.

EASTER IN SOUTH AFRICA

(By Benjamin F. Chavis, Jr.)

Easter is the season of crucifixion and resurrection. It is the time in the Christian faith for spiritual rejuvenation when we celebrate the liberation and salvation of human kind through Jesus Christ. Nowhere in the world today is there a greater affront to the meaning of Easter than the racist apartheid regime of South Africa.

The oppressive government of P.W. Botha has embarked on its last, desperate attempt to remain in power. Not only have all of the anti-apartheid organizations in South Africa now been banned, but this brutal regime has also announced its intention to severely limit the activities of the church as a voice of protest against the continuing holocaust.

Anglican Archbishop Desmond Tutu and the Rev. Dr. Allan Boesak, President of the World Alliance of Reformed Churches, together with other church leaders in South Africa, have called for a massive, nationwide celebration of liberation on Easter Sunday this year. The government of South Africa intends to prevent the services.

The church is the last nonviolent voice that has not yet been extinguished by South Africa's repression. Bishop Tutu emphasizes, "Does the Government of South Africa really think it can dictate to the people of God in our quest for justice and freedom? We will not bow down and worship Botha. The idolatry and sin of apartheid must be ended now!" Rev. Boesak agreed, warning, "With these latest acts or repression against the church and the freedom movement, the Government of South Africa has signed its own death warrant."

As our sisters and brothers in South Africa continue to wage a valiant struggle for freedom, the glaring absence of sustained voices and actions on the part of America's church leaders becomes more obvious. Here in the United States, it is our prayer that during this Easter season church leaders and church members will resurrect their active solidarity with the struggle to bring new life and freedom to South Africa. On a broader scale, the governments to the United States, Great Britain and Israel, in particular, have a great deal for which to repent. They have maintained their unholy support of the evil of apartheid in South Africa and Namibia, which South Africa illegally occupies.

Rather than millions of people spending millions of dollars on new Easter outfits this year, it would be far better to help purchase medical supplies and outfits for the freedom fighters of the Africa National Congress and the South West Africa Peoples' Organization. The Ministers for Racial and Social Justice, an organization of African American clergy of the United Church of Christ, has established a special African Freedom Fighters Fund for this purpose.

One thing is certain: a victory for the sake of righteousness and justice will be won in South Africa. Our responsibility is to not let the joy of Easter be just a momentary celebration. We must let all of our lights so shine in struggle that God's justice will continue to unfold in South Africa and everywhere in the world where the evils of racism and oppression lurk.

A TRIBUTE TO SI KENEN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. SOLARZ. Mr. Speaker, I rise to honor the memory of a dear friend of many of us in the Congress, and one of our Nation's most respected statesmen. I.L. (Si) Kenen passed away last week at the age of 83 after a lifetime of devotion to the precious cause of Israel and United States-Israel relations.

More than any other individual, Si was responsible for transforming the United States—Israel relationship from the iciness that marked it during the Eisenhower years to the close friendship of today. He was the founder of the American Israel Public Affairs Committee [AIPAC] and the first editor of the Near East Report. Si's excellent command of the subject matter, his gentle yet persuasive manner and his magnificant knack for making friends made him one of the most influential lobbyists Washington has ever seen. He will be sorely missed.

Mr. Speaker, I would like to commend to my colleagues a touching tribute to Si Kenen written by M.J. Rosenberg, who is currently special assistant to Senator CARL LEVIN. M.J. was the longtime editor of the Near East Report and one of Si's proteges.

[From the Washington Jewish Week, Mar. 31, 1988]

AN APPRECIATION—REMEMBERING I.L. "SI" KENEN

(By M.J. Rosenberg)

An era ended with the death of I.L. Kenen on March 23. Si's death was no shock to those of us who knew him. He had been in failing health for the last few years. But he looked good, far younger than 83, and there was always the hope that he would rally and, once again, be as he was in his prime.

Si was lucky. His prime lasted a long time. He was already in his late sixties when I first came to work at AIPAC in 1973. I came in as a volunteer, anxious to do anything. I could to help Israel during the Yom Kippur War.

The AIPAC of 1973 was not the operation we know today. I doubt that there were more than ten people working in the office on 13th and G. The "Jewish lobby" was run on a shoestring. Si's secretary would parcel out postage stamps like they were gold. And she would want to see the letter you were mailing to make sure you didn't swipe a stamp for your mother's birthday card.

Si ran a tight ship. He made all the key decisions. In those days, only Si's treasured long-time aide, Esher Chesney, and legislative liaison Ken Wollack, dared to question a Kenen decision. But he rarely budged. He knew how to run AIPAC. After all, he had invented the place.

In his old age, newcomers to AIPAC would think of Si (who dropped in once a week, or so) as a "sweet old man." But his demeanor deceived. Si may have been sweet (sometimes) but he was not benign.

He was a tough boss. In late 1973 I wrote my first article for Near East Report. He made me rewrite it a half dozen times and didn't compliment me on the final product. (Not then anyway. Over the next 15 years Si repeatedly told me—with great exaggeration—how "brilliant" that first story was).

It wasn't much fun arguing with him, about the Mideast or about his determination to reduce the size of every item in Near East Report by about 60 percent. Trained as a lawyer, he was a skilled debater.

His demeanor was disarmingly gentle. Si rarely raised his voice. He would express anger by lowering it, forcing you to lean in close to hear him. That manner was an asset on Capitol Hill. He was liked on both sides of the aisle and by Senators and House members of every stripe. Si didn't have an enemies list. On the contrary, he believed that every member of Congress was either a friend or a potential friend. And he treated them accordingly.

He was effective. When he began his work in Washington, Israel was receiving not one dollar in U.S. aid. By the time he left, Israel was receiving $2.2 billion. Si didn't accomplish that alone. He had a good product to sell. But it is hard to imagine that the job would have been done at all if Si hadn't decided that Israel needed a lobby in Washington.

In recent years, there were those who said that Si must have been ambivalent about the new "up front" AIPAC. But Si derived pleasure from the success of AIPAC and of Tom Dine, who has served as AIPAC's director since 1980.

And AIPAC is Si's monument. Not the staff (huge by Si's standard). Or the new offices on the Hill (palatial when compared to Si's hole in the wall). No, Si's monument is AIPAC's presence on Capitol Hill and its reputation for effectiveness.

For me, the best way to remember him is to picture him in the grand ballroom at the Washington Hilton, sitting on the dais at AIPAC's annual policy conference. He would sit there, smiling to himself, as the names of Senators and House members present would be called out. Close to half of the Senate. A third of the House. All there to declare support for a strong U.S.-Israel relationship.

Looking out at that assemblage, Kenen had every reason to be proud. And he was. He knew, as few of us can know, that his life had made a difference. For Israel and the Jewish people.

IN HONOR OF ARCH MACDONALD

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. BONKER. Mr. Speaker, rarely do I place into the RECORD a statement about an individual, but this time I am making an exception. Washington State has been fortunate to have as a prominent citizen, Arch MacDonald, whose contributions to the Evergreen State are many.

To those who know him, Arch MacDonald is a caring and generous individual. He has devoted his life to creating a better place to live, and in so doing, he has touched and improved the lives of many.

Thanks to Arch MacDonald's considerable investments, Washington State has a stronger economy. He has worked for improvement in several different areas of Washington State: from the residential community of Cascade Park, and high-technology plants he has in the Southwest, to his Lewis and Clark Angus ranch in the Tri-Cities area. These are just a few examples of Arch's endeavors. Arch is truly deserving of the honor given to him by the Clark County Economic Council for providing more economic stimulation to Clark County than anyone in the past.

With each project Arch took on, his selfless diligence and dedication to his vision brought benefits to others which are greatly appreciated and will be enjoyed for many years to come. Arch MacDonald has left a mark which will not be forgotten.

With gratitude and best wishes I offer the following resolution in honor of a truly great man, Arch MacDonald.

The resolution follows:

SENATE RESOLUTION 1988-8728

Whereas, Arch MacDonald as a community and state leader has made a positive difference in the lives of many people and communities in the State of Washington; and

Whereas, Arch MacDonald has been an admirer and a contributor of both major political parties and is a believer in our democratic, republican form of government; and

Whereas, Arch MacDonald's foresight and vision have brought about great changes and improvements in the quality of life in the State of Washington and more particularly in Clark County, Snohomish County, and the Tri-City area; and

Whereas, The original development of Arch MacDonald and his partner, Donald MacKay, known as Cascade Park, has turned into one of the finest residential communities in Clark County and the State of Washington; and

Whereas, The Clark County Economic Council acknowledged at its annual meeting in 1983 that Arch MacDonald and Donald MacKay have provided more economic stimulation to Clark County than any two people, past or present; and

Whereas, Arch MacDonald's personal involvement has played a major factor in having Hewlett-Packard and Tektronix locate high technology plants in Clark County; and

Whereas, Arch MacDonald was instrumental in bringing Hewlett-Packard into Snohomish County and has been working in that county to help develop the economic potential that exists there; and

Whereas, Arch MacDonald and Donald MacKay developed one of the finest large cattle ranches and irrigation projects (Lewis & Clark Angus Ranch) in the Tri-Cities, which was incorporated into the city of West Richland to allow for development and improvement within the State of Washington; and

Whereas, Arch MacDonald has continually stressed the importance of transportation (highways and major airport facilities and carriers) to our economy and has worked toward their development and improvement within the State of Washington; and

Whereas, Arch MacDonald's sphere of influence has touched all aspects of the quality of life in the State of Washington and has made Washington State a better place to live; and

Whereas, Arch MacDonald recently was one of the moving parties in a major land use case heard before the United States Supreme Court that has brought about greater protection of property rights for property owners of all states; and

Whereas, Arch MacDonald is the first non-Indian honorary member of the Tulalip Tribes of Washington; and

Whereas, Arch MacDonald is now 76 years old and still going strong and is too busy thinking of others to have time to think of himself, even though he has had a setback with the discovery of cancer:

Now, therefore, be it resolved, That Arch MacDonald be officially recognized as a man who has left his mark not only in the hearts of the people but in the hearts of our communities by quietly and methodically pursuing a vision which benefits every person who lives in the State of Washington; and

Be it further resolved, That the people of the State of Washington publicly thank Arch MacDonald for his dedication, encouragement, and longterm vision which has benefited all aspects of our quality of life in the State of Washington.

CONGRESSIONAL MILITARY REFORM CAUCUS RECEIVES RESPONSE TO WASHINGTON POST ARTICLE OF OCTOBER 11, 1987

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RIDGE. Mr. Speaker, I submit these remarks on behalf of Mr. BENNETT of Florida and myself. As combat veterans and as cochairmen of the Congressional Military Reform Caucus, our view of military reform is inherently positive. We see reform as a positive approach to building the most effective military for the tax dollar. We see military reform as a voice for the soldier whose needs may go unaddressed by the massive military establishment. Reformers are, for the most part, former military men and women and individuals who have dedicated their lives to making the defense of our Nation effective and second to no other nation on Earth. These are individuals who are not satisfied with the status quo and instead of tearing it down, are constantly offering suggestions for a more dynamic and constantly improving military. In order to make these improvements, they must prove we have a need or that we are not doing all that is possible with available resources. Too often, this criticism is seen as negative by the military establishment.

A healthy system should not be offended by the reformers and should accept valid criticisms as healthy and positive. This is fundamental to the nature of America's success and should not be ignored by the need for discipline in the military services. Of course, the criticism must be researched, current and reasonable. Uninformed critics certainly can be very destructive. But, we feel fortunate that the reformers we have worked with as military reform caucus co-chairmen, have always taken a thought-provoking approach that is clearly pro-defense.

Many of these reformers have greatly assisted the Congressional Military Reform Caucus with a long list of efforts that are clearly pro-defense. These include improving our conventional forces, remedying the conventional imbalance in Europe, more realistic testing of combat weapons, acquiring more effective anti-tank weapons for our soldiers who may have to face the Soviet tank armies, improving the reliability of the Bradley fighting vehicle as well as making it safer for our soldiers. This month we expect to explore the need for a close-air support plane for our combat forces on the ground.

Some of these efforts and others undertaken by military reformers are controversial and have met with opposition from the military establishment. In our view, this dialog is vital and invigorating. This fall, however, an article written by Fred Reed that appeared in the Washington Post outlook section challenged reformers to reform and made specific charges against many of the leading reformers. We are deeply concerned that these allegations endanger this healthy dialog. Recently, we received a response to these charges from a group of retired officers working in the reform effort and we are greatly disturbed that Reed's charges appear to lack substance. In fact, Mr. Reed takes the same unfounded, unfair approach to criticism that he attributes to the reformers. Since the charges are directed at undermining the credibility of reformers with specific allegations of "ignorance" and "chicanery," we thought it was essential that Members of Congress read the response provided to the Congressional Military Reform Caucus by Lt. Col. Thomas W. Carter, USMC (retired), Col. John R. Boyd, USAF (retired), and Col. Jim Burton, USAF (retired). The text follows:

In the October 11, 1987 "Outlook Section" of the Washington Post, Mr. Fred Reed attacked the military reform movement for writing "absolute, verifiable nonsense." Since then we have learned other newspapers and magazines have regurgitated or honored what's in this essay. In view of the fact that Mr. Reed cited a number of specific instances in which he alleged certain military reformers had made errors in fact, we feel compelled to respond. Our response is as follows:

Mr. Reed criticizes Senator Gary Hart and Mr. William S. Lind, co-authors of America Can Win: The Case for Military Reform, for writing that the DIVAD anti-aircraft gun aimed at a latrine fan in a test. Mr. Reed states, "I had looked into the tale with some care and concluded that it didn't happen." The October 26, 1987 issue of Defense Week says, "We direct Reed to the Feb 27, 1984 issue of Defense Week, page 6. The article states that a DIVAD gun was locking onto false targets, 'particularly the rotating blades of a bathroom exhaust fan mounted on the roof of a building 100 meters away from the test site.' The source for the 'tale' was Robert Lyons, then the DIVAD program manager for the company making the gun."

Mr. Reed also states that DIVAD's radar "was intended to pick up helicopter rotors—i.e., large fans." Again, he is in error. The DIVAD's radar was originally developed for the F-16 fighter, and it had major problems seeing helicopter rotors. In fact, the Army felt it necessary in one test to augment the radar signature of the target helicopter with radar reflectors so the DIVAD gun could hit it. Lt. Col. Thomas W. Carter, USMC (Ret.), who was actively involved in testing DIVAD as military assistant to the Director of Defense Test and Evaluation, writes, "In the course of considerable personal involvement with the DIVAD gun test program from 1981-1985, I observed that the gun frequently exhibited the disturbing tendency to either point at targets that weren't there, ignore targets that were there, or both. . . . During extensive operational tests of production-line DIVAD Guns, it became clear that soldiers in combat would not be able to count on the weapon for protection against attacking airplanes or helicopters."

Mr. Reed also notes that a number of military reformers have criticized the Army for using aluminum to construct the Bradley Fighting Vehicle. The reformers have stated that when aluminum is hit by a shaped charge weapon, the vaporific effects from the aluminum add to the effect of the warhead. In simpler terms, the aluminum burns. Mr. Reed says, "Does aluminum burn? Of course not! My wife cooks often in an aluminum wok on a gas stove, and that wok has yet to go up in a fireball."

Col. James G. Burton, USAF (Ret.), who oversaw the tests of the Bradley while director of the live-fire test program, writes:

Heating a wok on a stove and then concluding that aluminum does not burn is analogous to holding a match under a large log and concluding that wood also does not burn. If Mr. Reed had really wanted to find the correct answer, he would have loaded his wok to the gills with live ammunition (as is the case with the aluminum armored Bradley) and then shot at it with a shaped charge anti-tank weapon. The resulting conflagration would produce temperatures hot enough and long enough to cause the aluminum to melt into a puddle of molten metal and burn as long as the heat source remained. I have watched a Bradley melt and burn under these conditions; Mr. Reed has not. I have also spent countless hours viewing high speed photography and other data measuring the size and duration of the fireball inside the Bradley after a hit by a shaped charge and comparing that with the smaller, cooler and shorter duration fireball inside a steel armored vehicle.

In a more humorous vein, if Mr. Reed had seen a Corning Ware ad on television, as did millions of Americans, he would have noted that aluminum burns while Corning Ware does not. Generalizing from this one example and applying Mr. Reed's research techniques, maybe we should ask the Army to build the Bradley out of Corning Ware, rather than aluminum.

Mr. Reed further criticizes Sen. Hart and Mr. Lind for misrepresenting the fuel consumption of the M-1 tank in their book. He states, "She (Ms. Rasor) says the tank uses four gallons of fuel per mile, roughly correct; Lind and Hart say more than nine." In response to Mr. Reed, Mr. Lind writes:

The figure we used was provided to us by the Army, in writing, in response to a question from Senator Hart. The Army information paper, which accompanies a letter from the Office of the (Army) Chief of Legislative Liaison dated September 24, 1985, states, 'Currently, the M1 consumes 9.3 gallons per mile, while the M60A3 consumes 2.4 gallons per mile.'

Does this mean Ms. Rasor is wrong? No; both numbers are correct. Her figure of roughly 4 gallons per mile is from the Army OT II test, in which the tank drives around a specified course. The 9.3 figure reflects operating conditions under which the tank spends extensive time idling (gas turbines are very fuel inefficient at idle).

Mr. Reed states that military reformer Pierre Sprey told him that the M-1 is so dependent on its electronics that if they fail the tank cannot fire its main gun. He says he turned the power off and successfully fired the tank with the manual firing handle. Mr. Reed is correct that the tank can be aimed and fired manually, without electronics. However, Mr. Sprey denies that he told Mr. Reed that the M-1 could not be fired manually. He was aware that it could be. He did tell him that it could not be aimed manually. In this, Mr. Sprey was technically in error, but in an operational sense he was correct. Manual aiming involves moving the turret and the gun with two hand cranks. The rate of movement is so slow, no tanker in his right mind would engage in a fight that involved more than one shot. He simply could not react quickly enought to survive in fast moving operations.

Mr. Reed states that the military reform movement is discredited by a number of errors he claims Mr. Norman Cousins makes in his book, The Pathology of Power. However, Mr. Cousins is not and never has been a member of the reform movement. He is a journalist, like Mr. Reed. Whatever errors he may have made have nothing to do with the military reformers.

Apparently referring to pages 37-39 of her book, The Pentagon Underground, Mr. Reed states that Ms. Dina Rasor, Director of the Project on Military Procurement, claims the M-1 tank "does not need a laser-range finder because the optical range-finder works just as well; unfortunately the M1 doesn't have an optical range-finder . . ." In fact, Ms. Rasor does not refer to an optical range-finder on the M-1 tank in her book. In response to Mr. Reed, she writes, "Mr. Reed is incorrect when he says that I talk about using an optical range-finder when I fired the M-1. Nowhere in my book do I say that I used an optical range-finder when firing the M-1. I did discuss the success the West Germans had with their optical range-finder, and wrote about the M-1's optical sight and laser range-finder." Mr. Reed may be confused by the difference between an optical sight and an optical range-finder. The M-1 does have an optical sight, but not an optical range-finder.

Additionally, in discussing tanks, Mr. Reed notes that the Israeli Merkava tank has certain characteristics, such as high weight, which "Sprey and others" believe a good tank should not have. He states, "personally I would hesitate to instruct the Israelis in armored warfare. The Reformers are less timid." Reformer Col. Jim Burton, in testimony before two subcommittees of the House Armed Services Committee in Jan. and Feb. 1986, as well as before Chairman Dingell's Oversight and Investigations Subcommittee in April, 1987, praised the Merkava tank, while calling upon our own Army to adopt the Israeli design philosophy which assigns crew protection a higher priority than vehicle mobility or firepower.

Mr. Reed states that Hart and Lind say in America Can Win, in relation to the tests of the Navy's Aegis air defense system, "The Navy reportedly rigged the tests." This is a misquotation. Hart and Lind actually wrote, "Reportedly, the test (singular) was rigged." They note that there were three major operational tests of Aegis in 1983 and 1984, and that in the 1983 tests, Aegis hit only five of twenty-one targets. According to Mr. Lind, this information was from official Navy documents, and he does not dispute the fairness of these two tests. Their charge of rigging applies only to the third test, in which, according to the Navy, Aegis shot down ten out of eleven targets. Mr. Reed says, "no evidence is given." In fact, Hart and Lind wrote, "The aircraft launching the target 'drones'—small, radio-controlled airplanes used to simulate antiship missiles—flew high enough to make them detectable, giving long-range warning of the drones' arrival." Mr. Lind says the source of this information is someone inside the Defense Department whom he will not identify, for fear of retaliation against the individual. Mr. Lind stands by the charge; we are not able either to confirm or refute it from the information currently available to us.

According to Mr. Reed, Ms. Rasor complained that the M-1 tank driver's position was cramped only because she did not know enough or care to find out how to adjust the seat. In fact, Ms. Rasor's attention was directed to the driving position by the Army's OT II test report on the M-1. That report states on page A-36, "Crew personnel taller than 72 inches experienced difficulty in driving the tank. When operating with the seat in the up position, the driver's knees would interfere with the movement of the T-bar," and further on page A-119, "Hazard to tall drivers (:) Tall driver may get concussion during buttoned-up cross-country operation."

According to Ms. Rasor, when she drove the M-1 in 1981, she got in the tank and found the driving position cramped. She asked the soldier who was assisting her what she should do, and he replied, "That's the way it is." That information was apparently incorrect; the seat could have been adjusted. It is telling that Mr. Reed spends so much space discussing an anecdote contained only in 18 lines of The Pentagon Underground, when Ms. Rasor has released two Army operational test reports and one report on actual use data of the M-1 tank, confirming the larger and infintely more important problems with the tank.

On the basis of what have proven to be almost wholly erroneous charges, Mr. Reed launched sweeping, vitriolic, and at times slanderous attacks on the military reform movement generally and on several individual reformers, namely Dina Rasor, Pierre Sprey, and William S. Lind. For example, in building upon these charges, Reed accuses the reformers of "sheer intellectual dishonesty", "robust disregard for the truth", "chicanery", etc. He also says of their work: "It is hard to think of a better way to get troops killed." Such characterizations supported by Reed's erroneous charges reveal him to be an incompetent and corrupting influence. Needless to say, we are concerned that the effects of Mr. Reed's rhetoric will continue to be felt despite its demonstrated baselessness. Such practitioners of the smear as Dr. Goebbels demonstrated long ago that a big enough lie, told with sufficient vituperation, will live long after its falseness has been exposed.

Should we hold The Washington Post in high regard as an example of fair and honest journalism? An article such as Mr. Reed's, which seeks to purvey slander on a basis of repeated misstatements of fact is not consistent with the high standards readers should expect from the Washington Post. We understand that any editor can be duped, as was the case with the widely publicized and embarrassing Janet Cooke episode. But when that happens it is incumbent upon the publication to set the record straight. The Post owes the military reform movement a retraction of the false charges, false charges which have now been reprinted in other publications. The Post also owes the reform movement an apology for a vicious attack that has proven to have no foundation.

LT. COL. THOMAS CARTER,
USMC (Retired).
COLONEL JOHN BOYD,
USAF (Retired).
COLONEL JIM BURTON,
USAF (Retired).

PRIDE IN NORTH CAROLINA

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. PRICE of North Carolina. Mr. Speaker, I'd like to take a moment to recognize and thank an organization from the Fourth District of North Carolina for its dedication and tireless work on behalf of the Take Pride in America public lands stewardship campaign.

The Take Pride in America campaign seeks to promote a greater public awareness of the value of our public lands and to curb abuses of this land such as litter, vandalism, wildlife poaching, and other types of destruction and waste.

In reward for its diligent efforts for the promotion of public land stewardship, Keep North Carolina Beautiful, Inc. of Raleigh, NC, has been recently named a national finalist for the Take Pride in America Award selected by a blue ribbon panel of judges including Secretary of the Interior, Don Hodel; Secretary of Agriculture, Richard Lyng; and Secretary of Education, William Bennett.

I and all citizens of Raleigh and North Carolina owe this local organization a heavy debt of gratitude for its work in keeping our public lands healthy, beautiful, and well managed. I congratulate Keep North Carolina Beautiful on its selection as a finalist for this award, and I wish it luck in the competition for a national winner.

HANDGUN CONTROL

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MRAZEK. Mr. Speaker, I recently introduced a bill, H.R. 4268, to address the problem of undetectable weapons. Organizations supporting the bill range from law enforcement to handgun control to those concerned with airport security. Two of these organizations, the Law Enforcement Steering Committee and Handgun Control, Inc., have recently written to Members of Congress on this issue and I feel it is important to submit them into the CONGRESSIONAL RECORD:

HANDGUN CONTROL,
Washington, DC, March 30, 1988.

DEAR REPRESENTATIVE: As you know, there is a growing consensus in Congress to prohibit the manufacture of "undetectable handguns," which can evade the security devices used at airports, federal buildings and even the White House. Reresentatives Mrazek, Miller (WA), Hughes, Foley, McCollum and many others all agree on the need for such legislation.

Representative Foley has offered legislation, H.R. 4014, which warrants your very careful scrutiny. Although its intent is commendable, it does not address the real problem. Law enforcement has pointed out that this bill would allow handguns to be produced which have tiny amounts of metal, or even no metal at all. Detecting these handguns, if it is possible at all, would require that existing security devices be set at their maximum sensitivity causing chaos at our nation's airports.

I'm sure that like me, you hate to have to wait and wait for an airplane flight. And I'm sure you've had an earful from your constituents about it. H.R. 4014 would compound this problem. This bill would result in small amounts of metal—tie clasps, belt buckles, and zippers, for example—triggering magnetometers. This could well mean body searches for most passengers. The end result of Representative Foley's bill would be an intolerable delay for millions of airline passengers.

There is a sensible bill, H.R. 4268, offered by Representatives Robert Mrazek, John Miller, and 52 cosponsors in the House H.R. 4268 takes into consideration new metal detection devices which are now available. This legislation also incorporates constructive suggestions from law enforcement and addresses concerns raised by law abiding gun owners. A companion bill, S. 2180, introduced by Senators Metzenbaum and Thurmond, has bipartisan support in the Senate. Cosponsors of S. 2180 include Senators Kassebaum, Chafee, Kennedy, Bradley, Mikulski, Moynihan, Pell, Dodd and Simon.

The new Mrazek-Miller bill specifically requires the installation of more sensitive metal detectors at our nation's airports and federal buildings; establishes a minimum metal component for any handgun; and provides for a mandatory penalty of 5 years imprisonment for anyone using an undetectable gun in the commission of a violent crime or drug trafficking offense. This measure contains a grandfather clause which protects all handguns owned at the time the legislation takes effect.

I hope you will support this measure which is already backed by law enforcement and the air transportation industry, and urge its quick passage in the Congress.

Sincerely,

SARAH BRADY,
Vice Chair.

LAW ENFORCEMENT STEERING COMMITTEE,
March 2, 1988.

DEAR REPRESENTATIVE: We are writing in reference to H.R. 4014, a bill that prohibits the manufacture and importation of weapons that cannot be detected by current security technology. As a coalition comprised of the 12 major national policing organizations, the Law Enforcement Steering Committee is deeply concerned with legislation that impacts on the safety of our officers and of those they are sworn to protect.

We applaud the earlier efforts by Senator Metzenbaum, Senator Thurmond and Congressman Mrazek to address the problem of nondetectable weapons and are now delighted to see that the pro-gun lobby has conceded, through its support of H.R. 4014, that these weapons do pose a threat to public safety. Yet, this legislation does not adequately respond to the concerns of law enforcement. There are 2 provisions that are particularly troubling:

1. The bill defines plastic firearms only as weapons in which the "frame or receiver, and slide, or the frame or receiver, and cylinder of which is each constructed entirely of polymer or ceramic, or any combination thereof." This definition excludes guns without slides or cylinders (derringers, single shot weapons) and most other long guns.

2. Section 3 of the bill makes it unlawful to manufacture or import a firearm unless the firearm contains some metal which would make it "susceptible of being detected," by a magnetometer. As drafted, this provision gives little guidance as to the standard for determining when a firearm is "detectable". A small piece of metal affixed to a firearm would render a plastic weapon detectable for this bill's purposes, but would require a magnetometer to be set at a level that would also detect zippers, hair pins and other commonplace items. Since H.R. 4014 mandates the setting of magnetometers at this very low level, the practical effect of this bill would be to render metal detectors useless and require nearly everyone to be hand searched. In essence, the legislation allows for the manufacture of guns with small amounts of metal, but provides no plausible or realistic method for detecting them.

Law enforcement would like nothing better than to be able to iron out these problems. Fortunately, an easy and effective remedy exists for both concerns enumerated above. First, the definition of weapons affected by this bill must be broadened to include other firearms of particular concern. Clearly, it would be pointless to ban one class of undetectable firearms, and allow another to be manufactured, sold and brought through security systems undetected. Second, the 'susceptibility of detection' of plastic guns must be clearly defined with a specific standard acceptable to the Federal Aviation Administration, the Secret Service and other appropriate agencies.

We look forward to the opportunity to meet with House staff, the Attorney General, the Administration, and others committed to working out realistic and effective plastic gun legislation. If you have any questions regarding this issue, please contact Martha Plotkin or Karin Schmerler at 466-7820.

Sincerely,

Robert E. Van Etten, President, Federal Law Enforcement Officers Association; Kenneth T. Lyons, National President, International Brotherhood of Police Officers; William Kolender, President, Major Cities Chief Administrators; Harold Johnson, President, National Organization of Black Law Enforcement Executives; Tom Iskrzycki, Chairman, National Troopers Coalition; Hubert Williams, President, Police Foundation; Dewey R. Stokes, National President, Grand Lodge, Fraternal Order of Police; Jerald R. Vaughn, Executive Director, International Association of Chiefs of Police; Robert T. Scully, President, National Association of Police Organizations; L. Cary Bittick, Executive Director, National Sheriffs' Association; Cornelius J. Behan, President, Police Executive Research Forum; Edward Spurlock, President, Police Management Association.

NIT VICTORS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. GEJDENSON. Mr. Speaker, last night the University of Connecticut Huskies men's basketball team was victorious in the championship game of the National Invitational Tournament, one of the most highly competitive and prestigious tournaments in all of college basketball. This victory was the culmination of a successful year, finishing the season with an overall record of 20 to 14 and making their first-ever trip to the championship game.

What makes this victory all the more impressive is the poise and maturity shown by the players. After falling behind Ohio State, perennially one of the finest teams in the Nation and who was making their fourth appearance in the final four in as many years, U-Conn battled back to take the lead and the tournament championship by a score of 72 to 67.

At this time I would like to congratulate the coach, Tim Calhoun and the members of his team: Cliff Robinson, Clint Simmons, Murray Williams, Steve Pikiell, Greg Economou, Lyman DePriest, Phil Gamble, Robert Ursery, Tate George, Willie McCloud, Jeff King, Karsten Kibbe, and James Spradling. I know that all of Connecticut is proud of the achievement of these fine young men and as an alumnus of the University of Connecticut I am especially pleased to offer my congratulations.

BIPARTISAN COMMISSION ON CENTRAL AMERICA

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. PURSELL. Mr. Speaker, yesterday I appeared before the Rules Committee regarding an amendment to the Contra-aid package calling on the President to reestablish the National Bipartisan Commission on Central America.

Although the committee was unable to accommodate my request at that time, I am pleased with the overall support this amendment received. I feel that new ground was broken at the Rules Committee yesterday with regard to this bipartisan approach to Central America. I look forward to bringing this proposal before the committee again at another time.

My amendment incorporates House Concurrent Resolution 266 which I introduced last week with my colleague from Pennsylvania, Mr. MURTHA. The resolution calls upon the President to reestablish a 12-member bipartisan advisory body modeled after the Kissinger Commission.

The Commission's membership would be drawn from both political parties and from among distinguished leaders of the government, business, labor, education, Hispanic, and religious communities. Its mission would be to develop and make recommendations to the President, Secretary of State, and Congress on a bipartisan U.S. foreign policy for the Central American region.

This policy would look beyond the issue of humanitarian versus military aid for the Nicaraguan Contras and would examine the best response to the challenges of social, economic, and democratic development in the region. Many of the positive steps the United States has taken toward Central America in the last 4 years are the result of Kissinger Commission recommendations. Expansion and improvement of the Caribbean Basin Initiative is just one example.

Mr. Speaker, it is time to develop a national consensus on a comprehensive U.S. policy for the region. Reestablishment of the Bipartisan Commission on Central America is a logical and rational first step toward that goal.

ASBESTOS HAZARD EMERGENCY RESPONSE ACT

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. BARTON of Texas. Mr. Speaker, throughout my district, the State of Texas and our Nation, private and public school districts are faced with meeting unrealistic statutory deadlines imposed by the Asbestos Hazard Emergency Response Act [AHERA]. In our efforts to ensure a safe and healthy environment for our children, I believe we in Congress must ensure that the inspections are done in a safe and thorough manner. The extension of the AHERA deadlines is essential to ensuring the work is done properly and the hazard presented by asbestos is eliminated.

In the State of Texas, the limited number of inspection training schools and EPA approved laboratories is the greatest barrier to compliance with the law. For over 1,065 public districts and 900 private schools, Texas has only two certified training schools and only a few EPA approved laboratories. The short deadlines and lack of inspection schools or laboratories opens a pandora's box for expensive, inefficient and unsafe asbestos inspections.

School districts across the Nation have simply not been given enough time to comply with the law. They are faced with a costly no-win situation that could endanger the very people the law is trying to protect. H.R. 3893 would extend the deadlines and give our school systems a chance to appropriately and efficiently respond to the dangers of asbestos.

As a cosponsor of H.R. 3893, I strongly urge the expedited consideration of this legislation.

IN HONOR OF THE TORRANCE YWCA WOMEN OF THE YEAR

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to salute the Torrance YWCA, a fine organization as it honors the YWCA Women of the Year on April 16, 1988. Jean Adelsman, Judith Borck, Shirley Borks, Dee Hardison, Beulah Helgerson, and Grace LaPoint all share the qualities of generosity of spirit and the kindness of concern for others.

Jean Adelsman faces enormous responsibility as managing editor of the South Bay's community newspaper, the Daily Breeze, while still finding time to contribute to her community. She has been selected to serve on the Pulitzer Prize nominating committee and has implemented a weekly feature article highlighting activities of nonprofit organizations.

Ms. Adelsman holds the position of secretary for the board of directors of the volunteer center and has been a human race board member for 2 years. She frequently speaks to groups of high school and college students as a role model and inspriation.

Judith Borck serves as both an administrator and counselor of children and their families in her role as director of programs at Switzer Center. Her deep compassion and understanding of disabled youngsters extends beyond Switzer Center, as she is responsible for the establishment of a summer job program open to all special education students in three South Bay cities. Since the establishment of First S.T.E.P. in 1985, more than 60 high schoolers have received employment training and placement in summer job programs, many of whom have been retained for year-round, part-time employment.

Ms. Borck is a member of the Council of Exceptional Children, a member of the Council for Children with Behavioral Disorders, member of the Council for Children with Learning Disorders, a member of Pi Lambda Theta, an honorary educational organization, and past officer of CAPSES [California Association of Private Special Education Services].

Shirley Borks is an educator, teaching third grade at Seventh Street School in San Pedro where she is a training and demonstration teacher. Her community service extends throughout the bay area from the South Coast Botanic Garden Foundation, where she is currently on the board of trustees to the League of Women Voters, where she serves as water and natural resources chair.

Ms. Borks is currently on the board of trustees of the Community Association of the Peninsula [CAP] where she oversees the Multicultural Committee and acts as historian. Her love of the outdoors and the environment is reflected in her involvement with the Audubon Society, Sierra Club, and Cabrillo Marine Museum.

Dee Hardison's civic activities are outlined by her participation in the Torrance City Council, Torrance Planning Commission and the Torrance Park and Recreation Commission. Dee's contributions to the community go far beyond her official titles. When she sees a need, she throws her considerable talents and energies into accomplishing the task at hand.

Ms. Hardison has worked tirelessly for better schools both as a volunteer and teacher, she has received the PTA Honorary Service Award and Continuing Service Award. The School Board Association honored her with the Golden Bell Award and as a leader in preservation of parks and open spaces she received commendation from the National Recreation and Park Association.

Beulah Helgerson was selected volunteer of the year for giving more than 4,000 hours of service to the Retire Senior Volunteer Program [RSVP]. Her community service is boundless by the vital energy she shares and the enthusiasm she exhibits when undertaking each project. She excells in her ability to arrange for and disseminate information which is of help to South Bay senior citizens and the needy.

Ms. Helgerson hosts the Seniors in Action Program which airs weekly in the South Bay area on the local cable network. She assists with set-up and distribution of cheese and other surplus items to the needy of the area and has brought the "Silver Saver" Senior Discount Program to many.

Grace LaPoint has dedicated much of her volunteer time to the South Bay Hospital, where she served on the auxiliary board of directors. Her kindness and consideration of others has been apparent in her untold hospital volunteer projects and work with the Salvation Army, Head Start Program, Abused Women, and Children Program, and the South Bay Hospital House Calls Program, making daily contact with those alone, disabled, and aged.

Ms. LaPoint served as a member of the South Bay Cancer Foundation and was chairman of the South Bay Hospital Chapel Construction. It is here she can now claim almost 100 percent construction has started on the nondenominational chapel. This beautiful additional will be her legacy for future generations and the South Bay.

It is a pleasure to share the news of this special tribute to so many community activists with my colleagues in the U.S. House of Representatives. Their spirit, energy and generosity is to be applauded and commended.

UNIQUE HINDU TEMPLE SOCIETY OF LEHIGH VALLEY HOLDS FESTIVAL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. RITTER. Mr. Speaker, the Lehigh Valley has been blessed during its entire history by the existence of strong, proud, ethnic groups in its population. One of the most recent and must active ethnic additions to our population are the Indian community.

Although the first settler from India came to the Lehigh Valley in 1960, in 1977, a large group of immigrants from India settled in my district in Pennsylvania and formed the Hindu Temple Society of Lehigh Valley. The purpose of the society was to create a religious-cultural center where old and young could meet and participate in religious and cultural functions. This was especially important for young children so that they could learn of, while older members retained, the rich, 7,000-year-old Hindu culture while adapting to their new land. Now there are about 400 Indian-American families, mostly professional and many highly successful, in medicine, engineering and science, education, and business.

As a scientist and now a Congressman, I have enjoyed numerous working relationships and friendships with this creative and high-achieving group of people. As their Representative in the Congress of the United States, I am proud of new and healthy dimensions our Indian families have brought to the Lehigh Valley. The Hindu Temple Society raised the necessary funds within their community and have built a unique Temple in Bethlehem, PA. Mr. Speaker, this is the first temple in the world where all the four religions of Indian origin—Hinduism, Buddhism, Jainism, and Sikhism—are worshipped on the same pulpit.

The Vedas, the old Hindu scriptures date back to more than 5,000 years B.C. We also know, in education, great Indian minds gave birth to the decimal system, digit system, and the concept of zero which became the foundation of mathematics and the ensuing scientific endeaver of mankind. India also gave birth to a great man—Mahatma Ghandi—a wonderful soul who showed the world a new dimenstion of nonviolence. India as a beautiful spring day, has brought forth much beauty and wisdom for the world to use. Not only in my district, but around the Nation, we can all point with pride to the Indian-Americans who are fellow citizens and good neighbors.

Indian-Americans have enriched my life and the lives of my constituents. And I believe their contribution to our society is only beginning. Mr. Speaker, on the occasion of the April 9 Holi Festival of Colors at the Temple, which heralds the start of spring, I ask my colleagues to join with me in conveying our appreciation for the contributions from the growing Indian-American community.

MONTGOMERY COUNTY, MD, BIRD AND BLOSSOM SELECTION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mrs. MORELLA. Mr. Speaker, it is a great honor to announce the winners of a countywide contest to choose a bird and a blossom to stand as symbols of Montgomery County, MD. The winning essays were presented at an award ceremony before the county council on March 22, 1988. Teachers from 32 elementary schools selected the best entries from their fourth grade classes and submitted a total of 104 essays to the judges. The event was sponsored by the Montgomery County Commission on the Humanities.

The winning entries were by Tina G. Vetticad from Gaithersburg Elementary School for her essay, "The Robin," and by Julie Kim from Lakewood Elementary School for her essay, "The Dogwood." I would like to include these essays in the RECORD so that they can be enjoyed by all for their originality, freshness, and interest. I would also like to recognize the teachers of these two fourth grade students, Mrs. Irene B. Coleman and Ms. Rosalie Lewis, for helping to inspire these two students and for teaching them to express themselves so well.

In addition, honorable mention was given in the county bird category to: Jessica Biggs from Wood Acres Elementary School, "The Cardinal"; Tanessa Crockett from Gaithersburg Elementary School, "The Cardinal"; Anthony Horos from Lakewood Elementary School, "The Morning Dove"; David Larson from Farmland Elementary School, "The Morning Dove"; Elizabeth Murphy from Bethesda Elementary School, "The Barred Owl"; and Margaret Zamula from Bells Mill Elementary School, "The Song Sparrow."

Honorable mention in the county blossom category went to: Brooke Cotter from St. Bernadette School, "The Forget-me-not"; Cheryl Raab from Georgian Forest Elementary School, "The Shooting Star"; Sara Rosen from Green Acres Elementary School, "The Wild Sweet Crab Tree"; and Ami Vikram N. Shah from Meadow Hall Elementary School, "The Morning Glory."

THE ROBIN

(By Tina G. Vetticad)

The Robin to me shows great strength and loyalty. The colors brownish-gray and reddish-orange to me stand for boldness and courage. Once a Robin nested in one of my trees and had three babies. Before the babies hatched I noticed that everyday at about eight o'clock it went out for food and brought back a worm. When the babies were born she always brought a worm back for them. I think all these things are a good way of representing Montgomery County.

The Robin's nickname is the "Robin Red-Breast," and I think that shows great power. When I hear that nickname I think about a bird strutting around everywhere. I rarely think about birds but this is an exception. I see the Robin about once a week and it looks very interesting. I think the Robin would be the perfect bird to represent Montgomery County and I hope you think so too.

DOGWOOD

(By Julie Kim)

Montgomery County has many flowers and blossoms. Of these, I recommend the dogwood for the official Montgomery County blossom. It is common throughout Montgomery County and also very beautiful.

The dogwood is a tree with pretty blossoms on it. The blossoms bloom different colors including pink, white, greenish-white, and bright-red. In the center are drops which are fruits and usually have two seeds. The leaves have parallel veins rich in calcium.

The unusual bark pattern and the gray urn-shaped flower buds make the dogwood an attractive winter tree. Its wood is hard and heavy. The dogwood is pretty like Montgomery County and blooms year after year.

Dogwoods grow in woods, parks, yards and along streets in Montgomery County. It blooms during spring. The leaves are green and give shade in summer. The tree has red berries in fall. It is bare in winter, but it looks lovely covered with snow and frost.

The dogwood makes people feel comfortable because it does not harm or hurt people. It gives beauty to parks, yards, and forests in the county. I think dogwood should be the official blossom because of its beauty and feeling of joy.

McKINNEY HOMELESS ASSISTANCE ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. VENTO. Mr. Speaker, today, along with my colleague MIKE LOWRY, a bipartisan coalition of more than 70 other Members of Congress including the majority leader and majority whip, I am introducing legislation to reauthorize the McKinney Homeless Assistance Act.

One doesn't have to look far to see why this legislation is necessary. Millions of our fellow Americans remain homeless—living an American nightmare instead of the American dream.

The homeless crisis has reached critical proportions within the last decade. The future housing prospects for low-income Americans looks even bleaker. The number of poor households is expected to increase by more than 40 percent and the number of low-rent units is expected to shrink from 12.9 to 9.4 million by the year 2003, according to an MIT study.

Federal action is needed now for the reauthorization of the McKinney Act as a crucial step toward solving the homeless crisis.

Homeless families can't live on a treadmill going from one emergency shelter and soup kitchen to the next. This unique legislation is a broad, multi-faceted approach to the problem of homelessness. It will meet the immediate emergency needs as well as deal with some of the chronic problems of the homeless. This 2-year reauthorization measure proposes about $700 million annually to meet the needs of the homeless. In addition to emergency shelter and food, the legislation will provide critical health care, education, job training services and traditional housing for homeless families.

In one short year since the McKinney Act took effect, it has enhanced existing homeless programs and spawned a number of innovative new homeless assistance programs nationwide. It has encouraged communities across America to respond to the tragedy of homelessness with great compassion.

All sectors—public, private, and nonprofit—have participated in efforts to help the individuals and families that have become victims of the housing shelter crisis plaguing our Nation.

Our efforts to assist the homeless have the support of homeless advocacy groups, State and local governments, nonprofit and religious organizations, and the American public.

Sixty-eight percent of American voters support increased funding for Federal aid to the homeless, according to a recent poll. No other economic, military or social program has such support, yet, most other Federal programs receive more funding.

The homeless assistance programs are not a permanent solution to the shelter problems which cause homelessness but a temporary safety net until we can address the growing housing crisis.

Until we can develop workable programs and devote an adequate amount of our resources to assist the homeless and better address the underlying problems causing homelessness, more of our fellow Americans will be faced with the prospect of living on the streets of America.

This reauthorization is a critical first step in maintaining a Federal Committee—a promise—to the homeless. The second crucial step is ensuring that such promised programs receive full funding.

Congressman MIKE LOWRY has worked diligently on that side of the issue. First, by introducing a supplemental appropriation measure to bring this year's funding level in line with the amount authorized by Congress. Second, by ensuring that the 1989 budget resolution reaffirms our commitment to the homeless.

This strong bipartisan support gets the reauthorization of the McKinney Act off to a good start. Now we must work together:

To pass this legislation as soon as possible;

To ensure that full funding is appropriated for these programs;

To insure the funds make their way through Federal agencies and into our communities as soon as possible.

TRIBUTE TO LAWRENCE R. ROGERS, OF WARREN, OH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a man who has made a distinct contribution to both Ohio and the 17th Congressional District. It gives me great pleasure to note that Lawrence R. Rogers, of Warren, OH, will be celebrating his 90th birthday on April 22.

I would like to take this opportunity to commend this man for his years of loyal service to the Knights of Columbus and his nearly 70 years as an active and caring member of the Warren community.

To Mr. Rogers' credit, he is the oldest past State Deputy in the Ohio State Council of the Knights of Columbus having held nearly every office available up to and including the State Deputy's position. In addition to serving as the former navigator of the Bishop McFadden Assembly of Warren and serving as the former grand knight, he was also responsible for founding and reorganizing several local councils.

In respect for this man's years of extraordinary service to both the Knights of Columbus and to our community, I am honored to commend the unselfish and lasting contributions he has made to the people of Warren. We are all proud of him.

STATEMENT OF REPRESENTATIVE MATTHEW G. MARTINEZ BEFORE THE UNITED JEWISH APPEAL OF LOS ANGELES' FOREIGN POLICY FORUM MARCH 6, 1988

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MARTINEZ. Mr. Speaker, I wish to insert for the RECORD a transcript of a speech I made before the United Jewish Appeal of Los Angeles' Foreign Policy Forum on March 6, 1988. First, I would like to start by thanking the United Jewish Appeal for inviting me to share my thoughts on the situation in Israel.

We Americans love convenience and simplicity. When a manufacturer introduces products like microwave popcorn—which I personally happen to love—velcro, frozen pizza or Sony Walkman, Americans snatch them up like hotcakes. Sometimes our desire for an easier and simpler life has permeated the way we look at the world around us. For instance, elected officials in our country use catchy phrases like—"its morning in America"—to get themselves elected. Likewise, the news media analyzes tax reform in approximately the same time it takes to make microwave popcorn.

What elected officials and the news media do not understand, however, is that citizens of our country depend on accurate information and reassuring leadership. Unfortunately, our desire to make life simpler produces incomplete information and demogogic leadership.

The tragic situation in the West Bank and Gaza Strip is a case in point. Everyday our living rooms are flooded with 60 second bytes of pictures of young Palestinians throwing rocks and bottles at heavily armed Israeli soldiers. During these segments, we are told of beatings committed by Israelis upon defiant Palestinians. To keep things simple, this is where the reporting stops. Or even worse, our commentators spell out the perception they are creating by comparing the situation to riots in South Africa.

To our disadvantage, some elected officials have been no better in their reaction to the crisis in the West Bank and the Gaza Strip. Instead of being leaders, they are being followers—followers of the perception that Israel is acting like an authoritarian regime in the treatment of protesting Palestinians. To show their concern, many of my colleagues are making so-called fact finding trips to Israel. A 4-day trip to Israel during the middle of a crisis will not help someone understand the complexities of the situation and will only serve to exacerbate hostilities. People who go on such trips either see and believe what they want to believe or what someone else wants them to see and believe.

Fortunately, there are those of us who have seen through superficial reporting and demogogic leadership. What has helped me understand the situation are my memories of the three trips I have made to Israel during my tenure as a Member of Congress. I particularly remember a discussion I had with the mayor of Bethlehem that epitomizes the perceived view and the genuine condition of Arab/Israeli relations. Before making the trip, I had heard repeated stories in the media of how the Israeli Government had cut off drinking water to a predominantly Arab community in Bethlehem. When I met the mayor of Bethlehem, I asked him how the government could be so unhumane as to cut off something as basic as drinking water. He said that this perception had more to do with the deterioration of a water supply pipeline than a calculated plot to drive the Arabs out of Bethlehem. So much for reporting the whole story.

From my trips, I have come to appreciate the example of democracy Israel has set in the Middle East. That is why I have become so incensed with those who have compared the Gaza uprising to treatment of disenfranchised blacks in South Africa. Unlike South Africa, all citizens have the same rights under the law. Indeed, most of the municipal officials on the West Bank are Arabs who openly support the Palestinian movement. Black elected officials in South Africa would be promptly thrown out of office if they even hinted support for Bishop Desmond Tutu or any other antiapartheid activitist. Additionally, unlike the Arab minority in Israel, the black majority in South Africa has not declared their desire to drive the whites into the ocean.

People in our country should be told that Israel is a nation of conscience. The uprisings in Gaza and the West Bank have divided the Israeli people. Some believe a hard line policy is the only way to deal with the Arabs, while others ardently protest the treatment of Palestinians. This devisiveness should demonstrate to the world that Israelis are wrestling with a problem that tears at their moral fiber. By tackling this dilemma head on, the Israeli people have shown that state policy on the Palistinian issue is not being driven by a small minority or oligarchy of leaders, but rather the citizens of the nation of Israel, a democracy.

In sum, the perception created by our news media and perpetuated by some elected officials ignores 40 years of Israeli history. Since its creation, Israel has been under a state of siege caused by Arab nations bent on her destruction. With the exception of Egypt, none of the Arab nations has ever negotiated an end of hostilities with Israel. By evidence of the Syrian and Jordanian reaction to Secretary of State George Shultz's peace plan, this policy remains in force today.

Having told the story that remains relatively untold in our own country, we should remember that Israel has a serious problem and is in search of solutions. First, we should recognize that some Israeli soldiers have needlessly mistreated Palestinians. Fortunately, the Israeli Government has taken steps to stop this senseless action in the short term. We should also realize, however, that quelling violent riots on a long-term basis is not an easy task. In order to stop violent protesters, human nature dictates the use of assertive force. Tragically, this force has resulted in the injury and death of both Palestinians and Jews. Hopefully, Israeli soldiers will become more accustomed to showing restraint while simultaneously demonstrating assertive force. The Israeli Defense Forces can speed up this skill by teaching new recruits how to humanely deal with violent protesters.

Some in the Israeli Government have suggested that the foreign news media ought to be barred from areas of unrest since their presence encourages Palestinian protesters to pander to journalists. Proponents of barring the media rationalize the proposal by claiming that it would not violate Israel's commitment to a free press since the United States imposed a press blackout during the invasion of Granada. I believe this is flawed reasoning. Our Armed Forces went out of their way to exclude the news media from the invasion of Granada on the pretext of secrecy. I have no problem with the military protecting the element of surprise, but in past actions we have found unrisky ways to accommodate the people's right to know. We have already seen that the media in our country has done a poor job of presenting a balanced picture of the uprisings in Israel. The pictures and newsstories we receive, however, are necessary for us to maintain an awareness of the crisis. More importantly, I cannot think of a better way to illustrate Israel's commitment to democratic values than by permitting open reporting in Gaza and the West Bank during the middle of a crisis.

Israel must also continue to strive for a solution of the Palestinian issue. Like any dark cloud, the uprisings in Gaza and the West Bank could have a silver lining. As a consequence of the uprising, there is renewed interest in facilitating the framework provided by the Camp David accords for solving the Palestinian issue. Although Secretary Shultz has had little success in persuading Jordan and Syria to engage in this process, he must be persistant in this effort. At the very least, both the Israeli and Jordanian Governments have told Secretary Shultz this week that they want him to continue mediate the crisis.

In conclusion, let me say that Israel continues to play an irreplaceable role in the Middle East for the United States. Additionally, if we were true to our pledge of protecting genuine democracies around the world, then Israel must always enjoy the support of the United States. To that end, we Americans must not be misguided by the perception created in the media and elsewhere regarding the recent uprisings while recognizing the serious problems facing Israel. And finally, the United

States Government should search for any angle to initiate a resolution of the Palestinian issue.

Thank you.

CONGRATULATIONS TO MR. SHAWN LAWLOR

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mrs. JOHNSON. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Shawn Lawlor of Washington, CT, on his act of heroism on Thursday, March 3, 1988. In the fiery aftermath of a two-car accident, Mr. Lawlor pulled Mr. August Matula, 81, also of Washington, from his burning car and saved his life. Tragically, Carolyn Matula, his wife, perished on impact and could not be saved.

The crash and ensuing fire occurred when the Matula's 1987 Dodge Aries station wagon struck a car on the eastbound lane of Route 202, then sped into reverse, knocking down two gas pumps, hitting a second car and causing both cars to burst into flames. Both of the other drivers escaped unharmed.

Mr. Matula went into shock immediately after the second impact and was unable to move himself to safety. Mr. Lawlor, who heard the crash, moved his truck and ran to the scene of the accident. He saw Mr. Matula in the car and moved him to safety before the flames engulfed it completely. When questioned as to why he didn't run away from the accident, Mr. Lawlor replied that running away had never occurred to him because he knew there was someone in the car.

In approaching a burning car to save the elderly Mr. Matula's life, Mr. Lawlor acted bravely, for the car might have exploded at any moment. While Mr. Lawlor's act of bravery speaks for itself, I commend his courage and generosity of spirit.

AL POLLARD, CHAIRMAN OF THE BOARD, BROOKS-POLLARD CO.

HON. TOMMY F. ROBINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. ROBINSON. Mr. Speaker, Al Pollard is one of Arkansas' truly Renaissance men. He is currently chairman of the board of the Brooks-Pollard Co., a Little Rock based marketing and advertising agency, with a roster of blue chip clients drawn from Arkansas and throughout the country.

Pollard has developed a regional and national reputation as one of the foremost exponents of applying marketing, advertising, and sales training strategies and tactics to all types of companies' business plans.

He has done work for such well-known companies as Riceland Foods, the Kroger Co., Potlatch Corp., the Arlington Hotel, the American Parquet Flooring Association, the Country's Best Yogurt, Banquet Foods, Treasure Isle, McDonald's, Tyson Foods, and the Arkansas Industrial Development Commission.

He is now in his 53d year of advertising, public relations, and marketing communications. In 1985 he was given a special award for 50 years of advertising pioneering by the Arkansas Advertising Federation.

Pollard is a historical figure for a businessman. He wrote the first State planning overview on Arkansas in 1935 and later developed the master plan for public relations to make the Arkansas River navigable during 1942-43. He worked for over 10 years, from 1955 to 1965 with Winthrop Rockefeller in developing the innovative industrial development marketing program of the AIDC.

Politically, he wrote campaign material for Governor Carl Bailey in 1937, since then has been involved in campaigns for Wilbur Mills, John McClellan, and Winthrop Rockefeller. He has handled over 60 wet-dry elections over the years, supported the State's new constitution in 1970 and then handled the successful mixed drink campaign in 1969 in Pulaski County.

He has an equally impressive civic record. He has served as president of the Little Rock Chamber of Commerce, the Sales & Marketing Executives Association, the Arkansas State Mental Health Association, and the UALR Alumni Association.

He has served as chairman of the Little Rock branch of the Federal Reserve Board, Comprehensive Health Planning Program, and the Arkansas State Council on Economic Education.

In 1986, he was awarded an honorary doctorate from the University of Arkansas at Little Rock. He has served on the board of the State chamber of commerce, the Arkansas State Hospital, and the Arkansas Children's Hospital.

Al Pollard's stamp is on each of these areas: Education, health services, industrial development, the political arena, Arkansas' economic development and history.

In addition to his current responsibilities at Brooks-Pollard, he serves as president of the Arkansas Exporters Roundtable and the Keep Arkansas Beautiful Association and executive director of the American Parquet Flooring Association, and the Arkansas Soft Pine Bureau. He is a trustee of the prestigious International Trade of the Southwest.

He has developed an entire business and human relations philosophy that he calls the S-I System—Self-Interest Dynamics—built simply around the self-interest of others. He is also president and cofounder of the ESP Research Associates, the national leading foundation in the scientific analysis of physic phenomena. In that regard, he coauthored a book with Harold Sherman entitled "Extra Success Potential" dealing with how a person's sixth sense can be developed for use in business. For 37 years he wrote a weekly column in Arkansas Democrat entitled "Life Today."

Al Pollard is the only man in Arkansas to have been awarded both the prestigious Silver Medal from the Advertising Federation and the Distinguished Sales Award for Top Management from the Sales & Marketing Executives Association. He has received Presidential commendation for his current work in export marketing, has been chosen Outstanding University of Arkansas at Little Rock Alumnus and was the Arkansas Democrat's Man of the Year for Little Rock in 1967.

In 1986, Pollard was named "Communicator of the Year" by the Arkansas Chapter of International Association of Business Communicators. He was also bestowed the honorary doctorate of humane letters by the University of Arkansas at Little Rock. Pollard was the only person in the field of advertising and communications to be named to the Arkansas Sesquicentennial Commission's Project Pride, which recognized Arkansans who have contributed to the enhancement of the State or Nation.

Pollard has given countless number of hours counseling young people in our State wanting to enter the field of advertising who have come to him seeking career planning advice.

Business executive, shaper of Arkansas history, civic and professional leader, and philosopher; Al Pollard has truly been a Renaissance man during his 52 years of service to his company and to his State.

TRIBUTE TO DALTON MANSFIELD

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. HUBBARD. Mr. Speaker, I want to pay tribute to a long-time friend of mine, Dalton Mansfield, of my hometown of Mayfield, KY, who died January 3 at Community Hospital in Mayfield.

Dalton Mansfield and his lovely wife, Claudine have been close friends and neighbors of mine ever since 1962. Dalton and Claudine Mansfield have signed my filing papers many times when I filed to seek election as a Kentucky State senator and a U.S. Representative.

Dalton Mansfield was a well-liked, highly respected Mayfieldian. He was a retired employee of the Mayfield Post Office.

Dalton Mansfield was a longtime member of Mayfield's First Christian Church.

In addition to his wife Claudine Wyatt Mansfield, he is survived by a talented and very pretty daughter, Marion M. Parks of Paducah, KY, sister, Rudelle Bolin, Clinton, KY, and two grandsons, John Mansfield Parks and Jason Bennett Parks, both of Paducah.

SOVIETS MUST END DIVIDED SPOUSES' ORDEAL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. SHAW. Mr. Speaker, Dr. Galina Vileshina, who lives in my district in Fort Lauderdale, has been separated from her husband, Pyatras Pakenas, for 8 years by Soviet authorities who refuse to allow Pyatras to leave the Soviet Union. Every day, Pyatras writes to Galina in an effort to lessen the pain of separation. Here are more excerpts from his letters to her, which have been published in the Fort Lauderdale News/Sun Sentinel.

DECEMBER 31, 1987 (New Year's Eve).

My dear, it's only one evening in this year, and I want to talk to you. My beautiful wife, this year for me was the best in the last seven and half years since our separation, because I could see you, and not only see you, but I could hug you and kiss you and have everything * * * But this year, at the same time, it was very difficult. Never was our happiness so close, and because it didn't happen again, that's why I'm suffering now, again. But you and I will know that this, all obstacles, we will overcome. And we will have hope that this year will be the last year in our separation * * *

My love, before we begin the new year, I want to say that I love you more than my life, more than everything valuable in the world, and I will love you all the rest of my life, because without you I cannot imagine my life * * *

I will drink Pepsi for our life, for our love, and then I will go to bed.

JANUARY 18, 1988.

My love, my darling, I have a new week today. Yesterday I went to the cemetery. It was a lot of snow. I brought, like always, fresh carnations. But from last week they still were in good condition because it's a lot of snow. In this weather the cemetery is very nice. The tombstones look so nice that a lot of people that I know, they stop and they talk to me and tell me how good looking our tombs are.

Everybody asked about you and asked me when I will go * * *

LEGISLATION CONCERNING SATELLITE DISHES

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MACKAY. Mr. Speaker, on March 22, Congressman OLIN held a special order on the issue of satellite dishes. Due to the concerns of many of my constituents, and the unfairness of the current situation, I would like to add to the remarks that were made on that day.

H.R. 1885 and H.R. 2848 represent opportunities for Congress to rectify an inconsistency in our free enterprise system. By taking up these bills, Congress can pass legislation that actually helps open up the satellite programming market in a fair and nondiscriminatory manner.

While some may argue that the market will correct itself, I must argue that this problem is such that technology has not only outpaced current legislation, it has outpaced the market system itself. In such a situation, it is up to Congress to make the necessary corrections.

It is important to realize that satellite dish owners are not asking for any special treatment. These people are simply asking for us to put an end to the current discrimination that is being practiced. As my colleagues have stated, the right to purchase goods and services without discrimination is fundamental to our country, and this right must be established for satellite dish owners. Dish owners are not asking for a free ride, they are asking only that they not be charged more than their counterparts in the cable market.

This legislation would permit programmers the right to protect their products and would also ensure that rural dish owners are able to receive programming through an orderly marketing system, at reasonable and equitable rates. While I agree that it is not the job of the Congress to set prices, we do have the duty to see that the system works fairly for everyone.

THE CASE FOR EXTENDING THE AMNESTY DEADLINE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. SCHUMER. Mr. Speaker, legislation is now pending before both Houses of Congress to extend the deadline by which illegal immigrants can apply for amnesty under the Immigration Reform and Control Act of 1986. Recently, in a comprehensive and compelling article, the Washington Monthly outlined the argument for such an extension. I recommend the article to my colleagues.

WHY AMNESTY FAILED—HOW TO MAKE IT WORK FOR ILLEGAL IMMIGRANTS

(By Jason DeParle)

Eva has a problem. She's lived in Chicago for eight years as an illegal immigrant. The new immigration law that took effect last May gives her the chance to shed that illegal status for a work permit and eventual citizenship. But Eva lacks the paper trail she needs to prove her history of U.S. residence. She lacks the hundreds of dollars it would cost her to apply. And she lacks the faith that immigration authorities won't deport her children, who didn't begin arriving from Mexico until 1984, two years after the amnesty cut-off date. "If I give them the names of my children," she says, "they'll take them."

As the year-long legalization program draws to a close, there are hundreds of thousands of Evas: illegal immigrants too poor, confused, or afraid to capitalize on its one-time offer. When the program kicked off last May, immigration officials predicted that between 2 million and 3.9 million people would register. But as March began only a million had come forward, and headcounters have consistently deflated their final prediction, which has now sagged to only 1.35 million. To spur a last-minute surge, sombrero-topped immigration officials have been Texas two-stepping from one photo op to another, broadcasting Spanish jingles and attending burrito bakes. They've even begun placing flyers in the bags of tortillas sold in grocery stores, urging people to apply. But all the salsa in San Diego won't coax forth the number of illegals the law was intended to help.

Rep. Charles Schumer wants to buy more time and has asked Congress to extend the deadline for a year. But judged by the contentiousness that accompanied the original act, that may be a hard sell. Congress spent five years cussing over what finally passed in 1986 as the Simpson-Rodino act. The legislation, which passed the House by seven slim votes, tread a narrow path between warring camps. It promised to get tough on new border-crossers by fining employers who hire them. At the same time, it promised to ease up on those who arrived before 1982 by offering legal status. The effort to extend the deadline is made even more difficult by the opposition of Sen. Alan Simpson, the act's cosponsor and a pivotal immigration player.

Supporters of the Schumer extension argue that an extra year's time could coax forth another 400,000 people from the shadows of illegal life. It's not just a humanitarian move on behalf of an easily exploited population, they say, but one essential to a healthy democracy. Illegal aliens are afraid to report crimes or fires. They're afraid to seek treatment for diseases. The persistence of a vulnerable subclass hurts us all. You know the retort: We gave them their chance; if they haven't registered by now, that's their problem. "Instead of being thanked for an act of beneficence, we're hearing the whining of the ungrateful," said Patrick Burns of the Federation of American Immigration Reform, to The New York Times.

What, in fact, is the problem? Across the globe, from Krakow to Krakatowa, the victims of poverty and oppression, numbering hundreds of millions, long to live in the U.S. What keeps hundreds of thousands inside our own borders from stepping forward to fulfill the promise that brought them here in the first place?

Here's the answer:

PUBLICITY

The first key to a successful legalization program is spreading the word. Or spreading lots of words, not just in Spanish but in Creole, Polish, Tagalog, Urdu, Chinese and dozens of other languages. As its wordspreaders, the Immigration and Naturalization Service chose The Justice Group, a consortium of three California public relations firms that bid $10.7 million to do the job. But by almost all accounts, the publicity has failed. "Seriously inadequate . . . a major program deficiency," is what Doris Meissner, a former INS acting commissioner, called it in a report with Demetrios Papademetriou for the Carnegie Endowment for International Peace. "I don't think anybody thinks the INS effort has been enough," said Elizabeth Bogen, who directs the Office of Immigrant Affairs for the City of New York. In private conversation, INS officials in field offices share that assessment.

The campaign has consisted mostly of ads in newspapers and on radio and TV broadcasts, in as many as 36 different languages. As a result, virtually all illegal immigrants know an amnesty program exists. What many don't know is who qualifies, or how to apply, or whom to trust. For those details to spread, the campaign needed to take a more grassroots approach, utilizing church bulletins, hotlines, newsletters, and networks of ethnic groups. Ironically, that was the conclusion of The Justice Group itself in its original proposal. The task "calls for much more than mass media approaches," it said, promising an additional "outreach effort" that ethnic groups say hardly materialized. "There's been a lack of trustworthy information," said Hernando Caicedo of the Mission San Juan, a Washington group that helps illegal aliens apply. "A lot travels by word of mouth."

To pick up the slack, a smorgasbord of ethnic groups, churches, local governments and other groups have attempted their own publicity campaigns. The Archdiocese of New York is distributing flyers in parochial schools and printing notices in church bulletins. Volunteers in a city-run service program are canvassing ethnic neighborhoods in Brooklyn, Manhattan, and Queens posting notices in laundromats and grocery stores and broadcasting with sound trucks. After a sweep of the city's Dominican-dominated Washington Heights, applications in nearby immigration offices doubled. Similarly, when the archdiocese of Chicago held an information day, 500 people showed up. "That shows that there are a lot of people out there who still haven't gotten the word," said Cecilia Munoz, who heads the diocese's amnesty efforts.

Individually, some INS field personnel have taken on their own energetic campaigns. They've appeared on radio shows, delivered green cards in hospital wards, and sent valentines to elderly applicants. They even split an 18-foot burrito with undocumented farm workers. One of the most noteworthy efforts has been that of Harold Ezell, the western regional commissioner. A former executive at Wienerschnitzel International, Inc., a hot dog company, Ezell once made headlines with his prescription for illegal immigrants: "catch 'em, clean'em, and fry'em." But the New Ezell has taken to donning sombreros at Hispanic boxing matches, and riding in the Chinese New Year parade. In January, The Justice Group launched a campaign that more closely resembles the grassroots efforts of private groups. It's getting good reviews, but too late to create the kind of awareness originally desired.

FEAR

From the start, INS officials faced a formidable challenge: to transform their image, Houdini-like, from a bureaucracy of feared cops to one of helpful paper pushers at neighborhood amnesty offices. By definition, the immigrants eligible for this program had spent at least five years hiding from the INS. Now they were being asked to stroll forward into the enemy's lair and commit name, address, and phone number to paper.

To soothe the fears, the INS opened 107 new offices that only process applications for amnesty; this keeps applicants from having to deal with the same agents who may have been trying to deport them. In addtion, the agency deputized more than 900 church and community groups, awkwardly dubbed Qualified Designated Entities, to help illegals prepare their applications. So immigrants who don't want to walk straight into the INS can ready their paperworrk instead at places like the Ethiopian Community Center or Hispanos Unidos de Virginia. Furthermore, Congress declared all the information in amnesty applications confidential, forbidding the INS from using it for deportaton purposes. The INS has followed that rule and, by most accounts, made a food-faith effort to don the sheep's clothing. "They deserve some praise for the general tone of their approach," said Charles Kamasaki of La Raza, a national Hispanic lobby.

For all that, Osmin Martinez had doubts—about nine months' worth of them. Despite a spring, summer, and fall of TV and newspaper ads touting the program, Martinez, a 30-year-old native of El Salvador, waited until February to apply. "I didn't want to try to arrange it because they might arrest me," he said. It comes as no surprise that Martinez's fears are widely shared. "They don't want Immigration to know where they are," said Mary Mercado, director of the Spanish Catholic Center in Washington. "They don't believe [the program] is true."

FAMILY UNITY

Illegal immigration typically occurs in stages. Husband or wife arrives first, finds a job and home. Later, with that beachhead established, the rest of the family follows. The U.S. has always recognized family unity as a key provision in immigration law, and we endorse it in international forums like the Helsinki accords. But the amnesty law, which requires each member of a family to qualify on his or her own, is silent on the question of spouses and children. Since applications, which list family members, are confidential, that doesn't mean children and spouses *will* be deported. But it does mean there are no guarantees of protection should the INS find them.

Congress should have offered more explicit protections to immediate family members and has turned down subsequent legislation that would have done so. But the INS is also to blame. The agency has considerable discretionary powers that it could use to soothe immigrant fears. One way to do that would have been to offer spouses and children a type of limbo status called "extended voluntary departure," a neither-here-nor-there arrangement that forestalls deportation proceedings.

Instead, the agency fed the applicants' fears for six months by sending out contradictory signals. Some field directors promised leniency; others said they were awaiting word from Washington. In October, the INS finally promised not to deport children younger than 18, but only if both parents qualified for amnesty. What if only the wife qualified? Would it deport the husband? The children? The INS said it would take up those questions on a case-by-case basis, using its discretion where unspecified "compelling humanitarian factors" warrant it.

What that might mean in the tangled instance of Eva, the Mexican woman in Chicago, is unclear. Since she arrived in 1980 before the cutoff, she is eligible for amnesty. So is the child she brought with her as a month-old baby. Her other children, who joined her in 1984 and 1985, are not eligible. But *their* children, Eva's grandchildren, are already U.S. citizens, since they were born here.

Family unity is perhaps the most bitterly contested aspect of the legalization program. Immigration officials like to downplay it, arguing that it affects few families. And they rightly point out that no family members have yet been deported. But volunteers on the front lines say it's the psychology that counts, with applicants unwilling to risk exposing husbands, wives, or children. A survey in Los Angeles found that 30 percent of those who attended an amnesty information program said they failed to file applications due to fears about ineligible family members. "It's an unbelievably big problem," said Munoz, the Chicago amnesty worker. "People are afraid to come forward because of what might happen to their children."

DOCUMENTATION

To qualify for amnesty, an illegal alien must be able to prove that he or she has lived in the U.S. continually since 1982. They can prove it in lots of ways: with utility receipts, letters to a U.S. address, tax returns, union cards, drivers licenses, report cards, or sworn statements from priests, employers, or neighbors. A California woman even submitted a winning receipt from a Las Vegas slot machine. There are no codified standards of how much proof must be offered. Individual INS officers make their own judgments. But despite the government's flexibility, producing the proof is often the toughest task an applicant faces. Illegal immigrants, by nature, avoid paper trails.

"I just don't have the proof," said Ovel Salguedo, who says he came to the U.S. from El Salvador in 1980. Shortly after arriving, Salguedo began washing dishes in a Greek restaurant, where his brother had been working since the previous year. Juan Salguedo, who kept his pay stubs, applied for amnesty and received a temporary work permit in June. But Ovel, who didn't keep his papers, is still searching for the owner of the restaurant which closed in 1983.

A number of immigrants have found their employers reluctant to acknowledge their past labors. Many were paid in cash, or at rates below the minimum wage. Though the INS guarantees confidentiality, it's no surprise that business men who have been cheating the government out of payroll and Social Security taxes run the opposite direction when asked to sign statements.

The Dallas Times Herald told the story of an Austin restaurant owner who responded to a request for documentation by throwing a roll of toilet paper at his former employee. "Here's the paper you wanted," he said. (By contrast, in an admirable act of corporate responsibility, Levi Strauss loans up to $1,000 to employees wishing to apply for amnesty.) Perversely, it is the immigrants who are exploited the worst—agricultural workers and maids—who often have the toughest time getting former employers to own up. Workers who've been paid in cash may themselves hesitate to come forward since the law requires that they pay back taxes.

For applicants who have moved, the need to gather documents may require long, expensive trips. Felipe, a 35-year-old machinist, settled in Chicago when he first arrived from Mexico in 1978. He moved to Texas in 1986. Although he made a trip back to Chicago to collect rent receipts and contact former employers, he has yet to receive all the paper they promised to send. "We have a lot of cases that have come from California," said Gilbert Jezbera, a legalization worker for the diocese of El Paso. "Witnesses move, neighbors move. It's hard to get proof."

Nearly half of the immigration lawyers and amnesty workers who answered a nationwide poll by the Dallas Times Herald listed documentation problems as the most common reason that eligible immigrants don't apply.

MONEY

For the Mexicans, Salvadorans, Poles, Filipinos, Sierra Leoneans, Jamaicans and countless others fleeing the repression or poverty of their homelands, the offer of U.S. citizenship may be a hell of a good deal. Still, it isn't free.

Congress required the program to pay for itself. The INS, divvying up the estimated cost of more than 100 new offices and thousands of new employees, charges $185 per person, up to a maximum of $420 a family. Tack on $50 to $100 per person for an AIDS test. Tack on another $75 or so for applicants going through a neighborhood QDE. Tack on from $500 to $1,000, or more, for those who retain an attorney. Not to mention time away from work or the cost of cross-country Greyhound trips in search of five-year-old rent receipts. Though most illegal immigrants work, the costs can still be prohibitive.

Osmin Martinez, a Salvadoran immigrant, has worked in six different restaurants since he arrived in Washington in 1979. He said that his efforts to get written proof cost him more than two weeks of lost work time. "In some of them, they said we don't have anything," he said. "Others, they told me to come back another day, the secretary wasn't there. I thought it was like it would wreck the restaurant to get papers." Though he neither traveled beyond Washington nor hired a lawyer, Martinez estimates that with lost wages his application cost about $1,500.

Where there's need, there's greed. With several million potential clients, instant amnesty offices have sprouted across the country, in such unlikely locations as the back rooms of shoe stores, groceries, and travel agencies. The Los Angeles Times found travel agents in Polish neighborhoods of Chicago who charged $500 simply to fill out the four-page application. An off-duty Miami cop was charging up to $1,200 for Cuban and Haitian couples. In August, investigators who raided the El Norte Company of El Paso found it had done no work at all on most of its 1,500 cases.

REGULATIONS

When the amnesty program began, applicants convicted of drunk driving in Texas were considered ineligible. So were people who had left the country and returned on legal visas. Immigrants with children in foster care couldn't be sure.

Just who qualifies and how has been a matter of confusing and consistent change. Congress laid down the general rules and left the INS to write the fine print, which has been the subject of lawsuits ever since. The INS circulated the proposed regulations in January 1987, even before they were published in the Federal Register, to allow extra time for review and challenge. But the wrangling inside the INS bureaucracy and in the courts is still going on. "A lot of people are confused," said Mary McClymont of the U.S. Catholic Conference. "They know there's a program, but they don't know they qualify. They're self-selecting out."

A particularly important debate focuses on the phrase "known to the government." At stake are the applications of tens of thousands of immigrants. Many of them are former students, who entered the U.S. on a visa valid for as long as they remained enrolled in school. Those who dropped one without leaving the country or securing a new visa become illegal aliens. But they are eligible for amnesty only if their legal breach became known to the government.

The problem is that no one is quite sure what "known to the government" means. Attorneys for the illegal aliens argue it means any government agency—the Social Security Administration, say, or the Internal Revenue Service. The INS, on the other hand, argues "known to the government" means known to the INS. And since the INS is typically the last place an illegal immigrant will spread the news of an invalid visa, that eliminates a lot of applications. A federal district court in Dallas last fall ruled the INS interpretation too narrow. But that decision applies to the Dallas district only, and similar suits are pending throughout the country.

PROCESSING

Probably the best advertisement the INS could post would be hordes of successful alumni. The skeptic disinclined to believe the radio ads or tortilla bags might listen up if he sees his neighbor or brother-in-law walking around with a green-striped 1-688 work permit in his pocket.

The 107 INS offices sought a quick turnaround, but some of the original applications took more than six months to process. The four regional processing centers have turned into bottlenecks, with computer problems and lost files slowing decisions to a trickle. In Chicago, only 12 percent of the 65,000 who applied by mid-January had received word of the INS's final ruling. These delays have kept the good news from filtering back into the community. (And with approval rates of about 97 percent, there was a lot of good news to spread.) Too many potential applicants still have a wait-and-see attitude.

Yeah, yeah, and the ozone layer's leaking too, you say—so what? While a failing amnesty program may not rank at the top of the world's ills, unlike many others, it's one we can fix. First thing to do is extend the deadline to apply. The year-long deadline was arbitrary in the first place. Agricultural workers get 18 months; special classes of Haitians and Cubans get two years. Congress should simply accept that immigrant fears ran deeper and the government program ran slower than we all hoped and give it some more time. What's there to lose?

Next, fix what's gone wrong. For those worried about their family members, that's easy: promise not to deport them. For those who lack the money, defer the application fee. Let applicants pay it off gradually. The documentation problem is a bit tougher but still solvable. Work harder to convince employers they won't be penalized for signing affidavits. Liberalize the burden of proof—requiring, say, a document per year, rather than one every three or six months. (That loosening could be accompanied by higher penalties for fraud.) Most of all, continue to hit the streets with sound trucks, church flyers, and door knockers. Keep the sombreroed INS officials out there holding burrito bakes. The kind of campaign that should have started a year ago finally seems to be working.

The employer sanctions that accompanied the amnesty bill have already made Eva's life tougher. Faced with potential fines, her employer asked to see her work permit. Without one, she lost her job last fall. Her problem might not be as bad as those of the friends and family she left behind in Mexico, but it's easier to address. a better world gets built a step at a time. Write your congressman today. (And send a copy to Senator Alan Simpson, 260 Dirksen Bldg., Washington, D.C. 20510)

THE PROCLAMATION OF PERSONHOOD

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. DORNAN of California. Mr. Speaker, today I, along with 25 of our colleagues, introduced the Declaration of Citizenship Act, which would enact into law President Reagan's January 19, 1988, Proclamation of Personhood.

This legislation, together with the President's proclamation, would set aside the major Supreme Court objection in Roe against Wade. The Court said that it could not decide who or what a person was under the Constitution because there was no legislative history to base a decision. In essence the Court ruled that Congress must decide whether or not the preborn are persons under the 5th, 13th, and 14th amendments.

Congressional authority to make this determination is inherent to our Constitutional authority to legislate. Former Representative John Bingham of Ohio, who was on the committee which drafted the 14th amendment, made this very point during deliberations in 1866. While the 13th and 14th amendments were pending ratification, Representative Bingham stated:

> [T]he highest right which pertains to man or citizen, life, has never yet been protected, and is not now protected, in any State of the Union by the statute law of the States * * * And this results from the accepted construction that this Government has not the power by law to enforce in the States this guarantee of life.

Indeed, under the 14th amendment, Congress extended the rights of citizenship to all persons born or naturalized in the United States. Furthermore, under the 13th amendment, not only was slavery abolished, but Congress reserved to itself the right to directly act to prohibit slavery and similar circumstances where persons were treated as "property."

President Lincoln, in his first inaugural address said:

> I do not forget that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding * * *. At the same time, the candid citizen must confess that if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers.

President Lincoln's statement is important to bear in mind. In April 1862 the Congress abolished slavery in the District of Columbia, and in June 1862 the Congress abolished slavery in all the territories. Thus, the Republican Congress directly repudiated the Supreme Court in Dred Scott on two grounds: First that its decisions are final and must prevail over the national legislature, and second, on the point of slavery in the territories. Before Lincoln issued his famous Emancipation Proclamation on September 22, 1862, the Congress struck at the heart of slavery by providing in the Confiscation Act of July 1862, that all slaves of persons engaged in rebellion or in giving aid for such, who should be captured or should escape to Union lines "Shall be deemed captives of war, and shall be forever free of their servitude, and not again held as slaves. . . . " All this before the 13th and 14th amendments.

Congress has, by statute, the constitutional authority to protect all Americans, including the preborn children. But do we have the will? The blood of these 21 million slain innocents will not allow the convenient cloak of feigned legislative impotence of Congress to go unrequited forever. Please join with me and save the lives of the millions of future Americans who might otherwise perish.

PROPOSED AMERICAN BAR ASSOCIATION RESOLUTION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. CLEMENT. Mr. Speaker, later this summer, the American Bar Association will meet in annual convention to consider many issues and resolutions. One of those resolutions will be offered by Owen Meredith Smaw, a resident of the Fifth Congressional District.

Mr. Smaw has asked me to share his proposed resolution with the legal community at large and I am happy to do so.

AMERICAN BAR ASSOCIATION ASSEMBLY RESOLUTION TO BE OFFERED BY OWEN MEREDITH SMAW, NASHVILLE, TN

RESOLUTION TO OPPOSE THE DEATH PENALTY INTERNATIONALLY

Whereas, the Campaign for United Nations Reform will, of necessity, address expanding the advisory jurisdiction of the Intenational Court of Justice; and the Berlin World Conference of the World Peace Through Law Center dealt with advisory opinions and with increasing the use of the Court for this purpose; and

Whereas, a resolution was considered in Berlin in July, 1985, calling upon the International Court of Justice to render an advisory opinion holding that modern sources of international law—the Universal Declaration of Human Rights, inter alia—forbid capital punishment, and

Whereas, the International Magna Carta of all mankind, as Eleanor Roosevelt called the Universal Declaration of Human Rights, provides in Article 3: "Everyone has the right to life," and

Whereas, article 38 of the Statute of the International Court of Justice provides: "The Court * * * shall apply * * * the general principles of law recognized by civilized nations," and

Whereas, civilized nations agree that genocide—the systematic destruction of a group of human beings—outrages the conscience of mankind, and violates the general principles of law recognized by civilized nations, and

Whereas, over 1,800 men, women, and juveniles in the United States of America who have been sentenced to death are victims of a modern-day form of genocide,

Now, therefore, be it resolved, that the American Bar Association opposes the death penalty internationally, and calls upon the International Court of Justice, to render an Advisory Opinion forbidding capital punishment, and to issue an injunction against the carrying out of any executions in any political subdivision of the United States.

AMERICAN BAR ASSOCIATION, SECTION OF INTERNATIONAL LAW AND PRACTICE, SECTION OF CRIMINAL JUSTICE, REPORT TO THE ASSEMBLY

RECOMMENDATION

It is recommended, that the "Resolution to Oppose the Death Penalty Internationally" in its present form not be adopted by the Assembly of the American Bar Association, and that the subject should be further studied by appropriate Sections of the Association.

REPORT

At the 1987 Annual Meeting, a "Resolution to Oppose the Death Penalty Internationally" was introduced before the ABA Assembly by Dr. Owen Meredith Smaw of Nashville, Tennessee, and in turn referred to the Sections of International Law and Practice and of Criminal Justice for comment. (A copy of that resolution is attached hereto.)

The preamble to the Resolution sets forth two principal bases for the Resolution: first, that "modern sources of international law—the Universal Declaration of Human Rights, inter alia—forbid capital punishment;" and, second, that criminal defendants who have been sentenced to death in the United States "are victims of a modern-day form of genocide." The Resolution itself states as follows:

Now, therefore, be it resolved, that the American Bar Association opposes the death penalty internationally, and calls upon the International Court of Justice to render an Advisory Opinion forbidding capital punishment, and to issue an injunction against the carrying out of any executions in any political subdivision of the United States.

The two substantive premises on which the Resolution is based are in error. First, capital punishment does not violate either customary or conventional international law. Second, the imposition of the death penalty in the United States does not constitute genocide. Further, the Resolution is procedurally flawed because the American Bar Association lacks standing to request an advisory opinion from the International Court of Justice.

That customary international law does not prohibit capital punishment may be shown by reference to the death sentences meted out by the International Military Tribunal following World War II. Of the 22 defendants, twelve were sentenced to death for war crimes and/or crimes against humanity. *See* Judgment of the International Military Tribunal, Nuremberg, Germany, 1946, reprinted in 41 Am. J. Int'l L. 172 (1947). *Accord* Judgment of the Tokyo Tribunal; *cf.* Application of Yamashita, 327 U.S. 1 (1946). In addition, U.S. military courts in Munich conducted nearly five hundred war crimes trials and sentenced to death 258 out of the 1,347 defendants convicted. Lippert, "The Eichmann Case and the Nuremberg Trials," 48 A.B.A.J. 738 (1962).

Conventional international law does not prohibit the death penalty. The Universal Declaration of Human Rights, G.A. Res. 217 (1948), which is cited by the Resolution, does not address the death penalty at all. By contrast, three major human rights conventions expressly permit it.

First, Article 6 of the International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (1967), specifically recognizes that capital punishment is permissible ("sentence of death may be imposed * * * for the most serious crimes").

Second, capital punishment is permitted by Article 4(2) of the American Convention on Human Rights, 9 I.L.M. 101 (1970) (the death penalty "may be imposed * * * for the most serious crimes"). Recently, the Inter-American Court of Human Rights rendered an advisory opinion with regard to questions relating to the interpretation of provisions in the American Convention on Human Rights concerning the death penalty. While the advisory opinion concluded that, under the terms of the Convention, the government of a state party cannot apply the death penalty to crimes for which such a penalty was not previously provided for under its domestic law, the court stated that "the Convention does not abolish the death penalty." Advisory Opinion OC-3/83 of September 8, 1983, 23 I.L.M. 320, 339.

Third, the death penalty is permitted by Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 221 (1950) ("[n]o one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law"). It should be noted that a protocol to the European Convention has been added which makes abolition of the dealth penalty into a legal obligation for the contracting parties except in respect of acts committed in time of war or of imminent threat of war. *See* Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Dealth Penalty (done at Strasbourg, April 28, 1983), 22 I.L.M. 539. However, only eight states have ratified the protocol as of 1987.

Nor is there merit to the assertion in the Resolution's preamble that U.S. prisoners currently under sentence of death are "victims of a modern-day form of genocide." The acts deemed by the world community to constitute the international crime of genocide are clearly set forth in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277. The essence of that convention, to which the U.S. Senate gave its advice and consent on February 19, 1986, is the killing of members of "a national, ethnical, racial, or religious group" with "intent to destroy, in whole or in part," that group. There is no basis whatsoever for believing that any U.S. prisoner has been sentenced by a court with such an intent. Cf. *McCleskey v. Kemp*, 481 U.S. , 95 L. Ed. 2d 262 (1987) (detailed statistical study of Georgia death sentencing practices did not support an inference that the State and its decisionmakers acted with discriminatory purpose in violation of the equal protection clause of the 14th Amendment).

Finally, there is a procedural bar to the American Bar Association's calling upon the International Court of Justice to render an advisory opinion, as proposed by the Resolution. Under Article 96 of the Charter of the United Nations, 59 Stat. 1031, T.S. 993, advisory opinions may only be requested by the U.N. General Assembly or the Security Council or by certain U.N. organs and specialized agencies (on legal questions arising within the scope of their activities).

The American Bar Association has previously taken the position that the death penalty should not be imposed on juveniles under the age of 18. American Bar Association, Report with Recommendation to the House of Delegates, Report No. 117A, August, 1983. However, the American Bar Association has never taken a position in opposition to the death penalty itself. Because international law does not prohibit capital punishment, the Assembly should not adopt the proposed Resolution, however, in view of recent developments in Europe and elsewhere, such as the adoption of Protocol No. 6 to the European Convention by several states, the issue of capital punishment should be further studied by the appropriate Sections of the American Bar Association.

Respectfully submitted,
JOHN M. GREACEN,
Chairman, Section of Criminal Justice.
JOSEPH P. GRIFFIN,
Chairman, Section of International Law and Practice.
August, 1988.

CAMP HILL CIVIC CLUB

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. GOODLING. Mr. Speaker, I would like to take a few minutes to congratulate the Camp Hill Civic Club which will be celebrating its 75th anniversary on April 13, 1988.

The Camp Hill Civic Club was founded on April 13, 1913 by 33 women who organized themselves "to promote the improvement of Camp Hill sanitation, education, beauty and other conditions which shall conduce to the health, morality, happiness and general good citizenship of its people."

In May 1913 the first projects of the club were initiated which included: ridding the streets of pigs running loose; purchasing waste cans and placing them around town; suggesting that the streets be named, houses numbered and trees planted; and organizing the Boy Scouts, the Girl Scouts and the Girls Camp Fire Club.

In the years that followed, the Camp Hill Civic Club contributed financially to many philanthropic projects and organizations such as: the West Shore Public Library, the Camp Hill Fire Company, the William Penn Memorial Museum, the Hospice of Central Pennsylvania, Meals on Wheels, and awards to seniors of the Camp Hill High School.

Members of the Camp Hill Civic Club have contributed greatly to the growth and well-being of Camp Hill. I am very proud of the many fine accomplishments of the Camp Hill Civic Club and wish them many years of continued community involvement in Camp Hill, PA.

HENRY HYDE'S SPEECH ON LEAKS AND CONGRESSIONAL OVERSIGHT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. MICHEL. Mr. Speaker, on Wednesday, March 30, 1988, my distinguished Illinois colleague and our good friend, HENRY HYDE, delivered a speech before a conference cosponsored by the American Bar Association Standing Committee on Law and National Security, the George Mason University School of Law, the Student Bar Association, and the International Law Society. I want to insert Mr. HYDE'S remarks in the RECORD at this point because I believe what he has to say about "'Leaks' and Congressional Oversight" reflects his usual good judgment, common sense, and uncommon wisdom.

"LEAKS" AND CONGRESSIONAL OVERSIGHT

(By Henry J. Hyde)

The grave effects of unauthorized disclosures upon U.S. intelligence and our foreign policy is a problem we had better begin thinking about with some urgency.

The seriousness and universality of "leaks" are obvious. Yet many continue to maintain there's no "proof" that Congress leaks or that it leaks significantly. And, even when acknowledging problems in the executive branch or Congress, powerful legislative figures habitually object to virtually every initiative for investigating and punishing these occurrences, while failing to offer alternative solutions. My proposal for a Joint Intelligence Committee, which would replace the existing two House and Senate committees and reduce the number of Members and staff with access to intelligence information, has been resisted since 1984, when I first introduced the idea. Other suggestions, e.g., increasing use of the polygraph for investigative purposes, strengthening and nondisclosure agreements and legal action against disclosers or the media, are branded as paranoia and violations of first amendment rights. But the critics never offer a better solution, and most seem content to drift with the tide—or, more accurately, the tidal wave.

If the Iran/Contra affair had one salutary effect, it was to highlight policymakers' fear of leaks and distrust of congressional discretion, and to expose dramatically the destructive effects this can have. Maximum compartmentalization within the executive branch and failure to notify Congress of the Iran initiative invited judgmental errors and courted political disaster. These steps were taken out of determination to explore a policy option considered potentially promising only if, by avoiding normal procedures, it could be kept secret. An unanswered question is how many times the opposite happens—how many times are innovative approaches to difficult foreign policy problems rejected or not even considered because their success depends upon a secrecy which probably could not be maintained?

Regardless of claims that Congress must be considered innocent until proven guilty of security lapses, damage to the oversight process occurred as soon as a widespread perception developed that the legislative branch could not be trusted. This perception has seriously affected executive branch cooperation with intelligence oversight committees. A similar attitude is harbored by allied intelligence services who decide whether to trade information with U.S. intelligence, what quality of information they will provide and whether they will actively cooperate with us in other ways. In testifying against proposals for mandatory and more detailed prior notifications to Congressional Intelligence Committees, Secretary of Defense Frank Carlucci, who formerly was a Deputy Director of Central Intelligence under President Carter and more recently served as President Reagan's National Security Adviser, stated that foreign governments cooperating on special activities are wary because they don't trust Congress to keep secrets:[1]

"'It is a matter of perceptions,' said Mr. Carlucci. 'Other Governments are extraordinarily sensitive on this point * * *.'"

"If our intelligence assets around the world, particularly cooperating organizations, perceive that the CIA is obliged to disgorge whatever the [Intelligence Committees] may want, then it is very clear based on my experience that our intelligence assets would dry up."

Carlucci said he knew of "numerous" occasions when foreign goverments had said they would not share information if CIA provided it to Congress.[2]

Congressmen by nature have strong political views, cater to and depend on the press, and are not imbued with the security habits of intelligence professionals. Thus, they naturally fall under suspicion. And let's not forget that congressional oversight in the aftermath of Vietnam and Watergate strained relations between Congress and the intelligence community almost to the breaking point. Ex-CIA Director Colby recalls in his memoirs that every new covert action disclosed to Congress in 1975 was leaked, "And the 'covert' part of CIA's covert action seemed almost gone."[3] The notorious laxity of the Church and Pike investigations tainted the more rigorous Intelligence Committees which took their place.

No less a journalistic authority on leaks than Daniel Schorr noted in a Washington Post article[4] "* * * that it has never been suggested that a Member of Congress could be disciplined other than by Congress itself. This is relevant because (I don't think that I am baring any great journalistic secrets) the exposure of covert intelligence questions is frequently a form of congressional whistleblowing. A leak often occurs when a clandestime plan runs into substantial opposition during a briefing for congressional committees." Schorr went on to cite a number of specific examples involving reported congressional leaks of information on Angola, Chile, Nicaragua, El Salvador, and Libya.

Recently, there have been several known and serious disclosures on each of the Oversight Committees. Those who nonetheless continue categorically to defend the committees' records apparently depend upon congressional courtesy to forestall a "name names" rebuttal. In the congressional Select Committees' final report on the Iran-Contra affair, the minority report devoted a chapter to the need to patch leaks.[5] It pointed out the early history of problems with unauthorized disclosures in Congress and gave more recent examples of alleged congressional leaks published in other sources, including use of the threat of disclosure by several individuals in order to block executive branch actions of which they disapproved. That the majority report didn't consider leaks a fundamental issue is in itself a real measure of the problem.

From the outset of the congressional Iran-Contra probe, there was a steady stream of leaks. Interestingly, House Chairman Lee Hamilton and his Senate counterpart, Daniel Inouye, followed their best instincts on how to keep secrets when it came time to depose admiral Poindexter. As the minority report observes:

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[1] Bill Gertz, "Carlucci: Cohen Bill Will Plug CIA Sources," Washington Times, Dec. 17, 1987.

[2] Bob Woodward and Walter Pincus, "Carlucci Warns of Veto on Covert-Action Notice," Washington Post, Dec. 17, 1987.

[3] William Colby, "Honorable Men" (1978), p. 423.

[4] Daniel Schorr, "Cloak and Dagger Relics," Washington Post, Nov. 14, 1985, A23.

[5] "Report of the Congressional Committees Investigating the Iran-Contra Affair" (Washington, DC: GPO, 1987), pp. 575–79.

"The two Select Committees recognized that the Admiral's testimony on the diversion of funds was the pivotal, and potentially most explosive political question of this whole investigation. As a result, extraordinary steps were taken to protect the information. Specifically, only three staff attorneys and no members of either committee participated in the secret questioning. The success of these procedures speaks volumes on how to protect secrets."[6]

Officially "proven" sourcing of leaks on the Hill or elsewhere, however, is extremely rare. Only a handful of leaks ever have been traced through investigation to the culpable individual, so lack of proof hardly establishes that Congress has a good record.

A Senate intelligence committee study released to the press reportedly found that in selected leaks of classified information, journalists referenced congressional sources only 8-9% of the time, but cited Reagan administration officials 66% of the time. This research methodology is suspect, since journalists are alleged frequently to protect their most vulnerable sources, and persons on the intelligence oversight committees would in many cases be particularly exposed by virtue of being the only knowledgeable "congressional" sources. Let us take the Senate study at face value, however, and also generously assume that Congress has 2,500 people with clearances as opposed to 2.2 million in the executive branch and military. Reliance on the Senate study forces us to conclude that Congress maintains just over 0.1% the number of executive branch clearances, but is responsible for 8-9% of the leaks on national security issues. Specifically, on average, a cleared person in Congress is 60 times more likely than his counterparts elsewhere to engage in unauthorized disclosures.

Evidence that news leaks quite commonly originate on the Hill also was developed in a summer 1987 survey among the readership of the periodical, American Politics. The journal, circulated almost entirely within the Washington area, asked its readership to respond to a wide-ranging poll which included the question, "Have you ever leaked information to the news media?" over 900 persons, considered to be a reliable cross-section of the readership, responded. Results on the leak question were considered so dramatic that they were published early and separately, in an August 1987 article entitled "Leak City."[7] More than one in four persons—over 28%—conceded at some time having shared a secret with the media. Capitol Hill staffers, sporting a 31% rating, were higher than average. But they were pikers compared to the "politician" category, alone at the pinnacle of the chart, in which 62% of 16 respondents admitted to having leaked information. This contrasted with 23% in the "Federal employees" category. Media information sources tended to have higher salary and educational levels. Contrary to some recent accusations, conservatives were found to leak less than liberals and moderates. And, in delicious irony, leakers named journalists as the group they trusted the least. (Among respondents as a whole, "politicians" had a slight edge over journalists in competition for this award.)

The situation has been allowed to deteriorate so far that the task of changing this permissive culture is now monumental. Success will come very slowly indeed, and will result only from a persistent and aggressive attack across a broad front, in both Congress and the executive branch.

One option is stricter security procedures and increased compartmentalization. Capitol Hill is very quick to claim this is the preferred solution for the executive branch problems, thereby avoiding the need to grapple with difficult civil and press liberties issues. But Congress is loathe to apply this option to its own operations by consolidating its oversight into one joint committee. However, consolidation and compartmentalization is a far more promising option for the congressional Intelligence Committees than for policy agencies. Effective congressional oversight doesn't require Intelligence Committees with 32 (plus 4 ex-officio) members and 55-plus staff. Moreover, additional staff, as well as 31 Senators and Congressmen serving on the Defense Appropriations Subcommittees in both Houses of Congress, also have access to extremely sensitive intelligence. Altogether, therefore, 67 Members of Congress are in the "loop" for such information.

For the policy agencies, who already have cut back on access to classified material, further restrictions on the dissemination of information may be helpful in some cases. But if compartmentalization is not carefully applied, the additional advantages could be limited and the drawbacks serious. Already there is concern that the most sensitive intelligence goes only to top policymakers who are too busy to read or act upon it. Analysts who are supposed to make sense of collected intelligence cannot do their job if pertinent information is withheld from them. Finished intelligence analyses, in turn, are less useful if they are not distributed to those with an interest in the subject. If policy action is considered or attempted, the circle of knowledgeable parties inevitably widens so that some people will become involved who may disagree with the proposed action or who for some other reason will be inclined to leak; and there will be too many people involved at this stage to have much hope of finding the leaker. Even the Ollie North Iran/Contra operation, compartmentalized as it was, eventually involved great numbers of people within and outside the Government. In fact, the Iran overture was indeed leaked rather early in a little-noticed Jack Anderson column, by some still unknown person. Future use of established covert action and policy deliberation procedures, insisted upon by the Tower Review Board and in congressional reports on the Iran/Contra affair, will ensure that a sizable number of people always are involved.

But rather than accept for itself the medicine that it has sometimes proposed for the executive branch, Congress is now proposing that it expand the definition of its own "need to know." In what Secretary Carlucci has aptly labeled a misguided effort to "close every conceivable loophole" despite resulting damage to U.S. foreign policy, the Intelligence Committees now are promoting legislation requiring that they almost immediately receive information on every single covert action undertaken. We should instead be confident that the political fallout from the Iran/Contra affair has provided far greater assurance than ever before that notification will not be withheld temporarily unless there is very good reason. Indeed, the executive branch doubtless in the future will take pains to share critical information and attendant political risks with Congress.

If the first thing Congress should do is to vote down this mandatory early notification legislation and the second is to form a compact Joint Oversight Committee, the third must be to study carefully our options for action and legislation to prevent future Government leaks and to investigate and punish them when they occur.

The law on punishing those disclosing classified information is frequently an effective barrier to successful prosecution. Specifically, it is extremely hard to prove in leak cases, as the law generally requires, that there was "intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation."[8]

Government prosecutors are faced with a similar hurdle when it comes to convicting journalists who reveal the identities of undercover intelligence personnel. The law governing this kind of disclosure requires the Government to prove that such an individual engaged in "a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States".[9]

In short, although there are inherent difficulties in apprehending a leaker, neither Congress nor the executive branch can claim that vigorous or competent attempts to do so have been undertaken or that punishment is swift and sure.

Given the difficulty of identifying those who have leaked classified material, we should also face the question of whether, under what circumstances, and how we should take action against the known party to the deed—the reporter and media outlet in question. Although the media sometimes have exercised restraint in these issues, here again the culture has become so permissive that potential damage to U.S. intelligence collection and foreign policy often receive short shrift when authors and editors are deciding whether or not to publish. Moreover, like the leakers themselves, journalists purporting to weigh carefully the national security implications of such writings often display notoriously poor judgment in this regard. Yet they contend that they alone should be the judge and, for instance, hold in their hands agents' lives and the future effectiveness of intelligence collection systems costing billions of dollars of taxpayer money. I believe it is beyond dispute, moreover, that the excuse of "the public's right to know," used as a defense in these cases, is a rationale that would be rejected by the vast majority of the public itself.

Ideally, the press should agree among themselves on some explicit or implicit code of conduct to curtail these abuses. At present, however, this seems unlikely. As the media appears more and more inclined toward "investigative" reporting and advocacy journalism, the demand for leaks appears to be rising in tandem with the supply. We can also expect a further escalation of disputes over release of classified materials as satellite photography of sensitive events and installations becomes available to the media.

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[6] Ibid, p 579.

[7] Results on the leak portion are published in Robert Garcia, "Leak City," American Politics, August 1987, pp. 23-24. Methodology is explained and some additional pertinent information is given in Robert Garcia, "And Other Results of the First Annual 'Inside the Beltway' Readers Poll," American Politics, Sept. 1987, pp. 14-17. Respondents on the leak section included, *inter alia*, 16 politicians, 193 Capitol Hill staffers, six members of the Diplomatic Corps and 66 Federal employees.

[8] Chapter 37 (Espionage and Censorship) of Title 18, United States Code, section 793.

[9] National Security Act of 1947 (50 U.S.C. 422), Title VI, section 602.

In the 1970's, investigative reporter Seymour Hersh reportedly told a Navy War College seminar that as a reporter his job was to break into the Pentagon if he could and steal all the classified documents he could, and that their job was to stop him.[10] We have to ensure somehow that the Government and the media remain fundamentally on the same side where national security is concerned. But the media is becoming more rather than less aggressive with regard to acquisition or publication of classified information. And its enormous collective resources instantly are marshalled to stigmatize as unconstitutional extremism any suggestion that the press must be held legally accountable if it does not police itself more effectively.

Unwilling to grapple with these intractable, messy, and politically volatile problems, some people insist that the damage we have suffered is overstated, and that no matter how great it may be, it does not justify tampering with press liberties or even congressional perquisites. But if our Government cannot keep a secret and Congress displays no sense of urgency in solving this problem, we will become ever more severely crippled in a dangerous world where the margin for error is fast disappearing.

INVESTIGATE IPSECO PALAU PAYMENTS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. DE LUGO. Mr. Speaker, the President has proposed legislation to implement a Compact of Free Association With Palau. It would provide the western Pacific Islands with $428 million over 15 years.

Some people want the Compact implemented so that the island can pay off a debt which is now approximately $40 million for power facilities purchased from a British company, International Power Systems, Co., Ltd. [IPSECO].

Other leaders in the islands are concerned that the foreign banks who guaranteed the debt would be able to obtain a large portion of the assistance that the Compact would provide Palau that is needed for other purposes. The banks point out that the financing for the purchase was approved upon the assurance of certain former officials of the executive branch that Compact moneys would be available to pay for the debt.

This assurance was given even though the Compact had not been approved by the Congress and even though other responsible Federal officials warned against the transaction's advisability.

The 99th Congress approved the Compact in concept but it did not authorize it to be implemented. Language in the legislation which originated in the other body also sought to provide Palau with protection for actions in U.S. courts related to the debt.

The President has proposed repeal of that language in his bill to authorize implementation of the Compact and a Federal district court had ruled the language to be ineffective. In approving the President's Compact bill earlier this week, the Senate revised the language.

Recently, a published report indicated that IPSECO paid large sums to some Palauan leaders. The General Accounting Office, in an investigation that I requested along with Interior and Insular Affairs Committee Chairman Mo UDALL and our colleague GEORGE MILLER, confirmed the reported payments and found evidence of other payments by IPSECO for which no justification was found.

These payments total about $1 million and came out of the money that Palau borrowed to pay for the power facilities and for which it faces the $40 million debt.

Until the Compact is implemented, the Secretary of the Interior is fully responsible under law for Palau. Because either the people of Palau or the United States may wind up paying the debt, and, therefore, paying for the payments IPSECO made to individuals, Chairman UDALL and I have asked the Secretary Hodel to ensure that the payments are fully and independently investigated and any necessary law enforcement action with respect to them is taken.

We had been told that the Secretary needed to be provided more information on the payments than we had earlier before he would act. Chairman UDALL and I met with Secretary Hodel in this connection today and gave him a letter with attachments that I request be printed in full in the RECORD at the conclusion of this statement.

The letter and attachments explain the need and the authority for acting in this matter and provides some of the information which we understand that Secretary Hodel has needed. This includes a list of some of the payments that GAO has found for which it has found no justification.

This material also provides a copy of the assurance by executive branch officials that was relied upon in making the loan. It also includes statements from Palauan legislative leaders that the United States needs to act to ensure that this matter, and other serious allegations in Palau, are independently investigated.

Chairman UDALL and I believe that procedures to assure independent investigations of serious allegations and appropriate follow-up actions needs to be put in place before the Compact can be implemented and should continue afterwards. Because we support implementation of the Compact as soon as possible if it is constitutionally approved, we hope these procedures can be instituted as soon as possible.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, HOUSE OF REPRESENTATIVES,
Washington, DC, March 31, 1988.

Hon. DONALD PAUL HODEL,
Secretary of the Interior,
Washington, DC.

DEAR MR. SECRETARY: A published report quotes a departmental official as saying that you need to be given more specific information before you will act to ensure that substantial payments to Palauan officials and others by International Power Systems Co., Ltd. [IPSECO], which have been confirmed by the General Accounting Office [GAO], will be independently investigated, as we have requested.

We have not given you such information before because we had no indication that you were prepared to take such action.

Enclosed is a list of some of the payments for which the GAO has found no justification. We will turn over all information obtained on these and other payments as soon as you designate an appropriate, independent investigative authority.

We have heard an argument that the Department should not ensure that these payments are independently investigated because of the responsibility that you have authorized the local government to exercise. There are several reasons why we disagree.

The most important reason is that your office remains fully responsible under law for the administration of Palau. This is an authority which your office has not been authorized to delegate to persons outside your jurisdiction. The enclosed opinion from the Library of Congress explains this.

Also, although departmental officials questioned the advisability of the IPSECO transaction, the Department became inextricably involved by several acts. These included the former Assistant Secretary for Territorial and International Affairs' approval of the enclosed cable from the former Personal Representative of the President for Micronesian Status Negotiations. We have been told that the cable made the transaction possible because it was relied upon in the decision to finance it.

In a recent letter, Palau's Senate President made the point that Palau needs U.S. assistance to address this problem and others outlined in our letter of March 2 to Chairman FASCELL of the Committee on Foreign Affairs. The Senator said that "* * * Palau lacks the technical and legal expertise and the financial resources to effectively deal with the numerous allegations of corruption which have arisen, and the U.S. Government has not to this time seen fit to provide adequate assistance in this regard."

We have also heard an argument that the United States should not act on problems of law enforcement which have arisen in Palau during the past several years because the Compact of Free Association provides a framework for the United States to provide Palau with law enforcement assistance.

One problem with this reasoning is that laws need to be enforced during the present time. Another problem is that some individuals who would have to set law enforcement efforts in motion might themselves be the subjects of such efforts.

Unless a procedure is worked out before the Compact is implemented to ensure that there will be independent investigations of matters such as the IPSECO payments, neither the people of Palau nor the United States would be assured that these matters will ever be properly investigated.

In a recent letter, the Speaker and a majority of Members of the House of Delegates of Palau strongly supported such an investigation. They wrote: "The motives of anyone who opposes a thorough investigation of Palau at this time are suspect. There are certainly those who would benefit from an abrupt termination of the Trusteeship—public officials whose wrongdoing and corruption would be safe from discovery. Your letter gives us hope that this will not happen."

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[10] Michael Moran, "Military, Media Agree to Disagree," Baltimore Evening Sun, Nov. 19, 1987.

Palau's Senate President, who strongly supports the Compact, emphasized the importance of addressing the problems outlined in our letter to Chairman FASCELL. His recent letter stated: "It is essential that the corruption issue be resolved so that our people and the other countries of the world will respect the integrity of the government of our new nation."

The IPSECO payments occurred during the past several years. You, therefore, have a moral as well as legal obligation to see that they are properly investigated.

This obligation also falls on our shoulders and those of our colleagues. The Congress has full oversight responsibilities for Palau under the Constitution, the law providing for the governing of the Trust Territory, the Legislative Reorganization Act of 1946, and congressional rules.

We are committed to doing our part to responsibly address the problems posed by allegations of wrongdoing in Palau. We urge you to do the same.

We, as well as the staff of the Committee and the General Accounting Office, are eager to work with you and other appropriate officials of the executive branch to address these matters in a manner that will facilitate the implementation of the Compact, which we support.

Sincerely,

RON DE LUGO
Chairman, Subcommittee on Insular and International Affairs.
MORRIS K. UDALL,
Chairman.

Enclosures.

SOME QUESTIONABLE PAYMENTS BY IPSECO FROM PALAU LOAN

Individual, and current position	Payments	Position at time of payments
Lazarus E. Salii, President.	$100,000 on July 19, 1983. $100,000 on Sept. 20, 1983.	Ambassador for Trade Relations and Status Negotiations.
Carlos Hiroshi Salii Delegate.	$100,000 on July 18, 1983. $75,000 on Mar. 9, 1984. $75,000 on Nov. 2, 1984.	Speaker of the House of Delegates.
Polycarp Basilius, Chairman, National Development Bank Corp..	$100,000 on July 18, 1983. $75,000 on Mar. 9, 1984.	President of the Development Bank and Diplomatic Envoy to Status Negotiations.
Yutaka M. Gibbons, High Chief Ibedual and Mayor of Koror.	$100,000 on June 4, 1984.	High Chief Ibedul and Mayor of Koror.
Hokkuns Baules, Senator...	$50,000 on July 18, 1983.	
Amata Kabua, President of the Marshall Islands.	$200,000 on Aug. 12, 1983.	President of the Marshall Islands.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, December 30, 1987.

To: House Committee on Interior and Insular Affairs. Attention: Jeffrey Farrow.
From: American Law Division.
Subject: The Present Governing of Palau.

This memorandum is addressed to the following posed question. Is the governing of Palau currently consistent with the law and the Executive Order issued pursuant to that law?

It is provided in 48 U.S.C. Sec. 1681 that "Until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, all executive, legislative, and judicial authority necessary for the civil administration of the Trust Territory shall continue to be vested in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize." By virtue of Executive Order No. 11021, as amended by Executive Order No. 11944, administration of the Trust Territory of the Pacific Islands was delegated by the President to the Secretary of the Interior. Such authority included the responsibility for the administration of civil government in all of the Trust Territory, and all executive, legislative, and judicial authority for that administration. Redelegation is authorized to officers or employees of the Department of Interior or to other persons under the jurisdiction of the Secretary. In Secretarial Order No. 3119, July 14, 1987, 52 Fed. Reg. 27859, the Secretary of the Interior "delegated" to the Government of Palau the executive legislative, and judicial functions of the Government of the Trust Territory "subject to the limitations contained in this Order and in existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory". It would seem that one might argue that this Secretarial Order goes beyond the authority of the statute and the Executive Order. In an attempt, presumably, to afford the entity some amount of self-government, even though retaining certain veto power by the Assistant Secretary-Territorial and International Affairs, arguably there are certain Palaun legislative acts that would be beyond such veto power, namely those not inconsistent with the Order, the Trusteeship Agreement, or with existing treaties, laws, and regulations of the United States generally applicable in Palau. Arguably, in effect, this "subdelegation" or "redelegation" possibly puts certain governmental actions beyond the effective reach and control of the United States. Not only might this include legislative acts outside of the Assistant Secretary's veto authority, but also might include any actions which he may arbitrarily so determine or which, presumably, he does not timely act on. Thus, it would seem persuasive to assert that there is a possibility that not all legislative authority in Palau is within the control of the United States by virtue of the Secretarial Order. Therefore, it would seem that this sort of a situation is inconsistent with the statute which merely provides that civil administration shall be through such agency or agencies as directed by the President, as well as inconsistent with the Executive Order because the redelegation is not strictly to a person over whom the Secretary has jurisdiction since there is, according to the terms of the Secretarial Order, no complete control over the Palau government. Likewise, this would seem to conflict with the Trusteeship Agreement itself. Under Article 3, the United States possess full legislative powers over the Trust Territory. It can be argued that this situation in theory does not leave the United States with full legislative authority and is an attempt to usurp the plenary power of Congress over the Trust Territory. It might be noted that in the legislative authority that was delegated the the Congress of Micronesia (Secretarial Order No. 2918, December 27, 1968) complete control was retained by the High Commissioner in having a veto power over every bill passed by the Congress of Micronesia, and even if overriden by a two-thirds majority the reenacted bill was still subject to a veto by the Secretary of the Interior, which action was final. See, *People of Saipan* v. *U.S. Department of Interior*, 356 F. Supp. 645, 655 (D. Haw. 1973), aff'd as modified on other grounds 502 F. 2d 90 (9th Cir. 1974), cert. den 420 U.S. 1003 (1975).

The legal significance of the plenary authority that the Congress has over the Trustee Territory is that the language in 48 U.S.C. Sec 1681(a) "clearly enjoins that Congress has the final word on the government of the Trust Territory. It means that Congress may, either expressly or impliedly, modify or eliminate any Trust Territory governmental agency or power created by the President or by officials acting under Presidential delegation." *Sablan Construction Company* v. *Government of the Trust Territory of the Pacific Islands*, 526 F. Supp. 135, 139 (D. N. Mariana Island 1981).

DANIEL HILL ZAFREN,
Specialist in American Public Law.

[Telegram]

DEPARTMENT OF STATE

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INT/TLA: San Juan
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EUR/NE: PHUGHES (Info) Desired distribution
Defense: 273302, 250330Z/70
D P 250211Z: May 23
FM Secstate Wash DC
To Am Embassy London immediate
Info US Mission USUN New York priority
CINCPAC Rep Guam priority
WICOMTERPACIS Saipan priority
CINCPAC Honolulu HI priority 0000
UNCLAS State 145094
CINCPAC for J-56, CINCPACREP for 0-4, HICOM also for SLNO
E.O. 12356: N/A
Tags: BEXP, EFIN, ENRG, UN, NQ
Subject: IPSECO/Palau Power Plant discussions
Ref: 82 State 163949 (150834Z Jun 82) NOTAL

1. Following is background information on the proposed arrangement between British firm international power systems company (IPSECO) and the Government of Palau with respect to the provision by the former of electrical power generations units. Palau is a component of the Trust Territory of the Pacific Islands now administered by the United States but soon to enter into a free association relationship with the U.S. following the trusteeship. IPSECO intends to lend funds to Palau for financing of the power-plant project, which loan would be guaranteed by the British Export Credit Guarantee Department (ECGD). We understand that ECGD and the financial institutions involved would prefer a third-party guarantee of the loan. Previous communications to HMG from USG have conveyed fact that USG as a matter of policy can not guarantee credit or underwrite default for governments or individuals during the trusteeship or under the pending Compact of Free Association.

Palau Vice President Alfonso Citerong, and Palau trade ambassador Lazarus Galii met in Washington on 18 May with Department of the Interior Assistant Secretary Pedro Sanjuan and Presidential Negotiator Ambassador Fred Zeder to provide background and rationale for IPSECO arrangement. IPSECO Project Manager Gordon Nocrie, a British national, also attended. At meeting, USG officials reiterated that recent suspension of Palau legislation by United States High Commissioner of the Trust Territory would not be reversed. Suspended legislation would, inter alia, have waived the Government of Palau's immunity to suit in loan-default situation. USG officials also reiterated that U.S. has no legislative authority to guarantee proposed loan now or after the Compact of Free Association takes effect. Palau and IPSECO representatives asked that USG officials reconsider position or consider other ways that arrangement might proceed. Following paragraphs, the substance of which has been discussed with Palau officials, constitutes results of that reconsideration.

3. Embassy is requested to make following two paragraphs available to HMG in form of note verbale if appropriate. With the expectation that HMG will in turn inform those British parties, including ECGD, involved in the PALU-IPSECO discussions taking place this week in London. We have made contents of paragraphs 4 and 5 known to UK EMBOFF Roger French in Washington.

4. The Government of the United States and the Government of Palau have negotiated a Compact of Free Association, which was approved by the people of Palau in a February 13, 1983 plebiscite. After its approval by the Government of Palau, it will be submitted to the United States Congress for approval. It is contemplated that the compact will come into effect simultaneously with the termination of the trusteeship agreement. The compact contains provision for direct grant assistance to the Government of Palau from the Government of the United States. This assistance will take the form of annual payments, some of which are programmed for general government operations and some of which are programmed for capital and economic development expenses. In the first category, there will be provided the amount of 28 million dollars to be disbursed at the rate of 2 million dollars per year for 14 years to be used by the Government of Palau for energy-related activities. In the second category, there will be available to Palau 186 million during the first year of the free association relationship for capital needs. The Government of Palau will have full authority to determine the application of both categories of funds. The Government of the United States would view the application of the operational funds and a reasonable portion of the capital funds to a project for the proposed IPSECO project as being consistent with the intent of the compact. Similarly, during the remaining period of the trusteeship before the compact comes into effect, Palau receives from the United States, through the Department of the Interior, annual funding of which a portion is appropriated for energy-related operations and maintenance. These funds are now being used to operate and maintain Palau's present power-generation units. Were Palau to use these operational funds for the proposed IPSECO project, such use would be considered by the U.S. as consistent with the general purpose for which these funds were provided. During the trusteeship period, operations and maintenance funds are subject to the appropriation authority of the United States Congress. Historically, the Congress has appropriated to Palau sums ranging from 11.5 million to 12 million per year for this purpose over the past few years. It is the understanding of the USG that the first interest payment from Palau for the IPSECO project will become due 27 months following signing of the contractual provisions, if in the judgment of HMG and the lending institutions the proposed project qualifies for the requested level of financial accommodation, the Government of Palau should be able to meet its scheduled debt-service obligations in light of present and future funds granted to the Government of Palau by the USG.

5. Ambassador Zeder and Assistant Secretary San Juan wish to convey their sincere appreciation to HMG for the kind invitation to come to London this week for further discussions of this and related subjects and to express genuine regret that their schedules will not permit acceptance at this time. Further, they should like formally to acknowledge their gratitude for the interest HMG and others have taken in the Government of Palau. The USG is concerned with the welfare of the people of Palau and recognizes the importance of adequate electrical power for the islands. Please be assured that the Office for Micronesian Status Negotiations and the Office of the Assistant Secretary of the Interior for Territorial and International Affairs fully support the efforts of the Government of Palau to improve its present power-generating capability.

6. Ambassador Zeder sends Shultz.

THE SENATE, SECOND OLBIIL ERA KELULAU (PALAU NATIONAL CONGRESS),

Republic of Palau, March 8, 1988.

Hon. MORRIS K. UDALL,

Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC

DEAR CHAIRMAN UDALL: An article detailing the points raised by the letter you sent jointly with Del. Ron de Lugo to Rep. Dante Fascell appeared in the March 4 edition of the Pacific Daily News.

I wish to again thank you for the genuine concern you have demonstrated regarding the important issues, and particularly the corruption problem, which have emerged as Palau makes the transition to self-government. The Congress is the only branch of the United States government which has been willing to recognize that problems needing solutions really exist here, and indeed, the Committee on Interior and Insular Affairs and its Subcommittee on Insular and International Affairs seem to be acting alone in insisting that the obligations of your government in the administration of Palau are honored. Knowing that the Compact will dramatically affect the lives of all Palauans, from all walks of life, for many decades to come, I hope that the Committee will maintain this effort on behalf of the Palauan people to ensure that when the Compact is implemented, we will commence our nationhood with a responsible government untainted by the stigma of corruption and impropriety.

I also was pleased to note your comment that it is not your intent "to delay the implementation of the Compact any longer than is necessary". I fully endorse this position, and believe that virtually all Palauans feel likewise. Therefore, it is my sincere hope that the corruption issue can be dealt with separately from the implementation issue. It is wrong to deny to the Palauan people the obvious benefits of the Compact because of alleged misconduct of some of their leaders. This is especially true in view of the fact that the Department of the Interior has known of some of these problems for several years and yet has taken no remedial actions.

It is essential that the corruption issue be resolved so that our people and the other countries of the world will respect the integrity of the government of our new nation. However, Palau lacks the technical and legal expertise and the financial resources to effectively deal with the numerous allegations of corruption which have arisen, and the United States Government has not to this time seen fit to provide adequate assistance in this regard. I solicit your help with this problem as well as the immediate implementation of the Compact. I trust that the Committee and Congress take action which will resolve each of these issues in a complementary fashion.

Sincerely,

JOSHUA KOSHIBA,
President of the Senate.

HOUSE OF DELEGATES, SECOND OLBIIL ERA KELULAU (PALAU NATIONAL CONGRESS)

Republic of Palau, March 7, 1988.

Hon. MORRIS K. UDALL,

Chairman, Committee on Interior and Insular Affairs.

Hon. RON DE LUGO,

Chairman, Subcommittee on Insular and International Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMEN: We are writing to express our gratitude for your March 2 letter to the Honorable Dante B. Fascell, Chairman of the House Committee on Foreign Affairs. That letter expressed your concern for the serious problems facing Palau, alerted the United States Congress to these matters, and called for an investigation. At a time when so many others seem ready to sweep these matters under the carpet, we applaud you for putting them in the spotlight and, therefore, bringing us a step closer to their resolution.

The allegations that you set forth have been labelled "wild" and it has been suggested that because some of these charges have been made before, that they do not need to be investigated. This, of course, is nonsensical. It suggests that the longer charges remain uninvestigated, the less likely that they are of substance. In the case of Palau, each passing day seems to bring new evidence of corruption of public officials and mismanagement and misappropriation of both federal and local funds.

The motives of anyone who opposes a thorough investigation of Palau at this time are suspect. There are certainly those who would benefit from an abrupt termination of the Trusteeship—public officials whose wrongdoing and corruption would be safe from discovery. Your letter gives us hope that this will not happen.

Your letter explains the importance of a thorough investigation of the violence and intimidation, including the murder of Bedor Bins, leading up to the Compact approval, as well as the allegations of official corruption, before implementation of the Compact. We thank you for bringing our problems to the attention of the United States Congress, whose help we need to solve them.

Sincerely yours,

Santos Olikong, Speaker; Shiro Kyosa, Vice Speaker; Delegate Thomas Patris; Delegate Ignacio Anastacio; Delegate Minami Ueki; Delegate Surangel Whipos; Delegate Hideo S. Tell; Delegate Mariano W. Carlos; Delegate Florencio Yamada (off island); Delegate Joseph Kintol; Laurentino Ulechong, Floor Leader.

WES WATKINS INTRODUCES WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 31, 1988

Mr. WATKINS. Mr. Speaker, I am today introducing the "Winding Stair Mountain National Recreation and Wilderness Area Act," a comprehensive plan of wilderness, botanical, recreation and scenic and wildlife areas component designations to benefit future generations of Oklahomans and the United States.

For the last 2 years, we have spent hundreds of hours developing this plan which I believe is the right combination of designations and needed management changes and is acceptable to those interested in the management of the Ouachita National Forest in Oklahoma. The plan I offer to the Congress is one of very delicate balance and was crafted after local hearings, formal and informal meetings, field visits to the forest and one-on-one conversations with interested parties. I have remained objective and allowed the same latitude and openness to each group.

Without question, this bill has been probably the most difficult piece of legislation on which I have worked during the 12 years I have been in the Congress. However, with passage of this bill it will be one of the most personally satisfying things that I will have accomplished in the Congress. What began as a look at only RARE II lands for wilderness designation was expanded greatly to include a comprehensive effort that will allow many people from across this great country from this and future generations enjoy the Oklahoma portion of the Ouachita National Forest.

First, let me say I have never been one to think that we should set-aside land for a single purpose that would not allow flexibility and the utilization by a broad base of constituencies. Each of the groups for or against wilderness have expressed to me the "right" position to take in this matter. I could not be honest with myself if, after looking at our complete natural resources, I could not say that some of the area is deserving of being set-aside untouched for future generations. When I say untouched, I mean from the time of enactment of this legislation. All of the Ouachita National Forest lands in Oklahoma were cut-over by timber companies at the turn of the century. It is only now that the forest once again flourishes with diversity. We do not have virgin timber areas, but we are proud of the resources we have.

Some of those opposed to wilderness admit that it needs to be done but "not now." If something is not done now, then it will take at least another 50 years before the timber would grow back provided it was cut. Sometimes you know down deep the right thing to do and it is with courage you must pursue in the face of adversity. That is my choice.

My staff and I have been working for several years with interested parties to find a sensible balance between the needs to preserve in a pure state some of the undeveloped lands while also accommodating the economic needs of the area, State, and Nation.

This bill is one that is well balanced and provides for the interests of loggers—small and large—environmental groups, wildlife groups—deer and turkey—soil conservation groups, including the resource conservation and development councils, tourism and recreation interests, local civic organizations, local and State elected officials, and local school system officials.

Of the four areas on the Oklahoma portion of the Ouachita evaluated under the RARE II study, and later reevaluated, Black Fork Mountain was recommended for wilderness at a level of 4,072 acres and Upper Kiamichi was recommended for wilderness at a level of 8,852 acres. The bill I propose includes 4,523 acres for Black Fork Mountain Wilderness and 9,371 acres of Upper Kiamichi River Wilderness. Had the Upper Kiamichi River tract not been designated wilderness, it would have received some form of protection almost as strong as wilderness because of the scenic sensitivity in the area which adjoins the Talimena Drive.

The comprehensive plan should result in little or no loss of revenues from Federal receipt sharing because of wilderness area involved is such a small part of the total 1,591,849 acres in the Ouachita National Forest in Arkansas and Oklahoma. Changes in management should have no impact as long as reductions in timber receipts do not occur in other parts of the Ouachita. In McCurtain and LeFlore Counties alone, there are a total of only 249,205 acres of Federal forest lands and this bill only deals with a small portion of that total.

Moreover, tourism and recreation enhancement to the area will bring revenue to the local area to boost local earnings.

LeFlore County is becoming a major attraction for business and industry in the northern part of the county while the southern part of the county offers the most unique tourism and recreation in Oklahoma. The enhancement of tourism and recreation opportunities will attract more business and industry who look for these kind of opportunities before locating in an area. Areas that are not crucial to a viable tourism industry are available for commercial timber activities. LeFlore County has the kind of combination that most counties desire in attracting business and industry.

Inholdings are held to a minimum in all areas that are proposed for designation, in fact, a preliminary check has indicated that most owners of inholdings are willing sellers. The general rule is that inholders will have the same access in wilderness and other designated areas as they did prior to the enactment of this bill.

Let me make clear that this bill only affects LeFlore County in Oklahoma and not any other county in Oklahoma or Arkansas that has portions of Ouachita National Forest.

Specific principal provisions of the "Winding Stair Mountain National Recreation and Wilderness Area Act" are as follows:

First. The bill creates a 13,894-acre national wilderness area which includes 4,523 acres as Black Fork Mountain Wilderness Area and 9,371 acres as Upper Kiamichi River Wilderness Area. Language is included to protect the area in the event of fire, insect outbreaks, or disease. Careful consideration was given to allowing roads for access as close as possible when wilderness boundaries were drawn. No buffer zones are to be established around the designated wilderness areas. The legislation also "frees" other wilderness areas which had been studied and designated as possible wilderness areas.

Hunting, fishing, and trapping, as well as camping, will be allowed in wilderness areas, except to meet special circumstances established by the Secretary of Agriculture, or his designee. Wildlife management activities permitted under the Wilderness Act will continue to improve the supply of game. "Inholders"—people who own private property within the boundaries of the designated areas—generally will have the same access to and use of their properties as they do now.

Second. The bill designates 26,445 acres as the Winding Stair Mountain National Recreation Area. "Unevenaged" timber management—which means selective cutting—shall be used within the recreational areas.

Timber harvest and sales shall be designed so as to not detract from the scenic values of the area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or Holson Valley Road would not be allowed in the recreation area. This area would be principally managed for the public enjoyment and second for wildlife. Further landscaping at turnouts, improved picnic areas, and other benefits to public use and enjoyment would be enhanced. Inholders should not be affected by this designation.

Third. The bill designates a 8,026-acre Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area which would encompass the existing acreage at the Arboretum and adds Rich Mountain—considered for wilderness—which contains unique plant species and vegetation similar to that contained at the arboretum. The bill does not change the way the arboretum is now managed. No commercial or Federal timber harvesting will be permitted on this tract, although mechanized cutting for trail building shall be allowed. Improvements and expansion of roads and facilities shall be permitted in the vicinity of the Kerr Nature Center.

Fourth. The bill also designates 400 acres near Beech Creek as the Beech Creek Botanical Area. The same criteria for management would be applied to Beech Creek as applied to the Kerr tract.

Fifth. To best promote the entire area for tourism purposes, all of these designations shall be known on maps as the Winding Stair Mountain National Recreation and Wilderness Area.

Sixth. In addition, a special "esthetics and wildlife management area" is to be established along and in view of Talimena Drive and the Holson Valley Road, collectively known as the Indian Nations National Scenic and Wildlife Area. Management practices that would detract from the scenic quality and natural beauty shall not be allowed in the area as viewed from any location on the Talimena Drive and Holson Valley Road areas. This primary esthetic zone constitutes the boundary for visual limitation prohibitions and shall be managed with unevenaged management unless irregular cuts can be hidden from view by natural geographical barriers.

Wildlife management shall be the second objective in these areas once the primary objective of esthetics is met. Wildlife management of this area would continue as currently conducted. Hunting, fishing, trapping, and other activities now accepted by the Forest Service and the Oklahoma Department of Wildlife in this area would continue. Inholders should not be affected in this designation and should not be precluded from any management activities on these properties.

Seventh. Further, the bill establishes that clearcutting or "evenaged" timber management tracts in the remainder of the national forest in LeFlore County shall not exceed 39-acre tracts. Any evenaged units which would collectively exceed the size limitation should not abut one another and should be separated by an area of at least equal in size to that area harvested until such time that the vegetation in one unit reaches a minimum height of at least 25 percent of the height of the adjacent stand and is no longer considered an opening. Evenaged managed tracts should retain scattered clumps of mast producing hardwoods within the regeneration areas at a minimum ratio of 10 to 20 percent of basal area per acre and an appropriate number of wildlife den trees should be maintained. Stands shall be managed to maintain the natural species ratio of those stands in a variety of age classes.

Also, on the remainder of the forest in LeFlore County, protective buffer areas or zones should be retained and established along streams, creeks, rivers and other bodies of water to meet water quality standards and wildlife requirements. Zones would apply to officially designated State and Federal highways and paved county roads and shall be managed to protect and enhance their scenic values. Designated trails to provide adequate aesthetics protection and allow for wildlife travel corridors would also receive equal treatment. Clearcutting in these zones would not be permitted and any unevenaged management activities in these areas shall use harvesting methods which would meet water quality and wildlife requirements.

Eighth. Many of the management objectives directed through this legislation are necessary to preserve a multimillion dollar tourism industry that has the potential for bringing new and needed revenue to LeFlore County and the region. Prior management of the U.S. Forest Service have used practices that were not sensitive to the visual impact of the area. In highly sensitive scenic areas, clearcutting has occurred to the edge of the highway without regard to visual impact along these roads. A blanket of block clearcuts carpet the valley lying between the Talimena scenic drive and the north edge of the valley ending at Blue Mountain. It is with regret that I must ask the Congress to take action in this bill concerning this matter.

Ninth. The legislation permits the Secretary of Agriculture, who is in charge of national forests, to acquire sites at locations outside the boundaries of the recreation and wilderness areas for visitor orientation and the possible establishment of a lodge and additional facilities to enhance the quality of the area, as well as on existing Forest lands not designated wilderness.

In conclusion, I have often said that along the way in our enthusiasm to provide opportunities for our people in southeastern Oklahoma, we will error, make mistakes and sometimes fail, but the biggest failure is to do nothing. Mr. Speaker, it is with pride that I submit a comprehensive package to the Congress that will determine the future of the Ouachita National Forest in Oklahoma for many generations to come.

Thank you, Mr. Speaker.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) select areas of underdeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people.

(2) the Department of Agriculture's second roadless area review and evaluation (Rare II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review, evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a National Recreation Area is appropriate for the maximum potential and enjoyment of the area by the American people.

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location to be designated Botanical Areas.

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a National Scenic and Wildlife Area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses.

(2) designate certain Forest System lands in the State of Oklahoma as National Recreation Area, Botanical Area and National Scenic and Wildlife Area in order to enhance and further certain natural resources characteristics.

ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,523 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness-Proposed", dated March, 1988, and which shall be known as the Black Fork Mountain Wilderness;

(2) certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness-Proposed", dated March, 1988, and which shall be known as the Upper Kiamichi River Wilderness.

MAPS AND DESCRIPTIONS

SEC. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: Provided, that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by Section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of the Act.

WILDERNESS REVIEW CONCERNS

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (Rare II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the Rare II Final Environmental Impact Statement (dated January 1979) with respect to national forest system lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oklahoma;

(2) with respect to the national forest system lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (Rare II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed.

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than 5,000 acres in size.

ADJACENT MANAGEMENT

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

FIRE, INSECT AND DISEASE MANAGEMENT

SEC. 7. Nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA

SEC. 8. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastorial, and fish and wildlife values and to provide for the enhancement of the recreation values associated therewith, the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma, is hereby established.

(b) The Winding Stair Mountain National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March, 1988, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation; (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management and utilization, of natural resources of federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established. The recreation area shall be principally managed for the public enjoyment and secondly for wildlife.

(f) Unevenaged management shall be the management practice administered in the recreation area. Evenaged management within the recreation area shall be limited to only those situations, such as fires and insect and disease infestations, where the removal of dead and/or dying trees and subsequent reforestation are desirable to rapidly restore the scenic qualities of the affected areas. Any timber sales shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area.

BOTANICAL AREAS

SEC. 9. In furtherance of the purposes of this Act, the following lands in the State of Oklahoma are designated as Botanical Areas. In order to protect these areas which contain unique plant species and plant communities that are significant in their occurrence, variety and location, no vegetative manipulation will occur except that which is necessary for the protection, enhancement or interpretation of the area and its resources.

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 8,026 acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 400 acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(3) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(4) The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to areas such as these in the national forests. Mechanized cutting for trail building and appropriate actions for improved trails shall be allowed. Improvements and expansion of roads and facilities shall be permitted in the vicinity of the Robert S. Kerr Nature Center. Timber harvesting of any kind shall be prohibited.

NOMENCLATURE

SEC. 10. In order to provide for universal identification and association the Wilderness areas, National Recreation Area, and Botanical Areas designated in this bill shall be known as the Winding Stair Mountain National Recreation and Wilderness Area of which 26,445 acres are designated national recreation area, and 22,230 acres are designated as wilderness and botanical areas.

INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA

SEC. 11. In furtherance of the purposes of this Act, certain lands in the Ouachita National Forest, Oklahoma, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, shall be administered by the Secretary principally for aesthetics and wildlife.

(1) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(2) The Secretary shall administer the Talimena Drive and Holson Valley Road areas in the Indian Nations National Scenic and Wildlife Area of the Winding Stair Mountain National Recreation and Wilderness Area within the Ouachita National Forest in LeFlore County, Oklahoma, principally for aesthetics to preserve the natural beauty of these areas for future generations and preservation of wildlife. Management practices that would detract from the scenic quality and natural beauty shall not be allowed in the Indian Nations National Scenic and Wildlife Area as viewed from any location on the Talimena Drive and Holson Valley Road Areas. This primary aesthetic zone, as illustrated on a map, constitutes the boundary for visual limitation prohibitions and shall be managed with unevenaged management unless irregular cuts can be hidden from view by natural geographical barriers. Wildlife management shall be the second objective in these areas once the primary objective of aesthetics is met.

TIMBER MANAGEMENT

SEC. 12. (1) In the remainder of the Ouachita National Forest in LeFlore County, Oklahoma, evenaged management, including clearcutting, may be allowed on selected tracts not to exceed 39 acres in size in meeting timber production objectives. Any evenaged units which would collectively exceed the foregoing size limitation shall not abut one another and shall be separated by an area of at least equal in size to that area harvested until such time that the vegetation in one unit reaches a height of at least 25 percent of the height of the adjacent stand and is no longer considered an opening. Evenaged managed tracts shall retain scattered clumps of mast producing hardwoods within the regeneration areas at a minimum ratio of 10-20 percent of basal area per acre and an appropriate number of den trees shall be maintained. Stands shall be managed to maintain the natural species ratio of those stands in a variety of age classes.

(2) Within the Ouachita National Forest in LeFlore County, protective buffer areas of zones shall be retained and established along—streams, creeks, rivers and other bodies of water to meet water quality standards and wildlife requirements; officially designated state and federal highways and paved county roads and shall be managed to protect and enhance their scenic values; designated trails to provide adequate aesthetics protection and allow for wildlife travel corridors. Clearcutting shall not be permitted in the buffer areas or zones and any unevenaged management activities employed in these areas shall employ harvesting methods which meet water quality and wildlife requirements.

PLANNING

SEC. 13. (a) The Secretary shall develop an amendment to the Ouachita National Forest land and resource management plan regarding the wilderness areas, the national botanical areas, the national recreation area and the national scenic and wildlife area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement.

(b) The amendment shall include a section with provisions to promote tourism and outdoor recreation in ways consistent with the purposes for which these areas are designated.

(c) No later than 90 days after the date of enactment of this Act, the Secretary shall designate the RedArk Development Authority as a special advisory group to help in the preparation of the tourism and outdoor recreation section of the amendment as required under subsection (b). The Secretary shall request RedArk to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to RedArk for review. The Secretary shall allow at least 60 days for RedArk to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval of the final amendment. Notwithstanding any other provisions of law, the Secretary is authorized to reimburse RedArk for salary, travel and supplies utilized in implementation of this subsection at rates commensurate to those paid to Department of Agriculture employees performing comparable duties.

(d) There are hereby authorized to be appropriated not to exceed $15 million for the development and implementation of the amendment.

(e) The Secretary is authorized and encouraged to seek local non-profit entities for the purpose of helping to implement the amendment.

GRAZING

SEC. 14. Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary shall permit grazing on lands within the Ouachita National Forest, LeFlore County, Oklahoma, to the same extent as was permitted on such lands prior to the date of enactment of this legislation.

HUNTING, FISHING AND TRAPPING

SEC. 15. The Secretary shall permit hunting, fishing or trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the Winding Stair Mountain National Recreation and Wilderness Area in accordance with the laws of the United States and the State of Oklahoma except that the Secretary may designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, area general administration, or public use and enjoyment. Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. It is expected the Secretary will continue cooperative agreements with State of Oklahoma agencies responsible for managing fish and game. Nothing in the Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the national recreation and wilderness area.

PERMITS

SEC. 16. The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. The Secertary is authorized and encouraged to seek local non-profit entities in issuing permits for the purpose of helping to implement the findings of Section 13 of this Act.

LAND ACQUISITION

SEC. 17. (a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds including those from the Land and Water Conservation Fund, exchange, or bequest, any lands or lesser interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning and land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) The Secretary or his agent may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

ACREAGES

SEC. 18. The acreage cited in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

SENATE—*Monday, April 11, 1988*

The Senate met at 11 a.m. and was called to order by the Honorable HOWELL T. HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, Lord of the universe, Ruler of the nations—we join with all creation in honoring You at the beginning of this new week:

*Praise ye the Lord. Praise ye the Lord from the heavens: praise Him in the heights. Praise ye Him, all His angels: praise ye Him, all his hosts. Praise ye Him, Sun and Moon: praise Him, all ye stars of light. * * * Praise the Lord from the Earth * * *. Kings of the Earth, and all people; princes, and all judges of the Earth: Both young men and maidens; old men, and children: Let them praise the name of the Lord: for His name alone is excellent; and His glory is above the Earth and Heaven.*—Psalm 148:1, 2, 3, 7, 11-13.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 11, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL T. HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. HEFLIN, thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent to reserve my time, which I will use later, and that my statement at the time appear at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 1988 APRIL QUARTERLY REPORT

Mr. BYRD. The mailing and filing date of the April Quarterly Report required by the Federal Election Campaign Act, as amended, is Friday, April 15, 1988. All Principal Campaign Committees supporting Senate candidates in the 1988 races must file their report with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 9 p.m. on the filing date for the purpose of receiving these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. I yield first to the distinguished Senator from Wisconsin, Senator PROXMIRE, and reserve my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to exceed 30 minutes with Senators permitted to speak therein for not to exceed 15 minutes each for any time that has been allocated to them from the leaders.

The Senator from Wisconsin is recognized.

TIME FOR SENATE TO MOVE ON TAKEOVERS

Mr. PROXMIRE. Mr. President, last December the Senate Banking Committee reported to the Senate floor a bill to require fuller and freer disclosure to stockholders and the public in corporate takeovers. The committee reported the bill to the floor by a 14-to-8 vote. The bill will also provide for more effective regulation of the bane of the great majority of the Nation's investors: Insider trading. Some critics argue that there is less need for the bill now. They argue that the takeover mania has come and gone. Mr. President this is not the case. In an article in the April 1 New York Times, Martin Lipton, an expert in takeover defenses, writes that in the 6 months since the October stock market crash, takeover activity has risen to the highest level in history. In the first 3 months of this year an enormous $72 billion in takeover bids have been announced. So have takeovers declined? No, indeed. Takeovers are actually twice as big as they were in the first 3 months of last year. There is some difference in the identity of the big takeover initiators. Activity by the raider specialists continues. But now they have been joined by some of the biggest corporations and by Japanese and European conglomerates.

The combination of the stock market decline and the big fall in the value of the dollar relative to European currencies and especially relative to the Japanese yen have made American firms cheap. Of course, these mega mergers are also pushed by a recognition that this Department of Justice has an antitrust department that has gone to sleep. It's even worse. As Martin Lipton writes, the administration enforces the law or refuses to enforce the law in a way that generally favors the raiders over the target. In this great free economic society of ours, takeovers have become the gold mines of the eighties. Mergers and acquisitions have become money machines not only for investment banking firms, but for law firms and big conglomerate corporations. With very little work, and a lot of slap dash risky, high interest rate financing a few weeks of razzle dazzle manipulation can make millions of dollars without contributing a penny to the Nation's economy. The takeover boys give leeches a new meaning. The takeover target can either wimp out and give in. Or it can fight. If it gives in the raiders take over. They plunge the target corporation up to its ears in debt to raise the funds to pay them back for the cost of the takeover. If the corporation management fights to win against a serious takeover bid, it usually is forced to use the corporation's credit to borrow billions to buy the corporation's stock and bid it out of the reach of the takeover team. In either event the corporation assumes an all-too-often-crippling debt. For years to come, interest on that debt

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

will commander much of the firms' cash flow. Money that would have gone into research and development must instead pay interest on the debt. Manpower training and the purchase of more efficient equipment also have to be eliminated or sharply diminished to keep the firm solvent. When the next recession hits, it's bye-bye to another debt ridden firm.

This is what happened to Burlington Industries where a strong equity position was lost in a fight to stay out of hostile takeover hands. It is the story of Borg Warner. Borg had enjoyed as brilliant a history of success as any old line manufacturing firm in the country. To fight a takeover attempt, Borg borrowed billions of dollars. It won. But what a victory. Borg's healthy 3-to-1 equity debt ratio fell to a disastrous 1-to-20 equity debt ratio. Borg's interest burden is immense. It has no alternative except to sell off the diverse divisions that had enabled it to survive. Since repelling the takeover, Borg has reduced its debt. But its remaining debt still hangs heavily over it. But come the next recession, Borg will be in the deepest trouble.

What can be said for the mergers and acquisitions that have skyrocketed the debt of American corporation? As long as economic condition remain favorable and sales, production and profits continue to rise, stockholders may benefit from the increased leverage of debt. But come the next recession, the economic carnage will be tremendous. Stockholders will suffer. But they won't be alone in that suffering. Millions of employees will lose their jobs. Communities will see their economic base collapse.

Even if our country never suffers another recession heavy corporate debt will plague our economy. The inability of firms to maintain their research and development and manpower training will diminish their productivity and competitiveness. This merger mania encouraged by the sleepy, do-nothing Antitrust Division of the Department of Justice torpedos vigorous competition.

This country has a choice of policies. One way is to let the merger mania roar ahead. That way may enrich stockholders of corporations in the short run. It certainly enriches the lawyers, investment bankers and other manipulators who feast off the acquisitions. But it loads our American firms with debt. It diminished competition by concentrating industry. That's one choice.

The other choice is to rely on the kind of vigorous competition that has characterized this country's economy throughout its long period of growth in this century that has enabled it to become the most powerful and competitive economy in the world. Now in the 1980's that superb American competitiveness is beginning to wane. Why? The massive indebtedness, and the concentration of economic strength brought on by mergers run amok, are among the prime reasons.

Mr. President, the Senate Banking Committee has reported out a bill that gives this body an opportunity to take a big step in the direction of slowing the massive debt and economic concentration of the present merger and acquisitions mania. The Senate should act on it.

I ask unanimous consent that the article to which I referred by Martin Lipton in the April 1 New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY TAKEOVERS ARE TAKING OFF AGAIN

(By Martin Lipton)

Confounding the predictions of many analysts, 1988 has witnessed an amazing resurgence of takeover activity. Less than six months after the Oct. 19 market crash, takeover activity is higher than at any time before the crash. So far this year, more than $72 billion in takeover bids have been announced, twice that of this time last year.

Why? There is no single factor. However, it is possible to identify a number of elements that in combination explain today's takeover activity and bury the simplistic idea that it is a temporary phenomenon to "restructure" uncompetitive industries.

Cultural changes. Cultural barriers to hostile takeovers have evaporated. Corporate raiders are glorified on the covers of magazines and on television. This year, J.P. Morgan has acted for a Swiss company, Hoffman-LaRoche, in a tender offer for Sterling Drug, a long-time Morgan banking client. General Electric, a pillar of the Business Roundtable and the corporate establishment, made a hostile bid for a small appliance manufacturer, Roper; Emhart, a major company in Hartford, Conn., became the first company in a close business community like Hartford to make a hostile bid for another company in the same community. European and Japanese companies have begun to make hostile bids here.

Directors' attitudes. Board room attitudes have changed. Management is no longer restrained by fear that directors will look askance at a proposal to make a hostile bid. Many companies fear that they themselves will become targets if they do not increase their size and leverage by taking over others. To remain independent they have become raiders. Target-company directors are less willing to fight takeover bids.

Availability of financing. First Boston developed the bridge loan to compete with Drexel Burnham's junk bonds. Now all the investment banks provide bridge loans—temporary loans that are refunded with junk bonds. The major commercial banks are competing with the investment banks to provide takeover financing.

A fair estimate of the aggregate equity funds for acquisitions held by the scores of leveraged buyout funds (many have started since Oct. 19) is more than $25 billion. Leveraged at 5 to 1, which is quite low compared with the 10 to 1 in many recent transactions; the $25 billion would support $125 billion of acquisitions. Money to finance takeovers is available in unlimited amounts.

The cheap dollar and cheap companies. The decline in the dollar, lower stock prices after Oct. 19 and lower price-earnings ratios for American companies than for most foreign companies makes American companies cheap. This has created a unique opportunity for foreign companies to enter the American market by buying domestic companies.

The retreat of raiders and return of strategic buyers. Because of longoverdue changes in the tax laws, the bust-up raiders have taken to the sidelines. They still go on to the playing field but not so often. This has brought back the strategic buyers. Less competition from raiders, lower market prices since Oct. 19 and fear that the next Administration may be restrictive on takeovers have combined to make hostile bidders of acquirers who previously would undertake only a negotiated acquisition.

Institutional investor control. With the ownership of a majority of the shares of most major companies in the hands of institutional investors, it has become virtually impossible to defend against a takeover. The institutions have become activists in opposing takeover defenses, voting for corporate raiders in proxy fights and forcing companies to auction themselves to the high bidder.

One is hard pressed to name even one company during the past three years that became the target of a cash tender offer for all of its shares and managed to remain independent and unrestructured. Today institutional investors are not just insisting on a takeover premium when a company is put in play, they are actively promoting takeovers.

A permissive regulatory attitude. The regulatory agencies and the Administration generally favor takeovers, oppose legislation that would restrict takeovers and enforce the law (or refuse to enforce the law) in a manner that favors the raider over the target. There is a sharp tilt of the playing field in favor of the raider. The only effective brakes on takeover activity—the poison pill and state takeover statutes—are under constant attack by the Securities and Exchange Commission and the Administration. The courts have caught takeover fever and do not hesitate to second-guess directors who seek to preserve their company's independence.

Market encouragement of borrowing. Where once it was thought too risky to have debt greater than half of a company's equity, today debt of 10 times equity is applauded. The highly leveraged company is accorded a premium price in the market. The shares of highly leveraged, restructured companies sell at prices based not on earnings or assets but on predictions of what the earnings might be in five years or more. The premium for leverage is a major factor in promoting takeovers.

The takeover infrastructure. Almost every large company has an acquisition staff. All the major law and accounting firms have merger and acquisition departments. Takeovers are the most profitable investment banking activity—so much so that the major commercial banks have developed large merger and acquisition departments to compete with the investment banks. Boutique investment banking firms are springing up and, large and small, all the firms want to be merchant bankers with direct equity participation in takeovers. The expanding infrastructure is a driving force in expanding takeover activity.

The decline of community and union opposition. The days of the Bartlesville prayer meetings and Pittsburgh union demonstrations are gone. Today, communities rarely protest the takeover of local companies.

Indeed, as illustrated by the efforts of the United Airlines and Pan Am unions to take over those companies, unions have become raiders.

Takeovers have become a worldwide phenomenon. The debate as to whether takeovers are good or bad, whether they enhance efficiency, whether they impede long-term planning, whether they create dangerous levels of leverage, whether they are essential counterbalances to trade deficits, will continue. What's indisputable is that, after 15 years of worldwide growth, takeovers can no longer be dismissed as an aberration.

GOLDEN FLEECE AWARD FOR APRIL

Mr. PROXMIRE. Mr. President, I am awarding my Golden Fleece of the Month Award for April to the U.S. Forest Service of the Department of Agriculture for cost overruns of $1,420,175 on two communication systems in a program whose total costs for five systems was only $2,376,165—a cost overrun of 59 percent!

It could be said that the U.S. Forest Service had a communications breakdown in their communications system.

Between 1980 and 1986 the Forest Service attempted to install a microwave communications system in national forests to improve forest fire detection, prevention, and fighting efforts.

This communications system was intended to save the birds and trees, but ended up wasting taxpayers' bucks and dough.

Somewhere between the plans and the implementation, the communication broke down. Without proper supervision and management, the overruns spread through the national forests like unchecked wildfire.

Among the outrageous expenditures, the two national forests squandered $59,937 on satellite dishes, antennae and other equipment which later could not be located. One national forest spent a whopping $129,236 for services without a contract or written solicitations.

Multiply these examples with delays and poor recordkeeping and before you know it, you have $1½ million in cost overruns!

The regional office discovered problems with the microwave communications system at one of the two national forests way back in 1984. Not surprisingly, these problems included cost overruns, poor work planning, and unexplained delays.

Amazingly, the regional office did nothing to correct the problems and thus paved the way for million dollar overruns!

In one region the national forests purchased incompatible communications equipment—a move which almost defies comprehension, and purchased equipment that was far beyond needs.

The cost overruns seem inevitable when you consider the management difficulties which have plagued this program from its inception.

According to the inspector general, the Forest Service disregarded and circumvented standard and required procedures like feasibility studies and cost comparisons. In addition, the regional offices provided little assistance, oversight, or supervision to the national forests and instead believed that the national forests were capable of installing their own system.

I wonder if the regional office even returns the national forests' phone calls?

The Forest Service should follow the advice of the phone company and reach out and touch someone, most obviously its regional offices and its national forests, to prevent additional money from being burned. For showing it needs to implement an internal communications system before it can implement an external communications system, the U.S. Forest Service deserves this month's fleece.

Mr. President, I thank my good friend from Kansas for graciously letting me go ahead, and I yield the floor.

THE U.S. SENATE

Mr. DOLE. Mr. President, it is good to return to my responsibilities on Capitol Hill—here in this historic Chamber. There are few constants left in the world, but the U.S. Senate is certainly one of them:

The sense of solidity, the friendliness and the courtesy, the mutuality of purpose, and the awesome role it plays in our democracy, makes the Senate a very special, and important place, in America.

THANK YOU

During my time on the "campaign trail," I was assisted here in the Senate by a number of colleagues. So, I want to take this opportunity to offer my thanks, and gratitude, to our very able assistant Republican leader, ALAN SIMPSON. Knowing that AL was here—on top of the issues—keeping the troops in line with his usual good humor and intelligence, made my life much easier. AL did an outstanding job representing the Republican side in matters large and small.

I know he was aided by the rest of the Senators who make up the Republican leadershp—THAD COCHRAN, BILL ARMSTRONG, JOHN CHAFEE, and RUDY BOSCHWITZ. And I thank them as well.

THE MAJORITY LEADER

Finally, I want to say a special word of thanks to my good friend, the distinguished majority leader, Senator BYRD. He has always had my respect and admiration for the job he does day-in and day-out, year-in and year-out—not only for the people of West Virginia, but for America.

It is not easy being the majority leader—I know. And it certainly was not any easier during the Presidential campaign season with several Senators running. That made it difficult, I am certain, for the majority leader, but he made it work!

Oh, yes, during the past 3 years we have had our disagreements—on substance, on issues, and on procedure. That is the name of the game. That is why we are here.

But those times were far outnumbered by those when we had a "meeting of the minds." Above all, this place must work. The Nation's business comes first: On those subjects, the majority and the minority leaders will always agree.

I am—and will always be—grateful for his friendship, his many courtesies, and his wise counsel. He is first and foremost, a "Senate man." The Senate is such a unique place to work in, and I certainly treasure the opportunity to serve in the role my colleagues have honored me with.

LOOKING AHEAD

And so, it is with a sense of great anticipation that I resume my duties in this Chamber—confident that, with the support of my colleagues, we will be able to address the very real needs of the American people in the coming weeks and months. Again, I thank, you all for your warm welcome back, and I hope the spirit of camaraderie can help us over the inevitable "rough spots"—I assume we will still have a few rough spots before the year is out—on the road we will be traveling together in the 100th Congress.

Mr. BYRD. Mr. President, will the distinguished Senator yield on my time?

Mr. DOLE. I am happy to yield to the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the very distinguished Republican leader for his charitable remarks in my regard. I join with my colleagues on this side of the aisle in welcoming Senator DOLE back to the Senate as he resumes his full-time duties as Republican leader.

It would be noted by any study of the RECORD that Senator DOLE was not absent from the Senate a great deal of time during which he was espousing his candidacy out in the country. His voting record, he managed to keep that in very high percentages.

I thank, again, his colleague and our colleague, ALAN SIMPSON, for the yeoman's work he did as assistant Republican leader. He performed very, very well and our working relationship could not have been better.

I am happy to continue working with the Republican leader. We do have a great deal of work to do in the interest of the country. I look forward to sharing with him my views of our situation as we proceed toward final adjournment sine die of the 100th Congress. We will be meeting perhaps today and in future days. Again, may I say that it is with the warmest of affection and the greatest of sincerity that we all welcome back into our midst Senator ROBERT DOLE. He fought a good fight. And who knows what will be the outcome of his efforts yet. It is not always that the race is to the swift nor the battle to the strong.

I thank the distinguished Senator again for his kind remarks.

Mr. DOLE. I thank the distiguished majority leader for his gracious comments.

BICENTENNIAL MINUTE

APRIL 8, 1826: JOHN RANDOLPH AND HENRY CLAY FIGHT A DUEL

Mr. DOLE. Mr. President, 162 years ago this week, on April 8, 1826, Virginia Senator John Randolph fought a duel with the Secretary of State—and future Senator from Kentucky—Henry Clay.

Easily one of the most eccentric men ever to serve in the U.S. Senate, John Randolph was famous for his terrible temper and vitriolic tongue. In 1826, he outdid himself in an attack on President John Quincy Adams and Secretary of State Henry Clay, accusing them of political and personal corruption, and calling the two a combination of the "The Puritan With the Black-Leg." Wounded by this sarcasm, the Secretary of State challenged the Virginia Senator to a duel—a form of combat to which politicians in those days too often resorted.

Late in the afternoon on April 8, the two men met on a dueling field in the Virginia countryside. Henry Clay was determined to go through with the deed, while John Randolph had come to regret his harsh words and the necessity of a duel. He told his second that he might not return fire, unless he saw "the Devil in Clay's eye." At first, Randolph's pistol misfired, but Clay called for a replacement. Then both men fired. Randolph's shot hit a stump behind Clay, while Clay's bullet passed through Randolph's flowing cloak. Clay fired a second shot, again penetrating Randolph's garment. Now, however, Randolph fired into the air and announced: "I do not fire at you, Mr. Clay."

With this gesture, the Secretary of State concluded that his honor had been satisfied, and came forward to greet his antagonist. "I trust in God, my dear sir, you are untouched," inquired Henry Clay. "you owe me a coat, Mr. Clay," said John Randolph. "I am glad the debt is no greater," the Secretary of State responded.

CONGRATULATING THE UNIVERSITY OF KANSAS ON WINNING THE NCAA BASKETBALL CHAMPIONSHIP

Mr. DOLE. Mr. President, I believe this has been cleared with the distinguished majority leader. I have a resolution honoring the University of Kansas on winning the NCAA basketball championship. I will send that resolution to the desk. I would say it has been cosponsored by all the Senators from the States in the so-called final four: myself, Senator KASSEBAUM, Senator SANFORD, Senator MCCAIN, Senator DECONCINI, Senator HELMS, Senator NICKLES, and Senator BOREN. So it is bipartisan and everything else. And the nice part about it was that Kansas University won.

I send the resolution to the desk and ask that it be read.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 406) congratulating the University of Kansas on winning the NCAA Basketball Championship.

Whereas, the University of Kansas has richly earned its reputation as one of America's great basketball schools;

Whereas, its first coach was the man who invented the game, Dr. James Naismith;

Whereas, that great tradition continued this year thanks to the brilliant coaching of Larry Brown and a true team effort by the Kansas Jayhawks;

Whereas, America was treated to a thrilling final four because of the outstanding play of Duke, Arizona, Oklahoma and Kansas;

Whereas, K.U.'s stunning march to the championship shocked the experts and thus proved that no dream is ever too big to dream: Now, therefore, be it

Resolved, That the Senate recognizes and congratulates the University of Kansas for its outstanding achievement in winning the 1988 NCAA Basketball Crown.

Mr. DOLE. Mr. President, I think it is fair to say on the night of Monday, April 4, 1988, Lawrence, KS became America's basketball capital—I do not know how long it will last, but at least for a year.

On that night—in Kansas City—the Jayhawks captured the "NCAA Basketball Championship" with a heart-stopping 83-to-79 victory over a very talented Oklahoma Sooner squad.

In fact, starting at 11:30 this morning in SD-106, the University of Kansas basketball team will be there. Danny Manning and all the others and coach Larry Brown. If anybody would like to come by and greet these outstanding young men, they will be in SD-106 and from 11:30 until about 12:45, at which time they will then have an opportunity to see President Reagan.

Mr. D'AMATO. Mr. President, I wonder if the distinguished Senator will yield for the purpose of allowing me to ask to be added as a cosponsor of that resolution.

I take particular pride because Larry Brown is a neighbor of mine, having been raised in and attended school in Long Beach, Long Island, and I live in Island Park. He was a great player, both in high school and college.

Certainly, Kansas does itself proud in its great victory. Larry Brown epitomizes, I think, probably the best in college coaching in America.

Mr. DOLE. I thank the distinguished Senator from New York. I must say we are very grateful Larry Brown will be remaining at the University of Kansas. I would say during this tournament there was one evening that was a bit different because my wife, Elizabeth, attended the University of Kansas and they were involved in the final four. The University of Kansas won. We were at the game. It was a great evening, particularly for me. Not so good for her.

But, in any event, Duke had beaten the University of Kansas three times previously so it was really the University of Kansas' turn.

But I appreciate my colleagues clearing this resolution. I must say it is a proud day for Kansas.

I sent Larry Brown, the coach, a telegram after winning. I said I had a feeling, after 1988, somebody in Kansas would become famous and it turned out to be you.

At any rate, it has been a great day for us and I would invite my colleagues to come by SD-106.

The ACTING PRESIDENT pro tempore. Without objection, Senators D'AMATO and HEFLIN will become cosponsors.

If there be no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 406) was agreed to.

The preamble was agreed to.

The ACTING PRESIDENT pro tempore. All Kansans shall be notified.

Mr. DOLE. I thank the Acting President pro tempore. I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while the distinguished Senator from Kansas is still on the floor, I congratulate him and congratulate his fine basketball team.

I will shortly ask that the Senate stand in recess until 12:45 and——

Mr. D'AMATO. I wonder if the majority leader would permit the Senator to proceed in morning business?

Mr. BYRD. Oh, yes. I wanted to announce, however, that the Senate will stand in recess shortly until 12:45 and I would anticipate a rollcall vote at 1 o'clock on going to the budget resolution. Would that be agreeable with the distinguished leader? Very well, then, our cloakrooms will respectively notify our Senators on both sides that there will be a rollcall vote. It will be a vote on the motion to proceed to take up the budget resolution.

Mr. President, how much morning business remains?

The ACTING PRESIDENT pro tempore. Twenty-five minutes remains in morning business.

Mr. BYRD. I thank the Chair and I yield the floor.

ACTION ON PANAMA

Mr. D'AMATO. Mr. President, the lack of decisive action by the United States at the time when Panama needed it most has allowed General Noriega to continue to inflict misery and pain on the Panamanian people and, indeed, to create a situation that I feared most.

Mr. President, when I discussed with various people in the administration the lack of decisive action to bring about the removal of Noriega, I was met with the inquiries of: well, who will follow?

It was suggested that the leadership that would follow would, indeed, be more dangerous to the people of Panama and to the interests of the United States. Certainly nothing could be further from the truth.

As a result of the lack of decisive action, that quagmire that I predicted would take place has, indeed, befallen the people of Panama. Now what could have been achieved rather easily becomes difficult if not impossible. Meanwhile, the Cubanization of Panama and the canal becomes more likely.

Mr. President, strong action is needed now more than ever before that situation deteriorates further. We have stories of the intrusiveness of the Cubans now in Panama. Indeed, Noriega's personal bodyguards have been replaced by Cubans. The Cuban intelligence machine has set about sending agents, every day, into Panama with increasing numbers and frequency.

Mr. President, the simple fact of the matter is there is no easy way at this point in time to bring about the exit of Manuel Noriega and the longer we wait, the more difficult it becomes. Eventually, Mr. President, we are going to have to take the strong, decisive action that some believed would not be necessary. The inevitability of it becomes more pronounced.

Mr. President, last week we had a series of most interesting, informative hearings conducted by Senator KERRY and the Subcommittee on Terrorism, Narcotics, and International Operations. I was pleased and privileged to be allowed to participate in some of those hearings.

They demonstrated quite conclusively the incredible hold that the drug cartel has brought to bear on many Latin American countries; the intrusiveness of the cartel at the upper echelons of government, particularly in the military; the fact that, indeed, the drug menace has become more dangerous to the stability of that region than any threat of Communist subversion and that that danger has been translated right here at home in the United States. The domestic tranquility that has been guaranteed to us by the Constitution is a myth in many communities with the street violence and the gangs that we see erupting, whether it be in Los Angeles or whether it be in my city of New York. The fact of the matter is, Mr. President, that the people of the United States are under siege and that the people are asking this country to become committed to a real war on drugs.

Mr. President, during the consideration of the budget resolution it is the intention of this Senator to offer some resolutions that will challenge this body and the Congress to meet its responsibility; not to hold in place some statutory budget accommodations but to recognize that if we are going to win this war we have got to fund it.

We will have an opportunity to see if people really mean that they are committed to this war or whether it is rhetoric or whether we are going to allow partisan considerations to block us from doing that which we should. Because while I recognize the importance of the deficit I want to say right now that if we are serious about this war then we have got to provide the funding. This Senator intends to offer an amendment that will increase funding across the board so that the legislation that you, Mr. President, and other Senators, 62 of us, have sponsored in a bipartisan manner along with Senator DECONCINI, the chief architect, will have the funds necessary without looking for gimmicks to pay it off.

Let me suggest to you what that is. Mr. President, we can raise more than $20 billion, $19 billion over the next 5 years, if we freeze indexing on taxes for 1 year and take those dollars and utilize them in this drug war. By God, the American people cannot have it two ways. They cannot say we want you to fight that war, we want you to use the resources necessary, we want the education and the prevention programs, we want the prisons, we want all that is necessary, we want the necessary personnel, but we will not fund it. And we in this Congress, in this body, cannot have it two ways. Right now there are attempts being made by some of my colleagues to see where they are going to get that money to fight the war. So they say, well, let us take it from mass transit, let us take it from Amtrak, let us take it from urban development action grant programs. And that is wrong.

Mr. President, let me suggest that the political gamesmanship that we have seen so often, Senators being forced to make tough votes to determine whether they are willing to fund education and drugs and handicapped programs and others by taking money from various other important programs—that just should not be part of the manner we proceed to effectuate a meaningful war on drugs. I, for one, Mr. President, am going to raise the issue of saying whether or not we are willing. Because I think the American people, if you were to say to them we will be providing almost $20 billion by suspending for 1 year the indexing on taxes—and I voted for that provision—they would say: If you are going to use those dollars to bring about a real war on drugs that will fund local efforts in law enforcement, that will make more agents available, that will fund education programs, that will fund rehabilitation programs, that will take the first positive step, why, I think the American people would say fine; let us see to it that those dollars are used in that manner.

Mr. President, that may indeed call for a budget waiver. If we are going to waive the caps on budget, I do not know of a more important area and I do not know of a more important way to test the validity of those of my colleagues who continually say, "We are for a real battle on the drug war."

I am tired of this kind of business of using one's needs and one's interests in one region of the country and put it up for grabs. That is what is taking place, if the kind of legislation that I hear about is introduced and takes place. It is wrong. It is divisive. It is not the kind of way or manner in which we should come together to attack the war on drugs.

Mr. President, in talking about the war on drugs, those hearings before the Foreign Relations Committee produced, I believe, some very substantial testimony as to the incredible power the cartel wields. Something rather disturbing took place, however, something that has affected one of our allies.

There was testimony of a convicted drug dealer by the name of Michael Vogel, who related that at a bar he heard from someone who allegedly heard from someone else that the Prime Minister of Jamaica and the police chief of Jamaica were deeply involved in drug trafficking.

The consternation that that assertion had as it was carried by wire and television back to Jamaica was incredible. It made front page in the newspapers.

Mr. President, let me say to you that that testimony was uncorroborated, that it came from a drug dealer who had been convicted, that it came not from his own personal knowledge but from someone who was talking to him in a bar. The kind of credence we should place in that should be very, very limited, if at all.

The Prime Minister of Jamaica has, through his ambassador, requested that a statement by his government be placed in the CONGRESSIONAL RECORD.

At this time, Mr. President, I ask unanimous consent that that statement be placed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE GOVERNMENT OF JAMAICA FOR INCLUSION IN THE RECORD OF THE SENATE FOREIGN RELATIONS SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL COMMUNICATIONS

The Government of Jamaica wishes to place on record its deep concern about the testimony given before the Senate Foreign Relations Sub-Committee on Terrorism, Narcotics and International Communications on April 5, 1988 by a convicted drug dealer, Michael Vogel, in which he made certain allegations against the Prime Minister of Jamaica and "other officials" including the Chief of Police, implicating them in complicity in illegal drug dealings.

The Government of Jamaica categorically refutes these grave allegations which are totally false and which are based on hearsay reports: but having been publicly aired, they are left open to public speculation as to their validity, with all that this implies in terms of damage to individual and national reputations.

The fact is that this information which was given in public testimony and heard internationally involves the Head of Government and the Chief Law Enforcement Officer of a country which has been acknowledged by the United States Authorities to be the success story of marijuana eradication in the Region.

At a recent hearing convened on March 9, 1988 by the House Task Force on International Narcotics Control this view was advanced by the Assistant Secretary of State, Elliot Abrams, in his testimony in which he praised in highest terms the Government of Jamaica and Prime Minister Seaga for Jamaica's marijuana eradication efforts.

In view of all this, the Government of Jamaica is deeply concerned at the slanderous and incriminating statements made before the Sub-Committee—statements which were publicly aired.

Vogel, it should be noted, is not without motive in this matter. He is an accomplice of Leigh Rich who was taken from a plane on arrival in Montego Bay at the request of the United States Authorities and immediately handed over to a United States Marshall on an aircraft departing from Kingston, following which he was indicted and convicted. It should be further noted that Vogel has plea-bargained his twenty-five years sentence down to twelve and a half years.

The Government of Jamaica wishes to reiterate that it places the highest possible priority on its efforts to eradicate the cultivation and illegal trafficking of drugs. In this regard, the Government of Jamaica has been engaged in a relentless and successful campaign against illegal drugs conducted in a spirit of partnership with the United States Drug Enforcement Agency and other U.S. Government Agencies to the mutual benefit of both countries, and in keeping with our obligations under international conventions on drug trafficking.

Jamaica is not engaged in this exercise simply to meet the wishes of the Government of the United States. It is in our own interest that the cultivation of dangerous drugs and drug trafficking should be eliminated from Jamaica, and in pursuing this objective the Government of Jamaica acknowledges the high level of cooperation with the United States Authorities.

EMBASSY OF JAMAICA.

WASHINGTON, DC, *April 8, 1988.*

Mr. D'AMATO. Mr. President, the last paragraph states, in talking about the drug war:

> Jamaica is not engaged in this exercise simply to meet the wishes of the Government of the United States. It is in our own interest that the cultivation of dangerous drugs and drug trafficking should be eliminated from Jamaica, and in pursuing this objective the Government of Jamaica acknowledges the high level of cooperation with the United States Authorities.

Mr. President, I have had an opportunity to speak to our own Ambassador who called me about this, and who indicated to me that if there is any government in the Caribbean area that has made a real effort in this regard it is Jamaica, and if there is any one individual who has worked with the United States against drug trafficking it has been Prime Minister Seaga. He has devoted tremendous resources and capital to this effort. For many years, the cash that came from drugs has been very supportive of many people in the island's economy. The Prime Minister has been undertaking a war in the last few years which has been difficult and dangerous not only to his life, but one that we do not want to undermine with the kind of testimony Mr. Vogel presented.

Mr. President, at this time I ask unanimous consent that the statement of the Prime Minister of Jamaica be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE RIGHT HONORABLE EDWARD SEAGA, APRIL 8, 1988

Good evening.

The Government of Jamaica some 3 or more years ago, took a positive policy decision to wipe out dangerous drugs in Jamaica. Needless to say, at the time, because of the heavy incidence of ganja growing in Jamaica, this was considered to be an act of political suicide because of the outpouring of reaction from all quarters which would result with impact on our political popularity. Nevertheless, we took steps to implement this policy regardless of the negative political results because of what we considered was necessary to be done to save the country from the fate of other countries in this region where drug barons were virtually corrupting their way to power and establishing control over the vital areas of national life.

Taking this unpopular decision was only one more such tough decision that the Government has taken in the national interest whether dealing with programmes to rebuild the economy or to curb indiscipline.

For a good time, we were the lone voice crying out against the threat of dangerous drugs to national health and national integrity. That is no longer so. Both major political parties are now joined in a common objective to wipe out the threat of dangerous drugs to our society.

This, of course, has not made the drug barons happy. There was a time when they thought they could play off one Party against the other and endeavoured to do so. Our campaign, aided by the support of the Drug Enforcement Agency of the United States and in keeping with our obligations under the International Conventions on Drug Trafficking has had an enormous impact on both the cultivation and trading of ganja. The level of eradication of the crop has been growing yearly, with the result that last year three-quarters of the crop was wiped out. The effectiveness of new methods to be used this year will ensure even greater success and will further close loop holes which exist in transportation of dangerous drugs from our shores whether from stocks of ganja which still exist or from transhipment of drugs through Jamaica from other countries.

The fight against cocaine which is a growing problem is equally being intensified in our determination to wipe out dangerous drugs before dangerous drugs wipe us out.

I said earlier that this has displeased the network of drug dealers and barons, Jamaicans and foreigners, whose vast incomes have been threatened and whose attempts have now been frustrated to use corruption to gain political influence leading to the kind of take-over of the political system which has happened to neighbouring countries in the region.

Some of the principals in this network are behind bars in Jamaica and the U.S., or facing trial. Others are on the run. Still others are fighting back using the enormous wealth and influence which they are able to purchase.

As the leader of a country which has taken the courageous, and at first unpopular, decision to wipe out the cultivation and trafficking of dangerous drugs, I am especially vulnerable to vicious retaliation of this network of national and international drug traffickers.

Jamaica, with the commitment and dedication of the teams of law enforcement officers backed by the policies of the political directorate, with the support of my colleagues, has been acknowledged by the U.S. Drug Enforcement Agency to be singularly successful in its fight against drug trafficking.

As the leader of the Government taking this strong stand, I have been subjected to threats on my life by drug barons, the first of which I reported publicly 2½ years ago. Since then the threats have gone as far as to include the kidnapping of my little son. These are all matters of record, known to the Security Forces.

Because my style of leadership is not to avoid problems but to confront them, I am accustomed to receiving threats. However, threats from this source are not to be taken lightly, as the assassination of high officials of Government in Colombia, including Judges, who were in the forefront of the war against drug trafficking, repeatedly and chillingly tell us.

It is at this point that I wish to deal with the statement made recently by a Michael Vogel, a convicted drug dealer. Vogel was in 1986 convicted on 12 drug-related charges which included conspiracy, possession, and possession with intention to distribute marijuana and cocaine and operating a continuing criminal enterprise. He was sentenced to 25 years.

In his testimony to a Sub-Committee of the Senate Foreign Relations Committee of the United States, Vogel suggested that I own property in Cayman and further suggested that drug money was sent from Jamaica which he states was sold to him in a bar in Cayman. It is, of course, a matter of grave concern that rumours in a bar are given the dignity of testimony in a Committee of the U.S. Senate.

Nonetheless, since the bar rumour has been aired let me repeat again what I have said on previous occasions that I own no property or assets in Cayman. I have already fully established my commitment to Jamaica's future in the most convincing manner by investing in a project that is well known to all.

It is to be noted that Vogel is an accomplice of one Leigh Rich. Rich was, at the request of the U.S. authorities taken off a plane by the Jamaican authorities in Montego Bay in 1986 and handed over to a U.S. Marshall who took him into custody. Rich was later indicted and convicted. In his trial he vehemently protested the action of the Jamaican Government. His accomplice, Vogel, is the man who has now given hearsay testimony to malign the Head of Government in Jamaica and the Commissioner of Police.

The Commissioner of Police has been subjected to the same smear tactics as I have been, a deliberate ploy to weaken the effectiveness of the Police Force.

The Government has reacted promptly to these developments by issuing through the Deputy Prime Minister and the Minister of Foreign Affairs, a strong protest.

The U.S. Government through the State Department has responded by issuing a strong denunciation of Vogel's testimony as "at best hearsay" and "completely unsubstantiated". This response was already broadcast tonight.

The clear message from all of this is that we are to expect retaliation which seeks either to attack or intimidate or malign those of us who are in the forefront of the campaign to eliminate dangerous drugs and drug trafficking.

I have repeatedly warned of the extent to which the powerful drug barons were capable of damaging whole Governments by taking life or smearing reputations in their campaign to take such control as is required to allow their activities to continue unhindered. We have seen the power struggle going on in Colombia and the frightening spectacle of what is transpiring there must not escape us.

If in Jamaica we become fearful either of attacks on our lives or reputations, we will fall into the same state of weakness which leaves the openings necessary for the drug barons to establish their power base.

While the statement of the State Department is welcomed, I do not intend to leave any stone unturned. Hence, the Government has requested approval for its lawyers to question Vogel as to the veracity of his testimony.

The country can rest assured that the fight against dangerous drugs will continue undeterred as relentlessly as ever, indeed, the more so now that there is a need not only to fight but to fight back.

Either we take hold of the menace of dangerous drugs in our society or it will take hold of us.

The successful campaign in Jamaica which is in the forefront of all such campaigns in this region, will go on until this problem is completely wiped out. Let that be a clear message from this Government.

Our commitment, indeed, is now stronger and more resolute than before to ensure that Jamaica does not slide back to the days when it was for drug dealers a haven, but rather that the success of our efforts will grow to ensure that it becomes their hell.

Mr. D'AMATO. Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

LYN MEYERHOFF, SPIRIT OF REPUBLICAN PARTY

Mr. DOLE. Mr. President, on April 6 Lyn Meyerhoff, a valiant woman, someone I was proud to call a friend, died of cancer.

Several weeks ago I made a speech about the future of the Republican Party. I said that Republicans, like all Americans, are united in common goals that add up to one overriding priority: We want to make this country a better place for our children and grandchildren.

Well, Lyn Meyerhoff represented all that is good and right about the Republican Party, all that is good and right about being an American. She gave, not only money, but her time, effort and commitment to countless projects that affected the lives of thousands of people at home and abroad.

Lyn became active in national Republican Party politics in the early 1960's and was a member of the executive Committee of the Maryland Republican Party. Among her many civic services to Maryland she served as chairman of the Maryland Health and Higher Educational Facilities Authority, a member of the policy committee of Johns Hopkins University Metro Center, and as a director of the Planned Parenthood Association of Maryland.

In 1983, President Reagan named her to the U.S. delegation of the United Nations, when Jeane Kirkpatrick was Ambassador. And as one of her last acts of generosity and patriotism, Lyn initiated a project of great personal importance—the Jeane Kirkpatrick Institute at Tel Aviv University in Israel. Lyn hoped that the institute would serve to further democratic practices and ideals throughout the Middle East by bringing American officials to meet with Israelis.

Mr. President, Lyn Meyerhoff, lived her life to the fullest. And those of us who knew her will miss her extraordinary warmth, compassion and commitment.

IN HONOR AND MEMORY OF MRS. ANNIE W. ABERCROMBIE

Mr. THURMOND. Mr. President, the Greenwood, SC, community has suffered a great loss with the death of Mrs. Annie W. Abercrombie, who died on Wednesday, March 16, 1988.

Mrs. Abercrombie was a well-known and highly respected member of her community, where she was active in both church and civic affairs. A native of Fayetteville, NC, Mrs. Abercrombie received her education at the University of North Carolina at Greensboro and then taught in the public schools of Hemlet, Fayetteville and Mountville, NC, and at Lander College.

In Greenwood, Mrs. Abercrombie joined the First Presbyterian Church, where she was active in women's groups and in children's church schools. She also has a charter member of the Greenwood Women's club and participated actively in garden clubs at the local and State levels, serving as an officer of her community club and of the State organization.

Mrs. Abercrombie brought much joy to the people of Greenwood and to others around the State whose privilege it was to know her. We are deeply saddened by her death. Mrs. Thurmond joins me in extending our deepest sympathy to her husband, Mr. Augustus D. Abercrombie and her daughter, Mrs. Normie Black Offerle.

Mr. President, I ask unanimous consent that an article from the Greenwood Index-Journal regarding Mrs. Annie W. Abercrombie be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Greenwood (SC) Index-Journal, Mar. 17, 1988]

ANNIE W. ABERCROMBIE

Mrs. Annie Black Williams Abercrombie, of 144 Rutledge Road, Forest Hills, wife of Augustus D. "Gus" Abercrombie, died March 16, 1988 at Self Memorial Hospital.

Born in Fayetteville, N.C., she was a daughter of the late Junius Sneed and Normie Black Williams. She was a graduate of the University of North Carolina at Greensboro and taught in the public schools of Hamlet, N.C., Fayetteville, Mountville, and Lander College. She was a member of First Presbyterian Church, where she was an active member of the women of the church and for many years served as superintendent of the kindergarten department of the church school. She was a member and past president of Lotus Garden Club, past president of the Greenwood Federation of Garden Clubs serving as bird chairman and served as bird chairman in the Garden Club of South Carolina. She was a charter member of the Greenwood Woman's club and a member and past president of Keowee Study Club.

Surviving, in addition to her husband of the home, are a daughter, Normie Black Offerle of Boulder, Colo., a sister, Mary Louisa Williams of Fayetteville, a brother, J.S. Williams of Fayetteville and three grandsons.

Services will be at 11 a.m. Friday at First Presbyterian Church with Dr. Alan Elmore and Dr. Alan Baroody officiating. Burial will be in Greenwood Memorial Gardens.

Pallbearers will be Frank Boland, Thornwell Dunlap, Jimmy McDonald, Carroll Moore, Louis Beaudrot and Phillip Bell.

The body is at Blyth Funeral Home and will be placed in the church at 10 a.m. Friday.

The family will receive friends at the home in Forest Hills.

Memorials may be made to a charity of one's choice.

COMMENDING JIM BENNETT, HOST OF "WEEKEND GARDENER"

Mr. THURMOND. Mr. President, April 10-16, 1988, is "National Garden Week." In accordance with this commemorative occasion, I would like to commend Tel-A-Cast, Inc., of South Carolina for its television production "Weekend Gardener," a timely program built on the idea that gardening can be fun as well as profitable.

Jim Bennett, host of "Weekend Gardener," has proven that gardening can be fun, healthful and a real money saver. Mr. Bennett began his gardening training in his own backyard. He pursued his hobby all over the world and began his first gardening television show in Aiken, SC. In the 8 years since then, "Weekend Gardener" has become a nationally and internationally syndicated program.

Along with his television show, Mr. Bennett also has the Weekend Gardener Journal, a bimonthly magazine, and The Weekend Gardener General Store, a catalog sales operation offering gardening items to its readers. Mr. Bennett should be commended for his achievements as a professional gardener and for his unique contribution to "National Garden Week."

NATIONAL GARDEN WEEK

Mr. HOLLINGS. Mr. President, April 10-16 has been set aside as "National Garden Week," and during this week, we should all give special recognition to Jim Bennett, an individual who has been tremendously successful in producing a television show in Aiken, SC, called "Weekend Gardener," which is broadcast across the Nation and throughout the world. Fifty-two new television shows are produced each year and each show is different, enlightening and inspiring to all gardeners. During these shows, he informs and educates gardeners about the economy and the nourishment of growing their own plants. His philosophy is one that we can all benefit from: he believes that gardening can be fun as well as healthful, rewarding and economical.

"Weekend Gardener" first aired in 1980. When it started out, 3,500 local households around Aiken watched. And they watched it grow. Today, 71 million avid gardeners watch Jim Bennett's show weekly. He is America's most recognized gardener. All of us in South Carolina are proud of him and his accomplishments.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that upon the reconvening of the Senate following the brief recess there be a period for morning business not to extend beyond 1 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I ask that the Senators may be permitted to speak during that period for morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I remind the Cloakrooms and Senators who may be listening that there will be a rollcall vote at or around 1 p.m. today. That will be on the motion to proceed to take up the budget resolution.

RECESS UNTIL 12:45 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:45 p.m. today.

There being no objection, the Senate, at 11:41 a.m., recessed until 12:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BYRD].

The PRESIDING OFFICER. In my capacity as a Senator from the State of West Virginia, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Has morning business been closed?

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 607.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the call for the regular order be automatic at the conclusion of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is now on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Maine [Mr. COHEN], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. KARNES], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] and the Senator from Wisconsin [Mr. KASTEN] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—83

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston

Kassebaum
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—17

Armstrong
Biden
Breaux
Bumpers
Cohen
Exon
Garn
Gore
Karnes
Kasten
Kennedy
Leahy
Metzenbaum
Mikulski
Murkowski
Simon
Thurmond

So the motion was agreed to.

The **PRESIDING OFFICER**. The clerk will report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991.

The Senate proceeded to consider the concurrent resolution.

The **PRESIDING OFFICER**. Who yields time?

Mr. CHILES. Mr. President, I yield time and I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senator from Florida.

Mr. CHILES. Mr. President, I yield myself such time as I might use in my opening statement.

We bring, today, to the Senate floor, the concurrent budget resolution for fiscal year 1989. I am pleased to say it is a bipartisan budget, approved in the committee by a vote of 18 to 3, and it is the child and the offspring of last fall's summit between the White House and Congress. I believe it deserves the full support of the Senate.

People involved in any sort of competition know it is tough to win while rebuilding. That is the position our economy is in right now.

The worldwide competition is fierce. Although our current economic indicators seem to be favorable, all of us know the Federal deficit is high. The national debt is growing. Our debts to other nations are higher than ever before, and our current run of luck is fueled more by paper and services than by investment and manufacturing.

Still, if you look only at the periodic reports, it does not seem like we are doing all that badly. But if you look at the balance sheet, we are running just a few steps ahead of an avalanche of debt. So, when the next President and the new Congress take office next January, their job will be enormous. Our responsibility in this budget is to make sure next year's burden grows no larger.

ROOTS

Eight months ago, a betting man would have had some doubts about the chances for progress on the deficit. Partisanship had this Chamber under lock and key. There was anguish among the Democrats and silence among the Republicans. A budget had been approved, but there was doubt it could be implemented.

The one thing we were able to agree on was that we needed to restore the automatic spending cut provision of Gramm-Rudman-Hollings to save ourselves from the embarrassment of doing nothing at all. We did not revive the sequester mechanism just because we thought it was some sort of wonderful thing. We did it as a spur to implementing the budget resolution. It was something like a high-stakes game of chicken.

So we put back the so-called sequester provision. But then we discovered that doing nothing at all would produce at least a floor-sample version of deficit reduction.

A lot of people were still willing to settle for that when the bottom fell out of the stock market on October 19. It did not exactly erase the party lines, but at least we finally saw the need to produce.

It took us 2 months. And it was still partisan. But it was the partisanship of give and take rather than the partisanship of take a walk. In the end, we produced a 2-year cut in the deficit of $76 billion—the largest of its kind in our history.

But big as it was, it didn't entirely satisfy those who worked so hard to bring about a summit—and worked even harder during the long weeks of the summit talks. No one should have been surprised that the package was as small as it was. The White House would not agree to more than $23 billion when we were working on the revisions to Gramm-Rudman-Hollings, so $23 billion became the goal in the summit.

Some would say we missed the big opportunity. But it was the best we could do under the circumstances, and the budget we bring to the floor today is the second installment on the original commitment.

AS IS

We have all been in the position before when we have heard that a product is available as is. That is the way this budget is presented to the Senate, and everybody should be realistic about what it does and how it does it.

The first thing it does is get the budget deficit down to $136 billion if you discount asset sales and prepayments. It includes no new revenue increases. It complies with the domestic spending caps required by the economic summit, as well as the spending levels specified for national defense.

But before I explain how all this is done, let me be candid about the actual deficit figure and what it means.

Ordinarily, we use the economic estimates provided by the Congressional Budget Office to calculate the deficit figure. We do not do that this time. We used the assumptions provided by the Office of Management and Budget.

Let me tell you why.

They are the estimates the White House used when it put together its budget earlier this year, and they are the same assumptions used by the House of Representatives when they approved their version of the budget for 1989. Most important, they are the estimates the Office of Management and Budget will use when they measure whether there is a need for a sequester.

Since avoiding a sequester is really the only deficit target on which we can hope for consensus, that is what is relevant. Remember, we have a peculiar path to walk. The defense and domestic caps are floors as well as ceilings. We are not allowed to raise new revenue, but we still have a deficit target to reach.

What would happen if we used the economic assumptions of the Congressional Budget Office? The deficit would be higher—roughly $30 billion higher. So let us not try to fool anybody. There is a possibility the deficit might turn out to be higher than we assume. In fact, it is a likely outcome, if you follow recent history.

At the same time, though, I do not think we should try to fool ourselves in the other extreme. We are in the aftermath of last fall's summit. We are in the middle of this year's elections. It is just not realistic to think that either Congress or the White House is willing to cut—or tax—our way into another $30 billion in deficit reduction.

So the possibility exists that the economic assumptions we use might lead to a higher deficit. And that is a problem. But it is not as serious a problem as the fact that the size of the deficit is blurred by something else.

Social Security assets are part of the overall budget. Right now, Social Security is taking in more in payroll taxes than it is paying out in benefits. That means there is a surplus, and for accounting purposes, the surplus is figured into the overall budget picture.

The surplus brightens the picture; makes the deficit look smaller. But we are supposed to be saving that surplus for the retirement years of the Baby Boom generation. If somebody wants to spend it now, it will not be there when it is called for.

But take out that surplus, and you have a more accurate picture of the deficit's true size. And the size is upwards of $220 billion—growing, not shrinking. That is the real figure we have to worry about. And so, during the course of this debate, I will offer a resolution making it our goal to balance the working budget—that is, the budget and deficit without the mask of a Social Security surplus—in 5 years.

WHAT'S IN THE BUDGET

I do not want to give the impression that I am here to criticize the budget we've brought to the floor. I am not. It is a reasonable, necessary combination of savings and investment. At the conclusion of my remarks today, I will provide for the record a more detailed summary of its key provisions to supplement the formal report of the committee. For now, let me sketch some of its highlights.

NATIONAL DEFENSE

It is a budget of sensible choice on national defense. It includes nearly $300 billion in budget authority and $294 billion in outlays to defend the Nation and the national interest overseas.

Like everyone else in the Senate, I am committed now—as I have been throughout my career—to a strong national defense. And, like everyone else in the Senate, it is my hope that negotiations now underway with the Soviet Union will one day make security possible at less cost.

But until that day comes, we have to be ready to defend ourselves. And while the defense figure is slightly lower than the President's request, it adds $5.2 billion to readiness accounts. It means we will be making investments in frontline defense systems. But it also means, we are making choices to phase out systems that do not make the maximum contribution to a strong and efficient defense network.

Secretary Carlucci's done a good job in the short time he has had. But because time has been so short, he has not been able to confront the 5-year-defense plan, the request for 2 percent real growth in the President's budget. It is a figure that is probably not realistic down the road in light of fiscal restrictions, and it is virtually certain that further hard decisions are waiting in the wings.

SCIENCE AND TECHNOLOGY

This budget makes possible an 11-percent increase over 1988 budget authority for National Science Foundation programs. It includes a 25-percent increase for the Department of Energy for ongoing high energy and nuclear physics programs along with the development of the super collider. It also adds $2.2 billion for NASA space programs to make it clear beyond question that this country is solidly committed to converting our research breakthroughs into practical gains on Earth.

Within NASA itself, nearly 90 percent of the increase is for existing programs, as opposed to new starts.

TRANSPORTATION

The budget assumes a 19-percent increase over 1988 budget authority for aviation safety programs to hire more air traffic controllers and continue modernizing our airports. While some programs are reduced or held at last year's levels, mass transit formula operating assistance is increased to $850 million. Moreover, the funds for the Coast Guard are consistent with the President's request, including drug interdiction and enforcement programs.

The transportation money in this budget is real—primarily because we turned down the President's proposal for sizeable cuts in transit funding, and added $1.5 billion for the overall function.

EDUCATION

Under this budget, funds for education would be increased by $1.2 billion, or 7 percent. The money would help support top priority programs like Chapter One, Drug Free Schools, Student Aid, and a variety of programs to assist in job training, vocational education, the handicapped and minorities.

HEALTH SERVICES AND RESEARCH

There is a 4.6-percent increase over 1988 budget authority for health services and research in the bipartisan proposal. It will mean more support for AIDS research and education, maternal and child health, health care for the homeless, childhood immunizations, NIH biomedical research and more.

The resolution also endorses important Medicaid expansions for low-income pregnant women, for infants, and for the elderly on a deficit-neutral basis.

INCOME SECURITY

Under the terms of this agreement, the Women, Infants and Children Supplemental Feeding Program will increase by $150 million. Key homeless housing programs will continue, and public housing operating subsidies will receive approximately full funding under the current formula.

The budget provides $500 million for the expected continuation of nutrition assistance as commodities are depleted under the Temporary Emergency Food Assistance Program. Half the funds would be in cash, and the rest would be for cheese and other commodities to distribute to low-income families and individuals.

ADMINISTRATION OF JUSTICE

This budget allows for a significant increase for construction, operation, and maintenance of prisons. And there is a substantial increase for law enforcement programs—including the FBI, the Drug Enforcement Administration, and the Immigration and Naturalization Service—to step up the fight against drugs.

NOW—AND THINGS TO COME

Mr. President, this is a good budget. There are some who believe we should have done better, and I am one of them. But two facts remain clear. First, we have actually done very well. But, second, we will certainly have to do much better in the years to come.

It is no empty rhetoric to say the road ahead will be hard and the choices will be tough. The deficit is the most stubborn animal in the domestic barn. Every time you touch it, it kicks. And some would prefer to just stay out of its way.

We cannot do that. We have to take the risk that some in public office will get bruised, and there will be some pain for everyone for a while. But there will be long term suffering throughout the Nation unless we do this job.

It is only half over. And the second half will be more demanding than the first. But the rewards for a job done well and a problem overcome is a future full of opportunity, and a country deeply involved in progress rather than an economy deeply in debt.

So what we begin today can be the basis of a new, bipartisan understanding where we back away from blaming each other for things as they are, and get started on the road to making things the way we want them to be.

I want to offer my thanks to all members of the Budget Committee who helped put this proposal together. Certainly, the cooperation of the authorizing committees and the Appropriations Committee are keys to making this a success.

Let me conclude today by offering my thanks to PETE DOMENICI. I think I have been very fortunate in my years as a member on the Budget Committee and in my time as chairman to work with a man who has become a special friend. The issues we have faced have never been easy, and the road to agreement has not always been smooth.

That is a failing I am glad to give him. I miss his companionship. On this occasion, as we begin our budget discussion, I thank him for standing up for what he believes must be done and his willingness to invest the time, thought, and energy behind this bipartisan program. I make those same thanks to his staff. It is not exactly what either of us would have written on our own, but it does do a job that needs doing.

Mr. President, I hope the Senate will approve this budget. I ask unanimous consent a summary of the provisions be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS

The Chairman's Mark Chiles/Domenici Bipartisan Budget Package

[1989; Dollars in billions]

Budget authority	1,231.2
Revenues	964.6
Outlays	1,100.6
Deficit	136.0
G-R-H deficit target	136.0

OVERVIEW

The Chairman's Mark achieves a deficit of $136 billion in 1989, exactly equal to the GRH target. The deficit-excluding new asset sales and loan prepayments which do not count under GRH—total $141.8 billion. This is $4.2 billion below the GRH sequestration threshold of $146 billion.

REVENUES

The Chairman's Mark requires no new revenue increases in 1989 beyond what was already enacted last year as a result of the budget summit agreement.

NATIONAL DEFENSE

Defense spending in the Chairman's Mark meets the levels in the summit agreement of $299.5 billion in budget authority and $294 billion in outlays. Defense savings, as measured from the CBO baseline, total $1.4 billion.

INTERNATIONAL PROGRAMS

The Chairman's Mark meets the caps in the summit agreement for international programs, producing savings from the CBO baseline of $0.4 billion. Program levels under the cap total $18.1 billion in budget authority and $16.1 billion in outlays.

DOMESTIC DISCRETIONARY

For domestic discretionary spending, the Chairman's Mark meets the caps in the summit agreement of $148.1 billion in budget authority and $169.2 billion in outlays. These levels assume funding increases for such high priority programs as education and job training, science, space and technology, drug enforcement, air safety, AIDS and health research, child nutrition and Veterans medical care. Domestic discretionary savings, as measured from the CBO baseline, total $1.1 billion.

ENTITLEMENTS AND OTHER MANDATORY

Entitlement and mandatory program assumptions include $0.5 billion for continuation of nutrition aid when commodity surpluses are depleted. The Chairman's Mark also assumes enactment of catastrophic health and welfare reform legislation that will be totally funded from other offsets and not require new funding. The Mark also supports enactment of pending Medicaid provisions to broaden coverage for pregnant women and children, to protect families during a period of welfare to work transition, and to protect low-income elderly against spousal impoverishment and Medicare cost-sharing amounts. The Mark assumes these provisions will be deficit neutral.

ASSET SALES AND PREPAYMENTS

Asset sales and prepayments in the Chairman's Mark total $5.8 billion in 1989 including $3.5 billion called for in the summit agreement but not yet achieved and $2.3 billion already enacted.

INTEREST AND OTHER

Other deficit changes include debt service savings of $300 million and increases to the deficit resulting from the retirement cost changes arising from the pay raise assumptions, inclusion of certain interest costs for the farm credit system which were not included by OMB as mandatory payments, and other offsets.

Meeting the 1989 Deficit Target

[Dollars in billions]

Adjusted G-R-H Baseline Deficit	143.2
Limiting discretionary spending to summit agreement caps:	
Defense	−1.4
International	−0.4
Domestic	−1.1
Subtotal	−1.9
Catastrophic Health, Medicaid Adds, Welfare Reform (Net of Offsets)	0
Continuation of Nutrition Aid When Commodity Surpluses are Exhausted	0.5
1989 asset sales and prepayments in summit agreement	
Already enacted	−2.3
Not yet enacted	−3.5
Technical offsets	1.3
Debt service	−0.3
Total savings	−7.2
Deficit	136
G-R-H target	136
Over/under (+/−) G-R-H Target	0

ENTITLEMENT CHANGES ASSUMED IN THE CHAIRMAN'S MARK

Health Care Improvements. The Chairman's Mark assumes that legislation pending in conference for Medicare catastrophic benefits will be deficit neutral. The mark also supports enactment of pending Medicaid provisions to broaden coverage for pregnant women and children, to protect families during a period of welfare to work transition, and to protect low-income elderly against spousal impoverishment and Medicare cost-sharing amounts. The mark assumes, however, that such Medicaid legislation, as well as possible changes in recent Medicaid regulatory actions affecting recalculation of the federal match, will be adopted on a deficit neutral basis with the costs offset through program savings or revenue increases.

Continue Nutrition Assistance. The Senate Agriculture Committee is preparing legislation to respond to the imminent depletion of commodities in the Temporary Emergency Food Assistance Program (TEFAP). The Chairman's Mark provides $500 million for this expected continuation of nutrition assistance when the commodities run out. These funds could be used for purchasing cheese and other commodities for distribution to low-income families and individuals. TEFAP serves many low-income people, including the homeless, who are not covered by food stamps. In many cases, the distribution of commodities through TEFAP is the only way to reach this population with food assistance. Some of the funds assumed in the Chairman's Mark could increase food stamp benefits and make other improvements in the program.

Welfare Reform. The Chairman's Mark assumes that welfare reform legislation will be enacted in a deficit neutral manner, with new entitlement costs offset through other savings or revenue increases.

BUDGET OPTIONS COMPARED TO DEFENSE, INTERNATIONAL AND DOMESTIC DISCRETIONARY CAPS

[Dollars in billions]

	1988 baseline	President's budget	HBC Mark	Chairman's Mark	Mark versus 1988 baseline
DEFENSE					
Function 050:					
Budget authority	291.4	299.5	299.5	299.5	8.1
Outlays	287.5	294.5	294.0	294.0	6.5
Defense caps:					
Budget authority	299.5	299.5	299.5	299.5	....
Outlays	294.0	294.0	294.0	294.0	....
Difference:					
Budget authority	−8.1	0.0	0.0	0.0	....
Outlays	−6.5	0.5	0.0	0.0	....
INTERNATIONAL AFFAIRS					
Function 150:					
Budget authority	17.8	18.1	18.1	18.1	0.3
Outlays	16.5	16.1	16.1	16.1	−0.4
International caps:					
Budget authority	18.1	18.1	18.1	18.1	....
Outlays	16.1	16.1	16.1	16.1	....
Difference:					
Budget authority	−0.3	0.0	0.0	0.0	....
Outlays	0.4	0.0	0.0	0.0	....
DOMESTIC DISCRETIONARY					
Function 250:					
Budget authority	10.7	13.9	12.4	13.4	2.6
Outlays	10.9	13.0	12.2	13.0	2.1
Function 270:					
Budget authority	5.8	6.0	5.8	5.9	0.0
Outlays	6.2	6.8	6.1	5.9	−0.3
Function 300:					
Budget authority	16.1	15.3	16.0	15.9	−0.2
Outlays	16.2	16.5	16.5	16.3	0.1
Function 350:					
Budget authority	2.3	1.6	2.2	2.2	−0.2
Outlays	2.3	1.7	2.3	2.3	0.0
Function 370:					
Budget authority	2.9	1.9	2.9	2.6	−0.3
Outlays	2.9	1.9	3.0	2.7	−0.2
Function 400:					
Budget authority	10.9	9.8	11.5	11.4	0.5
Outlays	27.0	27.1	27.5	27.9	0.9
Function 450:					
Budget authority	5.4	4.2	5.4	5.0	−0.4
Outlays	5.8	5.7	5.8	5.7	−0.1
Function 500:					
Budget authority	25.2	26.4	27.6	26.7	1.4
Outlays	24.8	26.1	26.6	26.5	1.7
Function 550:					
Budget authority	13.0	13.6	13.4	13.6	0.6
Outlays	11.9	13.2	13.1	13.2	1.3
Function 570:					
Budget authority	0.0	0.0	0.0	0.0	0.0
Outlays	1.8	2.1	2.1	2.1	0.3
Function 600:					
Budget authority	13.7	13.4	15.0	14.1	0.4
Outlays	18.9	20.8	20.9	21.0	2.1
Function 650:					
Budget authority	0.0	0.0	0.0	0.0	0.0
Outlays	2.1	2.1	2.1	2.2	0.1
Function 700:					
Budget authority	11.8	12.0	12.0	12.1	0.3
Outlays	11.7	12.0	12.0	12.1	0.5
Function 750:					
Budget authority	8.7	9.8	9.2	9.3	0.6
Outlays	8.4	9.4	9.0	9.3	0.9
Function 800:					
Budget authority	8.4	8.8	8.3	8.3	−0.1
Outlays	8.3	8.7	8.3	8.4	0.1
Function 920:					
Budget authority	0.0	−0.1	0.0	0.0	0.0
Outlays	0.0	0.0	0.0	0.0	0.0
Credit and other adjustments:					
Budget authority	9.2	11.0	6.3	7.9	−1.3
Outlays	1.2	1.8	1.7	0.8	−0.4
Total:					
Budget authority	144.1	147.6	148.0	148.1	4.0
Outlays	160.2	168.7	169.2	169.2	9.0
Domestic caps:					
Budget authority	148.1	148.1	148.1	148.1	....
Outlays	169.2	169.2	169.2	169.2	....
Difference:					
Budget authority	−4.0	−0.5	−0.1	0.0	....
Outlays	−9.0	−0.5	0.0	0.0	....

Function 050: National Defense

[Dollars in billions]

	Totals
1988 level:	
Budget authority	291.4
Outlays	287.5
1989 budget options:	
President's request:	
Budget authority	299.5
(CBO Re-estimate):	
Outlays	294.5
Defense Cap:	
Budget authority	299.5
Outlays	294.0
Chairman's mark:	
Budget authority	299.5
Outlays	294.0

DISCUSSION

The President's 1989 defense budget request largely conforms to the Leadership agreement and proposes $299.5 billion in budget authority for 1989, nearly a 3 percent nominal increase above the CBO baseline level.

The increment above 2 percent is attributable to the fact that the 1988 enacted level of budget authority is roughly $600 million below the leadership agreement.

Within the 1989 defense budget request, the operations and maintenance or "readiness' account receives the largest increase, in terms of both dollars ($5.2 billion) and percent (6.5 percent).

Despite the relatively small nominal increase in the national defense topline in comparison with the Administration's request for previous years, several specific programs are marked to receive significant funding increases in 1989. Among these programs are the V-22 aircraft, the AC-130U aircraft, the SSN-21 submarine, the B-2 "Stealth" Bomber and the Strategic Defense Initiative.

Some of the programs scheduled to be terminated or to receive funding reductions in 1989 include the Aquila Remotely Piloted Vehicle, the A-6 aircraft, the Small ICBM, and the LHX helicopter.

Function 150: International Affairs—Discretionary Programs

[Dollars in billions]

	Totals
1988 Enacted level:	
Budget authority	17.8
Outlays	16.5
1989 budget options:	
President's request:	
Budget authority	18.1
Outlays	16.1
International cap:	
Budget authority	18.1
Outlays	16.1
Chairman's mark:	
Budget authority	18.1
Outlays	16.1

DISCUSSION OF CHAIRMAN'S MARK

Level for discretionary spending is set at 2 percent above 1988 levels, in keeping with last year's Summit Agreement.

This level will allow modest growth for economic and security assistance programs, State Department and USIA operations, and the Export-Import Bank.

Function 250: Science, Space and Technology—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	10.7
Outlays	10.9
1989 budget options:	
President's request:	
Budget authority	13.9
Outlays	13.0
Two percent option	
Budget authority	10.9
Outlays	11.4
HBC mark:	
Budget authority	12.4
Outlays	12.2
Chairman's Mark:	
Budget authority	3.4
Outlays	13.0
Across the board Budget authority cut	0.1

DISCUSSION OF CHAIRMAN'S MARK

NASA space programs are increased by 27 percent ($2.2 billion) over the 1988 budget authority of $8.2 billion. Ongoing programs in the function are increased by 22 percent. New initiatives comprise the remainder of the increase.

The National Science Foundation programs are increased by 11 percent over the 1988 budget authority of $1.7 billion.

The Department of Energy's High Energy and Nuclear Physics programs are increased by 25 percent over the 1988 budget authority to support the ongoing program and the development of the Superconducting Super Collider.

Function 270: Energy—Discretionary Programs[1]

[Dollars in billions]

	Totals
1988 level:	
Budget Authority	5.8
Outlays	6.2
1989 budget options:	
President's request:	
Budget Authority	6.0
Outlays	6.8
Two percent option:	
Budget Authority	5.9
Outlays	6.3
HBC mark:	
Budget Authority	5.8
Outlays	6.1
Chairman's mark:	
Budget Authority	5.9
Outlays	5.9
Across the board budget authority cut	–*

[1] The totals for this function exclude the Rural Electrification Administration reimbursement appropriation.

DISCUSSION OF CHAIRMAN'S MARK

The Clean Coal program includes a $525 million advance appropriation provided in the 1988 Continuing Resolution.

Nuclear Waste activities are funded consistent with the recent restructuring of the nuclear waste program and the selection of a single nuclear waste site.

Energy Conservation programs are increased slightly.

The Chairman's mark includes reductions for some research and development programs. Increases in the clean coal program more than offset these reductions.

The Strategic Petroleum Reserve is funded so as to maintain a 50,000 barrel per day fill rate, based on CBO's estimate of oil prices.

Other programs in this function are funded approximately 5 percent below 1988 levels.

Function 300: Natural Resources and Environment—Discretionary Programs[1]

[Dollars in billions]

	Totals
1988 level:	
Budget Authority	16.1
Outlays	16.2
1989 budget options:	
President's request:	
Budget Authority	15.3
Outlays	16.5
Two percent option:	
Budget Authority	16.7
Outlays	17.1
HBC mark:	
Budget Authority	16.0
Outlays	16.5
Chairman's mark:	
Budget Authority	15.9
Outlays	16.3
Across the board budget authority cut	–0.1

[1] The totals for this function exclude the Conservation Reserve.

DISCUSSION OF CHAIRMAN'S MARK

Programs in this function including Superfund, the Leaking Underground Storage Tank program and the Environmental Protection Agency operating budget are increased above 1988 levels. In addition, the land acquisition program would be increased by over 15 percent. These increases are needed to support a vigorous hazardous waste cleanup program, implement increased environmental statutory responsibilities and provide needed funding for land acquisition purchases.

Minor reductions in water resource and forest service activities are made to offset these increases.

All other programs in this function are reduced by 1 to 3.5 percent.

Function 350: Agriculture—Discretionary Programs[1]

[Dollars in billions]

1988 level:	
Budget Authority	2.3
Outlays	2.3
1989 budget options:	
President's request:	
Budget Authority	1.6
Outlays	1.7
Two percent option:	
Budget Authority	2.4
Outlays	2.4
HBC mark:	
Budget Authority	2.2
Outlays	2.3
Chairman's mark:	
Budget Authority	2.2
Outlays	2.3
Across the board budget authority cut	0

[1] The totals for this function exclude budget authority and outlays for the Agricultural Credit Insurance Fund Program.

DISCUSSION OF CHAIRMAN'S MARK

The majority of Function 350 agriculture accounts are comprised of entitlement and mandatory programs which are not subject to the discretionary spending caps provided in the summit agreement.

Discretionary programs in this function are reduced by 6.5 percent from 1988 enacted levels.

Function 370: Commerce and Housing Credit—Discretionary Programs[1]

[Dollars in billions]

	Totals
1988 level:	
Budget authority	2.9
Outlays	2.9

Function 370: Commerce and Housing Credit—Discretionary Programs [1]—Continued

1989 budget options:	
President's request:	
Budget authority	1.9
Outlays	1.9
Two percent option:	
Budget authority	2.9
Outlays	3.1
HBC mark:	
Budget authority	2.9
Outlays	3.0
Chairman's mark:	
Budget authority	2.6
Outlays	2.7
Across the board budget authority cut	–*

[1] The totals for this function exclude appropriations for the Rural Housing Insurance Fund (including rental assistance and past losses) and the Federal Housing Administration fund.

DISCUSSION OF CHAIRMAN'S MARK

Periodic Census funding is increased by 64 percent over the 1988 budget authority of $346 million to support the decennial census. This programmatic increase provides for activities in preparation for the 1990 decennial census.

Postal subsidies are maintained at the current program level.

Rural housing is reduced by 3 percent from 1988 enacted levels.

Other programs in this function, including small business and elderly housing, are reduced by less than 9 percent.

Function 400: Transportation—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	10.9
Outlays	27.0
1989 budget options:	
President's request:	
Budget authority	9.8
Outlays	27.1
Two percent option:	
Budget authority	11.1
Outlays	27.5
HBC mark:	
Budget authority	11.5
Outlays	27.5
Chairman's mark:	
Budget authority	11.4
Outlays	27.9
Across the board budget authority cut	–0.1

DISCUSSION OF CHAIRMAN'S MARK

Aviation Safety programs are assumed to increase by 19 percent over the 1988 budget authority of $5.5 billion. This increase will allow continued improvement of the air transport system through increased hiring of 900 air traffic controllers (for a 1989 total of 16,800), continued modernization of the control system, and additional airport improvements. This exceeds the President's request by more than 5 percent or $319 million.

Coast Guard funding matches the President's request for operating costs associated with drug interdiction fortification, search and rescue, and law enforcement activities. Construction (ACI) increases 24 percent over 1988 enacted level. This overall funding level is augmented by a transfer of $120 million from the Department of Defense.

Mass transit discretionary grants and federal aid highway programs are maintained at 1988 program levels. In addition, mass transit formula operating assistance is increased by 6 percent to $850 million. Amtrak is frozen at the 1988 level. All other programs have been reduced by 10-16 percent from the 1988 enacted level.

Function 450: Community and Regional Development—Discretionary Programs [1]

[Dollars in billions]

	Totals
1988 level:	
Budget authority	5.4
Outlays	5.8
1989 budget options:	
President's request:	
Budget authority	4.2
Outlays	5.7
Two percent option:	
Budget authority	5.5
Outlays	5.7
HBC mark:	
Budget authority	5.4
Outlays	5.8
Chairman's mark:	
Budget authority	5.0
Outlays	5.7
Across the board budget authority cut	–*

[1] The totals for this function exclude the past losses of the Rural Development Insurance Fund.

DISCUSSION OF CHAIRMAN'S MARK

Function 450 has been reduced by less than 6 percent. This can be accomplished by either preserving CDBG at close to current levels or by reducing all programs in this function across the board.

Function 500: Education, Employment, Training and Social Services

[Dollars in billions]

	Totals
1988 level:	
Budget authority	25.2
Outlays	24.8
1989 budget options:	
President's request:	
Budget authority	26.4
Outlays	26.1
Two percent option:	
Budget authority	25.8
Outlays	26.2
HBC mark:	
Budget authority	27.6
Outlays	26.6
Chairman's mark:	
Budget authority	26.7
Outlays	26.5
Across the board budget authority cut	–*

DISCUSSION OF THE CHAIRMAN'S MARK

Education programs are increased by $1.2 billion or 7.4 percent over the 1988 budget authority of $16.1 billion to support high priority programs such as Chapter 1, Drug-Free Schools, Student Aid, Vocational and Adult education, Indian education, and Education of the Handicapped Act programs. This increase is above the President's request.

Social services and job training programs such as Head Start, and Older American Act programs, could be increased by 4.4 percent over the 1988 budget authority of $7.9 billion.

Specific funding for the WIN program is assumed to be terminated in anticipation of new worker training activities authorized in pending welfare reform legislation.

Function 550: Health Services and Research—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	13.0
Outlays	11.9
1989 budget options:	
President's request:	
Budget authority	13.6
Outlays	13.2
Two percent option:	
Budget authority	13.2
Outlays	13.0
HBC mark:	
Budget authority	13.4
Outlays	13.1
Chairman's mark:	
Budget authority	13.6
Outlays	13.2
Across the board budget authority cut	–0.1

DISCUSSION OF THE CHAIRMAN'S MARK

Health services and research is increased by 4.6 percent over the 1988 budget authority of $13 billion to support increases for AIDS research and education, maternal and child health and community health center programs, migrant and indian health care, health care for the homeless, drug abuse treatment, childhood immunizations, and NIH biomedical research.

Function 570: Medicare—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	0.0
Outlays	1.8
1989 budget options:	
President's request:	
Budget authority	0.0
Outlays	2.1
Two percent option:	
Budget authority	0.0
Outlays	1.9
HBC mark:	
Budget authority	0.0
Outlays	2.1
Chairman's mark:	
Budget authority	0.0
Outlays	.1
Across the board cut, budget authority	0

DISCUSSION OF THE CHAIRMAN'S MARK

Medicare administrative expenses are increased by 14.8 percent over the 1988 baseline of $1.8 billion to support increased claims processing demands on Medicare contractors and enhanced program audit and claims review activities. The increase also assumes an appropriation of $105 million for claims review and audit to make up for an expired provision of law which, prior to fiscal year 1989, made these funds available without appropriations action.

The mark adopts the President's request.

Function 600: Income Security—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	13.7
Outlays	18.9
1989 budget options:	
President's request:	
Budget authority	13.4
Outlays	20.8
Two percent option:	
Budget authority	14.0
Outlays	20.5
HBC mark:	
Budget authority	15.0
Outlays	20.9
Chairman's mark:	
Budget authority	14.1

Function 600: Income Security—Discretionary Programs—Continued

Outlays	21.0
Across the board budget authority cut	–*

DISCUSSION OF CHAIRMAN'S MARK

The Women, Infants and Children Supplemental Feeding Program is increased by $150 million over the 1988 level. This will allow an additional 150,000 participants to be served on an annual basis.

The Emergency Food Distribution and Shelter Program (for the homeless and hungry) is increased by 10 percent over the 1988 enacted level.

Refugee Assistance is increased to allow for 31-month cash and medical assistance.

Key Homeless Housing Programs are maintained at 1988 program levels. This sets 1989 budget authority at $200 million.

Public Housing Operating Subsidies are funded at a 1989 budget authority level of $1.6 billion which provides approximately full funding under the current formula.

Low-Income Energy Assistance is funded above the 1988 level to cover increased program costs.

Function 650: Social Security—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	0.0
Outlays	2.1
1989 budget options:	
President's request:	
Budget authority	0.0
Outlays	2.1
Two percent option:	
Budget authority	0.0
Outlays	2.0
HBC mark:	
Budget authority	0.0
Outlays	2.1
Chairman's mark:	
Budget authority	0.0
Outlays	2.2

DISCUSSION OF CHAIRMAN'S MARK

The staff option provides $50 million more funding than the President's request. Total outlays are increased by $50 million over the 1988 level.

The option assumes that the line-item for Information and Technology Systems will be reduced while funds for personnel will be increased. This will allow for partial restoration of the staffing positions that the Administration is seeking to eliminate.

Function 700: Veterans Benefits and Services—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	11.8
Outlays	11.7
1989 budget options:	
President's request:	
Budget authority	12.0
Outlays	12.0
Two percent option:	
Budget authority	12.0
Outlays	12.0
HBC mark:	
Budget authority	12.0
Outlays	12.0
Chairman's mark:	
Budget authority	12.1
Outlays	12.1
Across the board budget cut, budget authority	–*

DISCUSSION OF CHAIRMAN'S MARK

Veterans medical services are increased by $0.3 billion over the 1988 baseline level to allow continuation of current operating levels in veterans medical facilities. The mark is $0.1 billion above the President's request.

Other veterans discretionary programs, including medical research, construction, and general administrative operating expenses are funded at the President's requested levels.

Function 750: Administration of Justice—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	8.7
Outlays	8.4
1989 budget options:	
President's request	
Budget authority	9.8
Outlays	9.4
Two percent option	
Budget authority	8.9
Outlays	8.7
HBC mark	
Budget authority	9.2
Outlays	9.0
Chairman's mark	
Budget authority	9.3
Outlays	9.3
Across the board cut	–0.1

DISCUSSION OF CHAIRMAN'S MARK

The Chairman's mark provides increases for major law enforcement programs—including the FBI, the Drug Enforcement Administration and the Immigration and Naturalization Service. These increases will provide significant resources over 1988 levels to continue the war on drugs.

The Customs Service is funded at baseline levels—a slight increase above the President's proposal.

Federal Prison funding is increased significantly for both construction of buildings and operations and maintenance.

The Legal Services Corporation and Justice Assistance Grants are funded at last year's levels.

Other programs in this function are also maintained near last year's levels.

Function 800: General Government—Discretionary Programs

[Dollars in billions]

	Totals
1988 level:	
Budget authority	8.4
Outlays	8.3
1989 budget options:	
President's request	
Budget authority	8.8
Outlays	8.7
Two percent option	
Budget authority	8.5
Outlays	8.6
HBC mark	
Budget authority	8.3
Outlays	8.3
Chairman's mark	
Budget authority	8.3
Outlays	8.4
Across the board cut	–0.1

DISCUSSION OF CHAIRMAN'S MARK

The Chairman's mark provides for a continuation of the IRS enforcement initiative begun last year as part of the economic summit agreement.

Other programs in this function are maintained near last year's levels.

SENATE BUDGET COMMITTEE MARK 1989–91

[Dollars in billions]

	1989	1990	1991
050: National Defense:			
Budget authority	299.5	312.3	325.0
Outlays	294.0	304.2	316.0
150: International Affairs:			
Budget authority	16.6	17.7	17.2
Outlays	16.2	16.0	15.8
250: General Science, Space, and Technology:			
Budget authority	13.4	14.0	14.5
Outlays	13.0	13.9	14.4
270: Energy:			
Budget authority	4.9	5.4	5.2
Outlays	4.2	4.3	3.7
300: Natural Resources and Environment:			
Budget authority	14.6	15.2	15.9
Outlays	14.9	15.5	15.8
350: Agriculture:			
Budget authority	27.0	25.2	22.2
Outlays	23.2	21.9	19.9
370: Commerce and Housing Credit:			
Budget authority	13.5	15.1	9.0
Outlays	9.1	8.1	3.6
400: Transportation:			
Budget authority	28.4	28.9	29.6
Outlays	27.9	28.9	30.0
450: Community and Regional Development:			
Budget authority	7.1	6.9	7.1
Outlays	6.5	6.8	6.4
500: Education, Training, Employment, and Social Services:			
Budget authority	36.6	37.9	38.7
Outlays	35.3	36.8	37.8
550: Health:			
Budget authority	49.9	54.4	59.5
Outlays	48.9	54.2	58.7
570: Medicare:			
Budget authority	103.7	113.2	124.1
Outlays	86.9	97.5	108.5
600: Income Security:			
Budget authority	176.2	181.0	213.0
Outlays	138.3	145.3	152.4
650: Social Security:			
Budget authority	278.1	306.3	332.8
Outlays	233.5	249.0	263.5
700: Veterans Benefits and Services:			
Budget authority	28.8	30.9	31.4
Outlays	28.4	29.9	30.5
750: Administration of Justice:			
Budget authority	8.9	9.1	10.3
Outlays	8.9	9.1	10.2
800: General Government:			
Budget authority	9.5	10.1	10.6
Outlays	9.4	10.2	10.2
900: Net Interest:			
Budget authority	151.9	158.5	160.1
Outlays	151.9	158.5	160.1
920: Allowances:			
Budget authority	0.0	0.0	0.0
Outlays	0.0	0.0	0.0
950: Undistributed offsetting receipts:			
Budget authority	–37.6	–39.3	–41.2
Outlays	–49.9	–52.0	–41.8
Total spending:			
Budget authority	1,231.0	1,302.8	1,385.0
Outlays	1,100.6	1,158.1	1,215.7
Revenues	964.6	1,043.2	1,123.2
Deficit	–136.0	–114.9	–92.5

Mr. DOMENICI addressed the Chair.

The **PRESIDING OFFICER** (Mr. ADAMS). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I first want to thank my good friend, the chairman and senior Senator from Florida, for his kind remarks. As he prepares to leave the Senate, I will not even fault him for being a Democrat.

Mr. President, let me say to my friend and to the Senate, I understand we will not be in very long today. I have been asked by the chairman of the Energy Committee to be present in the Energy Committee for about 15 minutes. I will have one of the members from this side come to the floor shortly. He will have some remarks. If you will accommodate me, on my return, I would like maybe 10 minutes to summarize where I think we are with that.

If the Senator has nothing further to say, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business and it not be charged against the Budget Committee time on either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIP TO VIETNAM

Mr. PRESSLER. Mr. President, last week I had the opportunity to travel to Vietnam. I visited Hanoi, Ho Chi Minh City and My Tho, where I served in the U.S. military some 20 years ago. I was privileged on Wednesday of last week to be present at the repatriation of the remains of 27 American servicemen at the airport in Hanoi, plus three other unidentified caskets, which were flown to Honolulu for identification.

It was a very moving ceremony at the airport in Hanoi. Twenty-seven caskets were turned over by the Vietnamese to the United States. One of our military cargo planes had come from Hawaii to pick them up. There was an honor guard, which I was privileged to be a part of, and the last remains of 27 Americans were started on their way home.

Prior to going to Vietnam, I met with many of concerned MIA families. An elderly lady said that before she died, she hoped her son would be laid to rest in their community cemetery.

It is another chapter in the long saga of the Vietnam war. There will be more remains, I am sure, but it was an event that was very moving. At the Hanoi Airport, there were a few curious Vietnamese workers watching this ceremony on a rather bleak day. It reminded me of what our country had gone through during the war and how much some of our fellow citizens have sacrificed for our country.

I raised the question with many Vietnamese officials about the possibility of any living prisoners of war. In my own mind, to be frank, I doubt that there are living prisoners of war being held in Vietnam today, yet almost every time I am out speaking, some concerned American asks me about those missing in action. It is a mystery, and many of our fellow citizens are very concerned.

The Foreign Minister of Vietnam, Mr. Nguyen Co Thach, told me that he was frustrated with the number of questions on this subject; that in fact if I could present to him any concrete evidence anywhere in Vietnam of prisoners of war being held, he would get a helicopter and we would go there and check it out. He said that he would be happy to pay for it if it turned out that there were prisoners of war, but that if there were not, he would expect me or whoever was sponsoring it to pay for it. He was trying to make the point that his offer was a good-faith effort to resolve this matter.

I believe that Senator McCain's resolution is very positive and would help us resolve this matter. By establishing an interest section in Vietnam, we could have some Americans there on a permanent basis, there would be an office where a prisoner of war could go, although this would not be the main purpose of the interest section. But we would have a presence there. Indeed, if we have people moving about the country, they certainly would be in a position to gather intelligence or to learn more about Vietnam.

We also traveled to the city of My Tho in the delta, which is in the south of Vietnam, where I served for a time in 1968 doing research on agricultural development while a U.S. Army lieutenant. We worked on the distribution of motor pumps, on the distribution of fertilizer, and on the movement of agricultural products into Saigon at that time.

In visiting the countryside, I found one old Kohler motor pump that had been distributed under the U.S. aid program. In general, Vietnam has gone backward economically since 1967-68. Indeed, there are fewer motorized vehicles on the roads; they have food shortages; babies are born underweight. It is a situation that is very severe. The Vietnamese economy is a basket case, very frankly. Many of the major power dams are not producing electricity; agricultural production is down; the universities are reducing the number of students to help reduce costs. There is almost no supply of foreign currency. The Communist regime and the collective system have been a complete failure.

While I was in Vietnam in 1967-68, I also headed a small team which did a report on vegetable marketing and the supply of vegetables to the city in those days when it was so difficult to move agricultural products around.

I revisited the vegetable markets both in Saigon, including Cholon, as well as a vegetable market in Hanoi. In any event these markets recently were returned to the free enterprise marketing system. They appeared to be flourishing and there is probably an abundant supply of vegetables in the delta region. There appears to be shortages of meat and to some extent fish.

The issue of refugees is a great problem for the United States. Our country takes about 30,000 refugees per year from that area of the world. We also are committed to taking the Amerasians, and we are committed to taking the recently released Vietnamese prisoners from the "reeducation" work camps, although the Vietnamese said there had to be new negotiations to permit the prisoners from the work camps to leave Vietnam.

I met with a group of Amerasians who were eagerly awaiting coming to the United States, but they had not yet been put on the approved list by the Vietnamese.

I visited the Orderly Departure Program interviews in Ho Chi Minh City where teams of Americans come in from Bangkok once a month to interview Amerasians.

This whole area of the world is in a state of flux. I shall recommend to the President that the Vietnam-Cambodian problem be placed on the agenda for the upcoming Moscow summit. The Soviets are putting about $2 billion a year into Vietnam. They are building a much greater military presence in Cam Ranh Bay and the Russians are visible throughout Vietnam. If you visit a hotel in Ho Chi Minh City, you will find the place is full of Russians at lunchtime. If Gorbachev is interested in glasnost, then attention certainly should be paid to Vietnam and Cambodia and to the Russian presence there.

Also, partly as a result of the Russian presence, the Chinese are now insisting on acquiring part of the Spratly Islands. They are also supporting Pol Pot, and they are carrying on a number of activities which I think destabilize the region.

So, Mr. President, I think both Congress and the President should conduct a high-level policy review regarding Vietnam and Cambodia.

I shall recommend this to the White House and the State Department, but I also think that in the Foreign Relations Committee we need to have a hearing, and we could do it in the context of the McCain resolution or in the context of overall policy. But if the Vietnamese could be persuaded to take their troops out of Cambodia, which they say they will do by 1990, if the Chinese could be persuaded to lessen their support for Pol Pot, we might be able to achieve stability in that area. But if the Soviets continue to accelerate their hold on Cam Ranh Bay, if they continue to send in money to support the Vietnamese presence in Cambodia, then the Chinese will react by increasing their support for Pol Pot, by increasing their demand for islands off the coast of Vietnam, and the long-term stability of the area will be more questionable. The flow of refugees will continue, and we will have a much more difficult time resolving the MIA and Amerasian issue and the other matters that affect the interests of the United States.

Mr. President, whether we like it or not, the United States will always have a common bond with Vietnam for the next 30 or 40 years, I am sure. There are nearly 2.5 million Americans such as myself, who served in the military in Vietnam, who are very interested in that country. In fact, when my trip to Vietnam was announced in my home State, several veterans called and expressed an interest to come along. I think there are going to be a lot of veterans who will go there as tourists in the future. In addition, we now have about 800,000 Vietnamese who are American citizens. Indeed, I was accompanied by one such American citizen who came along in my group, someone I had met when I was in Vietnam 21 years ago. So we do have a special relationship or a common bond with that country. We also have the Amerasian problem or opportunity, whichever we wish to describe it, nearly 30,000 Amerasians, and for nearly 10 years Vietnam was the major news story in the United States. We need to reevaluate our policy in that part of the world, especially to try to get it on the agenda at the upcoming summit. If the Soviets would lessen their presence, and the Chinese would, too, I think we would have much less strife on the borders, many fewer refugees who are forced to leave their homes and a much more stable area.

In terms of future relationships, given our high deficit situation, I would not advocate any type of traditional foreign aid except perhaps for the possibility of food for peace if it becomes necessary, and certainly no type of aid in exchange for prisoners or MIA's bodies or things of that sort. But in the future, if there is a severe shortage of food and starvation in that country, if it could be delivered through private orginizations, as we do in Poland, then I think that is something that needs to be considered in a high level policy review both in the administration and the Congress.

Mr. President, on a personal note, my trip to Vietnam was a very emotional and rewarding personal experience after an absence from that country of 20 years. I spent 18 months there as a U.S. Army lieutenant. I was very sorry to see the desparate economic state of the country. I feel it has gone backward substantially in terms of health care delivery, in terms of transportation, and in terms of food supply. I think that all of this is plainly a result of the Communist collective farms and mistaken governmental policies. But I hope the Vietnamese economic and political situation changes for the better. A resolution of the differences separating Vietnam and the United States could help in this regard. Ending the occupation of Cambodia and the seemingly endless agony of the American MIA families is an instrumental first step in the right direction.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the time used by the distinguished Senator be charged against both sides equally.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Mr. President, I have obtained——

Mr. BYRD. I understand the Senator did but I think the time ought to be charged against both sides.

Mr. PRESSLER. May I ask a question of the leader?

Mr. BYRD. Yes.

Mr. PRESSLER. In taking the time—I am not going to argue with anybody—I consulted with both sides, and I said I did not want to take time from either. I consulted with the Senator from Florida, and I asked unanimous consent that I speak only if I did not take time away from anybody.

Mr. BYRD. Mr. President, we have 50 hours on the bill. That is going to be more than enough. If we are going to have morning business speeches, I would like for them to run against the resolution. So I make that request.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CHILES. I make the following unanimous-consent requests. I ask unanimous consent that the members of the staff of the Committee of the Budget and staff members of its members be allowed to remain on the floor during consideration of Senate Concurrent Resolution 113, and I send to the desk a list of those staff members.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The list is as follows:

UNANIMOUS-CONSENT REQUEST OF SENATOR CHILES FOR FLOOR PRIVILEGES FOR BUDGET COMMITTEE STAFF AND MEMBERS' STAFF

Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of S. Con. Res. 113.

STAFF OF THE COMMITTEE ON THE BUDGET REGULAR FLOOR PRIVILEGES

Majority staff: Susan Ball, Dennis Beal, Rick Brandon,* Jim Carr, Barbara Chow, Alan Cohen,* Jeff Colman, Douglas Cook, Bill Dauster,* Kathy Deignan, Randy DeValk, Frank Faust, Eric Fischer, Marybeth Frazier, Jackie Harwood, John Hilley, Steve Hornburg, Mark Joyce, Phil Kardis, Susan Latham, Julie Lenz, Mark Logan,* Peter Nakahata, Doug Olin,* James Stasny, Kim Wallace, and Dave Williams.

Minority staff: Leonard Bechtel, Bruce Blanton, Hal Brayman, Richard Doyle, Charlie Flickner, Gail Fosler, Carol Hartwell,* Bill Hoagland,* Bill Hughes, Carole McGuire, Mary Sue McShea, Ann Miller, Michelle Mrdeza, Cheri Reidy, James Ricciuti, Jeff Saunders, William Scherlag, and Austin Smythe.

Nondesignated: Sarah Ducich, Sue Nelson,* and Anne Willis.

FIFTEEN MINUTE FLOOR PRIVILEGES

Lisa Bartko, Liz Beall, Michelle Edwards, Mary Jo Gillen, Laurel Kinn, Sara Malafronte, Francine Nelson, Angeline Nicholas, Laura O'Shea, Vanessa Palmer, Richard Rasmussen, Kate Refine, Patricia, Smith, Beth Strader, Carolyn Willis, and Andrea Wuerth.

STAFF OF MEMBERS OF THE COMMITTEE ON THE BUDGET REGULAR FLOOR PRIVILEGES

Staff Member and Senator on Whose Behalf Request Is Made

Barry Strumpf, Senator Hollings; Laura Hudson, Senator Johnston; Steven Grabenstein, Senator Sasser; Joan Huffer, Senator Riegle; Chris McLean, Senator Exon; Mitchell Ostrer, Senator Lautenberg; Tom Stubbs, Senator Simon; David Poisson, Senator Sanford; Michael Perko, Senator Wirth; Bill Johnstone, Senator Fowler; Vi Boyer, Senator Conrad; Jeff Anders, Senator Dodd; Tony Coppolino, Senator Armstrong; Valerie Baldwin, Senator Kassebaum; Arne Christenson, Senator Boschwitz; Joe Cobb, Senator Symms; Kris Kolesnik, Senator Grassley; Cesar Conda, Senator Kasten; Dave Juday, Senator Quayle; Tracy Kaye, Senator Danforth; Bill Scherlag, Senator Nickles; and Rachel Sotsky, Senator Rudman.

Mr. CHILES. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate by staff members during the consideration of Senate Concurrent Resolution 113.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONCURRENT RESOLUTION ON THE BUDGET

The Senate resumed consideration of the concurrent resolution.

Mr. CHILES. Mr. President, we urge any Senator who wants to initiate debate to come to the floor and talk about his or her amendments. I think we discussed with the majority leader that we would attempt to start voting on this measure tomorrow afternoon after the caucus. I think we were talking about—I ask the majority leader—entering into this, perhaps to begin sometime tomorrow morning at his pleasure, 11 o'clock or so, and having a brief discussion before the caucus, then coming in after the caucus, Members prepared to raise their amendments, and I would like to see perhaps if we could finish the bill tomorrow afternoon or early Wednesday morning if we could not finish it on Tuesday. I think it might be possible to do that. Of course, we need to notify Members on all sides who might have amendments if they want to come and discuss those for a few minutes today.

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* These individuals have privileges to be admitted without pass under a previous letter to the Sergeant at Arms.

I intend to discuss the sense-of-the-Senate resolution that I will propose tomorrow. I do not see that we would have any votes today, but we will take them up tomorrow.

Mr. BYRD. Would the Senator welcome any amendments that Members might wish to call up today?

Mr. CHILES. If Members would like to call up amendments today, we would welcome them. From the discussions we have had we did not envision that there would probably be anybody that would seek a rollcall today but that would come tomorrow.

Mr. BYRD. There are no inhibitions against rollcalls on Mondays.

Mr. CHILES. No, sir.

Mr. BYRD. If Senators wish to call up amendments today I hope they will come to the floor. I, of course, lean upon the managers of the resolution to do their usual good job in the floor work. I think they are to be highly commended for the work that they have done in preparation for the floor. The work that was done in committee, Mr. President, has gone a long way toward removing what otherwise might have been obstacles on the floor, and from what I hear the distinguished chairman of the Budget Committee saying when he says that he anticipates that the Senate might complete action tomorrow or certainly on Wednesday, I think I am hearing him say that a lot of the preliminary work and otherwise difficult and time-consuming work that could be done on the floor has been ironed our for him. That will certainly ease the burden on the leadership. If that could be done in all instances where the work can be done in committees, it softens and cuts down on the amount of time that has to be spent on the floor.

So I commend the distinguished chairman, and if Senators have amendments I assume the chairman would recommend that they let the floor know.

Mr. CHILES. Yes.

Mr. BYRD. If they are not going to call up amendments today, if we had some idea as to that fact as soon as possible, perhaps we could go out and charge enough time off the resolution to make it a worthwhile day to have it taken up.

Mr. CHILES. I think we can well do that, I say to the distinguished majority leader. We have 50 hours on the resolution. I do not anticipate we are going to use anywhere near that. Anything could happen. I think we have an excellent chance of finishing this bill tomorrow.

If Members would let us know today, come to the floor and discuss some amendment that they might be proposing, at least let us know, then I think we would have that, and we would go to that. The majority leader urged us to get this resolution out of committee before the recess. And then he said he wished to have it on the floor the day we came back. We are here. We brought it forth. We had an 18-to-3 vote, I think, in the committee. We did not adopt any amendments in the committee, not to say that there will not be amendments proposed here. There may well be.

But I think we have a work product that achieved a strong consensus in the committee. I think Members all realize that the House has passed their budget, that we need to go to conference, and we need to do that as quickly as we can. There are some differences in the House budget resolution and the one that we bring to the floor. So we will have to go out and hammer that out in the caucus. The sooner we can get there, the better. That allows the full committees to work much faster.

We are trying to follow again the majority leader's direction to do everything to facilitate individual appropriation bills, and to be able to take those up in a timely way. I think we are on the track of doing that.

The House is now beginning to work on their appropriation bills. They have their budget mark. Our subcommittees on appropriations are holding their hearings over here.

If we could pass this bill tomorrow and get off to conference—I hope we will not have the kind of conference we had a year ago. We better not have. At least all of the meetings are going to be in some sunlight this time. Then I think we could facilitate the wishes of the majority leader and all of the Members of the Senate, knowing that this is a year in which we are trying to move quickly. It is an election year. Everybody wants to get out and be able to have time out. So I think we are trying to do that.

As I said earlier in the opening statement, this is a bipartisan product. It was offered, brought to the floor, and presented by myself and Senator DOMENICI as the ranking Republican member.

We hope that we can certainly use that as a sound basis for working on it.

Mr. BYRD. Mr. President, the chairman and the other members of the committee on both sides have certainly developed a remarkable product in the fact that they were able to report the bill out with bipartisan support and with such a minimal number of Senators voting the resolution I think is something quite extraordinary, especially against the background of several recent years when the budget has been the bone of great contention and the subject of a great deal of partisanship on both sides of the aisle.

I have listened with interest and admiration as well. I am delighted that the resolution will be passed tomorrow or the next day and that it will go to conference. I hope that it will not be in conference long. It would sound to me as though there is a good likelihood that the conference report on the budget resolution might well be adopted by both Houses by the time that we reach the May Memorial Day break.

Mr. CHILES. I would say that is an excellent target and one well worth shooting for.

Mr. BYRD. Yes.

By that time or the time the Senate returns following that break or soon thereafter, presumably appropriations bills will be starting to come over from the other body and, as the chairman has noted, hearings are going forward on appropriations bills in the Senate. As a matter of fact, I held a hearing this morning and I have held some previous hearings on the appropriations bills for the Department of the Interior and related agencies.

The Senate will be able then to move to those appropriation bills at a reasonably early date following final action on the budget conference report and they can be sent down. Once they go to conference with the other body they can be sent down to the President singly and individually as they should be and we will avoid the omnibus appropriations approach which has occurred in the last 2 years, the last year, and the year before that.

I think that will be a great step forward and something the American people, it would seem to me, would applaud.

Mr. President, I thank the manager. If Senators will let the managers know if they have amendments they wish to offer today or discuss today, that will be fine, and we would appreciate that. Whenever the distinguished managers indicate to me that they are ready to go out for the day, we will go out. I believe the chairman indicated that he would like to begin tomorrow at around 11 o'clock, did he?

Mr. CHILES. I think that would be a good time if we come in around 11 and get 50 minutes to discuss the budget before we go off to our respective caucuses.

ORDERS FOR TUESDAY

RECESS UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of the two leaders or their designees on tomorrow, there be a period for morning business not to extend beyond the hour of 11:30 a.m., and that Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the budget resolution tomorrow upon the closure of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIDDAY RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the Senate stand in recess at the hour of 12:45 p.m. until the hour of 2:30 p.m. to accommodate the two-party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCURRENT RESOLUTION ON THE BUDGET

The Senate continued consideration of the concurrent resolution.

Mr. BYRD. Mr. President, I ask the distinguished chairman how much time does he feel that could be charged or should be charged against the resolution by virtue of the Senate's not being on the resolution long today.

Mr. CHILES. I would say to the distinguished majority leader while I do not think that the 50 hours is going to be a problem and therefore the shortening of it is certainly not going to prejudice anybody, I know the majority leader would like to see us use some time on that. I would think 10 hours would be very fair and that would leave us 40 hours. I think that is way beyond the time that we will use.

I do not know of anybody who would think that that would not be a great deal of time, but I would yield to the distinguished minority side on that.

Mr. BYRD. That is agreeable to the Republican manager, I believe, is it not, Mr. DOMENICI?

Mr. CHILES. He indicated that he would have no problem with that. We can make that finding when we get ready to go out if the majority leader wishes and so we would be in agreement.

Mr. BYRD. Very well. I thank the chairman.

The PRESIDING OFFICER. The majority leader has yielded the floor.

The Senator from Florida.

Mr. CHILES. Mr. President, I was mentioning before we got into the colloquy with the distinguished majority leader that tomorrow at the appropriate time, and I assume that would be after we return from our caucuses, I will propose a sense-of-the Senate resolution dealing with Social Security and how it is now set forth in the budget.

Mr. President, we now, in our unified budget, include the Social Security surplus. Now from a budgetary standpoint and from sort of an economic standpoint, we need to be able to see what is happening with Social Security. It is a payroll tax that sets up the funds for the trust fund. It is certainly an influence on the economy, what that tax is, what the surplus is, what amount of money that you are taking out of the economy for that tax. So to put it all off-budget to the point where you could not even look at that and figure that into your process would not be good budgetary planning and it would not make economic sense from an economic theory of trying to determine what are the things that are influencing your economy.

However, when Gramm-Rudman-Hollings was passed it was decided by the drafters of that resolution that they would allow the Social Security surplus to count toward balancing the amount necessary to prevent you from having a sequester.

Now, Mr. President, in the Social Security fix that we went into a number of years ago as a result of a bipartisan national commission, we know that Social Security was in trouble and we knew like Joseph's interpretation of Pharoah's dream that there were going to be 7 good years and then 7 lean years. In this case the dream has lasted a little longer. During that time there are more workers because they are the war babies and they are in the work force.

So it was felt that we needed to take more money from those workers to build a surplus because when they started to leave there were going to be fewer workers entered into the work force and so there would be a tremendous drain on the Social Security system.

In fact, there is no way that it could have stood up at all.

So between now and the year 2012 or 2013 or 2014, somewhere in there, we will build up a surplus. It will be a $2 trillion surplus that we will build up.

Right now that surplus is in the $40 billion range. But because we are using that to score Gramm-Rudman-Hollings, we are giving ourselves, the American public, and anyone else a very false picture to say that we are balancing our budget, because we are not, because these funds are committed. They are going to be spent. They are going to be needed to be spent.

Now if we can spend them twice—and that is sort of what we are doing now almost because we are saying we are not really in as big a deficit as we have. And, Mr. President, you see what I am getting at. What happens in the year that you have enough of those surplus so that they really mask your deficit? And as it builds up, if we do not spend the money that much faster, some day you would say, "Hooray, we have balanced the budget." What have you done? You would be using that much of the surplus.

And so when the year 2012 comes and 2020 and 2030, where you are going to have tremendous outflows of money, there would be no money.

Remember, what we are doing in Social Security is, we are not locking this money in the vault. We are buying Government securities. And then we are using that money that we borrow from to run the Government. And we pay interest on that money and so, in turn, there are more securities.

What backs up that paper, those bonds? The full faith and credit of the U.S. Government. But if you have spent it and you have truly not acquired a surplus, then it is going to be dreadful, dreadful situation indeed. And so really, Mr. President, we ought to be looking at the Federal funds deficit.

So what my sense-of-the-Senate proposal is to do is to make us account properly, make us not be able to double count this Social Security surplus money, make us look at the Federal funds deficit, which is the amount of money that we are actually spending more than we are willing to tax ourselves in a particular year and not allowing ourselves to use this trust fund to mask part of that.

The deficit today would be in the neighborhood of $220 billion if we were not using the Social Security mask. Now, I think we have to recognize that we have gotten ourselves into this. I am not saying that immediately you sequester this amount of money. We know we cannot do that.

I would propose that over a period of 5 years we then seek to balance counting, truly counting. And then, of course, from the sense-of-the-Senate resolution would come the other legislation that should come to amend Gramm-Rudman-Hollings and adjust it so you take into consideration what the starting place is.

But we need to quit fooling ourselves in talking about a $136 billion deficit. That is where I said we are in my opening statement. It is just not correct. Because we have got approximately $40 billion of these funds that are part of this trust fund that have to be used at future times.

So, as I say, at the proper time, I think this is something that we have to face up to. If we do not, we could have people lose faith in the Social Security system again.

And I know the presiding officer will remember one of the great dangers we had just before we had the Commission was a rash of articles that said Social Security was going bust; that there was not sufficient money, there would not be sufficient money. There were a lot of people saying, "Hey, wait a minute. Why am I paying this payroll tax and there is not going to be anything there when I get out?" Now that is a real danger. And if you lose that sense of confidence, that would just be disastrous.

But already now you are beginning to see some of the columnists pick up and talk about this. And it is legitimate. They have every right to do it. But the other thing is, it also, Mr. President, takes the pressure off as you go into these years of building this bigger surplus of really doing something about the deficit. It allows you to run deficits over $200 billion a year, which we all know we cannot continue; that there is no way we can continue that.

Remember, we are building the debt service up on this. Remember the interest that we are paying when we get to over $200 billion a year. We are talking about interest this year of $50 billion to $60 billion, in that range, on the national debt. If you let interest rates tick up a couple of points, that becomes $70 billion to $80 billion. I mean, it runs that much higher.

It is $150 billion in all of your total interest, depending on how you use the figures. But that $150 billion a year is half of what we are paying for defense right now.

Now that is the fastest growing program in the Federal Government. And if we allow ourselves to mask this deficit, as I say, by failing to recognize what the Social Security surplus is, then we are making a big mistake. So I hope the Senate tomorrow will recognize this, and will see that this is something we should do. As I say, I will urge that that be done tomorrow.

Mr. President, I know the Senator from New Mexico wanted to make some remarks.

The PRESIDING OFFICER. The Senator from Florida yields the floor.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me begin by first congratulating the distinguished chairman of the committee on bringing this fiscal year 1989 budget resolution so promptly to the floor. It is my hope, as I know it is his, that this resolution can be promptly disposed of, and that a conference with the House can be completed before the end of the month.

If this occurs, then the Appropriations Committees would most likely be able to begin reporting their bills quickly, and we could for the first time in many years complete all 13 appropriations bills before the beginning of the new fiscal year.

I, along with the majority of the Republicans on the Budget Committee, joined with our fellow Democratic members to report the resolution that is before the Senate today. This bipartisan budget resolution was obviously made a lot easier by the extended budget debate of last year that culminated in the historic budget summit agreement last November 20.

That bipartisan summit agreement laid the foundation for this bipartisan resolution. There will be those who will argue that that summit agreement did not go far enough, and therefore, this resolution does not go far enough. As one of those who spent many days and nights in those negotiations, I understand theirs concerns.

But the agreement reached between the bipartisan leadership of the House and the Senate, with the active participation of the administration, represented a compromise in the best sense of those words. It brought the Congress and the administration back from the precipice. It allowed us to complete the 1988 budget reconciliation and appropriations bills, avoid the mindless Gramm-Rudman-Hollings sequester, and set the outline for the second year of this 2-year summit agreement.

Yes, maybe we should have done more, but what we did do was more than most would have believed possible in an emotionally charged political environment, and with a very skiddish domestic and international economic setting.

Now some will also argue that the economic assumptions behind this resolution are overly optimistic. While today the economic assumptions are probably closer to the truth than many would have believed just a couple of months ago, that really isn't the issue in this resolution.

Just as the summit agreement set the broad parameters for this budget resolution so, too, did the fix Congress adopted last September to make portions of the Gramm-Rudman-Hollings legislation constitutional, which set the economic assumptions used here today in this resolution.

Let me explain. When Congress adopted and the President signed House Joint Resolution 324, last September 21, 1987, increasing the statutory limit on the public debt to $2.8 trillion, the fix to Gramm-Rudman-Hollings returned to the administration the final say in what economic assumptions were to be used to determine whether the deficit targets were met.

In other words, it really doesn't matter what CBO or any other economic forecaster has to say. For, in the end, the only thing that really matters, from a very mechanical Gramm-Rudman-Hollings sequester perspective, is what the administration says about the economic outlook.

So, it should not surprise those who supported the fix-up to Gramm-Rudman-Hollings last year that this resolution uses the same economic assumptions which the President used when he submitted his budget in February.

So, if the aggregate numbers were set by the summit agreement, and if the economics were dictated by the constitutional fix to Gramm-Rudman last year, then what is there to debate in the fiscal year 1989 budget resolution? Not much.

But, I assume there will be those who will undoubtedly choose to use this budget resolution as an opportunity to assess, and maybe even assail, the past 7 years of this administration's fiscal policies. Equally, there will be those who choose this debate as an opportunity to praise the administration's fiscal policies.

I choose to do neither. This resolution has very little to do with the fiscal outlook for this country. This resolution doesn't address the Federal deficit outlook for the years beyond 1989. We will return next year, with a new President and a new Congress, beginning the cycle again of debt-limit extensions, Gramm-Rudman-Hollings deficit targets, and all the familiar fights over taxes, entitlement, and defense spending.

But what this resolution can address, in a small way, is how we choose to allocate that small portion of the Federal, budget—approximately 17 percent—known in budget circles as the "domestic discretionary" piece.

I believe the President, in his final budget blueprint was correct in his prescription for how that $170 billion should be distributed. He chose to provide Congress with a forward looking budget plan. One that focused on science, space, research, technology, education, and worker retraining. He chose, once again, to terminate or cut back lower priority Federal spending programs to pay for these programs for the future.

I supported reporting this budget resolution in large part because it lived up to summit agreement I was a party to last fall. But I think everyone knows that, in the end, it will be the Appropriations Committees that determine how that discretionary pot is distributed.

While the resolution before us is molded, in, part after the President's goals for the future, it doesn't go far enough in this Senator's mind. There are no assumptions of any program terminations in this budget blueprint, we have made no hard choices for the future. We could have done better.

Regardless of what action we take on this resolution, and the implementing spending bills that will come along shortly, I am certain of one thing: That the challenge that face this country, indeed our world, will not be made any easier by the decisions we make here today or in the next few days on this budget blueprint.

I am reminded that the children that have begun kindergarten this year, and that will enter the first grade this fall, will graduate from high school in the year 2000. The future is here.

As we debate the only thing to debate in this year's budget resolution, I urge us to keep uppermost in our minds those kids who are preparing for the next century, beginning this fall. Are we willing to let the programs of the past die, and show leadership in directing Federal resources to the programs of the future? I hope so.

America faces a future of great challenge and great opportunity. We, who are charged with the public trust, must begin to face that future, not by simply reacting as changes take place before our eyes, but by anticipating change and adapting policies and programs to lead changes.

Mr. President, we agreed upon 2 years of numbers in the economic summit; we agreed upon the three categories of funding for this year—defense with a given number, a budget authority and outlays; both Houses and the President then agreed on foreign aid on a number, both in budget authority and outlays; and then we agreed on the remainder, a firm number on budget authority and outlays for all the remaining domestic programs. That is about 17 percent of the budget.

The committee started with those. And consequently, more so than in many of the past years, particularly that the distinguished Senator from Florida and I have been intimately involved. This budget really focuses on shifting around the priorities. I believe it is fair to say, more specifically, within shifting priorities within the domestic accounts, because the other two accounts—defense and international affairs—are protected. We are not supposed to take from either of those pursuant to the summit agreement which was entered into and incorporated in the reconciliation bill signed by the President as our intent.

So what we are really doing in this budget resolution for 1 year is to take that budget authority and outlays for the year 1989 among all of the different functions of Government that are domestic and some priorities, such that the sum total equals the agreed upon number.

It is sort of the first effort at 2-year budgeting. The distinguished chairman has explained the economics. I do not think we have to go over that again.

But one of the concerns that everyone has in 2-year budgeting is what will the economics be in the second year if you have agreed to it in advance?

We are not free of that problem this year either, although the Budget Committee by almost unanimous vote does recommend to the United States Senate here today that we use the recommendations with reference to economics. Let us just tick off what some of those are. What will the inflation rate be? What will the interest rate on the debt service be? What might employment be and how fast might we grow, sometimes called gross national product increase.

These items have a real effect upon how much the taxes will be; how much some of the automatic expenditure items will be. This year we have chosen to take those that the Office of Management and Budget gave us. I think the chairman explains that we may be wrong, come August, when we look at Gramm-Rudman-Hollings, but for now it seems that they are reasonably close when you look at the array of economic assumptions that are around. They do not seem to be as far off as they might have seemed 4 months ago and they may be closer to the actual outcome than the Congressional Budget Office in their early assumptions.

But what capped off our conclusion to use them is that, the way we have drawn Gramm-Rudman-Hollings II, we will use the Office of Management and Budget's economics come July and August in all events, by law. So we concluded that we ought to give this budget to the Senate on the basis of that set of economics.

I personally believe—and since we are not going to have an argument about it, I do not believe, on the floor—I personally believe that we are going to come out reasonably close this year, from what we can tell. There was a bit more pessimism among the predictors, those who make estimates on economics, because of Black Monday of last year. There was a little more pessimism when they were doing the estimating than is turning out in actuality to have been necessary.

We will probably get a glimpse of whether we are right or wrong in this assessment when they give us some final numbers on what kind of revenues are flowing into the Treasury by the April 15 date and the few weeks thereafter. My personal assessment again is that they are going to be pretty close to right. Certainly good enough, based upon previous errors, to use here.

Using those, we had a difficult job on the one hand, yet an easy job on the other. The President took the domestic money, and in the domestic accounts of the budget process, he proceeded to say, "I want to increase here and decrease there; I want to freeze here and eliminate some programs there." And then we had to do as best we could in this first allocation, which is the budget resolution, to see what this committee of the Senate thought about allocating the money among these various major functional categories of Government.

I must say, in terms of thrust, I think it is fair to say that we more generally agreed with the President of the United States as a committee on the domestic side than we have in the past. I do not want to say we agreed with him completely. I will explain a few of the very big differences. But, in essence, I think it would be fair to say that the President's budget asked for dramatic increases in areas that I choose to call areas that relate to our future and cut programs that cling onto the past. So, for example, in the Space Program, which the President and many Members of the Senate and I think a lot of Americans assume is an American program of the future, the President has asked for some significant increases to move us back on a track of true competitiveness in outer space and a vital and energetic American space program. But, if we increase that one dramatically, we have to decrease someplace, because there is only so much money under the agreement that we made last year. The so-called summit agreement was heavily criticized for not doing enough, but now some criticize it as hamstringing us. Some say we do not have enough money to spend. Indeed, I think when we look back at the few months of last year and this year, the summit was a rather historic event when you consider that it had no legitimate authority.

No one created it. A group of leaders got together and started talking with the White House and we completed its first year with the dollar expenditures being right on the money. I must say to the Chair, who has been here many years, many years in the House and joined us here in the Senate, is a rather admirable achievement when you consider the way we normally do business. Now we are carrying out the second year.

The chairman has properly stated this is a bipartisan budget and it is. It received overwhelming support of the majority party and the minority party in committee. I also would say that when you do that, compromises are achieved. It is important to remember that the appropriators are going to take the bulk of the money that we have in the domestic discretionary accounts and divide it up among its domestic subcommittees. It is the Appropriations Committee's allocation that is going to be a binding allocation. The budget process does not have authority to bind. We merely give some strong up-front recommendations on how the appropriations committee ought to divide the funds—it is a little

less important this year, in my opinion, that we argue over priorities here in the context of the budget resolution because the appropriators are going to end up doing that.

But I do think it is important that we decide we are going to spend money on science, National Institutes, National Science Foundation, Institutes of Health that are doing great research, the space program, AIDS research, superconductor supercollider—those kind of future investments. I think it is important that we increase them dramatically and send a signal that it is the sense of the Senate to do so as the appropriators begin to look at what they must do. I compliment the chairman, he offered a budget. I joined him. This budget moves from the programs of the past to the future.

Having said that, however, I must say that I will predict for the Senate—we will not cut or terminate many old programs this year. We have a National Economic Commission of 12 people. I am privileged to be one of those. The new President will appoint two more to that. In March 1989, they are supposed to recommend a bipartisan approach to deficit reduction, capital formation, and some kind of notion about which programs are necessary for those in need. They ought to be maintained. I am suggesting if Congress waits around, and we probably will for that kind of an episode, the time will come that we will have to eliminate some programs. We have not recommended the limitation of any programs in our prioritizing in this budget. As I say it, I do not intend to be critical. I am fully aware that if we were to recommend the elimination of the Appalachian Regional Commission, which is, in my opinion a long overdue program for extinction, it would not be eliminated by the appropriators in any event.

The Economic Development Administration—frankly, I believe that program seen its day. I think I could make a case for that. The President asked both of those be eliminated. We did not do that.

In many cases, we reduced even the small amount that is in those programs. We reduced them even more in our recommendation to make some room for the growth programs that I have just been describing. But the President asked for a number of programs to be eliminated, some of which are more a matter of structure but save a lot of money. Take rural housing, for example. Could we possibly change the direct funding approach of rural housing? Should we go to a long overdue modern method of financing rural housing which every other Federal program is using: that is, we do not directly fund, we only guarantee. Should we do that or not?

Well, let me finish my prediction, it is only a matter of a couple of years in this Senator's opinion. But as we attempt to put in place a permanent package to reduce the deficit, we will eliminate some programs, sooner or later. I am not suggesting that the National Economic Commission is going to be that specific; but let us be honest with ourselves. There are programs and new needs in the United States that are going to be funded whether they are in the area of welfare reform, whether they are in the area of some special programs in education, whether they are in the area of an evolving at-risk population of young children, whether they are in the area of special fields of science edcuation. We are going to have to spend more in some and less in others. I do not believe we are going to be able to keep all the remnants of the past 40 years of legislating by way of programs.

But I think the Senate should know that over the past 6 or 7 years we have had our trial at getting rid of some of these programs in a budget resolution, only to find that they just never die. I have been willing this year to compromise, hoping that maybe the appropriators will want to spend more money in some futuristic programs and might indeed kill a few programs. But at least we are not putting that as an issue before the Senate in terms of the priorities here. We are not telling the appropriators they shant do it, but indeed, we are not recommending that they do.

However, some of those programs are reduced instead of on the growth patterns of the past.

Mr. President, I ask unanimous consent to include in the RECORD, just for purposes of discussion, a list of what the President recommended be terminated and those that he recommended be dramatically reduced just for the purpose of those who are interested in this RECORD seeing what he recommended. They can compare that with what we did.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CHART 8.—SELECTED DOMESTIC DISCRETIONARY INCREASES IN PRESIDENT'S FISCAL YEAR 1989 BUDGET

[In billions of dollars]

Program	Major increases from GRH baseline	
	Budget authority	Outlays
NASA	+2.2	+1.2
NSF	+0.3	+0.1
SSC	+.3	+.2
SPRO	+.6	+.4
Student financial aid/elementary and secondary	+.4	+.1
Worker Readjustment Assistance Program	+.9	+.(*)
AIDS research	+.3	+.2
AFDC work assistance	+.5	+.4
FAA	+.6	+.1
Coast Guard	+.3	+.2
Prisons	+.4	+.2
DOJ legal/FBI/DEA/INS	+.3	+.2
Judiciary	+.3	+.3
Conservation reserve	+.7	+.7
Rural housing voucher	+.4	
Water resource management	+.1	+.1
Census	+.2	+.2
Uranium enrichment	+.2	+.1
Nuclear waste	+.1	+(*)
IRS S&E processing tax forms	+(*)	+(*)
Total of selected increases	+9.4	+4.7

CHART 9.—SELECTED DOMESTIC DISCRETIONARY DECREASES IN PRESIDENT'S FISCAL YEAR 1989 BUDGET

[In billions of dollars]

	Decreases from GRH baseline	
	Budget authority	Outlays
Program cuts:		
REA cuts	−1.3	−0.4
Mass transit	−2.0	−.6
Rural housing	−0.4	−.7
Section 202 housing loans	−.2	−(*)
Subsidized housing	−1.5	+(*)
Low income heating energy assistance	−.4	−.4
ACIF	−.6	−.6
EPA construction grants	−.9	−(*)
CDBG	−.5	−(*)
Veterans medical	−.4	−.3
BIA programs	−.2	−.1
Health professional	−.2	−.1
Refugee assistance	−.1	−.1
IRS examination/investigation	−.1	−.1
Extension Service, CSRS, & Ag Research Service	−.2	−.1
Legal Services	−.1	−.1
Justice grants	−.2	−.1
Subtotal selected cuts	−10.9	−4.3
Program terminations:		
Amtrak	−.6	−.3
Watershed/flood prevention	−.2	−.2
CSBG	−.1	−.1
Ag Conservation Program	−.2	−.1
WIN	−.1	−.1
EDA	−.2	−(*)
Essential air service	−(*)	−(*)
ARC	−.1	−(*)
UDAG	−.3	−(*)
Emergency shelter/housing congregate service/counseling	−(*)	−(*)
HODAG	−(*)	−(*)
DOE conservation grants	−.2	−(*)
Impact aid (B)	−.1	−.1
JTPA dislocated worker	−.5	−(*)
ICC	−(*)	−(*)
Highway demos	−.1	−(*)
Postal service revenue foregone	−.5	−.5
Temporary Emergency Food Assistance Program	−.1	−(*)
Community and regional development programs	−.1	−(*)
SBA direct loans	−.1	−.1
Subtotal terminations	−3.5	−1.7
Total cuts & terminations	−14.4	−6.0

Mr. DOMENICI. Again I repeat, we did find the wherewithall to increase most of the science and furturistic programs, and we had to either freeze or reduce to some extent some of those programs that the President asked to be eliminated or dramatically reduced.

Mr. President, we might hear in the next 48 hours on the floor of the Senate from a number of Senators who think we ought to do more, that this budget deficit reduction, the second year of last year's summit endeavor, is not enough.

Well, let me make a couple of observations.

First, I am not here as the Senator from this side of the aisle, who has been part of this fiscal policy agenda for a few years, saying that this budget, if implemented, will violate Gramm-Rudman-Hollings come July and August and there is some kind of obfuscation or attempt to get around it.

Quite to the contrary, I am right up front. I believe we will meet the Gramm-Rudman-Hollings targets of this coming August. We have a $10 billion allowance there over and above the $136 billion deficit number, and I think we will be there by the implementation of this budget because I believe the economics are reasonable and the program levels will get us there. That is point No. 1.

For those who would like to do more, I merely suggest that we have tried to do more on a number of occasions. I remind everyone that the economic summit, for all of its alleged shortcomings, did put the defense of our country on a new path which, for the fourth year, will be downward. We did add about $23 billion in new revenues or taxes over 2 years to the base as a result of that agreement during a period of time when we were going to do little or nothing. And we did hold the growth of spending on the discretionary side, the kind we appropriate every year. Between the 2 years combined, it probably will be a 2-year, all-time low in terms of total growth in total expenditures in this decade. That would just be my educated guess, but I think it is rather close.

I just hope that those who say we ought to do more will produce their game plan, bring it here and debate it and see if the Senate is prepared, after going through what we went through last year, to try to do more than meet the targets of the Gramm-Rudman-Hollings legislation which we passed and put in place.

I am quick to admit that next year, the following year, and the year after that the annual requirements of Gramm-Rudman-Hollings by way of where we must be to avoid the automatic sequester will be very difficult, but for this year I believe we will achieve it with this budget and I think it is realistic. I think it is a good second year following that economic summit.

Frankly, I, too, am concerned about the impact of deficits on the next generation and on economic prosperity. Frankly, I am prepared to say that my principal concern is really whether or not we can continue to grow in the future, whether interest rates can come down substantially in the future so as to permit us to grow. It is in that context that the deficit does bother me. We ought to go to work on it. If the National Economic Commission can get its act together and make the kind of bipartisan recommendations that will bring both parties and a new President to the table front and center agreeing on some of the very controversial fiscal policy issues of our day, I think that will be soon enough.

On the other hand, I do not think we can afford this year to breach the summit agreement. I think we must enforce it, and I believe we have done that rather well in our budget resolution. Hopefully, the leadership here and the leadership of the chairman of the Budget Committee, and I will join him, and hopefully the appropriators, will stay within the limits prescribed in this resolution.

I remind the Senate that we still have to go to conference with the House and they have a significantly different budget resolution. We have our own word for how you estimate things and what you use as your own rules. There are some significant discrepancies and differences between the two Houses. Maybe we can resolve them quickly. If not, clearly by the time we get the appropriations process finished they will be working and marching to the same drummer. I hope we will still come out with the expenditures as expected by last year's economic summit conference that we all intend, and the chairman has said he unequivocally intends, to enforce. I am not aware of any urgent amendments for the day, Mr. President. I understand that after both parties have had a chance to have their caucus meetings, we are hopeful that by tomorrow evening or the next day, we can complete the budget. If there are any amendments, we hope they can come by tomorrow afternoon.

Is that what the chairman is thinking?

Mr. CHILES. It certainly is. If they would like to come tomorrow morning, I believe we can start on the budget resolution by 11:30. They can come and air their amendments. I do not know that we will have time to have a vote, but they might want to air them prior to the time we recess for the caucuses.

I know of no one else on our side who wishes to discuss this further today. We will send for the majority leader to let him know.

It is my understanding that it is clear we will yield 10 hours off of the resolution today. With that, Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Will the Chair withhold?

Let me say the Senator from New Mexico was not on the floor when the request was made. I assume the chairman will wait for the majority leader.

Mr. CHILES. I will clear it with him.

Mr. DOMENICI. We have cleared that on our side. We have no objection to eliminating 10 hours from the time provided for the resolution as prescribed by statute.

The PRESIDING OFFICER. The Chair thanks the Senator for that information.

Mr. DOMENICI. Now I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have talked with the two managers of the resolution, and they advise me that they would be agreeable to charging off for today 10 hours from the total time on the resolution.

I, therefore, ask unanimous consent that on tomorrow, when the Senate resumes consideration of the budget resolution, there be 40 hours remaining with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHANISTAN

Mr. HUMPHREY. Mr. President, I rather imagine at this hour that there is a good deal of backslapping and self-congratulations underway at the State Department for, I am told, at 2 o'clock the President and Secretary Shultz announced the United States intends to sign in Geneva on Thursday the agreements which have been under negotiation for some time, ostensibly to bring about a just resolution of the war in Afghanistan.

It has been my observation that whenever the State Department functionaries are congratulating themselves, it is time to start worrying. I fear that that is the case in this instance.

I will detail the reasons for my fears tomorrow, but before this day closes and we recess and go over until tomorrow, I want to share a few preliminary thoughts with my colleagues about what is about to transpire in Geneva.

The United States is about to become party to a set of agreements which will make it impossible for us and for the Nation of Pakistan to remain faithful to the Afghan freedom fighters, except by violating the very agreements we are about to endorse and sign this week.

Let me repeat that: The only way that we, the United States, and Pakistan can remain faithful to the Afghan freedom fighters is to violate the very agreements about which the State Department is congratulating itself today.

The operative provisions that make this so are the provisions on nonintervention. Pakistan pledges not to interfere in the affairs of its northern neighbor, Afghanistan. Afghanistan pledges not to interfere in the affairs of Pakistan.

What that means in practical terms, of course, is that Pakistan can no longer transship weapons and supplies from the United States and other countries friendly to the Afghan freedom fighters; it can no longer transship such weapons, except by a direct violation of these agreements which are about to be signed this week.

On the other side of the equation, the Soviet Union, under these provisions, is perfectly at liberty to supply its Communist puppet regime in Kabul as lavishly as it may desire. That is quite a deal, is it not? Moscow can freely and fully resupply its puppet regime in Kabul perfectly in compliance with this agreement, but we, and those who have been supporting the Afghan freedom fighters, can supply the freedom fighters only by violating the agreement. Could there be a more one-sided arrangement? I cannot imagine one, frankly.

We have already made it clear that for our part we intend to violate this agreement. How do you like that? We are about to sign an agreement and have already made it clear that we intend to violate it on the first day.

I find that embarrassing, Mr. President. This is the kind of doubletalk in which only diplomats can take any satisfaction, much less pride. But, indeed, I hope we do. It is urgent that we violate this very agreement. It is urgent; it is imperative that we remain faithful to the Afghanistan freedom fighters, for what a disgrace it would be to us if we were to sell them out after the 8 years of bloody sacrifice they have laid down to regain their country.

And yet it might come to that. It might come to that very kind of sellout and for this reason: Even though we intend to continue to supply the resistance, the Afghanistan freedom fighters, without the support and cooperation of Pakistan, through whose territory lies the only practical route to transship this materiel, there is no way for us to make good on this pledge.

It does little good to say we will continue to ship the stuff if we have no way of getting it in. So only if Pakistan, likewise, violates this agreement from day one can we remain faithful to the Afghanistan freedom fighters.

Now the complication arises in this way: In my opinion, it is going to be increasingly difficult for Pakistan to play the part she has so courageously played these many years. Think of it: Pakistan will now become the violator of international law, the Soviets the compliers with international law. By a brilliant strategy, and thanks to the gullibility of our diplomats, the Soviets have turned the tables 180 degrees on us, where for 8 years the Soviets have been castigated as the outlaws, as the breakers of the law through their criminal invasion and occupation of Afghanistan. For 8 years, it has been the Soviets who have borne the criticism of being outside the norms of international law. Now it will become we and Pakistan who are the violators of the law and the Soviets the compliers. The Soviets will have transformed their public relations problem into ours in Geneva on Thursday of this week.

And so we and in particular the Government of Pakistan will come under increasing criticism and pressure, perhaps even to the extent of U.N. resolutions condemning us for violating the agreements.

What a turnabout of events that is, because for 8 years it has been the Soviets who have been criticized by U.N. resolution, but it may well be us and the Pakistanis now.

As the Pakistani Government comes under this increased criticism, this increased pressure, and this increased embarrassment, it may well be the integrity of the pipeline through which the sustenance of the Afghan freedom fighters has flowed and on which it utterly depends will be threatened, that that pipeline will be closed down, that in the end the Soviets will have gained at the negotiating table with the complicity or our State Department that which they could not win through 8 years of bloody and brutal warfare on the battlefields of Afghanistan.

That is a very real danger. A real danger exists that the pipeline will be cut off thanks to this agreement.

What is clear is that we can only remain faithful to the Afghan resistance by becoming violators of the agreement we are about to sign. What a sorry situation.

Mr. President, I will have more to say on this matter tomorrow as I get caught up on events, but I wanted to alert my colleagues, many of whom feel very strongly about our past support of the Afghan resistance and our promise of future support, before this day is out.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. BYRD. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 407) to direct the Senate legal counsel to represent committees, Members, officers, and employees in the case of United States v. Poindexter, et al. (D.D.C.) and to authorize testimony.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, three of the four defendants to the indictment returned by the Iran-Contra grand jury—John Poindexter, Oliver North, and Albert Hakim—testified and provided other information to the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition under the compulsion of grants of immunity. As immunized testimony may not be used against a witness in a criminal case, Independent Counsel Lawrence Walsh will be required to demonstrate to the court that he has obtained his evidence from other sources and that his case is not tainted by immunized testimony.

Counsel for the three defendants are requesting documents and information from the Senate Select Committee and the House Select Committee to Investigate Covert Arms Transactions with Iran. While being mindful of issues of congressional privilege that may relate to discovery from the Congress, the Senate select committee wishes to cooperate as fully as possible with the court in making available relevant information possessed by the committee that the court needs in resolving questions relating to immunized testimony.

It may be necessary for the Senate to be represented before the court in connection with defendants' request. To facilitate an expeditious response not only to the present request but also to other discovery issues that may arise during the Iran-Contra prosecutions, the following resolution authorizes the Senate legal counsel to appear on behalf of the Senate with respect to any Senate-related discovery matter in United States versus Poindexter, et al.

In order to be prepared if the court determines that information from the Senate select committee is required, at an appropriate time in the proceedings, for a just adjudication of any taint issues, the resolution also authorizes the chief counsel of the Senate Select Committee, Arthur L. Liman, to provide testimony and other relevant information relating to evidence obtained from the defendants under grants of immunity. The chief counsel is in the best position to provide any information which the court may require.

If it is determined that more is needed, the Senate legal counsel could seek to define, either by agreement or with the assistance of the court, the scope of any further discovery and present for the Senate's consideration any resolution that may be required to permit necessary additional testimony or document production. As indicated earlier, it is the select committee's intention to cooperate as fully as possible in providing necessary, relevant information to the court, while remaining attentive to issues of congressional privilege. The Senate Select Committee on Intelligence, to which these records soon will be transferred under the provisions of section 6(3) of Senate Resolution 23, shares this objective.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 407) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 407

Whereas, in the case United States v. Poindexter, et al., Cr. No. 88-80, pending in the United States District Court for the District of Columbia, three defendants have requested documents and information from the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition concerning testimony and other information compelled from them under grants of immunity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Chief Counsel of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, Arthur L. Liman, is authorized to provide testimony and other information in the case of United States v. Poindexter, et al., Cr. No. 88-80 (D.D.C.), about any actions of the Select Committee that may be relevant to the question whether the independent counsel has made any prohibited use of immunized testimony, except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is directed to represent committees, Members, officers and employees of the Senate in the case of United States v. Poindexter, et al., Cr. No. 88-80 (D.D.C).

TRIBUTE TO RABBI ARTHUR SCHNEIER

Mr. D'AMATO. Mr. President, I rise today to pay tribute to a remarkable man, a renowned religious and civic leader and world diplomat—the Rabbi Arthur Schneier. It is with great pleasure that I join with Manhattan's Park East Synagogue to mark his 25th anniversary as their spiritual leader.

As a life-tenured rabbi of the Park East Synagogue, chairman of the World Jewish Congress Commission on the Third World, former chairman of the American section of the World Jewish Congress, and founder and president of the Interfaith Appeal of Conscience Foundation, the rabbi leads a mission to ease religious tension and persecution and foster religious freedom around the world.

The foundation's members are Catholic, Protestant, Jewish, and Greek Orthodox leaders concerned with religious freedom for all denominations. The foundation has grown into one of the most influential human rights advocacy groups in the world; its members journey all over the globe meeting religious and political leaders in whose nations spiritual freedoms are threatened, or do not exist. The rabbi himself has visited the Soviet Union 19 times, in efforts on behalf of Soviet Jewry, and has met with top leaders in Argentina, Bulgaria, Czechoslovakia, Hungary, Rumania, Poland, Yugoslavia, East Germany, Morocco, China, El Salvador, Northern Ireland, and has had a private audience with both Pope Paul VI and Pope John Paul II. With a worldwide renewal and resurgence in faith, he feels the time is right for the world's religious leaders to come together to take the lead in establishing a mutual understanding and respect among all faiths.

Rabbi Schneier's sense of global responsibility began at an early age. Born in Vienna in 1930, he fled with his mother to Budapest in 1939, where they lived as illegal aliens until 1944. With the invasion by the Nazis in 1944, friends and family were sent to the concentration camps. He managed to survive though he spent much of his youth in isolation and in constant fear of the Nazis. Somehow Rabbi Schneier adapted to the terrors of the Holocaust and because of it became stronger and more committed in his convictions. Rabbi Schneier has a mission—a mission of religious freedom for all people of all beliefs and all ethnic backgrounds.

I am honored to join in recognizing Rabbi Schneier for his distinguished service over the years. His leadership, patriotism, and undying devotion have made quite an impact and will always be remembered. Not many men have made, and continue to make such a difference.

Thank you, Mr. President.

IN HONOR AND MEMORY OF JOHN J. WILLIAMS, FORMER U.S. SENATOR FROM DELAWARE

Mr. THURMOND. Mr. President, the Nation suffered a great loss with the death of former U.S. Senator John J. Williams, who died on Monday, January 11, 1988, at the age of 84.

Senator Williams was a fine man of unquestioned integrity, tremendous ability and great dedication. During his 36-year tenure, he served the State of Delaware as well as the United States with great distinction. He played a major role in many historic, economic, and social changes that took place while he was in the Senate. His strong personal values and his firm, progressive leadership enabled him to fulfill his duties with the utmost degree of integrity and ability.

After retirement from the U.S. Senate, Senator Williams continued to serve the State of Delaware through local organizations and community service. His outstanding contribution in the field of government showed the depth of his concern for others and the extent of his fine character.

Senator Williams' life will serve as an example for future generations. We are saddened by the death of Senator Williams, and Mrs. Thurmond and I join my colleagues in extending our deepest sympathy to his lovely wife, Elsie, and his daughter, Blanche Baker.

VFW VOICE OF DEMOCRACY SECOND PLACE WINNER LORI ANN MARTENS OF CALIFORNIA

Mr. CRANSTON. Mr. President, I am delighted to note that a constituent of mine, Lori Ann Martens of Gustine, CA, placed second nationally in the 1987 Voice of Democracy Scholarship Program sponsored by the Veterans of Foreign Wars and its ladies auxiliary. The VFW presented Lori with a $9,000 scholarship in recognition of her excellent presentation. This is the 41st year that the VFW has sponsored this program to encourage patriotism in our Nation's students.

Lori is the daughter of William and Judith Martens and a senior at Gustine High School. She enjoys skiing, sewing, and reading, and plans to study business and fashion design in college.

Last year, another Californian, Elaine Barnett, was the Voice of Democracy winner, and two other Californians have won this great contest—Cindie Pridy of Long Beach in 1973 and Steven Russo of Santa Clara in 1974.

The theme of this year's program was "America's Liberty—Our Heritage."

Mr. President, I want to congratulate Lori on a job well done, and ask unanimous consent that the text of her very stirring, inspirational speech be printed in the Record at this point so that all of my colleagues can share in her very special message.

There being no objection, the text was ordered to be printed in the Record, as follows:

America's Liberty—Our Heritage

(By Lori Martens)

It's raining.

And I'm cold and I'm wet and I'm hungry.

And I'm leaning on the rail of a ship which is pulling into a harbor of a promised land called America.

I see a statue of a lady with a torch.

I see the words "Give me your tired, your poor, your huddled masses yearning to breath free".

I'm in a large building now, on a place called Ellis Island.

And I'm 13 years old.

People are asking my parents questions.

Doctors are examining me.

And I'm being sprayed with something called louse powder.

And I have to stay in this place for several more weeks.

I'm 14 now, and I have a job as a weaver's assistant. I make a whole dollar a week.

Ah, but that was 50 years ago.

My name? Andrew Carnegie, and ask me if I think America is the land of opportunity.

I'm a famous person.

I've won many honors.

I'm on a ship now, bound for America.

I have to leave Germany.

You see, It's 1933, and Adolf Hitler is in power, and I'm a Jew.

In America, I can publish my papers and write my books, without fear of reprisals.

And in America, I can practice my religion openly.

My name is Albert Einstein, and ask me if I think America is the land of the free.

I'm the American-born son of Italian immigrants.

I went to a small school in a small town in Ohio.

I've worked in a gas station.

But now, I'm a United States Marine.

It's August the 8th, 1942, and I've just died, on a dirty little beach on an island called Guadalcanal.

As I look down on my funeral service, I see the President of the United States, hand my mother the Congressional Medal of Honor.

Ask me if I think America is the home of the brave.

And ask me if I think her worthy of sacrifice.

Andrew Carnegie, Albert Einstein, that young Marine, and countless thousands of others like them, have made America what she is today.

Immigrants from all over the world, with their diverse backgrounds and cultures, came to America to begin new lives.

America's Freedoms and opportunities attracted them here, bringing with them a gift that can never be repaid, their heritages.

Those heritages, are the backbone of America's liberties.

And It's these liberties that still attract immigrants today.

What is it, that makes America so great?

It's the freedoms and opportunities of her liberties and heritages.

It's the American people, that make America, the land of opportunity and freedom.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on April 1, 1988, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 2819. An act for the relief of Tracey McFarlane;

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; and

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada.

Under the authority of the order of the Senate of March 31, 1988, the enrolled bill and joint resolutions were signed on April 1, 1988, during the adjournment of the Senate, by the Acting President pro tempore [Mr. Matsunaga].

MESSAGES FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3932. An act to amend the Presidential Transition Act of 1963 to provide for a more orderly transition of executive power in connection with the expiration of the term of office of a President.

ENROLLED BILLS SIGNED

At 1:42 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1207. An act to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care entities, and for other purposes; and

H.R. 3459. An act to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs.

The enrolled bills were subsequently signed by the President pro tempore [Mr. Stennis].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3932. An act to amend the Presidential Transition Act of 1963 to provide for a more orderly transition of executive power in connection with the expiration of the term of office of a President; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2888. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2889. A communication from the Secretary of the Air Force, transmitting pursuant to law, a report on a major defense acquisition program that has increased in cost by more than 15 percent; to the Committee on Armed Services.

EC-2890. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 38 of title 10, United States Code, and Public Law 99-433 with respect to joint duty management policies for officers of the Army, Navy, Air Force, and Marine Corps; to the Committee on Armed Services.

EC-2891. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations for fiscal year 1989, and for other purposes; to the Committee on Armed Services.

EC-2892. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to increase the rates of basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services; to the Committee on Armed Services.

EC-2893. A communication from the Secretary of the Army, transmitting, pursuant to law, a report stating that a major defense acquisition program has exceeded its unit cost by more than 15 percent; to the Committee on Armed Services.

EC-2894. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for civil defense programs for fiscal years 1989 and 1990; to the Committee on Armed Services.

EC-2895. A communication from the Secretary of the Army, transmitting, pursuant to law, a report stating that a major defense acquisition program has exceeded its baseline cost by more than 15 percent; to the Committee on Armed Services.

EC-2896. A communication from the Deputy Assistant Secretary of Defense (procurement), transmitting, pursuant to law, a report of independent research and development and bid and proposal costs; to the Committee on Armed Services.

EC-2897. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report stating that a major defense acquisition program has exceeded the baseline cost by more than 15 percent; to the Committee on Armed Services.

EC-2898. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on a major defense acquisition program that has exceeded its baseline cost by more than 15 percent; to the Committee on Armed Services.

EC-2899. A communication from the Deputy Assistant Secretary of Defense (procurement), transmitting, pursuant to law, a report on independent research and development and bid and proposal costs; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Special report entitled "NATO Defense and the INF Treaty" (with additional, supplemental, and minority views) (Rept. No. 100-312).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2100. A bill to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes (Rept. No. 100-313).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 2260. A bill to restore the occupational tax on small retail beer dealers to $24; to the Committee on Finance.

S. 2261. A bill to exempt certain educational institutions from user fees on permits for industrial use of specially denatured distilled spirits; to the Committee on Finance.

By Mr. HELMS:

S. 2262. A bill to suspend for a 5-year period the duty on disperse yellow 27 dye; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. Armstrong, Mr. Quayle, and Mr. Symms):

S. 2263. A bill to allow the President to rescind items of appropriation contained in a bill or joint resolution making continuing appropriations unless the Congress enacts legislation disapproving that rescission; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one committee reports, the other committee has thirty days of continuous session to report or be discharged.

By Mr. DOMENICI (for himself and Mr. Bingaman):

S. 2264. A bill to authorize the Secretary of the Interior to exchange certain Federal mining rights for certain lands in New Mexico; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH:

S. 2265. A bill to provide temporary suspension of duty on demetallized laminated plastic film and demetallized plastic laminated to paper for use in microwave applications; to the Committee on Finance.

S. 2266. A bill to extend the duty arrangement on certain unwrought lead for a period of four years; to the Committee on Finance.

By Mr. CRANSTON:

S. 2267. A bill to amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes.

S. 2268. A bill to amend title 38, United States Code, to modify eligibility requirements for the plot allowance; authorize a headstone allowance for prepurchased grave markers; extend the State Cemetery Grants Program; and for other purposes; to the Committee on Veterans' Affairs.

S. 2269. A bill to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Administrator notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; to the Committee on Veterans' Affairs.

By Mr. THURMOND (for himself, Mr. Bentsen, Mr. Boschwitz, Mr. Boren, Mr. Chafee, Mr. Bradley, Mr. Cochran, Mr. Bumpers, Mr. D'Amato, Mr. Burdick, Mr. Dole, Mr. Byrd, Mr. Durenberger, Mr. Chiles, Mr. Evans, Mr. Dixon, Mr. Garn, Mr. Fowler, Mr. Gramm, Mr. Heflin, Mr. Grassley, Mr. Hollings, Mr. Hatch, Mr. Inouye, Mr. Hecht, Mr. Johnston, Mr. Helms, Mr. Kennedy, Mrs. Kassebaum, Mr. Kerry, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Ms. Mikulski, Mr. McClure, Mr. Moynihan, Mr. McConnell, Mr. Nunn, Mr. Quayle, Mr. Pell, Mr. Roth, Mr. Pryor, Mr. Specter, Mr. Riegle, Mr. Stafford, Mr. Sanford, Mr. Symms, Mr. Sarbanes, Mr. Trible, Mr. Sasser, Mr. Wallop, Mr. Simon, Mr. Weicker, Mr. Stennis, and Mr. Wilson):

S.J. Res. 290. A joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mrs. Kassebaum, Mr. Sanford, Mr. McCain, Mr. DeConcini, Mr. Helms, Mr. Nickles, Mr. Boren, Mr. D'Amato, and Mr. Heflin):

S. Res. 406. A resolution congratulating the University of Kansas on winning the NCAA Basketball Championship; considered and agreed to.

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 407. A resolution to direct the Senate Legal Counsel to represent committees, Members, officers, and employees in the case of United States v. Poindexter, et al. (D.D.C.) and to authorize testimony; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 2260. A bill to restore the occupational tax on small retail beer dealers to $24; to the Committee on Finance.

OCCUPATIONAL TAX ON SMALL RETAIL BEER DEALERS

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would restore some equity and fairness in how the Bureau of Alcohol Tobacco and Firearms [BATF] assesses occupational taxes on retail distributors of beer. The legislation I am introducing establishes a two-tier system for beer retailers which recognizes that small retail sellers should not have to shoulder the same tax burden as large vendors.

Last year's reconciliation bill changed and consolidated the occupational taxes for retail distributors of beer, wine, and distilled spirits. Before last year's reconciliation bill, a retail beer dealer paid an annual tax of $24. As a result of the changes Congress made last year, the retail beer dealer will see more than a 1,000-percent increase in the tax he must pay. The new consolidated $250 per year tax makes no distinction between a retailer who has a license to sell distilled spirits, wine, and beer, and a small mom and pop grocery store which also sells beer.

I see no reason to place the small mom and pop food retailer who sells maybe $10,000 per year worth of beer in the same position as some of the large liquor stores who sell several million dollars worth of alcohol products each year.

I have talked with some of the small retail food merchants in Minnesota, and the proprietors tell me that the only time they have contact with BATF is when they receive a bill from them for their tax stamp. As far as I know, BATF never inspects their facilities nor does it engage in any other type of regulatory activity related to these small facilities.

There are a lot of small food stores in rural Minnesota that sell beer merely as a convenience to their customers. And there are many resort hotels who are licensed to sell beer while they operate during the summer. These businesses may buy $2,000 or $3,000 worth of beer each year, and then mark it up by 20 percent. That would ordinarily work out to give them a profit of from $400 to $600. But when you add in the cost of the electricity for the beer cooler and the costs of labor, that reduces their profit to about $300 to $500. With the new $250 occupational tax, we have, in effect, reduced their profit to next to nothing.

The legislation I am introducing would restore the retail beer dealer occupational tax to $24 for those small businesses whose gross receipts do not exceed $500,000 per year.

I ask unanimous consent that the text of my legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF SMALL RETAIL BEER DEALERS OCCUPATIONAL TAX TO $24.

(a) IN GENERAL.—Subsection (b) of section 5121 of the Internal Revenue Code of 1986 (relating to imposition and rate of occupational tax) is amended to read as follows:

"(b) RETAIL DEALERS IN BEER.—

"(1) IN GENERAL.—Every retail dealer in beer shall pay a tax of $250 a year.

"(2) REDUCED RATES FOR SMALL PROPRIETORS.—

"(A) IN GENERAL.—Paragraph (1) shall be applied by substituting "$24" for "$250" with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by paragraph (1) relates) are less than $500,000.

"(B) CONTROLLED GROUP RULES.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of subparagraph (A).

"(C) CERTAIN RULES TO APPLY.—For purposes of subparagraph (A), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 10512 of the Revenue Act of 1987.●

By Mr. DURENBERGER:

S. 2261. A bill to exempt certain educational institutions from user fees on permits for industrial use of specially denatured distilled spirits; to the Committee on Finance.

EXEMPTION FOR CERTAIN EDUCATION INSTITUTIONS FOR INDUSTRIAL USE OF DENATURED DISTILLED SPIRITS

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would exempt small purchases of specially denatured alcohol by educational facilities from the $250 per year occupational tax imposed on tax-free users of denatured alcohol.

Under the occupational tax system Congress adopted last year, an educational facility does not have to pay tax on the purchase of denatured alcohol used in experimental laboratories. However, to qualify for tax exemption, the university now must pay $250 per year to obtain a tax-free permit.

My legislation would exempt school purchases of up to 25 gallons per year of specially denatured alcohol from the $250 tax. I introduce this bill because the chairman of the chemistry department at a small community college in Minnesota—Lakewood Community College—recently wrote to me to tell me that he buys 5 gallons of specially denatured alcohol each year for biology experiments involving photosynthesis. The alcohol normally costs him $38.50.

However, the $250 occupational tax would raise his cost to nearly $300 for 5 gallons—nearly an 800-percent increase. He noted that since the Federal tax on the same 5 gallons would be about $118, he would have to give up his tax-free permit. That doesn't make sense.

I do not believe that Congress intended that a chemistry or biology teacher who purchases a small amount of alcohol for teaching and research purposes should be subjected to the same level of tax as a large company that uses alcohol as part of an industrial process. At a time when we are trying to encourage greater educational efforts in science, I think it is shortsighted and unreasonable not to exempt schools from the new occupational tax rules.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN EDUCATIONAL INSTITUTIONS EXEMPT FROM USER FEES ON PERMITS FOR INDUSTRIAL USE OF SPECIALLY DENATURED DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5276 (relating to occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FOR CERTAIN EDUCATIONAL INSTITUTIONS.—Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which—

"(1) is issued a permit under section 5271(a)(2), and

"(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of specially denatured distilled spirits for experimental or research use but not for consumption (other than organoleptic tests) or sale."

(b) CONFORMING AMENDMENT.—Section 5276(a) is amended by striking out "A permit" and inserting in lieu thereof "Except as provided in subsection (c), a permit".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 10512 of the Revenue Act of 1987.●

By Mr. HELMS:

S. 2262. A bill to suspend for a 5-year period the duty on disperse yellow 27 dye; to the Committee on Finance.

SUSPENSION OF DUTY ON DISPERSE YELLOW 27 DYE

● Mr. HELMS. Mr. President, I send to the desk a bill to suspend temporarily the duty currently imposed on an imported disperse dye, called disperse yellow 27.

This product is important to a major employer in my State, the Burlington Chemical Co., which operates two plants in Alamance County, NC. The company's primary product lines are dye stuffs, pigments, surfactants, and finishing agents used in the manufacture of carpets, fabrics, hosiery, yarns, and other textile products.

Mr. President, one of the primary disperse dyes used in the dying of ladies' hosiery and carpets is disperse yellow 3. However, disperse yellow 3 is a suspected cancer causing agent and is labelled as such when sold. Under a new California law, proposition 65, any person in California may bring a lawsuit against a manufacturer using a cancer causing agent in the development of its product. This California law, along with the hazard communications standard promulgated by OSHA, is compelling textile manufacturers to search for alternative components to use in the manufacture of their products.

One such alternative dye is disperse yellow 27. It is safer than disperse yellow 3, and to the best of my knowledge, is not manufactured in the United States. While both dyes can perform the same general function, disperse yellow 27 is 20 percent weaker. That is, 20 percent more of it must be used, relative to disperse yellow 3 to do the same quality job.

Disperse yellow 27 is subject to two classes of duties. One class pertains to preferential treatment accorded Israel and Caribbean basin countries—Israeli imports are taxed at 6 percent ad valorem; Caribbean basin imports are tax free. The second class imposes a 15 percent ad valorem duty on imports from all other non-Communist countries. My bill suspends the duty on disperse yellow 27 produced by countries in these two classes for a 5-year period. It does not affect the special duty that applies to imports from Communist countries.

Because disperse yellow 27 is not produced domestically, no American workers will be displaced as a result of this duty suspension. Further, the cost of purchasing disperse yellow 27 will exceed that of disperse yellow 3 given the relative weakness of the former. The duty suspension will therefore create a fair, competitive marketplace.

Mr. President, I hope the Senate can act expeditiously on this bill, and I ask unanimous consent that its text be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISPERSE YELLOW 27 DYE.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"907.30	Disperse yellow 27 dye (provided for in item 409.92 part 1C schedule 4).	Free	No change	On or before 12/31/93".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of enactment of this Act.●

By Mr. D'AMATO (for himself, Mr. ARMSTRONG, Mr. QUAYLE, and Mr. SYMMS):

S. 2263. A bill to allow the President to rescind items of appropriation contained in a bill or joint resolution making continuing appropriations unless the Congress enacts legislation disapproving that rescission; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

CONTINUING APPROPRIATIONS RESCISSION ACT

Mr. D'AMATO. Mr. President, as the Senate begins consideration of the budget resolution today, I feel it is important to examine the budget process that Congress followed last year. This process did a disservice to our constituents, shirked our oversight responsibilities and effectively denied the President his veto power.

Of course, I am speaking of the omnibus continuing resolution for fiscal year 1988, which lumped the 13 appropriations bills into one catch-all piece of legislation. Congress proved unable to pass any of the individual appropriations bills at all, let alone on time.

Why did the congressional budget process collapse? Certainly partisan bickering played a part as did the massive Federal deficit. We were incapable of building a consensus around spending priorities. The end result was legislative gridlock.

It took a momentous collapse of the stock market to force Congress into action. In December, an omnibus continuing resolution was finally passed that included the 13 appropriations bills. We are still discovering what small changes in the law were quietly placed in this bill affecting a number of constituencies in very important ways.

For instance, a few choice words were added that almost forced the New York Post to close its doors. Congress did not debate this issue. The FCC was not asked to comment on its impact. Worst of all, the owners and employees of the Post had no idea what hit them. Well after the President signed the continuing resolution, the Post discovered that its very existence was in jeopardy.

How could such a provision just sneak through unnoticed? The continuing resolution was over 1,000 pages long and passed in the middle of the night. A bill of that size defies thorough understanding by any one Member of Congress.

The President could have vetoed the continuing resolution because of this and other wrong-minded provisions. This would have forced Congress to clean up the bill. But a veto would also have shut down the Government. Social Security checks would not have been mailed and a host of other essential services halted.

This is the evil of the omnibus continuing resolution. Congress cannot efficiently manage such a bill, and the President is effectively denied his veto power. The end result is bad government and the taxpayers pay the price.

Mr. President, I am introducing a bill today, cosponsored by Senators ARMSTRONG, QUAYLE, and SYMMS, that will make one simple change in the law and probably end forever the omnibus continuing resolution. This will be accomplished through enhanced Presidential rescission power.

Under current law, the President may submit to Congress rescissions in budget authority. Congress must then vote to affirm the proposed rescissions within 45 business days. If no vote is taken, then the rescission is automatically defeated.

My bill would make Congress vote to reject proposed rescissions derived from an omnibus continuing resolution. In short, Congress would be forced to specifically reject any such proposed rescissions within 45 business days. If Congress did not act, the rescission would automatically take effect. The bill defines continuing resolution as any bill that funds three or more of the normal appropriations measures through an entire fiscal year.

By passing omnibus continuing resolutions, Congress takes away some of the President's power. It is only right that the President be given some new authority if Congress persists in passing catch-all spending bills. Under my proposal, the President could sign the continuing resolution and then make Congress review any extraneous issues. Congress would still have a chance to reject the President's proposed changes.

In the case of the New York Post fiasco, my bill would have allowed the President to rescind the relevant provision. Congress then would have had to reject the rescission or it would become law. In this way, Congress would have had to address the New York Post issue; not behind closed doors in the middle of the night, but before the glare of public scrutiny on the House and Senate floors.

Mr. President, if my bill were enacted, I predict that Congress would never again pass another omnibus continuing resolution. Rather than give the President new rescission power, Congress would pass each individual appropriations bill.

Mr. President, Congress must return to the normal appropriations process. We have an obligation to our constituents to carefully review all appropriations bills in a timely fashion. The legislation I am introducing today will accomplish this goal.

I ask unanimous consent that my bill be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Continuing Appropriations Rescission Act of 1988".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "bill or joint resolution making continuing appropriations" means a bill or joint resolution that includes three or more annual appropriation bills.

(2) The term "annual appropriation bill" means any annual appropriation bill (within the meaning given to such term in section 307 of the Congressional Budget Act of 1974 (2 U.S.C. 638)) making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

(A) Agriculture, rural development, and related agencies programs.

(B) The Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

(C) The Department of Defense.

(D) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

(E) The Departments of Labor, Health and Human Services, and Education, and related agencies.

(F) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

(G) Energy and water development.

(H) Foreign assistance and related programs.

(I) The Department of the Interior and related agencies.

(J) Military construction.

(K) The Department of Transportation and related agencies.

(L) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

(M) The legislative branch.

SEC. 3. RESCISSION OF ITEMS OF APPROPRIATION.

(a) REPORT TO CONGRESS.—Whenever the President determines that all or part of an item of appropriation contained in a bill or joint resolution making continuing appropriations will not be required to carry out the full objectives or scope of programs for which the item of appropriation is provided, or that such item of appropriation should be rescinded for fiscal policy or other reasons, the President (before actually effecting such rescission) shall transmit to both Houses of Congress a report specifying—

(1) the item of appropriation, and the amount thereof, which he proposes to be rescinded;

(2) any account, department, or establishment of the Government to which the item of appropriation is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the item of appropriation should be rescinded;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects purposes, and programs for which the item of appropriation is provided.

(b) ENACTMENT OF LEGISLATION DISAPPROVING RESCISSION.—Any amount of an item of appropriation proposed to be rescinded in a report transmitted by the President under subsection (a) shall be made available for obligation if the Congress enacts legislation disapproving the rescission.

(c) EXCEPTION FOR LEGISLATIVE AND JUDICIAL BRANCHES.—The President may not rescind items of appropriations under this Act for the judicial and legislative branches.

SEC. 4. APPLICABILITY OF EXPEDITED PROCEDURES.

Any bill or joint resolution introduced in either House of Congress which only disapproves the rescission of an item of appropriation proposed in a report transmitted by the President under section 2(a) shall be subject to all the procedures set forth in section 1017 of the Impoundment Control Act of 1974 (2 U.S.C. 688) which apply to rescission bills under section 1017 of that Act.

SEC. 5. SUITS BY COMPTROLLER GENERAL.

The provisions of section 1016 of the Impoundment Control Act of 1974 (2 U.S.C. 687) shall apply to items of appropriation required to be made available under section 2(b) of this Act.

SEC. 6. INAPPLICABILITY OF CERTAIN PROVISIONS OF IMPOUNDMENT CONTROL ACT.

(a) IN GENERAL.—The Impoundment Control Act of 1974 is amended by adding at the end the following:

"INAPPLICABILITY TO CERTAIN RESCISSIONS

"SEC. 1018. Except as provided in section 4 of the Continuing Appropriations Recission Act of 1988, the provisions of this part shall not apply to rescissions of items of appropriations under that Act.".

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 1017 the following new item:

"Sec. 1018. Inapplicability to certain rescissions.".

SEC. 7. EFFECTIVENESS OF ACT.

This Act and the amendment made by section 5 of this Act shall be effective beginning with appropriations made for fiscal year 1989.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2264. A bill to authorize the Secretary of the Interior to exchange certain Federal mining rights for certain lands in New Mexico; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTAIN LANDS IN NEW MEXICO

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to resolve a conflict over the competing uses of a parcel of land known as "A" Mountain, which is located in Las Cruces, NM. This bill removes some mining claims on "A" Mountain that interfere with a very important NASA project and will allow BLM to consolidate its ownership of lands in another area where it proposes to create a new national conservation area.

"A" Mountain, which derives its name from the fact that it has a large letter "A" painted on its face, is situated near the campus of New Mexico State University—NMSU—in Las Cruces. Although "A" Mountain is owned by the Bureau of Land Management, approximately 1,400 acres of it have been withdrawn from public use and dedicated to use by the NMSU for educational purposes. An additional 2,800 acres of "A" Mountain has been withdrawn for use by NASA as a communications antenna site operated in conjunction with NMSU.

NMSU operates a satellite tracking observatory for NASA on the 2,800-acre NASA site on "A" Mountain. The antenna range is used for tracking and for applied sounding rocket antenna design research. According to NASA, the range is vital to its research efforts and is important as it is one of the few areas in the country which is free of radio frequency interference. The research done at this range often requires very precise calibrations that may be distorted or degraded should mining equipment or other heavy equipment items be brought onto the range.

According to NASA, it is necessary to maintain the range in and undisturbed condition to ensure the accuracy of the exacting work which is done there.

There currently are 7 unpatented mining claims on these lands. Two of these claims are operated as commercial gravel pits, one of which is adjacent to the NASA site. It is likely that a patent will be issued for one of these gravel pits. Although no patent application has yet been filed for the other gravel pit, it is believed that the mining claim also is patentable.

NMSU shares NASA's concern about the impact of the gravel operation on the NASA site. NMSU desires to remove the gravel pit from the site because the traffic at the gravel pit disrupts NASA's readings. NMSU must constantly recalculate its readings and retest its equipment because of interference from moving vehicles.

BLM cannot exchange these claims administratively because it is unable to exchange lands for an unpatented mining claim.

The parties have worked for many years to resolve this dilemma and have come up with the solution embodied in this bill. The bill directs BLM to transfer the unpatented mining claims for other BLM lands of equal value in the vicinity. NMSU, the State BLM, and the gravel company that presents the most immediate threat to the NASA site have all agreed to the language in the bill.

The bill also permits BLM and NMSU to engage in a transfer of BLM land at "A" Mountain for lands that NMSU owns at the existing Aguirre Springs Recreation Area. This will allow BLM to consolidate its holdings as part of its proposal to create a national conservation area in this area.

Aguirre Springs consists of approximately 2,100 acres on the east face of the Organ Mountains 15 miles from Las Cruces, NM. The property consists of lands that were granted to NMSU by the United States in 1938 for use as a recreational and educational site. NMSU uses the area as a biology field station. Pursuant to an 1966 easement and right-of-way grant, BLM operates a recreational facility on the property. BLM has developed picnic areas, campgrounds, and trails at Aguirre Springs.

BLM desires to acquire the property for incorporation into the proposed 11,200-acre Organ Mountains Wilderness Area and the 59,100-acre Organ Mountains National Conservation Area. These areas will be created as part of a statewide BLM wilderness bill that the New Mexico congressional delegation is currently drafting.

In exchange for these lands, NMSU would be granted lands of equal value on "A" Mountain.

Normally, this exchange could be conducted administratively. However, an administrative exchange is currently blocked because of an ongoing lawsuit between BLM and the National Wildlife Federation. This bill allows the exchange to go forward even though the lawsuit is still pending. The National Wildlife Federation has reviewed the legislation and has stated that it will not oppose this exemption.

Mr. President, all the parties involved have expressed their support for this legislation. I hope that this legislation can be acted upon expeditiously by the Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,

SECTION 1. The Secretary of the Interior is authorized to exchange certain lands as identified for disposal in the Southern Rio Grande Plan Amendment, for certain mining claims on lands withdrawn for the National Aeronautic and Space administration and New Mexico A & M College (now New Mexico State University) under P.L.O. 3685 and P.L.O. 2051. Once the United States determines the claims are valid under existing law, the exchange authorized by the preceeding sentence shall to be made on an equal value basis as determined by an independent appraisal.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to make available for exchange the Federal interests in the lands described in subsection (b) for the private interests in the lands described in subsection (c). The exchange shall be made in manner consistent with applicable provisions of law and shall be on the basis of equal value.

(b) The federal interests to be made available for exchange under this section are those lands in sections 13, 14, 15, 22, 23, 24, 25, 26, and 35 of T 23 S, R 2 E, New Mexico Principle Meridian.

(c) The private interests to be exchanged pursuant to this section are those lands owned by New Mexico State University in sections 19, 29, 30, and 31 of T 22 S, R 4 E, and section 6 of T 23 S, R 4 E, New Mexico Principal Meridian.

(d) Lands not acquired by New Mexico State University pursuant to this section and which are encompassed by P.L.O. 3685 and P.L.O. 2051 may be disposed of by sale to or exchange with the State of New Mexico, New Mexico State University, or other public and private entities: *Provided, however,* That New Mexico State University is given a right of first refusal on any proposed disposition. The National Aeronautic and Space Administration and the Bureau of Land Management are directed to immediately begin negotiations to review PLO 3685 and identify lands that may be in excess of the withdrawal needs.

(e) Notwithstanding any other provision of law, the Secretary of the Interior, if the secretary determines it is necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under this act, is hereby authorized and directed to revoke P.L.O. 2051.

By Mr. DANFORTH:

S. 2265. A bill to provide for a temporary suspension of duty on demetallized laminated plastic film and demetallized plastic laminated to paper for use in microwave applications; to the Committee on Finance.

S. 2266. A bill to extend the duty arrangement on certain unwrought lead for a period of 4 years; to the Committee on Finance.

TARIFF LEGISLATION

● Mr. DANFORTH. Mr. President, today I am introducing two miscellaneous tariff bills. The first would provide for a temporary suspension of duty on demetallized laminated plastic film and demetallized plastic laminated to paper for use in microwave applications. The second would extend the current duty arrangement on certain unwrought lead for a period of four years. I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMETALLIZED LAMINATED PLASTIC FILM.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"912.50	Demetalized laminated plastic film and demetalized plastic laminated to paper for use in microwave applications (as provided for in item 774.58, part 12. D, schedule 7).	Free	No change...	On or before 12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN UNWROUGHT LEAD.

(a) IN GENERAL.—Item 911.50 of the Appendix to the Tariff Schedules of the United States is amended by striking out "12/31/88" and inserting in lieu thereof "12/31/92".

(b) NO MODIFICATION BY PROCLAMATION.—Section 114 of Public Law 96-609 (94 Stat. 3558) is amended by striking out "January 1, 1989" in subsection (b) and inserting in lieu thereof "January 1, 1993".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1988.●

By Mr. CRANSTON:

S. 2267. A bill to amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' COMPENSATION AND BENEFITS IMPROVEMENT ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2267, the proposed Veterans' Compensation and Benefits Improvement Act of 1988. The Administrator of Veterans' Affairs submitted this legislation by letter dated April 1, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 1, 1988, transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND REFERENCES

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation and Benefits Improvement Act of 1988."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. Section 3112 is amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection:

"(c)(1) Effective December 1 of each year, each rate of disability compensation under sections 314 and 315, dependency and indemnity compensation under sections 411, 413, and 414, and the clothing allowance under section 362 shall be increased by the percent change in the price index for the base quarter of such year over the price index for the base quarter of the immediately preceding year, adjusted to the nearest 1/10 of 1 percent.

"(2) For the purpose of this section—

"(A) "price index" means the Consumer Price Index published monthly by the Bureau of Labor Statistics;

"(B) the term 'base quarter,' as used with respect to a year, means the calendar quarter ending on September 30 of such year; and

"(C) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter."

SEC. 102. The redesignated subsection (d) of section 3112 is amended by redesignating paragraph (2) as paragraph (3) and inserting the following new paragraph:

"(2) Whenever disability compensation, dependency and indemnity compensation, and clothing allowance rates are increased under subsection (c) of this section, the Administrator shall publish such new rates in the Federal Register as soon as practicable."

SEC. 103. The Administrator may, consistent with the increases authorized by this title, administratively adjust the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85-857 who are not in receipt of compensation payable under chapter 11 of title 38, United States Code. Notice of any adjustments made under this section will be published in accordance with section 102, above.

TITLE II—ENLARGEMENT OF CLOTHING-ALLOWANCE COVERAGE AND INCOME EXCLUSION AMENDMENTS

ENLARGEMENT OF CLOTHING-ALLOWANCE COVERAGE

SEC. 201. Section 362 is amended to read as follows:

"The Administrator, under regulations which the Administrator shall prescribe, shall pay a clothing allowance of $380 per year to each veteran who because of disability which is compensable under this chapter—

(a) wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such veteran, or

(b) uses prescribed medication for a service-connected skin condition which medication the Administrator determines stains or otherwise damages such veteran's clothing.".

INCOME EXCLUSION, CASUALTY LOSS REIMBURSEMENT

SEC. 202. Sections 415(f)(1)(I) and 503(a)(5) are each amended to read as follows:

"Reimbursement of any kind for any casualty loss, as defined by the Administrator, provided that in no event shall the amount to be excluded exceed the fair market value of the property involved immediately preceding the loss;".

TITLE III—MISCELLANEOUS AMENDMENTS

REINSTATED ENTITLEMENT PROGRAM FOR SURVIVORS (REPS)

SEC. 301(a). Section 156(a)(1)(B) of Public Law No. 97-377, 96 Stat. 1830, 1920 (1982) is amended by inserting after the word "month" the following clause:

"or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code".

(b) Section 156(a)(1)(C) of Public Law No. 97-377, 96 Stat 1830, 1920 (1982) is amended by inserting after "(42 U.S.C. 402(g))" a comma and the following clause:

"or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code,".

INDEBTEDNESS OFFSETS BY OTHER FEDERAL AGENCIES

SEC. 302. Section 3114 is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting the following new subsection:

"(d)(1)(A) In the event a person becomes indebted to the Veterans Administration by reason of an overpayment of benefits under chapter 11 or chapter 15 of this title, the Administrator, after complying with the procedures provided in subsection (b) of this section, may request that the Secretary of the uniformed service concerned collect any portion of the indebtness not waived under section 3102 of this title from retired or retainer pay due such person by such uniformed service.

"(B) Such Secretary, upon receiving a request under subparagraph (A) of this paragraph, shall determine whether any retired or retainer pay is payable by such uniformed service to the person named in the request and, if so, shall deduct the amount of any portion of the indebtedness not waived under section 3102 of this title from future payments of retired or retainer pay made to such person by such uniformed service.

"(2)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections.

"(B) For purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

"(i) the term 'records of the agency' shall be considered to refer to the records of the Veterans Administration; and

"(ii) the term 'agency' in clauses (3) and (4) shall be considered to refer to the Veterans Administration.

"(3) Funds collected pursuant to a request made under this subsection shall be credited to the Veterans Administration appropriation account from which the overpayment was made.".

ADMINISTRATIVE DEBT COLLECTION BY OFFSET FROM VETERANS' BENEFITS

SEC. 303. Section 3101(c)(1) is amended by—

(1) inserting ": (A)" following "the amount of";

(2) striking out the period at the end thereof and inserting in lieu of the period a semicolon; and

(3) inserting at the end thereof the following:

"and (B) any overpayments or retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran.".

DISCLOSURE OF SOCIAL SECURITY NUMBERS

SEC. 304. Section 3001 is amended by adding the following new subsection:

"(c) Any person who applies for or is in receipt of any compenation or pension benefits under this title is required, as a condition precedent to receipt or continued receipt of such benefits, where a social security number has been assigned, to provide to the Administrator upon request his or her social security number, and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits.".

EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN PHILIPPINES

SEC. 305. Section 230(b) is amended by striking out "1988" and substituting in lieu thereof "1992".

VETERANS ADMINISTRATION,
Washington, DC, April 1, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to forward a draft bill to provide automatic increases in the rates of disability compensation to veterans and dependency and indemnity compensation (DIC) to surviving spouses and children, and for other purposes. As you are aware, such automatic adjustments have, since 1979, been provided under 38 U.S.C. § 3112 for disability and death pension, and DIC for dependent parents. Except for section 202 and 305, all the substantive provisions of the enclosed draft bill are, with minor technical changes, identical to those contained in the draft bill submitted on March 31, 1987, entitled "Veterans' Compensation and Benefits Improvement Act of 1987", introduced as S. 940 and H.R. 2011. I respectfully request that the draft bill be referred to the appropriate committee and enacted promptly.

INDEXING COMPENSATION AND DIC RATES

Title I would authorize automatic annual increases in the rates of disability compensation for veterans, and DIC for surviving spouses and children, based upon changes in the consumer price index (CPI).

Disability compensation benefits are payable under chapter 11 of title 38 to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated totally disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as may those ages 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed cost-of-living allowances (COLA's) in Social Security and VA pension. However, these adjustments have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 100-227, approved by the President on December 31, 1987. Since 1973, legislation has been enacted every year but one (183) granting increases in these benefits to compensate for increases in the cost of living. This Administration has consistently supported these adjustments.

As you are aware, H.R. 2945, which became Public Law No. 100-227, was not presented to the President until December 22, 1987. Even though the rate increases contained therein were effective December 1, 1987, the timing of the COLA enactment resulted in beneficiaries not receiving the first increased payments until issuance of the March 1988 checks, due to necessary administrative adjustments.

Tying compensation and DIC rates to the CPI would save Congress the difficulty of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance. It would also eliminate COLA delays such as that experienced with Public Law No. 100-227, and would ensure full and timely benefit adjustment to veterans and their survivors.

Based on the 4.2 percent COLA estimated for fiscal year 1989, and the projected changes in the CPI for fiscal years 1990 through 1993, and taking into consideration the 4.2 percent compensation/DIC increase effective December 1, 1987, it is estimated that automatic increases in compensation and DIC rates under this proposal would result in the following additional costs, which are included in the President's 1989 Budget.

Fiscal year:	*Cost*
1989	$360,900,000
1990	786,200,000
1991	1,188,700,000
1992	1,542,800,000
1993	1,850,000,000
Total (5 years)	5,728,600,000

There could be a small administrative savings associated with the proposal, since VA could process benefit checks with the COLA adjustment in a timely and orderly way.

Title II of the draft bill contains two amendments designed to assure equity in benefit eligibility determinations.

LIBERALIZING CLOTHING ALLOWANCE ELIGIBILITY

Current law, 38 U.S.C. § 362, provides that a clothing allowance may be paid to a veteran, who, because of service-connected disability, wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Administrator determines tends to wear out or tear the veteran's clothing.

Section 201 of the draft bill would amend section 362 to authorize the Administrator to provide a clothing allowance in those cases in which the prescribed use of medication permanently stains or otherwise damages the veteran's clothing.

Veterans with skin disorders have reported that the medications used in treatment of their conditions irreparably stain their clothing. The VA has learned that the medication used to treat some unusual skin conditions may in fact cause stains which cannot be removed. Accordingly, it is proposed that the VA be authorized to make a determination, on a case-by-case basis, whether medication for a service-connected skin condition causes such damage to clothing as to require payment of a clothing allowance.

Benefit and administrative costs for this proposal would be insignificant, taking into account the amount of the authorized clothing allowance payment and the extremely small number of veterans who would be entitled.

CLARIFYING INCOME EXCLUSION FOR CASUALTY LOSSES

At present sections 415(f)(1)(I) and 503(a)(5) of title 38 exclude the proceeds of "fire insurance" policies for parents' DIC and pension income computation purposes. Section 202 of the draft bill would amend these sections to expand the current "fire insurance" exclusion to cover comparable payments from any source received by a parents' DIC recipient or a VA pensioner to replace of restore the value of real or personal property damaged, destroyed, or lost due to any cause. The amount to be excluded from income would be limited to the fair market value of the property involved as of the date of the loss. The present exclusion is too limiting. There is no valid reason to exclude reimbursement for loss due to other casualty losses, or to limit the exclusion to reimbursement by insurance and not take into account reimbursement from another source.

Costs cannot be estimated since no data are available to show the number of cases that would be affected or the dollar amount of the proposed excluded payments. No additional administrative costs would arise because the adjudication of cases would remain the same.

Title III of the draft bill proposes five amendments to existing law, one to extend certain survivors' benefits to a small, overlooked group, and four to facilitate the proper administration and recovery of Government benefit funds.

EXTENDING REPS BENEFITS TO SECTION 412 RECIPIENTS

Section 412 of title 38, United States Code, provides for payment by the VA of a special monthly allowance to the surviving dependents of a veteran who dies from service-connected causes and who is not fully and currently insured under title II of the Social Security Act. The monthly allowance is equal to the amount which would have been paid to the survivors under the Social Security Act had the veteran been fully and currently insured at the time of death. Section 412 benefits are intended to place total benefits for survivors without full social security coverage on a par with those of survivors of fully-covered veterans.

Public Law No. 97-35 amended the Social Security Act to terminate mother's insurance benefits for a surviving spouse when the last child of the insured individual reaches age 16, rather than age 18, and to eliminate child's insurance benefits for post-secondary-school students and for secondary-school students over the age of 19. Subsequently, section 156 of Public Law No. 97-377 essentially restored benefits eliminated by Public Law No. 97-35 for survivors of veterans who died of service-connected causes incurred or aggravated prior to August 13, 1981. However, these benefits, furnished under the Reinstated Entitlement Program for Survivors (REPS), are payable only to those parents and students who have basic eligibility for social security benefits. Those who are receiving the equivalent of social security benefits under 38 U.S.C. § 412 are not entitled to REPS benefits.

Our proposal in section 301 would amend the free-standing provisions of Public Law No. 97-377, § 156, to include not only those survivors eligible for social security benefits, but also those entitled to benefits under 38 U.S.C. § 412 in lieu of social security benefits. This would further congressional intent in enacting 38 U.S.C. § 412, to assure that the survivors of a veteran receive the same level of benefits regardless of whether the veteran was fully insured under the social security system. The proposed amendment would achieve equity by extending REPS coverage to survivors of veterans deemed to have been fully insured pursuant to section 412, thereby placing them on the same status with regard to such benefits as survivors whose work history actually met the tests for basic social security eligibility.

In 1987, there were only 225 outstanding awards of section 412 benefits, resulting in an annual benefit cost of $697,000. The population covered by this proposal would be a small portion of those receiving section 412 benefits in any given year. Therefore, the benefit cost would be insignificant, i.e., less than $100,000 per year.

COLLECTING DEBTS BY ADMINISTRATIVE OFFSET

Sections 302 and 303 deal with collection of indebtedness by administrative offset. Section 302 would amend 38 U.S.C. § 3114 to authorize the Administrator to request that a uniformed service paying retired or retainer pay to a person collect such person's indebtedness to the VA by offset of such retired or retainer pay. The provision would apply where the indebtedness resulted from such person's participation in the compensation or pension program.

Conversely, section 303 would amend 38 U.S.C. § 3101 to authorize offset from veterans' disability compensation and pension to collect overpayments of military retired pay and retainer pay.

In 1986, Congress enacted an amendment to 38 U.S.C. § 3101 authorizing offset of veterans' compensation and pension to collect indebtedness associated with such veterans' participation in the Survivor Benefit Plan (SBP) and Retired Serviceman's Family Protection Plan (RSFPP). (Section 504 of the Veteran's Benefits Improvement and Health-Care Authorization Act of 1986). The explanatory statement accompanying that legislation indicated Congress would consider allowing collection of retired and retainer pay overpayments from veterans' benefits if reciprocal authority were provided for collection by the Department of Defense (DoD) of debts owed to the VA. The proposed amendment to section 3114 would provide such reciprocity by specifically authorizing the Administrator to request collection by offset from payments made by uniformed services and directing the heads of such services to act upon such requests.

The amendment to section 3101 would address a problem created by the eligibility of many veterans under both military retired pay and veterans' benefit programs. Concurrent receipt of military retired pay and veterans' disability compensation or pension is prohibited by 38 U.S.C. § 3104. However, through errors in reporting or coding of information, the service department concerned may not be informed that an applicant for VA benefits has waived military retired pay. Thus, an overpayment of retired pay may occur. While administrative measures, such as a computerized inter-agency data exchange program, are helping to identify and correct instances of erroneous concurrent payments, initial clerical errors and deliberate misreporting by recipients will continue to cause overpayments in some cases.

In many instances, outstanding balances can be offset against future entitlements by the agency making the overpayment. Sometimes, however, disbursements by the overpaying agency are discontinued upon discovery of dual eligibility and election of benefits. In such cases, collection through judicial proceedings is generally not cost-effective, and the only remaining recourse is to future entitlements owing from another agency. However, withholding of veterans' benefits to satisfy the claims of creditors has long been barred by 38 U.S.C. § 3101(a). The VA has consistently interpreted that provision as prohibiting, except on a voluntary basis, offset of veterans' benefits to satisfy indebtedness arising out of programs administered by other Federal agencies. Authorization for collection of military retirement overpayments from veterans' benefits is necessary if overpayments are to be effectively recovered.

These offset proposals are tailored to assure protection of the rights of VA beneficiaries. For example, the provisions would continue the policy of Congress, the VA, and the Comptroller General that the debts of one individual should not be collected through offset of benefits payable to another person. Collections authorized by these amendments would be conducted in accordance with the procedural requirements of 31 U.S.C. § 3716, and applicable waiver rights under the veterans' benefit statutes would be preserved.

The savings which would result from enactment of these provisions are undetermined, although the provisions would clearly improve the efficiency of recovery of the targeted overpayments.

REQUIRING DISCLOSURE OF SOCIAL SECURITY NUMBERS

Section 304 of our proposal would amend section 3001 of title 38 to authorize the VA to require mandatory disclosure of claimants' and dependents' social security numbers (SSN's) in all claims for disability and death benefits.

Section 7(a) of the Privacy Act of 1974, Public Law No. 93-579, prohibits any Federal, State, or local government agency from denying to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number. However, this prohibition does not apply to any disclosure required by Federal statute, or for any agency maintaining a system of records in existence and operating before January 1, 1975, if disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. It further requires that any Federal agency which requests such a number shall inform that individual whether that disclosure is mandatory or voluntary.

Currently, limited authority exists for mandatory disclosure of claimants' and dependents' social security numbers for pension claims and for compensation claims specifically affected by "outside income," as described in 38 C.F.R. § 1.575. Section 304 of our proposal would, in accordance with the Privacy Act, expand this authority to require mandatory disclosure of claimants' and dependents' social security numbers (where such number has been assigned) for all claims for disability and death benefits. This section would not require persons to obtain social security numbers, but would simply require them to report to the VA social security numbers which have been issued by the Social Security Administration.

The current requirement of mandatory submission of social security numbers in claims for VA benefits affected by "outside income" was intended to assist VA in verifying reported income so as to detect and eliminate fraud and abuse. Subsequently, as the Administration's and private sector's focus on prevention of fraud, waste, and abuse has intensified, additional areas which require monitoring have become apparent. Benefits which may not be contingent upon income also require monitoring to protect against fraud. For example, dependency and indemnity compensation may not be paid concurrently with Survivor Benefit Program payments made by the Department of Defense. Compensation may not be paid concurrently with military retired pay or drill pay for reserve duty. To control effectively against such unwarranted dual payments, cross checking to verify information establishing the right to benefits is required.

Some identifying information (such as names and birth dates, which are frequently used in verification) may not conclusively establish identities, due to the frequency with which individuals have common names and birth dates. As each individual's social security number is unique, it is the most reliable identifier available.

Costs to gather and maintain SSN's would be insignificant, although revision of some VA forms would be needed in order to obtain the information in routine fashion.

EXTENDING AUTHORITY FOR REGIONAL OFFICE IN PHILIPPINES

Finally, section 305 of the draft bill would amend section 230(b) so as to extend from September 30, 1988, until September 30, 1992, the Administrator's authority to maintain a regional office in the Republic of the Philippines.

The VA administers programs providing compensation, pension, and education benefits, through the VA regional office in Manila, to Filipinos who were in or attached to the United States Armed Forces during World War II. During FY 87, over $122 million in benefits were paid.

Operating a regional office in the Philippines is the most cost-effective means of administering VA programs for Filipino beneficiaries. This proposal would extend the operation of the VA regional office in Manila until September 30, 1992.

The Department of Veterans Benefits would continue to incur the following costs to operate a regional office in the Philippines:

Fiscal year	Staff years	Administrative costs (in thousands of dollars)
1989	130	1,660
1990	130	1,688
1991	130	1,716
1992	130	1,744

The above costs are included in the President's 1989 budget.

Advice has been received from the Office of Management and Budget that there is no objection to the submission of the draft legislation and that its enactment would be in accord with the program of the President.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

By Mr. CRANSTON:

S. 2268. A bill to amend title 38, United States Code, to modify eligibility requirements for the plot allowance; authorize a headstone allowance for prepurchased grave markers; extend the State cemetery grants program; and for other purposes; referred to the Committee on Veterans' Affairs.

VETERANS' BURIAL BENEFITS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2263, a bill to reduce the eligibility criteria for the plot allowance, authorize a headstone allowance for prepurchased grave markers, and extend and modify the State Cemetery Construction Grant Program.

The Administrator of Veterans' Affairs submitted this legislation by letter dated April 1, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation. In fact, I would note that I have for long opposed the oft-submitted proposals similar to that in section 1 to restrict eligibility for the VA plot allowance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 1, 1988, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Burial Benefits Amendments Act of 1988."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SECTION 1. Subsection (b) of section 903 is amended by—

(1) striking out the comma after "such subsection" and inserting in lieu thereof "or";

(2) striking out after "line of duty" the comma and "or who is a veteran of any war"; and

(3) inserting in clause (1) after "if such veteran" a comma and "or a veteran who is a veteran of any war,".

SEC. 2. Subsection (d) of section 906 is amended by inserting after "by or on behalf of such person", a comma and "or, in cases where the veteran has prepaid the cost of the veteran's own headstone or marker, by the veteran ,".

SEC. 3. Paragraph (2) of subsection (a) of section 1008 is amended by striking out the paragraph and inserting in lieu thereof "(2) There is authorized to be appropriated $9,000,000 for fiscasl year 1989, and such sums as may be necessary for each of the four succeeding fiscal years, for the purpose of making grants under paragraph (1) of this subsection.".

SEC. 4. Subsection (b) of section 1008 is amended—

(1) by striking out clause (1); and

(2) by redesignating clauses (2), (3), and (4) as clauses (1), (2), and (3), respectively.

SEC. 5. The amendments made by section 1 of this Act shall take effect with respect to deaths occurring after September 30, 1989. The amendments made by section 2 of this Act shall take effect with respect to deaths occurring after September 30, 1988. Sections 3 and 4 of this Act shall take effect on the date of enactment of this Act.

OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, DC, April 1, 1988.

HON. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To modify eligibility standards for the plot allowance; authorize a headstone allowance for prepurchased grave markers; extend authorization for the State cemetery grants program, and for other purposes," with the request that it be referred to the appropriate committee for prompt consideration and enactment.

Section 1 of our proposal would amend the eligibility criteria contained in section 903(b) of title 38, United States Code, pertaining to the plot allowance. In effect, the amendment would adopt the same criteria embodied in the statutes providing burial allowance benefits.

Under current section 903(b), which provides a plot allowance for the purchase of a burial plot or for interment of a veteran's remains, the benefit is payable on behalf of any veteran not buried in a national cemetery who was veteran of wartime service, was discharged from service for disability incurred or aggravated in line of duty, was entitled to VA compensation or pension, or died while institutionalized in a VA facility or at VA expense. The plot allowance is a corollary to the burial allowance under sections 902 and 903(a), which provide benefits to assist in the payment of a veteran's burial and funeral expenses.

As originally conceived, the plot and burial allowance were to facilitate honorable burials for veterans who died in service or lacked sufficient funds to cover burial expenses. In 1981, however, Congress recognized that Federal burial-assistance programs had expanded well beyond their original purposes and benefits were being paid on behalf of persons who possessed ample resources to pay such expenses. Section 2001(b) of Public Law 97-35 was enacted to restrict eligibility for the burial allowance to veterans entitled to disability compensation or pension at the time of death. A subsequent amendment added eligibility for certain veterans who had neither next of kin nor sufficient resources to cover funeral and burial expenses. Burial awards on behalf of institutionalized veterans under section 903(a) were retained. In essence, burial benefits were directed primarily to those veterans who suffered diminished earning capacity by reason of active service and those demonstrated financial need.

Enactment of our proposal would continue the reforms begun in 1981 by limiting eligibility for the plot allowance to veterans entitled to disability compensation or pension or to certain institutionalized veterans. Wartime service alone would no longer be qualifying for the plot allowance. The proposed legislation would more effectively realize the original purposes of the program and direct Federal assistance to those genuinely in need. Further, it would reconcile the different criteria that have developed in the burial allowance and plot allowance programs.

Under present law, the plot allowance is payable to a State when a veteran is buried in a State veterans cemetery, as long as no other payment of the allowance has been made. Such payments partially reimburse the States for the costs of interment and grave maintenance and, in some cases, represent a significant source of operating revenue for State facilities. States currently participating in the State cemetery grant program may rely to a great extent on the continuation of this source of funds, and reduction in Federal commitment may be a critical disincentive to participation in the program of additional States. Thus, in order to encourage wider participation in the State cemetery grant program, we propose to preserve the existing eligibility criteria for the plot allowance in the case of veterans interred in State facilities, thereby avoiding any detrimental impact on State cemeteries from the revision of the plot allowance.

If enacted, our proposal would entail no administrative costs, and would achieve savings of approximately $154.5 million through fiscal year 1993, as reflected in the President's fiscal year 1989 budget.

Section 2 of our proposal would amend current section 906(d) of title 38, United States Code, to permit payment of the headstone or marker allowance to the estate of a deceased veteran who purchased the headstone or grave marker prior to his or her death. Further, in the case of a prepurchased marker that is engraved following the veteran's death, the proposal would provide for reimbursement of the engraving costs, as now, plus any balance remaining in the marker allowance would be applied to reimburse, in part, the expense of the marker.

Section 906(d) of title 38, United States Code, provides for the payment of a monetary allowance in lieu of a Government-furnished headstone or grave marker under certain circumstances. The allowance is intended to reimburse an individual, in part, for the actual costs of acquiring a suitable memorial, and is not payable prior to the death of the veteran. Therefore, if the veteran purchases his or her memorial prior to death, the headstone or marker allowance cannot be claimed at the time of the purchase. Moreover, the allowance is not payable to any person after the veteran's demise, to the extent the costs of the memorial were prepaid (borne) by the veteran.

Prepaid funeral arrangements are gaining in popularity, and serve as a thoughtful means of sparing survivors the need to make difficult decisions during a period of emotional stress. Under existing law, the Veterans Administration (VA) is authorized to pay burial and plot allowances to reimburse for prepayment of such funeral expenses. Our proposal would extend that approach to the acquisition of headstones or grave markers, thereby removing the disincentive to prepurchase memorials and relieving survivors of a financial burden. Further, the proposed amendment would reconcile the different criteria for reimbursement applied to prepayment of funeral expenses and prepurchase of memorials.

Our proposals, if enacted, would result in less than $1 million in benefit costs and $100,000 in administrative costs.

Section 3 of our proposal would authorize the appropriation of funds for five years to extend the State cemetery grants program. Section 1008 of title 38, United States Code, enables the VA to make matching grants to cover up to 50 percent of costs to States in establishing, expanding, or improving State veterans cemeteries. The program has been quite successful; thus far, 18 States have submitted 38 applications for assistance in acquiring land for or improving facilities at 27 cemeteries, and an additional 30 States have expressed interest in the program or an intent to file for Federal assistance. Unfortunately, authority for the current program will lapse in fiscal year 1989. We propose to extend the program through fiscal year 1994, thereby permitting additional participation by the States.

Section 1008 makes it possible for States and the Federal government to share the obligation of meeting burial needs. Veterans cemeteries are a poignant reminder of the shared sacrifices of this Nation's veterans, and permit those who so desire to be buried with their comrades-in-arms in a cemetery in their home State. State veterans cemeteries complement those facilities in the national cemetery system.

The estimated cost of this proposal, which depends on the level of appropriations provided, is $6 million in each fiscal year.

Section 4 of our proposed bill would repeal section 1008(b)(1) of title 38, United States Code, which limits the amount of Federal funds that may be received under the State cemetery grant program.

At present, section 1008(b)(1) provides that no State may receive grants in any fiscal year in a total amount in excess of 20 percent of the total amount appropriated program-wide for that fiscal year. The purpose of the statute is to prevent any State from receiving a disproportionate share of Federal funds through the cemetery grant program.

In practice, however, the statute may lead to unintended results. For example, if $3 million were available in the third year of an appropriation and three States each requested $1 million in Federal assistance, no grant could be made because of the 20-percent limitation in the statute; i.e., each State would be requesting more than 20 percent of the total amount appropriated program-wide. Moreover, the entire $3 million would then lapse despite the seeming adequacy of the appropriation to find all three requests.

In our view, the present provision should be repealed in order to avoid these unintended results. Our proposal would enhance program flexibility and more efficiently and equitably deal with carry-over funds, while faithfully maintaining the goals of the program.

Enactment of this proposal would result in no administrative costs.

Section 5 of our proposal would make the changes respecting the plot allowance effective as to deaths occurring after September 30, 1989. The amendments authorizing a headstone allowance for prepaid grave markers would be effective for deaths occurring after September 30, 1988. The repeal of section 1008(b)(1) of title 38 and extension of the State cemetery grant program would become effective on the date of enactment of the Act.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 would revise eligibility requirements for the plot allowance and, in effect, provide for payment of the plot allowance on the same basis as payment of the burial allowance. The eligibility criteria would be amended to delete entitlement based solely on service during a period of war. In the case of payments to States, however, broader criteria would be retained to permit reimbursement to states and localities for burials in State cemeteries.

SECTION 2

Section 2 would permit payment of the headstone or grave market allowance to the estate of a veteran who paid for the memorial prior to his or her death. The amendment of section 906(d) of title 38, United States Code, would also permit reimbursement of the cost of engraving after the veteran's demise where a portion of the allowance is left unexpended following reimbursement for the prepaid cost of the headstone or grave marker.

SECTION 3

Section 3 would extend for five years the authority for appropriation of Federal funds for the purpose of making matching grants under the State cemetery grants program.

SECTION 4

Section 4 would repeal certain provisions of section 1008(b)(1) of title 38, United States Code, which limit the amount of matching-grant funds that may be awarded to an applicant under the State cemetery grants program. The principal intent of this amendment is to enhance program flexibility and provide for more effective use of Federal funds to assist States in establishing, expanding, or improving State cemeteries.

SECTION 5

Section 5 would make the amendments in section 1 of the Act effective for deaths occurring after September 30, 1989, the amendments in section 2 of the Act effective for deaths occurring after September 30, 1988, and the amendments in section 3 and 4 effective on the date of enactment of the Act.

By Mr. CRANSTON:

S. 2269. A bill to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an approporiation law, and to provide instead that the Administrator notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; referred to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION AUTHORITY TO SETTLE CONSTRUCTION CONTRACT CLAIMS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2269, a bill to repeal the requirement that Veterans' Administration settlements of construction contract claims in excess of $1 million be provided for in an appropriation law and to require, instead, notice to the Appropriations Committees. The Administrator of Veterans' Affairs submitted this legislation by letter dated April 1, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 1, 1988, transmittal letter and enclosed analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(b) of title 38, United States Code, is amended—

SEC. 2. By striking "and the settlement is provided for specifically in an appropriation law" after "Any funds appropriated to the Veterans Administration may be used for a settlement of more than $1,000,000 on a construction contract only if settlement is audited independently for reasonableness and appropriateness of expenditures" in subsection (b).

SEC. 3. By inserting "The Administrator shall promptly notify the House and Senate Committees on Appropriations, in writing, of such settlements", after the first sentence of subsection (b).

VETERANS' ADMINISTRATION,
Washington, DC, April 1, 1988.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Administrator notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000." It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

This draft bill would allow the Veterans Administration to settle construction contract claims of more than $1,000,000 without obtaining a specific appropriation law. The Administrator would, however, notify each committee of the settlement action.

Under the current procedures it has taken up to 1 year or more for construction contract claims to be paid after the date of settlement. Substantial interest charges on the settlement amount accrue during the time it now takes to secure passage of the specific appropriation law. If the requirement for a specific appropriation law were deleted, the delay between settlement and payment of claims would be lessened. In instances where there were sufficient funds in the contract account, the payment would be expeditiously processed within the VA with notification of the settlement to Congress. If the contract does not contain sufficient funds, a reprogramming or request for new budget authority would be necessary. It has been the VA's experience that reprogrammings are acted upon by Congress within 30-45 days. If sufficient funds are not available in the working reserve for reprogramming, new budget authority would be requested to pay the settled claim. Under either process, Congress would continue to participate substantially in the payment of construction contract claims in excess of $1,000,000. However, unlike the current procedures, interest would not necessarily have to accrue for an extended period of time if the notification and reprogramming option could be used.

The provision of title 38, section 203(b), United States Code, which requires that settlement cannot be made until the settlement is audited independently for reasonableness and appropriateness of expenditures would remain in effect. Therefore, all settlements would continue to be thoroughly analyzed and evaluated prior to payment.

This proposal would not produce any additional costs if enacted. Although substantial savings are expected to accrue, the amount cannot be determined with specificity because it will depend on unforeseeable factors. These include the number of claims filed, their amounts, the interest rate charged, and the period of time saved between settlement of such claims and their payment.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this legislative proposal from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

ANALYSIS OF PROPOSED BILL

Section 1 of the draft bill provides that section 203(b) of title 38 shall be amended.

Section 2 of the draft bill would delete the requirement that a settlement of a contract claim in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law. Enactment of this requirement would shorten the time between settlement and payment of such claims, and is expected to result in substantial cost savings through reduced interest charges which accrue on such claims.

Section 3 of the draft bill would add the requirement that the Administrator will promptly notify the House and Senate Committees on Appropriations, in writing, of construction contract claims settlements for more than $1,000,000. This would allow Congress to remain informed of the Veterans Administration's disposition of such settlements.

By Mr. THURMOND (for himself, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BOREN, Mr. CHAFEE, Mr. BRADLEY, Mr. COCHRAN, Mr. BUMPERS, Mr. D'AMATO, Mr. BURDICK, Mr. DOLE, Mr. BYRD, Mr. DURENBERGER, Mr. CHILES, Mr. EVANS, Mr. DIXON, Mr. GARN, Mr. FOWLER, Mr. GRAMM, Mr. HEFLIN, Mr. GRASSLEY, Mr. HOLLINGS, Mr. HATCH, Mr. INOUYE, Mr. HECHT, Mr. JOHNSTON, Mr. HELMS, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. KERRY, Mr. LUGAR, Mr. MATSUNAGA, Mr. MCCAIN, Ms. MIKULSKI, Mr. MCCLURE, Mr. MOYNIHAN, Mr. MCCONNELL, Mr. NUNN, Mr. QUAYLE, Mr. PELL, Mr. ROTH, Mr. PRYOR, Mr. SPECTER, Mr. RIEGLE, Mr. STAFFORD, Mr. SANFORD, Mr. SYMMS, Mr. SARBANES, Mr. TRIBLE, Mr. SASSER, Mr. WALLOP, Mr. SIMON, Mr. WEICKER, Mr. STENNIS, and Mr. WILSON):

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND. Mr. President, I rise today to introduce a joint resolution which authorizes and requests the President to designate the week of September 25, 1988, through October 1, 1988, as "National Historically Black Colleges Week."

This is the sixth consecutive year that I have authored this legislation. Once again, I am proud to have such a strong display of bipartisan support for this resolution as is demonstrated by the 55 original cosponsors. Several of these cosponsors do not have historically black colleges and universities located in their States. However, they appreciate, as do I, the great contributions made to our Nation by these institutions.

Eight of the 117 historically black colleges, namely Allen University, Benedict College, Claflin College, Clinton Junior College, Denmark Technical College, South Carolina State College, Morris College, and Voorhees College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, hundreds of thousands of young Americans have received quality educations at these 117 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically black colleges offer to our citizens a variety of curriculums and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that historically black colleges and universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the judiciary.

Mr. President, through passage of this joint resolution, Congress can reaffirm its support for historically black colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this joint resolution, and I ask unanimous consent that a copy of the joint resolution appear in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 290

Whereas there are 117 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 25, 1988, and ending on October 1, 1988, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

ADDITIONAL COSPONSORS

S. 40

At the request of Mr. Moynihan, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 40, a bill to amend section 1 of the Atomic Energy Act of 1954, as amended, to clarify that no nuclear plant should operate without assurance from the Federal Government's experts on emergency preparedness that the public health and safety can and will be protected.

S. 698

At the request of Mr. Thurmond, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 698, a bill to amend title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music.

S. 1220

At the request of Mr. Kennedy, the names of the Senator from California [Mr. Wilson] and the Senator from New York [Mr. D'Amato] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1378

At the request of Mr. Thurmond, the names of the Senator from Minnesota [Mr. Boschwitz] and the Senator from Kansas [Mr. Dole] were added as cosponsors of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from New York [Mr. D'Amato] and the Senator from Washington [Mr. Evans] were added as cosponsors of S. 1776, a bill to modernize the United States circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution.

S. 1817

At the request of Mr. Kennedy, the names of the Senator from California [Mr. Cranston] and the Senator from Oklahoma [Mr. Nickles] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1851

At the request of Mr. Lautenberg, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1929

At the request of Mr. Bumpers, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 1961

At the request of Mr. Byrd, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 1961, a bill to amend title 28, United States Code, to provide Federal debt collection procedures.

S. 2033

At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2123

At the request of Mr. Kennedy, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2205

At the request of Mr. D'Amato, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2255

At the request of Mr. Conrad, the names of the Senator from North Dakota [Mr. Burdick] and the Senator from Vermont [Mr. Stafford] were added as cosponsors of S. 2255, a bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly Medicare beneficiaries residing in rural areas.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 261

At the request of Mr. PRESSLER, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Mr. SARBANES], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from Colorado [Mr. WIRTH], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Michigan [Mr. LEVIN], the Senator from Maine [Mr. MITCHELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Ohio [Mr. GLENN], the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. SYMMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Vermont [Mr. STAFFORD], the Senator from Tennessee [Mr. GORE], the Senator from California [Mr. WILSON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. LUGAR], the Senator from Oregon [Mr. PACKWOOD], the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. BOND], the Senator from Kansas [Mr. DOLE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Florida [Mr. CHILES] were added as cosponsors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from California [Mr. WILSON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oklahoma [Mr. BOREN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 268

At the request of Mr. TRIBLE, his name was added as a cosponsor of Senate Joint Resolution 268, a joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

SENATE JOINT RESOLUTION 273

At the request of Mr. LUGAR, the names of the Senator from Tennessee [Mr. GORE], the Senator from Ohio [Mr. GLENN], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Ms. MIKULSKI], the Senator from California [Mr. WILSON], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 273, a joint resolution designating October 6, 1988, as "German-American Day."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senator Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines.

SENATE RESOLUTION 384

At the request of Mr. MCCONNELL, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Resolution 384, a resolution regarding the banning of political activity in South Africa.

SENATE RESOLUTION 389

At the request of Mr. LAUTENBERG, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants Program of the Clean Water Act.

SENATE RESOLUTION 406—CONGRATULATING THE UNIVERSITY OF KANSAS ON WINNING THE NCAA BASKETBALL CHAMPIONSHIP

Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. SANFORD, Mr. MCCAIN, Mr. DECONCINI, Mr. HELMS, Mr. NICKLES, Mr. BOREN, Mr. D'AMATO, and Mr. HEFLIN) submitted the following resolution; which was considered agreed to:

S. RES. 406

Whereas, the University of Kansas has richly earned its reputation as one of America's great basketball schools;

Whereas, its first coach was the man who invented the game, Dr. James Naismith;

Whereas, that great tradition continued this year thanks to the brilliant coaching of Larry Brown and a true team effort by the Kansas Jayhawks;

Whereas, America was treated to a thrilling final four because of the outstanding play of Duke, Arizona, Oklahoma, and Kansas;

Whereas, KU's stunning march to the championship shocked the experts and thus proved that no dream is ever too big to dream: Now, therefore, be it

Resolved, That the Senate recognizes and congratulates the University of Kansas for its outstanding achievement in winning the 1988 NCAA Basketball Crown.

SENATE RESOLUTION 407—DIRECTING THE SENATE LEGAL COUNSEL TO REPRESENT COMMITTEES, MEMBERS, OFFICERS, AND EMPLOYEES IN THE CASE OF UNITED STATES VERSUS POINDEXTER, ET AL.

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 407

Whereas, in the case United States v. Poindexter, et al., Cr. No. 88-80, pending in the United States District Court for the District of Columbia, three defendants have requested documents and information from the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition concerning testimony and other information compelled from them under grants of immunity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

RESOLVED, That the Chief Counsel of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, Arthur L. Liman, is authorized to provide testimony and other information in the case of *United States* v. *Poindexter, et al.*, Cr. No. 88-80 (D.D.C.), about any actions of the Select Committee that may be relevant to the question whether the independent counsel has made any prohibited use of immunized testimony, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent committees, Members, officers and employees of the Senate in the case of *United States* v. *Poindexter, et al.*, Cr. No. 88-80 (D.D.C.).

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold hearings on April 12, on the 10th anniversary of the Ethics in Government Act, and April 13 on the reauthorization of the Office of Government Ethics, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on both days.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, the Committee on Small Business has scheduled a hearing for Tuesday, April 12, 1988, to receive testimony on S. 2259, the Preferred Surety Bond Guarantee Program Act of 1988. It is to be held in the committee's hearing room, SR-428A, commencing at 9:30 a.m. Senator NUNN will serve as acting chairman.

The Small Business Administration's Surety Bond Guarantee Program is an essential one for many small business construction contractors and subcontractors. It provides them with access to the performance bonds and payment bonds without which they cannot perform contract opportunities offered by all Federal agencies, most State and local governments, and many private sector purchasers of construction services. Access to adequate bonding continues to be a critical issue to most small business construction firms, but especially to small firms owned and controlled by socially and economically disadvantaged individuals. The principal purpose of the bill is to encourage the participation of the so-called standard surety companies, the very largest players in the industry, into the SBA Surety Bond Guarantee Program. Presently, standard surety companies participate in the program only to a very limited extent. During most of the program's existence since 1971, it has been serviced by a group of so-called specialty surety companies, which were created to meet the needs of the small business community under the SBA Surety Bond Guarantee Program. The legislation is not intended to impede their continued participation.

Testimony has been requested from representatives of the small construction firms that make use of the Surety Bond Guarantee Program: the National Association of Minority Contractors and the American Subcontractors Association. The president of the Surety Association of America is to provide testimony on behalf of the standard surety companies, while the vice president of the American Surety Association is expected to provide the views of the specialty surety firms. The Associate Administrator for Finance and Investment of the Small Business Administration will provide the agency's reviews on behalf of the Administration.

Further information concerning the committee's hearing or the "Preferred Surety Bond Guarantee Program Act of 1988" may be obtained from the committee's procurement policy counsel, William B. Montalto, or Robert P. Hall III, legislative counsel to Senator NUNN. Bill may be reached at 224-5175; Rob may be reached at 224-3521.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, April 19, 1988, at 9 a.m., to consider pending legislative and administrative business.

On its legislative agenda, the committee will be marking up the following: several proposals to amend the Standing Rules of the Senate, that is, Senate Resolutions 41, 42, 43, 274, and 277; an amendment to Senate Resolution 28—(99th Congress, 2d session)—concerning the political use of duplicate tapes of Senate floor proceedings; an original resolution authorizing appropriations for the Federal Election Commission for fiscal year 1989; and Senate Concurrent Resolution 88, to facilitate the convening of a silver haired Congress. On its administrative agenda, the committee will be considering the policy for the use of the Senate subway system.

For further information concerning this business meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, April 21, 1988, at 9 a.m., to continue the markup of pending legislative and administrative business items which will begin on the 19th of April.

The committee will be considering the following: Senate Resolutions 41, 42, 43, 274, 277; Senate Concurrent Resolution 88; original resolution authorizing fiscal year 1989 appropriations for Federal Election Commission; original resolution on use of broadcast tapes of Senate floor proceedings; and the Senate subway policy.

For further information concerning this business meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources on Friday, April 22 at 10 a.m., in Room SD-366 of the Senate Dirksen Office Building in Washington, DC. The purpose of this hearing is to consider S. 2089, the Oil Shale Mining Claims Conversion Act.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources. Room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Lisa Vehmas at (202) 224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Monday, April 11, 1988, at 2 p.m. in open session to receive testimony on the balanced technology initiative and NATO cooperative R&D programs in review of the fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, April 11, 1988, to hold hearings on "Organized Crime: 25 Years After Valachi."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TENNESSEE'S TERRY WEEKS: NATIONAL TEACHER OF THE YEAR

● Mr. SASSER. Mr. President, I am proud today to honor a very special Tennessean, Mr. Terry Weeks of Murfreesboro. Mr. Weeks, a seventh grade social studies teacher, has been named National Teacher of the Year. His selection culminated an intense 14-month competition involving teachers from across the country.

Terry Weeks' selection as National Teacher of the Year is a tribute to his 14 years of selfless service as an instructor at Central Middle School in Murfreesboro. Terry began teaching at Central after receiving his degree from Middle Tennessee State University and has been there ever since. He grew up in Murfreesboro and attended Kittrell School there from kindergarten until his high school graduation.

Terry described his feelings upon learning of his selection with a modesty characteristic of his small town roots. "When I was in school, I dreamed of becoming a teacher. Awards were not a part of that dream," he said. "I know this does not mean I am the best teacher in the country. It only means I represent thousands of good teachers across the country."

That sort of selfless attitude is exemplary of the best our teachers have to offer. These dedicated men and women are committed to providing a quality education and valuable lessons about life to our Nation's youth.

In the coming year, Terry will give speeches and act as the representative of the country's teachers at events across the United States. I am sure his accomplishments, and more importantly the way he goes about his job, will be an inspiration to those already in the field of education as well as those considering a career as a teacher.

Mr. President, the citizens of Tennessee are very proud of Terry Weeks. I commend him on his achievement, and I take great pride and satisfaction in knowing that he will be teaching Tennessee's children for years to come.

Mr. President, I ask that a Nashville Tennessean article about Terry Weeks' selection as National Teacher of the Year be inserted in the Record.

The article follows:

[From the Nashville Tennessean, Apr. 8, 1988]

Rutherford Teacher Tops in the Nation

(Sherrel Wheeler-Stewart)

Terry Weeks, a seventh-grade social studies teacher at Central Middle School in Murfreesboro, is National Teacher of the Year.

Weeks has known about the award since mid-March but sponsors asked him to reserve comments until it had been announced in *Good Housekeeping* magazine and at a Washington press conference Tuesday.

But Midstate *Good Housekeeping* subscribers read about it Wednesday.

"When I was in school, I dreamed of becoming a teacher. Awards were not a part of that dream," Weeks said last night.

"I know this does not mean I am the best teacher in the country. It only means I represent thousands of good teachers across the country."

The contest is sponsored by *Good Houskeeping, Encyclopedia Britannica* and the Council of Chief State School Officers. Teachers are judged on interviews, videotapes of class sessions and educational philosophy.

Jerry Gaither, superintendent of Rutherford County schools, was excited about Weeks' award.

"This is an honor for our school system and the state of Tennessee," he said. "Terry Weeks wanted to be a teacher. He wanted to be one of the best, and he is."

Gaither and Charles E. Smith, state commissioner of education, plan to be part of the state delegation supporting Weeks as he accepts his award next week in Washington, D.C.

"Terry Weeks symbolizes Gov. McWherter's message about teachers in this state," Smith said. "Teaching is an honorable and prestigious profession."

Weeks will be on *Good Morning America* Tuesday and will be received at the White House Thursday.

"All of this has been different from the announcement of Tennessee Teacher of the year," he said. "[Then] everyone learned about it on the same night at a banquet.

"I have known about this since mid-March and I've gone through my emotions in private. I've had to take on a solemn look when people mentioned the competition."

Since being picked as a finalist in December, he has been to New York for interviews by *Good Housekeeping* and to Washington for interviews with a selection panel.

Other finalists were Addie Lee Rhodes Lee, Rogers Area Vocational School in Gardendale, Ala; Lorraine (Sammie) Crawford, Soldotna School, Soldotna, Alaska; and Donna Kenney Moffat, Buffalo Public School No. 80.

Weeks, 37, attended Rutherford County schools and returned to teach there after graduating from Middle Tennessee State University. He has taught in Rutherford County for 14 years.

Smith believes this is the first time a Tennessee teacher has received the award.

Susan Gendrich, of Bradley Model School in the Murfreesboro city school system, was Tennessee's 1985 national representative and was a finalist.●

IN RECOGNITION OF THE CONTRIBUTIONS OF THE KENTUCKY CONGRESS OF PARENTS AND TEACHERS

● Mr. McCONNELL. Mr. President, I rise today to commend the efforts of the Kentucky Congress of Parents and Teachers [PTA] on behalf of education in Kentucky. In particular, I rise today to report the results of their recent membership drive, and to congratulate the Kentucky PTA for the extraordinary success of their recent membership drive.

Nine months ago, the Kentucky PTA asked me if I would be their honorary membership chairman. I was honored by this request, and quickly agreed to lend my support to their membership drive. Since that time a truly remarkable effort has taken place. PTA district presidents and membership directors have worked tirelessly to increase participation in the educational process through the recruitment of new members.

Since September 1987, these men and women have dedicated their personal time, effort, and money to build and strengthen an organization that works to ensure the future of our most precious natural resource—our children. Mr. President, I am proud to announce the extraordinary results of this year's membership drive. The goal for the 1988 drive was 165,000 new members, a 10-percent increase over 1987. This drive, as of yet uncompleted, has recruited 168,292 new members—a 13-percent increase from 1987.

It is important to take a moment to review the vital contribution PTA's across the country make each year. The PTA takes part in a variety of programs that are designed to help the youth of our Nation grow and prepare for the future. For example, the PTA is active in developing health and nutrition programs, promoting education for handicapped children and those with special needs, raising States' minimum drinking ages, and act as an advocate for the family.

Education in Kentucky has some very special needs. PTA is mobilizing more people, talent and energy to attack those problems. Without a doubt, this recruitment drive has been an unqualified, and indeed, unprecedented success.

At this time I would like to recognize some of the PTA members that have met or exceeded their membership goals. In particular, I would like to congratulate the following people for achieving 100 percent of their membership goal. 3d District President, Gwynn Stewart of Bowling Green; 3d District, Membership Director M.L. Blaine of Bowling Green; 6th District, President Becky Alford of Newport; 6th District, Membership Director Jean Hoffman of Fort Thomas; 7th District, President Bob Young of Lexington, and 7th District, Membership Director Jo Ann Wylie of Lexington.

In addition, I would like to recognize the other district officers who also contributed to this recordbreaking total. They are:

District 1—President Oleta Hamlet of Symsonia;

District 1—Membership Director Linda Wright of Paducah;

District 2—Membership Director June Mitchell of Earlington;

District 2—President Mary Louise Johnson of Earlington;

District 4—Membership Director Barbara Loyall of Shepherdsville;

District 4—President Jackie Allgerir of Shepherdsville;

District 8—Membership Director May Bishop of Lexington;

District 8—President Karen Hall of Somerset;

District 9—Membership Director Tommie Hans of Ashland;

District 9—President Anna Jean Frown of Ashland;

District 10—Membership Director Karen Jones of Hazard;

District 10—President Dana Magee of Quicksand;

District 12—President Frieda Sammons of South Shore;

District 13—Membership Director Cheryl Boswell of La Grange;

District 13—President Vicki Ensor of La Grange;

District 15—Membership Director Joyce Day of Louisville; and,

District 15—President Sharon Solomen of Louisville.

But recordbreaking accomplishments don't just happen; it takes leadership. The leader of this year's membership drive is Karen Jones. She, along with State President Jane Boyer, deserves special recognition for helping elevate the quality of education in Kentucky through membership in the PTA.

The watchword of the 100th Congress has been "competitiveness." Members of this body have frequently disagreed on the means by which American business can regain its competitive edge in the international marketplace. This Senator argues that the starting point must be the education of our youth.

Mr. President, the strength of any nation lies in its ability to educate its youth. The PTA plays a key role in the educational process. Through the efforts of this group, and their individual members, the PTA represents a vital link in the education of our youth—and that, in turn, is the key to increasing our Nation's economic strength.●

MUSKEGON BUSINESS COLLEGE CELEBRATES 100 YEARS

● Mr. RIEGLE. Mr. President, I rise today to salute the Muskegon Business College [MBC] which celebrates its 100th year of providing quality education in western Michigan.

Mr. President, Woodbridge Ferris founded the Muskegon Business College as a proprietary school of business in downtown Muskegon in 1888. One hundred years later, MBC is a nonprofit institution chartered by the State of Michigan and accredited by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools.

The Centennial Celebration at the Muskegon Business College affords an excellent opportunity for the students, alumni, faculty, and administration of MBC to reflect on their contributions to the education and business communities and to anticipate future growth through new initiatives like the bachelor of business administration degree program.

Few institutions in our country have been able to stand the test of time and to celebrate 100 years of community service like Muskegon Business College. It is an accomplishment in which all the people of western Michigan can take great pride, and I want to take this opportunity to congratulate MBC on their first 100 years and to extend my best wishes for continued growth during the next 100 years.

Mr. President, I ask consent that the article from the Muskegon Chronicle about the centennial celebration at the Muskegon Business College be printed in the RECORD.

The article follows:

HAPPY 100TH!

(By Adam Blust)

It began with 1,000 blue balloons reaching for the sky and ended with 33 people reaching for a key.

Two events at the *Muskegon Business College* Fall Kickoff Picnic Friday afternoon, which began MBC's year-long centennial celebration, included a balloon release and a "Jell-O jump," where brave souls paid $3 to jump into a tub full of gelatin to fish out a key that would start a 1977 Mercury Monarch.

The celebration also featured food, games, music, a tug-of-war and a dunk tank, where students and faculty got a chance to try to douse MBC administrators including President Robert Jewell and Executive Vice President Gordon Macdonald.

About 400 people, most of them sporting blue-and-yellow MBC T-shirts, took part in the festivities. Enthusiastic crowds gathered to watch Jewell step into the tank, decked out in a tuxedo and matching diving goggles.

Both Jewell and Macdonald said they volunteered for dunking duty, and the response was enormous. Even the food line was relatively small when the administrators took their turns in the tank.

Before his three dunkings during his 15 minutes in the tank, Jewell told of a special event coinciding with the centennial year.

"I think the thing that is appropriate is that in our centennial year, we have a record enrollment of 1,600 students," Jewell said. "Everything's really up for MBC this year."

Jewell said the enrollment, up 16 percent from last year, is partially due to the start of MBC's new four-year program. About 150 students registered for the program this year, Jewell said.

Jewell's dog, a chocolate Labrador named Cocoa, wandered through the picnic with a blue MBC balloon tied around her neck.

"She goes everywhere I go," Jewell said with a laugh. But soon, Cocoa had wandered off, forcing Jewell to set out whistling among the picnickers to find her.

Later, commuter and dormitory students faced off for a tug-of-war in a field behind the college, a classic rivalry worked out in the field of competition. The battle took only a minute, and the commuters came out the winners.

CELEBRATION: MUSKEGON BUSINESS COLLEGE PLANS YEAR OF EVENTS FOR ITS CENTENNIAL

(By Adam Blust)

The big crowds were saved for the Jell-O jump. The dumpster containing the gelatin was surrounded at least 10 people deep at the start of the event. There was only one problem. Despite the efforts of several picnic organizers the gelatin failed to jell before the event.

That didn't stop the jumpers, clad in everything from jeans to swimsuits, from diving right in for a key and a chance to win the car. The crowd began to move away when the people realized that unjelled gelatin tends to splash.

The Muskegon Fire Department was on hand to hose down the jumpers once they came out. Each person tried their key in the car. When the last gelatin-covered person was hosed down, the car went to second-year travel/tourism student Doris Patton.

She was the 31st out of 33 to try her key in the ignition.

Macdonald said he was happy with the turnout for the picnic, but that it would have been larger had the celebration been held on a weekend rather than on a Friday, a lab day at the college. But Macdonald was not worried.

"I think everybody's having a good time," he said. "We look forward to doing this in another 100 years."

What's 100 years old, but still has enough energy to throw a year-long party to celebrate its birthday?

MUSKEGON BUSINESS COLLEGE

MBC is all set to begin celebrating its 100th birthday. Friday is the first event of the year-long anniversary celebration: the Fall 1987 Kickoff Picnic.

The picnic, to be held from 1 to 4 p.m. on the MBC campus, 151 Hartford, is for current students, faculty and staff. It will include a balloon release, food tent, dunk tank, "Jello jump," and a raffle.

The Jello jump will allow MBC students and faculty to jump into more than 400 gallons of Jello to retrieve a key to a 1977 Mercury Monarch. The car will be given to the lucky finder. Prizes will also be given for the messiest dive and the best costume.

A special bonus: in the dunk tank will be MBC President Robert Jewell and Executive Vice President Gordon Macdonald, both in tuxedos.

"I think people will definitely be lining up for that," said Mark Heaton, an MBC admissions counselor and picnic orgaizer.

"We're all really looking forward to tomorrow," Heaton said. "Everything's in place."

Heaton credits local organizations such as Tyler Sales, Lake Shore Contractors, and Port City Disposal with invaluable help in organizing the kickoff picnic. Heaton said between 400 and 600 students are expected to take part on Friday.

But this is only the beginning of the celebrating. On Oct. 27, MBC will host hundreds of educators from around the state for a special "Ed-u-tain-ment Night" at the Muskegon Harbor Hilton. Heaton said the night is meant both to tell the business educators what is going on at MBC, but also to thank them for their support. On Nov. 13, from 11 a.m. to 1 p.m., MBC will treat Muskegon to a birthday cake in the Muskegon Mall big enough for 400 people.

MBC's Student Week, Feb. 2-13, 1988, means several more events in the birthday celebration. Then in April comes the actual birthday party. The Hilton will again host, and all alumni, staff, faculty, and students from the college's first 100 years are invited to attend.

MBC is looking for the oldest living graduate of the college, Alumni over 70 years of age are encouraged to telephone MBC at 726-4904. They are also seeking the family with the most members that have attended MBC. A special award will be given at the April party in each category.

In May 1988, MBC will host a campus-wide open house for members of business and industry, as well as the general public. The festivities will conclude with graduation ceremonies, to be held June 9, 1988, at the Frauenthal Center.●

ANTI-DRUG ABUSE ACT OF 1988

● Mr. McCONNELL. Mr. President, I rise today to address one of the most dangerous problems we face as a nation. It is not a new problem, only worse than ever before, and getting more and more out of control with each passing day. The problem of drugs in our society has passed epidemic proportions. It is now an American tragedy. Instead of one more hollow speech on the problem, I want to take a firm stand in support of a comprehensive battle plan to fight drug abuse in America. Therefore, Mr. President, I want to speak in support of the Anti-Drug Abuse Act of 1988, S. 2205, of which I am a proud original cosponsor. This bill puts us on the right track of ensuring a brighter future for our young people and a safer, healthier society for all of us.

People may wonder why the Senator from Kentucky should cosponsor legislation aimed at a problem that particularly infests large urban and trade centers. Unfortunately, Kentucky is getting to be infamous in its own right as a center of drug trafficking and production. In the last several months, the drug crisis has taken over the headlines in my State. My constituents have witnessed several big drug trials, one involving a man accused of trafficking marijuana from Jamaica, Belize, and Colombia. During the manhunt it was revealed this drug runner had fled to Mexico, while agents from the Drug Enforcement Administration were digging up the front yard of one of his homes in Albany, IN, just across the river from my home in Louisville.

Recently, a known, convicted drug dealer moved to western Kentucky. It was only after several newpaper stories and an outraged response from the community that the man fled, leaving many of his possessions behind. Last November, Kentucky had its largest cocaine seizure in history: almost 29 pounds of cocaine, valued at nearly $7 million, was seized in Lexington. The three men arrested were from out of State, attempting to smuggle drugs through the wide open, unsupervised spaces of Kentucky.

A 58-page report published by the Kentucky Justice Cabinet concluded that Kentucky is a "business center" for cocaine and narcotics traffickers. The report said that the illicit drug trade was flourishing in Kentucky because of the State's centralized location and network of interstate highways. A meeting of sheriffs from western Kentucky late last year found that their region was receiving cocaine shipments from Colombia and Mexico.

Shocked at the level of the problem, the U.S. Customs Service opened an office in Bowling Green, KY. A spokesman for the Customs Service confirmed that Kentucky is a major dropping point for illegal drugs from other countries. My State is being used to distribute drugs to cities such as Chicago, St. Louis, New York, and Cincinnati. Airplanes can fly from Central America to Kentucky without refueling. The mountainous terrain of eastern Kentucky and the sparsely populated, rural areas of western Kentucky are havens for midnight drug drops from the air. Increasingly, isolated private airfields allow the traffickers' planes to land and conduct business on the ground. The waterways of Kentucky, which have provided so much enjoyment for the citizens of our State and tourists from all over, are now being used as cheap transportation for illicit drugs.

Mr. President, as some progress has been made in fighting drugs in urban areas and major points of entry, the battle has been pushed further into our borders. Now, Kentucky is on the frontline, and with each passing day, it is drawn deeper and deeper into the quagmire. A recent study conducted in Kentucky showed that cocaine availability has risen 86 percent in the past 5 years. The price of cocaine during this time period has fallen 68 percent and the purity has increased 50 percent. The study also found that drug use is increasing in lower age groups, reaching into the roots of youth.

Drug runners are now in the heartland of America, the least protected and most vulnerable region of the country.

Mr. President, we are losing the war on drugs. Every so often, those of us who serve in Congress decide to declare war on something: poverty, inflation, and on a dozen other problems. Now, the tables have been turned. The drug smugglers and drug dealers, seeing our weakness in fighting their insidious corruption, have declared war on us. This is a war on our way of life and on our values. This is a war on our children and our future. Like any war, as recent history has shown us, we must either make a total commitment to win, or victory will never be achieved.

An editorial appearing last fall in the Lexington Herald-Leader summed up the feeling of many Kentuckians and, I believe, many Americans. It said:

> Last year, the United States had a whopper of a problem with illegal drugs. President Reagan and Congress, both major political parties and any number of independent groups, went out of their way to dramatize the point. The question was not the scope of the problem, but who deplored it more. This year, the drug problem has all but vanished from the propaganda front, except for the occasional TV commercial. Has it been solved? No. Have great strides been made in solving the problem? No.

Finally, this editorial concluded:

> That's the problem with political fads. Once they are no longer trendy, follow-up is forgotten.

The Anti-Drug Abuse Act of 1988 will bring the war on drugs into the next decade, it will reaffirm and intensify our commitment, and most importantly, it will give us a chance to win this war.

Mr. President, Cicero once said that, "The greatest incitement to crime is the hope of escaping punishment." This maxim holds just as true today. Drug dealers have little fear of even being apprehended, much less of going to prison. This bill attacks the drug problem on every front, including interdiction, State and local law enforcement, harsher penalties, and demand reduction. Let me briefly outline the key provisions of the Anti-Drug Abuse Act of 1988: This bill would renovate the State and local Narcotics Control Grant Program by providing $1.5 billion over 3 years, to help State and local law enforcement agencies attack the drug problem where it is more acute—at the local level.

It would allow captured drug assets, like planes and trucks, to be used against the drug dealers, and give local law enforcement agencies a fair share of those captured assets. Further, this bill would lend a helping hand to the frontlines of the drug war, reauthorizing funding for the Bureau of Justice Assistance, improving benefits for law enforcement officers, and providing research and training support for police drug units throughout the Nation.

The act provides $600 million over 3 years for a new International Economic Incentive Grant Program to encourage drug source countries, particularly in Latin America, to eradicate 40 percent of their illicit drug crops. To help get people off of drugs, this bill provides an additional $485 million, over the President's budget for 1989, for alcohol and drug abuse treatment bloc grants. This funding will include—for the first time—the authority to spend up to 40 percent of these grants for construction and renovation of alcohol and drug treatment facilities. To shore up our Nation's defenses against the drug invasion, the Anti-Drug Abuse Act increases funding for additional drug enforcement and interdiction activities by the Coast Guard, the DEA, the Customs Service, Border Patrol, and other law enforcement bureaus. Finally, to provide homes for all the newly caught and convicted drug runners, the bill authorizes $400 million over 3 years to State and local governments, for construction of new jails and prisons.

Mr. President, if we are to one day enjoy the benefits of having a drug free society, we must begin now in the schools. To teach young people that drugs hinder, not help, their chances for a bright future and success, is one of the main sections of this bill. S. 2205 appropriates $1 billion over the next 3 years to educate the young people of this country about the hazards of drug use and abuse. To win the war, Mr. President, we must defeat the enemy on the very first battleground—the classroom. This bill puts us on the path to do just that.

This bill meets the drug threat head on, on every level. It covers all the bases: interdiction, law enforcement, treatment and education. I believe such a comprehensive, all-out assault is the only way to break the stranglehold that drugs have on our country.

Mr. President, I am proud to be a cosponsor of this legislation, and I urge my colleagues to strongly support its passage.

Mr. President, I yield the floor.●

TRIBUTE TO THE REVEREND OSBORNE BUDD'S 50 YEARS OF PRIESTHOOD

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to the Reverend Osborne Budd of St. Stephen's Episcopal Church in Waretown, NJ.

Father Budd will celebrate 50 years in the priesthood on November 19, 1988. A graduate of the University of Denver, he was ordained to the sacred priesthood of the Episcopal Church 50 years ago on St. Andrew's Day, November 30, 1938. He served the parish of St. John's in Tuckahoe, NY, as its rector from 1946 until 1973.

After 27 years, Father Budd retired from St. Johns in 1973. To many in his congregation, he was the only priest they had ever known. He knew everyone by his or her first name, and participated actively in community life by uniting others. The reverend remarked:

> All of us are children of God. I hate separations, divisions. If I have one calling, it is reconciliation * * *.

Upon his retirement from St. John's, the Reverend and Mrs. Budd settled in Ocean County, in Barnegat, NJ where they still reside. Father Budd soon became involved at St. Stephen's Episcopal Church in Waretown, NJ, as nonstipendary assistant.

He continues to participate in many services of the church. During the summer months he conducts services by himself as a supply priest and participates in services while St. Stephen's searches for a new rector to replace the one who retired in 1987.

He continues to touch the lives of others by his unique ministry involved with baptism. The program includes a 7-year followup program of children baptized, part of the Guild of the Christ Child.

Mr. President, I am pleased to honor the Reverend Osborne Budd who has devoted his life to others in his service to the church. I extend my warmest wishes in recognition of his golden anniversary, and wish him continued success and happiness in the future.●

CRANSTON AND BOSCHWITZ CALL FOR A CAPITAL GAINS TAX CUT

● Mr. KASTEN. Mr. President, I call the attention of my colleagues a recent article that appeared in the Washington Post by Senators ALAN CRANSTON and RUDY BOSCHWITZ on merits of reducing the capital gains tax.

The debate over reduced capital gains tax rates and revenues often diverts attention from the economic benefits of cutting the capital gains tax. In their article, the Senators point out that "a lower rate on capital gains would help stimulate venture capital investments, especially in small, new companies with innovative ideas for new products."

Greater risk investment creates new technologies, new industrial innovations, new opportunities for thousands of small businessmen and, most important of all, new jobs for Americans. Our major overseas competitors understand the economic benefits of low capital gains taxes. In fact, many of them—including Japan, South Korea, Taiwan, Hong Kong, and West Germany—do not tax capital gains at all.

I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 31, 1988]

NO, CUT THE CAPITAL GAINS TAX

(By Alan Cranston and Rudy Boschwitz)

Recently, the Congressional Budget Office and The Washington Post told you what they think the bad news is about reducing the capital gains tax rate [editorial, March 15]. Let's put aside the debate over revenues. Both sides have their experts. We want to tell you what the good news is about reduced capital gains tax rates.

The most serious challenge facing the American economy in the coming years is our ability to compete in the global marketplace. America has always shown an uncanny ability to develop the new ideas and products of the future.

It is our strong belief that the federal government can and should support America's competitive edge. This can be done by using the tax code to direct private investments into the often risky and long-term ventures that become the job and economic miracles of the future. Reinstating a lower capital gains tax rate is the best way to do that.

Over the years, we have seen first-hand the development and growth of thousands of high-technology companies in California and Minnesota and elsewhere. The critical ingredient in the success of these new growth companies has been the infusion of venture capital by those willing to take long-term risks and invest in the future.

The biggest problem facing these new growth companies is getting access to low-cost capital. These companies need capital not just to get started but to survive and thrive as they move from some inventor's attic into a factory that creates jobs. To succeed and grow, these companies need equity investment not more debt.

We need a lower tax rate on capital gains to improve our industrial competitiveness, help offset the flight of U.S. industries and jobs overseas and reduce our monstrous trade deficit. A lower rate on capital gains would help stimulate venture capital investments, especially in small, new companies with innovative ideas for new products.

These are high-risk enterprises that need all the investment incentives they can get. They are the enterprises that help us stay on the leading edge of scientific and technological development. And, along with other small businesses, they are the ones that create the most new jobs.

Before Congress first lowered the capital gains tax rate in 1978, high-tech industry executives, desperate for research and development money, were constantly coming to Capitol Hill seeking help—and with good reason. The Tax Reform Act of 1969 raised the tax on capital gains from 25 percent to 49 percent and reduced the write-off for capital losses by 50 percent. As a result, net new venture capital investment dropped from $171 million in 1969 to $97 million in 1970 and bottomed out at $10 million in 1975.

Between 1971 and 1975, electronics companies raised less capital than in any time in the previous 15-year period. Many were forced to sell their technology to foreign competitors to raise necessary capital.

After we lowered the rates on capital gains in 1978 and 1981, investment jumped from $39 million in 1977 to $600 million in 1978 and to $4.5 billion in 1983. Entrepreneurs were than able to secure the investments they needed from private sources.

All that has changed since the passage of the Tax Reform Act of 1986, when the capital gains tax rate was drastically increased. In the mad rush to pass the bill, an important exception for investments in long-term, job-creating assets was excluded.

The United States now has one of the highest capital gains tax rates in the world. In fact, our major overseas competitors—Japan, South Korea, Taiwan, Hong Kong and West Germany—do not tax capital gains at all. Businesses in those countries are encouraged to reinvest their gains to produce more and better products—and to beat out American firms in both the U.S. and international markets.

America's entrepreneurial strength is the key to future economic growth. New technology and service companies have blossomed in cities and towns across the nation. They are providing the jobs and competitive edge we need for America to regain its economic supremacy.

By establishing federal tax policies that encourage investment, the federal government can join with many far-sighted state governments that are acting in productive partnership with these growth companies. Cutting the tax on capital gains is the best place to start.●

THE 20TH ANNIVERSARY OF THE FAIR HOUSING ACT

● Mr. LUGAR. Mr. President, I take this opportunity today to call to the attention of the Senate, the 20th anniversary of the Fair Housing Act.

Signed into law on April 11, 1968, this act declared that it be the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. Prior to enactment of this law our country had experienced, for too long, the very real practice of discrimination in housing markets which provide a basic necessity for all Americans. With the passage of this law, our Nation affirmed its commitment to the rights of every citizen to live in housing without regard to race, sex, or national origin.

During this period in our country, 20 years ago, it was common for the Federal Government to shoulder the responsibility of addressing the Nation's issues of social concern such as equality of opportunity in housing. But today, I acknowledge that the Federal Government can no longer be the sole driving force behind this and other important social issues which confront us. Private business and the other sectors of our Nation must share a greater portion of this responsibility, and to a great extent have carried out their commitment toward this end.

I recognize that as a Nation we have progressed greatly in this area during the past 20 years, yet we realize that we have much left to do. We cannot be satisfied, nor lend ourselves to complacency in this important area. On this occasion of the 20th anniversary of the Fair Housing Act, I urge my colleagues to join me in reaffirming our commitment to the principles of the act, that every American without regard to race, sex, or national origin, be reserved the very basic right to live in housing of their choice.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Donald Hardy, a member of the staff of Senator SIMPSON, to participate in a program in China and Taiwan, sponsored by the Tamkang University, from April 3-11, 1988.

The committee has determined that participation by Mr. Hardy in the program in China and Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Susanne Martinez, a member of the staff of Senator CRANSTON, to participate in a program in Taiwan sponsored by the Soochow University, from April 3-10, 1988.

The committee has determined that participation by Ms. Martinez in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Chuck Searcy, a member of the staff of Senator FOWLER, to participate in a program in Taiwan sponsored by the Chinese Culture University, for 1 week in early April 1988.

The committee has determined that participation by Mr. Searcy in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tim Rieser, a member of the staff of Senator LEAHY, to participate in a program in Turkey sponsored by the Turkish Foreign Policy Institute, from April 2-11, 1988.

The committee has determined that participation by Mr. Rieser in the program in Turkey, at the expense of the Turkish Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. William C. Jacobs, a member of the staff of Senator EVANS, to participate in a program in Chile sponsored by the Adolfo Ibanez Foundation, from April 2-8, 1988.

The committee has determined that participation by Mr. Jacobs in the program in Chile, at the expense of the Adlofo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David Rudd, a member of the staff of Senator HOLLINGS, to participate in a program in Belgium and The Netherlands sponsored by the Atlantic Exchange, from April 2-9, 1988.

The committee has determined that participation by Mr. Rudd in the program in Belgium and The Netherlands, at the expense of the Atlantic Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Jim Sims, a member of the staff of Senator KASTEN, to participate in a program in Chile sponsored by the Institute of Political Science of the University of Chile, from April 1-8, 1988.

The committee has determined that participation by Mr. Sims in the program in Chile, at the expense of the Institute of Political Science of the University of Chile, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Don Harrell, a member of the staff of Senator PRYOR, to participate in a program in the Middle East, sponsored by the National Council on U.S.-Arab Relations, from April 1-7, 1988.

The committee has determined that participation by Mr. Harrell in the program in the Middle East, at the expense of the National Council on U.S.-Arab Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Winthrop Cashdollar, a member of the staff of Senator COHEN, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from April 2-12, 1988.

The committee has determined that participation by Mr. Cashdollar in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Jim Dykstra, a member of the staff of Senator COHEN, to participate in a program in the Middle East, sponsored by the National Council on U.S.-Arab Relations, from April 1-7, 1988.

The committee has determined that participation by Mr. Dykstra in the program in the Middle East, at the expense of the National Council on U.S.-Arab Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ed Redfern, a member of the staff of Senator GRASSLEY, to participate in a program in Chile, sponsored by the Institute of Political Science of the University of Chile, from April 1-8, 1988.

The committee has determined that participation by Mr. Redfern in the program in Chile, at the expense of the Institute of Political Science of the University of Chile, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Gregg Willhauck, a member of the staff of Senator MCCLURE, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from April 1-8, 1988.

The committee has determined that participation by Mr. Willhauck in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ashley O. Thrift, a member of the staff of Senator HOLLINGS, to participate in a program in Belgium and The Netherlands, sponsored by the Atlantic Exchange, from April 2-9, 1988.

The committee has determined that participation by Mr. Thrift in the program in Belgium and The Netherlands, at the expense of the Atlantic Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Charles N. Andreae, a member of the staff of Senator LUGAR, to participate in a program in the Middle East, sponsored by the National Council on U.S.-Arab Relations, from April 1-7, 1988.

The committee has determined that participation by Mr. Andreae in the program in the Middle East, at the expense of the National Council on U.S.-Arab Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Michael Sher, a member of the staff of Senator LEAHY, to participate in a program in Korea, sponsored by the Ilhae Institute, from April 1-10, 1988.

The committee has determined that participation by Mr. Sher in the program in Korea, at the expense of the Ilhae Institute, is in the interest of the Senate and the United States.●

RULES OF THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, in accordance with the requirement to publish the rules of each Senate committee in the RECORD each year, I submit the procedural rules of the select committee and ask that they be printed in the RECORD.

The material follows:

RULES OF THE SELECT COMMITTEE ON ETHICS

(Adopted February 23, 1978)

PART I—ORGANIC AUTHORITY

Subpart A—S. Res. 338 as amended

Resolved, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics [1] (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph 1 of Rule XXIV of the standing rules of the Senate at the beginning of each Congress.[1] For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the Majority Party and one Member of the quorum is a Member of the Minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.[2]

"(d)(1) [3] A member of the Select Committee shall be ineligible to participate in any initial review or investigation relating to his own conduct, the conduct of any officer or employee he supervises, or the conduct of any employee of any officer he supervises, or relating to any complaint filed by him, and the determinations and recommendations of the Select Committee with respect thereto. For purposes of this subparagraph, a Member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the Standing Rules of the Senate.

"(2) A Member of the Select Committee may, at his discretion, disqualify himself from participating in any initial review or investigation pending before the Select Committee and the determinations and recommendations of the Select Committee with respect thereto. Notice of such disqualification shall be given in writing to the President of the Senate.

"(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any initial review or investigation or disqualfies himself under paragraph (2) from participating in any initial review or investigation, another Member of the Senate shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such initial review or investigation and the determinations and recommendations of the Select Committee with respect thereto. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself."

SEC. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct [4] and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Member of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal)" [5] to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

"(b)(1) Each sworn complaint filed with the Select Committee shall be in writing, shall be in such form as the Select Committee may prescribe by regulation, and shall be under oath.

"(2) For purposes of this section, 'sworn complaint' means a statement of facts within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate.

"(3) Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the Select Committee may refer any such case to the Attorney General for prosecution.

"(4) For the purposes of this section, 'investigation' is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(c)(1) No investigation of conduct of a Member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

"(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the Select Committee voting.

"(d)(1) When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(2) If as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

"(3) If as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical or otherwise of a *de minimus* nature, the Select Committee may attempt to correct or prevent such a violation by informal methods.

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[1] Changed by Section 102 of S. Res. 4 (February 4, 1977).

[2] Changed by S. Res. 78 (February 24, 1981).

[3] Added by S. Res. 110 (April 2, 1977).

[4] Added by Section 201 of S. Res. 110 (April 2, 1977).

[5] Added by Section 205 of S. Res. 110 (April 2, 1977).

"(4) If as a result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence but that the violation, if proven is neither of a *de minimus* nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

"(5) If as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (a)(2), or (B) the violation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

"(6) Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

"(e) When the Select Committee receives a sworn complaint against an employee of the Senate, it shall consider the complaint according to procedures it deems appropriate. If the Select Committee determines that the complaint is without substantial merit, it shall notify the complainant and the accused of its determination, together with an explanation of the basis of such determination.

"(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

"(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

"(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints."[6]

(i)[7] The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

SEC. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of *a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners,*[8] and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.[9]

(b)(1)[10] The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

"(2) Any investigation conducted under section 2 shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel."; and

"(c)[11] With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government," and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable.

With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommitte whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

"(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses."[12]

"(e)(1)[13] The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

"(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulations of the Senate within its jurisdiction.

"(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

"(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

"(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

"(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: *Provided, however,* That the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

"(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the CONGRESSIONAL RECORD with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

"(8) A brief description of a waiver granted under paragraph 2(c) of rule XXXIV or paragraph 1 of rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned."

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[6] Added by Section 202 of S. Res. 110 (April 2, 1977).

[7] Changed by Section 202 of S. Res. 110 (April 2, 1977).

[8] Added by Section 204 of S. Res. 110 (April 2, 1977).

[9] Added by S. Res. 230 (July 25, 1977).

[10] Added by Section 204 of S. Res. 110 (April 2, 1977).

[11] Changed by Section 204 of S. Res. 110 (April 2, 1977).

[12] Section added by S. Res. 312 (Nov. 1, 1977).

[13] Section added by Section 206 of S. Res. 110 (April 2, 1977).

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

Subpart B—Public Law 93-191—Franked Mail, Provisions Relating to the Select Committee

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privlege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551-559 and 701-706, of title 5 United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

Subpart C—Standing Orders of the Senate Regarding Unauthorized Disclosure of Intelligence Information, S. Res. 400, 94th Congress, Provisions Relating to the Select Committee

SEC. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

Subpart D—Public Law 95-105, Section 515, Relating to Receipt and Disposition of Foreign Gifts and Decorations Received by Members, Officers and Employees of the Senate or Their Spouses or Dependents, Provisions Relating to the Select Committee on Ethics

SEC. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

§ 7342. Receipt and disposition of foreign gifts and decorations.

"(a) For the purposes of this section—

* * * * *

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate;

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

"(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency; or

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use. Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e).

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use or forwarding to the Administrator of General Services for disposal in accordance with subsection (e).

"(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) frowarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listing for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purpose of this section.

"(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies."

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

RULE 1: GENERAL PROCEDURES

(a) Officers: The Committee shall select a Chairman and a Vice Chairman from among its members. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) Procedural Rules: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) Meetings:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any members of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) Quorum:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquires, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority party. During the transaction of routine business any member of the Select Committee, constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) Hearings Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specified period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session, shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) The member's own conduct;

(B) The conduct of any employee or officer that the member supervises, as defined in paragraph 11 of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a member, or by any employee or officer that the member supervises.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligiblity or disqualification of any member from any initial review, investigation or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(5).

(5) Whenever a member of the Committee is ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV of the Standing Rules of the Senate, to serve as member of the Committee solely for the purposes of that proceeding.

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following.

(A) the staff member's own conduct;

(B) The conduct of any employee that the staff member supervises;

(C) the conduct of any Member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a compliant, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested of the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses:

During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

(o) Committee Use of Services or Employees of Other Agencies and Departments:

With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR SWORN COMPLAINTS

(a) Sworn Complaints: Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

(b) Form and Content of Complaints: A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including if possible, the specific provision of the Senate Code of

Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term "personal knowledge" is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

(c) Processing of Sworn Complaints:

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), the complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of that determination. The transmittal notice shall include the date upon which the complaint was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

RULE 3: PROCEDURES ON RECEIPT OF ALLEGATIONS OTHER THAN A SWORN COMPLAINT; PRELIMINARY INQUIRY

(a) Unsworn Allegations or Information: Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employee of the Senate may have—

(1) violated the Senate Code of Official Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) Sources of Unsworn Allegations or Information: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Preliminary Inquiry:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions.

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly, may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries or interviews that the Chairman and the Vice Chairman deem necessary or appropriate. In particular, the preliminary inquiry may seek independent credible evidence that tends to corroborate the information received and may also include discussions or correspondence with the complainant, if any, and the respondent, if any.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and Vice Chairman are unable to agree on a determination at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) Determination Whether to Conduct an Initial Review: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first meeting of the Committee thereafter if none occurs within thirty days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee, and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the Rules of the Committee shall be supplied with the notice.

(5) If a member of the Committee believes that the preliminary inquiry has provided sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the member may move

that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN INITIAL REVIEW

(a) Basis for Initial Review: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

(b) Scope of Initial Review:

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) The initial review may include any inquiries or interviews that the Committee deems appropriate to obtain the evidence upon which to make the determination required by subparagraph (1), including the taking of sworn statements and the use of subpoenas.

(c) Opportunity for Response: An initial review may include an opportunity for any known respondent or his designated representative, to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) Final Report: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) Committee Action: As soon as practicable following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a de minimis nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; or for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four members, may propose a remedy that it deems appropriate. If the respondent agrees to the proposed remedy, a summary of the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the Congressional Record.

(4) The Committee may determine, by recorded affirmative vote of at least four members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); or

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the procedure in paragraph (3). In either case, the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

RULE 5: PROCEDURES FOR CONDUCTING AN INVESTIGATION

(a) Definition of Investigation: An "investigation" is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) Scope of Investigation: When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquires or interviews, take sworn statements, use compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of the nature of the possible violation, and a description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) Progress Reports to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Report of Investigation:

(1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigations and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four members of the Committee.

(3) Promptly after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

RULE 6: PROCEDURES FOR HEARINGS

(a) Right to a Hearing: The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(e).)

(b) Non-public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) Subpoena Power: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) Notice of Hearings: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) Witnesses:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by majority vote, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) Right to Testify: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained.

Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) Conduct of Witnesses and Other Attendees: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) Adjudicatory Hearing Procedures:

(1) Notice of Hearings: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) Preparation for Adjudicatory Hearings:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of Witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) Right to Counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) Right to Cross-Examine and Call Witnesses:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subopenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness' counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that days' record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) Admissibility of Evidence:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible, unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(7) Supplementary Hearing Procedures: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) Transcripts:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 7: SUBPOENAS

(a) Procedure: Subpoenas may be issued either—

(1) by majority vote of the Committee, or

(2) by the Chairman and Vice Chairman, acting jointly.

All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the initial review, investigation, or other proceeding.

(b) Subpoena Power: Pursuant to Federal law (2 U.S.C. 190(b)), the Committee is authorized to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate as it deems advisable. The Committee is similarly authorized to require by subpoena or otherwise the attendance of such witnesses or the production of such correspondence, books, papers, documents, or other articles as it deems advisable.

(c) Withdrawal of Subpoena: The Committee may, by majority vote, withdraw any subpoena issued by it or issued by the Chairman and Vice Chairman, acting jointly.

The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena issued by them.

RULE 8: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) Applicable Rules and Standards of Conduct:

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 9: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive Materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or acquisition of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designed by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) Procedures for Handling Classified Materials:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive and classified documents and materials shall be segregated in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be taken by a member of the Committee staff to the office of a member of the Committee for his or her examination, but the Committee staff member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by The Chairman or Vice Chairman.

(3) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(4) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in respose to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) Non-disclosure Policy and agreement:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff, or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the non-disclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 10: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by televsion broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so

as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activites in an orderly and unobtrusive manner.

RULE 11: PROCEDURES FOR ADVISORY OPINIONS

(a) When Advisory Opinions are Rendered:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) Form of Request: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) Opportunity for Comment:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) Issuance of an Advisory Opinion:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) Reliance on Advisory Opinions:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 12: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) Basis for Interpretative Rulings: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) Request for Ruling: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) Publication of Rulings: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) reliance on Rulings: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) Rulings by Committee Staff: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 13: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) Authority to Receive Complaints: The Committee is directed by section 6(b) of Public Law 93-191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) Disposition of Complaints:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complaint is disposed of by restitution, the complainant, if any shall be notified of the disposition in writing.

(c) Advisory Opinions and Interpretative Rulings: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

RULE 14: PROCEDURES FOR WAIVERS

(a) Authority for Waivers: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended, (Rule XXXIV) relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended, (Rule XXXIV) relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) Requests for Waivers: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 11 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) Ruling: The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision.

(d) Availability of Waiver Determinations: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the

Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 15: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police Force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 16: COMMITTEE STAFF

(a) Committee Policy:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) Appointment of Staff:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel if necessary or appropriate for any action regarding any complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) Dismissal of Staff: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) Staff Works for Committee as Whole: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) Notice of Summons to Testify: Each member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) Adoption of Changes in Supplementary Rules: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a majority vote of the entire membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) Publication: Any amendments adopted to the Rules of the Committee shall be published in the CONGRESSIONAL RECORD not later than thirty days after adoption.●

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if he has any further statement of business he would like to transact?

Mr. DOLE. No further business.

Mr. BYRD. I thank my friend.

Mr. President, if there be no further business then to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 3:25 p.m., recessed until Tuesday, April 12, 1988, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Monday, April 11, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Give us, O gracious God, a sense of commitment in all the serious matters of life—those concerns that further our feelings of value and purpose, that project and nurture life, that make us aware of Your abiding presence. May Your blessing be this day with every person with special need, comfort, and encourage all in danger or in want and give us all the assurance of Your eternal promises. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1960. An act to designate the Federal Building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building";

S. 2097. An act to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; and

S. Con. Res. 111. Concurrent resolution to express the sense of Congress regarding a temporary waiver of the prohibition on the United States from permitting certain employees of the Panama Canal Commission to purchase food and other necessities at commissary and exchange stores of the Department of Defense in the Republic of Panama.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 90) "An Act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes", with amendments.

The message also announced that pursuant to Public Law 94-201, the Chair on behalf of the President pro tempore, appoints Dr. Johnnetta Cole of Georgia, from private life, to the Board of Trustees of the American Folklife Center.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 6, 1988.

Hon. JIM WRIGHT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

(1) At 3:55 p.m. on Thursday, March 31, 1988: That the Senate passed without amendment H.J. Res. 523;

(2) At 6:00 p.m. on Thursday, March 31, 1988: That the Senate passed without amendment H.J. Res. 519; and

(3) At 10:00 a.m. on Friday, April 1, 1988: That the Senate passed without amendment H.R. 2819, H.R. 1207, and H.R. 3459.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, U.S. House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Thursday, March 31, 1988:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America.

And the Speaker signed the following enrolled bill and joint resolutions on Friday, April 1, 1988:

H.R. 2819. An act for the relief of Tracey McFarlane;

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; and

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada

APPOINTMENT AS MEMBERS OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION

The SPEAKER. Pursuant to the provisions of 22 United States Code 276a-1 the Chair appoints to the delegation to attend the Conference of the Interparliamentary Union, to be held in Guatemala City, Guatemala, on April 11 through April 16, 1988, the following members on the part of the House:

Mr. PEPPER of Florida, chairman; Mr. HAMILTON of Indiana, vice chairman; Mr. BROWN of California; Mr. BATES of California, and Mr. HYDE of Illinois.

COMMUNICATION FROM THE HONORABLE ROBERT T. MATSUI, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable ROBERT T. MATSUI, Member of Congress:

WASHINGTON, DC,
March 31, 1988.

Hon. JAMES WRIGHT,
The Speaker, The Capitol,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that an employee in my office has been served with a subpoena duces tecum issued by Court Martial of the United States Air Force.

After consultation with the General Counsel to the Clerk, I will make the determination required by the Rule.

Very truly yours,

ROBERT T. MATSUI,
Member of Congress.

IS ORTEGA A COMMUNIST?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, on Friday, April 8, 1988, the Washington Times published an interview between Times' columnist John Lofton and Speaker JIM WRIGHT.

During the interview, the Speaker expressed the opinion that Daniel Ortega is a member of what he calls a swing group within the Sandinista leadership. He then said:

> I do this in my political group. BOB MICHEL does it in his.

Since I was mentioned in this context, I would like to make my own views clear as to the role played by Mr. Ortega in a Communist dictatorship and my own role in a democracy.

In my view, there should be no doubt that Daniel Ortega and his brother are dedicated Marxist-Leninists.

Ortega's differences with Tomas Borge and others in the Sandinista leadership are tactical, not strategic or ideological, in nature. He is not a member of a so-called swing-group, between Communist hard liners and moderates. To the contrary, the histo-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ry of the Sandinistas has been one of disagreement only as to tactics, not ultimate goals or ideological imperatives.

Stalin, Trotsky, and Lenin all disagreed on tactics. But they all believed in communism.

I, for one, do not see myself playing a role similar to that of Ortega.

Let the record show that Bob Michel is convinced by a superabundance of evidence that Daniel Ortega is a Communist and has been one for years.

ROLE OF THE MINORITY LEADER IN CONGRESS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I was somewhat surprised that my friend, the gentleman from Illinois, Bob Michel, undertook to address remarks to the House concerning a quote which I have not seen in print resulting from an interview which I gave to a person who represented himself as a writer for the Washington Times. Therefore, it is not possible for me to comment with absolute fidelity upon what the article said or whether it quotes what I intended.

Let me assure my distinguished friend from Illinois that at no time would I have indicated to a newspaper that he is comparable to Daniel Ortega or to any other person in any other government. I suppose what I was trying to suggest was that in all forms of society there are the hard liners on both sides, and there are the middle groups who seek to try to rationalize differences and put together a workable policy. I do see the gentleman from Illinois as performing that very vital function in his party and the Congress. I think it is an honorable function, and to some degree I suppose I am able to provide that service along with the gentleman from Washington, Tom Foley, our majority leader in our party.

There are admittedly great differences between our society and other societies. Even so, I think the gentleman from Illinois probably would recognize that today in the Soviet Union, admittedly a Communist society, there are differences between the way in which the present leader of that country looks at matters and the way in which some of his predecessors looked at matters.

Certainly there is nothing dishonorable in this, and I am certain that my good friend from Illinois understands that I meant no derogation of him in any sense.

Mr. MICHEL. Mr. Speaker, will the distinguished gentleman from Texas yield?

Mr. WRIGHT. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I certainly did not intend by my brief remarks to indicate that the Speaker was casting me in any kind of derogatory light, only in the sense that the Speaker and the gentleman from Illinois may have a little bit different perception of what role different people lead in different societies.

I guess I, personally, have such a personal prejudice, whether rightly or wrongly, that the gentleman or individuals mentioned in the article in the countries to the south of us, what their particular inclination is philosophically and what they are wedded to, maybe I should have been more careful about that, because I would never conceive of the Speaker casting his friend from Illinois in any other light but the very best. I was trying to project somewhat of a difference of our views.

Mr. WRIGHT. Mr. Speaker, I am not at all sure that there is any fundamental difference. The gentleman from Illinois is fully aware, I am sure, that I oppose communism with every ounce of vigor that I possess and just as ardently as he does.

Mr. MICHEL. I understand that, and I thank the Speaker for giving me an opportunity to respond.

Mr. WRIGHT. Mr. Speaker, I am sure that Mr. Michel and I are equally devoted to the democratic system.

Mr. MICHEL. I appreciate the gentleman from Texas giving me an opportunity to respond.

Mr. WRIGHT. As I've said, I have, not had the opportunity to read the article reporting the interview in question, but if I am able to locate a copy of it I shall insert it in full in the Record at this point under leave to extend my remarks, in order that readers may know what it is we've been discussing, and just how I was quoted.

The article follows:

[From the Washington Times, Apr. 8, 1988]

EXPLORING WRIGHT'S EXPECTATIONS—HOUSE SPEAKER PERCEIVES SHIFTS IN THE COMMUNIST WORLD

(Speaker of the House Jim Wright, Democrat of Texas, was interviewed recently by Washington Times columnist John Lofton. This is an edited version of that interview.)

Q: There was a time when you seemed to be a real fire-breathing anti-Communist. In an April 13, 1959, newsletter to your constituents, you blasted "Red China" for its brutal treatment of Tibet, noting that the Chinese Communist "vulture," your word, could no longer masquerade as a dove because its "beak and claws dripped blood."

A: I remember the phrase and savored it. (He laughs.)

Q: Well, it's a good one. And on the House floor on March 1, 1966, you criticized Robert F. Kennedy's proposal that the Viet Cong be admitted to a coalition government in South Vietnam because, you said, this idea would give the impression "that we are bartering away the freedom of South Vietnam."

Now it is 1988. The Communist Sandinistas are in control of the Nicaraguan government. And you have been a vigorous proponent of engaging diplomacy and negotiating with these Communists. My question is: Why?. . . .

A: You have raised a great many questions. Why don't you let me answer them one at a time, John? I'd be glad to . . . . In the first place, I have never been for enforced coalition governments. I have always been for constitutional governments chosen through an electoral process. I was not in favor of the kind of enforced coalition government that drove Chiang Kai-shek off the Chinese Mainland. And therefore I was not in favor of a bartered kind of a coalition government created at the point of a gun, or proposed to be created at the point of a gun in Vietnam. I didn't think it would work.

What I've always been for, clearly and consistently, has been a constitutional system which permits people to vote, and those votes to be counted, and every local unit of government, or every nation, to have the right of local, non-violent self-determination. This is a position I have consistently held. I believed it in Tibet in 1959 because I didn't believe in marauding expansion. I was against the proposition that any country should have the right to cross the borders and take over another country by force of arms . . . .

Q: But why do you think the Sandinista Communists can be negotiated with? Costa Rica's largest newspaper, "La Nacion," has editorially asked . . ..

A: Are these argumentative questions or questions for information? Are these questions for the purpose of engaging me in a debate, or for the purpose of eliciting my views?

Q: Well, I'm a columnist and a commentator and I write opinion and commentary. And, of course, I have sharply delineated views on this subject of Nicaragua, as you do.

A: John, you have the questions written out, I observe.

Q: Right.

A: You're expecting me to respond to written polemic by extemporaneous commentary. Now I'm glad to engage in that sort of engagement . .

Q: (laughing) I'm laughing at the idea of you shrinking from polemics.

A: Well, you're getting ready to quote from an editorial from a newspaper in Costa Rica. That's polemic, isn't it?

Q: Well, you haven't heard the quote yet.

A: I'm guessing.

Q: Well, let's see if you're right.

A: Give me the quote.

Q: "La Nacion" says: "Hitler also signed a 'peace' with Chamberlain in Munich, Stalin agreed to the democracy of Eastern Europe with Roosevelt, and the heirs of Ho Chi Minh [agreed to] the independence of South Vietnam with Nixon. Why would the promises of [Nicaraguan leaders] Ortega, Borge & Co. be more credible than those of their colleagues of totalitarian dogma?"

A: Well, I'm not sure that I know an answer to this. I'm not God and therefore cannot look within the soul of an individual and determine that he is telling the truth or not. I am aware that we are negotiating at the present time with other Communists. President Reagan is negotiating with Mr. Gorbachev. He is a Communist.

We have negotiated with people in the People's Republic of China, as it is now called, who are now Communists. I don't believe that one should expect to work out a peace with anybody unless one is able to sit down and talk with that person. I supported, as President Reagan said he supported, the proposition that the Central American presidents should be able to get together and work out a joint accord.

I'm mindful that it is their region. They, the elected presidents, four of them representing democracies, and the fifth, perhaps, as you describe him a Communist, though I'm not sure he embraces the term. He probably has at one time or another embraced the term Marxist.

Q: Who's this now?

A: Ortega (Nicaraguan President Daniel Ortega).

Q: OK.

A: Nevertheless there isn't any way you make peace with any one unless you're willing to talk with him. There isn't any point in talking with someone unless you expect him to believe what you tell him. And unless you test his sincerity. You have to give him a chance at least to demonstrate whether he is able to carry out a commitment. If one were to take the position that certain people, because of their political beliefs, are not to be trusted, then there's no point in sitting and talking with them, is there?

Q: And that is exactly my position about Communists, that since they are not trustworthy there is no point in talking with them. I agree with what you said on July 2, 1962, right after the Supreme Court decision ruled on prayer in the public schools, that "Our religious faith is, in fact, the most single important factor that sets our way of life apart from the Communist world." So my question is: How do you negotiate with people whose faith is so radically different from ours?

A: If you take a completely dogmatic and absolutist view that nobody in a Communist country, or in a Communist society, can ever rise to leadership who is a trustworthy person, then obviously you never would want to try to talk with Communists. . . .

Q: But how do we negotiate with Communists whose religion is radically different from ours?

A: John, I think one has to make judgments as he goes along. One also has to leave open the possibility that an enlightened process of learning can soften the harshness of some of these people's views and bring them around, even belatedly, to the common sense acceptance of toleration of the possibility that there may be some good things in our democratic way of life. I think, as little-by-little, the veil of secrecy may have been lifted, and people of intelligence, like Mr. Gorbachev and others, have seen the marked advantages that inure to citizens of a free society they have begun to recognize that they ought to move toward that direction.

What has happened in Mainland China in the last five or six years has been remarkable. It probably represents as profound and pervasive a change in the societal structures as may have occurred anywhere in so short a period of time.

Q: It's really ironic that you mention Communist China as an example of a country that has changed when, in terms of what they are doing to Tibet, right now, is identical to what you denounced in 1959. They still seem to have, toward Tibet—what was your phrase?—a beak and claws "dripping blood."

A: Mr. Lofton, please don't put me in the position of presuming to defend everything China does. I think, in spite of their imperialist attitude toward Tibet—which I heartily denounce—that there are some beneficent changes within the structure of the Chinese society. There is some opening up.

Now, in Moscow, in the Soviet Union, I have discerned some distinct differences over the period I have been visiting there. Fifteen or 16 years ago I was there at a time when nobody would acknowledge the existence of religious value. The official spokespeople of the Soviet Union, when conducting tours of their great old churches that now they call museums, would point with some disdain to the marvelous old murals on the walls and say: that depicts the folk story of Daniel and the lions. Or they'd say: this picture, of course, is a picture of the myth of David and Goliath, as though it were not founded on truth and as though they felt it necessary for them, publicly, on every occasion, to disavow religion.

Last April I was there and I found a profoundly different attitude. Not only are they acknowledging that religion is a factor in the life of their country, they're almost boastful of it. They, this year, I'm told. . . .

Q: Who is "they?"

A: They are the official Soviet people whom I met.

Q: You mean they are getting religion?

A: I don't know that they are getting religion. Once again, I'm not God and therefore. . .

Q: Maybe they're just trying to fool you. Is that possible?

A: Yes, that is possible.

Q: Have they fooled you?

A: You're drawn your target after you shot your arrow. You drew your target where your arrow hit so that you get a bull's eye. Let's open up our minds, you and I both, to the possibility that God moves in mysterious ways His wonders to perform.

Q: Amen.

A: But perhaps He, in His infinite wisdom, has marked the time when these people should have the scales drawn from their eyes, so to speak, and an enlightened truth shown to them. I'm simply repeating to you what I have seen. I'm not drawing the conclusions.

Q: And I'm asking if you believe what you've been told.

A: Let me tell you what I have observed. Let me tell you the changes I have seen. I have seen people in the Soviet Union now boasting that they have 10,000 operating churches.

Q: Who are the people saying this?

A: Government officials of a wide variety. Now, all you have to do is divide 300 million people by 10,000 and you realize that there is only one church for each 30,000 people, surely a small amount. But there is a difference in that now they are boastful of it. This year they are celebrating the 1000th year of the coming of Christianity to Kiev.

Q: But the Ukrainian Catholic Church, as we speak, is illegal in the Soviet Union.

A: The fact that they are celebrating the coming of Christianity tells me there has been some change. Now, when I sat with Mr. Gorbachev, and we spoke of the fact that there has been some willingness on both sides to try and come together, he said, "Thank God.".

Q: Thank God?

A: Yes. This is what Mr. Gorbachev said to me.

Q: Do you think he believes in God?

A: Do you think that I am someone who has the capacity to pass that judgment on another. . . .

Q: Well, you seem to have some degree of discernment, Mr. Speaker. You seem to know the Bible. Do you think he believes in the God of the Bible?

A: I think a man must be foolish not to believe in God.

Q: I couldn't agree with you more. The Bible says that it is the fool who has said in his heart that there is no God.

A: Precisely. And we can discuss theology if you want to.

Q: No, I want to discuss what Mr. Gorbachev told you and whether you really believe that he thanks God, for anything.

A: Well, this is what he said. And I had conversations with other Soviet leaders, a year or so before I observed it in the public press, when a fella named Scherbitsky, a member of the Politburo thought by many to be of the old guard . . .

Q: The "Butcher of the Ukraine" is what the exiles call him.

A: This man is not on Mr. Gorbachev's side, particularly in his "perestroika," but even Mr. Scherbitsky, when he and the governor of Texas and I were talking about how many head of cattle might properly be pastured on a certain parcel of land, and we described the uncertainties of rainfall in our state of Texas, he said well, sometimes you just have to depend on God. Now, that may have been his way of saying that sometimes you have to depend on nature. I don't know.

Q: On April 13, 1959, you said the Kremlin had "a deliberate, long-range plan" to keep world affairs in "a constant state of turmoil in the hope that the free peoples will weary of the effort, become jumpy and finally split apart in bickering among themselves." Do you believe there is still such a plan and a part of it might be giving billions of dollars in aid to the Communist Sandinistas?

A: Well, I don't believe the same mindset occupies the people in the Kremlin today that occupied them in 1959 and the immediate post-Stalin period. I think it was much more rigid, much more closed, much more suspicious and paranoid. And probably quite considerably more conspiratorial than today. With regard to money given to the Sandinista government, I don't know if it has actually exceeded billions.

Q: Military and non-military aid?

A: I really don't know the figure. I raised that point with Mr. Gorbachev, and later, when he was visiting here with Mr. Reagan. I raised it with Ambassador Dobrynin [the former Soviet Ambassador to the United States], a kind of specialist on U.S.-Soviet relations. When I raised it with Mr. Gorbachev, I got the impression that he would be more than willing to consider, at least, withdrawing that assistance, of a military character, to those people, in context of some agreement with the United States. It was vague, in April. But later, when they came to the United States, I sat beside Mr. Dobrynin, in a seat assigned me at a White House state dinner, and engaged with him in a more specific conversation.

Obviously, it would help stabilize the situation if the Soviet Union were willing, as a part of a regional agreement, to withdraw its military weaponry, its military personnel. I don't really care how much economic aid they give. I think it would be a blessing if they gave a lot of economic aid to that wretchedly smitten economy.

Q. So you no longer think the Kremlin has a plan such as the one you spoke about in 1959?

A: I had the impression, based on the things I have told you and other similar observations, that change is occurring throughout the world. And I believe that in the Providence of God there is the possibility of change. I don't think I should condemn someone forever to the dungeon of damnation just because his predecessor a generation ago had been a wicked and deceitful person. I think each of us probably is, to a considerable degree, the product of his own history . . . I rather believe that we ought to hold out the hope that by enlightened engagement we possibly can help others to see the light about ourselves. And I think that is more likely if we are open-minded enough to acknowledge at least the possibility that we may not have seen the whole truth about them I just don't think God makes bad people . . .

Q: But when you look at how the Soviet Communists behave, do you see any changes other than them telling you they have changed? I can't believe you would believe that they've changed simply because they tell you they've changed.

A: Oh, please understand. I'm not going on the basis of what someone has told me . . .

Q: But where have they changed in their actions?

A: In these things I have mentioned to you among others, in a willingness to acknowledge, for example, that they have massive problems and lag behind us in achievements. This is a marked change. For all of the years I have had any association or contact at all with people in officialdom of the Soviet Union—until just the last couple of years—in every conversation I ever had, Soviet officials attempted to convince me that they already had achieved the workers' paradise.

Q: But they never believed that and neither did you.

A: Please, let me tell you how the change has occurred. That's what you asked. They then were trying to convince us, and perhaps themselves, that they had achieved a perfection, that they had no unemployment, no problems not the result of our mistreatment of them and things that capitalists and imperialists had forced upon them. That was their official attitude. Now this has changed.

Q: Mr. Speaker, every example I have asked you for, that you think indicates change in the Soviet Union, you have given me words.

A: No, I have . . .

Q: Just words. Something somebody told you. Let me ask you this. When the Soviets invaded Afghanistan, and they continue to this day, and brutally raped this country, was that change? When they shot down Korean Airlines Flight 007 and murdered 61 Americans, was that change? When they murdered Maj. Arthur Nicholson, in cold blood, in East Germany, was that change? No, sir. That was all Soviet communism business-as-usual. I'm talking about actions. Where are the actions that show change?

A: You don't have to lecture me on that. Let me express to you that I am not defending the Soviet Union. I am not suggesting, by the faintest hint, that anybody you know or anybody I know would like to live there. I'm not suggesting that the Soviet Union is a democracy. I'm not saying those things. It is a repressive country. So don't put me in the position of defending something the Soviet Union does like invading Afghanistan. Of course, I am bitterly opposed to that.

Q: But where have the Soviets changed in their actions? I'm not talking about what some Soviet leader or official told you.

A: They have changed by encouraging an openness of mind among their youth. Apparently they have changed by permitting greater degrees of criticism of the government than they earlier permitted.

Q: Of the government?

A: Yes.

Q: Excuse me, (you mean) of some bureaucrats. I don't recall any criticism of Mr. Gorbachev being allowed. In fact, Mr. Yeltsin got canned, didn't he, because he criticized Mr. Gorbachev?

A: There are people in American administrations who are asked to resign, or whose resignations are accepted, when they disagree with the policies of the president, you know that as well as I do.

Q: (laughing) You're not suggesting, seriously, that we have no more freedom to criticize government officials than there is in the Soviet Union.

A: No. Oh no. Oh no. Of course I'm not suggesting that. What I am saying is that they have changed to the degree that they are a more open society than they were 10 years ago or five years ago or 15 years ago. You asked me to enumerate ways in which they have changed.

Q: In their actions, yes. Not in what they say.

A: Well, that's what I'm talking about is actions. They have changed . . .

Q: So words are actions? It's action when some Soviet official tells you they are doing something?

A: No, I'm telling you what is reported and recorded by objective observers, not by Soviet officials. It is objectively recognized that they have permitted plays, books, newspapers . . .

Q: (laughing) Even if they still invade countries and shoot down airliners, they at least still have a few more books available, huh?

A: Wait a minute. I don't say they've changed in every respect. They're not born again. I'm not suggesting that they have . . .

Q: Hey, don't look at me! I'm not the one arguing that they've been born again, OK? (laughing).

A: I'm suggesting to you that there is a difference and a shade of degree in change. One does not have to become a paragon of purity to have changed. . . . I quit smoking. Therefore, I have changed. But I am not a saint because I have quit smoking. I still do bad things. I have many bad habits. . . .

Q: And I'm suggesting that, maybe, one of your bad habits might be believing what Soviet officials tell you. Robert Conquest, who wrote the book about Stalin's purges ("The Great Terror") said that when cannibals learn to use utensils, this is not progress. And this is what I see the Soviets doing. Of course, their public relations are a little better, a little smoother. But, so what? This doesn't indicate, necessarily, any fundamental change.

I'll tell you what has changed: your attitude toward communism. On "Meet the Press" recently you said you didn't know if Daniel Ortega is a Communist. You said you hadn't asked him if he was because you don't know him that well. But why don't you know if Mr. Ortega is a Communist? Is this because you haven't done your homework? Or is this because you have and your research is simply inconclusive?

A: The research, in my judgment, is inconclusive. I have read a great many things written about him. I have listened to a great many people who have known him, including some who were U.S. observers assigned to assist during the Somoza regime. So far as I am concerned, the research is inconclusive.

I see him, probably, as a person who has matured and changed to a considerable extent in the brief years I have observed him. I first met Daniel Ortega and his brother Humberto Ortega in 1979. I went there at the request of President Carter and in the company of Arturo Cruz and Alphonso Robelo.

I went with a delegation from the Congress and we asked some very pointed questions. I don't believe that Daniel Ortega, at that time, had very much depth. He had passion, but very little understanding. I think there exists in Nicaragua a group of hard-core Communists . . .

Q: But Daniel Ortega is not among them?

A: Let me say that I believe that Tomas Borge and Bayardo Arce probably are committed Marxists. I think there are some on the other end of the spectrum, from their point of view, not conservatives from our point of view—but more moderate people such as the vice president of their country Sergio Ramirez and Jaime Wheelock, who are easier for me to talk to. Then, in the middle, I have the impression that there are a swing group like Mr. Ortega. Admittedly, there are some people in Nicaragua who don't . . .

Q: What does swing group mean?

A: A group that is somewhat in between the hard-core Marxist Communists who want a military solution, on the one hand . . .

Q: You don't put [Daniel] Ortega in that group?

A: I am inclined to think that he is between that group and the group that would like to have a detente with the United States.

Q: So [Ortega] is sort of a centrist or moderate?

A: Not by our standards. I think he is someone who, like a political leader often does, is trying to ride both horses and perform the act of bridging the chasm. I do this in my political group. Bob Michel [the House Republican leader] does it in his.

Q: (laughing) I'm laughing because I don't see you or Mr. Michel having much in common with Mr. Ortega.

A: The only difference is that Bob Michel is a Republican and I'm a Democrat and Mr. Ortega is a Sandinista. Now whether a Sandinista is, by definition, a Communist, I'm not sure. I believe a majority of the people in Central America are ready for peace. I believe that there is a possibility that these peace accords may work out and result in greater democratization of Nicaraguan society. I want to give that a chance. . . .

Q: Give peace a chance?! I think I heard that during the Vietnam War. And the "peace" that was given a chance resulted in the communization of Indochina, with millions of people killed. In fact, in the 1960s, when Lyndon Johnson was president, you attacked the demonstrators that took to the streets saying: Give peace a chance. You said that what they did was almost treason! [Note: In a speech to the Downtown Rotary Club of Fort Worth, On Oct. 27, 1967, Mr. Wright, asserting that the Vietnam War was being won, said this about those who waved Viet Cong flags and stormed the Pentagon: "If this is not 'treason,' it is so close to it as to be almost indistinguishable."]

A: I'm sorry, Mr. Lofton. You didn't let me complete the statements . . .

Q: I'm sorry. But I feel strongly about those who said give peace a chance in Indochina, the people you and I were together on, that were pro-communist and waved the Viet Cong flag. . . .

A: I know you do. And I appreciate that. I know. I realize that. Well. I regret very deeply that I have to be on the floor in five minutes. I regret even more deeply that I have not been really given an opportunity, I feel, to express to you, without argumentative interruptions, the way I, what I really see in Central America.

I think there is a group in Nicaragua which does not want the peace process to work, just as I believe there is a group in our administration that does not want the peace process to work. It wants a military victory. . . . I think it [a military victory over the Sandinistas] would provide grist for the mills of those who hate our country . . . I think it would reap for us a generation of resentment and bitterness. And I don't want to see that happen to our country.

Q: I don't either.

A: I think there is a chance that they can negotiate peace and democracy. And as long as that chance exists, I want to help it along.

Q: Mr. Speaker, I would remind you that the only people who achieved a military victory were the Sandinistas. And they are not going to give up at the bargaining table what they achieved on the battlefield. I don't understand why you think they will. Communists have never done that, have they? Where has a Communist ever given up, at the conference table, what he achieved on the battlefield?

A: Well, we've run out of time.

Q: OK. Thank you, sir.

□ 1215

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. BRENNAN). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I am impelled to rise on this occasion as I had planned since last week, though in the light of past and succeeding events in Central America I feel further impelled. For months, in fact years, going back to April 1, 1980, which was the first occasion that I addressed the subject matter of what we lump as this sort of mass known as Latin America; but in effect I was referring to one portion of Central America, the isthmus as well as El Salvador.

In the last 3 months, because Salvador has receded into the back recesses or precincts of the mind and memory of the American public, the newspapers and our leaders, presumably, I kept reminding my colleagues that the course of action undertaken by President Reagan and the administration has been worse than catastrophic. It has assured for years to come—and I pray to God that I am wrong—but certainly for a generation or so a residue of ill-will, even hatred in areas that, believe it or not, it has been of little content.

For example, Nicaragua, compared to any of the other Central American countries, the populace, as a whole, has been and I believe still continues to be very much well-intended and good-willed toward what they call Americans. The reason for that is that their associations, up until 1981 with America have been not the fact that the United States—it is hard to try to convey to my colleagues the perception of us in these areas. But let me put it this way: Suppose every utility in the Nation's Capital, suppose every financial institution in our Nation's Capital, suppose every single viable service institution such as telephone and such as transportation were British-owned, what would be our concept of Britain where it so permeated every day of our existence, particularly in the urban areas? And in the rural areas such as in areas in Honduras, the good reason we have been occupying Honduras militarily, and as I have said even though it has shocked some of my colleagues, is that we cannot point the moral finger to Russia for intervening in the country next to its borders for what, in the name of security, in Afghanistan, as long as we have occupied against the will of the people, certainly the representatives of the people of Honduras. The assembly has never once invited us. In fact, it has been the other way around, where the utterances of the leaders have been very hostile to not only the overwhelming American military presence but before that to the corporation known as United Fruit which for decades has literally owned and ran Honduras: housing, railroad, work opportunities in their plantations. All of those have been completely controlled by the American corporation formerly known as United Fruit, today it is part of Standard Brands, part of the giant conglomerate owned by the billionaire J. Peter Grace who is the one who has more influence on the molding and shaping of what turns out to be action on the part of the Reagan administration than anybody else, any single person. And of course, one can understand readily that if we are going to be influenced, overwhelmingly, as this administration has been, as no other in the history of our country, by the giant corporate ventures that completely control all of the input into the decisionmaking processes of this administration from the incept, like never before.

We have had administrations in the past that have had this happen but only partially. This is why a President like "Teddy" Roosevelt, the trust buster, Woodrow Wilson who picked up that cudgel when he became President in his first term, and the likes of these strong Presidents, were able to at least control. But from the very beginning of our Nation, as I have pointed out, that has been the basic issue, even before this form of government, that is the Constitution and its adoption, during the first 10 years of our national existence, the first and second Continental Congresses where the big issue, as reflected in the writings of everybody from Thomas Jefferson, particularly, to Madison, to what today could be called the conservative, Alexander Hamilton, all saying the issue is who is going to control the credit allocations of our country? Certainly the bankers, as in all times, in all climes, in all countries at all times in history are ready to take over. But it was Jefferson's inveighing against committing those resources, unrestrainedly, that led to the Continental Congress' chartering the Bank of North America but controlling them by subjecting interest rates to a limitation.

So that that is the underlying problem in our country, that is at the root of the malaise. The external effects in which we are seeing America's hegemony constantly under pressure and reduction, not matter what it is in the new world or Southeast Asia or the Middle East where we have stepped into the shoes of the two former colonists, Great Britain and France.

This is the perception that those areas have of us, the United States. We do not perceive ourselves that way, that is true, and the great mass of Americans have every reason not to perceive of themselves in that way. But if they were to be in privity with the thinking and the writing of the intelligentsia, of the representatives of those people, they would soon realize why. That is, our own self-image of America is not the image externally of America.

Now true, even though we live in an age of instantaneous electronic communication, there is less real man-to-man communication, believe it or not. And when we have a President who is completely of a mindset that is foreign and ignorant of the language, the culture, the tradition of not only this part of the world but almost every part of the world and whose mindset is on a past, a past reality—Latin America, if we want to use that lump phrase, is no more the same Latin America than it was the Latin America of even 5 years ago, 10 years ago. The pace of change is tremendous. The basic issue remains whether we, through our traditional American pragmatic and able leadership and flexibility of thought, not hamstrung with the first, with the blinders of ideology—and just before I took the floor we have a good example of how ideological rather than pragmatic, typical American inheritance has ruled the day since the advent of Ronald Reagan who is an ideologue himself and has filled every single department from the State Department to HUD with ideologues who must not have passed the test of experience and expertise, but whether their ideology meets the test.

So we just saw an example of that awhile ago. Why are we not concerned that the French Cabinet has two Marxist-Leninists in power? Nobody is thinking of invading them or trying to do away with the French Cabinet. Why is it that this same President and the former Secretary of Defense could go to China, which is an avowed Communist-Marxist-Leninist, super socialist, whatever you want to call them—and these terms are labels that defy definition from region to region, country to country, if anybody bothers to study the matter—why is it they could go to that country, toast cheek-by-jowl the Communist leaders of those countries where you have the worst kind of human repression anywhere in the world? Do you have freedom of press in China? Do you have freedom of speech in China? Do you not have political prisoners and torture in China?

Yet they made a deal with the Chinese whereby we gave them what we called help for their defense. And part of that transaction was giving them the right to use the license that the United States company developed and owned on the so-called Silkworm Missile which they have very readily let Vickers of Great Britain manufacture and then they sell to Iran, to everybody involved that has the price to pay.

Now that is the kind of missile that killed 37 of our sailors in the Persian Gulf. That is the kind of missile that the Secretary of Defense Weinberger said was the biggest threat, as he deployed our warships in those waters.

What irony or cruelty, what misbegotten contradications; how can any American, how can any of my colleagues tell me to my face after they have voted for the so-called Contra aid which was a continuation of illegal actions on our part, for it is a serious violation of international law, it is a serious violation of our own statutes, the so-called Neutrality Acts, to give aid of a nature that is going to cause destruction and loss of life in a friendly country.

Now we have an Ambassador and have had an Ambassador since 1981 under this administration, and before, since the Sandinista revolt, we have had an Ambassador in Managua. That means that to the world we are proclaiming that we recognize that government as the legitimate government and that we are at peace with them.

In the meanwhile, our Chief of State, the President, is actually subsidizing and asking for private and public help in order to do the very thing that our statutes prohibit and that all international law from time immemorial, almost, declares as violative of the basic comity between nations.

I think the time has come when now—certainly is General Noriega in Panama a Marxist-Leninist? Is he so much anti-United States because of Fidel Castro or the Russian Communists? Not even our harshest State Department critics say that.

Yet, have we lost Panama as they like to use that phrase, "lost" as if it ever was ours to begin with? These are sovereign independent nations with whom we have solemn treaties. This is what has impelled me to be critical of the President—no pleasure. But certainly it hurts one to see what was obviously in 1980—and mind you it was not Ronald Reagan that was President, it was President Jimmy Carter when I first opened my voice—because I could see the course which was imitative of the course of action that has been taken since 1945 and which has led us to such tragic loss of blood and treasure.

□ 1230

Now, Mr. Speaker, I am going to offer for the RECORD at this point an article which is the most insightful that I have seen before the Honduran uprisings of last week.

The article follows:

[From the New Yorker]

THE TALK OF THE TOWN

NOTES AND COMMENT

"Prez sends in airborne," the Post hurrahed. Footage of American soldiers parachuting through tropical skies suddenly filled the evening news. Where were these thirty-two hundred troops—two battalions of the Army's 82nd Airborne Division, two battalions of the Seventh Infantry—going with such fanfare? The question seemed, for the moment, unimportant beside the simple, exciting fact that they were going somewhere—making "a show of force." The White House spokesman Marlin Fitzwater emphasized "the symbolic value" of what was described officially as a ten-day "emergency deployment readiness exercise."

The four battalions landed in Honduras, of course—a detail that undoubtedly seemed more than incidental to the citizens of that country. The occasion for the American airlift was the incursion by Nicaraguan troops, fighting the weakened Contras, into a remote area of southern Honduras, but in a larger sense the occasion was provided by the long-standing unwholesome relationship between Honduras and the United States.

No country has ever fitted the stereotype of "Banana Republic" better than Honduras. Thinly populated, desperately poor, its sense of national identity weak even by Central American standards, Honduras has always lacked political and economic leadership. The manager of the United Fruit Company, which for many years, in partnership with the United States Embassy, completely dominated the country, once said, "In Honduras a mule costs more than a deputy." Partly because of its extreme underdevelopment, Honduras has not suffered civil wars like the ones that in recent years have torn apart its three immediate neighbors—Nicaragua, Guatemala, and El Salvador. But the strategic location of Honduras has not gone unremarked in Washington, and when the fledgling Reagan Administration decided that Central America would be the next great battleground against World Communism, military aid to Honduras was increased grotesquely. Over two fiscal years—1982 and 1983—twice as much military aid was allocated to Honduras as had been allocated to it in the preceding thirty-five years. (Economic aid was also increased, but after seven years, during which the United States Agency for International Development has become the primary economic-decision-making body in the country, Honduras remains the poorest nation in Central America, and the third poorest in the Western Hemisphere, after Haiti and Bolivia.) The main effects of the massive infusion of military aid have been a tightening of the military's grip on Honduras and enhancement of American control over the country's leaders.

There are forces that restrain and compete with American domination of Honduras, and a recent article in the Times offered a startling glimpse of some of them. Drug trafficking among senior Honduran Army officers is evidently widespread. The drug trade in Honduras is linked to the Colombian drug trade, which supplies most of the cocaine in the United States; and yet, according to two American officials, the American Embassy has opposed any vigorous efforts to investigate Honduran Army involvement in it, because the Army's support is essential to the American presence in the country. A senior Reagan Administration official told the Times that despite the hundreds of millions of dollars in aid going to Honduras "we can't compete with the kind of money the Colombian dealers are offering." The Colombians might even decide, according to the Times, to use their leverage on the Honduran Army to shut down the Americans' most cherished installation—the Contra bases. Why would the Colombians do such a thing? As a favor to a friend, Fidel Castro.

There is also plenty of popular sentiment against what some Hondurans call "the U.S. occupation," and against the military's role in Honduran political life. In the early nineteen-eighties, this discontent was addressed by a secret Honduran Army unit called Battalion 3-16, many of whose members had been trained in the United States. Between 1981 and 1984, Battalion 3-16 kidnapped, tortured, "disappeared," or murdered as many as a hundred and thirty people in Honduras—trade unionists, students, human-rights activists. Battalion 3-16's campaign of terror abated after a military coup in 1984 dispatched its leader, General Gustavo Alvarez Martinez, to Florida (where he became a highly paid "consultant" to the United States Department of Defense and an evangelist). Still, in January of this year, after the Inter-American Court of Human Rights began holding hearings on human-rights abuses in Honduras, a prominent activist and a military policeman who had agreed to testify were summarily murdered by death squads.

The list of American affronts to Honduran sovereignty is long—more than three thousand American troops were operating in the country even before this latest "exercise"—but none rank higher than the decision to base the Contras on Honduran soil. The Contra bases put Honduras in an impossible position. Officially, they didn't exist. Meanwhile, an endless train of American supply flights, politicians, and journalists was streaming into and out of jungle airstrips in a mysterious land somewhere east of Tegucigalpa. Since the signing of the Arias peace plan, the situation in Honduras has become even more untenable. The plan called for the termination of all outside support for rebel forces in Central America, but the Contra bases remained. The plan called for the resettlement of refugees, but there has been no effort to resettle the thousands of Honduran peasants who were forced off their land to make room for the bases. Among the five signers of the Arias peace plan, Hondurans has by far the worst record of compliance. And yet the diplomatic embarrassment caused by the Contra bases has been nothing compared with the real danger they have represented to Honduras: the possibility that they might drag Honduras into a war with Nicaragua.

That possibility seemed to recede with the signing, less than a week after the American airlift, of a ceasefire in Nicaragua. But the Administration's manifest unhappiness at the news of peace belied its display of "solidarity" with Honduras. Aiding the Contra cause both in Congress and in the field was plainly the airlift's real goal—along with, some cynics suggested, distracting public attention from the Iran-Contra indictments. Most of the official announcements, though, concerned the welfare of Honduras. In fact, at a White House meeting on the morning before the airlift began, President Reagan, according to the Washington Post, "indicated he did not wish Honduras to feel isolated. There seemed little danger of that.

Now here is Honduras. We have never had since 1981 much less than 10,000 of our soldiers in Honduras. We have poured in literally over a billion dollars, some of it for permanent construction, for military purposes.

In El Salvador, as I am talking right now, we are spending $1.5 million a day.

How many of you told me when I had the housing bill that you were not about to vote for $100 million for the homeless because, if it didn't come within the budget resolution, you could not find yourself doing it? But yet the majority has voted for these almost excessive funds, excessive in the amount of $100 million for the so-called Contras.

So, when I was asked by you, my colleagues, "Well, Henry, tell us where we can get the money," I will tell you where. We will get the money from Americans and from the Americans in distress, families who are homeless and who are refugees in our own front yard. I will tell you where to get the money. We can get it from underneath the same mattress that you are getting the money for the Contras. That is where. No problem.

But I go back to the fact that it takes a little editor in the first customary article in the New York magazine, of all places, for April 4, 1988, right at outset, the Talk of the Town article. In a short, brief, succinct commentary it has the most insightful discussion I have seen anywhere in and out of the Congress, in and out of political scientists, academia, anywhere.

I will conclude by saying, "How long?"

Oh, my colleagues, how long? How long, oh, President Reagan? Will you continue, as Shakespeare says, in your complacent complacency and arrogance? For it is quite true, as Shakespeare said, "When a nation does become complacent, cruel, and arrogant, the wise God sees your eyes, and they strut in their own folly and aerie to the applause of the audiences."

I say, "Oh, how long?" We still have a reservoir. I would still feel safer if I were to go to the middle of the slums in Managua than I ever would have in Panama where you always had a strong, enduring, pervasive, sustained animosity toward the United States. And it is strange that that is where we built the canal, or, for that matter, in some parts of Mexico, our next door neighbor, because in Nicaragua, mostly because of the missionaries, and the priests and the nuns who have died like martyrs of ancient years, Americans all. Where do I see any loud and sustained protest? Why? Because, through the most serious of aberrations—in fact they are worse than aberrations—our own intelligence agencies known as the CIA, longer than it has been cheek by jowl with the very assassins of archbishops, the five American nuns, the four Scandinavian reporters; can anybody truly say?

General Haig, when he was Secretary of State, callously dismissed their deaths by saying. "Well, sure I'm a Catholic, but those nuns had no business being around there." They are the ones that have done more good for our country and truly more good in the cause of anticommunism.

You know, after all, when I hear all of this ado about he is a Communist or he is not a Communist, I point out this double and triple standard of ours. Nobody is thinking of invading France because they have a couple of Marxist-Leninists in their cabinet. It is because we have a traditional outlook on people south of the border, and I say, "Cease and desist."

It is time for Congress to lead because, if the leaders, meaning the executive branch, will not lead, then the people must push, and the people are what we say we are attempting to represent.

Mr. Speaker, I yield back the balance of my time.

REQUEST FOR PERMISSION FOR SPEAKER TO EXTEND HIS REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN THE RECORD TODAY

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to extend his own remarks in the body of the Record and to include therein extraneous material after the colloquy with the gentleman from Illinois, Mr. Michel, the Republican leader.

The SPEAKER pro tempore (Mr. Brennan). Is there objection to the request of the gentleman from Texas?

Mr. GINGRICH. Mr. Speaker, reserving the right to object, has the gentleman from Illinois [Mr. Michel] approved submitting that material?

Mr. GONZALEZ. Mr. Speaker, I cannot tell the gentleman from Georgia. This is a request that has been made naturally by the Speaker of us.

Mr. GINGRICH. Mr. Speaker, if I might ask my good friend, the gentleman from Texas, to withdraw the unanimous-consent request until the office of the gentleman from Illinois [Mr. Michel] has had an opportunity to review the material, I will, of course, at that time, with the concurrence of the gentleman from Illinois, Mr. Michel, have no objection.

Mr. GONZALEZ. Mr. Speaker, I believe that the request of the gentleman from Georgia is unreasonable, and, therefore, I offer the request.

Mr. GINGRICH. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

THE CONGRESSIONAL DOUBLE STANDARD ON ETHICS, SECRECY, ELECTIONS, AND FREE SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. Gingrich] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, let me begin by saying to my colleagues that, should the Speaker's office check with Mr. Michel's office, I would be glad to yield at any point in my special order to accept the unanimous-consent request to put that material in the Record after the colloquy between Mr. Wright and Mr. Michel, but I think it is important and is in fact, a useful prelude to what I am going to talk about today to recognize that the Record should not be changed involving the colloquy without both Members being involved.

Mr. Speaker, my topic today is "The Congressional Double Standard on Ethics, Secrecy, Elections, and Free Speech."

Mr. Speaker, I have been watching developments for the last several years trying to understand why there is such a dramatic difference between the reaction of the news media, the reaction of the American people, the reaction of the political community to activities in the legislative branch and activities in the executive branch. There is a very strange imbalance in how we view executive and legislative branches as though someone who went to work in the executive branch was a different kind of person than someone who went to work in the legislative branch.

There is a fascinating gap between the rules for example, which say in the executive branch that for an entire year after you leave your job you cannot call back and talk to people in that job, whereas in the Capitol, having written the law and become an expert because it is a law you wrote, you can start lobbying the following day.

There is a remarkable difference between the executive branch rules for electing a President, which are quite strict, on how we finance it, how we report it, and the incredible steps in the opposite direction away from fairness in creating the invulnerable incumbent who guarantees that in 1986, 98.5 percent of all House Members who ran for reelection would be reelected.

There is a tremendous gap between the rules which say that no President can engage in a covert operation without telling the Legislature, but the Legislature can have covert communications with foreign governments and Communist dictatorships without telling the Executive.

And finally the rules of the House, rules which legitimately in a legislative body are designed to ensure comity among Members, make it difficult to even talk about some of the problems we face, make it difficult to recognize that while the spirit of Lyndon Johnson may have been driven out of the executive branch, the spirit of Lyndon Johnson lives in the modern House of Representatives in the house of Speaker JIM WRIGHT.

□ 1240

Consider, as I said, the differences in ethics and secrecy in elections and free speech, between how we deal with the executive branch and how we deal with the legislative branch. Why has there been such a radical difference in our attitude toward the executive and legislative branches?

As a historian, it is obvious that the problems of Vietnam and Watergate which are the two great watersheds that informed our generation about power in Washington, both occurred largely in the executive branch. The difficulties were focused on in the executive branch. It was Lyndon Johnson's war. It was Richard Nixon's Watergate, and so people could focus on the legislative branch toward exposing, toward attacking, toward being on the offensive against the executive branch. The result was a natural alliance between the news media and the legislative branch. It was congressional hearings, congressional investigations, congressional leaks, which created for reporters the opportunities to become famous, the opportunities to develop news stories, the opportunities to have the kind of friendships that led to Pulitzer Prizes.

There was a natural symbiotic relationship between the legislative branch attacking and exposing extremes of abuses of power in the executive branch and the news media.

At the same time, legislative spokesmen, politicians from the Legislature, became more famous by taking on the executive branch. During the course of Vietnam and Watergate, new rules began to emerge in American politics and government.

I have been active as a volunteer in the sixties and early seventies and when I first ran for Congress in early 1974, I was defeated, but I lived through the transition in terms of filling out forms, filling out papers, explaining where money came from; a good transition toward a healthier future, recognizing that it is important to throw the spotlight on power, that it is important as we have a larger Federal Government and have more rules to protect ourselves from that government.

On balance, the new rules which grew out of Vietnam and Watergate and which apply to the executive branch are good. They limit power in the executive branch in healthy ways; more openness, more accountability, more honesty, more curbs on power and more restrictions on potential corruption; yet today we have in Washington a lopsided national capital in which the new rules apply to the executive branch, but are not only ignored, indeed often things have gotten worse in the last 20 years in the legislative branch.

Let me suggest that any 1964 reporter or politican who came back to Washington today would be amazed at the changes in the executive branch. The changes start with Sam Donaldson and the White House press corps. Anyone familiar with John F. Kennedy or Lyndon Johnson, familiar with, for example, Kennedy's cancellation of the New York Herald Tribune because he did not like an editorial, familiar with the way in which the press corps was routinely manipulated in the sixties, would be stunned at the rise of Sam Donaldson and the confrontational White House press corps. They would be amazed at the degree to which executive branch ethics have changed, that the behaviors which made Lyndon Johnson a rich man would today have made him a convicted felon, that people would have been required again and again to explain, to expose, to be investigated by independent investigators.

Furthermore, those who grew up in the sixties on James Bond, on covert action, on spies, on Presidents who called randomly at night and said, "Your country needs you," would be stunned at the restrictions which are now imposed on the CIA, on the notion that at the Central Intelligence Agency in the Central American Division there is a lawyer who tells them what they can and cannot do, that in fact one of the lessons of Ollie North is that when the President of the United States asks you to do something, you had better make sure you do it exactly according to the letter of the law and you had better consult your attorney before you say yes.

Those who grew up in the world of Harry Truman and Dwight Eisenhower and John F. Kennedy and Lyndon Johnson would be stunned at the restrictions on the Federal Bureau of Investigation on the degree to which we have now locked the executive branch into very narrow rules.

In terms of elections, those who lived in the days of stealing Illinois and Texas in 1960 and the days of the dirty tricks of the 1964 campaign, and in the process of raising money for the 1972 campaign, would recognize a dramatic change in election financing at the Presidential level, would recognize that a Jesse Jackson, a Pete DuPont, and JACK KEMP, would have been unthinkable in an earlier day, but today has access to the system as a process of openness and competing which simply was not conceivable prior to the reforms that emerged from Vietnam and Watergate; yet in the legislative branch that reporter or politician who came back from 1964 would not only recognize many things, they would recognize that some had gotten considerably worse.

Legislative secrecy, for example, in foreign policy, would never have occurred to Speaker Sam Rayburn, that he could hold secret meetings with a Communist dictator and not tell his own government what he was doing. It would never have occurred to the politicians of that generation that foreign policy could now have in effect two Secretaries of State, one sitting in the legislative branch, the other sitting in the executive branch.

It would never have occurred to that generation of legislative leaders that the legislative powers across the waters could grow so great that routinely politicians in the House could call Communists and other governments and say to them, "Tell me what you are doing? Tell me what is happening. Tell me how you think things are going." And that none of that would be accountable to the executive branch.

It would also have stunned those who had grown up in the forties, fifties, and sixities in politics, to see the modern, invulnerable incumbent, created by the House of Representatives after the 1974 elections.

In 1946, there was a tremendous shift in number of Members in the Republican and Democratic Parties.

In 1948, there was a 75-seat shift. In 1952, there was a shift. In 1954, 1958, and 1962. Those shift are now inconceivable.

According to an article by Warren Weaver in the New York Times, in the last election in 1986 only 1.5 percent of all incumbents who ran for reelection were defeated.

The House of Representatives, the branch of Government which the Founding Fathers intended to be the closest to the people to have elections every 2 years so the people could decide who to hire and fire, so that the people's will could be made known, the House of Representatives is now the most invulnerable to challenge, and House Members are now the safest of all Federal politicians, a result directly from the 1975 and 1976 grab of power by the Democratic Party in the House and a result which fundamentally changes power in Washington, DC, and a change away from the reforms of Vietnam and Watergate.

Finally, the very problems of a House of Representatives increasingly out of touch with the people, of a House of Representatives increasingly insulated from public opinion, of a House of Representatives which uses the taxpayers' money to insure its own reelection, those problems lead to difficulties which we cannot talk about candidly on the floor of the House because it violates the rules of comity, because to describe accurately to the House what the press is saying, to describe accurately to the House what our concerns are, would violate the rules of the House. So in some ways we are trapped in trying to clean ourselves up.

The kind of accusations against an Attorney General or a President, the kind of accusations against the Secretary of Labor or the head of an Environmental Protection Agency, the kind of accusations which are routinely and easily made in the legislative branch on the floor against the executive branch, are the very rules of the legislative branch, those kind of statements cannot be made about itself.

So there is an imbalance of debate, totally free speech in the attacking of the executive branch, but great limits on speech in discussing the legislative branch.

There are five reasons things have gotten worse in the legislative branch over the last 20 years, five reasons that the legislative branch has not received the reforms which are necessary if one is to have the kind of honesty, openness, and accountability, which we are coming to expect in the executive branch as a result of the lessons of Vietnam and Watergate. The five stated quickly, are first, that one party has had a monopoly since 1954 in the House.

Second, that the reporters on Capitol Hill tend to be less aggressive and less willing to establish an adversarial relationship than the White House press corps.

Third, that the executive branch is increasingly intimidated by the congressional machine which dominates Capitol Hill.

Fourth, that the left simply fights harder, attacks harder and is more willing to take risks than the conservatives in America.

And fifth, that the House Republican Party as an institution is in some way schizophrenic, that it has two different obligations; one to legislate, which requires its cooperation with the democratic majority, the other to communicate to the country what that democratic majority is like, and that very often the House Republican Party is uncertain about which role to play, and as a consequence there is no institutional commitment to clean up, to change, to expose and to reform the legislative branch, comparable to the commitments which occurred in both Vietnam and Watergate.

Let me start first with the simple reality that the Democratic Party has had a monopoly since 1954 in the House. Lord Acton warned us that power tends to corrupt, and absolute power corrupts absolutely.

The Founding Fathers never intended any one group of people, any one faction to have power for 34 years.

The Founding Fathers would have, I think, have prophesied and expected that any group that had power for 34 years without challenge would in fact protect itself, would strengthen itself, would insure that in its hands more and more power was presented.

And the Founding Fathers were frankly quite clear about who would dominate it if power were put in the hands of the legislative branch much too strongly. If you look, for example, at the Federalist Papers, which are probably the clearest statement by the Founding Fathers of their concerns and their beliefs, and you look at page 403 in an essay No. 66 of the Federalist Papers by Hamilton, he says that on the credit of historical examples as from the reason of the thing, that the most popular branch of every government partaking of the Republican genius, by being generally the favorite of the people, will be as generally a full match, if not an overmatch, for every other member of the government.

What he means by that is that when you have a branch that has 435 Members, it dominates the other body which has 100. It dominates the White House which elects one.

In fact, I would suggest that it is fairly clear if you look year in and year out at the fact that 49 States can vote for Ronald Reagan, but Capitol Hill remains in the hands of the left, and the fact that if you are in an executive branch job and you have to come up and visit an Appropriations Subcommittee, an Oversight Subcommittee, if you have to deal with congressional staff day after day, that there is no question that on any given day the legislative branch has far more power over the executive branch than in fact does the President of the United States, that the man who carried 49 States is far less important in terms of the daily activity of most Federal Government workers than the man who is chairman of the subcommittee or chairman of a full committee in the House of Representatives, or the senior staff people who run those committees.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Texas.

PERMISSION FOR SPEAKER TO EXTEND HIS REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN THE RECORD TODAY

Mr. FROST. Mr. Speaker, I ask unanimous consent that the Speaker be given permission to revise and extend his remarks immediately following the colloquy with the minority leader, the gentleman from Illinois [Mr. MICHEL].

The SPEAKER pro tempore (Mr. BRENNAN). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GINGRICH. Mr. Speaker, I thank my colleague.

If I might quote similarly from Mr. Madison in the Federalist Papers, page 358, he says:

> Notwithstanding the equal authority which will subsist between the two Houses in all legislative subjects, except the originating of money bills, it cannot be doubted that the House, composed of the greater number of Members, when supported by the more powerful states and speaking the known and determined sense of a majority of the people, will have no small advantage in a question depending on the comparative firmness of the two Houses.

In other words, in a conflict between the House and the Senate, it was the belief of the Founding Fathers that quite consistently it was the House which will be dominant.

Now, why is that important? It is important because when you look at a House of Representatives which increasingly distances itself from the public, which insures the election of its own Members by taking taxpayers' money and allowing them to spend on staffs, on offices, and on direct mail, that insures that virtually no incumbent will be defeated, that that House grabs into its 435 hands of its elected Members the thousands of hands of its professional staff an ability to dominate and bully the executive branch which is not yet recognized, but which is central to understanding how the country can vote for a conservative President and yet get a consistently liberal government in Washington, DC.

This tendency of the legislative branch to dominate is made even more powerful, if I might quote again from the Federalist Papers of Hamilton in No. 22 on page 148, by the fact that if you then centralize power into a few hands, into the Speaker, the chairman of the Rules Committee, the chairman of the Appropriations Committee, then you have extraordinary power.

□ 1255

Hamilton warned:

> The public business must in some way or other go forward. If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority in order that something may be done must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings. Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good. And yet, in such a system it is even happy when such compromises can take place: for upon some occasions things will not admit of accommodation; and then the measures of government must be injuriously suspended, or fatally defeated. It is often by the impracticability of obtaining the concurrence of the necessary number of votes kept in a state of inaction. Its situation must always savor of weakness, sometimes border upon anarchy.
>
> It is not difficult to discover that a principle of this kind gives greater scope to foreign corruption, as well as to domestic faction, than that which permits the sense of the majority to decide; though the contrary of this has been presumed. The mistake has proceeded from not attending with due care to the mischiefs that may be occasioned by obstructing the progress of government at certain critical seasons. When the concurrence of a large number is required by the Constitution to the doing of any national act, we are apt to rest satisfied that all is safe, because nothing improper will be likely *to be done*; but we forget how much good may be prevented, and how much ill may be produced, by the power of hindering that which is necessary from being done, and of keeping affairs in the same unfavorable posture in which they may happen to stand at particular periods.

The point which Hamilton is making is that when a handful of Members can block the Government, and I would suggest continuing resolutions are probably the best example of this, when the chairman of the Committee on Appropriations and three or four of his senior staff, when the Speaker and the chairman of the Committee on Rules, when three or four or five Members can sit in a room and say, "No, the Government will not continue unless we get what we want," then Hamilton was warning that great damage could be done.

Let me suggest to my colleagues that if they examine the various and sundry weaknesses of the continuing resolution that we passed in December, and look at all the little things that were discovered after that 1,300-page bill was passed, they would begin to understand why in fact Hamilton warned against allowing power to be centralized. If my colleagues look secondly at the parallel growth of a cheerful secret negotiation process by which foreign governments are often talked with in secret by Members of the House leadership, you will appreciate better why Hamilton warned about the dangers of foreign corruption, a theme which occurs again and again in the Federalist Papers because the Founding Fathers had experienced it and were aware of it. That is why anyone who is concerned about one party having a monopoly of power for 34 years, anyone concerned about the way in which power has been centralized in recent years, about the way in which there are more and more secrets and more and more secret legislation, can appreciate the dangers in the article in Congressional Quarterly for example of May 23, 1987, entitled "Few Complaints Are Voiced as Doors Close on Capitol Hill" which says, "Many subcommittees of the House Appropriations Committee likewise meet in private to draft each year's spending bills."

The article, which I will not go into in detail but is worth every Member reading, talks about the fact first that more and more powerful decisions by powerful committees are being made in closed-door meetings, that those meetings are closed deliberately to keep the lobbyists and citizens from knowing what is going on. The article is in fact so candid in quoting some Members who I do not want to quote by name without their being present, as admitting the purpose of closed-door meetings is to hide, and to then go out in public and pretend they did something that they did not do, that in effect misinforming and deceiving the lobbyists is a major function of closed-door meetings. I would suggest that almost every citizen should read the article from Congressional Quarterly, and a parallel article from the Washington Times of July 6, 1987, entitled "Some Find Best Legislation Is Written in Closed-Door Sessions." Both of these articles suggest that we are now in a situation in which legislation is best written in secret so that the public, the lobbyists, the people who care about it, don't know what is happening or who did it.

For those people who are this week filling out their tax bills and wonder how it could have been such a mess let me suggest that the Committee on Ways and Means decision to close its doors, and to write it in secret, was not possibly as helpful as it could have been, that the fact that the tax bill was largely written behind closed doors is part of the problem. As the article says, "The tax bill went through the Ways and Means, the Finance Committee, and conference in closed sessions."

This was the most important tax bill of modern times and it was written in secret. Most tax bills are written in secret. I would suggest that that is part of the danger of having secret appropriations, secret tax bills which come to the floor as a huge package, and we are told to vote yes or no. We just do not have time to read it. In the case of the appropriations bill which spent $700 billion the House had 3 hours.

There is a second problem which is alluded to in the Congressional Quarterly article and that is that Capitol Hill reporters tend to become captives of the system.

There is a Stockholm syndrome we learn in studying terrorists in which the kidnaped begin to like the terrorist. After a while they identify with the people who control their lives. Let me suggest that is a very real problem on Capitol Hill. The article in Congressional Quarterly on secret meetings had a section entitled "Few Objections From Press; Reporters Rarely Object to Closed-Door Committee Meetings." The article says, "That surprises Chiles, who served in the Florida Legislature where reporters used to have to be forced from a room."

It goes on to say, "they could care less," of Capitol Hill reporters. "A lot of them just work through their sources and feel like open meetings just open it up so everybody has the same shot at the information."

The concept of sources is very important and is the opposite of the way the White House works. The White House press corps thrives and becomes famous by baiting the President. The Capitol Hill press corps thrives and becomes far less famous by not baiting those who would, frankly, use their power to close them out. The result is there is far less investigative reporting on Capitol Hill, far less aggressive effort on Capitol Hill and the reporters are far more intimidated by those who would punish them by cutting off their sources if they were to raise too much complaint.

Third, the national opponents might be the executive branch. The executive branch has seen its turf stepped upon, it has seen the Congress increasingly push it around and yet the Founding Fathers warned that anytime there was adequate control in the legislative branch it would be stronger than the executive branch. The Founding Fathers were quite clear in their own minds that we would end up in a situation in which the House would dominate and in which the legislative branch would be far stronger and much more capable of doing what it wanted than would the executive branch.

Let me cite in particular two essays by Hamilton, and Hamilton in No. 73 at page 442 said:

> The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments has been already more than once suggested. The insufficiency of a mere parchment delineation of the boundaries of each has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defense has been in-

> ferred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the executive upon the acts of the legislative branches. Without the one or the other, the former would be absolutely unable to defend himself against the depredations of the latter. He might gradually be stripped of his authorities by successive resolutions or annihilated by a single vote. And in the one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands.

Let me quote one sentence which every Reagan appointee and every conservative columnist and reporter in America and every conservative politician should read from page 442:

> He might gradually be stripped of his authorities by successive resolutions.

Is that not precisely the Boland amendment process in foreign affairs? Is it not the steady encroachment of the legislative branch and the House in particular on foreign policy precisely what Hamilton warned against, and is it not exactly what the Reagan administration has tolerated? Why did it tolerate it? It tolerated it because on balance the legislative branch when controlled by the same party for 34 years is more powerful because the legislators have the power to punish the FBI, they have the power to punish the CIA, they have the power to punish again and again petty punishments, such as the DIA loses two airplanes because we are told it will not fly the girl friend of a Congressman on the airplane. So the appropriations subcommittee takes out two airplanes to punish them. We are told again and again in case-by-case, line-by-line examples that the Secretary of Defense, the head of the Central Intelligence Agency, the head of the Federal Bureau of Investigation, the Secretary of the Treasury can lose resources, can lose control over their Department if the legislative branch dominated in the House for 34 years by the Democrats wants them to.

Is this something mythical? Let me read from Hamilton's 71, page 433:

> The tendency of the legislative authority to absorb every other has been fully displayed and illustrated by examples in some preceding numbers. In governments purely republican, this tendency is almost irresistible. The representatives of the people, in a popular assembly, seem sometimes to fancy that they are the people themselves, and betray strong symptoms of impatience and disgust at the least sign of opposition from any other quarter; as if the exercise of its rights, by either the executive or judiciary, were a breach of their privilege and an outrage to their dignity. They often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the government to maintain the balance of the Constitution.

Did not Alexander Hamilton in this paragraph clearly tell us in 1988 what we are living through in America, that an imperial Congress with an imperial Speaker passes imperial legislation and takes from the executive branch powers which under the Constitution belong to the President, and gets involved in foreign policy in ways which are destructive of the Nation? So by allowing the reform of Vietnam and Watergate only to focus on the executive branch by having a House of Representatives which has taken power away from the people, by guaranteeing its own reelection and which has taken power away from the executive branch by passing hundreds of resolutions, hundreds of amendments, by passing appropriations bills written in small groups in secret meetings it is in fact precisely the centering of power on Capitol Hill which the Founding Fathers warned against and which in particular they were concerned would have a devastating effect.

Let me quote again from the Founding Fathers in the case James Madison No. 48, page 310 and 311, who quotes Thomas Jefferson and what Thomas Jefferson is warning about. This is a quote from the notes on the State of Virginia. What Jefferson is warning about in this quote is precisely what the legislative branch arrogates to itself power over time and the legislative comes to dominate the executive branch.

> All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and the executive members were left dependent on the legislative for their subsistance in office, and some of them for their continuance in it. If, therefore, the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can be effectual; because in that case they may put their proceedings into the form of acts of Assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy, and the direction of the executive, during the whole time of their session, is becoming habitual and familiar.

That is Thomas Jefferson writing in the notes on the State of Virginia quoted by James Madison in the Federalist Papers.

What does it refer to? It refers precisely to the Continuing Resolution in December of 1987 of trying to kill two newspapers in Boston and New York in order to punish Rupert Murdoch because he doesn't like some liberal Democrats.

□ 1310

Putting that amendment in at 3 o'clock in the morning in a subcommittee meeting which no one knew about, when we passed it on the floor, and no one knew about it, when the President signed it is precisely what Thomas Jefferson meant when he talked about an elective despotism.

What right has the Congress to punish a man and take away his newspapers simply because the Congress does not like it? I will come back in a minute to the way in which despots, as they grow used to having their power, as they protect themselves from the public, try to censor the press, until the most recent and shocking example in this House of a deliberate effort to censor the press.

The executive branch is afraid. The executive branch is unwilling to enage the legislature. The executive branch backs off. The truth is the Reagan administration has been consistently reluctant to take on the encroachments on its power and to take on the encroachments by the power of the legislature, which would have enraged John F. Kennedy, Lyndon Johnson and would have outraged Harry Truman and Franklin Roosevelt.

The timidity of the executive branch has allowed the House to dominate in ways which have been destructive to the United States.

There is a fourth factor, and that is the left simply fights harder and attacks harder. This was captured I think, by Norman Podnoretz, a man who was once to the left who has recognized that if America is to survive we need to have a firm anti-Communist policy. He wrote a column, "The Anti-Bork Campaign: It's Total War." He says as follows:

> There is something to be learned from the debate over Robert Bork, but it has little to do with the Supreme Court or the Constitution or even with Bork himself. On each of these subjects the debate has created more confusion, not less. On the other hand, two crucial truths about the current political situation in America have been given a kind of high-resolution clarity they did not possess before. The first is that a war is going on in this country. The second is that until a few days ago only one side—the side opposing Bork—seemed to know it.

Podnoretz goes on to say:

> Why did it take so long for the conservatives to recognize the true nature of the struggle they were in? Surprising as it may seem, the main reason was sheer naivete.

He goes on to say:

> The conservatives knew, of course, that the special interests would set up this and knew that the left wing of the Democratic Party would go all out against Bork. But they could not believe that anyone else would wish to line up against so brilliantly a qualified and so morally a spotless nominee, and, in particular, they did not anticipate that so many lawyers and law professors would find rationalizations for denying a seat on the Supreme Court to one of their own intellectual stars.
>
> Indeed, for all the endless complaining by conservatives about liberal domination of the media and the universities, including the law schools, they did not fully realize just how far this process of politicization has gone. And they could not take it in that literal opinion still regards their ideas not as respectable points of view to be debated but as an evil to be wiped out.

He concludes with this:

> For now, conservatives will have to figure out new ways of responding to the lesson of the Bork nomination which is that the war against them and their ideas has heated up again and that it is being conducted as nothing less than a war to the death.

Let me suggest that the ferocity and the savagery of the left, whether it is smearing Judge Bork or whether it is smearing the executive branch, and ignoring the House that has the passion on the left and that willingness to fight all out, which has been a major factor in focusing on the executive branch, because it is in the executive branch, in the election of the President, that the American people have spoken so clearly, and in the election of the President, for 20 years, while the left has increasingly dominated the House, the left has lost nationally; in 1968, only 43 percent of the American people voted for the leftwing candidate. In 1972, only 38 percent voted for the leftwing candidate, and in 1976, there was no leftwing candidate, because Jimmy Carter had defeated the left in the Democratic Party, running as a centrist. In 1980, only 41 percent of the American people voted for the leftwing candidate. In 1984 only 41 percent of the American people voted for the leftwing candidate.

For over 20 years, the left has been defeated in attempting to control the executive branch, but it has increasingly controlled the legislative branch, and it has assured its own control in 1975 and after bypassing a series of laws that gave incumbents so much money and so much power that they are virtually impossible to defeat. The left controls the House and ignores whatever ethics problems exist in the House. The left controls the House and ignores whatever encroachment of power, and the left controls the House and ignores the secrecy in foreign policy in the House, but savages the executive branch at every occasion in this House, attacks and, indeed, smears those who accept appointment in the executive branch.

Finally, the fifth problem is the House Republican Party as an institution is torn by the legitimate schizophrenia. Is it the job of the Republican Party to cooperate with the majority and to pass whatever legislation or whatever, and how can it be open and candid about the problems of ethics, problems of election laws, the problems of secrecy? Is it the job of the Republican Party to go into the secret meetings to help write laws to strengthen the hand of the left in the legislature to become part of the law of the land, or is it the job of the Republican Party to get the best deal for the White House and serve as the legislative agent for the White House, or, finally, is it the job of the House Republican Party to represent that majority of center left/center right sentiment which has repudiated the left? Do the 60 percent of the American people, the 49 States, that voted against the left in the Presidency deserve active, vigorous support in the Congress? Do they deserve an institutional commitment to honesty in the House? Do they deserve an institutional commitment to election reform, to reforming secrecy in the Appropriations Committee and the Ways and Means Committee? Do they deserve a commitment to speaking for the millions of Americans who want non-leftwing values to have power in the legislature?

This division, legitimate division, legitimate confusion, has made it impossible for the House Republican Party to be effective in exposing and pursuing the problems of power when held by one side, and yet those problems of power are enormous, and they are growing worse.

The longer the Democratic Party controls the House, the further out of touch it gets with the American people; the more used it gets to being in power.

Remember what the Federalist Papers warned, that people who are elected to power come to think that they are the power itself. The people who have been elected by the people come to believe that they are the people, and as a result, the arrogance of power grows year by year, and now we have 34 years of that growth, and if you look at that Continuing Resolution in December, I would suggest that there is not a Member of this House who could with a straight face defend all of the various amendments which were snuck in late at night and which displayed legislative power over the Executive in real terms, cutting out funds for the Coast Guard, $100 million, which was not cut out by Ronald Reagan. It was cut out by the House of Representatives. They cut out two airplanes for the Defense Intelligence Agency to punish it for not flying the girl friend of a Member of Congress, and putting in $8 million for a religious school in France on behalf of a man who happened to be a contributor to a Member who voted that in, and, again, specific actions which could never have been defended, would never have passed on the floor, but could be written in secret, and secrecy as dangerous.

It is dangerous, because as the Founding Fathers warned in the long run, it exposes us to corruption, and secrecy is particularly dangerous when it involves foreign powers.

The Federalist Papers, again, on page 412 to 413, Hamilton, No. 68:

> Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of Republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils.

Now, think about that. The Founding Fathers were frightened. Indeed, if you read the Federalist Papers, they are almost terrified that foreign governments will bribe and corrupt members of the government. They are in particular frightened that foreign powers will have undue influence on members of the legislature. Let me suggest that there are grave temptations involved in having secret meetings with foreign powers, secret meetings with foreign dictators, that a man who has power in the American Government should not meet in secret with a Communist dictator or without letting the American Government know what happened in that meeting.

That power can become personal.

Again, Hamilton, No. 75, page 451:

> But a man raised from the station of a private citizen to the rank of Chief Magistrate, possessed of but a moderate or slender fortune, and looking forward to a period not very remote when he may probably be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the interests of the state to the acquisition of wealth. An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents. The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced * * *.

What is he saying? He is saying that no man, neither the President nor the Speaker, no man should have the power in secret to deal in foreign powers, to deal in a way which no one else knows about. And now, notice again the lesson of Watergate, the lesson of Vietnam, which has been applied to the executive branch. The President can no longer have a covert operation without telling the Congress, but covert communications between Communist dictators and the Congress, that is different.

Powerful Congressmen today believe they have the right to speak in secret with Communist dictators, and then to decide legislative questions in a way which may well have been influenced by that conversation and not to report it to the U.S. Government.

Let me suggest that the Founding Fathers, the lessons, if you will, of this period, all relate to this danger, that corruption comes from power; power unchecked is always dangerous; that humans always have vulnerabilities, and that there is a danger of foreign powers deliberately corrupting the Government of the United States.

Hamilton understood it. Madison understood it. Jay understood it. Let me suggest that the Continuing Resolution of December 1987, and the recent efforts to kill a newspaper in Boston and a newspaper in New York, and the more recent example of an effort to censor a magazine all are examples that we need to be aware and concerned.

Let me close then by showing our one example of the radical difference between the rules we now apply to the executive branch, good rules, rules of reform, rules of openness, rules of stopping secrecy, rules which I believe in, and I think on balance that made America healthier, and the way in which the game is played in the legislative branch where the spirit of Lyndon Johnson lives on.

Imagine as a theory that the President of the United States has sent his Chief of Staff and a private attorney who was a powerful lobbyist to New York City to tell a magazine that it must censor a critical article or the President would file suit. Page 1 of every newspaper lead, on the evening news, "President attempts to censor magazine." No one would stand for it. We all know that is ridiculous.

When John F. Kennedy canceled the Herald Tribune, it was a major issue that he had canceled the subscription, but the idea that the President could attempt to blackmail a newspaper into not publishing something or blackmail a magazine by threatening a libel suit would be inconceivable. Yet last week the Wall Street Journal and the Washington Post reported that the Speaker of the House had apparently sent a famous lobbyist attorney and the chief of staff of the Speaker to New York City.

There are a series of questions that must be answered about a remarkable effort to censor a national magazine, the Bankers Monthly.

First, when the Speaker's chief of staff went to New York, was he on business paid for by the House? If yes, does this mean that Members of the House can send their lawyer around the country and censor a magazine that is about to print an article which is critical of them?

There are conflicting accounts of what apparently happened in the effort to censor the magazine. The Washington Post reports that the author of the article, William M. Adler, said in a telephone interview that Strauss had initially threatened to sue the magazine for libel if it published the second installment. Strauss could not be reached for comment, but Lynam, disputed that account. Mr. Strauss did not go up to threaten them, Lynam said; he went up there to point out factual errors and to get them to take positive steps to remedy it. However, the Wall Street Journal quotes Mr. Strauss, "I told them they shouldn't run the thing. I told them we might well sue."

The letter from the publisher's attorney clearly saw Mr. Strauss in a lawyer-client relationship with the Speaker. According to the Wall Street Journal,

> After the meeting, Mr. Cross yanked the article from the April magazine, which required him to discard some pages already printed and to substitute another article. His attorney sent Mr. Strauss a letter saying this entailed considerable expense, but was being done "to afford your client an opportunity to have his response to the article published at the same time."

Is the Speaker's chief of staff claim that there was no threat factual? Or are Mr. Adler and Mr. Strauss accurate in saying there was a threat to sue? What exactly did the Speaker's two agents do in New York to get a magazine to go to considerable expense and apparently to tear up already printed pages as the Wall Street Journal reported?

This House and the country deserve a clear, accurate statement of what really happened.

□ 1325

Third, Mr. Strauss apparently went to New York as an attorney for a client. While in New York he threatened a lawsuit by his own account in the Wall Street Journal, if the magazine published the article.

Did the House pay for his trip? If not, did he in effect make a gift to the Speaker of his trip and professional services? Does that constitute the acceptance of the gift in excess of the $100 limit? Is it appropriate and ethical for a major lobbyist to give a gift of travel and legal services to a Member of Congress let alone the Speaker of the House?

Fourth, according to the Washington Post, the Speaker's chief of staff said, "A decision was made to intervene with Bankers Monthly after the first installment came to his attention."

Who made the decision to intervene? Who decided to draw Mr. Strauss into the effort to censor Bankers Monthly? Was it presented to Mr. Strauss as an official act of the Speaker's office?

Fifth, according to the Wall Street Journal, Mr. Strauss said he had not decided whether he would charge Mr. WRIGHT a fee. He said he would have to consider whether House rules permitted him to give free legal help and whether he was acting as a lawyer or as a friend and adviser.

Can an act be changed retroactively to fit the rules? Did not the phone calls and the letter setting up the meeting indicate clearly that Mr. Strauss and Mr. Lynam were actually conducting business or they were not? Finally, should not all the correspondence relating to this trip and this effort to censor Bankers Monthly be released so House Members can determine which rules apply?

Let me make clear why I am raising these issues. We have seen an effort in this country in the last couple of months to kill two newspapers by Members of the Congress. Now this is an act of deliberate vengence against Rupert Murdoch and the Boston Herald and the New York Post on the part of left wing Democrats who did not like their editorial policy.

We are seeing now a press person paid by the Speaker's office who according to newspaper reports has been writing threatening letters to various magazines and newspapers. We now have the example, according to two major national newspapers, of the chief of staff of the Speaker of the House and a famous attorney-lobbyist flying to New York to threaten to sue a magazine unless it censored itself.

Now how far do we have to go in having a House of Representatives in which you cannot defeat the incumbent because federally taxpaid moneys pays for their reelection. You cannot hold them accountable because they meet in secret. You cannot count on the executive branch because it is increasingly frightened of the sheer power of the left on the Appropriations Committee and the other committees. And now you have an example of the second most powerful elected figure in the United States, the Speaker of the House, the man who is third in line to be President, sending off his chief of staff and a famous lobbyist-attorney to censor and browbeat and threaten to sue a magazine because they are printing an article critical of him.

Every Member of this House bears equal responsibility if we permit the Speaker and his staff to bully and censor magazines and newspapers.

Every reporter on this Hill has an obligation to their profession to engage directly and actively in ensuring that the country understands what is going on.

There is something, I think, explicitly totally wrong about this procedure.

I think the Speaker owes all of us an explanation. I think that these questions require an answer and I think that the fact that the country is not outraged yet is one more sign of the gap between the rules we now apply to the White House and the failure to reform Capitol Hill. The difference between what we expect in terms of the executive branch and what we tolerate in terms of the legislative branch. And I think it is time for our generation to apply the same standards of honesty, the same standards of fair elections, the same standards of accountability, the same standards of openness to the Congress that we now apply to the White House.

I yield to the gentleman from Texas.

Mr. FROST. I appreciate the gentleman yielding. I have sat through about 45 to 50 minutes of his discussion. It has been a very interesting history lesson. As the gentleman, I also am a student of history. I enjoyed his reading from the Federalist Papers; found them interesting.

However, his remarks in the last 5 or 10 minutes are quite different from the preceding part of his discussion.

I have read, as the gentleman has, articles in national papers about the dispute with Bankers Monthly. It is interesting that Bankers Monthly, of course, will print the article in their next issue and they will also afford the Speaker the opportunity to make a response.

The Speaker's position was that the article in question contained a number of distortions, contribute to deliberately contrived innuendo and misstatements of fact.

Mr. GINGRICH. I want to reclaim my time at this point because I want to ask my colleague, with that list of statements, is that not in fact typical of politics? My goodness, if we took the gentleman's list of those feelings and I applied them to every article written about me back home or the gentleman applied it or any Member did, the gentleman just described a political article by his opponents.

Mr. FROST. If I may, obviously the magazine felt that there was some legitimate question and decided at great cost to themselves to delay 1 month publication to provide the Speaker the opportunity to respond. I cannot believe that——

Mr. GINGRICH. Let me reclaim my time.

Mr. FROST. It is the gentleman's time.

Mr. GINGRICH. Let me ask my friend: The magazine as I understand it, based upon both accounts, decided when presented by one of the most famous lobbyists in Washington with a threat to sue them on behalf of the Speaker. Now is that what my friend thinks of as friendly persuasion? Is that Texas-style friendly persuasion?

Mr. FROST. If I may respond to the gentleman, prior to being elected to Congress I worked as a reporter, I had a background in journalism. And any publication that feels like its article is accurate, feels like it is perfectly confident, will publish in this country. Only when an article, only when a publication feels that there are legitimate questions would a publication even consider delaying 1 month an article. So obviously this publication felt that there were some very legitimate questions and that the Speaker deserved the opportunity to respond.

Mr. GINGRICH. Let me ask my friend two more questions and I will be glad to yield to him again.

My first question is, if the gentleman was any publisher in America anywhere and had seen what the left-wing Democrats did to Rupert Murdoch in killing his two newspapers would the gentleman not be a little worried if the Speaker of the House and the most famous Democratic lobbyist in Washington decided that you needed a visit and that they would warn you that if you crossed them you would be punished? Would that not worry you a little bit having watched Rupert Murdoch lose two newspapers to this Congress?

Mr. FROST. It is very interesting, there is a case, Near versus Minnesota, which is the leading, the first case when you open up a publication or a law book on the history of the law of the press, that provides there is no prior restraint in this country, that every publication, if it feels that it is not subject to libel, may print. Clearly this magazine could have printed in April if it felt confident in its article.

Mr. GINGRICH. Let me redirect my question. In the first place, the gentleman knows full well under the Falwall decision of the Supreme Court there is not a chance in the world that the Speaker could win a libel suit. There is no chance that he could win a libel suit. He is a public figure. Every Supreme Court decision in the last 30 years has said that even a guy like Jerry Falwell can be totally defamed and——

Mr. FROST. Why did they not print it if they were certain they could win a libel suit, that they would be successful?

Mr. GINGRICH. They did not print, I am suggesting to the gentleman, because prudent people dealing with a Congress which has shown its willingness to viciously and vindictively assault institutions, faced with the chief of staff of the Speaker of the House and the most famous Democratic lobbyist in Washington might well believe that the next time we have a continuing resolution we would just by the way single out Bankers Monthly to destroy.

Now is it not fair to say that the continuing resolution, as passed in this House in December, specifically was aimed, as the courts have now decided, specifically was aimed to punish Rupert Murdoch because he thinks EDWARD KENNEDY is too fat and too liberal? Is that not specifically what happened with that amendment?

Mr. FROST. It is obvious that this publication was concerned about the article. I have read the article. It appeared in a Texas publication as well as a national publication. The article is outrageous. The article contains a number of statements that are clearly innuendo and have no factual basis. This publication obviously was worried that if they printed this article without a chance of the response they would be publicly ridiculed.

Mr. GINGRICH. Is the Speaker going to file suit against Regardie's or the Texas monthly? The Speaker does not have a prayer of winning that suit and the gentleman knows it.

Mr. FROST. I have no knowledge.

Mr. GINGRICH. Let me ask the gentleman one more question. Even if you assume the best of intentions, is it appropriate for the chief of staff of the Speaker of the House to travel to New York City in the company of a famous lobbyist whose career after all is in fact dependent on access to the legislative branch, to have those two people meet, and if they did, since the gentleman is a member of the Committee on Rules and knows the rules of the House, how should Strauss be billed? Was Mr. Strauss acting as an official agent of the House? Was he acting on a pro bono basis as a lobbyist; can he do that? Or how would the gentleman characterize the Speaker's technical relationship under the rules of the House to a lobbyist-attorney who went to New York on his behalf?

Mr. FROST. Well the gentleman knows that would not be a matter considered by the Rules Committee but would be considered by perhaps the Committee on House Administration. But I would point out to the gentleman that I am sure the Speaker will tell us and Mr. Strauss will tell us. I read the article and it was unclear what was going to happen. I am sure we will know very shortly if Mr. Strauss is being paid. I assume that he is being paid. If I were as a Member of Congress to ask Mr. Strauss to do something on my behalf I would expect to pay him and I would expect that he is——

Mr. GINGRICH. If the gentleman has read Mr. Strauss' statement in the Wall Street Journal, does it not strike you as peculiar that an attorney of that importance would travel all the way to New York City not knowing whether in fact he was an attorney, would in fact say, "I don't know what I'll do; later on I'll change the definition of what I did in order to fit the House rules"?

Mr. FROST. You know, the gentleman ignores the fact that this clearly is an outrageous article. I can understand it, I think many Members of Congress and the public could understand it, perhaps if a public official would say, "Well, this has appeared once and I will just stand back and let them go ahead, but if another publication then would attempt to pick up an article against me that I considered to be outrageous I certainly would raise that question with that publication and ask for the opportunity to respond."

Mr. GINGRICH. If I might, let me just say to the gentleman I admire the skill, the eloquence and the talent of my friend from Texas. We are about to run out of time. The gentleman does know perfectly well that there is not a libel suit involved in that article that a public figure could possibly win. The gentleman knows full well that Ronald Reagan and any President routinely gets attacked by articles that are far more savage. The gentleman knows full well that it is, at the least, peculiar for a major lobbyist-attorney to be involved to this degree, for the chief of staff of the Speaker to fly to New York City to browbeat a national magazine.

Mr. FROST. If I may, we are about out of time, the definition of libel is actual malice, actual malice against a public official. Actual malice is knowledge that what you print is wrong or careless disregard that it may be wrong. They were being put on notice that there could have been actual malice in this case.

Mr. GINGRICH. But the Falwell case which was just decided this spring proves clearly that a public figure is for all practical purposes fair game. It was a nice bluff but I would suggest to the gentleman and to the House that we should be worried about this for two reasons: The commingling of major lobbyists with major figures of legislative power in this manner is wrong, period.

Second, when you look at the example of the continuing resolution amendment passed at three in the morning to kill the New York Post and to kill the Boston Herald, it is reasonable for anyone in the news media to be frightened if the most powerful single man in the House sends you his chief of staff and says to you, "Don't do it." I would just suggest to everyone this is a very serious problem.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of Texas) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on April 12 and 14.

Mr. RODINO, for 60 minutes, on April 19.

Mr. GAYDOS, for 60 minutes, on April 12 and 13.

Mr. EDWARDS of California, for 60 minutes, on April 14.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SMITH of Texas) and to include extraneous matter:)

Mr. CONTE.

Mr. CLINGER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MACKAY.

Mr. MCCLOSKEY.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. TRAFICANT in two instances.

Mr. TORRICELLI.

Mr. ATKINS.

Mr. YATRON.

Mr. SLATTERY.

Mr. TORRES in two instances.

Mr. MILLER of California.

Mr. MAZZOLI.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1960. An act to designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building"; to the Committee on Public Works and Transportation.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1207. An act to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care entities, and for other purposes;

H.R. 2819. An act for the relief of Tracey McFarlane;

H.R. 3459. An act to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs, and for other purposes;

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day";

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada; and

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

On March 31, 1988:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America.

On April 1, 1988:

H.R. 2819. An act for the relief of Tracey McFarlane;

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; and

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada.

ADJOURNMENT

Mr. FROST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 12, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3290. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 100-178); to the Committee on Appropriations and ordered to be printed.

3291. A letter from the Deputy Secretary of Defense, transmitting a report on the specific source of funds for Nicaraguan Democratic Resistance, pursuant to 10 U.S.C. 114nt; to the Committee on Armed Services.

3292. A letter from the Secretary of the Army, transmitting notification of the determination that the Remotely Piloted Vehicle Program has exceeded the program acquisition unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3293. A letter from the Secretary of the Air Force; transmitting notification of the determination that the NAVSTAR Program has exceeded the program acquisition unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3294. A letter from the Secretary of the Army, transmitting notification of the determination that the Copperhead Program has exceeded the program acquisition unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3295. A letter from the Assistant Secretary of Defense for Production and Logistics; transmitting a report on the status of DOD hazardous waste minimization; to the Committee on Armed Services.

3296. A letter from the Chairman, National Credit Union Administration, transmitting the 1987 annual report of the administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Banking, Finance and Urban Affairs.

3297. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-170, "Christ Church United Methodist Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3298. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-157, "Repeal of the Mandatory Retirement Age for Teachers in the District of Columbia Public Schools Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3299. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-156, "Mount Olive Baptist Church Equitable Real Property Tax Releif Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3300. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-158, "District of Columbia Hospital Equipment Revenue Bond Act of 1985 Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3301. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-159, "St. Matthew's Baptist Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3302. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-160, "Tenth Street Baptist Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3303. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-161, "Temple Church of God in Christ Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3304. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-162, "Salvation Army Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3305. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-163, "Georgetown Visitation Convent Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3306. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-164, "Methodist Cemetery Association Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3307. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-165, "Nonprofit Raffle Licensing Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3308. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-166, "Phyllis Wheatley YWCA Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3309. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-167, "Vendors Regulation Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3310. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-168, "Calvery Methodist Episcopal Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3311. A letter frm the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-169, "Removal of the Condition on the Abandonment of a Part of 41st Street, NW., Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3312. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled "Alleged Alteration of Personnel Evaluation Profile", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3313. A letter from the Secretary of Education, transmitting a copy of final regulations for the Foreign Language and Area Studies Fellowships Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3314. A letter from the Secretary of Education, transmitting a copy of final funding priorities—special projects and demonstrations for providing vocational rehabilitation services to severely disabled individuals program and projects with industry, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3315. A letter from the Attorney General, transmitting a copy of the recommendations of the Juvenile Justice and Delinquency Prevention Council for the coordination of Federal juvenile delinquency programs and activities, pursuant to 42 U.S.C. 5616(c); to the Committee on Education and Labor.

3316. A letter from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the act of September 30, 1950 (Public Law 874, Eighty-first Congress), and the act of September 23, 1950 (Public Law 815, Eighty-first Congress), and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

3317. A letter from the Secretary of Education, transmitting a draft of proposed legislation to reauthorize the Emergency Immigrant Education Act of 1984, to simplify and improve the allocation of funds, to ensure that program funds are more specifically targeted to meet the special educational needs of eligible immigrant children without supplanting State and local funds, to clarify ambiguous provisions, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

3318. A letter from the Secretary of Education, transmitting a draft of proposed legislation to amend the General Education Provisions Act to authorize the Secretary of Education to award challenge grants that would assist recipients in developing their capacity to generate private sector support, to permit the Department of Education to assist a greater number of recipients, to stimulate private sector partnerships, and for other purposes; to the Committee on Education and Labor.

3319. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to terminate the Public Telecommunications Facilities Grants Program of the National Telecommunications and Information Administration in the Department of Commerce; to the Committee on Energy and Commerce.

3320. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting notice of a proposed technical assistance agreement with the government of Australia (Transmittal No. MC-19-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3321. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Israel (Transmittal No. MC-22-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3322. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a commercial technical assistance agreement with Taiwan (Transmittal No. MC-16-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3323. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed commercial technical assistance agreement with Taiwan (Transmittal No. MC-17-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3324. A communication from the President of the United States, transmitting notification of the exercise of authority under the International Emergency Economic Powers Act and the National Emergencies Act with respect to Panama, pursuant to 50 U.S.C. 1621(a) and 50 U.S.C. 1703 (H. Doc. No. 100-180); to the Committee on Foreign Affairs and ordered to be printed.

3325. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3326. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on United States-Soviet reciprocity in matters relating to embassies, pursuant to 22 U.S.C.

4301 nt.; to the Committee on Foreign Affairs.

3327. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the status of secondment with the United Nations by the Soviet Union and Soviet-bloc member-nations, pursuant to Public Law 100-204, section 701(b) (101 stat. 1385); to the Committee on Foreign Affairs.

3328. A letter from the Acting Secretary of State, transmitting a report on the situation in El Salvador, pursuant to Public Law 100-202, section 561; to the Committee on Foreign Affairs.

3329. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on U.S. efforts directed against hostile intelligence services at the United Nations, pursuant to Public Law 100-204, section 701. Referred to the Committee on Foreign Affairs.

3330. A letter from the Legal Counsel, Administrative Conference of the United States, transmitting a report of the conference's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3331. A letter from the Assistant Secretary of Defense, transmitting notice of a computer matching program between the Department of Defense and the Department of Health and Human Services, pursuant to 5 U.S.C. 552a(o), to the Committee on Government Operations.

3332. A letter from the Comptroller General, transmitting a copy of the proceedings of the October 8, 1987 roundtable discussion on generally accepted accounting principles and regulatory accounting practices; to the Committee on Government Operations.

3333. A letter from the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, transmitting a report of actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3334. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a computer matching program between the Department of Defense and the Department of Agriculture, pursuant to 5 U.S.C. 552(o); to the Committee on Government Operations.

3335. A letter from the Chairman, Farm Credit Administration, transmitting a report on the Farm Credit Administration's activities under the Freedom of Information Act for calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3336. A letter from the Vice President, Farm Credit Banks of Columbia, transmitting the 1987 audited financial statement of the Farm Credit Retirement Plan—Columbia District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3337. A letter from the Chairman, International Trade Commission, transmitting a report of actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3338. A letter from the Chairman, Interstate Commerce Commission, transmitting a copy of the annual report on the Commission's compliance with the Government in the Sunshine Act for the calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3339. A letter from the FOIC/Privacy Officer, Interstate Commerce Commission, transmitting a report of the Commission's activities under the Freedom of Information Act during the calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3340. A letter from the Chairman, National Labor Relations Board, transmitting a report of the Board's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3341. A letter from the Chairman, Securities and Exchange Commission, transmitting a report of the Commission's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3342. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting a report to the TVA retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3343. A letter from the Secretary of the Interior, transmitting the 1987 section 8 report on National Historic and Natural Landmarks that have been damaged or to which damage to their integrity is anticipated, pursuant to 16 U.S.C. 1a-5(a); to the Committee on Interior and Insular Affairs.

3344. A letter from the Secretary of the Interior, transmitting the 1986 annual report for the Office of Surface Mining Reclamation and Enforcement [OSMRE], pursuant to 30 U.S.C. 1211(f), 1267(g), 1295; to the Committee on Interior and Insular Affairs.

3345. A letter from the Secretary of the Interior, transmitting a report on the Government's helium program providing operating statistical and financial information for the fiscal year 1987, pursuant to 50 U.S.C. 167n; to the Committee on Interior and Insular Affairs.

3346. A letter from the Secretary of the Interior, transmitting a copy of the financial exhibits of the Colorado River storage project and participating projects for the fiscal year ended September 30, 1986, pursuant to 43 U.S.C. 620e; to the Committee on Interior and Insular Affairs.

3347. A letter from the Secretary of Agriculture, transmitting the 1988 report on the Colorado River Salinity Control Program, pursuant to 43 U.S.C. 1596; to the Committee on Interior and Insular Affairs.

3348. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting copy of report to the President and the Congress 1987, pursuant to 16 U.S.C. 470(b); to the Committee on Interior and Insular Affairs.

3349. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a draft of proposed legislation to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Interior and Insular Affairs.

3350. A letter from the Secretary of the Interior, transmitting the 1987 annual report of the National Park Foundation, pursuant to 16 U.S.C. 19n, 19dd(f); to the Committee on Interior and Insular Affairs.

3351. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3352. A letter from the Controller, Boys' Clubs of America, transmitting a copy of their audited financial report for the year ending December 31, 1987, pursuant to 36 U.S.C. 1101(16), 1103; to the Committee on the Judiciary.

3353. A letter from the Acting Chairman, Federal Maritime Commission, transmitting the 26th annual report of the Federal Maritime Commission for the fiscal year ended September 30, 1987, pursuant to 46 U.S.C. app. 1118; to the Committee on Merchant Marine and Fisheries.

3354. A letter from the Secretary of Transportation, transmitting the administration views on maritime provisions of the trade bill; to the Committee on Merchant Marine and Fisheries.

3355. A letter from the Director, Office of Personnel Management, transmitting a report entitled "Performance Management and Recognition System—FY 1986 Performance Cycle," pursuant to 5 U.S.C. 5408; to the Committee on Post Office and Civil Service.

3356. A letter from the Deputy Administrator, Federal Highway Administration, transmitting a report on the demonstration project in Louisville, KY, for the purpose of demonstrating methods of accelerating construction of high traffic sections of highways on the Federal-aid primary system which are directly connected to the Interstate System, pursuant to Public Law 97-424, section 131(e)(2) (96 Stat. 2120); to the Committee on Public Works and Transportation.

3357. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes; to the Committee on Veterans' Affairs.

3358. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to modify eligibility requirements for the plot allowance; authorize a headstone allowance for prepurchased grave markers; extend the State cemetery grants program; and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Veterans' Affairs.

3359. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1 million on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Administrator notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1 million; to the Committee on Veterans' Affairs.

3360. A letter from the Directors of the Federal Bureau of Investigation and Office of Personnel Management, transmitting a report on recruitment, retention and operational problems facing the New York Office of the FBI caused by the high cost of living, and a plan for remedies, pursuant to Public Law 100-178, title V, section 502(b) (101 Stat. 1015); to the Committee on the Permanent Select Committee on Intelligence.

3361. A letter from the Deputy Secretary of Defense, transmitting the biennial report on the Montgomery GI Bill Education Benefits Program, pursuant to 38 U.S.C. 1436; jointly, to the Committees on Armed Services and Veterans' Affairs.

3362. A letter from the Director, Office of Community Investment, Federal Home Loan Bank Board, transmitting the Board's annual report on the agency's efforts to prevent unfair and deceptive trade practices in the thrift industry, pursuant to 15 U.S.C. 57a(f)(6); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

3363. A letter from the Deputy Assistant Secretary of Defense (Systems), transmitting a report on the Department of Defense Environmental Restoration Program for fiscal year 1987, pursuant to 10 U.S.C. chapter 160, section 2706; Public Law 99-499, section 120(e)(5); jointly, to the Committees on Energy and Commerce and Armed Services.

3364. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the third calendar quarter of 1987, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3365. A letter from the Chairman of the Board, U.S. Institute of Peace, transmitting the report of the audit of the Institute's accounts for fiscal year 1987, pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on Foreign Affairs and Education and Labor.

3366. A letter from the Attorney General, Department of Justice, transmitting the 1987 annual report on the number of applications that were made for orders and extension of orders approving electronic surveillance under the Foreign Intelligence Surveillance Act, pursuant to 50 U.S.C. 1807; jointly, to the Committees on the Judiciary and the Permanent Select Committee on Intelligence.

3367. A communication from the President of the United States, transmitting a report on the certification by the Secretary of Commerce that Japan has conducted whaling activities that diminished the effectiveness of the International Whaling Commission conservation program, pursuant to 22 U.S.C. 1978(b) (H. Doc. No. 100-179); jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs, and ordered to be printed.

3368. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to eliminate certain limitations and reporting requirements for undefinitized contractual actions; jointly, to the Committees on Armed Services, Government Operations, and Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Mar. 30, 1988, the following report was filed on Apr. 4, 1988]

Mr. BROOKS: Committee on Government Operations. Report on disease-specific health claims on food labels: an unhealthy idea (Rept. 100-561). Referred to the Committee on the Whole House on the State of the Union.

[Pursuant to the order of the House on Mar. 30, 1988, the following reports were filed on Apr. 5, 1988]

Mr. BROOKS: Committee on Government Operations. Report on Operation Alliance: Drug interdiction on the southwest border (Rept. 100-562). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASPIN: Committee on Armed Services. H.R. 4264. A bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for Fiscal Years 1988 and 1989, and for other purposes; with amendments (Rept. 100-563). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Apr. 11, 1988]

Mr. BENNETT: Committee on Armed Services. H.R. 3724. A bill to prohibit any funds appropriated or otherwise available to the Department of Defense from being used to implement any sale of the AEGIS weapon system to Japan; with amendments (Rept. 100-564, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THOMAS A LUKEN (for himself and Mr. Whittaker):

H.R. 4357. A bill to amend subtitle D of the Solid Waste Disposal Act to regulate municipal solid waste incinerators and municipal solid waste incinerator ash; to the Committee on Energy and Commerce.

Mr. SLATTERY (for himself, Mr. Glickman, Mr. Whittaker, Mr. Roberts, and Mrs. Meyers of Kansas):

H. Res. 425. Resolution congratulating the University of Kansas on winning the NCAA Basketball Championship; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

297. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to amending the federal Public Health Services Act; to the Committee on Energy and Commerce.

298. Also, memorial of the House of Representatives of the State of Illinois, relative to ethanol in gasoline; to the Committee on Energy and Commerce.

299. Also, memorial of the House of Representatives of the State of Illinois, relative to Irish immigrants; to the Committee on the Judiciary.

300. Also, memorial of the House of Representatives of the State of Illinois, relative to Immigration Reform and Control Act; to the Committee on the Judiciary.

301. Also, memorial of the Legislature of the State of Alabama, relative to Social Security benefits; to the Committee on Ways and Means.

302. Also, memorial of the House of Representatives of the State of Illinois, relative to Federal diesel fuel excise taxes; to the Committee on Ways and Means.

303. Also, memorial of the House of Representatives of the State of Illinois, relative to Federal excise tax on gasoline; to the Committee on Ways and Means.

304. Also, memorial of the House of Representatives of the State of Illinois, relative to coal mining; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

305. Also, memorial of the House of Representatives of the State of Illinois, relative to U.S. personnel in Southeast Asia; jointly, to the Committees on Armed Services, Foreign Affairs, and the Permanent Select Committee on Intelligence.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Bruce, Mr. Waxman, Mr. Hochbrueckner, and Mr. Vento.

H.R. 245: Mr. Lantos, Mr. Shays, Mr. Coleman of Missouri, and Mr. Kildee.

H.R. 345: Mr. Donald E. Lukens.

H.R. 382: Mr. McHugh, Mr. Dickinson, Mr. Hochbrueckner, and Mr. Hutto.

H.R. 387: Mr. Gray of Illinois.

H.R. 680: Mrs. Morella.

H.R. 911: Mrs. Saiki, Mr. Solomon, Mr. Owens of Utah, Mr. Gregg, Mr. Gallegly, Mr. Donald E. Lukens, Mr. Robert F. Smith, Mr. Hall of Ohio, Mr. Manton, and Mr. Borski.

H.R. 956: Mr. Yates.

H.R. 1076: Mrs. Collins, Mr. DeWine, Mr. Dornan of California, Mr. Dyson, Mr. Pursell, Mr. Ravenel, Mr. Scheuer, Mr. Stokes, Mr. Studds, and Mr. Yates.

H.R. 1917: Mr. Berman.

H.R. 2134: Mr. Hochbrueckner and Mr. Fish.

H.R. 2213: Mr. Borski, Mr. Quillen, Mr. Lagomarsino, Mr. Garcia, Ms. Pelosi, and Mr. Owens of Utah.

H.R. 2246: Mr. Studds and Mr. Markey.

H.R. 2248: Mr. Slattery.

H.R. 2449: Mr. Staggers.

H.R. 2879: Mr. Glickman.

H.R. 2935: Mrs. Morella.

H.R. 3193: Mr. Bonker.

H.R. 3250: Mr. Crane, Mr. Hammerschmidt, Mr. Hopkins, Mrs. Johnson of Connecticut, and Mr. Kostmayer.

H.R. 3299: Mr. McGrath, Mr. Solomon, Ms. Kaptur, and Mr. English.

H.R. 3314: Mr. Flake, Mr. Gonzalez, Mr. Gilman, Mr. Lehman of Florida, Mr. Fuster, Mr. Rahall, Mr. DioGuardi, Mr. McHugh, Mr. Carper, Mr. Carr, Mr. Hayes of Illinois, Mr. Rose, Mr. Hefner, Mr. Lancaster, Mr. Espy, Mr. Rowland of Connecticut, Mr. Mack, Mr. Swindall, and Mr. Dymally.

H.R. 3340: Mr. Rowland of Connecticut, Mr. Jontz, and Mr. Kolter.

H.R. 3511: Mr. Ridge.

H.R. 3553: Mrs. Saiki and Mr. Levine of California.

H.R. 3633: Mr. Clay, Mr. Hayes of Illinois, Ms. Pelosi, Mr. Shays, Mr. Solarz, and Mr. Yates.

H.R. 3726: Mr. Cardin and Mr. Mazzoli.

H.R. 3777: Mr. Lagomarsino.

H.R. 3788: Mr. Lantos, Mr. Gilman, Mr. Jontz, and Mr. English.

H.R. 3791: Mrs. Lloyd, Mr. Rangel, Mr. Tallon, and Mr. Harris.

H.R. 3840: Mr. Carr.

H.R. 3850: Mr. MacKay.

H.R. 3878: Ms. Slaughter of New York.

H.R. 3907: Mr. Gordon, Mr. MacKay, Mr. Leath of Texas, Mr. Mica, and Mr. Robinson.

H.R. 4013: Mr. Florio.

H.R. 4024: Mr. Dellums, Mr. Hochbrueckner, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. de Lugo, Mr. Foglietta, and Mr. Shays.

H.R. 4066: Ms. Pelosi, Mr. DioGuardi, Mr. Mollohan, Mrs. Meyers of Kansas, and Mr. Schumer.

H.R. 4071: Mr. Bates, Mr. Bosco, Mrs. Boxer, Mrs. Collins, Mr. Glickman, Mr. Morrison of Connecticut, Mr. Owens of New York, Mr. Owens of Utah, and Mr. Rangel.

H.R. 4078: Mr. de Lugo.

H.R. 4212: Mr. Mrazek, Mr. Grandy, and Mr. Harris.

H.R. 4223: Mrs. Vucanovich.

H.R. 4247: Mr. Stark, Mr. Boucher, and Mr. Solarz.

H.J. Res. 374: Mr. Bateman and Mr. Burton of Indiana.

H.J. Res. 417: Mr. Grant, Mr. Mazzoli, Mr. Borski, Mr. Moakley, Mrs. Byron, Mr. Fish, Mr. Kanjorski, Ms. Kaptur, Mr. Tauzin, Mr. Parris, Mrs. Roukema, and Mr. Chappell.

H.J. Res. 429: Mr. Markey and Mr. Moakley.

H.J. Res. 438: Mr. Levine of California, Mr. Sikorski, and Mr. de la Garza.

H.J. Res. 443: Mr. Fish, Mr. Frank, Mr. Goodling, Mr. Henry, Mr. Hunter, Mr. Jones of North Carolina, Mr. Lewis of Georgia, Mr. Livingston, Mr. Mack, Mr. Martinez, Mr. Ravenel, Mr. Ray, Mr. Rose, Mr. Saxon, Mr. Schumer, Mr. Spence, Mr. Sunia, Mr. Towns, and Mr. Vento.

H.J. Res. 464: Mr. Coughlin, Mr. Evans, Mr. Hatcher, Mr. McGrath, Mr. McCollum, Mr. Skeen, Mrs. Martin of Illinois, Mr. Grandy, Mr. Rowland of Georgia, Mr. Rhodes, Mr. Whitten, Mr. Brooks, and Mr. Hastert.

H.J. Res. 489: Mr. Emerson, Mr. Hall of Ohio, Mr. Frenzel, Mr. Regula, Mr. Latta, Mr. Wylie, and Mr. Lewis of California.

H.J. Res. 504: Mr. Henry, Mr. Green, Mr. Hochbrueckner, Ms. Kaptur, Mr. Chapman, Mr. Livingston, Mr. Mrazek, and Mr. Lungren.

H.J. Res. 527: Mr. Lancaster, Mr. Yates, Mr. Lowry of Washington, Mr. Chappell, Mr. Sabo, Mr. Walgren, Mr. Young of Alaska, Mr. Valentine, Mr. Dowdy of Mississippi, Mr. Evans, Mr. Edwards of Oklahoma, Mr. Leland, Mr. Rinaldo, Mr. Wilson, Mr. Rodino, Mr. Skelton, Mr. Pursell, Mr. Chandler, Mr. Campbell, Ms. Pelosi, Mr. Henry, Mr. Gekas, Mr. AuCoin, Mr. Kleczka, Mr. Wyden, Mr. Hertel, Mrs. Morella, Mr. Flake, Mr. Rangel, Mr. Lehman of California, Mr. Livingston, Mr. McHugh, Mr. Mrazek, Mr. Levine of California, Mr. Lungren, Mr. Coughlin, Mr. DeFazio, Mr. Owens of Utah, Mr. Clement, Mr. Bonior of Michigan, Mr. Broomfield, Mr. Bustamante, Mr. Dannemeyer, Mr. DeWine, Mr. Erdreich, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Jeffords, Mr. Kasich, Mr. Gallo, Mr. Fazio, Mr. Dornan of California, Mr. Kemp, Mr. Mack, Mr. Moody, Mr. Weber, Mr. Dicks, Mr. Carper, Mrs. Bentley, Mr. Vander Jagt, Mr. Bateman, Mr. Torricelli, Mr. Synar, Mr. Tallon, Mr. Burton of Indiana, Mr. Saxton, Mr. Hutto, Ms. Slaughter of New York, Mr. Hatcher, Mr. Lowery of California, Mr. Martin of New York, Mr. Tauzin, Mrs. Martin of Illinois, Mr. Gordon, Mr. Ritter, Mr. Price of Illinois, Mr. Kildee, Mr. Nelson of Florida, Mr. Markey, Mr. Archer, Mr. Morrison of Connecticut, Mr. Yatron, Mr. Swindall, Mr. Konnyu, Mr. Shaw, Mr. Bruce, Mr. Flippo, Mr. Kolbe, Mr. Pepper, Mr. Jacobs, Mrs. Johnson of Connecticut, Mr. Fawell, Mr. Buechner, Mr. McCollum, Mrs. Collins, Mr. Smith of Texas, Mr. Ford of Michigan, Mr. Martinez and Mr. Borski.

H. Con. Res. 238: Mr. Daub.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

149. By the SPEAKER: Petition of council of city of New York, NY, relative to food products; to the Committee on Energy and Commerce.

150. Also, petition of city of Tucson, AZ, relative to mass transportation; to the Committee on Public Works and Transportation.

151. Also, petition of Illinois State Board of Education, Springfield, IL, relative to energy physics; to the Committee on Science, Space, and Technology.

152. Also, petition of council of the city of New York, NY, relative to POW/MIA's being held in Southeast Asia; jointly, to the Committees on Armed Services, Foreign Affairs, and the Permanent Select Committee Intelligence.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 858

By Mr. SHUMWAY:

—Section 4 of S. 858 is amended by striking: "it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—" and substituting in its place: "any shipwrecks transferred to a State under Section 6 of this Act shall be managed by the State consistently with the guidelines prepared under Section 5 so as to—".

Section 4 is further amended by redesignating paragraph (b) as (c) and inserting a new paragraph (b) to read as follows:

"(b) Federal Judicial Review.—Any dispute as to whether a state is properly implementing the rights of access requirements in paragraph (a) of this section is reviewable in the Federal District Court of jurisdiction for that state.".

—Section 3 of S. 858 is amended by striking paragraph (a) and redesignating the remaining paragraphs accordingly.

Section 6(a) of S. 858 is amended by deleting paragraphs (1) and (2) in their entirety and deleting the remaining numerical designation "(3)".

And by inserting the word "historic" immediately before the words "shipwreck" or "shipwrecks" wherever they appear in the bill.

—Strike the term "submerged lands" wherever it appears in the bill and insert in lieu thereof "lands beneath navigable waters".

Section 3 is amended by striking paragraph (f) and redesignating paragraphs (c), (d), and (e), as (d), (e), and (f), respectively, and inserting a new paragraph immediately following paragraph (b) to read:

"(c) the term "navigable waters" means those waters as defined by 33 U.S.C. 2316(7).".

Subsection (d) of Section 6 of S. 858 is amended by adding the following new sentence following "Indian tribe owning such lands.": "Shipwrecks retained by the United States under this subsection shall be managed consistently with the requirements in Section 4 and the guidelines prepared under Section 5 of this Act.".

Section 6 of S. 858 is amended by adding the following new subsection:

"(g) National Marine Sanctuaries.—This Act shall not affect the management of abandoned shipwrecks located within the boundaries of any National Marine Sanctuary now or hereafter established under Title III of the Marine Protection, Research and Sanctuary Act (16 U.S.C. 1431 et seq.)."

EXTENSIONS OF REMARKS

CIVIL RIGHTS RESTORATION ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues three editorials published last month, one from the Louisville Courier-Journal and two from the Washington Post, which address many of the thoughtful and sensitive concerns raised by some of my constituents opposed to S. 557, the Civil Rights Restoration Act, which was passed by Congress over the President's veto on March 22, 1988.

The editorials are as follows:

[From the Louisville Courier-Journal, Mar. 22, 1988]

A TIME TO STAND UP

The Moral Majority has stooped to immoral tactics in an effort to undermine the Civil Rights Restoration Act of 1987. It is falsely portraying the measure as something it isn't—and shilling for the White House—trying to head off an override of an ill-advised presidential veto.

Congress should not be fooled. It passed the so-called "Grove City" bill (a measure designed to restore the law to where it was before a 1984 Supreme Court decision) overwhelmingly after dealing with all the straw men now being set up. Some fundamentals mounted a telephone blitz designed to sway congressional opinion, which indicts them as opposed to the rights of minorities, women, the handicapped and the elderly.

The Grove City bill applies to all of the above. It simply says that institutions that get federal money cannot discriminate against them. That was the status of the law before the Supreme Court ruled in 1984 that provisions calling for the cutoff of federal funds to violators applies only to a program receiving those funds, not the entire institution. The ruling came as a result of a Reagan administration effort to find a device for retrenchment in civil rights enforcement.

President Reagan tried to justify his veto on the grounds that the bill "would seriously impinge upon religious liberty because of its unprecedented and pervasive coverage of churches and synagogues based on receipt of even a small amount of federal aid for just one activity." Mr. Falwell went further. He stirred up fundamentalists by claiming that the measure could force a church to hire a homosexual drug addict with AIDS as a teacher or youth pastor.

Wrong. The bill contains an exemption for "any operation of an entity which is controlled by a religious organization." Ralph Neas, executive director of the Leadership Conference on Civil Rights, a leading proponent of the bill, noted that the language of the opponents—including the White House—is the same used by foes of the 1964 Civil Rights Act.

Congress should act swiftly this week to overturn the veto. Sens. Wendell Ford, Mitch McConnell, Richard Lugar and Dan Quayle and House members from Kentucky and Southern Indiana owe it to their constituents to send a message that simply says discrimination cannot be subsidized with federal dollars.

[From the Washington Post, Mar. 16, 1988]

GAYS AND GROVE CITY

Should Congress pass a law under which "churches and religious leaders could be forced to hire a practicing active homosexual drug addict with AIDS to be a teacher or youth pastor"? That's how the Rev. Jerry Falwell has described the Grove City legislation just vetoed by the president and scheduled for override votes this week. He has also advised pastors to mobilize against the bill, which he says makes "homosexuality a racial minority and a handicap" and is, in general, "the greatest threat to religious freedom and traditional moral values ever passed." Rev. Falwell has a large and enthusiastic following; spurred by his hyperbole, thousands of people were calling Capitol Hill offices last Thursday to repeat his wild charges.

It's hard to see how the Moral Majority can justify these crazy descriptions, but because the bill could involve churches and does have a provision on contagious disease—though none on homosexuality—perhaps it would help to sort out the facts again. The bill is designed to overturn a 1984 Supreme Court decision that restricted the applicability of the civil rights laws. The bill would make clear that no discrimination would be allowed in institutions receiving federal funds (a college, for example) as well as in the specific program (biology research, say) receiving those funds. It is discrimination on grounds of race, sex, age and handicap that is forbidden. No federal law prohibits discrimination on grounds of sexual preference, nor does this bill. As for drug addiction and AIDS, a law passed in 1973 prohibits discrimination against the handicapped, and the courts have consistently held that addicts and persons with contagious diseases must be treated as handicapped *except* when they present a danger to the health and safety of others or cannot perform essential functions of their jobs. This bill simply restates existing law and those court rulings; it adds absolutely nothing new in the area of AIDS.

As for churches that receive federal money to run social service projects—day care, nursing homes, etc.—discrimination would not be allowed in that specific project. But note that religious discrimination is not prohibited—a church could give preference to its own members—and, once again, whether or not it should be, note that discrimination against homosexuals is not prohibited either. Nearly every major religious organization in the country is on record in support of this bill.

Opponents of the Grove City bill shed tears for constituents who take federal money and then find they may not spend it in a discriminatory way. Not that they would ever discriminate, of course—heavens, no—but they'll be burdened by all that paper work and what Sen. Hatch, on the Senate floor the other day described as "the federal government's heel on their backs and necks." But the businesses, colleges and social service institutions don't seem to be complaining nearly as loudly as the senators or Rev. Falwell. Perhaps after a generation of compliance with civil rights laws, they take pride in the changes that have occurred and are willing to accept responsibility for using federal money fairly.

[From the Washington Post, Mar. 21, 1988]

NO REASON TO VETO

The President is about to make a mistake. Some time today he is expected to veto the Grove City bill, which is designed to overturn a Supreme Court decision that severely restricted the effectiveness of the civil rights laws. The measure passed both houses of Congress by overwhelming margins—315 to 98 in the House and 75 to 14 in the Senate—so it is almost a certainly that the veto will be overidden. Some Republicans have attempted to dissuade the president. None of them, it seems, has been able to get through.

What terrible consequences does Mr. Reagan suppose will follow if this bill becomes law? It will enable the government to move against institutions that accept federal money and then discriminate, on grounds of race, sex, age or handicap, in using that money. Opponents of the bill, however, have conjured up an array of horribles in attacking the measure. It will interfere with Mom and Pop grocery stores that accept food stamps, they say, or farmers receiving crop subsidies. Not so, as the language of the bill and the committee report make clear. Well then, goes the argument, it's an attack on churches, for it will allow the government to require religious groups to bend their beliefs in order to achieve social policy goals. Nonsense, as national church leaders from the Catholic bishops to the Evangelical Lutherans and the American Hebrew Congregations will attest. No hospital will be forced to perform abortions, no church will be required to ordain women, no college controlled by a religious group will be made to accept policies in conflict with religious beliefs. In recent weeks, some opponents have been circulating a new argument. The bill, they warn, is really a gay rights measure because it provides that AIDS victims shall be treated as disabled persons except in situations in which they might present a danger to others. The courts have already made this finding with regard to communicable diseases, so this provision regarding AIDS really adds nothing new. As for specific rights sought by homosexuals, the bill neither creates nor expands any of them.

A presidential veto of the Grove City bill will be very difficult to explain to citizens who assume their taxes won't be spent in aid of discrimination. And it cannot be sold to Congress—which, after four years of debate, compromise and study, has strongly endorsed the legislation. Mr. Reagan ought to sign the bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 1975—FEDERAL CAVE RESOURCES PROTECTION ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. BOUCHER. Mr. Speaker, I rise in support of H.R. 1975, the Federal Cave Resources Protection Act. I was pleased to introduce this legislation with the cosponsorship of my colleagues Mr. CRAIG and Mr. JOHNSON as well as 29 other Members. I also want to commend our colleague Mr. RICHARDSON from New Mexico for his valuable contributions with respect to caves located on Indian lands.

This bill enjoys endorsements from the National Speleological Society, National Wildlife Federation, American Cave Conservation Association, Defenders of Wildlife, Bat Conservation International, Sierra Club and the National Audubon Society. Senator DASCHLE has introduced a companion measure in the Senate, S. 927.

The purpose of H.R. 1975 is to strengthen the ability of Federal agencies to protect and manage cave resources when they are situated on lands under the jurisdiction of the Secretaries of Agriculture and Interior or on Indian lands. There are two key questions which go to the heart of this legislation: why are caves worth protecting, and why is this legislation needed? I will address each of these questions in turn.

Caves are worth protecting due to their diverse resources. Caves are home to a rich variety of species, and many as-yet-undiscovered species are thought to dwell there as well. These abundant and diverse species provide a gene pool which is valuable for scientific study and advancement. Caves are also an important conduit for underground rivers which serve as water supplies for many rural communities. Equally important, caves are a favored recreation site for visitors enjoying both their pristine and unusual beauty and the adventure of cave exploration.

Caves are in particular need of protection because they are nonrenewable resources: once caves are destroyed they are gone forever. A decorative rock formation which took hundreds of years to form can be destroyed in moments. Exacerbating this situation is the fact that cave ecosystems are delicately balanced and easily damaged.

The Federal Cave Resources Protection Act is needed because there is a management gap in present Federal law through which balanced management of our Federal cave resources has slipped. For example, the National Forest Management Act and the Federal Land Policy and Management Act, which govern the management of the majority of lands under the jurisdiction of the Secretaries of Interior and Agriculture, do not specifically mention caves as a resource to be considered in the management of public lands.

A report by the Congressional Research Service on cave protection stated this problem succinctly, "It appears that the existing land management laws are broad enough to permit management of cave resources, but they do not expressly address that goal or compel that result."

In the absence of such direction, management of caves on Federal lands is inconsistent and inadequate. In several New Mexico caves, for example, colonies of Mexican Free Tail bats have been decimated by vandals. In Idaho, toxic waste was abandoned in a cave and leaked into its soil. Throughout the United States, graffiti and litter in and removal of stalactite and stalagmite formations from caves on Federal lands have increased. The Federal Cave Resources Protection Act addresses these concerns by both empowering and directing the Secretaries of Agriculture and Interior to include cave resources in land management plans.

The act also authorizes the Secretaries of Agriculture and Interior to withhold information on the nature and location of a cave on Federal land when disclosure of such information would create a substantial risk of harm to it. Although the caving community has more extensive files on the location and nature of caves on Federal lands than do Federal agencies, it is hesitant to share these files with the Federal Government out of concern that wide distribution of the information would result in vandalism and looting of unprotected caves.

This exemption would encourage the caving community to come forward with its information, thereby enhancing Federal land management. For example, a Forest Service land manager has related to me the hazards of planning Federal timber sales without knowing the location of caves in the harvest area. Ignorance of a cave's location poses a danger to equipment and loggers who could fall through hidden cave openings.

There is a precedent for this withholding provision in the Archaeological Resources Protection Act of 1979 (ARPA). ARPA's withholding provision has worked effectively to protect archaeological resources while providing exemptions for the disclosure of information, and I am confident that H.R. 1975's nearly identical provision would work equally as well.

In addition to the land management and withholding provisions, H.R. 1975 encourages coordination of information between Federal agencies and the public, requires permits for the collection and removal of natural resources from caves, establishes criminal and civil penalties for activities which are damaging to the cave resource, and authorizes a special fund for the benefit of damaged cave resources.

In preparing H.R. 1975, the willingness of volunteers from the caving community to share their expertise and educate the public about cave resources has been impressive. In administering this measure, I would hope that Federal agencies would avail themselves of the caving community's expertise in the areas of cave management and safety procedures. At this time, I would like to make special note of the hard work which caving volunteers Janet Thorne, Jer Thornton, Phil Lucas and David Foster have contributed to the advancement of this legislation.

Caves are the repository of diverse resources and are in need of enhanced protection. The Federal Cave Resources Protection Act affirms that it is the policy of the United States to protect cave resources on Federal lands and provides the specific authority to do so. I urge my colleagues to approve this measure.

BALDWIN PARK UNIFIED SCHOOL DISTRICT A CENTURY OF QUALITY EDUCATION—1888-1988, BALDWIN PARK, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. TORRES. Mr. Speaker, I rise today to recognize 100 years of quality education in the city of Baldwin Park. During the past century this school system has garnered many honors and has consistently provided the students, parents, community and employees with an educational program in which they could be proud. On May 7, 1988 the Baldwin Park Unified School District will hold a "Centennial Celebration."

According to county records dated April 1888, the Vineland School District was established under the laws of the State of California. It became the Baldwin Park School District on August 10, 1914. When formed in 1888, the district consisted of a one teacher, 15 pupil, one-room school house on Los Angeles Street. Today, the school district is made up of 12 elementary school, 4 junior high schools, two comprehensive high schools, one continuation high school, a children's center, an adult school center, an administrative center and employs 1,550 employees.

Since 1924, there have been five superintendents, J. Hampton Watts, 1924-35, Charles D. Jones, 1935-44, Dan B. Lucas, 1945-54, Darcy Skaggs 1954-70, Jerry D. Holland, 1970-88. Mr. Holland retires in June after 18 successful years. His successor is David Barker who has been with the school district since 1975.

During the last decade, the Baldwin Park Unified School District has become a leader in academic achievement and excellence in the 34th Congressional District and throughout the State. In 1983-84, the Baldwin Park Unified School District led other districts in implementing the SB813 school reforms such as stronger graduation requirements, teacher proficiency policies and longer school year/school day. The distirct's bilingual program was chosen as one of the five outstanding programs in California.

During the 1984-85 school year, the district was named one of the top achievers in the California Assessment Program [CAP]. The Academic Pentathlon was established by the board of education to provide monetary awards to high school students.

The Baldwin Park School District received many honors during the 1985-86 school year. Three schools, Central, Walnut, and Tracy, were nominated for the National Elementary School Recognition Program and Central School was 1 of 47 chosen from California to reach the national finals. The Children's Center Program was rated outstanding and the district was chosen as 1 of the 158 agencies in the State to operate a Latchkey Program. The Sierra Vista High School Dons

Band was named the top class A high school band in southern California. New school facilities included swimming pools at both Baldwin Park and Sierra Vista high schools and construction of resource centers at the 12 elementary schools. The district was also awarded $11 million for school rehabilitation at nine schools and also purchased and renovated the adult school facilities on Badillo Avenue for parent education classes.

During the 1985-86 school year, Tracy School was named as an achieving compensatory education school having exemplary status since 1981-82. The Adult School Nurse Assistant Program was named as 1 of the 10 most outstanding career education programs developed in Los Angeles County. The Independent Home Study Program was initiated at the adult school for high school dropout prevention of high-risk youth and the District Bilingual Program was rated by Los Angeles County as outstanding in the category of curriculum and instruction.

In 1986-87, Geddes, Tracy, and Walnut Elementary Schools, as well as Jones Junior High were named California distinguished schools while Sierra Vista High School received five outstanding achievement awards in the California School Recognition Program.

In 1987-88, State superintendent of public instruction Bill Honig awarded outstanding achievement awards in eight separate categories to Sierra Vista high schools with Baldwin Park High School claiming honors in four. Districtwide 70 students were recognized for achieving honors on the newly established "Golden State Exam."

Mr. Speaker, I am proud of the many achievements garnered by the Baldwin Park School District. The dedication and commitment of administrators, teachers, and parents ensures that this school district will continue to provide quality education to the community. Therefore, I ask my colleagues to join with me in commending the outstanding record of excellence that has become the hallmark of the Baldwin Park Unified School District as they celebrate their centennial.

TRIBUTE TO JOHN AND MARIA BOEHM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to John and Maria Boehm, two outstanding individuals from my 17th Congressional District of Ohio, who were recently named Saxon Club man and woman of the year for promoting knowledge about their heritage.

Mr. and Mrs. Boehm have been Saxon Club members since 1954. As former club officers, they are now active in the Saxon Retirees. John has been assistant financial secretary, and Maria has been caretaker of the archives and a trustee. Both were instrumental in creating the club's culture room and were active in the culture group between 1969 and 1973.

The two were born and raised in Transylvania where they were also wed. In 1952, they emigrated from Germany to the United States. Along with their three children, the couple was named Saxon Club Family of the Year in 1974, and Mrs. Boehm was named Mother of the Year in 1987. John and Maria Boehm celebrated their 50th wedding anniversary on January 12 of this year.

Mr. Speaker, I am delighted to stand before my colleagues today and pay tribute to John and Maria Boehm. I am truly honored to represent such an exemplary couple.

A TRIBUTE TO PAULIE JACKSON

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to a great American and my good friend, Mr. Paulie Jackson of Reading, PA. Paulie is well known in our area for his long involvement with the sport of boxing. On May 12, 1988, Paulie will be awarded the Distinguished Citizen Award by the Police Athletic League of Reading for his many years of service to the PAL.

I can think of no person more deserving of this great honor. Paulie has been a role model to the young people of Reading for decades. Through his oustanding work with the Police Athletic League, Paulie has introduced countless young people to the sport of boxing. Paulie was responsible for my own introduction to boxing and I am forever indebted to him for his guidance and support over the years.

Paulie's own career in boxing is equally impressive. He grew up in Reading and began his early training at Reading's Fourth and Laurel Recreation Center under the skilled guidance of Reba Templeton and Horace Statton. Paulie fought as a 5'5"-126 pound featherweight. He fought for the national AAU title four times and also met six world champions, including his most challenging contender, the world-renowned featherweight, Willie Pep. In 1941, Paulie was named championship contender by Ring magazine. Between the years 1935 and 1953, he compiled an excellent record of 352-25 in amateur fights and 125-90 in professional fights. In recognition of this outstanding record, Paulie was inducted in the Berks County Hall of Fame and is also a member of the Old Time Boxer's Association and the Pennsylvania Boxer's Commission. He truly was an outstanding prize fighter—the best ever produced by Berks County.

After leaving the ring in 1953, Paulie passed his love of the sport onto future generations. Since 1957, Paulie has trained boxers at the Reading Police Athletic League. He has trained such renowned fighters as Larry Holmes, Frankie Rapino, Chubby Wright—Fred Morrison—and Steve Little. Through his patience, integrity, dedication, and commitment, Paulie has been a role model to every young man who has ever been involved with the PAL. He is an institution in our area.

In recognition of his many years of service, Paulie will be awarded the Police Athletic League Distinguished Citizen Award. Mr. Speaker, I can personally attest to Paulie's positive contributions. He has had a great impact on my own life. As he looks back on an outstanding boxing career, Paulie can be justifiably proud of his many achievements. I know that all of my colleagues will join me in honoring Paulie Jackson and in wishing him continued success and good fortune in the years to come.

MUNICIPAL SOLID WASTE INCINERATOR ACT OF 1988

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I am introducing today with my colleague Mr. WHITTAKER legislation to ensure proper management of the ash produced by the Nation's municipal solid waste incinerators. The legislation will also remove the uncertainty that currently exists with respect to the regulation of such ash under the Resource Conservation and Recovery Act [RCRA].

Legislation is needed at this time for two reasons. First, there is increasing evidence that improper handling and disposal of incinerator ash can pose serious threats to public health. The concentrations of heavy metals found in testing some ash are cause for genuine concern. Second, the regulatory uncertainty with respect to incinerator ash has delayed the development of incineration as an option for the management of municipal solid waste. Unfortunately, this delay comes at a time when more and more communities are facing limited landfill capacity, are only beginning to explore recycling as an alternative, and need incineration to manage their garbage problems effectively.

The U.S. Environmental Protection Agency [EPA] estimates that the Nation produces 150 million tons of garbage annually. Of this amount, some 90 percent continues to go into landfills, only 5 percent is incinerated, and the remaining 5 percent or so is recycled. Further, EPA estimates that within 5 to 7 years one-third of the landfills in the country will have reached capacity, within 15 years the figure jumps to 70 percent. To make things worse, communities are finding it increasingly difficult to site new landfills because of citizen opposition to waste disposal in their neighborhood, the "not in my backyard" or "NIMBY" syndrome.

Clearly, communities across this country will have to develop alternatives to landfills for managing their garbage. Increased recycling is one option that some States and local governments are pursuing. Another option is incineration, which is being used at some 110 municipal incinerators, with another 100 in the planning stages. EPA estimates that the percentage of garbage incinerated will increase over the next decade. If incineration is to play a greater role in municipal waste management it will have to be done in a manner that protects public health and the environment, including the handling and disposal of the ash produced by incineration.

The bill I am introducing today clarifies once and for all that regulation of municipal solid waste incinerators and incinerator ash is under subtitle D, not subtitle C, of RCRA.

The bill directs the Environmental Protection Agency to promulgate regulations applicable to the operation and management of municipal solid waste incinerators and to the management and handling of incinerator ash necessary to protect human health and the environment. These regulations are to include requirements for the treatment, transportation, storage, and disposal of incinerator ash, including minimum requirements for land disposal facilities.

The bill also directs EPA to develop regulations for the recycling and reuse of ash and to publish guidelines for the removal of items or materials that should not be burned from the municipal solid waste stream prior to incineration.

The bill places the primary responsibility for implementing these requirements on the States, requiring States to adopt and implement a permit plan or other systems of prior approval and conditions to assure compliance with the regulations. It also requires States to revise their State solid waste management plans to reflect the requirements for incinerators and incinerator ash.

Finally, the bill authorized Federal enforcement where States and local governments are not implementing the incinerator requirements. This should provide the public with complete assurance that the Federal requirements for their protection will be uniformly enforced.

A TRIBUTE TO MILTON G. UTTER

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. SCHUETTE. Mr. Speaker, it is with mixed emotions that I rise today to pay tribute to Milton G. Utter. Milt, on the first of April, retired from the Social Security Administration after a distinguished 20-year career in which he advanced from a young claims representative to branch manager, serving in positions throughout the State of Michigan.

Milt joined the Social Security Administration on October 1, 1967. Throughout Milt's career, he has been recognized for his outstanding performance. Some of his more recent awards include the Sustained Superior Performance Award in 1983, 1985, and 1986, and the Quality Step Increase Award in 1984.

Milt has shown his dedication and commitment to the public by hosting a weekly radio show on Social Security questions and being a guest speaker for the Chamber of Commerce. Milt has also been a member of the Owosso Rotary for many years, and is a past secretary of the organization. In addition, he also is an area representative of the Chicago Social Security Management Association and is a member of their executive committee.

I am proud of the work that Milt has done for the Social Security Administration and for the people of Michigan. I am pleased to call Milt a friend and to have had the pleasure of working with him. On behalf of the citizens in my 10th Congressional District who have benefited from his 20 years of service, I want to extend my best wishes for a happy and rewarding retirement. We will all miss you, Milt.

TRIBUTE TO EDWARD B. PULVER

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. TORRICELLI. Mr. Speaker, it is with admiration and respect that I rise today to pay tribute to Edward B. Pulver. Edward began his illustrious career at a time when the labor movement was undergoing its most significant transformation from the ideals and hopes of a few, to the driving force and power of the millions it represents today. Edward helped to harness the energy and commitment of a multitude of working men and women because he saw the unions as a vehicle through which the fair share of all who worked could be secured. He rose from the rank and file as a member, an organizer, a negotiator, and finally an elder stateman. Edward's 47-year career in the movement exemplifies the qualities which today are the foundation and principles of the American Labor Movement.

In 1945, he began his career as a representative of the tugboat fleets in New York Harbor. By 1962, he was named regional director of the Seafarer's International Union, with jurisdiction over the entire east coast. During the next 15 years he would be elected president of the Hudson County Central Labor Council and secretary-treasurer and vice president of the New Jersey State A.F.L.-C.I.O.

A man of unbounded energy and enthusiasm, he found time for involvement in community affairs. As the father of five, he recognized the importance of serving as coach and mentor for the Jersey City Boys Club, local basketball teams and Little League. He conducted food drives and visits to school during the holidays, loaded with toys donated by union workers. He shared his experience and knowledge when he served as an active member on numerous State boards and gubernatorial commissions. He is particularly proud of his involvement as cofounder of the A. Philip Randolph Institute and the Council for Latin-American Advancement. In 1984, he was the recipient of a U.S. Senate Shield and a U.S. Congressional Shield. He received the Central Labor Council Leadership Award from Somerset County and the Hudson County Labor Man of the Year Award. It is difficult to list all the honors, awards, and achievements that have been bestowed upon Edward Pulver for his activism and political astuteness.

I join with his family, friends, and associates in recognizing his strength and vision as a labor leader, his willingness to work assiduously to build cohensive coalitions between organized labor, community groups, and public officials and the integrity and judgment he demonstrated during times of crisis and political challenge.

HONORING TRIANGLE DISTRIBUTING CO., SANTA FE SPRINGS, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. TORRES. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues the outstanding recycling achievement of Triangle Distributing Co., which is located in the 34th district.

In 1981 the Container Recovery Corp. (CRC), the recycling subsidiary of Anheuser-Busch Cos., selected Triangle Distributing Co. as the first wholesaler in California to participate in its recycling program. Since becoming part of the CRC network, Triangle Distributing Co. has reclaimed more than 100 million cans.

Triangle Distributing Co. is the Southeastern Los Angeles County wholesaler of Anheuser-Busch beers since 1958. The company, under the leadership of Don Heimark and Jim Fleming, and the late Rudy Heimark, have been active in supporting environmental issues in our community. Since 1976 the company has operated a Saturday aluminum can recycling program to encourage citizens and community organizations, to help rid our streets and highways of aluminum cans. Since their affiliation with CRC, Triangle Distributing Co. has paid more than $1 million to area residents who have brought their containers to the Triangle recycling centers.

On Saturday, April 16, 1988, Container Recovery Corp. will present Triangle Distributing with the prestigious 100 Million Can Award at a community reception. Triangle Distributing Co. is the only southern California company to have earned this award. Only two other CRC affiliated recycling centers in the Nation have matched the volume of containers recycled by Triangle Distributing Co.

Mr. Speaker, I ask that my colleagues join me in congratulating Triangle Distributing Co. for their achievements and leadership in promoting recycling and a clean environment.

TRIBUTE TO MRS. MADHU KUMARI SINGH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to a very special citizen of my 17th Congressional District of Ohio, Mrs. Madhu Kumari Singh.

Mrs. Singh was recently honored as person of the year by the India Association of Greater Youngstown. This prestigious award is presented annually to the individual who has provided outstanding service to the association and its membership consistently over the years. Mrs. Singh was the India Association's first woman president and has held various positions in its executive committee. Mrs. Singh has been an active member of the association since its inception.

I have had the great pleasure of dealing with Mrs. Singh personally, as she has often made travel arrangements for me through her travel agency. Mr. Speaker, I am honored to stand before my colleagues here today to pay tribute to Mrs. Singh. I am privileged to represent such a fine person.

TRIBUTE TO DALE BUDD

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to Dale Budd, an outstanding young man and athlete from Port Allegany, McKean County, a small town in the northeast section of my district. Dale is the State champion of the class AA 167 pound Pennsylvania Interscholastic Athletic Association, held March 19 at the Hershey Park Arena.

Labeled the underdog, Dale battled a difficult and exciting match to a 5-0 victory to become the first State champion from Port Allegany High School. Although this was Dale's first State championship, this was not the first time he has qualified for post season grappling. Dale has won the District 9 championship twice, the Northwest regional championship, and has represented Port Allegany High twice at the PIAA championship.

With great pleasure, I congratulate Dale Budd on his outstanding achievement. As a senior, the victory caps an exciting career, one that will be long remembered by family, friends, and community.

Congratulations, Dale!

IN COMMEMORATION OF THE 150TH ANNIVERSARY CELEBRATION OF THE TOWN OF ERVING

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. CONTE. Mr. Speaker, I rise today to commemorate the 150th anniversary of the town of Erving's incorporation. On April 16, 1988, Erving will be celebrating its 150th anniversary and the town will be reveling in its rich New England heritage. Erving was incorporated as a town in 1838, but its history dates back to 1752, when land for this thriving industrial community was sold to John Erving. The earliest known settler, Col. Asaph White, arrived in 1801, and soon other settlers saw the beauty in Erving and followed suit.

The people in the quaint New England town of Erving are hard-working folks who take great pride in their local industries. Erving Paper Mills, founded in 1905, is one of Franklin County's major employers. This company, a leader in recycling waste paper, manufactures a wide range of consumer products and is probably the world's largest producer of printed paper napkins.

Those visiting Erving can enjoy the beauty of Laurel Lake in Erving State Forest which has recreational facilities including a sandy beach, bathhouses, picnic areas with fireplaces and tables, and tenting sites. There is also the Engine House Museum open for summer visitors.

Mr. Speaker, the celebration planned for the 150th anniversary is yet another example of the commitment felt by the residents of Erving to their community. Without a doubt the people of Erving have banded together to create a sense of community not found in most areas. The people of Erving have good reason to be proud of their town, and I am pleased to pay tribute to Erving on the event of its 150th anniversary.

FOR KIDS' SAKE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 11, 1988

Mr. MILLER of California. Mr. Speaker, in the late 1980's, demographic and economic trends are placing new stresses and creating new demands on American families. Declining family income, burgeoning household debt, growing numbers of women in the work force, shifting family arrangements due to divorce and remarriage have altered the way families work and live. Our institutions, however, have yet to catch up with these trends. Child care, flexible work hours, guaranteed parental leave, while improving, are still woefully inadequate to meet the need. As a result, balancing the competing demands of work and family has become a time-consuming and often frustrating fact of life for many American parents.

Every day, millions of mothers and fathers struggle to meet their dual responsibilities at home and in the workplace. All too often, this juggling act takes its toll on children. A single mother trying to hold down a job and raise her children may not have enough time at the end of the day to give a hand with the school work. A father working two jobs at minimum wage to keep his family clothed and fed may be too exhausted to lend a sympathetic ear to a teenager having trouble coping with peer pressure. For parents and their children, it can be a tug of war with the hands of the clock.

For over a year now, more than 100 television stations across the country have participated in "For Kids' Sake," a nationwide public service campaign aimed at adults and devoted to improving the quality of life for young people. Produced by Group W Television, the "For Kids' Sake" programming has included award-winning specials, news series, public service announcements and outreach activities including telethons to raise money for children's hospitals and hotlines to reduce teen suicides.

In 1988, Year II of "For Kids' Sake," this effort has been highlighted by a minicampaign entitled, "The Gift of Time," which began March 14 and runs through this Saturday, April 16, which has been designated as "For Kids' Sake Day."

"The Gift of Time" minicampaign includes an hour-long special saluting 12 Americans who made significant efforts to help children achieve their potential and live happier, healthier lives. It also tells the stories of youngsters who have benefited from extra time with a parent, teacher, or adult friend.

As chairman of the House Select Committee on Children, Youth and Families, I will be joined on Wednesday, April 13 by Representative GUS HAWKINS, chairman of the House Education and Labor Committee, and Senator EDWARD KENNEDY, chairman of the Senate Labor and Human Resources Committee, as honorary cohosts of a "Gift of Time" ceremony. At this event, to be held in the Rayburn Foyer, awards will be presented to the 12 adults highlighted in the television special as well as other Americans who help children in significant ways.

Actress Lindsay Wagner, who has spoken out on issues such as child abuse and learning disabilities, will also help honor these outstanding citizens who give considerable time, energy and commitment to children.

Those "Gift of Time" award winners include:

Dr. Lois Lee, who set up "Children of the Night," a Los Angeles-based organization that works with youngsters who survive on the streets by prostituting themselves.

Jerry and Sandy Tucker, a husband and wife who have adopted or helped raise more than 40 children in the hills of Kentucky. All of the children have physical or mental disabilities.

Kent Amos, a successful Washington, DC, businessman who is concerned about inner city children who are not doing well in school. Every afternoon, Amos opens up a study hall in his home where he encourages youngsters to take education seriously.

Eugene Lang who adopted a New York City elementary school class and promised to send each student through college upon high school graduation.

Bill and Elaine Farrell of Texas who heard what Lang was doing and set up a similar project in Dallas.

Nancy Abraham, who believes anyone can build a shelter for homeless women and children, and then proved it by building a shelter in New York City.

Mother Clara Hale who, with her daughter Dr. Lorraine Hale, runs a shelter in New York City for children of drug-addicted mothers, many of whom are born addicted to the drugs their mothers were taking during pregnancy.

Marian Wright Edelman, president and founder of the Children's Defense Fund, a national organization that provides a voice for children who cannot lobby, vote, or speak on behalf of themselves.

Robert Valverde, a San Francisco teacher, who requires that students in his 3-week life training course carry a sack of flour that represents a baby demanding enormous care.

"For Kids' Sake" is in step with the American public and brings community representatives, broadcasters and business leaders together to make a difference at just the right time. I am pleased to be a part of this important event and congratulate all who are involved.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February

4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 12, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 13

8:00 a.m.
Conferees
On H.R. 2616, Omnibus Veterans' Benefits and Services Act of 1987.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor
SD-124

*Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the Marine Mammal Protection Act.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on provisions of S. 747, to establish a motor carrier administration in the Department of Transportation (pending on Senate calendar).
SD-406

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

Judiciary
Patents, Copyrights and Trademarks Subcommittee
Business meeting, to mark up S. 1301 and S. 1971, bills to implement the Berne Convention for the Protection of Literary and Artistic Works, S. 1883, to improve the U.S. trademark registration system and the ability of the trademark law to protect the interests of the public and trademark owners, and S. 2201, to make permanent certain record rental provisions contained in title 17, U.S. Code.
SD-226

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, Farm Credit System Assistance Board, and the Federal Crop Insurance Corporation.
SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.
SD-116

Armed Services
Manpower and Personnel Subcommittee
Readiness, Sustainability and Support Subcommittee
To hold closed joint hearings on readiness of Army component combat support and combat service support units.
SR-222

Finance
To continue hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.
SD-215

Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings on U.S. development assistance and environmentally sustainable development.
SD-419

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

Select on Intelligence
To resume hearings in closed session to review the conduct of the Federal Bureau of Investigation inquiry into activities of the Committee in Solidarity with the People of El Salvador (CISPES).
SH-219

1:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on S. 2254, to make miscellaneous improvements in the management of Department of Defense acquisition, and related issues.
SR-232A

2:00 p.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on armor and anti-armor programs.
SR-222

Select on Indian Affairs
Business meeting, to mark up S. 1722, to establish the National Museum of the American Indian, Heye Foundation, within the Smithsonian Institution, and to establish a memorial to the American Indian, S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian, S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program, and S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe.
SR-428

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Labor Relations Board, and the Occupational Safety and Health Review Commission.
SD-124

APRIL 14

9:00 a.m.
Armed Services
Defense Industry and Technology Subcommittee
To continue hearings on S. 2254, to make miscellaneous improvements in the management of Department of Defense acquisition, and related issues.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1632, authorizing funds for the National Science Foundation.
SR-253

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on sham recycling and the recycling exemption in the Resources Conservation and Recovery Act.
SD-406

Foreign Relations
To hold hearings on the nomination of Robert S. Gelbard, of Washington, to be Ambassador to the Republic of Bolivia.
SD-419

Governmental Affairs
Business meeting, to consider S. 2037, to eliminate the use of private resources in the transition process and to provide for the orderly transfer of power between administrations, S. 1856, to authorize funds for programs of the National Historical Publications and Records Commission, S. 1381, to improve Federal cash management and ensure equity in funding Federal programs administered by the states, S. 1081, to establish a national nutrition monitoring and related research program, S. 533, to elevate the VA to Cabinet status, S. 2215, to authorize funds

for the Office of Federal Procurement Policy, and pending nominations.

SD-342

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold oversight hearings on the implementation of immigration reform programs.

SD-226

Small Business

To hold hearings on S. 1559, Small Business Federal Contracting Restoration Act of 1987, and related issues.

SD-428A

10:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1989 for selected special defense access programs.

SD-116

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for multilateral economic assistance programs.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To resume oversight hearings on the recent report of the National Housing Task Force.

SD-538

Labor and Human Resources

To hold hearings on S. 2231, authorizing funds for nurse education programs.

SD-430

11:00 a.m.

Foreign Relations

Closed briefing on the situation in Panama.

S-116, Capitol

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Armed Services

Projection Forces and Regional Defense Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the state of and plans for the United States Marine Corps.

SR-222

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1052, to establish a National Center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania, S. 1513, to include Washington Square within the Independence National Park in Philadelphia, Pennsylvania, S. 1682, to authorize funds for the Sewall-Belmont House National Historic Site in the District of Columbia, and S. 1690, to provide financial assistance for the restoration and reconstruction of Fort Abraham Lincoln and related structures in Fort Lincoln State Park, Mandan, North Dakota.

SD-366

Judiciary

Business meeting, to consider pending calendar business.

SD-226

3:00 p.m.

Armed Services

To resume closed hearings on the Intermediate-Range Nuclear Forces (INF) Treaty, and future weapon systems.

S-407, Capitol

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SH-216

10:00 a.m.

Finance

To resume hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.

SD-215

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on S. 1961, to establish a uniform system of procedures to facilitate the collection of debts owed to the United States.

SD-226

1:30 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume hearings in open and closed (SR-222) sessions on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the pace and direction of the Strategic Defense Initiative, and compliance with the ABM Treaty.

SD-138

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

9:30 a.m.

Special on Aging

To hold hearings on long-term health care for the elderly.

SD-628

Joint Economic

Investment, Jobs, and Prices Subcommittee

To resume hearings to examine current national policies on education, employment and training and their effectiveness in the future.

2175 Rayburn Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, Office of the Secretary of the Treasury, and the National Treasury Employees Union.

SD-116

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume hearings on S. 1480, to promote the integration of universities and private industry in the National Laboratory system of the Department of Energy in order to improve the development of technology in areas of economic potential, and Amendment No. 1627 proposed thereto.

SD-366

Labor and Human Resources

To hold oversight hearings on activities of the Occupational Safety and Health Administration.

SD-430

APRIL 19

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on international communications.

SR-253

Labor and Human Resources

To continue oversight hearings on activities of the Occupational Safety and Health Administration.

SD-430

Rules and Administration

Business meeting, to consider Senate Resolution 41, to provide for germaneness or relevancy of amendments, Senate Resolution 42, to limit legislative amendments to general appropriations bills, Senate Resolution 43, to establish a procedure in order to overturn the Chair on questions of germaneness under cloture, Senate Resolution 274, to limit sense of the Senate or Congress amendments, Senate Resolution 277, to require amendments to a bill, resolution, or other measure to be in the order that sections appear in such legislation and relate to the subject of such section, Senate Concurrent Resolution 88, to facilitate the convening of the National Silver Haired Congress, and other pending legislative and administrative business.

SR-301

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1720 and H.R. 900, bills to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, S. 1850, to designate a section of the Columbia River in Washington as a study area for inclusion in the National Wild and Scenic Rivers System, and S. 1914, to designate the Wildcat River in New Hampshire as a unit of the National Wild and Scenic Rivers System.

SD-366

Joint Economic

Investments, Jobs, and Prices Subcommittee

To continue hearings to examine current national policies on education, employment and training and their effectiveness in the future.

2175 Rayburn Building

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

Banking, Housing, and Urban Affairs

To resume hearings to review recent developments in the securities markets, focusing on events surrounding the stock market crash of 1987, and on S. 2256, to provide for intermarket coordination.

SD-538

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings on the implementation of the U.S. Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.

SD-366

Select on Indian Affairs

To hold oversight hearings on the management of Columbia River Indian fisheries

SR-485

APRIL 20

8:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide, and Rodenticide Act Reform of 1987.

SR-332

9:00 a.m.

Labor and Human Resources

To continue oversight hearings on activities of the Occupational Safety and Health Administration.

SD-430

Select on Indian Affairs

To hold hearings on S. 1987, to establish a separate program to provide housing assistance for Indian and Alaska Natives.

SR-485

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

S-146, Capitol

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

8:00 a.m.

Veterans' Affairs

To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals.

SR-418

9:00 a.m.

Rules and Administration

Business meeting, to mark up S. Res. 41, to provide for germaneness or relevancy of amendments, S. Res. 42, to limit legislative amendments to general appropriations bills, S. Res. 43, to establish a procedure in order to overturn the Chair on questions of germaneness under cloture, S. Res. 274, to limit sense of the Senate or Congress amendments, S. Res. 277, to require amendments to a bill, resolution, or other measure to be in the order that sections appear in such legislation and relate to the subject of such section, S. Con. Res. 88, to facilitate the convening of the National Silver Haired Congress, and other pending legislative and administrative business.

SR-301

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on truck access.

SR-253

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SD-342

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

Finance

To resume hearings on the United States-Canada Free Trade Agreement

signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.
SD-215

2:00 p.m.
Energy and Natural Resources
To resume oversight hearings on the implementation of the United States-Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.
SD-366

APRIL 22

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking, and other organized crime groups.
SD-342

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.
SD-192

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 1776, to require U.S. coins to be redesigned, to require that one coin be redesigned to commemorate the bicentennial of the U.S. Constitution, and to require profits from the sale of proofsets of U.S. coins to be used to reduce the national debt.
SD-538

Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold hearings on S. 2089, to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases.
SD-366

Judiciary
Courts and Administrative Practice Subcommittee
To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.
SD-226

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-128, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
SD-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the review of the Dairy Policy Commission Study.
SR-332

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Agriculture, Nutritions, and Forestry
To resume hearings to review the current state of U.S. financial markets, focusing on the problems surrounding the October 1987 market break.
SD-562

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

Veterans' Affairs
Business meeting, to mark up S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and other pending committee business.
SD-418

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.
SD-406

1:30 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.
SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

2:30 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water

rights claims in southwest Colorado, and S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.

SR-485

APRIL 29

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

8:00 a.m.

Veterans' Affairs

To hold hearings on proposed legislation relating to agent orange and related issues.

SR-148

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.

S-146, Capitol

MAY 17

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor research and development.

SD-366

MAY 18

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.

SD-366

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of

Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-126, Capitol

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 10

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.
S-126, Capitol

JUNE 14

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
S-126, Capitol

JUNE 16

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
SD-192

CANCELLATIONS

APRIL 13

9:00 a.m.
Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold joint hearings with the Committee on Rules and Administration on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).
SR-301

Rules and Administration
To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Services, Post Office, and Civil Service on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).
SR-301

APRIL 14

10:30 a.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

HOUSE OF REPRESENTATIVES—*Tuesday, April 12, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Just as we pray for ourselves and our immediate needs, O God, so this day our hearts reach out to those people whose lives are filled with frustration, fear, and pain. We pray for those suffering from hostilities and war that there may be peace; we pray for hostages everywhere whose lives are tormented by anxiety that they may return to their families; we pray for victims of persecution, for those who know not the freedoms we enjoy that they find justice and respect. Teach us, gracious God, to remember all Your people in our prayers that Your will may be done on Earth as it is in Heaven. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

APPOINTMENT OF CONFEREES ON H.R. 2616, VETERANS' ADMINISTRATION HEALTH-CARE AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, with the House amendments to the Senate amendments thereto, insist on the House amendments to the Senate amendments, and to agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Mr. MONTGOMERY, Mr. APPLEGATE, Ms. KAPTUR, and Messrs. ROWLAND of Georgia, SOLOMON, and HAMMERSCHMIDT.

MILITARY CONTRACTING WITH PRIVATE FIRMS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, for many years now, I and many of my distinguished colleagues have been engaged in a debate over the question of the military contracting with private firms for certain services.

Although the administration has argued that private contracts are the most cost-effective means of providing certain essential services—such as security and maintenance—I have steadfastly maintained the position that whatever dollars are saved in the short term are more than lost in the long. Often, quality service is sacrificed at the altar of cost efficiency, creating situations in which saving money is really no savings at all.

A perfect example of this has emerged in my district, where controversy has arisen between employees and the firm United International Investigative Services, which is under contract to provide security for the Naval Underwater Systems Center. In this case, many employees' paychecks have bounced, causing personal embarrassment and genuine hardship as workers have been unable to pay their rent or buy groceries.

Repeated efforts by my office to resolve the difficulties have met with resistance from both the firm and the Navy. No one seems to care. The Navy claims it has no jurisdiction in dealing with United International; United International has been intermittent in its responsiveness. Workers' calls to my office to complain die down for a time, then start up again shortly thereafter.

This kind of fiscal turmoil is quite naturally affecting the morale and, I presume, the performance of the employees. Given the importance of NUSC, security should—must—be of paramount importance at the facility. Yet with the ongoing troubles the company has meeting its payroll obligations on time and in full, the firm's ability to do its job is certainly deserving of doubt. Recently, for example, several guards walked off the job in protest of repeatedly bounced checks. I am not alone in my sense of both skepticism and frustration over this ludicrous situation.

Mr. Speaker, the pile of evidence that indicates that private contracting for certain types of service to the military is not the most cost-effective manner of handling such things as security and maintenance. Although the balance sheet may reflect a savings, the human price is not figured into that equation. Ultimately, there is even the possibility that the taxpayers will suffer; if the Government eventually must step in, the people will pay double for what could have been handled satisfactorily in-house.

I am not suggesting, Mr. Speaker, that all private contracts of this type awarded by the military are wrong. But I do believe that many of them possess serious enough drawbacks that we should carefully consider whether we want to continue to encourage this practice in the future.

SANDINISTA STRATEGY DOCUMENT

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, reports were circulating last week about a Sandinista document laying out strategy to eliminate all opposition to their regime in Nicaragua. Sandinista government officials claim the document is a "crude falsification."

Whether it is real or fake, the document has the appearance of reality because it lays out in clear terms what is obvious: The Sandinistas are determined to stay in power by any means necessary.

The document reportedly states the lifting of press restrictions at the same time as freeing antigovernment prisoners creates an "exposive potential that is highly dangerous for revolutionary power." And although it says the "key task" is to defeat the Contras, the internal opposition is also a prime target. The document says, "we will take all available measures to divide and splinter the opposition. At these moments, we cannot renounce revolutionary terror." Cardinal Obando y Bravo is also mentioned in the document, which says he "will always be our enemy, and it is not convenient to maintain him" in the position as mediator of the cease-fire talks. Whether they wrote it or not, so far the Sandinistas seem to be following the script very closely.

MASSACHUSETTS PORT AUTHORITY COULD DEAL A DEATH BLOW TO GENERAL AND COMMUTER AVIATION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, it is time for Congress to step in and stop a proposal that poses serious problems for interstate commerce that would wreak havoc on general aviation and commuter airlines. The Massachusetts

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Port Authority wants to increase landing fees by up to 150 percent for commuter carriers and general aviation at Boston's Logan Airport. This proposal, if it is allowed to go into effect, will freeze these segments of aviation and thousands of air travelers out of the Boston airport. More troubling is the reality that it could be copied by airport after airport around the country. Can you imagine the effect on aviation and our constituents if general and commuter aircraft were effectively denied access to Chicago's O'Hare, Dallas-Fort Worth, Atlanta, Denver, St. Louis, and a whole slew of other airports in this country?

To deny travelers from less populated areas who are dependent on commuter airlines and general aviation for air service the right to fly into these airports by imposing prohibitive and discriminatory fees is blatantly unfair. It destroys the concept of a national air travel system and would seriously hurt rural areas whose people need access to major airports to carry out their business. I urge my colleagues to support H.R. 4074 that would block enactment of this discriminatory landing fee proposal until the Transportation Secretary could consider its full implications on the Nation's airway system, and also to sign a letter that the gentleman from Oregon [DENNY SMITH], and I are circulating asking that the FAA administrator delay this Massachusetts Port Authority decision.

SUSPEND MOST-FAVORED-NATION TRADING STATUS WITH YUGOSLAVIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there was an Iranian-Libyan arms exchange. Iran received sophisticated acoustic mines from Libya.

I find it shocking to note where Libya obtained these mines. They were purchased from Yugoslavia. Yet, Yugoslavia is one of only two Eastern bloc nations which enjoys unrestricted, most-favored-nation trading status from the United States.

They also ship an awful lot of Yugos over here, and we are supposedly counteracting communism. I think it is time, and I do not think we can find a stronger reason, to change our trading agreement with Yugoslavia. It is time we canceled that out.

I am asking today to suspend most-favored-nation trading status to Yugoslavia and to support legislation, H.R. 3577.

Finally, I think we should also look at their human rights violations. Yugoslavia certainly has an awful lot of them, and we should be challenging them.

UNITED STATES MUST RESIST FURTHER TRADE BARRIERS

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, I realize that last night was Oscar night, but I hope the film that Members of this body have been watching was the one that was reviewed by the Washington Post this last Saturday. The headline reads, "Japanese Film Exacerbates Trade Tensions."

In the article by Ward Sinclair, and let me read the first two paragraphs to give you an idea what the plot of this little film is:

> Citrus is shown rotting on the docks at Yokohama, disfigured human fetuses float in laboratory jars, monkeys supposedly deformed by tainted food grovel in their pens, hospitalized children display mysterious skin diseases, airplanes spray clouds of chemicals on farm fields.
>
> The film's message is clear: Japan is being poisoned with imported foods. Then a blue-eyed baby doll flashes onto the screen. The narrator says, "Once you sent us this lovely gift of friendship and now you send us poison. . . . If Japanese consumers are being poisoned, is it good to have this open trade with the United States?"

The timing of this feature is interesting, Mr. Speaker. It coincides with the end of the beef and citrus agreement on March 31 of this year. The Agricultural Central Union Cooperatives, Zenchu, is behind this to promote the lack of understanding, a lack of understanding between the United States and its Japanese trading partners on an agreement the Japanese have already agreed to; namely, to expand United States beef quotas into Japan.

I hope that the Members will not be taken in by this particular piece of propaganda at a time of high trade deficits. It is imperative that the United States resist further trade barriers against our products.

I have, to this end, introduced legislation which calls on the United States trade representative to pursue appropriate measures in order to liberalize the Japanese beef market, and I encourage my colleagues to cosponsor this legislation. Let us give the American producer a chance to expand his market share and, at the same time, eliminate foreign trade barriers and more lousy Japanese horror films.

THE LATE HONORABLE VERNON W. THOMSON

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, as dean of the Wisconsin delegation, it is my sad duty to announce to the House the passing of our former colleague, the Honorable Vernon W. Thomson of Wisconsin.

Vernon Thomson died on Saturday, April 2, at George Washington University Hospital in Washington, DC.

He was born in Richland Center, WI, some 82 years ago. He attended Carroll College and the University of Wisconsin Law School.

Vern began his career in public service as an assistant district attorney of Richland County. He also served as Richland Center city attorney from 1933 to 1940, and mayor of Richland Center from 1944 to 1950. In 1934, Vern was elected to the Wisconsin State Assembly and served until 1950. During his last three terms in the assembly, he served as speaker. In 1950, Vern was elected State attorney general and served until he was elected Governor of Wisconsin in 1956.

Although Vern was defeated for reelection in 1958, he was elected to the House of Representatives from Wisconsin's Third District in 1960 and served until 1974. He was in every sense one of Wisconsin's most memorable political leaders.

After leaving Congress, Vern was appointed by President Ford to serve on the Federal Election Commission and served as Chairman of the Commission in 1976-77 where he served with great distinction.

Mr. Speaker, I would like to extend my deepest sympathy to his family.

□ 1215

H.R. 3639, DIRECTING CENSUS BUREAU TO DEVELOP SEPARATE POPULATION FIGURES EXCLUDING ILLEGAL ALIENS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, the Census Bureau has just issued some earth-shaking news: According to the Bureau, households with incomes of $50,000 or more are more likely to own a personal computer than households with incomes of $10,000 or less!

Now, clearly, this is vital and unexpected news from our friends at the Census. Unfortunately, however, while the Census Bureau is eager to count the numbers of personal computers in America, it refuses even to try to count the number of illegal aliens.

As a result, States with large illegal alien populations like California and Texas, will likely gain congressional seats after the 1990 census from States with small illegal alien populations—States like Pennsylvania and Iowa, for instance.

The Census Bureau is eager to count computers, outhouses, telephones, and so on, but not illegal aliens. The Census Bureau seems to think illegal aliens deserve representation in the U.S. House of Representatives.

But I don't—which is why I urge my colleagues to support my bill, H.R. 3639, which would direct the Census Bureau to develop separate population figures excluding illegal aliens for purposes of reapportionment of seats in the House.

URGING GOVERNMENT OF JAPAN TO REVERSE THEMSELVES AND TO JOIN THE OTHER SIX COUNTRIES IN G-7

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, my colleague and neighbor, the gentleman from Iowa [Mr. GRANDY], just mentioned to you the outrageous film by Zenchu which has been shown in Japan at a time when we are at the end of a 4-year beef agreement after which, we had been led to believe, all quotas on imported beef would be dropped. Is it not interesting that the film is shown and negotiations are unsuccessful at a time when we have an omnibus trade bill pending? Is it not interesting that in fact the Japanese were able to delay consideration of beef quotas by GATT until May, at a time they expect to see that the trade bill will be enacted with or without the President's signature?

I wanted today, however, to concentrate my remarks specifically on another matter that happened just this last week in Japan. In the Japanese papers on Saturday the Economics Minister was quoted that he could not support the G-7 decision to push for changes in exchange rates of the newly industrialized countries [NIC's] Taiwan, South Korea, Singapore, and Hong Kong.

Now it is quite important and appropriate that in fact we have a solid front upon this exchange-rate requirement. In fact last year the projected trade deficit of the United States with these four countries was $38 billion.

With respect to the two with which the largest imbalance exists, South Korea and Taiwan, we also face incredible trade barriers against American products.

I ask the Japanese Economics Minister and the Government of Japan to reverse their recently announced position and to join the other six countries in the G-7 in pushing for appropriate changes in exchange rates by the four NIC's.

RALPH EUGENE CRAWSON: HE DREAMED THE IMPOSSIBLE DREAM

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, Robert F. Kennedy used to say, "Some men see things as they are and say why; I dream things that never were and say, why not."

Robert Kennedy would have liked Ralphie Crawson, who also dared to dream the impossible dream. The day Ralphie was born, his parents were told their little boy would never be able to run. As Ralphie grew up, he and his father Ralph didn't dwell on asking and reasking why he was born handicapped. Instead, they dreamed of and worked toward a day when he would be able to run, and said why not.

Ralphie did learn to run, and to swim, and to play volleyball, and to ski, and to play soccer. Working with his father, who is director of Montgomery County, MD's Special Olympics Program, Ralphie became a Special Olympics star. There have been 20 Special Olympics, and Ralphie Crawson participated in 19 of them. He was proudest of the gold medal he won as a member of the world championship volleyball team at the 1983 International Special Olympics.

But Ralphie didn't just love sports, he loved people, too. His "bear" hug was famous and every night before he went to bed he said prayers for his fellow Special Olympics athletes.

Tonight, his fellow handicapped athletes from all over Montgomery County will have a memorial service for Ralphie, who passed away last Friday. They, together, will continue to work at Ralphie's dream, will continue to move beyond "why this" and instead ask: why not?

TRIBUTE TO THE LATE HONORABLE VERNON W. THOMSON

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, it is my sad duty to inform the House of the passing of former Wisconsin Third District Congressman Vernon W. Thomson during the recent Easter recess on April 2.

Vern Thomson spent almost all of his adult life in the public service of his city, county, State, and Nation. Born on November 5, 1905, he assumed the dual role of city attorney for Richland Center, WI, and the assistant district attorney for Richland County immediately following his graduation from the University of Wisconsin Law School in 1932.

First elected to the Wisconsin State Assembly in 1934, he was a member of that legislative body for eight consecutive terms (1935-51), serving as its speaker from 1939-45. It's no small accomplishment that, at a time when the average age of a member of the Wisconsin Assembly was close to 60, Vern Thomson was elected its speaker at 34.

In April 1944, Vern was also elected mayor of Richland Center, a position he held along with this assembly post until he was sworn in as Wisconsin's attorney general in 1951. During his tenure as attorney general and as a member of the Wisconsin Judicial Council, he presided over the first complete revision of Wisconsin's substantive criminal code as well as the modernization the State's children's code.

After serving three terms as attorney general, Vern Thomson was elected Governor of Wisconsin in 1956. Among other things, his term as Governor was marked by the passage of new, tighter lobby-control legislation which underscored the progressive political traditions of the State of Wisconsin through absolute prohibitions on gifts to State officers and employees.

Vern Thomson was subsequently elected as the Representative of Wisconsin's Third District to the U.S. Congress in 1960. He was elected to a total of seven consecutive terms and served on the Foreign Relations, Small Business, and the District of Columbia Committees during his 14-year tenure in the House.

Following his public service in the House, Vern Thomson was appointed by President Gerald Ford to a 5-year term on the newly revitalized Federal Elections Commission in 1975. He served as FEC Chairman from 1976-77.

Throughout his political career, Vern was not only known as an orator who could stir the passions of his colleagues and constituents, but as a man of vision as well. He warned us about deficits long before deficit spending became an annual occurrence. He worked to protect American workers long before we had a trade deficit. He was an environmentalist long before such preservation was fashionable.

This latter designation was particularly important to those of us who call western Wisconsin "home" for, even on his last day in Congress, Vern Thomson was working on fully funding his dream of making the lower St. Croix River a permanent part of our Nation's Wild and Scenic River System. In fact, with the passage of that legislation, the gentleman from North Carolina [Mr. TAYLOR] who was one of the floor managers of the bill commented that, with its passage, the lower St. Croix would forever be a monument to Vernon Thomson.

And it is a most fitting memorial to this avid fisherman who, more than any other man I have known, made public service an honorable profession for the rest of us to enter. We will miss his wisdom and insight. His example, however, will remain with us forever.

COMMUNICATION FROM HON. BOB McEWEN, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. PICKETT) laid before the House the following communication from the Honorable BOB McEWEN:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 11, 1988.

Hon. JIM WRIGHT,
Office of the Speaker,
H204 Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(5) of the Rules of the House of Representatives, that an employee in my office has been served with a trial subpoena issued by the Common Pleas Court of Ross County, Ohio.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

BOB McEWEN,
Member of Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

DAN DANIEL ARMED FORCES RECREATION CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4155) to designate the Armed Forces Recreation Center at Fort DeRussy, HI, as the "Dan Daniel Armed Forces Recreation Center."

The Clerk read as follows:

H.R. 4155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Armed Forces Recreation Center at Fort DeRussy, Hawaii, shall be known and designated as the "Dan Daniel Armed Forces Recreation Center".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. MARTIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Virginia, Dan Daniel, died on January 23 of this year. He was a close friend to a number of us here in the Congress and one of this country's great patriots.

Dan was an inspiration to all of us because of his devotion to a strong national defense. He worked hard as chairman of the Armed Services Readiness Subcommittee, and it is because of his love for country and his commitment to our military that we are here today.

I hope my colleagues will join me in support of this legislation to name the Armed Forces Recreation Center at Fort DeRussy after Dan Daniel. This bill does not appropriate any money and it does not change the name of Fort DeRussy itself. It simply renames the recreation center there in honor of our former colleague by adding two words.

Dan was always aware of the dedication of the military men and women who serve under difficult conditions all around the world. He also had a genuine concern for their morale.

Naming this recreation center after Dan Daniel will ensure that his work to keep morale high, and to provide for the recreational interests of our military personnel will be remembered in the years to come. This center will be used by our military stationed throughout the Far East Command, as well as the people of Hawaii.

This is a very small gesture of appreciation for Dan's lifetime of commitment to a strong national defense, but it is a fitting tribute, because it means his legacy will live on with the men and women he worked so hard for our Armed Forces.

I urge my colleagues to support H.R. 4155 in tribute to our friend and colleague from Virginia Dan Daniel.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTIN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Mississippi for introducing this bill, and I urge my colleagues to support naming this recreation center after Dan Daniel.

All of us who knew Dan remember him for his most remarkable attributes of kindness and compassion for people. Dan had a special place in his heart for the welfare of the millions of soldiers, sailors, airmen, and marines who devote themselves so unselfishly to the defense of our Nation.

His support for the well-being of the military man and woman was repeatedly manifested in his unswerving support for resources to support the continuing effort to provide for an adequate quality of life for the American military.

On many occasions we witnessed Dan Daniel rising on the floor to speak out for the welfare of the military community. He also worked hard behind the scenes at every opportunity to guarantee our military the benefits to which they deserve and are entitled.

The Armed Forces Recreation Center in Hawaii had a special meaning for Dan Daniel. He fought hard to make it the kind of place that our military could enjoy and be proud of. Today, the Armed Forces Recreation Center at Fort DeRussy provides deserved rest and relaxation for hundreds of thousands of military people, reciprocating for their devotion to duty.

Dedicating this center to Dan Daniel would salute his passionate support for our military personnel and allow those who visit this area reason to pause and reflect upon the memory of our dear colleague.

Mr. Speaker, on a personal note, the gentleman from Virginia [Mr. Dan Daniel] was one of the true gentlemen I have ever had the privilege of serving with in any capacity.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON] who also serves on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, this bill is certainly a fitting tribute to one of the real gentlemen of the U.S. House of Representatives.

Dan Daniel, the gentleman from Virginia who recently passed away, was a member of the Committee on Armed Services and as chairman of the Subcommittee on Readiness spent a great deal of his time to ensure that the men and women of the Armed Forces were maintained properly and that their recognition and welfare had a high priority.

He also felt very strongly about equipment and facilities being in good shape and properly maintained for these people.

Naming this Fort DeRussy Recreation Center after Dan Daniel is a proper thing because of his interest in the soldier and the sailor and the marine and the airman and their welfare.

□ 1230

Dan Daniel was a good friend. He not only worked with us, he shared his advice and his thoughts freely. Having a distinguished career in the Virginia House of Delegates, former chief of the American Legion of the United States, a World War II Navy veteran, he brought his expertise and his ability to get things done in the U.S. Congress to this place and made it all the better, not just for the fighting men and women, but for those of us who worked with him.

Mr. Speaker, as years go by those of us who knew him will remember him well, but those who will not have the opportunity to have known of him and as they go to Fort DeRussy and see the Dan Daniel Recreation Center there, they will at least know his name and have a part in the memory of a great American.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I would like to join my colleagues in support of H.R. 4155, which will designate the Armed Forces Recreation Center at Fort DeRussy, Hawaii, as the "Dan Daniel Armed Forces Recreation Center."

This is a fitting tribute to our late colleague. Dan Daniel was a gentleman and a patriot. As the chairman of the Readiness Subcommittee and as a member of the Armed Services Committee, he was a leading voice for strength in our Nation's defense, as well as for the readiness of our conventional Armed Forces.

I had the pleasure of serving on the Readiness Subcommittee under the able leadership of the gentleman from Virginia, Mr. Daniel. He was always fair and evenhanded. In particular, Dan Daniel was interested in seeing that those of us who were new to the committee were fully part of the process and involved to the greatest possible extent.

The Dan Daniel Armed Forces Recreation Center will be a small remembrance of the leadership and the service which he provided to the people of Virgina and to our entire Nation during his almost 20 years and a Member of this body. As one of my colleagues said, he will be greatly missed, but never forgotten.

Mr. MONTGOMERY. Mr. Speaker, I yield as much time as he might consume to the gentleman from Alabama [Mr. BILL NICHOLS], who gave the eulogy at Dan Daniel's funeral in Danville, VA, and it was one of those eulogies that we will never forget, those who were there.

Mr. NICHOLS. Mr. Speaker, I thank my colleague from Mississippi for introducing this bill and urge my colleagues on both sides of the aisle to join with me in enacting this bill.

There are few in Congress who rivaled Dan Daniel in his commitment to a strong national defense. I can recall so vividly the forceful and eloquent statements so often made by Dan Daniel to underscore his belief that this great Nation remain forever strong.

The country has lost a great patriot. Congress has lost a very fine Member. He did all he could to assure that our dedicated men and women in uniform had all they needed in resources and equipment to do the vital work we have entrusted to them. But our dear friend from Virginia also believed very strongly that our military should be provided with an adequate quality of life. He worked hard on the Armed Services Committee and in the Congress to ensure that our military people and their families were treated well.

The Armed Forces Recreation Center in Hawaii has long served as a restful place for American military forces from the rigors of service in the Pacific theater and around the world. Our military people built this facility with their own money—from the proceeds of their patronage of military exchanges. It also represents a reward and recognition from the American people for their service to our Nation.

No one worked harder or felt stronger about preserving this recreation area for our military than Dan Daniel.

I believe that I am correct in saying that Dan was present many years ago when we broke ground for the servicemen's hotel, the Halla Koi Hotel, at Fort DeRussy.

Over the years Dan personally intervened and sought the support of Congress toward assuring that this area would long serve these deserving men and women who earned it.

I was a close friend and a colleague of Dan Daniel for most of his 19 years in Congress, and I know that he would be honored as will his family and all who knew him for this fitting memorial.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. MARTIN of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 4155.

Dan Daniel was truly a great American, a great patriot. He loved his country. He loved his family. When you visited his district, you could tell how the people he represented had such great affection for him and loved him and had confidence in the things that he did and that he tried to accomplish.

He believed that we needed a strong national defense and he worked throughout his congressional career to provide for our Nation's defense.

He believed in the institutions that made this country great.

For that reason, I think it is only fitting that the Armed Forces Recreation Center at Fort DeRussy, HI, be named the Dan Daniel Armed Forces Recreation Center. I only wish it could be a larger institution than it is, because certainly as a great patriot and a great American he deserved it.

Mr. MONTGOMERY. Mr. Speaker, I yield as much time as he may consume to the gentleman from New York [Mr. SAM STRATTON], a member of the Armed Services Committee and chairman of the Subcommittee on Procurement and Military Nuclear Systems.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for giving me this time.

Certainly H.R. 4155 which would designate the Armed Forces Recreation Center at Fort DeRussy in Hawaii as the Dan Daniel Armed Forces Recreation Center is a worthy tribute to our great colleague. No higher tribute could be made because Dan Daniel in his responsibility as a member of the Armed Services Committee and one who had recognized the value of the Fort DeRussy recreation area in Hawaii, which had been originally created for the use of troops coming from other areas, from Southeast Asia and also from the United States, Dan Daniel realized that unless the Armed Services Committee and the Congress itself would insist that Fort DeRussy not be used by just any visitors coming into the Hawaii area. He realized that this was a major concern for American forces, and as a result the committee went along with him. Congress also went along with him.

Fort DeRussy is going to stand for a long time as a real tribute to Dan Daniel and the American troops who have served so well under his leadership.

Mr. Speaker, I urge that this suspension be unanimously agreed to.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. LEATH], also a member of the Armed Services Committee.

Mr. LEATH of Texas. Mr. Speaker, I rise in strong support of this bill.

During his tenure in Congress, Dan Daniel had a special interest in the Armed Forces Recreation Center, HI. As chairman of the morale, welfare, and recreation panel of the Armed Services Committee, Dan led the way on continual advocacy and oversight of this facility. He was determined to ensure that the recreation center at Fort DeRussy remain an area that could continue to be enjoyed by our dedicated men and women in uniform.

Dan Daniel cleared the way for funds to be allocated for construction of facilities in the early 1970's. In 1979, Dan Daniel conducted an intensive review which resulted in the continued financial solvency and viability of this facility, thus assuring that it would remain available for use by our military personnel. More recently, Dan was instrumental in assuring that the open space at Fort DeRussy remain accessible for military personnel and the residents of Hawaii.

Dan Daniel took this cherished recreation area under his wing. He helped to create it, preserve it, and foster it. It is therefore most fitting that we dedicate this program to our late colleague.

Mr. MARTIN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back my time, I would like to point out, and I speak with the greatest of confidence, that not only do I support H.R. 4155, but all the Members on this side of the aisle who serve on the Armed Services Committee not only support this measure, but support it wholeheartedly and with vigor.

Mr. PRICE of Illinois. Mr. Speaker, today, the House of Representatives will consider H.R. 4155 to name the Armed Forces recreation center at Fort DeRussy, HI, as the Dan Daniel Armed Forces Recreation Center.

Mr. Speaker, as you know, Congressman Daniel served on the Armed Services Committee, and chaired the Morale, Recreation and Welfare Panel. I sincerely believe that this is a most appropriate tribute to the late Congressman and I support this suspension.

Mr. DICKINSON. Mr. Speaker, I rise today in strong support of H.R. 4155, to designate the Armed Forces recreation center at Fort DeRussy, HI, as the Dan Daniel Recreation Center.

Dan Daniel was an honorable man, and a tireless supporter of a strong national defense. But more importantly, he was a friend and advocate of the soldier and his family.

As a member of the Armed Services Committee, and chairman of the Subcommittee on Readiness, Dan spent a great deal of time and effort in promoting the concerns and needs of our military personnel.

As far back as I can remember, a concerted effort has been made to sell off this property for commercial development purposes. Dan Daniel was instrumental in staving off this relentless effort, so that well deserved military personnel will have the use and benefit of this recreation center in the future. I hope that with the approval of this legislation, this matter will be put to rest once and for all.

I can see no better way to show our gratitude and appreciation for Dan's hard work, than to name this center for him, as a tribute to a great American and patriot.

Mr. MARTIN of New York. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4155.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4155, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1987

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1988".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1907) is amended by adding at the end the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $25,400,000 for the fiscal year ending September 30, 1988; $27,000,000 for the fiscal year ending September 30, 1989; and $28,600,000 for the fiscal year ending September 30, 1990. Such sums shall remain available until expended.".

(b) ESTABLISHMENT OF EMERGENCY FUND.—Section 309 of such Act is further amended by inserting "(a)" after "309." and by adding at the end the following new subsection:

"(b) An emergency fund of $1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish the emergency fund under the preceding sentence and to replenish the fund annually. Such sums are authorized to remain available until expended.".

SEC. 3. ELIMINATION OF CERTAIN NOTICE REQUIREMENTS.

(a) REPORTS.—Section 304(a)(2) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)((2)) is amended by striking "and to cause notice of the issuance and availability of such reports to be published in the Federal Register".

(b) SAFETY RECOMMENDATIONS.—The last sentence of section 307(a) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1906(a)) is amended to read as follows: "The Board shall make copies of each such recommendation and response thereto available to the public at reasonable cost.".

SEC. 4. TRAINING SCHOOLS.

Section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) The Board may at any time utilize on a reimbursable basis the services of the Transportation Safety Institute of the Department of Transportation (established for the purpose of developing courses and conducting training in safety and security for all modes of transportation) or any successor organization. The Secretary shall continue to make available such Institute or successor organization (A) to the Board for safety training of employees of the Board in the performance of all their authorized functions, and (B) to such other safety personnel of Federal, interstate, State, local, and foreign governments and non-governmental organizations as the Board may from time to time designate in consultation with the Secretary. Utilization of such training at the Institute or any successor organization by any designated non-Federal safety personnel shall be at a reasonable fee to be established periodically by the Board in consultation with the Secretary. Such fee shall be paid directly to the Secretary for the credit of the proper appropriation, subject to the requirements of any annual appropriation, and shall be an offset against any annual reimbursement agreement entered into between the Board and the Secretary to cover all reasonable direct and indirect costs incurred for all such training by the Secretary in the administration and operation of the Institute or any successor organization. The Board shall maintain an annual record of all such offsets. In providing such training to Federal employees, the Board shall be subject to chapter 41 of title 5, United States Code (relating to training of employees).".

SEC. 5. PAYMENT FOR GOODS AND SERVICES.

Section 304(b)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(6)) is amended by striking "and" before "(G)" and by striking the period at the end and inserting the following: "; and (H) require payment or other appropriate consideration from Federal agencies, and State, local, and foreign governments for the reasonable cost of goods and services supplied by the Board and to apply the funds received to the Board's appropriations.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

□ 1245

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 11 authorizes appropriations for the National Transportation Safety Board for fiscal years 1988, 1989, and 1990. Although the amounts involved are small, this is important legislation. The NTSB has critical responsibilities for ensuring the safety of our transportation system by investigating and determining the probable causes of accidents in all modes of transportation.

Budget cuts in recent years have forced the Board to cut its staff and have made it extremely difficult for the Board to carry out its important safety responsibilities. For example, lack of staff has caused delays in preparing accident investigation reports. The authorizations in the bill now before us would permit the Board to stabilize its staff at 347 positions. This staffing level, which has been found by the Congress to be the minimum needed for the Board to carry out its important responsibilities, is well below the Board's 1980 staffing level of 401 positions.

The remaining provisions in the bill are designed to help the Board improve its efficiency or to obtain small amounts of additional funding. The bill would relieve the Board of some obligations which serve no useful purpose, such as the requirement of publishing notice of issuance of NTSB decisions in the Federal Register when issuance of these decisions is widely publicized in the media.

The bill would also permit the Board to charge fees for services provided voluntarily by the Board in assisting State, local, and foreign governments. The Board would receive these fees as part of its appropriations. In addition, the Board would be permitted to charge fees to persons attending its accident investigation schools. These fees would be used to offset the expenses incurred by NTSB in training its own employees.

Mr. Speaker, the bill now before us is a compromise between the bills reported by the Committee on Public Works and Transportation and the Committee on Energy and Commerce. I appreciate the cooperation of the Energy and Commerce Committee in working out the relatively minor differences between the two bills.

Mr. Speaker, the bill we are considering will be of great importance in ensuring transportation safety. I strongly urge my colleagues to join me in passing this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, shortly before it adjourned, the 99th Congress passed and sent to the President a bill to authorize appropriations for the National Transportation Safety Board [NTSB]. Unfortunately, the President chose to pocket veto this measure. The NTSB did receive its appropriation for fiscal years 1987 and 1988 so its vital work could continue. Nevertheless, authorization legislation should be pursued both as a way to reaffirm the importance of the job that the NTSB is doing as well as to make certain changes in its governing statute.

Therefore, I am pleased to join with my colleagues on the Energy and Commerce Committee in this bill to authorize funds for the NTSB. The bill we bring before this body today is very similar to the one we approved in 1986. It would authorize appropriations for the NTSB for 3 years. It would also make changes in its governing statute involving Federal Register notice requirements and NTSB training sessions.

The NTSB plays a crucial role in transportation safety generally and in aviation safety in particular. It is responsible for investigating accidents, determining their cause, and making recommendations to prevent such tragedies from occurring again.

Although some may not realize it, the record shows that the airline accident rate has been declining during the past few years. In no small measure, this is due to the vigilance of the NTSB, both its staff and its members, and to the recommendations they make to improve safety.

The performance of the NTSB is all the more remarkable since its staff has steadily declined. In 1980, it had a staff of about 400. This dropped to slightly more than 300 in 1982 and 1983. It has since returned to the 320 range.

The funding authorized in the bill is designed to enable the Board to retain its current staff and even increase it somewhat. This is the minimum necessary for effective functioning of the Board. The previous cutbacks had caused a reduction in the number of nonaviation accident reports that the NTSB issued. The cutbacks also led to delays in the issuance of accident reports. This bill will ensure that the Board continues to have the ability to fully carry out its mission in a timely manner.

Another element that is critical to safety is the independence of the NTSB. The Board, under its fine Chairman, Jim Burnett, has not hesitated to criticize or make recommendations to other Government agencies when it believed that was necessary. This bill will continue the NTSB as a strong independent body. It therefore ensures that this agency can continue to carry out its important watchdog role.

In sum, I believe this is a good bill that reauthorizes a small but important agency. I urge my colleagues to support it.

Mr. de LUGO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. ANDERSON], the acting chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I rise in support of the bill to reauthorize appropriations for the National Transportation Safety Board for fiscal years 1988, 1989, and 1990. The National Transportation Safety Board is a small agency in terms of staff and budget, but it has very important responsibilities for promoting the safety of all modes of transportation. The Board is a world leader in the techniques of accident investigation. A high percentage of the recommendations which the Board has made after its investigations have been accepted. These recommendations have saved many thousands of lives.

The funding levels in the bill now before us are reasonable. They will stabilize the Board's staffing at 347 positions. This is a reduction of more than 50 positions from the Board's staffing at the start of the Reagan administration. Three hundred and forty-seven positions is the minimum needed for the Board to carry out its responsibilities.

I urge favorable action on this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. WHITTAKER], the ranking member of the Subcommittee on Transportation, Tourism, and Hazardous Materials of the Committee on Energy and Commerce.

Mr. WHITTAKER. Mr. Speaker, I wish to express my strong support for the reauthorization of the National Transportation Safety Board, as reflected in this bipartisan bill. I commend my colleagues on the two committees having jurisdiction over this bill for their cooperative effort to provide for the future activities of this important safety agency.

The NTSB is a small but highly effective agency. Its expertise in analyzing transportation accidents and recommending measures to prevent future mishaps is literally worldwide. The reauthorization measure we are considering today will continue this agency's excellent work and modernize some aspects of its governing statute.

For example, the redundant paperwork associated with mandatory Federal Register publication of Board recommendations will be eliminated by this measure. The public and the transportation community will still receive prompt notification of NTSB actions, but in more cost-effective ways. Similarly, the bill will end the requirement that all of the responses of the Department of Transportation to Board recommendations be printed in the Federal Register at the Board's expense.

The authorization levels contained in the bill are the bare minimums needed to allow the agency to fulfill its statutory mission. For each of the 3 fiscal years covered, the amounts to be authorized are below the levels requested by the NTSB. I believe that the committees have made a determined effort to be fiscally responsible, but without short-changing essential safety programs.

In considering the authorization levels, we should maintain some perspective on the Board's tremendous cost-effectiveness as a safety agency. Here is an organization of fewer than

350 people, with an annual budget of about $25 million. But the numerous areas where the Board has championed important safety measures involve the prevention of huge potential losses of life and property—automatic train control for passenger trains, improved alcohol and drug testing, and better safety equipment for aircraft. And all of these detailed accident investigations and professional safety recommendations come from an agency that spends each year only about one-half the cost of a single jumbo jet. The taxpayers are clearly getting their money's worth from the NTSB, and I am confident that the efficiency and productivity demonstrated by the Board's current leadership will continue in the future.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. THOMAS A. LUKEN], the distinguished chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials of the Committee on Energy and Commerce.

Mr. THOMAS A. LUKEN. Mr. Speaker, the main purpose of H.R. 11, the Independent Safety Board Act Amendments of 1988, is to reauthorize the activities of the National Transportation Safety Board. The NTSB's last authorization expired on September 30, 1986. Yet this agency has continued to perform vital safety functions which we believe should be reauthorized.

The NTSB's responsibilities include investigating and determining the probable cause of transportation accidents of all kinds. Following its investigations, the Board makes recommendations to Federal, State, and local agencies to prevent recurrence of accidents. Mr. Speaker, the NTSB's performance in these areas has been a great help to our committee in investigative and oversight hearings during this Congress, and in previous years. More importantly, investigations by the NTSB to determine the cause of rail, air, motor vehicle, and pipeline accidents have helped in many instances to prevent similar occurrences. Reauthorization at the levels provided for in this bill will mean that the Board will be able to continue making a valuable contribution to our public safety.

The NTSB is a unique agency in that it has broad oversight and investigative responsibility, but no regulatory powers. The only way NTSB can correct a serious safety problem is to publicize it—to expose hidden problems to the bright light of public scrutiny—and to argue, cajole, or nag others into taking action. This can be an enormously frustrating process. Yet the NTSB has earned a remarkable record for impartiality, accuracy, and farsightedness.

For example, the NTSB has been recommending for some time that the Department of Transportation require the installation of automatic train controls on all locomotives. Automatic train controls are not some new, exotic equipment—they've been available since the 1930's. Yet it was not until 6 months ago that DOT proposed to require this equipment on trains operating just in the crowded Northeast corridor. Had the earlier warning and recommendation by NTSB been heeded, serious rail accidents might have been avoided, including the fatal Amtrak crash in Chase, MD, just a little over a year ago.

Mr. Speaker, I join my colleague Mr. MINETA in urging the House to pass this bill. The NTSB's important work must continue.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

□ 1300

Mr. SMITH of Florida. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding me this time.

Mr. Speaker, I would like to say that while I am a strong supporter of the NTSB and certainly hope that the authorization bill currently being discussed will ultimately be supported and passed by this body, I would like to bring to the attention of the body and to the attention of the NTSB one issue which I think needs to be discussed and is of rather significant concern. For years there have been a number of us in this House and many many hundreds of thousands if not millions of people around this country who have been concerned with the question of the lack of seatbelts on schoolbuses.

The acting chairman of the Committee on Public Works and Transportation has been kind enough to work with me in trying to get some tests done to determine whether or not those are valuable life-saving tools or injury-saving tools. The problem is there have been no crash tests done or any other kinds of tests done in this country over the last number of years, and as we go down the road to determine whether or not our children could be made safer in schoolbuses there is no doubt in anyone's mind that the question of seatbelts is an important question. Whether or not there is a validity for them in schoolbuses cannot be determined solely by reviewing facts and circumstances of existing accident reports. We need crash testing.

I would urge the NTSB during this period when they are now being reauthorized to get into the question of whether or not crash testing, that is sideswipe and rollover tests, not just front end crash testing which was done in Canada over 10 years ago, is the way to go to determine whether seatbelts are an appropriate part for the schoolbus and should be installed at the time of manufacture so that children can use them.

Mr. Speaker, I urge this be done. There are millions of people out there who want to know whether seatbelts should be installed in schoolbuses to save injuries and save lives.

Mr. MINETA. Mr. Speaker, I would also say to my colleague, the gentleman from Florida [Mr. SMITH], that that may be within the jurisdiction of the National Highway Transportation Safety Administration as well. So I am quite sure that the gentleman from California [Mr. ANDERSON], who chairs our full committee, would be more than happy, as would the gentleman from Arkansas [Mr. HAMMERSCHMIDT], to work with the gentleman from Florida on that issue.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 11, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990, and for other purposes."

A motion to reconsider was laid on the table.

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce and the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 623) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1988, 1989, and 1990, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Independent Safety Board Act Amendments of 1987".

SEC. 2. Section 304(a)(2) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(a)(2)) is amended by striking "and to cause notice of the issuance and availability of such reports to be published in the Federal Register".

SEC. 3. Section 304(b)(6) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(b)(6)) is amended—

(1) by striking "and" after "intangible);"; and

(2) by inserting immediately before the period at the end thereof the following: "; and (H) require payment or other appropriate consideration from Federal agencies and State, local, and foreign governments for the reasonable cost of goods and services supplied and to apply the payment or consideration received to the Board's appropriations".

SEC. 4. Section 304(b) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(b)) is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting immediately after paragraph (9) the following:

"(10)(A) The Board may conduct a school or schools for the purpose of training employees of the Board in those subjects necessary for the proper performance of all authorized functions of the Board. The Board may also authorize attendance of other governmental personnel, personnel of foreign governments or personnel from the transportation industry at courses given in such school or schools, except that, if the attendance of such persons increases the cost of operation of such school or schools, the Board may require the payment or transfer of sufficient funds or other appropriate consideration to offset such increased costs. In providing any training to employees of the Board or other agencies of the Federal Government, the Board shall be subject to the provisions of chapter 41 of title 5, United States Code.

"(B) Funds received by the Board under this paragraph shall be credited—

"(i) to appropriations current at the time the expenditures are to be or have been paid;

"(ii) to appropriations current at the time such funds are received; or

"(iii) in part, as provided under clause (i) and in part, as provided under clause (ii) of this subparagraph.".

SEC. 5. The last sentence of section 307(a) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1906(a)) is amended to read as follows: "The Board shall make copies of each such recommendation and response to each such recommendation available to the public at reasonable cost.".

SEC. 6. Section 309 of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1907) is amended—

(1) by inserting "(a) GENERAL AUTHORIZATION.—" immediately after SEC. 309.";

(2) by adding at the end of subsection (a), as so designated by paragraph (1) of this section, the following:

"There are authorized to be appropriated for the purposes of this Act not to exceed $26,200,000 for the fiscal year ending September 30, 1988, $27,500,000 for the fiscal year ending September 30, 1989, and $28,800,000 for the fiscal year ending September 30, 1990, such sums to remain available until expended."; and

(3) by adding at the end thereof the following:

"(b) EMERGENCY FUND.—An emergency fund of $1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish such emergency fund and to replenish such fund annually. Such sums shall remain available until expended. Whenever the Board determines to expend any sums in the emergency fund, the Board shall notify the appropriate committees of the Congress of such determination, together with an identification of the activity for which sums will be expended, a justification for using such sums for such activity, and reasons why such activity could not be performed under the amounts made available by any act providing annual authorization and appropriations of funds provided for other activities of the Board.".

MOTION OFFERED BY MR. MINETA

Mr. MINETA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MINETA moves to strike out all after the enacting clause of the Senate bill, S. 623, and to insert in lieu thereof the provisions of the bill, H.R. 11, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 11, was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1600

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1600.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4230

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4230.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1158

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1158.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 1900, CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988

Mr. OWENS of New York. Mr. Speaker, I call up the conference report on the bill (H.R. 1900) to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 30, 1988.)

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 30 minutes and the gentleman from Texas [Mr. BARTLETT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the passage of the Child Abuse Prevention, Adoption and Family Services Act of 1988 makes clear a continuing commitment on the part of Congress to respond to the growing crisis affecting America's families. To say that the effort is not enough, is not in any way to belittle the hours of work that went into this bipartisan effort. In this regard I want to congratulate my colleagues, Mr. STEVE BARTLETT, and Mr. PAT WILLIAMS, as well as Mr. FORD for the spirit of cooperation they have shown in working to get this conference agreement to the floor today.

The funding for this legislation does not come anywhere near to the levels necessary to realistically respond to the huge increases in the numbers of children and family members who are daily the victims of abuse. Between 1981 and 1985 the number of children reported to have been abused or neglected rose 54.9 percent; 1,200 children died in 1986 as a result of child abuse and neglect. Perhaps if each one of these cases attracted the same kind of media attention as the case of Lisa Steinberg, we might today be in a different position in terms of the overall funding for our Federal child abuse efforts.

We need to create an establishment like the Pentagon to really effectively deal with the problems of child abuse and family violence in America today. An agency charged not with building armies for wars that should never be fought but one authorized to recruit the civilians to fight the daily battle on behalf of the abused children of our land. Such a force would not need patriotic songs to rouse them or Rambo like visions of heroism to sustain them, just the slightest familiarity with the horrors of child abuse would be enough to galvanize thousands of men and women into the most effective peacetime army this country could assemble. In order for this effort to take place we need leadership within the Congress and in the White House. I propose that the next administration whoever is elected, acting in concert with the Congress, fund both the child abuse prevention and treatment title at 100 percent, instead of the approximately 50 percent that it is now. In addition we should fully fund the domestic violence title, instead of the current appropriation which is a small fraction of the current authorization. There should also be a resolve to at least restore the title XX block grant back to the fiscal year 1981 level so that this major funding source for State and local child protective programs, will begin to reflect the scale of the increased incidence of child abuse and neglect.

It is clear that our efforts thus far have not begun to keep pace with the dramatic increases in child abuse and neglect. According to statistics from the recent, Select Committee on Children report on the problem and those provided by the Children's Defense Fund the incidence of child abuse and neglect has been expanding at a time many States and localities have been forced to cut back on child protection staffing levels. Largely, due to savage cuts in title XX block grants, many agencies are understaffed, and contain undertrained and overwhelmed personnel. For example, Oregon was forced to deal with over a 500-percent increase in the number of confirmed cases of child abuse and neglect rise—from 1,867 to 12,000, between 1981 and 1985—without the addition of any new staff. Kentucky lost 141 social workers and 152 other vital child protection staff positions at a time when reports of child abuse doubled. In my own city of New York, it might be possible to better understand why so many Lisa Steinbergs can "slip" through the system when the implications of the following statistics are understood: A 67-percent turnover among protective and diagnostic workers in 1986; an increase of 14 percent in abuse and neglect reports in just 1 year; a fivefold increase in the average number of workers each month responsible for case loads of 50 or more, from 24 to 118 workers. Furthermore, for those families actively seeking help tremendous barriers exist to prevent successful outcomes, as the New York State Coalition for Domestic Violence reports while 6,000 victims of family violence were sheltered during 1986 an additional 8,500 victims were turned away. There are few things more pathetic than troubled and abused families having to return to the same or increased levels of violence, because there are no more spaces at a refuge.

Child abuse and family violence is no longer, largely due to the efforts of the media, a dirty little secret but one affecting thousands of families in crisis. We need to recognize it as a reality and provide the kinds of resources necessary to respond to the scale of the problem. In the reauthorized bill that we are passing today we identify as a paramount thrust the need for greater efforts at prevention. The bill also identifies children with handicaps as a population in need for earlier prevention efforts. The legislation would also do more to gain accurate statistical data from the States and localities concerning the incidence of child abuse and neglect. All of these efforts will take place within a revised administrative structure designed to make more effective use of resources.

New initiatives are also proposed in the area of adoption reform: the amended act will do more to speed the adoption of minority children by proposing more focused outreach efforts to identify and recruit minority families. Also included within the same bill is an initiative to provide greater professional support for families who adopt special needs children, in order to make possible the success of a larger number of such adoptions. In the Family Violence Prevenion and Services Act, amendments to existing demonstration programs are proposed to provide sensitivity training to a greater range of professionals who come into contact with incidents of family violence. There is also a provision for an abused family member to receive documentation of the abuse should it be requested.

Legislation of this kind can make a difference, in a recent survey States identified 19 programs which according to evaluations, have successfully prevented child abuse, improved family functioning, and avoided costly treatment. States also identified 15 treatment programs, which according to evaluations enhanced parent child interaction and prevented placement of children in foster care.

I request your support not only in voting for the conference report and agreeing to its speedy passage but also for future efforts that will be necessary to help provide the realistic resources necessary to help save the children and families of this country from violence.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in bringing this conference report authorizing the child abuse and neglect, adoption opportunities and domestic violence programs, I want to begin by commending the bipartisan leadership of the gentleman from New York, MAJOR OWENS, chairman of the subcommittee. It has been a pleasure to work with him on this legislation, and I think we come to the House floor with good legislation as a result of his leadership.

This conference report authorizing the Child Abuse and Neglect, Adoption Opportunities and Domestic Violence Programs concentrates on prevention of abuse and provides Federal support to ongoing State and local initiatives.

Recent studies in the area of child abuse have determined that adults who abuse children were abused themselves. The Federal role, therefore, should be to support State and local efforts to prevent child abuse and neglect. In the area of prevention, this legislation authorizes a hospital demonstration project which will allow the hospital to provide information to parents on community resources and support groups in an effort to prevent abuse and neglect at the earliest possible opportunity. This information is provided only if the parent requests it and will be information based upon the needs and circumstances of the child and the family. The key to reducing child abuse and neglect is prevention and providing information to families on community support groups is the first step toward reduction. I want to especially thank the Association for Retarded Citizens and the American Academy of Pediatrics for their support and hard work in this particular area.

The authorization levels in this conference report are at the House passed levels with the exception of the domestic violence program. This program is authorized at the Senate level of $26 million for fiscal year 1988 which is the current authorization level for this program. As my colleagues may recall, the House language will allow these programs to be funded at a level determined by the appropriations committees for fiscal years 1989-91.

However, in fiscal year 1988, the Child Abuse and Neglect Program is authorized at $48 million and the Adoptions Opportunities Program is authorized at $12 million. I commend the chairman for supporting these levels in the conference and believe these programs will be funded adequately.

The authorization for the domestic violence program represents the growing need to address this problem. Historically, the majority of domestic violence shelters and support services have been funded through private sources. In fact, the private nonprofit community recognized the need for domestic violence shelters long before the Federal Government provided seed money for these programs. Through such primary, private assistance, domestic violence shelters have increased throughout the country and there are now approximately 1,200 nationwide.

While Federal grants and shelters do have benefit, the real deterrent to domestic violence is through local law enforcement. Assault is a crime, whether it is domestic or not, and spousal and child abuse should be treated as a crime. Arrests should be made, convictions obtained, and stiff sentences enacted in order to reduce domestic violence in this country.

In the Adoption Opportunities Program, two new initiatives have been added. The first one is designed to increase the adoption of minority children by placing a special emphasis on recruiting minority families. Statistically, minority children have lingered the longest in foster care situations and are the hardest to place in adoptive family homes. The second initiative will provide postadoption services to families who adopt special needs children. This followup placement service will ensure that both the family and the child make a smooth transition after the adoption.

The Federal role through these programs has been to support innovative demonstration and research activities that assist State and local service providers. Identifying and disseminating model programs leads to decreases in child abuse, neglect and domestic violence and to increases in the adoption of special needs children. This legislation improves these programs by emphasizing prevention and targeting resources to the neediest populations.

I support this conference report and urge my colleagues to pass this legislation.

□ 1315

Mr. OWENS of New York. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 1900, the Child Abuse Prevention, Adoption, and Family Services Act of 1988.

This important legislation is long overdue. I want to commend and thank our distinguished colleague and friend, MAJOR OWENS, for his leadership and perseverance, which has brought this bill to a vote today.

I want especially to note the reauthorization of the Child Abuse Prevention and Treatment Act. This legislation will strengthen Federal efforts to deal with the terrible tragedies of child abuse and neglect. For example, it will correct some of the deficiencies of the current review process for applications for Federal grants for programs aimed at preventing and treating abuse and neglect. The grant review process was the subject of an investigation conducted by the Government Operation's Subcommittee on Human Resources and Intergovernmental Relations, which I am priviledged to chair. In its report on the subject, the Government Operations Committee concluded that grants were often awarded to inferior projects, while many worthwhile programs that applied for Federal funds were turned away. Our report recommended that steps be taken to remedy this situation, and that is exactly what this legislation attempts to do.

The legislation also addresses problems in the administration of the National Center on Child Abuse and Neglect, by specifying that the Director of NCCAN should have experience in the field of child abuse and neglect, and that the NCCAN Director should not be burdened with other administrative responsibilities. This is not a radical idea, and yet our experience of the last few years shows that it is necessary to be very specific about the director's expertise and responsibilities if we want the office to function effectively.

Millions of American children are abused and neglected every year. The Child Abuse Prevention, Adoption, and Family Services Act of 1988 will revitalize our efforts to prevent abuse and assist the victims of abuse.

Again my commendation to Chairman OWENS and his subcommittee.

Mr. OWENS of New York. Mr. Speaker, I yield 3 minutes to the gentleman from California, [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the conference report on the Child Abuse Prevention, Adoption, and Family Services Act.

As a member of the Select Committee on Children, Youth, and Families, I am painfully aware of the horrible situations faced by abused and neglected children. I am reminded of a young boy in Los Angeles who was kicked to death by his mother's boyfriend for defecating in his pants. Or the 3-year-old girl in Kansas City, who at age 2, was placed in a foster home after cigarette burns, bruises, and healed fractures had been found on her body. After 6 months, she was returned to her parents and the abuse continued. Five months later she was dead.

These tragic cases evoke a strong sense of outrage in all of us. But where do we turn that rage? Do we place the blame on the parents? On the social welfare system? On the schools? Or on ourselves for the failure to prevent it.

Mr. Speaker, the incidence of child abuse and neglect has become increasingly acute between 1981 and 1986. Reports of child abuse and neglect have increased by a staggering 90 percent. Yet during this same time period Federal resources for prevention and treatment have fallen further and further behind the demand. Between 1981 and 1985 monies going to States for child abuse prevention programs were cut by $135 million. How can we claim to be concerned about the problems of child abuse and simultaneously ask for cuts in preventive programs?

Mr. Speaker, our crime against children are also present in our failure to provide adequate funding for programs for poor families. It is no coincidence that a rise in reported cases of child abuse come at a time when more and more families and children are falling below the poverty line. Since 1979, the number of poor families with children has grown from 4.1 million to 5.5 million. That is a 35-percent increase in 9 years.

We cannot expect to let so many families slip into economic desperation without some painful repercussions. Last year, in a report gathered by the Select Committee on Children Youth and Families. Three-fifths of the States reported that deteriorating economic conditions faced by many families were the primary contributor to the increases in child abuse.

Before we can deal with the problem, we must begin to see the connection between poverty and child abuse. Instead, the present attempts to curb child abuse have been weak and not based on reality. I can almost hear it now, "just say no to child abuse."

But as Members of this body we have an obligation to serve those who truly need our assistance? It is our responsibility to speak for the helpless and the innocent. We start today by approving this conference report and tomorrow by correcting the failed policies of the past.

Mr. OWENS of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I want to rise in support of this conference report and commend the conferees and the Committee on Education and Labor for their work on this matter.

Mr. Speaker, I sponsored various portions of this bill.

It has been brought to my attention just recently, it was brought home in my district where we had an incident where a child was repeatedly brought to a hospital but the fact is it was not alerted to the fact that the child had been injured repeatedly, alleged to have been injured repeatedly. And of course, the child finally died of those injuries.

There is an area here I think where very often health care professionals have really no framework within which to work and to avoid the type of injury that can occur to children in child abuse circumstances.

But even in a State like ours where significant resources have been available, I think there is a greater need to understand this and to have national programs which not just give us advice but reach out with some real help in terms of dollars and some indepth types of studies of the problems that are affecting families which are in trouble.

That is what this legislation really addresses itself to, families that are in trouble.

Across this Nation, as we look at those circumstances in our own communities in the areas we represent, repeatedly we see that.

The community in which I was raised, the predominant majority community, almost half of the families there have single heads of households today. That is the case. Half the kids in elementary schools featured on our national paper here in our Nation's Capital, the Washington Post, have single heads of household. Frankly, it is out of this frustration and out of this type of environment that many problems affect our community.

What is being affected is the children in our community. Those are the poor in our community, the children.

So often we look at families today, where both parents are working, in those communities and in those areas they do not necessarily have the difficulties we have today in our inner cities and other areas. This legislation will go a long way toward focusing and helping those who cannot help themselves, the kids in our society.

I commend the committee and look forward to effective implementation of this legislation.

Mr. BARTLETT. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his observations and his very supportive remarks.

In conclusion, I would like to say that the problem of child abuse has probably been with us since the beginning of humankind. Charles Dickens documented in dramatic terms the nature of child abuse in his age.

Child abuse is probably not on the increase necessarily in this country but the reporting of child abuse is increasing. That is a sign of the evolution of our society, the fact that we take more seriously these crimes against children.

It is very important that a message be sent by this legislation and all the activities within this legislation that we do consider our children important and we will not tolerate abuse of children, we will not tolerate neglect of children; we intend to nurture our children.

This civilization recognizes that our children are our major resources and any lives wasted represent a loss to the Nation.

Mrs. LLOYD. Mr. Speaker, I rise in strong support of the conference report on the Child Abuse, Prevention, Adoption, and Family Services Act of 1987.

This critical legislation reauthorizes the Child Abuse Prevention and Treatment Act for 5 additional years. The revisions to existing law can be categorized within four major areas: First, improving the quality of the administration of the National Center on Child Abuse and Neglect [NCCAN], including provisions for improving the quality of funded programs; second, strengthening coordination efforts between NCCAN and other Federal agencies to facilitate a more unified approach to guiding national child abuse policies; third, expanding the list of specified activities to be performed by the National Clearinghouse; and fourth, emphasizing the importance of identification and prevention efforts within State and National grant programs, by expanding the number of eligible activities in this area.

There is a general consensus that child abuse is a critical and growing problem and I am committed as a Member of Congress to enacting significant legislation to address it head on. The history and need for such legislation is clear. During the 1960's and early 1970's, there was growing recognition that child abuse and neglect could be devastating for the child and costly to society. Some studies have found that abuse children are more likely than the general population to suffer from social and psychological problems. In addition, some victims of child abuse have been found to exhibit physical trauma. Child abuse may manifest itself in both short and long term problems such as emotional and learning disorders, poor school performance, and in suicidal and delinquent behavior. In addition, there is some evidence that children who are abused are more likely than nonabused children to become abusers, creating a cycle of abuse through generations of families. These outcomes represent both social and economic costs for society as well as for the children.

Several major Federal initiatives relating to child abuse have already been enacted in Congress with my strong support. The victims of Crime Act of 1984 (Public Law 98-473) established several programs for victims of crime, including a State grant program which emphasized services for victims of child abuse, spouse abuse, or sexual assault. The programs authorized under this act are funded through fines collected from those convicted of certain Federal crimes. The act was amended in the 99th Congress to authorize, among other things, use of a portion of the fines collected in the crime victim fund for a new program under the Child Abuse Act for improving the handling, investigation, and prosecution of child abuse cases, especially those involving sexual abuse. Another Federal program, authorized as part of the fiscal year 1985 continuing appropriations (Public Law 98-473) provides funds in the form of challenge grants to encourage States to establish funding mechanisms to support child abuse and neglect activities. Another program enacted in the 99th Congress as part of the Children's Justice and Assistance Act of 1986 (Public Law 99-401) authorizes a State demonstration program to provide crisis nurseries for abused and neglected children and children at risk of abuse or neglect.

The passage of the Child Abuse Prevention, Adoption, and Family Service Act of 1987 today will signify yet another major stride toward preventing and treating child abuse. I will continue to do everything I can to strengthen Federal programs to address this critical problem.

Mr. RANGEL. Mr. Speaker, a vicious disease is infecting our borders. Scores of our children are increasingly being abandoned, neglected, and abused. Domestic violence against women persistently plagues our American homes as well. For too long we have remained on the sidelines—somehow expecting these victims to rescue themselves from the emotional and physical snares of evil with help from no one. I, therefore, rise today in defense of our children, our families, and our future as a great Nation. I urge each of my colleagues to join me in expediently adopting the conference report on the Child Abuse Prevention, Adoption and Family Services Act.

Each day, the number of children and women who are physically and sexually abused in their own homes rises. We cannot just divert our eyes and ignore the facts. Each day, the number of children left neglected—without enough food, clothing, personal care, or love, grows and grows. Their parents are, sadly, incapable of giving them the attention they require to become healthy, productive citizens. We can no longer turn our backs to their need. Each day, the number of children left in foster care and adoption agencies, begging for the care and opportunity to contribute and survive that each child deserves, escalates. Moreover, the population of these children is increasingly composed of minority youngsters. We can not afford to pretend that they do not exist or that racial bias does not compound the suffering of these young ones.

No sector of our society is free from the ugliness and destructiveness of this disease that is killing our families. Every American is affected when we consider the fact that the average stay of youngsters in foster homes, group homes or child care institutions is approaching 2 years. Every American is hurt when about 1.8 million women are victims of family violence each year and about 2.2 million children were reported abused and neglected in 1986. Every American suffers when data from just

34 States reveals that an estimated 1,200 child abuse and neglect fatalities occurred in 1986. When experts tell us that these figures are underestimates because many such tragedies go unreported, we see that the impact of this disease on each of us is even greater.

The Members of this Congress are making some important steps toward enabling our families and, thus, our Nation to preserve itself and its future with enactment of the Child Abuse Prevention, Adoption, and Family Services Act. I am proud to be a part of this House of Representatives that chose to protect its families from the unfortunate tragedies of violence and disenfranchisement. I am proud that we recognized the need to for better data on and improved services for these U.S. citizens, for enhanced efforts toward minority youngsters and continued funding to aid our families in this vital area. In the Senate, our colleagues have also recognized that our children and families are in danger and that our national future depends on their safe and healthy development. They too have seen that without remedies for American children and families, our Nation faces great moral, social and economic damage. I am, therefore, confident that we will act in the same spirit that led both Houses of Congress to pass this bill last session and adopt the conference report on the Child Abuse Prevention, Adoption, and Family Services Act immediately. We will demonstrate again that it is too costly to be complacent. We will protect our children and our families and, thus, protect America itself.

Mr. DREIER of California. Mr. Speaker, I rise in support of the conference report on H.R. 1900, the Child Abuse Prevention, Adoption, and Family Services Act. This bill addresses three very important issues—child abuse, adoption, and family violence, and I am happy to see Congress respond with such strong support.

As a member of the Congressional Coalition on Adoption, I am especially pleased about the provisions in the bill addressing adoption. The bill provides grants to States to increase the number of minority children placed in adoptive families. These are children who are legally free to be adopted, yet who often wait many years before being placed in a permanent home. In 1983, 46 percent of these children were minority—black, Hispanic, and Indian. These children almost spend much longer in foster care than their white counterparts. Some are never adopted. It is tragic that the spirit of these children is often broken in the foster care system. H.R. 1900 proposes a stepped up effort to recruit permanent families, particularly minority families, for these children.

The bill not only seeks to place minority children that are legally free to adopt, but to place all foster care children free for adoption by providing grants for improving State efforts to increase placement. About 36,000 children are legally free for adoption. Many of these children are special needs children that require special effort to place.

Another obstacle for adopting children is the lack of counseling services following adoption of special needs children. These are children who may be physically, emotionally or mentally handicapped, siblings, older children, or minorities. Some of these children have been abused, others have experienced the death of parents at a young age, still others have suffered emotionally from foster care. H.R. 1900 authorizes funds for post legal adoption services for families who have adopted special needs children. This is a very important issue for these families and children. Some of these children remain institutionalized, wards of the State, or living lives of disruption going from foster home to foster home because a permanent family, although willing, cannot afford the necessary counseling services following an adoption. Federal assistance in these cases is in the best interest of the family, the child, and the Federal and State governments.

In addition to the adoption provisions, H.R. 1900 seeks to curb child abuse and family violence. Even with the increased attention being focused on child abuse, child abuse fatalities in this country increased by at least 23 percent during 1985 and 1986. Many of these incidences are preventable.

H.R. 1900 provides for a Presidential commission to study child and youth deaths; a National Center on Child Abuse and Neglect to conduct research, and disseminate information and grants; a national clearinghouse for information relating to child abuse; and an interagency task force to ensure greater coordination among Federal agencies. H.R. 1900 also provides for a number of Federal studies and grants for child abuse prevention and treatment programs, programs relating to the investigation and prosecution of child abuse cases, grants to local law enforcement agencies for family violence prevention and services, and funds for programs that shelter and counsel battered spouses and their children.

H.R. 1900 recognizes that children are this country's greatest natural resource. This bill is an investment in their health and well being. I applaud the good work of the House Committee on Education and Labor and the many people across the country who invest their lives in the backbone of civilization—the family.

Mr. MILLER of California. Mr. Speaker, I rise to support the conference report to H.R. 1900, a bill to reauthorize the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, and the Adoption Reform Act, and urge my colleagues to join me in approving this favorable and critically needed agreement.

While the conference committee was deliberating, the fatal beating of 6-year-old Lisa Steinberg by her adoptive father—and his brutal battering of Lisa's adoptive mother, Hedda Nussbaum—brought home to Americans the crucial need for expanded resources to prevent and treat child and spouse abuse.

In 1986, 2.2 million children were reported as abused or neglected—up a staggering 12 percent from 1985. This increase, reported by the American Home Association, comes on top of a 55-percent increase in child abuse reports between 1981 and 1985 found by the Select Committee on Children, Youth, and Families in a national survey. According to the National Committee for Prevention of Child Abuse, at least 1,200 children died at the hands of their parents or guardians in 1986—a 23-percent increase from the previous year.

In California, the number of reported cases of child abuse and neglect rose from 73,473 in 1982 to 342,001 in 1986, a 365-percent increase. In my own community of Contra Costa County, reports of child maltreatment nearly doubled between 1981 and 1985.

While heightened awareness and better reporting measures have contributed to the rise in reports, there has been an actual increase in the number of victims. Moreover, "the children reported are only a small proportion of all children suffering from abuse and neglect," according to AHA.

Similarly, over 2 million women were victims of domestic violence last year. One in twelve was beaten while pregnant. More than half of completed rapes and other violent crimes against women last year—including one-third of female homicides—were committed by men the women knew. For the most part, though, spouse abuse continues to be hidden behind closed doors.

Unfortunately, the sharp rise in child and spouse abuse victims has not been met with a parallel rise in resources. In over half the States, as documented by our survey, resources either fell or failed to keep pace with the escalating child maltreatment reports, taxing an already overburdened foster care system and resulting in staff shortages, inadequate training, and high personnel turnover.

High caseloads and meager resources have also led to a "crisis" mentality. Too often, caseworkers are forced to "just find a bed for the kid," leading to inappropriate, multiple and overcrowded placements. In San Francisco, for example, caseloads are "unmanageable" and "ultimately services to children must fall by the wayside," reports the Little Hoover Commission. Or, for lack of placement, a disturbing number of children are left in dangerous homes—as the death of Lisa Steinberg so tragically shows.

Resources to aid victims of spouse abuse are equally scarce. The National Coalition Against Domestic Violence reports that only 1,200 safe homes and shelters for battered women and their children exist across the country. In far too many communities, victims have nowhere to go to escape an abusive situation.

Legal protection against domestic violence is just as inadequate. As the select committee learned at its hearing, "Women, Violence and the Law," the police are still reluctant to come to the aid of battered women. Only a handful of States have mandatory arrest laws for domestic violence, even though research shows that arrest is a strong deterrent to abuse.

To the extent that laws exist, they are seldom enforced. Seventy percent of police officers in one study said they wrote up reports of domestic violence in less than 20 percent of cases; 13 percent said they never reported family disturbances. It was the consensus of our witnesses that better training was needed for those involved in investigating, prosecuting, and treating family violence.

By accepting this conference report, which sets the fiscal year 1988 authorization level for the Child Abuse Prevention and Treatment Act at $48 million, a $4.9 million increase over last year, we have the opportunity to preserve and expand upon programs which prevent child abuse, improve family functioning and bring relief to a greater number of victims. I am pleased that the conferees supported funding of community-based respite care and crisis nurseries, which I initiated, regardless of whether or not they are supervised or administered by hospitals. These cost-effective programs are known to alleviate family stress and prevent child abuse.

As agreed upon, this legislation will authorize research on the incidence of child abuse and neglect, particularly among high risk groups, such as handicapped children and children in drug or alcohol abusing families and on the legal and judicial response to child abuse cases. It also sets up a Presidential Commission on Child and Youth Deaths to study accidental and suicide related deaths among youth. Such data is sorely needed if we are to develop and better tailor programs to protect those in need.

I am especially pleased that the conference agreement authorizes $26 million for the Family Violence Prevention and Services Act, which I authored in 1984, and that it adopts a new family violence grant program to train those involved in identifying and responding to domestic violence, including police officers, hospital and social services personnel, and education counseling staff.

I would like to commend Congressman MAJOR OWENS for his able leadership in putting together a comprehensive, sensible bill which goes far in answering the Nation's cries for better protection and assistance to victims of child abuse and domestic violence.

Mr. DINGELL. Mr. Speaker, I rise in strong support for H.R. 11 with the amendment jointly offered by the Committee on Public Works and Transportation and the Committee on Energy and Commerce. I particularly want to commend the Public Works Committee for their fine cooperation in bringing this matter to the floor today. I also want to compliment subcommittee Chairman LUKEN and the ranking minority member, Mr. WHITTAKER, for the leadership in working out this legislation. It has been a pleasure working with these able gentlemen and their fine staff.

Mr. Speaker, I am aware that only a few days ago the Office of Management and Budget expressed some concern about the authorization levels in this bill and about the disposition of fees received by the National Transportation Safety Board in connection with safety training to be provided to non-Federal safety personnel.

As to the authorization levels, I can only point out that the funding level for this very important safety agency is at rock bottom and in fiscal year 1988 it is near or very close to the actual appropriation.

Many agencies in this city far exceed the funding of this Board and have far less direct and personal effect on all of our people who use public transportation facilities in this Nation. Most think of the NTSB as investigating aviation and railroad accidents and forget that the Board's authority is far broader as noted by our committee in its report on H.R. 11 (H. Rept. 100-158, part 2). Members of Congress who regularly travel from their congressional districts know the importance of ensuring that this agency is not underfunded. Our very lives depend on the work of this and other safety agencies. Let us not forget that.

Yet no one can say that this bill will adequately fund this agency. Even if the full levels of the authorizations are realized, the Board will be underfunded and it will have to scrape and scrimp to maintain a level of staff necessary to handle the increasing safety workload of the Board. That is not fair, but given our general budget concerns it is reasonable. What is not reasonable, is the OMB knee-jerk reaction to these authorization levels. This is not pork-barrel. This is not waste. It is safety in transportation. It is crucial to the public's well-being and peace of mind for all travelers. I hope that OMB's Jim Miller will realize this. I hope that President Reagan and the Vice President will realize it. I hope they will think safety first.

As to the fee issue, let me say that I generally believe all fees should go to the Treasury as miscellaneous receipts. That was my original reaction to the very broad provisions of section 4 of H.R. 11 as introduced. But we modified section 4. We narrowed it to one training school that is existing today. That school now trains Board employees, as well as non-Federal safety people. Section 4 merely confirms existing practices. It is fashioned after existing law that applies to the Federal Aviation Administration which operates this school and which is allowed the crediting that OMB objects to in the case of the Board.

In this case, the fee does not go to the Board. Rather it goes to the Department of Transportation for credit to the proper appropriation. It is subject to an annual appropriation and it is an offset against the Board's contract price with the DOT. Most importantly, section 4 ensures that these non-Federal users pay a proper and reasonable fee. They cannot get a free ride. They must pay their way. That is an improvement over the introduced bill. In my view, the fee issue is a nonissue. It is peanuts.

Before closing, I want particularly to call to the attention of the House the committee's discussion about the failure of the Reagan administration to issue an Executive order concerning the use of seat belts in Federal areas. This matter has been pending for years at DOT and OMB. It has been stonewalled. DOT has even refused to release a so-called legal discussion of these matters. That is hardly leadership in safety on the part of the administration. I hope the administration will reconsider and issue the Executive order.

I urge adoption of the amended bill.

Mr. GOODLING Mr. Speaker, I rise in support of the Child Abuse Prevention, Adoption, and Family Services Act of 1987, H.R. 1900.

No matter how we work the statistics on child abuse and neglect, the fact of the matter is that approximately 1 million cases of child abuse and neglect are substantiated each year.

These children are our future. Unless they are helped, unless the abuse and neglect is stopped, they will be ill prepared to meet the daily challenges of living. Their self-esteem will be low; they will be at great risk of educational failure; they might become runaways; and they will probably grow up to be adults who abuse their children.

Through the research and programs funded by this act, we in the Congress are doing our part to assist children who are now being abused and neglected and to prevent the abuse of future generations of children.

The reauthorization of the Child Abuse Prevention and Treatment Act is but one part of H.R. 1900. Unfortunately, another important section of this legislation, affecting another group of children who need our help, many times goes unnoticed. These are children who need loving homes, children who are up for adoption. I am a member of the Congressional Coalition on Adoption and have a long-standing interest in securing homes for adoptable children. This year, I am pleased to say, we have added two additional sections to current law which will assist in finding homes for hard-to-place children.

The post-legal-adoption opportunity program provides assistance such as individual, group, and family counseling to individuals who adopt special needs kids.

The minority adoption opportunity program is directed at increasing the number of minority adoptions. Historically, minority children spend longer periods of time in foster homes and institutional settings. Most of these children really need and want the love and security of a permanent family. Hopefully the enactment of this law will help a large number of these children realize their dream.

Mr. Speaker, I urge my colleagues to pass the conference report to H.R. 1900. In doing so, we are securing a future for many of our Nation's children and providing assistance to families in stress.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1900, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BIG CYPRESS NATIONAL PRESERVE ADDITION

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 90) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments, to the House amendments as follows:

Senate amendments to House amendments:

Page 9, lines 18, 19, and 20 of the Senate engrossed bill, strike out "appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities" and insert "wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities".

Page 9, lines 21 and 22, of the Senate engrossed bill, strike out "not more than 3" and insert "Three".

Page 2, lines 12 and 13, of the House engrossed amendment, strike out "tion and such sums as may be necessary for development."." and insert "tion. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition."."

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LEWIS of Florida. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO] for an explanation.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is the third time in this Congress that the House has considered the Big Cypress National Preserve addition legislation. There was strong bipartisan support for its enactment during our initial consideration of the bill and I am pleased that there is even stronger support for its enactment today. The Senate amendments to the House amendments, although technical in nature, are important to many of those interested in the preservation and use of the area in and around the Big Cypress National Preserve. We now have the complete agreement of certain third parties who worried that there could be some misinterpretation of the intentions of the legislation.

The concurrence by the House today will complete the legislative process for this legislation and provide a giant step forward in the protection of lands critical to the unique ecosystem of southern Florida.

Mr. LEWIS of Florida. Mr. Speaker, further reserving the right to object, I support S. 90, the Big Cypress National Preserve Addtion.

This bill is the Senate version of legislation I am proud to have sponsored in the House of Representatives to expand the Big Cypress National Preserve in Florida.

This is the fourth time in the last 2 years that the House will consider Big Cypress legislation. I do not know if that is some kind of record but now it is just moments away from being on its way to the President.

The Big Cypress addition bill provides the unique opportunity to acquire and protect a large south Florida area. The bill has received widespread praise for more than 3 years and it continues to enjoy broad, bipartisan support.

This area is of unquestioned environmental importance. There is no doubt it is worth preserving and enhancing for its unique and wild beauty.

But this is more about protecting water—drinking water—for more than 4 million south Florida residents. That water filters through this land we wish to add to protected Federal lands as it does through all of the Big Cypress Preserve.

Mr. Speaker, because of the continuing public benefit associated with acquisition of this land and I urge passage of S. 90.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of concurring in the Senate amendments to S. 90 and approving the bill.

I am pleased that the House is taking final action on this bill to add 146,000 acres to the Big Cypress National Preserve in Florida. The bill has already been approved by this body twice, but it appears that previous problems have finally been resolved on all sides.

The amendments we are accepting today would make minor technical corrections in the bill and clarify the intent of the legislation with respect to the continuation of traditional recreational activities within the preserve addition, particularly hunting and fishing. It will insure that these activities, which have always been allowed in the existing preserve, will also be permitted in the addition. Although there have been disagreements over management policies for these activities at the preserve, hopefully this clarification in the bill and an open dialog between the National Park Service and the interested parties, will address the problem to everyone's satisfaction.

I would like to again commend the sponsor of the House bill, Mr. LEWIS from Florida, for his continued work on this legislation. The committee chairman, Mr. UDALL, and the subcommittee chairman, Mr. VENTO, also deserve praise for their hard work and diligence on this important issue.

Mr. Speaker, I would urge that we move forward on S. 90 to protect and preserve this area which is so critical to the Florida Everglades ecosystem. This bill has been finely tuned and is widely supported. Therefore, I urge my colleagues to approve S. 90.

Mr. LEWIS of Florida. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

COMMITTEE ON RULES GUIDELINES FOR CONSIDERATION OF DEPARTMENT OF DEFENSE AUTHORIZATION, FISCAL YEAR 1989, AND FAIR LABOR STANDARDS AMENDMENTS OF 1988

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, I rise to alert the House to the guidelines which the Committee on Rules intends to use in granting rules of procedure for the consideration of two important bills: The Department of Defense authorization for fiscal year 1989 and the Fair Labor Standards Amendments of 1988.

As the chairman of the Committee on Rules has announced in recent "Dear Colleague" letters sent to all Members, the Committee on Rules intends to meet on these two issues next week.

The chairman of the committees reporting those two measures have requested that the Committee on Rules grant modified open rules for these measures, with only specified amendments being made in order.

So that the Committee on Rules can provide a fair and orderly procedure in its deliberations on these matters, in the event that the committee does grant modified open rules relating to their consideration, the following procedure should be adhered to:

Any Member wishing to offer amendments to H.R. 4264, the Department of Defense authorization bill, should submit those amendments to the Committee on Rules office, H-312 in the Capitol, by no later than 5 p.m., Thursday, April 14.

Any Member wishing to offer amendments to H.R. 1834, the fair labor standards amendments, should submit those amendments to the Committee on Rules office, H-312 in the Capitol, by no later than 5 p.m., Friday, April 15.

Mr. Speaker, I ask the Members' attention to these standards, and thank them for their cooperation.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

I note in the gentleman's request, the Rules Committee request, that the amendments to the Fair Labor Standard Acts amendments and the minimum wage increase be offered by this Friday at the close of business, is that the gentleman's intent?

Mr. MOAKLEY. The gentleman is correct.

If the gentleman will allow me, Senator PEPPER, the chairman of the committee, has sent out a "Dear Colleague" letter to all the Members to this effect. My role here is just informing some of those Members who probably have not gotten around to reading the "Dear Colleague," so nobody will be shut out from offering any amendment that they propose at that time.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield further?

Mr. MOAKLEY. I yield to the gentleman from Texas.

Mr. BARTLETT. The question is, in the gentleman's opinion, would it be the intent of the Rules Committee and the Rules Committee chairman then to permit a rule that does permit any amendments that had been offered by Friday afternoon at the close of business, assuming that they are otherwise germane, if they have been submitted then in writing to the Rules Committee or filed in the RECORD, would it be the intent of the Rules Committee then to allow those amendments to be offered on the floor?

Mr. MOAKLEY. This gentleman can only speak for himself. I do not know what the procedure will be. All I am saying is that all amendments will be allowed before the Committee on Rules, and what the Committee on Rules does will be up to the majority of the members of the Committee on Rules.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield further, the gentleman is the second ranking member of the committee. Does the gentleman know generally what the committee members will do?

Let me rephrase it. The chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], whom we all respect a great deal, and the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MURPHY], who we also do, have stated throughout the process that they would seek an open rule when we come to the House floor.

It does seem to me with an issue this important that the House should have an open rule.

I am not certain I even agree to a closed rule, as the gentleman has described, but at least to allow those amendments that have been submitted to be offered on the House floor.

Mr. MOAKLEY. Well, if I may answer the gentleman, the Rules Committee has a letter from Chairman HAWKINS asking for a modified open rule.

Mr. BARTLETT. Will the gentleman yield further?

Mr. MOAKLEY. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. I am not certain, I know what a modified closed rule is, but I am not certain I know what a modified open rule is. Could the gentleman enlighten us?

Mr. MOAKLEY. It is one that allows the Committee on Rules to chose among those amendments or adopt all those amendments brought before the committee.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield further, I would hope the House floor would be allowed to adopt amendments or not adopt them as proposed to them in the rule.

I suppose my purpose in asking is essentially, is there a purpose for Members to turn their amendments in, and what is the purpose, that those amendments would then be allowed to be offered on the House floor?

Mr. MOAKLEY. I would just repeat that the procedure of the Rules Committee is to have all amendments printed and submitted to the Rules Committee by April 15 in order that the committee can then avail themselves of all those amendments, and then how the committee acts on them, of course, it is up to the majority of the committee.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for his patience.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will reserve the right when the gentleman from California [Mr. DYMALLY] gets here to take up commemorative resolutions. The gentleman from California is on the way, but the Chair will recognize Members for special orders and then go back to these resolutions.

RESOLUTION TO HONOR THE AMERICAN CULINARY FEDERATION AND THE NATIONAL RESTAURANT ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce a resolution to honor the American Culinary Federation [ACF] and the National Restaurant Association for their contributions to American cuisine and for their support of the 1988 American Culinary Olympic Team which will be competing in Frankfurt, Germany, this October. The American Culinary Federation is a professional, educational, and fraternal organization of chefs and cooks. The federation was founded in 1929 in New York and since that time has grown to over 17,000 members nationwide with nearly 200 chapters. The ACF provides the means for chefs and cooks to receive education, training, and experience in the culinary profession.

Not only is the American Culinary Federation the oldest nationwide professional association of cooks and chefs, but the ACF is also a joint sponsor with the National Restaurant Association of the U.S. culinary team. Over the years that the United States has been competing in the international culinary competition the team has done increasingly well in competition. This is illustrated by the contrast between the 1968 team, which won no medals and the 1984 team, which won gold medals in both the hot and cold food competitions. The 14-member 1988 team has been preparing for over 2 years for the competition in Germany. This year's entries will reflect the trend in the United States toward lighter, more healthy foods and will feature new creations developed by the team members. This years competition promises to be very exciting.

In addition to the culinary competition team, the ACF also provides many educational opportunities to chefs and cooks across the country. First, there is the American Culinary Federation Educational Institute [ACFEI], which recognizes superior culinary schools through an accreditation program. The ACFEI also sponsors the national apprenticeship training program for cooks, a program recognized by the U.S. Department of Labor. The program consists of a 3-year earn-as-you-learn program combining classroom instruction and employment with a certified chef. Successful completion of the program allows participants the opportunity to enter the culinary field as a certified cook. Presently 84 apprenticeship programs are in operation across the country. A chef certification program is another one of the activities performed by the ACFEI. Certification ranges from certified cook or certified pastry chef to certified executive chef. Through the ACFEI a chef can be recognized as a certified master chef.

The ACFEI offers financial assistance to qualified culinary students to pursue their education and educational seminars are a large part of the activities at the annual ACF convention, which over 700 members attended last year. The American Academy of Chefs is the honor society of American chefs which is associated with ACF. In addition to the Olympic team sponsored by the ACF, the federation also sponsors many culinary competitions during the year. These competitions are the first experience many chefs have in culinary competition.

The ACF and the NRA are dedicated to the preservation and expansion of the culinary profession in the United States. These organizations have succeeded in allowing American chefs to successfully compete against European chefs. The accomplishments of the American culinary team are commendable. I find the accomplishments of the ACF and NRA of particular interest, as my parents operated a restaurant in Monterey after their arrival in the United States. I know first hand the work and dedication needed in the culinary profession. The men and women who make up the American Culinary Federation and the National Restaurant Association deserve to be recognized for their contributions. I urge my colleagues to join me in sponsoring the resolution I am introducing today to honor the American Culinary Federation and the National Restaurant Association.

H. Res. 426

Resolution honoring the American Culinary Federation and the National Restaurant Association for their contributions to American culinary art and for their support of the 1988 United States Culinary Team

Whereas the American Culinary Federation is the oldest and the only national professional association of cooks and chefs recognized by other leading food service associations;

Whereas the National Restaurant Association is the oldest national professional association of food service operators and represents all segments of the food service industry;

Whereas the American Culinary Federation and the National Restaurant Association offer opportunities for their members to gain experience, training, education, and fellowship with their colleagues;

Whereas the membership of the American Culinary Federation increased from approximately 6,000 members in 1981 to approximately 17,000 members in 195 chapters in 1988, an increase in membership of 275 percent in 7 years;

Whereas the National Restaurant Association has a membership of 125,000 food service establishments;

Whereas there are presently 357 cooks, 884 working chefs, 1,324 executive chefs, and 31 master chefs in the Nation who are certified by the American Culinary Federation;

Whereas the American Culinary Federation and the National Restaurant Association have joined together to form the 1988 United States Culinary Team;

Whereas the United States, in competiton with teams from 28 other countries, won a gold medal in the International Culinary Competition in the hot food competition in 1980 and in both the hot and cold food competitions in 1984;

Whereas the United States Culinary Team has consistently received recognition and acclaim in international competitions and has focused international attention on the high quality of American cookery;

Whereas the United States Culinary Team will represent the United States in the International Culinary Competition in Frankfurt, Germany in October 1988: Now, therefore, be it

Resolved, That the House of Representatives honors the American Culinary Federation and the National Restaurant Association for their contributions to American culinary art and for their support of the 1988 United States Culinary Team.

TRIBUTE TO HAYWARD CITY MANAGER DON BLUBAUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Stark] is recognized for 5 minutes.

Mr. STARK. Mr. se Speaker, it is with both pride and sadness that I bring the accomplishments of Hayward city manager Don Blubaugh to the attention of my colleagues. While I am proud to say that Don has been an excellent city manager for the past 9 years, implementing innovative and exciting changes within the government of Hayward, I am sad to say that he will soon be leaving us to start his new position as city manager of Walnut Creek.

Don is the kind of constituent every Member of Congress dreams of. He not only participates in the governmental process, he has dedicated himself to improving the process itself, transforming Hayward into an efficient, well-run city that could serve as a model for the reorganization of city governments throughout the country.

Concentrating on long-term plans and yet never forgetting the smallest details, Don has streamlined Hayward's government, saving both money for the citizenry and aggrevation for the participant. He has been hailed for his forsight in his implementation of a new general plan and the institution of a 5-year capital improvement program. Among his many other contributions to the city are his improvements to the Hayward Airport, the expansion of the Hayward Main Library, the many streets and boulevards that he has facilitated the improvement of, and his efforts at enhancing the image of the city as a whole.

Never content with the great strides he has already taken, Don will soon be moving on to a new challenge, having accepted the position of city manager of Walnut Creek. I join many others in professing my gratitude for Don's dedicated service to both the city and the people of Hayward. Good luck to both the city and the people of Hayward. Good luck in your future endeavors Don—we will truly miss you.

NATIONAL EATING DISORDERS AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 272) designating the week of April 24, 1988, through April 30, 1988, as "National Eating Disorders Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to this legislation being considered.

Mr. Speaker, I yield to the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Speaker, I want to thank William Ford, chairman of the Committee on the Post Office and Civil Service, Mervyn Dymally, chairman of the Subcommittee on Census and Population, and Connie Morella ranking Republican on the subcommittee for their courtesy. They have shown here, Mr. Speaker, House Joint Resolution 272, designates April 24–30 as "National Eating Disorders Awareness Week." This bill was introduced by our former colleague from Louisiana. Buddy Roemer, before he resigned to become Governor of Louisiana. I am delighted that the House will have the opportunity to pass this resolution, and again I thank Mr. Ford, Mr. Dymally, and Mrs. Morella.

Mr. Speaker, several million boys, girls, men, and women suffer from eating disorders. These disorders are best treated if detected early. But that is not always easy, since the person with the disorder may be a model student, with good grades and good behavior.

Mr. Speaker, on personal note, a member of my family was 15 when she developed anorexia and later bulimia. Her disease went undiagnosed for 1 full year. Then she was hospitalized and underwent a 4-year life-and-death struggle. She won that struggle. Today, 15 years later, she has a husband and a young child and is leading a full and active life.

Her suffering would have been far less had her disorder been diagnosed earlier. That is where this bill can help. Awareness week aims to increase preventive efforts and to educate the public and professionals, such as teachers and coaches.

Nonprofit support groups throughout the country have organized activities for this week. Their theme: "It's What's Inside That Counts." Through conferences, speaking in schools, and on television and in print, these groups will focus on early intervention and will seek to puncture the myth that being thin necessarily means being happy and in control of one's life.

Mr. Speaker, I look forward to action in the Senate, where Barbara Mikulski has introduced a companion bill, Senate Joint Resolution 259.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 272

Whereas Anorexia Nervosa ("starvation sickness") and Bulimia ("binge-purge syndrome") are emotional disorders that can lead to serious physical illness and even death;

Whereas experts estimate that 1 out of every 100 women between the ages of 12 and 25 suffers from Anorexia Nervosa, that 1 out of every 7 women in that age group develops Bulimia, and that nearly 10% of all patients who are referred to eating disorder clinics are men;

Whereas recently there has been a dramatic increase in the number of reported cases of Anorexia Nervosa and Bulimia, and the need to provide effective treatment to the victims of these disorders is thus greater than ever; and

Whereas public awareness about the personal and familial tragedies caused by Anorexia Nervosa and Bulimia must be raised in order to promote continued research into the causes and treatments of these and other eating disorders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 24, 1988, through April 30, 1988, is designated as "National Eating Disorders Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CRIME VICTIMS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 234) designating the week of April 17, 1988, as "Crime Victims Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, I have no objection to this resolution.

Mr. Speaker, I yield to the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Speaker, I thank my friend, the gentlewoman from Maryland, for yielding.

Mr. Speaker, I am most pleased to rise in support of the Senate companion bill (S.J. Res. 234) of legislation I introduced in the House of Representatives to designate the week beginning Sunday, April 17, as "Crime Victims Week." Before proceeding further, I want to take a moment to express my personal appreciation to Bill Ford, chairman of the Committee on Post Office and Civil Service, for his courtesy to me in allowing this legislation to be brought to the floor so promptly. In addition, I also want to express my appreciation for the assistance of Subcommittee Chairman Dymally and subcommittee ranking Republican, Connie Morella, for their courtesy and assistance in this effort.

For many years, as a member of the House Judiciary Committee, I have been involved in efforts to bring about the Federal recognition of the plight of innocent crime victims. To me, simple justice requires as much compassion for the victim as it does due process rights for the perpetrator. These efforts led to the enactment of the Crime Victims and Witness Protection Act in 1982 and, ultimately, the landmark Victims of Crime Act enacted in 1984. That 1984 statute established, for the first time, a program of Federal financial assistance to State victims compensation programs. Legislation is currently pending in the Subcommittee on Criminal Justice of the House Judiciary Committee which will provide for the reauthorization of this important Victims of Crime Act. As a member of that subcommittee, I am, of course, fully prepared to support reauthorization.

Next week, April 17-April 23, marks the sixth anniversary of the establishment of the President's Task Force on Victims of Crime. That task force, dedicated to restoring greater balance to the criminal justice system, began its work on April 23, 1982. The final report of the President's task force called upon the Congress to enact legislation providing Federal moneys to assist State crime victims compensation programs. Since its establishment in 1984, $208 million has been collected in the Crime Victims Fund. These moneys have helped countless thousands of crime victims in readjustment and rehabilitation. The funds are for victims assistance, for compensation, and training assistance for service providers.

The Senate has already acted favorably on this legislation on February 26, 1988, under the leadership of Senator Thurmond. President Reagan has traditionally proclaimed the week of April 17 as "Victims of Crime Week." I am hopeful that the House of Representatives will join in focusing America's attention on the plight of crime victims. We all should reflect on the fact that the responsibility of crime lies with those who commit it and not with those who endure it.

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Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I am happy to speak today on behalf of House Joint Resolution 420, and Senate Joint Resolution 234 which will designate April 17-23, 1988, as "National Crime Victims Week." This resolution helps to promote the issues and concerns of victims of crime throughout the United States.

Maryland has been in the forefront in affording victims their rights.

While in the Maryland State Legislature, I was involved in strengthening the Criminal Injuries Compensation Program and in moving successful legislation to require that Maryland crime victims be informed of their rights. In Maryland, also, there is the victims assistance network [VAN], which is a coalition of agency and organization representatives dedicated to assuring the rights of victims. Inspiration for this network was provided by the Stephanie Roper Committee and Foundation, which has provided leadership in this area of crime victims rights. With its director, Roberta Roper, the committee has achieved major legislative goals and given direct services to crime victims and, indeed, to all citizens of Maryland. I am proud that the State of Maryland has taken the lead in this area of crime victims rights, and I urge my colleagues to pass House Joint Resolution 420, which will focus attention on crime victims rights.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Montgomery). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 234

Whereas millions of Americans are victims of crime each year;

Whereas many of those crime victims are traumatized further by the physical, psychological, and financial burdens resulting from their victimizations;

Whereas the sensitivity of our Nation's criminal justice system must be improved when working with crime victims and their families;

Whereas much progress has been made to correct these injustices by implementing in the Federal, State, local, and private sectors the recommendations of the President's Task Force on Victims of Crime; and

Whereas continuation of these efforts must be encouraged to ensure the restoration of balance to our Nation's criminal justice system and the fair and compassionate treatment of crime victims and their families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 17, 1988, is designated as "Crime Victims Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TRAUMA AWARENESS MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 373) to designate May 1988 as "National Trauma Awareness Month" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. Montgomery). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 373

Whereas more than nine million individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals of less than forty years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury can occur without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $100,000,000,000 annually on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment; and

Whereas the people of the United States should be educated in the prevention and treatment of trauma: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING SIGNIFICANT SYMBOLS OF THE "YEAR OF NEW SWEDEN"

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 347 recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the *Calmare Nyckel,* the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christiana in the State of Delaware, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation, and it gives me great pleasure to yield to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding.

Mr. Speaker, 350 years ago the first Swedish settlers to set foot in the New World landed at "the Rocks" on the Christina River at what is now Wilmington, DE. The landing of the Dutch pinnace *Calmare Nyckel* in Wilmington marked the beginning of what has become a long and fruitful relationship between the American and Swedish people. The colony of New Sweden was the first permanent settlement in the State of Delaware, and marked the beginning of our Government, Religion, Education, agriculture, commerce, and industry.

Those original Swedish settlers were small in number, but the contributions of their descendents helped shape a great nation. Three signers of the Declaration were of Swedish ancestry. Descendents of New Sweden helped draft the Constitution and John Hanson of Maryland, a man of Swedish descent, presided as President of the Continental Congress from 1781 to 1782.

Today, there are over 4 million Americans from throughout the United States who are of Swedish ancestry. To celebrate the contributions of Swedish-Americans, and the centuries-old kinship between the United States and our European cousins, Congress has declared 1988 "the Year of New Sweden." Tomorrow, their Majesties, the King and Queen of Sweden, will visit Wilmington, DE, and stand on the rocks where those first Swedes stood 350 years ago.

As part of the celebration of this trisusquicentennial, the royal couple will dedicate the plaque we authorize today to the memory of those brave pioneers. The plaque, designed by Margareta Hennix and Ginvanni Bizzini togther with the House of Gustavsberg, depicts the *Calmere Nyckel* and bears the seal of his Majesty Carl Gustaf XVI, the King of Sweden. It has been donated by Sami Bandak on behalf of the House of Gustavsberg in Sweden.

Mr. Speaker, Wednesday's dedication of this plaque is part of a nationwide celebration of Swedish heritage. I'm proud to join the sponsor of this bill, the gentleman from California [Mr. BATES], in supporting House Joint Resolution 347, and I wish to extend a warm welcome to the King and Queen of Sweden on behalf of the people of the State of Delaware.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I wish to compliment the gentleman from Delaware [Mr. CARPER] for the excellent tribute to the resolution that he just offered.

Mr. Speaker, I yield to the gentleman from California [Mr. DYMALLY], the chairman of the Subcommittee on Census and Population.

Mr. DYMALLY. Mr. Speaker, I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, I note with some interest that the King and Queen will visit Los Angeles on Monday, and there will be a dinner to celebrate their presence there. We Californians, especially those of us from southern California and Los Angeles County and of course the 31st District, extend a warm welcome to the King and Queen of Sweden to California.

Mr. BATES. Mr. Speaker, House Joint Resolution 347 recognizes identical plaques depicting the *Calmare Nyckel,* the ship that brought the first Swedish settlers to North America in 1638, as significant symbols of the "Year of New Sweden."

The original plaque bearing the signature of His Majesty Carl XVI Gustaf, the King of Sweden, will be presented to King Carl Gustaf and Queen Silvia by Congressman TOM CARPER at a dedication ceremony in Fort Christina, DE, on April 13, 1988. The plaque will then be put on public display in Wilmington, DE, at the Old Swedes Holy Trinity Church for all Americans to view.

House Joint Resolution 347 was introduced to recognize the valuable contributions Swedes have made in the 350 years they have inhabited North America. Their influence has greatly enriched the culture of the United States.

Mr. Speaker, I hope the Congress of the United States will join the millions of Swedish-Americans in celebrating this important anniversary.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 347

Whereas, in Public Law 99-304 (100 Stat. 439), the Congress designated 1988 as the "Year of New Sweden" to commemorate the 350th anniversary of the arrival of the first Swedish settlers in North America;

Whereas such Swedish settlers sailed aboard the *Calmare Nyckel,* established New Sweden as their first settlement in North America in what is now Wilmington, Delaware, and built Fort Christiana to defend their settlement;

Whereas Fort Christiana is designated as a National Historic Landmark and will be the site of several activities to observe the "Year of New Sweden";

Whereas, as part of the celebration of the "Year of New Sweden", the artists Margareta Hennix and Ginvanni Bizzini, together with the House of Gustavsberg in Gustavsberg, Sweden, created a limited number of identical plaques depicting the *Calmare Nyckel;*

Whereas such plaques are painted in silver and bear the seal of His Majesty Carl Gustaf XVI, the King of Sweden; and

Whereas a part of the proceeds from the sale of such plaques will be donated to charities that help the handicapped: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION OF CALMARE NYCKEL PLAQUES.

The identical plaques initiated by Sami Bandak, created by Margareta Hennix and

Ginvanni Bizzini (together with the House of Gustavberg), and depicting the *Calmare Nyckel,* the ship that brought the first Swedish settlers to North America, are hereby recognized as significant symbols of the "Year of New Sweden".

SEC. 2. ACCEPTANCE AND PLACEMENT OF PLAQUE.

The Secretary of the Interior shall—

(1) accept as a gift from Sami Bandak on behalf of the House of Gustavsberg one of the plaques referred to in section 1, and

(2) with the consent of the owner of Fort Christiana in the State of Delaware, place such plaque at such site to commemorate the 350th anniversary of the establishment of New Sweden.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: Page 3, line 4 and 5, strike "Christiana" and insert "Christina".

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENTS TO THE PREAMBLE OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer amendments to the preamble.

The Clerk read as follows:

Amendments to the preamble offered by Mr. DYMALLY:

In the first clause on page 2, strike "Christiana" and insert "Christina".

In the second clause on page 2, strike "Christiana" and insert "Christina".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. DYMALLY].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DYMALLY: Amend the title so as to read: "Recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the *Calmare Nyckel,* the ship that brought the first Swedish settlers to North America, as significant symbols of the 'Year of New Sweden'; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

JEWISH HERITAGE WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 527) to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, I am pleased to rise in strong support of House Joint Resolution 527, legislation that declares the week of April 17 to 24, 1988, as "Jewish Heritage Week." I commend my colleague, the gentleman from New York [Mr. SCHEUER], for his leadership in sponsoring the measure this year, which recognizes the 40th anniversary of the independence of the State of Israel, as well as other important dates on the Jewish calendar. House Joint Resolution 527 also notes the contribution made by the Jewish cultural traditions to the rich fabric of American society.

Indeed, the months of March, April, and May mark several important dates on the Jewish calendar. Each year at this time we celebrate Passover, when the Jewish people were released from bondage in ancient Egypt due only to divine intervention, subsequently being led by Moses to the Promised Land. We acknowledge the valiant stand taken by the brave Jews in the Warsaw ghetto uprising just a few decades ago. Fighting for their very lives against the Nazi terror, determined that were they to be shipped to concentration camps in Poland they would do so only after every street battle had been fought, the courageous Jews of the Warsaw ghetto epitomize the ideals of the American dreams of freedom and our willingness to fight for those ideals.

We also acknowledge the continued struggle of our brethren in the Soviet Union, who fight for religious and cultural survival on a daily basis. Glasnost notwithstanding, the Soviet Union has not been a hospitable place for the Jewish soul, and for other minorities, and our efforts in Congress on their behalf will continue unabated until each and every Jew who desires to emigrate has had the chance to do so. Religious and cultural freedom can only flourish in an open society.

Yet the hallmark of this legislation is clearly the 40th anniversary of Israel's independence. In Israel, the day prior is commemorated as Memorial Day, when all of Israel somberly recalls the heavy casualties of its armed services over the past four decades. It is a country in which every family has lost someone to one of Israel's battles for survival. The independence celebration begins in the evening as Israelis flood the streets with music, dancing, and general merriment. The next morning brings additional festivities, including all manner of picnics and parties.

Unfortunately, Mr. Speaker, the threat to Israel's very existence has never waned. We in the United States are miles away from many of the world's trouble spots. Sometimes we find it hard to understand the reality of living in a place where terrorism and violence are a daily threat, and where one's attitudes and world view are colored by such an atmosphere. Let us, therefore, reflect upon the many accomplishments of this small nation, one that has made the desert bloom and which serves as a haven for Jews throughout the world in times of trouble.

The rich cultural tradition of American Jews has contributed significantly to this Nation as well, one which we all appreciate as part of our American melting pot. Accordingly, I urge my colleagues to vote for House Joint Resolution 527, and to celebrate these important dates in the appropriate manner.

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Mrs. MORELLA. Mr. Speaker, continuing with my reservation of objection, I yield to the gentleman from California [Mr. DYMALLY], the chairman of the subcommittee.

Mr. DYMALLY. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I reflect with fond memories as a boy in secondary school where I first had my contacts with Jewish students whose parents had left Nazi Germany and come to some of the British colonies. I recall so very well playing soccer with them in Queens Park Savannah in Port of Spain, Trinidad. Later on, as a teacher in the Los Angeles school system where I had the privilege of being a counselor at the Jewish Community Center on Olympic Boulevard in Los Angeles, I had great interest in matters affecting Jews here and abroad.

As a Member of Congress, it was my experience to visit Moscow where I had a very moving meeting with many of the Soviet Jews who are attempting to migrate to Europe, to Israel, and to the United States. We call them refuseniks, but they are very brave and courageous people who dare to challenge the system in Soviet Russia and who long for human rights in Russia, the freedom to express their points of view, and to worship as they see fit.

So I think it is most appropriate, Mr. Speaker, that we observe the heritage of this great people. Last month, this month, and next month will be significant days in the lives of Jews all over the world. They will observe Passover and the anniversary of the Warsaw ghetto, Soviet Jewry, Solidarity, and other significant observances in Jewish life.

So it is a good time, Mr. Speaker, to commend the heritage of Jewish persons worldwide and particularly in the United States, and I join my colleagues, the gentleman from New York [Mr. GILMAN], the gentleman from New York [Mr. SCHEUER], and my fellow committee member, the gentlewoman from Maryland [Mrs. MORELLA], in commending the Jews of this country and all over the world for the significant contributions they have made to public life.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I commend the gentleman from California [Mr. DYMALLY] and the gentleman from New York [Mr. GILMAN] for their eloquent statements with regard to this resolution. I rise personally in support of the resolution to designate April 17, 1988, as "Jewish Heritage Week."

The month of April, as has been pointed out, is most significant in the Jewish community. First of all, it is the 40th anniversary of the independent State of Israel. In addition, the Jewish calendar contains such major events as Passover, the anniversary of the Warsaw ghetto uprising, Solidarity Sunday for Soviet Jewry and Jerusalem Day.

It is fitting not only to recognize the events which would occur in the month of April but also to bring them to the attention of the people of this Nation. Throughout our Nation's history, the Jewish community has contributed to every facet of American life. It is, therefore, fitting and appropriate that the week of April 17 through April 24, 1988, be designated as "Jewish Heritage Week," and I urge my colleagues to approve this resolution and recognize publicly the major role the Jewish people have played in contributing to our American heritage.

Mr. Speaker, I withdraw my reservation of objection.

Mr. MAVROULES. Mr. Speaker, today I wish to encourage all of you to support House Joint Resolution 527, a resolution that would designate the week of April 17, 1988, as Jewish Heritage Week. Like so many other ethnic groups, the Jewish people came to America to take advantage of the opportunities which this country promised. The Jewish population in the United States has continually celebrated their freedom, not only from religious persecution, but also from regulated and restricted lifestyles. We designate this week to recognize and appreciate the Jewish culture, traditions, and their rich contributions to American society.

April has been chosen to recognize Jewish heritage because of the various days of observance for Jews this time of year: Passover, the anniversary of the Warsaw Ghetto Uprising, Solidarity Sunday for Soviet Jewry, and Jerusalem Day. April 21, 1988, is the 40th anniversary of the founding of the State of Israel. Passover, one of the most significant holidays on the Jewish calendar, is a celebration of freedom. To Jews around this country, Passover not only celebrates the freedom from slavery in Egypt, but the freedom that Jews and other ethnic groups enjoy in the United States. The Jewish community has been able to take advantage of this freedom and opportunity to produce some of our most prominent and successful citizens.

Throughout history, Jewish citizens have been active in many professions and fields. In entertainment, Milton Berle led the way as the "father of television." Following him, among others, were actors Mel Brooks, Zero Mostel, Lauren Bacall, and Dustin Hoffman. Musicians George Gershwin and Richard Rodgers contributed greatly to the music history of our country. On the business side, there are Jewish origins in major department stores such as Bamberger's, Altman's, Gimbels, and Abraham & Straus. In politics, Louis Brandeis was the first Jewish Supreme Court Justice. Other political figures include: Henry Kissinger, Secretary of State under Richard Nixon; Arthur Goldberg, U.S. Ambassador to the United Nations; Herbert Lehman, Governor and Senator of New York; Ed Koch, mayor of New York; and Golda Meir—originally of Milwaukee, WI—Prime Minister of the State of Israel. In fields such as medicine, law, and journalism, Jews continue to be active participants.

In America, the Jewish culture adds to the "great American melting pot" for which this country is known. Each nationality adds to the diversity of American life. One of the unique aspects of America is the wide variety of food that is available to the public. Italian, Mexican, Chinese, Greek * * * food from all nationalities around the world. The Jewish people also brought with them a different type of cuisine. In restaurants around the United States, "Jewish" food is always available: chopped liver, gefilte fish, pastrami, and bagels and lox are eaten by the general public. Each Jewish holiday also brings different customs: lighting the candles and eating potato latkes for the celebration of Channukah, holding a Passover sedar with matzoh and other traditional tokens, and of course reciting prayers, drinking a cup of wine, and cutting the challah.

Once again, I urge my colleagues to join me in this worthy celebration of the Jewish heritage. The United States of America would certainly be missing a taste of the world had it not been for Jewish contributions and their rich culture and customs. Let us appropriately recognize their contribution and set-aside a week for a worthy celebration.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 527

Whereas April 21, 1988, marks the fortieth anniversary of the founding of the State of Israel;

Whereas the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Solidarity Sunday for Soviet Jewry, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country;

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history and traditions of the Jewish community and the contributions of Jews to our country and society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 17, 1988, through April 24, 1988, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities and programs.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONGRATULATING UNIVERSITY OF KANSAS ON WINNING NCAA BASKETBALL CHAMPIONSHIP

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 425) congratulating the University of Kansas on winning the NCAA Basketball Championship, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation. I congratulate the team.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 425

Whereas, the University of Kansas has richly earned its reputation as one of America's great basketball schools;

Whereas, its first coach was the man who invented the game, Dr. James Naismith;

Whereas, that great tradition continued this year thanks to the brilliant coaching of Larry Brown and a true team effort by the Kansas Jayhawks;

Whereas, America was treated to a thrilling final four because of the outstanding play of Duke, Arizona, Oklahoma, and Kansas; and

Whereas, K.U.'s stunning march to the championship shocked the experts and thus proved that no dream is ever too big to dream: Now, therefore, be it

Resolved, That the House recognizes and congratulates the University of Kansas for its outstanding achievement in winning the 1988 NCAA Basketball Crown.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THANKING MEMBERS FOR THEIR PATIENCE

(Mr. DYMALLY asked and was given permission to address the House for 1 minute.)

Mr. DYMALLY. Mr. Speaker, I apologize for being late today to present these resolutions, but I had anticipated there would be a vote, and I was awaiting the 15-minute leave time. I was caught off guard, so to speak, but I appreciate the Chair's indulgence, and I am glad to be here to present these resolutions.

The SPEAKER pro tempore. I thank the gentleman from California for his explanation.

TRIBUTE TO THE LATE HONORABLE HAROLD T. "BIZZ" JOHNSON

The SPEAKER pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, it was with much sadness that we learned of the death on March 16 of our former colleague and dear friend, Harold T. "Bizz" Johnson.

Bizz served here in the House of Representatives from 1959 through 1980. It was my great privilege to serve with Bizz for most of that time. I knew him as one of the hardest working and most gracious Members of Congress with whom I have had the pleasure of working.

Most of us know of Bizz' legendary accomplishments as a Member of the Public Works and Transportation Committee, and as its chairman from 1977 to 1980. In that role, he worked tirelessly not only for the needs of Californians but for jobs and progress throughout the country. He never forgot the needs of the people of his district. They were always his most important priority. Yet, he was always willing to listen to the needs of the constituents of other districts and to lend a helping hand to their Representatives whenever possible.

Bizz served for 4 years as the dean of the California delegation here in the House, and it was my honor to assume this position when Bizz left the Congress. His were big shoes to fill. He did much to bring together the diverse factions of our delegation, encouraging Democrats and Republicans to work together for the good of California. Despite representing one of the broader ideological spectrums of any congressional delegation, we continue to come together to work on issues of importance to our State, whether it be the protection of our California coastline or ensuring that California gets its fair share of Federal spending. We have Bizz to thank for demonstrating to us time and again the importance of delegation unity and cooperation.

I remember when Bizz left the House in 1980, and many of us took time to wish him well in his retirement from Congress. Member after Member paid tribute to Bizz and to his outstanding record of legislative accomplishment. But what stands out in my mind is the people who mentioned Bizz' accessibility, his willingness and eagerness to talk with anyone who needed his help. They spoke of his fairness in exercising his responsibilities as chairman of a powerful committee and of his gentlemanly nature. He set a powerful example for all of us, an example that can continue to give us direction.

We will miss him greatly.

Mr. Speaker, I yield to the gentleman from California [Mr. ANDERSON], a long time friend of Bizz Johnson's.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to pay homage to an outstanding individual who not only served the public and our great Nation in the U.S. House of Representatives, but also contributed greatly to humanity. I speak of former Congressman Harold T. (Bizz) Johnson.

Bizz Johnson faithfully served California's First District for over 20 years in the House. During his many years as a California Congressman, Bizz managed to harness his intense energy into serving his fellow man with a sincerity that is rarely equalled. I had the pleasure of working alongside Bizz for many years on the House Public Works and Transportation Committee, which he chaired until 1980. Bizz Johnson was instrumental in the fight for public works projects in California and the rest of the Nation.

Bizz Johnson served his community, State, and Nation well during his long and respected political career. He was a member of the city council of his home town of Roseville, CA, for 8 years before being elected to the California State Senate in 1948. After 10 years in the State legislature, Bizz was elected to Congress where he served for 22 years, utilizing every effort and opportunity to help those he represented. His expertise, and great understanding of our Constitution and legislative process is reflected in the many years Bizz was elected to public office.

Mr. Speaker, the passing of an individual such as Bizz Johnson will be keenly felt by the district he served in California, the U.S. Congress, and indeed the Nation. I, along with my colleagues in the U.S. House of Representatives will miss Bizz Johnson. However, it is comforting to know that Bizz contributed so much to our society that these contributions will serve as an enduring tribute to a great American. My wife, Lee, and I extend our deepest condolences to Bizz' son Robert and his daughter Lorraine.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from California [Mr. ANDERSON] for his very eloquent statement.

Mr. Speaker, I ask unanimous consent that at this point in the RECORD the remarks of our late colleague, the Honorable James J. Howard, of New Jersey, be inserted in the RECORD. Mr. Howard delivered these remarks to me several days before his unfortunate passing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The statement referred to follows:

Mr. HOWARD. Mr. Speaker, Harold T. "Bizz" Johnson, my long-time friend and associate, was a legislator par excellence who had a distinguished career in public service. He began his career on the city council in the city of Roseville, CA. In 1941 and for 7 of the 8 years he served he was mayor. He then moved on to become a distinguished member of the California Senate where he rose to become chairman of a major committee. He was elected to the U.S. House of Representatives in 1958 to the 86th Congress. He served for 22 years; for the last 4 years of his service he was chairman of the Committee on Public Works and Transportation. Harold T. "Bizz" Johnson was the same from the beginning to the end—a quiet, unassuming individual who was dedicated to the growth of the resources of this country. During his long career he worked energetically as one of the last New Deal Democrats in the House to bring to his country, his State, and his district the needed programs in the development of water resources, highways, airports, and mass transit. He was a strong supporter of the Clean Water Program, the Economic Development Program which helped this Nation so much and the Appalachian Regional Development Program that came into being under the late President John F. Kennedy.

It can truly be said of Bizz Johnson that he was a friend to all and all were friends of Bizz Johnson. He brought with him a combination of gentleness and of strength. He was a small-town man who retained that wonderful small-town charm as he moved on first to Sacramento and then to Washington.

Men of the caliber of Harold T. "Bizz" Johnson are men who helped make this country what it is. As we move on to further develop our Nation's infrastructure needs we can truly say "Bizz" helped carry this process forward.

I was proud to serve with him. I was proud to call him a friend. I regret his passing and extend to his family my heartfelt condolences.

Mr. COELHO. Mr. Speaker, I would like to join my fellow Californians in paying tribute to our friend and former colleague, Harold T. "Bizz" Johnson.

Bizz Johnson was first elected to the House of Representatives in 1958, and admirably served the people of California's First Congressional District until 1980. Throughout virtually his entire tenure in the House, he sat on the Committee on Interior and Insular Affairs and the Committee on Public Works, where he also served as chairman.

Bizz was loved and respected by his constitutents and colleagues alike. Shy of media attention and not widely known outside of his district, he was a quiet but effective force in the House of Representatives. Attentive to the needs of his district and dedicated to his constitutents, Bizz rarely missed a vote. Over the years, his leadership had a national impact as well, as the result of legislation he initiated on issues concerning economic development, disaster relief, public works, the Interstate Highway System and flood control. He was also instrumental in bringing the 1960 winter Olympics to Squaw Valley, CA, and proudly represented the United States in presenting the U.S. flag which was flown during the games.

Having served at the local and State levels of government prior to his election to Congress, Bizz Johnson literally devoted his entire career to public service. He was a dedicated and honest man, and a loving husband and father, and Bizz will be missed by all who knew him.

Mr. MOORHEAD. Mr. Speaker, I was very sorry to hear the news about the death of Bizz Johnson.

He was a highly respected Member of Congress and the California congressional delegation. He was always willing to listen to all points of view. He labored hard and constructively for solid, productive legislation.

As the chairman of the Public Works and Transportation Committee, he was effective in bringing to California many projects that were the best in the Nation.

Bizz Johnson was a gentleman. He was a good friend. My memories of him will always be fond. He will be missed.

Mr. MILLER of California. Mr. Speaker, I rise to pay tribute to the late Harold T. Johnson, with who, I had the honor to serve in this House. As the Members of the House know, Bizz Johnson passed away on March 23, 1988.

Bizz was legendary in California politics, and in the history of the House of Representatives. He served in this body for many distinguished years, during which he rose to senior positions on both the Committee on Public Works and Transportation, which he ultimately chaired, and the Committee on Interior and Insular Affairs, where he chaired the Subcommittee on Water and Power Resources, which I now have the honor to chair.

Bizz will be remembered for his cordiality, his assistance to Members, his expertise, and his absolute devotion to the House of Representatives.

Many will take the floor today to salute Bizz Johnson's many contributions. He was an historic figure, a man who used his powerful positions effectively to shape modern California. Throughout our State are the monuments to his effectiveness and his vision: highways, ports, dams, canals, airports, and hundreds of thousands of acres growing valuable crops which, before Bizz Johnson, were arid wasteland.

To some, these are the products of government largesse. That is the conclusion of those who have not faced the awesome responsibility to construct a modern nation. Indeed, it is the product of Bizz Johnson's vision that has made California the eighth wealthiest nation on the face of the Earth, and the most productive State of the union.

It seems simple, in 1988, to regard the edifices constructed through Bizz Johnson's efforts as "pork barrel." But when he began his career of public service one needed extraordinary vision to anticipate what California—what America—could become.

Bizz Johnson had that vision, and he had the political skills to translate that vision into reality. All Californians, and all American enjoy the benefits of the breadth of his visions, and we are all in his debt for the skill with which he transformed the Nation.

Mr. LANTOS. Mr. Speaker, I would like to join my distinguished fellow Californian, Mr. EDWARDS, in paying tribute to the memory of our distinguished former colleague, Harold T. "Bizz" Johnson, who passed away just a few days ago in Sacramento. Bizz was a great Congressman, who served his congressional district and the people of California, for 22 years in this House.

Freeways and transit systems, sewer and water facilities throughout the State of California are a living tribute to his farsighted abilities. As chairman of the Committee on Public Works and Transportation, Bizz showed great foresight and understanding in assuring that the essential infrastructure for our nation was in place to serve the needs of our economy and the American people.

As a tribute to the lasting contribution of Bizz Johnson, the major interchange of U.S. Highway 101 and California Highway 92 in the heart of San Mateo County was named in his honor in the fall of 1985. This interchange, which required 4 years of construction to complete and cost over $34 million, is a fitting memorial to a man whose congressional career was devoted to assuring the development of our highways and other such facilities.

Mr. Speaker, I join my colleagues in paying tribute to this outstanding former Member of this House, and express my condolences to his family.

Mr. SHUMWAY. Mr. Speaker, I deeply appreciate having this opportunity to pay tribute to our late colleague and very dear friend, Harold T. "Bizz" Johnson, and to bid him farewell.

When I learned that Bizz had passed away, I was reminded of the great feelings of trepidation I harbored when I first met him. In 1978, when I first sought this seat, I ran against one of Bizz' best friends. Consequently, I did not expect him to befriend me when I arrived in Washington. I could not have been more wrong! When we met, my fears proved to be unwarranted. He took me by the hand and introduced me to those with whom I would be working, in Congress, in the bureaucracy, and in whatever Hill capacity he knew would prove helpful to me. We were from different parties; we had very different philosophies. He became a very good friend to me when he did not have to be. I have always viewed his warmth as a measure of the man. Unlike some, Bizz was never cloaked in partisan biases. He was always easy to approach and to talk to. He offered advise and, when it was needed, he could be counted on to generate support from his side of the aisle. Bizz Johnson was a statesman in a way that few individuals can claim to be. I will never forget that.

On a more personal note, my wife and I were both very fond of both Bizz and his late wife, Albra. She was a very dear person, and a good friend to my wife. Once, she confided that she had some concerns about being alone when Bizz was away. We made it a point to ensure that she was escorted home safely from functions she attended alone, and over time a strong bond of friendship was forged. They were both very fine people who epitomized all that is good about couples who seek and hold public office. They will both be missed.

Bizz Johnson accomplished so much in his impressive career that he will not be forgotten. Ironically, I have a legacy from Bizz in my own district, a project he did not accomplish which keeps him all the more in the forefront of my own mind: Auburn Dam. Knowing that even he, with his wisdom, leadership, and statemanship, did not bring that project to fruition is a lesson in itself. He taught me so much about Congress, about winning and losing, and, most of all, about being a gentleman. He took a back seat to no man when it came to being a gentleman from California.

I appreciate this opportunity to pay tribute to a very great man, and a true friend.

Mr. HERGER. Mr. Speaker, as the current holder of the congressional seat so ably represented by Congressman Bizz Johnson during his 22 years in the House, I rise today to express the profound sorrow of his former constituents, who will miss, and remember him with warmth and appreciation.

We in northern California will long remember Bizz Johnson. His love for our area and his simple dignity were characteristic traits. After completing his career in the Congress, Bizz returned to Placer County, to live in his two-bedroom house he owned in Roseville.

I know that the city of Roseville held a special place in Bizz Johnson's heart. Bizz served on the City Council of Roseville in the 1940's, as mayor most of that time. His son Robert is postmaster there, and his daughter Lorraine Alexander teaches school in Roseville.

Despite his ascending to congressional leadership during his tenure in Washington, serving as chairman of the Public Works Committee, Bizz Johnson never lost touch with his roots in his rural community.

Among his many accomplishments in the House were his sponsorship of the legislation which brought the winter Olympics to California's Squaw Valley in 1960, and his tireless efforts to promote construction of the Auburn Dam.

Congressman Johnson will long be remembered by Californians for the role he played in the development of the State's water resources, and his support for road and highway development throughout northern California.

Like many of us who have come to Congress from northern California, Bizz Johnson's career began in local government. Bizz served on the school board before his election to the Roseville City Council. Bizz also served as a member of the California State senate for 10 years prior to his election to Congress.

Bizz Johnson was a conscientious public servant, who strove to respresent his area to the best of his ability. He was known for his effort to keep in close touch with the many varied communities within his sprawling multicounty congressional district, which still remains the largest geographic congressional district in California.

Mr. Speaker, I know I speak for my constituents when I express my sincere sympathy to Congressman Bizz Johnson's family in this sad time for them. I know they will be comforted to learn of the affection so many people had for Bizz, and of the enduring legacy of respect which is his reward for the many years of public service to northern California and to our Nation.

Mr. FAZIO. Mr. Speaker, Bizz Johnson was a dear friend and a monumental figure in California politics, first as a State senator and then a Member of Congress. Bizz was probably more responsible than any other man for the infrastructure and public works in California. As chairman of Public Works and ranking Democrat on Interior, Bizz worked ceaselessly for California water development and transportation needs.

While representing the Northern most counties of the State effectively, from national parks to timberlands, he never lost sight of his responsibility to all of California. His work for urban freeways and transit systems, sewer treatment and water facilities throughout the State, remain a testament to his farsighted bipartisan approach.

Originally from Yolo County, now in my district, Bizz and his lovely and devoted wife Albra began their political life in Roseville. Bizz continued to represent the people in far larger districts throughout the remainder of his career with the same kind of personal rapport and sincere dedication that he first exhibited as mayor of his home city of Roseville.

As one who had the opportunity to serve just one term with Bizz, during which he was dean of our delegation, I came to see Bizz Johnson as the epitome of what a northern California Congressman should be. He has served as a model for me and the service I've been privileged to render since.

Our deepest sympathies to his son and daughter and his grandchildren who we've come to know better in recent years.

Bizz was a great man and a great Congressman and he'll be missed by many friends throughout this country, but particularly the people from the Siskyous and the Sierras to the delta and valleys beyond.

Mr. Speaker, I insert the following article from the Press Tribune:

[From the Press Tribune, Mar. 17, 1988]

"BIZZ" JOHNSON: EX-CONGRESSMAN SPEARHEADED MANY SOUTH PLACER PROJECTS

(By Jim Janssen)

ROSEVILLE.—Former South Placer Congressman Harold T. "Bizz" Johnson—who spearheaded the Auburn Dam project and federal funding for Interstate 80 and the Highway 65 bypass—died early today at Mercy General in Sacramento.

Services are pending at Roseville's Chapel of the Roses funeral home, said Doug Swenson, a mortuary spokesman.

Mr. Johnson, 80, represented South Placer in Congress for 22 years following a political career that started in the late 1930s with his election to the Roseville City School District board.

From there, he vaulted on a high vote by the people of Roseville to become their major when the city was experiencing unprecedented growth and development in the post World War II years.

Mr. Johnson—praised throughout the years for playing a key role in making Roseville competitive for industrial jobs—was one of the principals involved in obtaining Central Valley Water Project electricity and water for Roseville. He also is credited with helping establish Roseville Community Hospital, turning dirt roads into paved streets, and with making major improvements in the city's water treatment system.

The former congressman was born in Broderick in Yolo County, but was reared and educated in Roseville public schools. He started as a political science major at the University of Nevada in Reno, but was never able to finish. The Depression hit, forcing him to seek full-time employment.

He followed in his father's footsteps and went to work for Pacific Fruit Express in Roseville, where he worked for nearly 30 years, rising to a position of foreman.

Mr. Johnson became a union leader in the 1940s and traveled throughout the western United States representing his fellow workers. He got his first taste of the nation's capital while lobbying for railroad workers.

Elected to the California State Senate in 1948, Mr. Johnson served in the upper house of the Legislature for 10 years, earning a reputation as an outstanding advocate for the development of an adequate public school system from primary grades through the university level.

He also was considered a leader in the development of an adequate state highway program and an expert in the field of conservation and utilization of the state's natural resources.

Mr. Johnson entered Congress in January 1959 after being elected on his first try at becoming the representative of the sprawling 1st Congressional District. He was reelected 10 times before he was defeated in 1980 by former state Assemblyman Gene Chappie, one of many Republicans swept into office when Ronald Reagan won the presidency.

While in Congress, Mr. Johnson devoted his time and efforts to the responsibility of representing the people of Northern California.

He used the experience and knowledge gained in his earlier legislative career to win further recognition, especially in the field of water, power, timber and other natural resource conservation.

From early on to his final rise to the top position as one of the most powerful leaders in the House of Representatives, Mr. Johnson was recognized by his colleagues and six presidents under whom he served to have the ability to assume and handle any position of leadership that came his way.

His political career brought him into contact with every president from Dwight Eisenhower to Jimmy Carter. He worked on legislation with notables such as former House Speaker Tip O'Neill and Sen. Edward Kennedy.

The former congressman was tireless in working on legislation for his district, and picked up friends in both houses of Congress by constantly helping his colleagues with their problems, as well as taking care of his own.

His rise in stature led him to being elected in 1977 to serve as chairman of the powerful House Committee on Public Works and Transportation, a post he maintained until the close of his career.

He had served as a member of the committee for many years and participated actively in all of the areas of the committee's jurisdiction, including aviation and airport development, economic development, public buildings and grounds, highway programs, mass transit projects, water and flood control programs, and water quality control efforts.

Mr. Johnson also served as a member of the House Interior and Insular Affairs Committee and chaired its Subcommittee on Water and Power Resources for several years. On this committee he aided in drafting key legislative bills in the areas of national parks, recreation, public lands, and water resources, including the Colorado River Project Bill—the largest reclamation program ever authorized in a single piece of legislation.

His expertise on water resource issues gained him national recognition as the champion of water programs and the architect of California's water policy.

He established a long outstanding record of support for public works programs at the national level by helping draft key bills such as river and harbor flood control acts; acts providing for design and construction of dams, soil erosion prevention devices, irrigation, drainage, municipal and industrial water supply; and an act providing for a national program for inspection of dams.

He was instrumental in the passage of the Water Quality Improvement Act of 1970, which established federal controls on oil pollution and strict liability for oil shippers; extension of the Deep Water Port Act, clearing the way for construction of offshore facilities to accommodate new supertankers; and the Clean Water Act of 1977, which brought about far-reaching reforms of the federal water pollution program, including an intensified attack on toxic pollutants in the nation's waterways.

He also served as a member of the Select Committee on Real Property Acquisition; the Special Committee on Federal Aid Highway Programs; the U.S.-Mexico Interparliamentary Conference; and the Subcommittees on Public Lands, Economic Development, Surface Transportation, and National Parks.

He was vice chairman of the U.S.-Canada Interparliamentary Conference; and chairman of California Democrats in Congress.

Above his political career, Mr. Johnson was always a devoted husband and father. His enthusiasm for his late wife, Albra Johnson; son, Robert Johnson; daughter, Lorraine Johnson Alexander; and grandchildren knew no bounds.

An election night at the Johnson household would find the congressman in shirt sleeves, roasting turkeys and meats and cutting them up for sandwiches and hors d'oeuvres, serving refreshments, and operating generally as the leader of the family unit and the political leader of his district.

He never seemed to be impressed with public importance during his tenure in Congress, but did love public activity—to get the project done, not only for his district, but for the entire country.

His love of Northern California and the 1st Congressional District was an ongoing emotional experience for him, freshened everytime he toured his district—which was practically every visit home.

Mr. Johnson was honored by the Roseville '87 Committee on May 7, 1987 for his contribution to the economic growth of South Placer County.

Mr. DELLUMS. Mr. Speaker, I rise today to pay tribute to one of our former California colleagues, Harold "Bizz" Johnson.

I first met Bizz upon coming to the Congress in 1971. From the outset he treated me with courtesy and respect, both as a human being and as a colleague. I appreciated it then, and I treasure it now with fond memories.

During the decade that we served together in the House we sometimes differed on issues, but on many others we were in strong agreement. Bizz was a stalwart in promoting the development of California, and the State highway system owes much to him in that regard. Unlike some others, he continued to champion the cause of California, even after he left the Congress following the 1980 election.

Bizz Johnson served the people of California and the Nation in Congress for 22 years. He gave of himself to others, in friendship and understanding. He was missed when he left the Congress. He is missed even more, now that he has departed this earthly vale.

Mr. HAMMERSCHMIDT. Mr. Speaker, it was with great sadness that I learned of the passing of my good friend and former colleague, Congressman Harold T. "Bizz" Johnson.

His was an enormously productive 22-year career in this body, and he did it his way—quietly, effectively, and outside the bright lights of publicity.

It was a pleasure to serve with Bizz in the House and on the Public Works and Transportation Committee for so many good years. He demonstrated as well as anyone ever could how to effectively blend strong advocacy with cooperation and compromise. He was a master of the legislative process and while victorious in pressing his issues, he was always the consummate gentleman.

Under his 4 years of able leadership as chairman of our committee, we produced some truly landmark legislation, including regulatory reform of the aviation and trucking industries, and the Local Public Works Capital Investment and Development Act, an antirecession measure designed to help revitalize our national economy.

Few in this body have ever demonstrated greater expertise in water resource development than Congressman Bizz Johnson. In addition to his important service with the Public Works and Transportation Committee, he was for many years chairman of the Water and Power Resources Subcommittee of the Interior and Insular Affairs Committee. It is not surprising that he played a major role in all water-related legislation considered during his more than two decades in Congress.

I remember him best, however, for his comment about the mission of the Committee on Public Works and Transportation—he said: "We do things for people." This comment, in my judgment, reflects what Bizz Johnson sought to do not only for the people who elected him to 11 terms in Congress, but for America.

Bizz Johnson will be greatly missed by his many friends in this body and those back in California. Virginia joins me in extending deepest sympathy to his fine family on their great loss.

Mr. MINETA. Mr. Speaker, I rise to join my colleagues in honoring a great member of the California congressional delegation, and a true "gentle man," Harold Johnson. It was with great sadness that I heard of his death on March 16.

Mr. Johnson, or "Bizz," as he was called, served 22 years in this fine body. For 4 of them, during the 95th and 96th Congresses, he was chair of the Public Works and Transportation Committee, which gave me the honor of working closely with him on issues very important to the country and the State of California.

I remember well his dedication, his vision, and his strong leadership on the committee. The face of this Nation was changed and improved due to the actions of the Public Works and Transportation Committee under his guidance.

I am proud to have worked at his side. I know that my colleagues at the time, and my colleagues today, share the great respect I have for Bizz.

I hold him in the highest esteem and admiration.

His many contributions to his district, to the State of California, and to the Nation shall not be forgotten. I mourn his passing.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAY (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BUNNING) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. SWINDALL, for 60 minutes, on April 13.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BUNNING) and to include extraneous matter:)

Mr. MARLENEE.
Mr. DREIER of California.
Mr. BROOMFIELD.
Mr. LEWIS of California.
Mr. BUNNING.
Mr. COURTER.
Mr. ROTH.

(The following Members (at the request of Mr. RICHARDSON) and to include extraneous matter:)

Mrs. BOGGS.
Mr. ATKINS in two instances.
Mr. FRANK.
Mr. MAZZOLI.
Mr. PANETTA.
Mr. STOKES in two instances.
Mr. SOLARZ.
Mr. HOYER.
Mr. LANTOS.
Mr. STARK in four instances.
Mr. RAY.
Mr. CROCKETT.
Mr. LEHMAN of Florida.
Mr. RODINO in two instances.
Mr. DOWNEY of New York.
Mr. BATES.
Mr. MURTHA.
Mr. MRAZEK.

ADJOURNMENT

Mr. EDWARDS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 14 minutes p.m.) the House adjourned until tomorrow, Wednesday, April 13, 1988, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3369. A letter from the Deputy Director, Office of Management and Budget, reporting that the appropriation to the Veterans' Administration for "compensation and pensions" and "readjustment benefits" for fiscal year 1988 has been reapportioned on a basis that indicates the necessity for a supplemental estimate of appropriations, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

3370. A letter from the Assistant Secretary of Defense (Force Management and Personnel), transmitting a report on the review of the adequacy of pay and allowances for members of the uniformed services, pursuant to 37 U.S.C. 1008(a), 1009(f); to the Committee on Armed Services.

3371. A letter from the Assistant Secretary of Defense (Comptroller), transmitting the Department's supplemental contract award report for the period May 1, 1988, to June 30, 1988, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

3372. A letter from the Deputy Secretary of Defense, transmitting a report on NATO conventional defense, pursuant to 22 U.S.C. 1928 notes; to the Committee on Armed Services.

3373. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations under title III of the Stewart B. McKinney Homeless Assistance Act, pursuant to 31 U.S.C. 1110; to the Committee on Banking, Finance and Urban Affairs.

3374. A letter from the Secretary of Education, transmitting a copy of final regulations for family educational rights and privacy, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3375. A letter from the Secretary of Education, transmitting the Department's 12th annual report on the distribution of State-administered Federal education funds, pursuant to section 406A, General Education Provisions Act, as amended; to the Committee on Education and Labor.

3376. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a copy of the agency's "Annual Energy Outlook 1987" report, pursuant to Public Law 95-91, section 205(c); to the Committee on Energy and Commerce.

3377. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting the fiscal year 1987 report on the operations of Agency's minority resource center, pursuant to section 133 of the International Development and Food Assistance Act of 1977; to the Committee on Foreign Affairs.

3378. A letter from the Assistant Director, U.S. Information Agency, transmitting the annual evaluation of the Cuba service of the Voice of America, pursuant to 22 U.S.C. 1465g; to the Committee on Foreign Affairs.

3379. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting a copy of the Health Resources and Services Administration's matching program report, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3380. A letter from the Acting President, Inter-American Foundation, transmitting a report of the Foundation's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3381. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3382. A letter from the Director, National Institute of Justice, transmitting the report of the Institute on its activities under title I of the Omnibus Crime Control and Safe Streets Act for the period 1986-87, pursuant to 42 U.S.C. 3789e; to the Committee on the Judiciary.

3383. A letter from the Assistant Attorney General (Civil Division), Department of Justice, transmitting Department's view concerning the constitutionality of section 630 of Public Law 100-202; to the Committee on the Judiciary.

3384. A letter from the Executive Director, Federal Highway Administration, Department of Transportation, transmitting a report on the feasibility and cost of establishing a public ferry boat service on the Missouri River in the vicinity of Nebraska and South Dakota, pursuant to Public Law 100-17, section 171(c) (101 Stat. 217); to the Committee on Public Works and Transportation.

3385. A letter from the Deputy Administrator, Federal Highway Administration, transmitting a report on the Kansas City, MO, to Shreveport, LA, multi-State highway feasibility study, pursuant to Public Law 100-17, section 166(c) (101 Stat. 215); to the Committee on Public Works and Transportation.

3386. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of various prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3387. A letter from the Secretary of Commerce, transmitting a report on Federal Government activities to obtain, translate, abstract, and disseminate Japanese technical literature, pursuant to 15 U.S.C. 3704(d); to the Committee on Science, Space, and Technology.

3388. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the draft of a proposed new section to be added to the fiscal year 1989 NASA authorization bill which authorizes NASA to lease a commercially developed space facility (Ex. Com. No. 3071), pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3389. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the draft of a proposed new section 7 to be added to the draft fiscal year 1989 NASA authorization bill (Ex. Com. No. 3071), pursuant to 31 U.S.C. 1110; jointly, to the Committees on Science, Space, and Technology and the Judiciary.

3390. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, sections 5002(d) and 5004(a)(4), United States Code, to raise the Veterans' Administration's minor construction cost limitation from $2 million to $3 million and for other purposes; to the Committee on Veterans' Affairs.

3391. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans' Administration [VA] to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel; to the Committee on Veterans' Affairs.

3392. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the fourth calendar quarter of 1987, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

3393. A letter from the Executive Director, U.S. Holocaust Memorial Council, transmitting a draft of proposed legislation to authorize appropriations to carry out the programs of the U.S. Holocaust Memorial Council, pursuant to 31 U.S.C. 1110; jointly, to the Committees on House Administration, Interior and Insular Affairs, and Post Office and Civil Service.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 3617. A bill for the relief of the Coushatta Tribe of Louisiana; referred to the Committee on Interior and Insular Affairs for a period ending not later than June 3, 1988 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X (Rept. 100-565 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRANK (for himself, Mr. FISH, Mr. SHAW, and Mr. WOLF):

H.R. 4358. A bill to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts or omissions of U.S. employees committed within the scope of their employment, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER:

H.R. 4359. A bill to provide for a comprehensive analysis of Department of Defense capabilities to detect, prevent, and treat abuse and neglect of children on military installations and to provide for recommendations for the improvement of such capabilities; to the Committee on Armed Services.

H.R. 4360. A bill to amend title 5, United States Code, to prohibit reimbursement by the United States of costs incurred by contractors in connection with proceedings relating to violations of laws or regulations; jointly, to the Committees on Government Operations and the Judiciary.

By Mr. RAY (for himself, Mr. BATEMAN, Mr. BENNETT, Mr. BEVILL, Mr. BIAGGI, Mr. BLAZ, Mrs. BOXER, Mr. CARDIN, Mr. CLAY, Mr. DEFAZIO, Mr. DE LUGO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. ERDREICH, Mr. FASCELL, Mr. FAZIO, Mr. FROST, Mr. GONZALEZ, Mr. GRAY of Illinois, Mr. HANSEN, Mr. HORTON, Mr. JENKINS, Mr. JONES of North Carolina, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. MONTGOMERY, Mr. MURPHY, Mr. NICHOLS, Mr. OBERSTAR, Mr. OWENS of New York, Ms. PELOSI, Mr. PEPPER, Mr. PETRI, Mr. ROBINSON, Mr. SIKORSKI, Mr. SISISKY, Mr. SOLOMON, Mr. SUNIA, Mr. TAUKE, Mr.

Thomas of Georgia, Mr. Whitten, and Mr. Yates):

H.R. 4361. A bill to amend chapter 83 of title 5, United States Code, to provide that unless individuals who are entitled to civil service retirement benefits receive their initial annuity payments promptly, such individuals shall be entitled to receive interest on the delayed payments; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. Lehman of California, Mr. Richardson, Mr. Campbell, Mr. DeFazio, Mr. Young of Alaska, Mr. Marlenee, Mr. Cheney, Mr. Pashayan, Mr. Craig, Mr. Hansen, Mr. Rhodes, Mrs. Vucanovich, and Mr. Coelho):

H.R. 4362. A bill to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BILBRAY:

H.J. Res. 531. Joint resolution designating May 1988 as "Motorcycle Safety and Awareness Month"; to the Committee on Post Office and Civil Service.

By Mrs. BOXER:

H.J. Res. 532. Joint resolution proposing an amendment to the Constitution of the United States prohibiting the President from granting a pardon to an individual who has been employed by the Federal Government during such President's term of office; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. Rangel, Mrs. Morella, Mr. Miller of California, Ms. Pelosi, Mr. Atkins, Mr. Shays, Mr. Lehman of Florida, and Mr. Gilman):

H.J. Res. 533. Joint resolution directing the President to declare war on IV drug abuse and AIDS by implementing those recommendations regarding intravenous drug abusers made by the President's Commission on the HIV Epidemic which are capable of being implemented under existing law; to the Committee on Energy and Commerce.

By Mr. STANGELAND (for himself and Mr. Roe):

H.J. Res. 534. Joint resolution designating the week beginning April 24, 1988, as "Handicap Awareness Week"; to the Committee on Post Office and Civil Service.

By Mrs. BOXER (for herself, Mr. Moakley, and Mr. Kennedy):

H. Con. Res. 277. Concurrent resolution expressing the sense of the Congress that the primary emphasis of United States assistance for El Salvador should be shifted from support for the war effort to promoting economic development and reducing human suffering; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H. Res. 426. Resolution honoring the American Culinary Federation and the National Restaurant Association for their contributions to American culinary art and for their support of the 1988 U.S. Culinary Team; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

306. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Kentucky, relative to foods that contain tropical fats; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MORRISON of Connecticut introduced a bill (H.R. 4363) for the relief of Ivan Lendl; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 696: Mr. Price of Illinois, Mr. Konnyu, Mr. Lagomarsino, Mr. Campbell, Mr. Dornan of California, Mr. Swindall, Mr. Owens of New York, Mr. McGrath, Mr. Inhofe, Mr. Coble, Mr. Smith of New Hampshire, Mr. Davis of Illinois, and Mr. Herger.

H.R. 772: Mr. Penny and Mr. Rangel.

H.R. 1242: Mr. Chapman and Mr. Owens of New York.

H.R. 2517: Mrs. Boxer.

H.R. 2532: Mr. Murphy and Mr. Fish.

H.R. 2670: Mr. Udall.

H.R. 2787: Mrs. Boxer.

H.R. 2793: Mr. Atkins and Mrs. Boxer.

H.R. 3064: Mr. Conte and Mr. Fields.

H.R. 3250: Mrs. Morella.

H.R. 3312: Mr. Konnyu and Mr. Mineta.

H.R. 3343: Mr. Lowry of Washington.

H.R. 3410: Mr. Gilman.

H.R. 3553: Mr. Pepper and Ms. Pelosi.

H.R. 3620: Mrs. Boxer, Mr. Dornan of California, Mrs. Kennelly, and Mr. Wolf.

H.R. 3719: Mr. Hammerschmidt, Mr. McMillen of Maryland, Mr. Borski, Mrs. Vucanovich, Mr. Traficant, Mr. Jacobs, Mr. Hayes of Illinois, Mr. Courter, Mr. Solarz, Mr. Weiss, Mr. Pashayan, Mr. Ford of Tennessee, Mr. Conyers, Mr. Ortiz, Miss Schneider, Mr. Torres, Mrs. Johnson of Connecticut, Mr. Hamilton, Mr. Brooks, and Mr. DeFazio.

H.R. 3782: Mr. Foglietta.

H.R. 3878: Mr. Clay and Mr. Dyson.

H.R. 3883: Mr. Hutto, Mr. Dellums, Mr. Chappell, Mr. Pepper, Mr. Mack, Mr. Miller of Washington, and Mr. Volkmer.

H.R. 3892: Mr. Bunning, Ms. Slaughter of New York, and Mr. Stump.

H.R. 3914: Mr. Espy and Mr. Fazio.

H.R. 3919: Mr. Coble, Mr. Hughes, Mr. McGrath, Mr. Michel, Mr. Molinari, Mr. Pepper, Mr. Rangel, and Mr. Ravenel.

H.R. 3954: Mr. Staggers.

H.R. 3988: Mr. Badham.

H.R. 4066: Mr. Valentine and Mr. Yatron.

H.R. 4088: Mr. Eckart.

H.R. 4213: Mr. Chapman, Mr. Kastenmeier, Mr. Gordon, Mrs. Bentley, and Mr. Hawkins.

H.R. 4221: Mr. Mineta.

H.R. 4231: Mr. de Lugo, Mr. Fawell, Mr. Manton, Mr. Courter, Mr. Dyson, Mr. Weiss, and Mr. Smith of Florida.

H.R. 4247: Miss Schneider, Mr. Hayes of Illinois, Mr. Staggers, Mr. Matsui, Mr. Dowdy of Mississippi, Mrs. Collins, Mr. Bonker, Mr. Clarke, and Mr. Swift.

H.R. 4308: Mr. Bliley, Mr. DioGuardi, and Mr. Hyde.

H.R. 4325: Mr. Hayes of Illinois, Mr. Matsui, and Mrs. Collins.

H.J. Res. 50: Mr. Morrison of Washington.

H.J. Res. 138: Mr. Lantos, Mr. Sisisky, Mr. Gaydos, Mr. Solomon, Mr. Quillen, Mr. Mazzoli, Mr. Porter, Mr. Kostmayer, Mr. Wheat, Mr. Chandler, Mr. Conte, Mr. Conyers, Mr. Berman, Mr. Biaggi, Mr. Bonior of Michigan, Mr. Fawell, Mr. Dellums, Mr. Dowdy of Mississippi, Mr. Livingston, and Mr. Wyden.

H.J. Res. 344: Mr. Horton, Mr. Harris, Mrs. Martin of Illinois, Mr. Whittaker, Mr. Hughes, Mr. Ackerman, Mr. Vander Jagt, Mr. Brennan, Mr. Daub, Mr. Fish, Mr. Shumway, Mr. Callahan, Mr. Borski, Mr. Madigan, Mr. Boland, Mr. Robert F. Smith, Mr. Hochbrueckner, and Mr. Lowery of California.

H.J. Res. 354: Mr. Conyers, Mr. Horton, Mr. Carper, Mr. Hoyer, Mr. Smith of Florida, Mr. Dymally, Mr. Leland, Mr. Campbell, Mr. Hefner, Mrs. Vucanovich, Mr. Hawkins, Mr. Miller of California, Mr. Chappell, Mr. Spence, Mr. Inhofe, Mr. Fazio, Mr. Pashayan, and Mr. Craig.

H.J. Res. 420: Mrs. Morella, Mr. Dornan of California, Mr. Hiler, Mr. Lungren, Mr. Denny Smith, Mr. Slattery, Mr. Frost, Mr. Stallings, Mr. Hansen, Mr. Vander Jagt, Mr. Bryant, Mr. Boulter, Mr. Kastenmeier, Mr. Fazio, Mr. Wilson, Mr. Wolpe, Mr. Clarke, and Mr. Bennett.

H.J. Res. 432: Mr. Guarini, Ms. Kaptur, Mr. Kemp, Mr. Anderson, Mr. Tauzin, Mr. Clement, Mrs. Saiki, Mrs. Bentley, Mr. Dyson, Mr. Rodino, Mr. Leland, Mr. Skelton, Mr. Traficant, Mr. McHugh, Mr. Mrazek, Mr. Waxman, Mr. Aspin, Mr. Brennan, Mr. Bunning, Mr. Cooper, and Mr. Grandy.

H.J. Res. 452: Mr. Lewis of Florida, Mr. Stratton, Mr. DeWine, Mrs. Bentley, Mr. Packard, and Mr. Livingston.

H.J. Res. 464: Mr. Staggers, Mr. Hall of Texas, Mr. Gradison, Mr. Davis of Illinois, Mr. LaFalce, Mr. McEwen, Mrs. Bentley, Mr. Hammerschmidt, Mr. St Germain, Mrs. Meyers of Kansas, Mr. Jones of Tennessee, Mrs. Kennelly, Mr. Young of Alaska, Mr. Ortiz, Mr. DioGuardi, and Mr. Tauke.

H.J. Res. 508: Mr. Ritter, Mr. Mavroules, Mr. Solomon, Mrs. Byron, Mr. Gilman, Mr. Kanjorski, Mr. Smith of New Jersey, Mr. Hertel, Mr. Lipinski, Mr. Moody, Mr. Gallo, Mr. Smith of New Hampshire, Mr. Burton of Indiana, Mr. Evans, Mr. Foglietta, Mr. Hammerschmidt, Mr. Hansen, Mr. Hoyer, Mr. Mazzoli, Mr. Molinari, Mr. Buechner, Mr. Rhodes, Mr. Grandy, Mr. Slaughter of Virginia, Mr. Stump, Mr. Bunning, Mr. Lightfoot, Mr. Moorhead, Mr. Nielson of Utah, Mr. Swindall, Mr. Levin of Michigan, Mr. Hiler, Mr. Lungren, Mr. McCandless, Mr. Montgomery, Mr. Morrison of Connecticut, Mr. Brown of Colorado, Mrs. Martin of Illinois, Mr. Campbell, Mr. Lantos, Mr. Bryant, Mrs. Meyers of Kansas, Mr. Wyden, Mr. McHugh, Mr. Davis of Illinois, Mr. Kolbe, Mr. Gekas, Mr. Gephardt, Ms. Oakar, Mr. Torricelli, Mr. Sawyer, Mr. Skeen, Mr. Stenholm, Mr. Panetta, Mr. Gordon, Mr. Mollohan, and Mr. Conte.

H.J. Res. 527: Mr. Natcher, Ms. Oakar, Mr. Bunning, Mr. Bennett, Mr. Sundquist, Mr. Ray, Mr. de la Garza, Mr. Panetta, Mr. Lott, and Mr. McMillen of Maryland.

H. Con. Res. 237: Mr. Anderson, Mr. Markey, Mr. Holloway, Mr. Rangel, Mrs. Meyers of Kansas, Mr. Hiler, Mrs. Martin of Illinois, Mr. DioGuardi, Mr. Coughlin, Mr. Tauke, and Mr. Oberstar.

H. Con. Res. 261: Mr. Frank, Mr. Morrison of Washington, Mr. Bereuter, and Mr. Weldon.

H. Res. 379: Mr. Lancaster.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1158: Mr. Thomas A. Luken.

H.R. 1600: Mr. Smith of Florida.

H.R. 4230: Mr. Lehman of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 858

By Mr. DAVIS of Michigan:

—On page 5, line 13, strike the period and substitute a semicolon.

On page 5, after line 13, insert the following clause (5):

"(5) promote the safety of diving activities, including the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe).".

On page 7, after line 18 of S. 858, insert the following new subsection:

"SEC. 8. RECREATIONAL DIVING SAFETY.

"(a) It is the sense of Congress that—

"(1) the regulation of diving activities, including the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe), by the States—

"(A) increases the level of safety of the maritime community in waters within a State's jurisdiction;

"(B) best considers the needs of local diving environments;

"(C) is fully consistent with the Federal inland navigation rules;

"(D) should be coordinated among the States to make diving safety regulations as uniform as possible;

"(E) should be included in guidelines relating to historic shipwrecks under this Act;

"(F) should prohibit interference with commercial vessel traffic unless properly permitted with adequate notice to mariners; and

"(2) the United States Government should propose consideration of the international recognition of the divers flag as a safety measure by the International Maritime Organization as soon as possible.

"(b) The Inland Navigational Rules Act of 1980 (33 U.S.C. 2071) is amended as follows:

"(1) In section 2, add a new subsection (e) to rule 1 of part A as follows:

'(e) Nothing in these Rules shall interfere with the regulation of diving safety by a State within its waters, including the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe), if that regulation prohibits interference with commercial vessel traffic unless the diving activity is properly permitted with adequate notice to mariners. The regulation of diving safety by a State is not inconsistent with, or a substitute for, the requirements of these Rules.'.

"(2) In section 3—

"(A) designate the existing first sentence as subsection (a);

"(B) designate the existing second sentence as the remainder of the existing section as subsection (b); and

"(C) amend the last sentence in subsection (b) (as redesignated by paragraph (2)(B) of this section) by striking ', including local pilot rules.' and substituting ', including local pilot rules and a compendium of States' regulations of diving safety'.".

H.R. 4264

By Mr. DORNAN of California:

—At the end of Part C of title IX of division A (page 159, after line 21), insert the following new section:

SEC. 924. RESERVATION OF NAVAL VESSEL MODERNIZATION, OVERHAUL, REPAIR, AND MAINTENANCE PROJECTS FOR PUBLIC SHIPYARDS.

(a) In General.—Subsection (b) of section 7299a of title 10, United States Code, is amended—

(1) by striking out "The assignment" and inserting in lieu thereof "(1) Subject to paragraph (2), the assignment"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of the Navy shall assign projects for the modernization, overhaul, repair, or maintenance of naval vessels to the shipyards described in subparagraph (B) as may be necessary to maintain the skills, facilities, tools, and equipment at such shipyards at the same levels as existed at such shipyards during the base year.

"(B) The shipyards referred to in subparagraph (A) are the public shipyards located at—

"(i) Portsmouth, New Hampshire;

"(ii) Philadelphia, Pennsylvania;

"(iii) Portsmouth, Virginia;

"(iv) Charleston, South Carolina;

"(v) Long Beach, California;

"(vi) Vallejo, California;

"(vii) Bremerton, Washington; and

"(viii) Honolulu, Hawaii.

"(C) This paragraph shall not be considered to prohibit the award to a private shipyard of any contract for a project involving the modernization, overhaul, repair, or maintenance of a naval vessel if such project is not assigned to a public shipyard pursuant to subparagraph (B).

"(D) In this paragraph, the term 'base year' means fiscal year 1988.".

(b) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report describing the Secretary's plans for assigning projects for naval vessel modernization, overhaul, repair, and maintenance to public shipyards in compliance with section 7299a(b)(2) of title 10, United States Code (as amended by this Act).

SENATE—*Tuesday, April 12, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable Bob Graham, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O Lord, our God, Gracious Savior and Shepherd, with profound gratitude we thank Thee for the hope and encouragement promised in Your comforting word.

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: He leadeth me beside the still waters. He restoreth my soul: He leadeth me in the paths of righteousness for His name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for Thou art with me; Thy rod and Thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: Thou annointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever.—Psalm 23.

Thank You, Shepherd Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The bill clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, April 12, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Bob Graham, a Senator from the State of Florida, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **GRAHAM** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. **BYRD.** Mr. President, I especially thank the Chaplain for his prayer today, and for including in his prayer the 23d Psalm. That is one of my favorite passages of Scripture, and it was the favorite passage of the Scripture of my grandson whom God, in his infinite wisdom and in his infinite love, took from us 6 years ago this morning.

RECOGNITION OF THE REPUBLICAN LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the Republican leader is recognized.

Mr. **DOLE.** Mr. President, I reserve my time.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein.

The Senator from Wisconsin is recognized.

WHY WE NEED A SUPER BUDGET SURPLUS

Mr. **PROXMIRE.** Mr. President, mark down Thursday, April 7, 1988. That is the day that an article appeared in the Wall Street Journal that should bring a new and different understanding of the Federal budget. If that understanding permeates to a majority of the Congress, it can set the stage for congressional adoption of budget policies that can save this great American economy from an economic catastrophe.

This crucial article was written by Herbert Stein. Dr. Stein was Chairman of the Council of Economic Advisers in the Nixon and Ford administrations. Stein drafted a statement for the Committee on Economic Development in 1947 that helped persuade the Congress to reverse this country's original decision to keep the Social Security accounts out of the budget. Stein recommended a cash consolidated or unified budget that included Social Security. In his April 7 Wall Street Journal article Stein writes that among those who thought about the budget in economic terms, this became the standard budget. Indeed, in 1969, a commission set up by President Lyndon Johnson recommended that the unified budget become the budget policy of this country. It has been since 1969.

Until the 1980's this was no problem. The Social Security accounts were generally in rough balance. But in 1982 a blue ribbon Social Security panel recommended and the Congress adopted a radical change in the Social Security Program. The panel proposed and Congress enacted a massive increase in the Social Security payroll tax. The Congress found this payroll tax increase necessary because of an anticipated vast increase in retirements caused by the postwar baby boom. These retirements will reach a tidal wave level about 30 years from now. So Congress enacted tax increases to build up a truly king size Social Security surplus to prepare for the anticipated retirements. How massive will the Social Security reserve become? Hold on to your hat. By the year 2020 the projected Social Security account will show a balance of about $10 trillion. Some calculations show that in a single year—at its apex—in about 2010 or 2015—Social Security could bring in $500 billion, that is, half a trillion dollars more than it pays out.

This would mean that the part of the Federal budget that is exclusive of the Social Security accounts could show a deficit of half a trillion dollars, and yet the unified budget would report a balance. Of course, such a situation would be momentary, painfully momentary. After the year 2020 Social Security will begin to pay out more than it takes in. Social Security will draw down its massive reserve. At that traumatic time, the Congress, after a 30-year binge of spending far more in the budget—exclusive of Social Security—will either run consolidated deficits of mammoth proportions or will have to enact truly radical reductions in spending and far and away the biggest tax increase the country has ever seen.

So what does Dr. Stein recommend? Keep in mind this is the same economic expert who recommended the inclusion of Social Security in the consolidated budget in 1947. In 1969, Dr. Stein had a change of heart, he recommended that the Government's basic policy should be to run a budget surplus equal to the Social Security surplus. This would mean that exclusive of Social Security, the Federal budget would be in balance. This would solve the transition problem in about 2020

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

when Social Security accounts will move from surplus to deficit.

Wouldn't this mandate huge Government surpluses for the next 30 years that would retard the economy? Stein writes that his realization that counterbalancing monetary policy could keep the economy on a high employment level, liberated him from the fear that a series of big consolidated surpluses would depress the economy.

Stein does not discuss the colossal impact that budget deficits exclusive of Social Security and counterbalancing the Social Security surpluses would impose on building an out-of-sight national debt. The $2 trillion $600 billion present national debt would, even in the consolidated balanced budgets, climb to more than $12 trillion by the year 2020. That could impose an annual gross trillion-dollar-plus interest burden in 1988 dollars on American taxpayers even in the unlikely event that the consolidated budget were in net balance during the next 30 years. Dr. Stein's proposal to strive for a balanced budget exclusive of Social Security accounts, would, if achieved, prevent this interest burden catastrophe.

The Stein approach would also require a fairer and more balanced tax burden for Americans in the next 30 years. The regressive Social Security tax today constitutes five times as large a proportion of Federal taxes as it did in 1950. That is a necessary burden to support our vital Social Security system. But with mammoth deficits in the budget—exclusive of Social Security—offset by equally mammoth Social Security account surpluses—it means that an entire generation of Americans will endure an overall tax distribution of unprecedented regressiveness.

Mr. President, I ask unanimous consent that the article by Dr. Herbert Stein to which I referred be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Apr. 7, 1988]

The "Threat" of a Budget Surplus

(By Herbert Stein)

If it isn't one thing it's another. I see by the papers that people are worried about the coming budget surplus. The worries are of two kinds. One is that we will have the surplus but shouldn't. The other is that we should have the surplus but won't.

This "threat" results from the present and prospective excess of Social Security contributions over benefit payments. This excess is about $37 billion in fiscal 1988. Since the rest of the budget is in deficit by about $184 billion, we have a combined deficit—in the "unified budget"—of about $147 billion. By 1993, according to Office of Management and Budget estimates, the Social Security surplus will be $93 billion, the remaining deficit about $116 billion and the combined deficit only $23 billion. But the annual Social Security surplus is projected to go on rising to about $500 billion, so that unless the deficit in the rest of the budget rises enormously there will be a large combined surplus.

TWO THINGS TO WORRY ABOUT

The two worries are these:

1. The economy will not be able to operate at full employment if the government runs a large surplus, because the government will be extracting much more from the private-income stream in taxes than it is putting back in expenditures.

2. The accumulation of the surplus is needed to provide the resources from which to meet the big increase in Social Security benefit requirements that is going to occur when the baby-boom generation retires, after the year 2020, but the political temptation to spend the surplus will be irresistible, so that these future benefits will be payable only, if they are paid, out of much higher taxes.

The first of these worries is economic. The second is political. But they are connected, because the first worry provides some of the cover of the political action of spending the surplus.

This issue has a 50-year history. Since I observed much of it and participated in some of it. I will summarize the story.

When the Social Security System was established in 1935 its receipts and expenditures were placed outside the budget, on the theory that the receipts did not belong to the government but were held in trust for future beneficiaries. In the first year of its full operation, 1937, the system began to run a surplus, because contributions were being collected and few people were receiving benefits. This surplus was part of the plan for the system, but little thought had been given to its short-term economic consequence. The emergence of the unanticipated surplus coincided with the recession of 1937. It also coincided with the first popularizing of elementary Keynesianism. Many observers concluded that failure to take account of the Social Security surplus as part of the government's fiscal action was a cause of the recession.

Subsequent amendments to the Social Security Act reduced the projected surplus, but some remained. The question of how to treat the surplus in federal budgeting was submerged during the war but came back as the war was ending.

The Committee for Economic Development, a private organization of businessmen, faced this question in trying to formulate a postwar budget policy and dealt with it in its 1947 statement, "Taxes and the Budget: A Program for Prosperity in a Free Economy" (which I drafted). The recommendation on this point was to base budget policy on the "cash-consolidated" budget, which would integrate the Social Security accounts with what was then called the "administrative" budget. The argument was the basically Keynesian one that from the standpoint of "prosperity," or high employment, which was the main objective, the combined flow into and out of the government was of paramount significance. That was my view at the time. More important, it was the view of Beardsley Ruml, a leading member of the Committee for Economic Development, who had been an adviser to Roosevelt in 1937–38 and who had strongly fixed in his mind that the emergence of the Social Security surplus had contributed to the recession of that time.

The committee view was somewhat influential but certainly not unique. Among people who thought about the budget in economic terms, the idea that it is the consolidated budget—including Social Security—that matters became the standard doctrine. The rationale of the Kennedy tax cut was that it was consistent with balancing the consolidated budget at high employment. A commission on the definition of the federal budget set up by President Lyndon Johnson recommended that the consolidated or, as it is now called, the unified budget, be the basic concept, and that advice was followed beginning in the budget for fiscal 1969.

At the same time, economic analysis was moving. As money came to play a larger role in thinking about the overall performance of the economy, it became clear that there was no unique size of consolidated surplus or deficit that was necessary for, or consistent with, high employment. Sharp year-to-year changes in the size of the surplus might be disturbing, but the economy could achieve high employment with a stable surplus or deficit of any size, if it was accompanied by a suitable monetary policy. This meant that we could live with a surplus in the consolidated budget equal to the surplus in the Social Security accounts, which would presumably change over time but only gradually.

This reasoning liberated me from my Committee of Economic Development ideas of 1947. In 1969, as a member of the Council of Economic Advisers, I joined with an assistant secretary of the treasury and an associate director of the bureau of the budget to write a memo suggesting the basic policy should be to run a surplus equal to the surplus in the Social Security account. However, the permanent economic staff of the Bureau of the Budget insisted such a surplus would be an intolerable burden on the economy, and the director could not be induced to sign on to our recommendation.

Fourteen years later, the Commission on Social Security Reform (Greenspan commission) recommended Social Security funds be "taken out of the budget." If that means anything (a real question), it means that in thinking about the size of "the deficit" we should be thinking about the deficit in the rest of the budget aside from Social Security. I suppose that is how the president thinks when he says, in press conferences, that cutting Social Security benefits will not reduce the deficit.

But despite the Greenspan commission, thinking about the deficit is thinking about the unified budget. The Gramm-Rudman-Hollings Act of 1985 made a Solomonic decision, only it really did cut the baby in half. As the 1987 budget read (and presumably the drafter wrote it with a straight face), "The receipts and disbursements of Social Security (the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds) are excluded from the budget totals. However, their outlays and receipts are used in calculating the deficit amounts under this law" (p. 6b–7). You must get 300 pages into the budget before finding a table with the surplus in Social Security and the deficit in the rest of the budget shown separately.

The reason for thinking only about the unified deficit is simple. Thinking about the on-budget deficit can give you a headache. If you look at the unified budget you can think that by a combination of good economic growth and moderate expenditure restraint you can ooze into budget balance in five years, or if not five, then six or seven. But if you are looking at the budget excluding the Social Security accounts, balance by this route looks discouragingly far off.

THE "POLITICAL QUESTION"

The economics is pretty clear. We can achieve high employment with a unified budget surplus equal to the Social Security surplus. Doing this, as compared with balancing the unified budget, will mean more national saving, more national investment and higher future national income out of which to support the growing number of retired people.

The "political" question is more difficult. The question is not about "politicians" or about "inside the Beltway." It is about us. It is about how we bring ourselves collectively to make decisions for the sake of our collective future. That is a question that applies to a lot more than Social Security. And I don't know how to answer it except by talking about it.

Mr. PROXMIRE. I yield the floor.

The **ACTING PRESIDENT** pro tempore. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I thank the Chair.

THE INF TREATY'S VERIFICATION PROVISIONS

Mr. WALLOP. Mr. President, in a closed session of the Senate last month we took a detailed look at the capability to and likelihood that the Soviet Union would maintain a covert deployment of SS-20 intermediate-range nuclear missiles. The total unverifiability of such a covert force, combined with strong incentives to cheat, especially in a post-START strategic environment, make that problem a crucial verification concern.

It is not, however, the only verification concern. I would like this morning to review some of the other verification deficiencies of the INF Treaty and offer some suggestions on how the verification regime might be improved.

From a verification standpoint, the Soviet acceptance of the United States zero option position made verification easier than it would be in an agreement that merely placed limits on certain types of weapon systems. Indeed, Soviet acceptance of that position has been used to justify some fairly substantial last minute changes in United States verification positions, such as falling off the requirement for suspect site verification.

The inadequacy of the INF verification regime to monitor numerical limits, as opposed to total elimination, has been recognized by the Intelligence Committee. It laid down a strong marker that the INF Treaty verification procedures would be wholly inadequate to the task of verifying limits of a START agreement.

Mr. President, the zero option, in theory, creates what might be called a "binary situation." Compliance or noncompliance are made clear cut. If a single SS-20 is seen after the reductions to zero, it is a violation. What concerns me, Mr. President, is that the INF Treaty contains important exceptions to this clear cut, binary situation.

Such exceptions will increase what our intelligence analysts call the "background noise" in the Soviet Union with respect to this treaty. This noise will make it much harder for the United States to render judgments about Soviet activities and might also create compliance problems needlessly, with no easy solutions.

What are the treaty provisions that muddy the waters of the verification picture, denying us clear evidence of violations? First, Mr. President, is the problem with data.

Not only is there a large discrepancy between United States intelligence estimates and Soviet data provided in the treaty, but the data provided up front, last December, is totally meaningless as far as the treaty is concerned because it is not the data that will be used to verify compliance with the treaty; 30 days after the treaty is signed the United States and the Soviet Union will exchange new data for that purpose.

If any changes have occurred in the data from the original memorandum of understanding, the United States will have no right to inspect, via the treaty's agreed procedures, whether the destruction of Soviet missiles and launchers that are no longer in the database were actually eliminated. Moreover, the INF Treaty is silent on the rights of the parties if a discrepancy between the two data exchanges emerges.

Mr. President, administration officials have assured the Senate that large discrepancies would "send a shock wave from Moscow to Washington," This Senator is not confident that after the Senate has given consent to the INF Treaty and it has been ratified by the President, that we would do anything about such a data discrepancy.

We have seen before that the Soviets have falsified data with respect to arms control negotiations in order to maintain a unilateral advantage over the United States; there is no reason to believe that this could not happen again. We have in effect handed them an already signed treaty with a blank for them to fill in whatever numbers they please after ratification.

Second, Mr. President, the INF Treaty allows the Soviet Union to continue production of the first stage of the SS-20 and, due to a drafting error, the second stage as well. Although the SS-20 per se is banned, this allowance for production of missile stages that are similar to the SS-20 will make it virtually impossible to monitor whether these components are being produced and then assembled outside of areas where the United States has inspection rights. In the hearings, one administration official was asked if an SS-25, which can be produced legally, was seen leaving the production facility at Votkinsk with only two stages whether that would be a violation of the treaty. The answer was no, but again we were assured that it would send a shock wave from Votkinsk to Washington.

Mr. President, shockwaves were sent back to Washington in 1974 when the Soviet Union began flight-testing two new heavy ICBM's contrary to and in circumvention of the United States understanding of the SALT I agreement. Nothing was done then, and I am far less sanguine than administration officials that something would be done today.

Third, Mr. President, the Soviets are allowed to keep intact hundreds of their mobile missile launchers for alleged civilian use. This could make it increasingly difficult to determine if those launchers, when seen, are for military or the civilian purposes the Soviet say they are for. If we were to challenge the Soviets, they could always claim that they were for civilian use.

This problem is further exacerbated by the similarity between the SS-20 launcher and the SS-25 launcher. The quality of our intelligence data would make it extremely difficult to render a firm judgment on this question. Additionally, the Soviets have the right to maintain SS-25 bases which have an infrastructure similar to and compatible with former SS-20 bases.

This will further raise the background noise that the intelligence community must filter through.

Fourth, the Soviets could potentially maintain a force of ground-launched cruise missiles because of the allowances in the treaty for nonarmed cruise missiles.

Remotely piloted vehicles, such as those used for reconnaissance behind enemy lines, could in fact be armed with warheads in time of war. Under the treaty, we have absolutely no inspection rights with regard to these forces.

The INF Treaty does not define what constitutes a different type of cruise missile other than those presently in the Soviet inventory, nor does it establish what criteria will permit us to determine if a cruise missile is unarmed. As a practical matter, it is impossible for us to determine whether Soviet cruise missiles have ranges that fall within the prohibited limits.

As a matter of fact, as we have seen with Iraqi scub missiles, we have no practical means of determining ballistic missiles ranges either.

This points out a problem inherent to the arms control process since its inception. We can count on the Soviet Union stressing to its limits—and beyond—its rights to modernize its forces, in this case, all manner of cruise missiles.

We can also count on the United States unilaterally limiting itself not just in the cruise missile area, but in any technology that is similar to cruise missiles, such as remotely piloted vehicles and target drones. I have heard stories of contractors already beginning to pull back on programs that are functionally similar to the cruise missiles limited in the INF Treaty.

Finally, there is the limitation on our ability to conduct onsite inspections. The INF Treaty is heralded as having the most intrusive inspection rights ever negotiated with the Soviets. That is true, especially since we have never had any inspection rights beyond national technical means. The more important question is, How useful are they?

First of all, the United States is limited to very few onsite inspections, initially 20, then declining to 15 and later 10. What is more, the United States for practical purposes may not use more than half of those in the Soviet Union. That means that we are really limited to 10, 8, and then 5 inspections per year.

Another more crucial problem is the lack of inspections for suspect sites. Only those sites identified in the memorandum of understanding are subject to inspection. There are facilities that have been identified by the intelligence community as SS-20 facilities that are not on the Soviet list.

Moreover, in the rush to complete the treaty prior to the summit many of the actual procedures for inspection were left vague or simply were not worked out. General Lajoie, the head of the U.S. inspection team, is having to negotiate those details even as we in the Senate head toward a vote on consent to ratification. Right now, today, Mr. President, these details remain to be negotiated. Yet the administration is asking the Senate to proceed.

Mr. President, there is one other aspect of the verification problem that troubles me, and that is the already perfidious effect this agreement has had on the U.S. intelligence community. The first evidence of this, revealed in the closed session, was the DCI's failure to provide a consensus figure on the number of SS-20's produced.

Even more troublesome, I am told, is that there has been an effort to strong-arm members of the intelligence community by high-ranking U.S. officials to change their assessments of the number of treaty-limited items. Reports in the Washington Times indicate that General Perroots was raked over the coals by the Chairman of the JCS and the Secretary of Defense for his agency's position on the number of SS-20's.

If there is indeed an attempt to suborn the intelligence community, it will not be the first time. Senators who were here in 1979 and 1980 will remember well the pressure placed on the intelligence community to revise its estimates of the Soviet threat prior to the SALT II debate.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

BICENTENNIAL MINUTE

APRIL 12, 1945: HARRY TRUMAN LAST PRESIDES OVER THE SENATE

Mr. DOLE. Mr. President, on April 12, 1945, 43 years ago today, Vice President Harry S. Truman sat in the Presiding Officer's chair and performed his functions as President of the Senate for the last time, unaware that President Franklin D. Roosevelt had died that afternoon in Warm Springs, GA.

Harry Truman had spent "the happiest 10 years" of his life in the Senate before he was unexpectedly chosen to run for Vice President with Franklin Roosevelt in 1944. During the first 3 months of his new responsibilities, Truman dutifully presided over Senate debates—as Vice Presidents did routinely in those days. "I enjoyed my new position as Vice President," he reported, "but it took me a while to get used to the fact that I no longer had the voting privileges I had enjoyed for 10 years as a Senator."

That afternoon, while Truman listened to a "windy Senator making a speech on a subject with which he is in no way familiar," he spent his time writing a letter to his mother and sister back in Missouri. When the Senate adjourned, the Vice President sauntered over to the House side of the Capitol to join Speaker Sam Rayburn and other congressional friends in the "board of education" room, as Rayburn called it, for a little bourbon and political talk. But when Truman arrived he received an urgent message. The voice on the phone told him to come directly to the White House. No explanation was given, but Truman sensed the urgency of the request. Darting past his Secret Service agent, Harry Truman ran the length of the Capitol back to his limousine on the Senate side, and raced downtown.

As he entered the White House Eleanor Roosevelt took him aside and told him, "Harry, the President is dead." "Is there anything I can do for you?" he asked. "Is there anything we can do for you?" she replied. "For you are the one in trouble now."

I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Is morning business closed?

The ACTING PRESIDENT pro tempore. Morning business is closed.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of Senate Concurrent Resolution 113, which the clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991.

The Senate resumed consideration of the concurrent resolution.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time remains on the resolution?

The ACTING PRESIDENT pro tempore. Forty hours.

Mr. BYRD. Forty hours.

Mr. President, I ask unanimous consent that the time for the recess today be charged against both sides equally on the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Let the record reflect that I am present and I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, the record shall so reflect.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I suggest the absence of a quorum. I ask the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for a period of time of 5 minutes or until the managers of the budget want the floor, but for no longer than 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Would the Senator agree to charge the time that he uses against his side or equally against both sides? It is only 5 or 10 minutes.

Mr. GRASSLEY. It does not matter to me.

Mr. BYRD. I make that request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa.

(The remarks of Mr. GRASSLEY pertaining to introduction of legislation appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. GRASSLEY. Mr. President, I think it would be appropriate for me to note the absence of a quorum and I ask that the time be equally charged to both sides.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I yield to myself such time as I may require off of the resolution itself.

Mr. President, I rise in support of the 1989 budget resolution that was recently reported by the Senate Budget Committee by a vote of 18 to 3.

This bipartisan budget resolution marks yet another milestone with regard to the recent economic summit. Essentially, this resolution completes the second year of the summit agreement.

It provides for a 2-year deficit agreement to reduce the deficit by some $79 billion, the largest deficit reduction ever recorded since the Congressional Budget Act was adopted. Indeed, the resolution as reported actually provides for about $3 billion more in deficit reductions than was actually called for in the economic summit.

The resolution provides for fiscal restraint in virtually all parts of the budget.

The resolution adheres to the appropriations spending caps for national defense and domestic discretionary programs.

Defense spending, in terms of budget authority, is capped at $299.5 billion, yielding some $1.4 billion in savings from the CBO defense baseline.

Indeed, in real terms defense spending is reduced about 1 percent. And here I might add that Secretary Carlucci has done a masterful job in putting together a 1989 defense budget that adheres to the economic summit. He has proposed terminations of selected major weapons systems, he has proposed selective reductions in force strength. But overall he had developed a defense budget that will enable our country to maintain the military readiness that we need in meeting our national security obligations around the globe.

The domestic side of the budget also receives spending caps under the terms of this resolution.

Domestic discretionary programs are capped at $148.1 billion, yielding a savings of some $1 billion from Congressional Budget Office [CBO] baseline levels.

The resolution also calls for an additional $3.5 billion in asset sales in a continuing effort to adhere to the summit agreement and also meet the terms and conditions of the Gramm-Rudman-Hollings Act.

I commended the administration for submitting a budget that met the dictates of the economic summit, and I commend the Senate Budget Committee on which I serve and for reporting out a budget resolution that provides for continued long-term deficit reduction policies.

A number of my colleagues on the Senate Budget Committee participated most directly in the economic summit. Senator CHILES, our distinguished chairman; Senator DOMENICI, the very able ranking member; and Senator JOHNSTON, of Louisiana, worked long and hard to fashion a strong bipartisan economic summit agreement.

Now we have before us a resolution that insures that the deficit reduction goals of the summit will be met.

This resolution has other virtues as well.

It sends a strong signal to the business community that the Congress is serious about its role in reducing the budget deficit. Indeed, if the economic projections underlying this budget recommendation hold, the deficit as a percent of gross national product [GNP] will fall from 3.8 percent of gross national product in 1988 to 2.2 percent of gross national product in 1991.

That is very substantial progress, any way you measure it. It says to the business community and to the American taxpayer that we are going to turn away from the spend and borrow policies that have marked the present administration.

We are going to restrain spending, and reduce the deficit. And we are not going to bring down the deficit by relying on major tax or revenue increases.

As members of the Budget Committee also know, the resolution also complies with the dictates of the Gramm-Rudman-Hollings legislation.

It provides that the deficit for 1989 shall be $136 billion. That is what the Gramm-Rudman-Hollings Act calls for. Indeed, the Gramm-Rudman-Hollings "sequester" does not even become activated until the 1989 budget deficit reaches $146 billion. So in its present form, this budget resolution enables us to adopt a budget that will be free of the "sequester" process.

Let me also say that there are other important benefits to this resolution as it affects our legislative business now and in the future.

If we enact this resolution, keeping the economic summit intact, I am confident that we can go ahead and pass a large number of authorization and appropriations bills.

The House of Representatives has a June 30 deadline to complete action on all 13 appropriations measures. With prompt passage of this resolution, I know that they will meet that deadline. And as chairman of the Military Construction Appropriations Subcommittee, I am committed to expeditious action on the appropriations side. I believe that the chairmen and ranking members of the other 12 appropriations subcommittees will also handle their bills with dispatch also.

So, if all goes according to schedule, I see no reason why the bipartisan spirit that put the summit into being and helped bring this resolution to the floor cannot continue through the appropriations process as well.

The other important ramification of this budget resolution may very well be a 2-year budget cycle for the future.

A good deal of this deficit reduction package was enacted last year by the terms and conditions of the 1988 reconciliation bill.

Additional deficit reduction had to be accomplished this year, but all within the framework of the summit agreement.

I believe that the summit agreement enabled the Budget Committees to complete their work in record time. Both committees bent to their work in a spirit of relative harmony. In the House and in the Senate, the markups were characterized by cooperation rather than confrontation.

The House committee passed its budget resolution by a unanimous vote. The Senate Budget Committee passed its resolution by an 18-to-3 vote.

This augurs well, I believe for a 2-year budget process. It may well be that, in the future, we can have a wide-ranging budget debate in the first session of every Congress, set forth forceful budget policies that will be put into place over a 2-year period, and use the rest of our time in committee to have more searching and in-depth hearings on budget issues of long-range national importance—such as the impact of long-term health care policies on the budget process.

So for a variety of reasons, on the fiscal and legislative front, I commend this budget resolution to my colleagues.

Again, I want to commend our able and distinguished chairman, Senator Chiles, and his equally able and distinguished colleague and ranking member, Senator Domenici, for their work in bringing this resolution together. I most certainly hope that my colleagues will support this resolution without major amendment.

Mr. President, I suggest the absence of a quorum and ask that the time be equally divided with regard to the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I understand there is a unanimous-consent agreement that has been agreed to by both sides.

This is to provide for a correction of printing errors in the budget resolution. There are some minor typographical errors in the printing of Senate Concurrent Resolution 113 in the version printed in the Record of March 31, 1988, with respect to antidrug funding.

To correct these errors, I send to the desk a copy of the printed version of Senate Concurrent Resolution 113 which has been corrected to show corrections. This corrected version has been cleared with the ranking member and makes purely typographical changes.

I ask unanimous consent that Senate Concurrent Resolution 113 be amended to reflect these typographical changes and that a corrected version be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. Con. Res. 113

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1989 is established and the appropriate budgetary levels for fiscal years 1990 and 1991 are set forth.

MAXIMUM DEFICIT AMOUNTS

Sec. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $964,600,000,000.
Fiscal year 1990: $1,043,200,000,000.
Fiscal year 1991: $1,123,200,000,000.

(2) The appropriate levels of total budget authority are as follows:

Fiscal year 1989: $1,231,000,000,000.
Fiscal year 1990: $1,302,800,000,000.
Fiscal year 1991: $1,385,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,100,600,000,000.
Fiscal year 1990: $1,158,100,000,000.
Fiscal year 1991: $1,215,700,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $136,000,000,000.
Fiscal year 1990: $114,900,000,000.
Fiscal year 1991: $92,500,000,000.

RECOMMENDED LEVELS AND AMOUNTS

Sec. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $706,100,000,000.
Fiscal year 1990: $760,800,000,000.
Fiscal year 1991: $817,200,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $0.
Fiscal year 1990: $0.
Fiscal year 1991: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.
Fiscal year 1990: $68,200,000,000.
Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $972,500,000,000.
Fiscal year 1990: $1,020,300,000,000.
Fiscal year 1991: $1,079,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $886,700,000,000.
Fiscal year 1990: $932,900,000,000.
Fiscal year 1991: $979,000,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $180,600,000,000.
Fiscal year 1990: $172,100,000,000.
Fiscal year 1991: $161,800,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,825,400,000,000.
Fiscal year 1990: $3,065,300,000,000.
Fiscal year 1991: $3,289,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:

(A) New direct loan obligations, $28,300,000,000.

(B) New primary loan guarantee commitments, $110,600,000,000.

(C) New secondary loan guarantee commitments, $92,850,000,000.

Fiscal year 1990:

(A) New direct loan obligations, $27,100,000,000.

(B) New primary loan guarantee commitments, $122,900,000,000.

(C) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New direct loan obligations, $26,700,000,000.

(B) New primary loan guarantee commitments, $132,100,000,000.

(C) New secondary loan guarantee commitments, $0.

(b) The Congress hereby determines and declares that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $312,300,000,000.

(B) Outlays, $304,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $325,000,000,000.

(B) Outlays, $316,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:

(A) New budget authority, $16,600,000,000.

(B) Outlays, $16,200,000,000.

(C) New direct loan obligations, $5,900,000,000.

(D) New primary loan guarantee commitments, $9,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $6,000,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,200,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $6,100,000,000.

(D) New primary loan guarantee commitments, $10,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $13,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:

(A) New budget authority, $4,900,000,000.

(B) Outlays, $4,200,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $3,700,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $14,600,000,000.

(B) Outlays, $14,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $27,000,000,000.

(B) Outlays, $23,200,000,000.

(C) New direct loan obligations, $15,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $21,900,000,000.

(C) New direct loan obligations, $14,200,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,200,000,000.

(B) Outlays, $19,900,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $63,700,000,000.

(E) New secondary loan guarantee commitments, $92,850,000,000.

Fiscal year 1990:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $8,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $67,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $3,600,000,000.

(C) New direct loan obligations, $2,800,000,000.

(D) New primary loan guarantee commitments, $74,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,400,000,000.

(B) Outlays, $27,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,900,000,000.

(B) Outlays, $28,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,600,000,000.

(B) Outlays, $30,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $6,800,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $36,600,000,000.

(B) Outlays, $35,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $37,900,000,000.

(B) Outlays, $36,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $38,700,000,000.

(B) Outlays, $37,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,900,000,000.

(B) Outlays, $48,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $54,400,000,000.

(B) Outlays, $54,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $59,500,000,000.

(B) Outlays, $58,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,700,000,000.

(B) Outlays, $86,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,100,000,000.

(B) Outlays, $108,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $176,200,000,000.

(B) Outlays, $138,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $181,000,000,000.

(B) Outlays, $145,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $213,000,000,000.

(B) Outlays, $152,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,800,000,000.

(B) Outlays, $28,400,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $30,900,000,000.

(B) Outlays, $29,900,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,400,000,000.

(B) Outlays, $30,500,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,900,000,000.

(B) Outlays, $8,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,100,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,300,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,500,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,100,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,600,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $161,600,000,000.

(B) Outlays, $161,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $171,700,000,000.

(B) Outlays, $171,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $176,800,000,000.

(B) Outlays, $176,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$33,000,000,000.

(B) Outlays, −$45,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$34,100,000,000.

(B) Outlays, −$46,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$35,400,000,000.

(B) Outlays, −$36,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than April 29, 1988, the committees named in subsections (b) through (i) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(c) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(d) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(e) The Senate Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $710,000,000 in fiscal year 1989.

HOUSE COMMITTEES

(f) The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(g) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(h) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(i) The House Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $710,000,000 in fiscal year 1989.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to the committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of such Act.

(c) For purposes of this section—

(1) the term "asset sales" does not include asset sales authorized by law before September 18, 1987, and routine, ongoing asset sales and loan payments at levels consistent with agency operations in fiscal year 1986; and

(2) the term "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987).

FUNDING FOR THE WELFARE REFORM AND CATASTROPHIC INSURANCE INITIATIVES

SEC. 6. (a)(1) In the Senate, it is assumed that budget authority and outlays for fiscal year 1988 or 1989 (or both) shall be allocated to the Senate Committee on Finance to provide for the welfare reform and medicare catastrophic health insurance initiatives, and the aggregates for fiscal years 1989, 1990, and 1991 in sections 2 and 3 of this resolution shall be adjusted accordingly, when the Committee on Finance, the committee of conference on the welfare reform initiative, or the committee of conference on the catastrophic insurance initiative reports legislation that will, if enacted, make funds available for such initiative and ensure that such legislation will not increase the deficits for fiscal years 1988, 1989, 1990, and 1991.

(2) Upon the reporting of legislation pursuant to paragraph (1), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

ANTIDRUG FUNDING

SEC. 7. It is the sense of the Congress that anti-narcotics activities, including law enforcement, drug interdiction, drug treatment, and substance abuse education, are vital to the Nation's future and should be among the top funding priorities in the fiscal year 1989 budget. All authorizing and Appropriations Committees and subcommittees are urged to examine programs within their jurisdictions to enhance their participation in the anti-drug effort and to give top priority to this effort in allocating their share of the funds available under this budget resolution.

Mr. CHILES. Mr. President, similarly, there were some minor errors in the report to accompany the concurrent resolution, so I send corrections to the desk and ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

On page 2 of the resolution, line 12, insert a period at the end of the line.

On page 5 of the resolution, line 11, strike "$0" and insert "$92,850,000,000".

On page 13 of the resolution, line 20, strike "$0" and insert "$92,850,000,000".

On page 29 of the resolution, line 20, change "(—)" to "(i)".

On page 33 of the resolution, line 8, change "antinarcotics" to "anti-narcotics".

On page 33 of the resolution, line 15, change "antidrug" to "anti-drug".

On page 4 of the report, paragraph 3, line 3, change "$2.5 billion" to "$2.3 billion".

On page 5 of the report, in table 1, change the deficit estimate in 1990 from "114.8" to "114.9".

On page 5 of the report, in table 1, change the deficit estimate in 1991 from "92.4" to "92.5".

On page 10 of the report, paragraph 3, line 29, change "mark" to "Mark".

On page 11 of the report, paragraph 3, line 1, change "it's" to "its".

On page 11 of the report, paragraph 4, line 5, change "GRM" to "GRH".

On page 11 of the report, paragraph 4, line 8, change "Administrations" to "Administration's".

On page 15 of the report, in the Committee Revenue Recommendation chart, change "19990" to "1990".

On page 19 of the report, paragraph 1, line 4, delete "the" and insert "multilateral financial institutions, funding for U.S. embassies and".

On page 24 of the report, paragraph 5, line 1, change "recommendations" to "recommendation".

On page 25 of the report, paragraph 2, line 8, change "purchase" to "purchases".

On page 29 of the report, the Function 370 Spending Projections chart, under "Appropriations for past losses", outlays for 1991, change "0.31" to "0.3".

On page 29 of the report, the Function 370 Spending Projections chart, change "recommendations" to "recommendation".

On page 29 of the report, in paragraph 3, line 1, change "assumnes" to "assumes".

On page 31 of the report, paragraph 3, line 3, delete "for".

On page 32 of the report, paragraph 4, line 4, change "$3.0" to "$0.3".

On page 35 of the report, paragraph 1, line 2, change "selfsupporting" to "self-supporting".

On page 35 of the report, paragraph 4, line 1, change "spending" to "pending".

On page 37 of the report, Function 550 Spending Projections chart, under "Discretionary programs (excluding past losses)", outlays for 1988, change "11,9" to "11.9".

On page 37 of the report, Function 550 Spending Projections chart, under "Discretionary programs (excluding past losses)", outlays for 1989, change "13,2" to "13.2".

On page 38 of the report, Function 550 Credit Projections, under DL for 1991, change "(*)" to "+(*)".

On page 53 of the report, paragraph 4, line 5, change "on" to "in".

On page 69, paragraph 3, line 3, change "1989" to "1988".

On page 71 of the report, in the table entitled "Senate Committee Budget Authority and Outlay Allocations", change the totals for the Appropriations Committee from "609,700" in budget authority and "623,675" in outlays to "609,710" in budget authority and "623,683" in outlays.

On page 71 of the report, in the table entitled "Senate Committee Budget Authority and Outlay Allocations", change the Veterans' Affairs Committee totals for "Entitlements funded in annual appropriations" from "15,525" in budget authority and "15,494" in outlays to "15,533" in budget authority and "15,502" in outlays.

On page 71 of the report, in the table entitled "Senate Committee Budget Authority and Outlay Allocations", change the totals for "Not allocated to Committees" from "(236,869)" in budget authority and "−246,625" in outlays to "−236,878" in budget authority and "−246,633" in outlays.

On page 75 of the report, line 6, of the table entitled, "The President's 1989 Budget Request", change "13.3" to "13.1".

On page 75 of the report, line 5 of the table entitled, "The President's 1989 Budget Request", change "16.8" to "17.1".

On page 77, under "INTERNATIONAL AFFAIRS: Function 150", change "16.6" to "18.1".

On page 77, under "INTERNATIONAL AFFAIRS: Function 150", change "16.2" to "16.1".

On page 77, under "INTERNATIONAL AFFAIRS: Difference", change "−1.5" to "0.0".

On page 77, under "INTERNATIONAL AFFAIRS: Difference", change "0.1" to "0.0".

On page 80, in the heading, change "1989" to "1988".

On page 80, in the heading, change "1990" to "1989".

On page 179, paragraph 1, line 6, change "Total FTEE Add-On = 5917" to "Total FTEE Add-On = 5,479".

On page 186, paragraph 1, line 6, change "Total FTEE Add-On = 5917" to "Total FTEE Add-On = 5,479".

On page 333, paragraph 2, line 2, change "In" to "It".

On page 333, paragraph 3, line 8, after "billion" add "while revenues are estimated to increase by only $56 billion".

On page 334, paragraph 1, line 4, change "gutter" to "gutted".

On page 334, paragraph 5, line 5, change "People" to "people".

On page 335, paragraph 5, line 6, change "the" to "this".

On page 337, paragraph 2, line 6, insert a period at the end of the line.

On page 339, paragraph 4, line 6, change "services" to "service".

On page 339, paragraph 6, line 1, delete the comma following "specific".

Mr. CHILES. Mr. President, we will be recessing shortly for our caucuses. At those caucuses, I am sure both sides will get an opportunity to discuss the budget resolution. When we return, which I understand will be at 2:30, we hope to begin debate in earnest on any amendments.

I see the distinguished Senator from Tennessee on the floor. I heard that he spoke recently on the budget and made some kind remarks about the ongoing chairman. I thank him for those remarks. I am sorry that I did not get a chance to hear him. I look forward to reading the RECORD.

We certainly look forward to the leadership we know he is going to provide as he leads us out of the wilderness of the budget morass and brings us into the promised land.

Moses never got to cross the river, but Joshua carried the children across. Maybe Joshua was a Tennesseean, and that could have been short for "James" or "Jim." I trust that next year, the waters will part and Joshua will lead the tribes across to the land of milk and honey.

Mr. SASSER. Mr. President, if the Senator will yield, I thank him for his kind remarks.

I shall endeavor to follow in the footsteps of my distinguished friend and colleague from Florida, who has done a marvelous job in guiding the Budget Committee for the last 2 years, and if this cup will not pass from me, and there is some chance that it could, but if this cup shall not pass from me, I shall pattern my behavior after my friend from Florida. And if I do that, I think all will come out well in the end.

I thank my friend.

Mr. CHILES. Mr. President, when we return at 2:30 I think we will begin to debate in earnest. I do not anticipate that there will be a rollcall vote before 4 o'clock. As that time arrives I hope then, and even before then, Members who have amendments will come to the floor at 2:30 prepared to discuss those amendments. Nothing would be better from our standpoint on the Budget Committee than if we could pass this resolution today this evening, and then we could get about the work of our conference. We will have to go to conference with the House. Our budget resolutions will be different in some respects. So there will be a conference that hopefully will not take too long but we need to get started. That will be helpful.

When we return, one of the points of discussion will be a sense-of-the-Senate resolution that I will propose and that would speak to the issue that we now find ourselves dealing with in Social Security and the Social Security surplus. Under the present scoring of Gramm-Rudman-Hollings, Congress credits itself with the Social Security surplus, and that masks the true deficit.

All of us remember that a few years back we had a nonpartisan, high-level commission sit down to work out the problems of Social Security. We recognized the fact that we were going to have some years in which we had a large work force by virtue of the war babies swelling that work force. But as those war babies retire—and that begins sometime in the year 2012, or after that—then we will have a much smaller work force coming on. That means that there will be a tremendous drag on Social Security as we begin to have to pay the benefits of those retiring workers. Of course, the system was already in trouble and we were worried before about when it could go busted.

So as a result of that commission and legislation that was enacted we had a three- or four-step increase. Some of the increases are still going to go in on the payroll tax, raising the amount of coverage and raising the tax. Therefore, we are anticipating and are building a surplus in the Social Security trust fund. That surplus is all going to be used. In fact, it will not be enough totally to cover but it is a wonderful hedge, and I think it was a very wise and prudent move on the Congress.

I have always been one for true budgeting, to want to be able to look at the Social Security numbers in our overall budget numbers because they do affect the economy. There is no way that you can get a true economic picture of what the plusses and drags are on our economy if you exclude this major source of taxation, the payroll tax, and the major source of funds in this instance is the surplus. So you need to be able to look at those and tie those in.

I do not think, though, it is very prudent for us to go along on the basis that we are balancing the budget by counting that surplus as it gets very big and telling ourselves, "Oh, boy, we are doing a good job," because we are using that to reduce the deficit. That surplus is $40-something billion this year. So what that means, Mr. President, is rather than looking at a deficit that we are hoping under the most favorable figures to get down to $136 billion, the true picture is the Federal funds deficit is at least $40-something billion higher than that.

If you really look at it in sound economic ranges with the Federal funds deficit, we are looking at, at least a $200 billion deficit. It is that big every year into the outyears and, if anything, it is growing some. Yet that surplus will go from $40 to $60 billion to higher. In fact, by the year 2010 it will be $2 trillion.

Assume that you do not have some major changes, which you could have, in inflation and you had high COLA's. It might never reach that. We might need it earlier. But under the best of circumstances, it could be as high as $2 trillion.

Mr. President, I think you can imagine the tragedy if we spent that $2 trillion and this reminds me so much of Joseph's interpretation of the Pharaoh's dream. There were seven healthy cows and there were seven lean cows and eventually the lean cows ate the healthy cows, and then there were seven stalks of strong grain and seven weak and the same thing happened. Joseph finally interpreted that there were going to be 7 good years in Egypt and 7 years of famine, and the Pharaoh built storehouses and they stored in the good years, and they saved their population because they stored the grain. We are doing that with Social Security.

But, on the other hand, we are eating the grain now. We are beginning to take it out of the barn because this is all done with the full faith and credit of the United States. So we now have Government bonds and Government bills, which we are borrowing back and paying interest on. But if we are spending that money in our deficit at that time we will need to cash those bonds or bills, which will begin after 2010 or 2013, and begin to use that to pay off. That is a double hit. That will be a double hit and that might be something about which some of us could get out of town, and I guess all of us will.

But, Mr. President, if the whole system is busted in the year 2030, I am going to be just as mad as hell, and I will be 100 years old then, and I am not going to enjoy that. Even the distinguished Senator from West Virginia will no longer be a boy then, and he probably would not feel that that would be prudent either.

So what we do about this, Mr. President, is I am going to propose a sense-of-the-Senate resolution which says we should stop the scoring, we have to make adjustments, we have to recognize that, and I am going to propose that we turn this around and over 5 years we come to a balance taking out the surplus.

Now, Mr. President, there is no magic to 5 years. Someone said to me that is unrealistic. It may take 8. It may. And we have been known to change years before.

It seems the point is pretty valid if we do not stop quickly. Let us readjust the Gramm-Rudman-Hollings formula. If we have to recognize that, yes, we could make up that other $40 billion this year. We would have a sequester the likes of which would put us into a recession.

I am not proposing we do that but let us do not keep doing what we are doing. The whole purpose of Gramm-Rudman-Hollings was to rachet down. Let us say that we are going to start and we are going to bite off so much of this year and bring it down. Maybe we have to change the number again. But let us not fool ourselves by the fact that we have this surplus that grows and before long we would be able perhaps to say if we did not spend it too fast look where we are at a balance and the balance, according to my calculations, would come to about the time the surplus reached $200 and some billion.

Maybe our spending would be below that or only that high. So we could say we balanced when our Federal funds deficit would show us way in excess of $200 billion.

The interest on the national debt today is over $150 billion, and it will grow every year as we borrow this surplus and that again will just make it more and more difficult for us to get out of the woods.

One of the reasons that I think we need to do this, Mr. President, is that it is awfully important that Social Security have the confidence of the people who are paying into it, the work force. I think many of us remember that about the time we were having the commission and the report there was a lot of trepidation out there and people were saying: "I do not believe there is going to be anything there when I retire. So why am I being withheld on? Why am I paying this tax?" And all the employers were saying that, as well: "Why are we seeing a major portion of the payroll withheld to go to this tax when there is not going to be anything there?"

Well, we have to have that confidence. The only way we can have that confidence is that that surplus is truly going to be there. So I think that is something that we definitely must deal with.

Mr. President, I do not know if anyone else has any remarks to make on the budget right now. As I say, we will take up on this issue when we return. I understand that we will go into access at 12:45, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:45 p.m. having arrived, the Senate will stand in recess until the hour of 2:30 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MELCHER].

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. In my capacity as a Senator from Montana, I suggest the absence of a quorum, and the time will be charged equally against each side.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that I might have 1 minute and that it be charged against our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. MELCHER pertaining to the introduction of legislation appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. MELCHER. Mr. President, I suggest the absence of a quorum, and ask that the time be charged equally against each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. MITCHELL pertaining to the submission of a resolution appear later in today's RECORD.)

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum with the time to be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. HEINZ. Madam President, in a short time the Senate will be voting on the budget resolution for fiscal year 1989. When we conclude its consideration that resolution would complete the 2-year bipartisan budget agreement, reducing the deficit by $76 billion in fiscal years 1988 and 1989. In addition, using the Office of Management and Budget's technical and economic assumptions, the pending resolution would meet the Gramm-Rudman-Hollings target of $136 billion in deficit spending.

Thus, I anticipate voting for the resolution unless it is changed by some of the amendments that I do not now anticipate. I will do so in that anticipation, Madam President, in part because last November we made a commitment. That commitment was to bring the budget deficit under control and our ability to make good that commitment by fulfilling the budget summit requirements is a test that we dare not fail. Failure to enact the further savings required would in my judgment risk sending both our own economy and the world economy a devastating message—one which would say that the United States is not serious about its finances, is heedless of the consequences of a $2.3 trillion national debt, and cares little about escalating the liability our children and grandchildren must bear.

I have, along with most of my colleagues, supported across-the-board spending restraint as the most equitable method to reduce the deficit. The bipartisan budget agreement, which I also support, envisions just that by setting caps on defense and discretionary spending.

Before we move to a vote on the resolution, however, it is important that we review the priorities it contains. The Senate Budget Committee in my judgment has not applied the mandatory spending caps uniformly throughout the budget. The superconducting super collider, for instance, received a 25-percent increase in funding, and is now a $1 billion program which benefits few at the cost of many. Function 250—general sciences—overall received more than a $1 billion increase—more than 8 percent—over the already generous House-passed level. At the same time, function 450, Community Development, has been asked to take a 6-percent cut in discretionary funds. In my judgment that is neither across-the-board restraint nor fair.

In fiscal year 1981, general sciences programs were funded at $6.6 billion. This resolution would provide $13 billion, a 100-percent increase in 7 years. Now, what about community development programs in contrast? In fiscal year 1981, community development programs received $9.9 billion in budget authority. This resolution would provide only $7.1 billion, or almost a 30-percent decline. Community development has already borne its share of deficit reduction, while function 250 has been exempted, and then some.

Madam President, in human terms, what does this imbalance mean? It means we have embarked on a policy of fend-for-yourself federalism. Community development programs support local services such as housing, infrastructure, local transportation, and economic development. It is the means by which our constituents receive the most basic services. Continued such cuts in community development will force local governments, on top of the large other cuts in similar kinds of programs, ultimately into a fiscal "Custer's Last Stand," which will force local government to cut back services, raise taxes to the statutory limit, or go into default.

In this connection, as I look at the budget resolution overall, I really do not believe that the Senate intends to exempt the NSA and DOA contractors from deficit reduction while forcing, in some instances, near-budget local governments to shoulder the burden of the bipartisan budget agreement.

Indeed, what I see in this budget resolution is a resolution that is going to conference with the House of Representatives. Unless I have lost my ability to interpret signals, signs, and whispers, I believe we all understand that there is something of an open secret that the Senate conferees have an understanding that these inequities will be balanced in conference.

I trust that the conferees are on notice that any further support for this resolution from me and from those who share my concerns—and we will have a conference report on this resolution—is contingent on balanced, across-the-board restraint, not posturing.

Madam President, I look forward to working with my colleagues on a resolution which is equitable and contains the ongoing process of deficit reduction.

Mr. CHILES. Madam President, I spoke earlier, before we recessed for the respective conferences, and said that upon our return I would submit a sense-of-the-Senate resolution dealing with the issue of the Social Security surpluses, and I intend to send it to the desk shortly.

I will say for the benefit of Senators in their offices that in a conversation I had with the majority leader, he asked that we inform Senators that there will not be any rollcall votes until 4 o'clock; but, beginning at 4 o'clock, we will initiate rollcalls. We would like to finish the bill early evening or into the night, if possible.

I reiterate that there will not be any votes until at least 4, but we would like to have Senators submit their amendments.

I understand that under the Humphrey-Hawkins bill, there is a time for the Joint Economic Committee to have a discussion. Maybe that will not take place today, but I think other Senators have statements.

AMENDMENT NO. 1928

(Purpose: to call for more truthful disclosure of the deficit)

Mr. CHILES. Madam President, I send to the desk a sense-of-the-Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES] for himself, Mr. RIEGLE, Mr. SANFORD, Mr. HEINZ, Mr. CONRAD, Mr. METZENBAUM, and Mr. GRAHAM, proposes an amendment numbered 1928.

Mr. CHILES. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following:

SOCIAL SECURITY TRUST FUND SURPLUSES

SEC. 8 (a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust fund are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of the Social Security trust fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) Social Security surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increase in taxes or reduction in Social Security benefits;

(7) the use of Social Security surpluses as a source of national savings would bolster the economic capacity of the United States, allowing Social Security benefit claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate purposes of the Social Security trust fund could best be protected by excluding it from the calculation of any deficit reduction targets.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust fund for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust fund.

Mr. CHILES. Madam President, the sense-of-the-Senate resolution I have sent to the desk on behalf of myself and the Senator from Pennsylvania [Mr. HEINZ], the Senator from Michigan [Mr. RIEGLE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Florida [Mr. GRAHAM], the Senator from North Dakota [Mr. CONRAD], the Senator from North Carolina [Mr. SANFORD], and there may be some others who wish to cosponsor it.

Madam President, one of the ways a predator can survive in nature is to hide itself in the landscape. It sort of blends into the background so it is harder to see.

Our biggest economic predator, right now, is the Federal deficit and—even though it is an animal you can hardly miss, it is still not easy to see the whole thing. Why? Because it is partially hidden inside the geography of the budget.

Its true size is obscured by the Social Security surplus; and today I am offering an amendment to clear off the haze so we can see all the deficit, and deal with it head-on.

This amendment calls on Congress to pass legislation to exclude Social Security and its surpluses from the Gramm-Rudman-Hollings targets.

Even though we took Social Security off-budget in 1986, we still figure it in to see if we are meeting the G-R-H deficit reduction goals.

The amendment also calls on Congress to come to grips with our true deficit problem by reducing the Federal-funds deficit—the deficit which excludes Social Security—to zero in a 5-year period.

Right now, we are kidding ourselves and the American people about the extent of our deficit problem. The deficit is heading up, not down.

The chart behind me shows that when we exclude the growing Social Security surpluses from the deficit picture, the Federal-funds deficit actually rises during the coming years, and we end up with deficits of over $230 billion as far as the eye can see.

If you look at this chart, you will see that these figures—these are all Congressional Budget Office figures. They are slightly different from those of the Office of Management and Budget. For 1987, we are looking at a deficit of $168 billion. If you look to 1988, it is $198 billion; 1989, $223 billion. But that is the old budget deficit.

The Social Security surplus is $20 billion in 1987, $37 billion in 1988. The year we are dealing with now, $46 billion. So our true Federal-funds deficit is some $46 billion higher than we are showing.

Why should we worry if the Federal-funds budget is in deficit, as long as we have a Social Security surplus to offset it? One trouble is that the Social Security surpluses are only temporary.

The next chart shows that Social Security will be building large annual surpluses up until about 2015. But after that when the baby-boom generation moves out of the work force and into retirement, the situation reverses. Social Security will be paying out more in benefits than it takes in.

So we see these surpluses moving up in Social Security. They reach about $2 trillion. That is how large that surplus will build.

Then it starts coming down in 2005, 2010. But by the year 2030, 2035, we run into huge deficits.

Madam President, if we spend this money now—and that is what we are doing, in effect, when we are counting it as part of the surplus—this chart will look twice as bad, because we will get a double whammy.

Indeed, Social Security experts tell us that over a 75-year period, Social Security is no longer in close actuarial balance. It looks like it will be at least 5 percent out of balance over the 75-year horizon in this year's or next year's annual Social Security reports, and that is bad news.

That is only part of the long-run problem we are looking at. Health care costs for Medicare and long-term care are expected to keep increasing. So let us see where we could end up if we do not get the Federal-funds deficit under control. The next chart shows that by the year 2030, the combined Federal funds and Social Security deficits could reach 7.4 percent of GNP. That is over a full percentage point greater than the historically high deficit in the depths of the last recession.

The bottom line is that we must get the Federal-funds deficit under control. The accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, when expenditures will far exceed receipts.

But right now, Social Security surpluses are being lent to the Treasury to finance the Federal-funds budget deficit, which is primarily dedicated to current consumption.

Borrowing from Social Security to finance our current deficit and consumption means that the funds are not available to increase national savings, investment, productivity, and gross national product.

Without these increases in national output and wealth, future workers are going to be unable to honor the claims of retirees without a very significant increase in taxes or reduction in Social Security or other benefits.

The use of Social Security surpluses as a source of national savings would bolster the economic capacity of the United States for the future. It would allow Social Security benefit claims to be honored at the same time future workers would enjoy an increased standard of living.

That will happen only if we curb the national funds deficit. We need to set the Social Security surpluses aside. We need to exclude them from our deficit targets, and then we need to drive the Federal funds deficit toward zero. This amendment calls on Congress to do just that.

Madam President, since raising this issue, I have been ribbed a little about leaving behind a deficit larger than we would like to admit to.

No one likes to be the bearer of unpleasant news. But I remember a time when a lot of people were willing to use a short-term windfall from tax reform to show a cut in the deficit, even though we knew it was fantasy.

This is an "opportunity" amendment. It gives us the chance to make sure the Social Security funds serve the role for which they were intended. It means that the funds could help generate investment and economic growth, that they could be the surplus funds. They would be working for this country while they are waiting to meet the demands of retirees some years down the road.

We want to keep improving the standard of living in this country. We want to assure a high standard of living for our retirement-age population, and we want to go after the Federal deficit with our eyes wide open.

These are the motives behind this amendment. I think it deserves the approval of the Senate.

I believe that it gives us a true picture of what the deficit actually is. Madam President, I think it is crucially important that the Congress and the Government maintain its credibility with the people and even when they find out, and they are beginning to, that we are taking these surplus moneys and we in effect are spending them and double-counting them and using them now. Then I think again they could get very shaky as to whether there are going to be funds there for their retirement, and that, of course, could hurt our whole system.

So why should we worry if the Federal fund is in deficit as long as we have a surplus to offset it? Because this surplus is only temporary. We know that the Social Security will be building up large annual surpluses, until we reach the years of around 2010, and then those surpluses go off very quickly and we see them falling in huge numbers, and that means at that time we will have to take additional action.

But be like Joseph when he interpreted Pharaoh's dream. Pharaoh saw in his dream seven fat cows and seven lean cows and the seven large stalks of corn dwindle and seven weak stalks of corn took over the strong. Joseph said that the Lord told him that that dream said that Egypt was going to enjoy prosperity for 7 years and he told Pharaoh he ought to build storehouses and barns and he ought to store the surplus food because there was going to be a famine for 7 years. Fortunately, Pharaoh heeded that and did, and the Egyptians were saved and also the children of Israel who happened to be there at the time and were brought in there.

But imagine what would happen if they were building those storehouses but somebody in Pharaoh's council was taking the grain out of the back door during the 7 good years. That is what we are beginning to do here. We are taking the grain out. We are taking $46 billion this year and telling ourselves that we are reducing our deficit by this $46 billion. Next year it would be $58 billion, the next year $71 billion, the next year $81 billion, and the next year $97 billion that we would be taking out.

You can see that the years of the grain going into the warehouse continue to where we are going to put about $2 trillion worth of grain in the warehouse. But before it is over we are going to need a lot more than that because the lean years come when the retirees, the war babies, begin to retire. We made a very prudent decision in setting this money aside and we can have good national savings because of this $2 trillion. It can mean more investment, more plant capacity, a higher standard of living for our workers if we are not spending it. But if we turn around and spend it and through a charade that says that we have Gramm-Rudman-Hollings that is going to bring us down to zero when in effect we are doing it off a payroll tax that is on workers today and taking their money, that would be something that would be wrong.

Mr. RIEGLE. Madam President, will the Senator yield at that point?

Mr. CHILES. I am happy to yield.

Mr. RIEGLE. I appreciate his yielding.

I first of all commend the chairman of the committee for his leadership on this issue.

We had a very important hearing in the Budget Committee just a short time ago that focused on this issue which the chairman called and headed. The problem that was illuminated at that hearing, and which the chairman is now demonstrating on this chart, is a critically, important issue for the country and for us to understand. If we are successful with this amendment, I want to make a formal statement a little later that this will be one of the most important achievements that the Senator from Florida will leave behind as he concludes his career in the Senate this year.

I am struck by the fact, in looking at this chart, that for fiscal year 1988, which is the year we are presently in, if you look at the actual budget deficit, taking away the Social Security surplus which hides the size of the deficit, our deficit is really $198 billion and it goes up in 1989 to $223 billion, in 1999 it is $228 billion, and it stays at those $200 billion-plus levels.

The fact by itself is not generally understood by the country as a whole and by the financial markets. I think people have tended to be generally misled by the way the accounting document is put together, to not fully comprehend the size of the actual operating deficit. The only way I see to bring this under control is precisely the way the Senator has recommended. If we do not set aside these Social Security surpluses and keep them totally out of the budget calculation, we are going to fool ourselves into thinking our deficit is really smaller than it is. And we are going to find ourselves, I think, with a real budget crisis on our hands far faster than anyone might imagine.

So I just conclude by saying that it seems to me there are two vital points illustrated here. One is the need to protect the money in the Social Security fund so it is not squandered in some way through an accounting technique and, secondly, that we face up to the size of our true budget deficit problem and go to work to fashion a new answer for that, because the problem is striking in its own right in a way far beyond what we are presently admitting the true facts to be.

So I commend the Senator for his efforts and I want to be sure that he adds me as a cosponsor to his amendment.

Mr. CHILES. The Senator is a cosponsor. I thank him for his remarks. He certainly has had a concern for Social Security and its protection over a period of time.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Madam President, I am pleased to join with my friend and colleague, the Senator from Florida, in cosponsoring this amendment.

The subject that it deals with is by no means new to many of us, particularly those of us who served on the National Commission on Social Security Reform, but it is, admittedly, a somewhat obscure subject. It is obscure because we tend to look only at the numbers that are printed in the press. And the numbers that are printed in the press are not always the reality that we know it to be. The press often looks at the bottom line. And the bottom line includes subtotals, before you get to the bottom line. And one of those subtotals is the surplus or deficit in the Social Security system.

I particularly commend the Senator from Florida, as I say, for bringing this issue to the Senate floor. He has demonstrated, I think, again, his foresight and leadership in bringing this difficult issue to our attention. And, as he points out, it is easy for this critter to get lost in the field, but there are some very good reasons why we should not lose sight of it.

One of the reasons, as both the Senator from Michigan, in his brief colloquy, and the Senator from Florida made clear a moment ago, is that we are currently understating the Federal budget deficit by subtracting out of it the surplus in the Social Security trust fund. If you assumed that we were never going to spend the surplus or we did not need to spend the surplus in the Social Security trust fund, I suppose you would have a better, although in my mind, not a very convincing argument for doing that.

The reason I do not think it is a very convincing argument is that in the fall of 1985 we debated this issue for nearly 2 weeks. I offered an amendment to Senator SIMPSON's immigration reform bill. The amendment was aimed at truth in budgeting and borrowing. The amendment was aimed at separating the Social Security trust fund from the unified budget.

That amendment was enacted later that year as part of the budget deficit reduction measure appended to the debt ceiling bill and we created what is known today as Gramm-Rudman-Hollings. Gramm-Rudman-Hollings basically said we are going to do this both ways. For the purposes of reporting, we are going to continue to have the Federal Government do what we said that we wanted them to do as part of the 1983 Social Security Amendments. That is, instead of waiting until 1993 for them to report the Social Security trust fund off budget, we are going to accelerate that date and the Office of Management and Budget and the President's Economic Report are going to treat the Social Security trust funds, with the exception of HI, as if they were off budget. But for the purposes of Gramm-Rudman-Hollings, we are going to do it the same old way that we have been doing it since 1968.

And so built into Gramm-Rudman-Hollings, which I support, is, nonetheless, a lie. And the lie is that we are not as good as we would like to think we are.

What will happen as a result of that lie—or maybe more accurately, since we are bringing the budget deficit down, half-truth—is that when Gramm-Rudman-Hollings goes out of business at the end of 1993 and we get the budget deficit down to zero, as I think we will and I hope we will, there will, nonetheless, be a very nasty surprise. Because assuming that all goes right—that we do not have to extend Gramm-Rudman-Hollings, that we do get the budget deficit reported under Gramm-Rudman-Hollings down to zero—one second after that is done, the budget deficit will be reported not as zero, but, given current projections, as $116 billion. That is a $116 billion surprise in just one second. That is why we really need to give this issue the kind of attention proposed by the Senator from Florida, Senator CHILES.

Now, we could talk about the long-run effects of continuing to ignore this problem, about how many years hence we will find a very large bill coming due as we continue to misrepresent the size of the annual deficit and, about how, as a result, spend much more money than we are actually taking in in general revenues, creating a much larger deficit and national debt than we really intend.

But, frankly, Madam President, I tried that on many occasions since 1982 and it falls on deaf ears for one very important reason: When those bills start coming due, it is going to be somewhere around the end of the first quarter of the 21st century, around the year 2020 or 2030 or even 2040. And no matter how optimistic most of our colleagues are, very few of them are planning to be here then. As a result, there have developed a number of rationalizations as to why what we are doing right now is just fine, why it is fine to live with a half-truth or a whole lie.

One of the arguments is going to be: Well, if we were to tell it like it is, it is an automatic vote for a tax increase. If we were to tell the truth, it means the deficit would be so big that we would have to raise taxes.

I do not know whether that is true. But if the whole idea of making public policy is that you have to lie in order to avoid taking action—whether it is reducing spending or increasing taxes are the two alternatives we have, and they are both pretty unpopular, depending on whose ox is being gored—but if the choice is we have got to cover up the truth, we cannot tell it, we have got to lie about the way things are, then public policymaking in this country has sunk to a new low.

Another argument—and I have a little more respect for it—says: Well, this is a trust fund. We should treat all the trust funds—the Highway trust fund, the Airport trust fund—alike. And I suspect there will be an effort in the form of an amendment to do that. As I say, I have more respect for that, because there is at least an apparent consistency there and, in my judgment, there have been unwarranted efforts to restrain the spending of essential moneys from those trust funds.

But, nonetheless, I think we ought to face facts. There are very different kinds of trust funds. Those trust funds do not fund entitlement programs.

They fund grant programs and those grant programs are controlled by the Appropriations Committees of the Congress.

The Airport trust fund is controlled in its spending. The Highway trust fund is controlled in its spending, unlike the Social Security System which is an entitlement program and where the spending, as an entitlement, is established by law and, in that sense, is not in our control unless we change the law.

The fact, therefore, is that those trust funds are very different, indeed, from Social Security.

A more sophisticated argument still is that having the Social Security System take in, through the payroll tax, a big surplus, lend it to the General Treasury and have the General Treasury spend it somehow makes the large payroll tax which we have to pay for Social Security a form of compulsory savings. And that since Americans do not save enough, that saving is good for us.

I certainly agree that Americans do not save enough. We need a good deal more in the way of savings, and if we had it, we would be able to see a significant decline in real interest rates as well as nominal interest rates.

I fail to grasp, however, how anybody can argue that piling up a surplus on paper in the Social Security trust fund and then spending that money, because it has been lent to the General Treasury, is savings. That looks to me like spending, and anybody who has looked at the way we are increasing our spending, commensurate with the way we are increasing our debt to the Social Security trust fund, would be hard put to come to an alternative conclusion.

Then there is the argument, which I am sure somebody will make, that what we are doing is good for the economy. It is good for the economy because we are spending a lot of money and we are not noticeably raising taxes, except payroll taxes on working people, which are fairly regressive. That argument is simply an argument for more deficit spending.

I have heard enough arguments on the floor of the Senate over the last 5 years to be convinced by my colleagues, if I was not before, and, frankly, I was, that deficit spending is terrible; that it is bad; that it is awful; that it is too great; that it is ruining the country; that we are mortgaging our country; it is bad for our children; it is bad for our grandchildren. Here is something that is not only bad for our children and grandchildren but our great-grandchildren as well.

I expect we will hear from some people that deficit spending is terrible; that is why we have to have the Social Security System in the Gramm-Rudman-Hollings targets; that is why we have to amend the debt ceiling bill, saying this is some kind of good debt increase; for some reason it is good because it is not in the general fund of the Treasury, as we think of it—it is owed to the Social Security System.

I do not like that for all kinds of reasons. I do not like the intellectual dishonesty of those arguments. I do not like the inconsistency of those arguments, but there is one reason I like it even less, and that is because if we get to a point where the Social Security trust fund continues to finance all our other programs—as it is well on its way to doing so—and something untoward should happen, all of a sudden we are going to find that we are out of cash to pay Social Security benefits. At that point we would need massive additional borrowing from the General Treasury to pay the benefits. This could potentially happen at a very dangerous or inconvenient time.

We do not know. But it is not too hard to imagine a scenario where the economy gets into trouble 10 years from now, for reasons we do not understand: There is high inflation; there is high unemployment; Social Security benefits go way up; Social Security revenues go way down; the Federal budget deficit, leaving Social Security aside, goes way up. Because of those factors, interest rates go way up and the Federal Government is having to scramble for money to pay increased Social Security benefits when Social Security revenues are hard to find. To get the money from the so-called paper Social Security surplus, they have to go to the general fund of the Treasury, which is broke, and borrow on top of whatever the Treasury has to borrow to finance the operating deficit.

Madam President, no issue has more significance for our ability to control Federal budget deficits than this question of how to account for Social Security's rapidly mounting surpluses. Right now, Social Security is technically off-budget. But it really is not off-budget because we are including Social Security's $45 billion surplus when we calculate the budget deficit. We are kidding ourselves if we think we will have a deficit of only $136 billion in our fiscal year 1989 budget. We really have a deficit of $181 billion—we are spending $181 billion more than we are raising in general revenues to pay for it. And we are borrowing another $45 billion from Social Security.

We need to be absolutely clear about what we are consciously and willingly doing to pay for our $967 billion in non-Social Security spending. We are raising only $786 billion in revenues and we are borrowing $136 billion from the public and $45 billion from Social Security. We are going to have to pay this $181 billion back in the future, Madam President. This is not a free ride—in 34 years we are going to have to raise taxes or raise the debt to pay this money back, plus interest. Our children are going to have to dig deep into their pockets to bail the country out of the financial hole we are digging today.

And this problem only gets worse. Four years from now, we are going to borrow $92 billion from Social Security—and by the time Social Security is officially removed from the budget deficit total in 1994, we will have borrowed more than $400 billion from Social Security.

Madam President, this is the extent of the problems that we will face if we do not get a real dose of sunshine on this issue. That is why I commend the Senator from Florida. It is why I am a cosponsor of his amendment. It is why I hope his amendment succeeds, and it is my hope that the Congress does not ignore his amendment, that Congress adopt it, that people take a look at the debate and that we start acting as the responsible legislators that I think we want to be, not just posturing.

I ask unanimous consent that a table I have illustrating the deficit calculations both with and without the Social Security trust funds be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE FEDERAL DEFICIT CALCULATED WITH AND WITHOUT THE SOCIAL SECURITY TRUST FUNDS

[In billions of dollars]

Fiscal year	Social Security surplus	Deficit with Social Security	Deficit without Social Security
Past:			
1986	6	221	227
1987	20	150	170
1988	37	147	184
3-year total	63	518	581
Future:			
1989	45	136	181
1990	58	115	172
1991	69	93	162
1992	79	51	130
1993	92	23	115
5-year total	343	418	760

[1] CBO and Social Security Administration, Office of the Actuary, February 1988. Estimates are based on current law operations of the OASDI trust funds. The Medicare trust funds are excluded.

[2] Deficit calculations are OMB estimates of the Senate Budget Resolution for fiscal years 1989–91, and of the President's Budget for fiscal years 1992–93.

Madam President, I yield the floor.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from North Carolina.

Mr. **SANFORD**. Madam President, how much time do we have left?

The **PRESIDING OFFICER**. The Senator from North Carolina has 28 minutes and 8 seconds.

Mr. **SANFORD**. I yield myself about 3 minutes, if I may.

I rise to support my good friend, Senator CHILES, and I think he offered a sense-of-the-senate resolution which is going to have an excellent effect removing the Social Security trust funds from the Gramm-Rudman-Hollings calculation of the deficit.

I am sure when the Gramm-Rudman-Hollings pattern was developed that it was not anticipated that this surplus in the trust funds would amount to this much money, but these trust funds represent not only about a quarter of the whole Federal budget, but the most important program ever enacted in this country.

Protecting the fairness and the integrity of the Social Security trust fund is certainly one of the highest priorities of the Senate, Congress and certainly is one of my highest priorities.

You have heard me say before, and you will hear me say again, let us keep the security in Social Security, and let us keep the trust in the trust funds.

In keeping with my priority, recently I introduced a bill on the floor, S. 2211, the deficit disclosure bill which will remove the Social Security trust fund from the calculations of the deficit under the Gramm-Rudman legislation.

That bill, which Senators CONRAD and SYMMS joined me in sponsoring, is similar in most respects to the resolution introduced by Senator CHILES. I proposed that bill because I believe we are not being wholly honest when we say that we are going to balance the budget is 1993, and because I believe we need to ensure the protection of the trust funds and the people who depend on them.

What has bothered me about the deficit reduction targets of the Gramm-Rudman-Hollings legislation is like saying we need to vault that 16-foot wall to get out of this fiscal prison, but if I only jump 8 feet twice, that is good enough.

When the trust funds are included in the deficit calculation, that gives us the false sense of freedom not to balance the budget. I do not think we should make it easier for us not to do our jobs.

Finally, I want to urge my colleagues to join me in voting for this amendment which my esteemed chairman, Senator CHILES, has offered.

Madam President, I yield 10 minutes to the Senator from New York.

Mr. NICKLES addressed the Chair.

Mr. SANFORD. Five minutes.

The PRESIDING OFFICER. Has the Senator from North Carolina concluded his remarks?

Mr. SANFORD. I have concluded, and I have yielded time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. NICKLES. Madam President, point of inquiry. I think the Senator from New York is certainly entitled to be recognized in his own right. I do not think the Senator from North Carolina is able to delegate time.

Mr. SANFORD. Madam President knows I am controlling the time.

The PRESIDING OFFICER. The Senator from North Carolina is controlling the time. The time under the Budget Act is controlled.

Mr. NICKLES. I understand. Point of inquiry. Is the Senator from North Carolina able to recognize a seated Senator?

The PRESIDING OFFICER. The Senator has that right.

Mr. NICKLES. I question the Chair. I think the present Presiding Officer of the Senate is able to recognize succeeding Senators.

The PRESIDING OFFICER. In the interest of fairness and giving the Senator from Oklahoma an accurate comment from the Chair, the Chair will consult with the Parliamentarian.

Mr. NICKLES. I thank the Chair.

The PRESIDING OFFICER. The Parliamentarian has advised the Chair that under the rules for the consideration of the Budget Act, when there is controlled time, the Chair is somewhat constrained, that is, the Senators who are managing the bill and controlling time are in a position to yield time to another Senator. So under this particular parliamentary situation, the Senator from North Carolina does have the authority to yield to the Senator from New York.

Mr. SANFORD. If it is going to be quite a time, I apologize, but the Senator indicated to me he was ready to speak.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, I rise in my capacity as chairman of the Subcommittee on Social Security and Family Policy of the Committee on Finance first to state that I will support this amendment, which I think will be generally approved by the body, but also and more importantly to draw the Senate's attention to the quite extraordinary change in our circumstances—or in any event, Madam President, the perception of our circumstances—with regard to the Social Security trust funds in the last 8 years.

It was not 7 years ago that the then newly appointed Director of the Office of Management and Budget in the newly elected administration was declaring with respect to the trust funds that the world's most devastating bankruptcy was months away. Now, Madam President, we find ourselves dealing with the prospect of surplus amounts never previously contemplated.

There was an intervening event, the Social Security Amendments of 1983, which were worked out beginning in a conversation on this floor between the distinguished Republican leader, Mr. DOLE, and myself. He was chairman of Finance; I was ranking member on the subcommittee, and in January 1983 we put together the present arrangements which have produced these surpluses.

I call attention of the Senate to the fact that the surpluses were not simply deliberate. They were desired for a specified purpose, which is to say a half-century of derision and belittlement and perhaps misunderstanding had left the American public uncertain about the security of Social Security.

As recently as 1985, the distinguished public opinion survey firm of Yankelovich, Skelly & White did a 50-year report card on Social Security, and, Madam President, if you will believe—and you would know, of course—a full 66 percent, two-thirds, of nonretired adults thought it almost certain they would receive no Social Security benefits when their retirement age was reached—two-thirds. People had no trust in that system. And so what we had in mind when we put these agreements together—and we knew these forecasts; they are better than we expected, but not that far off—we wanted to see a surplus appear in the trust funds that could be pointed to as a reserve for those who wondered what is the situation. Today we have a surplus of about $65 billion, a large amount of money, but that accounts, Madam President, for 4 months' outlays. It will not be until 1992 that we will have a surplus that is equal to 1 year's outlays. I think it is a general judgment that a year to a year and a half is probably what you ought to have just to point to so people will know it is coming.

Finally, Madam President, may I suggest that we have in this surplus that stretches out into the next century a true chance to increase our rate of national savings, an issue that has eluded every administration for the last 30 years. If we reach a point where our true budget is balanced, and we can commence to reduce national debt, retire debt through this surplus, we will by definition increase savings, an effort as I say which has eluded every President since President Eisenhower to my knowledge, every Congress since the times that it became evident that we had the lowest rate of savings of any industrial nation—a quarter that of Japan. We might begin to turn that around.

I would like to suggest, Madam President, that in those 2 weeks—it took 12 days in 1983—we may have built better than we knew, and I hope that the word might go forth from this Chamber that we are in surplus, we will stay in surplus, the system is secure, and the promises made a half-century ago are being kept.

Thank you, Madam President. I thank the distinguished Senator from North Carolina for yielding to me this time.

Mr. EVANS and Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. How much time does the Senator need?

Mr. NICKLES. Ten minutes.

Mr. SYMMS. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I thank the Chair and my friends from New York and North Carolina.

I would like for my friend from New York to catch part of this comment, and if he disagrees with it I would like to know. We have heard a lot of talk about the Social Security surplus and how large it is growing. I appreciate the Senator's comment, the fact that the accumulated surplus to date on the books would basically equal about 4 months. In other words, we are talking big figures; a lot of money goes in and a lot of money goes out. Right now we have more money going in than goes out. But I think there is a misconception among the American people and maybe among Members of Congress. When we talk about Congress, they assume we have an enormous amount of money in the Social Security fund when in reality what we have done is to have spent that money. The trustees of the Social Security Trust Fund, I guess, have invested that money in Government bonds—in other words, in a Government IOU. They have exchanged the surpluses for the Government promise to pay that money back.

I am a trustee of a private pension plan, and we have invested in Government bonds and the Government has always made good on those bonds and paid them back. Correct me if I am wrong, but every time the Government has paid the bonds back, the way they have paid them back has been by issuing more debt, borrowing from somebody else. If the Government owes $1,000, what it has always done is it has gone deeper in debt to pay off that $1,000 bond. They have gone out and borrowed another $1,000.

Mr. MOYNIHAN. Was that a question from my distinguished friend?

Mr. NICKLES. Or if the Senator disagrees with me.

Mr. MOYNIHAN. I do not disagree.

But I would like to make one point, if I may. The Treasury bonds which are purchased by Social Security funds are very special bonds, and unique for this purpose. The value may never fall below the face value. That is something that is not generally known, but it is true. Otherwise, the Senator is correct.

Mr. NICKLES. I appreciate the answer. The point I am trying to make—and the Senator from North Carolina has, I think, made this in the past as has the Senator from Florida—is that these bonds are going to come due. We are talking about enormous amounts of money supposedly accumulated in the Social Security Trust Fund but really there are going to be enormous amounts of Government bonds that are going to be coming due in the year 2000, 2010, or 2020.

So the Government will have to borrow a lot of money to retire those bonds.

So the private system, or the savings system or the taxpayers who are paying interest on that system—at least that concerns this Senator. We are building up an enormous amount of money that we say is in the Social Security system and in the Social Security Trust Fund when really what we have is enormous amounts of Government IOU's which says the Government is going to pay the money back when most of us in here realize what the Government's track record has been. To say that we will pay you back really means we will go out and borrow more money to pay you back.

Mr. SYMMS. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield for a question.

Mr. SYMMS. Does the Senator think it is possible that, if we had an honest accounting system, it might make it better? If we paid the right amount of taxes on Social Security, and the right amount in the general funds, we would not get into the problem that the Senator foresees.

Mr. NICKLES. That may be.

Mr. SYMMS. In other words, what we are saying is we have a dishonest accounting system because the Senator is saying that they have already spent the money for other Government programs. When we come back in the year 2010, we will have to go back and reissue new debt to buy back the money so we will have cash to pay the people in Social Security.

Mr. NICKLES. It is a very confusing system, and it is one that is very misleading. It is one that really distorts the reality. Maybe the solution would be to reduce the taxes, as some people would suggest, or to try to further make it an off budget item.

Mr. SYMMS. The question I am asking the Senator is this: Is he for or against this amendment?

Mr. NICKLES. I plan to support the amendment of the Senator from Florida.

Mr. SYMMS. I thought the Senator was making an argument for it but I was not certain.

Mr. NICKLES. I am not finished. Let me proceed a little bit further.

I think the amendment of the Senator from Florida makes the point, and the point needs to be made. I think we really need to go a lot further because we are talking about Social Security surpluses, and how that maximizes the deficit. I will tell my colleagues that the real size of the deficit is much bigger than this, and my good friend from South Carolina has pointed this out.

We have a $60 billion surplus in other trust funds. That is $60 billion, and not only counting Social Security. Social Security in 1988 is supposed to have a surplus of $36.8 billion. But in other trust funds it totals $60.7 billion for a total of over $97 billion. Next year, other trust funds will have a surplus of $67 billion, and Social Security will have a trust fund of $45 billion, for a total surplus from the various trust funds of $112 billion. I do not know why we would just be talking about Social Security. Maybe we should be talking about all the trust funds. We have enormous surpluses in other trust funds.

Madam President, I have made this speech on the floor in the past. I have made it several times. I will not repeat it all. I will make just a couple of comments.

In the military retirement fund, they paid an estimated $33 billion this year, in 1988, and paid out $19 billion. That is a surplus of $14 billion. In the unemployment trust fund, there is a surplus of $9 billion; in the health insurance trust fund, they are paying in more than they take out. It pays in $102 billion, and will pay out $87 billion; highway trust fund, it pays in $15.5 billion and pays out $14.2 billion.

The Senator from Idaho has worked on that. It has a surplus of $1.3 billion. The airport trust fund pays in $4.2 billion, and pays out $3 billion for a surplus of $1.2 billion. The Senator from Kansas has worked hard on the airport trust funds. So we have a lot of trust funds that are having surpluses.

I left out one, which is civil service. Civil service paid in $46 billion in 1988, and the estimated payout is $27 billion.

But the concern I have is, yes, more money is going in than is going out, but we have enormous liabilities for the civil service retirement fund.

We have enormous liabilities with the Social Security Trust Funds. People are paying taxes in. Yes. Maybe they are paying in more than is going out today, but we have enormous liabilities for tomorrow. What are we going to have to pay? Are we accumulating this money for civil service? No. We are not. All of this money goes into the same pot that we distribute every other dollar from. The same thing is true with Social Security. Do we really accumulate money for Social Security to pay Social Security benefits in the year 2010? No. We do not. Social Security checks are written from the same pot as any other pot in the Government, and the same thing is true with civil service and military retirement.

There is only one big pot of money. We can use the paper accounting, and say it is a separate trust fund. The same thing goes with highways, and the same thing with airports, the same thing with black lung, or any of the other trust funds. But it is all going in the same pot. It all comes out of the same pot.

But the point is we are accumulating enormous liabilities. The biggest liability would be in the Social Security Trust Fund, and probably the next one would be in civil service, military retirement, and so on.

So I hope when we talk about having truth in budgeting, if we are going to take all of these so-called trust funds and have a balanced budget, a net operating balanced budget, we will say wait a minute, we have all of these other trust funds.

If you take of them, would it make sense? I am not sure that would be the right thing to do either. So maybe I would have to be a little ambiguous with my good friend from Idaho. We have about a dozen trust funds over here. If we are going to take them all off, I know some people think that is the solution, how are we really going to know how much money the Federal Government is spending, and how much the total amount of taxes are? I will tell my good friend, the Senator from North Carolina, that I have been on the business side. I have been on the self employment side. I have paid taxes for a long time. Social Security taxes cost me as an employer just like an income tax.

But maybe the false conception is that a lot of people think I am saving for my Social Security. My money is going to be there. Maybe we should be honest and tell the American people that Congress is spending that money before it even gets it. It is not saving and accumulating and growing. There are some real misconceptions out there. There really are some serious misconceptions if you go to talk to people about Social Security, or if you talk to them about civil service retirement. And I know they have a lot in Maryland and other areas. They think, "Oh, I have saved for this. I have built up my account" when the truth is the Congress has spent the money actually the same year. Actually we have spent all the money from all of the trust funds, and yet we still have to go out and borrow another $150 billion. That is this year. We are looking at borrowing next year at least $136 billion.

So maybe we need a little different accounting system. I think we also need to get some credit for some of the liabilities that are accumulating. That does not show up. When we talk about civil service, or when we talk about military retirement or talk about Social Security, we are always talking about the amount of money going in and the amount of money going out. We never really talk about the accumulated liabilities that we owe.

I will tell you. If you are an actuary, a trustee of a pension plan, or a fiduciary of a pension plan, you are liable, responsible, and you are held accountable for coming up with the money to pay the liabilities that you promise.

The **PRESIDING OFFICER**. The Senator has spoken for 10 minutes.

Mr. NICKLES. I ask unanimous consent for another 4 minutes from the manager.

Mr. SYMMS. I would be happy to yield 4 minutes. The amendment that will be offered to this amendment will include the highway and airport trust funds. So we know that is coming.

I yield 4 more minutes.

Mr. NICKLES. Madam President, I thank the Senator, my friend from Idaho.

The point I am trying to make is yes, we have surpluses in Social Security. But we also have surpluses in the balance of all of the other trust funds of $60 billion. The surplus in Social Security is $36 billion.

I think the amendment that just deals with Social Security really does not go far enough. Maybe the Senator's amendment would help make it a little bit better. But I really think maybe we should be looking at other trust funds as well, because those trust funds have incurred liabilities.

I know the Senator from Idaho has worked hard on the highway program. He says these funds—the 9-cents per gallon that is paid to the Federal Government—are supposed to be committed for highways. Likewise, the Senator from Kansas says every time you buy an airline ticket a percentage of that money is allocated. It is supposed to go for airports and airport safety.

I know those civil servants, when they pay in their 8 percent, say "I am saving for my retirement." And the facts are the Congress has spent all of that money the people think they are saving for a variety of causes. We spend it all plus $150 billion.

So maybe we can use this type of amendment. This is a sense of Congress. It does not do anything. If we come up with legislation that really tries to make some of these changes we are talking about, at that time we may make some of the difficult decisions we have not made in the past.

We have been running net operating deficits of about $240 billion for some time, and probably will in the future, unless we can be more responsible.

I hope we will take account of the legislation, as well as the amount of money coming in and money going out—but take account of the actuarial liabilities we are incurring on a year-to-year basis, and not saddle future generations with enormous debt for the future.

I ask unanimous consent that the tables dealing with budget funds and the Federal deficit be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

OUTLAYS AND RECEIPTS OF TRUST FUNDS

[In millions of dollars]

Description	Outlays			Receipts		
	1987 actual	1988 estimate	1989 estimate	1987 actual	1988 estiamte	1989 estimate
On-budget:						
Railroad retirement trust funds	8,620	8,967	9,335	9,277	9,815	9,678
Black lung disability trust fund	643	613	729	642	610	729
Veterans life insurance trust funds	1,074	1,115	1,167	1,408	1,437	1,440
Federal employees retirement funds	26,046	27,587	29,568	44,029	46,563	48,810
Military retirement fund	18,078	19,123	20,320	31,919	33,563	35,060
Unemployment trust fund	20,527	17,500	18,500	27,613	26,200	26,100
Health insurance trust funds	81,640	87,657	94,491	90,532	102,728	117,024
Highway trust funds	13,476	14,219	14,705	14,310	15,506	15,527
Airport and airway trust fund	2,631	3,007	3,858	3,940	4,238	4,580
State and local government fiscal assistance trust fund	76					
Foreign military sales trust fund	9,910	8,572	8,204	8,504	8,417	8,062
Other trust funds (nonrevolving)	2,151	3,050	3,623	3,750	4,244	4,140
Trust revolving funds	−2,037	1,222	−830			
Subtotal	182,836	192,632	203,672	235,925	253,322	271,149
Intrafund receipts from on-budget	−10	−1	−1	−10	−1	−1

OUTLAYS AND RECEIPTS OF TRUST FUNDS—Continued

[In millions of dollars]

Description	Outlays			Receipts		
	1987 actual	1988 estimate	1989 estimate	1987 actual	1988 estiamte	1989 estimate
Intrafund receipts from off-budget	−2,614	−2,890	−3,009	−2,614	−2,890	−3,009
Proprietary receipts from the public	−16,656	−18,913	−20,228	−16,656	−18,913	−20,228
Total on-budget	163,556	170,827	180,434	216,645	231,517	247,910
Off-budget:						
Federal old-age, survivors, and disability insurance trust funds	208,070	220,537	234,544	227,640	257,310	279,682
Interfund receipts from on-budget	−14,205	−17,411	−21,201	−14,205	−17,411	−21,201
Proprietary receipts from the public	−33			−33		
Total off-budget	193,832	203,126	213,342	213,402	239,899	258,481
Total	357,388	373,953	393,776	430,047	471,416	506,391

Source: OMB budget for fiscal year 1989, p. C-13.

BUDGET FUNDS AND THE FEDERAL DEBT—TRANSACTIONS BY FUND GROUP

[In billions of dollars]

	1987 actual	1988 estimate	1989 estimate	1990 estimate	1991 estimate
Receipts:					
On-budget:					
Federal funds	537.8	560.8	593.2	644.8	697.3
Trust funds	216.6	231.5	247.9	261.4	276.8
Interfund transactions	−113.7	−123.0	−134.9	−144.4	−155.6
Total, on-budget receipts	640.7	669.3	706.2	761.7	818.5
Off-budget (trust funds)	213.4	239.9	258.5	282.4	306.0
Total, Federal Government receipts	854.1	909.2	964.7	1,044.1	1,124.4
Outlays:					
On-budget:					
Federal funds	760.9	805.0	835.3	873.1	914.0
Trust funds	163.6	170.8	180.4	195.6	209.2
Interfund transactions	−113.7	−123.0	−134.9	−144.4	−155.6
Total, on-budget receipts	810.8	852.8	880.9	924.2	967.6
Off-budget (trust funds)	193.8	203.1	213.3	224.1	236.1
Total, Federal Government outlays	1,004.6	1,055.9	1,094.2	1,148.3	1,203.7
Surplus or deficit (−):					
On-budget:					
Federal funds	−223.1	−244.2	−242.2	−228.3	−216.7
Trust funds	53.1	60.7	67.5	65.8	67.6
Total, on-budget surplus or deficit (−)	−170.0	−183.5	−174.7	−162.5	−149.1
Off-budget (trust funds)	19.6	36.8	45.1	58.3	69.9
Total, Federal Government surplus or deficit (−)	−150.4	−146.7	−129.5	−104.2	−79.3

Source: OMB budget for fiscal year 1989, p. 6d-19.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. REID). Who yields time?

Mr. SYMMS. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator from Oklahoma for a very excellent statement.

One thing I want to reemphasize is that he is correct in terms of a unified budget, but we are not being honest with the American people about the accounting system in Washington.

If any mayor of a city or county commissioners or city council people ran their accounting system the way we are doing it here, someone would be subject to criminal penalties for spending money from one account into another account—not that the Federal Government should not have a general budget.

On the other hand, if people are paying user fees for highways, airports, or a Social Security program, the money should be dedicated to that account, and then our priorities should be established. So, I think the amendment makes a lot of sense.

Mr. President, how much time does the Senator from Washington wish?

Mr. EVANS. Ten minutes.

Mr. SYMMS. I yield 10 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. EVANS. Mr. President, I have been astonished by two things in listening to the debate this afternoon: First, that we are suddenly discovering this great problem that is out in front. The warning signs and the red flags have been up for not just months, but years. It is not anything new, anything just discovered, anything that came as a big surprise to anyone in this Chamber.

The second thing that astonishes me is that we are speaking with such extraordinary specificity about not just 1 year in advance or 2 or 5 or 10, but 30 to 50 years in advance. We bring out charts and we show projections as if they were going to be right on the mark 10, 20, or 30 years from now, when we know very well, from past practice, that we cannot even predict worth a darn 6 months from now.

We have our budget which we will put into effect in a short period of time. It will set forth the precise amount of deficit that we will have on September 30, 1989. We will have several interim measurements of that budget deficit; and if past practice is any experience, we will find when we get there that we missed the mark by a pretty substantial margin.

Mr. President, it is ridiculous for us to think that we can look 20, 30, or 40 years out with such specificity, to know what in the world is going to happen.

I think this has been a very useful proposal by the Senator from Florida, to open up the debate not just on Social Security but, as the Senator from Oklahoma just did, to expand it to other trust funds. Let me carry that process a couple of steps further.

In what we call a budget—it really cannot be called that, because we keep our books at the Federal level in a cruder way than any business of any consequence in the United States, a much cruder and less sophisticated way than any of the 50 States of the Nation and of all but perhaps a small handful of villages in this country. We make no assumptions about the difference between capital and operating expenses. No company in this country would do so.

We ought to recognize that there is an extraordinary difference between making an investment today for a capital outlay that will be good for the next 50 years, as opposed to making an outlay for operations that will be used up or eaten up during the course of the fiscal year.

There has been much talk about the surpluses that exist, not just in the Social Security trust fund but in the various retirement funds in the Federal Government. Let us put it another way: Over the past, we have simply been paying out too much to recipients of retirement programs than the amount they put in deserved. You could not go out in the private sector and, with the payments made over the past years by current recipients of Social Security, buy, under any circumstances, the kind of retirement program those people are now receiving.

In fact, it has been estimated that the average current retiree under Social Security uses up in retirement benefits all the dollars he or she produced in taxes during the entire time of their employment for, say, a 30-year period, in less than 3 years. Who pays for the continued retirement benefits after that 3-year period? Those who are paying into current Social Security taxes. So it is today's generation paying for yesterday's generation's Social Security benefits. We do not have a system where everything is nicely calculated and oriented precisely toward the generation affected.

Let me turn to this marvelous capacity we have to estimate precisely what is going to happen in the future. Let me take two views of the long-term validity of the Social Security trust fund.

It is my understanding that we have four different alternative futures on which to base the size of the Social Security trust fund; and we use for our projection purposes what we call the second most pessimistic outlook. That second most pessimistic outlook produces for us an almost $13 trillion surplus by the year 2030, and then it starts to erode and erode rather rapidly.

What if, by some chance, we had a second most optimistic future rather than a second most pessimistic future? Let me tell you what the differences are. They are not very large.

It is suggesting that the Consumer Price Index over the years goes up at 3 percent, rather than 4 percent; that average annual wage increases are 5 percent, rather than 5.5 percent; and that annual interest rates are 5.5 percent instead of 6 percent.

Those do not sound like very big differences, but what does it do for the Social Security trust fund in the year 2030? Instead of $12 trillion, it will be $15.5 trillion. In the year 2035, it will be $17.5 trillion. I would judge—although that is as far as they have made this calculation—that if those second most optimistic figures were to be carried on into the long-term future, we would find that the Social Security trust fund would never come down. It would continue to grow and grow, and we would pay all the benefits we are now suggesting for the future, without having anything happen to that Social Security trust fund balance.

Mr. President, what I am trying to point out is that this amendment does one thing. It takes one step, perhaps, toward honesty in budgeting, but it is an incomplete step; and if it is the only thing we do, we will be fooling ourselves and the people.

We ought to be adding, as the Senator from Oklahoma suggested, all the other trust funds. We ought to be putting in our budget system and our balance sheet each year the unfunded liabilities of the various pension plans outside of Social Security. We ought to distinguish between capital outlays and operating expenses.

A recent analysis was done by a distinguished professor from Stanford, Michael Boskin. In his paper, he showed how the balance sheets or the profit and loss statements of various companies would compare if, instead of using generally accepted accounting procedures, they had used the Federal Government's way of keeping books, with some remarkable results.

In 1984, for example, he concluded that if General Motors had used Federal accounting procedures, they would have shown a net loss of $4.82 a share. Yet, General Motors that year reported, under GAP accounting, a profit of $14 a share. That is an extraordinary difference, just in the way you keep your books.

Mr. President, we are a long way from going far enough in this amendment; and, in fact, by adopting it, I think we would perhaps deceive ourselves more than we benefit ourselves.

We have to do a thorough overhaul of the Federal budget and its bookkeeping and accounting procedures. We now have 154 separate accounting systems in the Federal Government. They are inconsistent. They are sometimes irreconcilable. Virtually none of them live up to the fundamental general and accepted accounting procedures that are required for virtually every private company and which most States have now adopted.

Mr. President, I am a little bit at sea. I do not think I will support this amendment because I think that it is terribly incomplete. Perhaps there will be other amendments that will make it more complete. But in the final analysis, it will not change things very much.

The Social Security System will continue to invest in Government bonds, and all that will be there when the time comes to pay is a promise to pay, regardless of whether we adopt this amendment or do not adopt it. I do not think it makes very much difference whether we take it off the budget or on the budget. We are only to go so far as a Congress in terms of our courage in doing what is going to be necesary to bring that red ink down and I think there are simply three and only three things that can be done.

First, we ought to devise for ourselves a sophisticated accounting system.

Mr. President, I ask for 2 additional minutes from the Senator from Idaho.

Mr. SYMMS. I am happy to yield to the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 additional minutes.

Mr. EVANS. We can do just three things. The first we ought to do under any circumstance, and that is to as quickly as possible develop a sophisticated, up-to-date, modern accounting system for our Federal Government that matches those of major corporations and matches those of other States.

Second, we have to recognize that if we are truly going to move forward to what I believe ought to be a balanced budget, but under honest accounting, we have to cut a lot deeper into our current spending plans than we have dreamed of doing up to now and whether we put Social Security on budget or off budget is not going to change that one iota.

Third, we are going to have to start talking about revenue increases, and let us just say the naughty "T" word—taxes, if we are going to meet these responsibilties. Unless we are willing to be far more serious than any of us have shown any courage to be up to now and cut away at our current spending levels, there, Mr. President, h'aint no other ways to do it.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield 10 minutes to the distinguished Senator.

Mr. HOLLINGS. I thank our distinguished chairman.

Mr. President, I rise to make clear the reservations I will hold in voting for this sense-of-the-Congress resolution admonishing Congress that it should enact legislation to exclude the Social Security trust fund from the Federal budget. I agree with that end objectives. Congress should enact legislation that would within 5 years eliminate the deficit while also excluding Social Security from the budget.

I must say, however, that it is very, very misleading to enact big increases in the 1989 deficit, while congratulating ourselves for saying we "should" deal with the deficit and the trust fund accounting within 5 years.

I remind my colleagues that we went through this exercise in 1980 with the Byrd amendment—that was Harry Byrd of Virginia—and we said the budget should be balanced the following year. We only gave ourselves a year at that time.

Now, we are backtracking. From the perspective of history, we are backtracking by now giving ourselves 5 years. Of course, in principle, I do not disagree with that time span. If you tried to balance the budget in 1 year, you would throw the economy into a tailspin. My difficulty is with the approach of this particular resolution. It claims to call for "more truthful disclosure," but in calling for more truthful disclosure of the deficit in essences we observe and shadow and shade the truth. The truth is that the budget now before the Senate does not comply with the Gramm-Rudman-Hollings deficit targets.

It is not difficult to be honest in this Chamber, but it sure is difficult to appear honest because if you sit quitely, then the perception is that all that has been said and all that is on the record is true. But this is not the case at all.

I hear that when Gramm-Rudman-Hollings was enacted it was not contemplated that significant Social Security trust fund surpluses would be available. Yet I have heard the contrary three times on the floor, and the distinguished former chairman of the Budget Committee from New Mexico knows that those contrary assertions are not accurate. We went at deficit-cutting in a draconian fashion. After our Republican colleagues had voted to freeze all spending in 1985 and the President cut the ground out from under them along with Speaker O'Neill, then we got together on Gramm-Rudman-Hollings on a compromise basis. We did the best we could do and in so doing we acknowledged that we needed to include the $10 billion Social Security 1986 trust fund surpluses.

As you remember we reduced the deficit by some $70 billion in 1987, and everybody now is bragging about how well Gramm-Rudman-Hollings has worked.

As one of the authors, I bragged, too, but the truth of the matter is we have not kept the faith. It was contemplated that we would have these surpluses. The House was particularly intent that we use more and more and more of these surpluses so we would have less and less and less to cut.

So, permit me as one of the cosponsors and authors of Gramm-Rudman-Hollings to say this is true. Do not cite those who voted against us and opposed us and say it was not contemplated. The Social Security surpluses were definitely contemplated and we are not now suddently discovering them.

Incidentally, I have an amendment on the desk, but I will join my colleague from Idaho, Senator SYMMS, and he has included not only the airport and airway trust fund, but also the highway trust fund, and I agree with any effort to eliminate the trust funds from being computed in the deficit. I agree because we have tried our best to say trust funds mean what they say. They are in trust and to be used exclusively for the stated purpose, whether that be Social Security, highways, airways, or whatever.

I have a particular responsibility as chairman of the Commerce, Space, and Transportation Committee responsible for authorizations for the airport and airways trust funds. In our hearings and speaking to groups that come to Washington interested in airport safety and development, we repeatedly point out that, yes, we right now have close to $6 billion bucks in the trust fund and we cannot spend it.

And, of course, they are savvy to the fact that the budgeteers and CPA's in Washington are using the trust funds to paper over the profligacy and deficits in other programs that they are not willing to pay for. So we had a $5.5 billion airport and airway trust fund surplus at the end of 1987 and, yes, we will bring in another $4 billion in 1988. We will spend $3 billion, and so we will be back at around the $6 billion level.

I do not want the $6 billion to be computed in the budget in order to hide the true deficit. I do not want any trust funds computed in the budget. So when I heard this debate, I rushed to the floor and prepared an amendment. But I will gladly join in the amendment of the distinguished Senator from Idaho and anyone else who says, "Let's get trust funds off budget and in trust so we can look at the actual picture."

Now, let us look at this actual picture. Do you know how much we spend in this so-called budget? Look at this green book, I say to the Senator. He is on the Budget Committee.

The Congressional Budget Office says if you adopt this budget resolution, you will be spending 281 billion bucks more than you take in. That is exactly what the deficit will be—$281 billion—if you use honest Congressional Budget Office economic projections.

If you look at the numbers year in and year out, you will find that our own nonpartisan Congressional Budget Office has been closest to on target.

The CBO projects a $281 billion deficit because the baseline is $176 billion and we will have a little over $100 billion in all the trust funds.

So why should we now come to the people of America as a responsible group of grown men and women and talk about what we "should" do 5 years from now? Why engage in that game?

When you look at the chart displayed by the sponsor of the amendment, you see right now you would have to add to the deficit the $46 billion that we are lifting from the trust funds. Even if you accept his figure of $136 billion, you still have got a deficit of $182 billion and it is not in conformance with Gramm-Rudman-Hollings.

I feel a duty and responsibility to point that out to our colleagues. I remember as a freshman law student, when we studied and were taught the definition of fraud, they would go down the six elements of fraud: That a representation was made, that the representation was false, that it was intended to be relied upon, that it was relied upon, that it was material to the damage, and that it did cause damage. On each and every one of those six points, this budget resolution stands convicted of fraud. It was intended to be false, it is false, it is material to the subject that we are dealing with, it is being depended upon by your constitutents and mine, the people of America, and it will cause them damage.

For the seventh year in a row, we are putting some $200 billion on the backs of our children and grandchildren and then indulging in the charade of a sense-of-the-Senate resolution entitled "To Be More Truthful." Of course, what the chairman is really saying is "to be more truthful" after I leave town, having retired from the Senate. He is on the way home and wants to get his Social Security.

Yes, Congress should enact legislation that excludes the trust fund surpluses. But why not do it today? Let us vote on it now.

In the Budget Committee, I felt as a matter of conscience that I should submit a budget alternative that would comply with Gramm-Rudman-Hollings. I prescribed a budget freeze combined with new revenues. You must include new taxes. People are afraid to pronounce the word "taxes." Instead, we get sidetracked in the old litany about what is regressive. I do not know of a tax in the world that is not regressive. Do not give me that nonsense about regressive.

Mr. SYMMS. I will be happy to yield 2 minutes from this side.

Mr. HOLLINGS. I might need more.

Mr. SYMMS. I yield 5 more minutes to the Senator.

The PRESIDING OFFICER. The Senator has been yielded 5 more minutes.

Mr. HOLLINGS. I thank my distinguished friend from Idaho.

I proposed a spending freeze. It is not a new idea. If you are a mayor of a city in Nevada, you could not print dollars like we do in Washington. You would go to your city council and you would say, "Look, fellas, we did all right this past year. Let's just take the same budget for next year."

If we did that this year in Washington, we would immediately save about $60 billion. But we did not do it. Instead, we invoked the summit agreement, threw up our hands, and said, "a deal is a deal." Instead of saving $60 billion, we increased spending by $68 billion.

The Secretary of the Treasury, Jim Baker came to Congress and pronounced, "A deal is a deal. The summit agreement reduces the deficit and sets us in the right direction."

Wrong. It increases the deficit and he knows it.

The Chairman of the Federal Reserve Board, Alan Greenspan, tells us "A deal is a deal. This is a fine thing. Let's go forward with the summit agreement because it reduces . . . ." He knows differently.

And then I was challenged by my distinguished friend from New Mexico. He looked at my budget alternative and he said, "My heavens above, look at the taxes." I have included a 5-percent value added tax, an oil import fee, and a 1-year delay in indexing. So my distinguished colleague from New Mexico sent me to the ramparts. He said, "Look at all those taxes. Add all those taxes up, the revenue changes over the 5-year period, and you get $370 billion. Do you think we are ready to vote for $370 billion in new revenues?"

Well, my answer to my dear friend, is to point out that his alternative would mean a $1.5 trillion add-on to the Federal debt within 5 years. The debt will be approximately $2½ trillion by the end of 1988, and the Congressional Budget Office tells us that by 1993 the debt under this plan will grow to $4 trillion.

So, yes, my solution is traumatic. I did not say it was easy. But it is not regressive.

I remember when we imposed a sales tax in South Carolina for education. When I think back on it, it was the most progressive thing we ever did. The people are willing to pay for needed government. But we have been constantly getting reelected and reelected, saying, "I'm against taxes; I'm against taxes." Then we come up here with this fraud of a budget that increases the deficit, telling people it decreases the budget. Then we assuage our consciences with nonbinding, feel-good resolutions saying we "should" be more truthful about the Social Security trust fund. This is not a sense of Congress. This is a nonsense of the Congress.

They act like the budget is something way out yonder somewhere, that we do not have any relation whatsoever to it. Nonsense. We are the Congress. We are responsible. We are seated here in a quorum, expected to do our duty. But we do not do it. Instead, we talk about what we "should" do in 5 years.

Mr. President, I ask unanimous consent to have printed in the Record my submission in the Budget Committee of the 5-year plan of the budget proposal that gets us in the black within a 5-year period.

There being no objection, the material was ordered to be printed in the Record, as follows:

HOLLINGS BUDGET PROPOSAL—5-YEAR PLAN

[In billions of dollars]

	Fiscal year—				
	1989	1990	1991	1992	1993
CBO Baseline deficit	177.0	170.0	159.0	154.0	139.0
Spending changes (outlays):					
Defense (1-year freeze)	−5.2	−8.9	−10.5	−11.5	−12.2
Nondefense (1-year freeze)	−2.6	−4.0	−5.1	−5.3	−5.6
Nondefense initiatives	+2.6	+2.5	+0.8		
1-year COLA freeze (exempt means-tested programs)	−8.8	−11.8	−11.9	−11.9	−11.7
1-year freeze in Medicare reimbursement rates	−1.6	−2.0	−2.1	−2.3	−2.6
1-year pay freeze (civilian agencies)	−1.0	−1.6	−1.7	−1.8	−1.9
Asset sales (summit agreement)	−3.5				
Interest savings	−1.8	−8.0	−17.8	−28.9	−40.6
Total reductions	−21.9	−33.8	−48.3	−61.7	−74.6
Revenues:					
1-year delay in indexing	3.7	6.1	6.6	7.1	7.6
$10 oil import fee	16.2	16.0	15.3	14.0	13.1
5 percent VAT (exempt food, housing, and medicine)	0	44.3	67.2	73.2	79.8
Total revenue change	19.9	66.4	89.1	94.3	100.5
Total deficit change	−41.8	−100.2	−137.4	−156.0	−175.1
Remaining deficit/surplus	−135.2	−69.8	−21.6	+2.0	+36.1
Deficit/surplus under OMB economics and technical assumptions	−99.2	−16.8	+39.4	+82.0	+122.1

Note.—Surplus will be used solely to reduce Federal debt.

Mr. HOLLINGS. Mr. President, five members on the Budget Committee supported my alternative this year—I got eight votes last year—but the line was, "No, not this year." And the Chiles resolution now comes in saying, "No, not this year, but we should in future years."

And so, since we live with 20-second bites on the television, nobody cares about your record of performance, it is only what you say and not what you do. That is why there is such confusion in politics. The pollsters will tell you what's hot, and they will admonish you "Don't do anything else. Don't solve problems. Focus your concerns on what's hot."

And so now we can go along with this particular resolution and say, "I'm concerned because I got up and voted for a resolution that says we will take the Social Security Trust Fund off budget and, within 5 years, we will eliminate the deficit." It is a fraud.

I thank the distinguished gentleman for yielding me the time.

Mr. SANFORD. Mr. President, I rise today in support of the Senate budget resolution now under consideration. This year, under the summit agreement, we did not have the flexibilities normally available to us. We are limited by that summit agreement on overall discretionary spending, as well as on the revenue side.

Certainly it is never easy to cut programs, reduce spending, and in some cases, to freeze spending. This is a compromise budget proposal that, while not acceptable to everyone in every respect, is I believe nevertheless fair. Many of us would like to increase or decrease spending levels in the various functions. However, given the restrictions placed on us by the summit agreement, this is a reasonable proposal that deserves our support.

Mr. President, I want to commend Senator Chiles for making more room in this compromise proposal for economic development programs. I am pleased that it allows an increase in education higher than that proposed by the President. I am pleased that this resolution continues funding for programs that President Reagan has tried for so long to eliminate—programs like the Appalachian Regional Commission, which has been extremely important to North Carolina over the years.

I wish we could increase spending for education more than we are. I wish we could increase funds for other programs, such as those that impact our rural economies. I wish we could allow more room in this budget for welfare reform and catastrophic health insurance. I wish we could vote on a balanced budget resolution. But I understand this is not possible this year.

I want to join my distinguished colleagues in expressing my appreciation for the work done by our distinguished chairman, Lawton Chiles. Under his leadership we have made some very tough decisions—decisions that have not always been popular but that have been necessary to move us toward a more responsible budget; excellent job he has done to bring this resolution to the Senate floor for consideration.

Mr. President, my distinguished colleague from Florida assumed the chairmanship during a very difficult time. His task has been a difficult one, to be sure, and more often than not has been utterly thankless. As a member of the Budget Committee, this Senator would like to acknowledge with appreciation and respect, the Senator from Florida's leadership, his patience, and his graciousness. When he retires from the U.S. Senate at the end of this year this will be a lesser body than the one he found when he arrived here.

Mr. President, I introduced 2 weeks ago, after working with and considering the budget, a piece of legislation I designated "The Deficit Disclosure Act." The deficit is worse than we are telling the public. We use the surpluses of the trust funds to cover up a part of the deficit. The best that can be said for this is that we are deceiving the public to the extent of $50 billion and more.

We need to keep trust funds out of the operating budget. They are not a part of it, and the funds cannot be used for general purposes.

Our chairman, Senator CHILES, has introduced a sense of the Senate resolution to the same effect. We should pass that resolution to show our honesty in talking about the size of the deficit, and then later pass the bill that makes such honesty permanent.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time remains on the amendment?

The PRESIDING OFFICER. The Senator from New Mexico has 28 minutes, and the Senator from Florida has 6 minutes.

Mr. DOMENICI. And how much time remains on the bill?

The PRESIDING OFFICER. The Senator from New Mexico has 18 hours, and the Senator from Florida has about 17½ hours.

Mr. DOMENICI. I thank the Chair.

Mr. President, I yield myself as much time as I need, and I yield it off the time remaining on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand and would like the Senators to know, in the same general area, I am aware of removing trust fund balances from consideration as part of the unified budget in trying to see what the deficit is and that there are a number of additional amendments.

I understand the distinguished junior Senator from Idaho wants to address something which has been dear to his heart for years, and that is the Highway Trust Fund; is that correct?

Mr. SYMMS. That is correct. If I understand the parliamentary situation correctly, we have about 30 minutes to go before we can go to that.

Mr. DOMENICI. I think that is correct.

Mr. HOLLINGS. Will the Senator yield? Does it also include the Airport and Highway Trust Funds?

Mr. SYMMS. Yes. The distinguished Senator from the Commerce Committee already mentioned that. If the Senator wants to offer the airport separately——

Mr. HOLLINGS. I would just as soon join the distinguished Senator as a cosponsor.

Mr. SYMMS. I have prepared an amendment that includes highways and airports.

Mr. DOMENICI. I was going to then add, and I apologize for not doing that, either the distinguished Senator HOLLINGS or the distinguished Senator KASSEBAUM was going to offer an amendment in reference to the Airport Trust Fund, and the Senator is going to do that perhaps with the Highway Trust Fund.

Mr. HOLLINGS. I will do it together with the distinguished Senator.

Mr. DOMENICI. I understand when we have completed that the distinguished senior Senator from Alaska wants us to consider taking all of the postal activities off budget because, as he will discuss it himself, they are self-sufficient. He thinks they ought to be off, too.

I assume there are other trust funds with surpluses that Senators perhaps on both sides are considering taking out of this unified budget.

Having said that, Mr. President, let me talk a little bit. First, I thought my good friend, in discussing my response to his proposal in the Budget Committee with reference to value-added tax, was going to say if we accomplish this proposal that is here and had to reach the balanced budget that he proposed, and I compliment him for the courage—whether I agree with him or not, he is courageous—I thought maybe he was going to suggest come 1992, by using the value-added tax that he had suggested to get to a balanced budget, we would need about $40 billion more in the value-added tax, which I think is about right.

So whatever one would think about the value-added tax he has just described, this whole assumption that we ought not be using the trust funds in a unified budget to see where we really stand, we would have to add somewhere between $30 and $40 billion more in the VAT-type taxes discussed by the Senator from South Carolina.

Mr. HOLLINGS. Will the Senator yield?

On the chart we submitted, by 1993, there will be a $36.1 billion surplus. So we do comply with the Social Security getting off the trust fund and still bring the Government back in the black. With that 5 percent value added tax exempting housing, health care and food, it still adds—I think the distinguished Senator from New Mexico was furnished a copy of this at the time of the budget hearings, and it discussed the $36.1 billion surplus.

Mr. DOMENICI. I thank the Senator. Mr. President, I would just like to make a couple of points.

First of all, I hope that Senators, senior citizens and the American people do not take too seriously the discussions that have taken place on the floor of the Senate about truth in budgeting, about there being something about the way we are doing our budget as being deceitful or intentionally misleading.

As a matter of fact, the unified budget went into effect in Lyndon Johnson's day, and some of us have even, with political rhetoric—I have heard it from the President, the White House, this one and have heard it from others—felt that Lyndon Johnson had some ulterior motive for a unified budget.

I had a very good opportunity to discuss many of these issues with the very distinguished former Federal Reserve Board Chairman, Arthur Burns, who we have all known, loved and respected.

During those periods of time when this unified budget concept was actually put into effect for the United States, unified budget meant placing everything that the Federal Government does, whether it is a trust fund, whether it is an open account of the Government, whatever you charge taxes for, put it all on this one ledger account of the U.S. Government. Of those who looked at how much the Government was taking from the people and how short are they in their commitment, how much are they taking by way of taxes, whatever they be, some have accused Lyndon Johnson of covering up a big budget.

The truth of the matter is, Arthur Burns, then a middle-aged expert on American fiscal policy, told this Senator that he had been advocating a unified Federal budget from the standpoint of good economics and a good picture of what was going on in America, Government versus private sector, for 7 years before Lyndon Johnson was able to suggest to the Congress that we do it.

I do not think the distinguished Arthur Burns had in mind in those days that we would be at this point in the fiscal evolution of America's budgeting process. But the point of it is, if we can all read, if we all listen, if we can pay attention, we can all understand that as a matter of fact, if you have a unified budget, the Social Security surpluses, the aviation surpluses, the highway program surpluses are all in there.

If you want to know what they are, you can ask. If you want to know how we budget it now, we even set Social Security as a separate function of Government so there will be no confusion about it. It is not mixed with anything else. There it sits. For anyone who wants to know what the deficit of the United States of America is without the Social Security surplus under a unified budget concept, all we have to do is subtract the amount of the surplus out of that budget and that much will be added to the unified deficit.

So let me suggest that I do not believe that anyone, including our senior citizens who are very concerned, are really concerned about whether Social Security is listed in the total ledger of the U.S. Government in terms of her activities. I do not think they are concerned about the fact that that surplus is taken into consideration when we look at the deficit. What I think they are concerned about is that they do not want the budget in the future balanced by cuts in Social Security.

Mr. President, I am really not taking a position on the Chiles proposal here. I am merely stating another way of looking at where we are, because I would not like the message to go out that we are perpetuating some kind of deceit on the American people.

The Gramm-Rudman-Hollings current automatic sequester, as a forcing mechanism for deficit reduction, actually says in 1994, for all purposes, you are going to take Social Security off budget. But what it says about Social Security in the meantime is exactly what the Social Security recipients of this country wanted us to do.

It says for purposes of meeting those targets, I say to my friend from South Carolina, that any savings that you might get by reducing in any way the Social Security payments, under current policy, cannot be considered in achieving the Gramm-Rudman-Hollings target.

That means there is no incentive to reduce Social Security benefits in order to reach the targets. I think that is a pretty fair and understandable approach. But to stand up here and suggest that because we have since Lyndon Johnson's day at the recommendation of distinguished conservative economists like Arthur Burns and many like him that we ought to put all of the accounts of Government which have an impact upon our well-being as a nation in the overall economic sense, that we ought to put them all on one budget, and when we do that we are deceiving someone is to me missing the point.

When you talk of American working men and women paying for Social Security, we do not have to tell them about that tax because right now well over half of working men and women in the United States of America are paying more in social insurance taxes than they are in income taxes. You cannot stand around and tell them that is not taxes when they have income tax withholding of $22.80 and Social Security taxes of $36, the sum total of which comes out of their weekly paycheck. You go tell them that is not taxes.

If, in the functioning of the American economy, based upon whether taxes are a drag on the economy or good for the economy, you tell those who look at the American economy that there is a difference between the two and you find one that says there is a difference, one is a tax and one is withholding for Social Security, then it would seem to me they have added a new lack of credibility to the ever-growing doubt about whether they know what they are talking about. If you are going to take $50 billion out of the American economy from the working men and women and their employers in Social Security and you are going to take $50 billion out in income taxes, there may be an empirical difference in some kind of progressivity—one might be less onerous to the economy than another, but no one is suggesting that the way we withhold and take out for Social Security and Medicare is not a very onerous burden on the economy of the United States, all of which we are glad to pay because it is for Social Security.

But the point I am making, Mr. President, to the Members of the Senate is that this kind of activity of the Federal Government belongs in the overall ledger of the American Government activity so that we know how much we are taxing the American people. How apt are we to have reached some saturation point? How much are the surpluses that are around? As a matter of fact, the surplus that is around in Social Security is a very important economic surplus, not because it is a forced savings in the sense that some want to use it. It is a very confusing account 15 years from now, if it works, when it may have more surplus than the entire debt of the United States past and current. So it is kind of confusing as to what this surplus means.

But can there be any doubt from the standpoint of the American people knowing what we are doing, that if you want to take it off budget you have to put it back on budget to understand what is happening. You have to set up two sets of books and then every time you want to look at where are we taxwise, how much more can we tax if we are going to do so without harming the economy, then, we will just put it back on and consider the effect of the Social Security withholding tax along with the other taxes that we have.

So first I would like to say I do not believe we are being in any way deceitful toward the people of this country. The deficit in terms of the budget of the United States is precisely as my friend, the chairman, has expressed it. If you want to have two columns and say this one column in blue is the deficit without taking into account the surplus in Social Security, and then superimpose some red column on top of it and say, however, the deficit will be this much bigger if you were not taking Social Security into account, fine. If you want to figure some new public relations way of making sure everyone knows, fine. I believe the issue that the senior citizens want to be assured of is that we do not look to the Social Security system and the Social Security surplus for two reasons—first, as a pie that we can start cutting in order to reduce the deficit. That is the benefit side. And I have already explained that under Gramm-Rudman-Hollings, if you do that, it cannot be considered as counting toward the deficit reduction.

Second, is they do not want us obligating it for new programs. That is, if there is a surplus sitting around and there are some new social demands imposed upon the Congress of the United States, because we think we want to do them, clearly our seniors do not want that account being used to pay for those new programs on the promise that someday we will pay it back.

In conclusion as to this set of my remarks, let us remember that the Social Security surplus can only be used for one thing, and that is to buy Treasury bills of the United States of America. Then the United States of America pays interest to the Social Security fund at the current rate stated on those Treasury bills. As a matter of fact, that has turned out to be very secure for them, as secure as the strongest Nation on Earth is secure, and it has yielded revenues to that fund that have been pretty healthy. There may be some who will come around and say, "Why didn't we speculate with it instead of using it for Treasury bills of the United States of America?"

Well, would it not have been neat if we had had about half of that trust fund invested in the stock market on that October Monday? We would have been impeached. They would have thrown us out one at a time because they would have said 2-years ago, "Isn't it great; that fund is really booming," but then when the crash occurred and their money went down to perhaps one-third of what it was, they would have said, "Why didn't you have it invested in Treasury bills at a 5⅞ guarantee?"

So everybody ought to understand we do not try to deceive anyone.

There is a legitimate economic reason for having it in there. I hesitate to use the word macroeconomic reason, macro meaning looking at the broad picture of what is going on in America. But there is a reason for having Social Security on that overall budget.

And last but not least, Gramm-Rudman-Hollings right now in existence, is moving us toward a balanced budget, just as surely if not more surely, I might comment, than the amendment offered by the senior Senator from Florida. Gramm-Rudman-Hollings will get you there because you will have sequesters if you do not get there, and in the meantime you cannot consider as deficit reduction savings that accrue because of changes in the current policy of Social Security.

I do not think that is all too bad for this particular moment in history. I also want to close by saying it is interesting that we have Gramm-Rudman-Hollings getting us to a balanced budget with an automatic sequester and at the same time we have asked the National Economic Commission of 12 Americans—I was almost going to say distinguished Americans, but I do not want to say that. Since I was lucky to get appointed, I will just say 12 Americans selected by leadership in this country—are going to recommend how to get to a balanced budget, what we ought to do to accumulate capital for American business, and that we do all of that without taking advantage of those who are most needy.

Now, frankly, I am a little bit concerned, not enough yet to say that we should not be doing this. Maybe everybody wants to adopt this amendment. After all, it just says somebody ought to do something later on. They cannot make them do it if Congress does not want to do it. Maybe they will wait around for the National Economic Commission anyway before they do it. But I do believe when we have that commission in place and when we have asked them to give us a new blueprint, bipartisan in nature, we ought not to come right up on top of that and say, "Here, have a balanced budget in 5 years and take Social Security off the budget as you do it."

Having said that, for Senators who want to know the numbers, I just give you these. If you think meeting the Gramm-Rudman-Hollings targets with the conditions that I have just told you about here today, if you think that is going to be somewhat difficult, my best numbers will indicate that you are going to have to find $46 billion more in 1989 than you currently have to find, $73 billion more in deficit reduction in 1990, $100 billion more in 1991, $124 billion more in 1992, and $147 billion more in 1993.

Frankly, when we are finished today and we have taken the surpluses in the highway trust fund off so you cannot count it even though it is sitting there, and the others, then we will do the arithmetic so everyone will know how much we really have to do in deficit reduction in order to get to this glory day.

Mr. SYMMS. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. SYMMS. I really enjoyed, as usual, the Senator's very lucid explanation of all of this. The thought occurred to me sitting here listening to my good friend that maybe the commission members—I would say the distinguished Americans, and he is one of them—should recommend that if this unified budget concept is so good then we should include State and local governments in it and then the budget would be balanced right now. I, of course, say that with tongue in cheek.

Mr. DOMENICI. Of course. I am glad the Senator said it so I would not have to say it for him.

Frankly, I think we have enough difficulty keeping tab on what we are doing. I think it would be even more difficult if we try to keep tab on the States. As a matter of fact, the States are invited to have a variety of taxing measures and a variety of initiatives because we still have the concept of sovereign States. So they do that on their own. They put everything on budget too. They even have capital investment type programs that are on their budget, as my friend from Washington will tell you, in a different way than we do.

So we have enough to take care of our own, as I see it. But let me suggest to my friend. I am not suggesting at all that there is not a great risk in having an operational budget that is big and growing, and relying upon a dedicated surplus to reach some kind of balance. I am only suggesting that it is not necessarily devious, it is not necessarily deceptive, and from the standpoint of an awful lot of very good thinking Americans it is probably prudent.

Mr. SYMMS. Will the Senator yield again?

Mr. DOMENICI. I would be pleased to.

Mr. SYMMS. Just one more observation: I hear clearly what the Senator is saying. But from my viewpoint, a budget should be a planning document, not some kind of an economic report. We should look at the budget as a planning document and we should have some kind of integrity in the funds dedicated to certain programs. I agree with the distinguished former Governor of Washington about projecting up to the year 2005 or 2000 how much money may come into the Social Security trust fund. But the highway trust fund and the airport trust fund are not based on projections. They already have the Byrd amendment applied to them. They already have a balanced budget concept applied to them. The fact is, if the highway program ends, there is enough money to fund the program for 2 more years. The tax goes on 2 years past the end of the authorization period. So the surplus just keeps getting bigger and bigger.

To my way of thinking, it is totally dishonest to the highway users of America to continue this charade and have these political fights where the President says, "You are overspending on the highways." I was just in my State last week. Everywhere I went, someone wanted another road for economic development. They need more roads. The roads are wearing out. We are sitting on a trust fund down here. I think it is time we address that issue.

Mr. EVANS. Will the Senator yield?

Mr. DOMENICI. Let me comment, and I will sit down. I will be pleased to yield time. Could I finish an observation on the last point? Then I will yield.

Frankly, if we are going to mandate a balanced budget within 5 years or say Congress should pass such a law in the future, what the distinguished Senator from Florida is asking—and do not misunderstand this Senator. I think there is just as much reason to take the surpluses in the highway fund off for that purpose, too. I might also suggest that there is less reason for accumulating that surplus and then crediting it to the deficit than there is for Social Security because, as a matter of fact, you have no alternative on Social Security. If you are going to pay your bills later, you have to have a surplus at some point in time.

So even in that regard there is a qualitative difference. If you want to put it on either side, there is less of a reason for doing it with reference to airports and highways than there is Social Security. On the other hand, my only point is if there is a surplus, and if you are not persuasive enough as an advocate of highway users—and you are a great one—if you are not persuasive enough to have us spend everything in there, and you have gotten to a point because of a President who said let us keep the surplus, and many other Senators and others think perhaps he is right for one reason or another, then all I am saying is you ought to count the surplus as being revenues that are around in the coffers of the Federal Government as a part of the unified budget. That is all I have been saying to this point.

There is just as much reason for doing that as for doing it on Social Security, and probably less reason to have the surplus there which means perhaps at some point we ought to stop doing that. But if it is there it ought to be accounted for. It is taxes on the American public that are there and they are being used for something.

At this point they are being invested just like other money that is around that is being invested.

I would be pleased to yield.

Mr. EVANS. I would like to respond to the Senator's very interesting comments because I think it bears on the strange things we are doing today in this amendment and the amendments that will come forward. The incompleteness of all of it is when the Senator from Idaho suggested if we just added the States and local communities in that we could balance the whole budget immediately. Let me say to the Senator from Idaho if the States—it makes a very interesting point—all of whom brag about their long history of balanced budgets kept their books in the way we keep our books at the Federal level virtually every State would show a huge and growing deficit.

How is it for instance that in the last 8 years since 1980 while we have seen this huge growth in the Federal deficit, and during that same period of time we keep pointing to the States, say they are paragons of virtue, and say they have balanced budgets, during that same 8-year period the total debt of State governments has grown by $700 billion. How can that be if they all have balanced budgets? It is because every single one of them has a capital budget. They keep their books differently. So you can get a $700 billion swing just in the way you keep your books.

I frankly would say to the Senator from Idaho and the Senator from New Mexico that they keep their books in a lot more rational way than we do. It makes more sense, and it is very much the same way that the average citizen keeps his or her books. If you buy a house in a year, there are very few citizens who can afford to pay cash for that house. But they do not consider that they unbalance their budget during that year if they had sufficient——

Mr. DOMENICI. I yield 5 additional minutes off the bill.

The PRESIDING OFFICER. The Senator from Washington may proceed for 5 minutes.

Mr. EVANS. The citizen would not consider that his or her budget was unbalanced because they bought a new house and they could not pay for it in cash. As long as they could pay the debt service, the mortgage payments every month and it was comfortable for them to do so, they would consider that they still had a rational, balanced budget.

So what we are dealing with here, much more fundamentally than the amendment in front of us, is the very integrity of the bookkeeping and accounting system. That is where I think we ought to begin our change.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes.

Mr. President, I want to summarize my points. Frankly, I am not at all sure that we ought to be mandating here today that we do two things: that we not count Social Security in the unified budget and that we achieve a balanced budget without it in 5 years. I have no quibble with the principal goal, what I see at least as a principal goal of my friend, the chairman of the Budget Committee. He would like very much to drill into our consciousness that the ongoing day-to-day operational budget of U.S. Government absent Social Security—which is the point he is making, that one trust account is indeed larger than the deficit—be taken into account under our budget process. I think we can never do too much to convince our people that that is the case.

Frankly, with Gramm-Rudman-Hollings in place—that is, as I have described it, with a National Economic Commission that is charged with giving a report by March 1989, I do not know that it is going to be the end of the world if we vote for this today. Maybe everybody should vote for it; maybe we should take everything off budget and all of us vote for it—I do not know that we are close to being sure that that is a good economic game plan for this country for the next 5 years.

I think that is why the National Economic Commission is going through an in-depth evaluation of where we are, where we are going, what the international markets look like, what international money looks like, what it means to become a debtor in the world, what it means to become a borrower from foreign countries. All these things will be looked at in depth.

For that reason, I rose today to give my reason why a unified budget for the United States makes sense, so long as you do not use it as an instrument to deceive. I do not believe we do, and I do not think I have ever been part of that.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

Mr. CHILES. Mr. President, I ask unanimous consent that the names of the Senator from California [Mr. CRANSTON] and the Senator from North Dakota [Mr. CONRAD] be added as cosponsors of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, how much time does the Senator from Florida desire?

Mr. GRAHAM. Ten minutes.

Mr. CHILES. I yield 10 minutes to the Senator, off the bill.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

Mr. GRAHAM. I express my appreciation to my distinguished colleague from Florida for the time he has afforded me.

Mr. President, this has been a very enlightening debate. I think the experience which those of us who have been in the Chamber for the last hour have shared, underscores the potential for serious deliberation on serious public issues, which should be the norm in the U.S. Senate. I wish to extend my congratulations to all those who have elevated our appreciation of this issue.

I also share the feeling of the Senator from New Mexico that this is not a time when the debate is advanced by using pejoratives. We are all here seekers after truth, as we define that truth to be. I think that a beginning point for this discussion is this: What is it that we are trying to accomplish? What are our objectives? I believe they are fairly and simply stated.

We are trying to understand reality. We are trying, to the best of our ability, to present in numbers what is the reality of our fiscal status.

We can then take the second step of applying intelligible and hopefully intelligent policy decisions to those realities.

I agree with the Senator from Washington, a distinguished colleague, with whom I had a unique opportunity in the past few days to discuss exactly these issues, that the proposal offered by the senior Senator from Florida is not the millenium. It does not deal with the full panoply of issues with which we need to eventually come to grips. But I believe that, accepting its incompleteness, it is an important and fundamental beginning step around which other decisions might be rallied in order to achieve a fuller public policy statement of reality and a response.

I say to my friend from New Mexico that I would agree with his historical analysis, but I believe there are some occurrences over the past 2 decades which, had Americans as distinguished as Arthur Burns been called upon to respond to, might have changed their earlier opinion.

No one contemplated in the 1960's that, within a period of less than 7 years, we would more than double the Federal deficit. No one contemplated that we would ever run deficits of the scale that we have been running in this decade of the 1980's.

It was probably not a contemplation that we would have arrived at a mixture of financial accounting in which we would be placing under an accrual system items in the Federal budget as substantial as Social Security, while we continued to deal with other enormous aspects of Federal financial responsibility on a cash basis.

Earlier today, during morning business, the Senator from Wisconsin [Mr. PROXMIRE], submitted for the RECORD an article by Herbert Stein, which appeared in a recent edition of the Wall Street Journal, in which Mr. Stein, an earlier advocate of the unified Federal budget, stated why he has reversed his position.

So, while history may be instructive, it should not be enslaving in terms of how we look at this question. I suggest that the current process of including the Social Security surpluses in the determination of the extent of our Federal fiscal deficit misstates reality in the following ways: It misstates it economically. It masks the reality of the financial problems and the financial challenges which our Nation is facing.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Social Security Surpluses Said to Mask Size of Deficit," which appeared in the March 5, 1988, Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 5, 1988]

SOCIAL SECURITY SURPLUSES SAID TO MASK SIZE OF DEFICIT

(By Paul Blustein)

Sen. Bob Packwood couldn't believe his ears.

The witness at a Senate hearing several weeks ago was saying that the Social Security system was starting to build huge surpluses that will total trillions of dollars over the next 30 years in order to pay the cost of retirement benefits for the Baby Boom generations early in the 21st century.

Shocked at the magnitude of those projections, the Oregon Republican phoned the chief actuary of the Social Security administration a few days later to confirm the data. The actuary "sounded just like Jimmy Stewart," Packwood recalled. "He said, 'Yup. That's correct. Those are the figures.' "

The surging growth of the Social Security surplus, which so surprised Packwood, sounds as if it ought to be a welcome development, and in a way it is.

But it also poses some deeply troubling ramifications for the rest of the federal budget, experts warn, and the long-range consequences could undermine Social Security. "We could have a catastrophe waiting," said Sen. Donald L. Nickles (R-Okla.), one of a number of lawmakers who have begun to focus on the issue.

Because of the surpluses, President Reagan's successor will inherit a far bigger budget deficit problem than is commonly realized, experts say.

The surpluses make the overall federal deficit seem smaller than it otherwise would—already by tens of billions of dollars a year and, in the 1990s, by amounts approaching $100 billion a year.

The Social Security system took in $19.6 billion more than it needed to pay current benefits in 1987, and the surplus is expected to be about $37 billion this year.

These surpluses "are nuts we should be storing away to feed the Baby Boom generation when it retires," said Robert Reischauer, a Brookings Institution scholar. So they are "hiding unpleasant realities," he said.

The unpleasant reality, according to Reischauer and other analysts, is that the long-range gap between federal spending and revenue is so wide that the government could undergo a fiscal crisis of unprecedented magnitude when the Baby Boomers retire and start to collect benefits. The result could be warfare between the generations over the explosive issue of whether to honor Social Security's implied commitments.

Avoiding such an outcome will require sizable spending cuts or tax increases or both. "This is *the* budget issue of the 1990s," said Carol Cox, president of the Committee for a Responsible Federal Budget, a group of former lawmakers and other prominent citizens.

Behind the problem lies a decision made in 1983 to put Social Security on a solid long-range footing by trimming benefits and raising payroll taxes so that surpluses would start to mount in the late 1980s.

Although the surpluses are growing as expected, the overall federal budget is in the red and is projected to remain so for the foreseeable future. This means that a serious shortfall exists between general tax revenue and government spending on activities other than Social Security—defense and law enforcement, for example.

"All of the medical research that we support, and all of the dam construction and education and agricultural programs that we fund—all of this is being supported by a smaller and smaller portion of taxes, and a greater and greater proportion of borrowing," said Stephen Bell, a former top Republican staffer in the Senate who heads the Washington office of Salomon Brothers, the investment firm.

The situation contains the seeds of disaster, according to Bell and other experts, because the Social Security surplus is being used, in effect, to provide much of the financing for those dams and farm spending and other non-Social Security programs.

The surpluses are, by law, placed in the Social Security trust fund, where they are invested in Treasury bills and bonds—in other words, lent to the government. They are projected to exceed $100 billion a year late in the next decade, assuming modest growth in the economy, so they will provide a major source of financing for the government. And meanwhile, the trust fund will be accumulating a massive pile of assets in the form of Treasury securities.

But a severe crunch could come when the system's annual surpluses turn to deficits, probably between the years 2010 and 2020.

At this point, if nothing has been done to bring the rest of the budget closer to balance, the entire government will be deeply in the red and forced to borrow staggering amounts. A dispute would likely erupt over whether to raise hundreds of billions of taxes on workers or cut the Baby Boomers' retirement benefits.

Under current policy, "the burden on taxpayers when the Baby Boom generation reaches retirement is going to be extraordinary," Cox warned.

What is of concern right now, experts say, is the fact that it is difficult to summon much of a sense of urgency about the problem. Part of the reason for this is the Social Security surpluses cause the official deficit projections issued by the White House and Congress to seem less ominous than they are.

"The budgetary hole that we've dug for ourselves is deeper than the official projections imply," said Reischauer, the Brookings scholar.

Deficit projections are already notorious for their unreliability, but the Social Security issue adds a major new dimension to the problem.

The estimates issued by the White House Office of Management and Budget, for example, have been ridiculed as hopelessly optimistic by critics in part because they are based on a forecast that the economy will continue to grow through 1993, without recession, at an average annual pace of 3.2 percent, generating enough new tax revenue to shrink the deficit to $23 billion five years from now.

But even assuming that the administration's economic forecast proves accurate, the "real" deficit—the deficit excluding the Social Security surplus—will remain stuck well above $100 billion throughout the period, according to OMB figures.

The projections of the Congressional Budget Office show a similar trend. CBO forecasts a less buoyant economy; it projects that the overall federal deficit will bounce up from $157 billion in the current fiscal year to $176 billion in fiscal 1989, then narrow to $134 billion in 1993.

With the Social Security surplus excluded, the "real" deficit soars above the $220 billion level in the 1990s, according to CBO's reckoning.

But more significant is the long-range threat to the nation's financial health.

"What is at stake is the implicit social contract between generations, in which each generation bequeaths a higher income to its children, in return for which it expects to be supported in its old age," writes Isabel V. Sawhill in a new study published by the Urban Institute.

The compact is in danger of being broken, Sawhill suggests, by the policy of using Social Security surpluses to fund deficits in the remainder of government, instead of reducing the deficits—thus easing the future strain on the Social Security trust fund.

Mr. GRAHAM. Mr. President, this misstatement of reality is compounded by the mixture of accrual and cash accounting. Let me use as one example the current status of our Federal Savings and Loan Insurance Corporation, the Corporation which is intended to provide security behind the savings of millions of Americans in our thrift institutions.

By a rather arbitrary and not particularly economically driven set of rationales, this particular program is treated within the Federal funds budget, but it is treated on a cash basis. The reality is that there are substantial accrued deficits in this program which are not being reflected in our current Federal funds budget and which are being masked because they are not separated, as is the companion Federal Deposit Insurance Corporation, which provides the same function for commercial banks in a separate trust fund.

So this current system of mixing accrual and cash accounting serves to mask the reality of the economics. It also serves to mask the reality of the politics.

Last year, there was almost an effort made to cast those who would not look to a restriction of Social Security as a means of solving the Federal deficit—to place those people in a pariah status; that in some way you were less than patriotic if you did not accept the fact that reduction in these entitlement programs was a prerequisite to honestly facing the steps necessary for reduction of the Federal deficit.

I suggest that that very attempt to place in that negative category was itself a dishonest statement that there was no contribution which would have been made by reducing the Social Security funds toward the objective of reducing the overall Federal deficit.

Mr. President, I will not offer it for the record because it already appears in the CONGRESSIONAL RECORD of December 20, 1987, but I would suggest to the reading of my colleagues an item from the Washington Post of December 16, 1987, which is entitled "Bite the Deficit, Not Social Security," as evidence of the political masking.

Finally, there is a masking of our generational responsibility. What happened in 1983 was a very sound decision, that is, we were going to look at Social Security on a three-generational basis for 75 years and we would attempt to arrive at an actuarially sound basis over those three generations. The significance of those for those of us in the generation of the 1930's, representing a relatively small portion of America's population, we were going to live through a period in which there would be relatively modest demands made on Social Security and therefore the system would pay out substantially less than would be paid into the fund.

All of that is in preparation for our children. My oldest child was born in 1963. When she arrives at the point that Social Security will be looked to for her economic well being she will be one of millions and millions of that war baby boom and postwar baby surge of population in this country.

We are building up these surpluses in order to meet my daughter's and her peers' financial needs upon retirement. We are creating a generational clash by taking these surpluses which are intended for that very legitimate actuarial purpose and using them to reduce our current responsibility to manage the Federal budget in a responsible manner.

Mr. President, I believe that this debate that we are having today is an important one. It is by no means the last one. We need to deal with the question that the Senator from Idaho is going to discuss, that is, how in a similar although on a lesser manner, the treatment of other trust funds, the highway trust fund, the aviation trust fund, have a similar masking issue.

We need to deal with the question of how our ability to carry out intelligible public decisions such as how to meet our transportation needs through a user-based funding mechanism are being distorted by this process of unified Federal budget.

We need to deal with the issue that has been raised by the Senator from Washington and that is how do we segregate the question of Federal capital budgets from our main operating budgets which is the principal reason that the statistics that he cited on a major American corporation and the allusions that he made to how State and local budgets would be so different if they were under our accounting system is explained.

It is because most other entities, public and private, distinguish between their capital expenditures which are intended to last for multiple years from those expenditures that are intended to be absorbed within a single budget cycle.

All those are the kinds of issues I hope will be sparked by this debate by the adoption of the very thoughtful amendment offered by my colleague from Florida.

Mr. President, we have much work to do. Today we take a step toward fulfilling our task.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Who yields time?

Mr. SYMMS. Mr. President, is all the time of the Senator from Florida and the Senator from Idaho used up?

The PRESIDING OFFICER. The Senator from Florida has 6 minutes remaining.

Mr. CHILES. I would like to find out if the distinguished Senator from North Dakota would like to speak before we vote on this amendment. If so, I will yield him time off the bill.

Mr. CONRAD. I would prefer to speak before we go to a vote.

Mr. CHILES. How much time would the Senator like me to yield?

Mr. CONRAD. Twenty minutes.

Mr. CHILES. I yield 20 minutes off the bill to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator has that right.

The Senator from North Dakota will be recognized for 20 minutes.

Mr. CONRAD. Mr. President, I wanted to take a few minutes to try to put in perspective the importance of the debate that we have been engaged in for the last several hours. The importance of this debate is that it has real world effects on the economy—that all of us are affected by in this country.

When we look at the question of the budget that is in front of us and the specific amendment of the chairman, I think we have to put in perspective where we are today. I brought several charts to outline where we are, where we are going, what the effects are on all of us in this economy and why we might want to make some fundamental changes such as the one proposed by the chairman.

Mr. President, this first chart shows the Federal spending and revenue pattern from 1980 to the present. The top line is the spending line of the U.S. Government. The bottom line is the revenue line. In red are the deficits that we have accumulated.

I think it is abundantly clear. The spending line goes up at a steady pace; the revenue line, which had been tracking closely with the spending line of the U.S. Government, took a U turn with the 1981 Tax Act. The result was that the deficits of this country absolutely exploded. We went from $50 billion a year of deficit to $200 billion a year of deficit for as far as the eye could see.

Mr. President, I am asked repeatedly by my constituents where is all the money going, where are we spending all of this money? This chart shows the composition of Federal spending for fiscal year 1987, and it shows that 28 percent of our money is going for defense, about 20 percent for Social Security, 7 percent for Medicare, and 14 percent for interest on the debt.

We have heard repeatedly in the last 2 years: We cannot touch Social Security. We cannot touch defense. In fact we have to give defense a big increase. Obviously we cannot touch interest on the debt. The trick in Medicare is to hold down the increase.

Mr. President, just those four areas are 70 percent of all Federal spending. Some have said we can cure the deficit problem just by cutting spending. If you accept the notion that all four of these areas are out of bounds, you cannot touch them, then what we are left with is about 30 percent of all Federal spending, or about $300 billion.

The deficit last year was $150 billion.

So, Mr. President, if we are to accept the notion that we cannot touch Medicare, Social Security, defense, or interest, we would have to cut every other Federal program in half; every agriculture program, every education program, every veterans' program, every highway program, every parks program, every other Federal program would have to be cut in half.

What is the result of the spending pattern that I have described? The result is that the public debt of this country has gone from less than $800 billion in 1977 to $2.8 trillion in 1989. In 12 years, we will have more than tripled the public debt.

My constituents ask, so what? What difference does that make to me?

Very simply the difference is this: this next chart I have prepared shows what has happened to what we call long-term real interest rates. Real interest rates are the difference between the interest rate that you pay and the level of inflation.

Mr. President, this chart shows over a very long period, from 1962 to 1987 what has happened to real interest rates. Real interest rates are what really matter, because they are what dictate the economic effects in the real world.

As you can see, this chart discloses from 1961 to 1981 real interest rates averaged just over 2 percent. From 1982 to 1986, as we accumulated this enormous public debt, real interest rates exploded and averaged 6.2 percent over that period.

Mr. President, the important thing historically is that real interest rates, which absolutely skyrocketed at the same time we started accumulating this enormous public debt, and put pressure on our economy. In fact, these real interest rates reached record levels of nearly 8.5 percent in 1984 and 1985. They have come back some now but are still are record levels.

Now what difference does that make? Well, Mr. President, it was the combination of the fiscal policy that piled up these enormous deficits, and the monetary policy of tight money—because the Federal Reserve Board saw the Congress and the President doing nothing about fiscal policy and so they kept the screws on the monetary supply of this country. That drove up the interest rates. And what did that do? At the very same time, the public debt was increasing, forcing up interest rates, the value of the dollar skyrocketed. And it skyrocketed because we had the record high real interest rates to attract the foreign investment dollars.

So, Mr. President, we can see what happened to the value of the dollar. It, too, absolutely exploded and went up nearly 100 percent in value from 1980 until the peak in 1985.

What difference did that make when the dollar skyrocketed in value against the currencies of other countries of the world with whom we do business? Well, the effect was predictable. Our ability to compete in the international marketplace collapsed. Our trade deficit started growing like a cancer. And, in fact, in 1987, the trade deficit was greater than the total of all the trade surpluses accumulated since World War II.

And so, Mr. President, in 1 year, we were able to eliminate all of the trade surpluses accumulated since World War II. We hear some say, "Well, it does not really make any difference. Everything is OK. If we are like State governments, we would be running surpluses."

Oh, no, Mr. President. Everything is not OK. There is a real world price to pay for the nonsensical policy we have pursued for the last 8 years. And the bill will be paid. The chickens are coming home to roost. And anybody who doubts that only has to study the trade deficit numbers.

Mr. President, what difference does it make when we start running these massive trade deficits? Well, the final outcome of an economic game plan that does not add up and does not make sense is that we have gone from being the largest creditor Nation in the world to being the largest debtor Nation in the world. We have done that in a remarkably short period of time.

In 1982, we were the largest creditor Nation on the face of the globe. In 1984, we crossed the line and became a debtor Nation. By 1986, we were the largest debtor Nation on the face of the globe.

Mr. President, there is a real world effect when you go from being creditor to debtor. Everyone who owes money at a bank understands that. Because you are treated much differently when you have a big deposit versus when you have a big liability at the bank. All of a sudden that banker has a lot more to say about your future and what you are going to be doing.

And, Mr. President, unfortunately our banker is no longer our neighbors. Today our banker is our friends in Japan, our friends in Western Europe, our friends in the Gulf States. Those are the people from whom we borrow the money in order to finance this enormous debt.

Mr. SYMMS. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. SYMMS. I think your numbers on the trade deficit are very interesting. The question I would propound is a hypothetical question, so if you do not have any idea, then we will drop the subject.

But the question is: What do you think the trade deficit or surplus is in North Dakota? Do you think North Dakota buys as much in dollar value as it exports, or is it vice-versa?

Mr. CONRAD. Well, North Dakota would be somewhat of a special case, because, as you know, we are an export economy.

Mr. SYMMS. Probably a surplus?

Mr. CONRAD. We would probably have somewhat of a trade surplus, although it would be marginal.

Mr. SYMMS. The reason I asked that question is that States like North Dakota and Idaho and South Dakota and other commodity producing States where the economy has struggled in the past years—our economy in Idaho has now turned around, but, for a few years, it was very difficult as worldwide commodity prices remained low. Most of those countries do have trade surpluses that have slow economies, and the countries that have stronger economies have trade deficits. I just wondered how the Senator would handle that with the proper perspective here.

Mr. CONRAD. Well, ultimately we earned debtor status. The situation has to reverse itself. What does that mean? That means we are going to have to consume less in this country and save more.

Mr. SYMMS. Are we going to have to have a recession to fix this trade deficit? Is that what the Senator is saying?

Mr. CONRAD. I certainly hope not. I think the sooner we take action the less draconian the solution. The longer we delay, the worse the situation gets.

As the Senator well knows, the situation is more serious than it appears because of what we face with the Social Security surpluses being used to mask the real size of the deficit, which is my final point.

These deficits, which we have told the country are being reduced, in fact, are being increased. We know the numbers. CBO, which we have used for years in the Congress to give us a meaningful look at the deficit numbers, says in 1987, the deficit was $150 billion. In 1988, the fiscal year we are in now, they are projecting $161 billion; in 1989, $165 billion. That is a deficit that has been increasing, not being reduced. And the real size of that deficit is being masked by the fact that Social Security surplus, which was $20 billion in 1987, is $37 billion in 1988 and $46 billion in 1989.

Now, we can continue to play this game. And the Senator from New Mexico says we are not misleading anyone. To the contrary. The American people are being misled. I know my constituents are being misled because I asked them. Their conclusion is that we are saving money for the Social Security trust fund for the time when we will have the baby-boom generation come along and the surpluses will turn to deficits.

Mr. President, this chart shows very clearly the predicament that we are in. Those Social Security surpluses that we are using to reduce the size of the deficit, you can see the magnitude of those surpluses will continue until approximately 2015.

Mr. SYMMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. CONRAD. I thank the Senator from Idaho.

You can see what happens as these surpluses continue to mount in Social Security, but then turn to deficits. Because starting in about the year 2015, the Social Security surpluses which have run up to $75 billion a year turn to deficits; deficits of $50 to $150 billion a year and, boy, will the baby-boom generation be surprised then. They are expecting those trust fund surpluses to have been set aside to be ready for the time when they are read to draw Social Security.

But you know what they are going to find, Mr. President, when they go to collect Social Security? They are not going to find surpluses that have been socked away in preparation for the time when they are ready to draw Social Security. Oh, no.

They are going to find bookkeeping entries; bookkeeping entries that say we will pay. Then, Mr. President, the chickens are going to come home to roost and then we will see the most incredible struggle between generations for Federal dollars that we have ever witnessed. And that, Mr. President, is why if we are to be honest with the American people and honest with ourselves, we must take Social Security off budget so that it cannot be used to calculate the deficits, to mask the true size of the deficit, and to mislead not only us but the rest of the American people as well.

For that reason, Mr. President, I would urge support for the amendment proposed by the chairman of the Budget Committee. But I would also urge that we just say "no" to the budget resolution because, as I have outlined, we are not reducing the deficit, we are increasing the deficit. If you look at the Social Security surpluses in combination with the other trust funds the hard reality is we are stuck at an operating deficit of $240 to $280 billion a year for as far as the eye can see and all of the propaganda that we have put out to the contrary notwithstanding, the deficit is not going down as a result of the summit agreement, it is going up.

We should not submit and surrender to the summit agreement. We should stand up and make the tough decisions that will get this economy back on track.

Mr. President, with that I want to conclude my remarks and thank the chairman for yielding me this time and yield the floor.

The PRESIDING OFFICER. The Senator yields the floor. Who yields time?

Mr. SYMMS. Mr. President, I yield myself 1 minute off the bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I am prepared to offer my amendment but I believe the parliamentary situation is that there are 6½ minutes left for the majority; is that correct?

The PRESIDING OFFICER. The Senator is correct. There are 6 minutes remaining.

Mr. SYMMS. Six minutes remaining for the majority and the way the rules are on the budget resolution my amendment will not be in order until that 6 minutes has either been yielded back or has been consumed by the majority.

The PRESIDING OFFICER. The Senator from Idaho is correct.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have been asked to serve as temporary manager of the bill and in that capacity I yield myself an additional 2 minutes until the manager returns to the floor.

Mr. President, let me just resume the argument that I was making before I yielded the floor. To repeat the point: We are not reducing the Federal deficit with this budget resolution today. The deficit is increasing and it is increasing at a time when we can ill-afford to allow that increase. This budget calls for $68 billion of increased spending. Mr. President, that strikes me as inappropriate at a time we are adding to the budget deficits, deficits that are already too large, deficits that are already taking a toll on this economy.

I think the conclusion is inescapable, Mr. President, that public enemy No. 1 is the public debt. We have an obligation as elected officials in this country to face up to the economic problems that we confront in this society.

Mr. President, I just returned from a trip to the Soviet Union and one of the things that gnaws at me as we review the events of that trip was that the Soviet Union confronts very serious problems of their own, far more serious than anything we face because they have a system that does not work.

Mr. President, the Soviets at least acknowledge the problems that they face and they are attempting to change. The thing that disturbed me the most about my trip to the Soviet Union was that when I returned home, we are not facing up to our most serious problem. We are not yet engaged in an all-out fight to slay public enemy No. 1. We have not yet engaged ourselves in the struggle that must be fought and must be won.

So, Mr. President, I remain hopeful, as we look to next year, that somehow we will find the political courage to make the difficult choices that must be made and I, along with others of my colleagues, will be forming a balanced budget caucus in an attempt to start to put together the alternatives that we will need to have before us in order to solve these problems as we face the difficult challenges Congress and the new President will confront next year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor. Who yields time? The Senator from Florida has 4 minutes remaining.

Mr. CHILES. Mr. President, some 3 weeks ago, the Budget Committee held a hearing on the exact issues addressed in this amendment. First, that the Social Security surplus currently masks the size of the real deficit. Second, that these surpluses are supposed to be set aside to pay the retirement benefits of the baby boomers. Third, that without major changes in budgetary policies, the Federal Government will be running both a large operating deficit and a Social Security deficit starting around the year 2015.

Perhaps the most critical problem we dealt with was addressed by our two chief witnesses, Dr. Barry Bosworth of the Brookings Institution and Dr. John Palmer of the Urban Institute, two of the country's foremost experts on this subject. The message from both Bosworth and Palmer's testimony was clear: We are not saving the Social Security surpluses and we are going to be in a lot of trouble because of this when the baby boomers retire.

Bosworth told the committee that rather than saving the surpluses and using them to enlarge the Nation's capital stock and increase future national income, the surpluses are being used today to finance consumption. In no way are we passing on funds or resources to future generation. Bosworth's conclusion: "We simply cannot get ourselves to pay for our own consumption today out of our own taxes, and we are trying to borrow from our pension funds to sustain our consumption * * * what we are doing today is creating an enormous problem for the future, where one group, one generation, is going to claim that they deserve it, when, in fact, they never saved it."

Palmer echoed Bosworth's analysis. Palmer told the committee that if Social Security reserves are to help ease the future financial burden when the baby boomers retire, they must help enhance economic growth in the interim. These reserves cannot be used simply to offset the current deficits resulting from other expenditures.

Both Bosworth and Palmer warned the committee of the risks of low national savings rates. We are simply consuming too much and saving too little. We are doing it in the private sector and the public sector. The Government is borrowing from the future to pay for today's consumption.

All of our hearing witnesses—Dr. Bosworth, Dr. Palmer, and our third witness, Robert Myers, former Chief Actuary of the Social Security Administration, urged that the Social Security balances be removed from the Gramm-Rudman-targets. All three encouraged Congress to face up to the real budget deficit by not counting the Social Security surpluses and setting them aside for their true purpose: To pay for retirement benefits.

Mr. METZENBAUM. Mr. President, I strongly support the amendment offered by my distinguished colleague from Florida, Senator CHILES. Back in March 1982, I introduced legislation in the Senate designed to safeguard the Social Security System from being misused for political purposes. At that time I said that the bill would prevent this administration or any other from balancing the budget on the backs of the elderly. My legislation called for the removal of the Social Security trust funds from the unified budget, thus keeping financial transactions in Social Security completely separate from other Government income and expenses.

The Senate moved in this direction in 1983 when it passed legislation to remove Social Security from the unified budget by fiscal year 1993. It accelerated that schedule in 1985 by moving Social Security off-budget in fiscal year 1986.

Mr. President, there have been those who have proposed cutting Social Security to reduce the deficit. Such recommendations do not merit serious consideration. The Social Security trust funds represent a sacred trust for generations of Americans who have contributed to the program in hopes of a safe and secure retirement. Proposals to cut Social Security to reduce the deficit represent a fundamental breach of that trust, a willingness to sacrifice long-term commitments for short-term gains.

Today we make the point yet again in a different way. This amendment puts the Senate on record that Social Security should not be involved in the Gramm-Rudman deficit calculations. In my view, this is simply a matter of fairness, and common sense.

Mr. GRAMM. Mr. President, I want to address this issue about what are we going to do about Social Security. I will begin by saying it is a happy issue. Can you imagine, prior to 1983, the U.S. Congress worrying about what we were going to do about the surplus funds in Social Security? In fact, I remember vividly when my mama called me, having read in the paper that they were not going to send out her Social Security check, she wanted to know what I was going to do about it.

The plain truth is, we did something about it. Quite frankly, there were a lot of things in the bill that I did not like, but the bottom line was we put Social Security back in the black. We made fundamental changes to the program.

My mama got her check, and so did a lot of other Americans. Since that time in 1983, we have been building up the Social Security trust fund for the first time in a quarter of a century.

I will begin my comments by pointing out that we are debating a happy subject today. What are we going to do about the fact that the Social Security trust fund is back in the black with money in the bank with the security of our senior citizens being enhanced every day? This surplus has been created partly as a result of 14 million Americans who have gone to work since 1982 in the private sector of the economy, more jobs than all of our trading partners combined have created since 1982, and partly because in 1983, we took action to begin balancing Social Security actuarially. We made changes that had to be made to deal with the crisis in Social Security.

Having pointed out that we are dealing with a happy subject, let me relate that subject to the budget. I think there may be some confusion in this debate, and I want to make sure nobody is confused. Under the Gramm-Rudman-Hollings law, we specifically made it illegal to count changes made in Social Security that are aimed at reducing the deficit from counting toward meeting the Gramm-Rudman-Hollings deficit targets.

Let me be sure that everybody understands that. Under the Gramm-Rudman-Hollings balanced budget law, if Congress decided to reduce Social Security benefits, the savings from the denial of those benefits could not count toward meeting the deficit reduction target mandated by the Gramm-Rudman-Hollings law.

So we already have in place legal restrictions that prevent something that we all know has been talked about in every election held since 1980, and that has been balancing the budget on the backs of our senior citizens through Social Security.

I want Senators addressing this issue to understand that it is now the law of the land that Congress cannot reduce the deficit by cutting Social Security. If you vote for the sense-of-the-Senate resolution offered by Mr. CHILES, you are not voting to eliminate Social Security from deficit reduction. In fact, in terms of meeting the deficit targets set out by the Gramm-Rudman-Hollings balanced budget law, we have already done that. We have already eliminated Social Security from deficit reduction.

So if Members of Congress should suddenly go crazy and try to cut Social Security, they are not going to get credit for it in terms of the Balanced Budget and Emergency Deficit Control Act.

What we are talking about here is what do you do about a surplus being built up by the Federal Government. The distinguished Senator from Florida has come up with an idea. His idea is that not only should we comply with the requirements of the Gramm-Rudman-Hollings law, but also, we should not count the receipts and outlays of Social Security as Federal revenues and spending. The Gramm-Rudman-Hollings law says you cannot cut Social Security to balance the budget, you have to do that by dealing with on-budget items, because the truth is, Social Security is not part of the deficit problem. Social Security is a freestanding trust fund. It is in the black. Social Security is not contributing to the deficit problem and, therefore, we have already adopted into law a provision that says you cannot use it as a solution to the deficit problem.

But nobody ever said that we should not take into account that receipts from Social Security taxes and outlays from Social Security expenditures are not part of the Federal Government, that they are not part of the fiscal impact that the Federal Government in its operation has on the people of America.

To tell you the truth, I have not thought enough about the Chiles amendment. Even though it is a sense of the Congress amendment, I have not accumulated enough information in my own mind to know whether I think we ought to adopt this fiction where we say we should not take into account that Social Security is collecting taxes and making outlays in terms of an impact on the economy.

The Senator from Florida says we ought to pass legislation that would say we have to balance the budget without taking into account Social Security. Under current law we have to balance the budget between now and fiscal year 1993, which is calendar year 1992. The budget that is pending before us, if, God willing, the economy stays strong, is going to lower the deficit to $136 billion. That is down from $233 billion in fiscal year 1986. So we have already come a long way since 1986. Between now and calendar year 1992, we have to bring that deficit down to zero.

What Senator CHILES has proposed is that we do not reduce the deficit down to zero. That, in fact, since Social Security will be running a surplus of $97 billion in 1993, we should actually run a surplus of $97 billion in terms of the overall Federal Government's impact on the private sector of the economy.

That is, Senator CHILES has proposed that in 1993 the Government should take in $97 billion more than it spends. I have to admit, Mr. President, that as a fiscal conservative, while all these years I have dreamed of balancing the books, never once have I thought we might be running a $97 billion surplus.

We may want to do that. We may want to undertake the task of trying to achieve that goal.

I want to remind my colleagues that if we adopt the Chiles proposal, in order to meet the Gramm-Rudman-Hollings target in 1990 with our new President, we are going to have to either cut $58 billion more or raise that in taxes, and it is going to be an additional $71 billion in 1991; $81 billion in 1992; and then $97 billion in 1993.

Quite frankly, I believe we could do it. I believe that we could do it by reordering priorities, but it is very interesting that the same people I now hear talking about doing it are the people who do not want to eliminate subsidies to Amtrak, who do not want to terminate the beekeepers indemnity fund, who do not want to eliminate operating subsidies for mass transit. So I simply submit that we are biting off a lot here, and I am not sure Congress is ready to chew it.

But that is not the subject I want to address today, Mr. President. The subject I want to address is do we really know what we are getting ready to undertake? Have we ever lived through a period in American history where we were running these kinds of fiscal surpluses in the aggregate, that is, taking in more than we were spending?

I started thinking about this yesterday and it suddenly hit me that this has happened before. In fact we have done exactly this, and we did it in a period called the specie resumption period. And if my colleagues will forgive me for being a little professorial, I would like to try to present a little history lesson this afternoon. I think we ought to ponder history before we rush off and decide that we want to undertake a policy that is going to affect greatly our country and our people.

Now, the specie resumption period came about for the following reasons. In 1860, we had a war, the Civil War, and during that Civil War the Federal Government accumulated a $1 billion debt. Now, that was the Union government. In the South we ran a big debt ourselves but ended up repudiating the currency and never paid it back.

This billion-dollar debt created massive inflation, and it drove this country off the gold standard because the value of gold rose far above the dollar value to which it had been pegged.

At the end of the Civil War, there was a desire to go return to the old gold standard at $26.67 an ounce. As a result, the Government of the United States undertook a remarkable policy, which was to keep taxes high and to accumulate big fiscal surpluses. As taxes were paid in greenbacks, remarkable as it sounds in this era of free spending and deficit spending, we took those greenbacks and we burned them. We burned huge volumes of these greenbacks, and from 1866 to 1879, we literally bled that billion dollars out of the economy. In 1879 we resumed the gold standard at $26.67 an ounce. We basically continued that policy through the turn of the century.

You might be interested in knowing what happened as a result of these big fiscal surpluses. Well, what happened is that we now call the Consumer Price Index went right through the floor. Prices declined dramatically, nominal wages declined, and interest rates were virtually zero. For that period from 1866 to 1879, and in fact through the turn of the century, on average, prices fell by 1½ percent a year.

It all worked pretty well; 20 million immigrants came to this country looking for opportunity and freedom. They found both. Our economy was the envy of the world. But I want to submit to my colleagues, do we really want to undertake a policy today without any real debate, without any real analysis, that might bring the consumer price down year after year, that would mean every year wages would have to fall in nominal dollars? I am not sure, given the makeup of our modern economy, with the negotiations we have with public employee labor unions, with the fact that our industrial sector economy is largely unionized, given the rigidities of our system, given the cost-of-living increases that do not turn negative, that we want to do so. If we are running a $97 billion surplus and prices decline by 5 percent, are we going to cut Social Security benefits by 5 percent? No; we are not. In fact, the law does not provide for that. Everybody getting a fixed payment from Government would see a real rise in their income, and the economy would be put through a steady wringer.

Maybe we would adjust to it, but I submit to my colleagues that I do not think it is a good idea for us to be debating a policy to commit ourselves to a $100 billion surplus in terms of the fiscal operation of the United States in 1993 without having the foggiest idea of what that would do.

Quite frankly, I might like it. The problem is I do not know enough about it to make an informed decision. If we look at the period of specie resumption from 1866 to 1879, which is the only comparable period I am aware of in American history where this kind of policy that is being called for was undertaken, and we translate that experience to the economy of 1988, I am not sure it is going to work very well. I think we ought to know what we are doing before we go charging off and do this.

In addition, quite aside from the problem of these huge surpluses that we are talking about running where the Government would be taking $100 billion out of the economy in 1993 on net, I think it is clear from the amendment that is now pending, this is not going to be the end of the story. If Senator CHILES takes Social Security revenues and outlays from even counting as part of the fiscal operation of the Federal Government, remembering we have already outlawed changes in it to reduce the deficit to count toward the Gramm-Rudman-Hollings deficit targets, the distinguished Senator from Idaho is now prepared to take the airport and the highway trust funds off-budget. I do not doubt that there is some clever staff person even as we talk who has come up with some other things we could take off-budget and have a balanced budget today. In fact, we could vote to eliminate the Federal Government today by simply taking all parts of the Government off-budget. I would not be surprised if there is not someone who thinks we ought to take Congress completely out of the budget. That would in fact lower the deficit since Congress earns no revenues and spends almost $1 billion a year.

Mr. SYMMS. Trillion.

Mr. GRAMM. No, only $1 billion of the trillion dollar Federal budget is spent on Congress. In any case, I submit, Mr. President, that we really do not understand what we are doing. We are talking about a megachange in fiscal policy. We are talking about a policy that is going to institute the macroeconomic circumstances that we have not seen in this country in over a century. I think there is a reasonable way around this. I am quite surprised that it has not been agreed to.

I understand that the distinguished Senator from New Mexico is going to offer an amendment, and I want to commend it to our colleagues. He is going to offer a substitute which is going to say, first of all, that we ought to look at this issue. We already have an economic commission that has been set up by public law and one of the things we ought to ask them to look at is what we ought to do in terms of acting on Social Security; we ought to get their recommendations; we ought to hold extensive hearings. We ought to ask people who are experts in fiscal policy: What would a $100 billion Federal surplus do in terms of the impact the Government has on the private sector of the economy?

I submit, Mr. President, that when we have all the facts, we might decide we want to remove the Social Security Administration from counting as part of the Federal Government. But I for one, based on historical experience over 100 years ago and no comparable experience since, based on the fact that we are now having amendments to remove not just Social Security but the highway trust fund and the airport trust fund from the Federal Government, in terms of any unified budget, I submit that reason and prudence dictate that we study this problem. We need to know what we are doing before we undertake a policy that though it may be well-intended, it could end up creating a fiscal catastrophy for this country.

Finally, before I conclude, I want to go back and reiterate a point that I hope will not be lost on anybody when we vote on the Domenici substitute.

This amendment by Senator CHILES does not protect Social Security. Social Security is already protected. You cannot cut Social Security in order to meet the deficit reduction targets of the Gramm-Rudman-Hollings balanced budget law. What this amendment does is to say we will not even count Social Security's fiscal operations as part of the Federal Government. We may decide that is a prudent policy. But I submit that we do not have enough information to make that decision.

Not in the last 100 years has the Federal Government implemented any policy that is remotely similar to the policy that is being proposed today. The last time we carried out this policy, prices fell by roughly 1½ percent a year for 35 years. I submit that some people might view that as a desirable outcome. But given the makeup of our Government, given the makeup of our Federal programs, given the rigidities that are built into our system; I submit that is probably not a workable situation. And it behooves all of us to know what we are doing before we rush off and do it.

I think the Domenici substitute offers us a reasonable approach to this issue. We should look to the commission that has already been set up to analyze the deficit problem. We should ask them to look at Social Security and the special problem we have with its surplus. We should have extensive hearings. We would get an idea of what the proposed policy would do, and then we can do something that Congress rarely does. We can act on the basis of hard information. I think that is prudent. I hope we will do it. I urge my colleagues to follow that course.

Mr. CHILES. Mr. President, I am ready to yield back any time that I have left on the amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Florida yields back his time.

Mr. CHILES. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1929 TO AMENDMENT NO. 1928

(Purpose: To call for more truthful disclosure of the deficit)

Mr. SYMMS. Mr. President, I have an amendment at the desk to the Chiles amendment. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] for himself, Mrs. KASSEBAUM, Mr. HOLLINGS and Mr. McCLURE, proposes an amendment numbered 1929.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 4, strike all after the word "SEC." and insert in lieu thereof:

"8 (a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust funds, the Highway Trust Fund and the Aviation Trust Fund, are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under the Act:

(2) the inclusion of the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts; and Highway and Aviation surpluses are intended to finance highway and aviation safety improvements;

(4) Social Security and Highway and Aviation trust fund surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security, Highway, and Aviation surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increases in taxes or reduction in Social Security benefits and transportation and air safety services;

(7) the use of Social Security surpluses as a source of national savings and the use of Highway and Aviation trust funds for their intended purposes would bolster the economic capacity of the United States, allowing Social Security benefits claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate purposes of the Social Security trust funds, the Highway Trust Fund and the Aviation Trust Fund, could best be protected by excluding them from the calculation of any deficit reduction targets.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) The Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund, for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund."

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator will yield 30 seconds.

Mr. SYMMS. I will be happy to.

Mr. DOMENICI. Mr. President, I would like to designate the distinguished Senator from Idaho as the Republican Member in control of time and ask at his earliest convenience if he will yield time to the junior Senator from Texas off the underlying resolution.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I think in order to keep the debate in proper context on the floor, my amendment is pending, and I would just like to ask for the yeas and nays on the Symms amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I yield myself 10 minutes off the pending amendment.

Mr. President, I offer this amendment on behalf of myself, Senator KASSEBAUM, Senator HOLLINGS, and Senator McCLURE.

I thank the distinguished Senator from Texas for what I think was a very, very excellent explanation of the situation with respect to both the historical precedent of running surpluses and also where we are with respect to the Social Security Trust Fund Program. I think what he said is most likely true for the Social Security trust fund because the Social Security trust fund deals with future needs, if you will, or payments to future beneficiaries when those dollars are being saved now for the future.

The highway and airport trust fund, which is the pending amendment, deals with current needs. Mr. President, every one knows that the bridges and the roads are lagging behind on maintenance and construction. Those roads and bridges need to be fixed now, not sometime 30, 40 years in the future.

Everyone also knows, even though there may be some virtue in a unified budget for the overall planning of the operation of the Government as big as this Federal Government is, that we would be running approximately a $17 billion highway program right now as opposed to a $14 billion highway program without raising anyone's taxes if the trust fund surpluses weren't being used to reduce the apparent size of the deficit.

So there is a real logical argument for this amendment and a separate record vote on it.

So I offer this amendment on behalf of myself, my friend from Kansas, Senator KASSEBAUM, Senator HOLLINGS, and Senator McCLURE. The amendment states that the sense of the Congress is that Congress should enact legislation that makes the definition of the deficit exclude the surplus or deficit from the Social Security trust funds, the highways trust fund, and the aviation trust fund.

I want to make it clear for the record that this amendment is intended to take the highway and aviation trust funds, the highway trust fund, Rudman-Hollings deficit calculations. Because of Senate rules regarding perfecting amendments, my amendment is worded exactly the same as the Chiles amendment but at every appropriate place I've added the words highway trust fund and aviation trust fund.

This amendment is the highway trust fund and the airport improvement trust fund. It is a sense-of-the-Congress resolution. In my judgment its time has come. I hope we will adopt this sense-of-the-Congress resolution so that next year when the 101st Congress convenes we will be able to address this issue properly. That is to appropriate the funds, return to the States, if you will, the moneys that they have already paid into these trust funds.

The cash balance in the highway fund is expected to be $10.1 billion by the end of the current fiscal year. The President's budget proposal would reduce the obligation limitation for the highway program to $11.4 billion for fiscal 1989. That would bring down highway spending significantly. It is a reduction from the current $11.8 billion obligation limitation which in turn was a reduction from the $12.35 billion annual obligation limitation included in the 1987 highway bill.

If the President's proposal were enacted and held constant throughout the remaining 3 fiscal years of the current highway program, the cash balance in the highway account will be $14.2 billion at the end of 1991 according to the Congressional Budget Office. That is $14.2 billion. Just this past week when the Senate was not in session, in the communities in my State, in Lewiston, in Emmett, in Arco, in Rupert and Burley, all of my meetings were about needed highway projects to help those communities develop their economies and transportation so they can get the products to the market. We are badly in need—Mr. President, could we have order in the Chamber, please?

The PRESIDING OFFICER (Mr. DASCHLE). The Senate will come to order.

Mr. SYMMS. I thank the distinguished Presiding Officer.

Mr. President, the question is why are we not funding the Federal Aid Highway Program at a higher level? That is the question I posed to my colleagues. Why are we not funding the highway program even at the levels authorized in last year's Surface Transportation and Uniform Relocation Assistance Act? Is it because the highways and bridge repairs needs have disappeared? Do you think that is it? No. Are we collecting more money from the Nation's highway users than we can efficiently spend? The answer to that is clearly no. Why are we not returning those dollars back to the State departments of transportation, to the county highway districts, to the city and rural highway districts, and to the State highway commissions? Why are we not returning those dollars? This is not a spending program. This is returning the dollars that highway users have paid in to fix roads and bridges.

We are not collecting more money than we need to meet the Nation's highway and bridge needs. In fact, we are not collecting any money to do the job.

Yet Congress has refused to spend, and the administration refuses to recommend the spending of the user fees already allocated and dedicated for use in the highway program.

According to the Federal Highway Administration's 1987 highway bridge needs estimates, $51.4 billion would be required to meet our bridge and repair replacement needs. Just to maintain 1983 conditions on the Federal Aid Highway System through the year 2000 will take an additional $315 billion—that's $19.7 billion per year. That does not include any additional capacity requirements which could bring the cost up to about $43 billion per year.

So I think the funding needs to maintain this element of our economic productivity and growth through the turn of the century are astounding, yet instead of preparing to meet those needs we are cutting back on spending on this important program.

Show me a community in this Nation, show me a production facility in this Nation, whether it would be a farm, a lumber mill, or whatever, that does not have a good road by it, and I will show you one that will go broke.

We can talk all we want about free enterprise system in this country, but without a good road, I submit that it is difficult for people in one part of the country to produce goods and services and deliver them to another part of the country.

Eighty-seven percent of everything produced in this country goes over a highway. So I think it is important that we start having some integrity in the accounting system of the Federal Government and return these dollars to the States.

In my State of Idaho, we could use a much bigger highway program very efficiently and do great things to improve the ability of our State to have a strong economy.

Lewiston is the highest seaport on the Columbia Basin. There is a beautiful port, but the road from southern Idaho down the river to Lewiston is not completed so that you can take the maximum-sized rigs on the highway. It is a connector between Interstate 90 and Interstate 80. It goes from the Canadian border to Oregon. This is rough country, with long distances.

In my judgment, it does not make sense. It is shortsighted public policy. I hope this amendment will be adopted, and I hope we have a strong vote on this amendment, separately, to make the case that the highways and bridges are wearing out in this country and we are not making the commitment to repair them, but we are asking the taxpayers to pay the taxes.

In recent testimony before the Environment and Public Works Committee, the Administrator-designate of the Federal Highway Administration said the current cash balance and revenues to the highway account of the trust fund would be sufficient to sustain a highway program of $16.75 billion per year through fiscal 1991 without triggering the Byrd amendment, which prevents deficit spending from the trust fund. In other words, the funds are available to support a much larger highway program and the needs far outpace even the available funds. Why are we not spending it?

The answer is very obvious to why we are here and why we are not spending it. It is becoming obvious to many of our constituents who pay highway taxes. The truth is, we do not spend those user-financed, dedicated trust fund dollars because the growing cash balance in the fund helps us more easily meet the deficit reduction targets under the Gramm-Rudman-Hollings law.

On that point, I want to elaborate. The reason we do not spend out the Social Security funds and are accumulating a balance there is that we are talking about building up the surplus for the year 2010, 2011, 2020, 2025. That is projected future needs. The reason we do not spend funds for the highway program now, today, when we do need to spend those funds, is because of budgetary mathematics and to help meet those deficit targets.

I would agree with the distinguished former chairman of the committee that since we have the funds there, we might as well take credit for it in the accounting process, except that is exactly the reason we are not spending the money. We are taking advantage of the surplus, and the citizens are beginning to understand it. We all understand that the true Federal deficit is much larger than shown in the budget resolution.

This amendment is to let the secret out of the bag and address the problem of the highway program, which has done a great deal of good for this country.

People talk about the Sun Belt. I recall driving from Quantico, VA, to Pensacola, FL, in 1960, and found it was difficult to get more than 200 or 300 miles a day, and you were lucky if you did not get two or three tickets going through the small towns.

In my opinion, one of the greatest things that ever happened to the Sun Belt and the economy of the United States was to have the interstate highway put into place, so that you could get through the country without getting stopped or bottlenecked and so that goods and services could flow and transportation and communications could work through the Southeast and through the southern part of the United States. It was a great benefit to my State to improve the highways, and it is a great benefit to this country.

The same problem is true with treatment of the airport program. Senator Kassebaum will lend us a lot greater expertise on that than I can. But I note that while spending in the airport program is increasing slowly, the cash balance in the airport trust fund is growing at a faster pace. The cash balance was $9.9 billion at the end of fiscal 1988. It is estimated to be $11.2 billion at the end of this fiscal year; and under the President's proposal, the cash balance will be $11.9 billion at the end of fiscal 1989.

The administration and some of my colleagues will point out that those figures include funds already authorized but not yet spent. They will say, in fact, that the surplus balance in the airport trust fund was only $5.6 billon at the end of fiscal 1987, and that figure will grow to $6 billion at the end of this fiscal year and drop back to $5.6 billion at the end of fiscal 1989, under the President's proposal.

The truth is that we have authorized a great deal more spending than we have actually allowed in the airport program. By imposing some artificial spending limitations, we are able to say that we have supported significant funding in the airport program, but then we turn right around and prevent a portion of the funds from being spent. The bottom line is that will have $11.2 billion cash sitting in the airport trust fund at the end of this fiscal year which we will not allow to be spent. There is just one reason that cash is sitting in the trust fund and is expected to grow. It is sitting there because the growing cash balance in the trust fund is used to offset the growing deficit in other accounts, thereby, making it easier for us to meet the Gramm-Rudman-Hollings targets.

Mr. President, my friend, Keith Bronstein of Chicago, called me yesterday about this subject. He said it is small comfort to him to be flying in an airplane—his work requires him to do a great deal of travel—to read in the paper about the continual problems in air traffic safety, and yet to see that we are accumulating, a cash balance in the trust fund. There are more and more opportunities for accidents to happen because of more airplanes flying out of congested airports. Yet, Congress and the administration are sitting on these funds and not giving the best effort to make air travel as safe as possible.

Mr. President, I wish to insert in the Record a letter which I recently received from Ray Barnhart, the immediate past Administrator of the Federal Highway Administration. Mr. Barnhart testified before the Committee on Environment and Public Works with respect to the administration's fiscal 1989 budget proposal for the highway program, and he sent this letter as a followup to that testimony.

Ray Barnhart is the longest serving Federal Highway Administrator in the history of this country, and he has a keen understanding of the importance of our transportation infrastructure to the Nation's economic and political well-being.

I ask unanimous consent to have the letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Ray Barnhart,
Austin, TX, March 15, 1988.

Hon. Quentin Burdick,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Dear Senator Burdick: Thank you for permitting me to testify before your Committee regarding the Federal Highway Administration and the Administration's proposed 1989 budget. Although my comments may not have been pleasant for some individuals to hear, and may not have been welcomed in view of Federal budgetary problems, they none-the-less are factually indisputable. The lack of attention given transportation inadequacies seriously compromises the economy of the nation. The support you and your Committee give to this major issue has won my earnest respect and gratitude.

Senator Mitchell has asked that I respond to questions regarding the appropriate level of obligation authority for the highway program for FY 1989. Although I cannot supply precise figures right now because some of my papers are still in my Washington apartment instead of here in Austin, I offer the following comments:

Last year all non-defense budgets were reduced roughly 4½% to accommodate deficit reduction, but that was after those accounts had been increased 2%; all, that is, except the Federal Highway Administration which received No increase. Again this year the Current Services Budget provided for all those agencies to benefit from another 2% increase Except for the Federal Highway budget which received No increase. At a minimum, that discrimination should be corrected and the obligation authority increased.

Projections show that the highway program could be carried at a level of approximately $16 billion per year for the next five years without violating the Byrd Amendment. Obviously, in light of G-R-H that level is impossible to achieve politically, but it should be significantly increased above the proposed level.

In 1982 the Congress, in response to the urgent request of the Administration, increased the federal fuel tax $.05 per gallon on gasoline and instituted an additional $.06 higher differential on diesel fuel, for the promised purpose of rebuilding this vital transportation network. Regrettably, some people in responsible positions seem not always to act responsibly in honoring commitments once made, for the highway program has not benefited to the full extent of the promises; the obligation levels of the Federal-Aid program have constantly fluctuated since the dedicated fuel tax was increased.

Total Obligation Authority, (including Minimum Allocations, Emergency Relief, and Demonstration Projects): FY 83—$12.826 billion, FY 84—$13.037 billion, FY 85—$14.082 billion, FY 86—$14.227 billion, FY 87—$12.815 billion, FY 88—$13.340 billion, proposed FY 89—$12.450 billion.

Considering the lack of stability of funding levels from year to year, it is no wonder that the States are becoming impatient with the Federal-Aid program; they simply do not know what dollars they can definitely expect. Compounding that problem is the fact that some of the obligation authority they are given must be used on Congressionally-mandated projects rather than on projects which fit into their state-wide highway plans. The bottom line is less usable funding.

In view of the documented and uncontested highway needs, the reduction of roughly $1.8 billion in obligation authority from FY 86 to FY 89 in my estimation cannot be rationalized, even when considering G-R-H, a position validated by the National Council on Public Works Improvement report which calls for a 100% increase in spending on infrastructure.

Accordingly, I suggest that the '89 Highway obligation level be set at approximately $14 billion. This level will be minimally acceptable until such time as we can take the Trust Fund off budget, yet it will not undermine budget-balancing actions.

1. Approximately $500 million should be restored to compensate for the previously mentioned 2% increases which were denied to the highway program for each of two years.

2. The additional funds necessary to reach the $14 billion figure should be available as a result of changing the method of collecting fuel tax revenues. I am convinced that Treasury has grossly underestimated the revenue coming into the Trust Fund.

Frankly, I would recommend a review of tax collection mechanisms and also the methods used to project revenue receipts. I cannot rationalize, for example, the anomaly of increased miles of travel on the highway system, increased fuel sales, and greatly-increased sales of trucks during 86/87 with the $600 million reduction in estimated receipts. Perhaps there is a valid explanation, but I haven't found it logical.

Similarly, most state authorities with whom I have spoken have estimated that, prior to implementing the new tax collection process, the Trust Fund was losing 20-30 percent of the federal diesel fuel taxes it should have been collecting. That would mean the Trust Fund should gain $700 million to more than a billion dollars each year, in addition to the billion dollars which should be realized from stopping the gasoline tax evasion.

Realistically, then, at the very least a $14 billion obligation ceiling can be achieved without smoke and mirrors!

Thank you for asking my views on this important topic.

Very truly yours,

Ray A. Barnhart.

Mr. SYMMS. Mr. President, I thank Senator Kassebaum for her support, and I urge my colleagues to approve the amendment.

In order to save time, so that other colleagues can speak and so that we can get on with the vote, I will not read Ray's letter. I know of no one in the country who has a better handle on highway needs, how the dollars are spent, what can be done to make a more efficient and better highway system for the American people to enjoy, than the former Administrator, Ray Barnhart, and his testimony speaks for itself.

Mr. President, how much time do I have remaining on the underlying amendment?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. SYMMS. How much time would the Senator wish?

Mrs. KASSEBAUM. Six minutes.

Mr. SYMMS. I am happy to yield to the Senator 6 minutes and more if she needs it.

Mrs. KASSEBAUM. Mr. President, I am pleased to be a cosponsor of the amendment of the Senator from Idaho, Mr. SYMMS. I think he has made a number of extremely valid points regarding the nature of our transportation trust funds.

During the course of the afternoon, I believe some very interesting points have been made regarding our budget.

One this afternoon was by the Senator from Washington [Mr. EVANS], who suggested that we look to an overhaul of our budget accounting procedures.

Another was made by the distinguished ranking member of the Budget Committee, Senator DOMENICI, when he talked about the importance of a unified budget, and the comments that were made by the late distinguished former chairman of the Federal Reserve, Arthur Burns, to the effect that we needed that unified budget to show us, as a matter of fact, the overall scope of the Government activity, that we needed to have on record all the revenues and all of the expenditures, and I think that is a valid argument.

But prior to that, the distinguished chairman of the Budget Committee, Senator CHILES, had made the point, and I think very well, that Social Security should be removed from the unified budget and the very points he made in talking about removal of the Social Security fund I think can well be applied to the highway trust fund and to the aviation trust fund and to the other trust funds that exist in the budget.

But in particular, both the highway trust fund and the aviation trust fund have suffered because of the budget constraints.

We have authorized full funding of these trust funds but they have not been appropriated. In fact, I believe that a case for taking the transportation trust funds off-budget may be even stronger than the case for the Social Security trust fund. I would like to just offer five reasons why I believe that to be the case.

First, every dollar spent from the aviation and highway trust funds must be authorized by the Congress on a regular basis. In addition, before a single dollar can be obligated, that action must be approved through annual appropriations legislation. That is not the case for Social Security spending. Such spending is entitlement spending and, as such, it is subject to neither regulatory authorization nor annual appropriation.

Second, authorizations for the aviation and highway programs are affected only in the amounts and to the extent that they are funded by a revenue title or a separate revenue measure originated with the Finance Committee in the Senate and Ways and Means Committee in the House. Spending authorizations are dependent on this independent revenue-raising legislative action. In the Social Security programs, spending is prescribed by law, with or without revenue legislation.

Third, the transportation programs covered by the Symms amendment have a built-in antideficiency protection. The revenue titles for these programs extend well past the expiration dates of their associated spending authorizations. That means that revenue collection continues after spending authorizations expire. It also means that, when new revenue legislation is enacted, revenues can be sent at levels calculated to match already enacted spending legislation. This protection does not exist in other trust fund programs, including Social Security.

Fourth, transportation trust fund spending is 100 percent covered by revenues from program users. That cannot be said in total for the other trust funds.

Fifth, the aviation and highway trust funds have been financially sound and solvent since their inception. The Social Security trust fund has been beset by a number of financial problems and has been the subject of various financial rescue packages, the latest of those being the bipartisan commission recommendations which were enacted in 1983. Long-term solvency is a critical difference.

These are critical differences that I think exist between the Social Security trust funds covered by the Chiles amendment and the transportation trust funds covered by the Symms amendment.

If there is reason to enact I think the Chiles amendment, then there is certainly a reason to enact the Symms amendment, and for that reason I am a strong cosponsor and hope that others will support us in this effort.

Before I finish, Mr. President, in seeing the distinguished chairman of the Budget Committee on the floor, I would just like to address a question to him.

When Senator CHILES talked about wishing to have a balanced budget in 5 years, I wondered if he has contemplated just how he would achieve this balanced budget, particularly by his removal of the Social Security trust fund? Would the Senator from Florida care to respond to that question?

The PRESIDING OFFICER. The time of the Senator from Kansas has expired.

Mrs. KASSEBAUM. I wish to have another minute or two.

Mr. SYMMS. How much time is left on the underlying amendment?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. SYMMS. I yield to the distinguished Senator whatever time she needs on the amendment.

Mrs. KASSEBAUM. I was really addressing a question to the chairman of the Budget Committee. I was wondering if the distinguished chairman of the Budget Committee could respond, because he has wanted to have a balanced budget in 5 years, is that not correct, as part of this resolution?

Mr. CHILES. That is correct.

Mrs. KASSEBAUM. And I fully appreciate the efforts he has undertaken in his work as chairman of the committee to try to achieve just that.

I wondered if he had projected just how this could be accomplished, particularly in light of removing totally from the unified budget the Social Security trust fund during that period of time and beyond?

Mr. CHILES. I will say to my distinguished colleague from Kansas I think that you would have to recognize that we are talking about $40 billion this year and $50 billion something next year.

Certainly you would have to recast it if the amendments were adopted on the highway trust fund. I do not think we are talking about that kind of money and surpluses and those surpluses are growing. So personally I do not see them affecting the deficit as much. I am only one person in that. I have not felt they have been a problem in the airport or the other. They are not accumulating and growing and they are not a direct tax like the payroll tax.

One other argument I would make why they are different is we are using general tax dollars in highways and in airports. In fact, if you said you were going to fund all of the airways out of the trust funds they would be in deficit, not in surplus. I do not know. I do not know whether that is true of highways. It probably is not. But it is true of the airways if you did that.

So I have not felt that they were much of a problem. But I would say, yes, you would have to recast the numbers, and that is why I am putting in 5 years, so that you are not leaving yourself with 3 years to balance. You would start back and have 5 years. At least it would be something that would be done on a more truthful basis and it would be done on a basis where you really are not making the deficits by these huge surpluses.

Mrs. KASSEBAUM. In further discussion a bit, it would remove the Social Security, which is a different type of trust fund from the highway and aviation trust funds, as I just pointed out. However, you are removing a substantial amount from the plus side of the budget.

Mr. CHILES. Absolutely.

Mrs. KASSEBAUM. Would that not have to be made up with additional revenues somehow?

Mr. CHILES. That is why I said you would recast the formula and you are starting and you are having 5 years and not left with 3 years. So I think that is what it would be.

Mrs. KASSEBAUM. Would you recast it by raising the revenue as a part?

Mr. CHILES. What is Gramm-Rudman-Hollings now? It does not say you cannot raise revenues. It says you have to balance in a period of years. It never said anything about revenues. It said a combination of spending cuts and/or revenues, so that would be no difference at all.

Mrs. KASSEBAUM. I thank the distinguished Senator from Florida. I yield back my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. I yield such time as the Senator from New York may need.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in opposition to this proposal. I will not take a great deal of time to state the grounds of opposition because I would think not a great deal of time is required.

Mr. President, we are trivializing the budget process. We are acting as if there were tricks by which we could get ourselves out of the condition that we created in the 1980's. We act as if there were ways to avoid reality and act as if some leakage of reality has taken place in this Chamber.

I cannot believe that I hear from responsible—and I mean that—conservative Members of this body the kinds of proposals which they have always associated with certain kinds of irresponsible views at the other end of the spectrum.

I speak only to the subject of the highway trust fund. I am chairman of the Subcommittee on Water Resources, Transportation, and Infrastructure. We take our work seriously. There are those who think we do it well. In any event, in recent years we have shown our capacity to legislate. After a long period of inactivity in respect to water resources, the first such bill in 17 years was adopted in the last Congress. We began this Congress with a Surface Transportation Act which we had to carry over the veto of the President, which we did.

We are moving legislation on infrastructure through our committee. We are moving a regular biannual water resources bill which we hope to make a regular feature. We deal with the Federal Highway Program.

The highway trust fund, Mr. President, was established in 1956 by the Interstate and Defense Highways Act of that year at the behest of a fine combination of two eminently responsible public men. Speaker, JIM WRIGHT, of Texas, then a member of the Public Works Committee proposed this measure to President Eisenhower as a way of ensuring that the Interstate Program would go forward, inasmuch as the tax on gasoline levied in that bill would be put in a special fund to be used only for highways. It was confidence making with respect to the public. There was going to be a lag of some period, and there was, as the highways got decent, before they went forward and the trust fund built up. But they were guaranteed and they were not diverted. It was an eminently sensible form of public finance.

There are purists who object to such matters but realists always say, "Now, look, it worked. It built the Largest Public Works Program in the history of the world."

We now propose to take it off budget after it has been part of our budget for a third of a century. And we think somehow this will change something.

Well, part of it is mythology. Early in this decade the then chairman of the Office of Management and Budget said of the new Social Security trust fund, of the highway trust fund that we would soon see the most devastating bankruptcy in history and here we are talking about surplus.

Now, it happens that the flow into the highway trust fund and the flow out is running at a very stable level. I cannot speak to the airport trust fund. I am not an authority and I know the distinguished Senator from Kansas is. I would just like to distinguish the airport trust fund with what I say here.

In the Social Security fund, I am chairman of the Social Security Subcommittee of the Finance Committee, we look forward to a time when we would have about a 1 year's outlay as a reserve or surplus, whatever term you would like to have. We do not have that. Right now we have 4 months. We will get there by 1992.

But, Mr. President, in the highway trust fund, that is exactly what we have, a 1-year reserve; not quite 10 months, something like that. It is a stable $10 billion. It has been 9, got up to 10 once in the first part of the decade, goes on at about 10 in the future. Our outlays actually rise from $13.5 billion this year. We move slowly to about $15.3 billion in the fifth year out; a stable program. This will finish the Interstate Highway Program itself. It is a steady thing. And we have about $10 billion on the side as a reserve. A reserve against some contingency that Americans should suddenly stop driving automobiles and not pay gasoline tax? Not exactly, but it is there. There are ups and downs and it gives you a cushion and the industry knows the program will go forward. Nothing is more essential and stable to highway building and maintenance than predictability.

In about two-thirds of our country, weather is such that there are seasons when you cannot build, cannot repair, and you have to do your work during certain periods of time.

The distinguished Presiding Officer can speak with great clarity to that matter. There are times in the high plains when you can pour concrete and times when you cannot. So predictability is good. Letting them know, when the contracts go out, if it is a 3-year project, there will be 3-year funding. We have that. For a third of a century we have worked it out. We built wonderful highways. We are continuing to do so.

Mr. President, I see no reason whatever to do this trivializing exercise. It is called gimmickery. It is exactly that sort of thing which invites derision, invites the suspicion that something is not as it ought to be here.

If I might say, if you would like to know what the effect of this measure would be, it is that for one time there would be an increase in the deficit of $10 billion. After that, you would never see any effect on Gramm-Rudman-Hollings or anything like that. For one time the deficit would go up to $10 billion. Thereafter, you would not know what had happened, except that you would know that you had begun to use funny figures; you had begun to suggest the Federal Government was spending less than the Federal Government was actually spending.

If the purpose is to disguise the level of Federal spending, so be it. That is not my purpose, Mr. President. I do not see how this body would wish to associate itself with a measure like that. It is, at some level, Mr. President, less than open government. It suggests that you can conceal activities from the American people. And we have seen that tried in other ways in this decade and they have not worked, either.

Mr. President, I ask unanimous consent that a table be printed in the RECORD at this point showing the highway tax receipts, interest income, total revenue, outlays, and balance from the years 1982 to the current year, and then to the projected years until 1993. These have been prepared by the Congressional Budget Office.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—RESULTS FOR THE HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND

[In billions of current dollars]

Year	Highway tax receipts	Interest income	Total revenue	Outlays	Balance
Actual:					
1982	6.7	1.1	7.8	8.1	9.0
1983	7.8	1.1	8.9	8.8	9.1
1984	10.5	1.0	11.5	10.4	10.2
1985	11.6	1.3	12.9	12.8	10.4
1986	12.3	1.1	13.3	14.2	9.5
1987	11.8	.9	12.7	12.8	9.4
Estimated:					
1988	13.0	.8	13.9	13.5	9.8
Projected:					
1989	13.2	.9	14.1	13.5	10.4
1990	13.3	.9	14.2	13.9	10.7
1991	13.6	.9	14.5	14.5	10.6
1992	13.8	.8	14.6	14.8	10.5
1993	14.0	.8	14.8	15.3	10.0

Source: Congressional Budget Office.

Mr. CHILES. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. CHILES. I just listened to the Senator's remarks. I think there are some distinctions between Social Security and the highway and aviation trust funds. I just ask the Senator if he would agree with this.

First, what we are talking about, Social Security, it is going to rise from $46 billion in 1989 to $97 billion in 1993.

Mr. MOYNIHAN. I hope it is more in 1993. I hope in 1993 it is about $300 billion.

Mr. CHILES. But that is the annual.

Mr. MOYNIHAN. That is the increase.

Mr. CHILES. I am giving you the annual increase.

In contrast, the annual surplus for the highways and aviation is only $2 billion in 1989 and it vanishes into a deficit of $800 million by the end of 1991. So there seems to be a clear difference in both the magnitude and growth pattern.

Mr. MOYNIHAN. Yes. Well, I do not recognize that data.

My clear understanding is that the highway trust fund proceeds, with our outlays that we expect, is a stable surplus, if you would like, of about $10 billion.

It does not run over. Nor should it. It is in reserve. It is there. Good management would decree it.

Mr. CHILES. I think, again, perhaps the difference in our figures is you are looking at a cumulative cash balance and I am looking at annual figures.

Mr. MOYNIHAN. Oh, that increment? Well, it may start running down toward $10 billion toward the end of that period.

Mr. CHILES. The point I am making is it is important to note what we are talking about here is offsetting the budget deficit by these large annual increases and that is not really true of the highway funds or the aviation fund.

Mr. MOYNIHAN. That is right. That is exactly right.

Mr. CHILES. The second point is it looks like a distinction. It looks like Social Security is a different type of program in that it is an entitlement program in which Congress has expressly provided some special protections. We have exempted it from reconciliation and we have decided that Social Security should not be used to reduce the deficit. Thus, the expenditures are largely given in terms of the deficit. But highways and aviation are clearly discretionary.

Mr. MOYNIHAN. Clearly.

Mr. CHILES. They are not accorded any special treatment. And each year in appropriations, Congress sets spending levels for both highways and appropriations.

Mr. MOYNIHAN. That is exactly so.

Mr. CHILES. And then finally, Social Security was designed and intended to build these huge surpluses. It was part of the intent of the Commission the distinguished Senator from New York served on, to be used in future years. We are building up a long-term reserve to pay for baby boomers when they retire and those current surpluses are designed to keep that fund actuarially sound over a long period. However, the transportation surpluses trust funds, they reflect decisions by Congress to spend less than raised through gasoline and aviation taxes for a variety of policy reasons.

Mr. MOYNIHAN. Yes. I think that was the case at one point. But I think our pattern now is simply to maintain that reserve at about $10 billion.

Mr. CHILES. But again the purpose is clearly different. In the one we are building up a surplus.

Mr. MOYNIHAN. Yes.

Mr. CHILES. I thank the Senator.

Mr. SYMMS. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Idaho has 4 minutes. The Senator from Florida has 17 minutes.

Mr. CHILES. I yield back my time.

Mr. SYMMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], the Senator from Mississippi [Mr. Stennis], and the Senator from Colorado [Mr. Wirth], are necessarily absent.

I further announce that the Senator from Delaware [Mr. Biden], is absent due to illness.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. Humphrey] and the Senator from Vermont [Mr. Stafford], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—85

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NAYS—8

Armstrong
Bradley
Chafee
Hatfield
Kennedy
Moynihan
Pell
Rudman

NOT VOTING—7

Biden
Gore
Humphrey
Simon
Stafford
Stennis
Wirth

So, the amendment (No. 1929 to amendment No. 1928) was agreed to.

Mr. RIEGLE. Mr. President, I would like to engage the distinguished chairman of the Budget Committee in a colloquy. As the chairman knows, there is a problem resulting from the way the Federal matching rate is calculated for Medicaid and AFDC. The data that is used to determine this formula is several years old and reflects a different economic climate than many States, including my State of Michigan, are currently experiencing.

This year, 17 States will lose a total of $114 million under the recalculated matching rate. Michigan will lose $56 million in Federal assistance at a time when the State is experiencing increasing unemployment and a general economic downturn. Your State of Florida will lose over $3 million.

I am working on legislation with several of our colleagues to freeze the matching rate at fiscal year 1988 levels for States that will lose money under the recalculated rates. This would give us some time to examine the way the rate is calculated so that current economic conditions are reflected more accurately.

I had hoped to have this accommodated in the budget resolution and would ask the chairman to address this problem.

Mr. CHILES. I thank the Senator for raising this issue and understand his concern. I would point out that this adjustment happens every couple of years and frequently causes problems. I would also say to my good friend from Michigan that we have noted this problem in the committee report. I believe it would be appropriate for the Finance Committee to look at this situation and I can assure him that there is nothing in this budget resolution which would prevent that committee from taking action to address the problem on a deficit neutral basis.

Mr. BYRD. Mr. President, there will be no more rollcall votes today but we would like to set the time for the first rollcall vote tomorrow morning.

AMENDMENT NO. 1931 TO AMENDMENT 1928

(Purpose: To express the sense of the Senate that the Postal Service should be removed from the Federal budget)

Mr. BYRD. I understand that Mr. STEVENS will lay down an amendment this evening. I am also advised by Mr. STEVENS, Mr. CHILES, and Mr. DOMENICI that they will be agreeable to vote on that amendment tomorrow at 11 a.m. We will begin on the amendment at 10.

Mr. STEVENS. Very well.

Will the Senator yield?

Mr. BYRD. Yes.

Mr. STEVENS. Does the majority leader intend that I will lay down the amendment and make a few remarks, tomorrow we will have more debate on it, and then vote no later than 11 tomorrow morning, or do we want it at 11?

Mr. BYRD. If we could set the vote at 11, all Senators would be aware of that and they could answer to a 15-minute rollcall vote. That would be very agreeable.

Mr. DOMENICI. Will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. DOMENICI. Might I say that Senators on my side have inquired about amendments, and with the concurrence of the chairman, I have told them there may be two or three amendments on this subject, that is, to the Chiles amendment with reference to trust funds. I thought it was more appropriate that we get them out of the way before we take amendments to other parts of the budget. So I believe there are two or maybe three more on this subject and then we will move to other parts of the budget.

Mr. BYRD. Very well. That means there will be two or three other amendments to the Chiles amendment; am I correct?

Mr. DOMENICI. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT AMENDMENT NO. 1931

Mr. BYRD. Mr. President, I ask unanimous consent—the distinguished Republican leader is on the floor—that Mr. STEVENS be allowed to lay his amendment down, which he can do anyway, and that debate on it proceed this evening, at whatever length Senators care; that at 10 o'clock tomorrow morning the Senate resume consideration of the budget resolution, and that the Senate vote at 11 o'clock on or in relation to the amendment by Mr. STEVENS.

Mr. STEVENS. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. STEVENS. Could we have an agreement on the division of that time tomorrow morning between 10 and 11?

Mr. BYRD. Yes. I ask unanimous consent that the time be divided in the usual form, Mr. STEVENS have half the time and, if the manager is opposed to his amendment, he have the other half; if the manager is not opposed to it——

Mr. CHILES. It is my understanding that in unanimous-consent requests all points of order under the Congressional Budget Act remain.

Mr. BYRD. And that all points of order under the Congressional Budget Act remain in force. That would mean that if the distinguished manager of the bill is supporting the amendment, the minority leader would be in control of the time against it. That is in accordance with the usual form. The vote will occur at 11 o'clock on or in relation to the amendment.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask for the yeas and nays on the amendment I send to the desk now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, there will not be any more rollcall votes tonight. I ask unanimous consent that the vote at 11 o'clock tomorrow be a 15-minute rollcall vote and that the call for the regular order be automatic at the expiration of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. BYRD. I thank all Senators.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. MCCLURE, proposes an amendment numbered 1931 to amendment numbered 1928.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

SEC. . It is sense of the Congress that—

(1) The Postal Service is a unique, self-financing entity with a mandate to meet operating and capital expenses through income and effective financial management;

(2) Since 1982, the Postal Service has received no appropriations for operating purposes, paying its expenses from its own revenues;

(3) The Postal Service in no way contributes to the deficit problems faced by the Federal Government;

(4) Subjecting the Service to the constraints of a congressional and executive budget process threatens its ability to maintain the service necessary to sustain the nation's commerce and lines of communication;

(5) In order to best serve the public interest, the Postal Service must remain a free and independent entity;

(6) Including the Postal Service in the Federal Budget has hindered the Postal Services' much-needed capital improvement program;

(7) Including Postal Service surpluses and deficits in the Federal Budget, distorts the fiscal accuracy of the Federal Budget;

(8) Congress' constitutional responsibility to oversee the Postal Service will be ongoing regardless of whether the Postal Service is included in the Federal Budget; and

(9) Therefore, the receipts and disbursements of the United States Postal Service should not be counted for purposes of determining the Federal deficit.

Mr. STEVENS. Mr. President, my amendment is an amendment in the second degree to the Chiles amendment, which has the purpose of stating, as a sense of the Senate that the U.S. Postal Service's budget also ought to be off budget. Let me state to the Senate the history of the Postal Service budget. In 1974, the President exercised his discretion under the Postal Service Reorganization Act to take the postal operations of the United States off budget. In 1985, the President's 1986 budget included the Postal Service on budget for the first time as part of his proposal to bring all Government entities on budget. In 1986, the Gramm-Rudman-Hollings amendment required that all Federal entities be included in the Federal budget except for Social Security to the extent that it is off budget, which brings us to the point now of what the Senate should say with regard to the future role of the Postal Service budget in relationship to the budget of the United States as we proceed toward the goal of reaching a balanced budget.

The problem that I have—and I would like to remind the Senate of that problem—is that last year on the floor of the Senate we had debate on the agreement that was made on the 1988 budget. At that time we were faced with the agreement that was reached between the President and leaders of the Congress which determined that $850 million of the proposed expenditures for the fiscal year 1988 should be eliminated from the Federal Personnel System in order to achieve the goals of that agreement.

At that time I spoke at length in this Chamber, Mr. President, concerning the proposal because I opposed well over half of that amount coming from the Postal Service and I still oppose the concept of taking payments to the Postal Service to reach an objective of balancing the budget primarily which should deal with securing revenues based upon our tax laws.

Mr. President, I will speak at length on this subject tomorrow, but I want to state the reason I am raising this issue. I have served now on the Post Office-Civil Service Subcommittee and the old Post Office Committee longer than any Member of the Senate. I have lived through this concept of reorganization of the Post Office. I think it has worked. We created a system which has a Postal Rate Commission. They established the rates to be paid by the users of this system and those rates are to be such as to allow us to expand the system, to preserve the system, to meet our constitutional requirements, and I remind the Senate that the Constitution directs the Congress to maintain post offices and post roads. We did that in the postal reorganization of 1970 by establishing this organization which led us toward a total separation of the old post office from Federal taxpayers' money.

In the past, there was a substantial subsidy to the Post Office Department. Today, the U.S. Postal System needs not only operation moneys, but also capital for expansion, and modernization, and it comes from the amounts paid by those who use the system. I do not believe that this organization, which now has a business-type budget established in a semiautonomous unit of the Federal Government and still consistent with the constitutional requirements imposed upon Congress, should be affected by budget decisions made here with regard to how much money the Federal Government should spend. The Postal Service's income comes from ratepayers' money, but as a consequence of the decision we made last year the Postal Service had to seriously modify its services, its plan for improvements, including modernizations, and in my judgment that was wrong.

The Postal Service is different. This is the key point I am making. The Postal Service is different from the other Federal entities that Congress authorizes money for, limits the amount that they can spend, and asks the taxpayers to support. This system is supported by the postal ratepayers. And the ratepayers ought to know when they pay for a stamp or they pay for postal services, that they are going to have the facilities that are required to perform those services. That cannot be assured if in future years similar proposition or any proposition are enacted similar to last year.

I cannot remember a situation with regard to the budget where the people who were involved in the conference committee were so cognizant of the difficulties that were caused by the agreement that was reached between Congress and the executive branch last year. I do not know what the basic reason for crippling the Postal Service budget was. I have my own feeling. I will state it. My feeling is the Office of Management and Budget Director believes in privatization of the Postal Service and sought to achieve a portion of that goal.

In any event, whether I am right or wrong, and I could be wrong on that, it was wrong to be forced to do what we had to do last year, and that was to partially cripple the service which presents to this country the best postal system in the world. And I might add the postal system even after the last rate increase still has the lowest rates in the world in terms of the actual moneys spent by any government or ratepayer to support a postal service.

I hope that the managers of the bill will support this amendment that I have offered. I understand what the Senator from Florida is doing. I admire his situation with regard to stating now the sense of the Senate concerning the use of these moneys. I believe we ought to also state now that it is the goal of the Congress, and particularly of the Senate itself right now, that the receipts and disbursements of the U.S. Postal Service should not be counted for the purpose of determining the Federal deficit. That is the simple statement of my amendment. It is not binding I might say on the Congress. But it states a goal which I believe ought to be achieved.

Mr. President, I will continue my statement in the morning. I say to my good friend I would be happy to be here whenever he wishes me to be. If he wishes me to be here at 10 o'clock, I will do that. I will continue with my time at that time because I understand he has a problem downtown.

Mr. CHILES. I have a hearing here beginning at 9 o'clock in the Labor Subcommittee on Appropriations. I will say to my good friend somewhere in the neighborhood of around 10 o'clock I would hope we would be able to start.

Mr. President, I just want to make a couple of short remarks tonight and then we will continue this tomorrow.

The impact of the deficit taking the Postal Service off budget will vary from year to year because the post office account fluctuates year to year reflecting mainly the impact of rate increases. In years prior to a rate increase the account is always running at a deficit. In 1988, for instance, the account showed $1.2 billion in budget authority and $1.7 billion in outlays. That actually contributes to the deficit.

Just after the rate increase the Postal Service will run closer to a cash balance or usually even a surplus. For instance, the CBO projection for 1991 is a $0.2 billion in budget authority, and a negative $0.9 billion in outlays.

So taking it off budget does not have any real effect on Federal spending. However, depending on the year and being considered off budget status for the Postal Service can either increase or decrease the deficit.

While the Postal Service largely finances its operations and capital improvement from its own resources, there are many public sources of support including revenue foregone, certain retirement COLA's, and health benefits for workers that were hired prior to a certain time, and the Postal Service receives roughly about $2.5 billion from the Federal Government every year.

In addition, the Postal Service benefits both from the ability to borrow through the Government, therefore reducing their costs, and from the gift of a number of GSA-owned capital assets that were provided in the Postal Service reorganization in 1970.

While some of my colleagues will argue that the Postal Service does not contribute to the deficit, this is not exactly the case. As I have noted from my previous comments, in the years prior to the rate increase, the Service operates at a deficit. That adds to the Federal deficit. After the rate increase the Service operates at or near surplus. That decreases the Federal deficit.

Mr. President, I am of a mixed mind as to whether the Service, to tell you the truth, should be off deficit or not. There are some pretty good reasons perhaps that it should. I think the Committee on Governmental Affairs ought to be holding hearings on this. They are the authorizing committee. I really think it should go into a study for that.

For those reasons I will resist the amendment of my good friend from Alaska. I assume we will talk a little bit more about that tomorrow.

Mr. STEVENS. Mr. President, I shall talk a little bit about that tomorrow. I think the Senator has raised some interesting points. I will be happy to comment on them.

As a practical matter let me say that even if the Congress were to carry out the sense of the Senate that I wish to express, take it off budget, there still would be items in the Federal budget that reflect the payments we make for decisions that have been made by Congress—for instance, the free mail that we provide to the blind and we provide assistance in other areas.

We have mandated special rates that the Postal Service must observe in setting its rates under the Postal Rate Commission. That is the revenue foregone that my friend has described. Congress can change those if it wishes to. It can also mandate that the rates of the Postal Service be such as to absorb those even within the recommendation that I make.

So I will speak on that tomorrow. I said here to my friend we will oppose this because I think it is one of the substantial things that is going to determine the future of the Postal Service. Those people who want privatization of the Postal Service ought to vote against my amendment. Those people who believe we must carry out the congressional mandate that is contained in the Constitution I hope will support it because it is a constitutional mandate that we support the postal system. We have a postal system. And I do not think we can do that on a Federal basis if we tell the Postal Rate Commission to establish rates and then we turn right around and tell the Postal Service it cannot spend the money that comes in from the revenues derived from the application of those rates in the manner in which it was budgeted and approved by the Postal Rate Commission as presented by the administration of the Postal Service.

I will go into that at length tomorrow. I have no more comments tonight.

Mr. BINGAMAN. Mr. President, as we consider the budget resolution, it is important to look at the effect of that budget on our long range economic goals. More than any other single piece of legislation, the budget is the reflection of the Federal Government's goals and priorities. In the near future, the Senate will take up the conference agreement on the Omnibus Trade and Competitiveness Act. It is, therefore, especially appropriate that we examine the budget resolution in the context of our efforts to improve America's economic competitiveness.

In recent months, the administration has all but proclaimed our competitiveness problem over. Yet, last year's historic trade deficit has not disappeared. Productivity growth in the United States lags behind that of our economic competitors. The United States is still the world's largest debtor nation. We continue to add to the $2.7 trillion Federal debt at a rate where interest payments on the Federal debt in fiscal year 1989 will by themselves exceed the total, combined budgets of the Departments of Agriculture, Commerce, Education, Energy, Interior, Labor, and Justice, the Veterans' Administration, the Environmental Protection Agency, the National Science Foundation, and the National Aeronautics and Space Administration.

The administration's rosy predictions notwithstanding, we still have not dealt with the stagnating standard of living for working Americans. Real wages are below where they were 10 years ago. The median real family income is stagnated. The recently released report by the Corporation for Enterprise Development entitled "Making the Grade: The 1988 Development Report Card" sums up the situation when it states:

> One of the most jarring impacts of the rapid restructuring of the American economy during the 1980s has been the decline of well-paid, low-skill jobs and the rise of low-paying, moderate-skilled jobs. Caught in between are people who once could support a family by their labor and now cannot.

In area after area—trade, technology, human resources, capital formation, and international economic policy—our competitiveness problems remain. This is not to say that we have not made progress, we have. But, contrary to the administration's claims, we still have a long way to go.

Mr. President, to begin to correct our problems, we must continue to make the restoration of our economic competitiveness, with the purpose of raising the standard of living, a major priority of our economic policy. Deficit reduction is important to improving our competitiveness, and the budget currently under consideration fulfills the deficit reduction commitment we made last year. In this regard, this budget is a major step toward solving our competitiveness problems. But, we should keep in mind it is only one step. As we consider the budget resolution and move through the budget and appropriations process, I urge my colleagues to continue to focus on the larger problem of sustaining our competitive position in the world economy.

FISCAL YEAR 1989 BUDGET RESOLUTION AND CIVILIAN PAY RAISES

Mr. GLENN. Mr. President, the White House-Congressional Budget Summit Agreement of November 20, 1987, reduced civil services and postal spending by $1.7 billion over 2 years. However, while these spending cuts have been enacted into law, they were taken from postal operating and capital cut-backs and Federal retirement benefits. They were not made through reductions in pay.

The budget summit agreement contained no specific assumptions with respect to fiscal year 1989 employee pay raises because it capped the aggregate level of discretionary appropriations that fund pay raises. Therefore, as the President's budget assumes, employee pay raises cannot increase total Government spending, whatever the rate of increase, under the terms of the appropriations cap.

Would the chairman of the Budget Committee clarify what assumptions for Federal pay raises are contained in the pending budget resolution?

Mr. CHILES. The situation concerning pay raises is highly unusual and different this year than in all previous years. This year, there are caps on the amount of funds that can be spent for domestic programs and for defense. The amounts for domestic pay raises are included under the domestic cap. Therefore, changing the civilian pay raise assumption will have virtually no effect on total spending or on the deficit. However, any increase in the pay raise assumption means that there is less money available for other domestic programs under the cap and any decrease in the pay raise assumption means there is more money available for programs under the cap. In addition, since the funding for pay is spread among all the programs under the cap, it was decided to show these amounts in each function and not to show the total separately in function 920. Therefore, there is no easily available amendment that could change the pay raise assumption. A Senator who offered an amendment would have to change every domestic function total. Similarly, there was no need nor any reason to reconcile the Governmental Affairs Committee for any pay savings this year.

There is a very small technical effect that the pay raise assumptions have on the deficit. Pay raises marginally affect the amounts included in function 950 for the employer contributions to the retirement funds. Thus, in putting together a budget resolution, it was necessary to make some assumptions about civilian and military pay raises. Until overturned, the President's proposal for a civilian pay raise would stand. At this point, it is presumed that the President will formally propose the same pay raise that he assumes in his budget—2 percent. Therefore, this is the assumption contained in the budget resolution.

However, if the budget resolution were passed, there is absolutely nothing to preclude any Senator from offering legislation that provides for a higher pay raise for civilian workers or which overturns the President's pay proposal—assuming that, in August, he proposes a 2-percent pay raise for civilians. No point of order would lie against such legislation, as long as the funds for the pay raise came under the appropriations cap. Thus, for example, this budget resolution could accommodate a higher pay raise for all Federal civilian workers.

Mr. GLENN. If I understand the Senator from Florida, a higher civilian pay raise would be consistent with the terms of the budget resolution.

Mr. CHILES. The Senator from Ohio is correct.

Mr. GLENN. I am gratified to hear that. While Federal civilian and military pay raises are linked under existing law, the committee reported budget resolution this year would continue President Reagan's proposals of "decoupling" and seeking less than inflation pay raises for Federal civilian employees. As a result of this policy, Federal civilian pay has declined in real terms in each of the last 7 fiscal years.

A 2-percent pay raise will do nothing to address the pay gap between Federal employees and their private sector counterparts. The President's pay agent reported in August 1987 that Federal pay lags behind comparable private sector wages by 24 percent and recommended—in light of Federal budget constraints—an 8 percent pay raise. The pay agent also reported that signs of strains of the current pay system were now being seen throughout the Federal Government, from the recruitment and retention of clerical support to senior executives. Every year for the last 12 years, Federal civilian employees have received a pay raise that has been less than the amount due to them under the Pay Comparability Act of 1970.

The Congressional Budget Office [CBO] baseline assumes that Federal pay will be adjusted by 4 percent, for inflation, in fiscal 1989. Using these assumptions, the purchasing power of Federal salaries would continue to be eroded with a less-than-inflation-rate 2-percent increase.

A larger pay raise for Federal civilian employees would, at least, provide minimal recognition of the position of Federal employees in relation to their private sector counterparts. Perhaps more significantly, it would help protect against the value of their salaries being further eroded by inflation. It is my hope that I will find agreement from my colleagues on this important issue.

What I understand the chairman of the Budget Committee to be saying is: the pay raise assumptions used in this year's Senate version of the budget resolution are not binding on subsequent legislative action this year. Am I correct?

Mr. CHILES. The chairman of the Governmental Affairs Committee is absolutely correct.

ENVIRONMENTAL PROGRAMS AND THE BUDGET RESOLUTION

Mr. MITCHELL. Mr. President, I would appreciate it if the distinguished chairman of the Budget Committee would enlighten us with regard to the assumptions in the proposed resolution regarding programs administered by the Environmental Protection Agency. As you know, many members of the Environment and Public Works Committee are particularly concerned about the inadequate level of funding proposed by the President for the sewage treatment construction grant and loan program in fiscal year 1989.

Mr. CHILES. I am happy to respond to questions and concerns of members of the Environment and Public Works Committee on funding for EPA programs. The concurrent resolution we are considering can accommodate a level of funding approximating fiscal year 1988 levels. Modest increases in the Superfund and Leaking Underground Storage Tank Program as well as the operating budget for the Agency are included.

Mr. CHAFEE. Is it correct to say that the Budget Committee agrees that the $1.5 billion proposed by the President for the Sewage Treatment Construction Grant and Loan Program in fiscal year 1989 is inadequate and that the President's request for the natural resources function is generally insufficient?

Mr. CHILES. The Senator is correct. In fact, the level in the budget resolution before us is $600 million above the President's request for discretionary programs in function 300.

Mr. LAUTENBERG. As you may be aware, I along with Senators MITCHELL and CHAFEE and other members of the Environment and Public Works Committee introduced a Senate resolution on March 1, 1988, on the matter of sewage treatment construction grants and loans. A total of 33 Senators have joined as cosponsors to express their opposition to the level of funding proposed by the President for this program. As a member of the Budget Committee, I have worked hard to assure an adequate budget for the Environmental Protection Agency. It should be noted that although function 300 has been decreased, the budget resolution assumes an increase in the overall EPA budget to accomplish an increase in Superfund, while rejecting the President's proposed cuts in the Construction Grants Program.

Mr. CHILES. I am aware of efforts of the Senator from New Jersey and his colleagues to maintain funding for the construction grant and loan program. As the Senator knows, I supported enactment of the Water Quality Act Amendments of 1987 and share the concern that funding for this program is not drastically reduced. The function 300 funding level represents a strong environmental budget and balances the needs for pollution control and resource protection programs.

Mr. MITCHELL. I appreciate the comments of the distinguished chairman of the Budget Committee.

Mr. RIEGLE. I would like to engage the chairman in a discussion about the Urban Development Action Grants [UDAG] Program and the Community Development Block Grant [CDBG] Program. As the distinguished chairman is aware, the budget resolution we are considering today cuts these programs by nearly 6 percent.

This is an area of major concern to me and to my State. These programs have already taken more than their fair share of funding cuts over the last several years. UDAG has been reduced by 68 percent and CDBG has been reduced by 22 percent since 1981. At the same time, the demands on these programs have increased.

There are very important programs for prompting economic and community development in distressed areas. UDAG's have been a helpful tool for attracting much-needed capital to revitalize urban areas. We have had a number of success stories in Michigan and across the country. I and other members of the Banking Committee have been working to make the program work better and more efficiently and I think we have been successful. CDBG is also a very important program which helps communities respond to urgent economic and human needs. Urban areas are still recovering from cuts in other programs including the loss of revenue sharing. Further cuts at this time with many areas facing uncertain economies, will be damaging.

I would also like to point out that we just passed a Housing bill which the President signed into law reauthorizing these programs at the fiscal year 1988 funding level. We should not make cuts in these programs after supporting the higher levels in the authorization bill.

Mr. CHILES. I thank the Senator for his comments and appreciate his concerns. We all know that we face a tight budget situation and many difficult choices as we live within the domestic spending caps negotiated as part of the budget summit agreement last year. We provide assistance to local communities in many parts of the budget. Some of these will be increased, some will be decreased, but overall, aid to State and local governments under this budget resolution will be increased by the substantial amount of $6.1 billion—5 percent.

I would say to my friend, the Senator from Michigan, a stalwart defender of these programs, that there are many steps ahead in the process before the particular levels for these programs. We have to go to conference with the House. The Appropriations Committee has to divide up its funds, and the HUD-Independent Agencies Subcommittee must divide up its money among specific programs. So there will be many opportunities to address this issue.

FOREIGN OPERATIONS SCOREKEEPING

Mr. INOUYE. I would like to ask my friend, the chairman of the Budget Committee about scorekeeping for international affairs programs. My understanding is that last year's summit agreement specified certain levels of funding for the international affairs functions of the budget.

Mr. CHILES. The Senator is correct. Discretionary funding levels for function 150 were set in last year's summit agreement at $18.1 billion in budget authority and $16.1 billion in outlays. This budget resolution follows through with the summit agreement allowing for modest growth in the foreign assistance and State Department operating programs.

When mandatory programs, income from loan programs and the level of activity in the foreign military sales trust fund are included, the function total comes to $16.6 billion in budget authority and $16.2 billion in outlays.

I consider these levels to be a floor as well as a ceiling.

Mr. INOUYE. Last year, it was decided that the foreign military sales guarantee reserve fund would be considered a mandatory program. As such, it is my understanding that this program is not contained within the discretionary levels assumed in the summit agreement. Furthermore, as a mandatory program, increasing demands against the guarantee reserve fund should not be traded-off against discretionary programs within the summit limits.

Mr. CHILES. The Senator is correct.

Mr. INOUYE. It is also my understanding that the Budget Committee will score $270 million in 1989 budget authority against the Foreign Operations Subcommittee for a debt reform measure included in last year's continuing resolution.

Mr. CHILES. The Senator is correct. The conference report on House Joint Resolution 395, the continuing resolution for fiscal year 1989, included an advance appropriation for interest rate reductions on existing foreign military sales loans. This appropriation becomes available in fiscal year 1989. Unless a change is made in the law, $270 million in budget authority will be scored against the subcommittee.

Mr. INOUYE. I thank the Senator.

FUNDING FOR REFUGEE RESETTLEMENT PROGRAMS

Mr. CRANSTON. Mr. President, I am happy to see that the committee has recommended that reimbursement for the Refugee Resettlement Program cover the first 31 months from entrance. This reimbursement was reduced to 24 months in fiscal year 1988. As a result of this reduction, my State alone will lose $6 million in fiscal year 1988.

The reduction of reimbursement for the Refugee Resettlement Program to 24 months is clearly inconsistent with congressional intent. The original statute which created the refugee resettlement program called for 36 months of coverage, and Gramm-Rudman-Hollings cuts required an adjustment of that coverage to 31 months. The committee's recommendation is, therefore, reasonable in light of budgetary contraints.

Mr. Chairman, I would also like to comment on another issue of concern which has arisen as a result of the immigration of Armenian refugees to this country, and one which must be addressed by the President. When the President sent up his budget, he indicated that only 51,000 refugees would be admitted. Later, the State Department raised the figure to 68,500. More recently, the President asked that an additional 15,000 refugees be admitted from Armenia. While the latest increase in the number of refugees means that a total of 83,500 refugees will be admitted to this country, the President's budget only asks for funds for 51,000 refugees. To assure the success of the refugee resettlement program, I urge President Reagan to request adequate funds to pay the costs of resettling the entire number, 83,500, he plans to admit this year.

Mr. CHILES. Senator CRANSTON, I am very glad you brought this new development to the attention of the Senate. I have always been a strong supporter of the Refugee and Entrant Assistance Program, and I will continue that support as long as I remain in the Senate. In addition, I strongly believe that it is inappropriate to limit assistance to refugees for 24 months. To do so we would be clearly contrary to the intentions of the authorizing legislation. That is why I have included sufficient funds so that assistance for refugees can be provided for more than 24 months. Finally, I am greatly concerned about the even larger numbers of refugees that the administration now recommends should be admitted to the United States in 1989. I would hope that the administration would soon clarify how this problem should be addressed for 1989.

FEDERAL EMPLOYEES PAY RAISE

Mr. RIEGLE. Mr. President, I rise today to join my colleagues in support of the 3-percent general pay raise for Federal employees as contained in the House-passed budget measure.

The hard work and dedication with which our Nation's Federal employees perform their jobs makes them very deserving of this raise. I was not pleased with the 2-percent raise advocated by the administration and contained in the Senate's budget package. By accepting the House-passed pay raise of 3 percent, we can send a message of support to our Federal workers.

I will continue to work to ensure that Federal employees receive adequate levels of pay. During these times of continued budget cuts to many important Federal programs, difficult decisions constantly need to be made. But, we must not forget our Federal employees who have so frequently been asked to bear the burden of cuts. I ask my colleagues to join me in support of the 3-percent pay raise.

HUMPHREY-HAWKINS COMPLIANCE

Mr. SARBANES. Mr President, the resolution before us with respect to the budget for fiscal year 1989 reflects the guidelines set forth in the agreement reached late last year on the fiscal year 1988 and fiscal year 1989 budgets. It reflects certain constraints. Nonetheless, it is important to recall that all budgets to some extent also reflect goals and priorities; and our consideration of the current resolution should reach to this broader issue.

In 1978, the Humphrey-Hawkins Act amended the Congressional Budget and Impoundment Control Act of 1974 to assure that such consideration would indeed take place. That act was named in honor of its principal sponsors: in the Senate, our late distinguished colleague, Senator Hubert Humphrey; in the House, Congressman AUGUSTUS HAWKINS, who serves with great distinction as chairman of the House Committee on Education and Labor.

It is as important as ever today to undertake the broader perspective called for by the Humphrey-Hawkins Act. It is in our interest to address the question of the underlying goals and long-term implications inherent in our budget decisions.

The economic environment has changed profoundly in the 1980's. Our standard of living now depends crucially on our successful participation in the world economy. Yet the United States has had a record trade deficit in each of the last 6 years, and as a consequence the United States, which was the world's largest creditor nation as recently as 1981, is today its largest debtor.

Setting out upon a steady and sustainable path to reduce the trade deficit and slow the growth of our foreign debt represents a difficult challenge. Paying off the debt and returning to creditor status without jeopardizing our standard of living presents an even greater challenge. To meet it, we must take the steps necessary to build a sound economy with strongly improving productivity, not only for the next few years but for the decades ahead.

Even while addressing the budget for the coming fiscal year, we keep in mind the challenge of assuring long-term economic growth. The critical budget and trade deficits confronting us today have been built up over the course of this decade. They will not be remedied overnight. Steady and sustainable economic growth will require prudent investments in critical areas—in our physical infrastructure, to repair decaying roads and bridges, to assure an adequate and safe air transportation system, and to improve antiquated water systems; in research and development programs, where for the first time other nations' match ours.

Above all we must invest wisely in our own people, on whose capacities the future direction of our economy will depend. Our workers will increasingly have to compete with their brains as well as their hands. We cannot afford a high school dropout rate of 15 to 25 percent, or a functional illiteracy rate among adults conservatively estimated at 13 percent. A future America where the prospect of a decent job at a decent wage is more a distant dream than a reasonable expectation will be very different from the America of the past.

More vigorous growth, a more competitive economy and expanding employment opportunities are objectives that can and must be sought together. Their achievement, however, will require a sober acknowledgement that the challenges of the present must be addressed in the broader context of our responsibilities for the future. As we confront current realities in the context of the budget for the next fiscal year, we must seek a route to credible and sustained deficit reduction which also pays adequate attention to the needed investments in our economic future.

Mr. **PROXMIRE.** Mr. President, once again, I want to applaud my distinguished colleague the senior Senator from Maryland, who chairs the Joint Economic Committee, for introducing into the CONGRESSIONAL RECORD a discussion of economic goals and policies. Of course, the Humphrey-Hawkins amendment to the Congressional Budget Act requires such a debate in conjunction with the First Concurrent Resolution on the Budget, but too often the Senate has failed to comply.

This requirement is part of a series of enactments which attempt to raise congressional and public consciousness about the importance of budgetary decisions. What we do when we adopt the budget affects not only spending for Government programs in a particular fiscal year. There are longer term effects that are arguably more important than what happens in any particular year. But too often the longer term effects are not adequately considered when budgets are proposed by a President and acted upon by Congress.

The budget is one of the principal tools by which the Government can influence economic activity. Inevitably, the budget does influence the economy, for better or for worse. Today, one senses a lack of urgency, or at least a diminished level of concern, about the economy. There are certain positive aspects to current economic performance. And there is a tendency to be satisfied so long as the traditional major indicators are moving in the right direction. We are in a period of sustained growth, relatively low inflation, and declining unemployment.

However, these indicators can be misleading. In the first place, growth over the past several years has been below the long-term average rate of growth of 3.5 percent and promises to stay below that level for the foreseeable future. Inflation is lower than it was in the 1970's but higher than it was before that period. Unemployment is still far too high.

More significant to me is the huge increase in the national debt, the fact that the Federal deficit is still much too high, and the enormous amount of corporate and consumer indebtedness.

Indeed, debt, rather than growth and real prosperity, may characterize the 1980's to future historians. The United States has an extraordinary trade deficit and is now the world's largest debtor nation. The weakness of the United States dollar abroad and the slow productivity growth at home, together with our Federal, private, and foreign indebtedness, are the real indicators of the state of the economy and of the nature of our economic problems.

When we consider acting on this year's budget, we ought to pause to reflect on whether we are facing up to these problems. My own judgment is that there is a much ducking as facing in this year's budget, as it is presently constructed. I view the budget and last year's budget agreement as an elegant Federal punt.

There are some important decisions implicit in the present proposal, but not enough of them. Footballs have a way of taking funny bounces and, by the fall, many people may be surprised at how the budget and the economy looks.

Mr. **KERRY.** Mr. President, I am pleased to again join those who wish to remind us of the importance of the Humphrey-Hawkins Act and the need to debate economic goals and policies. I commend the chairman of the Joint Economic Committee—the senior Senator from Maryland—for arranging this colloquy. I will again direct my remarks to our employment goals and the need to maintain full employment.

As I indicated last year nothing can contribute more to our economic well being and standard of living than providing jobs at decent wages for all those who want to work. The Humphrey-Hawkins Act, and its predecessor Employment Act of 1946, serve as important reminders of the need to promote economic growth and full employment. Failure to pursue full employment policies will push the economy below its potential to generate jobs and output and produce complacency so that less than satisfactory improvements are hailed as great success stories. Three items illustrate this tendency.

The Bureau of Labor Statistics [BLS] recently reported that the civilian unemployment rate for the month of March 1988 declined to 5.6 percent—the lowest level since May 1979. Behind this welcome news is, however, a story of the steep recession of 1981-82 which brought unemployment rates of more than 10 percent.

The growth in employment between 1980 and 1987 has been hailed as evidence of the job creation capacity of our economy. Yet employment grew by only 13 million jobs in this period-substantially less than the 15 million jobs created in the previous 7 year period—1973-80. In addition, as acknowledged by the BLS in testimony before the Joint Economic Committee, the slowdown in the growth in the labor force—due to the decline in birth rates and a slowdown in the increase of the number of women in the labor force—has made it easier to reduce the unemployment rate. Thus the decrease in the unemployment rate is in part related to demographic changes and not to a job creation machine.

As real hourly wages, in private nonagricultural industries, have declined almost every year since 1980—and are now 2 percent lower than in 1980—more members of each family have needed to enter the labor force in an attempt to maintain the family's standard of living.

While growing employment is a sign of an expanding economy, the items noted above illustrate that if you get too deep in the hole-through a big recession it takes a long time to pull yourself out of the hole. And now that we are almost out of the unemployment hole we must adopt budget policies that keep us out of the hole.

But Mr. President, although we are almost out of the unemployment hole, let us not forget the costs of recession—cost which are so large that they should be avoided. The budget and trade deficits, which our children will inherit, are, in part, related to our failure to generate a productive full employment economy. Equally important is the loss of current output over the past 7 years—output which we can never recover.

While precise calculations are difficult to make, it is useful to indicate the magnitude of lost output due to our failure to achieve full employment. Over the past 7 years unemployment has averaged almost 6.5 percent. Had the economy operated with 4.5 percent unemployment then, on average, in each of the past 7 years output—in 1988 dollars—would have been about $250 billion greater than it actually was. What would $250 billion of output in each of 7 years mean.

The annual output of $250 billion is enough to pay for the defense budget over this 7-year period.

This $250 billion represents about 40 percent of the annual budget of all State and local governments.

Over this 7-year period, $250 billion of annual output is enough to pay for the Social Security Program—including Medicare.

By not promoting full employment it is as if we had taken on average about 5 percent of our national output and thrown it way. But Mr. President that is precisely what we have done. There are people out there who want to work and cannot find jobs. The BLS estimates that there are 7 million workers looking for work but who cannot find employment. Furthermore, an additional 5 million persons are working part-time because they cannot find full-time jobs. Finally, there are 1 million workers who are so discouraged by the prospects for employment that they have stopped looking for work.

Mr. President, while I recognize that in a dynamic changing society we will never reduce the unemployment rate to zero, we need to have a growing economy so that we can provide jobs for the unemployed, jobs for the partially employed and jobs for the discouraged worker.

Mr. President, I am not suggesting that we take the $250 billion of output that we have literally thrown away and use it to pay for defense, or for State and local governments or for Social Security. These programs will be financed even if we do not achieve full employment. But I am suggesting Mr. President that the job of financing government and of providing food, clothing, and shelter for our families will be easier if we are at full employment.

Mr. President, let us recognize as we debate this budget resolution, that a growing economy providing jobs for all our citizens will do more to balance the budget than any other measure we will debate in the Senate this week. Indeed, if we were now at full employment the fiscal year budget deficit would be about $85 billion instead of $136 billion as currently estimated.

Mr. STEVENS. Mr. President, until I have determined what anyone wants to do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to speak in morning business and that the time be equally charged against the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR ROBERT C. BYRD, MAJORITY LEADER

Mr. ROCKEFELLER. Mr. President, we had a rather extraordinary event today. ROBERT C. BYRD, our leader of the Democratic Party and the majority leader of the U.S. Senate, came before our Democratic caucus and said that he was going to relinquish his position at the end of this year in order, as he put it, to better serve the people of West Virginia.

That happened only a number of hours ago; and if one looks back over the Senate career of a man like ROBERT C. BYRD, who has served this institution for 30 years, for him to relinquish a position which he certainly could have had once again, had he chosen to ask for it, is remarkable.

It is historic within the context of the Senate. I think it is historic as a touchstone for the people of West Virginia.

Not many people know ROBERT C. BYRD that well, although many have worked with him for a long time. I include myself in that very lucky group.

It seems to me that it would be almost impossible to divine somebody who is more committed to public service, to his State, to his country, and to this institution, the U.S. Senate, than ROBERT C. BYRD.

Reference is often made to his mastery of the lessons of the Senate, the procedures of the Senate, and of course all that is true. A number of times I have been to his office, and he is reading all the rules and precedents of the Senate, and I think he does that every year. There is no one in this body who can outwit him, who can outmaneuver him. But I do not think that is his purpose. I think his purpose in knowing the rules and procedures and being a master of parliamentary procedure is, rather, to be able to serve better the Senate that he loves so much.

I think he wants the Senate to operate smoothy, fairly, in a timely manner, perhaps with a discipline which has diminished somewhat in recent years, but always conscious of the Senate as being the upper body, the deliberative body, the body that stands back from the great issues of the day and tries to make wiser decisions.

Senator BYRD has been very kind to me and has been so for many years. I cherish our relationship, and am grateful for the advice he has given me over many years.

I am very moved by his career. Probably there are many of us here who have not had to come up with such difficulty as has ROBERT C. BYRD. He has literally had to do everything by virtue of his own wits, his own intelligence, his own hard work, and his commitment. He is driven to excellence, and he has reached it.

He has never really cared about money. He has never had any to care about.

His work, his life, has been the Senate and his wife, Erma. Last year, we celebrated the 50th wedding anniversary of ROBERT and Erma Byrd. Many Senators who were there—and most were—felt that it was one of the most emotional experiences they had had in the U.S. Senate, to see ROBERT C. BYRD and Erma celebrating their 50th wedding anniversary, which is in fact a statement about what is best among married couples. Fifty years is a lot of time.

Erma has sacrificed just as ROBERT C. BYRD has sacrificed for State and for Nation.

So he has had a very tough life. He went through law school when he was a Member of the U.S. Congress. Nothing has been given to him. Everything has been earned by him and I feel that is why he does so well in West Virginia.

He has been away from West Virginia physically for 30 years but has been in the bosom of West Virginia for all of his life. People identify with him, coal miners' sons, farmers, steelworkers. They look at ROBERT C. BYRD and they see what hard work, determination, discipline, and self-sacrifice can do and they would like their sons to be like he is, and that makes sense because he is a truly remarkable man.

We will not have him as majority leader in 1989, and I wonder if the Senate will run as well.

I have been told by those who have been here for a long time that the Senate is very much a changed place, that it has lost its discipline, that it has lost some of its comity and its sense of collegiality.

I think that pains Senator BYRD. He has spoken of that to me on several occasions almost sadly in a way, saying just literally the Senate is not what it used to be. But that is because times have changed. The 1970's and the 1980's have brought enormous change to our institutions, including the Senate, and he understands that. So he was one of the leaders to bring television into the Senate, to open the Senate up to public scrutiny to be a part of the changing nature of our country and of this body that he loves so very deeply.

He has accomplished so much, Mr. President, that I cannot do justice to even mentioning the areas of energy policy, of coal, all by itself, coal research, clean coal research, which he is the author of, black lung, air safety, veterans, health care, the passionate commitment to fair trade.

Everybody who lives in West Virginia today and all over the county has been touched one way or another by the life and the work of ROBERT C. BYRD.

He has an abiding commitment to make America a stronger country not only militarily but economically and morally. He is a person of very, very deep and stern moral values. I happen to treasure his values.

When everybody else goes home, the light in his office is still on. So, in a sense, he shields the Senate through the strength of his work and the dominating commitment of his mind.

I would suppose the culmination of his career came when he was elected majority leader and that is where he has been, except for a brief time as minority leader, up until the present moment and now he will be, by his choice, the chairman of the Appropriations Committee.

West Virginia, like Senator BYRD in his earlier days, is a State that has many difficulties, and I am convinced that in fact it makes you wonder why, if a man is so good at being majority leader and so skillful in doing its work, would he give that position up voluntarily? And the only answer can be and indeed the only answer is that he feels that he can do more to help his people from West Virginia and all across this county by being on the Appropriations Committee. I cannot argue that.

Personally, I would like to have seen him stay as majority leader, but that would be natural for his junior colleague to feel that way. I respect his decision and I respect above all his fairness.

The Senate has many egos, many vanities, and many proclivities, and we all look to the majority leader as the person who will accommodate us, who will make our lives easier.

In fact, that probably is one of the problems with the Senate today, that is is difficult to get people to concentrate on the business of the Senate.

ROBERT C. BYRD's mind is always focused on the business of the Senate and yet at the same time he accommodated in a very gracious way both sides of the aisle.

In presiding like the distinguished Senator from Michigan is at this moment, I would often watch and will continue to the end of this year Majority Leader BYRD. A great battle is going on. People are not showing up to put down amendments. People are being slow, divisive, sometimes partisan, and you can just feel the tension in him, and yet the manner is always gracious and easy.

After a battle is won or after a battle is lost a smile comes across his face because there is always tomorrow's work.

He spans so many decades of public service. He has served in virtually every legislative office—well, he has in every legislative office, the House and the Senate in West Virginia, the House and the Senate in the United States of America.

What he means to West Virginia is symbolized, I would suppose, by the size of the vote that he gets whenever he runs. He always runs as if he were going to lose but, of course, he never does. His majorities were enormous because the respect of the people of West Virginia for ROBERT BYRD is enormous.

So, Mr. President, on this remarkable day I wish to congratulate Majority Leader BYRD as a public servant, as a human being, as a husband, a father, somebody who has been through great hardship, through great heartbreak, and has ascended to the highest level of public service in the land.

The majority leader of the U.S. Senate, I have always said and will continue to say as I introduce him at various functions around the State, is the second most powerful office in the land. He has carried that position with great distinction, firmness, and knowledge, respected by all and he has done all of his work with grace.

There will be many times for myself and others to praise ROBERT C. BYRD before the end of this year, and after all, he is going to be reelected and he will be chairman of the Appropriations Committee and there will be many reasons to talk with ROBERT C. BYRD, but on this particular evening, as a West Virginian, I want to express particular pride in the career, in the nature, in the manhood of ROBERT C. BYRD.

I yield the floor.

Mr. STEVENS. Mr. President, I am delighted to have been here at the time my good friend, Senator ROCKEFELLER, has made the statement he has made concerning his senior colleague. He is right about the fact that he will have occasions to make comments about Senator BYRD's service at another time.

But on the basis of my long friendship with Senator BYRD, let me state that as a former assistant leader on the Republican side of the aisle, and I have been assistant leader both when we were in the minority and in the majority, I have had the unique privilege of spending many long hours with Senator BYRD.

I have many memories of those and those days and hours during the long period of time, for instance, when our hostages were held in Iran, the times we spent at the White House together and in trying to find ways to assist, the secrets we shared at that time. In fact, some of our hostages were held by the Canadians and other things were going on which left me with a firm fixed feeling of the depth of gravity of feelings that Senator BYRD has. And I know of his background, as Senator ROCKEFELLER has stated so well.

I think it is important for us to realize that the announcement that was made today was made by the Senate majority leader, not just by the Democratic leader, and on that basis, even though I am on this side of the aisle, I want to state that I think it was a decision that took great courage. It always takes courage to yield power and to make the determination that one can best serve his State and the Nation in another capacity.

As such, I think those of us here who have talked to Senator BYRD today have told him we admire his courage and we admire the fact that he decided to make the announcement early to eliminate speculation and to let the Senators on his side of the aisle prepare for the decision that they have to make. That decision will affect us all.

But I do believe that we should recognize, as I said, the courage that was involved in that decision. I personally have explained my feelings to him with regard to that decision. I think that it is not a time to be sad about it because I will tell you those of us on the Appropriations Committee will welcome his participation in the future and I know that he has a great role to play in the future of our country.

SENATOR DENNIS CHAVEZ

Mr. DOMENICI. Mr. President, today there is a very special wreathlaying ceremony in the United States.

This ceremony is in honor of the 100th anniversary of the birth of the late Senator Dennis Chavez of New Mexico.

The Senate's commemoration of Senator Chavez is one of many such events being conducted to honor New Mexico's Senator. Last weekend, I attended a dinner in his honor in Albuquerque. Last week, President Reagan signed Senate Joint Resolution 206, introduced by the senior Senator from New Mexico, to declare April 8, 1988 as "Dennis Chavez Day."

Senator Chavez will forever be remembered as a man of great ambition and strength of character. His story is symbolic of the opportunities available to every American and is worthy of our tribute.

Dennis Chavez was born in an adobe home in Los Chavez on April 8, 1888. His father worked land that had been deeded to his direct ancestor by Phillip II of Spain in 1597. Dennis left school in seventh grade to take a job working 12 hours a day driving a grocery wagon, as well as caring for the horses and stable. Yet with no high school or college education, he later passed a special examination to attend Georgetown University Law School.

Senator Chavez had a strong desire to serve his fellow citizens, and in 1935 he became the first native-born Hispanic to serve as a U.S. Senator. He served 27 years until his death on November 18, 1962. Before he came to the U.S. Senate, Senator Chavez served in the U.S. House of Representatives for 4 years. He was the highest ranking Hispanic in the Federal Government for over 30 years.

Never forgetting his roots, Senator Chavez was a champion for the poor and oppressed. In the Senate, he led the fight to establish the first food stamp program. As a member of the New Mexico Legislature, Senator Chavez introduced the first bill to provide free textbooks to New Mexico's school children.

Senator Chavez was also keenly interested in our Nation's foreign affairs. He believed in a strong national defense and was an advocate for the development of nuclear submarines and nuclear-powered aircraft carriers. He was also President Roosevelt's chief spokesman for the President's Good Neighbor policy in Latin America.

Dennis Chavez was truly the embodiment of the American dream. Through hard work, he lifted himself from the humble adobe dwelling in Los Chavez to serve as a national legislator. Despite his rise to power, Senator Chavez's thoughts were always of the people of New Mexico. He refused to leave those people behind. This attitude and his achievements still inspire young Hispanics struggling to achieve recognition, and are a constant reminder of what a privilege it is to live in this land of opportunity.

COMMEMORATION OF SENATOR DENNIS CHAVEZ

Mr. BINGAMAN. Mr. President, I rise today to inform my colleagues of an important wreath laying ceremony which took place in the U.S. Capitol this afternoon.

This ceremony was to honor Senator Dennis Chavez on the centenary of his birth. Senator Chavez is one of the few Americans who has been honored with a statue in the Capitol.

As the first American-born Hispanic to serve in the U.S. Senate, Dennis Chavez is an inspiration to all Americans and an example of just how far one can advance in this country with determination, courage, and hard work.

Born in his family's dirt-floor adobe home in Los Chevez and too poor to attend high school, he rose to become the first American-born Hispanic elected to the U.S. Senate. His 28-year tenure as a U.S. Senator is the longest in New Mexico history and exceeds all but 49 of those who have served in this body.

The accomplishments of Dennis Chavez' Senate career pervaded the fields of human rights, natural resources conservation, health care, national defense, and public works construction. As chairman of the Senate Committee on Public Works, he oversaw the development of the Interstate Highway System and the construction of Inter-American Highway.

Although he rose to great prominence in the Senate, he never forgot his humble roots and was a champion for those who were oppressed and discriminated against. To this end, he was instrumental in the establishment of a permanent Fair Employment Practices Commission, and a national health insurance program which served as a model for Medicare.

He was also a leader of exceptional personal courage, raising his voice against the anti-Communist paranoia and the suppression of civil liberties at the height of the McCathyite hysteria. Indeed, many of his colleagues felt his speech on the Senate floor on May 12, 1950, against "the curtailment of liberties" and the shackling of "the growth of men's mind" was instrumental in turning the tide against McCarthyism.

In commemoration of Senator Chavez's outstanding achievements, I joined Senator DOMENICI in cosponsoring Senate Joint Resolution 206, a joint resolution designating today, April 8, 1988, as "Dennis Chavez Day". I am pleased to report that this measure has passed both the Houses of Congress and was enacted into law by the President.

The outstanding accomplishments of Senator Chavez are an inspiration for us all, and I am honored to have been part of this important ceremony.

THE INEQUITY OF THE "NOTCH" PROBLEM

Mr. METZENBAUM. Mr. President: I am today joining Senator SANFORD in cosponsoring S. 1830, a bill to address the inequity of the Social Security "notch" problem.

Mr. President, retirees born between 1917 and 1921 may receive as much as 22 percent less in benefits than those with identical earnings records born in 1914.

Why?

Because in 1977 Congress enacted Social Security amendments which have not worked as intended. The amendments were designed to reduce the costs of a 1972 benefit formula.

The 1977 changes were to be phased in, so as not to substantially reduce the expected benefit levels for those near retirement age. Congress intended that the 1977 change result in a benefit reduction of no more than 5 percent.

But those born between 1917 and 1921 saw their anticipated benefits drop by as much as 20 percent.

Mr. President, the 1977 changes do not work as we intended.

Simple fairness requires that we not continue to penalize the notch retirees simply because they were born in the wrong years.

S. 1830 increases the annual Social Security benefits for notch babies by an average of $500.

It also provides a one-time retroactive payment of up to $1,000 as compensation for past low benefit levels.

If we are to maintain public confidence in the Social Security System, we can do no less.

I urge my colleagues to support Senator SANFORD's bill to correct the notch inequity.

VERMONT LT. GOV. HOWARD DEAN

Mr. LEAHY. Mr. President, Vermont and Nebraska are the only States with popularly elected women Governors. So we are in pretty select company.

However, I would wager that Vermont is the only State with a Lieutenant Governor who makes house calls as a practicing physician.

And whenever the work schedule around here keeps the Senate in late hours—or has us running from committee to committee and back to the floor for votes—I think of the schedule that Lt. Gov. Howard Dean of Vermont keeps on a daily basis.

He is ex-officio president of the Vermont State Senate, which means he presides over that body when the legislature is in session. He travels about the State in a pickup truck, speaking to schoolchildren and civil groups—and still manages to see his patients at the Shelburne medical practice shared by his wife, Dr. Judith Steinberg.

An article in the Burlington (VT) Free Press—March 6, 1988—chronicles the busy lifestyle of Lieutenant Governor Dean, and I would like to introduce my colleagues to this remarkable Vermonter by asking that the article by James E. Bressor be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington (VT) Free Press, Mar. 6, 1988]

LIEUTENANT GOVERNOR GETTING COMFORTABLE

(By James E. Bressor)

MONTPELIER.—Presiding over a joint assembly of the Legislature that met last week to elect a new sergeant-at-arms, Lt. Gov. Howard Dean scolded a Republican House member who tried to leave the chamber during the voting and told him to return to his seat.

A few moments later, Dean reprimanded his friend House Majority Leader Paul Poirier, D-Barre, who had left his seat to chat for a few moments with House Speaker Ralph Wright, D-Bennington. A chagrined but grinning Poirier walked back to his seat amid chuckles from his colleagues.

"Gaveling errant members back to their seats—I probably wouldn't have done that a year ago." Dean said afterward. That he did last week indicates how comfortable Dean has grown with his job.

A 39-year-old Burlington Democrat who moved to Vermont in 1978, Dean divides his time between serving as president of the state Senate and working at his Shelburne medical practice, which he shares with his wife, Dr. Judith Steinberg. He also has kept himself busy speaking around the state, working on a presidential campaign and generally striving to remain visible in the public eye.

Dean's first few weeks in the Senate last year were rocky, particularly his relationship with President Pro Tempore Peter Welch, D-Windsor. Arriving as a former two-term House member and buddy of Wright—who has had a series of run-ins with Welch—Dean came to the Senate as an outsider and also as a potential candidate for higher office.

Dean, Welch and many others in the chamber agree that the animosity has faded away.

"Howard keeps a low profile as far as the caucuses are concerned. But he's working well with the Democrats," Welch said. "We have established a very solid working relationship."

That low profile within the Legislature has kept Dean relegated as something of an outsider in the Senate. Most senators agree that he has not been so involved in legislative matters as his predecessor, Republican Peter Smith.

"He's an invisible entity around here," said Sen. Vincent Illuzzi, R-Essex/Orleans.

Dean himself admitted that he focuses on only a few bills.

"(The job) gives me a lot of freedom to concentrate on issues I think are important without getting bogged down in committee work," he said.

Unlike Smith during his final term in office, and unlike Madeleine Kunin during the four years she served as lieutenant governor, Dean has been in office at a time when a governor of the same party was in power. Therefore, instead of serving as a chief spokesman for his party on legislative issues, he has had to work to keep his name in the news outside of the Statehouse.

In doing that, he has put 23,000 miles on his Chevy pickup since August, most of that traveling around the state to speak at schools and civic groups.

In addition, Dean has appointed a task force on teen suicide and has traveled with Kunin around the state for a series of breakfasts with businessmen to plug day care. He continues to be host for a weekly cable television talk show seen in several Vermont communities, including Burlington.

He also has become an outspoken opponent to the proposed Maple Tree Place shopping mall in Williston. In a November Free Press column, Dean called the mall "a significant threat to orderly and well-planned growth. It is also a threat to continuing efforts to preserve farmland, agriculture and open space in our most congested county."

More recently, he called for a freeze on the mall's permit process until a New York investigation into alleged illegal campaign activities by Pyramid Cos. is complete. He admitted there was no legal basis for such a moratorium, but maintained that major corportations such as Pyramid have the financial resources to run roughshod over Vermont.

"They could easily overwhelm us," he said.

Dean has put some distance between himself and Kunin on a few issues. He testified before the Senate Finance Committee against the governor's proposal for increasing the gasoline tax and creating a weight-distance tax on trucks.

"I don't believe we should be increasing taxes when we don't know our priorities," he said.

Dean also differed with the governor over which presidential candidate to support. He backed Rep. Richard Gephardt, D-Mo., while Kunin went with Massachusetts Gov. Michael Dukakis, who easily won Vermont's non-binding primary.

"You just have to call them as you see them. We don't run together. I agree with her 90 percent of the time," Dean said of the governor.

JIM HOWARD—A GREAT FRIEND AND A GREAT CONGRESSMAN

Mr. KENNEDY. Mr. President, I want to take a few moments to pay tribute to our colleague and friend who died suddenly last month, Congressman Jim Howard of New Jersey.

It seems like only yesterday that President Kennedy was saying, "Ask not what your country can do for you—ask what you can do for your country."

In the years since then, those words have touched millions of Americans in every section of the country. But no one was touched more deeply, or answered President Kennedy's summons to public service more enthusiastically, or accomplished more for the country in his own brilliant career than the young Irish schoolteacher from Wall Township, NJ, who became the man we all respected and loved in Congress as Mr. Chairman, Mr. Highways, and Mr. Public Works.

He was proud of all those titles. But he was even prouder of his title as commodore of the Shark River Yacht Club—which is where he learned to tame all the Potomac River sharks.

As Jim Howard told me many times, the spark of public service was first kindled in him, not in 1960, but 4 years earlier. As a young man in New Jersey, he had been fascinated by the television coverage of the 1956 Democratic Convention across the river in Philadelphia, and he had been touched by my brother's losing battle for the Vice Presidential nomination.

But it was in June 1960 that the permanent bond was forged. The primaries that year had ended, and in his quest to clinch the nomination, my brother flew into New Jersey to address a meeting of Democratic leaders and seek the support of delegates from the Garden State.

George Howard, Jim's father, knew many of the leaders there from Monmouth County, and he was well aware of the emerging interest of his son in politics. And so George Howard arranged for Jim to stand in the receiving line. It was the briefest of moments, the briefest of words, the briefest of touches, but it changed Jim Howard's life—and all of ours too.

In the years that followed, Jim generously fulfilled his public trust. He was a valiant defender of the environment. He changed the face of transportation and public works. He brought jobs and hope to communities and people in every region of America.

More than anyone I knew, he lived on the edge in politics—never sure of the next election. But year in and year out, he always seemed to win, because his appeal was broader than any party line.

In September of every election year, the call would come in to me from Jim like clockwork. He would tell me how lovely it was at this time of year in Long Branch, Asbury Park, and Spring Lake on the Jersey shore—nicer than Cape Cod, he said—and wouldn't I like to join him at a fundraiser here or a campaign stop there, to help in his reelection.

And I liked to remind Jim of the famous telegram that my father sent to Jack before the West Virginia primary in 1960. "I'm glad to help out," Dad wired, "But I'll be darned if I'm going to help you pay for a landslide."

No Kennedy ever had a better friend or a more effective and loyal supporter than Jim Howard. He was there for all of our campaigns—as a young volunteer for Jack in 1960, then for Robert Kennedy in 1968, and for me in 1980, when he chaired my successful New Jersey campaign that year. Whatever the odds in other States, we always felt that we could count on New Jersey, because Jim Howard knew the Garden State, and we knew that he would never let us down.

It was a privilege to work with Jim in Congress—and sometimes it was an ordeal, because Jim knew how to say no as well as yes.

In recent years, after he became Mr. Chairman, working with him was a learning experience for the rest of us in the use of power in the public interest. JIM WRIGHT may have had more clout than Jim Howard in the House of Representatives, but most of us were never sure.

As we all knew, Jim had great power—and a reputation for power even greater than the power itself.

On the second floor of this Capitol Building, there is a long, wide, straight corridor that connects the House Chamber to the Senate Chamber. I used to call Jim Howard on the telephone from the Senate cloakroom, and ask if I could see him for a moment about a bill.

And before I could begin, he'd be asking why I only ever called him when a transportation bill was on the floor—and why couldn't I get those special interest Massachusetts provisions included in the bill on the Senate side—and why was Boston sending its waste to New Jersey beaches—and did I want Hyannis Port paved over with concrete.

But I said I loved him anyway, even if his family was from County Clare. And whenever I asked to see him he'd always relent and say he'd come right over.

And when I hung up the telephone and my blistered ear had healed, I would walk off the Senate floor and wait for Jim Howard to come into view at the other end of the corridor. Fifty yards away, he would throw open his jacket, and show off the symbol of the bond that forever tied him to President Kennedy and our family—the bond that was his pride and joy—his PT-109 tie clip. There were only two things he cherished more, he said—his family and the Jersey Shore.

And each time Jim showed me that tie clip filled with so many memories, I quietly decided that I should have requested even more funds for that water project in Boston Harbor.

People often ask me what it is that attracts young men and women into public service. What is it that persuades them to endure the pressure, the frustration, the sacrifice of privacy, the lack of time with family and friends, the loss of income that is sure to follow. Ambition—perhaps. Excitement—certainly.

But it is also something more—an ideal that often takes its root in youth in people like Jim Howard, and that guides them all their lives—the challenge to give something back to America in return for all it has given us.

It is the simple, profound, enduring, American belief that individuals can make a difference, and that government can make a difference too. Survival of the fittest may be the law of the jungle, and of some people in public life. But it was not the law by which Jim Howard lived, and so long as people like John F. Kennedy and James J. Howard are willing to enter public life, it will never be the law of the United States.

My brothers left us too young, and so did Jim. But I suspect that the three of them are already with each other once again, lining up delegates for the next celestial primary, taking time out to sail together, to laugh and sing in Irish song, or play one more game of touch.

And if I know Jim, just as surely as he did God's work here on Earth, he's busy up above as well—putting up 55-mile-an-hour speed limit signs on all the highways of Heaven.

He could be tough, as well, in work or play. In all those happy times at Hickory Hill in the 1960's, I remember Jim as the one who always voted to play tackle. And that's the way he played the game of legislation too, which is one of the reasons we loved him most.

Like my brothers, Jim Howard was a sailor. And there is no more fitting way for me to close this tribute to our friend than with the verses of John Masefield that President Kennedy loved about the sea:

I must go down to the seas again, to the lonely sea and the sky,
And all I ask is a tall ship and a star to steer her by;
And the wheel's kick and the wind's song and the white sail's shaking,
And a gray mist on the sea's face, and a gray dawn breaking.

I must go down to the seas again, for the call of the running tide
Is a wild call and a clear call that may not be denied;
And all I ask is a windy day with the white clouds flying,
And the flung spray and the blown spume, and the seagulls crying.

I must go down to the seas again, to the vagrant gipsy life,
To the gull's way and the whale's way where the wind's like a whetted knife;
And all I ask is a merry yarn from a laughing fellow-rover,
And quiet sleep and a sweet dream when the long trick's over.

I know that if President Kennedy and Robert Kennedy were here today, they would join me in saying, "Well done, Jim, and sleep well." In the words of the ancient Irish prayer, "May the sun shine warm upon your face, Jim, and until we meet again, may God hold you in the palm of His hand."

Mr. President, I ask unanimous consent that a collection of articles on Congressman Howard and his distinguished career may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 26, 1988]

JAMES HOWARD, CONGRESSMAN, IS DEAD AT 60

SERVED DISTRICT IN JERSEY FOR OVER TWO DECADES

(By Clifford D. May)

WASHINGTON, March 25—Representative James J. Howard, a New Jersey Democrat who served more than two decades in Congress, died this afternoon at the Washington Hospital Center, a day after suffering a heart attack. He was 60 years old.

Mr. Howard was stricken while playing golf in suburban Maryland before the day's proceedings on the House floor began. He never regained consciousness.

He suffered previous heart attacks in 1974 and 1978.

Mr. Howard, who represented the Third Congressional District, including parts of Monmouth, Ocean and Middlesex Counties, served since 1981 as chairman of the House Public Works and Transportation Committee. He was considered an authority on the highway system, mass transit and other areas of public transportation.

ROLE IN ENVIRONMENTAL ISSUES

He also played an active role on environmental issues, particularly in efforts to clean up New Jersey's beaches and coastal waters.

After the retirement of Representative Peter W. Rodino Jr., Democrat of Newark, N.J., this fall, Mr. Howard would have been the senior member of the state's delegation to Congress.

Under New Jersey law, Governor Kean must order a special election to fill Mr. Howard's seat. However, it could be scheduled for as late as November, to be held at the same time as the general election.

Although he never achieved widespread national recognition, Mr. Howard was known on Capitol Hill for his mastery of the strategies of the Congressional power game. In 1985, for example, when Massachusetts was considering dumping sludge from Boston at an ocean site off New Jersey, a rumor spread that he would use his power as committee chairman to try to cut off funds for a long-planned Boston highway project.

The Congressman called The Boston Globe to assure everyone that he would do no such a thing. Instead, he said, he would move to cut off $100 million for Boston's sewage treatment plant.

"If they're going to dump that stuff off New Jersey," he said, "they don't need the money. We'll need it in New Jersey to clean up the beaches."

More recently, Mr. Howard fought for legislation to prohibit all ocean dumping off New Jersey and New York.

Senator Frank R. Lautenberg today praised Mr. Howard as "a leader and a devoted public servant." The New Jersey Democrat said that Mr. Howard "fought to protect our state's environment" and "tirelessly led efforts to rebuild our nation's infrastructure—our highways, bridges and roads."

The state's other Democratic Senator, Bill Bradley, said Mr. Howard was responsible for "some of the most far-reaching legislation affecting our cities and states."

Governor Kean said, "He served with dedication and always placed New Jersey's interests first."

Mr. Howard was born July 24, 1927, in Irvington, N.J., and grew up in Belmar on the Jersey shore. In World War II he served with the Navy in the South Pacific.

From 1952 until 1964 Mr. Howard was a teacher and then acting principal of the West Belmar Elementary School in Wall Township. He also served in that period as a member of the delegate assembly of the New Jersey Education Association and as president of the Monmouth County Education Association.

He first ran for the House in 1964, in New Jersey's Third Congressional District, then considered a Republican stronghold. But President Johnson's overwhelming victory over Senator Barry Goldwater that year was seen as helping Mr. Howard overcome his opponent.

In 1973 and 1974, Mr. Howard served as chairman of the Subcommittee on Energy of the House Public Works Committee where he introduced the 55-mile-an-hour speed limit, a concept that subsequently became law. Mr. Howard advocated the change in the belief that not only would it save oil but also it would save 2,000 to 4,000 lives annually.

Mr. Howard lived in Spring Lake Heights, N.J., and in Washington.

He leaves his wife, the former Marlene Vetrano, and three daughters, Lenore Buchanan, Marie Howard and Kathy Tjunin.

[From the Washington Post, Mar. 26, 1988]

N.J. DEMOCRATIC REP. JAMES HOWARD DIES

(By Bart Barnes)

Rep. James J. Howard, 60, a New Jersey Democrat who had been chairman of the House Public Works and Transportation Committee since 1981, died yesterday at Washington Hospital Center after a heart attack.

Rep. Howard, who was elected to the House in 1964, was stricken Thursday morning while playing golf at Manor Country Club in Olney. It was his third heart attack in the last 14 years, and he never regained consciousness.

A diminutive and mild-mannered former schoolteacher, Rep. Howard was not known nationally. But he was one of the more influential members of Congress by dint of his position as chairman of one of its most powerful committees.

The Public Works and Transportation Committee has jurisdiction over billions of dollars in federal highway, rapid transit and water projects as well as the airline and trucking industries.

Thus, for a member of Congress to have a post office or a federally financed dam constructed in his district, he had to seek Rep. Howard's approval, and Rep. Howard was known as one of the toughest horse traders on Capitol Hill.

But he fought a losing battle last year to retain the nationwide 55 mph speed limit, legislation that he had helped enact in 1973 and 1974 as an energy conservation and safety measure. He also backed legislation for a federal offensive against drunk driving.

Rep. Howard was sometimes criticized for traveling and being entertained on the expense accounts of groups or organizations doing business before his committee, and he regularly received one of the larger amounts of business-related campaign contributions among House members. At the time of his heart attack he was playing golf with a lobbyist for Trans World Airlines.

He was the second most senior member of the New Jersey delegation after Rep. Peter Rodino (D), who has said he will retire after this year.

A native of Irvington, N.J., Rep. Howard served in the Navy during World War II, then graduated from St. Bonaventure University. He received a master's degree in education at Rutgers University. He was a schoolteacher and principal in Wall Township and a leader in the local education association before he won election to Congress in 1964 from a district that includes the northern part of the New Jersey shoreline.

Although predominantly Republican, the district sent Rep. Howard back to Congress in every subsequent election, although sometimes by narrow margins. In 1986 he won with 59 percent of the vote.

Rep. Howard, a resident of Spring Lake Heights, N.J., is survived by his wife, Marlene Vetrano Howard of Spring Lake Heights, and three daughters, Kathy Tjunin, Lenore Buchanan and Marie Howard.

[From the Asbury Park Press, Mar. 26, 1988]

WASHINGTON COLLEAGUES PRAISE MAN OF INFLUENCE

(By Larry McDonnell)

WASHINGTON.—When it lost James J. Howard, New Jersey lost political muscle that may be impossible to replace.

"You can't travel anywhere in New Jersey that you don't see Jim Howard's fingerprints," said Rep. William Hughes, D-N.J.

Nearly all of Howard's colleagues on Capitol Hill yesterday sounded the same theme: A friend and respected ally was gone, and New Jersey was suddenly without a savvy, tough politician who would fight tenaciously for his district and state.

"New Jersey has several committee chairmen, but the reality is all committee chairmen are not created equally," said Rep. Robert G. Torricelli, D-N.J. "Jim Howard had special influence and, by his powerful chairmanship of the Public Works Committee, certainly controlled more federal spending than any member of the House or Senate from New Jersey. That is an influence that will be greatly missed in our state."

Howard had great affection for the New Jersey Shore. Both of New Jersey's senators praised him for drafting important legislation to clean and preserve it.

"His unabashed love for New Jersey was the driving force behind his lifelong fight to protect our state's environment, especially our beaches and oceans," said Sen. Frank Lautenberg, D-N.J.

"He zealously fought to protect the Shore as a place where families can go to escape the pressures of life and enjoy the natural beauty of the ocean," said Sen. Bill Bradley, D-N.J.

Howard's heart problems—he had suffered two heart attacks—were well-known among members of the New Jersey delegation. But he had not been ill, and most members were shocked by his sudden death.

"We all knew he was not always well, but nobody was ready for something as massive as this," said Rep. Christopher H. Smith, R-N.J.

Republican Rep. Matthew Rinaldo said that as effective as Howard was as a lawmaker, he will miss him most as a friend.

"It will be Jim Howard's forceful and dynamic personality that I will miss the most," Rinaldo said.

The comments yesterday from New Jerseyans and others were uniformly warm and laudatory. In truth, Howard was not liked by all on Capitol Hill. But he was respected.

Because of his powerful position as chairman of the Public Works Committee, he was a rare breed of politician. He routinely backed up his words with actions. Many road projects, such as Interstate 195 linking Trenton and the Shore, owe their very existence to Howard.

He also wasn't afraid to twist arms and flaunt his considerable power, though he managed to keep partisan bickering on the Public Works Committee to a minimum.

Republican colleagues on the panel praised his work for New Jersey and the nation.

"He was a good and decent man and a builder of a better America," said Rep. Bud Shuster, R-Pa., a fellow member on the committee. "His legacy is the legacy of clean streams and safer highways, modern airports and public transit systems serving millions of Americans every day of their lives."

Norman Mineta, D-Calif., credited Howard with looking beyond New Jersey to the nation's transportation needs.

"Jim couldn't bear the thought of losing so many teen-agers in drunken driving accidents, so he labored long and hard to raise the drinking age to 21," Mineta said. "Jim couldn't sit by idly while more than 50,000 Americans died each year in highway accidents, so he fought to maintain the 55-mph speed limit."

So many of Howard's contributions were in the area of transportation; leaders of the field yesterday remembered him as a fair, effective leader.

"He truly helped shape the modern highway program," said Daniel J. Hanson, American Road and Transportation Builders Association. "Representative Howard's hallmark was his ability to build bipartisan coalitions and work well with members of Congress and the transportation industry."

FRIENDS RECALL GUTSY NATURE OF DEDICATED MAN

(By Coleen Dee Berry)

Mostly, they remember his dedication.

Rep. James J. Howard was described as a congressional giant, a gutsy football player, a worthy adversary and a hard-working, dedicated public servant by state leaders yesterday.

Those friends and adversaries agreed that Howard's passing from a heart attack suffered on Thursday marks the end of a political era.

"He was as hard-working and efficient public servant as I have ever known—he should serve as a model to the rest of us," said Assemblyman John Paul Doyle, D-Ocean. "He had real political courage."

Doyle, like many other of Howard's compatriots, pointed to his surprise victory in 1964 as the touchstone for the 3rd District Democrat's political career.

"I remember when I first met him at the Brick township Democratic headquarters in 1964. He was tackling an uphill battle that no one thought he would win, but he was optimistic and giving them hell," Doyle said. "When he won, they all thought he was a one-term wonder, getting in with the (President) Johnson landslide. Every election he proved them wrong."

"No one thought that this district could support a Democratic congressman, but he kept winning all the time," said state Sen. Richard Van Wagner, D-Monmouth. "But it was always against the tide. He was always running against the tide."

Howard's electability stumped the opposition in a district that traditionally favors the GOP.

William F. Dowd, Monmouth County Republican chairman, noted that he had spent "the better part of the last two decades" in a futile attempt to unseat Howard, including two races in which he was the unsuccessful GOP candidate.

"The people of the 3rd Congressional District have lost a hard-working and loyal champion," Doyle said.

Joseph Azzolina, a former state senator and assemblyman who is running in the GOP primary for Howard's district, said he was saddened by the congressman's death and had been "looking forward to a spirited campaign.

"Jim was a devoted public servant and a man who loved the challenge of serving in Congress," he added.

Gov. Kean, who has the responsibility of setting a date for a special election to fill Howard's seat, praised him as a congressman who "served with dedication and always placed New Jersey's interests first. He will be missed very deeply by all who knew and worked with him."

Howard's interest in the environment bolstered his district counterparts.

"I think he's the greatest congressman that the Shore area has ever seen," said state Sen. Frank Pallone Jr., D-Monmouth.

"He's been a longtime champion of the environment."

Assemblyman Anthony M. Villane Jr., R-Monmouth, echoed that sentiment.

"I'll miss him," said the assemblyman, who specializes in environmental issues. "I used to refer federal problems to him and he'd refer state problems to me. He was a fountain of knowledge."

"He was a staunch supporter of the environment," Villane continued. "In addition to the loss to his family, he was the chairman of one of the most important committees in Congress. This is a big, big loss to New Jersey."

Howard's commitment to the environment was matched by his embrace of liberal causes.

"He was one of the last remaining true Democrats," said Daniel F. Newman, Brick Township mayor and former Democratic assemblyman. "One thing I always respected about him was he never hid the fact that he had a soft spot in his heart for the liberal views of the Democratic Party."

Senate President John Russo, D-Ocean, likened Howard's public career to his early years playing semiprofessional football with the congressman for the Asbury Park Yellowjackets. Howard also coached the semiprofessional Jersey Sharks football team.

"They say you can tell a person's character by the way they play sports. Well, Jim was the most gutsy, underweight football player I ever knew," he added. "And he brought that same tenaciousness he displayed on the playing field with him when he went to Congress."

Once in the House of Representatives, Howard became a "giant," according to Monmouth County Democratic Chairman John R. Fiorino.

"He reportedly was the fifth most powerful man in the (entire) Congress," said Fiorino, who received the news of Howard's death while he was vacationing in Florida. "Jim worked at it and I know that the people in our county are going to miss him very much."

Fiorino, who was noticeably shaken by the news, recalled that he had just been out to dinner with Howard about a month ago, along with two mutual friends.

"He (Howard) was telling us how the men in his family don't live to a ripe old age," Fiorino said. "I think he said 62 or 63 was the oldest that any male in his family lived."

As another campaign season approaches, those in the 3rd District say it will be strange that for the first time since 1964, Jim Howard's name will not be on the ticket.

"You develop a real brotherhood of politics when you campaign, and you see each other on the road and you sit at so many head tables, and you wonder if you're doing to get to finish the soup before you have to run on to the next event," Van Wagner said. "You get used to seeing and being with those people year after year—I'm going to miss him."

Value of Heritage, Family Remembered

Washington.—He was a friend, confidante and worthy adversary.

Those who knew him said they will miss Rep. James J. Howard, the man who valued his family, golf game, Irish heritage and work.

Howard died yesterday at the age of 60 with his wife and three daughters at his side. A day earlier he suffered a severe heart attack on a suburban Maryland golf course.

Howard's "last memory was that he was wearing Irish green and hit a great shot . . ." said his daughter, Marie.

Lawmakers and friends in Congress, New Jersey and elsewhere in the nation, meanwhile, expressed a sense of loss.

Sen. Edward M. Kennedy, D-Mass., called Howard "a masterful legislator who richly earned and richly deserved his title of 'Mr. Public Works.' It was a privilege to work with him."

Rep. Robert Roe, D-N.J., a longtime associate and senior member of Howard's committee, said: "Both New Jersey and the nation are better for Jim Howard having served in the U.S. House of Representatives."

"New Jersey has lost one of its most forceful advocates and I have lost a friend whom I deeply respected. He was my political partner since I first began in politics," said Sen. Bill Bradley, D-N.J.

Rep. Dean Gallo, R-N.J., also on the Public Works panel, said, "I developed a close personal relationship with Jim that has been cut short suddenly and far too soon."

Former state Assemblyman Joseph Azzolina, R-Monmouth, who is considered the leading candidate in the race for the Republican nomination in the 3rd District, expressed his sadness at the news of Howard's death. "I considered him a friend," Azzolina said in a statement.

Gov. Kean called Howard's passing "a personal loss to me as well as to the people he served so ably in the U.S. Congress."

New York City Mayor Edward I. Koch, who served in Congress from 1968 to 1977 and made frequent campaign appearances in Howard's district with him, called him "a very gifted legislator who left his mark as the architect of the trade-in of highway funds for mass transit."

He said Howard also helped programs to fund water treatment centers, highways and bridges. "At the same time, he was a firm environmentalist," the mayor said.

Howard's fellow Democratic Rep. William Hughes of Ocean City, N.J., called Howard "one of the workhorses of the delegation."

"This really takes me back. I don't remember many things hitting me as hard as losing Jim Howard," Hughes said.

Congressman Howard Loved Athletics, Had Great Respect

(By M. Grosvenor Potter)

Wall Township.—Colleagues from the Wall Township school system yesterday recalled a man who served as both an energetic teacher with a love of athletics and a principal who treated administrators and teachers with equal respect.

Rep. James J. Howard taught for five years and served as a principal for seven in the Wall Township school system. At 25, he began teaching a sixth-grade class. He was assigned to a class of the 30 top pupils at the West Belmar School and then at the Central School.

"That is an indication that he was a quality teacher," said Harry W. Baldwin, Old Mill School principal.

Howard became the principal of the West Belmar School in 1957 at the age of 30.

"From what I can remember, it didn't matter if you were a teacher or an administrator, he respected you," said Robert A. Leete, supervisor of health and physical education for grades 6 through 12 in Wall Township.

A star athlete while at Asbury Park High School, Howard earned five letters—two in football, two in track and one in basketball—during his sophomore and junior years. He left high school before his senior year in 1944 to join the Navy.

He remained active in sports while in education, playing on volleyball and basketball teams with administrators and teachers, Leete said. He also emphasized physical education for the pupils in his school.

Baldwin recalls that despite his slight build, Howard was a formidable athletic competitor principally because of his drive.

While a teacher, Howard coached the semiprofessional Jersey Sharks football team that played before scant crowds at Wall Stadium. He also played for the Asbury Park Yellowjackets, another semipro football team, when he returned from the Navy.

As a boy, Howard associated with an athletic group of boys in Belmar, and went by the nickname "Knobsy," Baldwin said.

In addition to being interested in athletics, Howard was fascinated with politics, recalled Francis W. Groff, West Belmar School principal.

"I picture him buried behind a newspaper in the faculty room with a trickle of smoke coming out above," Groff said.

Howard had a tremendous memory for sports and political information, many of his former colleagues said.

Baldwin said he was not tremendously surprised when Howard decided to make a run for Congress.

"He had studied (Republican) Congressman (James C.) Auchincloss, and thought he could beat him," Baldwin said.

"We were all of the opinion there were too many lawyers in Congress, and thought it needed more rational people," Baldwin said. "The fact that (Howard) became one of the most popular and effective congressmen in Washington is proof of that reasoning."

John A. "Jack" Duffy, a former Hurley Pond School principal and township special education coordinator, served as Howard's district supervisor for more than 21 years. He recalled the campaigning Howard did out of a milk wagon to win his first election.

"The wagon had Jim's name on it. We went all over Monmouth and Ocean County in it," Duffy said.

Most of the campaigning was done in the late afternoon and evenings, after the school day, he said.

Teacher Parlays Chance Election to 24-Year Term

(By Jay Johnston)

Rep. James J. Howard, one of the most unlikely power broker in Congress, parlayed a chance election win 24 years ago to the chairmanship of one of the House of Representative's most influential committees.

Howard, who died yesterday at Washington Hospital Center, won election in his first try at public office following the retirement of 11-term Republican Rep. James C. Auchincloss. Howard rode a Democratic wave in 1964, defeating the late Marcus P. Daly.

In the glow of that victory, Howard said: "I wanted to be a congressman . . . and if I couldn't be that, I only wanted to be what I am, a teacher.

"I feel that next to the ministry, there is no higher calling than helping make the laws of this nation."

Howard, 60, collapsed at the first tee of the Brooke Manor Country Club in Rockville, Md., about 10 a.m. Thursday. He was revived several hours later at a nearby hospital, and then flown to a cardiac unit at the

Washington Hospital Center, where he remained until his death at 1:46 p.m.

The 12-team congressmen died with his wife of 37 years, Marlene, and three daughters, Marie, Lenore Buchanan, Boulder, Colo., and Kathy Tjunin, Howell Township, with him. He also is survived by a brother, George P., the assistant director of the state Division of Fish, Game and Wildlife. Another brother, Robert, died last year.

Howard, a former teacher in the Wall Township school district, rode President Johnson's coattails to his surprising win in New Jersey's 3rd District that first time out. In succeeding elections, he proved to be an electoral marvel: a true-blue liberal who proved a winner in a conservative, predominantly Republican district.

Although he never held office before. Howard began lobbying state leaders shortly after his election for a choice committee assignment. He got it, and proved a quick study of the old-fashioned back-slapping and armtwisting style of Washington politics.

By 1980, Howard had worked his way up to the chairmanship of the House Public Works and Transportation Committee—a pipeline through which billions of dollars in federal road and public works projects must pass.

Never a flashy speaker or charismatic presence, he instead earned a reputation as a master of the art of wheedling and cajoling on the House floor. Those who worked with him described him as a man who ignored party lines when considering the massive spending bills that passed through his committee, but who wielded his clout like a club when crossed.

His position as head of the public works committee made the self-effacing former schoolteacher and admitted sports nut who played the game of politics as if he'd been born to it an unlikely power broker.

He earned a reputation as one of Congress's most canny strategists, recently shepherding through two massive spending packages over President Reagan's vetoes. Votes to override a veto of the bills, a $69 billion highway package and a $20 million clean water initiative, sailed through Congress on the heels of the Iran-Contra scandal.

The successes did not come without a cost. Howard had to yield to states' desires to do away with the 55-mph speed limit he sponsored in 1973 to get the highway bill through. For the water bill, he had to swallow provisions calling for local government to pay for a greater share of the projects.

But the success of this initiatives were a case study of politics according to Jim Howard.

He pushed hard for the measures during the waning days of the 99th Congress, came up against stone walls and a presidential veto, but pressed on again in early 1987. This time, with a president wounded by the revelations of the arms deal scandal, he succeeded.

Howard was born in Irvington; his family moved to Belmar when he was 9 years old. He attended St. Rose Grammar School, and then transferred to Asbury Park High School. During his sophomore and junior years, Howard earned five athletic letters, two in football, two in track and one in basketball.

He left school to join the Navy in 1944, when he was a junior. He served in the South Pacific and returned in 1947 to finish high school. He also played semiprofessional football and later coached the Jersey Sharks, another semipro football team from Wall Township.

In 1952, Howard graduated from St. Bonaventure University in Olean, N.Y. Six years later, he received a master degree in education from Rutgers University. He took a job with the Wall Township school district and, he recalled in an interview, didn't give a thought to politics until he saw John F. Kennedy deliver a speech to the Democratic National Convention in 1956.

Four years later, when Kennedy was elected president, Howard committed himself to politics and the pursuit of the Kennedy ideal.

In 1966, and every two years after, Howard proved that first election was no fluke. Nervous even after 10 successful reelection tries. Howard survived the Reagan landslide in 1984 and won again in 1986. He had said he planned to run again this year.

He has been praised as a tireless worker for New Jersey, and maligned as a shameful wielder of "pork barrel" politics—the you-scratch-my-back-I'll-scratch-your philosophy that oils the Congressional appropriations process.

"Pork barrel' is just what they call a project in someone else's district," he said in a 1984 interview with The Asbury Park Press. "'Pork barrel' spelled backward is 'infrastructure' . . . I don't know when I ever supported a bad project."

One project that Howard did label "bad" was Westway, New York City's ill-fated plan to build a major highway on a landfill bordering the Hudson River. The proposed $2 billion road, which New York officials hoped to build with money from the federal Highway Trust Fund, was railed at by environmentalists and civic leaders on Manhattan's west side.

Howard, noting New York was entitled to money from the trust fund and that the city and state could build Westway if they saw fit, sponsored legislation that would have effectively precluded the state from using the money for Westway. New York officials shelved the proposal three years ago.

He also sandbagged a plan by Massachusetts lawmakers to dump that state's sewage sludge off the New Jersey coast. As Massachusetts officials pushed for a federal permit to dump at the 12-mile sludge site, Howard shelved an appropriation for a Boston Harbor Tunnel. The New England officials soon found an alternative to using the dump site.

As intransigent as Howard could be on a project he didn't like, he could be equally tenacious in a fight for a project he did like.

As one of the last of the New Deal-inspired Democrats, he sponsored legislation that established a national speed limit of 55 mph. He also sponsored a bill that led states to raise their drinking age to 21 in order to maintain their federal highway funding.

His hallmarks, in Congress were the massive highway and public works bills he drove through to enactment, fiscal dinosaurs in an age of budget deficits. But he also sponsored legislation creating the Congressional Awards program, which recognizes the achievements of young people between the ages of 14 and 23—another durable legacy from his tenure.

"Our country has always had ways of awarding adults for bravery and public service," Howard said just before the first awards were announced in 1983. "Unfortunately, our youth were never given much credit for their unselfish acts or contributions to society."

A funeral Mass for the congressman will be celebrated at 10 a.m. Tuesday at St. Catharine's Roman Catholic Church, Second and Salem Avenues, Spring Lake.

The wake will be held from 7 to 9 p.m. Sunday and from 2 to 4 and 7 to 9 p.m. Monday at the Meehan Funeral Home, 555 Warren Ave., Spring Lake Heights.

In lieu of flowers, contributions may be sent to the Jim Howard Scholarship Fund, 500 Route 34, Matawan 07747.

[From the Sunday Register, Mar. 27, 1988]

JAMES HOWARD IN MEMORIAM

Abruptly, prematurely, New Jersey's 3rd Congressional District has lost one of its most colorful, energetic and dedicated leaders. With the untimely, tragic death of Rep. James J. Howard emerges a mighty void, and a painful emptiness for his family and constituents.

Howard's demise also brings to an end a powerful dynasty. With him goes a political tradition.

The 60-year old congressman suffered a severe heart attack Thursday on a Maryland golf course. He died a day later.

Fittingly perhaps, at the time of his collapse, Howard was enjoying one of his lifetime passions, golf.

"His last memory was that he was wearing Irish green and hit a great shot that landed him on the green in two," said his daughter, Marie Howard.

It was another indulgence, cigarettes, that certainly contributed to Howard's death. He had suffered two previous heart attacks and recovered remarkably from both. But he continued smoking. Though he quit for eight months, he resumed his life-long habit last year, attributing the urge to the pressures of his job.

Even as an educator, Howard's rise to leadership was quick. After five years of teaching, he became principal of the West Balmar School in 1957 at the age of 30. he was an avid athlete, having played high school and semipro football in his youth. Later, he turned his love of athletics to coaching.

The night before his heart attack, he coached a House basketball team in a benefit game.

On the Hill, Jim Howard was known as a scappy, hard-bargaining Irishman. Elected to the House with Lyndon Johnson's big presidential win in 1964, Howard scaled the ranks to become chairman of the House Public Works and Transportation Committee in 1981. Among his most recent legislative triumphs, Howard carried the Clean Water Act of 1987 to passage, defying President Reagan's veto with a House overriding vote.

His record on transportation and the environment, including rail electrification for the North Jersey Coast Line, shore protection and anti-pollution initiatives, have benefited the Jersey Shore. His advocacy has built momentum for shore projects that will continue even after his death.

Among the most powerful players on the Hill, Howard was chided by Washington pundits for engaging in pork-barrel politics. Despite the criticism, he handily defeated almost all his Republican challengers, only once merely edging out an opponent in a Reagan landslide win.

Howard was the second most senior member of the New Jersey delegation after Rep. Peter Rodino, the chairman of the House Judiciary Committee who will step down after 40 years. With Howard's death, the New Jersey delegation loses another important chairmanship. Only Rep. Robert

Roe now remains at the head of a House committee.

After 25 years, it's hard to imagine anyone filling Jim Howard's shoes, but already, those who will try are quietly plotting strategy. The Howard dynasty has kept the political scene here in a sort of holding pattern for decades. His death will challenge entirely the face of 3rd District politics.

Jim Howard felt distinguished to serve in the 100th Congress, and during his two-and-a-half decades in office, he cherished his slice of the Jersey Shore as much as he cherished his family, friends and Irish heritage. We extend our sympathies to Howard's wife, Marlene, his daughters Marie, Lenore Buchanan and Kathy Tijunin and all his friends.

[From the Asbury Park Press, Mar. 30, 1988]

HOWARD HONORED IN DEATH—CONGRESSMAN LEFT MARK ACROSS U.S.

(By Larry McDonnell)

SPRING LAKE.—Rep. James J. Howard, D-N.J., remembered as an energetic and skillful public servant who left his "fingerprints everywhere on the American landscape," was buried yesterday by family, friends and more than 100 fellow congressmen.

"Jim Howard worked hard and played hard, and he lived, loved and laughed full tilt," House Speaker Jim Wright, D-Texas, told an overflow crowd inside the ornate St. Catharine's Church. "If, in the end, he burned himself out, his candle burned brightly for 60 years and others came and lighted their candles from him.

The service for the 23-year veteran of Congress, who died Friday, drew hundreds of mourners, including a plane-load of representatives and aides from Washington.

Hundreds more, friends and politicians from Howard's Jersey Shore district, stood outside beneath the bright sunshine, listening to eulogies by Wright and Rep. Morris Udall, D-Ariz, played over loudspeakers.

"From my observation post," Udall said, "I can report Jim was one of the best, most productive and loved congressmen in the House of Representatives."

Howard's wife, Marlene, and three grown daughters, Marie, Kathy and Lenore, gathered later with relatives and close friends at St. Catharine's Cemetery in Wall Township for a graveside service.

The popular legislator died the day after suffering a massive heart attack while golfing in suburban Maryland. His death spurred a tremendous display of respect and gratitude from across the state and from Congress, with the House and Senate voting on Monday to name Interstate 195, the highway project Howard had championed, the "James J. Howard Memorial Highway."

Monsignor John E. Grimes officiated at yesterday's Roman Catholic service from a white marble altar set beneath a high, domed ceiling, elaborately painted with biblical scenes and framed with gilded moldings.

Grimes recalled Howard's "perpetual smile and good will."

"I have never heard anyone speak unkindly of him," Grimes said. "He has made an everlasting impression on all of us. He was one of a kind,"

As Grimes spoke, Howard's daughters wept quietly. Several of Howard's aides cried openly and embraced each other for support.

Local singer Joe Finn then sang, "I am the Bread of Life," while five priests spread throughout the church offered Holy Communion. The crowd of 400 knelt for prayer.

Wright, a close friend of Howard's addressed the crowd with a wide smile, and began with the sing-song cadence of a preacher. "Life is a gift * * * Jim Howard lived in a robust fashion with a zest of one who exults in God's gift."

Wright said the public works projects Howard shepherded through Congress through the years improved highway safety and provided jobs from "the Appalachians to the Mexican border."

"His fingerprints are everywhere on the American landscape," Wright said.

He added, smiling, that it was somehow fitting Howard's "last earthly view should be of a long stretch of nature's green, on a warm spring day.

"The things Jim Howard loved most were New Jersey, Ireland and golf," Wright said.

His voice cracked and softened as he concluded. "Those of us who are his friends will remember him fondly * * * We can all take inspiration from his example."

Udall spoke of an image of Howard shared by many in Congress. He was tough and persistent, at his best when making deals on the House floor.

I never saw anyone with a more infectious manner come to the House floor," Udall said. "He was everywhere at once."

When he thought of Howard, Udall said, he thought of a sign Harry Truman kept on his desk that read: "Do what is right You will please some people and astonish all the rest."

And this was Jim Howard," Udall said.

The congressman then looked over at Mrs. Howard and urged mourners not to forget the Howard family.

"Don't wait a year. This spring, this summer, this fall, let Marlene and the family know we still remember Jim."

A well-known wit in the Capitol, Udall spread smiles throughout the group with his closing remarks. He theorized that Howard was now in his final resting place "getting up a (golf) game for Wednesday morning."

It also was likely, Udall said, that the politican who developed considerable power over the nation's transportation legislation was now "trying to get assigned to the committee on celestial potholes."

The tone turned somber again when local entertainer Bobby Byrne sang the Irish ballad "Danny Boy" as Howard's casket was led from the church. Several members of the New Jersey congressional delegation, sitting together at the front of the church, wiped tears from their eyes.

The House members and staff went directly to a waiting jet at McGuire Air Force base. Local mourners formed a long procession of cars that took a circuitous route to the cemetery, passing by the shoreline Howard loved so much.

Howard was buried with the full honors accorded a sitting member of Congress. A three-gun salute pierced the silence and a lone bugler played taps. An honor guard carefully folded the American flag that draped the casket and presented it to Mrs. Howard.

To close the ceremony, two of Howard's daughters, Marie and Lenore, read briefly from their father's favorite Irish poem and blessing.

From the church to the grave site, the service was marked with the dignity and decorum reserved for such a powerful and popular lawmaker. It was an unofficial tribute, however, that stood out at day's end.

As the procession wound its way from Belmar to Spring Lake, it passed by St. Catharine's elementary school. There, lining both sides of the street, were young pupils and their teachers, hands over their hearts, honoring their congressman.

HOWARD A FRIEND TO MANY—PEOPLE GATHER FOR FINAL RITES

(By Steve Giegerich)

SPRING LAKE.—They were there before the dogs arrived to sniff the church out for bombs. Doris and Walter More had never met Rep. James J. Howard. As a matter of fact, when it comes to ideology, the Mores lean more toward the Republicans than the Democrats. Except when it came to Howard.

"Voted for him every time, since his first election," More said.

As it turned out, even getting there two hours early didn't help the Mores, of Avon, secure a seat for the Howard funeral at St. Catharine's Roman Catholic Church. When the German shepherds entered the church, the Mores and other early arrivals were whisked out. Most, because they weren't dignitaries or friends or relatives of the congressman, never gained access again. That didn't seem to bother mourners outside the church, whose numbers swelled to 500 as they listened to the service over a speaker system.

"We just wanted to show our respect by being here," Mrs. More said.

Young and old, black and white—these were, simply, the people who sent Howard to Congress in 1964 and returned him to Washington every two years thereafter.

They were folks like George Noorigian of Wall Township who, two years ago at a Memorial Day parade in Spring Lake, collared the congressman and had him pose with his wife, Elizabeth, for a Polaroid instant picture.

"It's a real keepsake for me," Mrs. Noorigian said.

"He'd stop and talk to you; a lot of people in his position wouldn't do that," her husband added.

Once, when the Noorigians' son encountered a minor problem while serving in the military, Noorigian was moved to write his congressman about it. Within days a commanding officer contacted the constituent to find a solution to the situation.

What Noorigian thinks he liked best about Howard, though, was that "he wasn't a lawyer, everybody in Congress is a lawyer." Of that, the Noorigians have first-hand knowledge: Howard once taught their daughter in the Wall Township school system.

"She loved him, he was a great teacher," Noorigian said.

In Congress, Howard didn't forget the role education plays in this country. He established the "Congressional Award" to recognize community service as well as scholastic and athletic excellence, among high school students.

Yesterday, several clean-cut recipients of that award, their medals dangling around their necks from red, white and blue ribbons, served as ushers at the congressman's funeral.

"I thought he was going to be some big politician," Geoff Brignola of Oceanport, a senior at Shore Regional High School, recalled of his award ceremony two years ago. "But he wasn't at all. He was friendly; it seemed like you could talk to him about anything. He was just a regular person, a regular citizen."

Those who did know Howard didn't mind sharing their memories.

Grace Rondeau, director of Big Brothers and Big Sisters of Monmouth County, was acquainted with Howard through his wife Marlene's association with the Big Brothers organization. For those who didn't know Howard, Mrs. Rondeau was willing to share anecdotes of his life. Including some of the famous Howard golf stories.

Such as? Such as the time Howard, hospitalized for exhaustion, managed to escape his room via wheelchair, get on an elevator and ride down several stories, where he disembarked and wheeled himself onto a neighboring golf course to watch the action. Or another instance when Howard sliced his hand while slicing some bread and instructed the doctors to stitch in such a manner that his golf grip wouldn't be compromised. The doctor complied.

Celebrity watching was minimal, although inevitable. A Panamanian who resides in Deal presented a letter to Sen. Bill Bradley asking that the U.S. Senate try to intervene in the situation there.

Some people kept track of who arrived and when.

"Anybody who is anybody is here," one observer remarked. "And anybody that doesn't get inside will be a nobody tomorrow."

Mostly, though, they came to reminisce about James Howard.

The mood outside was not funeral, but upbeat. When House Speaker Jim Wright announced that Interstate 195 would be named the James J. Howard Highway, a cheer arose from the throng. In small groups, they discussed the various bureaucratic problems Howard had managed to rectify over the years, his impact on Shore politics and what many considered a lack of worthy successors waiting in the wings.

Only when the strains of "Danny Boy" drifted across the churchyard, did members of the audience begin to dab at a few tears.

Then, under a cloudless sky with the half-staff U.S. flag outside St. Catharine's blowing briskly in the wind, the color guard emerged with the flag-draped casket.

The crowd stilled as the police honor guard, representing departments from along the Shore, snapped to attention and saluted. And the people who elected James Howard took their hats off and placed them over their hearts.

[From the Asbury Park Press, Mar. 30, 1988]

Farewell to a Congressman: No One Could Replace Howard, Officials Say

(By Karen De Masters)

Spring Lake.—Within a few months, New Jersey will select a new 3rd District congressional representative.

But that person will never replace Jim Howard.

"I don't think Jim Howard's constituents ever really realized what kind of a tremendous difference he made as a public servant," said state Transportation Commissioner Hazel F. Gluck.

"For those of us in the public sector, that's the measure of our success," she added. "New Jersey looked to him to fight the battles for us."

"The Jersey Shore has lost a son," Sen. Bill Bradley, D-N.J., one of the officials who served as a pall bearer, said after the ceremony. "We're going to miss him."

Public officials attending the funeral yesterday of 12-term Congressman James J. Howard at St. Catharine's Church praised both the public and the private man.

Gov. Kean, Ms. Gluck and other state representatives had breakfast with the New Jersey congressional delegation last week and the governor stressed New Jersey's transportation needs to Howard, who served as the chairman of the powerful Public Works and Transportation Committee.

Ironically, Howard and Ms. Gluck made a date to play golf, she said.

Howard died Friday, at age 60 after suffering a heart attack the previous day on the first tee of a Maryland golf course. Golf was described as the one means the congressman had of relaxing amid his hectic schedule.

The 24-year Democratic veteran of Congress served his constituents, but also made life easier for local elected officials.

"After all the elections he won and the years he served, he had built up a highly respected position for himself," said Monmouth County Freeholder Theodore J. Narozanick.

"Many times those of us from Monmouth County had to call upon him for help and he was always very pleasant and helpful," the former county administrator said.

The influence of the former Wall Township school principal did not stop at the boundaries of his 3rd Congressional District.

Princeton Mayor Barbara Boggs Sigmund described him as "extremely available to local elected officials such as mayors and freeholders, as well as to national and state people."

"I've been in this business a long time, and I would say he was rated at the top of the list as far as accessibility is concerned and that's going to be hard to replace," she said.

"He combined that accessibility with an ability to deliver in such areas as roads and sewerage treatment plants—all the things that make municipal and county life viable.

"He's going to be a tough guy to replace for those of us in local elected life as well as those he represented directly," she said.

Ms. Sigmund echoed the thoughts expressed by many of those attending the funeral mass.

Many officials—and there were scores from all levels of government—noted Howard's contribution to public works projects and described the powerful legislator as irreplaceable on both professional and personal levels.

Those who came to pay their respects, including many who came by bus from Washington, were divided into those who could fit inside the church and the overflow crowd that listened to the services on speakers outside in the chilly sunshine.

Among them were Rep. Joseph P. Kennedy Jr., D-Mass., who described Howard as essential in getting "decent roads and sewerage systems—the fundamentals that are necessary to get by in life. That's what Jim Howard made his career of.

"His death is a real set back to the working people of our country," the young congressman added.

Howard was not afraid to take on the tough issues, according to those who worked with him.

"He was the kind of guy who would take on the president," said Rep. Morris K. Udall, D-Ariz.

Howard successfully gathered the votes necessary last year to override President Reagan's veto of an omnibus clean water bill and a highway trust fund plan.

New Jersey's loss of Howard as a representative in Congress is compounded by the recent announcement by Rep. Peter W. Rodino Jr., a 40-year veteran of the House of Representatives who decided not to run for re-election this year.

"New Jersey has less clout in Washington now," said Rep. Jim Courter, R-NJ. "And that's unfortunate.

"We have a good delegation, but these are two experienced people with great-seniority and great influence" the Republican congressman said. "Their loss will be felt dramatically in New Jersey and in Washington."

"You could feel the surge of warmth here," Rep. James J. Florio, D-NJ., commented after the mass. "He had so many friends among the everyday people of New Jersey.

"Unfortunately, we sometimes don't appreciate people until they are gone," Monmouth County Freeholder Thomas Powers said. "But we'll always remember Jim. His tragic death is not only a loss for Monmouth county, but for the whole state."

"And for the entire nation," concluded Ms. Gluck.

[From the Star Ledger, Mar. 30, 1988]

Eulogy of James J. Howard

(By Sue Epstein)

With more than 300 dignitaries and friends listening inside St. Catharine's Church in Spring Lake and about 400 of his constitutents listening outside, Rep. James J. Howard was eulogized yesterday as a man "who did nothing halfway."

"If, in the end, he burned himself out, his candle burned brightly for 60 years," said Rep. Jim Wright, Speaker of the House of Representatives. "Jim Howard worked hard, played hard and he lived, loved and laughed full tilt."

Wright was one of more than 150 members of Congress, including all of New Jersey's delegation, who flew in for the full military funeral of the congressman who represented much of the Jersey Shore for 23 years and served in recent years as the powerful chairman of the House Public Works and Transportation Committee.

Howard, 60, suffered a massive heart attack Thursday while playing golf in Maryland. He died Friday afternoon.

Sen. Edward Kennedy a longtime friend, had planned to attend but back problems prevented him from coming. His nephew, Rep. Joseph Kennedy did attend.

Transportation Secretary James Burnley 4th represented the Reagan administration and New Jersey Senate President John Russo represented Gov. Thomas Kean, who was out of state. Russo, as acting governor, ordered flags throughout the state flown at half staff.

Sen. Frank Lautenberg, state Transportation Commissioner Hazel Gluck, former Gov. Brendan Byrne, Princeton Mayor Barbara Boggs Sigmund and a host of other state, county and local elected officials also came to pay their last respects.

An honor guard made up of members of all branches of the armed services carried the flag-draped coffin into the church, which the Howard family attended regularly when home in Spring Lake.

Howard's wife, Marlene, grandsons, Brian and Jamie, and daughters, Marie, Lenore and Kathleen, followed the Honorary pallbearers who included Sen. Bill Bradley; Rep. Robert Roe; Rep. John P. Hammerschmidt, the ranking minority member on Howard's committee; Richard T. O'Connor, former Monmouth County counsel and Howard's campaign manager, and the two

Democratic Monmouth County freeholders, John D'Amico and John Villapiano.

Wright, one of two to deliver eulogies, said Howard loved three things best, "New Jersey, Ireland and golf.

"How appropriate that his last earthly view was of a long ribbon of green on a warm spring day," he concluded, his voice breaking.

The second eulogy was delivered by Rep. Morris Udall, a close friend of Howard, who was Udall's New Jersey campaign manager duuring his 1976 presidential bid.

"Jim was one of the best and most productive members of Congress and one of the most loved, Udall said."We mourn the death of this good man because something special has been taken from all of us."

Udall told the audience he last spoke with Howard about two weeks ago and "we talked about the flood of 1983 which opened up so many potholes all over, particularly in New Jersey."

He said Howard's reaction to the potholes was to "immediately get legislation passed" to repave the roads.

"I wouldn't be surprised wherever Jim is right now that he's trying to get up a golf game for Wednesday at 9 a.m. or sign up for a subcommittee on celestial potholes," Udall concluded.

The Mass was celebrated by Msgr. John Grimes, who said he knew Howard for more than 20 years as a parishioner of St. Catharine's Church.

"He gave his all, day and night," Grimes said of Howard. "He was a fighter. He was courageous. He often boasted he was the luckiest congressman in the nation because he represented the best constituents. They loved him and he loved them. He considered them family. He was one of a kind. Jim Howard will continue to be our representative in heaven."

Throughout the Mass, Howard's daughters cried quietly, particularly when the song "Danny Boy" was sung at the end. But their mother, Marlene, her face drawn, remained composed.

After the hour-long Mass, the funeral procession rode to St. Catharine's Cemetery in Wall Township for the burial ceremony.

The procession took a circuitous route that passed by St. Catharine's Elementary School in Spring Lake, where the children were lined up outside, hands over their hearts, as the coffin passed.

At the cemetery, the military honor guard brought the coffin up and, after the brief ceremony, taps were played and the honor guard fired a salute.

Daughter Marie Howard read an Irish poem that had been a favorite of the congressman, and daughter Lenore Buchanan read an Irish blessing.

The ceremony ended with the honor guard folding up the flag on the coffin and presenting it to Marlene Howard.

Howard was first elected to Congress in a Republican district during the landslide victory of Lyndon Johnson in 1964.

He won re-election every two years, many times by slim margins, but in his last victory, over former state Sen. Brian Kennedy, he garnered 59 percent of the vote.

In his district, Howard was respected by members of both parties, and that bipartisan appeal was demonstrated at the funeral.

Not only were Democratic elected officials and John Fiorino, chairman of the Monmouth County Democratic organization, present, but William Dowd, chairman of the county Republican organization, and Republican Freeholders Thomas Powers and Theodore Narozanick also attended the Mass.

"You don't appreciate someone until they're gone," Powers said. "But Jim Howard will always be remembered by everyone. I can't think of one time when I called him, even on something small, that he wouldn't return my call and help me. He never disappointed me. He never disappointed his constituents. No one can replace him."

Narozanick agreed. "I considered him a friend, a fine man who put his district and his state first," he said. "He'll be sorely missed."

[From the East Coast Angler, Mar. 31–Apr. 6, 1988]

SALTWATER ANGLERS MOURN LOSS OF A FRIEND

East Coast Angler is not politically oriented for any reason, even to the point of endorsing candidates and the like. But every once in awhile a political figure emerges that honestly, sincerely and truly has marine sport anglers at heart and works hard for their causes. One such person was U.S. Rep. James J. Howard who represented the 3rd District of New Jersey. To Jim Howard, we offer this remembrance and posthumous endorsement.

Saltwater sportfishermen have lost a valuable and true ally. Congressman Jim Howard died suddenly last week in suburban Washington after having suffered a massive heart attack while playing golf. He was 60 years old, at the prime of his political life.

Just who was this man who was so strongly in favor of saltwater sportfishing and everything that made up that glorious picture? First and foremost, Congressman Howard was the strongest opponent of every effort to have a federal saltwater sportfishing license imposed. More than once he voiced his forceful objections to even the mere thoughts of such a travesty. He willingly fielded massive volumes of letters and petitions that opposed such legislation. He and his staff worked long and hard to keep any such efforts from coming to the floor of the Congress. Almost single-handedly he blocked any move to create such a tax.

That was his most pronounced battle in behalf of saltwater sportfishing. Other efforts that enhanced the sport and aided it in one way or another included: his battle to keep New Jersey Coast Guard stations from being closed. Although a few were, he was in the process of having the Shark River station reopened. Jim led the on-going effort to rebuild and retain the Sandy Hook Marine Laboratory of the National Marine Fisheries Service at Sandy Hook, following a disasterous fire almost three years ago.

He was a firm believer and hard worker in helping to cleanup the Atlantic Ocean off the Middle eastern seaboard and sponsored many pieces of legislation that would rid the ocean of debris, sludge and other pollutants. Many pieces of his legislation remains undecided upon.

He also helped to gain federal funding to aid beach erosion and channel dredging.

He was constantly at work assisting his constituents as well as others who took pride in and enjoyed the ocean and all it offers the sporting and recreational public, be they from New Jersey or visitors to the state. He always had an ear ready to listen to people with problems that involved the marine environment. He was a familiar figure at many fishing club meetings and outings. His staff worked in harmony to assist the public as they should under the unwritten rules of the game.

He played the political game expertly, he knew where to go for what, he knew Washington and how the big machine operates. He chaired the powerful Public Works and Transportation Committee and was the first New Jersey Congressman ever to head that committee. That particular committee has pronounced jurisdiction over many operations that affect our valued seashore.

Jim was a "people's man"; he served them proudly, honestly, intelligently. His death left many pieces of his legislation pending and many projects incomplete.

Rep. Howard's valued aide, Jim McCann, said this week that the staff will continue to carry on in the Howard tradition and he feels assured that the successor will continue the "Howard ways" and do everything the way the late Congressman would have wanted them done.

Jim Howard was a popular but not notorious member of Congress. Having served in the halls of Congress for 24 years, he had a strong following of fellow Democrats and lawmakers.

Not only did he leave behind a wife and three daughters, plus a full staff of trusted and dedicated staff people in his New Jersey district and Washington offices, he left behind a saddened saltwater fishing fraternity. We only hope his ideals, sense of commitment and dedication will be carried forth to a new lawmaker. Right now, we need just as trusted and dedicated an ally in those hallowed halls.

We will all miss you, Congressman Jim Howard. However, thank you for what you did for the saltwater angler and his environment. You were a true friend.

[From the New York Times, Apr. 5, 1988]

CHAMPION OF HIGHWAY SAFETY WILL BE MISSED

To the Editor:

Last week in Boston I had the privilege of hearing Representative James J. Howard of New Jersey galvanize an audience with his dedication and humor. He spoke at a national conference on highway safety.

His untimely death (obituary, March 26) leaves those of us who work for highway safety—and the nation—bereft of an invaluable advocate. He spoke in Boston of the need to resume the national 55 miles an hour speed limit, of which he had been the architect.

Recently, some states have tried higher speed limits, and within months highway deaths have soared. High speeds—like drunken driving—cause the intractable head and spinal cord injuries that leave too many of our young people in wheelchairs or comas and send them to early graves.

My fond hope is that Representative Howard's life will inspire someone else to take up his mantle and resist efforts to undermine the 55-mile limit.—FLORENCE NASS, *Founder and Chapter Administrator, Mothers Against Drunk Driving, Teaneck, N.J.*

[From the Asbury Park Press, Apr. 7, 1988]

FAMILY AND STAFF REALIZED JIM HOWARD WAS THE BEST

(By Nancy Fatemi)

Much is revealed about a man's character by the way he treats his family and his employees. Congressman James J. Howard scored very high by both measures.

We used to joke that once you started working for Jim Howard you never left.

During his 23 years in office, he had only two administrative assistants and two personal press secretaries. This may be a record on Capitol Hill, where a staff error can mean the end of a member's career and strong personalities often conflict. Jim Howard kept us on our toes, but he never made unreasonable demands and he was always quick to forgive an honest mistake.

On occasion, over the years, he would be scheduled for a weekend event in New Jersey that was subsequently canceled. Unfortunately, the congressman and his wife Marlene didn't know of the change until they arrived at the door in evening dress. We'd hear about it for a few minutes on Monday when he returned to Washington and then it was quickly forgotten. And we never heard an unkind word from Mrs. Howard, whose public and private demeanor was always gracious.

During one congressional leaders trip to Israel in 1977, when President Anwar Sadat of Egypt made his historic appearance before the Knesset, the congressman called in a press release to me on the Washington office to be distributed to the House Press Gallery. The release had been drafted by the press aide to then-Majority Leader Jim Wright, who was also on the trip. It was complete with quotes and appropriate details, and I thought how nice it was to have all this work done for me. Minutes after I released it to the press gallery, however, I was mortified to learn that three other offices of congressmen on the trip had released the exact same statement with the precise quotes attributed to their bosses.

The mix-up had become the story. I was certain it would mark the end of my brief term as press secretary, since it made us all look so foolish. But when he returned, he thought it was all very funny and enjoyed a few good laughs.

Not everyone was at ease with the congressman I have many memories of representatives of both Democratic and Republican administrations waiting outside the office door, dreading another meeting with Jim Howard. He would usher them in and conduct an angry lecture about the latest administration proposal that would cut mass transit aid for commuters or derail a particular new Jersey project. After they left and a few seconds had passed, he would turn to the staff with a sly smile and say, "How did I do?"

During my first few campaigns with Jim Howard. I was always on edge. Each attack from our opponents I took personally. I dreaded handing the congressman the text of the latest opposition press release. He would shake his head and make a few angry comments (he never swore when women were in the room), complain abut the opponent's hypocrisy and suggest a response, which I anxiously jotted down and relayed to reporters.

Finally, on one such unpleasant occasion a few campaigns ago. I turned to him and said, "isn't this terrible? How could you stand this year after year?" He looked up from the paper I had handed him and said. "I'm the luckiest person in the world. I wouldn't change this job for anything."

Jim Howard always loved a good legislative fight. As chairman of the House Public Works and Transportation Committee, he was not a detail man. He was a superb strategist. Staff meetings in the 11th hour of a floor fight were like the time-out in the final minutes of a basketball game. The staff, by this time exhausted and drained of all new ideas, would turn to the chairman. Our coach, who loved to compete with and outmaneuver his opponents, would pace back and forth, touching his forefinger to his lip in a familiar gesture of concentration and say. "OK. here's what we do." And he would outline a brilliant plan of action that more than likely would prevail on the floor.

The congressman was also a man of simple tastes. He would opt for a hamburger or a pizza over a fancy meal any day. Watching a ball game or "M*A*S*H" on television with his daughter was his most frequent mode of relaxation. Money meant nothing to him and he would often seem surprised when we brought him the change from an errand he had asked us to run.

Marlene Howard provided the foundation that enabled her husband to focus on his career. He took her advice very seriously. At campaign time, it was often Marlene who transformed everyone's grand ideas into a reasonable plan with specific assignments and a timetable. She deserves credit for much of Jim Howard's success.

It was no small achievement for the Howards that in a city that is notoriously hazardous to family life, their marriage was as strong on the day of the congressman's death as it was on their wedding day 37 years ago. We always knew that when a political function conflicted with a grandson's birthday, the birthday party would prevail.

Much has been said about the congressman's tangible accomplishments—the passage of the clean water and highway bills over the president's veto, the mass transit and waterway improvements, the highway safety legislation that has saved many lives. But I think those of us on the staff will remember him most as a compassionate man with incredible energy and enthusiasm for his job and a gentle, teasing sense of humor that made the Howard office a great place to work.

(Nancy Fatemi has been press secretary and legislative assistant to the late Rep. James J. Howard, D-NJ, since October 1975. She was reared in Avon.)

[From the Washington Post, Apr. 12, 1988]

JAMES HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

(By Joan Claybrook and Chuck Hurley)

The Post, in its March 26, obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean-water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dingell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speedlimit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figures showing sharp increases in fatal high-speed crashes were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspective too. "If I was waiting for the returns on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced a person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in a nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on others' expense accounts. This unfortunately, is permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what the Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Product Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.; for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for canceling the synthetic fuels demonstration project; for reducing the dairy subsidy; and for deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesavers Conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.

A TRIBUTE TO OLYMPIA DUKAKIS

Mr. BRADLEY. Mr. President, "Oscar Night" is always a tremendously exciting occasion for all those involved in the movie industry as well as for movie goers across the country who anxiously await the names of the winners in each category. Last night was no exception, especially for New Jerseyans, who saw Montclair resident, Olympia Dukakis, receive an Oscar for best supporting actress for her role as the mother in "Moonstruck." I ask my colleagues to join me in congratulating Ms. Dukakis on this great achievement and in paying tribute to a truly talented New Jerseyan, who has successfully balanced a busy career as an actor, director and producer for more than 30 years.

Ms. Dukakis' performance in "Moonstruck" showed great sensitivity—it was a fine example of her many outstanding achievements in the field of the arts. One area that deserves special recognition is her work with a nonprofit regional theater in New Jersey. In 1973, Ms. Dukakis founded the Whole Theatre Co. in Montclair, NJ and has served as its artistic director ever since. In February 1987, she was named producing artistic director and assumed responsibility for all operations of the theatre. Her Whole Theatre has provided our State with a rich variety of productions and playwrights including Noel Coward, Edward Albee, Euripides and Eugene O'Neil. Through her creativity and professionalism, the theatre has also received national acclaim—in 1986, the Whole Theatre Co. received a Tony nomination for Outstanding Regional Theatre; and in 1987, the company received the New Jersey State Council of the Arts' "1987 Distinguished Artistic Award."

Ms. Dukakis has also brought the Whole Theatre Co., into the community through its Art Reach Program, a program that is committed to bringing the arts into New Jersey schools, prisons, and nursing homes. I was proud to present Ms. Dukakis with my "Unsung Heroine Award" last year, an award that I present every year to women who have made significant contributions to the quality of life in New Jersey.

Though many people will quickly forget the names of this year's Academy Award winners, there will be many proud New Jerseyans who will remember the name of Olympia Dukakis for a long time to come.

HONDURAS—A TRUE AND COURAGEOUS FRIEND

Mr. HELMS. Mr. President, there is a rising crescendo of apprehension across the country about international drug trafficking. Many of us have condemned the involvement of high-level government officials in trafficking in Panama, Mexico, and the Bahamas. We have denounced the failure of these governments to cooperate with the United States to put an end to drug trafficking and money laundering.

Not very often have we been able to congratulate high ranking officials of other countries for carrying out a major operation against the corrupt drug traffickers who threaten to destabilize the Western Hemisphere—and indeed the United States. But last week, Honduras carried out a very courageous operation.

Mr. President, according to reliable sources, the Honduran Armed Forces captured Juan Ramon Matta Ballesteros, and assured his delivery to the United States to face several charges of international drug trafficking and murder. U.S. law enforcement officials have declared that Matta, a Honduran citizen, is the world's No. 1 cocaine king. These U.S. officials are said to have evidence that Matta was involved actively in the brutal torture and murder of a U.S. drug enforcement agent, Enrique Camarena, in 1985. Furthermore, Matta is the key contact in Central America for the Medellin cartel—the most powerful and most dangerous cocaine traffickers in the world.

There is no question in mind that Matta—who is alleged to have amassed illegally $2 billion is an international thug and gangster. Matta, not surprisingly, is believed to have close ties to another major drug trafficker—Gen. Manuel Noriega of Panama. Matta's ties to Fidel Castro are also suspected.

Mr. President, in past years, the news media in the United States, and many in Congress, have been quick to denounce Honduras at every possible opportunity—because, as our strongest ally in the region, Honduras has cooperated with the United States in many efforts to ensure hemispheric security. Even last week, the major United States news media were reluctant to give Honduras the credit it deserves for the capture of Matta.

Specifically, the Honduran Armed Forces conceived the plan to capture Matta, then carried it out without the sacrifice of even one life. In past months, various Senators have criticized Honduras for failing to extradite Matta to the United States. But long before this unwarranted criticism, the Honduran Armed Forces were devising an effective plan to turn Matta over to United States authorities.

The plan was one that entailed great risks, and one that proved highly unpopular in certain circles. According to the Honduran Constitution, no Honduran national can be extradited to any country, for any reason. But President Azcona put it well when he said that drug traffickers "have no country, because they are sons of international crime." So the Commander in Chief of the Honduran Armed Forces, Gen. Humberto Regalado, and President Jose Azcona decided that Matta's presence in Honduras constituted a grave national security risk for Honduras and for all the Western Hemisphere. They made a decisive, bold decision. They did what needed to be done.

Since Mr. Matta was captured and brought to the United States last week, subversive elements—reportedly financed by drug traffickers—went to the streets of the two major cities to protest Matta's departure from Honduras. The radical and violent protestors have caused millions of dollars of damage to the United States Consulate, as well as the lives of five Honduran citizens. These demonstrators have vowed not to stop their rampage until they kill those responsible for Matta's fate.

Mr. President, the capture of Ramon Matta emphasizes that the war against international drug trafficking is a dangerous and dirty war. We have seen in Colombia, Mexico, and Panama that the traffickers will stop at nothing to get their revenge. They are doing that now in Honduras.

Honduras has paid a high price for doing what was just and right in the case of Matta. But the rewards for taking decisive action will be far greater in the long run. The capture of Ramon Matta has shown the world that General Regalado and his subordinates are committed to the war against international narcotics trafficking. While the capture of Matta is by far the most important action taken by Honduran officials against drug traffickers, it is not the first. During the past 5 years Honduras has cooperated fully with the United States and has asked for United States assistance in acquiring intelligence on drug operators in Honduras and in taking effective action against them.

The courageous leaders of Honduras have pledged that they will not stop with Matta, and that they will move against others who are known to be involved. The integrity and dedication of the Honduran Armed Forces serves as a model for all armed forces in this hemisphere. Other countries—Panama and Mexico, for example—would be well advised to follow the example of Honduras.

So, Mr. President, I commend the courage and the strength of the Honduran military. I, for one, will do everything possible to seek further necessary assistance for Honduras to combat this serious threat—international narcotics traffic which confronts both of our countries.

Honduras has proved itself to be a true and honorable friend. We owe the leaders and the people of that fine country our gratitude and respect. They have earned it.

AN ESKIMO COMES TO WASHINGTON

Mr. STEVENS. Mr. President, last Monday a column appeared in the Washington Post which I would like to share with my colleagues. This piece, written by William Raspberry, examines issues facing Alaska Natives living in the northern part of our State. It does so by focusing on a good friend of mine, Mr. Oliver Leavitt.

Oliver was here in Washington recently to discuss the potential for oil development in the northeastern corner of Alaska, on the coastal plain of the Arctic National Wildlife Refuge. While it is Congress which must decide whether leasing should continue in this area, an area with more potential for oil and gas than any other remaining in the United States, it is the people of Alaska's North Slope who must live with the consequences of the congressional decision.

It has taken determination to preserve the tradition of the Eskimos in the face of the changes brought about by our great Prudhoe Bay discovery of the North Slope of Alaska and the production from there during the last few years. Yet, as this article points out, there is strong support for leasing of the Alaskan national wildlife coastal plain from the Eskimos of the North Slope.

I hope that Members of the Senate will recall this article when the time comes to consider the proposal presented by the Secretary of the Interior to proceed with leasing of the coastal plain.

I ask unanimous consent to have printed in the RECORD the article to which I have referred, entitled "An Eskimo Comes to Washington."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 4, 1988]

AN ESKIMO COMES TO WASHINGTON

(By William Raspberry)

Oliver Leavitt hopes there will soon be a diamond-patterned flag flying above his house on the northern edge of Alaska. The flag would be a signal that his two-month whale hunt has been a success and that he now has meat to share with his neighbors in the village of Barrow.

The 44-year-old Leavitt, like his fellow Inupiat Eskimos, is a subsistence hunter who cherishes this inhospitable land, its culture and its traditions.

But Leavitt is also a Vietnam veteran, an expert in microwave technology, an elected assemblyman and vice president of the Arctic Slope Regional Corp. It is that last designation that has brought him to Washington. He is here to make sure that he and his neighbors don't get lost in the contest between oil interests bent on exploiting what could be a major petroleum field and environmentalists who want to preserve the area in pristine purity.

The ASRC is one of a dozen native corporations established under a congressional act that dissolved aboriginal title to most of Alaska in exchange for cash payments and 44 million acres of land.

The arrangement was necessary for commerical oil exploration after the 1969 discovery of the Prudhoe Bay reserves on the North Slope. But the best lands were leased to the oil companies or selected by the state, and others were set aside for the wildlife refuge or taken for U.S. military purposes. The Eskimos had to choose from what was left.

Subsequent legislation placed a five-year prohibition on oil and gas exploration on much of the land, including 92,000 acres around the village of Kaktovik.

Congress is now considering legislation to lift that ban. But the debate has been cast primarily as a battle between greedy oil companies and public-spirited environmentalists.

Leavitt wants to change the terms of the debate to take into account the interests of the Eskimos, who, while determined to protect the area from haphazard exploration, have learned to like the things that oil money can buy: decent schools, indoor plumbing and electricity.

Specifically, he wants the 3,700 Eskimo shareholders in ASRC to have the right to develop their oil and gas reserves, using the latest technology to minimize environmental damage; to open the coastal plain to a carefully controlled program of leasing, production and development; and to allow additional petroleum development on the North Slope after the Prudhoe Bay oil field goes into decline over the next few years.

Petroleum, he notes, is the natives' major source of jobs and money for government services.

"There are a number of ways of developing the reserves while protecting the environment," he said in a recent interview. "Prudhoe was good, given the technology of 1969. Endicott is better, because newer technology makes it possible for two wells, using slant drilling and other approaches, to produce as much oil as hundreds of Prudhoe-type wells. You could limit exploratory drilling to the winter months, in order to protect the wildlife. There are lots of ways of protecting the environment.

"My fear is that if the environmentalists win and the area is not opened up, it will, in effect, turn the page back for us."

While Leavitt wants no part of uncontrolled exploration, he does believe that the dire predictions of the environmentalists are overly pessimistic. "They told us the Alaska pipeline would destroy the caribou herds, and we believed them. That's why I fought against it. Well, it turns out that there are more caribou than before, and that the largest herds are right near the pipeline."

Reminded that representatives from two Indian villages to the south have supported the environmentalist argument, he says: "I sympathize with them. That's where we were 20 years ago. But experience has not justified the fears we had."

Leavitt says he and his neighbors represent a happy compromise between the old ways (he still disappears for two months of whaling every year and still prefers blubber and caribou to beef) and modern conveniences.

"I like to hunt. I like the idea of sharing with my neighbors (who still cling to the idea that both the land and the fruits of their hunting and whaling must be shared with their villages), but I also like my television and my electric oven and the medical clinic and the fire station. I don't want to give these things up just so the tundra can remain untouched.

"When I was a child, I had to use a dogsled to gather driftwood for fires. I loved school because it was the only warm place in the village. I don't want my children to have to go back to that."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolutions:

On March 14, 1988:

S. 1447. An act to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area.

On March 23, 1988:

S.J. Res. 126. Joint resolution to designate March 16, 1988, as "Freedom of Information Day";

S.J. Res. 252. Joint resolution designating June 5-11, 1988, as "National NHS-Neighbor Works Week"; and

S.J. Res. 265. Joint resolution to designate March 20, 1988 as "National Agriculture Day."

On March 24, 1988:

S.J. Res. 125. Joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

On March 25, 1988:

S.J. Res. 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial; and

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

On March 28, 1988:

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial;

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day"; and

S.J. Res. 253. Joint resolution designating April 9, 1988, as "National Former Prisoners of War Recognition Day."

On March 29, 1988:

S.J. Res. 244. Joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month."

On March 30, 1988:

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week"; and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week."

On March 31, 1988:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988."

On April 4, 1988:

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes.

On April 6, 1988:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America; and

S.J. Res. 206. Joint Resolution to designate April 8, 1988, as "Dennis Chavez Day; and

On April 7, 1988:

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act;

S.J. Res. 223. Joint resolution to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week";

S.J. Res. 245. Joint resolution to designate April 21, 1988, as "John Muir Day"; and

S.J. Res. 260. Joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2900. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the thirteenth annual report of the Federal Deposit Insurance Corporation's Office of Consumer Affairs; to the Committee on Banking, Housing, and Urban Affairs.

EC-2901. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Sixteenth Annual Report of the Securities Investor Protection Corporation ("SIPC") for the year 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-2902. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the 1987 Annual Report of the Federal Financial Institutions Examination Council; to the Committee on Banking, Housing, and Urban Affairs.

EC-2903. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's 1988 Consolidated Annual Report on community development programs; to the Committee on Banking, Housing, and Urban Development.

EC-2904. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, a draft of proposed legislation "To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;" to the Committee on Commerce, Science, and Transportation.

EC-2905. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Twelfth Annual Report on the Automobile Fuel Economy Program; to the Committee on Commerce, Science, and Transportation.

EC-2906. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the "Use of Controlled Substances and Highway Safety"; to the Committee on Commerce, Science, and Transportation.

EC-2907. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation "To authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes;" to the Committee on Commerce, Science, and Transportation.

EC-2908. A communication from the Secretary of Energy, transmitting, pursuant to law, the 1987 Annual Report of the Bonneville Power Administration (BPA); to the Committee on Energy and Natural Resources.

EC-2909. A communication from the Secretary of Energy, transmitting, pursuant to law, the Annual Report, prepared in conjunction with the Administrator of the Environmental Protection Agency, relative to actions taken under the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

EC-2910. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2911. A communication from the Secretary of the Interior and Chairman of the National Park Foundation, transmitting, pursuant to law, the 1987 Annual Report of the National Park Foundation; to the Committee on Energy and Natural Resources.

EC-2912. A communication from the Deputy Associate Director for Royalty Management of the Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2913. A communication from the Deputy Associate Director of Royalty Management of the Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2914. A communication from the Acting Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the Council's Report to the President and Congress for 1987; to the Committee on Energy and Natural Resources.

EC-2915. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation "To amend and extend the Clean Air Act, as amended, for two years;" to the Committee on Environment and Public Works.

EC-2916. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, copies of reports of Building Project Surveys for Atlantic County, New Jersey, American Samoa, and Altoona, Pennsylvania; to the Committee on Environment and Public Works.

EC-2917. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation "To amend and extend Title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for two years;" to the Committee on Environment and Public Works.

EC-2918. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation "The Environmental Research, Development, and Demonstration Authorization Act of 1988;" to the Committee on Environment and Public Works.

EC-2919. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation "To extend the Solid Waste Disposal Act;" to the Committee on Environment and Public Works.

EC-2920. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation "To amend and extend the Toxic Substances Control Act, as amended, for two years;" to the Committee on Environment and Public Works.

EC-2921. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Assessment of the Clinical Social Worker Demonstration;" to the Committee on Finance.

EC-2922. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the Commission's Annual Report; to the Committee on Finance.

EC-2923. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the following annual reports: Airport and Airway Trust Fund; Asbestos Trust Fund; Black Lung Disability Trust Fund; Harbor Maintenance Trust Fund; Hazardous Substance Superfund; Highway Trust Fund; Inland Waterways Trust Fund; Leaking Underground Storage Tank Trust Fund; Nuclear Waste Trust Fund; Reforestation Trust Fund; and Statement of Liabilities and Other Financial Commitments of the U.S. Government; to the Committee on Finance.

EC-2924. A communication from the Secretary of State, transmitting, pursuant to law, a report of the Department's activities related to minority recruitment and equal employment efforts for the period October 1, 1986—September 30, 1987; to the Committee on Foreign Relations.

EC-2925. A communication from the Attorney General, transmitting, pursuant to law, the report of the Attorney General regarding the Foreign Agents Registration Act for the calendar year 1986; to the Committee on Foreign Relations.

EC-2926. A communication from the Chief Counsel, Department of Justice, transmitting, pursuant to law, the Annual Report of the Department's activities relative to the War Claims Act of 1948 and International Claims Settlement Act of 1949; to the Committee on Foreign Relations.

EC-2927. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, reports regarding international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-2928. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report regarding the Commission's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2929. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, a report regarding the Corporation's compliance with the requirements of the Government in Sunshine Act; to the Committee on Governmental Affairs.

EC-2930. A communication from the Acting Assistant Attorney General, transmitting, pursuant to law, a report summarizing the reasons why the Department of Justice opposes enactment of the bill S. 552, the "Federal Employee Compensation Equity Act of 1987;" to the Committee on Governmental Affairs.

EC-2931. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Duplicate Payment For The Same Course Taught;" to the Committee on Governmental Affairs.

EC-2932. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the third annual report on the FY 1987 competition advocacy program for the Peace Corps; to the Committee on Governmental Affairs.

EC-2933. A communication from the Secretary of the U.S. Postal Rate Commission, transmitting, pursuant to law, a report regarding Postal Rate and Fee Changes, 1987, Docket No. R87-1; to the Committee on Governmental Affairs.

EC-2934. A communication from the Administrator of the Veterans Administration, transmitting, pursuant to law, a report regarding a computer matching program to be conducted by the Department of Veterans Benefits; to the Committee on Governmental Affairs.

EC-2935. A communication from the Executive Secretary of the Uniformed Services University of the Health Sciences, Department of Defense, transmitting, pursuant to law, a report relative to the Government in Sunshine Act; to the Committee on Governmental Affairs.

EC-2936. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-148 adopted by the Council on March 1, 1988; to the Committee on Governmental Affairs.

EC-2937. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-149 adopted by the Council on March 1, 1988; to the Committee on Governmental Affairs.

EC-2938. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-150 adopted by the Council on March 1, 1988; to the Committee on Governmental Affairs.

EC-2939. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-151 adopted by the Council on March 1, 1988; to the Committee on Governmental Affairs.

EC-2940. A communication from the President of the African Development Foundation, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2941. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Contract Between the District of Columbia Board of Education and Willie L. Leftwich P.C. Relating to Asbestos Removal in D.C. Public Schools"; to the Committee on Governmental Affairs.

EC-2942. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Denver Post Office: Estimate of Fair Market Value"; to the Committee on Governmental Affairs.

EC-2943. A communication from the Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on a proposed computer matching program; to the Committee on Governmental Affairs.

EC-2944. A communication from the Acting Secretary to the Postal Rate Commission, transmitting, pursuant to law, changes to be made in the opinion and recommended decision on Docket No. R87-1; to the Committee on Governmental Affairs.

EC-2945. A communication from the Records Officer of the United States Postal Service, transmitting, pursuant to law, a report on proposed new Privacy Act system of records; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-436. A concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE CONCURRENT RESOLUTION NO. 104

"Whereas, the prevention of soil erosion is recognized as being of prime importance to ensure the preservation of the nation's environmental and agricultural resources; and

"Whereas, Title XII of the Federal Food Security Act of 1985, Public Law 99-198, provides that persons may contract with the Secretary of the United States Department of Agriculture to enter into the conservation reserve program; and

"Whereas, the State of Iowa, as many states, has naturally occurring sinkholes and agricultural drainage wells that significantly contribute to soil erosion and present possible groundwater quality problems; and

"Whereas, land which is located near certain streams and other bodies of water are eligible for the federal conservation reserve program; Now therefore, be it

Resolved by the Senate, the House concurring, That the General Assembly hereby petitions the Congress of the United States, the President of the United States, the United States Secretary of Agriculture, and the Administrator of the Agricultural Stabilization & Conservation Service to take immediate steps to ensure that lands with agricultural drainage wells and naturally occurring sinkholes are eligible for the federal conservation reserve program; and be it further

Resolved, That copies of this resolution be submitted by the secretary of the Senate to the President of the United States, the United States Secretary of Agriculture, the Administrator of the Agricultural Stabilization & Conservation Service, the Director of the Midwest Area Office of the Agricultural Stabilization & Conservation Service, and the members of Iowa's Congressional Delegation."

POM-437. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION NO. 114

"Whereas, more than 10,000 women served in American forces in Vietnam; and

"Whereas, the Vietnam Women's Memorial Project is dedicated to honoring those women by erecting a statue of a woman veteran on the grounds of the Vietnam Veterans Memorial in Washington, D.C.; and

"Whereas, it is important that the Congress support this project: Therefore, be it

Resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate Concurring:

"SECTION 1. That we urge the Congress of the United States to support the Vietnam Women's Memorial Project.

"SEC. 2. That copies of this Resoluton be sent to the presiding officers and to the majority and minority leaders of both houses of Congress and to each member of Congress representing the people of Indiana."

POM-438. A joint resolution adopted by the Second Olbiil Era Kelulau; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION NO. 2-0084-13, HD1

"Whereas, the Republic of Palau, as the last remaining Trust Territory in the world, is dependent upon the United States for the funds necessary to meet the needs of our people; and

"Whereas, it is the obligation of the United States to assure that these needs are met; and

"Whereas, United States funding for Palau has lagged far behind the pace of inflation for a number of years; and

"Whereas, the cost of essential goods and services, such as fuel and medical treatment, have continued to soar; and

"Whereas, Palau has already raised to the limit all sources of revenue that are independent of United States funding (eg. taxes); and

"Whereas, Palau still will not be able to meet the needs of its people for Fiscal Year 1988; Now therefore, be it

"Resolved by the House of Delegates of the Second Olbiil Era Kelulua, Thirteenth Regular Session, January 1988, the Senate concurring, That the Olbiil Era Kelulau fully supports the $3.5 million increased funding for Palau requested by the President of the Republic of Palau. Be it further

"Resolved, that certified copies of this Joint Resolution be transmitted to the United States President; President Pro Tempore of the United States Senate; the Speaker of the United States House of Representatives; Chairman of the Subcommittee on Insular and International Affairs of the Committee on Interior and Insular Affairs of the United States House of Representatives; the Senate Committee on Energy and National Resources; Secretary of the United States Department of the Interior; the President of the Republic of Palau; and the Senate President and House Speaker of the Palau National Congress.

POM-439. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Environment and Public Works:

"LEGISLATIVE RESOLVE NO. 47

"Be it resolved by the legislature of the State of Alaska:

"Whereas in 1980 the United States Congress suspended the operation of the Mineral Leasing Act of 1920 (30 U.S.C. 191) on the coastal plain of the Arctic National Wildlife Refuge to allow for the study of management alternatives for the coastal plain; and

"Whereas the coastal plain has been found to have the best potential for onshore oil and gas discoveries in the United States; and

"Whereas Congress recognized the environmental importance of the coastal plain by placing it in the national wildlife refuge system in 1980, and the wildlife and habitat deserve a high standard of protection if oil exploration and development proceed; and

"Whereas exploration and development of oil and gas on the coastal plain could reduce the nation's trade deficit, increase energy security, prevent erosion of the oil and gas industry, improve the national and state economies, and occur with full environmental protection and safeguards; and

"Whereas even when the strictest standards of environmental protection are applied there still can be some risk to land, water, and wildlife from development activity, and Alaskans dependent on subsistence resources of the Arctic National Wildlife Refuge should be protected in the event that there is any damage to subsistence resources; and

"Whereas the people of Alaska, based on the provisions of the statehood compact, are to be treated equally and fairly in the decisions of the United States government regarding revenue sharing, leasing, and development of public lands, including the coastal plain; and

"Whereas the state's economy is in bad condition, with high unemployment, property foreclosures, and shrinking investment; and

"Whereas the United States Department of the Interior is exploring a number of legislative proposals for the early oil and gas development of the coastal plain; be it

"Resolved That the Alaska State Legislature adopts the following consensus points on management of the coastal plain, and strongly urges Congress to act on them:

"(1) the United States Congress should open the coastal plain to environmentally responsible oil and gas exploration, development, and protection under the authority of the Mineral Leasing Act of 1920 (30 U.S.C. 191);

"(2) the United States Congress should provide for maximum participation and job opportunity for Alaska residents in coastal plain exploration and development;

"(3) the United States Congress should treat Alaska equally and fairly on revenue issues and not depart from the spirit of the statehood compact; and

"(4) the United States Congress should include language in any coastal plain legislation that addresses indemnification for subsistence users in Alaska, as it did in the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653); and be it further

"Resolved that the Alaska State Legislature urges the state administration to be involved in all aspects of the Arctic National Wildlife Refuge oil and gas development process to ensure that the best interests of the state are protected."

POM-440. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 22

"Whereas, A rapidly spreading epidemic of Acquired Immune Deficiency Syndrome (AIDS) poses an unprecedented major public health crisis in the United States and threatens, directly or indirectly, the life and health of every person in the United States; and

"Whereas, Human T-cell lymphotropic virus (HTLV-III), the causative agent of AIDS, remains in the body of an infected individual from 3 to 13 years, and thus is one of the most difficult diseases to trace and combat; and

"Whereas, Nationally, between 1,000,000 and 1,500,000 Americans are estimated to have been exposed to the virus, and of those exposed, between 100,000 and 450,000 persons may be expected to develop AIDS within five years; and

"Whereas, The average cost per patient in the treatment of AIDS until death is now one hundred thousand dollars ($100,000); and

"Whereas, Although neither a cure nor a vaccine for AIDS presently exists, private industry has the capability to conduct the bioimmunologic research and genetic engineering of the viral components necessary for the development, production, and testing of the vaccine; and

"Whereas, For a variety of reasons there has been a recent marked decrease in the willingness of pharmaceutical companies to engage in vaccine research, development, and manufacturing; and

"Whereas, Inclusion of an AIDS vaccine in the national vaccine program will foster private research for the development of an AIDS vaccine; and

"Whereas, An effective vaccine will virtually eliminate the risk of contracting AIDS; and

"Whereas, Some recipients may have adverse side effects to even a properly manufactured vaccine, and individuals injured by the vaccine should be reasonably compensated without the necessity of establishing fault, provided the injury is shown to be causally related to vaccine administration; now, therefore, be it

"Resolved, That the Assembly and the Senate of the State of California, jointly, Memorialize the President and Congress of the United States to enact legislation amending the federal Public Health Services Act to: (1) add AIDS vaccine to the National Vaccine Program, when it is approved by the federal Food and Drug Administration, (2) fund the National Vaccine-Injury Compensation Trust Fund to compensate persons injured through AIDS vaccine administration, and (3) place a tax on vaccines, as determined by Congress, in order to provide funding for the National Vaccine-Injury Compensation Trust Fund; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the California Congressional delegation."

POM-441. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 76

"Whereas, the effective functioning of the judiciary in a free society has, as its foundation, judges who are insulated from those pressures which can be brought to bear upon independent judicial decision-making; and

"Whereas, the decision of the United States Supreme Court in the case of *Pulliam v. Allen* establishes the principle that state judicial officers, from magistrate to supreme court justice, even when clearly acting within their jurisdiction, may be subjected to liability for costs and attorney's fees as a result of what is perceived to be their failure to interpret the law "correctly"; and

"Whereas, the consequences of such liability on the independence of state judicial decisions cannot but exert an intimidating influence on the free and unbiased functioning of even the most courageous judge; and

"Whereas, the doctrine of judicial immunity was recognized in the earliest days of the English common law and evolved to achieve, as its primary goal, the protection of that judicial independence so necessary for the safeguarding of individual rights; now, therefore, be it

"Resolved, by the Senate of Virginia, the House of Delegates concurring, That the General Assembly of Virginia supports enactment by the Congress of the United States of legislation to prohibit the award of attorney's fees against judges arising out of actions for injunctive relief by amending 42 U.S.C. § 1988 to read as follows:

". . . . In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318 (20 U.S.C. 1681 et seq.) or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d. et seq.), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs; provided that no such fees shall be awarded against a judge or other judicial officer who would be immune from actions for damages arising out of the same act or omission about which the complaint is made."; and, be it

"Resolved further, That the Clerk of the Senate transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States and the members of the Virginia delegation to the United States Congress that they may be apprised of the sense of the General Assembly."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 492. A bill to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry (Rept. No. 100-314).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 285. A joint resolution expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that Act.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S.J. Res. 292. An original joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. Simon, Mr. Moynihan, Mr. Matsunaga, Mr. Inouye, Mr. Bingaman, Mr. Adams, Mr. Kerry, Mr. Durenberger, Mr. Burdick, Mr. Wirth, Mr. Sanford, Mr. Shelby, Mr. Bradley, and Mr. Lautenberg):

S. 2270. A bill to provide financial assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself and Mr. Heflin):

S. 2271. A bill to authorize an exchange of properties between the United States and Tuskegee University relating to the Tuskegee Institute National Historic Site, AL, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself and Mr. Chafee):

S. 2272. A bill to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1989 and 1990; to the Committee on Environment and Public Works.

By Mr. MELCHER:

S. 2273. A bill to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe; ordered held at the desk.

By Mr. GRASSLEY (for himself and Mr. DeConcini):

S. 2274. A bill to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EXON (for himself and Mr. Symms):

S. 2275. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2276. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. COCHRAN (for himself, Mr. Matsunaga, Mr. Wilson, Mr. Dole, and Mr. Quayle):

S.J. Res. 291. A joint resolution to designate the Month of September 1988 as "National Sewing Month"; to the Committee on the Judiciary.

By Mr. PELL from the Committee on Foreign Relations:

S.J. Res. 292. An original joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; placed on the calendar.

By Mr. REID:

S.J. Res. 293. A joint resolution designating May 1988 as "Motorcycle Safety and Awareness Week"; to the Committee on the Judiciary.

By Mr. TRIBLE (for himself, Mr. Specter, and Mr. Bentsen):

S.J. Res. 294. A joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. Sarbanes, Mr. Lugar, Mr. Dodd, Mr. Boschwitz, Mr. Simon, Mr. Murkowski, Mr. Adams, Mr. Moynihan, Mr. McConnell, Mr. Cohen, Mr. Hatfield, Mr. Kennedy, Mr. Chafee, Mr. Durenberger, Mr. Harkin, Mr. Danforth, Mr. Weicker, and Mr. Pell):

S. Res. 408. A resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the administration to step up efforts to achieve an international ban on chemical weapons; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. Riegle, Mr. Cranston, Mr. D'Amato, and Ms. Mikulski):

S. Res. 409. A resolution to express the sense of the Senate regarding the Community Development Block Grant and Urban Development Action Grant Programs; to the Committee on Appropriations.

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 410. A resolution to direct the Senate Legal Counsel to represent the Secretary of the Senate and any other Senate employee in the case of *Avirgan* v. *Hull* (S.D. Fla.); considered and agreed to.

By Mr. FORD:

S. Con. Res. 114. A concurrent resolution authorizing the Law Enforcement Torch Run for the Special Olympics through the Capitol Grounds; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. Simon, Mr. Moynihan, Mr. Matsunaga, Mr. Inouye, Mr. Bingaman, Mr. Adams, Mr. Kerry, Mr. Durenberger, Mr. Burdick, Mr. Wirth, Mr. Sanford, Mr. Shelby, and Mr. Bradley):

S. 2270. A bill to provide financial assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other purposes; to the Committee on Labor and Human Resources.

COMMUNITY COLLABORATIVE FOR EARLY CHILDHOOD DEVELOPMENT ACT

Mr. KENNEDY. Mr. President, today I am pleased to introduce a bill that will make early childhood education programs widely available to America's prekindergarten children. This proposal is called "Smart Start," and it has two essential features. It will provide high quality, developmentally appropriate education, and it will operate full-day and for the full calendar year, in order to meet the day care needs of working parents.

If 1988 is truly the year of the child, then America is ready to be challenged more extensively on children's issues. It is time to begin a comprehensive program of national investment in early education, equivalent to the Marshall plan of the 1940's or the mission to the Moon of the 1960's. We know that early education work—and works well—for children most at risk in poverty, and we know that the need is great—and growing.

Fortunately, we have two decades of experience to guide us. The Perry Preschool project in Michigan is the best known model. For 20 years, a research foundation tracked a group of black children from poor families. Half of them had participated in a half-day education program for 1 year at the Perry Preschool, where the classes were small and the teachers were good. The other half served as a control group.

The results are striking—and convincing. By the time they reached age 19, the Perry Preschool students had made remarkable progress. They were twice as likely to go on to postsecondary education, twice as likely to be literate, and twice as likely to have a job. They were a third less likely to be school dropouts, half as likely to have had a teenage pregnancy, half as likely to be on welfare, and much less likely to have had a run-in with the law.

In dollar terms, the study found that an investment of $4,800 per child yielded $29,000 in benefits—or $6 saved for every $1 spent.

This figure might be even higher for a full-day program that served the child care needs of working parents. According to the Bureau of the Census, one out of four mothers not in the labor force would look for work if day care were available. The proportion is one out of three for families with income under $15,000, and one out of two for single mothers. With adequate day care, 1.5 million women now on welfare would be workers—and taxpayers. Clearly, the lack of affordable day care prevents us from achieving important national goals.

Smart Start, by providing full-day, early childhood education to low-income children free of charge, and to other children on a sliding fee scale, would offer many benefits. It is an education program, a day care program, a job program, a literacy program, a health care program, a nutrition program, a dropout program, a teenage-pregnancy program, and a crime program. And every day we delay, we risk our children and our future.

It is no secret that poverty among children has risen sharply during recent years. There are almost 3 million more poor children in 1988 than there were in 1978. Today, one in four children under the age of six lives in poverty.

Among minorities, the figures are even more shocking. More than a third of all Hispanic children and nearly half of all black children are poor. For minority children in female-headed single-parent families—a group that includes the majority of black children—the numbers are overwhelming. Over two-thirds of all black and Hispanic children living in such families are poor.

The burden of poverty for these chidlren is tragic, and their plight is growing worse. Compared with 8 years ago, children living in poverty are less likely to be born with adequate prenatal care, less likely to be immunized against disease, less likely to have access to basic health care, and less likely to receive extra educational services.

Nature never waits for social policy. One of the most distressing legacies of the past 8 years will be the children we might have helped. They are no longer children today, and they are often beyond reach of any help. The impressionable 5-year-old girl of 1980 has become the pregnant 13-year-old teenage mother of 1988, perpetuating a senseless cycle of dependency and despair.

Early intervention is both liberal and conservative. It saves lives that will otherwise be blighted by poverty—it may even save an entire generation. And it saves billions of tax dollars too. Study after study has found that each $1 spent on early education saves up to $6 in reduced expenditures on welfare, crime, teenage pregnancy, special education, and unemployment.

This view is shared not just by liberal public interest groups, but also by Fortune 500 business leaders with a hard-nosed eye for the bottom line. The Committee for Economic Development, an organization of top corporate executives, tells us:

> It would be hard to imagine that society could find a higher yield for a dollar of investment than that found in pre-school programs for its at-risk children.

For too long, we have ignored that advice. Despite the well documented benefits of early education for disadvantaged children, it is the children of the wealthy who are most likely to be enrolled by early education programs. The challenge is to enhance access for children from low-income families to similar programs that are sound, supportive, and cost effective.

The positive effects of early education found by the Perry Preschool research show up in study after study: the Harlem Head Start Study, the Syracuse Family Development Research Program, the Consortium for Longitudinal Studies in New York, the Frank Porter Graham Child Development Center in North Carolina, and the Brookline Early Education Project in Massachusetts, to name but five.

The potential of these approaches is high, especially in dealing with the national scandal of dropouts. The Department of Education tells us that 29 percent of students drop out of school. The numbers are higher for blacks than whites, and still higher for Hispanics. The consequences are devastating for the individual—dropouts are less likely to be employed, and if they do find work, they have longer lower paying jobs. Society pays for dropouts too—through lost tax revenues, increased welfare costs and higher crime.

According to the Committee for Economic Development, each year's class of dropouts costs society up to $240 billion in lost earnings and foregone taxes over their lifetimes. And this does not include losses resulting from the educational disadvantages passed on to their children. If a national early education program based on models like the Perry Preschool Project can cut the dropout rate by a third, it is an investment well worth making.

Early childhood education is a benefit for parents too. Finding day care is an expensive and burdensome prospect. Often, it is an exercise in futility. Many parents, especially single mothers, face a Hobson's choice between work and welfare—between taking a job and leaving children to fend for themselves, or foregoing the opportunity for work and relying on public assistance. Often, single parents refuse even to enroll in education and training programs because of inadequate child care.

An additional problem is that for families of modest means, the average child care bill for $2,500 a year can be a crushing burden. Even when families are affluent, spaces are often unavailable. For large numbers of families, a quality early education program that doubles as day care could fill a vital need.

Under our Smart Start proposal, schools, community agencies, Head Start centers, and any public or nonsectarian nonprofit organization capable of providing quality full-time care could participate. Each early education center would offer health, nutrition, and other social services, and would be required to have ties to the public schools. Each would also have to meet certain basic requirements characteristic of quality programs: a low child-teacher ratio; small group size; staff trained in early childhood development; a developmentally appropriate curriculum; and parental involvement.

All 4-year-olds would be eligible, and 50 percent of the places would be reserved for low-income children, who would attend at no charge. Other families would pay what they could afford, based on a sliding scale.

A key feature of this proposal is cooperation at the local level. Because each community's needs and resources are different, Smart Start requires local schools, day care providers, Head Start agencies, parents, and others concerned with the education of young children to work together to determine how Smart Start resources should be allocated. This flexibility discourages the creation of competing systems by allowing States and communities to enhance programs already in place.

For example, Smart Start builds on the success of the Head Start Program, by making the comprehensive services it provides more widely available. Communities are encouraged to expand and upgrade existing programs such as Head Start, by extending the length of their day, by improving staff training and salaries, and serving more children.

Of course, no State or locality would be required to participate. But to ensure real commitment by those that do, State or local dollars would be required to match the Federal money. The Federal contribution would start at $500 million in 1989, increase to $750 million in 1990, and level out at $1 billion in 1991.

By involving State, local, and family resources, a national program can be established that will be affordable in terms of the Federal budget and achievable in terms of public policy. By targeting low-income children, society will reap the special benefits that early education programs offers. And by providing full-day services, the program will serve the day care needs of children and working parents.

Most important, it can be a genuinely new American program that will make a significant American investment in a better American future. The potential returns are enormous. Time is being wasted—and even worse, children are being wasted. Together, let us make a "Smart Start" on our future, by making a commitment to that future now.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Smart Start: The Community Collaborative for Early Childhood Development and Child Care Assistance Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Statement of findings and purpose.
Sec. 3. Definitions.
Sec. 4. Program authorized.
Sec. 5. Eligibility for Federal assistance.

Sec. 6. Allotments to States.
Sec. 7. Locality and within State allocation.
Sec. 8. Planning grants.
Sec. 9. State Interagency Advisory Task Force.
Sec. 10. Lead State Agency.
Sec. 11. State application and State Plan.
Sec. 12. Local Policy Group.
Sec. 13. Local plan and application.
Sec. 14. Eligible children and families.
Sec. 15. Use of funds.
Sec. 16. Minimum standards.
Sec. 17. Administrative provisions.
Sec. 18. Evaluation.
Sec. 19. Nondiscrimination.
Sec. 20. Payments; Federal share; maintenance of effort.

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—Congress finds that—

(1) high quality early childhood development programs can increase the literacy rate, the graduation rate, the employment rate, and the rate of enrollment in higher education for those children who receive such programs;

(2) high quality prekindergarten programs can also decrease the rate of incidence of cognitive, learning, and emotional handicaps, teenage pregnancy, welfare dependency, and incidence of arrest and juvenile delinquency for those children who receive such programs;

(3) high quality early childhood development programs are cost effective, saving taxpayers $6 for every dollar invested;

(4) despite these well-documented, long-term advantages only one-third of the children who live in poverty are enrolled in early education programs;

(5) the less income and education parents have, the less likely their children are to be enrolled in early childhood education programs;

(6) only 40 percent of 3-year-olds and 4-year-olds whose mothers work outside the home are enrolled in educational programs;

(7) half of all preschool children have two parents in the workforce or live in single parent families and the number is growing;

(8) because of the growing number of such children, there is a great need for high quality child care programs;

(9) existing programs of early education and child care that run only half-day or only during the school-day and school-year should be extended to meet the full child care needs of working parents;

(10) existing child care programs that do not meet the cognitive, physical, emotional, and communication developmental needs that high quality programs provide should be upgraded to provide these services to preschool children;

(11) the lack of affordable, high quality full-day child care prevents us from achieving important national goals;

(12) many parents are unable to seek education and training because they do not have access to full-day child care;

(13) lack of affordable child care keeps women, including half of all single mothers not now in the labor force, from seeking paid employment;

(14) the shortage of full-day child care prevents families from achieving economic self-sufficiency and from contributing to the economy and national productivity;

(15) the shortage of such care is a leading cause of worker absenteeism and harms America's economic productivity;

(16) many working families cannot afford high quality early childhood development programs for their children;

(17) the low salaries paid to professional staff in preschool programs, the lack of a professional career progression for such staff, and the lack of child development specialists makes it difficult to maintain high quality in programs for young children;

(18) children who receive poor quality care or who are left on their own while their parents work may suffer great physical, psychological, and developmental harm as a result;

(19) many States and localities have established early childhood development programs to help meet the needs of young children and their families, particularly low-income families;

(20) but there remains a great need for high quality full-day programs, which could be met both by expanding and upgrading existing early childhood programs or by creating new childhood development programs.

(b) PURPOSE.—It is therefore the purpose of this Act—

(1) to make widely available to prekindergarten children, especially for low-income children, a high-quality, child-centered, developmentally appropriate early childhood education program;

(2) to make widely available to parents who wish such services a full workday, full calendar-year program in which they can enroll their prekindergarten-age children;

(3) to make efficient use of Federal, State, and local early childhood development and child care resources by promoting collaboration and coordination at the Federal, State, and local levels;

(4) to assist State and local governments in providing comprehensive developmentally appropriate early childhood programs as well as child care, health, nutrition, mental health, and other social services to all prekindergarten students, including students whose native language is other than English, and especially to needy prekindergarten students in poor urban and rural areas;

(5) to assist State and local governments in expanding, improving, or establishing early childhood development programs or child care programs using existing facilities in elementary and secondary school buildings and community resources and facilities that meet State and local safety code requirements;

(6) to assist State and local governments in making available family support for prenatal and parenting training to parents of prekindergarten students who request such services;

(7) to provide incentives for community collaboration, including public-private partnerships, in the delivery of comprehensive early childhood services through schools, Head Start agencies, and other community organizations;

(8) to provide incentives to ensure a smooth transition for students from prekindergarten into the elementary school grades when they reach the appropriate age; and

(9) to assist State and local governments in providing training for early childhood development and child care staff and child development specialists and promoting the use of salary scales that take into account amount of training and experience.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "calendar year" means all days of operation of businesses in the community, exclusive of Federal holidays, with no more than 2 weeks during the summer during which programs may be closed.

(2) The term "early childhood development" means an educational program that is appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cognitive, and communication.

(3) The term "full-day" means the hours of operation of businesses in the community.

(4) The term "locality" means a city, county, or multicity or multicounty unit within a State, an Indian reservation, or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a program assisted under this Act.

(5) The term "prekindergarten" means the year before a child is eligible to enter kindergarten, usually at age 4.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) The term "service provider" means any public or nonsectarian nonprofit deliverer of early childhood development services, including a local educational agency, Head Start center, and community-based organization receiving funds under this Act.

(8) The term "Secretary" means the Secretary of Education.

(9) The term "training" means that instruction in early childhood development that is required for certification by existing State and local laws, regulations, and policies, or, in a State with no certification procedures, a nationally recognized credential such as the Child Development Associate credential or postsecondary education with significant coursework in early childhood education or early childhood development.

(10) The term "child development specialists" shall include but not be limited to mean school counselors, school social workers, school psychologists, speech-language pathologists, and other qualified professional personnel involved in providing developmental assessment, counseling, therapeutic, and other necessary services as part of a comprehensive child development services program.

PROGRAM AUTHORIZED

SEC. 4. (a) GENERAL AUTHORITY.—The Secretary shall, in accordance with this Act, and in consultation with the Secretary of Health and Human Services, make grants to States and localities having plans and applications approved under sections 11 and 13 of this Act to assist States and localities to expand or establish full-day early childhood development services for prekindergarten children. In carrying out this Act, the Secretary shall use the expertise of early childhood experts in the Department of Health and Human Services agency. The Secretary shall ensure that individuals administering this Act shall have expertise in the area of early childhood development.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out the provisions of this Act $500,000,000 for fiscal year 1989; $750,000,000 for fiscal year 1990; $1,000,000,000 for fiscal year 1991; $1,000,000,000 for fiscal year 1992; and $1,000,000,000 for fiscal year 1993.

ELIGIBILITY FOR FEDERAL ASSISTANCE

SEC. 5. (a) STATE ELIGIBILITY.—A State shall be eligible to receive its allocation under section 6(b) of this Act if the State—

(1) provides assurances that the State has established or designated a State Interagen-

cy Advisory Task Force in accordance with section 9 of this Act; and

(2) submits an application and a State plan to the Secretary as required under section 11 of this Act.

(b) LOCALITY ELIGIBILITY.—If a State does not participate in the program under this Act, a locality in that State is eligible for a grant as provided in section 7 of this Act, if the locality—

(1) provides assurances that the locality has established or designated a Local Policy Group, as provided in section 12 of this Act; and

(2) makes an application as provided in section 13 of this Act.

ALLOTMENTS TO STATES

SEC. 6. (a) RESERVATIONS.—The Secretary shall reserve 1 per centum of the amount appropriated under section 4(b) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(b) STATE ALLOTMENT.—(1) From the remainder of the sums appropriated under section 4(b) for each fiscal year, the Secretary shall allot to each State an amount determined in accordance with this subsection.

(2) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of the number of children to be counted in the State and the tax capacity index of the State bears to the sum of the corresponding products for all States.

(3) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of the number of children to be counted in the State and the tax effort index of the State bears to the sum of the corresponding products for all States.

(4) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of the number of families to be counted in the State and the tax capacity index of the State bears to the sum of the corresponding products for all States.

(5) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of the number of families to be counted in the State and the tax effort index of the State bears to the sum of the corresponding products for all States.

(6) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) CHILDREN TO BE COUNTED.—The number of children to be counted for purposes of this section shall be the number of children aged 0 to 5, inclusive, in families with income below the poverty level as determined by the Bureau of the Census in compiling the most recent decennial census.

(d) FAMILIES TO BE COUNTED.—The number of families to be counted for purposes of this section shall be determined by adding—

(1) the number of families headed by single women parents who are in the labor force and who have one or more children aged 0 to 5 years, inclusive; and

(2) the number of families with two parents, both of whom are in the labor force, and who have one or more children aged 0 to 5 years, inclusive; as determined by the Bureau of the Census in compiling the most recent decennial census.

(e) TAX CAPACITY INDEX.—The tax capacity index is equal to 100 divided by the most recent standard tax capacity figure for the State, based on the Representative Tax System, developed annually by the Advisory Commission on Intergovernmental Relations.

(f) TAX EFFORT INDEX.—The tax effort index is equal to the most recent measure of tax effort for the State that is based on the standard tax capacity measures, as developed annually by the Advisory Commission on Intergovernmental Relations, divided by 100.

(g) REALLOTMENT.—After satisfying the needs of localities under section 7(a), the amount of any State's allotment under subsection (b) for any fiscal year to carry out this Act which the Secretary determines will not be required for that fiscal year to carry out this Act shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (b) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (b) for that year.

LOCALITY AND WITHIN STATE ALLOCATION

SEC. 7. (a) FEDERAL ALLOCATION TO LOCALITIES.—From amounts that would be allotted to a State under section 6(b) but will not be so allotted because the State elects not to participate in programs assisted under this Act, the Secretary shall allocate amounts to localities in accordance with this section. The grant which a locality is eligible to receive under section 5(b) is equal to the amount to which the locality is entitled when ranked by the Secretary against other applicants from the same State under subsection (c) of this section.

(b) WITHIN STATE RESERVATION AND ALLOCATION.—(1) The Governor shall, from the allotment of the State under section 6(b), reserve 25 percent in each fiscal year for the activities described in paragraph (2).

(2) From the amount reserved in each fiscal year—

(A) not to exceed 1 percent may be used for the State Interagency Advisory Task Force established under section 9 of this Act;

(B) not to exceed 4 percent may be used for administrative costs;

(C) at least 5 percent shall be used for grants to localities in nonmetropolitan areas, and to localities for the purpose of serving migrant and Indian children or if no such localities apply for funds, funds under this subparagraph may be used for purposes stated in subparagraph (D) of this paragraph;

(D) at least 10 percent shall be used for discretionary grants to localities for purposes set forth in this Act; and

(E) at least 5 percent shall be used for development and implementation of statewide training programs, and technical assistance to localities for training.

(3) The Governor shall, from the allotment of the State in each fiscal year allocate the remaining 75 percent to localities that have applications approved under section 13 of this Act, on the basis of the ranking of applications under subsection (c) and the criteria listed in subsection (d) of this section.

(c) RANKING OF APPLICATIONS FROM LOCALITIES.—(1) All localities within a State that have applications approved for funds shall be ranked from highest to lowest against other applications within the State on the basis of the scores for two separate indices described in paragraph (2) of this subsection. Where localities submitting applications claim overlapping boundaries, the State, or in the case of localities in nonparticipating States, the Secretary, shall determine which locality will have jurisdiction over the overlapping area.

(2) The indices described in paragraph (1) are—

(A) the number of children in the locality aged 0 to 5 years, inclusive, in families below the poverty line, divided by the number of all children aged 0 to 5 years, inclusive, in the locality, as determined by the Bureau of the Census in compiling the most recent decennial census; and

(B) the number of families in the locality with children aged 0 to 5 years, inclusive, as determined by the Bureau of the Census in compiling the most recent decennial census.

(3) Where data is not available for children aged 0 to 5 years, the number of children aged 0 to 4 years, inclusive, as determined by the Bureau of the Census in the most recent decennial census may be used.

(d) ALLOCATION RULES.—(1) Fifty percent of the funds shall be allocated to localities within the State on the basis of each of the indices described in paragraph (2) of subsection (c). Funds shall be allocated to localities in order of their scores from highest to lowest until all funds have been allocated. In allocating Federal funds and funds required to be paid by the State as part of the non-Federal share under this Act, the State shall provide uniform allocations per child and per family throughout the State.

(2) No locality funded under paragraph (1) shall receive less than $25,000 in total Federal and State funds provided under this Act.

PLANNING GRANTS

SEC. 8. (a) IN GENERAL.—Any locality may apply for a 6-month planning grant to the State or, if the State does not participate in the program authorized by this Act, to the Secretary. Funds received by localities for planning grants shall be deducted from the funds the locality would otherwise be eligible for in the first year of the program.

(b) APPLICATION REQUIRED.—Each application for a planning grant shall—

(1) specify the membership of the Local Policy Group; and

(2) set forth the needs and resources assessment required in section 12(c) of this Act.

STATE INTERAGENCY ADVISORY TASK FORCE

SEC. 9. (a) ESTABLISHMENT.—Any State which desires to receive financial assistance under this Act shall establish a State Interagency Advisory Task Force.

(b) COMPOSITION.—The Task Force shall be composed of a group of representatives of agencies and institutions interested in or currently participating in the provision of early childhood development programs and child care in the State. The Governor shall select representatives from among—

(1) office of the Governor;

(2) the State education agency;

(3) the State social services agency (or State child development or child advocacy agency);

(4) Head Start agencies within the State;

(5) the State health agency;

(6) the State labor/employment agency;

(7) the State housing agency;

(8) organizations representing local governments and service deliverers within the State;

(9) local educational agencies and School Boards within the State;

(10) local resource and referral agencies within the State; and

(11) organizations representing parents, teachers, business, labor, and child care providers within the State.

The Task Force shall include at least one representative from each entity listed in the paragraphs of this subsection unless such entity elects not to participate. The membership of the Task Force shall be balanced in its representation of the member organizations and entities. The Task Force shall also be balanced according to the race, ethnicity, and gender of its members.

(c) Functions of the Task Force.—The Task Force shall—

(1) recommend to the Governor a Lead State Agency to administer programs to be assisted under this Act in the State based on that agency's experience in the administration of early childhood development programs;

(2) advise and assist the Lead State Agency designated by the Governor in the performance of its responsibilities set out in section 10 of this Act—

(A) by helping to develop the State plan required in section 11 of this Act;

(B) by conducting a needs and resources assessment—

(i) to determine where early childhood development and child care programs are lacking or are inadequate within the State, with particular attention to poor urban and rural areas, and what special services are needed within the State, such as services for children whose native language is other than English;

(ii) to identify existing early childhood development and child care programs (other than profitmaking or sectarian) in the State which might be expanded or upgraded with the use of funds provided by this Act to meet criteria required in section 16 of this Act; and

(iii) where appropriate, to identify other sources of fiscal and other support services for early childhood development and child care programs;

(C) by assigning financial responsibility to the appropriate agency, and promoting interagency agreements;

(3) identify and review State policies, regulations or laws that may restrict the use of facilities for the delivery of early childhood development or child care services in school buildings or community agencies;

(4) advise and assist the Lead State Agency in the preparation of applications and amendments thereto;

(5) prepare and submit an annual report to the Governor and the Secretary on the status of early childhood development programs and child care programs operating within the State in accordance with subsection (d);

(6) conduct evaluations of programs as required in section 18; and

(7) arrange joint planning for provision of services under this Act with the provision of services required or authorized under other Federal laws, including the Head Start Act, title XX of the Social Security Act, chapter 1 of the Education Consolidation and Improvement Act, Education of the Handicapped Act, the Bilingual Education Act, the Indian Child Welfare Act, the Job Training Partnership Act, and Federal housing assistance programs.

(d) Annual Report Contents.—The report required by subsection (c)(5) shall include—

(1) the number of children being served in the State;

(2) data on the socioeconomic background of such children;

(3) the number of children whose parents have requested services but who are not being served;

(4) a description of the uses for which funds were expended in accordance with section 15 of this Act;

(5) descriptions of programs expanded or upgraded under this Act;

(6) descriptions of programs created under this Act;

(7) descriptions of programs that could be expanded or upgraded under this Act but that are currently not receiving funds;

(8) a description of salary scales used in programs receiving funds under this Act;

(9) a description of how programs receiving funds under this Act fit with other existing programs of early childhood development and child care for prekindergarten children in the State;

(10) a description of how funds have been allocated among various geographic areas within the State in accordance with the requirements of section 7 of this Act;

(11) a description of early childhood education or child development training programs in the State, whether or not funded by this Act; and

(12) assurances that programs funded under this Act meet the minimum standards required in section 16.

(e) Conflict of Interest.—No member of the Task Force shall cast a vote on any matter which would provide direct personal financial benefit to that member or otherwise give an appearance of a conflict of interest under State law.

(f) Use of Existing Task Forces.—To the extent that a State has established a task force before the date of enactment of this Act which is comparable to the task force described in this section, the State shall be considered to be in compliance with subsections (a) and (b) of this section.

LEAD STATE AGENCY

Sec. 10. (a) Designation.—The Governor shall designate a Lead State Agency to administer the early childhood development programs assisted under this Act in the State. The Lead State Agency shall be selected from—

(1) the State educational agency;

(2) the State department of social services; or

(3) the State agency for child development or child advocacy.

The criteria used to select the Lead State Agency shall include experience of the agency in carrying out early childhood development programs in the State. In order to be designated a Lead State Agency, such agency must have the authority under its charter or applicable law to receive and administer Federal funds for use in support of early childhood development programs, and to transfer funds so received, and to act as a grantee, contractor, or sponsor of programs authorized under this Act.

(b) Functions.—The Lead State Agency shall, with the assistance of the State Interagency Advisory Task Force, be responsible for carrying out—

(1) the development and submission of the State plan required in section 11(b) of this Act;

(2) the evaluation of applications submitted by localities, the ranking of such applications, and the designation of grant recipients, as provided under section 13 of this Act;

(3) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 6 of this Act to ensure compliance with this Act;

(4) the identification and provision for joint planning of all State-funded, and, to the extent practical, all other early childhood development programs and child care programs located in the State;

(5) contracting with other State and local service providers as necessary;

(6) the resolution of intra- and interagency disputes; and

(7) the provision of, directly, or by way of grant or contract or other arrangements, technical assistance to localities in developing, conducting, and administering programs under this Act.

STATE APPLICATION AND STATE PLAN

Sec. 11. (a) State Application.—Any State desiring to receive a grant under this Act for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall contain—

(1) a description and list of members of the State Interagency Advisory Task Force established or designated by the Governor as required in section 9 of this Act;

(2) the designation of a Lead State Agency that will be responsible for the administration of funds provided under section 6 of this Act, as required by section 10 of this Act;

(3) a State plan as required by subsections (b) and (c) of this section; and

(4) such other information and assurances as the Secretary may reasonably require.

(b) State Plan.—Any State desiring to receive a grant under this Act shall file with the Secretary a State Plan, developed by the Lead State Agency, with the advice and assistance of the State Interagency Advisory Task Force. The Plan shall be submitted to the Secretary at such time and in such manner as the Secretary may reasonably require.

(c) Contents of Plan.—Such plan shall—

(1) describe what existing early childhood development and child care programs in the State could be expanded or upgraded with the use of funds provided by this Act, as identified by the State Interagency Advisory Task Force, as provided in section 9(c) of this Act;

(2) describe the results of the needs and resources assessment, carried out by the State Interagency Advisory Task Force, indicating where early childhood development programs, child care programs, and special services are needed throughout the State, as provided in section 9 of this Act;

(3) describe how the State will ensure compliance with minimum standards required in section 16;

(4) describe how the State will meet the requirement of the non-Federal share required in section 20 of this Act;

(5) describe the certification procedures and training required by the State;

(6) assure that funds paid to the State under this Act will be expended in accordance with this Act;

(7) assure that declarations of intention regarding the use of funds contained in the State plan will be adhered to;

(8) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this Act, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this Act;

(9) provide satisfactory assurance that Federal funds made available under this Act, and the non-Federal funds which are required to be paid as part of the non-Federal share under section 20 of this Act shall be used to supplement and increase the level of State and local funds expended for services, as provided in section 20 of this Act;

(10) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds made available under this Act and non-Federal funds which are required to be paid as part of the non-Federal share under section 20 of this Act; and

(11) such other information and assurances as the Secretary may reasonably require.

LOCAL POLICY GROUP

SEC. 12. (a) ESTABLISHMENT.—Any locality desiring to receive a grant under this Act shall form a Local Policy Group.

(b) COMPOSITION.—(1) The Local Policy Group shall be composed of a group of representatives of Government agencies, service providers, and all other agencies and institutions interested in or currently participating in the provision of early childhood development programs and child care services in the geographic area covered by the locality. The Local Policy Group shall include representatives of all service providers who desire to participate in the provision of services funded under this Act.

(2) The chief elected official of the locality (and if there is more than one such official, each such official in the locality) the director of each local social services agency, and the superintendent of each local educational agency of the locality, shall select the membership of the Local Policy Group. The Local Policy Group shall be selected from among—

(A) chief elected officials of the geographic area covered by the locality,

(B) Head Start providers,

(C) child care providers and community-based organizations serving preschool-aged children,

(D) local educational agencies and school boards,

(E) local social services agencies (or, if applicable, local child development or child advocacy agencies),

(F) organizations representing teachers, labor, business groups, parents, child care professionals, local resource and referral agencies, and local public health and nutrition agencies; and

(G) representatives of institutions of higher education including child development experts.

The Local Policy Group shall include at least one representative from each entity listed in the subparagraphs of this paragraph unless such entity elects not to participate. The membership of the Local Policy Group shall be balanced in its representation of the member organizations and entities. The Local Policy Group shall also be balanced according to the race, ethnicity, and gender of its members.

(c) FUNCTIONS.—The Local Policy Group shall—

(1) develop a collaborative voluntary application to the State from the participating agencies;

(2) develop a needs and resources assessment for the geographic area included within the locality, stating—

(A) where services are most needed based on numbers of parents of prekindergarten-age children who work or wish to work, with particular attention to such families who have low income;

(B) the existence of early childhood development and child care programs and the degree to which they meet the demand for such services in the community;

(C) the existence of early childhood development programs and child care programs which can be expanded or upgraded to meet the requirements of this Act;

(D) the lack of any early childhood development programs and child care programs in some locations, with particular attention to poor urban and rural areas; and

(E) the need for bilingual programs and services for children whose native language is not English and programs for handicapped, migrant, Indian, and homeless children;

(3) determine how the locality will ensure that at least 50 percent of spaces funded under this Act are filled by children whose families earn less than 115 percent of the poverty level;

(4) identify and review local laws, regulations, or policies that may restrict the use of facilities for the delivery of early childhood development programs or child care services in school buildings or community agencies;

(5) identify salary scales for staff of existing providers of early childhood development programs and child care and other positions in the community requiring similar training and experience;

(6) prepare and submit an annual report to the State Interagency Advisory Task Force on the status of early childhood development programs and child care within the locality; and

(7) arrange for evaluations required in section 18.

(d) CONTENTS OF REPORT.—Each report required by subsection (c)(6) shall include—

(1) the number of children being served in the locality;

(2) data on the socioeconomic background of such children;

(3) the number of children whose parents have requested services but who are not being served;

(4) a description of the uses for which funds were expended in accordance with section 15 of this Act;

(5) a description of programs expanded or upgraded under this Act;

(6) a description of programs created under this Act;

(7) a description of programs that could be expanded or upgraded under this Act but that are currently not receiving funds;

(8) a description of salary scales used in programs receiving funds under this Act;

(9) a description of how programs receiving funds under this Act fit with other existing programs of early childhood development and child care for prekindergarten children in the locality;

(10) a description of how funds have been distributed among various geographic areas within the locality;

(11) a description of early childhood education or child development training programs in the locality, whether or not funded by this Act; and

(12) assurances that programs funded under this Act meet the minimum standards required in section 16 of this Act, including the reservation of 50 percent of spaces made available by funds under this Act for children whose families earn less than 115 percent of the poverty line.

(e) CONFLICT OF INTEREST.—No member of the Local Policy Group shall cast a vote on any matter which would provide direct personal financial benefit to that member or otherwise give an appearance of a conflict of interest under State or local law.

(f) USE OF EXISTING LOCAL POLICY GROUP.—To the extent that a locality has established a broadly representative Local Policy Group before enactment of this legislation that is comparable to the Local Policy Group described in this section, such locality shall be considered to be in compliance with subsections (a) and (b) of this section.

LOCAL PLAN AND APPLICATION

SEC. 13. (a) APPLICATION REQUIRED.—Any locality desiring to receive a grant from the State to carry out services assisted under this Act shall—

(1) form or designate a Local Policy Group, in accordance with section 12 of this Act; and

(2) prepare an application.

The application shall be developed by the Local Policy Group.

(b) CONTENTS OF APPLICATION.—Each such application shall contain—

(1) a service delivery plan from all participating agencies and institutions, that includes—

(A) the name and location of all planned sites for service delivery;

(B) a plan for ongoing coordination of early childhood development, child care services, and related child services at each site between (i) Head Start providers and local educational agencies whether or not receiving funds under this Act, and (ii) between entities in clause (i) and any other recipients of funds under this Act;

(C) a description of what services are to be provided at each site and by what agency or institution and a rationale for decision to devote resources to existing programs or to create new programs;

(D) the number of children receiving services free of charge, the number of children receiving services for payment of fees, the level of such fees paid at each site, and the distribution of such children among service providers;

(E) the results of the local needs and resources assessment conducted by the Local Policy Group, as provided in section 12 of this Act, a description of what needs for services have been identified by such assessment, and a description of how the plan for coordination of services will meet the indicated needs;

(F) a description of certification and other qualifications of staff, a plan for training of professional staff and employees, the turnover rate of professional staff and employees, and a description of salary schedules, and how such schedules reflect level of training, expertise, and experience of employees;

(G) a description of the roles and responsibilities at each site of each agency and institution participating in the Local Policy Group and of each contracting agency in the delivery of early childhood development and other services;

(H) a description of how the locality will provide the non-Federal share required under section 20 of this Act if any portion thereof is not paid by the State;

(I) assurances that Federal minimum standards in section 16 of this Act will be adhered to;

(J) a plan for evaluations required in section 18;

(K) such additional assurances or information as the Secretary may reasonably require; and

(2) evidence demonstrating effective use of existing Federal and State funds available for early childhood development programs and child care programs, including Head Start, programs assisted under chapter 1, social services block grants, school lunch and breakfast assistance, and maternal and child health care assistance.

(c) Local Administering Agency.—(1) In each locality, the chief elected official, the director of the local social services agency, and the superintendent of the local educational agency shall jointly select a local administering agency for the locality from the local education agencies, local social services agency, the local child development agencies, and the local resource and referral agency within the locality.

(2) The selection of the local administering agency shall be based on the experience of such agency with programs of early childhood development. In order to be designated a local administering agency, such agency must have the authority under its charter or applicable law to receive and administer Federal funds for use in support of early childhood development programs, and to transfer funds so received, and to act as a grantee, contractor, or sponsor of programs authorized under this Act.

(3) The local administering agency of each locality shall be designated as the coordinator of all programs assisted under this Act for the locality for the purpose of administration and fiscal control.

(4) Each administering agency shall follow the plan developed by the Local Policy Group for the provision of services assisted by this Act.

(d) Submission of Locality Application.—(1) Any locality desiring to receive financial assistance under this Act, that is located in a State receiving funds under this Act, shall submit an application to the Lead State Agency for the State in which such locality is located, as designated in section 10.

(2) Any locality desiring to receive financial assistance under this Act, that is located in a State that has chosen not to receive funds under this Act, shall—

(A) submit an application to the Secretary of Education for a grant at such time and in such manner as the Secretary may reasonably require; and

(B) comply with the requirements under section 12 and subsections (a) and (b) of section 13 of this Act.

The service delivery plan required by section 13(a) shall also include the information required under section 11(b) as the information required therein pertains to the area to be served by the locality.

(e) Evaluation of Applications.—Each application submitted by a locality shall be evaluated in accordance with section 7 of this Act.

ELIGIBLE CHILDREN AND FAMILIES

Sec. 14. (a) Age Requirement.—Any child is eligible to participate in programs assisted under this Act in the school year prior to the school year in which the child would be eligible, under State law, to enter kindergarten. In any locality that does not offer kindergarten programs, children are eligible to participate in programs assisted under this Act at 4 years of age. Any State or locality which has served all children of the eligible age group requesting services may use funds under this Act to serve children in the school year 2 years prior to the school year in which they would be eligible, under State law, to enter kindergarten, or at 3 years of age. A State or locality may use funds under this Act to expand existing programs serving children aged 3 years through 5 years, if the maintenance of effort requirements in section 20 are met.

(b) Family Contribution.—(1) Eligible children in families with incomes under 115 percent of the poverty line are eligible for services provided by this Act without charge.

(2) Eligible children in families with incomes above 115 percent of the poverty line are eligible for services provided by this Act with payment of fees on a sliding scale up to the full cost of such services. The sliding scale shall be developed by the State, or locality if the State is not participating, based on income level and family size. Total fees for all eligible children in a family receiving services under this Act shall not exceed 10 percent of a family's gross income.

(3) Maximum fees per child shall not exceed the cost per child of the services provided.

USE OF FUNDS

Sec. 15. (a) In General.—Service providers may use funds furnished under this Act—

(1) to expand or upgrade through grant or contract existing public or nonsectarian nonprofit early childhood development or child care programs to make them run full workday and full calendar-year and in compliance with the requirements of section 16 of this Act, or

(2) to create through grant or contract to public or nonsectarian nonprofit entities full workday full calendar-year early childhood development programs that comply with section 16 of this Act if the needs of the locality may not be met by expanding or upgrading existing programs.

(b) Authorized Activities.—Grants under this Act may be used for—

(1) development of and training in the use of developmentally appropriate early childhood curricula, including curricula that takes into account the language skills of children, including those whose native language is not English, and which is culturally sensitive and avoids race-based and gender-based stereotyping;

(2) direct provision of or purchase of early childhood development and child care services;

(3) staff and personnel training in early childhood education, including training conducted in conjunction with other service providers with particular attention to avoidance of race-based and gender-based stereotyping;

(4) upgrading the salaries of early childhood education and child care professional staff, and the development of salary schedules for staff with varying levels of experience, expertise, and training;

(5) acquisition or development of materials and equipment;

(6) activities designed to assure that groups of children participating in the program are mixed according to gender, race, ethnicity, and socio-economic status;

(7) transportation of children;

(8) health screening and diagnosis of children;

(9) nutrition services and nutrition education;

(10) parent outreach and involvement, family support, parent education, and referral and assistance in procuring education, nutrition health, mental health, and other social services for families of children receiving early childhood development and child care services;

(10) prenatal health and education services for parents of children receiving early childhood development or child care services;

(11) recruiting or subsidizing senior citizens to work with children;

(12) rental of space for provision of services, and minor building renovation or remodeling of schools, community agencies or business facilities to accommodate programs for young children;

(13) family home visits;

(14) distribution of information about available services, establishing connections to resource and referral agencies, and community outreach;

(15) agency collaboration; and

(16) evaluation of services.

MINIMUM STANDARDS

Sec. 16. Service providers serving children with funds under this Act shall meet the following minimum standards or use funds to bring programs in compliance with the following minimum standards:

(1) The child to adult ratio shall not exceed 10 to 1, based on average daily attendance.

(2) The maximum group size shall be 20 children, based on average daily attendance.

(3) Services shall be available for the full workday and full calendar year, although families shall be given the option of enrolling their children part time.

(4)(A) At least one staff member supervising each group of children shall have training and experience in early childhood education or child development. The staff member shall be certified in early childhood education or child development, if the State has a certification procedure in these areas, or, if the State does not have a certification procedure, the staff member shall have a nationally recognized child development credential or postsecondary education with significant coursework in early childhood development.

(B) Additional staff members who do not have the qualifications described in paragraph (A) supervising each group of children shall receive a minimum of 2 days of preservice training if not previously certified or trained.

(C) All staff members shall receive 15 hours a year of inservice training during the duration of their employment; and where practical, an on-site curriculum specialist with training and experience in early childhood development shall be responsible for training other staff to apply the curricula selected by the program.

(5) Service deliverers shall use developmentally appropriate curricula that take into account all the developmental aspects and individual needs of the children served, including cognitive, physical, emotional, and language skills of children, including skills of children whose native language is other than English. Standardized tests shall not be used to determine assignment to a group.

(6) Services shall include nutrition services as appropriate. Service providers shall provide adequate and nutritious meals and snacks, including breakfast at parent request, and if practical, health, mental

health, screening for handicapping and "at-risk" conditions, and social services for which an enrolled child and her family are eligible, including on-site prenatal and parenting education. At a minimum, service providers shall make referrals to and ensure that such health and social services for which the enrolled child and her family are eligible at the Federal, State, and local level are provided.

(7) Service providers shall coordinate with the local public school system to facilitate sharing of resources where practical, including diagnostic and remedial services and staff training, and to provide for the enrolled child's transition to elementary school. Service providers shall make arrangements with each appropriate local educational agency for a representative of such agency to facilitate such coordination.

(8) Service providers shall promote active parental involvement, which—

(A) involves parental outreach;

(B) allows parents extensive access to the facilities in which services are delivered;

(C) informs parents of the program curricula at the time the child is enrolled;

(D) makes all evaluations of the program available to parents;

(E) allows parents regular opportunities to meet with professional staff;

(F) where appropriate, provides parent education;

(G) permits parents (other than full-time staff) the opportunity to volunteer their services within the classroom setting; and

(H) allows parents a role in policymaking. Participation by parents within the classroom shall not change any of the requirements regarding staffing in this section.

(9) Service providers must ensure the physical safety of children served and be in compliance with any applicable State and local law, regulation, or policy for licensing, health, sanitation, building and fire safety, and Federal and State child care standards applicable to programs for children of the age group served.

(10) A locality shall reserve for children described in section 14(b)(1) who reside within such locality, at least 50 percent of spaces made available by funds provided under this Act, unless all such children whose parents desire services have been served. No child receiving services in programs assisted by this Act shall be denied continued services as a result of changes in family income or as a result of the locality's attempt to comply with this provision.

(11) Each Head Start agency receiving funds under this Act shall be deemed in compliance with minimum standards (5), (6), and (8), if they are in compliance with the Head Start Performance Objectives.

ADMINISTRATIVE PROVISIONS

Sec. 17. (a) Withholding of Payments.—(1) Whenever the Secretary, after reasonable notice to the Lead State Agency (or, in the case of a grant provided under section 5(b) of this Act, to the locality) and an opportunity for a hearing, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this Act, the Secretary shall notify such agency (or locality) of the findings and that beginning 60 days after the date of such notification, further payments will not be made to the State (or locality) under this Act, (or, in the Secretary's discretion, that the Lead State Agency shall reduce or terminate further payments under this Act to any locality or service provider) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied—

(A) payments to the State (or locality) under this Act shall be reduced or terminated, or

(B) payments by the Lead Agency under this Act shall be limited to localities and service providers not affected by the failure.

A transcript or recording shall be made of any hearing conducted under this section and shall be available for inspection by any person.

(2) Upon submission to a State (or locality) of a notice under paragraph (1) of this subsection that the Secretary is withholding payments, the State (or locality) shall take such action as may be necessary to bring its actions into compliance with the provisions of this Act.

(b) Judicial Review.—(1) If any State (or locality) is dissatisfied with the Secretary's action under subsection (a) of this section, such State (or locality) may, within 60 days after notice of such action, file with the United States Court of Appeals for the circuit in which such State (or locality) is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he or she based the action which is the subject of the appeal.

(2) A Lead State Agency (or locality) shall be presumed to have complied with this Act, but the findings of fact by the Secretary, if supported by the weight of the evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his or her previous action, and shall file in the court the record of the further proceedings.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) Continuing Activities Protected.—No Head Start agency receiving funds under this Act which, prior to the date of enactment of this Act, was located in any facility owned or operated by a local educational agency shall—

(1) by reason of being selected to administer a program with funds under this Act, or

(2) by reason of the selection of the local educational agency to administer a program with funds under this Act,

be denied the continued use of such facilities in accordance with the arrangements with respect to such facilities so in effect.

EVALUATION

Sec. 18. (a) Local Policy Group Evaluation.—(1) Local Policy Groups shall arrange for the periodic on-site evaluation of the local programs by reviewers including community members and early childhood development experts who are not directly involved in the administration of the program. The evaluations shall be made available to the service provider, parents of eligible children, interested members of the community, and the State Interagency Advisory Task Force.

(2) The Local Policy Group shall prepare and submit an annual report to the State Interagency Advisory Task Force as required by section 12 of this Act.

(b) State Interagency Advisory Task Force Evaluation.—(1) The State Interagency Advisory Task Force shall arrange for periodic on-site monitoring, inspection, and evaluation of programs assisted under this Act by reviewers who are not directly involved in the administration of the program. The evaluations shall be made available to service providers, parents of eligible children, interested members of the community, and the Secretary.

(2) The State Interagency Advisory Task Force shall prepare and submit an annual report to the Governor and the Secretary as required by section 9 of this Act. The report shall include, in summary form, information contained in reports submitted by local advisory groups in accordance with subsection (a)(2) of this section.

(c) General Evaluations.—(1) The Secretary shall provide, directly or by way of grant or contract, for the continuing evaluation of programs assisted under this Act, including evaluations that measure and evaluate the impact of programs authorized by this Act, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program being evaluated.

(2) In carrying out evaluations under this section, the Secretary may require States or localities to provide for independent evaluations.

(3) In carrying out evaluations under this section, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs assisted under this Act about such programs.

(4) The Secretary shall publish the results of evaluative research and summaries of evaluations of programs and projected impact and effectiveness not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate Committees of the Congress copies of all such research studies and evaluation summaries.

(5) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this section shall become the property of the United States.

(6) The Secretary shall prepare and submit to appropriate Committees of the Congress an annual report. The report shall include, in summary form, information contained in reports submitted by States in accordance with subsection (b)(2) of this section.

NONDISCRIMINATION

Sec. 19. (a) In General.—No locality receiving Federal financial assistance under this Act shall discriminate against any child on the basis of race, color, national origin, sex, religion, native language or handicap in the provision of any child care services, including admission decisions, fees, and discipline.

(b) Employment Discrimination Rule.—No State or locality receiving Federal financial assistance under this Act shall engage in any employment discrimination prohibited by title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e, et seq.), nor shall any such State or locality discriminate in employment on the basis of handicap.

(c) Nondiscrimination With Respect to Handicap Rule.—All Federal, State, and local laws regarding the provision of services to handicapped individuals shall be complied with in the use of funds under this Act.

PAYMENTS; FEDERAL SHARE; MAINTENANCE OF EFFORT

Sec. 20. (a) Payments.—(1) The Secretary shall pay to each State, or locality in the case of a nonparticipating State, having an application approved under section 11, or 13, as the case may be, the Federal share of the cost of the activities described in the application.

(2) The Federal share—

(A) for the first year in which the State receives funds under this Act shall be 70 percent;

(B) for the second such year shall be 60 percent; and

(C) for the third such year and each year thereafter shall be 50 percent.

(3) The Federal share—

(A) for the first year for which a locality, located in a nonparticipating State, receives assistance under this Act shall be 80 percent;

(B) for the second such year shall be 75 percent; and

(C) for the third such year and each succeeding year shall be 70 percent.

(4) Grants to States and localities may be for up to 3 years subject to annual review and are renewable.

(b) Non-Federal Share.—(1) The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including plant, equipment, or services subject to the limitations in subparagraph (2).

(2) A State receiving funds under this Act shall pay at least 75 percent of the non-Federal share. Such payment shall be in cash from non-Federal sources. States shall not require localities to contribute more than 25 percent of the non-Federal share or to contribute to the cash portion of the non-Federal share.

(c) Maintenance of Effort.—(1) All Federal funds and funds paid as a part of the non-Federal share under this Act shall be used to provide services supplementary to services described in section 13 already provided within the State and the locality in the fiscal year prior to the date of enactment of this Act.

(2) The maintenance of effort requirement of this subsection shall be satisfied with respect to a particular program if the average per child expenditure in the program for the fiscal year in which services are to be carried out will not be less than such expenditure in such program in the previous year before taking into account Federal and non-Federal funds provided under this Act.

(d) Waiver.—If the Secretary determines that a State would suffer substantial hardship as a result of paying the non-Federal share of payments because of the State's economic condition or substantial prior commitment of funds for early childhood development or child care programs, the Secretary may for 1 year reduce the amount of the non-Federal share by up to 30 percent.

RECORDS AND AUDITS

Sec. 21. (a) Records.—Each recipient of financial assistance under this Act shall keep records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the program supplied by other sources, and such other records as will facilitate an effective audit.

(b) Audits.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this Act.

Mr. SIMON. Mr. President, I join my colleagues in cosponsoring Smart Start: The Community Collaborative for Early Childhood Development and Childcare Assistance Act of 1988, introduced today by my friend and colleague, Senator Kennedy.

The future of the United States is dependent on the proper growth and development of its greatest resource: its children. How can we be competitive as a nation when 13 percent of our citizens cannot read and 27 percent of our teens drop out of high school? How can we maintain a productive work force when many of our citizens lack even the most basic skills—skills many of us take for granted, the ability to read or fill out an application form? I believe Americans have the right to an education, they have a right to read and write. If we do not step forward to defend this right, if we do not step forward to ensure that the children of this Nation are receiving a quality education, we let the future of America slip away.

Children are this Nation's greatest resource, yet over 20 percent of all children under 18 and 25 percent of all children under 6 live in poverty. There is a strong correlation between poverty, poor scholastic performance, and dropping out of school. A 16-year-old does not suddenly just decide to drop out of high school. The action is a result of academic frustration, discouragement, low expectations, outright neglect, and economic despair. Data shows that students from families with low socioeconomic status are three times more likely to drop out than those from higher socioeconomic status families.

Teenage pregnancy also contributes to the high dropout rate. Nearly half a million teens give birth each year. Most of these new mothers are not married and have little means to support themselves. According to the Committee for Economic Development [CED] report, "Children in Need—Investment Strategies for the Educationally Disadvantaged," in 1985, 66 percent of black children, over half of all white children, and 70 percent of all Hispanic children living in single, female-headed households were living in poverty. Furthermore, children of teenage parents are more likely to become teenage parents themselves. Teen parents, because of their lack of education and experience, do not have employable skills and do not have the resources either mentally, emotionally, or economically, to develop their children's parenting skills, interest in education, and ultimate employability.

The development of quality education programs, however, should not be a reactionary response to discouraging statistics regarding adult illiteracy and high school dropout rates. This retroactive approach is costing us billions of dollars. The Institute for the Study of Adult Literacy at Penn State University estimates that adult illiteracy in the United States costs this country at least $225 billion per year, just in terms of lost productivity, welfare, and related crime and prison expenses.

The development of quality education programs should be a well-thought-out plan for the future; an investment in the future. We cannot neglect our future by neglecting our children and allow them to become caught in a cycle of poverty, illiteracy, and unemployability. Early intervention and prevention programs are necessary to get our children on a forward track toward productive lives.

Early intervention and prevention programs are the wisest investment this country can make. The CED report estimates that every dollar spent today to prevent education failure will save $4.75 in the cost of remedial education, welfare, and crime in the future. Early intervention, intervention at the preschool level, can yield even greater returns. It is estimated that the 20-year-old Head Start Program has saved this country as much as $7 in social costs for every $1 invested. Early intervention programs are not only wise investments, but they enrich the safety and well-being of this country. The New York University School of Education conducted a study of 178 people between the ages of 19 and 21 who had participated extensively in the Harlem Head Start Program in the mid-1960's. The study showed that the employment rate was double among the Head Start participants than that of the control group, they were 50 percent more likely to graduate from high school and one-third more likely to go on to postsecondary education.

Furthermore, the Head Start Program enriches the lives of the participants' parents. The program involves the parents in the education process and encourages them to be better role models for their children. As one Head Start mother explains:

> I feel the nurturing program and being here with people of similar backgrounds has helped me change. There used to be times when I would feel so useless and needed lots of support and this is where I got it. I have grown in my caring for my child, as to loving, discipline, and also helping me cope with everyday problems. I grew up in an abusive home and now I know that's not all

there is. I do not have to be abusive or abused.

My longtime friend and fellow Illinoisan, Irving Harris, has joined public and private resources to promote the Beethoven project in Chicago. The Beethoven project provides intensive and comprehensive support to at-risk mothers and their children from prenatal to age 5. The program's premise is that if children are to achieve success in later years, they must be ready for school when they enter kindergarten. I believe this premise to be true and while this project is relatively new, it has already succeeded in mobilizing human resources in large numbers to assist in home visits, health care, and nutritional counseling. The participating children will also be eligible to enroll in a Head Start Program once they reach 3 years of age.

The Perry preschool project in Ypsilanti, MI, has reinforced the findings of the Harlem Head Start Program. Disadvantaged 4-year-olds were either assigned to a group that attended Perry preschool or a group that did not. The followup study on the children at age 19 revealed alarming disparities between the two groups. The Perry preschool children at age 19 were: more literate, 61 percent versus 38 percent; fewer dropped out of high school, 33 percent versus 51 percent; more attended college or job training programs, 38 percent versus 21 percent; and fewer were classified as developmentally delayed, 15 percent versus 35 percent. As members of society, the Perry preschool children proved to be more productive and better citizens later in life. More held jobs, 50 percent versus 30 percent; fewer committed crimes, 31 versus 51 percent; and fewer were on welfare, 18 percent versus 32 percent. In addition there were fewer teen pregnancies, 64 versus 117 per 100 women. It is estimated that every $1 invested in the Perry preschool high-quality program for at-risk children yielded $6.

The Harlem Head Start Program, the Beethoven project, and the Perry preschool project illustrate the cost effectiveness of early prevention programs. It is ironic that we have the means, the know-how, and the examples to create comprehensive developmental preschool programs, yet we choose not to invest our resources in these cost-effective programs. The administration proposed funding the Head Start Program at $1.206 billion in fiscal year 1989, the same level as in fiscal year 1988 and $126 million below the program's fiscal year 1989 authorization level. Because the flat funding is not adjusted to inflation, the fiscal year 1989 funding level will force the program to cut access to almost 18,000 children. Using the estimate that for every $1 invested, Head Start saves $7 in future social costs, the current funding proposal for fiscal year 1989 of $1.206 billion will save $8.44 billion in future social costs. Yet the Head Start Program only reaches 16 percent of those children eligible. How much will we have to spend on these children not reached by the program in the future because we refused to pay for their programs today? Is this really a sound investment for America? I say we pay now for the programs and reap the future returns of increased productivity and reduced social service expenditures.

The establishment of high-quality development and day care programs will save billions of dollars. Mr. President, we literally have a choice of paying now or paying later. In Illinois, it costs $3,000 annually per child for full-day, preschool child care; conversely, it costs approximately $30,000 annually to incarcerate an inmate at the Marion Penitentiary. The Smart Start bill gives the opportunity to change the course of America's future. All youngsters can benefit from the advantage that early intervention provides. Federal and State governments can work together to expand or establish high-quality, full-day early childhood education programs. The initial investment is so small yet its impact on the future direction of this country is so great.

Mr. President, I urge my colleagues to join Senator KENNEDY and me by cosponsoring Smart Start: The Community Collaborative for Early Childhood Development and Childcare Assistance Act of 1988 and make a wise investment in the future.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague from Massachusetts, Senator KENNEDY, as a cosponsor of Smart Start: The Community Collaborative for Early Childhood Development and Childcare Assistance Act of 1988. The Senator has worked tirelessly on behalf of our Nation's children, and I commend him for the excellent bill we introduce today.

The Smart Start bill will improve educational opportunities for the young children of our Nation. In recent years, a number of careful studies have documented the promise of preschool education. Early intervention can have significant, positive long-term effects on the educational development of disadvantaged youth. Learned scholars have documented that intensive programs of early education clearly produce results.

Beginning in 1981, the Reagan administration mounted an assault against the Head Start Program, the best known preschool program for poor children. We in Congress have had to fight to preserve Head Start and, happily, we have succeeded. The Smart Start legislation we introduce today builds upon the successes of Head Start and signals our continued support for preschool education.

Under the Smart Start plan, the Department of Education will provide matching grants to States and localities to provide prekindergarten health, day care, and education programs. These programs will run for the full workday and the full calendar year. Parents whose incomes fall below 115 percent of poverty will pay nothing for these services, and half of the slots in each program will be set aside for poor children.

Several weeks ago, the Governors expressed unqualified support for this plan. Our distinguished Governor from New York, Mario Cuomo, declared that Smart Start will allow New York State "to build upon our proposed half-day school year program by making funds available for the remaining half of the day, and for full workday—the calendar year around."

In my State, 20 percent of our children drop out of school. In New York City, the number jumps to 33 percent—one in three. Governor Cuomo, in the tradition of Governors of the Empire State, is attacking this problem head on, as are Governors all over the Nation. This is, however, a national problem, and national problems require effective leadership at the Federal level. To quote Governor Cuomo again, "The Federal Government has a role to play in nourishing our true strength, by helping States to help our children."

We in Congress are in a unique position this year to play this role and to provide the Governors with the resources they need. Smart Start will help, and should be enacted with due speed.

However, preschool alone is not enough. The Governors, or more precisely our children, need more.

As Senators well know, last year the National Governors Association made clear its commitment to our Nation's children by making welfare reform its No. 1 issue. Our Family Security Act, S. 1511, which enjoys the support of the National Governors Association and the cosponsorship of 56 Senators, will help our children by stressing family responsibility and community obligation in the context of the vastly changed family arrangements of the last 50 years.

These wholly new conditions require wholly new social responses. Mr. President, children are now the poorest group of citizens in the Nation. Do we expect children growing up in misery to mature into adults capable of maintaining, much less improving, American society? Do we expect poor, ill-educated children to manage the American economy? It ought not to be left to chance.

The conditions that have developed over a generation will not change overnight. It is possible, however to change directions. We can and we must set a new trend in place.

The Governors are ready. Our legislation is ready. Most importantly, the children are ready.

I hope that my colleagues will join me in supporting this legislation as well as the Family Security Act. We must be resolute: we can help our children this year, in this Congress. As I have often said, Mr. President, America has no children to waste. It will be a struggle to ensure that no more children are wasted. I urge my colleagues to enter the fray.

Mr. BINGAMAN. Mr. President, I rise today to express my support for Smart Start: The Community Collaborative for Early Childhood Development and Child Care Assistance Act of 1988, and to commend my friend and colleague, Senator KENNEDY, for his leadership in this area. As chairman of the Senate's Labor and Human Resources Committee, Mr. KENNEDY has worked diligently to improve the quality of life for all children, and I am pleased to lend my support to his efforts.

For some time, I have advocated the need for widespread, high-quality early childhood development programs because I am convinced such programs are of critical importance to the children in my home State of New Mexico and to the children and future of this Nation generally.

Comprehensive, high-quality education and care for our children always has been important, but in recent years it has become even more crucial to the long-term well-being of our country. As trade relationships and economic trends lead to a more competitive, highly specialized world, I, along with many others, believe that a serious commitment to educational excellence at all levels is the key to continued American success and leadership in the global marketplace.

Without a doubt, our future success as a Nation depends on our ability to equip all our citizens with the tools necessary to become productive, contributing members of our society. This means we must deal with a changing work force, an outdated educational system, and the critical problems facing our children.

In a series of forums and hearings conducted over the past year in New Mexico, I have met parents and providers throughout the State who have raised legitimate alarms about the quality of education and care available for their children. And I am troubled because I know there is a direct tie between the quality of a child's education and the ability of that child to become a happy, productive, useful member of society.

At a minimum, we know what the studies have shown. Quality, safe, supervised, and educational care, even as early as 3 years of age, eventually translates into well-rounded individuals, better school performance, lower dropout rates, lower teenage pregnancy rates, lower unemployment rates, and lower crime rates. It means that 15 years later more children will go to college or participate in vocational and job training programs.

It makes sense that if our children get the proper nurturing and education during those critical early years, they likely will be that much more successful through the school years and beyond.

Last year, the Committee for Economic Development, a group of 200 top business executives and other national leaders, released a report entitled "Children in Need: Investment Strategies for the Educationally Disadvantaged." That report clearly states the problem facing us and offers workable solutions. The report says:

> If present trends continue, the scarcity of well-educated and well-qualified people in the work force will seriously damage this country's competitive position in an increasingly challenging global marketplace. Our industries will be unable to grow and compete internationally because a growing educational underclass will lack the necessary skills and work habits to function productively on the job. Moreover, they will lack the levels of literacy needed to make informed choices about their lives or to take part in the political process.

What can be done? The bill being introduced today, Smart Start, is just that, a very smart starting point. The CED report found early intervention, the goal of this bill, to be the most cost-effective way to solve the problem. The study reported that intervention before traditional school age, from prenatal to age 5, can alleviate many of the later problems. Early intervention includes prenatal and postnatal care to ensure healthy babies, parenting education for at-risk parents, and high-quality, comprehensive child care and preschool programs.

While early intervention has been shown to prevent later problems, most of our resources have been devoted to formal education, with comparatively little to preschool needs. We spend more than $200 billion on education for children 6 years old and older, but only $1 billion on education for children ages 5 and under. This does not mean that we should reduce spending on formal education to support early education needs.

It does mean that we need to pay more attention to developing and encouraging programs aimed at solving educational problems before children traditionally enter the school system. We need an educational system that is flexible; one that can provide high-quality, comprehensive educational programs for children under the age of 5. That is what the Smart Start bill would accomplish. Through the bill, we in the Congress acknowledge that education is—and will always be—a national concern, but that it more appropriately is a State responsibility and a local function.

The bill's flexibility will enable States and localities to choose the type of program that best fits their individual needs—whether that be through the public school system, Head Start, or community-based organizations. Along with this flexibility, States also must assume the responsibility for contributing matching funds to ensure the success of the programs. Still, the program is strictly voluntary, and while I hope that no State will choose not to participate, no State will be forced to participate.

I know there are many people—both in the Senate and in the States—who will say this bill and others like it are too costly. Without a doubt, cost is a significant factor and is one that must be carefully considered in these tight budgetary times. I have wrestled with this problem often. And I have concluded that despite what many see as too high startup costs, we cannot continue to deny that early education and child care are national problems that must be addressed in a comprehensive way. I cannot emphasize enough the simple fact that these challenges must be met if we are to meet all of the other challenges we face as a nation.

Further, several studies have documented that every dollar spent for quality preschool education can return up to $6 in lower cost for later education, for public assistance, and for the criminal justice system. Even with our current budget deficits, I do not see how we can afford not to invest in quality education and child care.

Without adequate educational programs for our children and accessible, affordable child care services, valuable workers will be excluded from our work force, crippling our ability to compete in the world economy. We will be twice hurt—losing parents who otherwise could work and failing to properly nurture children who can help us rebuild American economic strength.

An investment in quality preschool education and care is an investment in our Nation's future. It is an investment in New Mexico's children, in Wyoming's children, in Mississippi's children, in all of our children, that will pay off in stronger families, increased productivity in the work place, and a healthier local, national, and international economy.

Simply put, it is an investment we must make for our children and our future.

With these thoughts, let me again commend Senator KENNEDY and his staff for their tireless work and dedication to this critical issue. Thank you, Mr. President.

Mr. DURENBERGER. Mr. President, I rise today to join my distinguished colleague from Massachusetts in introducing Smart Start; the Community Collaborative for Early Childhood Development and Child Care Assistance Act of 1988.

The Smart Start Program would make available all day early childhood development programs to all 4- and 5-year-olds. There is a growing evidence that children must have stimulation, nurturing care, early learning, and motivation. But this is often missing among disadvantaged children and in the growing number of single-parent households.

In Minnesota, the United Way of the Minneapolis Area has designated early childhood development as its No. 1 priority for funding for 1989-90. But they're going beyond simply looking for programs to fund with a project called, Success by Six, an excellent model and precursor to Smart Start. With Honeywell CEO, James J. Renier, as chairman, 25 business, labor, government, and civic leaders are studying barriers to early childhood development. From that study, they will develop strategies on a communitywide basis to eliminate those barriers for all children.

This is an uncommon communitywide collaborative effort working on an issue that first hurts these small people who need help to get a toehold in life, but with broader and deeper impact on our society as a whole. Thus, business people are coming to the table to attack the problem, looking for answers to the questions, "Who will be our managers of tomorrow? Who will be our workers? Who will pay the costs, both human and economic, of failure?" According to the April 4 issue of Business Week, a business-funded research group has warned that the United States will lose its competitiveness in world markets without a skilled work force.

The project is closely tied to High/Scope Research Foundation's study of Perry Preschool in Ypsilanti, MI, done by David Weikart. From that study comes the observation that "every dollar spent on quality early childhood education for disadvantaged children saves society $6 in costs in the child's later life."

There is other evidence to back that up. For instance, the study found that the school dropout rate was 33 percent among those who had the benefit of quality preschool development programs, compared with 50 percent for those who did not.

In their later years, 18 percent of preschoolers were on welfare compared with 32 percent of nonpreschoolers. Perhaps most astonishing was the finding that of preschool students, 61 percent were literate at the age of 19, compared with 38 percent of nonpreschoolers.

Mr. President, these aren't just numbers. It's been said that "statistics are people with the tears wiped off." In this case, these are young people whose lives were directly shaped by the intervention of people who cared—by a program that can be replicated many times through the support of legislation like Smart Start.

This legislation would promote collaboration and coordination between Federal, State, and local levels by complementing and expanding existing child education and child care programs. Smart Start is aimed at serving the needs of the most needy first, while at the same time not denying other families the opportunity of early education or child care programs for their child or children. An investment of $4.25 billion over 5 years would reaching half of all 4- and 5-year-olds within this time period, while parents with the ability to pay will do so.

Mr. President, this is everybody's issue. Children are the most valuable resource of all in a nation with greater resources than most in the world. Their education and health are at least as important to the future of this Nation as clean water and clean air. And yet, children are the poorest population group in our country today. Almost 21 percent of this Nation's children live below the poverty level compared to 13 percent of the elderly and 15 percent of the general population. Contrary to popular belief, the second largest population of homeless, behind veterans, are families with children, making up almost a third of the homeless population.

Mr. President, neglect of our children cannot be allowed to become a national norm. We are shocked by the almost unbelievable conclusion that an estimated 20,000 children under the age of 3 are left alone all or part of the day by working parents. The dramatic increase in demand for child care in this decade far exceeds the supply of affordable, quality care. The Federal Government must take a role in assuring low-income families have access to child care so they may sustain a job and provide for the well-being of their child.

As important as that is—and our urgency in dealing with child care issues cannot be too strong—we're not talking about child care, for mere quantity is not the issue here. We're talking about quality mental, emotional, and physical care, motivation, and stimulation for children who will otherwise grow up without hope and without even a chance of a good life.

Programs such as the highly acclaimed Head Start Program have provided further proof of the value of early educational development for disadvantaged children. Unfortunately, Head Start only reaches 18 percent of the 2.5 million disadvantaged children who need its services. Smart Start will allow us to reach more children through programs like Head Start and will give State and local governments the opportunity to expand the Head Start Program to a full day service to meet the needs of working mothers.

Mr. President, we have placed a higher priority on consuming today's wealth than on creating tomorrow's opportunities. It is past time for us to take responsibility for the quality of life we will be leaving our children. Unlike adults, children do not have control over their lives and their surroundings. They must rely on others to take the responsibility for their well-being. Mr. President, unless our children are given the opportunity to grow up healthy, skilled, and motivated, they will not stand a chance of achieving the productivity gains that will be required in the coming decades.

We have the opportunity today to act in a responsible manner and to provide our children with some of the good fortune and opportunities we have received ourselves. The Founding Fathers of this great Nation set forth the opportunity for any person to come to this country and seek a better life for themselves and their families. We have failed Thomas Jefferson's first moral test of citizenship: To leave each generation, our children, with opportunities no less than our own. For the first time in this country's history we will leave a greater number of our children in poverty, living on the streets, abused, illiterate, without hope. I ask you today, to join Senator KENNEDY and me in working to pass this legislation that would stop the trend toward poverty among our children and take a step forward in ensuring the future of this Nation.

Mr. BURDICK. Mr. President, I am pleased to join my colleague, Senator KENNEDY, in introducing "Smart Start," legislation designed to provide critically important early development programs for children. This bill will help to address the tremendous need that exists for adequate and quality day care in our country. In addition, it will provide education and assist in the development of young children. Smart Start is legislation that will complement our current day care and educational system. It will serve as a vehicle for linking resources of families, communities, States, and the Federal Government.

We all want a better life for our children. Smart Start is legislation which can help to address the multiple needs of our Nation's youth. Life for children in our country is not getting easier. Fewer children are being immunized today, more children are living in impoverished environments, rural schools are having problems competing for resources and teachers. These problems exist in Massachusetts, North Dakota, and every other State in this Nation.

Smart Start is an investment for the future—for 2005 and beyond—when the children who are 4 years old today will begin to assume positions of leadership for tomorrow.

Mr. WIRTH. Mr. President, I am particularly pleased to join with my colleagues today in introducing important legislation designed to strengthen the capacity of State and local governments and organizations to provide comprehensive preschool education for 4 and 5 year olds. This measure would make available to all prekindergarten children the opportunity to participate in the type of quality preschool education that has been repeatedly shown to give students a significant edge throughout their educational careers.

Preschool education has been paying off for Head Start children and for middle and upper income children for more than 20 years. We know that prekindergarten education can make the difference between a child who starts school far behind his peers or one who has every advantage of his classmates during that all important first year of school. We know that preschool graduates are much more likely to go to college and to graduate than their peers who had no preschool experience. The Perry preschool project, which tracked for more than two decades, a group of disadvantaged children who had participated in a half-day education program for 1 year, found that their students were twice as likely to be literate and have a job as the control group which has had no preschool training. In addition, its students were less likely to have had a teenage pregnancy, be a welfare recipient or get into trouble with the law.

This legislation would allow those forward looking States who choose to participate to bolster their existing early childhood education programs. Funds could be used to supplement—although not supplant—those preschools that would like to expand their services or their hours as well as to start new programs where none exist. Any organization capable of providing quality preschool education would be eligible for funding, including public schools, community-based organizations and existing Head Start Programs.

While the program is strictly optional for any State or locality, grantees would have to agree to run full day, full calendar year programs to meet the child care needs of working families. Each program would also have to meet low child-teacher ratios, maintain a small group size, hire staff trained in early childhood development, offer a developmentally appropriate curriculum and encourage parental involvement. In the first year, the State would be required to provide a 30-year match, increasing to 40 and then 50 percent in subsequent years. If a State chooses not to participate, community organizations may still apply for support and will contribute a reduced local match only.

Any preschool aged child that parents wish to have enrolled is eligible to participate. Fifty percent of the slots will be reserved, at no fee, for children of families whose annual incomes fall below 115 percent of the poverty level. Those families able to pay a fee will do so on a sliding scale. Financially secure parents, capable of paying the full cost of their child's participation, will be assessed the full fee.

Mr. President, we know that preschool education is one of the most cost-effective means available to us of facilitating academic excellence, preventing school dropouts and ensuring that tomorrow's graduates will be able to meet the increasing needs of our Nation for a highly skilled and knowledgeable work force. I do not see before us a better opportunity for a Federal investment that could pay higher dividends. I am pleased to be an original cosponsor of this legislation and I strongly encourage this Senate to approve it at the earliest opportunity.

Mr. SHELBY. Mr. President, today, I am cosponsoring legislation which would make available to preschool children early childhood development programs. These programs will last all day to help meet the needs of working parents with young children and will expand educational opportunities for preschoolers.

We can no longer wait until our children are in first grade to start their formal education. Some studies indicate that much of a child's learning occurs before the age of six. If we want the United States to regain its competitive position in the world's economy, we must raise by quantum leaps the quality of our educational systems. We must give our preschoolers a smart start by allowing them to participate in early childhood development programs before they are school age.

I am particularly impressed with Smart Start because poor children, in urban and rural areas, who traditionally have fewer educational opportunities available at this age will be able to participate at no cost. And other families will children participating in the program would pay their fair share based on family income.

Though these programs will result in budget expenditures, I believe that in the long run, society will benefit from substantially lower cost for welfare payments, unemployment payments, and maintenance of the criminal justice system.

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 2271. A bill to authorize an exchange of properties between the United States the Tuskegee University relating to the Tuskegee Institute National Historic Site, AL, and for other purposes; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTAIN FEDERAL LANDS

Mr. SHELBY. Mr. President, today Senator HEFLIN and I introduced legislation which holds significant value for the beauty and strife that is Alabama's history. This bill will authorize the National Park Service to transfer ownership of the Grey Columns Mansion in Tuskegee, AL, to Tuskegee University. In turn, Tuskegee University will give to the Park Service a house formerly used as the president's home and additional land for visitor parking and a new maintenance area. Companion legislation has been introduced in the House by my good friend and colleague, Congressman BILL NICHOLS, and has been recently reported out of the House Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Tuskegee is the only university campus designated as a National Historic Site. It draws more than 100,000 visitors each year and serves as not only an inspiring institution of higher learning but as a source of pride for all Alabamians. The late Senator Jim Allen of Alabama clearly envisioned a partnership between the Federal Government and Tuskegee University when he drafted the legislation to declare Tuskegee Institute a National Historic Site. I believe that the transfer of Grey Columns Mansion from the Federal Government to the university is in keeping with Senator Allen's recognition of Tuskegee as one of our national treasures. I add also that the conveyance of Grey Columns will be made only upon the express condition that Tuskegee University maintain its historic integrity and use the grand home—which was built in 1853 by the Varner family—as the residence of the university's president.

Tuskegee University has shown responsibile leadership in its restoration of many of the aged buildings on the campus site. It is a privilege and an honor for me to be able to assist in the preservation of this important part of Alabama's historic beauty.

I look forward to working with Congressman NICHOLS and Senator HEFLIN toward expeditious passage of this legislation.

Mr. President, at this point I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Act entitled "An Act to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewell-Belmont House National Historic Site, Washington, District of Columbia; and for other purposes," approved October 26, 1974 (88 Stat. 1461), is amended by adding at the end thereof the following new subsection:

"(c)(1) If the Secretary acquires the property known as Grey Columns pursuant to subsection (a)(5) and determines it is the public interest and in furtherance of the efficient administration of the Tuskegee Institute National Historic Site, Alabama, the Secretary may convey such property known as Grey Columns to the Tuskegee University, if—

"(A) the Tuskegee University in exchange, conveys such real property to the Secretary which the Secretary determines is necessary for administrative, parking, and maintenance facilities for such national historic site;

"(B) as an express condition of such exchange and conveyances, the Tuskegee University convenants to maintain the historic integrity of the property known as Grey Columns in accordance with the standards of the Secretary on historic preservation and make such property available for public use subject to the primary purpose of such property as the residence of the President of Tuskegee University; and

"(C) such exchange and conveyances of real property are conveyed without any consideration (including monetary payments) other than such real properties as authorized by this subsection.

"(2) In the administration of the real property of the Tuskegee Institute National Historic Site, Alabama, as described in subsection (a)(5), the Secretary may accept an easement from the Tuskegee University on the real property between the Carver Museum and the property known as the Oaks for purposes of—

"(A) limiting development of such real property;

"(B) maintaining the view between the Carver Museum and the property known as the Oaks; and

"(C) providing for construction and maintenance by the Secretary of a public walkway from Campus Avenue to Montgomery Road.

"(3) If a conveyance is executed under the provisions of this subsection, the Secretary shall publish a revised boundary map or other boundary description of the Tuskegee Institute National Historic Site, Alabama, in the Federal Register.".

By Mr. MITCHELL (for himself and Mr. CHAFEE):

S. 2272. A bill to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1989 and 1990; to the Committee on Environment and Public Works.

FISH AND WILDLIFE CONSERVATION ACT AUTHORIZATION

● Mr. MITCHELL. Mr. President, the legislation which I am introducing today authorizes appropriations through fiscal year 1990 under the Fish and Wildlife Conservation Act of 1980. This act is an important, but long neglected, component in the protection of our Nation's fish and wildlife resources.

Historically, funding of State fish and wildlife programs was provided by hunters and fishermen, primarily through their purchase of licenses. In addition, the key cooperative State/Federal fish and wildlife programs established by the Pittman-Robertson and Dingell-Johnson Acts were funded by Federal excise taxes on arms, ammunition, and fishing equipment.

Consequently management by the States traditionally focused on enhancement of populations of fish and wildlife species of interest to anglers and hunters. In general, other species benefited only to the extent that they lived in association with game animals and sport fishes.

The focus of State and Federal fish and wildlife conservation efforts was first broadened in 1973 by enactment of the Endangered Species Act. Under that act we now study and protect nearly 250 additional fish and wildlife species that are considered endangered or threatened.

Nevertheless, we still know very little about the status and needs of more than 1,800 species of mammals, birds, reptiles, amphibians, and fish that are not ordinarily taken for sport, fur or food and that are not known to be in danger of becoming extinct. Over 89 percent of all U.S. fish and wildlife species fall in this category.

In 1980 the Congress again sought to broaden the focus of State and Federal management activities to include this large collection of previously overlooked, so-called nongame fish and wildlife species by enacting the Fish and Wildlife Conservation Act.

The act authorized annual appropriations of $5 million for development by the States of comprehensive management plans to benefit these nongame species. The act also required the U.S. Fish and Wildlife Service to "conduct a comprehensive study to determine the most equitable and effective mechanism for funding (the implementation of) State conservation plans."

The Fish and Wildlife Service completed the study in 1984 but did not recommend any initiative for funding the act. In addition, no money for development of the State comprehensive plans has ever been requested by the administration or appropriated by the Congress.

Instead, the States have had to raise what money they can from other sources, such as through voluntary checkoffs on State income tax forms. The States have been highly creative in developing funding mechanisms for fish and wildlife not subject to hunting or fishing, but these revenues were intended to complement anticipated Federal matching funds not replace them.

As a result, average State nongame funding falls far short of what is needed. Moreover, present programs lack the year-to-year stability guaranteed by Federal matching funds, such as those which have ensured the effectiveness of the Pittman-Robertson and Dingell-Johnson programs for State fish and game management.

For instance, Maine raised $129,122 for its endangered and nongame wildlife project from its State income tax checkoff in 1985, but by 1987 contributions had dropped off to $114,353. This relatively small and declining amount of money has to provide protection for 16 endangered species and more than 400 other species in Maine, such as the harlequin duck and New England cottontail rabbit, that are declining in numbers.

Increased Federal research and management to assist nongame wildlife also is long overdue. Under the Migratory Bird Treaty Act, the U.S. Fish and Wildlife Service is responsible for the welfare of nearly 800 nonhunted migratory bird species. But little is known about the status of these birds and even less is being done to maintain their numbers. Species such as the common loon and the osprey that have been singled out for special attention by the Fish and Wildlife Service as "national species of special emphasis" are in trouble, and little effort currently is being expended to prevent their continuing decline or restore their numbers.

The consequences of our failure to carry out the Fish and Wildlife Conservation Act are troubling. Since 1980, 89 species of fish and wildlife have had to be brought under the protection of the Endangered Species Act. Many, if not all, of these species could have escaped this perilous status if we had succeeded in developing comprehensive conservation programs.

Continuing to concentrate our attention on only a limited number of species will inevitably lead to the decline of additional types of fish and wildlife until they reach dangerously low levels where they, too, must be protected by the Endangered Species Act. At that point, the task of rebuilding a species' numbers is likely to be far less successful and far more costly.

The Fish and Wildlife Conservation Act of 1980 was intended to establish programs to protect nongame wildlife habitats and to monitor trends in the numbers of nongame species so that corrective steps can be taken to stop any downward slide before it is too late.

Because the authorization to expend funds under this act expired last year, the first step in encouraging comprehensive State and Federal fish and wildlife conservation programs is to extend the spending authority to assist the States in development of plans for this purpose. The bill being introduced today will provide that authority through fiscal year 1990.

In the next decade, however, it seems clear that one or more sources of adequate and reliable funding will be needed to ensure an effective and comprehensive approach to the conservation of all fish and widlife species. The stable financial support provided by the Pittman-Robertson, Dingell-Johnson and Wallop-Breaux Acts has been the key to development of successful State programs for game and sport fish.

Last July I asked the General Accounting Office to estimate the amount of revenue that would be available from two sources suggested by environmental organizations to carry out the Fish and Wildlife Conservation Act.

One such source, which was not identified in the 1984 U.S. Fish and Wildlife Service report, is a portion of the present Federal excise tax on gasoline. Most of these tax receipts currently are deposited in the highway trust fund. However, those excise tax revenues from the estimated sales of fuel for use in boats—$104 million annually—are used to support State boat safety programs and Federal/State management of sport fisheries.

In like manner, therefore, conservationists have suggested that the tax on fuels sold for non-highway-related, noncommercial, residential uses; for example, lawn mowing, be used to support backyard, urban and other nongame fish and wildlife conservation programs.

The GAO has estimated that between $21 million and $48 million is generated annually from motor fuels used for lawn mowing and other similar activities around the home that have nothing to do with use of our highways.

A second source of funding for the 1980 act, which was discussed incompletely in the Service's 1984 report and for which conservationists have asked for further information, is the issuance of so-called semipostal stamps.

These stamps would bear a surcharge over the normal postal rate. A common surcharge level in the dozen or so other countries using semipostal stamps has been 50 percent of the normal fee. This extra fee then would be used to cover administrative expenses and to fund nongame fish and wildlife conservation.

The GAO estimates that about $12 million might be generated annually by a first-class, semipostal stamp costing 35 cents.

The 2-year reauthorization provided by the legislation being introduced today will allow the Congress to continue consideration of these and other revenue sources as a funding base for the Fish and Wildlife Conservation Act of 1980.

Next month the Subcommittee on Environmental Protection will conduct a hearing to begin formal consideration of the act, the problems caused by failure to carry out its provisions, and possible mechanisms to fund its implementation.

I hope that this year we will finally make some progress toward realizing the great potential of the Fish and Wildlife Conservation Act since 1980.

Over half of all American adults feed, watch, photograph or take active interest in wildlife. This interest clearly demonstrates that if we provide for comprehensive wildlife conservation, we will at the same time contribute substantially to the quality of life we all enjoy in this country.●

By Mr. MELCHER:

S. 2273. A bill to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe; by unanimous consent, ordered held at the desk until the close of business on April 13, 1988.

TRANSFER OF CERTAIN FUNDS FOR THE BENEFIT OF THE CROW TRIBE

Mr. MELCHER. Mr. President, I am introducing this bill today to address an emergency situation for over 400 families on the Crow Indian reservation who will lose utility services unless the Congress takes immediate action.

This situation has come about because of problems with the Crow tribal administration of the Low Income Home Energy Assistance Program [LIHEAP], which provides utility payments to low-income people who have no other means of paying their utility bills.

The Crow Tribe mismanaged the LIHEAP grant in fiscal year 1987. The U.S. Department of Health and Human Services has frozen the $288,000 in fiscal year 1988 LIHEAP grant funds appropriated for residents of the Crow Indian reservation until the Crow Tribe corrects the grant deficiencies or withdraws their grant application so the funds could be turned over to the State, which would administer the program for the reservation. State involvement is not acceptable to the tribe, but it is my understanding that the tribe would accept BIA administration of the program on an emergency basis. In order to regain eligibility, the tribe would have to reimburse HHS for LIHEAP funds which were illegally expended during the fiscal year 1987 program year and demonstrate an ability to comply with program guidelines. The tribe does not have the funds to reimburse HHS at this time.

Recently, HHS informed the Tribe that the grant would be terminated. The Crow Tribe intends to appeal the Department's decision to terminate their grant, a process which will take at least 2 or 3 months. Under the LIHEAP statute, the Department is prohibited from disbursing the Crow grant funds to an entity other than the Crow Tribe until the agency's decision is upheld through the appeals process required by law.

The individual Crows who are facing loss of utilities are asking Congress for help to get the assistance which is rightfully coming to them. On Saturday, April 9, 1988, the Tribal Chairman was ousted by a vote of the Crow General Council, in part because of his mishandling of the LIHEAP funds.

Many of the tribe live in homes heated by electricity, and Montana weather can turn very cold with spring blizzards in April and May.

The rural electric coops who provide electrical services to the Crow reservation state that they have accrued nearly $350,000 in debt from Crow tribal members, which is causing serious financial problems for the coops. Under Montana State law, utilities do not disconnect utilities during the period of November 1–April 1 because of the extreme winter weather conditions. Recently, however, the coops announced that they have no choice but to begin disconnections. At my request, the electric cooperatives have agreed to hold off on disconnections pending immediate congressional action.

The Bureau of Indian Affairs is willing to administer the program on an emergency basis, but requires authorization to do so. The Department of HHS is also willing to transfer funds because of the emergency, but also requires authorizing legislation.

Because of this unfortunate scenario, 414 families, comprising at least 2,000 people (including young children, the elderly and the infirm), are threatened with loss of heat, light, and hot water. This is unconscionable and would pose hardships which must be averted. In Montana, we often experience late spring snowstorms and cold weather. The Crow people should not have to suffer because the Tribe mismanaged the LIHEAP program.

I am introducing this legislation to respond to this crisis. It will authorize the U.S. Department of Health and Human Services to transfer $180,000 of the funds earmarked for the Crow LIHEAP program to the Bureau of Indian Affairs. The BIA would administer the program according to the standards which the Crow Tribe had developed.

According to the electric coops, this amount will tide them over until the appeals process is complete. After the tribal appeal process is concluded, the remaining HHS funds ($108,000) will be provided to an eligible grantee and will be expended on behalf of eligible recipients. Nothing in the legislation would affect the Tribe's rights to be a grantee once it can meet the eligibility criteria of grantees required by HHS.

The bill will meet the emergency protection of over 400 Crow families that might otherwise suffer and permit the wheels of justice decide about who administers the low income emergency heat funds in the future.

I have asked the Chairman of the Select Committee on Indian Affairs to immediately consider the bill.

I hope and trust it can be expedited.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF FUNDS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall transfer to the Secretary of the Interior $180,000 of the funds appropriated to provide a grant to the Crow Tribe under section 2604(d) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988.

SEC. 2. USE OF TRANSFERRED FUNDS.

The funds transferred to the Secretary of the Interior under section 1 shall be used by the Secretary of the Interior to provide, through the Crow agency social service program of the Bureau of Indian Affairs, the assistance and benefits available under the Low-Income Home Energy Assistance Act of 1981 to those members of the Crow Tribe who meet the eligibility criteria established by the Crow Tribe in its fiscal year 1988 grant application, for the assistance and benefits provided under such Act.

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to affect the eligibility of the Crow Tribe to receive a grant under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1989, or any succeeding fiscal year, provided that the Crow Tribe meets any eligibility standards required of grantees by the Department of Health and Human Services.

By Mr. GRASSLEY (for himself and Mr. DECONCINI):

S. 2274. A bill to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes; to the Committee on Governmental Affairs.

ADMINISTRATIVE DISPUTE RESOLUTION ACT

Mr. GRASSLEY. Mr. President, tens of thousands of administrative agency decisions and court cases are today handled through highly adversarial procedures that are all too often complex, costly, and lengthy. Administrative procedures of Federal agencies should foster consensual resolution of these disputes, but current practice tends to inhibit such approaches.

In the private sector, consensual dispute resolution has long been used to great advantage to produce quicker, better, less expensive decisions.

These methods—often referred to as alternative dispute resolution [ADR]—include arbitration, negotiation, mediation, and minitrials, among others.

ADR has also developed into a viable option for tens of thousands of disputants at the State and local government levels. A 1987 survey of State courts identified 275 ADR programs of various types in over 40 States. For over a decade, ADR has proven its value in conflict settlement, including disputes involving State governments.

The Federal Government has much to learn from these experiences.

Over the past 50 years, as we've seen the Federal bureaucracy sprawl in every direction, a variety of agency boards and offices have been established. They handle a variety of cases involving grants, benefits, economic regulations, and other Federal programs. The jurisdiction of existing administrative law judges and agency boards have been expanded.

Whole new specialties of lawyers have sprung up to carry on litigation over energy, contract, environmental, safety, and other matters. Unfortunately, existing procedures often serve to increase the contentiousness of parties to the administrative process.

For example, over 80 percent of the significant rules issued by EPA in recent years have ended up in court.

An increase in agency litigation is undoubtedly good for the business of the more than 600,000 U.S. lawyers now in practice. However, with legal expenditures growing at a faster rate than the gross national product, our Nation's overall productivity is almost certainly harmed by this drain on valuable resources.

Other costs of agency litigation cannot be measured so easily, but are just as real. They include the diversion of the agency's time and energy, the costs of delay and uncertainty, lost opportunities, and damaged public relationships.

Federal agencies are involved in far more disputes than ever as parties, and decide far more cases than do the Federal courts—hundreds of thousands annually. The administrative office of the U.S. courts estimates that, for the year ending June 30, 1987, 30 percent of all civil cases commenced involved the United States as a party—over 72,000 actions. Appeals involving Federal agencies tend to be considerably more burdensome for the court to resolve than other cases.

They tend to involve more lawyers, briefs and records, and take longer for the courts to decide.

Traditional legal procedures are often an inefficient means of resolving the difficult issues that inevitably arise in Federal agency decisionmaking. Enthusiasm for ADR stems from the hope that it will reduce this burden on courts, agencies, and the economy, as well as provide more satisfying means of justice.

In an era of deficit reduction, the potential of ADR to reduce the costs of government conflicts cannot be overlooked. But ADR is not only in the interests of the government. It is also in the public's interest.

The Federal Government is in an ideal position to be in the forefront of alternative dispute resolution. Instead, most Federal agencies lag far behind private and other public entities that must resolve disputes. Some agencies are almost defiant in their resistance. For example, while top echelon officials at the Justice Department sing the praises of ADR, all too many line attorneys cling tenaciously to traditional adversarial approaches.

ADR must cease being a subject that receives almost universal endorsement in theory, but substantially less in practice. Government attorneys and agency heads alike must come to view ADR as a major set of tools to help them do their jobs better.

Mr. President, today I am introducing, along with Senator DECONCINI, the Administrative Dispute Resolution Act of 1988. Its purpose is to encourage and extend the use of ADR by Federal agencies.

The bill will give impetus for meaningful change by sending a clear signal to agencies, reviewing courts and regulated persons that "ADR is OK," and that informed, thoughtful efforts to use it will be supported.

The bill takes several important steps along this path. The bill amends the Administrative Procedure Act to authorize the parties to agree to use mediation, simplified or expedited procedures, or other mutually agreeable processes to resolve Federal disputes. Arbitration is included subject to general guidelines on the issues suitable for ADR. The bill also includes necessary guarantees of confidentiality in agency ADR, and provides judicial review processes that balance the needs for expedition, finality, and accountability. By authorizing parties to use the process to fit the case at hand, this bill affords a good deal of flexibility.

Specific statutory provisions that inhibit effective negotiation—for instance, parts of the Federal Tort Claims Act and Contract Disputes Act—are amended. The bill also repeals the GAO's overly restrictive prohibition on arbitration in cases where arbitration can be used consistent with the public interest.

Efforts to train government personnel to be better negotiators and judicial officers to take greater advantage of mediation and other processes are vital, and are encouraged and facilitated by the bill.

Importantly, this bill recognizes that ADR is not appropriate for all cases involving the government, just as with private disputes. It also deals with the fact that agency use of some kinds of ADR—mainly arbitration—may raise policy, practical, and even legal concerns not present in most private sector disputes.

The bill enlarges the authority of the Administrative Conference of the United States and the Federal Mediation and Conciliation Service to aid agencies' use of ADR. FMCS' authority would be increased to include mediation, training, and other assistance in agency disputes.

The administrative conference—which has taken a lead in ADR—would report to Congress periodically on agencies' implementation, establish a roster of qualified neutrals, and offer training and support, among other duties.

These initiatives will be complimented by informed, periodic, congressional oversight, and by creation of incentives for high-level executive branch officials and other agency personnel to use ADR. Hopefully, these efforts mark the beginning of a new trend, away from formalized procedures and toward a new flexibility in dispute resolution.

Mr. President, it is a truism to say: Justice delayed or excessively costly is justice denied. Administrative justice need not be so expensive or time-consuming. Congress and the executive would accept the challenge of fashioning a better agency approach to dispute resolution. The success of ADR in other arenas make likely similar success on the Federal level.

I hope my colleagues will join in this effort. Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Administrative Dispute Resolution Act of 1988."

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become marked increasingly by formality, costs and delays and often result in unnecessary expenditures of the time of individuals and the resources of society and decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution (including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration) have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means also lead to more creative, efficient, and sensible outcomes that foster stability because of the acceptability of such means to the parties involved and to the public in general;

(5) such alternative means may be used advantageously in widely varied administrative programs;

(6) explicit authorization for use of well-tested dispute resolution techniques will eliminate ambiguity of agency power under applicable law and will encourage use of common sense procedures in appropriate cases;

(7) every agency should undertake a careful review of programs and the disputes involved to ensure increased application of appropriate alternative means;

(8) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(9) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) Promulgation of Agency Policy.—Each agency is encouraged to promulgate policies that address the use of the full range of alternative means of dispute resolution and case management in each administrative program of such agency. In developing policy, each agency is encouraged to—

(1) consult with the Administrative Conference of the United States, the Federal Mediation and Conciliation Service, and professional associations; and

(2) examine procedures for resolving every kind of dispute including controversies that arise as a part of—

(A) formal or informal adjudication;

(B) rulemaking;

(C) enforcement;

(D) issuing or revoking permits;

(E) settling disputes; and

(F) litigation brought by or against the agency.

(b) Dispute Resolution Specialists.—Each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall implement—

(1) the provisions of this Act with regard to such agency; and

(2) the agency policy promulgated pursuant to subsection (a).

(c) Training.—Each agency shall provide for training to be made available regularly to the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency under this Act. Such training may encompass theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head a list of agency employees for similar training.

(d) Procedures for Grants and Contracts.—

(1) Each agency shall review each standard contract, grant, and other assistance agreements and shall amend them to authorize and encourage use of alternative means of dispute resolution at all stages where disputes may arise. The Office of Federal Procurement Policy of the Office of Management and Budget shall consult with agencies and other persons to develop guidance and standard clauses for contracts.

(2) Within 1 year after the date of enactment of this Act, the Civilian Agency Acquisition Council and the Defense Acquisition Council, in consultation with the Administrative Conference of the United States, shall adopt any amendments to the Federal Acquisition Regulation, or propose any statutory changes, necessary to adapt acquisition procedures to the requirements of the dispute resolution process.

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) Administrative Hearings.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof: "or by the use of alternative means of dispute resolution as provided by subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) Alternative Means of Dispute Resolution.—Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' means any program administered by an agency and includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rulemaking, adjudication, licensing, or investigation, as such terms are used in section 551 of this title;

"(3) 'alternative means of dispute resolution' means any procedure that is voluntarily used to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and identified parties participate;

"(5) 'issue in controversy' means a question that is material to a decision concerning an administrative program about which persons who would be substantially affected by the decision or the agency disagree;

"(6) 'neutral' means an individual who, with respect to an issue in controversy, serves as a conciliator, facilitator, mediator, factfinder, or arbitrator, or otherwise functions specifically to aid the parties in resolving the controversy;

"(7) 'party' has the same meaning as in section 551(3) of this title;

"(8) 'person' has the same meaning as in section 551(2) of this title; and

"(9) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) Each agency may use alternative means of dispute resolution for the resolution of any issue in controversy that relates to an administrative program, if the involved parties agree to such procedures.

"(b) In determining whether the use of an alternative means of dispute resolution is appropriate, an agency and the parties shall consider whether—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and, if so, whether such a proceeding is likely to be accepted generally as an authoritative precedent;

"(2) the matter involves significant questions of Government policy that require additional procedures before a final resolution may be made, and, if so, whether such a proceeding may serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and, if so, whether a dispute resolution proceeding can provide such a record; and

"(6) the agency shall maintain continuing jurisdiction over the matter with authority to alter the disposition in the light of changed circumstances.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary government employee or a private individual who has demonstrated competence and is professionally qualified in the area of dispute resolution. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing and all parties agree that the neutral may serve. The services of a neutral may be obtained by the parties or by an agency.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"§ 584. Confidentiality

"(a) A neutral may not testify or furnish documents concerning any matter relating to a dispute resolution proceeding, nor shall a neutral be compelled to testify or furnish documents relating to such proceeding, unless—

"(1) all parties to the proceeding and the neutral consent in writing; or

"(2) the neutral is required by statute to report specific categories of information, in which case the neutral shall make a good faith effort to inform the parties to a dispute resolution proceeding as early as possible of any such requirements that may be relevant.

"(b) No testimony may be received in any proceeding concerning any oral communication made in confidence during a dispute resolution proceeding. No material that was prepared in connection with a dispute resolution proceeding that was furnished to other parties in confidence during the proceeding may be considered in any other proceeding, except—

"(1) such material may be offered into evidence by the party who prepared the material;

"(2) such material may be offered into evidence to prove bias or prejudice of a witness, to rebut testimony or evidence which is submitted by the party preparing the material, or to prove an effort to obstruct a criminal investigation or prosecution; and

"(3) that this section may not preclude the discovery or use of any document or communication that is otherwise discoverable or is obtained through independent investigation.

"(c) Subsections (a) and (b) shall not prevent the gathering of information for statistical or research purposes or educational efforts in cooperation with other agencies, governmental entities, or dispute resolution programs, if the parties or the specific issues in controversy are not identifiable.

"(d) Subsections (a) and (b) shall not apply in any action against a neutral for negligent or fraudulent acts or omissions affecting a dispute resolution proceeding, if such action does not also involve the resolution of any issue that was in controversy in the proceeding in which allegedly improper conduct of the neutral occurred.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration as provided by this subchapter may be used whenever all parties consent, either before or after a dispute has arisen. An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining any benefit. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(b) Any agency official may offer to use arbitration for the resolution of issues in controversy, if such official—

"(1) has authority to enter into settlement stipulations concerning a matter; or

"(2) is otherwise specifically authorized by the agency to consent to use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate is enforceable pursuant to section 4 of title 9, United States Code, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties shall be entitled to participate in the selection of any arbitrator.

"(b) An arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) issue subpoenas for attendance of witnesses and production of evidence at the hearing, enforceable under the provisions of section 7 of title 9, United States Code, except that no subpoena shall be issued except for material that is relevant to the resolution of the issues and is necessary to achieve justice in the matter; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing and notify the parties not less than 5 days prior to the hearing.

"(b) Any party wishing a stenographic record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that costs should be apportioned.

"(c)(1) The parties shall be entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall assure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policy underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against the offending party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days of the close of the hearing, including the filing of any briefs authorized by the neutral, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a) Unless the agency provides otherwise by rule, the award in an arbitration proceeding shall include a brief, informal discussion of the factual and legal basis, but formal findings of fact or conclusions of law shall not be required. The award shall be filed with all relevant agencies, along with proof of service on all parties by the prevailing party.

"(b) The award shall be final and binding on the parties to the matter, and may be enforced pursuant to section 9 of title 9, United States Code. No action brought to enforce such an agreement may be dismissed nor may relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(c) An award entered under this subchapter may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding, nor may the award be used as precedent or otherwise be considered in any factually related proceeding, whether conducted under this subchapter, by an agency, in a court, or in any other arbitral proceeding.

"§ 591. Judicial review of arbitral awards

"(a) Any person adversely affected or aggrieved by an award made in a proceeding conducted under this subchapter may bring an action only pursuant to the provisions of sections 9 through 13 of title 9, United States Code.

"(b) In applying section 10(d) of title 9, United States Code, the court shall determine whether, in consideration of the factors enumerated in section 582(b) of this title, the consent of the agency to use arbitration to resolve the issue in controversy was a gross abuse of discretion.

"§ 592. Authorization to use services of employees of other agencies

"An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of an employee.

"§ 593. Qualifications and roster of neutrals; procurement

"(a) After consultation with the Federal Mediation and Conciliation Service, the Community Relations Service of the Department of Justice, and professional organizations in the area of dispute resolution, the Administrative Conference of the United States may—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential bias or conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request; and

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings.

"(b) An agency may contract with any person on a roster established under subsection (a) or a roster maintained by other public or private organizations or individuals for services as a neutral, or for training in connection with alternative means of dispute resolution. An agency may enter into an interagency agreement with the Administrative Conference of the United States to contract for the services of any person on a roster established under subsection (a) to serve as a neutral. The agency shall pay for the services of the neutral. An agency may negotiate a contract for the services of a neutral with any qualified person at compensation that the agency determines is fair and reasonable to the Government.

"§ 594. Support services

"(a) The Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall supply any necessary information to enable the Chairman of the Administrative Conference of the United States to comply with this subsection. The Administrative Conference of the United States shall transmit an annual report to the Congress containing data and recommendations concerning the use of alternative means of dispute resolution.

"(b) The Chairman of the Administrative Conference of the United States may pay all or part of the expenses of using an alternative means of dispute resolution. Such expenses may include, but are not limited to, the costs of neutrals, the costs for certain parties determined to be eligible for assistance under section 595, administrative costs, and training costs. The determinations with respect to payments under this section shall be at the discretion of the Chairman in furthering the use of alternative means of dispute resolution by Federal agencies.

"(c) For the purposes of this subchapter, an agency may use the services and facilities of other Federal agencies and public and private agencies, and individuals (with or without reimbursement) with the consent of such agencies and individuals. An agency may accept such voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code.

"§ 595. Funding of participation

"(a)(1) Any agency may pay a reasonable amount to enable participation, if the agency determines that—

"(A) it is in the public interest to obtain the participation of one or more persons in an alternative means of dispute resolution; and

"(B) such persons are unable to participate without receiving financial assistance to reimburse expenses.

"(2) In making a determination under paragraph (1) the agency shall consider—

"(A) the need for representation in the proceeding of a fair balance of interests;

"(B) the complexity and importance of the issues involved; and

"(C) the potential savings to the Government of using the particular type of proceeding instead of another procedure to resolve the issue in controversy.

"(b) A person seeking financial assistance, to reimburse expenses of participation in an alternative means of dispute resolution, may submit an application to the Chairman of the Administrative Conference of the United States requesting such assistance. No such application shall be considered by the Chairman, unless the agency notifies the Chairman in writing of a determination under subsection (a) that participation by such person in the alternative proceeding is necessary and in the public interest.

"(c)(1) Agency funds used to defray the travel expenses of any advisory committee as authorized under section 7 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall be from the general funds of the agency, and not from any amount restricted to travel from appropriations to the agency.

"(2) For the purpose of paragraph (1), the term "advisory committee" shall have the same meaning as such term is defined under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2).".

(c) TECHNICAL AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review of arbitral awards.
"592. Authorization to use services of employees of other agencies.
"593. Qualification and roster of neutrals; procurement.
"594. Support services.
"595. Funding of participation.".

SEC. 5. GOVERNMENT CONTRACT CLAIMS.

(a) CONTRACTING OFFICERS.—Section 6(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605(a)) is amended by adding at the end thereof: "The contracting officer shall make all reasonable efforts to resolve a claim or dispute consensually, before or after making a decision under this section.".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 7 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended—

(1) by redesignating such section as subsection (a) of section 7; and

(2) adding at the end thereof the following new subsection:

"(b) No provision of this Act may be construed to prevent the contractor and a contracting officer from using any alternative means of dispute resolution under subchapter IV of title 5, United States Code, or other mutually agreeable procedures for resolving claims.".

SEC. 6. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947, (29 U.S.C. 173) is amended by adding at the end thereof the following new subsection:

"(f) The Service may make services available to Federal agencies to aid in resolution of disputes under the provisions of subchapter IV of title 5, United States Code. Functions performed by the Service may include, but are not limited to, assisting parties to disputes relating to administrative programs, training persons in skills and procedures employed in alternative dispute resolution, and furnishing personnel to act as neutrals, as defined in section 581 of title 5, United States Code. Personnel assigned to act as neutrals shall be qualified in accordance with section 593 of title 5, United States Code. The Service may consult and cooperate with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as necessary to carry out the services authorized in this subsection.".

SEC. 7. GOVERNMENT TORT CLAIMS.

Section 2672 of title 28, United States Code, is amended—

(1) in the proviso at the end of the first sentence by striking out "$25,000" and inserting in lieu thereof "$100,000"; and

(2) inserting after such proviso the following:

"Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of title 5, United States Code, to settle any claim for money damages against the United States, not in excess of $100,000, based on any alleged tort described under the preceding sentence.".

SEC. 8. USE OF NON-ATTORNEYS.

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall identify any administrative program with numerous claims or disputes before the agency and determine—

(1) the extent individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or procedures are so complex or specialized that only attorneys may adequately provide representation or assistance.

(b) Representation and Assistance by Non-Attorneys.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance.

(c) Disqualification of Representation or Assistance.—Any agency that adopts regulations under this section to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also be made applicable as appropriate to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrative Conference of the United States to carry out the purposes of this Act amounts not in excess of $1,000,000 for each of the fiscal years 1989, 1990, and 1991.

By Mr. EXON (for himself and Mr. Symms):

S. 2275. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on the Judiciary.

PROHIBITION OF FEDERAL BENEFITS PAYMENTS TO ILLEGAL ALIENS

● Mr. EXON. Mr. President, in 1986, the Congress made good progress in the effort to controlled illegal immigration into the United States. By making it illegal to hire illegal aliens, the Congress removed one of the magnet remains. That attraction to illegal immigration is the real or perceived availability of Government benefits to illegal aliens.

Today I rise to introduce legislation which establishes a government-wide policy that direct Federal financial benefits not be paid to illegal aliens unless specifically provided by the Immigration and Nationality Act. I am pleased that my colleague from Idaho, Senator Steve Symms, is an original cosponsor.

Over the years, the Congress has crafted ad hoc qualifications in Federal benefit statutes. At times, due to congressional inaccuracy or expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens.

This situation has led to the payment of unemployment benefits, social security benefits, health care benefits, and housing benefits to individuals who have no legal right to even be in the United States.

In an era of massive Federal deficits, even small instances of waste, fraud, and abuse cannot be tolerated.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress made good progress in requiring verification of status for certain entitlement programs and in authorizing the systematic alien verification for entitlement programs better known as the SAVE Program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes.

I expect the opponents of this legislation to ask for sympathy for the illegal aliens who have come to depend on the generosity of Uncle Sam. They will certainly cite some compelling stories about illegal aliens in unfortunate situations. I am most sympathetic. However, there are stories as dire and compelling among our own citizens.

When our Nation is facing $200 billion deficits and the constraints of the Gramm-Rudman law, Federal dollars paid to an illegal alien, sympathetic or otherwise, are literally dollars taken away from one of our own citizens or someone who has a legal right to be in the United States.

This legislation gives the Congress an opportunity to set the record straight. This measure is both a means to control illegal immigration and means to control budget deficits. Without the real or perceived attraction to Federal benefits, illegal immigration will be deterred. Without the seepage of benefits away from intended beneficiaries, money will be saved.

Simply put, Mr. President, this legislation states that Federal benefits should not go to those who are in the United States illegally. If my colleagues feel as I do, that taxpayer's dollars should not go to illegal aliens, I ask them to join me in support of this measure.●

By Mr. HATFIELD:

S. 2276. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

RESERVATION FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

● Mr. HATFIELD. Mr. President, today I am introducing a bill that will help a unique Oregon community achieve a dream. It is not that different from the dream of any other community throughout our country. It is a vision of employed people, of a community which can house its citizens and care for their medical needs. It is a vision of economic development not only for the community, but for those surrounding it.

The community I am speaking of once had the resources to provide for itself. It had full employment, sound housing, and adequate medical care. More importantly, it had a deep sense of identity. Unfortunately, that was all taken away. I am talking about a community of America Indians. The tribe that this bill is designed to help is the Confederated Tribe of Grand Ronde Community of Oregon. The force that proved to be the tribes' undoing was Federal Indian policy.

During 1954, the U.S. Federal Government used the policy of termination to extinguish the tribal status of the Grand Rondes. Congress reversed this designation during the 98th Congress by extending them Federal recognition. While this was an important event for the people of the tribe, it fell short of addressing their long-term needs. To allow a tribe to exist as an autonomous nation without giving it the means to provide for itself would sentence the tribe to dependency on often inadequate Government programs.

Mr. President, let me give you some statistics that reflect the impact termination has had on the Grand Ronde Tribe: 40.5 percent of tribal families live below the poverty level as compared to 7.7 percent of the rest of Oregon; unemployment among tribal members is 23 percent—three times the State average; 42 percent of all tribal adults age 19 and older have not completed high school; 50 percent of tribal homes are in need of rehabilitation; and 40 percent of tribal families are not receiving adequate health care because they cannot afford it.

Mr. President, these are appalling statistics. I do not, however, want to give the impression that the tribe has given in to these devastating problems. On the contrary, it has been impressive in its unity and its zeal in trying to overcome the misfortunes of its people.

The tribe has followed up on their restoration bill by completing a reservation plan that provides a real vision for the future. That plan is the basis for the legislation I am introducing today. This bill is identical to the one introduced by Congressman Less AuCoin in the House of Representatives. He and I have worked closely on this legislation and it is my hope that Senate introduction will further expedite the bill's consideration and ultimate passage into law. I would like to commend the Congressman from Oregon for his work. He has been both forceful and eloquent in his representation of the tribe and its members. The proposed reservation, which encompasses 9,811 acres, is located in his district. He has been instrumental in working out the concerns of those affected and in crafting this piece of legislation.

Today, in the House Interior and Insular Affairs Committee, a hearing was held on the merits of the House version of this bill. It is my understanding that the tribe was very eloquent and was well received. This is not a surprise to me. I have worked with the Grand Rondes' for some time and know them to be very well organized and very sincere in their efforts to improve the living conditions of their tribal members. The events leading up to this bill's introduction testify to that fact. One need only look at the concessions made by the tribe in the bill to understand their willingness to go the extra mile to achieve a passable piece of legislation.

Mr. President, let me briefly explain those concessions. The tribe entered into a memorandum of agreement with the Department of the Interior that would put constraints on its ability to freely use its timber resources. They have agreed not to set up its own mill or export whole logs for a period of 20 years. These measures are designed to assure the surrounding communities that the tribe's actions will not constrict the supply of timber reaching local mills. In addition, the Grand Ronde Tribe insisted on adding bill language mandating that it put 30 percent of the tribes' receipts into an account dedicated for economic development purposes.

To constrain their ability to operate in the competitive Northwest timber market by voluntarily agreeing to these measures is extraordinary. It can only be interpreted to mean that the tribe honestly wants the acceptance of the surrounding communities and is committed to showing them that a reservation will benefit the whole region.

Mr. President, this bill represents a great deal of compromise. It helps redress the tribe for the Federal Government's behavior during the termination years. It is supported by local and State officials in Oregon, and deserves prompt consideration by both Houses of Congress.●

By Mr. COCHRAN (for himself, Mr. MATSUNAGA, Mr. WILSON, Mr. DOLE, and Mr. QUAYLE):

S.J. Res. 291. Joint resolution to designate the month of September 1988 as "National Sewing Month"; to the Committee on the Judiciary.

NATIONAL SEWING MONTH

● Mr. COCHRAN. Mr. President, on behalf of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from California [Mr. WILSON], the Senator from Kansas [Mr. DOLE], and the Senator from Indiana [Mr. QUAYLE], I am introducing legislation to designate the month of September as "National Sewing Month."

National Sewing Month, which has been designated by the Congress for 4 consecutive years, is designed to increase interest in home sewing. This September marks a continuation of an industrywide effort to revitalize the sewing spirit in America.

It is estimated that over 90 million Americans sew at home and over 40 million sew at least part of their wardrobe. Many of these individuals have used these acquired sewing skills to enter creative and rewarding careers in fashion design, retail merchandising, interior design, pattern making, and textiles.

The great majority of these careers have had their beginning in a seventh or eighth grade home economics class where the enjoyment and pride associated with the sewing industry are first encountered. For generations, the fundamentals of home sewing have been learned in the context of the family as well.

The sewing industry employs thousands of individuals in the manufacture, wholesale, retail, and service sectors. Thousands more are involved as teachers, mechanics, truck drivers, contractors, and in many other professions. The industry generates over $3.5 billion in sales annually and invests millions of dollars of capital in plants and machinery.

In September, the American Home Sewing Association will conduct an extensive nationwide promotion of "National Sewing Month." A wide variety of civic organizations have been invited to participate, including home economic teachers, county extension agents, 4-H Clubs, the Girl Scouts, American Sewing Guild Chapters, Future Home Makers of America, and many others.

I applaud the work of the American Home Sewing Association, which is the first and only organization representing the total home sewing industry with a unified voice. This association represents over 600 corporations, manufacturers, retailers, and wholesalers in the textile, pattern, fabric, notions, and sewing sectors.

Mr. President, I urge my colleagues to join me in this effort and to cosponsor my joint resolution designating September as "National Sewing Month."●

By Mr. REID:

S.J. Res. 293. Joint resolution designating May 1988 as "Motorcycle Safety and Awareness Week;" to the Committee on the Judiciary.

MOTORCYCLE SAFETY AND AWARENESS WEEK

● Mr. REID. Mr. President, today in the United States motorcycling is enthusiastically supported by over 5 million owners of registered motorcycles. This has not always been the case. In 1945 there were less than 200,000 registered motorcycles and the ranks of American motorcycle manufacturers could claim only two from a field with a one time high of over 200. Owner enthusiasm has been the one trait that has made the industry and sport so popular. Ask any motorcyclist why motorcycling is so popular and the one thread that runs through all replies will be the exhilerating sense of freedom that motorcycling gives the rider.

The desire to capture that sense of freedom is evident with the first signs of spring. Motorcyclists are fond of saying they have a desire to "get in the wind." As the days get warmer I'm sure that many of us have looked with envy at a passing motorcyclists and thought "it would sure be nice to trade places with him." As easy as it looks, riding a motorcycle is more than just getting on and heading down the road. The desire to ride—regardless of how much fun it appears to be—is often coupled with apprehension.

As motorists we simply get in our vehicle and because we were trained as children to "watch for cars" that is exactly what we do. The apprehension a motorcyclist feels stems from the knowledge every motorcyclist rides with—motorcycles are often overlooked by other motorists. In fact, the first words an errant driver usually utters after colliding with a motorcycle are, "but officer, I didn't see the motorcycle." A well documented statistic shows that in over 65 percent of the motorcycle/other vehicle accidents, the responsibility of the accident can be attributed to the driver of the other vehicle. Those statistics are seldom if ever comforting to the motorcyclists or the errant driver.

Motorcycle enthusiast groups have long realized that safety equipment alone is not enough to decrease the number of motorcyclists injured or killed. These groups have lobbied State legislatures for programs to train the riders to pass stricter licensing requirements and educate the driver to be more aware of motorcycles and to share the roadway. In Nevada the Motorcycle Dealers Association and the Modified Motorcycle Association of Nevada donated to every high school in the State the motorcycle safety foundation film, "A Driver's View of Motorcycling." Since 1983 these two organizations have been successful in obtaining a proclamation from Gov. Richard Bryan declaring May, "Motorcycle Safety and Awareness Month."

Enthusiast groups throughout the United States have duplicated the efforts witnessed in Nevada. In State after State it has been the motorcyclist who has led the efforts to strengthen licensing requirements, educate the nonmotorcycling public about sharing the roadway, and implement motorcycle training programs. To my knowledge, this is the first request to have May proclaimed "National Motorcycle Safety and Awareness Month." Again it is the motorcyclists who have brought this request to me.

This request is part of a national effort. Motorcyclists, through their State organizations, will be using this proclamation to promote a series of local, State, and regional events to emphasize the need for those of us who do not ride to be aware of motorcycles and to share the roadway.●

By Mr. TRIBLE (for himself, Mr. SPECTER, and Mr. BENTSEN):

S.J. Res. 294. Joint resolution designating August 9, 1985, as "National Neighborhood Crime Watch Day"; referred to the Committee on the Judiciary.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. TRIBLE. Mr. President, I am introducing legislation today—together with Senator SPECTER and HEINZ—which commends the Nation's Neighborhood Crime Watch groups and declares August 9, 1988, as "National Neighborhood Crime Watch Day."

During the last several years, the ranks of Neighborhood Crime Watch organizations have grown tremendously. Citizens throughout the country, who have been justifiably concerned about the Nation's crime rate, have joined together in volunteer efforts to prevent and deter criminal activity. Several hundred thousand households in Virginia alone take part in some form of Neighborhood Crime Watch Program.

Every year, those citizens in Virginia and elsewhere take part in the "National Night Out" against crime. In large cities and small towns across America, participating Neighborhood Watch members spend the evening patrolling their neighborhoods to help prevent crime, and to heighten awareness of the need for citizen participation in anticrime activities.

Last year, 17.5 million people took part in the National Night Out, representing more than 6,000 communities from all 50 States. Several law enforcement organizations in Virginia have endorsed this activity, and have told me how highly they value the contribution of Neighborhood Watch groups. I'm especially pleased that the city of Chesapeake, VA, was among the 20 American cities with the highest rate of participation in the 1987 National Night Out.

The joint resolution I am introducing today commends this fine work, and declares August 9, 1988, as "National Neighborhood Crime Watch Day." to coincide with this year's National Night Out. It is virtually identical to legislation that the Congress has approved each of the last 3 years.

Mr. President, I am greatly encouraged by the continued growth in Neighborhood Watch Programs. I believe it reflects an increased willingness on the part of individual Americans to fight back against crime. It is a valuable example of the voluntary, community based efforts that contribute so much to this Nation in general. And it sends an important signal to America's law enforcement officers that they can count on citizens in their communities to help them hold the line against criminal activity.

I urge my colleagues to join me as cosponsors of this resolution, and I ask unanimous consent that a copy be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 294

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock post-meridian on August 9, 1988, with their neighbors in front of their homes: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 9, 1988, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. SPECTER. Mr. President, today I join Senator TRIBLE and Senator HEINZ in introducing a resolution to designate August 9, 1988, as the fifth annual "National Neighborhood Crime Watch Day."

An integral part of this important day is the annual "National Night Out" crime prevention project sponsored by the National Association of Town Watch [NATW], based in Wynnewood, PA. In response to growing concern over the Nation's crime rate, organizations such as NATW have expanded their efforts to increase the public's role in combating crime.

Last year, NATW sponsored its fourth annual "National Night Out" on August 11, 1987. Nationally, 17.5 million citizens in 6,104 communities from all 50 States participated in this extraordinary anticrime event. Citizen participation is especially significant in the Commonwealth of Pennsylvania. Last year, the city of Pittsburgh was recognized as third best "Night Out" area in the Nation behind St. Louis and Houston; in 1986, Pittsburgh was the top National Night Out City of the Year. Philadelphia also was ranked in NATW's top 20 cities in 1987. Both cities will be strong contenders for the "National Night Out Cup" in 1988.

National Night Out is a nationwide effort to symbolize the ongoing fight against crime through cooperative police-community programs. Coinciding with National Neighborhood Crime Watch Day, National Night Out is an expression of the citizens' intent to combat crime together. From 8 to 10 p.m. on August 9, residents in neighborhoods across the Nation will sit on lighted porches, enjoy visits from local police, and participate in a variety of special events such as block parties, meetings, cookouts, and parades.

I hold NATW in high regard for the importance of its crime prevention work in Pennsylvania and throughout the Nation. NATW is a unique organization, serving as liaison among thousands of communities involved in crime prevention programs and representing the entire spectrum of programs concerned with the serious problem of crime in our neighborhoods. As such, it helps coordinate the anticrime efforts of, and provide information and assistance to, the many communities involved in organized crime prevention programs.

Under the leadership of Mr. Matt Peskin, project coordinator, NATW received the prestigious 1986 National Crime Prevention Award, presented by the National Crime Prevention Council, the Crime Prevention Coalition, and the U.S. Department of Justice, for the association's extraordinary efforts in fighting crime.

In association with other anticrime organizations, NATW works to reduce the neighborhood crime rate and to enhance the police-community relationship. Nearly obsolete in the 1960's and 1970's, the notion of the police and the community cooperating with each other now is being institutionalized. No longer are people as afraid to call the police, and law enforcement organizations now recognize the citizens' role in fighting crime.

In correspondences with my office, the U.S. Department of justice noted that "NATW has done exemplary work and has made significant contributions to the overall national crime prevention effort." The Department also indicated that "National Night Out is an excellent program and should be continued."

As a former district attorney, current member of the Senate Judiciary Committee and cochairman of the Congressional Crime Caucus, I have actively pursued initiatives to fight street crime. Accordingly, I commend the efforts of NATW and all the participants in National Night Out.

Mr. President, I urge my colleagues to join us in supporting this important resolution to recognize the active involvement of organizations such as NATW in the ongoing national fight against crime.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. Inouye, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 61, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 675

At the request of Mr. Mitchell, the names of the Senator from Hawaii [Mr. Matsunaga] and the Senator from West Virginia [Mr. Rockefeller] were added as cosponsors of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 683

At the request of Mr. Roth, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 683, a bill to amend the Migrant and Seasonal Agricultural Worker Protection Act, to encourage mediation and conciliation prior to bringing rights of action under that act, to permit reasonable attorneys' fees in certain cases in which a final order is entered in favor of the defendent, and for other purposes.

S. 1009

At the request of Mr. Warner, his name was withdrawn as a cosponsor of S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1693

At the request of Mr. Bingaman, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 1693, a bill to amend the National Trails System Act to provide for a study of the Coronado Trail, and for other purposes.

S. 1723

At the request of Mr. Bingaman, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 1723, a bill to authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

S. 1740

At the request of Mr. Durenberger, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 1740, a bill to amend title XIX of the Social Security Act to permit States the option of providing comprehensive medical assistance to chronically ill and disabled children with a family income meeting a particular income standard, and for other purposes.

S. 1742

At the request of Mr. Domenici, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 1742, a bill to provide for the minting and circulation of one-dollar coins, and for other purposes.

S. 1830

At the request of Mr. Sanford, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1930—and related beneficiaries—and to provide for increases on their benefits accordingly, and for other purposes.

S. 1856

At the request of Mr. Sasser, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 1856, a bill to amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes.

S. 1883

At the request of Mr. DeConcini, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 1883, a bill to amend the act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes."

S. 1912

At the request of Mr. Bingaman, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 1912, a bill to authorize a study of the feasibility of establishing a national Mimbres Museum in Silver City, NM, and for other purposes.

S. 2015

At the request of Mr. Kennedy, the names of the Senator from Massachusetts [Mr. Kerry], the Senator from New Jersey [Mr. Bradley], and the Senator from Washington [Mr. Adams] were added as cosponsors of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2047

At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 2047, a bill to require a health warning on the labels of all alcoholic beverage containers.

S. 2062

At the request of Mr. Nickles, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

At the request of Mr. Melcher, the name of the Senator from Maine [Mr. Cohen] was added as a cosponsor of S. 2062, supra.

S. 2098

At the request of Mr. Hollings, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2122

At the request of Mr. Bradley, the names of the Senator from Vermont [Mr. Stafford], the Senator from Illinois [Mr. Simon], and the Senator from Massachusetts [Mr. Kennedy] were added as cosponsors of S. 2122, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the medicaid program, and for other purposes.

S. 2123

At the request of Mr. Kennedy, the names of the Senator from Connecticut [Mr. Dodd] and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2152

At the request of Mr. Nickles, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 2152, a bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other pruposes.

S. 2155

At the request of Mr. Helms, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2155, a bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes.

S. 2157

At the request of Mr. Bingaman, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 2157, a bill to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico.

S. 2159

At the request of Mr. NICKLES, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2159, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm vehicles.

S. 2177

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2177, a bill to amend the Federal Aviation Act of 1958 to provide for use of the Nation's airports on a cost-recovery basis.

S. 2179

At the request of Mr. FORD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2179, a bill to amend the Petroleum Marketing Practices Act.

S. 2194

At the request of Mr. NICKLES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2194, a bill to amend section 307 of the Federal Employees Retirement System Act of 1986.

S. 2201

At the request of Mr. DECONCINI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2201, a bill to make certain record rental provisions in title 17, United States Code, the Copyright Act, permanent.

S. 2229

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2229, a bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such Act, and for other purposes.

S. 2231

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2231, a bill to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such Act, and for other purposes.

S. 2234

At the request of Mr. DURENBERGER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2234, a bill to provide special rules for health insurance costs of self-employed individuals.

S. 2258

At the request of Mr. KARNES, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. PRYOR], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 2258, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain agricultural and firefighting vehicles.

SENATE JOINT RESOLUTION 197

At the request of Mr. DOLE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 197, a joint resolution to designate the month of April 1988 as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 239

At the request of Mr. FORD, the names of the Senator from Kansas [Mr. DOLE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 239, a joint resolution to designate May 1 through May 31, 1988, as "Worldwide Bluegrass Music Month".

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Kansas [Mr. DOLE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Florida [Mr. GRAHAM], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week".

SENATE JOINT RESOLUTION 279

At the request of Mr. TRIBLE, his name was added as a cosponsor of Senate Joint Resolution 279, a joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

SENATE JOINT RESOLUTION 280

At the request of Mr. HATCH, the names of the Senator from California [Mr. WILSON], the Senator from Georgia [Mr. NUNN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Nebraska [Mr. KARNES], the Senator from Alabama [Mr. SHELBY], the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. FOWLER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], the Senator from Oregon [Mr. PACKWOOD], the Senator from Hawaii [Mr. INOUYE], the Senator from Indiana [Mr. LUGAR], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week".

SENATE JOINT RESOLUTION 282

At the request of Mr. HOLLINGS, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Alabama [Mr. SHELBY], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 283

At the request of Mr. MOYNIHAN, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. MITCHELL], the Senator from Idaho [Mr. SYMMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM], the Senator from Arkansas [Mr. PRYOR], the Senator from Nebraska [Mr. KARNES], the Senator from Oklahoma [Mr. BOREN], the Senator from Michigan [Mr. LEVIN], the Senator from Louisiana [Mr. BREAUX], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week".

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corporation and Eastern Air Lines.

SENATE RESOLUTION 394

At the request of Mr. HEINZ, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Resolution 394, a resolution expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

SENATE CONCURRENT RESOLUTION 114—AUTHORIZING THE LAW ENFORCEMENT TORCH RUN FOR SPECIAL OLYMPICS THROUGH THE CAPITOL GROUNDS

Mr. FORD submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 114

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF THE LAW ENFORCEMENT TORCH RUN FOR THE SPECIAL OLYMPICS THROUGH CAPITOL GROUNDS.

On May 20, 1988, or on such other date as the President pro tempore of the Senate and the Speaker of the House of Representatives may designate jointly, the Law Enforcement Torch Run for the Special Olympics may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics Spring Games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such action as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

SENATE RESOLUTION 408—CONDEMNING THE USE OF CHEMICAL WEAPONS BY IRAQ

Mr. MITCHELL (for himself, Mr. SARBANES, Mr. LUGAR, Mr. DODD, Mr. BOSCHWITZ, Mr. SIMON, Mr. MURKOWSKI, Mr. ADAMS, Mr. MOYNIHAN, Mr. MCCONNELL, Mr. COHEN, Mr. HATFIELD, Mr. KENNEDY, Mr. CHAFEE, Mr. DURENBERGER, Mr. HARKIN, Mr. DANFORTH, and Mr. WEICKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 408

Whereas the international community recognized the dangers of chemical warfare during World War One, in which at least 90,000 were killed and well over one million wounded by chemical weapons;

Whereas the 1925 Geneva Protocol outlawed the use of chemical weapons;

Whereas Iraq has been producing and stockpiling chemical weapons;

Whereas United Nations investigators concluded in 1984, 1986 and 1987 that Iraq had employed chemical weapons, and the United Nations Security Council has condemned the use of chemical weapons in the Iran-Iraq war;

Whereas Iraq's chemical weapons attack on March 16, in which hundreds of Kurdish civilians were killed on Iraqi soil, underscores the horror of these weapons and their impact on noncombatants;

Whereas the United States condemned that Iraqi attack as a "particularly grave violation" of international law;

Whereas it has been reported that Iran may be producing chemical weapons, and Iran has warned that it might employ chemical weapons against Iraq; Therefore, be it

Resolved by the Senate of the United States of America assembled, That the Senate:

(1) condemns the use of chemical weapons by Iraq and declares that such action violates international law;

(2) calls upon Iraq to halt immediately and permanently the use of all chemical weapons;

(3) commends the President for his prompt condemnation of Iraq's recent chemical weapons attack on civilians;

(4) urges the President to seek allied cooperation to further tighten controls on the export of chemical compounds to countries seeking to develop a chemical weapons capability;

(5) expresses concern about possible Iranian production of chemical weapons and urges the President to make appropriate diplomatic efforts to prevent Iran from developing or using chemical weapons;

(6) urges the President to intensify American efforts at the Geneva Conference on Disarmament and in bilateral discussions with the Soviet Union to reach at the earliest possible date an arms control agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

Mr. MITCHELL. Mr. President, today I am introducing a sense of the Senate resolution condemning the recent use of chemical weapons by Iraq and calling for intensified efforts to ban the production and use of chemical weapons.

Last month, we were again reminded of the urgent need to work toward an international agreement prohibiting these weapons. On March 16, Iraq used chemical weapons against the Iranian-occupied town of Halabja, killing hundreds, if not thousands, of Kurdish civilians. The administration rightfully condemned the attack as a "particularly grave violation" of international law.

This resolution commends the President for his prompt condemnation, and calls for Iraq to immediately and permanently halt all chemical weapons attacks.

The grotesque images of civilians frozen dead in the midst of their daily routine shocked us all. But we should not have been surprised by this most recent Iraqi action.

We knew that in early 1982, Iraq began experimenting with the use of chemical weapons and accidentally poisoned its own troops. United Nations investigators had concluded that in 1984, in 1986, and again in 1987, Iraq had employed chemical weapons against Iran.

Iraq's repeated use of chemical weapons, in violation of the 1925 Geneva protocol of which it is a signatory, threatens an alarming escalation of the nearly 8-year-old Gulf war.

Iran, which is seeking to acquire a chemical weapons production capability, has vowed to retaliate in kind to Iraqi chemical attacks. The resolution expresses the Senate's concern regarding these developments, and urges the President to exert every effort to prevent Iran from developing or using chemical weapons.

Unless both sides forgo the use of chemical weapons, the war could take a horrifying turn. Both Iran and Iraq now use conventional missiles in attacks against cities. Were they to arm these missiles with chemical warheads, they could devastate the civilian population in urban centers.

The significance of the recent Iraqi attack goes beyond its military role in the Gulf war. It symbolizes the failure of the international community to effectively prevent both the transfer of chemical capabilities and the use of weapons outlawed by the 1925 Geneva protocol.

While the United Nations has repeatedly condemned Iraq's use of chemical weapons, the United Nations has never invoked sanctions of any sort against a violator of the Geneva protocol.

The use of chemical weapons, while not yet routine, threatens to become widespread as chemical production technology crosses borders and as the strictures against chemical use weaken with every reported violation. Clearly, it is time for a strengthening of international law and national policy to prevent the spread and use of chemical weapons.

Many countries, particularly in the Middle East, are fast acquiring chemical weapons and chemical production capabilities. For example, Syria is upgrading its chemical capabilities and has built a new production facility to ensure its own chemical supplies. Libya reportedly has also acquired chemical weapons.

Chemical weapons are attractive to such states because they pose a serious military threat, but are relatively cheap and easy to make. The manufacturing technology is not highly complex, and much of it can be bought on the open market—in the name of seeking an industrial chemical capability.

Of course an effective delivery system is required to actually use chemical weapons. But as ballistic missile technology proliferates throughout the Third World and particularly the Middle East, so too does the capability to deliver chemical munitions across great distances.

These trends are alarming.

Therefore the resolution urges the President to seek allied cooperation to further tighten controls on the export of chemical technology to countries seeking to develop a chemical weapons capability.

The United States has recognized the need to closely monitor and control the spread of chemical weapons capabilities. The 1984 Chemical Weapons Export Control Act prevents the sale to Iraq and Iran of industrial chemicals that could be used to manufacture chemical weapons. In 1987, the State Department extended the ban to include Syria. But more can be done. For example, it seems obvious that Libya should be added to this list.

While it is critical to anticipate which countries seek to acquire chemical weapons in order to block their access to materials, it is equally important to ensure allied participation in the application of export controls.

Our allies, many of whom have large domestic chemical industries, have not enthusiastically joined our effort to limit access to chemical manufacturing capabilities. They must be encouraged to help prevent increasing numbers of nations from becoming chemical weapons producers and distributors.

In addition to restricting access to chemical weapons components, we must make every effort to realize a successful result from our ongoing chemical arms control negotiations.

One lesson of World War I, in which chemical weapons killed at least 90,000 and wounded well over a million, was the need to outlaw chemical weapons. But the 1925 Geneva protocol bans only their use and it lacks enforcement mechanisms, while the ethical strictures on using chemical weapons has been undermined by the increasingly violent means of modern warfare. It is time to strengthen international law and reinstate the moral prohibition against chemical warfare.

The resolution calls for intensified efforts at both the Geneva Conference on Disarmament and in bilateral discussions with the Soviet Union to reach at the earliest possible date an agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

Since the mid-1960's, the United States has been engaged in negotiations to conclude an international agreement to ban the production, stockpiling, and use of chemical weapons. The primary forum for today's efforts is the 40-nation Conference on Disarmament in Geneva.

The Soviets, who have a huge stockpile of chemical weapons and even dedicated chemical warfare forces, have long expressed reservations that had posed serious obstacles to agreement.

However, during the 1985 Reagan-Gorbachev summit meeting, the two leaders reaffirmed their commitment to ban chemical weapons. They vowed to pursue a worldwide chemical weapons agreement, and agreed to discuss ways to stem the proliferation of chemical weapons. In 1987, the Soviet Union announced that it had halted the production of chemical weapons. The Soviets have also adopted a more open attitude in the Geneva negotiations.

Although this altered Soviet attitude has helped produce encouraging progress at Geneva, many hurdles must be overcome before an agreement can be reached.

The subject of chemical weapons control is exceedingly complex. Verification in particular poses a very difficult problem.

National technical means—photoreconnaissance satellites—are clearly not sufficient to verify compliance with a ban on chemical weapons. There is a significant overlap between legitimate commercial chemical plants and chemical weapons production facilities, and chemical munitions could be surreptitiously stored in conventional munitions depots.

The United States has correctly insisted that onsite inspection, including provisions for challenge inspections, is a critical prerequisite for meaningful chemical arms control. The Soviets appear more open to the possibility of challenge inspections. Furthermore, the unprecedented onsite verification provisions included in the INF Treaty provide additional reason for hope that this prime obstacle can be overcome.

As the recent Iraqi chemical weapons attack reminds us, banning the production, stockpiling, and use of chemical weapons must remain a high international priority.

I hope that this resolution will help convince Iraq that the United States Senate condemns in no uncertain terms the use of chemical weapons by any country. It is also my hope that this call for intensified efforts to achieve an international chemical weapons ban will help bring this issue the immediate attention it surely deserves.

SENATE RESOLUTION 409—EXPRESSING THE SENSE OF THE SENATE REGARDING THE COMMUNITY DEVELOPMENT BLOCK GRANT AND URBAN DEVELOPMENT ACTION GRANT PROGRAMS

Mr. LAUTENBERG (for himself, Mr. RIEGLE, Mr. CRANSTON, Mr. D'AMATO, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Appropriations:

S. RES. 409

Whereas local and community development is a matter of national concern and a national priority;

Whereas the economic development of urban communities large and small is an essential national objective;

Whereas the Community Development Block Grant Program has become an essential component of local governments' efforts to maintain and develop their communities;

Whereas local governments have come to depend on these grants as part of their budget planning;

Whereas the Urban Development Action Grant Program provides jobs, tax revenues, and economic revitalization to areas of the Nation with high unemployment, particularly among minorities;

Whereas the Urban Development Action Grant Program leverages private sector investment in our nation's urban communities;

Whereas the proposed fiscal year 1989 budget submitted by the President on February 18, 1988 recommends that funding for Community Development Block Grants be reduced from $2.88 billion in fiscal year 1988 to $2.48 billion, which would represent a reduction of about fourteen percent;

Whereas, the Community Development Block Grant program has already been reduced by close to one-quarter since the beginning of the Reagan Administration.

Whereas the proposed fiscal year 1989 budget submitted by the President on February 18, 1988 recommends that all funding for the Urban Development Action Grant program be eliminated: Now, therefore, be it

Resolved, That the Senate rejects the reduction in funding for the Community Development Block Grant Program and the Urban Development Action Grant Program proposed in the President's proposed budget for fiscal year 1989 and declares its intention to fund these programs at the full levels currently authorized by law.

● Mr. LAUTENBERG. Mr. President, today I am introducing a resolution in support of two of the most important programs for assisting our Nation's communities, the Community Development Block Grant and Urban Development Action Grant Programs. The resolution expresses the sense of the Senate that the President's proposed cuts in these programs should be rejected, and that the programs should be fully funded at their authorized levels.

I am pleased to be joined in this effort by a bipartisan group of distinguished colleagues, including Senators RIEGLE, CRANSTON, D'AMATO, and MIKULSKI, all of whom have demonstrated their commitment to these programs and the communities they serve.

Mr. President, the Community Development Block Grant and Urban Development Action Grant Programs are the cornerstones of the Nation's commitment to our cities and communities. They have helped localities around the country stimulate economic revitalization, expand housing opportunities, and provide a variety of municipal services. The programs are especially important to the millions of low and moderate-income people who live in depressed urban areas.

This administration has consistently turned a blind eye to the struggling urban areas of this country. Despite rhetoric about a new federalism with increased authority for localities, the administration has repeatedly sought to undercut local governments with drastic cuts in Federal aid.

The administration's antagonism toward urban programs has had a profound negative impact on our cities and communities. Local officials have seen CDBG funding cut, in real terms, by about 50 percent. They've seen general revenue sharing eliminated altogether. They've seen substantial reductions in the UDAG Program, and continued efforts to terminate that program as well. These cuts have hampered economic development, reduced housing opportunities, and increased the difficulties of local governments seeking to meet residents' needs.

In what has become an annual ritual, the administration has once again proposed drastic cuts in community development programs. This year, their budget proposal contemplates a $400 million reduction in appropriations to the Community Development Block Grant Program, from $2.88 billion to $2.48 billion. Another $145 million could be available for CDBG, but only if Congress decides to "rob Peter to pay Paul" and transfer funding from the section 312 rehabilitation loan fund. The administration is also seeking termination of the Urban Development Action Grant Program.

Recently, the Senate Budget Committee approved a budget resolution that calls for significant reductions in communtiy development programs. Although I agreed to the budget resolution as a whole, I do not support these reductions, and agreed to support the committee compromise only after initial proposals for much more drastic cuts were abandoned.

The real battle for CDBG and UDAG will take place in the appropriations process. In coming months, I will be actively involved as a member of the Appropriations Committee in the fight to ensure adequate funding for CDBG and UDAG. I look forward to working with the cosponsors of this resolution in that effort.

The Federal Government must not abandon our cities.●

● Mr. D'AMATO. Mr. President, I rise today to support the efforts put forth by my colleague from New Jersey, Senator LAUTENBERG, to oppose cuts in the Community Development Block Grant and Urban Development Action Grant Programs. We must take action to prevent the further erosion or elimination of these vital and constructive programs.

Since coming to the Senate in 1981, I have been a strong supporter of both the CDBG and UDAG Programs. These programs were developed to revitalize our communities, both large and small. I firmly believe that the Federal Government must play a role in such development. Many of our communities still suffer from economic distress. The CDBG and UDAG Programs provide the needed impetus to stimulate growth, activity, and jobs. To further restrict or altogether eliminate these important programs would seriously limit development efforts in economically deprived communities across the country.

The President has proposed to cut or eliminate these programs. Specifically, the administration has proposed to cut the CDBG Program by 9 percent, from $2.8 billion to $2.48 billion. In addition, the President has proposed to eliminate the UDAG Program.

Many critics of the program say that these programs only serve wealthy corporations. Let me respond to this charge by giving an example of UDAG funds that were recently granted to a project in New York State. In January of this year, Schroon Lake, NY, was suffering from an unemployment rate of 18 percent with no signs of improvement in the near future. Schroon Lake is located in the Adirondacks, a part of rural New York that was once a thriving area. Today, the region suffers from severe economic distress.

The town of Schroon Lake was granted UDAG funding to construct a resort facility and conference center in the area. This grant will provide 475 construction jobs and over 200 permanent jobs for citizens of the area. With the creation of these jobs, new revenues will be able to be collected, people will once again enjoy the esteem that comes with having a job, and money will once again flow into this town generating still further employment. Schroon Lake will be a different place because of the Urban Development Action Grant Program.

Similarly, the CDBG Program helps localities and States to fund local community development programs. These activities are directed toward neighborhood revitalization, economic development, and improved community facilities services. Like the UDAG Progam, CDBG funds generate jobs and provide vital economic development moneys to local governments.

I am pleased to join Senator LAUTENBERG in calling on the Senate to resist cuts in these vital programs. I urge my colleagues to give this resolution their full support and I ask for its quick passage.●

SENATE RESOLUTION 410—DIRECTING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 410

Whereas, in the case of *Avirgan* v. *Hull*, No. 86-1146-CIV-KING, pending in the United States District Court for the Southern District of Florida, the plaintiffs have obtained a subpoena from the United States District Court for the District of Columbia, FS 88-68, for the testimony of and production of documents by the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Secretary of the Senate and any Senate employee who may be substituted as a respondent for him in the case of *Avirgan* v. *Hull*, No. 86-1146-CIV-KING (S.D. Fla), or in any ancillary proceedings.

AMENDMENTS SUBMITTED

INDOOR AIR QUALITY ACT

LAUTENBERG AMENDMENT NO. 1927

(Ordered referred to the Committee on Environment and Public Works.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill (S. 1629) to authorize a national program to reduce the threat to human health caused by exposure to contaminants in the air indoors; as follows:

On page 16, insert the following after line 13:

(e) CHILD CARE FACILITIES.—(1) The Administrator shall develop protocols for the measurement of radon gas in child care facilities within 6 months after the date of enactment of this Act.

(2) The Administrator shall make available to the appropriate agency of each state, to organizations representing child care facilities, and to the public, information concerning appropriate techniques to measure radon levels in child care facilities, areas and physical characteristics of buildings housing child care facilities with high radon risks and mitigation measures for reducing radon levels.

(3) The Administrator is authorized to make available to the appropriate agencies of the state, as designated by the Governor of such state, cannisters or other suitable devices for use by such agencies in conducting tests for radon within child care facilities in the state. The Administrator is authorized to make available to such agencies the use of laboratories of the Environmental Protection Agency, or to recommended

laboratories, to evaluate any such cannisters or devices for the presence of radon levels.

(4) The Administrator is authorized to undertake diagnostic and remedial efforts to reduce the levels of radon in nonresidential child care facilities. Such diagnostic and remedial efforts shall be carried out with a view to developing technology and expertise for the purpose of making such technology and expertise available to any child care facility and the several states.

(5) The Adminstrator shall submit a report to the Congress on his actions to implement this section within 12 months after the date of enactment of this Act and annually thereafter.

On page 35, insert the following after line 16:

(e) EPA-HUD Memorandum of Understanding.—(1) Within 6 months after the date of enactment of this Act, the Administrator and the Secretary of the Department of Housing and Urban Development shall enter into a Memorandum of Understanding (MOU) to define their respective responsibilities and planned actions to address the hazards to human health caused by radon contamination.

(2) The MOU shall describe the plan of the Secretary of the Department of Housing and Urban Development to assist the Administrator in carrying out EPA's authority to assess the extent of radon contamination in the United States and develop measures to avoid and reduce radon contamination. The MOU shall address how the Secretary will assist the Administrator by using the Secretary's existing programs to incorporate radon mitigation techniques in a limited number of projects assisted by the Department of Housing and Urban Development and to evaluate the effectiveness of those techniques.

(3) The Department of Housing and Urban Development shall implement the plan it develops under paragraph (1).

(4) The Secretary of the Department of Housing and Urban Development shall submit a report to the Congress on his actions to implement the MOU within 2 years of the date of enactment of this Act.

On page 38:

(1) redesignate Section 14 as Section 15, and

(2) insert the following new Section 14:

REGIONAL TRAINING CENTERS

Sec. 14. Regional Training Centers.—(a) Grant program.—The Administrator shall make grants to institutions of higher learning (or consortium of such institutions) to establish and operate five regional radon training centers.

(b) Responsibilities of the center.—Each center shall provide instruction on radon diagnosis and mitigation for, and disseminate radon related information on, diagnosis, monitoring, analysis, mitigation and health effects to state and local officials, professional and private firms and the public.

(c) Applications.—Any institution of higher learning (or consortium of such institutions) which is interested in receiving a grant under this section shall submit to the Administrator an application in such form and containing such information as the Administrator may require.

(d) Selection criteria.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(1) The demonstrated expertise of the applicant in radon related issues;

(2) The demonstrated expertise of the applicant in related training and information activities;

(3) The extent to which the program proposed by the applicant meets the objectives of subsection (b);

(4) The seriousness of the radon problem in the region; and

(5) The geographical coverage of the proposed center.

(e) Authorities.—The designated research centers are authorized to:

(1) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, private research centers, and other persons; and

(2) develop or acquire such radon demonstration methods, technologies and related structures as are necessary to implement the requirements of this section.

(f) Equitable Distribution.—The Administrator shall allocate funds made available to carry out this section equitably among regions of the United States. One of the five centers shall be located in close proximity to the Reading Prong. One of the five centers shall be located in New England.

(g) Proposed Training Program.—Prior to and as a condition of receipt each year of funds appropriated to carry out this section, each training center shall submit to the Administrator for approval a program for training activities satisfactory to the Administrator. Such program shall be developed in consultation with State governments and other agencies and institutions within the region, and with interested members of the public.

(h) Review and Evaluation.—(1) The Administrator shall establish procedures for a careful and detailed evaluation of each training center and the quality and extent of its radon training program and activities.

(2) The Administrator shall arrange for each training center supported under this section to be evaluated within two years after its establishment and to be reevaluated at intervals not to exceed five years. If, as a result of such an evaluation, the Administrator determines that a training center does not qualify for further support under this section, then no further grants to the training center may be made until the training center's qualification is reestablished to the satisfaction of the Administrator.

On page 38, add the following at the end of section 14(a)(3):

For the purpose of carrying out section 5(e) of this Act, there is authorized to be appropriated $1,000,000 for each of the fiscal years ending September 30, 1988, 1989, 1990, 1991 and 1992. For the purpose of carrying out section 14 of this Act, there is authorized to be appropriated $2,000,000 for each of the fiscal years ending September 30, 1988, 1989, 1990, 1991 and 1992.

CONCURRENT RESOLUTION ON THE BUDGET

CHILES (AND OTHERS) AMENDMENT NO. 1928

Mr. CHILES (for himself, Mr. Riegle, Mr. Sanford, Mr. Heinz, Mr. Conrad, Mr. Metzenbaum, and Mr. Graham) proposed an amendment to the concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991; as follows:

At the end of the resolution add the following:

SOCIAL SECURITY TRUST FUND SURPLUSES

Sec. 8. (a) Findings.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust fund are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of the Social Security trust fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) Social Security surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increase in taxes or reduction in Social Security benefits;

(7) the use of Social Security surpluses as a source of national savings would bolster the economic capacity of the United States, allowing Social Security benefit claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate pursuant of the Social Security trust fund could best be protected by excluding it from the calculation of any deficit reduction targets.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust fund for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust fund.

SYMMS (AND OTHERS) AMENDMENT NO. 1929

Mr. SYMMS (for himself, Mrs. Kassebaum, Mr. Hollings, Mr. McClure, and Mr. Thurmond) proposed an amendment to amendment No. 1928 proposed by Mr. Chiles (and others) to the concurrent resolution S. Con. Res. 113, supra; as follows:

On page 1, line 4, strike all after the word "Sec." and insert in lieu thereof:

"8. (a) Findings.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust funds, the Highway Trust Fund and the Aviation Trust Fund, are included in calculations of the deficit for purposes of comparison with

the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts; and Highway and Aviation surpluses are intended to finance highway and aviation safety improvements;

(4) Social Security and Highway and Aviation trust fund surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security, Highway, and Aviation surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increase in taxes or reduction in Social Security benefits and transportation and air safety services;

(7) the use of Social Security surpluses as a source of national savings and the use of Highway and Aviation trust funds for their intended purposes would bolster the economic capacity of the United States, allowing Social Security benefits claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate purposes of the Social Security trust funds, the Highway Trust Fund and the Aviation Trust Fund, could best be protected by excluding them from the calculation of any deficit reduction targets.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund, for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust funds, the Highway Trust Fund, and the Aviation Trust Fund."

HOLLINGS (AND EXON) AMENDMENT NO. 1930

(Ordered to lie on the desk.)

Mr. HOLLINGS (for himself and Mr. Exon) submitted an amendment intended to be proposed by them to the concurrent resolution, S. Con. Res. 113, supra; as follows:

At the end, add the following:

AVIATION TRUST FUND SURPLUSES

Sec. 9. It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Airport and Airway Trust Fund for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Airport and Airway Trust Fund.

STEVENS (AND McCLURE) AMENDMENT NO. 1931

Mr. STEVENS (for himself and Mr. McClure) proposed an amendment to amendment No. 1928 proposed by Mr. Chiles (and others), as amended, to the concurrent resolution S. Con. Res. 113, supra; as follows:

At the end of the pending amendment, add the following:

Sec. . It is the sense of the Congress that—

(1) The Postal Service is a unique, self-financing entity with a mandate to meet operating and capital expenses through income and effective financial management;

(2) Since 1982, the Postal Service has received no appropriations for operating purposes, paying its expenses from its own revenues;

(3) The Postal Service in no way contributes to the deficit problems faced by the Federal Government;

(4) Subjecting the Service to the constraints of a congressional and executive budget process threatens its ability to maintain the service necessary to sustain the nation's commerce and lines of communication;

(5) In order to best serve the public interest, the Postal Service must remain a free and independent entity;

(6) Including the Postal Service in the Federal Budget has hindered the Postal Service's much-needed capital improvement program;

(7) Including Postal Service surpluses and deficits in the Federal Budget, distorts the fiscal accuracy of the Federal Budget;

(8) Congress' constitutional responsibility to oversee the Postal Service will be ongoing regardless of whether the Postal Service is included in the Federal Budget; and

(9) Therefore, the receipts and disbursements of the United States Postal Service should not be counted for purposes of determining the Federal deficit.

IMPLEMENTATION OF 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

DIXON AMENDMENT NO. 1932

Mr. BYRD (for Mr. Dixon) proposed an amendment to the bill (H.R. 3971) to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes; as follows:

Strike subsection (a) of section 4 and insert the following:

(a) Jurisdiction of the Courts.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following:

Tuesday, April 12, 1988, beginning at 2:30 p.m., in Senate Russell 485, a hearing on S. 1236, reauthorization of the Navajo-Hopi Relocation Program, and proposed amendments;

Wednesday, April 13, 1988, beginning at 2 p.m., in Senate Russell 428, a markup on S. 1722 and S. 1723, the National American Indian Museum and Memorial Act; S. 1236, reauthorization of the Navajo-Hopi Relocation Program; and, S. 802, Renville—Blackfeet Claims Settlement;

Tuesday, April 19, 1988, beginning at 2 p.m., in Senate Russell 485, an oversight hearing on the management of Columbia River Indian Fisheries;

Thursday, April 20, 1988, beginning at 9 a.m., in Senate Russell 485, a hearing on S. 1987, the Indian Housing Act of 1987; and

Thursday, April 28, 1988, beginning at 2:30 p.m., in Senate Russell 485, a markup on S. 1735, the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act; S. 1415, Colorado Ute Indian Water Rights Settlement Act of 1987; and S. 2153, Salt River Water Settlement Act.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BYRD. Mr. President, I have 10 committee requests in my hand for meetings on Tuesday, April 12. I ask unanimous consent that those committees be deemed to have been given Senate permission to meet. They all bear the initials indicating the approval of the Republican leadership. I ask that they be considered en bloc, agreed to en bloc, and spread severally upon the Record.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is agreed to.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 12, 1988, to hold a hearing on the United States-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, April 12, 1988, to hold a hearing on S. 1236, reauthorization of the Navajo-Hopi Relocation Program, and proposed amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 12, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 12, 1988. In open session to receive testimony on the Civil Defense Program of the Federal Emergency Management Agency in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 12, 1988. In closed and open session to receive testimony on the chemical weapons modernization and demilitarization programs in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Projection Forces and Regional Defense of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 12, 1988. In open session to receive testimony on strategic mobility issues in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, April 12, to hold hearings on the 10th anniversary of the Ethics in Government Act (April 12), and reauthorization of the Office of Government Ethics (April 13).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE HANDICAPPED

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Handicapped, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, April 12, 1988, to conduct a hearing on the education and rehabilitation of traumatic brain injured persons.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, April 12, 1988, to conduct oversight hearings on the recently released report of the national housing task force.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, Subcommittee on Energy Research and Development be authorized to meet during the session of the Senate on Tuesday, April 12, 1988, to receive testimony concerning the Department of Energy's fiscal year 1989 budget request for the superconducting supercollider and the basic science budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RALPH AND ROLLIE DesLAURIERS CONGRATULATED ON BOLTON VALLEY

● Mr. LEAHY. Mr. President, shortly before the Christmas break I was discussing the possibilities of a sine die adjournment with the distinguished majority leader, Mr. BYRD. I stated my enthusiasm when I saw him wearing his sine die tie and knew the end was finally at hand.

I told the Senate that I had received a call from my children asking if they should rent my skis out for the Christmas recess, but I am delighted they held off as I did have a chance to get back and enjoy some invigorating skiing.

My 17-year-old son, Mark, and I had some delightful runs at the Bolton Valley ski resort. Bolton Valley is the brainchild of my good friend, Ralph DesLauriers, and is still a family run organization. Being with Ralph and Rollie DesLauriers makes any Vermonter feel at home, and I want to take this opportunity to congratulate them for the fine service they provide not only to Vermonters but to all of New England.●

CENTENNIAL ANNIVERSARY OF THE CITY OF ORANGE, CA

● Mr. WILSON. Mr. President, April 6, 1988, is a very important day in the history of California as it marks the centennial anniversary of the incorporation of the city of Orange, CA. Today is an appropriate time to reflect upon the many important contributions this wonderful city has made to California and to our Nation.

From its founding date in 1871 when it possessed a small population of just under 1,500 people, the city of Orange has enjoyed a remarkable growth to a current population of 105,000. This growth has been due in large part to the success of the area's agricultural industry.

With walnuts, apricots, avocados, and citrus, Orange's agricultural industry has long-supplied Californians and people across the United States with fresh and tasty produce and has contributed to our State's reputation for excellence in this area. The community of Orange boasts 11 of California's citrus packinghouses and is home to the Santiago Orange Growers Association, the city's first packing-house which is still in operation today.

Industry in the city of Orange was begun in 1921 with the founding of the California Wire & Cable Co. and the Orange County Rock & Gravel Co. Today they have been joined by many other industries which, in partnership, contribute to the area's economic growth and stability.

A community in the best sense of the word, the city of Orange has a citizenry committed to the continued success of its community and the people who live there. It is with admiration and pride that I join with all Californians in heralding this historic centennial celebration by saluting the city of Orange in this Chamber of the U.S. Senate.●

UNICO TRIBUTE TO MARTIN J. MADDALONI

● Mr. SPECTER. Mr. President, on May 7, 1988, the Philadelphia Chapter of Unico, a service organization comprised of men of Italian-American descent, will honor Martin J. Maddaloni, business manager of Steamfitters Union Local 420, for his many years of service to his fellow man.

Mr. Maddaloni, who is called Marty by all who know him, began his career with the union after serving 6 years in the U.S. Army as a member of the Corps of Engineers. Steadily, he climbed the ladder of success within the union, serving successively as recording secretary, president, business agent, assistant business manager, and business manager.

Unionism and a desire to help the workingman had been bred into him by his father, who had held many executive positions within the union before him. Marty carried on the tradition so nobly begun by his father and today his son, another Marty, is the third generation of Maddalonis committed to improving the working lives of Philadelphia area steamfitters.

Despite the heavy workload his union responsibilities thrust upon him and which he willingly shouldered, Marty throughout the years has been involved in many, many community and charitable endeavors, most notably as a board member of the United Cerebral Palsy Association in Philadelphia. He has always been ready to contribute his time, energy and boundless good nature to worthy causes and these have benefited greatly from his efforts.

In presenting him with its annual service award, Unico has indicated that Martin J. Maddaloni epitomizes the Unico motto: "Service above self," and that he is that rare breed of human being who is not only successful in his chosen profession but, more importantly, is successful in advancing the cause of humanity.

It is altogether fitting then that the U.S. Senate take note of this tribute accorded to Mr. Maddaloni and congratulate both Unico for its perception in selecting him, and Mr. Maddaloni for the wonderful human traits which have won him so high an honor.●

S. 1693, THE CORONADO NATIONAL TRAIL STUDY ACT

● Mr. DOMENICI. Mr. President, I rise today to cosponsor S. 1693, the Coronado National Trail Study Act, which will direct the National Park Service to evaluate the route taken across the American Southwest by the Spanish explorer Coronado in the 1540's.

Between 1540 and 1542, Francisco Vasquez de Coronado led an expedition from the southwestern coast of Mexico to the American Southwest in search of the fabled "Seven Cities of Cibola." The expedition included 300 conquistadores and 1,000 Indian allies.

Coronado marched through what is now New Mexico, Arizona, Texas, Oklahoma, and Kansas. His men in his party were the first Europeans to see the Grand Canyon. Along the route, he encountered the Pueblo Indians of Zuni, Acoma, and Taos in New Mexico, as well as the Hopi in Arizona and the Plains Indians of Texas, Oklahoma, and Kansas.

The Coronado expedition, following so soon after the discovery of the Americas by Christopher Columbus, was an important milestone in the early Spanish development of America.

S. 1693 would direct the National Park Service to study the route that Coronado took across the Southwest and make recommendations as to the route's suitability for designation as a national trail.

The feasibility study that will be mandated by S. 1693 is particularly appropriate in light of the imminent 450th anniversary of the Coronado expedition in 1990 and the 500th anniversary of the 1492 discovery of America by Columbus, as that led to the Spanish expeditions.

Therefore, I am pleased to join in sponsoring this measure, and I hope that it can be acted upon by the Senate in the near future.●

THE LADY TIGERS OF AUBURN UNIVERSITY

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a truly great women's basketball team, the Lady Tigers of Auburn University. This year the Lady Tigers advanced to the final four of the NCAA tournament, with only three points separating them from a national championship.

However, the team's accomplishments do not begin with the playoff berth. For the last 2 years, Auburn has finished the season in first place in one of the most competitive conferences in the country for women's basketball, the Southeastern Conference. The very fact that two of the teams which reached the final four this year were from the the SEC attests to the outstanding caliber of play within this conference.

The Lady Tigers have proven their prowess over the past several years. For example, for the last 4 seasons, Auburn has posted an incredible record of 112 wins to only 17 losses.

The success of the team can be attributed to the fine leadership of Coach Joe Ciampi and his staff, and the excellent ability of the student athletes. Coach Ciampi has completed his ninth season at Auburn, with an overall record of 222 wins to only 60 losses. This success is truly commendable, and rivaled by few coaches.

The Lady Tigers, both players and staff, have made a commitment to excellence. I applaud the team on its recent victories and wish them continued success in the future.●

MR. JOHN ROBERT CURTIN

● Mr. McCONNELL. Mr. President, I rise today to enter into the RECORD an article that appeared in this morning's Courier-Journal that details John Robert Curtin's success in turning WKPC into a strong and vital public television station serving Louisville, KY.

As the article describes, WKPC was on the brink of financial disaster prior to Mr. Curtin's arrival in January 1983. Five years later, the station has surpassed many people's expectations by having fiscally sound operation that has consistently expanded its base of membership and corporate support.

The financial success of the station has greatly increased its resources. As a result, WKPC offers top quality programming that appeals to a wide variety of tastes. I can attest to this because the station serves my hometown and I have spent many hours watching the entertaining and informative programs that it broadcasts. It is encouraging to learn that there are individuals like Mr. Curtin who are dedicated to quality in their service to the public. I offer this article to the RECORD so that my colleagues will see that Louisville is fortunate to have the vision and commitment of John Robert Curtin guiding its public television station.

The article follows:

CHANNEL 15's CURTIN RISING

The first thing John Robert Curtin did when he arrived at Louisville's Channel 15 five years ago was to get rid of the clock in the front lobby. "It was a very expensive clock. But the clock didn't work. They had it worked on several times, but they could never get it to work."

The clock was symbolic of the condition Channel 15 was in when Curtin arrived from Yakima, Wash., to become station manager. It was expensive, but it didn't work. And Curtin did to the clock what he did to much of Channel 15's operation: He junked it and started over.

That was five years ago. Now WKPC ranks No. 1 among all PBS stations in the percentage of its audience contributing money to support the station.

"Financially we are very stable," Curtin says. "In corporate support we rank sixth or seventh in percentage of corporate support vs. programming costs and 20th in absolute dollars. They've never done a survey of what percentage a station raises of its budget, but we'd have to be near the top. We raise 85 percent of the dollars."

That's quite a turnaround from 1982, when the station was on the brink of financial collapse.

And it is attributable to the leadership of Curtin, a 40-year-old Rhode Island cabinetmaker's son who used his cabinetmaking sensibilities—create a pattern and work from that pattern—to turn an embarrassment into a community asset.

The station's annual auction begins today at 6 p.m. and runs nightly through April 20. Curtin hopes to raise $350,000, up $25,000 from last year.

The occasion of the auction seems to be a good time to evaluate Curtin's five-year reign at WKPC. How can his performance be judged?

Let's look at what he inherited, what he promised and what he has accomplished.

WHAT HE INHERITED

The station Curtin came to in January 1983 had a loser's image. It was little more than a transmitter for PBS shows, and a redundant transmitter at that, since KET also broadcast the same shows at virtually the same times.

It was on the brink of bankruptcy, a condition precipitated by the station's recent emancipation from its benefactor, the Jefferson County Board of Education. WKPC had become a community station in late '81, when the station's license was transferred from the school board to a local non-profit group created specifically to run the station.

When news reports of the station's financial plight surfaced in the spring of '82, many local residents watched indifferently. They felt no involvement with the station.

In a broadcasting market of almost half a million homes, WKPC had only 7,000 members. These members donated an average of only $30 to $35 apiece a year. Station income from memberships was about $280,000 a year. The annual auction netted about $200,000. That meant $820,000 of the annual budget of $1.3 million had to be raised from other sources.

In 1982, during Derby week, normally the time of Louisville's biggest celebration, the station announced that financial problems had forced it to cut back staff and reduce broadcasting hours. Two months later, station manager Jerry Weaver resigned. PBS sent in an investigative team and in September the team's report was released. It said the station suffered from image, leadership and programming problems that were so severe they could lead to financial collapse.

Enter John Robert Curtin.

WHAT HE PROMISED

Curtin said his most important task was to change the station's image. But the first order of business was order. "The station was sloppy. Our fund-raising had a lot of energy, but no plan. There wasn't a piece of tape that was marked."

Curtin created a plan. The station would need so many members contributing so many dollars, so many corporations funding so many programs.

He set specific goals:

The annual budget should be $3 million.

The membership should total 40,000.

The auction should bring in $500,000.

Then he added a wish list:

He wanted to broadcast all night.

He wanted to produce a local news wrap-up show.

He wanted to produce a local magazine show.

WHAT HE ACCOMPLISHED

With specific goals, it's easy to calculate how well Curtin has done:

The budget—"This year what we actually collected is about $2.7 million with another $230,000 coming in equipment under a federal grant. So we're hovering around $3 million."

Membership—"We hit 45,000 members in December. The official number in the machine now is about 45,900. And they are all legitimate, within-a-year-contributing members. We've outgrown our computer three times." The average gift is now $54 to $59, a $20 per member increase.

Income from memberships, which was $280,000, when Curtin arrived, will total $1.3 million this year.

The auction—"Last year's auction raised $325,000 and we're looking to do $350,000 this year."

Now, about his wish list.

Broadcasting all night still hasn't happened. "All of our market studies say there isn't that real audience for it. We may do a '15-Plus' service in conjunction with Storer and repeat the evening schedule through the night, but that would be only on cable. We would make it available to other cable systems. People who work shift work are the most likely people to own cable."

Nor is there a local magazine or news wrap-up show. "We still want to do the magazine show. We've kicked it around a lot, how best to do it. We're approaching people. It needs to be somebody really prominent. And we still have plans for a news wrap-up show. We don't want to do 'Washington Week in Review' exactly, but talk to some locals who have something to say."

The centerplace in Curtin's resuscitation plan was the 3-2-1 Challenge, a three-year fund-raising campaign that was to wind up this month. It was actually completed months ahead of schedule. The financial goal was to raise $2.6 million. "We ended up with about $2.7 million," Curtin says.

The project also had three other goals: to replace aging equipment; to create a local programming fund; and to increase membership from 19,000 to 45,000.

"We hit all our membership targets right on the money," Curtin says. "We have replaced about a million and a half dollars worth of equipment, we've upgraded the facility, we've added back a producer and a director (who were laid off during the '82 financial crisis). We've still about half a million away from doing the kinds of things we'd like to get done, but we'll find it."

Curtin says the next half-decade won't be like his first five years.

"We're not going to see explosive growth like we've had. With this kind of membership, it becomes a whole new operation."

But he doesn't see a return to living hand-to-mouth.

"The days of budget crisis are over and really have been for 2½ to three years. I try to keep myself from getting a bunker mentality. This is my third station in a row to turn around. I sometimes wonder if I can run one that is successful. As things improve, you have to be taking courageous steps, bold steps.

He thinks the station can increase membership even more. "We thought 45,000 would be close to the ceiling. We've not finding that. In this pledge drive, we got 70 percent new members."

He likes WKPC's physical facility, but not its location on Bishop Lane. "We would love to move downtown sometime, but we don't have a building or the money. That could be three years to five years."

He is pleased with local community involvement but not with state involvement. "The other thing we need to do, and I don't know how to get this accomplished, is to find some state support, maybe to help us move downtown. Of the 23 states that have community-supported public television, 21 of the 23 have some limited funding from the state. The only two that don't are Kentucky and Oregon.

"The average station our size is getting about 25 percent of its support from state government. Obviously KET gets the majority of the state support. We would like to see that other half-million dollars come from the state. Maybe not this year or next year, but this community deserves that."

Despite years of feuding with KET, Curtin doesn't want Channel 15's state funding to come at KET's expense. "KET, with as wonderful a job as they do, probably does not get all they need, and we would not want to see it come from their appropriation. And we would never want to see more than the 25 percent number."

Curtin says WKPC's relationship with KET is "better." "There are still some frustrations. I would love for us to be moving further together. One of our major accomplishments is to keep programs from running at the same time. I found out we have the only written agreement in the country that has that spelled out. . . . I would like for us to be more cooperative, but I look at the rest of the country and we are pretty far along."●

STATEMENT OF SENATOR PRYOR BEFORE SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

● Mr. PRYOR. Mr. President, today I appeared before the Energy and Water Development Subcommittee of the Senate Appropriations Committee. I submit for the Record the text of my statement submitted to that committee.

STATEMENT OF SENATOR DAVID PRYOR

Mr. Chairman, it is my high honor and personal privilege to appear before this committee alongside the representatives of the Red River Valley Association, the Arkansas River Basin Interstate Committee, the Ouachita River Valley Association and the Lower Mississippi River Valley Flood Control Association. On behalf of our friends and constituents from these areas of Arkansas and the surrounding states I thank you Mr. Chairman for your diligence in helping guide the Senate through some very difficult economic times in recent years while managing to keep our nation's public works programs moving forward. It is no small accomplishment, and you and your staff are to be commended. I know our constituents from these areas of the lower Mississippi River Valley and the Arkansas River Basin, who are here today, fully recognize and appreciate your efforts.

HELENA HARBOR AND PORT OF YELLOW BEND

Mr. Chairman, this past year this Committee took decisive action on two harbor construction projects in Arkansas situated on the Mississippi River that I believe are absolutely crucial to economic recovery in the Mississippi River Delta region. I speak of the Helena Harbor project, which was authorized in the Water Resources Development Act of 1986, and the Port of Yellow Bend, which was authorized under Section 107 of the Chief of Engineers' continuing authority. The Committee acted on these projects in the face of opposition from the Administration, and that kind of courage ought to be recognized.

How the Reagan Administration can continue to oppose economic development for a seriously depressed region of our country on the one hand, and tout economic recovery as a tenet of Reagan achievements remains a mystery to me.

Mr. Chairman, I anticipate continued efforts by this Administration to avoid the initiation of construction of the Helena Harbor project, and I want to assure you that this Senator is going to continue his unwavering efforts to see it constructed. I hope and ask that you continue your support and ensure that this Committee directs, in language and funding, the Army Corps of Engineers to move forward swiftly with their design plans and specifications and be prepared to commence construction in FY 1989.

I believe that the Corps is committed to constructing the Port of Yellow Bend, Mr.

Chairman, and I ask only that this Committee honor its committment to provide the remaining federal funds necessary to complete this small harbor project. I anticipate that a local cost-sharing agreement will be enacted in the next several months, and the Chief has indicated to me that he expects groundbreaking next spring.

WEST MEMPHIS FLOOD CONTROL

Mr. Chairman, last December a devastating tornado ripped through West Memphis, Arkansas killing six persons and damaging millions of dollars in property. I spent a day touring this damage and I can personally report to you that the suffering I saw should never again be visited on such a community. West Memphis' problem was exacerbated ten-fold by torrential rains that came during the clean-up. Twice during December and January West Memphis suffered flooding as it tried to come to grips with the human and institutional problems caused by the tornado.

The Water Resources Development Act of 1986 authorized the construction of improvements to the Ten and Fifteen mile Bayous that traverse Crittenden County and West Memphis. These projects, if constructed, offer the potential to greatly relieve this problem in this area of Arkansas. I support them. The difficulty lies in the new cost sharing provisions provided in that Act. Mr. Chairman, the City of West Memphis is simply not in any position to meet the cost-sharing requirements that this Act imposes.

The Act gives the Assistant Secretary of the Army the authority to establish rules for adjusting the cost sharing provisions on a case by case basis. I am not aware if those rules have been developed as yet, although there has been ample time alloted for that. In my judgment, if this country ever places itself in the position where only wealthy cities and counties can affored to participate in federal projects, while our poorer, more economically depressed regions are left to go it alone, we will be abandoning the basic principles of our democracy and dividing our country, rich against poor.

Mr. Chairman, these flood control measures properly belong under the authorization of the St. Francis Flood Control Project, and were so recommended at one time by the Mississippi River Commission. Unfortunately the Water Resources Development Act of 1986 came along at a time when many projects in economically deprived areas were swept up into the umbrella of increased local cost sharing provisions. I realize that this Committee cannot address questions that properly belong in front of the authorizing committees. I ask that this Committee take appropriate actions to (1) ensure that the Assistant Secretary closely examines the situation at West Memphis with a view toward adjusting the cost sharing requirements for these projects to a level that local interests can afford, and (2) provide a level of funding in the FY 1989 appropriation bill commensurate with the Corps of Engineers' capability to initiate construction.

DE QUEEN WATER

Mr. Chairman, the Corps of Engineers is negotiating with the City of DeQueen, Arkansas for the purpose of selling water from DeQueen Lake to the City for municipal water supply. This process has taken a severe turn with the new calculations of the costs of water tripling since the initial agreement to sell water in 1982. The Corps cites new standards set forth in policy from the Assistant Secretary's office.

This policy will likely send the City of DeQueen to a source of water downstream from the release point of DeQueen Lake. I find it utterly ridiculous, Mr. Chairman, that water sold from federally constructed water projects must be sold at prices triple the costs of a city moving its intake several miles further away. These projects must be multiple purpose in concept, design, and operation, and we are allowing policies emanating from one office to destroy that concept. Just where does the Corps of Engineers plan to go to sell water from DeQueen Lake at the prices they are demanding? Texas?

I ask this Committee to seek a solution to this problem at DeQueen Lake with the Assistant Secretary, utilizing Committee language or other means to communicate the sense of Congress that these multiple purpose projects must not be held hostage by intractable policies and regulations.

RED RIVER CONCERNS

Today you will hear testimony from representatives of the Red River Valley Association detailing the concerns they have about future development of that waterway. I wholeheartedly support their recommendations, and I know, Mr. Chairman, that this Committee will be sensitive on these issues.

In Arkansas we are particularly interested in the Red River Emergency Bank Protection project, which also covers segments of the river in Louisiana, Oklahoma and Texas. This Committee has shown tremendous insight and concern for our future in recent years in providing funding annually for this project when the Administration's budget architects have zeroed out funds for it. This year the Red River representatives are asking that the Committee provide $4,200,000 in FY 1989 for this project, and I find that relatively modest level of funding entirely reasonable. I sincerely hope that the Committee can accomodate this request.

In conjunction with that request I also urge the Committee to include report language instructing the Assistant Secretary of the Army to initiate continuing contracts for the construction of the Bear and Brown Realignments and the Slay Bend Revetment with funds prefaced in FY 1989. I believe that you will be provided with specific language from the red River group detailing this request in the bill and in the report. This will clarify for the Assistant Secretary exactly what is needed and I wholeheartedly solicit your support for its inclusion in this legislation.

Two other projects deserve mention at this time. The Red River Below Denison Dam Comprehensive Basin Study should be funded at full Corps of Engineer capabilities in FY 1989. This study affects four states and will determine the future uses of the river. Also the Red River Waterway, Shreveport to Index, Arkansas should continue it's preconstruction planning at a level of $50,000. I fully endorse the other requests and recommendations of the Red River Valley Association and join in asking the Committee to fund them. These are projects and requests of a relatively small nature, but meaningful to the interests involved.

ARKANSAS RIVER BASIN

Mr. Chairman, the representatives of the Arkansas River Basin Interstate Committee will present testimony to you outlining their recommendations for funding in FY 1989 for several concerns, along with other suggestions for making the McClellan-Kerr Arkansas River Navigation System and improved waterway. I urge the Committee Members to carefully consider each of their recommendations. I support the President's budget for construction, operation and maintenance for the McClellan-Kerr system.

I feel compelled to single out one particular concern of mine at this time. The Army Corps of Engineers is undertaking a comprehensive study of the Arkansas River Basin in an attempt to resolve problems related to navigation, flood reduction, and municipal, industrial and agricultural water supply in the states of Oklahoma and Arkansas. Both states are cost-sharing in this study, and it offers hope in resolving some serious problems. I am hopeful that this Committee will see fit to continue the necessary federal funding for this study.

I would also call the Committee's attention to the recommendations of the representatives in regard to tow haulage equipment and the need for a solution to the annual low water problem on the Arkansas River at the mouth of the White River. The Corps of Engineers is studying this problem, and, hopefully, we will have their findings available at an appropriate time in the future.

OUACHITA RIVER VALLEY

Mr. Chairman, I ask that this Committee continue to support the President's budget proposal for construction, operation and maintenance for the Ouachita-Black River Navigation System. I know you are a supporter of this waterway, and I share your views on it.

Last year I wrote to the Secretary of the Army to inquire about the Army's position with respect to military usage of the Ouachita River. In Camden, Arkansas, my hometown, the Vought Corporation produces the Multiple Launch Rocket System for the Department of the Army. The Vought Corporation completed a study, at the request of the Army, in the early 1980's that determined that the Army could save millions of dollars annually by shipping the rockets for this system by water through the Port of New Orleans. Camden has a port facility and the Corps of Engineers, a branch of the Army I am told, has spent hundreds of millions of dollars in the past twenty years developing the Ouachita River for navigation. I understand that the Port of New Orleans has resolved an earlier problem with respect to the shipment of explosives, and a shipment of this nature could be made.

I believe that we in the Congress need to pursue the maximum utilization of federally constructed waterways, particularly when a savings of tax dollars is in the offing. I have not heard back from the Secretary, and I urge this Committee to raise the question of why we are not using the Ouachita River for these shipments in the face of a study that indicates a substantial savings could be made. Unless there is more to it than we are allowed to know at this time it appears that the Army is not doing much communicating internally.●

RECOGNITION OF CSU BASKETBALL TEAM

● Mr. ARMSTRONG. Mr. President, it gives me great pleasure to take this opportunity to recognize the accomplishments of a group of coaches and students from Colorado State University. They make up the men's basket-

ball team, and their accomplishments are no small matter.

They accomplished the first 20-win season in 34 years, third place in the National Invitation Tournament and the return to glory of the Colorado State basketball program. Not since 1969 have my fellow Coloradans had so much to be proud of when it came to NCAA basketball.

Yet their accomplishments are measured by more than just wins on the basketball court. This group of very special students led by Coach Boyd "Tiny" Grant showed, by example, what hard work, desire, and the ability to never quit can accomplish. This was never so much in evidence than the team's last game. Trailing by 8 points with a little more than 2 minutes left in their game against Boston College, the team fought back finally prevailing with no time left on the clock, 59 to 58.

For many Coloradans the Colorado State University basketball season will be remembered as a magical season which unified our State around a group of individuals who dared to dream big dreams and would never say quit. It gives me great pleasure to say thank you and job well done, you are a great role model for not only the youth of northern Colorado but the entire country.●

COURT OF INTERNATIONAL TRADE REJECTS LIEBELER ANALYSIS

● Mr. HEINZ. Mr. President, last December 2 I took the floor to notify Senators of my intention to oppose the nomination of ITC Chairman Susan Liebeler to the Court of Appeals for the Federal Circuit. At that time, I included in my remarks a report of the Board of Directors of the Customs and International Trade Bar Association opposing her confirmation. At that time I also indicated my intention to discuss her nomination in greater detail, and today I want to begin that process.

To complete the record, Mr. President, I would first note that the Judiciary Committee has voted on Ms. Liebeler and decided to send her name to the full Senate without recommendation after first rejecting a motion to report her favorably. I think it is fair to say that action reflects a certain lack of confidence in this nominee.

Following those votes, however, there has been another event which has a significant bearing on the Senate's consideration of the Liebeler nomination. On March 15, the Court of International Trade rendered a decision in the case of USX versus USITC, an appeal in which the court was faced with five separate and distinct ITC opinions, one from each commissioner. Because there was no majority, or even plurality, opinion the court found itself faced with a unique opportunity to review the analysis of each individual commissioner. Mindful of the principle of judicial economy, the court found it unnecessary to review all five opinions and after reversing two of the opinions the court sent the case back to the ITC for a third try. One of the opinions the court reversed was that of Susan Liebeler. The court's discussion of her views raises the same concerns I have been addressing for several years now and reveals quite clearly Ms. Liebeler's activist and revisionist approach to trade law.

Ms. Liebeler has chosen not to follow the traditional commission approach to determining the presence of material injury to a domestic industry as is required under the law before relief may be granted. She has instead developed a novel approach which involves five "proxy" criteria which she uses to assess material injury. Speaking for myself, I find the use of "proxy," at least in this case, to be highly unusual and unwarranted. According to Ms. Liebeler, it is necessary because the statutory direction to consider the impact of imports, the volume of imports and the price of domestic goods along with other factors is without much guidance. Apparently Ms. Liebeler is either unaware of or chooses to ignore the list of 17 specific interpretive elements contained in the statute which are to be used in making this determination.

Nevertheless, even if we assume that the use of proxies is appropriate, one cannot help but conclude from reading USX versus USITC that it least some of the proxies she uses are without any statutory support. According to Judge Restani, Ms. Liebeler effectively rested her negative determination in that case on what she concluded to be an absence of barriers to entry. Barriers to entry are nowhere mentioned in the statute. According to Judge Restani, Ms. Liebeler makes the mistake of assuming that it was the intent of Congress not to prevent injury to industry but to prevent injury to competition.

This mistake has led Ms. Liebeler to focus on whether the exporter is attempting to injure his competitors through the use of predatory pricing, an act most certainly not intended by Congress as a requirement to winning an antidumping case. Ms. Liebeler thus concludes that without barriers to entry there is no reasonable basis on which an exporter could succeed in a strategy of predatory price discrimination. Judge Restani points out quite correctly that an exporter does not have to pursue a rational, profit-maximizing predatory strategy to be guilty of causing material injury. It was the intent of Congress to treat the cunning and foolhardy alike.

Mr. President, for 4 years I have argued that Ms. Liebeler has sought to replace congressional intent and statutory criteria with her own theories about how the law ought to read, and which theories are themselves outside the mainstream of economic thinking. I believe Ms. Liebeler's record as a commissioner has demonstrated her determination to substitute her own economic policy agenda for that of the Congress. My concern in this regard has now been powerfully reinforced by the thorough and impartial review of her opinion given by Judge Restani and the Court of International Trade. I hope Senators will review this opinion carefully as they consider Ms. Liebeler's nomination, and I ask that excerpts from the opinion be printed in the RECORD.

The material follows:

[United States Court of International Trade, Court No. 85-03-00325]

USX CORPORATION, f/k/a, UNITED STATES STEEL CORPORATION, PLAINTIFF, *v.* THE UNITED STATES AND UNITED STATES INTERNATIONAL TRADE COMMISSION, DEFENDANTS, *and* PROPULSORA SIDERURGICA, S.A.I.C., DEFENDANT-INTERVENOR

[ITC determination remanded.]

Dated: March 15, 1988.

USX Corporation (*John J. Mangali, J. Michael Jarboe, Craig D. Mallick* and *Robin K. Capozzi*) for plaintiff.

Lyn M. Schlitt, General Counsel, *James A. Toupin,* Assistant General Counsel and *Timothy M. Reif,* United States International Trade Commission, for defendants.

Mudge, Rose, Guthrie, Alexander & Ferdon (*David P. Houlihan, Jeffrey S. Neeley*) for defendant-intervenor.

OPINION AND ORDER

Restani, Judge: Plaintiff, USX Corporation, brings this action challenging the final determination of the United States International Trade Commission (ITC) that an industry in the United States was neither materially injured nor threatened with material injury by reason of imports of cold-rolled carbon steel plates and sheets from Argentina that were sold at less than fair value. *Cold-rolled Carbon Steel Plates and Sheets from Argentina,* USITC Pub. 1967, Inv. No. 731-TA-175 (March 1987) (Remand Determination). The March 1987 determination was the second determination in this investigation. The first negative determination, 50 Fed. Reg. 5136 (Feb. 6, 1985) was upheld by this court in February 1987 with respect to ITC's findings on like product, domestic industry and condition of the domestic industry. *USX v. United States,* 11 CIT ——, 655 F. Supp. 487 (1987).[1] Certain other aspects of that determination concerning the issues of causation, cumulation and threat of material injury were remanded to ITC by order dated February 9, 1987, for further investigation and analysis. Each of these issues will be discussed separately.

I. CAUSATION

In its previous opinion the court rejected ITC's majority causation analysis, stating that ITC's reasoning was not sufficient to support a negative determination. After determining that the domestic industry was materially injured, ITC concluded that less than fair value imports from Argentina were not the cause of material injury, basing its conclusion on two factors: First, ITC noted that although imports from Argentina rose consistently from 1981 to 1984 only "minimal market penetration" was achieved throughout the period of the investigation. Second, ITC found that while Argentina imports undersold domestic cold-rolled sheets by margins ranging from 5% to 14%, it could not confirm any actual instances of lost sales and revenue due to Argentine imports. *Id.* at 489.

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[1] The like product was found to be cold-rolled carbon steel sheets and plates. The domestic industry is comprised of all domestic producers of like product.

The court rejected ITC's analysis of market penetration because it "consisted solely of the statement that levels of market penetration remained low and stable . . . [w]ithout discussing the significance of this trend or its relationship to other facts uncovered in the investigation. . . ." *Id.* at 490 (footnote omitted). The significance of a quantity of imports and not absolute volume alone was especially relevant in this case, noted the court, given the fact that ITC had previously recognized that cold-rolled steel is inherently a price sensitive and fungible product and that "the impact of seemingly small import volumes [and penetrations] is magnified in the marketplace." *Id.* (quoting *Certain Carbon Steel Products from Spain*, USITC Pub. 1331, at 16-17, Inv. Nos. 701-TA-155, -157 to -160, -162 (December 1982)).[2]

The court rejected the second part of ITC's causation analysis because ITC had relied exclusively upon instances of lost sales and revenue to show the effect of Argentine imports on the domestic industry after admitting that it had failed to investigate four of seven allegations of lost sales and all three reported instances of lost revenue. The court held that such an inadequate investigation, standing alone, could not support a negative determination, given proven consistent margins of underselling. *Id.* at 491. ITC was ordered to undertake a more thorough investigation and consideration of these factors if they were to be the basis of the negative determination.

The court now has before it the results of the remand. "In order for the Commission's determination to be upheld in this case, the court must be able to discern from the determination that a majority of the Commission has based its conclusions upon legally sufficient reasoning." *BMT Commodity Corp.* v. *United States*, 11 CIT ——, 667 F. Supp. 880, 882, *reh'g denied*, 11 CIT ——, 674 F. Supp. 868 (1987), *appeal docketed*, No. 88-1188 (Fed. Cir. Jan. 22, 1988). The causation analyses separately set forth by at least two of the commissioners in the four person majority do not satisfy this standard of review. Therefore, the court has no alternative but to remand this action to ITC for analysis that is in accordance with law.[3] The two analyses found deficient are addressed separately as follows.

A. *The Five Factor Causation Analysis*

Plaintiff challenges the approach to causation analysis offered by one commissioner which would require ITC to consider five factors when determining whether the factual setting of a particular case merits an affirmative finding. According to the commissioner, "[T]he stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogenous products, (4) declining prices and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports)." Remand Determination at 14 (citing *Certain Red Raspberries from Canada*, USITC Pub. 1707, at 16, Inv. No. 731-TA-196 (June 1985).[4]

Applying these factors in the present case, the existence of relatively high dumping margins was acknowledged along with substitutable imported and domestic product and downward pricing trends, all consistent with an affirmative finding, but it was concluded that "these factors are outweighed by the absence of barriers to entry, and the fact that cumulated import penetration is very low, which strongly suggests the absence of unfair price discrimination." Remand Determination at 19-20 (footnote omitted).

Plaintiff asserts that this approach to causation analysis "disregards the explicit statutory criteria provided by the Congress for the conduct of injury investigations," and transforms causation analysis into a methodology for determining the existence of a new unfair trade practice, namely, "unfair price discrimination." Response of USX Corporation to the Remand Determination of the International Trade Commission (Plaintiff's Brief) at 10 & 13. Alternatively, plaintiff argues that even if the court were to accept this approach to causation, "application of that analysis to the facts of this case overwhelmingly demonstrates the existence of injury by reason of imports." *Id.* at 14. In order to decide whether the opinion resting on this analysis is supported by substantial evidence and is otherwise in accordance with law, it is appropriate to examine the nature and relevance of the two determinative factors in greater detail, that is, low import volume and no barriers to entry.

In the previous opinion, the court recognized that import volume alone cannot be used to gauge accurately the effect of imports in the cold-rolled steel industry. The court directed ITC on remand to explain the significance of import volume or its relationship to other facts uncovered in the investigation. *USX*, 655 F. Supp. at 490-91. The limited discussion of market penetration presented here offers no such explanation. Instead, it is stated that, "[c]umulated imports accounted for less than 1 percent of apparent U.S. consumption during 1981, then increased to 1.4 percent in 1982 and 2.0 in 1983 [while] [i]mport penetration was 3.4 percent in January-September 1984 compared to 1.9 percent in the corresponding period of 1983." Remand Determination at 15. It is then concluded that, "[t]he cumulated import penetration of Argentina and Korea is very small and not consistent with a finding of unfair price discrimination." *Id.* This conclusory statement does not support a negative determination. It leaves unanswered the question of how the volume of imports relates to injury, particularly in the sense of the third statutory factor, impact on the domestic industry.[5] The court, therefore, is left to examine the fifth factor in the five factor causation analysis—barriers to entry—to determine whether it provides the missing link.

An attempt is made in the determination to justify use of the five factor test and reliance on barriers to entry, in particular, as the determinative factor, by equating unlawful dumping with a particular form of "unfair price discrimination." In *Red Raspberries*, cited in this determination in support of the five factor analysis, it is more specifically explained that the antidumping statute is intended to protect U.S. industry only from unfair price discrimination in the form of predatory pricing, as that term is defined in the determination. *Red Raspberries*, USITC Pub. 1707, at 13-14 (citing the legislative history of the Trade Act of 1974 (1974 Act), S. Rep. No. 1298, 93rd Cong. 2nd Sess. 179, *reprinted in* 1974 U.S. Code Cong. & Admin. News 7186, 7316). The *Red Raspberries* determination goes on to state that:

> "Price discrimination can take several forms. The fact that Congress referred to *unfair* price discrimination suggests to believe that Congress meant some type of predatory pricing. Predatory pricing is a form of strategic behavior in which a firm lowers the price of its product below the marginal cost of production. Such behavior is only rational if the firm expects to be able to raise its prices in the future to a level at which it can more than recoup the losses it suffers in the present. Thus, predatory pricing can only be practiced by firms that have or expect to have market power."

Red Raspberries, USITC Pub. 1707, at 14-15 (footnote omitted) (citing R. Posner & F. Easterbrook, *Antitrust*, 98-99, 680 (2d ed. 1981)). The problem with this position is two-fold. One flaw is that this view necessarily makes the intent of a foreign producer the focus of the ITC causation inquiry. Another, but not unrelated flaw, is that this view seems to assume that the purpose of the antidumping statute is to prevent a particular type of 'injury to competition" rather than merely material "injury to industry."

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[2] A commissioner has raised a concern that the court has required ITC to explain how its various determinations are in harmony. There is no such requirement. Different factual settings will give rise to different results. If clear reasoning supporting a determination is lacking, however, the determination may appear to be arbitrary if viewed in the context of contrary determinations based on seemingly similar facts. Deviations from established agency practice or precedent, of course, must be explained.

[3] Five separate opinions were issued on remand. Because one commissioner (out of five who acted on the matter) has dissented in the present action, ITC's negative determination can only be upheld if the court finds the views of at least three of the remaining four commissioners to be in accordance with law. It would be poor judicial economy to review in detail the separate decisions of the commissioners who utilized traditional causation analyses, as the court does not know what approach will be taken by ITC on further remand. It is not clear that the investigation concluded to date will satisfy a majority of the commissioners under the standards set forth by the court. The court also notes, to the extent possible in a case of multiple opinions, commissioners should indicate the portions of their colleagues' opinions with which they agree. This might obviate further remands. Of course, a single majority opinion with the necessary dissents or additional views would expedite the review process.

[4] In *Copperweld Corp.* v. *United States*, 12 CIT ——, Slip Op. 88-23 (Feb. 24, 1988) the court sustained an ITC negative determination which also cited the five factor analysis discussed here. That opinion is distinguishable because the court held that the commissioner's views did not rest solely on the five factor analysis and the rationale of *Red Raspberries* was not considered to be part of the determination. *Id.* at 30-31 and n.12.

[5] In determining whether the domestic industry is materially injured by less than fair value imports, the statute directs ITC to consider among other factors—

(i) the volume of imports of the merchandise which is the subject of the investigation,

(ii) the effect of imports of that merchandise on prices in the United States for like products, and

(iii) the impact of imports of such merchandise on domestic producers of like products. 19 U.S.C. § 1677(7)(B) (1982).

The "injury to industry" versus "injury to competition" distinction in international trade laws dates back to the early part of this century. The Antidumping Act of 1916 (codified at 15 U.S.C. §§ 71-77 (1982)) was enacted by Congress as an unfair competition law focusing specifically on the practice of predatory dumping. *See* Hiscocks, *International Price Discrimination: The Discovery of the Predatory Dumping Act of 1916*, 11 Int'l Law. 227 (1977). The 1916 Act imposed criminal sanctions on anyone importing articles into the United States:

"[A]t a price substantially less than the actual market value or wholesale price . . . *Provided*, That such act or acts be done with the intent of destroying or injuring an industry in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade and commerce in such articles in the United States."

15 U.S.C. § 72 (1982). Although the Act mentions injury to industry, the entire thrust of the statute, including the intent requirement, cause it to be recognized as a particular type of antitrust statute. *See Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 494 F. Supp. 1190, 1223 (E.D. Pa. 1980), *aff'd, in part, reversed, on other grounds, and remanded, sub nom., In re Japanese Electronics Products Antitrust Litig.*, 723 F.2d 319 (3d Cir. 1983), *cert. denied* 55 U.S.L.W. 3730 (April 27, 1987) (No. 86-1453); 723 F.2d at 325 & n.4.[6]

In the Antidumping Act of 1921, however, Congress inserted an injury test considerably more sensitive to conditions in the domestic industry. Antidumping Act of 1921, ch. 14, § 201, 42 Stat. 11 (repealed 1979) (formerly codified, as amended, at 19 U.S.C. § 160(a) (1976)). Likewise, the Trade Agreements Act of 1979 (1979 Act), which repealed the 1921 Act and re-enacted its provisions, as amended, into the Tariff Act of 1930, states that antidumping duties are to be imposed only upon a showing that a domestic industry is materially injured, threatened with material injury or that the establishment of a domestic industry is materially retarded by reason of less than fair value imports. 19 U.S.C. § 1673 (1982).

As indicated, the interpretation under discussion of the antidumping statute reflects a belief that despite the lack of express limitation in the statutes, Congress intended that dumping duties be enforced only if a certain form of anticompetitive behavior is occurring. The analysis begins with the assumption that foreign firms behave as rational profit maximizers. From this assumption follows the statement that:

"[I]f the factual setting in which the unfair imports occur does not support a finding that there is any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not 'by reason of' such imports." Remand Determination at 13.[7] To fully comprehend the impact of this statement it is important to note the additional comments that unfair price discrimination is predatory pricing in the form of pricing below the marginal cost of production and that no gain can be had by such price discrimination unless an exporting firm ultimately is able to raise its prices in the U.S. market to take advantage of its increased market share. *See supra* p. 9 (quoting from *Red Raspberries*, USITC Pub. 1707, at 14-15). It is further stated that a firm will be unable to raise prices if other nations are capable of exporting to the U.S. at competitive prices. Under this analysis, gainful dumping cannot be accomplished and, therefore, proof of causation of injury by dumped imports will not exist, unless there are barriers to entry of other imports. Thus, contrary to defendants' argument, this fifth factor is not just one of many relevant factors, but its absence likely will produce a negative determination in all cases relying solely upon the five factor test.[8]

The view reflected in the determination rests upon the principle that pricing that is above the marginal cost of production cannot be said to be contrary to acceptable profit maximizing behavior, as a general matter. *See* R. Posner & F. Easterbrook, *Antitrust*, 680-686 (2d ed. 1981);[9] Barcelo, *Antidumping Laws as Barriers to Trade—The United States and the International Antidumping Code*, 57 Cornell L. Rev. 491, 504-06 (1972). Under this view, only pricing below the marginal cost of production can be said, with any certainty, to be uneconomic and anticompetitive. Thus, by asking whether, rationally, goods would be priced below the marginal cost of production, the commissioner asks whether the pricing is unacceptably anticompetitive, not whether it is injurious to the industry in some other material way.[10]

In international trade it is the object of an "injury to competition" causation test to protect the competitive process itself and not necessarily individual competitors. *See* Barcelo, *supra*,, at 513-17. Under the view expressed in the determination, only predation of the type described furnishes the requisite causation of injury to competition.[11] The "injury to industry" causation standard, however, focuses explicitly upon conditions in the U.S. industry. *Id.* In effect, Congress has made a judgment that causally related injury to the domestic industry may be severe enough to justify relief from less than fair value imports even if from another viewpoint the economy could be said to be better served by providing no relief. The court, by finding the test applied here invalid, does not condemn for all cases any inquiry into effect on competition; such inquiry can be a useful way of exploring the causation issue. Such an inquiry, however, cannot supplant the inquiry required by statute. Thus, any causation analysis must have at its core the issue of whether the imports at issue cause, in a non *de minimis* manner, the material injury to the industry which has been found.[12]

To avoid confusion regarding the legislative history cited in the determination, further comment is needed on the concept of rational profit maximization. As noted, at the core of the five factor analysis is the assumption that all producers act as rational profit maximizers. It is not universally accepted, however, that producers of goods for export always act in such a manner. In recent years, many foreign export industries have been nationalized, or at least subjected to increasing political pressures. It has been stated that these industries no longer seek to enhance profits as much as they attempt to pursue national social goals such as full employment. *See* Fisher, *Dumping: Confronting the Paradox of Internal Weakness and External Challenge*, 1 Mich Y.B. Int'l Legal Stud. 11, 19-23 (1979). Exporters who do not act as rational profit maximizers might be willing to sell at less than fair value even though there is no foreseeable potential for gaining an increased market share and raising prices. Such behavior could cause permanent, continuing injury to the domestic industry, contrary to the view discussed. The commissioner apparently believes that Congress did not intend to address any such problem that might exist.

In support of the rational profit maximizer approach, the commissioner quotes from the legislative history of the 1974 Act, S. Rep. No. 1298, *supra*, at 179: "importers as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear." Remand Determination at 12-13. The statement, however, was not placed in the legislative history to establish an axiom about the conduct of producers of exports or to impose an injury by predation standard. It appeared in the context of a general discussion about "technical dumping," which occurs when foreign imports' margins of underselling exist because there is a shortage of supply in the U.S. market. S. Rep. No. 1298, *supra*, at 179. By adopting the language of this section out of context as support for the entire predatory pricing analysis, the determination expands the concept of technical dumping to include any case in which there are no barriers to entry. The court believes that analysis from the point of view of rational profit maximization is necessary in many situations, but the seeming acceptance of this view by Congress in some instances does not support the application of the five factor analysis used here. Even if one agrees that one must assume rational profit maximizing behavior, it does not follow necessarily that one must also accept an injury by predation standard. Rational profit maximizers might engage in behavior which is injurious to an industry in a way that cannot be described as predatory in the sense used here but is nonetheless prohibited by the antidumping laws.

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[6] In an appeal from a separate opinion of the third circuit in that case, the Supreme Court declined an invitation to review the decision regarding the Antidumping Act of 1916. *Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 579 n.3 (1986).

[7] In *Red Raspberries*, an additional reason was given as to why the absence of like product imports from other countries would support an affirmative finding on causation, namely that "it provides some assurance that the injury to the domestic industry is by reason of the investigated imports and not caused by imports from other countries." USITC Pub. 1707, at 17. In this case, however, this explanation of barriers to entry appears for the first time in defendants' brief in support of the remand determination and it does not appear that the significance of barriers to entry was analyzed in this manner. Furthermore, the statement made in *Red Raspberries* in 1985 may have contemplated standards for cumulation which have been held to be contrary to law.

[8] This is demonstrated in this case because only the fifth factor is available to relate volume to price effect and impact to produce a negative result. The other factors were affirmative.

[9] This work is relied upon in *Red Raspberries* which has been cited as a fuller statement of the views expressed here, thus the court assumes that the definition of marginal cost of production contained therein is also accepted. It is "change in total costs brought about by increasing (or decreasing) output by one unit." Posner & Easterbrook, *supra*, at 684.

[10] The Supreme Court in *Matsushita Elec. Indus. Co.* v. *Zenith Radio Corp.*, 475 U.S. 574, 589 (1986) observed that "predatory pricing schemes are rarely tried, and even more rarely successful." (The court was concerned with a claim of conspiracy under section one of the Sherman Act, but its discussion of predatory pricing was more general.) Congress certainly has been aware of the scope and complexity of administration of the antidumping laws, so much so that it frequently has amended such laws and has approved considerable spending to keep elements of government functioning to carry out those laws. Presumably, Congress, in approving such legislation, intended to protect industries in the United States from something other than a rare and unusual occurrence.

[11] Others who favor the "injury to competition" approach might recognize as injurious behavior which does not reach the level of predation described.

[12] Defendants argue that ITC has applied the proper standard because it found injury to industry. This is true, but if its causation analysis relates only to injury to competition in the form of predatory pricing as defined here, ITC has ignored its basic finding.

As indicated, the commissioner has expressly cited ITC's *Red Raspberries* determination as a fuller statement of the views expressed here. There it is stated that statutory causation factors such as volume and pricing data are nothing more than "useful proxies" for a "direct inquiry into the intent of a foreign producer [which] would be difficult at best." *Red Raspberries*, USITC Pub. 1707, at 16. As stated, it is the 1916 Act which focuses on intent. In applying the antidumping law under which this action is brought it is improper for ITC to place at the center of its causation analysis the intent of a foreign producer. This inquiry is unavoidable, however, if one equates unlawful dumping with unfair price discrimination in the form of predatory pricing. Unlike the 1916 Act, there is neither a scienter requirement to be found in the statute relevant here, nor evidence in the relevant legislative history that Congress intended such a requirement. Thus, contrary to the suggestion in defendants' brief, what occurred in this case is not the mere incorporation of another relevant economic factor into a causation analysis as is clearly permissible under 19 U.S.C. § 1677(7)(B)-(C) (1982). Instead, the nature of the reliance on the barrier to entry factor has worked to change the focus of the injury investigation in a manner not permitted by Congress.●

DEATH OF THE REVEREND SOCRATES TSAMUTALIS

● **Mr. BRADLEY.** Mr. President, New Jersey has lost a great spiritual leader and I have lost a friend whom I deeply respected. The Reverend Socrates Tsamutalis was dean of the Cathedral of Saint John, the Theologian Greek Orthodox Church in Tenafly, NJ. He was both a religious leader and a community leader, and I join my fellow New Jerseyites in mourning our loss.

As a leader of the Greek community, Father Tsamutalis worked tirelessly to improve the quality of life of the community as a whole. He served as secretary of the New Jersey Orthodox Clergy Fellowship, as president of the Greek Orthodox Clergy Association of the First Diocese, and as president of the Greek Orthodox Benevolent Association. As a member of the Tenafly Clergy Association and the East Bergen Clergy Association, he worked to unify New Jersey's diverse religious community. Father Tsamutalis also focused his considerable energy on issues affecting the international religious community by serving as a member of the Archdiocesan Council, an advisory council to the Archbishop of North and South America.

Father Tsamutalis was much beloved by the people of his community. We all share our grief with his wife, Sevasti, and his children, Chris, Karen, and Alexandra. We will miss him deeply.●

JIM HOWARD: CHAMPION OF SAFETY

● **Mr. LAUTENBERG.** Mr. President, I'd like to bring to the attention of my colleagues a column that appeared in this morning's Washington Post. That column, entitled "James Howard and His Fights for Public Safety," is a fitting tribute to my late colleague from New Jersey, who championed highway safety causes in the Congress.

Since coming to the Senate, I had the honor of joining Jim Howard in some of those battles. We worked together in 1984 to secure passage of the National Uniform Minimum Drinking Age Act, which encouraged all our States to adopt a minimum drinking age of 21. That law has now been complied with by all 50 States, and is saving hundreds of young lives across the Nation.

Jim Howard also led the fight for a speed limit of 55 on our highways. Increases were allowed in the last year, against his strong protests. I joined him in opposing those increases. In his absence, I'll continue to try to bring sense to our national policy on speed limits.

Although his may not have been a household name, the fruits of his efforts are well known. Mr. President, when Jim Howard died, the Third District, the State of New Jersey, and indeed the Nation lost a valued leader. His leadership will be missed.

The column printed today pays tribute to Jim Howard's most important battles, those he fought to make our roads safer. I would like to note that the piece was written by representatives of leading public interest groups, Joan Claybrook of Public Citizen, and Chuck Hurley of the National Safety Council. I ask that the text of the article be printed in the RECORD.

The article follows:

JAMES HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

The Post, in its March 26 obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean-water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dingell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speed limit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figures showing sharp increases in fatal high-speed crashes were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspective too. "If I was waiting for the returns on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced in person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in a nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on others' expense accounts. This, unfortunately, is permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what The Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Product Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.;

for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for cancelling the synthetic fuels demonstration project; for reducing the dairy subsidy; and for the deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesavers Conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.●

ELMONT FIRE DEPARTMENT

● Mr. D'AMATO. Mr. President, the Elmont Fire Department will soon be celebrating their 60th anniversary of providing outstanding volunteer fire and emergency service to the residents of Elmont, NY. I am pleased to celebrate this occasion and to join in honoring Fireman Howard Loughery for his 50 years of dedicated service and in bestowing the title of honorary chief to my good friend Councilman Joseph Cairo of Hemstead, NY.

The Elmont Fire Department owes these men much gratitude, for their contributions have been great. Without the bravery, skill, and faithful commitment of firemen such as Howard Loughery, or the invaluable assistance and years of support of Councilman Joseph Cairo, the department would not have functioned so efficiently. Their efforts though performed in different capacities, together have made the organization one of the most competent and safely conscious fire departments in New York.

For 60 years, the Elmont Fire Department has provided the citizens of Elmont with the highest quality service. The department has much to be proud, of, and I share their pride and appreciation of Fireman Howard Loughery and Councilman Joseph Cairo for making this all possible.●

PROCEDURES TO IMPLEMENT THE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 605.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3971) to establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1932

(Purpose: To modify the provision relating to the jurisdiction of the courts)

Mr. BYRD. Mr. President, on behalf of Mr. DIXON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. DIXON, proposes an amendment numbered 1932.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike subsection (a) of section 4 and insert the following:

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

Mr. DIXON. Mr. President, this amendment states, "The courts of the States and the U.S district courts shall have concurrent original jurisdiction of actions arising under the convention."

My amendment has the same practical effect as the language of the House bill, it is simply clearer and more straight forward.

The language of the House version of the bill grants original jurisdiction to the courts of the States. At the same time, it states that Federal courts shall "have jurisdiction to the extent authorized by chapter 85 of title 28, United States Code."

In practice, all actions arising under the convention involve interpretation of the Hague Convention Treaty and therefore could be removed to the Federal courts. Therefore, petitions for return under the convention could be heard in either State or Federal courts.

My amendment has the same result by simply granting concurrent original jurisdiction.

The reason that the House constructed this approach was out of concern that these cases would embroil the Federal courts in deciding child custody matters. I must say that I understand this concern, and that none of the proponents of this bill, or my amendment, want to see the Federal courts to be involved in deciding the underlying custody disputes. This bill has been carefully drafted to avoid this possibility. Section 2(b)(4) provides that "the convention and this act empower courts in the United States to determine only rights under the convention and not the merits of any underlying child custody claims." This language limits consideration to only those issues specifically contained in the Hague Convention, and not to child custody in general.

The reason I believe it is important to amend the House language regarding jurisdiction is that the complexity of the House language could very likely result in an endless series of litigation regarding whether the Federal court can hear each specific case. One of the primary purposes of this implementing legislation is to define a clear and consistent set of procedures for upholding our obligations under the Hague Convention. I believe that that goal would be better served through clear language on this sensitive matter of jurisdiction. This point was most recently clarified in the Supreme Court's decision of Thompson versus Thompson issued January 12, 1988. That case underscores the value of expressly providing the intent of Congress. My amendment would have the same practical effect as the House language, however, it is clearer and would avoid needless litigation which could delay the rightful return of a child to its custodial parent.

I would also point out, that my amendment restores language that passed in the Senate previously when this bill was offered as an amendment to the State Department Authorization Act last fall.

Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1932) was agreed to.

Mr. DIXON. Mr. President, I rise to support H.R. 3971, the implementing legislation for the 1980 Hague Convention on the Civil Aspects of International Child Abduction. As a principle sponsor of the legislation, I believe that it is long overdue.

As you know, Mr. President, the victims of international parental child abduction are children from each and every State of this country, who have been abducted by one of their parents and taken across international borders. I first became aware of the magnitude of this problem over 2 years ago. Since then I have been actively involved in trying to assist as many parents in bringing their children home to the United States. I must say these cases are heart wrenching.

In one case that has received much attention, one of my constituents, Patricia Roush, had her two daughters abducted by their father, who has a long criminal record in this country and a documented history of mental illness and alcoholism. In another case, a mother was taken to a motel room and held at knife point while her children were abducted.

However, the parents who lose their children are not the only victims. The children suffer as well. Child psychologists from the Illinois State Police assert that the trauma associated with an abduction of this kind, and the subsequent deprivation of one parent's love, is one of the most horrendous forms of child abuse. In one case, an abducted child was spotted covered with filth, living in a disgusting, mud-floor hovel in Mexico, being raised by his father, who is wanted for murder in this country.

Other children are brainwashed into hating their American parent. These children are told that the parent in this country has abandoned them, hates them, never wants to see them or speak to them again. Furthermore, not only are these children confused and disoriented, living in a new culture and speaking a different language, but they are taught to hate their native country, the United States.

Mr. President, in the last 2 years I have heard from literally hundreds of parents with cases every bit as tragic as these. No one knows for sure how many parents have been victimized by international parental child abduction. Over 2,500 cases have been reported to the State Department since 1975, but most experts believe that this number is low. We simply do not know how many cases have not been reported. Some believe there may have been as many as 10,000 internationally abducted children.

Each year, 300 to 400 new cases are reported, and the problem is getting worse. According to State Department statistics, the total number of cases has jumped 84 percent since May 1983. In 1987 alone, there was a 60-percent increase in my home State of Illinois.

Once the children are taken from this country, their rightful custodians face the nearly impossible task of recovering them. Currently, a parent whose child has been abducted to a foreign country in violation of a valid U.S. custody decree must attempt to have that decree recognized by the foreign court. This process is costly, time consuming, and frequently requires the rightful custodian to be subject to a hearing by the foreign court on the merits of the custody claim. In virtually every case, the country to which the child is illegally taken, whether ally or enemy, refuses to honor the decision of an American court and return the child. The abducting parent is simply awarded custody.

Therefore, a person who loses a custody battle in this country has an enormous incentive to abduct the children and take them out of the United States. Then, the abductor can be almost certain that they will not be forced to return the children to the American parent.

The Hague Convention is an important first step to rectify this problem. While it does not provide for the recognition and enforcement of foreign custody decrees, it establishes a system of administrative and legal procedures designed to insure the prompt return of children who are wrongfully removed to, or retained in, a ratifying country. The courts in the country to which the child has been taken are under treaty obligation to return the child to the country from which he or she was abducted. The foreign court must comply without conducting any proceedings on the merits of the underlying custody claims. Thus, it denies the abductor the legal advantage currently gained through international abduction.

In 1980 the convention was adopted by unanimous vote of the 23 countries who participated in the negotiation of this agreement, and is currently in force in 9 of these nations: Canada, the United Kingdom, France, Portugal, Switzerland, Hungary, Luxemburg, Australia, and Spain. Reportedly, once the United States formally ratifies The Hague Convention, several additional countries are likely to follow. According to Secretary of State George Shultz, nearly half of all reported parental kidnappings in the last several years have involved abductions to countries which participated in the preparation and negotiation of The Hague Convention. Therefore, if all the signatory nations ratify the convention, the impact would be impressive.

Furthermore, because this problem affects nearly every nation in the world, I believe that once the convention is widely ratified, additional nations will be encouraged to adopt it in order to deter the abduction of their own children.

On October 9, 1986, the Senate consented to the convention by a vote of 98-0. However, the United States will not formally deposit its instrument of ratification until this implementing legislation is passed. Until then, none of the provisions of The Hague Convention will protect the children and parents of our country. As you know, the Senate has already passed similar language once as an amendment to last year's Foreign Relations Authorization Act. I cannot overemphasize how important it is to pass this legislation as swiftly as possible.

At the same time, the State Department must continue to encourage ratification of the convention by the other 25 countries which participated in the negotiation.

While the Hague Convention is urgently needed, it is only a first step. It is not retroactive, and will not help the thousands of parents whose children have already been abducted. It is unlikely it will ever be in force in every country of the world. The countries not ratifying the convention will become "safe havens" for abductors.

Therefore, we must aggressively work to recover these young U.S. citizens being held hostage in countries around the world. The State Department must continue to pursue every avenue available to assist parents in recovering their children.

In light of these other difficulties, I have introduced S. 2059, which makes international parental child abduction a Federal felony. This will provide a necessary deterrent against abduction, allow extradition in some cases, and strengthen the negotiating position of the State Department when pressing foreign governments to intervene in these cases.

Mr. President, the first step to controlling these tragic abductions is the Hague Convention. Additionally, the convention will provide new solutions even for parents whose children have already been abducted. In the case of Alan Hershey, a New Jersey father whose child is being held in Czechoslovakia, the Czech courts have stated that as soon as the Hague Convention is implemented in the United States, Alan Hershey's daughter will be sent to him for regular visitations in the United States.

Each week eight more American children are abducted. The Hague Convention will provide new tools and new hope for American parents trying to bring their children home. I vigorously urge the swift passage of this urgently needed legislation.

Mr. HATCH. Mr. President, today I rise in support of H.R. 3971, a bill to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction. This bill will make available new procedures in the United States to combat the serious problem of international abduction and wrongful detention of children.

This is a measure that has previously passed the Senate and in this Congress there is a companion bill currently before the Subcommittee on Courts and Administrative Practice of the Senate Judiciary Committee. In relation to the committee's consideration of this issue, I recently received communications from Conference of Chief Justices and the Department of Justice that they, along with the Judicial Conference of the United States, believe that "State courts should have exclusive jurisdiction in all legal actions under the convention."

The concern raised by these organizations is based on the fact that child custody matters have traditionally been issues handled exclusively by State courts and not within the expertise of the Federal courts. Given their concerns, I decided to closely examine the issue. Quite frankly, it is a close call. While child custody has traditionally been a State court matter, the interpretation of treaties with foreign countries is a responsibility of the Federal courts under section 2 of article III of the Constitution. In the case at hand, we have a treaty with an underlying concern of child custody. Thus, the issues of treaty interpretation and child custody are inseparably combined.

Mr. President, it is my understanding that the sponsors of this bill are aware of these concerns, and that they have attempted to address them in a responsible manner in the language of the bill. At this time I would like to pose a few questions to my distinguished colleague from Illinois in order to help clarify the matter.

Am I correct in my understanding that the bill has been drafted so as to limit consideration by the courts to only those issues specifically contained in the Hague Convention on the Civil Aspects of International Child Abduction, and not to child custody in general?

Mr. DIXON. Yes. Section 2(b)4) of H.R. 3971 provides that "the Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims."

Mr. HATCH. There are, however, custody-related questions that may arise in the context of disputes under the Hague Convention. Under its provisions, there are five exceptions that may be claimed as a defense against a suit filed for the return of a child. These exceptions include whether or not a child has settled into its new environment, whether or not there is a grave risk that return of a child would expose him of her to physical or psychological harm or otherwise place the child in an intolerable situation, whether or not the parent from whom the child was taken was exercising rights of custody or had acquiesced in the removal of the child, whether or not the child has attained the age and degree of maturity at which it is appropriate the take account of its views, and whether or not any custody determinations have been rendered in the county receiving the request for the child's return.

These issues are traditionally custody-related matters handled by the States. Is this the extent of custody-type issues permitted under the Hague Convention?

Mr. DIXON. Yes.

Mr. HATCH. Is there any other context under which a custody-related issue might arise under the convention of H.R. 3971?

Mr. DIXON. The only other situation which I can envision such an issue arising would be under section 5 of the bill which provides the courts with the authority to protect the well-being of a child or to prevent a child from being further removed or concealed prior to the final disposition of the petition for return of custody. I should point out, however, that before a court could take any such protective measure it must comply with any applicable requirements under the law of the State where the child is being held. If a Federal court determines a child is not to be returned under the treaty, neither this bill nor the treaty empower a Federal court to adjudicate the underlying custody dispute. State law would determine which State court has jurisdiction to entertain the underlying custody dispute.

Mr. HATCH. So in this instance, a Federal court must comply with State laws?

Mr. DIXON. That is correct under section 5(b) of H.R. 3971. That section states that:

> No court exercising jurisdiction of an action brought under section 4(b) may under subsection (a) of this, section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

Mr. HATCH. Finally, to help in our understanding of the scope of effect of this concurrent jurisdiction concern, what is the estimated number of petitions that will be filed under the Hague Convention?

Mr. DIXON. The estimates I have received place the number somewhere around 40 to 50 cases a year.

Mr. HATCH. And under the provisions of H.R. 3971, a petitioner who is seeking the return of his or her child may choose either the Federal or State court in the district where the child is located?

Mr. DIXON. Yes. My amendment establishes that:

> The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

Mr. HATCH. Are there any circumstances where such a choice is not available?

Mr. DIXON. No, there are not. The petitioner is always allowed to choose the forum.

Mr. HATCH. I would like to thank my colleague from Illinois. The question of whether or not there should be concurrent jurisdiction is indeed a close question. It is not in my mind, however, sufficient to require the further delay of this bill. If there are eventually problems with such a situation, I would hope that the primary supporters of the bill would assist in the legislative efforts to make corrections, but at this time I think we should move forward with the bill.

I would urge all of my colleagues to help combat this serious problem of international child abduction and vote favorable for this bill.

(At the request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. I want to thank my colleague from Illinois, Senator DIXON, for his leadership in bringing about action on the measure to implement the Hague Convention on the Civil Aspects of International Child Abduction.

This is the third time the Senate has taken up the matter of the Hague Convention and has addressed the problem of the abduction, or wrongful retention, of children overseas in custody related disputes. On October 9, 1986, the Senate voted unanimously to give its advice and consent to ratification of the convention. In June 1987, I introduced S. 1347, a bill drafted by the administration to implement the convention. The enactment of this legislation is the last remaining barrier to ratification by the United States; it will ensure that the provisions of the convention are carried out in a manner that is consistent with the intent of the convention's negotiators in the context of our legal system. On October 8, 1987, the Senate adopted the text of S. 1347 as an amendment to the State Department authorization bill, H.R. 1777. The amendment was deleted in conference at the request of the chairman of the House Judiciary Committee that they be given an opportunity to consider the legislation in hearings before that committee.

Both the House and the Senate have now held hearings on this measure, and technical clarifications have been made to the language of S. 1347 through H.R. 3971. In only one area—that of original court jurisdiction—is there a substantial need to clarify the language of H.R. 3971 to conform to the intent of the sponsors of the Senate bill, and my colleague from Illinois is offering that needed amendment. The amendment will restore the language of S. 1347 calling for concurrent original jurisdiction in State and Federal courts to hear proceedings arising under the convention and this legislation.

The language of this amendment should not raise a concern to Federal judges that they will be moving into child custody matters traditionally in the jurisdiction of State courts. In testimony before the Senate Subcommittee on Courts and Administrative Practice, Patricia Hoff, the cochair of the Child Custody Committee of the American Bar Association, stated:

> (I)t is significant that both the Convention, in Articles 16 and 19, and the legislation, in section 2(8), expressly provide that a decision under the Convention concerning return of a child is not a determination on the merits of the underlying custody dispute. The court hearing a return proceeding is limited to deciding whether a child's removal or retention was wrongful within the meaning of the convention, or whether one of the narrow exceptions to the return obligation as set forth in the convention would apply. Thus, state and federal judges applying the convention are insulated from making substantive custody determinations that turn on in-depth inquiries into the

child's best interest. The convention envisions that these Solomon-like decisions will be made once the child is returned, typically in the child's country of habitual residence where relevant evidence would be most readily accessible.

The convention establishes an administrative and judicial mechanism to bring about the prompt return of children who have been abducted from their home countries in parental custody disputes. The convention, and the implementing legislation, does not alter custody decisions concerning abducted children. Those decisions are still left to local courts and authorities. By providing a mechanism for the child's prompt return to the country of his or her habitual residence, the convention simply eliminate an incentive for abducting a child. The abducting parent will no longer be able to assume the ability to hide behind the legal processes of another country if that country is a signatory of the convention.

"Prompt return" is the cornerstone of the convention, and it is important that the United States not undermine this key element through our implementing legislation. The House language in regard to court jurisdiction, although, I believe it is intended to provide the appropriate role for Federal court jurisdiction that is provided in the Senate bill, is unclear, and it offers the potential for the type of litigation and delay that the convention is intended to prevent. For this reason, it is important to clarify this section through my colleague's amendment.

Close to half of the State Department's unresolved cases of abductions from the United States involve countries which have ratified or expressed an interest in ratifying the convention. Ratification by the States will have an encouraging impact on the decisions of many countries on whether to become a party to the convention.

The problem of international parental child abduction is growing. As of May 1, 1983, the Department of State knew of 667 unresolved cases of child abductions from the United States. As of December 31, 1986, such cases totaled 2,353. The State Department's most recent testimony suggests that children are being abducted from the United States and kept outside of this country at the rate of about 300 per year.

The Department of State has pointed out another reason for urgency on this legislation. They are particularly concerned that the bill be passed soon enough to permit the ratification and the entry into force of the convention by the first of August, since there is an annual surge of international abductions and retentions of children toward the end of summer. In order to have the convention fully in force by that time, both Houses of Congress must have passed the needed implementing legislation by sometime in May. I am, therefore, grateful that the Senate is moving expeditiously on the House bill, and I hope that the House will move rapidly to accept the Senate amendment.

Parental child abductions are not simply domestic matters. Abducted children suffer greatly from emotional trauma, and are sometimes the victims of physical abuse as well. We must do everything we can to end the grief and heartache for abducted children and their families. This legislation will not solve every case or bring every abducted child home, but it will have a significant impact on preventing future abductions, and it offers new hope to the heartbroken and anguished parents who have been left behind—parents such as Patricia Roush, whose two daughters were abducted to Saudi Arabia more than 2 years ago by a father with a criminal record and history of beating her and the children; such as Holly Planells, who was forced to leave her abducted son in substandard living conditions in Jordan in spite of his pleas to be allowed to come home with her; such as Alan Hershey, whose daughter has been in Czechoslovakia since 1983, but who has been told by a Czechoslovak judge that he will be permitted to have his daughter spend time with him in the United States if we ratify the Hague Convention.

One desperate parent felt it necessary early this year to hire "soldiers of fortune" to bring her 7-year-old daughter back from Jordan. This type of action puts people in danger and brings the risk of retaliation; it should not be seen as necessary because of the failure of this Government to take every possible alternative step. The ratification of the Hague Convention is one such vital step.

Again, I thank my colleague for his leadership. I would also like to commend Brian Hanson, a member of Senator DIXON's staff, for his hard work and effective efforts on behalf of this important legislation.●

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3971), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD S. 2273 AT THE DESK

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2273, a bill introduced earlier today by Mr. MELCHER, dealing with the Crow Indian Tribe, be held at the desk until the close of business on Wednesday, April 13.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1518

Mr. BYRD. Mr. President, I ask unanimous consent that, after consultation with the minority leader, the majority leader may proceed at any time to the consideration of Calendar Order No. 514, S. 1518, a bill to provide for the appropriate treatment of methanol and ethanol, and for other purposes, and that it be considered under the following time agreement:

Twenty minutes, equally divided, on the bill, the time to be controlled by the two leaders or their designees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 40 minutes, equally divided, on an amendment to be offered by Mr. STAFFORD to require that methanol-fueled vehicles meet the same emission standards as gasoline-fueled vehicles; provided further, that there be 1 hour, equally divided, on an amendment to be offered by Mr. CHAFEE to recognize the need for the development of technologies to control carbon dioxide emissions; provided further, that no other amendments be in order, with the exception of the committee-reported substitute; that no motions to recommit, with or without instructions, be in order; that there be 20 minutes, equally divided, on any debatable motions, appeals, or points of order if submitted by the Chair for debate; and provided further that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection. It is my understanding that the leader's request implies that the time on the amendments will be divided in accordance with the usual procedures and rules of the Senate.

Mr. BYRD. Yes. I ask unanimous consent that the time on amendments be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Very well. Then that completes the time agreement, Mr. President, on S. 1518, and after consultation with the minority leader, at some point I will move to take that bill up and, of course, I will clear the time also with Mr. ROCKEFELLER, Mr. STAFFORD, and Mr. CHAFEE.

SENATE LEGAL COUNSEL TO REPRESENT THE SECRETARY OF THE SENATE AND ANY OTHER SENATE EMPLOYEE IN THE CASE OF AVIRGAN VERSUS HULL

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE I send a resolution to the desk to direct the Senate legal counsel to represent the Secretary of the Senate and any other Senate employee in the case of Avirgan versus Hull. I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 410) to direct the Senate Legal Counsel to represent the Secretary of the Senate and any other Senate employee in the case of Avirgan versus Hull (S.D. Florida).

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, the plaintiffs, in Avirgan versus Hull, which is a civil case pending in the U.S. District Court for the Southern District of Florida, have served a subpoena upon the Secretary of the Senate for testimony and documents of the Select Iran-Contra Committee. The plaintiffs are journalists who are seeking damages from a number of private individuals for injuries arising out of a bomb explosion at a press conference held by Contra leader Eden Pastora in Central America in 1984. The subpoena calls for the production of a large quantity of classified and sensitive documents obtained by the Iran-Contra Committee in the course of its investigation.

The Senate and House Iran-Contra Committees have gone to great lengths to facilitate the maximum access by the public to the records of their proceedings and the materials that they accumulated consistent with the interests of national security, the investigative interests of each House, and the privacy interests of private individuals. For example, the committees have compiled and published all of the declassified documents that they cited in their extensive report. Further, the committees are in the process of publishing the transcripts of all of their public hearings, all declassified transcripts of their depositions and executive session hearings, and all declassified exhibits to these transcripts. Finally, the Senate committee is making immediately available to the public at the National Archives some 94 boxes of declassified and unclassified documents that it utilized.

The committee has determined that it cannot publicly release its sensitive investigative files or documents that remain classified by an executive agency to protect the national security. The committee is prepared to be as helpful as possible in facilitating access for the plaintiffs in this action to the extensive materials that it has determined to release in the public domain. The committee cannot, however, turn over its sensitive and classified documents.

Although the subpoena is directed to the Secretary of the Senate, the Secretary does not have custody or control over the select committee's documents. Rather, under the provisions of Senate Resolution 23, after the committee wraps up its business in the next several weeks, its documents will be under the control of the Select Committee on Intelligence. This resolution would authorize the Senate Legal Counsel to represent the Secretary or a Senate committee employee who may properly be substituted for the Secretary in connection with this subpoena, in order to assert in court, if necessary, a privilege against disclosing the nonpublic records of the committee.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 410) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 410

Whereas, in the case of *Avirgan* v. *Hull*, No. 86-1146-CIV-KING, pending in the United States District Court for the Southern District of Florida, the plaintiffs have obtained a subpoena from the United States District Court for the District of Columbia, FS 88-68, for the testimony of and production of documents by the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Secretary of the Senate and any Senate employee who may be substituted as a respondent for him in the case of *Avirgan* v. *Hull*, No. 86-1146-CIV-KING (S.D. Fla), or in any ancillary proceedings.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS UNTIL 10 O'CLOCK A.M.

Mr. BYRD. Following the two leaders or their designees, under the standing order, I ask unanimous consent there be a period for morning business not to extend beyond 10 a.m., and that Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF S. CON. RES. 113

Mr. BYRD. Mr. President, I ask unanimous consent that at 10 o'clock the Senate resume consideration of the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will meet at 9:30 tomorrow morning. Following the recognition of the two leaders under the standing order there will be a period for morning business not to extend beyond 10 a.m., Senators may speak during that period for morning business and I ask unanimous consent that there be a limitation of 5 minutes each on such speeches.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, at 10 a.m. the Senate will resume consideration of the budget resolution at which time the pending question will be on the amendment by Mr. STEVENS. Under the order previously entered a vote will occur on that amendment or in relation to it at the hour of 11 a.m. That will be a rollcall vote, the yeas and nays having previously been ordered. There will be other rollcall votes throughout the day tomorrow.

The managers of the bill have indicated their belief that the Senate will be able to complete action on the budget resolution on tomorrow.

Tomorrow is Wednesday. In order to complete action, therefore, the Senate could be in not too late, but I hope that the Senate can complete action on the resolution tomorrow.

Mr. President, I inquire of the distinguished acting Republican leader and my close and dear friend, Mr. STEVENS, of Alaska, as to whether or not he has any further business he would like to transact today or any further statement he would like to make?

Mr. STEVENS. Mr. President, my response to my good friend is no. We have completed business on this side.

Mr. BYRD. I thank my friend.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9:30 a.m. tomorrow morning.

The motion was agreed to, and the Senate, at 7:53 p.m., recessed until Wednesday, April 13, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 12, 1988:

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS STATED, AND FOR THE OTHER APPOINTMENTS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR; AND A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ALAN W. ALGAYER, OF NEW JERSEY.

THE FOLLOWING-NAMED PERSONS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR APPOINTMENT AS CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

FRED C. FISCHER, OF VIRGINIA.
MOSINA H. JORDAN, OF NEW YORK.
BONNIE POUNDS, OF VIRGINIA.

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 1, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

ROBERT J. WICKS, OF VIRGINIA.

AGENCY FOR INTERNATIONAL DEVELOPMENT

CAMERON SCOTT BONNER, OF TEXAS.
CHARLES EDWARD BROOKS, OF HAWAII.
REUBEN H. HUBBART, JR., OF SOUTH DAKOTA.
ROY L. ROBIESON, OF VIRGINIA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 2, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

EDWARD E. ANDERSON, JR., OF CALIFORNIA.
D. JEAN GARDNER, OF THE DISTRICT OF COLUMBIA.

DEPARTMENT OF AGRICULTURE

LLOYD S. HARBERT, OF IDAHO.
BESA L. LOTATI, OF VIRGINA.
ROBIN A. TILSWORTH, OF VIRGINIA.
HOWARD R. WETZEL, OF VIRGINIA.

AGENCY FOR INTERNATIONAL DEVELOPMENT

JAMES ANDREW BEVER, OF PENNSYLVANIA.
KURT FULLER, OF ARIZONA.
MARK R. JOHNSON, OF CALIFORNIA.

FOR REAPPOINTMENT IN THE FOREIGN SERVICE AS A FOREIGN SERVICE OFFICER OF CLASS 3, A CONSULAR OFFICER, AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

PATRICIA L. SHARPE, OF FLORIDA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

E. CHARLES ASH, OF VIRGINIA.
ANNE WARE PATCHELL, OF FLORIDA.

DEPARTMENT OF AGRICULTURE

LANA S. BENNETT, OF CALIFORNIA.
SUSAN R. SCHAYES, OF FLORIDA.
GEOFFREY W. WIGGIN, OF VIRGINIA.
DAVID B. YOUNG, OF MARYLAND.

AGENCY FOR INTERNATIONAL DEVELOPMENT

RAVINDER MOKAL AULAKH, OF CALIFORNIA.
JERRY PAUL BISSON, OF VERMONT.
PAUL R. CRAWFORD, OF NEW YORK.
JONATHAN DAVID HALPERN, OF FLORIDA.
ROOSEVELT HOLT, JR., OF VIRGINIA.
EDWARD T. LANDAU, OF PENNSYLVANIA.
ALEXANDRIA LEE PANEHAL, OF OHIO.
FRED MICHENER POLLOCK, JR., OF NEW HAMPSHIRE.
BRUCE WARREN RUSH, OF FLORIDA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

THEODORE HOWARD ANDREWS, OF CALIFORNIA.
BARBARA JAN MARTINEZ BADEN, OF VIRGINIA.
BEATRICE BARTHELEMY, OF CALIFORNIA.
EARLE CHARFIELD BLAKEMAN, OF TEXAS.
JOHN B. BRENNAN, OF MISSOURI.
PAULA J. BRUMBAUGH, OF CALIFORNIA.
ARJUN REX CHAKRAWARTI, OF LOUISIANA.
KENNETH STEPHEN CHERN, OF NEW YORK.
JOHN C. CLARKSON, OF WASHINGTON.
CARL S. COCKBURN, OF OKLAHOMA.
MITCHELL ALLEN COHN, OF PENNSYLVANIA.
MICHEAL HUGH CORBIN, OF NORTH CAROLINA.
JOYCE EDITH CURRIE, OF VIRGINIA.
JOHN P. DEASY, OF MASSACHUSETTS.
GARLAND L. DENNETT, OF IDAHO.
ROBERT ANTHONY DOLCE, OF CONNECTICUT.
LEWIS K. ELBINGER, OF CONNECTICUT.
JOHN GRIFFIN ELLIS, OF MARYLAND.
SUE ANNE S. FLAHERTY, OF COLORADO.
CAROL S. FULLER, OF PENNSYLVANIA.
DAVID W. FULTON, OF VIRGINIA.
JUDITH G. GARBER, OF CALIFORNIA.
DANIEL FRANCIS GEISLER, OF PENNSYLVANIA.
ROBERT F. GODEC, OF VIRGINIA.
ROBERT GOLDBERG, OF MARYLAND.
CHARLES B. GURNEY, OF TENNESSEE.
MARY E. HAYES OF COLORADO.
JASON P. HYLAND, OF CALIFORNIA.
EARL MICHAEL IRVING, OF CALIFORNIA.
MARK RANDOLPH JENSEN, OF CALIFORNIA.
NANCY CLARK JOHNSON, OF VIRGINIA.
HELENE MICHELLE KESSLER, OF MASSACHUSETTS.
MATTHEW R. KOCH, OF VIRGINIA.
DAMIAN RIEHL LEADER, OF INDIANA.
SALLY MATHIASEN LIGHT, OF WASHINGTON.
JOHN ARTHUR LOWELL, OF TEXAS.
JOYCE DIANE MARSHALL, OF CALIFORNIA.
BARBARA C. MASLAK, OF PENNSYLVANIA.
LOUIS MAZEL, OF NEW HAMPSHIRE.
TERENCE PATRICK MCCULLEY, OF OREGON.
JONI E. MCFARLAND, OF TENNESSEE.
KENNETH ALAN MESSNER, OF MICHIGAN.
ALAN GREELEY MISENHEIMER, OF NORTH CAROLINA.
DAVID ADELBERT NOBLE, OF THE DISTRICT OF COLUMBIA.
KARL GUNNAR OLSON, OF NEW YORK.
WILLIAM HENRY OWEN, OF NEW YORK.
JOSEFINA LIM PAPENDICK, OF CALIFORNIA.
JAMES ALLISON PHILLIPS, OF CALIFORNIA.
JEANETTE COHN PINA, OF CALIFORNIA.
RAYMOND DOUGLAS RICHHART, JR., OF CALIFORNIA.
TERRI L. ROBL, OF MARYLAND.
DONALD RICHARD SHEMANSKI, OF PENNSYLVANIA.
JACK WARREN STATON, OF WEST VIRGINIA.
KATHRYN L. STEVENS, OF FLORIDA.
DAVID L. STONE, OF INDIANA.
PAUL RANDALL SUTPHIN, OF NEW YORK.
STEPHEN BRADLEY WICKMAN, OF NEW YORK.
BISA WILLIAMS-MANIGAULT, OF TEXAS.
JOSEPH Y. YUN, OF OREGON.
ROBERT B. ZUEHLKE, OF VIRGINIA.

U.S. INFORMATION AGENCY

BRUCE B. BROWN, OF ILLINOIS.
JEFFERSON TRAVIS BROWN, OF NEW JERSEY.
CHRISTOPHER FITZGERALD, OF PENNSYLVANIA.
JAMES KINCH FOSTER, OF TEXAS.
STEPHEN W. HOLGATE, OF OREGON.
STEVEN FRANK KOENIG, OF CALIFORNIA.
LEONARD JAMES KORYCKI, OF WASHINGTON.
JOHN A. MATEL, OF CALIFORNIA.
MICHAEL WILLIAMS MCCELLAN, OF KENTUCKY.
JUDITH ANN MOON, OF MARYLAND.
RICKY LYNN ROBERTS, OF MISSISSIPPI.
CORINNE A. SCHMIDT, OF VIRGINIA.
LARRY SCHWARTZ, OF WASHINGTON.
MARK J. SHERMAN, OF NEW YORK.
VIKTOR A. SIDABRAS, OF INDIANA.
CHRISTOPHER D. WARD, OF WISCONSIN.

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICES OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

KEVIN CROSBY AISTON, OF ILLINOIS.
RUBEN R. ALCANTARA, OF HAWAII.
MARTIN MARIANO BARILLAS, OF THE DISTRICT OF COLUMBIA.
JOHN RODNEY BASS II, OF NEW YORK.
REID S. BAUMAN, OF ILLINOIS.
PAMELA S. BELLAMY, OF CALIFORNIA.
ANGELINE BIEGLER, OF FLORIDA.
MICHAEL R. BOSSHART, OF NEW JERSEY.
BRIAN L. BROWNE, OF FLORIDA.
ROBERT CRAIG BRYSON, OF COLORADO.
ALAN JOHNSTONE CARLSON, OF MINNESOTA.
JOHN F. CARROLL, OF LOUISIANA.
CAROLE M. CHARETTE, OF PENNSYLVANIA.
DAN I. COLE, OF VIRGINIA.
MARYRUTH COLEMAN, OF CONNECTICUT.
RISHONA Y. CORSON, OF OHIO.
JONATHAN J. COYNE, OF TEXAS.
JOHN ALLEN CUSHING, OF WASHINGTON.
KAREN KASKA DAVIDSON, OF CALIFORNIA.
KAREN EILEEN DAVIS, OF CALIFORNIA.
CONSTANTINE ALEXANDER DE BODISCO, OF FLORIDA.
A. THYS DEBRUYN, OF VIRGINIA.
SHERRIE L. DEBRUYN, OF IOWA.
ANNE E. DELLOS, OF ILLINOIS.
ANN MICHELLE DENEY, OF LOUISIANA.
GLENN G. DICK, OF VIRGINIA.
MICHAEL JAMES DODMAN, OF NEW YORK.
KURT D. DONNELLY, OF OREGON.
RICHARD JAMES DRISCOLL, OF VIRGINIA.
CATHERINE DRUCKER, OF CONNECTICUT.
CHRISTOPHER ANDREW ELLIS, OF CALIFORNIA.
ELIZABETH ANN EWING, OF THE DISTRICT OF COLUMBIA.
FRANK JONATHAN FINVER, OF MARYLAND.
BRUCE MICHAEL FOSTER, OF CALIFORNIA.
JESSICA M. FOWLER, OF MARYLAND.
GEORGE M. FREDERICK, OF ILLINOIS.
RONALD MICHAEL FREY, OF TEXAS.
ABIGAIL SARAH FRIEDMAN, OF COLORADO.
LEO GALLAGHER, OF PENNSYLVANIA.
ANN K. GANZER, OF WISCONSIN.
ROBERT P. GEISLER, OF VIRGINIA.
THOMAS BARRY GIBBONS, OF VIRGINIA.
MARK ANDRE GOODFRIEND, OF CALIFORNIA.
DOUGLAS M. GRIFFITHS, OF TEXAS.
MARK T. GYGI, OF UTAH.
PATRICK J. HALEY, OF MASSACHUSETTS.
D. BRENT HARDT, OF FLORIDA.
JOHN M. HARRIS, OF CALIFORNIA.
MARK JAY HERZBERG, OF MARYLAND.
MARY ELLEN HICKEY, OF CALIFORNIA.
DAMIEN HINCKLEY, OF VIRGINIA.
JOHN FREDERICK HOOVER, OF MASSACHUSETTS.
JAMES LAYTON HUSKEY, OF THE DISTRICT OF COLUMBIA.
BARBARA JEAN JOHNSON, OF VIRGINIA.
SYLVIA DOLORES JOHNSON, OF SOUTH CAROLINA.
MARK C. JONES, OF MASSACHUSETTS.
WILLIAM E. JONES, OF VIRGINIA.
GLORIA M. JORDAN, OF TEXAS.
GERALDINE L. KAM, OF CALIFORNIA.
MATTHEW B. KAPLAN, OF VIRGINIA.
DOUGLAS G. KELLY, OF PENNSYLVANIA.
ROBERT RALPH KIENE, OF OREGON.
SUSAN ELIZABETH KIRK, OF VIRGINIA.
CHRISTOPHER AUGUSTINE LAMBERT, OF VIRGINIA.
LONG N. LEE, OF COLORADO.
ANN MARGARET LYONS, OF MASSACHUSETTS.
MICHAEL B. MARTIN, OF CALIFORNIA.
ALEXANDER MARTSCHENKO, OF NEW JERSEY.
CYNTHIA LYNN MATHER, OF VIRGINIA.
LAUREN MAY, OF THE DISTRICT OF COLUMBIA.
THOMAS S. MCGINNESS, OF LOUISIANA.
MARGARET EILEEN MCGUINNESS, OF THE DISTRICT OF COLUMBIA.
MICHAEL S. MCHENRY, OF NEW YORK.
MATTHEW MCKEEVER, OF THE DISTRICT OF COLUMBIA.
WILLIAM ROBERT MEARA, OF NEW YORK.
DANIEL C. MIKESELL, OF MICHIGAN.
RICHARD MERRILL MILLS, JR., OF TEXAS.
PHILLIP ANDREW MIN, OF NEW JERSEY.
RODERICK W. MOORE, OF RHODE ISLAND.
MARTIN DAVID MURPHY, OF CALIFORNIA.
REGINA SARA ELIZABETH MURPHY, OF VIRGINIA.
TIMOTHY DALMAINE NEELY, OF GEORGIA.
JOHN THOMAS NILAND, OF THE DISTRICT OF COLUMBIA.
TODD S. OLESZAK, OF WISCONSIN.
KEVIN MICHAEL O'REILLY, OF ILLINOIS.
ANTHONY ARMEN PAHIGIAN, OF MASSACHUSETTS.
GEORGE FRANCIS PAIK, OF MASSACHUSETTS.
JOHN E. PEREIRA, OF MARYLAND.
ANDREW J. QUINN, OF NEW YORK.
ROBIN S. QUINVILLE, OF CALIFORNIA.
MICHAEL ARTHUR RAYNOR, OF MARYLAND.
GARACE A. REYNARD, OF VIRGINIA.
LAWRENCE G. RICHTER, OF CALIFORNIA.
FRANCISCO DANIEL SAINZ, OF NEW YORK.
THOMAS WHITWORTH SANCHEZ, OF VIRGINIA.
DAVID JOHN SAVASTUK, OF VIRGINIA.
CARL A. SHEM III, OF ILLINOIS.
ROBYN J. SHINDEL, OF THE DISTRICT OF COLUMBIA.
ADAM M. SHUB, OF NEW YORK.
R. BYRON SIGEL, OF MICHIGAN.
BRIAN J. SILER, OF HAWAII.
PAMELA SUSAN SMITH, OF CONNECTICUT.
STUART MADGETT SMITH, OF OHIO.
JACQUELINE E. SNYDER, OF NEW MEXICO.
BETTY DOUGLAS SPARKMAN, OF TENNESSEE.
DANIEL CHARLES STOLL, OF MARYLAND.
CAROL LYNN STRICKER, OF OHIO.
JAMES CHRISTOPHER SWAN, OF THE DISTRICT OF COLUMBIA.
R. PIERCE SWOFFORD III, OF VIRGINIA.
MELINDA C. TABLER-STONE, OF VIRGINIA.
MICHAEL EMBACH THURSTON, OF WASHINGTON.
JEFFREY A. VANDREAL, OF TEXAS.
SIMON P. VISS, OF CALIFORNIA.
WILLIAM G. WATSON, OF HAWAII.
WILLIAM A. WEECH, OF VIRGINIA.

JANICE G. WEINER, OF CALIFORNIA.
THOMAS WEINZ, OF COLORADO.
ROBERT K. WILLIAMS, OF TEXAS.
JANET DE LONG ZIEGLER, OF CALIFORNIA.

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDGAR D. FULTON, OF VIRGINIA.
TIMOTHY P. STRATFORD, OF CONNECTICUT.

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE JANUARY 3, 1988:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ROGER H. ROBINSON, OF CALIFORNIA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. ALOYSIUS G. CASEY, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ANTHONY J. BURSHNICK, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD L. CROMER, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CLIFFORD H. REES, JR., [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. GLENN K. OTIS, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HAROLD M. DAVIS, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ELVIN R. HEIBERG, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. VAUGHN O. LANG, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MAX W. NOAH, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM E. ODOM, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. RICHARD G. GRAVES, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JAMES F. MCCALL, [redacted], U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5148(B), TO BE ASSIGNED AS JUDGE ADVOCATE GENERAL OF THE NAVY:

REAR ADM. EVERETTE D. STUMBAUGH, [redacted]/2500, JUDGE ADVOCATE GENERAL'S CORP, U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

SUPPLY CORPS (3104)

JAMES E. ECKELBERGER.
JAMES E. MILLER.

THE FOLLOWING-NAMED CAPTAIN IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

SPECIAL DUTY OFFICER (OCEANOGRAPHY)

JAMES ELMER KOEHR.

EXTENSIONS OF REMARKS

SANCTIONS: THE CONGRESS' CURSE ON THE PEOPLE OF SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. CRANE. Mr. Speaker, as Americans we all feel a burning desire to help the oppressed people of the world in the struggle against their tyrants. We observe these people's tireless fight to secure a better future for their children and embrace their struggle as if it were our own. We share in their pain, sorrow, frustration, and especially their commitment.

However, many times these feelings lead some to foolishly embark on a quest to cure the world of it's many ills. The world has come to realize that an American on a crusade can be as threatening as the Red Army itself. Such is the case in South Africa today. It has been almost 2 years since the passing of the Comprehensive Anti-Apartheid Act and black South Africans are no closer to achieving political and economic freedom. In fact, the repercussions of these sanctions have dealt a hard blow to the black community. It is time to reexamine the value of sanctions to the cause of the South African blacks. America cannot continue to be a negative influence on the black's struggle against apartheid.

The effect of sanctions on the South African economy are quite disturbing. By initiating the exodus of over 170 U.S. businesses, these sanctions have greatly hindered the blacks in their quest to achieve economic freedom. While whites have eagerly purchased these companies at firesale prices, the blacks have suffered. They can no longer benefit from United States business sponsored employee welfare programs and are now subject to the wrath of the new Afrikaaner owners, who have systematically fired their black workers. We all know that the key to the establishment of a free, democratic society is a strong middle class, yet we persist in impeding the black community from achieving this prerequisite for freedom. The blacks need our help—the key to their future lies in the continued presence of United States businesses in South Africa.

In addition, the sanctions have wreaked havoc on South Africa's political establishment. By threatening the security of the Afrikaaner community, the sanctions have enhanced the political standing of the rightwing. In the most recent elections, the liberal Progressive Federal Party [PFP] was defeated as the official opposition to Prime Minister Botha's administration. Moreover, the once moderate Botha has toughened his stance on the black opposition for fear of losing popularity within the white electorate.

Is this the "moral backbone" so many of my colleagues demanded when they overrode the President's veto and passed these sanctions? When President Reagan vetoed the Comprehensive Anti-Apartheid Act, he did not do so under disdain for the South African blacks. He foresaw the effect these sanctions would have on the black community. But why did so many Congressmen ignore his warnings? Was it a lack of foresight? Or did they simply use the black's struggle to enhance their own public image?

I challenge my colleagues to open their minds and put the interests of the South African blacks ahead of their own. Instead of searching for praise from the media, we need to search for answers. Answers which will assist the black community achieve economic prominence as the first step in securing a future of freedom for their children.

For a deeper insight into the present situation in South Africa, I highly recommend an article entitled "The Scandal of Sanctions" in the March 1988 edition of the American Spectator.

[From the American Spectator, March 1988]

THE SCANDAL OF SANCTIONS

(By Fleur de Villiers)

In the fall of 1986, fueled by moral outrage and high moral purpose, the United States Congress set out to punish South Africa and express solidarity with its black oppressed masses. Its chosen instrument was the imposition of sanctions that would excommunicate South Africa from the world's economy until the apartheid state was brought to its senses, if not to its knees.

Those who wielded bell, book, and candle blithely ignored the fact that sanctions without the threat of direct military intervention have had a dismal record in the conduct of international affairs. Indeed, the question of whether or not sanctions would achieve the abolition of apartheid and the transfer of power to the black majority was, one suspects, always secondary. The main aim was not to liberate South African blacks, but to free the U.S. Congress from the frustration of doing nothing.

Moral outrage and an instinct for meddling in areas that few politicians visit and even fewer understand are American qualities the rest of the world has come to dread. There are few spectacles on earth more alarming than American legislators in search of a quick fix of other people's problems. But if this addiction has too frequently made United States foreign policy the diligent pursuit of folly, seldom has it been more diligently or more blatantly pursued than by those who believed that the only way to bring South Africa into the family of civilized nations was to remove all traces of American influence.

Now, eighteen months since the passage of the Comprehensive Anti-Apartheid Act, the full extent of that folly should be apparent to all—except those congressmen and senators who, having saddled the sanctions horse, are determined to ride it all the way to this year's elections. But before one examines their failure to win anything, except possibly the approval of Jesse Jackson, it is important to reflect on just what they thought they would achieve in the heady days of October 1986 when Congress overrode a White House veto to secure the first humiliating defeat of a hitherto all-conquering President.

It is perhaps not too cynical to suggest that that was part of the attraction. But other motives were confused and contradictory. For some—the high-minded rather than the ruthless—excommunication was the only way to convince Pretoria of the error of its ways; white South Africans would feel the pinch and, putting wealth above racism, would force their government to change, thus effectively preventing the expected bloodbath. For others revolution was the solution, not the problem. Sanctions, they calculated, would so impoverish black South Africa that, with nothing left to lose, it would rise up against its fatally weakened white oppressors and thus usher in the Utopia where all men were equal in poverty and which would no longer make any claim on America's conscience (only on its purse). Those who felt a little queasy about inflicting further penury and deprivation on South Africa's black citizens were silenced with the answer that this is what South Africa's black leaders themselves demanded.

In any case, it was suggested, sanctions would be felt more keenly by wealthy whites than by blacks who had little enough anyway—a proposition that ignores the integration of the South African economy and the simple fact that if you take food away from a fat man he will suffer, but if you take it away from a thin man he dies.

Above and beyond all these considerations was the conviction that a successful transfer of power to the black majority was inevitable, if not imminent, and that it was important for America's long-term interest in a resource-rich region to "get on the right side of history"; failure to do so would hand the area over to Moscow and its surrogates. That belief was shared not merely by sanctioneers in Congress—Senators Kennedy, Simon, Lugar, and Cranston and Congressmen Wolpe, Solarz, Gray, Rangel, and Leland—but by state and municipal governments across the United States which, through boycott and threat of boycott, have at the latest count sent 170 American companies in South Africa stampeding for the exit.

But just how effective has the whole sanctions package been—disinvestment included? How have the promises survived more than a year of practice?

The first answer was not long in coming. President Botha cashed in quickly, using this unexpected American bonus to call and win an election in early May, calculating correctly that external threat would induce the white electorate to rally round the flag. In a country in which history has bred a strong strand of isolationism, he could hardly go wrong. But South Africa is not unique. Other histories have—or should have—instructed us that a people who believe their security is threatened will put that security above material considerations.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Botha, however, miscalculated in one important respect. His own attempts at reform—however, despised by the rest of the world—had weakened his image among his more conservative followers. If South Africa was under threat they wanted an even stronger man. The result was substantial gains by the far right-wing parties and the unseating of the liberal Progressive Federal Party (PFP) as the official opposition. Botha got the message, even if Congress did not. Far from making white South Africa more conciliatory, sanctions had merely fueled its intransigence.

Senators Simon and Lugar and Co. tried hard to conceal their dismay. The rise of the independent movement, the emergence of a few dissident nationalists on the left, and the over-sold meeting between some sixty white South Africans and the ANC leadership in Dakar proved, they claimed, that sanctions were working, albeit a bit more slowly than they had hoped. It was futile to point out that liberal Afrikaner disgruntlement had been growing since the 1970s; but attempts to use the dissidents as proof that sanctions were effective were the surest way to send most of them scurrying for cover—which they have. Meanwhile reform has ground to a halt, the far-right has grown in strength, and the only truly liberal voice in South African politics—the PFP—has been fatally weakened. It is a proud record for those who believed, or said they believed, that sanctions could change stubborn hearts and closed minds.

But surely all is not lost. Increased polarization of South Africa's fractured communities should at least please those who believed sanctions would hasten the revolution. The belief—fostered by savants of the left on Western campuses and played back to South Africa's embattled townships—that the battle was all but won was enough to persuade some, but by no means all, black South Africans to accept temporary deprivation to secure the final victory.

Today, they, the ANC, and even Moscow accept that this calculation was at least a few decades out. President Botha is not about to hand over the keys to the castle. Years of sacrifice for an uncertain goal may not disturb congressmen and senators, but they are not at the sharp end; those black radicals beginning to make a painful and sobering cost-benefit analysis, are. One painful discovery is that South Africa's whites, however politically uncertain they may feel, may have also been substantially enriched by measures that set out to impoverish them.

It does not require too much insight to discover why. As liberal South African businessman Tony Bloom commented recently: "South African companies have been able to acquire technology, management skills, brand names and market share that would have taken years to build." Of the nearly 170 U.S. companies that have quite South Africa in the last few years, more than half have sold out—at firesale prices—to South African companies or local managements, thus creating some 100 new instant millionaires, all of them white.

This unintended consequence predictably enraged anti-apartheid lobbyists who would have preferred a scorched-earth policy that would have turned thousands of black South Africans out of their jobs. A few departing U.S. multinationals have done just that, inducing profound second thoughts about the strategy among some of South Africa's black leaders. Most companies, however, have followed the pattern of General Motors, which sold out to local management which in turn promptly fired 500 black workers, removed itself from the Sullivan code enforcing social responsibility programs and integrationist work practices among American companies, and began selling its products to the South African government.

Indeed, the effect of disinvestment on the Sullivan code—and by extension on the welfare of South Africa's black labor force—has been startling, if predictable. From November 1986 until November 1987 the number of signatories dropped by half, as U.S. companies sold out to South Africans who believed they had no obligation in a depressed economy to set aside a considerable part of their profits on expensive social programs. But the code—which in its heyday made a significant contribution to the welfare of black communities—is not the only victim of the sanctioneers' zeal. Billions of South African government funds, which could be more creatively employed on building hospitals and schools and generally improving the quality of black life, have been spent on oil storage and an expensive home-grown arms industry—both legacies of earlier sanctions.

But isn't this precisely what the sanctioneers wanted? A withering of a diseased and isolated economy until blacks would rise up against the government, if whites didn't do it first. Once again, the practice has defeated the promise. After years of stagnation brought about not by external action but internal mismanagement, the South African economy is beginning to grow again, however slowly. One reason has been the low exchange rate of the South African rand—induced by the flight of American banking capital—which has made South African exports more competitive on world markets. Another has been the swing to import substitution and the growth of a new sanctions-busting industry and businessmen seek to replace lost markets. It should come as no surprise that South Africa's external trade showed a net increase in the past year, with Japan becoming South Africa's top trading partner. Undisturbed by moral considerations, Taiwan, Singapore, and South Korea have also rushed in to fill the vacuum left by the United States while there is no doubt—and a great deal of evidence—that East bloc countries have not allowed their support for the African National Congress to outweigh their need for hard currency. So much for sanctions securing American influence in a post-apartheid society.

Thus far, then, the only losers in the sanctions game have been black South Africans themselves. Figures on the number of job losses as a result of sanctions and disinvestment are imprecise at best. What is known is that in four sectors of the South African economy alone, a quarter of a million South Africans have lost their jobs in the last three years through sanctions and economic recession. Of the 600,000 who enter the labor market each year few, if any, will gain full-time employment. As each wage earner supports approximately six dependents, the scope and scale of the suffering is immense.

And again, isn't this what black South Africans themselves have demanded? The answer is no. In one opinion survey after another, irrespective of who has framed the question, the response has remained constant: only 25 percent are in favor of sanctions and disinvestment if this means that they will suffer personal hardship. These results were reflected again in a recent German poll that went over the heads of the radical National Union of Mineworkers to put the question directly to workers in South Africa's coal industry. The discrepancy between the opinion of the union executive and its members is not difficult to explain. The NUM leadership, like that of other radical black unions in South Africa, believes that capitalism is the ultimate enemy of the socialist state it seeks to install and is willing to sacrifice its membership to destroy it.

Other unions, however, have proved a little more willing to temper their ideology in the interests of their members. In a case that should be familiar in the United States—courtesy of Congressmen Wolpe and Gray—Ford Motor Company engineered an unusually graceful pull-out from South Africa after threatened boycotts of its products by U.S. state and city governments had made the choice inevitable.

Faced with the option of sacrificing 4,500 jobs with the close-down of Ford's South African plant, or modifying its stance on capitalism, the National Union of Metal Workers of South Africa agreed to a deal whereby 18 percent of Ford's 42-percent South African holding went to Ford's partner, the Anglo American Corporation, and the remaining 24 percent went to the workers themselves in a unique share offer, the dividends of which would be plowed into black community welfare projects. Moreover, for the first time in history black workers will join management on the board of a South African company. To keep its former plant open, however, Ford agreed to transfer $64 million to discharge the company's debts.

It was then that Mr. Gray and Mr. Wolpe woke up and, studiously ignoring the wishes of the very unions they have so assiduously cultivated in the past, tried to block the transfer under the sanctions ban on new investment in South Africa.

Their efforts, however, pale into insignificance beside the work of Congressman Charles Rangel who, while the Administration slept, quietly slipped the most savage sanction yet into the Budget Reconciliation Act, imposing double taxation on the 100 or so U.S. companies still operating in South Africa. Faced with a bill of $57 million most, if not all, will eventually decide to pack up and go home.

It was indeed a savage sanction, but savage for whom? Not for South African business, to whom Rep. Rangel gave the best present in years: a golden opportunity to snap up another rich harvest of American bargains at giveaway prices. But it was a gloomy Christmas for thousands of black workers whose jobs will be imperiled, and it offers an even more dismal prospect for those South Africans who cling to the belief that American influence is a force for good. Influence entails presence and there will, through Rangel's cunning contrivance, shortly be no American presence in South Africa.

Of course, the congressman and his fellow believers are not and never have been interested in influencing events in South Africa. Their overriding interest is influencing the American voter, who has been convinced, largely through their efforts as transmitted by an applauding press, that opposition to sanctions is analogous to racism.

There are those who would argue that it is racist to take from the black and poor and give to the rich and white; that it is racist to ignore the wishes of black workers; that it is racist to deprive black men of their jobs and condemn their families to penury, to strengthen South Africa's white rulers in their intransigence, and to deprive the United States of any means to persuade them otherwise.

But the people who might begin to say such things are poor and far away. And they do not vote in the United States.

TRIBUTE TO ADELINE (DEL GENIO) CARELLI

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to mourn the passing of an outstanding Nevada community leader and participant, Adeline (Del Genio) Carelli.

Born in Chicago, IL, on December 11, 1910, Mrs. Carelli later moved to Las Vegas, NV. Adeline was married to Dr. Paul V. Carelli in 1936. Mr. and Mrs. Carelli shared three lovely children. She was a devoted mother and grandmother. Her eldest son Paul V. Carelli III, is an outstanding Las Vegas attorney. Her son Michael, and daughter Carol Ann are school teachers in Chicago, IL. Her grandson, Paul Carelli IV, attends Notre Dame University and grandaughter Nicole is a senior at Santa Catalina Prep School in Monterey, CA.

Adeline Carelli was an active member of the Las Vegas community, she was a participant in the St. Giles Church Guild, the Clark County Medical Wives Auxiliary. Prior to her move to Nevada she was a member of the Chicago club.

Mrs. Carelli donated many long hours to the community through St. Anne's Hospital Medical Auxiliary, Loyola University Women's Auxiliary, Trinity High School Mother's Club, and the Champion High School Mother's Club.

As a woman with a great interest in the world, she took every opportunity to travel, visiting much of the world and sharing her experiences with her loved ones.

In her large circle of friends and acquaintances she was more commonly known as the Grand Lady.

My wife, children, and myself had known Mrs. Carelli for over 20 years. We know that the loss to her family and friends will only be lessened by the memories of her deeds and kindness left behind.

Mr. Speaker, I ask you and my colleagues in the House to join with me now in recognizing this outstanding individual taken from her family and the Nevada community. Adeline Carelli's absence will be sorely felt by all members of the Las Vegas community.

THE SECOND ANNIVERSARY OF THE NEW JERSEY BUREAU OF HISPANIC ENTERPRISE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. COURTER. Mr. Speaker, 2 years ago, the Governor of New Jersey, Tom Kean, had the vision to found the first State-sponsored Bureau of Hispanic Enterprise in the 50 States of the United States. As Commissioner Borden R. Putnam, of the New Jersey Department of Commerce, Energy and Economic Development, announced at the time, the Bureau's creation fulfilled a promise made by Mr. Kean to the Garden State's vibrant Hispanic community during his 1985 re-election campaign. It is also another example of Governor Kean's "Politics of Inclusion" put into successful practice.

The Hispanic population of New Jersey, including that of Portuguese origin, is among the fastest-growing in the country. The size of that community is estimated at more than half-a-million—representing about 10 percent of the entire population of the State. Hispanic-American enterpreneurs, indeed, have been credited for revitalizing previously depressed urban areas, notably in Newark and Elizabeth, and in the northern municipalities of Hudson County. Moreover, they have created thousands of jobs and have erected an economy of several billion dollars.

The Bureau of Hispanic Enterprise's main purpose originally were to advocate for and stimulate Hispanic business investments and expansion, as well as to gather and disseminate information to, and about, the New Jersey's Hispanic ethnic business sector. But in 2 years, the bureau has established an extraordinary record of achievements that has surpassed the original expectations.

Under the leadership of Bureau Administrator Roland A. Alum, the Bureau has served more than 1,200 clients, has helped create or save more than 150 jobs in the private sector, and has attained a nationwide and international reputation, all accomplished within the boundries of a carefully drafted budget.

Time has proven that the Kean administration made an excellent decision in choosing Mr. Alum, a former university educator, to head the bureau. He is well known to the New Jersey Congressional Delegation and the Washington think-tanks. Under his leadership, the bureau has expanded its services to the Portuguese-American community and has taken upon itself to strive for increasing the positive public image of Hispanic enterprises.

In recognition of his civic record, President Reagan's administration has appointed Mr. Alum to membership in the State's Advisory Commission to the U.S. Civil Rights Commission, of which he was elected vice-chairman, and to the National Advisory Committee to the 1990 Census, of which he is the only New Jersey member. Senator HATCH has also selected him for the Senate Republican Task Force on Hispanics.

I ask to have printed in the RECORD three different articles reflective of the mission and successes of the New Jersey Bureau of Hispanic Enterprises: First, the first one is a Letter to the Editors of Insight Magazine, written by Administrator Alum, which he entitled "The Little Havana of the North." Second, the second one is the pre-publication version of an article, also authored by Mr. Alum, to be published in Hispanic Entrepreneur, a new national magazine in Washington. Both of these pieces relate the spirit of innovation and entrepreneurship displayed by Hispanics, the same characteristic that motivated previous major immigrant groups to make this country so great. Third, finally, the third one is an article published in Clamor, an international Texas-based bilingual periodical which also circulates as a newspaper insert throughout the country's Hispanic enclaves. This article, "New Jersey Promoting Hispanic Enterprises," does justice to Governor Kean's commitment to foster equal opportunity to all Americans and to his sensitivity toward the community of Latin American and Iberian background. This last writing also highlights a unique public-sector program aimed at stimulating self-sufficiency in the private sector. The New Jersey Bureau of Hispanic Enterprises, indeed, is a cost-effective office, a program that works by all standards, and which has become a national model, a beam to be imitated.

I am proud of the New Jersey Bureau of Hispanic Enterprise and wish it continuous success upon its marking 2 years of existence. I also pay tribute to the foresight of the Governor who took the bold initiative to establish it and lend it support. Mr. Alum's and the Clamor articles follow:

"THE LITTLE HAVANA OF THE NORTH"

Congratulations for the two stories on conditions in Cuba and on Cuban exiles in Miami [Cover Story, Feb. 29].

Attention, however, should also be paid to the record of Cuban emigres elsewhere. Hudson County in New Jersey harbors the largest concentration of Cuban-Americans outside Miami, the "Little Havana of the North."

In the 1950's the municipalities of Union City and West New York were better-known for their burlesques than for their garment industry. By the time the mass exodus of Cubans escaping from Castro's presumed paradise arrived here in the early 1960s, the area was losing business and population.

It took barely a couple of years for Cuban-born entrepreneurs to unboard the storefronts, open up family coffee shops and convert the seamy burlesques into for-profit day-care centers and private English schools. The now-famous Bergenline Avenue ("The Calle Ocho of North") has become a veritable "Miracle Line," an example of what George Gilder has called "urban redevelopment Cuban-American style."

The Cuban exiles prove that old-fashioned pessimists are out of touch with reality. The successes of the ethnic enclaves confirm that Castro's losses are our gains.

ROLAND A. ALUM JR.,
Trenton, N.J.

THE NEW MEANING OF ENTREPRENEURSHIP

[For: Hispanic Entrepreneur]

(By Roland Armando Alum [1])

Austrian-born Peter Drucker enjoys a reputation as a leading analyst of the U.S. society despite—or perhaps especially because—of his foreign origins. In fact, he has been dubbed a contemporary Alexis deTocqueville. At the same time, he is considered the father of the inter-disciplinarian field of management. In his latest two books, "Innovation and Entrepreneurship" (1985) and "The Frontiers of Management" (1986),

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[1] The author, formerly in the faculty of the City University of New York, is the Administrator of the New Jersey Bureau of Hispanic Enterprise, the only agency of its kind in the country, which was founded by Gov. Thomas H. Kean in 1986. Parts of this article are synthesized from a presentation delivered at the Hoover Institution of Stanford University on October 5, 1987. (The opinions expressed here are exclusively those of the author).

Drucker interprets and synthesises contemporary North-American management theory and practice, all within the framework of the free-market economy and the open society. Obviously, these are topics of primary interest to the readers of Hispanic Entrepreneur, our new magazine for the Latino business sector.

Analyzing the economic dynamics of capitalism, Drucker refutes some of the self-appointed "prophets of doom of recent years," as he calls them, who have "bemoaned the de-industrialization" of our country. Indeed, he notes that of all recent new businesses, half are still in manufacturing. While premature requiems were being held for the "Frost Belt," and while rites de passage were being staged for the "born again Sun Belt," only one-third of the new companies turned out to be in the southern and Western States. Actually, the northeastern States—notably New Jersey—are enjoying a remarkable economic, social and cultural renaissance, outstripping the rest of the country. As a philosopher Karl Popper would say, Drucker contrasts idealized ivory-tower pontification with empirical reality.

New Jersey, indeed, has seen some two million new jobs created since about 1982. That is more new job opportunities than in Western Europe and Japan put together. Unemployment in the Garden State is below the all-time record low national average. We are actually importing workers from as far away as Texas. The statue has become a showcase of economic recovery in a short period, fitting well into Drucker's economics observations.

One of Drucker's most notable contributions is his argument that real "technology" is driven not by electronics or new materials, but by "entrepreneurial management." Admittedly, its emergence is as much a cultural (i.e., anthropological) and psychological event, as it is a technological (or economic) one, facts that are not well understood yet by many.

He regards innovation as specifically the way for entrepreneurs to "exploit change" as an opportunity for a different business or service. Many of the franchising chains, such as McDonald's—or Casa Lupita, or La Tablita, for that matter—have not really invented anything; but these companies have combined different business concepts and have created profitable markets and new sources of employment. Likewise, as H.E. has noted in previous issues, that is precisely what Latino business people are doing all over the U.S.A.

Following the influential German economic thinker Joseph Schumpeter (1883-1950), Drucker then conceptualizes entrepreneurship as almost tantamount to innovation. As such, many large corporations may qualify as bona fide entrepreneurial. He cites General Electric as an example; one could think also of Coca-Cola under the chairmanship of Roberto Goizueta, and of Pepsico under Roger Enrico, the two bottling giants.

Of particular importance for Hispanics interested in business and management is that while much still remains to be learned about the management of the "knowledge worker," the entrepreneur does not have to be an owner, investor or employer, although these conditions may help. He/she may mobilize what real estate professionals call "OPM"—other people's money (and/or workforce)—for allocation to areas of higher yield. One essential element of that activity is the commitment of present resources to future expectations, a process that involves the "bourgeois" value of "delayed gratification" and the capitalist characteristic of risk.

In his assessment of the way in which new management approaches have developed, Drucker further dissents with elegant gusto from the views of David Riesman, Herbert Marcuse, and other popularized "gurus" of the 60's and 70's. Drucker warns that the rise of professional management—as a "social technology"—is not to be confused with the "worship of government centralization and planning." Actually, he warns that such centralization has been proven historically to create further dependency on a not-always-benevolent but increasingly ubiquous bureaucratized state, as many Latin Americans can testify from personal experience.

Since he finds macro-planning incompatible with an entrepreneurial economy, he rejects "industrial policy" of the sort now found in some countries in Europe and Latin American, and which politologist Robert Reich has proposed for the U.S. in his controversial book, "The Next American Frontier" (1983). Such proposal, Drucker argues, "is a delusion" that provokes "oceans of red ink, . . . but neither jobs not technological leadership." On this too, Latin American immigrants can offer vivid testimonies to the failures of statism masqueraded under whichever political wing rhetoric in their respective native lands, be it Cuba, Argentina or Peru.

Prof. Modesto Maidique—who is now president of Florida International University in Miami—noted in a 1983 review of the new management literature, that the perceived decline of U.S.'s competitiveness in the 70's prompted a serious questioning of hitherto accepted "sacred cows" in management theory. For example, corporate strategy is now considered a passe "American peculiarity" that should be defied by true entrepreneurial managers. To put it in Drucker's words, innovation needs to be "decentralized, ad hoc, autononic, and microeconomic." Drucker's approach thus has applicability to the private, public and nonpublic sectors alike.

Another hopeful sign for people of all ages and backgrounds is that entrepreneurship, as newly interpreted by Drucker, is not genetically transmitted; nor is it a personality, ethnic or culture-bound trait. It is learnable behavior that rests on the theory of economy and society, rather than on haphazard intuition or sheer luck. In other words, on principle, entrepreneurship has universal applicability, and we could all practice it.

When in 1831 the French writer deTocqueville visited the then still young North-American republican experiment, he wrote in his classic book, "Democracy in America" (1848), how he marveled at its economic vitality. Since then, foreign visitors and foreign born Americans—like Drucker himself as well as millions of Hispanic immigrants—have continued to admire and become part of our energetic system. By way of contrast, some in this country still cling to the anachronistic and pessimistic notion that the entrepreneurship that improved our quality of life, that made the country so prosperous and a world model, is no longer possible. If that were the case, it would be too bad, since it is now that Hispanic-American entrepreneurship is being "discovered," as the U.S. Hispanic Chamber of Commerce insists. More than one-quarter-million Hispanic firms constitute our best evidence.

The new retrograde fatalists, not coincidentally, are among those who want to "protect" North America's markets from foreign material goods, from Latin immigrants (meaning producers and consumers), and from what they mistakenly consider "offensive alien cultures and languages." One example of that embarrassing position is the pseudo-liberal former governor of Colorado, Richard Lamm. In his controversial doomsaying book, "The Immigration Time Bomb" (1985), Lamm forgets that the ancestors to many Latinos in his own home state, which ironically carries a Spanish name by no coincidence, reached that area before the Pilgrim's landing, at a time when Spain's imperial domains spread to the Mississippi and Florida.

One is reminded of the film "Alamo Bay" (1985). "Based on a true story," as the movie was advertised, it tells the saga of a Vietnamese enclave in a southern Texas fishing town on the Gulf of Mexico, and the interethnic conflicts that ensued. While the Asian refugees fished as employees, they were tolerated by the local bigots; but all of the sudden hell broke lose.

The revealing point in the picture is when one of the local rednecks explains: "We thought the Vietnamese only wanted to work . . . for us; but now they want to buy their own boats!" Thus, the foreign newcomers' entrepreneurship turned them into competitors, a condition that pushed animosities to the edges of conflict and which provoked the local white sheeted Ku Klux Klan to resurface and chase out the newcomers.

That un-American and veritably regressive mentality—so visible also in the Congress that passed the onerous Simpson-Rodino Immigration Act, incidentally—makes our capitalist, free trade, and human rights talk look spurious to the rest of the world. It also reveals a profound ignorance of history and a misunderstanding of entrepreneurial economics. As Prof. Ivan Light has demonstrated in "Ethnic Entrepreneurship in America (1972), as well as famed Black economist Thomas Sowell in "Ethnic America" (1983), businesses of an ethnic/immigrant nature have been crucial to the economic evolution of the U.S.

New Jersey, again, is a good example. The Garden State is the seventh state in the number of Hispanic businesses, with 7,000 firms producing over one-half billion dollars annually. It is about the fifth state in Hispanic population with over 600,000 Hispanics, including close to 100,000 Portuguese-Americans. An urban revival and the internationalization of the commercial and cultural life have been attributed largely to Hispanic entrepreneurship in the northern half of the state, notably in the Ironbound section of Newark (along the Ferry Street corridor), in Elizabeth (along the Elizabeth Avenue strip), and in the northern municipalities of Hudson County—along the Bergenline Avenue tracks (through Union City, West New York, Weehawken, Guttenberg, and North Bergen).

More recently, author George Gilder (in "The Spirit of Enterprise," 1984), and Hoover Institution policy scholars Lewis Gann and Peter Duignan (in "The Hispanics in the U.S.," 1986), happily note how millions of U.S. Hispanics continue to demonstrate what over a century ago deTocqueville envisioned as this country's "clear, free, original, and innovative [meaning entrepreneurial] power of mind . . ." Let us continue improving on them and further prove the apocalyptic pessimists wrong.

New Jersey Promoting Hispanic Enterprises

(By Federico Schaffler-Gonzalez)

Hispanic business is on the rise in the US, not only on the cities or areas with a high Latino population density, but also in others where mostly non-Hispanic enterprises concentrate.

One of such places is New Jersey. The Bureau of Hispanic Enterprise (BHE) has helped untangle, grow and promote around 10 percent of the Latino business and products in the Garden State in less than two years since it was formed.

Headed by Roland Alum, who has extensive academic and practical background in business, law and foreign policy, the BHE is the fulfillment of a promise made to the Hispanic population of the state by Gov. Thomas H. Kean in his reelection bid of 1985.

"New Jersey has over 600,000 Hispanic. That is almost 9 percent of the total population. It's the fifth largest Latino population in the country and we have over 7,000 Hispanic and Portuguese businesses in our state. Our bureau is a must in our community", said Alum in a recent telephone interview.

Their duties range from finding phone numbers for businessmen to translations, government-related paperwork, cutting red tape, smoothing cultural and language barriers and informing about immigration problems, among many others.

"Most of the business in our state are small, family-run, with meager budgets and incomes, except two or three big enterprises, among them Goya Foods, that is the biggest Hispanic-owned business in the country. Our job is to try to help out in whatever way is possible", said Alum.

Alum mentioned that language and cultural barrier are a serious problem for the officers of most of the 7,000 businesses within the scope of the BHE. "Over half of them either do not speak English fluently or are unable to communicate with bureaucrats and thus cannot fill accordingly licenses and application forms. It's a real handicap for them. A frustrating limitation".

The BHE will mark its second anniversary this month and expects to continue growing in their service. Alum is highly out-spoken and proud of his office and the fulfillment of Gov. Kean's promise.

"It's not often that you see this kind of bureau created out of a political promise from a candidate. Gov. Kean is unable according to New Jersey's laws to seek a third term but nonetheless created the BHE shortly after he was reelected", he said.

The BHE is the only state-sponsored office of its kind in the country and its motto is a takeoff on Kean's tourism theme "New Jersey and Hispanic businesses-perfect to together". It was originally set out to help 250 businesses and has multiplied its expectations in less than two years.

Alum commutes four hours a day to his office in Trenton from his home in West New York and is extensively involved in Hispanic affairs and programs.

"I really think it's a privilege to do what I'm doing. This is like having my own business. I love doing it", said the Cuban native who was a Fulbright scholar in Santo Domingo in the late 1970's.

The goal of the BHE is that Hispanic enterprises don't collapse or fail. We try to help and encourage investment and expansion. We keep small businesses informed on regulations and benefits they are entitled to from Federal, State and Municipal sources.

"The creation and operation of the BHE is a good investment for New Jersey taxpayers, vis-a-vis our accomplishments, including jobs saved and created. We are both proud and optimistic and expect to reach out and help more and more Latino businesses every day", Alum said.

MELVIN FEUER HONORED

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to set aside this time to recognize Mr. Melvin Feuer of San Bernardino, CA. Mr. Feuer will be honored for his career achievements at a retirement dinner on May 19, 1988. I would like to honor him today by saying a few words about his accomplishments during his distinguished career.

Mr. Feuer was born in Baltimore, MD, on May 20, 1923, and raised in Cleveland, OH. After the outbreak of World War II, he enlisted in the Army Air Force. Mr. Feuer was shot down during aerial combat near Krems, Austria, and was a prisoner of war at Stalag 17 for the remainder of the fighting.

After his discharge from the Air Force, Mr. Feuer attended the University of Redlands where he graduated cum laude with a degree in German. In addition to earning his bachelor of arts, he also received the award of Outstanding Senior Man and his master of arts in educational administration. Mr. Feuer then began graduate studies at the University of Zurich, Switzerland. He later studied at the University of Washington, Seattle, where he was also an instructor; and the University of California at Los Angeles, where he also worked as a teaching assistant.

Thirty-six years ago Melvin Feuer began his career teaching in the San Bernardino City Unified School District. During his distinguished career as an educator, he has not only been honored for his teaching achievements, but for his strong dedication to the community and commitment to the city's youth.

As an educator, Mr. Feuer spent his first 4 years teaching and the last 32 as an elementary school principal. His achievements as principal have included serving as president of the Elementary Principals' Association and as team leader in the area's Desegregation and Integration Program. He was also an early leader in the school district's Character Education Program emphasizing responsibility and positive values. For his accomplishments, Mr. Feuer was featured in Parents Magazine when Harding Elementary School proclaimed National Principal's Day in his honor.

As a community leader Mr. Feuer has been involved in such organizations as Kiwanis, the Y.M.C.A., and Emmanuel Temple. He has also participated on committees, conferences, and presentations at California State University, San Bernardino. In the Kiwanis Club of East San Bernardino, he has served as president and board member and has received the Legion of Honor and Kiwanian of the Year awards. He is an officer and board member of the Y.M.C.A. and has received the Citizen of the Year and Outstanding Service awards from that organization. Further, he is an officer and board member for the Temple Emmanuel and teaches Sunday school there. Throughout these 36 years as an educator and community leader he has been married to his wife, Stella, and has helped raise three sons.

Mr. Speaker, I ask that you join me in saluting Mr. Melvin Feuer. He serves as an outstanding example to us all for his dedication to this school and community. While his presence in the school will be greatly missed by all, his many contributions will serve as a reminder of the truly remarkable man he is. It is with great respect that I pay him tribute today.

NISENSON THE HATTER CELEBRATES 100 YEARS IN NEWARK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. RODINO. Mr. Speaker, on March 12, 1888, Abraham Nisenson began a hat business, which he named Nisenson The Hatter, in Chester Row on Halsey Street in Newark, NJ. Despite the fact that this opening coincided with the great blizzard of that same year, Nisenson The Hatter weathered this storm and many others that followed to become one of the oldest retail hat stores in the United States and a familiar landmark in the city of Newark.

Although fashion and business changed, Nisenson The Hatter continued to thrive. From the silk hats of the early 1900's to the sporty caps of today, the Nisenson family have sold hats to the famous and the not so famous. This has included leading political, judicial, theatrical, sports, and financial figures. Among those celebrities who wore hats purchased at Nisenson The Hatter were Woodrow Wilson, Irving Berlin, George Jessel, and Jimmy Durante.

Today, Nisenson The Hatter, which is now located on William Street in Newark, is operated by Nat Nisenson and his son Arthur—the fourth generation of the family to direct this business which is still solely operated by descendants of the founder. What has characterized this business for the past 100 years is the high quality of its merchandise and an enduring dedication to serving its many loyal customers.

As a friend and a customer, I want to congratulate Nat and Arthur Nisenson on 100 years of business. This important occasion will be marked by a special centennial celebration on April 14. This is truly a milestone and a tribute to the hard work and perseverance of the entire Nisenson family. They have earned the gratitude of all the citizens of Newark for their unwavering commitment to our city. Through good times and bad, Nisenson The Hatter has continued to enrich our community with its long tradition of service.

Mr. Speaker, with your permission, I would like to include in my remarks an article from the Newark Star Ledger highlighting the history of Nisenson The Hatter.

[From the Newark Star-Ledger, Apr. 3, 1986]

ANOTHER MILESTONE FOR THE "NOT VERY" MAD HATTER

(By Mark Finston)

For 57 years, Nat Nisenson has been selling hats. He started his career in the store founded by his grandfather in 1931. So even Nisenson, now 73, doesn't personally remember the big business known as slicking.

Nisenson the Hatter, on William Street in Newark, will celebrate its 100th birthday this year, an industry publication has designated the establishment as the oldest retail hat store in the country. And until 1920, slicking was a big part of the business.

The process involved silk hats. Silk hats were the rage when Nisenson The Hatter opened in 1888. Once a week, men would bring in their silk hats to be smoothed with a hot iron; the process made the hat look slick, shiny, new. The price charged was 10 cents.

Around 1920, says Nat Nisenson, men stopped wearing silk hats. Today, only magicians wear silk hats. Still, it's conceivable that someone might drop in to get his hat slicked, the first such request in 68 years.

"I'd do it," says Nisenson, who lives in Springfield. "But I don't know what I'd charge."

Nisenson, assisted by his 41-year-old son Arthur (whose license plate reads HATS-1,) is preparing the 100th birthday celebration for the store. The party, scheduled for April 14, was delayed a month from the real birthday so that no one will experience the same sort of weather Abraham Nisenson was socked with when he first opened his doors on March 12, 1888. Blizzards tend to blow hats off heads.

Guests will see fading pictures of dignitaries who needed hats in the old days; Woodrow Wilson purchasing a top hat for some inauguration, Irving Berlin—born just two months after Nisenson The Hatter opened—donning a silk hat. The vaudeville team of Jackson, Clayton and Durante used up many hats on stage, and when they visited Newark, then a stop on the circuit, always dropped in for additional headcover. There's a 1930 photo of the be-hatted trio of Jimmy Durante, Eddie Jackson and Lou Clayton with a message to Charlie Nisenson, Nat's father: "We hope we get as much wear and tear out of Jimmy's nose as we do out of your hats."

Durante lasted much longer than the silk hat. Nat Nisenson says silk hats started to lose their shine around 1912. They blew off too easily, and not only in blizzards. They hit the roofs of those new-fangled inventions called automobiles. It was hard to keep them looking nice, and many a brother couldn't spare a dime to get his hat slicked weekly.

The derby, the hat that replaced stiff silk, was firm but lower in height, just the thing for a Model T. And a derby required no ironing.

But around 1932, the derby was no longer king of the dome.

"People wanted a softer type of headgear," says Nisenson. "The felt hat was more comfortable, more pliable. It was easily cleaned, and there were many more colors to choose from."

The silk hat and the derby were manufactured only in basic black. Felt hats were sold in black, gray and brown, not exactly peacock hues, but still an advance. Moreover, felt hats were considerably cheaper than the styles they quickly supplanted.

If Nisenson weren't wearing his hat, he'd scratch his head when asked about the styles that represented the equivalent of the 1988 mini-skirt: Hats that bombed. There weren't many.

In the late 1960s, the diamond-shaped hat proved that diamonds are not a hatter's best friend. Sales didn't sparkle. And the Robin Hood hat, a variation of the Swiss yodeling hat, didn't generate much interest here; apparently, few in New Jersey were interested in robbing from the rich and giving to the poor.

Sombreros, cowboy and safari hats never knocked many Newark noggins.

And the fact is, a great many men have given up wearing hats at all, even to formal affairs. Business is a far cry from those heady days 60 years ago when 18 salesmen were employed on Saturdays at Nisenson the Hatter.

There are a number of reasons. One is the ever-lasting complaint with low car roofs. And there's the less formal lifestyle; Nisenson is aware that many men have given up wearing ties.

"And there are hair styles," says Arthur Nisenson, who owns 40 to 50 hats, from safari to dress. "Men feel they don't want to mess up their hair with a hat. I suppose that started when hair styles replaced hair cuts."

Moreover, the number of places to get hats cleaned and blocked has declined. Presumably, men would stop wearing suits too if most dry cleaners were to close their doors.

In many instances, caps have replaced hats. Caps are half the price of hats, easier to carry, far more colorful and many are hand washable.

There are fashion doomsayers who predict that someday the necktie will be as extinct as the white tie. But Nisenson never sees a day when the first element in Irving Berlin's fashion trio of top hat, white tie and tails will be extinct.

"Man will always have something on his head," Nisenson declares. "You're always going to have to protect your head against inclement weather, cold weather, sun."

He admits that if someone had told his Abraham Nisenson in 1888 what the store would contain in 1988, "He would have said, 'You're crazy.' There was such a demand for silk hats, he couldn't envision that demand would ever end."

If one of Nat Nisenson's five grandchildren should continue in the hat business, Nisenson would be as hard-pressed as his grandfather to predict what hat styles will be like 100 years hence.

But unlike Abraham Nisenson, Nat wouldn't characterize anyone who came up with a heady prediction as a mad hatter.

"I know something my grandfather didn't," he says. "When you're dealing with hats, anything can happen."

He still keeps an antique iron around, just in case someone arrives in a silk hat and requests the lid be slicked.

THE REPORT CARDS ARE OUT, AND HERE'S THE HONOR ROLL AND THE SUSPENDED FROM SCHOOL LISTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. STARK. Mr. Speaker, the monthly magazine, Washington Monthly, recently published a thorough analysis on the best and worst public interest groups working in the Nation's Capital. The article, written by an excellent writer, Rita McWilliams, should be required reading for lawmakers, lobbyists, and enlightened constituents. As the article states, "The successes of the best and the disappointments of the worst offer important lessons for those committed to the public's true interests."

I've excerpted the references to best public interest group, Citizens for Tax Justice, and the worst public interest group, the National Committee to Preserve Social Security and Medicare.

THE BEST AND WORST OF PUBLIC INTEREST GROUPS

(By Rita McWilliams)

Twenty-five years ago a young Lebanese-American set up shop in Washington, D.C. Like those of most young entrepreneurs, his was a shoe-string operation. He became famous when the press discovered that his adversary, one of the nation's largest and wealthiest corporations, had sent a private eye out searching for ways to discredit him.

A quarter century has passed since Ralph Nader began his successful crusade against General Motors's deathtrap, the Corvair. Before Nader was finished, he had revolutionized the auto industry, instituting the use of shatter-resistant glass, shock-absorbing bumpers, collapsing steering wheels, and seat belts.

But more importantly, he had changed the way Washington works.

His example activated citizens across the nation to fight the corporate world, the oppressive politician, the high-paid influence peddler. Today more than 2,000 groups champion a variety of causes "in the public interest." Public interest victories have put nonsmoking seats on commercial airplanes and nutrition labels on soup cans and cereal boxes. They have put smoke detectors in apartment buildings, flame-resistant clothing on children, and cleaner air in the cities and countryside.

After 25 years, this industry retains a powerful, if little-examined, position in the policy-making process. The influence of the public interest industry, and the inevitable conflicts about what constitutes "the public interest," invites a scrutiny of its work. What are the best public interest groups? What are the worst?

The manner in which public interest groups go about their work is particularly important, since they usually fight opponents with more money and manpower. Public interest groups have to rely on powers of moral persuasion. They have to be savvy about creating new constituencies for their cause and mobilizing public opinion.

At their best, public interest groups are fair and ethical; their strategies are smart, and their goals are worthy. They are intellectually honest. They use statistics to their advantage, but without lying. Their work challenges the public to think, and sometimes challenges even the groups that fund them.

The worst public interest groups alienate the public rather than rally it to their cause. They use deceptive tactics that exploit the public's fears or hide their true intent. They enrich themselves at their members' expense. With moral credibility the industry's most precious capital, the work of the worst public interest groups threatens all those who share the public interest label.

It was not possible to examine the work of each of the 2,000 public interest groups in Washington. The following list was drawn from interviews with reporters, lobbyists, congressional aides, political scientists, and public interest leaders. It shows the kind of work to which public interest groups should aspire, and the kind which it should seek to avoid. The successes of the best and the disappointments of the worst offer important lessons for those committed to the public's true interests.

THE BEST

Citizens for Tax Justice: Groups that take on rich and powerful adversaries have to find ways to promote their cause and create new constituencies. Citizens for Tax Justice did just that. The group's determined research found that some of the nation's largest corporations paid no taxes. CTJ's savvy and fearless promotion of its findings, even when doing so made its own board members uncomfortable, helped create outrage that cut across ideological lines. This work helped set the stage for one of the most dramatic defeats that special interest groups have ever suffered: the 1986 overhaul of the federal tax code.

As a result, most Americans will pay significantly lower taxes this year—an average of $531 less for families earning between $20,000 and $50,000—and six million of the nation's poorest families have been removed from the tax rolls altogether.

CTJ was founded in 1979 in reaction to California's Proposition 13, which cut the state's property taxes and, with them, government services. With backing from labor unions, CTJ's original aim was to stop similar movements that would lay off government employees and cut services elsewhere.

The group's role in tax reform began in 1984 with Robert McIntyre, a Nader-trained lawyer who projects the image of a hard-nosed investigative reporter. Smart and serious, McIntyre seems more comfortable prowling document rooms than buttonholing legislators in hallways. He spent the summer of 1984 extracting tax data from the annual reports of the nation's largest businesses. McIntyre found that 128 large corporations had avoided paying federal income taxes in at least one of the three previous years, despite billions in profits. Then he named names. When CTJ issued a report called "The Top Ten Corporate Freeloaders," the media couldn't resist. Newspapers across the country highlighted stories about freeloaders like General Electric and Anheuser-Busch. Editors at *The New York Times* liked the part about defense contractors so much they ran it twice, by two different reporters.

THE WORST

National Committee to Preserve Social Security and Medicare: "Urgent! Important Social Security and Medicare Information Enclosed," screams the official-looking envelope. "Attention Postmaster: Time Dated Official National Committee Documents Enclosed. Expedite for Immediate Delivery."

No one knows how many elderly citizens receiving this fundraising appeal confuse it with a real letter about their Social Security or Medicare benefits. But the National Committee to Preserve Social Security and Medicare knows one thing: this kind of letter raises big money, some $90 million so far.

The letters always ask recipients to "save the Social Security system" by sending money to the National Committee. Sometimes the Committee does such a good job of imitating the government's letters that the elderly show up at local Social Security offices to pay what the letter seems to demand in order to keep benefits coming.

The National Committee is headed by James Roosevelt, the eldest son of FDR. He regularly invokes his lineage in the National Committee's letters. "Never in the 51 years since my father, Franklin Delano Roosevelt, started the Social Security system . . ." is his typical opening pitch. Invariably, what follows is a breathless description of some dastardly plot he has uncovered to do away with the Social Security and Medicare programs. "Act now," he says. Sign the enclosed petition and send $10 to become a member. "I will be very disappointed if you don't join," he adds in a P.S.

These misleading fundraising techniques have drawn fire from many members of Congress. Lawton Chiles, chairman of the Senate Budget Committee, has co-sponsored legislation with Republican Senator John Heinz of Pennsylvania that would force the National Committee to state in large print that its mail is not from the U.S. government. They drafted the bill after the National Committee sent an especially misleading letter implying that the Social Security fund would go broke unless contributions were made immediately.

Chiles, a Florida Democrat, found that those who could afford it least had given hundreds of dollars to the National Committee and that the group did little in Washington. A House investigation of the group concluded most of the funds went to a California direct mail firm, Butcher-Forde.

To counter the criticism that the Committee was invisible in Washington, it hired 13 lobbyists last year and moved into plush penthouse quarters on K Street's lawyers' lane. Then it began lobbying Congress with the same scare tactics it had used to shake down the unsuspecting elderly. Lobbyists delivered the names of nearly eight million Social Security recipients who, the Committee claimed, had signed petitions opposing Social Security cuts. The Committee did not say these "petitions" were part of fundraising gimmicks the Committee had been using for years.

Franklin Roosevelt's most important advice to the American people was to tell them they had nothing to fear but fear itself. He knew that a frightened citizenry was not a wise citizenry. His son James has exploited the corollary; a frightened citizenry is easily bilked.

"To actually attach names to those who avoided taxes was powerful," says Alan Murray, chief economics correspondent for *The Wall Street Journal* and author of a book on the 1986 Tax Reform Act. Unlike corporate tax lobbyists, McIntyre "had no budget to wine and dine anyone," Murray said. "He just kept churning out press releases and lists. He's shown what you can do with a good head, public information, and a personal computer."

As the demand for tax reform increased, congressional deliberations placed McIntyre in a tricky position with his own board. Some proposals, such as taxing fringe benefits that unions had won for their members, could have blown union support for tax reform. "He was fearless in defending what he thought was right, even if it bumped against his own bankroll," said McIntyre's friend Michael Kinsley, editor of *The New Republic*. McIntyre said he kept the union's support by stressing the larger tax picture. "We pointed out that most people would be better off overall and asked them to do their own analyses," McIntyre said. "They concluded the overall picture would be better for their members."

The unions that funded McIntyre helped publicize the cause. The Communication Workers of America held a press conference in New Jersey in which a union representative held up a General Electric light bulb and announced, "I paid more sales tax on this light bulb than General Electric paid in taxes during the last three years." The American Federation of State, County, and Municipal Employees began a penny brigade, sending lawmakers a single cent toward the deficit and saying that while it wasn't much, it was more than 128 big businesses had paid. Union T-shirts read: "I paid more taxes than Lockheed, Dow Chemical, and W.R. Grace and Co. combined."

While CTJ's funding comes primarily from liberal groups, their figures helped garner conservative support. Columnist James J. Kilpatrick used the group's figures. So did corporations who were stuck paying high taxes. Companies paying high taxes, such as Whirlpool and Ralston-Purina, began complaining about the competition's freeloading. The targets of attack squawked at McIntyre's accounting, arguing he misrepresented items like deferred tax liabilities and ignored investment incentives that help the economy. But their criticisms were lost in the swelling support for tax reform.

CTJ is now scrutinizing the corporate loopholes in state tax codes. Next on the group's list are billionaires who use real estate deals to duck taxes. Donald Trump and Mort Zuckerman beware.

MILLER SALUTES FILI-AMERICAN SOCIETY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MILLER of California. Mr. Speaker, April 9 marked the 46th anniversary of one of the most savage crimes commited against Allied military personnel during the Second World War—the Bataan "Death March."

As in every year since the late 1950's the Fili-American Society of Pittsburg, CA commemorated the "Death March" and those who died during it. The annual event, organized by Society Chairman Nino Jaromay, serves to remind both the Philippine and American peoples of our common cause during the war as the devotion to freedom that we share.

On April 9, 1942, 35,000 American and Philippine troops defending the Bataan Peninsula, the last Allied stronghold on the Philippine mainland, surrendered to a vastly superior Japanese force. Although they were diseased and unable to replenish their supplies of food, ammunition and medicine, the defenders of Bataan had fought with skill and courage and severely disrupted the enemy's timetable of conquest in the Pacific.

The Japanese Army treated the prisoners brutally. In order to evacuate them quickly and to show their contempt the Japanese force-marched the American and Philippine troops 70 miles up the Bataan Peninsula to a concentration camp. The Filipinos and their American allies were tortured both physically and mentally, as they marched through the inhospitable Philippine jungle. Denied food and water, many collapsed and were killed by their captors. Others became ill along the march route and died later.

Approximately 10,000 men perished during the Bataan "Death March." Seven thousand of the dead were Filipino troops who had defended their homeland with distinction, despite poor training and inadequate weaponry.

Mr. Speaker, I urge my colleagues to join me in saluting the survivors of this horror who attended the recent event in Pittsburg; and I further urge that they join me in honoring the thousands who perished 46 years ago.

THE LAWRENCE EAGLE-TRIBUNE WINS THE PULITZER PRIZE

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. ATKINS. Mr. Speaker, I know many of us would prefer the newspapers in our districts to stick to printing the handouts we send them, and maybe the weather and sports reports as well. But, of course, that is neither realistic nor wise. For without a probing and contentious press, we would not be here today; indeed our democratic system would never have gotten off the ground. As scripture tells us, "the truth will set you free." In Massachusetts, however, the truth as told by one newspaper means some hardened criminals will not be set free.

It is with great pride that I call my colleagues' attention to one of the outstanding newspapers in America, the Eagle-Tribune of Lawrence, MA—recipient of the Pulitzer Prize for General Reporting.

The Lawrence Eagle-Tribune, under the distinguished editorship of my long-time friend, Dan Warner, did what every good newspaper does—it got curious, then it got mad.

When a convicted murderer who had been released from prison under the State's controversial furlough program tortured a young couple in another State, the Eagle-Tribune began reporting, investigating and editorializing. The result was a series of 175 articles in 9 months and the mobilization of State legislators on behalf of the Eagle-Tribune's call for simple common sense.

As a result of the newspaper's relentless effort, involving about half a dozen reporters under the leadership of Susan Forrest and Barbara Walsh, revocation of furloughs for first-degree murderers is now a virtual certainty.

When apprised of his newspaper's singular achievement in winning the Pulitzer, Dan Warner said something that should make all journalists proud and relieve those who worry that the press sometimes has its own political agenda. He said, "I believe that reporting has its own value. You don't have to accomplish anything, but you do have to report."

And report the Eagle-Tribune did, persistently and doggedly assaulting the stone wall of secrecy erected by State prison officials.

The Lawrence Eagle-Tribune is small as newspapers go, with a circulation of less than 60,000. But it took on a large responsibility and performed it better than many of the giants of journalism. The Eagle-Tribune, which shared the prize for general reporting with the Alabama Journal, another small newspaper, was cited for the profession's highest honor over 137 other newspapers.

This is journalism at its best.

An achievement like this is, of course, the work of many people, and I would like to pay tribute to the editors of the Eagle-Tribune, among the best in their business:

Irving E. Rogers Jr., the publisher; Daniel J. Warner, the editor; Gerry Molina, the managing editor; Joyce Heeremans, the features editor; Alan White, the city editor; Sherry Wood, the assistant city editor; Steve Maas, the news editor; Maura Casey, the editorial page editor; and the following other staff members:

Maria Alverez, Buck Anderson, Jim Arnold, Linda Baron, John Basilesco, Linda Bean, Yadira Betances, Sarah Betts, Steve Billingham, Max Bishop, Ken Braiterman, Kathy Brown, Kathy Bruemmer, Paula Bucuzzo, Bill Burt, Sherri Calvo, Bill Cantwell, Leo Chabot, Russ Conway, Elaine Cushman, Judi Dolan, Mary Beth Donovan, Bryan Eaton, Sonni Efron, Dave Eisenstadt, Joe Fenton, Mary Fitzgerald, Michael Foley, Paula Fuoco, Barney Gallagher, Wendy Gallo, Joseph Garaventa, John Gill, Sally Gilman, Pat Gosselin, Marc Halevi, Hilde Hartnett, Wendy Heath, Leigh Higginbottom, Andrea Holbrook, Leanne Jacques, Paul LaFond, Lois Marchand, Jose Martinez, David Matthews, Mike Muldoon, Jan Murabito, Joe Murphy, Bob McCabe, Kathie Neff, Elinor Neville, John O'Neil, James Patton, Eileen Pendleton, Al Pereira, Anita Perkins, Chris Plourde, Kim Proposki, Beth Quimby, Cheryl Rock, Dave Ronka, Barbara Rowell, Carl Russo, Kathy Sciacca, Steve Segal, Cheryl Senter, Dawn Shaw, Marge Sherman, Brenda Smith, Peter Smith, Eileen Stanley, Ann Marie Stephenson, Judy Wakefield, Tom Warnke, Steve Whipple, Herb Whittemore, Tania Willeman, Chris Young and Ken Yuszkus.

DEDICATION TO THE CITY OF SACRAMENTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished academic institution, the University of Southern California School of Public Administration's Sacramento Center as they are awarded a $15,000 grant from the Blue Cross Foundation for Health Care Effectiveness for excellence in the health field.

The School of Public Administration was founded over 50 years ago and now ranks as one of the top three of its kind in the Nation. The school's academic programs serve more than 1,500 students in Los Angeles, Sacramento, and Washington, DC. The Sacramento Center maintains strong links with the other campuses through joint programs and cooperative research efforts. The center attracts some of the finest professionals in the health care arena.

Within the school, the health administration program offers one of only four master's of health administration programs in California that is fully accredited by the accrediting commission on education for health administration. The health administration program is designed for preservice and mid-career professionals seeking to upgrade their management skills. The program also prepares its students to assume high-level positions in all areas of the health care system and to influence public policy. Graduates of the program leave with a thorough understanding of the problems and issues in the health care field.

Blue Cross of southern California created the Foundation for Health Care in order to contribute to community health efforts that make a positive impact on the lives of Californians. Blue Cross realizes that as health care consumes an increasingly larger share of the Nation's budget, professional health care educational programs are vital for the people in our country.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to congratulate the members of the Sacramento Center on a job well done. Their dedication to the city of Sacramento is most admirable and I wish them the best of luck in all their future undertakings.

A SALUTE TO DR. ROBERT J. IZANT, JR., GREATER CLEVELAND HEALTH PROFESSIONAL OF THE YEAR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. STOKES. Mr. Speaker, it is an honor to salute Dr. Robert J. Izant, Jr., the recipient of the 1988 Belle Sherwin Greater Cleveland Health Professional of the Year Award. The award will be presented to Dr. Izant on Wednesday, April 20, 1988, by the Visiting Nurse Association of Cleveland for his excellence in health care service, health education, and for his tireless devotion to ensuring the highest quality health care and treatment for children.

Mr. Speaker, I join the Visiting Nurse Association and the community in saluting Dr. Izant on this important occasion. I would like to share some of Dr. Izant's accomplishments with my colleagues.

Dr. Izant was the first pediatric surgeon to serve at Rainbow Babies and Childrens Hospital of University Hospitals of Cleveland. He served as chief of the Division of Pediatric Surgery at Rainbow from 1958 to 1986. He continues as a member of the staff of pediatric surgery and is professor of pediatrics and pediatric surgery at Case Western Reserve University.

Dr. Izant is a founding member and current president of the American Pediatric Surgical Association, a Fellow of the American Academy of Pediatric Surgery, and a member of the American College of Surgeons, the American Trauma Society, the American Burn Society, the American Society for the Advancement of Science, and the Cleveland Academy of Medicine. His works have been widely published and he has served on the editorial board of the Journal of Pediatric Surgery.

Dr. Izant's dedication to children and their welfare has led him to serve on numerous boards and committees, including the Children's Aid Society, Cystic Fibrosis Foundation, Special Wish Foundation, American Cancer Society, the Child Care Task Force Committee of the Welfare Federation of Cleveland and the Child Safety Committee of the Cleveland Academy of Medicine.

In his honor, the Rainbow Babies and Childrens Hospital and Case Western Reserve University recently instituted "The Izant Symposium on Pediatric Surgery." The hospitals also announced that a new surgical suite to open later this year will be named "The Robert J. Izant, Jr. Surgical Suite."

Mr. Speaker, I take great pride in saluting Dr. Izant for his many contributions to our community. His selection as the Greater Cleveland Health Professional of the Year is well deserved.

TRIBUTE TO BOB STARRETT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LENT. Mr. Speaker, I rise today to pay tribute to an outstanding American, Mr. Bob Starrett, who has contributed greatly to the betterment of his fellow citizens. On April 16, the Inter-Service Club of Farmingdale will honor Bob by presenting him with its "Citizen of the Year" award. At this time, I'd like to join his many friends and colleagues in recognizing Bob's significant accomplishments and many years of service to his community.

Originally from Bridgeton, NJ, Bob served in the U.S. Air Force during the Korean war. While in the service, he managed to take several courses in journalism at Oklahoma A&M and at the military's information center at Fort Slocum, NY. That's when the journalism bug got into Bob's blood for good, and upon completing his military service, Bob moved to Elkton, MD, where he worked for a weekly newspaper chain from 1955-68.

In 1969, Bob moved his family to Long Island where he joined the staff of the Farmingdale Post as editor, ultimately becoming its publisher. He continued his journalism career with the Farmingdale Observer when the two newspapers merged in 1982. Bob was a familiar face at many local events as he also served as the official photographer for the village of Farmingdale and the town of Oyster Bay.

The local newspaper is one of America's oldest and finest institutions. In today's burgeoning, sometimes impersonal, society, the local newspaper proudly serves as one of the only sources of information on community events. It offers a unique sense of small town neighborliness that is very special, sharing news about our schools, local politics and government, as well as activities involving our neighbors and friends.

Bob Starrett has dedicated his time and energy to ensuring the continuation of that fine tradition. I commend him for his commitment to excellence in his profession and offer my deepest appreciation for his many years of outstanding service to the community. I congratulate him on being selected "Citizen of the Year," and wish him and his family much happiness in the years ahead.

THE IMPORTANCE OF PRECOLLEGE MATH AND SCIENCE EDUCATION PROGRAMS

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mrs. BOGGS. Mr. Speaker, I would like to call my colleagues' attention to the following article by Leon Ronquillo which appears in the American Institute of Aeronautics and Astronautics' "1987-1988 Directory of Engineering Education Resources." The article highlights the importance of strong precollege math and science education programs and discusses their role in preserving our Nation's competitiveness.

In order to ensure an adequate supply of technicians, engineers and scientists in the coming years, we must stimulate students' interest in math and sciences beginning in the early grades. As noted in the article, most mathematicians and scientists show an inclination toward their career choice by the end of high school.

[The article follows:]

Colleges have four years to mold into capable mathematicians, scientists, and engineers the products they receive from the high school system. Unfortunately, the U.S. education system, K through 12, has deteriorated to a point where remediation is becoming the rule instead of the exception (over 80 percent of institutions now report offering "remediation" courses and programs for entry level students.) We must strengthen science and math education in the elementary through high school level, with the emphasis being put at the middle school or junior high school level. Early learning serves not only as a base for further education, but also establishes patterns of study, talent, reasoning, and curiosity. This is particularly true in the sciences, where stimulation of intellectual curiosity and an early introduction to important principles and concepts is critical to later success. Without an interesting and involving introduction, talent is less likely to appear or flourish.

Our best students, our brightest youngsters, are the match of any; however, it is the average U.S. student from the average U.S. school that lags the students of Japan, Russia, and Western Europe, where primary and secondary school education is far superior to that in the U.S. In addition to the gifted and talented, we must focus on the great majority of "average" students. These students may choose science or engineering or a less challenging career path. We could lose these students if their first introduction to discrete science classes at the middle or junior high school level is not participatory in nature: "teach-to-the-test" and "read-and-recite" are deeply embedded in our schools and are not adequate to capture the interest and imagination of these potential scientists and engineers of the future.

Based on a national survey of engineering graduates in industry and government by Robert Perucci and William K. LeBold ("The Engineer in Industry and Government," Journal of Engineering Education, March, 1966, pp. 237-263.), most engineers had clearly shown an inclination toward their career choice by the end of high school. This decision was based largely on interest in the subject matter (viz., science and math). A recent study by NASA (NASA History Office, Dr. Sylvia Fries, Director) of their first generation of engineers bears out this finding that career choice had been affirmed by the end of high school.

To be properly prepared to enter college and pursue this career choice, a student must take at least four years of science and math in grades 9 through 12. Hence, the interest in the subject matter must be generated in middle or junior high school to allow a student to be properly prepared to enter into a math, science, or technology curriculum in college without remediation. This middle and/or junior high school period is critical for students deciding to pursue science and technology. As the National Commission on Space noted, "It is here that our next generation of engineers and scientists must be motivated." Thus the burden falls on the middle/junior high school teachers to nurture the interest of students in their first discrete science classes.

In order to meet the rising demands of industry for technicians, engineers, and scientists, school systems must increase their rate of retention to graduation at the high school and college level. This is doubly important in America today, due to the fact that the "baby boom" is ending, hence, fewer children will be available for schooling. Motivational programs, especially those that build interest, enthusiasm, and committment to science and technology will become increasingly important. Dr. Jan Roskam, former AIAA Vice President of Education, summed it up in a 1984 editorial when he said,

"Along with substantially increased research and development support for our universities, to build and maintain the competent faculties needed to deliver qualified engineers, the upgrading of our primary and secondary school educational system is essential to preserve U.S. leadership in today's advanced-technology world."

The National Commission on Space noted,

"When Sputnik I penetrated the vacuum of space in October 1957, the reverberations shook the technological and educational underpinnings of the United States. A series of science education initiatives, including the National Defense Education Act of 1958, triggered a reformation of America's educational system.

This momentum has not been sustained; once again our Nation is confronted with the necessity to revitalize education * * * The Commission believes that current weaknesses in our educational system must be corrected to insure a vital 21st-century America."

LEON RONQUILLO,
Chairman, Young Members Committee 1987-88.

REMEMBRANCE OF JOHN EVANS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LEHMAN of Florida. Mr. Speaker, the untimely and sudden death of John Evans is a great loss to our community.

John Evans was a special friend to me and my family, and he was well-loved and greatly respected by all who knew him. He was the exception that proved the rule, particularly in his marriage at age 16 to Margaret, his wife of 30 years.

The story of what John Evans meant to people is told best by his family and friends. I would like to share with my colleagues the following articles from the Miami Herald and the Miami News which provide some additional insight into this remarkable man.

[From the Miami News, Apr. 6, 1988]

ATTORNEY JOHN EVANS DIES AT 46

(By Karen Payne)

John Evans, a highly rated Miami defense attorney and award-winning former federal prosecutor, died suddenly last night at age 46. A family member said today the cause of death had not yet been determined.

Law associates and friends expressed shock on learning of Evans' death. Miami attorney Neal Sonnett, a close friend, said Evans had devoted much time to service to his profession and was widely respected by his peers.

"John was a lawyer who had a rare combination of intelligence and ability, strict honesty, highest ethical standards—all the qualities in a person and a lawyer that inspire respect and admiration," Sonnett said, "I thought a great, great deal of him."

Miami attorney Jay Hogan said he had known Evans for 20 years as "a fine, fine prosecutor and a quality defense attorney. . . . He just worked too hard and was personally involved in his cases, and I guess the stress was just too much," Hogan said. He called Evans "a real credit to our profession."

Evans was a partner in the firm Zuckerman, Spaeder, Taylor & Evans where he specialized in complex white-collar criminal defense work and business incorporations.

Evans was born in Athens, Pa., in 1941 and graduated from the University of North Carolina Law School in 1966.

He was chief of the felony trial section of the U.S. Attorney's Office in Washington, D.C., from 1971 to 1975, and he served as deputy chief of the Department of Justice Organized Crime Strike Force in Miami from 1978 to 1979.

Evans is survived by his wife, Margaret, his sons, John, 26, and Timothy, 24, and his daughter, Mrs. Deborah Davidson.

Services were set for 10 a.m. Friday at St. Philips Episcopal Church at 1142 Coral Way in Coral Gables.

[From the Miami Herald, Apr. 7, 1988]

JOHN EVANS, CRIMINAL DEFENSE ATTORNEY

(By Lourdes Fernandez)

John F. Evans, a criminal defense attorney and former deputy chief of the U.S. Justice Department's Miami Strike Force, died Tuesday night in his sleep. He was 46.

The cause of his death was unknown Wednesday, the Dade Medical Examiner's office and family friends said.

He went to work Tuesday, came home and went to sleep feeling well, his wife Margaret said. He played tennis over the weekend with several friends.

"He was a person who loved life, enjoyed life," she said. "He was always able to bring a little levity into a situation."

But he took his work seriously.

"He would live his cases. He wouldn't leave them at the office," said law partner Ronald Ravikoff. "He was so dedicated to his clients."

As a junior high student, Mr. Evans knew he wanted to be a lawyer. He married at age 16, but kept his dream, giving up another. From age 8, he had played tennis and won many of the tournaments he played.

After graduating from the University of North Carolina's law school, Mr. Evans became a law clerk for U.S. District Chief Judge Algernon L. Butler. In 1968, he became an assistant U.S. attorney in the Disltrict of Columbia, rising to chief of the felony trial section.

He returned to Miami, where he was raised, in 1975 as a special attorney to the Miami Strike Force, where his biggest case was prosecuting 10 longshoremen in a waterfront corruption case that involved bribes and kickbacks. He left in 1979 to form his own law firm.

He started it alone, without even one secretary. Today, the firm of Zuckerman, Spaeder, Taylor and Evans has 15 attorneys.

In addition to his wife, Mr. Evans is survived by sons John and Timothy, daughter Deborah Davidsion and brothers Charles, Guthrie and Douglas.

Services are at 11:30 a.m. Friday in St. Philip's Episcopal Church, 1142 Coral Way. Donations can be made to the Heart Fund.

RISING FORECLOSURE RATE WORRIES FHA

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. DREIER of California. Mr. Speaker, last year, when the Housing Subcommittee began work on the Housing and Community Development Act, which was recently signed into law by the President, I raised a concern regarding the acturarial soundness of FHA Mortgage Insurance Program.

The specific concern I raised, and still have, is that FHA is not in a position to withstand significant losses. The 3.8-percent mortgage insurance premium that FHA charges is about half of what a private insurer would charge. The FHA also maintains no reserves for catastrophic loss, as do private insurers. Therefore, if the economy slid into a recession, the FHA could face multibillion dollar losses.

Unfortunately, it now appears that FHA is facing heavy losses without a recession. According to an article printed in the March 19 issue of the Washington Post, losses resulting form foreclosures are much higher than anyone expected.

I would like to submit for the RECORD a copy of that article and, again, urge that this issue, as well as the scope and mandate of the FHA Mortgage Insurance Program, be carefully examined as part of the ongoing House and Senate hearings on our Nation's housing policy.

[From the Washington Post, Mar. 19, 1988]

RISING FORECLOSURE RATE WORRIES FHA

(By Kenneth R. Harney)

The multibillion-dollar losses in the private home mortgage-insurance industry may be getting all the business-page headlines this year, but an equally significant story may be brewing quietly inside the federal government's own mortgage insurer—the Federal Housing Administration (FHA).

Newly available data on the rate of claims being filed in connection with FHA-insured home loans suggest the agency's losses from foreclosures could be sharply higher than Congress or the Reagan administration ever expected.

The losses could put heavy strains on the FHA's financial reserves, absent either a tightening of loan standards or an increase in the politically sensitive premium rate the agency charges its tens of thousands of moderate-income home purchasers every year.

An official inside the Department of Housing and Urban Development, which oversees the FHA, confirmed that recent claims rates against the agency have "set off alarm bells." But the official cautioned that "it's still too early to forecast how much trouble we've really got here."

Here are the figures that have insiders worried:

While claims for bad loans on the main FHA insurance fund averaged about 4 percent for loans written during 1975-78, actual and projected claims rates have shot to three and four times that level for mortgages insured in more recent years, including 1980, 1981, 1982 and 1984. Since current FHA insurance premium charges are tied to a break-even claims rate between 8 percent and 9 percent, double-digit claims will cut into the FHA's financial reserves.

Cumulative claims rates for selected years, such as 1981 (17.2 percent) and 1984 (8.5 percent after just four years) have analysts particularly worried. Loans insured by the FHA in 1981, for instance, could ultimately produce a claims rate of more than 20 percent, private-sector forecasters say. Any rate in excess of 15 percent is considered of "depression" magnitude.

Projected decreases in the rate of bad loans haven't materialized. In what one official termed a "really weird phenomenon," the FHA has experienced net increases in claims rates from some loan years the agency had considered relatively quiescent, such as 1978 and 1979. Typically, mortgage insurers find their highest rates of belly-up loans occur in the second, third and fourth years after settlement.

Like private-sector mortgage insurance companies, the FHA's claims problems are worst in the nation's hardest hit regional economies. Claims on standard FHA mortgages made in 1984 in the Houston region already have exceeded the 15 percent depression trip wire, with years of additional red ink yet to run. Claims on loans made in 1984 to borrowers in the Denver region already are nudging 12 percent. By contrast, 1984 loans made to New Englanders have only a 1.1 percent claim rate, claims on New York mortgages are at 2.7 percent and claims on Philadelphia region loans are at 3.9 percent.

Another FHA parallel with private insurers, according to officials, is in the type of loans causing the worst problems. The key factor in both cases is neither family income, nor price of the home. The common denominator is a low down payment. FHA mortgages with down payments of 5 percent are three time more likely to go belly up than mortgages with down payments of 10 percent or more.

Roll the two factors of economically depressed regions and low down payments together, commented one official, "and you get a very bad scene for anyone in the mortgage insurance business," public or private.

Unlike the private mortgage-insurance firms, however, the FHA has an extra thick cushion of reserves to fall back on—estimated at more than $6 billion—plus a direct line into the Treasury.

VOICE OF DEMOCRACY WINNER

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MARLENEE. Mr. Speaker, I am delighted to recognize a proud and patriotic young citizen of Broadus, MT, Miss Meliesa Hawley, for her prize-winning essay on America's liberty, sponsored by the Veterans of Foreign Wars. She came in ninth nationally in the Voice of Democracy broadcast scriptwriting contest. I trust that we will all remember that our heritage has been bought with a heavy price and that the cost to maintain our precious birthright will remain high. I salute Meliesa's contribution to remind us of our duty as representatives of the people.

AMERICA'S LIBERTY

(By Meliesa Hawley)

There are many songs written about liberty, and rightly so. Those of us who are free have something to sing about. Let me tell you why free men sing!

Liberty is freedom from bondage. Many times we find men in bondage singing about freedom. Black American slaves often sang about a freedom they believed they would find beyond the grave. They could not sing about their own freedom, because they had none. Free Americans, on the other hand, have written many songs about their own freedom. The many immigrants to the American shores have contributed to the songs of liberty. We sing of "the pilgrim's pride," and "the land of the free and the home of the brave." Free men sing because they are free to sing and because freedom is something worth singing about. Because we were born with this freedom, liberty is our heritage.

A man's heritage is his birthright. He does not earn it, or deserve it because of his own actions, but he can lose it through those actions. A birthright is passed along from father to son. At any time, the chain can be broken by a foolish or unthinking act.

In the Bible, Abraham was a rich man who owned much land and an abundance of livestock. This was inherited upon his death by his son, Isaac. Isaac would have passed it along to his eldest son, Esau, but Esau foolishly broke the chain by selling his birthright to his younger brother. Foolishly you say? Yes, because his birthright was traded for a bowl of porridge. A hungry man filled his belly once in exchange for an inheritance that would have sustained him the rest of his life.

Part of our heritage is liberty. The benefits gained from liberty are the results of protection from government interference in our lives. For example, our government is barred from passing laws that abridge or annul our right to assembly and petition. Our Constitution guarantees freedom of speech, free press, and the right to non-discrimination. We, as Americans, are fortunate. Few in the history of the world have enjoyed our freedom. We could easily lose our heritage if we don't esteem it worth its full value.

There are those who have inherited bondage rather than liberty. The Russian writer, Solzhenitsyn, tells a story of people who have inherited bondage. "Several dozen young people got together for some kind of musical evening which hadn't been authorized ahead of time by the authorities. They listened to music and then drank tea. They got the money for the tea by voluntarily contributing their own kopeks. It was quite clear, of course, in the minds of Russian authorities that this music was a cover for counterrevolutionary sentiments, and that the money was being collected, not for tea but to assist the dying world bourgeoisie. They were all arrested and given from three to ten years—one woman getting five * * * and the other organizers of the affair, who refused to confess, were shot!"

We are fortunate not to live in bondage. Abraham Lincoln described the United States as "conceived in liberty." Present day liberty originates from the Declaration of Independence and the Constitution. Our forefathers gave it birth, nurtured it, and enabled it to grow under their care. Now it is our turn. Will we take our liberty for granted? Or will we pass it on?

I choose to pass it on. I choose to sing the songs of liberty for the next generation. In the words of the singer, Lee Greenwood: "* * * I'm proud to be an American, where at least I know I'm free. And I won't forget the men who died—who gave that right to me. And I'd gladly stand up, next to her and defend her still today. Cause I won't forget I love this land! God bless the U.S.A."

SANCTIONS: WHAT HAVE WE DONE?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. CRANE. Mr. Speaker, 2 years ago my colleagues in this body overrode a Presidential veto and passed the Comprehensive Anti-Apartheid Act in the hope of providing assistance to the South African blacks in their struggle against apartheid. Since then, the plight of the blacks in South Africa has worsened. In fact, as a direct result of these sanctions the whites have been able to buy U.S. business assets at "fire sale" prices. Consequently, many blacks have lost their jobs and the benefits from the myriad of welfare programs U.S. businesses sponsored in the past. For example, after experiencing intense pressure at home to pull out of South Africa, GM sold their assets to the local management. Shortly following this acquisition, 500 black workers were fired and all company-sponsored social programs were terminated. Is this how sanctions are supposed to improve the future of the South African blacks? While America's self-proclaimed moral heirarchy claim to have set the blacks on the path to freedom, the blacks curse them for their ineptitude. It is time to stop implementing "feel good" policies to capture the hearts of the American press. The blacks need our help, not ungenuine commiseration.

In addition, the sanctions have put the United States in a completely unacceptable strategic position. By prohibiting the import of many South African strategic minerals, the United States has dramatically increased its dependency on the Soviet Union to provide these resources. Not surprisingly, the Soviets have responded by opening up new and larger mines to capitalize on this unexpected opportunity.

This situation is ludicrous. Every time we embark on a crusade to correct the many injustices in the world, we shoot ourselves in the proverbial foot. The end is always the same—the targeted unjustice is only exacerbated and we put ourselves at yet another strategic disadvantage to the Soviet Union.

I urge my colleagues to reconsider their position on the sanctions implemented against South Africa. Regardless of the intentions, irrational policies will not help the blacks in South Africa. We must work together to conceive a new policy which will serve to bring apartheid to an end. Yet, we cannot sacrifice the national security concerns of the American people in the process.

For a deeper insight into this urgent situation, I highly recommend the editorial commentary entitled "Anti-Apartheid or Pro-Soviet?" in the August 3, 1987, edition of Barron's for your immediate perusal.

[From Barron's magazine, Aug. 3, 1987]

ANTI-APARTHEID OR PRO-SOVIET? SANCTIONS RAISE U.S. DEPENDENCE ON U.S.S.R. FOR STRATEGIC MINERALS

(By Shirley Hobbs Scheibla)

WASHINGTON.—Among other things, the Comprehensive Anti-Apartheid Act, which Congress overrode a Presidential veto to pass last October, prohibits U.S. imports of any "article" from any firm connected in any way with the South African government. The law also threatens to prohibit currently legal imports of strategic minerals from South Africa one year after passage, if "significant" progress hasn't been made in establishing a nonracial democracy. While few lawmakers (and almost none of their constituents) seem to realize it, such provisions already have succeeded in sharply curtailing the flow of strategic and critical materials from South Africa. At the same time, they have made the U.S. increasingly—some say alarmingly—dependent for such imports on the Soviet Union and its satellites.

The statistics are jolting. For instance U.S. imports of chrome ore from the Soviets surged to a whopping 6,440 gross tons per month on average for the six months ended March 31, compared with a mere 479 gross tons on average during the legislatively designated base period, 1981 through 1985. Chrome, of course, is essential to the manufacture of stainless steel and superalloys; hence, it is vitally important in the aerospace, chemical, defense, power-generation and transportation industries. And the U.S. is heavily dependent upon imports to meet its needs. Small wonder then that upon passage of the Anti-Apartheid Act, the Soviet Union, the world's second largest source of chrome, started developing a new mine with annual capacity of two million tons.

And chrome is only part of the shocking story. Imports of antimony from Russia have risen to 98 times the total in the base period. The U.S. also lacks adequate domestic sources of antimony, which is essential for such items as bullets, computers, radar and sonar. Anticipating the new demand, Russia also is rapidly expanding production of antimony in the Soviet Central Asian republics of Kirgiziya and Tadzhikistan.

The list goes on—more Soviet ferrosilicon manganese, industrial diamonds, rhodium, platinum and silver bullion, all critical materials. Strategic imports also are up from Soviet bloc countries. Ferrosilicon and ferosilicon manganese are essential for alloyed and specialty steels used to make hull plates for Navy ships and in the bodies of military vehicles and tanks. Under the first six months of the law, monthly imports of Soviet ferrosilicon averaged 2,814,527 gross pounds, compared with 692,970 for the 1981-85 average.

Again, monthly imports of ferrosilicon manganese from Yugoslavia averaged 3,270,157 gross pounds, against the base of 2,168,352. Imports of industrial diamonds from Russia were up 100 times the base average; platinum bars and plates, up five times; rhodium up three and a half times and zinc up four and a half times. Six different categories of Yugoslav aluminum imports rose.

The law says that the President may lift any of its provisions if he determines after six months that it is causing increased U.S. dependence on Soviet and Soviet-bloc countries for strategic and critical materials and reports his finding to Congress. Even though the newly complied figures are so startling, President Reagan has no plans to do so. The reason is painfully clear. In the current climate of opinion, Congress and the media would go for his throat.

To its credit, the Commerce Department has carried out the act's mandate to give monthly reports to Congress on growing U.S. vulnerability to the Soviets or Soviet-dominated countries in terms of strategic and critical materials. But nobody on Capitol Hill seems to be paying the slightest heed.

Queried about this, Secretary of the Interior Donald P. Hodel, who also serves as chairman of the National Critical Materials Council, replied, "I don't have the answer. If you ask somebody should we buy a major component of a weapons system from the Soviet Union, they would say, 'Of course not; that's crazy.' Then should we buy the raw material that is necessary to make that weapons system from the Soviet Union? Of course, not. Because of the sanctions against South Africa, we are increasingly dependent on the Soviets and Soviet-bloc countries for raw materials that are essential to the defense establishment, at the very least."

To make matters worse, the House Foreign Affairs Africa Subcommittee plans hearings this fall on HR 1580, a bill by Rep. Ronald V. Dellums, California Democrat. It would repeal the Anti-Apartheid Act and substitute a much more drastic measure. Among other things, it would ban imports of any mineral from South Africa essential for military uses unless the President certifies to Congress that domestic supplies are inadequate and "substitutes for such minerals are not available." It says nothing about importing from Communist countries. Moreover, it does away with the requirement to report to Congress on such imports.

H.R. 1580 also would get rid of a little-noticed part of the Anti-Apartheid Act, which states, "The United States . . . recognizes that some of the organizations fighting apartheid have become infiltrated by Communists and that Communists serve on the governing boards of such organizations."

Incredible as it may seem, during the last Congress, the House passed the Dellums bill. The only change in the current version is an addition which would prohibit any form of cooperation, direct or indirect, with the government of South Africa by U.S. military or intelligence agencies. HR 1580 has 53 co-sponsors, including Rep. Peter W. Rodino, Jr., a New Jersey Democrat and chairman of the House Judiciary Committee.

Sen. Alan Cranston, a California Democrat, has introduced S. 556, a nearly identical measure, on behalf of himself and Democratic Senators Ted Kennedy of Massachusetts and Carl Levin of Michigan. It differs from the Dellums bill only by deleting authorization for the President "to limit the importation into the U.S. of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any prohibition imposed by or under this Act." S. 556 now is pending before the Senate Foreign Relations Committee.

Meanwhile, ostensibly because the findings of the Anti-Apartheid Act for the first six months may be criticized as seasonal, the Administration is planning to continue the monthly reports for a full year. But if both houses of Congress pass the Dellums-Cranston bills, they may end abruptly.

Secretary Hodel, however, is considering having the National Critical Materials Council report on increasing imports of strategic materials from the Soviets. The 1984 law which created the Council calls for it to make public such critical materials "issues and concerns . . . as are deemed critical to the economic and strategic health of the nation" and to make policy recommendations to the President concerning them.

Will Hodel recommend that something be done about this country's mounting reliance on the Soviets for strategic materials owing to the Anti-Apartheid Act? First, he replies, Congress and the country must understand what's at stake. "Right now, when we start talking about solutions, people usually say, 'What's the problem,?' " he notes.

"The last time I checked," adds Hodel pointedly, "The Soviets were still engaged in killing, mutilating and bombing innocent people in Afghanistan in a clear war of aggression."

If the sanctions against South Africa were working, the Rev. Leon Sullivan (civil rights activist and General Motors director) wouldn't find a need to call for all companies to pull out of that country. Indeed, the South African Catholic Bishops Conference, which initially supported sanctions, now has published a report finding that they are ineffective. In fact, they are counterproductive. By leaving South Africa, some companies are greatly enriching the Afrikaners who take over the divested enterprises.

At the same time, several land-bound black African countries are dependent on exporting through South Africa. Sen. Kennedy is so concerned about the harm which the sanctions he has pushed for are inflicting on them that he has proposed giving them $700 million of American taxpayers' money over half a decade.

One must ask why the U.S. should believe that racial injustice in South Africa warrants action drastic enough to harm this country, but should embrace trade with the Soviet Union, which puts millions of its own people in gulags and commits untold atrocities abroad. U.S. foreign policy should have two objectives: to achieve its intended aims and to advance the nation's interests. On both counts, sanctions against South Africa have failed.

MAY 1988—MOTORCYCLE SAFETY AND AWARENESS MONTH

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BILBRAY. Mr. Speaker, in 1885, in a small town in Germany, a tinker put together what has come to be recognized as the world's first motorcycle. From that crude beginning motorcycling has evolved to worldwide popularity. Today in the United States, motorcycling is enthusiastically supported by over 5 million owners of registered motorcycles.

If enthusiasm alone was capable of sustaining the manufacture of motorcycles, then the 275-plus American motorcycle manufacturers that were in business during the first three decades of this century would still be in business today. Instead, the number of motorcycle manufacturers worldwide has dropped to less than 10. Yet, owner enthusiasm continues to be the trait that makes this industry and sport so popular.

The first signs of spring bring with it a renewed desire to get in the wind, as motorcyclists are fond of saying. The desire to ride is often coupled with apprehension. That apprehension stems from the knowledge every motorcyclist rides with—motorcycles are often overlooked by other motorists. In fact, the first words an errant driver usually utters after colliding with a motorcycle are, "but officer, I didn't see the motorcycle." A well documented statistic shows that in over 65 percent of the motorcycle/other vehicle accidents, the responsibility of the accident can be attributed to the driver of the other vehicle. Those statistics are seldom if ever comforting to the motorcyclists or the errant driver.

Motorcycle enthusiast groups have long realized that safety equipment alone is not enough to decrease the number of motorcyclists injured or killed. These groups have lobbied State legislatures for programs to train the riders to pass stricter licensing requirements and educate the driver to be more aware of motorcycles and to share the roadway. In Nevada the Motorcycle Dealers Association and the Modified Motorcycle Association of Nevada donated to every high school in the State the Motorcycle Safety Foundation film, "A Driver's View of Motorcycling." Since 1983 these two organizations have been successful in obtaining a proclamation from Gov. Richard Bryan declaring May Motorcycle Safety and Awareness Month.

Enthusiast groups throughout the United States have duplicated the efforts witnessed in Nevada. In State after State it has been the motorcyclist who has led the efforts to strengthen licensing requirements, it has been the motorcyclist who has led the efforts to educate the nonmotorcycling public, and it has been the motorcyclist who has led the efforts for the implementation of motorcycle training programs. To my knowledge, this is the first request to have May proclaimed National Motorcycle Safety and Awareness Month. Again, it is the motorcyclists who have brought this request to me.

This request is part of a coordinated effort and motorcyclists, through their State organizations, will be using this proclamation as a cornerstone for a series of local, State, and regional events to emphasize the need for those of us who do not ride to be aware of motorcycles and to share the roadway.

FROM INSIDE THE U.S.S.R.

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. COURTER. Mr. Speaker, activists who are following events inside the Soviet Union, especially the efforts of Armenians seeking to reunite the Nagorno-Karabakh region with the Armenian SSR, have come by some very good information recently. Their telephone calls to Sergei Grigoryants, founder of the new magazine Glasnost, yielded valuable insights into the status of the demonstrations in Nagorno-Karabakh, as well as Soviet efforts to suppress the new Moscow-based periodical.

Mr. Speaker, my own efforts to track these important events have been benefited by the summary of these conversations with Grigoryants which was prepared by the Seattle Peace and Freedom Coalition. Published as a coalition press release on March 27, the text of the release is worthy of a wide audience, and I ask that it be reprinted here.

SEATTLE PEACE AND FREEDOM COALITION LEARNS OF SOVIET GOVERNMENT ATTACK ON GLASNOST MAGAZINE DESPITE INTERRUPTED TELEPHONE COMMUNICATION

In a remarkable long-distance telephone interview with Sergei Grigoryants in Moscow, interrupted by Soviet authorities after fifteen minutes, eight members of the Seattle Peace and Freedom Coalition learned that the offices of Glasnost magazine in Krotovo (a small town outside Moscow) were attacked by "hooligans" Saturday night, who broke the door and windows.

"We called the police and asked them to come," said Grigoryants. "Their reply was: 'We know everything,' and they refused to come."

This attack comes one week after the poisoning of the watchdog that guarded the offices and an intimidating visit by six cars full of uniformed KGB personnel to the offices of Glasnost while an "open house" was in session. The KGB demanded to see identity documents of all those attending the open house and sought also to intimidate them into leaving, in order to gain access to files and information in the offices. A telephone call to a Western TV crew in Moscow, who promised to send a crew to Kratovo, finally persuaded the KGB, after three hours of harassment and intimidation, to leave.

But the intimidation has reached new heights in recent weeks. Grigoryants expressed alarm about articles recently appearing in the Soviet press, attacking his magazine. "These are a type not even from the Brezhnev era but from the Stalin era. An article in Literaturnaya Gazeta declared that the events in Armenia were the work of the CIA, and that we assisted in this."

Glasnost magazine was started in Moscow in June 1987 by Sergei Grigoryants, a literary critic who spent several years in prison for his human rights activity. It is an independent voice of public opinion in the Soviet Union and has published seventeen issues—the most recent one on the demonstrations in Armenia and Azerbaidjan—despite mounting intimidation and harassment from the authorities. Paruir Airikyan, also associated with Glasnost, was recently arrested for reading a telegram at a press conference in Moscow that accused Pravda of falsely signing the name of an Armenian writer to a story that condemned the recent massive demonstrations as the work of extremists collaborating with foreign interests.

Other important information that members of the Seattle Peace and Freedom Coalition received before the telephone line with Grigoryants was cut included:

The ferment in Nagorno-Karabakh and Armenia that originated over nationalist issues (Nagorno-Karabakh—an area about the size of Long Island—is a predominantly Armenian region of Azerbaidjan whose residents would like to be under Armenian administration) has converted into a broader movement for democracy and self-determination within Armenia.

Armenians have demonstrated unusual amounts of "patriotic courage and discipline." "They strictly observed all demands of the law," reported Grigoryants. "The essence of the matter is that we are dealing with the very will of the people. It is a totally surprising expression of the possibility of democracy, not to mention the fact that the local authorities also behaved quite responsibly. What is happening now in Armenia, what the Moscow authorities are doing, in actuality is a reprisal not against a national movement—or not only against a national movement—but a reprisal against a democratic movement."

Authorities in Moscow are trying to foster hatred and fear between nationalities in the Caucasus region in order to intimidate Armenian democratic activist. The Georgian Communist Party First Secretary, Potiashvili, recently summoned Georgian dissidents to explain that if Armenian demands with respect to Nagorno-Karabakh were granted, "Georgia will be next," implying that Armenians wished to annex Georgia.

Also, on a Georgian television program, the Minister of Internal Affairs declared that people found to be participating in demonstrations would be liable to charges of "aggravated hooliganism," the maximum penalties for which he said, "we decided to raise from three to five years."

Consistent with the policy of exacerbating national divisions and mistrust, the authorities have moved 15,000 policemen of Azerbaijani nationality into predominantly Armenian Stepanakert in order to prevent demonstrations this past weekend. Had demonstrations occurred, the likelihood of bloodshed such as occurred in Sumgait recently would have been higher, given the decision to send in so many Azerbaijani police.

The bloodshed in Sumgait (Azerbaidjan) was much higher than reported in the West. Instead of several score dead, as reported in the West, Grigoryants alleged that the dead numbered "in the hundreds in Sumgait alone."

Efforts to cover events in Armenia by Glasnost magazine have been blocked by Soviet authorities. Andrei Shilkov, a reporter from the magazine who flew down to Erevan was not allowed to leave the airport. KGB officers forced him to fly immediately back to Moscow.

This was the third time in five months that members of the Seattle Peace and Freedom Coalition have spoken with Grigoryants and others in Moscow working to establish a free press in the Soviet Union. Besides Grigoryants, the Coalition has also spoken with Lev Timofeyev, leader of "Press Club Glasnost," one of the many independent "clubs" that have sprung up in the Soviet Union where citizens discuss topics of mutual concern to them.

The Coalition attempted to speak with Timofeyev Saturday night, but succeeded in doing so for only one minute before the line was cut. On a second attempt, his wife answered the telephone and was heard to say, "It's no use, we cannot talk. They won't let us receive international calls," before the line was cut again.

The Seattle Peace and Freedom Coalition works to strengthen compliance with the Helsinski Accords, believing that peace between the two blocs will be secured when the principles of those accords are realized in the practices of the signatory nations. A copy of this press release has been sent to Senators Adams and Evans, who are travelling to Moscow later this week, along with the following statement of the Seattle Peace and Freedom Coalition:

"The Seattle Peace and Freedom Coalition condemns attacks on Glasnost magazine by the KGB and calls for an immediate end to them. These attacks totally contradict the principles of the Helsinski Accords, signed by the Soviet Union. We ask Senators Adams and Evans also to condemn these attacks when they are in Moscow and to meet with Sergei Grigoryants and other staff of the magazine, in order to demonstrate the solidarity of the people of the State of Washington with those working for a free and democratic press in the Soviet Union.

"The Coalition also notes that the deliberate interruption of telephone communication between private individuals violates international telephone and telegraph conventions as well as the spirit and principle of improved U.S.-Soviet relations."

The Seattle Peace and Freedom Coalition is composed of ten organizations representing several thousand Americans in the Puget Sound area committed to full implementation of the Helsinki Accords.

FATHER PETER COSTARAKIS HONORED

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to set-aside this time to recognize Father Peter D. Costarakis of St. Prophet Elias Church of San Bernardino, CA. Father Costarakis will be honored on May 1, 1988, for serving 25 years as a priest of the Greek Orthodox Church. I would like to honor him today by saying a few words about his accomplishments during his distinguished career.

Mr. Costarakis was born in Dara, Greece, on June 10, 1937. His father, a priest of the Greek Orthodox Church in Greece, was invited to serve the Greek Archdiocese of North and South America. The family arrived in the United States on December 23, 1946, settling in Lewiston, ME.

In 1963, Peter Costarakis received his bachelor of arts and bachelor of divinity in theology from Holy Cross Seminary in Brookline, MA. In 1970 he received an S.T.M. from St. Vladimir Seminary in New York. He was ordained on March 17, 1963, by Metropolitan Germanos at the St. Sophia Church in Albany, NY. Father Peter Costarakis represents the fifth generation of his family to enter the priesthood.

Father Peter has exemplified a dedication to the ministry which few possess. From 1963 to 1964 he dutifully served the entire State of Montana as a missionary priest after which he moved to Troy, NY, where he served as priest for 14 years.

During his stay in New York, Father Peter founded and served as president of the St. Andrew Orthodox Brotherhood of upstate New York and was cited by Nelson Rockefeller for his accomplishments. In addition to his already demanding church duties, Father Peter also served on the board of directors of the New York State Red Cross.

In 1978 he moved to San Bernardino, CA where he still resides and continued his philanthropic ways. In southern California, Father Peter has served on a multitude of Church councils and commissions. He is a member and past president of the Southern California Orthodox Clergy Council. He also occupies the position of orthodox chairman of the Orthodox-Roman Catholic Dialogue Commission of the Archdiocese of Los Angeles. Further, he presently serves on the Diocese of San Francisco Mixed Council, the Diocese of San Francisco Presbyters Council, and the San Bernardino Ministerial Association.

Although Father Peter's service to his church is in itself commendable, the honors and awards Father Peter has received throughout his professional life represent the feelings of those who have been most familiar with the work he has accomplished. In addition to the honors previously mentioned, in 1979 Father Peter was awarded the title of steward of the church and later was named protopresbyter of the Diocese of San Francisco. Father Peter currently holds the position of liturgical officer of the Greek Diocese of San Francisco, and in June 1988, will be awarded the title of protopresbyter of the Ecumenical Patriarchate of Constantinople.

Mr. Speaker, I ask that you join me in saluting Father Peter Costarakis. He serves as an outstanding example to us all for his dedication to the improvement of his church and his community. It is with great respect that I pay tribute to him today.

HONORING THE MEMORY OF DR. MARTIN LUTHER KING, JR.

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. RODINO. Mr. Speaker, 20 years ago our Nation lost a leading voice for justice and freedom. The assassination of Martin Luther King, Jr. on April 4, 1968 was one of the most tragic events in American history.

Dr. King was still a young man when he was killed and he was deprived of the richness of a long life. We were also deprived of the presence and the wisdom of this great man. I know that I still miss his voice of inspired leadership as deeply now as during the first months after his death. Throughout the past 20 years as we worked to honor our commitment to ensuring a fair and just society for all Americans, Dr. King's firm, resolute, and confident voice would have provided inspiration and encouragement.

But Martin Luther King, Jr.'s voice does live on because his dream was stronger than life and more powerful than death. It lives on in the effort to guarantee a decent quality of life for every citizen. It lives on in the vigilance necessary to preserve equal opportunity for all Americans. It lives on in the international struggle for human rights. Throughout the world, wherever people are searching for peace or striving to overcome injustice—Dr. King's voice and his dream continues to provide inspiration and comfort.

Dr. King's voice also lives on in the hearts and minds of all Americans as we continue to nurture his dream. This was reflected in the outpouring of respect and emotion across the United States on the 20th anniversary of his death.

Mr. Speaker, my own city of Newark, NJ honored the memory of Dr. King on April 4, 1988 with a ceremonial groundbreaking for the Martin Luther King, Jr. Courthouse. I am proud to have sponsored the legislation naming this new courthouse after Dr. King. It will serve as a living memorial and reminder to future generations of the true greatness of Martin Luther King, Jr. With your permission, I would like to include the following article in my remarks.

[From the Star Ledger, Apr. 5, 1988]

KING HONORED—OFFICIALS BREAK GROUND FOR COURTHOUSE

(By Frederick W. Byrd)

Ceremonial groundbreaking for the $60 million Martin Luther King courthouse in Newark was held yesterday afternoon as speakers, noting it was the 20th anniversary of King's death, said the building would be a symbol of his life's ideals.

"Years from now, little children will look at this building and ask, 'Who was Martin Luther King?' " said Sen. Frank Lautenberg (D-N.J.). "So the story will be told again."

Construction of the $60 milion, five-story federal courthouse is to begin this year and be completed in 1990, acording to spokesmen for the General Services Administration (GSA).

It will add 15 new courtrooms to the seven federal courtrooms now located in Newark.

GSA spokesmen estimate the 350,000-square-foot structure will provide about 800 jobs.

While praising the building, Newark officials said there was a "downside" to the development in that it is another building in Newark that will not pay property taxes.

"It is my hope and the hope of my council colleagues that the federal government will provide an in-lieu-of-tax payment," said Council President Henry Martinez.

The audience assembled in the second-floor conference room of the Rodino Federal Building for the formal ceremonies and unveiling of a model of the new building.

They held a 30-second silent tribute in honor of King, who was assassinated on April 4, 1968, while arranging a march to help sanitation workers in Memphis, Tenn.

Then the officials went outside to the courthouse site—Walnut and Orchard streets—to turn the ceremonial first shovelfuls of dirt.

Mayor Sharpe James noted King came to Newark during the last week of his life.

"I remember he spoke at South Side High School (now Malcolm X Shabazz High School) which is my alma mater and Mayor (Edward) Koch's alma mater.

"He told the youngsters to 'burn the midnight oil . . . learn, baby, learn.' "

"Even in death," the mayor said, "he lives on, he still shines like a bright star."

"This building underlines his idea that justice should never be out of reach for all Americans," he added.

"If Dr. King were alive today he would be concerned about justice for all. By dedicating this courthouse we can relive the whole dream and purpose of this great humanitarian."

Lautenberg, who along with Rep. Peter Rodino (D-10th Dist.) sponsored legislation naming the structure after King, said, "He told us injustice anywhere is a threat to justice everywhere. The courthouse will be a daily reminder of that."

John Alderson, acting national administrator of the GSA, said naming the building for King is appropriate because "he gave his life in pursuit of justice for his fellowman."

The courthouse will mean "a net expansion of the number of judges and facilities in Newark, making Newark truly a federal judicial center," said William Diamond, the GSA regional administrator.

Essex County Sheriff Thomas D'Alessio said the new courthouse will further the ends of justice in Newark. "This centralizes the location and is a great honor for the city," he said.

Allen Trousdale, the project director, described the building as a contemporary design, "but an interpretation of the neoclassical style of the existing government buildings nearby."

"We set the roof line of the King building at the same level as the cornice of the present courthouse across Walnut Street," he said.

"There is a one-story stone base to support the main facade. The main body of the building has a portico and colonnade of pilasters, capped with a cornice of the top floor."

Inside, he said, "The primary facilities are organized along a major east-west corridor which passes all the courtrooms.

"A skylighted central rotunda divides the east and west wings, while an outer ring of offices, separated from the core by a private circulation corridor, provides secure access to judge's chambers."

The 100-by-300-foot plaza on Walnut Street is to be planted with trees and shrubbery.

The structure was designed by the Grad Partnership of Newark.

Councilman Donald Payne said he hoped a plan could be worked out "so that distressed cities, at least, could receive in-lieu-of-tax payments for federal buildings."

James agreed he is concerned that no property taxes will be paid.

"Newark, because of the significant number of federal, state and county buildings we have, should receive some funding," he said.

"I feel we need a permanent formula so we will automatically receive such payments on any government buildings.

"We are gaining a beautiful edifice," he said. "But we are giving up three acres of valuable land that is ripe for development, strategically located in the city."

Martinez noted, "The new construction will bring vitality to a section of the downtown area that is and has been an eyesore.

"It will also create hundreds or thousands of jobs for our local residents and generate parking and payroll taxes for the city."

But, he said, "There are no ratables" from the structure.

"Since the city of Newark must provide the necessary services, garbage collection and police protection, for this structure and its inhabitants, the burden of its upkeep falls on our local taxpayers," he noted.

When asked about this, Diamond first noted the federal government and not the city will take care of garbage disposal and maintenance of the structure.

And he added: "This will be such an economic shot in the arm for the people and city of Newark that it will not be a burden." He said there is no plan now to give the city any in-lieu-of-tax payments.

TRIBUTE TO WINSTON EDWARDS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. STARK. Mr. Speaker, it is with great pleasure that I share with my colleagues the recent contribution of a constituent of mine to the cause of deficit reduction. I am speaking of Winston Edwards, an aircraft engine repairer for Alameda's Naval Aviation Depot. Mr. Edwards is responsible for saving the Government $11 million a year.

This savings will result from Mr. Edwards' suggestion that $18,664 combustion engine liners with cracks be repaired instead of scrapped, as had been the common practice. After throwing away 10 of these liners in 1 day, Mr. Edwards knew that something had to be done to stop this wasteful practice.

Under the Beneficial Suggestion Awards Program, Mr. Edwards demonstrated that these engines could be repaired by a simple procedure. As a reward for his ingenuity, Mr. Edwards has received a total of $35,000—the highest cash award given to a civilian employee under this program.

Mr. Edwards, born in Jamaica, is an outstanding example of how immigrants have enriched our country. I am proud to have him as a constituent. It is innovative and ingenious people like Mr. Edwards that make America great. I hope that he enjoys his reward and the new found fame he is experiencing—he certainly deserves it.

SAN PABLO CELEBRATES 40TH ANNIVERSARY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MILLER of California. Mr. Speaker, I rise today to congratulate the city of San Pablo on the celebration of its 40th anniversary. This special occasion affords us wonderful opportunity to pay tribute to the city fo San Pablo and recognize those who have contributed to the success of this city.

The city of San Pablo was incorporated on April 27, 1948, but the roots and rich history of San Pablo reach back into the early 1880's. San Pablo, being one of California's oldest established communities, was the retirement home of the first Governor of Alta California, Juan Bautista Alvarado. It is this rare combination of a rich cultural history and modern industrial growth that have made San Pablo the outstanding city that it is today.

Since its incorporation in 1948, San Pablo has experienced rapid growth and is now the home of outstanding educational and medical facilities such as Contra Costa College and Brookside Hospital. The city has also worked on revitalizing commercial centers and has recently seen a substantial growth in the number of new homes throughout the community. Not only can San Pablo celebrate its rich cultural history, but it has an exciting future to which it can look forward to as well.

The past successes and bright future of the city of San Pablo can be attributed to the citizens and businesses who reside in San Pablo as well as to the elected leaders of the community. Mayor Kathryn Carmignani along with Vice Mayor Sharon Brown and the other city council members Harvey Armstrong, John Koepke, Joseph Gomez, and Marie Daniels have contributed immeasurably to both the present and the future of San Pablo.

I am very proud to represent the city of San Pablo and know that my colleagues in the U.S. House of Representatives will want to join me in congratulating them on this special 40th anniversary.

EDDIE BOLAND: THE CONSCIENCE OF CONGRESS

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. ATKINS. Mr. Speaker, EDDIE BOLAND has been the conscience of Congress, whether it's been on foreign policy of his steadfast commitment to decent and affordable housing for all. His record or service to the Commonwealth of Massachusetts, his constituents in the Second District and the entire Massachusetts delegation stands as a monument to commitment and integrity.

He is retiring at the top of his form. Through more than 53 years of public life and service in the House under 7 Presidents for more than 35 years, EDDIE BOLAND has been steadfast and loyal to his constituents, his party, and his country. Although political trends and fashions changed, EDDIE BOLAND never wavered when it came to standing up for his ideals. He functioned in a quiet way and seldom took credit for his works.

I particularly appreciated his commitment to Paul Tsongas' dream of an urban national park in Lowell, which was an idea met with tremendous skepticism when Paul first proposed creating a national park in a declining mill city in the Northeast. Thanks to EDDIE BOLAND, every year since then, Federal funding has been available, and now the park is a jewel in the National Park Service System, and it has turned around the city.

I know I'll be able to count on EDDIE'S friendship and advice after the returns to Springfield. I wish him and Mary well in the future.

TRIBUTE TO THE AUBURN CIVIC SYMPHONY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished group of talented musicians, the Auburn Civic Symphony, on the occasion of their first annual concert season. It is an honor to salute these dedicated performers.

In July 1987, an Auburn resident, Monroe De Jarnette, wrote a proposal for an orchestra to be presented at the Lake Tahoe meeting of the Auburn Chamber of Commerce. The proposal, well received by those attending the meeting, was then presented before a group of Auburn business people and the Auburn Civic Symphony was born. A steering committee was formed with Mr. Jarnette as chairman, Dennis Marriott, vice chairman, Vi Pharaoh, secretary, Marilyn Gehlbach, treasurer, and Gus Pearson, Bud Pisarek, and Robert Meyer completed the committee.

In the next several months, the steering committee gradually devised a plan of action. In October of 1987 the committee established its initial organization under the nonprofit umbrella of the Auburn Chamber of Commerce. The committee also created guidelines to raise the necessary funds to finance the orchestra. In November, the committee selected the very experienced and skilled Clyde Quick as its conductor. The committee then met with a group of interested Auburn musicians to receive their comments and ideas as to the selecting and programming of the symphony.

December 1987, saw the active promotion of the orchestra and also saw the symphony receive grants from the Auburn Community Foundation and ARTcetera. Several financial and individual contributions were collected, underling the active community interest in the symphony. The symphony filed its ranks with the finest talent from Auburn in January of 1988, and founded a support group to ensure the high standards of the orchestra were maintained.

All the planning and hard work culminated in the premiere concert by the Auburn Civic Symphony on March 20, 1988. It came as no suprise that the symphony and the entire evening was a huge success.

Mr. Speaker, I want to congratulate the members of the Auburn Civic Symphony for a job very well done. Their dedication to the Auburn community is most impressive and their hard work and devotion has brought to Auburn a fine and first rate orchestra.

A SALUTE TO ROBERT J. WHITE, M.D., NATIONAL HEALTH PROFESSIONAL OF THE YEAR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. STOKES. Mr. Speaker, on Wednesday, April 20, 1988, the Visiting Nurse Association of Cleveland will present its 1988 Belle Sherwin National Health Professional of the Year Award to Dr. Robert J. White. The award recognizes his excellence and leadership in health research, health care service, and his personal commitment to the health care of the community.

I want to take this opportunity to congratulate Dr. White upon this important achievement. He is certainly deserving of this special recognition from the association. At this time, I would like to share some of Dr. White's accomplishments with my colleagues.

Mr. Speaker, Dr. White has served as director of the Division of Neurosurgery and the Brain Research Laboratory at Cleveland Metropolitan General Hospital for the past 26 years. He also serves as professor of neurosurgery at Case Western Reserve University School of Medicine, associate neurosurgeon at university hospitals and serves on the staffs of the Veterans' Administration and Lakewood Hospitals.

Dr. White is internationally known and respected for his work in clinical brain surgery and his experimental work on the nervous system. As a result of his research, Dr. White has developed and introduced a number of new techniques of operative neurosurgery which have had world-wide application in treating spinal cord trauma and in protecting the brain during and following surgery.

Dr. White serves as editor for Surgical Neurology, Journal of Trauma and Neurological Research, and is the author of nearly 500 publications on clinical neurosurgery, brain research, medical ethics, and health care delivery. He has lectured and consulted in the United States, China, Europe and the Soviet Union. Further, Dr. White is the recipient of the 1985 Governor's Award for his research and clinical achievements.

Dr. White is also active in many medical associations. He is the past president of the Cleveland Academy of Medicine, the Cleveland Medical Library Association, the Society of University Neurosurgeons and the Ohio State Neurosurgical Society.

Mr. Speaker, I join the Visiting Nurses Association of Cleveland and the community in saluting Dr. White upon his selection as the National Health Professional of the Year. He is an outstanding individual and it is an honor to pay tribute to him on this occasion.

TRIBUTE TO HERBERT J. PLUSCHAU

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LENT. Mr. Speaker, on June 30, Mr. Herbert J. Pluschau, superintendent of Massapequa Public Schools, is retiring after 35 years in education. I'd like to take this opportunity to recognize Herb who has been a leader in the field of education and, of behalf of my constitutents, express my deep appreciation for his many years of outstanding service to the community.

Throughout his career, Herb Pluschau demonstrated a commitment to excellence in education that is worthy of the highest commendation. He first joined the Massapequa Public Schools in 1953 as a physical education teacher. Over the years, he has held many positions including varsity basketball coach (1953-62); high school guidance counselor (1958-62); vice principal at Massapequa High School (1962-67); administrative assistant in the central office (1967-72); assistant superintendent (1972-82); and finally, superintendent of schools (1982-88).

His strong leadership and impressive management skills earned him a reputation as an effective administrator, sensitive to the educational needs of the community. Furthermore, he has been instrumental in instituting several major programs which will ensure that our children receive the best possible education. With the purchase of both instructional and managerial computers, all school offices are now computerized operations, and students are being trained to participate fully in a computerized work force.

Herb launched a campaign for voter approval of two separate bond issues to make much needed safety improvements and repairs to district's school buildings. He also spearheaded initiatives to develop a board of education and to reorganize the district's secondary school division.

Needless to say, Herb Pluschau has made a significant contribution to the Massapequa Public Schools, and he will be sorely missed. His commitment and dedication are deeply appreciated, and I'd like to join his many friends and colleagues in wishing Herb much happiness and success upon his retirement.

SOUTH AFRICA MEDIA BLACKOUT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with you my concern over the dangerous and tyrannical practice in South Africa of controlling the news. For many nations engulfed by the claws of internal strife, the idea of concealing its repressive measures from its people and the world is very attractive. Governments believe that by hiding the truth, they can contain revolt and reverse the tide of unrest.

Nothing could be farther from the truth, or more illusionary. Like all tyrannies before it, apartheid South Africa can stamp on dissent, on protest, and even on the simple truth; but, like all the other wrongs over the centuries, it cannot ultimately stamp them out—for the desire and instinct for freedom is undying.

That is the lesson of censorship; instead of controlling the reality, it makes a nation a prisoner of reality. In closing all the windows of press freedom in fear that the truth will fly out, South Africa has made itself a hostage to the evil that is within. It is too late in the struggle, and apartheid is too grotesque an evil, for the world to accept the closing of these windows.

With this in mind, I insert the following article written by Flora Lewis of the New York Times:

[From the New York Times, Mar. 13, 1988]

BAD NEWS GIVES A BETTER CHANCE

(By Flora Lewis)

LONDON.—South Africa's ban on news coverage of violent repression, especially by television, has worked in a sense. There is no longer a steaming head of outrage in the U.S. and Western Europe, or demands for greater outside pressure on the regime.

That was the conclusion of a conference here on "South Africa: Controlling the News." It was a highly critical conference, with a lot of media self-examination and ideas about how to keep information coming nonetheless.

The violence continues; more or less abstract reports continue. But there are no more shocking action pictures, and that has made a noticeable difference in public concern. "When viewers don't see the story, legislators and policymakers don't hear about the issue," said the New York-based Africa Report. It pointed out that "When even candidate Jesse Jackson doesn't list South Africa in a mass mailing as one of his principal issues, apartheid seems to 'have gone away.'"

Of course it hasn't. And of course in this discussion about the effect of muzzling the press and blinding the camera, there was reference to the violence and repression in Israeli-occupied territories.

One of the evident differences in the press restrictions imposed by South Africa and those proposed by some Israeli officials is that Pretoria's prime domestic purpose seems to be to convince the extreme right that it is capable of cracking down. Telling about the arbitrary way they are regulated, South African journalists concluded that the restraints were mainly "symbolic" as far as home opinion was concerned. The big point, they said, was to shield South Africa's "image" abroad and ward off foreign pressure.

The message to the world matters even more for Israel, much more dependent on friends abroad. But the message to Israelis also matters as they see their sons driven to behave intolerably. The simple, tactical temptation for the Government is to order, "Don't let them see. Don't let anybody see. Then things will calm down. Trouble will go away."

South Africa understood from the Philippines that world reaction can make a difference. Some Israelis would like to suppose they can learn from South Africa to brazen out challenge by drawing the curtains.

But the real danger in both countries is that festering, hidden violence will wipe out what chances remain for negotiated settlements, which are the only alternative to vast, bloody destruction. Both Governments are doing what they can to silence the people who might talk with them. Both face mounting radicalization, on right and left, and therefore waning acceptable solutions.

South Africa may be winning some time with its blackout—not a deliberate pun though the double meaning is inevitable. But that time is for sinking further into the abyss Hennie Van Deventer, a pro-regime Afrikaner and editor of Die Volksbad, saw the major threat now from the neo-Nazi right.

Israel, which hasn't shut down unpleasant reporting, is gaining some insight that can save it from catastrophe. Former Foreign Minister Abba Eban, writing in The New York Times, quotes the Historian Shlomo Avneri saying, "A Greater Israel is not more secure but less secure for Israeli Jews."

Ze'ev Schiff, the influential Israeli military correspondent, will have more listeners when he points out that Israel's beloved army is being drained by repressing civil disorder. "Many Israelis came to believe that the occupied territories gave Israel added security," he wrote in the Paris paper Libération. "In the light of recent events, it is evident that even if they could serve as a security buffer in a generalized war, they are fundamentally a burden which could become a military menace."

And Elie Wiesel, winner of the Nobel Prize, writes in anguished defense of his compatriots an appeal to young Palestinians "to accept a dialogue with young Israelis on the possibility of a common future." The writer who has devoted his life to evoking Jewish suffering notes that "everything depends on what you make of suffering. Transforming it into destructive hate deprives it of its dimension and ethical demand. To invoke it to justify death is to put it at the service of death," an address to both Jews and Arabs.

Such new words are of the kind that can bring a change of outlook and a solution. They come from awareness that trouble is real. They come from allowing nasty facts to be known. The advantage of controlling information is short and illusory. New hope comes when people are really enabled to understand what is happening.

LAUREL BOYS TRACK TEAM—STATE CHAMPIONS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. HOYER. Mr. Speaker, there is a group of young men in my congressional district who are superstars. They are the members of the Laurel High School Boys Track Team, and this winter they won yet another Maryland class A State championship.

This is the latest in a growing string of championships, for both the boys and the girls teams, that have become commonplace at Laurel High School.

The community of Laurel has every reason to be proud of this group of young people and they have provided us all with a fine example of dedication and teamwork.

The team is coached by Peter Adams, who has built a strong track tradition at Laurel. This team is led by Senior Mark Winkey who ran on both the 1,600 meter and 800 meter champion relay teams, and Dan Johnson who won State championships in the 300 meter dash and as part of the 1,600 meter relay team. Lamont Smith and Clarence Cooper should be recognized for their performances, as well as Jenny Athey on the girls squad who brought home two State championships. Coach Adams' able assistant coaches are Eric Morton and Patrick Raggio.

Mr. Speaker, I know all of the Members of the House will want to join me in extending congratulations to the team on their championship season. The names of the individual champions and medal winners follow:

Individual Champions: 300 meter dash—Dan Johnson, Regional, State; 1,600 Meter Run—Jenny Athey, County, Regional, State; 55 meter hurdles—Craig Champman, Regional; 500 meter dash—Lamont Smith, State; 3200 meter run—Jenny Athey, County, Regional, State.

Boy's 800 meter relay: Clarence Cooper, Mark Winkey, Regional, State; Craig Chapman, Lamont Smith.

Boy's 1600 meter relay: Mark Winkey, Regional, State; Craig Champman, Lamont Smith, Dan Johnson.

High Jump: Dan Johnson, Regional.

Other medal winners: Girls 3200 meter relay—2nd regional, Susan Lord, Katie Riley, Vanessa Proto, Janeen Winston.

Boy's 3200 meter relay—2nd Regional, 3rd State: Derrick Brown, Mike Pasqualone, Paul Trimble, Chris Deering.

Boy's 55 meter dash: Mark Winkey, 2nd County, Regional, State.

Boy's high jump: Dan Johnson, 2nd County, State; Mark Winkey, 2nd Regional.

Pole Vault: Dan Johnson, 2nd regional; Derrick Brown, 3rd Regional.

Boy's 800 relay: (Same as above), 2nd county.

A TRIBUTE TO THE HELEN KELLER NATIONAL CENTER

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to the many people who volunteer their time at the Helen Keller National Center for Deaf-Blind Youths and Adults in Sands Point, NY.

On April 21, the Helen Keller National Center will hold its 10th annual Volunteer Recognition Night to honor its nearly 100 dedicated volunteers. This group of volunteers represents people of all ages from many different walks of life from all over Long Island. These volunteers ably assist in the overall mission of the center. Which is to meet the full range of needs of deaf-blind Americans.

This year, the Helen Keller National Center is presenting its inaugural 10-year volunteer award. The recipient is Mr. James Mulconry, a Port Washington resident, who has for the past 10 years faithfully accompanied deaf-blind people to religious services. I join with the Helen Keller National Center in paying tribute to Mr. Mulconry for his outstanding altruistic efforts.

Mr. Speaker, Mr. Mulconry is one of many people who serve the clients of the center on a voluntary basis. Without these dedicated volunteers, the Helen Keller National Center would be hard pressed to provide its vital services.

The Helen Keller National Center was founded in 1969 and named after Helen Keller because she stood as living proof of the vast possibilities available to those with handicaps who are given care and training, and not simply ignored by society. Today the center serves more than 40,000 deaf-blind Americans through its Sands Point center, 9 regional offices, and 20 affiliates. The center is the only specialized training and research facility with the resources to meet the needs of deaf-blind citizens. I am proud to have wholeheartedly supported the efforts of the Helen Keller National Center so that it can reach as many deaf-blind people as possible.

Mr. Speaker, the Helen Keller Center's annual volunteer Recognition Night is truly a grand occasion. I know that during this National Volunteer Week, my colleagues join with me in commending the Helen Keller National Center's many wonderful volunteers.

HONORING EUGENE AMBER ON THE OCCASION OF HIS RETIREMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. CONTE. Mr. Speaker, on April 1 the Berkshire Life Insurance Co. lost one of its first class executives to retirement, Eugene Amber. On matters so important to Berkshire Life and the business community of Pittsfield, I will miss Gene's leadership and business sense. And as a resident of Pittsfield and a long time friend, I will miss Gene's strong presence in the community.

Mr. Speaker, Gene and his lovely wife Kathy have purchased a home in Florida. So not only will we miss Gene in his position at Berkshire Life, but we will also miss him as a member of the community—a community that he has selflessly supported and nurtured. And the community where he chose to raise his four children, Lisa, Deborah, John, and Gilbert.

Gene began his 35-year career with Berkshire Life immediately after finishing his service in the Marine Corps during World War II. He has held positions as a securities analyst, assistant treasurer, and securities officer as well as first vice president, senior vice president, and executive vice president of investments. Although his father served as president of Berkshire Life, Gene worked his way through BLICO's ranks relying solely on his own superb talents.

These financial management talents are matched on the golf course, Mr. Speaker. Gene is feared not only on his home course at the Pittsfield Country Club, but he has taken the top prize at the Pocantico Hills tournament in Westchester County over the past 10 years. In fact, Mr. Speaker, Gene's retirement means that Gene will become an even more formidable opponent—I can't help but wonder if he has plans for a new career.

Mr. Speaker, his love for sports and activity are nowhere more visible than in the Pittsfield Boys' Club where Gene has served as treasurer and president. Over the years, the Pittsfield Boys' Club has established itself as one of the Nation's largest and most vital Boys' Clubs. The Pittsfield Club has a membership of over 5,000 and it is the only club with a hockey rink. Gene was instrumental in soliciting $1.5 million for the construction of the gym and hockey rink at the Boys' Club in 1960.

But more important than its place among the Nation's other Boys' Clubs, is its place in the hearts and lives of almost every resident of Pittsfield. No history written about the town of Pittsfield would be complete without a chapter dedicated to the influence of the Boy's Club. Among the most cherished memories of a Pittsfield man are those of his hours spent after school or during the summer playing at the Boy's Club. It was the Boy's Club that taught discipline and drive, enthusiasm and leadership skills, and a commitment to fortitude.

In his 30 year involvement with the Boys' Club, Gene Amber has been a "memory-maker". He has given the youth of Pittsfield a chance to participate and compete. Through his fund-raising efforts, his effective management, and above all, through his complete and selfless commitment, he has made the memories possible. Largely due to Gene's efforts, the Boy's Club has taken on a vitality and life that has become an important part of Pittsfield's identity.

The same can be said about Gene's involvement with Berkshire Life. At Berkshire Life, Gene has served as the voice of wisdom. His clear vision, his sound judgment, and his own quiet confidence have been invaluable to Berkshire Life. During times when the stability of world markets could not be taken for granted, and confidence in the Nation's economy was waning, Gene was able to guide Berkshire Life on a sound course.

Mr. Speaker, Gene Amber is a gentleman in the truest sense of the word. As a golfer, community leader, business leader, and above all as a family man, Gene has always been giving and enthusiastic. And while he isn't leaving Pittsfield for good, we will miss Gene sorely.

Mr. Speaker, I just want to take this opportunity to say. "Congratulations, Gene, on a job well done."

A CELEBRATION OF THE CONTRIBUTION OF JOAO RODRIGUES CABRILHO

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. STARK. Mr. Speaker, as we approach the 500th anniversary of the voyage of Columbus, I would like to call the attention of my colleagues to the accomplishments of Joao Rodrigues Cabrilho, a Portuguese explorer whose name is revered by many. Subsequent explorers owed a great debt to Cabrilho as he led the daring expedition that discovered the coast of California.

Cabrilho first sighted the California coast in September of 1542. After 3 months of sailing without seeing land, Cabrilho and his men rejoiced at the sight of the Bay of San Diego. After enjoying a much needed rest, the voyagers set off once again, discovering what is now Santa Monica and the present-day islands of San Clemente, Santa Catalina, and Santa Barbara, and coming to rest at Point Conception on October 18, 1542.

Shortly after setting sail again, they were driven back by a storm. It was while waiting out the storm that Cabrilho met with what would prove to be a fatal accident, falling and breaking his arm near the shoulder. He nevertheless refused to turn back. Enduring the pain, Cabrilho continued his voyage up the coast, reaching a point a little north of the Russian River before being forced to turn back by a storm once again.

On January 3, 1543, he finally succumbed to the wounds he received in his fall. He was buried on Cabrilho Island, named to commemorate his courage and determination. Under the direction of his hand-picked successor, Cabrilho's dream of exploring the Northern coast was carried out.

Californians have long recognized the contributions of explorers like Cabrilho. Soon, the 450th anniversary of his voyage will be upon us. It is my hope that in commemoration of his accomplishments, Cabrilho's story will be passed down through the generations as one of the great legacies of the nation of Portugal.

FINE EXAMPLES OF THE STUDENT-ATHLETE IDEAL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to 18 distinguished members of the Sacramento community, scholar-athletes in every respect, upon their acceptance as this years National Football Foundation Sacramento Valley Chapter's Scholar Athletes of the Year. It is an honor to salute such fine examples of the student-athlete ideal.

The National Football Foundation promotes the game of football as an integral and vital part of our students educational process. The camaraderie and sportsmanship which is found on the high school and college fields today teaches our children the meaning of hard work and sacrifice. It demonstrates to our students that with solid effort comes reward. Football instills in its players qualities such as teamwork, selflessness, fulfillment. It is with this in mind that the Foundation encourages the playing of the game at all levels. It attempts to establish the proper incentives and ideals for its participants consistent with the exacting demands made on them by their coaches, relatives and parents.

Therefore, it is with particular pride that we recognize the efforts of these gentlemen for their outstanding contributions to both the athletic field and the classroom. These young men have met the challenge of excelling in two different environments head-on. I hope you will all join me in congratulating these men for their outstanding accomplishments. I want to thank them for their efforts and I wish them the best of luck in all their future undertakings.

A CONGRESSIONAL SALUTE TO THE LOS ANGELES HARBOR COLLEGE ASSOCIATION DEGREE NURSING PROGRAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the Los Angeles Harbor College [LAHC] Association Degree Nursing Program. The LAHC Degree Nursing Program is celebrating their 25th anniversary on April 15, 1988. This occasion gives me the opportunity to express my appreciation for their work on behalf of the Los Angeles area.

The LAHC Degree Nursing Program began in September 1963 with four nursing instructors, and added two additional faculty the second year. Classes were initially taught in a bungalow on the grounds of Harbor UCLA Medical Center. In June 1979, a program was started to offer a ladder for licensed vocational nurses to become registered nurses.

From this modest beginning stems a program which to date has graduated 1,215 registered nurses from its nursing program. Classes are now held in a modern nursing building with its own library, media center, and learning laboratory. Students of the program have clinical experience in nine of the local hospitals, and an average of over 90 percent of program graduates passed the State board licensing examination on the first attempt. Many of the program graduates are employed in various health care agencies, principally hospitals within the community, and many hold leadership positions in nursing in our community and in other locales.

My wife, Lee, joins me in extending our congratulations, and our gratitude, to the LAHC Registered Nursing Program, for the continuing contributions the program has made to the health care needs of our community. On behalf of the Los Angeles Harbor area, we wish the program all the best in the years to come.

TRIBUTE TO THE SOUTHERN HIGH SCHOOL LADY TROJANS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to pay tribute to the 1987-88 Kentucky High School Girls' Basketball Champions, the Southern Lady Trojans, of Louisville and Jefferson County, KY.

The Lady Trojans, ranked at the top of the polls through most of the season, withstood all competitors enroute to a season record of 33 wins and 2 losses, and capped it off with a record-setting 57 to 34 victory over a fine team from Oldham County High. The victory margin was the largest ever in a girls' State championship game.

While Southern High School has a longstanding tradition of academic and athletic excellence, the Lady Trojans broke a 35-year spell to bring the school its first State championship ever. In this regard, I feel it appropriate to salute the entire southern community; the team, coaches, faculty, and students for a job well done.

Mr. Speaker, at this point I would like to insert in the RECORD the names of the players and staff members of the 1988 Kentucky Girls' High School Basketball Champions, the Southern Lady Trojans:

Players: Michelle Burden, Kim Andres, Debbie Davis, Danielle Burden, Melissa Burden, Gina Woods, Julia Hoffman, Lisa Harrison, Stephanie Grant, Pam Higgins, Cindy Collins, Mioshi Moore.

Managers: Nancy Long, Christy Zehnder, Mary Beth Lewis.

Coaches: Bill Brown, Kim Bynum, Russ Thompson.

FALL RIVER COMMUNITY DEVELOPMENT SERVICE CENTER WINS AWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. FRANK. Mr. Speaker, I believe that the Community Development Block Grant Program is one of the best that the Federal Government sponsors. The taxpayers receive a great deal of value for their money in this program, and I believe that it is a mistake that funds for it have been reduced over the past few years.

One of the best examples of constructive use of these funds is the city of Fall River, MA, which has one of the most inventive and responsible programs for the use of community development block grant funds in the country. The people of Fall River have long been aware of the value of the Community Development Block Grant Program, under the leadership of their very able mayor, Carlton Viveiros. And as the representative of Fall River in Congress, I have worked closely with Mayor Viveiros and Paul Poulos, the community development director from the city, to help them make this program as successful as it has been. To their credit, they have sought and won with the help of Congress a degree of flexibility in their administration of this program that is one of the reasons it is so important to the people in the city of Fall River.

Because I am a strong supporter of the CDBG Program and proud of the good work done in Fall River, I was particularly pleased to learn that the Fall River Community Development Service Center has been selected as a winner of the Audrey Nelson Community Development Achievement Award.

The Fall River Community Development Service Center is one of the important pieces of the Fall River Community Development Program. It is headed by former Mayor Wilfred Driscoll, and as a result of the close collaboration of Mayor Viveiros, CD Director Poulos, and former Mayor Driscoll, this center has become a very important and beneficial part of the lives of many people in the city.

Mr. Speaker, I look forward to being present on Friday morning when Rev. Vincent F. Diaferio, a member of the board of directors of the CDSC since 1972, receives the award on behalf of this important project. The Audrey Nelson Award, which commemorates the important work done by the first deputy executive director to the National Community Development Association, is an important honor and I am very proud that the people of Fall River, led by Mayor Viveiros, will receive it on Friday.

LAKE SUPERIOR STATE HOCKEY WINS DIVISION I CHAMPIONSHIP

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BROOMFIELD. Mr. Speaker, I would like to congratulate Lake Superior State University's hockey team for winning the National Collegiate Division I hockey championship. This is a remarkable accomplishment, and is even more remarkable considering the fact that lake Superior State is a very small school with only 2,700 students enrolled.

During the regular hockey schedule LSSU won the Central College Hockey Association division. This division includes traditional hockey powerhouses such as Michigan State, Wisconsin, and Minnesota. Also, during the regular hockey season LSSU was ranked No. 3 in the country by the Associated Press.

Once Lake Superior State qualified for the NCCA tournament they defeated the University of Maine—ranked No. 1 during their regular season—in the semifinal game. Finally, they defeated St. Lawrence University to win the championship.

This is Lake Superior State's first ever national championship in hockey. I am very proud of this courageous team. The entire State of Michigan can feel inspired by the "Cinderella season" of Lake Superior State's hockey team.

SALUTE TO FATHER REWAK

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MINETA. Mr. Speaker, I am proud to share with my colleagues in the House the contributions Father William J. Rewak has made to people of Santa Clara County and to the students of Santa Clara University as he steps down as university president after more than 11 years of service.

Father Rewak became the 26th president of Santa Clara University on December 15, 1976, where he has centered his efforts on continuing the proud tradition of excellence in education inherent in institutions of Jesuit education. His leadership brought SCU into a new age: a new athletic facility and engineering center were built; an interlinked computer network was instituted throughout the university; and, the rerouting of the Alameda, a street which currently bisects the campus, is now underway.

In Santa Clara County at large, Father Rewak has been a member of numerous professional, civic, and charitable organizations. These organizations include the Association of Independent California Colleges, the Board of Governors of the National Conference of Christians and Jews in Santa Clara County, the National Board of Directors of the Boys Clubs of America, and the Advisory Board of the Triton Museum of Art.

Recently, Father Rewak was a main force in the hugely successful fundraising campaign at the university, an impressive effort which will help provide quality education for many deserving students for many years to come. His leadership and dynamism brought the Santa Clara family together in support of the university.

Perhaps as vital as his administration and leadership skills, Father Rewak has remained at all times a warm and personable man, with seemingly endless amounts of time to devote to the betterment of the university and our community. He has always found time to meet with students, to listen to their needs, and to offer guidance, inspiration, and academic counseling. His open-door policy has fostered genuine good will throughout the university.

Mr. Speaker, Father Rewak has served Santa Clara University and our community with distinction, working tirelessly to insure a high-quality college education for each student. He has donated his time, talent, and energies to many worthwhile community endeavors. He will be sorely missed, and I would ask my colleagues to join with me in saluting Father Rewak and extend to him our best wishes in the years to come.

HONORING MR. CHARLES FLETCHER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LANTOS. Mr. Speaker, today I would like to recognize the achievements of Mr. Charles Fletcher, Executive Director of the President's Committee for Purchase from the Blind and Other Severely Handicapped.

As Charlie approaches retirement, his dedication and efforts should be recognized. He has devoted many years to the successful development and progress of the Javits-Wagner-O'Day Act [JWOD] which established a Federal set-aside program for procurement of quality goods and services from workshops employing blind and other severely handicapped people. Currently, over 4,500 blind and multi-handicapped people and 11,000 severely handicapped individuals are employed through the JWOD Program.

The President's Committee is the Federal agency responsible for administering the JWOD Act. In his 16 year tenure as Executive Director, Charlie has been responsible for developing regulations, as well as establishing procedures and policies to continue and enhance a program which celebrates its 50th anniversary this year. Charlie has also been in the forefront of augmenting the type and number of goods manufactured and services provided to the Government by the blind and severely handicapped. When we combine these contributions with his encouragement of strong support for the JWOD Program throughout the Federal Government, Charlie has been a true advocate who has been most successful in increasing the number of jobs available to blind and disabled citizens through the sheltered workshop system. Increasingly, the program has become more sensitive to the need to include blind and handicapped individuals in managerial positions which is a positive direction just beginning under Charlie's stewardship.

Prior to his work with the President's Committee, Charlie was commissioned in the U.S. Army. He graduated from the U.S. Military Academy and the Army War College, and earned a masters degree in international affairs from the George Washington University. During World War II, he served in the European arena. Following the war, Charlie held a variety of troop and staff assignments, including an assignment in the Office of the Army Chief of Staff. He completed his military service in 1971 as a brigadier general.

The JWOD Program, and the blind and severely handicapped people who have been given a chance to be productive through this program owe much to the diligent work of Charlie Fletcher. I ask my colleagues to join me in wishing Charlie well in his retirement, and congratulating him on his work on behalf of the JWOD Program. I offer a sincere thank you to Charlie Fletcher for his commitment to improving the quality of life for thousands of blind and disabled Americans.

HONORING H. JAY CLARK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. MURTHA. Mr. Speaker, there is probably no business area in America that has undergone the changes in the last quarter century that have affected Johnstown, PA. On Friday, April 22, the community will be honoring one of the men who has devoted himself to helping the community cope with that change—Mr. H. Jay Clark of the Johnstown Chamber of Commerce.

In his 22 years of community service, Jay Clark has seen the Johnstown community withstand the disastrous flood of 1977, a major shift in the fortunes of the coal and steel industries, a recession that left the community with the highest unemployment rate in the Nation, and major shifts in population and resources.

People who visit the Johnstown area today, however, are amazed at the revitalization of the downtown community, the attack we have made on unemployment, and the success we have shown in revitalizing and redeveloping the area economy.

At the forefront of that effort has been Jay Clark. During this crucial period in the city's history, his effective leadership on the chamber of commerce has benefited thousands of local families and the entire community.

I often note that the history of our great Nation is written less by the persons in the headlines, than by the many individuals throughout the country who work daily in helping others, giving their time to the community, and working for America's future. Jay Clark's distinguished record is an example of the difference that a dedicated individual can make, and the continuing progress in Johnstown is a living, changing memorial to his work and dedication.

I am glad to join in recognizing the outstanding civil accomplishments of Jay Clark.

THE MERGER OF PACIFIC SOUTHWEST AIRLINES WITH USAIR

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LOWERY of California. Mr. Speaker, last week on April 9, a California and West Coast institution disappeared when San Diego-based Pacific Southwest Airlines [PSA] merged with USAir. On that date, many in the West, and especially in California, lamented the passing from the scene of a truly innovative and beloved airline.

PSA has been known in the airline industry as the carrier that originated high-frequency air service at low fares. The airline's nonconformist approach to air travel—and the success it generated—revolutionized air transportation in the West and served as a model for other carriers in the United States.

PSA began service on May 6, 1949, with a leased DC-3 aircraft on a weekly flight from San Diego to Oakland via Burbank Airport. The airline quickly began acquiring more aircraft and added service to other California cities in the early 1950's. Then, in 1958, PSA entered the Los Angeles-San Francisco market, which was to become the most competitive air corridor in the country.

By the mid-1960's PSA had become the largest carrier in California, a position it will hold up to the moment of its integration with USAir. The airline was renowned for its low fare structure and a non-traditional, fun approach to commercial air travel—evident from the famous smile painted on the nose of each aircraft to the innovative uniforms worn by the flight attendants.

As the airline industry moved toward deregulation in 1978, PSA continually was cited as the prototype for the kind of carrier consumers could expect in an open marketplace—one with frequent flights and low fares.

With the advent of deregulation, PSA expanded its operation outside California, eventually becoming the largest carrier in the West, based on passengers carried.

PSA has the distinction of operating the most modern, fuel-efficient and quiet fleet of any airline in the country.

In June 1984, PSA became the first major airline in the world to fly the BAe 146-200. The carrier is the world's largest operator of this aircraft, which tests show is the quietest commercial jetliner on takeoff ever developed.

The BAe-146 fleet complements PSA's 31 McDonnell Douglas MD-80's, twin-engine fanjets that also exceed the stringent noise requirements demanded of new-generation aircraft.

Prior to the introduction of the 146, the distinction for being "the world's quietest jetliner"' belonged to the MD-80, which debuted in the United States in 1980 when it entered PSA's fleet.

PSA was cited as a leader in the airline industry when it introduced the quiet MD-80 into the domestic service; this tradition was strengthened when PSA began operation of the 146.

Currently, PSA offers more than 500 flights a day to markets that stretch from the Canadian border to the tip of the Baja Peninsula in Mexico. Airports served are Los Angeles, San Francisco, San Diego, Oakland, San Jose, Sacramento, Burbank, Ontario, Long Beach, Orange County, Palm Springs, Fresno, Stockton, Monterey, and Concord, CA; Phoenix and Tucson, AZ; Las Vegas and Reno, NV; Seattle, Bellingham, Yakima and Pasco/Richland/Kennewick, WA; Portland, Eugene, Medford, and Redmond/Bend, OR; Albuquerque, NM; and Cabo San Lucas, Mexico.

Recognizing the inexorable trend in commercial aviation, in December 1986, PS Group, Inc., PSA's parent company, agreed to sell the airline to USAir Group, Inc. for $400 million. The sale was completed on May 29, 1987, and PSA is now a wholly owned subsidiary of USAir Group, Inc.

On April 9, the process which began in December 2 years ago came to its conclusion. PSA disappeared into USAir. The majority of its employees remained, bringing an expanded smile to USAir's national route network.

THE STRENGTH OF AMERICA

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BRENNAN. Mr. Speaker, I rise today to share with you and my colleagues an essay written by one of my constituents, Jennifer Ann Davis, of Yarmouth, ME. Jennifer's essay, entitled "America's Liberty—Our Heritage," was Maine's winner in the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy Broadcast Scriptwriting Contest.

I would like to highlight one idea from her script, an idea which I believe represents the strength of America;

One does not have to be a soldier or a politician to make a significant contribution to liberty. An informed citizen, exercising his constitutional rights can make a profound contribution.

Jennifer, a graduating senior at Yarmouth High School, is helping to make her contribution to liberty by writing this essay. I join her father, Joseph, an antique dealer, and her mother, an employee at L.L. Bean, Inc., in expressing congratulations to Jennifer.

I would urge my colleagues to take a moment to read and reflect upon Jennifer's thoughtful essay.

AMERICA'S LIBERTY—OUR HERITAGE

(By Jennifer Ann Davis)

Our young country of America was created with the intention of being a land of liberty and happiness. Our Declaration of Independence gives man the rights of life, liberty and the pursuit of happiness. The founders of our great nation strived to create a union of brotherhood and prosperity. These visionaries hoped to create a system that would guarantee the preservation of certain unalienable rights. It was to be a land of opportunity.

The opportunity of liberty is what we as Americans share, we all have the freedom of speech, the freedom of religion, freedom of the press—and many others stated in the Constitution. We know that we are not bound by a supreme rule—and we have prospered by this over the past 200 years. The great Democratic experiment appears to have been successful. Yet sometimes there is a question of how far one can stretch the definition of liberty. Does a reporter have the right to protect the identity of his informant when questioned in court? Does a newspaper have the right to publish profanity in their paper? Do we, as townfolk, have the right to prohibit a demonstration by the Ku-Klux Klan? These are constitutional challenges that are discussed every day in our courts. Our Supreme Court must decide whether we, as American citizens are allowed to take these liberties—or whether they violate the Constitution.

Though America's attempt to provide liberty for its people may not be without its flaws—it is one of the most successfully governed nations in the world. We as Americans take pride in our heritage and the opportunities it has afforded us to reshape our living Constitution. We the citizens are what create America's remarkable heritage everyday—we fight for our freedom and for the freedom of others, we work to keep America pollution free, we are continuously trying to keep America fed, America educated, America healthy and America prosperous. Men and women have died over the past two centuries fighting for our country, keeping our heritage strong and helping others fight for their liberties.

One does not have to be a soldier or a politician to make a significant contribution to liberty. An informed citizen, exercising his constitutional rights can make a profound contribution. One has to only read the history books and discover how remarkably young; yet, influential we are as a country. We have shaped the constitutions of many emerging nations, our governmental system of checks and balances have been adopted in many countries and the basic liberties that we, as American citizens enjoy are being offered to many citizens across the world. These countries do not adopt our ideas for just any reason—they adopt our ideas because we have proven that the work—they work for the benefit of the entire country.

It is incredible that a country as powerful as ours has continued to run according to its original plans. We are lucky to live in a country whose remarkable heritage began with three basic principles—and continues to grow according to these same three principles . . . "all men are created equal, they are endowed by their Creator with certain unalienable Rights and among these are Life, Liberty, and the pursuit of happiness."

A TRIBUTE TO GEMMA PARKS

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BATES. Mr. Speaker, on March 6, 1988, San Diego's Gemma Parks died of cancer at the age of 54.

Gemma was a friend who had devoted her life to her community and to the protection of our environment. As a member of the San Diego County Board of Supervisors from 1975 to 1982, I had appointed Gemma to the county planning commission because of her sensitivity to the environment and commitment to responsible growth management at a time when such a position was unpopular.

At her home in Solana Beach, Gemma was a leading force in its incorporation efforts. She was a founder of the San Diego Ecology Center and the Solana Beach Town Council, and she was involved in numerous other community groups including: San Diegans for Managed Growth; the Solana Beach Chamber of Commerce, the Solana Beach Women's Civic Club in addition to running her own public relations firm.

Gemma is remembered for her energetic contributions to her community and its people. She was happiest when she was able to work with people and bring out the best in them. She touched people in ways that were healing and inspiring.

Gemma was a hero to those who saw how bravely she faced having cancer, but in her mind, she was reluctant to accept the title hero. She, instead, looked at having to face death as an opportunity to really live life. And, she loved her life with flair. The causes that she championed were important to her and she worked on them with extraordinary energy and conviction.

Gemma believed that each person has a role; a duty to make a difference in the world, "to look after our own piece of the sky."—Quote taken from her memorial service eulogy on March 10.

Gemma was a special person; she will be missed; and she will be remembered.

A TRIBUTE TO BETTY HOGAN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. DOWNEY of New York. Mr. Speaker, it is not often that I use this space in the CONGRESSIONAL RECORD to extol the work of an individual who happens to live or work in my congressional district. It is equally seldom that a person like Betty Hogan, a woman who has devoted more than 35 years to the field of nursing, takes a moment to celebrate her life of accomplishments. On April 15, a day when many of us will be caught up in the last minute worry of tax return deadlines, a very privileged few will join with Betty to celebrate her retirement.

Betty Hogan is not just a nurse. Betty, and anyone who knows her will tell you this, is more like an institution. She has devoted her working life to the care of the mentally impaired, and, in the last 4 years, has spent her time as the unit chief of a 320-bed rehabilitative and community preparation personalized care model unit at the Central Islip Psychiatric Center on Long Island. It's a rather lengthy title for a job that is not all that difficult to understand. In short, Betty Hogan has been one of the architects of a program that prepares patients for assimilation into the local community. What is more difficult to understand is how one person could embody the patience, dedication, love of her work and her patients, and indomitable spirit that have been the hallmarks of Betty's service.

In every sense of the word, Betty has been a hero, and her memory will live on in the halls of the Central Islip Psychiatric Center and in the minds of every one of her patients whose lives she has so gently touched.

THE 50TH ANNIVERSARY OF THE ST. MATTHEWS WOMEN'S CLUB

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BUNNING. Mr. Speaker, I rise to advise my colleagues of a happy and proud event that will take place next Monday, April 18. The St. Matthews Women's Club of St. Matthew, KY, will celebrate its 50th anniversary of community service, caring, and sharing.

This fine organization has a membership of over 200 women who meet weekly and contribute thousands of hours of volunteer services for the benefit of a great number in the community. The St. Matthews Women's Club presently sponsors two colleges scholarships annually; they hold monthly birthday parties for the young women who reside at Maryhurst School—a school in my district for troubled teenage girls—and they knit and distribute hundreds of pieces of clothing annually to nursing home patients in the area.

The St. Matthews Women's Club is engaged in many other worthwhile projects—more than I can list here but I can tell you that the quality of life of many of my constituents has improved as a result of the countless hours of hard work, dedication, and sacrifice by these fine ladies.

I believe it is fitting that the members of the St. Matthews Women's Club be recognized in this House for their caring and sharing with those who truly need assistance.

CIVIL SERVICE ANNUITY PROMPT PAYMENT ACT

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. RAY. Mr. Speaker, today, I am joined by 45 of my colleagues in introducing the Civil Service Annuity Prompt Payment Act.

Civil Service retirees, after spending their entire careers working for the Federal Government, often have to wait from several months up to a full year for a full retirement benefit check. Military retirees do not have this problem. This delay places many of these people in financial jeopardy and endangers their credit rating. Some retirees are forced to use all of their life savings in an effort to make ends meet while waiting for a payment from the Office of Personnel Management [OPM]. These people should be compensated.

The legislation I am introducing today would require OPM to pay interest on Civil Service retirement payments that are not made within 90 days of the annuity's commencement date or the date on which OPM receives a completed application, whichever is later. In addition, if a retiree receives a partial benefit payment, the retiree would receive interest on the difference between the full benefit and the partial benefit. The interest payments would be taken from the operating funds of OPM.

Mr. Speaker, this legislation is needed, and I encourage my colleagues to support this bill.

SALUTE TO THE YOSEMITE CLUB OF STOCKTON, CA, DURING ITS 100TH BIRTHDAY CELEBRATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LEHMAN of California. Mr. Speaker, today I rise to honor and commend the Yosemite Club on its centennial celebration. April 17, 1988, marks the club's 100th year of continuous existence, making it the oldest private luncheon club for business and professional people not only in the city of Stockton and the county of San Joaquin, but in all of California.

As a member of this fine organization, I join my fellow 450 members in looking back to the spring of 1888 and the setting in which the Yosemite Club was formed. Agriculture was becoming a primary industry and wheat fields outlined the San Joaquin County horizon; the city of Stockton was bustling as California's second ranking manufacturing city; and paddle wheel steamers, scows, and barges carried passengers, produce and goods via the Sacramento-San Joaquin Delta to San Francisco and on to world markets. In this atmosphere, a group of leading business and professional men met in the superior court room to sign the articles of "The Yosemite Club." In 1908, the Yosemite Club moved its home to the top of the stately and respected Bank of Stockton where it has resided ever since.

The Yosemite Club stands as a time and tradition honored institution for which Stockton, CA can be proud. I extend my congratulations to this distinctive organization for its 100 years of continuous existence and send my best wishes as it continues to provide a forum for the gathering of many of San Joaquin County's distinguished business and professional people.

AMBASSADOR PERKINS ADVOCATES SANCTIONS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. CROCKETT. Mr. Speaker, in an article appearing in a recent issue of Leadership magazine, Edward J. Perkins, U.S. Ambassador to South Africa, argues that South Africa faces a fundamental transformation of its political and economic systems that one day will lead inevitably to the demise of apartheid and to attainment of black majority rule in that country. He also states that if hastening that transformation is our objective "* * * we in the West must continue to put unrelenting pressure on (the South African) government on a whole range of issues from human rights to fundamental political change. And this pressure includes selected sanctions."

I would like to share this article with my colleagues and ask that it be included in today's CONGRESSIONAL RECORD.

IN YOUR HANDS

(By Edward J. Perkins)

There is an inherent danger in talking or writing about a country other than one's own—in this case, South Africa. A foreigner does not have the background or the perspective to make definitive judgements. Secondly, an outsider does not have to worry about the consequences—as a South African must do at all times.

If I had no concern for the future of South Africa, I would not be here. There are some advantages to outsiders describing and discussing a land, so long as it is well considered and thoughtful. I've made the point before that foreigners sometimes provide interesting and useful insights into the heart of a country.

A little outside comment is not a bad thing in this country where there has been a dangerous lack of communication between blacks and whites. A remarkable experience for me as an outsider, a newcomer to South Africa, is to be asked by blacks what whites are thinking, and vice versa. Some day I will answer that question with a question of my own: "Why don't you just ask each other?" I am encouraged, though, by the fact that they do ask me! That is not to deny there is perhaps more contact between blacks and whites than most outsiders realise, and that much of it reflects sincere and obvious goodwill. But the invisible psychological barriers—born of history and strengthened by the country's physical restructuring over the past 40 years—have been formidable; and the intellectual isolation that has been created is absolutely stunning.

The sad fact is that the policy of apartheid has been all too successful. It ranks as one of this century's most disastrous feats of social engineering. And now, somehow, it must be disassembled.

I am therefore going to presume upon the readers of Leadership to make a few observations about South Africa for two reasons. I have come to have a great deal of regard for the country, the people, and what they can achieve by working together politically, economically and socially. And my hope and affection for South Africa are heightened when I imagine how the interdependence of peoples can work to eliminate the scourges of hunger, war and racial discrimination. I must admit I did not expect to have this feeling when I arrived last November at Jan Smuts Airport.

Secondly, I have made a great attempt to get to know this country. I have travelled it extensively, spoken with hundreds of people from all walks of life and, perhaps most important of all, I have tried to listen rather than to talk. I have picked up several themes which seem important to me, although they are far from universally acknowledged in the country.

The first point is that somewhere down the road, South Africa faces a major transformation of its political structure. Almost no-one I have met believes that the present constitutional system is sufficient to carry the country into the next century. I sense a growing realisation that a valid political system here must be one that correlates with the demographics of the country—not merely black participation, or black co-operation, but a government which truly represents the majority of South Africans (and the term "South African" includes everyone inside the wide, traditional, national boundaries). Moreover, the majority must have a significant say in how that government is formed. I do not think that elaborate schemes which try to give an impression of black representation, but actually maintain white power, will work. They are as doomed as the concept of apartheid itself.

The extent to which that simple fact is still denied is surprising. Yet, every sign points to it. The forces of justice and historical right are on its side. And just look at the numbers: in 1960, whites constituted 20 percent of the population. Today 15 percent of all South Africans are white. But by the end of the century the figure will have shrunk to 7 or 8 percent. A dwindling minority which rules this country can only mean a diminished power base and lessened ability to uphold an antiquated and unjust system.

The question in South Africa is not whether a new political system will exist here, but, rather, how it will come about. But we must ask ourselves how many whites operate with that premise? If the results of the past six months are any guide, not very many.

Similarly for blacks, if political transformation is inevitable, what kind of government should it be? Will it protect human rights? Will it foster economic diversity? It will be too late to try to answer these questions once the wheel of change is spinning under its own uncontrollable momentum.

My second point is that there are real questions of ethnicity in South Africa which will ultimately have to be addressed. I have noted with interest the views of historian Hermann Giliomee who points out that there are two nationalisms here. Afrikaners love their country, cherish their roots, and feel strong historical justifications for their presence here. Afrikaner concern about the future is something that cannot be swept under the carpet and ignored.

Those who seek to change this system by individual conversion of Afrikaners or by an attempt to make them admit the moral error of their ways should recognize the limitations inherent in those tactics. To hasten the process of change, and to avoid bloodshed and chaos, it will be necessary to provide some kind of reassurance to Afrikaners. They will want to know that sometime after the transition they will not end up defenseless and dispossessed in the land of their birth. Those who seek rapid and meaningful change in South Africa would do well to confront forthrightly the issue of two competing nationalisms.

At the same time, Afrikaners must expand their concept of community to embrace and accept all South Africans on an equal basis. Forty years ago Afrikaners were still struggling to assert their political power. Strong cultural identification and group solidarity were considered necessary to gain the national strength they have today. Those days are now over. One of the many tragic ironies I see here is the spectre of a ruling people who survived the concentration camps of the Anglo-Boer War, yet inflict forced removals upon others, and after a long struggle for educational liberation, imposed Bantu education upon people striving for better opportunities.

Afrikaners are now the governors of the nation. This means that they bear special responsibility to take steps to create reconciliation, unity, and the extension of full democratic rights to all South Africans. Secretary of State George Shultz, in his speech on South Africa on September 29, 1987, enunciated the principles that we believe need to be addressed by all South Africans as they negotiate a new democratic system. South Africans, including Afrikaners, who work toward a solution based on these democratic principles will earn the respect and support of free people throughout the world.

The third theme is one I advocated recently in a speech in Johannesburg. I believe that the outside world must view South Africa with great sensitivity so that we do not make matters worse. I genuinely do believe that we in the West must continue to put unrelenting pressure on this government on a whole range of issues from human rights to fundamental political change. And this pressure includes selected sanctions.

But, in a badly factionalized land like South Africa, unfocused pressure is very likely to be counterproductive. As Sir Laurens van der Post has put it so well, it is a fallacy of the 20th century that good can be accomplished by doing evil; or in other words, that things have to get worse before they can get better. I agree with him.

Under these difficult circumstances I see the clear need for a dual responsibility. South Africa must face up to its problems and not take refuge in diatribes against the outside world. The way to deal with nations abroad is to deal with the problems of South Africa. As for the United States, I believe that the complicated issue of South Africa challenges us to gain a more sophisticated grasp of the realities of conducting foreign policy. We can choose principles, we cannot choose sides. We can invite the various sides to associate themselves with our principles if they choose to do so. Moreover, we must hold fast to our commitments, and not allow ourselves to be swayed by impatience or emotional rhetoric from any side, but let it be known clearly what we as a nation stand for.

In conclusion, I want to reiterate the recent words of Secretary Shultz and say that I feel great hope for this country. I think South Africa will do more than make it. I believe South Africa will someday be a country which offers all of its citizens a sense of pride and hope for the future. Despite the bitter cleavages which disfigure this society and which have been tragically reinforced by 40 years of apartheid, I believe the shared values of decency, religion, and, indeed, self-interest in survival can prevail.

I continue to be impressed by the generosity of spirit still felt among South Africans, and by the dedication of those both within the parliamentary system and without, who are labouring unselfishly to build the future. My admiration is unlimited for those who carry the torch: the women of the Black Sash; the people of community organisations from Soweto, to Mamelodi, to New Brighton, to KwaMashu, to Guguletu; the leaders of trades unions; those struggling with new structures in KwaNatal; the Afrikaners who travelled to the Dakar talks; and those who are using their creativity to confront social problems—such as the men and women of Operation Hunger. The list could go on and on. They exemplify more than anything how right Chet Crocker was when he recently said that the future of this land is not in the hands of Americans; it lies in the hands of South Africans. That is precisely where it should be.

RETIREMENT OF BETTY BLOOMER—OUTSTANDING PUBLIC SERVANT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. PANETTA. Mr. Speaker, I would like to bring to my colleagues' attention the retirement of a wonderful public servant in my district, Betty L. Bloomer. Betty has served in the Monterey County Election Department since 1972 and for the past 2 years has been Registrar of Voters. She has done her job well and has played a major role in modernizing the elections process in Monterey County. She will truly be missed.

Betty was born and raised in Illinois, where she graduated from Galesburg High School. She attended Monmouth College in Illinois and the University of Nebraska.

Betty's first job with the Monterey County Election Department was a clerk. She later became Principal Clerk and, in 1981, became Assistant Registrar of Voters. In 1986, she became Registrar. One of her most significant accomplishments has been making Montrerey County the first county in the State of California to install a state-of-the-art signature retrieval system.

Betty is married to F. Wayne Bloomer, who is a retired U.S. Navy commander. They have two children, Bill and Mary Beth, and two grandchildren, Lisa and Heather.

Betty is a member of the Salinas First Presbyterian Church and is an expert gardener. The winner of a number of awards for flower arranging, Betty hopes to spend more time with her gardening—and with her grandchildren—after retiring.

Mr. Speaker, I know my colleagues join me in congratulating Betty on her retirement and thanking her for a job well done. Sylvia and I both consider Betty a good friend, and we both wish her the best of luck in the future and a satisfying and happy retirement.

CIVIL RIGHTS RESTORATION ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. BONKER. Mr. Speaker, there has been some controversy, and, unfortunately, a good deal of misinformation about the scope and purpose of the Civil Rights Restoration Act. This bill will help ensure that Federal dollars are not used to further unjust discrimination against women, racial minorities, older Americans, and the handicapped.

This is, I believe, among the most important pieces of civil rights legislation to be considered by this body in more than two decades. The act is supported by nearly every major religious, women's, labor, and public interest group in the country.

The House Judiciary and House Education and Labor Committees have prepared a thoughtful discussion of some of the most commonly asked questions about the bill. In an effort to clarify the debate, I have asked that it be inserted into the RECORD, along with a sampling of groups supporting the Civil Rights Restoration Act.

SAMPLING OF GROUPS SUPPORTING THE CIVIL RIGHTS RESTORATION ACT

National Council of Churches; U.S. Catholic Conference of Bishops; American Jewish Congress; American Baptist Churches; United Methodist Church; Episcopal Church; Evangelical Lutheran Church of America; Presbyterian Church USA; National Association of Independent Colleges and Universities; Union of American Hebrew Congregations; Anti-Defamation League of B'nai Brith; American Jewish Committee; Church of the Brethern; Church Women United; Network-National Catholic Justice Lobby; NAACP; American Bar Association; AFL-CIO; Paralized Veterans of America; American Association of Retired Persons; League of Women Voters; Common Cause; People for the American Way; National Urban League; United Automobile Workers of America; American Civil Liberties Union; Business and Professional Women; United Steelworkers of America; Japanese American Citizens League; Children's Defense Fund; Lawyer's Committee for Civil Rights Under Law; United States Student Association; Human Rights Campaign Fund; International Ladies' Garment Workers' Union of America; National Council of La Raza; and American Federation of Teachers.

COVERAGE OF RELIGIOUS ORGANIZATIONS

Question. Are all the operations of churches, synagogues or other religious institutions covered by the civil rights laws if one of their facilities receives federal financial assistance?

Answer. No. A limited purpose grant, (e.g. for refugee assistance) to a church would not be considered assistance to the church as a whole. Nor would a Catholic diocese be covered in its entirety where, for example, three geographically separate parishes receive federal financial assistance. Only the three parishes which receive federal financial assistance would be covered by the antidiscrimination statutes. The U.S. Catholic Conference has indicated its satisfaction with the bill's provision regarding coverage of church institutions as have the other churches as listed on the last page of this document.

HOMOSEXUALS

Question. Does this bill require a recipient of Federal funds to provide a homosexual the protections provided women by Title IX or the protections as provided under any of the other statutes amended by this bill?

Answer. Neither Title IX or any of the other statutes amended by S. 557 has ever been interpreted by the courts to provide protection on the basis of sexual preference; none of the regulations have ever so provided; and nothing in the bill creates any such protection. Homosexual groups recognize this lack of protection in seeking new legislation specfically prohibiting discrimination on the basis of a person's sexual preference.

Question. Does this bill create rights for homosexuals under section 504 of the Rehabilitation Act of 1973?

Answer. No. This bill does not preclude an entity from discriminating against an individual solely on the basis of the face that the individual is homosexual. Thus, if an entity's religious practices require it to take disciplinary action.

ALCOHOLICS AND DRUG ADDICTS

Question. Does this bill require an employer to hire or retain in employment all alcoholics and drug addicts?

Answer. No. A person who is a current alcoholic or drug addict can be excluded or fired from a particular job if it is determined that he or she poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential functions of the job.

Question. Does this bill change the current underlying substantive law of section 504 of the Rehabilitation Act of 1973 in any way?

Answer. No. Since 1973, section 504 of the Rehabilitation Act (the civil rights statute for handicapped persons) has been interpreted to enable employers to refuse to hire or fire alcoholics and drug addicts under these circumstances. To allay the fears of some employers about the nature of their responsibilities to such persons, this policy was expressly inserted into the statute in 1978 (see section 7(8)(B) of the Rehabilitation Act).

Question. Has this current substantive law created untenable positions for recipients regarding the hiring or retention of alcoholics and drug addicts?

Answer. No. The 1978 amendments allayed the fears of employers. They now understand that they don't have to hire or retain all alcoholics and drug addicts. Courts have upheld the right of employers to fire employees who cannot perform or who pose health and safety risks.

Question. Do the standards governing the exclusion of alcoholics and drug addicts in the employment context apply in other situations, such as exclusion from participation in a program receiving federal assistance?

Answer. Yes. As in the employment context, a person must, with reasonable accommodation, meet the essential qualifications for participation.

PERSONS WITH CONTAGIOUS DISEASES

Question. Does this bill require an employer to hire or retain in employment all persons with contagious diseases?

Answer. No. An employer is free to refuse to hire or fire any employee who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job if no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job. This determination must be made on an individualized basis and be based on facts and sound medical judgment.

Question. What guidelines exist for determining what is meant by a "reasonable accommodation?"

Answer. Federal agencies such as the Centers for Disease Control, the Department of Labor, and professional organizations such as the American Academy of Pediatrics and the American Hospital Association have issued guidelines for ensuring safety in the workplace. The guidelines can be relied on for determining reasonable accommodations.

Question. Does this bill change this situation in any way?

Answer. No. This has been the law of the land since 1973, when Congress passed section 504 of the Rehabilitation Act. The circumstances under which a person with a contagious disease can be excluded was recently reaffirmed by the Supreme Court in the Arline decision. The bill includes language which is consistent with this decision. The language in the bill is modeled after the Language added to the Rehabilitation Act in 1978 with respect to alcoholics and drug addicts.

Question. Who supported the inclusion of this language in the bill?

Answer. On the Senate side, it passed without dissent as a Harkin/Humphrey Amendment. On the House side it was not only included in the bill that passed the House; but the exact same was endorsed by the Administration through a letter from Secretary Bennett.

Question. What standards apply in non-employment contexts such as schools?

Answer. The same standards.

Question. Will the fact that section 504 covers contagious diseases mean that recipients will not be able to take normal good faith public health precautions to prevent the spread of contagious diseases?

Answer. No. Public health measures designed to prevent the spread of infectious diseases or infections such as AIDS would not be undermined by covering persons with contagious diseases or infections under section 504. In fact the American Public Health Association has argued that "promotion of public health is aided not impeded, but an individualized determination of whether a person with a communicable condition is qualified to work." In addition, to the APHS, the American Medical Association and the American Nurses Association support the inclusion of contagious diseases under section 504.

Question. Has the Administrative Board of the Catholic Conference taken a position on discrimination against persons with AIDS?

Answer. Yes. In a publication entitled, "The Many Faces of AIDS—A Gospel Response" the Administrative Board of the U.S. Catholic Conference (November 1987) stated: "Discrimination directed against persons with AIDS is unjust and immoral." The Administrative Board also stated: "Because there is presently no positive or sound medical justification for the indiscriminate quarantining of persons infected with AIDS, we oppose the enactment of guarantine legislation or other laws that are not supported by medical data or informed by the expertise of those in the health-care or public health professions."

Finally, as we have stated repeatedly, S. 557 addresses only the scope of coverage under Title VI, Title IX, section 504, and the Age Discrimination Act of recipients of federal financial assistance. The bill does not change in any way who is a "recipient" of federal financial assistance; what is defined as "federal financial assistance"; nor does the bill alter in any way the substantive definition of what constitutes discrimination under these statutes nor the protections they have afforded for the last 15 years.

ETHIOPIA—A NATION IN TURMOIL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. ROTH. Mr. Speaker, although many of my colleagues may not believe it possible, the already grave situation in Ethiopia became even worse last week, revealing the true depth of brutality prevailing in the Mengistu regime.

On April 6, the government's Relief and Rehabilitation Commission suddenly suspended emergency food and relief shipments to the 3 million drought-stricken and war-ravaged people of Eritrea and Tigre provinces, and further moved to seize the transportation network which forms the lifeline over which these vitally needed supplies flow.

If anyone doubted it before, let them now recognize that the Ethiopian people, and the refugees there from neighboring countries, now face mass starvation as a deliberate policy of the Mengistu regime. Mengistu's objective is to harass our relief effort, interdict the food and supplies, and divert them to the Ethiopian military.

There can be only one goal of this latest ploy: To cease the relief effort and use mass starvation as a tactic of subjugation. This is genocide, and civilized people and their governments must put aside their political differences, unite in their condemnation of this monstrous crime, and do whatever is necessary to prevent the murder of 3 million people.

To help my colleagues understand the implications of this latest development, and to provide a course of action, I am entering into the Record two news reports, and letters I have written to President Reagan, Pope John Paul II, and General Secretary Gorbachev, urging their joint action to prevent Mengistu's imminent crime against humanity.

The articles follow:

[From the New York Times, Apr. 7, 1988]

Ethiopia, Pressing War on Rebels, Bars Aid Workers in Drought Area

(By Sheila Rule)

Nairobi, Kenya, April 6.—The Ethiopian Government today ordered all foreign relief workers to leave immediately from the drought-stricken provinces of Eritrea and Tigre because of its escalating war against rebels.

Humanitarian agencies in Addis Ababa, Ethiopia's capital, said the decision would further disrupt relief efforts, already severely crippled by the mounting conflict in the north, to provide emergency supplies to the more than three million Eritreans and Tigreans who face famine.

They said they hoped that local employees could continue some work and that the latest development was being discussed with the authorities in the Soviet-backed Government of Ethiopia.

MEASURE IS CALLED TEMPORARY

The governmental Relief and Rehabilitation Commission, which coordinates relief activities, said in a statement that the move was being taken to avoid "security risks" to foreigners working in the provinces. It asked foreign relief agencies to turn over their operations to the commission.

"Under the circumstances, the R.R.C. has recalled expatriate relief workers from the troubled zone temporarily until the area is cleared of bandits and tranquillity is restored to the life of the civilian population in that area," the statement said, referring to itself by its initials and to the rebels as "bandits."

The decision to withdraw relief personnel was made less than a week after President Mengistu Haile Mariam, in a rare acknowledgment of mounting rebel activity, said that the protracted insurgencies in the north were threatening the sovereignty of his impoverished country. Although the Government has not provided details of the military conflict, it has announced a nationwide mobilization of the army to carry out a counteroffensive against the rebels.

TROOPS HEAD NORTH

Relief officials said today that some of their workers in the province of Wallo saw at least a dozen buses crowded with Ethiopian troops heading north toward Tigre. One official said the region was being "shut up as tight as a drum."

The move also followed an announcement this week by Somalia and Ethiopia, longtime adversaries, to restore diplomatic relations and withdraw troops from their border. Western diplomats said Ethiopia appeared to have agreed to ease tensions with its neighbor so as to redeploy thousands of security forces to the northern region.

Rebels in both Eritrea and Tigre have claimed major successes against Marxist Ethiopia in recent week, including the capture of strategically important towns, the killing of thousands of Ethiopian troops and the capture of Soviet military advisers. The Eritrean People's Liberation Front has been fighting the Government for 27 years, while the Tigre People's Liberation Front has been engaged in an insurgency for 13 years.

In recent weeks emergency relief aid distribution by the R.R.C. as well as the international donor organizations had been disrupted by terrorists engaged in destructive activities against the unity, integrity and freedom of Ethiopia, the Relief and Rehabilitation Commission said in its statement.

FIGHTING HAMPERED FOOD RELIEF

Relief workers say that as many as seven million Ethiopians face the prospect of a famine that could rival the calamity of 1984 and 1985. Eritrea and Tigre are the worst affected areas in the country, in the Horn of Africa. But humanitarian agencies say that food distribution to outlying towns and villages in the north have been all but halted by the military conflict and the Government's increasing restrictions on the movement of trucks carrying food and supplies.

David Morton, director of operations in Addis Ababa for the World Food Program, said in a telephone interview that the distribution of relief supplies had been severely affected by the upsurge in fighting.

"The food stocks at the port and main towns are quite healthy," said Mr. Morton, whose United Nations agency has the largest single fleet of relief trucks in the north. "But they are very low and, in fact, may have run out in most of the distribution points in other parts of the region."

The New York-based Eritrean Relief Committee said recently that the intensifying military conflict and control of more territory by the rebels would have a "significant impact" on relief activities throughout the province. Calling the Ethiopian Army the "aggressor against Eritrean civilians," the relief group said in a statement that tens of thousands more drought victims now live in areas controlled by the rebels.

The committee's sister agency is the Eritrean Relief Association, which is the only relief agency working in the rebel-held territory of Eritrea and channels food aid from the Sudan to the Eritrean countryside. The committee said that the association's supplies were inadequate to meet the needs of drought victims and that local farmers had harvested enough food to support the dependent population for less than a month. It said donors had pledged about 64,000 tons of relief food, only 33 percent of the minimum needed to prevent famine.

[From the Washington Post, Apr. 7, 1988]

Ethiopia Orders a Halt to Food Relief in North—Evacuation in War Zone Threatens Millions

(By Mary Battiata)

Niarobi, Kenya, April 6.—The government of Ethiopia today ordered all foreign relief workers to leave the war-torn northern provinces of Eritrea and Tigre, and requested that western relief organizations "hand over" their famine relief operations and equipment to the government's own relief agency or local charities.

The International Red Cross, the United Nations and Catholic Relief Services, among others, have millions of dollars in trucks and distribution facilities in the drought-stricken north.

Senior western relief officials in the capital, Addis Ababa, said today's evacuation order will mean chaos and perhaps the eventual collapse of the massive famine-prevention operation in the two provinces, where an estimated 3 million Ethiopians are at risk of starvation.

The Ethiopian government's food distribution program now reaches one-third of that population.

"This will mean leaving two million people without a way to get food," said Jean-Jacques Fresard, the director of International Red Cross operations in Ethiopia, in a telephone interview from Addis Ababa. "It's the worst thing you could imagine."

The evacuation notice, which came in the form of a press release from the government's Relief and Rehabilitation Commission, requests that all expatriate relief workers in the north be "temporarily" recalled until the north "can be cleansed of bandits." The statement said the evacuation was necessary to ensure the safety of relief workers and to assure "peace and security in all parts of our country."

Eritrea and Tigre have been the site of intense fighting in the past two weeks as rebel armies in both provinces have severely shaken the Ethiopian Army's hold on the region. Last week, Ethiopian leader Mengistu Haile Mariam acknowledged for the first time that the civil wars were a serious threat to Ethiopian sovereignty.

Today's order came with no warning and took the representatives of western relief organizations by surprise. Although recent fighting has resulted in tens of thousands of military casualties, most expatriates in Eritea and Tigre were working in the government-held provincial capitals and were presumed to be safe.

"I was really shocked by this new development. It really took us off guard," said Rick Machmer, director of the U.S. Agency for International Development mission in Ethiopia, by telephone from Addis Ababa. "I think it's ill-advised and not well thought out. You don't just abruptly, unilaterally order everyone out."

Senior western diplomatic sources in Addis Ababa said the evacuation order likely signals a major offensive action by the Ethiopian Army. The Soviet Union, Ethiopia's military patron, has brought an additional 12 Antonov cargo planes into the country in the past two weeks. In Addis Ababa, witnesses reported continuous nighttime takeoffs and landings of military aircraft at the airport where the Soviet military is headquartered, according to a senior diplomatic source. A roundup of conscripts reportedly is under way in the capital, and the training time for new Army recruits has been shortened, according to the same source.

"We don't have a good fix on the [military] situation, but it's obviously deteriorating," said one senior western relief official. "I would assume they're going to do something defensively, or offensively, that could endanger the lives of everyone, expatriates and Ethiopians."

Earlier this week, the Ethiopian government ordered the three C130 cargo planes being used in the U.N. food airlift relocated from their base in Asmara, the capital of Eritrea, to Addis Ababa for security reasons. The five-plane airlift had become critical to the famine-prevention effort as fighting in the north restricted the movement of grain convoys. As of today, the airlift still was functioning, but at reduced capacity, and the continued participation of the Belgian Air Force was in doubt, according to diplomatic sources.

Michael Priestley, the United Nations representative in Addis Ababa, was to meet Thursday with the head of the government Relief and Rehabilitation Commission to discuss the government order. Other relief officials said they would do the same.

"We have millions of dollars of food and trucks up there, almost 600 local employees," said the Red Cross' Fresard, "so we will do everything possible to stay."

The government's decision to evacuate foreign relief workers apparently was based on a desire to avoid "the humiliation of expatriate casualties" in the north, as well as a desire to win the war "at any cost," said one western source by phone from Addis Ababa.

The Ethiopian government requested that several western relief agencies turn their operations over to government relief officials or indigenous relief agencies, none of which are thought to have the managerial ability to take over administration of the entire famine-prevention program in the north.

The United States, the largest single emergency donor to the Ethiopian emergency relief effort, does not distribute food through the Marxist Ethiopian government.

"There's a lot of U.S. government food up there, and we didn't consign it to the government of Ethiopia," said AID's Machmer. "The policy we've been following for the past two years, we supply food to well-established [relief organizations]. If they're gone, we will have to change our policy. We will have to reconsider how we provide supplies in total, for at least northern Ethiopia."

The government's military losses in the north are believed to be responsible for Ethiopia's recent decision to sign an agreement ending a protracted dispute with neighboring Somalia. The agreement, signed on Sunday in the Somalia capital, Mogadishu, will permit Ethiopia to redeploy tens of thousands of troops from Hararghe province to the war zone.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 8, 1988.

The **PRESIDENT**,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you have no doubt learned from your national security staff, the situation in Ethiopia is rapidly deteriorating. Earlier this week, the Mengistu regime took another step in its policy of government by murder, shutting off the flow of emergency food and relief supplies to the people trying to survive in the midst of the long-running civil war in Eritrea.

According to our officials involved in the relief effort, this latest step of calculated brutality brings 3 million people to the brink of starvation. They will die unless food shipments are resumed at once. Clearly, we must do all we can to prevent such a catastrophe.

As a member of the House Foreign Affairs Committee, I have been trying for years to focus our government's attention on the monumental proportions of this tragedy. Suddenly, we are at another critical point, requiring immediate intervention by the United States, the United Nations, and other governments, such as the Soviet Union, which might be able to influence the Mengistu regime.

I recommend three steps:

(1) That you initiate a worldwide campaign via our diplomatic and security network to exert maximum public and private pressure on the Mengistu regime to allow the free flow of food and relief supplies.

(2) That the United States call for an emergency meeting in the United Nations to discuss this crisis and determine how the food shipments can be resumed. UN military escorts for food shipments should be considered as an option.

(3) That the assistance of Secretary General Gorbachev be enlisted to influence President Mengistu, whose military rule has been supported by the Soviets during its 11-year existence.

The survival of 3 million people directly depends on the actions we and other governments take in the next several days. The measure of a civilized people is how it responds to a crisis of humanity. Now, we are being called to a test of moral leadership of historic dimensions. We must not fail.

Sincerely,

TOBY ROTH,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 8, 1988.

His Holiness **JOHN PAUL II**,
The Vatican,
Rome, Italy.

YOUR HOLINESS: As you have no doubt learned from your embassy in Ethiopia, the situation in that drought-stricken and war-ravaged country is deteriorating even further. Earlier this week, the Mengistu regime took another step in its policy of government-by-murder, shutting off the flow of emergency food and relief supplies to the people who are trying to survive in the midst of the long-running civil war.

Our government has determined that 3 million people will die from starvation unless food shipments are resumed at once. This impending catastrophe is not inadvertant; the Mengistu regime has embarked on a new policy of genocide toward its own people. Clearly, we must do all we can to prevent a calamity of monumental proportions.

Suddenly, we are at a critical point in this long crisis, requiring immediate intervention by world leaders to bring the maximum moral and political pressure to bear on President Mengistu. I have recommended to President Reagan that our government initiate such a campaign through our own channels and those of the United Nations.

In discussions today with your Apostolic Pro-Nuncio, Archbishop Laghi, I was advised of your own efforts to help these poor and innocent people. The fate of 3 million human beings directly depends on the actions taken in the next several days. Never has there been a greater need for the full weight of your unique moral and religious leadership to be used in conjunction with the political and diplomatic influence of world governments to address this crisis of humanity.

Sincerely,

TOBY ROTH,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 8, 1988.

His Excellency **MIKHAIL GORBACHEV**,
Secretary General of the Central Committee of the Communist Party of the Soviet Union, The Kremlin, Moscow, The Union of Soviet Socialist Republics.

DEAR MR. GENERAL SECRETARY: I am writing to bring to your attention the rapidly deteriorating situation in Ethiopia, whose current government has been closely aligned with the Soviet Union during its 11-year rule. Your help is vitally needed to prevent the deliberate mass starvation of millions of people.

Earlier this week, the Mengistu regime effectively shut off the flow of emergency food and relief supplies to a drought stricken and war ravaged region, as the latest brutality perpetrated on a defenseless population caught in the civil war. I have confirmed the accuracy of initial news media reports with U.S. government officials who are involved with the relief effort.

If food shipments are not resumed immediately, 3 million people will die of starvation, creating a calamity of monumental scale. In the face of this impending catastrophe, civilized people and their leaders must put aside political differences and join in a concerted effort to resume the delivery of food.

I understand that the Soviet government is preparing to join in the relief effort. From our experience, I can tell you that the Mengistu regime will do all it can to interdict your relief shipments, and attempt to divert them to their military forces, who are perpetrating this slaughter. The international relief effort must not be twisted into a program to feed these mass murderers.

Our two nations have faced this situation before, when, as allies in the Second World War, the United States helped save millions of Soviet people from starvation. Let us renew that cooperation and save these poor and innocent people. Please use your great influence to stop the Ethiopian government's "starvation policy", so that our emergency relief efforts can resume.

Yesterday, you showed great courage and leadership in ending the war in Afghanistan. Ethiopia presents you with another opportunity to establish a new role for the Soviet Union in world affairs. Please do not turn this plea aside.

Sincerely,

TOBY ROTH,
Member of Congress.

SENATE—*Wednesday, April 13, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TOM DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the brokenhearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised * * *.—Luke 4:18.

Almighty God, infinite in justice, truth, and grace, with a heavy heart we remember the hostages in Lebanon. Business as usual seems to prevail, as though they are nonexistent. We pray for their families as they endure the agony of uncertainty—vacillating between hope and despair daily—hourly. They bear the double pain of their loved ones' captivity and the apparent forgetfulness and abandonment by all of us. Father of mercies, grant to them Your comfort and the "peace that passes understanding."

God of deliverance, we pray for the hostages: Terry A. Anderson—Thomas Sutherland—Frank Herber Reed—Joseph Cicippio—Edward A. Tracy—Robert Polhill—Allan Steen—Jesse Turner—Lt. Col. William Higgins—Terry Waite. Help them to realize that they are never alone for Thou, the Omnipresent Lord, art with them. Sustain and strengthen them as Thou alone art able. And Mighty God, work Your will for their relief and release. In the name of the Messiah, Deliverer and Savior. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 13, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his remembrance of the hostages and their families. I thank him for his prayer. We should all emulate him in this regard and not forget the Americans and peoples of other nations who are being held hostage, and, if we can, to vicariously try to share a little of the pain and suffering that the hostages are enduring.

Mr. President, I ask unanimous consent that I may reserve my time, and I yield the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. I reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 o'clock. Senators are permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

PRAISE FOR SENATOR ROBERT BYRD

Mr. PROXMIRE. Mr. President, yesterday I did not attend the Democratic caucus, and I regret I was not able to be there. I was shocked and surprised to read that our distinguished majority leader is going to step aside and will no longer be the majority leader in the next session.

I will not be here, but I want to say a word or two about the majority leader.

Mr. President, Senate majority leaders come in just about every hue of the rainbow. In the 30 years I have been here, we have had the all-encompassing, dominating leadership of Lyndon Johnson; the every-Senator-is-a-leader, consensus leadership of Mike Mansfield; the gentle, behind-the-scenes masterful compromising leadership of Howard Baker; the forceful and yet always considerate leadership of BOB DOLE; and the diligent, persistent, truly dedicated leadership of ROBERT BYRD.

Now our leader, BOB BYRD, is going to step down, not out but down.

BOB BYRD has given this country a very great deal. Obviously, he is a leader who knows the Senate rules as no other leader in my 30-year memory.

Majority Leader BYRD runs this body by consensus. We Democrats have constant caucuses, and I can tell you as one who was here when Lyndon Johnson was here, we did not have regular Democratic Party caucuses then. We would have a party caucus literally only once every 2 years, at the beginning of the new Congress. Lyndon would deliver what we called Lyndon's "State of the Union Message," and that was it. There was no need for a caucus because Lyndon would decide everything, and I mean everything, the Senate would act on. The Senate was a one-man show. We have had quite a change since Lyndon Johnson left. Senator BYRD has been emphatic in his insistence that all Senators have a voice in how the Senate proceeds.

We Democrats now have regular weekly caucuses where the majority will of our party in the Senate is determined. Senator BYRD also works closely and respectfully with the Republican leadership. He listens. He recognizes where the votes and the majority will is and he moves the Senate along accordingly.

As a majority leader, he recognizes the ultimate decision has to lie with the Senate and with the side that has the most votes. But he never, not once in the many years he has been leader, has compromised on the principles and convictions that dominate his life.

Just yesterday, Mr. President, I called Senator BYRD to ask him to vote with me on a matter of great importance to this Senator. He flatly refused. I entreated him. He replied, "No way!" He said, "This is my position and that's that." He would not yield his convictions. I respect and admire him for that.

It is tempting for a Senator, especially when that Senator is the majority leader, to compromise, to modify, to trade his vote, especially if another Senator feels strongly about the issue. BOB BYRD would never do that, if it involved a matter of principle.

Something else about Senator BYRD: A great aspect of this body that too few notice is the prayer our Chaplain delivers every morning. It is a grand way to start our day. No one appreciates that more than Majority Leader BYRD.

Mr. President, at the opening of the Senate, very few Senators are on the floor. Many people are not aware of what transpires. As a Senator who has often been here during those early moments of the day, let me tell of a little observed side of our retiring majority leader.

Senator BYRD does more than simply pray. He does that. But often this body is treated to two prayers. We have the Chaplain's prayer, and then we have another prayer by the majority leader, in effect. The majority leader often offers a truly astonishing spur-of-the-moment analysis of the Chaplain's prayer. Senator BYRD will often be inspired to launch into a flight of poetry, or a passage from some long-forgotten American or English author. His recall is amazing. He can quote at length from literature, from the Bible, from an infinite variety of speeches made by past political leaders. He is able to recall word for word something he must have read 10 or 20 years ago.

Mr. President, here is a Senator and majority leader who is obviously deeply patriotic, profoundly religious, a man of great morality, a man who has given the Senate a very great deal as leader. We are certainly going to miss him, and miss him very, very much. The Senate is going to be a lesser place for his absence.

I am sure we are going to have fine leadership in the future as we have had on the Democratic and Republican side, but here is a unique leader, one who is, I think, too little appreciated and has given this Senate, and all Senators a very great deal.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. I thank the distinguished Senator from Wisconsin for his very charitable and, to me, touching remarks. I have enjoyed serving with BILL PROXMIRE these many years. I will have much more to say about him and his unique voting record in future days.

I am grateful for his friendship and for the observations that he has made. I am reminded of Cato the Elder's words when he said:

> I would much rather have men ask why I have no statue, than why I have one.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

PRAISE FOR SENATOR ROBERT BYRD

Mr. WALLOP. Mr. President, let me take this opportunity, before my remarks on the verification problems with regards to the INF Treaty, to add my salute to the remarks of the Senator from Wisconsin about the able majority leader. He has been a friend. We have done serious combat over issues. We have on occasion worked seriously together. It has always been with a sense of admiration, sometimes even awe.

I might say, Mr. Leader, of the skills that you have brought to the position that you have held both as majority leader and minority leader, none of us who have not served in both could possibly begin to imagine the change in state of affairs and other things, but I admire the dignity with which you have moved in both directions. While we have done serious combat with a number of things, you have also been of more than assistance to me on some things important to my State of Wyoming in your position on the Appropriations Committee, your understanding of the coal industry which we share as a common heritage with our States. I would say to you, sir, I genuinely admire you. I have enjoyed the combat that we have done. I have enjoyed the work we have done together, and I think it reflects highly on the Senate as an institution that you have served us as you have. I appreciate it.

Mr. BYRD. Mr. President, I thank my friend for his generous remarks. I feel he has given me a very high compliment. I hope that I can sustain his faith and confidence in me as the days come and go. I enjoy combat. Sometimes I fight with a broken sword, but always when the combat is over and the dust settles, I wipe it off my face and smile and go on to the next event. I thank the Senator for his kindness.

Mr. WALLOP. I would say to the majority leader that the difference is that the Senate is an arena and not a stage. Often on the stage, tempers last forever; in the arena they end with combat and friendship is restored.

SENATOR ROBERT C. BYRD, MAJORITY LEADER

Mr. HELMS. Mr. President, yesterday when the distinguished Senator from West Virginia [Mr. BYRD] announced that he would not serve beyond this year as majority leader of the Senate, I regarded it as truly the end of an era, which is precisely what it will be at the conclusion of the 100th Congress.

Many thoughts came to my mind and, I am confident, to those of other Senators. For my part, I recall my first day as a Senator in early January 1973. BOB BYRD was then assistant majority leader. Mike Mansfield was the majority leader. Hugh Scott was the minority leader and Bob Griffin was assistant minority leader.

From the very first day, Senator BYRD has been very kind to me. He was generous with his time in teaching all of the newcomers the fundamental rules and procedures of the Senate. I also had another great teacher, the late Jim Allen of Alabama, who was a master of parliamentary procedure. On countless occasions, Senator Allen would sit down with me and coach me in the intricacies of parliamentary procedure. He would devise hypothetical situations that could occur in Senate debate, and then he would ask me what I would do—what I could do—under those circumstances. I am afraid I was a poor student, but Jim Allen was patient.

Mr. President, several months ago I asked the Library of Congress to advise me how many men and women had served in the Senate up to this time. I was surprised that only 1,782 people have served in the Senate for 200 years, including the newest Senator, the able DAVID KARNES of Nebraska. The Library of Congress informed me that I was No. 1,675 to come to the Senate. That means that I have served with about 200 Senators in my nearly 16 years here.

The distinguished majority leader, Senator BYRD, is unquestionably one of the most unique and most capable people to be honored with the privilege of serving in the Senate. He is skillful. He is indefatigable. He unfailingly does his homework. And without doubt he loves the Senate, and he always demonstrates a fidelity to its traditions and its meaning. That is why history, in my judgment, will regard him as one of the most accomplished leaders the Senate has ever had.

I must mention one other thing, Mr. President, because I am proud of it. BOB BYRD is a native of North Carolina. He was born in North Wilkesboro, a fine community in my State.

Next year, with the departures of the remarkable Senator from Mississippi [Mr. STENNIS] and the equally remarkable Senator from Wisconsin [Mr. PROXMIRE], Senator BYRD will be No. 1 in seniority on his side of the aisle. Of course, the distinguished and able Senator from South Carolina [Mr. THURMOND] will continue to rank first in seniority among all Senators, meaning that either Senator THURMOND or Senator BYRD will be President pro tem of the Senate in January of next year depending upon the outcome of the elections in November.

Mr. President, as I was pondering all of this earlier this morning, it occurred to me that today is the 245th birthday of one of my favorite heroes. Thomas Jefferson was born on April 13, 1743, and as every schoolboy knows, or is supposed to know, he was the third President of the United States. He died at age 83 on July 4, 1826—the same day that another former President passed away—John Adams, the second President who, of course, immediately preceded Mr. Jefferson. It is the only time in history that two Presidents died on the same day.

I must remind Senator BYRD, who enjoys a well-earned renown as a violin player, that Thomas Jefferson also was an accomplished violinist. Mr. Jefferson never recorded any of his music, and Senator BYRD has. I mention this to indicate that musical ability was one of the things that President Jefferson and Senator ROBERT C. BYRD had in common.

This is not intended as a farewell speech to Senator BYRD. He will be around for many more years to come. But I did want to pay my respects to a fellow North Carolinian who now claims West Virginia as his home, and extend my continued best wishes to him and his lovely wife Erma.

With their zest for constructive and meaningful living, I suspect the best is yet to come.

POSSIBLE SOLUTIONS TO THE VERIFICATION PROBLEMS

Mr. WALLOP. Mr. President, yesterday I outlined some major shortcomings in the INF Treaty's verification regime. The question before us now is, "How shall the Senate approach these shortcomings in the INF Treaty?" One approach would be to ignore them.

That is clearly the approach favored by an administration, which regards the treaty as immaculately conceived and unchangeable because of it. Clearly another approach would be to deny consent to ratification. Given the political support for the treaty, this is hardly likely. A third, responsible approach that all Senators—supporters and detractors alike—can take is to fix the problems.

And indeed, Mr. President, is that not the reason the Founding Fathers gave the Senate a deliberative role with respect to treaties?

Mr. President, the shortcomings I have elucidated in the INF Treaty's verification regime are necessarily illustrative. So too will be the following recommended amendments and other fixes.

Other changes to the verification regime could also improve our confidence in its verifiability.

First, Mr. President, the problem with the INF data discrepancy cannot be alleviated, but it can be lessened by obtaining a Soviet pledge either to afford us immediate onsite monitoring rights or to commit not to eliminate any systems prior to entry into force of the treaty.

This is so simple it requires neither an understanding or an amendment of any type to the treaty. It is, however, extremely important for the administration to seek this commitment as soon as possible, prior to the destruction of Soviet missiles.

Second, the problem with the SS-25 can be most effectively dealt with by making approval of the INF Treaty's terms on SS-25's contingent upon a ban on SS-25's in the START Treaty. This is already the United States negotiating position. It is only necessary that the Senate require that the SS-25 be banned for the INF Treaty provisions dealing with SS-25's to take effect.

Barring this, at an absolute minimum the United States should have access to all Soviet SS-25 bases and be permitted to observe missile production facilities for the SS-25. Additionally, a fix for the obvious drafting error in article VI paragraph 2 that allows for production of the second stage of the SS-20 should be attached as an amendment.

Third, the Soviets should be required, as is the United States, to destroy completely its INF missile launchers. It is absurd that a force of these launchers be left behind for civilian use. What possible civilian use can be made of a missile launcher? The objective of the zero option is the total elimination of intermediate-range nuclear forces, not their conversion to other purposes. The continued existence of Soviet SS-20 launchers, even if the Soviet Union uses them for nothing other than what they claim publicly, will insert a compliance controversy into the INF Treaty. It should be in the interest of both sides to eliminate up front such conflictual provisions.

Fourth, the problem with cruise missiles is one, as Richard Perle has pointed out, that can be fixed by returning to the original United States negotiating position, and allowing the ban on ground-launched cruise missiles to extend only to nuclear systems.

It was only very late in the negotiations that the United States fell off this position. They fell out not because of Soviet insistence but because of their worries of what the Senate would say and in the process gave us a verification nightmare. As has been pointed out in the foregoing, the verifiability of limits on cruise missiles is very low and circumvention is easily achieved even if all ground-launched cruise missiles are banned.

There is little point in denying ourselves important rights to conventionally armed cruise missiles—an area we are likely to maintain an advantage for some time to come—in an effort to make the treaty slightly more verifiable.

Finally, if we want a more verifiable treaty, incorporation of some of the aspects of our negotiating position that fell out in the final days in Geneva would be much more valuable. Most important of these is suspect site inspection. The current verification regime gives us no rights to inspect facilities other than those declared by the Soviets in the INF Treaty.

Senators can rest assured that we will never find a violation at one of those facilities. As one former official put it, the verification provisions for onsite inspection actually affords us little more than the right to inspect Potemkin villages.

Some have argued that the Soviet Union resisted suspect site inspections and thus to force it upon them through Senate amendment would kill the treaty. This is illogical on two counts: First, suspect site inspections remain a central element of the U.S. verification regime for START. The Intelligence Committee strongly intimated that suspect site inspection is needed for START.

If it is an absolutely unacceptable position for the Soviet Union, it is clear there is little purpose in continuing negotiations in START. Second, the Soviet Union agreed in the joint statement issued at last year's summit that they would accept procedures for suspect site inspection in connection with START.

Such procedures, given the size of the two sides' strategic arsenals, must be much more onerous and intrusive than would analogous inspection rights in INF. If the Soviets are willing to accept those procedures for START it can hardly be argued that amending the INF Treaty to include them is a killer amendment.

As a confidence building measure, it might be agreed that the number of inspections be doubled, or at least it be allowed that more than half of the inspections may take place in the Soviet Union.

Mr. President, it is imperative that this Senate consider seriously amendments to the pending INF Treaty that will improve the treaty's verification regime.

As it currently stands, that regime is totally incapable of verifying a covert deployment, and only somewhat better at verifying limits on an overt deployment at declared facilities. Let's face it, if the INF Treaty verification regime had been proposed for a strategic arms agreement—in which the central strategic forces of both sides would be severely constrained—it would not pass muster.

It will be a sad statement of the Senate's sense of responsibility if we ignore these corrective measures simply because INF systems do not mean that much in the strategic equation. We may also signal to the Soviet Union our willingness to accept a verification regime that is less than adequate, giving them the incentive to hold out for a less restrictive START regime.

Mr. President, I ask unanimous consent that an article from the National Review by former Deputy Assistant Secretary of Defense, Frank Gaffney, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A Layman's Guide to Fixing the INF Treaty

As the Senate winds up its debate over the INF treaty, there is one great question yet to be answered: will the Senate actually deliberate on the terms of the accord, or merely turn itself into a rubber stamp? The conventional wisdom holds that senators will fold before the Reagan Administration's take-it-or-leave-it stance. Until recently, this has been a politically viable position—because the only people advocating amendments to the treaty were bent on treaticide. But that ground truth has changed in recent weeks. It has become clear that there are problems with the new agreement that even pro-treaty senators recognize may require fixing.

The simple fact of the matter is that, in a number of important respects, the fine print of this treaty will permit the Soviets to do things that the general provisions of the agreement are intended to preclude. If the Senate wishes to ensure that the benefits of eliminating two whole classes of nuclear missiles are realized, it had better take note of and insist upon closing the treaty's "details gap." Herewith an illustrative list:

1. The treaty prohibits all INF missiles, but the fine print will not require the Soviets to live up to that prohibition.

Item: The treaty prohibits production of both INF missiles and missile stages, yet the details allow the Soviets to continue to produce the largest stage of their most capable intermediate-range missile, the SS-20.

The truth of the matter is that the Soviets had a problem which we solved for them. The Soviets developed an intercontinental ballistic missile, the SS-25 from the SS-20. It has essentially the same main (or first) stage, the same production and assembly facilities, and requires a very similar launcher and similar training, maintenance, and deployment gear. Since the Soviet Union was not about to let the INF treaty affect longer-range systems like the SS-25, we agreed that the Soviets could continue to produce as many of these common SS-20/25 first stages as they wished. In exchange, they let us watch the gates of one assembly facility. The theory was that if we saw a two-stage SS-20 rolling out the observed gate instead of a three-stage SS-25, we would have a clear-cut violation on our hands.

There are lots of difficulties with this "solution," not the least of which is that it would be child's play for the Soviets to assemble elsewhere SS-20s produced at unmonitored, legal SS-25 manufacturing plants. There is also a considerable inequality involved here; for the privilege of being allowed to observe the gate at the Soviet final assembly facility, we gave the Soviets the right to observe one of our missile-rocket production sites—because we do not have an assembly facility for ballistic INF missiles. Our Pershing IIs are assembled at their deployment sites.

To remedy the imbalance, the Senate should insist upon several changes to the treaty. Perhaps the easiest would be to make approval of these arrangements in the INF treaty contingent upon an agreement to ban the SS-25 in the upcoming Strategic Arms Reduction Treaty (START). This would have the virtue not only of making the INF agreement substantially more verifiable but also of reducing the ease with which the Soviets could violate the much more militarily significant START.

Moreover, senators should require that, in exchange for letting Soviet inspectors observe our missile-production plant, we be permitted to monitor the gates at the SS-20 production facility in the Soviet Union.

Item: The treaty requires that all INF missile launchers be eliminated, but the fine print allows the Soviets to keep hundreds of their most important ones provided they are merely modified.

In one of the sillier efforts we made to accommodate Soviet demands for "equal" treatment, the United States agreed that since we intended to keep the detachable tractor part of our INF missile launchers and cut in half the trailer which carries and fires the missiles, the Soviets could keep their "tractors," too. The only problem is that the Soviet mobile INF missile launchers are not of a tractor-trailer design; theirs are unified systems with the driver's cab mounted on the main body of the missile transporter-erector-launcher. Therefore, incredible as it may seem, under this purported "zero-option"-based treaty, the Soviets will be allowed to maintain a modified version of their entire mobile INF launcher inventory.

The Senate ought to strike this foolish arrangement from the treaty; permitting legal launcher-look-alikes throughout the USSR will give rise to endless controversy and uncertainty here about whether launchers have been modified (per treaty stipulations) and, if so, whether the alterations have been reversed. The treaty requires that launchers by eliminated; the Soviets should have to do so.

Item: In order to prevent the Soviets from retaining a militarily effective, covert SS-20 force, the treaty prohibits flight-testing of INF missiles. The fine print, however, permits as many as one hundred missiles to be "destroyed" by launching; the testing thus performed will enhance Soviet confidence in the reliability of their missile force.

Though the Soviet Union maintained that it could not handle the logistical demands of eliminating all treaty-limited missiles within the specified time unless it was permitted to eliminate some by firing them, it strains credulity that the Soviets can't dispose of an additional one hundred missiles (out of a total of 1,852) in another way. The Senate should require that both sides eliminate all their missiles in the same manner that it currently requires them to destroy all but one hundred.

2. The treaty grants us remarkable and unprecedentedly intrusive rights to monitor the elimination of all Soviet INF missile systems. The fine print, however, allows the USSR to remove from the previously exchanged accounting of their inventory as many treaty-limited systems as they wish—as long s they do it prior to thirty days after the accord enters into force.

The Senate should require the Administration to obtain at once from the Soviet Union a pledge either to afford us immediate on-site monitoring rights, or to commit not to "eliminate" any systems until we enjoy such rights under a ratified treaty.

3. The treaty bans all armed, ground-launched cruise missiles (GLCMs) capable of flying between 500 and 5,500 kilometers. The fine print, however, offers the Soviets a multitude of circumvention options. This general prohibition therefore simply denies the United States critical cruise-missile options for the conventional defense of Europe.

The INF treaty does not define what would constitute a different "type" of cruise missile than those presently in the Soviet inventory, nor does it establish what criteria will permit us to determine if a given cruise missile is unarmed, or that its range cannot be adjusted to fly within the prohibited ban. Consequently, the Soviets will have a field day developing systems with—at a minimum—the inherent capability to do treaty-banned functions. The treaty, meanwhile, has already begun to inhibit U.S. ground-launched cruise-missile options; manufacturers of drones and remotely piloted vehicles with a host of possible applications on the modern battlefield are beginning to find arms-control constraints impinging upon their designs and permitted performance. There is no point in denying ourselves important rights to conventionally armed cruise missiles—in a vain effort to make the treaty slightly more verifiable.

4. The INF treaty provides unprecedented on-site inspection rights, but its details circumscribe our rights so sharply as to render them largely ineffectual.

In the frenzied negotiating "endgame," the United States completely abandoned its oposition that, in addition to inspections of declared facilities, we must have the right to conduct short-notice, on-site visits to undeclared—or "suspect"—sites. The result was an agreement which, for all its "verification breakthroughs," actually affords us little more than the right to inspect Potemkin villages.

The Senate should insist that the INF treaty permit on-site inspections at ballistic-missile facilities that are not associated with treaty-limited systems but are suspected of concealing or supporting them. Since the Soviets have agreed, in the Joint Statement issued at the end of the Washington Summit, that they would accept procedures for suspect-site inspections in connection with START, incorporation of such procedures in the INF treaty should not prove an insurmountable task.

As these examples suggest, unless improved by the Senate, the INF treaty will almost certainly not do what it promises. None of the corrective steps recommended here should "kill" the treaty. As it considers these and other constructive proposals designed to enhance the effectiveness, equity, and verifiability of this accord, the Senate must weigh whether a treaty without these fixes is worth having.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

TRIBUTE TO JOHN J. WILLIAMS, U.S. SENATOR

Mr. ROTH. Mr. President, John J. Williams, one of the most remarkable men from Delaware who ever served under this dome, died recently. Our great State mourned his passing, the newspapers were replete with beautiful tributes and warm memories of the man who served his people both wisely and well. But the life and influence of John Williams is not confined to the State we call the Small Wonder. In fact, on December 18, 1970, this distinguished body set aside 60 minutes of its business day to honor him as "The Conscience of the Senate."

He was a remarkable man at a remarkable time, and I believe we would do well today to follow the example he set for his colleagues and countrymen. He was elected against all odds in 1946, and from that moment he began to confound the political pundits from Wilmington to Washington. During his 24 years of dedicated service, he earned more than a half-dozen proud nicknames by a press that illustrated his stand against graft and corruption as a Capra film come alive. He was the real "Mr. Smith" who came to Washington, a humble, unassuming feed dealer from Millsboro. In his back pocket was a high school diploma—nothing more. But in this Chamber he held his own against lawyers and college professors and the greatest political minds in America.

He held his own because while his formal education was limited, he never stopped learning. While his causes were often unpopular, in his heart he understood the character of a nation with a moral heritage—a nation that he believed in and a nation to whose service he dedicated his life. He was dogged in his pursuit of justice and his protection of the American taxpayer, and no one ever doubted where he came from. He was known as the Bold One, unafraid to take on any bureaucracy that was either corrupt or not serving the American people. He was known as Honest John, a man who stood fast against graft and who imposed upon himself a long list of rules and regulations as to how he conducted himself.

Honesty and integrity were impressed into his mind and were a basic part of his character. To John Williams, reputation was everything. He often told me that a man's reputation was his greatest wealth. I remember him saying once, "Bill, I will never in my life attack anyone until I am 125 percent certain that he is guilty of wrongdoing." What a lesson this is for us today, a time when we are so quick to say a man is guilty until he has proven himself innocent.

He was often quick to remind that "You've got to be extremely careful. With the power of the Senate you can destroy a man, so you've got to be right." He once said, "I have cases here that are going to explode someday, but until I can document them they are going to stay right in that file."

Unlike many of the accusations we hear today, John Williams' fight against graft and corruption was never motivated by politics. He was always quick to remind his colleagues that, "None of us in indispensable."

I remember his saying, "People will only respect elected officials if we respect ourselves. And if we have any self-respect at all, we will expose the corruption and get rid of the unprincipled men among us." In doing so, personally, he was not deterred nor hindered by party affiliation. One need only recall a judicial nomination—or two—made by President Nixon and rejected by John Williams, because the nominees maintained questionable financial operations. And one need only remember the case of Sherman Adams, a man known as the assistant president under Eisenhower. "I don't believe that either party has a monopoly on good men—or scandals," he often said. "I investigate them just like any newspaper reporter covers a story. I get my facts straight, then I report them to the Senate."

So balanced was the moral character of John Williams that even his political foes honored him and praised his integrity. One of them, Senator Russell Long, a man who chaired the Finance Committee on which Senator Williams served as ranking minority asked him to reconsider his decision to resign, and to seek reelection for another term.

Speaking of John J. Williams, Senator Long said:

> He has been one of the most diligent, if not the most diligent Member of this body. He has been a stalwart advocate of everything that his conscience would permit him to support and as vigorous an opponent as anyone ever faced in this body with respect to those things his conscience would not permit him to support.

Senator Long once attempted to keep an attendance record of the members of his Finance Committee. It was his intent to increase attendance by recording the time each member spent in executive sessions of the committee and in hearings. But soon, Senator Long grew frustrated, because he found that he had to remain in those sessions and hearings to keep the record. And he did have to remain because our Senator Williams was always there.

According to Russell Long:

> Try though I would to keep up with his record and to be there every moment he was there, I still could not catch up with him. He holds the record, without even knowing the race was on, for being the most diligent member of the committee as well as probably the most effective member of the committee.

He was so effective because he was a scholar—not from Harvard or Yale—but self-taught. He became one of this body's foremost financial experts—often three steps ahead of the economists and professors who testified before his committee. He doggedly studied the issues. He had no staff by our standards today, just a dedicated assistant who often worked into the early morning hours with him. But the result was that no one could match his detail on issues of taxation and budget.

In fact, his influence in this one area is largely credited for breaking the back of inflation in the late sixties and early seventies. The remedy to defeat inflation had been bottled up in House Ways and Means Committee. The administration refused to make necessary budget cuts but wanted a 10-percent income tax surcharge. Quoting from Nations Business magazine:

> John Williams' grasp of high level economics and tax policies, acquired through long, hard work and study, was a major factor in forcing Lyndon Johnson to surrender and accept spending limits in return for Congressional passage of the 10 percent income tax surcharge.

Armed with his innate wisdom—wisdom that included foresight, his autodidactic education, and his unyielding dedication to a cause, he pursued issues that many did not dare touch. In 1949, he helped clean up the Wilmington Internal Revenue Service office following a tip that funds were being mismanaged. In the early 1950's, he researched and disclosed scandals in the IRS that led to the resignation and dismissal of 152 officials over 3 years. The IRS Commissioner resigned and several tax collectors were jailed.

In 1951, Look magazine called him "The Man Who Broke the Tax Scandal." And an interesting aside to this story is that for more than two decades, Senator Williams refused to divulge the name of the source who prompted him to take action, despite the fact that the Senator was accused of being politically motivated in his investigation. The name surfaced in 1971, when the State of Delaware wanted to name the State health building in Dover in honor of the Senator.

With the permission of his anonymous source, the Senator asked that the building be named after Jesse Cooper, the man who first alerted Senator Williams to the widespread IRS corruption. Jesse Cooper was also the Democratic Party State treasurer. Senator Williams said:

> Jesse was a man who proved that one man of conscience can make a difference. Integrity and corruption can be found in either party, and wrong-doing should be exposed and punished no matter what the party of the wrong-doer.

In 1954, Senator Williams defused a crisis in Delaware when he delivered a speech in Hartly concerning the U.S. Supreme Court ruling on school desegregation. His calm, wise voice settled the crowd that had gathered to protest and it thwarted organizers of the National Association for the Advancement of White People.

In the sixties, he became a champion of the taxpayer, introducing amendments that closed hundreds of millions of dollars in tax loopholes, among these was a provision that allowed certain executives, legislators, and members of the judiciary to make deductions for office files donated to schools and colleges.

Other investigations the Senator exposed included the Billie Sol Estes case, where Estes traded expensive gifts to officials in the Department of Agriculture in exchange for valuable cotton allotment rights, and the Bobby Baker case, where President Johnson's good friend was found guilty of tax evasion.

Concerning these investigations, the Wilmington News Journal, reverently honored Senator Williams by writing, that he had a—

> Penchant for detail and deliberation that fascinated many on the Washington scene. He would spend months, sometimes years, studying voluminous constituents and government workers.

Mr. President, this is the kind of man that this body honored 17 years ago. It was intended that 60 minutes be given to pay tribute to him as he was retiring. That 60 minutes quickly became 90 when the flood of Senators seeking to express their gratitude to John Williams did not abate. But the honors extended far from the floor of this Chamber. Reader's Digest called John Williams "The Senate's One-Man FBI." A Newsweek magazine poll of Washington correspondents chose Senator Williams as 1 of the 10 most effective Members of Congress.

Well, today, Mr. President, in that Senator Williams recently passed away, I ask that several Senators who knew him be given the opportunity to pay respect to a fine man—a man to whom I personally owe a great deal—a man whose selfless service did not even end on his final day in office. Because, Mr. President, he resigned the day before completion of his fourth and final term to allow me, as a freshman Senator, to establish a day's seniority in this distinguished body.

Though I have done it many times in private, I would like to conclude my remarks by publicly thanking Senator Williams—both the Senator and his wonderful wife Elsie—for all they have done for the State of Delaware, for our Nation, and for me. It is my hope that the standard he set while he served under this dome—the standard that earned him the name, "Mr. Integrity," is a standard that will remain forever on this Hill.

SENATOR JOHN WILLIAMS (1904-88)

Mr. DOLE. Mr. President, today I want to honor the memory of Senator John Williams of Delaware; a man whose career in the Senate was distinguished not only by his outstanding ability, but also by the affection and respect he inspired in all who knew him.

John Williams was a man of strong character, whose personal and professional integrity earned him nicknames like "Honest John" and "the Conscience of the Senate." He was also a kind and compassionate man—always willing to give a little friendly advice to a colleague who needed it.

John was kind of a quiet fellow, but what he lacked in bombast he made up for in determination and energy. He had no tolerance for dishonesty and wastefulness, and his investigative talents enabled him to expose graft and corruption in several Government agencies.

This Senator will always remember John Williams as a man who stood up for what was right because it was right—period. He did not care about being on the news or in the headlines. He was not seeking personal gain from his public service. He just did the best job he could do, and his best was very good.

I know all my colleagues on both sides of the aisle join me in mourning the loss of this fine American, and in sending our prayers and sympathy to his family.

TRIBUTE TO THE LATE SENATOR JOHN WILLIAMS

Mr. STEVENS. Mr. President, when Senator John Williams of Delaware retired from the Senate in 1970 after serving 24 years in this body, tributes from both sides of the aisle filled the pages of the CONGRESSIONAL RECORD.

When John Williams died a short time ago, the Nation's press reiterated those tributes, as the writers traced the history of his four terms—four terms which left an imprint on our Nation.

The newspapers recalled his unswerving commitment to fiscal responsibility in the Federal Government. The papers reminded us that he was known as the "Conscience of the Senate."

Few of those who served with John Williams are still serving in the Senate. I am one of those fortunate to have been a Member of the Senate before John Williams' retirement.

Senator Williams left us a legacy of fiscal conservatism that would serve us well today. He could well be called a prophet, with his prediction of deficits in the Federal budget.

Indeed, throughout his career, John Williams emphasized Congress' responsibility to limit spending to realistic levels. He never gave up on that commitment. Even in his last year in the Senate, he led the fight to put a ceiling on Federal spending.

Recalling my own words in December 1980, before John's retirement:

> He has been the first to offer suggestions and to assist new members, without regard to whether he agreed with their goals. John has served his State and his Nation well. He has probably prevented us from embarking on some grandiose, but ill-thought-out schemes that at the time seemed like a good idea; but in retrospect, it appears he has been right to question and check those who sought to act in haste.

John Williams set an example that is as workable today as it was during his years in the Senate.

It would behoove us all to reexamine the mark John Williams made on this Chamber and on our Nation. His message is as relevant today as it was when he was here.

IN REMEMBRANCE OF SENATOR JOHN J. WILLIAMS

Mr. CRANSTON. Mr. President, I have found, in my 19 years serving in this body, that one of the greatest advantages Senate service offers is the opportunity to work with and to have the friendship of outstanding men and women. My colleagues here provide the best proof possible that no single State nor either political party has exclusive rights to people who embody the qualities of intelligence, dedication, and integrity.

Certainly no one whom I have known during my tenure here better exemplifies these traits than the late Senator from Delaware, John J. Williams. In his 24 years of service, Senator Williams was known variously as "Mr. Integrity," the "Watchdog of the Nation," the "Conscience of the Senate," the "Senate's one-man FBI," "Honest John," and a "Giant." And although our terms overlapped by only 2 years, I learned quickly how truly appropriate these nicknames were.

Some words are so overused that they become meaningless. That is unfortunate because sometimes they are the only words that will do. In the case of John Williams, I would be hard pressed to say what I thought of him without using the word unique. John Williams really was unique.

One of the things that made him so was his career before he became a Senator: owner-operator of a successful chicken-feed business. A man ahead of his time, Senator Williams, at the age of 42, decided he had earned enough money in chicken-feed and made one of the more unusual midlife career changes I have ever heard of and certainly one of the most successful. He was the first man, and remains at this time the only one, in the history of the State of Delaware to be elected to four consecutive terms in the U.S. Senate.

At the time of his decision to run for the Senate, he had never even met his State's Republican chairman. But that didn't stop him or even slow him down. He was quoted many years later as saying, "I went into it on the principle a man has a right to seek office in this country without the consent of anybody."

The word "principle" is important here because it is a key to everything he ever did. John Williams stood on and acted on his principles. And because he was a principled man he earned the respect of all he worked with—including those who disagreed with him.

Although he was instrumental in exposing a number of scandals during his years in the Senate, the names of those he exposed are, generally speaking, better known today than his is. That stems, no doubt, from the fact that John Williams was a modest, unassuming man. To him, the work was more important than the credit. While this belief is yet another reason he was respected and admired, it is also a reason why he is not well known today. And I am very sorry about that.

As the late Senator from Vermont, George Aiken, said on the occasion of Senator Williams' retirement from the Senate in 1970, "The good that Senator Williams has done will live after him, of course, but because he lacks glamour his example might be lost on some of the idealistic young. A pity, because no one could more exemplify the idealism of a man thoroughly devoted to the concept that government is the servant, not the master of men, than this low-keyed, upright, self-educated chickenfeed dealer from the Eastern Shore of Delaware."

In addition to honoring our distinguished colleague, I hope that our remarks here will serve to introduce this man to today's idealistic youth. I am confident that once they know him, his example will inspire them. And there can be no question of the good that will come to them—and to our country—when that happens.

TRIBUTE TO THE LATE SENATOR JOHN WILLIAMS

Mr. HATFIELD. Mr. President, I am here today to offer a tribute to the late Senator from Delaware, John Williams. Although he is no longer with us, it is my hope that the principles that he stood for will always be remembered by Senators and other Government officials. In the days of the Iran-Contra affair, the Meecham impeachment, and charges of waste, fraud, and abuse in many Federal programs, it would be appropriate for us to take time to review the Senator's dream—a government responsible enough to devote its resources to the people by operating free of financial corruption.

In some ways, it is amazing to reflect upon the considerable skill the Senator displayed when it came to the financial affairs of government. Lacking a formal education, John Williams came to the Senate in 1947 after having been a small-town merchant and chicken farmer. His only prior political experience was as a member of his local town council. It is not surprising that he was not favored in his first statewide race. However, within a year after announcing his election plans, he defeated the Democratic incumbent by almost 12,000 votes. The tenacity that he displayed during the first of his four Senate election compaigns was only matched by the integrity he displayed during his tenure here.

Senator Williams knew the value of a buck and through a supreme command of the mechanisms of government finance, sought to make sure that that buck was spent for the benefit of the people. It never mattered who the target of his constant investigations were; whether it was Lyndon Johnson-confidant Bobby Baker, the IRS, or other powerful political players, John Williams never yielded from his campaign to root out corruption. As a result, he was widely known as the eyes and ears of the Senate and attained notoriety as a virtual "one-man FBI."

These were serious affairs. However, I want John Williams to also be remembered for his lighter side. I will never forget his habit of comparing complex finance issues to chicken farming. During John's last days, I wonder if he would have preferred to use the chickens rather than the farm as a metaphor to describe the cause of our current fiscal problems.

Mr. President, when Senator Williams died on January 11 of this year, the Senate and the country lost a great example of integrity, dedication, and perseverance. It would do us good to reflect upon his vision of a smooth running, corruption-free government and renew our efforts to achieve that end. John Williams did his part and it is up to us to continue his legacy.

My condolences and prayers are with his family.

IN HONOR AND MEMORY OF JOHN J. WILLIAMS, FORMER U.S. SENATOR FROM DELAWARE

Mr. THURMOND. Mr. President, the Nation suffered a great loss with the death of former U.S. Senator John J. Williams, who died on Monday, January 11, 1988, at the age of 84.

Senator Williams was a fine man of unquestioned integrity, tremendous ability, and great dedication. During his 36-year tenure, he served the State of Delaware as well as the United States with great distinction. He played a major role in many historic, economic, and social changes that took place while he was in the Senate. His strong personal values and his firm, progressive leadership enabled him to fulfill his duties with the utmost degree of integrity and ability.

After retirement from the U.S. Senate, Senator Williams continued to serve the State of Delaware through local organizations and community service. His outstanding contribution in the field of government showed the depth of his concern for others and the extent of his fine character.

Senator Williams' life will serve as an example for future generations. We are saddened by the death of Senator Williams, and Mrs. Thurmond and I join my colleagues in extending our deepest sympathy to his lovely wife, Elsie, and his daughter, Blanche Baker.

SENATOR JOHN WILLIAMS OF DELAWARE

Mr. KENNEDY. Mr. President, it is an honor to join with Senators on both sides of the aisle in this tribute to our outstanding former colleague from Delaware, John Williams. I had the privilege of serving with Senator Williams in my first term in this Chamber, which sadly was also John Williams' last term.

When I first took the oath of office in the Senate, he was already a Senate legend because of his many years of service as watchdog of the public purse, his reputation for integrity, his landmark investigations of corruption, and his extraordinary role as conscience of the Senate. He was held in high respect by all of us, whatever our party or political philosophy.

As ranking Republican on the Finance Committee in the 1960's, he was an early pioneer for tax reform. I have warm memories of our work together to eliminate special interest fingerprints in the tax laws, and to close what was then the most notorious loophole in the Internal Revenue Code, the 27½-percent depletion allowance for oil.

In a sense, our recent success in enacting the far-reaching Tax Reform Act of 1986 was possible because of the foundation for tax reform that John Williams had laid during his brilliant Senate career.

He was also an early advocate of effective cost controls on runaway hospital expenditures under Medicare.

The problem is still with us, but once again we are farther along toward finding effective answers today because of the trail that John Williams blazed to guide us.

His recent death at the age of 83 made all of us who knew him pause and recall his distinguished career. Perhaps his greatest achievement was his daily presence in committee and on the Senate floor, demanding that the Senate and each of us live up to the ideals of public service.

The Senate has lost one of its greatest Members, the people of Delaware have lost one of their greatest public servants, and American democracy has lost one of its greatest defenders.

RESPECTS TO SENATOR BYRD

Mr. ROTH. Mr. President, I would like to pay my respects to the majority leader who has announced. I understand, that he will not be a candidate for reelection for majority leader.

I think all of us wish him every success in his new effort. We have enjoyed working with him, both as majority leader and minority leader. He is a man who has served his State and the Senate well, and we wish him well.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware for his kind remarks.

I have always enjoyed working and serving with Senator Roth. He has never been one of my problems in the Senate. I look forward to continuing to work with him in what will be my new role, come the first of the year, the good Lord willing, as chairman of the Committee on Appropriations and, hopefully, as President pro tempore of the Senate.

CHOLESTEROL TEST

Mr. STEVENS. Mr. President, I am wearing a heart on my lapel, similar to that which I noticed that our leader, Senator Dole, was wearing yesterday.

I hope everyone remembers that in memory of our late good friend from Nebraska, Senator Zorinsky, there is a cholesterol test going on in the Russell Building, and it is there for everyone, Senators and staff. For those who want to check their cholesterol, it is a good reminder of the great service of our friend from Nebraska, the late Senator Zorinsky, and the problem he suffered and that caused his death prematurely.

I think everyone would be wise to go over to the Russell Building and take the check. It is easy to do.

I think the Senate as a whole ought to be wearing this heart today and through the remainder of this week.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 o'clock having arrived, the Senate will now resume consideration of Senate Concurrent Resolution 113, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991.

The Senate resumed consideration of the concurrent resolution.

Pending:

(1) Chiles Amendment No. 1928, to express the sense of the Congress that the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) for the Social Security trust fund for all purposes, and that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust fund.

(2) Stevens Amendment No. 1931 (to Amendment No. 1928), to express the sense of the Congress that the Federal Postal Service should be removed from the Federal budget.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I will ask unanimous consent that the time for a quorum call be equally charged against both sides.

Before I make the request, I remind Senators that there will be a rollcall vote at 11 o'clock this morning. It will be on or in relation to the amendment by Mr. Stevens, which is the pending amendment. There is 1 hour of debate, between the hour of 10 o'clock and 11, on the amendment. That will be a rollcall vote, lasting 15 minutes.

I urge Senators not to wait until the last 3 minutes to start to the floor. The call for the regular order will be made automatically. In the interest of encouraging Senators to come to the floor in time to make that rollcall vote, I state again for the Record, as was stated last night, that there will be a rollcall vote.

I hope there will be final action on the budget resolution today. The two managers have indicated that it is likewise their hope that that will occur. But Senators will need to offer their amendments, and we wish to encourage Senators to do just that. Those who have amendments should let the managers know and be on the floor and be prepared to call up their amendments.

Mr. President, I now suggest the absence of a quorum. I ask that the time be equally charged.

The PRESIDING OFFICER (Mr. Shelby). Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1931 TO AMENDMENT NO. 1928

Mr. STEVENS. Mr. President, let me now address this amendment that is pending.

As I outlined last night, this amendment has the simple purpose of stating the sense of the Senate that in the future, as we consider the revisions to the budget process, the Postal Service should not be counted for the purpose of determining the Federal deficit.

As the Senator from Florida, the distinguished manager of the budget resolution, the chairman of the Budget Subcommittee, stated it has a little impact on the budget, negative or positive, depending on which year we look at in the future.

The real point is that in 1974, the President exercised his discretion under the Postal Service Reorganization Act to take postal operations off-budget.

We created a semi-independent postal corporation to replace the old Post Office Department. In doing so, it was our intention to transition the Postal Service off-budget to require that they be paid for by the users of the postal system, and we have substantially achieved that goal.

There is no appropriation for the Postal Service now. We do appropriate revenue foregone to the Postal Service, but that is revenue they do not get because of acts of Congress that require the Postal Service to deliver certain types of mail either free or below actual costs.

As I stated last night, I think the record will show we have the finest Postal Service in the world and at the lowest cost to any government.

It has some problems. We all know that. If it was on the big board and an independent private corporation, it would be the No. 8 corporation in size in the United States. It has come a long way since 1971 when it became independent.

Today, through the Postal Rate Commission, those who pay postage support this system including enough to pay for its modernization. It is not just the operation and maintenance. As I said last night, it has capital costs that are paid for by the users of the system.

Last year in the 1987 reconciliation bill, there was a requirement that for one year 75 percent of all the postal capital investments be delayed. The impact of this was felt all over this country in new postal buildings that had to be delayed and postal equipment that could not be purchased.

We will not know the increased cost of that action for a couple of years. I think we are shooting ourselves in the foot because that action did not accomplish anything other than a disruption of an orderly system of modernization that was going on.

Second, the budget required the absorption of health benefits cost for retired postal workers. These costs are now to be absorbed by Postal Service contrary to the original Reorganization Act. In the original Reorganization Act we gave the Postal Service one last bit of help as it transitioned into a semiprivate entity and that was to pay the health benefits for retired workers as we do all Federal retired workers. It is the one connection left to the Federal budget.

That in itself would not have been difficult if Congress had not proceeded with stopping the modernization of the Postal Service.

The Postal Service was intended to operate as an independent business. As

I said, we believe that it is working well. It used to have one-quarter of its bills paid by the taxpayers directly and some indirectly.

The only amount that we appropriate covers, as I said, the charitable mailings, that is, the free mail to the blind, plus retirement benefits for those postal workers who retired before the U.S. Postal Service was in effect. And that is fair. They were employees of a Federal department.

As I said, I have some serious questions about the action in the Congress last year. I explained those concerns on the floor at the time, and in my opinion those concerns have not changed. The most unfortunate part of the agreement between the President and the leadership of the Congress was that the Postal Service got caught in this agreement, even though they were not originally a part of it. Because of that agreement they had to refrain from spending $1.245 billion over 2 years.

The impact of having this entity on budget is to prevent it from doing precisely what we intended to do when we made it a semi-independent Federal agency. We intended it to be a businesslike corporation. We intended it to raise money from those who use the service and provide the services the Constitution mandates be there for the public. I remind all that the Constitution mandates that the Congress provide for a Postal Service.

We should not allow either the Congress or the executive branch to interfere in the budgeting process of the Postal Service. After all the 1970 act involved a series of internal checks and balances. There is a Board of Governors. There is a Postal Rate Commission. And there is the management of the Postal Service itself. The management presents the budgets to the Board. The Board approves a rate request and submits that request to the Postal Rate Commission, and the Postal Rate Commission reviews those proposed rates in the interest of the public at large to decide whether the request is too large or whether it is not large enough to meet the needs of the Postal Service and to ensure one class of mail is not subsidizing another.

This does not involve the Federal Government. These people are running an independent business.

But in the crisis that developed last year, Congress and the executive branch stuck its nose into the Postal Service. The net result of that action is going to be one of two things. Either we are going to see the 1970 act revised and this Postal Service is going to come back to a Postal Department concept, or it is going to be transitioned toward total privatization. Total privatization is the goal of some. There is no way, without changing the Constitution, that we can remove ourselves from providing a Postal Service because the Constitution enjoins the Congress to provide post offices, and post roads, and we cannot just cut this service aside and turn it over to the private sector.

I believe we can and we must insist that the semi-independent agency conduct itself according to the finest traditions of our private enterprise system: It should live within its means. It should budget for the future. It should provide services. Those services should be those that are needed by our public, and they should be in accordance with the development of technology. If anything, the Postal Service has tried to stay ahead of the curve in terms of the advance of technology. It cannot do that if annually, in order to meet a theoretical budget limitation for the overall operation of the Government itself, Congress tells the Postal Service, which is not spending Federal money, not to spend some of its own money.

I think that the worst part of the decision last year was the decision on capital expenditures.

We reneged on the commitment we made at the time the Postal Service was organized on the cost of retirement and health benefits for retirees. That was a bad precedent. But it was not as bad as the distortion that has been put into the modernization program now on the Postal Service, because that program that we injected ourselves into last year was a 2-year intervention. We impacted the Postal Service capital investment program to the extent of $350 million in 1988 and $465 million in 1989. It will be 1990 before this service can start to get back into a sound management program.

I want to serve notice that, as long as I am here, we are going to really put everyone on record concerning any interference with this Postal Service in the future.

This is not a binding proposition that is before us now. It is stating the sense of the Congress that as we go into the review of the budget process, and we are going to do that of necessity either this year or next, that the Congress states now its intention that the Postal Service should not be counted for the purposes of determining the Federal budget.

I think that we should not distort their budget. The Postal Service does not contribute to the deficit problems faced by the Federal Government. Now some people argue that it does, but it does not. The Postal Service is mandated to operate with over years a balanced budget. Did you know that? In 1970 the Congress cut the Postal Service loose from the Federal Government and established a board of governors—and I remember those people. They were great people, Red Blount, the first Postmaster General of the Postal Service, did a good job, as well as all of the other members of the board of governors that served, leading men and women of this country, to establish this new entity. They were excited about the proposition that some part of the Government was going to operate on a balanced budget. Basically, it has done it. Over its last 10-year period, income, in fact, matched expenses. No other portion of the Government can say that. None.

Who would dispute the fact that this entity ought not to be considered for the purpose of determining what to do about deficits? By definition, if we inject the deficit problem of the rest of the Federal Government into the Postal Service, we cause them to get into a deficit position.

Now, imagine that, Mr. President. By virtue of telling this Postal Service not to do what they had planned to do, not to spend their money wisely, not to invest in modernization, new equipment, we have created a situation where their costs in fact increase and we have caused a postage increase. The postage stamp has just gone up to 25 cents. I predicted that last year when we had this problem, and it happened.

Now, I will make another prediction. And that is, if we do not take this system off budget, we are going to see an almost annual increase in postal rates, because annually the Postal management and the Rate Commission will have the duty of making up the cost caused by the interference of the Congress and the executive branch in the operations of this independent entity, the U.S. Postal Service.

The annual accounting of the Federal budget under the Budget Act is intended to deal with the problems of those entities that caused the deficit. I challenge any Member of the Senate to explain to me how the Postal Service, which is the only entity of the Federal Government that has been operating on a balanced budget in the last 10 years, how they have caused in any way the deficit that we are trying to solve.

I congratulate the Budget Committee for what it has done. It has been dedicated to the concept of bringing about a balanced budget over a period of time, a transition toward living within income. And I think all Americans want to see that happen. But the Postal Service, in order to break even—and I urge the Senate to consider this—has to operate according to sound business principles. You cannot do that if the Congress and the executive branch ties one hand behind the back of the board of governors and the other hand of the Postal Rate Commission.

The Postal Rate Commission must review the rates to achieve the program approved by the board of governors. The board of governors assumes that it has raised the rate to spend the income that is raised by a Postal increase. Under those circumstance, management is out there trying to administer this program with directions coming from four areas instead of two.

The 1970 act envisioned the board of governors with the help of setting the Postal Rate Commission guidelines for the management that operates under normal private enterprise concepts.

By what we did last year, we interfered with that process through an agreement that was entered into by the executive and the congressional branch over matters that the 1970 act said were beyond the scope of the Federal executive and the Federal Congress. They did not change the law, but they just interfered.

Now, the constitutional responsibility to oversee the Postal Service is one that those of us who serve on the Post Office and Civil Service Subcommittee here in the Senate and the Post Office and Civil Service Committee in the House take very seriously. We have had an ongoing relationship in terms of oversight. We have that ongoing relationship every time someone comes up for confirmation. Incidentially, there are two new members of the Board of Governors to be confirmed this year, and I hope they will be. We review the Postal Service operations annually with a hearing that involves the Postmaster General and can and has involved the Postal Rate Commission, the Board of Governors, and various sections of Postal management itself.

We have a responsibility and we are carrying that out. This amendment will say that as we readjust the budget process the Postal Service should not be counted for the purpose of the Federal deficit. I know of nothing that has been more emphasized to me in the meetings that I have had with the Postmaster and postal worker, organizations, mailers and with the management of the Postal Service itself.

I hope that the Senate will go on record by supporting my amendment stating it is the sense of the Congress that as we deal with the future years—the years beyond the agreement now; I am not asking that we renege on the amendment that was adopted that covers 1989—but as we deal with 1990 and thereafter, this Postal Service should not be considered as we determine the Federal deficit.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I wish to express my support for the resolution contained in the amendment offered by my distinguished colleague, Senator STEVENS, that the U.S. Postal Service be removed from the Federal budget.

Only a few months ago, we in the Congress asked the Postal Service to assume its share in meeting the deficit reduction goals set forth in the White House-congressional summit agreement. To their credit, Postal officials recognized the part their agency must play in resolving the deficit crisis. They evinced a good faith willingness to work with us toward that goal.

But as we must be only too aware, the rules by which the Postal Service has to meet its share of the burden are forcing it to reduce services to postal patrons and to defer critically needed capital improvements. These operating and capital cutbacks, coinciding as they do with previously requested increases in postal rates, are reinforcing the impression in some quarters that the Postal Service is failing its mandate. Unfortunately, the Postal Service's assigned task, to do "more with less," has rallied the cry for privatization of mail services which has long been the undisguised goal of some critics.

Now, many in my home State of Tennessee have contacted me to urge resistance to any effort to auction off the mail business to private interests. This call to support a public service over private profit has been swelled not only by postal servants—from supervisors to rank and file carriers—but by many private citizens. They know too well that mail-for-profit spells no mail, or mail at an unreasonable cost, for thousands of smaller communities. And one solution embraced by many of these constituents would be to remove the Postal Service from the Federal budget process.

There are compelling reasons to consider this step, and we are all aware of them. During the years it was "off-budget," the Postal Service generally performed well in meeting the challenge given it by the postal reorganization of the early seventies: To function, on average, as a break-even proposition. But in doing so, the Postal Service like any business must plan and prepare for cyclical fluctuations. It is not practical, for instance, to recoup needed capital investments from same-year revenues, nor should this be expected. But this business cycle is distorted when one tries to circumscribe it by our annual Federal budget process. Long-term outlays, to complete my example, look like short-term deficits.

This subjects the Postal Service to the very same winds of political pressure from which reorganization was meant to shelter it. And, it results in holding the service to an unfair standard for comparison. We say it ought to be run like a business, yet it's forced to conform to the annual cycle expected of fully appropriated Government agencies. Then, the next thing you know, it's being unfavorably compared with private enterprises. It isn't hard to appreciate the frustration this causes.

Now, I don't mean to suggest that removing the Postal Service from the budget will solve all its problems. Some of them have to do with long-term planning for facilities and personnel in areas of critical need. They weren't fostered by the deficit crisis nor will they disappear with it.

Therefore, any concrete proposal for taking the Postal Service off budget needs careful study. But I understand that the Committee on Governmental Affairs, and its Subcommittee on Federal Service, Post Office and Civil Service on which I serve, will be considering the issue during this session. I think the resolution offered by my colleague from Alaska points us in the right direction and I look forward to working with him to formulate appropriate legislation toward that goal.

Mr. PRYOR. Mr. President, I have listened carefully to the discussion of the Senator from Alaska's sense of the Senate resolution that the Postal Service should be off budget. There is clearly some merit on both sides of the issue.

Taking the Postal Service off budget is not a panacea. Many of the problems we hear about from our constituents predate the restrictions we imposed as a part of last year's deficit reduction package. You need only read the front page story in today's Washington Post to see that the problems in northern Virginia were not created by our actions last year. Or, you could look at the executive summary of the Postal Rate Commission's recent decision. The point is made quite clearly that costs controls were virtually nonexistent at the Postal Service during calendar 1987.

This is not to say, of course, that what we did last year hasn't created additional problems or exacerbated those that developed over the years, as a consequence of poor management at the highest levels of the Postal Service. I'm hopeful that, with the recent arrival of a new Postmaster General—Tony Frank—who appears to be in it for the long haul, we will see improvements in both the management and cost control areas.

Now, what taking the Postal Service off budget will do is lessen the likelihood of future meat-ax type cuts aimed at an entity that is, essentially, self-supporting. Even more important is that we will be sending a signal to OMB that we are unhappy with its almost constant stream of attacks on the Postal Service.

Last night, Senator STEVENS mentioned that he thought that OMB had a separate, not-so-hidden agenda as relates to Postal Service, when we were involved in the deficit reduction effort last year. I think the Senator is right on target here. As an illustration, let me tell you about just one incident that occurred last year during deficit reduction talks.

You all may recall last year that part of the President's budget submission on "Management of the United States Government" dealt with the potential benefits of productivity improvements. Then, in May, Jim Miller put out a press release claiming that if the program were implemented we could save $720 million in fiscal year 1988 and $3.6 billion by 1992. In December, we suggested to OMB that we would give them what was necessary to implement fully the program Miller had outlined and which was based on the President's budget submission.

The only other alternatives we had to meeting the committee's deficit reduction targets was to tinker with the retirement of employees or take it out of the Postal Service—and, OMB knew this.

So what do Mr. Miller's aides tell us? They tell us that what was good enough for the President's budget, what was good enough for a Miller press release, was not good enough to score for deficit reduction purposes. And, why not? I will let you draw your own conclusions, but I am convinced that it had something to do with Miller's interest in getting at the Postal Service.

We ought to send a signal to OMB and support of the Stevens amendment is a good way of doing just that.

Mr. CHILES. Mr. President, the impact on the deficit of taking the Postal Service off budget will vary from year-to-year. Obviously, such an accounting change does nothing to truly reduce Federal spending. Current practice shows this account as the net cash position of the Postal Service.

This cash position fluctuates depending on how near to a rate increase we are. If we are very close or very near needing a rate increase, obviously the Postal Service will be operating at a deficit. For instance, in 1988, the year before the rate increase, the Postal Service ran a net cash deficit of $1.2 billion in budget authority and $1.7 billion in outlays. This, of course, adds to the Federal deficit.

In other years, particularly after a rate increase, the Postal Service generates a cash surplus. For instance, CBO projects that in 1991, the postal account will show a negative $0.9 billion in outlays, which reflects the cash infusion from a rate increase.

Now some may argue that the Postal Service is not allowed to operate at a deficit or a surplus. It depends on how you define break even. The Postal Service runs its books on an accrual basis; thus, it arguably breaks even. In the long run, the Postal Service breaks even on a cash basis also.

Now this amendment claims that the Postal Service has to meet its costs through its income and effective financial management—effective financial management. And I emphasize that.

What this means is that, in major areas, the Postal Service enjoys monopoly status granted by the Government. Since there is no market pressure to keep costs in line with a business, we must trust that the Postal Service is keeping costs to a minimum. The only assurance that the rate payer is getting a fair deal is good financial management of the Postal Service and effective oversight.

Let us see what the Postal Rate Commission said about the Postal Service's financial management. In discussing how we got a 25-cent stamp, the Postal Rate Commission noted that the increase could have been more if it had not been that the cost of FERS was about $1 billion less than anticipated.

Why could the rate have been higher? The Postal Rate Commission said that, unfortunately, estimates of 1989 costs rose by about $1 billion between the Service's initial requests and the final hearings in this case. That means that in 10 months, between May 1987 and March 1988, Postal Service estimates of their costs went up by about $1 billion. In part this was attributable to the Service's inability to obtain productivity savings firmly projected 10 months before.

While these projections can be off, the loss of $1 billion in productivity savings over a 10-month period of time certainly is a concern. It seems to me that absent market discipline to assure cost containment, removing budget discipline, which is what this amendment does, should be carefully considered and explored.

But I want to say right now I am not an expert on the Postal Service and my friend from Alaska has spent years looking at this. He knows much more about it than I do. Others in the Congress do, also, both in the House and the Senate and others around.

But I feel that this is a step we should take, by letting the Committee on Government Affairs, which has jurisdiction here, go into this, hold hearings, study it, see whether it needs to be done or not. But now we are seeing this portrayed or put on as an amendment to the CHILES' sense-of-the-Senate resolution, which really has just a totally different thrust.

If we go back to that, we recognize that what we are talking about there is we are building up huge surpluses in the Social Security Trust Fund, $40-something billion, $46 billion this year, going into $50 billion next year, going to $90-something billion surplus in the nineties, and that we are not counting those off the moneys of Gramm-Rudman-Hollings. So we are adjusting those off. And that is, in effect, having us use those surpluses to adjust off of the deficit so in effect we are spending those surpluses now or we are obligating them now. At a time when we are going to need them, in the 2015 period of time after, when we have use for them, they will not be there.

So the thrust of the sense-of-the-Senate provision of myself and others is that we need to recognize this. We need to look at the budget in true terms and not throw it out by this tremendous magnitude of surpluses that are going to go up to $2 trillion before they begin to decline it is estimated that the Social Security surpluses will be $2 trillion.

What are we looking at in the Postal Service? $1.2 billion to $0.8 billion in a swing of a deficit to a surplus. I would just say I think the Senator from Alaska has a very valid point. I want to say the Senator from Florida, being a member of the economic summit committee, kept trying to tell some of the other people in there the savings they were asking for in this whole section were totally unrealistic; that they should not come up.

The Senator from Alaska, I think, said on the floor yesterday that he thinks nobody in the Congress came up with this proposal; it came from the administration.

I would have to say to him I think there were people in the administration that were always focusing or thinking about this but one of the reasons it did come up is when Members of Congress, faced with having to take this out of Federal workers' hides—and remember we had a mark that had to come out under reconciliation—said: Wait a minute, we cannot do more. We are restraining their pay now. It would not be fair. And, again, everybody was casting around and looking for anywhere that they could try to make these kind of cuts.

Mr. STEVENS. Would the Senator yield on that?

Mr. CHILES. Yes, I would be happy to yield on that.

Mr. STEVENS. I would say, Mr. President, to my good friend, that that is what worries me most about the future.

Mr. CHILES. Yes. Yes, sir.

Mr. STEVENS. I saw that last year. I know that this Postal Service is mandated by the 1970 act to live under a balanced budget concept. Yet as we get down into the tight years of 1990, 1991, 1992, if the Congressional Budget Office is correct we have a great deal further to go than the Office of Management and Budget says we have to go.

Every year we are going to face the problem of where do we take that little extra bit to make the goals of the Gramm-Rudman-Hollings transition, a transition I have supported. But I do not see the fairness in telling the ratepayers: Those who pay these rates and you will get or not get service; and then have Congress and the administration annually come in and say: Well, there is an outfit, the Postal Service, they have more money than they need, lets take some of their money.

I think it is going to happen again. We are going to face it for 1990 just as sure as I am standing here unless we start now to say this is not fair.

Yesterday, as you know, in the areas of highways and the airport and airways trust fund, the people who have managed those two came before the Senate and said let us take those two off. I supported that.

I say to the chairman of the Budget Committee though, Mr. President, that in both instances those funds are administered by people who are paid from the Treasury. There is an interrelationship of the highways and airport and airways trust fund to the budget because the Federal officials that plan how to spend that money are paid for by the taxpayers. In this instance, the people who plan for the total existence of the Postal Service are not paid by the taxpayers. They are paid by the ratepayers and I think there is more justification for this amendment today than there was for the one yesterday, although I supported them. I just think this one there ought not to be an argument about, and I am sorry there is.

Mr. CHILES. Let me say to my good friend that I think there is much merit to what he says. If the Senator from Florida had his druthers, he would druther not have the amendments on the highway and airport trust fund included on his amendment either. I think there is a major difference there.

But I, too, think there is something to be said, if we are moving toward taking the Postal Service off budget. The committee should look at that because we ought to look at things like: should the Postal Service, at this station, if they are going off budget—and I heard many offers, I can tell my friend, and he probably heard them, too, last year, when they were saying if you are going to do this take us off budget. They were saying we would agree to pick up those costs of workers that were on the health insurance or retirement insurance or those hired before that certain date of the postal reorganization. There were a few other incidental things that they said they would do.

I think all of those things ought to be looked at and the Senator is concerned that there be continuing oversight, and I am, too, to make sure all those things are adjusted. I think that should be done in, if not a freestanding piece of legislation, at least a freestanding provision after hearings have been held and after those things have been looked at.

The point I am trying to make is the thrust of the amendment of the Senator from Alaska is totally different from the thrust of what the Senator from Florida is concerned with and that is trying to stop this masking of these tremendous surpluses in Social Security and reducing the deficit by that amount. It is apples and oranges. It is just a totally different situation.

Mr. STEVENS. Will the Senator yield again?

Mr. CHILES. Yes, sir.

Mr. STEVENS. Mr. President, I concur with the comment of the chairman of the Budget Committee about what he was trying to do with his base amendment and what was sought to be accomplished by the amendment dealing with the airport and highway funds and the amendment dealing with the Postal Service. But it seems to me with this Commission that we have got now, the citizens commission that is reviewing the whole concept of taxation and its relationship to the budget, that we ought to send them a comprehensive message.

I would say to my friend that if, in the first instance, when we had the Budget Act, the decision was made to put the Postal Service on budget, I do not think I would be here today.

I see my good friend the former Senator from West Virginia, Jennings Randolph here. We were in the meetings at the time when the original Budget Act passed to determine whether the Postal Service should be on or off budget. It was determined then that the Postal Service not come on budget. It was, really, the period of 1986 and the real crisis that developed then that caused, through the Gramm-Rudman-Hollings process, the budget to include the Postal Service for the first time.

It was not until 1987, in dealing with the 1988 fiscal year, that the Congress interfered with the operation of the budget. So what we are trying to do now is send a message to those who are out there looking over the whole operation of the executive branch, the Congress, and its relation to taxation and the budget that it is our intention to take the Postal Service off budget.

I say to the chairman of the Budget Committee, we have held hearings concerning the matter of the payment of health benefits of retirees from the Postal Department days. We determined that the transition was still going on, as far as the modernization of the Postal Service. It was a tremendous amount that they were budgeting and had to raise without any Federal assistance for total modernization of the system and a whole new concept of how to deal with post offices.

We have post offices in a lot more locations throughout the major cities than we used to have. We have dealt with a whole new system of marketing. We decided the commitment originally made in 1970 that we would continue to pay those health benefits for those former employees of the Postal Department ought to continue.

I might just say, and I am sure my friend knows, that is a declining amount because of passage of time. We did not view that as being as much of a problem. However, in order to get around the impact of what was done by the budget agreement last year, had the whole impact of the 2-year $1.245 billion gone on the modernization and the capital investment program of the Postal Service, it would have had to extend beyond 1989.

I think the Senator remembers those discussions when we had those figures. We postponed 75 percent of planned construction for 1 year, and it will have a tremendous impact over the next 2 years. In fact, this action will have an impact well beyond 3 years in terms of the modernization and will hamper this department for years to come.

There are those people who would like to cripple the federally operated Department and force it into a privatization mode. I think that is wrong.

Mr. CHILES. I concur with the Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator DECONCINI and Senator MCCLURE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I think it is about time that the American people realize what games Congress plays with the budget and how we have masked what the real deficit is. Using trust fund surpluses to reduce the amount of the deficit is nothing short of "smoke and mirrors." I am pleased that Senator CHILES, Senator SYMMS and others are speaking out to inform the American public about this sham. I am equally pleased to be an original cosponsor of the amendment being offered by Senator STEVENS which expresses the sense of the Congress that the Postal Service's receipts and disbursements should not be counted when determining the Federal deficit.

The fact that the Postal Service does not contribute to the Federal deficit. Yet, Congress, in its infinite wisdom, saw its way clear to requiring the Postal Service to cut back on service, capital expansion and communication in order to reduce the deficit. Congress hasn't had to appropriate any money for the U.S. Postal Service since 1982. How can we, in all good conscience, require an organization to be part of a solution, when it isn't even part of the problem?

I will be brief, Mr. President, but I wanted to reiterate what many of my colleagues have said on the Senate floor yesterday and today. Trust funds do not contribute to the deficit. The Postal Service does not contribute to the deficit. To say they do is to be less than honest. More than that, I think it is indecent and immoral to balance the budget on the backs of programs that are not problems. I urge my colleagues to support the amendment of the Senator from Alaska.

Mr. STEVENS. I thank my friend.

Mr. CHILES. I say to my good friend from Alaska, if he is willing, maybe we could either put in a quorum call now for a period of maybe 5 minutes before the vote, unless he has further remarks.

Mr. STEVENS. The Senator has been very patient, Mr. President. I join him in a request for a quorum call with the time to be charged against whomever.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have made my statement in support of my amendment. I do not know if the distinguished chairman of the committee wants to make any further statement. We already have the yeas and nays on the amendment. He indicated to me he did not intend to make a motion to table. If there is any time to be yielded back, I yield it back. I do not think there is any remaining.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DeConcini], the Senator from Tennessee [Mr. Gore], the Senator from Iowa [Mr. Harkin], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore], would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—85

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—8

Bentsen
Bradley
Chiles
Graham
Hatfield
Kennedy
Nunn
Rudman

NOT VOTING—7

Biden
Breaux
DeConcini
Gore
Harkin
Simon
Stennis

So the amendment (No. 1931) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF S. 2273

Mr. BYRD. Mr. President, this request has been cleared, I understand.

I ask unanimous consent that S. 2273, a bill to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Indian Tribe, now being held at the desk—

Mr. GRAMM. Mr. President, may we have order? I cannot hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2273, a bill to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Indian Tribe, now being held at the desk, be referred to the Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The Senate continued with the consideration of Senate Concurrent Resolution 113.

Mr. DeCONCINI. Mr. President, I want to raise a point of order.

I was in the Chamber, as the Senator from Iowa was. There was a lot of noise going on. I could not hear the clerk call at the last moment. I was here in ample time, getting ready to raise my hand, and I heard the vote being announced, and it was too late. I realize that I was part of that. But, if we cannot have at least Members who are physically here have an opportunity to be advised by the Chair—and I am not admonishing the person in the Chair today—if we cannot have somebody advise the Chamber that we are ready to close the vote, I really have some problems with that.

I ran over here and canceled an appointment to be here and I missed the vote.

I ask unanimous consent that my vote be added in favor.

Mr. BYRD. Mr. President, I object to that, and I have to object to it because the rule will not permit the Chair to even entertain such a request.

In defense of the Chair, who is not in a position to defend himself at the moment, may I say that the Chair, at least twice, asked if there were any Senators in the Chamber who had not voted.

The rollcall vote went 2 minutes beyond 15 minutes. The distinguished Senator from Arizona has a just reason for being concerned and disappointed, and I share that feeling with him. There is entirely too much noise in the Chamber when the votes are going on.

But I have to say to Senators, it is up to each Senator to be sure that he votes first and engages in conversation later, hopefully outside of the Chamber. That is saying something that I do not adhere to very well myself.

But I say this in defense of the Chair and in defense of the rule and at the same time, with deep appreciation of the feelings expressed by Mr. DeConcini. He is a dedicated Member of the Senate. His rollcall vote attendance is very high. I can understand the chagrin when he misses a vote, being right here on the floor, with all the pandemonium and noise that are here. I say that we all possibly ought to try to help lower the noise level, and I would urge that whoever is in the chair presiding should maintain better order during rollcall votes. That is difficult for him to do, but the Chair has that authority.

Mr. HARKIN. Mr. President, I ask the distinguished majority leader to yield.

Mr. BYRD. I yield.

Mr. HARKIN. I was with the distinguished Senator from Arizona. We were in the middle aisle. There was a big blockade, 10 or 15 people were standing there.

I raise the point that perhaps one of the recording clerks looking out would notice there were Senators out here who had not voted.

It seems if you are in the cloakroom or if you are down in the dining room or back someplace pages come by two or three times every 15 minutes to warn you there is going to be a vote.

It seems to me one of the recording clerks could have noted there are one or more Senators out there present on the floor who had not voted and perhaps had made a note of that. That would have alerted the Senator from Arizona and myself.

Mr. BYRD. The recording clerks cannot be held responsible for this. They do a good job in a very difficult situation. They can hardly hear the responses themselves. Many Senators respond, and they are not heard because of all the noise in the Chamber.

I think that we all ought to just understand that it is up to each Senator to see that he gets here to the Chamber and votes, and he can walk right up to the desk there and see if he has recorded his vote.

I once missed a rollcall vote at one point of time, being right out here in the reception room. I knew a vote was going on, but I was talking with constituents and, before I knew it, the vote was announced. Yet, it was my fault that I missed the vote.

It is with chagrin that Senators miss votes, especially when they are here in the Chamber.

I certainly feel much empathy for Mr. DECONCINI and the other Senator who missed the vote.

Mr. HARKIN. Mr. President, I was in the Chamber during the vote on the Stevens amendment. However, I did not hear the chair call for the end of the vote, and thus, I was unable to cast my vote. I would like the record to show that if I had been able to cast my vote, I would have voted in favor of the Stevens amendment.

Mr. D'AMATO. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I am glad to yield the floor.

Mr. D'AMATO. I would like to make an observation.

Mr. BYRD. Yes.

Mr. D'AMATO. It seems to me that in the short period of time that I have been privileged to be a Member of this body we have adopted policies and rules at least by way of implementation that seem to work against the congeniality, that does not necessarily add any great efficiency.

I object to the time of 15 minutes when there is not the kind of urgent pressing business, given the transportation dilemma that many who are in the Hart Building have, and it is a dilemma, saying, when we are coming from committee hearings and work, "unless one is here in 15 minutes we will cut them off."

I had occasion some weeks ago to be with a number of my colleagues when there was a number of people who were handicapped—they were blind—had trouble getting on and off the cars, and about seven or eight Senators missed that particular vote.

This seems to me, I say to the majority leader, and I make this observation—it is not personal—that the aura, the dignity, the solemnity of the office is demeaning when we get into this business of cutting off a vote after 15 minutes, that we cannot, as it relates to the comity of this Chamber, find out that, yes, there is a Senator who will be here shortly. I am not suggesting someone hold the vote for a half hour, and that had been done. But when someone is on the way, there should be a comity that we attempt unless there are clear defined messages that we have 40 amendments waiting, we have a restricted period of time.

That is a matter which I believe makes much more sense, and that is this Senator's personal observation.

I do not understand why we are taking away from that which is important to the dignity of this body, and it makes no sense to this Senator.

I understand once the Chair has said that there are no further votes, he has made his decision and you cannot open it up again, but I am suggesting that I think we have lost an awful lot in a period of time.

Mr. BYRD. Mr. President, I certainly respect the personal viewpoint of the distinguished Senator. He has a right to that viewpoint. I do not believe, however, that it is demeaning to the Senate to require that Senators be here and answer to their names during a period of 15 minutes, which seems to me any Senator could do here. If anyone might complain, it should be Senator STENNIS. But I have never heard a complaint from Senator STENNIS in that regard.

Some of us who are not as young as we were when we came to the Senate can walk it easily from the Hart Building in 15 minutes. I do it often. I do this to get a little exercise. I can walk it easily from the Hart Building by starting when the first bells ring.

I understand all the problems of Senators when they are having committee hearings. I have been around here long enough to experience all these inconveniences.

I also know that I can get to this Chamber in 15 minutes and register my vote.

If I am here and there is so much noise, and I walk out of the Chamber and do not vote, that is my fault. That can happen.

As to whether it is more demeaning to the Senate in that respect than it is to be a constant complainer about how this institution works and about how demeaning it is to have to answer a rollcall vote in 15 minutes, I will leave it up to Senators to weigh one against the other and decide for themselves as to which is the more demeaning.

I think "The fault, Dear Brutus, is not in our stars but in ourselves."

I again express my empathy with Senator DECONCINI and others who from time to time, really through no fault of their own—they get engaged in a conversation—miss a vote now and then.

The voting record of Senator DECONCINI can stand up, I think, almost to match anybody else's in the Chamber. He has stated for the RECORD the reason he missed this vote, and I am sure he will indicate for the RECORD how he would have voted if he had voted.

Mr. President, this Senate does not have all day to wait on Senators. I am not addressing my remarks to the distinguished Senator from Arizona, but I am responding to the distinguished Senator from New York who said that he thought it was pretty demeaning. I hope that Senators will just try a little harder to get here on time. There is a warning bell, and many times, in order to give Senators a little advance warning we put in a quorum call.

Senators had ample notice of this vote even from last night when I announced that there would be a rollcall vote today at 11 o'clock and that the call for the regular order would be automatic at the expiration of the 15 minutes. They had plenty of time and they had plenty of advance notice.

To me it is not demeaning to expect Senators to get to the floor and vote within that 15 minutes especially after they have had all the notices in advance.

Mr. DECONCINI. Mr. President, will the majority leader yield?

Mr. BYRD. I am happy to yield.

Mr. DECONCINI. I thank the majority leader.

I have no problem with the enforcement of the rule of 15 minutes. I think we are better off when we do that.

My concern is that being on the floor, both Senator HARKIN and myself standing there—and I take the responsibility for my actions of missing the vote—it concerns me that there would not be a waiver by the leader or others that permits a Senator to cast a vote when the vote was overwhelmingly 75 to 5, something like that.

Now, if it is a vote that would tip it one way or the other, I could see the objection to that. That troubles me.

But, in any event, Mr. President, what has happened has happened. I do want the RECORD to show that had my vote been cast it would have been cast in the affirmative in favor of the amendment of the Senator from Alaska. I have been a strong supporter of that for a long time.

I am, quite frankly, disappointed that my vote is not registered.

Mr. BYRD. Mr. President, I will yield the floor.

I must say, again, for those who may be interested or who may not, that there are two rules which cannot be waived even by unanimous consent. I will only mention one of them.

One is that no Senator may vote after the results of the vote have been announced by the Chair. The rule states that the Chair cannot even entertain a unanimous-consent request to allow Senators to vote after the result has been announced. I think that is a good rule. Otherwise, there would be Senators coming in hours or days after the vote has been announced and asking consent that they be allowed to vote. The rule speaks for itself. I should add that Senators may be allowed to change their vote by unanimous consent after the Chair has announced the result, provided the change in the voting position does not alter the outcome.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1933 TO AMENDMENT NO. 1928

(Purpose: To express the sense of the Senate that the financial institution regulators should be removed from the Federal budget)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 1933.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

SEC. . It is the sense of the Congress that—

(1) The Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the Securities and Exchange Commission (the "financial institution regulators") are unique, self-financing entities that pay their expenses from the fees charged to the entities they regulate;

(2) Subjecting the financial institution regulators to the constraints of the congressional and executive budget process threatens their ability to provide strong, prudent, and independent regulation of financial institutions, which is critical to maintaining the safety and soundness of the financial system;

(3) In order to best serve the public interest, the financial institution regulators must remain free and independent entities;

(4) Including the financial institution regulators in the Federal Budget has hindered the ability of these regulators to resolve the problems of failing financial institutions in a speedy and cost-effective manner;

(5) Including surpluses and deficits of financial institution regulators if the Federal Budget distorts the fiscal accuracy of the Federal Budget;

(6) Congress' constitutional responsibility to oversee the financial institution regulators will be ongoing regardless of whether they are included in the Federal Budget; and

(7) Therefore, the receipts and disbursements of the financial institution regulators should not be counted for purposes of determining the Federal deficit.

Mr. GARN. Mr. President, as long as we are having a series of amendments to exempt certain Federal agencies from the budget process, it seems to me that we should also express the sense of the Senate that the Federal banking regulatory agencies should not be part of the budget process. The logic that we have talked about concerning Social Security and the Post Office Department I certainly think would apply to the FDIC, the Federal Home Loan Bank Board, and the other agencies, because the banking agencies and the SEC are not funded by the taxpayers. A lot of people are not aware of that. They are simply not involved with any taxpayer money but, instead by the fees and premiums of the financial institutions they regulate.

These agencies were only put on-budget in the late 1960's because they were running large surpluses, and putting them on-budget was used as a way to hide the real size of the budget deficit. Congress ought to stop using this accounting gimmick to mask the real size and the enormity of the Federal deficit.

The Federal Reserve Board, which is a major bank regulator, is off-budget. There is no reason to distinguish between the Fed as a bank regulator and other bank regulators.

However, there is an interesting side note with the Federal Reserve that a lot of people are not aware of, and that is, even though they are off-budget and all of the money to operate the Federal Reserve System comes from fees and services provided by the Fed, they return, over and above their operating expenses, $18 billion a year to the Treasury. Besides the other agencies that ought to be off-budget, the Federal Reserve produces an $18-billion profit. If I were a member of the Federal Reserve System I would object strenuously, as a member, to providing fees and paying for services to run the banking system of this country to subsidize the general fund of the Treasury to the tune of $18 billion. At least they are off-budget.

You see, you start weaving this framework of all of these on-budget items that are not financed with taxpayer's money and the true size of the Federal deficit is much, much larger.

Under the present system, OMB has a say over how much the FDIC and FSLIC can spend in a fiscal year to merge or close troubled banks and thrifts. This can delay the most cost-efficient means of resolving these cases. It is not good public policy for these agencies to delay taking remedial action for budgetary purposes when we read constantly, almost daily, about the problems of financial institutions in this country. That money that is collected from fees should be available to be used for taking care of the problems of these troubled institutions.

Congress has already recognized the special independent status of banking agencies. Just last summer Congress exempted these agencies from Gramm-Rudman sequestration and OMB apportionment under the Anti-Deficiency Act. This reflects the need to keep them independent of very important budgetary constraints that apply to other agencies. There is no need to keep them on-budget in view of these changes.

Taking these agencies off-budget will not affect the civil service status of their employees, personnel, or salary ceilings. And Congress will still have every bit as much oversight authority as it does now.

These agencies have never used taxpayer money to finance their operations. Congress did pass a sense of the Congress resolution that the deposit insurance funds are backed by the full faith and credit of the Government, but taxpayer funds have never been used, and until they are the agencies should not be a part of the budget process.

Mr. President, I do not know that anyone else wishes to speak on this subject. I have no need personally to call for a rollcall vote. If the managers of the bill wish to accept the amendment, that would be certainly acceptable to me.

Mr. CHILES. Mr. President, while I do not think it goes to the same thrust of the underlying amendment—I have tried to make that argument before—I will allow it to go by a voice vote.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself time off the resolution.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while this may be qualitatively different from some of the other amendments because of the enormous potential liability of some of these accounts with reference to indemnification and security of our financing systems, clearly, if we are going to adopt the amendments that were already adopted, it appears to the Senator from New Mexico that there is ample justification for adopting this one also. I do not insist on a rollcall vote, and I will support the amendment.

Mr. GARN. I yield back my time.

Mr. CHILES. I yield back our time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 1933 to amendment number 1928) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1934 TO AMENDMENT NO. 1928

(Purpose: To call for more truthful disclosure of the deficit)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1934.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

With regard to the pending amendment, on page 3, strike lines 19 through 25, and on page 4, strike lines 1 through 7, and insert in lieu of the following:

(9) that the Military Retirement Trust Fund, the Civil Service Retirement Trust Fund, and the Unemployment Trust Fund are in a similar situation to the Social Security trust fund and other aforementioned funds, and that the findings with regard to the Social Security trust fund and other aforementioned funds also apply to the Military Retirement Trust Fund, the Civil Service Retirement Trust Fund, and the Unemployment Trust Fund.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) of all aforementioned funds for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from all aforementioned funds.

Mr. GRAMM. Mr. President, we have had pending before us a sense-of-the-Senate resolution which says we ought to take Social Security out of the accounting of the general fiscal operations of the Federal Government. I remind my colleagues that under current budget law we cannot cut Social Security in a reconciliation bill and have it count toward deficit reduction. What the underlying pending amendment says is that in looking at the balance sheet of the Federal Government, in looking at the Government's outlays and tax collections, we will not consider Social Security, the highway trust fund, the Postal Service, and the various financial institutions such as FDIC, the Federal Reserve Bank, and the Comptroller of the Currency.

Some of these amendments, Mr. President, were offered I believe—certainly I have voted for them—to show that once you start down the road of taking things off-budget, it is hard to draw any kind of logical line of where to stop. Probably what we really want to do is to look at this trust fund problem.

Quite frankly, Mr. President, I rejoice that we have a surplus trust fund to debate. In 1982 or 1983, we would have never had this debate because Social Security had no money. We are now here debating what to do because Social Security is in the black. I am hopeful that no one comes up with the clever idea of reducing the surplus by increasing Social Security benefits or lowering Social Security taxes, or else when the baby boomers retire, they are not going to receive any Social Security benefits.

In any case, it seems to me that if we have before us a logical proposal—the logic of what has been done so far has been that we are looking at freestanding trust funds or items that are self-contained—it ought to be extended. The argument that is made with respect to Social Security is that we are understating the deficit by including it because it has a big surplus. The amendment that I have offered also excludes military retirement, which this year has a $15 billion surplus; civil service retirement, which has a $19 billion surplus; and the unemployment trust fund, which has a $4 billion surplus from being used to calculate the deficit.

In fact, between now and that magic date of 1993 when we will hopefully be balancing the budget, a day that I look forward to with great anticipation and I rejoice that it will happen under the law if we live up to the law, we will have built up a cumulative surplus in military retirement of $130 billion; in civil service retirement of $306 billion; and, in the unemployment trust fund, of $46 billion. I remind my colleagues that this is a reason for rejoicing, not remorse.

If we want to take trust funds off-budget; that is, if we are going to take Social Security out of the fiscal accounting of the Federal Government, then to be consistent we also ought to take military retirement, civil service retirement, and the unemployment trust fund out of the fiscal accounting of the Federal Government.

Do I think that is a good idea? I am not sure. I do not think any kind of systematic analysis has ever been done of it. I hope that we have an opportunity to study all these things before we recommend them.

But if in fact we are going to proceed as we currently are proceeding, I would like to see the policy consistent. Therefore, I have offered this amendment. I hope my colleagues will accept it so there will be no need for a rollcall vote on it. I yield the floor.

The **PRESIDING OFFICER.** Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 3 minutes off the resolution.

The **PRESIDING OFFICER.** The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think the Senate has heard more than they need to hear from me about what has gone on here starting yesterday afternoon with reference to what should be on the budget and what should be off the budget. I am hopeful we will put that to a close pretty soon because I think that as we look at the way we budget, those who would like to be treated differently than the way they are currently treated by the unified budget make up a very lenghty list. This is just another example.

If you do not want to have a unified budget where you account for everything and treat everything in a manner prescribed by the substantive law of the land, then this is another example of something consistent with what we have done heretofore, that we ought to consider legislation to remove it from the budget. We also ought to mandate that on a current account basis, we balance the budget at some point in time under this proposal before us in 5 years, without using any of those trust balances.

So I do not see too much difference between this trust fund and the others, and I would have no objection to its adoption with the clear understanding that I do not think we ought to be doing any of this without study, economic and otherwise. But having removed a couple of trust funds, I think there is no reason to draw the line now. Certainly there is very little or no justification for drawing the line on this one.

So my friend from Texas, I surely do not speak for the chairman. He will be here shortly. He wants to be heard. But I do not think we need a vote, and I see no reason not to adopt your amendment, but the chairman may feel differently.

Mr. President, I suggest the absence of a quorum and that the time be charged equally to both sides.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I ask that the pending amendment be modified. The modification is at the desk.

The **PRESIDING OFFICER.** The amendment is so modified.

The amendment as modified is as follows:

At the end of the pending amendment add the following:

MILITARY RETIREMENT, CIVIL SERVICE RETIREMENT, AND UNEMPLOYMERNT

SEC. 8. (a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the military retirement, civil service retirement, and unemployment trust funds are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of these trust funds in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of these trust fund surpluses is intended to be the basis for honoring the claims of future beneficiaries, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) these trust fund surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the intended and legitimate purposes of these trust funds could best be protected by excluding it from the calculation of any deficit reduction targets.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the military retirement, civil service retirement, and unemployment trust funds for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from these trust funds.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida.

Mr. CHILES. Mr. President, speaking to the amendment of the distinguished Senator from Texas——

Mr. DOMENICI. Will the distinguished Senator yield for just a moment?

Mr. CHILES. I will be happy to yield.

Mr. DOMENICI. Mr. President, I am going to yield control of this side to the junior Senator from Texas [Mr. GRAMM]. I thank the Chair, and I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, in speaking to the amendment of the distinguished Senator from Texas, I think we are now again going into a totally different subject matter than the intent, the substance, and the purpose of the amendment of the Senator from Florida.

We are now talking about removing civil service and military retirement.

Mr. President, there is a very basic difference here. We are talking about direct taxpayers' dollars and general revenue funds, and we are going to say we are going to move those off budget. That is a lot different from the payroll tax where we take from workers and employers to make up the Social Security. We are also taking the unemployment trust fund which is projected to have about $1 billion in surplus by 1993. There is no masking of the Federal deficit at all.

When I couple this amendment with the dissertation that I heard from the distinguished Senator from Texas yesterday, which was one of the most amazing that I have ever had the opportunity to hear, and I told him that, I wonder about the intent of this amendment. I think the intent of this is more of loading wagon and getting enough on the wagon so maybe the wagon will break down.

The Senator from Texas said yesterday he wanted to study the amendment of the Senator from Florida, that he felt he was not prepared to make a judgment on it. Now, as I told him, that was an amazing statement, amazing to the Senator from Florida hearing the Senator from Texas saying that, knowing of this proclivity and feeling on deficits, knowing of how we want truth in budgeting, knowing how we want a clear understanding of what we have, and to see that you need to study whether trust funds that are going up to in the $90 billion in the 1990's needed to be removed from being able to count them against the deficit for Gramm-Rudman-Hollings is amazing.

But now to find out we are talking about general revenue funds and we are going to remove them is again hard for me to understand, unless, as I say, it comes under the context of loading the wagon.

I think this body at some time today or tomorrow or within 50 hours is going to have to make a decision at some stage, a very basic decision: In budgetary practices, is it fair to the American people for us to continue to use the Social Security surplus that is building up to mask the Federal deficit, to use that to say that we do not need to come into balance in using that fund, a fund that we know will accumulate to $2 trillion before it starts diminishing, a fund that is set expressly for the purpose of trying to protect workers who are paying in today for the future. Sooner or later this body is going to have to speak to that question.

Now, we can load the wagon all we want. We can put on all kinds of amendments. We have paraded out a couple other trust funds. But sooner or later, the good Lord willing, and if the creek does not rise, the Senator from Florida is going to get the body to speak to that question.

I see the Senator from Alabama in the Chair. He might recognize this term. In Florida there is a term called heifer dust. Heifer dust is a term that some people might use rather than to refer to some other product from which the heifer dust might come. It might be less appropriate to use but in the Florida Legislature a couple of our old crackers, when they wanted to talk about what happened, once in a while would say, "I think there may be a little heifer dust in this." And I sense in the amendment that we now have before us there is a quality, a sprinkling of heifer dust; I can smell it in its faintest odor, and because of that I do not think this amendment is that serious. At the appropriate time I would like to make a motion to table, but I will only do that when the Senator from Texas feels he has had time to talk about it.

The Senator from Texas, as I say, mentioned yesterday he was unprepared to vote on the proposition posed by the Senator from Florida. I think sooner or later he will recognize that he needs to vote up or down on that, and I think it is one that is easily understood. The surplus is 40-something billion dollars, $46 billion this year. That means that the deficit, rather than being $136 billion under the most favorable of estimates of OMB, really is 170-something billion dollars. It means that if we looked at CBO's numbers, it would be approximately $212 billion, and I really think those are numbers we ought to be using.

The other part of the amendment would say that over 5 years then we ought to go back and recast and recorrect and come to a balance. Five years is not anything unique to the Senator from Florida. I copied that, I purloined that, I lifted that from the professor from Texas. The distinguished doctor is where I got that number from. And now we are told that maybe this will wreck the economy. We had a deficit we were looking at then of approximately $212 billion. We called it 170 something. We all knew it was about $212 billion. That deficit at that time was about 4½ percent of the GNP, and when we are talking about recasting this, we are going to be talking about a deficit a little over $220 billion I think and it is 4½ percent of GNP.

Now, if 5 years could have been appropriate back when we started with 4½ percent of gross national product, then I do not know why 5 years would not be appropriate now. But if there is something wrong with 5 years, maybe somebody should say we ought to have 6 years. I thought that was a good number. I thought that number had been used before. But I do not see anything here that would wreck the economy. That argument coming from the drafter, the progenitor of the whole theory that we have to ratchet down to get this deficit down is a little incongruous. I still do not appreciate and understand it the way perhaps I should. But, as I said, at the appropriate time I think I would like to propose a motion to table this amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by saying that I am amazed that I have amazed the Senator from Florida. In fact, I have often been accused of being too willing to try new things and break new ground without having a clear definition of where we are going. It is unusual to all of a sudden be accused of being one who wants to be sure we know what we are doing. I cannot say that I view it as an unwelcome characterization.

The point I made yesterday, for those who may have missed it, was that the proposal that is currently before us is a proposal that if put into effect—that is, if adopted; we are talking about a sense-of-the-Senate resolution—is a policy that would put the Federal Government into a position where in 1993 our fiscal impact on the Nation would entail taking in $100 billion more than we are spending.

Quite frankly, Mr. President, since I have worked hard in my 10 years in Congress to try to balance the budget, the idea of running a $100 billion surplus is a very tempting idea to me. What I said yesterday was not that I was opposed to it. What I said was that I think we ought to look back at the fact that no nation on the face of the Earth to my knowledge has followed such a policy in over 100 years. Interestingly enough, we had this policy in efffect in the United States in a period from 1866 to 1879. During that period we ran big surpluses, and we actually paid off the debt of the Civil War. When you adjust for changes in the demand for money, we withdrew the impact of $1 billion of greenbacks from the economy. From 1866 to 1879 revenues exceeded expenditures, and the Secretary of the Treasury, often against the objection of Congress, rushed all these greenbacks down in wheelbarrows and burned them at the Treasury. Congressional objections were a little bit late.

What was the effect of this policy? As far as I am aware, I am the only person who has tried to look at this proposal in any kind of historical perspective and who has talked about what happened before when you run big surpluses. The net result was pretty good. The economy blossomed from 1866 to 1879. We had a tremendous political upheaval. Greenbacks and silver movements got into effect, ultimately producing William Jennings Bryan's famous speeches about crucifying man on a cross of gold. The reason was that because of this policy prices fell dramatically. Prices fell on average more than a percent and a half a year.

What I have suggested here, and I do not see it as very amazing, is that before we commit ourselves to a policy, if in fact a sense of the Congress commits us to a policy, that maybe we ought to be sure that we are willing to do what would have to be done if you are going to run a $100 billion surplus. I mean, is Congress ready to reduce Social Security benefits if prices decline, because we are taking $100 billion a year out of the economy? I doubt it.

Is the Congress willing to let the system adjust where wage negotiations with unions over extended periods of years are likely to accept lower wages because prices are falling? I submit that we are probably not ready to do that. Am I ready to do it? Well, I am not sure.

I am just concerned that we have had no real analysis of what $100 billion surplus will do—since I am serious about Gramm-Rudman-Hollings and I intend to balance the budget in 1993, and I hope I am here to see it. If not, I will be reading about it, and I will be happy in either case. If the Congress adopts this policy, I for one intend to fight tirelessly for it. But I hope, before they commit us not just to balancing the budget, but also to running a $100 billion surplus, at some point we should have an opportunity to call in outside experts to take a long, hard look at this. Give the experts a chance to search for other precedents in history and to have an idea of what we are doing. I do not think that is imprudent.

If it is the will of the Congress to take all of these trust funds off budget, then I remain committed to balancing the budget. I am willing to work for and vote for, and I hope others will be willing as well, doing what has to be done to achieve the objective.

But I do think we ought to know what we are doing before implementing a policy which moves from a policy where the Federal Government is not spending more than it is taking in in the aggregate—which is the goal of the Gramm-Rudman-Hollings law. If you start taking trust funds off budget, you are going to be moving toward a policy with huge surpluses. It may be a good thing. I may rejoice in it. I simply submit that we do not know what we are doing. I think an amendment that will be offered later will give us an opportunity to analyze it.

The whole logic of taking Social Security off budget is that Social Security is building up a big surplus, and that this understates the deficit. As I have listened to this whole debate, that is the logic. In fact, between now and 1993 Social Security is going to build up a $456 billion surplus according to current estimates.

Mr. President, the trust funds that I have outlined here, military retirement, civil service retirement, and the unemployment trust fund will build up a cumulative surplus of $482 billion.

So if it distorts the books of the U.S. Government to calculate in Social Security for purposes of the deficit when it builds up a surplus of $456 billion, how can including military retirement, civilian retirement, and unemployment trust funds fail to distort the deficit picture when they cumulatively build up a $482 billion surplus?

Finally, I want to remind my colleagues that I have one more amendment that I am going to offer. That amendment says that while we are caught up in the euphoria of all these positive trust funds, I want to be certain that people do not get lost in recognizing that none of these trust funds were substantially in the black when Ronald Reagan became President of the United States. In 1980, Social Security was sinking fast. So was our whole retirement system for Government employees. We are rejoicing today because we are looking at a trillion dollar trust fund surplus by 1993. That is a result of great work. I think the President and the Congress and the American people deserve some credit for it. This is something good that has happened.

But before people get too excited, I am going to offer an amendment next which says that in calculating the deficit, if we are going to take all of these trust funds off, that we ought to count the unfunded liability of all of these programs. That is, the Federal Government ought to do its accounting the way Exxon does.

It ought to do its accounting the way they do it in the accounting firms of this great Nation, and we ought to take into account the present value of unfunded liabilities.

I submit that when people analyze it, while we are rejoicing in the $1 trillion surpluses, that when we recognize that we have several trillion dollars worth of unfunded liabilities there will be no dancing in the aisles here in this great deliberative body.

I urge my colleagues to support my amendment because of the logic of it. If we are going to take one trust fund off that is positive, they ought to all go off. I do not think that makes sense myself. That is why I am going to support an amendment offered later to study such a policy. But for consistency's sake, I think we ought to have an opportunity to choose between one logically consistent proposal and another.

I just do not think it makes any sense to treat these trust funds totally different. If one is going to be totally out of the accounting system of the Federal budget, then perhaps they all should be.

Finally, I remind my colleagues that the issue here is not using Social Security to balance the budget. The Gramm-Rudman-Hollings law specifically states that reductions in Social Security as part of a reconciliation deficit reduction package can not count toward meeting the deficit targets. So we are not talking about protecting Social Security here. In my amendment I am not talking about protecting military retirement, civil service retirement, or the unemployment trust fund. We are talking about two different approaches to accounting. The current approach is look at everything the Government does together. This approach is take trust funds out of the accounting of the Federal budget.

I am saying that if you are going to take Social Security off because it has a big surplus of $456 billion by 1993 under our current projections, then we ought to take the military retirement, civilian retirement, and unemployment trust funds off because in the aggregate they have a surplus of $482 billion. In fact, their cumulative surplus is bigger than the Social Security surplus. Quite frankly I am happy we have all of these surpluses. It has given us something to debate for these last 2 days. In 1982 or 1983, there would have been no debate, since there were largely no surpluses.

I yield the floor.

Mr. DOMENICI. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from New Mexico has 12 minutes and 51 seconds, and 20 minutes and 13 seconds remain to the other side.

Mr. DOMENICI. I yield myself such time as I may use, off the resolution.

Mr. President, yesterday, my good friend, the chairman of the committee, the senior Senator from Florida, offered this basic sense-of-the-Senate resolution, which indeed envisioned and contemplated that at some date we adopt legislation. It does not adopt anything. It would do two things. It would, here and now, say adopt something that gets you to a balanced budget in 5 years without one of the many trust funds that are included in the current unified accounting system of the Federal Government. I actually thought that what is happening was what was going to happen. I thought that all those who have looked at this unified system, putting everything for accounting purposes within the budget because they all have big impact on the economics of the country. I thought those who have been wondering about making sure that this budget process left them out would all be down here lined up to follow the lead of the distinguished chairman, who I am sure came here in good faith to make a point. And precisely what I thought would happen is happening.

I might say, however, that it is probably happening even beyond my expectation. I thought that if the Senator from Texas, beyond these major trust accounts that he has just described, which do have surpluses, 3 or 4 years out, that will be as big as the Social Security surpluses or bigger—I thought maybe that would be the end of it. But he will soon offer another amendment that goes to the scope of mandating on the floor that Congress change something else. His amendment would change our basic accounting system with reference to unfunded liabilities under programs, be it the housing program, where we have made 40-year commitments on leases, and we intend from year to year and have been building into budgets what we think it might cost—he wants to put that unfunded liability and pensions and others that we have, so that we can see them as part of what the Government owes. I am not sure that if we go beyond 3 o'clock, we are not going to find more.

Mr. President, I believe that the distinguished Senator from Florida was trying to make a point. I regret that in trying to make the point, he essentially, in 1 day, without very many committees looking at anything in order to essentially say it is our desire that we have a balanced budget in 5 years, and that we take Social Security out of the accounting system for it. I regret that if he wants to make sure that everyone knows that in the current calculations of the deficit and in the calculations for Gramm-Rudman-Hollings, I regret that here and now, on the floor of the Senate, we are making the decision that even that onerous path of getting to zero in 4 years, with the trust fund being taken into consideration as to its surplus, he has asked us, in order to show what the real deficit is without Social Security as part of the unified budget, that he did not find another way to make sure that he made his point.

Frankly, I do not think there has been any deceit on the part of the unified budget. I get letters all the time from constituents that are fully aware of the fact that the Social Security surplus is in this budget, reminding me—and, I am sure, all my fellow Senators—that we should not be cutting Social Security or changing it because it has a surplus.

I repeat: The issue before us is not that issue, because we already have in law two things. One, is getting to the very onerous Gramm-Rudman-Hollings balanced budget under current unified budget concepts, with all these trust funds in there, we knew about them when we arrived at those targets. We knew they were there. It is no new thing to drop down out of the sky. We still knew it was going to be difficult, from the standpoint of the revenues of our country in taxes and what we had to cut. That is not anything new. It is going to be hard enough to get there, and probably pretty good fiscal policy to get there, in 5 years, 4 years from now, including the trust accounts which we knew were going to be accumulated.

I do not think there is anyone who would not say that that is a pretty good, stringent fiscal policy for us. I do not understand why, on a budget resolution, we come down here and want the Senate to vote on a new game plan for reaching the deficit of zero—take out Social Security in the accounting system.

Remember, the second point is that under current law, to meet those Gramm-Rudman-Hollings targets, as onerous as they are, you meet them or get the guillotine, the across-the-board cut. You get the train wreck, and you try not to let it happen, but it is right there and you can see it coming. You cannot consider savings that might accrue from current law by changing the Social Security benefits.

There is no incentive built in to take advantage of the Social Security fund in an effort to get to zero under the current law of this land, adopted by both Houses, now called Gramm-Rudman-Hollings. Why should we, in 2 days on the floor of the Senate, decide that all of a sudden we have all this wisdom and that we want to change all that, if the point we want to make is that there is a surplus in Social Security? We knew it when we adopted our budget plan after many months of debate. We know it now. We knew it was going to grow each year then, and we know it now. We took it into consideration when we moved from that very restrictive get-to-zero deficit under that formula.

Frankly, if, here and now, we are going to say, "Let's choose another set of targets; let's take the Social Security amount out and get down to zero," we have just pulled out another idea and said let's take it out.

My friend from Texas says that sounds good. If you want to pull one of them out to get zero, pull out the other trust funds. They are there. They are being accounted. They are on the plus side of the ledger in Gramm-Rudman figuring and in the expectation to get to zero. All the other trust funds we have talked about are there.

Do we really, today, sometime an hour and a half from now, want to send some message out there to the

American people for real? If we are just doing some hortatory language, or if we are just engaged in some rhetoric and want to make some kind of vote, showing that somebody could be more macho than somebody else and could cut more and take out the Social Security and get to zero—if it is just making a point, maybe it is all right.

But frankly there is no one who can tell us that is the best course for the next 4 years for America's economic policy. No one can tell us that it is better to take only the Social Security Trust Fund out as we choose a new target than it is to take out the trust funds that the Senator from Texas is talking about or the trust funds that Senator SYMMS offered yesterday which are not as large but include a surplus cumulating for highways and roadways.

So, Mr. President, I think we ought to adopt this amendment. What we will have accomplished is a nice exercise and one step further in knowledge and accumulation of information about how the Federal budget really works, what is in it.

Then when we are finished putting them all in and we all now know the dramatic numbers, we are not sure we know what they mean in terms of economic impact.

Mr. President, would it have made any more sense for me to come down here today and say, well, I think we have done a good job with Gramm-Rudman-Hollings? Everyone around here is wiping their brow off wondering how is the next President going to even meet the next target.

We appointed a National Economic Commission to tell us how to do that because we do not know how. It is so tough.

But it would be very interesting to come down here and say here is the budget resolution, it has the trust funds in it, but I think Gramm-Rudman-Hollings ought to have $50 billion more a year reduction in deficit. It sounds nice.

Incidentally, the trust fund in one of those years is about $50 billion.

Incidentally, when you take it off, and you have the same number of years to accomplish the deficit reduction, you have done precisely what I have just described, other than you might be trying to send a signal to senior citizens that you are not counting Social Security.

But it is a dollar number that we all knew about, and it was part of this unified budget. I say this with the greatest deference to our chairman and my friend, he truly wants to make a point. While we are making progress in the deficit reduction, we ought to be ever aware of the fact that there are trust moneys that at some point in time we are going to have to pay out, and that is a very excellent educational undertaking on the part of the chairman. If we want to look back at this unified budget and find three more ways——

The PRESIDING OFFICER (Mr. SANFORD). The Senator's time has expired.

Mr. DOMENICI. I yield myself an additional 5 minutes.

If we want to find out three more ways to make sure everyone knows when we get to zero under Gramm-Rudman-Hollings that there are some trust moneys in there, let us do it. If we want to take that blue book that comes out of the Office of Management and Budget, and make part of it blue, part yellow, and part green, and state in there four times with graphs how much is trust money that is in that account, let us do it because clearly the Senator from New Mexico does not want to be part of deceiving anybody as to what our deficit is.

I think when we adopted Gramm-Rudman-Hollings, we put it right on the table. We even set Social Security in a special account so you can thumb through the budget and see how much the surplus is. You do not find it with anything else. It is all by itself.

So I have welcomed the debate. I have welcomed the discussion that has been brought about by us looking at additional entrusted accounts that are within this budget, and I hope we adopt this one.

The chairman will move to table it. I hope we do not table it. I think it is excellent that we vote on the fact that there is a huge entrusted account for civil service retirees and another for military retirees.

Here is where I differ. When we have finished making our case that there are all these entrusted accounts around, then it seems to the Senator from New Mexico that we clearly should not adopt a resolution that says having decided that all of those are off budget, we should have a balanced budget in 5 years. I mean nobody really believes that we know enough about what those entrusted accounts are in terms of the American economy. None of us know enough to suggest that we really can get to a balanced budget under those circumstances and that it would be good for the American economy, that it is the right thing to do, that we could indeed get there without putting so many taxes on the American people that we might destroy the economy, or having to cut so much from the appropriated accounts that we would be left without any defense.

Let us be reasonable about it. We have made the case that the Federal budget is complex. We have made the case that it is made up of taxes that come in and go out every year. We will have made the case here today that taxes come into the trust fund for Social Security and, lo and behold, they do not go out every day. They are there as an asset of the Federal Government to be invested only in Treasury bills, only in the debt of our Government, which is the ultimate guarantor that pays the interest. We would have done all of that.

I would even urge my friend from Texas to reconsider whether we have to go with the next amendment on the unfunded liabilities, but if he desires to do it, he will give us further explanation.

But to then say in 5 years with all of those things off budget we will get to a balanced budget is one of two things in my opinion: It is either an exercise in absolute and utter futility because it cannot be done, or we never intended to do anything about it or with it.

In either case it seems to me we ought to use what we know now to develop a fiscal policy that takes those things into consideration.

So, I want to say to Senators who are interested when we have finished this litany of removal from the budget, I will ask that in lieu of all of this that essentially we have adopted the sense of the Congress that the National Economic Commission will study the budgetary treatment of Social Security and other trust funds and self-supporting public enterprise, analyze their economic and budgetary impact, programmatic effects of taking these funds off budget and that they include in their final report in March recommendations regarding the budgetary treatment.

I am hopeful that the Senate will adopt that. I am not sure they will. I am very hopeful that my friend from Florida, the chairman, having made the point, that indeed the trust account of Social Security is very large and growing, will accept as constructive that others came down with trust accounts that are there in the unified budget and growing. They are also being used in the unified budget to come up with a deficit and ultimate balance under Gramm-Rudman-Hollings, and I think they are all as legitimate to be considered in that context.

So, the only issue is, do we want to go through an exercise of almost trivializing the process by taking everything off and then vote on a resolution that says, in spite of that, not really knowing what it all means, totally without any idea of whether it is all necessary in 4 or 5 years to get to zero and run those surpluses, do we then want to vote that we are going to do that?

I would hope that some would say let that National Economic Commission study it in depth. We need a little more knowledge, understanding, and a cohesive set of recommendations.

Mr. President, I need 2 additional minutes and I yield them to myself.

I want to suggest another thing. If we really want to talk about what is the real deficit we ought to also look at what used to be off budget, the loan portfolio and most of it is on budget now. Whenever we are a guarantor, the National Government, be it for REA or any of the foreign assistance loan programs. In many of those we put the whole budget authority on budget and we count it as an obligation of the Government at face value contributing more than a few billion to the deficit. We did that as an accounting approach so we could get the loans on record because they were growing and no one knew about them. But we do not even know today how much of it is a real obligation because we have not figured out a method of figuring the subsidy instead of the amount of the guaranteed debt that is billions of dollars reflected in the deficit today.

So, there are a lot of things we ought to do to approach realism in this whole complicated notion of the Federal budget.

With that, I do hope that the Senate, for purposes of being consistent, for purposes of stating that as a matter of fact there are a lot of trust accounts with huge surpluses in this unified budget, that if we truly want to make a litany of what ought to come off, let us take them all off and let us take the ones off offered by the Senator from Texas.

Let me close again by saying, frankly, if we do not do that and we just choose to do it with Social Security, we have essentially drawn a new 5-year game plan here and now on the floor of the Senate. I can take each expected Social Security surplus for each year, bring it up on the blackboard and say you have here and now agreed that for each of these years we ought to reduce the deficit in addition to what we thought was right under Gramm-Rudman-Hollings another given number of $50 billion or $60 billion or $70 billion that happens to be the dollar number under Social Security.

I am not sure we know enough to say that is the right fiscal policy. And so I hope that we will adopt this amendment. I hope when we are finished we will do the prudent thing and send it all over to the National Economic Commission to be totally evaluated and to provide us some recommendations.

Mr. CHILES. Mr. President, when we started this debate, I thought there was a very simple proposition, and that was that we are now accumulating some very, very large surpluses because of the plan to try to fix Social Security and a recognition that we have a number of so-called war babies that are in the work force now that are adding to the payroll but that they will be retiring when they reach retirement age of 62 and 65 and that is going to happen around 2010 and 2015 and recognizing that we are going to build up some huge surpluses.

Now, it is clear now we are beginning to see those surpluses. We heard about them before and we all wondered whether they would happen or not. Those numbers are hard to get your mind around. But this year we see $46 billion. Next year we know it is going to be in the fifties, and it is pretty easy to see now in the 1990's it is going to hit $90 billion-something.

As I say, the Senator from Florida thought it was a pretty clear proposition. Do we want to have those huge surpluses, in effect, used to mask the Federal deficit? Do we want to spend those surpluses now?

What happens in the year 2010 and 2015 when they say for the first time we have got to start cashing in some of the Government bonds and some of the notes that we have gotten from interest on that? Because we are borrowing this money all the time, we are using this money all the time. It is not in a vault. It is not gold. It is a piece of paper. But beginning around 2015 we have got to start cashing some of those pieces of paper to pay those war babies that are starting to retire. Then what do we do? We have to borrow more money. And so it is a double hit, especially if we have not accumulated any surplus over that period of time.

Now, I do not think it takes a genius to see that. I think the Senator from Texas, with his degrees and his knowledge of the economy and economics, can see that. I think the Senator from New Mexico, with his splendid knowledge, can see that.

I cannot understand now why there is suddenly this thing of let us add everything else on; let us say we cannot do this; let us find reasons why we cannot do this. My gosh, if we decided we had to do something with Gramm-Rudman-Hollings—and we are going to balance this in 5 years. The Senator from Florida is not saying do this in the 3 years that is left. I am saying let us start a 5-year plan. What is the percentage of the GNP with this of the deficit, including Social Security? Four and a half percent of GNP. That is just what it was when we started. Four and a half percent was what the deficit was when we started Gramm-Rudman-Hollings. Now, that was a good idea. All the people that are now arguing about this thought it was a good idea. At the time, they convinced the Senator from Florida it was a good idea.

Now, I am saying it is a good idea to put this on, too; go back and do 5 years of do not double borrow off this surplus.

Now, they are saying why should we be doing this now? Maybe the Senator from Florida is speaking sort of on the other side of the grave. I am getting ready to leave here. I am getting ready to be worried about things like that. Maybe I am speaking from the other side of the grave now and I am recognizing that we better get our house in order. And I am more dad-gummed nervous to get it in order now, I can tell you, than what I have been hearing here.

Because if we are not planning on double counting and double using this money all the time, why are we not willing to do this? Now, I hear, "Let's let the National Economic Commission handle this. It is so complicated. It is so complex."

Mr. President, I do not think it is complicated. I have had the charts up here and I can put them back. We have a $46 billion surplus this year. It goes into the fifties next year. It goes on into the seventies and goes into the nineties in 1990 or 1991. I can understand that. I do not have these degrees in economics; never taught that. But I can understand that simple arithmetic.

As I say, now I am beginning to get more nervous. I thought it was a simple proposition. I thought it was a sense of the Senate that everybody would support and recognize that we need to do this. Now it is so complicated, let us let the National Economic Commission do it. If somebody wants to say, in addition, to let the National Economic Commission study this, fine, I will accept that. But in lieu of, in lieu of having the Congress speak to that?

Now, the National Economic Commission, I hope, will do a good job. But if it is necessary, Mr. President—and we all know what we hope it will do. It gives some cover to do some things that we probably know we ought to do to start with. I do not know that there is going to be any great additional wisdom. It is cover. It is cover for the next President. It is cover for the next Congress. Because of that, I think that is fine. But I do not think we ought to run for cover by not facing up to this.

As I say, sooner or later, if the 50 hours do not run out and the Good Lord is willing, we are going to get a chance to vote on this.

I listened to the Senator from Texas and again I am astounded, astounded that we run a danger of running a $100-billion surplus and, historically, we do not know what that means. It does not worry Mr. Greenspan. He has come to our committee and he has said there are all kinds of good things to be had from a surplus. You will not have to worry about your interest rates.

Remember, now, the Fed is having to tighten credit right now because our plants are operating, because of a weak dollar, at about 90 percent of capacity and there is some demand out there. So we are beginning to be afraid of inflation.

If you reduce some of that deficit, you take away that fear, you allow some kind of national saving. Would it not be nice, Mr. President, if this country was back to its position of having money that we could loan abroad, of not being a net debtor to the rest of the nations? We are sucking in now the capital from the underdeveloped nations and spending it on our consumption.

We have had Mr. Bosworth and we have had all the experts come and tell us that we are consuming and borrowing more now and we are borrowing the savings that we set aside for Social Security.

A $100 billion surplus, that will be a problem? I wish we could have that kind of problem. I wish that would happen sometime in the 1990's, 1991, or 1992.

What will the national debt be at the time of the $100 billion surplus? Mr. President, $4 trillion. Now, I do not think you have to worry about running a $100 billion surplus. Would it not be nice if some day you could say we are going to make a payment on the national debt?

I bet the Senator from Texas would propose that at some time, or has said that would be good. The Senator from Florida sure has. Some day we are going to pay off the national debt. And how many of my constituents and his have said, "Why can't you do something that starts paying on the national debt?" We never could do it because we were always running a deficit.

No, by gosh, if you ever had a chance to have a surplus, we could have a chance to make a payment on the national debt. I wish that were the problem.

Japan, over the last several years, has had a national savings surplus of 3 percent of GNP. It has not destroyed their economy. We do not see their growth suffering for that.

The annual Social Security surplus is going to be about 1.5 percent of GNP at its peak. And our national savings would depend on what the private sector saves relative to investment. But how in the world would high national savings hurt us?

Mr. President, I renew my proposition that I cannot understand why we cannot just face up to this. Now, we can talk about all the other problems, all of the other unfunded liabilities.

I want to talk about some unfunded liability problems, if the Senator from Texas or the Senator from New Mexico is concerned about it. The President's 5-year defense budget is $1.671 trillion.

I have not heard anybody say let us worry about that unfunded liability. Why? Because it comes out of general revenue funds, just where these funds, the Senator from Texas, come from; general revenue funds we are talking about in pensions and retirement.

This amendment is purely to load the wagon and hope the wagon will sink, and pass it over to the National Economic Commission and say: You fellows study this. We do not want to face up to it. We are not willing to say whether we think we ought to be able to double borrow this money or not.

Well, I think at some stage we ought to face up to it and we ought to be willing to vote whether we ought to borrow the money or not.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will be brief. The issue before us is the following: We have pending a sense-of-the-Senate resolution that says that since Social Security currently has a surplus, that surplus ought not to be counted as part of the budget of the United States. In addition, we have taken out of the deficit calculations the highway and airport trust funds. We have taken out the operations of the post office. We have removed the independent banking agencies. Mr. President, military retirement, civil service retirement, and the unemployment trust fund under current projections will have a cumulative surplus of $482 billion by 1993. That is larger than the projected surplus of Social Security.

If the Senator from Florida is right, that Social Security should not be counted as part of the budget because it is in surplus and that distorts the deficit picture, then why should we count trust funds that cumulatively have a bigger surplus than Social Security? I do not think that makes any sense.

If we are going to have a policy of taking trust funds off budget we ought to take them all off budget. That is what this amendment is about. That is the issue we will be voting on.

Second, let me make it clear that I think it is very possible that we may want to take trust funds off budget. However, I do not think that the time to make that decision is now, in a budget resolution, with no substantive analysis whatsoever of how we are going to do it.

Finally, let me say to my colleague that I have already started thinking about what we might do on that happy day under existing law when we balance the budget in 1993. In fact, do you realize that if you kept the same degree of fiscal restraint that exists under the current budget law in effect after 1993, we could pay off the Federal debt in about half a century? That is a long time. I probably will not be alive in half a century, but America will. And I think that is a worthy goal, one that I support, and one that I suspect someday that this great body will have a chance to vote on.

The question is: Do we need to know where we are going? The distinguished Senator from New Mexico is going to give us an opportunity to vote on that. But the vote currently before us is: Should we take all trust funds with surpluses off budget if we are going to take one? I say yes. That only makes sense.

Should we take any off budget? That is the question that should wait for a later decision. I urge my colleagues to oppose the motion to table to be offered by the distinguished Senator from Florida. I yield the floor.

The PRESIDING OFFICER. The Senator has 9 minutes remaining on his time.

Mr. GRAMM. I am ready to yield it back.

Mr. CHILES. I yield back time on this side and, Mr. President, I would move to table the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on the motion to table.

Mr. CHILES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from North Dakota [Mr. Burdick], the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. Burdick], would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chambers desiring to vote?

The result was announced—yeas 45, nays 49, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—45

Armstrong
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Chiles
Conrad
Cranston
Daschle
Dodd
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Humphrey
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Wirth

NAYS—49

Bond
Boschwitz
Byrd
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini

Dixon
Dole
Domenici
Durenberger
Evans
Exon
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—6

Adams
Biden
Burdick
Gore
Simon
Stennis

So the motion to lay on the table amendment No. 1934, as modified, was rejected.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1934), as modified, was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1935 TO AMENDMENT NO. 1928

(Purpose: To call for more truthful disclosure of the deficit)

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1935:

At the end of the pending amendment, add the following:

"SEC. . It is the sense of the Congress that the Congress should enact legislation that makes the definition of the deficit include the current value of the unfunded liabilities of the Federal Government."

Mr. GRAMM. Mr. President, this is the last amendment to the underlying pending amendment that I will offer. Mr. President, this is a simple, straightforward amendment.

We now have all of these trust funds that happen to be building up positive balances and we are stating a sense of the Congress that they be taken off budget to give a more truthful picture of the deficit.

I submit, Mr. President, that we need a more permanent solution to accurate deficit calculation that simply finding a way to account for these positive trust funds in which we all rejoice because in 1980 we did not have positive trust funds. I think it is clear that we need to look at these positive trust funds to come up with a way of getting a better handle on where we are in the fiscal matters of the Federal Government.

No accounting firm in America keeps its books the way the Federal Government keeps its books. The problem is that these trust funds are the positive side of the commitments that the Federal Government has made. But because we have a building trust fund for military retirement, the plain truth is that that system is not actuarially balanced, that there is an unfunded liability. The same is true with civil service retirement, and if we go far enough into the future, the same is true with Social Security. We also have literally hundreds of programs where we have unfunded liabilities. I submit that we are to get a true fiscal picture, one of the items that should be examined is how we deal with the unfunded liabilities of the Federal Government. If we are going to look at how we treat trust funds, if we are going to look at the positive side of that picture, I submit that we should look at the negative side as well.

This is nothing more than an amendment which states the sense of the Congress that we want to take a look at doing our books the way accounting firms keep their books. It is the way the IRS requires that books be kept in every other institution in America. Maybe the Federal Government should begin accounting for the unfunded liability on all the programs to which we have committed. I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, again the plot keeps unfolding, and I think at some stage it is going to become clearer and clearer that we have loaded the wagon to the point the wagon will break down or the wagon master will decide to unhitch the team.

Now we are talking about putting the unfunded liability into the deficit measure. That is inconsistent with any measure of the deficit that is now used. We do not do that in any other place but we are talking about doing it here. Senators ought to be asking themselves why are we afraid of going ahead and voting on this proposition.

The deficit now is measured on a current and an annual basis. Unfunded liabilities refer really to future liabilities. To include them would move us off of a cash basis onto an accrual accounting period. This would change the variable accepted accounting practice that we have used to measure the Federal deficit. When computing the deficit we compare what we take in each year with what we pay out. The unfunded liability concept takes into account certain future liabilities but ignores some of the revenues that under current law would be used to pay for those liabilities. So it looks at one side of the ledger but not at the other side. The reason that the unfunded liability has two sides is because Social Security is on a pay-as-you-go basis. For better or worse, Social Security—we are not debating that issue right now, but given that we do have a pay-as-you-go financing, we cannot ignore it when we are formulating the deficit.

We cannot ignore part of the revenues that will automatically flow into the Social Security trust fund in later years but that is what adding the unfunded liability of the deficit would do.

My amendment continues to emphasize an annual accounting period. The pending amendment would completely change that.

Mr. President, this amendment is the most mischievous of any that we have seen. It works totally against what we are trying to do by putting these unfunded liabilities on. I think the Senate should strike down this amendment. I will resist it. I think it goes to the heart of whether you are concerned with the Social Security system or not, and its soundness. At the appropriate time, I will move to table the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have discussed the following request with the two managers. And they are in accord.

I ask unanimous consent that at the hour of 2:15 p.m. today a vote occur on or in relation to the amendment offered by Mr. GRAMM of Texas to the amendment by Mr. CHILES. I ask unanimous consent also that there be 5 minutes of debate just prior to that vote, and therefore the debate will begin at 10 minutes after 2 o'clock p.m. today; that that 5 minutes be equally divided between Mr. Chiles and Mr. Gramm. There will be a rollcall vote. It has not been ordered yet.

I ask unanimous consent that be a 15-minute rollcall vote and that the call for the regular order be automatic at the expiration of the 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senators are on notice that there will be a rollcall vote at 2:15 p.m. today. It will be a 15-minute rollcall vote.

I urge the cloakrooms to notify all Senators and Senators' staffs to notify all Senators so the Senators will be prepared to vote and will not miss the vote.

RECESS UNTIL 2:10 P.M.

Mr. BYRD. Mr. President, in the meantime, I ask unanimous consent that the Senate stand in recess until the hour of 2:10 p.m. today and that the time of the recess be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 1:28 p.m. the Senate recessed until 2:10 p.m.; whereupon, the Senate assembled when called to order by the Presiding Officer [Ms. Mikulski].

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, we have before us an amendment that seeks to make a final and, I believe, imperative addition to the logic of the underlying amendment. I remind my colleagues that the underlying amendment seeks to take trust funds off budget for deficit calculations to get a more accurate picture of the deficit of the Federal Government.

Trust funds are just one part of the picture. In fact, when we set up a program, whether it is Social Security or Federal retirement or railroad retirement, we incur a liability. We then build up a trust fund against that liability.

What this very simple amendment that I have offered says is that at the same time when we are looking at taking these trust funds off budget we should also account for the unfunded liability of the Federal Government. We have spent the last 2 days debating about how we ought to treat these positive trust fund balances we have as if this is money that exists because all is well.

The reality is that there are huge unfunded liabilities in many of these programs. No other accounting system recognized in the United States is equivalent to the accounting system of the U.S. Government. We take no account of unfunded liabilities that the Federal Government has accepted and committed itself to.

So as a result, this amendment simply asks that while we are trying to figure out how to deal with these positive trust funds balances, we should also look at the other side of the equation. We should examine not just the assets that we have built up, but also the liability that we have committed ourselves to.

I believe that this is a vitally important amendment. It would allow us, if adopted and if implemented, to keep the books of the Federal Government the way every other institution in our society keeps its books. It takes into account the commitments it has made, the liabilities it has incurred, and then it takes into account the assets it has built up to find those liabilities.

I hope my colleagues will accept this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAMM. I yield the floor.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Madam President, this amendment changes every accountability of the way we have tried to account for the budget before. We always have accounted on an annualized basis. It is going to try to lump all of the unfunded liabilities. I cannot tell whether it is talking about closed groups, open groups or both those groups. The potential of the group basis closed is about $5.6 trillion. The open group is $0.4 trillion. Why that number is so large is because it is the totals, even though you sort of discount it.

Everything we are talking about in the Chiles amendment in looking at it is on an annual basis of what we are doing.

But this takes into consideration everybody who might enter into the system.

It is obvious this is inappropriate as a way of trying to measure the deficit. It has never been used before in any way. Clearly this is to kill the amendment.

To get back to the point, I cannot understand why there are those in this body who do not want to just face up to the fact, vote up or down, do you want us to continue the way we are doing it? That is sort of borrowing double the Social Security surplus, or spending it, in effect, taking it out the back door so it will not be there when workers get ready to retire in a future time. If you do, then you ought to be willing to vote on that up or down.

But to keep masking it by adding all of this fund and that, and now the unfunded liabilities, a total of $6 trillion, if you add closed and the open system, obviously this is not any way of doing anything other than to change the whole accounting method by which we have ever tried to construe the budget.

It is not something that I would think the professor ever would have recommended, but certainly a tactic pretty good to load the wagon.

This is clearly wrong and not something that we should have.

If our time is used up, I am going to move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired.

Mr. CHILES. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. Madam President, I ask for the regular order.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—53

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Weicker
Wirth

NAYS—43

Armstrong
Bond
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Biden
Gore
Simon
Stennis

So the motion to lay on the table amendment No. 1935 was agreed to.

Mr. CHILES. I move to reconsider the vote by which the motion to table was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES addressed the Chair.

The Senator from Florida.

AMENDMENT NO. 1936 TO AMENDMENT NO. 1928

Mr. CHILES. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] proposes an amendment numbered 1936 to amendment numbered 1928.

Mr. CHILES. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed insert the following:

SOCIAL SECURITY TRUST FUND SURPLUSES

SEC. 8 (a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust fund are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of the Social Security trust fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) Social Security surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increase in taxes or reduction in Social Security benefits;

(7) the use of Social Security surpluses as a source of national savings would bolster the economic capacity of the United States, allowing Social Security benefit claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate purposes of the Social Security trust fund could best be protected by excluding it from the calculation of any deficit reduction targets; and

(a) the Social Security trust fund is truly unique.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust fund for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust fund.

The PRESIDING OFFICER. Will the Senator withhold his debate?

The Senate is not in order. There are many other Senators on their feet. It is difficult for the Chair to both hear the Senators speaking and observe who is to be recognized. Will Senators please take their seats?

The Senator from Florida may proceed.

Mr. CHILES. Madam President, this amendment really gets back to the intent and purpose of the Chiles amendment to start with. I think there has been a lot of concern of maneuvering around. But I feel like the Senate ought to have an opportunity to vote on the proposition of whether we should continue to mask the surplus in Social Security, and use that in funding our current deficit. I have felt like the body ought to vote on that.

I really came over here thinking it was a simple sense-of-the-Senate resolution; probably could have dealt with it on a voice vote because I did not see to many of us should be wanting to disagree with that proposition knowing that those surpluses are getting very large. We know they are going to get larger. We know that we will accumulate some $2 trillion in the fund before it starts going down. But I think we all know that it was for a very, very valid purpose. We recognized Social Security was in trouble. We held a national commission to tell us what we needed to do. We came in and enacted a series of stepped-up higher taxes, and based on those higher taxes we are now accumulating money into the fund.

Why are we doing that? Because there is a large work force now. All of those war babies that were born right after the war are in the work force and they are earning. We are trying to set aside some of their earnings so there will be something for those people when they get out. But, on the other hand, we find that through another process of trying to fix the deficit, and I think it was for good purposes, we said that we could count the surplus funds of Social Security as applying to the deficit.

So what happens this year? Some $46 billion will be added, and will not count across the deficit. So we are showing our deficit as $136 billion. Under the best of figures, it is $46 billion higher than that. If we use CBO, we know the numbers are different from that.

So what this amendment is doing is simply saying that we are not going to mask that. And it says that over a period of 5 years, which was the original period of Gramm-Rudman-Hollings, we ought to balance the budget. But we ought to balance it without using the Social Security surplus fund.

Madam President, if we do not do that, what is going to happen in the year 2015 when the Social Security trust fund is going to have to start cashing in some of those bonds, some of those obligations to pay for people that are beginning to retire? Then it is going to be a double hit. What does that mean? It means that you will have to drastically raise taxes or your deficit will drastically soar at that particular time.

For anyone ever trying to operate Gramm-Rudman-Hollings—and it is a good discipline and I have certainly supported it—we do not want to allow surpluses building to $90-something billion in the next several years to be used to take off the deficit.

I understand the distinguished Senator from Oregon [Mr. PACKWOOD], the former chairman of the Finance Committee, has now sort of put out a white paper. His white paper says not to worry, the deficit is going to be taken care of. How? Social Security surplus. Goodness knows, I wish it was simple enough that we could take care of it that way. But does that mean we have really taken care of the deficit? Does that mean that we are taxing ourselves and spending at the same rate? No. It does not, Madam President. There are some charts here in the back that will give us an idea of what the real picture is.

In the year 1987, the on-budget deficit is really $168 billion. For the year 1988, and these are Congressional Budget Office figures, with a $37 billion surplus in Social Security, our true deficit will be $198 billion. In 1989 with a $46 billion in surplus the true deficit using the CBO figures will be $223 billion.

If you will just look out, you will see that in 1993 we will have a $97 billion surplus in Social Security. You see how that masks the Federal deficit.

Under the present rules, you can deduct each of these surplus figures from the budget deficit and make it look like we are running totally different figures. But those figures are not correct, because they are not showing the true picture that we have.

What this amendment would do would be to say that we have to go back and recognize that we cannot double-count this, that over a period of 5 years we ought to take care of this.

Why is this necessary? Everybody says, "Why are we doing this?" I think we need to do it so that we make sure we keep the confidence of the American people in the Social Security System.

What is going to happen when the workers start finding out that you are using $81 billion and $97 billion of their surplus money to show that you do not have a deficit—in effect, that you are double borrowing; in effect, that you are spending that money so that you do not have a deficit? At some stage, they will begin to wonder what will happen when the system has to start cashing those bonds. How will they fund it at that time?

We have it on a cash-as-you-go basis. It is the full faith and credit of the U.S. Government that backs it up. How much can you load the camera?

If you look at this chart, you will see that we start off building a surplus. That surplus builds up to where, on an annual basis, it goes to $70 billion or $80 billion. But, remember, that beginning about the year 2010 or 2015, on an annual basis—2015, we start taking money out of that. Fortunately, for a number of years, until approximately 2030, we will have accumulated a surplus in there that will help us. Why? Because we have been building it up and we have been investing and reinvesting that money. But if we cannot count it as we are showing on this chart, then we are doing something that is very foolish, and I think it will be a tremendous mistake for us to do.

I am convinced that we ought to be able to get a vote on this proposition and determine whether that is something the Senate wishes to continue, or are we going to say this is something we should do something about? That is the effect of the amendment.

For some reason, we have not been able to get to this vote. It has always been, "Let's take one more fund and let's say that we ought to take it off." I hope that we get a chance to vote up or down on this, and we will get an opportunity to see whether we truly want to continue the process in which we are going, or whether we are ready to speak to the fact that we should come up with legislation and deal with it.

The PRESIDING OFFICER. Who yields time?

The Chair apprises the managers that if no side yields time, time is still being consumed under the time agreement, and will be equally charged to both sides, on the amendment.

Mr. CHILES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, how much time remains on the Chiles amendment?

The PRESIDING OFFICER. The Senator from Florida has 8 minutes; the Senator from New Mexico has 29 minutes.

Mr. DOMENICI. I yield myself such time as I may need from that amount.

Mr. President, Members of the Senate, here is where we are. We started yesterday with an amendment by way of a sense-of-the-Senate resolution that the distinguished chairman offered—which the Senate has now in a series of votes amended. In its original form, as I have indicated at least two or three times here to the Senate, this proposal by the distinguished chairman sought to totally change the budget process of the U.S. Government by suggesting that we ought to balance the budget in 5 years and that we ought to not count a trust fund that has been counted since we have had a unified budget during Lyndon Johnson's days at the recommendation of the then distinguished economist, Arthur Burns.

We have had that process in place. The U.S. Congress went through three complete episodes with the Gramm-Rudman-Hollings approach to getting to a balanced budget in 5 years.

In all of those debates, we assumed the unified budget that I just described with trust funds and their surpluses or their deficits on the budget.

We have this year pursuant to a multiyear economic summit kept ourselves on the path to meet the Gramm-Rudman-Hollings target of a balanced budget in the fifth year of that particular legislation.

All of this legislation envisioned having the budget process as is. Today we have before us a budget resolution that accomplishes that purpose.

While there may be some dispute about economics, everybody says we are getting there. The current law of the U.S. Government says to the senior citizens of America, "Your trust fund is protected; it cannot be spent for anything but your benefits and invested in Treasury bills of the United States." It says to the senior citizens of the United States, "Your trust fund is in a separate account within this unified budget so everybody can see it has a surplus."

Current law of the United States says if you were to try to change Social Security so as to reduce the unified budget with Social Security changes, there are rules against those changes in fulfilling the Gramm-Rudman-Hollings targets, in essence, totally protecting them.

Now I have the greatest respect for my friend and chairman, but somehow today he insists that even after we have voted—some by very large margins, others by small margins—we have voted here in the Senate that if we are going to take things off this budget for accounting purposes, that we ought to take the Federal highway trust fund off because it has a surplus, the surplus in the military and civilian retirement funds ought to be taken off, and there we were. So there we sat until about 10 minutes ago with us being in that particular position.

Now, after the U.S. Senate has worked its will for whatever various and sundry reasons of the individual Members, they said, "OK. We agree—and that was an overwhelming vote—"Let us not count Social Security and let us get to a balanced budget in 5 years."

By a rather overwhelming vote, no objections, they said, "Take it off and treat highway and aviation the same way." And by a closer vote, they decide, well, let us take off the surpluses for military and civilian retirement.

Now, what I want the Senate to understand is we did all that after voting in the amendment that the distinguished chairman asked us to do. I have expressed my views about that. I cannot understand how anyone would really want, without any hearings whatsoever, on the floor of the U.S. Senate, if they really meant to do what they are voting on, that they would change this whole process in the midst of a 5-year implementation of Gramm-Rudman-Hollings. When the economy is doing fairly well, when we have a National Economic Commission to look at things, when a new President is going to be elected from one of the two parties, but he will be a different one, why we should seriously consider here today saying now, let us all of a sudden today, with all of that protection for Social Security—we are not going to spend their money; it is in a separate function within the unified budget; you cannot consider Gramm-Rudman savings so as to achieve the targets by reducing Social Security—I cannot understand why it is so important that here and now today we decide to change all this. Instead of reducing the budget deficit as described by Gramm-Rudman-Hollings, why would we want to just automatically—no studies, no real evaluation, one significant hearing that I know of—why would we want to say to ourselves we are going to reduce that deficit $40 billion, $50 billion, $60 billion, $70 billion more a year than we had already planned under Gramm-Rudman-Hollings; that we are already sweating, wondering how we are going to get that much done?

Now that is the history. I say to the Senate, you all voted for taking more than Social Security off on this side account. And I have just described what it is.

Now my good friend, the chairman, I guess because he wants a vote on his proposition alone—and I have the greatest respect for him and he is probably going to get a vote on his proposition all alone—after we have done all that, he now comes in and the amendment that is pending before us strips out all the things we already voted "aye" on. It takes out the highway trust fund, the aviation trust fund, and the other things and leaves it right back where it was when we first began.

Now Senators should know that we are in a procedural situation where we kind of could go on forever. The Senator from New Mexico has been very forthright. I have talked to many Senators. I have a number of what I consider to be very thoughtful Senators who want to cosponsor a proposal that says now that we have looked at all this, now that we have debated it, instead of making this decision here and now today, this precipitous change in the process because a surplus is building up in Social Security, we do not even know what it means 5 or 6 years from now as far as the American economy and taking it off budget.

The Senator from New Mexico is suggesting that we created a National Economic Commission. We asked them to report to us. And I want to offer a simple little amendment that merely says, let's send these issues to them and let's ask them as part of their deficit reduction deliberation to consider the various trust funds, to consider the Postal Service. And when they recommend to us their ways and means of reducing the deficit, which is their charge, that they also advise us with reference to these major, major issues of tremendous significance to the economy of the United States. That is, how quick do we get to balance? What do we do with the Social Security surplus, as we move toward a balance without it, in the out years?

Now, I could get my amendment before the Senate. What I would have to do is offer a motion to recommit with instructions. Then my friend from Florida could offer two amendments to it. He is the chairman of the Budget Committee and, obviously, sooner or later he is going to get us to vote on his original amendment. And I have every respect for him. He is very persistent. I do not argue with him very often, but I have a great deal of difficulty understanding the persistence in this case. Because, frankly, I do not think if we vote this 5-year mandated balanced budget without Social Security and we say, "Legislate it"—it does not say when; it does not say how; it does not say it will be binding; it does not say it will be Gramm-Rudman. I really do not understand why we cannot make the point by just assuring everyone we understand that there are trust funds, lots of trust funds, that have been taken into account to get us to the size of the deficit and that it is probably substantially larger if we take all those trust funds out.

But why we must vote to change the processes, essentially to go on record that we want to do away with the 5-year Gramm-Rudman-Hollings and do it another way here today, just seems to me to have something behind it that I cannot understand.

So what I am going to do? I want my friend, the chairman, to know and I want the Senators to know that I indeed have a number of what I consider to be very good cosponsors that really are concerned about precipitous action of this type. If we can table the proposal of the distinguished chairman, then we want to offer a very simple and forthright sense-of-the-Congress resolution that essentially says the National Economic Commission should study the budgetary treatment of Social Security, other trust funds, self-supporting public enterprise funds, analyze the economic, budgetary, and programmatic effect of taking these funds off budget, and include in their report recommendations regarding it.

Now, considering the procedures, I cannot see a way that I can get a vote on this unless and until I have provided an opportunity for a vote on the very basic original Chiles proposal, which said just take Social Security off and balance the budget in 5 years.

I repeat, he, the Senator from Florida, may know. He may have talked to some people that are absolutely positive that this is exactly the course we ought to take. Frankly, I have not. I do not think there has been nearly enough hearings for us to draw this conclusion.

I can tell you that you are going to have to find from $40 billion to $80 billion in either additional savings or additional taxes over and above what you were going to have to have under the original Gramm-Rudman-Hollings. And I, frankly, do not believe we ought to be doing it in this budget resolution.

So at some point in time—so long as I feel that the Senators understand the situation and that they will have a chance to vote on sending all of these issues, all of these trust funds to be properly evaluated both for procedure and economic impact—at some point here I will ask the Senate to table the chairman's proposal. I will then offer, in behalf of a number of Senators from both sides of the aisle, once that is disposed of, a proposal which will do what I have just described.

Now, remember, we all voted to add those various trust funds to the original Chiles proposal. And remember that what he is asking us to do now is to strip them all off. He is asking us to say, "You have voted for it, now vote for something that does not have any of them in."

Do away with the vote you already took and let us go back to the original proposal and negate the action that has already been taken when you voted on airports and airways and highways and civil servants and others that ought to be considered as off-budget items along with Social Security.

That is about where we are. Unless there are others who want to speak, I will just have a few moments to confer with a couple of Senators on my side of the aisle, and when the distinguished Senator from Florida is ready, we can yield back the balance of our time and perhaps move, either with a tabling proposal or an up-or-down vote.

Mr. GRAMM. Would the distinguished Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. GRAMM. I would just like to remind our colleagues that we have adopted four amendments to the original Chiles amendment. The logic of the original Chiles amendment said that the big trust fund surplus in Social Security ought not to count toward the deficit. The amendments we adopted simply extended that logic to include trust funds related to highways, airports, to the FDIC, the Comptroller of the Currency, the Federal Reserve Bank, military retirees, civil service retirees, the unemployment trust fund, and the independent Postal Service.

Now, if we adopt the amendment pending we will, in essence, have gone back and stripped away those four amendments that we have already voted on and adopted.

May I remind my colleagues that if this amendment should be adopted and if the amendment of the distinguished Senator from New Mexico, which I support, fails, then each one of these amendments that we have already adopted will be in order. I can assure Senators that they will be offered. And I assume that unless people on the same day are going to vote two ways on the same issue, all four amendments will be readopted. We will then have spent all day adopting amendments, stripping the amendments off, and then readopting them. I do not think this makes any sense. In fact, in the 10 budget debates I have been involved in, I would have to say that the debate in the last 2 days makes less sense than any of those other debates.

But I want to assure people that after having adopted four amendments, some of them by voice vote, that if we come in here and strip them off and then the amendment of the distinguished Senator from New Mexico is unsuccessful, we can expect to vote on those amendments again.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, the distinguished chairman is here. I wonder, I do not know if he heard my discussion, I say to my friend from Florida, but as soon as my friend is ready, maybe I would want one more minute and then I would yield my time if he will yield his, and we could vote on his proposal. Except I want the right to offer to table it.

Mr. CHILES. You certainly have the right.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. I suggest the absence of a quorum, the time to come off of my time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I yield myself time off the bill to continue debate.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHILES. Mr. President, my understanding is the distinguished Senator from New Mexico has proposed that if the amendment of the Senator from Florida is defeated, or he thinks it should be defeated, he intends to come back and say that they will have this studied by the Economic Commission.

I want it to be clear that the Senator from Florida in no way will prohibit the Economic Commission from studying this. If the Senator from New Mexico would like me to modify the amendment to provide they should study it, I am willing to do that. But I think the choice that we have here now is: Is Congress going to say we have no responsibility here, we should not speak to this?

In spite of the fact that these surpluses are building for the year 1989; we have $46 billion in Social Security surplus that we are using to mask the deficit, and that number goes to $58 billion in the next year, then $71 billion, then $81 billion, and then $97 billion in 1993, we have no responsibility. We just wait and see if the Economic Commission says maybe we should do something, maybe we should not.

I think the Economic Commission is a good idea. I hope it will give the Congress and the next President some cover to do some things that we all know need to be done. But I do not believe we need the Economic Commission to tell us whether or not that is a good policy, whether or not Congress should be doing something about it. Clearly the question is: Is it fair to use these workers' funds now rather than having them saved until they get ready to retire, is it fair for us to be using them now? I think that is the question we have before us in the Chiles amendment on which we get a chance to vote up or down. Then if we decide that the Economic Commission should study that also, all right.

We are grown men and women and we ought to be able to face up to the answer to that question of whether we have the responsibility and what we should be doing about it. I do not see that as something we have to send to the Commission. Is this a proper thing for the Commission to look at? Absolutely, along with everything else. I hope they will look at it. I hope they will make a recommendation on it. But I hope this body, this Senate, will not shirk its responsibility and say we do not know whether we ought to do that or not or we do not think we better do anything about that or say anything about that until the National Economic Commission tells us. I do not need that National Economic Commission, with all of its brilliance—and it has some—and all of its distinguished members to tell me that what we are doing is not the right thing to do.

It is not fiscally right. It is not morally right. It is not a keeping of the commitment that we have made to the workers out there. As I say, I know that very clearly. I do not need someone else to tell me that. And I do not think anybody else in this body needs that. It seems to me that is something we ought to be able to face up to and that we ought to be able to vote on. I think shortly we should be able to vote on it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I regret that we have taken so much of the Senate's time. I saw no other way. I do want Senators to know that I do not really believe this is a partisan issue. I have been looking at the votes and I do not think it is a partisan issue. Both sides supported the underlying Chiles amendment. Republicans and Democrats alike supported the Symms amendment, that if you are going to try to balance the budget under a mandate of 5 years, you ought to take the highway trust fund and the aviation trust fund into consideration also and balance without them. Then we took a look at some other things.

Now, essentially I do not feel very good about moving to table an amendment, especially an amendment that my friend, the chairman, offers. But I have been searching my mind to think of when a tabling motion is appropriate and I do not see any better reason for the use of a tabling motion than this situation.

I want to explain to the Senate why. Essentially what this amendment does in essence is to strip out all of our votes on those other trust funds. We have already voted, so it is not a vote on Social Security, it is not a vote on the original Chiles amendment. It is a vote to get rid of all of those amendments on which we have already voted.

Now, just think a minute with me about where we are going to be if we do not table the Chiles amendment. Then with those who offered the amendments to the original Chiles amendment, we are right back where we were. Senator SYMMS and those who feel strongly about aviation are going to come down here and offer their amendment again. Are we going to assume that their amendments are going to fail? They are going to succeed because we have already expressed our will.

Now, that is essentially the procedural situation. I believe we have expressed our will that if we are looking at trust funds and if we are looking at the unified budget and want to balance the budget without trust funds, we are on record that we want it without the post office, we want it without highway and transportation trust funds.

My friend comes around after all that and says, "I want to get right back where we were and I want a balanced budget in 5 years and I do not want the trust fund of Social Security being a part of reaching the balance in 5 years."

Mr. President, we have taken more time of the Senate, in my humble opinion, than this issue deserves. But I did not see any other way, and in a sense I am sorry we have taken such time. We have five or six substantative amendments to the resolution that we ought to try to get out of the way.

I think I am familiar with budget matters. I think I have been very lucky to learn a little bit about how little the economists know. I think I have learned a little bit about how confused people are about the international markets and what they really mean for America's future. But I really do not believe, without hearings, that we ought to go on record mandating 5 years hence a balanced budget with no trust funds from Social Security included in the balance. I really believe that deserves thought, that deserves study, that we deserve to see the consequences versus the negatives, the pluses and the minuses. I really honestly believe—and I do not know that I say this in humility other than in the sense of that word, which means I am being truthful, and I guess the essence of humility is trying to be truthful—I really believe we do not know enough to vote today on balancing the budget in 5 years without Social Security trust funds.

That is what my friend, the chairman, would like to have us end up voting for, but in essence his amendment strips away all the other votes where we said if we are going to do that what about the other trust funds? So since that is the situation, and my own goal is to get this bill finished, if we table the Chiles amendment, as I am going to ask the Senate to do, then he is right. I will ask the Senate to mandate that the National Economic Commission take all of these things into consideration, and that indeed in great detail while the Congress is studying it they make the appropriate recommendations after which time we can buy them or not buy them, legislate or not legislate. I do not really think there is any real rush.

I only wish the Senators knew how tough it is going to be to get to a balanced budget under the current law. If they really did, and we were voting on how we get there, I think they would seriously challenge even as a matter of a resolution saying this is what we would like to do. I think they would say do not we have a number of committees and others that ought to really give us some recommendations? But that is not really the issue. The issue is do we want to strip away all the votes we took and go back to where we were, knowing that we are going to have another parade back in to offer them all over again.

I do not know if I have any time left on the amendment but, if I do, I yield it back at this point.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I listened with interest to my good friend's rationale of why a tabling motion would be in order.

I want to go on record as saying when I proposed this amendment I really did not think we would have to have a roll call on it. I thought it would go on a voice vote, a sense of the Senate that we should stop doing this. We held some hearings in the Budget Committee. We heard from everybody.

It is just so clear to me I really did not think it would provoke anything. Then I could see it become a vehicle for two motives, one to load up the wagon so it would sink but other groups who said here is an opportunity to get off the budget. Let us jump on it.

It is a little different if you really look at it between the highway trust fund, the aviation trust fund, any of even the bank funds. Those are some groups that want to get off the budget.

What are we talking about here? We are talking about putting Social Security off the budget. We have already done that under sequester under Gramm-Rudman-Hollings. We are saying continue to use those surpluses to hide the deficit. Do not double spend it. It is totally different from these other funds really. When we talk about the highway trust fund or Post Office, $1.2 billion, the biggest of those funds is $10 billion at any time, $10 billion. We are talking about $2 trillion. We are talking about $97 billion in 1 year. That is apples and oranges. That is totally kind of different.

If this body wants to table this amendment, certainly the Senator from New Mexico, my friend, has a right to make that motion. That is fine. They have spoken clearly. They do not think it is their responsibility or do not think it is anything we should do anything about and 5 years it is not good, although 5 years with the same percentage of GNP deficit, about 4.5 percent was all right when we passed Gramm-Rudman-Hollings. I thought we all rushed to vote for that. I did. Some other people in here did. Some of the people that are now arguing against this now we are not sure whether it is economically wise to do this. Well, the next Congress is going to have to look at that. Five years is certainly not binding. It is a sense-of-the-Senate proposition that we ought to try to do it that way.

I hope the body will not go on record as tabling this because again I think that is a bad signal to send to those workers out there that we are going to continue to take your money and to use it. But that is the right that the body has.

Mr. DOMENICI Addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Even though I have yielded time on the amendment the distinguished Senator from Oregon, the Senator who is ranking member and former chairman of the Finance Committee, desires to speak on this issue. I am delighted that he found time in his busy schedule.

I yield up to 20 minutes to the distinguished Senator off the resolution.

The PRESIDING OFFICER. The Senator from oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I thank the Chair. I thank my good friend from New Mexico.

Mr. DOMENICI. Might I just ask the Senator. I know he has been extremely busy. He is aware, is he not, that even though we had adopted a number of amendments of trust funds exclusionary from the unified budget, that the pending issue is the Senator from Florida putting the amendment back in its original form, thus stripping out the added entrusted accounts?

Mr. PACKWOOD. It is my understanding that at some stage the Senator will move to table the amendment of the Senator from Florida and will have another amendment. Is that a fact?

Mr. DOMENICI. If it is tabled, we will offer another amendment. If it is not tabled, I am sure those with the various other entrusted accounts will be back down here asking that they be excluded too.

Mr. PACKWOOD. Will that amendment request the National Economic Commission to study this whole issue to decide what to do?

Mr. DOMENICI. With a little more specificity I might say, we will ask how we should handle it and what the effect of the surplus is, and the like.

Mr. PACKWOOD. I thank my good friend. I know the Senator from Florida made a reference to a white paper that I had prepared some time ago. It perhaps overdignifies my involvement in the issue. What that really involved was a series of charts put out by the Social Security Administration, together with some examples. That was about it. The Social Security Administration, of course, attempts to project their income and outgo over 75 years.

First, I questioned whether anybody could seriously tell us 50 years from now what the national income or the national outgo is going to be in Social Security or anything else.

It depends upon how fast the country is growing. To give you an example, Mr. President, of the difficulty of predicting how fast we are going to grow 50 years from now, when we were doing the tax reform bill just 2 years ago, we were trying to make 5-year projections on income and outgo. That bill was supposed to be revenue neutral.

The difference to the Federal Government in terms of taxes collected over just 5 years, if the economy grew 3 percent as opposed to 4 percent—and by growth I mean real growth above the rate of inflation—a 1-percent difference in income to the Federal Government over just 5 years, was $260 billion. The question for Social Security is how fast we are going to grow in the year 2000, the year 2010 or 2020? The answer to that question, whether it is 3, 4, or 5 percent, heavily determines how much money comes into the Government, how much comes into Social Security. Whether inflation 20 years from now is 3 or 4 or 5 percent makes a tremendous difference in how much we take in and pay out in Social Security.

So one wants to be careful of long-range projections simply because they are so ephemeral. That does not mean you do not pay any attention to them. It does not mean, "Oh, well, nobody can know anyway, so don't worry about it." You do the best you can, but you do not want to take them as verities. The Social Security trustees are required to make 75-year projections, but you have got to take them with a grain of salt. The longer the projection, the more likely the error. The shorter the projection, the more likely the accuracy.

I first became aware of the subject of these surpluses about 2 or 3 months ago, although the data were available in a kind of convoluted form last April when the Social Security trustees made their report. That report was not easy to read, and it was difficult to understand the magnitude of the surpluses. But based upon the testimony of one witness before the Finance Committee a few months ago, I pursued the subject and discovered for the first time to my surprise we were going to have immense surpluses in Social Security.

By "surplus," I mean taking in more money than we paid out.

These surpluses were deliberate. We want to make sure that these funds are available for our children. My children are just at the age where they would start to collect on these funds when the surplus reached its biggest amount and started to begin to run deficits. So I have a vested interest in making sure the money is there for our children and grandchildren.

When we made the Social Security reforms in 1983, we understood what we were doing. We knew that we had this tremendous baby boom that had been born from 1945 on that would retire, on the average, 65 years after they had been born. We knew that passing through from birth to the work force to retirement, we had this extraordinarily large group of people. We knew that when they retired, they would make tremendous draw-downs on the Social Security fund. So we changed the tax rate. The latest increase occurred on January 1, 1988.

We changed it so that we would build up this immense surplus in the fund, so that we would have money to pay the benefits when our children and grandchildren became of retirement age. We should do this. The trust fund should be protected. That is a No. 1 priority.

We should not say that we are using the Social Security trust fund to fund the military in West Germany or to fund the war on drugs. Social Security is a moral obligation to our children and grandchildren. It is sacred and should be observed.

We require that Social Security surpluses be invested in Federal Government bonds. We do not allow surpluses to be invested in the stock market. We do not allow them to be invested in real estate investment trusts. We do not allow them to be invested in money market funds and certificates of deposit. They must be invested in Government bonds.

Until a few years ago, no one gave that much thought, because the accumulated surplus in the Social Security trust fund was so slight that we did not worry about its long-term implications.

There was a time in 1979 and 1980 that we only had reserves in the trust fund to pay benefits for about 4 months. If we quit collecting FICA taxes, we had reserves in the trust fund to pay benefits for about 4 months. That was it. Now the projections are totally turned, and I hope correctly.

The Social Security trustees make four projections: pessimistic, next most pessimistic, next most optimistic, and optimistic. Taking the next most pessimistic projection, the trust fund, over the next 35 to 40 years, will accumulate a surplus of about $12 trillion to $13 trillion. That means they hope to take in $12 trillion to $13 trillion more than they pay out.

There are some years in their projections after the turn of the century when they would take in $500 billion a year more than they pay out in that year.

These are sums that are simply staggering, to even those of us used to dealing with a Federal budget of $1 trillion.

The first danger we face is a temptation to simply spend that money now. We have all this surplus; let us increase the Social Security benefits; let us enact long-term care and pay for it out of this big surplus.

I can think of a hundred things to do with the money right now.

You have to avoid that temptation or you will not have any accumulated surpluses.

You have to be careful that you do not use this money as an excuse to run up immense deficits elsewhere in the Federal budget and then require Social Security to fund that deficit—that is, to buy the bonds that the Government issues.

This is the way things work today: Let us assume that Social Security has a surplus in 1995 of $100 billion, and let us say that the rest of Government has a deficit of $100 billion. The Government would issue 100 billion dollars' worth of bonds, which the Social Security trust fund would acquire. The trust fund would transfer $100 billion in cash to cover the deficit that year.

That is the way it has been working for years. There is nothing wrong with that, if you presume that the Government—and there is no reason to presume otherwise—will always redeem the bonds it issues. It always has.

When the day comes that this surplus must be paid out to Social Security beneficiaries, the Federal Government will have to redeem the bonds that the Social Security trust fund holds. At that stage, the Social Security trust fund will say: "Instead of a surplus this year, we have a deficit, and we want to turn in our bonds to the other part of the Government and have them give us cash for the bonds, which we will then pay to the beneficiaries."

Here is the fear that I have, if we are going to take all of these funds off budget. I should clarify that Social Security is off budget now, technically. It is not counted as part of the budget. It can be used to meet the Gramm-Rudman deficit totals, but it is not part of the budget. After 1993 it is not even supposed to be used to meet the Gramm-Rudman totals.

Here is my fear in the short term: Just as it is bad for the Government to run huge deficits year after year, we also want to be careful about running immense surpluses, which can then become a drag on the economy.

If you take not only Social Security off the budget but if you finally say none of these funds can be used to meet the Gramm-Rudman-Hollings targets, that those targets must now be met out of either cutting spending or increasing taxes or a combination thereof, what you will end up with is immense Government surpluses, staggering surpluses, beyond anything we have ever known or foreseen. This is in the short term, the next 10 to 15 years, and that is not a long time in Government.

The question is, over the next 15 years, **what do we do with the surpluses that are coming in? These surpluses are not imaginary—they are coming. Assuming that we do not just spend them on program expansion, so that the money goes out the door as soon as it comes in—if you do not do that, the question from what the economists call from a macroeconomic standpoint, is what do we do about the overall Government budget?**

The overall Government budget—no matter whether we say, on budget or off budget—is how much money is coming in, including Social Security taxes, gasoline taxes, airport ticket taxes, and how much money is going out, for Social Security benefits, highways, airports.

Looking at the budget in this way—cash in and cash out—we ought to be working toward a balance, with a proper thought in the back of our minds as to what kinds of obligations and liabilities we have for money going out 15, 20, or 25 years from now.

That, Mr. President, is a subject of proper debate and proper inquiry, and it is not one that has ever been addressed in the House of Representatives or the Senate in the 20 years I have been here. That is no one's fault. Until roughly 2 months ago, not a Member of the Senate or a Member of the House, and very few people in the public, grasped the fact that these immense Social Security surpluses were coming.

I remember when I first discovered that fact, and talked to several members of the press. These people covered the Ways and Means Committee and the Finance Committee for 5 years. They did not believe it, and I understand why they did not believe it.

First, the projected surpluses were so large that they could not comprehend the size. Second, we have been talking about deficits for so long—deficits counting Social Security—that they could not believe that suddenly there might be surpluses.

I think we are now over that hurdle. I think the press now understands, the House understands, and the Senate understands that there are immense surpluses coming.

The additional question for the Senate, the House, the President, and the Economic Commission to consider is, how should we handle these surpluses? The amendment that the Senator from New Mexico offered, directing the National Economic Commission consider these immense surpluses along with everything else they are going to consider, is a valid way to approach this problem. But to deal with the issue this afternoon, with these amendments relating to Social Security, highways, airports, unemployment, veterans' pensions or civil service retirement, never having had a hearing on the issue, never having considered the ramifications of what might be the effects on the economy of these immense surpluses would be unwise.

So let me emphasize once more how I think we ought to look at this issue.

One, we should absolutely guarantee that the money will be there to pay to our children, and their children, the benefits that the law says they are entitled to.

Two, we should realize that trying to project what the income and outgo of the Federal Government will be 20, 25, or 30 years from now is almost impossible, because there are so many factors beyond our control. There will be factors that we cannot think about or grasp now. There will be circumstances that we will not even foresee that are bound to occur. These factors might be actual growth rates in the country of 5 or 6 or 7 percent. They might be recessions. But they will be things that we cannot foresee now.

Three, over the short term we will have immense surpluses. By "short term" I mean 10, 15, 20 years. I do not want to sound cavalier about that period of time. But yet I emphasize that 10, 15, or 20 years is not a long time. To most of us the Vietnam war is just yesterday. To most of us the debate in this Chamber in 1970 about putting a $250 billion limit on Federal expenditures and giving the power to the President to cut spending any place he wanted over $250 billion is a debate that took place a very short period of time ago.

As a matter of fact, that bill passed the House of Representatives. Today we are talking about a trillion dollar budget. That day we were talking about a budget that was soon to exceed $250 million. If my memory serves me, the deficit at that time was about $20 billion. We thought a deficit that size was so bad that we were considering delegating to the President the power to cut the budget anyplace he wanted on expenditures above $250 billion. It passed the House and almost passed the Senate.

That is just yesterday in the memories of many of us.

So let us just step back and think deliberately about this issue. I remember what John Williams, a Senator from Delaware who served 24 years and retired voluntarily, once told me. I was serving my first term when he was serving his last. He spoke to me about a filibuster on a change of the rules as to when we should be allowed to shut off debate.

Senator Williams told me: We make more mistakes in haste than we lose opportunity in delay.

This problem, almost a blessed problem, this surplus is going to be with us for the next generation. It does not need to be decided in haste this afternoon. It should not be decided in haste this afternoon.

We need to grasp what the economic consequences might be of surpluses—$200 billion, $300 billion, $400 billion a year—whether they will be a drag on the economy. We ought to consider whether or not we should cut the Social Security taxes to bring the surplus down, realizing we will have to raise these taxes later when the benefits were going to be paid out. That might be an alternative. I do not necessarily endorse any of these ideas. However, none of them have even been considered by this body.

So I would hope that we would end all of the efforts to take the Social Security trust fund out of Gramm-Rudman. This is an issue that need not—should not—be decided in haste.

I think what the Senator from New Mexico wants to do makes sense. I have the highest regard for my good friend from Florida with whom I have served the better part of my 20 years in this body. He has been a stunning and outstanding leader, especially in the area of budget and fiscal matters. He is retiring at the end of this year and we will sorely miss him.

But I think in this case I have to respectfully disagree and suggest we put this subject aside. Not for a year, not for 2 years, not for 3 years, but we put it aside for the moment and not decide it in haste. We should direct the Commission that we voted for just 3 or 4 months ago to study this problem. Three or four months ago we did not think about surpluses. We should have.

Mr. President, that is ample time.

So I strongly support the efforts of my good friend, the senior Senator from New Mexico, Senator DOMENICI, to eventually table the amendment we are now on, to put the whole issue aside. Let the Economic Commission study it, let us have hearings if we want to have hearings. But do not attempt to make what is perhaps the most significant budget and fiscal decision we are likely to make in a decade based upon a few hours of debate that started only this week.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Florida.

Mr. CHILES. Mr. President, I listened to my good friend from Oregon. As usual, he makes a good argument, and I thought I find myself in much agreement with much of what he said.

Just in the last remarks about what we are beginning to do in 1 day or 2 days on the floor, my good friend from Oregon, with whom I have served and have enjoyed serving with so long, well knows a sense-of-the-Senate resolution does not make those kinds of decisions that the committee upon which he is the ranking member will be a committee that next year if it decided to next year would look at this and would begin that kind of deliberative study and determine what could be done. So we would not be making those kinds of decisions here.

I thought we were singing out of the same hymn book, and we were for a long, long time. In his dissertation he talked about the danger of spending this surplus money. He talked about the danger of borrowing it or using it to mask but then we got off as to the surpluses and what would happen from there and, of course, the Senator talked about the numbers up to $12 trillion. That would be in nominal dollars. The number that I have used is up to $2 trillion. That would be in constant dollars.

But just so somebody listening might wonder why there is a difference between these numbers, on the annual basis the charts that I have been using show that for the year 1989 there is $46 billion. Forty-six billion dollars of the surpluses there this year, we know that, and we know that figure roughly as he said, as the Senator from Oregon said, the shorter term projections are much more valid. We know that figure is probably going to be $58 billion, $61 billion, $71 billion, and $97 billion in 1993. Those are moneys now that in effect we are reborrowing because we are using them and saying we do not have a deficit in those amounts. This is the concern of the Senator from Florida, and maybe it is a concern I should have had last year and the year before. I do not know why I have it now. It is because I am leaving here and I am getting a little more worried about Social Security and whether it is going to be sound or not.

But to me it is a very simple proposition. In a sense of the Senate, I did not think it would be a rollcall vote. I thought it would be something that would just go through like motherhood, that we should not be double borrowing this money. We should not be using it now to mask the deficit; that there is a danger and we have to keep the workers' confidence and the people's confidence in the Social Security system. And when they see, in spite of these large surpluses, that we are using them—and my understanding, and I hope I did not misquote the Senator from Oregon when I said something about a white paper. That shows you get in trouble when you just sort of repeat things that you hear. If I did, I apologize for that.

But I think when people kind of get the idea that we are going to use these surpluses to balance the budget, that we are doing it in a way not by restraining spending or raising revenue enough to do that because there are very specifically committed—they are not a working fund. We have talked about that. This is from a pretty wise policy that there are going to be some good years and there are going to be some lean years. And the chart, again shows on an annual basis that at the year 2018 we begin the annual deficits.

Now, fortunately, the trust fund does not peak until about the year 2022 because of earnings and because of accumulated. But what does happen on that annual basis, then we have got to start cashing in some bonds. And if, as we cash in those bonds, we have already sort of borrowed that money, used it to mask the deficit, we begin to get sort of a double hammer that comes in.

And the Senator said he was worrying about his kids. I will tell you I am going to be as mad as I can be in the year 2030 if my money is not there. I am going to be 100 years old then. I want it to be there. I demand it to be there.

The PRESIDING OFFICER. The time of the Senator from Florida on his amendment has expired.

Mr. CHILES. I yield myself 1 more minute off the resolution.

Everybody has talked about trust funds. No one has told me why we should not operate on the principle of balancing our spending and revenues on the Federal funds side of the budget.

If we look at all of that red ink on the bottom of this chart, we will see what the real deficit numbers are as we put that money in or take that money out that we are using. And that is totally different from what we are seeing as we project the deficit. But that is the true reading.

Now I want to say as to all these things, a number of people have expressed themselves on amendments. I think they have expressed themselves on some of the other trust funds as to what they feel. But I think everybody can have an opportunity and recognize this as an opportunity to express yourself. Do you think the Social Security trust fund should be used to balance the budget? If you think so, then you would vote to table. If you do not, then I think you would vote against tabling and we would then adopt this amendment.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes off the resolution.

Mr. President, I would be remiss if I did not thank the distinguished Senator from the State of Oregon, Senator PACKWOOD, for taking time to make his eloquent argument and giving the Senate the benefit of a broad picture of the very peculiar circumstances we find ourselves in, we have made Social Security solvent, have enacted a series of tax increases on the working men and women and employers of America to make sure that Social Security is solvent 65-70 months into a recovery in a very, very fast-changing world.

Economists have been wrong for the last 5 or 6 years. They do not understand what the world economy is all about; what the American economy is all about. As a matter of fact, they dare not even call themselves scientists any more. They really ought to say that they are extremely religious people and have a great deal of faith because that is about all you can say about what they know.

But I can tell you one thing. The Senator from Oregon said it right. We have found out that we are going to have this Social Security surplus. We have found out that we can tax the American people to pay for it and that they are willing to do that.

For us, on one afternoon, to decide that we are going to balance the Federal budget in 5 years, to take away the Gramm-Rudman targets, to substitute new ones because we are not going to count Social Security as part of that deficit reduction, is just as apt to be wrong from the economic standpoint as it is to be right. And after all, we have a budget resolution here with an issue before us that says Congress shall enact legislation to do just this.

Frankly, I do not believe it is the time. I do no think it is the place. And I regret to say that if my good friend from Florida thought this was going to go through with everybody saying "aye," then I can only think one of two things: that a whole lot of Senators would not have understood the complexity or that we would have voted for it never intending to really do it because we have no idea what it is going to mean next year, the year after, or the year after that.

Now, all that aside, I again want to apologize for having to move to table because I do not like to do that. But I repeat, I think it is an appropriate tabling motion because the amendment of the Senator from Florida wipes out all the amendments that we have already voted on. And I would like to leave them all there. We have expressed our will. I do not think we ought to take the amendments away, having voted for them. I think we ought to leave them right there and then let the U.S. Senate decide whether they want the trust funds treated in the way we voted here to this point or whether they would like the matter to be reviewed and studied.

Mr. President, I guarantee you that there is plenty of time to look at this issue. It is the most profound and complicated economic issue of modern day. It is not simple. It is extremely profound.

What is magic about 5 years if you include the trust fund? Why not 3? Why not do away with Gramm-Rudman and say we will have a balanced budget 2 years from now and take Social Security out of the calculation?

Frankly, I think we need some time. If you want to make a meaningful vote, you ought not be voting to do this. You ought to vote to table this and then you ought to support an amendment that says let us look at it in depth on all fronts here in the Senate and let the National Economic Commission study it. Let us hear from some people that are thinking about the economic impact over the next decade or 15 years and then let us act.

Having said that, I have no time remaining and I understand my friend has none. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico [Mr. DOMENICI] to table the amendment of the Senator from Florida [Mr. CHILES].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 26, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—70

Adams
Armstrong
Bond
Boschwitz
Bradley
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato

Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Garn
Glenn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Murkowski
Nickles
Packwood
Pressler
Quayle
Rockefeller
Roth
Rudman
Sarbanes
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—26

Baucus
Bentsen
Bingaman
Boren
Breaux
Bumpers
Burdick
Chiles
Dodd
Fowler
Graham
Harkin
Johnston
Kennedy
Leahy
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Sanford
Sasser

NOT VOTING—4

Biden
Gore
Simon
Stennis

So the motion to table the amendment No. 1936 was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

VISIT TO THE SENATE BY MEMBERS OF THE COMMITTEE ON FOREIGN RELATIONS OF THE PRIME MINISTER OF SINGAPORE

Mr. BYRD. Mr. President, there are some distinguished guests in the Chamber. I ask the chairman of the Foreign Relations Committee to introduce them, and following that, I ask that the Senate stand in recess for 2 minutes to allow Senators to welcome their guests.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, we are honored to have with us as our guest, Prime Minister Lee Kuan Yew, from Singapore and some of his colleagues from the Singapore Parliament.

I am very glad indeed he is here, and I hope we can all say hello to him. [Applause.]

RECESS FOR 2 MINUTES

The PRESIDING OFFICER. The Senate will stand in recess for a period of 2 minutes so that Senators may greet our distinguished guests.

There being no objection, the Senate, at 4:39 p.m., recessed until 4:41 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERRY).

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The Senate continued with the consideration of the concurrent resolution.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1937 TO AMENDMENT NO. 1928

(Purpose: To express the sense of the Congress that the National Economic Commission should study the budgetary treatment of trust funds)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senator BRADLEY, Senator MOYNIHAN, and Senator DOLE, and ask that it be considered immediately.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. DOLE, proposes an amendment numbered 1937.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following:

TRUST FUNDS

SEC. 8(a) FINDINGS.—The Congress finds that—

(1) under current law, neither the Senate nor the House may consider reductions in social security as part of a budget reconciliation bill or resolution pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) under current law, starting in fiscal year 1994, the social security trust fund will be off-budget;

(3) current law requires a balanced budget by fiscal year 1993; but includes the projected Social Security surpluses as offsetting deficits;

(4) current law requires the budget resolution to display budget authority, outlays, revenues, and the deficit excluding social security, in the aggregate and by function.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the National Economic Commission should—

(1) study the budgetary treatment of social security, airport and highway, military retirement, civil service retirement, unemployment and other trust funds and self-supporting public enterprise funds including postal service, FDIC, Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, FSLIC, and SEC;

(2) analyze the economic, budgetary, and programmatic effects of taking these funds off-budget;

(3) consider the effects of setting trust fund surpluses aside as additional savings, including effects on the national savings rate, investment, and economic growth, as well as on program beneficiaries; and

(4) include in its final report a recommendation on the budgetary treatment of these funds.

(5) reports on the means to achieve a balance in the remaining budget and on the economic effects of a unified budget surplus.

Mr. DOMENICI. Mr. President, I think the Senate is aware at least generally of what this amendment is. I have been suggesting that in lieu of a sense of Congress passage of any legislation or a specific timetable with reference to a balanced budget, that the sense of the Congress be that the issues that we have been discussing—the budgetary treatment of Social Security and other self-supporting public enterprises such as airports, which we discussed here; highways, which we discussed here; funds such as military retirements, which we discussed here; all of those that we have debated and voted on—be studied by the National Economic Commission; that National Economic Commission analyze the economic budgetary and programmatic effect of taking these funds off-budget; that they include in their final report a recommendation on the budgetary treatment of these funds; that they consider the effects of setting trust fund surpluses aside as additional savings, including the effects on national savings rates, and investment in economic growth; that they consider the effects on program beneficiaries; and last, that they report on a means to achieve a balance in the remaining budget, and on the economic effects of a unified budget surplus.

On behalf of my sponsors and myself, what we really intend here, so everyone will understand, is that with reference to this entire series of amendments, starting with the original amendment of the chairman today, modified with the highway, aviation, and military retirement, and other funds, that in lieu of a mandate that we take those off budget and balance in 5 years, the sense of the Congress be what I have just generally described, that we take time and permit the Economic Commission that we set up to study these various issues, and as part of their fiscal responsibility recommendations they are charged with making in March, that they add to the agenda these issues to the extent they might be new or different. They are not necessarily new charges.

The National Economic Commission would look at the off-budget trust accounts, their impact, how we should proceed to treat them in the future.

The National Economic Commission would, when making their recommendations with reference to fiscal responsibility, balanced budgets, take these things into consideration their effects on our economic future, future savings, and the like.

I do not know that we have anyone else who wants to speak on the issue. Senator BRADLEY indicated that if we have a lot of time and if there was going to be a lot of debate he would like to be here, as did Senator MOYNIHAN. Senator DOLE is here. I do not believe we need a lot of time. Frankly, I do not think we need a rollcall vote. But I am glad to have one.

I have discussed it with the distinguished chairman. He sees no reason to have a rollcall vote. But we will wait a few moments and see what the will of the Senate is.

Mr. ADAMS. Mr. President, would the Senator yield time, I have a few remarks.

Mr. DOMENICI. I am pleased to yield.

The PRESIDING OFFICER. The Senator from Washington.

Mr. DOMENICI. How much time might the Senator need?

Mr. ADAMS. Ten minutes.

Mr. DOMENICI. I yield 10 minutes.

Mr. ADAMS. Mr. President, I will not take a great deal of time. But I have listened, with a considerable amount of dismay and I guess you might say with a small sense of outrage, to what has become the budget process. In the last 2 days, I have voted to take a number of items off the budget. This represents a flat reversal of position for me from the time that I was budget chairman in 1977. That reversal flows from the fact I think the Budget Act has come to the end of its useful life in its present form.

I regret this action because the purpose of the Budget Act when it was started was to coordinate the authorizing committees with the appropriating committees, and to allow the Congress to develop a strategic plan that it could set off against the President's plan. By giving the Congress this capability, we hoped to stop marginal budgeting. Marginal budgeting simply meant we took the President's plan and the appropriating committees would simply, at the margin, change it slightly. All of the economic assumptions came from OMB. We never knew whether they were right or not.

During the period of 1974 to 1976 this was corrected. I supported that. I was the first budget chairman in the House.

But in 1981 the budget process the Congress designed was jammed, and it was turned into a vehicle whereby all appropriations and authorizations ended up in a single document at the end.

I make these remarks at this time because the changes made in 1981 started to create what the chairman of the committee now is talking about, a masking process. Yes; I was here during the time when President Johnson created the original mask—in an effort to get his budget to balance at $100 billion, he put the Social Security trust fund surplus into the budget. We had one balanced budget in all the time I have been here, over 25 years. That was done by mirrors, by Lyndon Johnson, to balance out the cost of the Vietnam war.

But now what is happening is this: Instead of having a budget grow from the authorizing committees and the appropriating committees and then go to the Budget Committee for reconciliation and for the establishment of a strategic plan, we use the budget to jam the appropriations process, jam the authorizing process, and create endless debates on very detailed matters. We have, in short, distorted what should be a strategic planning process.

I am willing to support a strategic plan budget committee. I am willing to support a CBO to test the numbers of OMB. But we have done away in effect with the authorizing committees, the appropriating committees in this process. And what was left of them after 1981 is being destroyed by Gramm-Rudman-Hollings. That is, we now base budget development on the deficit figure and work back, rather than a policy figure and work up.

I might say in the early days it did work. We had a smaller deficit than has ever existed under this process since 1981.

What bothers me most of all is that there are very good people on this Budget Committee, a very fine, fine chairman, a very fine ranking member. But the Budget Act has been swept out from underneath them. The reason I say it started in 1981. Look at David Stockman's book, "The Triumph of Politics," and it will lay out for you that this was not done by accident, and it was not done by this institution. It was done deliberately by the executive branch in order to have one resolution at the end, and that one resolution at the end would include both authorizing material for revenues and authorizing material for appropriations, and it would all have to be handled in one big package so you could not reach it. The purpose of that was to allow for a defense buildup. It was to allow for a tax-cutting bill. And it was to allow all of it to be put in one place where it could not be avoided, or even modified.

I think that is too bad. What has happened since then is that the original error has multiplied on itself; and it has multiplied on itself to a point where we argue and then get stuck in a gigantic resolution. This budget that is being argued right now has already been done. The budget was set in the summit. The summit stated what the defense spending would be, what the international function category would be, what the discretionary categories would be overall. The only thing left was to determine whether or not certain amounts would be spent within the domestic program. What has happened?

The chairman started this debate by saying "take Social Security off because it is making the true size of the deficit," and he is right. But everybody else said, "Wait a minute. For years, we have been masking it with all of these other trust funds." We have been doing it because we do not handle the budget in an orderly process, the 13 appropriation bills and the authorizing bills that go with them.

So, Mr. President, I just wanted to say that I have changed my mind on whether or not we can run a unified budget. I think the trust funds, their surplus, should be protected as a surplus. Those that ask what would happen to it, those surpluses are in Government bonds. When those surpluses have to be mailed, we are going to have to raise money, pay off the bonds, and give the people the money they are entitled to under the trust funds.

We have had an explosion here the last day of people showing their resentment against what has happened overall under the Budget Act. I hope it can be corrected.

I remained silent during my 2 years here because I wanted to see the budget process work here in the Senate. I really did not intend to talk on this resolution, because I had hoped that we would adopt a 2-year budget process and that we were going to get through it.

But this debate has demonstrated that people are no longer satisfied with the process under the Budget Act. Authorizing committees cannot deal with policy questions. Appropriating committees cannot get their appropriations up because if the Budget Committee is late, they are held up, and they cannot get them out.

You will get a 40-pound continuing resolution, such as was shown by the President, when you do that. But I will tell you this: When this was first done in 1981, one of my young staffers carried over the original 1981 budget, and it weighed over 12 pounds, and it was created to go over as one package—authorizations, legislation, revenues, all in one.

I say to the Senator from New Mexico that I served on "The Committee For A Responsible Budget," in private life. The committee consists of all former budget chairmen and former members of OMB. So, it is a high-powered group of people—Alan Greenspan, Ash, Bob Strauss, myself, and a number of others. I studied the problem with them, I have worked on it here, and I have come to the conclusion that something has to be fixed in this.

I suggest that we view the budget once again as a strategic planning document, give out the numbers, and go back to the existing system of appropriating subcommittees and authorizations. Now we have redundant systems. We should start doing away with the secondary and super votes. The reason for that is that they tie this place up interminably, and we do not get our work done. I hope we will get a 2-year budget, which will help also with the work problem.

It is time that we put real thought into this. Gramm-Rudman-Hollings does not work, it is a patch on a blown out tire. One bill at the end does not work, and trying to do this all in 1 year does not work.

I express my gratitude to the chairman of the full committee for his work. He put up an amendment which I thought would pass by voice vote and we would be on and off this bill in 1 day. Instead of that, the resentment that has been bubbling up for a long time descended upon his head, and I feel that was not too good a thing to happen to him.

I hope we can finish this resolution now and not continue to debate what was completed at the budget summit last year. As the ranking minority member said, we are really just ratifying the job we all voted for last December.

Mr. President, I usually do not get to an outburst like this, and I was not going to talk on this bill. Now I must say, away, away with the Budget Act. This body was never meant to endure it.

Mr. DOMENICI. Mr. President, I yield back any time I have remaining on the amendment I have sent to desk.

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1937) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the underlying amendment of the Senator from Florida, as amended. On this question the yeas and nays have been ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1928), as amended, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ addressed the Chair.

Mr. DOMENICI. Mr. President, I understand that the distinguished Senator from Pennsylvania [Mr. SPECTER] has an amendment, but he is enroute. I understand that a distinguished member of the Budget Committee desires to speak on our side, in the meantime, and I yield to him.

How much time does the Senator desire?

Mr. BOSCHWITZ. Ten minutes.

Mr. DOMENICI. I yield 10 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. BOSCHWITZ. Mr. President, in the entire time that I have served in the Senate, I have been on the Budget Committee. During that period, there have only been a handful of instances when we have had the opportunity to have a dramatic impact on the deficit. This is not one of those times.

Unlike the Senator from Washington, who just spoke, I was not here at a time when there was anything other than a deficit. We have always had to fight them. A few times since I have been here, we have had the opportunity to dramatically reduce that deficit. The politics have to be right, and the politics are not right now.

The script for this year's budget was written last year at the budget summit, and it is clear that Congress is not going to stray from that script in an election year, and perhaps it should not.

I was not a big fan of the budget summit agreement. In it, we allowed the rate of spending to increase by about 5 percent this year, we kept many programs off the table, and we barely affected some of them.

We also relied too much on gimmicks like asset sales. Any businessman will tell you that when you have to sell off assets to pay current expenses, it is not a good sign. That is why the budget summit agreement is not going to be remembered as one of the great acts of political courage.

The budget summit followed the fall of the stock market on October 19. That was one of the occasions when I think the will of Congress might have jelled, if it had had strong leadership. The will of Congress might have been there to make meaningful reductions in the deficit, but we did not respond and missed that opportunity. That is why the budget summit agreement is not one of the more courageous acts the Chamber has witnessed.

Within the framework of an agreement that was flawed, this budget, however, did make some important achievements. We have held the spending caps set in the budget summit, proving that Congress can follow a 2-year budget plan. The fact that we have adopted a 2-year budget plan is also one of the achievements of the summit. While it was not an act of great political courage, it was certainly not an act without some achievement. The 2-year budget plan was perhaps the most important achievement.

We also have shown spending restraint in areas like defense, where outlays grew by only 3 percent next year, the fifth year in a row that defense spending has grown slower than the inflation rate.

In addition, this budget sets important priorities in areas like nutrition programs. As a member of the Subcommittee on Nutrition of the Agriculture Committee, I have worked hard over the years to improve and expand programs like WIC, Food Stamps, and the Child Care Food Program. I have also supported the Temporary Emergency Food Assistance Program [TEFAP], which has put surplus commodities to work in fighting the problem of hunger.

Our farm policy and TEFAP helped us reduce the Government stockpiles of butter, cheese and nonfat dry milk that used to fill the huge caves down by Kansas City, and I understood they were quite a sight to behold. I never saw them. Since the stockpiles are down, the Department of Agriculture has announced that some commodities are not going to be available for TEFAP this spring. And an estimated 15 million people have come to rely on this program and benefit from it.

We must respond to this need. I support this budget's increase of $500 million for nutrition programs. The problem of hunger in our country is real. This increase is only one part of a broad effort by the Federal Government to fight the problem of hunger. Through our nutrition programs, we help young mothers, children in schools and child care centers, the elderly, and the poor. As a member of the Nutrition Subcommittee, I will work to draft the new nutrition legislation, which will with this increase of $500 million strengthen existing programs and support TEFAP, upon which so many have come to rely.

RURAL DEVELOPMENT

I also want to say a few things about how this budget affects rural America. First of all, we do continue the course we set in the 1985 farm bill, by funding the farm by bill fully. That bill has been very successful in reducing agricultural debt, increasing our agricultural exports, lifting farm income, and returning a measure of prosperity to the farms of rural America.

But most rural Americans do not live on the farm. Eighty percent of those living in rural America, even in the most agricultural areas, do not live on the farm. So our policies must not affect only farmers but those who do not live on the farm as well.

Of course, a substantial number of that 80 percent who do not live on the farm rely upon the farm and the activities of the farm for their income. Many in rural America however, must look elsewhere.

Helping that part of the rural economy does not require some new system of giveaways for rural businesses or adding money to the current bureaucracy. It does not mean expensive Government programs to try to stand in the way of economic realities.

It means developing an approach to rural development that helps the rural economy adapt to changing economic conditions. The ideas that rural community is going to get a factory may not be realistic given the times we find ourselves in.

Rural development means supporting a broad-based approach that emphasizes things like education, job training, new product development, viable rural hospitals, good water and sewer as well as roads and the other parts of the infrastructure.

Mr. President, I am about to introduce legislation that will lay out a broad-based approach to rural development, one that is directed at all of rural America. Supporting a broad-based approach to rural development means targeted funding across the budget, not dumping a pot of money into one program. It includes support for rural education in function 500, support for rural infrastructure in function 450, and support for the extension service in function 350, just to name a few.

I have drafted an amendment that was to be offered to the budget.

In it, I transfer $500 million from other programs into a number of important rural development programs across the budget. This amendment might have passed, but as a member of the Budget Committee, and as I see the progress as now being made on the budget, I have decided to withdraw my amendment.

However, today I will introduce a bill that will provide a framework for an omnibus approach to rural development. It is my sincere desire that the Agriculture Committee and other committees will give rural areas the attention they deserve and need.

When we adopt this budget, it will mark the beginning—not the end—of our work on the budget. As we move beyond the blueprint of the budget summit agreement, we must begin working for broader and more comprehensive deficit reduction.

It's important to begin that work now, for the next opportunity to make a dramatic impact in the deficit may come early in the next Congress. I believe that will be a great opportunity to attack the deficit. With a new President, a new Congress, and the unfinished task of a growing deficit, we need to be prepared to act. It is my hope that we will leave the timid example of this budget summit agreement behind, and take bold action on the deficit. We must begin lifting the burden of debt from the backs of the next generation.

Mr. McCONNELL. Mr. President, I would like to take this opportunity to add my voice to the comments made by the distinguished Senator from Minnesota, Senator BOSCHWITZ. Though Senator BOSCHWITZ did not offer his amendment, I want to commend him for his leadership and vision for rural America. His proposal, which would redirect funds into rural development, though not offered, touches on some broad issues intertwined with the discussion of rural development legislation—it asserts the desperate importance of addressing rural development, and argues that any solution must be broad based.

In Kentucky, few people need to be convinced of the importance of rural development. We confront serious and fundamental obstacles to economic growth as a matter of routine, and the need for reform and new direction in our Federal rural development efforts is urgent in my State. There have been literally dozens of hearings by several committees in the recent past on the issue of rural development. Governors, local officials, development organizations, academics, and farmers before these committees have all reinforced what we know to be the grave truth in Kentucky—despite the fact that America's economy continues to experience unprecedented growth, not all of America has participated in the boom. Rural economies, largely relying on agriculture, mining, and manufacturing, have lagged behind urban and suburban areas. The Boschwitz amendment makes a very clear statement—rural development should be a high priority issue for this Congress. I can only vigorously reemphasize this most important statement.

Further, this proposal recognizes that any serious rural development effort will, of necessity, be a broad-based reform measure. We may all have different ideas of exactly how best to affect economic growth in rural areas, but we must realize that any legitimate rural development effort must take into account the complex nature of the problems in rural America.

If I may, I would like to borrow an idea from Dr. Glen Pulver of the University of Wisconsin-Madison, as articulated in a publication put out by the Council of State Governments' Center for Agriculture and Rural Development. He argues that rural America must address five issues of access if they are to successfully spur economic growth—access to knowledge, access to capital, access to telecommunications, access to transportation, and access to a high-quality living environment. I would note that none of these may stand alone—an educated work force is the sine qua non of rural development, but without essential infrastructure and quality of life basics, economic growth is next to impossible. Transportation and telecommunications without capital only go part of the way to solving the economic development equation for rural America. Again, rural development must be broad based and integrated if it is to be meaningful and seriously address the complex web of problems facing our rural areas. I think the Boschwitz amendment makes this point clearly.

Several of us here in the Senate have proposed legislation which will affect rural areas. No doubt there will be a great deal of discussion about the mix of reforms and program changes necessary to achieve our goal. Regardless, I want to assert that rural development must be dealt with, and any proposed solution must be an omnibus approach. I commend the distinguished Senator from Minnesota on his leadership with this matter, and as ranking minority on the Agriculture Subcommittee on Rural Development and Rural Electrification, I look forward to working with him on the issue of rural development.

I thank the Chair.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). Who seeks recognition?

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1938

(Purpose: To provide funds for the construction of additional prison space and to provide additional funds for the Bureau of Alcohol, Tobacco and Firearms.)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) for himself, Mr. DOLE, Mr. DECONCINI, Mr. D'AMATO, Mr. WILSON, and Mr. KERRY proposes an amendment numbered 1938.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, increase the amount on line 8 by $100,000,000.

On page 24, increase the amount on line 9 by $100,000,000.

On page 25, increase the amount on line 12 by $25,000,000.

On page 25, increase the amount on line 13 by $25,000,000.

On page 27, decrease the amount on line 17 by $125,000,000.

On page 27, decrease the amount on line 18 by $125,000,000.

Mr. SPECTER. Mr. President, this amendment seeks to transfer $125 million from function 920, which includes travel allowances, with $100 million being added to function 750, the administration of justice for prison construction, and $25 million to be added to function 800, which is directed toward the Treasury Department agency which administers the Armed Career Criminal Act.

Mr. President, the thrust of this amendment is to lend impetus to the war on drugs in two critical respects. First of all, to increase the manpower available for enforcement of the armed career criminal bill which is a very effective tool against drug sellers; and, second, to provide for the construction of additional jails by the allocation of $100 million to incarcerate these career criminals.

Mr. President, originally, I had intended to seek this $125 million from allocations on foreign aid to seven countries which have failed totally on their responsibilities to stop the growth of drugs and the transit of drugs. But after some consideration as to the difficulties which would be posed by the transfer of moneys from foreign aid, I have decided instead to transfer the money from the travel allowances, because that allocation has a substantial excess and $125 million can be taken from the travel allowance section without any undue difficulty.

The documentation of the excessive funding in travel allowances appears from the Congressional Budget Office which reports that the executive branch currently spends for nondefense agencies, excluding the Postal Service, approximately $1.8 billion a year on employee travel. These travel expenses, which averaged last year $1,475 per civilian employee, have increased substantially faster than inflation. By the end of 1988, the average annual cost per employee will have increased by an estimated 62 percent over the 1982 level, while prices during the same period on an inflationary basis will have increased about 27 percent.

Quoting further from the Congressional Budget Office report:

> An across-the-board reduction in 1989 would prompt agencies to pursue cost-saving practices more aggressively. Such practices include better monitoring of costs, eliminating low-priority travel, and making greater use of innovative procurement methods like negotiated discounts for high-volume travel.

There is no question Mr. President, but on the face of this record there will be no difficulty at all in allocating $125 million to this much more important function.

As I said, I had originally anticipated proposing an amendment which would have taken these funds from seven countries which have failed on their responsibilities, at least as defined under U.S. law, to stop the growth, and flow into the United States, of drugs.

Mr. President, I ask unanimous consent that at the conclusion of these remarks the full text of my statement be printed in the RECORD, which was directed to the issue of the seven countries on the reallocation of funds. I ask that it be printed in the RECORD because this is an issue that I intend to return to at a later time.

The PRESIDING OFFICER. Is there objection to it being placed in the RECORD at the end of the oral remarks of the Senator from Pennsylvania?

Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. The seven countries which are specified in the course of this statement, Mr. President, are the Bahamas, Bolivia, Burma, Colombia, Ecuador, Mexico, and Peru, countries which receive $227 million a year. It had been my intention, as I said, to have asked for $125 million from that source, but I am not going to pursue that. But in placing this detailed statement in the RECORD and in elaborating upon the reasons why the foreign aid allocations to these countries ought to be cut, I seek, Mr. President, to set the foundation for renewing this effort at a later date.

We have in the current budget arrangement, by virtue of agreements reached at the summit, an agreement not to make modifications as to the foreign aid allocations. For that reason, I have not included that in an amendment this year.

But later this week, as I understand the scheduling, the Senate will consider a resolution to overrule the President's certification as to Mexico which will place before this body the issue as to whether Mexico has made appropriate efforts in accordance with United States law to stop the flow of drugs so as not to forfeit the foreign aid which is being given to Mexico under the President's certification.

The debate, Mr. President, will place before this body a very important issue, and it is the thinking of this Senator that we are allocating a tremendous sum of money in foreign aid, some $1.3 billion to some 17 countries. A factual analysis of what is happening shows that many drugs are being produced in those countries, many of those countries are the focus for the transit of drugs to the United States.

Under U.S. law, if those countries do not make an adequate effort to stop the flow of drugs, our foreign aid should be cut off.

If the President certifies that the countries have made an appropriate effort, then the foreign aid can be given. Or if the President makes a certification that it is in the vital interests of the United States to provide the foreign aid, notwithstanding the growth and flow of drugs, then the funds may be allocated.

Unless there is a very significant improvement in these countries, Mr. President, I think the Congress of the United States ought to act to stop this foreign aid. Hopefully, the executive branch will do it in advance.

These are issues which have been raised by many Senators, including this Senator, in hearings before the Foreign Operations Subcommittee of the Appropriations Committee in 1985.

I questioned Secretary of State Shultz at length on this subject, again in hearings before the Foreign Operations Subcommittee I questioned Treasury Secretary Baker on this subject.

Notwithstanding the very forceful evidence that these countries, recipients of foreign aid, have not complied with the standard of our law, the executive branch persists in continuing this allocation, really, for foreign policy reasons. In the course of the last several days, Mr. President, there has been an extensive series of articles in the New York Times which discusses in great detail this very serious problem, with great documentation, and comes to the basic conclusion that these allocations of foreign aid continue to be made because of U.S. foreign policy interests.

So often we find that foreign policy interests prevail over other very significant interests. I believe, Mr. President, that it is vital that there be substantial action taken by the 17 nations, certainly the 7 which I have enumerated, if provision of U.S. foreign aid should be continued to those countries.

But for reasons I have already specified, that particular issue is not being pursued today but may well be pursued by this Senator at a later time.

Mr. President, I have already specified the reasons why it is no strain to take $125 million from travel allowances. I would not like to specify the reasons why it would be enormously helpful, in the war against drugs, to allocate this additional funding for action against career criminals, both by way of supplementing the Treasury Department unit which acts against career criminals and by increasing the number of jail cells in this country.

Mr. President, in 1984 the Congress passed legislation making it a Federal offense, striking at street crime for the first time, by providing that anyone caught with a firearm who had three or more prior convictions for robbery or burglary would be subject to Federal prosecution and a mandatory minimum sentence of 15 years to life.

In 1986 that Federal statute was amended to include serious drug offenses.

It has been enormously effective, Mr. President, in the course of the past 4 years generally and in the course of the past 2 years specifically, in enabling the Bureau of Alcohol, Tobacco and Firearms to move against these career criminals.

When you look at the statistics, Mr. President, as to what crimes a career criminal commits, they are really absolutely staggering. The Rand Corp. study for the National Institute of Justice in 1982 concluded that, based on their studies including interviews of career criminals in Michigan, California, and Texas, on the average a career criminal would commit 187 burglaries, 58 robberies, 14 assaults, 291 actions of larceny, 76 auto thefts and 84 incidents of passing of bad checks and credit card fraud combined, for a total number of crimes of 710 offenses in 1 year, which is more than 2 a day.

The statistics released by the Bureau of Alcohol, Tobacco and Firearms disclose that, based on the effect of career criminal enforcement by the Bureau's Repeat Offender Program, an additional $25 million, Mr. President, would prevent a tremendous number of additional offenses. Their projections are that $25 million, added to this unit, would prevent 8,625 armed robberies, 9,000 burglaries, and 118,750 other serious crimes. While statistics are not available as to what the effect would be as to drug sales, it is a reasonable approximation to conclude that at a minimum 20,000 drug sales would be stopped by this additional funding for the armed career criminal bill.

Mr. President, there is no question but that an approximate allocation of funding directed at career criminals could reduce violent crime in this country by some 50 percent. An exhaustive study was made of this subject by the National Commission on Criminal Justice Standards and Goals in 1972. Over the course of the 98th, 99th, and 100th Congresses, Mr. President, I have offered legislation which would allocate 1 percent of the Federal budget, or $10 billion a year, directed at violent crime in this country which is realistically calculated at reducing violent crime by 50 percent.

Of course, with this allocation we cannot make that kind of a stride. But based on the statistics provided by the Treasury Department, it is apparent that there would be an enormous impact against violent crime and an enormous impact against drug sales.

Mr. President, in prior years I have offered a variety of amendments to the budget resolution and other legislation, seeking to increase funding for prisons and each year the result has been the same. Those amendments have been rejected because of the problems of the deficit and the other items of priority. This year I am hopeful there will be a different result with this proposal being directed against the drug problem which is of such tremendous importance day in and day out.

Mr. President, at the present time our prisons are vastly overcrowded. Judges do not sentence defendants who are convicted to jail because there are not enough jail cells available to hold the prisoners who otherwise would be incarcerated. Those who are in jail are released earlier, under parole, than they would be had the parole boards had the authority, and had sufficient space, to keep those prisoners in custody.

During my tenure as chairman of the Appropriations Subcommittee on the District of Columbia, extensive hearings were held on this subject as a preliminary for funding for the District of Columbia jail, which finally passed the Congress and was signed into law by the President for an allocation of some $30 million for a jail in the District of Columbia. During the course of those hearings specified in the written statement which is made a part of the RECORD it was disclosed that the parole officials released criminals, convicts, from jail on parole where they would have preferred not to have done so had there been sufficient jail space.

Judges did not sentence convicts to jail, where they thought that should have been done, because of insufficient jail space. In my own experience as district attorney of Philadelphia, from 1966 to 1974, I personally saw this happen again and again and again; that the absence of jail space led judges not to sentence where sentences ought to have been imposed. The statistics are replete in this country, Mr. President, where men and women who are dangerous criminals are being let out of jail early on parole because there is insufficient space.

Mr. President, what really ought to be done in this country is to have the construction of a minimum of 200,000 additional jail cells to hold the 200,000 to 400,000 career criminals who are at large in this country committing crime after crime, including the sale of drugs.

This amendment is a modest start in that direction. This amendment, which would provide for an additional $100 million in funding would permit the construction of urgently needed additional jail cells.

On the issue of the use of these jail cells, appropriate legislation is being crafted for authorization and, of course, for the appropriations process. I would like to see these new jail cells be made available to State justice departments for the incarceration of drug sellers who are convicted under State habitual offender statutes.

Most States in the United States now have laws which provide that, where an individual is a habitual offender, defined as someone who has committed three or even four serious felonies, that that individual is subject to a life sentence. There has to be a special proceeding under these habitual offender statutes.

As in the case of many other kinds of offenses, there are not as many efforts made to utilize the habitual offender statutes as would be made were there sufficient jail facilities available to hold these habitual offenders.

It is most appropriate to utilize Federal funding on the drug issue which is essentially a Federal responsibility because the drugs come in from out of the country. It is our inability to interdict which allows drugs to come into the United States. It is our inability to apply appropriate pressure on the growth in the 17 countries heretofore referred to. These drugs travel in interstate commerce. There are Federal statutes against drugs. It is clearly a Federal problem and a Federal responsibility. But the States, similarly, have authority, and each of the 50 States has laws which prohibit the sale of drugs.

If jail space were available for States, they would be encouraged to sentence drug sellers and other habitual offenders under the habitual offender statutes leading to a life sentence which would be enormously important and enormously effective for law enforcement.

Mr. President, this is a very brief summary of the reasons why this amendment is being offered at this time. I realize that it will be necessary for the appropriators to move ahead and to utilize these funds in the way which is intended behind this amendment. On the Appropriations Committee, I intend to pursue this issue with the appropriate subcommittees.

Last year, the subcommittee having jurisdiction over Treasury allocated an additional $10 million to enforce the armed career criminal bill. In the budget proposal submitted by the Treasury Department this year, that money was stricken. In questioning Treasury Secretary Baker last month, the statement was made by Secretary Baker that he did not intend to again request that additional $10 million because of other priorities.

If the Senate today approves this amendment and allocates these additional $25 million, it will be very persuasive in the appropriations process to have this money directed toward these career criminals. If the Senate today moves ahead with the statement that the priority of $100 million ought to be allocated for prision construction, and if it survives in the budget resolution enacted by both Houses, that is a forceful statement which can be supplemented at a later time by the appropriate authorization and appropriations bills.

But this is a limited amount of money targeted to two areas where it has been demonstrated that there can be a great deal of effectiveness against violent crime and against drug sales which would inure to the benefit of this country.

With the experience of these additional jail cells and the experience of this additional funding directed at armed career criminals, we would set the stage for additional appropriations which would really go far to meeting the serious problem of drug sales and violent crime in this country.

EXHIBIT 1

STATEMENT OF SENATOR ARLEN SPECTER

Mr. President, today I am offering an amendment to the Budget Resolution which addresses two major problems confronting this Nation—the illegal production and transportation of drugs by countries receiving United States foreign aid, and domestic drug law enforcement, including prison overcrowding.

This week, the New York Times has been detailing in front page articles, the nature of our drug problem and the role of foreign drug producing nations. The thesis of the article on Sunday, April 10 was clear: That the goal of limiting these countries' drug production has been for many Administration officials, a lower priority than other foreign policy goals. A New York Times/CBS News Poll on the same date revealed, however, that the priorities of the American people are very different. Forty-eight percent of those surveyed indicated that drug trafficking was "the most important international problem" compared to Central America (22%), arms control (13%), terrorism (9%) and Palestinian unrest (4%). Similarily, 50 percent of those individuals surveyed believed that the United States Government should concentrate more on reducing the supply of illegal drugs coming into this country, compared to 35 percent in support of more government concentration on stopping illegal drug use. In balancing priorities, many government officials and Members of Congress have argued that the United States should continue to provide full foreign aid funding to major illegal narcotics producing and transit countries. Clearly, the American people believe the government's top international priority is the fight against drug trafficking. It is now time to send a clear and strong message to these countries that the United States and the American taxpayer will no longer provide foreign aid to them unless illegal narcotics production and trafficking is halted.

Mr. President, my amendment would make a significant step toward this by transferring $125 million from Function 150, International Affairs, to provide $100 million for Function 750, administration of Justice and $25 million Function 800, General Government. The purpose of this amendment is to reprogram half of the amount of foreign aid designated for egregious major drug producing and transit countries to the Bureau of Prisons for the construction of new correctional facilities and to the Federal Bureau of Alcohol, Tobacco, and Firearms for its Repeat Offender Program.

While law enforcement efforts recently have been significantly increased to combat the problem of drugs in our schools and on our streets, much more needs to be done attacking the international supply side of this menace. Recent reports, for example, indicate that the amount of cocaine entering the United States significantly increased from 1,872 kilograms in fiscal year 1981 to 35,970 kilograms in fiscal year 1987. Pursuant to the Foreign Assistance Act of 1961, as amended, the President determines each year whether an illegal drug producing or drug transit country is eligible for "certification" to receive United States foreign aid. Under the amendment I am offering today, the foreign assistance monies designated for seven major drug producing or transit countries would be reprogrammed to fund the construction of new prisons in the United States and enhance domestic drug law enforcement efforts. The total amount to be transferred—$125 million—is approximately half of the amount expected to be provided to seven of the worst offenders among the major drug producing or transit countries which the President certified to receive assistance in Fiscal Year 1989: The Bahamas, Bolivia, Burma, Colombia, Ecuador, and Mexico and Peru. These foreign assistance funds, currently designated for major drug producing countries, can be utilized much more effectively at home in the war on drugs. They can be used practically and effectively to address two of the most serious domestic criminal justice problems: prison overcrowding and violent crimes and drug crimes committed by career criminals.

Mr. President, the amount of funding to be transferred under the amendment I offer today represents one half of the foreign aid—that amount which would automatically be suspended under the Foreign Assistance Act—designated to seven of the worst drug producing or transit countries certified by the President to receive such aid. The following list based on the State Department's March 1987 International Narcotics Control Strategy Report indicates the extent of the problem posed by these seven countries.

The Bahamas—narcotics-related corruption continues to be a problem; the government has not dealt effectively or in a comprehensive manner with systemic corruption, which continues to make The Bahamas attractive to drug traffickers.

Bolivia—40,300 hectares of coca were cultivated in 1987; more than 80 percent of the coca is destined for illicit cocaine production.

Burma—continues to be the largest producer of illicit opium in the world; approximately 91,000 hectares of opium were cultivated in 1987; 32.6 metric tons of heroin were produced in 1987.

Colombia—currently has approximately 25,000 hectares of coca cultivation, an increase from 17,000 hectares in 1983; 13,000 hectares of cannabis were cultivated in 1987.

Ecuador—a transit county for cocaine enroute from producers in Colombia and Peru to drug dealers and users in North America and Europe; 13,000 hectares of cannabis were cultivated in 1987.

Mexico—9,000 hectares of cannabis were cultivated in 1987; 8,000 hectares of opium were cultivated in 1987; the Customs Service indicates that the single most important factor which undermines effective cooperation in narcotics control between the United States and Mexico is the level of official corruption.

Peru—approximately 114,000 hectares of coca were cultivated in 1987; coca leaf is grown both legally and illegally in Peru, with illicit cultivation accounting for at least 90 percent of leaf production.

These seven countries received United States foreign aid in the total approximate amount of $227 million in Fiscal Years 1987, 1988, and 1989. The intent of the pending amendment is to transfer one half of this amount for domestic law enforcement and prison construction to better utilize these monies in the fight against international drug trafficking.

The amount of foreign aid provided by the United States to major narcotics producing or transit countries is staggering. In Fiscal Year 1987, for example, the total amount of foreign assistance obligated to the seventeen drug countries certified by the President is more than $1.3 billion.

Even a fraction of these funds would go a long way toward construction of new prison facilities in the United States. For $100 million per year over five years, the Federal Bureau of Prisons would be able to construct 10 new facilities to house 16,000 drug offenders and career criminals. At present Federal, state and local prison systems currently are operating dangerously above capacity.

Mr. President, the present law regarding cutting off foreign aid to drug producing countries simply has not worked. The State Department first determines whether a country is "an illicit drug producing country" based on the amount of illicit drugs it produces or transports or whether it is involved in laundering drug money. This determination is published in the Department of State's Annual International Narcotics Control Strategy Report. When a country is designated by the President as a major illicit drug producing or drug transit country, the President is required to withhold 50 percent of the foreign aid designated for that country at the beginning of the fiscal year and 100 percent of U.S. foreign aid for subsequent fiscal years. The President nevertheless may certify that the country is eligible to receive U.S. foreign assistance on either of two grounds: (1) that the country has "cooperated fully" with the United States, or taken adequate steps on its own, "to control narcotics production, trafficking and money laundering"; or (2) that provision of foreign aid "is in the vital national interests of the United States."

The President's certification restores aid to the designated illicit drug producing or trafficking country, and exempts it from certain trade sanctions and from provisions requiring the United States to oppose multilateral development bank loans to that country. During the decision-making process, the President is required by the Foreign Assistance Act to "give foremost consideration to whether the action of the government has resulted in maximum reduction in illicit drug production which were determined to be achievable." Presidential certifications of specific countries can be rejected by a joint resolution of Congress.

Mr. President, on February 29, 1988, the President issued Presidential Determination No. 88-10 on Certifications for Narcotics Source and Transit Countries pursuant to the Foreign Assistance Act of 1961 as amended. The President determined and certified that 17 drug producing countries had "cooperated fully with the United States, or taken adequate steps on their own, to control narcotics production, trafficking and money laundering." These countries are: The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, and Thailand.

The President also determined "that it is in the vital national interests of the United States to certify" three countries: Laos, Lebanon, and Paraguay. At that time, the President also determined that four major producing and/or major transit countries do not meet the certification standards: Afghanistan, Iran, Panama, and Syria. Other than Panama, however, none of those countries was receiving foreign aid.

The net result of this elaborate process is that, until the decertification of Panama, not one drug producing nation received a significant cut in its foreign assistance. The situation in Colombia demonstrates the toothlessness of the statute. The Colombian government is under a state of siege from a drug cartel, with government officials threatened by assassins who are paid in drug money. Far from having "cooperated fully" with our efforts or taken "adequate steps on its own," the Colombian government has been wholly unable to act effectively due to the pervasive influence of the drug traffickers. Yet the foreign assistance continues to flow.

Mexico, while it has in the past cooperated with United States efforts to slow the flow of drugs across our shared border, continues to be both a major narcotics producer and a transit point. Mexico now may be the main supply for both marijuana and heroin in our country, and it is a transit country for approximately one-third of the cocaine that crosses our borders. Widespread corruption within the Mexican government, especially at the local level, has hampered law enforcement efforts by Mexican and United States authorities. Despite these developments, however, Mexico has been certified as a nation which has "cooperated fully" with U.S. anti-narcotics actions. The reason for Mexico's certification appears to have more to do with our complex, close relationship with that country than with any significant effort on its part to stem the production and flow of illegal narcotics.

The joint United States-Bolivian "Operation Blast Furnace," implemented in the latter half of 1986, put no fewer than 21 cocaine-processing labs out of commission and made it less economically advantageous to grow raw coca. Unfortunately, one year later, the Bolivian drug trade has returned to its previous levels of production.

In cities throughout the country, law enforcement officials with inadequate resources are battling to control the spread of drugs and drug-related violence. Lured by the promise of enormous profits, gangs and urban youths have eagerly capitalized upon the availability and addictive nature of cocaine and crack by building extensive drug trafficking organizations. These heavily armed gangs have developed direct connections with foreign drug sources, insuring a continuous supply of high quality drugs into United States cities.

The Jamaican posses, perhaps the most feared drug gangs, were directly responsible for over 350 deaths last year and a total of 800 drug-related homicides in the last 24 months. Current estimates indicated that 30 to 40 posses with 5,000 members are operating in the United States. These tightly organized gangs, with a penchant for violence and torture, have established themselves in small cities as well as major urban areas. The small town of Martinsburg, West Virginia, with its 28 member police force, has served as a base for 50 Jamaican drug dealers. In Philadelphia, according to the Law Enforcement Coordinating Council for the middle district of Pennsylvania, the number of deaths linked to Jamaican drug posses has quadrupled in a single year.

The BATF's Repeat Offender Program, using the Federal Armed Career Criminal Act which I authored, has been targeting and apprehending these most violent, vicious organized criminal groups to emerge in the United States since Prohibition. Despite the phenomenal success of BATF's funding, the Administration has proposed to *reduce* its funding. In a March 22 letter to Treasury Secretary Baker, I pressed the issue of continued funding for BATF's Repeat Offender Program to combat the Jamaican Posse. The Treasury Department responded on March 29 with the following information which illustrates the extent of the drug gang activity:

The Bureau of Alcohol, Tobacco and Firearms continues to focus on dangerous and special offenders and organizations which include habitually active and violent criminals. These offenders include such groups as the Jamaican "posses" whose propensity for violence is documented in their homicides. In 1987, the majority of the 131 criminal cases that ATF prepared against 267 posse members alleged violations of the Comprehensive Crime Control Act. During the arrest of those subjects ATF seized 518 firearms.

ATF will continue to solicit additional support of Federal, State and local law enforcement authorities to participate in the task force approach, under the auspices of the Organized Crime Drug Enforcement Task Force (OCDETF) Program to combat the problem of Jamaican Organized Crime Task Forces nationwide.

Mr. President, the extent of the Jamaican Posse's drug-related crime indicates the pressing need for allocation of additional resources, not fewer, to BATF's Repeat Offender Program. The Armed Career Criminal Act (18 U.S.C. 1801) which I authored and the President signed into law in 1984, provided a mandatory minimum 15 year sentence for an individual with three prior convictions for robbery or burglary who subsequently is convicted of possession of a firearm. In 1986, I introduced legislation to amend the Armed Career Criminal Act, which was incorporated in the Anti-Drug Act of 1986 and signed into law. This amendment expanded the predicate offenses of the Act to include serious drug offenses and violent felonies. The Bureau of Alcohol, Tobacco, and Firearms (BATF) has made, and continues to make, impressive progress in implementing the Armed Career Criminal Act through its Repeat Offender Program. 50.78 percent of BATF defendants in 1986 had prior felony convictions and 62 percent had previous narcotics involvement. BATF's very effective program has resulted in 2,486 repeat offender suspects being charged with Federal firearms law violations during Fiscal Year 1987 and the first quarter of 1988. The overall conviction rate in those cases adjudicated in Fiscal Year 1987 was an astonishing 96.3 percent.

The Bureau of Alcohol, Tobacco and Firearms is utilizing the task force concept in cities throughout the United States to combat the armed career criminal problem. BATF also has initiated "Project Achilles," which is designed to identify, investigate, and prosecute armed career criminals who qualify for the mandatory sentencing provision of the Armed Career Criminal Act and enhanced sentencing provisions of other firearms statues.

BATF Director Higgins reported on February 26, 1988, that through the Repeat Offender Program 301 defendants were convicted under the Armed Career Criminal Act in FY 1987 and 78 in the first quarter of FY 1988. Director Higgins reported on October 16, 1987, that "[s]ince April 1, 1986, the task force and Project Achilles efforts have resulted in convictions with enhanced sentencing for 72 armed career criminals. These criminals have been removed from our society for periods of 15 to 30 years. One defendant was given a life term. The total number of prison years, excluding the life sentence is 1,206 years. The average sentence thus far has been 16 years."

Mr. President, during Fiscal Year 1986, the year immediately prior to amendment of the Armed Career Criminal Act to include as predicate offenses, violent felonies and serious drug offenses, BATF recommended 172 defendants for prosecution under the Act, 13 of which received sentences. After enactment of the amendment, BATF has recommended 932 defendants for prosecution under the Act, 128 have been sentenced as of April 1, 1988. In most cases, defendants who were not convicted under the Armed Career Criminal Act pled guilty to significantly lesser charges, in order to avoid the Act and mandatory minimum sentencing provisions.

The Appropriations Committee, of which I am a member, recognized in 1987 the significant impact that apprehension of repeat offenders and career criminals could have on the number of crimes committed. 100 armed career criminals may have committed 490 armed robberies, 720 burglaries, and 4,000 other serious crimes; the Committee noted that recent studies show that 200 career criminals would commit 179,000 criminal offenses in a 5-year period. In addition, the typical narcotics addict commits a crime on an average of 248 days out of each year.

As a member of the Committee on Appropriations, I have worked to bolster the government's ability to fight drug trafficking and violent crime. During the Fiscal Year 1988 Appropriations process, I requested and the Committee approved, an additional $10 million for BATF's Repeat Offender Program, which would provide for 200 new personnel. (120 special agents, 60 inspectors, and 20 support staff.)

In Fiscal Year 1988 the Bureau of Alcohol, Tobacco and Firearms received $217.5 million which supported 3,451 full time equivalent personnel. The additional $10 million appropriated last year approximately doubled the staffing of BATF's Repeat Offender Program from 119 to 319 full time equivalents. Unfortunately, however, the Administration's Fiscal Year 1989 budget request includes $218.5 million for BATF which will support only 3,235 full time equivalents. This reduction in force regrettably is disproportionately targeted for the Repeat Offender Program reducing the number of full time equivalents to 119. It is imperative that the Treasury Department at least maintain, and consider increasing, the current staffing level of the very effective Repeat Offender Program.

On March 1, 1988, I questioned Treasury Secretary Baker during a hearing before the Appropriations Committee regarding the need to continue full funding for BATF's Repeat Offender Program. In a March 22 letter to Secretary Baker, I expanded on my inquiry, requesting his views on expansion of the program, the Department's intentions regarding funding, and the program's ability to utilize additional resources. The Department's responses of March 29, 1988, acknowledged the Administration's support for the program, but also the decision not to seek additional resources.

Even in light of this growing success of the Repeat Offender Program, the administration proposes to reduce its staff level by 200 in Fiscal Year 1989. During the March 1 appropriations Committee hearing I stressed to Treasury Secretary Baker that these important positions should be retained because of the effectiveness of this program. Secretary Baker responded: "We share the general philosophy that is behind your proposal and your suggestion. It is a matter of funds." Under the amendment I offer today this amount and additional resources would be available for the Repeat Offender Program.

Most recently, during a hearing before the Subcommittee on Foreign Operations on March 30, 1988, I again questioned Secretary Baker regarding the Department's commitment to continuing adequate funding for the Repeat Offender Program. During that hearing, we also explored the possibility of reprogramming foreign assistance funds to domestic law enforcement efforts. Under the amendment I offer today, BATF's Repeat Offender Program could receive its needed funding from reprogrammed foreign aid now designated to major drug producing or transit countries.

The Bureau of Alcohol, Tobacco and Firearms indicated that with $10 million it could hire 120 new special agents, 60 inspectors and 20 support personnel for its Repeat Offender Program, which in turn would help prevent 3,450 armed robberies, 3,600 burglaries, and 47,500 serious crimes during a 5-year period.

Mr. President, the amendment I offer today also could help solve the nation's prison overcrowding problem, which has been exacerbated by the explosion of drug-related crime. As a former district attorney, co-chairman of the Congressional Crime Caucus, and a member of the Senate Judiciary Committee, I have toured prisons and local jails throughout Pennsylvania. These facilities, representative of correctional facilities nationwide, are seriously understaffed, underequipped, underfunded, and overcrowded. Having met with federal, state, and local officials, county commissioners, and wardens, I personally can attest to the pressing need for additional assistance to relieve prison overcrowding.

One of the most alarming results of the prison overcrowding crisis is an apparent reluctance to incarcerate dangerous criminals. A 1987 National Institute of Justice study by Dr. Edwin W. Zedlewski compares the cost to incarcerate prison-eligible offenders with the cost for new prison construction. Dr. Zedlewski, an economist with the Institute, indicated that there is a reluctance to incarcerate offenders due to prison overcrowding. The study concludes that "communities are paying far more by releasing repeat offenders than by expanding prison capacity." The Director of the Institute, James K. Stewart, also emphasized the inherent danger of this finding, and stated: "Given today's fiscal pressures and soaring construction costs, policymakers face difficult choices. They must either build more prisons or let most convicted offenders go back to our communities."

Mr. President, this problem also was discussed during a District of Columbia Appropriations Subcommittee hearing which I chaired on March 7, 1984. In response to my question regarding whether prison overcrowding was responsible for inappropriate parole release of prisoners, Joseph diGenova, then United States Attorney for the District of Columbia answered affirmatively, and characterized the District's policy as a "premature release" policy. During hearings I conducted on revocation of probation, Judge Ugast told me "there is no place to put people in jail." Similarly, Judge Moultrie told me that judges are not sentencing defendants to prison because there is insufficient space. (Senate Appropriations Subcommittee on the District of Columbia hearing of January 2, 1985, at 11.)

As of June 30, 1987, the number of prisoners in the Federal and State correctional systems has climbed to a record total of 570,519. According to the Justice Department during the period from 1980 to 1986, the prison population increased approximately 66 percent.

In the Commonwealth of Pennsylvania, for example, the overcrowding situation is especially acute. The Bureau of Prisons reports that as of April 6, 1988, Federal prisons in Lewisburg, Allenwood, and Loretto are 48, 58 and 109 percent over capacity, respectively.

Mr. President, the nationwide prison overcrowding crisis is due, in large part, to the staggering number of drug offenders being sent to federal prisons. The Bureau of Prisons reported that during Fiscal Year 1987 admissions for drug offenders totaled 13,700—an increase from 7,066 in FY 1986. The Government's intensified crackdown on drug trafficking has increased significantly the number of drug convictions. The accordant burden on the Federal corrections system will continue. The need for additional prison space will be even greater if, as I have proposed, the Federal prisons also be made available for housing prisoners convicted and sentenced to life imprisonment under State habitual offender statutes. This would provide states an incentive to make aggressive use of those statutes, which currently are underutilized because of overcrowding of State correctional facilities.

Significant additional resources are desperately needed to alleviate the prison overcrowding crisis. General Accounting Office (GAO) officials testified before a Senate subcommittee in 1987 that the average cost per bed for a new minimum/medium security facility is approximately $66,000, and the operating cost of the Federal Prison System is an average of $13,100 per inmate. The GAO determined that the Federal Prison System within 10 years "would need space for 57,000 to 83,500 additional prisoners at a cost of about $3.8 to $5.5 billion to totally eliminate overcrowding." Although the federal deficit is intolerable, an ambitious prison expansion program must commence now if we are to avoid an even graver crisis in the near future.

Mr. President, I have long been concerned about the flow of drugs from, and provisions of foreign aid to, major narcotics producing countries. In 1985, for example, I questioned Secretary of State Shultz on this issue during a hearing before the Foreign Operations Subcommittee, of which I am a member.

Regarding nations which have increased their narcotics production, I posed this question to Secretary Shultz: "Why don't we simply stop foreign aid to those countries?" The Secretary of State responded: "If you simply disengage from all those countries the question is, would that have the effect of more or less drug production in these countries? If you are dealing with governments that you feel, all things considered, are working constructively with you, then I think you have something going for you, and you shouldn't throw it away."

Mr. President, I submit that the international flow of drugs poses such a great threat to this country that those countries which receive United States foreign assistance should be required to decrease and eliminate illegal narcotics production, no matter how helpful those countries may be on other issues.

During the 1985 subcommittee hearing, the Secretary of State acknowledged "The importance of working at the problem of stopping production and processing and movement of drugs," though stated that "the fundamental problem is the use of drugs and the demand of drugs here, and we must concentrate on that heavily as the primary source of the problem." I noted that we not only have to concentrate on the use of drugs, but also on the supply. While we continue to address the demand side of drugs here at home, we nevertheless must increase our efforts to stem the supply of drugs from foreign countries.

During the hearing, I suggested getting tough about the drug problem and cutting off foreign aid to two countries—Colombia and Burma—to see what the response is. During the three years since, the United States has continued to provide foreign aid to these countries, and in Colombia we have witnessed the increasing power of the drug cartels and the decreasing power of the government to address this problem. Most recently, I also pursued the issue of cutting off foreign aid to drug producing countries with Treasury Secretary Baker during the Foreign Operations Subcommittee hearing on March 30, 1988. At that time, I questioned Treasury Secretary Baker on the desirability of reallocating some of the foreign assistance monies provided to major drug producing countries for domestic drug enforcement. The Secretary responded that he did "not think that would be the right thing to do . . . because we have consistently paired back our commitment in the foreign area to, in times of severe budget constraints, fund some domestic programs to a greater extent" and provided examples of increased staffing in certain law enforcement programs. The Secretary, however, stated "that some of the funding that goes to a country like Colombia can be helpful to us in the war on drugs. And I think some of it probably has been helpful."

Secretary Baker acknowledged the problem of, and shared my concern for, foreign drug production. The Secretary indicated "it is a matter of balancing priorities and balancing interests."

Mr. President, I believe that stemming the flow of illegal drugs into the United States must be one of this country's top priorities. The first step is to cut off foreign assistance to the major illegal narcotics producing and transit countries.

I urge my colleagues to support this new initiative in our continuing struggle against major drug producing countries.[1]

Mr. SPECTER. Mr. President, I ask that the amendment be printed in the RECORD and that a number of relevant pieces of correspondence be printed in the RECORD.

The material follows:

On page 7, line 6, strike "$16,600,000,000" and insert "$16,475,000,000".

On page 24, line 8, strike "$8,900,000,000" and insert "$9,000,000,000".

On page 25, line 12, strike "$9,500,000,000" and insert "$9,525,000,000".

DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, DC, October 16, 1987.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The purpose of this letter is to provide you with updated information regarding the accomplishments of the Bureau of Alcohol, Tobacco and Firearms (ATF) in support of the provisions of the Armed Career Criminal Act of 1984 and the 1986 amendments to the Gun Control Act of 1968.

As you are aware, ATF is utilizing the task force concept in cities throughout the United States to combat the armed career criminal problem. The task forces coordinate Federal, State, and local law enforcement efforts against the armed career criminal. This approach has enabled the utilization of resources from numerous agencies at a minimal cost to the Government to remove the armed career criminal from the street. These task forces were started in 1985 in four cities. Since then, staffing and budget increases have enabled us to increase the number of task force cities to seven. We recently requested additional positions to further enhance the enforcement of this program.

In addition to our task forces, ATF has initiated Project Achilles on a nationwide basis. Project Achilles is designed to identify, investigate, and prosecute armed career criminals who qualify for the mandatory and/or enhanced sentencing provisions under 18 U.S.C. sections 924(c) and 924(e). This project is in operation in the majority of our law enforcement offices.

Since April 1, 1986, the task force and Project Achilles efforts have resulted in convictions with enhanced sentencing for 72 armed career criminals. These criminals have been removed from our society for periods of 15 to 30 years. One defendant was given a life term. The total number of prison years, excluding the life sentence, is 1,206 years. The average sentence thus far has been 16 years. During this same period, ATF has obtained mandatory sentencing under 18 U.S.C. section 924(c) on 15 armed narcotics traffickers.

The task force approach and Project Achilles concept have proven to be cost effective ways to utilize the provisions of the Armed Career Criminal Act and the amended Gun Control Act. I believe with proper funding and resources ATF can continue to have a very positive impact on the crime problem by removing the armed career criminals and narcotics traffickers from our streets.

The Armed Career Criminal Act of 1984 has been given a warm and enthusiastic reception by members of the law enforcement community and prosecutors across the country. Thanks to the foresight which you and other legislators exhibited, law enforcement has been given an extremely effective tool to work with. I believe as the years pass you will look upon this Act with a great deal of pride.

We hope you will find the above useful and informative. If we may be of assistance, please contact us.

Sincerely yours,

STEPHEN E. HIGGINS,
Director.

U.S. SENATE,
Washington, DC, March 22, 1988.

Hon. JAMES A. BAKER III,
Secretary, Department of Treasury, Washington, DC.

DEAR SECRETARY BAKER: I am writing to follow up on our discussion at the Senate Appropriations hearing on March 1, 1988. My staff already has followed up with yours.

I am enclosing some written questions in anticipation of your scheduled appearance before the Senate Appropriations Foreign Operations Subcommittee on March 30, 1988. I would appreciate receiving your responses at least one full day prior to the hearing.

1. As you know, I long have been concerned about certain lending practices of the World Bank and other international lending institutions. The Administration has stated that it is making every effort to curb the trade deficit which has adversely affected employment in our manufacturing sector. Given this, does the Administration object to the World Bank's and other multilateral development banks' practices of lending millions of dollars to countries which subsidize steel, and thus injure the American steel industry? How does the Administration and World Bank representatives, as a matter of policy, take into account the potential impact on American industry of World Bank loans when making approval decisions? I request data on loans considered by the United States in its multilateral bank role, including loans that were submitted by multilateral banks that would negatively impact American industry, loans that the Administration has had our representatives vote against, and loans provided by the multilateral banks against the opposition of the United States.

2. What specific policies are in place and what criteria does the World Bank and others follow in determining the amount and approval of loans? I would appreciate receiving a review of actual loan performance data to supplement the explanation of the criteria used for loan approval.

3. What specific action has the Department of Treasury taken to place more stringent restrictions on multilateral bank lending practices, in order to help domestic industries such as steel and coal from the impact of unfair foreign competition? As you know, committee language directed the Treasury Department to consider this matter.

4. The Bureau of Alcohol, Tobacco and Firearms established a repeat offender and career criminal program to implement the Armed Career Criminal Act of 1984 and the 1986 amendments (18 U.S.C. 924(e)) and the 1986 amendments to the Gun Control Act of 1968 (18 U.S.C. 924(c)). BATF Director Higgins advised me in a letter dated February 26, 1988, that during Fiscal Year 1987 and the first quarter of Fiscal year 1988, 2,486 repeat offender suspects, all of whom had prior felony convictions, were charged with Federal firearms law violations. The Bureau's overall conviction rate in those firearms cases adjudicated in FY 1987 was 96.3 percent. Additionally, sentences for violations of the two repeat offender provisions averaged 12 years in a recent study of 127 convictions. What are your recommendations for improving and expanding the current repeat offender provisions and programs?

5. In his letter of October 17, 1987, BATF Director Higgins described the Armed Career Criminal Act as "an extremely effective tool" which "has been given a warm and enthusiastic reception by members of the law enforcement community and prosecutors across the country." Director Higgins stated that "with proper funding and resources AFT can continue to have a very positive impact on the crime problem by removing the armed career criminals and narcotics traffickers from our streets." What are the Treasury Department's budget proposals in FY 1989 for the Bureau generally and for the Repeat Offender Program specifically? How was the funding proposal for the Repeat Offender Program derived?

6. Last year, the Senate Appropriations Committee noted in report language that BATF "is in a unique position to have impact on violent crime through its jurisdiction over the Armed Career Criminal Act." At my request, the Committee recommended and Congress approved an additional $10 million for BATF in FY 1988 to provide for the hiring of 120 special agents, 60 inspectors, and 20 support personnel in the Armed Career Criminal Apprehension Program. What is the current status of the Bureau's utilization of this new funding? What are your views regarding the continuation of at least this level of funding in Fiscal Year 1989? To what extent could the Bureau effi-

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[1] While Congress as a whole has not been sufficiently attentive to the critical need for strong anti-drug measures, many Members have proposed innovative and creative approaches. Some, like the Armed Career Criminal Act and its subsequent anti-drug amendments, have been enacted and are proving to be effective. I urge the Senate to focus attention on the many other proposals which I and various of my colleagues have made. Some of my previous legislation proposals which I continue to believe would be effective include:

S. 1690 (97th Cong.), S. 59 (98th Cong.), and S. 1190 (99th Cong.) (a bill to rehabilitate prisoners by requiring States to ensure that prisoners receive a marketable job skill and basic literacy training before released on parole.)

S. 58 (98th Cong.), S. 1189 (99th Cong.), and S. 414 (100th Cong.) ("Career Criminal Incarceration Assistance Act" would grant the Attorney General authority to incarcerate in Federal facilities persons convicted and sentenced to life imprisonment in State courts under State habitual offender statutes.)

S. 889 (98th Cong.), S. 486 (99th Cong.), and S. 411 (100th Cong.) (1% of Federal budget for "domestic defense"—to fight violent crimes, including drug crimes.)

Amendment No. 1228 to the FY 84 budget resolution, to provide Federal funding for prison construction to house habitual offenders currently in State facilities.

S. 2828 (99th Cong.) and S. 1023 (100th Cong.) (a bill to allow unobligated funds from the Department of Justice asset forfeiture fund and the Customs forfeiture fund to be used for emergency prison construction.)

Amendment No. 3073 to H.R. 2162 (99th Cong.) (earmark funds to alleviate prison overcrowding at the Federal, State and local levels.)

S. 1022 (100th Cong.) (a bill to transfer foreign assistance funds earmarked for drug producing countries to the Department of Justice for prison construction.)

ciently and effectively utilize additional funding in FY 1989 for implementing the Repeat Offender Program, if it was available in the appropriations process?

7. In your March 1 testimony before the Appropriations Committee, you cited an impressive 30 percent increase in Department spending over the FY 1987 level on firearm-related cases. You also indicated that the Department is recommending 5,000 suspects for prosecution, which is an 18 percent increase over last year's level. In this context, you suggested that 200 Full Time Employees (FTEs) may be eliminated out of a total of 129,000 FTEs in the Treasury Department. I have expressed concern that these positions might be eliminated from BATF and its Repeat Offender Program. Although I share your interest in meeting the requirements of the Budget Summit Agreement and the deficit reduction targets, I am interested in your views on the following issues:

(a) What are the Department's final proposals regarding staffing levels for BATF and the Repeat Offender Program in FY 1989?

(b) In view of your own very impressive report of firearms enforcement successes by BATF in FY 1987, how can the Department justify the elimination of the 200 positions recently added to this program in FY 1988? To what extent did the Department's policy deliberations consider the statistics cited above?

(c) While there certainly are other Treasury employees performing vitally important functions, there is no enforcement mission more important to our nation's future than the war against drugs and drug traffickers. Do you not agree that we must support the men and women fighting this war—whether they work for ATF or DEA or Customs—even to the extent that other important functions might have to sacrifice resources to ensure full funding of the enforcement agencies? Why would such a successful program be subject to a disproportionate share of staff and budget cutbacks within the Department?

8. The 66 percent increase in firearms compliance inspections in FY 1987 which you mentioned during the hearing is most impressive. These inspections are vital to ensuring the integrity of the firearms tracing system and to providing investigative leads under the Armed Career Criminal Act. I am advised, however, that the FY 1988 projections in the Treasury Department's FY 1989 budget request for BATF show that, even with the 60 additional positions provided for by the Congress at my request, BATF still will not have the resources it needs to reach its FY 1987 performance level. Why would the Treasury Department cut back on a program during the same year that an increase was mandated by Congress?

9. The Repeat Offender Program is used to target and apprehend the most violent, vicious organized criminal groups to emerge in the United States since Prohibition—the Jamaican Posses. These groups are directly responsible for at least 800 drug-related homicides in the last 24 months. How do you reconcile the Administration's often stated commitment to drug enforcement with the deep cuts it is proposing in one of the most effective new anti-drug trafficking programs established in recent years?

10. The compilation, analysis and dissemination of statistics regarding implementation of the Armed Career Criminal Act is essential to effective oversight and consideration of future program modifications. What is the current procedure by which BATF tracks career criminal cases and reports statistics? What are your recommendations regarding implementation of a formal system by which career criminal arrests, prosecutions and convictions could be tracked, compiled and reported? What joint efforts with the Justice Department can be instituted to facilitate the tracking of career criminal cases on the local, state and federal levels?

I appreciate your consideration of these questions regarding international banking and career criminal programs. I also very much appreciate the time the Treasury and BATF staffs have spent working with members of my staff on these important matters. I look forward to receiving your responses, and to working with you further on these vital issues.

Sincerely,

ARLEN SPECTER.

DEPARTMENT OF THE TREASURY,
Washington, DC, March 29, 1988.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: On behalf of Secretary Baker, I am enclosing the responses to the questions in your March 22 letter concerning the Multilateral Development Banks (MDBs) and the Bureau of Alcohol, Tobacco and Firearms (ATF).

I understand that Treasury staff has already met with your staff to provide additional information. I hope this information will be helpful in preparation for the Senate Appropriations Foreign Operations Subcommittee hearing.

Sincerely,

JOHN K. MEAGHER,
Assistant Secretary (Legislative Affairs).

Enclosure.

Question 1. As you know, I long have been concerned about certain lending practices of the World Bank and other international lending institutions. The Administration has stated that it is making every effort to curb the trade deficit which has adversely affected employment in our manufacturing sector. Given this, does the Administration object to the World Bank's and other multilateral development banks' practices of lending millions of dollars to countries which subsidize steel, and thus injure the American steel industry? How does the Administration and World Bank representatives, as a matter of policy, take into account the potential impact on American industry of World Bank loans when making approval decisions? I request data on loans considered by the United States in its multilateral bank role, including loans that were submitted by multilateral banks that would negatively impact American industry, loans that the Administration has had our representatives vote against, and loans provided by the multilateral banks against the opposition of the United States.

Answer. The Administration fully shares your concerns regarding lending by the Multilateral Development Banks (MDBs) for production of commodities such as steel, copper, and palm oil which are currently in global oversupply. Fortunately, however, these concerns are now largely shared by MDB managements. There is currently very little MDB lending for additional production of such surplus commodities. As per a table which has been provided to your staff, less than five percent of MDB lending is now for sensitive commodities. Additionally, much of this production is for local consumption rather than export.

Nevertheless, some troubling loans for production of surplus commodities still come forward. In such instances the Administration does not hesitate to oppose them. Loans opposed by the United States primarily on these grounds include a cement mill expansion in Venezuela, the expansion of an iron ore mine in Brazil, and a palm oil project in Malaysia. Other projects opposed by the United States for economic/financial reasons in recent years can be found on a list recently provided to your staff.

Question 2. What specific policies are in place and what criteria does the World Bank and others follow in determining the amount and approval of loans? I would appreciate receiving a review of actual loan performance data to supplement the explanation of the criteria used for loan approval.

Answer. Treasury and other Working Groups on Multilateral Aid (WGMA) agencies—including the Commerce, Interior, Agriculture, and Labor Departments and the United States Trade Representative—carefully examine all proposed MDB loans. Loan proposals are closely reviewed for economic, financial, and environmental soundness, compatibility with American producer interests, and other issues such as terrorism, narcotics, and expropriation. The views of our Embassies overseas are also solicited, as well as those of American producer associations. Recently Treasury consulted with the Fertilizer Institute about a World Bank fertilizer sector Loan to Mexico. The Fertilizer Institute had no objection to this loan, as it will actually eliminate subsidies and close down uneconomic fertilizer manufacturing capacity. We have provided your staff with WGMA's detailed loan review manual.

The WGMA has also adopted standard policies on such issues as oil and gas lending, cost overruns, public utility tariffs, and irrigation user fees. The MDBs have independent units to review and evaluate their completed projects. Findings by these units are contained in project performance audit reports, which are supplied to all member governments. Additionally, MDB loan documents discuss in some detail the performance of the borrowing country, in both macro-economic and sector terms. The effectiveness of prior MDB lending in obtaining needed reforms is also discussed.

Question 3. What specific action has the Department of Treasury taken to place more stringent restrictions on multilateral bank lending practices, in order to help domestic industries such as steel and coal from the impact of unfair foreign competition? As you know, committee language directed the Treasury Department to consider this matter.

Answer. The Administration (Treasury) has informed the World Bank and the other MDBs that the U.S. Government strongly opposes projects that will promote production of commodities already in global surplus, and which will be clearly injurious to U.S. producers. Administration influence in opposing projects involving sensitive commodities should not be measured simply by the success in stopping a specific loan; some new loans will never enter the "pipeline" of possible future projects because of U.S. opposition to a similar previous loan.

Question 4. The Bureau of Alcohol, Tobacco and Firearms established a repeat offender and career criminal program to implement the Armed Career Criminal Act of 1984 and the 1986 amendments (18 U.S.C. 924(e)) and the 1986 amendments to the Gun Control Act of 1968 (18 U.S.C. 924(c)). BATF Director Higgins advised me in a letter dated February 26, 1988, that during Fiscal Year 1987 and the first quarter of Fiscal Year 1988, 2,486 repeat offender suspects, all of whom had prior felony convictions, were charged with Federal firearms law violations. The Bureau's overall conviction rate in those firearms cases adjudicated in FY 1987 was 96.3 percent. Additionally, sentences for violations of the two repeat offender provisions averaged 12 years in a recent study of 127 convictions. What are your recommendations for improving and expanding the current repeat offender provisions and programs?

Answer. We fully recognize the significance of the accomplishments achieved by the Bureau of Alcohol, Tobacco and Firearms (ATF) through the implementation of its repeat offenders program. The lengthy prison sentences being imposed in these cases are bound to impact on the criminal activity of this group of violators and should, in time, contribute to a downward trend in the nation's overall crime rate. We fully support ATF in this initiative and intend for it to continue and expand its efforts in this area.

One way we recommend expanding and improving this program is through an even greater utilization of a task force approach. We support the formation of, and participation in, task forces in appropriate locations. By pooling resources with State and local enforcement agencies, and by taking advantage of their expertise and knowledge of the local criminal element, we believe even greater numbers of Armed Career Criminal cases can be made, while minimizing the need to redirect manpower from other vital functions performed by ATF.

We would also like to more fully explore the cross-designation of State prosecutors in order that they could bring Armed Career Criminal cases directly into Federal court, in order to take advantage of the enhanced and mandatory sentencing provisions of 18 U.S.C. sections 924(e) and 924(c), respectively.

Question 5. In his letter of October 17, 1987, BATF Director Higgins described the Armed Career Criminal Act as "an extremely effective tool" which "has been given a warm and enthusiastic reception by members of the law enforcement community and prosecutors across the country." Director Higgins stated that "with proper funding and resources ATF can continue to have a very positive impact on the crime problem by removing the armed career criminals and narcotics traffickers from our streets." What are the Treasury Department's budget proposals in FY 1989 for the Bureau generally and for the Repeat Offender Program specifically? How was the funding proposal for the Repeat Offender Program derived?

Answer. The FY 1989 President's budget for ATF includes 3,235 full-time equivalent (FTE) positions and $218.5 million to carry out its basic law enforcement and regulatory functions. The staffing resources earmarked for the Repeat Offender Program in FY 1989 include 69 FTE positions and $3.5 million.

In the continuing resolution dated December 22, 1987, for FY 1988 (P.L. 100-202) ATF received additional positions to enforce provisions of the Comprehensive Crime Control Act. Although the funding necessary to maintain this staffing level is not proposed to continue in FY 1989, high priority complex investigations involving armed, habitual, career criminals and drug manufacturers and traffickers who violate the Comprehensive Crime Control Act will continue to be conducted.

Question 6. Last year, the Senate Appropriations Committee noted in report language that BATF "is in a unique position to have impact on violent crime through its jurisdiction over the Armed Career Criminal Act." At my request, the Committee recommended and Congress approved an additional $10 million for BATF in FY 1988 to provide for the hiring of 120 special agents, 60 inspectors, and 20 support personnel in the Armed Career Criminal Apprehension Program. What is the current status of the Bureau's utilization of this new funding? What are your views regarding the continuation of at least this level of funding in Fiscal Year 1989? To what extent could the Bureau efficiently and effectively utilize additional funding in FY 1989 for implementing the Repeat Offender Program, if it were available in the appropriations process?

What is the current status of the Bureau's utilization of this new funding?

Answer. To date this fiscal year, the Bureau has had a net increase of 99 special agents and 20 support personnel that will be dedicated to the Comprehensive Crime Control Act Program. ATF is continuing to place utmost emphasis in continuing to hire personnel to support this program as intended by Congress. The Bureau feels confident that by the end of this fiscal year it will be successful in filling those positions.

Question. What are your views regarding the continuation of at least this level of funding in Fiscal Year 1989?

Answer. As previously stated, the Comprehensive Crime Control Act of 1984 has been a very positive force in helping the Department aggressively pursue armed career criminals. As you know, the apprehension of such criminals can have a considerable payoff, since they are responsible for a disproportionate share of serious crimes. In light of the President's determination to restrain Federal spending, I believe that the FY 1989 budget proposal for ATF represents a continuing commitment to fund the Armed Career Criminal Program at necessary levels. In addition, ATF has the latitude to redirect its other law enforcement resources toward this Program, as priorities dictate and opportunities arise.

Question. To what extent could the Bureau efficiently and effectively utilize additional funding in FY 1989 for implementing the Repeat Offender Program, if it were available in the appropriate process?

Answer. As mentioned previously, I believe that ATF has sufficient resources to effectively and efficiently administer this vital program. Proposing additional resources for this program would be unnecessary considering the President's efforts to restrain Federal spending.

7. In your March 1 testimony before the Appropriations Committee, you cited an impressive 30 percent increase in Department spending over the FY 1987 level on firearm-related cases. You also indicated that the Department is recommending 5,000 suspects for prosecution, which is an 18 percent increase over last year's level. In this context, you suggested that 200 Full Time Employees (FTEs) may be eliminated out of a total of 129,000 FTEs in the Treasury Department. I have expressed concern that these positions might be eliminated from BATF and its Repeat Offender Program. Although I share your interest in meeting the requirements of the Budget Summit Agreement and the deficit reduction targets, I am interested in your views on the following issues:

(a) What are the Department's final proposals regarding staffing levels for BATF and the Repeat Offender Program in FY 1989?

Answer. The FY 1989 President's budget for ATF includes 3,235 full-time equivalent (FTE) positions to carry out its basic law enforcement and regulatory functions. The staffing resources earmarked for the Repeat Offender Program in FY 1989 include 69 FTE positions.

(b) In view of your own impressive report of firearms enforcement successes by BATF in FY 1987, how can the Department justify the elimination of the 200 positions recently added to this program in FY 1988? To what extent did the Department's policy deliberations consider the statistics cited above?

Answer. To reiterate, the Department believes that the FY 1989 budget proposal for this program contains sufficient resources to continue our efforts to aggressively combat violent crime. Although it is always possible to do more with more resources, the FY 1989 budget proposal for ATF adequately funds the Armed Career Criminal Program, especially in light of the President's determination to restrain Federal spending.

(c) While there certainly are other Treasury employees performing vitally important functions, there is no enforcement mission more important to our nation's future than the war against drugs and drug traffickers. Do you agree that we must support the men and women fighting this war—whether they work for ATF or DEA or Customs—even to the extent that other important functions might have to sacrifice resources to ensure full funding of the enforcement agencies? Why would such a successful program be subject to a disproportionate share of staff and budget cutbacks within the Department?

Answer. The Administration considers enhancements to the Federal drug law enforcement program to be one of its top domestic priorities. Over the past seven years, the President has successfully sought additional resources for drug enforcement in a number of agencies. Government-wide resources devoted to drug enforcement will total almost $3 billion in FY 1989, a 13 percent increase over FY 1988 levels. Within that total, $522.5 million is proposed for drug enforcement efforts in Customs, IRS and ATF. This is an increase of over 200 percent from FY 1981 levels. We believe these facts clearly indicate our determination to use our enforcement resources to reduce violent crime.

At the levels proposed for ATF, funding for firearms enforcement, which includes the Armed Career Criminal Program, will have increased by more than 51 percent since FY 1986—from $55 million and 884 FTE to $84 million and 1,122 FTE. It should also be emphasized that ATF has the management flexibility to redirect additional personnel and resources into the Armed Career Criminal Program above the levels currently planned in order to ensure that important criminal investigations or compliance actions are undertaken. In this way, ATF applied 66 percent more staff years to the firearms compliance program last year than had been originally planned.

8. The 66 percent increase in firearms compliance inspections in FY 1987 which you mentioned during the hearing is most impressive. These inspections are vital to ensuring the integrity of the firearms tracing system and to providing investigative leads under the Armed Career Criminal Act. I am advised, however, that the FY 1987

projections and the Treasury Department's FY 1989 budget request for BATF show that, even with the 60 additional positions provided for by the Congress at my request, BATF still will not have the resources it needs to reach its FY 1987 performance level. Why would the Treasury Department cut back on a program during the same year that an increase was mandated by Congress?

Answer. Although we did have to make the difficult decision to reduce the firearms compliance program from actual FY 1987 levels, we will continue to provide support to higher-priority initiatives, such as those related to the Armed Career Criminal Act. This will be accomplished by deferring lower-priority initiatives.

9. The Repeat Offender program is used to target and apprehend the most violent, vicious organized criminal groups to emerge in the United States since Prohibition—the Jamaican Posses. These groups are directly responsible for at least 800 drug-related homicides in the last 24 months. How do you reconcile the Administration's often stated commitment to drug enforcement with the deep cuts it is proposing in one of the most effective new anti-drug trafficking programs established in recent years?

Answer. The Bureau of Alcohol, Tobacco and Firearms continues to focus on dangerous and special offenders and organizations which include habitually active and violent criminals. These offenders include such groups as the Jamaican "posses" whose propensity for violence is documented in their homicides. In 1987, the majority of the 131 criminal cases that ATF prepared against 267 posse members alleged violations of the Comprehensive Crime Control Act. During the arrest of those subjects ATF seized 518 firearms.

ATF will continue to solicit additional support of Federal, State, and local law enforcement authorities to participate in the task force approach, under the auspices of the Organized Crime Drug Enforcement Task Force (OCDETF) Program to combat the problem of Jamaican organized crime. ATF is currently involved in 23 Jamaican Organized Crime Task Forces nationwide. In addition, ATF has the latitude to redirect its other law enforcement resources.

ATF will also continue to be the clearing house for information as it relates to Jamaican organized crime for all law enforcement agencies.

10. The compilation, analysis and dissemination of statistics regarding the implementation of the Armed Career Criminal Act is essential to effective oversight and consideration of future program modifications. What is the current procedure by which BATF tracks career criminal cases and reports statistics? What are your recommendations regarding implementation of a formal system by which career criminal arrests, prosecutions and convictions could be tracked, compiled and reported? What joint efforts with the Justice Department can be instituted to facilitate the tracking of career criminal cases on the local, state and federal levels?

Answer. The Bureau of Alcohol, Tobacco and Firearms utilizes the Law Enforcement Management Information System (LEMIS) for the compilation, analysis, and dissemination of statistical information. LEMIS monitors the activity of special agents providing ATF with the ability to analyze and evaluate information on manpower utilization, resource allocations and employee productivity, required by management for the effective direction of enforcement operations.

LEMIS provides an analysis of investigations by defendant profile, charges, judicial status, and property seized. The reports generated from the information enables ATF to effectively and efficiently manage resources.

LEMIS is ATF's formalized system for the tracking of criminal arrest, prosecution, and convictions. The system, as it now exists, has been in existence since the early 1980's.

ATF has an excellent working relationship with other Federal, State, and local law enforcement agencies. Because of the excellent working relationship established by ATF, most investigations relating to the activity of Armed Career Criminals are worked jointly. These joint operations ensure that the fullest impact of the law can be brought to bear on their illegal activities. Because of these joint operations, ATF feels that LEMIS provides us with a tracking system which captures the statistics related to Armed Career Criminal activity.

At this time ATF does not have the computer facilities necessary to support a real-time interactive exchange of information through our own system. Presently ATF utilizes the Treasury Enforcement Communications System (TECS) which is operated by the U.S. Customs Service, as a conduit between ATF and other Federal or local law enforcement agencies. TECS allows access to the National Law Enforcement Telecommunications Systems (NLETS) and the National Crime Information Center. (NCIC).

Mr. SPECTER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time or seeks recognition?

Mr. CHILES. Mr. President, I yield myself as much time as I need.

Mr. President, I would like to engage the Senator from Pennsylvania in a brief colloquy, if I could, if he will remain. I want to say I think the thrust of the Senator's amendment is very good. All of us know he is seeking additional money for prison construction, and certainly we are trying to deal with the career criminals. Trying to give additional funds for that is very good, too.

I want to first tell the Senator we have added a 30-percent increase for prison construction. That is about $100 million that we placed in.

I also want to point out to the distinguished Senator from Pennsylvania that the Senator from New Mexico and I have an amendment which looks like we can support that. It is being sponsored by a number of us in the Senate. It has to do with the major package for crime and antidrugs bill, and it now looks like, with the language that we have, we will be able to support that.

It is going to propose $300 million for additional funds for construction above our resolution, which is $100 million. So, that would be a total of about $400 million.

I wonder if the Senator, having made the excellent argument that he has made on the floor and knowing that this amendment is coming along, which, as I say, we have agreed to take and it is going to add $300 million above our level, which is $100 million, which will be a total of $400 million in prison construction, if that would not suffice because it would actually be more than the Senator from Pennsylvania is talking about and has argued so eloquently he would need to try to provide those additional funds?

Mr. SPECTER. I am glad to hear the distinguished chairman of the Budget Committee intends to accept another amendment which will deal in a very significant measure with the drug problem. However, I think it worthwhile to pursue this amendment. If all of the funding is added, we are still very far short of the kind of construction of prisons which we really need in this country.

There are in this country somewhere between 200,000 and 400,000 career criminals. If we were to construct 200,000 jail cells, it would cost in the range of $12 billion. We are not about to do that, obviously. So, if you talk about $400 million or $500 million, it is still far short of what is really necessary.

The thrust that I have here is somewhat different, in allocating $100 million to jails, which will be made available by the Federal Government to the States and would seek to encourage the States to sentence drug pushers and other career criminals under their habitual offender statutes.

Mr. CHILES. As the Senator well knows, it is up to the Appropriations Committee how this money will actually be divided.

The point the Senator from Florida tried to make is that the amendment that is coming has in it considerably more money for prison construction. It would not be in addition to. I just urge the Senator from Pennsylvania now, after making this point and this argument, to allow us to move on to accept that amendment.

I will say clearly to the Senator from Pennsylvania, I hate to resist his amendment. I have to. I hate to because I have tried to put money in and have and did it in the budget resolution and fought in the Appropriations Committee for additional prison funds; I think we need some, but I have great problems in where the Senator attempts to take the money. While he says—and I listened to his argument—that agencies have gotten additional money for travel, basically there are two agencies that have gotten additional money for travel in the last 2 years. Those agencies happen to be the drug-fighting agencies; DEA and the IRS. Nobody else has gotten any. In fact, we have been cutting their travel. We have restrained their travel entirely. So, to say that we are going to take some money from travel for people who have extra is to take money from the ones to whom we have given it, the same people that the Senator from Pennsylvania wants to help.

I also point out that the Senator is talking about allowances from section 920, and in that particular function new budget authority is zero, outlays are zero. So, there is no pot of money there. It is zero in both of those functions, in both the BA and the outlays.

So, those are the reasons that the Senator from Florida reluctantly has to resist the Senator's amendment and urge him again to associate himself and his remarks with the amendment that we are trying to take. The reason we can do that is because what we are saying in that amendment is it is a new thrust, it is $2.6 billion, which as I have said is $300 million in addition to what we have for prison construction, and it is based on there being an agreement between the President and the bipartisan leadership that we would raise the caps, or that we would take care of it, or we would find a way of funding it and if we recognize it as being a truly national emergency, we can do that.

The Senator, on the other hand, is talking about switching some funds and he uses the term travel. As I say, he is going to rob the very agencies that he is trying to help. I think that will not be accomplishing what he really wants to do.

Mr. SPECTER. I appreciate the arguments which the distinguished chairman of the Budget Committee has made, but as I understand the facts on the travel allowances, they have been increased in many categories beyond those agencies which were mentioned.

Mr. CHILES. Can the Senator tell me some categories? The only other category I know of at all is the Postal Service, and we gave a heck of a whack to the Postal Service after the budget summit, so the only agencies that I know of are the two I mentioned and the Postal Service. If he has some other information, I wish he would tell me about it.

Mr. SPECTER. Well, the information I have from the Congressional Budget Office lists $1.8 billion which is present in the travel allowance, excluding postal and excluding defense, and lists an enormous increase, far in excess——

Mr. CHILES. I say to the Senator, I do not know whether the Congressional Budget Office told him this or not, as a result of the law we passed in 1986, I think most of that increase can be attributed to legislation that raised the per diem reimbursement for Federal employees. Congress felt that prior to this legislation, Federal employees were not being reimbursed fully for their per diem expenses, and so I think that the increase he is talking about has to do with individual employees on per diem and saying whether we are going to pay them a reasonable amount for that expense.

Now, to renege on a law that we passed I think would be a very improper thing for us to do.

Mr. SPECTER. The information that I rely upon comes from the CBO memorandum issued in March of this year, just last month. Chapter 7, pages 279 to 281, specifies very, very significant increases in travel allowances, specifies an increase of 62 percent above the 1982 level while inflation has gone up only 27 percent.

Mr. CHILES. Yes.

Mr. SPECTER. And specifies a number of ways where those travel costs can be reduced.

Now, in seeking $125 million, there are a variety of potential areas to take it from in the budget, but those whom I consulted indicated this would be the least painful and relatively easily accommodated.

With respect to the other amendment which the chairman says he intends to accept, I think it is useful to have a vote on this amendment because it sets a priority on two important items. One is the issue of allocating funds for armed career criminals. Second, the issue of allocating funds to help States move against drug sellers and other habitual offenders. I realize full well that in our activities on the floor today we are setting a priority in a sense that the specification has to come from the Appropriations Committee.

Mr. CHILES. I thank the Senator for engaging in this colloquy. As I say, I reluctantly have to oppose the amendment. One, there is no money in section 920; it is zero in budget authority; it is zero in outlays. And, two, we are now talking about accepting an amendment which in effect will not rob Peter to pay Paul. The two major agencies that have had increases in travel are both crime fighters, the IRS and DEA. To turn around and take the money from them does not make very good sense, and I think it would be so much better to look for this money as part of the $2.6 billion which provides an additional $300 million above the $100 million we provided for prison construction.

So I would hope that the Senate would not accept this amendment and would allow us to move on to the major drug amendment. And again, I urge the Senator from Pennsylvania to declare victory and to allow us to earmark some of the money that is in the next bill for the prison construction he is seeking.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I do not want to take up the Senator's time, so may I have some time from the other side?

Mr. CHILES. Yes.

DOMENICI. Five minutes. Might I say to the Senator from Pennsylvania, I do not want to spend a lot of time talking about an amendment on a budget resolution that reallocates between functions, because obviously the Senator has been a champion in the area of trying to get more prisons built and of trying to get a number of the specialized criminal investigation and prosecutorial agencies more funding. Clearly, because of the Senator's efforts, we are moving a little more strongly in a number of areas.

But the more I think of the posture we are in here, I think the Senator does know that even if he were to prevail, all we have done is left it up to the appropriators to see if they want to increase the two functions that the Senator is talking about sufficiently to add additional money over that which the Senator assumes they are going to provide. We do not even know at this point whether they might be planning on paying for part of these programs when they allocate. We have agreed on appropriations caps for discretionary appropriations that you will have to fit within in reallocating the money.

Almost everyone around here thinks the drug war is an emergency. I think the Senator would join in that statement, that it has gotten so bad that while we have been having a war, we have not been winning it and that there is a true emergency. So what is contemplated—and we are pretty close to putting it together—is to take the major drug bill that the Senator is a cosponsor of, and to the extent that we can to offer an amendment collectively with the original sponsors, one of which is the Senator from Pennsylvania, setting up some kind of an emergency reserve fund pending the President's concurrence which would indeed be revenue neutral but we would raise revenues through enforcement. And those revenues would be spent only on the new drug bill or not spent at all. They would be in addition to the current level of effort contemplated in the President's budget.

It seems to me that since that is not too far off—in fact, it might occur here tonight—that the Senator might seriously consider it. Far be it for me to tell the Senator from Pennsylvania how to proceed. Obviously, in the area I want to repeat the Senator has been reminding this Senate for 3 years that I remember, maybe 4, that there is little use for us to continue to promise the American people and respond to their wishes that we put more of these hardened criminals in prison when as the Senator told us many times we do not have enough prison cells.

With reference to the extra enforcement that the Senator has described here today that goes after the hardened criminal, I am reminded as I reviewed the Senator's amendment and the substantive bill—the DeConcini-D'Amato-Specter bill—that there is money even for that particular function. It is not 25. I think it is $8 million or $9 million. But I think it is subject to negotiation if we put the package together. Maybe the Senator might want to consider holding in abeyance this amendment.

I am certainly not one to advise. I is up now. Perhaps the Senator could make his case as part of that emergency reserve drug bill. And in that case, let me say if that all works out, indeed we do find the collective leadership in both Houses, and the President to say there is an emergency, permitting us to exceed the summit cap so long as we find the revenue for it and then agree on the revenue which would be some kind of enhanced collections in a couple of agencies of the Federal Government including IRS, then the Senator is almost assured that the new proposals he is talking about will be funded. Whereas, even if the Senator's amendment is adopted, he, himself, has acknowledged here, it would be just a strong sense and a message to the appropriators that they ought to increase those functions by decreasing travel.

We have found regularly, I say to my friend from Pennsylvania, that we decrease travel in the 920 allowance function and then the appropriators, when they divide up the money, do not cut the travel expenses because for the most part substantial portions of its are in agencies that they are increasing activities in. So what ends up is some other program like building prisons do not get funded.

So while I am not telling the Senator it would not work, surely if he were to prevail, it would make an impression, I think he would get more of an impression. He is apt to get results if indeed he joins in the drug bill and sees the only part missing as I see it is the $25 million. I think there are eight planned for it. But we could check that for him. It is exactly the same agency for exactly the same work.

So I give the Senator that because maybe it is the better part since he has made the point and since he has been the leader in this area. He probably is going to in an hour and a half or two win again if we do that emergency bill. It is going to be subject to the bill being drafted so the President can sign it, and if we find revenues to make it neutral.

But I think it is a far better chance of getting the enhanced prisons bill under that approach than to move money around in the allocation process which is subject to the appropriators doing it, and not us and especially where it is travel I am fearful. I am just looking. They would have to take money out of Treasury because that is a travel expense. There is an awful lot of law enforcement there. They would have to take it out of FBI, and IRS. Those are all enforcement. In fact, a couple of the agencies which the Senator is interested in increasing he would be reducing travel, and in that case the travel is not the luxury of going to a convention. Most of the travel there is directly related to doing their jobs.

I offer that as an idea that maybe would get us over this hurdle and get the Senator into an all-win instead of a maybe-win proposition. I believe those who are sponsoring the bill would talk with him and they might be willing to consider increasing the $7 million or $8 million that is in that function that the Senator is concerned about on enhanced investigative and prosecutorial powers.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **DOMENICI**. I yield myself 5 minutes off the resolution.

Mr. **SPECTER**. If I might respond to what the distinguished Senator from New Mexico has said, I appreciate what he has said in respect to the possibilities for the future. I notice my colleague, Senator D'AMATO, has joined us. What we are doing at this moment is having an expression of the priority which the Senate attaches to two specific ideas if this amendment is adopted.

I am very much concerned about what has happened with the armed career criminal unit in the Treasury Department where the Appropriations Committee added $10 million last year, and that funding has been cut this year.

At the hearings specifically, the Secretary of the Treasury defended that cut where we have increased the number of full-time personnel in the unit handling armed career criminals from 119 to 319, and Treasury wants to cut all of that back. If this amendment is passed there will be a forceful statement that these positions will be maintained and increased. Not only will there be 200 additional personnel, but there will be $25 million, for 2½ times as much as obviously $10 million, or 500 additional personnel.

If this amendment is passed, there will be a statement by the Senate affirming the objective and priority of making additional jail cells available to the States where prisons are so overcrowded at the present time. Recently, Senator D'AMATO, Mayor Koch, and I visited Riker's Island which is duplicated all over this country bursting at the seams as are the jails in Pennsylvania, and so many locales. The Federal Government has never been of assistance to the States. But targeting specifically drug sellers and habitual criminals to encourage incarceration for life under those habitual criminal statutes will be a significant step forward if this priority attaches from the Senate today. That is why I think it is appropriate and worthwhile at this stage to press ahead and to seek a vote on this amendment.

Mr. President, this amendment is being offered on behalf of Senator DOLE, Senator DECONCINI, Senator D'AMATO, and Senator WILSON as well as this Senator. I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **DOMENICI**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **CHILES**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. WIRTH). Without objection, it is so ordered.

Mr. **CHILES**. Mr. President, we know of only two other amendments after this amendment. I think it would be a good time, after the disposition of this amendment, to determine whether there are no other amendments, and then see whether we can decide whether we can finish the bill tonight or can get binding time agreements to try to finish the bill tomorrow.

I yield the floor.

Mr. **DOMENICI**. Mr. President, on my time: I concur with the distinguished manager. On our side, we are aware of only a proposed amendment by Senator WEICKER and a proposed amendment by Senators DECONCINI, D'AMATO, and others, regarding drugs. We are aware of no others.

It seems to me that the chairman makes good sense. After the vote on the Specter amendment, we might impose on the majority leader and the minority leader to ask the Senate if we can get consent that those are the only amendments, in which event the Senate can work its will. If the Senate wants to finish it on a time agreement tomorrow morning or tonight, at least we will know those are the only amendments. Senators will be greatly relieved, and so will we, to know that there are no more amendments.

I yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Mr. **CHILES**. Mr. President, the Senator has asked for the yeas and nays. I yield back any time I have remaining.

The **PRESIDING OFFICER**. The Senator from Florida yields back his time. Is there further debate on the amendment?

The question is on agreeing to the amendment offered by the distinguished Senator from Pennsylvania. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Sanford], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. Lugar] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 18, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—76

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Metzenbaum
Mikulski
Moynihan
Murkowski
Nickles
Packwood
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—18

Adams
Baucus
Bradley
Chafee
Chiles
Conrad
Dodd
Exon
Ford
Harkin
Hatfield
Inouye
Melcher
Mitchell
Nunn
Pell
Proxmire
Sasser

NOT VOTING—6

Biden
Gore
Lugar
Sanford
Simon
Stennis

So the amendment (No. 1938) was agreed to.

Mr. LEAHY. Mr. President, on that last vote, I was recorded and am recorded as voting no. I ask unanimous consent to change that to "aye." It will not change the result of the vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, the two managers are disposed to proceed and move ahead and try to complete action on the budget resolution this evening. Senators should stay close by.

How many Senators have amendments remaining? Mr. DeConcini.

Mr. DeCONCINI. I am prepared to go with mine.

Mr. BYRD. And Mr. Weicker and Senator Armstrong.

All right, Mr. Armstrong, Mr. Weicker, and Mr. DeConcini.

Is there any inclination to shorten the time on the amendments?

Mr. CHILES. I believe the Senator from New York and the Senator from Arizona had said about 15 minutes.

Mr. DeCONCINI. Twenty minutes, equally divided.

Mr. CHILES. Twenty minutes, equally divided.

Mr. BYRD. Mr. President, I make that request, with no amendments in order to the amendment. Is that agreeable?

Mr. DeCONCINI. Except, Mr. Leader, the manager may have a technical amendment.

Mr. CHILES. I ask unanimous consent that no request be deemed to waive points of order under the Budget Act without explicit reference to those points of order.

Mr. BYRD. Twenty minutes, equally divided, under those conditions.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, may I ask the majority leader if that applies to all amendments or only to the DeConcini amendment.

Mr. BYRD. As of the moment, that would be only to the DeConcini amendment.

Mr. PRYOR. Mr. President, I wonder if there would be any possibility—it looks like we have three or four amendments—I wonder if the country would fold up if we debated these issues tonight and started voting, say, perhaps, at 9 or 9:30 in the morning by stacking these issues rather than keeping the Senate in too long this evening.

Mr. BYRD. We know we have an amendment by Mr. Weicker. Are there any other amendments? An amendment by Mr. Armstrong.

Can we agree that there will be no other amendments than those?

Mr. President, I ask unanimous consent that on the amendment by Mr. Weicker there be a time limitation of 40 minutes, to be equally divided and controlled in the usual form, with the proviso that no points of order be waived under the Congressional Budget Act without explicit reference to those points of order.

And I make precisely the same request, almost, with reference to the amendment by Mr. Armstrong, the only change being that there be 1 hour equally divided and that no amendments to the amendment be in order, incorporating the earlier request concerning the waiver of points of order.

The PRESIDING OFFICER. Has the majority leader completed the unanimous-consent request?

Mr. BYRD. Mr. President, I did not hear the Chair.

The PRESIDING OFFICER. I asked if the majority leader had completed propounding the unanimous-consent request.

Mr. BYRD. Yes.

Would the Chair like me to do that again?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. Weicker there be 40 minutes, to be equally divided between Mr. Weicker and the manager of the resolution; that the request not be deemed to have waived points of order under the Congressional Budget Act; and that there be 1 hour on an amendment by Mr. Armstrong, to be equally divided in accordance with the usual form, and with the same condition anent points of order; and that no amendments be in order to either amendment.

Mr. DeCONCINI. Mr. Leader, that includes my amendment?

The PRESIDING OFFICER. The order has already been entered concerning the DeConcini amendment.

Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wonder if the managers or the leader could answer the question: What would be wrong with discussing these matters, laying these amendments down and voting on these amendments tomorrow? Otherwise we are going to be here until 10 or 10:30 tonight for no reason. And I wonder if anyone in this Chamber could answer that question.

The PRESIDING OFFICER. The Senator from Arkansas has reserved the right to object.

Mr. DOMENICI. Mr. Majority Leader, might I try to give an answer?

Mr. BYRD. Yes.

Mr. DOMENICI. I might say to my friend as one of the managers on the minority side I do not necessarily have any objection to it. I just think we are trying to make sure that we know what all the amendments are, for starters. I do not think we have come to an agreement whether we would vote. If we find out there are no more amendments and generally what they are, I think that is the first step. Then we can discuss what the distinguished Senator is talking about. I think that would be appropriate, then. We do not know that is all of them yet but we think so. We need another 2 minutes on our side and we will give you an answer.

Mr. BYRD. I think what the Senator is saying is the question by the distinguished Senator from Arkansas is a very pertinent question but it might well await until we can see if we can get agreement on these two amendments. Otherwise, they may last longer and we may be here longer tonight and tomorrow. I wonder if we can get at least agreements as to the time on these amendments?

Mr. DOLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Kansas reserves the right to object.

Mr. DOLE. If I could ask the distinguished majority leader on the Weicker amendment I think there is no objection if there not be amendments in the second degree to that amendment; if that is all right with the managers?

Mr. BYRD. There would be no amendments to any of them.

Mr. DOLE. No amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. Yes, reserving the right to object, I would like to ask the distinguished minority leader, you referred to capital gains. Can we have any more information on that?

Mr. DOLE. If the distinguished Senator would yield, I do not have any more information. I talked briefly to the Senator from Colorado, Senator ARMSTRONG. He indicated he would index capital gains and he would pay for that by eliminating HUD, or some UDAG—not eliminating HUD, but UDAG—I have been gone a while—but UDAG and various programs to pay for it, within function 450.

Mr. BENTSEN. Are we now trying to arrive at an agreement on time on those? That will obviously take some time.

Mr. DOLE. There is an hour limit.

Mr. BENTSEN. An hour limit. OK.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. No objection.

The PRESIDING OFFICER. Is there objection? There is none——

Mr. PRYOR. Reserving the right to object, Mr. Chairman?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BYRD. Mr. President, I withdraw the request.

Mr. PRYOR. Is it all amendments that are going to be under this umbrella? Or are we talking about one or two amendments?

Mr. CHILES. This is all of them and we are ready to do it right now; right now. And then we can talk about whether we can get votes tomorrow or not if we can get this unanimous-consent agreement.

The PRESIDING OFFICER. It is the Chair's understanding the unanimous-consent request by the majority leader has been withdrawn.

Mr. CHILES. I do not think it has really been withdrawn.

Mr. BYRD. All right, I will reinstitute it. I would like to get the request. We can settle for a little less than we will have to settle for otherwise if we agree. Then we can talk about whether or not we will go over until tomorrow. But if we are going to continue to hem and haw about these two amendments, I am willing to just forget it.

Mr. CHILES. Three amendments.

Mr. BYRD. Three amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. DOLE. Reserving the right to object, I have just been notified, I apologize to the distinguished majority leader——

Mr. BYRD. That is all right. I understand there is an amendment by Mr. HUMPHREY dealing with Afghanistan, on which he proposes 30 minutes equally divided with no amendment in order to the amendment. And with the same reservation concerning points of order and no amendment in order to the amendment.

Mr. DOLE. And that is all the amendments on this side.

Mr. BYRD. That is as to all amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none. And it is so ordered.

Mr. CHILES. Is the Humphrey amendment without any ability to amend?

Mr. BYRD. We have included no amendment to the amendment.

Mr. CHILES. We have not looked at it.

Mr. BYRD. Mr. President, I ask unanimous consent that the request concerning the Afghan amendment by Mr. HUMPHREY be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none. That is so ordered.

Mr. BYRD. I renew my request that there be no amendments beyond those that have been agreed to other than an amendment by Mr. HUMPHREY in this case, the amendment to the amendment would also be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arkansas and others for their patience. I would be very happy now to discuss how far we proceed into the evening, and I would like to have the input of the manager and the ranking manager.

Mr. CHILES. I think it would be very interesting to see if we could have some debate tonight and either accept some of these amendments or stack them until tomorrow. I am willing to stay if we can do that, because I think that would speed up our proceedings tomorrow. All of us have committee work. I have all kinds of hearings set. But, again, if we could do that and stack votes tomorrow, I will be here.

Mr. BYRD. I understand there will be an objection to stacking the votes in the morning. There is a Senator who has to go to a funeral tomorrow. He would object.

I want to follow the managers and it would be my recommendation that we proceed at least to dispose of the amendment by Mr. DECONCINI. He is here and ready to offer his amendment. And I believe Mr. D'AMATO is a partner in that amendment.

Mr. CHILES. Perhaps if we could dispose of the DeConcini and Weicker amendment tonight, we have short time agreements on both of those. Then go over until tomorrow. We would have the Armstrong amendment and we would have the Humphrey amendment.

Mr. BYRD. The Humphrey amendment on Afghanistan and then final passage.

Mr. DOMENICI. Mr. Majority Leader?

Mr. BYRD. Yes?

Mr. DOMENICI. I wonder if we could start with the discussion of not having any votes tonight for starters. I think that is what we are asking. We can debate and discuss but if there are going to be no more rollcall votes tonight I think that would be helpful. If there are going to be rollcall votes tonight I think you might be able to get a unanimous-consent agreement as to when they would start on any of the four amendments and/or final passage.

Mr. BYRD. I just indicated that one Senator who has to attend a funeral tomorrow would be reluctant to agree to stacking the votes over.

Mr. DOMENICI. At any time?

Mr. BYRD. Well, you say at any time. I do not know. Perhaps tomorrow afternoon. I do not quite agree that this is the best way to operate the Senate, that we stack votes over until tomorrow afternoon. What are we going to do tomorrow morning? And tomorrow is Thursday. Then Senators want to get out Friday.

Mr. SARBANES. Mr. Leader, is the thrust of that observation that all of these votes are going to have to be tonight?

Mr. BYRD. As far as I am concerned, they can be tonight.

Mr. SARBANES. Some of us are in a different position.

Mr. BYRD. I understand. Would the Senator let me finish?

Mr. SARBANES. I am sorry.

Mr. BYRD. I said as far as I am concerned, they could be tonight, but that was not necessarily the thrust of the observation.

Mr. CHILES. What about the suggestion of the Senator from Florida that we do the DeConcini-D'Amato amendment and we do the Weicker amendment tonight and that we go out and finish the other two tomorrow morning?

Mr. DODD. Would the leader yield? It might be a suggestion, I do not know how the Senator from California feels or the Senator from Massachusetts, but if you are looking for something to do tomorrow morning, there are the expedited procedure questions concerning Mexico and the Bahamas. We could certainly debate those tomorrow morning. I would like to see a time agreement on those and then move to the votes in the afternoon to accommodate the Senator who has a personal issue and then deal with the issue of Bahama and Mexico at the conclusion of that. We could deal with it all at once with stacked votes.

Mr. BYRD. The Senator from Connecticut makes a good point. There is that measure that has expedited procedures attached. I have to do it at some point. I could do it tomorrow morning, but I think if we want to accommodate somebody, we ought to accommodate the two managers. They are going to have to go to conference and deal with this matter and we are going to have to deal with this matter before we can deal with appropriations bills. I am very agreeable to doing it any way the Senators want, but I would like to use tomorrow usefully.

Mr. CHILES. Mr. Leader, let us do the DeConcini-D'Amato amendment tonight and finish it up and then go over tomorrow and do the other three tomorrow.

Mr. BYRD. All right.

Mr. PRYOR. Will both require rollcalls?

Mr. CHILES. All of them, I think.

Mr. BYRD. What time will the Senators want to come in tomorrow?

Mr. WILSON. Let us come in early.

Mr. CHILES. Nine-thirty.

Mr. BYRD. Let us proceed with the amendment by Senator DECONCINI. Who will lay down the amendment tonight for action in the morning?

Mr. DOMENICI. Senator WEICKER.

Mr. BYRD. Senator WEICKER can lay down his amendment, and the managers would like to come in at 9:30 tomorrow morning.

Mr. CHILES. Yes.

Mr. STEVENS. Will the majority leader yield? For my information—I am trying to hear—it was my understanding the leader had said, Mr. President, that we vote on the DeConcini-D'Amato amendment, lay down the Weicker amendment, and go out and the DeConcini vote be the last vote?

Mr. BYRD. Yes.

Mr. STEVENS. Wise decision.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1943

(Purpose: To accommodate sufficient budget authority and outlays for a new antidrug initiative introduced in the Senate (S. 2205) for fiscal year 1989)

Mr. DECONCINI. Mr. President, I send an amendment to the desk on behalf of myself, Mr. D'AMATO, Mr. CHILES, Mr. DOMENICI, Mr. DOLE, Mr. KERRY, Mr. DODD, Mr. MOYNIHAN, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and others proposes an amendment numbered 1943.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33 of the Resolution, after line 17, insert the following:

ANTI-DRUG RESERVE FUND

SEC. 8. (a) Budget authority and outlays in amounts not to exceed the amounts specified in subsection (a)(4) shall be allocated to the appropriate committees of the House of Representatives and the Senate to provide for an anti-drug initiative, and the aggregates for fiscal year 1989 in this resolution shall be adjusted accordingly, when—

(1) the appropriate committees of the House of Representatives or the Senate have reported legislation that will, if enacted, make funds available for such initiative;

(2) the legislation referred to in subsection (a)(1) includes provisions to ensure that any such additional funding will not increase the deficit for fiscal year 1989 above the levels set forth in this resolution; and

(3) the additional funding and funds made available, referred to in subsection (a)(4) shall not cause the aggregate spending and revenue levels agreed to in the bipartisan budget summit agreement for fiscal year 1989 to be exceeded; *Provided*, That if the net effect of the legislation referred to in subsection (a)(1) would not increase the deficit for fiscal year 1989, the funding made available by such legislation shall not be considered as exceeding the spending and revenue levels agreed to in the bipartism budget summit agreement; and

(4) The President and the bipartisan leadership of the House of Representatives and the Senate agree that a sufficiently dire state of emergency exists to raise discretionary spending allocations specified in section 8001 of the Omnibus Budget Reconciliation Act of 1987, and the President and the bipartisan leadership of the House of Representatives and the Senate agree on the amounts available for allocation under this subsection; *Provided*, That the amounts available for allocation under this subsection for funding the anti-drug initiative for fiscal year 1989 shall not exceed $2,600,000,000 of new budget authority and $1,400,000,000 of outlays.

(b) Upon the reporting of legislation pursuant to subsection (a), the Chairman of the Committees on the Budget of the House and Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Appropriations shall report revised allocations pursuant to section 302(b) of such Act for fiscal year 1989 to carry out this section.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to thank the ranking member on the Budget Committee and the Chairman of the Budget Committee for their involvement in this amendment. Senator D'AMATO and myself have had an amendment prepared to fund an omnibus drug bill, not necessarily S. 2205, but something close to it, at least the ceiling and the floor figure of what we felt was necessary.

On March 23, we introduced the omnibus drug bill with 39 cosponsors. Today it has 66; S. 2205.

The amendment, as offered here today with the tremendous help and craftsmanship of both staffs of the offices of Senator CHILES and Senator DOMENICI, as well as Senator D'AMATO and my office, has put together a process that we can fund without violating the economic summit of last year.

Specifically, the amendment that has been worked out will mandate the allocation of $2.6 billion in budget authority and $1.4 billion in outlay to cover the cost of an antidrug initiative in fiscal year 1989. The allocation of these additional funds for the drug initiative would be triggered in certain conditions.

Let me just go over those conditions, and then I will yield the floor: That the funding legislation reported out of the Appropriations Committee would not increase the deficit target contained in the budget resolution; that the President and the same bipartisan House leadership summit members concur that the drug threat to this Nation represents a dire state of emergency, and that warrants raising the discretionary spending caps contained in the original bipartisan budget summit agreement; that the amount of funds to be allocated to fund the antidrug initiative would not exceed $2.6 billion in budget authority and $1.4 billion in outlays over and above the already contained amount in the appropriate spending caps.

Mr. President, I want to say at the outset that this amendment has been worked out with the chairman and ranking member of the Senate Budget Committee and I believe that it will be accepted. I want to thank Senator CHILES and Senator DOMENICI for sitting down with me and crafting this amendment that, if approved by the Senate, will pave the way for enactment of a major antidrug initiative this year.

Mr. President, this amendment represents the first major step toward enactment of a new antidrug bill. On March 23, I introduced the Omnibus Anti-Drug Abuse Act of 1988, with 39 of my Senate colleagues. Today, this bill, S. 2205, has 66 cosponsors—exactly two-thirds of the Senate. The amendment that I am offering to the budget resolution today will provide a mechanism and a process for accommodating the necessary budget authority and outlays to cover the full, first year cost of my drug bill, or any other antidrug initiative that may be enacted this year.

Specifically, the amendment that has been worked out with the floor managers and my good friend from New York, Senator D'Amato would mandate the allocation of $2.6 billion in budget authority and $1.4 billion in outlays to cover the cost of an antidrug initiative in fiscal year 1989. The allocation of those additional funds for the drug initiative would be triggered if certain conditions are met. They are:

First, that the funding legislation reported out of the Appropriations Committee would not increase the deficit target contained in this budget resolution;

Second, that the President and the same bipartisan House-Senate leadership summit members concur that the drug threat to this Nation represents a dire state of emergency that warrants raising the discretionary spending caps contained in the original bipartisan budget summit agreement; and

Third, that the amount to be allocated to fund the antidrug initiative would not exceed $2.6 billion in budget authority and $1.4 billion in outlays over and above what was already contained in the appropriate spending caps in the agreement and this resolution.

Mr. President, my original amendment that I drafted with Senator D'Amato did not have the condition that the bipartisan budget summit leaders reconvene and determine the dire emergency nature of the drug threat. Nor did we envision giving the summit leaders discretion to agree on the amounts to be available under an antidrug initiative.

But I believe that this compromise amendment does several things that will help to assure sufficient room in the budget in fiscal 1989 for our drug bill or another antidrug initiative:

First, it puts pressure on the President of the United States to back up his rhetoric of the last 7 years and declare the drug problem in this country to be a "dire emergency." Dire emergencies were one of the only exceptions contained in the original bipartisan budget summit that would warrant additional spending over and above the spending targets set out in the agreement;

Second, if a dire state of emergency is declared by the bipartisan budget summit leaders—and I believe they will have to do so—then it brings the Office of Management and Budget onto the playing field to make sure that the money is made available to our antidrug initiative. OMB has been a continuous thorn in the side of progress on the drug issue since day one and they would have to play ball under our agreement; and

Third, it acknowledges the funding levels contained in S. 2205, the Omnibus Anti-Drug Abuse Act of 1988, and brings the antidrug initiative into the bipartisan budget summit arena and forces the drug issue into the highest levels of the administration and the Congress.

Mr. President, this amendment is a good compromise. It is reasonable and fair and I applaud both Senator Chiles and Senator Domenici for their willingness to agree to this process for making room for a major, antidrug initiative this year.

With the chairman and ranking member of the Budget Committee onboard and, hopefully, the budget summit leaders, we can achieve the objective of passing a drug bill this year and show the American people that we are serious about fighting the drug problem right now. This amendment not only makes room for a new drug initiative, but it does so without busting the budget and without unraveling the bipartisan budget summit agreement that was reached last year.

Mr. President, let me be upfront with the Senate. I intend to pursue enactment of S. 2205 this year. I intend to vigorously pursue enactment of the appropriations bill that will provide the money to fund the programs, projects, and activities contained in that legislation, and I have told both the chairman and ranking member of the Appropriations Committee of my intentions. Let me also say that I will be watching the actions of the bipartisan budget summit members and the President to make sure that they take their role under this amendment seriously. The American people will judge whether or not they, collectively, take this matter seriously and declare the dire state of emergency that we all know exists on the drug issue. I intend to write the President immediately following approval of this amendment by the House-Senate conference, assuming that the House concurs, to urge him to immediately reconvene the bipartisan leadership group to act on this matter. I am confident that both our representatives and the President will agree that a new drug initiative is essential to reestablish the momentum of the drug war.

In conclusion, Mr. President, on Sunday evening, Peter Jennings of ABC News moderated a program on the drug threat to this Nation. In closing his commentary on the drug problem, Mr. Jennings asked the key question: "How badly do we want to win the war on drugs?"

We can begin to answer that question today on the Senate floor by approving this amendment and by the bipartisan summit leadership moving swiftly to declare our drug problem as a "dire state of emergency."

Mr. President, I thank Senator Chiles, Senator Domenici, and Senator D'Amato for their continued leadership on this critical issue and for their willingness to work with this Senator on this amendment.

Mr. President, I urge the adoption of the amendment.

Mr. President, I ask unanimous consent that two statements that I have made on S. 2205, the Omnibus Anti-Drug Abuse Act of 1988: A summary of the bill, and a cost breakdown of the bill, S. 2205, be included at the end of my remarks on this amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

Omnibus Antidrug Abuse Act

Mr. DeCONCINI. Mr. President, I rise today to introduce the Omnibus Antidrug Abuse Act of 1988 and do so on behalf of myself, the distinguished Senator from New York, Senator D'Amato and over 30 of my other colleagues.

Mr. President, the 1986 drug bill was an example of what this Chamber and what this Nation can do when it puts partisan politics aside, rolls up its collective sleeves, and gets serious about the drug problem in this country. Today, the bill that Senator D'Amato and I are introducing builds on the accomplishments of the 1986 drug bill and goes the next step in mobilizing all elements of our antidrug effort.

Mr. President, there may be a part of the drug plague that we did not attack in this legislation—but there aren't many. This bill represents a balanced, comprehensive assault on the drug threat to this Nation. The bill calls for an additional $2,448,000,000, over the President's budget request for fiscal year 1989 to beef up: First, law enforcement personnel at our civilian drug enforcement agencies; second, drug interdiction assets for Coast Guard and Customs and other agencies with an interdiction mission; third, Federal prison construction; fourth, State and local narcotics control assistance; fifth, international incentives to promote drug eradication and interdiction at the drug source country level; sixth, treatment and rehabilitation assistance for those who have already fallen victim to the drug menace; and seventh, drug education for our school systems around the Nation.

The bill also opens up the Justice and Treasury Department forfeiture funds so that all of the resources resulting from seizure and confiscation from drug traffickers can be put to use for State and local law enforcement agencies and others who are eligible for such assistance.

The bill includes a tough, new law that attacks the problem of illicit chemical diversion with rigid new penalties for those who use chemicals to manufacture the drugs that are poisoning our youth and ruining lives in this country.

The bill also authorizes funds for additional training of our law enforcement personnel and establishes a new program of research and development at existing Department of Defense and other Federal laboratories, to study new technologies that will help our drug enforcement agencies keep ahead of the sophisticated, well-financed drug smuggler.

And, finally, the bill authorizes the establishment of a nonlegislative Senate Select Committee on Narcotics Abuse and Control that will give us a full-time oversight committee that will review the drug abuse issue and provide advice and counsel to the Senate.

Mr. President, in crafting this legislation, we knew that it would cost money to really launch a full scale assault on the drug problem on multiple fronts. We were aware of the economic budget summit agreement; the Gramm-Rudman-Hollings deficit targets; and the need to try to find offsets for the programs and initiatives contained in this legislation.

So, Mr. President, this bill not only sets out new, aggressive initiatives for tackling the drug enforcement and drug abuse problems, it contains a formula for how we intend to pay for them. Here is how we would pay for the bill:

First, in testimony before my Treasury Appropriations Subcommittee just last Monday, the Commissioner of IRS testified that if we were to add $286.6 million and approximately 6,800 new positions over the President's budget, the Treasury would receive an additional $1,120,000,000 over and above the revenue assumptions in the economic budget summit agreement. We would add the additional positions to IRS for increased tax enforcement and deposit the additional revenues generated into a special antidrug abuse trust fund in Treasury. These funds would then only be available to pay for the drug bill.

Second, in response to our inquiry, the Bureau of Alcohol, Tobacco, and Firearms indicated that an additional $3 million and 40 positions put into aggressive enforcement of the special occupational alcohol tax would generate an additional $130 million over and above the President's budget for fiscal year 1989. We provide the additional funding and positions in this bill, with the additional revenues going into the new special fund I just mentioned.

Finally, for many years I have been introducing legislation that would force our Federal agencies to be more aggressive in the collection of delinquent debt owed to the Government. I was one of the original cosponsors of Senator Charles Percy's debt collection bill back in 1980 and last year I introduced my own bill, S. 1270 that would provide new incentives and goals for debt collection. The bill that is being introduced today, mandates the collection of $2 billion over and above the debt collection estimates of the President for fiscal 1989.

We include a new approach to pushing agencies to use all of the tools available to collect the nearly $29 billion in nontax delinquent debt currently on the books. Under the bill, we would allow an agency to keep a portion of the funds it collects over and above its debt collection target set by the Secretary of the Treasury. On the other hand, if an agency falls short of its target, the President would then propose a rescission of a portion of their funding, based on how short of their goal they fell.

All of the $2 billion to be collected over and above the President's budget estimates would be deposited into the special antidrug abuse Treasury fund to help pay for the drug bill.

In total, there would be more than enough additional revenues put into the special fund to cover the entire cost of the drug bill for fiscal year 1989, with some left over. So even if our estimates of the aggregate cost of the Omnibus Antidrug Abuse Act of 1988 are off slightly, the special fund would have sufficient resources to cover the bill's price tag. And we would not be violating either the Gramm-Rudman-Hollings targets, or the economic budget summit, or the President's budget.

CONCLUSION

Mr. President, this is a good bill. It hits the drug problem on many fronts. It is fiscally responsible and pays for itself. And, most importantly, it is needed now. The drug problem has not gone away since 1986. We need to provide this additional muscle to fight the narcotics trafficker—and this bill does that.

Mr. President, I understand that Congressman Glenn English will be introducing virtually the same bill later today in the House. I also understand that the Speaker of the House has made a commitment to Mr. English that he will attempt to bring up the drug bill before June. That is encouraging, and I hope that the leadership in the Senate will move this legislation to the floor quickly before the summer.

THE ANTI-DRUG ABUSE ACT OF 1988

Mr. DECONCINI. In 1986, the cocaine related deaths of two star athletes, a college basketball All-American and an all-pro football player, focused the attention of Americans on the seriousness of the drug abuse epidemic sweeping this country. For months you could not turn the television on or pick up a newspaper or magazine without discovering a story that mentioned in some way the growing problem or effects of illegal drugs.

In response, Congress worked quickly during the summer of 1986, in a bi-partisan effort, to come up with some kind of quick fix legislation to solve this problem. For those of us who had spent years working on the issue, there was a real satisfaction to hear talk of the U.S. finally ready to mount a "war on drugs." However, when you looked closely at the critical nature of the problem and the efforts that were being put forth by the Federal Government—$3 million a year for drug education in our schools—you knew we needed much more than a quick fix. We desperately needed a long term commitment. A comprehensive program that focused on drug education, drug treatment and rehabilitation, law enforcement, interdiction, and eradication at the source.

In October of 1986 Congress passed the $1.7 billion Anti-Drug Abuse Act. Many advertised it as a full fledged war on drugs by this country. It was not, it was a start. A beginning. When President Reagan signed the drug bill he said, "I pledge the total commitment of the American people and their Government to fight the evils of drugs."

But the commitment was quickly abandoned. In his FY 1988 budget proposal, just 3 months after signing the drug bill, the President slashed over $900 million in Anti-Drug Abuse funds. The President eliminated all money for State and local governments for drug enforcement programs, and cut by more than half, funding for drug education and interdiction. Congress rejected the President's proposals and restored most of the cuts.

In President Reagan's State of the Union Address in February, you were led to believe this country had turned the corner on the fight against illegal drugs. The President, spoke of an untold American success story. Obviously the White House is not getting the full story on the drug epidemic. Although the President increased funding for Federal law enforcement efforts and drug education in his FY 1989 budget request—once again he cut all State and local law enforcement grants and included only a small increase for drug treatment and rehabilitation.

The statistics speak for themselves. We are losing—not winning our war on drugs. The Justice Department recently released a study that confirmed what we suspected all along—over half of all serious crimes in America are related to drugs. In New York City, 8 out of 10 arrested for serious crimes tested positive for drugs.

You can throw out the window the perception that the problem is confined to certain groups of people or areas of the country. The drug problem has no boundaries. According to the district attorney from Portland, Oregon, 90 percent of the burglaries and robberies in that area are drug-driven and 73 percent of those arrested were found to be under the influence of illegal drugs. An investigation by the Phoenix Police Department to determine the availability of drugs near the city's high schools, found an estimated 80 percent of the juveniles who were using narcotics were committing crimes.

A recent GAO study reported a 124-percent increase in the number of cocaine related deaths between 1983 and 1986. And it revealed that the purity level of cocaine being sold on the street is now close to 70 percent. And the price is declining because supplies are increasing.

In 1986 the experts said we better watch out if the form of cocaine known as "crack" becomes popular. Our worst fears are being realized. Crack has turned our city streets into battlefields. Killing is common among the gangs and organizations who fight to gain control of drug sales. The Jamaican gangs—known as Posses—have come to dominate the U.S. crack trade. These Posses have been responsible for as many as 800 murders throughout the country.

Outside this country international narcotics organizations are growing in stength and numbers. In Colombia, fear and bribery have made that country's criminal justice system a free-fire zone of the drug cartel. Drug violence is king. One of Colombia's cocaine barons, Jorge Ochoa, bribes his way out of jail. It is reported the cartel was willing to spend $20 million for his release. The recent murder of the Colombian Attorney General is proof that they are serious and have no regard for human life.

Mexico has become the number one source of marijuana and heroin entering the United States. In addition, about 40 percent of the cocaine coming into the country is transported through Mexico. This past February 7 marked the third anniversary of the kidnapping and torture-murder in Mexico of DEA Agent Enrique Camarena. It took 3 years for indictments to be handed down in the Camarena case. When they came, they came from the U.S. attorney in Los Angeles—not the Mexican Government.

Make no mistake, illegal drugs has our country up against the wall. If we have any chance of reversing the battle and turning the corner, we must make the battle against illegal drugs a national priority. We must mobilize all our resources.

Last week Senator D'Amato and I introduced the Anti-Drug Abuse Act of 1988. It is a comprehensive bill patterned after the 1986 drug bill that addresses drug education and treatment, Federal, State and local law enforcement, interdiction and eradication. Over 60 of our colleagues have already cosponsored the bill. That in itself tells me there is a growing concern in Congress that we are losing the war on drugs and we need to respond.

To fight a war, you've got to have the tools. It's as simple as that. Our bill would provide $1.5 billion in assistance to State and local law enforcement over a 3-year period. If a local program is funded in the first year, it would receive the same funding for the following 2 years. A complaint most of us have heard is that the individual States are taking forever in getting the Federal funds out to the localities. We have included a provision that would allow cities that have a population over 500,000 to receive direct funding if the State fails to get the funding out in a timely manner.

In the area of drug education, S. 2205 authorizes $300 million in the first year, and $350 million in each of the next 2 years. It also includes reporting and accountability requirements to insure that only the best programs are being implemented in our schools.

For drug treatment and rehabilitation, the bill authorizes $20 million for grants to emphasize community based residential treatment services. It provides $558 million for alcohol and drug abuse treatment and rehabilitation block grants and $600 million for emergency grants to the State and locals.

The bill provides additional appropriations for Federal drug enforcement agencies like DEA, FBI, Customs, Coast Guard, and the U.S. Border Patrol. To help shut-off the drug trafficking lanes into our country, the legislation beefs up the interdiction assets of Customs, Coast Guard, and Department of Defense.

The bill includes a piece of legislation that Senator D'Amato and I introduced last year that attacks the problem of illicit chemical diversion and trafficking. This section includes tough guidelines and penalties for those who use chemicals to manufacture the drugs that are poisoning our youth.

There is massive overcrowding in jails and prisons across the country. This bill would provide $200 million for Federal prison construction. In addition, excess money in the asset forfeiture fund would go toward building jails and prisons.

To encourage producing countries to eradicate coca, marijuana, and opium crops, our bill establishes a 3-year economic incentive program. If Bolivia were able to meet specific eradication goals—15 percent of their total coca crop in the first year, 40 percent by the third year—they could dip into a $200 million economic assistance fund that would be administered by A.I.D. This money could be used for alternative crops or new farming methods. The bill also provides U.S. military training and equipment for countries in Latin America to aid them in their efforts against the narcotraffickers.

Finally, the bill authorizes the establishment of a non-legislative Senate Select Committee on Narcotics. This will give the Senate, for the first time, a full-time oversight committee that will review the drug abuse issue and provide advice and counsel to the Senate.

SUMMARY ANALYSIS OF THE OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A

Asset Forfeiture Fund Amendments Act of 1988.

Makes certain changes to the Treasury and Justice Department Asset Seizure funds to allow those funds to be more easily provided to state and local agencies which contributed to the seizure;

Allows some of those funds from the Justice account to be used for prison construction;

Removes caps from those funds and takes the use of those funds off-budget.

Subtitle B

State and Local Narcotics Control Assistance.

Authorizes the Bureau of Justice Assistance (which expires this year) and requires that the BJA Administrator be appointed by the President with the advice and consent of the Senate;

Requires each state to submit a "master" plan or strategy which encompasses demand reduction, education, and law enforcement programs and delineates 30 different purposes for which these funds can be used;

Establishes an expedited grant system for metropolitan areas with a population over 500,000;

Provides accountability by implementing reporting and feedback requirements (providing funds to carry out the same), while identifying those programs which are successful, with the intent of encouraging similar programs;

Sets up a three-year approach by which a program funded in the first year would receive the same funding for the following two years, and authorizes $250 million the first year, $500 million the second year, and $750 million in the third year—$5 million and 96 FTE to allow BJA to implement this grant program.

Subtitle C

Chemical Diversion and Trafficking Act of 1988.

Identical to S. 1861, a bill to suppress the diversion and trafficking of precursor chemical and other chemicals used in the illicit manufacture of controlled substances.

Subtitle D

Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.

Makes certain provisions for law enforcement officers, including increased death benefits for all federal, state, and local officers;

Establishes a National Advisory Commission on Law Enforcement to examine pay and benefits and report to the President within six months.

Subtitle E

Deportation of Convicted Foreign Drug Inmates.

Provides for the deportation of "violent criminal aliens" who have been convicted of an aggravated violent felony, while providing safeguards.

Subtitle F

Customs Enforcement Amendments Act of 1988.

Provides for the inspection of vessels by Customs officers under certain conditions on the high seas.

Clarifies current law regarding transfer of seized assets to contributing state and local law enforcement agencies and foreign governments.

Authorizes the Secretary of State to revoke the passport of any individual convicted of a felony narcotics violation.

Subtitle G

Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989.

Coast Guard: $45 million and 800 FTE's above the President's request.

Customs: $30 million and 600 FTE above President's budget

Border Patrol: $20 million and 500 FTE's above President's request.

INS: $19 million and 225 criminal and organized crime investigator FTE's above President's request.

ATF: $8 million and 140 FTE's over President's request, including 10 FTE's to establish a Bureau of Alcohol, Tobacco, and Firearms Drug Education officers program, and certain reimbursements for state and local personnel.

DEA: $60 million and 224 FTE's above the President's request, including five FTE's for program similar to above.

FBI: $38 million and 400 FTE's above the President's request, including five FTE's for program similar to above.

Marshals Service: $73.8 million above the President's request to be used as follows:

(1) $11.5 and 230 FTE's for asset seizure and forefieture activities;

(2) $30.7 and 20 FTE's for jail cell renovations including Cooperative Agreement Program projects;

(3) $10 million and 188 FTE's for criminal justice support activities.

(4) $6.2 million and 104 FTE's for protection of the federal judiciary and federal courts due to increased drug-related trials;

(5) $4.6 million and 60 FTE's for Witness Security Program;

(6) $10.8 and 139 FTE's for fugitive programs—$10 million and 200 FTE for additional U.S. Attorneys authorizes $200 million for new federal prison construction.

Subtitle H

Authorizes rewards for information on narcotics fugitives;

Prohibits dangerous weapons in federal courthouses;

Authorizes payments to state and local jurisdictions for the housing and care of persons in Marshals Service custody;

Authorizes $1 million for each of FY 1989-1991 for President's Media Commission on Alcohol and Drug Abuse Prevention.

TITLE II. INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A

International Drug Eradication Improvement Program.

Establishes an International Special Operations Drug Eradication Squadron within State for use in source countries;

Authorizes an additional $12 million for the procurement of aircraft, equipment, O&M, and salaries and expenses for the Squadron;

Requires the Secretary of State to establish strict criteria and guidelines for employing the squadron.

Subtitle B

International Narcotics Matters Improvement and Special Assistance Programs.

Establishes a three-year economic assistance grant program under AID for source countries which meet specific eradication goals (15 percent verifiable in the first year, 40 percent by the third year to be determined by DEA);

Authorizes $200 million for the program for each of the three years;

Directs the Comptroller General to monitor the program, and provides for a panel of Administration and Congressional representatives to assess the program after three years.

Subtitle C

Amendments to Foreign Assistance Act of 1961, as Amended.

Implements certain changes to the reporting requirements of the Act concerning the cooperation of source and transshipment countries in narcotics control.

Subtitle D

International Narcotics Matters Authorization of Appropriations.

Authorizes $138 million in the first year and $150 million for the second year for INM, including:

$500,000 to be used for coca eradication research;

$900,000 to provide protective equipment for aircraft used in narcotic eradication and interdiction efforts in source or transshipment countries upon notification of Congress;

$2 million to be used for training in foreign countries relating to narcotics control;

Allows funds withheld from non-cooperating countries to be used for narcotics control in cooperating countries.

Provides certain assistance for Bolivia; limits and conditions amount of funds which can be made available to Mexico; provides other foreign assistance programs involving education and reporting.

Subtitle E

Latin American Anti-Drug Strike Force

Creates within State an Ambassador at Large and Coordinator for Western Hemisphere Anti-Drug Efforts;

Directs the Joints Chiefs of Staff to develop a plan for a Latin American strike force to eradicate and interdict narcotics in the Western Hemisphere (outside the U.S. and its territories);

Would involve Latin American personnel using U.S.-provided resources.

TITLE III. DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

Subtitle A

Coast Guard:

Provides $186 million for marine and air interdiction assets and for O&M.

Subtitle B

Customs:

Provides $110 million for Air Interdiction assets and $15 million for salaries and expenses.

Subtitle C

Department of Defense:

Provides $75 million for four aerostats, $15 million for surveillance flights and related purposes, and $10 million for assets in establishing the Latin American Strike Force.

Subtitle D

DEA:

Provides $48 million for the establishment of an International Drug Interdiction helicopter force similar to OPBAT; $4 million will go to EPIC for enhancing tactical intelligence.

Subtitle E

INS/Border Patrol:

$20 million for Border Patrol equipment.

Subtitle F

Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force:

Provides $15 million for 100 Border Patrol, 25 Customs, and 25 DEA agents assigned to two mobile corridor operations forces, with line authority given to joint commanders.

Subtitle G

U.S.-Bahamas Drug Interdiction Task Force:

Authorizes $13 million for joint efforts.

Subtitle H

Special Drug Interdiction Support:

Authorizes grant programs for procurement of assets to Puerto Rico ($7 million), Jamaica ($7 million), Dominican Republic ($5 million), Hawaii ($7 million).

TITLE IV. DEMAND REDUCTION

Subtitle A

Treatment and Rehabilitation:

Authorizes $20 million for grants to emphasize community based residential treatment services such as halfway houses and therapeutic communities, including the purchase of land and construction of facilities.

Subtitle B

Alcohol and Drug Abuse Treatment and Rehabilitation Act of 1988:

Authorizes $558 million in first year, and $583 million in the second year, and $608 million in the third year for Alcohol, Drug Abuse and Mental Health Bloc Grant programs;

Authorizes $600 million in first year, $625 million in the second year, $650 million in the third year for Substance Abuse Emergency Drug Treatment Programs.

Subtitle C

Drug-Free Schools and Communities Act Amendments of 1988:

Authorizes $300 million in the first year, $350 million in the second year, and $350 million in the third year with specific reporting and accountability requirements.

TITLE V. NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A

National Border Coordination and Reorganization Act of 1988:

Establishes Office of Enforcement and Border Affairs within the Department of the Treasury, and places Coast Guard and Customs within that office.

Subtitle B

Department of Defense Drug Interdiction Reorganization:

Establishes within ISA a Deputy Assistant Secretary for International Drug Interdiction and Enforcement with the overall duty of DoD drug interdiction and enforcement activities.

TITLE VI. RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A

Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies:

Directs the establishment of a Research and Technology group under the National Drug Policy Board and creates an advisory board to report to the Group;

Designates 8 existing facilities under the Departments of Defense, Justice, and Energy and other agencies as "National Technology Development Centers" to develop technologies for federal law enforcement applications.

Subtitle B

Cargo Container Drug Detection Research and Development:

Authorizes $5 million for developing technology.

TITLE VII. DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A

The Federal Law Enforcement Training Center Improvement Act of 1988:

Expands and improves the Federal law Enforcement Training Center, and provides an additional $10 million for fiscal 89, a total of $45 million in fiscal 90, and a total of $50 million in fiscal 91.

Subtitle B.

Department of Justice Training Facilities Improvement Act of 1988:

Provides an additional $10 million for existing Justice facilities, and $10 million for new facilities.

Subtitle C

Provides a total of $11 million to establish a foreign language training program for special agents of federal civilian drug enforcement agencies within the Departments of Defense and State.

Subtitle D

Special Training Centers:

Provides $10 million for the establishment of a National Training Center in El Reno, Oklahoma, to train Federal, state, and local prison officials in drug rehabilitation programs targeted to criminals convicted of drug-related crimes.

Subtitle VIII

Drug Testing in the Private Workplace:

Requires that laboratories performing drug testing for the private workplace meet certain minimum standards, and that no action be taken against an employee or applicant based on a test from a laboratory not meeting those minimum standards.

TITLE IX. CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTI-DRUG ABUSE PROGRAMS

Provides for the continuity of funding for the programs authorized in the Act and establishes framework for partial offset of cost.

COST BREAKDOWN OF OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

Note: These figures represent the increase over the President's fiscal year 1989 budget request, unless otherwise noted. These are estimates of budget authority.

TITLE I: DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A: Asset Forfeiture Fund Amendments Act of 1988

No new budget authority required to implement.

Subtitle B: State and Local Narcotics Control Assistance

Estimated cost: $250,000,000 fiscal year 1989 (Total funding); $500,000,000 fiscal year 1990 (total funding); $750,000,000 fiscal year 1991 (total funding); $5,000,000 fiscal year 1989 (96 FTE/BJA).

Subtitle C: Chemical Diversion and Trafficking Act of 1988

No new budget authority required to implement.

Subtitle D: Comprehensive Federal Law Enforcement Officer Improvements Act of 1988

Estimated Cost: $10,000,000 (covers increased death benefits and Commission).

Subtitle E: Deportation of Convicted Foreign Drug Inmates

No new budget authority required to implement.

Subtitle F: Customs Enforcement Amendments Act of 1988

No new budget authority required to implement.

Subtitle G: Authorization of Additional Appropriations for Drug Enforcement Personnel, fiscal year 1989

Estimated cost:

Coast Guard: $45,000,000/800 FTE.

Customs Service: $30,000,000/600 FTE.

Border Patrol: $20,000,000/500 FTE.

INS: Criminal Investigations: $3,000,000/50 FTE.

INS: OCDETF agents: $16,100,000/175 FTE.

BATF: $8,000,000/140 FTE.

DEA: $60,000,000/224 FTE.

FBI: $38,000,000/400 FTE.

Marshals Service: $73,800,000/741 FTE.

U.S. Attorneys: $10,000,000/200 FTE.

Subtotal: $303,900,000/3,830 FTE.

Note: FTE – full-time equivalent positions.

Estimated cost: Federal Prison System construction: $200,000,000 fiscal year 1989.

Subtitle H: Miscellaneous Law Enforcement Provisions

Estimated cost: $1,000,000 for President's Media Commission on Alcohol and Drug Abuse Prevention.

TITLE II: INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A: International Drug Eradication Improvement Program

Estimated cost: $12,000,000 fiscal year 1989.

Subtitle B: International Narcotics Matters Improvement and Special Assistance Programs

Estimated Cost: $200,000,000 fiscal year 1989, 1990, and 1991 each.

Subtitle C: Amendments to Foreign Assistance Act of 1961, As Amended

No new budget authority required to implement.

Subtitle D: International Narcotics Matters Authorization of Appropriations

Estimated cost: $30,000,000 fiscal year 1989. $150,000,000 total funding, fiscal year 1990. 1,000,000 A.I.D. drug education program.

Subtitle E: Latin American Antidrug Strike Force

Estimated cost: $10,000,000 start up costs, funded in Department of Defense portion of Title III, Drug Interdiction Asset Improvement and Enhancement.

TITLE III: DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

Subtitle A: Coast Guard: $186,000,000 fiscal year 1989.

Subtitle B: Customs Service: $125,000,000 fiscal year 1989.

Subtitle C: Department of Defense: $90,000,000. (Also, $10,000,000 for Latin American Strike Force established in Title II.)

Subtitle D: Drug Enforcement Administration: $48,000,000.

Subtitle E: Border Patrol: $20,000,000.

Subtitle F: Interagency S.W. Border Drug Interdiction Mobile. Corridor Task Force: $15,000,000/150 FTE, incl. 100—Border Patrol; 25—DEA; and 25 Customs.

Subtitle G: U.S.-Bahamas Drug Interdiction Task Force: $13,000,000.

Subtitle H: Special Drug Interdiction Support: $26,000,000, including: $7,000,000—Puerto Rico; $7,000,000—Jamaica; $5,000,000—Dominican Republic; and $7,000,000—Hawaii.

TITLE IV: DEMAND REDUCTION

Subtitle A: Treatment and Rehabilitation

Estimated cost: $20,000,000 fiscal year 1989.

Subtitle B: Alcohol and Drug Abuse Treatment and Rehabilitation

Estimated cost:

Basic Block Grant Program: ADAMHA: $50,000,000 over President, fiscal year 1989 (Total of $558,860,000).

Basic Block Grant Program: ADAMHA $583,000,000 total, fiscal year 1990.

Basic Block Grant Program: ADAMHA $608,000,000 total, fiscal year 1991.

Emergency drug treatment grants: $435,000,000 over President, fiscal year 1989.

Emergency drug treatment grants: $625,000,000 total, fiscal year 1990.

Emergency drug treatment grants: $650,000,000 total, fiscal year 1991.

Subtitle C: Amendments to Drug-Free Schools and Communities Act

Estimated cost: $50,000,000 over President, fiscal year 1989. $350,000,000 total, fiscal year 1990. $350,000,000 total, fiscal year 1991.

TITLE V: NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A: Office of Enforcement and Border Affairs

No new budget authority required to implement.

Subtitle B: Department of Defense Drug Interdiction Reorganization

Estimated cost: $100,000,000 fiscal year 1989.

Subtitle C: Establishment of Senate Select Committee on Narcotics Abuse and Control

Estimated cost: $400,000 fiscal year 1989; $500,000 fiscal year 1990; $600,000 fiscal year 1991.

TITLE VI: RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A: Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies

Estimated cost: $-0- fiscal year 1989; $70,000,000 fiscal year 1990.

Subtitle B: Cargo Container Drug Detection Research and Development

Estimated cost: $5,000,000 fiscal year 1989.

TITLE VII: DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A: Federal Law Enforcement Training Center

Estimated cost: $10,000,000 over President, fiscal year 1989; $45,000,000 total, fiscal year 1990; $50,000,000 total, fiscal year 1991.

Subtitle B: Department of Justice Training Facilities Improvement Act of 1988

Estimated cost: $10,000,000 over President, fiscal year 1989 for expansion of existing facilities; and $10,000,000 over President, fiscal year 1989 for new training facilities.

Subtitle C: Federal Law Enforcement Language Training Improvement Act of 1988

Estimated cost: $11,000,000 over President, fiscal year 1989.

Subtitle D: Establishment of National Training Center in El Reno, Oklahoma

Estimated cost: $10,000,000 over President, fiscal year 1989.

TITLE VIII: DRUG TESTING IN THE PRIVATE SECTOR

No new budget authority required to implement.

TITLE IX: CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEARS 1989 FOR ANTIDRUG PROGRAMS

No new budget authority required to implement.

TITLE X: FUNDING; ACCOUNTS

Subtitle A: Offsetting Revenues and Savings to Cover the Cost of This Act

Authorization of Additional Appropriations: Internal Revenue Service

Processing Tax Returns: $4,675,000/186 FTE over President, fiscal year 1989.

Examinations and Appeals: $158,882,000/3,829 FTE over President, fiscal year 1989.

Investigation, Collection, and Taxpayer Service: $123,056,000/2,827 FTE over President, fiscal year 1989.

Estimated revenues from increased collections available to offset cost of this act: $1,120,000,000 FY 1989: $2,222,000,000 fiscal year 1990 over President's budget.

Authorization of additional appropriations: Bureau of Alcohol, Tobacco, & Firearms.

Salaries and Expenses, BATF: $4,000,000 over President, fiscal year 1989.

Estimated revenues from increased enforcement of special occupational tax enforcement by agency: $130,000,000 fiscal year 1989; $140,000,000 fiscal year 1990.

Accelerated collection of delinquent Government debt: Department of the Treasury.

Language in the bill that would mandate the collection of $2,000,000,000 over and above President's budget estimates for debt collection for fiscal year 1989; $2,000,000,000 additional debt collections over current estimates for fiscal year 1990.

Incentive program for agencies that exceed established debt collection targets; penalties for those agencies that fail to meet established debt collection targets.

Notes: All proceeds from the enhanced tax collections and debt collection payments would be deposited into a newly-established Anti-Drug Abuse Fund in Treasury; to be disbursed by the Secretary of the Treasury to the agencies responsible for funding the programs, projects, activities, and initiatives authorized in this bill.

Total cost of Omnibus Anti-Drug Abuse Act of 1988: $2,449,000,000 fiscal year 1989 (Includes additional funding required to collect additional revenues/debt collection).

Amount of additional tax collections/debt collections deposited into special fund to cover cost of this act: $3,250,000,000 fiscal year 1989; $4,362,000,000 fiscal year 1990.

Additional BA required due to Forfeiture Fund Cap lifted: $113,000,000 ($27,000,000 in outlays) fiscal year 1989.

Total cost of S.2205: $2,562,000,000 budget authority/$1,383,000,000 (These are CBO cost estimates presented to Committee staff.)

Offsetting receipts through collections: –$3,250,000,000.

Net cost of S. 2205 fiscal year 1989: –$688,000,000 budget authority; –1,867,000,000 outlays.

Mr. DECONCINI. Mr. President, the importance of this bill is that we are making a partnership here among the leadership in the Senate and, if it passes, in the House of Representatives and the White House; that we are going to continue what transpired here in 1986 when we passed the first omnibus drug bill. This is going to move ahead in a very forceful way and provide the continuation of the funding that many of us here think is necessary.

The Senator from New Mexico spoke most eloquently when he introduced this bill. If this Nation can tackle the problems it has tackled over its history, and not that we are not without plenty of problems, there is no reason we cannot really tackle the drug interdiction, education, rehabilitation, prisons, et cetera. That is what this is all about.

I want to pay particular thanks to the Senator from New Mexico and the Senator from Florida for their efforts, and I yield to my friend from New York.

Mr. D'AMATO. Mr. President, we have been talking about the drug war and the crisis in America, and with the passage of this amendment, I believe that we move forward in enabling the troops to fight the battle. We give them more of the ammunition they need. We provide new budget authority to fund the battle on the international level where precious little has been done. We give them more resources to undertake the interdiction effort on our borders.

On the home front, we provide funds for prevention, education, rehabilitation and law enforcement.

Not enough can be said for the steadfastness, the purposefulness, and the manner in which this bill has been crafted by Senator DECONCINI, his staff, and my staff. I want to congratulate him. He has been tireless. This amendment is not a year in the making. This is years in the making, years of constant effort.

Let me also say, were it not for the efforts of Senator DECONCINI, who steered this legislative process through the minefields, it would not have arrived at this point. I thank him for his leadership, his graciousness, his willingness to forge an agreement that hopefully will lead the White House to conclude that, indeed, as this language says, that the leadership and the President can certify the existence of a dire state of emergency.

Ask the American people. They know that there is a dire state of emergency. And if for any reason the caps were to be broken, let me suggest that the outline of this amendment and S. 2205 regarding where the dollars should be allocated is something the American people would support.

So I am pleased to be a cosponsor and to have something to do with what I think will be the beginning of a more serious effort.

Make no mistake about the fact that this is an important effort. But let me say this: Let us also understand that the war on drugs is not just a matter of the Federal Government and funding, or even use of the military, which I believe is necessary, interdiction, and strong efforts on the international scene, strong education and prevention programs, and rehabilitation are needed. And this amendment provides funds for all of this.

But unless we as a people, at every level, become involved in the problems of addiction, the problem of alcohol and drug abuse as it relates to our youngsters in particular, unless we become involved in creating a sense of self-worth, as to the importance of each and every child and every person in our society, we cannot win this battle.

There is a crisis. It is a tough one, and it is one that saps the dignity of man. This is the most important, crucial battle that we can undertake.

I am pleased to support this effort and, again, I congratulate and pay tribute to my friend, Senator DECONCINI, for his steadfastness of purpose.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I rise briefly. I ask personal indulgence of my colleagues because my purpose is simply to express really heartfelt gratitude to two men who I think by their efforts have made a difference in the future of America, and that is a very expansive statement, and not one I make lightly.

But to my friend from Arizona, Senator DECONCINI, and my friend from New York, Senator D'AMATO, I think we owe gratitude. Without detailing, which would really be impossible without taking a great deal of time, the specifics of this effort which will attack the problem of drugs on all fronts, suffice it to say it goes a very long way toward restoring credibility to what has become a rather threadbare phrase, "the war on drugs."

By this legislation, they will provide those who have been fighting that war against the greatest, almost impossible odds with the resources and with laws that they deserve in order to not only wage, but to win that war if, in fact, it can be won.

The eloquence of the Senator from New York just now on the subject of the need to develop a sense of self-worth in those most vulnerable to the temptation of drug use speaks, I think, eloquently for itself. But in connection with the need to curtail the demand, there is a need to interdict supply.

This legislation addresses both of those fundamental parts of this terrible problem, so I think that they are due not just standard recognition that we often pay as one colleague to another, but they have done extraordinary work here and it will perhaps be impossible ever to calculate the good that this measure will achieve simply because without it the damage to America that would proceed from an unchecked flow of drugs into the country, and unchecked increasing drug use is almost incalculable. I congratulate them not just as a colleague but as someone very much concerned about this problem. I thank them.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I do not know who has the time on the amendment. Will somebody yield me 3 minutes?

Mr. DECONCINI. I yield the Senator 3 minutes.

Mr. DOMENICI. Mr. President, I wonder if the sponsors of the amendment would join me in a unanimous consent agreement that any of the original cosponsors of the DeConcini-D'Amato drug bill be granted an opportunity to become original cosponsors of this budget amendment and that they be permitted to do so for the remainder of the evening. Is there any objection to that?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

Let me suggest that we had an economic summit conference. There are some who say we should have done better on the deficit reduction side but we did the best we could, and in the process we set some caps on revenues, some caps on domestic spending, but we recognized that indeed something could happen in the meantime that could cause us to change our minds, even if it is to change our minds slightly, and we called that emergency legislation which would indeed permit the President to break the caps if it was deemed to be necessary and an emergency.

What we are trying to do here is to add a reserve fund to this budget deficit that provides some revenue enhancement on the enforcement side, not by new revenues but enforcing existing revenue-raising measures better. And only if we do that, then the money is made available and only then by allocation to the appropriators and then only for purposes of adopting supplemental war-on-drugs legislation, following the framework of the bipartisan authorizing legislation that has been introduced and cosponsored by 63 Senators.

So it seems to the Senator from New Mexico that if we tailor that legislation appropriately, the President will have to sign it. He will be in the loop. And then it suggests that those who are part of the economic summit determine that indeed that legislation satisfies a serious emergency, in which event we will pay for it out of those revenues that will be acceptable to the President through enhanced collections in the IRS and a couple of bureaus that have been lagging in the collection of revenues under their direction.

Now, Mr. President, I think this is fair. I think everyone in the United States has seen that the hard drug situation has reached absolute crisis proportions. I do not think there could be more of an emergency. New ideas on what we ought to be using money for, from education, to promotion of positive thinking, to drug apprehension, to criminal enforcement enhancement, to building a few prisons to put offenders in, and indeed to enforce against foreign countries that have been lax in their laws, all of that is encapsulated in the approach. We will do that in the normal course, but we are providing a safety valve by way of a reserve. If the President does not think it is an emergency and if the bipartisan leadership from the summit does not, it will not get carried out. If they do and we can tailor something that is meaningful, it will.

I submit to you there is no more serious domestic crisis than this one. We can be on a positive wavelength on economic development, but if we lose a couple generations of our young people, I am not sure money is the answer, but I am sure we ought to be doing more. Therefore, I support it.

I compliment those who started it. I am pleased to be their cosponsor, and I thank the chairman and his staff and my staff for working out a way to do this which does not breach the caps but might if the right people agree to do it, if the legislation is right and indeed the solutions are deemed appropriate for what they deem to be an emergency.

I thank the Chair and I thank those who have produced the legislation. I yield the floor.

Mr. CHILES. Mr. President, this amendment does solve a problem that has been troubling me for some time, how to increase funding for our war on drugs without violating the summit agreement. There is no question in my mind that we should be spending more on antidrug activities. The President's budget says it. The General Accounting Office says it. The National Drug Policy Board says it. And certainly all of our common sense tells us that it is imperative.

I, too, congratulate the sponsors on this piece of legislation. There is no question we must stick to the summit agreement. As you know, the agreement sets caps on domestic discretionary spending, and any new funds for drugs would have to compete with other programs under the caps. So where are we going to get enough money?

Because of the agreement, all discretionary spending, including antidrug funds, stay under the cap. It does not mean we cannot do anything. It means we cannot do as much as we should.

Even within the cap there is a significant increase in antidrug funding. But this is a mechanism we have used in prior budget resolutions. It allows the appropriate committees to report legislation that meets several conditions spelled out in the amendment. Then the Budget Committee will file the Senate revised aggregates and allocations to make room for the legislation and as a result points of order that would otherwise block the bill would not exist. One of the conditions spelled out in the amendment is that the legislation must provide the additional funding to ensure the bill will not increase the deficit.

The budget summit said we would only add to total appropriations if we had a dire emergency. If this is not a dire emergency, I have never seen one.

So I join with the sponsors and I certainly congratulate them. I also congratulate our staffs for working out something.

Mr. President, I ask unanimous consent that a revealing article in the Philadelphia Inquirer talking about an addict that gives birth and an addict is born be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Mar. 13, 1988]

A SHARED HABIT—ADDICT GIVES BIRTH, ADDICT IS BORN

(By Loretta Tofani)

Arlene Davido dropped her maternity pants, sat at her kitchen table and leaned with difficulty over her pregnant belly.

Then she injected heroin into her right calf.

"He won't stop moving, this baby," said Davido 30, referring to her unborn child. "When he moves a lot, it means he's sick; he needs a fix."

Minutes later, her hazel eyes beginning to droop and her words coming a little more slowly, she said, "Now the baby's real relaxed. He stopped kicking. He was moving a lot like he wanted to bust out. If I don't get that shot right now, he'd be pounding to come out."

Nineteen days later, on Feb. 24, Davido's baby, Cheryl Anne, was born—a trembling, suffering addict herself.

This is the story of Arlene Davido, a heroin addict, and her frantic daily search for the drug during her pregnancy.

This is also the story of Cheryl Anne Davido, who lies in a Thomas Jefferson University Hospital nursery, her life maintained and her severe withdrawal pains quieted only by prescribed drugs that flow constantly into her tiny body through two tubes.

Although unemployed, Cheryl's mother was able to buy drugs every day of her pregnancy, getting the money the same way she has obtained almost everything in life, with her physical attractiveness, her charm and a gift for conning friends, relatives and even strangers. And when necessary, she turned to prostitution.

This picture of addiction was obtained by accompanying Davido during the last 2½ weeks of her pregnancy as she saw her counselors and doctors, took the methadone that was supposed to free her of heroin—and twice daily stuck a needle into her leg to get the heroin she and her baby craved.

Her craving has not stopped. She still shoots heroin into her leg every day.

But her addiction may not bar her from taking custody of her infant daughter. Cheryl Anne's pediatrician, Nancy Robinson, said that under city regulations Davido probably will be allowed to take the baby home once the infant's addiction is under control.

Feb. 5. Two weeks, five days before the birth. Davido needed a fix, but she didn't have the $20. She phoned an old boyfriend who owns a business on Castor Avenue.

"It's Arlene," she said into the telephone, her voice hoarse from laryngitis. "OK, listen, I called to ask a favor. I'm due to have a baby today. I have something in my voice, a strep throat. I have to get antibiotics. Keflex. Ever hear of Keflex? I'd say about $22. Just until Monday."

The friend agreed, and Davido drove with a reporter to his business to pick up the money. From there, they went to the corner of Dauphin and Mutter Streets, where Davido purchased a glassine envelope with a thimbleful of heroin. In red letters, the word Sunny was printed on the envelope. On the street, "Sunny" is known as high-quality stuff.

Davido then returned with her heroin to her Frankford Avenue apartment and injected it into her scarred right leg. "If I didn't get that shot right now, he'd be pounding to come out," she said.

Wasn't Davido, who already had given birth to two drug-addicted children, worried about giving her unborn baby a heroin habit? "It's too late to think about something like that," she said. "I had already started [using drugs] before I got pregnant."

Feb. 8. At 4:15 p.m. the doorbell rang in Davido's apartment. "That's my john," said Davido, looking almost like the all-American mother-to-be with short blond hair, turned-up nose, clear freckled skin and a wide smile.

"You wait in the kitchen. I'll tell him you're my girlfriend."

Seconds later, a blue-collar worker in his 40s peeked into the kitchen on his way to the bathroom. The toilet flushed. For five minutes, the bedsprings creaked. Whispers. Footsteps. Toilet flush. Shower. The click of the front door. The man was gone.

Minutes later, Davido, wearing jeans and a purple T-shirt over her swollen stomach, stood in her kitchen and triumphantly waved a $20 bill. "Now I can go cop," she said.

An hour later, she was back in the apartment. She carefully took her drug paraphernalia from a small black satchel, spreading it neatly on the kitchen table—her matches, her bottle cap, her new syringe, her valentine mug filled with water. She poured the white "Sunny" heroin into a bottle cap, and then with her syringe she squirted in a little water from the valentine cup. She then placed a lighted match under the bottle cap for a few seconds, drew the solution into the syringe and shoved the syringe into her leg.

Davido grew up in Kensington, the daughter of a carpet layer and a homemaker. She is the oldest of four children. Her father gambled, keeping the family in debt, and then disappeared when she was 13, according to both Davido and her mother, 50, also named Arlene. Davido said she began using heroin when she was 16. A boyfriend, named Butch, then 23, was a burglar and heroin addict, she said.

"I was curious," Davido explained, "I wanted to know, what is it he's getting out of this drug?"

The first time she injected the drug, she vomited. The second time, "it felt good, it felt relaxing, like I took some Valiums."

Butch and the drugs both helped her cope with the loss of her father. "You know how a father and daughter are always close?" she said. "When my father left, I really missed him. Butch took the place of that. He was a man, an older man. He'd been around."

Davido was hooked from the beginning.

The only time Davido stopped using heroin was between January 1986 and March 1987, when she was in prison for forging checks. Two months after her release, she was back on drugs. She was ordered to start drinking methadone by her parole officer in August, after he found traces of heroin in her urine. Methadone is supposed to help addicts stop craving heroin. It hasn't worked for Davido. She now uses both.

And like people of an earlier era who spent most of their days foraging for food, Davido spends most of hers foraging for heroin—figuring out ways to get money for it, purchasing it, enjoying it and nodding groggily for hours afterward. It costs her $40 day , $280 week. She spends an additional $10 a day for Xanax, a prescription anti-anxiety pill that she buys on the street.

She gets at least $60 each week from George Hepworth, 52, who lives with her. Hepworth, short and thin, with graying hair, a mustache and false teeth, does not use drugs. He has a steady job, assembling champagne fountains for caterers. He takes home about $250 per week.

Last year, Hepworth left his wife of 30 years, in part, he said, to live with Davido.

Hepworth, who is not the father of Davido's baby, said he knows that she has sex with other men to get money for drugs. "I can't support her habit," he shrugged.

Does he see himself promoting Davido's habit by giving her money for drugs? "If I don't get her the money, she'll get it some other way."

Why does he stay with Davido? "I love her."

Feb. 8. Hepworth came home from work shortly after 5:30 p.m. He and Davido sat down with a visitor to a dinner of macaroni shells and meatballs that he had prepared the previous night.

"Who'll say grace?" Davido asked. Both she and Hepworth clasped their hands. The visitor obliged.

"Amen," the two said in unison, making the sign of the cross.

Davido's eyes were drooping, and Hepworth asked if she had purchased "dope" during the day. Davido said she purchased one bag. Actually, she had purchased and injected two.

Suddenly, Davido's head fell toward the table, and Hepworth caught her about an inch away from the macaroni in her plate.

"Watch it, Arlene," he said.

Several days earlier, in a restaurant across the street from Thomas Jefferson University Hospital, Davido and a friend, Helene Callahan, sipped coffee and recited the symptoms endured by infants born of drug-addicted mothers. Davido's arm, tattooed with her initials, A.D., rested over her unborn baby.

"They have a hard time sleeping," said Davido. "Their legs and arms are very tight; the nurses have to try to loosen the baby's legs."

Added Callahan, who gave her baby up for adoption last year after it was born addicted to heroin and cocaine: "They cry all the time. They have sweats, then chills. Just like an adult going through withdrawal."

A waitress passed by the table. She was Davido's aunt.

"Did you see her looking at my fingers?" Davido asked. "She was looking for the ring she gave me. I sold it for dope. I sold the TV, too. George thinks I hocked it."

Feb. 9. Davido entered the waiting room of Thomas Jefferson University Hospital's Family Center clinic. Each morning since August, she has visited the clinic to drink methadone and get prenatal care and counseling.

Seven current and former addicts, all women, sat on couches. Two had babies with them. Some talked about children: others discussed drugs.

A tall, thin woman sat next to Davido. "Make sure you bring them tomorrow," she demanded. Davido agreed. Minutes before, in the hallway, the woman handed Davido $10. It was for 10 Xanax.

Davido soon got up, walked behind a partition and drank the methadone in a cup handed to her by the pharmacist.

Later that day, Davido used the $10 for Xanax to purchase some heroin.

In the afternoon, Davido's oldest child, Stephanie, 10, listened politely as her mother lectured her on the dangers of drug use.

"Don't ever take any kind of pills unless Grandma gives them to you," said Davido as she nodded groggily from the heroin she had injected an hour earlier.

Stephanie lives in Kensington with Davido's mother, who has legal custody of the child. In early February, the three—grandmother, mother and daughter—sat around the dining room table in the eldest Davido's rented rowhouse.

Stephanie, like her new sister, was born addicted to both heroin and methadone, according to Arlene Davido and her mother.

"Stephanie knows she was a drug baby," said the eldest Davido, who nursed Stephanie through those months of sweats, shakes, and incessant crying. "She knows her mother has a problem."

Six years ago, her daughter gave birth to a son. He also was born addicted to heroin and methadone, according to the Davidos. He has been adopted by a Philadelphia couple.

The eldest Davido said she is sickened and disgusted by her daughter's heroin habit. But if her daughter is unable to care for her latest baby, she will come to the rescue.

"Arlene knows that I'll take care of the baby," Mrs. Davido said.

Feb. 10. Davido was awaiting the results of an AIDS test. In the conference room of the Family Center clinic at Jefferson Hospital, Patricia Tooelian, a nurse, smiled brightly.

"How's your man?" asked Tootelian. "Everything going OK?"

Davido said yes. Then she asked a question. "How long does it take for the AIDS test to come back?"

"It's back," said Tootelian. "It's negative."

"Negative?" asked Davido.

"Yes," said Tootelian.

"I knew it'd be negative," Davido said.

Minutes later, in an examining room, Davido's physician, Ellen Shepp, told Davido there was still a chance that she and the unborn baby could have the AIDS virus. The test would not have detected an infection that occurred during the last three months.

"You don't use anything that anyone else used, do you?" Shepp asked, referring to needles.

No, Davido said. Before getting pregnant, Davido has said, she shared needles.

"Are you doing anything other than methadone?" Shepp asked. Clinic records showed that Davido's urine consistently showed evidence of heroin.

"Xanax," Davido lied. "I got to buy Xanax to go to sleep."

Davido then asked Shepp to prescribe Xanax for her. Shepp refused.

"What about chloral hydrate?" Davido persisted, referring to a sleeping pill that can be habit-forming. "It's not addictive and it makes you sleep."

Shepp refused.

"There's nothing you can give me for a few nights?" asked Davido

"No," said Shepp. "Because you're on more than you need to be for your whole life."

Shepp was among the very few people who said "no" to Davido that week.

Feb. 11. Hepworth came home from work at 5:20 p.m. Earlier that day, he had given Davido $40 to get their TV from the pawnshop. She spent the money on two bags of heroin.

"Where's the TV?" Hepworth said, bursting into the kitchen, where Davido was making coffee. "You used that money for drugs," he yelled. "I didn't give you the money for that. We're through. That's it."

"But George . . . ," Davido protested.

"You do what you want from now on," Hepworth shouted. "I walk to work with holes in my shoes. I have to put plastic inside my shoes and you spend all my money on dope."

"George," Davido pleaded, "I got a habit."

He opened the hall closet and began tossing his clothes—jeans and shirts and three pairs of shoes—onto a chair in the living room.

"You stay here." Hepworth commanded. "I'm packing my clothes and I'm going to my mother. I paid for the TV today and I expect to find it here. You bought drugs with that money. . . . Why should I have to pay a loan shark? I bring money into this house. I'm through."

"George," wailed Davido, "I'm due to go in labor any day."

"You should have thought of that before you spent the money," retorted Hepworth as he packed his suitcase.

But he did not leave. The turning point came gradually.

"I wanted to have some things for the baby," he said, as he sat on the short radiator in the living room. "We don't have nothing for the baby. Not even a blanket to wrap it in."

Within hours, the two were making wedding plans. Davido said she'd marry Hepworth on his birthday, April 19, Hepworth said they should have the wedding in Davido's parish, at Visitation Church.

"That's what you always wanted, isn't it?" he cooed.

"Yes," said Davido, smiling sweetly.

Feb. 12. In an office at the Family Center, Davido sat across from her social worker, Susan Rafferty-Lace, who wore a denim skirt. Bluegrass music played on Rafferty-Lace's radio. Rafferty-Lace brought up an old question: "What are your plans for the baby?"

Davido shrugged. "Just having it, going home and raising it."

A couple of weeks ago, Rafferty-Lace remembered, Davido considered giving up the baby. "Are you still going back and forth on that?" she asked.

"No," said Davido, who previously had rejected a counselor's suggestion to have an abortion, saying she didn't believe in abortion. "I'm going to keep the baby. I think it'll be good for me."

Feb. 17. Davido sat in her kitchen, her right leg crossed over her left, her pants at her ankles, her recently used syringe on the kitchen counter.

"This heroin is laced with cocaine," she exclaimed, as she began scratching her legs. Suddenly, they were covered with red blotches, a reaction to the cocaine.

"The baby's moving like a nut. He's used to being down from heroin; he's up because of the cocaine.

"Now because of the coke I need Xanax," Davido said, still scratching her legs.

Minutes later, Davido left her apartment and walked to the corner of Seventh and Girard. Several men were standing at the corner. She handed one $10; he handed her 10 purple Xanax.

Davido popped them in her mouth, all at once, like candy. She swallowed them without water.

"Now the baby'll relax," Davido said.

Feb. 18. Davido visited her uncle, Joseph Davido, at his rowhouse on Tackawanna Street. Davido got to the point quickly.

"Listen, could you do me a favor?" Davido asked. "I need $10 for Xanax."

Joseph Davido, who that morning had pleaded not guilty to murdering his girlfriend, pulled $10 out of his pocket and handed it to his niece.

The labor pains began at 7:20 a.m. on Wednesday, Feb. 24.

By 11 a.m. Davido lay in a bed at Jefferson Hospital, an oxygen mask over her nose and mouth. She was surrounded by physicians and nurses. The room echoed with the light, irregular thumps from the monitor to the unborn baby's heart.

"There's been a separation of the platelets," said Suzanne Buckingham, a gynecologist. "That's where the bleeding's from."

Cocaine can cause the placenta to tear before birth because it constricts blood vessels and oxygen flow. But the placenta also can tear on its own, without drug use, Buckingham said.

The result was a loss of blood by Davido and the fetus, and insufficient oxygen to the fetus, causing the irregular heartbeat. If the problem had been undiagnosed, Buckingham said, Davido and the unborn baby could have died.

The nurses wheeled Davido into a delivery room. To rescue the baby quickly, Buckingham performed a caesarean section.

It was successful.

In a small room for just-born babies, Arlene Davido's pink-skinned baby girl cried. Three short shrill bursts. Then three more.

She lifted her legs and arms for the first time. They trembled, like a windup toy's, symptoms of drug withdrawal. The shakes persisted for 15 seconds, stopped for five seconds, then started again, lasting 20 seconds. They briefly stopped, then started again.

A day later, in a special nursery at Jefferson Hospital, Arlene Davido sat in a wheelchair, gazing for the first time at her daughter. The baby, attached to tubes that were delivering paregoric, slept in an incubator. Over the incubator was an orange sign, "Blood and Body Fluid Precautions," a warning to nurses and physicians that the baby could be infected with the AIDS virus or hepatitis.

On a scale used to chart the severity of drug withdrawal in infants, Davido's baby scored a 30. Robinson, the pediatrician, who specializes in addicted infants, said it was the highest score she had ever seen.

Without medication, Robinson later explained, addicted babies will not eat and can die from dehydration. The paregoric acts as a substitute for heroin and methadone and allows the baby to eat. Eventually, the doctors will reduce the dosage of paregoric and wean her from that drug.

"She's so little," said Davido, as she put her hand through the incubator window and held the baby's foot. "This baby does have my feet."

The baby began crying and then it went back to sleep.

"I want to hold her so bad," said Davido.

A nurse offered to take the baby out of the incubator.

"No, no," said Davido, wearing a hospital gown. "I don't want her to go through any more unnecessary discomfort."

March 9. It was like every other day since Davido had left the hospital. In the nursery, the doctors and nurses did what they could to ease Cheryl Anne's discomfort from drugs. On the street, Arlene Davido did what she could to get the drugs she craved.

First the street.

In the late morning, Davido, wearing a red and white striped shirt and red stretch pants, went to a hairdresser she knows on Girard Avenue. When she came out, her hair was trimmed and she was waving a $10 bill. She said she would earn the money later when she had sex with the hairdresser.

Davido had been unhappy all day because the heroin she had bought a day earlier was below her expectations. So she went from the hairdresser to look for her supplier at Dauphin and Mutter. She hoped she could buy a bag for only $10 to make up for yesterday's poor stuff. The supplier wasn't there, but his car, a dirty bronze Chevrolet without hubcaps, was.

She unscrewed the gas cap and, as she knew she would, found a glassine envelope decorated with a skull and bones. Inside was the normal dose of heroin.

"That took a lot of balls," she bragged.

Once home, she carefully went through the ritual of preparing the heroin and shooting it into her right leg. It was more than she could handle.

"I'm O.D.'ing . . .," she muttered, her head nodding, and her speech slurred. "This . . . is . . . too . . . much . . . too . . . much." So slowly did the words come that it took about 30 seconds to say that sentence.

She declined an offer to go to a hospital. And half an hour later, after she revived, she returned to Seventh and Girard, bought 10 more Xanax and shoved the pills into her mouth.

Now Jefferson Hospital.

It was early morning and Davido was visiting Cheryl Anne.

The baby was asleep in an incubator. There was a pacifier in her mouth and two tubes in her nose. They were delivering paregoric and a second drug, phenobarbital.

The phenobarbital, Robinson said in an interview Friday, acts as a sedative and also helps counteract the effects of Xanax and other drugs. The phenobarbital was not given to Cheryl Anne immediately after her birth because the doctors did not know about Davido's use of Xanax.

As of yet, Robinson said in the hospital on Wednesday, "we haven't been able to begin weaning the baby off the medication." They had started that process several days earlier, she said, but the baby displayed acute withdrawal symptoms—shakes and a piercing cry.

Asked when she thought the baby could safely be released from the hospital, Robinson said, "We can't give a good estimate of how much longer until we can begin weaning her off the medication."

Cheryl Anne will be released when doctors believe she is out of danger, Robinson said. But she could continue to suffer mild withdrawal discomfort for several more months.

When the baby is released, she will probably remain with Davido, Robinson said. She has visited the baby "just enough. She knows the tricks."

Under Department of Human Services rules, failing to visit an infant in the hospital could lead to a determination to remove the child from the mother's custody.

As Robinson spoke, Davido sat in a rocking chair in the nursery, swaying with Cheryl Anne. The baby began crying.

"Well, you're just a little fussy, aren't you?" Davido said.

A nurse burping another infant stared sternly at Davido. "This baby is going to cry all the time," the nurse said. "Be prepared for hours of rocking her."

The nurse asked Davido if she would stay for the next feeding, an hour later.

"No," Davido said. "I have to go shopping for the baby."

Then she left. She went to the hairdresser's on Girard Avenue to get money. Then she did go shopping. For drugs.

[From the Philadelphia Inquirer, Mar. 13, 1988]

A STORY ABOUT WHAT'S REALLY GOING ON, NOT WHAT SOME OFFICIAL SAYS IS

(By David R. Boldt)

The story on today's front page by Inquirer staff writer Loretta Tofani about a pregnant heroin addict is one that will make many readers uncomfortable.

For some, it will raise the question of why newspapers print such stories.

Since I think it represents the most important kind of story we ever tell, perhaps this is one of those occasions on which it's appropriate to recount the story behind the story.

Tofani encountered Arlene Davido while reporting a story on the spread of AIDS among narcotics users.

Tofani has been assigned full-time to AIDS since joining The Inquirer last August. Before that she had been with the Washington Post, where in addition to such normal assignments as covering the U.S. Department of Justice, she also specialized in writing about those aspects of society that many people would just as soon ignore, including stories about bag ladies, criminals and prostitutes.

In 1983 she won a Pulitzer Prize for stories on "jail rape" based on events in a Maryland county jail. In reporting it she had discovered that prison authorities not only did nothing to control the abuse of weak prisoners by the strong, they virtually promoted it through a "see no evil" attitude. The series resulted in changed procedures and criminal indictments.

She wrote these stories, she says, "because I like to write about what's really going on—not what some official says is going on."

After Tofani met Davido several times, the reporter and the addict found it easy to talk to each other. "Part of it was her, part of it was me," Tofani said. "She's sort of a free spirit. She views her own life without the value judgments that other people might have."

And while Davido could be a disturbing person to be around when all of her energies were focused on getting her next fix, for much of the time she was likable and interesting. "She had a lot of friends at the clinic," Tofani recalled, "and she exuded concern for them. She knows people and how to talk to them. She can size up a person immediately. She would have been tremendous as a reporter, or a lawyer."

On one occasion when she was with Tofani, Davido went up to a bum on the street and asked for $5—which he gave to her. Davido cheerfully explained to Tofani, "People like that will always help each other out."

Davido seemed both to enjoy Tofani's companionship—the two women are both in their 30s—and to like being the focus of attention. The idea of being the subject of an article clearly appealed to Davido. And Tofani believed that by telling Davido's story she would be able to drive home some points about what's really going on.

Many people, Tofani has found, believe that if you get people to take methadone they will stop taking heroin, cocaine or other drugs. Davido's story showed that isn't always true.

Davido's story, of course, goes to an even more profound level, demonstrating that for Davido the need to get heroin was more important than her maternal instinct to protect her unborn child.

All of us may have read that this phenomenon occurs, but we may try to dismiss it as aberrant behavior by people who are somehow so depraved as to be beyond belief. The fact that Davido in no way fits the stereotype people might like to believe makes her case especially poignant.

The story of Arlene Davido forces a realization of the way in which drugs tear apart even the most fundamental relationships in a society. And the story forces a recognition of the fact that our methods for dealing with this phenomenon at present don't work.

One of Tofani's editors, also a woman, said to her at one point that readers might wonder how Tofani could be a witness to what was happening—without trying to do something about it. Tofani's immediate response was to point out that Davido was already in constant contact with physicians and counselors who were immensely better equipped to offer help—and seemingly just as powerless to do so.

But there was also another factor. To tell this kind of a story, Tofani acknowledges that she has to insert a certain amount of psychic distance between herself and her subject. That doesn't mean, Tofani adds, that the feelings, emotions and pain of the person one is writing about don't reach across.

When Davido's baby was born, Tofani sent her a present a knitted shirt and pants set for the baby. It was the first time she'd ever given a present to someone who had been the subject of a story. And as the story was in its final stages of preparation, Tofani acknowledged concern about something else. She wondered whether it would be shocking for Arlene Davido "to see herself as I see her."

The PRESIDING OFFICER. Senator DECONCINI is out of time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BYRD. Will the distinguished Senator yield?

Mr. DECONCINI. Will the Senator yield?

Mr. D'AMATO. I yield to Senator DECONCINI 30 seconds.

How much time do I have, Mr. President?

The PRESIDING OFFICER. Three minutes forty-eight seconds is left for time in opposition.

Mr. D'AMATO. I am not in opposition, but I yield 30 seconds to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I know that Members have to come to the floor and do a rollcall vote when it appears that it is going to pass with great numbers here, but I really believe it would be worthwhile to go on record to indicate what a dire emergency this really is, as the Senator from Florida pointed out. I hope that everyone will understand that that is the point we want to make here so when it goes to the House and the President sees it there will be no question there is a commitment here to fund an omnibus drug bill this year.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Will the distinguished Senator from New Mexico yield me time off the bill?

Mr. DOMENICI. How much time would the Senator like?

Mr. GRAMM. Three minutes.

Mr. DOMENICI. I yield the Senator 3 minutes.

Mr. GRAMM. Mr. President, I congratulate the people who put this package together. I am for it. I think it is imperative we do something on this subject, but I think I would not be honest if I did not say tonight is the easy part. Who cannot vote for trying to collect taxes that are due? I guess someday if we keep this ploy going we are going to end up with one member of every family working for IRS, and I guess when that happens we are going to be collecting lots of taxes.

I submit that if we are going to really fight the war on drugs and we are going to win it, we are going to have to find a real way to fund it. We are going to have to do that either by having real taxes or we are going to have to cut real programs.

So I think it is important that we are moving in the right direction, but I think we are deceiving ourselves if we think we are going to fund this great and victorious war which God knows we need to fight and win, I really believe drugs are the No. 1 problem in America. But I do not believe we are going to fund it by simply hiring more agents for the Internal Revenue Service. I think we are going to have to go out and terminate low-priority programs. We are going to have to look at real revenue sources.

I think it is important and we might as well all celebrate that we are moving ahead; that this is the easy part; that there is going to be a hard part down the road. I hope all these shoulders are broad when it comes to doing all of that as they are tonight when we all celebrate because we are moving in the right direction and we are saving the flag.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO Mr. President, I am just going to take a minute to respond to say that in the testimony by the IRS before our subcommittee, the IRS testified before the Treasury-Postal Appropriations Subcommittee on March 21 of this year. They said their efforts will produce an additional revenue of $1,120,000,000 if we provide $300 million to hire additional agents. That is a net increase of $820 million. So this is real money.

Second, the Senator from Texas may be very accurate in his statements if we are going to continue this effort because I do not think this amendment is going to do it all. We may have to provide additional funds and additional resources. This Senator would be willing to suggest methods by which we could raise those revenues provided we dedicated them to the war on drugs. If we were to have a 1-year freeze on indexing for the inflation factors as it relates to our income taxes, the brackets——

The PRESIDING OFFICER. If the Senator will withhold for one moment, I think we ought to retain order so the Senator can be heard. So, please, if we could have a modicum of decorum in the Chamber so we can hear the Senator.

The Senator from New York may proceed.

Mr. D'AMATO. Mr. President, the 1-year freeze on indexing would produce $19.6 billion over 5 years. I suggest if we really wanted to go beyond this amendment, which I think is important, that is the kind of thing that we should think about in the future to enhance the revenues that will be needed for these kinds of programs.

I also suggest to those who have authored these provisions in the past with pride of authorship who say, no, no, do not do it, if you take a survey and ask the American people whether to do this, overwhelmingly they would support that kind of effort, provided those funds were used really in a drug war.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the amendment of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illiness.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR] and the Senator from Delaware [Mr. ROTH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—7

Biden
Gore
Lugar
Roth
Sanford
Simon
Stennis

So the amendment (No. 1943) was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1944

(Purpose: Increase funding for Health Function from Science Function)

Mr. WEICKER. Mr. President, on behalf of myself, Senator INOUYE, Senator CHAFEE, Senator BURDICK, Senator HEINZ, Senator DODD, Senator DURENBERGER, Senator HARKIN, Senator D'AMATO, Senator METZENBAUM, and Senator WILSON, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Connecticut [Mr. WEICKER], for himself, Mr. INOUYE, Mr. CHAFEE, Mr. BURDICK, Mr. HEINZ, Mr. DODD, Mr. DURENBERGER, Mr. HARKIN, Mr. D'AMATO, Mr. METZENBAUM, and Mr. WILSON, proposes an amendment numbered 1944.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 17, reduce the amount by $54 million.

On page 4, line 1, reduce the amount by $54 million.

On page 8, line 14, reduce the amount by $145 million.

On page 8, line 15, reduce the amount by $50 million.

On page 18, line 13, increase the amount by $91 million.

On page 18, line 14, increase the amount by $50 million.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the time consumed by any quorum call not be charged to the time agreed to in the unanimous-consent request for either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1944, AS MODIFIED

Mr. WEICKER. Mr. President, I send a modification of my amendment to the desk and I ask that it be read.

The PRESIDING OFFICER. The Senator will need to obtain unanimous consent to modify at this point.

Mr. WEICKER. I ask unanimous consent that the modification be accepted and read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. WEICKER], for himself Mr. INOUYE, Mr. CHAFEE, Mr. BURDICK, Mr. HEINZ, Mr. DODD, Mr. DURENBERGER, Mr. HARKIN, Mr. D'AMATO, Mr. METZENBAUM, and Mr. WILSON, proposes an amendment numbered 1944, as modified.

Mr. WEICKER. Mr. President, I ask unanimous consent that reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 8, line 14, reduce the amount by $145 million.

On page 8, line 15, reduce the amount by $50 million.

On page 18, line 13, increase the amount by $145 million.

On page 18, line 14, increase the amount by $50 million.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum, again repeating my request that the time for the quorum not be charged to either side as far as the unanimous-consent agreement on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WIC PROGRAM

Mr. HARKIN. Mr. President, I rise this afternoon to briefly mention one important priority in the budget resolution. As we know, the budget resolution generally does not specify its funding assumptions for particular programs. Exceptions to this pattern are made, however, such as when the Budget Committee wishes to highlight important priorities and choices made as the committee designed its budget.

The report accompanying this budget for fiscal year 1989 includes language stating that the committee budget has assumed and made room for an increase in the WIC Nutrition Program for low-income pregnant women, infants, and children. This program enjoys well deserved strong bipartisan support for its cost effectiveness, its targeted assistance to low-income women and children who are medically certified as at "nutritional risk," and its success in reducing infant mortality, low birthweight, and other health problems among needy children.

As chairman of the Subcommittee on Nutrition I have become acutely aware of the significance and importance of this program. Through hearings and subcommittee studies I know first hand concerning the efficiency and effectiveness of this program.

There is no other nutrition program that can produce the positive results of the WIC Program and yet reaches so few of those eligible.

The Senate Budget Committee plan assumes an increase of approximately $75 million over the current services level. This increase will allow roughly 150,000 additional pregnant women, infants, and children to be added to the WIC Program. Yet, Mr. President, the WIC Program serves less than one-half of those eligible.

The House-passed budget resolution assumes an increase of $150 million over the current services level which would bring an additional 300,000 needy women and children on the WIC Program.

Mr. President, I would also like to point out that this year's Budget Committee recommendation for nutrition, under the able leadership of my distinguished colleague from Florida, Senator Chiles, is the strongest I have seen in recent years. The Budget Committee has worked closely with the Agriculture Committee and the result is that the Budget Committee is recommending $500 million for the continuation of the Temporary Emergency Food Assistance Program [TEFAP]. As most of us here realize, the surplus of many of the commodities available to the TEFAP Program is quickly being exhausted while our national need for this program is growing. So while I am emphasizing the need for greater WIC funding, I want to recognize Senator Chiles for his leadership in recommending a substantial budget increase in the nutrition program.

This is a year of tough choices under the fiscal limits established with the 1987 budget summit. I applaud the Budget Committee, and its chairman for making those choices and recognizing the need for cost-effective investments in vital programs such as WIC. I would add, however, that I hope that the conference committee on the final fiscal year 1989 budget resolution would move toward the WIC level assumed in the House and accommodate as much of the $150 million increase as possible so that more of the Nation's low-income pregnant women and children can receive the critical nutrition and health services provided under the WIC Program.

Mr. CHILES. I thank the Senator from Iowa for his comments. As he mentioned, this is a year of tough choices as we attempt to live within the spending limits set by last year's budget summit agreement. Yet even within those limits, we have developed what I believe to be the strongest nutrition budget we have seen in many years. Not only did we provide a $150 million increase for WIC, we added $500 million for a nutrition initiative to replace the Temporary Emergency Cheese Program with a balanced package of cash and commodities. I believe that these critical changes will provide a stable base of funding for programs helping those people who are literally living hand-to-mouth. I would note that while the House budget has a slightly higher assumption for WIC, it was nothing for this other critical initiative. We will certainly look at their WIC number in conference, and I hope they will look at our numbers for the rest of nutrition assistance.

THE SENATE BUDGET RESOLUTION

Mr. DASCHLE. I rise today to support the Senate budget resolution that is before us today. This budget represents a bipartisan deficit reduction effort that was developed in good faith by both Democrats and Republicans and should be accepted in that same spirit. I offer my support for this budget in the hopes that it can begin to reverse our public borrowing binge and pave the way for stronger deficit reduction measures in the coming years.

Last October we found ourselves on the brink of economic disaster with the collapse of the stock market and a crisis of confidence in the U.S. economy. This disaster propelled a lethargic Congress into action. Republicans and Democrats from both the House and Senate sat down with the White House and hammered out a 2-year, $76 billion deficit reduction agreement; the largest deficit reduction package ever agreed to.

When it was presented last year, I opposed the budget summit agreement because I did not believe that it cut deeply enough into spending to meaningfully reduce the deficit. Though I still feel this way, I feel equally strongly that we must do everything that we can to move ahead in our deficit reduction efforts. The budget agreement, as imperfect as it is, provided us with precise dollar amounts required in defense and domestic spending that prevented us from raising more taxes or spending more for pork barrel projects than we would have been inclined to do.

I am pleased to say that this budget abides by, and actually surpasses, the deficit reduction targets that we set for ourselves last year. The deficit is reduced to levels that avoid a Gramm-Rudman across-the-board spending cut, without raising new taxes, and paves the way for stronger deficit reduction measures in the coming years.

This resolution did not come easily. But I was encouraged by a degree of bipartisan cooperation surrounding its development that I believe is unprecedented in the 14-year history of the budget resolution. This spirit of cooperation helped us to craft an agreement that no one finds perfect, but most of us can live with. We need more of this kind of compromise and cooperation in the future if we are to succeed in beating back the monster deficit that we have created.

There were many difficult choices to make in this budget, and I am certain that none of my colleagues is entirely satisfied with all of its compromises. On balance, however, I believe that this resolution is fair and represents an improvement over the President's proposed budget. Though the Senate resolution and the President's budget both achieve the same level of deficit reduction, I am pleased that our budget reorders some of the President's misplaced priorities.

Specifically, the President called for elimination of such important programs as the Economic Development Administration, and deep cuts in community development block grants. These grants to States and cities have been the centerpiece for economic development projects in many States, including my home State of South Dakota. Cuts in these programs strike at the heart of one of the greatest needs in rural America—economic development. Though it is not nearly as generous to these and other rural development programs as I would have liked, our resolution at least preserves some of our most important rural initiatives.

In addition, the President, proposed a 9-percent reduction in spending on discretionary agricultural programs, despite the fact that spending on agriculture is on a declining path. The Senate plan, though it provides for a 6-percent cut over last year's spending in this area, does leave room for reasonable increases in important programs like the Women, Infants, and Children's Supplemental Food Program. The Budget Committee also refused to accept the President's proposed dismantling of effective cost-sharing programs like the Agricultural Conservation Program, the Forestry Incentive Program, and the Water Bank Program.

Finally, I am encouraged by the fact that direct telephone and electric loans from the Rural Electrification Administration will not be eliminated, as the President proposed. Again, I would have preferred a more generous allotment for all of these programs that aid in rural development; but I recognize that, if we are to enact meaningful deficit reduction, all programs must bear some of the burden.

Other important programs like maternal and child health, community health clinics, Indian health care, and childhood immunizations received fairly generous increases. I am also pleased that veterans health care received a much needed $300 million boost for 1989.

On the other hand, I am deeply disappointed that we could not find more than $1.4 billion in savings within our bloated $300 billion military budget. I would prefer to see the same commitment to investing in human resources as we have to investing in our military hardware. While we prepare ourselves for a military confrontation, we seem to close our eyes to our homefront enemies like poverty, drugs, crime, and illiteracy. Clearly, we can afford to transfer military spending to programs that aid individuals and communities.

Still, I believe that this is not the time to grandstand, nor is it the time to engage in petty partisan bickering. It is a time to send a signal to Wall Street, our trading partners abroad, and the American public, that we are beginning our long, uphill climb to eliminate the deficit. Further partisan bickering will not move us toward that goal.

This year we have made a modest, but important, effort to reduce the deficit; next year we must work harder and do better. It will not get any easier, but the longer we wait, the higher the stakes become.

I urge my colleagues to join me in support of the budget resolution. It is time to lay aside the rhetoric and take action. We cannot continue to pay off our national debt with our children's standard of living. Let us not waste this important opportunity to move toward our goal of eliminating the deficit.

Mr. HEINZ. I want to thank Senator CHILES for his years of service on budget issues and the bipartisan spirit in which he has worked to promote budgetary responsibility in the Congress.

I also appreciate the Senator for agreeing to engage in a brief colloquy on the acute need to continue current service levels for housing programs, especially those designed to meet the special needs of the Nation's older and disabled citizens.

We are all aware that over the past 7 years housing programs have suffered the deepest cuts in budget authority of any major segment of the domestic budget. The summit agreement, and the resulting domestic spending caps, place severe pressure on all programs. Your plan reflects a certain set of priorities with which I have strong concerns, especially the lower priority accorded Housing and Community Development Programs. My personal preference would be to place greater emphasis on these critical programs.

However, as a member of the Housing Subcommittee and the ranking minority member of the Aging Committee, I am especially concerned that the result could be reductions in one of the most successful and necessary housing programs—the section 202 program for very low-income elderly and handicapped.

The section 202 program is unique in that it makes loans available to nonprofit sponsors. In nearly 30 years of operation, there have been no defaults on these loans—an almost unprecedented success record at very little net cost to the Federal Government. Unfortunately, deficit pressures have reduced this important program by nearly half.

Looking to the future, we must plan for more, not less, housing for older Americans. The reasons are many, but I will only point out a few: The number of households headed by older people will increase by 48 percent from 1980 to 2000—from 16.2 to 23.9 million—the demand for specialized units of elderly housing is projected to increase by 9.6 million units by 2000, but a recent study indicates that the private market is likely to produce only 6.8 million units; older renters continue to pay a higher percentage of their incomes on housing than any other age group—36 percent—and, older homeowners continue to occupy the highest percentage of substandard housing of any age category of homeowners. Section 202 is the only Federal program directly producing the specially designed, supportive housing necessary to meet the need and allow the seniors to maintain their highest degree of independent living.

I know that the senior Senator from Florida was instrumental in the appropriations process last year in restoring proposed cuts to the section 202 program, and I ask that you and your fellow members of the Budget Committee work in the conference committee to again preserve section 202 funds to current service levels—at levels that, nevertheless, are less than the authorized levels.

Mr. CHILES. I appreciate the senior Senator's concern for this important program.

This, and other housing programs are particularly important to many of the 3.5 million low-income elderly Americans dependent upon rental assistance to make ends meet. I want to assure the Senator that my colleagues and I on the Budget Committee will carefully weigh these programs with the many other demands on our scarce domestic dollars and do all that is possible.

Mr. QUAYLE. Mr. President, yesterday the Senate began consideration on the fiscal year 1989 budget resolution. As a member of the Budget Committee, I supported this resolution as it was reported by the committee on a vote of 18 to 3. The House has already approved their version of the fiscal year 1989 spending plan—touted as the first bipartisan budget resolution since 1980.

This budget resolution purports to meet the guidelines of last year's budget summit agreement between the bipartisan leadership of both Houses of Congress and the administration. Virtually every Member of this body has expressed concern over some, if not many, provisions of both the summit agreement and this budget resolution. I am no different, Mr. President. There are certain programs that I would have funded at a higher level and certain programs that I would have pared further, if the process were intended to be carried out by one Senator—but it is not. Therefore, I voted for the summit agreement last year, and I voted for this budget resolution in the committee because it halts a 3-year, 12 percent decline in real dollars of defense spending; limits entitlement spending, which is the fastest growing category of the budget; and forces reductions in discretionary spending. This is common ground that has evaded us through the normal budget process in recent memory.

Indeed, the greatest accomplishment of this budget is not its effect on the fiscal year 1989 deficit, but that it is an example of the need for substantial budget process reforms. Last year, Congress did not complete action on the final budget resolution until June 24, 1987. The Senate considered the budget resolution from April 27 until May 6, 1987. Of course, the appropriations process and the reconciliation bill were not completed until late December. What took more than 1 week on the floor of the Senate last year, the leadership intends to finish within 2 days time this year. Furthermore, it is likely that the final conference agreement with the House of Representatives will be completed at an earlier date than last year.

The culmination of last year's budget battle was the summit agreement that was to extend to not only the fiscal year 1988 budget, but to fiscal year 1989 spending as well—in essence this is the second year of a 2-year budget resolution. I have long advocated a 2-year budget, and have pursued this reform in the past with my friend from the other side of the aisle, Senator FORD. The relative ease of this year's budget deliberations, compared to that of previous years, should provide a testimony to the effectiveness and need for a permanent 2-year budget cycle.

MEDICAID FUNDING IN BUDGET RESOLUTION

Mr. MITCHELL. Mr. President, I would like to engage the chairman of the Budget Committee [Mr. CHILES], the chairman of the Finance Committee [Mr. BENTSEN], and other interested Senators in a colloquy to discuss an issue of vital importance to all of us. Mr. President, several of us, including Mr. BRADLEY, Ms. MIKULSKI, Mr. DURENBERGER, Mr. CHAFEE, Mr. RIEGLE, Mr. MATSUNAGA, and Mr. KENNEDY, had intended to offer an amendment to the budget resolution to increase funding for several important Medicaid initiatives for low-income elderly, pregnant women, and young children.

Over the last year, a strong bipartisan consensus has emerged to expand Medicaid coverage to meet pressing needs of the poor and elderly in our Nation. But unless sufficient funding is provided, Congress may not be able to complete its unfinished Medicaid agenda.

While the House budget resolution provides sufficient funding to enact these initiatives this year, the Senate budget resolution provides no separate funding for these initiatives. The Senate Budget Committee assumes that all funding for these initiatives will be offset by the Finance Committee. We believe the budget conferees, working together with the Finance Committee, must ensure that these important initiatives can be accommodated. I hope that the Senators concerned with these valuable initiatives can speak to this issue today.

Mr. BRADLEY. Mr. Chairman, I share the concerns of my distinguished colleague from Maine. It is our hope and anticipation that this Congress will enact the following: the spousal impoverishment initiative, which provides minimum income and asset protection for the spouse of a individual receiving assistance from Medicaid for nursing home care, the Medicaid "buy-in", which requires States to pay for Medicare cost sharing requirements for poor elderly; the infant mortality initiative, which ensures Medicaid coverage to poor pregnant women and their infants; and the welfare to work transition, which provides extra Medicaid coverage for poor families leaving the welfare rolls.

The catastrophic legislation, currently in conference, contains several of these important initiatives including spousal impoverishment, the Medicaid buy-in for elderly persons up to 100 percent of poverty, and an expansion of coverage for low-income women and infants. We believe that these provisions of the bill are critical to the catastrophic legislation.

While catastrophic legislation does include Medicaid savings which can be used to finance part of the costs of these initiatives, and some of the expansions could be partly financed within the committee jurisdiction, it would certainly be desirable if additional funding could be included in the final version of the budget resolution to cover at least some of the cost of these important provisions.

Ms. MIKULSKI. My colleagues, Senator MITCHELL and Senator BRADLEY, have already spoken to the need to provide sufficient funding to enact the entire package of Medicaid initiatives. These initiatives will improve access to health care for low-income elderly, pregnant women, and young children. I would like to take a moment to address a part of this package which is absolutely essential to the successful enactment of the catastrophic legislation. I speak of protection against spousal impoverishment.

This legislation will remedy the cruel rules that require elderly couples to exhaust virtually all their hard-earned savings and income—go bankrupt—before they can qualify for Medicaid to help pay the bills if one of them is forced to go into a nursing home.

Every year, thousands of elderly Americans—middle-class couples who have played by the rules all their lives and built up a modest savings—are forced into financial ruin if their loved one has to enter long-term nursing care.

Medicare generally doesn't pay for long-term nursing home care, and private insurance usually doesn't cover nursing home costs.

This makes no sense at all. Our program and policies should help people help themselves, not drive them into financial ruin. I believe in family responsibility, not family bankruptcy.

It is my great hope and expectation that my colleagues on the Budget and Finance Committees will be able between them to find the means to finance these measures. I will do all I can to assist them in their good endeavors.

Mr. RIEGLE. Mr. President, I am pleased to join with my colleagues in supporting these vital Medicaid initiatives. I have worked in the Finance Committee and on the Senate floor to ensure that the catastrophic health legislation contains protections against spousal impoverishment, and provides for Medicaid cost-sharing for the Nation's poor and elderly citizens. I have joined with Senator BRADLEY as an original cosponsor of the 1988 infant mortality initiative to provide Medicaid coverage to poor pregnant women and infants. I will work, as well, to ensure that welfare reform legislation before the Finance Committee provides extended Medicaid coverage for poor families making the transition from welfare to work.

These initiatives, which I expect to be enacted this year, must be adequately funded. The House budget resolution contains new funding for implementing them in the fourth quarter of fiscal year 1989. The chairman of the Budget Committee has indicated his support for these initiatives. The Senate budget resolution provides for enactment of all of these programs on a deficit neutral basis by assuming that the Finance Committee would provide offsetting cuts from programs under its jurisdiction.

Mr. President, I hope to continue to work with both the chairman of the Finance Committee [Mr. BENTSEN] and the chairman of the Budget Committee [Mr. CHILES] to find funding for these initiatives. I will encourage the conference committee on the budget resolution to support funding for these initiatives as well. As a member of the Senate Finance and Budget Committees, I will work to promote an accommodation under which these long-awaited Medicaid initiatives may be enacted this year.

Mr. CHAFEE. Mr. President, I join my colleagues in urging that the chairman of the Budget Committee work in conference for additional funding for the Medicaid program. These increased funds in addition to offsets in the Medicare Catastrophic Loss Protection Act will help ensure that critical Medicaid expansions which have widespread and bipartisan support in the full Senate and the Finance Committee will be enacted this year.

There are four sensible and cost-effective changes in the Medicaid program which must be passed this year. They are spousal impoverishment, increased coverage of low-income children and pregnant women, Medicaid buy-ins to Medicare for the low-income elderly and the welfare to work Medicaid transition benefit.

It is critical that the fiscal year 1989 budget resolution provide the necessary funding in the Medicaid program to accommodate these initiatives. If we are able to enact these important provisions, we will go a long way toward ensuring that those most in need will receive necessary health care assistance.

Mr. DURENBERGER. Mr. President, I want to join my colleagues in expressing my deep concern for ensuring that adequate funds are available for paying for the Medicaid initiatives that have such strong support in the Senate Finance Committee. Together the four initiatives—Medicaid expansion for poor pregnant women and infants, Medicaid buy-in for the low-income elderly, spousal impoverishment and welfare to work transition—represent very important policy initiatives that must be undertaken as soon as possible. Together these initiatives recognize that even in this highly constrained budget environment, we must take care of the poor and the elderly. We can pay now or pay much more later. We have all learned that some things cannot be deferred. These are not luxuries or expenditures in the nice to do but not essential categories. If we don't fund these, we are truly being penny-wise and pound-foolish. I urge my colleagues to join us in supporting these initiatives.

Mr. BENTSEN. I agree with my colleagues that these are vital initiatives for the elderly, pregnant women, and infants that must be enacted this year. And I agree that at least part of the costs of these initiatives can be offset within the jurisdiction of the Finance Committee. But clearly we would like some accommodations by the Budget Committee to ensure that these initiatives will go forward.

Mr. DANFORTH. Mr. President, the budget resolution that we are considering today allows the budget authority and outlays needed to pass several important Medicaid expansions as long as the catastrophic health care bill remains budget neutral. In fact, the mark specifically supports enactment of pending provisions to broaden Medicaid coverage for pregnant women and children, to protect families during a period of welfare to work transition, and to protect low-income elderly against spousal impoverishment and Medicare cost-sharing amounts. Mr. Chairman, these are all provisions that I have supported in the past and continue to strongly support. If we are to be fair to the most vulnerable groups in America, we must continue to focus our attention on low-income pregnant women, children, disabled persons, and the elderly.

Mr. President, each of these initiatives addresses a very serious problem. Recently, I have focused on the problem of spousal impoverishment as it is a particularly severe problem in my State of Missouri. Older adults throughout the country, who have saved money all their lives to provide for themselves in their later years, are currently being forced to impoverish themselves in order to qualify for Medicaid coverage of nursing home care. Few couples can afford the $20,000 to $65,000 a year that nursing home care costs. In most cases, savings and pensions accumulated over a lifetime are drained, often leaving as little as $340 a month on which to live.

Even worse, the current Medicaid law discriminates against people who have worked in the home and have little or no income in their own name. Most frequently, these are elderly women who have devoted themselves to being homemakers and to raising children. The current Medicaid regulations require that almost all of the husband's income be spent to cover the costs of the nursing home. As a result, the impoverishment required by Medicaid generally falls hardest on elderly women. In some States, this has resulted in elderly women suing their husbands for support as their only alternative to becoming impoverished.

Mr. President, in my own State of Missouri, the problem is particularly severe. Missouri State government does not necessarily allow the spouse who remains in the community to remain in his or her own home. If the value of the couple's assets equals more than $25,000, then the couple is forced to sell the home in order to qualify for Medicaid coverage. Mr. Chairman, this is simply unconscionable. When a couple has spent their lives responsibly saving so that they can provide for themselves in their old age, it is only right to allow them to live peacefully in their own home. Our programs and policies should help people to help themselves; not drive them into financial ruin.

Last fall, the Senate passed catastrophic health care legislation that included a provision to protect elderly couples from this problem of impoverishment when one spouse is forced to enter a nursing home. This legislation is extremely important, but cannot be passed into law unless funding is provided. In discussing this problem with a number of my colleagues on the Budget Committee, it is clear that the intent of the committee is to address the problem of spousal impoverishment, as well as the problems faced by pregnant women and children. Mr. President, I am pleased that there is such great interest in these high priority Medicaid improvements. Funding for these programs is extremely important to the most vulnerable members of our society.

Mr. CHILES. I understand the concerns expressed by my colleagues. Let me assure them that I too support enactment of these vital initiatives this year. At my urging, the Budget Committee report specifically endorsed these initiatives. I believe that we are all working toward the same goal and that the conference agreement on the budget resolution, in combination with Medicaid offsets from the catastrophic bill as well as the ability of the Finance Committee to produce other offsets, will enable enactment of these initiatives.

Mr. MITCHELL. I thank my colleagues for their time and attention to this matter.

FHA AND GNMA LOAN PROGRAMS

Mr. SASSER. I would inquire of the chairman about an apparent inconsistency in the committee report and the budget resolution reported by the committee. With regard to the fiscal year 1989 limits in function 370: Commerce and Housing Credit, the committee assumed "* * * a freeze in loan guarantee levels for the Federal Housing Administration and Government National Mortgage Association [FHA] mortgage-backed securities." The text of the budget resolution, section 3(b)7 indicates that fiscal year 1989 new primary loan guarantee commitments are $63,700,000,000 and that new secondary loan guarantee commitments are $0.

Yet, for fiscal year 1988, FHA has a limitation in appropriations of $96 billion and GNMA has a limitation of $144 billion.

Is it the chairman's view that the "freeze" assumptions in Senate Concurrent Resolution 113 would not preclude the Appropriations Committee from enacting loan guarantee limitations consistent with last years levels?

Mr. CHILES. Yes, that is correct. It is my intention that the commitment levels reported in the budget resolution are consistent with limitations that will more than adequately accommodate market demands for both FHA and GNMA financing. The commitment level for FHA guarantees is $60.71 billion for fiscal year 1989. That commitment level represents a freeze relative to the fiscal year 1988.

For GHMA, the report accompanying the resolution specifies a freeze in commitments from fiscal year 1988 to fiscal year 1989. However, in the actual text of the resolution, GNMA secondary guarantees are stated to be $0. Mr. President, this is a technical error. This error was corrected along with a number of other technical matters yesterday. The technical corrections amendment that contains that change to the GNMA commitment level can be located in the April 12, 1988 CONGRESSIONAL RECORD on page S3753.

Mr. SASSER. I would just like to restate my understanding of the resolution as it pertains to both the FHA and GNMA programs. Does Senate Concurrent Resolution 113, in your view, restrict the Appropriations Committee from assuming limitations of $96 billion and $144 billion for FHA and GNMA respectively for 1989?

Mr. CHILES. No. As I have stated previously, I believe the commitment levels in the resolution, as modified by my technical corrections amendment, are more than sufficient to accommodate expected demands for FHA and GNMA guarantees.

Mr. SASSER. I thank the chairman for his clarification of this situation.

Mr. GRAHAM. Mr. President, as we discuss and debate the fiscal year 1989 budget, I want to commend my friend and colleague, the senior Senator from Florida, LAWTON CHILES, for his outstanding leadership in producing the budget resolution. I am particularly pleased with his support for a very important program for our State: refugee assistance.

The Senate Budget Committee has recognized the discrepancy between actual refugee admissions and budgeted admissions. The President's budget request of $279 million for refugee assistance is based on services to 51,000 refugees, however, the State Department is forecasting 68,000 refugees. Plain and simple: the level of funding requested does not cover the costs of the refugees to be served.

Refugee resettlement has been a successful example of Federal-State partnership in the past. The State of Florida works closely with refugees; essential services such as job placement, vocational training, day care, and English language education go a long way towards fostering independence.

The Refugee Act of 1980 assured States of Federal financial assistance and guidance for State administered refugee programs. Deficit reduction efforts beginning in 1986 reduced the period of reimbursement to States from 36 months to 31 months—now we are looking at a 24-month reimbursement schedule. Combined with insufficient funding, these efforts served to shift the burden of refugee resettlement on to the States. As a result, State and local governments' ability to assist in domestic resettlement has been stretched way beyond their means.

Instead of responding to the needs of refugees entering our country with a comprehensive, long-term approach as intended by the Refugee Act, the administration is suggesting through its budget recommendation that we resettle refugees with little or no assistance. That is, welcome them with open arms, but do nothing to help them become working, productive members of our society.

Senator Chiles has recommended a much more realistic position. One that will allow the States to provide much needed services and follow through on the Federal Government's commitment to resettle refugees. I support the Senate position and stand ready to work for its passage.

ON FEDERAL EMPLOYEE PAY

Ms. MIKULSKI. Mr. President, I rise to echo the remarks of the Senator from Ohio, the distinguished and able chairman of the Governmental Affairs Committee, Senator Glenn, on the issue of Federal employee pay.

I am proud to represent over 250,000 hardworking and dedicated Federal civil servants, and another 130,000 Federal retiree annuitants, in the State of Maryland. Many of them have given up the chance for lucrative employment in the private sector to serve their country.

The pay proposal in the Senate budget resolution, I believe, is inadequate to meet the economic needs of our Federal civilian work force. Our Nation's civil service suffers today from severe morale, retention and recruitment problems. Unless we recognize this growing problem, and take the steps necessary to address it, we will face a crisis in continuing to be able to attract the Nation's best and the brightest to public service.

In the last 8 years, the country's Federal employees and retirees have been forced to shoulder more than their fair share of deficit reduction. From fiscal year 1981-88, Federal employees and retirees have been forced to absorb $82 billion in deficit cutting measures according to estimates of the Federal Government Service Task Force. They should not be forced to take further cuts and should be able to expect from their Government fair pay and sound retirement benefits.

It is my hope that we will fashion a more equitable approach to Federal pay in the upcoming conference with the House. Without taking this action, the quiet crisis among America's civil servants will become a problem of far greater magnitude that will be even more difficult to correct.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 100-17

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with the Commonwealth of The Bahamas on Mutual Assistance in Criminal Matters, treaty document No. 100-17, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Commonwealth of The Bahamas on Mutual Assistance in Criminal Matters, signed at Nassau on June 12 and August 18, 1987, with related notes. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool in prosecuting a wide variety of modern criminals, including members of drug cartels, and "white-collar criminals." The Treaty is self-executing and utilizes existing statutory authority.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) taking testimony or statements of witnesses; (2) provision of documents, records, and evidence; (3) execution of requests for searches and seizures; (4) transfer of persons in custody for testimonial purposes; (5) serving documents; (6) locating persons; (7) exchanging information; (8) immobilizing forfeitable assets; and (9) any other matter mutually agreed upon.

I recommend that the Senate give early and favorable consideration to the Treaty, with related notes, and give its advice and consent to ratification.

Ronald Reagan.

The White House, *April 13, 1988.*

GUNARS ASTRA, LATVIAN PATRIOT

Mr. DOLE. Mr. President, on April 6, Gunars Astra, Latvia's foremost human rights activist, died in a Leningrad hospital following extensive heart surgery.

We do not know all the circumstances surrounding Mr. Astra's death. But I hope a request made by his widow, that a non-Soviet pathologist be allowed to conduct an independent autopsy, is complied with by the Soviet authorities.

Gunars Astra was only 56 years old when he died. And 19 of those years were spent in a Soviet gulag, accused of "anti-Soviet agitation and propaganda." He had been released from prison camp only 2 months ago and was visiting in Leningrad when he became ill.

During his last trial, in 1983, the Soviet procurator accused Astra of being "Andrei Sakharov's comrade in thought." Well, for those of us who value the right of man to live, think, work in freedom, that is no accusation, it is a high compliment.

Astra decried Soviet oppression of non-Russians living in the Soviet Union—in Latvia, Mordovia, Bielorussia, and the Ukraine. His commitment to his own people, their destiny, their preservation, was total. And Astra's untimely death once again highlights the human impact of the Soviet Union's illegal occupation of the Baltic States.

Mr. President, I hope and trust that at the upcoming summit meeting in Moscow, President Reagan will reiterate the United States commitment to guaranteeing basic human rights to all Soviet citizens. That is the very least we can do to show our unwavering support for brave patriots like Gunars Astra whose whole life was dedicated to the hope that the Latvian people would some day be free and independent.

TRIBUTE TO SENATOR BYRD

Mr. ADAMS. Mr. President, despite the announcement made yesterday, this is no time for eulogies that Robert C. Byrd is leaving. After all, unless the voters of West Virginia suffer a temporary loss of sanity, he will be back here next year. And when he returns, he will return as the chairman of the Appropriations Committee—certainly not an insignificant position.

Still, Senator BYRD's decision not to seek reelection as the Democratic leader, deserves comment. While I have served in the Government since 1965, I have been in the Senate for less than 2 years and believe me, the Senate is different from the Government. This institution has its own rituals, its own rules, its own rhythms. It is a unique institution. And no one understands it, respects it, or reveres it more than ROBERT C. BYRD. Many have said that his greatest strength as a leader is his knowledge of the rules. And that knowledge is impressive. But it is not his strength. His strength flows from the reason he learned the rules in the first place. He learned the rules because they are a part of this place, an integral part of an institution that he loves. He has done more than master the rules, he has mastered the motives which created them and make them meaningful.

Some criticize the arcane nature of those rules. But no one ought to criticize their purposes—to protect the rights of each Member and to preserve the rights of the minority. Yesterday ROBERT BYRD said that the Senate was never created to be efficient. He is, as usual, right. It is possible to make this institution more efficient and we must do so but it will never be a model of pure efficiency. As long as each of us seeks to preserve our rights and protect the interests of our States, it never will be. ROBERT BYRD understands that and as leader, his style reflected it.

Let me tell you one story. Last year, I thought the leader had taken an action inconsistent with an understanding I had with him. I went to see him and I said, Mr. Leader you did X and I thought that you and I had an agreement that you wouldn't do that until we had talked. ROBERT BYRD listened to my complaint and without a moments hesitation he said—you are right, I made a mistake and simply forgot; I didn't mean to take advantage of you and I will correct this at once. And he walked out of his office went to the floor and made a unanimous-consent request that put the matter right.

Now Mr. President, he didn't need to do that. To begin with, I was complicating his life. Keeping his agreement with me involved making life a little more difficult for a much more powerful Member. But ROBERT BYRD never hesitated. He is a man who keeps his word, a man whose word can be trusted, a man who can be counted on to do what he says he will do. Some people may say that his strength as a leader is his knowledge of the rules; I think that his strength was and is the fact that he is ruled by honesty, and by respect for the institution he serves and the colleagues he serves with.

One final point, Mr. President. When I first came to the House of Representatives, I received what was then the standard lecture about the importance of doing what the leadership told us to do. When I came to the Senate, I got a lecture about how I could talk to the leadership about what we should do. As a freshman Senator, without any power other than my convictions and beliefs, I wasn't sure that I would really have an opportunity to tell the leadership anything but "good morning." But in the first few months, ROBERT C. BYRD invited me to participate in strategy discussions about how to deal with the President's veto of the highway bill. And throughout the year—on issues related to the war powers resolution, the nuclear waste program, and a host of other items—ROBERT BYRD didn't just listen to my ideas, he invited me to share them with him. He didn't always agree, he didn't always accept my suggestions, but he treated them—and me—with respect and consideration.

With Senator BYRD's announcement, an era has come to an end. Some may find it strange that after a brief pause for praise, we have all moved on to wild speculation about what happens next. The body isn't even cold—in truth, it isn't even dead—and we are on to a discussion of who comes next. That may be strange—but is it in keeping with this institution. No one understands that better than ROBERT BYRD. And, in the weeks ahead, I suspect that no one will participate in the process of making plans and developing strategy more than ROBERT BYRD.

We may have lost a leader, but we have not lost a Senator who will continue to be a leader.

BICENTENNIAL MINUTE

APRIL 10, 1959: STAFF SALARY DISCLOSURE

Mr. DOLE. Mr. President, 29 years ago this week, on April 10, 1959, Senator Wayne Morse introduced a resolution to provide for public disclosure of Senate staff salaries. He took this step amidst a brewing controversy concerning the extent to which Members of Congress had placed relatives on their office payrolls. Although there was nothing illegal about hiring family members as legitimate employees, rumors of abuses triggered press curiosity. Weeks earlier it had been disclosed that a House Member, whose wife was on his staff payroll, was billing the Government $100 per month in rent charges for his front porch, which served as her office.

Until 1948, the Secretary of the Senate had routinely issued semiannual reports detailing all Senate expenses, including staff salaries. Beginning in that year, the reporting method changed. While the Senate continued to publish committee staff salaries, it simply listed a lump-sum figure for the personal staff of each Senator. A Scripps-Howard newspaper alliance suit against the Secretary of Senate for disclosure of the Senate's $10 million personal staff payroll triggered a spirited debate. Senators opposing disclosure argued that the Senate is not a factory in which its employees receive uniform salaries. In absence of uniform salaries for comparable work, they reasoned, the publication of salary information would only sew discord among employees. While a few Senators responded by immediately publishing their payrolls, others said they would do so only if it were required of all Members.

Finally, on June 26, 1959, the Senate agreed to publish quarterly reports containing the salary of each personal staff member. When the first listing appeared in November, it revealed that at least 19 Senators employed relatives at annual salaries ranging from $3,000 for a messenger to $16,000 for a top administrative assistant. Today, a Federal statute and rulings by the Senate Ethics Committee regulate this practice.

THE S. 79 DEBATE REVISITED

Mr. HELMS. Mr. President, during the debate on S. 79, the High Risk Occupational Disease Notification and Prevention Act, the issue of passive smoking was repeatedly discussed by the Senator from Utah [Mr. HATCH]. I would emphasize, at the outset, that Senator HATCH is my friend, and I am his. When we disagree, which is seldom, we agree to disagree agreeably. Before addressing specific arguments raised by the Senator, it might be well to revisit some of his remarks concerning the fallacies of this legislation. I agree with his position that the bill is deficient in not having a specific requirement that the risk be substantial and well documented before notification is sent to employees. Likewise I agree with his assessment that the legislation fails adequately to establish threshold levels of increased risks. And I agree with his position that allowing notification based on a single statistically significant study showing chronic health effects opens the door to unlimited notification based on unsubstantiated scientific and medical research.

I agree with the Senator's position on these points. However, I disagree with his assessment and interpretations of epidemiological studies on environmental tobacco smoke [ETS] and the need to include it in this legislation.

Smoking, and now exposure to environmental tobacco smoke, is an emotional issue. It's emotional because everyone has an opinion on the subject, yet, virtually no one takes the time to read and digest the available scientific studies.

Ironically, S. 79 provides a forum to discuss the substantive scientific material on ETS. The substantive issue to be considered is whether the existing scientific studies establish a casual connection between adverse health effects and exposure to ETS. That is the issue. It is not an issue of annoyance or personal preference.

In attempting to answer this issue, an initial distinction should be made between primary and passive smoke exposure. Primary exposure is exclusive to the smoker, while passive smoke exposure is a result of the smoke exhaled by the smoker and/or the smoke from the tip of a burning tobacco product.

Even though both are smoke, one cannot scientifically extrapolate the studies on primary smoking to the potential health effects from ETS exposure. The Surgeon General's report on the Health Consequences of Involuntary Smoking states:

> The dose-response relationships between specific tobacco smoke components and specific diseases are not sufficiently established for the extrapolations from active smoking to environmental tobacco smoke exposure for individual agents.

Some of the chemical compounds in primary smoke are found in ETS, therefore certain individuals leap to the conclusion that it is biologically plausible for exposure to ETS potentially to cause the same diseases as has been alleged with regard to primary smoking.

However, this statement gives rise to the necessary examination of factors such as duration of exposure, concentration, aging, chemical alteration and retention of the smoke.

There are significant differences in these factors, which establishes that exposure to ETS is a completely distinguishable toxicological phenomenon from exposure to primary smoke. For example, the nonsmoker inhales the smoke through the nose—the primary smoker by the mouth. ETS is mixed with other compounds found in everyday air causing dilution, while primary smoke is more concentrated. When the ETS is inevitably mixed with other compounds, it ages and chemical alternations result. Finally, primary smoke is retained by the smoker whereas ETS is not. These factors, as the Surgeon General admits, makes it impossible accurately to extrapolate the alleged health effects of primary smoking to exposure from ETS.

Now, Mr. President, let's turn to what the scientific data really says on the potential health effects of exposure to ETS.

The 1986 report by the Surgeon General is universally cited as the uncontroverted truth that passive smoke is harmful. In the report, the Surgeon General concludes that exposure to ETS may cause chronic adverse health effects in healthy nonsmokers.

Since he is the highest Government medical officer in the country, most Americans tend to believe him without bothering to look at his own report. The report runs well over 300 pages and includes rather complex scientific language. It is not easy reading, but it is required reading if one is going to have any degree of knowledge in addressing this subject.

What does the Surgeon General's science, as opposed to his public pronouncements, say on the health effects of exposure to ETS?

For acute respiratory illness, the report states:

> There are no studies of acute respiratory illness experience in adults exposed to environmental cigarette smoke.

For cough, phlegm and wheezing, it indicates:

> Few studies have addressed the relationship of chronic respiratory symptoms in nonsmoking adults with environmental tobacco smoke exposure. Schilling and colleagues (1977) found that symptoms in adult men and women were related to personal smoking habits and that the occurrence of cough, phlegm, or wheeze in nonsmokers was not related to the smoking habits of their spouses. Schenker and colleagues (1982) confirmed these results in a telephone survey of 6,000 adult women in western Pennsylvania.

For pulmonary function, the Surgeon General concludes:

> The physiologic and clinical significance of the small changes in pulmonary function found in some studies of adults remains to be determined. The small magnitude of effect implies that a previously healthy individual would not develop chronic lung disease solely on the basis of involuntary tobacco smoke exposure in adult life.

As regards bronchoconstriction, it says:

> The active smoker manifests acute responses to the inhalation of cigarette smoke; thus, high-dose involuntary exposure to tobacco smoke may plausibly induce similar responses in nonsmokers. The magnitude of these changes is quite small, even at moderate to high exposure levels, and it is unlikely that this change in airflow, per se, results in symptoms.

For ear, nose and throat problems, the report states:

> There are no studies of chronic ear, nose and throat symptoms in adults with involuntary smoke exposure.

For asthmatics, it states:

> Acute exposure in a chamber may not adequately represent exposure in the general environment. Biases in observation and the selection of subjects and the subjects' own expectations may account for the widely divergent results. Studies of large numbers of individuals with measurement of the relevant physiologic and exposure parameters will be necessary to adequately address the effects of environmental tobacco smoke exposure on asthmatics.

For cancers other than lung cancer, the most highly publicized potential diseases, the report concludes:

> There are at present insufficient data to adequately evaluate the role of involuntary smoking in adult cancers other than primary carcinoma of the lung.

In reaching his conclusion that exposure to ETS increases a nonsmoker's chances of contracting lung cancer, the Surgeon General relied upon epidemiological studies and statistical inferences. The Surgeon General recognized that less than half of these studies established a statistically significant association. Moreover, the few studies that are statistically significant are procedurally and methodologically flawed. The International Agency for Research on Cancer [IARC] found that [t]he observations on nonsmokers that have been made so far are compatible with either an increased risk from passive smoking or an absence of risk. IARC, "Tobacco Smoking," IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, Vol. 38 (1986, Lyons, France) at p. 314.

The fundamental flaw in all of the spousal smoking studies seeking to address the question of ETS and lung cancer in nonsmokers and relied upon by the Surgeon General is the complete inability to document accurately the extent of a nonsmokers' exposure to ETS. The assumption that nonsmoking spouses of smokers are exposed to more ETS than nonsmokers has never been adequately documented. Therefore, it is inaccurate to suggest that lung cancer is a proven health effect of ETS, especially where there exists significant controversy within the scientific community concerning the validity of the studies purportedly demonstrating such an association.

Let's review this for a second. The Surgeon General says that ETS causes disease including lung cancer. The scientific material in his own report indicates that there are no studies for acute respiratory illness and ear, nose and throat diseases. It states that there are inadequate studies on which to base any conclusion for pulmonary function, bronchoconstriction, asthmatics and cough, phlegm and wheezing.

Granted, I am not a scientist and I pose as no authority, but I think I can understand the English language, and that understanding clearly indicates that the available science does not support the Surgeon General's conclusions.

Interestingly, there were approximately four major studies of ETS released in 1986 in addition to the one we've discussed. What did they have to say?

The Senator from Utah quoted extensively from a staff paper prepared by the Office of Technology Assessment [OTA]. On the overall issue of whether ETS causes disease, it states:

> Debate about the link between passive smoking and lung cancer is one of the most contentious in public health today.

OTA acknowledges the distinction between primary smoke and ETS. It indicates that:

> Because smoke is diluted by air in a room, the exposure of nonsmokers are much less than the measured concentrations of toxic substances in sidestream or mainstream smoke as they emerge directly from the cigarette. In addition to the effects of dilution, environmental tobacco smoke differs somewhat from mainstream and sidestream smoke as a result of chemical and physical changes that occur as mainstream and sidestream smoke cool and react in the air.

On the effects of ETS on lung function, the OTA paper states:

> The assessment of effects of passive smoking on lung function and disease in healthy and compromised individuals would benefit greatly from further research.

On the overall health effects of exposure to ETS, OTA's position is that:

> Taken piece by piece, much of the evidence for adverse health effects related to passive smoking is equivocal. As is the case for nearly every other body of health effects literature, there are few definitive studies that by themselves change scientific thinking. While the acute, short-term effects of passive smoking are by themselves relevant for a study of workplace smoking policies, their long-term health implications are less clear.

I fail to see that the OTA staff paper presents even a scintilla of scientific evidence supporting the claim that exposure to ETS causes disease.

But let's look at another report released in 1986 by the World Health Organization [WHO]. In reviewing their literature, bear in mind that this is an organization which is on record as supporting a smoke free society by the year 2000. WHO states that:

> Several epidemiological studies have reported an increased risk of lung cancer in nonsmoking spouses of smokers, although some others have not. In some studies, the risk of lung cancer in nonsmokers increased in relation to the extent of spouses' smoking. Each of the studies had to contend with substantial difficulties in determination of passive exposure to tobacco smoke and to other possible risk factors for the various cancers studies. The resulting errors could arguably have artificially depressed or raised estimated risks, and, as a consequence, each is compatible either with an increase or with an absence of risk. As the estimated relative risks are low, the acquisition of further evidence bearing on the issue may require large-scale observational studies involving reliable measures of exposure both in childhood and in adult life. The studies on childhood cancer do not provide clear evidence as to whether or not there is a clear association with parental smoking.

Finally, let's turn to the report issued by the National Academy of Sciences [NAS] that was frequently discussed during the debate on whether to ban smoking on domestic airline flights. Even though NAS recommended that smoking be banned, it also accurately reported that the empirical evidence on the health effects of exposure to ETS is lacking in quality and quantity. It specifically said:

> The dearth of pertinent data limits conclusions about the potential for adverse health effects to no more than estimates. Much more research must be conducted before risks can be accurately measured.

As I said earlier, smoking, and now exposure to ETS, has become an emotional issue. It must be that because that is the only logical explanation for concluding the ETS has been even remotely linked with diseases such as lung cancer. An objective reading of the available studies and materials requires a different finding. Of course, the science does not prove that exposure to ETS does not cause chronic health diseases, but, as we all know, or should know, it is impossible to prove a negative.

I don't expect my recitation of these materials to quell the frequent outcry that the Federal Government should act on restricting exposure to ETS. At a minimum, however, it should oblige Senators and individuals alike at least to take the time to read these reports with objective minds before declaring anything to be a fact when it has not been shown to be a fact.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty, which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the requirements of Section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92-463, 5 U.S.C., App.), I hereby transmit the Sixteenth Annual Report on Federal Advisory Committees for Fiscal Year 1987.

Ronald Reagan.

The White House, *April 13, 1988.*

MESSAGE FROM THE HOUSE

At 11 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendments to the amendments of the Senate to the bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Montgomery, Mr. Applegate, Ms. Kaptur, Mr. Rowland of Georgia, Mr. Solomon, and Mr. Hammerschmidt as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 90) to establish the Big Cypress National Preserve addition in the State of Florida, and for other purposes.

The message also announced that the House has passed the following joint resolution, without amendment:

> S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

The message further announced that pursuant to the provisions of section 276a-1 of title 22, United States Code, the Speaker appoints as members of the delegation to attend the Conference of the Interparliamentary Union, to be held in Guatemala City, Guatemala, on April 11 through April 16, 1988, the following Members on the part of the House: Mr. Pepper, Chairman, Mr. Hamilton, Vice Chairman, Mr. Brown of California, Mr. Bates, and Mr. Hyde.

At 12:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

> S. 623. An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1988, 1989, and 1990, and for other purposes.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4155. An act to designate the Armed Forces Recreation Center at Fort DeRussy, HI as the "Dan Daniel Armed Forces Recreation Center";

H.J. Res. 272. Joint resolution designating the week of April 24, 1988, through April 30, 1988, as "National Eating Disorders Week";

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Henniz and Ginvanni Bizzini, and depicting the *Calmare Nyckel*, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware;

H.J. Res 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 2:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 1900. An act to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts; and

S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. DASCHLE).

MEASURES REFERRED

The following bill, previously held at the desk by unanimous consent, was read the first and second times by unanimous consent and referred as indicated.

S. 2273. A bill to provide for the transfer of certain funds to the Secretary of the Interior or the benefit of certain members of the Crow Tribe; to the Select Committee on Indian Affairs.

The following bill and joint resolutions were read the first and second times by unanimous consent:

H.R. 4155. An act to designate the Armed Forces Recreation Center at Fort DeRussy, HI, as the "Dan Daniel Armed Forces Recreation Center"; to the Committee on Armed Services.

H.J. Res. 272. Joint resolution designating the week of April 24, 1988, through April 30, 1988, as "National Eating Disorders Week"; to the Committee on the Judiciary.

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Henniz and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware; to the Committee on Energy and Natural Resources.

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week"; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 13, 1988, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2946. A communication from the Assistant Secretary of the Interior (Indian Affairs) and the Assistant Secretary of the Interior (Policy, Budget, and Administration), transmitting jointly, pursuant to law, a report on the Bureau of Indian Affairs health and safety program; to the Select Committee on Indian Affairs.

EC-2947. A communication from the Assistant Secretary of the Interior (Policy, Budget, and Administration), transmitting, pursuant to law, the report on Tribally Controlled Community Colleges; to the Select Committee on Indian Affairs.

EC-2948. A communication from the Acting Assistant Attorney General, transmitting a draft of proposed legislation entitled the "Interpol Authorities Act"; to the Committee on the Judiciary.

EC-2950. A communication from the Secretary of Housing and Urban Affairs, transmitting, pursuant to law, the annual report of the Department on the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2951. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2952. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2953. A communication from the Secretary of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the audit report of the Foundation for fiscal year 1987; to the Committee on the Judiciary.

EC-2954. A communication from the Administrator of General Services, transmitting, pursuant to law, the annual report of the General Services Administration under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2955. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on extraordinary contractual relief under P.L. 85-804; to the Committee on the Judiciary.

EC-2956. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendations with respect to a certain claims case; to the Committee on the Judiciary.

EC-2957. A communication from the Administrator of the Office of Juvenile Justice and Delinquency Prevention, Department of Justice, transmitting, pursuant to law, a report entitled "Eleventh Analysis and Evaluation: Federal Juvenile Delinquency Programs, 1987"; to the Committee on the Judiciary.

EC-2958. A communication from the Director of the Office of Information, Office of Governmental and Public Affairs, Department of Agriculture, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2959. A communication from the General Counsel of the Legal Services Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2960. A communication from the Chairman of the Board of the Student Loan Marketing Association, transmitting, pursuant to law, the annual report of the Association for calendar year 1987; to the Committee on Labor and Human Resources.

EC-2961. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1987 edition of the report entitled "Health, United States"; to the Committee on Labor and Human Resources.

EC-2962. A communication from a member of the National Foundation on the Arts and Humanities, transmitting, pursuant to law, the annual report on the Arts and Artifacts Indemnity Program for fiscal year 1987; to the Committee on Labor and Human Resources.

EC-2963. A communication from the Acting Director of the National Institute on Disability and Rehabilitation Research, transmitting, pursuant to law, a report on "Policy Recommendations * * * for the establishment by the Congress of an agency designed to ensure (1) the development and cost-effective production and marketing of technological devices and (2) the efficient distribution of such technology to individuals with handicaps"; to the Committee on Labor and Human Resources.

EC-2964. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorization of appropriations under the Runaway and Homeless Youth Act; to the Committee on Labor and Human Resources.

EC-2965. A communication from the Secretary of Education, transmitting, pursuant to law, a final report entitled "The Vocational Rehabilitation of Migrant and Seasonal Farmworkers"; to the Committee on Labor and Human Resources.

EC-2966. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, reports regarding the receipt and use of Federal funds by candidates who accepted public financing for the 1984 Presidential primary and general elections; to the Committee on Rules and Administration.

EC-2967. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms for October 1987 through January 1988; to the Committee on Small Business.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Hans M. Mark, of Virginia, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of two years; and

Walter C. Wallace, of New York, to be a Member of the National Mediation Board for the term expiring July 1, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2277. A bill to ensure that certain retirement benefit checks are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

By Mr. ROTH:

S. 2278. A bill to amend the Internal Revenue Code of 1986 to allow the penalty-free early withdrawal of IRA funds for post-secondary educational expenses; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. GRASSLEY):

S. 2279. A bill to amend title 11 of the United States Code, the bankruptcy code, regarding swap agreements; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. BENTSEN):

S. 2280. A bill to provide for improved safety at railroad-highway crossings; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ (for himself and Mr. KARNES):

S. 2281. A bill to promote rural development, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. HEINZ, Ms. MIKULSKI, and Mr. KENNEDY):

S. Con. Res. 115. A concurrent resolution expressing the sense of Congress in honoring the American family; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 2277. A bill to ensure that certain retirement benefit checks are delivered early of the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Governmental Affairs.

RETIREMENT CHECK DELIVERY ASSURANCE ACT

● Mr. HEINZ. Mr. President, I rise today to draw attention to an inequity currently existing in the law. Over 10 years ago, we enacted legislation improving the delivery of monthly benefit checks to recipients of Social Security and Veterans Administration benefits. Somehow, we neglected to extend these delivery improvements to civil service, railroad and military retirees and recipients of black lung benefits.

The inequities of this situation were recently brought home to one of my constituents, Mrs. Ruth Kline of Mars, PA, who receives railroad retirement benefits. At the end of December, she read in the newspaper that Social Security checks would be delivered early because of the New Year's holiday weekend. Social Security checks were scheduled for issuance on Sunday, January 3, but instead were available on Thursday, December 31. Railroad retirement checks had an issuance date of January 1, New Year's Day.

On Thursday December 31, Mrs. Kline went to the post office to pick up her retirement check. She waited in line and when her turn came, she requested her check. Distinguishing between the two different piles of checks behind him, the postal clerk informed her that although all the retirement checks were sitting there, ready for delivery, only Social Security and veterans benefits recipients could receive their checks. Other checks had to be held for delivery on the issuance day.

The post office was closed on January 1 and did not deliver Mrs. Kline's check. She received her retirement check on the afternoon of Saturday January 2, but because the banks closed early on Saturdays, she could not cash her check until Monday, January 4—a full 3 days after the date of issuance.

What happened to Mrs. Kline is not an isolated incident. Almost 4½ million other retirees also have their checks unfairly withheld when the issuance date falls on a weekend or holiday. Each month retirees rely on their checks to meet daily expenses. The individual budget of a railroad or civil service retiree represents a delicate balance between benefit checks and food and housing expenses. Receipt of retirement benefits later than the issuance date upsets this balance. Retirees on a fixed income budget their money carefully. An unexpected 3-day delay in receiving a retirement check can mean missed rent or mortgage payments. Such a delay is inexcusable when the retirement checks are sitting, available in the post office, ready for delivery.

Every month benefit checks are delivered to the post office for delivery on a specified date, usually the first or third day of the month. Traditionally, if the check was delivered on a Saturday, retirees often found it almost impossible to cash or deposit their checks before Monday. If the delivery day fell on a Sunday or legal holiday, the check was not delivered until the next business day. This delayed delivery was particularly burdensome for retirees when the delivery date fell during a holiday weekend. In 1977, Congress amended the law to authorize early delivery of Social Security and Veterans Administration checks if the delivery date fell on a weekend or national holiday.

Unfortunately, recipients of other Federal retirement benefits were overlooked during the changes to Social Security and veterans benefits. Approximately 4.4 million retirees still face delays in obtaining their retirement benefits on those occasions when the issuance date falls on a weekend or holiday. This unfortunate minority—civil service, military, and railroad retirees and black lung victims—have not received treatment consistent with that already given Social Security and veterans benefit recipients.

This bill simply provides that if the issuance date for other Federal retirement programs falls on a weekend or holiday, these retirees will receive the same considerate treatment which we have already legislated for Social Security and Veterans' Administration beneficiaries. In 1977, we took steps to ensure that recipients received their benefits in time to meet their obligations. We had good intentions at that time and should act now to extend those intentions to this smaller group of beneficiaries which somehow fell through the cracks.●

By Mr. ROTH:

S. 2278. A bill to amend the Internal Revenue Code of 1986 to allow the penalty-free early withdrawal of IRA funds for postsecondary education expenses; to the Committee on Finance.

PENALTY-FREE EARLY WITHDRAWAL OF IRA FUNDS FOR POSTSECONDARY EDUCATION

Mr. ROTH. Mr. President, the bill I am introducing today allows for the early withdrawal of IRA funds without penalty when the proceeds are used for postsecondary education expenses.

I am proposing this bill to encourage savings for postsecondary education. I have said before that in my judgment there is no issue of more critical importance to the American people and this Nation than the issue of savings.

We need to meet the challenge of becoming competitive in the emerging world economy by encouraging savings. When Congress acted in 1981 to promote individual retirement accounts by allowing universal participation in IRA's the American people responded overwhelmingly. Since that time 28 million families made a commitment to create an IRA for their future which resulted in $250 billion in savings.

Part of our future and equally critical to our success in meeting the competitive challenges of the years ahead involves the ability of people to realize their potential through education. Therefore it seems to me that allowing individuals to make penalty-free early withdrawals from their individual retirement accounts for postsecondary education is a logical match. Thus the large pool of capital which exists from IRA savings could provide families and individuals with funds to help meet college costs, individual retirement accounts are a known quantity which enjoy very broad participation and provide persons with a range of investment choices. There is an advantage in that these funds could help meet people's needs immediately.

Mr. President, there has always been broad bipartisan support in Congress for helping students realize their education objectives. Since Congress established the first program of Federal student financial assistance 30 years ago nearly $83 billion has been appropriated for these programs. Half of the students pursuing postsecondary education today rely on some form of Federal assistance with the result that nearly two-thirds of the money expended on Federal student assistance has been spent since 1980 in part because of the escalating costs of higher education. Encouraging private savings to help meet the costs of higher education would be an important addition to this effort.

By Mr. DECONCINI (for himself and Mr. GRASSLEY):

S. 2279. A bill to amend title 11 of the United States Code, the bankruptcy Code, regarding swap agreements; referred to the Committee on the Judiciary.

AMENDMENT TO THE BANKRUPTCY ACT REGARDING SWAP AGREEMENTS

● Mr. DECONCINI. Mr. President, today I rise along with my colleague, Mr. GRASSLEY of Iowa, to introduce a bill to amend the bankruptcy code to provide protection for the operation of interest rate and currency swap agreements when one of the parties files for bankruptcy relief.

This bill would amend section 362 to exempt swap agreements from the automatic stay provisions and amend section 547 to provide that ordinary transfers made or setoffs effected under a swap agreement immediately before a bankruptcy case cannot be set aside by a bankruptcy trustee. It would also create a new section 560 providing that the contractual right of a nondefaulting swap participant will not be stayed by any order of the bankruptcy court or otherwise under the Bankruptcy Code.

Because this is a very technical area I will begin with some background on interest rate and currency swap agreements.

I. THE INTEREST RATE AND CURRENCY SWAP MARKETS

A. BACKGROUND

Interest rate and currency swap agreements are a rapidly growing and vital risk management tool in the world financial markets. Financial institutions and corporations use swaps to minimize exposure to adverse changes in interest and currency exchange rates. Swaps can also be used, in effect, to convert a particular financial asset from fixed to floating rate and from one currency to another. Currency swaps and forward foreign exchange transactions also play an important role in international trade as a means of hedging against currency fluctuations. The participants include commercial banks, investment banks, thrift institutions, insurance companies, domestic and multinational corporations, foreign governments, and United States and foreign government-sponsored entities. The International Swap Dealers Association has compiled statistics showing that the dollar volume of outstanding U.S. dollar-denominated swap transactions alone exceeded $313 billion at the end of 1986, and that an additional $125 billion in new agreements were entered into the first 6 months of 1987.

A typical single-currency interest rate swap transaction involves an agreement where one party agrees to make periodic payments based on a fixed rate while the other agrees to make periodic payments based on a floating rate. Payments are calculated on the basis of a hypothetical principle—or national—amount and payment amounts are typically netted—even in the absence of default—on common dates. The principle or notional amounts generally are not transferred. The term of swap transactions generally range from 1 to 12 years.

Swap transactions are widely used by institutions, including thrift institutions, to manage mismatches between their assets and liabilities. For example, an entity that has substantial short-term floating rate liabilities and long-term relatively fixed rate financial assets has substantial interest-rate exposure. In a rising interest-rate environment, the entity may suffer losses as the cost of its short-term floating rate liabilities rise above the fixed returns on its assets. To hedge this risk and lock in a positive spread between the rate it receives on its assets and the rate it is required to pay on its liabilities, that entity can enter into an interest rate swap in which it will make fixed rate payments—which can be funded by its fixed rate assets—and will receive floating rate payments—which will rise or fall along with its floating rate liabilities.

An entity with a relatively low credit rating not only can reduce its market risk through a swap transaction but can also lower its borrowing costs by entering into swaps with an entity with a higher credit rating. Certain institutions, either because of better credit ratings or better market recognition, have a comparative advantage in borrowing in the fixed-rate markets. Other institutions may be unable to obtain long-term fixed-rate financing at acceptable rates, but will be able to obtain short-term floating-rate funds. Through the use of swaps, however, that institution will often be able to obtain favorable long-term rates. Because the credit exposure on a swap is relatively small compared to a traditional loan of principle, entities with higher credit ratings are often more willing to enter into long-term swaps than long-term loans with lower-rated entities.

A party to a swap transaction may enter into a swap directly with another principle end-user. More commonly, however, it enters into a swap with a commercial or investment bank that acts as a dealer in swaps. The dealer will often act as a principal, creating a portfolio of swaps. By standing ready to enter into swaps with any qualified party at any time, swap dealers provide important liquidity for the swaps market.

B. THE MASTER AGREEMENT

Now, Mr. President, I will turn to the problems that this bill is designed to address.

The International Swap Dealer Association has developed a master swap agreement that is used by most swap participants. A fundamental provision of the master agreement is that, upon termination of the agreement for default, all transactions between the parties are terminated, a single net amount due is determined, and the amount due the nondefaulting party is paid by the defaulting party. The immediate termination for default and the netting provisions are critical aspects of swap transactions. The immediate termination of all outstanding transactions is necessary for the protection of all parties in light of the potential for rapid changes in the financial markets. The provisions allowing netting of the termination values of all transactions between the parties is a fundamental aspect of swap transactions, particularly for the financial intermediaries who may have numerous transactions with one counterparty under a single master agreement.

I have become concerned about the impact of the Bankruptcy Code on these critical provisions of swap agreements. In particular I am concerned that the automatic stay provision of the Bankruptcy Code could be interpreted to bar immediate termination of outstanding transactions, creating a risk of exposure to rapid change in the market. I am also concerned that, even where all transactions between two parties are conducted under a single master agreement, a bankruptcy trustee could try to cherrypick by assuming favorable transactions while rejecting unfavorable ones.

Although many believe that under existing statutory provisions and case law netting should be enforced under the Bankruptcy Code, the issue has never been expressly addressed by a court and, accordingly cannot be free from doubt. We cannot afford to leave this question in doubt. If netting is not allowed—and the debtor is permitted to cherrypick—the potential exposure for nondefaulting parties is drastically increased. In this day of volatile financial markets, we cannot permit one bankruptcy to undermine the basic function of a market as large and important as the swaps market.

II. PROPOSED CHANGES

The changes I propose address three specific problems. These are, first, the impact of the automatic stay on the enforcement of the contractual rights to terminate a defaulted contract; second, the right to net positive and negative exposures with one counterparty; and third, the impact of the Bankruptcy Code on normal prebankruptcy activities, such as the setoff of mutual claims and debts and the potential exposure of ordinary prebankruptcy transfers to later preference recovery.

These changes closely parallel those enacted in 1982 and 1984 by Congress for securities contracts, forward contracts, commodity contracts, and repurchase agreements. The same reasons that led Congress to enact those amendments support the amendments I am introducing today.

A. AUTOMATIC STAY PROVISIONS

The automatic stay of section 362 of the Bankruptcy Code bars a party from taking any action to interfere with the property of the bankrupt estate. It is possible that a bankruptcy court could interpret this provision to stay a nondefaulting party from taking action either to terminate a swap or forward foreign exchange agreement with a debtor or to net offsetting exposures, at least without first obtaining authority from the bankruptcy court.

Obtaining such authority necessarily takes some time, often many weeks or months. Any delay in obtaining authority to terminate outstanding transactions and to net offsetting exposures would create unreasonable risks for the nondefaulting party. The interest rate and currency exchange markets often move rapidly and, given the substantial volume of transactions, any type of delay following a bankruptcy filing would impose unreasonable risks of loss on the participants in the market. Following a default, and absent a stay, a prudent counterparty would immediately terminate all transactions with a debtor so as to fix its exposure and would simultaneously enter into separate transactions to hedge that exposure. The possibility that the automatic stay would prevent such termination—possibly for weeks or months—creates a threat of a substantial increase in the nondefaulting party's exposure to the debtor and generally complicates any effort to hedge that exposure.

The unfairness of this result can be shown by an example. First, assume that two parties had entered into a single interest rate swap transaction under a master agreement. Assume also that the defaulting party receives fixed-rate payments and makes floating-rate payments based on a notional amount of $50 million. If that party files for relief under the bankruptcy code, absent the potential application of the automatic stay, the nondefaulting party could fix its exposure based on then-current interest rates and enter into a new transaction to hedge that exposure.

The situation is far more uncertain if the stay applies. If the nondefaulting party were certain that the debtor would default, it would hedge its exposure and lock in its position; if it were certain that the debtor would perform, it could do nothing. But the uncertainty as to whether the transaction will be assumed would likely force the nondefaulting party to hedge, thereby incurring the cost of a new transaction and depriving it of the benefits of its original bargain. Moreover, if the nondefaulting party has hedged the original transaction, as is often the case, it could be faced with an uncovered open position depending on the ultimate decision on assumption or rejection made by the debtor, a decision that the debtor may not make for a number of months.

The risks of cherrypicking can be shown by a second example. Assume that two parties had entered into two transactions under a single master agreement. As is often the case, the parties are on opposite sides in the two transactions, so that the defaulting party receives fixed-rate payments under the first agreement and variable-rate payments under the second. Assume further that each transaction has a current market value of $1 million. In such circumstances, the net position between the parties is zero and if both transactions were terminated simultaneously, no payment would be made to either party. Now assume that one of the parties becomes the subject of a case under the bankruptcy code. If the court failed to give effect to the termination and netting provisions of the master swap agreement, the debtor arguably could assume the favorable transaction, while rejecting the unfavorable transaction. The debtor's estate would then continue to receive payments from the nondebtor under the favorable transaction, while the nondebtor would be left with an unsecured claim for damages with respect to the rejected transaction, which is unlikely to be satisfied in full.

Congress has long recognized the need for certainty and speed in the volatile securities and financial markets. Section 60e of the former Bankruptcy Act—11 U.S.C. section 96e—provided special treatment for stockbroker bankruptcies, creating a separate fund for stockbroker customers with priority over general creditors. These provisions were carried forward into the stockbroker and commodity-broker provisions of chapter 7 when the bankruptcy code was enacted in 1978.

As new financial instruments have been developed, Congress has recognized the need to amend certain aspects of the bankruptcy code in order to continue to provide the necessary speed and certainty in complex financial transactions. In 1982 and again in 1984 Congress amended section 362 to exempt the termination and setoff of mutual debts and claims arising under securities contracts, forward contracts, commodity contracts, and repurchase agreements. The 1982 amendments were "intended to minimize the displacement caused in the commodities and securities markets in the event of a bankruptcy affecting these industries," recognizing the "potential volatile nature of the markets." 128 Cong. Rec. H 261—daily ed. Feb. 9, 1982. The same rationale supported the 1984 amendments.

These protections should be extended to the swap and forward foreign exchange agreements for the same reasons that they were provided for securities contracts, forward contracts, commodity contracts, and repurchase agreements. Permitting the prompt termination and exercise of netting rights reduces the potential market impact of a bankruptcy filing by allowing immediate action as contemplated by the standard agreements. This exception does not interfere with the basic operation of the bankruptcy code, since section 553 of the code already preserves the right of setoff, although requiring a court hearing. The volatility of the interest rate and currency exchange markets makes the risk of delay pending such a court hearing unreasonable and detrimental both to the debtor, which could incur additional losses if open transactions turn unfavorable, as well as to the nondefaulting party.

B. RIGHT TO TERMINATE

Both the 1982 and the 1984 amendments provide that the contractual right of a nondefaulting party to terminate a securities contract, forward contract, commodity contract, or repurchase agreement will not be stayed by an order of the bankruptcy court or otherwise under the bankruptcy code. This provision essentially assures counterparties that they will not be exposed to an effort by a bankruptcy trustee to assume these agreements under section 365 of the bankruptcy code.

A similar assurance is needed for swap participants. In a volatile interest and currency exchange rate environment, a requirement that the counterparty keep open transactions awaiting such a decision risks imposing additional losses either on the nondefaulting party or on the debtor's estate at a time when the estate should be reducing its market exposure.

The right to terminate open transactions is particularly needed in light of the size of the swap market. As Congress recognized at the time of the 1982 and 1984 amendments, counterparties could be faced with substantial losses if forced to await a bankruptcy-court decision on assumption or rejection of financial transaction agreements. Unlike ordinary leases or executory contracts, where the markets change only gradually, the financial markets can move significantly in a matter of minutes. The markets will not wait for a court decision on whether a debtor can cure, assume, or provide adequate assurance of future performance of such agreements. There is a clear need for Congress to assure counterparties that they will be able to terminate these agreements and exercise contractual liquidation and netting rights if a party to the agreement files for bankruptcy relief.

C. SETOFF AND PREFERENCE PROVISIONS

The 1982 and 1984 amendments provide that ordinary transfers made or setoffs effected under a securities or repurchase agreement immediately before a bankruptcy case cannot be set aside by a bankruptcy trustee. This is an exception to the preference provisions of section 547 and to the preference provisions of the setoff statute—section 553(b)(1)—which generally discourages setoffs before bankruptcy in ordinary commercial transactions.

The exception created by the 1982 and 1984 legislation recognizes that protections for payments made and setoffs effected under securities and other financial agreements are needed in order to preserve the functioning of the market. Similarly, in swap and foreign exchange transactions, it is important to eliminate any concern that bankruptcy code provisions could be read to preclude the exercise of contractual rights of the prebankruptcy netting or setoff. This is particularly important to swap participants since netting is the normal, intended course of dealing in swap transactions unlike ordinary commercial transactions, where setoff is an extraordinary remedy. While the setoff preference provision of section 553(b)(1) is designed to discourage bank account setoffs that may precipitate a bankruptcy filing, its operation in the swap market could materially interfere with customary operation of the market. For these reasons, swap agreements and forward foreign exchange transactions should be granted the same exception from ordinary preference rules and from the preference provisions of section 553(b)(1) as Congress has accorded securities contracts and other financial agreements.

I urge my colleagues to join with Senator GRASSLEY and myself in supporting these necessary amendments to the bankruptcy law. Mr President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (49), (50), as paragraphs (51), (52), and (53) respectively; and

(2) inserting between paragraphs (48) and (51), as redesignated herein, the following:

"(49) 'swap agreement' means an agreement, including terms and conditions incorporated by reference therein, which is a rate swap agreement, basis swap, forward rate agreement, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option or any other similar agreement or combination thereof, and a master agreement for any of the foregoing together with all supplements shall be considered one swap agreement;

"(50) 'swap participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has an outstanding swap agreement with the debtor;".

SEC. 2. Section 362(b) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (12);

(2) striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) inserting at the end thereof the following:

"(14) under subsection (a) of this section, of the setoff by a swap participant, of any mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment due from the debtor under or in connection with swap agreements against any payment due to the debtor from the swap participant under or in connection with the swap agreements or against cash, securities, or other property of the debtor held by or due from such swap participant to guarantee, secure or settle swap agreements.".

SEC. 3. Section 546 of title 11, United States Code, is amended by adding at the end thereof the following:

"(g) Notwithstanding section 544, 545, 547, 548(a)(2) and 548(b) of this title, the trustee may not avoid a transfer under a swap agreement, made by or to a swap participant, in connection with a swap agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 4. Section 548(d)(2) of title 11, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(D) a swap participant that receives a transfer in connection with a swap agreement, as defined in section 101(49) of this title, takes for value to the extent of such transfer.".

SEC. 5. Section 553(b)(1) of title 11, United States Code, is amended by inserting "362(b)(14)," after "362(b)(7),".

SEC. 6. Subchapter III of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following:

"§ 560. Contractual right to terminate a swap agreement

"The exercise of any contractual rights of a swap participant to cause the termination of a swap agreement because of a condition of the kind specified in section 365(e)(1) of this title or to set off or net out any termination values or payment amounts arising under or in connection with one or more swap agreements shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. As used in this section, the term 'contractual right' includes a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".●

By Mr. GRAMM (for himself and Mr. BENTSEN):

S. 2280. A bill to provide for improved safety at railroad-highway crossings; to the Committee on Environment and Public Works.

IMPROVED SAFETY AT RAILROAD-HIGHWAY CROSSINGS

● Mr. GRAMM. Mr. President, today I am introducing legislation which would remedy the problems that have resulted from the Southern Pacific Railway tracks which run through the campus of Texas A&M University. I am pleased to be joined in this effort by my distinguished colleague, Senator BENTSEN.

For too long, Mr. President, these tracks have been a safety hazard to students, faculty members, and visitors. Recent conversations and meetings with university officials and the

Secretary of Transportation, James Burnley, have convinced me that the proposal which we offer today represents the best method with which to resolve this problem.

Our legislation would provide College Station with the opportunity to participate in Federal Highway Administration demonstration programs and become eligible for funding under those programs. The safety hazard presented by the current location of these tracks can be remedied by relocating the tracks and with other construction but it will take a combined, joint funding effort by the Transportation Department, the university, and the railroad.

Congressman JOE BARTON is introducing companion legislation in the House of Representatives today. It is my hope, Mr. President, that all our colleagues will work with us in obtaining swift and favorable action on this legislation.●

By Mr. BOSCHWITZ (for himself and Mr. KARNES):

S. 2281. A bill to promote rural development, and for other purposes; to the Committee on Finance.

RURAL REGENERATION ACT

● Mr. BOSCHWITZ. Mr. President, rolling green hills, endless rows of corn, dirt roads, small towns, community spirit, history or a good dream gone bad? These images are not remnants of the past. They are rural America today, down, but not out, and ready to be revitalized.

Rural communities may be hidden to many people in this country, but they are a large part of what makes up America. People living in small towns and rural areas make up 37 percent of the U.S. population and live on 94 percent of the populated land.

FACTORS THAT CONTRIBUTE TO A RURAL ECONOMY

The economy of rural communities is not based on farming alone, a rural economy is nurtured by many sources. Unfortunately, nonmetro farming-dependent areas are still feeling the greatest stress because their economies, based primarily on agriculture, are struggling to offer adequate alternative income sources. Growth in manufacturing, services, and other raw material industries are critical ingredients for the future of the rural economy. Not only do rural wage earners depend on these jobs, but over 75 percent of farm families depend on off-farm sources for a large portion of their income. Rural community survival depends on expanding their economic, job producing base.

First, the community must improve its ability to capture existing income. This begins with stopping the outflow of local dollars to nonrural regional shopping centers, out-of-town businesses, investment in nonlocal enterprises, or vacations away from home. Community leaders should determine where these leaks exist, and then work to develop strategies for retaining income.

Another source to expand the community's economic base would involve improving the efficiency of existing firms. Small businesses need incentives to expand. Studies conducted by the Massachusetts Institute of Technology and the Brookings Institution demonstrate that 40 to 60 percent of job growth results from the expansion of small businesses. On this same theme, communities should also encourage the formation of new businesses. New home-based businesses are one opportunity. The Minnesota projects reports that new home-based firms are flourishing in rural areas.

Finally, rural communities should be encouraged to retrieve some of the tax money given to county, State and Federal governments. Individual income transfers—Social Security, public assistance, and pensions—and community income transfers—loans, grants, contracts—can be used to enhance local development. However, people need incentives to spend money on local goods and services.

America is becoming a more service and information oriented society. These industries are growing in rural areas. In fact, these industries employ more rural workers than the good producing industries. Since the 1960's, most of the job growth in rural areas has been in the service sector. Many times these jobs require higher skill and education levels than most manufacturing jobs. The need for education and training in rural areas becomes apparent.

THE FARM ECONOMY

In 1935, 6.8 million farms existed, and farmers constituted 25 percent of the population. Fifty years later, barely 2.3 million farms existed, accounting for roughly 2 percent of the population. While less Americans farm today than in 1935, farmers are still the cornerstone of a bigger U.S. food and fiber industry that accounts for one-fifth of the total GNP.

Farming dependent counties account for 29 percent of all nonmetro counties, and 13 percent of the total population. Overall employment growth in these counties since 1979 has been a slow 4 percent, compared to 13 percent for the rest of the economy. Today, nearly 70 percent of rural America's 2.2 million farmers are hobby farmers, who earn most of their income off the farm and sell less than $40,000 in farm produce.

Even though farms are vital to the national economy, most of the jobs associated with the industry are off farm—18 percent of GNP. Farming dependent counties are the most economically depressed areas in nonmetropolitan America. In the last few years, American farmers have faced numerous problems: excess capacity, low commodity prices, dependence on shrinking export markets, declining farmland values, and high debts. These economic conditions, in turn, cause unemployment, population declines, and small business financial disaster in many rural areas. The result? A shaken rural America.

This crisis emerged overnight due to a number of factors. In the seventies, U.S. agriculture production rapidly expanded as farmers took advantage of the low to negative real interest rates. At the same time the dollar declined, making American exports cheaper, causing both foreign demand to increase and U.S. exports to quintuple. With these healthy economic conditions, farmers made big investments in new equipment, expensive production techniques and high priced farmland.

These investments caused farm debt to rise 10 percent annually, and to triple by 1980. As land values increased, both farmers and lenders became convinced that agriculture would remain highly profitable and risk free. By the early 1980's, the economic factors that had caused farmers to make big capital investments, expand their production, and take on debt reversed. The value of the dollar turned higher, worldwide recession reduced foreign demand, and interest rates rose, and record crops were harvested worldwide. Meanwhile, high loan rates and land set-asides for U.S. commodities kept our prices too high and spurred our foreign competitiors to enter the world market and compete with American farmers.

By 1985, these conditions and caused farm exports to decrease by 33 percent in volume from their peak in 1981. Farmland values also dropped. After they had risen 42 percent during 1977–81, they fell 27 percent during 1981–86. Iowa, Nebraska, and Minnesota were hardest hit by the falling land values; there the average value per acre of farmland dropped more than 50 percent.

The Midwest was most affected by the agricultural recession. Farming has grown more specialized, and the farmers there depend heavily on cash grain farming. The Lake States, which include Minnesota, also are suffering because of their large dairy dependence, which lost out to falling milk prices. Nearly 25 percent of the farmers in the Lake States, Midwest, and Northern Plains were struggling with debt asset ratios of at least 40 percent in 1985. That number has now dropped, but is still too high.

While economic conditions are slowly improving for farmers, clouds of the earlier recession still overcast a bright future for rural communities. Rural America can revive, but the rural economic change must be broader than agriculture.

NATURAL RESOURCE MANAGEMENT

Revitalization of our rural economy is important, but expansion cannot be conducted at the expense of our natural resources. The environment of rural areas is many times the very reason to locate a family or business outside the metro area.

Conservation is becoming a primary focus of the U.S. Department of Agriculture [USDA]. The 1985 Food Security Act, more commonly known as the 1985 farm bill, contained the most significant conservation provisions enacted during the past 50 years. That was a first big step. The second is to make sure these programs are implemented constructively.

In the past, farm programs and natural resources programs have had one primary goal: to improve farm income. As farmers plowed more land to take advantage of farm programs and increased export demand, many conservation practices were lost. Highly erosive acres were planted, wetlands were drained, and chemical use was increased. For example, in 1966, only 57 percent of the corn acres were treated with herbicides. By 1982, that figure had jumped to 95 percent.

Two important themes dominating conservation issues are control of soil erosion and management of water resources. According to environmental specialists, the Nation's 421 million acres of cropland are losing an overall average of over 7 tons of soil per acre per year. Nearly 40 percent of all erosion occurs on only 6 percent of the cropland. Even with the Conservation Reserve Program, erosion rates are still at unacceptable levels. Erosion costs both the farmer, in terms of productivity loss, and the public, in terms of cleanup expenses for air and water pollution.

Besides soil conservation, maintaining an adequate and safe water capacity is essential for rebuilding and expanding many smalltown rural economies. Some researchers predict that between now and the year 2000, wastewater management and water compliance will be the priority issue for many small towns and rural governments. Great attention also must be focused on the contamination of our ground water by pesticides and nitrates. Increased levels of contaminates are being found in many of our ground water sources.

RURAL SERVICES

Revitalizing rural America also entails catching up to metro areas in terms of the resources and services rural communities lack. Rural areas need adequate health care, housing, education, waste management treatment centers, and transportation systems to name a few items. The disparity in services between the rural and metro areas is partly because rural areas face higher per person costs for many services due to their smaller scale and lower population density. Rural people pay more for their services than metro people, or else do without them.

Looking at education, studies conducted by the Department of Education indicate that rural and urban students rate poorly in test scores compared to suburban students. Studies also show the concentration of more highly schooled people in metro areas and less schooled people in nonmetro areas appears to be continuing in the 1980's. Consequently, this statistic suggests a growing contrast between highly educated urban labor markets and less educated rural labor markets.

These data are not surprising considering that many rural schools lack adequate libraries, equipment—that is, computers—and teaching materials. Their location is often so remote that it is unattractive to teachers.

In the area of health care, again, great disparities exist. One study shows that in 1980 the U.S. Department of Health and Human Services spent 16.1 percent of its total health services budget in nonmetro counties, which accounts for 28 percent of the population. The study also showed that only 5.9 percent of the Department of Housing and Urban Development budget for hospitals and other health facilities was spent in nonmetro counties.

Because rural hospitals have less beds and lack the use of specialized facilities, the cost of hospitalization exceeds that provided by Medicare. Rural hospitals also are more dependent on Medicare than their urban counterparts. In rural areas, the hospital is often the largest source of employment.

Attention also must be focused on elderly, handicapped, and low assistance housing. The Department of Housing and Urban Development provides elderly and handicapped housing programs that give direct loans to local organizations to build housing. The housing units are found in both rural and urban counties. These programs have been a significant help for rural elderly. However, rural areas have difficulty using many of the Departments' construction programs because they lack the professional expertise to assemble competitive grant applications.

Another concern about rural area services is the impact of deregulation on airline, truck, bus, and rail services. Evidence is not available that demonstrates whether rural areas have been hurt by deregulation policies or not. However, these transportation systems, despite the lower use in rural areas compared to metro ones, are crucial for the needs of some rural communities.

RURAL DEVELOPMENT STRATEGIES

The roots of revitalization lie in the seeds of each community. The most often asked question—and for good reason—is "where do we begin?" Considering rural America is the home to 63 million Americans, the answer is obvious: with you.

Rural America is undergoing a significant transition in its search for a place in the domestic and world setting. Within the past three decades, rural America has been exposed to population and demographic shifts, structural and economic changes in agricultural, and natural resources and adjustments in the nonagricultural economy.

Accordingly, the Cooperative State Extension Service, which has had a long partnership with rural America, rural communities must face other alarming realities. First, is the fact that hard work and the successful manipulation of natural resources do not guarantee economic success. Second, the service demands on local governments are growing just as human and financial capital are flowing out of many rural areas. And third, since control over local destiny has been diminished, rural areas have to relearn how to govern themselves efficiently.

Diversity in rural America makes the mission of developing one national rural development policy difficult. Assistance needs vary in each State and community. The problems of rural communities appear to be the same; they suffer the loss of their educated youth, slower growth than the rest of the economy, strong dependence on agriculture and other goods producing industries, and lack of revenue. But, on closer inspection the problems of each community are unique.

That's why rural communities must identify their unique problems, and shoulder the responsibility to seek solutions. Local efforts alone cannot promise growth in every area, because many communities lack the ability to target and pursue all development opportunities. But large Federal spending programs in rural areas are simply not the answer either. A partnership is needed.

The strategy for rural development begins with planning, in a step-by-step process. Rural communities must first identify their problems, then coordinate their efforts, followed by setting their priorities and developing solutions. On paper, that strategy sounds nice, maybe even unrealistic, but through community initiative, investment, and hard work, that strategy can work.

Communitywide participation is vital for any development effort. According to a Kettering Foundation scholar, the most effective action is accomplished by teams working toward common goals. Local participants need to be identified to coordinate group efforts. Achievement requires that talents of more than a single individual, and these people can be of all ages. The elderly have the time and wisdom to assist in projects. The middle agers have the experience and ability to carry the project to completion, and youth have the energy and vision to shape their future.

Rural communities should not hesitate to tap into alternative funding sources and consulting services. Funding sources are available at all levels of government. Perhaps the most important sources are at the local level. These include general obligation and revenue bonds, industrial revenue bonds, and local banks and businesses.

Unfortunately, a quick fix does not exist for rural communities. The reality of rural America is that the problem may be structural. For too long, the Federal Government has tried to sell the quick-fix approach to rural areas through farm commodity programs, business subsidies, or direct aid to the community. It simply has not worked. Rural revitalization comes from within the community. Communities should be hesitant to bring in big companies, to develop industrial parks or to rely on regional development. A grand planning approach will not cure every community's problems.

THE DREAM COME TRUE FOR SOME COMMUNITIES

Putting ideas into practice happens. Rural communities are not depending on agriculture alone for their recovery. Instead, they are beginning rural regeneration in their own backyards. Many towns have formed committees to begin regeneration. These same communities also have established a broad base of support to help initiate their projects. This support primarily comes from local sources such as banks, businesses, foundations, schools, and volunteers.

At least that's how rural revitalization worked in Willmar, MN. When the farm recession began effecting Willmar's economy, the city was forced to seek other sources of revenue. Willmar formed a loan program, the Willmar Industrial Initiatives Loan Program, to lend funds at below-market rates to help finance job-creating business additions and expansions. The funds were pledged at a reduced interest rate from the city, Kandiyohi County, and the local school district.

According to Willmar's Mayor F.J. Reynolds, the aim of this was to develop full-time jobs for those who are being forced off the farm, and part-time jobs for others who still managed to keep their farms. One success story is that a loan of $200,000 went to Central Minnesota Fabricating for equipment to expand its metal fabricating operations and created 10 jobs. Another $250,000 loan aided a businessman's bankrupt company. The loan financed the construction of a plant that makes cars for recreational and industrial use. As Bruce Peterson, Willmar's community development director said, "It's local dollars taking care of local needs."

Rural revitalization is contagious, and the town of Grand Rapids, MN, can tell you why. A while back, community members formed a Rapids 2000 Committee. The group worked to brainstorm on what Grand Rapids should be like in the future. Located on the western edge of the Mesabi Iron Range, Grand Rapids borders the depressed mining regions. Even with the town's abundant natural resources, it was still affected by the northern Minnesota's depressed economy.

With the help of planning grants and assistance from the Hormel and Blandin Foundations, Grand Rapids has maintained a healthy economy. Further financial assistance for business development was available when local banks pooled their capital with Duluth-based Minnesota Power and the Western Minnesota Loan Pool. However, the most valuable capital comes from the community's human resources. According to one community member, the city's value in natural resources would diminish if it wasn't for the human capital that can master the natural resources.

Signs of success in Grand Rapids are evident when a foreign company is considering adding a second paper machine at the Blandin paper plant. The plant, already a big employer in the community, hired nearly 1,200 people. Other good news is that recent expansion into a large modern publishing plant by the Grand Rapids Herald and Review newspaper and print shop might create as many as 180 skilled jobs; there were only 22 in 1985. Several new production plants also will be open near the Grand Rapids area.

Another iron range community, Hibbing, is fighting back, too. Once dependent on the profits from the natural resource taconite, Hibbing began looking to timber. The city built a $5.3 million chopstick plant that began production in May 1986. Hibbing expects to send 6 billion chopsticks to Japan within the next 5 years.

Rural revitalization wouldn't be nearly as successful for these communities if it was not for the foresight, hard work, and persistence of rural citizens. Their success stories were not written overnight. Rural areas must look at their resources, utilize their employment base, invest in human capital, and develop projects that adapt to their community. Rural development is rural initiative. Rural America needs a Federal helping hand, but the real work is in the communities' hands. They make their own decisions, develop their own ideas, and build their own future. Rural regeneration is rural America's dream renewed.

Mr. President, the bill I have introduced today will take some important steps to making the Federal Government a better partner with local, State, and regional rural regeneration efforts. I hope the rural development community and each committee to which the bill is referred will give it favorable consideration.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SHORT SUMMARY OF BOSCHWITZ RURAL REGENERATION ACT

I. EDUCATION AND TRAINING

A. Transition assistance

1. Education tax deductions (IRS) (Sec. 111)

Extend for 5 years the expired exclusion for rural employer provided education expenses.

2. Education, Job Training, Readjustment, and Income Assistance (JTPA) (Sec. 101)

Amend the Job Training Partnership Act to assist rural enterprises and workers (including farmers and ranchers) in distressed rural areas. States will submit plans for demonstration projects that included: specially tailored basic readjustment services, retraining services and income support, as authorized under the main dislocated worker program administered by the states. Farmers and ranchers would be eligible if their operations failed to return a profit during the preceding 24 months.

Funds will be allocated as follows: 60% to states with the lowest rural income, 20% to the 15 states with the highest agricultural income distress, 20% discretionary allocation vested in the Secretary of Labor.

3. Discretionary job training programs (Sec. 102)

Allows agricultural economic downturns to qualify states for discretionary job training funds available under Title III of the Job Training Partnership Act.

4. Unemployment Rate Determiner (Sec. 103)

Discretionary funds allocated to states under Title III of the Job Training Partnership Act will be allocated within a state on the following basis: 10 percent administration, technical assistance, and coordination; 20 percent rapid response capabilities and statewide or regional displacement problems; 70 percent on a formula among service providers which takes into consideration farm and ranch displacement and potential under representation of rural unemployment data.

5. Data on Rural Displacement (Sec. 104)

Provides for improved data collection and analysis regarding rural unemployment particularly as it relates to dislocated farmers and ranchers.

6. Child Care Assistance (JTPA) (Sec. 101)

Amend the Job Training Partnership Act so that income support services are still limited to the current 15 percent limitation, but that child care services could cause the cap to rise by 5 percent for rural participants.

7. One-time 50 percent matching grants for post-secondary education institutions including vocational and technical institutions. (Dept. of Ed.) (Sec. 105)

Amend Title XI, part A, of the Higher Education Act—Partnership for Economic Development to link rural post secondary institutions, including vocational and technical institutions, with State and local government, business, industry, and community organizations to meet local problems and plan economic improvement. Priority will be given to projects that would do one of the following: apply technology research to manufacturing aspects of industry; technical assistance centers based at institutions to provide an integrated program of education research, technology transfer and business and industry; entrepreneurship training; and new approaches to explore international business and trade.

Funding will be at $100 million annually. Maximum grant will be $100 thousand on the Federal match.

B. Rural development assistance (Sec. 110)

1. Matching grants of 50 percent for additional non-Federal investment in higher education. (Dept. of Ed.)

Amend Title III, part A of the Higher Education Act. Expands current authority for categorical grants to enhance institutions' academic quality, industry management, and fiscal stability to include institutions that have 75 percent of their students residing in a rural area experiencing adverse economic conditions.

2. Local Capacity for Transition (USDA Extension Service) (Title III)

Amend Section 502(e) of the Rural Development Act of 1972 to give the Extension Service authority and funding (Sec. 704) of $5 million annually to assist in coordination of local, state and Federal rural development efforts.

II. AGRICULTURAL TRANSITION ASSISTANCE

A. Transition assistance (FmHA (Sec. 202)

1. Amend the Consolidated Farm and Rural Development Act to begin a new program aimed at assisting FmHA farm borrowers experiencing cronic distress find new careers. Operations with negative cash flows and debt to asset ratios above 70% for three consecutive years would be eligible for a special loan equal to living expenses for the applicable family size in the area. Such a loan would be converted to a grant if the recipient leaves agriculture within 12 months. Continuation of the agricultural enterprise would require the loan to be repaid at the average cost of money to the government the previous twelve months. Producers would have three years to repay the loan plus interest.

Funding would be $50 million annually.

2. Pilot Cash-Out Program (ASCS) (Sec. 203)

Establish a pilot program to test the feasibility of paying farmers to permanently enjoin him or herself, the land they own, and any production from that land (including dairy) from receiving future Federal price, income, conservation, credit or other benefits. The Secretary could only make such cash payments if they result in less expense than would have occurred should such producer and land stay enrolled in Federal agricultural support program over the future 10 years.

Funding would be at $50 million annually from CCC.

III. INFRASTRUCTURE RESOURCE BASE

A. Transition assistance

1. One-time 50 percent matching grants to state and local entities (HUD) (Sec. 410)

Based on State plans submitted to the Secretary of Housing and Urban Development to be used by non-profit public institutions. Projects will be evaluated on their ability to facilitate better use of limited resources and/or capture economic benefits of changing rural regional and community economics. Entities applying for such grants must demonstrate a need for such assistance on the grounds that it is unable to finance the project with state and local funds. Only communities of 5,000 persons or less would be eligible. Funding is authorized at $100 million in each of FY's 1989-91.

B. Development assistance (FCS) (Sec. 420)

1. Alternative Credit Sources for Rural Business Enterprise.

Amend the Farm Credit System statutes so that the Federal Land Bank and Production Credit Association may lend to local businesses for startup or expansion if other credit is not available. All local commercial credit sources must certify that they are not willing to lend for the project.

2. Rural Credit Revolving Funds (FmHA) (Sec. 421)

Allows the Secretary to capitalize revolving loan and grant funds on a matching basis with State and local entities to promote rural business opportunities in distressed areas.

3. Rural set-asides in Federal formula funding. (Sec. 421)

To enhance the prospects of rural business participation in Federal procurement, research and construction.

4. Priority for rural areas in Federal construction projects. (Sec. 422)

In determining the location of New Federal buildings all agencies shall give equal consideration to rural areas.

5. Davis-Bacon Waiver (Sec. 423)

All of the projects that result from this bill will not have to comply with Davis-Bacon labor laws.

IV. HEALTH CARE

1. Funding of Rural Health Care Demonstration Projects (HHS) (Sec. 501)

Amend Section 4005 (e)(9) of the Omnibus Budget Reconciliation Act of 1987 to increase the funding of rural health care demonstration projects by $10 million annually.

V. MISCELLANEOUS

1. State Cooperative Agreements (Sec. 701)

Provides that the Secretary of Agriculture, along with the heads of other agencies, may enter into comprehensive rural development agreements in order to carry out the provisions of this Act and all other Acts related to Federal-State rural development partnership.

2. Study of overlapping Federal programs (Sec. 702)

Directs the Secretary of Agriculture to conduct a study of Federal programs that impact or serve rural areas and determines more efficient methods of service delivery including block grants to states or regional commissions.

3. Budget scoring of FmHA loan guarantees (Sec. 703)

Directs the Office of Management and Budget (OMB) to score budget authority and outlays at no greater than the amount of each loan guarantee or the historic loss level for programs with adequate history.

VI. COMMUNICATIONS

1. Rural Telephone Programs (Sec. 601)

Gives priority to REA telephone loan applications that are for purposes of purchasing advanced communication systems that enhance the potential for rural economic development.

2. Toll Rate Averaging (Sec. 602)

Sense of the Senate that "toll rate averaging" is the cornerstone of universal telephone service and should be maintained.

3. REA Contracts (Sec. 603)

Sense of the Senate that REA should expeditiously bring its contracts in line with current development in technology and commercial law.●

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. DANFORTH, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent and to increase the amount of such credit.

S. 332

At the request of Mr. DECONCINI, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 332, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 408

At the request of Mr. MITCHELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 408, a bill to amend the Atomic Energy Act of 1954 to allow full participation by State and local governments in the licensing process for nuclear power facilities and to require that emergency planning extend to a minimum of 10 miles in radius around each nuclear power facility.

S. 473

At the request of Mr. KARNES, his name was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 556

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 556, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Missouri [Mr. DANFORTH], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1429

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1518

At the request of Mr. ROCKEFELLER, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 1518, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

S. 1776

At the request of Mr. ARMSTRONG, the names of the Senator from Georgia [Mr. NUNN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1883

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1883, a bill to amend the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes."

S. 1892

At the request of Mr. DIXON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1892, a bill to amend title 10, United States Code, and other provisions of law to maintain and improve the defense industries base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources.

S. 2013

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2013, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 2024

At the request of Mr. BAUCUS, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2032

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2083

At the request of Mr. HEINZ, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Michigan [Mr. RIEGLE], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2083, a bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes.

S. 2140

At the request of Mr. PRYOR, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Maryland [Mr. SARBANES], the Senator from Washington [Mr. ADAMS], the Senator from Tennessee [Mr. SASSER], the Senator from Texas [Mr. BENTSEN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2140, a bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave bank program for Federal employees, and for other purposes.

S. 2174

At the request of Mr. BURDICK, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2174, a bill to amend the Department of Transportation Act so as to reauthorize local rail service assistance.

S. 2205

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2263

At the request of Mr. D'AMATO, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2263, a bill to allow the President to rescind items of appropriation contained in a bill or joint resolution making continuing appropriations unless the Congress enacts legislation disapproving that rescission.

SENATE JOINT RESOLUTION 208

At the request of Mr. REID, the names of the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. WILSON], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating June 12 to June 19, 1988, as "Old Cars Week".

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the names of the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. D'AMATO], the Senator from Oklahoma [Mr. BOREN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Rhode Island [Mr. PELL], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day".

SENATE JOINT RESOLUTION 282

At the request of Mr. HOLLINGS, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

SENATE JOINT RESOLUTION 289

At the request of Mr. BENTSEN, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Virginia [Mr. WARNER], the Senator from Vermont [Mr. STAFFORD], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 289, a joint resolution to designate the month of November 1988 as "National Hospice Month".

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corporation and Eastern Air Lines.

AMENDMENT NO. 1680

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Amendment No. 1680 intended to be proposed to Treaty document 100-11, on the intermediate-range nuclear a resolution expressing the sense of the House of Representatives that Federal excise tax rates should not be increased.

AMENDMENT NO. 1931

At the request of Mr. STEVENS, the name of the Senator from Arizona [Mr. DECONCINI], was added as a cosponsor of Amendment No. 1931 proposed to Senate Concurrent Resolution 113, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991.

SENATE CONCURRENT RESOLUTION 115—HONORING THE AMERICAN FAMILY

Mr. DODD (for himself, Mr. Heinz, Ms. Mikulski, and Mr. Kennedy) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. Con. Res. 115

Whereas, American families are fundamental building blocks of our society;

Whereas, families provide a web of mutual support for their members;

Whereas, this support system comes in many varieties, because families are diverse;

Whereas, families have changed dramatically in the last twenty years;

Whereas, families have both greater choice in life-style and increased economic and social constraints, including the growing number of jobs which are low-paid and without adequate benefits;

Whereas, families are facing unprecedented challenges in job security, homelessness, lack of affordable health care, child care, drug abuse and other pressures;

Whereas, these problems are compounded by the still prevalent problems of racism and discrimination for Black, Hispanic, Native American, and Asian American families;

Whereas, the web of support provided by our families is only so strong as the strands within it, and the threat to one strand jeopardizes the whole; and

Whereas, it is our strong belief that the Federal Government has an essential role in strengthening basic rights for American families: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that in order for families to thrive, all families must have affordable quality support, including:

(1) a job and economic security;

(2) health care;

(3) child and elder care;

(4) family leave;

(5) services for the elderly;

(6) quality education;

(7) equal opportunity;

(8) equal pay for work of equal value;

(9) shelter; and

(10) safe environment in which to live and work.

● Mr. DODD. Mr. President, today I am pleased to join with my colleagues, Mr. Heinz, Ms. Mikulski, and Mr. Kennedy, in submitting a concurrent resolution marking the launching of a major new campaign to focus more attention on the needs of American families—the American family celebration. In a time when a growing number of families throughout this Nation are unable to meet their fundamental needs for such things as child care, job security, child health coverage, long-term care for the chronically ill, and housing, the Federal Government must take a stronger leadership role in making certain that all American families can meet their fundamental needs.

It is time for the needs of families to be put at the top of this Nation's agenda. America's families are strong and resilient; yet I believe it would be shortsighted to deny the realities of family life today. Our society—not just government, but the entire society—in its public and private aspects, must consider ways to help all American families cope with contemporary demands.

After all, Mr. President, the American family is the cornerstone of our society. It should be celebrated every day. Thus, I urge all my colleagues to join me in supporting this American family celebration resolution. We must move the fundamental needs of American families higher on our national agenda this year.●

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE BUDGET

GARN AMENDMENT NO. 1933

Mr. GARN proposed an amendment to amendment No. 1928 proposed by Mr. Chiles (and others), as amended, to the concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991; as follows:

At the end of the pending amendment, add the following:

Sec. . It is the sense of the Congress that—

(1) The Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the Securities and Exchange Commission (the "financial institution regulators") are unique, self-financing entities that pay their expenses from the fees charged to the entities they regulate;

(2) Subjecting the financial institution regulators to the constraints of the congressional and executive budget process threatens their ability to provide strong, prudent, and independent regulation of financial institutions, which is critical to maintaining the safety and soundness of the financial system;

(3) In order to best serve the public interest, the financial institution regulators must remain free and independent entities;

(4) Including the financial institution regulators in the Federal Budget has hindered the ability of these regulators to resolve the problems of failing financial institutions in a speedy and cost-effective manner;

(5) Including surpluses and deficits of financial institution regulators in the Federal Budget distorts the fiscal accuracy of the Federal Budget;

(6) Congress' constitutional responsibility to oversee the financial institution regulators will be ongoing regardless of whether they are included in the Federal Budget; and

(7) Therefore, the receipts and disbursements of the financial institution regulators should not be counted for purposes of determining the Federal deficit.

GRAMM AMENDMENT NO. 1934

Mr. GRAMM proposed an amendment, which was subsequently modified, to amendment No. 1928 proposed by Mr. Chiles (and others), as amended, to the concurrent resolution S. Con. Res. 113, supra; as follows:

At the end of the pending amendment add the following:

MILITARY RETIREMENT, CIVIL SERVICE RETIREMENT AND UNEMPLOYMENT TRUST FUND SURPLUSES

Sec. 8. (a) Findings.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Military Retirement, Civil Service Retirement and Unemployment trust funds are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act;

(2) the inclusion of these trust funds in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of these trust fund surpluses is intended to be the basis for honoring the claims of future beneficiaries, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) these trust fund surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the intended and legitimate purposes of these trust funds could best be protected by excluding it from the calculation of any deficit reduction targets.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Military Retirement, Civil Service Retirement, and Unemployment trust funds for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from these trust funds.

GRAMM AMENDMENT NO. 1935

Mr. GRAMM proposed an amendment to amendment No. 1928 proposed by Mr. Chiles (and others), as amended, to the concurrent resolution (S. Con. Res. 113), supra; as follows:

At the end of the pending amendment, add the following:

"Sec. . It is the sense of the Congress that the Congress should enact legislation that makes the definition of the deficit include the current value of the unfunded liabilities of the Federal Government."

CHILES AMENDMENT NO. 1936

Mr. CHILES proposed an amendment to amendment No. 1928 proposed by him (and others), as amended, to the concurrent resolution (S. Con. Res. 113), supra; as follows:

In lieu of the matter proposed insert the following:

SOCIAL SECURITY TRUST FUND SURPLUSES

SEC. 8. (a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses (and deficits) in the Social Security trust fund are included in calculations of the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and for purposes of determining across-the-board cuts under that Act.

(2) the inclusion of the Social Security trust fund in the calculation of the Gramm-Rudman-Hollings targets creates the illusion that the budget deficit is being brought into balance when in fact the operating deficit is continuing to grow;

(3) the accumulation of Social Security surpluses is intended to be the basis for honoring the benefit claims of future retirees, at a time when yearly benefit expenditures will exceed yearly receipts;

(4) Social Security surpluses are currently being lent to the Treasury to finance the operating budget deficit, which is primarily dedicated to current consumption;

(5) the use of the Social Security surpluses for current consumption denies their intended purpose of increasing national savings, investment, productivity, and gross national product;

(6) without such increases in national output and wealth, future workers will be unable to honor the claims of retirees without a significant increase in taxes or reduction in Social Security benefits;

(7) the use of Social Security surpluses as a source of national savings would bolster the economic capacity of the United States, allowing Social Security benefit claims to be honored at the same time future workers enjoy an increased standard of living;

(8) the intended and legitimate purposes of the Social Security trust fund could best be protected by excluding it from the calculation of any deficit reduction targets; and

(9) the Social Security trust fund is truly unique.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust fund for all purposes; and

(2) the Congress should enact legislation that would within five years eliminate the deficit when calculated to exclude the surplus (or deficit) from the Social Security trust fund.

DOMENICI (AND OTHERS) AMENDMENT NO. 1937

Mr. DOMENICI (for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. DOLE) proposed an amendment to amendment No. 1928 proposed by Mr. CHILES (and others), as amended, to the concurrent resolution, S. Con. Res. 113, supra; as follows:

In lieu of the matter proposed to be inserted insert the following:

TRUST FUNDS

SEC. 8(a) FINDINGS.—The Congress finds that—

(1) under current law, neither the Senate nor the House may consider reductions in social security as part of a budget reconciliation bill or resolution pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) under current law, starting in fiscal year 1994, the social security trust fund will be off-budget;

(3) current law requires a balanced budget by fiscal year 1993, but includes the projected Social Security surpluses as offsetting deficits;

(4) current law requires the budget resolution to display budget authority, outlays, revenues, and the deficit excluding social security, in the aggregate and by function.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the National Economic Commission should—

(1) study the budgetary treatment of social security, airport and highway, military retirement, civil service retirement, unemployment and other trust funds and self-supporting public enterprise funds including postal services FOIC, Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, FSLIC, and SEC;

(2) analyze the economic, budgetary, and programmatic effects of taking these funds off-budget;

(3) consider the effects of setting trust fund surpluses aside as additional savings, including effects on the national savings rate, investment, and economic growth, as well as on program beneficiaries; and

(4) include in its final report a recommendation on the budgetary treatment of these funds.

(5) reports on the means to achieve a balance in the remaining budget and on the economic effects of a unified budget surplus.

SPECTER (AND OTHERS) AMENDMENT NO. 1938

Mr. SPECTER (for himself, Mr. KERRY, Mr. DOLE, Mr. DECONCINI, Mr. D'AMATO, and Mr. WILSON) proposed an amendment to the concurrent resolution, S. Con. Res. 113, supra; as follows:

On page 24, increase the amount on line 8 by $100,000,000.

On page 24, increase the amount on line 9 by $100,000,000.

On page 25, increase the amount on line 12 by $25,000,000.

On page 25, increase the amount on line 13 by $25,000,000.

On page 27, increase the amount on line 17 by $125,000,000.

On page 27, increase the amount on line 18 by $125,000,000.

INTEGRITY IN POST-EMPLOYMENT ACT

RUDMAN AMENDMENTS NOS. 1939 THROUGH 1942

(Ordered to lie on the table.)

Mr. RUDMAN submitted four amendments intended to be proposed by him to amendment No. 1676 to the bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; as follows:

AMENDMENT NO. 1939

At page 10, line 22, strike all through line 23.

AMENDMENT NO. 1940

At the end of the amendment add the following new section:

"SEC. . Section 208 of title 18, United States Code, is amended by adding the following new paragraph:

'(c) Any Member of the House or Senate who shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such firm, partnership, association or corporation; or (3) practice a profession for compensation shall be fined not more than $10,000 or imprisoned not more than two years, or both. For the purposes of this paragraph, 'professional services' shall include but not be limited to those which involve a fiduciary relationship.'.".

AMENDMENT NO. 1941

At the end of the amendment add the following new section:

"SEC. 8. Section 439a of title 18, United States Code, is amended by striking all beginning with 'with respect to' through 'January 8, 1980,'.".

AMENDMENT NO. 1942

At the end of the amendment add the following new section:

"SEC. . Section 201 of title 18, United States Code, is amended by adding a new paragraph (f) as follows:

'(f) For the purposes of this section, "anything of value" includes any expense associated with meals, beverages, entertainment, travel or lodging with respect to which the performance of a legitimate and substantial legislative or educational function or activity is not the principal function or activity necessitating such expenditure.'.".

DECONCINI (AND OTHERS) AMENDMENT NO. 1943

Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. CHILES, Mr. DOMENICI, Mr. DOLE, Mr. KERRY, Mr. DODD, Mr. MOYNIHAN, Mr. WILSON, Mr. HATCH, Mr. GRAMM, Mr. CONRAD, Mr. DURENBERGER, Mr. HEINZ, Mr. WARNER, Mr. MATSUNAGA, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. COCHRAN, Mr. BINGAMAN, Mr. ROTH, Mr. SPECTER, Mr. TRIBLE, Mr. WALLOP, and Mr. GRASSLEY) proposed an amendment to the concurrent resolutions Senate Concurrent Resolution 113, supra; as follows:

On page 33 of the Resolution, after line 17, insert the following:

ANTI-DRUG RESERVE FUND

SEC. 8. (a) Budget authority and outlays in amounts not to exceed the amounts specified in subsection (a)(4) shall be allocated to the appropriate committees of the House of Representatives and the Senate to provide for an anti-drug initiative, and the aggregates for fiscal year 1989 in this resolution shall be adjudged accordingly, when—

(1) the appropriate committees of the House of Representatives or the Senate have reported legislation that will, if en-

acted, make funds available for such initiative;

(2) the legislation referred to in subsection (a)(1) includes provisions to ensure that any such additional funding will not increase the deficit for fiscal year 1989 above the levels set forth in this resolution; and

(3) the additional funding and funds made available, referred to in subsection (a)(4) shall not cause the aggregate spending and revenue levels agreed to in the bipartisan budget summit agreement for fiscal year 1989 to be exceeded; *Provided,* That if the net effect of the legislation referred to in subsection (a)(1) would not increase the deficit for fiscal year 1989, the funding made available by such legislation shall not be considered as exceeding the spending and revenue levels agreed to in the bipartisan budget summit agreement; and

(4) The President and the bipartisan leadership of the House of Representatives and the Senate agree that a sufficiently dire state of emergency exists to raise discretionary spending allocations specified in section 8001 of the Omnibus Budget Reconciliation Act of 1987, and the President and the bipartisan leadership of the House of Representatives and the Senate agree on the amounts available for allocation under this subsection; *Provided,* That the amounts available for allocation under this subsection for funding the anti-drug initiative for fiscal year 1989 shall not exceed $2,600,000,000 of new budget authority and $1,400,000,000 of outlays.

(b) Upon the reporting of legislation pursuant to subsection (a), the Chairmen of the Committees on the Budget of the House and Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Appropriations shall report revised allocations pursuant to section 302(b) of such Act for fiscal year 1989 to carry out this section.

WEICKER (AND OTHERS) AMENDMENT NO. 1944

Mr. WEICKER (for himself, Mr. Inouye, Mr. Chafee, Mr. Burdick, Mr. Heinz, Mr. Dodd, Mr. Durenberger, Mr. Harkin, Mr. D'Amato, Mr. Metzenbaum, and Mr. Wilson) proposed an amendment, which was subsequently modified, to the concurrent resolution, Senate Concurrent Resolution 113, supra; as follows:

On page 8, line 14, reduce the amount by $145 million.

On page 8, line 15, reduce the amount by $50 million.

On page 18, line 13, increase the amount by $45 million.

On page 18, line 14, increase the amount by $50 million.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public that the hearing previously announced by the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources for Friday, April 22 at 10 a.m., to consider S. 2089, the Oil Shale Mining Claims Conversion Act, will also consider H.R. 1039, a bill to amend section 37 of the Mineral Leasing Act of 1920 relating to oil shale claims.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET AND ACCOUNTING

Mr. CHILES. Mr. President, I would like to announce that the Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting will hold a hearing on oversight of the Government in the Sunshine Act on Tuesday, April 19, 1988 at 9:30 a.m. in SD-342.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, April 28, 1988 at 9:30 a.m. in SR-332 to receive testimony on the Dairy Policy Commission Study.

For further information, please contact Bob Young of the committee staff at 224-2035.

Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Wednesday, April 27, 1988, at 9:30 a.m. in SD-562 to continue receiving testimony on matters relating to the October 19 market break.

For further information, please contact Chuck Riemenschneider of the committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry's Subcommittee on Agricultural Research and General Legislation, and Subcommittee on Conservation and Forestry will hold joint hearings on Thursday, April 21, 1988 at 9:30 a.m. and Thursday, April 28, 1988, at 2 p.m. in SR-332. The hearings will be on the alternative agricultural systems and related agronomic and economic research and extension efforts. Senator Conrad will preside.

For further information, please contact Suzy Dittrich of the committee staff at 224-2043.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearing will take place May 3, 1988, beginning at 8 a.m. and concluding at approximately 12 noon. The hearing will be held at the Oregon City Municipal Community Center, 1211 Jackson Street, Oregon City, OR.

The purpose of the hearing is to receive testimony on S. 2148, the Oregon Omnibus Wild and Scenic Rivers Act of 1988.

Because of the large number of witnesses anticipated, it will be necessary to place witnesses in panels and limit the oral testimony to 3 to 5 minutes. Witnesses testifying at the hearing are requested to bring 10 copies of their testimony with them on the day of the hearing. Please do not submit testimony in advance of the hearing. Written statements may be submitted for the hearing record. It is necessary only to provide one copy of any material to be submitted for the record.

Those wishing to testify must sign up in advance of the hearing no later than Thursday, April 28.

Those wishing further information about the hearing should contact Mike Salsgiver in the office of Senator Mark Hatfield in Portland at (503) 221-3386 or Tom Williams of the subcommittee staff in Washington, DC, at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 13 at 10 a.m. to hold a hearing on U.S. development assistance and environmentally sustainable development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 9:30 a.m. for business meeting—pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing to hear the legislative presentations by the AMVETS, the Vietnam Veterans of America, and the Jewish War Veterans on April 13, 1988, at 10 a.m. in SD-106.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, April 13, at 9:30 a.m., to hold hearings on the 10th anniversary of the Ethics in Government Act, April 12, and reauthorization of the Office of Government Ethics, April 13.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 2 p.m. to hold a markup on S. 1722 and S. 1723, the National American Indian Museum and Memorial Act; S. 1236, reauthorization of the Navajo-Hopi Relocation Program, and proposed amendments; and S. 802, Renville-Blackfeet claim settlement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, April 13, beginning at 9:30 a.m., to conduct a hearing on S. 747; the motor carrier administration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support and the Subcommittee on Manpower and Personnel of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 13, 1988 at 10 a.m. in closed session to receive testimony on the readiness of Army component combat support and combat service support units.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 2 p.m. in open session to receive testimony on Armor and Anti-Armor Programs in the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 1 p.m. in open session to receive testimony on Department of Defense acquisition policies and management, and on S. 2254, the Defense Industry and Technology Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 13, 1988, at 10 a.m. to continue hearings on the United States-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objecton, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 10 a.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, April 13, 1988, at 10 a.m. to conduct a business meeting on pending business—agenda attached.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on April 13, 1988, at 9:30 a.m. to hold an oversight hearing on the reauthorization of the Marine Mammal Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DAIRY DECLINE

● Mr. LEAHY. Mr. President, dairy farming is a way of life in Vermont. But it has never been an easy way of life.

Declining milk prices and increasing grain prices are making it difficult for many dairy farms to operate. It seems that each day brings news of Vermont dairy farmers going out of business, selling off their cows to pay back debts.

Both here in Washington and home in Vermont, our eyes are focused on this industry and its problems.

And reporters like Nancy Bazilchuk of the Burlington (Vermont) Free Press help public understanding of the issue. In an excellent three part series titled "Dairy Decline," Ms. Bazilchuk has explained the problems of dairy farmers trying to stay in business in the Northeast region of our country.

I ask that this thorough series of articles appearing in the Burlington Free Press from April 3-5 be printed in the CONGRESSIONAL RECORD in its entirety, and recommend that my fellow Senators read it carefully.

The articles follow:

[From the Burlington (VT) Free Press, Apr. 3, 1988]

DAIRY DECLINE: WESTERN FARMS PUT THE SQUEEZE ON NORTHEAST

(By Nancy Bazilchuk)

Imagine a dairy farm where as many as 2,000 cows live their lives in feedlots, milked systematically around the clock by a team of hired hands.

The picture might sound futuristic but it is not—it's dairy farming, California style. And that is part of the reason why Vermont's dairy industry is in so much trouble.

The relationship between the two dairy states is simple: Overproduction results in lower milk prices. With the present milk pricing structure, that means large California farms can prosper while Northeastern farmers feel the pinch.

"Even though we do not directly compete with California and the West, they can make milk cheaper than we can," said Richard Stammer, an agricultural economist with Agrimark. "That is what is driving down the price."

It is a pinch that is driving farmers like Ted Simmons of Orwell, widely regarded as having one of the finest herds in Addison County, right out of business. Simmons auctioned off his 65 registered Holsteins last month.

"The major reason I am selling out is milk price," he said. "It is getting to the point where I am not making money. People like to get paid for the work they do . . . how would you like to work all day and get paid nothing?"

Plummeting milk prices expected between now and 1990, coupled with rising grain prices, will continue to shrink the numbers of farms in traditional dairy centers across the country, experts say.

Remaining farmers nationwide will increase their herd size to squeeze more profits out of the declining prices.

Already, according to U.S. Department of Agriculture figures for 1982, the most recent available, 33 percent of all milk cows are found on the large farms. But these farms, controlling the greatest majority of milk production, are owned by only 7 percent of all U.S. farmers.

That is a trend that Vermont farmers—and residents—are struggling to reverse in the Green Mountain State.

Although the feedlot-style megafarm is not suited to Vermont's rolling hills and harsh climate, larger size and efficiency will be increasingly important for Vermont farmers.

"For the farms that stay in business they will be forced to get larger," Stammer said. "That will be the survival strategy. As the milk price keeps dropping down your only choice is to make more hundredweights of milk to pay your overhead."

For farmers unable to expand because of high debt or difficulty in getting labor, the picture is grim.

Predictions range widely, some as high as 40 percent, but most experts agree that between 6 and 15 percent of Vermont's farms will be lost by the end of this year.

That is in stark contrast to the Vermont's overall losses in the 1980s, which have averaged 3.3 percent.

The losses come after strong economic gains in 1987 for the dairy farmer in Vermont. Economists say 1987 was the best year for dairy since 1979. The 111 New England dairy farms who participate in the ELFAC farm accounting system saw a 10 percent increase in net farm income between 1986 and 1987, said University of Vermont agricultural economist Rick Wackernagel.

Despite the gains, farms will disappear.

"Some farmers are doing well, and some are in desperate trouble," said Fred Webster, a UVM agricultural extension economist. "We will lost a substantial number of farms in the next few years.

The coming losses will not be confined to small farms, though Vermont dairy farmers with larger and average-size herds, like Simmons, are choosing to get out now, taking 1987 gains and investing them elsewhere.

"You can't say that just the small farms are going out," Webster said. "There are bigger farms going out as well as the small farms. Many of the bigger farmers have alternative opportunities because they have some capital. You sell 150 milkers and you are talking about a few hundred thousand dollars. You can put that money to good use, and it may earn you as much as or more than before."

And as Vermont's population skyrockets, the dairy farms that go out of business are lost forever, parceled into building lots.

The same prosperity that is fueling Vermont's ongoing building boom drains the lifeblood from dairy farming in a different way.

"Competition for farm labor is a major reason dairy farmers go out of business," said Larry Myott, agricultural extension agent in Chittenden County. "There is just not anyone out there (to work). It is very difficult to compete with IBM (International Business Machines) or GE (General Electric)."

"You can't blame them," said Lloyd McDonald, of Bradford who sold his farm and 45 cows two years ago. "Elsewhere, they take their dinner box and leave work after eight hours."

The consequences are legion. For Vermont, the loss of dairy farms is a loss of heritage.

"Farming has shaped our beliefs and attitudes as well as our countryside," wrote the Governor's Commission on Vermont's Future in a report issued early this year. "The working relationship with the land and weather required by farming and the pastoral landscape wrought by generations of farm labor has done as much as anything to define the Vermont character."

As dairy farms disappear, experts warn that the loss of a critical mass of farms will force the remainder to go out of business because they are unable to obtain services.

"As you shrink the number of farms the infrastructure shrinks," said Joe Spaulding, farm expert with the Vermont branch of the Farmers Home Administration. "This creates a problem . . . instead of going 10 miles for a tractor part you might have to go 60 miles. That creates stress."

The shrinking numbers also threaten the milk supply for the state's milk processing plants.

"Only 55 percent of our milk goes to fluid use in Vermont," said Curtis Gunderson, head of St. Albans Cooperative, the co-op that supplies Ben and Jerry's with cream. "But we produce cheese here, ice cream, and we don't like to see those go out of business . . . Why should we have to give up our Ben and Jerry's to keep California in production?"

[From the Burlington (VT) Free Press, Apr. 4, 1988]

Dairy Decline: Federal Changes Spark Concern

(By Nancy Bazilchuk)

For years, the federal government has been the dairy industry's single biggest customer—subsidizing the price of milk by buying up surplus dairy products for giveaway programs to feed the country's poor.

That may be changing—and that has dairy farmers worried and confused.

Officials for the federal Agriculture Department are now telling farmers that the government no longer is willing to give away dairy products in such quantities—or pay as much for the surplus milk.

"It is not the purpose of the dairy price support program to feed the needy," said Charles Shaw, an agricultural economist with the U.S. Department of Agriculture.

The department recently announced that a program instituted in 1981, called the Temporary Emergency Food Assistance Program, will no longer issue free cheese as of April 30.

That announcement has been met with surprise from dairy farmers, who took a 50-cent-per-hundredweight cut in milk support prices Jan. 1 because Agriculture Secretary Richard Lyng has forecast a 5-billion-pound dairy surplus. The 1985 Farm Bill authorized Lyng to cut price supports if the dairy surplus exceeded that amount. How, farmers ask, can there be a 5-billion-pound surplus, yet not enough cheese to go around?

"We suspect that reducing government costs is the objective," said Peter Vitaliano, an economist with the National Milk Producers Federation.

That's true, said Shaw, who works with the Commodity Credit Corporation, the federal group that purchases agricultural surpluses. When the CCC gives away food to nutrition programs such as TEFAP or the school-lunch program, the gift is not credited against the purchase price as a receipt.

"We don't account for (the give-away milk products) in term of any value," Shaw said.

Government purchases of milk reached their peak in 1983 when $2.5 billion we spent to purchase 12 percent, or over 16 billion pounds, of all dairy products produced in the United States Expenditures for TEFAP alone grew from $180 million in 1982 to a peak of $1.03 billion in 1984.

The federal whole-herd buyout program of 1985-86 was an effort to control costs by reducing the number of cows by 780,000, said Steve Kerr, former aide to Rep. James Jeffords, R-Vt., who worked on the project.

But TEFAP's demise is not going to happen without a fight. Sen. Patrick Leahy, D-Vt. said that late last week, $500 million was added to the 1989 budget for the program.

"This will be one of the new add-ons in that budget," he said. "But understand that this is being done for the hungry—it would be condescending to the hungry and arrogant of the farmers to see it any other way."

Jim Cubie, counsel to the Agriculture Committee, said roughly half of the $500 million would be used to purchase cheese, even if the cheese is not available from the CCC as surplus.

"This is a national need, even if there is no surplus," Cubie said. "If we need to, we will go out on the commercial market and buy it."

[From the Burlington (VT) Free Press, Apr. 8, 1988]

Vermont Dairymen Struggle for Livelihood

(By Nancy Bazilchuk)

BRADFORD.—Everal Larkham did not want to leave dairy farming.

Instead, he says he was forced out—a victim of a bad investment that caused overwhelming debts which he could not pay because of low milk prices.

"You could work you way out of a hole if you could get a fair price for your milk," said Larkham's 24-year-old son, Glen, as he milked his father's herd of 141 Holsteins in late March for the last time.

Everal Larkham's Lark-Ridge Farm went the way of nearly 75 percent of Vermont's farms since 1950—sold off. The cows, 135 acres of fertile Connecticut River Valley farmland and the machinery were auctioned to cover the family's debts.

"What is really scary to us is that the auctions don't seem to quit," said Robin Burbank, a Johnson milk hauler who is losing business because of the shrinking numbers of dairy farms.

As more and more farms come up on the auction block, the question remains: Can anything be done to save the family farm in Vermont?

It is a hotly debated issue that bridges state and federal policies, and, farm advocates say, requires action from consumers, milk handlers and the state's taxpayers.

State government has responded with a string of programs, including approximately $4 million worth of tax abatements and a unique, one-year dairy subsidy program that will pay farmers 50 cents more per hundredweight of milk they produce.

Beyond direct subsidies, more than $20 million over the next three years will be available in commercial loans to help dairy farmers, Commissioner of Agriculture Ronald Allbee said.

But the programs are just a stopgap measure until Congress passed a new Farm Bill in 1990, Allbee said. The 1990 bill is seen by many as a chance to change legislation that has had little success in controlling escalating milk production and plummeting milk prices.

"The fundamental problem is federal policy," Allbee said. "The state Legislature is saying we don't like federal policy. . . . We are putting our finger, no, our fist in the dike to say we don't like it."

The problem with federal policy is that the Northeast is penalized, in the form of diminishing federal price supports designed to reduce milk production, for milk surpluses generated by Midwestern and Western states.

A bill proposed by Sen. Patrick Leahy, D-Vt., would change that by penalizing overproducers but would continue to allow price support cuts, a wrinkle that concerns Vermont dairy farmers.

Some observers, such as Rick Wackernagel, an agricultural economist at the University of Vermont, say the state must give more thought to the way farm income itself is taxed.

"But one of the things that irks me about this talk of new loans for farmers is that it favors capital over labor and it doesn't keep agricultural communities viable," he said.

Wackernagel suggested exempting both agricultural income and wages from taxes. "Both of these actions would keep people in agriculture," he said. He did not know how much such a program would cost.

Richard Fallert, head of the dairy research section in the U.S. Department of Agriculture's Economic Research Service, said some countries, such as West Germany, have consciously decided to keep the traditional way of dairying alive using tax structures and subsidies.

He cautioned, however, that such an approach could be costly. "I think society will have to decide whether they will try to have policies to maintain the structure or curtail the shift in structure" away from traditional dairying, he said. "But certainly there would be societal costs in not allowing the shift (of dairying) to locations and types of farms that have a comparative advantage."

The property tax abatement program proposed by the Legislature is one such policy that will have significant costs, but it could help to ease the tax burden on Vermont farmers.

Between 1966 and 1985, Vermont farmers paid the highest property taxes on a "per cow basis" of any farmers in the Northeastern states. In 1984, they paid as much as 18 times more than farmers in Maryland.

Vermont property tax rates were surpassed in 1986 by New Hampshire's rates, but Vermonters also pay state income and sales tax, unlike New Hampshire residents.

Despite state and federal efforts, the private sector without a doubt will be called on to make up for slumping milk prices.

Toward that end, the Regional Cooperative Marketing Agency is seen as critical to dairy farmers' survival. The RCMA is 22,000-member organization representing dairy farmers in 11 states who have banded together to demand higher milk prices from handlers. In exchange for paying the premium, handlers get a sure supply of quality milk.

"We have been telling dairy farmers all along they can't look to Washington for a solution for the problems facing dairy farmers," said Rick Lyke, RCMA spokesman. "We need to solve our own problems—the forces in Washington are not in business to set prices at a level where dairy farmers can make a profit."

The federal government couldn't agree more. In a letter written last week, Secretary of Agriculture Richard Lyng finally endorsed the cartel.

Still others say that the federal market order program needs to be updated to reflect increasing costs of transportation.

"What we need is some kind of dairy program that recognizes regional differences," said Dr. Richard Stammer, an Agrimark senior vice president. "The problem with the (market order) differentials is that they haven't been adjusted for a long time. . . . They are outdated."

Stammer says milk is worth the most where it is produced because it does not have the added cost of transportation.

"Milk is worth more in the Northeast because it is closer to consumers in the Northeast," Stammer said. "So you are ignoring some basic economics (if the prices are not higher here). Why not pay the farmers that value instead of the truckers?"

Some observers, however, say that the lower cost of doing business outside the Northeast more than justifies the expense of trucking milk to the region.

These observers question the fundamental assumption that Vermont's dairy farms should be saved.

"It is a broader issue," said Richard Ikari, head of the milk stabilization division of the California Department of Food and Agriculture. "Does every state in the nation need to have milk production when there are areas that can produce milk more efficiently?"

Rep. James Jeffords, R-Vt., disagreed.

"It is not in the country's best interest (to eliminate dairying in some regions)," he said. "We now have a national policy that we want to have food available around the country."

Beyond that, Jeffords and others argue, Vermont's dairy farms contribute far more than milk.

"For the most part, it is that agriculture is part of the state's rural character that makes it important," wrote the Governor's Commission on Vermont's Future early this year. "Vermont would not be the same place—economically, environmentally, and culturally—without its farms."●

IMPRISONED UKRAINIAN HELSINKI MONITOR LEV LUKIANENKO

● Mr. DECONCINI. Mr. President, recently, 29 of our colleagues joined me in writing a letter to Secretary General Gorbachev on behalf of Lev Lukianenko, a founding member of the Ukrainian Helsinki Monitor Group currently serving a 5-year term of internal exile. Mr. Lukianenko recently completed a 10-year labor camp term at the notorious Perm camp 36 for his activity on behalf of human rights in Ukraine. It is ironic that, in this era of glasnost, much of what Mr. Lukianenko called for 10 years ago—for which he was imprisoned—is being discussed openly on the pages of Soviet newspapers today. Yet he continues to suffer in internal exile for calling upon the Soviet Government to take seriously its commitments to abide by the provisions of the 1975 Helsinki Final Act.

The life story of Lev Lukianenko is one of unflinching determination and commitment to principles, despite intense adversity. In 1958, after his graduation from the faculty of law at Moscow University, Lev became involved with Ukrainian social and political issues which led to his arrest and 15 years of imprisonment from 1961 to 1976 for treason. Lev's arrest in 1961 stemmed from his coauthorship of a draft constitution of a Ukrainian Workers and Peasants Union which was to explore the question of the peaceful secession of Ukraine from the U.S.S.R., a right guaranteed by the Soviet Constitution.

After his release, knowing full well the possible consequences of his action, Lev joined the Ukrainian Helsinki group and again began to take an active part in the human rights movement. His 1978 conviction for engaging in "anti-Soviet agitation and propaganda" was based on nothing more than statements he had made regarding human rights violations in Ukraine. One such statement, written shortly before his arrest, illustrates Lev's deep concern for the situation of religion in Ukraine and for the destruction of Ukrainian cultural artifacts. It is particularly poignant in this year of the Millennium of Christianity in Ukraine. Lamenting the destruction by the Soviets of Ukrainian culture in the city of Chernihiv, Lev writes:

> Chernihiv is an ancient city with ancient religious traditions. It was here that our ancestors from the very beginning of Christianity built churches which delighted both our people and foreigners with their architectural perfection and beautiful ornamentation. The hand of the Tatars, Poles, (Tsarist) Russians, Germans and all invaders was stilled before their beauty. Only your hand was not stilled. And just as in the era of medieval obscurantism religious fanatics burned priceless manuscripts simply because something in them contradicted their notions on the issue of religion, so you systematically destroyed architectural masterpieces simply because they did not agree with your atheism and reminded Ukrainians of their rich past. Adhering to the fanatical rule of "who is not with us is against us" you have been persecuting nonconformism for sixty years. And here in Chernihiv you, . . . have deprived a significant part of the population of the possibility of satisfying their spiritual needs in a normal way.

It was for statements such as these that Lev has been cruelly deprived of his freedom.

Despite Mr. Lukianenko's poor health and retirement age, he is being forced to work in internal exile, and, indeed, was assigned "severe regimen exile," a heretofore unheard of designation. It is difficult to regard Soviet policies of glasnost and democratizatsiya as serious as long as individuals such as Lev Lukianenko continue to be punished for taking the Helsinki agreement seriously.

Mr. President, our letter to Secretary General Gorbachev calls for Lev's release from internal exile. This courageous and noble man deserves nothing less than our continued and determined support for his freedom. We must not let the Soviet regime forget that Lukianenko will never be exiled from our hearts. The force of his spirit and his courage has carried him far beyond the repressive confines of his imprisonment and he continues to be a source of strength and inspiration to thousands.

Mr. President, I request that the full text of our letter to Secretary General Gorbachev be inserted into the RECORD.

The letter follows:

COMMITTEE ON THE JUDICIARY,
Washington, DC, April 6, 1988.

His Excellency MIKHAIL GORBACHEV,
General Secretary of the Central Committee, CPSU, Moscow, U.S.S.R.

DEAR GENERAL SECRETARY GORBACHEV: As Members of the United States Senate, we are writing to express our deep concern about Lev Lukianenko, a lawyer and founding member of the Ukrainian Helsinki Group currently in internal exile in the Tomaskaya oblast (636614 Tomskaya Oblast, Parabylsky Raion, Pos. Berezovska). According to official documents, after he completed a lengthy labor camp term, Mr. Lukianenko was assigned "severe regimen exile", a heretofore unheard of designation. He is in extremely poor health and of retirement age, but he is being forced to work.

In 1975, the Soviet Union signed the Helsinki Final Act, agreeing to abide by its provisions. Mr. Lukianenko and his colleagues in the Ukrainian Helsinki Group took this solemn agreement seriously, offering to assist their government in its implementation. For his efforts, he was sentenced to a ten-year term of imprisonment and a five-year term of internal exile for "anti-Soviet agitation and propaganda."

We welcome the Soviet government's fledgling efforts to open up Soviet society, including the early release of some 300 prisoners of conscience. But we cannot regard the policies of glasnost and perestroika as serious while individuals such as Lev Lukianenko are punished for merely calling upon the Soviet government to respect international agreements that it freely signed.

In the spirit of the Helsinki Final Act, and in light of Mr. Lukianenko's poor health, we request that you release him from internal exile and permit him and his family to emigrate to the West.

Sincerely,

Alfonse M. D'Amato; Timothy E. Wirth; John Heinz; William S. Cohen; George Mitchell; Charles E. Grassley; Jeff Bingaman; Arlen Specter; Paul S. Sarbanes; John McCain; John Glenn; Alan J. Dixon; Dan Quayle; Paul S. Trible; and Daniel Patrick Moynihan.

Dennis DeConcini; Frank R. Lautenberg; Spark M. Matsunaga; James Exon; Bill Bradley; Albert Gore; Barbara A. Mikulski; William Proxmire; Richard G. Lugar; Rudy Boschwitz; Gordon J. Humphrey; David K. Karnes; Donald W. Riegle; and Carl Levin.●

CONGRATULATIONS TO ERIC FLAIM

● Mr. KERRY. Mr. President, I would like to take this opportunity to recognize and congratulate Eric Flaim of Pembroke, MA for his achievement in winning the silver medal in the recent Winter Olympics in Calgary for the 1,500-meter speedskating event.

Winning the silver medal was the culmination of long years of hard work and sacrifice by Eric and by his parents, Donna and Enrico Flaim. Eric was born in Pembroke, MA in March 1967. He first skated with the Bay State Speedskating Club in early 1979 in Waltham, MA. He joined the club as a member in 1979.

Eric attended North Elementary School and Silver Lake High School in Pembroke, MA. In 1982, Eric left Pembroke to take up temporary residence in Milwaukee, WI, where he attended the University of Wisconsin.

Eric's achievements in the field of skating are numerous. He won the outdoor championships in West Allis, WI in 1983, setting records in the 300, 800, and 1,500 meter events. He placed first in the North American Outdoor Championships in Manitoba, Winnipeg, Canada. Eric won the North American Outdoor Championship in Wyandotte, MI, and was a member of the junior world team, as well as the U.S. world team in 1983.

Eric Flaim made the U.S. Olympic team in December 1987. In February 1988, he won the Olympic silver medal in the 1,500 meter speed skating event with a time of 152.12. On February 17, 1988, he finished in fourth place in the 5,000 meter race with a time of 6:47:09, which is an American record. On February 18, he finished in fourth place in the 1,000 meter race with a time of 1:13.53.5. Eric also set an American record in the 10,000 meter race with a time of 14:05.57 in finishing fourth.

We in Massachusetts are extremely proud of Eric Flaim, not only for winning an Olympic silver medal, but for having a dream and the courage to chase it. Eric's parents, his brother Bryan Flaim, and his sister Laura Flaim, can take great pride in Eric's achievements.

Mr. President, Eric Flaim and the whole Flaim family have taken an individual quest and made it a team effort. That effort was rewarded with a silver medal in the Olympic Games, and we in Massachusetts are rewarded by being able to call them our neighbors. I congratulate Eric on his accomplishment in Calgary, and his family for making it possible. I look forward to further successes by Eric Flaim in the future.●

IN MEMORY OF GUNARS ASTRA

● Mr. LAUTENBERG. Mr. President, it is with great sadness that I rise to share with my colleagues news of the death of Gunars Astra, a prominent Latvian human rights activist. Well known and respected for his undying commitment to human rights, Gunars Astra died last week in a Leningrad hospital following extensive heart surgery. Earlier this year, Astra was released from the notorious Perm Camp 36-1, a regime camp for political prisoners.

A champion in the struggle for human rights and dignity, Astra dedicated much of his life to fighting the battle in the Soviet Union against oppression and injustice. For his strong conviction and leading role in the fight for freedom, self-determination, and human rights Gunars Astra suffered, and was forced to spend the better part of his life—a full 19 years—in Soviet prisons and labor camps.

For his human rights activity, Gunars Astra was first arrested in 1961 on grounds of "treason." Gunars was no criminal, but his commitment to the cause of human rights threatened the Soviets. And for his commitment, the Soviets sentenced him to a 15-year prison term.

But Gunars Astra would not relent. His desire to live in a society free from the threat of government abuse was stronger than the Soviets desire to crush him. Even after he was released from his first prison term, he continued with his quest for human rights and dignity.

In 1983, Astra was again arrested and charged with "anti-Soviet activities and propaganda." This time his alleged "crime" was translating into Latvian the Molotov-Ribbentrop Pact of 1939, the secret Nazi-Soviet protocol which led to the Soviet annexation of Latvia and the other Baltic States of Lithuania and Estonia. For this activity, Gunars Astra was sentenced to 7 years in a labor camp and 5 years in internal exile.

Gunars Astra was forced to spend the first part of that sentence in the notorious Perm Camp 36-1 where the inhuman conditions for the prisoners were well known. Few were unaware of its reputation as a death camp where some individuals languished more than 20 years for what they said, thought, or wrote about the freedoms in which they believed.

During his lengthy imprisonment, Gunars Astra's health undeniably deteriorated. When he was finally released from Perm Camp 36-1 in February, he was weak. The long years in prison had taken a toll on his health. Given the harsh conditions under which he was forced to live in Perm Camp 36-1 and in other prisons, it is not surprising that he did not have the strength to survive on the operating table.

I raised the case of Gunars Astra and other political prisoners as a member of the Helsinki Commission when I was in the Soviet Union last year. And so did countless others like Andrei Sakharov, and human rights activists both in the Soviet Union and in the West. But the Soviets kept him in prison so long that his health deteriorated to a point where he was weak and vulnerable.

The death of Gunars Astra reminds us of the persisting need to support the rights and aspirations of those subject to human rights abuses in the Soviet Union. The longstanding commitment of Gunars Astra to human freedom and dignity is an inspiration to those who deplore Soviet human rights abuses, and will serve as a proud legacy for all those who dare to struggle to retain and express their political, cultural, and religious identity and beliefs.

I urge my colleagues to join me in honoring Gunars Astra, a man who paid for his beliefs with his life so that future generations in the Soviet Union might know a life of freedom and dignity.●

SUPERCONDUCTING SUPER COLLIDER

● Mr. DECONCINI. Mr. President, on March 30, 1988, the Reagan administration took the opportunity to give a much needed boost to plans for the Department of Energy to build the superconducting super collider, or SSC. As my colleagues know, the SSC, when built, will be the world's largest particle accelerator.

On March 30, 1988, the White House held a presentation to acknowledge scientific achievement. At that event, several of our distinguished American Nobel Laureates in science handed President Reagan a letter voicing wholehearted support for the SSC.

When Americans of the stature and reputation of these Nobel Prize winners come forward to give the SSC their blessing, I believe the country should listen.

In the first words of their letter, they tell the President:

> Last year you decided to proceed with the construction of the superconducting super collider. This decision was a major milestone in the support of basic scientific research by your administration.

The letter went on to point out that the SSC would be the latest in the sequence of particle accelerators, dating from the first effort by E.O. Lawrence in Berkeley in the 1930's.

This latest American initiative in high energy physics is set against a backdrop of intense international competition. This competition has manifested itself both in a decline of the number of U.S. students getting postgraduate physics degrees and efforts sponsored by foreign governments to surpass American achievements in this field.

Dr. Peter Carruthers, chair of the University of Arizona Physics Department and leading national high energy physicist, states that the number of Ph.D.'s awarded in physics to foreign students in U.S. universities doubled from 1971 to 1986. For foreign engineering students studying here, the increase was from 30 to 55 percent for the same 15-year period.

Dr. Carruthers also tells me that at the University of Arizona, now one of the largest universities in the Nation, the percentage of increase in foreign students in post graduate physics is even higher than the national figures. This is distressing news for the scientific future of the United States.

If we are going to get our young people into science, we clearly need a project like the SSC to stimulate interest and enthusiasm. Unless we make an immediate commitment to build the SSC in the United States, I am convinced it will be built by foreign competitors.

A few months ago, Mr. Walter Sullivan, a top science writer for the New York Times, did a series of articles on the status of scientific achievements in foreign countries.

Here is the lead paragraph of his October 11, 1987, article datelined Tsukuba, Japan:

> A new particle accelerator, causing electrons and positrons to collide at energies higher than those of any other such accelerator, is restoring Japan's prewar position near the front rank of experimental physics.

A few days later, on October 20, 1987, Mr. Sullivan moved on to what the Russians are doing. The lead of that story stated:

> Soviet physicists have decided to build the most powerful particle accelerator of its kind, a straight-line facility 20 kilometers or about 16 miles long. Its length could eventually be doubled.

However serious the competition from Japan and the Soviet Union may be, our most immediate problem is the CERN accelerator at Geneva.

CERN, which is being constructed near Geneva and crosses the Swiss/French border, proposes a 17-mile ring, which is more than four times as large as Fermilab in Illinois, our major U.S. accelerator.

Last December, at the National SSC Symposium in Denver, Dr. Carlo Rubbia from CERN apparently got everyone's attention as he described experiments which will be fully underway with completion of the accelerator in the summer of 1989.

Mr. Glenn T. Seaborg, another Nobel Laureate, said last year:

> During recent years the Europeans have overtaken and surpassed us in the field of high energy or elementary particle physics as a result of the accelerators they have built.
>
> We in the United States have come this far with the exploration of the basic nature of matter. Now we have reached a limit set by existing accelerators. To go further we need the SSC. Dare we say that we can't take this next step . . . where so much is to be learned, because of the question of cost? The vast majority of money expended in building such a project is cycled back into the economy, and the support industries not only aid the economy but also motivate new developments in practical applications of sciences.

However complicated this particle accelerator business may sound to us laymen, with the intense international competition and lessening U.S. scientific preparedness, if we want to compete scientifically, we best turn our attention to the SSC.

This is our one, and possible last, chance to offer U.S. students a true scientific challenge and cutting edge laboratory experience for high energy physics. The experts recognize this challenge. It's time the U.S. Congress, despite the budget deficits, did the same.

Mr. President, I ask that the letter from six Nobel Laureates to President Reagan be inserted in the RECORD. It is my hope that my colleagues in this body will give serious consideration to the national need to compete with both our people and our machines in the world science race.

The letter follows:

MARCH 30, 1988.

Hon. RONALD REAGAN,
The White House,
Washington, DC.

DEAR PRESIDENT REAGAN: Last year you decided to proceed with the construction of the Superconducting Super Collider (SSC). This decision was a major milestone in the support of basic scientific research by your Administration. We wish to congratulate you on the wisdom of this decision.

The SSC would be the latest in a sequence of particle accelerators. The first, the cyclotron, was built by E. O. Lawrence in the 1930's in Berkeley. For many years, scientists in the United States used these accelerators to make important discoveries about the nucleus of the atom. Some of these discoveries and the technologies associated with them forever changed the way we live, work, and defend our nation. We are grateful to those scientists and engineers who did the pioneering work in this field of high energy physics and to the federal government for its support of research in this field. This has made it possible for us to build on this earlier work and make our own discoveries and advances which have contributed to a better understanding of the nature of the subatomic world.

The SSC is the next step needed to make progress in this field. It represents America's commitment to the pursuit of excellence in basic scientific research. It is also a commitment to our nation's next generation of young scientists. Today you have before you a group of some of the brightest members of this next generation. They will need the SSC to make progress at the scientific and technological frontiers that they will explore. We believe that it is imperative to proceed with the construction and operation of the SSC so that it will be ready for them when they need it. We pledge that we will do what we can to accomplish this important goal.

Thank you for your support of basic scientific research and for your historic decision to approve the SSC. It is a vital link to the future.

Sincerely,

JAMES WATSON CRONIN,
Nobel Laureate (1980).
VAL LOGSDON FITCH,
Nobel Laureate (1980).
SHELDON LEE GLASHOW,
Nobel Laureate (1979).
BURTON RICHTER,
Nobel Laureate (1976).
SAMUEL C. C. TING,
Nobel Laureate (1976).
STEVEN WEINBERG,
Nobel Laureate (1979).●

OBSERVING NATIONAL LIBRARY WEEK

● Mr. RIEGLE. Mr. President, in honor of National Library Week which we will observe next week, I would like a few moments to recognize the very important contribution that libraries make to communities across the country.

We in the United States pride ourselves on having an enlightened citizenry. We value developing our individual potential, and both for our own satisfaction and for the advancement and well-being of society. An educated citizenry is also essential to our system of self-government. Libraries play a central role in making this kind of society possible.

There are many kinds of libraries serving different interests and purposes. Some, like the Library of Congress and major research libraries, are large repositories of vast amounts of information. Others are smaller neighborhood or school libraries. Some specialize in particular areas of study like medicine or law. Others are more general in orientation. But all serve the larger purpose of helping people learn more about topics of interest or concern, for work or pleasure. Most importantly, libraries make it possible for what is often called a learning society, where people of all ages can continue to advance their knowledge and expand their horizons throughout their lifetimes.

Lifetime learning is also essential if we are to make progress in solving the problems and addressing the issues that face our society. Libraries can play an important role both in providing people with the information they need and in helping people use that information effectively, whether they are students, concerned individuals, or professionals.

Finally, our form of government relies on a knowledgeable citizenry in order to make informed choices in how our Nation is governed. Libraries can provide the information people need to carry out their civic duty and participate in our democracy as fully as possible. This is clearly a very important function in our society.

So, I think it is very fitting that we recognize, during National Library Week, the important role that libraries and the librarians and library staff play in our communities. They help make it possible for people of all ages to continue to read and learn throughout their lifetimes and we are very grateful to them for the service they provide.●

A NEW HOLOCAUST CURRICULUM

● Mr. LEVIN. The subject of the Holocaust is difficult and sometimes traumatic for teachers and students alike. But few subjects are more important. As painful as the subject is, our children must learn about the Holocaust because knowledge of it is one of our best ways of preventing a repetition of it.

A new high school curriculum on the Holocaust, "Life Unworthy of Life," has been developed by three Michigan educators to allow teachers to present this challenging topic with authenticity, authority, and confidence.

Its authors are Dr. Sidney Bolkosky, professor of history at the University of Michigan-Dearborn; Betty Rotberg Ellias, a Southfield Lathrup High School English teacher and daughter of Holocaust survivors; and Dr. David Harris, social studies education consultant for Oakland, MI, schools. The project was developed by the Center for the Study of the Child under the auspices of the Jewish Community Center of Metropolitan Detroit.

The new curriculum is the result of a 3-year effort to research, write, produce, and widely distribute a high school Holocaust curriculum that would set the standard for teaching this subject. The curriculum provides historical expertise, sound pedagogical theory and practice, and a professional multimedia production. It is completely self-contained, with instructor's manual, student textbooks, and a 62-minute videotape based on survivors' testimonies and newsreels.

It is designed to be an effective teaching tool enabling any teacher to successfully approach and present this difficult topic in a way that makes the event and its implications real and affecting for all students, using the videotape and numerous innovative exercises.

One goal was to have students understand how the bureaucratization of genocide during the Holocaust depended upon millions of doctors, lawyers, accountants, postal clerks, railroad workers, and secretaries all doing their jobs, and in so doing, performing a small but vital part in the national mobilization toward the final solution. In studying this, students understand the complex ethical responsibility all persons must acknowledge for the consequences of their actions. They receive a powerful historical, intellectual, and ethical experience which allows them to better examine the foundations upon which a democratic society rests.

I wish to commend the creators of "Life Unworthy of Life" for making available this innovative curriculum. It establishes a high standard while actively engaging, challenging, and guiding high school students through the complex issues surrounding the Holocaust.●

SALUTING MUSKEGON COLLEGE OF BUSINESS

● Mr. LEVIN. Mr. President, 100 years ago the Muskegon College of Business and Technology was founded as a proprietary school of business in downtown Muskegon by Woodridge Ferris who earlier started what is now known as Ferris State University in Big Rapids. The school was owned by various individuals and went through many name changes prior to becoming a nonprofit institution chartered by the State of Michigan in 1919. Prominent owners of the college during its proprietary years, in addition to Ferris, included E.C. Bisson, Arthur Howell, and Gail and Robert Jewell.

From a small location on Western Avenue in Muskegon, this expanding educational institution is now a complex of seven buildings; a 700-car lighted parking lot; and a recreational area consisting of tennis courts, basketball and volleyball courts, all located on an attractive campus near downtown Muskegon.

As a member of the Senate Small Business Committee and chairman of the Innovation, Technology, and Productivity Subcommittee, I am acutely aware of the important role education plays in economic development. The Muskegon College of Business and Technology has transformed itself from a little business college teaching shorthand and typing to an education and technology center offering programs in such areas as allied health, electronics, and drafting.

Since its merger with Baker College of Flint and Owosso created a single educational unit called the Jewell Educational System, Muskegon Business College has not only broadened its base but received authority to offer a Bachelor of Business Administration degree.

The city of Muskegon and the State of Michigan are fortunate to have an educational facility of such high quality. The graduating class of 1988 will be the 100th class to have graduated from the Muskegon College of Business and Technology.

Education is the prime building block for future progress and prosperity. I am proud to join with my colleagues in wishing the Muskegon College of Business and Technology a productive centennial year and in saluting President Robert Jewell, the excellent faculty, and outstanding students and alumni for their efforts in advancing quality higher education.●

SOO LAKERS WIN TITLE

● Mr. LEVIN. Mr. President, an April 4 news dispatch from the Associated Press said it this way. "Years from now," reported the AP, "when future college hockey fans glance back into the record books to see who were the past champions of division 1, their eyes might question the 1988 statistics. It won't be a misprint. Lake Superior State really did win the NCAA tournament in 1988."

They sure did. The LSSU Lakers from Sault Ste. Marie, MI, won the championship on April 3 when junior Mark Vermette scored at 4:46 in overtime to give the Lakers a 4-3 victory over St. Lawrence University and their first NCAA division 1 hockey title ever. The win capped a 33-7-6 season, the most successful in the 20-year history of hockey at LSSU.

Even Lakers Coach Frank Anzalone seemed to have a hard time believing that his team had won. "A national championship? This is only reserved for the North Dakotas, the Michigan States. I mean this is unbelievable!"

Coach Anzalone should have been the last one to be surprised. After all, it was under his inspiring leadership that the Lakers achieved their triumph.

But the fact is that few expected the university with a 2,800 enrollment to defeat its better known rivals.

In a sense, LSSU's lack of a national reputation was one of the secret ingredients in its victory. In addition to fine coaching and a team that consistently played at 100 percent, LSSU had an edge that was provided by its intense desire to win. Lakers' freshman defenseman Karl Johnston explained it this way. "We always had something to prove because of our school's size. Everywhere we go, it's 'Lake Superior, who are they? Where are they from?' No one knows and everybody laughs.* * *"

They are not laughing anymore. The Soo Lakers have seen to that. And, hopefully, everyone now knows that the LSSU Lakers hail from Sault Ste. Marie, MI.

I want to congratulate Coach Anzalone, the players, Lake Superior State University, and all Lakers fans on this outstanding victory. How sweet it is!

The following is the 1988 team roster. We in Michigan are proud of each of them. I had the pleasure of watching them play this year, a year which for the Lakers and their legion of fans, is forever etched in our memories.

LAKE SUPERIOR STATE UNIVERSITY

	Number and name	Class	Position	Height	Weight	Hometown
1	Mike Greenlay	Sophomore.	Goalie..	6–3	195	Calgary, Alb.
2	David DiVita	Freshman.	Defense.	6–2	205	St. Clair Shores, MI.
3	Kord Cernich	Sophomore.	Defense.	5–11	195	Anchorage, AK.
4	Karl Johnston	Freshman.	Defense.	6–0	180	Windsor, Ont.
5	Rene Chapdelaine	Junior ..	Defense.	6–1	195	Weyburn, Sask.
6	Ken Martel	Junior ..	Defense.	5–11	175	Hacienda Heights, CA.
8	Tim Harris	Freshman.	Right Wing.	6–2	185	Uxbridge, Ont.
9	Jim Dowd	Freshman.	Right Wing-Center.	6–2	180	Bricktown, NJ.
10	Terry Hossack	Senior ..	Defense.	5–11	180	Windsor, Ont.
11	Drew Famulak	Sophomore.	Right Wing.	5–11	180	Melville, Sask.
12	Craig Hewson (C)	Senior ..	Right Wing.	5–8	170	Brantford, Ont.
14	Mike de Carie	Junior ..	Right Wing.	6–1	185	Covina, CA.
15	Jeff Jablonski	Sophomore.	Left Wing.	6–1	180	Toledo, OH.
16	Tim Breslin	Freshman.	Left Wing.	6–0	175	Addison, IL.
17	Jeff Napleraia	Freshman.	Right Wing-Center.	6–1	190	Muskegon, MI.
18	Doug Laprade	Freshman.	Right Wing.	6–0	185	Thunder Bay, Ont.
19	Dominic Niro	Freshman.	Left Wing.	5–11	190	Sault, Ont.
20	Brett Barnett	Freshman.	Left Wing.	6–3	185	Toronto, Ont.
21	Pete Stauber (C)	Sophomore.	Left Wing.	5–11	185	Duluth, MN.
22	Dan Keczmer	Sophomore.	Defense.	6–1	180	Utica, MI.
23	Mark Vernette (C)	Junior ..	Right Wing.	6–3	195	Cochenour, Ont.
24	Anthony Palumbo (C).	Junior ..	Center..	5–11	185	Sault, Ont.
25	Ed Fuss	Freshman.	Defense.	5–10	210	Greenwich, CT.
26	Brian Corso	Sophomore.	Defense.	5–11	180	San Diego, CA.
27	Dean Dyer	Freshman.	Right Wing-Center.	6–8	195	Sherwood Park, Alb.
30	Bruce Hoffort	Freshman.	Goalie..	5–10	185	No. Battlefield, Sask.
35	Brandon Reed	Freshman.	Goalie..	5–10	160	Lansing, MI.

Head Coach: Frank Anzalone. Asst. Coaches: Jeff Jackson, Jim Roque.

Trainer: Brian Toy. Equipment Manager: Gil Somes.
Team Doctor: Dr. Richard Ganzhorn. Manager: Tim Paris.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I would inquire of the distinguished Republican leader if on the Executive Calendar the following orders have been cleared: 591, 592, and 593?

Mr. DOLE. Yes, they have been cleared.

Mr. BYRD. I thank my friend.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Orders 591, 592, and 593.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The first nomination will be stated.

NATIONAL CREDIT UNION ADMINISTRATION

The legislative clerk read the nomination of David L. Chatfield, of Alaska, to be a member of the National Credit Union Administration Board.

Mr. STEVENS. Mr. President, the Senate will shortly consider the nomination of David L. Chatfield to a position on the Board of Directors of the National Credit Union Administration. I would like to share with my colleagues the reasons I strongly endorse this gentleman.

David is currently senior vice president, corporate development, of the Alaska USA Credit Union. This is one of the Nation's largest credit unions. David is responsible for governmental relations, public affairs, marketing, and training. His knowledge of credit union operations spans over a time period of 20 years. He has served in key leadership positions on the local, State, and national level. These include the position of president of the Alaska Credit Union League and membership on the Governmental Affairs Committee of the Credit Union National Association, as well as director of political action development for that same association.

David has also performed important civic duties in my home State. He served as director of the Anchorage Neighborhood Housing Services Corporation and chaired the Governor's task force on State loan programs. David's activities demonstrate a firm commitment to his industry and a broad perspective on the responsibilities of financial institutions to communities.

When I recommended David to the President, I emphasized David's knowledge of the operations and concerns of credit unions. I'd like to emphasize to my colleagues today David's skills as a manager and his ability to translate credit union policy into timely and effective legislative and regulatory strategies. David's extensive background in credit union governmental relations will make him an able member of the National Credit Union Administration Board. His nomination is supported by the Credit Union National Association. I urge my colleagues to support the nomination of David L. Chatfield for the position on the Board of the National Credit Union Administration.

Mr. MURKOWSKI. Mr. President, it is my pleasure to introduce to the Senate Mr. David Chatfield of Anchorage, AK, for appointment to the Board of the National Credit Union Administration. His appointment received unanimous approval from the Banking Committee.

Mr. Chatfield has been involved with credit unions for well over 20 years, beginning as a volunteer official of Englewood Federal Credit Union in Englewood, CO, in 1965.

David Chatfield is well respected and is widely recognized for his experience in the credit union industry. He began his career as a field representative with the CUNA Mutual Insurance Group in 1968 and was appointed field supervisor in 1971. In 1975 and 1976 he was general manager of League Marketing Group, Inc., the service subsidiary of the New York State Credit Union League. From 1976 to 1978 he served as director of political action in the Washington, DC, office of the Credit Union National Association.

In 1978, Mr. Chatfield relocated to Alaska to become the president of the Alaska Credit Union League, and in 1980 he joined Alaska USA Federal Credit Union. He currently serves as senior vice president, corporate development, responsible for the marketing, public relations, governmental affairs, and market development activities of America's third-largest Federal credit union. He also serves as a director and officer of Alaska USA's three subsidiaries that are engaged in electronic funds transfer, general insurance, and real estate title insurance activities.

Active in civic and trade associations, Mr. Chatfield currently serves as a national director of the Credit Union Association and serves on the governmental affairs committee of that national trade group. He is also chairman of the Community Service Credit Union Council, a specialized national trade association. He is a chairman of the governmental affairs committee of the Alaska Credit Union League, the State trade association, and serves as the secretary of the Alaska council of the Credit Union Executives Society.

Throughout his career Mr. Chatfield has received outstanding performance awards. In 1987, the Alaska Credit Union League honored Mr. Chatfield with the Horace Bremner Award as the most outstanding contributor to the credit union movement in Alaska.

In 1980, Mr. Chatfield was appointed by Alaska's Governor, Jay Hammond, as a member of the Alaska State Investment Advisory Committee, and in 1982 he was appointed by Gov. Bill Sheffield to chair the State of Alaska's Loans Task Force.

Mr. President, David Chatfield enjoys an excellent professional background and reputation. I believe that he is exceptionally well qualified and deserving to be appointed to the Board of National Credit Union Administration. I ask that the Senate give his qualifications careful consideration and confirm this important nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The legislative clerk read the nomination of Kenneth J. Beirne, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

SECURITIES INVESTOR PROTECTION CORPORATION

The legislative clerk read the nomination of Jesse D. Winzenried, of Wyoming, to be a Director of the Securities Investor Protection Corporation.

NOMINATION OF JESSE WINZENRIED

Mr. SIMPSON. Mr. President, I am most pleased by the confirmation today of Dr. Jesse Winzenried, from my hometown of Cody, WY, to the post of Vice Chairman of the Securities Investor Protection Corporation. He will be a credit to our fine President—just as he certainly has been for our State of Wyoming. He comes brilliantly prepared for this responsibility. He will serve this administration well.

Jesse has been a friend to the Simpson family for nearly his entire lifetime. He was born and raised in the Big Horn Basin of Wyoming, just 40 miles from Cody. He was an honored student during his Wyoming school years. After graduating from the University of Wyoming he then attended Denver University and New York University to earn a Ph.D. in public finance. As a Ph.D. candidate, he joined with my father, Milward L. Simpson, who was Wyoming's Governor at that time, in laying the groundwork for the first consolidated department of revenue in our State. It remains just as it began—a most efficient agency. Jesse was a close friend and able adviser to my father during his time in the U.S. Senate. He also worked on several projects with my predecessor, Cliff Hansen, during his Senate years. Jesse distinguished himself in the area of energy and finance.

I first became acquainted when Jess was vice president of Husky Oil Co. in Cody, WY, where he was a key player when the company was young and emerging. He deserved much of the credit as Husky grew to become a major oil company—a company that for a generation provided the primary livelihood for nearly an entire community. Husky was a major corporate force in Wyoming, the West, and the United States, and Canada. Jesse played a major role in all that. He then moved on to the Coastal States Gas Corp. in Texas, and later to Crown Central Petroleum Corp. in Baltimore and then he retired back to Wyoming in 1981. Jesse is a man who is extraordinarily savvy, a quick study, creative and thoughtful, firm, deliberative, and always very fair. He is truly a remarkable and extraordinarily capable man. I am proud of him. Wyoming is proud of him. He will serve his country very well in his new capacity.

Mr. President, I am so pleased to see the confirmation of Jesse Winzenried, from Cody, WY, as the public member of the Securities Investor Protection Corporation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning; that following the two leaders or their designees, under the standing order there be a period for morning business not to extend beyond 9:30 a.m.; that Senators may speak during that period for not to exceed 5 minutes each; and provided further that at the hour of 9:30 a.m., the Senate resume consideration of the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there will be a rollcall vote reasonably early tomorrow on the amendment by Mr. WEICKER which will be the pending question when the Senate resumes consideration of the budget resolution. There is a time limitation on that amendment of 40 minutes and, therefore, one might expect the rollcall vote to occur at around 10 minutes after 10.

I ask unanimous consent that be a 15-minute rollcall vote and that the call for the regular order be automatic at the expiration of the 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. There will be other rollcall votes on tomorrow.

The Senate will undoubtedly conclude action on the budget resolution tomorrow because there has been agreement that there will be no amendments other than those that were enumerated, possibly an amendment by Mr. HUMPHREY dealing with Afghanistan. In the morning the distinguished Republican leader and I will be in a position to indicate to the Senate what the next business will be. There will be business and there will be rollcall votes.

Mr. BYRD. Mr. President, I understand that Senator MITCHELL has a statement to make. I will simply ask, upon the conclusion of his remarks, if no other Senator seeks recognition, if it is agreeable to the distinguished Republican leader, if the distinguished Senator from Maine, Mr. MITCHELL, would move, under the order, that the Senate stand in recess until the hour of 9 o'clock a.m.

Mr. MITCHELL. Yes.

Mr. BYRD. I thank the Senator.

LEADERSHIP OF SENATOR BYRD

Mr. MITCHELL. Mr. President, I rise to express my personal appreciation to Senator BYRD, whose leadership of this body for the 8 years of my Senate service has provided an unsurpassed education in the rules and operations—and the spirit—of the Senate.

The Senate is a special body. It has a blend of tradition, written rules, and functional purpose under the Constitution that makes it unique. There is no other legislative body like it in the world.

The Senate's constitutional role gives it a direct voice in domestic legislation and a major role in the management of foreign policy. The Senate's written rules and precedents constitute an intricate body of operating rules. The Senate's traditions are an important source of continuity.

Senator BYRD's recognition of the subtle and frequent interaction of these functions and features has given his leadership a special blend of respect for individual prerogative and unyielding adherence to the rules of procedure without which the Senate could not function.

It states the obvious to say that the job of leadership is difficult in a body comprised of 100 equals, each with his or her own priorities and preferences. Senator BYRD's equanimity and forebearance never desert him, even at the most trying and tiring times. His bearing is an example to us all.

Senator BYRD's dedication to the Senate as an institution has helped new Senators, including this one, recognize the respect we owe to tradition as well as the central role that the Senate plays in the constitutional scheme.

Senator BYRD has made it his life's work to represent the people of West Virginia. They could not have a more dedicated public servant. He also has represented the people of the whole country, as a Member and as the leader of the Senate, deciding on issues of national weight and universal application.

That is a balance that all of us must seek. We could not have a finer exemplar of that balance than Senator BYRD.

On a personal basis, Senator BYRD has been a constant and reliable friend and adviser, as well as a skillful and respected opponent on those few issues where we differ. Senator BYRD never forgets that the essence of the legislative art is to find and build on common goals, not to seek confrontation and division.

His spirit of comity, respect, and willingness to engage in constructive debate has resolved many apparently intractable problems. I know and look forward to the fact that Senator BYRD will be exercising his invaluable talents in the Senate for many years to come. As long as ROBERT BYRD is a Member of the Senate, his moral leadership will guide us all.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess under the previous order until 9 a.m. tomorrow.

The motion was agreed to, and the Senate, at 7:45 p.m., recessed until Thursday, April 14, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 13, 1988:

DEPARTMENT OF STATE

Paul D. Taylor, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Richard Newton Holwill, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

Walter Leon Cutler, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

George Edward Moose, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Rush Walker Taylor, Jr., of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

AMBASSADORS

Henry F. Cooper, of Virginia, for the rank of Ambassador during his tenure of service as U.S. Negotiator for Defense and Space Arms.

Stephen R. Hanmer, Jr., of Virginia, for the rank of Ambassador during his tenure of service as U.S. Negotiator for Strategic Nuclear Arms.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Mark T. Cox IV, of Florida, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years, vice Hugh W. Foster, resigned.

THE JUDICIARY

WILLIAM G. CAMBRIDGE, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA VICE CLARENCE A. BEAM, ELEVATED.

RICHARD A. SCHELL, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS VICE WILLIAM M. STEGER, RETIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PATRICK BUTLER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994, VICE WALTER BERNS, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

LEMOINE V. DICKINSON, JR., OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1988, VICE PATRICIA A. GOLDMAN, RESIGNED.

STATE JUSTICE INSTITUTE

JOSEPH WENTLING BROWN, OF NEVADA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1989, NEW POSITION.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. QUINN H. BECKER, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3036, TO BE THE SURGEON GENERAL, U.S. ARMY:

MAJ. GEN. FRANK F. LEDFORD, [redacted] U.S. ARMY.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 13, 1988:

NATIONAL CREDIT UNION ADMINISTRATION

DAVID L. CHATFIELD, OF ALASKA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 2, 1989.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KENNETH J. BEIRNE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

SECURITIES INVESTOR PROTECTION CORPORATION

JESSE D. WINZENRIED, OF WYOMING, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1990.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitting a withdrawal of a nomination from further Senate consideration:

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

GEORGE D. HARDY, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS, NEW POSITION, WHICH WAS SENT TO THE SENATE ON JULY 15, 1987.

HOUSE OF REPRESENTATIVES—*Wednesday, April 13, 1988*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Even as we so easily pray in times of stress and pain, so may we learn to express our praise each day for the joys of living. May the words of thanksgiving be upon our lips each morning in spite of any anxiety or fear. Teach us, O God, to see our prayers as a moment of communication with You, our Creator and Sustainer, so we may grow in love and peace with You and one another all our days. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On March 25, 1988:

H.R. 3689. An act to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the "H.R. Gross Post Office Building".

On March 29, 1988:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

On March 31, 1988:

H.R. 2631. An act to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.

On April 1, 1988:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America.

On April 6, 1988:

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A.";

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada; and

H.R. 4263. An act to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway".

On April 7, 1988:

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact;

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

On April 12, 1988:

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; and

H.R. 2819. An act for the relief of Tracey McFarlane.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3971. An act to establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

THE UNIVERSITY OF TEXAS MEN'S AND WOMEN'S SWIMMING AND DIVING TEAMS WIN NATIONAL CHAMPIONSHIPS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I want to call my colleagues' attention to a unique achievement by the men's and women's swimming and diving teams from the University of Texas at Austin.

On April 9, 17 athletes from the University of Texas won the NCAA men's swimming and diving championships with a total of 424 points, the highest total accumulated by a team since 1969. The Longhorns have finished in the top three every year since 1980, except for last year's fifth place finish, and won the national championship in 1981.

In achieving this outstanding feat, the Longhorns swept the three relay races. In addition, Kirk Stackle and Doug Gjertsen won the 200 meter breast stroke and the 200 meter freestyle respectively. Gjertsen also won two second place medals and anchored two of the victorious relay teams, including the 400 meter freestyle team which set a new American, U.S. Open, and meet record.

This victory is magnified by the achievement of the University of Texas women's team, which won its fifth consecutive NCAA women's swimming and diving championship March 19 with a record point total of 661 points. This marks the first time that a single university has won both the NCAA Division I national men's and women's swimming and diving titles in the same year.

With a men's team composed of three seniors, nine sophomores, and three freshmen, the University of Texas is rapidly establishing its national leadership in swimming and diving, and these will be teams to be reckoned with for many years to come.

I know my colleagues will join with me in congratulating Coach Eddie Reese and the 1988 NCAA champion Longhorns on their national title, along with Coach Richard Quick and the 1988 NCAA champion Lady Longhorns. The "Eyes of Texas" will be on them for many years to come.

PRAISE FOR GOV. BUDDY ROEMER

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, our brand new Democrat Governor of Louisiana, our former colleague, Buddy Roemer, has a very tough job on his hands, but has rolled up his sleeves and begun what looks to be a full determined effort to put Louisiana back on the road to economic and fiscal stability.

He has already made some very tough decisions, and as an opponent of his in the past Governor's race, I want to applaud his tenacity and his determination to do what is necessary to rebuild our great State. He has tackled his job in bipartisan fashion, and while I may not endorse every move he has made in his short tenure in office, I firmly believe he is on the right track.

In so saying I cannot praise him enough for announcing his intention to vote for Jim McCrary, the Republican candidate, to fill his seat in Congress.

Right on, Buddy.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF UNITED STATES DELEGATION OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The **SPEAKER** laid before the House the following resignation as a member of the United States delegation to attend the 29th meeting of the Canada-United States interparliamentary Group:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 12, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I greatly appreciate being appointed to serve as a Member of the U.S. delegation to the Canada/U.S. Interparliamentary group meeting to be held this coming May 5-8. It has been a privilege to participate in these meetings during the past seven years and to join in the exchange of views on environmental, trade, and security concerns vital to our two nations, particularly as my district has a long border and history of relations with Canada. It has been my privilege in the last several years to have co-chaired the sessions on environment, resources, and fisheries which also are important to my district and to U.S.-Canada exchange.

I greatly regret that I will not be able to participate in this year's meeting due to important events in my Congressional District that same weekend.

I submit this letter in accordance with your request to be notified when Members appointed to such extra-legislative responsibilities are unable to participate.

With all best wishes.

Sincerely,
JAMES L. OBERSTAR,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276(d), the Chair appoints the gentleman from Texas [Mr. BROOKS] to the United States delegation to attend the 29th meeting of the Canada-United States Interparliamentary Group to fill the existing vacancy thereon.

BILL AMENDING TOXIC SUBSTANCES CONTROL ACT

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, today 16 of our colleagues and I are introducing a bill to amend the Toxic Substances Control Act, to require the Environmental Protection Agency [EPA] to establish guidelines on priorities for local education agencies [LEA's]. Six months from now, all local educational agencies in this country are to have completed their inspections and filed their management plans with the Governor or his designee. There are a number of problems with this requirement. According to a survey taken by the American Association of School Administrators, 42 States do not believe that they can comply with the October 12, 1988, deadline.

I am pleased to be joined by a bipartisan group of our colleagues as I introduce legislation that will aid in the federally mandated effort to remove asbestos materials from schools or to encapsulate the material. This legislation is designed to assist LEA's by amending the Asbestos Hazard Abatement Act of 1984, to authorize additional loans to agencies to inspect for asbestos in schools and develop asbestos management plans. This bill calls for $50 million to complete this task.

This legislation calls for the EPA Administrator to establish regulatory priorities for the local management plans. These regulations should help LEA's carry out response actions under its management plan, with the situations which pose the most danger to human health and the environment taking first priority.

Six months after the EPA Administrator has established priority guidelines, LEA's will be required to file their local management plans. This legislation does not disturb the requirements after submission of the local management plans to the Governor.

This legislation is needed for a number of reasons. The number of certified inspectors and planners are woefully inadequate to meet the critical need in the next 6 months. The number of laboratories that can perform the tests required under present law seem inadequate to meet the need, and the inspectors and planners are not distributed evenly throughout the country. Thousands of additional certified inspectors are needed and are being trained throughout the country; however, without some delay in the submission of local management plans, the plans submitted will be hastily done without benefit of guidance from the EPA Administrator. This type of action will leave our Nation in a difficult situation, potentially bringing Federal litigation, State actions, and confusion by the public regarding the rationale behind the plan submitted.

As of last month, the number of EPA certified inspectors was 5,183, certified management planners, 4,809, certified laboratories, 175. The need greatly outnumbers the present supply. It is hoped that while the EPA sets priorities for local management plans, the difficulties in getting certified inspectors to inspect and samples analyzed by certified laboratories will have subsided.

The task of assuring the safety of boys and girls and the employees in our schools is difficult. The hazards of asbestos are complicated and this legislation avoids a blanket extension or waiver. What this bill requires is that the EPA do what was contemplated by the AHERA bill that the EPA develop priorities for local management plans, and then allow LEA's a reasonable period of time to submit their plans to the State.

I would welcome all Members interested in this legislation to join its sponsors in seeking a reasonable solution to this important issue facing our Nation.

H.R. 4119, JOB ENHANCEMENT FOR FAMILIES ACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, if Congress wants to raise the price of a Big Mac and put a lot of teenagers out of work, the best way to do that is to increase the minimum wage.

However, if you want to aid the working poor—those who need and deserve a helping hand—the most sensible solution is one offered by our colleague, Representative PETRI.

Mr. PETRI's proposal, H.R. 4119, the Job Enhancement for Families Act, has a goal identical to increasing the minimum wage: it would provide direct financial assistance to workers at the bottom rung of the economic ladder. And, it would accomplish that goal without throwing thousands out of work or endangering the competitiveness of our Nation.

H.R. 4119 would increase after-tax earnings, the take-home pay that buys groceries and clothes, by revamping and expanding the provision of the U.S. Tax Code called the "earned income tax credit."

This innovative approach does more than pay lip service to solving the problems of the working poor. It deserves the thoughtful consideration that it probably won't get.

NO. 1 PROBLEM FACING AMERICA IS TRADE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the No. 1 problem facing America today is trade not Noriega. For the past 30 years, our free trade policy has turned this country into a debtor nation that has made jobs our No. 1 export.

It is time for the President and all the other free traders to stop living in Disneyworld. Ladies and gentlemen, there is no free trade.

The most protectionist nation in world history is Japan. We have done nothing but slap their wrists while they continue with others to pick our pockets. These free traders have bankrupted America.

We have lost 1.4 million manufacturing jobs since 1981. We have record bank failings, record business failings, and we keep saying it is going to get better.

Anybody that buys more than they sell goes bankrupt, and we are losing our freedoms through a trade policy that is being watered down now in conference.

It is time to challenge this President and develop a tough trade policy before our standard of living looks just like our manufacturing sector.

MENGISTU REGIME IN ETHIOPIA

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, as the world watches and hopes for a successful resolution of the hostage drama now being acted out on a runway in Algiers, an even greater human drama is unfolding elsewhere in Africa. I am speaking of Ethiopia, where the brutal dictatorship of Colonel Mengistu is holding hostage 2 million starving people.

Just 2 hours ago our Government confirmed the reports that have been circulating in the press these past several days: 2 million innocent people in Ethiopia are in imminent danger of starvation. Once again, the Mengistu regime is showing its true colors. In the words of our Government, that regime has made a decision "To neglect or sacrifice millions of its citizens in blind pursuit of military objectives."

This is a regime, Mr. Speaker, that somehow manages to buy 4 billion dollars' worth of arms from the Soviet Union; this is a regime that somehow manages to maintain the largest standing army on the continent of Africa. But this is a regime that depends on the generosity of the free world to bail it out of its failures and to feed its people. Now the Mengistu regime has confiscated the millions of dollars' worth of supplies, equipment, and foodstuffs that have been freely provided by the free peoples of the world. Now the Mengistu regime has kicked out the volunteers and relief workers who have carried on the fight against starvation, often at great personal risk to themselves. Now the Mengistu regime has sabotaged the international effort to save the starving. All of this has been done in pursuit of power, in pursuit of a war that cannot be won.

Mr. Speaker, the time has come for the civilized world to scream bloody murder. The genocidal policies of Mengistu and his thugs are a cancer on the continent of Africa. The conscience of the world can no longer be silent. The coming days will see a concerted international effort to deal with the latest outrages perpetrated by this gangster who has turned the proud and ancient nation of Ethiopia into a Soviet puppet state. The people of Ethiopia have suffered for too long under Mengistu's triple legacy of dictatorship, despair, and starvation.

EDWARD P. BOLAND, A GIANT OF THE HOUSE SAYS FAREWELL

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TRAXLER. Mr. Speaker, I rise today to call the attention of the House to the eloquent statement of our revered and esteemed colleague, EDWARD P. BOLAND, of Massachusetts, on the occasion of his announcement of his intention not to seek reelection. While we are all saddened by his decision to leave the House, I know my colleagues join me in extending best wishes to EDDIE, his wife Mary, and their children.

I am sure that, as the 100th Congress comes to an end and with it one of the most outstanding careers of any public servant in our Nation's history, the tributes will pour forth. In submitting Mr. BOLAND's statement for the RECORD today, I hope that we can all reflect on his words about the privilege and honor of public service. In so doing, our own lives, careers, and sense of duty here as representatives of the people will be further enriched. His career, deeds, and words will serve to remind us of his great contributions to his district and State and our Nation. We shall all miss him.

STATEMENT OF HON. EDWARD P. BOLAND, SPRINGFIELD, MA, APRIL 7, 1988

Some 54 years ago, I stood on this spot to launch what was, by the standards of the day, a most unusual political campaign—one conceived, organized, and managed by young people. That campaign began a journey in public life that has taken me from Hungry Hill to Beacon Hill to Capitol Hill. Today, in the company of some of those who started that journey with me, and who have been with me at each step along the way, I have returned to the place where my political career began to announce that for me, the journey is concluding.

I think it fitting that I should announce my retirement from public life in this place—for this is where it all started 54 years ago—in this very spot where we now meet. It was only an empty lot then—between Our Lady of Hope Church, where I worshiped, and Armory Street School, where I received my elementary education.

It was on this very spot that about 2,000 young people—their ages ranging anywhere from 10 to 25—met on a warm summer evening in 1934 and organized an old fashioned torch light parade—and marched up and down the streets (of Hungry Hill) in support of my first effort for public office.

I believe, and have always believed, that it was that parade and the support of those young people, more than anything else, that was responsible for the success of that effort.

And now—54 years later—after 23 successful campaigns for public office—I come back here where it all began—in the company of many of those who started the journey with me and have been by my side for more than a half century—to tell you I have decided to call it a day.

The parades are all over—the give and take of the campaign trail no longer beckons—and that time has come when the bell tolls on a career that has been, for me, an exhilarating and fulfilling experience.

As I approach the end of that career I do so with an unshakeable belief that the opportunity to serve in elective office is one of the great privileges and most rewarding challenges, that the citizens of a democracy can bestow.

Just think!—18 terms in the Congress of the United States—36 years as a Member of the greatest deliberative body on the face of the globe, years in which I had the honor and privilege of serving with 7 different Presidents and 6 Speakers of the House.

Historic Years!—which, in many ways, were years of fear and distress—of turmoil and upheaval—when we saw the end of one war and the beginning of the Korean and Vietnam wars. Years during which we witnessed political scandals that rocked the very foundation of our democratic process—years which saw unrest on the campuses of our colleges and universities—of unprecedented violence in the streets of our great cities.

They were years in which the spectre of racial hatred surfaced in our Nation and claimed the life of one of the great leaders of our time—Martin Luther King—years in which the assassinations of a beloved President and his brother reflected the terror and madness that seemed to stalk the land.

They were years in which we had frightening moments of confrontation on the international front and, at the same time, finally became aware that, on the home front, human suffering seemed to be indigenous to the existence of some of our people—that we had people who were homeless and others who were helpless.

In many ways, they may rank with the darkest years in the history of our Nation.

And yet, I submit that they have been, at the same time, in so many ways, among the brightest.

Just think of the tremendous achievements during the past 36 years! The advances in science and technology—the incredible discoveries in medicine—the increased educational opportunities for our children—the implementation of a highway system that is second to none in the world—the housing programs instituted for the elderly and the underprivileged—the economic assistance programs which have contributed to and helped sustain the progress and stability of our state and local governments.

We landed a man on the moon and every day we are unraveling the mysteries of space—we have seen the welcome emergence of women as a compelling force in the professional, political, and business life of our country—human rights are no longer a vague, illusory, undefined fantasy but are rather a reality that has come of age and lives.

We have come a long way in 36 years.

Yes, they have been historic years—and I am grateful that I had the privilege of helping (if only in a small way) to shape their impact on the future of our country.

But the time has come to step aside. In every field of human endeavor, that moment comes when the torch must be passed—and so I shall pass it on.

I shall do so with gratitude to so many people—to those who have gone before—my parents and my brothers—and so many others who helped to start me on my way—to all of those whose support through the years made it all possible—to the people on my staff both here and in Washington for their loyalty and long-suffering patience over these many years—and above all to my wife, Mary, who has been the best part of it all. Indeed, the most redeeming feature of my retirement from the public service will be the increased time I will be able to spend with her and our children, Martha, Edward, Kathleen and Michael.

I want to thank the media for the way in which they treated me during my public career. They have been more than fair and for that I am grateful.

And finally, at the end of this year—as I close out my career of public service—I shall leave with unflagging confidence in the system under which we operate. Imperfect though it may be, it is still the best system ever devised by the mind of man for the administration of human affairs.

I like to think that I have, in some small way, made a contribution to its betterment—that the district I have represented for so many years is better for my having represented it—that my years in the legislature, in county government, and in the Congress were in the best tradition of the public service—and that, in some degree, I have added to the sum total of those things that have made this a better, safer, and more productive Nation—a better place for all of us to live in.

Now it is time for others to have the opportunity that I have had. Although for me there will be no more personal campaigns, I look forward to completing the work which remains in this session of Congress, and to continuing to take an active interest in the affairs of our community, of this commonwealth, and our Nation in the years to come.

IMPROVEMENTS ON THE SWAMPBUSTER PROGRAM

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, I'd like to share with you some complications which have come to my attention with respect to the operation of the swampbuster provisions of the 1985 farm bill. We made great strides in soil conservation efforts through that legislation and I have no desire to jeopardize those accomplishments.

Yet, there is one area of concern which has arisen in my district among farmers affected by the swampbuster provisions. As you know, many of those producers who have highly erodible land and would be denied farm program benefits under the sodbuster provisions are eligible for the Conservation Reserve Program [CRP]. However, producers who are impacted by the swampbuster provisions of the farm bill may simply lose farm program benefits with no option for replacing that income.

For that reason, I am introducing a measure to allow farmers who have been planting crops on wetlands for 2 out of 5 years between 1981 and 1985 to be eligible for enrolling these acres in the Conservation Reserve Program. This is a companion bill to S. 2143, and Representatives HORTON, GARCIA, ROBERTS, PENNY, and GRANDY are original cosponsors of the bill I am introducing.

This measure should not increase farm program costs because it does not raise the cap on the total number of acres to be enrolled in the CRP. It merely alters the definition of land which is eligible.

This bill also protects farmers who have planted wetlands from losing their entire livelihood by giving them the opportunity to receive CRP rental payments for conservation land and water resources.

Additionally, my legislation would not compromise the environmental benefits of the swampbuster law.

This legislation is consistent with the goals of the Food Security Act of 1985 and will be beneficial in addressing the concerns of many producers in my congressional district and across the country. I welcome your support.

COMMEMORATING 40TH ANNIVERSARY OF VITRO CORP. OF SILVER SPRING, MD

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to commemorate the 40th anniversary of the Vitro Corp., of Silver Spring, MD. Employing nearly 4,000 residents of Montgomery County, Vitro is one of the leading software engineering and computer software manufacturers in the United States.

As a member of the House Committee on Science, Space, and Technology, and as the representative for the Eighth District of Maryland, I have taken the opportunity to visit the Vitro Corp.'s headquarters and learned firsthand about the company's operations. Vitro offers an impressive array of software engineering facilities, simulation laboratories, and artificial intelligence centers. The Navy, Army, and the Air Force all have contracts with Vitro for scientific research, demonstrating the high level of expertise provided by Vitro employees.

Vitro's contribution to the Montgomery County community is evidenced by the thousands of residents it employs in its operations. Engineers, computer programmers, physicists, and mathematicians are among the many highly skilled professionals who comprise the staff of the Vitro Corp. For 40 years, these talented individuals have contributed greatly to the fields of science and technology. It is my pleasure to commemorate these years of service to our community and our Nation.

POTENTIAL LARGE-SCALE STARVATION IN ETHIOPIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, this morning on public radio we heard a story right out of the chamber of horrors. It was reported that the people of Uganda have asked their government to pick up some 300,000 skulls and human bones left over from people who were killed between 1980 and 1985.

As gruesome as this story may sound and appear to us, there is an even greater horror unfolding and that is in the country of Ethiopia. Mengistu, the head of the Ethiopia regime, has now requested and is forcing all of the relief workers in the northern area of Ethiopia out of that part of Ethiopia and the reason that this is so important is because we have been told that if these relief workers are forced out of those areas some 7,000 people will be suffering extreme hardship and some 3 million people will die of starvation.

This is extremely important to us all because we do not want to hear in 2 or 3 years from now of some 3 million skulls in northern Ethiopia because people were forced to starve to death.

At the very least, the President and Secretary Gorbachev, who has real sway over this regime in Ethiopia, the Secretary of State and others must call for a food truce so that these people in northern Ethiopia will not die of starvation.

WHEREVER YOU LOOK IN THE WORLD PEOPLE ARE BEING SLAUGHTERED

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, my good friend Mr. ROTH, the preceding speaker, talked about 3 million people dying in Ethiopia. Whichever part of the world you touch, North Korea, Sri Lanka, Azerbaijan, or Armenia inside the U.S.S.R., hand grenades at funerals in Ireland, soldiers being stripped and beaten to death, people still being shot on both sides in the Holy Land during Easter Week, it seems that everywhere you look in this world people are being slaughtered.

If you watched former President Richard Nixon for an hour on "Meet the Press" as I did, you heard him say specifically what I have been speculating for over a decade and a half, about. He said that if he had done in 1969 what he did 4 years later in 1972, 25,000 people this year would not be fleeing communism in Indochina.

Every decision we make in this House now on foreign affairs affects lives; it kills people or it saves lives; it causes refugees or it lets people live in the land of their birth.

Over the weekend we had to listen to a highly placed unidentified Government source say that this House, this half of the U.S. Congress has given communism its major success in this hemisphere since Castro betrayed his revolution to Cuba in 1959.

The chickens will be coming home to roost, maybe not in time for this election but the next President, whichever party he is from, is going to have to face a locked-in Communist bastion in the nation of Nicaragua. By then, Reagan will have failed his most serious foreign policy test, whether or not he could block communism from gaining a foothold on the land bridge between the United States and the Panama Canal.

This House is the main body to blame for this national security tragedy, but there is also plenty of blame for the administration in the way they have handled it over 7 years and 4 months.

FORMALIZING RESCISSION REQUESTS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, 2 months ago we all heard the President's State of the Union Address and his pledge to send Congress a package of rescissions to rid the fiscal year 1988 continuing resolution of some of its pork. Unfortunately, the President has backed away from his intention of making a formal rescission request and instead has chosen to send Congress a list of unnecessary or low priority spending projects which he would have vetoed if the President had line-item veto authority. This list is an informal request rather than a formal one made pursuant to the Impoundment Control Act.

I was disappointed by the limited nature of the President's action; therefore I am introducing today legislation which rescinds and repeals the items designated by the President in his March 14 message to the Congress. Rescinding or repealing this pork could save $1.5 billion. If you are as tired of Congress merely paying lip-service to deficit reduction as I am I hope that my colleagues will join me as an original cosponsor of the legislation.

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. STAGGERS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations:

(For message, see proceedings of the Senate of today, April 13, 1988.)

UPDATE ON ATTEMPT TO CENSOR MAGAZINE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just wanted to point out to my colleagues in the House that on Monday I outlined a very serious problem involving the legislature; an attempt to censor a magazine, Bankers Monthly; a trip to New York taken by the chief of staff for the Speaker, who was accompanied by a major lobbyist in this city acting apparently as counsel; and that a series of questions were asked in terms of who paid for the trip, what was the relationship, were the ethics rules followed, precisely what was going on in this effort to censor the magazine?

As of today the House has still not been informed by the Speaker of exactly what was done and who paid for it.

ABANDONED SHIPWRECK ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 421 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 421

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes, and the first reading of the resolution shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may use.

Mr. Speaker, House Resolution 421 is an open rule providing for the consideration of the bill S. 858, the Abandoned Historic Shipwreck Act of 1987.

Mr. Speaker, the rule provides for 1 hour of general debate, the time will be divided between two committees, with 30 minutes to be equally divided between the chairman and ranking minority member of the Committee of Merchant Marine and Fisheries and 30 minutes equally divided between the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

Finally, Mr. Speaker, the rule provides for one motion to recommit.

Mr. Speaker, S. 858 would assert U.S. title to three classes of abandoned historic shipwrecks and transfers the title to the States where the shipwrecks are located. Those shipwrecks that fall under the guidelines would be those that are embedded in submerged lands, those embedded in coralline formations, protected by a State on submerged lands, and those on submerged lands of a State that are eligible for inclusion in the National Register of Historic Places. The remainder of the shipwrecks in State waters and all shipwrecks located more than 3 miles offshore would remain under admiralty law.

Mr. Speaker, this bill was originally considered on the Suspension Calendar 2 weeks ago, though the bill was approved by the House by a majority vote of 263 to 139, it failed to receive the required two-thirds vote for passage. Obviously there was concern among some Members that the consideration of amendments would not be allowed under the suspension procedure.

The bill before us today will now be considered under an open rule, allowing Members the opportunity to offer any germane amendment to the bill. I urge my colleagues to vote for House Resolution 421 and to support the passage of S. 858.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the bill made in order by this rule was put to a vote on March 29. It failed to receive the two-thirds vote necessary for passage under suspension.

One of the objections voiced at that time was that the suspension procedure did not allow the House to consider amendments to make necessary improvements in the bill.

The rule before us today at least solves the amendment problem. It provides that the bill will be open to amendments, and as a result, there will be an opportunity to eliminate some of the objectionable provisions in the bill.

Mr. Speaker. I will not oppose the rule, but will reserve judgment on the bill to see what improvements are made during the amending process.

□ 1430

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. **SHUMWAY**. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule, and I would like to express my gratitude to the Rules Committee for allowing this bill to come before the House this afternoon under an open rule, pursuant to which I may be entitled to offer amendments that I have to the bill.

I must say, however, that I am somewhat frustrated to be in this situation. All of the amendments that I intend to offer this afternoon indeed were presented for consideration and approval by the committee when the bill was in committee. All of those who spoke on the amendments that I offered on that occasion said that the amendments had a tendency to improve the bill. There was no one who criticized them for any substantive reason, and yet each one of the amendments was rejected by the committee simply because they worried that they may not be acceptable to the other body.

Now, we are considering here this afternoon a bill that came from the Senate, a bill that was adopted unanimously by the Senate, a bill that had no opposition in the committee, a bill to which there was no opposition expressed in the RECORD while it was pending in the Senate, and yet it is feared that if we amend this bill so that it has to go back to the Senate for reconsideration that somehow, somewhere, it will die and not be passed again.

I think, Mr. Speaker, if indeed that is the mindset that prevails here this afternoon, those who support passage of this bill without amendments are really being derelict in their duties as Members of the House of Representatives. Our job is not to produce a bill that might be to the liking of the Senate or cater to the fancy of individual Senators. Our job is to vote out the very best legislation that we can do here in the House of Representatives. This is not the best legislation that we can enact. Even the author of the bill has conceded that my amendments would improve the bill.

It seems to me, therefore, that they should be acceptable, but I know they are not, and I know we are going to have to debate them this afternoon.

Let me just assure the Members, and particularly the author of the bill and the floor manager of the bill, that we have checked with the committee of jurisdiction in the Senate on the minority side. We do not know of anyone who tends to place a hold on this bill or object to the amendments that I would like to offer to the bill or otherwise stand in the way of its passage or reconsideration.

I would further tell these gentleman that if indeed there appears to be some objection in the Senate, I will actively work with you to secure approval by the Senate of a bill that contains the amendments that I want to offer this afternoon.

I say this just to demonstrate the fact that I am not here in a capacity to offer killer amendments, trying to derail this bill. I think the bill is going to pass, but I think it can be improved, and indeed I think it is our responsibility to enact amendments that will move it in a positive direction and improve it so that it will gain the support of those who are going to be affected by it.

So I would just like to express my appreciation again for this rule which will allow me to offer those amendments and urge the Members of this body as they consider this bill in a few moments to do so with an open mind and to do so having in mind the commitment that we have all made to produce the finest product that we are capable of. I am sure if we do that, we will vote for my amendments.

Mr. **MOAKLEY**. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. **VENTO**. Mr. Speaker, I want to thank the gentleman for yielding this time.

Mr. Speaker, I rise in support of the rule. We are certainly willing to face the amendments. This legislation has been around for a long time. In fact, it has been before this Congress for some 8 years. In separate instances it was passed by this body to the Senate and was not acted on by the other body. The fact is that in the Senate because of the rules and the demeanor of the Senate, few bills really attain the cloture vote of 61 votes and as a consequence individual Members of that body under their rules are able to hold up bills that do not garner the 61-vote type of immunity. I think that it is obvious while this is a very important act that it may not receive that type of attention and that type of intensity in the other body. The consequences as we deal with legislation and we know that there are very strong feelings concerning some of this legislation, otherwise it probably would have been enacted in one of the past Congresses when the House has acted on measures exactly similar to the measure we have before us, that in fact we would be forcing this legislation to run the gauntlet on the other side of the aisle, so much so that one of the major sponsors of that legislation has, of course, indicated that in fact holds are likely to be placed on the bill, that we will likely not act on it.

I think what is important here today is that we deliberately consider these amendments, consider the effect of them and act on them. I think as we look at the effect and have an opportunity to explain them, I think the Members of this body are going to understand that this very modest bill does not need the weight to sink this historic bill once more, and in fact we can work our will, deal with the amendments, and I think send this bill on to the President as it has the support of the Secretary of the Interior, has the support of all the conservation and preservation groups here in the country. It is a good bill. As it acted on, obviously I will yield to the House in terms of arguing and debating the amendments, but not to the substance of those amendments or to the process that has been suggested here.

Mr. **LATTA**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **MOAKLEY**. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. Pursuant to House Resolution 421 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 858.

□ 1438

IN THE COMMITTEE OF THE WHOLE

Accordingly the House revolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes, with Mr. TRAXLER in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule the gentleman from Minnesota [Mr. VENTO] will be recognized for 15 minutes; the gentleman from Montana [Mr. MARLENEE] will be recognized for 15 minutes; the gentleman from North Carolina [Mr. JONES] will be recognized for 15 minutes, and the gentleman from California [Mr. SHUMWAY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, certain abandoned shipwrecks are a key part of our Nation's history, vividly illustrating the importance of our maritime heritage. By passing S. 858 we will join the Senate in recognizing the significance of these shipwrecks and in providing greater protection for them. S. 858, the product of years of consideration and compromise, asserts U.S. title to certain abandoned shipwrecks and transfers that title to the States so that they can manage these cultural resources located on their State submerged lands. S. 858 does not affect the jurisdiction of admiralty law over the greater percentage of shipwrecks not defined as historic. By asserting title to a small percentage of shipwrecks and by transferring that title to the States on whose submerged lands they lie, this bill clarifies the jurisdiction over the abandoned shipwrecks and helps States protect their cultural resources for all of us.

Mr. Chairman, in spite of all the confusion that has been generated about the Abandoned Shipwreck Act and its potential effect, the issue is really quite simple. We have a choice, a policy question before us. There are two issues: multiple use of resources and States rights. The issue of multiple use is whether that small percentage of abandoned shipwrecks covered by this bill should be available for multiple use by the public as sport divers, archeologists or salvors or whether they should be limited to being private preserves for a few salvors. The issue of States rights is whether States should have control over their State submerged lands.

With S. 858, we have the opportunity to protect the past and make it available to the present and the future by passing the Abandoned Shipwreck Act. As chairman of the Subcommittee on National Parks and Public Lands, I often work to balance present use and future protection. We would not want Mount Vernon carried away piece by piece to decorate people's mantlepieces, or ships like the U.S.S. *Constitution (Old Ironsides)* to be available for salvage for private profit. We should not allow similar travesties to occur on that small percentage of abandoned shipwrecks recognized in this bill as having particular historic significance either by being eligible for the National Register of Historic Places or by being old enough to have become embedded in submerged lands or coralline formations.

We have heard a lot about admiralty law recently. There needs to be a very clear distinction made between the reasons for admiralty law and those for historic preservation and recreation. Admiralty law seeks to: First, regulate maritime commerce; second, to protect sailors, third, to adjudicate claims between shippers; and fourth, in the case of salvage, to save lives on ships in distress and to return goods to commerce. Admiralty law has no particular interest in these abandoned shipwrecks as defined in S. 858. Last year, less than 2 percent of the cases decided in admiralty court had anything to do with such shipwrecks.

Admiralty law focuses on modern ships and living sailors, not sport diver access or preservation of historic resources. Since 1906 when this country enacted the Antiquities Act, we have explicitly recognized the importance of protecting our Nation's heritage. That 1906 legislation has been reaffirmed and refined through the decades, and today is a well-recognized principle in American law. S. 858 merely recognizes that this principle should explicitly include those underwater parts of our Nation's heritage located in State submerged lands. We should treat resources located on State lands equally, whether the State lands are on land or under water.

Admiralty law similarly has little to do with sport diving. Having developed in the ancient Mediterranean—long before technology made scuba access popular or even possible—admiralty law could not have foreseen sport diver needs and interests. In fact, because its emphasis is commercial rather than recreational, admiralty law is at best indifferent and at worst hostile to sport divers. Just recently a group of sport divers fishing for grouper in the Florida Keys were chased away by a salvor and told that they had to leave the area because the salvor was claiming "exclusive rights" to the shipwreck. Such intimidation by salvors certainly does not contribute to recreational access for sport divers—or for good fishing either. Why should sport divers have to go to admiralty court to be able to gain access to shipwrecks they want to dive on? Aren't States, especially those who get so much tourist income from sport divers, more sympathetic to sport divers than admiralty courts?

In contrast, sport divers are integral team members in various State archeology programs such as those in Michigan and Vermont. Sport divers and archeologists regularly cooperate in their explorations. Further, S. 858 encourages States to establish underwater parks for sport divers. Such parks make the pleasures of sport diving available to the general public. Given this support for sport divers in S. 858 we may wonder why some oppose it. The answer is quite simple: There has been a concerted campaign of misinformation and distortion about the bill. An advertisement this month against the bill cites a different bill than the one we have today on the floor—a bill not passed out by any committee yet invoked right now by the opposition.

The other key—and compelling—argument for this bill concerns States rights. Since 1953, States have had sovereignty over their submerged lands. They have enjoyed the rights and responsibilities for the natural resources loacted on those lands, and as far as I know, have done a fine job in the process. As a nation, we were not as sensitive to the protection of cultural resources back then, and sport diving was certainly not as popular 30 years ago as it is today. It is now time to recognize that certain cultural resources located on State submerged lands should also be under the protection of States. Currently, some 27 States have laws concerning the protection of historic shipwrecks. These States spend a disproportionate amount of effort and expense in admiralty court arguing for jurisdiction over the shipwrecks on their State submerged lands. We have no intention of interfering with modern admiralty law but we do believe that the States can do a better job of making sure that these few abandoned shipwrecks are available to all the appropriate interests and not just to the salvors.

S. 858 is the result of many years of consideration. Indeed, a similar bill passed the House in the 98th Congress. The Senate and two House committees have agreed to the language before us. Only recently has technology made these shipwrecks so accessible to extensive exploration by divers, archeologists, and salvors. While States such as Florida have been issuing permits since the 1920's, as long as we do not establish congressional policy there will always be a question whether admiralty courts have jurisdiction over these special resources. I believe that we in Congress should decide policy, and not these courts whose concerns are neither recreation nor historic preservation decide such policy on a case-by-case basis. The need for congressional policy has become increasingly urgent. Today, we have the opportunity to provide for both preservation and use of these shipwrecks. I urge my colleagues to do just that, and to support S. 858 without any amendments.

□ 1445

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we on this side of the aisle have deferred to the members of the Merchant Marine Committee on the abandoned shipwreck legislation as they are the committee with the expertise and understanding of the issue.

I might add that it was through the leadership of my friend and colleague, Mr. SHUMWAY, that this legislation is now before the House under an open rule so that some amendments to protect sport divers can be offered. I commend my colleague from California for that effort as it is only fair that Members at least have the opportunity to offer amendments to controversial legislation.

Mr. Chairman, I am aware that Mr. SHUMWAY plans to offer several amendments today. Although I am sure each amendment has its own merits, I would speak only to the amendment which guarantees sport divers access to abandoned shipwrecks.

As my colleague has pointed out in his recent "Dear Colleague," the amendment merely strengthens the nonbinding "rights of access" provisions of section 4 of the bill by making access for sport divers to abandoned shipwrecks binding and enforceable on the States. Instead of telling the States they should provide access, the amendment would require the States to provide access. Although we are short on abandoned shipwrecks in Montana, I am familiar with access problems. I find little value in designating historic sites, parks, or other public resources, and then not allow the public the right to use and enjoy those resources. I know that some fear sport divers will harm these historic resources by removing artifacts or by disturbing fragile underwater shipwrecks. But I believe with proper guidance and education, the sport divers could actually be enlisted to help safeguard these resources.

Mr. Chairman, I yield my remaining time to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Montana [Mr. MARLENEE] for his kind remarks and for yielding the remainder of his time to me.

Mr. Chairman, on March 29, the House voted down S. 858, the Abandoned Shipwreck Act, under suspension of the rules, for one simple, overriding reason: The bill fails to protect the rights of access for sport divers and the private sector.

For more than 200 years, private sector rights of access to these shipwrecks have been protected and enforced by Federal admiralty courts, whose authority is specifically provided in article III, section 2 of the U.S. Constitution. This provision unambiguously states that Federal "judicial power shall extend to all cases of admiralty and maritime jurisdiction."

This bill abandons this time-honored precept by giving title, control, jurisdiction, and everything else that goes with it, to States for abandoned shipwrecks in territorial waters. The problem with doing this, as the bill presently proposes, is that we give up any and all Federal oversight to ensure that a State is reasonable in its management of these shipwrecks—and we are doing so despite article III, section 2 of the Constitution.

This bill or similar versions have been before the Congress for 8 years now, and none have yet become law. Until this year, sport divers and commercial salvors have simply opposed this legislation because it did not protect their interests and because of past actions by States which have restricted access to the detriment of the private sector. Today, however, I will be offering an amendment which will protect the legitimate interests of all the affected interest groups—most particularly, the interests of sport divers. My amendment, if adopted, would finally end the longtime controversy associated with this bill; and it would mean that the legislation can go forward without controversy and finally become law.

Mr. Chairman, my sport diving access amendment is a simple one, and it does not in any way alter the structure or the fundamental purpose of the bill. The amendment, which I will explain more fully at the appropriate time, simply strengthens the bill by making the discretionary rights of access provisions binding on States.

In reality, this amendment should be viewed as "a win-win" proposition. States win under this proposal because they receive title and management authority to shipwrecks in their waters. Archeologists win under this proposal because it makes binding the provisions which ensure that all recovery of shipwrecks—both public and private sector—will be done so as to protect their historical values and environmental integrity. And sport divers and private sector salvors win because their rights to access are protected.

And finally, Mr. Chairman, my amendment contains a Federal judicial review provision which enables the Federal Government to enforce these rights of access provisions. In doing so, Mr. Chairman, my amendment ensures that we, the Congress, will be enacting a law which passes constitutional muster by meeting the requirement in article III, section 2 which, again, states that maritime and admiralty matters are within the jurisdiction of Federal courts.

It has been claimed by proponents of the bill that any amendment is a killer amendment. I can only respond by saying that if improving an otherwise flawed bill is killing it, then maybe we shouldn't be passing it to begin with.

Proponents of the bill, including the longtime House sponsor, Mr. BENNETT from Florida, are on record as saying they have no substantive objection to my amendment, and that, indeed, my amendment is an improvement. Their only stated concern is that if we send this bill back to the Senate, there is no assurance the other body will pass it again. Mr. Chairman, to me that is not a valid reason for opposing this amendment. The bill passed the Senate under unanimous consent already in this Congress, and there is no reason to believe a vastly improved version, if sent back by the House, won't pass unanimously again.

Mr. Chairman, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I rise once more in strong support of S. 858, the Abandoned Shipwreck Act of 1987.

The time has come for the House to do the right thing and pass needed shipwreck management legislation. Today may present the last clear opportunity for this body to act on this issue in this Congress or any Congress. If we are interested in protecting our maritime heritage, we should pass S. 858 and send it to the President for signature. If we don't want to provide protection and a good management framework for our maritime past, then we should amend S. 858 and send it back to the Senate.

In the past few weeks, the opponents of S. 858 have suggested that the bill is flawed and needs to be amended. I would like to respond substantively to some of their allegations.

S. 858, its critics say, does not protect divers' access to shipwrecks. To listen to the opponents of this bill, one would have to believe that S. 858 is entitled the "antisport diver" bill and contains explicit restrictions on sport diver access to shipwrecks. Nothing could be further from the truth. The State policy of S. 858 is to "clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups." States are specifically directed to develop appropriate and consistent policies so as to "guarantee recreational exploration of shipwreck sites."

Sport divers are clearly intended to be direct beneficiaries of this legislation. Congressional policy on guaranteeing access to sport divers is clear and enforceable policy. No amendment is required to make this language and intent any clearer.

Sport divers are better off under a system of State management of shipwreck sites than the current system of conflict between State management and Federal admiralty court jurisdiction. Conflict and confusion benefit no one, especially not sport divers. Only the States can balance the legitimate interests of all groups interested in shipwrecks and adopt appropriate policies to balance those interests. Only States can establish and maintain underwater parks and encourage and promote diver access to shipwreck sites. This is being done now successfully in Michigan, Vermont, California, and Florida, as well as in other States. Congress should support these efforts by confirming State ownership of shipwrecks within these protected areas. Federal admiralty courts cannot provde any of these benefits; in fact, once a salvor establishes an exclusive right to salvage a shipwreck or site, the admiralty court can restrict access to sport divers and use U.S. marshals to remove them.

The opponents also suggest, again theoretically on behalf of sport divers, that the only body who can protect sport diver access to shipwrecks is Federal courts. I don't believe this. In the first place, there is no existing State law that precludes sport diver access to shipwrecks in State waters. Second, I have written to affected coastal States to ask whether they intend to impose restrictions on sport divers should S. 858 be enacted. To a State, the States have informed me that they do not intend to impose any restrictions on sport diver access to shipwrecks. And, third, sport divers are only protected by Federal admiralty courts if they act like salvors.

S. 858 simply confirms existing State policy on sport diver access. To establish a mandatory right of review in Federal court is therefore unnecessary. Moreover, it undercuts the fundamental States rights objective of this bill, State courts should be the forum of first resort for enforcing this bill. We can depend on State courts to apply State and Federal policies fairly to all affected parties.

The second criticism is that this bill overreaches because it applies to all shipwrecks in territorial waters, not just historic ones. This bill applies essentially to two classes of shipwrecks: First, those embedded in submerged lands or coral formations of a State; and second, on submerged lands of a State and included in or determined eligible for inclusion in the National Register. Apparently, there is no disagreement over the inclusion of shipwrecks in the second category, but there is objection to inclusion of those wrecks in the first category.

When examined carefully, this objection is also seen to be unfounded. This is because the first category of shipwrecks for which title is asserted already belongs to the States. The bill simply confirms the existing common law on the ownership of shipwrecks embedded in submerged lands. According to recent Federal court decisions, including the Klein and Chance cases, shipwrecks embedded in submerged lands belong to the owner of these lands. In the 1953 Submerged Lands Act, Congress ceded to the States ownership of all natural resources and submerged lands in an area extending generally 3 miles seaward from their coastlines. Since the States already own these lands, it makes sense for Congress to confirm that they also own the cultural objects embedded in those lands.

It also makes sense from an environmental perspective to grant to the States ownership of all shipwrecks embedded in their submerged lands or in coral formations which they protect. Virtually all States currently have laws which require individuals to obtain the State's permission if they want to excavate State lands. Individuals should not be able to excavate State lands, including sensitive and protected coral formations on those lands, without the State's permission. The transfer of title of embedded shipwrecks affirms the responsibility of States to manage their resources in an environmentally sound manner.

The critics also suggest that the bill serves as a disincentive to discovery of shipwrecks because of restrictions on sport diver access. As I have already explained, there is simply no provision in S. 858 which limits, or attempts to limit, sport diver access. Nor will State ownership of shipwrecks covered by this bill prove to be a disincentive for discovery of important shipwrecks. In my own State of North Carolina, we have had a recent example where the State and divers who located a famous Civil War wreck have worked together to recover valuable artifacts and preserve them for future generations. Last summer, two divers, from Washington, and Greenville, NC, found the remains of a Union gunboat, the U.S.S. *Underwriter,* sunk in the Neuse River during the Civil War. Since the discovery, the divers and the State Department of Cultural Resources have worked together to locate and bring up artifacts from the ship. Of particular significance is their recovery of the ship's 5-foot long gun carriage which weighs about 1,000 pounds. I would like to applaud this fine example of cooperation and share with you a quote from one of the divers.

> If I go down and bring something out of the water and then take it home with me, only a few people will be able to enjoy it. Part of the fun for me is sharing with other people.

S. 858 implements this philosophy and recognizes that State management is an incentive for cooperation and discovery, not a disincentive.

The opponents state that the bill is inconsistent with international law. We have received comments from the State Department recommending that the coverage of the bill be limited, consistent with international law principles, to shipwrecks within the U.S. territorial sea. We have explained in our committee report that there is absolutely no intent in S. 858 for the United States to assert any sovereignty under this bill inconsistent with international law principles. We have been advised by State Department officials that our report language is perfectly satisfactory on this point and an amendment to the bill is not required.

The critics of S. 858 suggest that the bill presents a conflict with the management of marine sanctuaries. This is a totally unjustified criticism of the bill. S. 858 is fully consistent with the authority of the Secretary of Commerce to designate and manage marine sanctuaries in State waters. Under current law, if the Secretary wants to designate a marine sanctuary in State waters, he must obtain the concurrence of the Governor since the resources to be protected with a marine sanctuary designation are State resources. This is the same approach taken in S. 858. The States will own the shipwrecks in State waters; if the Secretary wants to provide additional Federal protection for significant State shipwrecks, he will need to obtain the permission of the Governor of the affected State.

Once a marine sanctuary is designated in State waters, shipwrecks within that sanctuary will be given additional protection because S. 858 specifically removes these wrecks from the law of salvage and finds. This removal will enhance the authority of the Secretary of Commerce since there will no longer be a potential conflict between the Secretary's ability to protect historic shipwrecks in a marine sanctuary and someone who wants to salvage such a wreck.

A further criticism suggested by the opponents is the need to ensure that shipwrecks for which the Federal Government retains title are managed consistent with the guidelines developed by the Secretary of the Interior in section 5 of this bill. But, section 5(c) already provides that the guidelines are to be available to assist States as well as Federal agencies in developing consistent legislation and regulations. The principal shipwrecks for which the United States retains title under this bill are shipwrecks located in national parks. It is impossible to conceive that the Director of the National Park Service, who is responsible for developing the guidelines under S. 858, won't follow his own guidelines when managing shipwrecks located in national parks. The Interior Department has already testified in hearings before the Interior Committee that they intend to follow these guidelines.

A final criticism of the bill is that it may be unconstitutional. I can assure my colleagues that this is simply not the case. In the first place, we have an opinion from the American Law Division of the Congressional Research Service that confirms that S. 858 falls within Congress' authority to modify admiralty law. Second, many Federal and State courts have recognized that it is within the prerogative of the Federal Government to assert its sovereignty over shipwrecks within territorial waters. This is essentially what S. 858 does.

Third, if this bill is unconstitutional, then so is the Marine Sanctuaries Act since it protects historic shipwrecks, such as the *Monitor,* from salvage. S. 858 carves out a limited exception from admiralty law principles for those shipwrecks to which title is asserted. All other shipwrecks remain subject to admiralty jurisdiction. We can no longer afford the legal fiction that abandoned historic shipwrecks in State waters are in marine peril and need to be saved by treasure salvors. A modern society needs to protect its maritime heritage; the best way to do this is to assert clear title over this heritage and allow the several States to manage it.

Mr. Chairman, I yield 6 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I thank the gentleman from North Carolina [Mr. JONES] very much for yielding me this time.

Mr. Chairman, might I inquire of the gentleman from Minnesota [Mr. VENTO] if he might yield me 2 additional minutes?

Mr. VENTO. Mr. Chairman, I am happy to yield 2 additional minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, this is a good bill, allowing States to protect archeological values of historic shipwrecks in State waters. This legislation pulls a certain type of shipwreck—historic—out of admiralty court and puts them into the jurisdiction of State historic preservation laws. Currently, abandoned historic shipwrecks are in admiralty court jurisdiction, which is oriented toward taking up all shipwrecks, rather than protecting them and their contents. That's fine for most shipwrecks, but not for historic ones. Not in 1988!

Opponents of this bill have not been able to defeat it on its merits, and have therefore, resorted to all kinds of scare tactics, and have managed to get a number of sport divers hysterical over the legislation. They have convinced sports divers that admiralty court provides them protection, but the reality is that admiralty law has no interest in or impact on sports divers' access. Admiralty courts cannot guarantee or protect recreational access. This bill does. It says clearly that States will allow as much access as possible, establish underwater parks, and provide for guidelines so that divers will have something to look at in future years.

Until now, opponents of this legislation have been able to block it through Senate rules, which allow one Member to put a hold on the bill indefinitely, thus killing it. That is what happened in the 98th Congress when essentially the same legislation passed the House and was sent to the Senate. The opponent then was the Senator from Florida, who has since been retired by Senator BOB GRAHAM. Since she left, opponents have found other Senators to block the legislation. But through the good work of Senator BILL BRADLEY—one of the finest Members in the U.S. Senate—we were able to save this legislation and get it over to the House with high hopes that it would be passed and sent to the President.

This legislation was thoroughly reviewed by the House Interior Committee and the Merchant Marine and Fisheries Committee, and sent to the floor for final approval without amendment.

Some opponents now say it is somehow unwise legislation to allow States to have control of historical artifacts in their own territorial waters. Yet States, by their very local nature, are able to best deal with the competing groups concerned with such interests. Divers, archeologists, salvors, and so forth, are best handled at the State level because States can look at these conflicting interests and produce for their own areas the best policies available to protect historic shipwrecks, while providing as much access as possible and as much free enterprise activity as possible.

It is my understanding that an amendment may be offered to make the rights of access guidelines in S. 858 binding on the State. Here we have enemies of the legislation saying that the legislation does not go far enough in assisting divers even though it does more for them than existing laws. Under the pending bill, any insufficiency of access rights for divers could be litigated in State courts. No such lawsuit would be possible under existing law in either State or Federal courts. The bill before us would increase the rights of divers. The amendment would imperil these rights by imperiling the bill.

It has been said that at one point in time I indicated I could support language that would make guidelines more clearly binding on the States. That was said in the context of trying to get a compromise that would save the bill. Under present circumstances, any amendment to the bill is more likely to kill the bill than to be of any assistance to anyone, divers or others.

Another potential amendment is to delete the term "embedded" as a test for the shipwrecks covered by this bill. Under this legislation now, there are three ways a shipwreck can be tested for this bill. First, embedded in the submerged lands of the State; second, embedded in the coral formations protected by States' submerged lands; or third, on submerged lands of the State included in or determined eligible for inclusion in the National Register. Obviously, the removal of the first two criteria would greatly reduce the number of shipwrecks that are covered under this legislation. But I must point out that even with the legislation as it now stands, it has been estimated that only from 5 to 10 percent of all abandoned shipwrecks would be eligible for the protection of this legislation. Taking away the first two criteria would reduce it almost to nothing and make this legislation almost worthless.

As for the argument that using the term "embedded" makes it possible for not so old wrecks to be covered by this bill, archeologists have been consulted about this and have unequivocably stated that the process of the shipwreck becoming embedded is extremely lengthy and takes many years before it actually happens. That means it would be very old, indeed. But even if ships could be embedded in a short time the legislation does not require the State to protect the ship, only allows us to do so.

I understand that there may be some other amendments, but these are ones I have read the most about. I will not speak on other possible technical amendments. Hopefully, after we defeat the first two, additional technical amendments will not be offered. None of the amendments is necessary but any of them would kill the bill by sending it back to the Senate.

I have in my hand a National Park Service letter strongly supporting S. 858, as passed by the Senate. It is very short, dated March 31, 1988, and addressed to Interior Committee Chairman UDALL:

> DEAR MR. CHAIRMAN: I wish to take this opportunity to reiterate our strong support for S. 858, the Abandoned Shipwreck Act, as passed by the Senate.
>
> The National Park Service has, on behalf of the Administration, urged the enactment of legislation that would remove historic shipwrecks from Admiralty jurisdiction and provide consistent protection for them. The provisions of S. 858 will assure this result by specifically making the law of salvage and the law of finds inapplicable to abandoned shipwrecks.
>
> We particularly support the language of section 6, which applies to shipwrecks embedded in submerged lands or coralline formations and those on or eligible for listing on the National Register of Historic Places. This section is the heart of the bill, for it not only transfers title to the States, but it defines the shipwrecks to which Admiralty laws will not apply.
>
> As the official responsible for preparing management guidelines for the States under section 5 of the bill, I assure you that the legitimate needs of all interests, expecially including sport divers, will be given full consideration in that process.

We appreciate your support of this legislation and other programs of the National Park Service.

Sincerely,

WILLIAM PENN MOTT,
Director, National Park Service.

We have waited a decade to get Senate passage of this bill. Because of the great ability of Senator BRADLEY, we've now done it. We have passed it through two committees in the House, fought tooth and nail against unnecessary, killer, amendments in the committee, and we have prevailed.

The administration and groups such as the National Trust for Historic Places, the Undersea Explorers Club, National Association of Attorneys General, and many more support this bill.

One man, Mel Fisher, and one magazine, the Skindiver magazine, have tried to hold up the entire congressional process. Mel Fisher, I am told, has set up a phone bank and is deluging Members of Congress with calls, which is obviously costing him vast sums of money. I do not have that kind of money to counteract the misinformation campaign against this bill. It is a good bill and it should pass without amendment.

Attempting to pass this legislation has been a real education even to someone who has been in Congress as long as I have. Shady efforts and scare tactics have all been reprehensible. One Member of Congress told me that someone came up to him and said if he did not vote against this bill, $1 million would go to his opponent. I also understand that in the past people have attempted to bribe witnesses who planned to testify in favor of this legislation. I hope Congress can see through this mess and pass this legislation without amendment.

Of the 167 nations in the world, 155 of them have historic shipwreck protection laws. They have essentially taken historic shipwrecks out of admiralty court. We have the opportunity to act responsible, as the other 155 nations have done. Let's act now to preserve these important American historic artifacts for the benefit of our future generations.

Maybe years ago we could afford to throw away knowledge of the past, but we in our generation should know by now that knowledge is at the top of the list of blessings we can leave to future generations. Let's fulfill our obligations to the future and pass this bill.

□ 1500

Under the attitude that has been taken by the gentleman from California who spoke before, it seems as if he wants to allow sport divers to bring up things, and that is his idea of access.

Am I correct or incorrect?

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, was the reference to me as having said that?

Mr. BENNETT. Yes, it was.

Mr. SHUMWAY. I do not recall there being any such statement on the floor.

Mr. BENNETT. Last time before Easter recess, the gentleman from California I thought said something about divers wanting to bring up coins.

Mr. SHUMWAY. No. I have never said that. I would just tell the gentleman that is not part of my debate.

Mr. BENNETT. The gentleman from California does not have in mind by allowing access the bringing up of any artifacts or the destruction of any ship?

Mr. SHUMWAY. No. My concern is the discovery of ships that otherwise will go undiscovered unless we allow access.

Mr. BENNETT. When the gentleman from California offers his amendment, if it should pass, he does not mean to say that access would include the bringing up of materials or the destruction of any part of a ship?

Mr. SHUMWAY. No. My amendment does not do that.

Mr. BENNETT. I am glad to hear that. That makes me less apprehensive. I am now only apprehensive about what can happen in the Senate as usually does over there when people do not like to pass a bill.

Mr. SHUMWAY. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, I rise in strong opposition to S. 858, the so-called Abandoned Shipwreck Act.

Let me tell you why I and 4 million recreational sport divers are opposed to this bill in its current form.

By way of background my colleagues shall know, that this bill is a direct result of the failure of the State of Florida to win its battle against Mel Fisher and his company Treasure Salvors, Inc., in Federal district court.

After more than 15 years of litigation and hundreds of court challenges, the State of Florida was unable to convince even one Federal judge that it had any legal basis or right to the *Atocha* treasure.

While the State had no success in court, Federal District Judge James Lawrence King who worked on that case for 3 years made admiralty law work by establishing an "east coast shipwreck project." As a result of this cooperative effort involving private salvors, archeologists, and sport divers, **more archeological data were gained from the shipwrecks of the 1715 Spanish Plate Fleet in Florida waters than had been collected during the entire 20-year program controlled by the State of Florida.**

Unfortunately, the State of Florida refused to accept the mandate of the courts and instead turned its attention to the U.S. Congress. As a result, the first Abandoned Shipwreck Act was born.

While proponents will argue that their sole interest is the protection of the abandoned shipwrecks, the real goal of this legislation is to severely restrict, if not prohibit, access to these vessels.

S. 858 is a blatant political attempt to throw out 200 years of admiralty law, and the precedents of hundreds of court cases, by granting to the States, with almost no restrictions or guidelines, ownership to these vessels.

And, once States have these vessels, how will they manage these resources? Well, if past history is any indication, the answer is: not very well. We have already seen a number of States, including my own, enact regulations which outlaw all private salvage operations and restrict sport diver access.

Mr. Chairman, there are no reported cases where a shipwreck under the jurisdiction of Federal admiralty court has been destroyed. Yet, States have a number of blights on their record. For instance, no one talks about the HMS *Debraak*, an 18th century British warship which sank off the coast of Delaware. In this case, the State of Delaware attempted to salvage this important vessel and ended up destroying it. Instead of following prescribed archeological procedures, the State yanked the ship from its watery grave, deposited it in the open air for several weeks without proper preservation, and then dumped it into a big hole at one of its State parks.

What you ended up with was a shattered piece of junk instead of a beautiful underwater monument which could have been enjoyed by thousands of recreational divers.

And what about the 572 artifacts found by Mel Fisher that the State of Florida confiscated and then lost during the years of court litigation. If a State can't even safeguard a few valuables, can we really expect that they are going to protect hundreds of shipwrecks. Sadly, the answer is no.

Mr. Chairman, these examples clearly indicate that State ownership is not a guarantee of historical preservation or protection. The private sector can and has provided adequate protection for the public interest. And the *Atocha* is a good example of that—more than half of the *Atocha* treasure will end up in museums and galleries for the enjoyment of all Americans.

Mr. Chairman, sadly, I must conclude that by enacting this legislation we will end up doing far more harm than good. Without the incentive to find these vessels, they will not be found, and they will continue to deteriorate off the coast of States throughout America. And, the real losers are the American people—as they will be denied the opportunity to enjoy and appreciate this important part of our history.

Finally, while much has been said about the protection of the rights of the 4 million sport divers in this Nation, there is nothing in S. 858 which guarantees or mandates sport diver access to any shipwrecks in State waters.

While it is true that the author of this bill has included a sense-of-Congress statement about reasonable access to the general public, this provision is unenforceable and nonbinding. Once enacted, a State can and some will restrict access to these vessels.

Mr. Chairman, I am hoping that at a minimum we will include the language of the Shumway amendment which guarantees sport divers the opportunity to continue to enjoy their hobby. As one of my constituents so articulately stated "there is no desire on the part of sport divers to destroy items of historical significance. In fact, more items are on public display as a result of artifacts they have donated to museums and galleries than from any other source, including archeologists." gists."

To restrict sport diving access is also counterproductive because it is the sport diver and not the professional archeologist who finds most of the shipwrecks. According to the Atlantic Alliance for Maritime Heritage Conservation, in 1 year, sport divers discovered more than 2,500 wrecks while Federal and State archeologists found less than 200. And in all of their finds there has never been even one documented instance in which sport divers have destroyed these ships or their artifacts.

Mr. Chairman, the authors of this bill don't like to hear this but admiralty law has worked well: Shipwrecks and artifacts have not been destroyed. Moreover, admiralty law provides the necessary incentive for private individuals to discover shipwrecks and unlike S. 858 it assures access to all interest groups.

Unless S. 858 is amended to include a guaranteed access provision for all sport divers than I will have no choice but to vigorously oppose this bill and to lobby the President to veto it.

Mr. Chairman, we must not discriminate against these 4 million Americans and those latter-day Christopher Columbus' who are willing to find and salvage these shipwrecks in a proper, safe, and archeologically-sound way.

Mr. VENTO. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] has 6 minutes remaining, the gentleman from North Carolina [Mr. JONES] has 6 minutes remaining, and the gentleman from California [Mr. SHUMWAY] has 8 minutes remaining.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. UDALL], the distinguished chairman of the Interior and Insular Affairs Committee.

Mr. UDALL. Mr. Chairman, I rise in strong support of S. 858, the Abandoned Shipwreck Act, and urge that it be adopted without amendment. We have worked long and hard on this bill to ensure that historic shipwrecks that deserve protection receive it. The bill before us today, in my opinion, adequately protects the concerns of all groups interested in these abandoned shipwrecks.

While balancing their different concerns, the bill recognizes that these shipwrecks are part of the heritage of the entire Nation, and as such belong to all of us. It is time to do the right thing by transferring title to the States of the few shipwrecks embedded in State submerged lands or in coral formations on State lands or eligible for the National Register of Historic Places. Most shipwrecks do not qualify. But those that do obviously deserve a level of protection that admiralty courts will never be capable of giving. At the same time, this bill has defense in depth for the rights of sport divers, archeologists, salvors, and others.

It is important to bear in mind that only a miniscule number of these shipwrecks contain treasures of gold and silver. By far the larger number bear treasures more historical than monetary. These wrecks need protection.

It boggles the mind that in this day and age we could still be talking about managing a part of our national heritage on a finders-keepers basis. These irreplaceable treasures of our past should not be the exclusive domain of a few people, whether they be salvors, divers, or archeologists. By making them the property of the States, we put them in the hands of the public institutions best able to manage them.

This is a principle recognized by the many groups strongly supporting this bill and opposing all amendments to it, including the National Park Service, the State Attorneys General, the National Trust for Historic Preservation, the Underwater Society of America, and the Society for Historic Archeology.

Finally, Mr. Chairman, I must express my opposition to all the amendments that may be offered to this legislation today. The Committees on Interior and Insular Affairs and Merchant Marine and Fisheries carefully scrutinized the Senate bill and numerous suggested changes. Both committees concluded that no amendments were necessary. The amendments to be offered today that I am aware of are not harmless. For example, the amendment removing shipwrecks embedded in State lands from the bill would cause significant damage by removing from State protection objects on their submerged lands that the States clearly should have the right to protect.

For that matter, no amendment can be considered harmless because if we send this bill back to the Senate, in all likelihood we are killing it. I strongly urge my colleagues to approve this legislation today without amendment.

□ 1515

Mr. SHUMWAY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, before we conclude this general debate, I would like to make it very clear to my colleagues on both sides of the aisle that I am not here today taking this position at the behest of any one person, or one company, or one part of the overall community of people who are interested in exploring and doing something about historic shipwrecks.

Furthermore, I think it is important that we recognize that I support enhanced attention on the part of those admiralty courts that have decided title to these wrecks, attention to the archeology that might be inherent in these shipwrecks, the culture that they might display, the effect on our history that they might produce and certainly the kind of environmental enhancement that might be suggested by creation of a park or some other type of public access. Those are steps in the right direction I think. And I think we would accomplish those things by perhaps giving direction to that effect to admiralty courts, not pulling the rug out from under them and setting up a whole new scheme by placing title in States and carrying with it all of the uncertainties that that kind of change in direction will entail. I think in the final analysis if this bill passes in its present form, it will spawn more litigation, more legal questions, more lawsuits than we have had in the past, trying to decide title in Federal district courts sitting in admiralty.

I think the better answer is for us to give that kind of direction to Federal courts. In fact, I have introduced legislation to do that but that is not before us today and I do not intend to offer that as an amendment. I just wanted the Members of this body to know that I support the archeology, the culture, the history, the environment, those things that they have talked so much about.

But I think it is important that we do make binding on States guaranteed access to sports divers, otherwise these wrecks will never be discovered and there will be no archeology to admire in the future.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. Moody], a distinguished former member of the Committee on Interior and Insular Affairs.

Mr. MOODY. Mr. Chairman, I rise in strong support of S. 858, the Abandoned Historic Shipwreck Act, and in opposition to any weakening amendments.

This bill is long overdue. Congress has been trying for many years to pass legislation to protect our historic shipwrecks. Now is the time to enact the Abandoned Historic Shipwreck Act to ensure that our historic submerged resources are preserved.

Any amendments to this bill would sink this carefully crafted compromise. S. 858 is an excellent bill that has balanced the interests of historic preservationists, archeologists, and sports divers.

Removing the jurisdiction of historic shipwrecks from the admiralty courts to the States is an excellent proposal. The States are better qualified to manage historic shipwrecks. Where admiralty courts focus on salvage interests, the States balance the interests of the salvager with the interests of the environment, historic preservation, and recreation. States are clearly in the best position to regulate and protect our irreplaceable historic and cultural artifacts.

We do not allow important historic objects to go unprotected on land. It is now time that we set up similar protection for our submerged artifacts. I urge adoption of S. 858 without weakening amendments.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Chairman, I apologize to the Members because, not having heard all of the debate, I run the risk of repeating a couple of things.

I simply want to say I think, for once, we have an issue before us that is perhaps simpler than it has been made out to be. That is not often the case here.

This is not a very complex problem we seek to resolve, and it is not a very complex solution that your committees have suggested.

The real issue presented by the legislation is whether or not we assume that the States can manage their waters and the shipwrecks lying in them in a proper and responsible fashion.

If you assume—and this Chamber, at least as far as I can recall, is full of folks who give a great many statements about States rights—if you assume that States can exercise their responsibilities properly, then you should support this bill; if you assume that States will be fair to their own people, you should support this bill; if you assume that a stable, predictable regulatory system to govern the excavation of shipwrecks is better than one that would probably require a Federal lawsuit every time you want to recover an underwater artifact, you should support this bill.

The Chamber is full of Members who think the States are perfectly capable of carrying out their general responsibilities with respect to the management of lands and natural resources, police and safety and other functions. If we do not fear our States, if we do not have a disrespect for their elementary capabilities elsewhere, there is no reason on this Earth that we should not vest in them unequivocally and clearly and beyond legal dispute this responsibility.

I urge Members to support this bill.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. Lowry], the chairman of the Subcommittee on Merchant Marine and Fisheries, my counterpart.

Mr. LOWRY of Washington. I thank the gentleman for yielding time to me.

Mr. Chairman, I commend the subcommittee chairman for his leadership as well as others who have worked on this important legislation.

Mr. Chairman, I would like to rise in strong support of S. 858, the abandoned historic shipwreck bill. I feel that this bill is a good piece of legislation and merits passage by the House.

As Members are aware, S. 858 was considered by the House on March 28 and failed to receive the two-thirds needed to pass under the suspension of the rules. However, the bill had strong support, evidenced by the disproportional vote of 263 to 139. I would also like to point out that S. 858 is strongly supported by the administration.

At this time, Mr. Chairman, I would like to briefly explain what S. 858 does and what it doesn't do, and give some brief background in terms of the context of the bill.

First, S. 858 is very similar to H.R. 74, which was originally introduced by our colleague, Mr. Bennett, who has been a leader on this issue for a number of years. The primary purpose of S. 858 is for the Federal Government to assert and transfer to the States title to certain abandoned shipwrecks which are embedded in State-submerged lands, State-protected coral formations, or are determined eligible for the National Register of Historic Places.

The legislation also requires the Secretary of the Interior to prepare guidelines to assist States in developing legislation and regulations for managing these shipwrecks. Specifically, these guidelines include the following:

First, the enhancement of cultural resources;

Second, the fostering of partnership or cooperation among sport divers, fishermen, archeologists, and salvors;

Third, the facilitating of recreational access; and

Fourth, the recognition of the interest of those engaged in discovery and salvage.

Finally, the legislation encourages States to create underwater parks and clarifies that funds from the historic preservation fund may be used to study, interpret, protect, and preserve historic shipwrecks.

To reiterate, Mr. Chairman, the primary purpose of this legislation is for the Federal Government to assert title and transfer to the States the title to certain abandoned shipwrecks which are found in State waters only. In effect, Mr. Chairman, this would remove certain shipwrecks which are of historic and archeological significance to the States from Federal admiralty court jurisdiction and the "law of finds." I might add, this does not mean that the historic shipwrecks could not be salvaged. It only means that the State would clearly have title to the shipwreck and would be in a position to ensure that any salvage operation was carried out properly. The State would be able to ensure that the plan for the recovery of the ships valuables include the careful documentation which goes along with preserving the ships historical and archeological values as a window into the past.

I would like to stress here that the recovery of a ship's treasures, its cultural and historical resources, is a onetime opportunity—and it should be done properly. I believe that this legislation would assist the States in ensuring that it is done properly.

In addition, Mr. Chairman, I would like to respond to some of the points which have been raised in opposition to this legislation. First, this bill does not deny access to shipwrecks for recreational divers. In fact, the bill encourages recreational access to shipwrecks.

Second, this bill does not affect all shipwrecks in territorial water as alleged by some of its opponents. It only affects those classes of vessels which are: First, embedded in submerged lands of a State; second, embedded incoralline formations protected by a State on submerged lands; and third, on submerged lands of a State and included on the National Register of Historic Places. Given the States' incentive to only include those vessels which are truly of historical and archeological significance, and given accompanying report language which further clarifies the term "embedded," it is very clear that this legislation does not apply to all vessels in the territorial sea.

Finally, opponents assert that this bill is inconsistent with international law and the management of the national marine sanctuaries. As chairman of the Subcommittee on Oceanography, which oversees matters both with respect to the international Law of the Sea and the National Marine Sanctuaries Program, I can assure Members that this is simply not the case. In fact, Mr. Chairman, committee report language accompanying S. 858 specifically addresses these points.

Finally, Mr. Chairman, with respect to the context of this legislation, I would like to point out that the Subcommittee on Oceanography did consider this legislation and reported out H.R. 74, favorably. S. 858 is almost identical to H.R. 74, and some of the areas where the bills differ slightly have been dealt with properly in the reports filed by both the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. Therefore, Mr. Chairman, I would strongly urge that we pass S. 858, unamended.

Mr. Chairman, I would again like to compliment Mr. BENNETT for his steadfast leadership on this important legislation. I know that he has persisted in moving this legislation because of his strong views about the values of historic preservation and the value that these shipwrecks will have for future generations a window to the past.

Mr. Chairman, I would also like to compliment Mr. VENTO and Mr. UDALL and their staff for their fine work in moving this legislation along.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2½ minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, I thank the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries for the good work that they have done in bringing this bill back to the floor again for consideration and enactment.

I rise today in support of this legislation.

I suppose that I owe a note of apology to the members of the committees for not being more involved in the consideration of this bill during the committee process.

I must confess that my campaign for reelection has interfered with my interest in diving and historic shipwrecks.

Mention was made a minute ago of the *Atocha*. As many of you know, I am a professional diver. I dived as a member of one of the salvor crews in 1982 to recover the *Atocha*.

I was not one of the crew that discovered the mother lode, only a few musket balls and artifacts that were less valuable than has been publicized by the historic discovery.

I would like to compliment some of those salvors; Mel Fisher, for example, has been mentioned. I know Captain Fisher personally. He has done a great deal to provide some of the missing links in our marine history. The artifacts have been recorded and preserved. Historic relics of public interest are displayed in museums and a service has thus been provided to the nations.

Salvors should be complimented for the most part. Some have plundered the riches of the sea but most have contributed greatly to our maritime history.

Frankly, I have some reservations about conveying admirality jurisdiction of salvage within the 3-mile limit to the States. But we all know that the Federal Government has done a poor job, a more comprehensive approach is needed. I am hopeful that the coastal States will rise to the occasions of this national need.

There are thousands of shipwrecks to be explored. There are some 500 ships off the outer banks of North Carolina alone. There are probably more off the shore of the Florida Keys.

I applaud this initiative.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank the chairman of the Committee on Merchant Marine and Fisheries for yielding me the 1 minute.

Mr. Chairman, I simply want to say that the question has been raised with regard to the constitutionality of this bill. I am a strong supporter of this bill. I urge Members to vote for it, vote against all amendments for the reasons previously stated in order that it might not make a return trip to the Senate which would kill it.

I simply want to say the bill is constitutional with regard to an alleged transfer of some admiralty or maritime jurisdiction here.

The Congressional Research Service has been asked for an opinion on the matter. I hold it in my hands at this time. It says very clearly this bill before us today is constitutional and within the ambit of that provision of the Constitution as regards maritime and admiralty law. I am prepared to debate it with more specificity at the time that any of the bill's opponents may offer an amendment and draws us into this area. But I want to assure those who are looking at the bill at the present time that it is constitutional. It is also meritorious for many, many reasons.

I strongly urge Members to vote for the bill and against all amendments.

Mr. JONES of North Carolina. Mr. Chairman, how much time remains on my side?

The CHAIRMAN. The gentleman from North Carolina [Mr. JONES] has 1½ minutes left.

Mr. JONES of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of S. 858, the Abandoned Shipwreck Act.

Since 1979, the Congress has been grappling with this issue, which has become a very emotional cause among sport scuba divers and commercial salvors throughout the country.

Like many of my colleagues, my office has been inundated with letters and telephone calls from sport divers concerned about their right of access to historic shipwrecks once unconditional title of these sites is placed with the States.

Mr. Chairman, no provision of this bill is designed to deny sport divers access to shipwrecks and no State, which has developed legislation and programs to protect historic shipwreck sites, denies access to sport divers.

Sport divers rightfully claim that their members are responsible for finding many of the shipwrecks which have been identified as having historic and archeological significance. Their efforts and contributions in this area are to be commended.

But, at the same time, Mr. Chairman, irresponsible divers and salvors have been responsible for pilfering and destroying many of the underwater wrecks this legislation seeks to protect.

This legislation, which gives States clear authority to control excavation of State land for the purpose of recovering shipwrecks, also allows archeologists, commercial salvors, and sport divers to work together in developing State programs which fit the needs of the resources and population within the State.

It appears to me that these concerned divers and salvors have little or no faith in the States in developing legislation and programs.

Sport divers are afraid they will be denied their recreational activities, and commercial salvors are afraid they will not profit from the finds they locate.

I believe sport divers and commercial salvors underestimate their ability to affect legislation and State programs. Their direct involvement in such activities has been and will continue to be encouraged by the States.

I encourage their continued participation.

In essence, this is a States rights issue, with the States assuming control and management of historic and archeological shipwrecks within their waters.

But, should these divers feel they are being treated unfairly by the States, they still possess the ability to seek relief in the State courts.

I would like to emphasize that the decades-old admiralty laws give rights to abandoned shipwrecks only to salvage crews, not to stripping crews.

This legislation was drafted because of the differing and confusing opinions and interpretations of admiralty laws rendered by our Federal courts, which have thrown into doubt the legal regulations that govern abandoned shipwrecks within State waters.

This confusion and the threat of lengthy and costly litigation in determining Federal/State jurisdiction of such sites has thwarted State development of underwater parks.

Enactment of this legislation, Mr. Chairman, will encourage States to develop underwater recreational facilities, thus enhancing the opportunities of diving enthusiasts—now and for future generations—through the multiple-use management of these resources.

I urge passage of S. 858 without amendment.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I come from Charleston, SC, a community which, like the Chinese, eats rice and worships its ancestors. I would imagine that we have—I know that we have had more naval battles fought in Charleston Harbor and off Charleston Harbor than any other place in the United States.

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As a matter of fact, the first successful submarine was a honey down there which slipped out of Breach Inlet one night in 1863 and sank the Yankee warship, Federal warship, Union warship, *Housatonic*, and our Department of Archives in South Carolina is in enthusiastic support of this legislation. It is going to be great to get it out of the confusing area of admiralty law and into the more definite area of State law. It is the first time since I have been here in Congress when I have seen any true States rights legislation come before the Congress, and, whenever us southerners have an opportunity or estimates of those of you who believe in States rights to pass States rights legislation, you should do so.

Mr. Chairman, I encourage voting for the bill and resistance of all efforts at amendments which, if it got back in the Senate, would kill it just as sure as my name is Arthur.

Mr. SHUMWAY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am trying to understand the bill here. I wonder if somebody can answer a question for me.

Do I understand correctly under the bill that the States can pretty much decide who has access to the shipwrecks if this bill passes?

In other words, it will be State regulation?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. VENTO. To the shipwrecks which would be transferred, which would of course be those specific ones, about 5 percent or 250 to 500 in submerged lands which are now——

Mr. WALKER. OK; I understand that. Some of this lands for instance, is in the Caribbean.

Mr. VENTO. Insofar as the territories it would be 2 to 3 miles out except where it is otherwise specified in the provisions of the bill.

Mr. WALKER. Now could they, for instance, deny access to Federal Government agencies?

Mr. VENTO. There is a report on this that I would point out. The committee expects that, of course, sport divers would be allowed access, and I am reading this from that committee report, to historic shipwrecks to the fullest extent practical. They would also of course be able to regulate the other Federal agencies in terms of types of access. Of course, those lands which we have specifically set aside——

Mr. WALKER. The States then would be able to tell certain Federal agencies that they could not, for instance, dive at these shipwrecks?

Mr. VENTO. That would be correct, yes.

Mr. WALKER. In other words, then we could have a situation off the Caribbean where right now we have a lot of drug running in that area, and we are setting up then protected waters that could be denied to the Federal Government agencies such as the Drug Enforcement Agency of exploration. You know we know already that in protected public lands, it is one of the places they have gone to grow marijuana, and you know it is a situation where we have already had that problem to some extent.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Just let me make my point.

If I understand the gentleman correctly, you could in fact have, probably not by intent, you know, but at least by action you could have a situation where you could set up a drop point for drugs coming into the country that would be unavailable for investigation by the Drug Enforcement Administration. If I understand the gentleman correctly, I am wondering if maybe we at least ought to have an amendment to clarify the bill in that regard to assure that we are not going to have antidrug enforcement.

Mr. VENTO. Mr. Chairman, I think that there are in the provisions access rights guaranteed for obviously the purpose here is for of course the preservation of those resources that qualify.

Mr. WALKER. Of course. I understand the intent.

But what I am saying is we often intend to do good things around here, and then we leave major loopholes.

Now I just understood the gentleman from Minnesota a moment ago telling me that in fact some States could along the way keep a Federal agency from utilizing the site.

Mr. VENTO. Yes, that is correct.

Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Minnesota.

Mr. VENTO. They would regulate the States and be given the right to regulate that property in the joint preservation purposes, and they could permit access for a variety of purposes.

Mr. WALKER. The gentleman from Pennsylvania is saying one of the things we could end up doing on that is denying access to the Drug Enforcement Administration as we now understand on public lands——

Mr. VENTO. Mr. Chairman, if the gentleman will yield, if the States are somehow in collusion with the drug dealers——

Mr. WALKER. I am saying it could be done unintentionally, but the fact is that we could end up with a situation where I think we ought to at least clarify.

Mr. SHUMWAY. Mr. Chairman, I yield myself 1 minute, and I have no further requests for time beyond that.

Mr. Chairman, I would just like to make clear my position once again because I think some speakers have misunderstood what I said earlier in this general debate. I am not trying to pull the rug out from under States and deny States rights or indicate some lack of confidence in States. I am just saying that certainly States can provide the kind of access that we want them to provide.

But, Mr. Chairman, I think that we need to construct the structure in which they will do that and satisfy ourselves that indeed they will do that. Up to now the history of States has been very spotty, and some of them indeed have been very restrictive in allowing any access at all, and we would not want that to be the result that flowed from this bill.

Mr. Chairman, my amendment, therefore, will say States should go ahead and make their amendments, and regulations and so forth, but the Federal Government will reserve the right to see to it that indeed you do that. It is not a State-gutting amendment, but one just to put some teeth in the legislation and indeed carry out what I perceive to be congressional intent.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to rise to point out that I do not question the gentleman's intentions. I understand that they are good intentions.

Mr. Chairman, I just want to suggest that we have to look specifically at what the impact of these amendments are that the gentleman intends to offer and others as well. And the fact is that this bill clarifies and takes us out of the case of litigation where very often, if any rights are to be established, whether they be for historic preservation, whether they be for sports divers or salvors where those rights have been established in admiralty court. Admiralty court recognizes the right of finds and the right of salvage. Those are the two basic provisions in law that govern us, and they frankly do not address themselves to historic preservation in our maritime heritage.

I would just conclude, Mr. Chairman, by pointing out that this legislation is supported by the administration, supported by the Department of the Interior, the National Parks Service, supported by most of the conservation and preservation groups for one good reason. They trust the States to do what is right to in fact regulate historic preservation and these resources as they do all our other historic resources within the States.

Mr. FRENZEL. Mr. Chairman, on the first Shumway amendment I was not able to reach the floor in time to vote. Had I been able to do so, I would have voted "aye."

Had that amendment been adopted, I would have voted in favor of the bill. However the sponsors, consistent with their previous efforts to avoid amendments through the suspension process, were determined to accept no changes.

Therefore, I am obliged to vote "no" as I did when the bill was defeated on suspension. My obligations relate as much to the procedures until which the bill was handled as to the content of the bill.

Mr. SHAW. Mr. Chairman, I rise in support of S. 858, the Abandoned Shipwreck Act of 1987. I urge my colleagues to vote for this bill which my friend and colleague from Florida, Mr. BENNETT, has worked on over the last several years. Furthermore, I urge my colleagues to oppose any amendments as I believe that most major concerns have been addressed by the Senate's actions.

This legislation is needed to allow States to utilize their existing authority without going through costly, time-consuming fights in Federal admiralty court. Some opponents of S. 858 have been under the impression that it would grant States new authority to claim title to the historic shipwrecks in question, to the contrary, this bill makes it less onerous to apply existing authority. My own State of Florida has used this authority responsibly in an effort to ensure access for all Americans to these historical sites.

I understand that some critics of S. 858 fear that it will discourage commercial salvors, our modern-day treasure hunters, from looking for new historical shipwrecks. Although this legislation would admittedly subject salvors to Government regulations that they have not previously been covered by, I do not believe it is fair to characterize this as blocking salvor's access, or any other user group for that matter, from historical ship exploration. I would maintain that for those adventurers whose ambitions to search for buried treasures in shipwrecks perhaps began in childhood with make-believe pirate games, this bill would not dampen their desire to continue their explorations. And, I might also note that in virtually every coastal State with the exception of Florida, shipwrecks of historical significance have not been found by commercial salvors, but by sports divers, archaeologists, scholars, and historians. Consequently, I do not believe that this bill will result in the complete demise of new shipwreck discoveries.

Let me conclude, Mr. Chairman, by once again urging my colleagues to support S. 858 without amendments. This bill will go a long way toward protecting our Nation's nautical rich heritage and history. This history is manifested in shipwrecks which have been hidden in the depths of our coastal waters for decades, and sometimes centuries, and should be protected and preserved for the sports divers, archaeologist; and historians of the future.

Mr. DAVIS of Michigan. Mr. Chairman, I rise today to support the idea behind this bill and to commend my colleague, Congressman SHUMWAY, for allowing us the opportunity to consider this bill in an open manner, where necessary amendments can be offered.

Giving States title to abandoned historic shipwrecks, if the States will manage them responsibly, is an excellent concept. However, that is not what S. 858 does.

The primary flaw in the bill is that there is no way to ensure that States will balance the interests affected by granting States title to certain shipwrecks. We may hope that States will act in a responsible manner, such as my own State of Michigan, which has an exemplary program. The State has created six underwater preserves for a few important shipwrecks where divers explore these significant relics. The State also features a number of maritime museums which house wrecks salvaged from the cold waters of the Great Lakes. However, if a State should evoke the name of historic preservation to bar recreational divers or responsible salvors access to these shipwrecks, there is nothing in this bill to stop them.

In addition, the bill as drafted affects many more than just historic shipwrecks—all shipwrecks which are abandoned and are covered by shifting sand will belong to the States. The bill also grants title to shipwrecks beyond a 3-mile territorial sea—an action which gives the State Department some pause. Finally, the bill may complicate the management of our National Marine Sanctuaries located in State waters.

Further, I note that in the committee's report on section 5(b) of S. 858, we encourage the formation of a committee to balance the concerns of various interest groups in developing guidelines under the legislation. It is the expectation that the committee will be formed under the requirements of the Federal Advisory Committee Act.

The amendments to be offered by Congressman SHUMWAY will remedy these flaws and greatly improve the bill. I also have an amendment which will encourage uniform State regulation to protect divers on these shipwrecks. I also understand that Congressman MOLINARI is interested in offering an amendment on diver safety. Such an amendment deserves our favorable consideration.

Mr. Chairman, the diving community is the largest group affected by this bill. My amendment, which I will not offer today and in which I am joined by my colleague from New York, Mr. MOLINARI, would have recognized the use of the traditional divers flag and the right of the States to regulate recreational diving safety within their waters.

In recent years confusion has developed between the requirements of Federal law under the Inland Navigational Rules Act of 1980 and various State regulations that govern diving activities. In particular, the proper signal to display when diving has been particularly troublesome. The States that have elected to regulate diving safety call for the display of a divers flag which is traditionally recognized as a bright or flourescent red flag having a diagonal white stripe. The Federal rules, however, do not recognize this traditional safety signal.

In title II of Public Law 98-498 entitled "Marine Safety," two Coast Guard safety advisory bodies, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council were directed to study this problem and to make recommendations regarding safety and recreational diving operations and navigation. Both safety councils recommended that the regulation of recreational diving safety and the need for the display of the traditionally recognized divers flag was best left to the States and that no Federal legislation or regulation was required.

My proposal merely would have recognized the role of the States in regulating recreational diving safety and removed any ambiguity or conflict between the State regulations and the Federal navigation rules. No new Federal regulations would have been required as a result of this change. The provision would have emphasized that the display of the divers flag should not interfere with commercial navigation. Further, it would have encouraged the States to coordinate their regulations so that they would be as uniform as possible and would urge the U.S. Government to propose consideration of the traditional divers flag as a safety measure by the international community. No interference with commercial vessel traffic would have been permitted.

Finally, this amendment would not have exempted divers from compliance with the Inland Navigational Rules where they apply. It would, however, have enabled the recreational diving community to enjoy its activities without the fear of technically being out of compliance with the Federal navigation rules which were designed for commercial operations. I hope we can correct this deficiency and pursue this needed statutory change either as an amendment to this bill or in separate legislation as soon as possible.

Mr. HUTTO. Mr. Chairman, due to a death in the family I will not be able to participate in the floor debate for S. 858. I would like to submit for the record my position on this legislation. As I did in the Merchant Marine and Fisheries Committee markup, I continue to support two of Mr. SHUMWAY's amendments. I believe Mr. SHUMWAY'S amendment to make binding on States the rights of access that are contained in the bill's declaration of congressional policy and provide for judicial review in Federal district courts of claims that the States are not meeting these requirements. I also fully support Mr. SHUMWAY's amendment to limit the scope of the bill by specifying that the bill conveys to the States only those shipwrecks in State waters that are on or eligible for the National Register of Historic Places. I cannot, however, support Mr. SHUMWAY'S amendment that would limit State submerged land to 3 miles offshore.

The first two Shumway amendments would greatly improve the bill. I have heard an outcry of support from the First Congressional District of Florida for Mr. SHUMWAY'S perfecting amendments to S. 858. Therefore, I could support this legislation with the Shumway amendments.

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Mr. JONES of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, each section of the bill is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of S. 858 is as follows:

S. 858

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2 FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands," "Indian lands" and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-470ll);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 21 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

SEC. 4. RIGHTS OF ACCESS.

(a) Access Rights.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act, it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas

(B) guarantee recreational exploration of shipwreck sites and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

(b) Parks and Protected Areas.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

SEC. 5. PREPARATION OF GUIDELINES.

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

(a) United States Title.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) Transfer of Title to States.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

(d) Exception.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) Reservation of Rights.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

SEC. 7 RELATIONSHIP TO OTHER LAWS.

(a) Law of Salvage and the Law of Finds.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) Laws of the United States.—This Act shall not change the laws of the United

States relating to shipwrecks, other than those to which this Act applies.

(c) EFFECTIVE DATE.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

AMENDMENT OFFERED BY MR. SHUMWAY

Mr. SHUMWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUMWAY: Section 4 of S. 858 is amended by striking: "it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—".

And substituting in its place: "any shipwrecks transferred to a State under Section 6 of this Act shall be managed by the State consistently with the guidelines prepared under section 5 so as to—".

Section 4 is further amended by redesignating paragraph (b) as (c) and inserting a new paragraph (b) to read as follows:

"(b) FEDERAL JUDICIAL REVIEW.—Any dispute as to whether a state is properly implementing the rights of access requirements in paragraph (a) of this section is reviewable in the Federal District Court of jurisdiction for that state.".

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUMWAY. Mr. Chairman, those of us who, for years now, have voiced legitimate concerns about the effect of this bill on sport divers and the private sector have been accused of using scare tactics to defeat this bill. To paraphrase Shakespeare's Mark Antony, I come not to bury the bill, but to improve it.

There's nothing frightening about my amendment. The amendment merely strengthens provisions which are already in the bill. It assures that we will end up with the kind of reasonable and fair State shipwreck management programs, and the kind of private sector shipwreck diving access, which the authors and proponents of this bill say they hope to have.

My amendment simply states that a State in developing its shipwreck laws and programs shall meet three responsibilities:

First, to protect natural resources and habitat areas;

Second, to guarantee recreational exploration of shipwreck sites; and

Third, to allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

Clearly, these three requirements are reasonable policy objectives. And since the bill already says that States should meet these three responsibilities, the authors and proponents of the bill should have no objection to them.

If there are scare tactics being used, it's by those who are saying that all amendments are killer amendments. I've not heard one substantive argument against the merits of my amendment. The only stated reason to oppose this amendment that I am aware of is that fear held by some that if we amend the bill and send it back to the Senate, there is no assurance the other body will act on it again. I am sure that the millions of sport divers—the largest constituency affected by this bill—do not find that argument persuasive, and, frankly, I think we'd be failing to live up to our duty if we don't pass the best bill we can.

There are two very important reasons why my amendment should be passed before the bill is enacted.

First, it's needed to make sure that the bill is consistent with article III, section 2 of the U.S. Constitution. This provision clearly states that the Federal "judicial power shall extend to all cases of admiralty and maritime matters." Under my amendment, Federal courts will continue to have jurisdiction to ensure that a State is meeting the Federal rights-of-access provisions as a condition of title resting in States.

Without this Federal judicial review provision, we will be abdicating any and all Federal involvement, including 200 years of judicial precedent. Some of the authors and proponents of the bill are on record as saying that all legal questions regarding these shipwrecks will be left up to State courts if this bill is enacted. Given that the Constitution says these are matters under the jurisdiction of the Federal judiciary, I would question whether S. 858, without my amendment, could be upheld as constitutional.

Second, my amendment is needed because without a binding right to access provision, the private sector has good reason to fear that its access will be curtailed by States. And in the process, the private sector's incentive to go out and find these wrecks will be, for the most part, eliminated.

Let me give some examples of how the private sector and responsible sport divers will lose out under this legislation if not amended.

According to testimony in our hearing, the State of Wisconsin attempted in 1986 to enact legislation which would have asserted ownership to 300 shipwrecks lying in State waters, leaving only the rest open for sport diving. The problem was, there are only 300 known shipwrecks in Wisconsin waters, and therefore nothing was left for sport divers.

The CHAIRMAN. The time of the gentleman from California [Mr. SHUMWAY] has expired.

(By unanimous consent, Mr. SHUMWAY was allowed to proceed for an additional 3 minutes.)

Mr. SHUMWAY. Mr. Chairman, Georgia now has a new law on its books passed just last month which makes all shipwreck exploration—even if it is only recreational or nonharmful exploration—subject to a State permitting procedure which includes such onerous regulations as:

A requirement that a professional archaeologist supervise shipwreck exploration dives;

A requirement that an applicant for an exploration permit demonstrate that the dive is in "the public interest" and that it "furthers archeological or historical knowledge"; and

A requirement that an applicant must be associated with a "scientific or educational institution" or "demonstrate financial ability."

We are talking about sport divers here. All that these kinds of laws and restrictive regulations will accomplish is to ensure that the majority of historic shipwrecks are never discovered.

In Texas, there is a similar law on the books where again the private sector is, in effect, outlawed from even looking for shipwrecks. As a result, very few shipwrecks are ever found there any more.

In New Jersey, a diver was arrested by the State simply for diving on a shipwreck.

In Florida, the Marine Patrol has run divers out of State waters for diving with metal detectors in search of shipwrecks, maintaining that they need a permit to dive with metal detectors. Such a permit would cost $600, take over a year to get, and have to be approved by a State archaeologist.

In Virginia, sport divers were responsible for locating Revolutionary War wrecks at Yorktown. Their reward for locating these wrecks was for the State to hire an archeologist to perform exclusive excavation. The State now controls the site and recreational diving on the site has ceased.

There are countless other examples where States have used a heavy handed approach toward recreational divers and the private sector.

By giving State bureaucracies complete control over shipwrecks, this bill would, in effect, throw a wet blanket on the private sector's incentive to go out and discover shipwrecks, and that certainly is not an archaeologically sound idea. We risk never finding out the history of many of these great vessels if we destroy the incentives of the private sector. And we will eliminate their recreational value to many sport divers in the process.

Mr. Chairman, I have the Oceanography Subcommittee hearing record here from April 27, 1987, our subcommittee's last hearing on the matter.

On page 18, I specifically asked Mr. Bennett, the author of the House bill:

> Would you * * * be willing to strengthen those [section 4 "Rights of Access"] provisions by making them requirements on States before States could actually exercise management jurisdiction?

Mr. Bennett's response was, "Yes, I would, and I think States would agree." There are other instances in the record where Mr. Bennett reiterates he has no problem with this approach. For instance, he says that "Perhaps this committee working on Congressman Shumway's suggestion might want to add provisions along these lines. * * *"

I also asked the State representatives if they would support binding Federal requirements regarding rights to access in the legislation, and South Carolina, Florida, and New Jersey—all of the States present at the hearing—said on page 39 of the hearing record that they would have no problem with this approach. And the administration witness likewise said that they would support binding Federal requirements on States.

In essence, all of these witnesses, including the author of the House bill, specifically testified that they support my amendment. Given such testimony of support, it should be viewed as noncontroversial, and not be rejected today.

Again, Mr. Chairman, the only opposition that I have heard is that to improve the bill by amending it would mean sending it back to the Senate where there is no assurance that they will act on it again. To me that is not a valid basis for opposing this amendment. The bill passed the Senate under unanimous consent already this Congress, and there is no reason to believe a vastly improved version, if sent back by the House, will not pass unanimously again.

Let us strike a chord for reason and support private sector initiatives. Let us see to it that we vote the best bill possible.

□ 1545

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. Shumway].

Mr. Chairman, I rise in strong opposition to the proposed amendment to require States to provide sport divers and private sector salvors with access to these shipwrecks. The effect of this amendment would be to negate the major objective of this important legislation, which I have supported since its first introduction in this House.

As has been the case with other historic preservation legislation passed by Congress, this bill seeks precisely to protect our national historic resources from exploitation and destruction from inexperienced or unscrupulous businessmen who show ignorance of, or disregard for, our Nation's heritage. Experience with the National Historic Preservation Act of 1966 and the Archeological Resources Protection Act of 1979 demonstrate clearly that States can and do best manage our historic sites—under Federal guidelines.

Testimony on this legislation by many coastal States before congressional committee show that they intend to follow this wise course in regard to historic shipwrecks. I see no reason to believe that States will now prevent reasonable access to shipwrecks by sport divers, private salvors, while keeping a careful eye on preserving an important part of our national historic record, and I urge my colleagues to oppose this amendment.

I would further suggest that the bill itself, if my colleagues are interested in doing what they say want to do, they should read the bill because the bill guarantees recreational exploration of shipwreck sites. In the report itself it makes very clear that it directs the States "to develop appropriate and consistent policies to protect natural resources, to guarantee recreational access and to allow for appropriate public and private recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and sites."

Mr. Chairman, this is the way to do it.

If my colleagues want to give people access to them, let them look all they want, nobody will stop them from going and looking. What we are trying to stop them from doing is to destroy them and steal all the artifacts and destroying the archeological value of those shipwrecks. This has happened in other parts of the world. On a television story within just the last few days I saw an illustration of people trying to explore old shipwrecks that dated from 1500 B.C. in the Mediterranean, and the difficulty was that the archeological underwater people, one of the leaders of that group is from Texas A&M in the University of Texas system was bemoaning the fact that instead of laying out grids so they could actually determine the location and find what was there and catalog it and number it and interpret it and evaluate it, they were afraid they would not finish that summer and by the next summer when they could come back with their volunteer divers from England in this particular operation, that the sport divers and the salvors and the private investors and the underwater thieves would steal everything down there that they could get within 2 feet of the surface and that they would destroy to a large extent the archeological value of that shipwreck that is 3,500 years old, one of the oldest known relics from that era.

I think it would be disgraceful to have us follow that kind of a policy in this country. We ought to kill the amendment.

Mr. GEKAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Minnesota [Mr. Vento] in advancing the support of the bill that he hopes to gain from the Members cites the fact that the administration is in favor of the bill and then in the same breath asks that we reject the Shumway amendment partially because of the same reason. I want to point out for the record that the administration, although it favors the bill, also favors the Shumway amendment to mitigate the effort and the effect of the bill.

For that purpose, we must at least acknowledge that the Shumway amendment for whatever value it is to the gentleman from Minnesota and his supporters, is part of what the administration would like to see in the final bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, in testimony before the committees, I am aware of the Department of the Interior through the National Park Service appearing in support of the bill, and a statement of policy from the administration that they support the bill as it passed the Senate. There has been no testimony on the record to date or any other correspondence implying that the administration favors any amendments.

In any case, the official record of the hearing is what I refer to on that point.

Whether my colleagues have been able to come up with something since then, I have not seen it.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I would simply ask the gentleman from Minnesota [Mr. Vento] if he would reject the notion that the Department of Commerce supports the Shumway amendment or if the gentleman even knows?

Mr. VENTO. If the gentleman will continue to yield, I have had no communication with the Department of Commerce. We have satisfied the Department of State who supports the bill with the modification in the report language to provide assurances that they have with the Department of the Interior and with others. I am not aware of the Department of Commerce's position on this bill.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I reassert the fact that the administration does support the amendment of the gentleman from California [Mr. Shumway] in advancing these modest amendments which would guarantee some of the rights which the gentleman from Minnesota [Mr. Vento] says are already in the bill.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

(By unanimous consent, Mr. GEKAS was allowed to proceed for 3 additional minutes.)

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, I would like to state in response to the contention made by the gentleman from Minnesota [Mr. VENTO] that the hearing record does contain testimony to the effect that the administration is supportive of the approach which is indicated by this amendment.

Mr. Kaufman testified on behalf of the National Ocean and Atmospheric Administration representing the Department of Commerce. On page 29 of the hearing record I said in a question to Mr. Kaufman, "In all of your zeal to recognize and preserve States rights, would you support minimum Federal requirements which would be binding on the States in this regard?"

Mr. Kaufman's answer was, "Minimum Federal requirements, yes."

So I think there is testimony in the record on that point. I have testimony by statement from the administration that indeed these amendments are well taken and they do have administration support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Mr. Chairman, I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have a statement of administration policy dated March 31, 1988. I cannot go back into other committee records to get questions and answers but it reads here that "The administration supports enactment of Senate bill 858," so the record is clear as of March 31, 1988. I do not know what happened before that and who answered such and such questions, but I think it is clear the administration supports the bill.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I simply want to point out that on page 10 of the report to which the gentleman from California [Mr. SHUMWAY] has alluded, there is an assertion that the Department of Commerce supports enactment of S. 858 but believes it should be amended as set forth below, and then proceeds to outline language that is incorporated by the gentleman from California in the current amendment. So I think the clear statement of the administration's view on this bill rather than to allow it to baldly be in the record as being supportive of the bill is that it is also supportive of the bill with the Shumway curing amendment.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, in looking at the amendment, or looking at the report, the report talks about a reservation with regard to marine sanctuaries. It does not address itself to the amendment that we have before us. In fact, the reports of the Committee on Interior and Insular Affairs clearly established that reservation with regard to marine sanctuaries in the text of the bill and in the reports. So I think that that question is satisfied. The administration's reservation from the Department of Commerce has really nothing to do with the current Shumway amendment before us at this time.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I reassert that the record shows, and our assertions show and the indications we have from the administration indicate that the Shumway amendment is supported by the administration.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to ask a question of the gentleman from Minnesota [Mr. VENTO] who is floor managing the bill. My question has to do with the Shumway amendment, and it is this: Is it the belief of the committees of jurisdiction that the policies that are in section 4 of the Senate bill, S. 858, that means referring to the sports diving access, that those policies are binding and could be litigated in State courts?

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the rights to access is section 4 and the fact is that what the intent is, is to provide reasonable access consistent with the responsibilities of preserving the maritime resources, and in the process of doing that to guarantee recreational exploration of the shipwreck sites. That includes recreational exploration for sport divers, for archeologists, for historians, and for others that have an interest in this matter. The fact is that if there was an appeal with regard to this the determination would be made in the State courts.

The mischievousness of this amendment gets to the fact that it purports to give this right in one case, then takes it back in the other case by throwing the entire issue back in Federal court, back into admiralty court, and admiralty court, I may remind my colleagues, does not represent or reserve rights for sports divers, for archeologists, and for historic preservation experts. The fact of the matter is that in admiralty court the general circumstances that these activities are under, whether they be sport divers or preservation activities, they really are at the pleasure of the salvor which is the recognized right in admiralty court. That has a completely different purpose than the historic preservation of these few shipwrecks that we are trying to deal with on State submerged lands 2 to 3 miles off the coast.

Mr. Chairman, I thank the gentlewoman from Maryland [Mrs. MORELLA] for her question, and I think it points out also the problems with the Shumway amendment.

Mrs. MORELLA. So that in effect we would be setting up another bureaucratic layer in order to police the States?

Mr. VENTO. If the gentlewoman will continue to yield, this amendment would really gut the legislation in the sense that it purports to give rights on the one hand to the States, and then takes it back by throwing it right back into admiralty court and admiralty court continues to be the basis on which the judgment is made.

If it is desired to get a policy, we would have to approach this in terms of policy in court by a court-by-court decision, which is back where we are today. It does not do what the legislation is intended to do as originally developed.

Mr. SHUMWAY. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. Mr. Chairman, I am happy to yield to the gentleman from California.

□ 1600

Mr. SHUMWAY. My amendment simply says the following. It does not give and take back. It is that the role of the Federal court is simply, and this is the language of the amendment, any dispute as to whether a State is properly implementing the rights of access requirements or not shall be decided in the Federal court. That is not any kind of a takeback or a replacement into admiralty. It is simply retaining the Federal district court's jurisdiction over whether States, indeed, are giving the right of access that we want them to give.

Mrs. MORELLA. Right now though the jurisdiction and litigation possibilities rest with the State courts? Right?

Mr. SHUMWAY. That is correct. Right. Now, under the law, the title to those wrecks is determined in admiralty.

I am saying the continuing role of the Federal district court shall be to oversee what the State is doing to be sure that it is providing the access that everybody says we want to provide.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the interpretation is we would be reverting right back to the Federal district court to make the decisions, we are going to revert right back, and we are chasing our tail around a tree is what is going on. We are going to revert right back to the situation we have today where the States have to go into Federal court in order to assert whatever right it is they have in terms of historic shipwrecks. That is what the amendment does, and if it is not understandable, that is regrettable. That is one of the reasons that apparently these amendments should be rejected, in other words, this just takes us back full circle right back where the salvor then has the absolute right to dictate to the divers and to dictate to the historic preservation purposes, and we will be right back where we started.

Mr. SHUMWAY. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from California.

Mr. SHUMWAY. Section 7 of the bill S. 858 says the law of salvage and finds shall not apply to abandoned shipwrecks under this act, and it is not a case then of putting right back into the district courts the same structure that we have now. That section is being repealed. That kind of admiralty jurisdiction is being repealed. We are simply reserving an oversight rule for Federal courts to see to it that these rights of access are, indeed, preserved.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand that this amendment has been called the "diver access" amendment. But I see no particular access for divers here. Access for divers is clearly set forth in the bill, in report langauge and in our floor debates. When a court looks to find congressional intent in passing this bill they will have no difficulty whatsoever in determining that we clearly intend that sport divers should have all reasonable access to shipwrecks. When S. 858 becomes law it and the policies contained in it will be binding. This amendment does not do what it claims to do, and is unnecessary as well. I want to add that admiralty law has no interest in the sport diver access. Admiralty courts are not designed to establish policies, regulations or anything else to guarantee recreational access—as this bill does. That is why we are here today.

Real affect of amendment would also force States to give salvors access to these shipwrecks, in effect guaranteeing that any shipwreck could be restricted to salvors, keeping sport divers, archeologists, and other members of the public away. States would lose discretion as to how particular abandoned shipwrecks would be managed. In every case States would have to allow salvors access to these shipwrecks upon demand. That is totally contrary to the purpose of this bill. I find the idea that we should guarantee private salvors equal access to these few shipwrecks that are valuable as part of our national heritage unacceptable and not needed. Yet that is what this amendment would do. We need to understand that these shipwrecks should belong to all the people, not to those few individuals who want to claim them for themselves.

I urge my colleagues to vote against this amendment.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this was presented in committee and discussed at length and in detail. Debate was not attempted to be closed off, and we went in depth into this amendment, and on vote, I think that it was approximately 2 to 1 against it, and here we are back again today.

I know the gentleman from California is sincere, and I have a very high regard for him. I think it comes down to this: I do not like being held hostage by the other body, but they are the facts of life this afternoon. If we want a shipwreck bill, then kill these amendments. If you do not, go ahead and vote for the amendments, and that will be all she wrote for this year.

Mr. LENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California [Mr. SHUMWAY] to clarify the language in the Abondoned Shipwreck Act to ensure that the intent of the legislation to protect sport divers' rights of asscess is carried out by the individual States.

This legislation before us today is a very important measure designed to protect for all Americans the sites where abandoned shipwrecks rest on the ocean floor. All of us want to protect these wrecks from unauthorized activities by divers that could destroy the integrity of the sites. The concept of this legislation is very worthwhile.

However, my problem with the bill, and the reason that I voted against it when it was brought to the House floor on March 29 under suspension of the rules, was that the intent of the bill and the language of the bill itself did not coincide. The proponents of this legislation have stated that the intent of the bill was that the States should ensure recreational access to these shipwrecks by sport divers once the wrecks are turned over to the States. However, the language of the bill on that point was not mandatory and there was no assurance at all that sport divers would be given access to these sites.

Additionally, under the Shunway amendment, Federal district courts would be given authority to ensure that a state is living up to this requirement. This provision would continue the historic Federal jurisdiction in admiralty law and eliminate concern of many that each individual State would be setting different procedures resulting in a patchwork of laws and regulations dealing with access to shipwreck sites.

I believe that this amendment would satisfy the needs of the sport divers of the country who have raised concerns with many of us in Congress over the past several weeks. Since there are more than 4 million sport divers throughout this country, and these divers have been responsible for most of the discoveries of these abandoned shipwrecks, it seems to me that the Congress should acknowledge the role that these sport divers have played over the years and protect their interests in this matter and, most importantly, their access.

Mr. Chairman, I urge my colleagues to support the gentleman from California and to join with those of us who are interested in seeing that the House of Representatives enact appropriate legislation that truly carries out the will of the people.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Shumway sport divers guaranteed access amendment.

Mr. Chairman, while there has been much said about how S. 858 provides "reasonable access to abandoned shipwrecks" for our Nation's 4 million recreational sport divers, regrettably, the language in the bill is nothing more than a sense-of-Congress statement. It is nonbinding and unenforceable. And, if past history is any indication, sport divers, who are overwhelmingly opposed to this bill in its current form, have real cause for concern that certain States will deny them access to hundreds of shipwrecks.

As one of my constituents noted:

> If S. 858 is passed, there will be no guarantee that sport divers will be allowed to continue enjoying that sport on the shallower, less dangerous, inshore shipwrecks. All shipwrecks within three leagues of shore will become the property of the State which may place access restrictions on any wreck or declare it off limits altogether.

Mr. Chairman, this amendment is identical to the one offered by our distinguished colleague during the full Merchant Marine and Fisheries Committee markup of S. 858. At that time, no one raised an objection or spoke a single word of opposition to this amendment based on its merits. In fact, the House sponsor of this bill, Congressman BENNETT, indicated he not only supported the Shumway amendment but that he would introduce a bill to eliminate this serious flaw in S. 858 after it was enacted.

The only concern expressed by the proponents of this legislation about the Shumway amendment was that it would result in this bill being sent back to the Senate.

Mr. Chairman, to vote "no" on this amendment simply because we don't want to send it back to the Senate is the wrong way to legislate. Let's improve S. 858 here and now and let's stop worrying about what the other body will or will not do.

Mr. Chairman, I also think we are making a tragic mistake if we believe that report language, "Dear Colleague" letters, and floor colloquies will safeguard the rights of our sport divers. They will not.

Without this amendment, I fear the State judges will look at the plain language of S. 858 and conclude that a State can legally prohibit any sport diver from access to any shipwreck within a State's jurisdiction. After all, one could logically conclude that if Congress intended that sport divers had a guaranteed access right to these shipwrecks, then the statute would have said so.

Moreover, if this bill is enacted without the Shumway amendment, we will eliminate all Federal jurisdictional involvement with regard to these shipwrecks. In essence, we will have abandoned the constitutional responsibility for their protection, and there will be no way to ensure that a State reasonably manages these shipwrecks.

Mr. Chairman, we are blindly assuming that States will be good neighbors and that they will manage these valuable underwater resources in a fair, equitable, and evenhanded manner. I believe there is too much at stake and too many Americans who could be adversely affected to leave this to chance.

If you want certainty, clarity, and a real guarantee that sport divers in your district and mine will have a right of access—then the only way to ensure that is to vote in favor of the Shumway amendment.

I intend to do just that and I urge my colleagues to join with me, the Reagan administration, the Professional Association of Diving Instructors, the National Association of Underwater Instructors, the National YMCA Scuba Program, the Florida Association of Dive Operators, the National Association of Scuba Diving Schools, the International Diving Educators Association, the Atlantic Alliance for Maritime Heritage Conservation, Skin Diver magazine, and Texas Scuba by voting "aye" on this critical amendment.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several times even lately in the debate it has been said that I favored some aspect of access. Of course I did, because that is in the bill which I introduced, but I had reason to have concern in the last debate that was had on the floor of the House.

There was this statement made by the gentleman from California [Mr. SHUMWAY] as follows:

> Let me give some examples of how the private sector and responsible sport divers will lose out under this legislation. The court held that a sport diving group had been diving on and responsibly recovering china plates and dishes from the so-called China wreck and were, therefore, entitled to unfettered access. With enactment of S. 858, there is no way for the Federal courts to protect sport diving interests as they have done in the past, and sport divers fearing heavyhanded State regulation which will greatly restrict diving access, understandably oppose this bill on this basis.
>
> The divers responsibly recovered and preserved a whole host of artifacts and put them on public display.

That is referring to another instance. So I had a clear impression after we had the conversation that has been repeated several times here that the gentleman from California [Mr. SHUMWAY] had in mind people making dives and bringing up material and perhaps destroying wrecks.

Of course, I never had in mind that would be something that should be done, and he has reassured us today that his amendment, if adopted, would not have that construction. So he has changed his mind from his criticism of March 28 when the thing was last debated, when he said these were horrendous things that should be prevented by not passing the legislation which has been introduced, and I am glad his now interpretation of access does not include taking up materials from the bottom of the sea or in anyway altering the shipwreck.

I would like to continue for just a minute myself. The repeated statement has been made that there is no criticism of the amendment of Mr. SHUMWAY. Well, there is a very hearty criticism of the amendment as far as I am personally concerned, because if for no other reason it gives the Federal court jurisdiction to review State courts and other disputes that may occur.

□ 1615

What a horrendous situation. Why would you want to make a Federal court sit over a State court and decide a State court's decision was wrong? There are few places that have crept into the law today. They are all terrible loopholes and they should all be closed insofar as they exist. We certainly should not add another one. So I am very, very as an erstwhile lawyer—40 years ago I practiced law—I must say that it is very offensive to me. That in itself is a good enough reason to kill this particular amendment. But the main reason why has already been alluded to; the problem stated by Senator BRADLEY. It is a very clear proposition: You can nit-pick this thing, add little tiny improvements here and there to it and the trouble about it is the whole situation, the procedure in the Senate is such that you can kill this meritorious bill by the simple process of sending it over there. The primary exponent of it—there were a lot of Senators who joined in this bill—but the primary sponsor, Senator BRADLEY, has told us that in a letter he wrote to every Member of Congress, that he thinks it would be difficult to pass and possibly impossible to pass it because of that whole procedure in the Senate which we do not control. So this amendment is a bad amendment. It is a bad amendment because it actually proves nothing. The language in the bill already says there is a guarantee of these rights. Second, the rights can be enforced in the State courts. But third, I must say I cannot imagine a worse thing to do than to put in any kind of legislation a supervision of State courts by Federal courts. I just do not understand anybody wanting to do that. It would not be a profitable thing to do from the standpoint of litigation, aside from the question of admiralty. This is aside from that entirely. That is bad to bring up the admiralty but to have a Federal court over a State court I think would be a very, very serious error and contrary to our Federal Government.

So I conclude by saying this amendment is bad, it is offensive, it adds nothing to the value of sports divers. Actually, its result will be a stroke against sports divers for the simple reason the sport divers under this legislation are being given benefits that do not now exist under existing law. There is nothing taken away from them. There is something added but nothing taken away from them.

If you pass this amendment you probably will kill any chance you have of improving their lot.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inquire of the chairman of the committee about the insurance that he has stated is provided to the sports divers.

As a member of many of the associations which the gentleman from Texas just recited, I remember the Association of Professional Diving Instructors, among others. Those of us who are divers want to have a clear understanding and a statement from the chairman about the assurance that divers' rights will be protected to have access to the shipwrecks that lie offshore.

Would the chairman explain to me the procedure in a way that we can all understand it?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman of the committee.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I know the chairman of the Committee on Merchant Marine and Fisheries has personally done a survey on this and he may also want to join in terms of responding at some point.

I want to assure you that it is certainly the intent which is repeated in both reports that the committee expects its sport divers to be allowed access to shipwrecks to the fullest extent practicable.

In the legislation that we have in section 4 there is a right of access. The right to access clarifies the State waters and shipwrecks, recreational educational opportunities and so forth, provides reasonable access by the public. All 27 States which have passed legislation to date have provided access. Some have a permit system. That permit system deals with safety and other factors in terms of course of their responsibility and primary interest in this instance in some of the historic preservation system. The fact is that many of these shipwrecks that we are talking about would not be limited in any way by the Historic Preservation Act because they are not embedded, they are not in coral, they are not over 50 years old. Therefore, of course, under the standard definition it would not apply.

The legislation simply provides an orderly procedure to try and assure, for instance—we know there have been some outrageous acts in terms of these old shipwrecks. Some dynamiting of them; they have been literally ripped from stem to stern. Of course that would be unacceptable. I think responsible sport divers obviously have a great interest in this and are a great help to the profession of archaeology and to recovering and preserving this information. So there is no intent—every intent in fact here is to provide sport divers with their right. In the cases today, for instance—there are instances in fact where salvors, solely acting as salvors in terms of recovery, have in fact sought to push sport divers off of the areas where they have claimed the law of finds or the law of salvage.

I thank the gentleman for yielding.

Mr. ALEXANDER. Mr. Chairman, let me ask the chairman this question: How will this legislation that wrecks will be identified in a way to give notice to divers, in the event there are some restrictions with respect to diving these wrecks.

Mr. VENTO. There in fact is notice requirements in the legislation. On page 6, section 6, part (b) provides that the public shall be given notice of the location of these shipwrecks to which title is asserted under this section. The Secretary of the Interior, after consultation with the State preservation officer shall make written determination that an abandoned shipwreck meets the criteria of eligibility. So the public will be given notice. There will be some discussion about the appropriateness even of that particular designation. Of course, I think this answers some of the questions. Of course, further States will pass, I am sure, regulations and State courts will make decisions with regard to this. So we have a very definitive and certain predictable identification and notification to people in the States. In fact, I think it is important that we understand that our entire Historic Preservation Act functions in the same way, whether it is in the submerged lands we are talking about now or the nonsubmerged lands. We expect and do provide and give the responsibility to the States to carry out the historic preservation responsibilities throughout this country. We cannot do it in their absence.

Mr. ALEXANDER. I certainly agree that the Federal Government has not done it and that some needs exist for that purpose.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Mr. Chairman, reading from the bill itself, page 4:

> it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—
>
> (A) protect natural resources and habitat areas;
>
> (B) guarantee recreational exploration of shipwreck sites; and
>
> (C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

Does that help the gentleman?

Mr. ALEXANDER. I thank the gentleman for his response.

Mr. SHUMWAY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California [Mr. SHUMWAY] is recognized for 5 minutes.

There was no objection.

Mr. SHUMWAY. I will not take the full 5 minutes.

Let me respond to a couple of points which were made here.

Just now the chairman read from section 4, rights of access in the bill. I think that section could be more appropriately entitled "Hopes of Access."

There is nothing there that really provides the guarantee. It says it is the policy of Congress that States guarantee. But where is the enforcement mechanism? During the markup of this bill I asked committee counsel: Does this bill guarantee that States shall give or shall provide that kind of access? The answer very clearly was "No."

I just point out, Mr. Chairman, that this is typical of the kind of gray area, the kind of jurisdictional difficulties that we are going to find ourselves in if this bill becomes law. No doubt it will spawn a great deal of litigation over this very subject because it has not been defined clearly. Some speakers have said yes it does guarantee access. I am provided by counsel that it does not. Certainly that would have to be litigated. I do not think we should invite that kind of litigation.

A second area that seems to be very gray and vague to me is on the subject of admiralty itself. I have just received, and I think all Members have access to it, a report from the Congressional Research Service, Library of Congress, addressing this issue. It is very lengthy and I have not studied the entire report. But on the first page the author says that there is no clear precedent and the guiding principles are very general. Then on the second page the author says:

> Congressional power to alter the admiralty and maritime law may be limited, however. Article 3, section 2's conferral of "exclusive" admiralty and maritime jurisdiction on the Federal courts has been interpreted by the Supreme Court as requiring that some essential features of maritime law be uniform and not subject to rules varying from State to State. In several cases early in the 20th century the Supreme Court struck down efforts at State regulation and also efforts by Congress to delegate to States authority to regulate maritime matters. More recently, the court has seemed inclined to narrowly confine the areas requiring exclusive Federal jurisdiction. The result is that the boundaries between Federal and State regulation of admiralty matters remain somewhat ill-defined.

I would just suggest that that is another area that is going to be a panacea to lawyers. There will be law suits filed, Supreme Court decisions rendered as to who has jurisdiction, how much here and how much there. We should not be promoting that kind of activity; we should enact legislation that has a very clear purpose and clear intent. I think my amendment would make this bill reflect that kind of intention of Congress.

Finally, it has been said by many speakers that somehow my amendment is going to take away the options of States to put in place meaningful regulations to enforce the archaeological purposes, the environmental purposes, cultural purposes of this bill. That is not the case. I adopt the very three criteria that are now contained in the bill as criteria that should be put in place by States. I simply say let us require that they do it and to see that they do it let us have the missing enforcement mechanism which in this case is oversight by the Federal district court sitting in admiralty.

To be sure, if States are derelict, if they are strict in allowing access as indeed some have been in the past, there will be a way to bring them around to what I perceive the intention of Congress to be, that is this body, and that is that the States do require that access.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I would be happy to yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I have reviewed this opinion from CRS which was requested, I might add, by the Committee on Merchant Marine and Fisheries, its chairman, Mr. JONES of North Carolina. The fact is that the concluding paragraph in that, if you will look at it, says:

> While case law provides little specific guidance, it appears that a sound argument can be made that S. 858 would not alter maritime law in a manner offensive to the principle derived from article 3, section 2 that there are certain essential features of maritime law requiring nationally uniform rules.

So the end result is that this opinion is a resounding endorsement of the bill and what is being done in terms of the law of fines and the law of salvage.

Mr. SHUMWAY. I am going to reclaim my time. I do not see anything resounding in those words. Certainly the fact that there are differences of opinion about that conclusion prove my very statement that this kind of legislation is going to spawn more litigation and division of opinion than it indeed provides answers to.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I yield to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, as I understand the point being discussed, I interpret it as meaning that the bill provides access but does not grant to a diver the opportunity to salvage if notice is given.

The CHAIRMAN. The time of the gentleman from California [Mr. SHUMWAY] has expired.

(On request of Mr. ALEXANDER and by unanimous consent, Mr. SHUMWAY was allowed to proceed for 5 additional minutes.

Mr. ALEXANDER. Will the gentleman continue to yield?

Mr. SHUMWAY. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for continuing to yield.

I understand the bill, if it is enacted without the amendment, would grant access but does not guarantee the right to salvage. Do I understand, Mr. Chairman, that a State would be granted the authority under this bill to manage a wreck, to identify it, to give notice to divers, by a buoy in the water which is the normal way to identify a wreck and to give notice—and I expect it would be posted with some other additional information about the wreck, giving the date, the history, the name of the ship, so on and so forth—in which case the diver would not have the right to molest the wreck and to salvage any part thereof without a special permit, is that a fair interpretation of the bill?

Mr. SHUMWAY. I think the gentleman is mistaken in one regard. As I read section 4 dealing with rights of access I do not see any distinction there between access to sport divers and to salvors. It says clearly just access by the public.

Then it is saying it is the intention of Congress that that access be permitted by States that hold title. And that is the policy of Congress, that we ask them to permit that kind of access. That is a wish list. It is speculatory language. It is not binding. There is not enforcement mechanism. That is why I am simply offering this amendment. If indeed we want States to do that, why do we not just tell them to do that and that is what my amendment does.

Mr. ALEXANDER. It sounds like that is what we are trying to clear up.

□ 1430

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman from Arkansas has fairly reported it. If we look at section 4, we notice that it guarantees recreational exploration of shipwrecks and in part (c) it allows salvage, so even though it may be historic, they can still allow it, but the point is the real flaw in what the gentleman has done here is that he does not improve on the guarantee of access, I do not believe, but he returns it to the district courts in admiralty. The district courts in admiralty, as the gentleman pointed out, have 200 years of legal history in which, of course, salvage is the major emphasis, and that is as it should be for laws of admiralty. I do not disagree with that.

The point is that we are trying to make a differentiation between these few historic ships that are important for other reasons, and in order to do that Congress has the authority in this CRS opinion, and it points that out. It says:

> Our review suggested Congress has the authority pursuant to article 3, section 2, article 1, section 8, clause 18, the necessary and proper clause to amend maritime law in a manner contemplated by S. 858.

So we are clearly doing what we are supposed to be doing.

The gentleman's amendment, in all respect to the gentleman, the gentleman returns us back full circle to the admiralty court, and, of course, it renders the bill meaningless.

Mr. SHUMWAY. Mr. Chairman, I am going to reclaim my time. We have already discussed that issue and I think I provided an answer to the gentleman's concern in that regard.

Let me just conclude by saying that earlier the gentleman from Minnesota said in response to a question from this side that the committee expects States to provide access, as we have been discussing here this afternoon. That just typifies the kind of wishless language that this bill contains.

There is no guarantee mechanism built into the bill. My amendment would simply do that.

I think it is not sufficient to stand on this floor and say that it will be put in the RECORD or somehow made part of the legislative history. If indeed that is what we want, why do we not legislate it here today. We have a chance to do it. My amendment does not change the major thrust of the bill, but simply says that States will do what we apparently want them to do.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I am happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I want to thank the gentleman from California for promoting this debate. I think that the legislative history resulting from this debate will clarify some of the issues that have been raised by it. I am clear in my mind as to the intent of this bill and I will vote with the committee and not vote with the gentleman from California; but I want to thank the gentleman from California for raising this issue and giving me the opportunity to clear up some of these issues in my mind. I am very grateful to the gentleman for his initiative and for his leadership.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

Mr. DAVIS of Michigan. Mr. Chairman, I rise in support of Mr. SHUMWAY'S amendment. In my view, it will correct one of the major flaws in this otherwise well-intentioned bill.

By making the policies section of S. 858 binding, we are ensuring that States will manage these shipwrecks responsibly. By balancing all the affected interests, States may not capriciously bar recreational divers from wrecks which hold no historic value, or keep responsible salvors from assisting in the retrieval of underwater artifacts.

States which will manage shipwrecks will need not fear this amendment. I urge my colleagues on both sides of the aisle to support this sound amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. SHUMWAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUMWAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 268, not voting 29, as follows:

[Roll No. 52]

AYES—134

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Bateman
Bliley
Broomfield
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Erdreich
Fawell
Fields
Fish
Flippo
Florio
Frank
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hughes
Hunter
Inhofe
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
Meyers
Michel
Moorhead
Morrison (WA)
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Quillen
Rhodes
Rinaldo
Ritter
Roberts
Rogers
Roukema
Saxton
Schaefer
Schulze
Sensenbrenner
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stratton
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Young (AK)

NOES—268

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Cooper
Coughlin
Coyne
Crane
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Horton
Hoyer
Hubbard
Huckaby
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Rahall
Ravenel
Regula
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—29

Bates
Biaggi
Boulter
Boxer
Brown (CA)
Carr
Conyers
Dickinson
Dreier
Emerson
Frenzel
Garcia
Gordon
Hutto
Kemp
Mica
Molinari
Owens (UT)
Pepper
Price (IL)
Rangel
Ray
Ridge
Roth
Scheuer
Stenholm
Waxman
Williams
Wilson

□ 1652

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Scheuer against.

Mr. LATTA changed his vote from "aye" to "no."

Mr. PACKARD, Mr. CRAIG, Mrs. ROUKEMA, and Mr. FLIPPO changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 8, after line 3, add the following new language:

(d) Nothing in this Act establishing protective zones shall be construed nor used to prevent the Drug Enforcement Administration, the Coast Guard, or any other law enforcement agency from investigating or enforcing laws relating to the trafficking, use, or abuse of narcotics.

Mr. WALKER. Mr. Chairman, I hope that the Members have listened to the language of the amendment because it is not an amendment that they received any advance information about, and they ought to understand exactly what it does. This amendment, and I will read it again, says that nothing in this act establishing protective zones shall be construed nor used to prevent the Drug Enforcement Administration, the Coast Guard, or any other law enforcement agency from investigating or enforcing laws relating to the trafficking, use, or abuse of narcotics.

This amendment grows out of discussions that I had with the gentleman from Minnesota [Mr. VENTO] earlier today. Out of that discussion, I think I understood correctly that the States would have certain powers to limit access to these areas. I specifically asked the gentleman from Minnesota whether or not in some cases they might not be able to keep Federal agencies from going into these areas, and he told me that, "Yes, indeed, under the powers being granted under this act that could be the case."

I specifically then mentioned the problem if the Drug Enforcement Administration were not allowed into these protective zones.

Let me explain why I think this is a problem.

□ 1700

We already know that drug traffickers are perfectly willing to use protected zones in this country, particularly wilderness zones, to grow marijuana, but that was not the intended purpose when we put these particular areas aside. We did not set them up to be marijuana growing areas, but the fact is that drug traffickers do not care much about our intent; they do not care much about our laws. Therefore, they have gone into these areas figuring they can use those for the production of illegal drugs.

In this particular case, we are dealing with shipwrecks, for instance in the area of the Caribbean, an area through which a lot of the drugs come into this country illegally.

What we could be establishing here is areas where they could have drop zones where waterproof containers could be used to drop drugs into those zones, and if a State, through a loophole in their law, prevents drug enforcement officials from going into those areas and investigating, we have, in fact, created a problem.

All my amendment intends to do is to assure the States when they are writing their laws relating to this issue that they cannot put general language in their law that can or would prevent our drug enforcement from doing their duty. It is that simple. It simply says that the Drug Enforcement Administration, or the Coast Guard and other law enforcement bodies, are going to be able to do whatever they need to do to stop the trafficking in narcotics.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman from Pennsylvania raises some serious questions.

I appreciate the concern of the gentleman from Pennsylvania about this. The fact is, as he indicated, the amendment had not been reviewed by staff or by anyone else. The fact is that the gentleman's question is not one that I am aware of that came up in hearings.

The concern that he raises with regard to relationship to other laws, and this is section 7 in the bill that deals with that, and clearly the intent here is that in fact, of course, this act should not change any of the laws of the United States. Relating to shipwrecks, or those to which the act applies, my interpretation would be that we would have the full ability to do the drug enforcement activities, the Coast Guard or whoever else has responsibilities in those areas.

Furthermore, if the gentleman would continue to yield, we do not anticipate the establishment of protected zones. With regard to this, there are no protected zones.

The law, of course, excludes where there are Federal jurisdictions, where there are maritime or maritime sanctuaries, marine parks, that are now regulated. I understand the problem the gentleman anticipates.

Clearly the nature of the amendment that he is offering is not appropriate but I think the language addresses the concern, and as I mentioned to the gentleman, the States are a vital part of the law enforcement activity, and surely their mere regulation of a small number of shipwrecks which are in the State submerged lands would be one that would take into consideration any type of problem that would deal with this.

I would hope that the gentleman, with this clarification, might withdraw his amendment. I would try to appeal to the gentleman that it is not drawn in such a way that it is artfully drawn, and I think the question and the colloquy that perhaps we have had would straighten out the problem.

Mr. WALKER. Mr. Chairman, let me say to the gentleman I do not think that we have addressed my concern here with the problem.

I am sorry the gentleman does not think it is very artfully drawn. I thought it was very artfully drawn; it was made germane to the bill, and it was a work of art.

Let me say to the gentleman that when he refers to section 7 that this amendment goes to as well, it does say this act shall not change the laws of the United States relating to shipwrecks.

The laws I am concerned about here have absolutely nothing to do with shipwrecks. They have to do with narcotics trafficking. I want to make certain we do not have any kinds of problems with regard to narcotics.

Mr. VENTO. Mr. Chairman, if the gentleman would yield, that is what this legislation deals with is shipwrecks. We do not deal with any other laws.

Mr. WALKER. I understand what the gentleman is telling me. What I am saying to the gentleman is that he now tells me that I have raised a legitimate concern. The gentleman now tells me I have raised a legitimate concern and that he does not particularly like the way that it is drafted. Nevertheless, it does speak to that concern. It seems to me it makes very clear what our intent is.

Our intent is to make certain any kind of protection provided to these shipwrecks does not, in fact, go to protection that would keep our drug enforcement people from being able to get there to enforce the laws.

The amendment is totally germane to the bill. It seems to me it does speak to a real problem, and I would hope that the amendment would be approved.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment really has nothing to do with the legislation and the limitations before us insofar as they would be a concern.

When the gentleman asked me the question about shipwrecks and whether or not, in fact, States would have the control over Federal agencies and so forth, I was, of course, thinking in the context of salvage or in the context of basically historic preservation as to what they would be doing.

As far as law enforcement, clearly we have ample precedent of the National Government, the Federal law enforcement agencies working within our national parks, working within our national historic sites, and other historic resources.

Insofar as this problem were to exist, there is nothing created by this legislation that the gentleman is trying to remedy, a problem that has not been addressed. The fact is that most of these ships that are historic ships have not been trafficking in drugs. They are generally over 50 years old, many of them, of course, embedded in coral or in the bottom of the ocean floor or in these State submerged lands.

This legislation does not address this.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I want to make the point to the gentleman from Minnesota that there is nothing in my amendment that even implies that the shipwrecks we are talking about are shipwrecks of ships trafficking in drugs. What I am saying is that we are establishing protected zones that could now be used to drop drugs into only a couple of miles off our shore and thereby have protected zones in terms of enforcement.

Mr. VENTO. Mr. Chairman, reclaiming my time, I am relieved that the gentleman from Pennsylvania realizes these Spanish galleons are not the same as coming from South America carrying an illegal substance. I am glad the gentleman is aware of that.

Mr. RAVENEL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I yield to the gentleman from South Carolina.

Mr. RAVENEL. Mr. Chairman, this question is for the edification of the Members who have not been here all this afternoon.

Has it not been pretty well established today that these amendments, regardless of how fine or how pure the motives of the membership proposing them may be, will result in us having no shipwreck bill in the 100th Congress?

Mr. VENTO. I think that is very probable in terms of the Senate. I would further point out that while drugs and drug enforcement is an important issue in our nation, that trying to solve it on the basis of dealing with sunken ships is hardly appropriate.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I would just like to point out the trepidation and worry that the gentleman from Pennsylvania raised had to do with wilderness areas where laws were already established and said what could be done. What we are dealing with here is dealing with something in futuro. So I thank the gentleman for raising the question, because no State is going to have any regulation which prohibits law enforcement from coming in there and protecting it, and it is looking in futuro, the States will not have regulations which will allow things like that.

Mr. SHUMWAY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in spite of the response from the proponents of this legislation, I think this amendment does have some redeeming merit, and I think it is worthy of consideration by this body. This is an example of where the Federal role in these offshore areas may not be consistent with State priorities.

There are some national priorities that perhaps in some cases may overshadow those desires of States, and I think certainly in the minds of this body at least there can be no higher priority than to provide the proper mechanisms and tools for us to come to the avowed war against drugs.

If there are areas that are solely under State control subject only to State regulations, I think it is very foreseeable that in those areas Federal officers who are pursuing this war would not be allowed or would not be able to do what they must do and, therefore, I think this kind of amendment is very well taken and should be considered by the body.

It is a valid concern addressed here, and the problem is not that farfetched. I think if we as a nation mean what we say when we declare that we are part of an ongoing effort called the war against drugs, we must support measures like this that give us the tools really to fight that war, and I would urge the Members to adopt this amendment.

Mr. JONES or North Carolina. Mr. Chairman, I move to strike the last word.

The amendment is simply unnecessary. The Submerged Land Act which gives jurisdiction to all natural resources to States within 3 miles has been in the law for 25 years without interfering with Federal drug law enforcement.

This bill in no way will affect the present authority of the DEA or of the Coast Guard to enforce drug laws.

However, this amendment will affect the ultimate enactment of this bill, and I ask the Members to vote against the amendment.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say at this point my good friend, and I mean that earnestly, because those phrases are used around here very losely sometimes, but I must oppose the amendment of the gentleman from Pennsylvania [Mr. WALKER].

In doing so, I must praise him for his imagination in coming up with this type of an amendment which is going to be very difficult for some people to vote against.

However, if Members listen to the logic of it for just a few moments, they will see that the amendment really is not necessary. If States were going to preclude Federal drug agents from coming on to State land, they would have done so before through protection of beaches, through protection of inland waterways.

I would tell the gentleman from Pennsylvania, my friend, that the ground under much of the intercoastal waterways, and on the sides of the intercoastal waterways and through the waterways through many of our cities, has been deemed to be State property. In no way, though, have the State governments attempted to keep Federal drug agencies out of that area.

I must say as one who has a great deal of confidence in the 50 States of our Nation and one who believes very strongly in States rights that I cannot imagine any State of this Nation precluding Federal agencies from operating in the areas of shipwrecks nor can I possibly imagine them in any way stopping navigation in these particular areas which are suitable for navigation.

I think that what this amendment is doing is raising a red herring. It is raising a fear that does not exist. I will put my record in this Congress alongside anybody on being strong on law enforcement when it comes to drug problems. However, I do not see one here.

I think this is being raised as a poison pill to the bill itself which we know does have a problem if it is passed with amendments and getting heard back before the Senate.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Florida for his point.

I do not know whether he was on the floor or not when we had the discussion on the floor with the chairman of the committee who said when I asked him the questions that the States, indeed, could write legislation that would preclude Federal agencies from getting in there. I do not think they would do so intentionally. The fact is that unintentionally they could provide a zone that they did not intend to have as a drug zone.

So the gentleman also told me just a little bit ago that it was a legitimate concern, and it seems to me if it is a legitimate concern there is some chance this could happen.

All we are doing is adding a simple protection. We are not doing anything that damages the intent of the bill or the actuality of the bill.

We checked with the Senate floor, and we have been told by Senator DOLE's staff that there is no hold on this bill, and this amendment would not prevent it from coming up on the Senate side.

I do not understand that particular logic that if there is a legitimate concern to be addressed why we do not address this concern as the amendment does.

I think the Members would make a great mistake, I would say, to vote against an amendment that is designed to help us in the war against drugs.

I thank the gentleman for yielding to me.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Florida for this support. He has seen the type of damage that is done in the coastal waters of his State, and if we are going to have an amendment like this offered, we should have a representation that there is a problem that somehow in areas where States now have control over historic properties that they permit and do work against Federal efforts with regard to law enforcement and with regard to the DEA.

□ 1715

The fact of the matter is I think that the States are really carrying most of the work with regard to law enforcement and with regard to drug abuse.

The fact is to imply, as this amendment would tend to do, that somehow if we give States the responsibility over these few hundred shipwrecks that are on their submerged lands, that somehow that will be a problem. The gentleman from Florida pointed out today they control the natural resource areas. Is there a problem there? Have they forbade DEA agents to come into that area and to exercise the type of the responsibility they are charged with? The answer is "no."

So where is the problem? What does this amendment deal with? This is an amendment designed to send this bill back to the Senate, to send it back to the Senate so that it would have to run the gauntlet there of 100 Senators any one of which could put a hold on this bill and stop historic preservation and preservation of this maritime resource in its tracks. That is what is going to happen.

I think this reaches the historical state in terms of adding amendments to this bill. I hope it would receive a resounding "no" vote from this House.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SHAW] has expired.

(By unanimous consent, Mr. SHAW was allowed to proceed for 2 additional minutes.)

Mr. SHAW. The gentleman from Minnesota has made the point very clearly with regard to the responsibility of the States. The States will not lock out Federal agents. We know that. This is not a concern and it should not be a concern to this Congress. The States will act quite responsibly.

I would like to call to the attention of my colleagues, particularly my Florida colleagues a proclamation signed by all Cabinet members and the Governor of the State of Florida in support of this bill and in which they ask that this bill be passed and it be passed in its unamended state. It is a good bill. I hope everyone will support the bill and oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 183, noes 221, not voting 27, as follows:

[Roll No. 53]

AYES—183

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
DioGuardi
Dorgan (ND)
Dornan (CA)
Dowdy
Duncan
Edwards (OK)
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gilman
Glickman
Goodling
Gradison
Grandy
Green
Gregg
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McEwen
McGrath
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Morrison (WA)
Myers
Neal
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Porter
Pursell
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Roukema
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Stangeland
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Yatron
Young (FL)

NOES—221

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Berman
Bevill
Bilirakis
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Cooper
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Horton
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (NC)
Rahall
Rangel
Ravenel
Richardson
Rodino
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schneider
Schroeder
Schumer
Shaw
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spence
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—27

Bates
Biaggi
Bonior
Boulter
Boxer
Brown (CA)
Conyers
Dickinson
Dreier
Emerson
Garcia
Gingrich
Gordon
Hutto
Kemp
Mica
Molinari
Owens (UT)
Pepper
Price (IL)
Ray
Ridge
Roth
Scheuer
Stenholm
Waxman
Williams

□ 1735

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Scheuer against.

Mr. TAUZIN and Mr. CARR changed their votes from "aye" to "no."

Messrs. MONTGOMERY, DORGAN of North Dakota, FLIPPO, ERDREICH, and Mrs. BYRON, and Messrs. HALL of Texas, SKELTON, HEFNER, SHAYS, and NICHOLS changed their votes from "no" to "aye."

Mrs. BENTLEY changed her vote from "present" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to ask the two chairmen what boats this covers or what ships this covers.

First of all, I understand it must be abandoned. Now how do you determine when a ship has been abandoned?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think that that issue is generally not one that is contestable in terms of its abandonment. The abandonment is determined based on the fact that the issue is that it is abandoned when search has been abandoned.

The bill is clear in this particular point. The gentleman asked me about the nature of how do we determine when something is abandoned and it is deserted and when the owner has relinquished ownership rights with no retention.

Mr. GIBBONS. When is that? Who determines that?

Mr. VENTO. Mr. Chairman, I am going to ask the gentleman to yield to the gentleman from New Jersey [Mr. HUGHES] who worked on this matter.

Mr. GIBBONS. Who determines when a ship is abandoned?

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. GIBBONS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, will the gentleman repeat the question?

Mr. GIBBONS. Mr. Chairman, my question is: Who determines when a ship has been abandoned?

Mr. HUGHES. That is a factual question that is going to be resolved in each instance by the circumstances, by the courts, if need be, or those parties called upon by the law, but, generally speaking, it is a relinquishment of control with no desire to reclaim that property.

Mr. GIBBONS. But who determines when the ship is abandoned?

Mr. HUGHES. That is going to be determined first of all by the State's jurisdiction.

Mr. GIBBONS. By what? Who determines when a ship has been abandoned, a wreck has been abandoned?

Mr. HUGHES. This is going to be determined in each instance by the agency who has control over the law. Once a State has implemented a plan, then it will be that agency that will make that determination.

Mr. GIBBONS. Let me direct the attention of the two chairmen to the language on page 6, lines 6, 7, and 8. It says:

> The United States asserts title to any abandoned shipwreck that is—
>
> (1) embedded in submerged lands of a State.

Now, I have seen many shipwrecks in my life. I live in the Gulf of Mexico, and I have never seen a shipwreck that was not embedded in the sands of the gulf.

Now, does that cover every shipwreck that is embedded in the sands of the gulf?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Minnesota.

Mr. VENTO. I would say "No."

Mr. GIBBONS. The gentleman would say no, so if it had sand in it——

Mr. VENTO. There is, of course, a definition of "embedded" on page 2 of the bill, and I would direct the gentleman's attention to it:

> The term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof.

Mr. GIBBONS. All right, I agree with that, but if you have to use any tools, a shovel or a pump to get the sand out, and I have never seen one that you did not see still firmly embedded in the sand.

Mr. VENTO. Well, I think that it is a question of whether or not over a period of time normal geologic forces could remove that. For instance, as the gentleman knows, the sand movement in this area, this littoral type of movement, delivers and deposits a great amount of sand in such vessels, but if this is an accumulation that could be removed or is removed by that over a normal cycle of years or weeks or days, obviously that would change.

I think what we are talking about, of course, are ships that are embedded that have been there. This, incidentally, is just one test. There are other tests, of course.

☐ 1745

Mr. GIBBONS. Reclaiming my time, let us stick to the question that I have asked. I am asking is a boat that has sunk in the sands of the Gulf of Mexico, and it now has sand in it, is it one of the shipwrecks that is covered by this bill?

Mr. VENTO. If the gentleman will continue to yield, if it takes tools to remove that sand, if it takes tools to remove it, it would not take place by normal process of current movement, the answer would be yes. If the gentleman would yield further, the example in terms of the question the gentleman from Florida has, anticipating his question, I might add, that normal process had rendered that filled with sand in a couple of weeks obviously that does not necessarily address the problem

Mr. GIBBONS. I am talking about a couple of hours.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GIBBONS] has expired.

(By unanimous consent, Mr. GIBBONS was allowed to proceed for 5 additional minutes.)

Mr. GIBBONS. Mr. Chairman, I am just trying to get some information as to what boats are not covered. Believe me, I own two boats, and I have had about six in my lifetime and I have lost one as recently as a couple of years ago. When I found it, it was embedded in the sand. It was only a 16-foot boat but it could not be dug out with a tractor.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman from Florida [Mr. GIBBONS] has hit on the point. I think it helps with the argument, in fact the gentleman from Florida has not necessarily abandoned these particular craft that he had experience with.

Mr. GIBBONS. Reclaiming my time, we are not talking about abandonment. We have already decided what abandonment is.

Mr. VENTO. If the gentleman will yield further, the point is that the embedded test, and it would be a double test, the abandonment and embedded test would have to be achieved so I think in these instances just being embedded by itself is not adequate to actually——

Mr. GIBBONS. I understand that. We understand it has to be abandoned and it has to be embedded. That is clear. We know what abandonment is. That is decided under this law by the State agency.

Mr. Chairman, what I am trying to figure out is what is meant by the language on page 6 of the bill at line 8, "embedded in submerged lands of a State." If it has sand in it, how much sand does it have to have in it? Is the answer, any sand that would require a tool to remove?

Mr. VENTO. If the gentleman would yield, the definition is that it has to be a mechanical tool, not just any tool would qualify as it necessarily being embedded. Tools of excavation, whether or not they be a shovel and so forth, I think that that is something that will have to be——

Mr. GIBBONS. Mr. Chairman, reclaiming my time, the gentleman is not trying to cover shovels or anything like that, is that correct?

Mr. VENTO. Not necessarily. The point is that we are trying to establish that it has been there for some time and that it actually has historical value. We are certainly not trying to interfere with——

Mr. GIBBONS. Is this just limited to ships of historical value? If so, where does it say that in the act?

Mr. VENTO. If the gentleman will continue to yield, I think that if the gentleman from Florida would look at the bill, of course with the references here this comes under and is written consistent with the Historic Preservation Act.

Mr. GIBBONS. So this bill is only supposed to cover ships that are of historic or archeologic value?

Mr. VENTO. The fact is that the definition is in the Historic Preservation Act which this is an amendment to so that fact is established. There is no need for further delineation of that fact.

Mr. GIBBONS. Mr. Chairman, reclaiming my time, so this bill is being written by the gentleman from Minnesota [Mr. VENTO] and the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES] so that it only applies to historic vessels or vessels of archeological value?

Mr. VENTO. If the gentleman will continue to yield, the way the law is written now, that is the effect of it.

Mr. GIBBONS. That is the effect of this law?

Mr. VENTO. That is right.

Mr. GIBBONS. That this law, to interpret the language on page 6 at line 8, "embedded in the submerged lands of a State," that only applies to historic or archeologically significant vessels, or does it apply to all vessels?

Mr. VENTO. If the gentleman will further yield, that is the effect of this particular provision in the law, yes.

Mr. GIBBONS. And it is to apply only to historic and archeologically significant vessels?

Mr. VENTO. Correct.

Mr. GIBBONS. Mr. Chairman, I appreciate the responses of the gentleman from Minnesota [Mr. VENTO].

AMENDMENT OFFERED BY MR. SHUMWAY

Mr. SHUMWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SHUMWAY: Section 3 of S. 858 is amended by striking paragraph (a) and redesignating the remaining paragraphs accordingly.

Section 6(a) of S. 858 is amended by deleting paragraphs (1) and (2) in their entirety and deleting the remaining numerical designation "(3)".

And by inserting the word "historic" immediately before the words "shipwreck" or "shipwrecks" wherever they appear in the bill.

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUMWAY. Mr. Chairman, my second amendment limits the class of shipwrecks covered by the act to those that are on, or eligible for inclusion in, the National Register of Historic Places.

The proponents of the bill have repeatedly stated that this act is intended to protect historic shipwrecks, and that it will only affect a small number—perhaps 5 percent—of the shipwrecks located on State lands. For example, Congressman VENTO, in correspondence dated March 22, 1988, to Capt. Howard Klein, a dive boat captain in New York, stated, "The hearing made it quite clear that the intent and affect of S. 858 is to transfer title of historic shipwrecks to the respective States on whose lands they rest. The majority of shipwrecks are not defined as historic."

Again, Mr. VENTO stated on March 28, 1988, when the House first debated this bill under suspension of the rules, that—

> S. 858 does not affect the jurisdiction of admiralty law over the greater percentage of shipwrecks not defined as historic. By asserting title to that small percentage of shipwrecks defined as historic and transferring that title to the States on whose submerged lands they lie, this bill clarifies the jurisdiction over the abandoned shipwrecks and helps the States protect their cultural resources.

There are numerous other examples where Mr. BENNETT and other proponents of the bill have made similar statements on the record.

Mr. Vento and these other proponents of S. 858 who maintain that this bill only transfers title of "historic" shipwrecks must be reading a different bill than my copy of S. 858. The bill clearly states that it transfers title of all shipwrecks that are: First, embedded in submerged lands of a State; second, embedded in coralline formations protected by a State on submerged lands of a State; third, on submerged lands of a State that are included or determined eligible for inclusion in the National Register. In other words, if a shipwreck falls into any one of these three categories—whether it is historic or not—it is covered by this act. The first of those categories—"embedded in submerged lands of a State"—is by far the broadest. Testimony in our hearing clearly indicated that this criteria, as a practical matter, would cover 100 percent of the abandoned shipwrecks on State lands since it only takes a matter of days for a shipwreck to be embedded in the submerged lands to the extent that it is covered by this act.

Mr. Chairman, if Mr. VENTO and Mr. BENNETT and the proponents of the bill intend this act to only cover "historic" shipwrecks, we better amend it now to reflect that policy. My second amendment does just that by striking out the first two criteria for shipwrecks covered by the act and leaving simply the one which talks about shipwrecks that are on, or eligible for, inclusion in the National Register.

Sport divers have a great interest in diving on nonhistoric as well as historic shipwrecks. To them, that is almost as fascinating as diving on historic shipwrecks. By passing this amendment, we will be fine tuning the act so that it covers only those shipwrecks which the proponents have stated that it should cover, and we will be giving some relief to sport divers by at least letting them know that nonhistoric shipwrecks will not be covered by this act and they will continue to have unfettered recreational access to them.

I urge the adoption of this amendment.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. SHUMWAY]. Use of embedded for two of the three categories of shipwrecks covered by this bill sets up a commonsense test so that a sport diver first seeing a wreck will have a reasonable way of determining if the particular shipwreck is covered by this bill. Embedded is a physical attribute, easily discernible. As used here, it means that more than casual efforts at gaining access to a particular shipwreck are necessary. There has been some concern that keeping the two categories of being embedded will extend this legislation to many shipwrecks. This will not be the case. We have consulted with geologists about the process of shipwrecks becoming embedded as S. 858 specifies and have been assured that this is a very lengthy process. Coral, for example, grows a centimeter a year—not a way to embed a shipwreck very quickly. Embedded in State lands should give the States the same rights whether those lands are dry or submerged. States manage natural resources on their State submerged lands. They should also have the rights and responsibilities of managing cultural resources there.

In the case of adding the word "historic" before each use of the word "shipwreck," this addition is totally unnecessary. Obviously we are talking about shipwrecks that have historic value. It is the clear intent of this bill to cover those shipwrecks that are old enough to become embedded or become eligible for the National Register of Historic Places. The standard test for National Register eligibility is 50 years. States already distinguish between historic and nonhistoric shipwrecks. There is no need to add this.

Mr. Chairman, I submit this is one more effort to send this bill back to the Senate, send it back to run the gauntlet and be held by a single Senator. We talk a lot around here about what holds legislation up, and we have discussed this issue, and I think the intent is clear.

Mr. Chairman, this is a good proposal. I think it is time we act on this and defeat this amendment, and then vote final passage on this measure.

There is another problem with this proposed amendment. Given that determination of eligibility on the National Register of Historic Places is a formal process, if the embedded test were removed, these parts of our Nation's heritage would be left unprotected until a formal determination of eligibility for the National Register is made. Shipwrecks could be destroyed for their recreational or historic value in the meantime. This amendment defeats the very purpose of this bill.

I strongly urge my colleagues to vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. SHUMWAY].

The amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY], having assumed the chair, Mr. TRAXLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 858) to establish the title of States in certain abandoned shipwrecks and for other purposes, pursuant to House Resolution 421, he reported the Senate bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUMWAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 340, noes 64, not voting 27, as follows:

[Roll No. 54]

AYES—340

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Barnard
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Cooper
Coughlin
Courter
Coyne
Crane
Crockett
Darden
Daub
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Oxley
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weiss
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—64

Archer
Armey
Badham
Baker
Bartlett
Bunning
Burton
Callahan
Cheney
Coble
Combest
Craig
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DioGuardi
Dornan (CA)
Edwards (OK)
Fields
Frenzel
Gallegly
Gekas
Gingrich
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Herger
Inhofe
Kolbe
Lent
Lewis (FL)
Livingston
Lott
Lukens, Donald
Lungren
Marlenee
Martin (IL)
McCandless
McEwen
Moorhead
Packard
Pashayan
Quillen
Schaefer
Sensenbrenner
Shumway
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Walker
Weber
Weldon

NOT VOTING—27

Bates
Biaggi
Boulter
Boxer
Brown (CA)
Conyers
Dickinson
Dreier
Emerson
Garcia
Gordon
Hawkins
Hutto
Jacobs
Kemp
Mica
Molinari
Owens (UT)
Pepper
Price (IL)
Ray
Ridge
Roth
Scheuer
Stenholm
Waxman
Wilson

□ 1815

Mr. SMITH of New Hampshire changed his vote from "aye" to "no."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on S. 858, the Senate bill just passed.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988

Mr. SAWYER submitted the following conference report and statement on the bill (H.R. 5) to improve elementary and secondary education, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-567)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAM AUTHORIZED

Sec. 1001. Amendments to the Elementary and Secondary Education Act of 1965.

"Sec. 1. Short title.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"Sec. 1001. Declaration of policy and statement of purpose.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SUBPART 1—ALLOCATIONS

"Sec. 1005. Basic grants.
"Sec. 1006. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

"SUBPART 2—BASIC PROGRAM REQUIREMENTS

"Sec. 1011. Uses of funds.
"Sec. 1012. Assurances and applications.
"Sec. 1013. Eligible schools.
"Sec. 1014. Eligible children.
"Sec. 1015. Schoolwide projects.
"Sec. 1016. Parental involvement.
"Sec. 1017. Participation of children enrolled in private schools.
"Sec. 1018. Fiscal requirements.
"Sec. 1019. Evaluations.
"Sec. 1020. State educational program improvement plan.
"Sec. 1021. Program improvement.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Sec. 1051. Statement of purpose.
"Sec. 1052. Program authorization.
"Sec. 1053. Allocation.
"Sec. 1054. Uses of funds.
"Sec. 1055. Eligible participants.
"Sec. 1056. Applications.
"Sec. 1057. Award of grants.
"Sec. 1058. Evaluation.

"Sec. 1059. Authorization of appropriations.

"Part C—Secondary School Programs for Basic Skills Improvement and Dropout Prevention and Reentry

"Sec. 1101. Purpose.
"Sec. 1102. Allocation.
"Sec. 1103. Uses of funds.
"Sec. 1104. Applications.
"Sec. 1105. Award of grants.
"Sec. 1106. Fiscal requirements and coordination provisions.
"Sec. 1107. Evaluations.
"Sec. 1108. Authorization of appropriations.

"Part D—Programs Operated by State Agencies

"SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

"Sec. 1201. Grants—entitlement and amount.
"Sec. 1202. Program requirements.
"Sec. 1203. Coordination of migrant education activities.

"SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

"Sec. 1221. Amount and eligibility.
"Sec. 1222. Program requirements.
"Sec. 1223. Uses of funds.
"Sec. 1224. Service and program applications.
"Sec. 1225. Eligible children.
"Sec. 1226. Federal monitoring requirement.

"SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

"Sec. 1241. Amount and entitlement.
"Sec. 1242. Program requirements.
"Sec. 1243. Transition services.
"Sec. 1244. Definitions.

"SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

"Sec. 1291. Reservation of funds for territories.
"Sec. 1292. Dual eligibility for programs.

"Part E—Payments

"Sec. 1401. Payment methods.
"Sec. 1402. Amount of payments to local educational agencies.
"Sec. 1403. Adjustments where necessitated by appropriations.
"Sec. 1404. Payments for State administration.
"Sec. 1405. Funds for the implementation of school improvement programs.
"Sec. 1406. Limitation on grant to the Commonwealth of Puerto Rico.

"Part F—General Provisions

"SUBPART 1—FEDERAL ADMINISTRATION

"Sec. 1431. Federal regulations.
"Sec. 1432. Availability of appropriations.
"Sec. 1433. Withholding of payments.
"Sec. 1434. Judicial review.
"Sec. 1435. Evaluation.
"Sec. 1436. Coordination of Federal, State, and local administration.
"Sec. 1437. Authorization of appropriations for evaluation and technical assistance.
"Sec. 1438. Application of General Education Provisions Act.
"Sec. 1439. National commission on migrant education.

"SUBPART 2—STATE ADMINISTRATION

"Sec. 1451. State regulations.
"Sec. 1452. Records and information.
"Sec. 1453. Assignment of personnel.
"Sec. 1454. Prohibition regarding State aid.

"SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

"Sec. 1456. Program authorized.
"Sec. 1457. Application priority requirements.
"Sec. 1458. Coordination, dissemination, and report.
"Sec. 1459. Authorization of appropriations.

"SUBPART 4—STUDIES

"Sec. 1461. Report on state and local evaluations.
"Sec. 1462. National study on effect of programs on children.
"Sec. 1463. Authorization of appropriations.

"SUBPART 5—DEFINITIONS

"Sec. 1471. Definitions.

"SUBPART 6—MISCELLANEOUS PROVISIONS

"Sec. 1491. Transition provisions.

"Chapter 2—Federal, State, and Local Partnership for Educational Improvement

"Sec. 1501. Findings and statement of purpose.
"Sec. 1502. Authorization of appropriations; duration of assistance.

"Part A—State and Local Programs

"SUBPART 1—GENERAL PROVISIONS

"Sec. 1511. Allotment to States.
"Sec. 1512. Allocation to local educational agencies.

"SUBPART 2—STATE PROGRAMS

"Sec. 1521. State uses of funds.
"Sec. 1522. State applications.

"SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

"Sec. 1531. Targeted use of funds.
"Sec. 1532. Authorized activities.
"Sec. 1533. Local application.

"SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

"Sec. 1541. Establishment.
"Sec. 1542. Effective schools.

"Part B—National Programs and Activities

"Sec. 1561. General authority.
"Sec. 1562. National diffusion network activities.
"Sec. 1563. Inexpensive book distribution program for reading motivation.
"Sec. 1564. Arts in education program.
"Sec. 1565. Law-related education program.
"Sec. 1566. Blue ribbon schools program.

"Part C—General Administrative Provisions

"Sec. 1571. Maintenance of effort; Federal funds supplementary.
"Sec. 1572. Participation of children enrolled in private schools.
"Sec. 1573. Evaluations and reporting.
"Sec. 1574. Federal administration.
"Sec. 1575. Application of General Education Provisions Act.
"Sec. 1576. Transition provisions.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"Part A—Dwight D. Eisenhower Mathematics and Science Education Act

"Sec. 2001. Short title.
"Sec. 2002. Statement of purpose.
"Sec. 2003. Program authorized.
"Sec. 2004. Allocation of funds.
"Sec. 2005. In-State apportionment.
"Sec. 2006. Elementary and secondary education programs.
"Sec. 2007. Higher education programs.
"Sec. 2008. State application.
"Sec. 2009. Local application.
"Sec. 2010. Participation of children and teachers from private schools.
"Sec. 2011. Federal administration.
"Sec. 2012. National programs.
"Sec. 2013. Definitions.

"Part B—Foreign Languages Assistance

"Sec. 2101. Short title.
"Sec. 2102. Findings.
"Sec. 2103. Program authorized.
"Sec. 2104. Allotments.
"Sec. 2105. Definitions.
"Sec. 2106. Authorization of appropriations.

"Part C—Presidential Awards for Teaching Excellence in Mathematics and Science and in Foreign Languages

"Sec. 2201. Presidential awards.
"Sec. 2202. Administrative provisions.
"Sec. 2203. Authorization of appropriations.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"Sec. 3001. Authorization of appropriations; reservation.
"Sec. 3002. Eligibility.
"Sec. 3003. Statement of purpose.
"Sec. 3004. Program authorized.
"Sec. 3005. Definition.
"Sec. 3006. Uses of funds.
"Sec. 3007. Applications and requirements.
"Sec. 3008. Special consideration.
"Sec. 3009. Prohibitions.
"Sec. 3010. Limitation on payments.
"Sec. 3011. Payments.
"Sec. 3012. Withholding.

"TITLE IV—SPECIAL PROGRAMS

"Part A—Women's Educational Equity

"Sec. 4001. Short title; findings and statement of purpose.
"Sec. 4002. Program authorized.
"Sec. 4003. Application; participation.
"Sec. 4004. Challenge grants.
"Sec. 4005. Criteria and priorities.
"Sec. 4006. Reports, evaluation, and dissemination.
"Sec. 4007. Authorization of appropriations.

"Part B—Gifted and Talented Children

"Sec. 4101. Short title.
"Sec. 4102. Findings and purposes.
"Sec. 4103. Definitions.
"Sec. 4104. Authorized programs.
"Sec. 4105. Program priorities.
"Sec. 4106. Participation of private school children and teachers.
"Sec. 4107. Administration.
"Sec. 4108. Authorization of appropriations.

"Part C—Allen J. Ellender Fellowship Program

"Sec. 4301. Findings.

"SUBPART 1—PROGRAM FOR SECONDARY SCHOOL STUDENTS AND TEACHERS

"Sec. 4311. Establishment.
"Sec. 4312. Applications.

"SUBPART 2—PROGRAMS FOR OLDER AMERICANS AND RECENT IMMIGRANTS

"Sec. 4321. Establishment.
"Sec. 4322. Applications.

"SUBPART 3—GENERAL PROVISIONS

"Sec. 4331. Administrative provisions.
"Sec. 4332. Authorization of appropriations.

"Part D—Immigrant Education

"Sec. 4401. Short title.
"Sec. 4402. Definitions.
"Sec. 4403. Authorizations and allocation of appropriations.
"Sec. 4404. State administrative costs.
"Sec. 4405. Withholding.
"Sec. 4406. State entitlements.
"Sec. 4407. Uses of funds.
"Sec. 4408. Applications.
"Sec. 4409. Payments.
"Sec. 4410. Reports.

"PART E—TERRITORIAL ASSISTANCE

"Sec. 4501. General assistance for the Virgin Islands.
"Sec. 4502. Territorial teacher training assistance.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"Sec. 4601. Program authorized.
"Sec. 4602. Optional tests for academic excellence.
"Sec. 4603. Technology education.
"Sec. 4604. Programs for computer-based education.
"Sec. 4605. Programs for the improvement of comprehensive school health education.
"Sec. 4606. Alternative curriculum schools.
"Sec. 4607. Authorization of appropriations.

"TITLE V—DRUG EDUCATION

"Sec. 5101. Short title.
"Sec. 5102. Findings.
"Sec. 5103. Purpose.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"Sec. 5111. Authorization of appropriations.
"Sec. 5112. Reservations and State allotments.

"PART B—STATE AND LOCAL PROGRAMS

"Sec. 5121. Use of allotments by States.
"Sec. 5122. State programs.
"Sec. 5123. State applications.
"Sec. 5124. Responsibilities of State educational agencies.
"Sec. 5125. Local drug abuse education and prevention programs.
"Sec. 5126. Local applications.
"Sec. 5127. State reports.

"PART C—NATIONAL PROGRAMS

"Sec. 5131. Grants to institutions of higher education.
"Sec. 5132. Federal activities.
"Sec. 5133. Programs for Indian youth.
"Sec. 5134. Programs for Hawaiian natives.
"Sec. 5135. Regional centers.

"PART D—GENERAL PROVISIONS

"Sec. 5141. Definitions.
"Sec. 5142. Functions of the Secretary of Education.
"Sec. 5143. Participation of children and teachers from private nonprofit schools.
"Sec. 5144. Materials.

"PART E—MISCELLANEOUS PROVISIONS

"Sec. 5191. Indian education programs.
"Sec. 5192. Transition.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"Sec. 6001. Short title.
"Sec. 6002. Purpose.
"Sec. 6003. Authorization of appropriations.
"Sec. 6004. Grants to local educational agencies.
"Sec. 6005. Application.
"Sec. 6006. Authorized activities.
"Sec. 6007. Distribution of assistance; limitation on costs.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

"Sec. 6101. Short title.
"Sec. 6102. Purpose.
"Sec. 6103. Authorization of appropriations.
"Sec. 6104. Grants to local educational agencies.
"Sec. 6105. Authorized activities.
"Sec. 6106. Application.

"PART C—GENERAL PROVISIONS

"Sec. 6201. General provisions.
"Sec. 6202. Definitions.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"Sec. 7001. Short title.
"Sec. 7002. Policy; appropriations.
"Sec. 7003. Definitions; regulations.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"Sec. 7021. Bilingual education programs.
"Sec. 7022. Indian children in schools.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"Sec. 7031. Use of funds.
"Sec. 7032. Grants for State programs.
"Sec. 7033. Program evaluation requirements.
"Sec. 7034. Evaluation assistance centers.
"Sec. 7035. Research.
"Sec. 7036. Coordination of research.
"Sec. 7037. Education statistics.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"Sec. 7041. Use of funds.
"Sec. 7042. Multifunctional resource centers.
"Sec. 7043. Fellowships.
"Sec. 7044. Priority.
"Sec. 7045. Stipends.

"PART D—ADMINISTRATION

"Sec. 7051. Office of Bilingual Education and Minority Languages Affairs.
"Sec. 7052. Limitation of authority.

"PART E—TRANSITION

"Sec. 7063. Transition.".
Sec. 1002. Conforming amendments.
Sec. 1003. Repeals.
Sec. 1004. Special rule on school dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATIONAL PROGRAMS

PART A—IMPACT AID PROGRAM

Sec. 2001. Short title.

SUBPART 1—PUBLIC LAW 874

Sec. 2011. Administrative amendments.
Sec. 2012. Reauthorization.
Sec. 2013. Federal acquisition of real property.
Sec. 2014. Entitlements and payments.
Sec. 2015. Method of payment.
Sec. 2016. Children for whom local agency is unable to provide education.
Sec. 2017. Disaster assistance.
Sec. 2018. Treatment of children residing on property assisted under section 8 of the United States Housing Act of 1937.
Sec. 2019. Children residing on, or whose parents are employed on, Federal property.
Sec. 2020. Regulation requirements.
Sec. 2021. Definition.

SUBPART 2—PUBLIC LAW 815

Sec. 2031. Reauthorization.
Sec. 2032. Administrative amendments.
Sec. 2033. Disaster assistance.
Sec. 2034. Technical amendment.

PART B—ADULT EDUCATION

Sec. 2101. Short title.
Sec. 2102. Amendment to Adult Education Act.

"TITLE III—ADULT EDUCATION PROGRAMS

"Sec. 301. Short title.

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TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAMS REAUTHORIZED

SEC. 1001. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) (other than title X of such Act) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) Declaration of Policy.—In recognition of—

"(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

"(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

"(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

"(B) expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993; and

"(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

"(b) Statement of Purpose.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Allocations

"SEC. 1005. BASIC GRANTS.

"(a) Amount of Grants.—

"(1) Grants for territories.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under this section. The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter.

"(2) Grants for local educational agencies and Puerto Rico.—

"(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(3) Special allocation procedures.—

"(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties or may continue to make such allocations if the agency had the authority to do so under chapter 1 of the Education Consolidation and Improvement Act of 1981. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

"(4) Definition.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) Minimum Number of Children To Qualify.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

"(c) Children To Be Counted.—

"(1) Categories of children.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such in-

stitutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—

"(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per pupil expenditure in the State in which the agency is located, or (B) 120 percent of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F. Such agreement shall consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies. If, in the capacity as a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary shall comply with section 1451 of this Act and with section 553 of title 5 of the United States Code, relating to administrative procedure, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

"(e) STATE MINIMUM.—(1) For any fiscal year for which—

"(A) sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988; and

"(B)(i) sums available for the purpose of section 1006 equal or exceed $400,000,000, or

"(ii) sums available for the purpose of section 1005 equal or exceed amounts appropriated for such purpose in fiscal year 1988 by $700,000,000,

the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988.

"(3)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(g) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

"SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000,

whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each county in which there are local educational agencies eligible to receive *an additional grant under this section for any fiscal year the Secretary shall determine the product of—*

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

"(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

"(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of subparagraphs (A) and (B) of paragraph (1). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

"(B) In counties where no local educational agency meets the criteria of subparagraph (A) or (B) of paragraph (1), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

"(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

"(i) In accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

"(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

"(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of subparagraphs (A) and (B) of paragraph (1), but are otherwise ineligible.

"(b) Payments; Use of Funds.—

"(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

"(c) Reservation of Funds.—

"(1) For any fiscal year for which amounts appropriated for part A of this chapter exceed $3,900,000,000, the amounts specified in paragraph (2) of this subsection shall be available to carry out this section.

"(2)(A) The first $400,000,000 in excess of $3,900,000,000 appropriated for part A of this chapter in any fiscal year shall be available to carry out this section.

"(B) Whenever the amounts appropriated for part A exceed $4,300,000,000 in any fiscal year, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section, except that no State shall, as a result of implementation of paragraph (2) of this subsection, receive less under section 1005 than it received for the previous fiscal year under such section or under section 554(a)(1)(A) of the Education Consolidation and Improvement Act of 1981.

"(d) Ratable Reduction Rule.—If the sums available under subsection (c) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"Subpart 2—Basic Program Requirements

"SEC. 1011. USES OF FUNDS.

"(a) Program Description.—

"(1) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

"(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

"(3) State and local educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

"(b) Innovation Projects.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(1) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(2) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan for a period not to exceed 2 years;

"(3) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(4) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

"(5) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(6) encouraging the involvement of community and private sector resources (including fiscal resources) in meeting the needs of eligible children; and

"(7) assistance by local educational agencies of schools identified under section 1021(b).

"SEC. 1012. ASSURANCES AND APPLICATIONS.

"(a) State Educational Agency Assurances.—Any State desiring to participate under this chapter shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in section 435 (b)(2) and (b)(5) of the General Education Provisions Act relating to fiscal control and fund accounting procedures;

"(2) will carry out the activities required under this chapter with regard to evaluation and school program improvement;

"(3) has on file a program improvement plan that meets the requirements of section 1020; and

"(4) will ensure that its local educational agencies and State agencies receiving funds under this chapter comply with all applicable statutory and regulatory provisions pertaining to this chapter.

Such assurances shall remain in effect for the duration of participation under this chapter.

"(b) LOCAL APPLICATIONS.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the procedure to be used under section 1014(b) to assess students' needs and establish program goals, describes the programs and projects to be conducted with such assistance for a period of not more than 3 years, and describes the desired outcomes for eligible children, in terms of basic and more advanced skills that all children are expected to master, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency and developed in consultation with teachers and parents.

"(c) LOCAL ASSURANCES.—Such application shall provide assurance that the programs and projects described—

"(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

"(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017;

"(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program; and

"(4) in the case of participating students who are also limited English proficient or are handicapped, provide maximum coordination between services provided under this chapter and services provided to address children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

"SEC. 1013. ELIGIBLE SCHOOLS.

"(a) GENERAL PROVISIONS.—

"(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest within each grade span grouping or for the entire local educational agency, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence of this paragraph.

"(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all school attendance areas within a grade span grouping or for the entire local educational agency, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

"(1) A local educational agency may designate as eligible and serve all of its attendance areas within a grade span grouping or in the entire local educational agency if the percentage of children from low-income families in each attendance area of the agency is within 5 percentage points of the average percentage of such children within a grade span grouping or for the entire local educational agency.

"(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency eligible under subsection (a) in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year if such attendance areas qualify for such amounts under subsection (c)(1).

"(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of deprived children from low-income families in project areas served by the local educational agency.

"(4) Funds received under this part may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(5) If an eligible school attendance area or eligible school was so designated and served in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify as eligible under such subsection in such additional year.

"(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this part, except that (A) the number of children attending private elementary and secondary schools who receive services under this part shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this part shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(c) ALLOCATIONS.—

"(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this part among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

"(2) Children in eligible schools, who receive services under this part and subsequently become ineligible due to improved academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

"SEC. 1014. ELIGIBLE CHILDREN.

"(a) GENERAL PROVISIONS.—

"(1) Except as provided in subsections (c) and (d) of this section and section 1015, a local educational agency shall use funds received under this part for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

"(2) The eligible population for services under this part are—

"(A) those children up to age 21 who are entitled to a free public education through grade 12, and

"(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this part only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational *needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.*

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—(1) Educationally deprived children who begin participation in a program or project assisted under this part, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this part, may, if the local agency so determines, continue to participate in a program or project funded under this part for the duration of that same school year.

"(2) In providing services under this part a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this part.

"(3) A child who, in the previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this part while continuing to be educationally deprived for a maximum of 2 additional years.

"(d) SPECIAL RULES.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this part, if they have needs stemming from educational deprivation and not related solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this part. Funds under this part may not be used to provide services that are otherwise required by law to be made available to such children.

"(2) A student who at any time in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

"SEC. 1015. SCHOOLWIDE PROJECTS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this part and in which, for the first year of the 3-year period of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this part to upgrade the entire educational program in that school if the requirements of subsections (b), (c), (d), and (e) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

"(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

"(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

"(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

"(D) describes the specific uses of funds under this part as part of that program; and

"(E) describes how the school will move to implement an effective schools program as defined in section 1471, if appropriate;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

"(3) the plan provides for consultation among individuals described in paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (e);

"(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

"(5) the plan includes procedures for measuring progress, as required by subsection (e), and describes the particular measures to be used; and

"(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

"(c) APPROVAL OF PLAN; OPERATION OF PROJECT.—

"(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this part with respect to the commingling of funds provided under this chapter with funds available for regular programs;

"(B) shall use funds received under this part only to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a school-wide project under paragraph (1);

"(C) shall comply with the provisions of section 1018(c); and

"(D) may not be required to identify particular children as being eligible to participate in projects assisted under this part but shall identify educationally deprived children for purposes of subsections (b) and (e) of this section.

"(d) USE OF FUNDS.—In addition to uses under section 1011, funds may be used in schoolwide projects for—

"(1) planning and implementing effective schools programs, and

"(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended school-day programs.

"(e) ACCOUNTABILITY.—

"(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of 3 years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional 3-year period.

"(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of educationally deprived children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of educationally deprived children in that school exceeds the average achievement of such children in that school in the 3 fiscal years prior to initiation of the schoolwide project.

"(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels over the 3-year schoolwide project period, compared with the 3-year period immediately preceding the schoolwide project, do not decline.

"(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

"SEC. 1016. PARENTAL INVOLVEMENT.

"(a) FINDINGS; GENERAL REQUIREMENT.—

"(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

"(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activities, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

"(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

"(b) GOALS OF PARENTAL INVOLVEMENT.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating

children, develop programs, activities, and procedures which have the following goals—

"(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

"(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

"(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students;

"(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children;

"(5) to provide a comprehensive range of opportunities for parents to become informed, in a timely way, about how the program will be designed, operated, and evaluated, allowing opportunities for parental participation, so that parents and educators can work together to achieve the program's objectives; and

"(6) to ensure opportunities, to the extent practicable, for the full participation of parents who lack literacy skills or whose native language is not English.

"(c) MECHANISMS FOR PARENTAL INVOLVEMENT.—

"(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

"(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all such parents are given an opportunity to participate.

"(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and, to the extent practical, hold a parent-teacher conference with the parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter.

"(4) Each local educational agency shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

"(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children.

"(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

"(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

"(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided, to the extent practicable, in a language and form which the parents understand.

"SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011(a), 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BYPASS PROVISION.—

"(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

"(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

"(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

"(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965, as in effect prior to July 1, 1988, or chapter 1 of the Education Consolidation and Improvement Act of 1981 shall remain in effect to the extent consistent with the purposes of this chapter.

"(d) CAPITAL EXPENSES.—

"(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agencies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter.

"(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

"(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

"(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, $40,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected.

"(4) For the purposes of this subsection, the term 'capital expenses' is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (including but not limited to mobile educational units and leasing of neutral sites or space), insurance and maintenance costs, transportation, and other comparable goods and services.

"SEC. 1018. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) Each State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

"(c) COMPARABILITY OF SERVICES.—

"(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

"(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

"(i) a districtwide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

"(3) Each educational agency shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. Each State educational agency shall monitor the compliance of local educational agencies within the States with respect to the requirements of this subsection.

"(4) Each local educational agency with not more than 1 building for each grade span shall not be subject to the provisions of this subsection.

"(5) Each local educational agency which is found to be out of compliance with this subsection shall be subject to withholding or repayment of funds only to the amount or percentage by which the local educational agency has failed to comply.

"(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

"(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency or a State agency operating a program under part D of this chapter may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children after prior determination pursuant to paragraphs (3) and (4) of this subsection that such programs meet the requirements of subparagraph (B).

"(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

"(i) all children participating in the program are educationally deprived,

"(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

"(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and

"(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

"(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(i) bilingual education for children of limited English proficiency,

"(ii) special education for handicapped children, and

"(iii) certain State phase-in programs as described in subparagraph (B).

"(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

"(i) the program is authorized and governed specifically by the provisions of State law;

"(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(v) the program will benefit all children in a particular school or grade-span within a school;

"(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

"(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

"(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determination. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

"(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"SEC. 1019. EVALUATIONS.

"(a) Local Evaluation.—Each local educational agency shall—

"(1) evaluate the effectiveness of programs assisted under this part, in accordance with national standards developed according to section 1435, at least once every 3 years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

"(2) submit such evaluation results to the State educational agency at least once during each 3-year application cycle;

"(3) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year.

"(b) State Evaluations.—In accordance with national standards, each State educational agency shall—

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1107(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every 2 years, submit that evaluation to the Secretary and make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

"(3) collect data on the race, age, gender, and number of children with handicapping conditions served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

"(c) Special Condition.—Projects funded under this part that serve only preschool, kindergarten, or first grade students or students in such grade levels who are included in projects serving children above such grade levels shall not be subject to the requirements of subsection (a).

"SEC. 1020. STATE EDUCATIONAL PROGRAM IMPROVEMENT PLAN.

"(a) Plan Requirements.—A State educational agency which receives funds under part A, part C, and part E of this chapter shall develop, in consultation with a committee of practitioners constituted pursuant to section 1451(b) of this chapter, a plan to ensure implementation of the provisions of this section and section 1021. Each such plan shall contain, but shall not be limited to—

"(1) the objective measures and standards the State educational agency and other agencies receiving funds under part A, part C, and part E of this chapter will use to assess aggregate performance pursuant to section 1021, and may include implementation of section 1019;

"(2) the means the State educational agency will use to develop joint plans with local educational agencies which have identified, pursuant to section 1021(b), schools in need of program improvement to attain satisfactory student progress, the timetable for developing and implementing such plans (within parameters defined pursuant to section 1431) and the program improvement assistance that will be provided to such schools pursuant to section 1021. Such program improvement assistance may include, but shall not be limited to, training and retraining of personnel, development of curricula that has shown promise in similar schools, replication of promising practices in effective schools models, improving coordination between programs assisted under this chapter and the regular school program, and the development of innovative strategies to enhance parental involvement.

"(b) Dissemination and Availability of Plan.—(1) The State educational agency shall disseminate the plan developed under this subsection to all local educational agencies and other State agencies receiving funds under this chapter.

"(2) The State educational program improvement plan shall be available at the State educational agency for inspection by the Secretary and may be amended by the State educational agency after consultation with a committee of practitioners when necessary.

"(c) Availability of Funds.—In any fiscal year for which appropriations are made pursuant to section 1405, the State educational agency shall fully implement the program improvement activities described in sections 1020 and 1021. In any fiscal year for which appropriations are not made, the State educational agency shall conduct, at a minimum, the activities required under section 1021(d), and other program improvement activities to the extent practicable.

"SEC. 1021. PROGRAM IMPROVEMENT.

"(a) Local Review.—Each local educational agency shall—

"(1) conduct an annual review of the program's effectiveness in improving student performance for which purpose the local educational agency shall use outcomes developed pursuant to section 1012 and subsection (b) of this section, and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

"(2) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year;

"(3) use the results of such review and of evaluation pursuant to section 1019 in program improvement efforts required by section 1021(b); and

"(4) annually assess through consultation with parents, the effectiveness of the parental involvement program and determine what action needs to be taken, if any, to increase parental participation.

"(b) School Program Improvement.—With respect to each school which does not show substantial progress toward meeting the desired outcomes described in the local educational agency's application under section 1012(a) or shows no improvement or a decline in aggregate performance of children served under this chapter for one school year as assessed by measures developed pursuant to section 1019(a) or subsection (a), pursuant to the program improvement timetable developed under sections 1020 and 1431, the local educational agency shall—

"(1) develop and implement in coordination with such school a plan for program improvement which shall describe how such agency will identify and modify programs funded under this chapter for schools and children pursuant to this section and which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children, including—

"(A) a description of educational strategies designed to achieve the stated program outcomes or to otherwise improve the performance and meet the needs of eligible children; and

"(B) a description of the resources, and how such resources will be applied, to carry out the strategies selected, including, as appropriate, qualified personnel, inservice training, curriculum materials, equipment, and physical facilities; and, where appropriate—

"(i) technical assistance;

"(ii) alternative curriculum that has shown promise in similar schools;

"(iii) improving coordination between part A and part C of this chapter and the regular school program;

"(iv) evaluation of parent involvement;

"(v) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter, and

"(vi) other measures selected by the local educational agency;

"(2) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

"(3) A school which has 10 or fewer students served during an entire program year shall not be subject to the requirements of this subsection.

"(c) Discretionary Assistance.—The local educational agency may apply to the State educational agency for program improvement assistance funds authorized under section 1405.

"(d) State Assistance to Local Educational Agencies.—(1) If after the locally developed program improvement plan shall have been in effect according to the timetable es-

tablished under sections 1020 and 1431, the aggregate performance of children served under this chapter in a school does not meet the standards stated in subsections (a) and (b), the local educational agency shall, with the State educational agency, and in consultation with school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved performance is sustained over a period of more than 1 year.

"(2) The State educational agency shall ensure that program improvement assistance is provided to each school identified under paragraph (1).

"(e) Local Conditions.—The local educational agency and the State educational agency, in performing their responsibilities under this section, shall take into consideration—

"(1) the mobility of the student population,

"(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

"(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter,

"(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter, and

"(5) whether a change in the review cycle pursuant to section 1019 or 1021(a)(1) or in the measurement instrument used or other measure-related phenomena has rendered results invalid or unreliable for that particular year.

"(f) Student Program Improvement.—On the basis of the evaluations and reviews under sections 1019(a)(1) and 1021(a)(1), each local educational agency shall—

"(1) identify students who have been served for a program year and have not met the standards stated in subsections (a) and (b),

"(2) consider modifications in the program offered to better serve students so identified, and

"(3) conduct a thorough assessment of the educational needs of students who remain in the program after 2 consecutive years of participation and have not met the standards stated in subsection (a).

"(g) Program Improvement Assistance.—In carrying out the program improvement and student improvement activities required in subsections (a), (b), (c), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers and appropriate regional rural assistance programs established by section 1456 to the full extent such resources are available.

"(h) Further Action.—If the State educational agency finds that, consistent with the program improvement timetable established under sections 1020 and 1431, after one year under the joint plan developed pursuant to subsection (d), including services in accordance with section 1017, a school which continues to fall below the standards for improvement stated in subsections (a) and (b) with regard to the aggregate performance of children served under part A, part C, and part E of this chapter, the State educational agency shall, with the local educational agency, review the joint plan and make revisions which are designed to improve performance, and continue to do so each consecutive year until such performance is sustained over a period of more than one year. Nothing in this section or section 1020 shall be construed to give the State any authority concerning the educational program of a local educational agency that does not otherwise exist under State law.

"(i) Mutual Agreement.—Before any joint plan may be implemented under subsection (d) and subsection (h) both the local educational agency and State educational agency must approve such plan.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SEC. 1051. STATEMENT OF PURPOSE.

"It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as 'Even Start'. The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

"SEC. 1052. PROGRAM AUTHORIZATION.

"(a) Grants by the Secretary.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part which are not inconsistent with the provisions of this subsection, to make grants to local educational agencies or consortia of such agencies to carry out Even Start programs.

"(b) State Grant Program.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States from allocations under section 1053 to enable States to carry out Even Start programs.

"(c) Definition.—For the purpose of this part, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1053. ALLOCATION.

"(a) Reservation for Migrant Programs.—The Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) State Allocation.—Except as provided in section 1052(a) and subsection (c) of this section, each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated under section 1052(b) in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) State Minimum.—(1) Subject to the provisions of paragraph (2), no State shall receive less than the greater of—

"(A) one-half of one percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"SEC. 1054. USES OF FUNDS.

"(a) In General.—In carrying out the program under this part, funds made available to local educational agencies, in collaboration with, where appropriate, institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations, shall be used to pay the Federal share of the cost of providing family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) Program Elements.—Each program assisted under this part shall include—

"(1) the identification and recruitment of eligible children;

"(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

"(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided for under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in the program authorized by this part;

"(4) the establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

"(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

"(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

"(7) coordination of programs assisted under this part with programs assisted under this chapter and any relevant programs under chapter 2 of this title, the Adult Education Act, the Education of the Handicapped Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

"(c) Federal Share Limitation.—The Federal share under this part may be—

"(1) not more than 90 percent of the total cost of the program in the first year the local educational agency receives assistance under this part,

"(2) 80 percent in the second such year,

"(3) 70 percent in the third such year, and

"(4) 60 percent in the fourth and any subsequent such year.

Funds may not be used for indirect costs. The remaining cost may be obtained from any source other than funds made available for programs under this title.

"SEC. 1055. ELIGIBLE PARTICIPANTS.

"Eligible participants shall be—

"(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

"(2) the child or children (aged 1 to 7, inclusive), of any individual under paragraph (1), who reside in a school attendance area designated for participation in programs under part A.

"SEC. 1056. APPLICATIONS.

"(a) Submission.—To be eligible to receive a grant under this part a local educational agency shall submit an application to the Secretary under section 1052(a) and to the State educational agency under section 1052(b) in such form and containing or accompanied by such information as the Secretary or the State educational agency, as the case may be, may require.

"(b) Required Documentation.—Such application shall include documentation that the local educational agency has the qualified personnel required—

"(1) to develop, administer, and implement the program required by this part, and

"(2) to provide special training necessary to prepare staff for the program.

"(c) Plan.—Such application shall also include a plan of operation for the program which includes—

"(1) a description of the program goals;

"(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

"(3) a description of the population to be served and an estimate of the number of participants;

"(4) if appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, private elementary schools, or other appropriate nonprofit organizations in carrying out the program for which assistance is sought;

"(5) a statement of the methods which will be used—

"(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

"(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

"(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

"(6) a description of the methods by which the applicant will coordinate programs under this part with programs under chapter 1 and chapter 2, where appropriate, of this title, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

"SEC. 1057. AWARD OF GRANTS.

"(a) Selection Process.—The Secretary or each State educational agency, as the case may be, shall appoint a review panel that will award grants on the basis of proposals which—

"(1) are most likely to be successful in meeting the goals of this part;

"(2) serve the greatest percentage of eligible children and parents as described in section 1055;

"(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(4) submit budgets which appear reasonable, given the scope of the proposal;

"(5) demonstrate the local educational agency's ability to provide additional funding under section 1054(c);

"(6) are representative of urban and rural regions of the State or of the United States, as the case may be; and

"(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

"(b) Review Panel.—A review panel shall, to the extent practicable, consist of 7 members as follows:

"(1) an early childhood education professional;

"(2) an adult education professional;

"(3) a representative of parent-child education organizations;

"(4) a representative of community-based literacy organizations;

"(5) a member of a local board of education;

"(6) a representative of business and industry with a commitment to education; and

"(7) an individual involved in the implementation of programs under this chapter within the State.

The panel shall contain members described in paragraphs (1), (2), (6), and (7).

"(c) Equitable Distribution of Assistance.—In approving grants under this part under section 1052(a), the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(d) Duration.—(1) Grants may be awarded for a period not to exceed 4 years. In any application from a local educational agency for a grant to continue a project for the second, third, or fourth fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary or the State educational agency, as the case may be, shall review the progress being made toward meeting the objectives of the project. The Secretary or the State educational agency, as the case may be, may refuse to award a grant if the Secretary or such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(2) The Secretary shall establish criteria for carrying out the provisions of paragraph (1) in the transition fiscal year whenever the provisions of section 1052(b) apply to authorized State grant programs.

"SEC. 1058. EVALUATION.

"(a) Independent Annual Evaluation.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) services to special populations;

"(2) adult education services;

"(3) parent training;

"(4) home-based programs involving parents and children;

"(5) coordination with related programs; and

"(6) training of related personnel in appropriate skill areas.

"(b) Criteria.—

"(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(c) Report to Congress and Dissemination.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1993. The annual evaluations shall be submitted to the National Diffusion Network for consideration for possible dissemination.

"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purposes of this part $50,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"SEC. 1101. PURPOSE.

"It is the purpose of this subpart to provide additional assistance to local educational agencies with high concentrations of low-income children, low-achieving children, or school dropouts to improve the achievement of educationally disadvantaged children enrolled in secondary schools of such agencies, and to reduce the number of youths who do not complete their elementary and secondary education.

"SEC. 1102. ALLOCATION.

"(a) Reservation for Migrant Programs.—From the amount appropriated under section 1108 for the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) State Allocation.—Except as provided in subsection (c), each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) State Minimum.—(1) No State shall receive less than the greater of—

"(A) one-quarter of 1 percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATION.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

"(1) the eligibility of such agency for funds under section 1005 of this Act; and

"(2) the criteria described in section 1105. Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.

"(e) STATE ADMINISTRATION.—A State may reserve not more than 5 percent of the amounts available under this part for any fiscal year for State administrative costs.

"SEC. 1103. USES OF FUNDS.

"(a) GENERAL RULE.—A local educational agency may use—

"(1) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b), and

"(2) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).

"(b) BASIC SKILLS FOR SECONDARY SCHOOLS.—Funds made available under this subpart may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches for—

"(A) surmounting barriers that make secondary school programs under this subpart difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) courses leading to successful completion of the general education development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, preemployment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other student services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subpart and under part A, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(c) USES OF FUNDS FOR SCHOOL DROPOUT PREVENTION AND REENTRY PROJECTS.—Funds made available under this subsection may be used for—

"(1) effective programs which identify potential student dropouts and prevent them from dropping out of elementary and secondary school;

"(2) effective programs which identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective programs for early intervention designed to identify at-risk students in elementary and early secondary schools;

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school;

"(5) school dropout programs which include coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(6) projects which are carried out in consortia with a community-based organization, any nonprofit private organization, institution of higher education, State educational agency, State and local public agencies, private industry councils (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station, or community-based organization; or

"(7) any of the activities described in section 6005 or 6006 of title VI.

"(d) LIMITATION.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

"SEC. 1104. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Any local educational agency which desires to receive a grant under this part shall submit to the State educational agency an application which describes the program to be supported with funds under this part and complies with the provisions of subsection (b).

"(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall—

"(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, school dropouts, and potential school dropouts;

"(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this part);

"(3) assure that the programs will be conducted in schools with the greatest need for assistance, in terms of achievement levels, poverty rates, or school dropout rates;

"(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part;

"(5) assure that services will be provided under this part, as appropriate, to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

"(7) describe the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

"(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

"(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part; and

"(10) provide such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

"(c) SPECIAL RULE.—If the Secretary determines that a local educational agency has substantially failed to comply with paragraph (9) (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students.

"(d) DURATION OF GRANTS.—Grants may be awarded for a period of 3 years.

"SEC. 1105. AWARD OF GRANTS.

"Each State educational agency shall award grants to local educational agencies within the State which—

"(1) demonstrate the greatest need for services provided under this part based on their numbers of low-income children, numbers of low-achieving children, or numbers of school dropouts;

"(2) are representative of urban and rural regions of the State;

"(3) offer innovative approaches to improving achievement among eligible youth or offer approaches which show promise for replication and dissemination; and

"(4) offer innovative approaches to reducing the number of school dropouts.

"SEC. 1106. FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.

"(a) GENERAL RULE.—(1) The provisions of subsections (a) through (d) of section 1018 of this Act shall apply to the program authorized by this part.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant may be used for local administrative costs.

"(3) COORDINATION AND DISSEMINATION.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(b) SPECIAL RULE.—(1) Each local educational agency shall use funds under this part to supplement the level of funds under this chapter that are used for secondary school programs.

"(2) In order to comply with paragraph (1), any local educational agency which operates secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which is operating secondary school basic skills programs under this part shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

"SEC. 1107. EVALUATION.

"The provisions of sections 1019 and 1021 shall apply to local educational agencies receiving grants under this part.

"SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for the fiscal year 1990, $450,000,000 for the fiscal year 1991, $500,000,000 for the fiscal year 1992, and $550,000,000 for the fiscal year 1993 to carry out this part.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

"SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT.

"(a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen which meet the requirements of section 1202.

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than the Commonwealth of Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as the Secretary may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States may not exceed a standard error rate of 5 percent.

"(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

"(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"SEC. 1202. PROGRAM REQUIREMENTS.

"(a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Education of the Handicapped Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

"(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen; and

"(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker (including migratory agricultural dairy workers) or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of 5 years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

"(c) DEFINITIONS.—The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 (as in effect on April 30, 1985). No additional definition of 'migratory agricultural worker' or 'migratory fisherman' may be applied to the provisions of this subpart.

"(d) BYPASS PROVISION.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in 1 or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

"SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

"(a) ACTIVITIES AUTHORIZED.—(1) The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies (in consultation with and with the approval of the States) for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant issued under this paragraph shall not exceed 3 years for its stated purpose.

"(2)(A) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including individualized education programs approved under the Education of the Handicapped Act).

"(B) Except as provided in subparagraph (C), for the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to per-

form its responsibilities under the contract during that preceding year.

"(C) Beginning on July 1, 1992, and every 4 years thereafter, the Secretary shall conduct a competition to award such contract.

"(D) No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

"(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $6,000,000 nor more than 5 percent of the amount appropriated.

"Subpart 2—Programs for Handicapped Children

"SEC. 1221. AMOUNT AND ELIGIBILITY.

"(a) ELIGIBILITY FOR GRANT.—(1) A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year for programs (as defined in sections 1222 and 1223) for handicapped children (as defined in paragraph (2)(B)).

"(2) For the purpose of this subpart—

"(A) 'children' includes infants and toddlers described in part H of the Education of the Handicapped Act, as appropriate, and

"(B) 'handicapped children' means children who by reason of their handicap require special education and related services, or in the case of infants and toddlers, require early intervention services and who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities.

"(b) STATE EDUCATIONAL AGENCY APPLICATION.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary which provides assurances that—

"(1) all handicapped children (other than handicapped infants and toddlers) in the State participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) programs and projects receiving assistance under this subpart are administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act, including the monitoring by such agency of compliance under paragraph (1);

"(3) programs and projects under this subpart will be coordinated with services under the Education of the Handicapped Act;

"(4) for fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this subpart through the State office responsible for administering part B of the Education of the Handicapped Act;

"(5) the agency will report annually to the Secretary—

"(A) the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

"(B) the number of children served under this subpart in each of the educational placements described in section 618(b)(2) of the Education of the Handicapped Act (and will report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs); and

"(C) on the uses of funds and the allocation of such funds for such uses under this subpart; and

"(6) the agency will report to the Secretary such other information as the Secretary may reasonably request.

"(c) AMOUNT OF GRANT.—(1) Except as provided in subsection (e) and section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of handicapped children, from birth through 21, enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants, toddlers and children operated or supported by a State agency which—

"(i) is directly responsible for providing free public education for handicapped children (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency); or

"(ii) is directly responsible for providing early intervention services for handicapped infants or toddlers (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency),

in the most recent fiscal year for which satisfactory data are available. The State educational agency shall distribute such funds to the appropriate State agency on the basis of the December 1 child count by distributing an equal amount for each child counted.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. Except as provided in subsection (e), a grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In any case in which a child described in sections 1225(1)(A) and 1225(1)(B)(i) leaves an educational program for handicapped children operated or supported by a State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—

"(1) the child was receiving and continues to receive a free appropriate public education; and

"(2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State educational agency under this section which are attributable to such child, to be used for the purpose set forth in section 1223.

"(e) SPECIAL REQUIREMENT.—The State educational agency may count handicapped children aged 3 to 5, inclusive, in a State only if such State is eligible for a grant under section 619 of the Education of the Handicapped Act.

"SEC. 1222. PROGRAM REQUIREMENTS.

"(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children (other than handicapped infants and toddlers) or the early intervention needs of handicapped infants and toddlers. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

"(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children (other than handicapped infants and toddlers) or early intervention services for handicapped infants and toddlers.

"(c) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children served.

"SEC. 1223. USES OF FUNDS.

"(a) GENERAL RULE.—Programs, and projects authorized under this subpart may include, but are not limited to—

"(1) services provided in early intervention, preschool, elementary, secondary, and transition programs;

"(2) acquisition of equipment and instructional materials;

"(3) employment of special personnel;

"(4) training and employment of education aides;

"(5) training in the use and provision of assistive devices and other specialized equipment;

"(6) training of teachers and other personnel;

"(7) training of parents of handicapped children;

"(8) training of nonhandicapped children to facilitate their participation with handicapped children in joint activities;

"(9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living;

"(10) outreach activities to identify and involve handicapped children and their families more fully in a wide range of educa-

tional and recreational activities in their communities; and

"(11) planning for, evaluation of, and dissemination of information regarding such programs and projects assisted under this subpart.

"(b) Prohibition.—Programs and projects authorized under this subpart may not include the construction of facilities.

"SEC. 1224. SERVICE AND PROGRAM APPLICATIONS.

"(a) Application Required.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than 3 years, and each such application has been approved by the State educational agency. Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsections (b) and (c).

"(b) Requirements.—At a minimum each such application shall—

"(1) indicate the number of children to be served;

"(2) specify the number of children to be served for each disability and age category as described in part B of the Education of the Handicapped Act;

"(3) describe the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or program;

"(4) specify the services to be provided with the funds furnished under this subpart; and

"(5) include other information the Secretary or State educational agency may request.

"(c) Application Assurances.—Any such application shall provide assurances that—

"(1) all handicapped children in the State (other than handicapped infants and toddlers) participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) services, programs, and projects conducted under this subpart are of sufficient size, scope, and quality to give reasonable promise toward meeting the special educational and early intervention needs of children to be served;

"(3) funds made available under the subpart will supplement, not supplant State and local funds in accordance with section 1018(b);

"(4) the agency will maintain its fiscal effort in accordance with section 1018(a);

"(5) the agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

"(6) the parents of children to be served with funds under this subpart are provided an opportunity to participate in the development of its project application; and

"(7) the agency will comply with all reporting requirements in a timely manner.

"(d) Letter of Request.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than 5 children with its payment. In such a letter the agency shall include an assurance that the payment will be used to supplement the provision of special education and related services.

"SEC. 1225. ELIGIBLE CHILDREN.

"The children eligible for services under this subpart are—

"(1) those handicapped children from birth to 21, inclusive, who—

"(A) the State is directly responsible for providing special education or early intervention services to (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency), and

"(B)(i) are participating in a State-operated or State-supported school or program for handicapped children (including schools and programs operated under contract or other arrangement with a State agency), or

"(ii) previously participated in such a program and are receiving special education or early intervention services from local educational agencies; and

"(2) other handicapped children, if children described in paragraph (1) have been fully served.

"SEC. 1226. FEDERAL MONITORING REQUIREMENT.

"Whenever the Secretary conducts monitoring visits under part B of the Education of the Handicapped Act, the Secretary shall monitor the program authorized by this subpart, if applicable.

"Subpart 3—Programs for Neglected and Delinquent Children

"SEC. 1241. AMOUNT AND ENTITLEMENT.

"(a) Entitlement to Grants.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) Amount of Grant.—(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"SEC. 1242. PROGRAM REQUIREMENTS.

"(a) Use of Payments.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 2 of part F and sections 1011(a), 1014, and section 1018 (other than subsection (c)). The transfer of neglected and delinquent student records among State and local educational agencies, institutions, and programs shall include any individualized education programs of such students.

"(b) Compliance.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

"(c) Three-Year Projects.—Where a State agency operates programs under this subpart in which children are likely to participate for more than 1 year, the State educational agency may approve the application for a grant under this subpart for a period of more than 1 year, but not to exceed 3 years.

"(d) Evaluation.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program or special education program operated by a local educational agency.

"SEC. 1243. TRANSITION SERVICES.

"(a) Transition Services.—Each State may reserve not more than 10 percent of the amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.

"(b) Conduct of Projects.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) Limitation.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

"SEC. 1244. DEFINITIONS.

"For the purposes of this subpart, the following terms have the following meanings:

"(1) The term 'institution for delinquent children', as determined by the State educational agency, means a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

"(2) The term 'institution for neglected children' means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

"Subpart 4—General Provisions for State Operated Programs

"SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES.

"There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter.

"SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS.

"Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

"PART E—PAYMENTS

"SEC. 1401. PAYMENT METHODS.

"The Secretary shall, from time to time, pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter or chapter 1 of the Education Consolidation and Improvement Act of 1981 (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under sections 1053 and 1102 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

"SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.

"(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided for in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this chapter for such year, the allocations to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—(1) If additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis as they were reduced.

"(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State, and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter shall be in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding 2 sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

"SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

"(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter (other than section 1021), except that the total of such payments in any fiscal year shall be the greater of the following:

"(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

"(2) $325,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

"SEC. 1405. FUNDS FOR THE IMPLEMENTATION OF SCHOOL IMPROVEMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to pay, for the purpose of carrying out program improvement plans described in section 1021, to each State an amount equal to—

"(1)(A) 0.25 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1989, 1990, and 1991; and

"(B) 0.5 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1992 and 1993; or

"(2)(A) $90,000 or $15,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1989, 1990, and 1991; and

"(B) $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1992 and 1993.

"(b) LIMITATIONS.—(1) No funds made available to States under subsection (a) may be used for administrative functions related to any provisions of this chapter.

"(2) Funds made available to States under this section shall only be used for direct educational services in schools implementing program improvement plans as described under section 1021.

"(3) Parents of participating children, school staff, the local educational agency and the State educational agency shall jointly agree to the selection of providers of technical assistance and the best use of funds available under subsection (a) for the effective implementation of the program improvement plan. Uses of such funds include assistance from—

"(A) an institution of higher education;

"(B) federally supported educational laboratory or center;

"(C) State personnel with expertise in educational improvement;

"(D) locally, State, or nationally based consultants; and

"(E) other possible providers of the specific services required by the school's program plan.

"SEC. 1406. LIMITATION ON GRANT TO THE COMMONWEALTH OF PUERTO RICO.

"Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by the Commonwealth of Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the alloca-

tions under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which the agencies are eligible under section 1005.

"PART F—GENERAL PROVISIONS

"Subpart 1—Federal Administration

"SEC. 1431. FEDERAL REGULATIONS.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(b) PROCEDURE.—(1) Prior to publishing proposed regulations pursuant to this chapter, the Secretary shall convene regional meetings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter.

"(2) Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) In an emergency situation in which regulations pursuant to this chapter must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

"(c) SPECIAL RULE.—Funds made available under sections 1437 and 1463 of this chapter shall be released for expenditure by the Secretary only at such time as final regulations pertaining to this chapter are published in the Federal Register.

"(d) LIMITATION.—Programs under this chapter may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1432. AVAILABILITY OF APPROPRIATIONS.

"(a) GENERAL PROVISION.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(b) CARRYOVER AND WAIVER.—Notwithstanding section 412 of the General Education Provisions Act, subsection (a) or any other provision of law—

"(1) not more than 25 percent of funds appropriated for fiscal year 1989 and 15 percent of funds appropriated for fiscal year 1990 and each subsequent year may remain available for obligation for 1 additional year;

"(2) a State educational agency may grant a 1-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

"(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

"SEC. 1433. WITHHOLDING OF PAYMENTS.

"(a) WITHHOLDING.—Whenever the Secretary, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter, the Secretary shall notify such agency of these findings and that beginning 60 days after the date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in the Secretary's discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

"(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

"SEC. 1434. JUDICIAL REVIEW.

"(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act.

"(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 1435. EVALUATION.

"(a) NATIONAL STANDARDS.—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. In developing such standards, the Secretary may use the Title I Evaluation and Reporting System designed and implemented under title I of this Act, as in effect prior to the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 as the model. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluations.

"(b) REPORTS.—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107, 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1436. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

"(a) POLICY MANUAL.—The Secretary shall, not later than 6 months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

"(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

"(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, apply, and enforce requirements under this chapter throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available. The manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried out under this chapter, including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

"(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

"(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

"(6) summaries of appropriate court decisions concerning programs under this chapter; and

"(7) model forms, policies, and procedures developed by State educational agencies.

"(c) Response to Inquiries.—The Secretary shall respond with written guidance not more than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

"(d) Technical Assistance.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruction, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

"(e) Federal Dissemination of Exemplary Programs.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with the National Diffusion Network.

"(f) Federal Review of State and Local Administration.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement activities, and the detection and resolution of problems of local noncompliance.

"SEC. 1437. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION AND TECHNICAL ASSISTANCE.

"There are authorized to be appropriated for the purposes of sections 1435 and 1436 for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $4,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"SEC. 1438. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) General Rule.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) Supercession Rule.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter.

"(2) Section 426(a) of such Act is superseded by section 1437 of this chapter.

"(3) Section 427 of such Act is superseded by section 1016 of this chapter.

"(4) Section 430 of such Act is superseded by sections 1012, 1056, 1104(b), 1125, 1202(a), and 1224 of this chapter.

"(5) Section 455 of such Act is superseded by section 1433 of this chapter.

"(6) Section 458 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments.

"(c) Exclusion Rule.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1439. NATIONAL COMMISSION ON MIGRANT EDUCATION.

"(a) Establishment.—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the 'Commission').

"(b) Membership.—

"(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including 2 Members of the House, 1 from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 Members of the Senate, 1 from each political party.

"(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed 4 members of the Commission and designated a chairman within 60 days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

"(c) Study.—The Commission shall make a study of the following issues:

"(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

"(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

"(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

"(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

"(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

"(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

"(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas schools.

"(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

"(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

"(10) How many of the students being served are identified as 'currently migrant' and how many are 'formerly migrant'; what differences are there in their needs; and how do services provided differ between those of 'currently migrant' and those of 'formerly migrant'.

"(11) How does interstate and intrastate coordination occur at the State and local levels.

"(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

"(d) Reports.—

"(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate committees of the Congress on the studies required to be conducted under this section. The reports for the studies required shall be submitted as soon as practicable.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(e) Special Study on the Migrant Student Records Transfer System.—(1) The Commission shall conduct a study of the function and the effectiveness of the Migrant Student Records Transfer System.

"(2) The Commission shall prepare and submit to the Secretary of Education and to the Congress, not later than 2 years after the first meeting of the Commission, a report on the study required by paragraph (1).

"(f) Compensation.—

"(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United

States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(g) ADMINISTRATION.—

"(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

"(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or the donor's representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of 2 or more may conduct hearings.

"(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

"(i) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1988, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

"Subpart 2—State Administration

"SEC. 1451. STATE REGULATIONS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

"(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, mathematics, or language arts) to be addressed; instructional settings, materials or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

"(3) Nothing in this subsection may be construed to inhibit the State educational agency's responsibility to work jointly with local educational agencies and other State agencies receiving funds under this chapter in program improvement activities pursuant to section 1021 where the State may suggest various activities and approaches as it works with such agencies to develop program improvement plans.

"(b) REVIEW BY COMMITTEE OF PRACTITIONERS.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) IDENTIFICATION AS STATE REQUIREMENT.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"SEC. 1452. RECORDS AND INFORMATION.

"Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

"SEC. 1453. ASSIGNMENT OF PERSONNEL.

"(a) LIMITATIONS.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. The time spent by public school personnel on duties described in the preceding sentence may not exceed either—

"(1) the same proportion of total work time as prevails with respect similarly situated personnel at the same school site, or

"(2) one period per day,

whichever is less.

"(b) USE IN STATE PROGRAMS.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs.

"SEC. 1454. PROHIBITION REGARDING STATE AID.

No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"Subpart 3—Rural Educational Opportunities

"SEC. 1456. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to, or enter into contracts with, institutions of higher education, private nonprofit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1436(d), public agencies, State education agencies, or combinations of such agencies or institutions within particular regions of the United States, to pay all or part of the cost of operating at least 10 rural assistance programs. The Secretary may not make a grant to, or enter into a contract with, any agency, institution, organization, or combination thereof under the preceding sentence unless such agency, institution, organization, or combination thereof has extensive experience providing educational assistance to State and local educational agencies.

"(b) FUNCTIONS OF REGIONAL RURAL ASSISTANCE PROGRAMS.—Each regional rural assistance program established under subsection (a) shall provide technical assistance, consultation, training, and such other assistance as will assist State educational agencies and local educational agencies in the region to improve the quality of the education provided to educationally disadvantaged children participating in programs under this chapter who reside in rural areas or attend small schools. Each such program shall give special consideration to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

"SEC. 1457. APPLICATION PRIORITY REQUIREMENTS.

"(a) In carrying out this subpart, the Secretary shall give priority to applicants which describe assistance to school districts in local educational agencies in rural areas—

"(1) with the highest concentrations of children from low-income families;

"(2) that have significant number or percentage of schools serving children from low-income families; and

"(3) in which there are a significant number of schools in which evaluations indicate lack of substantial progress toward meeting desired outcomes, no improvement, or a decline in aggregate performance by the children participating in programs under this chapter.

"(b) Applicants shall consult with State educational agencies and local educational agencies in the application process.

"SEC. 1458. COORDINATION, DISSEMINATION, AND REPORT.

"(a) COORDINATION.—Each program established under this subpart shall—

"(1) coordinate its activities with technical assistance centers established under section 1436(d),

"(2) coordinate its activities with the activities of local educational agencies and State educational agencies under section 1021, and

"(3) assist in identifying successful programs and practices for dissemination through existing dissemination networks and efforts.

"(b) DISSEMINATION AND REPORT.—(1) Each rural assistance program shall be accessible through electronic means.

"(2) Regional rural assistance programs shall submit a report to the Secretary every 2 years containing such reasonable information about its activities as the Secretary may request, but including at a minimum information on efforts to provide effective services under this chapter in rural school districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of 2 or more districts.

"SEC. 1459. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"Subpart 4—Studies

"SEC. 1461. REPORT ON STATE AND LOCAL EVALUATIONS.

"The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1462. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN.

"(a) NATIONAL LONGITUDINAL STUDY.—The Secretary shall contract with a qualified organization or agency to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the correlations between participation in programs under this chapter and academic achievement, delinquency rates, truancy, school dropout rates, employment and earnings, and enrollment in postsecondary education. The study shall be conducted throughout the country in urban, rural, and suburban areas and shall be of sufficient size and scope to assess and evaluate the effect of the program in all regions of the Nation.

"(b) FOLLOW-UP.—The agency or organization with which the Secretary has entered a contract under subsection (a) shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

"(c) REPORT.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

"SEC. 1463. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $4,000,000 for the fiscal year 1989, $4,200,000 for the fiscal year 1990, $4,400,000 for the fiscal year 1991, $4,700,000 for the fiscal year 1992, and $5,000,000 for the fiscal year 1993 for carrying out sections 1461 and 1462.

"Subpart 5—Definitions

"SEC. 1471. DEFINITIONS.

"Except as otherwise provided, for purposes of this Act:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the 50 States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2 of this title, or chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981.

"(7) The term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and, particularly, educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

"(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(ii) emphasis on the acquisition of basic and higher order skills;

"(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(iv) a climate of expectations that all children can learn under appropriate conditions; and

"(v) continuous assessment of students and programs to evaluate the effects of instruction.

"(8) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(9) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(10) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(12) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elemen-

tary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(13) The term 'more advanced skills' means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

"(14) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(15) The term 'parent advisory council' means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

"(16) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

"(17) The terms 'pupil services personnel' and 'pupil services' mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

"(18) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(19) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(20) The term 'Secretary' means the United States Secretary of Education.

"(21) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(22) The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(23) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"Subpart 6—Miscellaneous Provisions

"SEC. 1491. TRANSITION PROVISIONS.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued by the Secretary under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of this Act (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Acts on or before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this section under chapter 1 of the Education Consolidation and Improvement Act of 1981 or this title.

"(c) TRANSITION.—With respect to the period beginning on July 1, 1988, and ending June 30, 1989, no recipient of funds under this chapter, or chapter 2 of this title, or under chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

"(2) State and local governments have placed a new focus on education;

"(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management; and

"(4) teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this chapter—

"(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

"(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

"(3) to meet the special educational needs of at risk and high cost students, as described in section 1531(b);

"(4) to enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

"(5) to allow State and local educational agencies to meet their educational needs and priorities for targeted assistance described in section 1531.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this chapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—There are authorized to be appropriated $580,000,000 for the fiscal year 1989, $610,000,000 for the fiscal year 1990, $640,000,000 for the fiscal year 1991, $672,000,000 for the fiscal year 1992, and $706,000,000 for the fiscal year 1993, to carry out the provisions of this chapter.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purpose of this chapter.

"PART A—STATE AND LOCAL PROGRAMS

"Subpart 1—General Provisions

"SEC. 1511. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) The Secretary shall reserve an additional amount, not to exceed 6 percent of the sums appropriated in each fiscal year, to carry out the provisions of part B.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1512. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 1511, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that

their children participate in programs or projects assisted under this chapter,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) Payment of Allocations.—

"(1) From the funds paid to it pursuant to section 1511 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1533 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

"SEC. 1521. STATE USES OF FUNDS.

"(a) Authorized Activities.—A State educational agency may use funds reserved for State use under this chapter only for—

"(1) State administration of programs under this chapter including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds;

"(C) monitoring and evaluation of programs and activities under this part; and

"(D) operations of the State advisory committee;

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 1531;

"(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

"(b) Limitations and Requirements.—

"(1) Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"(2)(A) At least 20 percent of funds available for State programs under this part in any fiscal year shall be used for effective schools programs under subsection (a)(3).

"(B) If a State is spending from non-Federal sources an amount equal to twice as much as the State is required to use for the purposes of subsection (a)(3), the Secretary may waive the requirement of subparagraph (A). In deciding whether or not to grant such a waiver, the Secretary shall use the definition of effective schools contained in section 1471(18).

"SEC. 1522. STATE APPLICATIONS.

"(a) Application Requirements.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

"(A) public and private elementary and secondary schoolchildren;

"(B) classroom teachers;

"(C) parents of elementary and secondary schoolchildren;

"(D) local boards of education;

"(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

"(F) institutions of higher education;

"(G) the State legislature;

"(H) elementary and secondary school librarians; and

"(I) school counselors and other pupil services personnel,

to advise the State educational agency on the allocation among targeted programs in accordance with section 1531 (not to exceed 20 percent of the amount of the State's allotment) reserved for State use under section 1512(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

"(3)(A) sets forth planned allocation of funds reserved for State use under section 1512(a) among the targeted assistance programs described in section 1531 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(4) describes how funds reserved under section 1521(b)(2) will be used to carry out subpart 4;

"(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

"(6)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this chapter;

"(B) in fiscal year 1992, provides for an evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

"(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

"(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

"(9) provides the following information: (A) how the State will adjust its formula to comply with section 1512(b)(2), (B) how children under section 1512(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1512(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1512; and

"(10) contains assurances that there is compliance with the specific requirements of this chapter.

"(b) Period of Application.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) Audit Rule.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every 5 years.

"Subpart 3—Local Targeted Assistance Programs

"SEC. 1531. TARGETED USE OF FUNDS.

"(a) General Rule.—Funds allocated for use under this chapter shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) Targeted Assistance.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs to meet the educational needs of students at risk of failure in school and of dropping out and students for whom providing an education entails higher than average costs;

"(2) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction;

"(3) innovative programs designed to carry out schoolwide improvements, including the effective schools program;

"(4) programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members;

"(5) programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, human-

ities, activities in physical fitness and comprehensive health education, and participation in community service projects; and

"(6) other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

"SEC. 1532. AUTHORIZED ACTIVITIES.

"(a) In General.—Activities authorized under this subpart may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 1531. Such activities may include—

"(1) training of educational personnel in any of the targeted assistance programs described;

"(2) guidance and counseling services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 1531.

"(b) Administrative Authority.—In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 1533. LOCAL APPLICATIONS.

"(a) Contents of Application.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 1531 of this chapter and describes the programs, projects, and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(2) describe how assistance under this chapter will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with provisions of this chapter including the participation of children enrolled in private, nonprofit schools in accordance with section 1572;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

"(5) provides, in the allocation of funds for the assistance authorized by this chapter, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) Period of Application.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) Local Educational Agency Discretion.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

"Subpart 4—Effective Schools Programs

"SEC. 1541. ESTABLISHMENT.

"Funds shall be available under this chapter in accordance with sections 1521 and 1531 to—

"(1) plan, implement, support, evaluate, revise, and strengthen effective schools programs;

"(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

"(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

"(4) develop and implement systems to evaluate and analyze effective schools programs;

"(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

"(6) support model and demonstration programs related to effective schools programs; and

"(7) develop and disseminate educational materials related to effective schools programs.

"SEC. 1542. EFFECTIVE SCHOOLS.

"For the purposes of this chapter the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

"SEC. 1561. GENERAL AUTHORITY.

"(a) Authorization.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

"(b) Priority Funding.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

"(1) not less than $11,200,000 for National Diffusion Network Activities under section 1562;

"(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

"(3) not less than $3,500,000 for the Arts in Education program under section 1564;

"(4) not less than $3,200,000 for the Law-related Education program under section 1565; and

"(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

"SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

"(a) Purposes.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

"(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

"(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(b) Responsibilities of Secretary.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

"(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(2) assist such persons in implementing programs, products, and practices which such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

"(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

"In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

"(c) Eligible Recipients of Grants and Contracts.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

"(d) Funding Criteria.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

"(A) The applicant has a workable plan for disseminating its program.

"(B) The program's approach is innovative.

"(C) The program is accurate and up-to-date.

"(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

"(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall consult with interested parties, including participants in the National Diffusion Network.

"(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

"SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

"(a) Authorization.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the "contractor"), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) Requirements of Contract.—The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary school children;

"(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

"(c) Restriction on Payments.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) Definitions.—For purposes of this section the term "Federal share" means—

"(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

"(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

"SEC. 1564. ARTS IN EDUCATION PROGRAM.

"The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as—

"(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

"(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

"(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the organization Very Special Arts.

"SEC. 1565. LAW-RELATED EDUCATION PROGRAM.

"(a) Authorization.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"(b) Definition.—For the purpose of this section, the term "law-related education" means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

"(c) Authorized Activities.—Funds made available for the purposes of this section may be available for activities such as—

"(1) awareness activities to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for law-related personnel in the substance and practice of law-related education, including preservice and inservice seminars, workshops, institutes, and courses;

"(5) research and evaluation to study and improve the effectiveness of materials and methods in law-related education;

"(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experiences with the law and the legal system.

"SEC. 1566. BLUE RIBBON SCHOOLS PROGRAM.

"(a) General Authority.—The Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as "Blue Ribbon Schools". In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) Selection Process.—(1) The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) Administrative Provisions.—(1) The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) For the purposes of this section, the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART C—GENERAL ADMINISTRATIVE PROVISIONS

"SEC. 1571. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 1572. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this chapter, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

"SEC. 1573. EVALUATIONS AND REPORTING.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1531. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this chapter shall evaluate the effectiveness of State and local programs under this chapter in accordance with section 1522(a)(6)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agen-

cies may use for data collection and reporting under this chapter.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this chapter.

"(B) The Secretary shall not later than October 1, 1992, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

"SEC. 1574. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

"(b) RULEMAKING.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(d) SPECIAL RULE.—The provisions of sections 1433 and 1434 shall apply to the programs authorized by this chapter.

"SEC. 1575. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this chapter:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1574(b) of this chapter.

"(2) Section 426(a) of such Act is superseded by section 1574(a) of this chapter.

"(3) Section 427 of such Act is superseded by section 1534(a)(5) of this chapter.

"(4) Section 430 of such Act is superseded by sections 1522 and 1533 of this chapter.

"(c) SPECIAL RULE—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1576. TRANSITION PROVISIONS.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981.

"(c) TRANSITION.—With respect to the period beginning July 1, 1988, and ending June 30, 1989, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

"SEC. 2001. SHORT TITLE.

"This part may be cited as the 'Dwight D. Eisenhower Mathematics and Science Education Act'.

"SEC. 2002. STATEMENT OF PURPOSE.

"The purpose of this part is to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools through assistance to State educational agencies, local educational agencies, and institutions of higher education.

"SEC. 2003. PROGRAM AUTHORIZED.

"(a) GRANTS.—The Secretary is authorized to make grants to States and discretionary grants in accordance with the provisions of this part for strengthening the skills of teachers and improving instruction in mathematics and science.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this part, $250,000,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 2004. ALLOCATION OF FUNDS.

"(a) IN GENERAL.—(1) From the amount appropriated under section 2003(b) for any fiscal year, the Secretary shall reserve—

"(A) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part;

"(B) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior consistent with the purposes of this part; and

"(C) 4 percent for section 2012.

"(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

"(A) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to such 1/2 of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of chapter 1 of title I of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than one-half of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"(5) The Secretary shall make payments under paragraph (1)(B) on whatever terms the Secretary determines will best carry out the purposes of this part.

"(b) REALLOTMENT OF UNUSED FUNDS.—The amount of any State's allotment under subsection (a) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

"SEC. 2005. IN-STATE APPORTIONMENT.

"(a) ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—(1) For each fiscal year, an amount equal to 75 percent of each State's allotment under section 2004 shall be used for elementary and secondary education programs in accordance with section 2006, for demonstration and exemplary programs under section 2006(c) and for technical assistance under section 2006(d).

(2) Not less than 90 percent of such amount shall be distributed as follows:

"(A) The State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school districts of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and—

"(i) private nonprofit schools, or

"(ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this part.

Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this part.

"(B) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged 5 to 17 who—

"(i) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and *"(ii) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;*

in the schools of the local educational agencies within the State.

"(b) HIGHER EDUCATION PROGRAMS.—For each fiscal year, 25 percent of each State's allotment under section 2004 shall be used for higher education programs in accordance with section 2007.

"SEC. 2006. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) IN GENERAL.—The amount apportioned under section 2005(a)(2) from each State's allotment under this part shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

"(b) LOCAL EDUCATIONAL AGENCIES.—(1) Each local educational agency shall use funds distributed under this part for—

"(A) the expansion and improvement of preservice training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study they teach;

"(B) recruitment or retraining of minority teachers to become mathematics and science teachers;

"(C) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families after all other training needs have been met);

"(D) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum; or

"(E) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

"(2) Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. Agreements for funds available under section 2004(a)(1)(B) may be made with institutions of higher education receiving funds under the Tribally Controlled Community College Assistance Act of 1978. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics and science programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and, especially, gifted and talented children from within such groups.

"(3) A local educational agency for any fiscal year may apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. The State educational agency may assist in the formation of consortia between local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency at the request of such local educational agency.

"(4) Not more than 5 percent of funds available to the local educational agency for the purpose of this section for any fiscal year may be used for local administration.

"(c) DEMONSTRATION AND EXEMPLARY PROGRAMS.—Not less than 5 percent of the amount available under this section shall be used by the State educational agency for—

"(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science;

"(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance;

"(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students; or

"(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics and science.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics and science to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

"(d) TECHNICAL ASSISTANCE AND ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount available under this section may be used by the State educational agency—

"(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified in subsection (b); and

"(2) for the costs of administration and assessment of programs assisted under this part.

"SEC. 2007. HIGHER EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the amount apportioned under section 2005(b) from each State's allotment under this part shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

"(2) Funds available under section 2004(a)(1)(B) and reserved under section 2005(b) shall be used, in accordance with the provisions of this section, to support programs conducted within institutions of higher education funded through the Bureau of Indian Affairs.

"(b) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—(1)(A) Not less than 95 percent of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

"(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

"(2) The amount available under this subsection shall be used for—

"(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics or science to specialize in the teaching of mathematics or science, including the provision of stipends for participation in institutes authorized under title I of the Education for Economic Security Act or any other program of the National Science Foundation;

"(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, including stipends for participation in institutes authorized under title I of the Education for Economic Security Act, or any other program of the National Science Foundation.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics and science and careers by students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will ensure cooperative agreements or cooperative arrangements with local educational agencies.

"(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (2)(C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

"(c) COOPERATIVE PROGRAMS.—The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science and mathematics.

"(d) ASSESSMENT AND ADMINISTRATIVE COSTS.—Not to exceed 5 percent of the amount available under this section may be used by the State agency for higher education for—

"(1) the State assessment required by section 2008(c); and

"(2) the costs incurred by such agency for administration and evaluation of programs assisted under this part.

"SEC. 2008. STATE APPLICATION.

"(a) APPLICATION.—Each State which desires to receive a grant under this part shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) designate the State educational agency for the purpose of programs described in section 2006, and the State agency for higher education for the purpose of programs described in section 2007 as the agency or agencies responsible for the administration and supervision of the programs described in section 2006 or 2007, as the case may be;

"(2) provide assurances that—

"(A) payments will be distributed by the State in accordance with the provisions of this title;

"(B) for programs described in section 2006, the provisions of section 2010 will be carried out;

"(C) the State will provide such fiscal control and funds accounting as the Secretary may require;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 3-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

"(F) the State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and the handicapped;

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use; and

"(H) that the programs conducted with State funds will be assessed annually (including statistics on the number of students and teachers involved in these programs) and that the data from such assessments, as well as a summary of the local assessments required under section 2009(b)(6), will be submitted to the Secretary;

"(3) if appropriate, provide a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to any program available from the National Science Foundation or the Department of Energy, or both; and

"(4) describe procedures—

"(A) for submitting applications for programs described in sections 2006 and 2007 for distribution of payments under this part within the State, and

"(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) INFORMATIONAL REQUIREMENTS.—Each State application shall also contain the following:

"(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

"(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science.

"(d) DESCRIPTION OF ASSISTED ACTIVITIES.—Each application shall also contain the following descriptions:

"(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsections (c)(1) and (c)(2).

"(2) The specific activities that will be undertaken that involve institutions of higher education.

"(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

"(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

"(e) APPROVAL.—The Secretary shall expeditiously approve any State application that meets the requirements of this section.

"SEC. 2009. LOCAL APPLICATION.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application which covers a 3-year period (singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit).

"(b) CONTENTS OF APPLICATION.—A local educational agency application shall—

"(1) provide a summary assessment of—

"(A) the needs of its current teachers in mathematics and science and whether a shortage of such qualified teachers exists or will exist within 5 years after the date of the application;

"(B) the current levels of mathematics and science student achievement in the local educational agency;

"(C) the curricular needs of the local educational agency in mathematics and science;

"(2) describe how the local educational agency plans to use funds received under this part to meet the needs described in paragraph (1)(A);

"(3) if applicable, describe how funds under this part will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the National Science Foundation, or the Department of Energy, or both;

"(4) if applicable, describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including, museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

"(5) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

"(6) assure that the programs will be assessed, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

"(c) RENEWAL OF PAYMENTS.—The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this part. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

"SEC. 2010. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 2011. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives, shall develop procedures for State and local evaluations of the programs under this part.

"(b) SUMMARY.—The Secretary shall submit to the Congress every 2 years a summary of the State evaluations of programs under this part.

"(c) MODEL REPORTING STANDARDS.—In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2008 and 2009.

"SEC. 2012. NATIONAL PROGRAMS.

"(a) AMOUNT AVAILABLE.—From 4 percent of amounts appropriated under section 2003(b), the Secretary shall make grants or enter into cooperative agreements in accordance with this section.

"(b) ELIGIBLE GRANTEES.—The Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher edu-

cation, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private nonprofit organizations, providing special services to historically underserved and underrepresented populations (and especially gifted and talented children from within such populations) in the fields of mathematics and science.

"(c) Programs for Training and Retraining Teachers.—In awarding grants and cooperative agreements, the Secretary shall also give special consideration to programs of such institutions and organizations (such as museums) which train and retrain teachers in methods of scientific inquiry and provide materials which aid the education of students. In awarding grants and cooperative agreements, the Secretary shall give preference to developed and currently operating programs which are disseminated throughout the region in which such an institution or organization is located.

"(d) Dissemination of Information.—The Secretary shall disseminate information concerning grants and cooperative agreements under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"SEC. 2013. DEFINITIONS.

"As used in this part:

"(1) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(2) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"PART B—FOREIGN LANGUAGES ASSISTANCE

"SEC. 2101. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1988'.

"SEC. 2102. FINDINGS.

"The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this part.

"SEC. 2103. PROGRAM AUTHORIZED.

"(a) General Authority.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

"(b) Application.—Any State educational agency desiring to receive a grant under this part shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

"(1) contains a description of model programs which—

"(A) are designed by local educational agencies,

"(B) represent a variety of alternative and innovative approaches to foreign language instruction, and

"(C) are selected on a competitive basis by the State educational agency;

"(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

"(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

"(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

"(c) Federal Share.—(1) The Federal share for each fiscal year shall be 50 percent.

"(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

"(d) Participation of Private Schools.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

"(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of this Act.

"SEC. 2104. ALLOTMENTS.

"(a) General Rule.—(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(b) Availability of Funds.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

"SEC. 2105. DEFINITIONS.

"(a) General Rule.—For the purpose of this part:

"(1) The term 'foreign language instruction' means instruction in critical foreign languages as defined by the Secretary.

"(2) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"(b) Special Rule.—For the purpose of section 2104—

"(1) the term 'school age population' means the population aged 5 through 17; and

"(2) the term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2106. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this part.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) General Authority.—(1) The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

"(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

"(b) Limitation.—Each year the President is authorized to make 104 awards under subsection (a)(1), and 104 awards under subsection (a)(2). In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher

and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

"The President shall carry out the provisions of this part, including the establishment of the selection procedures, after consultation with the Secretary of Education, and other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—(1) Funds to carry out this part for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education.

"(2)(A) There are authorized to be appropriated $2,000,000 for each fiscal year to carry out the provisions of this part.

"(B) Not more than $1,000,000 are authorized to be available to carry out the provisions of paragraph (2) of section 2201(a).

"(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out the provisions of this part.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"SEC. 3001. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

"(a) AUTHORIZATION.—There are authorized to be appropriated $165,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal years 1990 through 1993 to carry out the provisions of this title.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—(1) In any fiscal year in which the amount appropriated pursuant to section 3001 exceeds $75,000,000, the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies which—

"(A) meet the requirements of section 3002; and

"(B) have not received a grant under title VII of the Education for Economic Security Act, or under this title, in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made.

"(2) In awarding grants with the first $75,000,000, the Secretary shall not take into account, in whole or in title, whether a local educational agency has received an award in the prior funding cycle.

"SEC. 3002. ELIGIBILITY.

"A local educational agency is eligible to receive assistance under this title if the local educational agency—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

"SEC. 3003. STATEMENT OF PURPOSE.

"It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 3004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 3005. DEFINITION.

"For the purpose of this title, the term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"SEC. 3006. USES OF FUNDS.

"Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where, with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

"SEC. 3007. APPLICATIONS AND REQUIREMENTS.

"(a) APPLICATION.—Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

"(b) REQUIREMENTS CERTIFIED.—As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

"(1) to use funds made available under this title for the purposes specified in section 3003;

"(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan.

"(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students;

"(6) to describe how assistance made available under this title will be used to promote desegregation;

"(7) to provide assurances that the agency will carry out a high quality education program that will encourage greater parental decisionmaking and involvement;

"(8) to provide a description of the manner in which the local educational agency will continue the magnet schools program after assistance under this title is no longer available; and

"(9) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in clauses (3), (4), and (5) of subsection (b) will be met.

"SEC. 3008. SPECIAL CONSIDERATION.

"(a) PRIORITY.—In approving applications under this title the Secretary shall give priority to—

"(1) the recentness of the implementation of the approved plan or modification thereof;

"(2) the proportion of minority group children involved in any approved plan;

"(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

"(b) SPECIAL CONSIDERATION.—In approving applications under this title, the Secretary shall give special consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

"SEC. 3009. PROHIBITIONS.

"Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

"SEC. 3010. LIMITATION ON PAYMENTS.

"(a) LIMITATION ON DURATION AND PROGRESS.—No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

"(b) LIMITATION ON PLANNING FUNDS.—No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

"(c) SPECIAL RULE ON CHAPTER 2 FUNDS.—No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State be-

cause of assistance made or to be made available to such agency under this title.

"SEC. 3011. PAYMENTS.

"(a) GENERAL RULE.—(1) The Secretary shall pay to each local educational agency having an application approved under this title the amount set forth in the application.

"(2) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available to local educational agencies for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

"(3) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412(b) and (c) of the General Education Provisions Act.

"(4) Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year, except that no such agency shall receive more than $4,000,000 under this title in any one grant cycle.

"(b) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies under this title no later than June 30 of the applicable fiscal year.

"SEC. 3012. WITHHOLDING.

"The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

"TITLE IV—SPECIAL PROGRAMS

"PART A—WOMEN'S EDUCATIONAL EQUITY

"SEC. 4001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act'.

"(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

"SEC. 4002. PROGRAM AUTHORIZED.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development, where such materials are commercially unavailable, and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed 2 years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities described by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

"(b) LIMITATION.—For each fiscal year, the Secretary shall use $4,500,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $4,500,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

"SEC. 4003. APPLICATION; PARTICIPATION.

"(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the purposes set forth in section 4001(b) which holds promise of making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application, including where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period.

"(b) SPECIAL RULE.—In approving applications under this part, the Secretary shall give special consideration to—

"(1) applications submitted by applicants that have not received assistance under this part or under part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect prior to October 1, 1988); and

"(2) proposals from applicants on the basis of geographic distribution throughout the United States.

"(c) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

"SEC. 4004. CHALLENGE GRANTS.

"(a) PURPOSE.—In addition to the authority of the Secretary under section 4002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 4002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) GRANT RECIPIENTS.—For the purpose described in paragraphs (1) through (4) of subsection (a), the Secretary is authorized to make grants to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

"SEC. 4005. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under sections 4002(a)(1) and 4002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. The criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

"SEC. 4006. REPORTS, EVALUATION, AND DISSEMINATION.

"(a) REPORTS.—The Secretary shall, from funds authorized under this part, not later than September 30, 1992, submit to the President and the Congress a report setting forth the programs and activities assisted under this part, and provide for the distribution of this report.

"(b) EVALUATION AND DISSEMINATION.—The Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $9,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART B—GIFTED AND TALENTED CHILDREN

"SEC. 4101. SHORT TITLE.

"This part may be referred to as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1988'.

"SEC. 4102. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(2) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(3) gifted and talented students from economically disadvantaged families and areas, and students of limited English proficiency are at greatest risk of being unrecog-

nized and of not being provided adequate or appropriate educational services;

"(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs; and

"(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest.

"(b) Statement of Purpose.—It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students. It is also the purpose of this part to supplement and make more effective the expenditure of State and local funds, and of Federal funds made available under chapter 2 of title I of this Act and title II of this Act, for the education of gifted and talented students.

"SEC. 4103. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(2) The term 'institution of higher education' has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

"(3) The term 'Hawaiian native' means any individual any of whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

"(4) The term 'Hawaiian native organization' means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

"SEC. 4104. AUTHORIZED PROGRAMS.

"(a) Establishment of Program.—From the sums appropriated under section 4108 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this Act that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students or in supervising such personnel.

"(b) Uses of Funds.—Programs and projects assisted under this section may include—

"(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented students, including summer programs and cooperative programs involving business, industry, and education;

"(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students;

"(4) programs of technical assistance and information dissemination; and

"(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) Establishment of National Center.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) Limitation.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

"SEC. 4105. PROGRAM PRIORITIES.

"(a) General Priority.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of gifted and talented students who may not be identified through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented students from such groups; and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented students.

"(b) Service Priority.—In approving applications under section 4104(a) of this part, the Secretary shall assure that in each fiscal year at least one-half of the applications approved contain a component designed to serve gifted and talented students who are economically disadvantaged individuals.

"SEC. 4106. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.

"In making grants and entering into contracts under this Act, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in preservice and inservice training programs for serving such children.

"SEC. 4107. ADMINISTRATION.

"The Secretary shall establish or designate an administrative unit within the Department of Education—

"(1) to administer the programs authorized by this part,

"(2) to coordinate all programs for gifted and talented students administered by the Department, and

"(3) to serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet those needs. The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional qualifications and experience in the field of the education of gifted and talented students.

"SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"SEC. 4301. FINDINGS.

"The Congress makes the following findings:

"(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

"(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

"(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

"Subpart 1—Program for Secondary School Students and Teachers

"SEC. 4311. ESTABLISHMENT.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its

program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students and teachers shall be known as Allen J. Ellender fellowships.

"SEC. 4312. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

"(2) that not more than 1 secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

"(3) that every effort will be made to ensure the participation of students and teachers from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority students, gifted and talented students, and students of migrant parents; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 2—Programs for Older Americans and Recent Immigrants

"SEC. 4321. ESTABLISHMENT.

"(a) GENERAL AUTHORITY.—(1) The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans and recent immigrants.

"(2) For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans and recent immigrants who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 4322. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans and recent immigrants;

"(2) that every effort will be made to ensure the participation of older Americans and recent immigrants from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans and recent immigrants with special needs, including handicapped individuals and ethnic minorities;

"(3) that activities permitted by section 4321 are fully described; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 3—General Provisions

"SEC. 4331. ADMINISTRATIVE PROVISIONS.

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 4332. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION FOR SUBPART 1.—There are authorized to be appropriated to carry out the provisions of subpart 1 of this part $3,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(b) AUTHORIZATION FOR SUBPART 2.—(1) There are authorized to be appropriated to carry out the provisions of subpart 2 of this part $2,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(2) No funds may be appropriated pursuant to paragraph (1) for the fiscal year 1989 unless amounts appropriated pursuant to subsection (a) for such fiscal year total not less than $2,500,000. In each of the fiscal years 1990 through 1993, no funds may be appropriated pursuant to paragraph (1) unless sufficient amounts are appropriated pursuant to subsection (a) for the fiscal year to carry out activities under subpart 1 of this part at the level established during the fiscal year 1989.

"PART D—IMMIGRANT EDUCATION

"SEC. 4401. SHORT TITLE.

"This part may be cited as the 'Emergency Immigrant Education Act of 1984'.

"SEC. 4402. DEFINITIONS.

"As used in this part—

"(1) The term 'immigrant children' means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

"(2) The term 'elementary or secondary nonpublic schools' means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

"SEC. 4403. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) ALLOCATION OF APPROPRIATIONS.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

"SEC. 4404. STATE ADMINISTRATIVE COSTS.

"The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

"SEC. 4405. WITHHOLDING.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 4406. STATE ENTITLEMENTS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through 1993 for the purpose set forth in section 4407.

"(b) ENTITLEMENTS.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by *such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—*

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

"(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

"(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"SEC. 4407. USES OF FUNDS.

"(a) SUPPLEMENTARY EDUCATIONAL SERVICES AND COSTS.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

"(b) KINDS OF SERVICES AND COSTS.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

"(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

"(A) English language instruction;

"(B) other bilingual educational services; and

"(C) special materials and supplies;

"(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

"SEC. 4408. APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

"(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

"(b) APPROVAL OF APPLICATION.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

"SEC. 4409. PAYMENTS.

"(a) AMOUNT.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

"SEC. 4410. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

"PART E—TERRITORIAL ASSISTANCE

"SEC. 4501. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

"There are authorized to be appropriated $5,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"SEC. 4502. TERRITORIAL TEACHER TRAINING ASSISTANCE.

"There are authorized to be appropriated $2,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the

Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"SEC. 4601. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—(1) From funds appropriated under this part, the Secretary is authorized to carry out programs and projects which show promise of identifying and disseminating innovative educational approaches.

"(2) The Secretary, in carrying out the provisions of this part, is authorized to—

"(A) develop, prepare, and conduct an optional test for academic excellence in accordance with section 4602;

"(B) carry out programs for technology education in accordance with section 4603;

"(C) strengthen and expand computer education resources available in public and private elementary and secondary schools in accordance with section 4604; and

"(D) establish and strengthen comprehensive school health education programs in accordance with section 4605.

"(b) ADMINISTRATIVE AUTHORITY.—The Secretary is authorized to carry out programs and projects under this section directly, or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"SEC. 4602. OPTIONAL TESTS FOR ACADEMIC EXCELLENCE.

"(a) TEST OF ACADEMIC EXCELLENCE AUTHORIZED.—The Secretary is authorized, after consultation with appropriate State and local educational agencies and public and private organizations, to approve comprehensive tests of academic excellence or to develop such a test where commercially unavailable, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) PREPARATION AND CONDUCT OF TESTS.—(1) The Secretary is authorized to establish a program through arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part may be given by such agencies or schools, on a voluntary basis, to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education. Such students may file applications for the test at such time and in such manner as the Secretary may prescribe. Upon application by any appropriate agency or school by such time and in such manner as the Secretary may determine, the Secretary shall pay to such agency or school the cost of the administrative expenses it has incurred pursuant to an arrangement made under this section.

"(2) The Secretary shall assure that the tests authorized by this part are conducted in a secure manner, and that test items remain confidential so that such items may be used in future tests.

"(c) CERTIFICATE.—(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given the test.

"(2) Each certificate awarded pursuant to this section shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this subpart.

"SEC. 4603. TECHNOLOGY EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs which use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers.

"(b) USES OF FUNDS.—Funds available to carry out this section may be used for—

"(1) programs and projects which use such technology to address specifically the educational needs in critical subject matter areas;

"(2) programs and projects to assist in the training of public and private elementary and secondary school teachers, administrators, and other educational personnel to use in the schools of such television programming, radio programming, telecommunications programs, or video resources, or in the coordination of such technology with the school curriculum; or

"(3) educational television, educational radio, telecommunications or video resources programs or projects which promote a partnership between elementary and secondary schools, the parents of elementary and secondary students, State educational agencies, and institutions of higher education or the community in which such schools are located.

"(c) DEFINITION.—For the purpose of this section the term 'telecommunications' means the full range of technologies that can be used for educational instruction, including closed circuit television systems, educational television and radio broadcasting, cable television, satellite transmission, computer laser discs, and video and audio discs and tapes.

"SEC. 4604. PROGRAMS FOR COMPUTER-BASED INSTRUCTION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants and enter into contracts, as authorized by section 4601 for the purpose of strengthening and expanding computer education resources available in public and private elementary and secondary schools.

"(b) USES OF FUNDS.—Projects assisted under this section may include—

"(1) the acquisition and leasing of computer hardware for instructional purposes, including services necessary for the operation, installation, and maintenance of computer hardware;

"(2) the acquisition of computer software and complementary instructional materials; or

"(3) teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the curriculum. Such programs may make provision for teacher stipends at a rate of $275 per week for the period of attendance in such program. The Secretary may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out programs under this section.

"(c) SPECIAL RULE.—No grant may expend more than 25 percent for the acquisition of computer hardware.

"(d) PLANNING REQUIREMENT.—No grant may be made under this section unless the applicant carries out planning activities designed to facilitate the use of Federal financial assistance under this section for the expansion of computer resources in elementary or secondary schools. Such planning activities shall include—

"(1) the goals for computer education in the schools;

"(2) integration with the curriculum;

"(3) where appropriate, provisions for computer use after school by students, parents, teachers, and adult learners; and

"(4) standards for the evaluation of computer education programs.

"SEC. 4605. PROGRAMS FOR THE IMPROVEMENT OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary through the Office established under subsection (c) of this section, may—

"(1) encourage State and local educational agencies to provide comprehensive school health education to the elementary and secondary school students in the schools of such agencies;

"(2) provide technical support to State and local educational agencies on health education programs and curricula;

"(3) make grants to State and local educational agencies in accordance with this section;

"(4) provide an annual report on the progress of the Office (established under subsection (c)) and the status of school health education in the United States;

"(5) cooperate with other Federal agencies carrying out school health education programs to ensure coordination of such programs; and

"(6) advise the Secretary on school health education policy.

"(b) USES OF FUNDS.—Grants under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;

"(2) nutrition;

"(3) mental and emotional health;

"(4) prevention of chronic diseases;

"(5) substance use and abuse;

"(6) accident prevention and safety;

"(7) community and environmental health;

"(8) prevention and control of communicable diseases;

"(9) effective use of the health services delivery system; and

"(10) development and aging.

"(c) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

"(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

"SEC. 4606. ALTERNATIVE CURRICULUM SCHOOLS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist—

"(1) local educational agencies;

"(2) consortia of such agencies; and

"(3) intermediate educational units;

which have significant percentages of minority students to establish and conduct programs which reflect a minority composition of at least 50 percent in the alternative curriculum school established by the applicant to strengthen the knowledge of elementary and secondary school students in academic subjects and to contribute to the desegregation of the schools of the applicant.

"(b) ELIGIBILITY.—A local educational agency, consortium of such agencies, or intermediate educational unit, is eligible to receive a grant under this section if such agency, unit, or consortium submits an application which contains evidence of collaborative arrangements between the applicant and an institution of higher education, a community-based organization, another local educational agency, an appropriate State educational agency, or any combination of such institutions, organizations, or agencies.

"(c) USES OF FUNDS.—Grants under this section may be used for—

"(1) planning and outreach activities directly related to expansion and enhancement of academic programs and services in the alternative curriculum school;

"(2) the acquisition of books, materials, and equipment (including computers and the maintenance and operation thereof) necessary for the conduct of educational programs in the alternative curriculum school; and

"(3) the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of educational programs in the alternative curriculum school;

whenever such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving the vocational skills of elementary and secondary school students.

"(d) APPLICATIONS.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) provide assurances that the assistance will be used for the purposes described in subsection (c);

"(2) provide assurances that the local educational agency or intermediate educational unit would have a minority composition of at least 65 percent, or in the case of a consortium, that at least one local educational agency would have a minority composition of 65 percent;

"(3) provide assurances that the students served in the alternative curriculum school established reflect a minority composition of at least 50 percent;

"(4) demonstrate the extent to which the alternative curriculum school will contribute to desegregation throughout in the local educational agency;

"(5) demonstrate the extent to which the alternative curriculum school will contribute to the improvements of the academic quality of the education offered by schools throughout the local educational agency;

"(6) describe the collaborative efforts required by subsection (b);

"(7) provide assurances that teachers will be employed in the courses of instruction assisted under this section who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(8) provide assurances that the applicant will not engage in discrimination based upon race, religion, color, national origin, sex, or handicapping conditions in—

"(A) hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

"(B) the mandatory assignment of students to schools or to courses of instruction within schools of such applicant, except as is necessary to carry out an approved desegregation plan; and

"(C) designing or operating extracurricular activities for students;

"(8) describe how funds made available under this section will be used to promote integration and provide a high quality education program for local educational agencies with significant concentrations of minority students;

"(9) describe how such applicant will devote its resources to continuing the program when funds made available to it under this section may no longer be made available; and

"(10) provide such other assurances as the Secretary determines necessary.

"(e) UNUSED AMOUNTS.—In any fiscal year in which amounts are appropriated but not allocated under this section, the Secretary shall use such amounts to make grants under title III of this Act (relating to magnet schools).

"(f) SPECIAL EVIDENTIARY RULE.—Notwithstanding any other provision of law, the award of funds under this section may not be used in any cause of action or administrative proceeding as evidence relating to the issue of desegregation of a public school of a local educational agency receiving such an award.

"SEC. 4607. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993, to carry out the provisions of this part (other than section 4606).

"(b)(1) Subject to paragraph (2), there are authorized to be appropriated $35,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993 to carry out section 4606.

"(2) No appropriation may be made under paragraph (1) for any fiscal year unless the amount appropriated for the Magnet Schools Assistance Program in title III for that fiscal year is equal to or exceeds $165,000,000.".

"TITLE V—DRUG EDUCATION

"SEC. 5101. SHORT TITLE.

"This title may be cited as the 'Drug-Free Schools and Communities Act of 1986'.

"SEC. 5102. FINDINGS.

"The Congress finds that:

"(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

"(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

"(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

"(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

"(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

"(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

"SEC. 5103. PURPOSE.

"It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

"(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

"(3) to States for development, training, technical assistance, and coordination activities;

"(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

"(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"SEC. 5111. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) AVAILABILITY.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

"(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

"SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS.

"(a) RESERVATIONS.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

"(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

"(2) 1 percent for programs for Indian youth under section 5133;

"(3) 0.2 percent for programs for Hawaiian natives under section 5134;

"(4) 8 percent for programs with institutions of higher education under section 5131;

"(5) 3.5 percent for Federal activities under section 5132; and

"(6) 4.5 percent for regional centers under section 5135.

"(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

"(3) For purposes of this subsection, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"PART B—STATE AND LOCAL PROGRAMS

"SEC. 5121. USE OF ALLOTMENTS BY STATES.

"(a) STATE PROGRAM.—An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

"(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

"SEC. 5122. STATE PROGRAMS.

"(a) IN GENERAL.—Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

"(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

"(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

"(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

"(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

"(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

"(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program.

"(b) INNOVATIVE PROGRAMS.—(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

"(2) For purposes of this subsection, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

"(A) is a school dropout;

"(B) has become pregnant;

"(C) is economically disadvantaged;

"(D) is the child of a drug or alcohol abuser;

"(E) is a victim of physical, sexual, or psychological abuse;

"(F) has committed a violent or delinquent act;

"(G) has experienced mental health problems;

"(H) has attempted suicide; or

"(I) has experienced long-term physical pain due to injury.

"SEC. 5123. STATE APPLICATIONS.

"(a) IN GENERAL.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

"(b) CONTENTS OF APPLICATIONS.—The application submitted by each State under subsection (a) shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

"(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and nonFederal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other nonFederal funds;

"(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

"(5) contain assurances that there is compliance with the specific requirements of this part;

"(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

"(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

"(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

"(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

"SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

"(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private nonprofit schools within the areas served by such agencies. Any amount of the funds made available for use in any area remaining unobligated for more than 1 year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

"(b) STATE PROGRAMS.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

"(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

"(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials

for elementary and secondary schools throughout the State;

"(3) demonstration projects in drug abuse education and prevention;

"(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

"(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

"SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

"(a) IN GENERAL.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

"(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

"(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

"(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

"(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers;

"(5) programs of referral for drug abuse treatment and rehabilitation;

"(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

"(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

"(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

"(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

"(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

"(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

"(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

"(b) ELIGIBILITY.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

"SEC. 5126. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

"(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

"(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

"(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the practices and procedures it will enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;

"(G) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

"(H) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

"(I) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

"(J) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(K) provide assurances of compliance with the provisions of this part;

"(L) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

"(M) include such other information and assurances as the State educational agency reasonably determines to be necessary.

"(b) PROGRESS REPORTS.—(1) An applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved.

"(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

"SEC. 5127. STATE REPORTS.

"Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted under this Act in the State.

"PART C—NATIONAL PROGRAMS

"SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) IN GENERAL.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

"(b) TRAINING GRANTS.—Training grants shall be available for—

"(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

"(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

"(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

"(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

"(c) GRANTS FOR MODEL DEMONSTRATION PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implemen-

tation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

"(d) Grants for Programs of Drug Abuse Education and Prevention.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

"(e) Collaborative Efforts.—In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

"SEC. 5132. FEDERAL ACTIVITIES.

"(a) Use of Reserved Funds.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

"(b) Federal Drug Abuse Education and Prevention Activities.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts—

"(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

"(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

"(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

"(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

"(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

"(c) Studies.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title. In addition the Secretary may conduct periodic evaluations of programs authorized by this Act.

"SEC. 5133. PROGRAMS FOR INDIAN YOUTH.

"(a) Use of Reserved Funds.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

"(b) Financial Arrangements.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

"(c) Grant and Contract Authority.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

"(d) Additional Programs.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

"SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

"(a) General Authority.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

"(b) Definition of 'Hawaiian Native'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"SEC. 5135. REGIONAL CENTERS.

"The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

"(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

"(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

"(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

"(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

"PART D—GENERAL PROVISIONS

"SEC. 5141. DEFINITIONS.

"(a) General Rule.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

"(b) Specific Definitions.—For the purposes of this title, the following terms have the following meanings:

"(1) The term 'drug abuse education and prevention' means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

"(2) The term 'illicit drug use' means the use of illegal drugs and the abuse of other drugs and alcohol.

"(3) The term 'Secretary' means the Secretary of Education.

"(4) The term 'school-age population' means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school dropout' means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

"(6) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(7) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on

transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(8) The term 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'consortium' (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

"SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

"(a) Administration.—The Secretary shall be responsible for the administration of the programs authorized by this title.

"(b) Applicability of General Education Provisions Act.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

"SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

"(a) Participation of Private School Children.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

"(b) Participation of Private School Teachers.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

"(c) Waiver; Provision of Services by Secretary.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 5144. MATERIALS.

"Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

"PART E—MISCELLANEOUS PROVISIONS

"SEC. 5191. INDIAN EDUCATION PROGRAMS.

"(a) Pilot Programs.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

"(b) Use of Funds.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

"(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

"(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

"(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

"SEC. 5192. TRANSITION.

"Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"SEC. 6001. SHORT TITLE.

"This part may be cited as the 'School Dropout Demonstration Assistance Act of 1988'.

"SEC. 6002. PURPOSE.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

"(1) effective programs to identify potential student dropouts and prevent them from dropping out;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 6003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $50,000,000 for the fiscal year 1989.

"SEC. 6004. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) Allotment to Categories of Local Educational Agencies.—From the amount appropriated under section 6003 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

"(2) Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6005 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

"(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(f) FEDERAL SHARE.—(1) The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part, and

"(B) 75 percent of such cost for the second such year.

"(2) The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 6005. APPLICATION.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 5141(b)(5); and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

"(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this part, such as—

"(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

"(B) addressing the special needs of school-age parents;

"(C) disseminating information to students, parents, and the community related to the dropout problem;

"(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

"(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

"(G) establishing annual procedures for—

"(i) evaluating the effectiveness of the project; and

"(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

"(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

"(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

"(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6004(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"SEC. 6006. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Grants under this part shall be used to carry out plans set forth in applications approved under section 6005. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school staff on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of

dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between handicapping conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

"(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part.

"(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this part may be used by educational partnerships for—

"(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(2) internship, work study, or apprenticeship programs;

"(3) summer employment programs;

"(4) occupational training programs;

"(5) career opportunity and skills counseling;

"(6) job placement services;

"(7) the development of skill employment competency testing programs;

"(8) special school staff training projects; and

"(9) any other activity described in subsection (a).

"SEC. 6007. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 6004(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

"SEC. 6101. SHORT TITLE.

"This part may be cited as the 'Secondary Schools Basic Skills Demonstration Assistance Act of 1988'.

"SEC. 6102. PURPOSE.

"It is the purpose of this part to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

"SEC. 6103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1989.

"SEC. 6104. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) GENERAL AUTHORITY.—From the amount appropriated under section 6103 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this part.

"(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6105 in cooperation with community-based organizations.

"(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of this Act other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this part.

"SEC. 6105. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this part may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches—

"(A) for surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of this Act, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this part may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

"SEC. 6106. APPLICATION.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall include—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this part);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

"(6) a statement of the methods which will be used—

"(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

"(B) an assurance that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of this Act;

"(9) a description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

"(A) demonstrate the greatest need for services assisted under this part based on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

"(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

"(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

"(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this part may be used for administrative costs.

"PART C—GENERAL PROVISIONS

"SEC. 6201. GENERAL PROVISIONS.

"(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this title, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups. If the Secretary has defined the term 'school dropout' for fiscal year 1988 that definition shall apply for the purposes of this section.

"(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this part not later than June 30 preceding such fiscal year.

"(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

"(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this title, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991.

"(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this title to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

"(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6105 or section 6106, the Secretary shall withhold payments under this title in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

"SEC. 6202. DEFINITIONS.

"(a) As used in this title—

"(1) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(2) The term 'basic skills' includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SEC. 7001. SHORT TITLE.

"This title may be cited as the 'Bilingual Education Act'.

"SEC. 7002. POLICY; APPROPRIATIONS.

"(a) POLICY.—Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

"(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

"(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(9) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(11) that children of limited English proficiency have a high dropout rate and low median years of education;

"(12) that the segregation of many groups of limited English proficient students remains a serious problem;

"(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;

"(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

"(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;

"(16) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

"(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(18) that parent and community participation in bilingual education programs contributes to program effectiveness; and

"(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

"(b) AUTHORIZATION.—(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), $200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.

"(2) There are further authorized to be appropriated to carry out the provisions of section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary may reserve not to exceed 25 percent for special alternative instructional programs and related activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) Notwithstanding paragraphs (1) and (2), no amount in excess of $200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).

"(7) The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to

which section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

"SEC. 7003. DEFINITIONS; REGULATIONS.

"(a) General Rule.—The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant; and

"(C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which—

"(i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or

"(ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b) Regulation Requirement.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

"(c) Special Information Rule.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

"(a) Uses of Funds.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs; and

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

"(b) Applications.—(1) A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by 1 or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with 1 or more local educational agencies.

"(2) A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local educational agencies; institutions of higher education, *including junior or community colleges; or private nonprofit organizations, applying separately or jointly.*

"(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) An application for a grant under subsection (a)(3) of this section shall receive priority if the application—

"(A) describes the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language,

"(B) describes the unavailability of personnel qualified to provide bilingual instructional services, or

"(C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d) DURATION OF GRANTS.—(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.

"(B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

"(C) Upon reapplication, grants authorized under subsections (a) (1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"(2) Grants made pursuant to subsections (a)(4), (a)(5), and (a)(6) shall be for 3 years.

"(3)(A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled—

"(i) conducts a comprehensive evaluation of the overall academic progress of the student, and

"(ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program.

Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

"(B)(i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.

"(ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.

"(iii) Each evaluation shall indicate how the students' English language development will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

"(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

"(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by—

"(i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;

"(ii) lowering per pupil ratios, including the use of professional and volunteer aides; and

"(iii) the application of technology to the course of instruction.

"(e) APPLICATION REQUIREMENTS.—An application for a grant authorized under subsec-

tions (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served;

"(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and

"(5) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) APPROVAL OF APPLICATIONS.—An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

"(4) that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act;

"(5) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

"(A) preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(6) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(7) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

"(8) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

"(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

"(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs;

"(9) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(g) PRIORITY CONSIDERATION OF GRANTS.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) PRIORITY FOR PROGRAMS SERVING UNDERSERVED CHILDREN.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

"(i) LIMITATION ON THE ASSIGNMENT OF STUDENTS.—No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

"(j) PROGRAMS IN PUERTO RICO.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(k) BYPASS PROVISION.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

"SEC. 7022. INDIAN CHILDREN IN SCHOOLS.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) ANNUAL REPORT.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies

receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"SEC. 7031. USE OF FUNDS.

"Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

"SEC. 7032. GRANTS FOR STATE PROGRAMS.

"(a) DATA COLLECTION AND DISSEMINATION.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) REPORT TO SECRETARY.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

"(c) OTHER USES OF FUNDS.—State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) PAYMENTS.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year may not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

"The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;

"(4) the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and

"(5) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

"SEC. 7034. EVALUATION ASSISTANCE CENTERS.

"The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

"SEC. 7035. RESEARCH.

"(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

"(9) studies to determine effective and reliable techniques for providing bilingual education to handicapped students;

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and

"(11) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

"(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) Limitation of Authority.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

"SEC. 7036. COORDINATION OF RESEARCH.

"Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"SEC. 7037. EDUCATION STATISTICS.

"(a) Data Collection.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) Use of Data.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"SEC. 7041. USE OF FUNDS.

"(a) Use of Funds.—Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

"(b) Applications.—(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) Application Requirement for Training Programs.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

"(d) Training Program Requirements.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

"(e) Preference in Assistance and Purpose of Training.—(1) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(A) teaching English as a second language;

"(B) use of a non-English language for instructional purposes;

"(C) linguistics; and

"(D) evaluation and assessment;

and which involve parents in the educational process.

"(2) Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

"SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.

"(a) Establishment.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) Required Services.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"SEC. 7043. FELLOWSHIPS.

"(a) Authorization.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

"(b) Fellowship Requirements.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"SEC. 7044. PRIORITY.

"In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

"SEC. 7045. STIPENDS.

"In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

"SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

"(a) Establishment.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

"(b) Director.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary

shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

"(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on—

"(A) the grants and contracts made pursuant to this title in the preceding fiscal year;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

"(D) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and

"(E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

"(c) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

"(d) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"(e) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

"SEC. 7052. LIMITATION OF AUTHORITY.

"The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7063. TRANSITION.

"This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively.

(b) SPECIAL DEFINITION RULE.—Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"DEFINITIONS

"SEC. 8001. Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act.

SEC. 1003. REPEALS.

(a) EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981.—The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

(b) ELLENDER PROGRAM.—The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

(c) IMMIGRANT EDUCATION.—Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

(d) TERRITORIAL ASSISTANCE.—Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

(e) ANTI-DRUG ABUSE ACT OF 1986.—Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed.

SEC. 1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM.

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

PART A—IMPACT AID PROGRAM

SEC. 2001. SHORT TITLE.

This part may be cited as the "Impact Aid Reauthorization Act of 1988".

Subpart 1—Public Law 874

SEC. 2011. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this subpart as the "Act") is amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

(2) Section 5(b)(3)(C)(vii) of the Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

(3) Section 403(9) of the Act is amended to read as follows:

"(9) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULES.—(1) Section 7(c)(1) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(2) The last sentence of section 7(d) of the Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2012. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of the Act is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $735,000,000 for fiscal year 1989, $785,000,000 for fiscal year 1990, $835,000,000 for fiscal year 1991, $885,000,000 for fiscal year 1992, and $935,000,000 for fiscal year 1993, to carry out the provisions of this Act.".

SEC. 2013. FEDERAL ACQUISITION OF REAL PROPERTY.

Section 2(a) of the Act is amended by adding at the end of such subsection the following: "In making the determination of the amount that would have been derived in such year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed for fiscally dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property.".

SEC. 2014. ENTITLEMENTS AND PAYMENTS.

(a) AMOUNT FOR SECTION 3(a) CHILDREN.—Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) AMOUNT FOR OTHER CHILDREN.—Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

(c) SPECIAL RULES.—(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows:

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year to the prior fiscal year;".

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i)." For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if

the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.".

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph—

"(i) available funds may not include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds may not include 30 percent of the local educational agency's operating costs.".

(d) Districts With Unusual Geographic Factors.—(1) Section 3(d)(3)(B)(ii) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 3(d)(3)(B)(ii) of the Act is amended by adding at the end thereof the following new sentence: "The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.".

(e) Coterminous Agency Rule.—Section 3(h) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for coterminous local educational agencies under paragraph (1) shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made unless such payment would raise the per pupil expenditure above the average for that State. Whenever the preceding sentence applies, the local contribution rate may not be less than the amount necessary to raise the per pupil expenditure for that district to the average per pupil expenditure for the State in which such agency is located. The first 2 sentences of this paragraph shall not apply for local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law would require that the State contribution would be reduced in proportion to such additional funds. The local contribution rate for local educational agencies under this paragraph may not be less than 50 per centum of the average per pupil expenditure in all States during the second preceding fiscal year prior to the fiscal year for which the determination is made.".

SEC. 2015. METHOD OF PAYMENT.

(a) Rounding of Payments.—The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,".

(b) Disposition of Recovered Funds.—Section 5(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following sentence: "The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal years 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were appropriated, or that remain in Department of Education accounts after that time.".

(c) Preliminary Payments.—Section 5(b)(2) of the Act is amended to read as follows:

"(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

"(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

"(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.".

(d) General Rule on Payments.—Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to the supplemental 50 per centum of the entitlement that each child described in section 3(d)(2)(C) served by such agency is eligible to receive under section 3(d)(2)(C).

"(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

"(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).".

(e) Allocation of Payments Rule.—(1) Section 5(c)(2) of the Act is amended to read as follows:

"(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement to each local educational agency under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses shall be ratably reduced. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

(2)(A) Section 5(c)(3) of the Act is repealed.

(B) The sentence following paragraph (2) of section 5(c) (as amended by subparagraph (A)) is amended by striking out "or (3)".

(C) The last sentence of section 5(c) of the Act is repealed.

(f) STATE AID RULE.—Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(g) HOLD HARMLESS RULES.—Section 5(e) of the Act is amended to read as follows:

"(e)(1)(A) For any fiscal year after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

"(B) For any fiscal year beginning after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

"(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational agency for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

"(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

"(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

"(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous paragraph, such amounts shall be ratably reduced.

"(3) In no event shall the amount allocated to any local educational agency in any fiscal year under paragraph (1) exceed the amount received by such agency in the fiscal year 1987.".

SEC. 2016. CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION.

Section 6 of the Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

SEC. 2017. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 7(a)(1) of the Act is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 7(a)(3) of the Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

(c) AVAILABILITY OF FUNDS.—Section 7 of the Act is amended by adding at the end thereof the following new subsection (f):

"(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2018. TREATMENT OF CHILDREN RESIDING ON PROPERTY ASSISTED UNDER SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937.

(a) GENERAL RULE.—Notwithstanding any other provision of law, for fiscal years prior to fiscal year 1989, applicants may claim and receive payments under section 3 of Public Law 81-874 on behalf of children residing in or whose parents are employed on property assisted under section 8 of the United States Housing Act of 1937, if such property was claimed by such applicants and such payments were received for the previous fiscal year.

(b) SPECIAL RULE.—Payments made to any local educational agency under section 3(b) of the Act for fiscal years prior to fiscal year 1989, on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, shall stand, and such payments withheld or recovered shall be made or restored.

SEC. 2019. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended by adding at the end thereof the following: "Funds received under this section may be used to pay tuition for any student not eligible for funding under section 1128 of Public Law 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.".

SEC. 2020. REGULATION REQUIREMENTS.

No regulations may be established to carry out the provisions of this Act unless such regulations will become final only after a period for comment which is not less than 90 days. No provision of the regulations may have a retroactive effect which results in the recovery of assistance by the United States (other than such recovery based on regulations in effect at the time the assistance was made). To the extent that the provisions of section 431 of the General Education Provisions Act are not inconsistent with the provisions of this section, the provisions of section 431 shall apply to regulations established under this Act.

SEC. 2021. DEFINITION.

Section 403(5) of the Act is amended by striking out "under title I, II, or III" and inserting in lieu thereof "under chapter 1 or 2 of title I".

Subpart 2—Public Law 815

SEC. 2031. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) in section 3 by striking "1988" and inserting "1993";

(2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and

(3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of such Act is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $26,000,000 for fiscal year 1990, $27,000,000 for fiscal year 1991, $28,000,000 for fiscal year 1992, and $29,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2032. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is further amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

(2) Section 11(b) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

(3) Section 15(14) of such Act is amended to read as follows:

"(14) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULE.—The fifth sentence of section 16(c) of such Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2033. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 16(a)(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 16(a)(5) of such Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

SEC. 2034. TECHNICAL AMENDMENT.

Section 14 of the Act is amended—

(1) by striking out subsection (d); and

(2) by adding after subsection (c) the following:

"(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.".

PART B—ADULT EDUCATION

SECTION 2101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1988".

SEC. 2102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

"SEC. 311. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

"SEC. 312. DEFINITIONS.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who are not enrolled in secondary school;

"(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(C) who are not currently required to be enrolled in school; and

"(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 481 of the Higher Education Act of 1965.

"(11) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(12) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(13) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(14) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

"(15) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) Authorization of Appropriations.—There are authorized to be appropriated $200,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993 to carry out the provisions of this title (other than sections 371 and 372).

"(b) Allotment.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States.

"(c) Reallotment.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

"(d) Reservation of Funds for National Programs.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in part D, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS.

"(a) Use of Funds.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

"(3) The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4)(A) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(B) The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this subpart exceeds the amounts available for such grants in fiscal year 1988.

"(b) Limitations on Use of Funds.—

"(1) Not less than 10 percent of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with subpart 2.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

"SEC. 323. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—Programs for Corrections Education and Education for Other Institutionalized Individuals

"SEC. 326. PROGRAM AUTHORIZED.

"Funds set aside under section 322(b)(1) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

"(1) academic programs for—

"(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

"(B) special education programs as defined by State law;

"(C) bilingual or English as a second language programs; and

"(D) secondary school credit programs;

"(2) vocational training programs;

"(3) library development and library service programs;

"(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology;

"(5) guidance and counseling programs;

"(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

"(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

"(b) As used in this section, the term—

"(1) 'criminal offender' means any individual who is charged with or convicted of any criminal offense; and

"(2) 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"Subpart 3—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION.

"(a) State Agency Responsibilities.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) State Imposed Requirements.—Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

"(c) Limitation on State Administrative Costs.—Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION.

"(a) Requirement.—(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this subpart for the purposes of this subsection.

"(b) Representation on Council.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) Certification.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) Procedures.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) Terms.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) Duties.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

"Subpart 4—Planning and Applications

"SEC. 341. STATE PLAN AND APPLICATION.

"(a) Requirement.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) Procedure for Submission and Consideration.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA Provision.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN.

"(a) Procedures Required in Formulating State Plan.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 332 of this title.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

"(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Required Assessments.—In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

"(c) Components of State Plan.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7004(a) of title VII of the Elementary and Secondary Education Act of 1965) or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

"(7) describe how the particular educational needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purpose of this title during the 4-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to assure maximum use of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 382 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"(d) Limited English Proficiency Rule.—Programs conducted under subsection (c)(6) shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

"SEC. 343. STATE APPLICATIONS.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant such State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for

educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

"Subpart 5—Evaluation and State Plan Amendments

"SEC. 351. STATE PLAN AMENDMENTS.

"(a) Timely Submission.—When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

"(b) Consideration by Secretary.—The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"(c) Transition Rule.—Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

"SEC. 352. EVALUATION.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

"(1) annually submit data to the Secretary with respect to grant recipients;

"(2) before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider—

"(A) the planning and content of the program;

"(B) the curriculum, instructional materials, equipment, and qualifications of all personnel;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other factors determined to affect program operation; and

"(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 6—Demonstration Projects

"SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) Use of Funds.—Of the funds allotted to a State under section 313 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this title, or

"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) Applications.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 7—Federal Share; Federal Administrative Responsibilities

"SEC. 361. PAYMENTS.

"(a) Federal Share.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be—

"(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

"(2) 85 percent of such cost for fiscal year 1990;

"(3) 80 percent of such cost for fiscal year 1991; and

"(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share of such cost shall be 100 percent.

"(b) Maintenance of Effort.—(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

"SEC. 371. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

"(a) Grants for Exemplary Demonstration Partnerships for Workplace Literacy.—(1) Subject to subsection (b), the Secretary shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) Grants to States.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 342 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

"(A) includes in a State plan submitted to the Secretary under section 342 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3) shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) Authorization of Appropriations.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this part) for that year is equal to or greater than $110,000,000.

"(3) Amounts appropriated under this subsection shall remain available until expended.

"SEC. 372. ENGLISH LITERACY GRANTS.

"(a) Grants to States.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 342 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 342 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) Set-Aside for Community-Based Organizations.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) Report.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) Demonstration Program.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs.

"(e) Evaluation and Audit.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) Authorization of Appropriations.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d).

"(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

"PART D—NATIONAL PROGRAMS

"SEC. 381. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

"(a) General Authority.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

"(b) Priority.—In carrying out the provisions of this part, the Secretary shall from funds reserved under section 313(d) give first priority to the portion of the program described in subsection (a) for migrant farmworkers.

"SEC. 382. ADULT LITERACY VOLUNTEER TRAINING.

"(a) General Authority.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"(b) Priority.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give second priority to the portion of the program described in subsection (a) for adult volunteers.

"SEC. 383. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) Federal Assistance.—(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance shall include, but are not limited to—

"(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

"(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(2) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give third priority to the portion of the program described in paragraph (1) for evaluation and research.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first 2 years after enactment of the Adult Education Amendments of 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation.

"(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1988, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 384. NATIONAL RESEARCH ACTIVITIES.

"(a) APPROVED ACTIVITIES.—The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

"(b) RESEARCH CONCERNING SPECIAL NEEDS.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 313(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

"SEC. 385. LIMITATION.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.".

PART C—EDUCATION FOR ECONOMIC SECURITY

SEC. 2301. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

(2) by striking "1986," and inserting "1986 and"; and

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

SEC. 2302. STAR SCHOOLS PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $60,000,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership which includes three or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of the Elementary and Secondary Education Act of 1965.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) Special Rule.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"Sec. 905. (a) Application Required.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965) in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) Approval of Application; Priority.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965), programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) Geographic Distribution.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"Sec. 906. (a) Report.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) Dissemination of Courses of Instruction.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) Dissemination to State Educational Agencies.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"Sec. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 1471(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(16) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 2303. REPEAL.

Titles II, IV, VI, and VII of the Education for Economic Security Act are repealed.

PART D—VOCATIONAL EDUCATION

SEC. 2401. TECHNICAL AMENDMENT.

(a) Uses of Funds.—Section 201 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2331) is amended—

(1) in subsection (b)(4), by striking "or homemakers;" and inserting ", homemakers, or single pregnant women;"; and

(2) in subsection (f), by striking "and homemakers" each place it appears and inserting ", homemakers, and single pregnant women".

(b) Distribution of Assistance.—Section 202(a)(4) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332(4)) is amended by striking "and homemakers;" and inserting ", homemakers, or single pregnant women;".

(c) Conforming Amendment.—Section 202 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 2402. THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

(a) In General.—From funds appropriated for the fiscal year 1987 for section 404 of the Carl D. Perkins Vocational Education Act of 1984, the Secretary of Education shall provide financial assistance to a Center for Research in Vocational Education at The Ohio State University in the amount of $2,000,000 and the University of California at Berkeley in the amount of $2,000,000 to support ongoing activities, but not to support any new hiring after April 10, 1988, through December 31, 1988. Funds allocated to either institution shall be shared equitably according to the expenses of all subcontractors. The funds

made available under this section shall not be affected by the outcome of the final decision on a grant award recipient for the National Center for Research in Vocational Education. Any funds received under this section shall be deducted from the total award made for a National Center for the 1988 grant award year.

(b) CONSTRUCTION.—Nothing in this section shall be construed to affect the decision with respect to the location of the National Center for Research in Vocational Education.

PART E—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

SEC. 2501. SHORT TITLE.

This part may be cited as the "Comprehensive Child Development Centers Act of 1988".

SEC. 2502. STATEMENT OF PURPOSE.

It is the purpose of this part to provide financial assistance to projects, on a multiyear basis, that—

(1) are designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families;

(2) will enhance their physical, social, emotional, and intellectual development and provide support to their parents and other family members; and

(3) target services on infants and young children from families who have incomes below the poverty line and who, because of environmental, health, or other factors, need intensive and comprehensive supportive services to enhance their development.

SEC. 2503. PROGRAM AUTHORIZED.

Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 et seq.) is amended by adding at the end the following:

"Subchapter E—Comprehensive Child Development Program

"SHORT TITLE

"SEC. 670M. This subchapter may be cited as the "Comprehensive Child Development Act".

"CHILD DEVELOPMENT PROJECTS

"SEC. 670N. (a)(1) The Secretary is authorized to make operating grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10, but not more than 25, eligible agencies to carry out this section.

"(3) In carrying out this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the project for which assistance is sought;

"(B) the proximity of the eligible agency and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of intensive and comprehensive support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project; and

"(F) the eligible agency's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of section 2402 of the Comprehensive Child Development Centers Act of 1988;

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such infants and young children will be met by the project;

"(D) describe the intensive and comprehensive supportive services that project planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the entities that the eligible agency intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered;

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the project; and

"(I) contain such other information as the Secretary may reasonably require.

"(c)(1)(A) The Secretary shall make operating grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(C) In making operating grants in a fiscal year, the Secretary shall give priority to eligible entities that received operating grants under this section for the preceding fiscal year.

"(2)(A) To be eligible to receive an operating grant under this section, an eligible agency shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section; and

"(ii) submit an operating grant application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for intensive and comprehensive support services;

"(iv) identify the referral providers, agencies, and organizations that the eligible entity will use to carry out the project for which such operating grant is requested;

"(v) provide assurances that intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to infants and young children, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency, through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the project for which such operating grant is requested, from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and met, and such other information as the Secretary may require;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the project,

"(II) individuals with expertise in furnishing services the project offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the project will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, and agree to submit such necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in such applications.

"(B) The Federal share of such costs shall be 80 percent for each fiscal year.

"(C) The non-Federal share of such costs may be provided in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested in order to carry out the evaluation required by paragraph (1).

"(f) Not later than October 1, 1993, the Secretary shall prepare and submit to the Congress a report on the evaluation required by subsection (e)(1), together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"LIMITATION

"SEC. 670O. For purposes of making any grant under section 670N, the Secretary may not take into consideration whether the applicant for such grant applies for or receives funds under subchapter B.

"APPLICABILITY OF CERTAIN RULES AND REGULATIONS

"SEC. 670P. Except when inconsistent with the provisions of this subchapter, the rules and regulations prescribed by the Secretary, as in effect from time to time, to carry out subchapter B shall apply to carrying out this subchapter to the extent that services provided under this subchapter are similar to services provided under subchapter B.

"CONTINUING EVALUATION OF PROJECTS

"SEC. 670Q. (a) The Secretary shall provide, directly or through grants and contracts, for the continuing evaluation of projects under this subchapter in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services. Such evaluation shall include—

"(1) evaluations that measure the impact of such projects; and

"(2) where appropriate, comparisons of individuals who participate in such projects with appropriate control groups composed of individuals who do not participate in such projects.

"(b) Each evaluation conducted under subsection (a) of a project shall be conducted by persons who are not directly involved in the administration of such project.

"(c) In carrying out subsection (a), the Secretary may require eligible agencies to provide for independent evaluations.

"GENERAL ADMINISTRATION

"SEC. 670R. The Secretary shall carry out this subchapter through the administrative entity of the Department of Health and Human Services used by the Secretary to carry out subchapter B.

"DEFINITIONS

"SEC. 670S. As used in this subchapter—

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act (20 U.S.C. 1472(2));

"(2) the term 'eligible agency' means a Head Start agency, an agency that is eligible to be designated as a Head Start agency under section 641, a community-based organization, an institution of higher education, a public hospital, a community development corporation, or a public or private nonprofit agency or organization specializing in delivering social services to infants or young children;

"(3) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(4) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and such term includes infant and child health services (including screening and referral), child care that meets State licensing requirements, early childhood development programs, early intervention services for children with or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and such term includes prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(5) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(6) the term 'low income' means persons who are from families having incomes below the poverty line as determined and revised in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(7) the term 'Secretary' means the Secretary of Health and Human Services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670T. (a) Subject to subsection (b), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this subchapter.

"(b) Notwithstanding any other provision of law, no funds shall be available for fiscal year 1989 or 1990 to carry out this subchapter if the amount appropriated for such fiscal year to carry out subchapter B is less than 104 percent of the amount appropriated for the preceding fiscal year to carry out subchapter B.

"(c) Funds made available in accordance with this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which such funds are appropriated.".

SEC. 2504. CONFORMING AMENDMENTS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) by inserting "(a)" after "SEC. 638."; and

(2) by adding at the end thereof the following:

"(b) For purposes of providing financial assistance under subsection (a) to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter E.".

PART F—HIGHER EDUCATION

SEC. 2601. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

(a) AMENDMENT TO TITLE OF PROGRAM.—Section 421 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by adding at the end the following new subsection:

"(c) The program established under this part may be referred to as the 'Robert T. Stafford Student Loan Program'.".

(b) CONFORMING AMENDMENT.—The heading for Part B of title IV of the Act is amended to read as follows: "PART B—ROBERT T. STAFFORD STUDENT LOAN PROGRAM".

TITLE III—EDUCATIONAL ASSESSMENT, ACHIEVEMENT, AND ADMINISTRATION

PART A—STATISTICS

SEC. 3001. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended—

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following: "The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.".

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center. The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for terms of 4 years, except that the initial appointment shall commence June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

(3) TRANSITION PROVISION.—During the period beginning on the date of the enactment of this Act and ending on the date that an appointment is made pursuant to section 406(a)(2)(A) (as inserted by paragraph (1)), the individual serving as the director of the Center for Education Statistics on the date of the enactment of this Act may serve as acting Commissioner.

(c) ADVISORY COUNCIL ON EDUCATION STATISTICS.—Section 406(c) of the Act is amended—

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting a comma; and

(C) by adding at the end the following subparagraphs:

"(D) Commissioner of Education Statistics, and";

"(E) Chairman, National Commission on Libraries and Information Science.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) CONDITION OF EDUCATION REPORT.—Section 406(d) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by adding "and" at the end of subparagraph (B);

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking all of subparagraph (D);

(2) by redesignating paragraph "(2)" as paragraph "(3)"; and

(3) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) AUTHORITY OF COMMISSIONER.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

"(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

"(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

"(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

"(9) The Commissioner is authorized to—

"(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code, (governing appointments in the competitive service) and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

"(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.".

(f) REPORTS ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by inserting after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) SPECIAL STUDY PANEL ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended by adding after paragraph (2) (as added by subsection (F)) the following new paragraph:

"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

(h) DROPOUT AND RETENTION STUDY AND REPORTS.—Section 406(g) of the Act is amended by adding after paragraph (3) (as added by subsection (g)) the following new paragraph:

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator.

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) FINANCIAL AID STUDIES.—Section 406(g) of the Act is amended by adding after paragraph (4) (as added by subsection (h)) the following new paragraph:

"(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study.".

"(B) Concurrent with each survey, the Center shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.".

(j) DECENNIAL ANALYSIS OF SCHOOL DISTRICTS.—Section 406(g) of the Act is amended by adding after paragraph (5) (as added by subsection (i)) the following new paragraph:

"(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.".

(k) NATIONAL LONGITUDINAL SURVEY.—Section 406(g) of the Act is amended by adding after paragraph (6) (as added by subsection (j)) the following new paragraphs:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

"(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system. Attention should be given to insuring timely, consistent and accurate reporting.".

(l) SCHOOL REFORM EFFORTS STUDY.—Section 406(g) of the Act is amended by adding after paragraph (8) (as added by subsection (k)) the following new paragraph:

"(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.".

(m) CONFIDENTIAL TREATMENT OF DATA.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) no department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

"(F) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

(n) EDUCATION INFORMATION AND DATA.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by redesignating subsection (h) as subjection (i);

(3) by inserting after subsection (g) a new subsection (h):

"(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) the availability and use of school libraries and their resources;

"(iv) teachers, librarians, and school administrators;

"(v) the financing of elementary and secondary education;

"(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vii) the progress of education reform in the States and the Nation; and

"(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

"(3) To establish and maintain the system, the Commissioner—

"(A) shall—

"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and

"(ii) to the extent possible, implement standard definitions and data collection procedures; and

"(B) may—

"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.";

(4) in subsection (f)—

(A) by inserting "(1)" after "(f)"; and

(B) by adding after paragraph (1) the following paragraphs:

"(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State—

"(A) of meeting the information and data gathering requirements in compliance with such subsection; or

"(B) for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.".

(o) STATE TRAINING PROGRAM.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)".

(p) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:

"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

(2) Section 405(f)(1) of the Act is amended by striking "and section 406 of this Act".

(q) CONFORMING AMENDMENTS.—The heading of section 406 of the Act is amended to read as follows:

"NATIONAL CENTER FOR EDUCATION STATISTICS"

SEC. 3002. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the Elementary and Secondary Education Act of 1965 and chapter 1 of the Education Consolidation and Improvement Act of 1981".

PART B—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

SEC. 3201. SHORT TITLE.

This part may be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act".

SEC. 3202. ESTABLISHMENT OF FUND.

There is established a Fund for the Improvement and Reform of Schools and Teaching.

Subpart 1—Grants for Schools and Teachers

SEC. 3211. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, nonprofit organizations, individual schools, consortia of such schools, and consortia of such schools and institutions, to improve educational opportunities for and the performance of elementary and secondary school students and teachers by—

(1) helping educationally disadvantaged or at risk children meet higher educational standards;

(2) providing incentives for improved performance;

(3) strengthening school leadership and teaching;

(4) promoting closer ties among school teachers, administrators, families and the local community;

(5) providing opportunities for teacher enrichment and other means to improve the professional status of teachers;

(6) encouraging projects that reallocate existing resources (both human and financial)

to serve children better by refocusing priorities;

(7) allowing local schools to establish closer ties with an institution of higher education to increase educational achievement;

(8) increasing the number and quality of minority teachers;

(9) providing entry-year assistance to new teachers and administrators;

(10) improving the teacher certification process, especially for schools, school districts, or States facing serious shortages; and

(11) encouraging pride in schools by teaching students to be responsible for their school environment, involving students in the care and maintenance of their classrooms and promoting individual responsibility and involvement in civic activities.

(b) PRIORITY RULE.—The Secretary shall give priority to proposed projects that—

(1) will benefit students or schools with below average academic performance;

(2) will lead to increased access of all students to a high quality education; and

(3) develop or implement systems for providing incentives to schools, administrators, teachers, students, or others to make measurable progress toward specific goals of improved educational performance.

(c) ADMINISTRATIVE RULE.—The Secretary shall carry out the provisions of this part through the Board established under section 3231.

SEC. 3212. APPLICATIONS.

(a) CONTENTS OF APPLICATIONS.—(1)(A) For grants described under this subpart, each applicant shall, if relevant, describe how the program relates to the priorities listed in section 3211(b). Where appropriate, proposals shall contain a description of the incentive system described in section 3211(b)(3), including specific goals and timetables for progress toward such goals.

(B) For the purpose of this section, incentives may include financial rewards, regulatory waivers, open enrollment among schools, grants to schools for innovative projects, or other rewards for meeting specific goals.

(C) For the purpose of this section, the goals described in subparagraph (A) may include increased graduation rates, reduced dropout rates, increased attendance rates, increased student achievement, reduced rates of incidents of juvenile delinquency or vandalism, or other goals of educational improvement.

(2)(A) Each teacher and administrator desiring to receive a grant at the school level shall submit an application for school level projects involving an individual school or a consortium of schools. Each application shall contain assurances that the project will be carried out under the responsibility of a full-time teacher or school administrator.

(B) Each such application shall be reviewed by the appropriate local educational agency. The local educational agency shall act as the fiscal agent in administering the school's grant to the school, but funds must be expended at the school level.

(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application for a grant under this subpart (other than an application from a State educational agency) shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency must complete its review of the application and comment to the Secretary within 30 calendar days of receipt.

(c) SPECIAL EVALUATION RULE.—In evaluating an application for a grant or contract under this subpart, the Secretary shall consider the extent to which the proposed project is likely to improve teaching and learning at the school level.

Subpart 2—Family-School Partnership

SEC. 3221. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) it has been clearly demonstrated that parent involvement is directly related to better student achievement, attitudes, and performance in school;

(2) demographics of the American family are changing to the degree that significant numbers of children attending school come from families with single parents, families in which both parents are employed outside the home, or where the primary caregiver is not the biological parent;

(3) the demographics mean that current approaches to developing and maintaining partnerships with educators in compensatory education programs require review and modification to make them more responsive to the needs of both families and schools; and

(4) effective approaches to more fully involving families as partners in their children's education should be encouraged as a matter of Federal policy.

(b) PURPOSE.—The purpose of this subpart is to encourage eligible local educational agencies to increase the involvement of families in the improvement of the educational achievement of their children in the preschool, elementary, and secondary schools within such agency.

SEC. 3222. ELIGIBLE AGENCY.

In order to be eligible to receive a grant under this subpart, a local educational agency must be eligible to receive a grant under section 1005 of the Elementary and Secondary Education Act of 1965.

SEC. 3223. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary, through the Fund, is authorized to make demonstration grants to eligible local educational agencies for the development of innovative, promising family-school educational partnership activities designed to—

(1) support the efforts of families, including training, to the maximum extent practicable, to work with children in the home to attain both the instructional objectives of the schools within eligible local educational agencies and instill positive attitudes about the importance of education;

(2) train teachers and other staff personnel involved in the program supported under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to work effectively as educational partners with the families of participating students;

(3) train families, teachers and other staff personnel in the schools within such agency to build an educational partnership between home and school; and

(4) evaluate how well family involvement activities of the schools within such agency are working, what barriers exist to greater participation, and what steps need to be taken to expand participation in such family involvement activities.

(b) USES OF FUNDS.—The activities and procedures for which grants may be made under this subpart may include—

(1) training programs for the family on the family's educational responsibilities and reasonable and necessary expenditures associated with the attendance of parents or guardians at training sessions;

(2) planning and development of new school procedures and practices to meet the changing demographic characteristics of the families of school-age children;

(3) planning and development of modifications of school procedures and practices necessary for the involvement of parents of special groups, including minorities, disadvantaged, gifted and talented, and students with handicaps;

(4) hiring, training, and use of educational personnel in eligible local educational agencies to coordinate family involvement activities and to foster communications among families, educators, and students;

(5) development and purchase by a local educational agency of educational materials where such materials are commercially unavailable to reinforce school learning at home and assistance in implementing other home-based education activities that reinforce and extend classroom instruction and student motivation; and

(6) securing technical assistance, including training, to design and carry out family involvement programs.

(c) PRIVATE SCHOOL STUDENTS.—An application may, consistent with the number of children enrolled in private elementary and secondary schools located in the school district of an eligible educational agency, provide for the participation of such children, their families and teachers.

Subpart 3—Administrative Provisions

SEC. 3231. BOARD AUTHORIZED.

(a) FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING BOARD ESTABLISHED.—(1) There is established the Fund Board.

(2)(A) The Board shall—

(i) advise the Secretary concerning developments in education that merit the attention of the Secretary;

(ii) identify promising initiatives to be supported under this part; and

(iii) advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, planning documents, guidelines, and procedures for grant competitions carried out by the Fund.

(B) The Secretary shall provide such information and assistance as may be necessary to enable the Board to carry out its functions under this part.

(3)(A) The Board shall be composed of 15 members and the Secretary. Appointed members of the Board shall be appointed from among individuals who have extensive backgrounds in the field of education and shall represent a broad range of viewpoints and experience.

(B)(i) The term of office of each member of the Board shall be 3 years, except that, subject to the provisions of paragraphs (4) and (5), the members first taking office shall serve as designated by the Secretary, one-third of the members for terms of 1 year, one-third of the members for terms of 2 years, and one-third of the members for terms of 3 years;

(ii) Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed. No Board member may serve more than 2 consecutive terms.

(4) The initial membership of the Board shall be appointed by the Secretary after consultation with appropriate educational organizations and other interest groups.

(5) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. The Board shall nominate at least 3 individuals for each vacancy.

(6) The Board shall elect a chairman and vice-chairman from among its membership.

(7) The Board shall meet at least 3 times each year. A meeting shall also be held whenever one-third of the Board members request in writing that a meeting be held. A majority of the Board shall constitute a quorum.

(b) Director of the Fund.—(1) The Secretary shall appoint a Director of the Fund to serve a 4-year term. No individual may serve as Director for more than 8 years.

(2) The Director shall advise the Board about developments in education that merit the attention of the Board, identify promising initiatives, coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education, and provide such information and assistance as may be necessary to enable the Board to carry out its functions. The Director may offer comments to the Board on any application to the Fund.

(3) The Director shall—

(A) consult with the Board on priorities for the improvement of education,

(B) design grant competitions,

(C) solicit proposals,

(D) administer grant competitions,

(E) review and prioritize proposals,

(F) monitor funded projects, and

(G) disseminate the results of successful projects.

(c) Priorities Rule.—In January of every calendar year, the Board shall advise the Secretary and the Congress of the priorities of the Board for the improvement of education and the implications of the priorities for the Fund. The Secretary shall give careful consideration to the priorities set forth by the Board. By December 31 of each calendar year, the Director shall provide the Congress with a report for that year summarizing the projects funded for that year.

(d) Review and Evaluation Procedures.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. The procedures established under this subsection for reviewing grant applications or contracts for financial assistance under this Act may not be subject to any review outside of officials responsible for the administration of the Fund.

(e) Proposal Review.—In reviewing proposals, the Director shall consider the need for the proposed project and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals and priorities of the Fund. The Secretary shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Secretary shall take appropriate steps to ensure that new applicants are encouraged to participate in any grant competition sponsored by the Fund for the Improvement and Reform of Schools and Teaching.

(f) Personnel.—The Secretary may appoint for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 3232. DISSEMINATION AND REPORTING.

(a) Exemplary Projects.—The Secretary shall take appropriate steps to ensure that exemplary projects that are developed with assistance furnished under this part are made available to institutions of higher education and State and local educational agencies. In carrying out this paragraph the Secretary and Director shall ensure that exemplary projects apply to the National Diffusion Network for dissemination through the procedures established by that program.

(b) Report.—The Secretary shall submit a final report to Congress not later than June 1, 1990. The report shall describe the programs assisted by this part, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) Report for Continued Funding Rule.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 3233. COORDINATION WITH THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

In order to facilitate coordination between the Fund and the Fund for the Improvement of Postsecondary Education, the Director of the Fund shall meet regularly with the Director of the Fund for the Improvement of Postsecondary Education. The Board of the Fund shall meet at least once each year with the Board of the Fund for the Improvement of Postsecondary Education to discuss priorities and projects to be funded.

Subpart 4—General Provisions

SEC. 3241. SPECIAL GRANT RULES.

(a) Grant Conditions.—(1) Federal funds paid under this part shall supplement, not supplant, other resources available to the grantee.

(2) Financial assistance made under this part is not intended to be used for the acquisition of capital equipment as a primary purpose.

(b) Distribution of Funds.—(1) At least 25 percent of the funds appropriated for the Fund in any fiscal year shall be used for grants to applicants described in section 3212(a)(2)(A).

(2) Grants to a single school as described in section 3212(a)(2)(A) may not be less than $5,000 nor more than $125,000 in any fiscal year.

(3) No grant may be made for more than a 3-year period.

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorizations.—There are authorized to be appropriated to carry out the provisions of this part $30,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, 1992 and 1993.

(b) Reservations.—

(1) The Secretary shall reserve one-third of the funds appropriated for activities under subpart 2 of this part.

(2) The Secretary shall reserve $150,000 from funds appropriated for activities authorized by section 3232.

SEC. 3243. DEFINITIONS.

For the purpose of this part—

(1) the term "at risk" means students who, because of learning deficiencies, lack of school readiness, limited English proficiency, poverty, educational or economic disadvantage, or physical or emotional handicapping conditions face greater risk of low educational achievement and have greater potential of becoming school dropouts;

(2) the term "Board" means the Fund Board established under section 3231;

(3) the term "Fund" means the Fund for the Improvement and Reform of Schools and Teaching established under section 3202; and

(4) the term "Secretary" means the Secretary of Education.

PART C—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 3401. SHORT TITLE.

This part may be cited as the "National Assessment of Educational Progress Improvement Act".

SEC. 3402. STATEMENT OF PURPOSE.

The purpose of this part is to improve the effectiveness of our Nation's schools by making objective information about student performance in selected learning areas available to policymakers at the national, regional, State, and local levels. To enhance its utility, such information shall be both representative and comparable and shall be maintained in a manner that ensures the privacy of individual students and their families. It is not the purpose of this Act to authorize the collection or reporting of information on student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

SEC. 3403. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) General Authority.—Section 406 of the General Education Provisions Act (hereafter in this part referred to as "the Act" and as amended by section 3001 of this title) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following:

"(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history/geography, and other areas selected by the Board.

"(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall—

"(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

"(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(iii) report achievement data on a basis that ensures valid reliable trend reporting;

"(iv) include information on special groups.

"(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each

of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

"(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D), shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

"(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data.

"(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted.

"(D)(i) The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

"(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

"(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

"(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

"(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

"(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

"(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the 'Board').

"(ii) The Board shall formulate the policy guidelines for the National Assessment.

"(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

"(i) two Governors, or former Governors, who shall not be members of the same political party;

"(ii) two State legislators, who shall not be members of the same political party;

"(iii) two chief State school officers;

"(iv) one superintendent of a local educational agency;

"(v) one member of a State board of education;

"(vi) one member of a local board of education;

"(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(viii) one representative of business or industry;

"(ix) two curriculum specialists;

"(x) two testing and measurement experts;

"(xi) one nonpublic school administrator or policymaker;

"(xii) two school principals, one elementary and one secondary;

"(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

"(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

"(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

"(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

"(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

"(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

"(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

"(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

"(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(iii) developing assessment objectives;

"(iv) developing test specifications;

"(v) designing the methodology of the assessment;

"(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

"(vii) developing standards and procedures for interstate, regional and national comparisons; and

"(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

"(B) The Board may delegate any functions described in subparagraph (A) to its staff.

"(C) The Board shall have final authority on the appropriateness of cognitive items.

"(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

"(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

"(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

"(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized

by the Board) and to carry out the functions described in paragraph (6)(A).

"(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

"(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment;

"(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

"(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

"(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

"(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 405 of the Act is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) RESERVATION OF FUNDS FOR ASSESSMENTS.—(1) Section 405(f)(1)(D) of the Act (as redesignated by subsection (b)(1)) is amended to read as follows:

"(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);".

(2) Section 405(f)(1)(E) of the Act (as redesignated by subsection (a)(1)) is amended by inserting a comma and "except for subsection (i) of that section," immediately after "Act".

PART D—GENERAL EDUCATION PROVISIONS ACT

SEC. 3501. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

"(1) recovery of funds hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 455 of this Act,

"(3) cease and desist hearings pursuant to section 456 of this Act, and

"(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 453. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

"SEC. 452. RECOVERY OF FUNDS.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the

Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

"(d) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

"(f)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g).

"(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

"(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

"(g) A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

"(2) remands the decision to the Office.

"(h) The Secretary shall publish decisions that have become final agency action under subsection (g) in the Federal Register or in another appropriate publication within 60 days.

"(i) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

"(j)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

"(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(k) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

"(l) No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

"SEC. 453. MEASURE OF RECOVERY.

"(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

"(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

"(b)(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

"(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient.

"(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

"(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

"(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

"(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

"(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

"(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

"(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

"(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

"SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

"(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

"(1) withhold further payments under that program, as authorized by section 455;

"(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

"(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457; or

"(4) take any other action authorized by law with respect to the recipient.

"(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

"SEC. 455. WITHHOLDING.

"(a) In accordance with section 454, the Secretary may withhold from a recipient, in

whole or in part, further payments (including payments for administrative costs) under an applicable program.

"(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

"(1) the intent to withhold payments;

"(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

"(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

"(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

"(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

"(2) remands the decision of the Office.

"SEC. 456. CEASE AND DESIST ORDERS.

"(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

"(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

"(1) make a report in writing stating its findings of fact; and

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

"SEC. 457. COMPLIANCE AGREEMENTS.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

"SEC. 458. JUDICIAL REVIEW.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program described in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 459. USE OF RECOVERED FUNDS.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 452(e) is taken.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

"SEC. 460. DEFINITIONS.

"For purposes of this part:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

(b) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

(c) CONFORMING AMENDMENTS.—Section 435(a) of the General Education Provisions Act is amended by striking "titles I and IV" and all that follows through "such Act)" and inserting "chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)".

TITLE IV—EDUCATION FOR NATIVE HAWAIIANS

SEC. 4001. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are over-represented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students;

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density; and

(9) special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required.

SEC. 4002. PURPOSE.

It is the purpose of this title to—

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 4003. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT.

(a) CURRICULUM DEVELOPMENT AUTHORITY.—In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to—

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) SPECIAL RULE.—By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993, to carry out the provisions of this Act. Such funds shall remain available until expended.

SEC. 4004. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

(a) FAMILY-BASED EDUCATION CENTERS GENERAL AUTHORITY.—The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands. Such centers shall include—

(1) Parent-Infant programs (prenatal through age 3);

(2) Preschool programs for four and five year-olds;

(3) continued research and development; and

(4) a long term followup and assessment program.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for the centers described in subsection (a), there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for such centers for fiscal years 1989 through 1993. Such funds shall remain available until expended.

SEC. 4005. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAM.

(a) HIGHER EDUCATION GENERAL AUTHORITY.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section;

(4) appropriate research and evaluation of the activities authorized by this section; and

(5) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) GRANTS AUTHORIZED.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

(c) SPECIAL CONDITION REQUIRED.—For the purpose of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a).

(2) There are authorized to be appropriated $750,000 for fiscal year 1988, and for each succeeding fiscal year through 1993, for the purpose of funding the fellowship assistance demonstration project provided under subsection (b).

(3) Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. 4006. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—

(1) The Secretary shall provide a grant to, or enter into a contract with, the University of Hawaii at Hilo for—

(A) the establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, and

(B) for demonstration projects designed to—

(i) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students, and

(ii) provide those support services to their families that are needed to enable such students to benefit from the project.

Such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 3 years.

(2) After the term of the grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary shall, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, the public, 4-year, fully accredited institution of higher education located in the State of Hawaii which has made the greatest contribution to Native Hawaiian students. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate, including with the Children's Television Workshop.

(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

(A) the emotional and psychosocial needs of these students, and

(B) the provision of those support services to their families that are needed to enable these students to benefit from the projects;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii and to other Native American peoples, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such children, and

(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

(c) INFORMATION PROVISION.—The Secretary shall facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Such sums shall remain available until expended.

SEC. 4007. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

(a) SPECIAL EDUCATION AUTHORITY.—The Secretary shall make grants to, and enter into contracts with, the State of Hawaii, or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects assisted under this section may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special education services;

(2) the conduct of educational activities consistent with part B of the Education of the Handicapped Act which hold reasonable promise of improving the provision of special education and related services to Native Hawaiian children who are identified as being handicapped; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Such sums shall remain available until expended.

SEC. 4008. ADMINISTRATIVE PROVISIONS.

(a) APPLICATION REQUIRED.—No grant may be made under this title, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

SEC. 4009. DEFINITIONS.

For purposes of this title—

(1) The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development.

(4) The term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians.

(5) The term "elementary school" has the same meaning given that term under section 1471(7) of this Act.

(6) The term "local educational agency" has the same meaning given that term under section 1471(10) of this Act.

(7) The term "secondary school" has the same meaning given that term under section 1471(7) of this Act.

TITLE V—INDIAN EDUCATION

PART A—BUREAU AND CONTRACT SCHOOLS

SEC. 5101. SHORT TITLE.

This part may be cited as the "Indian Education Amendments of 1988".

SEC. 5102. PROHIBITION ON TRANSFERS OF BUREAU AND CONTRACT SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by adding at the end of subsection (g) the following new paragraph:

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987, or

"(B) any program of such a school that is operated on or after April 1, 1987,

only if the tribal governing body approves such action.",

(2) by striking "Such standards and procedures shall require that whenever" in subsection (g)(3) and inserting in lieu thereof "Whenever",

(3) by inserting "transfer to any other authority," after "close," and after "closure," each place either term appears in paragraphs (3) and (4) of subsection (g), and

(4) by adding at the end thereof the following new subsection:

"(j) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.".

SEC. 5103. REPORT ON TEMPORARY ACTIONS TAKEN FOR A YEAR.

Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) is amended—

(1) by redesignating subsection (d) as subsection (e),

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B) Upon the enactment of the Indian Education Amendments of 1988, the Secre-

tary shall conduct a review of the guidelines used by the Bureau in determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety. By no later than June 30, 1989, the Secretary shall publish in the Federal Register the final form of regulations which shall be used by health and safety officers of the Bureau in making such determinations.

"(C)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form the regulations required under subparagraph (B) before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.".

SEC. 5104. ELIGIBILITY AND EXPANSION OF BUREAU FUNDED SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by striking out "Indian controlled contract schools (hereinafter referred to as 'contract schools')" in subsection (a) and inserting in lieu thereof "contract schools", and

(2) by adding at the end thereof the following new subsection:

"(k)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that has not previously received funds from the Bureau,

"(ii) applications from any tribe or Bureau school board for—

"(I) a school which has not previously been operated or funded by the Bureau, or

"(II) the expansion of any program currently funded by the Bureau which would increase the amount of funds received by the Indian tribe or school board under section 1128.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau operated program, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6)(A) Any application for expansion of the grade levels offered by a tribally controlled school which has been submitted to the Secretary prior to the date of enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date on which such application was submitted, unless the applicant elects to have the provisions of this subsection apply to the review of such application.

"(B) Notwithstanding any other provision of law, if the school board of the Bureau funded schools at the Pueblo of Zia and the Tama Settlement vote within the 2-year period beginning on the date of enactment of the Indian Education Amendments of 1988 to expand each of the schools to include kindergarten through grade 8, the schools shall be so expanded at the beginning of the next school year occurring after the vote.".

SEC. 5105. DORMITORY CRITERIA.

Section 1122 of the Education Amendments of 1978 (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(b) may be waived under section 1121(d).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By no later than May 1, 1989, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.".

SEC. 5106. REGULATIONS.

Section 1123 of the Education Amendments of 1978 (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an

amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.".

SEC. 5107. FORMULA MODIFICATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)) is amended to read as follows:

"(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an average daily attendance of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.".

(2) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 5324 of the Indian Education Amendments of 1988), and

"(ii) is enrolled in the school on a full-time basis, in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 5324(c)(6)(B) of the Indian Education Act of 1988, or

"(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(5) For each of the fiscal years 1989 and 1990, the Secretary shall adjust the formula established under subsection (a) to provide funding to schools operated by Indian tribes that are treated under State law as political subdivisions of the State in an amount sufficient to enable the schools to meet standards imposed by the State.".

(b) STUDY.—

(1) The Comptroller General of the United States (hereafter in this subsection referred to as the "Comptroller General") shall conduct a study to determine—

(A) the number of children who—

(i) are 3 or 4 years of age,

(ii) are eligible for services provided by the Bureau of Indian Affairs of the Department of the Interior, and

(iii) are handicapped children (within the meaning of section 602(1) of the Education of the Handicapped Act (20 U.S.C. 401(1))),

(B) the geographic disbursement of such children,

(C) the number of such children who the Comptroller General estimates will receive services under the pre-school set-aside program under Public Law 99-457,

(D) the sufficiency of the pre-school services described in subparagraph (C),

(E) the unmet needs of such children,

(F) the number of such children who the Comptroller General estimates will attend education programs (schools or residential programs) funded by the Bureau, and

(G) the information described in subparagraphs (B), (C), (D), and (E) with respect to the children described in subparagraph (F).

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under paragraph (1).

SEC. 5108. ADMINISTRATIVE COST.

(a) IN GENERAL.—The Education Amendments of 1978 (25 U.S.C. 2008) is amended by inserting after section 1128 (25 U.S.C. 2008) the following new section:

"ADMINISTRATIVE COST GRANTS

"SEC. 1128A. (a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to each of the direct cost education programs operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the one hundredth of a decimal point.

"(d)(1)(A) Funds received by a contract school as grants under this section for tribal elementary or secondary educational programs may be combined by the contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery deter-

minations by any Federal agency for any other funds, from whatever source derived.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration,

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(4) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(5) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(6) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) one third of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one third of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) one half of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one half of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).".

(b) SCHOOL BOARD TRAINING.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (20 U.S.C. 2008(c)(3)) is amended to read as follows:

"(3)(A) The Secretary shall reserve for national school board training 0.133 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1986. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $4,000, or

"(ii) 2 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.".

(c) PERCENTAGE OF FUNDS NOT SUBJECT TO FISCAL YEAR LIMITATION.—Section 1128 of the Education Amendments of 1978 (20 U.S.C. 2008) is amended by adding at the end thereof the following new subsection:

"(h) At the election of the local school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation.

SEC. 5109. LOCAL PROCUREMENT.

Paragraph (4) of section 1129(a) of the Education Amendments of 1978 (25 U.S.C. 2009) is amended to read as follows:

"(4) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $25,000 of the amount allotted the school under section 1128 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.".

SEC. 5110. COORDINATED PROGRAMS.

Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end thereof the following new subsection:

"(f)(1) From funds allotted to a school under section 1128, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(j)) whose children are served by a program operated by the Bureau, implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves education programs operated by the Bureau. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.".

SEC. 5111. CONSULTATION.

Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010) is amended—

(1) by striking out "Bureau" the first time it appears and inserting in lieu thereof "the Secretary and the Bureau",

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall", and

(3) by adding at the end thereof the following new subsection:

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented during the discussions, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.".

SEC. 5112. INDIAN EMPLOYMENT PREFERENCE.

(a) APPLICANTS.—Subsection (f)(1) of section 1131 of the Education Amendments of 1978 (25 U.S.C. 2011) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee".

(b) PROVIDERS OF SUPPORT SERVICES.—

(1) Subparagraph (A) of section 1131(n)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(n)(1)(A)) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by adding at the end thereof the following new clause:

"(iv) support services at, or associated with, the site of the school; or".

(2) The amendments made by paragraph (1) shall apply with respect to an individual who is employed by the Bureau of Indian Affairs of the Department of the Interior on the date of enactment of this Act only if such individual elects, in such form and at such time as the Secretary of the Interior may prescribe, the application of such amendments with respect to such individual.

SEC. 5113. PERSONNEL COMPENSATION, RECRUITMENT, AND RETENTION STUDIES.

(a) IN GENERAL.—The Secretary shall conduct such studies and gather such information as may be necessary to prepare a report that the Secretary shall submit to the Congress by no later than the date that is 6 months after the date of enactment of this Act. The report shall compare personnel compensation in Bureau funded schools with—

(1) nearest public schools that—

(A) have successful educational programs, and

(B) are comparable in size, geographic location, grade levels, and student population characteristics to Bureau funded schools, and

(2) schools operated within the United States by the Department of Defense.

(b) INCLUSIONS.—The report required under subsection (a) shall include—

(1) detailed information on the current salaries and personnel benefits for comparable positions in the Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(2) a comparison of starting salaries, tenure, length of service, educational and certification requirements, length of work year and work day, and fringe benefits between Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(3) a projection of the compensation factors described in paragraphs (1) and (2) for Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a) over the next five years, and

(4) such additional information and analysis as the Secretary deems appropriate.

(c) FUNDING AND STAFF.—

(1) The cost of the studies and the report required under subsection (a) (including, but not limited to, costs for all contracts, travel, and staff assigned to the study) shall be paid from amounts appropriated to the Bureau's Management and Administration subactivity of the General Administration activity, except that the salaries and personnel benefits of employees detailed to the study from the Office of Indian Education of the Bureau may continue to be charged to the amounts appropriated to the Bureau's Education account.

(2) If the Secretary does not conduct the studies required under subsection (a) by contract, the staff detailed to work on the studies and report required under subsection (a) shall include not less than two career employees from the Office of Indian Education of the Bureau who have substantial experience in the administration (at the level of an agency office) of school operations and in the drafting of personnel regulations, including but not limited to those under this Act.

(d) CONTRACTS.—The Secretary may conduct part or all of the studies required under subsection (a) through contracts entered into with one or more Indian education organizations.

(e) ADDITIONAL STUDIES.—The Secretary shall conduct such other studies of personnel compensation and recruitment in Bureau funded and public schools as are desirable in carrying out the purposes of title 11 of the Education Amendments of 1978.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

SEC. 5114. REGULAR COMPENSATION OF BUREAU EDUCATORS; NONVOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Paragraph (1) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) by inserting "or on the basis of the Federal Wage System schedule in effect for the locality" after "is applicable",

(2) by striking out "The Secretary shall" and inserting in lieu thereof "(A) Except as otherwise provided in this section, the Secretary shall", and

(3) by adding at the end thereof the following new subparagraphs:

"(B) By no later than the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988, the Secretary shall establish, for contracts for the 1991-1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than the close of the 6-month period described in subparagraph (B), the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989-1990 academic year, at rates which reflect one-third of the changes in the rates applicable to such positions on the date of enactment of the Indian Education Amendments of 1988 that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991-1992 academic year, and

"(ii) for contracts for the 1990-1991 academic year, at rates which reflect two-thirds of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day.

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.".

(b) FURLOUGHS.—Section 1131 of the Education Amendments of 1978 (20 U.S.C. 2011) is amended by adding at the end thereof the following new subsection:

"(p)(1) No educator whose basic compensation is paid from funds allocated under section 1128 may be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to a shortage of funds, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determination of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.".

SEC. 5115. POST DIFFERENTIALS.

Paragraph (3) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(3)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(A) The Secretary", and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless *before that time it is approved, approved with modification, or disapproved by the Secretary.*

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.".

SEC. 5116. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

Title XI of the Education Amendments of 1978 is amended—

(1) by striking out part C, and

(2) by adding at the end of part B the following new section:

"EARLY CHILDHOOD DEVELOPMENT PROGRAM

"SEC. 1141. (a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members, or

"(ii) by one or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) There are authorized to be appropriated for fiscal year 1989, and for each succeeding fiscal year, $15,000,000 for the purpose of carrying out the provisions of this section.".

SEC. 5117. DEFINITIONS.

Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;",

(2) by redesignating paragraphs (4) through (10) as paragraphs (6) through (12), respectively, and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d);".

SEC. 5118. SEQUESTRATION ORDERS.

Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended by adding at the end thereof the following new paragraph:

"(5) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1128 for any fiscal year by more than 7 percent of the amount of funds available for allotment under section 1128 during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1128, and

"(B) the Secretary may waive the application of the provisions of section 1121(g) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1128 for such fiscal year.".

SEC. 5119. TRIBAL DEPARTMENTS OF EDUCATION.

Part B of title XI of the Education Amendments of 1978 is amended by adding at the end thereof the following new section:

"TRIBAL DEPARTMENTS OF EDUCATION

"SEC. 1142. (a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 104(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.".

SEC. 5120. SCHOOL BOUNDARIES.

Subsection (b) of section 1124 of the Education Amendments of 1978 (25 U.S.C. 2004(b)) is amended—

(1) by striking out "On or after" and inserting in lieu thereof "(1) Except as provided in paragraph (2), on or after", and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.".

PART B—TRIBALLY CONTROLLED SCHOOL GRANTS

SEC. 5201. SHORT TITLE.

This part may be cited as the "Tribally Controlled Schools Act of 1988".

SEC. 5202. FINDINGS.

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

(3) Indians will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons;

(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement nor created the diverse opportunities and personal satisfaction which education can and should provide;

(6) true local control requires the least possible Federal interference; and

(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

SEC. 5203. DECLARATION OF POLICY.

(a) RECOGNITION.—The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) COMMITMENT.—The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

(c) NATIONAL GOAL.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(d) EDUCATIONAL NEEDS.—The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

(e) FEDERAL RELATIONS.—The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) TERMINATION.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) operate tribally controlled schools which are eligible for assistance under this part, and

(B) submit to the Secretary applications for such grants.

(2) Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is provided.

(3)(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education-related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including but not limited to, expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and

(ii) support services for the school, including transportation.

(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operation and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

(b) LIMITATIONS.—

(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

(B) $400,000 of such funds,

at any other schoolsite.

(2) For purposes of this subsection, the term "schoolsite" means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract with, the Bureau for which a discreet student count is identified under the funding formula established under section 1128 of the Education Amendments of 1978.

(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

(1) to require a tribe or tribal organization to apply for or accept, or

(2) to allow any person to coerce any tribe or tribal organization into applying for, or accepting,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications, and the timing of such applications, shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

(e) No Effect on Federal Responsibility.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) Retrocession.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

(g) No Termination for Administrative Convenience.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 5205. COMPOSITION OF GRANTS.

(a) In General.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs,

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and other facilities accounts for such schools for such fiscal year under section 1126(d) of the Education Amendments of 1978 or under any other law, and

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are allocated to such schools for such fiscal year.

(b) Special Rules.—

(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are distributed through the Bureau, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the Education of the Handicapped Act, or

(iii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

SEC. 5206. ELIGIBILITY FOR GRANTS.

(a) In General.—

(1) A tribally controlled school is eligible for assistance under this part if the school—

(A) was, on the date of enactment of this Act, a school which received funds under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.),

(B) was a school operated (as either an elementary or secondary school or a combined program) by the Bureau and has met the requirements of subsection (b),

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c), or

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

(2) Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of this Act shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

(b) Additional Requirements for Bureau Schools and Certain Electing Schools.—

(1) Any school that was operated as a Bureau school on the date of enactment of this Act, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) make a determination of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) if the school is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization, and

(ii) whether the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) shall determine that the school is eligible for assistance under this part,

unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment,

(ii) bookkeeping and accounting procedures,

(iii) substantive knowledge of operating the school,

(iv) adequately trained personnel, or

(v) any other necessary components in the operation of the school.

(c) Additional Requirements for Schools That Have Not Received Bureau Funds.—

(1) A school for which the Bureau has not provided funds meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) with respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(ii) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation to education; and

(IV) the history and success of these services for the proposed population to be

served, as determined from all factors and not just standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or an earlier date, at the Secretary's discretion.

(d) Applications and Reports.—

(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education of the Department of Education. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment is submitted to the Secretary.

(2) Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(e) Effective Date for Approved Applications.—Except as provided in subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning with the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(f) Denial of Applications.—

(1) Whenever the Secretary declines to provide a grant under this part, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time,

(B) provide assistance to the tribe or tribal organization to overcome all stated objections,

(C) provide the tribe or tribal organization a hearing, under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(D) provide an opportunity to appeal the objection raised.

(2) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(g) Report.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to the Congress the budget under section 1105 of title 31, United States Code.

SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

(a) In General.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) Annual Reports.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school an annual report that shall be limited to—

(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

(c) Revocation of Eligibility.—

(1)(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school, and

(ii) at least one of the following subclauses applies with respect to the school:

(I) The school is certified or accredited by a State or regional accrediting association as determined by the Secretary of Education, or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(IV) The school accepts the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(V) A positive evaluation of the school is conducted once every 3 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act prior to the date of enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. Upon failure to agree on such an evaluator, the governing body of the tribe shall choose the evaluator or perform the evaluation.

(B) The choice of standards employed for purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination, and

(ii) the actions that are needed to remedy such deficiencies, and

(B) affords such authority an opportunity to effect any remedial actions.

The Secretary shall provide such technical assistance as is necessary to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

(a) Payments.—

(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments:

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) For any school for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(b) Investment of Funds.—

(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(c) Recoveries.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds

received under this part shall not be taken into consideration.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c, et seq.) except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of enactment of this Act may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

(2) Any election made under paragraph (1) shall take effect on the later of—

(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made, or

(B) the date that is 60 days after the date of such election.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

SEC. 5210. ROLE OF THE DIRECTOR.

Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

SEC. 5211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

SEC. 5212. DEFINITIONS.

For purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3)(A) The term "tribal organization" means—

(i) the recognized governing body of any Indian tribe, or

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization, and

(II) includes the maximum participation of Indians in all phases of its activities.

(B) In any case in which a grant is provided under this part to an organization to perform services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

PART C—DEPARTMENT OF EDUCATION

SEC. 5301. SHORT TITLE.

This part may be cited as the "Indian Education Act of 1988".

Subpart 1—Financial Assistance to Local Educational Agencies for the Education of Indian Children

SEC. 5311. DECLARATION OF POLICY.

In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both.

SEC. 5312. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—The Secretary shall, in order to effectuate the policy set forth in section 5311, carry out a program of making grants to local educational agencies which are entitled to payments under this subpart and which have submitted, and have had approved, applications therefor, in accordance with the provisions of this subpart.

(b) AMOUNT OF GRANTS.—

(1)(A) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of eligible Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(B) For purposes of this subpart, the term "eligible Indian children" means Indian children whom the Secretary has determined—

(i) were enrolled in a school of the local educational agency, and

(ii) were provided free public education by the local educational agency.

(2)(A) From the sums appropriated under section 5316(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this subpart an amount which bears the same ratio to such sums as the product of—

(i) the number of eligible Indian children, multiplied by

(ii) the average per pupil expenditure per local educational agency,

bears to the sum of such products for all such local educational agencies.

(B) A local educational agency shall not be entitled to receive a grant under this subpart for any fiscal year unless the number of eligible Indian children, with respect to such agency, is at least 10 or constitutes at least 50 percent of its total enrollment. The requirements of this subparagraph shall not apply to any local educational agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency is equal to the amount determined by dividing—

(i) the sum of—

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus

(II) any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), by

(ii) the aggregate number of children who were in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(3)(A) The first fiscal year for which schools operated by the Bureau of Indian Affairs of the Department of the Interior shall be treated as local educational agencies for the purposes of this subpart (other than sections 5314(b)(2)(B)(ii) and 5315(c)(2)) is the first fiscal year beginning after the date of enactment of this Act for which the amount of funds appropriated for allocation under this subsection equals or exceeds the amount of funds that, if such schools are not treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to subparagraph (B)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(i) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)), plus

(ii) 2 percent of the amount described in clause (i).

(B)(i) Notwithstanding any other provision of this subpart, for each fiscal year to which this clause applies—

(I) paragraph (2) shall first be applied to allocate the portion of the funds appropriated for such fiscal year for allocation under this subsection that does not exceed the amount determined to be necessary under subparagraph (A) among only those local educational agencies that received funds under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)) for fiscal year 1988, and

(II) paragraph (2) shall then be applied to allocate the remaining portion (if any) of the funds appropriated for such fiscal year for allocation under this subsection among only those local educational agencies that are schools operated by the Bureau of Indian Affairs.

(ii) Clause (i) applies to the first fiscal year described in subparagraph (A), and each succeeding fiscal year, until the amount of funds appropriated for allocation under this subsection for any fiscal year beginning after the date of enactment of this Act equals or exceeds the amount of funds that, if all schools operated by the Bureau of Indian Affairs are treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to clause (i)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(I) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under the Indian Elementary and Secondary School Assistance Act, plus

(II) 2 percent of the amount described in subclause (I).

(c) Grants to Schools that Are Not, or Have Not Been, Local Educational Agencies.—

(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this subpart to schools—

(A) which are located on or near reservations; and

(B) which—

(i) are not local educational agencies, or

(ii) have not been local educational agencies for more than 3 years.

(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma, or Alaska.

(d) Grants for Demonstration Projects.—In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve educational opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 percent of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

SEC. 5313. USES OF FEDERAL FUNDS.

Grants under this subpart may be used, in accordance with applications approved under section 5314, for—

(1) planning and development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of such programs, including, in accordance with regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment; and

(3) the training of counselors at schools eligible to receive funds under this subpart in counseling techniques relevant to the treatment of alcohol and substance abuse.

SEC. 5314. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

(a) In General.—A grant provided under this subpart, except as provided in section 5312(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subpart is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 5313, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that—

(A) the planning was or will be directly related to programs or projects to be carried out under this subpart and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subpart, and

(B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subpart;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subpart; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subpart and to determine the extent to which funds provided under this subpart have been effective in improving the educational opportunities of Indian students in the area served, and for the keeping of such records, and the affording of such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) Approval of Applications.—An application by a local educational agency or agencies for a grant under this subpart may be approved only if it is consistent with the applicable provisions of this subpart and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee—

(I) which is composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, and

(II) of which at least half the members shall be parents described in subclause (I);

(3) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of paragraph (2)(B)(ii); and

(4) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.

(c) Amendments of Applications.—Amendments of applications submitted under this subpart shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

(d) Eligibility Forms.—

(1) The Secretary shall require that each application for a grant under this subpart for each fiscal year include a form for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

(2) The Secretary shall request on the form required under paragraph (1) at least the following information:

(A) either—

(i) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

(ii) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available) and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

(B) whether the tribe, band, or other organized group of Indians with which the ap-

plicant, his parents, or grandparents claim membership is federally recognized;

(C) the name and address of the parent or legal guardian;

(D) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(E) any other information which the Secretary deems necessary to provide an accurate program profile.

(3) Nothing in the requirements of paragraph (2) may be construed as affecting the definition set forth in section 5351(4). The failure of an applicant to furnish any information listed in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

(4) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985-1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of paragraph (1) after the date of enactment of this Act.

(5) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in paragraph (2) may be construed as requiring the furnishing of enrollment numbers.

(e) AUDITING; PENALTIES FOR FALSE INFORMATION.—

(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local education agencies receiving funds under this subpart and shall submit to the Congress an annual report on the findings of the audits.

(B) For purposes of any audit conducted by the Federal Government with respect to funds provided under this subpart, all procedures, practices, and policies that are established by—

(i) the Office of Indian Education of the Department of Education, or

(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

(C) No local education agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit conducted before the date of enactment of this Act that—

(i) relate to the date of completion, or the date of submission, of any forms used to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act, and

(ii) are the subject of any administrative or judicial proceeding pending on the date of enactment of this Act.

(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be ineligible to apply for any other grants under this subpart and shall be liable to the United States for any funds provided under this subpart that have not been expended.

(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this subpart.

SEC. 5315. PAYMENTS.

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 5316, from time-to-time pay to each local educational agency which has had an application approved under section 5314, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b) DENIAL OF PAYMENTS IF PAYMENTS TAKEN INTO ACCOUNT BY STATE.—No payments shall be made under this subpart for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subpart in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(c) REDUCTION FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subpart for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

SEC. 5316. AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS.

(a) IN GENERAL.—For the purpose of making payments under this subpart, there are authorized to be appropriated—

(1) for fiscal year 1988, $70,000,000, and

(2) for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

(b) REALLOCATIONS.—The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this subpart, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children

SEC. 5321. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) IN GENERAL.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

(b) DEMONSTRATION PROJECTS.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

(A) to provide educational services not available to such children in sufficient quantity or quality, including—

(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(ii) comprehensive academic and vocational instruction;

(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

(iv) comprehensive guidance, counseling, and testing services;

(v) special education programs for handicapped and gifted and talented Indian children;

(vi) early childhood programs, including kindergarten;

(vii) bilingual and bicultural education programs; and

(viii) other services which meet the purposes of this subsection; and

(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

(A) encouraging Indian students to acquire a higher education, and

(B) reducing the incidence of dropouts among elementary and secondary school students.

(d) TRAINING.—

(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

(e) GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.—

(1) The Secretary is authorized to make grants to, and to enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, and Indian organizations, and to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this Act and under other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and adults and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 5314(b)(2)(B)(ii) in evaluating and carrying out programs assisted under this Act, through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children and adults, including information on successful models and programs designed to meet the special educational needs of Indian children.

(2) Grants or contracts made under this subsection may be made for a term not to exceed 3 years and may be renewed for additional 3-year terms if provision is made to ensure annual review of the projects.

(3) From funds appropriated under the authority of subsection (g)(1), the Secretary is authorized to make grants to, and to enter into contracts with, Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(4) The sum of the grants made under this subsection to State educational agencies for any fiscal year shall not exceed 15 percent of the total amount of funds appropriated for the provision of grants under this subsection for such fiscal year.

(f) APPLICATIONS FOR GRANTS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for a grant under subsection (c)—

(i) subject to such criteria as the Secretary shall prescribe, provide for—

(I) the use of funds available under this section, and

(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and

(ii) provide for the training of personnel participating in the project; and

(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

(2)(A) The Secretary may approve an application for a grant under subsection (b), (c), or (d) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

(i) demonstrate that—

(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

(II) there will be such participation in the operation and evaluation of the project, and

(ii) provide for the participation, on an equitable basis, of eligible Indian children—

(I) who reside in the area to be served,

(II) who are enrolled in private nonprofit elementary and secondary schools, and

(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(3) The Secretary may approve an application for a grant under subsection (e) only if the Secretary is satisfied that the funds made available under that subsection will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under that subsection, be made available by the State or local educational agency for the activities described in that subsection, and in no case will be used to supplant those funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) For the purpose of making grants under the provisions of this section, there are authorized to be appropriated $35,000,000 for each fiscal year ending prior to October 1, 1993.

(2) For the purpose of making grants under subsection (e)(1), there are authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1993.

SEC. 5322. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

(a) IN GENERAL.—

(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

(B) providing in-service training for persons teaching in such programs.

(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

(b) FELLOWSHIPS AND TRAINEESHIPS.—

(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances.

(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year ending prior to October 1, 1993, such sums as may be necessary to carry out the provisions of this section.

SEC. 5323. FELLOWSHIPS FOR INDIAN STUDENTS.

(a) IN GENERAL.—During each fiscal year ending prior to October 1, 1993, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a post baccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) STIPENDS.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allow-

ances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

(d) SPECIAL RULES.—

(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

SEC. 5324. GIFTED AND TALENTED.

(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

(b) DEMONSTRATION PROJECTS.—

(1) The Secretary shall award separate grants to, or enter into contracts with—

(A) 2 tribally controlled community colleges that—

(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

(ii) are fully accredited, or

(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide those support services to their families that are needed to enable the students to benefit from the project.

(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

(3) Demonstration projects funded under this section may include—

(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions;

(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (d) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of those support services to their families that are needed to enable such children to benefit from the project.

(c) ADDITIONAL GRANTS.—

(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

(A) gifted and talented students,

(B) college preparatory studies (including programs for Indian students interested in teaching careers),

(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

(D) math and science education.

(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

(4) In providing grants under paragraph (1), the Secretary shall—

(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

(B) ensure that a definition of the term "gifted and talented student" for purposes of this section and section 1128(c)(1)(A)(ii) of the Education Amendments of 1978 is developed as soon as possible.

(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B).

(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the evaluator.

(B) If no funds are provided under subsection (b) for—

(i) the evaluation of activities funded by grants made under paragraph (1),

(ii) technical assistance and coordination with respect to such activities, or

(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

(d) INFORMATION NETWORK.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993 for the purpose of carrying out the provisions of this section. Such sums shall remain available until expended.

Subpart 3—Special Programs Relating to Adult Education for Indians

SEC. 5330. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

(a) IN GENERAL.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate—

(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

(d) APPLICATIONS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought; and

(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

(2) The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that—

(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

(B) there will be such a participation in the operation and evaluation of the project.

(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

Subpart 4—Program Administration

SEC. 5341. OFFICE OF INDIAN EDUCATION.

(a) IN GENERAL.—There is established, in the Department of Education, an Office of Indian Education.

(b) DIRECTOR.—

(1) The Office of Indian Education shall be under the direction of the Director of the Office of Indian Education, who shall be appointed by the Secretary from a list of nominees submitted to the Secretary by the National Advisory Council on Indian Education.

(2) The Director of the Office of Indian Education shall—

(A) be responsible for administering the provisions of this part,

(B) be responsible for the development of all policies and procedures relative to the implementation of this part,

(C) be involved in, and primarily responsible for, development of all policies affecting Indians under programs within the Office of Elementary and Secondary Education of the Department of Education, and

(D) coordinate the development of policy and practices for all programs in the Department of Education relating to Indians and Alaskan Natives.

(2) The Director of the Office of Indian Education shall report directly to the Assistant Secretary of Education for Elementary and Secondary Education.

(3) The Director of the Office of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to the Director by the Secretary. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(c) INDIAN PREFERENCE.—

(1)(A) All professional staff within the Office of Indian Education shall have experience with Indian education programs. The Secretary shall give a preference to Indians in all personnel actions within the Office of Indian Education. Such preference shall be implemented in the same fashion as the preference given to any veteran referred to in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(B) The provisions of this paragraph shall apply to all personnel actions taken after the date of enactment of this Act.

(2) The Secretary shall provide a one-time preference for qualified individuals who—

(A) are not Indians,

(B) are serving within the Office of Indian Education on the date of enactment of this Act, and

(C) desire to take another position in the Department of Education which is not within the Office of Indian Education and for which there is a vacancy.

SEC. 5342. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) IN GENERAL.—

(1) There is hereby established the National Advisory Council on Indian Education (hereafter in this subpart referred to as the "National Council"), which—

(A) shall consist of 15 members who are Indians appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and

(B) shall represent diverse geographic areas of the country.

(2) Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1993.

(b) FUNCTIONS.—The National Council shall—

(1) advise the Secretary with respect to—

(A) the administration (including the development of regulations and of administrative practices and policies) of any program—

(i) in which Indian children or adults participate, or

(ii) from which they can benefit, including this part, and

(B) adequate funding of such programs;

(2) review applications for assistance under this part and make recommendations to the Secretary with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under subpart 1;

(6) submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs, and

(7) submit to the Congress by no later than June 30 of each year a report on its activities, which shall include—

(A) any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, and

(B) a statement of the National Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) CONTRACTING.—With respect to functions of the National Council described in paragraphs (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) FUNDING.—From sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

SEC. 5343. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1989, and each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this subpart.

Subpart 5—Miscellaneous

SEC. 5351. DEFINITIONS.

For purposes of this part—

(1) The term "adult" means any individual who—

(A) is 16 years old or older, or

(B) who is beyond the age of compulsory school attendance under State law.

(2) The term "adult education" means instruction or services below college level for adults who are not enrolled in a secondary school and who do not have—

(A) the basic skills to enable them to function effectively in society, or

(B) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(3) The term "free public education" means education that is provided at public expense, under public supervision and direction, and without tuition charge, and that is provided as elementary or secondary education in the applicable State.

(4) The term "Indian" means any individual who is—

(A) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band, or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A),

(C) considered by the Secretary of the Interior to be an Indian for any purpose,

(D) an Eskimo, Aleut, or other Alaska Native, or

(E) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the National Advisory Council on Indian Education.

(5)(A) The term "local educational agency" has the meaning given to such term by section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(B) The term "local educational agency", for purposes of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)(2)) includes—

(i) any Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe if the school either—

(I) provides its students an educational program that meets the standards estab-

lished by the Secretary of the Interior under section 1121 of the Education Amendments of 1978, or

(II) is operated by that tribe or organization under a contract with the Department of the Interior in accordance with the Indian Self-Determination and Education Assistance Act, and

(ii) for the fiscal year described in section 5312(b)(3)(A) and each succeeding fiscal year, any school operated by the Bureau of Indian Affairs of the Department of the Interior, either individually or in cooperation with any other local education agency.

(6) The term "parent" includes an individual acting in loco parentis, other than by virtue of being a school administrator or official.

(7) The term "Secretary" means the Secretary of Education.

(8) The terms "Bureau school", contract school", and "Bureau funded school" have the respective meaning given to such terms by section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019).

SEC. 5352. CONFORMING AMENDMENTS.

The following provisions of law are hereby repealed:

(1) The Indian Elementary and Secondary School Assistance Act.

(2) Section 1005 of the Elementary and Secondary Education Act of 1965.

(3) Section 315 of the Adult Education Act.

(4) Sections 421(b)(2), 422, 423, 441, 442, and 453 of the Indian Education Act (title IV of Public Law 92-318).

PART D—MISCELLANEOUS PROVISIONS

SEC. 5401. NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(b) of the Navajo Community College Act (25 U.S.C. 640c-1(b)(1)) is amended to read as follows:

"(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

"(A) the maintenance and operation of the college, including—

"(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

"(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

"(iii) summer and special interest programs,

"(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

"(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

"(D) supplemental student services, including student housing, food service, and the provision of access to books and services.".

SEC. 5402. PAYMENT OF GRANTS; INTEREST.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Subsection (b) of section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(b)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

"(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

(b) NAVAJO COMMUNITY COLLEGE.—The Navajo Community College Act is amended by adding at the end thereof the following new section:

"PAYMENTS; INTEREST

"SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act.

"(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

SEC. 5403. MATCHING FUNDS.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(b) NAVAJO COMMUNITY COLLEGE.—Section 6 of the Navajo Community College Act is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) Except", and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(c) VOCATIONAL EDUCATION FUNDS.—Notwithstanding any other provision of law, funds provided by the Bureau for adult vocational education to any vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965) may be treated as non-Federal, private funds of such school for purposes of any provision of Federal law which requires that non-Federal or private funds of such school be used in a project or for a specific purpose.

SEC. 5404. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau has been making general assistance payments for at least 3 months (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—

(1) a college assisted by the Bureau under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801) or the Navajo Community College Act (85 Stat. 645; 25 U.S.C. 640a);

(2) an institution of higher education or a vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965);

(3) a course the Secretary determines will lead to a high school diploma or an equivalent certificate; or

(4) other programs or training approved by the Secretary.

(b) FACTORS NOT TO BE CONSIDERED.—In determining the amount of general assistance provided by the Bureau of Indian Affairs, the Secretary of the Interior shall not include consideration of—

(1) additional expenses in connection with the study or training described in subsection (a), and

(2) the amount of any financial assistance received by the individual as a student or trainee.

(c) NO EFFECT ON OTHER ELIGIBILITY REQUIREMENTS.—This section does not alter any eligibility requirement for general assistance from the Bureau of Indian Affairs other than the requirement to be available for employment and to seek employment.

SEC. 5405. USE OF BUREAU FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior may permit tribal, student, and other non-Federal organizations to use facilities, lands, and equipment administered by the Bureau of Indian Affairs if such use does not interfere with the purpose for which the facilities, land, and equipment are administered by the Bureau. The Secretary of the Interior may charge the user for the actual or estimated additional cost of utilities or other expenses incurred because of the use and the amounts collected shall be credited to the appropriation or fund from which the expenses are paid.

(b) SCOPE OF AUTHORITY.—The authority provided by this section is in addition to, and not in derogation of, any other authority available to the Secretary of the Interior.

SEC. 5406. INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) TERMINATION OF CIVIL SERVICE POSITIONS.—Paragraph (1) of section 1509(g) of the Higher Education Amendments of 1986 (20 U.S.C. 4416(g)(1)) is amended by striking out "At the end of the 2-year period beginning on the date referred to in section 1514(f)" and inserting in lieu thereof "On June 30, 1989".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) by striking out "From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which" in subsection (a)(1) and and inserting in lieu thereof "From amounts appropriated under section 1531(a), not more than $500,000", and

(2) by striking out "ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for" in subsection (d) and inserting in lieu thereof "PAYMENT OF FEDERAL CONTRIBUTION.—Amounts appropriated under section 1531(a) for use under this section shall be paid by the Secretary of the Treasury to the Institute as".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1531 of the Higher Education Amendments of 1986 (20 U.S.C. 4451(a)) is amended to read as follows:

"(a) PART A—

"(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

"(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

"(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

"(A) the beginning of the fiscal year, or

"(B) upon enactment of such appropriation.".

(d) UNOBLIGATED APPROPRIATION AND RESPONSIBILITY FOR OBLIGATIONS.—Subsection (e) of section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any funds appropriated for the Institute for fiscal year 1988 that are not expended or obligated on the date described in paragraph (2) shall be paid to the Institute within 10 days of that date.

"(4) The Institute shall be responsible for all obligations of the Institute incurred after the date described in paragraph (2) and the Secretary of the Interior shall be responsible for all obligations of the Institute incurred on or before that date.

(e) ACCOUNTING FOR NON-FEDERAL FUNDS.—Section 1507 of the Higher Education Amendments of 1986 (20 U.S.C. 4414) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(a) IN GENERAL.—In carrying out", and

(2) by adding at the end thereof the following new subsection:

"(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.".

(f) BUDGET PROPOSALS.—Subsection (b) of section 1515 of the Higher Education Amendments of 1986 (20 U.S.C. 4422(b)) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in section 1514(f)" in paragraph (1) and inserting in lieu thereof "Prior to October 1, 1988", and

(2) by striking out "the period described in paragraph (1)" in paragraph (2) and inserting in lieu thereof "September 30, 1988".

PART E—WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

SEC. 5501. FINDINGS.

The Congress finds that—

(1) the Government of the United States has a special relationship with the Indians which has given rise to a responsibility to assure superior educational opportunities for all Indians;

(2) this responsibility is being carried out by Federal schools and federally funded programs;

(3) while the States provide educational services to the majority of Indian students in the United States, the State services are largely funded by Federal funds and are not, in any way, in derogation of the Federal responsibility;

(4) changes in the Federal and State systems in the past decade and the growth of tribal control over schools has led to substantial improvements in the educational opportunities and successes of Indian students;

(5) substantial and substantive problems continue to exist and interfere with the realization of full opportunities for Indian students; and

(6) identification of these problems through the convening of a White House conference will facilitate formulation of solutions.

SEC. 5502. AUTHORIZATION TO CALL CONFERENCE.

(a) IN GENERAL.—The President shall call and conduct a White House Conference on Indian Education (hereafter in this part referred to as the "Conference") which shall be held not earlier than September 1, 1989, and not later than September 30, 1991.

(b) PURPOSE.—The purpose of the White House Conference on Indian Education shall be to—

(1) explore the feasibility of establishing an independent Board of Indian Education that would assume responsibility for all existing Federal programs relating to the education of Indians, and

(2) develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, in accordance with the findings set forth in section 5501.

SEC. 5503. COMPOSITION OF CONFERENCE.

(a) IN GENERAL.—The Conference shall be composed of—

(1) representatives of the Bureau of Indian Affairs of the Department of the Interior;

(2) representatives of Indian educational institutions, public schools, agencies, organizations and associations that deal with the education of Indians;

(3) educators from reservations and urban areas where Indians make up a substantial portion of the student population; and

(4) individuals with a special knowledge of, and special competence in dealing with, Indians and Indian problems, including education and health.

(b) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of the participants, and the President pro tempore of the Senate shall select the remaining one-third of the participants.

(c) DISTRIBUTION OF PARTICIPANTS.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that—

(1) one-fourth of the participants are individuals who are currently active educators on Indian reservations;

(2) one-fourth of the participants are educators selected from urban areas with large concentrations of Indians;

(3) one-fourth of the participants are individuals who are Federal and tribal government officials; and

(4) one-fourth of the participants are Indians, including members of Indian tribes that are not recognized by the Federal Government.

SEC. 5504. ADMINISTRATIVE PROVISIONS.

(a) PLANNING AND DIRECTION.—The Conference shall be planned and conducted by the Interagency Task Force on the White House Conference on Indian Education (hereafter in this part referred to as the "Task Force").

(b) ESTABLISHMENT OF TASK FORCE.—

(1) If the President calls the Conference, the Secretary of the Interior and the Secretary of Education, acting jointly, shall establish the Task Force on the White House Conference on Indian Education which shall consist of such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education determine to be necessary to enable the Task Force to carry out its duties.

(2) The Secretary of the Interior and the Secretary of Education shall each appoint no less than 2 professional staff members and one support staff member to the Task Force.

(3) All staff assigned to the Task Force shall work on preparations for, and the conduct of, the Conference on a full-time basis.

(4) The Secretary of the Interior shall provide office space and materials for the Task Force, including an allowance for mailing costs.

(5) Each professional staff person appointed to the Task Force shall have expertise directly related to Indian education and at least one person appointed by the Secretary of the Interior shall be experienced in dealing with the Congress, Indian tribes, and nongovernmental organizations.

(6) The Secretary of the Interior and the Secretary of Education, acting jointly, shall designate one staff person as the Director of the Task Force.

(c) FUNCTION OF THE TASK FORCE.—The Task Force shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) prepare and make available background materials for the use of participants in the Conference and any associated State conferences, and prepare and distribute

such reports of the Conference and of any associated State conferences as may be appropriate;

(3) make technical and financial assistance (by grants, contracts, or otherwise) available to the States and intertribal organizations to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(4) conduct fiscal oversight activities with respect to the preparation for, and the convening of, the Conference, including contracting for the services of an auditor.

(d) Federal Agency Cooperation and Assistance.—

(1) Each Federal department and agency shall cooperate with, and provide assistance to, the Task Force upon request made by the Task Force under subsection (c)(1). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Task Force.

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the Director of the Indian Health Service of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part.

(e) Personnel.—In carrying out the provisions of this part, the Task Force is authorized to engage such personnel as may be necessary to assist the Conference and the Advisory Committee of the Conference, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) Expenses.—Participants in the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed such travel expenses, including per diem in lieu of subsistence, as are allowed under section 5703 of title 5, United States Code. Such expenses may be paid by way of advances, reimbursement, or in installments, as the Task Force may determine.

SEC. 5505. REPORTS.

(a) In General.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations of the President with respect to such report.

(b) Distribution.—The Conference is authorized to publish and distribute for the Conference the reports authorized under this part. Copies of all such reports shall be provided to the Federal depository libraries.

SEC. 5506. ADVISORY COMMITTEE.

(a) Composition.—There is hereby established the Advisory Committee of the Conference (hereafter in this part referred to as the "Advisory Committee") composed of—

(1) five individuals designated by the Speaker of the House of Representatives, with not more than three being Members of the House of Representatives;

(2) five individuals designated by the President pro tempore of the Senate, with not more than three being Members of the Senate;

(3) ten individuals appointed by the President;

(4) the Assistant Secretary of the Interior for Indian Affairs or a delegate of the Assistant Secretary;

(5) the Secretary of Education or a delegate of the Secretary; and

(6) the Director of the Task Force.

The President, the President pro tempore of the Senate, and the Speaker of the House of Representatives, shall, after consultation with Indian tribes, ensure that members of the Advisory Committee are broadly representative of all Indians of the United States.

(b) Function.—The Advisory Committee shall assist and advise the Task Force in planning and conducting the Conference.

(c) Administration.—

(1) The Director of the Task Force shall serve as vice chairman of the Advisory Committee. The Advisory Committee shall elect the chairman of the Advisory Committee from among those members of the Advisory Committee who are not full-time Federal employees.

(2) The Advisory Committee shall select the chairman of the Conference.

(3) The chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Task Force in carrying out its duties.

(d) Compensation.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation at a rate fixed by the President that does not exceed the rate of pay specified at the time of such service for grade GS-18 under section 5332, of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code.

SEC. 5507. GIFTS AND TITLE TO CERTAIN PROPERTY.

(a) Gifts.—The Task Force shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Task Force in furtherance of the Conference. Such grants, gifts, or bequests offered the Task Force, shall be paid by the donor or his representative into the Treasury of the United States in a special account to the credit of the Conference for the purposes of this part.

(b) Disposition of Materials.—Materials and equipment acquired for the use of the Conference, or for the Task Force, shall be transferred to the Bureau of Indian Affairs after the close of the Conference.

SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1988, 1989, and 1990 such sums as may be necessary to carry out this part. Such sums shall remain available until expended.

TITLE VI—GENERAL AND MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS EDUCATION PROVISIONS

Subpart 1—Education for the Homeless

SEC. 6001. TECHNICAL AMENDMENT.

Section 702 of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by inserting at the end of subsection (b) the following: "Each such application shall include an estimate of the number of homeless expected to be served and the number of homeless adults within each of the school districts within the States to be served."; and

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) The Secretary of Education shall, in making grants under this section, give special consideration to the estimates submitted in the application under subsection (b) of this section.".

Subpart 2—Special Grant Program

SEC. 6011. EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK.

(a)(1) General Authority.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and

(B) individuals with limited English proficiency.

(2) The project funded under this section may include the development of—

(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems;

(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure.

(b) Authorization of Appropriations.—There are authorized to be appropriated $4,000,000 for the fiscal year 1989 to carry out the provision of this section.

PART B—REQUIREMENTS FOR COMMON CARRIERS WITH RESPECT TO DIAL-A-PORN

SEC. 6101. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

(a) Amendment.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by adding at the end thereof the following new subsection:

"(c)(1) A common carrier within the District of Columbia or within any State, or in interstate or foreign commerce, shall not, to the extent technically feasible, provide access to a communication specified in subsection (b)(1)(A) from the telephone of any subscriber who has not previously requested of the carrier access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

"(2) Except as provided in paragraph (3), no cause of action may be brought in any court or administrative agency against any common carrier, or any of its affiliates, including their officers, directors, employees, agents, or authorized representatives on account of—

"(A) any action which the carrier demonstrates was taken in good faith to restrict

access pursuant to paragraph (1) of this subsection, or

"(B) any access permitted—

"(i) in good faith reliance upon the lack of any representation by a provider of communications that communications provided by that provider are communications specified in subsection (b)(1)(A), or

"(ii) because a specific representation by the provider did not allow the carrier, acting in good faith, a sufficient period to restrict access to communications described in subsection (b)(1)(A).

"(3) Notwithstanding paragraph (2) of this subsection, a provider of communications services to which subscribers are denied access pursuant to paragraph (1) of this subsection may bring an action for a declaratory judgment or similar action in a court or before the Commission. Any such action shall be limited to the question of whether the communications which the provider seeks to provide fall within the category of communications to which the carrier will provide access only to subscribers who have previously requested such access.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 150 days after the date of enactment of this Act.

PART C—STUDIES

SEC. 6201. EVEN START STUDY.

(a) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of a representative sample of programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) CRITERIA.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress the results of such evaluations. The evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

SEC. 6202. STUDENT DROPOUT STUDY.

With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under title VI of the Elementary and Secondary Education Act of 1965. The Secretary shall take into account data collected from the national school dropout study and shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be made available to the Congress, State educational agencies, and the National Diffusion Network.

SEC. 6203. STUDY OF STATE OPERATED PROGRAM FOR HANDICAPPED CHILDREN.

(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study of the State Operated Program for Handicapped Children under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(2) Not later than January 30, 1989, the Comptroller General shall prepare and submit a report to the appropriate committees of the Congress containing the findings of such study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(3) For the purpose of this section, the term "children" includes infants and toddlers.

(b) STUDY COMPONENTS.—The study shall include—

(1) a description of State and local agencies that participate in the program, the children the agencies serve, and the programs for which the agencies use funds;

(2) how such program is administered by the State educational agency or any predecessor agencies serving as fiscal agents for the States;

(3) the major policies, procedures and practices pertaining to the determination of when a child is considered eligible to be counted under such program; the allocation of funds to agencies, schools, programs and projects within schools; the supplementary nature of the services provided; and authorized use of funds;

(4) the policies and procedures governing the placement of handicapped children, including local educational agency transfer children, in schools and programs and projects receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(5) the relationship between the chapter 1 of title I of the Elementary and Secondary Education Act of 1965 program and parts B and H of the Education of the Handicapped Act (conceptual relationship; comparison of how the two programs are administered by the State educational agency; and a comparison between the programs with respect to the extent to which handicapped children receive a free appropriate public education and such children and their parents are provided the rights and procedural safeguards guaranteed under part B of the Education of the Handicapped Act); and

(6) such other information as the Comptroller General considers appropriate.

(c) FINDINGS AND RECOMMENDATIONS.—The Comptroller General shall include in the report the findings based on the study, a State-by-State analysis for the States subject to the study, together with such recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

SEC. 6204. STUDY ON TUTORING PROGRAMS.

The Secretary shall conduct a study of tutoring programs for eligible participants under chapter 1 of the Elementary and Secondary Act of 1965 carried out by students in institutions of higher education. In conducting such research, the Secretary shall (1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs are effective if conducted on a volunteer basis or whether it is necessary to offer incentives, such as tuition assistance, academic credit or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) review available evidence on programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

SEC. 6205. STUDY OF LOCAL USE OF CHAPTER 2 FUNDS.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Act of 1965 shall report annually to the State educational agency on the use of funds under section 1531 of such chapter. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit not later than October 1990 and October 1992 a report to the appropriate committees of the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

SEC. 6206. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

From funds available for the purposes of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under such chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

SEC. 6207. STUDY OF FUND DISTRIBUTION.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary *education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as the reliability and currency of poverty data used for purposes of program allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. The Secretary shall submit an interim report of such study on June 30, 1990, and shall submit a final report of such study not later than June 30, 1991.*

SEC. 6208. STUDY RELATING TO WOMEN'S EDUCATIONAL EQUITY.

The Secretary is directed, not later than September 30 of each of the years 1988 through 1993, to submit to the President and the Congress a report setting forth the programs and activities assisted under part A of title IV of the Elementary and Secondary Education Act of 1965, and to provide for the distribution of this report to all interested groups and individuals, including the appropriate committees of the Congress, from funds authorized under such part.

SEC. 6209. IMMIGRANT EDUCATION REPORT AND ASSESSMENT.

(a) ANNUAL REPORT.—Each State educational agency receiving funds under part D of title IV of the Elementary and Secondary Education Act of 1965 shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under such part. Each local educational agency receiving funds under such part shall submit to the State educational agency such information as may be necessary for such report.

(b) REPORT TO CONGRESS.—The Secretary shall submit biennially a report to the appropriate committees of the Congress concerning programs under such part.

(c) ASSESSMENT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and assess programs conducted under such part. The Comptroller shall submit the findings to the appropriate committees of the Congress by March 15, 1991.

SEC. 6210. ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the appropriate committees of the Congress, the President, and the Secretary by September 30 of every other year a report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of title IV of this Act in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

SEC. 6211. RESEARCH RELATING TO BILINGUAL EDUCATION.

(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title; and

(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 6212. BILINGUAL TRAINING FELLOWSHIP IMPACT STUDY.

The Secretary shall by grant or contract undertake a study of the impact of recipients of fellowships under section 7043 of the Elementary and Secondary Education Act of 1965 on the field of bilingual education. The report shall be submitted no later than December 31, 1991. Copies of the report shall be sent to the appropriate committees of the Congress.

SEC. 6213. REPORT ON BILINGUAL EDUCATION.

The Secretary shall prepare and, not later than June 30, 1991, and June 30, 1992, shall submit to the appropriate committees of the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of title VII of the Elementary and Secondary Education Act of 1965 and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.

SEC. 6214. JOINT STUDY OF SERVICES.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of this Act, a joint report shall be submitted to the appropriate committees of the Congress describing the findings of the study.

SEC. 6215. REPORT ON PROJECTS DEVELOPED WITH ASSISTANCE FROM THE FUND FOR IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that information regarding exemplary projects that are developed with assistance furnished under part B of title III of this Act are made available to institutions of higher education and State and local educational agencies.

(b) REPORT.—The Secretary shall submit a final report to the appropriate committees of the Congress not later than June 1, 1990. The report shall describe the programs as-

sisted by part B of title III of this Act, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 6216. STUDY OF EFFECTIVENESS OF PUBLIC LAW 815.

(a) GENERAL AUTHORITY.—The Comptroller General shall conduct a thorough study of the need for financial assistance for school construction as authorized by the Act of September 23, 1950, (Public Law 815, 81st Congress). The Comptroller General shall prepare and submit a report on the study required by this section not later than 1 year after the date of enactment of this Act together with such recommendations, including recommendations for such legislation, as the Comptroller deems necessary.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a) of this section, the Comptroller General shall examine a representative sample of federally impacted school districts of local educational agencies. The Comptroller General shall—

(1) identify the number of children affected in each such school district;

(2) determine the type of school facility needed for such school district; and

(3) determine the estimated cost involved for building or repairing the school facility in each such district.

(c) SPECIAL CONSIDERATION REQUIRED.—In conducting the study required by this section, the Comptroller General shall give special consideration to—

(1) the eligibility criteria used for determining which federally impacted school districts are entitled to Federal funds for school construction,

(2) the criteria used for setting the priorities for the approval of such applications, and

(3) the process for reevaluating the needs of previously approved applicants which are on the waiting list for funds covered under Public Law 815, Eighty-first Congress.

PART D—GENERAL PROVISIONS

SEC. 6301. DEFINITIONS.

Except as otherwise provided, for the purpose of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6302. BUDGET ACT PROVISION.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 6303. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect July 1, 1988.

(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act.

(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

(3) The amendments made by section 3403 shall take effect for assessments made after September 30, 1989, with respect to State data.

And the Senate agrees to the same.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment (except sec. 7003), and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
CHARLES A. HAYES,
CARL C. PERKINS,
TOM SAWYER,
STEPHEN J. SOLARZ,
BOB WISE,
BILL RICHARDSON,
TOMMY F. ROBINSON,
PETER J. VISCLOSKY,
CHET ATKINS,
JIM JEFFORDS,
BILL GOODLING,
TOM PETRI,
MARGE ROUKEMA,
STEVE GUNDERSON,
STEVE BARTLETT,
HARRIS W. FAWELL,
PAUL B. HENRY,
FRED GRANDY,

From the Committee on Energy and Commerce, for consideration of sec. 7003 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
AL SWIFT,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
SPARK M. MATSUNAGA,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
ROBERT T. STAFFORD,
ORRIN HATCH,
DAN QUAYLE,
STROM THURMOND,
LOWELL P. WEICKER, Jr.,

For consideration of title XI:

DANIEL K. INOUYE,
JOHN MELCHER
DENNIS DECONCINI,
QUENTIN N. BURDICK,
TOM DASCHLE,
DANIEL J. EVANS,
JOHN MCCAIN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

Chapter 1

1. The House bill titles the act the "School Improvement Act of 1987" while the Senate amendment titles it the "Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987".

The House recedes with an amendment naming the Act "The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988", and renaming the guaranteed student loan program the "Robert T. Stafford Student Loan Program".

2. The House bill declares it to be the policy to increase the amount appropriated for Chapter 1 by $500,000,000 a year over the next six years while the Senate amendment proposes increasing the percentage of children served over the next five years until all eligible children are served.

The Senate recedes with an amendment revising this provision to read: "expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993."

3. The Senate amendment, but not the House bill, provides that AFDC children above the poverty line shall be counted for purposes of distribution of funds for fiscal years 1989, 1990, and 1991 only.

The Senate recedes.

4. The Senate amendment but not the House bill, limits determination of children to be counted under AFDC above the poverty line to fiscal years 1989, 1990, and 1991, similar to item 3.

The Senate recedes.

5. The House bill, but not the Senate amendment, states the criteria of poverty and the form of criteria to be used in counting AFDC children, and neglected and delinquent children.

The Senate recedes.

6. The Senate amendment, but not the House bill, inserts the phrase "or operated with Federal assistance," regarding schools for Indian children.

The House recedes with an amendment to read as follows: "secondary schools for Indian children operated with Federal assistance or operated by the Department of Interior."

7. The Senate amendment, but not the House bill, designates certain tribal organizations as local educational agencies and the Secretary of the Interior as a State educational agency for purposes of this chapter, and requires the Secretary to comply with certain U.S. codes if he issues regulations.

The House recedes.

8. The House bill, but not the Senate amendment, provides for a small state minimum of ¼ of 1 percent from Chapter 1 basic grant funds once appropriations exceed a certain level, and limits the amount of increase any state may receive under this provision to 150% of the amount received for the preceding fiscal year.

The Senate recedes with an amendment that no State may receive more than 150% of the national average per pupil allocation or more than 150% of the amount it received under this part in the previous fiscal year, whichever is less, due to this provision and that the small State minimum may take effect when appropriations for Part A exceed by at least $700,000,000 the amount appropriated in fiscal year 1988.

9. The House bill reauthorizes the program beginning October 1, 1987, while the Senate amendment reauthorizes it beginning October 1, 1988.

The House recedes.

10. Concentration Grants:

a. The Senate amendment, but not the House bill, distributes one half of the amount available for concentration grants based on each county's number of Chapter 1 children in excess of 5,000 or 20%, except that each State receives at least one-quarter of one percent or $250,000 whichever is greater (see note (c), page 20, for second half of the distribution under the Senate amendment).

The Senate recedes.

b. The House bill distributes all its concentration grant funds using one formula: children counted under section 1005(c) in counties in excess of 6500 and all such children in counties in excess of 15%. The House bill also includes a State minimum of one-quarter of one percent.

The Senate recedes with an amendment that each State shall receive 150% of the national average per pupil allocation under this section or a minimum of $250,000.

c. The Senate amendment, but not the House bill, distributes the second half of funds available under concentration grants on the basis of the regular Chapter 1 formula, and provides for a second small state minimum of ¼ of one percent or $250,000 whichever is greater, from the second half of funds available under concentration grants.

The Senate recedes.

d. The House bill states that the Secretary shall determine the number of children to be counted for any county while the Senate amendment designates the SEA to perform that function.

The House recedes with an amendment giving the Secretary the responsibility to allocate to the county levels and giving the State educational agency the responsibility to allocate within counties.

e. The House bill sets special rules for distribution of concentration funds to States which receive the minimum grant while the Senate amendment sets such rules for States receiving less than 1 percent of the total available for concentration grants.

The Senate recedes.

f. The Senate amendment, but not the House bill, requires that in distributing concentration funds, LEAs under the first two rankings must have received an amount per eligible child equal to that distributed under the regular Chapter 1 formula before funds may be distributed to LEAs in rank order.

The Senate recedes.

g. The Senate amendment, but not the House bill, restricts the number of LEAs which can receive concentration grants under the rank ordering method to no more than the number who would be eligible under the county-wide poverty average distribution methods.

The Senate recedes.

h. The House bill, but not the Senate amendment, allows the States to reserve 2 percent of the concentration moneys to distribute to LEAs which meet the 6500 or 15% requirement but are otherwise ineligible for concentration funds.

The Senate recedes.

i. The House bill reserves the first $400 million above the 1987 appropriations level for concentration grants while the Senate amendment reserves the first $400,000,000 above a $4.3 billion appropriations level for such purposes and provides that when amounts appropriated for Chapter 1 exceed $4.7 billion, 10 percent of such amount shall be reserved for concentration grants.

j. The Senate amendment, but not the House bill, exempts funds for Senate part B (Secondary Schools programs) from calculations of the $4.3 and $4.7 billion appropriations levels.

The House recedes with an amendment reserving $400 million for such grants whenever the appropriation for Part A exceeds $3.9 billion and further reserving 10% of appropriations for Part A for this purpose when such appropriations exceed $4.3 billion, except that no State may receive less than it received in the previous fiscal year for the basic grant.

k. The Senate amendment, but not the House bill, provides that if amounts are not available to fully fund concentration grants, such grants shall be ratably reduced, and ratably increased if additional amounts are made available in such a year.

The House recedes.

11. The Senate amendment, but not the House bill, specifies "State and local" educational agencies.

The House recedes.

12. The House bill, but not the Senate amendment, requires a local education agency to match the 5% of Chapter 1 money it may use for innovation.

The House recedes.

13. The House bill, but not the Senate amendment, provides for a waiver of the 50 percent matching requirement for innovation projects under certain circumstances.

The House recedes.

14. Local Applications:

The House recedes with an amendment requiring a description of the assessment procedure in the local educational agency application. The conferees intend that the term "describe" shall not be interpreted to mean the submission of extended narrative prose resulting in the unnecessary and burdensome paperwork for local educational agencies and State educational agencies. State educational agencies are encouraged to work with representatives of their local educational agencies to develop standard application forms which will reflect the information required in the most concise form possible.

a. The Senate amendment, but not the House bill, modifies "more advanced skills" with the phrase "that all children should master".

The House recedes with an amendment requiring programs to offer instruction so that children will learn advanced skills all children are expected to master.

The conferees intend that the phrase "advanced skills that all children are expected to master" shall mean academic expectations not substantially different from those expected for other students of the same age or at the same grade level.

b. The Senate amendment, but not the House bill, references "consultation with teachers and parents" in development of the application.

The House recedes.

c. The Senate amendment, but not the House bill, includes an assurance regarding coordination of services to students served by more than one special program.

The House recedes.

d. The Senate amendment, but not the House bill, requires that the application contain a description of services including procedures for needs assessment, evaluation, and identifying and modifying programs for schools and students.

The Senate recedes with an amendment deleting repetitive language pertaining to evaluation and moving procedural language to other sections of the chapter.

The conferees intend that local educational agencies may use current Chapter 1 assessment procedures for children who, with or without bilingual assistance in the testing process, can be identified, using testing written in the English language, as educationally deprived children in greatest need of assistance. For children whose lack of English language proficiency precludes valid assessment using such testing, local procedures to screen and select educationally deprived LEP children may be used, e.g. teacher evaluation, language dominance testing, weighting factors, or other indicators of educational deprivation which discriminate on a basis other than just language deficiency.

15. The Senate amendment, but not the House bill, adds the phrase "for compensatory educational services".

The Senate recedes.

16. The House bill, but not the Senate amendment, requires the plan to reference implementation of the effective schools program.

The Senate recedes with an amendment requiring this coordination, if appropriate.

17. The House bill contains a referencing error, incorrectly referencing section (d) rather than section (e) on accountability.

The House recedes.

18. The House bill, but not the Senate amendment, states that funds for schoolwide projects may be used to plan and implement effective school programs.

The Senate recedes.

19. The Senate amendment, but not the House bill, adds paragraphs regarding parental opportunities to participate in the design, operation and evaluation of the Chapter 1 program with special emphasis on parents who lack literacy or English-speaking skills.

The House recedes.

20. The House bill authorizes $30,000,000 for fiscal year 1988 for capital expenses to help school districts ensure that eligible children enrolled in private schools have equal access to Chapter 1 programs while the Senate amendment authorizes $50,000,000 for fiscal year 1989 for such purpose. Both bills authorize "such sums" for later years.

The House recedes with an amendment authorizing $30 million for fiscal 1988 and $40 million for fiscal 1989 and "such sums" through 1993.

21. The House bill, but not the Senate amendment, specifies what may be considered personal property in this new program.

The Senate recedes.

22. The Senate amendment, but not the House bill, uses the term "regular" with regard to non-federal funds in the non-supplanting prohibition.

23. The Senate amendment, but not the House bill, contains a section requiring local educational agencies to use special State or local program funds in the aggregate in Chapter 1 eligible schools to the extent they would have without Chapter 1 funds being available prior to using Chapter 1 funds in

such schools. (See note 24, page 60, for special implementation time table.)

The Senate recedes.

24. The Senate amendment, but not the House bill, delays the applicability of the special supplement—not supplant provision described in note 23 for 2 years in states which currently have special programs which operate under current ECIA supplement—not supplant provisions.

The Senate recedes.

25. The House bill, but not the Senate amendment, requires the State to withhold funds from LEAs which are not in compliance with comparability requirements, but only to the extent they are out of compliance.

The Senate recedes.

26. The House bill applies the exclusion of special state and local funds to both comparability and supplement/supplant requirements while the Senate amendment makes it applicable only to comparability.

The Senate recedes.

27. The House bill, but not the Senate amendment, mentions "children with specific learning disabilities" in addition to handicapped children.

The House recedes.

28. The Senate amendment, but not the House bill, adds "and related services" to special education as excludable costs for supplement, not supplant, purposes.

The Senate recedes.

28a. Section 1019. Evaluations. The conferees intend that national evaluation standards shall be implemented as quickly as possible by State and local educational agencies, and that such agencies which are already using the Title I evaluation and reporting system as their formal evaluation tool or a system which allows national aggregation of data according to such standards shall consider the 1988-1989 school year as the first year of implementation of evaluation requirements pursuant to this section.

The conferees further intend that States which are currently conducting State evaluations on a three-year cycle where one-third of the local educational agencies report each year may continue to use that evaluation procedure.

In addition, conferees intend that local educational agencies may use a sampling procedure or carefully designed study to meet the sustained gains requirement rather than trying to track all children served at all grade levels in all subject areas for a period of three years. The conferees recognize that sampling and study procedures are cost and time efficient while still providing the local educational agency with necessary and valuable information about the effectiveness of their programs.

29. The Senate amendment, but not the House bill, requires LEAs to evaluate annually the effectiveness of parental involvement.

The House recedes with an amendment changing "evaluate" to "assess".

The House recedes with an amendment regarding data collection. "(3) collect data on the number of children with handicapping conditions, the race, age, and gender of children * * *". The conferees intend that the report shall simply state the total number of children with handicapping conditions who are served in the Chapter 1 program, not the number broken out by grade level, race, age, gender, and subject area or by handicapping condition in each of those categories.

30. State Application. The Senate amendment, but not the House bill, requires States to submit an application to the Secretary of Education in order to receive funds under this chapter.

The Senate recedes with an amendment requiring the State to develop, in consultation with a committee of practitioners, a program improvement plan which shall be disseminated to school districts and available at the State level for inspection.

a. The Senate amendment, but not the House bill, requires that the State application describe the criteria and procedures the State will use to assess educational effectiveness of local and State programs.

The Senate recedes.

b. The Senate amendment, but not the House bill, requires that the State application describe the criteria, policy and procedures it will use to take corrective measures to improve LEAs with inadequate educational achievement.

The Senate recedes.

c. The Senate amendment, but not the House bill, requires that the State demonstrates that the measures it proposes to use are valid and reliable.

The Senate recedes.

d. The Senate amendment, but not the House bill, allows the Secretary to require specific data collection and uniform evaluation procedures to allow information to be aggregated and compared among states.

The Senate recedes.

e. The Senate amendment, but not the House bill, requires the State to explain in its application any differences in the criteria used by the State and by any local education agency for assessing program effectiveness.

The Senate recedes.

31. The House bill uses the term "no" improvement while the Senate amendment uses the term "inadequate" improvement to describe the condition which activates LEA program improvement efforts.

The House recedes with amendments tying the measurement of program effectiveness to the desired outcomes stated in the local educational agency's application and adding "lack of substantial progress" toward meeting outcomes as a trigger for program improvement plans.

The conferees intend that the concept of "improvement" shall mean improvement beyond what a student of a particular age or grade level who is receiving services funded under this part would be expected to make during the period being measured if the child received no additional help. This interpretation embodies the congressional purpose that providing Chapter I services, in addition to regular education services provided by the local educational agency, to children served by programs under this part who are achieving below the level that is appropriate for children of their age, should result in such students' progression at a faster rate than students who receive no extra help. Use of the term "improvement" rather than "achievement" is a purposeful substitution to indicate congressional intent that measures and standards used to demonstrate progress toward desired outcomes may be something other than nationally normed standardized test scores.

32. The Senate amendment, but not the House bill, states that a school improvement plan must include a description of educational strategies and resources.

The House recedes.

The conferees intend that State and local educational agencies shall have adequate time to plan carefully and thoughtfully for program improvement, that a "time certain" by which program improvement plans must be in place will be established through the review/modified negotiated rulemaking process, and that State and local educational agencies may set parameters within that time frame. The conferees further intend that State and local educational agencies shall have no more than, but at least, one full school year during which the plan is in effect before judging its effectiveness in raising aggregate student performance.

33. The Senate amendment, but not the House bill, requires that the SEA take appropriate corrective action against LEAs which fail to carry out program requirements, including failure to provide effective compensatory education services.

The House recedes with an amendment changing the title of the section to "Further Action", outlining the joint steps that State and local educational agencies shall take to ensure that program improvement efforts are successful, and adding a new section (f) requiring mutual approval of program improvement plans prior to their implementation.

The conferees intend that there shall be continued State oversight until the school building Chapter 1 program improves. The conferees emphasize that they intend the State role to be one of facilitating local efforts in whatever manner is cooperatively agreed will be most effective in implementing effective local services to eligible children. Such facilitation may be through direct assistance by State staff or through helping local educational agencies obtain technical assistance from other sources.

The conferees further intend that a school building which is implementing a program improvement plan shall, each year until performance improves, use the same measurement instrument and standards to determine whether performance has improved that it used to measure performance in the year that lack of substantial progress, no improvement or a decline in performance was first demonstrated pursuant to the requirements of this chapter. An exception to this procedure would be made if the measurement instrument or process itself was found to be the problem.

34. a. The Senate amendment, but not the House bill, contains a section requiring the SEA to have and implement an educational improvement plan in any year it receives additional state administrative money under section 1404(b) for such purposes.

The House recedes with an amendment moving the State plan requirement to section 1020 and removing the requirement that it be submitted to the Secretary.

b. The Senate amendment, but not the House bill, requires the State to develop an educational improvement plan, in consultation with LEAs, which plan includes objective measures and assessment standards or procedures for developing them.

The House recedes with an amendment moving the requirement to section 1020.

c. The Senate amendment, but not the House bill, requires the improvement plan to describe the way in which the States will determine which schools are most in need of improvement and how it will assist them.

The House recedes with an amendment removing the reference to schools in greatest need of assistance and adding a requirement that timelines for implementation of program improvement plans be decided by the State and local educational agencies.

d. The Senate amendment, but not the House bill, requires the State to describe the technical assistance it will offer to schools in need of improvement.

The Senate recedes.

e. The Senate amendment, but not the House bill, requires the State to describe how it will develop joint plans with LEAs for schools in need of improvement.

The House recedes with an amendment removing the reference to schools in greatest need of assistance and moving the requirement to section 1020.

f. The Senate amendment, but not the House bill, requires the State to provide program improvement assistance to LEAs with schools in greatest need of improvement in the second fiscal year and thereafter that the SEA receives additional state administrative money under section 1404(b).

The House recedes with an amendment removing the reference to schools in greatest need of assistance and moving the requirement to section 1020.

EVEN START

35. The House bill, but not the Senate amendment, contains the Even Start program as part B of Chapter 1. The Senate amendment contains Even Start in part A of Title II.

The Senate recedes.

a. The House bill establishes Even Start as a State grant program with a small State minimum of ¾ to 1 percent and a maximum of 5% of the first $50,000,000 while the Senate amendment establishes it as a discretionary grant program under the Department of Education with grants made directly to local education agencies.

The Senate recedes with an amendment stating that (a) whenever appropriations for this part are less than $50 million, then the Secretary is authorized in accordance with the requirements of this part to make grants to LEA's or consortia of such agencies to carry out Even Start programs; (b) whenever appropriations equal or exceed $50,000,000 then grants shall be made to each State in the same proportion as grants allocated under section 1005; and (c) under subsection (b) no State shall receive less than $250,000 or one half of one percent, whichever is greater, except that no State shall receive an allocation equalling more than 150 percent of the national average per pupil allocation from funds authorized under this part and further no State allocation under subsection (b) shall increase by more than 50 percent over the preceding fiscal year; however, $250,000 shall be the absolute minimum.

b. The House bill, but not the Senate amendment, has a reservation of 3% of such money for migrant programs to be conducted through the Office of Migrant Education.

The Senate recedes.

c. The Senate amendment, but not the House bill, requires collaboration with other agencies and organizations.

The House recedes with an amendment requiring that such coordination shall be performed where appropriate.

d. The Senate amendment, but not the house bill, specifies that such funds shall be used to pay the Federal share of the cost of the program under this part.

The House recedes.

e. The Senate amendment, but not the House bill, permits payment for child care only for the period the parents are involved in the Even Start program.

The House recedes.

f. The Senate amendment, but not the House bill, permits payment for transportation only for the purpose of allowing the parent or child to participate in the Even Start program.

The House recedes.

g. The Senate amendment, but not the House bill, adds Chapter 2 of this Act and the Education of the Handicapped Act as programs with which Even Start shall be coordinated.

The House recedes with an amendment limiting coordination to any relevant programs under the Chapter 2 program.

h. The House bill provides that funds under this part may be used to pay 80, then 60, and 40, then 20 percent of the cost of Even Start programs in the first, second, third, fourth and subsequent years while the Senate amendment specifies such shares as 90, 80, 70, and 60 percent for those years.

The House recedes.

i. The House bill, but not the Senate amendment, prohibits using such funds for indirect costs of the program.

The Senate recedes.

j. The House bill provides that matching funds may come from Federal, State or local sources while the Senate amendment requires that they be from a non-Federal source.

The House recedes with an amendment requiring the remaining cost to be obtained from any source other than funds made available for programs under this title.

k. The House bill limits eligible parent participants to persons eligible under the Adult Education Act while the Senate amendment makes such provisions permissive.

The Senate recedes.

l. The House bill requires that the application for funds be submitted to the State education agency while the Senate amendment requires submission to the Secretary of Education.

The Senate recedes with an amendment that applications will be submitted to the Secretary under Section 1052(a) and to the SEA under Section 1052(b).

m. The Senate amendment, but not the House bill, requires that the application for funds include a description of collaborative efforts with other agencies or organizations.

The House recedes with an amendment requiring such coordination to be done, if appropriate.

n. The Senate amendment, but not the House bill, includes Chapter 2 of this act as a program with which Even Start programs will be coordinated.

The House recedes with an amendment requiring such coordination to be done where appropriate.

o. The House bill requires appointment of a review panel by the State education agency to select applications which will be funded while the Senate amendment gives the Secretary the responsibility of selecting programs.

The Senate recedes with an amendment reflecting the national or State-administered nature of the program and specifying that the review panels at both national and State levels will recommend programs.

p. The House bill lists seven criteria for application approval which include greater need for such services, submission of reasonable budgets, and representation of urban and rural areas of the State (not in the Senate amendment) while the Senate amendment has five criteria including serving the greatest percentage of eligible children and parents.

The Senate recedes with an amendment specifying that proposals which will serve the greatest percentage of eligible children and parents shall receive special consideration.

q. The House bill, but not the Senate amendment, specifies the required composition of the review panel.

The Senate recedes with an amendment making the review panel operative for both the national demonstration and State grants programs and specifying required panel members.

r. The Senate amendment, but not the House bill, requires the Secretary to assure equitable distribution of grants between States and among urban and rural areas of the United States.

The House recedes with an amendment combining Senate provisions for national grants with House provisions for State grants.

s. The Senate amendment, but not the House bill, allows the Secretary to discontinue funding to projects that do not make sufficient progress toward meeting their objectives.

The House recedes with an amendment regarding State grant programs and ensuring transition of funding for grants from the Secretary when it becomes a State grant program. The House recedes with an amendment regarding funding based on progress toward objectives to apply to both national and State grant programs.

(s)(1). The House recedes.

t. The House bill, but not the Senate amendment, specifies that program evaluations shall not be done by persons involved in the administration of the program and shall include control groups where possible.

The Senate recedes.

u. The House bill requires an annual evaluation while the Senate amendment requires an evaluation to be submitted to Congress in 1992.

The Senate recedes with an amendment requiring one report for Congress in 1993, removing the requirement for submission to the National Diffusion Network "in the form required", and moving the requirement to Title VI of the Act.

v. The House bill authorizes $50,000,000 for this part for 1988 and such sums thereafter, while the Senate amendment authorizes $25,000,000 for 1989 and increases of 1 million, then 1.5 million for each succeeding year.

The Senate recedes with an amendment authorizing $50 million for FY 1989 and such sums thereafter.

SECONDARY SCHOOLS PROGRAMS

36. Secondary School Programs—The House bill authorizes in Chapter 1 both a 3-year discretionary grant program for school dropout prevention and basic skills improvement and a state grant program beginning in 1991, while the Senate amendment authorizes only a state grant program in Chapter 1 beginning in 1990, and includes the demonstration program in Title VIII of the Senate amendment. The Senate amendment separates the drop-out and basic skills demonstration programs making line-by-line comparisons with the House bill very difficult. Appropriate portions of Title VIII, however, have been moved to this section for comparison purposes and are labeled. The entire text of Title VIII has then been included, following the House bill, as Part B on dropout prevention and basic skills improvement.

The House recedes, leaving the demonstration dropout prevention and secondary schools basic skills improvement programs outside Chapter 1 and agreeing to the

Senate form of program requirements, etc. divided under the national demonstration and State grant program, with an amendment authorizing the national demonstration program for two years.

a. The House bill authorizes $100 million for fiscal year 1988 for both dropout prevention and basic skills demonstration programs and such sums thereafter while the Senate amendment authorizes $50,000,000 for FY 1988 and 89 for dropout programs and $200,000,000 for basic skills improvement programs, and then $400 million for FY 1990 and adds $50 million for each Fiscal Year thereafter for the State program.

The House recedes to a $50 million level for the dropout portion and $200 million funding for basic skills portion for 1988 and 1989, and for the combined State grant program $400 million for FY 1990, $450 million for FY 1991, $500 million for FY 1992, and $550 million FY 1993.

b. The House bill, but not the Senate amendment, provides a $3 million reservation for migrant programs from national demonstration funds.

The House recedes regarding the national demonstration program and the Senate recedes regarding the State program reservation of funds for migrant programs.

c. The House bill, but not the Senate amendment, reserves 50 percent of the funds for national demonstration programs for dropout prevention programs and 50 percent for basic skills improvement.

The House recedes to the 50/50 spending split between dropout funds and basic skills funds in State grant programs.

d. The House bill, but not the Senate amendment, allows for adjustment of percentages at the Secretary's discretion.

The House recedes.

e. The House bill provides that categories for allocating demonstration program funds shall be: 250,000 or more students—20%, 50,000 to 250,000 students—25%, 20,000 to 50,000 students—25%, and less than 20,000 students—30% of the funds; while the Senate amendment categories are 50,000 and more students—45%, 20,000 to 50,000 students—15%, and less than 20,000 students—35% of the amount appropriated.

The House recedes with an amendment regarding categories for demonstration programs:

1st tier enrollment 100,000 plus, 25%;
2nd tier enrollment 20,000 to 100,000, 40%;
3rd tier enrollment 0 to 20,000, 30%;
Community-based organizations, 5%.

f. The Senate amendment, but not the House bill, contains a 5% setaside for community-based organizations.

The House recedes.

g. The Senate amendment, but not the House bill, provides that 25% of the funds available for each category shall be allotted to educational partnership. (See note 36 FF, re authorized activities.)

The House recedes with an amendment consolidating two paragraphs.

h. The Senate amendment, but not the House bill, requires use of a peer review process if the Secretary intends to transfer funds among categories.

The House recedes.

i. The Senate amendment, but not the House bill, requires use of a peer review process if the Secretary intends to make funds not needed for educational partnership available to LEAs in the same categories.

The House recedes.

j. The House bill, but not Senate amendment, requires that the Secretary give first priority in each category to applicants with very high numbers or percentages of school dropouts.

The Senate recedes with an amendment providing that the Secretary shall give priority to applications which both reflect high numbers or percentages of school dropouts and show replication of successful programs.

The conferees intend—contrary to the Secretary's notice inviting new applications published March 14, 1988, in the Federal Register—that the Secretary shall give priority to applications that have both (1) high numbers or percentages of dropouts and (2) replicate or expand successful programs, not one or the other. Conferees further expect that the Secretary will revise the published priorities to reflect this congressional intent.

k. The House bill, but not the Senate amendment, provides that grant awards shall be proportionate to the extent of the severity of the dropout problem.

The Senate recedes.

l. The House bill provides that LEAs fund 25% of the second year grant and 40% of all following years from other Federal, State, or local sources, while the Senate amendment provides that 30% of the cost for the second and ensuing years shall be funded from other sources, but not more than 10% from other Federal monies.

The House recedes with an amendment reducing the Federal share gradually from 90%, to 75%.

m. The House bill, but not the Senate amendment, requires the Secretary to consider quality of the applicant's proposal and provide for equitable distribution of grants on the basis of urban and rural areas, size of districts, and student characteristics.

The House recedes.

n. The House bill, but not the Senate amendment, provides that the Secretary may fund additional projects in the second or third year of the demonstration program if additional funds become available.

The House recedes.

o. The House bill, but not the Senate amendment, requires the Secretary to conduct an evaluation of programs under this part.

The Senate recedes with an amendment requiring the Secretary to take into account data collected from the national school dropout study and moving the requirement to Title VI of the Act.

p. The Senate amendment, but not the House bill, provides for a small State minimum of one-half of one percent of the amount appropriated under the State grant program which begins under the Senate amendment in 1990.

The House recedes with an amendment that there will be a small State minimum of $250,000 or 0.25%, whichever is greater, with provisions that no State shall receive an amount which is greater than 150% of the national average amount per child allocated from funds authorized under this subpart, solely as a result of implementation of this provision but $250,000 remains the floor.

q. The House bill, but not the Senate amendment, requires that grants to LEAs under the State grant program be made to those LEAs having the greatest financial need for funds.

The House recedes with an amendment referencing priority.

r. The Senate amendment, but not the House bill, provides that grants shall be awarded to programs offering innovative approaches or having promise or replication and dissemination.

The House recedes.

s. The House bill, but not the Senate amendment, states that duration of grants shall not exceed three years.

The House recedes with an amendment providing a one-year grant period.

t. The Senate amendment, but not the House bill, includes an extensive section on local and State evaluation and program improvement.

The Senate recedes.

u. The House bill, but not the Senate amendment, requires that the application contain procedures for annually evaluating the project and determining its cost effectiveness.

The Senate recedes with an amendment applying requirements for evaluation and program improvement to this program.

v. The House bill, but not the Senate amendment, requires that applications from LEAs for dropout prevention programs under the State grant program be developed in consultation with community-based organizations.

The Senate recedes with an amendment making cooperation with CBOs permissive.

w. The House bill, but not the Senate amendment, requires that dropout prevention program applications address the specific needs of Indians, migrants, and other high risk populations.

The House recedes.

x. The House bill, but not the Senate amendment, requires that LEAs establish advisory councils for dropout programs.

The House recedes.

y. The House bill, but not the Senate amendment, lists thirteen authorized activities under the State grant program.

The House recedes with an amendment combining Senate/House fund uses.

z. The Senate amendment, but not the House bill, contains two provisions for coordinating dropout activities among agencies and under various acts.

The House recedes with an amendment combining Senate/House fund uses.

AA. The Senate amendment, but not the House bill, under basic skills improvement allows funds to be used for innovative community-based programs and for eligible students outside the school.

The House recedes.

BB. The Senate amendment, but not the House bill, requires that under the State grant program no more than 50% of the funds may be used for dropout prevention and re-entry activities.

The House recedes.

CC. The House bill, but not the Senate amendment, limits to 10% of a grant the amount that may be used for local administrative costs.

The Senate recedes with an amendment limiting administrative cost to 5%.

DD. The House bill, but not the Senate amendment, requires LEAs receiving grants under this part to cooperate with the NDN.

The Senate recedes.

EE. The House bill, but not the Senate amendment, requires the Secretary to consult with State and local agencies and the GAO in developing application and evaluation requirements for this part.

The House recedes.

FF. The Senate amendment, but not the House bill, describes particular activities for educational partnerships.

The House recedes.

GG. The Senate amendment, but not the House bill, requires that not less than 30% of national demonstration dropout funds be used for dropout prevention and another 30% be used for re-entry activities.

The House recedes.

HH. The Senate amendment, but not the House bill, authorizes $500,000 for a national school dropout study and specifies 10 components of the study.

The House recedes.

II. The Senate amendment, but not the House bill, requires that the Secretary establish a standard definition of "school dropout" within 60 days of enactment of this Act.

The House recedes with an amendment that requires the Secretary, in consultation with particular groups, to issue a definition of a school dropout within 60 days of enactment of this Act.

The conferees intend that a definition of school dropout shall in no way interfere with the right of parents to educate their children at home pursuant to each State's regulation of home schooling nor shall such definition interfere with each State's minimum age attendance requirements.

In developing the definition of "school dropout", the Secretary shall consult with State educational agencies, local educational agencies, teacher organizations, boards of education, administrators' organization, and any other pertinent groups or organizations.

MIGRANT PROGRAM

37. The Senate amendment, but not the House bill, specifies that migratory agricultural dairy workers are a migrant category.

The House recedes.

38. The Senate amendment, but not the House bill, adds EHA to the list of Acts with which migrant programs must be coordinated.

The House recedes.

39. The Senate amendment, but not the House bill, authorizes the Secretary to enter into contracts with SEAs for activities to improve coordination.

The House recedes.

39(a) The Senate recedes with an amendment inserting "approved under P.L. 94-142" after "programs".

40. The House bill, not the Senate amendment, includes a requirement that the Secretary award the migrant students' records contract to the SEA which had it the previous year, unless a majority of the States object in writing.

The Senate recedes with an amendment stating that the current recipient of the contract for the Migrant Student Records Transfer System shall continue to receive the contract until 1992, barring complaints from a majority of states, but as of July 1, 1992, and every four years thereafter, the Secretary shall conduct a competition to award the contract.

HANDICAPPED PROGRAM

The conferees agree that infants and toddlers with handicaps shall receive early intervention services consistent with the requirements and conditions of Part H of the EHA, and therefore, the phrase "who by reason of their handicapping condition require special education and related services" in the definition of handicapped children does not apply to infants and toddlers with handicaps.

41. The Senate amendment, but not the House bill, adds the phrase "for programs for handicapped children."

The House recedes with an amendment which clarifies for which programs and children these funds can be expended.

42. The Senate amendment, but not the House bill, includes a defintion of "children" and of "handicapped children" in the State program for the handicapped.

The House recedes with an amendment which would clarify which "infants and toddlers" are covered (e.g. as defined in Part H of the EHA) and would add to the definition of handicapped children—"who by reason of their handicap require special education and related services".

43. The House bill and the Senate amendment include assurances regarding compliance with EHA and monitoring such compliance in the State handicapped program, but the House bill states such requirements in assurances (1) and (2) in less detail than the Senate amendment which states such requirements as assurances (2) and (3).

The House recedes.

44. The Senate amendment throughout this part makes reference to handicapped children, infants, and toddlers while the House bill refers to handicapped children or infants.

The House recedes.

45. The Senate amendment contains language in line 1-4 of assurance (3) that appear in the House bill as the second sentence of Section 1222(a).

The House recedes.

46. The Senate amendment, but not the House bill, contains an assurance providing that payments received by SEAs under this part shall be used for projects for handicapped children. However, identical language appears in the House bill as Section 1222, program Requirements.

The Senate recedes.

47. The House bill states that the Secretary "shall" report annually while the Senate amendment uses the term "will."

The Senate recedes.

48. The Senate amendment, but not the House bill, requires that States include the place of residence for participating children in their annual report to the Secretary.

The Senate recedes.

The conferees direct the General Accounting Office, as part of the Study of State Operated Programs, to collect information from a sample of States on the types of residences in which participating children are found. Suggested categories for classifying types of residences include, but need not be limited to: children living in a family home attending educational programs housed in a residential facility; children living in a residential facility (not a single family home) attending an educational program in a regular school administered by an LEA; children living in a residential facility and attending an educational program in that facility and children living in a family home attending an educational program in a regular school administered by an LEA. Using the same sample, the conferees also direct GAO to collect information on where children, participating in Chapter 1 programs for children with handicaps, reside. Such information shall include the following: the number of children living in their own home; the number of children living in foster homes; the number of children living in public facilities housing: (a) 1 to 5 children, (b) 6 to 15 children, and (c) 16 or more children; the number of children living in private facilities housing: (a) 1 to 5 children, (b) 6 to 15 children, and (c) 16 or more children.

The sample (pertaining to (a) type of residence and educational placement and (b) type of residence and number of occupants in a residence) drawn from each sample State should be of sufficient size to infer what proportion of the total participating population within a State various categorizations represent.

49. The House bill, but not the Senate amendment, requires the SEA to establish policies and procedures for transferring children from State operated programs to LEA programs.

The House recedes.

The conferees anticipate that in the future Chapter 1 handicapped program funds will be used to an increasing degree to foster new and expanded opportunities for children with handicaps to participate with their nonhandicapped peers in a wide variety of educational settings and experiences, thus reinforcing the least restrictive environment provision in Part B of the Education of the Handicapped Act.

50. The Senate amendment, but not the House bill, specifies that in determining grant amounts, handicapped children aged from birth through 21 must be used in the computation.

The House recedes.

51. The Senate amendment, but not the House bill, includes the phrase "directly responsible for providing free public education for handicapped children" and "is directly responsible for providing" early intervention services to designate appropriate State agencies.

The House recedes with an amendment clarifying that State programs include those under contract or other arrangements with such State agency.

The conferees intend that the phrase "directly responsible under contract or other arrangement" not be interpreted as limited to direct service personnel employed by the State. The conferees also intend that this phrase would allow funds appropriated by a State specifically to provide service to these children to be a reflection of direct responsibility. Moreover, the conferees intend that nothing in this provision be construed as altering the eligibility status of any agency or program now participating in the Chapter 1 Handicapped Program.

52. The Senate amendment, but not the House bill, refers to the "commonwealth of Puerto Rico." In determining funds to be received by Puerto Rico under this part, the Senate amendment, but not the House bill, requires compliance with section 619 of the EHA in order to count children aged 3-5 inclusive, after 1991.

The House recedes.

53. The Senate amendment, but not the House bill, states that for purposes of counting children transferring from a State to a local program, the child must continue to receive a free and appropriate public education. The House bill requires an appropriately designed educational program.

The House recedes.

54. The Senate amendment, but not the House bill, restricts the SEA to counting handicapped children aged three to five inclusive beginning in 1991 only if a State is eligible for a grant under Section 619 of EHA.

The House recedes.

55. The Senate amendment contains this language as assurance (1) and part of assurance (3) under section 1221(b).

The Senate recedes.

56. The House bill, but not the Senate amendment, has a provision requiring funds under this subpart to supplement the provision of special education services, and prohibits such funds from being used for services funded by State or local funds during the previous fiscal year.

The House recedes.

The conferees wish to emphasize that these funds shall not be used to supplant

State and local funds as delineated in section 1018(b) and that each State shall maintain a level of fiscal effort consistent with the requirements in section 1018(a).

57. The House bill, but not the Senate amendment, requires recipients of funds under this subpart, to demonstrate that children receive a benefit from their use.

The Senate recedes.

58. The House bill, but not the Senate amendment, allows a letter of request in lieu of application if the LEA intends to use such moneys received under this subpart for a single purpose or to serve fewer than five children. The Senate amendment allows such a letter only if the agency intends to serve fewer than five children with the funds received.

The Senate recedes.

The conferees intend that a local or State educational agency applying to use funds for a single purpose shall include with the letter of application an assurance that the funds shall be used to benefit only children eligible under this subpart.

59. The Senate amendment, but not the House bill, delineates uses of funds in section 1223 under the heading GENERAL RULE and includes "services" as well as programs and projects in this descriptive section.

The Senate recedes with an amendment which would number the House "uses of funds" provision.

60. The Senate amendment, but not the House bill, specifies that funds may be used for other specialized equipment, as well as assistive devices.

The House recedes.

61. The Senate amendment, but not the House bill, includes assessment of children as an allowable use of funds, and further specifies that evaluation of and dissemination of information about programs funded under this part be included in this same list.

The Senate recedes on "assessment of children". The House recedes and accepts the Senate provision which allows funds to be used for planning, evaluation and dissemination of information.

62. The Senate amendment specifically prohibits use of these funds for construction of facilities while the House bill in the parenthetical in section 1222(a) eliminates the reference to construction of school facilities contained in current law.

The House recedes.

63. The Senate amendment uses the heading Services and Program Application for section 1222 while the House bill uses the heading Application. The Senate amendment inserts the word "each" before "such application" in this subsection.

The House recedes.

64. The Senate amendment, but not the House bill references the written description of programs required in the application for funds.

The House recedes.

The sentence "Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsection (b) and (c)." is included to clarify the situation when an SEA must "write" an application to itself for these funds.

65. The Senate amendment uses the heading Application Assurances while the House bill uses the heading Assurances.

The Houses recedes.

66. The Senate amendment specifies that all handicapped children served under this part receive a free, appropriate public education, and that their parents have all the rights and procedural safeguards provided under EHA while the House bill references compliance with EHA More generally.

The House recedes.

67. The Senate amendment, but not the House bill, specifies that in order to receive funds under this subpart an agency must maintain fiscal effort.

The House recedes.

68. The Senate amendment, but not the House bill, provides that parents of children to be served shall have an opportunity to participate in developing the project application.

The House recedes.

69. The House bill provides that applications specify ages and handicapping conditions of children to be served, while the Senate amendment specifies that all applications must include number of children for each disability and age category described in EHA.

The House recedes.

70. The Senate amendment uses the term "directly responsible" while the House bill uses the term "legally" responsible in reference to the provision of special education.

The House recedes with an amendment which would insert "under contract or other arrangement with the State educational agency" after "directly responsible" (note: This is related to No. 51).

71. The Senate amendment, but not the House bill, includes the phrase "early intervention services".

The House recedes.

72. The Senate amendment, but not the House bill, includes the parenthetical phrase "(including schools and programs operated under contract or other arrangement with a State agency.)".

The House recedes.

73. The Senate amendment, but not the House bill, requires that programs authorized by this subpart shall be monitored by the Secretary whenever EHA is monitored.

The House recedes.

74. The House bill requires that a GAO study examine the relationship of programs operated under this subpart to programs under Part B and Part H of EHA generally while the Senate amendment under section 1463(b)(5) specifies particular relationships and comparisons.

The House recedes.

75. The House bill, but not the Senate amendment, limits the GAO study to an examination of the relationship between State operated programs for handicapped children under Chapter 1 and parts B and H of the EHA.

The House recedes with an amendment changing January 30, 1989 to February 28, 1989, and moving the requirement to Title VI of the Act.

76. The Senate amendment, but not the House bill, defines children as including infants and toddlers for purposes of this section.

The House recedes.

77. The Senate amendment, but not the House bill, outlines six components to be included in the GAO study.

The House recedes.

The conferees intend that GAO, for each State included in its study, collect and describe any policies, procedures, and/or descriptions of State practice related to transferring children, who are participating in the Chapter 1 program for children with handicaps, into LEAs (pertains to children described in section 1224(1)(B)(ii)).

78. The Senate amendment, but not the House bill requires the Comptroller General to include in the study report a State by State analysis, including recommendations for legislation, if appropriate.

The House recedes.

NEGLECTED AND DELINQUENT

79. The Senate amendment, but not the House bill, directs the State to evaluate the ability of neglected or delinquent students to transfer to special education programs, where appropriate.

The House recedes.

The conferees intend that the phrase "a State which is responsible for providing free public education for children in institutions for neglected and delinquent children" shall be interpreted in the same manner as section 1224(1)(A) with regard to institutions for handicapped children. Funds appropriated by the State specifically to provide education for children in institutions for neglected and delinquent children shall be considered adequate proof of the State's responsibility for the free public education of such children even though the actual provision of services may be by another agency which receives the State funds from the State educational agency.

PART E

80. The Senate amendment, but not the House bill, includes a reference to Chapter 1 of ECIA of 1981.

The House recedes.

81. The House bill references section 1052 or 1131, while the Senate amendment references section 1102 in regard to the amounts an LEA is eligible to receive.

The Senate recedes.

82. The House bill provides a minimum of $300,000 for State administration, while the Senate amendment provides a $325,000 minimum State administration grant.

The House recedes.

83. The Senate amendment, but not the House bill, provides that when appropriations for this chapter equal or exceed $4.8 billion, each State may receive an additional .5 percent of the amount allocated to that State for education improvement program costs. The third fiscal year such amount increases to 1%.

The House recedes with an amendment creating a new subsection 1405 which provides to each State educational agency an amount equal to 0.25 percent of the amount allocated to each State under parts A and D for 1989, 1990, and 1991 and 0.50 percent of such amount for 1992 and 1993 to be used for program improvement activities.

The managers intend that direct educational services includes technical assistance as agreed to jointly by the LEA and SEA under section 1405 (b)(3) and may include purchases of additional institutional materials and resources.

84. The Senate amendment, but not the House bill, provides $160,000 or $25,000 to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for educational improvement. The third fiscal year amounts increase to $325,000 or $50,000.

The House recedes with an amendment making $90,000 for small States and $15,000 for the island territories available for 1989, 1990, and 1991; and $180,000 or $30,000 available for 1992 and 1993 for program improvement activities.

85. The House bill requires that the Secretary shall consult with a review panel in promulgating regulations for this chapter, while the Senate amendment requires the Secretary to use negotiated rule making to promulgate regulations.

The House recedes with an amendment combining the regional review and negotiated rule-making processes.

The conferees intend that the development of Federal regulations for Chapter 1 should be a three-step process. The Department of Education will hold, first, a series of regional meetings to identify regulatory issues of concern to school administrators, teachers, parents, scholars and Chapter 1 advocates; second, a modified negotiated rulemaking demonstration on several key issues; and third, the normal Federal regulatory review and comment process. The goal of steps one and two is to help the regulation writers understand how new activities are likely to impact persons at the implementation level and to help Chapter 1 administrators, teachers, parents and advocates understand how the Department of Education interprets the law.

The modified negotiated rulemaking process is meant to be a demonstration, and thus to be more flexible than the process as operated by other Federal agencies. Specifically, the provisions of the Federal Advisory Committee Act are waived to shorten the time and procedures necessary to begin the demonstration. The conferees will look with interest at the regulatory process to see if discussions of program regulations among educators, parents, advocates and Department of Education staff will produce regulations that are more clearly understood and widely supported by practitioners than some prior regulations.

The conferees stress, however, that this demonstration is not meant to lengthen the time for issuance of regulations. Final regulations for this program should be issued within 240 days after enactment.

86. The House bill limits carry-over funds to 25% of the amount appropriated for FY 88 and 15% for FY 89 and each subsequent year, while the Senate amendment makes such limits applicable first in FY 89 and FY90.

The House recedes.

87. The House bill, but not the Senate amendment, requires the Secretary to contract with the organization or agency conducting NAEP to carry out the national longitudinal study.

The House recedes with an amendment deleting pregnancy rates, completion of postsecondary education, and incidence of suicide as factors which might be influenced by participation in Chapter 1 programs.

88. The House bill, but not the Senate amendment, requires the Secretary to respond within 90 days to written requests from States or LEAs regarding questions under this chapter.

The Senate recedes with an amendment regarding return receipt.

Conferees intend that the term "written guidance" shall have the same meaning in this section as it has under Section 453 of the General Education Provisions Act as amended. Written requests which conform to the requirements of Section 453(b)(2)(B) and (b)(4) of such Act shall qualify as a mitigating circumstance in an enforcement action initiated under Part E, Sec. 453 of such Act.

The conferees further intend that this provision shall encourage, not inhibit, the provision of guidance from the Department of Education to State and local educational agencies.

89. The House bill, but not the Senate amendment, includes a section on Federal research and innovation which requires the Secretary to give priority to research on tutoring programs for children eligible under this chapter to be carried out by States in institutions of higher education and to do research on problems of rural school districts. The Senate amendments contains a separate rural education initiative under Title III of its amendment.

The Senate recedes with an amendment to include the study as part of the Chapter 1 longitudinal study.

90. The House bill authorizes $12 million for technical assistance and the National Longitudinal Study for FY 88 and such sums thereafter, while the Senate amendment authorizes $8 million for evaluation and technical assistance for FY 89 and an additional $400,000 for each fiscal year thereafter.

The House recedes with an amendment authorizing $4 million for technical assistance and evaluation and $4 million for the national longitudinal study.

91. The Senate amendment, but not the House bill, requests the Secretary to revise regulations relating to State complaint procedures for programs authorized by this chapter.

The Senate recedes. The Secretary is directed to issue amended regulations making 34 CFR 76.780-783 applicable to Chapter 1.

92. The House bill, but not the Senate amendment, provides for the establishment of a National Commission on Migrant Education which is directed to conduct a study covering 12 specified issues and submit a report to the President and appropriate committees of Congress.

The Senate recedes with an amendment which calls for a more detailed study of the function and the effectiveness of the Migrant Student Records Transfer System, and a report to Congress and the Secretary of Education on such system within two years of the first meeting of the Commission.

93. The House bill, but not the Senate amendment, authorizes $2 million for the Migrant Commission.

The Senate recedes.

94. The House bill, but not the Senate amendment, directs the Comptroller General to conduct a study of the *Aguilar* v. *Felton* decision on participation of children enrolled in private schools in programs funded under this chapter.

The House recedes with the understanding that ranking members of the House and Senate committees will request a one-time study by GAO of the impact of *Aguilar* v. *Felton.*

94(A). The House recedes to "materials" in the Senate provision.

95. The Senate amendment, but not the House bill, requires the Secretary to conduct a study of possible fund distribution methods for various elementary and secondary education programs administered by the Department of Education and to submit a final report by June 30, 1991.

The Senate recedes with an amendment placing the study under Chapter 2.

96. The Senate amendment, but not the House bill, directs the Comptroller General to conduct a study on use of the AFDC count in the Chapter 1 formula and to submit results of the study no later than June 1, 1989.

The Senate recedes.

97. The Senate amendment, but not the House bill, authorizes $4 million for FY 89 and increases amounts for following years for carrying out the national longitudinal study and the study of fund distribution.

The Senate recedes.

98. The House bill, but not * * * definition of secondary school * * *

The House recedes.

99. The House bill, but not the Senate amendment, includes a definition of the term "effective schools programs."

The Senate recedes. The conferees intend that all elements noted as elements of an effective school must be present for a program to qualify as an effective schools program.

100. The House bill sets the transition period as October 1, 1987 to June 30, 1988, while the Senate bill begins the transition period on October 1, 1988, ending June 30, 1989.

The House recedes with an amendment changing the beginning of the transition period to July 1, 1988.

Chapter 2

1. The House bill, but not the Senate amendment contains congressional findings for the Chapter 2 Program.

The Senate recedes.

2. a. The House bill, but not the Senate amendment, includes as stated purposes of the Chapter 2 Program: (a) provides initial funding to enable States and LEAs to implement programs; (b) provides a continuing source of innovation, educational improvement, and support for library and instructional materials; and (c) enhances the quality of teaching and learning through initiating and expanding effective schools programs. The Senate amendment includes the "minimum of paperwork" and "the responsibility for the design and implementation of programs" provisions (the same provisions are in the stated purposes of the House bill) under a section entitled, "State and Local Responsibility", which appears on the next page.

The Senate recedes requiring: (a) initial funding to enable States and LEAs to implement programs; (b) providing a continuing source of innovation, educational improvement, and support for library and instructional materials; and (c) enhancing the quality of teaching and learning through initiating and expanding effective schools programs. The House recedes to require that the minimum of paperwork and the responsibility for the design and implementation of programs provisions to be included under the section entitled, "State and Local Responsibility".

b. The Senate amendment, but not the House bill, rewrites the purpose of the Chapter 2 Program to focus on six priorities: (1) at risk youth; (2) basic skills for secondary students; (3) gifted and talented education; (4) library resources; (5) school reform—innovation and personnel training; and (6) personal excellence.

The Senate recedes with a general description of the new uses of funds.

3. The Senate amendment, but not the House bill, describes State and local responsibility under a new paragraph (b), while the House bill incorporates these purposes in paragraphs (3) and (4) of section 1501.

The House recedes.

4. The House bill contains a definition of "at risk and high cost children" while the Senate amendment describes at risk children in the General Statement of Purpose beginning on page 215.

The House recedes.

5. The House bill authorizes appropriations for the Chapter 2 Program at $580 million for FY 1988 and such sums through 1993. The Senate amendment authorizes appropriations at $580 million for FY 1989,

$610 million for FY 1990, $640 million for FY 1991, $672 million for FY 1992, and $706 million for FY 1993.

The House recedes.

6. The House bill begins the period of assistance on October 1, 1987, while the Senate amendment begins assistance on October 1, 1989.

The House recedes.

7. The Senate amendment uses the phrase *shall reserve an additional amount not to exceed 6 percentum,* while the House bill uses the phrase *shall reserve not more than 6 percentum.*

The House recedes.

8. The Senate amendment uses the word *includes,* where the House bill uses the word *means.*

The House recedes.

9. The Senate amendment requires that the State distribute not less than 80% to the LEA, while the House bill requires the State to reserve not more than 20 percentum.

The House recedes.

10. The House bill, but not the Senate amendment, uses the phrase *adjusted relative enrollments.* The House bill uses the phrase *school attendance areas served by such agencies,* while the Senate amendment uses the phrase *school districts of such agencies.*

The House recedes.

11. Regarding the distribution of funds to local educational agencies:

a. The Senate amendment, but not the House bill, also includes "children living in economically depressed urban and rural areas" when referring to children whose education imposes a higher than average cost per child.

The House recedes with an amendment modifying the Senate's second criterion to "areas of high concentrations of low-income families".

b. The House bill, but not the Senate amendment, makes clear that these provisions shall not diminish the responsibility of the LEA's to maintain contact with private schools for advisory purposes.

The Senate recedes.

12. The House bill, but not the Senate amendment, modifies current law to require the Secretary to review criteria. Both bills require the Secretary to approve such criteria.

The Senate recedes.

13. The House bill, but not the Senate amendment, amends the high cost provision to require that funds are distributed in proportion to need, i.e., high cost students receive the higher allocations.

The Senate recedes with an amendment making the alternative allocation method permissive with the local educational agency.

The conferees intend that this section of the Chapter 2 program have no effect whatsoever on the distribution of funds among school districts within the States. Rather, that distribution will continue to be guided by other provisions of this chapter. The intent of this section is to provide school districts with an alternative method of allocating funds generated by "high cost children" among schools within the school district. Again, the conferees have no intention of limiting school districts from allocating funds generated by "high cost children" in the same manner as is currently the practice, that is, by averaging the total allocation over all participating public and private schools. This section merely provides an alternative, at school district discretion, to current practice which continues to be allowed under this chapter.

The alternative described in subsection (2)(A) would allow districts, at their discretion, to distribute that portion of their Chapter 2 funds generated by "high cost children" to public and private schools in the district in proportion to the number of "high cost children" in each participating school. Subsection (2)(B) clarifies that regardless of which method of distribution a district chooses for its funds generated by "high cost children", the district must apply that method consistently across all public and private schools for that year of funding.

Finally, subsection (20)(C) makes clear that it is the intention of the conferees that nothing in this section should be construed so as to limit how a school chooses to use its funds within those allowable uses of funds established by this chapter. This section only addresses how funds are distributed between schools.

14. The House bill uses the phrase "shall-submit", while the Senate amendment uses the phrase "shall file".

The Senate recedes.

15. The House bill uses the phrase intermediate *educational* units while the Senate amendment uses the phrase intermediate *regional* units.

The Senate recedes with an amendment referring to intermediate "or regional" educational units.

16. The Senate amendment, but not the House bill, modifies librarians with the phrase *elementary and secondary.*

The House recedes.

17. The House bill, but not the Senate amendment, includes school counselors and other pupil services personnel.

The Senate recedes.

18. The Senate amendment, but not the House bill, indicates that the amount reserved at the State level for targeted programs shall not exceed 20% of the total State's allotment.

The House recedes with an amendment clarifying other authorized uses of funds.

19. The Senate amendment, but not the House bill, specifies that programs, projects and activities must be included in the State plan. The House bill, but not the Senate amendment, requires the State to describe its use of funds for effective schools.

The House recedes in regard to the State uses of funds but with an amendment to describe the other uses of State funds.

The Senate recedes requiring the State to describe its use of funds for effective schools.

20. The House bill provides for an annual evaluation of the effectiveness of the Chapter 2 program. The Senate amendment provides for an evaluation of the effectiveness of Chapter 2 programs in FY 1992.

The House recedes with an amendment to require annual submission of data on use of funds, types of services provided, and students served.

It is highly desirable that at the State and national levels, the State educational agencies and the U.S. Department of Education cooperatively develop guidelines for reporting Chapter 2 programs' effectiveness on an annual basis in order to provide more uniform accountability to Congress in the use of, and the results of, Chapter 2 expenditures. Some of the information in the report will include: (1) expenditures in each area of targeting funding; (2) results from high cost factor distribution; and (3) effective schools implementation, results and progress.

21. The House bill, but not the Senate amendment, requires the State to describe how it adjusts its formula for high cost children. The Senate amendment, but not the House bill, requires the State to describe how it will serve private school children.

The Senate recedes requiring the State to describe how it adjusts its formula for high cost children.

The House recedes requiring the State to describe how it will serve private school children.

22. The Senate amendment uses the word *period* in the heading for this section while the House bill uses the word *duration.*

The House recedes.

23. The House bill, but not the Senate amendment, deletes the provision in current law with respect to audits of LEAs which receive less than $5,000.

The House recedes.

24. The House bill, but not the Senate amendment, contains provisions for State uses of Funds: (1) State administration will include: (a) supervision of the allocation of funds to LEAs, (b) planning, supervision, and processing of State funds, (c) monitoring and evaluation of programs and activities, (d) operations of the State advisory council; (2) technical assistance and direct grants to LEAs and statewide activities which assist LEAs in accomplishing the purposes of this Chapter; and (3) assistance to LEAS and statewide activities to carry out effective schools programs.

The Senate recedes with an amendment which describes State uses of funds as technical assistance which results in direct services to LEAs for targeted assistance as described in Section 1532 and direct grants to local educational agencies.

25. The House bill, but not the Senate amendment, specifies that: (a) not more than 25% of funds available for State programs under this part may be used for State administration, and (b) that not less than 25% of funds available for State programs may be used for effective schools. The Senate amendment creates a separate authorization for appropriations for effective schools in its Title II. (See item no. 46.)

25a. The Senate recedes.

b. The Senate recedes with an amendment requiring that 20% of a State's reserved funds must be used for effective schools and permits a waiver from this requirement if the LEA is already spending twice the amount specified for effective schools.

26. The House bill uses the phrase *"is submitted",* while the Senate amendment uses the phrase *has been certified.*

The Senate recedes.

27. The House bill uses the phrase *authorized programs,* while the Senate amendment uses the phrase *targeted assistance programs,* and requires the local education agency to provide reasons for the selection.

The House recedes.

28. The House bill uses the phrase *relating to such programs,* while the Senate amendment uses the phrase *relating to the assistance furnished under this chapter.*

The House recedes.

29. The House bill uses the phrase *funds for programs authorized,* while the Senate amendment uses the phrase *funds for assistance authorized.* The Senate amendment uses the phrase *as may be deemed appropriate by the LEA,* while the House bill uses the phrase *other groups involved* and includes examples.

The House recedes requiring the allocation of funds for assistance authorized.

The Senate recedes requiring that other groups be included in the local application process in terms of implementation.

30. The Senate amendment, but not the House bill, specifies that the local plan will include a description of how this chapter will contribute to improving student achievement and the quality of education for students

The House recedes.

31. The House bill places a caveat subject to the limitations of the Chapter, while the Senate amendment uses the phrase *provisions.* The Senate amendment includes the phrase *how funds the agency receives* while the House bill uses the phrase *funds under this subpart.*

The Senate recedes.

32. The House bill uses the phrase *authorized purposes,* while the Senate amendment uses the phrase *targeted assistance.*

The House recedes.

33 a. The House bill requires the LEA to ensure, while the Senate amendment indicates it shall be the responsibility of the LEA.

The Senate recedes.

33 b. The House bill uses the phrase *subpart,* while the Senate amendment uses the phrase *chapter.*

The House recedes.

34. The House bill describes its use of funds consistent with the purposes stated previously while the Senate amendment describes use of funds consistent with targeted-assistance described.

The House recedes with an amendment which describes the new uses of funds.

35. The Senate amendment, but not the House bill, limits the use of funds to programs or projects which provide for the following: at risk youth, basic skills instruction for secondary students; gifted and talented; school enrichment of secondary school curricula; library resources; reform innovation and personnel training; and programs for personal excellence.

The House recedes with an amendment which describes the new uses of funds.

State and local school districts may choose one, several, or all of the identified areas for expenditure of their funds in the identified programs except for 20% of the funds required for effective schools at the State level.

36. The House bill, but not the Senate amendment, specifies that local funds may be used for effective schools programs and activities. The Senate amendment, but not the House bill includes in its Title II, a separate "effective schools program."

The Senate recedes.

37. The House bill, but not the Senate amendment, specifies that funds may be used to support innovative instructional programs, curricula, library books, and reference and other instructional materials and equipment which show promise for improving student achievement in basic skills (including reading, writing, and computational skills (and other critical subject areas, such as science and mathematics.)

The Senate recedes with an amendment which describes the new uses of funds.

38. The House bill, but not the Senate amendment, specifies that improvement activities may include the development of model curricula; the provision of grants to schools or teachers for innovative instructional skills and other critical subject areas, books, reference materials, and instructional aids; and testing programs which lead to better academic achievement.

The Senate recedes with an amendment which describes the new uses of funds.

39. The House bill, but not the Senate amendment, also includes the improvement of recruitment and training of individuals working with preschool children in education programs, in terms of personnel enhancement.

The Senate recedes with an amendment which describes the new uses of funds.

New uses of funds are as follows:

Programs to meet the educational needs of students at risk of school failure and dropping out and students for whom providing an education entails higher than average costs; programs for the acquisition and use of instructional and educational materials, including—library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction; innovative programs designed to carry out schoolwide improvements, including effective schools program; programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, school board members, and administrators; programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, early childhood education programs, community education and programs for youth suicide prevention.

In adding "personal excellence" as an allowable use of Chapter 2 funds, the Congress recognizes that the whole child must be addressed in terms of his/her education, health, and motivation. Personal excellence programs are based on partnerships or coalitions of public and private organizations who commit to pool their expertise and resources. The goal of these programs is to create an integrated school curriculum including basic education, health and physical fitness, and motivation through community service.

It is hoped that through this community supported effort to influence at-risk youth through a variety of activities that meaningful changes will occur in their lives. That the expectations of the community for these young people will be raised and, as a result, their own goals will be raised and more likely to be achieved.

40. The Senate amendment, but not the House bill, contains administrative authority which specifies that in order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and enter into contracts with LEAs, institutions of higher education, libraries, museums, and other public and private agencies, organizations, and institutions.

The House recedes with an amendment limiting private agencies to only those which are nonprofit.

41. The House bill, but not the Senate amendment, provides for youth suicide prevention, technology education, community education, and career education programs under special projects.

The Senate recedes.

42. The Senate amendment, but not the House bill, includes programs for technology education and youth suicide under the Secretary's fund for innovation in Title II of this bill.

The House recedes with an amendment to delete youth suicide programs under the Secretary's fund for innovation.

43. The House bill, but not the Senate amendment, defines the terms "gifted and talented", and "technology education".

The Senate recedes with an amendment deleting the definition of technology education.

44. The House bill specifies that funds for effective school programs will be used to revise those programs. The Senate amendment specifies that funds for effective schools will be used to strengthen those programs.

The Senate recedes with an amendment incorporating the word "strengthening" in the first paragraph of the House language regarding "effective schools".

45. The House bill requires each SEA to use 25% of the funds it retains at the State level for effective schools programs. The Senate amendment specifies a separate program authorization and application requirements for the "Effective Schools" program in Title II of the Senate amendment.

The Senate recedes with an amendment to reserve 20% of funds for effective schools and to enable the Secretary to waive the requirement if States are spending the equivalent of 40% of State money already for this purpose.

46. The Senate amendment, but not the House bill, creates a separate effective schools programs under their Title II with a separate authorization of appropriations at $25 million for FY 1989, $26.5 for FY 1990, $27.5 for FY 1991, $29 million for FY 1992, and $30.5 million for FY 1993. (See Item No. 25.)

The Senate recedes.

47. The House bill requires that the Secretary submit an annual evaluation report to the Congress. The Senate amendment requires that the Secretary submit an evaluation report not later than October 1992.

The House recedes with an amendment to require the Secretary to submit data annually on the types of services, students served, and uses of funds.

48. The House bill, but not the Senate amendment, enables the Secretary to provide technical assistance for effective schools programs.

The Senate recedes. The conference agreement also incorporates a provision clarifying the applicability to Chapter 2 of the General Education Provisions Act.

49.a. Both the House bill and the Senate amendment reserve 6% of the funds for the Secretary. The House bill requires that 34% of these funds be used for National Diffusion Network activities. The Senate amendment makes available not less than $11,200,000 for the National Diffusion Network activities.

The House recedes.

b. From these same secretarial funds, the House bill makes available at least the amount of funds necessary to sustain the activities for the inexpensive book distribution program for reading motivation, the arts in education program, and the law-related eduction program. The Senate amendment provides for not less than $8,200,000 for the inexpensive book distribution program; not less than $3,500,000 for the arts in education program; and not less than $3,200,000 for the law-related education program.

The House recedes.

50. The House bill uses the phrase *shall be directed toward,* while the Senate amendment uses the phrase *shall be designed to.*

The House recedes. The conferees intend that the National Diffusion Network shall be designed to improve the quality of education.

51. The Senate amendment, but not the House bill, provides a limitation which indicates that no funds appropriated may be used to support the development or implementation of a Program Significance Panel or any other similar entity whose purpose is to judge the suitability or appropriateness of projects for dissemination through the NDN by a process of reviewing, screening, selecting, or assisting the substantive content of projects.

The Senate recedes with an amendment which permits the Secretary to conduct a single external review by a program effectiveness panel to determine the effectiveness of a program which is to be disseminated through the National Diffusion Network (NDN). The conferees further intend that the NDN facilitators be State-based as opposed to regionally-based facilitators. However, the conferees believe that a national private school facilitator would provide significant assistance to the State-based facilitators in identifying and assisting NDN programs in private schools. The conferees therefore envision that a national private school facilitator should be established under the NDN program.

52. The House bill reserves funds available unde the arts in education program for arts for individuals with handicaps through arrangements with the National Committee, Arts for the Handicapped. The Senate amendment reserves these funds through arrangements with the organization, Very Special Arts.

The House recedes.

53. The Senate amendment, but not the House bill, authorizes a "Blue Ribbon Schools Program".

The House recedes.

54. The Senate amendment, but not the House bill, sets aside not less than $1.5 million from the Secretary's funds for a "Blue Ribbon Schools Program."

The House recedes with an amendment requiring that no more than $1.5 million be used for this program.

55. The House bill, but not the Senate amendment, requires that the Secretary shall design and implement a study to determine the impact of effective schools programs including relevant measures of the impact including student achievement, attitudes, and graduation rates.

The Senate recedes with an amendment changing the first sentence to read "From the funds available for the purposes of this part the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under this chapter"; and moving the requirement to Title VI of the Act.

56. (a) The House bill uses the phrase *which further the purposes specified,* while the Senate amendment uses the phrase *which contribute to carrying out* the purposes. The House bill and the Senate amendment indicate that these programs may be carried out through grants or contracts. The House bill describes this in section 1567 while the Senate amendment creates a new subsection B for this purpose.

The House recedes.

b. The Senate amendment, but not the House bill, through a separate section (b) authorizes the Secretary to carry out programs and projects under this section directly, or through grants to or contracts with SEAs, LEAs, institutions of higher education, and other public and private agencies, organizations, and institutions. The House bill also includes this provision although not in a separate section.

The House recedes with an amendment limiting private organizations to those which are non-profit.

57. The House bill begins the transition period on October 1, 1987, and ends on June 30, 1988. The Senate amendment begins the transition period on October 1, 1988 and ends on June 30, 1989.

The House recedes with an amendment changing the beginning effective date to July 1, 1988.

58. The House bill, but not the Senate amendment, requires that the Secretary of Education conduct a study of school reform efforts in order to evaluate the impact of recent State and local elementary and secondary educational reforms. The House bill further delineates specific area to be included in the study. The House bill, but not the Senate amendment, authorizes appropriations of $1 million to carry out the school reform study.

The Senate recedes with an amendment placing the study under the National Center for Education Statistics (NCES) and requiring that the NCES shall conduct a study on the effects of higher standards resulting from school reform on enrollment and persistence in schooling. The study shall emphasize achievement and graduation rates of low income, handicapped, limited English proficient, and educationally disadvantaged students.

59. The House bill, but not the Senate amendment, authorizes the establishment of an Office of Comprehensive School Health Education.

The House recedes with an amendment moving the program to the Secretary's fund for innovation.

60. The Senate amendment makes provision for an office under Title II, Secretary's funds for innovation.

The Senate recedes.

61. The House bill, but not the Senate amendment, provides for a study of fund-distribution which will include among other areas a consideration of whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The House bill further requires that the Secretary shall submit an interim report of the study on June 30, 1988, and submit the final report not later than June 30, 1989. The Senate amendment includes this study under Chapter 1.

The House recedes with an amendment changing the dates of the reports to June 30, 1990 and June 30, 1991.

TITLE II—CRITICAL SKILLS

Part A—Mathematics and Science Education

1. *Critical Skills Improvement.*—The House bill repeals Title II of the Education for Economic Security Act and incorporates the substance into the new School Improvement Act as Title II, the "Critical Skills Act." The Senate amendment reauthorizes Title II of the Education for Economic Security Act.

The Senate recedes with an amendment: Title II will be entitled "Critical Skills", part A of which will be the "Dwight D. Eisenhower Mathematics and Science Education Act".

2. Both bills contain statements of purpose, but the Senate amendment specifically mentions that funds can be used for computer learning, and continues to list it in addition to mathematics and science throughout this part.

The Senate recedes with an amendment adding "through assistance to State educational agencies, local educational agencies, and institutions of higher education" and removing computer learning from the permissible use of funds.

3. The House bill authorizes $400 million for fiscal year 1988 and such sums for the succeeding five fiscal years. The Senate amendment authorizes $280 million for fiscal year 1989, $295 million for fiscal year 1990, $315 million for fiscal year 1991, $335 million for fiscal year 1992, and $355 million for fiscal year 1993.

The House recedes with an amendment authorizing $250,000,000 for fiscal year 1989, and such sums thereafter.

4. The House bill reserves 5% for the Secretary's discretionary grants whereas the Senate amendment reserves 4%. The House bill reserves ½ of 1% for Indian programs and not more than ½ of 1% for the territories whereas the Senate amendment reserves a minimum of ½ of 1% for Indian programs and the remaining amount for the territories.

The Senate recedes, with an amendment clarifying that students "served by schools funded by the Secretary of Interior" are covered by the program and reducing from "5 percent" to "4 percent" the amount reserved for the Secretary.

5. The House bill allocates funding to the States: one-half on school-age population and one-half on the Chapter 1 distribution, with a hold-harmless for each State's fiscal 1987 allocation. The Senate amendment allocates all the funds according to school-age population with no hold-harmless provision.

The Senate recedes.

6. The Senate amendment, but not the House bill, authorizes the Secretary to prescribe whatever he determines best for the programs for Indian students.

The House recedes.

7. The House bill permits a State department of education to reserve up to 20% of the funds for its programs, of which one-half must be available to the State agency for higher education. The Senate amendment reserves 25% for higher education programs and 75% for elementary and secondary education programs.

The House recedes with an amendment requiring 90% of the amount received by the State educational agency to be distributed to local educational agencies.

8. The House bill requires half of the elementary and secondary education funds to be distributed to local school districts using the count of AFDC and census-determined poor children whereas the Senate amendment limits such distribution to the count of census-determined children.

The Senate recedes.

9. The House bill, but not the Senate amendment, requires with some exceptions the creation of consortia of local educational agencies receiving grants of less than $3,000 a year.

The Senate recedes with an amendment permitting the use of a consortium arrangement when an LEA applies for funds.

10. Both bills require an application from the State for the receipt of funds, but the House bill provides that the application shall cover a period of three years and specifies three parts of the application—assur-

ances, assessment data, and description—with content requirements for each part while the Senate amendment State Application section does not specify a three year application period and mixes descriptive, assessment, procedure, and assurance requirements in a single subsection.

The House bill, but not the Senate amendment, requires that the State application be developed in consultation with the State agency for higher education and describe how that agency and the SEA have coordinated use of funds under this part.

The Senate recedes with an amendment clarifying the application procedure and the contents of the applications.

11. The House bill, but not the Senate amendment, requires a local application. However, both bills require a local assessment of need for assistance before an LEA can receive a grant. The House bill provides for a more detailed assessment as part of its application requirements and requires that programs be evaluated.

The Senate recedes with an amendment simplifying the requirements for the contents of the local applications.

12. Both bills require the SEA to renew assistance to an LEA showing progress; however, the Senate amendment more precisely defines this standard as showing the involvement of a substantial number of teachers and several grade levels of instruction.

The Senate recedes.

13. The House bill provides a list of uses for the 20% of funds reserved for State use. This includes a 5% cap on administration for each State agency (SEA and SAHE) while the Senate amendment provides 10% of the 75% reserved for LEA programs to be administered by the SEA.

The House recedes with an amendment removing computer learning from the authorized uses of funds.

14. The House bill permits States to reserve up to 20% of the State's grant for direct grants, State-wide programs, technical assistance, and State administration of which no more than 5% can be used for administration (allocated 1% for the State agency for higher education and 4% for the State educational agency). The Senate amendment permits a reservation of 90% of the 75% of a State grant which must be used for elementary and secondary education programs and the remaining 10% to be used as follows: not less than 5% for SEA demonstration and exemplary programs and not more than 5% for SEA technical assistance and administration.

15. The House bill contains a comprehensive listing of activities which may be funded by LEAs and limits funding of local administration to 5% of an LEA's grant. The Senate amendment authorizes funding only of training activities and, if such needs are met, the acquisition of materials and equipment.

On items 14 and 15, the House recedes with an amendment clarifying various uses of funds at the local level.

16. The House bill, but not the Senate amendment, delineates the types of activities which SEA and LEA can fund with regard to teacher training.

The House recedes with an amendment that teacher training activities will be referenced generally in the section on higher education and local uses of funds.

17. The Senate amendment, but not the House bill, delineates the activities which State higher education agencies can fund with the 25% of the States' grant reserved for their uses. Up to five percent may be used for State assessment and administration and not less than 95% must be used for grants to institutions of higher education for training programs conducted in conjunction with LEAs.

The House recedes with an amendment which clarifies the uses of funds by institutions of higher education.

18. The House bill, but not the Senate amendment, provides for a "bypass" for private school participation if an institution of higher education is prohibited by law from serving children and teachers in such schools.

The Senate recedes.

19. The House bill, but not the Senate amendment, imposes certain duties on the Secretary regarding technical assistance, evaluations, and reporting standards.

The Senate recedes with an amendment which requires the Secretary to consult with State and local agencies and organizations to develop reporting standards and to submit a report to Congress every two years.

20. Both bills describe the activities which the Secretary may fund from sums reserved to him. The House bill, unlike the Senate amendment, permits grants to professional foreign language associations, reserves 25% of each year's funds for critical foreign language grants, and requires the Secretary to disseminate widely the information concerning the grants. The Senate amendment, unlike the House bill, authorizes cooperative agreements, gives special consideration for grants involving methods and scientific inquiry and giving preference to grants disseminating programs throughout a region.

The Senate recedes with an amendment which clarifies the national uses of funds.

21. The Senate amendment, unlike the House bill, requires the Secretary to reserve annually not to exceed $3 million for the Office of Educational Research and Improvement for conducting evaluation and research activities.

22. The Senate amendment, unlike the House bill, includes a section regarding payments, including a requirement for prompt payment of grants.

On items 21 and 22, the Senate recedes.

23. Both bills authorize presidential awards for foreign language teachers. The House bill, unlike the Senate amendment, requires consultation with representatives of a professional foreign language teacher association. The Senate amendment, unlike the House bill, increases the presidential awards for math and science teachers from 100 to 104 a year. The House bill authorizes $1 million for fiscal year 1988 and such sums for the five succeeding years whereas the Senate amendment contains a payment authorization of $1 million a year for this purpose.

The House recedes with an amendment raising the authorization level to $2 million and requiring consultation with representatives of professional foreign language teacher associations.

24. The House bill extends the Partnership in Education Program by authorizing $10 million for fiscal year 1988 and such sums for the five succeeding years. The Senate amendment authorizes $20 million for fiscal year 1988 and such sums for the five succeeding years for this purpose.

The Senate recedes with an amendment authorizing $15 million for FY 1989 and such sums in fiscal years 1990 through 1993.

25. The Senate amendment, unlike the House bill, contains a definition of "junior or community college".

The Senate recedes. The conference agreement also adds foreign language assistance and presidential awards in math, science and foreign language as parts B and C of this title.

The Star Schools Program and the Foreign Language Assistance Program are also included in this title with perfecting amendments.

It has been brought to the attention of the conferees that the young Astronaut Program, a national program of educational significance in mathematics, science, and technology, is beginning to expand in large urban school districts and is having an impact in terms of bringing mathematics, science, computer learning, and related technology to historically underrepresented populations.

TITLE III—MAGNET SCHOOLS PROGRAM

1. *Magnet Schools.* The House bill authorizes appropriations at $115 million for FY 1988 and at such sums through 1993.

The Senate amendment authorizes appropriations at $115 million for FY 1989, $121 million for FY 1990, $127 million for FY 1991, $133 million for FY 1992, and $140 million for FY 1993.

The House recedes with an amendment authorizing appropriations in the amount of $165 million for fiscal year 1989 and such sums through 1993.

2. The Senate amendment, but not the House bill, specifies that in making awards from amounts appropriated above $75 million, priority should be given to LEAs which meet the requirements of Section 3002, and have not received a Magnet Schools grant in the previous year.

The House recedes.

In regard to Section 3001(b), availability of funds for grants to agencies not previously assisted, the conferees intended that this provision will not affect prior obligations made under a two-year grant cycle.

Further, the conferees are very concerned about the large number of local educational agencies that have applied for magnet school assistance and have not received funding. In 1987, for example, the Department received 126 applications and awarded 38 grants; over two-thirds of the districts applying were rejected. The conferees recognize that many of these unfunded local educational agencies, including such cities as Cleveland, Boston, Los Angeles, and Detroit, have a real need for magnet school funds. The conference agreement, therefore, requires that out of new money appropriated for the program, the Secretary shall give special consideration to applications which were not funded during the previous grant cycle. This provision applies only to funds appropriated above the fiscal year 1987 level of $75 million. The conference agreement makes clear that the Secretary shall not use previous funding as a factor in awarding the first $75 million.

3. The House bill, but not the Senate amendment, retains the current law provision that an LEA is eligible to receive assistance under this Act if it received $1 million less in the first FY after the repeal of the Emergency School Aid Act.

The House recedes.

4. The Senate amendment, but not the House bill, includes in its application assurances that the agency will not engage in handicapped or sexual discrimination.

The House recedes.

5. The Senate amendment, but not the House bill, also includes as application requirements the following: (a) a description of how assistance made available will be used to promote desegregation; (b) a provi-

sion of assurances that the agency will carry out a high quality education program that will encourage greater parental choice and involvement; and (c) a description of the manner in which the LEA will continue the magnet schools program after assistance is no longer available under this part.

The House recedes with an amendment rephrasing the provision of assurances that the agency will carry out a high quality education program in order to assure that greater parental decision-making and involvement will be encouraged.

6. The House bill indicates that the Secretary shall not make a determination about the award of funds solely on the basis of whether an applicant received an award in a prior funding cycle. The Senate amendment specifies that in awarding grants with the first $75 million, the Secretary shall not take into account whether an LEA has received an award in the prior funding cycle.

The House recedes with an amendment stating the provision as applying in "any prior funding cycle."

7. The Senate amendment, but not the House bill, allows the Secretary to give special consideration to the degree to which the program involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate SEA, or any other private organization.

The House recedes.

8. The House bill, but not the Senate amendment, retains the current law provision which indicates that the Secretary may waive the prohibition against the reduction of Chapter 2 assistance received and permit such a reduction if the State demonstrates that the assistance under Chapter 2 is not necessary to the particular LEA.

The House recedes.

9. The House bill, but not the Senate amendment, requires that notwithstanding section 412 of GEPA, not more than 15% of funds available for each FY for the purpose of this title may remain available for obligation and expenditure during the succeeding FY.

The Senate recedes.

10. The House bill, but not the Senate amendment, specifies that the provisions of this subsection shall not apply if grants are not awarded in a timely manner.

The Senate recedes.

11. The House bill, but not the Senate amendment, specifies that the Secretary may not reduce any payment under this title for any FY by any amount on the basis of the availability of funds pursuant to sections 412 (b) and (c) of GEPA. The Senate amendment, but not the House bill, requires that payments for a FY shall remain available for obligation and expenditure by the recipient until the end of the succeeding FY, except that no such agency shall receive more than $4 million in any one FY.

The Senate recedes requiring that the Secretary may not reduce any payment under this title for any fiscal year on the basis of the availability of funds pursuant to GEPA. The House recedes on the provision that payments for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year except that no agency shall receive more than $4 million in any one fiscal year.

12. The Senate amendment, but not the House bill, requires that to the extent practicable, for any fiscal year, the Secretary shall award grants to LEAs under this title no later than July 1 of the applicable fiscal year.

The House recedes with an amendment changing "July 1, 1987" to "June 30, 1988".

13. The Senate amendment, but not the House bill, authorizes a new Part B, Magnet Schools for Educational Improvement at an authorization level beginning in FY 1989 at $35 million and triggered by an appropriation for Part A of $100 million.

The House recedes with an amendment moving these provisions, as amended, to the Secretary's fund for innovation and changing the name of the program to Alternative Curriculum Schools. The Alternative Curriculum Schools program will not receive any funds until the current magnet schools program is funded at $165 million.

TITLE IV—SPECIAL PROGRAMS

and

TITLE V—DRUG EDUCATION

GIFTED AND TALENTED

1. *Gifted and Talented.*—The Senate amendment, but not the House bill, includes "limited English proficiency" as one of the categories of students who are at greatest risk of being unrecognized.

The House recedes.

2. The House bill uses the language "gifted and talented children and youth" throughout the bill.

The Senate amendments uses the language "gifted and talented students".

The House recedes.

3. The House bill, but not the Senate amendment, includes a definition for "Secretary". The Senate amendment uses the definition under Chapter I.

The House recedes.

4. The House bill, but not the Senate amendent, requires that there be consultation with the advisory committee in the establishment of programs.

The House recedes with an amendment striking the reference to the proposed National Advisory Council and inserting instead "after consultation with experts in the field of the education of gifted and talented students".

5. The House bill, but not the Senate amendment, requires that the Director of the National Center shall consult with the advisory committee appointed by the Secretary.

The House recedes with an amendment striking the reference to the proposed National Advisory Council and inserting instead "after consultation with experts in the field of the education of gifted and talented students".

6. The House bill, but not the Senate amendment, requires that both the advisory committee and the Secretary establish the highest program priorities.

The House recedes with an amendment to eliminate the advisory council in this provision.

7. The House bill includes language which states, "including the participation of teachers and other personnel serving such children in preservice and inservice training programs".

The Senate amendment states "including the participation of teachers and other personnel in preservice and inservice training programs for serving such children".

The House recedes.

8. The House bill, but not the Senate amendment, provides for the establishment of a Secretary's gifted and talented advisory committee.

The House recedes.

9. Although the House bill and the Senate amendment contain the same language, they use different formats. The House bill contains the language in one paragraph. The Senate amendment numbers the requirements 1, 2, and 3.

The House recedes.

10. The House bill uses the language "gifted and talented children and youth".

The Senate amendment uses the language "gifted and talented students".

The House recedes.

11. The House bill authorizes appropriations in the amount of $25 million on FY 1988 and such sums as may be necessary through 1993.

The Senate amendment authorizes appropriations in the amount of $15 million for FY 1989, $15.8 million for FY 1990, $16.6 million for FY 1991, $17.4 million for FY 1992, and $18.3 million for FY 1993.

The Senate recedes with an amendment authorizing $20 million in 1989 and such sums through 1993.

12. The Senate amendment, but not the House bill, includes an application requirement as a separate provision.

The Senate recedes.

13. The Senate amendment, but not the House bill, includes a priority for approval of applications: that at least one-half of the approved applications provide service to gifted and talented economically disadvantaged students.

The House recedes.

DRUG EDUCATION

1. *Drug Education.* The House bill, but not the Senate amendment, reauthorizes the Drug Free Schools and Communities Act of 1986 through 1993 at an authorization level of $250 million for FY 1988 and "such sums as necessary" for FY 1989, 1990, 1991, 1992, and 1993.

The Senate recedes with an amendment authorizing $250 million in 1989 and such sums through 1993.

2. The House bill, but not the Senate amendment, contains a provision which indicates that grants and contracts will include a youth suicide prevention program.

The Senate recedes to the provision which includes an amendment to current law requiring that grants and contracts will include a youth suicide prevention program.

3. The House bill, but not the Senate amendment, requires that applications submitted by States will also include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations, in addition to all of the other requirements of this part.

The Senate recedes to the provision which includes a requirement that applications submitted by States will also include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations, in addition to all of the other requirements of this part.

4. The House bill, but not the Senate amendment, contains a provision which changes language in current law from "the relative numbers of children in the school-age population within such areas" to "their relative enrollments in public and private nonprofit schools" in terms of the State educational agency distribution of funds for use among areas served by local or intermediate educational agencies or consortia.

The Senate recedes with a technical amendment changing language in current law from the relative numbers of children in the school-age population to their relative enrollments in public and private nonprofit schools in terms of the State educational agency distribution of funds for use among areas served by local or intermediate educational agencies or consortia.

5. The House bill, but not the Senate amendment, inserts new language in Section 5126: "(D) describe the extent of the current drug and alcohol problem in the schools of the applicant."

The Senate recedes to the provision which requires that the local applications include a "description of the extent of the current drug and alcohol problem in the schools of the applicant".

6. The House bill, but not the Senate amendment, specifies that an applicant shall submit to the State educational agency a progress report on the first two fiscal years of implementation of its plan. The progress report shall include: (A) the applicant's significant accomplishments under the plan during the preceding two years; and (B) the extent to which the original objectives of the plan are being achieved. The House bill also adds language as indicated: (2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary".

The Senate recedes to the provision which requires that an applicant shall submit to the State educational agency a progress report on the first two fiscal years of implementation of its plan. The progress report shall include: (a) the applicant's significant accomplishments under the plan during the preceding two years; and (b) the extent to which the original objectives of the plan are being achieved. The House bill also adds the following language: "If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary."

7. The House bill, but not the Senate amendment adds a new Section 5127 as follows: "STATE REPORTS—Each State shall submit to the Secretary an annual report that contains information on the State or local programs the State conducts under this Act."

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

8. The House bill, but not the Senate amendment, adds language "directly or through grants, cooperative agreements, or contracts" after the word "shall".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts.

9. The House bill, but not the Senate amendment, requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services will also include "a study of the relationship between drug and alcohol abuse and youth suicide," in the report to be submitted to the President and the appropriate committees of the Congress.

The Senate recedes to the provision which requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services will include "a study of the relationship between drug and alcohol abuse and youth suicide," in a report to be submitted to the President and the appropriate committees of the Congress.

10. The House bill, but not the Senate amendment, inserts the word "funded" and deletes the word, "operated".

The Senate recedes to the provision changing the word "operated" to the word "funded" when making reference to Indian children and the Department of the Interior.

11. The House bill, but not the Senate amendment, adds new language which states, "make grants to or enter into cooperative agreements or contracts".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts in the Hawaiian Natives section.

12. The House bill, but not the Senate amendment, adds new language as follows: "through grants, cooperative agreements, or contracts".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts in the Regional Centers section.

13. The House bill, but not the Senate amendment, contains a provision which changes language in current law from "State, State educational agency, or State agency for higher education" to "State, agency, or consortium."

The Senate recedes to the provision which changes language in current law from "State, State educational agency, or State agency for higher education" to "State, agency, or consortium."

WOMEN'S EDUCATIONAL EQUITY ACT (WEEA)

1. *WEEA.* The House bill, but not the Senate amendment, contains a definition for the term "Council".

The House recedes.

2. The Senate amendment, but not the House bill, contains a stipulation regarding the development of materials by indicating "where such materials are commercially unavailable".

The House recedes.

3. The House bill provides that $6 million shall be used to support activities described in paragraph (1)—(demonstration, development, and dissemination activities of national, statewide, or general significance, etc.); and that any funds in excess of this amount may be used to support new activities.

The Senate amendment provides that $3 million shall be used to support activities described in paragraph (1), and that any funds in excess of this amount may be used to support new activities.

The Senate recedes with an amendment authorizing $4.5 million for demonstration, development, and dissemination activities.

4. The Senate amendment, but not the House bill, includes the language, "where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period."

The House recedes.

5. The House bill provides that for challenge grant recipients, the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.

The Senate amendment authorizes the Secretary to make challenge grant awards to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

The House recedes.

6. The House bill retains the "National Advisory Council on Women's Educational Programs" within the Department of Education.

The Senate amendment abolishes the Council.

The House recedes. The conferees want to stress that the abolition of the National Advisory Council should, in no way, be interpreted as an abandonment of or lack of commitment to women's educational equity. Quite the contrary, it is the conferees' hope that the funds used to support the Council would go instead to the support of program activities on behalf of women's educational equity, which is an important and valuable program that deserves the increased funding provided in the conference agreement. The conferees also want to stress the need within the Federal Government for a national council that will deal with the general concerns of the women of this nation. The conferees, therefore, would urge that serious consideration be given to the re-establishment of a council similar to the National Advisory Council for Women formerly administered within the Department of Labor.

7. The House bill, but not the Senate amendment, contains language which addresses the distribution of the evaluation report and the Council's role in the evaluation process.

The House recedes.

8. The House bill indicates that the Office of Educational Research and Improvement shall evaluate and disseminate (at low cost) all materials and programs developed under this part.

The Senate amendment indicates that the Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate materials and programs developed under this part.

The House recedes with an amendment to include a requirement that dissemination of materials be "(at low cost)".

9. The House bill authorizes appropriations in the amount of $10 million for 1985, $12 million for 1986, $14 million for FY 1987, $20 million for FY 1988, and such sums through 1993.

The Senate amendment authorizes appropriations in the amount of $5.3 million for FY 1989, $5.6 million for FY 1990, $5.9 million for FY 1991, $6.2 million for FY 1992, and $6.5 million for FY 1993.

The Senate recedes with an amendment authorizing $9 million for 1989, and such sums through 1993.

10. The Senate amendment, but not the House bill, includes a special rule in respect to approving applications regarding special consideration and geographic distribution.

The House recedes.

ELLENDER FELLOWSHIPS

1. *Ellender Fellowships.*—The House bill, but not the Senate amendment, contains a provision that would allow up to 5% of the funds appropriated to be used for the development of additional programs and learning activities for educators and the elderly at the local and state level.

The House recedes.

2. The Senate amendment, but not the House bill, includes the following groups: gifted and talented students and students of migrant parents.

The House recedes.

3. The House bill, but not the Senate amendment, requires the application from Close-up to fully describe the use of funds

for the new programs for educators and the elderly.

The House recedes.

4. The House bill authorizes $2.5 million for FY 1988 and such sums as may be necessary for the five subsequent years. The Senate amendment authorizes $3 million for FY 1989, $3.5 million for FY 1990, $4 million for FY 1991, $4.5 million for FY 1992, and $5 million for FY 1993.

Both the House and the Senate recede to authorize for Part 1, $3 million for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

5. The Senate amendment, but not the House bill, authorizes a new program for Close-up to assist educationally disadvantaged older Americans and recent immigrants to a greater understanding of the Federal government. There are authorized $3 million for fiscal year 1989, $3.5 million for fiscal year 1990, $4 million for fiscal year 1991, $4.5 million for fiscal year 1992 and $5 million for fiscal year 1993: however no funds may be appropriated for the new program unless funds are appropriated in the amount authorized for the regular Close-up program.

The House recedes with an amendment to authorize a new program for Close Up to assist economically disadvantaged older Americans and recent immigrants. The program is authorized at $2 million for fiscal year 1989, and such sums as may be necessary through 1993. This new program may only be funded if the current Close Up program receives at least enough funding to maintain current services.

IMMIGRANT EDUCATION

1. *Immigrant Education.*—The House bill, but not the Senate amendment, reauthorizes the Emergency Immigrant Education Act at an authorization level of $40 million for FY 1989 and at "such sums as may be necessary" for each of the fiscal years 1990, 1991, 1992, and 1993.

The Senate recedes.

2. The House bill, but not the Senate amendment, requires that the Secretary receive an annual report from each State educational agency receiving funds. The report may include such information as services provided, number of students served, nationality of students served, and any other such information which may lead to more improved reporting as may be required by the Secretary.

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

3. The House bill, but not the Senate amendment, requires that the Secretary submit an annual report to the House Committee on Education and Labor, Senate Committee on Labor and Human Resources including services provided to this population, number of students served, nationality of students served and any other such information which may lead to more improved reporting.

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

4. The House bill, but not the Senate amendment, requires the Comptroller General of the United States to conduct a national assessment of programs under this Part by March 15, 1989, and every third year thereafter to be submitted to the House Committee on Education and Labor and Senate Committee on Labor and Human Resources.

The Senate recedes with amendment stating that the Comptroller General of the United States shall review and assess programs conducted under this part and submit the findings to the appropriate committees of Congress by March 15, 1991. The study is included in Title VI of this Act.

TERRITORIAL ASSISTANCE

1. *Territorial Assistance.*—The House bill authorizes $5 million for FY 1988 for general education assistance to the Virgin Islands and for each of the five succeeding years. The Senate amendment authorizes $5 million for FY 1989, $5.5 million for FY 1990, $6 million for FY 1991, $6.5 million for FY 1992, and $7 million for FY 1993.

The House recedes with an amendment authorizing $5 million for 1989 and such sums through 1993.

2. The House bill authorizes $2 million for fiscal year 1988 for territorial teacher training assistance and for the five succeeding years while the Senate amendment authorizes $2 million for FY 1989, $2.1 million for FY 1990, $2.2 million for FY 1991, $2.4 million for FY 1992 and $2.6 million for FY 1993.

The House recedes with an amendment authorizing $2 million for 1989 and such sums through 1993.

EXCELLENCE IN EDUCATION

1. *Excellence in Education.*—The House bill, but not the Senate amendment, reauthorizes the Excellence in Education Act.

The Senate amendment, but not the House bill, repeals the excellence in Education Act.

The House recedes.

TITLE VII—BILINGUAL EDUCATION

1. The House bill, but not the Senate amendment, contains language in its statement of policy that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition.

The Senate recedes.

2. The Senate amendment, but not the House bill, in its statement of policy contains language as follows: (1) reliance on student evaluation procedures which are inappropriate for limited English proficient students (LEP) has resulted in the disproportionate representation of LEP students in special education, gifted and talented, and other special programs; and (2) many schools fail to meet the full instructional needs of LEP students who also may be handicapped or gifted and talented.

The House recedes. The conferees' substitute sets forth the finding that limited English proficient students are disproportionately represented (both over- and under-represented) in special instructional programs, including special education and programs for gifted and talented students because of reliance on linguistically inappropriate student evaluation procedures which fail to correctly measure the needs and abilities of limited English proficient students.

3. The House bill, but not the Senate amendment, includes a phrase which indicates that bilingual education programs help promote our international competitiveness.

The Senate recedes.

4. The House bill, but not the Senate amendment, provides that there is a serious shortage of teachers and education personnel who are professionally trained and qualified to serve LEP children.

The Senate recedes.

5. The House bill, but not the Senate amendment, includes in its declaration of policy that programs for LEP students shall also be designed to meet school grade-promotion and graduation requirements.

The Senate recedes.

6. The House bill extends this Act for fiscal year 1988 through 1993 at such sum as may be necessary.

The Senate amendment also extends the Act through 1993 beginning in FY 1989, but authorizes appropriations in the amount of $168 million for FY 1989, $176.5 for FY 1990, $185.3 for FY 1991, $194.5 for FY 1992, and $200.5 for FY 1993.

The Senate recedes authorizing $200 million for FY 1989 and such sums through 1993.

7. The House bill, but not the Senate amendment, indicates that no amount in excess of $246 million is authorized to be appropriated for FY 1988.

The Senate amendment, but not the House bill, specifies that no amount in excess of $176 million is authorized to be appropriated for FY 1989.

The Senate recedes authorizing $200 million for FY 1989.

8. The Senate amendment, but not the House bill, requires that the reservation required for the Special Alternative Instructional Program shall not result in changing the terms, conditions, and negotiated levels of any grant awarded in FY 1987.

The House recedes.

9. Both the House bill and the Senate amendment require that at least 60 percent of appropriations be reserved for grants for the following (Part A) programs: (1) transitional bilingual education; (2) programs of developmental bilingual education; (3) special alternative instructional programs; (4) programs of academic excellence; (5) family English literacy programs; and (6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted in this Act.

The Senate amendment also includes a program to develop instructional materials in this 60 percent.

The Senate recedes.

10. The Senate amendment, but not the House bill, specifies that at least 75 percent of the 60 percent appropriated for Part A must be reserved for transitional bilingual education which may include programs of developmental bilingual education, academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented.

The House recedes.

11. The House bill, but not the Senate amendment, specifies that not less than 20 percent of the appropriations be reserved for training and technical assistance.

The Senate amendment, but not the House bill, specifies that at least 25 percent of the appropriations be reserved for training and technical assistance.

The House recedes.

12. The House bill, but not the Senate amendment, requires that training and technical assistance receive as much funding in any fiscal year as was appropriated in FY 1987.

The House recedes.

13. The House bill, but not the Senate amendment, requires that the transitional and developmental bilingual education programs as well as the special alternative instructional programs receive at least as much funding in any fiscal year as was appropriated for each of them in FY 1987.

The House recedes.

14. The House bill, but not the Senate amendment, requires that in any fiscal year, programs of academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented, receive as much in the aggregate as they did in FY 1987.

The House recedes.

15. The House bill, but not the Senate amendment, requires that for any amount above FY 1987 funding, the Secretary must first increase each amount reserved for bilingual education programs to cover the cost of inflation as measured by the consumer price index.

The House recedes.

16. The House bill, but not the Senate amendment, requires that not less than 70 percent and not more than 75 percent of new funds remaining after providing cost-of-living increases must go to alternative instructional programs.

The House recedes.

17. The Senate amendment, but not the House bill, permits the Secretary to reserve up to 25 percent of the 60 percent of reserved funds for instructional programs and may also include developmental bilingual Family English literacy, and bilingual preschool, and gifted and talented programs.

The House recedes.

18. The House bill, but not the Senate amendment, specifies that 25 percent of the new funds remaining after cost-of-living increases must be reserved for transitional bilingual education and developmental bilingual education. Of this amount, $1 million will be reserved for developmental bilingual education programs in FY 1988 (to increase by $150,000 each year), and any remaining amount will be reserved for transitional bilingual education programs.

The House recedes.

19. The Senate amendment, but not the House bill, includes language throughout the section on "definition; regulations" which indicates "as further defined or determined by the Secretary by regulation".

The House recedes.

The Senate recedes. The Department of Education's 1986 regulations narrowed the definition of "limited English proficiency", especially as it applies to American Indian and Alaskan Natives "who come from environments where a language other than English has had a significant impact on their level of English language proficiency". At least one Title VII project serving American Indian students has been terminated because of the overly-restrictive regulations.

The House recedes.

20. The Senate amendment, but not the House bill, includes difficulty to speak, read, write, or understand English as part of the definition of all limited proficiency, whereas the House bill only applies this clarification to American Indians and Alaska Natives.

The House recedes.

The Senate recedes with an amendment (correcting printing error) starting with line 9 "and who" is not indented, through line 15.

The House recedes.

21. The Senate amendment refers to section 1005(c)(2)(A) while the House bill refers to section 1005(c)(2).

The Senate recedes.

22. The House bill, but not the Senate amendment, contains language which indicates that family English literacy programs may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States.

The Senate recedes.

23. The House bill, but not the Senate amendment, includes in its definition of "programs of academic excellence" a specification that such programs be used as models for effective schools "for LEP students" to facilitate the dissemination and use of effective teaching practices for LEP students.

The House recedes with an amendment to combine both Senate and House language.

24. The Senate amendment, but not the House bill, includes in its definition of programs of academic excellence a specification that such programs be designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual education practices.

The House recedes.

25. The House bill refers to Section 306(a)(11) of the Adult Education Act whereas the Senate amendment refers to section 306(b)(11).

The House recedes.

26. The House bill, but not the Senate amendment, expands the current prohibition against the redefinition through regulation of certain terms defined in the Act to cover all the terms defined in the Act.

The Senate recedes.

27. The Senate amendment, but not the House bill, prohibits further definition only of terms defined in paragraphs (4), (5), (6), (7), and (8) of subsection (a).

The Senate recedes.

28. The Senate amendment, but not the House bill, in its special information rule section includes the phrase "to the extent practicable", the information provided to parents shall be in a language and form the parents understand.

The House recedes with an amendment deleting "to the extent practicable" and inserting "Every effort shall be made to provide", striking "provided" and "shall be".

29. The House bill, but not the Senate amendment, includes with its bilingual education programs, language which indicates that programs may use available funds to provide technology-based instruction to students in order to enhance the program.

The Senate recedes.

30. The Senate amendment, but not the House bill, includes among its bilingual education programs, programs to develop instructional materials in languages for which such materials are commercially unavailable.

The Senate recedes.

31. The Senate amendment, but not the House bill, requires that grant applications for programs of transitional bilingual education, developmental bilingual education, special alternative instructional programs or programs of academic excellence include participation by a LEA.

The Senate recedes.

32. The House bill, but not the Senate amendment, permits grant applications for programs of academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented to be submitted separately or jointly by eligible recipients.

The Senate recedes.

33. The House bill, but not the Senate amendment, extends applicant eligibility for programs of academic excellence grants to those entities eligible for family English literacy, bilingual preschool, special education, and gifted and talented programs.

The Senate recedes.

34. The House bill uses the word "considers" and labels the title of the subparagraph as "Content of Application."

The Senate amendment, uses the word "deems" and labels the subparagraph as "Manner of Filing and Contents of Application".

The Senate recedes.

35. The House bill, but not the Senate amendment, in its application requirements includes language which specifies "rates of referral to or placement in special education programs".

The Senate recedes.

36. The House bill, but not the Senate amendment, specifies that applications must contain information on how training of educational personnel and parents would be undertaken.

The Senate recedes.

37. The House bill, but not the Senate amendment, permits applicants who desire to obtain priority in the awarding of grants to include in the application information which shows: (a) the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; (c) the applicant's current or past efforts to establish a bilingual education program.

The Senate recedes with an amendment which requires that priority in the awarding of grants for special alternative instructional programs be given to applications which show: (a) the administrative impracticality of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; or (c) the presence of a small number of students in the schools and the applicant's inability to obtain native language teachers because of isolation or regional location.

38. The Senate amendment, but not the House bill, indicates that an application will receive priority if it is made on behalf of: (a) a local educational agency having schools in which many languages are represented; (b) a local educational agency that does not have personnel qualified to provide bilingual instructional services; and (c) a local educational agency having a small number of students in the schools that because of isolation or regional location is unable to obtain native language teachers.

The House recedes with an amendment which requires that priority in the awarding of grants for special alternative instructional programs be given to applications which show: (a) the administrative impracticality of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; or (c) the presence of a small number of students in the schools and the applicant's inability to obtain native language teachers because of isolation or regional location.

39. The House bill, but not the Senate amendment, contains language which specifies that applications for programs of academic excellence contain information regarding "rates of referral to or placement in special education programs.

The House recedes.

40. The House bill contains language which specifies that during the first 12 months of the grant an applicant may engage exclusively in pre-service activities.

The Senate amendment requires that during the first six months of a grant an applicant shall engage exclusively in pre-service activities.

The Senate recedes.

41. The House bill has as its subtitle, "Grant Limitations". The Senate amendment has as its subtitle, "Duration of Grants".

The Senate recedes.

42. The Senate amendment, but not the House bill, indicates that pre-service activities may include materials development only where such materials are commercially unavailable.

The Senate recedes.

43. The Senate amendment, but not the House bill, also specifies that pre-service activities may be waived by the Secretary upon a determination that an applicant is prepared to operate successfully the proposed instructional programs.

The Senate recedes.

44. The Senate amendment, but not the House bill, includes a phrase that information be provided to parents in a language and form the parents understand "to the extent practicable".

The House recedes with an amendment eliminating the phrase "To the extent practicable" and inserting "every effort shall be made to provide" and striking "provided" and "shall be".

45. The Senate amendment, but not the House bill, specifies that grants may be made for a period of one to three years for bilingual pre-school, special education, gifted and talented, and programs to develop instructional materials.

The Senate recedes.

46. The House bill, but not the Senate amendment, changes the duration of grants for bilingual preschool, special education, and gifted and talented programs from one to three years to a fixed three-year period.

The Senate recedes.

47. The Senate amendment, but not the House bill, provides that students may not participate in a Federal bilingual education program for more than three years if a separate state or local program exists. If no such program exists, an individual student may continue in a Federal program for an additional year if school personnel determine that the individual's failure to master English is impeding his or her academic progress or ability to meet grade promotion or graduation standards, and if handicapped, his or her IEP objective. After a fourth year, a student must be reevaluated in order to remain in a Federal program for a fifth year. In addition, when the student is to be retained for the additional year or years in the program, the evaluation must include plans for concentrating on the goal of enhancing the student's competency in English. No student may continue in a Federal program for more than five years.

The House recedes with an amendment striking "only Federal funds are available for bilingual education, and"; striking "failure to master English" and inserting "lack of English proficiency"; striking "bilingual"; striking "bilingual education"; striking "failure to master English" and inserting "English language development"; striking "a bilingual program" and inserting "the".

48. The Senate amendment, but not the House bill, provides that instruction may be intensified through expanding the educational calendar year, lowering per pupil ratios and applying technology.

The House recedes with an amendment clarifying that this provision applies to both regular and supplementary programs by inserting following "throughout the" the words "regular and any supplementary".

49. The House bill entitles subparagraph "Application Requirements" and denotes subsections (a)(1), (2), and (3)".

The Senate amendment entitles subparagraph "Consultation Required" and denotes subsections "(a)(1), (a)(2), and (a)(3)".

The Senate recedes.

50. The House bill, but not the Senate amendment, includes a provision which ensures applicant support for additional advisory council activities, if support is requested by the advisory council.

The Senate recedes with an amendment to include subparagraph (4) of the Senate amendment.

51. The House bill, but not the Senate amendment, specifies that the personnel training provided will assist personnel in meeting State and local certification requirements.

The Senate recedes.

52. The Senate amendment, but not the House bill, limits the requirements that LEAs prove ability to provide services and activities within the State to transitional, developmental and alternative programs.

The Senate recedes.

53. The Senate amendment, but not the House bill, specifies that applications contain a provision which indicates that student evaluation and assessment procedures in the program are appropriate for LEP students and that LEP students are handicapped and are identified and served in accordance with the requirements of the Education of the Handicapped Act.

The House recedes.

54. The House bill uses the subtitle, "Priority Consideration of Grants".

The Senate amendment uses the subtitle, "General Priority Rule".

The Senate recedes.

55. The House bill uses the subtitle, "Priority for Programs Serving Underserved Children".

The Senate amendment uses the subtitle, "Special Priority Rules".

The Senate recedes.

56. The Senate amendment, but not the House bill, contains a provision which indicates that no action taken may involve the assignment of students to any federally-assisted education program merely on the basis of the surname of such students.

The House recedes with an amendment that an assignment to or exclusion from any federally-assisted education program should not be made on the basis of surname.

57. The House bill uses the subtitle, "Bypass Provision".

The Senate amendment uses the subtitle, "Nonprofit Private School Rule".

The Senate recedes.

58. The Senate amendment, but not the House bill, contains a U.S.C. cite for the Johnson-O'Malley Act: (25 U.S.C. 542 et seq.).

The House recedes.

59. The House bill indicates that the amount paid by the Secretary to any State educational agency for the proper and efficient conduct of the State program for any fiscal year shall not be less than $75,000 nor greater than 5% of the aggregate of the amounts paid in the preceding fiscal year under Section 7021.

The Senate recedes.

60. The Senate bill specifies that the amount paid by the Secretary to any State educational agency shall not be less than $50,000 nor greater than 5% of the aggregate of the amounts paid in the preceding fiscal year under Section 7021.

The Senate recedes.

61. The House bill, but not the Senate amendment, includes a provision which specifies that regulations will be developed by the director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in Section 7034 and individuals and organizations with expertise in testing and evaluation of educational programs for LEP children.

The Senate recedes.

62. The House bill, but not the Senate amendment, includes, "referral to or placement in special education classes" in its program evaluation requirements.

The House recedes.

68. The House bill, but not the Senate amendment, provides that the Secretary shall also consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

The Senate recedes.

69. The House bill, but not the Senate amendment, provides that nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

The Senate recedes.

70. The House bill, but not the Senate amendment, specifies that the Assistant Secretary for Educational Research and Improvement shall also consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken complement and do not duplicate the appropriate activities as specified in GEPA.

The Senate recedes.

71. The Senate amendment, but not the House bill uses the term "available" in the title of Subsection (b).

The House bill, but not the Senate amendment, uses the word "National" in the second line of subsection (b).

The Senate recedes.

72. The House bill, but not the Senate amendment, instructs the Center for Education Statistics to utilize data collected on limited English proficient persons by other Federal education agencies.

The Senate recedes.

77. The House bill, but not the Senate amendment, contains a provision which indicates that pre-service or in-service training programs shall assist education personnel in meeting State and local certification requirements, and whenever possible, should award college or university credit.

The Senate recedes.

78. The House bill, but not the Senate amendment, contains language which indicates that for fiscal year 1988, and each of the five subsequent fiscal years, not less than 500 fellowships shall be awarded. . . .

The Senate amendment, but not the House bill, indicates that for fiscal year ending September 30, 1989, not less than 500 fellowships shall be awarded. . . .

The Senate recedes with an amendment changing "1988" to "1989".

79. The House bill, but not the Senate amendment, clarifies that fellowships lead-

ing to a graduate degree means fellowships leading to a masters or doctorate degree.

The Senate recedes.

80. The House bill, but not the Senate amendment, contains language which indicates that the director shall prepare, and not later than February 1 of each year, submit to Congress and the President a report on the grants and contracts made in the preceding fiscal year and the number of individuals benefiting from the programs assisted under this title.

The Senate recedes.

81. The House bill, but not the Senate amendment indicates that a report by the Secretary shall be submitted to the Congress and the President no later than February 1, 1988, 1990, 1992, and 1994.

The House recedes.

82. The Senate amendment, but not the House bill, indicates that the Secretary shall submit a report to Congress not later than February 1, 1992.

The House recedes.

83. The House bill, but not the Senate amendment, contains language which indicates that a plan including cost estimates should be carried out during the five-year period beginning on such date for extending programs of bilingual education, bilingual vocational and adult education programs to all such pre-school and elementary schoolchildren of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purposes.

The Senate recedes.

84. The House bill, but not the Senate amendment, contains language which specifies that a report should be submitted on an evaluation of the activities carried out during the preceding two fiscal years.

The Senate recedes with an amendment to include this information in the Director's report.

85. The House bill, but not the Senate amendment, includes a provision which indicates that a report on the research activities should be carried out during the preceding two fiscal years and include the major findings of research studies.

The Senate recedes with an amendment to fold this information in the Director's report.

86. The House bill, but not the Senate amendment, includes language which indicates that for the purposes of reading and scoring applications for competitive grants authorized under Parts A and C, the Secretary shall use persons who are not employed by the Federal government and who are experienced and involved in the educational programs similar to those assisted under Parts A and C. Further, the Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for Parts A and C to pay for the applicant's reading and scoring services.

The Senate recedes.

87. The House bill, but not the Senate amendment, provides that the Secretary shall not impose restrictions on the availability of uses of funds authorized other than those set out in this title or other applicable Federal statutes and regulations.

The Senate recedes.

88. The House bill, but not the Senate amendment, repeals Title VII of the Elementary and Secondary Education Act of 1965.

The Senate recedes.

89. The House bill, but not the Senate amendment, specifies that this title shall not apply to grants and contracts entered into under the Bilingual Education Act before the effective date of this title.

The Senate recedes.

90. The Senate amendment, but not the House bill, provides a sense of the Senate that any State which requires a written authorization from parents of students wishing to enroll in billingual programs should provide a specific opportunity on any form prepared for this purpose for the parent to express either approval or disapproval of such enrollment.

The Senate recedes.

91. Dial-A-Porn provision:

The House recedes to the Senate amendment on dial-a-porn with an amendment that amends the Communications Act of 1934 by including a new subsection within section 223, designated 223(c). The new subsection requires that common carriers, to the extent technically feasible, provide access to communications specified in subsection 223(b)(1)(A) of the Communications Act, and for which the carrier collects from the subscriber an identifiable charge that the carrier remits in whole or in part directly to the provider of the communication, only to telephone subscribers who have previously requested access to such communications. The conferees find that these new subsections precisely further a compelling governmental interest to protect minors from the communications identified in subsection 223(b)(1)(A). The conferees believe that the framework by these narrowly drawn provisions meet the requirements of the First Amendment of the Constitution while still being reasonably calculated to lead to the elimination of access by minors to so-called dial-a-porn services.

The overriding responsibility of carriers acting pursuant to subsection 223(c)(1) is that they act in good faith and, in particular, to take technically feasible steps to provide access to 223(b)(1)(A) communications only to telephone subscribers who have previously requested access to such communications. The conferees intend to place responsibility for restricting access pursuant to subsection 223(c)(1) on the common carrier who directly provides communications facilities, and collects from subscribers an identifiable charge that the carrier remits in whole or in part directly, to providers of communications specified in section 223(b)(1)(A).

In those limited local areas where subscription is not technically feasible, carriers are expected to make good faith efforts to restrict access to communications specified in subsection 223(b)(1)(A) through one or more lawful and appropriate means. Such means would include mandatory credit card access or blocking of all calls from such limited local areas to communications specified in section 223(b)(1)(A) that are provided within the carrier's local service area for which the carrier collects from the subscriber an identifiable charge that the carrier remits in whole or in part directly to the provider of such communications.

In those cases where it is not technically feasible to provide interstate subscription for calls to 223(b)(1)(A) communications the carrier providing facilities directly to a provider of communications specified in section 223(b)(1)(A) may block all incoming interstate calls to 223(b)(1)(A) communications. Carriers which do not directly provide facilities to providers of communications specified in section 223(b)(1)(A) will not be considered in violation of subsection 223(c).

With the limited exception of an action for declaratory judgment or similar relief, paragraph (2) of subsection 223(c) protects common carriers from actions brought in state or federal courts or administrative bodies by information service providers arising out of the common carriers' good faith efforts to comply with the requirements of subsection 223(c)(1). This paragraph's protections extend to common carriers and any of their affiliates, including their officers, directors, employees, agents and authorized representatives. Thus, a common carrier which demonstrates that it acted in good faith to allow subscribers control over access to 223(b)(1)(A) communications offered by information providers, would be entitled to a dismissal of causes of action other than seeking a declaratory judgment or similar relief.

Acting in good faith includes, but is not limited to, restricting access pursuant to section 223(c)(1) pursuant to declarations of obscenity or indecency under state law.

The carrier's exemption from liability extends to circumstances in which the carrier relies, in good faith, upon the lack of any representation of an information provider that such provider provides communications specified in subsection 223(b)(1)(A) or if a specific representation did not give a carrier sufficient time within which to restrict access to 223(b)(1)(A) communications. Acting in good faith includes, but is not limited to, a mandate to take into consideration complaints in addition to representations made by information providers.

Subsection 223(c)(3) specifies that notwithstanding paragraph (2) a provider of communications services to which subscriber access is restricted pursuant to subsection 223(c)(1) may bring an action for declaratory judgment or similar action before a court, or the Commission. The provision in subsection 223(c)(3) limits such actions to the question of whether the services which the provider seeks to provide fall within the category of communications to which the carrier will provide access only to subscribers who have previously requested such access. If a carrier refuses to take action consistent with and necessary to effectuate a declaratory judgment issued pursuant to subsection 223(c)(3), that carrier would not be acting in good faith and may be subject to an action by a provider pursuant to subsection 223(c)(2).

The conferees intend that common carriers may lawfully discriminate under section 202(a) of the Communications Act between providers of information services described in section 223(b)(1)(A) and other providers of information services so long as such discrimination is authorized by section 223(c). Such discrimination shall not be deemed a violation of section 202(a) of the Communications Act.

The conferees intend that no preexisting judicial decree or order may serve as the basis for obstructing common carriers from fulfilling the requirements of this section.

The conferees note that this legislation is intended solely to address the uniquely troubling dial-a-porn problem, and is not intended to serve as a precedent of any kind for the broader delivery of information or information services. Furthermore, the conferees note the importance of the information services industry as an essential building-block of a productive, well-educated society that is competitive in the international marketplace.

The conferees intend that nothing in subsection (c) shall alter the responsibilities and liabilities established by section 223(b) of the Communications Act, its legislative history, or the regulations promulgated by the Federal Communications Commission pursuant to it.

The conferees intend that nothing in this section shall be construed to preempt any state or local laws which prohibit the transmission of obscene or indecent communications for commercial purposes.

MINORITY VIEWS

While Senators Hatch, Quayle, and Thurmond have signed the conference agreement on H.R. 5, they wish to make clear that they would have preferred an agreement on dial-a-porn that would have incorporated the Helms amendment contained in the Senate-passed version.

TITLE II—OTHER PROGRAMS

IMPACT AID

1. The Senate amendment, but not the House bill, updates definitions to reflect the reaction of the Department of Education and the name of the Committee on Labor and Human Resources.

The House recedes with an amendment striking "1987" and inserting "1988".

2. The Senate amendment, but not the House bill, requires secretarial decisions on applications within 90 days of filing.

The House recedes.

3. Both the House bill and the Senate amendment reauthorizes the program through 1993. However, the House bill replaces "1988" with "1993" in Section 3(d)(2)(E)(ii), whereas the Senate amendment establishes new entitlement levels for "b" payments at 25% of the local contribution rate (LCR).

The House recedes.

4. The House bill authorizes a ceiling of $735 million for P.L. 81-874 for FY 1988.

The Senate amendment authorizes $821 million for FY 1989, $865 million for FY 1990, $905 million for FY 1991, $950 million for FY 1992, and $995 million for FY 1993.

The House recedes with an amendment authorizing $735 million for FY 1989, $785 million for FY 1990, $835 million for FY 1991, $885 million for 1992, and $935 million for 1993.

5. The Senate amendment, but not the House bill, clarifies that when determining Section 2 payments the Secretary must apply the current levied real property tax rate to the current annually determined aggregate assessed value.

The House recedes.

6. The Senate amendment, but not the House bill, establishes entitlement levels at 100% of the Local Contribution Rate times the number of 3(a) children in that district and 25% of the Local Contribution Rate times the number of 3(b) children in that district.

The House recedes.

7. The Senate amendment, but not the House bill, specifies that to be considered an eligible district under 3(d)(2)(B), a district must be unable to provide a level of education equivalent to the state average or that of three or more comparable districts.

The House recedes.

8. (a) The Senate amendment, but not the House bill, specifies that the amount of the supplement for such districts shall be adequate to provide the district with a level of education equivalent to the greater of either the state average or that of comparable districts in the state.

The House recedes with an amendment clarifying that the choice between comparable school districts or State average must parallel the choice made under the previous paragraph.

(b) The Senate amendment, but not the House bill, further specifies that the Secretary shall ensure that these special districts make a "reasonable tax effort" and that these districts' tax rates are no lower than 80% of the state average. Coterminous military districts will be determined to have met this requirement.

The House recedes with a technical amendment.

(c) The Senate amendment, but not the House bill, further requires that when determining the amounts of money such a district has available, the Secretary shall not take into consideration any cash balances from the previous year allowable under state law, or if no such law exists, ineligibility must only be established where cash balance is greater than 30%.

The House recedes.

9. (a) The Senate amendment, but not the House bill, amends Section 3(d)3(B)(ii)—Districts with unusual Geographic Factors—to require the Secretary to make payments to any LEA which qualifies under the terms of such section. Previously, the Secretary was only authorized to take such action.

The House recedes.

(b) The Senate amendment further clarifies that the supplement for such districts is meant for the portion of federally connected children in that district rather than for all children in the district.

The House recedes.

10. The Senate amendment, but not the House bill, provides that the Local Contribution Rate (LCR) for coterminous agencies shall not be less than 70% of the average per pupil expenditure in all states.

The Senate recedes with an amendment which specifies that the Local Contribution Rate (LCR) for coterminous agencies shall be the lesser of 70% of the average per pupil expenditure in all States or the amount necessary to raise that agency to its state average. This provision does not apply to any coterminous agency within a State whose equalization laws would prevent the district from receiving the additional funding provided by this measure or who would reduce their State aid in proportion to the increase in Federal dollars.

11. The Senate amendment, but not the House bill, allows for payments to be rounded to the nearest whole dollar. It further provides for the Secretary to return to the United States Treasury any funds recovered from LEAs because of overpayments or unallowable expenses that were made at least 5 years earlier. Under current law, the Secretary must continue to redistribute such funds for the appropriate award year no matter how long ago that may have been.

The House recedes.

12. (a) The Senate amendment, but not the House bill, provides for a preliminary payment based on the preceding fiscal year of 75% for "A" children.

The House recedes.

(b) The Senate amendment further specifies that all other preliminary payments for eligible LEAs be a 50% of the amount received for the preceding fiscal year.

The House recedes.

13. The Senate amendment, but not the House bill, states that when making payments, the Secretary must first pay to each LEA serving handicapped children full entitlement for such children as well as 100% of the entitlement for Section 2 districts. Next, Section 3(d)(2)(B) districts are to receive 100% of their 3(a) and 3(b) entitlement. Of the funds remaining, 80% is to be reserved for "A" children and 20% for "B" children. Coterminous districts are then to be paid 100% of their entitlement.

The House recedes with an amendment to require that the preliminary payment for handicapped children applies only to the special supplement and not to the entire entitlement.

14. The Senate amendment, but not the House bill, distributes funds according to the following formulas:

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "A" children in district:			
20–100 percent (Super As)	80	20	0
15–19.9 percent (Sub-Super As)	60	15	25
0–14.9 percent (Regular As)	40	10	50

If there is not enough money available to fully fund any of the above steps, Super As are to receive 72% of available funds for that step, Sub-Super As 3%, and Regular As 25%.

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "B" children in district:			
20–100 percent (Super Bs)	20	30	50
0–19.9 percent (Regular Bs)	10	5	85

If there is not enough money available to fully fund any of the above steps, Super Bs are to receive 75% of available funds for that step, and regular Bs 25% of available funds.

The House recedes with an amendment clarifying that payments are to be pro rata reduced for any step that is not fully funded.

15. The Senate amendment, but not the House bill, prohibits equalization states from considering the special supplement for handicapped or Indian children, or the 3(d)(2)(B) and 3(d)(2)(C) supplements in their equalization formulas.

The House recedes with a technical amendment.

Some concerns have been raised that the conferees' action with respect to limiting the State authority to equalize the additional funds provided on behalf of Indian and handicapped students might be misinterpreted. The conferees wish to make clear that the amendment does not, in any way, make these funds categorical nor does it limit the local education agency's authority to put these funds in a general fund and expend them for basic support. This amendment relates to treatment of these funds within the context of a State aid system and does not affect the basic nature of impact aid.

16. The Senate amendment, but not the House bill, holds harmless all districts receiving 3(a) and Super B payments at thier 1987 per pupil expenditure classifications. If sums are insufficient to pay this amount in full, then this amount shall be ratably reduced.

The House recedes with an amendment clarifying that the total hold harmless payment for a district shall not exceed those received in 1987.

17. The Senate amendment, but not the House bill, permits the DOD to use its Sec. 6 funds to provide additional payments to schools receiving Section 3 funds.

The House recedes.

18. The Senate amendment, but not the House bill, puts into law, current practice by

updating the thresholds of eligibility for disaster assistance. Current law allows Disaster Assistance funds to be provided in cases in which damage is at least $1,000 or one-half of 1% of an agency's current operating expenses. This section would update those figures to $10,000 or 5 per centum. The amendment also provides that funds available under this section will be available for Section 16 (School Construction in Cases of Certain Disasters) of P.L. 81-815.

The House recedes.

19. The Senate amendment, but not the House bill, permits districts to receive payments for fiscal years prior to FY 1989, for any student residing in Section 8 Housing provided the District previously received payments for that student.

The Senate amendment further specifies that payments made prior to FY 1989 for Section 8 housing students shall stand.

The House recedes.

20. The Senate amendment, but not the House bill, provides for a 90-day comment period prior to the publication of new regulations and specifies that these regulations may only take effect in the fiscal year following final publication. The Senate amendment also prohibits regulations from having a retroactive effect which results in the recovery of money.

The House recedes with an amendment.

The conferees intend that the provision of this title will take effect on the effective date of this Act even if the Secretary's regulations are delayed.

21. The Senate amendment, but not the House bill, includes a technical amendment to update reference to the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987.

House recedes with a technical amendment clarifying the section reference.

22. The Senate amendment, but not the House bill, prohibits districts from having to repay monies received under Section 2(a)(1)(C) because of an incorrect determination.

The Senate recedes with the following provision from the House of Representatives:

It is the expressed intent of the conferees that the language of P.L. 100-202 contained in Title III—Department of Education appropriations regarding limitations on recoupment of incorrect payments under section 2(a)(1)(C) of the Impact Aid law be interpreted to include any Impact Aid overpayments to the Valle Lindo School District of South El Monte, California which were due to computational errors made by the Department in determining the amount of that district's Section 2 entitlements.

23. The House bill, but not the Senate amendment, corrects a provision in current law where non-Indian parents who reside on nontaxable land are being forced to pay tuition to send their children to schools where they are employed or schools that exist within the community.

The House bill provides for the payment of tuition for non-Indian students who attend these schools and live on nontaxable land.

The Senate recedes.

24. The House bill, but not the Senate amendment, authorizes a ceiling of $24 million for FY 1988 for P.L. 81-815.

The Senate amendment authorizes $25 million for FY 1989, $26 million for FY 1990, $27 million for FY 1991, $28 million for FY 1992, and $29 million for FY 1993.

The House recedes.

25. The Senate amendment, but not the House bill, updates definitions to reflect the creation of the Department of Education.

The House recedes.

26. The Senate amendment, but not the House bill, permits the Secretary to use funds to maintain and repair facilities whenever the Secretary holds title to school facilities that continue to be used by the Federal Government, or by another Federal entity by permit from the Federal Government, for the provision of free public education.

The Senate recedes.

27. The House bill, but not the Senate amendment, requires that secretarial decisions be made regarding applications within 90 days of filing such application.

The House recedes.

28. The Senate amendment, but not the House bill, puts into law two provisions which are current practice. First, it restricts use of disaster funds under this Act to those areas declared by the President to be national disaster areas. Second, it limits these funds to cases in which damage is at least $10,000 or 5 per centum of an agency's current operating expenses.

The House recedes.

29. The Senate amendment, but not the House bill, authorizes the Comptroller General to study the effectiveness of the system used to award funds under P.L. 81-815.

The House recedes.

30. The House bill, but not the Senate amendment, extends the section on "Definitions" in regard to the "base year" by striking 1978-1979 and inserting 1988-1989.

The Senate recedes.

TITLE II—ADULT AND VOCATIONAL EDUCATION

1. *Adult/Vocational Education.* The House bill, but not the Senate amendment, rewrites the purpose of the Adult Education Act to clarify that adults to be served are those who lack sufficient literacy skills requisite to effective citizenship and productive employment. In addition, the House bill, but not the Senate amendment, adds a definition of an "educationally disadvantaged adult".

The Senate recedes.

2. a. The House bill, but not the Senate amendment, expands the definition of an adult who is eligible to receive services.

The Senate recedes.

b. The House bill amends the definition of adult education to include individuals who lack mastery of basic skills or who have not graduated from secondary school.

The Senate recedes.

c. The Senate amendment amends the definition of adult education to include individuals who are not enrolled in secondary school.

The House recedes.

3. The House bill, but not the Senate amendment, changes the definition of an "institution of higher education" to be defined the same as the definition for "institution of higher education" in section 1201(a) of the Higher Education Act of 1965.

The House recedes.

4. The House bill reauthorizes the Adult Education Act at $200 million for FY 1988 and such sums as may be necessary for each fiscal year 1989 through 1993, whereas the Senate amendment provides for a reauthorization of $200 million for FY 1989, $210 million for FY 1990, $225 million for FY 1991, $235 million for FY 1992, and $245 million for FY 1993.

The Senate recedes with an amendment authorizing $200 million for FY 1989 and such sums through 1993.

5. The House bill, but not the Senate amendment, amends the formula for distribution by limiting allotments to the Outlying Areas to $100,000 each, and distributing the remainder of the funds among the States, including the District of Columbia and Puerto Rico which receives $250,000.

The Senate recedes.

6. The House bill, but not the Senate amendment, amends the current formula to distribute funds among the States according to the number of adults who are not currently enrolled or are not required to be enrolled in school.

The House recedes.

7. The House bill, but not the Senate amendment, amends the current formula to hold States harmless to the amounts the State received for fiscal year 1987.

The House recedes.

8. The House bill lowers the trigger for national programs from $112 million to $108 million, and reduces the setaside from 5 percent to 3 percent. The Senate amendment authorizes $2 million in each fiscal year for national programs.

The Senate recedes with an amendment requiring that the reservation for national programs cannot exceed $3 million in any one fiscal year.

9. The House bill, but not the Senate amendment, amends current law to require that for-profit entities are eligible to participate only as a member of a consortium, provided that they could make a significant contribution to adult education activities. In addition, the House bill, but not the Senate amendment, adds additional information requirements for the local applications, and gives priority among local applications to programs that serve educationally disadvantaged adults.

The Senate recedes with an amendment that the preference in funding for those local applications for programs that serve educationally disadvantaged adults only applies to funding in excess of the fiscal 1988 appropriations.

10. The Senate amendment, but not the House bill, amends the current setaside for the institutionalized by requiring that not less than 10 percent of each State grant must be used for corrections education and education for institutionalized individuals. In addition, the Senate amendment, but not the House bill, defines the programs, eligible population and services that may be provided as part of corrections education.

The House recedes.

11. The Senate bill authorizes an additional program for workplace literacy partnership grants with a $50 million trigger, at an authorization level of $30 million for FY 1988, $31.5 million for FY 1989, and such sums as may be necessary for fiscal years 1990 through 1993.

The House recedes.

12. The House bill permits States to use up to 10% of their State grant for literacy programs for current employees.

The House recedes with an amendment to make mandatory that once appropriations for workplace literacy reach $50 million, the Federal share of the cost of workplace literacy programs which teach literacy skills needed in the workplace would be provided to States.

13. The House bill, but not the Senate amendment, places a cap of 5% on local administrative costs.

The Senate recedes.

14. The House bill, but not the Senate amendment, reorganizes the responsibilities

of the State in administering the Adult Education program.

The Senate recedes.

15. The House bill, but not the Senate amendment, adds language to require the State to identify any State rule or policy regarding administration of an Adult Education program as a State-imposed requirement.

The Senate recedes.

16. The House bill places a $50,000 or 5% cap on State administrative costs effective at the date of enactment.

The Senate amendment places a cap of the same amount/percent after September 30, 1990.

The Senate recedes.

17. The House bill, but not the Senate amendment, requires the State to have a State Advisory Council with membership representative of specific types of persons and outlines certification procedures, terms of appointment and duties.

The Senate recedes with an amendment making the creation of the State advisory council permissive and fiscally supported out of State administrative funds.

18. The House bill, but not the Senate amendment, amends current law to require the State to submit an application and a State plan every four years, expands the information which shall be included in the State plan and mandates the process by which the State plan shall be developed.

The Senate recedes with an amendment changing "1988" to "1989".

19. The Senate amendment, but not the House bill, clarifies State plan requirements regarding adult education programs for persons with limited English proficiency, and specifically permits such programs to be conducted in the native language if necessary.

The House recedes.

20. The House bill, but not the Senate amendment, provides procedures for amending State plans.

The Senate recedes.

21. The Senate amendment, but not the House bill, provides procedures for amending State plans approved between July 1, 1985, and June 30, 1988.

The House recedes.

22. The House bill, but not the Senate amendment, requires each State to evaluate the program of its local grant recipients, and outlines procedures for evaluations.

The Senate recedes with an amendment:

(a) to require an annual submission of data from local applicants;

(b) to require the evaluation of one-third of the applicants within the four years of the State plan;

(c) these evaluations should consider certain factors listed in the House provisions.

23. The House bill, but not the Senate amendment, amends current law to specify application information for experimental projects and teacher training.

The Senate recedes.

24. The House bill amends current law to permit 90% in FY 1988, 87% in FY 1989, 83% in FY 1990, and 80% in FY 1991 through FY 1993 for the Federal share of expenditures to carry out a State plan.

The Senate amendment reduces the Federal share to 75% for each fiscal year beginning in 1989.

The House recedes with an amendment on Federal matching: 90% in 1989, 85% in 1990, 80% in 1991, and 75% in 1992.

25. The House bill amends current law to add an additional requirement that Federal funds must supplement non-Federal funds, and cannot be used to supplant State and local funds, whereas the Senate bill amends the maintenance of effort provisions to require that states maintain not less than 90% of current fiscal effort per student.

The Senate recedes with an amendment measuring maintenance of effort in the second preceding fiscal year. The Senate also recedes in terms of requiring a 100 percent maintenance of effort.

26. The House bill, but not the Senate amendment, requires the Secretary to make grants out of funds for national programs to support activities which meet the special needs of migrant farmworkers and immigrants.

The Senate recedes with an amendment to include migrant programs as the first priority in funding.

27. The House bill, but not the Senate amendment, requires the Secretary, out of funds available for national programs, to assist states in evaluating adult education programs.

The Senate recedes with an amendment making a technical change and making evaluation and research a third priority in funding.

28. The House bill, but not the Senate amendment, requires the Secretary, out of funds available for national programs, to determine the criteria for defining illiteracy within 2 years, to report on the status of adult illiteracy every 4 years, and submit a report every 3 years on results of program evaluations.

The Senate recedes.

29. The House bill, but not the Senate amendment, requires the Secretary to make grants for adult literacy volunteer training programs.

The Senate recedes with an amendment making a technical change and making programs for adult volunteers a second priority in funding.

30. The House bill, but not the Senate amendment, requires the Secretary to conduct a study of Federal funding sources for and services for adult education programs, including literacy services, in conjunction with the Departments of Labor and HHS.

The House recedes with an amendment to include the joint study of Federal adult education services in the studies section (Title VI, Part C).

31. The House bill, but not the Senate amendment, requires the Secretary to establish a national clearinghouse of literacy services for adults, and to carry out research programs on the special needs of individuals in need of adult education, including those with learning disabilities.

The Senate recedes with an amendment requiring the national clearinghouse to be funded by the Office of Educational Research and Improvement (OERI).

32. The House bill, but not the Senate amendments, amends the authorization for adult education for Indians to $8 million for FY 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993.

The House recedes.

33. The House bill extends the National Advisory Council on Adult Education; the Senate amendment abolishes the Council.

The House recedes.

34. The Senate amendment, but not the House bill, deletes language in the state plan with respect to bilingual education to conform with the reauthorization of bilingual education under Title VII of this Act.

The House recedes.

35. The Senate amendment, but not the House bill, authorizes an additional program to provide English Literacy Program Grants to provide literacy instruction for limited English proficient adults. The authorization is $25 million for fiscal year 1988, $26.3 million for FY 1989, $27.6 million for FY 1990, $29 million for FY 1991, $30.5 million for FY 1992, and $32 million for FY 1993.

The House recedes with an amendment permitting 5% of the grant to be used for State administration, technical assistance, and training.

36. a. The Senate amendment, but not the House bill, amends the distribution formula in the Stewart B. McKinney Homeless Assistance Act to require states to estimate the number and the percent of homeless adults.

b. The Senate amendment further permits the Secretary to make discretionary grants to states for literacy instruction for the homeless.

36. (a) The House recedes.

(b) The House recedes.

37. The Senate amendment, but not the House bill, amends the Carl D. Perkins Vocational Education Act to clarify that single pregnant women including teenagers are eligible for services under the displaced homemaker setaside.

The House recedes with an amendment clarifying that single pregnant women are eligible for participation in vocational education programs.

38. The Senate amendment, but not the House bill, directs the Secretary to cease action regarding the grant procurement process for the National Center for Research in Vocational Education until the GAO has completed a review of this procedure.

The House recedes with an amendment authorizing $2 million for the Ohio State University and $2 million for the University of California at Berkeley to support ongoing activities through December 31, 1988, and providing that such amount shall be deducted from the total award made for a National Center for the 1988 grant award year. This provision is to take effect immediately upon enactment.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

1. The Senate amendment, but not the House bill, amends and expands the scope of the National Assessment for Educational Progress to: report every two years on reading and mathematics, every four years on writing and science, and every six years on history, geography, and civics. In addition, the Senate amendment expands NAEP to provide reports on a national, regional and state basis, and enables the States to participate in the NAEP assessment on a voluntary basis. The authorization is $12.5 million for FY 1989, $18.54 for FY 1990, $17.9 for FY 1991, and $19.6 for each of fiscal years 1992 and 1993.

The House recedes with an amendment limiting the expansion of the National Assessment of Educational Progress (NAEP), both in terms of subject areas and State representative sampling; placing the NAEP in the National Center for Educational Statistics, reporting to the Commissioner of Educational Statistics; requiring a comprehensive study by an independent group of the 1990 and 1992 State representative demonstration assessments; and strengthening the independence of the National Assessment Governing Board.

The Commissioner is authorized to carry out the National Assessment by grants, contracts, or cooperative agreements with qualified organizations or consortia thereof. By this language, the conferees intend that the Commissioner, with the advice of the National Assessment Governing Board, may have either a single grant, contract, or cooperative agreement or any combination of grants, contracts or cooperative agreements.

The expanded National Assessment shall assess the performance of students in reading, mathematics, science, writing, history/geography and other areas selected by the Board. The conferees strongly urge that other areas considered by the Board will include civics and economics.

The expansion of the National Assessment to collect state representative data, on a voluntary basis, is an outgrowth of current NAEP practice which lets states obtain such data if they pay the costs of collecting it. The provisions in the Hawkins-Stafford Education Amendments will build on this practice to determine whether an expanded collection of state representative NAEP data is feasible and desirable. The collection of such information will allow participating states to compare themselves to each other and to national NAEP averages. In addition, the data will let state officials monitor their state's progress on NAEP assessments over time.

The conferees wish to emphasize that the purpose of the expansion of NAEP is to provide policy makers with more and better state level information about the educational performance of their school children so that participating states might better measure the educational performance of their children. The goal is not to provide a scorecard by which to rank state educational systems. Data from this assessment is not to be used to compare, rank or evaluate local schools or school districts.

The independent evaluation of the state representative data demonstrations is an important part of the changes authorized here.

The conferees intend the independent evaluation of State representative demonstration assessments will, at a minimum, assess the extent to which differences among States in scores are meaningful and reliable.

The evaluation should also explore the extent to which results are affected by decisions about the test itself. For example, how are rankings of States altered if the weight given to various skills is changed and what skills should be given priority? Are the rankings of some States affected by the number of high-achieving students whose scores are constrained by ceiling effects?

If possible, the evaluation should also assess the extent to which results are shaped by differences in the closeness of the match between the content of the test and the curricula of the States.

The conferees intend the independent evaluation of State representative State demonstration assessments will, at a minimum, assess the extent to which differences among States in scores are meaningful and reliable, how well the State participating in the State representative sample do, in fact, constitute a representative sample of the States adequate to assess opportunities and risks in a nation-wide NAEP with state-by-state comparisons. To do so, the evaluation must assess the extent to which results are affected by a variety of extraneous factors. This shall include consideration of the representativeness of participating States in terms of regional representation, ethnic and racial composition, per capita income, curricula, and other variables that influence aggregate indicators of educational achievement, such as which students are excluded from testing (for example, handicapped students or students with limited proficiency in English).

If results are adjusted to take contextual factors into account, the effects of alternative adjustments should be tested. If unadjusted results are presented for groups of States classified in terms of contextual factors, alternative classifications should be assessed.

If possible, the evaluation should also assess the extent to which results are shaped by differences in the closeness of the match between the content of the test and the curricula of the States.

The report shall also assess National Assessment presentations including their effectiveness in providing educators, policy makers, and the general public with useable information and in providing readily understandable information to interpret the strengths and weaknesses of National Assessment findings. The evaluator shall analyze whether National Assessment presentations adequately present data in the context of factors which affect educational achievement including per capita income, per pupil expenditures, ethnic and racial composition and level of urbanization.

The NAEP contractor shall provide the evaluator, in a timely fashion, with the data needed for carrying out the evaluation. For example, data on the characteristics of nonparticipation will also be provided to the evaluator. The contractor shall also provide the evaluator with information on secure test items needed for analysis. The evaluator, however, will not release secure items to the public, in print or on tape.

(a) The Senate amendment, but not the House bill, changes the name, the membership, and the responsibilities of the current Assessment Policy Committee.

The House recedes with an amendment changing the membership of the National Assessment Governing Board to be more representative of professional educators and testing experts.

Each State choosing to participate in assessments made on a State basis shall cover the cost of coordinating such assessments within the State, in addition to the cost of administering assessments at the school level. Such coordination will include technical assistance to local schools selected for the State sample, securing cooperation of schools, and scheduling tests at times convenient for sample schools, as well as monitoring the sample selection following the design and standards established for State tests.

FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

2. The Senate amendment, but not the House bill, authorizes a new Fund for the Improvement and Reform of Schools and Teaching. This authorization gives the Secretary authority to make grants to SEAs, LEAs, IHEs, and nonprofit organizations to improve the performance of students and teachers. Grants may not be less than $5,000 nor more than $125,000. The Senate amendment further mandates the establishment of a Board to set priorities for awarding grants and to review and evaluate these grants. The authorization is $18 million for FY 1989, $18.9 million for FY 1990, $19.9 million for FY 1991, $21 million for FY 1992, and $22 million for FY 1993.

The House recedes with an amendment to include Pride in Schools as an activity authorized under this part and to add Family-School Partnerships under this part with one-third of the total authorization for this part reserved for this function.

OPTIONAL TESTS FOR ACADEMIC EXCELLENCE

3. The Senate amendment, but not the House bill, reserves $2 million out of funds made available for the National Assessment of Educational Progress in each fiscal year for the Optional Test for Academic Excellence. The Senate amendment authorizes the Secretary to approve or prepare comprehensive tests of academic excellence to identify outstanding students in the 11th grade. Such tests shall be voluntary.

The House recedes with an amendment authorizing this activity under the Secretary's fund for innovation and removing the reservation of $2 million from the National Assessment of Educational Programs for such purpose.

COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

1. The Senate amendment, but not the House bill, amends the Head Start Act to add an additional authorization for Comprehensive Child Development Centers. The Secretary of the Department of Health and Human Services is authorized to make grants to eligible agencies to support projects which encourage comprehensive services for infants and young children from low-income families. The authorization is $25 million for each of the fiscal years 1989 through 1993.

The House recedes with an amendment which makes technical changes, strengthens the evaluation provision, and requires for two years a 4% increase in appropriations for Head Start over the previous year's appropriation before this new program can be funded.

The underlying premise of this section is to demonstrate that educational failure of extremely poor children can be prevented by providing intensive supportive services to the children and their families on an early, continuous and comprehensive basis.

Therefore, it is the intent of the conferees that projects funded in the first year be given priority for funding in subsequent years with an expected project life being five years.

SPECIAL GRANT FOR EDUCATION AND TRAINING FOR INDIVIDUALS WITH DISABILITIES

1. The Senate amendment, but not the House bill, authorizes a $4 million grant for fiscal year 1988 to the State of Utah for the education and training of the disabled.

The House recedes with an amendment broadening and clarifying the purpose of the grant and removing a specific reference to the State of Utah.

TITLE III—AUDIT, NATIONAL CENTER, AND OTHER PROGRAMS

ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT

1. The House bill, but not the Senate amendment contains changes to the enforcement section of the General Education Provisions Act.

The Senate recedes.

2. The House bill creates an Office of Administrative Law Judges (ALJs) and would formalize along the lines of the Administrative Procedures Act the procedures to be used in the conduct of hearings. Judges shall be chosen pursuant to the Administrative Procedure Act with special emphasis placed on the candidates' experience in State and local educational agencies and federal education laws.

The Senate recedes with a clarifying amendment.

3. The House bill provides that the Equal Access to Justice Act shall apply to the fees and costs of the parties.

The Senate recedes.

The conferees intend that the provision of the Equal Access to Justice Act regarding the awarding of attorney fees apply to all Department proceedings, not just those before the Office of Administrative Law Judges.

4. The House bill allows the judge to order a party to produce information leading to admissible evidence through the use of deposition, interrogatories, and documents.

The Senate recedes with an amendment stipulating that the period for discovery should be 90 days, unless the judge extends the period.

5. The House bill grants judges the power to issue subpoenas.

The Senate recedes.

6. The House bill requires the Secretary to establish a process for voluntary mediation of disputes.

The Senate recedes with an amendment giving the Secretary in a mediated dispute the right to use the same criteria used by an administrative law judge to determine measure of recovery, e.g., proportionate harm to an identifiable Federal interest; consideration of mitigating circumstances; and the possibility of total "forgiveness" based on such factors.

Furthermore, the amendment adds a provision referencing Rule 408 of the Federal Rules of Evidence to be used during the proceedings. The provision bars as inadmissible offers, conduct, and statements made in compromise negotiations in the settlement or potential settlement of disputes. Finally, the amendment requires that, when mediation takes place before the Office of Administrative Law Judges, it be limited to 120 days, with extensions being granted at the mediator's discretion.

7. The House bill requires that the Department's preliminary departmental decision (PDD) establishes a prima facie case. Failure by the recipient to maintain adequate records constitutes a prima facie case. The recipient has 30 days from receipt of written notice of the PDD to file a review with the Office of Administrative Law Judges. State recipients in State-administered programs would be required to transmit a copy of the PDD to any affected subrecipient within 10 days and to consult with these subrecipients regarding the application for ALJ review. The burden of proof in proceedings before the ALJs would continue to be on the recipient. The Secretary would review the facts found by the judges on the basis of the substantial evidence test. The Department would be barred from taking a collection action pending the completion of judicial review.

The Senate recedes with an amendment placing a 90-day limit on the period between the preliminary departmental decision and a hearing (when requested), with the possibility of an extension by the ALJ for "good cause" and requiring appeals from the Office of Administrative Law Judges be filed with the Secretary within 30 days of notice of the judge's decision.

The conferees intend that the judge shall readily grant an extension for good cause including granting extensions to facilitate mediation and as justice would warrant.

Finally, the amendment requires the Office of Administrative Law Judges to determine as "expeditiously as possible" whether to accept a case for review as meeting a prima facie case; requires that discovery be limited to 90 days, but that the judge may extend the discovery period at the judge's discretion; and requires that a petition for review of the decision of the Office of Administrative Law Judges be filed with the Secretary within 30 days of notice of the decision by the Judge.

8. The House bill requires that a decision of the ALJs becomes final agency action, and ripe for judicial review under section 458 of the Act, sixty days after the recipient receives written notice of the ALJ's decision, unless the Secretary either modifies or sets aside the decision (in which case the decision becomes the final agency action when the recipient receives written notice of the Secretary's action), or remands it to the ALJs for further consideration. The Secretary would be required to publish final agency decisions in the Federal Register or another appropriate publication.

The Senate recedes.

9. The House bill raises from $50,000 to $200,000 the limit on the Secretary's authority to compromise a claim.

The Senate recedes with an amendment that no interest arising from a claim shall be charged during the administrative review of the preliminary departmental decision.

10. The House bill requires that the Department recover funds in an amount that is proportionate to the extent of the harm a violation caused to an identifiable Federal interest. This section would identify a number of such Federal interests. In addition, this section would identify certain mitigating circumstances which, if present, would bar the recovery of funds. These mitigating circumstances exist (1) if the violation occurred as a result of reasonable reliance on incorrect Department guidance, (2) if the violation occurred as a result of the Department's failure to reply within 90 days to a written SEA or LEA guidance request certified as lawful by the chief legal officer of the SEA, or (3) if the recipient actually and reasonably relied on a judicial decree issued to the recipient. In addition, the Secretary would be required to disseminate responses to SEA guidance requests and periodically review written requests for guidance to determine the need for new or supplementary regulations.

The Senate recedes with an amendment making mitigating circumstances a factor to be considered by the ALJ in determining the measure of recovery rather than a complete bar to recovery, but allowing the ALJ to determine that no Federal recovery is justified because of the presence of mitigating circumstances; with an amendment requiring that in order for the 90 day response time to apply, the requesting entity must send the written request by certified letter, return confirmation of receipt requested; with a clarifying amendment stating that proportionality of harm and mitigating circumstances shall be the standard for determining the amount of recovery by all levels of review within the Department, not just the Office of Administrative Law Judges and the Office of the Secretary; and with a technical amendment.

"Written guidance" is intended to mean written guidance issued at the Office of Director level of above, addressing, a specific request from a local or State educational agency regarding a policy, interpretation, or question pursuant to a Federal law, implementing regulations, or non-binding guidance issued by the Secretary. It is not intended to encompass telephone conversations, informal discussions at conferences, informational handouts provided at meetings with Department of Education staff, or written communication below the Office of Director level, unless such communication meets the requirements of section 453 (b)(2)(B).

11. The House bill provides that whenever the Secretary has reason to believe that a recipient of a great or cooperative agreement is failing to comply substantially with any applicable requirement of law, the Secretary has the option to withhold further payments under that program, seek a cease and desist order, enter into a compliance agreement, or take any other action authorized by law.

The Senate recedes.

12. The House bill authorizes the Secretary to withhold funds from a recipient that is failing to comply substantially with an applicable requirement of law, and also establishes the procedures, including an opportunity for a hearing before the Office of Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section is substantially similar to current law.

The Senate recedes.

13. The House bill authorizes the Secretary to issue a complaint against a recipient that is failing to comply substantially with an applicable requirement of law, and also establishes the procedures, including an opportunity for a hearing before the Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section 455 is substantially similar to the current section 453 of the Act.

The Senate recedes.

14. The House bill allows the Secretary to suspend a withholding action pursuant to a compliance agreement entered into by the State or local educational agency with the Federal government. The compliance agreement is in effect for a specified period unless the State or local fails to comply with the agreement.

The Senate recedes.

15. The House bill provides for judicial review in the appropriate United States Court of Appeals of final agency action regarding recoveries under section 452, withholding under proposed section 455, and cease and desist orders under section 456. The proposed section 458 is substantially similar to the current section 455 of the Act.

The Senate recedes.

16. The House bill authorizes the Secretary, whenever the Department recovers funds from a recipient because of a misuse of funds, to return up to 75 percent of the recovered funds to the recipient. The proposed section 459 is substantially similar to the current section 456 of the Act.

The Senate recedes.

17. The House bill defines the terms "recipient" and applicable program."

The Senate recedes with a technical amendment.

18. The House bill makes these amendments effective 180 days after enactment.

The Senate recedes.

SINGLE STATE APPLICATION

19. *Single State Application; Family Impact.*

The House bill, but not the Senate amendment, adds to secton 435 of the General Educaton Provisions Act a requirement that the SEA consider the impact on the family of programs contained in the single State application.

The House recedes.

NATIONAL CENTER FOR EDUCATION STATISTICS

20. The House bill, but not the Senate amendment, amends Section 406 of the General Education Provisions Act in several significant respects making technical changes and reauthorizing the National Center for Educational Statistics.

The Senate recedes.

21. The House bill requires that the National Center for Education Statistics be headed by a Commissoner appointed by the President, by and with the advice and consent of the Senate.

The Senate recedes with an amendment stating that the director of the Center for Education Statistics on the effective date of this Act may be the Acting Commissioner until June 21, 1991.

The conferees intend that the director for the Center shall be the Acting Commissioner until June 21, 1991, unless removed for cause.

The Senate also recedes with an amendment establishing an Associate Commissioner for Data Collection and Dissemination. The conferees intend that the Associate Commissioners will be members of the Senior Executive Service (SES) and will be selected for their expertise in the relevant areas.

The conferees are especially concerned that the Associate Commissioner for Data Collection and Dissemination be an individual knowledgeable about all levels of American education and be able to link educators at the state, local and institutional level, the professional associations and groups representing these individuals, and the National Center for Education Statistics (NCES). The conferees also intend that this associate commissioner will take steps to increase and improve U.S. participation in international educational research and statistical activities.

The conferees have highlighted a $9,500,000 separate authorizaton for the National Assessment for Educational Progress (NAEP) for fiscal year 1989 and a $2,000,000 authorizaton for the state co-operative program for fiscal year 1989. The conferees intend that for the subsequent years, any increases in the NAEP funding NAEP will not be at the expense of other programs and services within the Center's purview.

22. The House bill appoints the Commissioner of Education Statistics rather than the Assistant Secretary of Education as non-voting president of the Advisory Council on Education Statistics.

The Senate recedes.

23. The House bill empowers the Commissioner of Education Statistics to enter into contracts or other financial arrangements to carry out activities under Section 406.

The Senate recedes.

24. The House bill requires that the Center conduct an annual national survey of dropout and retention rates as an education indicator and report such information annually to Congress.

The Senate recedes.

25. The House bill requires a national study of financial aid pursuant to the Higher Education Act; a decennial analysis of the social and economic status of children in local districts; and a national longitudinal study of elementary and secondary student's educational progress, intellectual development and economic prosperity.

The Senate recedes with an amendment ensuring postsecondary participation in the study; keying the study into the longitudinal study already underway; and adding a provision for the voluntary collection of public library data.

26. The House bill requires that data gathered for such studies shall be confidential and shall not be individually identifiable as used in reports required by this section.

The Senate recedes.

27. The House bill establishes a National Education Statistics System for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform educational information and data useful for policy-making at Federal, State, and local levels.

The Senate recedes.

28. *School Improvement Act of 1987 Data.* The House bill, but not the Senate amendment, provides that the study shall include data on the performance of Chapter 1-served students.

The Senate recedes.

FAMILY SCHOOL PARTNERSHIP

1. The Senate amendment, but not the House bill, authorizes a new Secretary's discretionary grant program, entitled the Family-School Partnership Act, to provide grants to LEAs for innovative family-school partnership activities. The authorization is $10 million for FY 1989, $10.5 million for FY 1990, $11 million for FY 1991, $12.5 million for FY 1992, and $14 million for FY 1993.

The House recedes with an amendment to incorporate this program into the Fund for the Improvement and Reform of Schools and Teaching which is authorized at $30 million for fiscal year 1989 and at such sums through 1993. The Family School Partnership Program is to receive one-third of the $30 million authorization level for fiscal year 1989 and one-third of such sums through 1993.

PARENTAL CHOICE

1. The Senate amendment, but not the House bill, authorizes a new Secretary's discretionary grant program, entitled the Parental Choice Open Enrollment Demonstration Program in Public Schools, to provide demonstration grants to LEAs to develop and implement an open enrollment program among public schools in the district. The authorization is $15 million for FY 1989, $16 million for FY 1990, $17 million for FY 1991, $18 million for FY 1992, and $19 million for FY 1993.

The Senate recedes.

RURAL EDUCATIONAL OPPORTUNITIES

1. The Senate amendment, but not the House bill, authorizes a new Secretary's grant program, entitled the Rural Educational Opportunities Program, to establish and operate 10 regional rural educational assistance centers. The authorization is $10 million for FY 1989, $10.5 million for FY 1990, $11 million for FY 1991, $12 million for FY 1992, and $13 million for FY 1993.

The House recedes with an amendment authorizing a minimum of 10 rural education programs to be established by grant or contract to institutions of higher education, private non-profit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1437(d), public agencies, State education agencies, or combinations of such agencies or institutions with a charge to pay particular attention to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

The agreement will allow for combined applications including one or more eligible entities, thus allowing for the participation of consortia or institutions of higher education and other combinations of agencies and organizations.

SECRETARY'S FUND FOR INNOVATION IN EDUCATION

1. The Senate amendment, but not the House bill, establishes the Secretary's Fund for Innovation in Education. The authorization for this fund is $20 million for FY 1989, $21 million for FY 1990, $22 million for FY 1991, $23 million for FY 1992, and $25 million for FY 1993. This Fund gives the Secretary authority to provide grants to LEAs, SEAs, IHEs and other public agencies and private nonprofit organization under six new programs established under this Fund.

(a) *Materials for Use in Educational Television and Radio Programs.*—Grants for the development and operation of educational television and radio materials, and teacher and other school personnel training in the use of such programming.

The House recedes with an amendment to consolidate two provisions into a single program called Technology Education and to add an additional section for the optional test for academic excellence, and to remove the reservation of $2 million for optional tests; and move part (B) Alternative Curriculum Schools of Title III of "Title I" to this part. Alternative Curriculum Schools would strengthen the quality of education offered throughout the local school district as a means of providing improving achievement and attracting majority school children to the public schools. The new program would have an authorization of $35 million, but no funding for this new program would be provided until the Magnet Schools program appropriation reaches $165 million in any fiscal year. The Alternative Curriculum Schools Program would: (1) require that only high school districts with minority enrollments of 65% or higher are eligible to apply; (2) require that any participating school receiving assistance must have a minority enrollment of at least 50%; (3) require the school district or consortia of local school districts to demonstrate in its application the extent to which the federal funds will contribute to reducing racial isolation and achieving desegregation within the local educational agency or consortia thereof; (4) include statutory language indicating that the award of these funds may not be used as evidence in any litigation or administrative proceeding questioning whether or not the school district(s) is desegregated.

As illustrated by the requirement that the application indicate how establishment of an Alternative Curriculum School will promote integration throughout the district, the conferees intend that the minority composition of the other public schools in the local educational agency where the alternative curriculum school is established shall not increase as a result of the establishment of the "alternative curriculum school".

(b) *Programs for Computer-Based Instruction.*—Grants for the acquisition and leasing of computer software and hardware as well as teacher training programs in computer education.

The House recedes with an amendment of $20 million for FY 1989 and such sums.

(c) *Programs for the Improvement of Comprehensive School Health Education.*—The House bill enables the Secretary to establish an Office of Comprehensive School Health. The Senate amendment authorizes the Secretary to fund projects which improve elementary and secondary school health education, and requires that the Secretary fund these projects through an Office of Comprehensive School Health Education established within the Department of Education.

(d) *Telecommunication and Video Instruction Program.*—Grants for programs which use telecommunications and video resources for school instruction.

The House recedes with the amendment described in (a).

(e) *Youth Suicide Prevention Programs.*—The Secretary is authorized to make grants to LEAs and private nonprofit organizations to establish and operate youth suicide prevention programs.

The Senate recedes.

(f) *Pride in Schools.*—The Secretary is authorized to make grants to schools to establish and operate programs which involve students in the care of and responsibility for the school.

The House recedes with an amendment moving Pride in Schools to FIRST as a permissible use of funds.

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TITLE V

INDIAN EDUCATION

1. The House bill, but not the Senate amendment, specifically recognizes and authorizes all B.I.A. funded schools in existence or planned as of January 1, 1987.

The House recedes.

2. The House bill prohibits any designated action at any Bureau funded school, except upon formal request of the tribal council of a single tribe school or the tribal councils representing an aggregate of 90% or more of the students in a multi-tribal school.

The Senate amendment prohibits the transfer of the operation or facilities of any Bureau funded school (or school program) which is operated on April 1, 1987, unless approved by the tribal governing body. This is defined as the tribal governing body or bodies representing at least 90% of the students.

The House recedes with an amendment which incorporates the other negative actions in the list of actions prohibited by the Senate language.

3. The Senate amendment, but not the House bill, says that if the Secretary makes a request to Congress for legislation to override the requirement for tribal approval, the Secretary must comply with the study and notice requirements in the statute before making such request.

The Senate recedes. The Conferees have determined that the language in the current statute, coupled with the amendment, makes clear that the Secretary may take no unilateral action, and that any recommendation to Congress for subsequent legislation permitting a prohibited action would need to be accompanied with the proper study.

4. The Senate amendment, but not the House bill, states that no action may be taken to close, consolidate, or substantially curtail a Bureau funded boarding school for failure to meet the dormitory criteria in any fiscal year for which the Secretary has not submitted the Bureau wide facilities report and recommendations, as required by current law. (Note—see note 10 on House provisions.)

The Senate recedes. (See note 10.)

5. Technical Difference.

The House recedes.

6. The House bill allows the Secretary to close, consolidate or substantially curtail a program in a school when required by facilities conditions which constitute an immediate hazard to health and safety without regard to the statutory study and consultation provisions. However, no action could be taken until a reasonable period has been allowed for the conduct of a health and safety inspection by an outside entity. The entity would either be one chosen by the tribe(s) involved or, if notice of the inspection is provided to the tribe when the request is made, by the Secretary. No action could be taken if no threat was found by the outside inspector. The section is a limitation on the current statutory provision.

The Senate amendment states that when the Secretary decides to close, consolidate or substantially curtail a school or program (as authorized by current law) and the closure is to be, in the Secretary's estimate, for longer than 1 year, the Secretary must send to Congress, no less than 6 months after the action taken, a report on the reasons for the action and the remedial actions taken or planned.

The House recedes with an amendment that stipulates that only health and safety officers shall make these determinations, according to current guidelines which shall be in effect until regulations are developed. Regulation should be developed by June 30, 1989, provided that if they are not published by this time, closures, consolidations or curtailments would have to be followed by outside evaluations, conducted pursuant to the House bill.

7. The Senate amendment, but not the House bill, changes the term "Indian controlled contract schools" to "contract schools"—no substantive effect, but see Title II, Part B.

The House recedes.

8. The House bill directs the Assistant Secretary to develop regulations for new schools and program expansions in Bureau operated schools and schools contracted under P.L. 93-638, the Indian Self-Determination Act (Note—see note 65—this provision would not apply to schools with the grants proposed). The Secretary, through regulations, could not base a decision primarily on geographical proximity to public education, and would have to give equal weight to a number of factors.

The Senate bill is, with a few technical differences, similar to the House bill, except for five provisions—the Senate directs the Secretary to prescribe the regulations; the regulations on expansions would apply to all Bureau funded schools (including those which use the proposed grants authority); this provision is made applicable specifically to program expansions which increase the amount of Bureau money received; the factors to be considered are not required to be given equal weight; and the success or failure of the applicants (not just the Bureau program) is to be considered.

The House recedes with an amendment stating that all expansions or new school starts would be evaluated and approved under the same set of regulations, and setting out the factors to be included in those regulations and the standards and policies to be applied. With respect to the factor relating to the geographic and demographic circumstances of the programs being considered, the Conferees especially direct the Bureau to interpret this provision so as to fulfill its trust responsibility to its Indian student constituents. An example of a geographic circumstance warranting special consideration are climatic conditions or terrain which render a group of students' places of residence inaccessible for periods of the year.

Failure of current education programs to make adequate provisions for this would merit special Bureau review and consideration of the necessity to provide an edcuational alternative close to home. Similarly, past Bureau attempts to define geographic proximity of public or alternative education in terms of time traveled or distance traveled are specifically rejected by the Conferees. Any consideration of the geographic proximity must take into account the age of the children, and distances and times as measured at all times of the year and in all types of weather. Finally, the Conferees wish to explain that submission by the applicant of information on the factors to be considered relative to the program for which the application is filed shall constitute a sufficient application. These are the factors which are within the control or cognizance of the applicant. It would be patently unfair to rule an application as insufficient due to an omission of information which may be unattainable by the applicant. The Bureau shall be chiefly responsible for obtaining the relevant information concerning existing programs, though the Conferees intend that the applicant and all parties having knowledge pertinent to the application will cooperate with the Secretary in this regard. Failure to do so would certainly be a factor in the Secretary's deliberations.

9. The Senate amendment, but not the House bill, stipulates the date for implementation of the expansions.

The House recedes.

10. The House bill, but not the Senate amendment, stipulates that no negative action may be taken against a school in existence on January 1, 1987 for failure to meet the dormitory criteria, and that before Feb. 1, 1988, the Secretary should provide the required report to Congress on compliance (similar to Senate provision—see note #4).

The Senate recedes with an amendment that changes the date.

11. The House bill incorporates most of the current regulations dealing with Bureau education programs (except for personnel regulations) into the statute by reference and restricts the Secretary's and Assistant Secretary's authority to amend them.

The Senate amendment creates a process for review of regulatory proposals by regional review panels which the Secretary would have to follow before any regulatory action. Certain members of the review panels, which should not be subject to the Federal Advisory Committee Act, are stipulated. The Secretary may take emergency or temporary action without review, provided that as soon as practicable, input is sought. The provisions of the Senate amendment would not apply to any regulations or amendments which were drafted and under formal review prior to October 1, 1987.

The Senate recedes with an amendment limiting the length of incorporation on all of the regulations other than those dealing with policy to June 30, 1989. The policy regulations would be incorporated permanently. The Conferees intend that future regulatory actions comport with the new provisions regarding consultation. See note 37.

12. The Senate amendment, but not the House bill, requires a 90 day comment period for the Bureau Indian education regulations and states that no regulation may become effective until 90 days after its preliminary publication. This provision shall not apply to regulations published before October 1, 1987. Also, applicability of any Federal law restricting or limiting employee communications is specifically waived, insofar as the communcation relates to regulatory action involving Indian education.

The House recedes with an amendment which requires that all regulations be published for a 90 day comment period, and published in final form before becoming effective. The amendment defines the term "regulation".

13. The House bill and the Senate amendment are similar, except for the following: an additional weight for handicapped students; an additional weight for full-time and part-time gifted and talented students; the statement that the supervisor and school board of a school shall determine when a less than 9 month program is needed; and a requirement for additional funding when needed to allow a school to comply with State standards which are in addition to minimum standards needed for accreditation.

The House recedes with an amendment that changes the effective date of these changes, deletes the provision regarding part-time gifted and talented programs, makes the full-time gifted and talented provision subject to a definition to be developed by a tribally controlled postsecondary institution or group under another provision of this Act and the availability of funds, further defines the factor regarding State standards and limits this factor to two years, and required a General Accounting Office study of the needs relative to a preschool handicapped factor. In conducting this study, the Conferees direct the General Accounting Office to work with, and consult with, tribes and tribal organizations, as well as the Bureau of Indian Affairs and the Indian Health Service, to determine the needs and the populations to be served, as stipulated in the statute.

The Conferees intend that these factors be the factors used for these students in lieu of the factors ordinarily used for the computation of academic weights. Other weights, relating to boarding or special needs or programs, would be cumulative.

14. The House bill amends the Indian Student Equalization Formula to make the administrative cost factor a part of the formula.

The Senate bill creates a new grant authority for administrative cost payments, which would be in lieu of any payments to which contractors might otherwise be entitled. The Senate also spells out specific uses and purposes for the money.

The House recedes.

15. The Senate amendment, but not the House bill, stipulates that sums received under this provision will be in addition to and shall not reduce other funds received for the school program.

The House recedes.

16. The Senate amendment, but not the House bill, stipulates that the cost rate shall be used for all direct programs which share common administrative cost functions, and will be made applicable to all others, at the tribe's option. (See Note 19.)

The House recedes with an amendment.

17. The House bill sets the administrative cost percentage for each school as 12% of the total direct program funds of each contractor (for education and shared/administrative cost activities) times 50% of the average total direct program funds for all contractors divided by the sum of such direct program funds of the contractor plus the average of such direct program funds for all Bureau contractors. This figure would be adjusted for the special cost factors for isolation, multiple programs or multiple cost accounting (see Note 27—the Senate has similar provisions). The product (as expressed to two decimal places) is then used in the Indian Student Equalization Formula computations. Computations would be made on preceding year's data (see Note 23) and the formula would be implemented in FY 1989.

The Senate amendment makes the administrative cost percentage for each school the percentage determined by dividing the direct cost base for a tribe or tribal organization (see Note 23) by the minimum base rate (see Note 25—initially 12%) plus [the amount equal to the standard direct cost base (see Note 26—initially $600,000) multiplied by the maximum base rate (see note 24—initially 50%)] by the sum of the direct cost base of the tribe or tribal organization for the FY, plus the standard direct cost base. This amount would be adjusted for an isolation and a multiple program factor. This amount (to the second decimal) would be multiplied by the contractor's direct cost base to give a separate grant amount.

The House recedes with an amendment correcting an omission.

18. The Senate amendment, but not the House bill, states that the funds received pursuant to this section shall not be considered for over- or under-recovery computations.

The House recedes.

19. The House bill, but not the Senate amendment, requires the Bureau, as lead agency, to pay administrative costs based upon the formula for all flow-through Education Department programs contracted, regardless of other provisions governing specific programs, provided that the Bureau shall reduce the amount received by administrative cost payments actually received under other programs and shall take such actions as may be necessary to recoup the funds from other sources. The administrative rate under this section shall be applied to all Bureau programs contracted (see note 16 for similar Senate provision).

The Senate recedes with an amendment deleting the provision making this percentage applicable to any other tribal program (other than those specified in this Act).

The Conferees intend that the Bureau interpret this provision in the following manner: the Secretary shall calculate the amount of flow-through funds for each contractor and grantee and pay to each, as part of this administrative cost grant, an amount equal to the percentage determined under this provision multiplied by the flow-through amount, regardless of any limitation on administrative costs contained in another statute. This amount shall be reduced, or "offset", by the amount actually received by a contractor or grantee from the flow-through program for administrative costs. The Secretary shall then seek to recoup, from the Federal agency having primary jurisdiction over the flow-through program, the difference between the amount paid under this provision to support the flow-through program and the amount of administrative costs actually received under the program.

20. The Senate amendment, but not the House bill, defines administrative cost. The provisions are similar to the House provisions. (See Note 34.)

The House recedes.

21. Both House bill and Senate amendment define the Bureau elementary and secondary education functions, with only technical differences.

The House recedes.

22. The Senate amendment, but not the House bill, defines the term "tribal elementary and secondary education programs".

The House recedes.

23. The Senate amendment, but not the House bill, defines the direct cost base of a tribe or tribal organization. The figure would be based upon data from the second preceding fiscal year or on a projection.

The House recedes with an amendment making technical corrections.

24. The Senate amendment, but not the House bill, defines the maximum base rate allowable as either 50% or a figure to be obtained by a study done by the Secretary (See Note 28). The rate is to be published in the Federal Register.

The House recedes with an amendment setting the maximum base rate and removing the Secretary's discretion to alter it.

25. The Senate amendment, but not the House bill, defines the minimum base rate allowable as either 12% or a figure to be determined by a study done by the Secretary (see Note 28). The rate is to be published in the Federal Register.

The House recedes with an amendment setting the minimum base rate and removing the Secretary's discretion to alter it.

26. The Senate amendment, but not the House bill, defines "standard direct cost base" as $600,000 or an amount set by the Secretary based upon studies (see Note 28). This is to be published in the Federal Register.

The House recedes with an amendment setting the standard direct cost base and removing the Secretary's discretion to alter it.

27. Both the House and the Senate bill define isolation and multiple program adjustment factors. The definitions are similar except that the Senate allows the Secretary to modify the initial rate based upon studies and publication in the Federal Register and the Senate establishes the agency and area offices as sites from which to measure mileage.

The House recedes/The Senate recedes.

28. The Senate amendment, but not the House bill, directs the Secretary to conduct certain studies to establish the elements of the administrative cost formula, and establishes certain requirements for these studies. It states that determinations in the study are to be based on what is "pragmatically possible" and "prudent". The studies are to be done and submitted to Congress no later than October 1, 1988.

The House recedes with an amendment specifying the terms to be covered by the study(ies) conducted and defining the terms. For the guidance of those who conduct this study, the Conferees cite the fact that original drafts of the legislation included the isolation factor and multiple program adjustment. However, concerns about definition, need and administration led to their deletion. Some of the problems which plagued the Conference may become apparent if the persons who undertake this portion of the study study these provisions.

29. Both provisions require an annual budget submission on the impact of the formula-Technical Differences.

The House recedes.

30. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for the administrative grants.

The House recedes with an amendment authorizing pro-rata reduction if funds are insufficient for full funding of these grants at the mandated amounts.

31. The Senate amendment, but not the House bill, has a provision stating that the grants for administrative costs are in lieu of any other payment. It also states that changes in funds received by schools due to implementation of the formula shall be phased in over a three year period and that a tribe may elect not to be covered by this provision for those three years.

The House recedes with an amendment deleting the tribal option not to have this section apply and making the dates of phase-in consistent with the proposed date of enactment.

32. The House bill, but not the Senate amendment, reserves .133% of the funds appropriated for the Indian Student Equalization Formula for national school boards through their regional or national organizations. The House bill also contains a reservation of funds for each school for local school board training.

The Senate recedes.

33. The House bill, but not the Senate amendment, authorizes each Bureau operated school to carry forward, at the election of the local school authority (with school board approval), up to 15% of the funds for each fiscal year beginning October 1, 1987 and after.

The Senate recedes.

34. Technical difference. (See note 20.)

The House recedes.

35. Both the House bill and Senate amendment contain similar provisions relating to local procurement. The Senate amendment requires that school board approval be in advance and the House bill requires that purchases be from funds under sec. 1128 and states that the provision would be applicable for FY 1988 and after.

The House recedes with an amendment clarifying the limit of this authority and deleting the requirement that school board approval must be in advance. The Conferees intend that each school board determine the best method for reviewing the proposals and using the authority under this paragraph.

36. The House bill, but not the Senate amendment, authorized coordinated programs between local public schools and Bureau operated programs. Agreements would be negotiated between the tribe(s) and the public school and would have to be implemented by the Bureau (to the extent funds under the Indian Student Equalization Fund are available). Certain activities are specifically authorized.

The Senate recedes with an amendment which adds the Bureau school board as a party to any agreement and requires that any agreement entered into provide a benefit for the Bureau school commensurate with the burden assumed by the school, though this should not be strictly equated in terms of equal expenditures or the exchange of similar services.

37. The House bill requires that all actions under this Act be done in consultation with tribes and defines consultation as periodic and systematic meetings with tribes and organizations, with Federal Register notice of meetings being required. A list of topics would be required in the notice and information on all upcoming administrative matters would have to be provided (including the Budget). Other issues of interest could be raised, including issues in other Departments. Only those issues discussed in public meeting would meet the consultation requirement of this section. Bureau officials would also meet on request.

The Senate amendment requires that the Secretary consult with Indian tribes and tribal organizations on the "development of policy" under the Act. The Secretary or a representative shall conduct semi-annual meetings with tribes and organizations on matters relating to Indian education, with Federal Register notice being required for the meetings. At the meetings, information on all matters relating to Indian education which are being considered for change in the succeeding 6-months are to be discussed. Other issues could be raised, including issues involving other Departments. The Senate amendment also requires meetings with individual tribes on education issues affecting them and requires that the Secretary "invite active participation" in decisions affecting the schools. Planning for such meetings shall be cooperative and consultative in nature. The Senate amendment also includes a provision relating to consultation on the local level as to actions involving local schools, to be taken in conjunction with the notice required in section 1121(g) of the statute (studies).

The Senate recedes with an amendment setting out consultation as a process, to involve a total and open exchange of views, concerns and ideas, and to be conducted as between equals. The Secretary is required to give effect to the views of interested parties, unless a contrary decision is based upon information actually brought forward during the discussions, that there is a substantial reason for a contrary course of action. The Conferees intend that the requirement that the decision be based upon public information will be implemented strictly. It is included to foster an open and public discussion, the basis for any true consultation. This would have to be reduced to writing, upon receipt of a request from a Congressional Office.

38. The Senate amendment, but not the House bill, allows waiver of Indian preference for both the "applicant or employee".

The House recedes.

39. The Senate amendment, but not the House bill, amends the Bureau education personnel provisions to make the contract system applicable to employees currently covered by Civil Service wage grade classification. This provision would apply only to current employees if they so elect.

The House recedes.

40. The House and Senate have similar provisions requiring a study of personnel costs. The Senate amendment stipulates that public schools used for comparison shall be comparable in four respects and that the final report contain comparisons of certification and length of work year and work day, in addition to the other, common requirements.

The House recedes with an amendment setting the date for submission of the study.

41. The Senate amendment, but not the House bill, stipulates that the costs for the study (other than personnel expenses) shall come from the General Administrative account. The Senate amendment also authorizes the Secretary to conduct such other personnel compensation and recruitment studies as are desirable.

The House recedes.

42. The House bill defines the term "educational personnel". The Senate amendment defines the terms "Secretary" and "Bureau".

The House recedes.

43. The Senate amendment, but not the House bill, amends the rate provision of the Bureau's education personnel section to require that the salaries paid shall be comparable to teachers of similar professional training and experience serving comparable students in comparable public schools, with certain adjustments.

The House recedes with an amendment which requires the Secretary to either 1) use the overseas pay schedules used by the Department of Defense, or 2) negotiate with the exclusive collective bargaining agent of the employees. Unless the Secretary chooses to negotiate within the allotted time, the Department of Defense pay schedules (with the given caveats) would be automatically effective. Changes would be distributed equally over a three-year "phase-in" period and there are other administrative provisions relating to election by current employees and furloughs. The Conferees intend that all decisions on furloughs be made locally, not dictated by any division or office at a higher level.

The Conferees wish to make it clear that this provision applies to setting wage rates. The Bureau is to retain its administrative practices which relate to promotions, the setting of initial wages, and other issues, using merit, education, experience and length of service. The Conferees specifically intend that dormitory counselors, also referred to as home-living specialists, come under this provision.

44. The House bill mandates that in those instances where the Assistant Secretary determines there is a disparity in compensation wich affects the recruitment and retention capability of a school to an extent where services are impaired, the Assistant Secretary shall (subject to school board approval) give the supervisor authority to use the 25% differential currently found in statute. Any time there is a 5% disparity in compensation (as determined by the studies—see Note 40), the authority for the differential would be automatically given to the local school supervisor. Each year, the Assistant Secretary shall submit, as part of the Budget submission, a report on all requests for this authority and the determinations on such requests, and all positions contracted under such provisions.

The Senate amendment amends section 1131 of the Act and states that upon the request of the local school board, the Secretary shall grant the supervisor the authority to provide one or more post differentials, (allowed under current law) unless the Secretary determines for "clear and convincing reasons" (in writing) that the requested differential is not needed. A school board request shall be viewed as approved, unless denied in 60 days. The Secretary or school supervisor is authorized to discontinue or reduce the differential at the beginning of a school year either at the request of the school board or if (subject to the same limitations) a finding is made that it is no longer necessary. A report similar to the House bill provision is required by February 1 of each year.

The House recedes.

45. The Senate amendment, but not the House bill, authorizes $15 million for 1989 and each succeeding fiscal year for grants for programs of early childhood education to serve children under 6, and their parents. Grants would be made for a range of stipulated activities and distributed to tribes of more than 500 members upon a formula based on a tribal percentage of the national eligible Indian propulation under age six. Grantees are to provide instruction in tribal language, art and culture and grants are to be coordinated with other programs and to have periodic assessment. Amounts for administrative costs are to be provided from the funds authorized and appropriated under this section.

The House recedes with an amendment clarifying that the funds for these grants are to be used to coordinate resources provided under other programs or to "fill in the gaps" in services provided or eligible populations served by the other programs. Such services would not be subject to the same limits on eligibility of the child or family, or on services to be offered, found in other programs. The specific activities would be spelled out during the application process. The amendment also clarifies that a consortium of tribes, which has an aggregate of more than 500 eligible members, may qualify. This will allow participation in the program of tribes with fewer members.

46. The Senate amendment, but not the House bill, includes definitions for "Bureau funded school", "Bureau school" and "contract school", which would be applicable to all provisions of Title XI of P.L. 95-561.

The House recedes.

47. The Senate amendment, but not the House bill, provides that in any fiscal year in which a sequestration order (under the Gramm-Rudman provisions) reduces the funds under section 1128 of the statute (Indian Student Equalization Formula) by more than 5%, the Secretary would be authorized to waive the provisions of section 1121 pertaining to notice and study prior to closure and consolidation and would be authorized to use the funds otherwise used in such closed or consolidated programs in other Bureau funded schools.

The House recedes with an amendment raising the trigger to a 7% sequestration and clarifying that the reduction must be based upon a 7% reduction in the previous year's funding level. This means that this provision may not go into effect if the current fiscal year amount being reduced shows a substantial increase from the previous year's funding level.

48. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for grants to establish tribal departments of education, which shall, among other duties, coordinate all education programs (Federal and other), and develop education codes, standards and policies. No terms other than those stipulated in the statute could be placed on the grants.

The House recedes with an amendment setting out a priority to be given to applications containing certain factors. The Conferees intend that the provision relating to the administration of education contracts by the Tribal department of education not to be interpreted as requiring a single contract for elementary and secondary education programs (funded under Title XI of P.L. 95-561) or the administration of a tribally controlled community college by the department of education. As is currently the case, this decision remains one totally within the discretion of the tribal governing body. Specifically, the Conferees intended this provision to apply to Johnson-O'Malley and Higher Education grants, where the tribe contracts these programs, and other education grants for which tribe may be eligible.

49. The Senate amendment, but not the House bill, directs the Secretary of Interior to make a study of the distribution of funds under the Johnson-O'Malley Act and report to Congress on legislation which would guarantee its most "effective and equitable distribution."

The Senate recedes.

50. The Senate amendment, but not the House bill, amends the current statutory provisions on attendance areas to state that when there are two or more Bureau funded schools on a reservation, the relevant school boards, at the direction of the tribal governing body, may establish the attendance areas for the schools involved.

The House recedes.

Part B—Tribal Schools Grant Authority

51. Technical difference—The House and Senate have different titles.

The House recedes.

52. The Senate amendment, but not the House bill, contains a statement on the use of funds and the need to submit an application.

The House recedes.

53. Technical differences—drafting differences between the House and Senate version.

The House recedes.

54. The House bill combines operation and maintenance funds into the single grant where the school has requested and receives them. The Senate amendment does not contain the limitation.

The Senate recedes.

55. The Senate amendment, but not the House bill, stipulates that no more than one grant under this program may be made with respect to any Indian tribe for each fiscal year.

The House recedes with an amendment clarifying that grants are not limited to one per tribe. The Conferees intend that the decision to have a single grant for all school programs, separate grants for "stand-alone" schools or a combination of these arrangements be made in Tribal Council Chambers, not on Capitol Hill.

56. The House bill says that a multisite grantee shall spend no less than 90% of the funds generated by each site, or $400,000 (whichever is least) at the site which generates the funds. The Senate requires that not less than 90% of the funds generated by a site be spent on-site.

The Senate recedes with a clarifying amendment.

Technical differences. (See notes 62 and 70.)

The House recedes.

58. Similar provisions, but the Senate bill does not include the requirement that if the Secretary takes a retrocession of a program which has had a grant, the Bureau shall provide services at no less than the level planned for by the grantee. (See note 70.)

The House recedes/The Senate recedes.

59. The Senate amendment, but not the House bill, includes a provision for the Secretary to transfer to a tribe a school, if the Secretary determines that the school is eligible for assistance under this part.

The House recedes.

60. Technical differences.

The House recedes/The Senate recedes.

61. The House bill, but not the Senate amendment, provides an option to an applicant on which regulations and guidelines shall be used to review an application for expansion which was submitted prior to the date of enactment.

The Senate recedes with an amendment incorporating the House provision relating to the review of applications for expansion within section 5104, see note 8.

62. Technical differences. (See note 57.)

The House recedes/The Senate recedes.

Technical differences (see notes 72 and 73)—The Senate amendment, but not the House bill, also provides for the transfer of a school where requested.

The House recedes/The Senate recedes.

64. Technical differences. (See notes 72 and 73.)

The House recedes/The Senate recedes. The Conferees wish to make plain that submission of the information within the control of the applicant constitutes a sufficient application, see comment under note 8.

65. The House and Senate have similar provisions (see note 71). The Senate amendment states that expansions of more than two grades must wait a statutory period of time. (See also note 8 on Senate provisions relating to new school regulations.)

The House recedes / The Senate recedes.

66. Technical difference. (See notes 72 and 73.)

The House recedes.

67. The House bill, but not the Senate amendment, requires that all applications be filed at the Agency Office, Area Office, or Office of the Director of Indian Education Programs, at the officer's discretion and that statutory timeliness shall run from date of receipt at the designated office.

The Senate recedes with an amendment stipulating the officers to receive the applications, amendments to applications or required reports.

68. Technical differences.

The House recedes/The Senate recedes.

69. The House and Senate have similar provisions, except: the Senate provision uses the term "ensuring the credits received by students", while the House uses the term "showing the credits received by students"; the Senate conditions tribal accreditation upon that accreditation "being accepted by a generally recognized regional or State accreditation agency"; The Senate uses the term "impartial evaluator", while the House uses the term "outside evaluator"; and the Senate uses the term "tribal governing body", while the House uses the term "tribal authority".

The House recedes/The Senate recedes. making technical clarifications, requiring that tribal standards be accepted by a generally recognized regional or State accreditation agency, and requiring that the applicable tribe(s) receive the required reports and notice of any audit exceptions.

The Conferees wish to emphasize that the statute is worded to require the grantee to submit the reports and the Secretary to register the receipt of the required reports. There is no authority for the Secretary to review or approve the reports. It has been just this process of review which has been the most intrusive method used by the Bureau for retaining effective control or veto power over locally controlled schools.

70. The House bill, but not the Senate amendment, states that the grants under this Act may not be terminated, modified,

suspended or reduced for the convenience of the administering agency. (Also see note 58.)

The Senate recedes. The theory of "administrative convenience", as a grounds for termination, was first used by the Bureau in 1984 with respect to two contracts with the Navajo Community College. The terminations were challenged in the Interior Board of Contract Appeals, which reversed the Bureau's terminations (IBCA Opinion Number 1834). The Bureau, however, has never specifically stipulated that it has reversed its position that "administrative convenience" is a proper ground for termination or modification. The Conferees specifically have prohibited its use, at least insofar as these grants are concerned, and do not intend that their actions signal any acceptance of the theory with respect to any other grant, contract or agreement.

71. Technical differences. (See note 65.)

The Senate recedes.

72. Technical difference. (See note 63.)

The House recedes/The Senate recedes. The Conferees intend that the requirement for tribal governing body approval apply to all applications received, including those submitted by any tribal organization.

73. Technical difference. (See note 63.)

The House recedes.

74. The House and Senate have similar provisions, with these exceptions: The House specifically references transportation as in the grant. The Senate contains language relieving schools with grants from all statutory requirements pertaining to Chapter I and Handicapped flow-through moneys, while the House relieves schools with grants from extra-legal requirements imposed by the Bureau, and specifically requires that the programs required by the basic legislation be carried out.

The Senate recedes with an amendment stipulating that while monies received from the Bureau pursuant to setasides under other Federal authorities are to be included in the simple grant under this provision, an amount no less than the amount received under each separate authority must be spent on programs specifically authorized under that authority and specified in the application(s) submitted by the school for participation in each program.

75. Technical difference. (See note 77.)

The House recedes.

76. Technical difference.

The House recedes.

77. Technical difference. (See note 75.)

The House recedes.

78. The House provision puts no time limit on a current contractor's right to elect to have a grant, but states that it shall not start until 60 days after the election or October 1 of the FY following the FY in which the election was made, whichever is later. The Senate provision requires a contractor to elect to be covered within 120 days of date of enactment and to make the election in such manner and at such time as the Secretary shall prescribe.

The Senate recedes.

79. The Senate amendment, but not the House bill, provides that no funds provided under the Indian Self-Determination and Education Assistance Act shall be spent for activities for which funds have been received under this Act.

The House recedes.

80. The House bill, but not the Senate amendment, states that regulations prescribed under this Act shall not have the standing of a Federal statute for the purposes of judicial review.

The Senate recedes.

81. The House and the Senate have similar provisions, except that the Senate includes a definition of "Bureau".

The House recedes.

Part C—Indian Education Act

82. The Senate amendment, but not the House bill, recodifies the parts of the Indian Education Act, currently found in four statutes. With the noted exceptions below, the provisions are substantively the same as are found in current law.

The House recedes.

83. The Senate amendment, but not the House bill, includes a new definition "eligible Indian children"

The House recedes.

84. The Senate amendment, but not the House bill, changes "by such State" to "of such State".

The House recedes with an amendment changing "of" to "by", thus retaining current law.

85. The Senate amendment, but not the House bill, changes "average daily enrollment" to "average daily attendance".

The House recedes.

86. The Senate amendment, but not the House bill, changes "planning for and taking other steps leading to the development of" to "planning and development".

The House recedes.

87. The Senate amendment, but not the House bill, deletes the term "special" from the phrase "special regulations".

The House recedes.

88. The Senate amendment, but not the House bill, deletes the phrase "specially designed to meet the special educational or culturally related academic needs, or both", as it pertains to equipment.

The House recedes.

89. The Senate amendment, but not the House bill, changes "schools eligible for funding under" to "schools receiving funds under".

The House recedes with an amendment retaining current law.

90. The Senate amendment, but not the House bill, deletes the phrase "(including persons acting in loco parentis other than school administrators or officials)". See definitions, note 119.

The House recedes.

91. The Senate amendment, but not the House bill, deletes the same phrase as in note 90. See note 119.

The House recedes.

92. The Senate amendment, but not the House bill, requires that each application include a form establishing the eligibility for each indian student counted.

The House recedes.

93. The Senate amendment sets out specific information to be requested on the form establishing eligibility, the provisions are the same as current law, except that the senate uses the term "child" instead of "applicant" and, with relation to tribal enrollment numbers, "if applicable" instead of "where applicable".

The House bill changes the current language to state that the forms shall be used only for collecting statistical information, not for establishing eligibility.

The House recedes. The Conferees specifically reference the comment at note 95. The term "if applicable" has been changed to "if readily available". Other proofs or evidence would be equally acceptable for these students.

94. The Senate amendment changes the phrase "construed as changing or restricting the applicable eligibility definition" to "construed as affecting the definition".

The House bill adds the statement that failure to provide any information relating to the form shall have no bearing on eligibility.

The House recedes.

95. The Senate amendment states that the criteria for establishing eligibility for the program shall be the same as those used in the 1985-1986 academic year.

The House bill states that the determination of eligibility shall vest solely with the local educational agency and the parent committee. They shall establish local written guidelines for proof and determinations shall be based upon a parent committee review of such evidence as the parent may submit. A positive determination could be reviewed by the local education agency and overruled. The Secretary would not review.

The House recedes with an amendment which accepts the Senate's provision on prohibiting change, by regulation or practice, in the proof of eligibility forms and standards. These forms and standards are to remain as they were in the 1985-1986 academic year. Specifically, the Conferees intend that this language preclude 1) Departmental efforts to restrict or catalogue the proofs of eligibility which may be accepted, and 2) efforts to require a tribal enrollment number or other numerical identifier in the instances where a tribe has such rolls. Specific language to this effect has been included. The House amendment also specifies that all audits are to be based upon the policies and practices established by, or pursuant to instructions received from, the Office of Indian Education programs. The Conferees intend to preclude separate policy or statutory interpretations being made by the Office of the Inspector General or any other Division. As a remedy to one such instance, the amendment includes language "forgiving" recent audit exceptions based upon the submission of applications for Indian Education Act, Part A, funds of counts based on projected, tentative or incomplete Form 506 eligibility forms. Such a count, on a February submission, has a sound basis in practice and practicability. Finally, the amendment specifically sets into legislation the practice of a "good-faith" effort to comply with the eligibility proof requirement. Such an effort, predicated upon a showing that a good faith effort has been made to obtain the required information, which is in the control of others, is sufficient to qualify the student. It should be noted that no time limit or requirement for periodic renewal is included or within the intent of this provision.

96. The Senate amendment, but not the House bill, changes the maintenance of effort provision to require 90% m.o.e., with the provision for ratable reduction for any year in which m.o.e. falls below 90% and a Secretarial waiver for "precipitous and unforeseen decline in the agency's financial resources".

The House recedes with an amendment duplicating the maintenance of effort provision in Chapter I of the Education Consolidation and Improvement Act.

97. The Senate amendment, but not the House bill, deletes the term "and stimulate them" after assist.

The House recedes.

98. The House bill, but not the Senate amendment, adds a provision for a tribal division of education grant—to receive a 10% setaside of funds under this section (see note 104)

The House recedes.

99. The House bill, but not the Senate amendment, adds a provision for grants to consortia of tribes, local educational agencies and institutions of higher education to institute programs to encourage Indian students to go on to higher education and to prevent drop-outs.

The Senate recedes.

100. The Senate amendment, but not the House bill, changes "or" to "and".

The House recedes.

101. The Senate amendment, but not the House bill, adds the term "adults" to "Indian children".

The House recedes. The Conferees, by adding the term "adult", do not intend to alter the current activities drastically. Evaluations of programs providing services to elementary and secondary programs and children are still to receive priority consideration.

102. Technical difference.

The House recedes.

103. The Senate amendment, but not the House bill, changes "make adequate provision for" to "provide for".

The House recedes.

104. The Senate amendment deletes current specific authorization for the regional assistance centers and the limit that no more than 15% of the funds for such centers could go to state educational agencies.

The House reserves 10% of the funds for activities under subsection (c) to be spent under (c)(3).

The House recedes with an amendment retaining the current authorization for the regional resource centers.

105. The Senate amendment extends the current authorization of $2,000,000 per FY through FY 1993.

The House authorizes such sums as may be necessary for the same period.

The Senate recedes.

106. The Senate amendment, but not the House bill, adds the phrase "to be necessary" to the Secretary's determination of the amount to be paid to an institution.

The House recedes. The Conferees direct the Secretary to review current practices with respect to determining eligibility for Fellowships. The Department has, through its application process, restricted the access of non-reservation based and non-Federally recognized Indians to this program. The definition for this activity is the same as for the rest of the Act, and is inclusive, not exclusive. Indian students, particularly those who have been adopted, must not be placed under impossible requirements or at a disadvantage.

107. The Senate amendment, but not the House bill, adds a requirement that the Secretary provide notice no less than 45 days before the commencement of an academic term of the assistance to be provided.

The House recedes.

108. The Senate amendment, but not the House bill, adds a new program for the establishment of two centers for gifted and talented students at Sinte Gleska College and Navajo Community College. Grants would be made to these entities and the American Indian Higher Education Consortium for the design of demonstration projects for a number of purposes. Subgrants could be made with the Children's Television Workshop. Grantees would be encouraged to work cooperatively as a national network. $3,000,000 per FY is authorized through 1993.

The House recedes with an amendment deleting the specifically named schools and substituting as eligible to compete all fully accredited tribally controlled community colleges which are eligible to receive funds under Public Law 95-471. Two such grants are to be made.

The amendment also contains provisions from Part D of Title VIII of the House passed bill H.R. 5, the Model Schools Act. Drafted and sponsored by Mr. Richardson of New Mexico, these provisions direct the Secretary, in consultation with the Secrectary of the Interior, to designate 5 schools nationwide for the development of programs for gifted and talented students and curricula and teacher training materials. Specific activities are set forth, as are requirements for coordination with the tribally controlled community colleges designated by these sections. The Conferees intend that the colleges supply research and technical assistance to the field in general and the model schools in particular, that the model schools, in cooperation with the colleges, define needs and develop programs, and that the colleges evaluate the programs and aid in their dissemination.

Finally the amendment stipulates that the first activity to be funded under this provision should be the development of the definition to be used in implementing the new Indian Student Equalization Formula factor for gifted and talented students included in section 5107 of this Act. The report on this grant is to be directly submitted to the Secretaries of Education and Interior and to the Congress.

109. Technical difference.

The House recedes.

110. The Senate amendment, but not the House bill, deletes general statement of activities allowed.

The House recedes.

111. The Senate amendment, but not the House bill, changes the term "promulgated" to "prescribed", with reference to regulations.

The House recedes.

112. The Senate amendment authorizes such sums as may be necessary for 1989 and the 4 succeeding Fiscal Years.

The House bill authorizes $8 million for FY 1988 and such sums as may be neceesary through FY 1993.

The House recedes.

113. The Senate amendment, but not the House bill, establishes an Office of Indian Education reporting directly to the Secretary of Education.

The House recedes with an amendment stipulating that the Director is to report directly to the Assistant Secretary for Elementary and Secondary Education giving new authorities and responsibilities to the Director for the Office of Indian Education, placing him at the forefront of the Department's efforts for Indian education. The Conferees are disturbed with reports of employes being given duties and tasks unrelated to their functions within the Office, with the refusal of needed overtime for work on Indian Education matters (particularly when overtime is abundantly available for other matters) and with reports leading to a general opinion that the Department has not shown proper interest in, or for, this program. More drastic action was contemplated, but rejected, for now. However, the Conferees are committed to monitoring this situation closely.

The amendment also retains current law relating to the role of the National Advisory Council on Indian Education in choosing the Director.

114. The Senate amendment, but not the House bill, establishes Indian preference in the Office of Indian Education.

The House recedes with an amendment stipulating that all professional staff within the Office of Indian Education must have experience in Indian education programs. The definition of "Indian" to be used for this provision is the same as the one for all other purposes of this Act, found at section 5351(4). The amendment also creates an Indian preference for all personnel actions within the Office, to be administered in the same fashion as "veterans' preference" laws are administered. The Conferees also direct the Secretary to develop career goals and training opportunities for these and other qualified Indian employes.

As a first step to foster Indian preference, the amendment also includes a provision to give current non-Indian employes of the Office a one-time preference in moving to other positions within the Department for which they are qualified. Such a move must be voluntary. The Conferees intend that this provision be administered in concert and at the same time as the other provisions in this section.

115. The Senate amendment, but not the House bill, deletes "Alaskan Natives" from specific eligibility to sit on the N.A.C.I.E. The Conferees note that the definition of Indian for the program includes Alaskan Natives.

The House recedes. The Conferees do not intend that this be interpreted as a change from current policy or practice.

116. The Senate amendment, but not the House bill, includes an authorization for the administrative provisions.

The House recedes.

117. The Senate amendment, but not the House bill, includes a number of new definitions for the program, including:

(1) adult—similar to that in the Adult Education Act—sec. 303;

(2) adult education—similar to that in the Adult Education Act, however, adds caveat that program is for adults "who are not enrolled in secondary school";

(3) free public education—similar to the provision for the E.S.E.A. and the E.C.I.A., but deletes the phrase "except that such term does not include any education provided beyond grade 12";

(4) local educational agency; and

(5) Secretary.

The House recedes.

117(a). The Senate amendment, but not the House bill, amends the definition of Indian to delete the phrase "which regulations shall further define the term 'Indian' from the Secretary's rulemaking authority.

The House recedes.

118. The Senate amendment, but not the House bill, includes in the term local educational agency schools operated by the Bureau of Indian Affairs.

The House recedes with an amendment stipulating that existing programs receiving Title IV grants will be held harmless at the Fiscal Year 1988 per student formula grant amount plus an inflation factor of 2%. All other monies appropriated above that amount will be used to bring the Bureau of Indian Affairs schools into the formula program. Once appropriations are sufficient to bring all programs to the same level, this hold harmless will no longer apply and all eligible grantees will be treated the same. The Conferees are in full agreement on the equity of including B.I.A. operated schools in the Title IV program and agree to work with their respective Appropriations Committees to see that the necessary funding is made available in Fiscal Year 1989. The Conferees emphasize that students attending BIA schools should receive the same services that are now available to Indian students in public and contract schools and that this hold harmless was deemed necessary only because the program has received significant reductions in the last decade. A further reduction in program dollars of 8 or 9 percent would likely cause some programs to cease operating.

119. The Senate amendment, but not the House bill, includes a caveat that the term "parent" includes those acting in loco parentis (see notes 90 and 91).

The House recedes.

120. The Senate amendment, but not the House bill, repeals the current provisions of the Indian Education Act of 1972.

The House recedes.

Part D—Native American Schools

121. The House bill, but not the Senate amendment, establishes a Native American School Act.

The House recedes. The essence of this provision, authored by Mr. Richardson of New Mexico, has been moved under the Indian Education Act.

122. The House bill, but not the Senate amendment, includes definitions for the Act.

The House recedes.

123. The House bill, but not the Senate amendment, authorizes the Secretary of the Interior to consult with Indian tribes concerning the establishment or recognition of five Native American Indian schools. Tribes may petition for the creation of such schools and schools currently funded by the Bureau of Indian Affairs may be recognized. Each school so recognized will be established as a separate Federal corporation and organized according to the requirements of this Act.

The House recedes.

124. The House bill, but not the Senate amendment, requires that each Native American Indian School have a Board of Directors composed according to the Act. The Act also contains provisions governing the appointment of the Board, terms, compensation, officers, meetings, and other administrative matters. The Board is to formulate the policy and direct the management of the school.

The House recedes.

125. The House bill, but not the Senate amendment, sets out the general powers of the Board.

The House recedes.

126. The House bill, but not the Senate amendment, establishes the position of Superintendent of the School, who shall carry out the policies and functions of the School and have authority over personnel and activities. Compensation is set at that of a GS-15.

The House recedes.

127. The House bill, but not the Senate amendment, sets out that staff of the school would be exempt from Civil Service and sets out rules for establishment of a personnel system, including compensation, leave, resolution of disputes and disciplinary issues and changeover to the new system.

The House recedes.

128. The House bill, but not the Senate amendment, sets out the functions of the school, which include: basic instruction, programs for gifted and talented and students with special needs, college preparation and programs which culminate in the completion of the program of studies for elementary and secondary schools.

The House recedes.

129. The House bill, but not the Senate amendment, establishes Indian preference in hiring, employment, and contracts, grants and fellowships.

The House recedes.

130. The House bill, but not the Senate amendment, sets forth the nonprofit and nonpolitical status of such a school.

The House recedes.

131. The House bill, but not the Senate amendment, enumerates statutes which shall have specific applicability to the activities of the school and states that all Federal criminal laws on larceny, embezzlement and conversion of property shall apply.

The House recedes.

132. The House bill, but not the Senate amendment, sets out requirements for the establishment of an endowment program for a school under this Act.

The House recedes.

133. The House bill, but not the Senate amendment, authorizes the Secretary to provide funds for these schools in accordance with current applicable statute and other Federal programs, states that such schools are eligible for funding under the Indian Education Act and authorizes the Secretary to expend such sums as may be necessary to ensure the "orderly establishment" of such schools.

The House recedes.

Part E—Native Hawaiian Programs

134. The House and Senate bill have similar provisions. However, the House includes specific mention of "learning disabled, educably retarded * * * and other such students" (in addition to the term "handicapped").

The Senate recedes.

135. Technical difference—the Senate throughout refers to "Act", the House refers to "title"—difference in drafting.

The Senate recedes.

136. The Senate amendment, but not the House bill, adds "implementation of faculty development programs for the improvement and matriculation of Native Hawaiian Students" to the activities authorized under the demonstration grant program.

The House recedes.

137. The Senate amendment directs the Secretary of Education to establish a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, specifically references the University of Hawaii at Hilo and the Kamehameha Schools/Bernice Pauahi Bishop Estate as an eligible contractor for demonstration program contracts and states that contractors may subcontract with the Children's Television Workshop. It also includes the needs of the families of gifted and talented as to be addressed.

The House bill directs the Secretary to make contracts with the State of Hawaii, including its junior or community colleges, for such activities.

The House recedes with an amendment stating that the initial grant or contract shall, subject to appropriations and satisfactory performance, be for a term of three years and shall be made to the University of Hawaii at Hilo, with subsequent grants or contracts being to a four year, fully accredited public institution of higher education.

138. The Senate amendment directs demonstration projects be made "with attention to the emotional and psychosocial needs" of gifted and talented students and their families.

The House bill gives a priority to early identification of such students.

The House recedes with a clarifying amendment. The Conferees wish to explain the use of the term "psychosocial". Gifted and talented children may respond to environmental situations in a way that is different from other children, which can create psychological problems on the part of the gifted and talented child. Problems of this nature can prevent a child from reaching his or her potential if they are not recognized and treated.

139. The Senate amendment, but not the House bill, adds "psychosocial and developmental activities" to authorized activities, and specifically mentions "including, but not limited to" demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural conditions".

The House recedes. (See note 138.)

140. The Senate amendment, but not the House bill, authorizes leadership programs to replicate successful programs to "other Native American peoples".

The House recedes.

141. The Senate amendment, but not the House bill, includes families.

The House recedes with an amendment. (See note 138.)

142. The Senate amendment, but not the House bill, directs the Secretary to facilitate the establishment of a national network of Native Hawaiian Gifted and Talented Centers, whose information will be readily available for the educational community at large.

The House recedes.

143. The House bill, but not the Senate amendment, limits administrative costs to not more than 10% of the funds appropriated.

The Senate recedes with an amendment deleting the term "10 percent" and substituting in lieu thereof "7 percent".

144. Similar provisions—different language for handicaps.

The Senate recedes.

145. Similar provisions. The Senate amendment requires that activities be consistent with Part B of the Education of the Handicapped Act and that activities "hold reasonable promise of improving the provision of special education and related services", while the House bill uses the phrase "hold reasonable promise of making substantial progress toward meeting the educational needs". Different definitions for handicapped.

The House recedes.

TRIBAL COLLEGES AND MISCELLANEOUS PROVISIONS

146. The Senate amendment, but not the House bill, amends the Navajo Community College Act to specifically list the expenses to be included in the annual computation by the Secretary of the amount authorized to be paid by the Federal government to the Navajo Community College for programs.

The House recedes.

147. The Senate amendment, but not the House bill, amends the Tribally Controlled Community Colleges Act of 1978 and the Navajo Community College Act to require the Secretary to use the method of fund disbursement used in FY 1987 in making payments to those schools, and states that interest earned on such funds shall be the property of the College and shall not be taken into account when determining any Federal payments of eligibility.

The House recedes with an amendment prohibiting the accumulation of the funds so obtained.

148. The Senate amendment, but not the House bill, specifically amends the Navajo

Community Colleges Act to provide authority for funding operations and maintenance costs, costs for major capital improvements and for other purposes. Also exempts any interest earned on any Federal payments from any computations of eligibility or amount to which the school is entitled under any Federal program. Funds must be invested in Federal bonds.

This note is repetitious and a mistake.

149. The Senate amendment, but not the House bill, amends the Navajo Community College Act and the Tribally Controlled Community Colleges Act to allow funds paid to a school under these Acts to be used as matching funds for other Federal programs.

The House recedes.

150. The Senate amendment, but not the House bill, limits the ability of the Secretary to remove from the general assistance rolls any student at a tribally controlled community college or other institution of higher education. Limits the funds which can be considered in computation of general assistance. The provision does not amend any requirement of general assistance.

The House recedes with an amendment allowing Adult Vocational Education funds to be used for matching purposes, in the same manner and to the same extent, as funds under the Tribally Controlled Community Colleges Act.

151. The Senate amendment, but not the House bill, authorizes the Secretary to permit the use of Federal facilities, land and equipment by tribal, student and other non-Federal organizations, to the extent it does not interfere with their purpose. User fees may be charged and credited to the appropriations or funds from which any expenses incurred were paid. This authority is in addition to any other authority.

The House recedes with an amendment.

152. The Senate amendment, but not the House bill, includes Congressional findings supporting a White House Conference on Indian Education.

The House recedes.

153. The Senate amendment, but not the House bill, directs the President to call a Conference no earlier than Sept. 1, 1989 and no later than Sept. 30, 1991. The purpose of the Conference is to consider the feasibility of establishing an independent Board of Indian Education and to make other recommendations for the improvement of Indian education programs.

The House recedes.

154. The Senate amendment, but not the House bill, sets out the composition of representatives for the Conference, including tribal, B.I.A., education, and other representatives with special expertise. The President, the Speaker and the President pro-tem shall each choose ⅓ of the participants. ¼ shall be currently active educators from Indian reservations, ¼ educators from urban areas with large Indian populations, ¼ Federal and tribal officials, and ¼ Indians (including non-recognized Tribes).

The House recedes.

155. The Senate amendment, but not the House bill, includes administrative provisions for the Conference, including the assignment of personnel, establishment of a Task Force to coordinate the Conference, choice of a Task Force Director and the provision of Federal cooperation and coordination for support. The activities of the Task Force are listed, including the provision of grants to States and tribes to allow them to prepare for, and provide for the preparation of, such materials as may be necessary.

The House recedes with an amendment clarifying that the appointees must have experience in Indian education programs, not just issues, and stipulating that at least one person appointed by the Secretary of the Interior must be experienced in dealing with the Congress and tribes and outside organizations. This is to facilitate exchanges between all parties interested in this Conference and recognizes the specialized knowledge needed for this task. It is also strongly recommended that the Secretaries choose people who have worked with personnel and programs within the other Department.

156. The Senate amendment, but not the House bill, contains provisions on the report and the recommendations of the Conference, to be submitted to the President, and then transmitted, along with Presidential comment, to Congress.

The House recedes.

157. The Senate amendment, but not the House bill, establishes an Advisory Board to assist and advise the Task Force on the conference. The makeup of the Advisory Board is set, with the input of the Indian community and the control of the President, the Speaker and the President pro-tem. Other administrative provisions relating to compensation are set out.

The House recedes.

158. The Senate amendment, but not the House bill, authorizes the Task Force to accept gifts for immediate disbursement in support of the conference.

The House recedes.

159. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for the conference for FYs 1988, 1989 and 1990.

The House recedes.

TITLE VI—GENERAL PROVISIONS STUDIES

The conferees have agreed to create a separate section the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 which highlights the numerous research and evaluation studies requested by Congress. The intent is to clearly signal to the professional research and evaluation community that Congress considers the contribution of research as critical not only during the reauthorization proceedings but also throughout the period during which the legislation is in effect.

Policy decisions by the Congress depend upon the latest scientifically derived data together with a thorough understanding of research and evaluation findings. The conferees want to emphasize that they intend to take a more active oversight role and to work with the Department of Education in monitoring these research and evaluation studies.

Federal requirements for research, studies and reports are generally included; requirements for similar activities at the State and local level, except when they are to result in a Federal report, have been excluded. Requirements for pilot or demonstration projects, evaluations, and development or dissemination activities have been excluded, except when they are to result in a Federal report. The National Assessment of Educational Progress requirement for the assessment of student performance in specific subject areas, as revised by the Senate, has been excluded because the program intent appears to be similar to current law; other House and Senate provisions for the National Assessment have been included.

Effective Schools Study.—The conferees have agreed that the data collection for this study should include, but not limited to the following guidelines:

I. Characteristics of students in effective schools programs:

(1) Sex;

(2) Race/ethnicity;

(3) Age;

(4) Limited English speaking.

(5) Receiving services for limited English speaking;

(6) Public assistance, as measured by receipt of a free or reduced lunch program;

(7) Enrollment in Chapter 1 program; and

(8) Receiving special education services for the handicapped (P.L. 94-142).

Most of these data elements are customarily collected by the schools and therefore should not represent an appreciable burden.

II. School characteristics:

(1) Staff numbers (professional/support);

(2) Teacher characteristics:

(a) Sex;

(b) Race/ethnicity;

(c) Years of teaching experience;

(d) Education (degree);

(e) Salaries; and

(f) Teacher turnover;

(3) Expenditures on staff development;

(4) Student/Teacher ratio;

(5) Student turnover (average enrollment length);

(6) Expenditures per pupil;

(7) Existence of school improvement programs in addition to effective schools programs, e.g., State mandate curriculum changes, mentor teacher programs, remedial programs; and

(8) Existence of gifted and talented programs.

Schools generally have such data, although some may not have analyzed them. All the items are desirable, but if a few are too costly or difficult to obtain they should not be required by the Secretary of Education.

III. Program description:

(1) Program objectives;

(2) Amount of funding;

(3) Activities;

(4) Major problems encountered;

(5) Length of program period;

(6) Evaluation measures

IV. Program outcomes:

(1) Intermediate outcomes (school climate measures):

(a) Hours of instruction;

(b) Tardiness;

(c) Student absenteeism/attendance;

(d) Teacher absenteeism/attendance;

(e) Number of suspensions;

(f) Parent satisfaction;

(g) Staff satisfaction; and

(h) Student satisfaction;

(2) Student achievement outcomes:

(a) Test scores on at least reading and mathematics at given grade levels and for individual students over time (i.e., cross-sectional and longitudinal information). Such scores should be provided by race/ethnicity, socioeconomic status, and special program status (e.g., Chapter 1).

(i) Standardized norm-referenced tests (tests which allow comparison of local school achievement scores to the national norm at various grade levels). Students should be traced for a minimum of two years.

(ii) Standardized criterion-referenced tests (tests which all the youth are expected to pass).

(b) College entrance examinations results, such as for the Scholastic Aptitude Test and American College Testing;

(c) Student promotion/retention;

(d) Percent of youth going on to college:

(i) 4-year schools;

(ii) 2-year schools;

(e) School completion rates;

(f) School dropout rates at various grades; and

(g) Return rates of dropouts.

Items (b) through (g) should be separately reported by race/ethnicity.

GENERAL PROVISIONS

1. The House bill differs from the Senate amendment in that it indicates *of chapter 1 of this Act.*

1. The Senate amendment indicates *of chapter 1 of title 1* of this Act.

The House recedes.

2. The House bill differs from the Senate amendment in that it indicates *only to the extent OR in such amounts as are provided in appropriation Acts.*

The Senate amendment indicates *only to the extent AND in such amounts as are provided in appropriation Acts.*

The Senate recedes.

3. The House Bill indicates that this Act shall take effect October 1, 1987.

The Senate amendment indicates that this Act shall take effect October 1, 1988. The Senate amendment, but not the House bill, includes a "special rules" provision.

The House recedes with an amendment making the effective date July 1, 1988.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment (except sec. 7003), and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
CHARLES A. HAYES,
CARL C. PERKINS,
TOM SAWYER,
STEPHEN J. SOLARZ,
BOB WISE,
BILL RICHARDSON,
TOMMY F. ROBINSON,
PETER J. VISCLOSKY,
CHET ATKINS,
JIM JEFFORDS,
BILL GOODLING,
TOM PETRI,
MARGE ROUKEMA,
STEVE GUNDERSON,
STEVE BARTLETT,
HARRIS W. FAWELL,
PAUL B. HENRY,
FRED GRANDY,

From the Committee on Energy and Commerce, for consideration of sec. 7003 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
AL SWIFT,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
SPARK M. MATSUNAGA,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
ROBERT T. STAFFORD,
ORRIN HATCH,
DAN QUAYLE,
STROM THURMOND,
LOWELL P. WEICKER, Jr.,

For consideration of title XI:

DANIEL K. INOUYE,
JOHN MELCHER,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
TOM DASCHLE,
DANIEL J. EVANS,
JOHN MCCAIN,
Managers on the Part of the Senate.

AMERICAN PARADISE TRIATHLON AT ST. CROIX

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, the beautiful island of St. Croix in the U.S. Virgin Islands has just hosted its first annual American Paradise Triathlon, and it was a great success. Some of the world's very best athletes came to St. Croix to swim, bicycle, and run amid our magnificent scenery, and the event will be shown on national television on July 3.

This first triathlon was a triumph for many people—the athletes, the people of St. Croix, the hundreds of volunteers who helped, and, above all, for the prime organizer, a young Virgin Islander by the name of Renny Roker.

A year ago, when Renny began discussing his plans for a world-class triathlon on our shores, he was greeted with doubts and laughs. But Renny was not daunted. He used his great talents and promotional skills to get the cooperation of the community and pull of a major, international sporting event. Now people can't wait to see it again next year.

NBC was so impressed with the American Paradise Triathlon that it moved up the broadcast date to July 3, right after the Wimbledon Men's Tennis Finals. I urge everyone who wants to see the Virgin Islands at its best to tune in on July 3.

[From the Daily News, Apr. 12, 1988]

A GLOWING TRIATHLON

St. Croix, its people and visitors were aglow Sunday, basking in the success of the first America's Paradise Triathlon.

And what a success it was.

It pitted the world's top triathletes against one another on one of the most grueling courses in the world.

It brought together residents, visitors, athletes, volunteers, families, spectators, vendors, the curious, the dedicated, the skeptical—thousands of people who wanted simply to be part of a historic event.

It put St. Croix, and the Virgin Islands, on the map as the site of a major, exciting, well-organized, world-class sporting event.

We congratulate Renny Roker and his team on a job well done. We congratulate Mike Pigg and Kirsten Hanssen—the winning triathletes—on their victories. And we congratulate everyone on St. Croix for pulling together to make America's Paradise Triathlon an event that has all of us basking in the glow.

[From the St. Croix Avis, Probe Magazine, Apr. 11, 1988]

PERSON OF THE WEEK

A year ago when he spoke of a major nationally televised sporting event in the Virgin Islands most people scoffed. Few believed he could pull it off.

But Renny Roker believed he could, and yesterday he did. By all counts his America's Paradise Triathlon was a stunning success.

Just months ago the triathlon seemed in jeopardy. Roker was unable to raise the money or lure the volunteers he needed to swing the event.

With the possiblity of failure hovering over the event Roker plowed ahead, taking to the airwaves and print to bring money and hands into the fold.

This was not the first major accomplishment for the many-sided genius of Roker. Since his teenage days he seemed marked for fame.

While a teenager, he won local popularity as a radio personality. He would later appear in more than 300 television shows and 20 movies.

Not bad for a boy born thousands of miles from the glitter of tinsel town.

But his accomplishments don't end there. He has produced and directed 200 television shows and produced three motion pictures. Roker is also the only black event producer to be listed in the top ten of billboard magazine's top 100 event producers for five consecutive years.

In recent years Roker is best known for his Through the Eyes of a Child television specials. A dramatic series featuring local youths in shows meant to highlight V.I. culture and history.

But now it is perhaps the triathlon that will linger in people's minds. Roker's bold attempt to sell his island and his skills has paid off.

In August, NBC Network will air Roker's race as an hour special. It will be a wonderful showpiece for the territory.

So once again Roker has lived up to his promises, and the Virgin Islands is better off for it.

So we have chosen Renny Roker as our Person of the Week. The brilliant actor has demonstrated he has the ability to make his dreams a reality.

□ 1815

ANTICIPATED SCHEDULE FOR TOMORROW

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. President, I take this time just so that I can make a few brief comments on what the anticipated schedule is for tomorrow. We were not able to get the leadership on both sides of the aisle together to have a colloquy on this. But just so the Members will be aware, the bill scheduled for tomorrow, H.R. 5, the school improvements conference report which has the provision that was put in the bill under the jurisdiction of the Committee on Energy and Commerce dealing with the dial-a-porn language. That bill did come before the Rules Committee earlier this afternoon. An amendment was adopted by the Committee on Rules by a vote of 6 to 5 which would allow a point of order to that provision, the dial-a-porn provision that is included in the conference report because it is nongermane the way it is written now.

That was passed 6 to 5. And if the point of order should be sustained then there would be a vote on the conference language followed by—if that should be rejected—by a vote on the Bliley-Helms language. But as a result of accepting that amendment on the rule, the rules committee is in an indefinite recess subject to the call of the Chair. Perhaps the Committee on Rules will meet later on tonight; but if it does not I do not see how this legislation could come before the body tomorrow.

So I want to emphasize that as it stands right now the Committee on Rules accepted an amendment that would make in order a vote on the Bliley-Helms language prohibiting dial-a-porn activities.

The membership should know that that is what is at stake. The Committee on Rules has done what is right, but the Rules Committee is looking to see if it can find a way to reverse that action. So we do not know what the schedule is going to be at this point for tomorrow. As soon as we are able to get further communication from the leadership on the other side of the aisle, we will certainly communicate that to the membership.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, not on that subject but I see no one else asking to be yielded to on that subject, but on a related subject with respect to the Rules Committee, yesterday the chairman of the Committee on Rules sent a notice which the ranking member from the other party came and delivered to the House, that all amendments to the minimum wage bill should be filed by close of session this week. Subsequently to that it has become known—that was based on an April 24 consideration of the minimum wage bill.

Subsequent to that it has become known that minimum wage would not be considered until May. I wonder if the gentleman could advise us or if he could inquire of the Committee on Rules as to whether this Friday's cutoff on amendments is still in force because it makes no sense at this point.

Mr. LOTT. The cutoff that was announced or that we were notified of was 5 o'clock this coming Friday, the gentleman is correct, on that minimum wage legislation.

I certainly would not presume to speak for the Committee on Rules committee chairman since he is not here. But since the schedule has been delayed by days and maybe weeks into May, than I have to assume that this 5 o'clock deadline on Friday is no longer in effect because certainly if it is going to be that long, there may be changes that members of the committee and Members on both sides of the aisle might want to consider. But we will check to make sure that that is the case because it is certainly not reasonable for us to be expected to put a finished product in the CONGRESSIONAL RECORD on Friday at 5 o'clock if we are not going to see the bill up for consideration until next month.

We will pursue that.

CONFERENCE REPORT ON H.R. 1900, THE CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988

The SPEAKER pro tempore (Mr. BRUCE). Under a previous order of the House, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

Mr. JEFFORDS. Mr. Speaker, I rise in support of the conference report on H.R. 1900, the Child Abuse Prevention, Adoption, and Family Services Act of 1988.

The conference report that we are considering this afternoon extends, through fiscal year 1991, the basic authorities contained in the Child Abuse Prevention and Treatment Act, the Adoption Opportunities Act, and the Family Violence Prevention and Services Act. In many respects, Mr. Speaker, this reauthorization incorporates a number of what we might well call fine-tuning changes—changes that are minor ones—but important to ensure that the objectives of this legislation are fully met.

There are, however, several new initiatives which I would like to mention very briefly. First, in the area of child abuse and neglect, I am pleased to note that the conference report includes a provision that was proposed initially by the ranking minority member of the Select Education Subcommittee, the gentleman from Texas [Mr. BARTLETT]. Under the terms of this provision, the Secretary of Health and Human Services is authorized to award discretionary grants for hospital-based demonstration programs that will provide information and referral services to parents of children with handicaps and parents of children who have been neglected or abused. In both cases, parents will be advised of the availability of information on community resources, with special emphasis on parent training resources, that will assist them in caring for their children. In addition, these hospital-based demonstrations will offer appropriate followup services to these parents after their children have been discharged from the hospital.

The adoption opportunities authority has been expanded to include several new initiatives. In recognition of the data that suggests that minority children spend a disproportionate time in foster care, the conference report authorizes the Secretary of Health and Human Services to establish programs aimed at increasing the number of placements with adoptive families of minority children now in foster care. Special emphasis is given to recruiting minority adoptive families.

In addition, postlegal adoption services are authorized for families who have adopted special needs children. Services which may be provided include: individual, group, and family counseling, assistance to adoptive parent organizations and support groups for adoptive parents, adopted children, and siblings of adopted children. Appropriations for these newly authorized activities are contingent upon the level of funding provided for the ongoing Adoption Opportunities Program.

Mr. Speaker, I believe we have reached a conference committee agreement that confirms our commitment to provide additional resources to assist in overcoming the tragedies of child abuse and neglect, domestic violence, and improving the quality of life for children whose goal is permanent adoptive placement.

I wish to commend our subcommittee chairman, the gentleman from New York [Mr. OWENS], for his leadership and yeoman efforts in crafting the conference agreement. And, a special word of thanks is due our ranking minority member, the gentleman from Texas, for the many hours he has invested in developing this measure.

I would strongly urge my colleagues on both sides of the aisle to vote for adoption of the conference committee report on H.R. 1900.

AMERICAN EAGLE BULLION COINS CONTINUE ALARMING SALES DECLINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, sales of the American Eagle bullion coins continue to show an alarming decline. In March, the U.S. Mint sold only 10,000 ounces of gold bullion coins to the members of its distribution cartel. This sales level is a stunning 86 percent below the sales for the same period a year ago.

The distressing March figures are not a 1-month aberration. In each of the past 6 months, sales of the American Eagle gold bullion coins have been less than in the corresponding month a year earlier.

The longer term picture is no better. Sales during the first quarter of 1988 were 63 percent below sales during the first quarter of 1987. In the first quarter of 1987 the mint sold a mere 154,500 ounces of gold coins, down from 420,500 during the first quarter of 1987. Sales have so declined that the mint sold more coins during the 28 days of February 1987 than it did during the entire 91 days of the first quarter of this year.

Sales in the previous 12 months have now fallen below the 1 million ounce mark and there is no indication that sales are likely to experience an increase any time soon. If the rate of sales for the first quarter continues through the year, sales will barely top 600,000 ounces, a level less than half the 1987 sales.

I had hoped that March would be a good month for sales since the Tax Reform Act made the American Eagle bullion coins the only gold coins eligible for inclusion in individual retirement accounts [IRA's]. March should have been a month in which the members of the distribution cartel purchased coins in anticipation of sales to taxpayers for their IRA's. That, unfortunately, did not seem to be the case.

Since the inception of the bullion coin program I have warned that the mint's use of a cartel of distributors is illegal and harmful to this program. Now it appears that even the members of the cartel are losing interest in the coins.

Implicit in the establishment of the cartel was an obligation on the part of the cartel members to actively make a market in the coins and to promote their sales. When the coins were first issued and there was tremendous demand for the coins, members of the cartel took full advantage of their monopolistic positions and gouged purchasers with extremely high premiums. Since those first few months of the program, the members of the cartel have done nothing to reinvest those profits in the promotion of the coins. They have made little or no effort to encourage persons to buy the coins. Quick to take easy profits, the members of the cartel appear quick to abandon the coins.

Mr. Speaker, it's time for the U.S. Mint to wake up and save this coin program from the mint's own follies. If it continues to use an illegal cartel, it should at least require those privileged cartel members to work to keep their position or else revoke their franchise.

LEGISLATION FORMALIZING RESCISSIONS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. **WALKER**. Mr. Speaker, earlier today I introduced legislation aimed at enacting the rescission agreement that the President sent to Capitol Hill a few weeks ago.

During his State of the Union Address, President Reagan told the Nation that he would be sending to Congress a package of rescissions to rid the fiscal 1988 continuing resolution of some of the pork, and our colleagues will remember that he held up a whole raft of papers sent down to him to sign and he indicated that among those papers were a lot of wasteful spending.

What he said was that he was going to send up rescissions on that spending and ask us to act on those rescissions. Since that time the President backed away from this pledge and instead he sent the Congress an informal request for rescissions to be made rather than using his powers that were available to him under the Empowerment Control Act.

Now I do not think that that kind of weak-kneed action is what this House should do. So I took the President's rescission message and I put it into legislation.

So what we now have is legislation that takes up the President's requests and rescinds or repeals all the provisions that were contained in that message that he sent to Congress.

We would save about $1.5 billion if we took all these rescissions.

I thought that Members might be interested in some of the kinds of things that are found in that bill.

For instance, we got $10 million that we can save that the USDA uses for purchases of surplus sunflower oil.

Now that may be one of those things that is very, very valuable to the country and I am sure there are some sunflower freaks around the House here who think that that is one of the most important priorities of the country. I have one over here.

But the question we have to ask is, at a time of national priorities, should we in fact be spending $10 million of taxpayers' money to purchase surplus sunflower oil? My bill would say maybe that is a place where we can save a little money.

We have another $17.1 million in outlays marked for 14 demonstration projects of highways. Now we spend billions of dollars around here through the Highway Trust Fund for highways. Why we need these 14 demonstration projects is beyond me. Another place we could save a little money. You know, that is $17 million; $17 million is a lot of money. I realize there are a few people around here who in recent days when have had the question of several million dollars have said that that is not much money. In my district that is still a lot of money.

Now we have $500,000 we are spending in that bill to bring foreign politicians to the United States to study the workings of Congress.

Now there is one place where I think the American people might really say, "Gee, I don't think that is a very big priority." I mean, $500,000 represents all of the taxes of a lot of folks. Why in the world do you have to spend $500,000 to bring a lot of foreign politicians over here to show them how we work. I mean, part of the problem is if we had brought them over here any time in the last few months they would not see very much work anyhow. So you would spend $500,000 to put them up in the gallerys, I guess, and show them the typical empty Chamber that we have around here.

I am not certain that is money very well spent.

Or we could send them into the committees where very little is being done either.

I have to tell you, I think we can save that $500,000.

We have $500,000 in this bill authorized for the Goodwill Games organizing committee. Now the Goodwill Games, once again, I am sure there are some people out there who think the Goodwill Games are very, very important but they are not one of the high national priorities in this gentleman's opinion and probably we could save a little bit of money there.

We have $2.6 million earmarked for the development of domestic international markets for U.S. fishery products. Once again, I am sure there are people with fisheries in their districts who think that that is very, very important. But in the big national scope of things the question is whether or not we cannot save some of that money.

There are all kinds of other things buried down in the bill. These are just a few of them.

All this bill is saying is let us take the President up on his offer and let us move ahead with rescissions.

This gentleman's problem is that I sent this around to my colleagues and I had several of them calling me expressing an interest in my bill. Very often what they would say is, "But is this included in the bill, " and I would have to say, "Yes, I am afraid this is in the bill." Then they would say, "Well, that affects my district. I don't think we can cosponsor the bill."

The point is, as Pogo one time said in that famous comic strip, "We have met the enemy and he is us." Well, this is the case where we have $1.5 billion of spending where we "have met the enemy and he is us." The one way to do something about dealing with the enemy is to enact this bill.

SAN BENITO COUNTY DEMOCRATS OF THE YEAR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, it is a pleasure to announce to my colleagues that Joseph E. Felice and Eugene R. Carbone have been named Democrats of the Year by the San Benito County Democratic Central Committee. They will be honored at a dinner to be held by the central committee later this month.

Joseph Felice was born and raised along the central California coast. He was born in San Jose and graduated from the University of Santa Clara. In 1916, he opened the Hollister Canning Co., with his father. He later became a rancher and raised walnuts near the San Benito River. He and his wife, Josephine, whom he met and married in Kansas City in 1934, have three sons.

Joe has a long history of community and political involvement. He is a past president of the Hollister Rotary Club and the Mission Trails Heart Association—from which he received a Distinguished Service Medallion—was a longtime director of the Hazel Hawkins, chairman of the local Christmas Seals drive, and member of the board of directors of the 33d Agricultural District, and is a member of the Knights of Columbus and the Elks Lodge.

Joe served for several years as a chairman of the San Benito County Democratic Central Committee. He has been very active for decades in countless Democratic campaigns for county, State, and Federal office.

Eugene Carbone was born in St. Paul, MN. He lived in the Chicago area for several years and moved to Hollister in 1933. He was married the following year, and he and his wife, Raphaela, have three children.

In the early 1930's, Gene began working for the Hollister Canning Co., as a shipping clerk. He later moved up to sales manager and became manager of the cannery in 1953.

Gene has been a member of the board of directors of the 33d Agricultural District, a director of the San Benito County Chamber of Commerce, a member of the San Benito County Water Advisory Board, a president and director of the California Canning League, a director of the San Benito County Water Conservation and Flood Control District, and a member of the Rotary and Elks.

Like Joe Felice, Gene has a long history of involvement in Democratic Party politics. He, too, is a past chairman of the San Benito County Democratic Central Committee. He has also led a number of campaigns in San Benito County over the years, including those for Gov. Pat Brown and Presidents Kennedy and Johnson. He went to the Democratic Convention as a delegate in 1968 after serving that year on a blue ribbon committee of businessmen supporting Robert Kennedy's Presidential candidacy.

Mr. Speaker, Joe Felice and Gene Carbone are more than Democrats of the Year. For their work on behalf of Democrats and the Democratic Party in San Benito County, they could just as easily be named "Democrats of the Century." I know my colleagues join me in congratulating them and in wishing the very best to them and their families.

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MORE GREEN TEA AND DIRTY TRICKS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. **BENTLEY**. Mr. Speaker, in recent weeks I have been reading various sections out of a book called "The Japanese Conspiracy," in order to acquaint the American public with how a lot of our industry was destroyed. It was targeted and destroyed by the plotting and planning of a Japanese Government agency, the Ministry of International Trade and Industry, MITI, together with a great number of the Japanese industrialists who had come together and formed the Tenth Day Group, and the OKURA Group and the Palace Group, and they depend upon who they were targeting under which group they were functioning on a particular day.

In conneciton also with this whole picture on what has happened to our industry I have been introducing some of the other stories that we pick up out of the newspapers that tie into this whole picture.

Mr. Speaker, one of the stories that we picked up out of the Journal of Commerce this past week concerns what is happening to the tax revenues when these foreign interests come into the United States and buy up some of our plants and some of our assets. And these are some of the things that bother me.

In the chapter "Green Tea and Dirty Tricks" from "The Japanese Conspiracy"; by Marvin Wolf, John Nevin, who is the former head of the Zenith Corp., was quoted as saying:

> The attitude of American leaders on the foreign trade question continue to be based on a Marshall mentality that sees Europe and Japan as being so weak in economic matters as to require continuing American concessions, and that sees the United States as so strong as to be immune to economic injury no matter what trade concessions are made by its government.

Mr. Speaker, we know that we are not that strong, and certainly today we have become the largest debtor nation, and the dollar has been battered worldwide.

Before I begin some more of the chapter out of "Green Tea and Dirty Tricks," chapter 2, I am going to point out an article that shows the attitude that the Japanese in particular and some of the others have on doing business with us or negotiating with us. And this, as I said, deals with dodging taxes in the United States. And for once I want to really applaud the Internal Revenue Service. It says that the IRS is intensifying its scrutiny of foreign-based multinational companies after an internal study revealed that such firms appear to be underreporting profits earned in the United States. The consequence, the IRS believes, is that the U.S. Treasury is being robbed of its fair share of taxes from foreign firms that may be hiding their profits in tax havens or using transfer pricing to move profits to their home nations where taxes are then paid. With the lion's share of the U.S. markets that many of these companies enjoy, they are barely paying a tadpole's lick in taxes to the United States according to Percy P. Woodward, Assistant IRS Commissioner for International Issues. And he was speaking at a gathering of tax executives earlier this year.

At issue could be tens of millions of dollars, and that is so very important at this time when we are in such a financial crunch in our Government.

Mr. Speaker, the IRS study looked at 12,000 corporations that are more than 50 percent owned by foreign interests and found that they pay less than 1 percent of their $10.6 billion in gross receipts in U.S. Federal taxes. Now Mr. Woodward called that a relatively small amount, and he would not provide the comparable figures for large U.S. corporations, but he did say that the average of U.S. corporations is to pay 1.5 percent of their receipts in Federal taxes. IRS insiders were dismayed to discover that while sales at U.S. subsidiaries were climbing steadily, the same operations were reporting skimpy profits.

"Why are you in business in the United States if you don't make a profit," said Douglas Kunze, an international manager in the IRS' San Francisco office. "You don't come to the United States to lose money."

And although IRS officials insist they are looking at all foreign-owned firms based throughout the world, the newspaper article goes on to say that a separate study of the electronics industry focused the agency's attention on Japanese firms that, buoyed by the strong dollar, imported billions of dollars worth of electronic goods into the United States in the early 1980's.

Evelyn Richards, who was the author of this article, said that there seems to be a suspicion among some IRS officials that Japanese firms have a nationalist bias toward paying taxes in their home nation.

"In Japan, the way government and industry cooperate, it seems like they encourage all the profits to come back to Japan," said one IRS official, and it goes on and on, but there are a couple of points that I want to pick up.

One is that the number of firms with the majority of foreign ownership in the United States grew more than 500 percent from 1972 to 1986, to 38,390 according to the IRS, and Ms. Richards points out that Japanese firms particularly may have eluded IRS notice because they often operate in small, scattered units in different States, and the IRS is less likely to audit a small company than a large one. However, a change in reporting procedures in 1985 opened the agency's eyes to the extensive network of foreign ties, and, although Government officials deny that there is any connection, the IRS may also have gotten a boost from a lengthy landmark case involving the U.S. sales units of Toyota Motor Co. and Nissan Motor Co. No details have been formally released, but one published report in December quotes reports from Tokyo that the two Japanese automaker subsidiaries were assessed a whopping $600 million in back taxes for several years in the late 1970's and early 1980's. At the heart of the case were alleged transfer pricing violations.

Transfer pricing, which is key in many international audits, refers to the price at which goods, services, and technology are sold from one unit to another. And that is the international way of handling and dodging taxes.

IRS officials are concerned that U.S. subsidiaries are paying higher than reasonable prices to buy goods and services from their foreign parent company. Thus the parent companies artificially reduce their profits in the United States and avoid paying their appropriate share of U.S. taxes.

Authorities involved in the Toyota and Nissan companies apparently found that the firms had sold Japanese-made autos to their United States units at artificially high prices, thereby capturing an unreasonably large portion of their profits in Japan. And so it goes.

Mr. Speaker, this of course is one of the concerns that many of us have had about the sale of so many of our assets or the purchase of so many of our assets in the United States to foreign interests, and it is bad enough to lose control of those assets, but, when all of the profits are drained off and taken overseas, we are losing the tax revenues which we need so badly in this country.

Now in "The Japanese Conspiracy" which discusses at great lengths various other conspiracies in dominating or trying to dominate the industry worldwide and how to deal with it, the author, Marvin Wolf, had listed several products or items that had been targeted by MITI and the industries, and I will just reread these again.

There is spun acrylic yarn, birch 3-ply doorskins, melamine in crystal form, ferrite cores, which is the type used in consumer electronic products, television receiving sets and, for those of you who may have heard some of this, you may recall how they did double billing, double invoicing, on the television receiving sets in order to send them into this country and sell them very cheaply while keeping the prices at home very high and how they got around a doubling charge where it started out at a $700 million fine, dropped down to $67 million and then finally down to $11 million, which is one of the reasons that we are laughed at in this country.

□ 1840

To go on with the list: roller chain, portable electric typewriters, which I am going to discuss in a minute, carbon steel plate, fishnetting, large power transformers, pipe and tubing, and cement.

In 1983 after reviewing a petition from the Kaiser Cement Corp., the United States Commerce Department ruled that Japanese-made cement was being sold in Oakland at less than fair value. Of course, that is one of the reasons why our cement industry has been plunging down, down, down, and why our cement industrialists are not going to be able to afford to replace their modern equipment as it wears out, because they have been so attacked, so dumped upon by these foreign interests which were begun in this Japanese effort and other countries have since joined in.

Unfortunately, we did not see fit under the International Trade Commission to support the dumping charges of the cement industries of this country.

Now, I am just going to briefly touch on one of the other items that were targeted, and that is the electric portable typewriter. In "The Japanese Conspiracy" book it is pointed out that the electric portable typewriter became one of the most attractive targets for classic Japanese marketing techniques. In 1974, there were four American manufacturers of portable electric typewriters employing some 25,000 people, Mr. Wolf writes. Shortly after the Japanese targeted this market, in 1974 United States Treasury Department officials ruled that Japanese portable typewriters were being sold at less than fair market value, but the following year the ITC ruled that Smith Corona, which had dropped the complaint, had not been injured by the dumping.

Between 1976 and 1978 Japanese made portables doubled in annual volume to 500,000, and in 1979 Sears, Roebuck dropped Smith Corona as its principal supplier in favor of Japanese firms.

As you may recall, it was Sears, Roebuck who purchased so many of those television sets at the lower prices with double invoicing and a lot of questionable tactics that were described in this book.

In 1980, the Commerce Department finally agreed that SCM had been injured and set antidumping tariffs of between 36½ percent and 48.7 percent.

Following that, Brother and Silver Seiko, two leading Japanese typewriter makers, appealed the Commerce decision, claiming to have since raised their prices to competitive levels.

In August, Commerce lowered the tariffs to between 4.3 percent and 14.9 percent.

Smith Corona appealed, so did Japan, claiming there should be no dumping tariffs at all.

Annual imports of Japanese typewriters into the United States grew from 144,000 in 1971 to 603,000 in 1981.

Between 1973 and 1980, the Western competition, Olympia, Royal, and Underwood, were forced to buy or assemble their typewriters in Taiwan, Japan, and other countries. It had taken the U.S. Government 5 irreplaceable years to decide that SCM was being injured, but by that time it was too late. Twenty-one thousand American jobs were permanently lost and another industry went by the wayside.

This is what I have been trying to point out, and one of the reasons that I am so very disturbed about the compromises that have been worked out in the conference on the trade bill that we will be voting on soon.

I just think that we have been too easy and we continue to be too easy, and this book supports that.

I will continue this saga in the next day or two.

Mr. GAYDOS. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I would like to place on the record my sincere appreciation to my colleague on the Steel Caucus for what she has done in the past, taking the leadership in exposing the real trade secrets of the Japanese, how it has worked repetitively, coming in to our market, underselling and dumping.

I think the gentlewoman should be commended. I intend to join the gentlewoman. As I have mentioned in the past, I am now reading that marvelous book, the one that is most informative and most indicative of a close analysis of what has occurred in the international trade market.

In fact, today right after my colleague from Maryland finishes her remarks, I have 15 or 18 minutes of discussion on the same subject.

So I want to commend the gentlewoman and compliment her as a matter of record on this task that the gentlewoman has undertaken that is so important to the future of this Nation.

Mrs. BENTLEY. Well, Mr. Speaker, I thank the gentleman very, very much, the chairman of our Steel Caucus. I do appreciate the gentleman's support and his interest.

I mean, actually this is something that the gentleman has helped inspire me to go on in this fight, because I just think that our people need to know what really has happened to our industrial base, that it is not all the fault of Americans.

It is very difficult for a corporation to compete against a government the size of the Government of Japan, together with their industry.

I hope we awaken some people so that we will do something about it.

Again, I want to thank the gentleman from Pennsylvania for those remarks.

MADE IN AMERICA—BUT BY WHOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, in 1776, freedom-loving American colonists, rubbed raw by the edicts of an English king, decided to be the masters of their own house. They believed so strongly in this cause that they took up arms—and won.

The tricornered hat toppled the golden crown. America as a nation and a people, was free. Never again would foreign interests manipulate the lives of our people through political or economic power.

But, today, for the first time since the revolution, Americans are being subjected to decisions and dictates from abroad. In the 212th year of our Nation's history, we find a greater part of our Nation's economic structure supported by foreign interests. We find more American workers whose jobs and future depend not on

American employers, but on the whims of foreign owners.

One such example is the Volkswagen Co., of Wolfsburg, West Germany, which has a plant near my congressional district in southwestern Pennsylvania.

Pennsylvania State and local government officials bent over backward in the mid-1970's to attract the company to the area. Counties paid for job training, a rail line spur was built, tax breaks were given, and special loans were arranged.

And now, a decade later, Volkswagen is permanently closing the plant.

Two thousand five hundred residents of my area will lose their jobs when the VW plant closes its doors—doors that likely will never open again.

At least Volkswagen officials gave their workers and local officials advance notice of the plant closing. It doesn't make it any easier, but others aren't even that lucky.

When foreign owners buy into our manufacturing base, they acquire power over the lives of their workers. They can hire and fire at will, and if this control is threatened, they can relocate, leaving unemployment and economic disruption in their wake.

The multinational corporation has been described as a predatory octopus, its tentacles reaching out to grasp and swallow a small American fish.

The description may be appropriate, but it's not completely accurate. An octopus does not merely swallow its prey. It traps the victim with the tip of its sucker-covered tentacle, draws the helpless object inexorably toward the center where, with its sharp beak, it rips and tears the victim to shreds. When it has consumed what it wants, the remains are left to the scavengers of the sea.

Over the past few years, foreign investors have shown increasing interest in our sagging economy. They have come in greater numbers, buying businesses at bargain basement prices. The upsurge in foreign holdings has been dramatic and frightening.

Seventeen years ago, there was little concern over foreign investments in the United States. In 1971, only $300 million were invested in America. In 1972, foreign investments more than doubled, reaching $708 million.

In 1973, the dam burst. Foreign investments in that year totaled an astonishing $3 billion, an increase of 1000 percent over 1971, bringing the value of all foreign holdings to nearly $18 billion.

Today, foreign investments have reached astronomical proportions. Total foreign assets have topped $1.5 trillion, and some of our Nation's largest companies have been acquired by overseas interests.

A brief list of foreign conquests plainly illustrates the power of the dollar-laden purse. Japanese capitalists have acquired Firestone Tire & Rubber Co. for a reasonable $2.6 billion; they bought CBS Records for $2 billion; they've sunk $1.5 billion into Westin Hotels; and they've acquired a $300 million share of Paine Webber. And that's only a partial list of a few of the major Japanese investments in just the last 2 years.

Yet, not all Americans are disturbed at the growth of foreign investments here. One economist said it depends on one's point of view. Foreign investment, he noted, could be considered a welcome stimulant to American employment and an aid to the balance-of-payments position of the United States. On the other hand, he pointed out, foreign investments also could be seen as "an economic defeat," resulting in an alarming takeover by foreigners of America's productive assets.

I can understand those who look on the influx of foreign owners as a means of obtaining funds for capital expansion not available here or as a crutch for our unemployment problem. However, today's blessing can be tomorrow's curse.

It might be good business for a foreign investor, loaded with an excess amount of American dollars, to unload them here by buying a U.S. business at a cut-rate price. But, is it good business for America to allow this to happen?

Is it good business for America to put the control of key industries, strategic raw materials, and vital resources into the hands of someone whose national loyalties are not to the United States, but to a foreign government?

I do not believe so. Apparently neither do a number of foreign governments who have taken steps to become or to remain masters of their own houses. A number of European nations have adopted restrictive measures to prevent foreign interests from taking over industries vital to the welfare and security of their people. Can America do less for Americans?

For years, I have been urging the Congress of the United States to take similar action. I do not want to prohibit foreign investments, I just want to know where the money is going and I want to make sure foreign investments are not hurting American workers.

The House-passed version of H.R. 3, the omnibus trade bill, provides for the registration of foreign-controlled investment in the United States. This provision is vital because right now it's virtually impossible to get specific information on the extent to which U.S. firms have been taken over by overseas buyers.

Overall, such legislation provides the opportunity for industry expansion and employment growth while maintaining control of American industries. Knowledge is power, and the more we know about those who seek to buy our Nation's businesses, the better we will be able to negotiate from a position of strength.

America's Founding Fathers fought a long, bloody war two centuries ago to gain political freedom from the English Crown. Right now, Great Britain invests more money in their former colony than any other nation. The British have invested more than $51.4 billion in United States companies and there's no end in sight.

British stockholders own everything from American insurance companies to U.S. gold mines, banks, supermarkets, and even the Keebler Biscuit Co. American shoppers have known for years that Keebler crackers are made by elves, but how many people know that they're British elves?

Mr. Speaker, when we won our independence from England, who would have believed that two centuries later they would own 51.4 billion dollars' worth of our profit-producing companies, that the Dutch would have a $42.9 billion stake in our firms, and that the Japanese would hold a $23.4 billion interest in United States businesses?

In 1988, just as we did in 1776, we need to assert our independence. We need to make it clear that we are the masters of our own destinies. We need to closely examine and scrutinize every major foreign investment which is made in the United States. We need laws to make investment information available to Congress and the Nation's economic policymakers. And, most of all we need to make sure that the proud and independent eagle on the Great Seal of the United States is not wearing a "for sale" sign.

I realize that foreign investors have poured more than $1.5 trillion into the United States, but I believe that it's the Federal Government's responsibility to ensure that the power which this money represents is not abused.

Our Founding Fathers fought the Revolutionary War to gain independence from the control and tyranny of the English Crown, and let us not be the ones to surrender ourselves to the modern-day economic tyrants reigning in the boardrooms of foreign capitals.

I urge all of my colleagues to vote for approval of the conference report on H.R. 3, with its foreign investment disclosure provisions, because I am convinced that any nation, including the United States, is economically vulnerable if it allows virtually uncontrolled foreign investment.

President Monroe's doctrine that the United States can tolerate no intervention in the American continent by a foreign power is as fitting in 1988 as when he first formulated it in 1823. The omnibus trade bill is an economic Monroe Doctrine, and it proves to other nations that the United States must not and will not be subjected to the whims of foreign investors.

The loss of economic control leads to the loss of political control. The loss of political control, for any nation, leads to bondage and the loss of the freedoms we have fought so long and hard to preserve.

☐ 1855

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the schedule for the rest of the week and for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. Mr. Speaker, I would be very happy to yield to the distinguished majority leader for that purpose.

Mr. FOLEY. Mr. Speaker, I thank the distinguished acting Republican leader for yielding.

Mr. Speaker, this concludes the business of the day, obviously, because we are in special orders.

We will have a pro forma session of the House tomorrow. I will repeat that, the House will be in pro forma session tomorrow without any legislative business.

I will ask unanimous consent that when we adjourn tomorrow we adjourn to meet at noon on Monday next.

There will be a pro forma session on Monday.

On Tuesday, April 19, the House will meet at noon to consider the Private Calendar and five bills under suspension of the rules. They are:

H.R. 2641, National Trails System Improvements Act of 1987;

H.R. 3869, Tuskegee University National Historic Site Act amendments;

H. Res. 422, to support the INF Treaty and to provide for the continued security of NATO;

H.R. 2266, Pipeline Safety Authorization Act; and

H.R. 4389, relating to Coast Guard housing in Alaska.

The conference report on H.R. 5, the School Improvement Act of 1987, will also be taken up, subject to a rule.

On Wednesday and Thursday, April 20 and 21, the House will meet at 2 p.m. on Wednesday and 11 a.m. on Thursday to consider H.R. 4222 to extend the Immigration and Naturalization Service Legalization Program, subject to a rule; and the conference report on H.R. 3, Trade and International Economic Policy Reform Act, subject to a rule.

On Friday, April 22, the House will not be in session.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. WALKER. Mr. Speaker, is there a fair confidence that we are actually going to have a conference report on the School Improvement Act on Tuesday, having had to postpone it for tomorrow?

Mr. FOLEY. If the gentleman will continue to yield, yes.

Mr. WALKER. And there is a fair degree of confidence about the conference report on the trade bill getting up next Thursday?

Mr. FOLEY. Yes; we have a fair degree of confidence. That is scheduled seriously. It is not just scheduled as a possibility. We expect it to be up on Thursday next.

Mr. WALKER. One further question; it had been announced that we were going to have to have amendments filed for the Department of Defense bill and the minimum wage bill, that they all had to be in by Friday. I understand both of those bills have been postponed.

Is there any chance that we are going to extend the time for Members to file amendments on those two bills?

Mr. FOLEY. Again if the gentleman will yield further, if the gentleman is speaking of the Department of Defense authorization amendments?

Mr. WALKER. Yes.

Mr. FOLEY. That bill has not been postponed. It is still expected to reach the floor the week after next and indeed we do expect that there will be a continued deadline to file amendments as of 5 o'clock tomorrow afternoon.

Mr. WALKER. That is 5 o'clock tomorrow for the DOD bill, but what about the minimum wage bill?

Mr. FOLEY. We have not yet announced any change of schedule on that, so we would hope that the amendments could also be filed by Friday. The deadline is Friday at 5 p.m.

Mr. WALKER. Mr. Speaker, it was our understanding that that bill might not actually get out here until sometime in May. It seems a rather arbitrary time to have Members have to file amendments by Friday of this week when the bill is not even going to get to the floor for 2 or 3 weeks. Is there some reason why Members are being put in that kind of a straitjacket?

Mr. FOLEY. It is assumed that Members will have been preparing amendments and have in mind the amendments they would intend to offer and that it would not be a particular inconvenience to Members to make the filing on this week. In any case I am not authorized to announce any extension.

Mr. WALKER. Mr. Speaker, I thank the majority leader.

ADJOURNMENT OF THE HOUSE FROM THURSDAY, APRIL 14, 1988, TO MONDAY, APRIL 18, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourn, on Thursday, April 14, 1988, that it adjourn to meet at noon on Monday, April 18, 1988.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 20, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 20, 1988.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, APRIL 27, 1988, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING THE PRIME MINISTER OF CANADA

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare a recess on Wednesday, April 27, 1988, subject to the call of the Chair, for the purpose of receiving in joint meeting the Prime Minister of Canada.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Washington?

There was no objection.

POLITICS OF THE PORK BARREL

The SPEAKER pro tempore (Mr. BRUCE). Under a previous order of the House, the gentleman from Texas [Mr. ARMEY] is recognized for 60 minutes.

Mr. ARMEY. Mr. Speaker, when I first came to Congress 3 years ago, defense issues were neither my specialty nor my chief area of interest. I knew simply that the United States and its democratic allies exist in a dangerous world and that it was my duty as a national legislator to support whatever funds and policies are necessary to defend us from foreign aggression. This, I imagined, would be a fairly straightforward task.

Unfortunately, I was immediately shocked and appalled to discover the extent to which certain defense decisions have little to do with a cool and dispassionate appraisal of the present threat and future contingencies, but are instead heavily influenced by politics—the politics of the pork barrel.

In America's more innocent days, "pork barrel spending" referred to the roads, dams and power stations that Senators and Congressmen maneuvered to have built in their home districts. With the coming of the cold war and the rise of the permanent Defense Establishment, that has changed. Another main source of pork barrel spending now, I'm sad to say, lies in Budget Function 050: The National Defense.

There is no question that we need large Armed Forces to meet the Soviet threat, and I yield to no one in my support for a strong defense. But as a conservative and a taxpayer, I can't help but conclude that the political use of military spending is a troublesome problem.

Much of this, of course, is an inescapable part of democratic governance. Federal officials, whether elected or appointed, can no more ignore the political implications of their defense decisions than they can cease to be human beings. Politics is the nature of the beast.

I am aware of at least one area, however, in which we can and must introduce some needed reform: We must eliminate obsolete military bases which serve no purpose except to advance the parochial interests of individual Members of Congress. We must eliminate pork barrel bases.

When it comes to making economies in our base structure, we run into two maddening political problems. The first one we are all familiar with. If a Member of Congress has a base in his district, he doesn't want it to be moved or closed down. Military bases provide jobs to many civilians and the paychecks of their personnel help support local economies. This means that if a base becomes redundant or obsolete, a Member will fight to keep it open as if his political life depends on it.

If that were the only problem, however, we wouldn't have a problem. Parochial interests are something we deal with all the time, and they can easily be overridden by a simple majority vote. When a Member offers a floor amendment to the defense bill to bring a new defense contract into his district, for instance, we debate it on its objective merits. If he can justify his case in the larger national interest, he gets the contract. If not, he can write home and explain that at least he tried.

What makes base closings so difficult, however, is that whenever the Defense Department recommends bases to be closed or consolidated, there is almost invariably a suspicion that the particular bases were selected for political reasons. Members charge that the bases were chosen in order to punish Congressmen who do not support the President on crucial issues.

Sadly, this charge has frequently been quite legitimate. When the executive branch was lobbying for the B-1 bomber, for instance, some officials pointedly implied that Air Force bases might be shut down in the districts of Members who continue to oppose it. Then, when Jimmy Carter canceled the bomber in 1977, his aides did exactly the same thing. They were dispatched to the Hill to tell Members that they could lose their military bases if they refused to support the decision to cancel the B-1. Hardball politics of this kind has been practiced by Republican and Democratic administrations alike.

This possibility—that base closings can be used as a political weapon—means that Congress as a whole has an institutional interest in ensuring that the executive branch cannot shut down major bases—and that is precisely what Congress has done.

In 1977, Congress passed a law which has made it virtually impossible for the Defense Department to close down any major base. Known as the O'Neill-Cohen amendment, it requires DOD to carry out complex and time-consuming environmental impact studies before a base can be shut down. That may sound benign on the surface, but it—along with the original environmental statute itself—has prevented any major base closing since it was passed.

What typically happens is this: DOD announces it wants to close a base and proceeds to complete the environmental study. The opponents of the base closure then challenge the study in court, and DOD is forced to do it again. If the second study is found wanting, a third can be ordered. In this way, the closure can be delayed indefinitely. Wherever O'Neill-Cohen applies, a single Member or even a citizens group can stop a base closing simply by tying the matter up in court.

Now ask yourself: Why should closing a base require an environmental study? Opening a base, certainly. But if you close a base—take down the powerplant, move the weapons, transfer the troops, shut down the airfield—that can only be a boon to the natural environment. So why does this requirement exist?

It was enacted in a deliberate effort to stop base closings and remove the possibility that they will become instruments of political retaliation against Members the administration does not like.

And so we have a challenge: We must waive the statutes that prevent the Defense Department from closing bases, but we must first ensure that no bases will be closed for arbitrary or political reasons.

To do this, I propose that we establish a nonpartisan commission to select bases which can be closed without hurting the national defense, and provide that the statutes will be waived for those bases only.

Now there's a certain logical symmetry to this arrangement. Because the statutes were enacted to prevent politically motivated base closures, and because the nonpartisan commission I propose will already have allayed that concern, the statutes will no longer be necessary for the bases the commission recommends. They will remain in force, however, for every other property in the Pentagon's inventory.

This is the only way out of the base closing deadlock that I can see. If we were to simply waive the protective statutes that make it difficult for DOD to close bases, the Pentagon would be able to close any base it wanted for virtually any reason. That would leave Congress highly vulnerable to administration intimidation. On the other hand, if we were to leave the protective laws in place and only establish a commission to study the issue, the Defense Department would be powerless to close any base that the commission recommends. Establishing a commission, the recommendations of which trigger selective waivers of the protective statutes, insures both that the process will be nonpartisan and that DOD will be able to actually realize savings in the base structure.

I first introduced this idea in March 1987. Today, H.R. 1583 has nearly 120 cosponsors from both parties. The New York Times, Business Week, and dozens of smaller publications have editorialized in its favor. Last year, I offered it in the form of an amendment to the Defense authorization, and it failed by a slim margin of seven votes. A key reason for its failure was that the Defense Department opposed it. But DOD now supports the concept, and I have every reason to believe that similar language will pass this year.

Mr. Speaker, if we can solve the base closing deadlock, we can potentially save as much as $2 billion annually. Not only would this reduce the deficit, but it would make our Defense Establishment more efficient. I believe that now is the time to take some of the politics out of defense and work together to eliminate waste in Government.

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Mr. Speaker, I want to talk for a moment about my proposal, and as I say, 120 Members of Congress have cosponsored my base-closing proposal.

Due to the broad, sweeping editorial support that we have received from across the Nation and the broad support from our own membership, the Defense Committee's Subcommittee on Military Construction under the leadership of Mr. DELLUMS has held hearings on my bill.

Naturally, as would be the case and as is often the case, no bill is in its perfect form at the time it is introduced. I am very pleased to tell you that the committee along with the Senate committee and the Department of Defense have taken this basic concept of the base-closing commission, nonpartisan in nature, coupled with the selective waiver for chosen bases, and have expanded and improved on the bill.

I would hope that it will be introduced by the committee as an amendment to their Defense authorization bill. I would like to point out to those 120 Members of you that have from this body cosponsored that bill, please study the product when it comes through the committee process. It has not broken with the essential spirit of the nonpartisan base-closing commission that we have all signed up on. It has been improved. It has dealt with some very difficult details.

There has been good work from all parties concerned and obviously an issue of concern for the Members of this body has been who selects the commission and what are the procedures by which the commission will operate. I think if you study the product when it comes to the floor with the Defense authorization bill, as I have been growing more and more confident it will, that you will find that it is only improved over the product that you have cosponsored, and even more deserves your support for the fine detailed work that has gone into it.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I will be happy to yield to the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, as I was listening to this debate, I left my office to come over here and add a few remarks.

It is a great pleasure that I stand as a cosponsor of H.R. 1583.

Mr. Speaker, Congress still sits in a budgetary mess. There are tough decisions that need to be made concerning big-spending bills and, there are many other courses we can pursue to chip away at the dangerous mountains of debt and deficit that economists are predicting may crumble at any time.

Most decisions to cut spending are tough and complicated; but others are straightforward. One simple idea that could save between $2.5 and $5 billion a year, is creating a bipartisan commission with authority to recommend military base closings.

I am pleased, as I indicated, to cosponsor H.R. 1583. I hope we make up for those seven votes we narrowly missed last year with this Defense Savings Act which establishes the commission that the gentleman from Texas and I have been talking about. This bill, introduced by the gentleman from Texas, would provide a nonpartisan and nonpolitical means to pinpoint and close down obsolete military bases.

Currently obsolete military bases drain our precious financial resources, and weaken the strength and integrity of our Nation's defense. There's no question but that we have many military installations that are no longer effective and no longer needed.

Take, for example, Fort Douglas in Utah. It was built in 1862 to protect stagecoach routes running through the then-wild wild West. The Pentagon has wanted to close it down for 25 years; but Congress refuses to let it happen. We have even spent $1 million to modernize Fort Douglas. What for—for stagecoaches with radial tires and automatic transmissions?

The Indians are our friends today. They are our allies. We do not need a base like this one.

Or take Fort Monroe in Virginia. I understand it even has a moat around it. It served as an important military outpost—very important—during the War of 1812. The Pentagon has wanted to close the base for years and save the taxpayer $10 million. But so far Congress has rejected the idea. It is time that someone had the courage to close these bases down. If Congress cannot do it, maybe a bipartisan commission can. Just like the Indians, the British, the Redcoats, are our friends today. We do not need to defend against them today.

Many other obsolete military bases were built in the 1940's when—at war—we had to house 12 million Americans under arms. Today we are more sophisticated. Our services are more strategic. Our defense system should be leaner. According to information supplied by the Defense Department, at least 30 bases contribute little or nothing to our national security. Many of these could be consolidated, and the savings could reach as high as $5 billion annually. We cry about how tough it is to cut the budget; but we have not closed a military base in more than 10 years.

Many people object to base closings because they believe that closing a base would cause an economic depression in the surrounding community. This does not have to be the case. Take, for example, a situation in my own State of Michigan, the closing of Kinchloe Air Force Base in 1977. This base provided 700 jobs and $36 million in annual local revenues. It closed in 1977, but what has happened since? The answer is an economic boom. The county board of commission established a local economic-development corporation to offer low-interest loans and lease the land at low rates. Nearly 30 companies with more than 1,000 jobs established operations on the former base property, and the expansion is continuing. Closing a military base does not mean harming a community's economy.

We need a bipartisan commission on the consolidation of military bases. H.R. 1583 would create a staff of 12 commissioners representing the executive and legislative branches of government and both political parties. These 12 commissioners would serve a one-time, 6-month term to determine how our military could be made more cost effective and efficient through the closing and consolidation of bases and installations. Any recommendations made by this bipartisan committee could then be carried out by the Department of Defense. This bill is simple, straightforward, and right.

I believe it should have little trouble finding the seven votes that we need from last year to push it over the top. As I have been back in my district, particularly over this break that we have just had and I have some more town meetings again this coming weekend, people are always looking for Congress to make those tough choices on where we can cut, and defense is always up there.

I come from a rather conservative, very strong defense-minded district, Republican as well, but defense is on everybody's list.

I believe in a strong defense, and I think we have to let the Department of Defense run the most efficient Department that it can find, especially with the budget in the neighborhood of $300 billion. They need that authority, and maybe the crutch of a bipartisan commission to help them make a few decisions along with burden sharing, something that I think the gentleman from Texas and I both support, and also with this tremendous idea, I hope that we can impress upon our colleagues in the next couple of weeks before we get the Defense bill up on the House floor the end of April or the beginning of May that we can actually get this thing through and retain it in the Senate.

The gentleman from Texas has done a tremendous job of keeping this on the front burner, and I will be delighted to join in whatever capacity I can to twist the necessary arms that we need to make sure that this thing gets through, and it is a great privilege for me to join with the gentleman from Texas this evening in this special order.

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Mr. ARMEY. Mr. Speaker, I thank the gentleman for his kind remarks and appreciate his early cosponsorship of the bill.

A year ago when we were working on this it was an idea that was growing and we spent a lot of time talking to our colleagues. I think one of the things we always must keep in mind is the fact that there is a documented record of administrations throughout the past 20 to 30 years actually using the threat of base closures to coerce congressional votes for one project of another.

Congress is not being unreasonable in expressing this concern and in fact Congress has taken the point of view, the Members I have talked to, those the gentleman from Michigan has talked to that if we want to close bases to save money, to eliminate waste, and if we do so on a strong defense criteria, that strengthens our Nation's defense at even less expenditure of the tax dollar. That is fine if we can find a way to do that and to take this political coercion out of the process because that in itself is a distortion of the purposes of opening and closing bases, and to restore them to the legitimate and necessary purpose of getting for our tax dollars the greatest defense bang and to get the greatest efficiency in the expenditure of the dollars, and make our children as safe as possible at as little cost as possible, and then I think we will find this Congress will respond.

I have been gratified in just recent months to see the new Secretary of Defense, Mr. Carlucci, embrace this concept, roll up his sleeves, involve his staff along with the staff of both the House and Senate committees, working on the very difficult details with respect to such things as timing, selection procedures, addressing in some cases even constitutional questions, refining, developing this initial piece of legislation that we cosponsored, honing its rough edges off to a kind of smooth-looking instrument. I really believe all of that work validates the essential concern we have throughout the Congress and within the administration to make the maximum efficient use of our defense dollars, eliminate waste wherever it is possible and avoid that awful problem of Members individually and collectively feeling as though they are being held hostage to the threat that we will close your base if you do not come around to our way of voting, and we can eliminate that once and for all. I think as Members observe this plan they will see that clearly, and I expect we will have more than the seven votes needed.

Mr. UPTON. If the gentleman will yield just for another minute or two and correct me if I am wrong, but as I recall, the former Senator from the State of Arizona, Barry Goldwater, probably the most conservative Senator one will ever find in Congress, I think he is one of the strongest supporters of this concept, and certainly one of the greatest hawks that one would ever find. He thought this was a tremendous idea, to let the Defense Department have that flexibility to streamline their own operation.

I just hope that the gentleman's amendment, when it is up, will be able to capture the same enthusiasm we have tonight in getting the majority number of votes and putting this over the top this year.

Mr. ARMEY. I thank the gentleman for his comments.

Yes, it is true, soon after we developed the notion and began framing the legislation I had the opportunity, a very great privilege for myself, to visit with the Senator from Arizona, Senator Goldwater. He did join with me in an editorial that we managed to place in the Washington Post and in other papers as an op-ed piece. It was rather interesting to then see the reaction we received from this initial sort of groundbreaking editorial by which the Senator and myself introduced the notion.

For example, very soon thereafter the New York Times editorialized in support of the concept. If I can quote, Mr. Speaker, for a moment from the New York Times of October 23, 1987, they said:

> The Army plan came within a whisker of adoption earlier this year as an amendment to the military authorization bill. * * * Such a narrow defeat in so worthy a cause warrants another try—for the defense, for the economy.

A little bit later, on February 20, 1988, in Business Week, they again editorialized saying:

> (Under the Base Closing legislation) a base closing could be stopped only by a majority vote of Congress, thus making it impossible for a single lawmaker to effectively keep an unwanted base open. The bill failed by five votes last year on the House floor. But it will be brought up again, and it should be passed.

A little later the Washington Times on March 2, 1988, stated:

> While piecemeal (attempts at base) closings won't work—Congressmen will cut deals to save their favorite pork barrel programs—a broad front will. We hope * * * the champions of effective defense will fight the straightforward battle to close bases the United States doesn't need.

The Dallas Times-Herald on November 8, 1987, stated:

> Congress should bite the bullet and pass (base closing legislation) this time around. Removing military bases from the political arena is probably the only hope for progress in bringing this portion of our military spending under control.

The Grand Rapids Press in their comments stated:

> (The Defense Savings Act) deserves another chance soon. Before the Nation takes on any more taxes in the battle against the deficit, we ought to know which side our lawmakers are on.

The St. Louis Post-Dispatch on May 16, 1987, stated:

> (Under the Defense Savings Act, the base) closings could be done quickly without having to follow the current Byzantine shut-down procedures. The interests of deficit reduction and an efficient military make a strong case for passage of the bill.

The Forth Worth Star-Telegram of March 22, 1988, stated:

> Congress can indicate how serious it really is about budget-cutting by looking with favor upon legislation enabling the Federal Government to shut down some military bases that, though obsolete and costly, remain operative because of the congressional penchant for pork-barrel projects.

Mr. Speaker, I include for the RECORD the several editorials on this subject as well as a list of cosponsors of my legislation.

The material referred to follows:

[From The New York Times, Oct. 23, 1987]

DEFENSE CUTS THAT WON'T HURT DEFENSE

The President and Congress have four weeks to put the budget together. If, despite Wall Street's warning, they still come to terms, the Gramm-Rudman-Hollings law takes effect on Nov. 20. Nominally, this meat-ax approach to deficit reduction will cut "across the board"—$11.5 from non-defense spending and the same from defense. For reasons of conscience as well as politics, Congress exempted Social Security and a few welfare programs. But the fine print reveals that the lawmakers also protected hometown pork; the Pentagon won't be allowed to save money by shutting any bases.

The United States can no longer afford such tender concern for parochial interestes. Some $2 billion to $5 billion could be saved in five years by closing 10 percent of the approximately 300 major military bases in this country, without even slight damage to security. The amount of savings will not rescue the economy—but it indicates what can be done. Indeed, if legislators could bring themselves to close some bases this year, they would enhance security, by sparing cuts that actually affect defense readiness.

The Defense Department has been trying for decades to close redundant or outdated installations. In almost every instance, it has been frustrated by representatives and senators seeking to preserve local jobs and the extra Federal aid those installations get for local schools. Even this year, two proposed closings were foiled. In the last 10 years, only one has gone through.

Fort Douglas, for example, an Army base in Utah, was built in 1862 to straddle the stagecoach route through the then-wild West. The Pentagon has fought to close it four times since 1964. Senator Jake Garn has fought to keep it open. Three years ago he even got his colleagues to approve $910,000 for a new "entryway processing station." The fort and gate are still there.

Representative Dick Armey, a Texas Republican, has a better idea. Based on findings of the Grace Commission on wasteful spending, he proposes a bipartisan commission to identify installations that could be shut down, and Penatagon authority to do so without further ado.

The Army plan came within a whisker of adoption earlier this year as an amendment to the military authorization bill. It had won by 15 votes when the time for voting expired, but the Democratic leadership froze the clock and then switched enough votes to kill it, 197 to 192. Such a narrow defeat in so worthy a cause warrants another try—for defense, and the economy.

[From the Washington Times, Oct. 5, 1987]

WHEN DOVES TURN INTO HAWKS—TRY CLOSING MILITARY BASES ON THEIR HOME TURF

If a military installation is no longer essential to national security, it should be shut down and the cost of its upkeep put to better use. So why can't we do that?

Congress is one reason. The most dovish lawmakers can be superhawks when it comes to protecting superfluous bases in their home districts. Military construction, the budget area that deals with base closings, is only about 3 percent of the president's annual defense budget request. Many of its individual line items may be measured in thousands of dollars. But these thousands are often scrutinized more closely than the millions we spend on airplanes, ships, tanks and other significant defense needs.

Despite congressional foot-dragging, the Department of Defense had great success in effecting realignments (the transfer of specific activities from one installation to another) and base closings throughout the 1960s and early 1970s. During the Kennedy and Johnson administrations, the Department of Defense mandated more than 450 realignment actions. The record does not show how many bases were actually closed, but roughly 147,000 positions were diminished, with annual savings of more than $1 billion. In the Nixon and Ford administrations, more than 2,700 specific actions were taken, with the result that 80 principal domestic military installations were closed, nearly 500,000 positions were eliminated, and annual savings of more than $4 billion were realized.

Administration successes in this area alarmed Capitol Hill. Parochial interests aside. Congress began to fear that the president could use the threat of base closings to bludgeon recalcitrant members into submission.

To forestall this possibility, the lawmakers imposed a series of regulations and requirements that had the practical effect of preventing base closings altogether. Chief among these was a 1977 law requiring the Defense Department to complete lengthy environmental impact statements before a base could be closed and its functions transferred elsewhere. Defense now has to spend up to a year conducting environmental studies for each base closure, and then defend the study against legal challenges for years after that.

In 1978, the Department of Defense announced 11 "candidates" for closing. All were rejected or withdrawn. In 1979, the department announced nine candidates for closing, eight of which had been tried in 1976 and 1978. None were ever implemented.

Given current restriction can the Department of Defense ever again close a base when it needs to? The Reagan administration's fiscal 1988 defense budget, now before Congress, recommended closing three defense installations, including, the Philadelphia Naval Hospital and Mather Air Force Base in California.

The hospital in Philadelphia is too large and inefficient and would be replaced by a smaller, more useful facility at the nearby naval shipyard. The function of Mather Air Force Base would be redistributed to other Air Force facilities. Recent history, however, suggest that even these modest and sensible requests will be strung out and eventually rejected.

Indeed a recent law expressly prohibits the Air Force from spending any money even to study the closing of the Mather Air Force Base.

What we need now is a mechanism for closing bases that is designed so that no base is kept open or closed for political reasons. During consideration of the Department of Defense authorization bill by the House of Representatives, Republican Rep. Richard Armey of Texas offered an amendment which, while not enacted, outlines such a solution.

The Armey amendment would create a commission to select bases for closure. It would then provide that the red tape (specifically, the evironmental study requirement) be waived for those bases only. Once the red tape is waived for the bases the commission selects, the secretary of defense would be free to close them if he believed the recommendation to be warranted. The object is not to evade restrictions that are genuinely concerned with procuring the environment, rather it is to avoid the desire that would result from publishing base closings in advance.

Since this commission would be bipartisan, Congress need not worry that bases would be closed for political reasons. At the same time parochial interests would not be able to prevent closure by dragging out the process indefinitely.

The Office of Management and Budget and the Department of Defense are working with Mr. Armey to perfect his proposal. There is a good chance that Mr. Armey's proposal will eventually be accepted by the House, or attained to the Defense bill in the form of an amendment to be offered by Republican Sen. William Roth of Delaware.

Mr. Armey's proposal would go a long way toward breaking the logjam over base closing, and enable us to redirect billions of tax dollars toward real national needs.

[From the Indianapolis Star, May 8, 1987]

CLOSING OBSOLETE MILITARY BASES

(By Dick Armey and Barry Goldwater)

When discussing ways to cut and reform government spending, conservatives usually limit their discussion to social programs, but we could be saving as much as $2.5 billion a year in defense spending if obsolete military bases could be closed. In the U.S. Congress, where representatives and senators take pride in protecting their turf, trying to close down bases is not just a job, it's an adventure.

Since the United States became a major military power, many legislators have looked at defense appropriations bills the way Jimmy Dean looks at hogs. They see pork. No fights on Capitol Hill as heated as the ones over whose districts get which defense dollars. Liberals and conservatives, hawks and doves, Democrats and Republicans all join the fray.

Last fall we saw two New York senators, one from each party, argue rabidly for a little plane called the T-46, which the Air Force says it does not want nor need, but is manufactured in Long Island. A few months after, a liberal congressman offered an amendment to spend $1.5 billion more than requested by the Defense Department for the Trident submarine. Given the fact that he had earlier voted to cut funding for the missiles that go inside the Trident, his amendment was a little puzzling. Puzzling until it was pointed out that this congressman's district is home to the shipyard that builds the Trident submarine.

It would appear these members of Congress had placed political interest above the national interest and that matters of military preparedness had nothing to do with their efforts for defense spending. They were looking to bring a slice of the federal pie back home. Fortunately, in many instances Congress rebuffs such flagrant attempts to place parochial interests above the national interests. But while that may apply to holding back new spending, it is not true of scaling back current, wasteful spending in the form of existing but needless military bases.

Few would deny we have numerous obsolete bases. Bases needed to house the 12 million Americans under arms in 1945 are simply no longer necessary for the leaner military of 1987. In fact, the Grace Commission on government waste and the Defense Department have said that at least 30 bases contribute little or nothing to our national security and could be consolidated. Doing so could save between $2 billion and $5 billion annually. Despite the pressure Gramm-Rudman has placed on Congress to save tax dollars, this option has been ignored.

Turf battles surrounding base closings not only involve congressional districts and states but also branches of government, specifically the executive and legislative.

In 1964 Secretary of Defense Robert S. McNamara announced plans to close nearly 95 military bases, one of which was the Air Force base in Georgia. The chairman of the Senate Armed Services Committee, Richard B. Russell of Georgia, felt such a proposal was "totally unjustified," as did House Armed Services Committee Chairman L. Mendel Rivers of South Carolina, who asserted Congress' responsibility "to act as a full-fledged partner with the president" on military matters. Congress could not be, said Rivers, "fully conversant in matters of national security if bases which we have authorized and approved . . . are closed without the Congress having any prior knowledge of these matters."

Thus began a long series of bills that have so effectively hamstrung the Department of Defense's prerogative to close down obsolete bases that virtually no closures have taken place since 1977. Until 10 years ago Congress did what it could do to prevent an administration from closing bases by refusing to provide the funds needed to close bases or by passing laws requiring the Department of Defense to give Congress advance notice of upcoming closures (thus ensuring enough time to rally opposition).

It was in 1977 that Congress finally found a way to effectively prevent base closures completely. By passing a law requiring expensive and time-consuming environmental impact studies prior to closing a base, Congress made keeping an obsolete base open virtually cheaper than closing it in the short run.

Putting total authority back in the hands of the executive branch would be difficult however. Congressmen are leary that a forceful president would use the closing of bases as a political weapon. It's conceivable that a president, facing a close vote, could tell a member of Congress, "If you don't vote with me on this legislation, I'll close down that Air Force base in your district." Indeed, it's rumored that Lyndon Johnson used such tactics.

Though recognizing this as a difficult problem, we've been too slow to address it in Congress. The time has come to create a bipartisan commission appointed by Congress and the president to recommend the closure of bases on military, rather than political or institutional criteria. The commission's recommendations could then be enacted with a waiver of the standard, congressionally erected roadblocks.

A bill pending in this Congress, the Defense Savings Act of 1987, would provide for such a commission, with two members of the commission appointed by the president, three by the Senate majority leader, two by the Senate minority leader, three by the House speaker, and two by the House minority leader. Then 12 commissioners would serve a one-time six-month term. And recommendations they make for base closings could be carried out by the Defense Department without meeting the stringent and costly procedures currently in place.

Parochial interests would be suspended, presidential retribution would be removed as a possibility, the national interest would be served and money would be saved.

The Pentagon has enough on its hands in keeping Ivan from the gate without being charged with running jobs programs.

[From Business Week, Feb. 29, 1988]

Defense Cuts Begin At Home

Defense Secretary Frank C. Carlucci has made a laudable start toward preparing the U.S. military for the 1990s. By insisting on coherent budget cuts, he has sharply focused the choices: The armed services must either pare manpower or risk pay stagnation and cuts in combat readiness. Carlucci wants force reductions—but he needs help. Persuading Congress to sign off on the personnel cutbacks in the 1989 budget won't be too tough. But in coming years more such stringency will be necessary, which could result in the erosion of America's overseas commitments to its allies. Unless, that is, Congress looks at closing military bases in the U.S. for potential savings.

Surely, with some 5,000 domestic military installations, prudent pruning that doesn't hurt national security is in order. A few air bases here, a handful of obsolete forts there, and the Pentagon could save $2 billion a year. But so nervous is Congress about the threat of closing job-producing bases that it passed a law 11 years ago requiring the Pentagon to do costly environmental-impact studies before it shrinks the function of, let alone closes, a military facility. Over the years the legislation has prevented any major base from closing.

The aptly named Richard Armey, a Republican representative from Texas, introduced a bill last year that would set up a nonpartisan commission to select candidates for closings and then would waive the bureaucratic red tape for those bases only. What's more, a base closing could be stopped only by a majority vote of Congress, thus making it impossible for a single lawmaker to effectively keep an unwanted base open. The bill failed by five votes last year on the House floor. But it will be brought up again, and it should be passed.

[From the Washington Times, Mar. 2, 1988]

Base Politics

Rep. Dick Armey of Texas has taken on a noble task: working out legislation that would enable the Pentagon to close superfluous military bases that currently add $2.5 billion to $5 billion annually to the defense budget. Unfortunately, his current proposal, which is being considered by the House Armed Services Committee, commits the common congressional sin of passing the buck.

Mr. Armey's legislation, which was narrowly defeated last year, would direct Congress to set up a non-partisan commission to study the nation's military bases. The commission would identify unnecessary or obsolete bases, which the Pentagon could then close without congressional approval. Congress could prevent such closures only with a majority vote.

Mr. Armey's proposal addresses a serious problem in the defense-budgeting process, Congress' inability to let go of pet programs and bases. The grossest act of congressional hypocrisy take place every year when defense-bashing doves and otherwise uncompromising fiscal conservatives dig in their heels and defend appropriations for military installations or defense contractors from their home districts.

In a recent article in Policy Review, Mr. Armey recounts the seemingly miraculous conversion of Rep. Sam Gejdenson of Connecticut's 2nd District. Mr. Gejdenson, a nuclear-freeze advocate, voted on a single day in 1986 to cut funds for the D-5 missile, which was to be deployed on Trident submarines, and then for an amendment, which he sponsored, to spend an additional $1.5 billion on the submarine itself. The Trident is built in Groton in Mr. Gejdenson's district. The D-5 is not.

Congress has not closed a single military base since 1977. This is despite universal agreement that many bases, such as Fort Douglas, Utah (a stagecoach stopover), or Fort Monroe, Va. (a War of 1812 redoubt), serve no pressing national security interest.

Congress in 1976 tried to make base closings all but impossible by trying to demand final approval for all base closings. President Ford vetoed the measure. But then-Rep. (now Sen.) William Cohen and House Speaker Tip O'Neill countered with legislation that required the Pentagon to carry out expensive environmental impact studies for every base it wanted to close. Mr. Cohen, to take one example, wanted to know the adverse environmental effects of moving a squadron of nuclear-armed B-52s out of his home state of Maine.

The process is further compounded: When the Air Force, for example, actually carried out such environmental studies and obstinately insisted on closing the cost-inefficient, strategically redundant, arctic-weather-ridden Loring Strategic Air Command base in northern Maine, Mr. Cohen effectively vetoed the move by an amendment that said, "No funds authorized to be appropriated by this or any other Act shall be obligated or expended for the purpose of the realignment of SAC's Loring Air Base."

Considering the prevailing statesmanship, Mr. Armey's purely pragmatic approach is seductive. Congressmen don't have the courage to make tough decisions, we are tempted to conclude, so let's delegate the authority elsewhere. But just as surely as the Constitution gives the president the awesome powers of commander-in-chief, it also settles upon Congress the responsibility to regulate the armed forces. For Congress to abdicate this responsibility to an unelected bureacracy is no more acceptable than for the president to seize it away.

The American public understands hypocrisy of the sort Mr. Aremy decries, and would support broad measures to close down all unnecessary installations. The Pentagon for years has supplied such lists, and it should provide the raw material for a concerted assault on bases that represent an unjustifiable drain on the public treasury. While piecemeal closings won't work—congressmen will cut deals to save their favorite pork barrel programs—a broad front will. We hope Dick Armey and other champions of effective defense will fight the straightforward battle to close bases the United States dosen't need.

[From the Dallas Times Herald, Nov. 8, 1987]

Evaluate Military Bases

Given the fragility of the economy and the compelling need for Congress to move aggressively against the federal deficit, the national interest must take precedence over parochial interests. Nowhere is this need more apparent than in obsolete American military bases.

Studies by the Defense Department and the Grace Commission on Government Waste concluded that about 10 percent of the 312 major military bases in the United States have become redundant. Closing those bases would save American taxpayers about $2.5 billion annually, according to the most conservative estimates. Bases needed to house the 12 million Americans under arms in 1945 are simply not needed now that only 2.1 million servicemen are on active duty.

Unfortunately, these bases are precious pork to the representatives in whose districts they lie. Closing bases—regardless of how clear the case—has historically fallen victim to pork-barrel politics.

The most recent example is a move by U.S. Rep. Joe Barton, R-Ennis, and 14 other Republicans to have the General Accounting Office determine the cost savings of shutting down 28 bases around the country, including two in Texas. The catch, of course, is that all but two of the bases are in districts represented by Democrats. The GAO dodged the request, saying it should be done by the Defense Department, but it illustrates the fatal fallacy of basing such decisions on partisan considerations.

An excellent proposal by U.S. Rep. Dick Armey, R-Lewisville, to create a bipartisan commission to examine the bases strictly on terms of military efficiency, rather than political expediency, was defeated by seven votes in April.

The Armey plan, termed the Defense Savings Act, called for appointment of a commission of 12 members: two appointed by the President, three by the Senate majority leader, two by the Senate minority leader, three by the speaker of the House, and two by the House minority leader.

The commission would serve for six months, make its recommendations, then disband. The Defense Department, which has recently endorsed the concept, could follow the recommendations to shut down obsolete bases without performing expensive environmental impact studies. In 1977, Congress passed a law requiring such studies prior to closing bases, a classic bit of pork-barrel politics that made it cheaper in the short run to keep obsolete bases open than to close them.

That sort of parochial self-interest just won't do anymore. Redundant bases should be closed. Rep. Armey is rallying support for his bill, which he plans to reintroduce. Congress should bite the bullet and pass it this time around. Removing military bases from the political arena is probably the only hope for progress in bringing this portion of our military spending under control.

[From the Grand Rapids Press, Oct. 26, 1987]

Needless Bases Add to Deficit

Last week's statements by President Reagan seems to mean that he is ready to accept some kind of tax increase. Too bad it took a stock market crash to bring him around. Now Congress has a chance to show some responsibility of its own—by cutting back on the pork it annually stuffs into the Pentagon budget.

The waste takes many forms, most commonly in forced spending to benefit a project in some legislator's district—as, for example, when Michigan's Sen. Carl Levin several years ago got Congress to appropriate money for 120 more Detroit-made tanks than the Army wanted. Sometimes it shows up in special legislation to pay for a contract overrun—as when Sen. Arlen Specter, R-Pa., this year got through an appropriation of $10 million to bail out an important contractor in his state, despite vehement Navy opposition.

Nowhere is excess more conspicuous than in the many obsolete military bases the Defense Department wants to close but cannot. By various estimates, there are at least 30 sizable installations in that category—some of them relics of the covered-wagon era—and several hundred smaller ones. Eliminating just the 30 larger ones would save from $2 to $5 billion each year. But Congress has built such a thicket of defenses around these bases, that shutting down any one is nearly impossible.

The benchmark year in that regard is 1977. That's when Congress got going on laws that now require a mandatory waiting period before a base can be closed, and studies of a closing's environmental, social, and economic impacts. In 1982, President Reagan set up a Property Review Board to sell off surplus properties; Congress passed laws protecting the sites to be sold and eventually abolished the review board. The Gramm-Rudman-Hollings deficit reduction act is no threat: Congress specifically barred the Defense Department from saving money by closing bases.

The legislation has put a virtual stopper on closings. Since 1979, only one significant attempt has been made—an effort by Defense Secretary Caspar Weinberger to shut three posts—and it went nowhere. Even a tiny initiative by the Air Force is tied up in knots. The Air Force wants to close a radar station it operates in Michigan, north of Calumet. The legislator for that district, U.S. Rep. Robert Davis, R-Gaylord, has tacked onto a defense appropriation bill an amendment that will prohibit any closing before October, 1988.

Frustration on this issue crosses party lines. Every president since Harry Truman has been hamstrung in attempts to cut back on the 4,000 forts, shipyards, fields, posts, hospitals, depots and office complexes maintained by the military. Aides to Defense Secretary Harold Brown, in the Carter administration, figured that 150 properties could be trimmed without harm.

The simple answer lies in lawmakers forgetting their pork protectionism and focusing on the nation's big pile of debt. Selflessness of that degree seems beyond their reach, but a compromise plan should suffice. Rep. Dick Armey, R-Texas, has proposed creation of a bipartisan commission to recommend base closings, with Pentagon authority to carry them out. A significant flaw in the bill is that the panel's 12 members would include only two appointed by the president; the other 10 to be named by various congressional leaders. Still, a small chance at savings is better than none.

The Armey bill is called the Defense Savings Act of 1987. It has already failed once in a House vote victim of a last-minute meeting by the Democratic leadership. It deserves another chance soon. Before the nation takes on any more taxes in the battle against the deficit, we ought to know which side of lawmakers are on.

[From the St. Louis Post Dispatch, May 16, 1987]

PORK BARREL VS. MILITARY NEED

Rep. Dick Armey is a conservative Republican from Texas who is out to butcher one of Congress' most-prized sacred cows: Mr. Armey wants to start closing down obsolete military bases. Even with the public backing of noted conservatives like retired Sen. Barry Goldwater, Rep. Armey's Defense Savings Act of 1987 is facing a steep uphill battle.

For most members of Congress, this is not an issue that involves national defense; it is pure pork-barrel politics. Military bases mean jobs—jobs on the base itself and jobs in the local civilian businesses that serve the base and its personnel. In many cases, a military base means federal aid to the locality. However, many of these bases are unneeded. The Grace Commission on Government Waste and the Pentagon have estimated that at least 30 military facilities could be closed down tomorrow, giving the government an *annual* savings of between $2 billion and $5 billion. Ten years ago, however, Congress imposed a costly and stringent shut-down procedure that has made it all but impossible for any administration to close a military facility.

The Armey bill would attempt to take the overt pork-barrel politics out of this issue. The measure would call for a bipartisan commission with 12 rotating members, appointed by both the president and the Congress, which would recommend the closing of individual military bases solely on the basis of military need. The closings could be done quickly without having to follow the current Byzantine shut-down procedures. The interests of deficit reduction and an efficient military make a strong case for passage of the bill.

[From the Fort Worth Star-Telegram, Mar. 22, 1988]

CLOSING BASES: ARMEY'S MEASURE DESERVES SUPPORT

Congress can indicate how serious it really is about budget-cutting by looking with favor upon legislation enabling the federal government to shut down some military bases that, though obsolete and costly, remain operative because of the congressional penchant for pork-barrel projects.

The Pentagon, seldom accused of being penurious, has tried in vain for years to close a number of bases that even it recognizes as cost-inefficient. Each time, the stumbling block is a Congress that responds to the pleas of individual members in whose districts the bases are located and who view them not as part of the nation's strategic defense network but as elements of local economies.

The government, without damaging national security, could save $2 billion to $5 billion by closing 10 percent of the approximately 300 major military bases in this country. Such a procedure was recommended by the Grace Commission, which so diligently sought out sources of waste in federal spending.

But closing a base under current law is virtually impossible because of regulations spelled out by Congress at the behest of members eager to protect bases within their districts, thereby preserving local jobs and the extra federal aid the bases lure to local schools.

Frankly, Congress does not have the courage to do the right thing and shut down bases that even the military admits serve no military purpose. The Army has tried, for example, to shut down Fort Douglas in Utah and Fort Monroe in Virginia, but Congress will not allow it, although Fort Douglas, built in 1862, was designed to protect stagecoaches and settlers from Indians and Fort Monroe has had little strategic importance since the War of 1812.

In an effort to circumvent an obstructionist Congress, Rep. Dick Armey, R-Texas, has drafted legislation to establish a bipartisan commission to identify installations that should be shut down and to authorize the Defense Department to implement the commission's recommendations without the approval of Congress.

Armey's plan calls for the panel to consist of six Democrats and six Republicans. The members would be appointed by the White House, the speaker of the House, the Senate majority leader and the minority leaders of the House and Senate. Once in place, the commission would be granted six months to evaluate the military installations and make its recommendations.

This would not be a permanent commission. It is to go out of existence 30 days after the delivery of its final report.

Although Armey's proposal was narrowly defeated last year as an amendment to the military authorization bill, it has won significant backing on Capitol Hill as a bill in its own right. More than 100 fellow representatives have signed on to co-sponsor the legislation, and it appears virtually certain that the full House will have the opportunity to debate it.

It is vital during the debate that procedures for easing the adverse economic impact of closings on local economies are carefully spelled out. Once that has been accomplished, it should be full speed ahead on the Armey measure, an idea whose time has not only come but is long overdue.

[From the Dallas Morning News, Mar. 20, 1988]

OBSOLETE BASES: CLOSINGS ARE SENSIBLE APPROACH TO DEFENSE BUDGET

A bill that has the potential for cutting fat, not muscle, out of the defense budget is currently being considered in Congress. It should be passed. Called the Defense Savings Act, and sponsored by Rep. Dick Armey, R-Denton, the bill would establish a non-partisan commission to study obsolete military bases.

The Grace Commission has estimated that 10 percent of present bases, or about 30 bases, could be closed at an annual savings of $2 billion to $5 billion, without damaging national security.

It's true that the military pumps money into local economies, and local areas will be reluctant to give up their bases. But that may be the price that has to be paid to reduce the federal deficit. There hasn't been a military base closed in the United States in more than 10 years, which seems curious under peacetime conditions when the defense budget has been under challenge.

Armey's bill would establish an appointed panel of six Democrats and six Republicans. The House speaker would name three appointees, the Senate majority leader would name three, the House and Senate minority leaders would name two each, and the administration would name two. This commission would have six months to evaluate the bases. At that point, the secretary of defense would have the ability to close any of the bases on the list.

The political problems of closing bases have included pressure on local members of Congress to keep them alive and/or pressure from presidents who would use military bases for leverage in gaining support for their own programs. Lyndon Johnson and Richard Nixon were both known to use bases for political reprisals. This commission approach gets around that politically thorny problem.

Additionally, if members of Congress believe that it is not in the national interest to close a base recommended in the report, they can offer a bill asking for funding for that base.

Federal regulations have been able to prevent any base from being closed in the last 10 years. Those regulations that have precluded closure would be waived for bases selected by the committee.

The closing of obsolete military bases is admittedly a difficult problem to address, but this seems a reasonable approach. At least 113 members of Congress seem to agree. They have signed on as sponsors of Armey's bill. If the other necessary support is gained, the concept can—and should be—incorporated.

COSPONSORS OF H.R. 1583, MARCH 25, 1988

Michael Andrews, Les AuCoin, Robert Badham, Richard Baker, Cass Ballenger, Steve Bartlett, Joe Barton, Jim Bates, Anthony Beilenson, Helen Bentley, Doug Bereuter, Howard Berman, Michael Bilirakis, William Broomfield, Hank Brown, Jack Buechner, Jim Bunning, Sonny Callahan, Thomas Carper, Rod Chandler, Dick Cheney, James Clarke, Larry Craig, Philip Crane, William Dannemeyer, Tom DeLay, Joseph DioGuardi, Robert Dornan, Thomas Downey, David Dreier, Harris Fawell, Edward Feighan, Jack Fields, Hamilton Fish, Barney Frank, Bill Frenzel, Fernand St Germain, and Richard Schulze.

Sam Gibbons, Newt Gingrich, William Goodling, Bill Green, Judd Gregg, Steve Gunderson, Ralph Hall, Dennis Hastert, Joel Hefley, Paul Henry, John Hiler, Amo Houghton, Jerry Huckaby, Duncan Hunter, Henry Hyde, James Inhofe, Andrew Jacobs, Nancy Johnson, Ernest Konnyu, Jon Kyl, Robert Lagomarsino, Delbert Latta, Jim Lightfoot, Bill McCollum, Alex McMillian, Connie Mack, Buddy MacKay, Lynn Martin, Robert Michel, George Miller, John Miller, Constance Morella, Bruce Morrison, Robert Mrazek, Donald "Buz" Lukens, Peter DeFazio, and Carlos Moorhead.

Stephen Neal, Howard Nielson, Michael Oxley, Ron Packard, Timothy Penny, Thomas Petri, Nick Rahall, John Rhodes, Don Ritter, Harold Rogers, Marge Roukema, Claudine Schneider, Bill Schuette, Charles Schumer, James Sensenbrenner, Philip Sharp, Clay Shaw, Norman Shumway, David Skaggs, Denny Smith, Lamar Smith, Virginia Smith, Arlan Stangeland, Bob Stump, Don Sundquist, Mac Sweeney, Patrick Swindall, Thomas Tauke, Bill Thomas, Frederick Upton, Robert Walker, Vin Weber, Ted Weiss, Charles Wilson, Toby Roth, Andy Ireland, and Norman Mineta.

Mr. Speaker, let me cover a couple of points.

The first thing we have to remember is these statutes we would waive in the interest of affecting the closure of those bases selected, and only those bases selected by the nonpartisan base-closing commission are statutes that were in fact put into effect initially for the express purpose of preventing bases from being closed in response to a legitimate and well-documented concern by Members of Congress. We must understand the statutes do not exist for any reason other than to prevent the closure of bases.

For example, the author of the key statute, 2687 in 1977 said:

> Predictably, critics of this amendment will argue that national security should be the ultimate consideration in determining the strength, mission and location of military bases. I agree. Unfortunately, every member of Congress knows full well that the defense posture of the United States frequently plays a secondary role in the determination of what base to emasculate or close. Whether or not we like to admit that this is true, it is a fact of life. And that is why the principle purpose of this amendment is to insure that national security takes precedence in deciding questions of base closures and reductions, and that the lives and well-being of thousands of our constituents are not bargained away like poker chips in a high stakes political game.
>
> The issues raided by this amendment transcend the parochial interests of any one region of the country or political party.

That was put in place, as he said, for the principal reason of preventing politically motivated base closures, to assure that base closures would be done for security reasons. I say that has been so effective that it has prevented all base closures in the last 10 years.

Again, for security reasons and for economy reasons, and in order to avoid the politically motivated closures, I say it is time now to appoint the commission and waive that statute.

During the debate in which these statutes were put in place a Senator in 1985 legislation to completely waive the 1977 laws said:

> (I)t is easy to imagine how the closing of bases, if skillfully manipulated . . . could be used either to influence votes or to exact retribution for votes that did not turn out to be the way the administration in power wanted them to be. And that is not the kind of grant of power to a power-hungry Defense Department that this Senator wants to have any part of.

Again, another Senator during the 1985 debate to waive these statutes said:

> The fear of the exercise of untrammeled executive power is what led or what continues to fuel the support for the protections against base closing.

Also from the 1985 debate in the other body:

> You know why the law makes it difficult for them to close a base. It is not just for economic reasons. It is not to impair the Defense Department militarily. It is to make certain that Senators are not disciplined and chastised because they happen to disagree with the Defense Department on a crucial vote.

Another Senator said:

> The reason why the law was changed to provide that economic and environmental impact statements had to be made by the Defense Department before they summarily closed the bases was that there was so much politics involved in it.

Mr. Speaker, this again I offer as testimony. The concern is real. It is shared across both sides of the aisle. It is documented.

The statutes had their place, they were necessary, and is a sad story to tell, but in fact now we have an alternative to living with the total elimination of base closing, base realignment, base adjustments for economy and defense purposes by way of an express opportunity to waive those in response to a responsible selection procedure.

I might also make the point about community readjustment. There is in my estimation an undocumented concern in many communities that closing the base will result in harm to the community. This has not been true with past base closures. Certainly an economic readjustment is necessary. That is always the case. But in most instances historically where bases have been closed, and the properties have been put to other uses, the communities have gained. Let me cite some statistics.

A total of 138,138 civilian jobs are now located on former bases replacing 93,424 DOD contractor jobs lost; 12 four-year colleges have replaced base facilities; 32 vocational, technical or community colleges are now on former bases, which in turn induce new job creation; 53,744 college and postsecondary students are served by former base facilities; 7,864 high school vocational technical students and 8,110 trainees are now receiving education at 57 former military bases.

Office industrial parks or plants have been established on 75 of the former bases closed. Forty-two of the former bases are now municpal airports.

Brookley Air Force Base in Mobile, AL, was closed, and not many years later the New York Times did a story in which they quoted many leaders in that city as saying they would not have Brookley back even if the Government came begging because they had done such a good job of readjustment.

In Salina, KS which lost an Air Force Base, the quote from the local community was,

> We're recovering quite nicely, thank you, said an editor of the local paper. Now we are more closely tied to national economic trends. Before we kind of sat back and got fat. This is creating a new aggressive spirit in Salina.

□ 1935

Senator JOHN CHAFEE, of Rhode Island, whose State had several closures, the Department of the floating Navy rallied the Rhode Island business community around a common theme. "What is done, is done. Now let's grow from here." And that is just what the State has been doing, growing in directions it never considered before.

There is a concern by many Members that a commission violates congressional prerogatives. I think not, Mr. Speaker. Already a single Member or citizens group can tie up a base closure for years. In a sense they already have individuals who can violate the prerogative and the intent of Congress. We would reestablish and reassert our control over defense basing.

Congress as an institution will be intricately involved in passing this legislation, involved and consulted with at the very minimum in determining who is on the commission and, in fact, Congress is able to define in this the criteria by which the choices would be made.

This is quite the contrary of Congress having its prerogatives preempted; it is Congress asserting its prerogatives.

The up-front costs, I am told by many Members, are so high that it is often cheaper to keep the base open than it is to close the base.

I submit that that is an exaggeration. They said that Fort Douglas would be more expensive to close than to maintain. But the figures included things like the cost of turning it into a national historical site. The figures include the cost of litigation, projected court cases.

There will be initial costs, but since most of the savings are in operational costs, and let me emphasize that, the savings from base closings are in operational costs, the savings will be realized year after year after year forever and ever, an investment that promises huge rewards in the outyears.

If, for example, Loring Air Force Base in Maine, the base closure that was being discussed that prompted the O'Neill/Cohen legislation in 1977 that shutdown all base closings. If in fact at that time they had closed Loring it would have cost $7 million to move those bombers. But $25 million would have been saved in operations costs every year thereafter.

For a shipyard spending $50 million now means $450 million each year thereafter. Now what corporation would turn down that opportunity for savings?

I submit that we must be very, very careful, Mr. Speaker, in accepting the proposition that it costs to save money, more than we can afford.

One final point I would like to address, Mr. Speaker: There will be a problem as there always is when you are in a tight budget configuration as this Government most certainly is. There will be a problem in meeting the up-front costs. This has been a difficult problem area for those of us involved in this project working with this Congress, working with this concept and trying to work it out. We have had very good input from the committees in both the House and the Senate and from the Department of Defense.

I would suggest to the Members of this body, as we consider these proposals, to examine the solution that we propose.

There are alternative possibilities that should be considered. We could establish and should establish a special account, a revolving account; as you close bases, you begin to realize those savings, you can pay into this account, you can pay back some initial seed money deposited into the account to initiate the process.

Let me say, Mr. Speaker, in closing: The Nation cannot in a time of these deficits afford waste in any function of our budget, in any area of our national expenditure.

We must eliminate waste. Nobody benefits from waste; everybody benefits by its elimination.

I would argue that it is imperative that we take that function of the budget that I consider to be the most important, essential obligation of the Federal Government, national defense; take the initiative here, eliminate the waste.

We have the means to do so in this measure. We have broad based support for this both in this body and across the Nation. We have now a window of opportunity where the political environment is ripe for it. Our opportunity to move now with minimum threat to individual Members of Congress, that there will be a politicized process, will not soon come again. I would hope that this body would take this legislation and move forward with it with dispatch, in the interest of a strong national defense, an efficient national defense, a safe and secure future for our children.

As we set that example in this critically important function of our national budget we then, I think, will find that we not only have increased wisdom but greater license and authority to examine other dimensions of the budget and go forward then, again, to provide those essential services of the Federal Government at less cost and with greater effectiveness.

I thank the Speaker for his patience. I would like to take a moment to thank the staff. This has been a long day for the staff and I know that they have demonstrated great patience with me on this special order. I consider this an essentially important subject for our Nation and for our defense and I appreciate everybody's patience.

Mr. HOUGHTON. Mr. Speaker, the budget process is complete for the year. The budget is no masterpiece but it's done and done early. The deficit remains. The question now is how to reduce next year's deficit—a difficult job. One concept that I support would be to close or realign a number of military bases which are a little outdated or not essential to the current defense effort.

This is not a new thought. The Grace Commission first suggested setting up, on a bipartisan basis, a nonpartisan commission to select the bases which could safely be closed. The Grace Commission's rough estimates pointed to some 2 to 5 billion dollars' worth of savings in 5 years through closing 10 percent of its bases in this country—300 out of 4,000 military installations located in the United States. This could all be done without damaging our national security. But that was in 1982 and nothing has been done.

Now H.R. 1583, introduced by my colleague, Congressman DICK ARMEY, which I have cosponsored, embraces virtually the same proposal. This bill would create an independent, 12-member bipartisan panel to review the Nation's military basing needs and, driven solely by questions of military utility, recommend to the Defense Secretary candidates for closing. Since Federal regulations and special interests have stymied any base from being closed in the past 10 years, I feel H.R. 1583 has the potential for cutting fat, not muscle out of the Defense budget.

The amount of savings accrued would not rescue the budget for 1990, but it would be a step in the long process. Indeed, if we as legislators could bring ourselves to close only a few bases, I'm convinced that security could be enhanced by sparing cuts that directly affect defense readiness.

Part of the savings might be redirected and pumped back into the local community, spurring economic development. Base closings don't always have to cause economic disruptions. They can be a stimulus if properly handled.

No one benefits from waste. If we are able to break the logjam over base closings, we will then be able to redirect billions of tax dollars toward real national needs.

Mr. BALLENGER. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Texas [Mr. ARMEY] for taking this special order on this matter and for allowing me a few minutes to express my support for H.R. 1583, the Defense Savings Act, which he authored. The gentleman and I serve together on the Committee on Education and Labor and his guidance has been most helpful.

As we continue to face the prospect of declining defense budgets over the next several years, we must take decisive action to ensure that the remaining defense dollars are spent wisely. Continuing to spend billions of these precious defense dollars on unneeded and obsolete military bases is outrageous and must be brought to an end.

The difficulty in accomplishing the closure of these bases can be summed up in one word: politics. Due to the successful closings of outmoded military installations during the 1960's and 1970's, Congress dug in it's heels. In order to blunt additional closings by the executive branch, Congress mandated numerous requirements to be met prior to a base closure. This had the effect of almost eliminating any future closings. Since the late 1970's, the Defense Department has attempted 20 such closures and has been able to implement none of them.

What is clearly needed is some means to close obsolete bases that can circumvent political considerations. Such a mechanism is H.R. 1583. The bill would provide for a bipartisan commission to select the bases that can be closed without adversely affecting our Nation's defense, and grants the Pentagon the authority to close only those bases. No longer would Congress need fear the executive's power to close any base on a whim.

Two members of the commission would be appointed by the President, three by the Senate majority leader, two by the Senate minority leader, three by the Speaker of the House, and two by the House minority leader. The 12 commissioners would serve a one time 6-month term. The Defense Department would then carry out the recommendations of the commission.

This Nation funds annually over 5,000 domestic military bases, many not fully used or needed for decades. We can no longer afford to do so. Mr. ARMEY'S plan is a well-thought out solution, insulated from political considerations.

We are all under intense pressure to find a way to reduce spending and to bring the deficit under control. But, we must also not do it at the expense of our Nation's security. Closing obsolete and unneeded military bases could save us $2 to $5 billion a year. I urge all of my colleagues to put parochial and political considerations aside and join the 112 cosponsors of this bill.

Mr. HEFLEY. Mr. Speaker, I would like to extend my support for Representative ARMEY'S bill, H.R. 1583. This bill directs the Secretary of Defense to set up a nonpartisan commission to identify obsolete bases for closure and grants the Department of Defense the authority to close these bases.

Base closings has been a heavily contested issue for over two decades and this issue has repeatedly been the cause of political and constitutional controversy between Congress and the executive branch. Current legislation contains such complex procedural requirements that the base closure program has come to a virtual halt. This, coupled with the resistance by Members of Congress, has made it impossible for this country to save billions of dollars where it can.

In my view, this bill addresses the debate with viable answers. This is the very mechanism that would erase the political pressures of either keeping a base open or closing it. By having a nonpartisan commission, the fear of having a biased Presidential decision is resolved. The Department of Defense will not make the decision but will have the legal ability to close a base once the commission identifies an eligible base.

Few could argue that the Government is supporting obsolete bases. It is estimated that there are at least 30 bases that contribute little or nothing to our national security and could be consolidated. In closing these bases we could save $2 to $5 billion annually.

Despite pressures of Gramm-Rudman to save tax dollars, obsolete bases have continued to operate. As pork projects, Members of Congress have continued to feel the need to bring a slice of the Federal pie back home. In my view, it is hard to justify taxpayer dollars spent on these bases that are not contributing to our national security or national needs.

Shutting down military bases has never been easy, even the most wasteful. With the present massive deficit, the Government simply cannot afford to keep them open.

This measure directly bypasses political pressures and restraints, and helps to break the logjam over base closures.

By closing obsolete bases, we not only save billions of dollars per year but we can also redirect these tax dollars toward real national needs.

Mr. LIGHTFOOT. Mr. Speaker, as a cosponsor of H.R. 1583, I appreciate this opportunity to join the gentleman from Texas [Mr. ARMEY] in discussing the bill's merits.

My top priority since being elected to Congress—a priority that I know is shared by almost every Member of this body—has been to bring under control our mounting Federal deficits. We simply cannot continue spending our way down this path toward economic destruction. We are accumulating a monumental debt for our children and grandchildren to bear, not to mention the immediate burden we are creating for today's economy. Our current public debt totals $2.8 trillion, and that figure will grow to $3 trillion by 1992 even if we immediately stop all deficit spending.

We can stop this trend, and we can do it without further tax increases. Doing so will require a lot of spending cuts that are difficult to make, but we still haven't exhausted all of the easy choices that we should all be able to support. Realigning or closing unnecessary military bases is one of these easy choices, and Congressman ARMEY'S bill will change current law and allow us to take action in this area.

The Grace Commission originally proposed closing unnecessary military bases in its report. Estimated annual savings from a base realignment program range from $1 billion by the Defense Department to as high as $5 billion by the Office of Management and Budget—all with no harm to our national security.

In view of the staggering savings that could be realized, one would think the Defense Department would jump on the opportunity to implement a realignment program. Unfortunately, however, the Defense Department is bound by almost impenetrable requirements for studies and procedures that must be followed before a base can be closed. These requirements are aimed primarily at protecting the economic interests in the immediate locales surrounding the bases. In fact, we are fooling only ourselves by viewing some obsolete military bases as anything but the product of pork barrel politics, pure and simple.

There is a legitimate need for some oversight on the decision on which bases to close. In the past, some proposals to close bases have been politically motivated. It is for this reason that H.R. 1583 would establish a nonpartisan commission to select bases which could be closed or realigned. Those selections having been made in a nonpartisan way, the inhibitory statutes would be waived for only those bases and none others.

I am encouraged to note that H.R. 1583 came close to being approved in the form of a floor amendment last year. I believe most Members will support the bill once they are more familiar with it, and I am therefore pleased to have the opportunity to participate in this discussion.

Again, I want to extend my thanks to Mr. ARMEY for his efforts on this proposal and I urge my colleagues to support his legislation, H.R. 1583.

Mrs. MORELLA. Mr. Speaker, I wish to commend the gentleman from Texas for scheduling this special order today addressing the subject of military base closings.

The need to close, realign, or consolidate a number of obsolete military bases is one which Congress has recognized for years, and such necessity has increased as the budget deficit has climbed during the 1980's. However, when it has actually come down to closing any particular base, the Members representing the district or State in which the base was situated invariably moved to prevent such action citing the need for jobs and income for the local economy. Often these positions were taken in spite of the fact that changes in technology, force structure, or the nature of the threat to national security, had made the bases obsolete. This is one example of pork-barrel politics at its worst.

Of more legitimate concern to Members of Congress is the fear that the executive branch could use its power to close bases as a political weapon against the Congress or against individual Members. But the statutes enacted by Congress to prevent such action have contributed to the virtual impossibility of closing any military base.

I believe that our colleague from Texas, Mr. ARMEY, has found a solution which will satisfy these concerns. H.R. 1583 would establish a nonpartisan commission to select bases which can be closed, realigned, or relocated without harming the national security. The bill would further provide for the waiving of applicable statutes for those bases only.

A nonpartisan commission would help to transcend political differences, such as the Social Security Commission and others have in the past. A commission would also prevent the executive branch from punishing Members who have opposed it.

Depending on which bases are closed, the Grace Commission has estimated a savings of up to $2 billion annually, while the Office of Management and Budget estimate is as high as $5 billion. Even the Department of Defense last year admitted a likely saving of at least $1 billion.

Mr. Speaker, I submit that as we prepare to address in the coming weeks and months the Defense budget and the overall budget, we must take action to close or realign obsolete military bases in the name of deficit reduction and a more efficient military. Mr. ARMEY'S proposal of a Base Closings Commission is the best suggestion before us, and I urge my colleagues to join me and other cosponsors in support of H.R. 1583.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Texas?

There was no objection.

BIRTHDAY OF THE SIKH NATION, APRIL 13, 1988

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 60 minutes.

Mr. SWINDALL. Mr. Speaker, every nation has its national day. On April 13, Sikhs in their homeland of Punjab, here in America, and throughout the world, celebrate the birthday of their nation and their religion.

It was on April 13, 1699, almost three centuries ago, that Guru Gobind Singh began to baptize people in the name of the Sikh faith. Today, Sikhism has about 16 million followers in India, most of whom live in Punjab, several million more in the rest of the world, more than 300,000 here in the United States, and several hundred in my district in Atlanta, GA.

I am increasingly alarmed about reports reaching the outside world concerning the escalation of violence in Punjab. I have heard accounts of hundreds of people being massacred already this year, many of them innocent women and children. The crisis in Punjab has been building up for several years, and may soon have major international implications. Two weeks ago, a rocket launcher was used for the first time during an attack in Punjab, and a report from the Washington Times of April 11 indicated that Sikh separatists may have acquired some Stinger missiles. Whether this is true, or merely Indian Government disinformation, remains to be seen. At any rate, such reports are disturbing.

Recently, the Indian Parliament amended the Constitution to enable the New Delhi government to impose a state of emergency in Punjab, which it previously had not been able to do, except in cases of external aggression or "armed insurrection." The emergency powers would take away all civil rights in Punjab, and allow local police authorities to shoot suspects on sight. At the beginning of April, Prime Minister Rajiv Gandhi ordered a 330-mile barbed wire fence built along the border which Punjab shares with Pakistan. The accumulation of these ominous reports has given rise to a fear that Punjab is standing on the threshold of civil war, and that the fenced-off area may become a new "killing field."

The current crisis in Punjab urgently requires close and careful study, lest the United States be caught off guard, once again, by events. As my colleague Representative BERNARD DWYER of New Jersey pointed out on February 17, "Clearly, the state of events in Punjab is no 'internal affair,' " apart from the purely humanitarian consideration that human rights, wherever they are systematically abused, become an "international affair." The Punjab crisis is already causing tensions between India and its smaller neighbors. Relations with Pakistan, which have never been good, have been particularly exacerbated. This, in turn, affects United States relations with India and Pakistan, both of which receive hundreds of millions of American tax dollars in the form of United States foreign aid.

Moreover, the withdrawal of Soviet troops from Afghanistan, if it proceeds as expected, could untie Pakistan's hands from its prime preoccupation with its neighbor to the north. Then, Pakistan might be able to turn its attention to its neighbors to the east—Punjab and India. The danger exists that the Punjab crisis could spill over to its borders.

Unless its policies undergo a profound and fundamental change, the Soviet Union will continue to cast a long shadow over that area of the world. Even if it affects a tactical military withdrawal from Afghanistan, the Soviets cannot be expected to abandon their age-old ambition of gaining access to the warm waters of the Persian Gulf and the Indian Ocean. It is therefore vital to the interests of the United States that the peace and independence of the countries in that region be preserved.

At the center of the Punjab crisis stand the Sikhs themselves. Today, almost three centuries after the birth of their religion and nation, they are undergoing another baptism—a baptism of fire. The massive and systematic abuse of their civil rights by the central Indian Government has been well-documented by respected international organizations such as Amnesty International, and by a 1987 Congressional Research Service study. Since then, there have been disturbing reports in the press of the use of "killer squads" by the Indian Government against the Sikhs. In the past, only the world's most repressive regimes have resorted to such methods.

Meanwhile, Punjab has been virtually isolated from foreign visitors, reporters, and even U.S. Congressmen, who otherwise could give objective eyewitness accounts. The Indian Government has waged a successful disinformation campaign, using Soviet-style active measures to tarnish Sikhs as "terrorists" and "extremists." Most news accounts appearing in the foreign press emanate from Indian Government sources, and are mindlessly repeated without much further examination by our media. India's press censorship and travel ban to Punjab raises major questions about what Prime Minister Gandhi is trying to hide from the free world. Therefore, it is incumbent upon Congress to sift through the mass of information and disinformation, and get at the truth, since India seems unwilling to cooperate.

If India were the world's "largest democracy," as it claims to be, it would not hesitate, first, to fulfill its promises of autonomy made to the Sikh nation at independence in 1947, and, second, to test the popular will through a referendum. In December, 1987, the House unanimously passed an amendment by Representative DAN BURTON (R-IN) to H.R. 3100, the foreign assistance authorization bill, which called for the return of home rule in the Punjab, "while guaranteeing the religious freedom and respect for the human rights of all the people of India." That is all the Sikhs are striving to do.

The Sikhs' struggle for freedom was galvanized by the attack on the Golden Temple, their holiest shrine on June 6, 1984. The Indian Army appeared to have timed its assault when the temple precincts were crowded with thousands of pilgrims for a religious festival. This was a turning point in history.

The power and the will of the Sikhs should not be underestimated, and their psychology must be understood. Although traditionally fearsome in battle when aroused, the Sikhs are a peaceful nation. They love to farm. Although they are only 2 percent of the population, they produce 73 percent of India's wheat reserves and 48 percent of the rice reserves. Twenty-five percent of the officer corps in India's armed forces are Sikhs.

The Sikhs must not be confused with their neighbors, the Muslims and Hindus, with whom they have little in common religiously. The Sikhs are monotheistic, but believe that God is not just their God, but the God of all humanity. The caste system of the Hindus does not exist among the Sikhs. Absent also is a missionary zeal. The Sikhs never actively seek to convert, nor do they persecute others for their faiths. There is a marked asence of fanaticism.

The Sikhs' traditions, innate conservatism, strong work ethic, and their religion make them natural enemies of communism. This makes them also natural allies of the United States. In any future conflagration, they could stand as a human bulwark against the creeping communization of the Indian subcontinent and south Asia.

For more than 8 years of the Afghan war, the United States has had only two friends in the region—Pakistan and the Afghan freedom fighters. India has refused to condemn the Soviet invasion of Afghanistan on the grounds of "external interference,"—meaning American, of course, not Soviet. Now, a new nation of freedom fighters is emerging in the Punjab.

An inscription in the Capitol tells us that wherever liberty is in chains and people are fighting for it, they are fighting for America. Let us recognize that the Sikhs are freedom fighters too. Let us support their cause and just desire to be masters of their own destiny, while we have the chance, while they have the chance, and before it is too late.

GENEVA ACCORDS CONCERNING AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] will be recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, another week has gone by in this year, and I really have not seen the Congress of the United States accomplish a great deal. We are going to be out of tomorrow on a pro forma session, we are going to be out on Friday, with a pro forma session on Monday. Before I start my special order I just want to say to the leadership of this House I think it is about time we had a schedule that we followed around here so that we were not wasting taxpayer dollars by flying back and forth to our districts and really not accomplishing anything. We had two votes this week both on legislation that was not of monumental importance. Many Members of this body could have spent their time much better back in their district attending to constituent problems.

So I just think we are wasting a lot of money around here by not having a schedule. I would implore our leadership, Mr. Speaker, to sit down and come up with a schedule that is workable so we can do what we are supposed to do and what we were elected to do.

Mr. Speaker, tomorrow, as I understand it, Secretary Shultz will be meeting with his counterpart from the Soviet Union and signing a monumental agreement, a significant agreement regarding the withdrawal of Soviet troops from Afghanistan.

While on the surface this sounds very, very good because the Soviets are leaving Afghanistan after an awful lot of bloodshed there, the fact of the matter is the way they are leaving and the agreement that is going to be signed in Geneva leaves a great deal to be desired. As a matter of fact, many people are concerned that it might end up being a sellout to the Soviet Union in the long run.

Today I and many members of the Committee on Foreign Affairs had the opportunity to meet with Secretary Shultz to talk about the agreement that is going to be signed at Geneva.

I asked the Secretary some questions and I would like to for the record now go into some of the questions that were asked so that we can show some of the problems that are going to be inherent in the agreement that is going to be signed.

The first question that was asked was as follows: For several years now the State Department has insisted that the Afghan alliance was the voice of the Afghans. That alliance has not been included in the negotiations and has bitterly attacked these accords.

As a matter of fact, a Senator from the other body sent a letter from Islamabad, Pakistan, to President Reagan on April 4 in which he said, "Mr. President, in a November 1987 White House meeting with Yunis Khalis, who was President of the Alliance at that time, you personally assured him that no settlement would be signed which was not acceptable to the resistance," to the freedom fighters in Afghanistan.

Every member of the Afghan resistance opposes the agreement that is going to be signed at Geneva later this week, every member.

As a matter of fact, I would like to give you some quotes from some of the people who are in the leadership of the Afghan resistance, the freedom fighters, who have been fighting the Communist valiantly for the past several years.

Now bear in mind, Mr. Speaker, the President of the United States in November promised the leadership of the Afghan freedom fighters that he would not agree to any agreement, sign any agreement that they did not feel was in the best interests of the people of Afghanistan, in particular the freedom fighters, those who have been fighting for freedom. Even though that promise was made by our President, tomorrow Secretary of State Shultz is going to sign an agreement that all of them oppose. I do not understand that.

"Ahmad Shah, President of the proposed interim government, representing Ittihad, then asked rhetorically 'Why does the United States support the Mujahideen? To topple communism? If so, the Geneva Accords solve nothing.'" He told the Senator that continuation of aid has been due to the Senator's efforts. He said, "You raised the question of the interim government, but when Under Secretary of State Michael Armacost met with the alliance he showed no interest in the interim government or in the continuation of military aid. He recounted that Khalis has asked Armacost for recognition of the interim government and that Armacost had responded that meeting President Reagan was sufficient." He went on, "We were all insulted," he said.

Ahmad Shah continued, "This may sound strange, but we feel that the U.S.S.R. is always ahead of the U.S. in political planning and propaganda. We also feel that the United States always lets down its friends."

This is another one of the freedom fighter leaders over there who have been fighting—and dying—against the Soviet Union in Afghanistan.

Ahmad Shah urged the Senator to use his friendships and political alliances to convince the United States not to sign at Geneva. The Geneva Accords, he insisted, endanger the free world.

Gulbuddin Hekmatyar, another one of the leaders of the Afghan freedom fighters in Afghanistan said, speaking for the alliance, "Signing the Geneva Accords will be a great historical mistake. Pakistan's credibility will be damaged, and the refugees will feel that they've been let down in midcourse."

Another leader then told the Senator that signing the Geneva accords in their present shape is unacceptable because the accords are not implementable.

The resistance, he concluded, would not accept the pseudopeace based on the terms of the enemy.

Yunis Khalis, former president of the alliance, said that the only advantage will go to the Soviets if the accords are signed. Soviet expansionism will have driven a wedge between the peoples of Afghanistan and Pakistan. He insisted that he had categorically stated his views to Secretary Shultz in Washington and asked who the Secretary wanted to see ruling in Kabul. The Secretary, he insisted, did not like his words, turned his back, and walked off.

He concluded with an appeal to the Senator. "The Geneva accords are not yet signed," he said. He exhorted the Senator to tell the United States not to leave Pakistan stranded at this crucial time. Pakistan, he said, has no power to say "no" to Geneva, "but you, Senator, can create conditions in the United States against signing at Geneva."

Professor Rabbani said that the objective of gaining peace and security for Afghanistan will not be achieved in Geneva. The only thing that will be achieved, he suggested, is that the Kabul regime, imposed by the tanks of a superpower, will gain stability.

The Communists will gain stability over there. Professor Mojaddedi, of the Afghan National Liberation Front, said that Pakistan has tried to resist signing the Geneva accords but that her resistance was over. He asked the Senator to think with him how the resistance can get out of this mess. He pleaded for aid to continue until the puppet regime is gone. He then asked the Senator how aid can continue if Pakistan is no longer able to help.

Another leader said that the basic problem is not the Soviet military but the Communist system in Afghanistan. Geneva removes the Soviets but leaves behind the system, he said. It was the system that called in the Soviets. If aid to the Mujahideen were to continue that would constitute provocation and allow the Soviets to stay in Afghanistan on the pretext of outside interference.

□ 1950

He reminded the Senator that Kabul and New Delhi have a military agreement. He said that the U.S.S.R. may indeed stop its interference in Afghanistan, but there is nothing to stop the Indians.

Another leader of the National Islamic Front of Afghanistan told the Senator he could try to stop the signing of the Geneva accords, but it looks hopeless, and he asserted that the resistance is fighting against the system and will continue to fight that system until it is removed from the soil of Afghanistan.

Another leader asked the Senator kindly to question the State Department and the Government of Pakistan. If they are signing at Geneva with the intent to violate the accords, he counseled no one sign in violation of what is intended.

Now, the point is, Mr. Speaker, that Pakistan is going to be prohibited by these accords that are going to be signed at Geneva from involving itself in the internal affairs of Afghanistan. Now, the only way we have been able to get weapons into Afghanistan is through Pakistan, so American military support is not going to be able to get through Pakistan into Afghanistan unless we violate the agreement that the Secretary is going to sign tomorrow. That is a major concern of mine.

Secretary Shultz said today in a closed meeting that the agreement will include a prohibition against Pakistan doing anything regarding the internal affairs of Afghanistan, and yet the only way to get military supplies into Afghanistan to the freedom fighters is through Pakistan. You could try to go through Iran, I guess, but that would not work. You cannot go through the Soviet Union, and the only other avenue into Afghanistan is through Pakistan, and that is going to be prohibited by this agreement that the Secretary of State is going to sign tomorrow:

So, what we are doing in my view is putting ourselves and the freedom fighters in Afghanistan into a box because the Soviet Union very shortly after this agreement is signed is going to start complaining that military supplies continue to flow through Pakistan into Afghanistan in direct violation of an agreement that was signed by the United States Secretary of State.

Now, if this happens, this, being a democracy, and the media being what it is in this country, the media is going to point out that we are in fact violating a treaty, an agreement, that we just signed. And that is going to put pressure on our Government to cut off aid to the Mujahidin.

Now there is no prohibition against the Soviet Union to continue to support militarily the Communist Government in Kabul that the Mujahidin has been fighting the past 7 to 8 years.

So what are we getting? We are getting ourselves into a box, and it scares me to death that all these millions of people, over 1 million people, have died in Afghanistan. Five million are refugees in Pakistan. Will those people have put their lives on the line for nought, because we signed an agreement that is going to cut off the aid to the freedom fighters?

These are valiant people. They say they will continue fighting until the Communist government is out of Kabul. But they cannot do it with sticks and clubs. They are going to have to have military support, and that military support has to flow through Pakistan. That is the only way it can get in there. And tomorrow Secretary of State Shultz is going to sign an agreement saying that Pakistan can no longer involve itself in the internal affairs of Afghanistan.

So the fact of the matter is, we are planning, in my view, to violate the agreement before it is even signed. And when that violation takes place, the Soviets are going to exploit it, they are going to point it out to the media, the media is going to place pressure on our Government, and we are going to be forced to either live up to the agreement and cut off aid to the freedom fighters, just letting them die on the vine and the Communists to flourish over there and win what they could not win in a war in a peace agreement that was signed, or we are going to have to continue to violate the agreement.

Mr. Speaker, I do not understand why we are doing that.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I am happy to yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank my colleague for yielding.

I, too, was at the briefing of Secretary Shultz, but not as a member of the Foreign Affairs Committee, but in terms of a concern that I share with the gentleman from Indiana as to what may be transpiring tomorrow at the time of the signing of the accords. But there were a number of questions that I really wanted to put to the Secretary which were not totally answered, and some of those appeared in print, and perhaps the gentleman can help me on these.

Does the agreement, for example, ensure the removal of the thousands of KGB agents in Afghanistan, both Soviet and Afghanistanis?

Mr. BURTON of Indiana. Mr. Speaker, I think that my colleague knows full well that the KGB agents from the Soviet Union and the Afghanistan Government, the Communist Government in Kabul, will not be removed, so you are going to have an infrastructure left inside the country to do their dirty deed.

Mr. CRANE. Well, in addition to that, there are thousands of Soviet-trained personnel working in key positions in that government in Kabul. And I see no provision for insisting that they be removed. What will be the way in which you have a guarantee that there will be a possibility for free elections and a government representing all of the Afghan people so long as those key personnel are in place?

Mr. BURTON of Indiana. Well, I do not see any. I do not see any. I do not think anybody who is really looking at this rationally sees any either.

Mr. CRANE. There are in addition trained technicians who are currently responsible for handling such sophisticated things as running their airports over there. Now it has to be assumed that these are people that the Soviets view as totally trustworthy. I can only assume that these people will still be in place regardless of any Soviet pullout.

Is that your understanding?

Mr. BURTON of Indiana. That is my understanding.

Mr. CRANE. Another question: We are aware of the recent bombings that took place in Pakistan that hit the main reserves, as I understand it, of both the Pakistani Army and the Afghan freedom fighters there. And this was orchestrated, was sophisticated and obviously initiated by the Soviets. Now that we just a week or so ago on the eve of these accords where we are going to be trusting the Soviets, good faith trust, that what they say they really mean, that they are getting out and they are prepared, for example, to see Afghanistan become a free, independent country on their borders.

Mr. BURTON of Indiana. Mr. Speaker, the Soviets will not live up to that, and I think the gentleman and most of our colleagues who really know how the Soviets operate realize that.

Mr. CRANE. I wonder how many of the people buried there in the Sea of Japan that were on the Korean airliner with our distinguished colleague, Larry McDonald, would think of taking good faith Soviet suggestions because I think that is all it is, suggestions that they will in good faith live up to the commitments that they are making, that they are in total sincerity really wanting to get out of Afghanistan.

Does that sound realistic to the gentleman from Indiana?

Mr. BURTON of Indiana. It does not. As a matter of fact, there is an article that was written by Constantine Mingas, I think, who is a pretty good friend of the gentleman's and mine, called the "Afghan Trap," and he talks in there about the Soviet violations that have taken place and Communist violations where they made commitments, and Vietnam was a perfect example. They promised that there would be no additional military troops in Laos or Cambodia, that they would get them out. As a matter of fact, only 47 people came out of Laos, I think, under that agreement, and they left thousands behind to do their dirty work after the agreements had been consummated. And there was not supposed to be any military buildup in South Vietnam after the Paris Peace Accords of 1973, but they did with Soviet and Communist support so many times, and I think this is probably the case right now.

Mr. Speaker, the Soviets plan to violate the treaties at the very moment they are signing them, and yet we never seem to learn.

Mr. CRANE. Mr. Speaker, let me ask another question that was not really satisfactorily answered.

There are, as I understand it, approximately 500 contracts that the Soviets have with cities and towns in Afghanistan and presumably for economic development in those towns. We have no idea how many Soviet "technicians" are going to be required to fulfill their contractual obligations, but presumably, the gentleman knows, there will be thousands of Soviets with a legitimate reason for being there. At the same time we know that the Soviets, when they send people abroad, unless they are sending armored divisions or something like that, are almost invariably KGB or KGB-trained, so we have to assume that they are going to be keeping an army of Soviet KGB agents within Afghanistan.

Is that not correct?

Mr. BURTON of Indiana. Yes, I think that is correct.

Mr. CRANE. And that is throughout the remaining years of the century; is that correct?

Mr. BURTON of Indiana. The gentleman is correct.

Mr. CRANE. I was distressed because the Secretary, as the gentleman may recall, during his briefing this afternoon also spoke on the Middle East problem, and he has, I know, invested a great deal of time and energy in trying to get some peaceful resolution of the Israeli-Palestinian problem. And in his remarks he made mention of the fact that he felt it was essential that Palestinians participate in any negotiations with the Israelis. He was going to enlist the Government of Syria, if they would cooperate, certainly the Jordanian Government, the Egyptians, and there are many people willing to cooperate. But he indicated that the Palestinians had to be a participant. And yet on the other hand he is talking about these accords where he reassured us that the Pakistanis will be presumably the spokesman for the Afghan Alliance.

Now the Afghan Alliance, for those who are not aware of it and, as the gentleman well knows, has been recognized by our State Department, by our President, as recently as the promises he made to the president of that Afghan Alliance in November of last year. They are the voice of Afghanistan.

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They are as I understand it, and correct me if I am wrong, they are as bitterly opposed to these accords as they can be, and yet Secretary Shultz reassures us that they need not participate in the negotiations, that the Pakistanis can effectively be a spokesman for them, but yet he does insist on the other hand that Palestinians must be participants in any negotiations in lieu of say King Hussein of Jordan, speaking of representing the Palestinians.

I was left with the feeling that we have got kind of a double standard going.

Mr. BURTON of Indiana. We not only have a double standard, we have a group of people who have been fighting and dying for years for their freedom to whom we made a commitment to include them in any negotiation, that if they did not want an agreement signed that we would not sign it, and that was stated to them directly by our President.

Now to a man, there is not one exception, if there was some division of opinion among the leadership of the Mujahideen that will be one thing, but to a man every one of the leaders says that this agreement is absolutely tragic and we should not sign it, and yet our Secretary of State by putting the squeeze on the Pakistani leaders who have been negotiating and saying that we are going to sign it, come hell or high water later this week, I think that is tragic.

Mr. CRANE. One of the most perceptive questions was that of the gentleman, which was the first one to the Secretary, and that was when he explained to us that we can be reassured in the knowledge that the freedom fighters will be resupplied by the United States; but as the gentleman noted, that resupply can only come through Pakistan.

Mr. BURTON of Indiana. That is right.

Mr. CRANE. They are surrounded. They have the Soviets on one side, Iran on the other, and the Pakistanis are their only proximate neighbors that are on our side and reliable. They have, and I think we should salute them for it, they have been totally supportive of our effort to guarantee that the freedom fighters will have a base for resisting this tryanny; but on the other hand, the agreement, the accord, and again correct me if I am wrong, but the accord prohibits Pakistan in the future, and they are a signatory to the accord, from interfering in the internal affairs of Afghanistan, and yet the Secretary in effect was suggesting that our resupply of the freedom fighters, once they get back into Afghanistan, will be conducted through Pakistan.

Mr. BURTON of Indiana. That is right.

Mr. CRANE. Now, if I were reversing the roles and it were the Soviets who were supplying some national liberation group, so-called, and I got somebody like a willing complaint ally of the Soviets to agree to be the conduit from my transfer of military assistance to those people, but I also got them on the dotted line, it would seem reasonable to me that after you catch them doing it, after the ink is dry on that agreement, that you could exploit that for incredible propaganda value.

That being the case, we could be in a very awkward position, and certainly the gentleman anticipated the scenario when he posed the question to the Secretary that as soon as the Pakistanis sign off on us and we resupply the freedom fighters in Afghanistan by routing assistance through Pakistan, what do we do and what is likely to be the consequence if say the Soviet claim, "You people are violating the treaty. You signed that treaty and you have violated the treaty. Therefore, we have every right to guarantee that the government in Kabul will be resupplied and reinforced to the degree necessary to preserve a Communist dictatorship in Afghanistan;" what does the gentleman make of that?

Mr. BURTON of Indiana. Well, I think the scenario the gentleman has just painted is very accurate.

The thing that really troubles me is that the Soviets have said for some time that they want to get out of Afghanistan. They have taken huge losses. They have got their tail between their legs and they are trying to figure a way out, and here the United States is going to sign an agreement that is going to possibly cut off aid to the people who have been driving them out and maybe allow them to come back in, maybe not with military troops, but with influence through their KGB agents and others throughout the country, to continue to keep a Communist puppet regime in control of Afghanistan.

It just does not make sense. It just seems to me that with the Soviets bleeding so badly, with this being their so-called Vietnam, we should have turned the heat up. We should have given the Afghan freedom fighters more support, more Stinger missiles, more weaponry, so that they could keep beating them in the fanny until they did get the heck out of there.

This agreement is not necessary. In my view, we do not need this agreement, because the Soviets want to get out of there anyhow, but what we are doing is we are providing a mechanism for them to stay in with their influence and their agents and their other people over there, so I think it is a tragic mistake and it really bothers me that our State Department is doing this, even though every single leader of the Afghan resistance, the freedom fighters, are against it. It just does not make sense.

Mr. CRANE. Well, I find it very difficult to understand, too. It seems to me another instance where we rather naively, and we tend always to be naive in these situations, are accepting the Soviets at their word and we are listening to their reassurances rather than looking at their track record. Their track record is replete almost consistently with treaty violations, and in this instance we are not signing a treaty with the Soviets, but on the other hand we need Soviet reassurances to guarantee the success of the end of the war within Afghanistan and the Soviet withdrawal.

Mr. BURTON of Indiana. Well, as I understand it, our Secretary of State will be a signatory to this, along with the leadership of the Soviet Government.

Mr. CRANE. Oh, the Soviets are going to sign it, too?

Mr. BURTON of Indiana. So I understand, yes.

Mr. CRANE. Well, that is yet one more treaty for them to break.

Mr. BURTON of Indiana. Yes.

Mr. CRANE. The last one I think they kept was the one they signed with Adolf Hitler there to eat up Poland. That is the last time that they abided by a treaty and the fellow signatory, Adolf Hitler, violated it before they had a chance to violate it; but every treaty we have negotiated with them since World War II they have violated.

Mr. BURTON of Indiana. That is right. We could go through the ABM Treaty, we could go through the Chemical Ban Treaty, we could go through every treaty we signed, the INF—well, not the INF—but SALT I and SALT II. There is just no question about what they do.

As I said earlier regarding Vietnam, they were actually planning on violating the 1973 Paris Peace Accords before they had even signed that agreement in Paris.

We should understand what the Soviets are all about. Mikhail Gorbachev said 4 weeks before he came over and signed the INF Treaty in a speech to the Supreme Soviet, he said, "In 1917 we irreversibly departed the old world. We are heading toward a new world, the world of communism. We shall never deviate from that path." That is his exact quote, and people who do not listen to what the man is saying are in danger of having to live with all kinds of tyranny and bloodshed. It is terrible that we do not pay attention to what they are telling us.

Mr. CRANE. Well, something I am a little puzzled about, I mean, the Soviets are obviously beginning to suffer some internal unrest. Interviews on television reveal that. When the announcement came that the Soviets were going to pull out of Afghanistan, then people were a little more forthcoming.

It sounded reminiscent, you know. It was kind of deja vu when we pulled out of Vietnam. A lot of people were asking questions why were we there, what was the purpose. We had a decade where we spent the slaughter not just of the Afghan people, but the slaughter of Soviet boys, and the pine boxes mounted and the mutiliations mounted. There were cripples coming home—for what?

Now they are obviously not in a position where they could register the protest in Moscow that our young people registered here with their mass demonstrations over our involvement in Vietnam, and they really should have been demonstrating all the while right down here in Washington against the politicians trying to run a war.

But the fact of the matter is the Soviets have a compelling reason to get out.

Mr. BURTON of Indiana. Yes.

Mr. CRANE. Because as the gentleman pointed out, they cannot win that war. It is a war of attrition, and until the last drop of blood of the last Afghan patriot has been shed and that will only be after untold thousands of Soviet soldiers are going to be killed also, until that occurs, the war will continue.

Now, the Soviets for their own self-serving reasons want a way out. But why did we dignify it by the means of signing the accords? What is the point of the accords?

Mr. BURTON of Indiana. I do not understand.

Mr. CRANE. If the Soviets want out, let them tell the Afghan people, "Hey, we quit. We are not going to involve ourselves in your internal affairs. We are going back home. You people deal with it. You are lunatics in our eyes, but you people deal with it, because we are just pulling out."

Now, they went in without any declaration of war. They did not observe any niceties. They just invaded a neighbor and they slaughtered men, women and children, and created endless numbers of cripples who are going to survive death by their injuries, but on the other hand be permanently crippled. They perpetrated all these crimes against humanity in a 10-year war game and the costs got too high for them and they want out.

Why did we join in dignifying this process? Why did we not just let them get out?

Mr. BURTON of Indiana. It is even worse than just dignifying the withdrawal. We may have guaranteed their continued control over Afghanistan by allowing the puppet government in Kabul to be resupplied militarily, while the freedom fighters are cut off; so instead of just helping them find a way out, which would have been bad enough, because they have got their tail between their legs already, we may have provided a mechanism for them to accomplish in a peace agreement what they could not accomplish in a war. It is just terrible.

Mr. CRANE. In fact, I forget the Chinese wise philosopher who recommended that this was the appropriate approach, better to win battles without ever having to fight those battles. That means skillful diplomacy. It sounds to me like once more we have been snookered. It sounds further to me like we are accepting on good faith reassurances by the Soviets, as we have done in the past, because we want to believe that these people are just like us, but with regard to little Samantha, God rest her soul, little Samantha was wrong. They are not just like us. They are different and their system is different.

Mr. BURTON of Indiana. I think the people of the Soviet Union, you know, Ted Turner on CNN did a great story about the people of the Soviet Union. He sent that I think to every Member of Congress. It must have cost an arm and a leg, and I appreciate that, because it gave me a better appreciation of the people of the Soviet Union, but it is not the people of the Soviet Union that we are dealing with. It is a small clique of men. The Politburo consists of 12 men. They are all clones of each other and they control everything that goes on in that country from the military to the economy to everything and the people although they may be very fine people, and the depictions of them in these tapes we received show that they are very fine people; but the fact of the matter is that the Communist system itself has an insatible desire for world conquest and expansionism. We have to understand that. They cannot survive unless they feed on country and operation.

We should not allow them to get off scot-free. I am just really concerned that the agreement that is going to be signed is giving them a way out, while letting them maintain control. That need not happen. If no agreement was signed and we continued to supply the Mujahidin through Pakistan, the Soviets would be driven out, literally driven out, like I said, with their tail between their legs, and we would not have to worry about this.

They are not going to come back in once they are bloodied all the way out of the country, but if we allow them to go out of the country and keep a puppet in place there by cutting off aid to the freedom fighters, which is likely to happen because of this agreement, then we really—what is the statement? We have snatched defeat from the jaws of victory. It just does not make sense.

Mr. CRANE. The Bible says, "By their fruits ye shall know them." It is good counsel in analyzing any deal trying to cover the Soviets.

I simply want to salute the gentleman from Indiana for his outstanding work in behalf of the United States on the Foreign Affairs Committee, and I want to congratulate the gentleman for this special order, raising some of the questions which sad to say were not appropriately addressed either by the media or by any of our public figures.

By calling attention to these facts, God willing you and I are wrong in our apprehensions. God willing we are wrong, but if history repeats itself again, and it has a tiresome way of doing that, then we have suffered a major foreign policy setback.

I simply congratulate the gentleman for his outstanding work, and thank the gentleman for yielding.

Mr. BURTON of Indiana. Well, I thank the gentleman for his participation.

I would just like to end my special order by saying, as the gentleman from Illinois said quoting the Bible, "By their fruits ye shall know them."

Let us just take a quick look at what the Soviet troops have been doing to the people of Afghanistan and why we should not trust them. In an article last November by Bryan Brumley of the Washington Times, I want to quote a little bit of his article:

> Soviet and allied troops in Afghanistan have sexually mutilated political and religious opponents, an international team of attorneys said yesterday. Their report cited systematic violations of Geneva Convention bans on genocide.

□ 2015

There is another violation of our previous agreement—

> torture and the use of chemical weapons.
>
> The Independent Counsel on International Human Rights, a group of lawyers funded by a conservative group, the Committee for a Free Afghanistan, said its report was based on interviews with Afghan refugees in Pakistan as well as a visit to Afghanistan.
>
> The report said Soviet and allied Afghan government troops systematically destroyed farms and villages in order to depopulate large regions of Afghanistan, including the Wakhan corridor bordering on China, which it said has been "effectively annexed by the Soviet Union."
>
> The report also said the communist forces undertook a campaign against Afghan culture and the Moslem religion, including the forced removal of children to the Soviet Union in violation of the Geneva Conventions governing the conduct of war, the report said.
>
> Officials of the Soviet-backed government regularly enter schools and select children and send them to the Soviet Union for up to several years over parents' protests, the report said. The intent is to produce a new generation of Afghans who share the values of the Soviet Union rather than those of their parents, it said.
>
> Red Army and Afghan government actions also allegedly violate Geneva Convention protections on religion. A former Afghan Air Force officer testified that after "a fellow officer's wife had been found praying," pilots in the unit "were called together and given a political lecture and told that their families should not be praying. The breasts of the pilot's wife were then dropped in front of him in a plastic bag."
>
> Mosques, Moslem worship places, are used as latrines by Soviet troops occupying villages, and pages of the Koran used as toilet paper, the report said.
>
> Among the witnesses interviewed were two who had been tortured as recently as last summer at a prison run by the government in Kabul.
>
> One of them "had been shackled to a wall while an empty, heated soda bottle was repeatedly forced in and out of his rectum," the report said.
>
> Another, released in June, reported similar torture. "On one occasion, his urinary tract was cut off, he was forced to consume a large quantity of liquid and was then beaten on the stomach," the report said.
>
> The report did not specify whether those victims were tortured by Soviets or Afghans. But it concluded after interviews of 40 torture victims that "Soviet advisers are allegedly often present, either in the same room or an adjacent room. In addition, there have been reports of Soviets torturing Afghan prisoners."
>
> The torturers reportedly were seeking information on activities of anti-communist guerrillas "and details of foreign involvement in the conflict."
>
> The lawyers' group also found evidence that Red Army and Afghan government forces violate Geneva Convention prohibitions regarding the use of violence against civilians and refugees and the use of chemical weapons.

Once again, that is another violation of an agreement by the Soviet Union.

> "Many persons provided evidence on the use of chemicals to poison food and war supplies" the report said.
>
> The attorneys said they witnessed an air attack on a column of refugees on the Afghan-Pakistan border.
>
> They also heard testimony that one group of refugees headed for Pakistan this year "were captured by Soviet troops in helicopters and thrown while alive into a bonfire made up of the possessions they have been carrying . . . All captured were killed."
>
> The report said: "Dozens of witnesses told stories of returning to their villages and homes following attacks by Soviet soldiers to find bombs and grenades placed in doorways so as to explode when a door is opened, along paths and by plants and bushes which will be collected for firewood and food."

They have been dropping plastic toys which have blown off the hands and feet of little children over there. These are the people with whom we are going to be signing this agreement in Geneva tomorrow. We should be resupplying the Afghan freedom fighters totally so that they can drive the Soviets out of Afghanistan once and for all and get rid of the Communist puppet regime in Kabul. That is what should be done. Not signing an agreement which very well might cut off aid to the freedom fighters and allowing the Communists to continue to resupply the Communist government in Kabul and keeping the puppet regime there that will do be bidding of the Soviet Union.

What are we really for? Are we really for freedom? Are we really for democracy? If we are, we should live up to the agreements in the past and not sign this agreement with the Communists in Geneva.

GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hutto (at the request of Mr. Foley), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Shays) to revise and extend their remarks and include extraneous material:)

Mr. Jeffords, for 5 minutes, today.

Mr. Walker, for 5 minutes, today.

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Gekas, for 5 minutes, today.

Mr. Parris, for 60 minutes, on April 21 and 60 minutes, on April 26.

(The following Members (at the request of Mr. Gray of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Donnelly, for 60 minutes, on April 20.

Mr. Rodino, for 60 minutes, on April 18.

Mr. Gaydos, for 60 minutes, on April 19.

Mr. Gaydos, for 60 minutes, on April 20.

Mr. Owens of New York, for 60 minutes, on April 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Shays) and to include extraneous matter:)

Mr. Gradison.

Mrs. Johnson of Connecticut.

Mr. Gingrich.

Mr. Gallo in two instances.

Mr. Shumway.

Mr. Daub.

Mr. Hammerschmidt.

Mr. Jeffords.

Mr. Miller of Washington.

Mr. Crane in two instances.

Mr. Lightfoot.

Mr. Latta.

Mr. Young of Alaska.

Mr. Hefley.

Mr. McEwen.

Mr. Schaefer.

Mr. Herger.

Mr. Combest.

Mr. KOLBE.

Mr. LUJAN.

Mr. GILMAN in two instances.

Ms. SNOWE in two instances.

Mr. COURTER.

Mr. MARLENEE.

Mr. YOUNG of Florida.

Mr. LOTT.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. HUCKABY.

Mr. SKELTON.

Mr. TRAFICANT in two instances.

Mr. FLORIO in two instances.

Mr. NOWAK.

Mr. FRANK.

Mr. SAWYER in two instances.

Mrs. LLOYD.

Mr. SLATTERY.

Mr. LANTOS in two instances.

Mr. HAMILTON.

Mr. GRAY of Pennsylvania.

Mr. MURTHA.

Mr. LIPINSKI.

Mr. SOLARZ.

Mr. KILDEE in two instances.

Mr. FAUNTROY.

Mr. LEVINE of California.

Mr. MACKAY.

Mr. KLECZKA.

Mr. DINGELL.

Mr. JACOBS.

Mr. CHAPMAN.

Mr. SYNAR.

Mr. SMITH of Florida.

Mr. SCHEUER.

Mr. HAYES of Illinois in two instances.

Mr. DONNELLY.

Mr. LOWRY of Washington.

Mr. CARDIN.

Mr. KOLTER.

Mr. FEIGHAN.

Mr. WALGREN.

Mr. GARCIA.

Mr. BRYANT.

Mr. RICHARDSON in two instances.

Mr. ATKINS.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1900. An act to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On April 12, 1988:

H.R. 1207. An act to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care entities, and for other purposes; and

H.R. 3459. An act to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs, and for other purposes.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Thursday, April 14, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3394. A letter from the Administrator, Environmental Protection Agency, transmitting the annual report on the total number of applications for conditional registration during fiscal year 1987; included for the first time is the status of outstanding conditions that were imposed on conditional registrations, pursuant to 7 U.S.C. 136w-4; to the Committee on Agriculture.

3395. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles estimated to cost $50 million or more (Transmittal No. 88-22), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3396. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-172, "Center for Public Administration and Service, Inc., Real Property Tax Exemption Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3397. A letter from the Acting Assistant Secretary of State, Legislative Affairs; transmitting notification of a proposed manufacturing license agreement for the production of a training warhead for the Swiss Dragon antitank missile by the Defense Technology and Procurement Agency of the Swiss Government (Transmittal No. MC-25-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3398. A letter from the Acting Assistant Secretary of State, Legislative Affairs; transmitting notification of a proposed manufacturing license agreement for the production of the AN/VVS-2 second generation driver's night vision viewer in Singapore (Transmittal No. MC-23-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3399. A letter from the Acting Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export to France of 10 class 2H joint tactical information distribution system [JTIDS] terminals, one terminal acceptance test station, one RT/HPAG test set, and spare parts (Transmittal No. MC-24-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3400. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles and services estimated to cost $182 million (Transmittal No. 88-22), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3401. A letter from the Director, Office of Personnel Management, transmitting the annual report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3402. A letter from the Executive Secretary, Federal Home Loan Bank Board, transmitting the annual report of the Board's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3403. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund; a report concerning records management activities for the fiscal year ending September 30, 1987, pursuant to 44 U.S.C. 2106, 3904(c)(8); to the Committee on Government Operations.

3404. A letter from the Secretary of the Interior, transmitting the annual report of the Department's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3405. A letter from the Secretary of Education, transmitting a report of the Department's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3406. A letter from the Chairman, Federal Election Commission, transmitting 26 recommendations for legislative action, pursuant to 2 U.S.C. 437(d); to the Committee on House Administration.

3407. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3408. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3409. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to

43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3410. A letter from the Secretary of the Interior, transmitting the 1987 annual report on research and demonstration projects in alternative coal mining technologies, pursuant to 30 U.S.C. 1328(d); to the Committee on Interior and Insular Affairs.

3411. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting a report covering 23 cases recommended for equitable relief, pursuant to 38 U.S.C. 210(c)(3)(B), to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 4243. A bill to implement the International Convention on the Prevention and Punishment of Genocide, with an amendment (Rept. 100-566). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 5 (Rept. 100-567). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 4364. A bill to amend the Toxic Substances Control Act to require the Administrator of the Environmental Protection Agency to establish guidelines on priorities for local educational agencies to clean up asbestos in schools, to extend the deadlines for local educational agencies to comply with certain asbestos requirements, and to amend the Asbestos School Hazard Abatement Act of 1984 to authorize additional loans for such agencies to inspect for asbestos in schools and develop asbestos management plans; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. CONTE:

H.R. 4365. A bill to designate the Sunderland National Salmon Station located in Sunderland, MA; as the "Richard Cronin National Salmon Station"; to the Committee on Merchant Marine and Fisheries.

By Mr. FAUNTROY (for himself, Mr. Dymally, and Mr. Mazzoli):

H.R. 4366. A bill to establish a Supreme Court of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BARTON of Texas:

H.R. 4367. A bill to provide for improved safety at railroad-highway crossings; to the Committee on Public Works and Transportation.

By Mr. CHAPMAN:

H.R. 4368. A bill to amend title 23, United States Code, relating to the toll road pilot program in the State of Texas; to the Committee on Public Works and Transportation.

By Mr. CRANE:

H.R. 4369. A bill to amend the Internal Revenue Code of 1986 to provide that a noncharitable gift by check shall be treated as made for estate tax purposes when the check is issued; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 4370. A bill to amend the Internal Revenue Code of 1986 to postpone the imposition of the Federal tobacco excise tax with respect to imported, unpackaged tobacco products; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 4371. A bill to amend the Revenue Act of 1987 to provide that the user fees imposed under such act do not apply to certain taxpayers, and for other purposes; to the Committee on Ways and Means.

H.R. 4372. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax on smokeless tobacco, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ESPY (for himself, Mr. Whitten, Mr. Jones of Tennessee, Mr. Dowdy of Mississippi, Mr. Montgomery, Mr. Lott, Mr. Robinson, Mr. Anthony, Mr. Ford of Tennessee, and Mr. Coelho):

H.R. 4373. A bill to establish the Lower Mississippi Delta Development Commission; jointly, to the Committees on Public Works and Transportation, Small Business, and Banking, Finance and Urban Affairs.

By Mr. JENKINS:

H.R. 4374. A bill to suspend for a 3-year period the duty on diphenolic acid; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. Dingell, Mr. Schuette, Mr. Broomfield, Mr. Henry, Mr. Traxler, Mr. Bonior of Michigan, Mr. Upton, Mr. Carr, Mr. Hertel, Mr. Davis of Michigan, Mr. Pursell, Mr. Levin of Michigan, Mr. Wolpe, Mr. Ford of Michigan, Mr. Vander Jagt, Mr. Conyers, and Mr. Crockett):

H.R. 4375. A bill to improve the management of certain public lands in the State of Michigan; to the Committee on Interior and Insular Affairs.

By Mr. LATTA (for himself, Mr. Quillen, Mr. Lott, Mr. Taylor, Mr. Mack, Mr. Boulter, Mr. Thomas of California, Mr. Rogers, Mr. Sundquist, Mrs. Johnson of Connecticut, Mr. Armey, and Mr. Houghton):

H.R. 4376. A bill to require analyses and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, to provide for deficit neutrality of new spending legislation, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. LIGHTFOOT (for himself, Mr. Horton, Mr. Grandy, Mr. Garcia, Mr. Penny, and Mr. Roberts):

H.R. 4377. A bill to amend the Food Security Act of 1985 to expand the lands eligible for the Conservation Reserve Program; to the Committee on Agriculture.

By Mr. LOWRY of Washington (for himself, Mr. Dixon, Mr. Williams, Mr. Gray of Pennsylvania, Mr. Dellums, Mr. Towns, Mr. Fauntroy, and Mr. Downey of New York):

H.R. 4378. A bill to respond to the long-standing press restrictions in South Africa and the most recent emergency orders and press restrictions imposed by the South African Government that have resulted in censorship and self-censorship of the media in South Africa, the United States, and other nations throughout the world; to the Committee on Foreign Affairs.

By Mr. MAZZOLI (for himself, Mr. Fish, and Mr. Swindall):

H.R. 4379. A bill to amend the Immigration and Nationality Act to provide to aliens who are nationals of certain foreign states in crises authorization to remain temporarily in the United States; to the Committee on the Judiciary.

By Mr. RIDGE (for himself and Mr. Walgren):

H.R. 4380. A bill to amend the Bank Holding Act of 1956 to limit certain acquisitions by grandfathered bank holding companies and bank holding companies organized under the laws of foreign countries; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. Stark, Mr. Frank, Mr. Morrison of Connecticut, Mr. Hawkins, Mr. Borski, Mr. Weiss, Mr. Biaggi, Mr. Brown of California, Mr. Green, Mr. Bustamante, Mr. Atkins, Mr. Fawell, Mr. Ackerman, and Mr. Rangel):

H.R. 4381. A bill to amend title 10, United States Code, to require the Secretary of Defense to include in the annual weapons procurement report to Congress an explanation of why the minimum economic rate of production of weapons is or is not being adhered to; to the Committee on Armed Services.

By Mr. SWEENEY:

H.R. 4382. A bill to direct the Secretary of the Army to carry out beach nourishment on the shoreline of the Gulf of Mexico in Matagorda County, TX; to the Committee on Public Works and Transportation.

By Mr. WALKER (for himself, Mr. Dornan of California, Mr. Swindall, Mr. Schaefer, and Mr. Hyde):

H.R. 4383. A bill to rescind certain amounts of budget authority and to repeal certain provisions of law contained in an act making further continuing appropriations for the fiscal year 1988, and for other purposes; to the Committee on Appropriations.

By Mr. WYDEN (for himself and Mr. DeFazio):

H.R. 4384. A bill to provide for the cleanup of dangerous chemicals at illegal drug laboratories, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DORNAN of California:

H.J. Res. 535. Joint resolution disapproving the 1988 certification by the President with respect to Laos under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

H.J. Res. 536. Joint resolution disapproving the 1988 certification by the President with respect to Laos under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Hayes of Illinois, Mr. Yates, Mr. Roe, Mr. Yatron, Mr. Gunderson, Mr. Vander Jagt, Mr. Bunning, Mr. Boland, Mr. Smith of Florida, Mr. Hyde, and Mr. Henry):

H.J. Res. 537. Joint resolution designating the month of October 1988 as "Lupus Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. LOTT (for himself, Mr. Weldon, Mr. Fields, Mr. Coelho, Mr. Montgomery, Mr. Tauzin Mrs. Bentley, Mr. Hunter, Mr. Bateman, and Mr. Young of Alaska):

H.J. Res. 538. Joint resolution designating 1988 as the "Centennial of the American Society of Naval Engineers"; to the Committee on Post Office and Civil Service.

By Mr. MANTON (for himself, Mr. Ackerman, Mr. Anderson, Mr. Bennett, Mr. Bevill, Mr. Boland, Mr. Bonior of Michigan, Mrs. Boxer, Mr. Cardin, Mr. Chapman, Mrs. Collins, Mr. Daub, Mr. de la Garza, Mr. de Lugo, Mr. DioGuardi, Mr. Eckart, Mr. Espy, Mr. Fauntroy, Mr. Fawell, Mr. Feighan, Mr. Fields, Mr. Flake, Mr. Goodling, Mr. Gordon, Mr. Gray of Illinois, Mr. Hall of Texas, Mr. Hatcher, Mr. Horton, Mr. Hughes, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Kostmayer, Mr. Lehman of Florida, Mr. Levine of California, Mr. Lewis of California, Mr. McDade, Mr. McHugh, Mr. McGrath, Mr. Martin of New York, Mr. Matsui, Mr. Montgomery, Mr. Mrazek, Ms. Oakar, Mr. Owens of New York, Mr. Parris, Mr. Pickle, Mr. Rahall, Mr. Rangel, Mr. Richardson, Mr. Roe, Mr. Shumway, Ms. Slaughter of New York, Mr. Smith of Florida, Mr. Solarz, Mr. Solomon, Mr. Valentine, Mr. Vento, Mr. Waxman, Mr. Weiss, Mr. Wolf, Mr. Wortley, and Mr. Yatron):

H.J. Res. 539. Joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week"; to the Committee on Post Office and Civil Service.

By Mr. HAWKINS (for himself and Mrs. Roukema):

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress with respect to the needs of American families; jointly, to the Committees on Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. MacKAY:

H. Con. Res. 279. Concurrent resolution to call for more truthful disclosure of the deficit; to the Committee on Government Operations.

By Mr. MICA:

H. Con. Res. 280. Concurrent resolution authorizing the 1988 Law Enforcement Torch Run for Special Olympics on the Capitol Grounds; to the Committee on Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

307. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Kentucky, relative to prohibiting the reduction of private pension benefits; to the Committee on Education and Labor.

308. Also, memorial of the Legislature of the State of California, relative to a memorial to women Vietnam veterans; to the Committee on House Administration.

309. Also, memorial of the Senate of the State of Oklahoma, relative to support of H.R. 3955 concerning Tinker Air Force Base employees; jointly, to the Committees on Appropriations and Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 4385. A bill for the relief of the Washington Welfare Association, Inc. of Washington, DC, which operates the Southeast Neighborhood House; to the Committee on the Judiciary.

By Mr. LEHMAN of Florida:

H.R. 4386. A bill for the relief of Iosef Ornescu Glantzein and Olga Averbush Ornescu; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 919: Mr. Ray.

H.R. 1003: Mr. Atkins, Mr. Studds, and Mr. Lowry of Washington.

H.R. 1201: Mr. Moody.

H.R. 1240: Mr. Armey.

H.R. 1417: Mr. Broomfield and Mr. Dixon.

H.R. 1554: Mr. Packard.

H.R. 1632: Mr. Traficant.

H.R. 1638: Mr. Gejdenson and Mr. Florio.

H.R. 1647: Mr. Jones of North Carolina.

H.R. 1692: Mr. Burton of Indiana, Mrs. Meyers of Kansas, Mr. Brooks, Mr. Lewis of Georgia, Mr. Duncan, Mr. Gekas, Mr. Hall of Ohio, and Mr. Garcia.

H.R. 1726: Mr. Johnson of South Dakota.

H.R. 2048: Mr. Andrews.

H.R. 2107: Mr. Martinez.

H.R. 2148: Mr. Goodling.

H.R. 2238: Mr. Emerson, Mr. Carper, Mrs. Roukema, and Mr. Campbell.

H.R. 2502: Mr. Edwards of California.

H.R. 2580: Mr. Baker and Mr. Holloway.

H.R. 2640: Mr. Miller of Washington, Mr. Morrison of Washington, Mr. Brooks, Mr. Lowry of Washington, Mr. Skeen, Mr. Chapman, Mr. Valentine, Mr. Stokes, Mr. Durbin, Mr. Coleman of Texas, Mr. Moorhead, Mr. Towns, Mr. Wilson, Mr. Thomas A. Luken, Mr. Dingell, Mr. Yates, Mr. Price of Illinois, Mr. de la Garza, Mr. Annunzio, Mr. Davis of Illinois, and Mr. Hastert.

H.R. 2641: Mrs. Johnson of Connecticut.

H.R. 2724: Mr. Feighan.

H.R. 2762: Mr. Durbin, Mr. Torres, Mr. Ortiz, Mr. Murtha, Mr. Smith of New Jersey, Mr. Fascell, Mr. MacKay, and Mr. Clarke.

H.R. 2854: Mr. Hayes of Illinois, Mr. Schumer, Mr. Yates, Mr. Lowry of Washington, and Mr. Akaka.

H.R. 2884: Mr. Lightfoot.

H.R. 3119: Mr. Rowland of Connecticut.

H.R. 3129: Mr. DioGuardi.

H.R. 3155: Mr. Atkins.

H.R. 3204: Mr. Dellums, Mr. de Lugo, Mr. Chapman, Mr. Fauntroy, Mr. Garcia, and Mr. Moody.

H.R. 3314: Mr. Leland, Mr. McMillen of Maryland, Mr. Henry, Mr. Huckaby, Mr. Valentine, Mr. Jones of North Carolina, Mr. Ridge, and Mr. Montgomery.

H.R. 3348: Mr. Markey and Mr. Bateman.

H.R. 3361: Mr. Callahan, Mr. Boehlert, Ms. Oakar, Mr. Richardson, Mr. Blaz, Mrs. Morella, Mr. Clay, Mr. Kildee, Mr. Fazio, and Mr. Panetta.

H.R. 3397: Mr. Gejdenson.

H.R. 3454: Mr. Carper, Mr. Dicks, Mr. Grant, Mr. Lehman of Florida, Mr. Lowry of Washington, Mr. Pursell, and Mr. Wise.

H.R. 3503: Mr. Evans and Mr. DeFazio.

H.R. 3506: Mr. Denny Smith, Mr. Nielson of Utah, Mr. Dyson, Mr. Konnyu, Mr. Lewis of Florida, Mr. Buechner, Mr. Herger, Mr. Bateman, and Mr. Fields.

H.R. 3507: Mr. Hunter, Mr. Ravenel, Mr. Konnyu, Mr. Oxley, Mr. Dornan of California, Mr. Wortley, Mr. DeFazio, Mr. Erdreich, Mr. Traficant, Mr. Shumway, Mrs. Bentley, Mr. Owens of New York, Mr. Fawell, Mr. Inhofe, Mrs. Martin of Illinois, Mr. Bryant, and Mr. Hatcher.

H.R. 3508: Mr. Wortley, Mr. Inhofe, Mr. Konnyu, Mr. Lagomarsino, Mr. Oxley, Mr. Hyde, Mr. DeFazio, Mr. Nichols, Mr. Erdreich, Mr. Henry, Mr. Owens of New York, Mr. Jontz, Mr. Upton, Mr. Traficant, Ms. Kaptur, Mr. Shumway, Mrs. Bentley, Mr. Fawell, and Mr. Herger.

H.R. 3509: Mr. Leath of Texas.

H.R. 3510: Mr. Leath of Texas.

H.R. 3565: Mr. Hiler, Mr. Owens of Utah, Mr. Holloway, Mrs. Vucanovich, and Mr. Johnson of South Dakota.

H.R. 3619: Mr. Akaka.

H.R. 3628: Mr. Florio, Mr. Quillen, Mr. Sundquist, Mr. Rhodes, Mr. Duncan, Mr. Wolf, Mr. Shays, Mr. Weber, Mr. Bonker, Mr. Cooper, Mr. Coelho, and Mr. Synar.

H.R. 3660: Mr. Fascell.

H.R. 3662: Mr. Gray of Illinois, Mr. de Lugo, Mrs. Bentley, and Mr. Baker.

H.R. 3696: Mrs. Collins, Mr. Spence, Mr. Tallon, and Mr. Solarz.

H.R. 3742: Mr. Carr, Mrs. Morella, Mr. Smith of New Jersey, and Mr. Bonior of Michigan.

H.R. 3787: Mr. Moakley.

H.R. 3816: Mr. Manton, Mr. Lowry of Washington, Mr. Dymally, Mr. Mfume, Mr. Gilman, Mr. de la Garza, Mr. Dicks, and Mrs. Johnson of Connecticut.

H.R. 3848: Mr. Slattery, Mr. Owens of New York, Mr. Morrison of Connecticut, Mr. Fuster, Mr. Bereuter, Mr. Frank, Mr. Frost, Mr. Bryant, Mr. Garcia, Mr. de la Garza, Mr. de Lugo, Mr. Konnyu, Mrs. Johnson of Connecticut, Mr. Dornan of California, Mr. Buechner, Mr. Solomon, Mr. Mrazek, Ms. Kaptur, Mr. Berman, Mr. Lewis of Georgia, Mr. Hayes of Illinois, and Mr. Campbell.

H.R. 3866: Mr. Evans and Mr. Craig.

H.R. 3878: Mrs. Boxer.

H.R. 3879: Mr. Richardson, Mr. Harris, Mr. Dixon, Ms. Slaughter of New York, Mr. Skaggs, Mr. Akaka, Mr. Rangel, and Mr. DeFazio.

H.R. 3907: Mr. Miller of Ohio, and Mr. Smith of New Jersey.

H.R. 3944: Mr. Lott, Mr. Hyde, Mr. Lagomarsino, Mr. Walker, Mr. Smith of Texas, and Mr. Marlenee.

H.R. 3953: Mr. Pepper, Mr. Brown of California, and Mr. Edwards of California.

H.R. 4002: Mr. Sundquist.

H.R. 4003: Mr. Wheat, Ms. Oakar, Mr. Wilson, Mr. Atkins, Mr. Foglietta, Mr. Levin of Michigan, and Mr. Rangel.

H.R. 4024: Ms. Pelosi and Mr. Garcia.

H.R. 4043: Mr. Slattery.

H.R. 4049: Ms. Kaptur, Mr. Conyers, Mr. Yates, Mr. Rangel, Mr. Kastenmeier, Mr. McHugh, Mr. Hayes of Illinois, Mr. Moakley, Mrs. Morella, Mr. Torres, Mr. Green, Mr. Clay, Mrs. Meyers of Kansas, Mr. DeFazio, Mr. Dorgan of North Dakota, Mr. Frank, Mr. Boehlert, Mr. Frost, Mr. Foglietta, Mr. Sikorski, Mr. Moody, Mr. Dellums, Mrs. Collins, Mr. Pepper, Mr. Hughes, Mr. Brown of California, Mr. Berman, Mr. Dixon, Mr. Tallon, Mr. Fawell, Mr. Mrazek, Mr. Johnson of South Dakota, Mr. Traficant, Mr. Dowdy of Mississippi, and Mr. Brennan.

H.R. 4071: Mr. Jontz and Mr. Neal.

H.R. 4074: Mr. Clinger, Mr. Morrison of Connecticut, Miss Schneider, and Mr. Leath of Texas.

H.R. 4088: Mr. Bryant.

H.R. 4113: Mr. Owens of New York, Mr. Frank, Mr. Garcia, Mr. McGrath, Mrs. Boxer, Mr. Ackerman, Mr. Foglietta, Mr. Lewis of Georgia, Mr. Ford of Michigan, Mrs. Collins, Mr. Solarz, and Mr. DeFazio.

H.R. 4115: Mrs. Meyers of Kansas.

H.R. 4121: Mr. Ackerman, Mr. Atkins, Mr. Bates, Mr. Owens of New York, Mr. Owens of Utah, Mr. Studds, Mr. Lewis of Georgia, Ms. Oakar, Mr. Evans, Mr. Chapman, Mr. Foglietta, and Mr. Dellums.

H.R. 4127: Mr. Bevill, Mr. Fascell, Mr. Lewis of Georgia, Mr. Lagomarsino, Mr. Rahall, Mr. de Lugo, Mr. Richardson, Mr. Kostmayer, Mr. Gejdenson, Mr. Kastenmeier, Mr. Derrick, Mr. Mrazek, Mr. DeFazio, Mr. Huckaby, Mr. Pickett, Mr. Jontz, Mr. Lowry of Washington, Mr. Traficant, Mr. Moakley, Mr. Harris, Mrs. Collins, Mr. Gregg, Mr. Fuster, Mr. Matsui, Mr. Smith of Florida, Mr. Swift, Mr. Boucher, Mr. Horton, Mr. Solarz, Mr. Manton, Mr. Walgren, Mr. Moody, Mr. Darden, and Mr. Hughes.

H.R. 4139: Mr. Dellums, Mr. Hughes, Mr. Stark, Mr. Atkins, Mr. Smith of Florida, Mr. Neal, Mr. Hochbrueckner, Mr. Jontz, Mr. Garcia, Mr. Kildee, Mr. Glickman, Mr. Foglietta, Mr. Edwards of California, and Mr. Green.

H.R. 4140: Mr. Dellums, Mr. Hughes, Mr. Stark, Mr. Atkins, Mr. Smith of Florida, Mr. Neal, Mr. Hochbrueckner, Mr. Jontz, Mr. Garcia, Mr. Kildee, Mr. Glickman, and Mr. Foglietta.

H.R. 4149: Mr. Chandler and Mr. Inhofe.

H.R. 4150: Mr. Downey of New York, Mr. Leach of Iowa, Mr. Stokes, Mr. Weldon, Mr. Grant, Mr. St Germain, Mr. Volkmer, Mr. Saxton, Mr. Johnson of South Dakota, Mrs. Patterson, Mr. Akaka, Mr. Walgren, Mr. Bustamante, Mr. Conyers, Mr. Owens of New York, Mr. Hochbrueckner, Mr. Natcher, Mr. Murphy, Mr. Pease, Mr. Rahall, Mr. Clinger, Mr. Wise, Mr. Applegate, Mr. Morrison of Washington, Mr. Rinaldo, Mr. Nagle, Mr. Neal, Mr. Stallings, Mr. Olin, Mr. McCollum, Mr. Gray of Illinois, Mr. Towns, Mr. Nowak, Mr. Rangel, Mr. Smith of New Jersey, Mrs. Kennelly, Mr. Jontz, Mr. Robinson, Mr. Feighan, and Mr. Atkins.

H.R. 4158: Mr. Nielson of Utah, Mr. Skaggs, Mr. Foglietta, Mr. Wortley, Mr. Henry, Mr. Neal, Mrs. Boxer, and Mr. Fascell.

H.R. 4173: Mr. Moody, Mr. Morrison of Connecticut, Ms. Slaughter of New York, Mr. Jacobs, Mr. Applegate, Mr. Bryant, and Mr. Garcia.

H.R. 4203: Mr. Solomon, Mr. Inhofe, Mr. Nielson of Utah, and Mr. Burton of Indiana.

H.R. 4208: Miss Schneider and Mr. Davis of Michigan.

H.R. 4209: Miss Schneider.

H.R. 4210: Miss Schneider.

H.R. 4211: Miss Schneider.

H.R. 4212: Mr. Hughes.

H.R. 4213: Mr. Hutto and Mr. Lott.

H.R. 4218: Mr. Akaka, Mr. Mazzoli, and Mr. Lewis of Georgia.

H.R. 4257: Mr. Lott, Mr. Weldon, Mrs. Lloyd, Mr. Craig, Mr. Wyden, Mr. Madigan, Mr. Armey, Mr. Gilman, Mr. Frenzel, Mrs. Meyers of Kansas, Mr. Skeen, Mr. Tallon, Mr. Jenkins, Mr. Darden, Mr. Mazzoli, Mr. DioGuardi, Mr. Slattery, Mr. Kildee, Mr. Eckart, Mr. Campbell, and Mr. Valentine.

H.R. 4260: Mr. Martin of New York, Mrs. Collins, Mr. Manton, Mr. Fawell, Mr. Wortley, Mr. Frank, and Mr. Weldon.

H.R. 4268: Mr. Mazzoli and Mrs. Morella.

H.R. 4277: Mr. Torricelli, Mrs. Boxer, Mr. Waxman, Mr. Boehlert, Mr. Matsui, Mr. McCloskey, Mr. DeFazio, Mr. Akaka, Mr. Mica, Mr. Gallegly, Mr. Edwards of California, Ms. Pelosi, and Mr. Glickman.

H.R. 4279: Mrs. Martin of Illinois and Mr. Fuster.

H.R. 4289: Mr. Dyson, Mr. Donald E. Lukens, Mr. Wortley, and Mr. Chapman.

H.R. 4334: Mr. Schuette, Mr. Chapman, and Mr. Jontz.

H.J. Res. 55: Mr. Jones of Tennessee, Mr. Huckaby, and Mr. Bereuter.

H.J. Res. 148: Mr. Alexander, Mr. AuCoin, Mr. Boehlert, Mr. Borski, Mr. Chandler, Mr. Clay, Mr. Dorgan of North Dakota, Mr. Fauntroy, Mr. Ford of Michigan, Mr. Hamilton, Mr. Jones of North Carolina, Mrs. Lloyd, Mr. Lowry of Washington, Mr. Moakley, Mr. Price of North Carolina, Mr. Roberts, Mr. Rodino, Mrs. Saiki, Mr. Synar, and Mr. Wyden.

H.J. Res. 261: Mr. Conte.

H.J. Res. 358: Mr. Russo, Mr. Jontz, and Mr. Garcia.

H.J. Res. 378: Mr. Watkins, Mr. Murtha, Mrs. Meyers of Kansas, Mr. Studds, Mr. Stenholm, Mr. Conte, Mr. Russo, Mr. Mrazek, Mr. McGrath, Mr. Kildee, Mr. Bates, Mr. Roberts, Mr. Rowland of Connecticut, Mr. Staggers, Mr. Dwyer of New Jersey, Mr. Morrison of Washington, Mr. Tauke, Mr. Jontz, Mr. Burton of Indiana, Mr. Gallo, Mr. Schuette, Mrs. Byron, Mr. Thomas of California, Mr. Porter, Mr. Stangeland, and Mr. Vander Jagt.

H.J. Res. 398: Mr. Aspin, Mr. Garcia, Mr. Hamilton, Mr. Kostmayer, Mr. Price of North Carolina, Mr. Hoyer, Mr. Stratton, Mr. Roberts, Mr. LaFalce, Mr. Boehlert, Mr. Valentine, and Mr. Cardin.

H.J. Res. 420: Mr. Skaggs, Mr. Gingrich, Mr. Miller of Washington, Mr. Valentine, Ms. Slaughter of New York, Mr. Russo, Mr. Fields, and Mr. Pursell.

H.J. Res. 421: Mr. Akaka, Mr. Anderson, Mr. Archer, Mr. Bartlett, Mr. Bosco, Mr. Boulter, Mr. Brown of Colorado, Mr. Buechner, Mr. Bunning, Mr. Campbell, Mr. Carper, Mr. Chandler, Mr. Clay, Mr. Clement, Mr. Conte, Mr. Conyers, Mr. Coughlin, Mr. Courter, Mr. de la Garza, Mr. Dorgan of North Dakota, Mr. Dowdy of Mississippi, Mr. Durbin, Mr. Espy, Mr. Fazio, Mr. Feighan, Mr. Frank, Mr. Frenzel, Mr. Garcia, Mr. Gekas, Mr. Gephardt, Mr. Gingrich, Mr. Gradison, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Green, Mr. Guarini, Mr. Gunderson, Mr. Hall of Ohio, Mr. Hutto, Mr. Ireland, Mr. Jones of Tennessee, Mr. Kemp, Mrs. Kennelly, Mr. Kildee, Mr. Leland, Mr. Lewis of California, Mr. Lewis of Georgia, Mrs. Lloyd, Mr. Lowry of Washington, Mr. Lujan, Mr. McCloskey, Mr. McDade, Mrs. Meyers of Kansas, Mr. Moorhead, Mr. Morrison of Connecticut, Mr. Morrison of Washington, Mr. Murphy, Mr. Nelson of Florida, Mr. Nichols, Mr. Nowak, Mr. Ortiz, Mr. Pickle, Mr. Porter, Mr. Price of North Carolina, Mr. Pursell, Mr. Rangel, Mr. Ray, Mr. Rhodes, Mr. Rinaldo, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rowland of Georgia, Mr. Roybal, Mr. Sabo, Mr. Schaefer, Mr. Shays, Ms. Slaughter of New York, Ms. Snowe, Mr. Solarz, Mr. Solomon, Mr. Spence, Mr. Spratt, Mr. Staggers, Mr. Stokes, Mr. Sunia, Mr. Tauke, Mr. Torricelli, Mr. Towns, Mr. Volkmer, Mrs. Vucanovich, Mr. Walgren, Mr. Wheat, Mr. Wilson, Mr. Wylie, Mr. Yates, Mr. Yatron, Mr. AuCoin, Mr. Hertel, and Mr. Bonior of Michigan.

H.J. Res. 422: Mr. Applegate, Mr. Atkins, Mr. Bevill, Mr. Blaz, Mr. Boucher, Mr. Courter, Mr. DioGuardi, Mr. Dowdy of Mississippi, Mr. Durbin, Mr. English, Mr. Espy, Mr. Evans, Mr. Fauntroy, Mr. Foglietta, Mr. Grandy, Mr. Grant, Mr. Gray of Pennsylvania, Mr. Gunderson, Mr. Hammerschmidt, Mr. Hastert, Mr. Hopkins, Mr. Hyde, Mrs. Johnson of Connecticut, Mrs. Kennelly, Mr. Kolter, Mr. Lehman of Florida, Mr. Leland, Mr. Mack, Mrs. Martin of Illinois, Mrs. Meyers of Kansas, Mr. Mica, Mr. Moakley, Ms. Oakar, Mr. Oberstar, Mr. Pickett, Mr. Pursell, Mr. Rangel, Mr. Ravenel, Mr. Rinaldo, Mr. Roybal, Mr. Sabo, Mr. Savage, Mr. Schumer, Ms. Snowe, Mr. Solarz, Mr. Staggers, Mr. Traxler, Mr. Udall, Mr. Yates, Mr. Yatron, and Mr. Lehman of California.

H.J. Res. 429: Mr. Mollohan and Mr. Dingell.

H.J. Res. 453: Mr. Mineta, Mr. Holloway, Mr. Torricelli, Mr. Schaefer, Mr. Badham, Mr. Fish, Mr. Konnyu, Mr. DioGuardi, Mr. Miller of Washington, Mr. Stratton, Mr. Applegate, Mr. Kanjorski, Mr. Lowery of California, Mr. Hastert, Ms. Slaughter of New York, Mr. Coleman of Texas, and Mr. Barnard.

H.J. Res. 474: Mr. Early, Mr. Vento, Mr. Green, Mr. Eckart, Mr. Gilman, Mr. Vander Jagt, Mr. Slaughter of Virginia, Mr. Coughlin, Mr. DioGuardi, Mr. Traxler, Mr. Pepper, Mr. Tauke, Mr. Cardin, and Mr. Hughes.

H.J. Res. 476: Mr. Rahall, Mrs. Johnson of Connecticut, Mr. Solomon, Mr. Hayes of Louisiana, Mr. Lungren, Mr. Hoyer, Mr. Jontz, Mr. Wortley, Mr. Garcia, Mr. Ravenel, Mr. Spence, Mr. Moakley, and Mr. Fascell.

H.J. Res. 481: Mr. Miller of California, Mr. Coelho, Mr. Michel, Mrs. Lloyd, Mr. Hammerschmidt, Mrs. Bentley, Mr. Bevill, Mr. Biaggi, Mr. Bosco, Mr. Burton of Indiana, Mr. Carper, Mr. Coats, Mr. Conte, Mr. Conyers, Mr. Cheney, Mr. Dornan of California, Mr. Dymally, Mr. Espy, Mr. Fawell, Mr. Fields, Mr. Gray of Pennsylvania, Mr. Hall of Ohio, Mr. Hansen, Mr. Hayes of Illinois, Mr. Henry, Mr. Kanjorski, Mr. Lagomarsino, Mr. Leland, Mr. LaFalce, Mr. Lungren, Mr. Matsui, Mr. Mica, Mrs. Meyers of Kansas, Mr. McEwen, Mr. Murphy, Mr. Natcher, Mr. Obey, Ms. Oakar, Mr. Pepper, Mr. Richardson, Mr. Rodino, Mr. Rowland of Connecticut, Mr. Sabo, Mr. Sawyer, Mr. Solarz, Mr. Weiss, Mr. Wilson, Mr. Wolpe, Mr. Yates, Mr. Yatron, and Mr. Young of Florida.

H.J. Res. 488: Mr. de la Garza, Mrs. Bentley, Mr. Garcia, Mr. Shaw, Mr. Evans, Mr. Dornan of California, Mr. Montgomery, Mr. Ackerman, Mr. Schuette, Mrs. Meyers of Kansas, Mr. Gallegly, Mr. Pepper, Mr. Holloway, Mr. Hatcher, Mr. Owens of Utah, Mr. Stratton, Mr. Applegate, Mr. Livingston, Mr. Lancaster, Mr. Solomon, Mr. Lungren, and Mr. Hughes.

H.J. Res. 491: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 492: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 493: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 494: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 495: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 496: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 497: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 498: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 499: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 500: Mr. DioGuardi, Ms. Pelosi, Mr. Owens of New York, Mr. Eckart, and Mr. Torricelli.

H.J. Res. 503: Mr. Tauke, Mrs. Meyers of Kansas, Mr. Hochbrueckner, Mr. Shumway, Mr. Tallon, Mr. Johnson of South Dakota, Mr. Dornan of California, Mrs. Johnson of Connecticut, Mrs. Bentley, Mr. Schuette, Mr. Fazio, Mr. Stallings, and Mr. Owens of Utah.

H.J. Res. 509: Mr. Lagomarsino, Mr. Dornan of California, Mr. Smith of Florida, Mr. Burton of Indiana, Mr. Clarke, Mr. Dymally, Mr. Montgomery, Mr. Wortley, Mr. Neal, Mr. Gray of Illinois, and Mr. Fazio.

H.J. Res. 524: Mr. Hunter, Mr. Kolter, Mrs. Boxer, Mrs. Bentley, Mr. Kasich, Mr. DeFazio, Mr. Frost, Mr. Traficant, and Ms. Kaptur.

H. Con. Res. 19: Mrs. Boxer.

H. Con. Res. 28: Mr. Badham, Mr. Coleman of Texas, Mr. Bryant, Mr. Konnyu, and Mr. Russo.

H. Con. Res. 169: Mr. Daub, Mr. Martinez, and Mr. Hall of Texas.

H. Con. Res. 223: Mr. Akaka, Mr. Anderson, Mr. Applegate, Mr. Baker, Mr. Bunning, Mrs. Byron, Mr. Chappell, Mr. Coughlin, Mr. Darden, Mr. DeFazio, Mr. Derrick, Mr. Dicks, Mr. Dowdy of Mississippi, Mr. English, Mr. Espy, Mr. Gallo, Mr. Gordon, Mr. Hefner, Mr. Hertel, Mr. Hunter, Mr. Hutto, Mr. Jacobs, Mr. Jenkins, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Lightfoot, Mr. Lowery of California, Mr. Lujan, Mr. Markey, Mr. Marlenee, Mr. Mazzoli, Mr. McCloskey, Mr. Madigan, Mr. Quillen, Mr. Roberts, Mr. Robinson, Mr. Rose, Mr. Roth, Mr. St Germain, Miss Schneider, Mr. Robert F. Smith, Ms. Snowe, Mr. Spratt, Mr. Stangeland, Mr. Stump, Mr. Thomas of Georgia, Mr. Udall, and Mr. Upton.

H. Con. Res. 239: Mr. Skaggs.

H. Con. Res. 262: Mr. St Germain, Mrs. Schroeder, Mr. Jenkins, Mr. DioGuardi, Mr. Solarz, Mr. Brennan, Mr. Fascell, Mr. Mfume, Mr. Downey of New York, Mr. Studds, Mr. Walgren, Mr. Hertel, Mr. Hughes, Mr. Brown of California, Mrs. Morella, Mr. Kildee, Mr. Scheuer, Mr. Mica, Mr. Donnelly, Mr. Flake, Mr. Glickman, and Mr. Bunning.

H. Con. Res. 274: Mr. Clarke.

H. Res. 242: Mr. Hopkins.

H. Res. 286: Mr. Evans and Mr. DeFazio.

H. Res. 423: Mr. Smith of Texas, Mr. Barton of Texas, Mr. Bilirakis, Mr. Fields, Mr. Stump, Mr. Packard, and Mr. Baker.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1834

By Mr. Solomon:

—Page 8, add after line 12 the following:

Sec. 8. YOUTH OPPORTUNITY WAGE.

(a) Amendment to Fair Labor Standards Act of 1938.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

"(g)(1) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, an employer may employ any person who is under age 20 years of age at a wage not less than 75 per centum of the otherwise applicable wage rate established pursuant to this section, section 8, or subsection (e) of section 5 if such person was not employed by the employer at any time during the 90-day period before May 1 of such year. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection.

"(2) This subsection shall not affect requirements for compliance with applicable child labor laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws.

"(3) No employer may discharge, transfer, or demote any employee of such employer who is ineligible for the minimum wage established by this subsection for the purpose of employing a person eligible for such wage. Any such discharge, transfer, or demotion shall be deemed a violation of section 15(a)(3).

"(4) Any reference in any other law to the Federal minimum wage under subsection (a) shall be interpreted as referring to the wage established by this subsection with respect to the employment of employees authorized to receive the minimum wage established by this subsection.".

(b) Monitoring.—The Secretary of Labor shall monitor the implementation of the amendments made by subsection (a) and shall prepare and submit to the Congress a report concerning the employment effects of the wage authorized by such amendments and such other information and recommendations as the Secretary of Labor determines to be appropriate.

—Page 8, add after line 12 the following:

SEC. 8. YOUTH OPPORTUNITY WAGE.

(a) Amendment to Fair Labor Standards Act of 1938.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

"(g)(1) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, and employer may employ any person who is under age 20 years of age at a wage not less than 75 per centum of the otherwise applicable wage rate established pursuant to this section, section 8, or subsection (e) of section 5 if such person was not employed by the employer at any time during the 90-day period before May 1 of such year. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection.

"(2) This subsection shall not affect requirements for compliance with applicable child labor laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws.

"(3) No employer may discharge, transfer, or demote any employee of such employer who is ineligible for the minimum wage established by this subsection for the purpose of employing a person eligible for such wage. Any such discharge, transfer, or demotion shall be deemed a violation of section 15(a)(3).

"(4) Any reference in any other law to the Federal minimum wage under subsection (a) shall be interpreted as referring to the wage established by this subsection with respect to the employment of employees authorized to receive the minimum wage established by this subsection.".

(b) Amendment to the Job Training Partnership Act.—Section 142(a) of the Job Training Partnership Act (29 U.S.C. 1552) is amended by adding after paragraph (3) the following new paragraph:

"(4) Notwithstanding paragraphs (2) and (3) of this subsection, individuals who would be paid wages during the period from May 1 through September 30 of any calendar year and who have not attained 20 years of age before May 1 of the year shall be paid at not less than the higher of (A) the minimum wage provided under section 6(g) of the Fair Labor Standards Act of 1938, or (B) the minimum wage under the applicable State or local minimum wage law.".

(c) Monitoring.—The Secretary of Labor shall monitor the implementation of the amendments made by subsections (a) and (b) and shall prepare and submit to the Congress a report concerning the employment effects of the wage authorized by such amendments and such other information and recommendations as the Secretary of Labor determines to be appropriate.

EXTENSIONS OF REMARKS

SPEECH BY CIA DEPUTY DIRECTOR ROBERT M. GATES ON INTELLIGENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HAMILTON. Mr. Speaker, I would like to draw to the attention of my colleagues a speech by Mr. Robert M. Gates, Deputy Director of Central Intelligence, entitled the Traditional Functions of National Intelligence. I believe it is an important description of the functions of intelligence in the making of foreign policy, and I commend Mr. Gates for his public speaking on this important topic.

The text of Mr. Gates' remarks follows:

THE TRADITIONAL FUNCTIONS OF NATIONAL INTELLIGENCE

(By Robert M. Gates)

Over the years, public views of American intelligence and its role in foreign policy have been shaped primarily by movies, television, novels, newspapers, books by journalists, headlines growing out of Congressional inquiries, exposes by former intelligence officers, and essays by "experts" who either have never served in American intelligence or have served and still not understood its role. The CIA, the only statutory national intelligence organization, is said to be an "invisible government" yet it is the most visible, most externally scrutinized, and most publicized intelligence service in the world. While the CIA is sometimes able to refute publicly allegations and criticism, usually it must remain silent. The result is a contradictory melange of images of the CIA and very little knowledge or understanding of its functions or real role in American government. I would like to discuss these tonight.

Let me describe briefly the three basic functions of national intelligence—of CIA—as set forth in the 1947 National Security Act and evolved in subsequent years.

COLLECTION

The first is the collection of intelligence worldwide. U.S. intelligence gathers its information from a variety of sources. The types of sources we draw upon are well known. Our information comes from satellites, from newspapers, periodicals, radio and television worldwide, from diplomats and military attaches overseas, and, of course, from secret agents. All of this information, billions of bits and pieces of data on global developments and issues of interest to the United States, flows to Washington where it goes to the analysts. Much of our most valuable information comes from the voluntary, overt cooperation of businessmen, academicians and others who are willing to share with U.S. information they acquire when traveling overseas. Our dependence on different sources of information varies from issue to issue. On some, such as Soviet weapons development, we depend heavily on satellites and spies. On others, such as international economic affairs, we depend heavily on open literature and Embassy reporting. But, in all cases, what clearly distinguishes information as suitable for intelligence exploitation is its relevance to U.S. national security policies and interests.

ANALYSIS

The second function—the correlation, evaluation and dissemination of intelligence, or analysis, is the only function of CIA specifically authorized by the 1947 National Security Act. Indeed, CIA's creation derived from determination to prevent another Pearl Harbor: To ensure that all available intelligence would be collated and evaluated in one place and provided to those who need it.

As information flows to Washington, analysts with expertise in scores of disciplines collate and try to make sense of it. The CIA then reports its findings to policy officials and to the military services. It is the comprehensiveness of the CIA's collection and analysis, the Agency's focus on the national security interests of the United States and the advantage of its having knowledge before anyone else that make the CIA's intelligence valuable to the policymaker. Furthermore, the CIA often makes a contribution simply by organizing facts in a clear and concise way, by providing the same facts to a range of different organizations, by identifying the important questions—and by trying to answer them.

This information finds its way to the policymaker in several ways. First, intelligence on day-to-day events and developments around the world is provided to senior officials daily or even several times a day. Early each morning a written briefing is delivered to the White House for the President. As directed by President Reagan in 1981, officers of the CIA's analysis directorate also fan out across Washington each morning to share copies of the President's briefing with the Vice President, the Secretaries of State and Defense, the National Security Adviser and the Chairman of the Joint Chiefs of Staff. During crises, situation reports are provided every few hours.

Second, the CIA contributes analysis to policy papers, by describing both current events and potential opportunities or problems for the United States. Nearly all NSC and sub-Cabinet meetings begin with a briefing by the Director of Central Intelligence or a subordinate expert.

Third, national intelligence estimates can play an important role in the making of policy. An estimate provides a factual review of a subject and forecasts future developments. In recent years a high premium has been placed on the presentation of diverse points of view and alternative scenarios—the different ways events may play out, and with what likely consequences. But, always, a "best estimate" is offered; the intelligence community owes the policymaker that.

These estimates—more than a hundred were done last year—are prepared by analysts from different intelligence agencies under the supervision of the senior substantive expert in the intelligence community, known as the National Intelligence Officer. Estimates are the most formal expression of the Intelligence Community's views. All of the intelligence agencies of the government both contribute to and coordinate what is written in national estimates. The best known of these are the annual estimates on Soviet strategic military forces.

Fourth, policymakers receive specialized assessments by individual agencies. The CIA's assessments and research papers are the products of the largest intelligence analysis organization in the world. The range of issues is breathtaking—from strategic weapons to food supplies, epidemiology to space, water and climate to Third World political instability, mineral and energy resources to international finance, Soviet laser weapons to remote tribal demographics, chemical and biological weapons proliferation to commodity supplies, and many, many more.

COVERT ACTION

The third function of national intelligence—of CIA—is the implementation of covert action. Covert action is an instrument for protecting or advancing American national security interests in those cases when it is essential that American involvement be hidden or at least not officially acknowledged. The first and most important thing to understand about covert action is that it does not represent some sort of independent CIA foreign policy. The decision to use covert action is a policy decision made by the National Security Council—the President, Vice President and the Secretaries of State and Defense. And it is CIA's responsibility to implement such decisions.

Under the law, the President must sign a document known as a "Finding" to authorize such covert actions. These findings are shared with the two intelligence oversight Committees and the funds for their implementation are approved by Congress. There have been three exceptions to this process over the past decade or so, all relating to Iran.

You can read dozens of books about past covert actions—most of them critical, but I would like to make a few observations. First, with very few exceptions, the only covert actions you tend to hear about are those that failed. In a number of instances, in my judgment, this has been because the covert action was decided upon by policymakers as a last ditch effort to influence events where all overt means previously had failed. As a corollary, covert actions tend to fail if they are done in isolation from the use of other, overt instruments of policy, or if the covert action is undertaken as a substitute for or in the absence of a clear policy. Second, contrary to popular impressions, the Congressional Intelligence Committees have been broadly supportive of covert action. With a very few exceptions—most obviously in Central America—there has been broad bipartisan support for or at least tolerance of most of the covert actions undertaken by Presidents Carter and Reagan—most of which have never become known publicly. Finally, in my view, CIA should not be an advocate of covert action but rather an implementing instrument. The decision to use covert action is a policy decision. It is the responsibility of senior managers in CIA, as well as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Executive and Congressional oversight procedures, to ensure that such actions do not take on a life of their own and proceed over a period of time without regard to changing circumstances or policies, relevance, or effectiveness. Finally, it is CIA's responsibility to be scrupulous in keeping our oversight committees properly informed about covert action. If there is to be controversy, let it be about the policy, not how CIA carried out its responsibility to the Committees.

CONGRESS

There is fourth function of intelligence that is relatively new and that is its relationship to and support of the Congress. Since the mid-1970's, virtually all CIA assessments as well as those of the other principal intelligence agencies, have gone to the two Congressional Committees. Most go also to the Appropriations, Foreign Relations and Armed Services Committees. Eight Congressional Committees get the CIA's Daily National Intelligence Report. In 1986 the CIA alone sent some 5,000 intelligence reports to Congress and gave many hundreds of briefings. Often thanks to their staffs, many Senators and Representatives are as well, if not better, informed about intelligence information and assessments on a given subject than concerned policymakers. Moreover, this intelligence is often used to criticize and challenge policy, to set one executive agency against another and to expose disagreements within an Administration. By the same token, I regard the distribution of intelligence reports to Congress as an important added protection for the objectivity and integrity of our assessments.

Most specialists writing about the change in recent years in the balance of power between the Executive and Congress on national security policy cite Watergate and Vietnam as primary causes. I believe there was a third principal factor: the obtaining, by Congress in the mid-1970's, of access to intelligence information essentially equal to that of the Executive Branch.

This situation adds extraordinary stress to the relationship between CIA and the policy agencies. Policymakers' suspicions that the CIA uses intelligence to sabotage selected administration policies are often barely concealed. And more than a few Members of Congress are willing to exploit this situation by their own selective use of intelligence that supports their views. The end result is a strengthening of the Congressional hand in policy debates and a greater heightening of the tensions between CIA and the rest of the Executive Branch.

I might add that the oversight process also has given Congress—especially the two Intelligence Committees—far greater knowledge of and influence over the way CIA and other intelligence agencies spend their money than anyone in the Executive Branch would dream of exercising. Congress has been immensely supportive and steadfast over the past ten years in providing the resources to rebuild American intelligence. But I suspect it causes policymakers considerable heartburn to know that Congress may actually have more influence today over intelligence priorities and allocation of resources than the Executive Branch.

THE INTELLIGENCE-POLICYMAKER TANGLE

Each of the four functions of intelligence that I have described—collection, analysis covert action, and the relationship with Congress—affects the relationship between CIA and the policymaker. Sherman Kent, a professor of history at Yale who became a senior analyst in the Office of Strategic Services and was later Director of CIA's Office of National Estimates, wrote in 1949: "There is no phase of the intelligence business which is more important than the proper relationship between intelligence itself and the people who use its product. Oddly enough, this relationship, which one would expect to establish itself automatically, does not do this." The fact is that over the years the policymakers and the intelligence officer have consistently (and with frighteningly few exceptions) come together hugely ignorant of the realities and complexities of each others worlds—process, technique, form and culture. CIA officers can descibe in excruciating detail how foreign policy is made in every country in the world save one—the United States. By the same token, as suggested by professor Yehoshafat Harkabi, the unhappiness of intelligence people "Swells when they compare the sophistication and advanced methods employed in the collection of the information and the production of intelligence against the cavalier fashion or improvisation with which policy decisions are many a time reached."

Indeed, my description at the outset of my remarks of the functions of intelligence does not address central questions such as whether certain users of intelligence seek, not data or understanding, but support for decisions already made; whether they selectively use or misstate intelligence to influence public debate over policy; whether they disingenuously label intelligence they dislike as too soft, too hard, or "cooked"; whether some intelligence officers are addressing personal agendas or biases. It does not take into account the unhappiness of policymakers with intelligence that challenges the adequacy of policies or accuracy of policymakers pronouncements. It does not reveal the implications for intelligence and policy of a CIA Director who is held at too great a distance from the President, or of one who is too closely associated. It does not treat policymakers' frustrations with inadequate, ambiguous or late intelligence; with constantly changing evaluations, with analysis that is just plain wrong, or the use of intelligence as a political football in struggles between government departments or between the Executive and Legislative branches. And, finally, my description does not deal with the preoccupation of policymakers with current reporting as opposed to longer range issues, or the abdication of policymakers from their intelligence guidance responsibilities.

Even with this litany of problems, the dialogue and relationship between policymakers and intelligence officers is, on the whole, a vital and healthy one; the inherent stresses are managed constructively and to good purpose. And, in this relationship, the objectivity and integrity of assessments have been protected. On subjects such as Vietnam, various aspects of Soviet policy and behavior, Angola, Lebanon, Iran and the effectiveness of various embargoes or sanctions, as well as on a number of other events and issues, the CIA's analysts have drawn conclusions that have dashed cold water on the hopes and efforts of policymakers. Sometimes the CIA analysts have been wrong, more often they have been right; but on problems both large and small the Agency has not flinched from presenting its honest view.

THE FUTURE

I have focused my remarks on traditional functions of national intelligence, CIA, and the relationships between CIA, the Executive Branch and the Congress. Before closing, I would like to mention several trends that dominate our work now and almost certainly in the future:

As we contemplate the strategic relationship with the Soviet Union, a dominating reality is that the margin for error of U.S. intelligence steadily is becoming narrower. The costs of misestimating or of miscalculating will be high. This is at a time when Soviet weapons are produced with greater secrecy, higher technology and more effort to mislead us than ever before, and when the demands on us for monitoring compliance with arms control are becoming always more complex and detailed.

Intelligence for some years now has been marked by a growing diversity of the problems and issues it is expected to address. Today, the Soviet Union and China together probably account for no more than half of our overall work. The diversity of issues that we cover—which I described early in my remarks—is expanding every day.

The growing diversity of issues has been accompanied by growing number and diversity of the users of intelligence. We now supply intelligence to nearly every department and agency of the government as well as to the Congress. And we are under increasing pressure to provide more information for the public.

Intelligence increasingly is becoming central in policy deliberations. For example, the capacity of US intelligence to monitor or verify Soviet compliance with arms control agreements increasingly is driving the negotiating process. Agreements that cannot be independently verified by the United States probably cannot be ratified. Similarly, in technology transfer, counternarcotics, counterterrorism and range of other issues, intelligence is providing the strategic context as well as tactical information.

Finally, increasingly, intelligence is the only part of the American Government that is looking ahead—what I call "scouting the future". We are increasingly alone in identifying problems and opportunities this country will encounter overseas five or ten years from now or even well into the 21st century.

CONCLUSION

The real intelligence story in recent years is the significant improvement in the quality, relevance and timeliness of intelligence assistance to policymakers—a story that with rare anecdotal exceptions cannot be publicly described, in contrast to the publicity surrounding controversial covert actions, problems between the CIA and the Congress, and spy scandals. We cannot hope to counter the avalanche of allegations against us in the daily news. Sometimes it seems that every accused murderer and drug dealer in the country claims to have been working for us. The allegations always seem to make page 1; the refutations or facts, if they appear at all, are in the back pages. The mystique and mythology of CIA—and our silence when attached—make us a dandy target. Accordingly, I would urge you to be skeptical readers of intelligence stories—good or bad.

The fact is, CIA cannot advertise better collection or intelligence analysis. CIA officers understand this political reality, but it is imperative that Americans know that the CIA's primary mission remains the collection and analysis of information. This is the CIA's principal role in the making of American foreign policy. The President, the policy community and the Congress depend upon the CIA, task it and look to it more each day. The CIA attracts America's most capable young people, who find their work with the Agency to be an exceptionally challenging, honorable and consistently fascinating career. As John Ranelagh observes in his recently published history of the CIA, "In its moments of achievement as well as condemnation, the Agency was a reminder that it was a faithful instrument of the most decent and perhaps the simplest of the great powers, and certainly the one that even in its darkest passages practiced most consistently the virtue of hope."

The United States has the finest global intelligence service in the world. Faithful to the Constitution and the law, it helps to safeguard our freedom against our adversaries and helps the policymaker understand and deal with the often dangerous world around us. Intelligence is America's first line of defense—its eyes and ears, and, at times, its hidden hand. And, just possibly, America is at peace tonight because around the world, from shadowy streets to the depths of space, America's intelligence services are on guard—keeping the watch.

TRIBUTE TO JOYCE KALE PESTA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Joyce Kale Pesta, an outstanding citizen of my 17th Congressional District of Ohio. I am honored to announce that Mrs. Pesta has been selected as the Woman of the Year for the John F. Kennedy Democratic Women's Club.

Joyce Pesta is a member of the Federated Democratic Women's Club of Ohio, the John F. Kennedy Federated Democratic Women's Club, and is secretary of the Tri-County Democratic Organization. Mrs. Pesta is also the ways and means chairman of the Ladies Ancient Order of Hibernians and secretary of the Pete Gabriel's St. Patrick's Day Parade Committee. In 1978, she was employed as a secretary to chairman of the Mahoning County Democratic Central and Executive Committee, Don Hanni. She also served as a delegate for Senator EDWARD KENNEDY for President to the Democratic National Convention in New York City in 1980.

Mr. Speaker, it is with great pride that I pay tribute to this fine individual who has done so much for her community and those around her. I am privileged to represent such an exemplary citizen.

IN SUPPORT OF SENATE JOINT RESOLUTION 216, CONCERNING THE SITE OF THE BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, today I stand in recognition of Senate Joint Resolution 216, recently passed by the House. Senate Joint Resolution 216 would allow the Black Revolutionary War Patriots Memorial to stand in Washington's monumental core, known by law as "Area 1." On November 9, 1987, the Secretary of the Interior Donald P. Hodel issued a challenge when he sent a recommendation to Congress which declared the history of Revolutionary War Blacks of "preeminent historical and lasting significance to the Nation." This goes beyond the challenge of raising funds and building the Patriots Memorial, near the Washington Monument and the Lincoln Memorial, in a way that will convey a powerful message. It is a challenge to all Americans to use this precious history as a living tool to understand each other and our common heritage as a people.

As a child growing up in Philadelphia, I was surrounded by landmarks of extraordinary importance to the development of the Nation and of the black community. Because I came from a family steeped in traditions and religious life in Philadelphia, this history played a central role in my development as a child and as a young man. It gave a sense of strength, a sense of purpose and a sense of belonging, just as this same understanding gave power to the message of Dr. Martin Luther King, Jr. This history can do the same thing for every American, regardless of race.

Independence Hall, the Constitution's birthplace, is just a few short blocks from the Bethel African Methodist and Episcopal Church, a symbol of 200 years of the black struggle to help win American independence and to secure the promise of the Declaration of Independence. Mother Bethel's founder, Richard Allen, who bought his freedom in 1783 with money earned from delivering salt to the Army, would be among the tens of thousands of freedom seekers who are honored by the Patriots Memorial. Philadelphian James Forten and dozens of other Pennsylvania solider-patriots, like hero Edward Hector, would also be honored.

Unlike myself, there are thousands of Americans—black and white—who do not know the significant contributions blacks have made to help win and preserve our freedom and to shape our institutions. This ignorance—especially during commemorations like the bicentennial of the U.S. Constitution—makes us miss opportunities to build strong bonds between us that transcend race, religion and color. The Patriots Memorial and the 4-year-struggle to build it have demonstrated that we can succeed in this noble goal of unity if we are all willing to learn and take that learning to heart.

The memorial's backers on the hill and the dozen or more national organizations that support it are as diverse as our people, but united in their deep commitment to this project. It is not often that we see groups, like the Daughters of the American Revolution, Prince Hall Masons, National Urban League, AFL-CIO, American Jewish Congress, Sons of the American Revolution and National Education Association, working together as a coalition. This is memorial that deserves to be on the mall, where it will tell a powerful story of history and inspire national unity through its relationship to the symbols of freedom that grace that sacred area.

I am proud to be a member of the Patriots Foundation's National Advisory Council. I am also pleased that the city of Philadelphia is the first city to follow the recommendation of the U.S. Conference of Mayors, in its resolution of June 17, 1987, and adopt a resolution in support of the memorial. On February 25, the council, under the leadership of council President Joseph E. Coleman and Councilman Lucien E. Blackwell, presented the Patriots Foundation's president, Maurice A. Barboza, with a resolution of support.

Later that day, a reception was held at which time a proclamation of support, signed by Mayor Wilson W. Goode, was also presented to Mr. Barboza. A support group for educational and fundraising activities has been organized in Philadelphia and their work, which helped to bring about Philadelphia's support, will be an inspiration to activists across the country to get involved in this unifying project.

I want to commend the entire city council, Mayor Goode and many other Philadelphians for their support. I also want to commend Mayors Richard Berkely of Kansas City and Sidney Barthelemy of New Orleans and former Mayor Harvey Gantt of Charlotte and Dicken Cherry of the staff for securing the passage of the U.S. Conference of Mayors resolution.

In order to provide my colleagues with a model, I would like to insert in the RECORD at this point copies of the Philadelphia City Council resolution, Mayor Goode's proclamation, the U.S. conference of Mayors' resolution and a February 25 article from the Philadelphia Enquirer about Mr. Barboza and the memorial.

RESOLUTION NO. 20

Honoring the Black Revolutionary War Patriots Foundation.

Whereas, The Black Revolutionary War Patriots Foundation has been authorized by a joint Resolution of the United States Congress to establish a Memorial on federal land in the District of Columbia; and,

Whereas, The Black Revolutionary War Patriots Foundation shall establish this Memorial with non-federal funds to honor the memory of the estimated five thousand courageous slaves and free Black persons who served as soldiers and sailors during the American Revolution; and,

Whereas, The Memorial will acknowledge the civilian assistance of countless Black men, women and children who fled slavery and filed petitions with Courts and Legislatures seeking their freedom; and,

Whereas, The energetic efforts of Mr. Maurice Barboza have brought to light the sacrifices and heroic contributions of these forgotten Black Revolutionary soldiers and civilians; therefore,

Resolved, by the Council of the City of Philadelphia, That we lend our voice to the chorus of voices rising to honor the Black Revolutionary War Patriots Foundation for reminding the American people of the patriotism, courage and dedication of these men and women, whose contributions to the formation of our great nation have been overlooked for too long.

Resolved, That an engrossed copy of this resolution be presented to Mr. Maurice Barboza as evidence of our encouragement and support, along with the sincere sentiments of this legislative body.

Certification: This is a true and correct copy of the original Resolution adopted by the Council of the City of Philadelphia on the fourth day of February, 1988.

JOSEPH E. COLEMAN,
President of City Council.

CITY OF PHILADELPHIA PROCLAMATION

The contributions of Blacks to American independence and freedom is well-documented by contemporary historians, but little known by most Americans.

There is little evidence of Black contributions to American history in the memorials that have been constructed over the years. The Black Revolutionary War Patriots Foundation is seeking support for the construction of the Black Revolutionary War Patriots Memorial in the Constitution Gardens in Washington, D.C.

This memorial will honor the over 5,000 Black soldiers who fought for our nation's independence and the countless slaves who sought freedom by running away or filing freedom petitions between 1775 and 1783.

The Black Revolutionary War Patriots Foundation will raise more than four million dollars for this memorial which will be built entirely with private funds.

Therefore, I, W. Wilson Goode, Mayor of the City of Philadelphia, do hereby proclaim Thursday, February 25, 1988 as "Black Revolutionary War Patriots Foundation Day" in Philadelphia in support of the construction of the Black Revolutionary War Patriots Memorial in Washington, D.C. and urge all citizens to support this worthy and deserving effort.

W. WILSON GOODE,
Mayor.

RESOLUTION NO. 59—A MEMORIAL TO BLACK PATRIOTS

(1) Whereas, in October 1986, Congress passed and the President signed legislation authorizing construction of a memorial in Washington, D.C. to honor the 5,000 Black soldiers of the American Revolution and the countless slaves who sought freedom by running away and/or filing freedom petitions between 1775 and 1783; and

(2) Whereas, this legislation was supported by national organizations such as the National Education Association, Daughters of the American Revolution, American Bar Association, Vietnam Veterans Association, Sons of the American Revolution, National Black Caucus of State Legislators, National Urban League, Prince Hall Masons; and

(3) Whereas, the contribution of Blacks to American independence and freedom is well-documented by contemporary historians, but little known by most Americans; and

(4) Whereas, the hundreds of thousands of tourists who visit Washington each year see little evidence of Black contributions to American history in the memorials that have been constructed over the years; and

(5) Whereas, the Department of Interior now has a process under way to determine whether the Black Patriots memorial will be located in a suitably prominent site such as Constitution Gardens; and

(6) Whereas, the legislation authorizing the Black Patriots memorial provides that it be constructed entirely with private funds; and

(7) Whereas, the organization designated by the legislation to raise the $4 million or more for the memorial is the Black Revolutionary War Patriots Foundation (Patriots Foundation),

(8) Now, therefore, be it resolved, that the U.S. Conference of Mayors congratulates the Patriots Foundation for the progress already made toward the goal of a Black Patriots memorial and recommends that its members cooperate with the Foundation in completing the remaining steps to that goal; and

(9) *Be it further resolved,* That the U.S. Conference of Mayors joins with the Patriots Foundation and other supporting national organizations in urging the Secretary of Interior to approve a site such as Constitution Gardens for the Black Patriots memorial; and

(10) *Be it further resolved,* That the U.S. Conference of Mayors urges Mayors throughout the nation to lead, or coordinate or otherwise advance efforts in their respective communities to raise funds for the Black Patriots memorials; and

(11) *Be it further resolved,* That the staff of the U.S. Conference of Mayors is instructed to provide copies of this resolution to the Secretary of Interior, appropriate Congressional Committees, and the Commission on the Bicentennial of the Constitution.

Mayor RICHARD BERKLEY.
KANSAS CITY, MO.
Mayor HARVEY GANTT.
CHARLOTTE, NC.
Mayor SIDNEY BARTHELEMY.
NEW ORLEANS, LA.

[From the Philadelphia Inquirer, Feb. 25, 1988]

CURIOSITY SPAWNS SEARCH, CRUSADE; MAURICE BARBOZA IS HERE WITH PLANS FOR A U.S. MONUMENT SALUTING REVOLUTIONARY WAR BLACKS

(By Michael Vitez)

It all started with a picture of a soldier—a white soldier—hanging in his grandmother's living room. Maurice Barboza didn't even know the man's name. All he knew was that this Union soldier, this man with a posture as erect as his musket, was his great-great-grandfather.

Finally, in 1978, as a grown man, he surrendered to his curiosity. Haunted by this picture that now hangs in his living room, he hunted for clues to his past. Although he didn't realize it at the time, he was searching to understand how he—a man of mixed races—fit into American life.

This search led him on a 10-year odyssey—one that changed his life profoundly, one that is far from over. It brings him today to Philadelphia, where he will share his dream of building a memorial on the Mall in Washington to honor the 5,000 black patriots who fought in the Revolutionary War.

Sitting in his Arlington, Va., apartment earlier this week, in pleated gray wool pants, a crisp white shirt, paisley tie and red suspenders, he looks very much the Washington lobbyist that he once was. But now Maurice Barboza is a crusader, a man with a cause.

He explains his metamorphosis in a simple sentence: "Researching my white roots," he says, "I discovered my black roots."

Barboza did much more than that. In searching out his past, in tracing his white ancestry to the American Revolution, he learned of the great contributions of black people during the Revolutionary War. It came as a great shock, a revelation to him.

"What a terrible burden," he says, "to be raised thinking your history is worthless." Black people had to know the truth, he thought. America had to know.

And it will. Barboza, 42, has all but made certain that a $4 million national Patriots Memorial will be built in the shadow of the Washington Monument and Lincoln Memorial.

He comes today to City Hall, where City Council will present him with a proclamation supporting the memorial.

A DIFFICULT JOURNEY

For Barboza, president and founder of the Black Revolutionary War Patriots Foundation, the path has not been easy. Along the way his marriage disintegrated. To finance his quest, he sold his $200,000 farmhouse, seven acres of land, barn and horses in rural Virginia. He even quit his job to pursue this passion full time.

Today he lives in a one-bedroom apartment. He doesn't leave without double-checking to make sure his answering machine is on. He runs out at all hours to the copy center around the corner or to the main post office in downtown Washington when he has letters or news releases that cannot wait even until dawn.

He has energized a corps of hundreds of supporters, ranging from congressional leaders to White House officials to the Daughters of the American Revolution. Barboza has deftly guided legislation establishing this memorial through a maze of bureaucracy.

"It's like Jason and the Golden Fleece," says Sarah King, a former president general of the DAR and a member of the Patriots Foundation board of directors. "This has just been the consuming ambition of his life. And he has certainly diligently followed through."

Barboza is not done yet, but he has no regrets.

"I'm more convinced than ever it was the right thing to do," he says. "I realize how incredibly important this memorial is to the country, and how important it is for black people to understand their history. It will give blacks a better sense of where they belong, how important their ancestors were to the country, and they can realize how important they, too, can be."

As a child growing up in Plainville, Conn., Barboza would often just stare at that picture of the Union soldier. Barboza was an outsider in Plainville, a small town outside Hartford. The white kids would call him names. The black kids would also call him names. "I was somebody different," he recalls. "I was really a minority of one."

SEEKING ANSWERS

Considering his background, this was not surprising. "Who the hell am I?" he says he often wondered. "My father is an immigrant from Cape Verde [an island colonized by the Portuguese off the coast of Africa]. He speaks Creol. I'm black. I'm Catholic. My grandmother is half white and has green eyes. So we have this whole background. And I'm trying to find out where I fit in. I had to find out what it all meant, where I belong."

In 1978, he finally did.

After graduating from Rutgers University law school, Barboza moved to Washington. He worked for several federal agencies, congressional committees, and finally he worked for the American Bar Association.

Being in Washington, he started tracing his family history at the National Archives. The more he learned, the more addicted he got.

Soon he solved the mystery of the Union soldier. His name was John Curtis Gay, his maternal grandmother's grandfather. Gay was mortally wounded in the 1864 Battle of

Cold Harbor outside Richmond, Va., and died several months later.

Barboza did not stop there. He scoured the DAR library in Washington. He traced the Gay family—his family—back to the Revolutionary War. Barboza is a descendant of Jonah Gay, a white man, who fought in the Revolutionary War.

Barboza also went to a small town in Virginia along the James River called Bermuda Hundred. It was there that one of John Curtis Gay's sons, Alphonso Gay, a sea captain, met and married a black woman, Rosa King Gay, Barboza's great-grandmother.

Barboza knocked on doors, checked all the records he could find in Bermuda Hundred. He wanted to trace the black side of the family, too. But that proved much harder. The records are just not there.

But from all this research, he made peace with himself.

"A revolution was going on inside of me," he says. "I was learning who I was as an American citizen. This person of African heritage, of Portuguese heritage. American black heritage, white heritage, I was beginning to understand what it all meant. And purely and simply, it was that I was an American."

ACCEPTANCE, THEN REJECTION

Barboza, at the suggestion of Charles Blockson, a Temple University professor and expert in black genealogy, joined the Sons of the American Revolution. He applied and was quickly accepted.

But it was when Barboza urged his aunt, Lena Ferguson, to join the Daughters of the American Revolution, in 1980, that the second phase—the idea of a memorial—started to evolve.

The DAR rejected Lena Ferguson—she and Barboza insist—because she was black. It took four years of fighting—not to mention national publicity—to persuade the DAR to change its mind.

It was after this bitter fight was over, in 1984, that Barboza came up with the idea that a memorial honoring the contribution of blacks was needed. The DAR came around to become one of his strongest supporters. Dozens of other national groups, including the American Jewish Congress, the National Urban League, the American Bar Association and the Vietnam Veterans of America, also have rallied behind him.

"It isn't just black service in the war that we're honoring," Barboza stresses. "It is the struggle for freedom. That struggle is really the essence of America."

Historians have documented that more than 5,000 blacks fought in the war. Many were heroes and many died. In addition to fighting, blacks helped the cause in countless other ways, from driving salt wagons to making clothes. Many of the black soldiers were slaves who enlisted in return for their personal freedom.

"These black patriots fought a dual battle for independence," Barboza says. "They fought for American independence from the British, of course. But they were also fighting for their own independence from slavery. That's how far back the civil rights movement really goes."

Getting approval for a monument on the Mall requires Herculean strength and persistence. Barboza's skill as a lobbyist has been instrumental.

First, he had to get both houses of Congress—and a long list of agencies—to approve legislation providing land in the nation's capital for such a memorial. Then he got Ronald Reagan's approval.

Then he had to repeat the entire process to win approval for space on the Mall—a much more difficult task. That stage is almost finished. He now has until April 7 for both houses of Congress to approve the Mall location, and he expects this handily.

"He doesn't take no for an answer," says Cathy Ceja, a legislative assistant to Nancy Johnson, a congresswoman from Conneticut who introduced Barboza's bill. "Last year, when we were out trying to get the authorization through, it seemed to get stymied in the Senate. Maurice didn't get dejected. He didn't get negative. What he did was organize a press conference, and a pretty fancy one at that. He invited just about every school child in the District of Columbia. He enlisted a troupe of Revolutionary War reenactors. He solicited several senators to speak. And, gosh, it worked. It was quite a spectacle. There were little kids standing on the steps of the Capitol as far as the eye could see."

There is still plenty left to do, including raising money and narrowing it down to a specific site. But if Barboza gets his way, the memorial—which he envisions as a statute of a man, woman and child—will sit on a little bluff in Constitution Gardens, about midway between the Washington Monument and Lincoln Memorial. It also is within view of the steps of Constitution Hall.

He often rides out at night just to see how his favorite spot looks in the moonlight.

Of 110 outdoor national monuments in Washington, Barboza says, only one is devoted to a black person—educator Mary McLeod Bethune. And that memorial is not on the Mall, but in Lincoln Park.

Barboza only hopes that his energy and his money hold out long enough for his dream to come true. He says he has enough money now to last another 18 months—although the stock-market crash in October hurt him plenty.

"When I get to the point where I can only survive for another six months," he says, "I'll have to decide what to do. Move to a relative's house, who knows?

"I might end up sleeping on a park bench, right in front of this memorial. And you know," he says. "I really wouldn't care. It wouldn't matter to me, as long as I got this done."

EDUCATION AND THE ECONOMY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. FLORIO. Mr. Speaker, our Nation has been watching the trade deficit with our trading partners with alarm and concern about the Nation's declining competitiveness.

Out of this concern, an attitude of resolve and determination has been given added impetus.

One approach is improving the education of both the students who will contribute to the future of the Nation and the workers whose productivity determines whether or not we can have that technological edge in the competitive marketplace today.

In the 100th Congress, Congressman FRANK GUARINI has introduced legislation permanently extending the employee educational assistance deduction. Under section 127 of the Internal Revenue Code, which has expired, employees were permitted to deduct the income designated for educational purposes or training received from their employers.

Although first enacted in 1978 and well received since then by employees advancing their work-related education, this section in the Tax Code was allowed to expire at the end of 1987. Without an extension of this section of the tax code, thousands of individuals seeking educational opportunities will be discouraged from pursuing those opportunities.

One of our Nation's most pressing needs is education. At the preschool, elementary, secondary, and postsecondary levels, the need for education has been demonstrated by studies showing that countries abroad have better technical education and their citizens are more technologically proficient. Consequently, the search for the renewed competitive edge makes the need for educational opportunity all the more urgent.

As part of the overall package to improve education for our Nation's citizens, this is an opportunity that should not be minimized or missed.

As a member of the congressional competitiveness caucus and the chairman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I have held hearings and seen the dramatic impact of declining competitiveness on the U.S. economy and our citizens.

Like many others who have cosponsored this crucial component of the Tax Code, I feel that this legislation will help in the restoration of educational excellence for adults.

In the following article, Congressman GUARINI articulates well the needs that this expired section of the Tax Code met, the needs that its expiration has created, and the steps taken to ensure that this opportunity for employee education is not permanently lost:

EDUCATION AND THE AMERICAN WORKER

(By Congressman Frank Guarini)

We know that America's competitive position in the global economy is today at stake. With this insight, federal legislators must focus on the core of the American economy—our workforce—if we are to have any guarantees for the future of our companies and our citizens. Specifically, America's employees must be prepared not only for the continuing and more complex job demands they are faced with, but to ensure the personal advancement and job security that is fundamental to work life in our democracy.

A critical element in both these aims is education. If workers are not trained to perform beyond a certain level, they are of limited use to their employers. If workers are not able to handle more complex, cognitive projects, they cannot move forward in the job market. Indeed, they may well lose their own positions as job descriptions become broader and less manually oriented.

Many workers have fallen prey to the hands of advanced technology simply because they lacked the necessary skills to perform. This is a financial burden for companies which can ill afford to devote time and money simply for hiring, and then replacing, employees. It is an even greater loss for our workers themselves.

Section 127 of the Internal Revenue Code was enacted in 1978 to help remedy this potentially problematic situation. Under Section 127, employees were allowed to deduct from their taxable income funds provided by their employers for education and training. Furthermore, universities were able to offer tuition aid to employees who were graduate-level teaching and research assistants.

To date, seven million Americans have taken advantage of this opportunity; they have furthered their minds as well as their marketability by educating themselves with tax-deductible dollars.

The measure encouraged workers to keep up with state-of-the-art, competitive technological and industrial developments. It gave them a sense of job security. And it made them valuable assets to their employers, who were given alternatives to layoffs and reorganization.

Section 127 has also been particularly beneficial for women and minorities—an ever-increasing portion of the overall American workforce—who previously were unable to upgrade their skills because of severe restrictions on non-taxed educational assistance.

To our chagrin, Section 127 was allowed to expire on December 31, 1987.

Last March, I introduced—with my colleague Guy Vander Jagt in the House of Representatives—the Employee Educational Assistance Act, H.R. 1692, to make Section 127 permanent. In the House alone, there are more than 200 bipartisan co-sponsors of the measure. Senators Daniel Patrick Moynihan and John Heinz have submitted a companion bill in the Senate.

Nearly one hundred business, labor and academic organizations have voiced their support for the permanent reenactment of Section 127. At a human resources conference of the Congressional Economic Leadership Institute and the Competitiveness Caucus, last June, agreement was reached among representatives of Congress, the Administration, labor, business and academia that this is a vital initiative, critical to any strategy for improved U.S. economic performance.

The benefits of the program are immeasurable. We can, in many cases, prevent layoffs—and with them, heavy unemployment assistance burdens. We can ensure a more skilled, able workforce. And we can give the individual workers of this nation a vehicle with which to succeed.

These measures not only give our employees and our employers a chance to move forward with the demands of the economy, they give our economy the chance to move forward with the demands of a new era.

U.S. COMMITTEE FOR REFUGEES CELEBRATES 30 YEARS OF ADVOCATING HUMAN RIGHTS OF REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SOLARZ. Mr. Speaker, this year is the 30th anniversary of the U.S. Committee for Refugees [USCR], a unique private agency that has done visionary and pioneering work in protecting the human rights of the world's 13 million refugees and displaced persons. No group is doing more than USCR to raise the consciousness of the American people—and of policymakers and governments—to the dangers these homeless millions face.

The World Refugee Survey, USCR's annual summary of refugee protection worldwide, is an invaluable tool for all of us who need accurate information on refugees. In his introduction to this year's survey, just published, USCR Director Roger Winter raises a subject with which I have long been concerned—the danger to the international protection of human rights when governments shirk their responsibilities to offer asylum to refugees. I ask that Mr. Winter's "Year in Review" be included in the RECORD.

I join today with many of my colleagues in commending the volunteers and staff of the U.S. Committee for Refugees for their untiring work advocating the human rights of the too often forgotten victims of repression, war, persecution, and oppression.

THE YEAR IN REVIEW

(By Roger P. Winter)

Refugees do not occur in a vacuum. They are victims, produced by human actions and inactions. As refugee advocates, we can and do criticize the office of the United Nations High Commissioner for Refugees for not being effective enough, or countires of asylum for not being generous enough or for failing to live up to "internationally accepted standards" of refugee protection. But the ultimate culprits in the refugee drama are those governments who mistreat their citizens and other governments who serve as direct or indirect accomplices in that mistreatment.

The world has no effective mechanism for selectively intervening in the internal affairs of a nation whose government abuses the fundamental human rights of its own people so as to produce refugees or their often worse off internally displaced counterparts. Thus, the international community is condemned to assisting refugees after much of the damage has been done; and internally displaced people most often do not come to the attention of, let alone receive assistance from, the international community. Some assert that the notion of such a system of intervening is politically naive, unworkable, and the like. Such assertions mask a lack of sufficiently creative, humanitarian leadership and commitment.

Often governments that create refugees, or those who assist such governments, act within an East/West, geopolitical context. Most often that is all they focus on; the displaced civilians are less than a sideshow. One result is that most major refugee upheavals have become long-term affairs. Almost every major refugee-producing conflict has been extant since 1979 or earlier. We are approaching the age of the permanent refugee, where the situations of other displaced populations begin to parallel that of the Palestinian refugees, symbols of the failure of good sense in the international community.

Still there are times when the interests of great powers and other pertinent parties coincide, and meaningful progress for resolving the plight of refugees seems at least possible. This is the hope for 1988. The Central American peace initiative, Soviet withdrawal from Afghanistan, Vietnamese withdrawal from Cambodia, an end to civil war in Sri Lanka, Soviet relaxation of emigration restrictions—all these represent possibilities that, if they mature, can produce truly significant progress on the refugee front.

For 1987, however, the worldwide refugee picture has been mixed. Serious concerns have arisen about UNHCR's internal situation and, in particular, its performance of its most fundamental role, that of protecting refugees in the fullest sense of the mandate Ultimately, however, UNHCR is a creation of governments, and governments are the key to resolving concerns about UNHCR.

The situation of refugees and displaced people throughout *southern Africa* continued to deteriorate during the year. Refugees from *Mozambique* fled that devasted land in droves. Thousands continued to enter *South Africa*, where UNHCR is not present, and many were expelled. In *Malawi*, numbers increased from 70,000 at the end of 1986 to nearly 400,000 at the end of 1987. When thousands of Mozambican refugees in *Zimbabwe* were forcibly returned to *Mozambique* in an unfortunate breach of refugee protection standards, UNHCR was unprepared to exercise its protection role. The pace of violence in *Angola* accelerated. The number of displaced Angolans climbed dramatically as food production was disrupted by the civil war. Angolan refugees in *Zaire* and *Zambia* continued to increase in number, and impending famine conditions promised more. Inside *Mozambique*, however, cooperation between the government, the international community including active participation by the United States, and many nongovernmental agencies resulted in the implementation of a major relief effort.

Elsewhere in Africa, *Sudan*, *Somalia*, and *Djibouti* continued to host reluctantly major refugee populations, and a major famine emergency again loomed in *Ethiopia* as the year ended; repatriation to *Uganda* continued from *Sudan* and was completed from *Zaire*.

In Southeast Asia, *Thailand*, faced with refugees on every border, thankfully continued to offer asylum to many thousands—but not without tragic incidents. In March and November, particularly egregious forced repatriations of Hmong refugees from *Laos* occurred, with refugee lives unnecessarily lost. Thai authorities did move to improve handling of Hmong asylum seekers late in the year, however. Fighting inside *Burma* caused an increase of Karen refugees in Thailand, which does not permit UNHCR to function on their behalf. Forced repatriations of Karen were common. Since technically closing Khao I Dang camp in December 1986, Thailand has not yet actually moved many Cambodians to the volatile Thai/Cambodian border. On that border, 270,000 Cambodians continued to languish in unacceptable circumstances. USCR and nongovernmental organizations internationally have insisted that the UN system must do better by this population.

While the percentage of pirate attacks against Vietnamese boat people continued to decline, the number of boat people surged, causing a reaction in countries of first asylum. *Indonesia*, in an unfortunate reversal of practice, has increasingly deterred Vietnamese boat people from seeking asylum, a dangerous practice that bodes ill for Vietnamese refugees throughout the region. In *Vietnam*, hundreds of people held in reeducation for years were released, leading hopes for the remaining 7,000. In nearby *Papua New Guinea*, UNHCR and local authorities have made some progress in pursuing durable solutions for refugees from the Indonesian province of *Irian Jaya*.

Pakistan's welcome for Afghan refugees—the world's most massive refugee phenomenon—showed the strains of the last eight years. While the government's official welcome has not changed, scapegoating of refugees has increased. Most of the world continues to hope for the restoration of peace in *Sri Lanka*, with a resultant possible return of many internally displaced people and refugees, including many now sheltered in south *India*. The violence surrounding *Palestinian* refugees continues at disheartening levels—in *Lebanon*, *Israel's* occupied territories, and elsewhere. "Palestinization" stands as the world's prime object lesson in what a refugee emergency can lead to if not handled responsibly by the international community and the governments most directly involved.

Iran's internal situation, including targeted persecution of Bahai's, and the Iran/Iraq war continued to spawn significant numbers of new refugee victims, though Iran continued to provide asylum to massive numbers of refugees from Afghanistan. In *Central America*, a successful repatriation of 4,314 Salvadoran refugees from the Mesa Grande camp in Honduras gave a glimpse of what could result if that region's peace process continues. Violence in *Suriname* caused refugees, primarily ethnic Maroons, to flee in increasing numbers to neighboring *French Guiana*. In *Haiti*, the hopes for human rights improvement with resulting benefit in the refugee sphere failed to materialize as violence reasserted its still central role in that society.

In the developed world, *Western Europe* and *North America* continually reinforce each other's worst instincts in dealing with asylum seekers, damaging individual asylum seekers, immediately, and the international refugee protection system, ultimately. *Canada*, having heretofore taken a commendable high road, joined the ranks of the backsliders.

As Swedish colleague Peter Nobel put it—speaking of *Europe*, but also applying to *North America*—"Many are therefore dead today who otherwise would have been alive if given the change to go to Europe and enjoy asylum there. Some died quickly, others in horrible ways. We do not cut throats, but we are busily cutting lifelines."

One wishes for humanitarian consistency from the U.S. government in approaching refugee protection matters, but it is not to be found. U.S. actions are in many cases the most generous in the world; in others, they are indefensible. Take for example this contrast. It is a truly joyous development that *Soviet* citizens are at last being allowed to emigrate in increased numbers to asylum in the West, in large part because the U.S. government has properly continued to include this issue on its agenda for superpower negotiation. How does one, then, adequately explain the mindset in that same U.S. government towards *Haitian* asylum seekers?

Since October 1981, the U.S. government has had a program of interdicting Haitian asylum seekers on the high seas. It has been effective, as an immigration enforcement technique, but a tragedy on human rights and humanitarian grounds. Since 1981, more than 12,000 interdicted Haitians have been forced back to the caldron that is Haiti. Only two in all that time have been found worthy of asylum in America; they had the bullet holes to show their fear of persecution in Haiti was well-founded. We do not argue that all Haitians meet the test of being refugees, but some clearly do. But how does our government make the moral leap from promoting refugee emigration from the Soviet Union to the United States, to enforcing a prohibition on such emigration from Haiti? The average American—while knowing little of the details of Haitian life and history—knows enough to be aware that fundamental American fairness has been violently breached in the case of Haitian asylum seekers.

Refugee protection, including the provision of asylum, is subject to the changing winds of political bias. Rejecting German Jews seeking admission to the U.S. in 1939—as the United States did—may have been technically correct immigration enforcement. But, looking back, we are all shamed by our inability to see then the larger human rights and humanitarian issues involved. Today, a similarly narrow vision on the part of our government results in long-term imprisonment of some asylum seekers, deportation of others who have reason to fear being forced to return to violent homelands, and political bias in the administration of the asylum system. Those policies result from a misconception within the Administration about what asylum is really all about. Refugee protection, including the provision of asylum, was born in a human rights context. In this country, however, it has become entombed in restrictive immigration enforcement.

In 1988, we can all hope for progress in the conflicts that have spawned the world's 13 million refugees. And in America, we need to work to assure that our government rethinks the context in which it approaches refugee protection—back to the human rights fundamentals that are the soul of refugee protection.

REDUCING THE CAPITAL GAINS TAX RATE FOR ECONOMIC PROSPERITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. CRANE. Mr. Speaker, one of the recurring topics of the Tax Reform Act of 1986 is the discussion of preferential treatment for capital gains. We constantly are reminded of the impending financial disaster that is facing this country. The newspapers tell us daily that the stock markets are unstable and the people of this country are hesitant to invest in these markets. The Federal deficit continues to overshadow all that this Congress seems to do. We all want to stimulate the economy, reduce the budget deficit, and bring a feeling of financial security to this country.

With a reduction in the capital gains tax rate, two significant events will take place. The first and most important is that the reduction of the capital gains tax will provide more capital formation that will allow this country's entrepreneurial spirit to be revitalized. This in turn will create more jobs, have more taxable entities to help in the budget deficit reduction and provide an evergrowing capital base. The second issue deals with capital gains taxation and history. It is common knowledge that when the capital gains tax rate is reduced the revenues derived from the sales of capital goods is increased. This phenomenon happened in 1978 and again in 1981.

I respectfully submit an article by Warren Brookes titled "We Can Stabilize Market, Raise Revenues" that will further elaborate on this much needed legislation.

[From the Boston Herald, Nov. 12, 1987]

WE CAN STABILIZE MARKET, RAISE REVENUE

(By Warren Brookes)

Over the past nine months stock market watchers and the exchange management itself have grown increasingly concerned about the sudden rise in market volatility, culminating in the Great Crash of Oct. 19.

The focus of these concerns has almost exclusively been on the use of computerized "program trading" coupled with "portfolio insurance" in the form of purchasing stock index futures contracts on the Chicago Mercantile Exchange.

While those may well have contributed to market moves, almost everyone has overlooked the likely role of tax reform in the new level of volatility—everyone, that is, except a financial planner named John Austin of San Francisco.

Austin reminds us of a simple fact: "Tax reform ended the special preference for capital gains, a preference that depended on holding capital for at least six months or more.

"When that preference ended, you took away the tax inertia from the capital markets, and increased the incentives to turn equities over, and over, rather than hold them."

As of Dec. 31, 1986, the top marginal tax rate on capital gains for equities held six months or more was 20 percent. As of Jan. 1, 1987, that rate jumped to 38.5 percent, a 93 percent rise in the cost of holding capital for that length of time.

At the same time, the tax on short-term capital gains fell from 50 percent to 38.5 percent, a 23 percent drop, massively increasing the incentive to make and realize short-term capital gains, and this incentive will grow in 1988 when the top rate falls to 33 percent.

"This immediately changed the whole tax incentives and psychology of the market," Austin said, "from stable investment horizons to short-term churning and trading."

In fact, with the elimination of the time period preference for capital gains, there was an immediate and powerful incentive for more and more volatility, the quicker and quicker realization of any market gains, or profits from short selling during market drops, and reinforced the use of futures contracts.

Harvard economist Lawrence Lindsay agrees: "I frankly hadn't thought of this before, but, although there is no way to quantify this, I think Austin has it exactly right. We have changed all of the tax incentives away from long-term investment to short-term trading."

This, Lindsay admits, "would tend to reinforce the speculative appetites, and act as a disincentive for long-term investment."

We then asked him if we couldn't easily kill two birds with one stone: Increase market stability and long-term investment, and still raise revenues for deficit reduction, by reinstating the capital gains preference, offering the 15 percent base rate for any capital gains realized on investments held more than six months, or even a year?

"Absolutely," he said, "that would be a remarkably useful policy move—and completely consistent with our research that shows that raising the capital gains tax rate, as tax reform did, was counterproductive for raising revenues, and that lowering that rate would actually raise more money."

Lindsay's study for the National Bureau of Economic Research looked carefully at the patterns of raising and lowering capital gains tax rates in 1969 (from 36 percent to 49 percent), 1978 (from 49 percent to 28 percent) and 1981 (from 28 percent to 20 percent), and how these changes affected revenues.

He found revenues rose when you cut rates, and fell when you raise them. And based on these experiences, the "ideal" or "revenue maximizing" rate for capital gains is 18 percent—and such a rate would raise capital gains revenues as much as 72 percent over the new tax reform 28 percent rate.

Indeed, he estimates that, by raising the capital gains rate from 20 to 28 percent in last year's tax reform, "the government will actually lose between $11 billion and $42 billion in the next two years alone, and between $27 billion and $105 billion over the next five years."

THE VIOLENCE ON THE WEST BANK

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HAYES of Illinois. Mr. Speaker, I rise today to speak in opposition to Israeli policy on the West Bank and Gaza. All Americans of conscience are deeply disturbed by the never ending violence which seems to emanate from that region of the world.

My constituents have written to me to let me know of their concern. The comparison between South Africa and Israel is a dismaying one to Israeli leaders—but it is a comparison that many of my constituents have made to me. They see armed soldiers shooting at stone-throwing youths and they see that sheer force cannot defeat the spirit of a people who will risk their lives for change. They see abject poverty, they see some Israeli leaders espousing a "hard line" and they hear of attempts to limit press coverage. Americans know that just because they cannot see the violence does not mean that it doesn't happen.

I believe that comprehensive Israeli-Palestinian negotiations are essential and inevitable. And while I also believe that Secretary Shultz is moving in the right direction, I am reminded of the Carter Presidency and of how hard work paid off in the success of the Camp David agreements. I wish that the current administration would put half as much effort into bringing peace to the Middle East as they have put into waging war in Central America.

Mr. Speaker, like most Americans, I support the right of Israel to exist and to have secure borders. I also support the rights of the Palestinian people to self-determination, and to have a nation of their own. I may be only one Member of Congress, and I may not serve on the Foreign Affairs Committee, but I pledge to do whatever I can to help end the cycle of violence.

Mr. Speaker, I would like to insert into the RECORD at this point a letter and a statement from the Metropolitan Chicago Chapter of Clergy and Laity Concerned.

CLERGY AND LAITY CONCERNED,
Chicago, IL, March 21, 1988.

Hon. CHARLES HAYES,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN HAYES: We have enclosed a copy of Metro Chicago Clergy and Laity Concerned's (CALC) Middle East Peace Statement which was adopted by its Board of Directors at their March board meeting. We at Chicago CALC are deeply concerned about the escalation of violence in the West Bank and Gaza in recent months. We are appalled that our Congress has remained silent on the current situation in the Middle East. We believe that reconciliation between the Israelis and the Palestinians must take place now before it is too late. We believe that our Congress can play a crucial catalytic role in this process. We call upon the U.S. Congress, in particular our Congressional representatives, to break its virtual silence on this situation and strongly support comprehensive Israeli-Palestinian negotiations toward a permanent resolution of the conflict within the year.

We look forward to your prompt and immediate response. Thank you.

Yours faithfully,

Rabbi ROBERT J. MARX,
Chairperson.
Rev. DICK SIMPSON,
Executive Director.

METRO CHICAGO CALC'S MIDDLE EAST PEACE STATEMENT

As an organization committed to peace with justice throughout the world, Metro Chicago Clergy and Laity Concerned (CALC) cannot remain silent in the face of the brutalization and dehumanization that we have witnessed in the West Bank and Gaza for the past several months. We join our voice with those in Israel (including the 600 university professors) who are strongly protesting the repressive policies aimed at restoring public order in the territories. Not only will these violent actions make the work of ultimate reconciliation far more difficult; they will also erode the moral fibre of the nation. We specifically call upon Palestinian leaders to take those steps which will lead to a recognition of Israel and to the creation of a genuine Palestinian partner to peace discussions. The mutual recognition by Israelis and Palestinians of one another's national integrity is a crucial first step toward peace.

Political stability will not return to the territories until genuine negotiations begin for a comprehensive political settlement of the legitimate territorial claims of both Palestinians and Israelis. This will require a pubic commitment to peace on both sides as well as the willingness to undertake meaningful political compromise. Interested foreign parties, and especially our own government, have a crucial catalytic role. We urge them to stay the course, despite the difficulties and the upcoming U.S. election campaign. And we likewise call upon the U.S. Congress to break its virtual silence on the current situation in the Middle East and strongly support comprehensive negotiations toward a permanent resolution of the conflict within the year.

We in Chicago CALC feel it would be presumptuous of us to suggest the precise outlines of such a resolution. This is a task for the Israelis and Palestinians. But we would like to add our endorsement to the following statement adopted by the U.S. Interreligious Committee for Peace in the Middle East which lays out the basic framework we feel to be essential for the achievement of peace with justice in the Middle East:

U.S. INTERRELIGIOUS COMMITTEE FOR PEACE IN THE MIDDLE EAST

(Statement Adopted June 11, 1987 at National Meeting in Arlington, Virginia)

A TIME FOR PEACE IN THE MIDDLE EAST

Peace in the Middle East is essential for the future of Israel, for the Palestinians and Arab states, and for the whole world. But the promise of peace remains unfulfilled. There is daily suffering and danger of greater violence and another war if there is no peace.

We Jews, Christians and Muslims say—in the name of God, who is compassionate and just—it is time for peace. We are motivated by our deepest religious convictions. Working for peace is not optional: it is fundamental to our faith.

It is time to end the Arab-Israeli-Palestinian conflict. It is time for all parties to stop terror and violence. Peace cannot be achieved by force. It can only be achieved by negotiations. It is time for peace.

We call upon our own United States Government to make peace a priority and use diplomacy to promote negotiations for a just peace based on the following:

Israel's right to secure borders and peace with her neighbors, as an expression of the Jewish people's right of self-determination. The principles embodied in U.N. Security Council Resolutions 242 and 338 provide an agreed upon formula to achieve security and peace for all states in the area in exchange for withdrawal from territories occupied in the 1967 war.

The Palestinian people's right of self-determination, including the right to choose their own independent leadership, is equally essential to peace. Evidence that Palestinians are willing to exercise their right of self-determination in the West Bank and Gaza alongside Israel, encourages prospects for peace.

The need of an international conference for peace, the complexity of the conflict and important interest of many countries in the Middle East require an international conference, involving all parties in the conflict as well as the five permanent members of the U.N. Security Council.

Jerusalem is of vital significance to Israelis and Palestinians, to Jews, Christians and Muslims. We believe negotiations, rather than unilateral action, can help assure that Jerusalem will be a city of peace.

Peace in the Middle East is possible. Now is the time for peace!

THIRTY-EIGHT YEARS OF DEDICATION TO QUALITY EDUCATION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GALLO. Mr. Speaker, the quality of education within our communities depends upon the dedication of our educators to the principles of solid curriculum development and creation of a school environment that promotes learning.

When an individual educator, who exemplifies the best application of these principles within the community, serves with distinction during a career that spans 38 years, then his or her retirement is a special event that deserves special recognition beyond the bounds of that community.

Today, we recognize Bernard Packin, who will retire this summer after almost 20 years as principal of Parsippany Hills High School in Parsippany, NJ, for his tireless dedication to the cause of quality education.

During the years of Bernie's administration, he can be most proud of his dynamic management.

As an innovator and motivating force, he has allowed his staff the freedom to pursue creative ideas, always emphasizing quality education and insisting that the students under his aegis are provided with the most advantageous curriculum for their development.

He has truly provided the climate in which students are challenged to grow academically, socially, and ethically.

He will be leaving a legacy of excellence in education and can most appropriately be referred to as a captain of curriculum.

Bernie Packin began his career in the Parsippany school system in 1957 as principal of the Central Junior High School. After serving as principal at Parsippany High School between 1961 and 1969, he was appointed principal of the newly completed Parsippany Hills High School in the fall of 1969.

Bernie's career accomplishments reflect his solid commitment to a well-rounded educational program that encourages community involvement.

Perhaps the greatest tribute to Bernie's leadership is the solid reputation of Parsippany Hills High School within the educational community.

Under his supervision, the Hills has developed an innovative curriculum that combines the best of traditional practices with pioneering efforts to provide life experiences for students outside the school environment within the community.

Parsippany Hills High was honored last year as one of a handful of schools nationwide chosen to develop a curriculum for the study of the U.S. Constitution in honor of its bicentennial.

Bernie's role in the development of these and other programs reflects his commitment to academic excellence.

Bernie's dedication to all sports, but especially to the sport of wrestling, and his untiring support for the wrestling Vikings have earned him a selection to the hall of fame and a permanent place in the spotlight within his community.

Bernie Packin's dedication to career development within his chosen profession has set a very high standard for others to follow.

He has served as president of the Jersey Hills Conference, chairman of the Iron Hills Conference, chairman of the Morris County PTA, chairman of the program planning committee for the New Jersey Association of Secondary School Principals, and vice president of the New Jersey Association for Supervision and Curriculum Development.

He is a graduate of Rutgers University and has completed graduate work at Rutgers, New York University, Montclair State, and Yeshiva University.

I ask my colleagues to join with me today in special recognition of Bernard Packin, whose career has given true meaning to the words quality education.

IN RECOGNITION OF HOWARD J.C. BRYANT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. KILDEE. Mr. Speaker, I am honored to bring to the attention of my colleagues and the Nation an event on April 16, 1988 honoring one of Michigan's most distinguished businessmen and dedicated citizens, Mr. Howard J.C. Bryant. In recognition of 27 years of community service, Mr. Bryant will be honored at a dinner in my hometown of Flint, MI.

Since 1961, Mr. Bryant has brought honor, dignity, and courage to the real estate industry—often at times when lesser men might have ignored injustices that once flourished in our community. When segregated housing in Flint was propagated by many real estate concerns, Mr. Bryant was a leader in working with the National Association for the Advancement of Colored People to eliminate racial bias in housing. Among his many contributions was convincing our local newspapers to ban references to race in real estate advertisements. When the mayor of Flint needed advice on compensating and relocating residents in the St. Johns Street urban renewal project, he turned to Howard J.C. Bryant. Mr. Bryant was the first black real estate agent in the Nation to be admitted to the multiple listings. He now serves as president of the Flint Real Estate Board and is a member of the board of directors of realtors in Detroit.

Mr. Bryant's dedication to fostering human dignity has directly improved the lives of the more than 50 people who have worked with him in real estate over the years. He has made it a practice to hire young people, train them in sales, and encourage their professional growth. Sixteen of his sales people have gone on to become brokers with their own companies. While dedicated to community service, Mr. Bryant remained a devoted father to his eight children. Because he is a humble man, many are not aware that Mr. Bryant earned a Purple Heart during the Korean War and escaped from a North Korean prisoner of war camp.

Mr. Speaker, it is a great honor for me to pay tribute to this man—a man whose life has been dedicated to the pursuit of equality and justice for all people and furthering the progress of others.

WORLD POPULATION AWARENESS WEEK

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Ms. SNOWE. Mr. Speaker, as a cosponsor of House Joint Resolution 148, I would like to draw the attention of my colleagues to World Population Awareness Week, which is being observed this year from April 17-23.

I have long been concerned about the devastating effects of overpopulation on developing countries, many of which are already burdened by poverty, famine, inadequate education, and the lack of full political and human rights. This year as the world's population has surpassed 5 billion people and continues to increase rapidly, I am pleased to enter into the RECORD the statement on this issue of Gov. John R. McKernan, Jr., proclaiming World Population Awareness Week in the State of Maine:

PROCLAMATION

Whereas, the world's population has reached five billion and is growing at the unprecedented rate of 87 million a year; and

Whereas, rapid population growth causes or intensifies a wide range of grave problems in the developing world, including environmental degradation, urban deterioration, unemployment, malnutrition, hunger, resource depletion, and economic stagnation; and

Whereas, 50% of the 10 million infant deaths and 25% of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health problems could be substantially expanded; and

Whereas, some 500 million people in the developing world want and need family planning but do not have access or means to such services; and

Whereas, the United States has been the leading advocate of the universally recognized basic human right of couples to determine the size and spacing of their families,

Now, therefore, I, John R. McKernan, Jr., Governor of the State of Maine, do hereby proclaim the week of April 17-23, 1988 as "World Population Awareness Week" throughout the State of Maine, and I call upon all Maine citizens to reflect upon the consequences of overpopulation.

SENATOR DENNIS CHAVEZ DAY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. RICHARDSON. Mr. Speaker, in honor of the centenary of the late Senator Dennis Chavez of New Mexico, the Congress passed and the President signed a resolution designating April 8, 1988, as "Senator Dennis Chavez Day." Today, a celebration was held in front of the Dennis Chavez statue in the U.S. Capitol. New Mexico celebrated the Senator's 100th birthday throughout the week. Senator Chavez was a courageous leader who deserves to be recognized as one of the great individualists in our history. I believe the following articles printed in the New Mexican and the Albuquerque Journal give proper tribute to Senator Chavez and his outstanding achievements.

The articles follow:

(From the Albuquerque Journal, Apr. 7, 1988)

DENNIS CHAVEZ'S RISE MOTIVATES GENERATIONS

(By Robert Rodriguez)

Los Chavez.—To Monica Quezada, and many students like her, Dennis Chavez's legacy continues to serve as a source of inspiration.

"Dennis Chavez overcame his poor and humble beginnings to achieve an honorable position in U.S. government . . . ," her essay says. "His accomplishments provided a source of pride and encouragement to underprivileged people."

Beginning today, in the school that bears his name, and over the next few days, in other cities, the memory of Chavez is being honored as the 100th anniversary of his birth in Los Chavez approaches.

A joint celebration between the Los Lunas and Belen schools begins at 5 p.m. at the Los Chavez School and will feature dinner, speakers, dances, skits and the reading of the six winning essays from Los Lunas and Belen students.

The coordinator of the festivities, Tibo Chavez Jr., said Rep. Fred Luna, D-Valencia, will also present a proposal to rename old U.S. 85 in Chavez's honor.

The proposal has yet to get approval from the federal and state highway authorities.

Born on April 8, 1888, to David and Paz, the late senator grew up speaking only Spanish and despite a limited education passed a special entrance exam for Georgetown University Law School.

He was elected to the U.S. Congress in 1930, where he served five years until he was appointed to the Senate in 1935. Chavez served in the Senate until his death on Nov. 18, 1962—27 years.

The senator, who lived in Los Chavez until he was 7, devoted much of his time to see that others, like him, got the opportunity he did.

One of those was Lorenzo Chavez of Albuquerque.

Fresh out of the University of New Mexico during the summer of 1941, Lorenzo heard from a friend that the senator was looking for someone to fill a job at the Law Library of Congress.

"I went to talk to him and he told me I got the job," said Lorenzo, who was not related to Chavez. "I was 22, going to law school and working at the Library of Congress. It was a great experience."

Lorenzo, who graduated from Georgetown Law School in 1944, eventually became the senator's personal lawyer.

"He was always very interested in seeing that kids in New Mexico went to school," Lorenzo said. "Particularly Spanish kids."

The Albuquerque attorney personally knows of three other law school graduates whom the senator took under his wing.

Henry Jaramillo, president of Ranchers State Bank in Belen, also recalls the guiding influence of the senator.

Jaramillo, who was also enrolled at Georgetown, was offered a job through the senator as a congressional page but had to regretfully decline because of the cost of living in Washington, D.C.

Nonetheless, Jaramillo received his degree in business administration from the University of New Mexico and said he could not have done it without the senator.

"He always inspired me to go to school," Jaramillo said. "He inspired a lot of people."

Jaramillo's mother, Casianita, took care of Chavez during his younger years when he dropped out of school to help support his family which was living in Los Chavez.

Jaramillo remembers his mother telling him the young Chavez used to love to read and practiced his English until it was perfect.

"He was a real self-made man," he said.

In Chavez's later life, Jaramillo remembers that not a moment went by when the senator did not hand out his fatherly advice.

"When you are working, work hard," said Jaramillo, recalling one bit of advice. "When you are home, forget about your job. Your attention should be given to your family."

KINDNESS BELIED SEN. CHAVEZ'S TOUGHNESS

(By Fabian Chavez, Jr.)

Sen. Dennis Chavez was a very kind person, but extremely tough. To mistake his kindness for weakness was a risk not worth taking. The politics of his times required toughness, not only the anticipated opposition from the Republicans, but the bitter internal battles within his own Democratic party. Politics was highly personal since mass-media campaigning did not yet exist.

My recollection of Sen. Chavez begins with his campaign for the U.S. Senate in 1934. Fabian Chavez Sr., was a strong Chavez supporter. Dennis Chavez' opponent was Bronson Cutting, a progressive Republican who today would be called a liberal. Chavez was also a progressive, so the battle was a personal one rather than one based on issues. As a campaign theme, my father would admit that Bronson Cutting was a good man and would emphasize that Chavez was the better candidate because he was born in New Mexico and had advanced from very humble beginnings to a position of U.S. congressman, and was a lawyer as well. By contrast, Cutting was a rich outsider.

Cutting won by a narrow margin in November 1934. Chavez contested the election, and the contest was not yet resolved when, on May 6, 1935, Cutting was killed in an airplane crash. On May 11, Democratic Gov. Clyde Tingley appointed Chavez to the Senate.

Tingley made the appointment reluctantly. He thought Chavez was too independent and would not follow direction on major party political strategies. A delegation of Democratic leaders, including Frank V. Ortiz, Sr., now 90 years old and the father of Ambassador Frank V. Ortiz, Jr., convinced Gov. Tingley to appoint Chavez.

Three years later, Gov. Tingley pushed for a constitutional amendment to extend the terms of office of the governor, which were then limited to two terms of two years each. Sure enough, Sen. Chavez opposed the governor. The proposal was defeated. Such a change was proposed and defeated several times since. In 1970 the Constitution was changed to one four-year term, and more recently it has been changed to two four-year terms effective beginning with the governor elected in 1990.

A few years later another battle took place within the Democratic Party. The late U.S. Sen. Clinton P. Anderson led the fight to establish open primary elections. Sen. Chavez opposed Anderson. Chavez lost. Ironically, in the late 1950s, Sen. Anderson wanted to return to the convention system. Sen. Chavez had by then become a strong proponent of the open primary elections. Chavez won that battle and we have maintained that system in modified forms to the present.

Those internal Democratic fights affected hundreds of individuals personally. One very close to home involved my father, Fabian Sr.

The late John J. Dempsey had won Dennis Chavez's former seat in the U.S. House of Representatives in 1935. Many House members have coveted a Senate seat. In 1942, Congressman Dempsey vacated his seat to become governor of New Mexico. In early 1943 he gathered a large group of state employees and informed them that he intended to run for the U.S. Senate against Dennis Chavez at the end of his second gubernatorial term in 1946. My father, who had been superintendent of State Capital buildings since 1933, was one of them, Gov. Dempsey's simple proposition was that those who would not support him against Chavez in the 1946 primary must resign their jobs. Dad resigned immediately. Being a cabinetmaker by trade, he promptly bought a new set of carpenters' tools and went to work at the Cabinet Shop in Los Alamos—at substantially higher pay.

Chavez defeated Dempsey in the primary in June and proceeded to survive his toughest re-election battle against the late Gen. Patrick J. Hurley—a contested election that was finally settled in the U.S. Senate Chambers in 1947.

Because he was a high profile, individual on issues and an Internal fighter for Democratic party leadership, Dennis Chavez had bitter re-election battles during his entire term in the Senate, except for the 1958 election, when he had reached top seniority.

Sen. Chavez died Nov. 18, 1962. In January of 1963, as majority leader of the New Mexico Senate, I sponsored an act—together with Sen. Tibo Chavez of Belen and co-sponsored by the entire state Senate membership—authorizing a statue of Sen. Dennis Chavez for Statuary Hall in the United States Capitol Building. The funds were raised statewide, including thousands of pennies donated by schoolchildren; a fitting monument, since Sen. Chavez promoted the education of youth above all.

He used to repeat a saying that went something like this; "When one reaches a point of authority and responsibility in government, do not become preoccupied by leaving land or money to our children. Instead, fight for their education. For they can lose the first, but only death can take away their education."

(Fabian Chavez Jr., newly appointed state Superintendent of Insurance, has a career in public service that includes 10 years in the New Mexico House and Senate. He is distantly related to Sen. Dennis Chavez.)

TRIBUTE TO NICK GUST AND THE GUST FAMILY—FOUNDING FAMILY OF PACIFICA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LANTOS. Mr. Speaker, recently we have been celebrating the bicentennial of our Nation's Constitution. In keeping with the spirit of this event, in my congressional district we are also celebrating the founders of our communities on the peninsula. At recent town meetings, I have recognized families which have played important roles in the development of their communities.

The ancestral roots of these families go back to the days when California and our Nation were both young. These families were seeking identity, opportunity, and a better life. I have paid tribute to peninsula families with roots in England, Germany, Ireland, Italy, Mexico, Portugal, Spain, and Scotland. Today, Mr. Speaker, I wish to honor a distinguished founding family of Pacifica whose roots go back to Greece.

In 1907, Stelios Karagianis, a 20-year-old from Greek Macedonia, boarded the *Konstantinos* and sailed to New York. He went directly on to San Francisco, where he found work as a clerk in a vegetable store, as a jitney driver, and as a worker on the Ocean Shore Railroad. Eventually he became a successful building contractor.

Stelios worked and saved enough to bring his wife, Anastasia, to join him in America. Eventually they were able to purchase a home in Dale City, and their three daughters and one son were born in that home.

While working on the Ocean Shore Railroad, Stelios was attracted to the coast. In 1927, he purchased a piece of property on the water's edge at Rockaway Beach. There the family started a small business selling sandwiches, candy, and peanuts to fishermen. Except for visiting fishermen and a few others, the coastside community remained small.

The business became a family affair. Stelios Karagianis' son, Nick, remembers walking the beach and climbing the hills behind the property selling sandwiches and food. Anastasia worked in the kitchen, and the girls worked where they were needed. During the week, the children remained in Daly City with their mother while their father commuted daily to his growing business. Each weekend the rest of the family joined him at Rockaway Beach.

On three separate occasions the small business, which eventually became a restaurant, was destroyed by fire. Each time, it was rebuilt. Stelios persisted under adversity that would have discouraged most others. The family moved from Daly City and made Rockaway Beach their permanent home, and it remains their home to this day.

Visitors to the coastside had no problem finding the popular restaurant, but most could not pronounce the owner's name. So "Stelios Karagianis" became "Charles Gust."

Today—61 years after starting the business—three generations of Gusts have lived at Rockaway Beach and operated what is now "Nick's Restaurant." Nick Gust, Stelios' son, has served his community with distinction. Three times he has served as mayor of Pacifica, and he has received other honors too numerous to mention. Nick continues his involvement in the family business with his son, Charles, and daughter, Cathy. Each morning he visits his mother, Anastasia, who is now 97 and still lives in the flat above the restaurant.

Mr. Speaker, Stelios Karagianis/Charles Gust spoke little English and had little formal education. His wonderful wife Anastasia also had no formal education. The family they established, their contribution to the growth and economic health of the coastside, and their distinguished service to the coastside community are a tribute to their vision and to the opportunities open to them on the peninsula.

Mr. Speaker, it is a great pleasure for me to honor the Gust Family as a founding family of Pacifica.

THE TRUTH IN FEDERAL SPENDING ACT OF 1988

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LATTA. Mr. Speaker, today I am introducing a bill entitled the Truth in Federal Spending Act of 1988. I am joined in sponsorship by my colleagues on the Budget Committee, Representatives MACK, BOULTER, THOMAS, ROGERS, SUNDQUIST, JOHNSON, ARMEY, and HOUGHTON; and my colleagues on the Rules Committee Representatives QUILLEN, LOTT, and TAYLOR. This legislation was proposed by President Reagan on February 24. The primary purpose of this legislation is to avoid wasteful spending by making the executive and legislative branches accountable for their actions.

The bill provides that all legislation which would increase Federal spending must be deficit neutral. Such legislation must contain or must be voted on simultaneously with another measure that contains equal amounts of program reductions, revenue increases, or a combination thereof.

The bill also provides that all legislation (bill, amendment, resolution or conference report) must have a "financial impact statement" prepared by the Congressional Budget Office before it can be considered by either House of Congress. The financial impact statement must contain a detailed statement of the measure's likely economic impact on the private sector and on State and local governments. Such an impact statement must also accompany any regulation or proposed regulation promulgated by the executive branch.

The bill would permit a waiver of the act during time of war or national emergency.

I am including a copy of the text of the legislation as well as a section-by-section analysis.

H.R. 4376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Federal Spending Act of 1988".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) in real terms, spending on domestic programs grew at an annual rate of more than 6.5 percent per year from fiscal year 1960 through fiscal year 1980;

(2) between fiscal year 1980 and fiscal year 1985, the annual rate of increase, in real terms, in domestic spending has slowed to less than three percent and was less than one percent in 1986;

(3) in fiscal year 1987, total Federal spending, in real terms, actually declined for the first time since fiscal year 1973; and yet

(4) Federal spending continues to be excessive, adding to the deficit and absorbing resources that could otherwise be employed more effectively.

(b) The purposes of this Act are to—

(1) ensure that the American people are fully apprised of the actual costs of Federal programs, whether as a result of legislative or regulatory activity; and

(2) require both the Congress and the Executive branch to acknowledge and to take responsibility for the fiscal and budgetary effects of legislative and regulatory actions and activities.

FINANCIAL IMPACT STATEMENTS

SEC. 3. (a) The Director of the Congressional Budget Office shall prepare a financial impact statement, as described in subsection (b) below, to accompany each bill, amendment, resolution, or conference report of a public character reported by any committee of the House of Representatives or the Senate or considered on the floor of either House.

(b) The financial impact statement required by subsection (a) of this section shall state the extent, if any, to which enactment of the bill, amendment, resolution, or conference report would result in increased costs to the private sector or State and local governments and shall in addition include, at a minimum, a detailed assessment of the annual impact of the bill, amendment, resolution, or conference report (projected annually over a five-year period from its effective date, and, to the extent feasible, expressed in each case in monetary terms) on—

(1) costs to consumers or business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) the ability of affected State and local governments to comply with the requirements, fiscal and otherwise, of the bill, amendment, resolution, or conference report; and

(5) outlays by the Federal Government as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *Provided,* That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

SEC. 4. The financial impact statement described in subsection (b) of section 3 shall accompany each bill, amendment, resolution, or conference report of a public character before such bill, amendment, resolution, or conference report may be reported or otherwise considered on the floor of either House.

SEC. 5. It shall not be in order in either the House of Representatives or the Senate to consider on the floor any bill, amendment, resolution, or conference report of a public character, whether or not reported by any committee of the House or Representatives or the Senate, unless that bill, amendment, resolution, or conference report includes the Financial Impact Statement described in subsection (b) of section 3.

SEC. 6. Each regulation and proposed regulation promulgated by a department or Executive agency shall be accompanied by a financial impact statement, as described in subsection (b) of section 3, prepared by the department or agency promulgating the regulation or proposed regulation. The financial impact statement shall be published in the *Federal Register* together with such regulation or proposed regulation.

DEFICIT NEUTRALITY OF NEW SPENDING LEGISLATION

SEC. 7. It shall not be in order in either the House of Representatives or the Senate to consider on the floor any bill, amendment, resolution, or conference report, whether or not reported by any committee of its House, the enactment of which would result in increased outlays by the Federal Government (as compared to outlays for the same activity in the current fiscal year as reported by the Congressional Budget Office) unless that bill, amendment, resolution, or conference report includes, or is voted on simultaneously with another bill, amendment, resolution, or conference report that includes provisions that either—

(1) reduce outlays by at least an equivalent amount;

(2) increase receipts by at least an equivalent amount; or

(3) reduce outlays and increase receipts in combination with one another by at least an equivalent amount.

PROVISION FOR NATIONAL SECURITY EMERGENCY

SEC. 8. The Congress may waive the requirements of this Act at any time in which a declaration of war is in effect, or in connection with any provision for essential funding in response to a national security emergency at the request of the President.

EFFECTIVE DATE

SEC. 9. The requirements contained in this Act shall become effective 90 days after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE TRUTH IN FEDERAL SPENDING ACT OF 1988

Section 1 states the the title of this Act is the "Truth in Federal Spending Act of 1988" (hereinafter cited as "the Act").

Section 2 sets forth congressional findings and purposes with respect to the Act. Subsection (a) states that: Federal spending on domestic programs grew at an annual rate of more than 6.5 percent between fiscal year 1960 and fiscal year 1980; between 1980 and 1985 domestic spending increases slowed to less than three percent (and less than one percent in 1986); total Federal spending actually declined in fiscal year 1987 for the first time since 1973; and yet Federal spending continues to be excessive. Subsection (b) states that the purposes of the Act are, first, to ensure that the American people are fully apprised of the actual costs of Federal programs and, second, to require the Federal Government—both the Executive and Legislative branches—to acknowledge and take responsibility for the fiscal and budgetary effects of their legislative and regulatory actions.

Section 3 mandates the preparation of a "financial impact statement" (FIS) in connection with the consideration of certain legislative proposals by the Congress. In particular, subsection (a) requires the preparation of a FIS by the Congressional Budget Office to accompany each bill, amendment, resolution, or conference report of a public character reported by any congressional committee or considered on the floor of either House. Subsection (b) states that an FIS must describe the extent to which, if any, the measure under consideration will result in increased costs to State and local governments or the private sector and must also include a detailed assessment of the measure's annual impact (measured over a five-year period) on: costs to consumers or business; national employment; the ability of United States industries to compete internationally; the ability of affected State and local governments to comply with the measure; and outlays by the Federal Government as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office). The detailed assessment is not required if a preliminary analysis indicates that the aggregate impact of the measure is less than $100 million annually. In such an instance, the detailed assessment may be replaced by a brief summary assessment.

Section 4 provides that an FIS must be included in each bill, amendment, resolution, or the like before the measure under consideration may be reported by a committee or considered by either House of Congress.

Section 5 provides that it is not in order in either the House or the Senate to consider on the floor any bill, amendment, resolution, or the like, unless the measure under consideration includes an FIS.

Section 6 requires that any regulation or proposed regulation promulgated by an Executive branch agency be accompanied by an FIS, which must be published in the Federal Register.

Section 7 provides that it is not in order in either House of Congress to consider on the floor any bill, amendment, resolution, or the like, the enactment of which would result in increased outlays by the Federal Government (as reported by the Congressional Budget Office compared to outlays for the same activity in the current fiscal year), unless the measure under consideration includes, or is voted on simultaneously with another measure that either: reduces outlays by at least an equivalent amount; increases receipts by at least an equivalent amount; or reduces outlays and inceases receipts in combination with one another by at least an equivalent amount.

Section 8 states that Congress may waive the requirements of the Act at any time in which a declaration of war is in effect, or in connection with any provision for essential funding in response to a national security emergency at the request of the President.

Section 9 states that the Act is to become effective 90 days after enactment.

USE CAUTION IN AUTOMATING THE CUSTOMS SERVICE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GARCIA. Mr. Speaker, I am submitting for the RECORD a statement which I have prepared concerning the automated commercial system [ACS], which computerizes many functions performed by customs inspectors.

Although this system can be helpful I do not believe that it can replace the experience and dedication of years of work that inspectors have given us.

I urge my colleagues to take a moment to read the short statement.

AUTOMATED COMMERCIAL SYSTEM

Mr. Speaker, for 200 years, the U.S. Customs inspectors and import specialists have provided us with distinguished service to America. They have proudly enforced laws and collected duties in a profession that requires high degrees of skill and experience.

It is to my great dispair that we are in jeopardy of losing an intrical part of the protection of our borders. The experience and instincts of the men and women who inspect imports for the Customs Service are necessary to insure that only safe and legal shipments enter our country. In the rush to hurl the Customs Service into the high-tech age of computer automation, the Commissioner of the U.S. Customs Service, William von Raab, has proposed implementation of the Automated Commercial System (ACS), which computerizes many of the functions performed by Customs inspectors and import specialists.

A system such as this can be a great tool if used properly. However, it does not have, nor can it have, the "sixth sense" of detecting smuggling operations that is brought on by the human element. The ACS can serve, but never replace our trained personnel and the years of experience, knowledge, and instincts that they have accumulated.

In our effort to achieve faster and more efficient processing of imported goods, we must not compromise our safety and security. I encourage my colleagues, Commissioner von Raab, and the entire Customs Service to proceed with caution in implementing this new system.

POLICE MAGAZINE EDITOR OBJECTS TO HCI'S ADS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. MARLENEE. Mr. Speaker, the following editorial was in the December 1987 issue of Police magazine. The editorial, written by Editor F. McKeen Thompson, points out the fact that Handgun Control Inc. has more than stretched the truth regarding the National Rifle Association's efforts to block antigun legislation.

Contrary to what HCI would have you believe, America's law enforcement community is not antigun and it is not united against the NRA.

POLICE MAGAZINE EDITOR OBJECTS TO HCI'S ADS

Who is Handgun Control Inc. really fooling? Certainly not the readers of *Police* magazine.

With handgun control legislation once again drawing near in Congress, HCI recently initiated what seems to be a questionable campaign, using an age-old political technique. This fall, it ran advertisements in several major police publications asking if "the National Rifle Assocation has gone off the deep end." It semed to be an attempt to "divide and conquer" police officers on an emotionally charged and highly political issue.

Unlike other publications focusing on law enforcement, our sole purpose rests in serving a very special group—the line officer. And we try hard to listen to what our readers say and think. When HCI placed a full-page ad in *Police* (October 1987), it became clear how most officers felt—many wrote to us saying they didn't like the contents of the ad one bit. The response generated was unrivaled by any other subject in the last two years.

While I am not a member of the NRA or, for that matter, a supporter of HCI, I do believe in the Constitution and our Second Amendment rights to bear firearms. It seems apparent that HCI is trying to erode those rights.

I also believe, along with many of our readers, in telling the truth. In the HCI ads, Chief Joseph McNamara, from San Jose, Calif., a spokesperson for HCI, claims that the NRA lobbied to "allow the sale of armor-piercing bullets." It did. But he fails to explain the reason why. The NRA was lobbying against a poorly written bill; it was not in favor of cop-killer bullets. The ad may have been telling the truth in part, but it certainly wasn't telling the whole truth.

The same holds true with McNamara's comments regarding the sale of machine guns. The NRA is only attempting to reinstate a law, with the support of the Bureau of Alcohol, Tobacco and Firearms (the people who enforce firearm abuse), that worked for 50 years. Of the 100,000 legally owned machine guns, none have ever been used in a crime. Again, the ad tells only part of the story.

As with any issue, there are always two sides to the debate. HCI seems to have been successful in some ways, especially in generating support from administrators like McNamara. But in their pursuit of better handgun control, some of these administrators seem to have forgotten the individuals who work for them. This is especially unforgivable as these are the police who perhaps face the threat of handguns more than anyone else.

In this case, I agree with what many of our readers seem to believe; the guns aren't the problem, the criminals are.

AMERICA'S LIBERTY—OUR HERITAGE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. NOWAK. Mr. Speaker, I would like to take this opportunity to bring to my colleagues' attention an essay that Deanna Lee Dascomb, a student from Cheektowaga, NY, in the 33d Congressional District which I proudly represent, wrote for the annual voice of democracy broadcast scriptwriting contest, sponsored by the Veterans of Foreign Wars and its ladies auxiliary.

A senior at Maryvale High School, Ms. Dascomb's essay was chosen from thousands of other entrants to represent New York State in a national competition. Her essay, reprinted here, entitled "America's Liberty—Our Heritage" poignantly describes that essential quality that makes America truly a unique nation and an inspiration to the world.

AMERICA'S LIBERTY—OUR HERITAGE

(By Deanna Lee Dascomb)

Liberty. This one simple word takes on so many different meanings. During the Revolutionary War, people wanted this more than anything. Men fought for it, risked their lives for it, and even died for it. Why was this so important to not just a few people, but an entire nation? To them, liberty meant a personal freedom from tight restrictions placed upon them that were beyond their control. It meant being able to express themselves and act freely upon their emotions. It meant being an individual and living life by their own standards and not someone elses. Life can only be a mere existence without the freedom that our country enjoys so much. The sense of liberty was so enormous, that it spread to other countries throughout the world. Thousands of immigrants poured into America during the 1800's and the earlier part of the 20th century. They brought along with them a desire to lead a better life and become a better people. Why did they choose America? What drew them to our country, instead of some other land? Freedom is the answer. Our ancestors that made their homes in America all came here for the endless benefits that freedom brings, and those benefits have remained the same for today's generation.

Each person has their own definition of liberty, but the major points will never change. When I think of America, a number of things come to mind; freedom, opportunity and a strong sense of individuality which sets this country apart from the rest. Here in our country, freedom serves as the building block in the construction of the entire nation. Without freedom there would be no intermingling of cultures or a variety of beliefs and values, because everyone would be living under the same roof. There would be no chance for opportunities because there would always be a limit on social mobility. Without opportunity, there couldn't possibly be a growth of individuality because people would be looked upon as a whole. This is what America was like before we won our independence and this is what caused men to fight and die for the freedom that meant more than life itself.

Walking hand-in-hand with liberty is opportunity. Behind this lies a wide assortment of choices which are open to anyone who has an ambitious soul to choose. Pursuing goals in America has one great reward, and that's accomplishment.

There are many different goals that people want to reach, and because the world has so many careers and vocations to offer, almost every skill has a use. Everyone who enters this country has a chance to become the creator of his or her destiny. Being able to choose one's own lifestyle is a basic freedom everyone should have, but those who weren't blessed with that, entered the doors of America.

One of the finer aspects of a free nation is the elasticity of opportunity. Jobs don't have to remain jobs forever, but can grow into a career. Freedom also involves moving up the ladder to a higher position if one desires to do so. Not only does this raise the standard of living, but it also brings along a sense of pride and self worth. A perfect example is the unknown cook hidden in the back of a fast food restaurant. He may start out working for minimum wage, but as years go by, he may be the head chef in an elite restaurant or the meal planner for a chain of hotels. There will always be a thirst for self improvement and a desire to live up to one's fullest capability, but without the freedom of social mobility, this craving can never be satisfied. In America, the only dry souls are those who wish to stay that way. Our ancestors were in search of this advancement, and it meant so much to them that they left their homes and traveled overseas to find it.

The key to advancement is education. Moving up is made possible by the many facilities set up to increase learning. All over the nation there are colleges and universities specially designed to serve the needs of motivated students, wishing to make their mark in the world. Without education, the doors to many careers will remain locked. Millions of people have taken advantage of this by making an investment in their future. This could only happen in a nation that wants only the best for its people, and with this sort of quality anyone would find America a great place to live.

Because of the countless opportunities available to us and the many different people of all nationalities and character, our country has become a land of wide diversity. I like to think of America as being one giant coloring book, and each person who is a part of it is given a different color crayon. We all shade in our part, and when it's done, the result is one big beautiful picture of America. Each color has its own purpose, its own value and its own significance. Without even one color, the picture could not be complete. This is what American liberty stands for. This is what brought shiploads of people into our harbors, and this is why we should all value our freedom and honor our pride. If our nation were to become anything less, America could only be black and white.

LEADERSHIP

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 13, 1988 into the CONGRESSIONAL RECORD:

LEADERSHIP

Everywhere in southern Indiana, Hoosiers talk to me about the need for good leadership. Candidates for the presidency are also talking about a leadership gap in Washington. Each candidate argues that he can supply something missing, and he defines that absent quality as leadership. Yet for all our talk about leadership, it seems to me that we are never really sure what we mean by leadership and what we are looking for in our leaders. American voters seem to be yearning for something we cannot quite define.

People ask me repeatedly why there does not seem to be another Jefferson, another Lincoln, or another Franklin Roosevelt among the current presidential contenders. The voters seem uneasy that no one seems to have the formula for governing America effectively. But it is hard to define what makes a great leader. It has been noted that while the accomplished general Ulysses Grant made a not-so-great president, Lincoln, a man with a less distinguished record, became a great president. Thinking back on John Kennedy's 1960 campaign, I do not remember finding Indiana voters terribly excited by the man who would later become a new American legend.

Although leadership qualities are desired in our elected officials, I am always impressed by the ambivalent feeling of voters toward most political leaders. Americans recognize the necessity of political skills, but they do not seem to put political leadership high on their list of personal values. Although political figures often dominate the lists of the most admired people, few parents come to me and say that they want their children or grandchildren to be politicians. Even so, they recognize that politicians can have a great influence on their daily lives—that their actions can help or hurt people, or can contribute or fail to contribute to social progress.

There are many leadership qualities revered by Americans: experience, intelligence, common sense, the ability to communicate, to make decisions, and to command respect, as well as such personal qualities as character and integrity. Our founding fathers were not embarrassed to talk about virtue. They clearly realized that no matter how well-structured government is, it will not work unless the offices are held by people of virtue. We want leaders who are honest and can set a high moral tone for the nation. Honesty and integrity in our leaders are essential to ensure the proper working of our democratic system of government. Government, like many other institutions, is only as good as the people who comprise it.

But Americans believe that leadership involves more than virtue, it seems to me. They want a leader who has the ability to motivate people, to make the right choices, to subordinate short-term for long-term interests, and to weed out specialized interests in favor of the common good. They want a leader with a national vision and an open mind—someone who can articulate clear, basic themes for the nation. They want someone who can recognize goals that reflect Americans' perceptions, but who also can articulate new goals and educate the nation about their importance. Americans want someone who can restructure the public discussion so that people will be convinced of the necessity of pursuing common goals rather than self-interest. They see a leader as someone who can recognize how policies affect not only the present but also America's future. Above all else, they believe that a leader must be able to establish a bond with the American people and develop a new consensus on the issues that define us as a nation.

Americans are less clear about whether they want their leaders to have hands-on management skills. Candidates who emphasize the nuts and bolts of the political process and their insider skills often do not do well with the voters. Both Presidents Carter and Reagan ran for the presidency by running against Washington. The question now is whether the voters want somebody who will run another anti-Washington campaign or whether they want a Washington insider or professional politician. I think that the voters recognize that in order to overcome the formidable problems on the national agenda, a president needs to be a working politician who can work with, and win over, the Washington community. But while they recognize the need for certain executive and management skills, my sense is that they are looking for more than skills. They want a president more concerned with goals than with methods.

Americans have fluctuated on the question of whether strong leadership means an activist government, one committed to using the powers of the federal government to address our nation's problems. We have heard for eight years that government, rather than being the solution to our problems, is the problem itself. President Reagan has tried to cut the powers of the federal government, delegating more problem-solving to the private sector and to state local governments. Yet there is some indication of increasing voter interest in a more active government, one that addresses problems like homelessness, long-term health care, and the export of American jobs.

The United States stands at a crossroads, with a number of paths into the future. Our leaders will confront critical questions: the U.S. role in the world, the commitments of one generation to the next, the obligations of the well-to-do to the poor, the constraints on individual freedom.

The demand for better leaders says as much about ourselves as about the people we elect. Many voters express to me an uneasy feeling that their nation is asking too little from its citizens today given the problems the nation confronts. They sense that we must get back to the basics—focusing less on personal interest and more on the national interest. They want someone to lead us in that direction. People understand that the choices we make today will establish the kind of nation we will have tomorrow. People will obviously vary in their choices, but the challenge is for the nation and its leadership to identify the questions, make the choices, forge the consensus on the answers.

TRIBUTE TO DARLENE KIMBROUGH ROGERS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Darlene Kimbrough Rogers, who is presently serving her first term as councilwoman for the city of Youngstown in my 17th Congressional District of Ohio.

Mrs. Rogers holds the unique distinction of being the first woman to be elected to the Youngstown City Council and has devoted herself to making the needs of her ward and the city a top priority. Darlene has been employed by several charitable organizations in Youngstown, including the Youngstown Area United Way, Children and Family Services, the Youngstown Area Community Action Council, and the City of Youngstown Urban Renewal Program. She has also volunteered to serve as a member of the board for the following: the Governor's Commission for Children, the Youngstown Employment and Training Corporation, the Northside Coalition, the Choffin General Advisory Board, the Youngstown Area Community Action Board, the Youngstown Fair Housing Advisory Committee, and the Junior League of Youngstown.

Mr. Speaker, Darlene Rogers has done so much to help her community and those around her. I am honored and privileged to represent such a fine person.

A TRIBUTE TO REV. D. SARAH POTTER SMITH

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives an extraordinary community leader and a truly dynamic servant of God—Rev. D. Sarah Potter Smith.

Reverend Smith will celebrate her 86th birthday on Friday, April 29, 1988. It is indeed a pleasure to note that Reverend Smith has devoted more than 65 years of her life primarily to ministering to the needs of others. She has not hesitated in all those years, regardless of her poor health at times, to answer the call of someone in need of spiritual, mental, physical or financial help. Her dedication to serving mankind is only exceeded by her dedication to serving God.

Reverend Smith considers her highest honor the many people of all races who have returned to school on all levels to further their education, inspired by her graduation from Temple University in 1977. She has noted that "I shall always thank God for the New Career Ladders Program" which gave me the opportunity to return to school, for all the inspired people who now realize that one is not too old to learn and that with "God all things are possible".

I applaud Reverend Smith's efforts to inspire and better the lives of all of us. Mr. Speaker, I ask that you and my colleagues join me in saluting Reverend Smith, and wishing her a very happy birthday. Indeed, she exemplifies all the attributes of a concerned humanitarian and a great American.

CONGRESSIONAL CONDOLENCES TO PAKISTAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SOLARZ. Mr. Speaker, over the past several days we have been saddened to learn of a great catastrophe that has befallen the people of Pakistan. News reports indicate that on Sunday a series of explosions devastated the military camp at Ojhari, not far from the Pakistani cities of Islamabad and Rawalpindi. Casualty reports remain incomplete, as hundreds of families still comb acres of rubble desperately searching for loved ones. But even preliminary reports suggest something of the magnitude of this disaster: nearly 100 dead, more than 1,100 injured, thousands homeless.

Mr. Speaker, Americans this week have good reason to celebrate events in Southwest Asia. After a war of unsurpassed cruelty, after brutally occupying an unwilling land and its people for more than 8 years, the Soviet Union has thrown in the towel and announced its decision to withdraw from Afghanistan. This is an historic occasion and may well mark a turning point in world history.

But let us not, in the midst of our congratulations, forget those whose sacrifices have made this great victory possible. And high on that list are the Pakistani people. For 8 years they have displayed a gritty refusal to be bullied. For 8 years they have supported and defended the proposition that all nations, great and small, should be allowed to determine their own destinies, free of outside interference. For 8 years they have selflessly offered refuge to more than 3 million Afghans fleeing the carnage of war.

Now, in what should be a moment of triumph, they have suffered a grievous blow from an unexpected quarter. And so, Mr. Speaker, even as we celebrate the rollback of tyranny in Afghanistan, let our compassion reach out to those in Pakistan who made that rollback possible. Let the Pakistani people in their hour of dispair know that the American people share that despair. Let the Pakistani people know that we join them in mourning their dead. And finally, let the Pakistani people know that we stand ready to assist them in the tasks of rebuilding and rehabilitation.

ANSWER TO ALCOHOLISM

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. FLORIO. Mr. Speaker, the New Jersey chapter of the National Association of Social Workers recently named Riley Regan of Imleystown, NJ the recipient of its Social Worker of the Year Award.

This honor is doubly significant for him and for the community that he has served. Since his recognition that alcoholism and the problems that it creates need to be treated, he has worked not only to solve his own addiction but also to improve the lives of many other alcoholics.

Mr. Regan speaks from personal experience. As an alcoholic for many years, he found himself not doing the things that he wanted and not living up to his potential.

However, this is not a story about failure. Fortunately for Mr. Regan, it is a story about success. Having realized that he was an alcoholic, he took the most substantive step to heal himself. He sought treatment.

Before that treatment, he was a man on the run from his life, having been expelled from college and having a run in with the law on charges of armed robbery.

As Mr. Regan learned, alcoholism is a means to an end, an end which is neither appropriate nor justified.

But the story of Mr. Regan is also the story of half a million alcoholics in the State of New Jersey and millions of others across the United States, both those who have been accounted for and those who have remained silently absent from those statistics. For those millions, Mr. Regan's story is one of hope and the possibility for success in the light of failure.

When he was faced with alcoholism and the problems that it created, Mr. Regan sought treatment and then used his experience on behalf of alcohol abusers.

As the director of the New Jersey Division on Alcoholism, he took his brush with alcoholism in a constructive direction. Not resting content with overcoming alcoholism, he is working to improve the lives of those who are still addicted to alcohol.

In the face of budgetary uncertainties, Mr. Regan has continued with the one certainty that alcoholics across the Nation face, that is the need for treatment.

Having lived through and learned from his experience with alcoholism, this award has the added significance of recognition by his peers.

Yet another award for Mr. Regan is being named Jerseyan of the Week by the Newark Star-Ledger. Having recognized many other New Jersey residents for their contributions to the State and to the Nation, the Star-Ledger once again recognizes an individual with worthwhile accomplishments.

As a reminder not only of Mr. Regan's personal achievements and contributions but also of the untreated needs of alcoholics throughout the Nation, the following article serves as a hopeful sign that there is light at the end of the tunnel when individuals such as Riley Regan are there.

[From The Star-Ledger, Mar. 27, 1988]

SOCIAL WORKER OF YEAR WARS AGAINST ALCOHOLISM

(By Charles Q. Finley)

The ruinous effects of alcoholism have a very special significance for Riley W. Regan, 52, of Imlaystown in Monmouth County, the director of the state Division on Alcoholism.

"I had a drinking problem in high school which later got me thrown out of college and on the road leading to an armed robbery conviction and skid row," recalled Regan, who has been named "Social Worker of the Year" by the New Jersey Chapter of the National Association of Social Workers.

"Before I entered a treatment program, I believed I was insane and was drinking to cope with that fact, while all along it was the drinking itself that was causing me so much pain. It came as a great revelation that there wasn't anything wrong with me except that I was *drinking.*

"There still are many people out there who picture a drunken bum sprawled in a doorway when they think of an alcoholic. Actually, an alcoholic can be a surgeon who enters an operating room feeling fuzzy and unable to hold his instruments steady, or a lawyer botching a presentation to a jury."

Regan said alcoholism creates many social as well as health problems.

"Alcoholism not only is our number one health problem, but our number one social welfare problem as well, with child abuse, other violent crimes, unemployment and fatal traffic accidents directly related to the addiction. There are about 455,000 alcoholics in the State of New Jersey alone, and it would be impossible to even estimate how many people are being adversely affected personally by them.

"He or she could be living next door, experiencing disastrous health, family and work problems as the result of their drinking. Any excuse will do for an alcoholic to drink—if the Giants win or lose, at a funeral or at a wedding.

"Unchecked, it's a downhill road for the long-term drunk, whose health is destroyed and who has lost all motivation. They're just about beyond help.

"I was in treatment and had been sober for a long time when I was informed an armed robbery fugitive warrant issued for me after a conviction in California had been resolved. That meant I wouldn't have to serve a jail term.

"I was asked how it felt to be free. 'Just wonderful!' I replied with much enthusiasm, but I wasn't referring to prison.

"I suffered much after being bounced from Western Maryland College, doing odd jobs, sometimes living in the streets, but always drinking far too much. After I was in treatment and sober, I married a woman with five kids and later she left me with the children. I was a father image to them, and being sober it was like all of us growing up together.

"Now they're all raised and doing extremely well. My present wife, Katie, has two children by an earlier marriage."

Regan returned to school alcohol-free and earned a B.A. degree in psychology at California State University, a master's degree in social work and community planning at the University of Maryland and a masters degree in mental health at Johns Hopkins School of Hygiene and Public Health. Presently he is working toward a doctorate in alcohol program administration.

Prior to becoming the founding director of the New Jersey Division of Alcoholism in 1976, Regan was coordinator of the alcoholism program in Montgomery County, Maryland; deputy director for field activities for the National Center for Alcohol Education in Virginia; an occupational health specialist with the U.S. Civil Service Commission; deputy director of the Division for Alcohol Control in the Maryland Department of Health and Mental Hygiene, and a social worker aide at Mt. Wilson State Hospital in Maryland.

A treatment center for advanced, alcoholics in Sykesville, Md., has been named the Riley Regan Treatment Center in his honor.

A member of the teaching faculty at Rutgers University since 1975, Regan has lectured at various schools of alcohol studies throughout the country.

In his state post, Regan is responsible for the coordination and administration of more than 240 alcoholism programs in New Jersey, with an annual expenditure of over $55 million.

He has received many citations, including an award for outstanding service to state government from the National Governor's Association, the State AFL-CIO Community Leadership Award, and the Bronze Key Award from the National Council on Alcoholism. Among his many professional affiliations, he is a past president of the National Association of State Alcohol and Drug Abuse Directors.

The Regans live in an old house, formerly a Baptist parsonage, in a rustic setting with a fireplace and wood-burning stoves. They also own a guest house in Cape May.

A sailing and racquetball buff, Regan said he has developed the ability to "relax and enjoy the world and the people around me."

"In state government there's a crisis every minute, so I can't afford to let things get to me. Like when you get in a traffic jam, don't fume and run your blood pressure up. Relax!

"I don't get upset over conditions I can't control. There's much less anxiety in life if you can accept things as they are realistically."

Regan said he always is gratified to receive an award in recognition of his accomplishments, but that the citation from the National Association of Social Workers is of singular importance to him.

A SOLUTION TO THE OPPRESSIVE ESTATE AND GIFT TAX

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. CRANE. Mr. Speaker, today I am introducing a bill to end a travesty in the Internal Revenue Code. Repealing of the estate tax is a must for the continued growth of this great country. The Members of this distinguished body continually insist on taxing more and more of the rewards of labor. They contend that equity demands a redistribution of wealth. Yet the businessmen, farmers and workers of America are consequently left with less to save, invest and spend. The bottom line is that the poor constantly are being kept at that status, poor. The ultimate irony is that the productive capacity of the Nation falls. There is literally less to distribute. The standard of living falls for the entire Nation. There are too many Members of Congress that have a myopic view of the tax system. This ability provides them great insight into infrequent abuses and more importantly, the endless revenue raising options that the Tax Code can provide. The majority party may get its goal of equality, but everyone will be equally destitute. We are seeing this happen before our eyes. Americans are being leveled by the great egalitarian impulse, but all will be equally poor, instead of enjoying that measure of wealth which freedom would empower each to earn.

Nearly 200 years ago, James Madison penned these lines in defense of the freshest hope to "secure the blessings of liberty" for "posterity:"

The apportionment of taxes on the various descriptions of property an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

The bill I am introducing will amend a discrepancy in the Tax Code. Current law allows an individual to give a noncharitable gift up to $10,000 and not be penalized by the regressive estate tax. If the gift was given in the form of a check and was not cashed until after the death, the recipient of the estate would pay the tax. If the check was cashed before the death, no tax penalty. I wish to relate the following article from the January 18, 1988 Wall Street Journal that best explains the problem:

A DYING FATHER'S GIFTS BY CHECK CREATE A HASSLE FOR HIS ESTATE

Before dying in a Pennsylvania nursing home in 1982, Joseph M. Gagliardi meant to give gifts of $10,000 each—free of gift or estate tax—to his four children. He had given powers of attorney to one son. In the days before Gagliardi's death, the son wrote checks on the father's account to all four: some were cashed after the death. The son had the father's broker write checks and delivered securities that the broker sold after the death to make gifts by check.

But the IRS found the gifts incomplete at death, putting the funds in the taxable estate. The estate turned to the Tax Court. Now Judge Tannenwald has given the court's first opinion on this issue, with mixed results: The son's checks cashed before the death are tax-free; those cashed afterward aren't, for the father at death had an interest in them under state law. The broker checks issued before the death are tax-free no matter when cashed, for the request to issue them gave up all right to the funds.

The bill will change the treatment of the gift from noncharitable status to charitable status. This type of legislation is needed to protect the American family from the overburdening of estate taxes that in the truest sense, tax the gift twice. In the past I have introduced two separate bills that eliminate the travesty of the estate tax.

H.R. 111, the flat rate tax bill would reform the Internal Revenue Code to a 10-percent flat income tax on all earned income and eliminate not only the estate tax, but also corporate tax, capital gains tax, and taxes on interest income, dividends and pensions. The second bill, H.R. 119 would repeal the estate and gift taxes and the tax on generation skipping transfers. The time has come for the Members of Congress to eliminate this injustice that is placed on the great American family. In conclusion, I quote John Locke who stated:

A man . . . having, in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself and the rest of mankind, this is all he doth or can give up to commonwealth, and by it to the legislative power, so that the legislative power can have no more than this.

THE SOUTH AFRICAN CRACKDOWN

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HAYES of Illinois. Mr. Speaker, the recent crackdowns on the already limited political rights in South Africa point up to the need for even more stringent sanctions against the racist apartheid regime there. Therefore, I encourage my colleagues to join me as a cosponsor of H.R. 1580, which provides for mandatory disinvestment, a ban on imports from and exports to South Africa, and a provision to extend the sanctions to Namibia. I would like to take this opportunity to share with my colleagues a copy of a recent letter and policy statement from the Washington Office of the Episcopal Church. Additionally, I would also like to include a copy of a statement by Rev. Desmond Tutu, on what the restrictions that have been placed on legal, lawful anti-apartheid organizations in South Africa will mean for the future of South Africa.

The material follows:

WASHINGTON OFFICE OF THE EPISCOPAL CHURCH,
Washington, DC

To: The Congress of the United States.
From: The Washington Office of the Episcopal Church.
Date: March 18, 1988.

Enclosed please find a resolution on South Africa adopted by the Executive Council of the Espiscopal Church, February 25. The Council unanimously passed a resolution in support of Archbishop Desmond Tutu and called for the United States to break diplomatic ties with South Africa.

Our Presiding Bishop, The Most Reverend Edmond L. Browning, has asked this office to work actively for passage of the Dellums-Cranston Bill (HR1580:S556) calling for additional, total economic sanctions against South Africa.

We encourage you to vote for passage of the Bill.

Dr. BETTY A. COATS,
Staff Officer, Washington Office.
The Rev. ROBERT J. BROOKS,
Staff Officer, Washington Office.

THE DOMESTIC AND FOREIGN MISSIONARY SOCIETY OF THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA

The following is a Resolution adopted by The Executive Council of The Episcopal Church at its meeting at the Hotel El Dorado, Guatemala City, Guatemala, February 24-26, 1988, at which a quorum was present and voting:

Resolved, That the Executive Council, meeting in Guatemala City, reaffirm its support of the leadership of Archbishop Desmond M. Tutu in efforts to bring an end to apartheid in South Africa and the establishment of a non-racial, democratic society through peaceful means; and be it further

Resolved, That the Executive Council call upon the United States Government to end diplomatic relationships with the government of South Africa; and be it further

Resolved, That copies of this resolution be sent to Archbishop Tutu, the President of the United States, members of the Senate and House of Representatives and the State Department.

EXPLANATION

The South African government has banned the United Democratic Front (UDF) and the Council of South African Trade Unions (COATSU) from engaging in all political activity. The UDF and COATSU are the largest of the last remaining organizations seeking peaceful changes in South Africa. The Most Rev. Desmond M. Tutu, Archbishop of Capetown, is calling upon the churches in South Africa to take a stronger and more vocal position in opposition to apartheid. Archbishop Tutu is also calling on the United States and other countries to sever diplomatic relations with the government of South Africa in order to send the message that the system of apartheid is morally reprehensible and a pariah in the civilized world.

DONALD A. NICKERSON, JR.,
Secretary of the Executive Council and the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America.

WEDNESDAY FEB. 24, 1988.

STATEMENT BY THE MOST REV. DESMOND TUTU, ARCHBISHOP OF CAPE TOWN, ON THE RESTRICTIONS PLACED ON 17 ORGANISATIONS IN TERMS OF THE PUBLIC SAFETY ACT

Today's effective banning of those of our political organisations still allowed to operate is an unmitigated disaster for South Africa.

Many of our people will see it as a declaration of war by the government.

I see it as a vicious and provocative act by a government which has now become a serious threat to Southern Africa.

We have seen its bully-boy tactics at their most vicious in our neighbouring countries over the last few years.

It has now shown that within South Africa its only plan for the future is to fight against the logic of history by resorting to the most blatant forms of oppression.

There is now not the slightest possible doubt that its idea of reform is to smash all effective possible political opposition in the country, no matter how peaceful or lawful, and to rule with the jackboot.

The organisations the government is suppressing are all dedicated to peaceful means of opposing the brutality of apartheid. If they had not been, we would have seen them in court long before now facing serious charges under the government's draconian laws.

So the message coming out of the government's action is clear—peaceful paths to change are being closed off one by one and those wanting real change are being encouraged by the government's actions to turn to violence.

White South Africans must realise that they are at the crossroads: if thery don't stop this government soon—and there's not much hope that they will—we are heading for war.

Foreign countries—and especially the governments of Japan, Britain, the United States and West Germany—must realise that they are prejudicing their investments by refusing to take effective economic action against this government.

This government seems to have nothing to offer South Africa but violence and bloodshed. It must go and be replaced by a democratic, non-racial government which represents all the country's people, black and white.

I still desperately want a negotiated solution to our crisis, and the only peaceful way of forcing this government to the negotiating table is through properly-enforced and comprehensive diplomatic and economic sanctions. I reiterate my call for such sanctions.

If we do not get effective action from white South Africans or the international community, then God help us.

A MATTER OF PRINCIPLE: STUDENTS SPEAK OUT

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GALLO. Mr. Speaker, on behalf of many constituents in my district, I feel compelled to let all Members know of the sad and frustrating situation of the Ferenc family. The case not only involves a breach of basic human rights by the Soviet Union, but also demonstrates the amount of concern displayed by American citizens regarding the release of Mr. Ferenc.

Mr. Ferenc has been separated from his entire family for over 40 years. Now 80 years of age, Mr. Ferenc has endured a life of great hardship including 10 years at a hard labor camp in Siberia in the 1940's and forced separation from his family and loved ones since then. It was not until the 1950's that his wife, who now resides in the United States, realized that her husband Nikolai was still alive. Since then, his entire family has been working toward reunification.

A lot of interest has been generated among Americans regarding Mr. Ferenc's plight in the Soviet Union. Through the diligent efforts of Bohdan Ferenc, Nikolai's grandson, I have submitted hundreds of petitions with thousands of signatures and addresses on them from concerned Americans to Secretary of State Shultz, General Secretary Gorbachev, and Soviet Minister-Counselor Kutovoy.

Nick Ferenc, the great-grandson of Nikolai Ferenc, and his third grade class have also taken a concerned interest. They have written to General Secretary Gorbachev in behalf of their classmate's great grandfather. Their letters exemplify the American principle of the inherent need to secure basic human rights and fundamental freedoms for all people. The children also placed a lot of importance on the family and the need to unite wives with husbands, sons with fathers, grandchildren with great grandparents in order to bring both happiness and security into the homes. They are touching phrases such as, "My friend Nick has never met his great grandfather." Another phrase was, "Would you please send lonely Nikolai Ferenc to America?" Or, "How would you feel if you were far from your family?" One phrase read, "I just can't figure out why people can't go anywhere from the U.S.S.R." Many also wrote, "We all want him in the U.S.A." Nick Ferenc wrote, "I would like to see my grandfather, and thank you for trying to make my family's wish come true." As you can see, the concern and the insistency towards Nikolai Ferenc's release are found in the hearts of many American citizens.

In light of the Summit meeting, resolving this particular case among others is of vital necessity. The need to expedite cases such as Mr. Ferenc's is so important and must occur before the Summit meeting takes place. Otherwise, Mr. Ferenc's situation and others like him may go unheeded. By resolving Mr. Ferenc's case, the Soviet Union will help to ensure a successful Summit between our two countries.

As my colleagues in the House of Representatives and the basic principle that we all share in upholding human rights, please help to support Mr. Ferenc's case. Your concern will help to strengthen our chances in bringing Mr. Ferenc into the United States and to finally be with his family.

KILDEE INTRODUCES LEGISLATION TO TRANSFER FEDERAL LANDS FROM THE BUREAU OF LAND MANAGEMENT TO THE STATE OF MICHIGAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. KILDEE. Mr. Speaker, today I will be introducing legislation that will transfer several hundred small tracts of land from the Federal Government to the State of Michigan.

Currently, the Bureau of Land Management [BLM] has jurisdiction over more than 500 small islands and upland tracts covering 1,500 aces of land throughout the State of Michigan. Because of their small and isolated locations, BLM has been unable to properly manage these tracts of land, and in 1982, they declared them to be in surplus. The State of Michigan has been working with the BLM under the Recreation and Public Purposes Act to obtain title to these lands so they can be properly managed. Although the State of Michigan has been able to obtain 40 islands through this act, the process has been time consuming, cumbersome and excessively expensive.

The legislation that I am introducing would accomplish two goals. First, it would convey title of these surplus lands from the Federal Government to the State of Michigan. The Michigan Department of Natural Resources has prepared a comprehensive management plan that would require these surplus lands to be used for public recreation, the protection of wildlife and plants, or for educational and scientific purposes.

Second, this bill would enable BLM to resolve any existing land ownership conflicts in Michigan between individuals and the Federal Government. Presently, there are several pieces of land in Michigan where the owner does not have proper title to the land. This legislation would enable the BLM to negotiate the sale of land to individuals who believe they have a claim to the land without going through exhaustive legislative remedies for each individual claim. Furthermore, BLM would be given the authority to resolve future conflicting claims of ownership.

Mr. Speaker, the objective of this legislation is to transfer small, unmanagable parcels of surplus BLM lands from the Federal Government to the State of Michigan. In no way should this bill be viewed as a lands "giveaway." On the contrary, this legislation requires the State of Michigan to develop a detailed land management plan, and report to the Secretary of the Interior on the status of each island and upland tract every 5 years.

More importantly, this bill includes a stiff reverter clause that would transfer all of these lands back to the Federal Government if the State of Michigan mismanages, or tries to sell one of these parcels.

This bill enjoys the support of the Bureau of Land Management, State of Michigan, Michigan United Conservation Clubs, and the Sierra Club.

Mr. Speaker, at this time I would like to have the text of the bill printed along with the list of the original cosponsors, which includes the entire Michigan Congressional Delegation.

The material follows:

LIST OF COSPONSORS

Representatives Dingell, Schuette, Broomfield, Henry, Traxler, Bonior, Upton, Carr, Hertel, Davis, Pursell, Levin, Wolpe, Ford, Vander Jagt, Conyers, and Crockett.

H.R. 4375

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that:

SHORT TITLE; FINDINGS AND PURPOSES; DEFINITIONS

SEC. 1. (a) SHORT TITLE—This Act may be cited as the "Michigan Public Lands Improvement Act of 1988".

(b) FINDINGS—Congress hereby finds and declares that—

(1) Within the State of Michigan there are a number of small scattered islands and upland tracts that are in federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) The public interest would be best served if the surface estate in these federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, cultural, and other resources and values;

(3) Many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other federal conservation system or for efficient management by the Bureau of Land Management;

(4) The State of Michigan is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) Elsewhere in Michigan there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of conflicting claims arising under public land laws or otherwise involving possible federal residual interests;

(6) Existing authorities for federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) Legislation to facilitate appropriate management by the State of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest and would be a suitable recognition of the completion of Michigan's 150th year of Statehood.

(c) PURPOSES—This Act is intended to provide for better management of public lands located in the State of Michigan by—

(1) transferring certain specified unclaimed islands and uplands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve conflicting claims to certain other public lands in Michigan and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

(d) DEFINITIONS—As used in this Act—

(1) the term "listed uplands and islands" means those vacant, unappropriated, and unreserved public lands located in the State of Michigan which are specified in the list entitled "Michigan Uplands and Islands Appropriate for State Management" dated ——, 1988, on file in the office of the Secretary of the Interior.

(2) the term "public lands" has the same meaning as specified in Section 103(e) of the Federal Land Policy and Management Act of 1976.

(3) the term "claim" means a claim by a party other than the United States to title of a parcel or tract of land.

(4) the term "Secretary" means the Secretary of the Interior.

GRANT TO STATE

SEC. 2. (a) UNCLAIMED AREAS—Effective 180 days after the date of enactment of this Act and subject to its terms and conditions, the surface estate in all listed uplands and islands, surveyed and unsurveyed, in the Great Lakes, inland lakes and rivers, and other bodies of water within the State of Michigan which as of January 1, 1988 were not subject to any claim, are hereby granted to the State of Michigan.

(b) CLAIMED AREAS—Any listed uplands and islands which were subject to a claim on January 1, 1988, following resolution of a conflicting claim, may be sold by the Secretary to the claimant or claimants thereof under Section 3 of this Act, but the surface estate in any listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be deemed to have been granted to the State of Michigan pursuant to Section 2(a) of this Act, and any claim to the surface estate in any such listed uplands and islands shall thereafter be deemed to have been abandoned and shall not thereafter be enforceable in any court of the United States.

(c) PRIOR TRANSFERS—(1) title to the surface estate in all public land which on the date of enactment of this Act was subject to leases and patents conveyed under the authority of the Recreation and Public Purposes Act of June 14, 1926 as amended (43 U.S.C. 869 et. seq.) to the State of Michigan, its departments, agencies, and Bureaus shall be deemed to have vested in the State of Michigan on such date and shall thereafter be exempt from the requirements of the Department of the Interior's regulations governing conveyances under such Act, but shall be subject to the provisions of this Act.

(2) Upon reversion and acceptance of public land in the State of Michigan which was previously leased or patented under the Recreation and Public Purposes Act to counties, townships, municipalities, persons, corporations and entities other than the State of Michigan, its departments, agencies and Bureaus, the surface estate in such lands are hereby conveyed to the State of Michigan pursuant to and subject to the provisions of this Act.

RESOLUTION OF CLAIMS

SEC. 3. (a) SALES—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in the State of Michigan where the Secretary determines that—

(1) Such tract, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) Such sale would not be inconsistent with land use plans developed in accordance with Section 202 of the Federal Land Policy and Management Act of 1976.

(b) PRICE ADJUSTMENTS—Notwithstanding any other provision of law, following adjudication of any conflicting claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include but are not limited to: (1) amount paid for the land by the applicant; (2) longevity of applicant's claim; (3) taxes paid on the land; (4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where an individual tract does not conform to an existing survey plat, the Secretary may convey title to a trustee, acceptable to the Secretary, acting on behalf of more than one applicant in order to conform the legal description to such plat or may require the applicant to reimburse the United States for the cost of preparing a plat of survey.

(d) APPLICABILITY AND PROCEDURE—(1) This section shall apply only to tracts specified in section 2(b) of this Act and to other tracts of public lands in Michigan whose sale is requested by persons or entities asserting claims thereto.

(2) No sale under this section shall take place sooner than 30 days after the Secretary has published in a newspaper of general circulation in the country where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

RESERVATIONS AND CONDITIONS

SEC. 4. (a) MINERAL RESERVATION—All lands conveyed by and any patent or document of conveyance issued pursuant to this Act shall be subject to the reservation to the United States of all minerals in the lands conveyed together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 3 of this Act the Secretary may convey the minerals together with the surface in accordance with Sec. 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719 (1982).

(b) OTHER CONDITIONS—(1) The surface estate in the listed uplands and islands conveyed to the State of Michigan under this Act shall not be conveyed or otherwise transferred by such State to any person or entity other than a political subdivision of such State.

(2) The listed uplands and islands conveyed to the State of Michigan under this Act shall be used only for purposes of public recreation; protection of fish and wildlife (including habitat) and plants; or for the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such listed uplands and islands.

(3)(A) If the State of Michigan attempts to convey title to any part of the listed uplands and islands conveyed to such State under this Act to any person or entity other than a political subdivision of such State, all right, title, and interest in all such uplands and islands so conveyed to such state, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State of Michigan attempts to convey title to any part of any listed uplands and islands conveyed to such State under this Act (and conveyed to such subdivision by such State) to any person or entity other than the State of Michigan, all right, title, and interest in all such uplands and islands so conveyed to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the listed uplands and islands conveyed to the State of Michigan under this Act (and not further conveyed by such State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in all such uplands and islands in the ownership of such State, together with all improvements thereon, shall revert to the United States.

(B) If any of the listed uplands and islands conveyed to the State of Michigan under this Act are conveyed by such State to a political subdivision of such State, use of part of any such uplands and islands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in all such uplands and islands so conveyed to such political subdivision to revert to the United States.

NOTICE AND ENFORCEMENT

SEC. 5(a) PUBLIC NOTICE—(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify residents of the State of Michigan as to the nature and location of the listed uplands and islands to be conveyed to such State under this Act.

(2)(A) The State of Michigan shall provide notice to the Secretary with regard to any conveyance by such State to a political subdivision thereof of any of the listed uplands and islands conveyed to such State under this Act. In the event that the State fails to provide such notice with respect to any such conveyance, the conveyance shall be void ab initio and all right, title, and interest in the land covered by such attempted conveyance shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State of Michigan shall submit to the Secretary a report as to the present ownership, management and use of the listed uplands and islands conveyed to such state pursuant to this Act.

(3) The Secretary shall maintain in the Secretary's offices in the District of Columbia and in an appropriate office in the State of Michigan a current listing of the uplands and islands conveyed to the State of Michigan under this Act, including a record of which if any of such uplands and islands have been conveyed by such State to a political subdivision thereof.

(b) ENFORCEMENT—(1) Any person may submit to the Secretary a complaint alleging that the State of Michigan or a political subdivision thereof has failed to comply with the requirements of this Act or that actions have occurred which have had the effect of causing the reversion to the United States of some or all of the uplands and islands conveyed to such State under this Act.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the uplands and islands conveyed to the State of Michigan under this Act has reverted to the United States pursuant to this Act, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such uplands and islands for any purpose incompatible with the purposes specified in section 4(b)(2) of this Act.

UNIVERSITY OF MAINE HOCKEY—CHAMPIONS ON AND OFF THE ICE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Ms. SNOWE. Mr. Speaker, several weeks ago I informed my colleagues about the story book season the University of Maine hockey team was enjoying. I am pleased to report that not only does this story have a happy ending, it has a moral that all fans of college athletics will want to note.

Under the inspirational leadership of Head Coach Shawn Walsh, the Black Bears compiled the best won-lost record in division I hockey. The squad won the hockey East championship, earned a birth in the NCAA hockey playoffs, and finished the season ranked third in the Nation. Truly a remarkable season for a school which has offered hockey as an intercollegiate division I sport for less then a decade.

While achieving this considerable success on the ice, the squad has also performed well in the classroom. In fact, the grade point average for the hockey team is higher then the university-wide average. Moreover, the members of the squad are quality school citizens. The players show a great deal of appreciation for their loyal fans—home games always sell out—and often offer their time to assist in school and community activities. The success of the hockey team both on and off the ice, as well as the team's close relationship with the community, has resulted in a great deal of positive publicity for the school. Administrators say that this publicity has been one of the leading factors in attracting a record number of applications to the University of Maine this year.

A sign which I'm told hangs in the Black Bears locker room explains the attitude which has helped make the UMaine hockey team one of the most respected programs in the country. It reads, "If you want to be a champion: handle academics like a champion, behave socially like a champion, practice like a champion."

Mr. Speaker, I'm proud to report that the University of Maine hockey team has followed these instructions to the letter.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 14, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 15

9:00 a.m.

Armed Services

*Strategic Forces and Nuclear Deterrence Subcommittee

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the B-1B test plan and program.

SR-222

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SH-216

10:00 a.m.

Finance

To resume hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.

SD-215

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on S. 1961, to establish a uniform system of procedures to facilitate the collection of debts owed to the United States.

SD-226

APRIL 18

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.
SD-116

9:30 a.m.
Special on Aging
To hold hearings on long-term health care for the elderly.
SD-628

Joint Economic
Investment, Jobs, and Prices Subcommittee
To resume hearings to examine current national policies on education, employment and training and their effectiveness in the future.
2175 Rayburn Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

1:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, Office of the Secretary of the Treasury, and the National Treasury Employees Union.
SD-116

2:00 p.m.
Armed Services
*Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings in open and closed sessions on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the pace and direction of the strategic defense initiative, and compliance with the ABM Treaty.
SD-138

Energy and Natural Resources
Research and Development Subcommittee
To resume hearings on S. 1480, to promote the integration of universities and private industry in the National Laboratory system of the Department of Energy in order to improve the development of technology in areas of economic potential, and Amendment No. 1627 proposed thereto.
SD-366

Labor and Human Resources
To hold oversight hearings on activities of the Occupational Safety and Health Administration.
SD-430

APRIL 19

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on international communications.
SR-253

Labor and Human Resources
To continue oversight hearings on activities of the Occupational Safety and Health Administration.
SD-430

Rules and Administration
Business meeting, to consider Senate Resolution 41, to provide for germaneness or relevancy of amendments, Senate Resolution 42, to limit legislative amendments to general appropriations bills, Senate Resolution 43, to establish a procedure in order to overturn the Chair on questions of germaneness under cloture, Senate Resolution 274, to limit sense of the Senate or Congress amendments, Senate Resolution 277, to require amendments to a bill, resolution, or other measure to be in the order that sections appear in such legislation and relate to the subject of such section, Senate Concurrent Resolution 88, to facilitate the convening of the National Silver Haired Congress, and other pending legislative and administrative business.
SR-301

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1720 and H.R. 900, bills to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, S. 1850, to designate a section of the Columbia River in Washington as a study area for inclusion in the National Wild and Scenic Rivers System, and S. 1914, to designate the Wildcat River in New Hampshire as a unit of the National Wild and Scenic Rivers System.
SD-366

Joint Economic
Investment, Jobs, and Prices Subcommittee
To continue hearings to examine current national policies on education, employment and training and their effectiveness in the future.
2175 Rayburn Building

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Banking, Housing, and Urban Affairs
To hold hearings on S. 2256, to provide for intermarket coordination.
SD-538

Foreign Relations
To hold hearings on the nominations of George F. Murphy, Jr., of Maryland, to be Deputy Director of the U.S. Arms Control and Disarmament Agency, and Frederick M. Bernthal, of Tennessee, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.
SD-419

2:00 p.m.
Energy and Natural Resources
To hold oversight hearings on the implementation of the U.S. Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.
SD-366

Select on Indian Affairs
To hold oversight hearings on the management of Columbia River Indian fisheries.
SR-485

APRIL 20

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.
SR-332

9:00 a.m.
Labor and Human Resources
To continue oversight hearings on activities of the Occupational Safety and Health Administration.
SD-430

Select on Indian Affairs
To hold hearings on S. 1987, to establish a separate program to provide housing assistance for Indian and Alaska Natives.
SR-485

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.
SD-192

Armed Services
Conventional Forces and Alliance Defense Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.
SD-124

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on market manipulation.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.
SD-406

1:00 p.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.
SD-124

Armed Services
Readiness, Sustainability and Support Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.
SD-138

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.
SD-192

3:00 p.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

APRIL 21

8:00 a.m.
Veterans' Affairs
To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals.
SR-418

9:00 a.m.
Rules and Administration
Business meeting, to mark up S. Res. 41, to provide for germaneness or relevancy of amendments, S. Res. 42, to limit legislative amendments to general appropriations bills, S. Res. 43, to establish a procedure in order to overturn the Chair on questions of germaneness under cloture, S. Res. 274, to limit sense of the Senate or Congress amendments, S. Res. 277, to require amendments to a bill, resolution, or other measure to be in the order that sections appear in such legislation and relate to the subject of such section, S. Con. Res. 88, to facilitate the convening of the National Silver Haired Congress, and other pending legislative and administrative business.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
Conservation and Forestry Subcommittee
To hold joint hearings on alternative agricultural systems and related agronomic and economic research and extension efforts.
SR-332

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.
SD-116

Armed Services
Defense Industry and Technology Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on truck access.
SR-253

Foreign Relations
To hold hearings on the nomination of George A. Trail III, of Pennsylvania, to be Ambassador to the Republic of Malawi.
SD-419

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.
SD-124

Finance
To resume hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.
SD-215

1:30 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

2:00 p.m.
Energy and Natural Resources
To resume oversight hearings on the implementation of the U.S. Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

APRIL 22

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking, and other organized crime groups.
SD-342

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse, and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.
SD-192

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 1776, to require U.S. coins to be redesigned, to require that one coin be redesigned to commemorate the bicentennial of the U.S. Constitution, and to require profits from the sale of proofsets of U.S. coins to be used to reduce the national debt.
SD-538

Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold hearings on S. 2089, to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and H.R. 1039, to prohibit the issuance of patents for oil shale claims after a specified date.
SD-366

Judiciary
Courts and Administrative Practice Subcommittee
To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.
SD-226

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-128, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings to review the current state of U.S. financial markets, focusing on the problems surrounding the October 1987 market break.
SD-562

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To resume hearings to review the advancement of environmentally sustainable development worldwide in Central America through United States foreign assistance policy.
SD-419

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the Review of the Dairy Policy Commission Study.
SR-332

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

Veterans' Affairs
Business meeting, to mark up S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and other pending committee business.
SR-418

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.
SD-406

1:30 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.
SD-366

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee, Conservation, and Forestry Subcommittee
To resume joint hearings on alternative agricultural systems and related agronomic and economic research and extension efforts.
SR-332

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

2:30 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.
SR-485

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.
SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.
SD-124

MAY 12

8:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.
S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor research and development.
SD-366

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.
SD-366

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-126, Capitol

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.

S-126, Capitol

JUNE 14

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

CANCELLATIONS

APRIL 14

9:30 a.m.

Foreign Relations

To hold hearings on the nomination of Robert S. Gelbard, of Washington, to be Ambassador to the Republic of Bolivia.

SD-419

10:30 a.m.

Select Committee on Intelligence

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

HOUSE OF REPRESENTATIVES—*Thursday, April 14, 1988*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as we speak in our prayers for all our needs and the needs of our world, may we also understand those needs in the lives of individual people and remember them by name in our prayers. We recognize the concerns of others and today we recall individuals whose names we place before You—our friends, our family, our colleagues. May Your loving spirit, O God, bless them and us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

IT IS UNSAFE IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last night Geraldo Rivera and Fox Television Network had a special on murder. I want to commend them for such a fine show.

The facts are very frightening. Mr. Speaker, it is safer to walk the streets of Beirut, Lebanon, than those of Los Angeles. There is more murder in Chicago than in all of Britain. There is more murder in Los Angeles than in all of Canada. Forty percent of the homicides in New York are drug related, and there were 20,000 murders in America last year. Our policemen are outmanned, outgunned, and outfinanced. They are being killed and executed.

The bad guys are winning this particular war. It is time for the death penalty.

There is an old saying that if you subsidize and tolerate something you get more of it, and we tolerate murder in America.

Last night Charles Manson was interviewed again on national TV, and he and many of the other mass murderers agreed on one basic thing: Charles Manson and these murderers are against the death penalty.

I think it is time we start considering the victims. I think it is time we stopped tolerating murder.

WHERE IS FREEDOM OF SPEECH WITHOUT LIMITATION IN NICARAGUA?

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the document signed at Sapoa by the Sandinista government and the Nicaraguan resistance stated, "the Nicaraguan Government will guarantee freedom of speech without limitations as provided for in the Esquipulas II Agreement."

For more than a week, La Prensa—the only nongovernment newspaper in Nicaragua—has been unable to print because of a lack of newsprint. The Sandinista regime, which controls the supply, says it's not its fault La Prensa doesn't have any newsprint. Further, reports today indicate the Sandinistas refuse to permit the entry into Nicaragua of a shipment of newsprint destined for La Prensa.

The House Democratic leadership was more than anxious to express its opinions on the need for a negotiated settlement in Nicaragua and to participate actively in the diplomatic efforts to influence Sandinista actions in Nicaragua. OK. But, where is their effort now to advance the cause of "freedom of speech without limitations"? Why aren't we hearing their indignation that the Sandinistas are keeping La Prensa from publishing?

TAXPAYERS' BILL OF RIGHTS

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, tomorrow is the filing deadline for income tax returns. This tax year has been a time of confusion for many. We already know that the tax forms are very complicated and some of the explanations lacking in clarity, despite the intended "tax simplification" we had been promised.

In light of these problems, we need to ensure that American taxpayers are not treated unfairly for honest mistakes. We also need to ensure that the IRS acts with propriety in investigating discrepancies it uncovers. For these reasons, I am a cosponsor of the taxpayers' bill of rights.

This bill, among other things, requires that the IRS inform taxpayers of their rights and obligations during an audit. It prevents the IRS from using seizures and sums collected as a basis for employee promotions. And one particularly timely provision—it ensures that taxpayers are not liable for mistakes they make in preparing their returns if the error results from faulty advice from the IRS.

The taxpayers' bill of rights is one of the more important pieces of legislation we will consider this year. I urge my colleagues to join me in support of it.

HAZARDOUS WASTE PROTECTION ACT OF 1988

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, 2 years ago an incident occurred in Paoli, PA, which heightened my awareness of the near crisis situation we face in America in dealing with hazardous waste disposal. PCB's had been recklessly disposed of in a rail yard adjacent to a residential neighborhood. The fear, cost and potential threat to public health from this incident and others like it, mandate congressional action.

Today, I am taking that action, and introducing the Hazardous Waste Protection Act of 1988. This measure addresses two serious environmental problems facing our Nation—the disposal of hazardous waste, and the tracking and disposal of PCB's. My colleagues LARRY COUGHLIN and CURT WELDON have joined me in this effort to reduce up-front creation of hazardous waste and eliminate the possibility of dangerous handling of PCB's.

Our legislation will help ensure that we leave our children and grandchildren a safer world in which to grow and prosper.

BILL TO MAKE GENOCIDE A FEDERAL CRIME

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today is the day in which we memorialize the Holocaust, the National Holocaust Remembrance Day.

It had been our intention to have on the floor for the House of Representatives to vote a bill to make genocide, which is one of the most heinous crimes that can be committed against humanity, a Federal crime, in order that the United States could then become a signatory to the worldwide Convention on Genocide. We have

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

missed this target date of April 14 by a few days.

I would like to advise my friends of the House and the other body as well as the public at large that we will have before us very early this spring a bill that will, as I say, make genocide a Federal crime on our statute books and, therefore, qualify the United States to be a signatory to the convention.

I would like to also call attention to my friends in Louisville and Jefferson County, our friends who have been active in this fray, particularly Mrs. Kathy Sloane, who has been very active in this cause and who will be in Washington in due course for what we hope to be a very joyous reception that will signify the Presidential signing of this very important piece of legislation.

TRANSPORTATION SECRETARY COMMENDED

(Mr. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLINARI. Mr. Speaker, Transportation Secretary Jim Burnley is to be commended for the forceful initiative his Department is taking in investigating the management and financial fitness of the Texas Air Corp. to fly commercial air passengers.

The fact that yesterday the FAA also announced a proposed fine of close to $1 million against Eastern Air Lines for safety violations on top of the $9.5 million it previously received clearly demonstrates the need for a special investigation of Texas Air.

We have seen a continuing pattern of problems at both Eastern Air Lines and Continental Airlines, both owned by Texas Air. It is disturbing that in 1984 the NATI inspection program reported Eastern Air Lines' very poor safety record. Now, 4 years later, Eastern's record is still poor.

Ten months ago I wrote to Mr. Burnley's predecessor and asked for a white gloves or thorough inspection of Eastern's fleet. No action was taken then, but I am pleased to see the spotlight of Federal scrutiny being focused on Texas Air at this time.

Through his announcement yesterday, Secretary Burnley is sending the right message to Texas Air management and to the management of all commercial air carriers. This is absolutely essential to ensuring air safety, and the Secretary has made an important move in that direction.

PROPOSED STATUTE OF LIMITATIONS ON SOCIAL SECURITY OVERPAYMENT COLLECTIONS

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, today I am introducing legislation to assure that our senior citizens shall not be forced to pay for the errors that are made by the Social Security Administration.

This problem was brought to my attention by a constituent, Effie Anderson, 71 years old, of Lyons, OR. She received a threatening letter from Social Security and had considerable problems over a number of months with the agency regarding an overpayment she ostensibly received in 1969.

Ms. Anderson contends that she repaid the agency at that time, but her bank has not retained records over those 17 years, nor did she, nor do, I imagine, any Member of this body or most average citizens retain their financial records over a 17-year period.

My bill would limit Social Security's notification and collection of overpayments to a 1-year period so that we will not put our seniors at this tremendous disadvantage in their later years.

Social Security with its budget and computer system ought to be able to identify and collect from constituents in that 1-year period, and I believe this would be a reasonable modification and restraint on their powers.

HOSTILE TAKEOVER OF KOPPERS CORP.

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, I have introduced legislation that, in my view, is essential to the continued seperation of banking and commerce, essential to the protection of federally insured deposits.

This legislation certainly addresses an ongoing and questionably legal takeover of the Koppers Corp. of Pittsburgh. But for my colleagues that are being visited by the army of lobbyists for Shearson-Lehman-Hutton-American Express and foreign banking firms, you should understand that this takeover has implications far beyond the immediate hostile takeover of Koppers.

For the first time, an enormous diversified financial services firm intends to use its resources, which include the resources of America's 20th largest bank, for the purpose of taking an equity position in a corporate takeover of a industrial firm. If Shearson can carve itself out this new, precedent-setting innovative role in the corporate takeover business, the takeover of Koppers is only the beginning. No domestic bank or bank holding company could undertake this role because American laws protect federally insured deposits from this risk.

Second, this takeover has a foreign bank holding company, National Westminster Bank, engaged in activities that the U.S. bank holding companies cannot undertake.

Mr. Speaker, this takeover involves risk for federally insured deposits, involves a foreign bank effort to dismantle a U.S. company with the assistance of Wall Street and foreign financiers. The takeover reeks from lack of concern for Koppers employees, communities, and long-term investors. Pittsburgh today, and your community may be the target tomorrow.

TRADE BILL VETO THREATENED

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the newspapers have carried headlines indicating that the White House is threatening to veto the trade bill unless the Congress drops from that trade bill provisions giving the public the right to know exactly how much foreigners are investing in this country and also that we drop the provision which gives workers the right to know when plant owners are going to pull the plug on them and leave town.

I simply want to say I think it is outrageous for the White House to expect us to vote on a trade bill which requires the dropping of either of those items. This is a pure and simple question of right to know.

The American people have the right to know who is investing in America, and American workers have a right to know who is going to pull the plug on their futures, and I would urge the conferees not to knuckle under, and I would dare the White House to veto a bill on the grounds that those two provisions were contained therein. I would love to see the White House have to explain to the American people why they insisted to take out those two provisions before they would support a trade bill.

PERMISSION FOR COMMITTEE ON JUDICIARY TO HAVE UNTIL 5 P.M., FRIDAY, APRIl 15, 1988, TO FILE REPORT ON H.R. 4222, LEGALIZATION EXTENSION

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 5 p.m., Friday, April 15, 1988, to file a report on the bill H.R. 4222, legalization extension.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky.

There was no objection.

□ 1115

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 778 AND HOUSE JOINT RESOLUTION 287

Mr. MFUME. Mr. Speaker, I ask unanimous consent that my name be withdrawn from cosponsorship of H.R. 778 and House Joint Resolution 287.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1989

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman WILLIAM H. GRAY III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the updated current level of spending, credit, and revenues for fiscal year 1988. This is the first comprehensive report for fiscal year 1988 in the second session of the 100th Congress. An abbreviated version of the current level was filed on March 3. Since the last comprehensive report, filed on October 13, 1987, Congress has cleared and the President has signed the following spending or revenue legislation: interim extension of certain veterans' housing programs (Public Law 100-136); technical amendments to laws relating to Indians (Public Law 100-153); Older Americans Act Amendments of 1987 (Public Law 100-175); Veterans' Housing Rehabilitation and Improvement Act (Public Law 100-198); making further continuing appropriations (Public Law 100-202); the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203); Agriculture Credit Act of 1987 (Public Law 100-233); technical corrections of FERS and CRS (Public Law 100-238); Housing and Community Development Act (Public Law 100-251); rescission of refugee education funds (Public Law 100-242); and assistance and support for Central America (Public Law 100-276). These actions have resulted in changed estimates of budget authority, outlays, and revenues.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1988 (House Concurrent Resolution 93), adopted on June 24, 1987.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985 (House Concurrent Resolution 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1988, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 93 were printed in House report 100-201, July 1, 1987.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 93, on June 24, 1987. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f) of the Budget Act prohibits the consideration of a measure providing new budget authority, entitlement autority, or credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, entitlement, and credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the Appropriations Subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of the current level.

COMMITTEE ON THE BUDGET,
Washington, DC, April 13, 1988.

Hon. JAMES C. WRIGHT, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 93, the Concurrent Resolution on the Budget for Fiscal Year 1988.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 93 were printed in H. Rept. 100-201 (July 1, 1987).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1988 budget resolution, H. Con. Res. 93.

Sincerely,

William H. Gray III, *Chairman.*

Report to the Speaker of the U.S. House of Representatives From the Committee on the Budget on the Status of the Fiscal Year 1988 Congressional Budget Adopted in House Congressional Resolution 93

REFLECTING COMPLETED ACTION AS OF APRIL 12, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate Level	1,146,000	1,034,700	932,800
Current Level	1,144,964	1,031,703	922,250
Amount Under Ceilings	1,036	2,997	
Amount Over Ceilings			
Amount Under Floor			10,550
Amount Over Floor			

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $1,036 million in budget authority for fiscal year 1988, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 93 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $2,997 million in outlays for fiscal 1988, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 93 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 93.

FISCAL YEAR 1988 BUDGET AUTHORITY

Comparison of current level and budget resolution allocation by committee pursuant to section 302

[In millions of dollars]

House committee	*Current level budget authority*
Agriculture	(+161)
Appropriations [1]	(−5,976)
Armed Services	(......)
Banking, Finance, and Urban Affairs	(+199)
District of Columbia	(......)
Education and Labor	(......)
Energy and Commerce	(+566)
Foreign Affairs	(......)
Government Operations	(......)
House Administration	(......)
Interior and Insular Affairs	(−6)
Judiciary	(......)
Merchant Marine and Fisheries	(+94)
Post Office and Civil Service	(−460)
Public Works and Transportation	(−20)
Science and Technology	(......)
Small Business	(−41)
Veterans' Affairs	(−3)
Ways and Means	(+546)

Committees are over (+) or under (−) their 302(a) allocation for "discretionary action".

[1] See next table for detail.

FISCAL YEAR 1988 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION

COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

House Appropriations Subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	(−261)	(−56)	(+23)
Defense	(+4,281)	(......)	(......)
District of Columbia	(−32)	(......)	(......)
Energy and Water	(−701)	(......)	(......)
Foreign Operations	(−176)	(+158)	(+5,944)
HUD/Independent Agencies	(−1,227)	(−33)	(−6)
Interior	(−151)	(......)	(......)
Labor, HHS, Education	(−2,589)	(−29)	(......)
Legislative Branch	(−38)	(......)	(......)
Military Construction	(......)	(......)	(......)
Rural Development and Agriculture	(−2,658)	(−192)	(−227)
Transportation	(−494)	(−95)	(+45)
Treasury, Postal Service	(−311)	(......)	(......)
Contingencies/Unassigned	(−1,619)	(−64)	(−72)
Total	(−5,976)	(−311)	(+5,707)

Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1988

ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SECTION 302

[In millions of dollars]

Committee	Allocation	Reported	Enacted	Enacted over (+)/under (−) allocation
Agriculture	−1,200	−1,474	−1,167	+33
Armed Services	+1,682	+1,482	+1,648	−34
Education and Labor	+5	+5	−229	−234
Energy and Commerce	+550	+487	+54	−496
Interior and Insular Affairs			+9	+9
Post Office and Civil Service	+1,459	+1,458	−299	−1,758
Veterans' Affairs	+367	+385	+343	−24
Ways and Means	−1,389	−173	−2,221	−832

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 13, 1988.

Hon. William H. Gray III
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

Dear Mr. Chairman: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1988 budget (H. Con. Res. 93). This report for fiscal year 1988 is tabulated as of close of business April 12, 1988. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget resolution H. Con. Res. 93	Current level +/− resolution
Budget authority	1,144,964	1,146,000	−1,036
Outlays	1,031,703	1,034,700	−2,997
Revenues	922,250	932,800	−10,550
Direct loan obligations	34,442	34,600	−158
Guaranteed loan commitments	155,145	156,700	−1,555

Since my last report the President has signed P.L. 100-276, providing assistance and support for Central America.

Sincerely,

James L. Blum,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION HOUSE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS APRIL 12, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			922,250
Permanent appropriations and trust funds	777,385	659,641	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,144,464	1,031,475	922,250
II. Enacted this session:			
Rescission of Jewish education centers (P.L. 100–251)	−8	−5	
Veterans home loan program emergency amendments (P.L. 100–253)		1	
Assistance and support for Central America (P.L. 100–276)		43	
Total enacted this session	−8	39	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	5	1	
Special benefits (general retirement)	([1])	([1])	
Special benefits (Federal employees)	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans readjustment benefits	16		
Veterans compensation	282	0	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
Total entitlement authority	507	190	
Total current level as of April 12, 1988	1,144,964	1,031,703	922,250
1988 budget resolution H. Con. Res. 93	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	1,036	2,997	10,550

[1] Less than $500 thousand.

Note.—Numbers may not add due to rounding.

SITUATION WITH RESPECT TO THE FEDERAL WORK FORCE

The SPEAKER. Under a previous order of the House, the gentleman from California [Mr. Edwards] is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, as we enter the last year of the Reagan Presidency, some of my colleagues and I want to take this opportunity to reflect on the impact of the administration's policies concerning the U.S. Postal Service, and more specifically, its employees. Postal workers, who make up approximately one-fourth of the total Federal work force, have consistently been threatened by an administration that refuses to recognize the commitment that these public servants bring to the task of delivering America's mail.

The postal workers provide us with a service that touches the lives of all Americans daily. Approximately 800,000 postal employees handle an average of 511 million pieces of mail each day. In 1987, the U.S. Postal Service delivered over 150 billion pieces of mail. The postal employees demonstrate their professionalism daily by making sure that our letters are delivered in an efficient and timely manner. They have certainly proven themselves worthy of the trust we place in them to make sure that Americans in all parts of the country are able to keep in touch with each other.

Yet, over the past 7 years, the Reagan administration has launched attacks on all fronts against the postal employees. The attacks were based on the erroneous belief that the salaries and benefits of postal employees are one of the root causes of the Federal deficit. Following this belief, the administration carried out several attempts to drastically reduce postal employees' retirement benefits and health benefits.

When those attempts failed, the administration turned its efforts toward trying to privatize the postal system, believing that running the Postal Service for a profit would make the system less costly and provide better quality service. The administration has proposed this idea despite the fact that the American people already enjoy the most efficient postal system in the world.

At this time I yield to the gentlelady from Colorado [Mrs. SCHROEDER], who, through her service as chairwoman of the House Subcommittee on Civil Service, has been an outspoken supporter of the valuable work that Federal employees, including postal employees, perform for our country.

Mrs. SCHROEDER. I thank the gentleman from California.

Mr. Speaker, it is time to set the record straight. The Postal Service has been criticized recently because of cuts in service at the same time they have increased the price of a postage stamp. I can understand why people are frustrated. At face value it looks bad. But, as we all too well know, appearances can be deceiving.

The fact is, the Postal Service has been saddled with 1.2 billion dollars' worth of budget cuts. These cuts were ordered as part of budget reconciliation. The Postal Service was forced to make cuts to satisfy the Office of Management and Budget. No solution would have been acceptable to OMB except one that left the Postal Service in critical condition. They would not allow the Postal Service to decide where the cuts should be made. Why? Because they knew if the Postal Service was forced to cut services and construction projects, mail users would be upset. And if mail users were upset the administration could gain support for privatization. The administration has pushed for privatization since day one and this was their chance to knock the legs out from under the Postal Service.

What is tragic is that in the end the American public will pay. The Postal Service employees and the mail users deserve better. The solution is to take the Postal Service off-budget and allow them to run an efficient service unhampered by a political agenda.

Mr. Speaker, I compliment the gentleman from California and I thank him very much for having this special order.

Mr. EDWARDS Of California. I thank the gentlewoman from Colorado for her contributions which have always been massive in this important area of public service.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. CLAY], a member of the House Committee on Post Office and Civil Service, the senior ranking member on that committee and author of H.R. 3400, and whose leadership was crucial to the passage of that measure here in the House.

Mr. CLAY. I thank the gentleman from California and particularly commend him for taking this special order so that we might point out some of the deficiencies of this administration in dealing with its Federal work force.

Madam Speaker, H.R. 3400, which would allow Federal employees to participate more fully in the political process during their free time, was passed in this very Chamber last November, despite President Reagan's veto threat. This bill is now under consideration by the Senate. From a constitutional rights perspective, the Hatch Act is a very troublesome law. It was originally intended to shield Government employees from political pressures. Over the years, however, it has been used more to harass and intimidate them than to protect them. The Hatch Act is complicated and confusing by nature. It has been enforced in ways that are contradictory and often incomprehensible to the average worker. Its application has resulted too many times in senseless restrictions on the political activity of Government employees.

The Hatch Act was enacted in 1939 to prevent the corruption or coercion of the Federal work force during political campaigns. At the time the act became law, the Government employees it affected had few protections. The act was viewed as a means of shielding them from corruption and the coercion of their superiors.

Today, however, the original purpose of the Hatch Act has been superseded. Most Federal workers are not protected by the codes of ethics, election laws, and collective bargaining and grievance procedures.

There must be a balance between the rights of public employees to participate in the political process as private citizens and our need for a neutral, efficient government bureaucracy. The Hatch Act does not strike that balance more than anything, it deprives citizens of the right to become involved in any way in the political process.

Inherent in the act is the proposition that, if you work for the Federal Government, you must give up your first amendment rights of freedom of speech, freedom of association, and freedom to petition the Government for redress of grievances.

Federal employees can lose their jobs for violating the Hatch Act. Naturally, they are hesitant to participate in any political activity they think could even remotely be construed as a violation.

This chilling effect on political participation is intensified by the arbitrary scope and enforcement of the act. Political bumper stickers are OK. Political lawn signs are not. Sometimes a Government employee's invitation to a Member of Congress to visit the employee's worksite results in a warning from the Office of Special Counsel. Sometimes it does not.

The act has been invoked to prohibit the distribution and posting of congressional voting records. It has been used to bar Federal employee-sponsored voter registration drives. It has stopped Government employees from appearing in "unhatched" spouses' campaign literature. It has prevented Government employees from submitting petitions to Congress regarding specific legislation, and the list goes on and on.

The Hatch Act needs to be modernized. We need not sacrifice the first amendment right of voluntary political participation of Government employees to maintain the neutrality and efficiency of the Government bureaucracy. Certainly, there must be safeguards against corruption or coercion of Government employees, but surely we can achieve that goal without trampling on civil rights. That is why the House so overwhelmingly supported H.R. 3400, which not only allows Federal employees to participate more fully in the political process, but also places even tighter restrictions on the political activities at the workplace.

This is a responsible measure, which the President irresponsibly opposes.

I yield back to the gentleman from California.

So I thank the gentleman from California for allowing me to participate in this session.

Mr. EDWARDS of California. I thank the gentleman from Missouri who day in and day out is the most stalwart supporter for the rights of the Federal worker, the postal workers and I am sure on a nationwide basis they are very grateful.

Madam Speaker, since the administration's attempts to dismantle Federal employees' benefits have for the most part failed, the administration has now moved on to another form of attack on the Postal Service. This latest attempt takes the form of privatization of the U.S. Postal Service.

Under privatization, the Government would sell off delivery routes to those private companies who felt they could make a profit by delivering the mail on a particular route.

☐ 1130

Madam Speaker, we are honored today to have also participating in this dialog the very distinguished gentleman from Michigan [Mr. FORD] who serves as the chairman of the House Committee on Post Office and Civil Service, which oversees all aspects of the Federal work force. Mr. FORD has long been a strong supporter of fair wages and employment rights for Federal employees.

Mr. FORD of Michigan. Madam Speaker, I thank the gentleman from California.

I would like to suggest one correction to the gentleman's comment, and that is this is not a new idea with the Reagan administration. In one way or another in each budget submitted since 1981, when coincidentally Reagan became President and I became chairman of Post Office and Civil Service, he turned it into a very busy committee because there has been a constant and very direct attack in every possible way that you might attack the Federal work force, Federal employees, and the Post Office as well. In their budgets that have come to us each year there has been one suggestion after another that somehow the Post Office would work much better if you did something magic called privatizing it.

As a matter of fact, the first budget that the President sent to us had this—and I am paraphrasing—rather strange approach. It said that in an age when everybody is connected to an efficient telephone system there is no reason why the Government should subsidize a high-cost package delivery system.

Now anyone who read that knew automatically that the person who wrote it did not know what they were talking about. First, if anyone believes that they have an efficient telephone system in their part of the country, I would like to meet them because they are a lot luckier than the folks I represent in Michigan. The breakup of the telephone companies has not produced either cheap or efficient telephone service. It has, in fact, increased the cost and decreased the efficiency.

But more importantly with respect to the Post Office, we are not the biggest parcel delivery service anymore. The United Parcel Service delivers far more volume than the U.S. Postal Service does, but the difference is, if you are living on a farm and you order your baby chicks through a mail order catalog, our rural letter carrier will bring them to you. The private companies would not do that. They are not interested in coming out to the farmer, and I have no doubt that in my urban area, very close to the city of Detroit where my 530,000 constituents are compacted in a very accessible place with good roads and, even in the wintertime, plenty of facilities to keep them open, that somebody could buy that little piece of the Postal Service and make a profit delivering the mail.

And I have no doubt that the Post Office makes a profit in my district. But it has to make a profit in my district so that it can absorb the cost of providing 6-day service to any American in the remotest part of our country.

And we have made that promise since before the Constitution. The Postal Service predates the Constitution. It is of some historical interest to students of the Post Office to note that, if you read the Constitution like a book, and start from the front and assume that they put the most important things up close to the front, you will find, interestingly, that the framers of the Constitution provided that the Congress could provide for a postal service before they ever got further on down in the Constitution to talking about providing for an army. So they thought first of the importance to this country of having a universal mail delivery/communication system, and then they later thought, "Well, maybe we ought to have an army also in case something happens," and we all know that it did a few years later when the British came back in the War of 1812.

But it is important to note that the Congress has a constitutional responsibility to maintain a postal service for the American people, and to fulfill that constitutional responsibility we have to look at the relative merits of what the Reagan people are proposing.

Madam Speaker, we permit and indeed have a great deal of contracting out in the Federal Government. We contract for food services on military bases now. We contract for guard services at all kinds of Federal installations. We contract for janitorial services. We contract for all kinds of services. Those contracts went out over the years on this basis: if it was found that it was cheaper for the taxpayers to have a private contractor perform a particular function for the Government, and the contracting officer could certify that it would save the Government money by doing that and still provide the public service, they could go ahead and contract.

The Reagan people operate with an entirely different set of ethics and a different approach. Their approach is, if we have got a friend who can make a buck by taking over a piece of the Government's action, let us take care of our friends who want to make a buck, and the hell with the public service, and who cares what the taxpayers think about it and whether the people on the rural routes get taken care of. If we have some friends who can make a few bucks let them make a few bucks—but I can tell you this right now:

The United Parcel Service is the biggest and most successful competitor we have, and we live side by side with it. We have no trouble with it. It delivers all over the country, except it does not deliver in Alaska because even with the tremendous expertise that it has developed over the years and the tremendous resources it has as the largest company of its kind, even bigger than we are now in the parcel business, it cannot deliver in Alaska at a break-even or a profitmaking rate. And so it does not try to deliver in Alaska. We deliver parcel post in Alaska, and we deliver to people all over Alaska.

If you are an elderly woman living alone on the end of a 5-mile, dead-end road in Montana, 6 days a week our letter carrier comes by and looks to see if your little red flag is up on the box. He does not just come out there when he has got something to deliver. He comes every day to see it you might have something that you want to send as well as to bring you whatever it is that he has to deliver to you.

Indeed, I find it one of the marvels that the Wall Street Journal from time to time speaks with some affection about this idea of privatization. They depend on the post office very much. But I like to remind them when I talk to them and their lobbyists that, if this little elderly woman in Montana chooses to get the daily Wall Street Journal, she can receive at the end of that rural route today's Wall Street Journal before noon—today's, the same one you buy here in Washington or you buy in New York City. It is printed in different places around the country simultaneously during the night, but our rural letter carrier will bring her the Wall Street Journal.

That may not be an important linchpin on which to hang the whole argument about preserving her rights, but that is a right and a privilege that she, as an American citizen, has enjoyed along with her ancestors for 200 years. These people want to turn it on its head.

Madam Speaker, one more thing I would like to say: You frequently hear spokesmen for the Reagan administration speaking admiringly of Margaret Thatcher's efforts to privatize the government's functions in Great Britain. The gentleman from Missouri [Mr. CLAY] and I have taken the time to go over and meet with Margaret Thatcher's privatizers, and they were quite shocked, as a matter of fact, when we talked to them about what the Reagan people had in mind for our post office. They say that it is patently ridiculous. They are engaged in doing some privatizing in the British post office, and this I find almost humorous.

What they are calling privatizing is this: they are actually going out to little corner general stores in little villages and saying, "How would you like to have a contract to sell stamps, and take in packages and so on, and we'll have somebody come by once a day and pick it up?"

Now every American has seen this all over our country. Since the beginning of our country we have had little country stores where you can buy your stamps, and it did all the things that a city post office did. They are called contract stations. We have thousands of those as a matter of tradition. The British are now going to experiment with a couple thousand of those for the first time, and they are calling that privatization.

□ 1140

So anybody who tries to say we are following the great example of Margaret Thatcher is wrong. They do not know what they are talking about. What is it that Margaret Thatcher really wants to privatize? She has already privatized the largest trucking company in Great Britain. Never in this country did our Federal Government ever get into the truck transportation business in competition with private enterprise. We have never been in it.

The British motor system was a government-owned and operated trucking company and if you wanted to go into the business of hauling furniture from town to town or hauling merchandise from town to town, you had to compete with the government. She has now sold that off to private enterprise.

We say, "Bully for her. We never were in that business in the first place."

She is not interested in selling British railways, by the way, or British air. We do not run government-owned railroads and we do not run government-owned commercial airlines. So the comparisons that they make with the British are altogether inappropriate.

We have seen most recently attempts by the administration, actually through the instrument of the Director of Office of Management and Budget, during the last budget reconciliation exercise to literally use the budget process to cripple the post office and to reduce the efficiency of the post office, and it will have that effect. I am sorry to say that we could not stop it. We mitigated it, but we could not stop it.

The Postal Service will not be as efficient during the next 2 years as it would if we had left them alone.

Now, during the Nixon administration, surprisingly again, there does not seem to be any consistency with this administration, they came to town and said they were Republican. Well, Nixon was a Republican, too. The Republicans were very proud of the fact that during the Nixon administration we created a separate corporation to run the Postal Service with a Board of Directors appointed by the President of the United States.

I might say for California that currently that Board of Directors is very heavily weighted with California citizens, but it is a good Board, and they are doing a good job.

They pick the Postmaster General. He is no longer a political appointee. Nobody in Congress can decide who the Postmaster General is going to be and the President cannot do it. It is that Board.

He, incidentally, the new one, has just come from being one of the most successful bankers in the gentleman's State to being the Postmaster General.

Now, in the budget reconciliation process they arbitrarily, in order to phony the books and make the deficit look better, forced us into telling the post office that they had to stop construction of new buildings. They had to stop purchasing electronic mail sorting equipment. They had to slow down the purchase of new vehicles, just slow everything down.

Now, costs of capital projects will be higher next year than this year. We know that it was not done for any sound business purpose. Privatizers such as the OMB Director have one pure and simple motivation—to cripple the Postal Service. He denies this. He has been before my committee and I have made this accusation to him on the record and he has denied on the record that that is his true motive; but my belief, my own prejudice, is that what he was trying to do in this one last gasp before this administration leaves town, is to so discourage the American people about whether or not the Postal Service was efficient, effective, and was serving them, that they would start to listen sympathetically to these phony-baloney kind of arguments that will make a fast buck for a few big shots in this country for a short time and leave American communications in shambles.

There is nothing that Americans have the right to and take for granted as regularly as their mail service. It is still, is it not, worth a newspaper story if a letter gets delivered late or if a letter gets lost?

Last year the U.S. Postal Service delivered 154 billion pieces of mail from one American to another and from people overseas to Americans, 154 billion.

When we created the corporation for Mr. Nixon, the post office was then delivering around 70 billion, less than half as much as now. That tremendous growth has occurred and we have about the same number of employees working for the post office today delivering 154 billion pieces as we had when we were delivering 70 billion.

I submit that if I owned stock in an automobile company that was increasing its productivity at anythng close to the rate of the increased productivity in the post office, I would retire happily from here, write my memoirs and clip my coupons, because I would be rich forevermore, no matter how small an investment.

There are few private companies during the 18-year life of the U.S. postal corporation that have shown a consistent year-by-year increase in productivity that comes any place close to that of the Postal Service.

Reagan used to like to say, "If it ain't broke, don't fix it." I hope that somebody can get close enough to him, maybe we could send a message to Nancy, "Ronnie, if it ain't broke, don't try to fix it."

The U.S. Postal Service is and always has been a universal service available to every American regardless of class or location in this country, and everybody pays the same price.

Now, when you pick up the telephone to call a relative across the country, you pay a penalty because that relative and you are separated by a long distance, but if you put a first-class letter in the mail it does not matter if your relative is on the other side of town or the other side of the country. For the same price we will get it there for you.

The dedicated people who work for the post office, I have served in the U.S. Navy, I have served in the U.S. Air Force, and I have had the pleasure of serving here for 24 years, I have never met better people, more dedicated to the mission that they are embarked on and proud of their service than the Federal postal employees, and that goes for the rural letter carrier, the city letter carrier, the mail handler, the clerk, the Postmaster, the managers, every one of them. They have an esprit de corps that is as good or better than anything you will find in any of our elite military operations at any time, even in war time.

I am very proud of them and very proud to be the chairman of the committee that has the responsibility for watching to make sure that they are always doing their job.

Occasionally we do criticize and occasionally we find a reason to criticize. Unfortunately, we had a former campaign official for Mr. Reagan from the State of Ohio in jail a couple of years ago because he was involved in a fraud against the Post Office, which has cost us a lot of money.

One final thing. What would we save the taxpayers if we privatized it? All the subsidies we are paying them? Year 1982 is the last year that the gentleman from California and I voted to spend one nickel to subsidize the operation of the post office. The U.S. Postal Service pays its own way by selling service to customers. The people who buy stamps to put on letters or packages are the people who pay for the post office, not the person who pays income tax. There is not a penny's worth of your income tax or my income tax going over there to subsidize that operation. It is a business that carries its own weight. That is why they recently had to raise the rates and why again 3 years from now there probably will be an increase in rates, just as 3 years from now when you go into the store the items you are buying now will be a little bit more expensive than they are today; but we do not use taxpayers' money to subsidize that post office. We use taxpayers' money to subsidize charitable organizations so that they can mail cheaper, and others, but we do not subsidize the employees of that operation. They do it on their own and they do it proudly and they do it well, and I think it is a great disservice to this country for the Reagan people to continue running around trying to fool somebody into thinking that they could get a bargain, a better bargain.

I ask people to compare the price of a first-class stamp here with anyplace else. Do most of the people in California think that Canadians are pretty much like us and that things in Canada are usually pretty much like they are here? It costs almost 28 cents in Canada for what we pay 25 cents for here.

So I would ask people to look very, very closely at these get rich schemes that are being proposed. We know from the newspapers what kind of people are lurking out there in the wings ready to make a fast buck if we do not watch them closely.

I promise that I will stick with the gentleman from California as I have in the past. I have always been proud to follow the gentleman's leadership. Nobody in this House has demonstrated more devotion to protecting the rights of Federal employees as citizens, because they are citizens, even though they work for the Government. I have followed the leadership of the gentleman from California for 24 years. I intend to keep doing it as long as we have the privilege of being here, and those Jaspers, as Congressman JOHN DINGELL says, are not going to get our postal pelts hanging on their barn doors.

Madam Speaker, privatization is a concept that is very near and dear to the Reagan administration's heart. This administration has consistently advocated that the Federal Government should be run more like a business. After all, they say, competition always results in lower prices for the consumer.

When it comes to the Postal Service, the Reagan administration's blind faith in the virtues of free market competition is misplaced. The administration ignores the fact that while privatization might result in lower rates for some urban postal customers, it would certainly destroy the overall efficiency of the postal system we currently enjoy, the universal service our citizens know and expect.

The cornerstone of our postal system, the postal monopoly, predates the Constitution in our Nation's history. Congressional actions over the years have supported the postal monopoly as the best way of preserving efficient communications throughout our land. The Postal Reorganization Act of 1970 reiterated the need for postal monopoly so that the Postal Service could continue to provide prompt, reliable, and efficient service to all areas of the country. The postal monopoly is necessary to "bind the Nation together."

The idea of privatizing the mail system is not a new one. In the 1800's private express companies were allowed to move the mail. Predictably, only the profitable urban routes were taken over, leaving the expensive rural routes to be served by the post office. And when many of the private companies failed, the effects on the quality and cost of mail delivery were disastrous.

The advocates of privatization believe that competition alone will ensure lower costs and quality service. They completely overlook the fact that a crucial ingredient of quality postal service is public accountability. The only accountability that private express carriers have is to the bottom line. Privatization of the Postal Service would mean the end of statutory protections for letter mail. Would failing private express companies feel obligated to ensure the integrity and deliverability of letters in their custody? Or once the money ran out, would they stop delivery of the mail?

Those who advocate the privatization of the mail system fail to heed the advice of an old saying, "if it ain't broke, don't fix it." Sure, complaining about the Postal Service is a popular thing to do, much like complaining about the weather. And certainly, any operation as large as the U.S. Postal Service is going to make occasional mistakes.

However, the reality is that the United States has the most efficient mail delivery system in the world. For 25 cents, Americans can mail a letter anywhere in the United States and be assured that it will reach its destination in a timely manner. At 25 cents, the first-class stamp is still a bargain.

Privatization of the mail system would bring an abrupt end to the convenience the American postal customer currently enjoys and depends on. As private express companies compete for the lucrative urban routes, the Postal Service will be required to charge exorbitant rates to serve the rural areas. Rural Americans would be forced to pay higher postage rates than urban Americans. This is blatantly unfair.

Thus, privatization would result in the death of universal postal service and the end of affordable, universal postal rates which all Americans have come to expect, and which they deserve.

The United States already has in place a committed work force and a system of specialized machinery and vehicles which provide Americans with the most efficient delivery system in the world. There is absolutely no reason for the Reagan administration to destroy a system that already serves the American people so well.

Mr. EDWARDS of California. Well, Madam Speaker, I thank the distinguished chairman of the Post Office and Civil Service Committee. It was a rare treat to hear his eloquent remarks. I do not think anybody knows more about the Postal Service and is a better friend of the Postal Service and therefore consequently is a great friend of the American people.

Madam Speaker, it is the responsibility of Congress to see that postal employees do not suffer at the hands of an administration which does not recognize their value to our postal system. Those of us who have spoken today certainly intend to continue the fight to see that Congress continues to live up to this responsibility. The U.S. Postal Service is too valuable an enterprise to continue to be used as a political scapegoat.

Madam Speaker, I thank my colleagues for participating in what I hope is an important dialog today.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. DERRICK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on April 18.

Mr. KANJORSKI, for 60 minutes, on April 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SCHUETTE) and to include extraneous matter:)

Mr. LAGOMARSINO.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. TORRICELLI in two instances.

Mr. EDWARDS of California.

Mr. LAFALCE.

Mr. FEIGHAN.

Mr. LEVINE of California in two instances.

ADJOURNMENT

Mr. EDWARDS of California. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 52 minutes a.m.), under its previous order, the House adjourned until Monday, April 18, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3412. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Israel for defense articiles estimated to cost $50 million or more (Transmittal No. 88-17), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3413. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Pakistan for defense articles estimated to cost $50 million or more (Transmittal No. 88-14), pursuant to U.S.C. 118; to the Committee on Armed Services.

3414. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to the Arab Emirates for defense articles estimated to cost $50 million or more (Transmittal No. 88-20), pursuant to U.S.C. 118; to the Committee on Armed Services.

3415. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Review of Receipts and Disbursements of the Public Service Commission's Agency Fund for FY 1987," pursuant to D.C. Code section 47-117(d); to the Committee on District of Columbia.

3416. A letter from the Secretary of Education, transmitting a copy of final regulations for institutional eligibility under the Higher Education Act of 1965, as amended, and student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3417. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Pakistan for defense articles and services estimated to cost $256 million (Transmittal No. 88-13), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3418. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Pakistan for defense articles and services estimated to cost $53 million (Transmittal No. 88-14), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3419. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Pakistan for defense articles and services estimated to cost $34 million (Transmittal No. 88-12), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3420. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Egypt for defense articles and services estimated to cost $32 million (Transmittal No. 88-15), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3421. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Egypt for defense articles and services estimated to cost $180 million (Transmittal No. 88-16), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3422. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Israel for defense articles and services estimated to cost $2 billion (Transmittal No. 88-17), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3423. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to the United Arab Emirates for defense articles and services estimated to cost $168 million (Transmital No. 88-20), pursuant to 22 U.SC. 2776(b); to the Committee on Foreign Affairs.

3424. A letter from the Director, Information Security Oversight Office, transmitting a copy of their fifth and final "Annual Report to the President FY 1987" on the Governmentwide information security program; to the Committee on Government Operations.

3425. A letter from the Records Officer, U.S. Postal Service, transmitting notification of a proposed new computer matching program, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

3426. A letter from the President, American Academy and Institute of Arts and Letters, transmitting the annual report of the activities of the Academy-Institute during the year ending December 31, 1987, pursuant to section 4 of its charter (39 Stat. 51); to the Committee on the Judiciary.

3427. A letter from the Secretary of Health and Human Services, transmitting a report on the studies by the Department and the National Academy of Science of the quality control systems of the aid to families with dependent children [AFDC] and Medicaid programs, pursuant to 42 U.S.C. 603 note; jointly, to the Committees on Ways and Means and Energy and Commerce.

3428. A letter from the Secretary of Defense and Energy, transmitting a report entitled, "Contingency Plans to Deal with Disruptions in Persian Gulf Crude Oil Supply," prepared jointly by the departments with the assistance of the Department of State, pursuant to Public Law 100-180, section 1222(a); jointly, to the Committees on Armed Services, Energy and Commerce, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Medicare health maintenance organizations: the international medical centers experience (Rept. 100-568). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 4222. A bill to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program; with amendments (Rept. 100-569). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STOKES:

H.R. 4387. A bill to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes; to the Committee on the Permanent Select Committee on Intelligence.

By Mr. GONZALEZ:

H.R. 4388. A bill to establish a United States-Mexico Joint Development Bank; jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 4389. A bill to amend the Demonstration Cities Metropolitan Development Act of 1966 to provide relocation assistance to certain persons affected by closures of Coast Guard bases and installations; jointly, to the Committees on Banking, Finance and Urban Affairs and Merchant Marine and Fisheries.

By Mr. DEFAZIO:

H.R. 4390. A bill to amend title II of the Social Security Act to prohibit, after 2 years after the commencement of any person's period of entitlement to monthly insurance benefits under such title, any adjustment in a person's monthly insurance benefits under such title, or any recovery by the United States from such person, in connection with any overpayment of benefits under any prior entitlement; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself and Mr. WYDEN):

H.R. 4391. A bill to amend the Controlled Substances Act to suppress the diversion and trafficking of chemicals utilized in the illicit manufacture of methamphetamine, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. FEIGHAN:

H.R. 4392. A bill to amend title 39, United States Code, to make nonmailable any mail matter which is designed to resemble a bill or invoice but which in fact constitutes a solicitation of donations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER (for himself and Mr. Moorhead):

H.R. 4393. A bill to amend provisions of title 28, United States Code, relating to judicial discipline, and to establish a commission to study the constitutional issues involved in the impeachment of an article III judge; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself, Mr. Coughlin, and Mr. Weldon):

H.R. 4394. A bill to amend the Toxic Substances Control Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WYLIE:

H.R. 4395. A bill to continue the suspension of duties on m-xylenediamine and 1,3-bis (aminomethyl) cyclohexane; to the Committee on Ways and Means.

By Mr. LEVINE of California (for himself, Mr. Wolf, Mr. Evans, Mr. Gray of Illinois, Mr. Fuster, Mr. Matsui, Mr. de Lugo, Mr. Young of Alaska, Mr. Lowery of California, Mr. Fawell, Mr. Dixon, Mr. Fauntroy, Mr. de la Garza, Mr. Lewis of Florida, Mr. Kostmayer, Mr. Bilbray, and Mr. Skelton):

H.J. Res. 540. Joint resolution to provide for the designation of September 15, 1988, as "National Drug Abuse Resistance Education Day"; to the Committee on Post Office and Civil Service.

By Mr. MACK (for himself, Mr. Hansen, Mr. Denny Smith, Mr. Gingrich, and Mr. Bilirakis):

H. Con. Res. 281. Concurrent resolution expressing the sense of the Congress that the United States should withdraw from the 1977 Panama Canal Treaties; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

310. By the SPEAKER: Memorial of the Senate of the State of Idaho, relative to the short timeframes imposed upon the States to implement changes to the Food Stamp Program; to the Committee on Agriculture.

311. Also, memorial of the Senate of the State of Idaho, relative to amending the Federal Power Act to recognize State authority to control and manage Idaho's waters; to the Committee on Energy and Commerce.

312. Also, memorial of the Senate of the State of Idaho, relative to the financial impact on State and local governments due to loss of revenues resulting from wilderness designations; to the Committee on Interior and Insular Affairs.

313. Also, memorial of the Senate of the State of Idaho, relative to necessary assistance as required to improve the south fork of the Salmon River Road; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 341: Mr. Bliley and Mr. Weber.

H.R. 1158: Mr. Bonker, Mr. Dellums, Mr. Scheuer, Mr. Savage, Mr. Clay, Mr. Wheat, and Mr. Udall.

H.R. 1656: Mr. Richardson.

H.R. 3907: Mr. Eckart and Mr. Nelson of Florida.

H.R. 4036: Mr. Morrison of Connecticut and Mr. Kildee.

H.R. 4058: Mr. Barnard, Mr. Wolpe, and Mr. Fauntroy.

H.R. 4059: Mr. Kleczka, Mr. Martinez, and Mr. Fauntroy.

H.R. 4078: Mr. Stokes.

H.R. 4091: Mr. Gregg, Mr. Lightfoot, Mr. Solomon, and Mr. Horton.

H.R. 4112: Mr. Barnard, Mr. Wolpe, and Mr. Fauntroy.

H.R. 4119: Mr. Coble, Mr. Davis of Illinois, Mr. Lott, Mr. Ridge, Mr. Buechner, Mr. Gingrich, Mr. DeWine, Mr. Grandy, Mr. Brown of Colorado, Mrs. Johnson of Connecticut, Mr. DioGuardi, and Mr. Emerson.

H.R. 4222: Mr. Mrazek.

H.R. 4233: Mr. Fascell, Mr. Gibbons, Mr. Young of Florida, Mr. Lehman of Florida, Mr. Ireland, Mr. Hutto, Mr. Mica, Mr. Nelson of Florida, Mr. McCollum, Mr. Shaw, Mr. Bilirakis, Mr. Lewis of Florida, Mr. Mack, Mr. MacKay, Mr. Smith of Florida, and Mr. Grant.

H.R. 4308: Mr. Burton of Indiana, Mr. Smith of Florida, and Mr. Solomon.

H.J. Res. 420: Mr. Crockett, Mr. Kildee, Mr. DeFazio, Mr. Brown of Colorado, Mr. Borski, Mr. Oberstar, Mr. Moakley, Mr. Edwards of Oklahoma, Mr. Lewis of Georgia, Mr. Lehman of Florida, Mr. Mack, Mr. Conte, and Mr. MacKay.

H.J. Res. 438: Mr. Dixon, Mr. Berman, and Mr. Mineta.

H.J. Res. 468: Mr. Martinez, Mr. Mazzoli, Mr. Panetta, Mr. Lewis of Florida, Ms. Kaptur, Mr. Lancaster, Mr. Livingston, Mrs. Meyers of Kansas, Mr. Neal, Mr. Akaka, Mr. Kostmayer, Mr. Miller of Washington, Mr. Roe, Mr. Ackerman, Mr. LaFalce, and Mr. Erdreich.

H.J. Res. 483: Mr. Slattery, Mr. Fawell, Mr. Pashayan, Mrs. Vucanovich, Mr. McCollum, Mr. Espy, and Mr. Livingston.

H.J. Res. 534: Mr. Jenkins, Mr. Young of Alaska, Mr. Matsui, Mr. Mrazek, Mr. Chappell, Mr. Callahan, Mr. Kasich, Mrs. Johnson of Connecticut, Mr. Smith of Florida, Mr. Henry, Mr. Lewis of California, Mr. Kostmayer, Mr. Fuster, Mr. Spence, Mr. Green, Mr. Frenzel, Mr. Price of Illinois, Mr. Anderson, Mr. Coleman of Missouri, Mr. Jeffords, Mrs. Lloyd, Mr. Wolf, Mr. Gray of Illinois, Mr. Solomon, Ms. Kaptur, and Mr. Schumer.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 778: Mr. Mfume.

PETITIONS, ETC.

Under clause 1 of rule XXII,

153. The Speaker presented a petition of the Republican Party of Fayette County, Lexington, KY, relative to a strong national defense policy; which was referred to the Committee on Armed Services.

SENATE—*Thursday, April 14, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places—Ephesians 6:12.

Eternal God, perfect in truth and justice, may we heed the diagnosis of the apostle Paul as he warns of the basic conflict in history. As leadership struggles, sometimes futilely, in the war against social evil—drugs, pornography, moral revolution—remind them that behind the visible enemy is the invisible, spiritual antagonist. Despite his subtle strategy of anonymity—his efforts to prove his nonexistence—help us to take Satan seriously. Forgive the tendency in the pragmatics of politics to treat prayer as useless and irrelevant. Illuminate our minds to the reality that prayer is the chief weapon against the invisible foe and life's greatest victories are won by earnest prayer. Lord, teach us to pray. Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 14, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

THE ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

PANAMA

Mr. BYRD. Mr. President, the overall situation in Panama continues to seriously deteriorate as General Noriega is increasingly successful in withstanding the economic sanctions which the administration has imposed on his corrupt regime.

While General Noriega stubbornly continues to hold the people of Panama hostage to his drug-dealing control of their government, the impact of the imposed economic sanctions is causing great distress to the families of large numbers of poor Panamanian workers.

Mr. President, I fully support the administration in its efforts to free the people of Panama from the subjugation of General Noriega's criminal regime, and I fully support the economic sanctions that have been directed by the administration toward that regime. But, I am increasingly concerned about the future course of United States policy in Panama. There have been news reports indicating that the administration is considering using military force to dislodge General Noriega.

Mr. President, we have an obligation under the Panama Canal treaties to defend the canal and keep it open to free access by all nations against any threat, any threat, from without or from within Panama. The United States shall fully comply with that obligation. I believe we also have a responsibility to the people of Panama to try to help them restore democracy in their land.

But, Mr. President, in this latter regard, we should not do this alone. General Noriega is a corrupt symbol of the widespread hemispheric malaise concerning international drug traffic. I believe it is time for the United States to formally place this serious problem of General Noriega and drug dealing throughout the hemisphere squarely before the Organization of American States.

Today, I have sent a letter to President Reagan urging him to bring this urgent matter before that hemispheric body and to seek the cooperation of the other republics of our hemisphere in working closely together to resolve this grave crisis. We need not give General Noriega a Yankee devil to blame for all the evil he has unleashed upon the Panamanian people. Let him hear the chorus of his neighbors rail with our voice raised against his corruption.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDING OFFICER. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I reserve my time.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak for not to exceed 5 minutes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may be allowed to speak for 6½ minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the remainder of my time be yielded to the distinguished Senator from Wisconsin if he needs that much time in addition to his 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

HOW JESSE JACKSON MADE HISTORY WHILE LOSING WISCONSIN

Mr. PROXMIRE. Mr. President, on April 5, Massachusetts Gov. Michael Dukakis carried Wisconsin in the Democratic primary. He defeated the Reverend Jesse Jackson and Senators AL GORE and PAUL SIMON. It was an impressive victory for Governor Dukakis. It may have been a turning point in the campaign for the Democratic nomination. That Wisconsin primary election may mean that Governor Dukakis will be the Democratic nominee for President next July. But the long-term historical significance of that primary contest may be quite different. For the first time in a primary contest in any State involving a major share of the voters, a black candidate received more than 20 percent of the white vote. In New Hampshire's primary, Jackson received 8 percent of the white vote, in Florida and Texas 9 percent, in border States 7 percent, in other Southern States 6 percent, in Il-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

linois 7 percent. But in Wisconsin, Jackson won 23 percent of the white vote.

In a remarkable article in the Sunday, New York Times, E.J. Dionne analyzes the significance of this impressive showing by Mr. Jackson. Dionne writes:

> For a time and for the first time in American history, white voters of all beliefs and conditions seriously thought of voting for a black man for President of the United States.

As Dionne writes, the significance of this vote was even clearer in the responses of those who were interviewed after they had voted and who explained why they had not, I repeat, not voted for Jesse Jackson. Of course, there were some who voted against him because he was black and said so. But this was not by any means the principle reason for opposing him. In responding to exit pollsters from the New York Times and CBS, some said they had decided against voting for Jackson because he lacked experience. Here was a candidate who had never held any public office. Some raised questions about PUSH, a civil rights organization headed by Jackson. PUSH had been poorly administered. It failed to account fully for the money it handled. Still others were concerned with the impulsive way Jackson had engaged in his own personal diplomacy with Arafat, Castro, Qadhafi, and Noriega.

The people of my State turned out to hear Jesse Jackson speak as they had not turned out for any other candidate except an incumbent President in this or any other campaign in memory. Oshkosh in east central Wisconsin and little Amery in west central Wisconsin have less than 1 percent black residents—much less. But who drew the biggest and far and away the most enthusiastic crowd in both those places as well as the rest of the State? Jesse Jackson did.

And while there was criticism of the lack of any hands-on governmental experience by Jackson there was enthusiastic admiration for what this remarkable man had made of his life.

Wisconsin people admired the way Jackson had risen from a deprived background that makes Abraham Lincoln for all his log cabin birth and his bare 1 year of formal schooling, seem like a child of privilege. Jackson was born to a teenage mother. He grew up in a one parent family, a black boy in South Carolina of 40-plus years ago. He had to struggle every step of the way against the deepest, cruelest kind of prejudice. And what a human being he has become. For any audience he is an eloquent, moving, inspiring orator, blessed with a sharp, perceptive intelligence and a constant, delightful sense of humor. Best of all this man has devoted his talents to helping those who need help and to fighting the most serious threat this country faces. When the workers at the Patrick Cudahy packing plant in suburban Milwaukee last year were locked out of their jobs, one national figure appeared on the picket lines to stand shoulder to shoulder with them. It was Jesse Jackson. Jackson has made the same kind of appearance for workers desperate to hold on to their jobs in De Pere, WI, and Kenosha, WI. He has also stood with embattled farmers at heartbreaking foreclosures. And, of course, no one has fought the terrible plaque of drugs more vigorously or effectively than Jackson.

The great thing about the Jackson pitch to minority Americans struggling to overcome prejudice that deprives them of the education they need and the job opportunity they must have is that Jackson does not take the easy course. He does not deliver a bitter attack on the system. He tells the minority youths he reaches by the thousands that their future is up to them. He tells them "do your homework, study, learn, persist." He tells the youngsters fighting to survive in the drug culture to recognize drugs for the losing game drugs are, that drugs enslave and cripple and kill. But the fight is not up to mom or dad or the police. It is up to them. They personally must take charge of their own lives. No one is going to do it for them. They have to do it for themselves. Mr. President, what a superb role model Jesse Jackson is for black youngsters, especially for those many who have no father. The people of my State decided he was not the best qualified Democrat to be President. But he is a role model for all of us.

Mr. President, that remarkable showing by Jesse Jackson in my State says a great deal for Mr. Jackson. It says even more for Wisconsin. In the early 1940's a brilliant, black coed on the University of Wisconsin debate team entered a restaurant in Wisconsin with her debate colleagues. She ordered a cup of coffee. The police came and told her she could not stay in town. She was given a deadline for departure. The coed appealed to the officials of the college where the debate was to take place. They told her there was nothing they could do about it. An 1895 Wisconsin law prohibited such discrimination but it was not effectively enforced. Blacks were excluded from many restaurants, motels, and boarding houses. They were treated with disdain and contempt. But this year on April 5, a black man won 23 percent of the vote of whites voting in the Democratic primary. Here is the highest tribute Americans can give anyone. They voted for a black man for nomination as President of the United States. I have never been prouder of my State. Wisconsin—you've come a long way, baby!

Mr. President, I ask unanimous consent that the article from the Sunday New York Times, by E.J. Dionne and headlined "Black and White—How Jesse Jackson Made History While Losing Wisconsin," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 10, 1988]

BLACK AND WHITE—HOW JESSE JACKSON MADE HISTORY WHILE LOSING WISCONSIN

(By E. J. Dionne, Jr.)

MILWAUKEE.—Certain Presidential primaries feel special at the time and are remembered many years later. A man and a place come to be linked indissolubly in political memory, whether or not he wins there. So it was for John F. Kennedy in West Virginia and Eugene J. McCarthy in New Hampshire.

And so it was also for Jesse Jackson and Wisconsin, where something quite remarkable happened last week. For a time, and for the first time in American history, white voters of all beliefs and conditions seriously thought of voting for a black man for President of the United States. And in interview after interview, people made it clear that they were fully aware that their ballots might be interpreted not as protest votes, but as true expressions of their preference for the White House.

In the end, Wisconsin pulled back: It gave Gov. Michael S. Dukakis a decisive 5 to 3 victory. But Mr. Jackson won nearly a quarter of the white vote, the most he has got in any major primary. In a near-record turnout of a million voters, and in a state whose population is only 4 percent black, he drew more ballots in losing than Gary Hart did carrying the state four years ago. Exit polls showed that more than half of Wisconsin's white voters had a favorable view of Mr. Jackson, though less than half of these people actually voted for him.

The snap judgment might be: They backed away from Mr. Jackson because he is black. But conversations with scores of voters suggested that, by and large, this was not true—especially given that not many racists would even think of voting for him.

Among those who did consider Mr. Jackson, many spoke of his race as irrelevant; some called it an absolute plus. Voters who finally chose Governor Dukakis tended to speak of personal anguish, not racial hostility. Most of those who said Mr. Jackson was not "electable" did not sound like the people who use such language as a code, invoking the racism of others to cover up their own. Instead, they sounded like racially tolerant Democrats whose profound wish really is to drive the Republicans from the White House and who thought Mr. Dukakis had the better chance of doing so.

APPRECIATING DUKAKIS

Wisconsin voters turned to Mr. Dukakis in the end, said Prof. Joe Heim, chairman of the political science department at the University of Wisconsin at La Crosse, because he was their sort of sober, issue-oriented Democrat, someone who took seriously both the mechanics and the purpose of government.

"People like government in this state," Professor Heim said. "There's a long history of people expecting the government to do good things." A candidate like Mr. Dukakis, who once confessed to enjoying a book on

Swedish land use planning, went down well in a state full of Germans and Scandinavians, many of whom still adhere to the notion of planned, orderly justice that is embodied in social democracy.

But Jesse Jackson appealed to another part of that tradition: His cries against economic and social injustice deeply moved a remarkable range of voters. One union official noted that some of his members said they would vote for him, using a racial slur in the same breath. Another official, Thomas Dwyer of the United Transportation Union, said he voted for George C. Wallace in 1968; this time, "the only person who's saying what I want to hear is Jesse Jackson." He said that Mr. Jackson, who has joined dozens of union picket lines over the years, came across to him as the truest friend of laboring people.

Populism may be an overused word in the 1988 campaign, but it goes to the heart of what Mr. Jackson has accomplished.

As a movement in American history, populism has always been a Janus creature, looking both forward and backward. On the one hand, its adherents—the downtrodden in search of a better deal—were years ahead of the powers-that-be in advocating social reforms on wages, hours and working conditions, farm supports and the popular election of United States Senators.

But populism has often succumbed to the mistrusts and hatreds of race, religion and nationality—hatreds sometimes aggravated by the authorities whom the populists threatened. Such was the fate of Southern populism at the turn of the century, when the movement's solidarity was broken by racial antagonism.

Mr. Jackson's speeches are full of indirect references to this history. One of his favorite metaphors concerns the small fish who are eaten by barracudas. The key, Mr. Jackson says, is for the small fish to take action against the barracudas and not each other.

In most primaries, Mr. Jackson has had only limited success in appealing to the small fish in the white community. His white support has tended to come from well-educated liberals more concerned with philosophical purity than bread-and-butter issues.

A DIFFERENT SCHOOL OF FISH

Wisconsin was special for Mr. Jackson because the small fish began swimming his way. For the first time, he attracted white voters who say they are conservative.

According to The New York Times/CBS News Poll of voters after they had cast ballots, 22 percent of whites who called themselves conservative backed Mr. Jackson; he and Senator Albert Gore Jr. of Tennessee were roughly even in this group. About 4 in 10 of Mr. Jackson's white voters backed Ronald Reagan in 1984, a sure sign that he was appealing well beyond the confines of liberalism. In Wisconsin, Mr. Jackson's was no longer a movement composed largely of blacks and well-educated whites: About 40 percent of Mr. Jackson's white voters in Wisconsin never went to college.

All told, it was a remarkable campaign for Mr. Jackson, but still not enough. In the end, voters offered interviewers a score of reasons why they could not, finally, bring themselves to back him for President: his lack of experience; questions about the way organizations he ran had handled money; worries about his personal diplomacy with Yasir Arafat, Fidel Castro, Muammar Qaddafi and Manuel Antonio Noriega; concern about what "Jackson action," as he likes to say, would really mean in practice, especially in foreign policy.

And it will be hard for Mr. Jackson to repeat even his Wisconsin feat in states with more bitter histories of racial conflict—notably in New York, which holds what may be the decisive primary on April 19. There the Democratic race will be down to three competitors, since Senator Paul Simon ceased campaigning last week; Mr. Dukakis, with 726 delegates, and Mr. Jackson, with 686, are far ahead of Mr. Gore, with 381.

With Mr. Dukakis beginning to pick up important endorsements from party leaders, his advantage over Mr. Jackson seems likely to grow. And the fact that many whites in Wisconsin found Mr. Jackson appealing does not mean that the Democrats have solved the problem of racial divisions within their ranks, or that the country as a whole is any closer to doing so. Still, let it be recorded that for at least one week in American history, in a middle-sized Midwestern state, a broad range of white voters took the Presidential candidacy of a black man with the utmost seriousness.

A Greater Share

Percent of white voters in Democratic primaries who said they voted for Jesse Jackson

New Hampshire	8
Texas	9
Border States [1]	7
Florida	9
Other Southern States [2]	6
Illinois	7
Connecticut	18
Wisconsin	23

Based on interviews at polling stations in randomly selected precincts. All except Connecticut by The New York Times/CBS News Poll: Connecticut by WNBC-TV.

[1] Kentucky, Maryland, Missouri, Oklahoma, Arkansas, Virginia and Tennessee.

[2] Alabama, Georgia, Louisiana, Mississippi and North Carolina.

The PRESIDING OFFICER. The Senator from Alabama.

TRIBUTE TO ROBERT C. BYRD

Mr. HEFLIN. Mr. President, I wish to take a moment to pay tribute to my good friend and colleague, Senator Robert C. Byrd, for the outstanding service that he has provided to the U.S. Senate for so many years, and to thank him for all of the help and kindness he has shown me and all Senators—Democrats and Republicans alike—while serving as our leader.

Senator Byrd is a remarkable individual. No living person has provided greater service to his constituents, to the Senate, and to our Nation. I deeply admire the accomplishments and contributions he has made. He is a man who has never stopped working to improve himself and his situation in life, and to better our country. I have heard of the hard times of his youth in West Virginia, then one of the most poverty-stricken areas of the Nation. He worked as a grocery clerk, and as a coal miner during the Depression. When he came to Washington he endeavored to improve his education. He attended law school at night while serving in the U.S. Congress. In many ways I believe that his life resembles that of Benjamin Franklin. Both started out in life with very little and, because of their personal efforts, achieved much. Both should be ranked among the great statesmen in the history of our Nation. Both dedicated themselves to the service of their States and our country. And both Franklin and our colleague from West Virginia are regarded as esteemed and influential speakers.

As Ben Johnson once wrote:

> Talking and eloquence are not the same:
> To speak, and to speak well, are two things.
> A fool may talk, but a wise man speaks.

As all of my colleagues know well, Robert Byrd is an able speaker and an effective debater, tools which have served him well in the Senate, and gifts, I hope and trust, which will continue to serve him in this body for many years to come.

Senator Byrd is also known for his masterful command of parliamentary rules and procedure which, I believe, is greater than that of any other Senator. What is telling is that he uses this knowledge not to deprive Senators of their rights or to gain the upper hand during legislative consideration, but, rather, to guarantee that Senators keep their rights and to ensure that the will of the Senate is accomplished.

Robert Byrd truly understands the traditional role of the Senate as the deliberative body, and he has contributed immeasurably to its reputation as the greatest deliberative body in the world. Our colleague understands perhaps better than anyone else what George Washington meant when he explained the role of the Senate to Thomas Jefferson over a cup of tea—that lawmakers would "pour legislation into the Senatorial saucer to cool it," to consider it thoroughly, and to improve it. And Robert Byrd has worked literally day and night to see that the Senate fulfills this important role.

Senator Byrd has very ably and lovingly guided the U.S. Senate both through storms and disagreement and through times of calm and agreement. I say lovingly because he truly loves the U.S. Senate, and has endeavored throughout his life to improve it and to enhance its reputation.

Bob Byrd has also done a remarkable job as our Democratic leader, and that is not an easy feat. As Will Rogers once said: "I am not a member of any organized party—I am a Democrat. I doubt if we, Senate Democrats, can find a leader to succeed him that can hold the diverse elements of the party in the Senate together with the same cohesive power as Robert Byrd has done.

Mr. President, I have often heard our friend and colleague, Bob Byrd, refer to his children and grandchildren when discussing the future of our Nation or the record that we leave in our daily deliberations. I know that he takes great pride and derives much joy from his family—from his lovely wife Erma, his daughters, and his grandchildren. Long after we are gone from this place, I know his grandchildren and great-grandchildren will, themselves, take great pride and joy in his work and contributions as they peruse the Congressional Record and see how well their grandfather and great-grandfather served our Nation and how well he served the Senate. Who knows but that one of them might someday be majority leader and follow in his footsteps.

I hope that they will also be aware of the admiration and esteem all Senators hold for Robert Byrd. We all owe him a tremendous debt for his outstanding service on behalf of our Nation. As William Shakespeare once wrote:

> More is thy due than more than all can pay.

BICENTENNIAL MINUTE

APRIL 11, 1892: THE SENATE INVESTIGATES A LEAK

Mr. DOLE. Mr. President, 96 years ago this week, on April 11, 1892, the Senate met behind closed doors to hear charges against its executive clerk for allegedly leaking secret treaty information to the press.

Throughout the 19th century, the Senate conducted almost all treaty debates in secret session. Senators argued that it would adversely affect American foreign relations if their deliberations on any international agreement were made public before a treaty was ratified or rejected. But the press, in our open society, felt it equally their responsibility to present the public with a full account of all Government decisions and activities, and did their best to expose all secret debates. So, in fact, it was not uncommon for the next day's newspapers to publish unofficial descriptions of the Senate's officially secret proceedings.

In 1892, when the papers carried stories about the still secret Bering Sea Treaty, some Senators determined to uncover the source of the leak. For two reasons their suspicion fell on the Senate's Executive Clerk, James Rankin Young. First, he was one of the handful of staff members permitted inside the Chamber during executive sessions; and second, he owned and reported for a Philadelphia newspaper. Even though these investigators never found any proof that Young had published or otherwise leaked a single Senate document, he was fired from his privileged position.

Young's friends in the press gallery swore that he had not been their source, and implied strongly that the leaks had come instead from Members of the Senate. To prove Young's innocence, the press made sure that they reported the next secret session in even richer detail than before. The Senate did not abandon the charade of its unsecret secret sessions until 1929.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Ford). Morning business is closed.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The PRESIDING OFFICER. The hour of 9:30 having arrived, under the previous order, the Senate will resume consideration of Senate Concurrent Resolution 113, which the clerk will report.

The bill clerk read as follows:

> A concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the United States Government for the fiscal year 1989, 1990, and 1991.

The Senate resumed consideration of the concurrent resolution.

Pending:

Weicker Amendment No. 1944, as modified, to increase funding for Health functions from Science functions, on which there is 40 minutes for debate.

The PRESIDING OFFICER. The amendment of the distinguished Senator from Connecticut is the pending business. There are 40 minutes equally divided between the distinguished Senator from Connecticut and the distinguished Senator from Illinois, who are controlling the two sides.

The Senator from Connecticut is recognized.

AMENDMENT NO. 1944, AS MODIFIED

Mr. WEICKER. Mr. President, this amendment transfers $145 million in budget authority and $50 million in outlays from the superconducting super collider in function 250 to fund health programs in function 550. I would also like to make the point that the Energy Committee in its letter to the Budget Committee stated:

> The President's request for the superconducting super collider is far out of line with budget realities. The committee has strong reservations about the wisdom of committing such a massive project on the super collider in the absence of any coherent plan for supporting future research and facilities construction activities of the Department in the physical sciences.

In other words, no site has been selected. Yet we are being asked for construction funds which will result in a long-term outlay massive in proportions.

By the same token, the President's budget through granting increases in the overall health function severely impacted the following areas: Health professions training, including geriatric training, childhood immunizations, and our community health centers. Nobody supports research more than this Senator.

Indeed, none of the money I am requesting is to come out of the space station. I support Senator Garn's request on that 100 percent. But when we talk about research it cannot just relate to space stations and to defense. Somewhere along the line a similar commitment has to be made to human beings.

It is one thing to say we have increased the funding for AIDS, and we have increased funding for the National Institutes of Health. All that is well and good, but how did you increase them? You increase them at a time of an overwhelming nursing shortage by cutting back on nurse training. You increase them at a time when we cannot give childhood immunizations to all of those who need them by cutting back on the childhood immunization program. You increase them at a time when we know that the over 84 population is going to double by the year 2000, the over 65 population by the year 2020, by cutting back on geriatric training. Out of 127 medical schools in the United States only 2 or 3 have Departments of Geriatrics. The Geriatrics Training Program is designed to give the expertise necessary to handle the problem of training those in medical schools to be able to take care of the special health needs of older Americans. You are also increasing some health programs at the same time you are cutting back on community health centers.

This Nation is near last among the 20 most industrialized, economically advanced nations in the world in infant mortality.

There you have the four areas that got hit, and hit badly. My amendment does not come anywhere near restoring all that is necessary, but at least it makes a very clear statement on behalf of the elderly, on behalf of children, and behalf of the poor. Their quality of life—indeed, their lives today—is certainly of equal importance, and in this Senator's view, greater importance, than starting another star wars type project.

I repeat: The super collider is not eliminated by this amendment. The research funding and the planning funding stay in place. Construction is postponed 1 year, when no construction is going to take place anyway before the year is up. Therefore, the amendment is budget neutral, but not so far as common sense and compassion are concerned.

That speaks to those in our Nation who need the support of their government—kids, old folks, poor people. Their lives today are as important as our knowledge of the future.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I have requested 4 minutes from the manager on our side.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. BENTSEN. Mr. President, I think what the Senator from Connecticut asks would kill the SSC.

What you have seen with respect to NIH is a situation where we are increasing that agency by some $600 million this year. I am a strong supporter of NIH. I fought for the cause of infant mortality. I am the author of the catastrophic illness bill now in conference. I appreciate and support those concerns.

Let me tell you what has happened to research in this country. In 1979, foreigners got 36 percent of the patents issued in the United States. Last year, they got 47 percent. In 1986, General Electric, which had led in getting patents in this country, was bumped to No. 2, because Atachi came in and became No. 1. Last year, G.E. bumped down to No. 4 because Atachi, Canon, and Toshiba had taken over.

We had better pay some attention to research in this country. We have to recapture our leadership.

The Senator from Connecticut is talking about NIH and he is talking about health, and I share his concerns. But where do you think the CAT scanner came from? It came from linear accelerator research.

The country that gets the SSC will be host scientists and students from around the world. You get the cross-pollinization of ideas as they come here, if we have the SSC.

Not kill the program? I think there is a very high risk that the amendment will. The decision on the site of the SSC is being made in November; it will be confirmed in January. That is near the beginning of the fiscal year, so the money can be used for the construction during the rest of the fiscal year. If you let today's enthusiasm for the SSC wane, you will have a very difficult time reviving this project.

My own State, mired in the toughest economic circumstances I have seen in my lifetime, has agreed to tax its people to the extent of $1 billion so that they can be a part of this process. Texas agreed to do this because we believe there will be great spinoffs in the way of research for this country.

I do not think any of us can calculate the ultimate rewards of research, but we know they are there. Take a look at the situation with respect to the GNP in our country today. One-third of the GNP in our country today comes from the beakthroughs in understanding the atom. So it is terribly important, I think, that we build the SSC here.

Earlier work with the linear accelerator led to things like high-powered oscillator tubes for broadcasting. You have a whole list of breakthroughs that have been made through linear accelerator research. The SSC is the same. What it does is that it says to the scientists of this country that they will be able to better understand the constituents that make up atomic particles. This basic science will not be done if the SSC is not built.

We made room for the things we think are critical in this budget. We have done it for national defense, and for basic human needs, even though we understand that budgets are tight. But we should provide the means to do the basic scientific work that will propel this country into the next century. That leadership is essential to our economic growth, our industrial competitiveness, and our Nation's security. That is why we need the SSC.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. GARN. Mr. President, I rise in opposition to this amendment.

The PRESIDING OFFICER. Who yields time to the Senator from Utah?

Mr. GARN. The Senator from New Mexico. However, he is not on the floor.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. GARN. Can someone yield me time off the resolution?

Mr. DOMENICI. Mr. President, how much time does the Senator from Utah desire?

Mr. GARN. Ten minutes.

Mr. DOMENICI. I yield 10 minutes off the resolution to the Senator.

Mr. GARN. Mr. President, I rise in opposition to this amendment, and I do not do so because I disagree with what the Senator from Connecticut is trying to accomplish. The money he seeks is for a very worthwhile purpose, and I do not disagree with that.

However, in this budget resolution, we must take from one place to give to another. I have been extremely concerned about space and science and technology, known as function 250. While the case is being made that this does not come out of anything but the super collider, there is a certain fiction we all accept when we debate a budget resolution. This fiction is that we here are taking specific amounts on a line item basis, that we are taking the increase from a particular area—in this case, the super collider—and putting it into a different function. That simply is not the case.

In budget resolutions, we deal with general categories, and we are not able to talk about specific line items. The only place that can be done is in the Appropriations Committee, on 302(b) allocations. But it is meaningless to designate in this particular resolution that it will come out of a particular function. It will reduce the 250 function; and when we get to the Appropriations Committee and start with our 302(b) allocations, it could come out of many different areas. It could come out of the National Science Foundation.

It could come out of the space shuttle. It could come out of the space station.

So I hope my colleagues understand that fiction, that on this budget resolution it is not coming out of a particular function.

That is what I want to address my remarks to, the whole area of space, science, and technology.

Mr. President, in this second session of the 100th Congress we confront a profound decision point for our Nation's Space and Science Program. Dr. James Fletcher, Administrator of NASA has called it a "make or break year" for our civilian space program and Mr. Erich Block, Director of the National Science Foundation has called for the enactment of the President's budget request to "address the dangerous erosion of the U.S. position in research competitiveness."

In the abstract, it is difficult to get excited over these pronouncements. We in Washington are constantly hearing such dire and ominous rhetoric. Unfortunatley, Mr. President, I fear that calling "wolf" this year may be appropriate. Indeed, it is the most accurate description of the threat currently confronting our civil space program and of our scientific and technological position in the world.

This most striking and immediate issue is the budgetary requirements of our Nation's Space and Science Program. For NASA, the President has requested a 30-percent increase in budget authority. For the NSF research budget, the administration is seeking an increase of over 20 percent. These increases, although amply justified by both program requirements and by the critical need to renew and improve our Nation's efforts in space and science, are virtually impossible to achieve unless the Congress, and the American people, understand the critical values of these programs.

Mr. President, I am very much aware that there is a vast array of unmet current human needs which compete for a larger share of the Federal budget, and too many people erroneously view the space and science programs as an expensive luxury.

But if our Nation is to continue to prosper—and to afford to reach out to the poor and needy, it must maintain its competitive position in the world. We must invest in programs which provide for the future—or we will all be poor and needy.

Therefore, it is imperative that the importance that our space and science program be made clear as we consider this budget resolution. Recently, the Senate ratified the Montreal Protocol on Substances that Deplete the Ozone Layer. Despite its limitations, the Montreal protocol is the most significant international environmental treat in history because it demonstrates recognition of the danger and acknowledges the need to act on an international, and indeed global basis.

Several Federal agencies have been engaged in ongoing global climate change programs. A number of these agencies, including NASA and NSF have intensive studies underway on the mysterious hole in the stratospheric ozone in the Antarctic.

These agencies in a cooperative effort with industry, universities and other Federal agencies have generated specific scientific findings of a direct link between CFC release and ozone depletion. As a result, the United States was able to recommend an international effort to reduce CFC production which was adopted because it was technically sound and well-documented.

Our science capability must be maintained so that it can be marshaled in times, such as these, where we must address environmental issues of a global character. New scientific knowledge, especially basic and fundamental knowledge, is of critical importance in understanding such new phenomena and in serving as the basis for an international consensus on the need to take action.

Concern is growing over other changes in the global environment including such problems as: The warming of our planet, known as the "greenhouse effect"; acidification of lakes and forests; deforestation and desertification. Furthermore, a recent report by the Ozone Trends Panel contends that there has been even more ozone depletion than many scientists predicted, prompting calls for far more aggressive action than that included in the Montreal protocol.

Although we have a much better understanding of the Earth today due to the development in recent years of regional and global observations provided by satellite remote sensing, we must greatly expand this capability to predict those changes that will occur in future years and formulate acceptable and effective solutions to these problems.

In the next decade, the information acquired from Earth remote sensing satellites could enable researchers to understand the causes of natural Earth changes and lead to predictions of such phenomena as volcanic eruptions, earthquakes, and most importantly, the effects of human activities.

Beginning in the mid-1990's the space station will initiate a new era of intergrated global observations of the Earth through remote sensing from the space station polar platforms. The space station platforms are being designed with Earth system sciences in mind and offer dramatically expanded capability for instrument accommodation, power, and data telemetry.

Current polar orbiting spacecraft are modest, automated devices devoted to a few instruments only and are not designed for servicing by the space shuttle. The space station polar platforms will use a broad array of synergistic and interchangeable sensors that are designed for shuttle servicing. This will permit a more substantial investment in sensors than ever before because servicing can guarantee their use for a decade or longer.

NASA recently issued an announcement of opportunity to solicit proposals for remote sensing instruments to be flown on these platforms and attached to the space station under the Earth observing system [EOS] program. The overall goal of EOS is to advance the scientific understanding of the entire Earth system on a global scale through developing a deeper understanding of the components of that system and the interactions among them, and how the Earth system is changing.

Since many of the changes in our global environment have time scales of seasons to years, persistent observations of dynamic phenomena are required to build data records which extend over a decade or more. EOS is designed to provide global data covering the required variety of feasible remote sensing measurements for the necessary period while affording an opportunity for coordination with various types of more localized measurements, conducted, for example, by the NSF on the ground.

The other day, before the ratification of the Montreal protocol, a number of my colleagues commented on the global crisis caused by the ozone depletion. Many of them called for continued U.S. leadership in international environmental activities. Mr. President, the space station will ensure U.S. leadership into the next century by generating an unprecedented increase of scientific knowledge concerning global climate change.

This is only one of the many important national and international benefits to be achieved by the manned space station. It is more than just a gateway for further manned exploration of our solar system, or a unique facility for microgravity materials processing. It will incredibly expand opportunities for understanding our planet.

U.S. leadership in the Montreal protocol was based on a foundation of solid scientific investment in a variety of areas for many years. Let's give our children and grandchildren a better chance to address the possibilities of changes in our planet's climate. Now is the time to fund the space station, so that the many benefits of that program can be made available as soon as possible.

The budget resolution before us will permit the space station to proceed, although significant reductions are assumed for NASA and basic science activities from the levels proposed in the President's budget request.

In the case of NASA, a reduction of about $500 million is assumed. This will mean that most of the new starts proposed by the administration will have to be eliminated or sharply curtailed. These include the $100 million request for "pathfinder" technologies to pursue the long-term goals of planetary exploration, $88 million for the advanced solid rocket motor [ASRM], $27 million for the advanced x-ray astrophysics facility [AXAF], and $195 million for additional expendable launch vehicles [ELV's].

A matter of special concern to me is the 16-percent reduction assumed for NASA aeronautics research activities—from current levels. This assumption represents a 31-percent reduction from the President's budget request. Such a reduction, if included as part of the appropriations bill, would devastate efforts to maintain U.S. leadership in commercial aircraft sales. It would make impossible initiatives in advanced composites and propulsion technologies, and also wipe out programs to develop next generation aviation safety and automation systems.

For NSF, the budget resolution would cut the President's proposed increase for basic science nearly in half—from about 20 percent to 11 percent. We have all expressed concern over the erosion in America's competitive position in the world and the failure of our education system to produce the quantity and quality of scientists and engineers needed to keep up with our Western trading partners—not to mention the Soviet Union. How can we be so complacent in accepting only marginal adjustments in the principal Federal agency directly involved in improving educational programs in science and math. Furthermore, the foundation provides basic research grants for our colleges and universities that will yield the technologies to fuel our economy in the future.

Mr. President, fortunately my concerns over this budget resolution are with individual program assumptions, and not against the overall aggregate levels in the budget functions. I am hopeful that if we can prevent any further decreases in these key functions, the Committees on Appropriations of the House and Senate will allocate to the HUD-Independent Agencies Subcommittee sufficient sums to produce a responsible bill which provides the critical increases needed by our Nation's space and science programs.

The point I wish to make is a very small number of scientific achievements come out of this function. As much as I am sympathetic with the

Senator from Connecticut we must not shortchange the future. It is incredibly shortsighted if we do so because of all the economic, health, and scientific benefits that come from function 250 which is space, science, and technology.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from an organization called Function 250 Coalition, a Science Budget to Restore America's Leadership, which urges the highest level of funding for budget function 250. This letter is signed by seven Nobel Prize winners and three former Directors of the National Science Foundation.

I do not have time to read it, but the letter emphasizes the importance of function 250 to our Nation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FUNCTION 250 COALITION, A SCIENCE BUDGET TO RESTORE AMERICA'S LEADERSHIP,

April 11, 1988.

Hon. HOWELL T. HEFLIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HEFLIN: We are writing to urge you to support the highest level of funding for budget function 250 that is consistent with sound science policy and responsible fiscal policy.

As you know, the Administration and the House of Representatives have recommended substantial increases in funding for budget function 250. We applaud their actions and urge the Senate to join in this effort to restore America's science leadership.

America's leadership in critical areas of science, space, and technology has been challenged, and in a growing number of friends has been eclipsed. While our economic competitors are increasing their technical expertise, the proportion of U.S. science and engineering degrees earned by U.S. citizens continues to decline. As the pace of American innovation has slowed, the foreign share of U.S. patents and high technology markets has increased.

Budget function 250 supports programs essential to meeting these challenges and restoring America's leadership in science, space, and technology. They provide the foundation for educating and training America's next generation of scientists and engineers, expanding our basic understanding of the physical world, developing and transferring new technologies, and extending our reach into the frontiers of space.

We hope you agree that these programs merit increased funding, and urge you to give them your full support.

Sincerely,

Glenn T. Seaborg, Nobel Prize in Chemistry; Hans A. Bethe, Nobel Prize in Physics; Kenneth G. Wilson, Nobel Prize in Physics; Robert Schrieffer, Nobel Prize in Physics; William A. Fowler, Nobel Prize in Physics; Philip W. Anderson, Nobel Prize in Physics; Val L. Fitch, Nobel Prize in Physics; Richard C. Atkinson, Director, National Science Foundation, 1977-1980; John B. Slaughter, Director, National Science Foundation, 1980-1982; H. Guyford Stever, Director, National Science Foundation, 1972-1976.

Mr. HEFLIN. Mr. President, I rise to oppose this not because I am opposed to medical research for I would like to give them more money. On many occasions, I have fought and have restored money for medical research, particularly in the cancer field. However, the method of doing so is all important.

Mr. President, in my judgment, this amendment has the potential of being labeled "cut off your nose to spite your face." I say that because the amendment takes money out of a budget function that can be directed toward achieving the greatest breakthroughs in medical research, particularly the medical research that can be done in a microgravity environment on the space station. Medical research in space can accomplish a great deal.

Let me point out, first, that through a process known as electrophoresis, we were able to separate the beta cell in the pancreas which can allow us to make remarkable breakthroughs in the field of diabetics. Electrophoresis is at microgravity a process by which you can separate down to the smallest intergral parts of various cells of the body or, in other areas, crystals of all types, allows researchers to study the integral parts thereby making great scientific breakthroughs.

Now, Mr. President, a previous shuttle missions, we have conducted experiments by which we have grown cancer cells many times larger than what they can be grown on Earth. This is possible because of the unique environment of microgravity. However, the shuttle allows only a limited time in space. In the future, we will need extended periods on orbit in order to conduct these and other experiments.

I feel that the future finding a cure for cancer lies in the space station. If you are able to combine these two processes of electrophoresis and cancer cell growth, you can grow the cell to a size and shape that you can identify its parts, and then through electrophoresis you can separate it into its integral parts and find out what causes cancer in our pursuit to find a cure.

Now, there are other aspects of space technology and I do not have time to go into it. But it would be a great mistake if this were to come out of the space station, or the space program in general. In my judgment, accepting this amendment will jeopardize the potential that we now have to make great progress in medical research.

This amendment has the danger also of taking money out of veterans' benefits. It has the danger of coming out of housing. Also, as we know, it has the danger of coming out of basic research.

Now the super collider and this electrophoresis are based on the same general principle, and that is, to bring about separation. Separation of cells, crystals, and atoms can bring about great scientific breakthroughs in many areas, including medical research. And so, Mr. President, I believe that this amendment can be an amendment that can be labeled cutting off you nose to spite your face. I believe that it is a mistake and should be rejected.

Mr. DIXON. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DIXON. Mr. President, I hope to not use my whole 4 minutes. I simply want to say that I am delighted to see this much opposition to the amendment. This is not an amendment taking money from space that has a lot of money. The amendment by my distinguished friend from Connecticut takes money from function 250, which has been allocated $13.4 billion in budget authority, to give it to function 550 which now contains $49.9 billion in budget authority.

The amendment that my friend from Connecticut has offered, I believe, is designed to provide additional funds basically for health research. I want to point out that function 550, health services and research, is allocated right now at a 5-percent increase over 1988 budget authority. So I would suggest that given the budget restraints, we are doing the job that we ought to be doing in that research.

This money that would be taken from function 250 is the money that is vital to the United States in maintaining its lead in science, space, and technology. I think everyone would agree that that is a very important consideration for the United States of America. I hope that my colleagues on both sides of the aisle would vote either to table this amendment, should a tabling motion be offered, or against the amendment on a straight up-or-down vote.

I yield back whatever time I may have remaining, Mr. President.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

Mr. SASSER. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee yields himself 4 minutes.

Mr. SASSER. Mr. President, I rise today in reluctant opposition to the amendment offered by my distinguished friend from Connecticut. I do so because the senior Senator from Connecticut has fought hard for increased funding for medical research during a time of great fiscal austerity over the past few years and I have joined him in that fight on more than one occasion.

It was not too many years ago that we stood on the floor of this Senate and fought back an attempt to cut funding for cancer research in a very significant way. We were joined in that fight at that time by the then Senator from Indiana, Mr. Bayh, and the then Senator from Minnesota, Muriel Humphrey.

If I did not believe that this budget resolution allocated adequate funding for health care programs, given the budget considerations that we are operating under, I could not have supported it as a member of the Senate Budget Committee.

But I must oppose this amendment offered by my able friend from Connecticut today because it jeopardizes the long-term economic health of our Nation by deleting funds that are allocated for basic scientific research. It is elemental that our country simply must invest in basic scientific research now in order to remain technologically and economically competitive in the future.

We have seen, over a period of many years, funding for basic research, at both the governmental level and at the private level, seriously cut back and basic research being diminished. As a result, our competitiveness both internationally and domestically has suffered.

The superconducting super collider which is targeted by this amendment represents the kind of long-term investment in basic research that we simply have to make.

The super collider promises to lead to important breakthroughs in the field of high energy physics that could open the door to important discoveries in a whole array of fields. The tools and methods of high energy physics have been applied to many other areas of research, development, and manufacture.

Indeed, high energy physics research has contributed very significantly to the health of our citizens, as my distinguished friend from Alabama pointed out just a moment ago, by yielding advances in cancer research and medical diagnosis. The modern x-ray machine, for example, is a product of high energy physics, and particle beams have been used successfully for many years in treating cancerous tumors. So I would submit today that it is shortsighted to effectively abandon an area of research that could bring yet unimagined and spectacular advances in medical technology in order to make a marginal increase in this year's medical research budget.

I would say to my colleagues that a vote for this amendment is a vote to abandon our Nation's lead in high energy physics research. I fear that it will signal the rest of the world that the United States is not committed to basic scientific research. If we fail to invest in projects like the super collider, we simply hasten the disturbing decline that some perceive we are suffering relative to our trading partners and adversaries in Western Europe and Japan that is threatening the very economic competitiveness of this country.

Let us be clear what this amendment would do. It would add money to an area of the budget that has already received almost a 5-percent increase over last year's baseline.

We can protect the health of our citizens without jeopardizing the economic health of our Nation. This budget resolution is carefully crafted. It strikes a proper balance. I, therefore, urge my colleagues not to upset that delicate balance and to oppose the amendment offered by my friend from Connecticut.

The **PRESIDING OFFICER**. The Senator from Tennessee yields the floor. Who yields time?

Mr. **DOMENICI**. Mr. President, I would like to yield 5 minutes off the resolution to the Senator from Arizona, Senator McCAIN.

The **PRESIDING OFFICER**. The Senator yields 5 minutes off the resolution to the Senator.

Mr. **McCAIN**. Mr. President, I am sensitive to the intent and goals of the Weicker amendment. We are all concerned about maintaining community health centers, children's immunizations, and health care training programs in this country, and I think we are all supportive of other very vital programs which affect the health of our Nation.

Let me also say that I think it might be interesting to note that one of the possible spinoffs of the superconducting super collider is basic research that has great promise and limitless potential in the area of health, in the way of nuclear medicine, as well as in the areas of electronics and superconductivity.

There is no doubt that, over time, there may be enormous benefits to health care if we, indeed, see this enormous project come into being.

In light of this reality, I do not think we should be asked to choose between two very different and very important categories of spending such as health care and research, although I agree we must set spending priorities. Surely if we chose to increase health care spending we could do so by reducing spending in less crucial programs.

The future is the issue at hand, Mr. President: The future of the viability of the economy of this Nation. America's leadership role in technological innovation and technological competitiveness has eroded. We are all aware of that. And it will continue to be eroded unless we make the kinds of investments in the future that now are necessary to maintain our very tenuous lead.

Let me point out also, new technologies do not just appear out of the blue and tap us on the shoulder. They require the blood, sweat, and tears, and even a financial sacrifice. Basic research, many times, takes years before we see its fruits.

Mr. President, one of the books that is getting great currency around the country today, and I think one that deserves to be read by all of us who have to make some of these difficult decisions, is a book entitled "The Rise and Fall of the Great Powers," by Mr. Paul Kennedy. I would like to quote a very brief passage from his book which I think sums up in part what we are talking about here today. He says:

> Although the United States is at present still in a class of its own economically and perhaps even militarily, it cannot avoid confronting the two great tests which challenge the longevity of every major power that occupies the 'number one' position in world affairs: whether, in the military/strategical realm, it can preserve a reasonable balance between the nation's perceived defense requirements and the means it possesses to maintain those commitments; and whether, as an intimately related point, it can preserve the technological and economic bases of its power from relative erosion in the face of the ever-shifting patterns of global production.

Mr. President, we are seeing changes in our economic base. We are seeing shifts in the patterns of global production. I do not have to describe that to the Members of this body. I would suggest that if we emasculate the superconducting super collider we will be taking another step backward toward a lack of competitiveness, which has been the buzzword around this town, for the last year and we will not be making the kind of investment in the future which is necessary.

Clearly, Mr. President, my State is one being considered for the superconducting super collider. But I believe what I am saying here would apply if I was from any State in America because, indeed, the benefits of this project will not be confined to any particular State or region. It will help the entire Nation. The SSC has been endorsed by the Chairs of 181 college and university physics departments who are calling it an essential investment in the Nation's economy and security.

A few weeks ago our President Reagan gave a speech in the Rose Garden concerning this issue. I would like to close by quoting his speech:

> The superconducting super collider is the doorway to that new world of quantum change, of quantum progress for science and for our economy. In the face of ever-increasing global competition, the United States must maintain the leading edge in science and technology and building the world's largest particle accelerator is a visible symbol of our Nation's determination to

stay out front. Benjamin Franklin once said that investment in knowledge pays the best interest.

Mr. President, whether or not we make this investment, the Europeans will. The Japanese today are willing to come forward in the substantial investment with us. If our friends—who are also our economic competitors—see, however, that we are going to dilly-dally and nickel and dime this program to death, they will move forward without us and we will lose an enormous opportunity for a technological advantage which may not come again in this generation.

The PRESIDING OFFICER. Who yields time? The Senator from Florida.

Mr. CHILES. I will yield 5 minutes to the Senator from Arizona.

Mr. DOMENICI. Mr. President, I wonder if I might at this moment in order yield 5 minutes to the Senator from Texas, Senator GRAMM, to follow.

The PRESIDING OFFICER. The Senator from New Mexico has yielded 5 minutes to the Senator from Texas immediately upon the conclusion of the remarks by the Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise today in opposition to the Weicker amendment. First, let me say to the distinguished Senator from Connecticut, no one has fought harder for research in basic health programs and education than the Senator from Connecticut. I hope I have stood by him in his efforts enough times to demonstrate that I understand where he is coming from and I appreciate the importance of this issue to him, to this Senate, and to the Nation. I support his efforts to find even additional funds for AIDS research.

But, I have to say that with respect to this particular matter and maybe others as well, it seems to me to be counterproductive. I join my distinguished colleague from Arizona in his statement that not only is Arizona a contender for the superconducting super collider but we are really going after this project. We want it. But if we fail to get it, this Senator will be on the floor fighting for the superconducting super collider because it makes sense and is necessary for the United States to continue to advance in the scientific world.

We have heard repeatedly that we are not doing enough in our efforts to find a cure for AIDS—that it is an epidemic tragically hitting our country. I agree. Nobody disputes that. But I understand the figure in this budget for AIDS research is roughly $1.3 billion and that is a 35- or 40-percent increase over current levels.

In this country we should not have to apologize for what we are doing on the AIDS problem. The only apology is that we have not found the answer. As long as we are doing everything humanly possible to find that answer, it seems to me that we ought not to rob other programs or other worthy Federal projects.

Seriously, where are we going to go to find the money? We can take $90 million out of the SSC; then why not $90 million out of Amtrak, or SDI, or the B-1 bomber, or someplace else? I think when we go down that road it just starts to unravel a very carefully crafted budget that is before this body.

So, it is my hope that our colleagues will not support this amendment.

Let me talk a little bit about the SSC. It is a complicated process. Since I am one who has not taken physics, I do not pretend to have a thorough understanding of it. But I do realize after talking to the experts in energy and science involved in high energy physics, that this is a new advancement, a new frontier. It is a threshold of the future, and that is where this Nation has been, scientifically, over decades and decades and now generations. We have been out there on the cutting edge. For the United States to back away now we would ruin our position of scientific superiority and competitiveness. The amount of money assumed in the Senate budget resolution for the super collider, is already a cut from the $360 million that was requested by the administration. I understand the figure assumed in the budget is in the range of $200 million. Quite frankly, I was very disappointed it was not higher. I regret that we have already funded the SSC too low, but, I am not here to take money out of Amtrak, or out of NIH, or even the space station, or Veterans' Affairs, to increase Federal efforts on the collider. I am prepared to go along with the compromise.

So, I hope that this body is wise enough to defeat the Weicker amendment. We will continue to address the problem of AIDS in the future. I thank the Chair, and I thank the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Texas has 5 minutes.

Mr. DOMENICI. Mr. President, will the Senator yield for another request? I want to yield 10 minutes to Senator WEICKER. He needs 10 additional minutes. He has run out of time.

I yield that to him off the resolution.

The PRESIDING OFFICER. Senator WEICKER has 14 minutes 43 seconds under his control.

Mr. DOMENICI. I yield him 10 additional minutes.

The PRESIDING OFFICER. In addition to the time that he currently controls?

Mr. DOMENICI. Indeed.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, we have before us an amendment that will reduce funding for space and science. I would like to remind my colleagues what has been done by Congress in the last 2 years and what has been done by the House this year as it relates to the space and science budget.

Last year Congress cut the President's proposal for expenditures in space and science by $700 million.

This year, the House of Representatives has already cut the President's science and space budget by $1.4 billion. I think it is instructive to note that they reached the Gramm-Rudman-Hollings deficit target just like the President did. They spent the same amount of money that the President did, and yet they cut space and science funding by $1.4 billion. Where did they spend the money since they did not use the money they cut from space and science to lower the deficit?

Instead of reducing the deficit, they spent the money to continue Amtrak subsidies. They spent the money on expanding food stamps and other nutrition programs. In short, they invested in the next election instead of the next generation.

I think we are in grave danger in this country of losing the cutting edge advantage that America has always had on the world market and has always had in preserving the peace and security of the free world. I am referring to the advantage we have had in the areas of science and space.

I believe that we must not adopt this amendment. It is vitally important that we preserve the one billion dollars above the level recommended by the House that is currently in this budget for space and science. Mr. President, I hope that the conferees will return a conference report on the budget resolution that retains the Senate Budget Committee's funding level for space and science. If we do not do that, once again we are going to be derailed in terms of our ability to put a space station in space. A space station is vital for science and is vital for the national security of the United States and the free world.

If we do not preserve space and science funding, we are not going to be able to move ahead in an orderly fashion to build the superconducting super collider. The SSC vital for science, is vital for medicine, and is vital for national security.

I have no quarrel with the distinguished Senator from Connecticut about health. I am a strong supporter of health research. In fact, had the distinguished Senator proposed cutting Amtrak subsidies to fund health research, I would have voted with him. Had he proposed reducing operating subsidies for mass transit, I would have voted with him. Had he proposed taking money out of programs that are aimed at buying votes in the 1988 election and instead invest those funds in programs that deal with the real problems we face in health, he would have had my vote.

But what we have here is an amendment which robs the future in one area to invest in the health problems we have today. Quite frankly, there is money in the $1.1 trillion budget, to do both. The problem is we are not doing enough in either area, because we are spending on programs that have bigger political constituencies.

I believe this amendment is a mistake. Given that in the last 2 years Congress has both science and space, I think it is imperative that we defeat this amendment. We should not reduce funding in space and science as this amendment proposes. I urge my colleagues to vote to table this amendment. I yield back the remainder of my time.

Mr. HARKIN. Mr. President, I rise in support of the amendment offered by the Senator from Connecticut.

We must make some tough choices. I am a strong proponent of basic research. And, the goals of the superconducting super collider are important for our basic understanding of matter itself. But, at this juncture, with budget deficits choking off so many essential programs, I do not think we can afford to move toward construction of the super collider.

Now I know there must be prestige and glamour to a project like the SSC that makes it almost irresistible. But we have to face reality.

No one knows for sure how much this project will cost. And don't let anyone tell you additional moneys will not be requested on down the line.

But we do not even have enough money—at least we have not allocated enough money—to keep our existing accelerators in use full time.

I know there is some concern about the Europeans upgrading their CERN facility, surpassing our FERMI lab as the fastest accelerator in the world.

If we were in a situation with unlimited resources, I would say, yes, let us go for it. But in our current situation, I question the need for the United States to always possess the biggest and best basic research facilities. For decades, the United States has led the world in basic research only to see our innovations lead to products developed in other nations. We should not abandon basic research, but maybe it is time to explore the possibility of more basic research in cooperation rather than in competition with other industrial nations.

Other than vanity, I cannot think of a reason why the United States must pay all of the expense of building and maintaining the largest particle accelerator in the world.

Senator WEICKER has proposed an amendment which goes to the heart of the matter. This amendment shifts $50 million in outlays to the health function. It does not stop research on the super collider. It allows research to continue. But it does not move us toward a commitment to construct that multibillion project.

The Senate Budget Committee is recommending an increase of $600 million in budget authority in discretionary health programs over 1988. These increases have been targeted by the Committee for AIDS Research and Education, Maternal and Child Health and Community Health Center Programs, migrant and Indian health care, health care for the homeless, drug abuse treatment, childhood immunizations, and NIH biomedical research.

But if we are to fill the President's request for increased funding for AIDS, up $349 million, and other NIH research, up $336 million, we cannot possibly meet the needs targeted by the committee:

Somehow we have got to meet the costs of the Childhood Immunization Program and fund over vaccine stockpile. We cannot permit our children to get diptheria, pertussis, tetanus, mumps, and measles—because we did not allow for the funding to make the vaccines available. That Mr. President, would be tragic. The President's budget for childhood immunization is simply inadequate. It eliminates all funds to administer the program. It eliminates funding for the vaccine stockpile, and doesn't permit purchase of the new, more effective—but more expensive—H-flu vaccine. It is hard to believe that these dangerous childhood diseases continue to threaten our children today. But the recent upsurge in the number of cases of rheumatic fever is a timely reminder that in fact they do.

And what are we going to do to help our community health centers that are struggling now to cope with the growing numbers of poor people who are looking to them as their primary source of health care? The Senate Labor and Human Resources Committee just reported out a reauthorization bill that calls for an additional $100 million for these centers. The need is grossly apparent: at current funding levels, community health centers have been able to serve just 15 percent of the needy population. As the number of persons living in poverty and without health insurance grows, the number of people for whom these centers are their sole source of primary health care is increasing at a frightening rate. Community health centers are the last hope for many people seeking health care—we simply cannot deny them what is a basic human right.

I reel at the thought that, at a time when we are experiencing an acute nursing shortage, we might not be able to maintain—not increase, but just maintain—funding for health professions. I cannot speak to a health group without them raising this issue, and I know that every Senator in this Chamber knows what I am talking about. We simply must do something to address this situation and our opportunity is here before us today.

I ask my colleagues to weigh carefully the merits of this amendment. We are talking about very basic programs here, nothing fancy, just basic health care. I say let us take care of these basics first, that is where our responsibility lies.

Mr. HEINZ. Mr. President, I would like to commend the Senator from Connecticut for offering this equitable amendment which would transfer $145 million in budget authority and $50 million in outlays for fiscal year 1989 from the superconducting super collider to function 550, general health.

Yesterday I spoke of the inequity of the 25-percent increase in funding for the Department of Energy's superconducting super collider. Comparatively, discounting for inflation of the cost of project grants, proposed spending for the National Institutes of Health—the world's leader in biomedical research—is merely maintained at fiscal year 1988 spending levels. Can we in good conscience say that construction of this pricey scientific toy is more important than research into cancer, heart disease, and Alzheimer's disease?

I want to point out that the $145 million transfer from the super collider to general health programs would primarily go toward providing medically underserved areas with necessary health care. Additional funding for the National Health Services Corps Program and community health centers will help provide more health care workers to areas which have limited access to health services. Furthermore, these funds would be used in Federal support for health professions education to ensure that we have enough physicians, nurses and other health care personnel. Equally as important, it would maintain funding for our children to be immunized against disease.

Fiscal responsibility and deficit reduction means establishing responsible priorities for Federal spending. It forces us to re-evaluate the benefits of all of the federally funded projects and programs to determine which provide the greatest benefits for the largest number of people. I do not believe that the Senate really intends to embark on a costly new scientific project with uncertain benefits while cutting back on necessary health services for millions of Americans. I urge support of the Weicker amendment which would improve support for some of our most important health programs.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I want to respond first to several points that were raised in the course of the debate, and then speak again for the amendment.

The first point I want to make is that not one single penny from the moneys allocated to the space station are being transferred by virtue of this amendment. Not one penny. Indeed, should the amendment pass, the money that is involved would be crosswalked out of the Energy and Water Appropriations Subcommittee, not out of the subcommittee responsible for NASA funding. Not one single penny comes out of the space station.

Point No. 2: Not one penny is being requested to be added to the additional increases for AIDS. This is not AIDS money today. And in nowise will the money being requested come out of veterans' payments or out of housing. It has nothing to do with that, and these are extraneous arguments.

One of the prior distinguished speakers indicated this money was being added to a figure of $49 billion budgeted for health programs. This is not the case, so far as Health and Human Services discretionary spending is concerned. The discretionary aspect of that total is only $13 billion, almost the same as in the science function. So the two functions are almost parallel.

Point No. 3: The 250 function received a 25-percent increase in this budget, and the health function received a 5-percent increase.

I just wanted to cover these points insofar as previously made statements are concerned.

Again, not one penny is coming out of the space station. This is not new money for AIDS. This is not coming from veterans or from housing. It is coming from the super collider. Even insofar as the super collider project is concerned, it does not terminate that project at all. Indeed, let me read from the letter of the Committee on Energy and Natural Resources of the U.S. Senate to the Budget Committee on the super collider:

> SUPERCONDUCTING SUPER COLLIDER
>
> The Committee believes that the President's request for $363 million for research, development, procurement, and construction of the superconducting super colliding accelerator [SSC] is far out of line with budgetary realities. The appropriation for the SSC in fiscal year 1988 was $25 million. Should the Congress agree to proceed with the project, the Committee doubts that the program could expand as fast as the President's request seems to assume. In addition, the Committee has strong reservations about the wisdom of commiting to such a massive project as the SSC in the absence of any coherent plan for supporting future research and facilities construction activities of the Department in the physical sciences.
>
> More importantly, the Committee strongly opposes funding the SSC by reducing ongoing research programs in the physical sciences, fossil energy research and development, and energy conservation programs. Yet this appears to have been one result of the inclusion of such a large increase for the SSC in the President's fiscal year 1989 request. The Committee recommends that major commitments to SSC research and development and any commitment to procurement and construction for the SSC project await resolution of yet unanswered questions about the source of funds for the project and its impact on future funding for research in the physical sciences.

There is the statement transmitted from Senators JOHNSTON and McCLURE to the Budget Committee on the super collider. That is the reason why we are looking at this particular pot of money for the funds necessary for nurse training, childhood immunization, geriatric training and community health centers.

The super collider project cannot even spend what is in this budget this year. They do not even have a site selected. Yet under my amendment, the moneys would be there for them to continue their planning and get their site selected. But I am glad that we are so flush that we can commit to $363 million while these other areas go unaddressed.

Before I get to the amendment itself on health, I want to make one comment about what is going on here.

I concur with the remarks made by Senator McCAIN, and Senator GRAMM alluded to it as well as Senator SASSER and others. We are here fighting between physics and health and we should not be doing it. You are darn right we should not be doing it, but this is what has been decreed as being the budgetary process of this Nation.

It is not just the budgetary process. Every candidate who is out there for the Republicans or Democrats says no tax increases for 4 years or if they are running for the Senate, nothing for 6 years. They think they know what is going to happen in 4 years and 6 years, and all of a sudden, something like AIDS comes up and you have to allocate $2 billion. All of a sudden, we have a war on drugs, and we need $1.5 billion.

All of a sudden, we have to send our naval ships into the gulf to protect the right of free passage in international waters and we need a billion dollars. So we scramble around the inadequate funds available to adjust to these changed circumstances, but we never change the parameters. And the natural result is exactly what you see on this floor. You see science fighting itself, disease fighting itself, poverty fighting itself—all the things with little to start with have to go ahead and tear each other apart for the scraps from the table because we have decreed upon ourselves this rather weird process which locks us into concrete for years ahead, forgetting that we might lock ourselves in but the world changes whether we like it or not, both in terms of opportunity and in terms of problems.

Do you want a good example of change? I am asking for money for nurse training. Remember how 5 or 6 years ago we had too many nurses? Everybody wanted to cut the budget for health professions training and now we are in a serious situation of shortage. Let me tell you just exactly how serious this situation is.

In mid-1987, an American Hospital Association survey found that 54 percent of the hospitals were experiencing a moderate or severe nursing shortage. It was recently reported that high tech machinery in the hospitals is sitting idle because there are not enough nurses to operate it and put it to use for the patient's good. So hurrah for all this high technology. We do not even have the people trained to operate it. And when I talked to some of my colleagues the other day they wanted to modify the immigration laws so we can permit foreign-trained, foreign national nurses in this country because we do not have enough. And yet in order to go ahead and operate within this ever-increasing demand on the budget, we go ahead and cut nurse training.

The President's budget cuts health professions training from $212 million to $40 million. The overall figure arrived at by the Budget Committee for function 550 would result in a similar cut. Let me link this again with changing circumstances, that is, a circumstance of the past. We went from too many nurses to too few. The exact same thing is going to happen with our elderly come the year 2000. This budget threatens to eliminate our geriatric training programs. Out of 127 medical schools, only two or three have Departments of Geriatrics. By the year 2000, the over-85 population is going to double; by the year 2020, the over-65 age population is going to double.

The National Institute on Aging estimates that by 1990, just 2 years from now, there will be a nationwide need for 8,000 physicians and 265,000 nurses educated in the field of geriatrics. At present the numbers of available professionals stand respectively at 700 physicians, not 8,000 but 700, and 130,000 nurses. The funds proposed in my amendment would go to pay for the geriatric training we so desperately need.

We sat for a whole day on the floor of the Senate debating Social Security. This apparently is the hallmark as to whether you are for or against the elderly. Might I suggest that I and I think many others—I am getting to that age—might not just like to pick up a Social Security check if there is no doctor or nurse to take care of our ills, if there is no research into Alzheimer's disease, if there is no roof over our head. What about the rest of the quality of life for the elderly? Once you have done your Social Security vote out here, we can all leave and go home? Oh, no. What is at issue now, probably even more so than that vote yesterday, is exactly how we treat our elderly, and that is the money for which I am asking.

Finally, childhood immunizations and the community health centers. Community health centers are the first line of defense so far as medicine is concerned for those who do not have access to a physician.

I am not going to point the finger at my colleagues here on the floor of the Senate. I am going to point it at my own State of Connecticut, No. 1 in per capita income. Do you realize the infant mortality rate in Hartford and New Haven is as low as it is in the Third World countries? In many cases, the first time the doctor sees a pregnant woman is when she is being wheeled in in labor. All too often this can result in an infant death or low birth weight. The care for a low birthweight baby costs 10 times the rate of a healthy baby. Such costs are preventable if we provide prenatal care for the mother. Yet community health center funding in this budget comes nowhere near the demand for services.

Last, it used to be that a nation lived for its children. That is what drove all of us—parents, grandparents, and the elderly. We live for our children. Yet in order to finance what is going on around here we cut funds for childhood immunizations.

How about the children who are going to get these childhood diseases, all because they are not going to get their vaccinations?

I am sorry there is a fight between the sciences here, and nobody recognizes more than I do the necessity to make the investment so far as the future is concerned. Do not forget my career has been built on the Senate floor fighting for the National Institutes of Health and the medical sciences. Nobody is decrying physics and the rest of the sciences.

As a practical matter, all that is involved here is adequately funding the super collider in the present state in which it exists. It is not ready to construct. They have not even picked the site. Give them the construction money next year, but allow the elderly and the kids and the poor, those who are hurting today, to have those hurts attended.

That is what is at issue. Nobody need fear that the space station is being impeded or that, indeed, even the super collider is being impeded, but as the Energy Committee said, not this Senator—many times I disagree with Senators McCLURE and JOHNSTON—they are nowhere near ready to spend what the President has thrown out on the table in that budget.

Unfortunately for us, we do not have the luxury of a lot of excess money flowing around. We have to make do in a very narrow way, too narrow a way, with a very limited pot.

If there are any questions anybody has on my amendment, I will be glad to respond. Otherwise, this is not the elimination of one program or the undue enhancement of another. It very clearly means that the one can proceed in an orderly way, which it is doing right now, without any reduction of effort.

On the other side it also means that there are some people who are going to live who otherwise would not if this amendment is adopted.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Can somebody here yield me 30 seconds?

Mr. WEICKER. I yield 1 minute to the distinguished Senator from Kentucky.

Mr. FORD. The Senator is most kind, and I do not argue with anything that he has said in relation to health care here today. But one thing I want to make perfectly clear, if I may, as chairman of the Subcommittee on Research and Development of the Energy Committee for the Senate, the moneys for the super collider were only there because other research projects were reduced as much as 50 percent in order to put that money into the super collider.

Now, based on the hearings that I have held, the super collider will not receive near that amount of money because the money that was either zeroed out of other research projects or cut by 50 percent will have to be restored. So I do not want the Senate to believe that the super collider, if it is reduced by the amount of this amendment, is going to get that money upon recommendation of the Energy Committee because the administration had cut other research projects that are vitally of interest to this Nation, and therefore the money that is being removed from the super collider would not be there anyhow.

And the ultimate result would be this money would be taken out of this function and put into another function, and therefore all research projects under that particular arena would be reduced.

I thank the Chair. I thank my distinguished friend.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, last evening I indicated the rollcall vote would occur at about 10:10 or 15 minutes after 10 o'clock this morning. I was only taking into consideration the time that was agreed to on the amendment by Mr. WEICKER. Time has been yielded from the resolution which is certainly within the rights of Senators and under the rules. Could we get some idea at this time as to when the vote will now occur so we can alert Senators?

Mr. WEICKER. I am prepared to literally wrap up in a matter of 2 minutes. I do not see anybody else here who requests to speak.

Mr. BYRD. Very well. If we could agree now that the vote would occur 10 minutes from now, the time to be equally divided between Mr. WEICKER and Mr. CHILES, we could get the word out to both cloakrooms. If Senators will allow me, I will ask unanimous consent that the vote on or in relation to the amendment by Mr. WEICKER occur at 10:50 a.m., that the vote occur 10 minutes from—yes?

Mr. HEFLIN. Mr. President, I rise to reserve the right to object. I am not sure what the strategy is with the Budget Committee, but I assume that there might be a motion to table as opposed to the unanimous-consent request which is related to the amendment. That is the only reason I rise. I am not one of the strategists relative to the Budget Committee, and I do not know what they will do. But I reserve the right until maybe I hear from them. I would have to interpose an objection.

Mr. BYRD. May I say to the distinguished Senator that my request would allow a tabling motion. I said, "On or in relation to."

Mr. HEFLIN. My ear did not pick that up. So, anyway, I withdraw my objection.

Mr. BYRD. That is my fault. I probably talked like I had a mouthful of turnips.

Mr. HEFLIN. I do not believe that is so.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes on the amendment, that it be equally divided as was stated, and that the rollcall vote occur at the expiration of the 10 minutes on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I should not have included in that request the request that a rollcall occur. Does the Senator want to ask for the yeas and nays? Is there going to be a tabling motion?

Mr. DOMENICI. Yes.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. That is the yeas and nays on the amendment.

I ask unanimous consent that it be in order to order the yeas and nays now on the motion to table, if a motion to table is made.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **BYRD.** Mr. President, I repeat that this will be a 15-minute rollcall vote. Senators should start to the floor early.

Mr. **SARBANES.** Would the Senator yield for a question?

Mr. **BYRD.** Yes.

I ask unanimous consent that this time not be charged against either side.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **SARBANES.** Each year we do commemoration services for the Holocaust victims. That service has traditionally been held in the Rotunda of the Capitol, but of course the Rotunda is now under construction this year and the service today will be held at the auditorium of the State Department beginning at noon and ending at 1 o'clock. The question obviously that I want to put to the managers or to the leaders would be, is it possible for votes not to take place during that period of time?

Mr. **BYRD.** Mr. President, I am glad that the distinguished Senator has notified the Senate of this matter. I must confess that while I have been involved in previous ceremonies I was not even aware that today was the day it was going to take place. I think we should strive in this circumstance to stack any votes so as to allow Senators who need to go there or have to go there or want to go there and participate. I will be very happy to try to work that out.

Mr. **SARBANES.** I very much appreciate that.

Mr. **BYRD.** That would be between the hour of 12 noon and 1.

Mr. **SARBANES.** The ceremony is at noon and it ends at 1. We need to get down there and back. We obviously could finish up this amendment, and then I would hope—the next one I think is to take an hour—the vote on it would be stacked, and delayed a bit.

Mr. **BYRD.** Would 15 minutes prior to 12 provide sufficient time plus the hour, plus, say, 15 minutes after 1? Would that be sufficient?

Mr. **SARBANES.** Yes. That would be fine.

Mr. **BYRD.** I am going to ask, and I shall ask unanimous consent that no rollcall vote occur between the hour of 11:45 a.m. and 1:15 p.m. today.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Mr. **BYRD.** I thank the distinguished Senator.

Mr. **SARBANES.** I thank the leader very much.

Mr. **BYRD.** I thank all Senators.

Now I ask that the 10 minutes begin running on the amendment and that the vote occur, let us say, at 11 a.m.

The **PRESIDING OFFICER.** Who yields time?

Mr. **WEICKER** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Connecticut.

Mr. **WEICKER.** Mr. President, these will conclude my remarks on this amendment, and I hope my colleagues will consider it. I hope it will pass as a statement of what our priorities are in this Nation.

"If you have your health, you have everything," the old saying goes. We say it to each other as individuals a thousand times each day across the width and breadth of this country. But there is also a truth in another statement which is less well known. "The health of nations is the wealth of nations."

By that measure, how wealthy is this most affluent of nations in which we live? In an enterprising article this week on the "Black White Health Gap," the Washington Post put it like this:

> By almost every traditional measure of health—from rising life expectancy to falling rates of infant mortality and fatal heart attack—Americans are healthier now on average than a generation ago. On average—there's the rub. As somebody once said, the trouble with an average is that you can drown in a lake with an average depth of two feet.

That is the situation in a nutshell. Too many poor and middle-class people in this country, black and white, are in over their heads because the health care they need is not available or affordable. And as a result, their health and well-being and that of their families and of this Nation are at risk. They are also at risk if we do not have the institutions to impart knowledge to those desirous of being in medicine. The price paid then, frankly, becomes death and disability.

We must bolster, not undercut, our maternal and child health and nutrition programs, our immunization programs, our community health centers, and other health systems which bring knowledge and trained medical people into the neighborhoods that need it most.

There will be those who question whether we can afford it. But what we cannot afford is a country divided into poor and rich, sick and well, based on a person's color, age, or earning power. We hear a lot, and so we should, about how AIDS disproportionately affects the urban poor. But so do diabetes and heart disease and lung cancer.

Dr. William A. Darity, professor of public health and dean of the School of Health Science at the University of Massachusetts at Amherst, describes the health status of black Americans, in comparison with whites, as "not much greater than it was during the period of slavery."

We abolished slavery 126 years ago. But it will take more than an Emancipation Proclamation to right the wrongs where the health of America is concerned. It will take more money and a strengthened mission for our health programs.

In some recent writing on the health care crisis, it has been suggested that perhaps technical technology and expertise has outpaced our social and political mastery of health issues. The difference is that the politics of health is in the hands of the people and their elected representatives. We must take the advice of the medical and public health experts; but, as Ben Franklin said, in a democracy, the people rule. The question is: Is the doctor in?

It is not great credit to us that science is fighting among itself for the few pennies left to it. Maybe it is that this will hasten the day when a budgetary process will be devised that can meet the instant and the long-range needs of the Republic. But I am dealing with this budget, as I have to deal with those children today who will not be immunized or those elderly who will have no care or those pregnant women who are imminent of delivering a child.

The **PRESIDING OFFICER.** The Senator's time has expired.

Mr. **WEICKER.** It is to those that the benefits of this amendment are addressed.

The **PRESIDING OFFICER.** Who yields time?

Mr. **WIRTH.** I yield myself 2 minutes.

The **PRESIDING OFFICER.** The Senator from Colorado.

Mr. **WIRTH.** Mr. President, we have a stake here in this debate as we work to strike a balance of programs in this resolution.

The Senator from Connecticut has made an eloquent case for the health of the society, and he defines "health" in a fashion that is familiar to most people. I hope we define the health of our society in other ways as well and that, in doing so, we will reject the amendment, keeping the balance in the budget resolution.

We know that we cannot earmark projects and programs in a budget resolution, specific money to go to energy research or a super collider or any other science project, but we are laying out priorities as we, in the Senate, believe those ought to be today.

It seems to me that keeping a priority on research and placing a priority on the long-term future of our economy is something we must do in redefining health. Let us talk about the health of our economy and about a couple of examples that are apparent to us all.

This morning's newspaper pointed out a decline in the health of the economy because our trade deficit increased in the month of February. People had thought our balance of trade was on the upswing. It is not. What is the largest single contributor to that? Energy, or the fact that we are importing an enormous amount of energy from overseas today—in the neighborhood of $45 to $50 billion a year. By the early 1990's, that figure will increase to more than $90 billion a year, unless we get serious about taking steps to develop a long-term energy policy. What that means is making the necessary kinds of investments in research on conservation, in solar energy, and on the other alternatives to the import of traditional fossil fuels.

If we do not do that, we will see a skyrocketing budget deficit, coupled with a skyrocketing trade deficit. What kind of health will that provide to our economy? What will we be able to do in terms of finding the resources to make the kind of traditional health investments, so eloquently defined by the Senator from Connecticut?

Energy, by itself, speaks loudly to this problem. The issue of long-time research in the science area is important as well.

I hope we will reject this amendment. It is very clear that the structure of our economy in the future, and how our young people are prepared for this future, relates to the health of our science establishment. The health of this establishment relates to our ability to teach our young people in this country the kinds of skills they will need to compete in the 21st century environment. That is the purpose of the funding in the function that is currently being debated. I think we definitely have to keep that money in the science function. We must make the long-term investments in science and technology that this budget resolution proposes.

Our commitments to centers of excellence, our commitments to the teaching of science, our commitments to the future of our economy in the next century will depend on our ability to develop innovative solutions and to be competitive in the global marketplace. This budget resolution seeks to enhance that ability

I hope we will reject this amendment and keep the balance in the budget resolution. I hope that in rejecting this amendment, we will reaffirm our commitment to investing in our future by funding the long-term scientific research and development needed to overcome our problems in energy, and other fields, as well.

Mr. METZENBAUM. Mr. President, I strongly support increased funding for health research and for programs like child immunizations, community health centers, and nursing education.

In fact, a few years back I sponsored an amendment to increase by $200 million funding for immunizations, community health centers, and other health programs targeted particularly to the needs of children.

I am concerned, however, that this particular proposal could have a serious negative impact on other programs which are vitally important to the State of Ohio.

I am particularly concerned that this cut will come directly from NASA's most visible new undertaking—the important Space Station Program.

This would hurt our Nation's space exploration efforts and be an economic blow for my State, particularly in the Cleveland area.

NASA's Lewis Research Center in Cleveland is managing the $1.6 billion power systems package for the space station. Last year's budget reductions for NASA slowed down Lewis' start-up efforts in this area. Further reductions will mean more problems and more delays at the center.

And the adverse impact will be felt beyond the walls of Lewis. Right now, dozens of firms in the Cleveland area and elsewhere in the State have been identified as potential bidders for various subcontracting work on the power systems project. A cut in NASA's Space Station Program will cost Ohio important scientific and technological jobs.

As a strong supporter of health program funding, I regret that, because of these concerns, I must oppose this amendment.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

All time has expired.

Mr. CHILES. Mr. President, I think we have tried to balance the equities in this bill, and I think we have had a good debate.

I move to table the Weicker amendment. The yeas and nays have already been ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Florida to lay on the table the amendment of the Senator from Connecticut.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

I also announce that the Senator from New Jersey [Mr. LAUTENBERG] is absent because of attending a funeral.

The **PRESIDING OFFICER** (Mr. SHELBY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—57

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Chiles
Cochran
Cranston
Danforth
Daschle
DeConcini
Dixon
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Levin
Lugar
McCain
McClure
Melcher
Metzenbaum
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Reid
Riegle
Roth
Sanford
Sasser
Shelby
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—38

Bradley
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
D'Amato
Dodd
Dole
Durenberger
Harkin
Hatfield
Hecht
Heinz
Inouye
Karnes
Kennedy
Kerry
Leahy
Matsunaga
McConnell
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Rockefeller
Rudman
Sarbanes
Simpson
Specter
Stafford
Stevens
Trible
Weicker
Wilson

NOT VOTING—5

Biden
Gore
Lautenberg
Simon
Stennis

So the motion to lay on the table amendment No. 1944 was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was agreed to

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1945

(Purpose: To index the capital gains tax and reduce outlays for community develoment)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk on behalf of myself and Senators GRAMM and WALLOP and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] for himself, Mr. GRAMM and Mr. WALLOP, proposes an amendment numbered 1945.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, decrease the amount on line 13 by $100,000,000

On page 2, decrease the amount on line 14 by $200,000,000

On page 2, decrease the amount on line 17 by $300,000,000

On page 2, decrease the amount on line 18 by $300,000,000

On page 2, decrease the amount on line 19 by $300,000,000

On page 2, decrease the amount on line 23 by $100,000,000

On page 2, decrease the amount on line 24 by $200,000,000

On page 3, decrease the amount on line 11 by $100,000,000

On page 3, decrease the amount on line 12 by $200,000,000

On page 4, decrease the amount on line 1 by $300,000,000

On page 4, decrease the amount on line 2 by $300,000,000

On page 4, decrease the amount on line 3 by $300,000,000

On page 4, decrease the amount on line 7 by $100,000,000

On page 4, decrease the amount on line 8 by $200,000,000

On page 15, decrease the amount on line 24 by $300,000,000

On page 16, decrease the amount on line 9 by $300,000,000

On page 16, decrease the amount on line 10 by $100,000,000

On page 16, decrease the amount on line 19 by $300,000,000

On page 16, decrease the amount on line 20 by $200,000,000

Mr. ARMSTRONG. Mr. President, I have two bits of housekeeping news before we discuss the amendment. First, Mr. President, I ask unanimous consent that the Senator from Minnesota, Mr. BOSCHWITZ, also be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, it is my understanding from the managers that leadership wishes to debate this issue now but that a unanimous consent agreement has been previously ordered that no votes will occur between the hours of 11:45 and 1:15. Therefore, it would be my expectation that we discuss this at whatever length anyone is interested in discussing it and then, at that point, the matter would be laid over to be voted on at about 1:15 or sometime after that.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. ANDERSON. I would be very pleased to yield.

Mr. BYRD. I think the Senator has done a service to all of us so that all Senators should know that the vote on this amendment, then, will not occur until 1:15 p.m. today, or after. Although there is an hour on the amendment, there is only about 20 minutes left, as I can see the clock from here, prior to the period in which the order was to the effect that there would be no rollcall votes: Namely, between 11:45 a.m. today and 1:15 p.m. today.

The distinguished Senator has indicated that he will not be prepared to have this vote by 11:45, which I think is very reasonable for him to say. And Senators should know, then, that there will be no rollcall votes prior to 1:15 p.m. today.

Can we agree then that vote then will occur at 1:15 p.m.? It is all right with me if the Senator would say 1:30 or whatever, but so all Senators and the managers know precisely when we are going to have the vote.

Mr. ARMSTRONG. Mr. President, it would be perfectly acceptable for me to say either 1:15 or 1:30 or any time acceptable to the leadership.

Mr. BYRD. Both managers have indicated a preference for 1:30. I ask unanimous consent that the vote on the amendment or in relation to the amendment occur today at 1:30 p.m.

Mr. EXON. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, I do not intend to object but I do want to make clarification. The Senator from Nebraska has been patiently waiting for assignment of 10 minutes. I came to the floor 45 minutes ago and was told I could not do it then because there was a vote and we are doing this, that and the other thing.

I would simply ask the majority leader what are the intentions? Are you intending to recess at a time sometime before noon? I would only object if the Senator from Nebraska would not be able to get 10 minutes yielded to him off the bill before the vote on the amendment offered by the Senator from Colorado.

Mr. BYRD. Mr. President, there is only 1 hour on the amendment under the agreement. It will be 2 hours before the vote will occur on the amendment. There will be no problem in accommodating the distinguished Senator from Nebraska.

I will not recess the Senate if Senators wish to speak, either on this subject or on morning business items. But if I find a period in which Senators do not want to speak, I would recess the Senate accordingly. But I see no problem for the Senator.

Mr. EXON. With that understanding I have no objection and I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, there is a certain attitude of frustration about this budget resolution, almost a feeling of resignation that this is going to be a wheel-spinning year. This is a year in which we really cannot do anything too much, that we cut a deal last year in the so-called budget summit conference. Whether we agreed to it or not, a deal of that kind was cut and that, in effect, constrains our actions as we consider the budget resolution. So we really are prevented, in the opinion of many people, from reducing the deficit. We are prohibited, really, from adjusting the balance between defense spending and domestic spending and other things that would ordinarily be the business of the Senate when we take up the budget resolution. Those things have been foreordained and, like it or not, I think that is in large part a realistic appreciation of the situation.

But, Mr. President, for those Senators who are feeling frustrated, who think we ought to at least make some effort to break new ground and address in a thoughtful and serious way some of the problems which our economy is facing, along with my colleague from Texas, Mr. GRAMM, and my friend from Wyoming, MALCOLM WALLOP, and RUDY BOSCHWITZ of Minnesota, we have brought forward an amendment which in the confines and context and ground rules of the budget summit conference in a budget-neutral way does permit this Senate to speak on a very important issue. If our amendment is adopted, it would provide the running room, the budget room to permit the Senate and the Senate Finance Committee to consider indexing the capital gains tax of this country.

The fact of the matter is, if this were to happen as I fully expect it will at some point in time, whether it is this year or not, it would be one of the most important tax initiatives that has ever been undertaken by the Congress of the United States. Let me just take a moment to explain the amendment and then the reason why I feel it is so important.

What this amendment suggests is, first, that we will reduce the revenue base specified in the budget resolution by $100 million for next year and by $200 million in the year following, permitting a phasing in of indexing of the basis used in the computation of capital gains.

We are not indexing the rates, we are indexing the basis, that is the cost of acquisition.

As all taxpayers who have been through this will realize, when you compute your capital gains tax the first thing you do is subtract the acquisition cost from the selling price.

What this amendment suggests—it does not specify—but the theory of it is, the assumption underlying is, that we would permit taxpayers in future years to inflate their basis to offset those things caused purely through an increase in the general price level. So we simply say take your basis, escalate it by the increase in the gross national product deflator, and that then becomes the basis from which you compute your capital gains tax.

Mr. President, prior to the Tax Reform Act of 1986, individual taxpayers could deduct from their gross income 60 percent of the amount of their capital gains. In effect, this made the maximum effective tax rate only 20 percent because if you take the top personal bracket of 50 percent and apply that to what is left after you exclude 60 percent of a gain, the effective tax rate is 20 percent. For corporations, the regular maximum was 46 percent, but was a maximum of 28 percent on net capital gains. Capital gains rates were not indexed for inflation.

That was the situation prior to 1986, but there was built into the system, as it existed in those years, an assumption that capital gains were a different kind of income, an ordinary income, and if you accumulated that income over 5 years, 10 years, maybe 50 years, that it should not be taxed on the same basis as ordinary income.

Mr. President, when we adopted the Tax Reform Act of 1986, we put all income under the same set of tax brackets. The effect of this is to drastically increase the rate of taxation on capital gains income from an effective rate of 20 percent to an effective rate of 28 percent.

The amendment which we bring forward today does not change that, but what it does do is it says when you compute your gain, you may first increase the acquisition cost. That is, technically, the basis from the amount you paid to an amount which includes the inflation gain.

Why is that important? Let me just bring it down to very practical terms. If you go out and buy a dry cleaning shop, or a small business, a farm, or a house and sell it 5 or 10 years later and all that has happened is the value of that business, house, or whatever it might be, has kept pace with inflation, you nonetheless pay a tax and you end up with less than what you started with.

I hope that is perfectly clear. I do not want to be theoretical about it, but it literally says if you buy something for $100,000, say a small dry cleaning plant or whatever it might be, at the end of 10 years there has been a doubling in the general price levels. It is worth $200,000 in current dollars. You end up paying a capital gains under the present structure on $100,000, or a tax of $28,000. So you end up worse off at the end of a decade of work and investment and effort than you started out a decade earlier.

We are not trying to make anybody whole, but we do suggest to require somebody to pay a tax on that kind of a gain does not make sense. So the first argument in support of this is simple equity. We think that is far more fair.

The second argument, Mr. President, is a macroeconomic argument. It is simply if you really want to do something to encourage capital formation and job creation, it is to encourage the kind of investment in job-creating activities which is so greatly discouraged by our present capital gains structure.

Many people believe that the United States now has one of the most anticapital tax systems in the free world. The maximum tax rate on long-term capital gains has risen in the United States, as I have just pointed out, from 20 to 28 percent. West Germany and Japan, for example, now exempt entirely from any taxation any gain on a capital transaction of this type. Canada's top rate is 17½ percent; France is 16. Other nations are also low.

So if we want to be competitive and if we believe that investment in plant and equipment, in job-creating activities is part of being competitive on the international scale, this is an idea that we ought to support.

Indeed, Members of this body have supported this notion of indexing capital gains previously. In 1982, it was adopted by the Senate on a vote of 61 to 32. In 1978, the House of Representatives also endorsed this idea. The House Ways and Means Committee recognized it, and the full House adopted it.

My hope is that we are to the point where we can get both Houses of Congress to pass it at the same time and on the same legislative vehicle so that it will go to the President and be signed into law.

The President, by the way, has spoken in generally favorable terms of this notion, as Senators know. In fact, quite recently the President has called attention to the need to do something about the capital gains structure. I think he has a slightly different formula in mind, and I do not purport to suggest in any way that the President has considered or endorsed this specific amendment, but it is certainly consistent with the general policies which he is advocating.

Mr. President, I ask unanimous consent to insert a detailed discussion of this matter, both from the standpoint of an individual taxpayer and also a technical analysis of the amendment in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Capital Gains Indexing: An Economic Life Preserver

Mr. Armstrong. Most Americans do not know about capital erosion. They should. Capital erosion describes a hidden tax imposed on capital gains. Because of its invisible nature, capital erosion is to taxpayers what quicksand is to hikers or ocean riptides are to swimmers. All three offer hidden treachery to the unsuspecting.

Capital erosion is a simple enough concept; taxes increase as inflation artificially increases the value of capital. Now that may not sound serious. Neither does a riptide viewed from the beach, nor quicksand seen from afar.

An example will illustrate. Suppose you buy a dry cleaning business this year (1988) for $300,000. In 1998, after a decade of hard work, you build up the business and sell it for $500,000. Your "gain" is $200,000, and under current law you would pay roughly 28 percent of that in federal income taxes, or $56,000. That leaves an after-tax gain of $144,000.

Overlooked however, is ten years of inflation which will erode the value of your gain. Now, we can hope the inflation will be minimal until then. If history is an accurate guide, by 1998 prices could rise 60-70% over current levels.

Let's say that inflation does indeed rise by 60% over the next 10 years (about 5.5% per year). In the case of the dry cleaners, your "real gain" is not $200,000, but only $20,000 ($500,000 minus $480,000, where $480,000 is the amount of your 1988 investment in 1998 if its value just keeps pacing with inflation). Yet you will still pay $56,000 in taxes, leaving you with a net loss of $36,000 (i.e., a negative "real" after-tax capital gain).

Now multiply this single business transaction by the literally millions of business transactions that occur every single day. Think of all the homes sold, office buildings traded, stocks sold, businesses large and small changing hands. Because of the two-punch combination of inflation and taxes, capital erosion over time taxes to death the nation's economic vitality. The winner in all this, of course, is the government, if there is, indeed, a "winner." In a cruel twist of irony, first the government creates inflation and then profits from it through higher taxes. Yes, capital erosion's lurking danger is as treacherous as quicksand and riptides.

Those caught in quicksand and riptides must be tossed life preservers. Capital gains indexing is the equivalent economic saviour for taxpayers caught in the clutches of capital erosion. Capital gains indexing is inflation protection.

The legislation is simple: It permits a systematic and automatic inflation adjustment in the computation of the capital gains tax. In other words, the value of assets are adjusted for inflation before they are taxed. Take the dry cleaning business sale as an example: with capital gains indexing, the $300,000 purchase price would be adjusted for the amount of inflation to $480,000. The taxable gain than becomes $20,000, not $200,000 under current law. Using a 28% tax rate, tax owed with capital gains indexing would be $5,600, not $56,000 as required under current law.

Today I am introducing legislation to index capital gains.

This is not a new idea. In fact, the United States Senate has twice passed capital gains indexing; it has passed the House of Representatives; and has been endorsed by President Reagan, the U.S. Chamber of Commerce and leading economists such as Martin Feldstein, former head of the President's Council of Economic Advisors.

Nor is capital gains indexing unprecedented. Federal tax law already provides taxpayers with some inflation protection. The individual income tax is indexed for inflation. This will prevent taxes from rising just because salaries are rising with inflation. Since individual income tax rates will be indexed for inflation, so too should measures of capital gains.

Capital gains indexing is needed now more than ever before. That is because the new tax reform law punitively taxes capital investment more than ever. Not long ago, 60% of all capital gains were excluded from tax, and then capital gain was taxed at a maximum of 20%, a rate much lower than ordinary income.

That all changed when Congress repealed the capital gains tax as part of last year's Tax Reform Act. No longer is there a separate and lower capital gains tax rate. Now capital gains will be taxed at the same rate as wages, salaries and dividends and other sources of earned income. By 1988, all income will be taxed at rates of either 15% or 28% for individuals and a maximum of 34% for corporations.

This new tax law imposes much higher taxes on capital investment. Most thoughtful people agree this will slow economic growth. Some say Congress should restore the capital gains exclusion. But I am convinced that a far greater problem is the unchecked harm to capital investment caused by inflation. The current capital gains tax discourages the sale and exchange of property and the subsequent freeing up of capital for other investment. This particularly hurts Americans who hold assets a long time. Current tax law unwittingly discourages Americans from selling assets no matter how unproductive. So the first reason why indexing should be enacted is that it will improve the efficiency of the entire economy.

The second reason indexing should be enacted is basic fairness: it is wrong to tax somebody on a gain which has not occurred. What this legislation does is stop taxing people on paper gain, an unreal gain, an inflation gain.

The United States is the leading capitalist nation in the world. Yet it now has the most anti-capital tax system in the free world. As the premier magazine the Economist noted, "At a time when most of the capitalist world is moving towards cutting capital gains taxes . . . America is moving in the opposite direction." It is true. Columnist Warren T. Brookes says that while the U.S. maximum rate on long-term capital gains rose from 20% to 28%, West Germany, Japan, Belgium, Italy and Holland all now exempt long-term capital gains from taxation. Canada's top rate is 17.51 percent. And this is applied only after the first $22,650 per year in capital gains is realized, and there is no requirement for holding the capital. Socialist France's rate is only 16%, and they exempt the first $44,000 from tax. Even Britain, whose top longterm rate is 30%, exempts the first $10,679, while Sweden's longterm rate is 18%.

There is great irony in the government's raising capital gains taxes. History shows that reducing capital gains taxes increases government revenue.

In 1969, the capital gain tax rate was raised from 35% to 49%, and within two years revenues from this tax had fallen more than 40%. This caused Congress in 1978 to lower the top rate to 28%. Immediately, revenues from this tax jumped 44% in one year.

Clearly, capital gains reform is needed. How does capital gains indexing work? The legislation removes the inflation tax by permitting taxpayers to adjust the basis of certain assets for inflation using the Gross National Product (GNP) deflator. The inflation adjustment is the percent of increase in inflation as measured by the GNP deflator from the time of the purchase of the asset or the effective date of legislation until the time the asset is sold. As a result, the capital gains tax will apply to real gains and not to the inflation gain.

Capital gains indexing under this legislation applies only to corporate stock and real property purchased when capital gains rates were at near historical lows and which are now taxed at ordinary tax rates. It does not apply for purposes of determining depreciation, cost depletion or amortization. Debt is completely excluded from the inflation adjustment. Other provisions permit the inflation adjustment to be used to index assets for determining corporate earnings and profits, and allow the indexing benefit to be passed on to shareholders and owners in conduit organizations like partnerships, Subchapter S corporations, regulated investment companies and real estate investment trusts.

So, Mr. President, the question this legislation puts is this: Is it fair to put an additional tax on assets sold when some portion of the increase in value results from inflation? That is like forcing a swimmer to jump into the ocean and not tell them an unseen riptide will carry them far from shore. It is time to enact capital gains indexing.

TECHNICAL EXPLANATION OF THE ASSET INDEXING ACT OF 1988

The bill generally provides for an inflation adjustment (or indexing) to the basis of certain assets for purposes of determining gain or loss upon the sale or other disposition of the assets. The inflation adjustment is based on the level of the GNP deflator for the quarter the asset is purchased compared with the deflator for the quarter of the sale. Assets eligible for the indexing adjustment are corporate stock and real property where these assets are capital assets or assets used in a trade or business and held for more than one year. The inflation adjustment applies only to increases occurring after 1987.

Under the bill, the inflation adjustment applies with respect to sales, exchanges, or other dispositions of property whether or not gain or loss is recognized. However, it does not apply for purposes of determining any deduction for depreciation, cost depletion or amortization.

INDEXED ASSETS

The bill applies to a limited category of assets (called "indexed assets"). First, the bill generally provides for the indexing of corporate stock. However, no adjustment is allowed in the case of preferred stock which provides for a fixed return with no significant participation in corporate growth. In addition, for purposes of the inflation adjustment, the term "stock" does not include options, warrants, and other contract rights with respect to stock (and because these contracts constitute intangible property, the otherwise are not eligible for the inflation adjustment).

The bill also provides for indexing in the case of interests in real property. This includes land, leaseland interests, structures and various mineral interests in real property. However, it does not include any contract rights with respect to real property which are not themselves real property nor any mortgage or other interest of a creditor.

The bill only applies to assets held for more than one year which are capital assets or property used in a trade or business. Thus, ordinary income assets, such as inventory, will not be indexed.

In addition, the bill denies indexing in the case of certain long-term net leases. In these situations, the lessor's interest is relatively similar to an interest in a debt instrument.

Also, under the bill, an asset is not treated as an indexed asset for any period during which the owner or his spouse has sold short that asset or substantially similar asset. It can be argued that any inflation adjustment for a short sale should require the short seller to report a capital gain to the extent of inflation. However, because the bill does not require this adjustment, it is not appropriate to allow a shareholder who sells short "against the box" (i.e., while he owns shares of stock of which the short sale is made) to receive an inflation adjustment for the stock he or she owns during the period he or she has sold short.

SPECIAL ENTITIES

The bill includes a number of special rules for specific entities. First, neither partnership interests nor stock of S corporations are indexed assets. However, in order to preserve the benefit of any indexing adjustment at the entity level when the owners dispose of their interest, an adjustment is allowed to the owners for adjustments made by the entity.

A second set of special rules applies to regulated investment companies, real estate investment trusts, and common trust funds. Because the entities essentially are flow-through entities and because they may hold substantial nonindexed assets, full indexing of interests in these entities could provide their owners an advantage over persons holding similar nonindexed assets directly. Therefore, the bill provides a partial indexing based on the ratio of the value of the indexed assets held by the entity to its total assets. This ratio will be determined every month. However, in the case of a REIT, an actual valuation is required only once every 3 years because of the cost and difficulty of more frequent valuations.

Also, stock of foreign corporations generally is not an indexed asset. This exception is included to prevent investors from placing nonindexed assets in a foreign corporation (which is generally not subject to U.S. tax) and, in effect, receiving an inflation adjustment for those assets by selling their stock in the foreign corporation at a later date. However, an exception is made in the case of stock traded on an established domestic securities market, because there is little potential for the shareholders being able to transfer nonindexed assets to the corporation to obtain the adjustment. The exception does not apply to foreign investment companies, which may hold substantial debt, or to stock held by persons subject to potential divided treatment on the sale of their stock.

Stock in personal holding companies also is excluded from treatment as an indexed asset. This prevents shareholders of these closely held corporations from incorporating passive non-indexed assets (e.g., deep discount bonds) and later selling the stock to obtain an inflation adjustment on the gain on the stock, which gain primarily reflects unrealized gain on the nonindexed assets of the corporation.

In addition, in cases where a corporation is treated as a collapsible corporation with respect to a distribution or sale of stock (under sec. 341) under present law, the full amount of gain which is currently recognized and taxed as ordinary income (under sec. 341) would continue to be so treated.

INFLATION RATIO

The inflation adjustment is to be computed by multiplying the taxpayer's adjusted basis in the indexed asset by the applicable inflation ratio, determined by the ratio of the GNP deflator for the quarter of disposition to the deflator for the quarter of acquisition. However, if the asset was acquired before January 1, 1988, the GNP deflator for the quarter ending December 31, 1987, will be used to compute the indexing adjustments.

OTHER RULES

Where the adjustment creates or increases a loss on the disposition of an indexed asset, the additional loss is to be treated as a capital loss rather than an ordinary loss regardless of other provisions of the code. However, the reduction of gain resulting from the inflation adjustment does reduce the amount of gain from the sale or disposition of an indexed asset which is taken into account for various provisions of the Code where income is limited by gain, including the recapture of depreciation provisions (under sec. 1250).

This bill also includes a rule disallowing the basis adjustment in cases of transfers between related persons to the extend the transferee obtains a cost basis in the asset. This rule is intended to prevent related persons from selling assets among themselves in order to increase basis for depreciation while at the same time reducing tax on the sale because of the inflation adjustment. For similar reasons, the bill includes a rule allowing the Secretary to deny an adjustment where the principal purpose of a transfer of an asset is to increase or create an adjustment, or a depreciation deduction, such as by incorporating nonindexed assets or transferring depreciable property.

Finally, under the bill, the inflation adjustment applies for purposes of computing the earnings and profits of any corporation (domestic or foreign). Thus, if a corporation sells an indexed asset at a gain (its only earnings) and distributes the proceeds, the shareholders will receive a dividend to the extent of the gain (after any corporate level tax) as reduced by the inflation adjustment at the corporate level. The remaining proceeds, including the proceeds reflecting the inflation adjustment, would be considered a return of capital.

Mr. ARMSTRONG. Mr. President, before I yield the floor to my colleague and friend from Texas, Senator GRAMM, I want to explain briefly how we are going to pay for it.

The amount of money is not great: $100 million next year; $200 million in the year following, if you believe the static analysis. We base this on the Treasury Department's estimate that it would cost $600 million over 6 years.

Experience has shown, however, that every time we have increased the capital gains rate, revenues have declined. When we have cut the capital gains rates, revenues have increased. However, under the formula which binds us and which we are obligated to adhere to in this proceeding, $600 million is a reasonable estimate of the 6-year cost of this matter. So we have projected $100 million the first year and a $200 million the second year.

We pay for it, in effect, in a rather unusual way because ordinarily outlay amendments are paid for by reductions in outlays, and tax amendments are paid for by tax changes. In this case, however, we are suggesting to accommodate this small change in the revenue base by reducing spending accordingly in function 450. That would be up to individual Senators where in function 450 they wanted to save this $100 million, but $100 million would be only 3 percent of the CDBG grants. That is one place where we could make the savings.

It would be possible to make the savings without touching CBDG, if we wanted to take it out of UDAG, EDA, and the Appalachian Regional Commission. There is an argument for taking it out of any of these or all three of these.

The Appalachian Commission has, frankly, fulfilled its purpose, at least in large measure. Incomes in Appalachia have risen close to national average. One argument would be it has done its job.

You can certainly argue UDAG has been proven to be wasteful and used for a lot of things that perhaps it should not be used for. It was nearly abolished by a vote of the Senate. We did not quite come up with the votes to abolish UDAG, although the President recommends we do so.

You do not have to abolish UDAG or EDA, frankly, but just make fine-tuning adjustments in function 450 to pay for this.

That is the theory of it. That is how we pay for it. It is an amendment that has been endorsed by practically every business group or taxpayer group in the country at one time or another. It enjoys at least the conceptual support of the administration. In principle, it has been previously approved by the Senate, although I grant you not in the last couple of years. It has at some times in the past been endorsed by the House of Representatives. It is a good idea, and I hope the amendment will be adopted.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eighteen minutes 15 seconds.

Mr. ARMSTRONG. Mr. President, at the Senator's request, I yield only 5 minutes to the Senator from Texas, although I will be happy to yield more if he wishes to speak at greater length.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I thank the distinguished Senator from Colorado for yielding. He has done such an excellent job explaining this amendment that I can add only a brief 5-minute addition to his remarks since I think the issue is very clear.

I often wonder, as we debate the budget, if it is clearly understood on Main Street America that we spend all this time simply talking about how we are going to divide up the cake that we took out of the bakery of the working men and women of America to give to all the people riding in the wagon. That is what this whole budget debate is about.

I think it is very interesting that this year in the budget for the whole Federal Government, $1.1 trillion, there was not one single program that we proposed to eliminate. In the entire budget there is not one single major priority we wanted to reorder. Of all the programs we funded last year, there was not one we have decided not to have this year.

What is clearly happening is that all the special interest groups are looking over our right shoulder, sending letters back home telling people which Members care about the poor, the old, the sick, the tired, the bicycle rider—and the list goes on and on. These groups are the reason why we are not terminating a single program in the budget.

Now, the distinguished Senator from Colorado has offered an amendment that does something not for all the people riding in the wagon, complaining they are not getting enough, complaining the people pulling the wagon are not pulling it hard enough; he is doing something for the people who do the work, pay the taxes, pull the wagon, and pay all of these bills that we run up here in the Senate and in our sister body across the way, the House. His amendment is a very simple amendment. It says that we have a lot of programs that, quite frankly, few people think are any good. In these programs we are spending money subsidizing private activities that are already profitable, building great hotels and other activities that are not worthy of the taxpayers' money. The Senator from Colorado is saying that we should not spend so much money there, instead let us let our grandparents who are about to sell their house adjust the value of that house for inflation so they have more money to take into retirement.

Basically, that is the issue. If your mother went out and bought a house in 1954 and paid $11,000 for it and she sells it next week for $81,000, she has to pay a capital gains tax on $70,000. The problem is that she cannot replace that house for $11,000. She is paying taxes on inflation, and that is not right. What the Senator from Colorado says to your mother and my mother is, "Look, take that $11,000 you spent 30 years ago, adjust it for the inflation rate, and then pay taxes on what has happened to the real value of that house."

Now, I ask my colleagues, is that more worthy than UDAG, is that more worthy than EDA, the Economic Development Agency, with all the great and wonderful works that have been done by these programs? Would it not be better to let Americans index the basic value of their house when paying capital gains as they move into retirement? Or what about the family that spent a lifetime building up a farm? In 1942, they bought the land for $8,000 and today it is worth $100,000. They are going to retire and want to sell the farm. They have to pay the capital gains tax on $92,000 yet two-thirds of that is inflation. Is that right? I submit it is not right.

Budgets ought to be about priorities. The plain truth is that this is the best amendment which has been offered during this debate. It is the best amendment because it defines clear priorities: Is it more important to treat small businesses, small farms, and the homeowners of America fairly than it is to grant a whole bunch of subsidies generally to big business at the taxpayers' expense? I say it is.

This is an important amendment. It is deserving of our support. It will not lose money, even though we are paying for it as if it does. I urge my colleagues to vote for it. I thank our distinguished colleague from Colorado for his leadership in giving us an opportunity to vote on an issue that is truly worthy of our time and the interest of the American people. I yield the floor.

The **PRESIDING OFFICER**. The Senator from Colorado.

Mr. **ARMSTRONG**. Mr. President, I thank my friend from Texas for his generous remarks. I should like to report that we have just had an updated report on the cost. The revenue estimate which I referred to earlier was actually a year or two old, and we have heard this morning from the Joint Tax Committee. They confirm that the numbers we are using for the next 2 years are correct, that is, $100 million for next year and $200 million for the year after.

In the interest of disclosure, Mr. President, we are using a 6-year, $600 million total. They now think it might be somewhere in the range of $900 million to $1 billion. But for the time horizon in this budget resolution, we are right on target. I agree with the Senator from Texas that the likely actual outcome is to gain revenue rather than to lose, but we want to play by the rules and therefore are paying for it on the basis of these figures.

Mr. President, I now yield to my friend from Wisconsin [Mr. KASTEN].

The **PRESIDING OFFICER**. The Senator from Wisconsin.

Mr. **KASTEN**. Mr. President, I rise in support of the amendment by the Senator from Colorado to index capital gains and pay for the minor revenue loss by reducing funding in function 450.

Inflationary gains on capital assets is currently subject to capital gains taxation. Taxing capital gains to the extent that they are purely inflationary is inherently unfair. To ensure that only real economic gain is taxed, capital assets should be indexed to offset inflationary gains.

Mr. President, let me give you an example of how taxing inflationary gains affects the average American citizen. Suppose an individual purchased a capital asset in 1978 for $1,000 and sold it today for $2,000. He would pay a capital gains tax on $1,000 of gain.

Assuming that due solely to inflation the asset purchased for $1,000 in 1978 would cost $1,700 if purchased today, the amount of the gain from the sale of the asset can be divided as follows: the total gain is $1,000, the gain attributable to inflation is $700 and the real economic gain is $300. The tax on the $700 inflationary gain constitutes a tax on physical capital itself, which has detrimental economic effects by raising the cost of investment and production.

Indexing capital assets is necessary to ensure that only real economic gain, rather than inflationary gain, is subject to tax.

Mr. President, indexing capital gains should be viewed as complement to—not a substitute for—a capital gains differential. In my view, indexing does little to encourage investment in risky ventures because capital gains and ordinary income are still taxed at the same rate. Investors face the same tax rate on conservative investments—whose returns come in the form of dividend, interest and rents—as they do on high-risk ventures—whose returns come in the form of capital gains.

There is no extra incentive to invest in risky ventures, or start-up a new small business.

The revenue loss from this proposal is $300 million over 3 years. While I am concerned about the slight reductions in function 450 to pay for this proposal, I believe that it is a fair exchange. I strongly support several programs in function 450—such as CDBG UDAG and EDA. I believe we have enough funding under the Armstrong amendment to adequately fund these programs. In fact, I believe if we reduce the tax rate on capital gains, revenues would increase. Our experience with the 1978 capital gains tax cut shows that lower rates, in fact, raise tax revenues. We would have more than enough money to reduce the deficit and fund critical Federal spending programs.

Indexing capital gains would prevent Americans from being unfairly taxed on their inflationary gains. More importantly, it is a first step toward improving the U.S. tax treatment of capital gains vis-a-vis our major trading partners, many of whom do not tax capital gains at all.

Mr. President, I urge my colleagues to support the Armstrong amendment.

Mr. President, the key here is this revenue estimate question. There are a number of functions, a number of parts in function 450, such as UDAG's, and EDA, which a number of us support, and I continue to vigorously support. The budget authority for 1989 is $7.1 billion, the outlays $6.5 billion, so there is plenty of room in function 450 to achieve the goals the Senator from Colorado and others are working to achieve.

Mr. President, I ask unanimous consent to be named a cosponsor of the Armstrong amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **KASTEN**. The point that I would like to make, though, is that despite the revenue estimates which the Senator from Colorado has just given us, I believe that by lowering the tax rate on capital gains or indexing capital gains, it will not cost money; instead, it will in fact save taxpayer dollars, reduce the deficit, and increase revenues.

My colleague in the House of Representatives in 1975 and in 1976, Bill Steiger, began this argument, and at that point representatives from the Treasury Department came in and testified if we reduce the tax on capital gains, we are going to lose those revenues, and instead we did absolutely the opposite. We did reduce the tax on capital gains, but revenues from capital gains went up.

We have had this argument time and time again trying to deal with these so-called static estimates which are still coming out of Treasury, Joint Tax, and other places. We have to recognize that this is a dynamic, growing economy and this amendment is a dynamic growth-oriented amendment. It ought to be supported, and we can support it at exactly the same time as we can aggressively support UDAG's, EDA, and other programs. There is plenty of money in function 450, and this amendment, if adopted, would help the deficit problems and not hurt them.

UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 268, SENATE JOINT RESOLUTION 285, AND SENATE JOINT RESOLUTION 292

Mr. **BYRD**. Mr. President, while the distinguished Senator from California is on the floor, I would like to try to get a time agreement which would be as follows: on Senate Joint Resolution 268, dealing with Mexico, 3½ hours total to be equally divided between the majority and minority leaders or their designees; that there be 2 hours equally divided on Senate Joint Resolution 292, dealing with the Bahamas, that the time be again under the control of the two leaders or their designees;

that on Senate Joint Resolution 285, the Haiti resolution, there be 1 hour equally divided with the time to be controlled by the two leaders or their designees; that no amendments be in order and that no motions to recommit with or without instructions be in order.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, that is agreeable to the minority. Do I understand from the distinguished majority leader that as a part of the time agreement there is understood to be by unanimous consent a discharge from the Foreign Relations Committee of Senate Joint Resolution 268?

Mr. BYRD. Senate Joint Resolution 292 is on the calendar. Senate Joint Resolution 285 is on the calendar. Senate Joint Resolution 268 is in the committee, and that would be my intention.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. WILSON. I thank the majority leader.

Mr. BYRD. I should say to the Senate that it is my intention, following action on the budget resolution today, to proceed to these resolutions, not necessarily in the order stated but hopefully the Senate will be able to complete action on all of them at a reasonable hour today.

Mr. President, I thank the distinguished Senator.

CONGRESSIONAL BUDGET RESOLUTION FOR 1989

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. Who yields time on the amendment?

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, Mr. ARMSTRONG is on the floor, Mr. CHILES is on the floor, and if I could get some indication from them as to how much further discussion they would like to have on the pending amendment, either now or near the hour of 1:15 p.m. today, I could better plan the Senate's time.

Mr. CHILES. I do not know how much time the Senator from Colorado needs. I think we have two speakers on our side and I will have a little something to say.

We have 30 minutes, and I would say we would certainly not use more than 30 minutes. I was just wondering if it might be possible for us to have the Senate recess around 12:30 until—or 12:15—until 1 o'clock. Then we would still have 30 minutes, from 1 o'clock until 1:30, to complete debate. Then Senators could divide time between now and 12:15. We can do it that way. Then everyone would know. I think if we could recess from 12:15 until 1 o'clock.

Mr. BYRD. Is that agreeable with the Senator from Colorado?

Mr. ARMSTRONG. Mr. President, I have no objection to that. My hope is that perhaps, as Senators return from the gathering at the State Department, if there is going to be some discussion between 1 and 1:30, I could have 5 minutes say prior to the vote.

Mr. CHILES. I think we could certainly give the Senator 5 minutes. In addition to the State Department there is an Arkansas dinner that is going on. That sort of allows everybody to know what their time period is there.

Mr. ARMSTRONG. If it is agreeable for me to have a brief time to close the debate, that is really my desire. I think we have stated the case. In fact, Mr. President, it seems to me the issue is pretty well understood. I do not have other requests for speakers. But if someone wants to come and speak in the next few minutes, that is fine. Otherwise, I am perfectly willing to recess until 1 or 1:15 or whatever is the Senator's desire.

Mr. CHILES. I think if that is the case, I think we could recess until 10 minutes after 1—12:15 until 1:10.

Mr. ARMSTRONG. Mr. President, if the leader will yield further, I am assuming we have not had an expression of opinion of this from the manager of the bill. If there is any disposition on his part to take the amendment, of course there would be no need for the yeas and nays. If not, I guess I should ask for those at this time.

Mr. CHILES. I think it would be prudent for the Senator to ask for the yeas and nays.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Does the distinguished Senator from Florida reserve the right to move to table?

Mr. CHILES. Yes.

Mr. BYRD. I ask unanimous consent that it be in order to order at this time the yeas and nays on the motion to table if such a motion to table is offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHILES. I ask for the yeas and nays on the tabling motion if I am disposed to make it.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Senators will recall that Senator EXON indicated a desire to speak before the vote at 1:30 p.m.

Mr. CHILES. He wants a general speech.

ORDER FOR RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess from the hour of 12:15 p.m. today until the hour of 1 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the amendment before us, as I understand it, would index the basis of assets, of capital assets and would pay for the revenue loss from the indexation of the basis of capital assets by eliminating the UDAG Program, and a few of the programs. Would the Senator from Colorado clarify?

Mr. ARMSTRONG. Mr. President, if the Senator would yield, I would be happy to clarify. Actually all the amendment does is reduces the revenue base $100 million next year and $200 million the year following, and makes a corresponding reduction in function 450. The underlying assumption is this reduction in revenues is what would result from phasing in indexing the basis of capital gains though that would be a decision for the subsequent legislation as the Senator appreciates. But in order to pay for it, we do make reductions in function 450.

One way you could do it is to take that money out of UDAG and in fact abolish UDAG. It is not necessary to do so. In fact, if you wanted to hold UDAG harmless, you could pay for this whole amendment by reducing only 3 percent CDBG, or you could take it out of the Appalachia Commission, a Commission which in the opinion of many people has fulfilled its need in the sense that it set out to help raise the poverty-level income in that region of the country, and in fact, if I may consult my notes, Appalachia has actually created 2 million new jobs in the past 20 years. We are now in a situation where they are about up to the national average.

So you could take it out of these. But the point is the amendment really does not call for any drastic change in any of the programs in function 450.

If, as I suppose, that would be the outcome, the Senate would simply wish to fine-tune some of these programs, and a modest reduction would make it possible.

If we took it all out of CDBG by a 3-percent reduction, our number would still be substantially above that proposed by the administration. So it can be accommodated within the context of these other programs without any drastic harm.

Mr. BRADLEY. I thank the Senator for his comments.

Mr. President, I have some concern about the programs the Senator mentioned, all of which I think are very important programs and should not be reduced.

UDAG, for example, has played a very important role in a lot of urban redevelopment areas of this country. Community development block grants, likewise, have been enormously helpful in trying to bring back older cities. I am not as familiar with the Appalachia Regional Commission. As the Senator has said, it has affected many States positively over the years.

So my first concern is related to the spending reductions implied by the Senator's amendment. But I guess my major objection to the amendment is that by indexing the basis of capital assets, the Senator only takes a partial view of what should be a comprehensive indexation of the Tax Code.

For example, the Senator from Texas earlier talked about the homeowner who bought a home for $11,000 20 years ago and it appreciated in value, and the homeowner sells it and has to pay on the basis of the purchase price, even though we have been through an inflationary period. I think that is something that should be corrected. It should be corrected by indexing the basis of capital assets. But indexation to the basis of capital assets alone ignores a number of other aspects of the Tax Code which would interact with this provision.

For example, let us say we are in a rapidly inflating period, and I borrow a lot of money to buy a capital asset. If I borrow the money and we are in a rapidly inflating period, it means that I would be able to repay that loan with cheaper dollars. In other words, I would benefit from the interest reduction, and I would benefit disproportionately if I also had a basis of capital gains index, which implies that if you index the basis for capital gains, you should also index interest payments, to be completely fair.

Another point: We have a depreciation schedule that assumes a certain inflation rate. If you index the basis of capital assets and you get a depreciation system that assumed a certain inflation rate, you would distort investment decisions and you would end up subsidizing certain assets over other assets.

So I say to the Senator that I think his amendment does merit consideration, but I do not think it merits consideration alone. I think you have to look at other aspects of the Tax Code and address them in a comprehensive manner, including interest and depreciation.

As the Senator knows, that is what the Treasury proposed in its suggestion for the indexation of capital assets.

So, if you want to do this, I think you have to do it comprehensively. Unfortunately, the Senator's amendment does not do it comprehensively. Therefore, I would reluctantly oppose his amendment on the tax ground as well as the grounds of spending reductions that are implied by the amendment.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. ARMSTRONG. Mr. President, it is a well-known fact that the Senator from New Jersey is among the best-liked Members of the Senate, and the speech has just made a good example of why this is true.

He has come to the floor to oppose my amendment and has done it in such a spirit of friendship and such a reasonable and thoughtful tone that no one could take offense.

It is also known that the Senator from New Jersey is among the most thoughtful and serious-minded legislators ever to serve in this body. But, at least in part, the Senator from New Jersey has displayed today a quality which I have not often seen in display, and that is a gift for humor which really is unworthy.

If the Senator is actually suggesting that the Senate might adopt a measure along the lines of indexing the interest payments on the acquisition of capital assets, it seems to me that he opens up a number of possibilities, not only for humor but also for mischief.

However, my reason for asking him to yield had nothing to do with that but merely to make this point: Everything the Senator has suggested for possible consideration—though I might not agree with it—is possible under this amendment, because the suggestion that the Senator from New Jersey asked us to think about would, in fact, result in a lessening of the cost of the indexing amendment. The cost is only $100 million the first year and $200 million the second year, so we are not talking about large numbers; but those numbers would be partially, perhaps fully, offset by the kind of other changes he suggests.

We are not here to write the Tax Code on the floor. But I say to the Senator from New Jersey that everything he is talking about doing, and which obviously the Finance Committee would at least consider—might not do—could be done if we adopt this amendment. But we have to have the running of the $100 million window, so to speak, in order to get the issue on the table and comply with the technical provisions of the Budget Act.

Many people—the Senator from Wisconsin, for one, made the case in a thoughtful way—think that indexing the basis would result in greater revenues, not lesser. We can do that and still accommodate the concerns of the Senator in the legislative process if we adopt the amendment.

I hope the Senator would be disposed to adopt the amendment, and then we could consider this matter in legislative session.

Mr. BRADLEY. Mr. President, I hear the distinguished Senator from Colorado make his points. However, I am not able to support the amendment. It seems to me that while he said that interest, depreciation, and the indexation of capital assets could be accommodated within this amendment, I do not think that the $100 million is necessary; because, if you could accommodate the indexation of capital assets, which the Senator has envisioned as a revenue loss, with, say, doing something on depreciation and interest, which could be a revenue gain, you could end up with a neutral decision in the financing, and that neutral decision would not require action by the Senate on a budget resolution.

So I hope the Senator will see the wisdom of the argument, and I hope the Senate will reject the Senator's amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, as one who helped lead the fight to cut the capital gains rate from 49.125 percent to 28 percent, and then to cut it to 20 percent, and as a strong supporter of a low capital gains rate, I would still have to oppose this amendment, because I do not think this is the time or the place to consider the issue.

I understand, as I read the amendment, that the amendment does not actually contain capital gains language, but rather simply calls for a cut in revenues to make room in the budget for capital gains indexing. As the distinguished Senator from Colorado said, we should not write the Tax Code on a budget bill.

I do not think we should either.

I watched with some interest 2 days ago as my friend, the distinguished chairman of the Budget Committee, proposed that Social Security be taken off the budget. I voted for it. Then I have watched the avalanche of amendments.

If you start cutting taxes, whether it be capital gains or whatever else, and you are successful on it, I can imagine the amendments that are going to come forth on this floor to change the

Tax Code. You have a whole list of proposals.

Then I think about what happened to us in the budget summit meeting last year. There you had a situation where the administration said they were going to oppose, were absolutely against, any revenue losers. They insisted that all revenue losers be dropped from the reconciliation bill.

This amendment is a revenue loser in the out years. I think it breaks faith with the agreement that we made with the administration in the summit meeting. So I strongly resist that.

In addition to that, of course, I am concerned about the precise mechanics of indexing and how it is accomplished. I have been intrigued with that idea for a long time. But the issue has to be decided in the Finance Committee; the budget resolution cannot be used to instruct us to do that.

So I have to oppose the amendment and certainly hope that this body will turn it down.

The other problem you have is instability. One thing I learned in business is that you want some stability in the Tax Code. You do not want the laws changed all the time. Here we have gone through a major reform back in 1986, and many other changes were made in the Tax Code over the last 6 years, and here we go again.

I have resisted in the committee making major changes in the Tax Code this year. I want to see how this 1986 Tax Code works out, this dropping of the rate from 70 to 50 percent and now to 28 or 33 percent. I hope it does what the administration thinks it will. I hope it does what Senator BRADLEY thinks it will do, insofar as the encouragement for savings, insofar as encouragement for spending on research and development and on other productive investments for our country.

Of course, we do not know that that is the way it is going to work out. But we ought to give it a chance to work that way, and have stability in the Tax Code so business people will know what they can count on.

Here we are talking once again about what would be a major change. I know that the Treasury, in their first version of the 1986 bill, looked at indexing but the idea went nowhere. One issue that arises is whether you index interest, along with capital gains. The distinguished Senator from New Jersey brought that up. In the 1986 bill, the Treasury considered interest indexing, but put the idea aside very quickly and decided that was far too complex.

So you are talking about something that is of major significance and would have a very substantial impact on the Tax Code and on the attitude of investors in the years ahead.

It might be something I would go for in the committee. But I sure do not want to see us in a situation where we start passing amendments on a budget bill that in effect are going to be cutting the tax rate. I think if this amendment succeeds, we will have an endless number of them being offered on the floor, both on this bill and other bills.

I yield back the remainder of my time.

The **PRESIDING OFFICER.** Who yields time?

The Senator from Oklahoma.

Mr. **NICKLES.** Mr. President, I rise in support of the amendment of my good friend and colleague, the Senator from Colorado.

I compliment him for both aspects of the amendment. One, he said we are going to make a change in capital gains taxation, and we are going to index the base. This is a long-needed reform. It is one that probably every constituent that we have who owns a home will face some day or another. Many of our constituents have found, unfortunately, that when they sell their home, it has appreciated significantly through inflation, and, therefore, they are faced with a significant tax penalty, and because of the tax changes we made, that were referred to earlier, the tax rates have gone up substantially. We used to have a maximum capital gain tax rate of 20 percent. Now we are looking at 28 percent.

So if you have a home that has appreciated significantly through inflation, constituents find themselves being taxed almost a third of that difference, and so they have to pay that price even though the home and the value of the home has not changed significantly in real terms. They have to sell off other assets or borrow money in some cases to pay for that capital gains taxation.

The Senator's amendment would allow indexation for inflation of that base amount. I think it is a solid, sound principal that we would not have the Federal Government gaining dollars from inflation. So I compliment him for that viewpoint.

I also want to compliment him from the other standpoint. He said, well, we would save money, we would actually reduce budget authority, and we would reduce the outlay functions in function 450. We would save some money in function 450.

I compliment him on that. We are talking about UDAG, urban development action grants. And we have had debates on UDAG before.

The administration has proposed eliminating UDAG before. Congress has not deemed that it was necessary or that we should do so.

But I can tell you, and I am sure that other colleagues if they watch where some of the UDAG money has gone, build projects many times that are very, very questionable, many times that are in direct competition with other private sector projects in the same community. I am thinking of projects where millions of dollars have been loaned to build hotels in direct competition to other hotels in downtown areas.

The **PRESIDING OFFICER.** The Senator from Oklahoma will suspend.

Mr. **ARMSTRONG.** I ask unanimous consent notwithstanding the previous order that the Senator from Oklahoma be permitted to proceed for not to exceed 5 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **NICKLES.** I thank my friend and colleague and the Chair as well. I will not take even 5 minutes of the Senate's time.

The facts are that UDAG has made lots and lots of very questionable grants in direct competition with the private sector in cities and communities all across the country, and a lot of people wonder why the Federal Government is making low-interest loans to major corporations whether that corporation is Hyatt or whether that corporation is Marriott or Hilton. Maybe I should not mention those, but I think I have heard those names, well established, large groups, well financed, large companies.

I have a great deal of respect for—but I question whether Federal taxpayers should be making grants to be building hotels in direct competition with the private sector—EDA, HODAG. There is a significant amount of waste in all these programs.

I think the Senator's amendment would have a reduction in those programs, although it might be very slight. He mentioned the Appropriations Committee of which I am a member and others are. I feel quite certain that that committee would be able to take these funds and make sure that the money is well spent. We have a significant amount available in the 450 account, $7.1 billion, plenty of funds in this Senator's opinion, to cover all the significant and deserving functions under the category of 450.

So I am confident that the Appropriations Committee could handle this minor reduction in a very positive manner, not have an adverse impact on any worthwhile program, and still be able to provide the money available to make a very much needed change. That is to quit taxing the inflated benefits on exchanges on capital sales on capital gains.

So I compliment my friend and colleague, the Senator from Colorado, and I hope his amendment will be adopted.

Mr. President, I yield the floor.

RECESS UNTIL 1 P.M.

The **PRESIDING OFFICER.** Under the previous order, the Senate will now stand in recess until 1 p.m.

The Senate, at 12:18 p.m. recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

The PRESIDING OFFICER. Acting in my capacity as a Senator from Connecticut, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides on the resolution.

Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have consulted with the staff of the chairman of the Budget Committee, and it is understood he would be willing if he were on the floor to yield me 5 minutes in opposition to the amendment. So I ask unanimous consent to speak for 5 minutes to be charged to the majority's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, much as I hate to speak in opposition to the amendment of my good friend from Colorado—and much thought has been given on another occasion—I would like to consider it on the merits, I do not think this is the time for two reasons: one, it is a measure involving major tax policy that we have had no recent hearings on, and by "recent" I mean since the passage of the tax reform bill. Two, what was the complaint that all of us in the Congress got whether or not we were on the Finance Committee involved directly in passing on taxes or on the floor voting on bills that the Finance Committee sent out on taxes? That complaint was this, and I want to emphasize this was before the tax reform bill. For criminy sakes, why do you not leave the code alone? As I recall, if this was 1986, somebody would say we have had five tax reform bills in 10 years. You change the laws before the Internal Revenue Service has ever had the time to issue regulations under the old law and you change the law. Why do you not pass something once, leave it alone, let it sit for 5 or 10 years, and let us see how it works out?

(Ms. MIKULSKI assumed the chair.)

Mr. PACKWOOD. I think we can honestly say that we probably got more complaints from taxpayers in this country about the frequency in the change of the tax laws than we got about the level of taxation.

So in 1986, when we passed the tax reform bill, Madam President, there was a major, major change. This was not biannual tinkering and calling it tax reform. This was reform. This was the most wholesale change in 50 years, actually probably the biggest major change in the tax system since we adopted the income tax in 1913.

I might add when we adopted it there was no capital gains differential, no indexing of capital gains. There was no taxation of capital gains, one of the reasons being the rates were so low, 1 percent on corporations, 5 percent on individuals and the 5 percent was on income levels about $500,000. So no one really was concerned whether you got deductions for charities, which you did not, or capital gains differentials.

I am quite sure if we could get back to that level you would have relatively few arguments on this floor about capital gains indexing or differentials or charitable contributions or passive losses or anything else. But we have made a major step in going in that direction—28 percent low rate, 34 percent for corporations, 28 percent for individuals.

I think we should listen to the complaints, legitimate complaints, of those people who in 1976, 1977, 1978, 1979, 1980 and right on through 1986 said why do you keep changing so often.

This new tax reform bill, Madam President, is not even yet fully in effect. There are 3 years to phase out some of the deductions we got rid of. Capital gains last year is taxed at 28 percent, maximum, even though the top rate last year was 38 percent. It does not drop to 28 percent this year for regular income. I simply think it would be wise if we would just leave the Tax Code alone. Let us not make any major change in the rates in capital gains, in passive losses, in charitable contributions, and dependency deductions.

Let us see what happens. It is the most major change we have made in 75 years. That is why, Madam President, I speak with some misgivings in opposition because I understand the thrust of what the Senator from Colorado wants to do, and I can easily share some of his urgings. But I think this is the wrong time and the wrong place.

We should give this code 4, 5, 6, 7, 8 years in place without major change to see if it is working as we hoped. To date the evidence seems to be that it is, and for that reason I would speak in opposition to the amendment of the Senator from Colorado and hope that the Senate will defeat it this afternoon.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Under whose time?

Mr. PACKWOOD. Equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Madam President, there are some attractive features in the Armstrong amendment. I think a lot of us are concerned about the capital gains rate with no indexing provision. I think some of us had that concern at the time we were passing the Tax Simplification Act. But at that time the act, in those particular areas, seemed to be somewhat revenue driven, rather than reform driven.

If my memory serves me right, the Senator from Colorado supported that act. He is not on the floor now, but I guess he will be here any moment.

Trying to look at that as something I know the Finance Committee is doing—I know a number of Members in this body are concerned about that—but the Senator has picked the wrong vehicle, and his amendment is the wrong way to go about doing that.

The reason why I say that, primarily, is that at the economic summit, we did come to an agreement between Republicans and Democrats, House and Senate, the administration and Congress, that we would put a floor and a ceiling in regard to defense; a floor and a ceiling in regard to foreign assistance, and military support within that; and a floor and a ceiling for the domestic programs.

The attempt of this amendment clearly breaks that agreement. It breaks a commitment; therefore, it perhaps is not subject to a specific budget point of order.

I feel bound by that agreement. Our respective leadership, the majority and the minority, in both the House and the Senate, and the administration, agreed to that. I think that was the basis for the budget summit and the agrement that we made.

The President's budget—and I give him credit for this, and the administration—adhered to the spirit and the letter of the budget summit. They kept the agreement. Our budget resolution, as it comes to this floor out of the Budget Committee, kept the spirit of that, and we have attempted to do that all through the progress of the resolution.

Now we find ourselves one amendment away from what I hope will be the adoption of the resolution. For the first time, very clearly before us, in an attempt to break that agreement. I think we would be very ill-served in the Senate, ill-served in Congress, to see that happen.

So I make this argument to Members of the Senate, regardless of their feeling on the merits or demerits of this legislation. We have very carefully and strictly observed the letter and the intent of that. We have done that in the defense function, we have done that in the function of foreign and military assistance, and we have done it in the domestic function.

This amendment would clearly make a change. We are talking about taking money out of programs, some of which are for the poor, and those programs we have restrained. There are some programs in there that Members of the Senate would like not to have, and the administration perhaps would like not to have. But to take money from those programs and to say that that money would not be available on the revenue side would clearly breach the agreement.

One of the parts of that agreement, in addition to what I have specified before, was that there would be no new revenue placed in the bill, That, again, is something that is restrictive.

I see that the chairman of the Finance Committee is on the floor. Not once, but a number of times, my instruction from him was: "Do not reconcile us this year. We want to adhere to the agreement." Even though the administration has a miniscule new revenue in there, the admonition of the Finance Committee chairman and others was that we should not be raising revenue.

Again, the Senator from Florida is one who feels that we will not be able to get on top of the deficit without a mix of spending cuts and additional revenue. But we fought that battle, and we fought it over a month, and we did get some new revenue, and we did get some spending cuts, and the result was an agreement to reduce the deficit by some $76 billion.

We feel that the document we brought to the floor today adheres to the second installment of the economic summit. It would end up with giving us those kinds of savings. The earlier provisions have already been enacted. They were enacted last year, and they are now in effect.

So, if we want to adhere to the agreement that was reached in good faith, after a lot of blood and sweat and debate and time, this amendment should not be adopted at this time.

I know the distinguished Finance Committee chairman can speak for himself as to what the committee is looking into in this.

While, as I say, I have a lot of reasons to think indexing of capital gains is attractive to me, it would be an attractive proposition and a worthwhile proposition even for the economy, we should not be attempting to do it this forum in this bill at this time, and I hope very much that the Senate will not do that.

The **PRESIDING OFFICER.** Who yields time?

Mr. **BENTSEN.** Madam President, does the distinguished chairman of the committee have time he will yield to me?

Mr. **CHILES.** I am happy to yield 5 minutes to the Senator.

Mr. **BENTSEN.** I thank the distinguished chairman of the committee for his comments.

We spent a month in the budget summit last year, meeting trying to reconcile these problems and make a real piece of progress on cutting the deficit, and we accomplished that, for some $76 billion worth of cuts over 2 years; $23 billion worth of taxes were raised.

When it comes to cutting capital gains I helped lead the charge on that when it was 49.125 percent to bring it down to 28 and they bring it down to 20 percent.

I felt that gave more mobility for capital.

I would give some consideration to this amendment, but this is not the place to do it. That is something that has to be done in the Finance Committee.

The other part of the agreement we had was that there would be no revenue losers and that was something the administration was absolutely insistent on, and we kept that part of the agreement.

But in the outyears there is no question about this provision being a revenue loser, and so I think it breaks faith with that agreement and we should oppose it.

I would strongly urge this body to turn down this amendment. At the appropriate time I expect to introduce a motion to table the amendment and to be joined in by the distinguished Senator, Senator PACKWOOD, in that effort.

I watched my good friend, the Senator from Florida, as chairman of the Budget Committee, bring up an amendment that I voted for to set Social Security off the budget. I thought he had the right idea. But then did you see the avalanche of amendments that came up after that? If you think there are a lot of amendments that followed that move, you let someone win one reducing taxes today and just watch them line up, watch them rush over from their offices, come over here and offer amendments to this bill and other bills. I do not know where it will stop.

I will be standing here to see that we stop those amendments on the floor, and that we send them to the Finance Committee for proper consideration.

If you talk about indexing capital gains—that has some appeal to me—do you stop just on property? Why not also do it to interest rates?

That is one of those ideas that Treasury thought of when they came up with the tax reform bill in its initial form but then decided it was far too complex. They finally rejected the idea of interest indexing.

The one thing I learned as a businessman, too, was that business people want some stability in the tax law. They want to know what they can count on.

We have been through at least five tax bills over the last 7 years, and the 1986 bill was one of the most major reforms we have seen in 40 years in the tax laws.

To start adjusting it here today, and to do it on a budget resolution, I think would be a very serious mistake, and I strongly urge my colleagues to vote against this amendment and support a motion to table at the appropriate time.

Mr. **CHILES.** Madam President, the Senator from West Virginia wanted to speak for a couple of minutes if the Senator will yield to him.

Mr. **BENTSEN.** I will be delighted to yield part of my time before yielding it back.

Mr. **ROCKEFELLER.** I thank the Senator from Florida and the Senator from Texas.

Madam President, I rise to strongly oppose the Armstrong amendment.

My first point is that I wholeheartedly agree with my colleagues, Senator BENTSEN, chairman of the Finance Committee, and Senator BRADLEY. I serve with them on the Finance Committee and share their view that this is not the time, the place, or the method to use to rework tax policy. I don't have the same history and vast experience that they have in matters concerning the Tax Code and the specific questions of capital gains. But I do feel quite secure about making the point that there are many questions involved in the Senator from Colorado's proposal—to index capital gains—that should be referred to our committee, examined in detail by all the Members of this body, and presented properly for a decision.

My main reason for rising to argue against this amendment, however, has to do with the Senator of Colorado's proposal on how he would pay for his capital gains measure.

Mr. President, I am more than familiar with the stories of hotels and swimming pools and shopping malls that have been helped by Federal programs such as the Economic Development Administration, Urban Development Action Grants, and other programs that are under attack by this amendment. I don't like to hear these stories any more that you do, or the Senator of Colorado does, or David Stockman once did. But I think it's been proven time and time again that these are exceptions to the rule and misrepresent completely the bulk of what goes on with these programs. I agree with the proposition that these programs should target fiscally distressed communities and help only those who really need the help.

But I would argue that slashing away indiscriminately at these programs any longer is unfair, unwise, and harmful. I represent the State of West Virginia. My State is in the unenviable position of still struggling with high unemployment, an incomplete highway system and infrastructure, and all the pain that goes with too few jobs, too few businesses, and too few resources.

But West Virginia is not alone. There are communities or entire regions in Maine, in the Midwest, in the oil fields of the Texas, in the lumber regions of the Northwest, and all over this country that share our fiscal and unemployment problems.

I believe—and I strongly strongly believe—that there is a role for the Federal Government in helping these regions overcome their economic troubles and in assisting the coal fields, the farm belt, and the many other areas suffering severe unemployment to generate more jobs and build a better economic future.

That is what the Appalachian Regional Commission, EDA, CDBG, and UDAG, and the other programs slated for further cuts by this amendment, are all about, the ARC, a program that has been decimated over the past 7 years, was meant to help West Virginia and the other States of Appalachia build a road system that would link our region to the ports, to the cities, and to the markets of the rest of our Nation. The sad truth is that the promises—made even by the Reagan administration in its early years—of helping us build our highways—were broken and abandoned. ARC is a shadow of what it was 7 years ago, with crippling results on the ability of West Virginia and other areas in this part of the country to pursue the economic growth that they need and want so desperately—growth that would benefit this entire country.

Rather than talk about the shopworn litany of projects that the proponents of this amendment like to discuss, I could match that list many times over with projects that rekindled the economy of community after community—that illustrate how these programs act as direct investments in jobs and in the future of countless Americans. In my State of West Virginia a $525,000 waterline extension grant from EDA and a $76,000 grant from ARC for an access road made it possible to turn a parcel of vacant land into a development that has attracted businesses that will employ 450 people. That is $1,202 of Federal investment per job. Another example of how well these funds have been used in West Virginia includes the first Japanese investment in West Virginia. With a $10 million urban development action grant another $55 million of investment was generated for a new steelcasting mill in northern West Virginia, resulting in over 300 jobs.

My final point is that we have got to remember that these programs targeted by this amendment are the very ones that have suffered the most over the past 7 years. Study after study have shown that local and regional economic development programs have suffered more cutbacks than just about any aspect of the budget. And I can tell you with total authority that these cuts have translated into economic losses, into missed opportunities for job creation and growth, into continued suffering in places like McDowell County in southern West Virginia.

Mr. President, I would argue that it is time to invest more and not less in our areas with high rates of unemployment and economic troubles. I know the Budget Committee made an honorable effort to spread the pain of deficit reduction fairly and constructively. But let's remember that EDA, ARC, CDBG, and the other programs still will shoulder much of the cuts and losses on the domestic side, in order to give increases to important areas like education and science and research. The budget resolution before us could cause cuts of up between 5 and 15 percent in fiscal year 1989. Some of these same programs were cut by 10 percent or more last year. Again, this is the area that has paid its dues for budget cuts and deficit reduction. Since 1981, rural community and economic development funds have been reduced by 74 percent. Isn't enough enough?

I agree that these programs should be targeted. I agree that they should help the communities and citizens who need the help the most. But I would argue that we must keep these programs intact, we must prevent any more cuts from being made in these crucial tools for rebuilding rural America, for bringing economic growth to the areas throughout this country that are being left behind, for generating the jobs that West Virginians, that Iowans, that Kansans, and every other American deserves.

Mr. CHILES. Madam President, I think we had said the Senator from Colorado is entitled to close. We do have to vote at 1:30.

Does the Senator from Tennessee have a statement here?

Mr. SASSER. Madam President, let me just say to the distinguished chairman of the committee, I do have a statement. I rise in opposition to the amendment of our distinguished colleague from Colorado's amendment.

Madam President, I would like to express my opposition to the amendment being offered by Senator ARMSTRONG to the fiscal year 1989 budget resolution which seeks to reduce revenues at the expense of community development.

Two weeks ago the budget resolution now on the floor was reported out of the Senate Budget Committee by an 18 to 3 vote. The resolution already contains decreases in spending for community development of some 6 percent under last year's levels.

The Budget Committee had to stay within the spending limits set at the economic summit. Yet the administration still came forward with a budget that dramatically increased funding for some important domestic programs while at the same time it eliminated other vital domestic programs—programs that help urban and rural areas meet their basic community and economic development needs.

Now, before any debate can proceed about the substance of the economic and social merits of these community development programs, it must be made clear that these programs have already and are continuing to take more than their fair share of budget cuts. Since just 1984 funding for function 450 in the budget has been reduced almost 15 percent. The Community Development Block Grant Program [CDBG] alone has been cut by over 20 percent in that time and over 40 percent since 1981.

Most importantly though, as I have mentioned, the community and regional development budget has already been cut significantly this year. In the Senate budget resolution before us funding for all function 450 discretionary programs have been reduced by a total of $400 million or 6.3 percent across the board from 1988 funding levels.

Now, we can all be thankful for the economic gains from the recent economic expansion. However, at the same time, due to this administration's continued reductions in a whole host of Federal aid programs, there has also been a growth in the gap between have and have not communities in America. Too many communities clearly have not benefited from the recent economic expansion and they desperately need assistance to keep their local economies from faltering.

Fortunately, programs such as the Community Development Block Grant Program, the Urban Development Action Program, and the economic development programs of the Economic Development Administration have been able to help out these hard-pressed communities.

Grants have been distributed across the Nation for such projects as:

Locating a new ceramics factory in Crossville TN, creating jobs for some 200 people.

Housing over 250 homeless citizens in San Antonio, TX.

Transporting water over 15 miles of rugged desert in Helmit Peak, AZ, to supply 350 isolated families.

Operating a day care center for low-income parents in Seattle, WA, helping over 150 families.

Rehabilitating an abandoned school into low-income housing in Boston, MA, providing homes to 60 families.

Capitalizing a small business loan fund in Wilkes-Barre, PA, creating a revitalized job base in the downtown area.

The list goes on but it is clear that these programs have helped many depressed communities to reduce unemployment, revitalize their job base, and supply basic housing and services to their citizens. Yet, with the termination of the general revenue sharing program 2 years ago, the CDBG program especially and the other smaller function 450 programs have become the most important Federal programs for these distressed communities.

To cut these community and economic programs even further does not make good economic sense. It leaves more and more communities further and further behind. It says that if you are a "have not" community you may stay that way for many, many years to come.

Madam President, I urge rejection of the amendment.

Mr. DECONCINI. Madam President, I will reluctantly vote against the Armstrong amendment on indexing the basis of capital gains to inflation. I say reluctantly because I have been an advocate of just such a proposal for many years. In 1982 I joined Senator ARMSTRONG in voting for an amendment to index the basis. However, this is not the appropriate time or place to be considering this proposal.

First, because we are considering the budget resolution and not a tax bill, the proposal from a tax perspective would not be binding. So in effect, this proposal is a charade and does not accomplish what it purports to accomplish. The Finance Committee would not be bound to pass legislation to comply with this provision, and frankly I think it is unlikely that we will see a tax bill this year. The appropriate place to consider this is in the context of a tax bill. If that were the circumstance today, I would be a strong supporter of the amendment of the Senator from Colorado.

Second, the Armstrong amendment proposes to take the money necessary to fund this proposal out of function 450, community and regional development. There are many crucial programs within this budget function. Community development block grants [CDBG] and the Economic Development Administration [EDA] provide important funding for projects throughout my State. EDA plays a special role in funding for American Indian tribes, an area where we clearly need more attention, not less.

Finally, I believe that this proposal violates the spirit if not the letter of the budget summit agreement. At that summit, we agreed to not alter revenues beyond the levels agreed to at that time. This amendment, in my view, violates that accord.

Again, Madam President, I regret that I must oppose this amendment. I urge the Senator from Colorado to offer this amendment on a tax bill, and I will join with him to index capital gains basis to inflation. This is the wrong place for the right idea, and I must oppose the amendment.

CAPITAL GAINS FOR ENTREPRENEURS

Mr. BUMPERS. Madam President, I am a strong supporter of reforming the current capital gains tax, but I must oppose the approach taken by Senator ARMSTRONG.

I have introduced a bill, S. 931, which reestablishes a capital gains differential. But, S. 931 is quite different from the other capital gains bills which have been introduced. It does not involve indexing of the basis for the capital asset. It handles the issue by creating a differential in the tax rates which apply to any gains realized on the asset.

Let me take a minute to compare my proposal on capital gains to the others that have been introduced and then turn to the amendment pending here.

CAPITAL GAINS DEBATE

On the capital gains issue we have those on one side, like Vice President BUSH, calling for a 15-percent maximum capital gains tax on any capital investment held for 1 year. They claim that the 15-percent solution would actually increase Government revenue. They point out that we raised the tax rates on risky investments with the tax reform law and took away the only incentive we had for investors to focus on the long-term growth of a venture rather than the short-term income it generates.

On the other side of the debate are those, like the authors of the tax reform law, who see any restoration of the capital gains tax differential as jeopardizing the tax reform law. They scoff at the supply-side revenue claims and argue that any capital gains tax would primarily benefit the wealthy.

Both sides in the capital gains debate need to acknowledge that there are legitimate arguments on both sides which deserve analysis.

REVENUE IMPACT

On the revenue issue, the American people now are rightfully skeptical that cutting tax rates will increase Government tax revenue. The President and the Congress relied on these same supply-side claims in 1981 and, as a result, we tripled the annual deficit and the national debt.

I believe the supply-side gamble has been an utter failure, yet I support cutting capital gains tax rates. I do not rely on fairy tales about tax cuts generating additional revenue. For me the issue is whether we should spend Government revenue to encourage and reward entrepreneurs and, if so, how we should target the spending to maximize its effect. I cannot think of a more worthwhile investment in the competitiveness of our country than encouraging entrepreneurs and investors to create the businesses and industries of tomorrow.

The Joint Committee on Taxation has found that the 15-percent solution loses $40 billion in revenue over 3 years. (Letter of David Brockway to Congressman ARCHER, November 8, 1987.) However, it has found that a targeted capital gains tax cut that I have proposed loses less than $500 million per year. (Letter of David Brockway to Senator BUMPERS, September 18, 1987.) This is still a substantial sum, but it's not out of the realm of possibility. I am willing to spend that much to encourage entrepreneurs and venture capitalists to create America's future.

Those advocating the 15-percent solution expend considerable energy in attacking the revenue estimate of the Joint Committee, but the fact of the matter is that this estimate is binding on the Congress in any budget debate. If the Joint Committee says that the 15-percent solution loses vast amounts of revenue, the proposal is dead, unrealistic, and a nonstarter.

IMPACT ON TAX REFORM LAW

In terms of the integrity of the tax reform law, there is legitimate cause for concern that the political compromise on tax reform would unravel if we enacted a wide-open, unrestricted capital gains tax rate reduction. However, the first question should be whether we made a mistake enacting a tax reform law which strongly encourages short-term investments which generate income rather than long-term investments which generate growth.

I think we made a mistake. Lowering tax rates for most types of income does not help if we raise tax rates on investment income and we eliminate any requirement that investors hold the investments for any period of time. Hopefully, the advocates of tax reform can see this distribution.

FOCUSING A CAPITAL GAINS INCENTIVE

The next question then is whether we can fashion an amendment to the tax reform law which offsets this bias toward short-term income. Those of us who support a capital gains incentive must be willing to restrict any capital gains incentive only to truly risky long-term investments which generate economic growth. If we press for more than this, we not only break the bank on revenues, but we undermine our own argument.

We need to target a capital gains incentive only to the riskiest of investments, investments in startup small business ventures. We do not need a capital gains incentive for investments in paintings and antique cars and land, as would be provided by the 15-percent solution.

Any capital gains incentive should focus only on long-term investments. The 15-percent solution rewards investments that are held for only 1 year. This short holding period is inconsistent with our argument that we need to provide an incentive for long-term investments. The 6-month holding period in effect in 1986 was indefensible and it accounted in large part for the demise of the capital gains tax differential. I advocate a 3- or 4-year holding period that rewards patient capital that permits the entrepreneur to nurture his or her business and reinvest any income during the shaky startup phase.

Any capital gains incentive should encourage additional capital to be directly invested in a business venture, rather than simply reward repeated swapping of a given investment among investors in the secondary market. This means that we should restrict the incentive to situations where capital is directly put into the hands of entrepreneurs.

Entrepreneurs receive an infusion of capital when they issue stock or take their companies public. When investors buy this stock, they are literally forming new capital for the entrepreneur. When the stock is traded among investors, however, no new capital is delivered into the hands of an entrepreneur. In fact, if the price of the stock falls, the stock of capital in circulation contracts. This means that we should target a capital gains incentive to investors who initially buy the stock from the startup venture, not the traders who want to shuffle the stock among themselves.

Finally, any capital gains incentive should reward only investments which do not permit wealthy taxpayers to reduce their tax liability below the minimum level set in the tax reform law.

FAIRNESS WITH CAPITAL GAINS

I cannot support a capital gains tax cut that is a trojan horse for the rich to avoid paying their fair share in taxes. To ensure that wealthy investors do not use the capital gains tax break to avoid the stiff minimum tax, the income from any capital investment must be subject to the minimum tax, as it was before enactment of the tax reform law. Stories about millionaires paying nothing in Federal taxes led to the tax reform debate and it's quite unrealistic to think that any capital gains tax rate reduction would be enacted without it being subject to the minimum tax.

If the minimum tax does apply to capital gains, there is no reason for us to propose a 15-percent solution. The minimum tax rate is now set at 21 percent, so the tax benefits which are given away with a 15-percent tax rate are simply recaptured by the 21-percent minimum tax rate. It's a zero sum game for the taxpayer. This is why I have proposed that the maximum tax rate on capital gains be the same as the minimum tax rate, 21 percent.

INDEXATION OF CAPITAL GAINS

I appreciate the efforts of Senator ARMSTRONG to address this issue with this amendment, but I do not think this is the best approach to the issue. I believe we can fashion a fiscally responsible capital gains proposal which deals with capital gains tax rates. In fact, S. 931 is such a proposal. If the sponsors of capital gains reform will focus on the approach I have taken, we can secure an amendment to the tax reform law on capital gains tax rates within the next year or two.

We debated this issue in 1982 and I moved to reconsider an amendment offered by Senator ARMSTRONG on this issue. (July 22, 1982, RECORD at S. 8907.) I have my doubts about the wisdom of indexation in the tax system, whether it be for capital gains or for tax brackets. There are better approaches to the problem of burdensome taxes.

The Armstrong amendment is problematic for two other reasons. Unlike S. 931 it proposes to provide preferential tax treatment to capital investments in any capital asset. It is not focused on capital investments in growth companies. In addition, it does not include the tax benefits of indexation as a preference item in the minimum tax. That also is inconsistent with the approach taken in S. 931.

Finally, the Armstrong amendment confuses the whole issue by proposing this amendment as an amendment to the budget resolution. He has picked a budget function, function 450, as the source of funding for his proposal. I am a strong supporter of funding for community development block grants and for urban development action grants. I am willing to spend revenue for a capital gains proposal, but I am not willing to cut spending for these important programs to pay for it. S. 931 is affordable, but it should be financed by some other approach than to cut spending for CBDG's or UDAG grants.

For these reasons, I must oppose the amendment of Senator ARMSTRONG. I agree that we need to take action on the capital gains issue, but this is not the best approach. This is not the right context. We can take action in the short term on this issue, but we should focus on capital gains tax rates and on a proposal which we can afford, like S. 931.

NEED FOR ACTION

The capital gains issue is too important to debate it with slogans. We have good reason to reject supply-side arguments for the 15-percent solution and to question the need for a wide-open, unrestricted tax break for the wealthy. But, our economy will not prosper in international competition if we do not give every encouragement to our entrepreneurs and ensure that they have the capital they need to launch and build the American industries of tomorrow.

Mr. CRANSTON. Madam President, I rise in opposition to this amendment. I do so reluctantly because I have always been a strong supporter and leader of efforts to lower taxes on capital gains. I continue to believe that capital gains rates must be reduced. However, I cannot support indexing capital gains at the expense of important community development programs in function 450. It is unclear that a change in capital gains taxation would lead to a reduction in revenue. Therefore, we should look at capital gains only within the context of the tax system, not by reducing budget authority for other vital programs.

These programs are vital to the ability of local governments to meet the needs, of low- and moderate-income people. These programs have suffered far greater reductions in recent years than many other portions of the budget.

In 1981, CDBG programs received $3.695 billion. After taking inflation into account, over $4.5 billion would be needed for CDBG in fiscal year 1989 to stay even with the 1981 level of support. However, CDBG has been cut to $2.88 billion, a cut of over 35 percent in real terms.

During the same period, the UDAG Program has been cut even more. In 1981, UDAG received $677 million. Since then, the program has been cut to $216 million, slashing it by three-quarters when adjusted for inflation.

Those cuts are already draconian. The further cuts proposed in this amendment would simply be irresponsible.

Therefore, Mr. President, I will oppose this amendment to reduce funds in function 450. We must preserve the quality of our country's neighborhoods.

Mr. CHILES. Madam President, we have committed to the Senator from Colorado that he will have the right to close.

I would like to give him that opportunity and, I yield to him.

Mr. ARMSTRONG. Madam President, I am grateful to my friend from Florida, the floor manager on behalf of the Budget Committee, for recalling that I had asked to speak to close the debate and I am glad to have a chance to do so.

This is really a very simple matter. The amendment would reduce the revenue base by $100 million. To keep it in perspective that is $100 million out of a trillion-dollar revenue stream. It would reduce it by $100 million this year and $200 million next year in order to give the opportunity to the Finance Committee to consider the question of indexing the basis for capital gains. This is it seems to me fair. It is rooted deeply in the concept of taxpayer justice because we have heard so many stories, and my friends, I heard one just over the noon hour from a person who did not even know this amendment would be proposed. I heard the heartbreaking story of a person who was selling his house, who received a bookkeeping benefit which was just inflation gains and now ends up with less than what he started with because he has to pay tax on an illusory gain.

So justice is one reason to pass this. For the sake of the economy is another reason, because many experts believe that the United States now has the most anticapital tax system of any large nation in the world. Countries like Germany and Japan now exempt capital gains from taxation altogether, and other leading industrial nations have lower rates that those in the United States.

Madam President, a third reason why this amendment deserves the support of Senators is that we pay for it in virtually a painless way. Any notion that this is a calamity for the programs which are contained in function 450 is simply not borne out by any examination of them.

I am not here to argue about the Appalachian function. I am not here to argue about EDA or UDAG or CDGB. I have my doubts about these programs, but there are over $7 billion in this function and we are saying that because of taxpayer justice and macroeconomic considerations, would it not make sense to take $100 million of that—that would be on something less than 2 percent of the total—and make it available for this worthwhile task?

Madam President, we are told we should not be writing tax policy on the floor of the Senate, and with that I concur entirely. What we are doing if we adopt this amendment is adjusting the revenue base so that it will be possible for the Finance Committee to consider whether it wishes to recommend to the Senate and the Senate wishes to adopt capital indexing.

This concept has been previously endorsed by the Senate on a vote of 61 to 32. It has been previously endorsed by our brothers in the House of Representatives and has been endorsed previously by the President of the United States and by the U.S. Chamber of Commerce and many taxpayer groups and lots of home folks as well.

I hope you will join me in supporting the amendment which is offered today by the Senator from Texas [Mr. GRAMM], the Senator from Minnesota [Mr. BOSCHWITZ], my colleague from Wisconsin, Bob KASTEN, and my colleague from Oklahoma DON NICKLES and myself.

Mr. BENTSEN. Madam President, I am joined by the distinguished ranking member of the Finance Committee and the Senator from Florida, and I move to table the amendment.

Mr. ARMSTRONG. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered.

The question is on agreeing to the motion of the Senator from Texas [Mr. BENTSEN] to table the amendment of the Senator from Colorado [Mr. ARMSTRONG]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I also announce that the Senator from New Jersey [Mr. LAUTENBERG] is absent because of attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—66

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Leahy
Levin
Matsunaga
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Specter
Stafford
Trible
Warner
Weicker

NAYS—29

Armstrong
Boschwitz
Dole
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McClure
Melcher
Murkowski
Nickles
Nunn
Proxmire
Quayle
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop
Wilson
Wirth

NOT VOTING—5

Biden
Gore
Lautenberg
Simon
Stennis

So the motion to lay on the table amendment No. 1945 was agreed to.

Mr. CHILES. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I know of no one on our side who wants to speak on the resolution before we go to final passage other than I wanted to make a few remarks. Does the distinguished chairman know how much time he might need on the other side?

Mr. CHILES. Madam President, I know that the Senator from Nebraska wishes 10 minutes, and I think that probably the Senator from Oregon wants a few minutes. I know he does.

I do not know of anybody else on our side. I would say, for Senators wanting to see to their schedules, I think we could look for final passage around 2:30. That would be my best guess.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

SALE OF THE NAVAL PETROLEUM RESERVE

Mr. DOMENICI. Madam President, I planned to offer an amendment to the budget resolution that would have provided for the sale of the naval petroleum reserves.

I firmly believe that we should sell the naval petroleum reserves [NPR]. The budget summit called for $3.5 billion in fiscal year 1989 asset sales. According to OMB, the sale of NPR would produce $3.5 billion in receipts to the Federal Government, reducing the deficit by that amount in fiscal year 1989. A Shearson Lehman Bros. study of the proposed sale concluded that it could be sold for between $3.6 billion and $4.3 billion.

PROPOSED AMENDMENT

My amendment is similar to the administration's NPR sale proposal in that it would sell the full Federal interest in the NPR, would establish a defense petroleum inventory, and would dedicate the proceeds from the sale for a new defense petroleum inventory and the strategic petroleum reserve. The major difference between my amendment and the administration's proposal is that my amendment would protect the Federal Government in the event of an oil price hike.

Many are concerned that, because of the current low level of oil prices, we will not get the full fair market value for the NPR. Others have questioned the $3.5 billion estimate of NPR's value. My amendment would address the fair market value issue by providing a scheme to protect the Federal Government's financial interest in the event of an oil price hike, such as those that occurred in the 1970's.

My proposal assumes the Federal Government would retain a royalty interest in NPR production. My proposal would provide a royalty interest that would be triggered if oil prices exceeded $28 a barrel adjusted for inflation. If oil prices rose above this level, the Federal Government would collect 50 percent of the proceeds from NPR production associated with the increment of income collected above $28 a barrel adjusted for inflation. This royalty trigger would adequately protect the Federal Government in the event of a price hike.

OMB has estimated that the sale of the NPR would provide $3.5 billion in receipts to the Treasury. Many feel this is too low an estimate of the NPR's value. Let me assure my colleagues that this $3.5 billion figure is merely an OMB estimate that is being used for the purposes of estimating the deficit and would not bind the Federal Government on a final sales price. It does not represent a ceiling price for the NPR. It is my hope and expectation that the Federal Government would receive much more than $3.5 billion. In fact, the Shearson study of the proposed NPR sale found that it could be sold for between $3.6 billion and $4.3 billion.

Mr. President, there is a strong rationale for selling the reserves. The naval petroleum reserve [NPR] has outlived its original purpose. It is no longer a reserve, is no longer part of the Navy, and clearly can be better managed by the private sector. There are a number of misconceptions about the naval petroleum reserves that I would like to address.

NPR IS NO LONGER A STRATEGIC RESERVE FOR THE NAVY

Many believe NPR is a strategic reserve for the Navy. This is simply not the case. Since 1976, the Department of Energy [DOE] has been running the NPR as a commercial oil venture, producing oil from the NPR at its maximum efficient rate. In 1981, NPR production peaked at 181,000 barrels per day and has been declining at approximately a 5 percent annual rate ever since. Through fiscal year 1986, NPR production totaled 1.5 billion barrels, more than half of its estimated recoverable reserves. Current plans are to continue NPR production until the reserve is depleted. In sum, the Navy no longer controls the naval petroleum reserve and this "reserve" is being liquidated.

We are not, however, without a strategic reserve. Congress created the strategic petroleum reserve to meet our emergency oil supply requirements. By the end of fiscal year 1988, SPRO will hold 552 million barrels of oil or 97 days of supply in the event of a complete cut off of oil imports. SPRO is a much more effective reserve, with the capability of delivering oil 30 times faster than NPR. While the President has authority to allocate petroleum to the Armed Forces in the event of a national emergency, the Department of Defense [DOD] believes it needs its own strategic reserve. My amendment would address DOD's concerns by establishing a 10 million barrel defense petroleum inventory.

BETTER MANAGED BY THE PRIVATE SECTOR

The Government currently operates the NPR as a commercial oil venture, and does not do a very good job at that. Past experience and numerous studies show the Government is a poor and inefficient manager of the NPR's.

In 1986, DOE sold NPR oil for as low as $3.91 a barrel, loosing an estimated $300,000 perday. In order to correct this problem, the Secretary of Energy had to order a halt to further sales. Next, it tood an act of Congress to establish a whole new set of procedures to determine the price of oil.

NPR is run by a government bureaucracy that must meet the guidelines of Federal laws and regulations. As compared to continued Federal ownership, it is estimated that the private sector could operate NPR with half the number of employees and reduce costs by $30 million, or 20 percent, a year.

The President's Privatization Commission recently concluded that, "Government operation of an oil field is inherently inefficient." The Commission went on to recommend the immediate divestiture of the NPR's.

To close, I believe the Federal Government should sell the naval petroleum reserves. I believe my proposal would dispose of an inefficient Government operation and still provide for the strategic reserve needs of the Department of Energy and the Department of Defense. It would protect the Federal Government's financial interest if an oil price spike occurs. And, it would fully meet the budget summit's fiscal year 1989 asset sales requirements.

Mr. President, I will not offer the amendment. But I am convinced that we ought to sell the naval petroleum reserve over a period of time and invest the money in the kinds of things that will give us energy security and in research that will add to our ability to move in the area of energy independence. The Senate is not ready to do that. The House is not ready to do that. The President's people might have evaluated it at too low a price and scared people off.

I will not offer the amendment because I do not think it will be adopted.

Once again, I thank Senator CHILES.

Mr. President, I ask unanimous consent that the following materials be included in the RECORD at the close of my remarks:

A description of my proposed amendment;

A letter from OMB in support of my amendment;

A letter from OMB, DOE, and DOD that accompanied the administration's proposed legislation;

A section of the President's proposed budget describing the NPR sale, and

A copy of a Washington Post editorial in favor of the NPR sale.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF NAVAL PETROLEUM RESERVE AMENDMENT

ASSUMPTIONS

Timing of Sale. The Department of Energy (DOE) sells the Naval Petroleum Reserve (NPR) by the close of FY 1989.

Royalty Trigger. To protect the federal government in the event of a sharp increase in oil prices, the federal government would receive a 50 percent royalty of the increment of proceeds if oil prices exceeded $28 per barrel (adjusted for inflation).

Defense Requirements. To compensate the Department of Defense for the divestiture, a 10 million barrel Defense Petroleum Inventory would be established.

Dedication of Receipts. All receipts from the sale of NPR and royalties from NPR production would be deposited in a new Strategic and Defense Petroleum Reserve trust fund. Expenditure of these funds would be subject to annual appropriations.

Budget impact

Fiscal year:	*Billions*
1989	$3.5
1990	+.4
1991	+.4
Total	−2.7

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 11, 1988.

Hon. PETE V. DOMENICI,
Senate Budget Committee,
U.S. Senate,
Washington, DC.

DEAR PETE: I am writing to express the Administration's strong support for your amendment to the Senate Budget Resolution, calling for the sale of the Naval Petroleum Reserves (NPRs) and the upgrading of our energy security assets.

Last December Secretary Carlucci, Secretary Herrington and I jointly wrote the Congress in support of a three part proposal to sell the NPRs and use the sale proceeds to accelerate the fill rate for the strategic petroleum reserve (SPR) and to create a ten million barrel Defense Petroleum Inventory (DPI).

This "NPR/SPR/DPI" proposal makes good sense on energy security, national security and fiscal policy grounds. Your amendment is essential for this nationally important energy emergency preparedness upgrade to move forward.

We understand that some Members of Congress are worried about the possibility that the Government may not receive adequate value for the NPRs if oil prices were to spike after the sale occurs. They are also concerned that the NPR sale proceeds may not in fact be used for the SPR and the DPI, as we have proposed. The Administration is committed to work with the Congress to resolve these problems and eliminate these concerns.

The Administration supports including provisions in the NPR sale legislation to assure the Government captures a significant portion of the value above a specified oil price in the event of a future oil price spike. The Administration also supports earmarking NPR receipts and reclassifying them to make it clear they will be spent to accelerate the SPR and create the DPI.

We believe that selling the NPRs and improving our energy security assets will serve the American people well. We look forward to working with you and other Members of Congress to make this policy succeed.

Sincerely yours,

JAMES C. MILLER III,
Director.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 11, 1987.

Hon. ROBERT DOLE,
United States Senate,
Washington, DC.

DEAR MR. LEADER: We are writing to urge your support for prompt enactment of the proposed Naval Petroleum Reserves Divestiture and Energy Security Enhancement Act.

This legislation would authorize the sale of the Naval Petroleum Reserves (NPRs) and use of the sale proceeds to fill the Strategic Petroleum Reserve (SPR) and create a separate ten million barrel Defense Petroleum Inventory (DPI).

The proposal makes good sense on energy security, national security and fiscal policy grounds. It would:

Assure completion of the 750 million barrel SPR, which can currently be drawn down at a rate of over 3 million barrels per day—30 times greater than the NRPs;

Create a separate DPI controlled by the Department of Defense, easily accessible to major refining centers, with an enduring draw down capability in contrast to the diminishing resources of the NPRs; and

Help meet the targets for asset sales and budget deficit reduction in the Budget Summit Agreement.

Upon enactment, the President's FY 1989 budget would propose a multi-year advance appropriation of the net proceeds from the NPR sale to purchase oil for the ten million barrel DPI and to fill the SPR at a rate of 100,000 barrels per day.

The proposal would serve the American people well. We believe it merits prompt and favorable action by Congress.

Sincerely yours,

FRANK C. CARLUCCI,
Secretary of Defense.
JAMES C. MILLER III,
Director.
JOHN S. HERRINGTON,
Secretary of Energy.

NAVAL PETROLEUM RESERVES

The Department of Energy (DOE) owns and operates two oil fields—Elk Hills, California and Teapot Dome, Wyoming. The President's budget proposes to sell its interest in these oil fields and use the sale proceeds to accelerate the full rate for the Strategic Petroleum Reserve (SPR) and to build up a Defense Petroleum Inventory (DPI). This would upgrade civilian and defense energy emergency preparedness and help to reduce the budget deficit an estimated $3.2 billion in 1989.

PROGRAM HISTORY AND CURRENT STATUS

Elk Hills and Teapot Dome were originally set aside in 1912 and 1915 as naval petroleum reserves to provide a back-up supply of oil for the Navy's fleet as it converted from coal to oil.

The fields were developed for commercial sales in 1975 when Congress decided to reduce U.S. oil import levels and improve the country's emergency preparedness by selling NPR oil commercially, using the proceeds to build up the strategic petroleum reserve (SPR).

Under current policy, oil at the NPRs is produced and sold competitively to the highest bidder.

The NPRs now provide about one percent of the country's oil production, roughly 100,000 barrels per day at Elk Hills and 3,000 barrels per day at Teapot Dome.

The NPRs are large but declining enterprises. Net cash flow from the fields peaked at $1.4 billion per year in 1982. Net cash flow in 1988 is expected to be $600 million.

NPR net cash flow is expected to continue to fall over time due to rising production costs and the natural decline rate as the fields are depleted. These factors are expected to more than offset any future increases in revenue due to increases in oil prices.

Overall defense emergency petroleum requirements, under current policy, are to be met through a variety of means.

These include normal procurement channels, purchase of SPR oil, and use of Defense Production Act authority as well as a contingent claim on NPR oil written into all NPR sale contracts.

The declining production rate at the NPRs reduces the value of the NPRs as defense assets and poses a significant problem for readiness planning.

ADMINISTRATION PROPOSAL

Rather than sell the NPR oil a barrel at a time, the Administration proposes to sell the oil fields to the highest bidder.

The NPRs have outlived their usefulness as defense assets.

Private owners are likely to run the oil fields more efficiently than the Government can.

The Energy Department has assessed alternative ways to secure maximum value from the sale. The sale will proceed only after the Secretary of Energy certifies that the Government will receive full value from the sale.

The Energy Department has efforts underway to resolve other issues related to the sale including reassignment of all Federal employees now with the NPR program.

The NPR sale would provide a reliable source of funding to complete the 750 million barrel SPR and assure it will be completed without further delay.

The SPR can pump oil at 3 million barrels per day—30 times faster than the NPRs can.

Congress had reduced the fill rate of this important energy security program to 50,000 barrels per day in 1988 due to budget limitations.

The NPR sale would provide the means to pay for a 100,000 barrel per day SPR fill rate.

The Administration will support the higher fill rate if Congress enacts legislation authorizing the NPR sale.

The NPR sale would pave the way for the creation of a separate, ten million barrel Defense Petroleum Inventory (DPI).

The DPI would be in addition to the 750 million barrel SPR.

The Secretary of Defense would have sole discretion over use of the DPI. Defense could use it before the SPR were available and it would be more reliable than the depleting and less accessible NPRs.

The Administration proposal helps reduce the size of government by turning a business activity over to provide industry, where it belongs.

It substantially increases the tax base for California and Wyoming and the local taxing authorities. It also increases the Federal tax base.

The proposal improves Defense readiness and the country's ability to deal effectively with energy emergencies, civilian and defense, should they occur.

SOURCE: Office of Management and Budget, Major Policy Initiative's, Fiscal Year 1989, pp. 80-81.

[From the Washington Post, Feb. 27, 1986]

TEAPOT DOME FOR SALE

The Naval Petroleum Reserves have become a national anomaly, because the reserves are dwindling and there is no real relationship to the Navy. They pump away diligently, small islands of federal enterprise surrounded by the vast industry that provides the other 98.3 percent of American oil production. But the oil from the naval reserves doesn't go to the Navy; it's too thick and heavy to yield much of the light fuel that modern ships' engines need. Instead, the naval reserves' oil is sold to private buyers on the market. Now the Reagan administration proposes, sensibly, to sell the fields themselves and get out of the oil business altogether.

For an emergency—a foreign embargo, or war—this country has built up the Strategic Petroleum Reserve, now half a billion barrels of crude oil stored in salt domes along the Gulf Coast to serve both civilian and military requirements. The SPR provides better protection than the naval reserves ever could. The oil in the naval reserves is still as nature left it in the crannies of porous rock in certain geological formations. The two government-operated naval reserves together—Elk Hills in California and Teapot Dome in Wyoming—produce about 135,000 barrels a day. That rate cannot be accelerated, emergency or not, without wrecking the wells. But the oil in the SPR, in contrast, was earlier lifted to the surface of the earth through normal commercial production and then poured into caverns that act as tanks. From those caverns, it can be pumped up at a rate of 3 million barrels a day. For the Navy and everyone else, that's the kind of access needed in a crisis.

These two naval reserves, the administration estimates, could be sold for about $3.6 billion. The income from the fields is currently about half a billion dollars a year, but it's declining as the fields are slowly exhausted. In financial terms, the administration wants to trade future income for present cash that it needs to bring the deficit down. Beyond that, it thinks as a matter of principle that the government ought to get itself out of a business best left to private companies.

The administration is using the gross neologism "privatization" to indicate the sale of government assets to the private sector. Some of its other intentions in this direction raise difficult questions about the proper boundaries between public and private responsibilities—the proposed sale of the electric power marketing administrations, for example, or the Landsat mapping satellites. But the sale of Teapot Dome and Elk Hills is not a hard choice.

CLOSING STATEMENT

Mr. DOMENICI. Let me say to the Senate that our good friend, the chairman of the committee, Senator CHILES, made a decision not too many weeks ago that he was not going to run for public office again, at least not run for the Senate. I do not want to make his decision broader than it really was.

I would like to take a few moments this afternoon to congratulate him on this budget that is before us, and which I was very privileged to help with in committee. We have made it a bipartisan budget. But as he finishes his tour in the Senate, which has been a very auspicious service to his people and to our people, I think it is fair to say that in a most difficult budgetary time, that if the appropriators of the House and Senate were to follow this budget and in their appropriating process fund the programs at or close to the levels that are expected by this budget, I think we could say unequivocally that the chairman from Florida leaves the Senate having produced one of the most futuristic budgets in the history of the United States.

Madam President, because we have social needs, because we have programs that attempt to solve some of the problems for our people and to help spread prosperity in a very prosperous country, we tend frequently, whether it is in difficult budgetary times or not, to neglect the future. Where the Government has a role in the future, we are very apt to instead take the present problems affecting present situations and fund them. We are very loath to fund exciting, future kinds of programs of which we cannot instantly measure the results.

This budget is more future looking than any that I have participated in. I have to add the President of the United States prodded us in this direction in his last budget. While one might not agree with the President in terms of every priority, it is absolutely clear that in a very tight budget time, this President chose to reduce old programs and, in many cases, to eliminate some. He did not cut the overall budget because we had already agreed on how much we would spend, but he chose to fund programs like space, the National Science Foundation and others to bring them back to the level of excellence that a great country like ours deserves.

The chairman of the Budget Committee, as I view it, understands that the future of the United States of America is more tied today to science and technology and our supremacy in those areas than ever before in our history. He has chosen, where he could, consistent with the politics of the committee and the Senate, to move in that direction.

I could tick them off in this budget resolution, and they are many, where funding of programs geared toward the future of this great country and not being so concerned about the programs of the past. To the extent possible, saying to programs that have been and are now in existence and that might not be serving that broad a national purpose, that they will either have to take some cuts, get very little increases or, in some cases, be frozen.

I regret the House budget is not like this, so we will have to go to conference. I remind the U.S. Senators who are voting for it that under our processes, the appropriators will have a meeting at some point in time, and they will call it their 302(b) allocation meeting. Subject to very few limitations, they will take the sum total available for domestic spending and they will decide how they are going to allocate it among their subcommittees. That is the final decision when those bills come to the floor and that is probably the way we will spend the money.

So there is a long gap between the carrying out of this futuristic budget resolution and its actual implementation as the appropriation process winds its way through, hopefully, to a series of freestanding bills that can go to the President for his signature or veto.

Madam President, let me quickly tell you my version of this country. Two trends have occurred: First, the advent of computers and super computers and more computers that are going to be added to those, and second, the huge growth of the free industrial nations, like Japan, Germany, Korea, Taiwan, all of Europe, and others. These nations have had tremendous growth in their economies by applying science and technology to their marketplace to produce goods and wealth for the world and for the marketplace. Those two things—the computers and that series of events that led up to this huge fortress of free industrial nations producing goods and wealth that compete in the world market—put the United States of America in a position where I believe the reality of our future is as follows: Scientific and technological breakthroughs are going to increase in this free international industrialized fortress exponentially in the next two decades. There will be more scientific breakthroughs occurring in the next two decades, in this Senator's opinion, than in all of history because you add the computer to the research of man and you bring their breakthroughs into effect in ever shorter timeframes.

Our competitors in the world market for the production of goods, services, products, and wealth clearly understand that science, and the application of science through technology, is their future. If there is one thing they will all agree upon, and I am pleased that we can still say it today on this beautiful April day on the Senate floor, it is that the United States of America is still No. 1 in pure science and knowledge breakthroughs because of our diversity of universities and because we had plenty of resources during the industrial revolution to create research facilities second to none. We are still No. 1.

What is happening, however, is we are being challenged on every front for that No. 1 position and, the gap between science, technology, and manufacturing is shrinking as indicated in the article by Mr. Broad in the New York Times, "Science and Technology: The Gap is Shrinking Fast," which I ask be made a part of the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From The New York Times, Apr. 5, 1988]

Science and Technology: The Gap Is Shrinking Fast

(By William J. Broad)

Inventors are dramatically increasing their reliance on basic scientific research to compete in the international race for commercial innovations. Indeed, new studies show the trend is so powerful that in places science and technology are starting to merge.

Experts say the union marks a turning point in the history of invention.

Over the ages, key technical breakthroughs have often had no direct link to pure science. This was clearly the case with the plow, printing press and steam engine. Science and technology operated independently of one another, with their own distinct cultures. Moreover, scientific discoveries that did find practical application often did so only after the passage of decades or centuries.

Today, the delay between science and technology, between understanding nature and using that knowledge to reorder the natural world, can be as short as years and sometimes months.

Recently, the rush of inventors to make use of basic science has been statistically detailed for the first time in studies of patents, which are key expressions of technical innovation. New studies show that American patents awarded in the last decade are citing scientific papers with rapidly increasing frequency, and that these science-intensive patents are drawing on ever more recent discoveries.

"The time between the creation of new knowledge and its incorporation into new products and processes is shortening very rapidly," said John Irvine, a science policy analyst at the University of Sussex in England. "To a certain extent, science is becoming technology."

The trend means that universities, the bastions of basic research in the United States, are playing an increasingly direct role in the formation of ideas that industry turns into new goods and products.

The fusion of science and technology is viewed as crucial by Federal officials who help shape the nation's research and development effort, which this year will cost about $132 billion. For instance, President Reagan in his weekly radio address on Saturday urged not only greater Federal support for basic research but closer cooperation with industry so discoveries "can quickly lead to new and better and internationally competitive products."

To date, the National Science Foundation, a Federal agency, has created 14 special centers where university scientists and industry engineers rapidly exchange ideas and insights, collaborating on specific innovation goals in the hope of generating more competition for the rush of high-technology consumer goods from Japan.

"The pace of development is accelerating very rapidly," said Erich Bloch, director of science foundation. "We need to transfer knowledge between universities and industries much faster and better than we usually do."

From its earliest days, basic science, the kind that pursues fundamental knowledge for its own sake with no clear vision of how it might be practically applied, has been considered a prime source of military and economic power. Yet in truth the link between science and invention has often been exceedingly weak.

"The landmark inventions of the 18th and early 19th century came from men who were tinkerers without special training in science, and whose principal qualifications seemed to have been ingenuity and a spirit of enterprise," said Melvin Kranzberg, professor of technological history at the Georgia Institute of Technology.

REVOLUTION IN ART OF INVENTION

But slowly, starting in the 19th century, science began to revolutionize the art of invention. In 1930, for instance, Michael Faraday in England and Joseph Henry in America discovered that a moving magnetic field could cause an electrical current to flow in a wire. Fifty-one years later, this insight resulted in the construction of the first electrical generators and power distribution systems, energizing electric lights and motors.

In 1906, Albert Einstein published his special theory of relativity, showing how matter and energy were related. Forty years later, this principle was forcefully demonstrated with the detonation of the first atom bomb.

In 1953, James D. Watson and Francis Crick discovered the structure of the master molecule of life, DNA. Twenty years later, scientists developed the techniques to rearrange this material, founding the fields of genetic engineering and biotechnology.

In 1957, Leo Esaki discovered that electrons could mysteriously "tunnel" through solid barriers in tiny electrical devices. Six years later, this effect was being exploited commercially to build very small, fast electrical diodes for transistor radios and computers.

Experts say inventors today are dramatically increasing their reliance on science and incorporating its discoveries ever more rapidly.

"Clearly, the newest technologies are more scientifically intensive," said Richard Florida, a professor of management and public policy at Carnegie Mellon University in Pittsburgh. "It's especially true in cutting-edge technologies such as superconductivity, biotechnology and the more advanced areas of electronics."

INSIGHTS FROM PATENTS

The trend has recently been explored statistically by Computer Horizons Inc., a consulting firm in Haddon Heights, N.J., that works with the National Science Foundation. The company's technique measures the role science plays in American patents. It relies on the fact that when awarding a patent, patent examiners list on its first page scientific papers related to the new idea.

It assumes that a patent citing many scientific papers is showing a greater reliance on science than one that cites relatively few.

The technique, used to study patents issued from 1975 to 1986, shows that all patented inventions are increasingly drawing on pure science, as measured by the growing average number of literature citations.

Moreover, the trend is different for different countries. From 1975 to 1980, the major industrial countries whose inventors were awarded patents in the United States increased their citations of science literature at about the same rate. But after 1980, the United States moved into the lead and has maintained it ever since, followed by Britain, France, West Germany and Japan, in that order.

For the United States, the number of patent citations to scientific literature has quadrupled in the last decade, now being twice as frequent as those of Japan.

"For example," said Dr. Francis Narin, Computer Horizons' president, "I.B.M.'s patents cite scientific material twice as often as Fujitsu," a Japanese computer company.

Dr. Narin added, "What I think this means generally is that the Japanese patents, which are superb in technological areas, are not as close to the scientific frontier as many U.S. patents are." He said the findings suggested that America had hidden strengths that could help it win back the innovation lead.

Computer Horizons' analysis clearly shows that the world's most science-intensive patents have been awarded to Americans. For instance, patent number 4,565,785, assigned to Harvard University in 1986, has one of the highest number of citations to basic science. It lists 52 scientific documents and papers, including ones in Science magazine, Nature, and The Journal of Molecular Biology. The patent details how to turn bacteria into tiny factories for the production of insulin, human growth hormone, interferon and other pharmacologically active proteins.

Patent number 4,565,157, assigned in 1986 to Genus Inc., of Mountain View, Calif., cited 50 scientific documents and papers, including ones in The Journal of Applied Physics, Solid-State Electronics, and IEEE Transactions on Electron Devices. The patent details a way to apply thin coatings of tungsten silicides for making the microelectronic chips widely used in computers and electrical gadgets.

Patent number 4,563,059, assigned in 1986 to Noel A. Clark of Boulder, Colo., and Sven T. Lagerwall of Goteborg, Sweden, cited 38 scientific documents and papers, including ones in Le Journal de Physique, The Japanese Journal of Applied Physics, and Physical Review Letters. The patent is for a new kind of liquid-crystal display that is faster and easier to read than those now in use in electronic consumer items like calculators and clocks.

In its studies, Computer Horizons has also found that the science cited in American patents has become increasingly fresh in the last decade, with the average lag between scientific paper and patent shrinking from eight years to seven years for all nations. Again, America leads this trend, its lag being closer to six years.

Dr. Narin speculated that the trend to greater reliance on science could dramatically help American innovation, since for decades the United States has been the world leader in basic research. But other experts disagreed, saying America's science strength might not automatically bring a multitude of technical breakthroughs.

Dr. Florida of Carnegie Mellon University said the nation might simply excel at making a few fundamental innovations, such as the recent strides in high-temperature superconductivity that were pioneered by I.B.M. scientists, but be poor at generating the less flashy ones that nonetheless account for billions of dollars in revenues.

"The United States, with its basic research abilities, is tremendously good at breakthrough innovations," Dr. Florida said. "Perhaps the problem is in following through on them. Perhaps we're not capitalizing as well as we can on cutting-edge innovations."

Wary of that possibility, Federal officials like Mr. Bloch of the National Science Foundation said success in ventures meant to join universities and industries are vital.

"There's no doubt that the time from a discovery to when it's commercially applied is shrinking," he said. "We have to understand how to shrink the gap even more."

Mr. DOMENICI. There is no question that science is being applied in the marketplace in ever shorter periods of time. The United States of America has now made an unconscious decision, in my opinion, to compete with the rest of these industrialized nations. We did not consciously stand up as leaders and tell our business, large and small, you have become old fashioned, you have the drag of the past on you, you are not modern. We had to let it happen, and it happened, be it in steel, automobiles or technology. We have now decided to rededicate ourselves to competing in the international marketplace.

It is absolutely amazing to find that the Hewlitt-Packards of the United States are now saying that 50 percent of their products are 3 years old or younger, and that all the major growth corporations of the United States are now reporting that 40 percent to 50 percent of their entire sales are products that are 5 years old or younger. This means that we have met the challenge of competition and we are on the way. Are we 70 percent there? Or 80 percent there? I do not know. But we are on the way.

If we do not now take advantage of the budgetary potential in this resolution to fund those areas which tend to keep us on that cutting edge where we are No. 1 in science, and do what we can to help American business move science into technology into products as rapidly as possible, then we are doing less than this great country deserves of us.

So in tight budgetary times, for the National Science Foundation, one of our instrumentalities for helping our universities and our business community work together in things like centers of science excellence, centers of engineering excellence, centers of computer excellence, and many others, this budget says increase funding by 11 percent.

NASA, as we all know, was one of America's true claims to scientific and technology supremacy. Challenged by Sputnik, we decided to be the best, and we are less than the best today.

Nobody is telling us that we should not proceed in that supremely imaginative area of space and space technology because of what it will reveal to the minds of man and what it will reveal in spinoffs and the evolution of applicable technology.

This budget chooses to get NASA back on course by adding 25 percent in the first year in programmatic authority to last year's budget.

We know that research in the National Institutes of Health is the kind of thing that keeps us No. 1 in medicine and in pharmacy. We also know that it keeps us supreme in the civil endeavor of curing serious illnesses and ailments of people.

In that regard, in a tight budget, we have asked, as the President did, for substantial new money in AIDS research and in genetic research, which is the cutting edge, in my opinion, of the wellness science of the future. This will allow us to find out the secrets that are locked in the genetics of human beings so that the scientists can have that information to find cures to the scores of genetic impairments that impede us and impair humans everywhere.

Education is a key to this innovative economic future, which we all would have to suspect, after what I have said about this litany of where we were and where we are going and what we have got to do. Clearly the average young person in America can no longer fit into the marketplace unless they are well educated, and we will need every one of them within the next 7 or 8 years because we will be worker-short rather than have unemployment, at least in my opinion. We have added to the education programs $1.6 billion over this year's level. Chapter 1 programs, for the disadvantaged, increase by 6 percent; Pell grants, by 10 percent. And then we have found the money, and I hope the appropriators will appropriate it, for the Department of Labor for the new job retraining program that is winding its way through the trade bill. This is the program that former Secretary of Labor Brock, meeting with the experts in this country, told us we must have as our working people, blue collar and white collar, have to be trained for new jobs and different jobs in ever-shorter timeframes than our past history. That is inevitable. If people do not believe it, then it is going to happen just as sure as our big three automobile manufacturers had to face up to the medicine of becoming competitive and producing quality products at a better price or lose the market. That happened to many of our businesses. As I said, because of our spirit and because we knew we had to survive and because they did, we are on the way in many of those areas.

So, Madam President, I could go on, but I choose to give this version of where we are today, how we got here. There is a lot more to it. As a matter of fact, I believe the unsettled nature out there among our people is not because they are unemployed. It is not because they are employed in poor jobs. It is because change is occurring so rapidly that the unsettled nature of our people out there happens because they are not quite as secure as they were when they could walk down the street and go to work for U.S. Steel and expect to stay in the same job for 45 years and retire.

There are some who would like to tell us those were the good old days, we are doing something wrong, and that we ought to get back to them. I submit those days are gone. We will not bring them back. No political rhetoric will bring them back. No businesses will bring them back, and no labor unions will bring them back, because times have changed, because science, technology, and the productivity of free peoples who join us in this new market of industrialized powers are moving ahead to new and different ways to produce goods and services at ever more efficient rates and ever better products.

Now, having said that, I close where I started. My congratulations go to the chairman, Senator CHILES, for producing this kind of budget. I compliment the President for sending us a budget that moved in this direction—spending on the future and not so much on the past. That is what we have tried to do.

I believe this resolution deserves the unanimous support of this Senate. We cannot do that on any budget resolution, but on this budget resolution we ought to get more votes than on any other because it moves us precisely in the right direction. There is no argument about how much we should spend overall because we already agreed on that last year in the budget summit a kind of preview of a 2-year budget exercise. This is a year of prioritizing, of deciding where you spend more and where you spend less, and I think the Budget Committee has done a very good job in difficult times. The chairman deserves a great deal of credit.

My last admonition is I hope that as we wind our way into August and September and start getting the appropriation bills, Senators who have been interested in moving in this direction, the direction that is encapsulated in this goal-oriented, not mandatory budget, will be asking how close to these goals are we moving with the appropriation process.

That is the committee which has total jurisdiction to make those decisions. I see my good friend from Florida nodding. They will do that and they will disagree on some priorities because it is their prerogative.

The House does not even agree in the budget resolution with this much for future oriented spending. They have a lot of the past in their budget, so we will have that first episode of conferring on this budget resolution. But I hope, as we go out for this Presidential election, each of us this year can ask how close did we get in the appropriation process to funding those things that produce the wealth in the United States in its broadest sense—the jobs, the paychecks, the savings, the investment, and the factories, large and small, which really are our people's future and this country's base of strength.

So I am very sanguine in difficult budget times that we were able to do this much. I am only hopeful that the American people understand that this is what has to happen, the marriage of science to technology in the American marketplace, so that we produce products and wealth as good as our competitors and that that process take place very quickly where our future lies.

I also thank the staff on both sides, the majority staff and the minority staff, for their work on this budget resolution. I look forward to going to conference, and I hope we will return rather quickly with a budget resolution that speaks for both Houses.

I yield the floor.

Mr. LEAHY. Madam President, I support the Senate budget resolution for fiscal year 1989. The budget fulfills the agreement reached last year by the President and the leadership of Congress to reduce the Federal deficit by more than $76 billion.

Madam President, I am disappointed, however, that this year's budget does not go even further toward controlling the budget deficit. This year's budget lives up to the letter of the bipartisan, 2-year budget agreement but not necessarily the spirit of that accord. The budget resolution almost exactly meets the deficit reduction targets agreed upon by the President and Congress, but does not challenge us to do any more.

In addition, I am concerned that for the second year in a row Congress has agreed to use the economic assumptions of the Office of Management and Budget in the congressional budget resolution. We all know that OMB's economic calculations are often driven by political forces and not by good, sound economic principles.

As I said last year, Congress must use the best figures available to predict the amount of revenues available, as well as the most reliable forecast of the performance of the U.S. economy. In the past, this information has been provided by the Congressional Budget Office, a nonpartisan and highly respected organization. I regret that this year's budget is not based on CBO economics and I urge my colleagues to go back to using CBO next year.

Having expressed these reservations, however, Madam President the budget resolution takes much needed steps to increase our commmitments to providing adequate health care, improving and expanding necessary scientific research and beefing up the war on drugs.

As chairman of the Agriculture Committee I am also pleased with the budget resolution on two very important points. First, the budget resolution includes $500 million for fiscal year 1989 for food stamp and commodity distribution programs. Second, the budget does not call for further cuts in commodity programs which support farm income.

On the first point, the resolution realizes that we will shortly run out of many products for the Temporary Emergency Food Assistance Program. That program provides food for a number of people who fall through the nutrition safety net. I do not agree with the Secretary of Agriculture when he states that "There is no poverty induced hunger in America." Part of the budget Committee's recommendation is that we realize that creative voluntary organizations have grown up around commodity distribution programs. Volunteers are filling a vital need. We need to support this volunteer effort as well as provide food for those in need. We also need to expand our existing feeding and nutrition assistance programs to meet the hunger crisis facing so many in this country. I hope that we can keep this provision in the resolution when we come back after conference.

On the second point, I'd like to review a little history. Last year when we were debating the budget resolution on the floor, estimates of spending on agricultural programs for fiscal years 1988 and 1989 totaled $46.8 billion. By August, the estimates had fallen to $40.4 billion. Yet in the summit agreement we were asked to cut a further $2.5 billion. We did. But I'd like my colleagues to know that current estimates of spending on the commodity programs for those same 2 fiscal years, 1988 and 1989, have fallen to $34.6 billion. That's a decline of 26 percent. I'd like to challenge any other budget function to show that kind of decline in 1 year.

Agriculture is a long-term industry. We produce only one crop a year in most cases. The cattle business takes years to change direction. All too often I think we forget this when we make annual budget changes and force agriculture to take large program cuts, cuts which are in addition to automatic reductions in income support that are built into our long-term farm policies. I commend the Budget Committee, this year, on their action with respect to the commodity programs.

Let me turn now to nonagricultural issues. During the budget debate, I voted for a resolution calling on Congress to stop using surpluses in the Social Security trust fund to mask the true size of the Federal budget deficit. Keeping this trust fund in the unified budget not only concerns senior citizens, but it also concerns all Americans who want to get our deficits under control. So far, the surpluses in the Social Security trust fund have reduced the pressure on Congress to take even stronger action against the deficit. We also want to reassure senior citizens that the Federal Government will never again dip into the trust fund to reduce the Federal deficit.

I also support equitable treatment for the civil service and military retirement trust funds. If Social Security is going to be off budget, so too should the civil service and military retirement trust funds. Far too often in the past, Federal and military retirees have been singled out for sacrifice, while Social Security is treated like the sacred cow.

Unfortunately, the Senate was not given a chance to vote on a straight up or down basis to protect the civil service and military retirement trust funds. Instead, they were lumped together with the unemployment insurance trust fund.

Regrettably, I could not support this amendment. In order to protect the working men and women of this country, Congress must have authority over the unemployment insurance trust fund. And, the best way to exercise control over that trust fund is through the budget process. In the past, Congress has been able to provide extended unemployment benefits to workers who have exhausted their normal benefits during tough economic times. Taking the unemployment insurance trust fund off budget might put an end to these emergency benefits.

Again, had I the chance, I would have voted to treat the civil service and military retirement trust funds in the same manner in which Social Security was treated.

Mr. President, this is a good budget, but certainly not a courageous one. Next year, with a new President in the White House, we are going to face some tough choices. While I would have liked to see greater action this year to reduce the deficit, I look forward to working with my colleagues and the new President to double our efforts to set our Nation's fiscal house in order.

THE WIN PROGRAM

Mr. BENTSEN. Madam. President, I would like to ask the chairman of the Budget Committee a few questions aimed at clarifying the status of the Work Incentive [WIN] Program under the budget resolution.

Mr. CHILES. I would be glad to address that topic. I believe there has been some misunderstanding on this issue.

Mr. BENTSEN. Yes, as I understand it, some early documents had been interpreted as expressing an intent of the Budget Committee to eliminate any funding for the Work Incentive [WIN] Program. That program, as you know, is the major existing program supporting the effort to move people from welfare to work. State demonstration programs under WIN have given us the evidence that welfare reform can work. I noticed in the CONGRESSIONAL RECORD that the description of the budget resolution reported by the Senate Budget Committee indicates that the WIN Program will be terminated. Does this description reflect the chairman's intent?

Mr. CHILES. Not at all. The published report of the Senate Budget Committee, which is the official record of committee action, makes absolutely no reference to terminating the WIN Program and there is no such intent underlying the resolution. I believe that we must have job-training programs for welfare recipients.

Mr. BENTSEN. If job training for welfare recipients is not terminated in the committee-reported budget resolution, what assumption is made?

Mr. CHILES. The budget process is not a line-item process. Overall, something in excess of $30 billion is devoted in this budget resolution to the general budget function—function 500—in which the WIN Program is located. How that money gets divided among specific programs will be determined by subsequent enactments by the appropriations and other spending committees. For function 500, the Senate Budget Committee-reported budget resolution assumes increased funding of $1.4 billion in budget authority over the 1988 enacted level. The House-passed budget resolution contains an increase of $2.4 billion in budget authority over the 1988 level for the programs in function 500. Along with the Community Services Block Grant, Child Welfare Services and Older Americans Act programs, the committee-reported resolution assumes that job training programs for welfare recipients, one of which is WIN, are high-priority programs that may be maintained at or above current services. Assuming a compromise between these two figures in conference, the conference report on the budget resolution should include sufficient moneys to allow for funding for the important goal of job training for welfare recipients.

Mr. BENTSEN. The Finance Committee is currently considering welfare reform legislation. When that legislation is enacted, the WIN Program will ultimately be phased out. I would like to clarify the interaction between these two matters under the budget resolution. While the exact details of the welfare reform legislation have not been worked out by the committee, we would hope to begin some implementation during the coming fiscal year. The committee would expect to report legislation in which any new costs above the baseline for programs under its jurisdiction are offset in such a way that the legislation as a whole is deficit neutral. The budget resolution contains a special provision to assure that we will have adequate allocations for this purpose. Our responsibility for funding the new program would thus be limited to offsetting any additional costs above the baseline which might arise from the legislation we report. Is this your understanding?

Mr. CHILES. The WIN Program is a very confusing program. To the best of my knowledge, virtually all of the WIN Program would be mandatory in the absence of language from the Appropriations Committee which limits the amount which can be spent. Therefore, in this one unusual case, it seems reasonable, in the out-years, to allow the Finance Committee to replace this mandatory spending with new mandatory spending and to be charged only with the net increase in such mandatory spending; in 1989, the dollar amounts involved are small, so there is no great need to deal with this situation. The case involving the WIN Program is very unique. My viewpoint on this issue should in no way be construed to mean that authorizing committees be credited with savings if they repeal or limit existing discretionary programs. However, in this case, since the program which is being repealed is mandatory in the legislative language, I believe that such savings in the outyears are appropriate from a scorekeeping perspective.

Mr. RIEGLE. Madam President, I would like to take a few moments to address several issues in this budget resolution, but first I would like to commend the able chairman of the Budget Committee for his success in producing a budget agreement ahead of schedule. He is to be congratulated for his leadership.

I would also like to point out that the summit process, while not painless and certainly not perfect, has been instrumental in making it possible to have a bipartisan budget which continues to make the hard choices begun last year. It is clear that the only way to reduce the Federal deficit is through the concerted and cooperative efforts of Congress and the administration, rather than by jerry-rigging the already convoluted budget process.

The budget resolution that we are considering today is notable for its emphasis on key programs that will keep this country on the forefront of emerging technologies, helping boost productivity and economic growth. Increases for education, science, and technology, including funding for the superconducting super collider are investments not only in today but in the future strength and vision of this country.

This budget also strengthens or maintains a number of key programs to address urgent national problems, including AIDS and other kinds of health research, critical nutrition program reforms, programs for the homeless, low-income home energy assistance, and the highly successful Women, Infants, and Children Feeding Program. We must continue to protect programs that help low-income and otherwise disadvantaged individuals who have nowhere else to turn.

I appreciate the chairman's acknowledgment earlier of problems that have resulted from recalculating the formula used to determine the Federal matching rate for Medicaid and AFDC. As I noted there, several States are severely hurt because of economic deterioration which is not reflected in the rate as it is currently calculated and I intend to offer legislation to correct the problem.

The chairman has also acknowledged the need to enact provisions to broaden Medicaid coverage for pregnant women and children, to protect families during a period of transition from welfare to work, and to protect low-income elderly from against spousal impoverishment and from Medicare cost sharing requirements. I believe it is imperative that we achieve these improvements and intend to continue to work to see that they are enacted and funded.

This budget contains some provisions which I do not support. I am particularly concerned about cuts to programs for our urban areas. The committee budget assumes 5.8 percent cuts in the community and regional development function which includes the Urban Development Action Grants Program and the Community Development Block Grant Program. These programs have already taken more than their share of reductions. UDAG has been reduced by 68 percent and CDBG has been reduced by over 22 percent since 1981. While the funding has decreased, the need has increased. Congress recently reauthorized, and the President signed into law a housing bill that supported higher levels than assumed in this bill. These programs are vital to improving the economic health of our Nation's urban areas and must be protected.

Finally, I would like to comment on the issue of the Social Security trust funds. As the chairman has discussed earlier, although Social Security was taken off budget in 1985, it is still included in calculating the Federal deficit under the Gramm-Rudman-Hollings balanced budget law. Social Security has been running a surplus since 1984 and that surplus will continue to increase well into the next century. This surplus is currently being used to hide the true size of the Federal operating deficit. I believe that we must take steps to remove Social Security completely from all deficit calculations to make sure that we will be able to meet our future obligations to Social Security beneficiaries and I hope to continue to work with the chairman on this issue.

The Federal deficit crisis demands our continued efforts and energies if we are to solve this persistent and destructive problem. Last year showed us that the arbitrary, inflexible mechanism of Gramm-Rudman alone will not get the job done. By working together to set priorities and make hard choices, however, I believe that we can, and must, restrain spending without dismantling important programs and without across-the-board tax increases. I hope the spirit of cooperation that has prevailed thus far will continue as we go to conference with the House.

Mr. BAUCUS. Mr. President, next week will mark the sixth month since the October 19 stock market crash.

The market crash was a sobering and dramatic reminder of the vulnerability of the American economy. We are in financial trouble. And, as we all know, a large part of the problem is caused by the mountains of debt that we have accumulated, especially in the past 7 years.

I think that the critical question that was raised in the aftermath of the market crash was whether America can govern. It was a question of leadership and our resolve to get our own financial situation in order.

The question was whether we had become debt junkies. Whether we are so addicted to debt and the good life that we had become incapable of breaking our dependency on living beyond our means.

Unfortunately, in my opinion, the response to those questions, the budget summit agreement, has left lingering doubts about America's resolve to really tackle the debt burden problems of the United States. At a time when America's fiber was being tested, we chose the path of least resistance rather than the path that would restore America's economic strength.

Frankly, I wonder sometimes what extraordinary measures we might be willing to adopt if we only stopped to listen to the good common sense of the people of this country. I continue to believe that the American people will not only accept but support much more dramatic solutions to the economic problems we face as long as the solution is even-handed and effective.

We have listened too much to the special interests who will never, under any circumstances, support real deficit reduction. That is because all efforts to reduce the deficit have some pain to them. It means raising some revenues and cutting some programs. Nobody likes that.

But the American people are also practical. They want straight talk. And they want honest answers. I believe that they will be proud of the people they have sent to Congress and of themselves if they as a people pull together on a shared solution to the deficit.

I do not believe that we are responding to the best instincts of the American people in the budget resolution before us today. It's basically a holding pattern budget that will leave the underlying economic problems of the United States for the next President and the next Congress to wrestle with.

Maybe it is just too much to expect anything more dramatic and decisive in an election year. But I am concerned that the time never seems quite right for a meaningful, no-nonsense approach to the deficit. So, if we are waiting for just the right moment before we have the collective courage to take the actions we know must be taken, I think that it could be a very long wait, longer than the American people will tolerate and longer than our economy can stand the strain of bulging deficits.

We all know that this budget resolution is built on a stack of economic assumptions that none of us believe are realistic. Try as we might we cannot turn our heads away from those, including our own Congressional Budget Office, who are telling us that the real deficit will be far higher than what has been assumed in this budget resolution.

And to those who say that this is the most we can expect to achieve this year, my reply is "who are we kidding"? We all know that if the economists were circling their wagons telling us that this budget would weaken the economy by cutting too much, too fast then we would jettison the summit budget agreement in an instant. In fact, the economic projections indicate that the American economy could easily sustain more, not less, dramatic efforts to reduce the deficit.

I say to those who think that we have somehow wrung the last dollar out of the deficit for this year, if we are not willing to take more substantial action on the deficit now then we will surely have to pay the price later. And later, if the economy takes another downturn, the problem will be far worse and our options much more limited.

I, too, am a realist and I know that because of the 2-year agreement reached with the White House last year that this is substantially the budget we will adopt today and substantially the budget that will be agreed to in the conference with the House of Representatives.

But, I must also say that the American people expect more of us than this effort. And I firmly believe that this budget will, at best, only buy us a few months of time before we inevitably face up to the facts that the deficit will not go away without more decisive and courageous action.

Mr. LUGAR. Madam President, in the United States today, there is a consensus that the quality of America's public education can be improved. Educators, lawmakers, and private citizens are contributing critical elements to the discussion of how and where changes should be made. It is encouraging to see such widespread agreement on the need to re-evaluate our approaches to quality education. It is crucial for the advancement of our Nation that all capable individuals are given the opportunity to maximize their potential through education and training.

Ninety-three percent of the spending on public education in the United States comes at the State and local levels. This is in keeping with the long-held American preference for decentralized educational policymaking. The need for local leadership in the education debate remains paramount.

The Federal Government has an important role to play in improving our public education system as well. Consequently, I am encouraged by the budget figures we have before us today. The administration has recommended an increase of $1.2 billion and the Senate has recommended a $1.4 billion budget authority increase over the 1988 baseline in the function 500 program area, which promotes the general extension of knowledge and skills. The House budget resolution is $2.4 billion over the 1988 level.

I am heartened by the attention being given to education in this year's budget, and I am hopeful that a fair and suitable compromise will be reached in the conference on this measure, bringing us closer to the House increase. America's future rests largely on the fulfillment of our dreams for public education. Incalculable rewards await those States and nations who translate an appreciation for academic achievement into a sound plan of action.

Mr. ROTH. Madam President, I rise today to address one of the most critical challenges facing our country—reducing the budget deficit. The Congress simply cannot afford to ignore the growing debt of our Nation. This year's budget resolution is less controversial, but that is simply because it proposes to change so little. And this only after October's stock market decline focused attention to Federal attention.

Yet, like the unreformed heart patient, the Congress continues its destructive lifestyle of more spending.

The implications of continued mounting deficits are alarming. The growing debt has very negative implications for the future of our economy, for the future of our international competitiveness, and for the future prosperity of our children and grandchildren.

As we consider the budget resolution, I would like to point out that the Congress can, and must, do more to reduce Federal spending and the deficit. We must look ahead.

The overall spending in this resolution exceeds $1.1 billion—$45 billion more than last year, despite the budget summit agreement.

Surely we can do better.

We in the Congress should consider ourselves fortunate to be deliberating the budget in a growing economy. This month we entered the 65th month of the longest peacetime business expansion in U.S. history. The economy is creating millions and millions of new jobs and generating more income for the American worker. The unemployment rate declined in March to a level of 5.6 percent, the lowest since 1979.

Economic growth is also reflected in the higher level of capacity utilization, auto sales, and the index of leading indicators. Even in the fourth quarter, after the stock market decline, real economic growth climbed 4.8 percent. In reality, the economy is doing more to reduce the deficit than the Congress is. While new programs are authorized and more money is appropriated, the economy is expanding and generating more revenue. This upward trend is never mentioned by advocates of tax increase.

Let us look at the facts. In 1981, the Federal Government collected $603 billion in revenues. This resolution projects revenues of $964 billion, more than a $350 billion increase. But Congress cannot seem to contain the spending side of the ledger. In 1981, the Government spent $660 billion. Today, that figure is $1,100 billion. Spending has so out-paced revenues that the deficit continues to exist.

On the spending side of the ledger, there are opportunities to reduce the deficit. We should hold the line on discretionary and defense increases. We must examine the amount of funds spent on unnecessary highways, dams, and river projects. The President identified more than $1 billion in wasteful spending in last year's budget. With time, the overall cost of these Federal programs will total more than $4 billion. Let's start by taking a hard look at all those projects.

In fact, this is where our vision should focus—on the long term. What programs will cost as the years roll on. According to the Congressional

Budget Office current services projections, the deficit will total $159 billion in 1991, and $139 billion in 1993. We must address this deficit with long-term solutions. The Congress should gradually phase out agricultural subsidies. We must examine the necessity of military bases that have outlasted their security missions. We should consider the plan for an early retirement window for Federal employees. All of these programs can save billions of dollars over the next 5 years. If we are going to remain competitive in the global economy, we must do more in the long-term perspective to reduce the deficit.

On the revenue side of the ledger, new revenues naturally flow to the Treasury every year due to economic gowth. According to CBO estimates, the Federal Government will collect more than $70 billion more per year, on average, for each of the next 5 years. This enormous increase in revenue is more than enough to eliminate the deficit over 5 years, so long as the Congress exercises control over projected spending growth. If Congress would hold the rise in spending to one half the revenue increase in each of the next 5 years, the deficit would be eliminated by 1993. This resolution does not lead us to accomplish this goal.

Where is the meaningful deficit reduction in this budget? During the past 8 years, the Congress has considered at least seven budget reduction bills. The only change this resolution establishes is a minor one to accomplish some asset sales. Proponents of this resolution suggest that the two year budget summit agreement eliminated the need for further deficit reduction this year.

Like the summit agreement, all the reconciliation bills the Congress passed in previous years were multiyear packages. A reconciliation bill in 1981 did not prevent us from passing one in 1982. And a deficit reduction law in 1982 did not prevent us from enacting one in 1983. Time and again throughout this decade we have considered multiyear deficit reduction packages. This is hardly the time for the Congress to rest on its so-called laurels. The deficit is not gone—what's gone is the courage of this body to act on the deficit.

Mr. President, this budget represents business as usual, and does little to address the challenge of the next decade. The chief goal of the economic policy is to encourage economic and employment growth. To accomplish this, we must encourage savings and investment. Only by reducing excessive regulatory and tax burdens can Government adopt policies that will encourage business creation, investment, and generation of new jobs. Only with this set of priorities will the competitiveness of the American economy continue to improve.

Increased savings and investment will increase labor productivity and thus raise living standards. Although we have made great progress over the course of this expansion, the longest peacetime upswing in U.S. history, we cannot afford to grow complacent. Only by increasing savings and productivity can we meet the international competition without sacrificing our improving standard of living.

One approach that will certainly not help our economy is the threat of new taxes in coming years. Raising the U.S. tax burden will only undermine economic growth and add to production costs, hurting our international competitiveness. As we know, tax increases will certainly not reduce the deficit, but will only encourage more congressional spending. Their main result would be to hamstring U.S. workers and business in competing in foreign markets.

You can't fool all the people all the time, and the American people will not be fooled by this resolution. I would just like to reiterate, Mr. President, I am in favor of deficit reduction. We must reduce the deficit through reduced spending. This resolution does just the opposite. Without a reconciliation bill, the Congress is deciding to put the Government on automatic pilot. That may satisfy Members of Congress, but it will do very little to raise our credibility with the public and reduce our budget deficit.

Mr. KERRY. Madam President, let me begin by commending my colleagues who have worked to bring us this budget resolution so early in contrast to years past. The President sent his budget to Congress 7 weeks late this year, so the dispatch with which the committee and the leadership bring this matter before us is all the more impressive.

Observing these deliberations from a distance, some observers may wonder what miracle has provided the Senate with a sudden bipartisan consensus and has transformed the normally fractious debate on Federal spending priorities, this year, into a relatively harmonious process. But the Senate is under no such spell, as we all know. Instead, our deliberations this year have been made much easier—if not more comforting—because they have been framed by the basic choices and decisions reached just last December and embodied in the budget summit agreement. The broad outlines of any budget decisions have already been made—here we are just filling in the details.

As a result I find myself—as I'm sure many of my colleagues do as well—with many continuing deep misgivings about the choices and priorities reflected in this budget. But, I am going to vote for this budget resolution today just as I voted last December for the budget summit agreement which serves as the framework for our considerations today. I believe that agreement, pounded out over 2 months following the "Black Monday" of October 14, was then and remains today an inadequate response to the extraordinary budget crisis that our country faces. Our budget deficit is still much too large, and our spending priorities, in my opinion, are wrong. We are mortgaging our future, shortchanging a broad range of key public investment needs, and overfunding other areas. The budget summit agreement was a compromise, but one that left much to be desired. I wish that we could have done more, and I believe that if President Reagan had chosen to be personally involved in the bargaining with the congressional leadership, we could have done much more. In fact, this crisis is the result of the unwillingness of the President to negotiate with Congress on a real, long-term solution to our budget imbalance for 7½ years, and an inability to effectively negotiate such an agreement in the waning days of a distracted Presidency.

For the moment, the sense of crisis that seemed overwhelming in the weeks following the stock market crash, seems to have passed, but I do not believe that our problems are all behind us—they are simply dormant. The next administration will surely face a new fiscal and budget policy crisis. We are simply putting off the day of reckoning, when real choices and tough decisions will have to be made. Politics is the art of the possible, and it seems that this agreement and this budget is all that is possible right now.

Under the framework of last December's budget summit agreement set a deficit reduction goal of $79.9 billion, and established caps on domestic discretionary, defense and international assistance spending. It also established a reasonable revenue package for the 2-year period, as voted in the reconciliation package.

When President Reagan was inaugurated, this Government had a deficit of $72.7 billion which rose to a 1986 high of $237 billion. When the next Chief Executive raises his hand to take the oath of office, the deficit will be at least $136 billion. I regret to say, Mr. President, that we will be back next spring to revisit this deficit issue and many times thereafter. This administration's deficit legacy will live on for some time. But today's action keeps us on a steady deficit reduction path and that is very important.

Another matter worthy of mention here is my concern about accepting OMB's economic assumptions as we have in this resolution. If we were to adopt CBO's economic assumptions, the fiscal year 1989 deficit could be a full $40 billion more than is achieved using this OMB rosy economic indicator scenario. I understand the committee's desire to adopt the OMB assumptions used by the President and the House of Representatives but share the concern expressed by many of my colleagues here that these projections are far too optomistic.

Let me also note here, that the budget resolution complies with the Gramm-Rudman-Hollings Act requirements and brings us to a $136 billion deficit target. Adhering to these GRH targets is another important milestone in this year's budget actions and again, the committee is to be commended in meeting those guidelines. Let me note here that this compliance means real constraints for entitlement programs. I am particularly happy therefore that the committee has brought us a resolution which provides for $500 million in the Temporary Emergency Food Assistance Program [TEFAP] and provides for enactment of Medicaid provisions which will expand coverage for pregnant women and children and spousal impoverishment protection for low income elderly citizens.

The additions to science, space and the Department of Energy science programs consume most of the domestic discretionary spending increases this year. It is always a hard choice, Mr. President, particularly with these strict financial constraints, to invest in the future. This is especially true when hunger, homelessness and other basic needs demand attention. But experience has proven, both here and abroad, that basic science and engineering research are essential to sustaining economic competitiveness. As Speaker WRIGHT said in his response to the President's State of the Union Message, we can not make enough jobs or sustain a strong economy by delivering pizzas to each other in this country. We must have a sustainable economy. We must make these crucial investments in our science personnel and facilities this year as an investment in our future.

The budget resolution assumes the enactment of welfare reform legislation in a deficit neutral manner, with new entitlement costs offset through other savings or revenue. While I am optimistic about the enactment of welfare reform legislation, the importance and effectiveness of WIN as a mechanism in reducing welfare dependency cannot be overstated and it is vitally important that transitional funding be provided for WIN in order to help the transition from WIN to any new work and welfare program enacted into law.

In addition, I am concerned about cuts to community and regional development programs. The budget resolution calls for a 5.8 percent reduction for programs within function 450, including the Community Development Block Grant Program and the Urban Development Action Grant Program. These cuts, in addition to reductions sustained by these programs in previous years, come at a time when the programs and the people they serve need them the most.

I remain hopeful, however, that the conferees on the budget resolution will work to ensure funding for these important programs.

On education, Mr. President, I am pleased that the resolution contains a significant increase of $300 million above the President's request and $1.2 billion over the 1987 funding level. While some education programs will remain at a freeze level, the increases for chapter 1, student financial assistance, drug-free schools, Indian education, Education of the Handicapped Act programs, and vocational and adult education programs are very important additions. We must remember that investment in education programs today provides the backbone of employment opportunities for our citizens tomorrow.

In sum, Mr. President, this budget resolution is a workable, bipartisan effort and I will vote for it, but only reluctantly. The constraints of the summit agreement are a heavy burden on the domestic discretionary programs which need more than level funding. The Department of Defense number is, as I said in voting for the summit, more than we need to provide an adequate defense for this Nation. We must look anew at the entire array of issues in the DOD budget from weapons systems to contracting procedures, from missions to personnel.

I deeply regret that a recalcitrant President has made it difficult to work with Congress on budget matters until last year's market disaster. I wish we could have done more. The Congress has worked to be responsible under these difficult conditions. The Gramm-Rudman-Hollings process and the budget summit have brought us as far as we can go given the realistic limits of the current situation.

Mr. ROCKEFELLER. Madam President, it is a relief to see the deficit reduction summit agreement still intact and on track. Despite the fact that this is an election year, this budget resolution comes to us a bipartisan proposal that won 18 out of 21 votes in the Senate Budget Committee. I applaud Senator CHILES and Senator DOMENICI for the leadership and commitment that made this possible.

Madam President, when we passed the Gramm-Rudman legislation, we knew we were starting a process of making tough decisions and setting priorities on spending, on budget cuts, and revenue. We accepted the reality forced on us by a budget deficit that was growing to intolerable proportions—and the reality was that all Americans would have to sacrifice for the sake of our future and our children's future.

This was a harder proposition for me than perhaps for some of my colleagues. I arrived in the Senate just over 3 years ago, ready to do everything possible to serve my State of West Virginia. A State with one of the highest unemployment rates and that has suffered disproportionately from the major cuts in Federal programs that had been pushed through in the early Reagan years.

Therefore, I look at the budget resolution before us today with mixed feelings. There is much in this proposal to praise and support. I strongly support the provisions to increase funds for education, science and research programs, drug enforcement and prevention, emergency food assistance, veterans' medical care, and air safety. These are programs that benefit the entire country as well as my own State—in fact, the increases will directly help West Virginia in significant ways.

However, I am disappointed that the committee chose to return to economic development programs, housing—specifically, rural and elderly housing—and other vital programs as the area to sacrifice most in order to reach our deficit reduction target. With additional cuts in the modest and even meager assistance that West Virginia receives from these Federal programs, my State is going to have an even more difficult time overcoming its economic problems and generating the jobs and growth that we need so badly. I believe we must maintain existing funding levels for these programs. They have suffered enough in every one of the past 7 years, and enough is enough. If that means better targeting of these resources, I'm ready to support such an approach. My point is that distressed States and distressed communities deserve the Federal Government's help in their efforts to create more employment, more opportunities, more jobs. I think we should recognize this help as an investment in the future of the entire Nation.

I also share the strong view of many of my colleagues, on and off the Senate Finance Committee, that we must find a way in this budget resolution to make funds available to follow through with critical responses to the problems of spousal impoverishment, infant mortality and welfare dependence. We can't wait on these efforts. We must dedicate the resources to ease the suffering among our elderly and poor.

I hope that the remainder of the budget process will provide opportunities to address these concerns and restore funding in the areas I have cited. I should add that this resolution already is a vast improvement in the area of economic development and housing programs over the President's budget proposal. That proposal would have been devastating to my own State, by abolishing the Appalachian Regional Commission, slashing coal research, eliminating funds for water treatment construction. The Budget Committee's resolution rejected all of these recommendations submitted by the President, and added most of the funding back. But we should try to do even better.

Again, I congratulate Senator CHILES and Senator DOMENICI for working cooperatively and constructively on a budget for fiscal year 1989. You had to answer to many agendas and many pressing needs. Even though I have commented on areas where I think improvement is needed. I do thank you for your attempt to bring about fairness and balance throughout the budget process.

Mr. DODD. Madam President, I rise in support of the fiscal year 1989 budget resolution.

I want to commend the chairman of our committee, Senator CHILES, and the ranking minority member, Senator DOMENICI, for acting in a bipartisan fashion in producing this budget resolution.

It is my hope that after we approve this resolution, we can complete the conference with the House promptly. If this occurs, we may be able to complete action of all 13 appropriations bills before the beginning of the new fiscal year.

As my colleagues know, the budget summit agreement reached last November 20 laid the foundation for this bipartisan budget resolution. That agreement reached between the bipartisan leadership of the Senate and the House, with the active participation of the administration, set the guidelines for the Budget Committee's work, establishing levels for defense and discretionary nondefense spending, revenues, and asset sales.

With the defense portion of the budget "off limits," it has not been easy to accommodate increases in domestic spending. We all have been faced with a number of difficult choices and none of us is entirely satisfied with all of the compromises reached by the committee.

However, on balance, I believe the resolution establishes acceptable priorities for 1989 and substantial improvements in outyear spending projections, given the constraints of the budget summit agreement. This budget resolution will help us convince the American people and our trading partners abroad that we are serious about deficit reduction, both now and in the future.

I am pleased that the budget resolution includes spending increases for such important areas as children's health, nutrition, and education programs that clearly will save more in the long run than they cost short term. I also think that it is important to spend money on programs directed toward productive investment in the future strength of America such as science and space, job training, drug enforcement, health research, and so on.

I am pleased that the resolution assumes a significant increase in funding for the Coast Guard. This will allow the Coast Guard to enhance its ability to interdict drug traffic and to conduct search and rescue operations throughout this country.

I also support the full inflation increases for low-income/high priority programs such as the Low Income Home Energy Assistance Program.

While I support the resolution, I am concerned about the reductions in community and economic development programs which come at a time when many distressed urban and rural communities most need funds. Urban programs already have borne more than their fair share of funding cuts over the last several years. It is my hope that as we go to conference with the House, this serious inequity will be addressed.

Madam President, while this budget resolution is far from perfect, the spirit of bipartisanship has resulted in budget guidelines that we all can endorse. I urge my colleagues to support it.

Mr. DURENBERGER. Madam President, I rise to indicate my reasons for opposing the first concurrent budget resolution now before us, and to urge my colleagues to do likewise.

As I address the budget resolution, as I have each of my 10 years in the Senate, I am reminded of the story of the middle-aged man visiting his former college economics professor. While they were talking the professor said, "By the way, would you like to see this year's final exam?" When he had looked it over, the man said, "But professor, this is exactly the same test you gave us 20 years ago. Don't the students pass the questions on to the next year's class?" The professor said, "Yes. But in economics the questions always remain the same. We just keep changing the answers."

The questions of this budget resolution have remained the same. How truthful a document are we presenting to the American people? What priorities does it manifest? How does it respond to the needs and aspiration of our people in 1988?

I suppose the best thing that can be said about this budget resolution is that it avoids the rancor of previous years by faithfully rendering the budget summit agreement. I am not one who believes that we can afford to take a year off from the budget battles, politics notwithstanding. While I have great admiration and affection for the managers, and an appreciation for the difficulty of their task, I believe the Senate could and should have done better.

As the debate of the last 2 days clearly indicates, this is not an honest document. Through the use of creative economic forecasting, we call a $172-billion deficit $136 billion. And while it may be politically expedient in an election year to resort to budget gimmickry, it is also wrong. While it is a little late in the process to change this resolution, I feel that if we really wanted to be honest with our constituents, and ourselves, we should use the more realistic economic assumptions published by the Congressional Budget Office.

Is it any wonder that our constituents are losing confidence in Congress? We are making a mockery of the congressional budget process, and in doing so we will make it infinitely more difficult to attack the thorny and complex issues surrounding the structural deficit. As far as I am concerned, adoption of this budget signals the end of our resolve to attack deficit spending.

While it is difficult to point to any one event that has led us here, I suspect we can trace the shortcomings of this document back to the leadership package adopted last December. Rather than keep us on the deficit reduction path, last December's package has led us astray. Adoption of this budget will exacerbate the problems last year's action created.

In addition to the procedural and economic flaws of this resolution, I also have some serious policy differences with it. As the statements in opposition from the National Education Association and the national PTA make clear, this budget fails to address the pressing needs of education. There can be no higher priority than the contribution we make to America's future by shaping these young lives.

Madam President, the resoltion is also deficient in the proportion allocated to health and human services—the areas that are the least well-funded given our growing human service problems. It is outrageous that we are as a Nation willing to spend millions for the superconducting super collider but can never find the money to guarantee that every American woman who is pregnant and poor has, at a minimum, prenatal care, proper delivery, and health care for her young children. For the poor and for other low-income Americans, access to health care, access to adequte nutrition, access to education, even housing, are actually declining. For our Nation's poor, this resolution actualy represents a step backward in our efforts to provide the less fortunate with a decent standard of living.

We certainly should not spend $145 million of Federal money on a project that is not absolutely essential for our survival while these needs exist. Without our children, we have no future. Unless we attend to their needs now, there will be no one capable of operating the wonderful futuristic programs of tomorrow funded in the budget before us today. In the final analysis, the choice we make today is between wants and needs—the wants of those who believe we need to develop new technology for the future, and the needs of those we hope will utilize that technology. Let's take care of our true needs first.

Mr. LEVIN. Madam President, I want to compliment the chairman of the Budget Committee for his efforts to bring a budget resolution to the floor. He and the rest of the committee have attempted to do their best to flesh out the White House-congressional budget agreement of last year as it applies to the upcoming fiscal year, fiscal year 1989.

However, passage of this budget resolution would itself be inconsistent with the goal of progressive deficit reduction which we have established as part of the Gramm-Rudman law and which was envisioned by last year's White House—congressional budget agreement. This budget resolution is based on economic assumptions from the Administration's Office of Management and Budget that are very likely to be overly optimistic. As a result, the data from the nonpartisan Congressional Budget Office suggests that the deficit in this budget resolution will understate the actual deficit by about $30 billion and miss the Gramm-Rudman target by the same amount. Instead of a decline in the deficit, this budget resolution will probably result in a deficit that is higher in fiscal year 1989 than it was in fiscal year 1988.

It is not necessary to detail all the reasons why the budget deficit presents a threat to our economy and our quality of life. There have been many speeches on the floor of the Senate which have done that. But it is necessary to do all we can to deal with that threat. A budget resolution which, when viewed objectively, almost certainly fails to meet the Gramm-Rudman targets does not match up to the threat before us or to the promise of last year's White House-congressional budget agreement. It is for this reason that I will vote against this budget resolution for fiscal year 1989.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I yield myself such time as I might need.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I thank the Senator from New Mexico for his kind words and also to thank him for his help and support all through the process of producing this budget, and also for his able staff and the staff on our side that has worked so hard.

I started off this year's budget debate by saying that the President's budget was a good-faith effort to live with the summit agreement. I believe that Senator DOMENICI and I, with the careful work of members of both parties on the Budget Committee, have also kept the faith to live with that agreement. I believe that within these bounds we had many tough choices to meet the Nation's needs for now and the years to come. Early on we rejected the easy route of giving everybody an across-the-board 2-percent increase. That would have been a classic case of a solution that was simple, elegant, and wrong. We made some tough cuts so that we could make some significant increases to science, technology, to education, drug treatment, law enforcement, to nutrition, to health programs for low-income mothers and children, for protection for the low-income elderly faced with crushing medical costs, to air safety and transit. It will take much more hard work by the authorizing and appropriating committees to bring this to fruition. But I believe the Senate is now ready to agree with a blueprint of priorities which will follow. I repeat, Mr. President, that they are priorities not of just the Budget Committee but they will soon be priorities of this body itself. We have been on the floor several days. The Senate has had every opportunity to work its will. We have had amendments that would cut and readjust some of these moneys. Thus far those amendments have not been successful, which testifies to the blueprint that we have laid out. This is a bipartisan budget agreement. And I for one welcome the President's rearranging of priorities that he has done this year and focusing on investing in the future economic growth.

I wish that the administration had elected to take this course earlier on because with the President's strong and dynamic leadership, I think we would be further along the route than we are now.

I am delighted that the Senator from New Mexico concurred and added to every step that we were making in trying to make this a future oriented budget. I think we needed to have that bipartisan support to do that.

Mr. President, this is something that has been driving the Senator from Florida and many in this Senate for a number of years, the idea that even though we were in very tough times, we could not ignore that the only way that you could really deal and get out of those tough times, part of it is that you had to have future growth in order to help you in that regard.

So at the time we were trying to retrench to stop some of the red ink spending, it was very necessary that we try to put aside some moneys for future growth.

Mr. President, it is very much like a farmer. No matter how tough things get on that farm, he realizes that he has to take some seed corn, and it has to be the best that he grows, and he has to set that aside for next year's crop. He never fails to do that. Somehow, in the early eighties I am afraid we were eating our seed corn. We were not putting the kind of priorities that we should have been to future growth.

I am glad that this budget readjusts that. It makes a strong statement in that regard. I hope that as we go to conference with the House we can make an adjustment there. I think the Senator from New Mexico said it well. Part of it is whether you are looking strictly at today or whether you are going to raise your gaze a little bit at the future of this country. This country has had a tremendous history and it has been a history of always being a forward-looking nation. Somehow many of us have sort of lost that ability or are afraid that we temporarily did and started looking sort of where we are at, what our problems were, and have not really focused on what we should do in the future.

I think the Senator from New Mexico set it out very well in a number of the areas, but especially in these areas of biotechnology, biomedical research, science, in space, this country is no longer contained within the 50 States. We are in international competition. It is won in trade, it is won in economy, and it is won in every sphere. It is won in education. And we must keep pace. We must look forward. We must try to get in front of that. And I think we attempt to do that in this budget.

The one caveat that I want to make is while I think we sort of have done the best we could within the constraints of where we found ourselves in the summit agreement, I worry very much if we cannot come to grips quickly with the deficit as a new President and a new Congress takes over. And the Senator from Florida will not be here. But I will certainly be cheering on that thrust because I think we have a short time in which to put our economic house in order or no matter what we try to do in trying to make some temporary adjustment for growth as we have attempted to do in this we will not be able to continue to fuel that the way we should.

We will turn back to looking inward and trying to deal with sort of the daily problems. And we will find ourselves in the situation that we have seen many great countries as they come to the sort of twilight of their ascendancy, and they start to turn inward. We have seen this happen with Great Britain. We have seen it happen with many other countries.

There is no reason that it should happen in this country, given the kind of resources we have that we are blessed with, given the kind of land, the kind of fertility, given the kind of people that we have, the kind of educational institutions, the kind of just sort of know-how and determination that we have.

It is a question in which we cannot suffer a failure of leadership, and we cannot suffer a failure of being willing to dare and willing to trust the American people, Mr. President.

I am so convinced that the American people know more about the basic underlying problem of our Government and its economy, and more willing to do something about it, that we are the ones who are timid. We are the ones in the Congress, and we are the ones in the administration that are afraid to give the people a bold challenge, to lay out a blueprint of what the future ought to look like which is worth sacrifice, which is worth spending some of our time and effort and attention and know-how, and some of our resources in order to achieve that. That is the problem that we have.

I trust that the new administration as it comes in, be it Republican or Democrat, will get together with the leadership of the House and Senate in some kind of bipartisan way and put before the American people a challenging alternative, a challenging thrust, and a challenging goal that will allow this country to begin to truly move forward again. The people, Mr. President, are ready for that. They have been ready.

I think part of the frustration with the Presidential elections that is out there now on both sides is that nobody is really challenging the people. Nobody is really putting out those bold initiatives, nobody is really speaking to some of the basic problems that we know are there and to some of the tough decisions that must follow.

I come from a State that is very diverse. It is a State that has a lot of elderly and retired people. And I see in this Congress a great fear to ever do anything to touch the elderly, and how we line up tomake sure that we make the proper vote on anything that has to do with retirement or Social Security. Mr. President, when I go to talk to those people, and I go to listen to them, I find they are as concerned about the future of this country as the youngest person I talk to. They all have grandchildren, and they have all beeen a part of the hard work in making this country. They are not as concerned as we tend to think they would be about every little issue that governs their own pocketbook. They are as concerned as anyone about the future.

They want to know that what we do is fair, that it makes everyone sort of take some of the medicine, everyone has to share some of the pain, and if it is done on that kind of basis, Mr. President, whether we are talking about some kind of restraint in entitlement programs, whether we are talking about a fair tax system, whatever we are willing to do, if we will come up with something that is basically fair.

The danger is when for some reason we attempt to protect a group, a segment, and whether those are the people in the top income classes, whether those are the people who happen to have a retired status, whether that is some other class, then that is where everything breaks down.

Mr. President, while I wish we could have gone much further in this budget today, I do feel we have produced a document that basically gives us a path and a sort of hold-the-line situation until we have that opportunity for the breakthrough. I think that is basically what we have here.

I hope the body will follow this as we go through the rest of the process because all of this can be changed as the Appropriation Committee sets the 302(b). Those do not come back to the Senate. There is never a debate on those. There is never an opportunity to do that. So Senators themselves will need to be sort of watching that and determining that.

But I think we have tried to lay out a course that recognizes that we need to start providing for that future. I hope that is a course in which we can go in that direction.

Mr. President, I see the Senator from Nebraska is on the floor. I will now yield 10 minutes to the Senator from Nebraska.

Mr. EXON. I thank my friend.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I do not intend to hold up the U.S. Senate on this very important matter. It has just been one of those days when the schedule is heavy. I appreciate the consideration of allowing me to make a few remarks now as a member of the Budget Committee.

Mr. President, over the years, I have come to respect and admire the leadership of the senior Senator from Florida. The Senate and the Budget Committee have been greatly enriched by the service of LAWTON CHILES. As this is likely the last Senate budget resolution which will be managed by our distinguished chairman, I want to take a moment to express my thanks for his many kindnesses, his leadership, his friendship, and his good humor. There were times when I did not know how he kept his humor. Once or twice, some people might have thought that he lost some of his sense of humor, but it always came back.

Once again, the chairman of the Senate Budget Committee is to be congratulated for working with the Members of the Senate and melding a compromise budget which attempts to balance many conflicting interests. I do not envy his task, nor does anyone who has labored on the Budget Committee.

Mr. President, I am well aware that the political realities dictate that the Senate enforce the postcrash budget agreement. I, of course, would like to do more. I would like to see the Congress adopt a measure which significantly reduces the deficit. I see that our options this year are limited.

Over the years, I have proposed budgets to freeze Federal spending as a means to balance the budget. If not for the agreement between the President and the congressional leadership, which I assess as an insurmountable political fortress, I would again offer or support a freeze budget amendment.

In the Senate Budget Committee, I offered an amendment to use Congressional Budget Office economic assumptions. I believed that it was essential that the Congress and the President be truthful and up front with the American people on the effects of the budget. I regret to report that my amendment was unsuccessful.

If the Senate followed its traditional practice of using Congressional Budget Office assumptions, the deficit would be about $40 billion more than projected under the rosy Office of Management and Budget assumptions.

Mr. President, I have long criticized the Gramm-Rudman law because it leads the Congress and the President to reduce deficit projections rather than deficits. I am convinced that before we can have serious deficit reduction, we must have a full understanding of the deficit problems that our Nation faces. We need to understand and have the realization that each time Congress and the President try to coast through a budget cycle with optimistic assumptions, it means trouble later.

Once again, the political leadership has chosen to coast rather than deal with the serious problem of the deficit in this, an election year.

The failure of the Gramm-Rudman law to bring serious long-term deficit reduction emphasizes the need to enact a constitutional amendment to require a balanced Federal budget. I was pleased to recently testify before the Senate Judiciary Committee in support of Senate Joint Resolution 25, which I authored, to require the President to submit and the Congress to enact a balanced Federal budget. I am hopeful that before the end of this Congress, the Senate will vote in favor of a balanced budget constitutional amendment, and let the States work their will on that proposal.

Mr. President, not only is the unified budget deficit dangerously high; the operating deficit is also extremely high. The unified budget hides the fact that the U.S. Government holds about $112 billion in trust fund money. This money is collected and specifically dedicated toward special purposes and not available for the day-to-day operations of the Government. The trust funds cover Social Security, Medicare, retirement programs, airport improvements and highway maintenance. In other words, the accumulated debt of the U.S. Government is $112 billion worse than either the CBO or OMB figures reflect. In a true sense, these trust funds are being used to mask the true red ink budget of the Federal Government.

The chairman of the Senate Budget Committee has done an excellent job of making it clear throughout this year's committee hearings that the deficit crisis is far from being over. I support the chairman's initiative to put the Congress on the record in support of a balanced Federal operating budget.

This budget is also a lost opportunity for President Reagan to correct past mistakes. The last 7 years of Reaganomics has doubled the national debt, set new records for annual deficits, changed the U.S. status from the world's largest lending nation to the world's largest debtor nation, and has nudged the Nation further toward insolvency.

The wreckage of our fiscal policy will haunt the next President and Presidents to come.

I regret that the budget resolution before the Senate attempts to paper over our Nation's serious fiscal problems. Given the gravity of the situation, I do not believe that the Congress should work to hide the failings of the Reagan fiscal and trade policies that skyrocketed again, with the figures released this morning.

In spite of the shortcomings of this budget, I will support it as a bare minimum of what needs to be done and the fact that it is better than nothing. As a Senator with a sincere dedication to deficit reduction, I believe that the Congress must do what it can while it can. I also believe that the budget takes into account some of the serious economic problems of those in production agriculture. At least this budget will not seriously further complicate our Nation's farm programs. I am also pleased that the final compromise budget restored money to transportation and accommodated my request that funding for Amtrak be preserved at last year's level, rather than zeroed out, as recommended by the President.

Mr. President, I support this budget with serious reservations. The next President and the next Congress will be left an enormous problem. I will continue my efforts to restore fiscal responsibility to the Federal Government.

I thank Senator CHILES and I thank Senator DOMENICI for their time, their attention, and their consideration over the many years we have worked together on this problem. We all agree that we have not solved it, but we are going to continue working.

I yield the floor.

Mr. CHILES. Mr. President, I thank the Senator from Nebraska for his statement and for the hard work he performs on the Budget Committee.

Mr. SASSER. Mr. President, 3 days ago, I noted the many positive fiscal, economic, and legislative features of the 1989 budget resolution.

Let me also say to my colleagues that this budget is also a substantial improvement over the budget that was submitted by the Reagan administration to the Congress in February 1988.

When the budget was brought before the Senate Budget Committee by Office of Management and Budget Director Jim Miller, I commended the administration for sending us a budget that complied with the economic summit.

However, I said that I was sure that the Congress would make some changes in the budget and thereby produce a budget more in tune with the needs of the country.

The resolution as reported by the Senate Budget Committee does just that.

The resolution provides for significant increases in a variety of national priority programs.

National Science Foundation programs are increased by 11 percent.

The critical space programs being administered by the National Aeronautics and Space Administration [NASA] receive substantial new funding.

The resolution also assumes an additional $1.2 billion for vital education programs such as Pell grants for higher education and handicapped education programs.

These budget increases are, to a certain extent, contained in both the President's budget and also in the budget resolution.

But the resolution before us also makes significant strides in other areas of national concern.

For example, the budget resolution provides for another $500 million for a program to take the place of the Temporary Emergency Food Assistance Program [TEFAP] which may run out of commodities for distribution later this year.

This worthwhile program serves some 190,000 people in my home State of Tennessee.

I have visited the distribution centers where these surplus commodities are stored and distributed.

I have talked first hand with the center directors who make these surplus commodities available to those in need.

They know how desperately this food is needed by a large number of people.

They see elderly men and women come for these surplus commodities. They know that having this surplus cheese, butter, and rice will help their hard pressed families and individuals extend their meager savings to meet other essential needs.

They see whole families, down on their luck, stop by these centers in order to obtain some food for their children.

For one reason or another, the elderly, the destitute, and the homeless families have come to need this temporary food assistance program.

But pretty soon, the commodity surpluses on which these programs depend, may be running out.

These individuals will have no where to turn.

So the Senate Budget Committee, wisely in my view, provided another $500 million in the budget so that the Agriculture Committee could work on a new program to fill this nutritional gap.

This is but one small improvement over the administration's budget.

But the budget also is an improvement over the administration's budget in a number of other ways as well.

It rejects the administration's proposed $1.2 billion cuts in Medicare and Medicaid funding.

It rejects the administration's $800 million in proposed reductions in waste water treatment construction grants.

The resolution before us preserves the State-local Justice Assistance Grant Program which this administration wished to terminate.

The resolutions also serves to maintain other vital domestic programs as well.

It provides, for example, another $150 million for the Women's, Infant, and Children [WIC] Supplemental Feeding Program for 1989. This will help another 150,000 expectant mothers, and children who are at nutritional risk avoid the many health problems associated with malnutrition.

In the same vein, the Low-Income Heating Assistance Program is maintained at the 1989 current services level.

This is not to say that the resolution before us does not have any budget reductions contained in it.

The resolution assumes reductions of 1 to 3.5 percent in selected natural resource rograms.

Programs in the community and regional development function of the budget are assumed to be reduced by some 6 percent.

Amtrak funding is frozen at 1988 levels, but some other programs in the transportation function may eventually incur reductions that approach 10 percent.

So, all in all, the budget is a balanced one. It provides for fiscal restraint, yet it does its level best to provide adequate funding for essential national defense and domestic programs.

This resolution, in short, is a better one than that proposed by the administration in February. But at the same time it adheres to the economic summit.

This budget provides for deficit reduction in a fair and balanced fashion. Yet it maintains the national commitment to a number of programs that provide an economic safety net for our elderly population and those who are in need of emergency assistance—whether this be a homeless family or an unemployed worker or an individual who is in need of job retraining.

This is a budget resolution that has much to commend itself to my colleagues. It is an improvement over the administration's original 1989 budget, and it embodies a strong bipartisan approach to building a budget that both brings the deficit down and also maintains critical national priority programs.

Again, I urge passage of this resolution so that we may build on the bipartisan foundation on which this budget is based.

WHY WE HAVE NOT INCORPORATED CREDIT REFORM INTO THE BUDGET RESOLUTION

Mr. DOMENICI. Mr. President, I would like to take a minute to engage my good friend, the Senator from Florida, in a colloquy on a matter not addressed in this year's budget resolution. I am referring to the proposal to change the way we treat credit programs in the budget or "credit reform."

This idea was first proposed by the Congressional Budget Office about 4 years ago. It has the support of the chairman and ranking member of the Budget Committee. The administration also supports the concept and has proposed legislation to enact credit reform into law.

Mr. CHILES. That is correct, Mr. President. Last year, the Senator from New Mexico and I developed legislation that would have fundamentally altered the way in which we account for the cost of credit programs. Our credit reform legislation passed the Senate as part of the debt limit bill and Gramm-Rudman-Hollings fix.

Unfortunately, it did not survive conference. The House was generally unwilling to consider any budget process issues other than Gramm-Rudman.

Mr. DOMENICI. Even though the House did not agree to credit reform last year, is it not true that a number of key players on budget matters in the House endorsed the need for this kind of reform?

Mr. CHILES. That is right, Mr. President. Several Members stated that there was not time to consider credit reform in last year's debt limit conference, but that credit reform ought to be given serious consideration in the future.

One way that we could have pushed the proposal forward would have been to use this new form of accounting in putting together the budget resolution. But we chose not to, in part because it would have confused the issue of compliance with the nondefense discretionary cap.

Mr. DOMENICI. I agree with that decision. But I would also emphasize that we remain committed to this proposal and that we will continue to work for enactment of this important reform.

Mr. CHILES. I agree with the Senator from New Mexico.

Mr. President, we are about ready to vote. I just want to end with this caveat: We cannot keep consuming more than we earn and produce and live on credit and spend the sums that are set aside for our future retirements. In the choices we make today, we must recongize how close the next century is. Our choices are very close, indeed.

But despite the difficulty of those, I am optimistic that they can and will be faced. I believe in keeping on ringing alarm bells and will continue to do so because I know somehow this country works best and rises to its fullest at the time we fully recognize the crisis.

I think the crisis is here fiscal and economic, and I think the people recognize that.

It is difficult and we will not solve it in 1 year, and even these programs where we are talking about the increases that we have put in 1 year will not solve them either. They are going to take many years of future growth. I think whether that is 15 or 20, those are years that we well can invest and I think we should.

I think we have the kind of faith and commitment as a nation to do that.

Mr. President, I hope the resolution will be adopted.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back the remainder of his time?

Does the Senator from Florida yield back the remainder of his time?

Mr. CHILES. I yield back.

Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the yeas and nays be transferred to House Concurrent Resolution 268.

The PRESIDING OFFICER. House Concurrent Resolution 268?

Mr. CHILES. House Concurrent Resolution 268.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that House Concurrent Resolution 268 be discharged from the committee but deemed to have been considered and amended by striking all after the resolving clause and inserting in lieu thereof the language of Senate Concurrent Resolution 113, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered and so substituted.

The question is on agreeing to the House concurrent resolution, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 26, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—69

Adams
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Hecht
Heinz
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Thurmond
Weicker
Wilson
Wirth

NAYS—26

Armstrong
Baucus
Cochran
Conrad
Durenberger
Garn

Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Humphrey
Karnes
Levin
McClure
McConnell
Nickles
Pressler
Proxmire
Roth
Simpson
Symms
Trible
Wallop
Warner

NOT VOTING—5

Biden
Evans
Gore
Simon
Stennis

So the concurrent resolution (H. Con. Res. 268), as amended, was agreed to, as follows:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 268) entitled "Concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1989, 1990, and 1991", do pass with the following amendment:

Strike out all after the resolving clause and insert:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1989 is established and the appropriate budgetary levels for fiscal years 1990 and 1991 are set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $964,600,000,000.
Fiscal year 1990: $1,043,200,000,000.
Fiscal year 1991: $1,123,200,000,000.

(2) The appropriate levels of total budget authority are as follows:

Fiscal year 1989: $1,231,000,000,000.
Fiscal year 1990: $1,302,800,000,000.
Fiscal year 1991: $1,385,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,100,600,000,000.
Fiscal year 1990: $1,158,100,000,000.
Fiscal year 1991: $1,215,700,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $136,000,000,000.
Fiscal year 1990: $114,900,000,000.
Fiscal year 1991: $92,500,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $706,100,000,000.
Fiscal year 1990: $760,800,000,000.
Fiscal year 1991: $817,200,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $0.
Fiscal year 1990: $0.
Fiscal year 1991: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.
Fiscal year 1990: $68,200,000,000.
Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $972,500,000,000.
Fiscal year 1990: $1,020,300,000,000.
Fiscal year 1991: $1,079,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $886,700,000,000.
Fiscal year 1990: $932,900,000,000.
Fiscal year 1991: $979,000,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $180,600,000,000.
Fiscal year 1990: $172,100,000,000.
Fiscal year 1991: $161,800,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,825,400,000,000.
Fiscal year 1990: $3,065,300,000,000.
Fiscal year 1991: $3,289,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:
(A) New direct loan obligations, $28,300,000,000.
(B) New primary loan guarantee commitments, $110,600,000,000.
(C) New secondary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New direct loan obligations, $27,100,000,000.
(B) New primary loan guarantee commitments, $122,900,000,000.
(C) New secondary loan guarantee commitments, $92,850,000,000.

Fiscal year 1991:
(A) New direct loan obligations, $26,700,000,000.
(B) New primary loan guarantee commitments, $132,100,000,000.
(C) New secondary loan guarantee commitments, $0.

(b) The Congress hereby determines and declares that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:
(A) New budget authority, $299,500,000,000.
(B) Outlays, $294,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $312,300,000,000.
(B) Outlays, $304,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $325,000,000,000.
(B) Outlays, $316,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $16,200,000,000.
(C) New direct loan obligations, $5,900,000,000.
(D) New primary loan guarantee commitments, $9,500,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $6,000,000,000.
(D) New primary loan guarantee commitments, $9,900,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $17,200,000,000.
(B) Outlays, $15,800,000,000.
(C) New direct loan obligations, $6,100,000,000.
(D) New primary loan guarantee commitments, $10,300,000,000.
(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:
(A) New budget authority, $13,400,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $14,500,000,000.
(B) Outlays, $14,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,200,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $5,400,000,000.
(B) Outlays, $4,300,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $3,700,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $14,600,000,000.

(B) Outlays, $14,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $15,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $27,000,000,000.

(B) Outlays, $23,200,000,000.

(C) New direct loan obligations, $15,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $21,900,000,000.

(C) New direct loan obligations, $14,200,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,200,000,000.

(B) Outlays, $19,900,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $6,900,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $63,700,000,000.

(E) New secondary loan guarantee commitments, $92,850,000,000.

Fiscal year 1990:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $8,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $67,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $3,600,000,000.

(C) New direct loan obligations, $2,800,000,000.

(D) New primary loan guarantee commitments, $74,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,400,000,000.

(B) Outlays, $27,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,900,000,000.

(B) Outlays, $28,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,600,000,000.

(B) Outlays, $30,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $6,800,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $36,600,000,000.

(B) Outlays, $35,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $37,900,000,000.

(B) Outlays, $36,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $38,700,000,000.

(B) Outlays, $37,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,900,000,000.

(B) Outlays, $48,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $54,400,000,000.

(B) Outlays, $54,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $59,500,000,000.

(B) Outlays, $58,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,700,000,000.

(B) Outlays, $86,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,100,000,000.

(B) Outlays, $108,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $176,200,000,000.

(B) Outlays, $138,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $181,000,000,000.

(B) Outlays, $145,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $213,000,000,000.

(B) Outlays, $152,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,800,000,000.

(B) Outlays, $28,400,000,000.

(C) New direct loan obligations, $900,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $30,900,000,000.

(B) Outlays, $29,900,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,400,000,000.

(B) Outlays, $30,500,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $9,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,100,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,300,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,525,000,000.

(B) Outlays, $9,425,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,100,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,600,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $161,600,000,000.

(B) Outlays, $161,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $171,700,000,000.

(B) Outlays, $171,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $176,800,000,000.

(B) Outlays, $176,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1989:

(A) New budget authority, −$125,000,000.

(B) Outlays, −$125,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$33,000,000,000.

(B) Outlays, −$45,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$34,100,000,000.

(B) Outlays, −$46,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$35,400,000,000.

(B) Outlays, −$36,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than April 29, 1988, the committees named in subsections (b) through (i) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(c) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(d) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(e) The Senate Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $710,000,000 in fiscal year 1989.

HOUSE COMMITTEES

(f) The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to increase contributions $1,494,000,000 in fiscal year 1989.

(g) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase contributions $970,000,000 in fiscal year 1989.

(h) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase contributions $326,000,000 in fiscal year 1989.

(i) The House Committee on Small Business shall report changes in laws within its jurisdiction sufficient to increase contributions $710,000,000 in fiscal year 1989.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to the committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of such Act.

(c) For purposes of this section—

(1) the term "asset sales" does not include asset sales authorized by law before Septem-

ber 18, 1987, and routine, ongoing asset sales and loan payments at levels consistent with agency operations in fiscal year 1986; and

(2) the term "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987).

FUNDING FOR THE WELFARE REFORM AND CATASTROPHIC INSURANCE INITIATIVES

Sec. 6. (a)(1) In the Senate, it is assumed that budget authority and outlays for fiscal year 1988 or 1989 (or both) shall be allocated to the Senate Committee on Finance to provide for the welfare reform and medicare catastrophic health insurance initiatives, and the aggregates for fiscal years 1989, 1990, and 1991 in sections 2 and 3 of this resolution shall be adjusted accordingly, when the Committee on Finance, the committee of conference on the welfare reform initiative, or the committee of conference on the catastrophic insurance initiative reports legislation that will, if enacted, make funds available for such initiative and ensure that such legislation will not increase the deficits for fiscal years 1988, 1989, 1990, and 1991.

(2) Upon the reporting of legislation pursuant to paragraph (1), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

ANTIDRUG FUNDING

Sec. 7. It is the sense of the Congress that anti-narcotics activities, including law enforcement, drug interdiction, drug treatment, and substance abuse education, are vital to the Nation's future and should be among the top funding priorities in the fiscal year 1989 budget. All authorizing and Appropriations Committees and subcommittees are urged to examine programs within their jurisdictions to enhance their participation in the anti-drug effort and to give top priority to this effort in allocating their share of the funds available under this budget resolution.

TRUST FUNDS

Sec. 8 (a) Findings.—The Congress finds that—

(1) under current law, neither the Senate nor the House may consider reductions in social security as part of a budget reconciliation bill or resolution pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) under current law, starting in fiscal year 1994, the social security trust fund will be off-budget;

(3) current law requires a balanced budget by fiscal year 1993; but includes the projected Social Security surpluses as offsetting deficits;

(4) current law requires the budget resolution to display budget authority, outlays, revenues, and the deficit excluding social security, in the aggregate and by function.

(b) Sense of the Congress.—It is the sense of the Congress that the National Economic Commission should—

(1) study the budgetary treatment of social security, airport and highway, military retirement, civil service retirement, unemployment and other trust funds and self supporting public enterprise funds including Postal Service, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, and Securities and Exchange Commission;

(2) analyze the economic, budgetary, and programmatic effects of taking these funds off-budget;

(3) consider the effects of setting trust fund surpluses aside as additional savings, including effects on the national savings rate, investment, and economic growth, as well as on program beneficiaries;

(4) include in its final report a recommendation on the budgetary treatment of these funds; and

(5) reports on the means of achieve a balance in the remaining budget and on the economic effects of a unified budget surplus.

ANTI-DRUG RESERVE FUND

Sec. 9. (a) Budget authority and outlays in amounts not to exceed the amounts specified in subsection (a)(4) shall be allocated to the appropriate committees of the House of Representatives and the Senate to provide for an anti-drug initiative, and the aggregates for fiscal year 1989 in this resolution shall be adjusted accordingly, when—

(1) the appropriate committees of the House of Representatives or the Senate have reported legislation that will, if enacted, make funds available for such initiative;

(2) the legislation referred to in subsection (a)(1) includes provisions to ensure that any such additional funding will not increase the deficit for fiscal year 1989 above the levels set forth in this resolution;

(3) the additional funding and funds made available, referred to in subsection (a)(4) shall not cause the aggregate spending and revenue levels agreed to in the bipartisan budget summit agreement for fiscal year 1989 to be exceeded: Provided, That if the net effect of the legislation referred to in subsection (a)(1) would not increase the deficit for fiscal year 1989, the funding made available by such legislation shall not be considered as exceeding the spending and revenue levels agreed to in the bipartisan budget summit agreement; and

(4) The President and the bipartisan leadership of the House of Representatives and the Senate agree that a sufficiently dire state of emergency exists to raise discretionary spending allocations specified in section 8001 of the Omnibus Budget Reconciliation Act of 1987, and the President and the bipartisan leadership of the House of Representatives and the Senate agree on the amounts available for allocation under this subsection: Provided, That the amounts available for allocation under this subsection for funding the anti-drug initiative for fiscal year 1989 shall not exceed $2,600,000,000 of new budget authority and $1,400,000,000 of outlays.

(b) Upon the reporting of legislation pursuant to subsection (a), the chairman of the Committees on the Budget of the House and Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Appropriations shall report revised allocations purusant to section 302(b) of such Act for fiscal year 1989 to carry out this section.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was adopted.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, does the distinguished Senator from Florida have something further with respect to the budget resolution?

Mr. CHILES. Yes, I do.

Mr. BYRD. Mr. President, I yield to the Senator from Florida for that purpose.

Mr. CHILES. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Adams) appointed Mr. Chiles, Mr. Hollings, Mr. Johnston, Mr. Sasser, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Domenici, Mr. Armstrong, Mr. Boschwitz, Mr. Symms, and Mr. Grassley conferees on the part of the Senate.

Mr. CHILES. Mr. President, in addition to thanking the Budget Committee staff on both sides I want to say a special word of thanks to the leadership staff on the floor and in the cloakrooms of both sides. In no way can we operate around here without having them watching over us, making arrangements to accommodate the diverse needs of the Members. In all my years on the Budget Committee, I have relied on them and they have performed with good cheer that was always as constant as their efficiency. We certainly thank them on both sides for their help in this regard.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE—SENATE JOINT RESOLUTION 292, SENATE JOINT RESOLUTION 285, AND SENATE JOINT RESOLUTION 268

Mr. BYRD. Mr. President, on Calendar Order No. 610, Senate Joint Resolution 292, there are 2 hours equally divided on that joint resolution. That is the joint resolution which deals with the Bahamas. That is a privileged motion. I shall move to proceed to consideration of Calendar Order No. 610 in a moment.

I shall ask unanimous consent, however, that a motion to proceed to Calendar Order No. 609, that deals with Haiti, be privileged, as are the two motions dealing with the other two matters. I am speaking about Mexico.

I ask unanimous consent that a motion to proceed to the consideration of Calendar Order No. 609 be likewise privileged.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

Mr. BYRD. Mr. President, it would be my plan, and I have discussed this with the distinguished Republican leader, to proceed to Calendar Order No. 610, Bahamas, and then proceed to Calendar Order No. 609, Haiti, on which there is a 1-hour agreement to be equally divided with no amendments. Then I will move to discharge the committee from further consideration of Senate Joint Resolution 268 and proceed to its consideration. That is the Mexico resolution on which there is a 3½ hour time limit equally divided.

It is now 3 o'clock p.m. and, with some luck, we may be able to finish all three of these today.

If there are no questions, I now move that the Senate proceed to consideration of Calendar Order No. 610, Senate Joint Resolution 292.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to proceed to the consideration of Senate Joint Resolution 292.

The motion was agreed to.

Mr. BYRD. Mr. President, I yield my time to Mr. PELL. He can further yield to others.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I yield the time on this side to the distinguished ranking member of the Foreign Relations Committee, Senator HELMS.

DISAPPROVING THE CERTIFICATION OF THE BAHAMAS BY THE PRESIDENT

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The bill clerk read as follows:

The joint resolution (S.J. Res. 292) disapproving certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

The Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, will the distinguished Senator from Rhode Island yield me 1 minute?

Mr. PELL. Certainly.

Mr. BYRD. Mr. President, I take it that rollcall votes will be anticipated on these joint resolutions; am I correct?

Mr. PELL. You are correct, sir.

Mr. DOLE. On all three?

Mr. PELL. I would expect certainly on the Bahamas and Mexico, and I believe so on Haiti.

Mr. BYRD. Would the Senator like to ask for the yeas and nays now on the Bahamas resolution, and would he like to ask for the yeas and nays on the Mexico resolution?

Mr. PELL. I think that would be wise.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on both the Bahamas resolution and the Mexico resolution, even though that joint resolution is not before the Senate, and with one show of second.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I ask for the yeas and nays on the joint resolutions on the Bahamas and Mexico.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the Senate is about to consider two joint resolutions, Senate Joint Resolution 268 and Senate Joint Resolution 292, which, if passed, would disapprove the Presidential narcotics certifications for Mexico and the Bahamas respectively. On Tuesday, April 12, the Committee on Foreign Relations marked up these joint resolutions. After extensive discussion, the committee failed to approve the joint resolution of disapproval on Mexico on an 8-to-8 tie vote. The committee supported the joint resolution of disapproval with respect to the Bahamas by a 10-to-6 vote. A third joint resolution, Senate Joint Resolution 285, which is also before the Senate, expressing the sense of Congress that Haiti should be on the list of major drug transit countries, was approved by the committee on a voice vote with no dissent.

Mr. President, today the evidence is mounting that not only have we failed to turn the corner in the fight against drugs, but we are being routed. Routed by the traffickers who operate with seeming impunity here and abroad and who have corrupted military establishments, private businesses, and governments throughout our hemisphere. Routed by their growing power and ability to purchase everything they need, including whole fleets of aircraft and ships, and, of course, sophisticated arms to protect their enterprises. They can outrun and outgun virtually every police force they encounter.

Economically, from the opium growing fields of Southeast Asia to the mountain sides of Peru's Upper Huallaga Valley where coca leaf is cultivated, the narcotics traffickers maintain one of the world's most efficient development programs. They control agricultural inputs, processing, marketing, and distribution networks in a vertically integrated enterprise, estimated to be worth $100 billion annually, that would be the envy of many a 19th century robber baron.

Overseas we have been routed in our efforts to stem the flow of drugs coming into our country. This year's International Narcotics Control Strategy Report, prepared by the Department of State, documents the sad fact that, despite record seizures and arrests last year, worldwide production of opium is up 18 percent, coca leaf, from which cocaine is processed, increased by 10 percent, and marijuana jumped by 26 percent. Allegations of pervasive corruption of police and military forces, and even of political figures received new credence with the indictments by United States grand juries of Panamanian General Noriega and Haitian Col. Jean Claude Paul on drug-related charges. The fact that narcotics traffickers may have bought their way into political and military structures of countries throughout the hemisphere raises profound questions about the future course of U.S. foreign policy in the region.

Mr. President, if the statistics can be believed we have also been routed here at home. On the streets of our cities, and even in our small towns and rural areas, the price of drugs is down and supply is up. Perhaps 20 million of our fellow citizens have tried cocaine. Five million are regular cocaine users, up to 1 million of whom are addicts. An additional 500,000 Americans are addicted to heroin. More than half of the criminal cases pending before the courts in this country involve drug-related crimes. It is estimated that the economic costs associated with drug use and abuse in the United States could be as high as $100 billion a year in lost productivity, associated health care costs, and the need for increased law enforcement.

The plain truth is that in the face of the awesome power and influence of the drug traffickers, "just saying no" is not enough. We need to reexamine our policies and approaches to narcotics control. We need a comprehensive strategy to break the power of these druglords by taking them on everywhere they operate, on the streets of our cities and towns, and, as these resolutions are designed to address, in the countries where their production, processing, transshipment, and money laundering enterprises are located.

Mr. President, the Committee on Foreign Relations faced some tough choices this year. The Antidrug Abuse Act of 1986 established a process for congressional review of drug certifications that, in the Senate at least, guarantees consideration by the full Senate irrespective of committee review and action. The law itself sets a standard that leaves little room for nuance. Progress achieved in the previous 12 months, for example, is not sufficient. The President must certify, once he has determined a nation to be a major producing or drug transit country, that that country has "cooperated fully" in antidrug efforts in the previous 12 months. There is no in-between status. The only "escape clause" is if the President certifies under the "vital national interest" standard provided in the statute.

No example better illustrates the dilemma we face than that of Mexico. The President, in his certification, asserts that Mexico has met the full cooperation standard while also admitting that more can and should be accomplished. Once a resolution of disapproval was introduced, the issue was forced: Is Mexico cooperating fully? What are the consequences of decertifying our neighbor to the south with whom we share a common border, and myriad interests such as tourism, immigration, investment, and the like. Ultimately, the committee was equally divided on the matter, with eight members voting to decertify and eight members voting to uphold the President's certification. I must confess that the question was not an easy one for me.

In the end, I agree with the administration that, given the many constraints and difficulties faced by the Mexicans, they have cooperated with the United States. To make that determination, however, is not to deny that further progress is achievable or that major problems—such as pervasive corruption in some parts of Mexico—threaten to impede that cooperation. Frankly, it is a close call for most of us. And if the Senate chooses to reject Senate Joint Resolution 268 this afternoon, its action should not be misinterpreted. The concern about the extent and effectiveness of Mexican cooperation is real. Both governments need to work over these next 12 months—when each of us elects a new President—to foster improved cooperation and to reduce the mountains of illicit narcotics coming into the United States from Mexico.

With respect to the Bahamas, I am convinced that given serious allegations about corruption in that Government, there is simply no way "full cooperation" can be achieved, although I recognize that there has been some improvement in recent months. Certainly a level of real cooperation exists in terms of overflights, hot pursuit, and record arrests and seizures. However, the charges of high-level bribes, protection for traffickers in the smaller cays, illegal sale of seized drugs by police officials, and the failure to respond to the extradition request of Nigel Bough raise troubling questions about the underlying sincerity of the Bahamian Government. The Committee on Foreign Relations agreed by a vote of 10 to 6 with Senator KERRY, who introduced the resolution disapproving certification for the Bahamas, that the full cooperation standard simply had not been met. I believe, however, that if recent improved cooperation does occur, our votes may differ next year.

Finally, the committee considered and approved a resolution which urges the President to add Haiti to the list of 24 major producing or drug transit countries. No sanctions are involved, nor is any judgment made about Haitian cooperation with the United States. There is increasing evidence though that Haiti has become a major transit country for the Medellin cartel's cocaine traffic. Col. Jean Claude Paul's recent indictment by a U.S. grand jury also underscores the fact that corruption makes narcotics traffic possible. The Senate, I believe, should pass Senate Joint Resolution 285. Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, for purposes of the RECORD, will the Chair state the unanimous-consent agreement with reference to these two resolutions of disapproval?

The PRESIDING OFFICER. On this resolution the agreement is 2 hours equally divided.

Mr. HELMS. I certainly hope we will not take that much time.

Mr. PELL. So do I.

Mr. HELMS. I thank the Chair. I will encourage Senators on our respective sides of the aisle to realize that very few votes are changed on a matter of this sort by long speeches in the Senate.

The PRESIDING OFFICER. The Chair would interrupt the Senator from North Carolina. I am sure he knows no amendments are allowed under the order.

Mr. HELMS. I understand that. I thank the Chair for his courtesy.

Now, with respect to the Mexican resolution of disapproval, is there a time agreement on that?

The PRESIDING OFFICER. The agreement on the Mexican resolution is 3½ hours equally divided, no amendments being in order.

Mr. HELMS. I will say to the chairman, I hope we will not take anywhere near that much time on that joint resolution either, but we will see as we proceed.

Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, it was almost exactly a year ago this month that the issue of drug certification was before the Senate. At that time Congress failed to decertify the State Department's certification of Panama.

And what happened? Ten months later Gen. Manuel Noriega, the de facto dictator of Panama, was indicted in the United States on Federal drug charges. This year the State Department was forced to decertify Panama but it was too late.

Last month, the administration sent up to Congress the decision on which countries are "cooperating fully" with the United States to control narcotics production, trafficking, and money laundering. It is well known that the drug certification for each country is determined by the U.S. State Department with only a minimal input from the Commissioner of Customs, Mr. Von Raab, and his associates.

Mr. President, Bill Von Raab has serves as Commissioner of U.S. Customs for 6½ years now. He is one of the most dedicated public servants I have ever witnessed in action. On March 14, of this year, Mr. Von Rabb testified before the Foreign Relations Committee that in the past few years he had dedicated the majority of his time with respect to Mexico to drug smuggling.

Now, I know of nobody more qualified than Bill Von Raab to give an objective assessment on the degree of Mexico's cooperation, or lack of it, in the war against drugs.

On February 23 of this year Mr. Von Rabb, the Commissioner of Customs, wrote to Miss Ann Wrobleski, who is Assistant Secretary of State for International Narcotics Matters. In that letter to the State Department, Commissioner Von Raab said:

> There is corruption among senior level Mexican law enforcement officials and corruption is pervasive throughout the law enforcement and military system.

Now, maybe in some Senators' minds that would describe "full cooperation, but it certainly does not in the mind of this Senator. But let us continue with Mr. von Raab's letter to the State Department:

> This corruption has effectively precluded our working with Mexican authorities on narcotics interdiction and inordinately increased the level of resources we are forced to commit to the Southwest border.

As the saying goes, how about them apples, Mr. President? To that "full cooperation"?

Mr. von Raab said in addition to that;

> Further, the amount of drugs entering the United States through Mexico continues to steadily climb.

Mr. von Raab had more to say, and he has been virtually drowned out by the State Department. He said:

> The law enforcement information available to us suggests that at best Mexico is making merely a token attempt to address

the issue of narcotics trafficking within the borders.

Full cooperation? A little while later this afternoon or this evening the Senate will have to decide whether that is "full cooperation." This Senator says it is not.

Commissioner von Raab said:

> Mexico is one of the major transshipment countries for South American cocaine. Powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impugnity.

I might add that in testimony before the Foreign Relations Committee, Mr. President, Mr. von Raab disclosed that law enforcement officials of Mexico gave police escort to drug runners coming into the United States. And we are supposed to take seriously this business of certifying that Mexico has been giving "full cooperation." Do not believe it, Mr. President.

Mr. von Raab said:

> When we have approached the Mexican Government about cooperating about overflight in pursuit of drug traffickers, the response was evasiveness and stalling tactics.

Finally, he said—this was in a letter to the State Department:

> The Mexican officials were so unresponsive to requests for narcotic related financial information that out of frustration Customs officials have ceased working with the Mexicans.

Mr. President, that is plain language. It is clear. I know no one, as I said earlier, in this Government who is more dedicated to stopping the drug trafficking into the United States than the U.S. Director of Customs, Bill von Raab. And I personally salute him and thank him for his efforts.

Obviously, Customs officials have had no cooperation with the Mexican authorities. Yet we are supposed to vote in favor of the State Department certification of Mexico as having been "fully cooperative." Down in North Carolina, they say "baloney" when such a statement is made. And it is indeed baloney, a slice at a time, and thick slices at that.

Three weeks ago William Rosenblatt, Assistant Commissioner of Customs, held a meeting with Pepe Ortega Padilla, the No. 3 man in the office of the Mexican attorney general. At that meeting Customs—that is, U.S. Customs—presented some minor and very reasonable proposals to Mr. Ortega such as joint overflights at the border between Mexico and the United States. Mr. Ortega promised to respond to this proposal within 1 week. Guess what? The Mexican Government still has not responded to the proposals by the U.S. Customs Service. Not only have the Mexican officials not answered the proposals, they will not even give Customs officials the courtesy of returning even one telephone call. "Cooperative fully"? Come on, Mr. President. Does anybody seriously expect Senators to certify that the Mexican Government has been fully cooperative?

There is no surprise that the U.S. Customs Service has recommended against the certification of Mexico this year. And I for one am concerned that the advice of the Customs Service was not taken seriously by the State Department.

It never is. I could go down a litany of instances, including the case of Medvid, the Ukrainian sailor whom Bill von Raab tried to assist in his efforts to defect from the Soviet grain ship at New Orleans. Both Commissioner von Raab and a lawful subpoena issued by the Senate of the United States were overridden on the recommendation of the State Department. That Soviet grain ship was allowed to leave with that miserable sailor, Medvid, aboard. Only the Lord knows what happened to him when he got home.

As for certifying Mexico, the State Department will contend that the U.S. Customs Service was fully consulted throughout the certification program, but that simply is not so.

Commissioner von Raab and his top associates were never invited to participate in any meeting with the State Department's Bureau of International Narcotics Matters, which is responsible for writing the certification report. Any involvement by the Customs Service was either ignored or discarded.

Furthermore, the Department of the Treasury contends that the Commissioner of Customs does not "have the right" to make recommendations as to whether countries should be certified. But if the Customs Service does not have that right, who does; who should?

Why is there such an effort, Mr. President, to squelch the Customs Service? One can only speculate. Perhaps the answer lies in the printed version of the State Department's so-called Justification for the Certification of Mexico. In that document, the State Department maintained: "There are important bilateral and multilateral considerations which would be placed at risk should certification be denied." Well, try to tell that to the parents of a teenager who dies as a result of this Mexican drug trafficking.

Maybe it would be better, certainly more honest, to do away with the drug certification requirements entirely and not even try to do anything about drug trafficking instead of making a sham of the process. That is what it is right now, Mr. President, a sham, because the certification law requires that major drug transit countries must have "cooperated fully" during the last 12 months.

"Cooperated fully" to do what? To control narcotics production, trafficking, and money laundering? That is the intent of the law. That is why we passed it. How can we now make mockery of the intent of the law?

When Congress passed this law in 1986, I did not hear one mumbling word against it. Everybody said, hot dog, what a good idea. But now it is turned on its head. The State Department says, "well, Mexico has cooperated fully—except; or cooperated fully—unless." Well, the law does not say that. The law says "cooperated fully." It does not exempt Mexico. It does not say every country in the world except Mexico. It says that every country must cooperate in order to stop drug trafficking. And this Congress voted for the law unanimously in 1986.

So where do we get off, coming in here and saying, oh, well, we cannot do this, there are multilateral deals, there are unilateral matters, there are relationships? That is not what the law says. The law does not say that we can overlook any country that shares a common border with the United States. It does not say that we can ignore any country beset with economic problems. That would include everybody, including us.

Mr. President, the certification law approved by this Congress in 1986 with a whoop and a holler simply says that countries must "cooperate fully" and there has been no modification of that law, no amendment, no repeal. It is still the law of the land.

Let me tell you about the cooperation we get from Mexico and see if you call it cooperation, Mr. President. Of the four major drug smuggling targets arrested by the Government of Mexico, one, Adrian Garza, is known only to have transported marijuana.

One, Jaime Herrera, Sr., is regarded—even by the Mexican press—as being in protective custody.

The third, Ernesto Fonseca, managed to have two previous indictments quashed on a technicality—and most observers expect the same thing to happen this time.

That's three of them. That's great cooperation. You catch the bums running drugs and you let them off, and slap them on the wrist, and nothing happens.

The fourth Rafael Caro Quintero, is in prison for the time being—1 out of 4. But let me tell you about Mr. Caro's prison. Two escape tunnels were recently found leading to his prison cell. Furthermore, irregularities regarding remodeling of his quarters are under investigation by the Mexican Attorney General's office.

Mr. Caro's cell is unlike any cell I could ever imagine. His cell includes wood paneling, a second floor bedroom, and a marble bathroom with a jacuzzi. I have been informed by U.S. Government officials that in addition, constant visits to Mr. Caro's cell are made by, shall we say, female friends.

I am sure the State Department will say they are his sisters or first cousins or something like that. These ladies, in any case, are known to have smuggled cocaine into the prison. Some prison! It has video equipment. It is supplied with imported whisky. It has servants, mariaches, and other amenities to which Mr. Caro, I am sure, is accustomed.

So that is the kind of "cooperation" we get from Mexico. That is the kind of punishment the drug runners, the drug kings, get in Mexico. And the State Department declares that Mexico is "fully cooperating" with the United States Government.

Mr. Caro, by the way, was formally charged by the United States—in January, I think it was—with the murder of a drug enforcement agent of the United States of America, Enrique Camarena.

Mr. Caro is sitting down there with the jacuzzi, and the video equipment, and the female companions coming in, and the imported whisky, and all the rest of it. And the State Department expects this Senator to vote to certify the Government of Mexico. Forget it. It is not going to happen.

I may be the only Senator to vote for this joint resolution. I hope I will not be. But I will never be so false and perverse as to pretend that Mexico is "fully cooperating." Yet, this is what the State Department says.

There is a dictatorship in Mexico, a Socialist government that has ruined the economy, from which the Mexican people can never extricate themselves, unless and until there is a change in the attitude and the priorities of the Mexican Government.

I do not know any better way to get the attention of the Mexican Government and the Mexican people than to say, "You're can't kid us. You're not fooling us. You're not cooperating at all, let alone cooperating fully, as the law of the United States of America requires."

At a hearing last month in the Senate drug caucus, chaired by the distinguished Senator from Arizona, the Commissioner of Customs testified that he did not know of a single drug trafficker in Mexico who had been arrested, prosecuted, and convicted. Some cooperation! Indeed, the Mexicans seem to have a habit of arresting traffickers, accepting large bribes, and releasing the criminals.

During the debate on certification last year, the State Department assured us that Mexico has promised to do all sorts of things. But as it turned out, these were empty promises.

So that brings us 360 degrees back to where I began. A year ago, Congress made the mistake of failing to decertify Panama. Look at Panama today. And we are botching that up, day after day, despite the pleas of the people of Panama. If some Members of Congress and the bureaucracy at the State Department had not been so reluctant to denounce General Noriega during the past 15 years, things would be far different and far better in Panama today.

I stood on this floor a decade ago and talked about Mr. Noriega, and the State Department said: "Oh, you should not do that, Senator. He is doing this and he is doing that." I said, "Baloney!" Anytime you lie down with dogs, you get fleas, and you deserve them.

If we had been doing what we should have been doing for the past 10 years, Noriega would not be in power there today. Panama would have a democracy. I do not know how long it is going to take us to learn.

In any case, Mr. President, Congress acted too late on General Noriega in Panama. I certainly hope we have learned a lesson and that, this year, Congress will vote to decertify Mexico and send an undeniable, unmistakable message that enough is enough.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated April 8, 1988, from the Deputy Secretary of State, Mr. Whitehead, to me; a memorandum to the Secretary of State concerning the Presidential determinations; and a series of three articles from the New York Times on the subject of narcotics.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATES,
Washington, DC, April 8, 1988.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The Senate Foreign Relations Committee has before it resolutions to disapprove the President's certification of Mexico and The Bahamas under Sec. 481(h) of the Foreign Assistance Act. Both resolutions involve risks that Congress should consider. In the case of Mexico, the resolution poses significant dangers to major U.S. interests.

I understand many members of Congress are attracted by the idea that, by overturning the "full cooperation" certification and urging the President to replace it with a "national interest" certification, we would be sending these countries a useful message while making proper allowance for the extensive foreign policy interests we have there. However, the law is clear that "national interest certification" is in fact a denial of certification on anti-narcotics grounds. Moreover, the decision to accompany the President's certification with a special justification statement was predicated on our own belief we should send a strongly worded message to Mexico. All subsequent talks with the Mexicans confirm that this message was received and understood.

Should the Congress overturn the President's certification of full cooperation, the political impact this would have in Mexico could be devastating to U.S. interests. I feel certain, for example, that Mexico would terminate U.S. ties to their aerial eradication progam and reject the $14.5 million in direct U.S. anti-drug assistance that these ties involve. The ability of the DEA to operate effectively within Mexico might also be impaired.

The Mexican Government would of course continue to fight the narcotics traffic on its own, but the efficiency of these efforts could drop significantly if the U.S. role is curtailed, and more drugs would flow into the United States. Moreover, if Mexico alone should prove unable to counter the increasing power of the narcotics traffickers, the very stability of our southern neighbor could be placed in jeopardy. We cannot afford to have a Colombia on our border.

The political spillover of a Congressional approval of the Mexico resolutions would probably affect every aspect of our bilateral relationship, including trade, investment, immigration and border-area cooperation. The U.S. would become a major issue in Mexico's current election campaign, and a more constructive bilateral relationship would become politically impossible for the next Mexican president. The political left and other elements in Mexico opposed to closer ties to the U.S. would get a strong new lease on life.

Aside from these considerations, the President's certification decision and the justification statement accompanying it are defensible. While we fault Mexican efforts in some areas, that does not mean we should overlook the substantial nature of their contribution and the many positive actions they took in 1987. For instance: Mexico was the first Latin American country to sign and ratify a Mutual Legal Assistance Treaty with us; they increased by 26% their eradication of marijuana while slightly improving opium poppy eradication; their seizures of all drugs were up (cocaine by 75%, opium derivative 12%, and marijuana 104%); they arrested 9,800 persons for trafficking including nine major (class 1) narcotics violators.

Despite these efforts, which involved many human casualties and a heavy outlay of scarce financial resources in the midst of a deep economic crisis, the drug producers and traffickers gained ground last year. Because of this, President Reagan stressed the importance of this issue above all others during his meeting of February 13, 1988 in Mazatlan with President de la Madrid and members of his Cabinet.

The Mexican President was highly responsive to our concerns. He declared drugs a national security concern for Mexico, and two weeks thereafter he appointed a Cabinet Committee, headed by Mexico's Attorney General, Secretary of Government and Secretary of Health, to coordinate Mexico's anti-drug efforts. This broadening of Cabinet-level attention to the drug war raises its visibility within the Mexican Government, increases the potential for more effective coordination, and responds to a recommendation made by President Reagan at Mazatlan.

In sum, I believe it would be both unfair and highly counterproductive for Congress to disapprove the President's certification of Mexico as a fully cooperating country.

With regard to The Bahamas, cooperation in 1987 between U.S. and Bahamian law enforcement agencies has been excellent. Cocaine seizures increased by 300% as a result of this cooperation. GCOB efforts in the key areas of enforcement, investigation, and prosecution improved during 1987.

Although allegations of corruption remain a serious concern, the Bahamian Government appears to be moving in the right direction to address the problem. Two new special drug courts should relieve the overburdened legal system. A police internal corruption unit has investigated and presented cases for prosecution.

Decertification would jeopardize this cooperation and discourage further GCOB law enforcement and anti-corruption efforts. With an estimated 50-60% of all marijuana and cocaine destined for the U.S. transiting The Bahamas, that would mean an increase in the amount of these drugs entering our country. The GCOB has demonstrated at the highest levels its readiness and willingness to cooperate with us in the drug fight. We want to encourage and strengthen the hands of those Bahamians who clearly want to do more.

In order to achieve results, there is no realistic alternative to working with these countries. Measures to sanction them, or to castigate their governments as corrupt, will only undercut the ability of honest, serious public servants to cooperate with us. And in the case of Mexico they will have an incalculable adverse effect upon some of the most important foreign policy interests the United States has.

Sincerely,

John C. Whitehead,
Acting Secretary.

The White House,
Washington, February 29, 1988.

Presidential Determination No. 88-10.

Memorandum for the Secretary of State

Subject: Certifications for Narcotics Source and Transit Countries under Public Law 99-570.

By virtue of the authority vested in me by Section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, as amended by the Anti-Drug Abuse Act of 1986 (P.L. 99-570), I hereby determine and certify that the following major narcotics producing and/or major narcotics transit countries have cooperated fully with the United States, or taken adequate steps on their own, to control narcotics production, trafficking and money laundering:

The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru and Thailand.

By virtue of the authority vested in me by Section 481(h)(2)(A)(ii) of the Act, I hereby determine that it is in the vital national interests of the United States to certify the following countries:

Laos, Lebanon, and Paraguay.

Information for these countries as required under Section 481(h)(2)(B) of the Act is enclosed.

I have determined that the following major producing and/or major transit countries do not meet the standards set forth in Section 481(h)(2)(A):

Afghanistan, Iran, Panama and Syria.

In making these determinations, I have considered the factors set forth in Section 481(h)(3) of the Act, based on the information in the International Narcotics Control Strategy Report of 1988.

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the Federal Register.

Ronald Reagan.

Justification for Certification: Colombia

Colombia is a major drug producing and transit country. Certification is granted in accordance with Section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1981, as amended by Public Law 99-570.

We believe Colombia has done much unilaterally and bilaterally against drug trafficking, but the power of the Medellin cartel must be broken and steps to do so must be taken, including Colombian resolution of the issue of extradition.

The United States fully recognizes that the Government of Colombia is literally besieged by superbly-armed trafficking and insurgent groups, whose corruption is reportedly spreading in the Americas. As noted in earlier summaries, Colombia has for many years been the most cooperative and important of the Andean governments. At great peril to its officials, too frequently struck down by trafficker-paid assassins, Colombia extradited Carlos Lehder to the U.S., but the Supreme Court subsequently struck down the extradition agreement and in December Jorgé Luis Ochoa was released, a sharp disappointment to narcotics officials here and in Colombia. The Government is under both domestic and international pressure to either find a basis for extraditing major traffickers or arrest and prosecute under Colombian law, or both. The United States wants to be as helpful to either process as possible.

The Government is aware that it must also be more forceful in attacking cocaine labs, many of which are protected by insurgent groups as well as by traffickers. In 1987, the Government maintained the effectiveness of its marijuana spraying program in traditional growing areas, and we are gratified by indications that in 1988 the GOC will expand the spraying program to counter production found in new areas, which drove annual totals in the 1988 INCSR up. Columbia continues to cooperate in the search for a herbicide to destroy coca fields, cooperation which is indispensable to the long term solution to coca cultivation.

Justification for Certification: Mexico

Mexico is a major drug producing and transit country. Certification is granted to Mexico in accordance with Section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1981, as amended by Public Law 99-570.

U.S. officials welcomed the spirit of enhanced bilateral cooperation of the recent Presidential summit, but we also believe Mexico has the capability for far greater achievement in narcotics control. The Department finds that there are important bilateral and multilateral considerations which would be placed at risk should certification be denied, not least of which is the future progress of our joint narcotics control endeavors. A national interest certification has been weighed. The final decision is to recommend full certification, but reiterate that, as President Reagan declared, 1988 should be a year of positive results.

Mexico has improved its marijuana eradication campaign, but opium poppy eradication, while marginally improved in terms of total hectares eradicated, was short of the effort needed to reduce production. The enforcement situation improved with some lab busts and increased seizures. The Mexican Government has increased the commitment of resources to both the Attorney General's program and the military program. But the overall assessment is that Mexico's effort has not kept pace with the increased flow of drugs, and is below the level of efficiency and effect of which it is capable. The trials in the Camarena and Cortez cases remain underway, with Caro Quintero and other defendants incarcerated. The Government has not yet addressed all allegations of official corruption in a systematic fashion. While appreciative of the efforts that have been made, and taking full note of Mexican casualties, the U.S. nevertheless believes that a higher level of cooperation is both possible and necessary.

Justification for National Interest Certification

Laos

Laos is a major drug producing country. Certification is granted to Laos in accordance with the vital national interest provision of Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1981, as amended by P.L. 99-570.

The Department finds that there are vital national interests which would be placed at risk should certification be denied. This risk has been weighed against the failure of Laos to cooperate fully with the United States on narcotics control or to take adequate steps on its own.

Laos was granted a national interest certification in 1987 on grounds of promised cooperation on the POW/MIA issue despite a failure to adopt any concrete narcotics control measures along with indications that local and military officials were engaged in narcotics trafficking. Laos opium and marijuana production are increasing significantly, and there are multiple reports implicating Communist Party, Laos Army and other officials in managing and facilitating the trade, which is increasingly important to the economy of this cash-poor country. Laos has not accepted offers of U.S. narcotics assistance, nor undertaken any control initiatives but were recently receptive to adding a UNFDAC crop substitution project. There is little prospect for near-term reversal of these trends. There is, however, progress on the POW/MIA issue, with remains and aircraft parts having been recently received by U.S. officials, and pledges of cooperation in early 1988 on joint excavations of crash sites.

Two certifications must be made of Laos, one on March 1 under Sec. 481(h) and another May 1, under Sec. 2013 of P.L. 99-570, which requires reports on corrupt officials and governments. The decision is to grant Laos a national interest certification, under Sec. 481(h), with an understanding that the issue will be revisited May 1. At that time, the dry season will have ended, and the U.S. will have proof (positive or negative) of the promised further cooperation on the POW/MIA issue. Hopefully, such cooperation will be forthcoming, along with strong indications of an intent to pursue narcotics control.

The President has assigned the highest national priority to obtaining the fullest possible accounting for Americans lost in Indochina during the war and has pledged the full resources of the U.S. government to this effort. Relations with Laos are linked to the POW/MIA issue; progress on the issue is viewed as the principal measure of Laos sincerity in desiring to improve relations with the United States. It was POW/MIA dialogue and joint cooperation which provided US opportunities to raise the narcotics question in a serious way.

Justification for National Interest Certification

Lebanon

Lebanon is a major drug producing country. Certification is granted to Lebanon in accordance with the vital national interest provision of Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1981, as amended by P.L. 99-570.

The Department finds that there are vital national interests which would be placed at risk should certification be denied. This risk has been weighed against the failure of Laos to cooperate fully with the United States on narcotics control or to take adequate steps on its own.

Opium, heroin and hashish production abound in the Bekaa Valley, with increasing indications of a flourishing trade in cocaine. However, narcotics trafficking and production occur in areas which continue to be controlled by elements of the Syrian military, with indications that various officers and units profit from the trade and protect it. The Government's control over growing areas and transit routes has eroded during the past 12 years of civil strife. As we concluded last year, a comprehensive eradication and interdiction program must await restoration of central government control.

The finding of national interest is unchanged. The United States wants to assist in the re-establishment of peace and stability in Lebanon. Denial of certification would end U.S. assistance to Lebanese government efforts to maintain a professional and well-trained Lebanese Army, a key element in the eventual restoration of government control and stability. U.S. assistance to displaced and injured Lebanese civilians helps minimize the destabilizing effects of continuing civil strife and economic distress.

JUSTIFICATION FOR NATIONAL INTEREST CERTIFICATION

PARAGUAY

Paraguay is a major drug producing country. Certification is granted to Paraguay in accordance with the vital national interest provision of Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1981, as amended by P.L. 99-570.

The Department finds that there are vital national interests which could be affected should certification be denied. This risk should be weighed against the failure to date of Paraquay to cooperate fully with the United States on narcotics control or to take adequate steps on its own.

Paraguay has again become a major player in international narcotics, with serious allegations that officials at various levels of the government may be profiting from the trade, especially the production of marijuana, and transhipment of cocaine. It is also noted, however, that U.S. officials have established good relations with Paraguayan narcotics officials, and have received pledges to cooperate with the recently reopened DEA office in Asuncion. A factor in granting national interest certification is to determine more precisely the scope of the problem and the willingness of Paraguay's officials to cooperate with DEA on drug investigations. It is noted that Paraguay has given drug intelligence to U.S. officials.

Given the allegations of official corruption, the issue of certifying Paraguay will have to be reviewed on May 1 when the President certifies countries under Sec. 2013 of P.L. 99-570. A national interest certification now advises Asuncion that cooperation on narcotics is not adequate, that improvements are needed in the coming year, and that Paraguay's cooperation with DEA will affect the May 1 decision.

While the most immediate national interest in Paraguay is the drug issue itself, there are other U.S. interests, including a desire to sustain the Peace Corps operations, and maintain a program presence that could help encourage a peaceful political transition to a post-Stroessner era.

[From the New York Times, Apr. 10, 1988]

DRIVE AGAINST NARCOTICS FOILED BY SECURITY FEARS

(By Elaine Sciolino with Stephen Engelberg)

WASHINGTON, April 9.—No President has spoken out more against drugs than President Reagan. No Administration has signed more anti-drug treaties or spent more money to stem the flow of drugs into this country.

But as the Reagan years draw to a close, American law enforcement officials acknowledge that they are losing ground in the fight against a new generation of drug smugglers who have the business skill—and capital—to threaten not only the streets of America but even the stability of countries long friendly to the United States.

While drug confiscations and arrests set records each year, the supply of cocaine, the most commonly abused drug, has grown steadily. As for the hundreds of millions spent annually on programs to curb demand, the number of drug users in the United States remains near its all-time peak, having dropped only slightly.

ARRESTS GROW, SO DOES SUPPLY

Confronted with the influx of drugs from overseas and the inability of successive administrations to deal with it effectively, legislators and local officials have begun demanding that the United States take more effective action against countries that tolerate or ignore the drug industry.

In interviews, dozens of present and former Government officials say this would mean a change in emphasis. These officials say that, like its predecessors, the Reagan Administration has repeatedly subordinated the drug issue to other American interests, from support for insurgents fighting leftist regimes to the belief that punishing drug-producing countries might destabilize them.

BALANCE PRIORITIES

"You have to balance priorities, but the fact is we have not balanced priorities: we have always put narcotics at the bottom of the totem pole," said Francis J. McNeil, a former Deputy Assistant Secretary of State for Intelligence and Research.

Mr. McNeil and other officials see ample evidence that tough American talk on fighting drugs overseas has not been matched by diplomatic action. In 1986, for example, a law was passed allowing President Reagan to impose economic sanctions against countries that are not cooperating fully with American efforts to reduce the drug trade. But that law has never been used against a nation considered an ally, regardless of any flagrant drug trafficking that may be occurring.

Interviews with dozens of present and former officials also disclose that:

The Reagan Administration was told that the Honduran military, which was providing critical assistance to the guerrillas fighting the Sandinista Government in Nicaragua, may have been involved in drug dealing, perhaps as early as 1981, according to present and former officials. A former official in the Drug Enforcement Administration said that a United States drug agent stationed in Honduras relayed the allegations to his supervisors from 1981 to 1983 but was never ordered to investigate them. Officials in the agency insist the allegations were unsubstantiated and not worthy of investigation.

In 1984, Caspar W. Weinberger, then Defense Secretary, did not take action on a recommendation from the Joint Chiefs of Staff that the Pentagon become more involved in blocking shipments of drugs, even if it required new legislation and a redefinition of the military's mission, according to former senior officials in the Pentagon. Mr. Weinberger has not responded to requests for comment.

Senior White House officials, in a previously undisclosed effort, sought unsuccessfully in late 1985 and early 1986 to enlist the support of others in the Administratioon for the removal of Gen. Manuel Antonio Noriega of Panama. John P. Martsh, the Drug Enforcement Administration official responsible for Latin America, said that even after General Noriega's indictment on drug-trafficking charges, the American drug agency has continued to work closely in interdiction efforts with Col. Nivaldo Madrinan, one of General Noriega's closest associates and a man identified by Panamanian opposition leaders as a principal in the drug trade.

Attempts to eradicate drug crops overseas have been mired by technical and diplomatic obstacles. Even those officials promoting the policy acknowledge that the difficulties may never be surmounted.

Attorney General Edwin Meese 3d, the Administration's top law enforcement official, reflected the Administration's approach toward using foreign policy as a weapon in the war on drugs when he was asked in a recent interview whether drug trafficking is the foremost foreign policy concern of the American people.

"How to rate it with a lot of other issues is very difficult, because, obviously, the collapse of Central America would have a very dire impact on the American people," said Mr. Meese, who is on a trip to Latin America for talks on drug enforcement issues. "It's kind of silly to make these kinds of comparisons because they are all major threats."

The American people have not hesitated to make such comparisons. In a New York Times/CBS News Poll in March, respondents were asked which of five leading international issues was the most important facing this country. The largest number, 48 percent, cited drug trafficking.

A CLASH OF POLICIES

Afghanistan is one place where the drug issue has been subordinated to the Administration's policy of supporting anti-Communist insurgencies.

Poppy cultivation in Afghanistan has skyrocketed as a result of economic dislocation and other factors caused by the Afghan war. In 1987 alone, opium production increased by at least 20 percent over the year before, and may have more than doubled, according to the State Department's 1988 report on the global drug trade. Much of the poppy crop grows in areas controlled by the Afghan guerrillas or on territory where they have influence, according to the report.

Although the guerrilla leaders have spoken out against drug use as a practice contrary to Islam, and although they are not thought to be actively involved in the trade, they—like the Afghan Government and its Soviet backers—tolerate the expanding poppy production and heroin refining in Afghanistan and shipment of drugs into

Pakistan because it is a way of life in the country and a principal cash crop.

American intelligence has suspected that planes, trucks and mules ferrying rebel aid into Afghanistan are also used to ship drugs to Pakistan, but investigations have not produced solid evidence of this. Intelligence analysts acknowledge, however, that individual rebels and even small units serve as drug couriers.

Yet the Reagan Administration has done little to press the guerrillas to curb the drug trade, according to senior State Department and intelligence analysts. When President Reagan met with several guerrilla leaders in Washington last November, these officials said, he never raised the drug issue.

U.S. SECURITY INTERESTS THWART WAR ON THE NARCOTICS TRADE

A previously undisclosed 1987 intelligence report concludes that even if Pakistan and Afghanistan were to develop good relations after a Soviet troop withdrawal, the rugged terrain and remote areas where the poppy crop is grown and the fiercely independent tribesmen who have controlled the Afghan drug trade for decades would thwart any effort to reduce its pre-war levels.

"We're not going to let a little thing like drugs get in the way of the political situation," said an Administration official who follows Afghanistan closely, emphasizing that nartotics are relatively a minor issue in the context of policy toward the Afghan guerrillas. "And when the Soviets leave and there's no money in the country, it's not going to be a priority to disrupt the drug trade."

PREOCCUPATION WITH THE CONTRAS

In Central America, the Administration's preoccupation with the contra war against the Nicaraguan Government has contributed to a lack of urgency in the war on drugs.

Charges of involvement in the drug trade have swirled around the contras for several years without being proven. At the insistence of Senator John F. Kerry, Democrat of Massachusetts, a subcommittee of the Senate Foreign Relations Committee has been investigating the allegations.

No solid evidence has been found to document that the main contra group, led by Adolfo Calero, financed the war with drug profits, although the Central Intelligence Agency suspected that some of the other factions had become involved with drug traffickers.

Interviews with several present and former officials suggest a more subtle connection between drugs and the contras: a less-than-aggressive Administration response to allegations of corruption in the Honduran military.

The seven-year contra war has depended on base camps inside Honduras, and the Honduran military has been an essential supporter of the C.I.A.'s covert efforts to aid the rebels.

According to a former Drug Enforcement Administration official, an American drug agent stationed in Honduras from October 1981 to 1983 sent intelligence reports to Washington charging Honduran military officers, particularly in the navy, with facilitating the transshipment of drugs to the United States.

The agent, Tom Zepeda, was also said to have charged that Honduran military officers, including Col. Leonides Torres Arias, the chief of army intelligence, were protecting drug traffickers. The most prominent of those was Juan Ramón Matta Ballesteros, a Honduran believed to have close links to the major leaders of the Medellín drug traffickers of Colombia and who was returned to the United States this week to face drug-trafficking charges.

John C. Lawn, the head of the Drug Enforcement Administration, said that Mr. Zepeda's charges about corruption in the Honduran military were backed by too little evidence to merit an investigation and were similar to the reports sent regularly from dozens of other countries. He said the agency had never been ordered to ignore the Honduran military's involvement in drug crimes. "That would be a violation of my oath of office," Mr. Lawn said.

In 1983, the United States closed the Drug Enforcement Administration office in Honduras for budgetary reasons and, a Federal drug official said, because it has not been "productive." The office is now being reopened after repeated requests from the Honduran authorities since last year.

"It wasn't that there was a coverup," said one Administration official. "It's that people knew certain questions shouldn't be asked."

NORIEGA'S REGIME: A CASE STUDY

Many current and former United States officials believe this country's policy on Panama is a case study of how the drug issue has been subordinated to other interests.

Intelligence reports linking General Noriega to the drug trade date as far back as 1972, when he was chief of intelligence of the Panama Defense Forces. By 1985, the evidence of the general's role in the drug trade was so strong that several senior officials tried to turn American policy against General Noriega. They failed.

A previously undisclosed study, dated Nov. 1, 1985 and written at the U.S. Army's Southern Command in Panama, cited the involvement of the Panama Defense Forces in the drug trade. Information gathered by American intelligence included transcripts of conversations between Panamanian military officers and drug dealers, and surveillance photographs of Panamanian soldiers loading drugs, according to Norman A. Bailey, former chief economist of the National Security Council, who saw the reports.

After he left government, Mr. Bailey was so distressed by General Noriega's removal of President Nicolás Ardito Barletta in 1984 that he urged the Administration to abandon the general.

DON'T 'ROCK THE BOAT'

In an interview, Mr. Bailey said that the State Department's attitude was "lukewarm," and that the Pentagon didn't want to "rock the boat."

The C.I.A. actively opposed doing anything, Mr. Bailey said. "They said, 'He's an important asset for us,'" Mr. Bailey recounted.

As Mr. Bailey was pressing for action in 1985, the American Ambassador to Panama at the time, Everett E. Briggs, began pushing the State Department to support Mr. Barletta by imposing diplomatic and economic pressures similar to those used against General Noriega in recent weeks.

At the National Security Council, one of the officials on the staff, Constantine Menges, was trying unsuccessfully to persuade President Reagan's aides to put the issue on the agenda for a decision by the Cabinet. In an interview, Mr. Menges said that he argued that the threat to democracy in the region posed by the alliance of General Noriega, Cuba and the narcotics traffickers more than outweighed the Panamanian leader's purported value to the United States.

Mr. Menges did not succeed. During a visit to Panama in December 1985, Rear Adm. John M. Poindexter, then the national security adviser, did give General Noriega a stern message, but the momentum to do something about General Noriega slowed soon after and was not revived until 1987 with the rise of a stronger Panamanian opposition.

The Panama case is one of several instances in which the needs of United States intelligence agencies have clashed with drug policy.

Richard Kerr, the C.I.A.'s deputy director for intelligence, said that while C.I.A. regulations require officers to report violations of the law, the issue is often not clear-cut.

"If you knew an agent was a major trafficker or involved in a major shipment, you couldn't sit on that," Mr. Kerr said. "If you knew that he had taken major money to turn his eyes to the side to let something go through, then you're involved in a judgment call. My guess is that you would weigh it, and you might not report it."

William H. Webster, the Director of Central Intelligence, has made it clear that he wants to be personally involved in deciding where to draw the line, according to Mr. Kerr.

DIVIDED OPERATIONS AND BUDGET CUTS

Several former officials who have studied United States drug-enforcement efforts overseas said one of the main shortcomings is that operations are divided among a host of agencies, some of which have experienced severe budget cuts.

The Coast Guard, for example, whose mission is to intercept drugs on their way to the United States, predicts it will conduct 55 percent fewer patrols this year because Congress slashed its 1988 budget by $100 million.

"Here I sit, the primary agency for interdiction, without the money to operate," said Adm. Paul A. Yost Jr., the Commandant of the Coast Guard. "I have men and women sitting at the dock doing nothing."

Moreover, there is no central authority that can force agencies to cooperate with the drug effort, and few incentives—like more money or workers—to encourage an agency to expand it work on the problem.

More than any other agency, the Pentagon has shown a reluctance to embrace President Reagan's drug crusade. Pentagon officials are proud of the fact that the military flew almost 17,000 hours and ships spent a total of more than 2,500 days at sea last year in the effort to stop drug traffickers. But they are quick to cite the 1878 Posse Comitatus Act, which prohibits using the military to pursue or arrest violators of criminal law.

In the past few years, the Pentagon has consistently—though unsuccessfully—opposed various initiatives in the anti-drug fight, including the loan of American military equipment to foreign governments in 1981, the deployment of American troops to Bolivia in 1986 that labeled drug trafficking a national security threat.

A former senior military aide said the Pentagon was unwilling to become more involved because of fears the drug effort would take money away from other programs more central to the military's mission.

RELUCTANCE AT THE PENTAGON

Senior Pentagon officials bristle at the suggestion made by the Secretary of Education, William J. Bennett, at a White House drug conference last month that the United States consider the use of broad, unilateral military force abroad to prevent the cultivation and manufacture of drugs destined for this country.

But the Joint Chiefs of Staff once shared the view that the United States military should have a greater role in the war on drugs.

After a secret six-month study in 1984, the Joint Chiefs of Staff concluded that the drug war was a potential threat to the national security of the United States because it was undermining the country's social fabric and the discipline of the military services, according to former senior Pentagon officials involved in the study.

The chiefs recommended that the Pentagon take the lead in determining what was needed to combat the drug threat, even if it meant rethinking the military's principal mission of combat readiness or changing the law to allow greater military cooperation in law enforcement. The report outlined a series of options the Pentagon could have taken in the fight, including training of other countries' anti-drug forces and lending equipment.

"We didn't recommend that the armed forces become police officers, but pointed out that there were things they could do that were consistent with their mission," said retired Gen. John Vessey, who was chairman of the Joint Chiefs of Staff at the time, adding that Mr. Weinberger had always worked hard in the anti-drug fight.

The proposal was never accepted by Mr. Weinberger, in part because of concern that American military involvement with potentially corrupt police forces of drug-trafficking countries might tempt American servicemen to share in the drug profits, according to current and former military officials.

'CERTIFICATION': AN INEFFECTIVE STRATEGY

One of the least effective exercises in cracking down on the drug trade is the annual "certification process."

A 1986 anti-drug law requires President Reagan to certify that the 25 countries identified by the State Department as major drug-producing and "drug-transiting" countries are "cooperating fully" with efforts to crack down on the trade. Those that do not qualify are to lose half of their economic and military aid and could suffer other economic penalties. The penalties can be waived if the President concludes that other "overriding national interests" are at stake.

Mr. Reagan has never used the law to penalize an American ally. This year, Mr. Reagan, "decertified" Syria, Iran, Afghanistan and Panama, countries that receive no economic and military aid.

One close American ally, Turkey, which the Drug Enforcement Administration considers a major "drug-transiting" country—a country in which there is the capability to transship large quantities of drugs—is not even included on the State Department list. The State Department blames Congress for not adequately defining a "drug-transiting country." Some State Department officials believe that Turkey is not on the list to avoid any delay in the dispersal of its economic and military aid, which amounts to $525 million this year.

For many lawmakers, the process is best illustrated by Mr. Reagan's full certification of Mexico, the largest single-country source of heroin and marijuana flowing into the United States. Official corruption in Mexico undermines significant cooperation with the United States, according to the State Department's annual drug report.

Mr. Meese rejected a State Department compromise that would have criticized Mexico for not cooperating fully; the result was no aid suspension because of overriding "national interests." Since aid to Mexico is only $525,000 this year, such a cutoff would have little effect. This is why Mr. Meese and other Justice Department officials are not comfortable with the law, which they see as a feeble attempt to punish countries.

"I don't think pointing fingers at each other across international boundaries is going to solve the problem," Mr. Meese said.

MISGIVINGS ON OTHER FRONTS

Officials in other agencies with dealings overseas also voice misgivings about their role in the war on drugs.

American diplomats, for example, are in the embarrassing position of pressing foreign leaders to allow aerial eradication of their drug crops, while American courts, citing environmental concerns, have stopped all aerial spraying of marijuana with paraquat on Federal property. And the United States has pushed Latin American countries to draft laws requiring the licensing of chemicals needed to manufacture cocaine at a time when a move for new American restrictions on the same chemicals is stalled in Congress.

State Department officials praise Secretary of State George P. Shultz for focusing more attention on drugs than did Alexander M. Haig Jr., his predecessor, whose staff rarely even returned the phone calls of officials in the State Department's Bureau of International Narcotics Matters.

But drugs sometimes are not even on Mr. Shultz's agenda in his meetings with foreign leaders. In March, when Mr. Shultz and President Hafez al-Assad of Syria met for the first time in nearly five years, Mr. Shultz did not raise the drug issue. Five days later, President Reagan listed Syria as one of four countries that were not cooperating fully in cracking down on the drug trade.

"The State Department is the conscientious objector in the war on drugs," says William von Raab, the Commissioner of the United States Customs Service.

AMBITIOUS ERADICATION GOALS AND WITHERING OBSTACLES

(By Elaine Sciolino)

WASHINGTON, April 9—Perhaps the most ambitious goal of a Cabinet-level internal report on drug strategies is to cut in half coca leaf production in Latin America over the next five years.

"To accomplish this objective," says the report, "agreements must be reached with the several governments of the region, an effective coca herbicide must be identified and found environmentally acceptable, eradication programs must be carried out simultaneously in all coca-producing countries, and more accurate crop estimates are required for purposes of targeting illicit crops and verifying their destruction." The report was prepared by the National Drug Policy Board, which is led by Attorney General Edwin Meese 3d.

The draft report, which is now making its way through the Administration and Congress, concludes that for aerial spraying to begin this year, discussions should begin immediately with Colombia, Peru, Bolivia and Ecuador, the four main countries producing coca, from which cocaine is derived.

What the report does not say is how all this is to be done.

PROBLEMS WITH HERBICIDES

A herbicide that is both environmentally safe and effective against coca has never been approved for use on a wide scale, and coca-producing countries have not shown much enthusiasm for eradication programs. Last year, the production of coca grew by more than 10 percent over the previous year, and it expected to increase by as much as 10 percent again this year, according to the State Department.

State Department officials familiar with eradication testing admit they are still reeling from their problems with the Dow Chemical Company.

In 1984, after the State Department began manual spraying tests of coca in Colombia's jungle lowlands with garlon-4, a Dow herbicide, some officials predicted that the Colombian crop could be wiped out in three years.

But the chemical was not as effective as expected. In one area, peasants were relieved when sprayed coca plants recovered after it appeared they had died.

Dow, mindful of lawsuits by Vietnam veterans who say they suffered from exposure to the Dow defoliant Agent Orange, was reluctant to join a politically sensitive project and refused to sell the United States the quantities of garlon-4 it needed for tests on a larger scale.

The testing stopped after the State Department rejected Dow's demand to indemnify it against any lawsuit.

"If the Government wants to use one of our herbicides, they obviously should assume responsibility for it," said Emory Conyers, director of government and public affairs in Dow's agriculture division.

Late last fall, the State Department began testing six other chemicals in Peru, the primary producer of coca. Peruvian officials have expressed a willingness to cooperate in eradication efforts if a safe herbicide is used.

But manual eradication in Peru plummeted last year after workers were killed in areas controlled by terrorists and drug traffickers.

Colombia offers another example of how drug traffickers can thwart eradication efforts. There, peasants believed to be acting on the orders of traffickers complained of herbicide-related illnesses after glyphosate, a relatively harmless herbicide used for years to kill weeds in the country's coffee fields, was sprayed on marijuana.

QUESTIONABLE GAINS

The manual eradication of nearly 3,000 acres of Bolivian coca since last fall, praised by the United States as a model of what can be done, has wiped out only 3 percent of the country's total crop and has stimulated planting in new areas. Also, much of the program was aided by the Bolivian Government's decision, with American assistance, to offer farmers an incentive: $2,000 for every hectate, or 2.47 acres, of coca they eradicated.

Even State Department officials who work on the drug issue are skeptical of eradication programs. In Bolivia, powerful unions and cooperatives include many of the 100,000 peasants believed to grow coca and resistance to eradication is strong.

"If you tried to spray," one State Department official said, "you'd start a revolution."

[From the New York Times, Apr. 11, 1988]

Enemy Within: Drug Money Is Corrupting the Enforcers

(By Philip Shenon)

Cordele, GA.—Law enforcement specialists say corruption within the American criminal justice system is more widespread now than at any time since Prohibition because of the explosion in the power and profits of the multibillion-dollar illicit drug industry.

The corruption has touched a wide range of law enforcement officials—from agents of the Federal Bureau of Investigation and Customs Service to the self-proclaimed "good ol' boy" sheriffs here in rural Georgia, from the notorious 77th Precinct in Brooklyn to the border crossings of the Rio Grande Valley.

CORRUPTION REACHES RURAL AREAS

The rising corruption is perhaps most startling in areas far from the big cities, places like this town 120 miles south of Atlanta. According to the Georgia Bureau of Investigation, the state's chief law-enforcement agency, sheriffs in nearly a dozen of the state's 159 counties have been implicated in drug smuggling cases in recent years.

Enforcement experts say that in cases throughout Georgia, county sheriffs and their deputies have been paid thousands of dollars a night to overlook air drops from the hundreds of small planes that bring illegal drugs here.

Researchers say that in some American communities, corruption among law-enforcement officials—policemen, sheriffs, jailers, even prosecutors and judges—is out of control. Police specialists say there is a simple formula: the more drugs on the street, the more bribery in the precinct house or the courtroom.

"We're at the tip of a corruption iceberg," said Jerome H. Skolnick, a law professor at the University of California, Berkeley, who has studied the corruption threat.

Hubert Williams, president of the Washington-based Police Foundation, a police research and advocacy group, said the amount of drug corruption is "frightening—the power of the drug cartels to corrupt and influence law enforcement officials and political figures is clear."

While there are no exact figures, researchers say there are now more than 100 cases each year in state and Federal courts in which law enforcement officials are charged or implicated in drug corruption. Law enforcement officials note that the amount of cocaine coming into the country has soared from 1,872 kilograms in fiscal year 1981 to 35,970 kilograms in fiscal 1987, and that almost half of all cocaine confiscated on its way into the country enters in small planes like those that fly into Georgia nearly every night.

They say the only comparable period in this century was prohibition, when several big-city police departments came under scrutiny for corruption involving gambling and the sale of illegal liquor.

The experts say the ways to stop drug corruption are not exotic: Stricter supervision of narcotics investigations; better recruitment and hiring procedures, and efforts to combat the cynicism of drug agents who believe that their work is undermined by an inefficient and overburdened criminal justice system.

But some specialists warn that even with a broadened commitment to anticorruption measures, the problem may be insurmountable.

"The money that's being offered by the drug dealers is so big it is just hard to visualize," said William Green, assistant commissioner for internal affairs at the United States Customs Service.

COPS GONE BAD: TRUST IS A VICTIM

In some cases, the damage, as well as the potential damage, to law enforcement efforts is remarkable.

In Miami, where the city's police department is the focus of a big Federal narcotics-corruption investigation, there were reports that some law-abiding residents were hesitant to open their doors to police officers who do not produce a warrant.

Dozens of officers in Miami's 1,000-member Police Department have come under investigation for narcotics trafficking. The most important Federal inquiry in Miami dates back to July 1985, when, according to prosecutors, 16 officers raided a smugglers' boat on the Miami River and stole 900 pounds of cocaine; three men guarding the boat jumped into the river and drowned, the authorities said. The officers were charged with a variety of crimes.

In New York City's most far-reaching police corruption scandal in nearly two decades, 13 current and former officers of the 77th Precint in the crime-ridden Bedford-Stuyvesant neighborhood of Brooklyn have been charged or convicted of wrongdoing, much of it related to drugs.

In one of the New York trials, prosecutors played a tape for jurors in which two plainclothes officers assigned to the 77th could be heard barging into the apartment of a suspected drug dealer, taking marijuana and selling packets of the drug to unsuspecting customers who arrived at the door. The officers kept the money. One of them could be heard to boast, "All in all, a very profitable evening."

In the District of Columbia, local prosecutors announced last fall that they would dismiss 300 to 400 drug cases because of fears that the investigations were tainted. The announcement came shortly after disclosure that the F.B.I. was investigating corruption in a 12-officer vice squad in the District's police department.

THE RURAL ROUTE: BUYING THE SHERIFFS

Nor is drug corruption limited to the big cities. To an extent that law enforcement specialists describe as startling, bribery and other forms of drug-related corruption have begun to infect law enforcement agencies in small towns and rural communities.

Law enforcement officials say that on clear nights, residents of southern Georgia can lie in bed and listen to the hum of small planes, stuffed with cocaine and marijuana, flying in from the Bahamas, Mexico and Central America.

The planes began coming in large numbers in 1981 and 1982, when Federal authorities began a crackdown on drug shipments in Florida. Narcotics traffickers directed the planes instead to Louisiana, Alabama, Mississippi, Texas and especially southern Georgia, which became popular for air drops because of its flat terrain and the hundreds of small, isolated airfields that dot the state.

"A lot of our problems are based on our location," said J. Robert Hamrick, director of the Georgia Bureau of Investigation, the state's chief law-enforcement agency. "It's a perfect location, near the source countries. They can usually fly to Georgia without having to refuel, and it takes but 30 seconds to unload a plane," putting the cargo into cars bound for drug brokers in Florida.

One small airfield in rural Morgan County, Ga., became so popular among drug dealers that it was nicknamed Kennedy International by the state police. A number of smugglers do not even bother with an airstrip, choosing instead to land their planes on stretches of abandoned highway—sometimes, officials say, after sheriffs and deputies have been paid large sums of money to look the other way.

"They can get a fee of $50,000, maybe $100,000, for just sitting there and doing nothing," said Ron Caffrey, special agent in charge of the Atlanta office of the Drug Enforcement Administration. "And believe me, most Georgia sheriffs don't make $50,000 in a year."

In the most recent corruption case, Sheriff Ernest Wyatt Forrest of Crisp County, Ga., was arrested last December on drug smuggling charges following an elaborate sting operation, what Crisp County Administrator W. D. Coff dubbed "Miami Vice comes to town."

According to Federal prosecutors, the 57-year-old sheriff was led to believe he would be paid $60,000 for allowing a planeload of marijuana to be transported through the county.

Shortly after the plane landed on Dec. 16, Sheriff Forrest was taken into custody and charged with conspiracy to transport half a ton of marijuana. The plane, authorities said, was actually filled with peat moss.

Cordele, the Crisp County seat, is a town of 13,000 people that calls itself "The Watermelon Capital of the World." Its churches outnumber its liquor stores five to one. But The Cordele Dispatch portrayed a darker side to the town when it said in an editorial in February that the Forrest case was a "bottomlesss pit," adding, "We have a nagging feeling that there are still those involved in law enforcement and yet unnamed who are connected to the drug scene."

Law enforcement officials in Georgia say they are concerned that drug corruption may soon spread. Gary M. Garner, who oversees drug investigations for the Georgia Bureau of Investigation, said that he would next look for new drug corruption problems "in the statehouse or in the Legislature."

He said he could foresee efforts by drug smugglers to bribe lawmakers, encouraging them to slash the budget of law-enforcement agencies involved in narcotics cases. "When we sit down and drink a few beers, we think about what could happen," Mr. Garner said. "We worry about it."

THE FEDERAL CASE: MONEY AND HONOR

There is also growing concern about drug corruption at the Justice Department and elsewhere among the men and women involved in Federal law enforcement.

In 1986, a former member of the Justice Department's Organized Crime Strike Force in Boston was found guilty of conspiracy charges involving the sale of confidential information to a marijuana smuggler. According to prosecutors, he sold secrets, including the identities of government informants, in exchange for $210,000.

The Federal Bureau of Investigation was stunned three years ago when an 11-year veteran agent, Dan A. Mitrione Jr., confessed to selling cocaine and agreed to turn over money, real estate and other property worth nearly $850,000. He also acknowledged stealing more than 90 pounds of cocaine from a shipment seized by the F.B.I.

The Enemy Within: Drug Money Is Corrupting the Enforcers

Federal agents said they seized nearly $650,000 in cash last year from a part-time customs inspector, Jose Angel Barron, who worked at a border checkpoint in San Ysidro, Calif. Mr. Barron is now awaiting trial on charges of bribery. According to prosecutors, he was paid nearly $50,000 for each marijuana-packed automobile that he allowed to cross into the United States from Mexico without inspection.

Perhaps no Federal agency has been so stung by drug corruption as the Customs Service. In the last three years dozens of its employees have been prosecuted or disciplined on corruption charges—yet the Customs Service has won wide praise for an anti-corruption program that has become a model within the Federal Government.

In 1986, the service, recognizing that inspectors at the nation's borders would be obvious targets for drug corruption, launched Operation Clean Sweep, the largest anti-corruption program in the agency's history.

As part of the operation, 35 customs agents from throughout the country were assigned to work with 15 internal affairs specialists to ferret out corruption, using undercover investigations if needed.

By the end of the investigation, 20 customs workers, most of them inspectors, had been charged with crimes; another 60 workers were subjected to disciplinary action that ranged from reprimands to dismissal. (The entire Customs work force number more than 16,000; nearly 5,000 of them are inspectors.)

"It was painful," said Mr. Green, the internal affairs official at Customs."We had thought of ourselves relatively corruption free; before this we had maybe one internal corruption case a year."

Mr. Green said he was convinced that Operation Clean Sweep had deterred corruption elsewhere in the agency. "It hasn't stopped, but we have seen a lessening of this sort of activity," he said.

INTERNAL AFFAIRS: POLICING THE POLICE

Authorities in the field say law enforcement agencies that are serious about countering drug corruption must use the same sorts of procedures found at the Customs Service—aggressive investigations, vigorous prosecution and, when necessary, long prison terms.

"Law enforcement officials have to be reminded again and again that corruption is going to happen and that it's going to be investigated," said Dorothy H. Bracey, a professor at the John Jay College of Criminal Justice in New York and the editor of Police Studies, a research journal. "Cops have to know that if they're corrupt, they're going to be caught, and their careers are going to be over."

Lawrence W. Sherman, a criminologist at the University of Maryland, said the commitment to rigid anti-corruption measures can be expensive. His studies show that law enforcement agencies must commit as much as 5 percent of their budgets to internal affairs investigations to be effective.

Several authorities point to the success of the internal affairs division of the Los Angeles Police Department. Even though Los Angeles is a drug transit point, the police force has gone largely without major drug corruption scandals.

Cmdr. William D. Booth, a department spokesman, said internal affairs officers in Los Angeles are taught to "react immediately to the slightest hint of corruption. If there is an anonymous call from someone advising us that a member of the department is somehow being compromised, we will devote a lot of hours to following it up."

Three years ago the department created a special 18-member unit within the internal affairs division to deal only with drug corruption investigations.

But experts say that what is most important in controlling drug corruption is the need to address the extraordinary cynicism and frustration of drug agents.

Agents, must be constantly reminded, they say, that their often-overlooked work is of value.

Gerald Caiden, a professor of public administration at the University of Southern California who has studied police corruption, said too many drug agents "don't believe that anybody cares."

"They don't believe that society supports them in stopping drugs," he said. "They don't believe that by sticking their necks out, they'll get any help. And when they give up, that's when you get corruption. Somebody, something has to change that."

In many communities, the police and prosecutors are overwhelmed by important drug cases, and prisons are so crowded that drug dealers often spend little time behind bars.

Jerald R. Vaughn, executive director of the International Association of Chiefs of Police, is one of many authorities who believe that government officials must make a new commitment to provide law enforcement agents with the proper resources, including new prisons, to deal with the growing threat of drugs.

He added: "Narcotics work by its every nature is probably the toughest assignment in law enforcement. You have officers who devote months of their time, placing their lives in danger to carry out very extensive investigations of drug dealers only to have these people walk out of jail all the time.

"Cynicism comes into play and they start thinking to themselves, to hell with it," he said.

Vast Flow of Cash Threatens Currency, Banks and Economies

(By Jeff Gerth)

Washington, April 10—The vast international trade in illegal drugs is being viewed and prosecuted not just as a criminal network but as a multinational business.

Like other businesses, it affects currencies, threatens banks and has an impact on local economies across the country.

"We've brought together the entire Government to focus on the money side of drugs, the money flows, the investment patterns," said Francis A. Keating 2d, the Assistant Secretary of the Treasury for Enforcement.

"The money is so great it is destabilizing overseas," Mr. Keating said, adding that he thought drug money "could jeopardize the integrity of U.S. financial institutions."

"The Government needs to act before it is too late," he said.

BETTER DATA IS NEEDED

While the trade in illegal drugs is now a giant economic enterprise, its exact impact and dimensions remain largely a mystery, despite repeated study over the last five years.

The need for better financial information is central to the Justice Department's strategy for prosecuting drug suppliers. That strategy is now focused on seizing traffickers' assets, but investigators have difficulty locating their holdings in the United States.

Though there are no public statistics, the latest intelligence estimates, according to Mr. Keating, place the annual gross revenues generated by all narcotics sales in the United States between $60 billion and $120 billion. The broad range in itself reflects part of the problem of measuring drug finances.

The drug industry is far from a monopoly. There are independent entrepreneurs, such as marijuana producers or street sellers of cocaine. There are also well-organized groups, like the Medellin organization, which control such segments as the production and distribution of cocaine.

MAKING "DIRTY" MONEY "CLEAN"

Most of these groups share a problem: they must take their "dirty" or drug-tainted profits and put them someplace so they appear to be "clean" or legitimate. In general, they follow the same path: they take large amounts of the cash—most often American dollars—that is used almost exclusively to do business in the world of illegal drugs and put that cash into legal financial institutions, money instruments, investments in legal enterprises or other things of value.

The United States has imposed restrictions on the many activities drug dealers have been found to use in converting their paper money to noncash holdings in the world banking system. For instance, banks must report cash deposits of more than $10,000. But drug traffickers devise new ways to get around the laws. "Money laundering is an art form limited only by imagination," Mr. Blau said at a recent White House conference.

Federal officials agree that financial investigations are the best way to penetrate the upper echelons of the drug organizations, just as tax prosecutions proved to be an effective tool for sending mobsters like Al Capone to jail.

The top traffickers never touch drugs themselves. Underlings do the actual selling, making it difficult to prosecute the top traffickers. But it is often possible to trace a direct connection between the man and the money or the money and the drugs, if not directly between the man and the drugs.

For the last five years, American officials have made numerous, though often uncoordinated, attempts to study the laundering of drug money.

But there are many impediments to accurate data collection. Illegal money easily mingles with legal money. Illegal and legal money is quickly absorbed in the financial system of wire transfers, overnight interbank loans and the unregulated Eurodollar market, a $1 trillion playing field outside the United States.

According to Mr. Keating and his aides, with total annual drug revenues in this country between $60 billion and $120 billion and with $20 billion of that transferred abroad to pay expenses, there is a net profit of between $40 billion and $100 billion. Half of the profits are invested in legitimate businesses in the United States, and the rest are invested abroad, Mr. Keating added.

One of the techniques American law enforcement agents use to try to track illegal drug money is following cash. The consensus seems to be that traffickers tend to use smaller bills for drug sales and $100 bills for laundering the proceeds, because more money can be transported that way.

Mr. Keating has asked the Comptroller to study what happens to United States currency, especially $100 bills. Treasury data show that the percentage of $100 bills in circulation has steadily increased over the last

10 years. Almost half the $200 billion of currency now in circulation, or $95 billion, is made up of hundreds.

Several years ago Treasury officials tried to track the movement of $100 bills. They found that half the $5 billion in hundreds printed every year was shipped abroad—mostly by New York banks, a former Treasury official said—some for legitimate transactions.

But there is no normal economic explanation for the huge inventory of large bills or the need to print new ones each year, since most transactions involve checks or noncash instruments. Where these bills do play a role is in the giant international underground "black" economy, which is fueled by so-called hot money, of which drug money is one important component.

The Government's longest and biggest undercover investigations of drug money laundering—called Operation Pisces and Operation Cashweb/Expressway—ended last year. They documented cases in which Panamanian banks successfully laundered $275 million for Colombian cocaine rings in three years. About $60 million was seized in the operations, and most of the 200 defendants have pleaded guilty.

Justice Department officials estimated that in the two operations their Colombian "customers" laundered a small fraction of their proceeds with the undercover agents and were responsible for about a fifth of all wholesale cocaine sales in the United States during the three-year Pisces investigation. Using these figures, the officials then calculated that $5 billion to $7.5 billion in revenues was generated by all Colombian wholesale cocaine sales in the three years.

The trail of money in both operations began with suitcases and bags of cash brought to hotel rooms and undercover offices. The money was then deposited in accounts controlled by Federal investigators in banks in major cities. From there it was usually sent by wire transfer to Panamanian bank accounts designated by the traffickers.

One Justice official said the corruption created by drug money in Panama is systemic, extending beyond Gen. Manuel Antonio Noriega, the military leader, who is under Federal indictment in Florida on charges of drug trafficking and racketeering. Between 30 and 40 of Panama's 120 banks laundered drug proceeds in the two undercover operations, according to documents and officials. Most of these were local Panamanian-chartered banks.

Some of the drug money sent to Panama went to Colombia, often to currency-exchange houses. There traffickers trade pesos for their laundered dollars, and legitimate businessmen seek dollars to buy imported equipment. By dealing in cash, the businessmen avoid tax and reporting requirements, a Justice official said.

[From the New York Times, Apr. 12, 1988]

DRUG USERS, NOT SUPPLIERS, HELD KEY PROBLEM

(By Philip M. Boffey)

WASHINGTON, April 11.—The Federal Government's programs to control drug abuse are failing because they emphasize a futile crackdown on suppliers while neglecting the more important task of weaning the American public from its habits, according to a range of experts in the drug fight.

The Administration's crackdown on drug suppliers is by far the most costly ever conducted. The budget for drug law enforcement surged from $800 million in fiscal year 1981 to $2.5 billion in fiscal year 1988, the current year, more than tripling the funds for interdiction, investigations, prosecutions, intelligence, and international activities. This represents "the largest increases in drug law enforcement funding and manpower in the nation's history," according to the Administration's drug policy board.

But the effort has been largely ineffective, drug specialists say. "Despite record confiscations of drugs and a threefold increase in arrests of major battle field and in my opinion will continue to lose even if we pour quarter of the treasury into it."

The reason, he said, is that no matter how many drug suppliers or corrupt officials are eliminated, another 50 or 100 will be ready to take their place as long as the immensely profitable drug market remains untouched. And no matter how many fields of coca plants or marijuana plants are destroyed, there will always be yet more acreage available for planting illicit crops.

The lack of progress has made foreign officials increasingly bitter about risking their enforcement agents' lives in the drug fight when the United States appears unable or unwilling to curb the domestic appetite for drugs.

MEXICAN BITTERNESS

"Why do the deaths of Mexicans have no impact?" Mexico's Attorney General, Sergio Garcia Ramirez, asked in an interview in March, referring to the 154 Mexican police officers and soldiers killed by traffickers in the past five years. "Is it because they are Mexicans? I don't want the answer to be yes. I'm not saying that we're carrying on the battle alone, but all we get is criticism."

He also pointed out that the traditional separation between consumer and producer countries is no longer valid. "We've developed a black-and-white view of producer countries where there are delinquents and consumer countries where there are victims," he said. "This is wrong. In consumer countries, there is growing drug production for their own and foreign consumption, and there are alarming levels of laundering of drug traffickers, only a small percentage of the cocaine and a somewhat larger percentage of the marijuana coming into the country in recent years have been seized, according to a Government-sponsored study. Large quantities of marijuana is also grown within the United States.

LOST THE SUPPLY BATTLE

"Supply reduction has been an abject failure," said Dr. Lloyd D. Johnston, a social psychologist at the Institute for Social Research at the University of Michigan, who conducts an annual survey of drug use by high school seniors and recent graduates for the Government. "The supply of cocaine has never been greater on the streets, the price has never been lower, the drug has never been purer.

We've basically lost on the supply money and financing of trafficking. Similarily, in producer countries, there is growing consumption. So we're all involved in all stages."

Most experts say they believe the last best hope for controlling drug abuse in the United States is to cut the demand for drugs—by treating those who are already hooked, developing prevention programs, and, some say, throwing the full weight of law enforcement against the users of drugs, not just the suppliers.

President Reagan himself acknowledged, in a speech Feb. 29 to the White House Conference for a Drug-Free America, that "as significant as stopping smugglers and pushers is, ending the demand for drugs is how, in the end, we'll win."

NEED TO FOCUS ON DEMAND

"We really do need to focus more on the demand aspect, the treatment and prevention side," said Chauncey Veatch 3d, director of the California Department of Alcohol and Drug Programs, who is president of the National Association of State Alcohol and Drug Abuse Directors. "We're seizing all these huge amounts of illicit drugs and yet we still have this tremendous problem."

"There is no obvious or easy solution except to reduce demand," agreed Dr. David F. Musto, a psychiatrist and historian at the Yale School of Medicine, who is probably the nation's leading authority on the history of narcotics control in the United States."

To be sure, the Administration for many years now has been calling for a drug-free society and has exhorted the nation's youth to abstain from drugs. The foremost symbol of that concern is Nancy Reagan's frequent appeals to "Just say no" to drugs. These have been highly effective, Administration officials say, in helping to shift public attitudes against drugs. But the Administration's leadership has been primarily rhetorical. The overwhelming proportion of Federal dollars and manpower has been channeled into the fight to eliminate supplies.

THE DRUG PROBLEM: A BRIEF HISTORY

The call for a change in emphasis comes at a time when drug use in the United States remains high but is clearly receding from its recent peaks.

The drug problem emerged over the past three decades with explosive force. In the early 1960's only a handful of people in the nation—perhaps 2 percent of the population—had ever tried illegal drugs. Then came progressive waves of marijuana use in the 1960's, heroin in the 1970's, and cocaine in the 1980's, augmented by ripples of LSD, Quaaludes, PCP, amphetamines, barbiturates and inhalants, among others. By 1985, 37 percent of the population over the age of 12—some 70 million people in all—had used an illegal drug at least once, and 12 percent of the population—some 23 million people—were current users, according to projections from a Government-sponsored national household survey.

"An enormous number of people have at least tried drugs," said Edgar H. Adams, head of the division of epidemiology and statistical analysis at the National Institute on Drug Abuse. "It's incredible."

WHY THE UPSURGE?

Just why the surge occurred is a mystery. One leading theory, espoused by Dr. Musto, is that drug use runs in cycles. First comes a period of growing experimentation and epidemic spread in which drugs seem tantalizing and the dangers remote, according to this theory. That period is followed by a period of growing realization of the adverse consequences, this theory holds, and then comes a period of intolerance when society turns away from drugs.

A previous epidemic of heroin and cocaine abuse followed that course around the turn of the century, Dr. Musto said, after which Americans shied away from drugs until the 1960's, by which time societal memories of the dangers of the drugs had long since faded, opening the way for a new period of epidemic spread.

But the worst of the latest drug epidemic now appears to be over. Although marijuana and hashish remain the most widely used illegal drugs, use of these drugs by high school seniors peaked in 1979 at 50.8 percent, and fell by 1987 to 36.6 percent, according to a survey of high school seniors.

Heroin addiction peaked in the early 1970's, then tapered off to a stable population of about 500,000 addicts. The age of heroin abusers has grown progressively older, suggesting that it consists mostly of long-term addicts who started their habit in the 1960's and early 1970's, and just enough new users to replace the older addicts who die or undergo successful treatment.

Cocaine use, currently the major national concern, also shows signs of tapering off. Although the number of "current users" of cocaine has increased, reaching 5.8 million in 1985, the total number of people who use cocaine in a given year appears to have stabilized, at about 12 million. Even more promising, the 1987 survey of high school seniors and young adults reported the lowest level of cocaine use since 1978.

A major uncertainty about cocaine is "crack," a smokable form of the drug that can be sold in small, cheap units, making it accessible to vast numbers of people who could not afford to inhale cocaine powder. The crack epidemic appears to have leveled off, or even declined, among high school seniors, according to the 1987 high school survey. But experts warn that it may pose an increasing threat to school dropouts and low-income users in the inner cities.

Opinions differ sharply on how devastating the drug epidemic really is. To Lois Haight Herrington, chairman of the White House Conference for a Drug Free America, drug abuse will determine "whether we continue as a great nation or whether we pass into history as yet another once-proud civilization eaten away from within." To Mr. Johnston, the social psychologist in charge of the national high school survey, "Our country has never had a period when such a large proportion of young people have been involved with illicit drugs."

By their mid-20's, 80 percent of young American adults have tried an illicit drug, he said, and by age 27, about 40 percent have tried cocaine. "We and our cultural twins in Canada have by far the highest rates of illicit drug use in the world," he said.

NOT A RAGING EPIDEMIC

But to Arnold S. Trebach, professor of justice at American University in Washington, drug abuse is not "a raging epidemic" that is "destroying" the nation. "Drug abuse is a serious problem in this country," he said, "but most people who use most drugs are not in trouble with them. They are not abusers." Instead of worrying about the tens of millions of Americans who have tried an illicit drug, he said, "I would focus on the addicts."

It is not clear how many people are in serious difficulty with drugs, because national surveys focus primarily on whether an individual uses drugs, not how much of a drug is used. The National Institute on Drug Abuse told the President's AIDS commission recently that some 6.5 million people "are severely dependent" on drugs. Dr. Terbach puts the number of addicts between 2 and 3 million.

Drugs cause far less health damage in this country than either alcohol or tobacco. In a typical year, there are only a few thousand deaths from drug overdoses and, by one estimate, a few tens of thousands of deaths from chronic health problems caused by drugs. This is far less than the 320,000 annual deaths attribured to smoking and the 100,000 or more deaths attributed to alcohol. "Drug abuse is a substantial public health problem, but an order of magnitude less than the public health consequences of alcohol and tobacco," said Don C. Des Jarlais, a top epidemiologist with the New York State Division of Substance Abuse Services. "However, it may be one of our biggest crime and social order problems."

In an effort to eliminate the corruption, violence and petty crime associated with the criminal drug trade, some specialists have urged that at least some of the drugs that are now outlawed be made available legally, either on the open market or by prescription for addicts. Supporters of this idea, which has been raised periodically, suggests that such a move would undercut the mob's profits and decriminalize a significant part of the business.

WHAT THE OPPONENTS SAY

But opponents of legalization argue that it would inevitably increase the number of drug users, generating enormous health damage that would undercut the gains from elimiating criminal drug trafficking. Legalization remains a topic of scholarly debate but has no serious political support.

Despite overall trends indicating that drug use is declining, the adverse health and social consequences of drug abuse—medical emergencies, death by overdose or disease, addicted babies, crime and violence—continue to soar.

Cocaine-related hospital emergencies almost tripled over a four-year period, from about 5,200 in 1982 to about 14,000 in 1986. Most experts attribute the rise partly to the fact that these emergencies are caused by the cumulative effects of past drug abuse. And hanging over every addict who injects drugs with needles that are shared with other addicts lies a new specter—AIDS, or acquired immune deficiency syndrome.

"You can make a pretty good case that things have never been worse," said Dr. Donald Ian Macdonald, administrator of the Alcohol, Drug Abuse and Mental Health Administration and special assistant to the President for drug abuse policy.

FEDERAL POLICY: LOOK FOR DOLLARS

In its oratory, the Administration has often claimed that demand reduction was its primary strategy to combat the drug menace. At a March 1981 press conference, President Reagan, then new to his job, called it "virtually impossible" to halt drugs at the nation's borders because "it's like carrying water in a sieve." Instead, he said, "It's far more effective if you take the customers away than if you try to take the drugs away from those who want to be customers."

These declarations have seldom been backed with enough money. "These people say one thing and they do another," complained Karst J. Besteman, executive director of the Alcohol and Drug Problems Association. "You have to look for the dollars. That's where the real policy is."

For its first six years in office, the Administration poured most of its resources into law enforcement programs intended to disrupt supplies and prosecute suppliers while providing smaller increases for prevention and actually reducing the money available for treatment.

Then, in 1986, after cocaine killed an All-American basketball player, Len Bias, and a professional football player, Don Rogers, an outburst of public concern led to passage of the Anti-Drug Abuse Act of 1986, which provided a tenfold increase in spending for prevention and treatment, plus an even bigger dollar increase for drug law enforcement.

$2.5 BILLION FOR FISCAL YEAR

In the current fiscal year, drug law enforcement programs are receiving $2.5 billion, far above the $940 million allocated for treatment and prevention. The President's budget proposal for next year, fiscal 1989, would further increase the disparity.

Administration officials justify the disparity by asserting that much of the law enforcement work, such as border interdiction, Coast Guard patrols, the eradication of foreign fields, and investigations of major international criminals, has to be supported by the Federal Government, while most of the prevention and treatment work is primarily a state, local or private responsibility, or often a family's own responsibility."

Dr. Macdonald said the Federal Government has always played "a relatively minor role" in drug treatment programs, which are primarily supported by the states. "I think there is a large unmet treatment need in the country," he said, "but the ball is now in the states' court."

That is not accepted by critics who contend that the Federal Government has a responsibility to provide money to combat a problem that is supposedly a top national priority.

The principal focus of the Administration's demand-reduction strategy, Dr. Macdonald said, has been to change the public's knowledge and attitudes about drugs, with Mrs. Reagan's repeated advice to youngsters, "Just say no," leading the way.

JUST SAY NO CLUBS

White House officials say the campaign's effectiveness can be seen in polls and surveys showing a growing disapproval of drugs and a growing acceptance of such steps as urine testing in the workplace to detect drug users. They also say Mrs. Reagan's example has helped stimulate the formation of some 8,500 to 10,000 Just Say No clubs, which teach youngsters to refuse drugs and resist the social pressures toward drug abuse.

But others are skeptical that her campaign has had much impact on the young people who are most at risk of turning to drugs, such as school dropouts and minorities who may not look to the First Lady as a role model. A December 1987 report on Drug Abuse Prevention by the General Accounting Office, a Congressional investigating agency, concluded that "the federally endorsed and widely publicized 'Just Say No' program, likely to be utilized by many states and localities, has not yet been evaluated, and there are uncertainties about its applicability to all segments of the population and its long-term benefits."

FEDERAL FUNDING: WHO GETS WHAT

The bulk of the Government's prevention funds has been allocated to the Department of Education to support the development and use of drug education programs in the schools. The department has distributed a booklet, "Schools Without Drugs," that recommends strategies to prevent drug experimentation and offers clear policies against drug abuse. But Education Secretary William J. Bennett has been openly skeptical that much of what passes for drug education has any value.

"I know there is a modest kind of sweet faith on the part of some that if you have a drug education course, young people will change their minds," he told the House Select Committee on Narcotics Abuse and

Control last June. "In fact, there's no evidence that that's the case at all." The department has been trying to identify schools that appear to have effective programs and find ways to hold schools accountable for assessing their drug education programs.

But analysts are dubious that the campaign, which seems to have been forced upon a reluctant Education Department, is paying off in a major way. "It's highly unlikely that anything was accomplished," said Peter Reuter, a drug policy expert for the Rand Corporation.

The General Accounting Office found "considerable uncertainty about what works to prevent drug abuse." The traditional strategies used over the last 15 years either sought to increase one's knowledge of drugs and their adverse consequences or sought to increase self-esteem and social development to lessen the need for drugs. Although these programs often did increase knowledge, the G.A.O. said, "few had demonstrated any degree of success in preventing drug abuse."

Now hopes are shifting to some of the tactics used in weaning nicotine addicts off their smoking habit. Young people are taught to resist peer pressure to take drugs, and instead to form their own social pressure groups in favor of drug-free living, and to make public commitments not to use drugs, among other tactics.

"The success stories in prevention are beginning to come in," said Dr. Charles R. Schuster, director of the National Institute on Drug Abuse. "Peer resistance strategies have worked well for tobacco. They have worked less well with alcohol and marijuana. But I suspect when everybody is singing from the same song sheet, it will probably make a difference."

TREATMENT: WHAT WORKS?

Treatment programs rest on a more secure knowledge base than prevention programs, but here too there is disagreement over their effectiveness. The four principal treatments include detoxification, which helps addicts through withdrawal; methadone maintenance, which provides a more benign drug for heroin addicts; outpatient counseling and family therapy; and drug-free therapeutic residences.

"Treatment works, but only for people who stay in treatment," Dr. Schuster said. "Unfortunately, only about 20 percent of those who need treatment are in treatment programs."

Although there was a surge in treatment programs during the early 1970's, growth later slowed and failed to keep up with the rise in drug abuse. In many cities, addicts who seek treatment must wait weeks or even months to enter a program. There are only about 30,000 slots in methadone maintenance programs in New York City to meet the needs of more than 200,000 heroin abusers, according to city officials.

Most experts agree that, if the nation wants to make progress against drug abuse, it must minimally provide treatment for all those who seek it, and might maximally seek to entice virtually all addicts into a treatment program. The President's AIDS Commission recently called for a national policy of "treatment on demand" for an estimated 1.3 million intravenous drug abusers at risk of spreading AIDS. It urged expenditures of $15 billion over 10 years—half Federal and half state or local—to expand drug treatment services, construct 3,300 new treatment centers, and train 32,000 new drug workers. The likelihood that the Reagan Administration, nearing its end and faced with large budget deficits, would suddenly pour more money into drug treatment was deemed slight.

Increasingly, Administration officials have sought to reduce demand by "forceful and swift" actions targeted at the users, including arrests, fines, seizure of property, forfeiture of drivers licenses and other privileges, drug screening in the workplace, and compulsory work, education or even jail for offenders.

In a Feb. 29 speech to the White House Conference, Mrs. Regan blamed casual users for creating a climate of acceptance for drugs and for financing the bullets that have murdered foreign drug officials and American narcotics agents. "We must be as adamant about the casual user as we are about the addict," she said, adding, "If you're a casual drug user, you're an accomplice to murder."

For those who subscribe to the cyclic theory of drug use, this showed that the intolerant phase of the latest epidemic had clearly arrived, signaling perhaps its inevitable decline.

Mr. PELL. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield 7 minutes to the distinguished Senator from Utah and more than that if he needs it.

Mr. HATCH. I thank my dear colleague from North Carolina.

I appreciate this opportunity to speak on at least one of these resolutions.

Mr. President, on February 22, the Treasury, Postal Service Subcommittee of the Senate Appropriations Committee held a day of hearings to determine the extent and effectiveness of the cooperation between the Bahamas and the United States in the illicit drug interdiction effort. As you may know, that subcommittee has funded a variety of programs, including the $20 million aerostat program, designed to shut-off the Bahamas as a major transshipment point for illicit drugs entering the United States.

I am deeply disturbed by this joint resolution introduced to decertify the Bahamas for the purposes of U.S. assistance and trade benefits. This action seems uniquely ill-advised in the context of the current situation. In point of fact, the Bahamas is by the admission of those U.S. agencies most directly involved in the drug interdiction effort among the most if not the most cooperative nation of the Caribbean basin. Our Government should be encouraging not punishing that nation for its very substantial efforts in assisting us in denying drug traffickers the Bahamian route into the United States.

I strongly believe that current efforts to decertify the Bahamas are being fueled by press reports of malfeasance by high Bahamian officials. The most often repeated charge is that members of the Cabinet have accepted bribes from drug traffickers. These charges have not been substantiated in my opinion and I think in the opinion of most disinterested, or should I say objective, observers.

The Assistant Secretary of State for International Narcotics Matters testified both in the Senate and the House that there is absolutely no evidence of such corruption. The Bahamian attorney general has on more than one occasion asked our Justice Department to turn over any evidence so that investigations and, if warranted, indictments could be brought. To date, no response has been received.

I fear this joint resolution misses the point of what decertification was designed to achieve. Decertification was and is leverage that the United States can exert on nations to persuade them to cooperate with our anti-drug policies. It is not meant to be a punishment because a nation either has a drug problem or is not yet able to control the drug traffic within and around its borders. Whether it was the threat of decertification or the good will of the Bahamian Government, the point is that the Bahamas is cooperating with the United States. Although there is certainly room for improvement, great strides have been made. Decertifying the Bahamas at this point in time would truly be a case of throwing out the baby with the bathwater.

The attorney general of the Bahamas testified personally and subjected himself to hours of very tough questioning. I am unaware of any other Caribbean basin nation whose top government officials have been sufficiently concerned to take such a dramatic step.

Although impressive and effective, our appeal to you who might argue on my side is to reject this resolution and it is not based, even though it was impressive, upon the testimony of the Bahamians. Rather, it is based upon the testimony of those U.S. Government officials actually charged with the responsibility for drug interdiction. Not a single official had anything but praise for the Bahamian effort, and none of the agencies represented believed decertification should even be considered. If Congress has a policy of encouraging its neighbors to cooperate with our antidrug policies and then treats nations which cooperate and those which do not identically, that policy will soon become both meaningless and irrelevant.

The evidence is clear. The Bahamas is cooperating with the United States in the drug interdiction effort. This is the time, it seems to me, for positive reinforcement, not gratuitous punishment.

So I urge my colleagues to reject this joint resolution with regard to the Bahamas and the people there.

I do not take second seat to anybody in this body in our fight to try to stop drug trafficking and the transportation and transshipment of drugs all over this hemisphere or anywhere else that affects our country or really anywhere else. I really believe this would be a marked injustice. It is not the message to send. I think the message to send is we appreciate the cooperation, we appreciate the efforts that are being made, we are going to cooperate with you and we are going to work with you, and we are going to stop this dreaded drug traffic in a way that really has meaning rather than just doing something that has, it seems to me, the wrong message, the wrong meaning, and the wrong approach.

So I hope our colleagues will take that into consideration, and I hope that we can defeat this joint resolution because it deserves to be defeated.

I believe my distinguished colleague from Arizona who has arrived on the floor is one of the leading Senators and one of the leading Members of Congress in fighting the abuse, the use, and the dissemination and transshipment and trafficking of drugs in this country.

There is nobody in this body, in my opinion, who does more to try and resolve these problems and difficulties, and I think I may be a close second.

All I can say is that I feel he probably feels the same way that I do that this is not the thing that should be done at this time, especially when we have the kind of upright cooperation that we are getting from the Bahamians. I have no doubt that there are people there who probably are doing wrong, but the leadership of that country as far as I can see, as far as I have looked into it and as much as I have listened to the leaders of our country, are doing what is right and we ought to be encouraging to them not discouraging to them. And that is what this joint resolution does. I hope that we will vote it down here today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI], is recognized for 10 minutes.

Mr. DECONCINI. Mr. President, I rise in opposition to this resolution. I do so with a very clear mind. I am absolutely convinced though that this process is a very good process to go through and one that we should, as we are now, discipline ourselves to proceed with, looking at the cooperation or noncooperation of identifiable countries that have a history of being involved in transshipment, production, and the criminal activities related to narcotics.

That is what we are talking about here with the Bahamas. And, if I am correct, we are on that particular recommendation from the Foreign Relations Committee that has voted out a resolution to decertify the Bahamas.

Mr. President, if we take this action, it is going to be a huge mistake. The purpose of this process, as I see it, is to encourage nations to take positive, dynamic steps to cooperate with the United States to do something about curtailing the amount of drugs that come into our country and leave their country.

Now, what has the Bahamas done? They have done more, in this Senator's judgment, than any nation that I know of.

Now I must say that some nations have responded to the United States very favorably. One of those nations was Bolivia, that literally asked for military support to go down to that country and to work with their military to attempt to eradicate some of the coca fields in that country.

Colombia, that nation has got problems that are just out of control. When you see the devastation that the drug cartel has put on to that nation. They have tried to cooperate with us on one or two extraditions and some radar facilities and some other items.

But the Bahamas have gone overboard. They have signed a Mutual Legal Assistance Treaty. The United States signed that treaty. We waited and persuaded the Bahamian Government to ratify that treaty and put forth the implementing legislation, which they did as of March 29, 1988. The United States has not implemented that treaty or approved it yet. It is before the Foreign Relations Committee. So certainly it is not their fault that the treaty is not intact today.

That treaty does a number of things. It permits us to coordinate efforts. It is very, very important to the overall relationship and cooperation with this nation.

Now, it is important to note, Mr. President, that the Bahamas have cooperated fully with the Coast Guard, with the Drug Enforcement Administration, with our State Department, and of course, with the Customs Service. In the Coast Guard, Admiral Yost has written a letter to me, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, DC, April 12, 1988.

Senator DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I am writing to express my concern over current Senate Foreign Relations Committee action. On April 12, 1988, that committee reported out a resolution disapproving the President's determination that the Commonwealth of the Bahamas was cooperating fully with the United States, or was taking adequate steps to control narcotics production, trafficking, or money laundering. From the standpoint of the Coast Guard's operational relationship with the Bahamas and, in particular the Royal Bahamian Defense Force, I fully support the President's determination.

Coast Guard maritime operations have been on going in the vicinity of the Bahamas for many years. The USCG and Royal Bahamian Defence Force operational arrangement has just been renewed for two years as an agreement with the Bahamian Government. It provides for the embarkation of Royal Bahamas Defense Force members aboard selected Coast Guard cutters operating in the vicinity of the Bahamas. The agreement has been expanded to permit the embarked Royal Bahamian Defense Force members on Coast Guard cutters to authorize law enforcement action by the Coast Guard against U.S., stateless and third national vessels in Bahamian territorial seas. Additionally, Coast Guard aircraft will continue to be granted blanket permission to overfly Bahamian territory. In isolated areas of the Bahamian island chain, when RBDF members are not available, and in exigent circumstances, the Bahamian government has agreed that Coast Guard cutters can enter Bahamian territorial waters for investigation of suspected illegal activity by U.S. vessels. This understanding, evidencing a spirit of cooperation, is intended to avoid the time delay involved in obtaining consent. It is extremely useful in combatting fast-breaking operations.

Additionally Coast Guard drug interdiction efforts in the Bahamas include participation in Operaton Bahamas, Turks, and Caicos (OPBAT) a joint U.S.-Bahamian operation. The Coast Guard operates helicopters sited at Nassau, on a 24 hour basis. They carry Royal Bahamian Strike Force personnel to remote locations to respond to reported smuggling operations. The Coast Guard/RBDF portion of this joint operation has resulted in 74 arrests, and seizure of approximately 15,000 pounds of cocaine and 46,000 pounds of marijuana in FY87 and FY88, to date.

In summary, our relationship with the Bahamas in the drug interdiction program is superior to any other country. We enter their air space without clearance; we carry their personnel on our ships and aircraft; we have agreements to establish facilities on their islands; and we seldom ask for cooperation that we do not get. At this time, I see only disbenefits to our operation if the President's determination is not approved. I urge defeat of the Committee's resolution.

Sincerely,

P.A. YOST,
Admiral, U.S. Coast Guard,
Commandant.

Mr. DECONCINI. I would like to read the last paragraph of that letter. Admiral Yost, Commandant of the U.S. Coast Guard, says:

> In summary, our relationship with the Bahamas in the drug interdiction program is superior to any other country. We enter their airspace without clearance; we carry their personnel on our ships and aircraft; we have agreements to establish facilities on their islands; and we seldom ask for cooperation that we do not get. At this time, I

see only disbenefits to our operation if the President's detemination is not approved. I urge defeat of the committee's resolution.

Mr. President, I ask unanimous consent to have printed in the Record a letter from William von Raab, the Commissioner of Customs. It is self-explanatory. It indicates the importance that we not cutoff our nose to spite our face; that we do not shoot ourselves in the foot. We have to realize what is happening in the Bahamas.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Commissioner of Customs,
Washington, DC, April 14, 1988.
Hon. Dennis DeConcini,
U.S. Senate,
Washington, DC

Dear Senator DeConcini: I am deeply concerned over the recent recommendation to decertify the Bahamas under Section 481 (h) of the Foreign Assistance Act. In fact, I am opposed to the decertification of the Bahamas, for to do so would severely impact on our ability to maintain effective enforcement operations in the area. The central strategic location of the Bahamas is critical to our enforcement efforts, and decertification would seriously hinder our capability to intercept cocaine air drops. As you are no doubt aware, a large percentage of cocaine entering the United States is transshipped through the Bahamas.

A joint operation called "OPBAT", an effort with the Bahamian Government, U.S. Customs Service, Coast Guard, and the Drug Enforcement Agency, began on September 2, 1986. It has been very successful and is essential to drug interdiction efforts in the Bahamas. This effort is widely known by the smuggling community, and serves as a deterrent to air-borne smugglers in the northern Bahamas. The Bahamans have demonstrated operational cooperation, and this is critical to our drug interdiction successes.

The cooperation we have received in our day-to-day interdiction operations from the Bahamas is far greater than from any other country in the Western Hemisphere. I believe that decertification of the Bahamas would send an unfortunate message to other countries from whom we need cooperation.

Yours faithfully,
William von Raab.

Mr. DeCONCINI. Mr. President, what is happening in the Bahamas? We are working to put in a major docking facility there. It is under construction now. That is going to permit deepwater Coast Guard ships to be docked there for our people to be housed there, for total access without even Bahamian people on board. But we ask them to go on board to cruise all of their territories to stop any ships that they see fit to stop. What more can you ask a nation to do than to let your own law enforcement people be involved in the process of arresting and eradicating drug smugglers that come through their country.

The same is true with U.S. customs that operates in the Bahamas. Customs has a number of helicopters that are available. I believe it is four helicopters that are available to use in the Bahamian territory. We invite members of the national forces to go on those helicopters with us. They literally go and stop airplanes. We have a fleet of aircraft that is also prepared and flies the Bahamian territory with impunity, with no restrictions at all, with personnel from the Bahamian defense forces on board. As they detect aircraft coming in that are suspect, they follow them. They even land behind them. The Bahamian defense force people make the arrest.

We have, it is estimated, as many U.S. law enforcement people in the Bahamas today as the Bahamians have trying to stop drugs. Now, I do not know what else you can do.

You look back at history and certainly you cannot ignore what has happened. And the Bahamas have not ignored that. The Attorney General from the Bahamas came up to the Treasury Appropriations Subcommittee here and testified before our subcommittee. He answered questions on corruption. He said, "You give me information." There was one case—one case that will be discussed I am sure—that Nigal Bowe has not been extradited because of their legal process. He has indicated, the Attorney General, time and time again that he would cooperate with our Attorney General. He has asked not only Senators but our own Justice Department to turn over information on any officials involved in corruption. I believe that. I have no evidence to indicate that our Justice Department has turned over information that they have not responded to.

Mr. President, I am truly hopeful that we do not move in the wrong direction. That direction would be to encourage, entice, to pressure our neighbors to cooperate with us and when they cooperate, in my judgment, in a full capacity, we cut them off because there is still drugs coming through that country.

Is that bad for business? Sure it is. Its business will be hurt. They are friendly to the American people. They like us.

There has been a problem in that country. We have one aerostat balloon flying there now that gives 24-hour radar and another on the way. Let me give you just an example of an operation launched by Customs last year in the Bahamas with the approval of the Bahamian Government.

The island of Bimini, in the Bahamas, serves as a major transshipment point for drugs coming into the United States. What would happen is that cocaine would arrive from South America by air, and it would be loaded in Bimini. Smugglers would then use fast boats to deliver it into south Florida.

I have been there. I have seen those fast boats.

The Coast Guard is permitted to penetrate their territory with our fast boats. We have been able to slow them down.

Customs is allowed to have fast boats there to monitor and wait in Gun Cay, which is the island located near Bimini. With that very strategic location Customs has been able to completely shut down the smugglers moving through Bimini. It has also forced the traffickers further south, causing them to travel a greater distance with more logistic problems, and making them easier to detect because they have a longer course to follow when they come in in their fast boats, easier for us to detect both with radar and from boats that we have on the high seas there.

I do not know what more we can ask. Surely, they can do more and we must continue to request that they continue to cooperate and they continue to prosecute those that are under investigation. But, Mr. President, if we are foolish enough to decertify a country that has responded exactly as we have asked them to do in a most positive way, I think we would be making a big mistake and I urge my colleagues not to approve this decertification resolution before us.

The PRESIDING OFFICER. The 10 minutes of the Senator has expired.

Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, I am delighted to yield to the distinguished Senator from Pennsylvania such time as he may require.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. Specter, is recognized.

Mr. SPECTER. I thank the distinguished Senator from North Carolina.

Mr. President, I support the resolution of decertification because I believe that on this state of the record the evidence is compelling that the Bahamas have not taken sufficient action against the flow of drugs from that country to the United States.

There have been arguments offered on both sides of this issue, Mr. President, but the controlling consideration for this Senator is that evidence is overwhelming of insufficient action by the Bahamas.

I turn, Mr. President, to the International Narcotics Control Strategy Report for March 1988, just last month, and find these facts recited.

First, United States "law enforcement agencies have estimated that 50 to 60 percent of all the cocaine and marijuana that enters the United States either transits Bahamian territory or is transshipped in the Bahamas."

Next: Within the Bahamas, "corrupt enforcement officials have not yet been vigorously prosecuted."

Next: "U.S. officials believe that large amounts of drug money continue to enter the Bahamian economy."

Next: "To date, the [Bahamian Government] has not vigorously enforced the new narcotics legislation enacted in January 1987. No court proceedings to seize or forfeit assets gained through narcotics trafficking have been undertaken during 1987." Mr. President, I think that is an especially compelling consideration, that there has been no enforcement action in 1987.

Next: The Bahamian Government "still lacks an effective system or policy to deal with official corruption."

Next: "Narcotics related corruption continues to be a problem in the Bahamas."

Mr. President, on the face of that record it seems to me that we certainly ought not to certify the Bahamas and allow it to receive more aid from the United States. We have been too timid, Mr. President, in our actions against foreign countries which have grown narcotics which end up in the United States or which permit narcotics to be transited from those countries.

We have at the present time 17 countries receiving $1.3 billion from the United States and the evidence is compelling that in many, many, many of those countries they have not done what they should to help us deal with the terrible problem of drugs in our streets and in our schools.

This joint resolution comes from the Foreign Relations Committee, recommending decertification by a vote of 10 to 6. On the face of the record that is presented in other countries, it is apparent that the Bahamas has to be very bad by comparison to have a joint resolution reported out of the Foreign Relations Committee favoring decertification and favoring it by a vote of 10 to 6, which is a rather decisive vote considering what comes out of the Foreign Relations Committee.

I believe this body ought to give a decisive presumption in favor of the recommendation of the Foreign Relations Committee on this issue. I have heard my distinguished colleagues making arguments which I give great weight to, but not sufficient to defeat the resolution of decertification.

Mr. President, I do not believe it is sufficient, even if true, that the Bahamas is doing more than any other nation. Even if it is doing more than any other nation, that is palpably not sufficient. That raises a strong argument for decertifying all of the nations which are doing less.

Mr. President, yesterday I offered an amendment to the budget resolution which passed by an overwhelming vote, 76 to 18, to reprogram certain funds aimed at prison construction and enforcement of the career criminal bill, which I transferred from the travel allowances. But I was sorely tempted, as I said on the floor yesterday afternoon, to take that $125 million as half of the foreign aid allocated to seven of the worst offenders on growing or transiting drugs which end up on the streets of the United States. And one of the countries on my list of seven was the Bahamas.

The report of the testimony of Ms. Ann Wrobleski, Assistant Secretary of State for International Narcotics Matters, shows that she felt that, "the Bahamian Government has not dealt effectively with systematic corruption, which continues to make the Bahamas attractive to drug traffickers."

Ms. Wrobleski added that the Bahamian police or armed forces personnel who have been dismissed for narcotics corruption "are not normally charged or tried in court for their offenses."

This report accompanies the generalization that there has been excellent official cooperation between the United States and the Bahamas on drug enforcement efforts. Those varieties of statements seem to be inconsistent but if there has, in fact, been excellent cooperation, it seems to me that what the U.S. Senate ought to do and what the U.S. Congress ought to do is to say to countries like the Bahamas, it is simply insufficient to have excellent cooperation for whatever it is that generalization means. We expect, we require, we demand more. We ask for effectiveness. It is not enough to have a good intention. It is not enough to be cooperative. We expect some results on what the Bahamian Government does.

When you take a look at the long list of defalcations which are specified in the International Narcotics Control Strategy Report, we should not settle for cooperation, however good that cooperation may be.

Mr. President, this resolution to decertify is unlikely to become the law of the land because under the requirements of the Chadha decision, the interpretation of the Supreme Court of the United States, it will have to pass the Senate and the House subject to a Presidential veto and then have to be overriden by a two-thirds vote of the Congress. On this state of the record it appears to me that enactment is unlikely to occur.

But notwithstanding that factor, I believe the Senate ought to be resolute today and ought to put the Bahamas on notice and ought to put all of the 17 countries on notice, those 17 countries which receive $1.3 billion, that the U.S. Congress is sick and tired and fed up with the growth of drugs in those countries and with the transit of drugs from those countries and that we are not going to take best efforts and we are not going to take full cooperation. We are going to expect, demand, and accept only effective results.

That is why I intend to vote in favor of this resolution of decertification. I hope my colleagues will join me. I thank the Chair. I thank, again, the distinguished Senator from North Carolina for yielding the time to me, and I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield time to the able Senator from Virginia such time as he desires.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. TRIBLE. Mr. President, I am a cosponsor of this joint resolution and share the belief that the Bahamas has failed to cooperate fully in the antidrug war. Indeed, the story of the Bahamas during 1987 was one of drug laws unenforced and corruption unpunished.

The Bahamas continues to serve as a transit point for more than half of the cocaine and marijuana reaching the United States. And while drug seizures have increased, other law enforcement efforts have stalled. The Bahamas enacted new antidrug laws in January of last year, but our own State Department admits that they have not been vigorously enforced.

For example, little effort was made during 1987 to seize the profits of drug traffickers. The State Department's narcotics control strategy report indicates:

> No court proceedings to seize or forfeit assets gained through narcotics trafficking have been undertaken during 1987.

More important, the Bahamas has failed to tackle the problem of drug-related corruption. A few of those "on the take" have been fired or forced to retire. But they are not charged. They are not tried. They are not convicted and punished for their wrongdoing.

Again, the State Department report notes:

> Narcotics-related corruption continued to be a serious concern in 1987, with few investigations or prosecutions of corrupt officials taking place.

Mr. President, that is no way to win the battle against public corruption. And the war on drugs simply cannot be won when criminal practices go unpunished.

In my judgment, the Bahamas has failed—for the second year in a row—to carry its share of the burden in the antidrug effort. Last year, the Senate voted not to overturn the President's certification that the Bahamas had cooperated fully. We gave the Bahamas more time, the benefit of doubt, but we did signal the Government of the Bahamas that we expected more. Now another year has passed, a year of missed opportunities, a year of inaction. I urge that we pass this joint resolution, and pass it decisively.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. DeConcini). The Senator from Rhode Island.

Mr. PELL. I yield such time——

Mr. KERRY. How much time do we have, Mr. President?

Mr. PELL. All you want.

The PRESIDING OFFICER. Thirty-six minutes remaining on the side of the Senator from Rhode Island.

Mr. PELL. I yield 10 minutes to the Senator from Massachusetts, a cosponsor of the joint resolution.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know as we approach this issue, there are questions among many of our colleagues about the standard that we apply. I know the distinguished Presiding Officer will be joining me on the question of Mexico, and that we have a difference of opinion on this particular resolution. That is because there is certain latitude in the question of how we deem a country to be fully cooperating or not cooperating.

But, Mr. President, when we wrote this law in 1986, and I might remind people it was written in the midst of the election fever, people were anxious to try to respond and do something about drugs. Many a Senator, by virtue of passage of this law, gained the capacity to go back to their State and say: "Look what I have done about drugs. We are going to be tough. The United States of America is going to be tough. We are going to hold countries accountable to a certain standard of behavior and that standard of behavior will require that each country with whom we enter into agreements or assist financially, that we are going to take a judgment as to whether or not they are helping us fully to try to end the traffic of drugs."

Let me say at the outset, I do not think there is a Senator who has taken the floor who has tried over the course of the 4 years I have been here to be more sensitive to Central and Latin American countries and needs. This Senator has consistently asserted rights of self-determination, rights of each country in the region to make up their mind to have the right to decide their future and has steadfastly stood against the policies of this country which I believed were interventionist against the law, interventionist against both moral and political compulsions, rationale that can be justified by this country.

I do not believe that, once we have established a standard by which we will judge cooperation in order to determine how the taxpayers' dollars, our citizens' dollars, should be spent, it is interventionist or inappropriate for us to make a judgment, not about whether they are stopping the flow of drugs, but whether they are fully cooperating in the effort to help us to do so.

Yes, we have a demand problem in the United States, and that is the most significant portion of the drug problem. We must deal with the demand problem.

The cost of a crystal of crack in the schoolyards of America today is less than a Hershey bar, and the reason for that is because no country has yet joined enough in the war, even those we feel are fully cooperating.

There is more that we can do, and the reason is that it is crossing our borders in quantities never before imagined possible and which have to rise to the level of a national emergency.

When we passed this law, we really were very clear. This is not a fuzzy standard. This is not some loose discretionary standard by which you have to say: "How do I measure full cooperation?"

When we passed the law, we wrote into the law the following words as a standard for the President to judge whether a country is fully cooperating.

We said: "The President, in making this consideration"—consideration being whether to certify or not—"shall give foremost consideration to whether the actions of the Government of the country have resulted in the maximum reductions in illicit drug production or trafficking."

So we said we are going to measure whether the actions of a country have resulted in reduction in trafficking. That is standard No. 1.

On standard No. 2, we said: "Whether or not they have taken legal and law enforcement measures to enforce in their territory to eliminate to the maximum extent possible the illicit trafficking."

So, have they, in fact, stopped trafficking through their own country by their own steps? That is another standard: Whether they have taken legal and law enforcement steps necessary to eliminate to the maximum extent possible the laundering of drug money in their country. And another, whether or not they have showed a willingness to enter into mutual legal assistance agreements with the United States, governing but not limited to money laundering and drug trafficking. That standard the Bahamas did enter into and, the Senator from Arizona is correct, it is yet to come out from the Foreign Relations Committee.

We were very specific. No one is playing a game with the words "fully cooperating." It is a rational standard. We can make a judgment as rational people.

I listened to the Senator from Arizona talk about letters from the Coast Guard. I listened to how we have had some cooperation in our joint efforts. Indeed, we have, Mr. President. But this Senator remembers very well letters from the DEA to General Noriega thanking him for his cooperation, and it is clear that different agencies within the drug enforcement effort have different sets of priorities, different sets of needs.

It is true that there is cooperation between the U.S. Coast Guard and Bahamian authorities. But we have to measure according to the law that we wrote, according to our responsibility to the citizens in this country who are fed up with this process. We have to measure whether or not these countries are really stopping the traffic and are really taking the steps necessary.

No one, I think, is more sensitive to the diplomatic niceties of this thorny mess that we are in than the State Department. The State Department itself has given us words of authority by which to measure what is or is not happening. I want to turn to those words of authority, Mr. President. I want to read right out of the State Department's certification report. This is the report of the President of the United States to us that says here is why we are doing what we are doing, or why we are not doing what we are supposed to be doing.

I quote from page 25 of the State Department report:

> The Bahamas is still burdened by narcotics-related corruption. Moreover, much of the narcotics effort there is directed and facilitated by the United States. There is a need for independent Bahamian action.

So it is no surprise to get a letter from the Coast Guard saying we are doing a good job; they are cooperating.

Yes, they are. I heard the Senator from Arizona say that we have as many law enforcement people working in the Bahamas as the Bahamians do. That is the problem. We should not have to have as many American forces. We are doing the job, not them. And we are not able to complete the job because you do not get the finality to the process of interdiction if you cannot put them in jail, if there are not prosecutions, if there are not jailings, and if there are not seizures.

Now, page 150:

> The Commonwealth of the Bahamas remains a major transit country for cocaine and marijuana entering the United States. U.S. law enforcement agencies have estimated that 50 to 60 percent of all the cocaine and marijuana that enters the United States either transit Bahamian territory or is transshipped in the Bahamas.

Fifty to sixty percent, Mr. President. It is the same figure that last year we stood right here and debated. The figure has not changed. In fact, many people say there is more coming through. The price of cocaine in Florida per kilo has dropped down to $12,000 or $13,000 a kilo. A few years ago it used to be $30,000. Nothing could make a greater statement to the failure to interdict. But the fact is that if it is the same as the year before, our own standard that we said would apply to the Bahamas is not being applied.

The PRESIDING OFFICER. The Senator's time has elapsed.

Mr. KERRY. Mr. President, I ask for additional time as necessary. Will the distinguished Senator from Rhode Island yield me additional time as necessary?

Mr. PELL. Yes. I yield an additional 5 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, could I ask for 10 and try to hold to that?

Mr. PELL. How much time remains?

The PRESIDING OFFICER. There is 26 minutes remaining on the side of the Senator from Rhode Island.

Mr. PELL. I yield an additional 8 minutes.

Mr. KERRY. Mr. President, reading from page 151:

> Despite the very positive operational relationship and official climate of cooperation, narcotics-related corruption continues to be a problem in the Bahamas. The Government of the Bahamas has not dealt effectively or in a comprehensive fashion with systematic corruption which continues to make the Bahamas attractive to drug traffickers.

Page 150 states the fact that last year two of the principal people who were identified in the 1984 commission of inquiry report for being involved in drug smuggling were nominated by the progressive liberal party for seats in parliament.

Page 154:

> Much more needs to be done in order to discourage traffickers from operating in the Bahamas, including the energetic enforcement of tough antidrug laws. . . .
>
> To date, the Government of the Bahamas has not vigorously enforced the new narcotics legislation enacted in January.

And I emphasize this, Mr. President.

> No court proceedings to seize or forfeit assets gained through narcotics traffic have been undertaken in all of 1987.

I quote further.

> The lack of meaningful enforcement of current statutes raises questions about actual impact of any new laws. The Government has yet to demonstrate the necessary will to go after the assets of those known to owe their wealth to drugs.

Finally, Mr. President, extradition proceedings against Nigel Bough continue very slowly. Last year, the Assistant Secretary of State for narcotics came to our committee and said to us, and I quote—and it was written in the report—"The extradition proceedings of Nigel Bough are based on specious legal grounds."

This year in the report, they merely say the extradition case continues slowly.

Now, Mr. President, I do not know what happened to suddenly take the specious legal grounds away. I do not know that after all the debate last year, after all the effort to send a message, it is business as usual. Nigel Bough continues to sit in the Bahamas and he continues to be a fugitive from American justice, and Nigel Bough has evidence that could lay open an enormous amount of information about the Bahamas.

Mr. President, further, last year I stood on this floor and talked about the highest levels of Government which have been involved in corruption. This year in the middle district of Florida in a case being prosecuted by the U.S. attorney against Carlos Lehder, one of the Medellin cartel drug kingpins, who was extradited from Colombia at great risk, I might add, to Colombians. It has been corroborated in testimony that major payoffs—I believe the sum is $400,000—was paid to the Prime Minister of the Bahamas in order to permit drug trafficking. Whole islands have been rented.

In the drug hearings that we held a couple of weeks ago, people who have been convicted of drug smuggling testified to us that from their knowledge of people still involved in trafficking, the Bahamas continues to be as wide open as it has been before.

Mr. President, we have to stop kidding ourselves. Drug-convicted smuggler after convicted smuggler has told us that cocaine and marijuana is garbage down there. It does not gain its supervalue until it gets up here. So you can seize all you want. You can have arrests all you want. And you can fake yourselves into believing that you are really interdicting and that you are really having an impact. But the fact is unless these governments are willing to put people in jail, unless they are willing to prosecute, unless they are willing to go further in the effort to stop the flow of drugs, we are going to be fighting an endless uphill battle. I think we have every right in the world to make a judgment about whether or not we are going to fund those kinds of continued corrupt efforts with our tax dollars simply because of so-called diplomatic niceties and people's unwillingness to carry a slightly larger stick in this particular case.

Finally, Mr. President, let me say as to this issue of whether or not it is appropriate for us at this time to take this action, I cannot think of an action that is more necessary. We have heard year after year how these countries will change, but they will not change until we make clear what we can do.

This does not deprive the Bahamas of any drug money that they may need from the United States to combat drugs if they are serious about it because all the President of the United States has to do under the law is certify that as a matter of national interest for the United States it is important to continue that assistance.

That is what we did in the case of three other countries, but we did not do it where we most importantly ought to be doing it. So the President and the country can be well served by making clear that as to full cooperation, we are not going to fake out the American people, we are not going to fake out ourselves, and we are not going to let them believe that they continue with business as usual.

We can decertify them on the issue of whether or not they fully cooperated. At the same time we can have the best of both worlds by guaranteeing that if they truly want to cooperate by virtue of the national interests of certification the President can guarantee that money continues to flow and that we continue to fight narcotics with them.

I have heard my colleagues stand on the floor and say, look, if you decertify them then you are going to lose their cooperation. Mr. President, if this cooperation is so fragile that the only reason we have it is to be applied to the United States to pretend that somehow they are cooperating so they can get money from us, we have truly lost our minds.

If they are going to stop negotiating and stop the process of fighting drugs because we tell them they are not doing enough, then nothing could underscore more the fact they are not serious in the first place. That is why, Mr. President, I hope the full Senate will ratify the vote of the Foreign Relations Committee to send this message to the Bahamas and to make clear that this is a turning point in the United States, that we are serious not only about doing something about demand here in this country, about casual user and serious users alike, but that they must change the standards with respect to all of our friends in all parts of the world.

I retain what time I may have remaining for later use.

The PRESIDING OFFICER. The Senator has consumed his 8 minutes. There is no time remaining.

Who yields time?

Mr. HELMS. Mr. President, I yield such time as the able Senator from Kansas [Mrs. KASSEBAUM], needs.

The PRESIDING OFFICER. The Senator from Kansas is recognized for up to 13 minutes.

Mrs. KASSEBAUM. I thank the Senator from North Carolina.

Mr. President, I rise in opposition to the Senator from Massachusetts, Mr. KERRY. I certainly appreciate and I share with him his sincere concerns about the tragedies that have been brought on by drugs here in the United States, and in the rest of the world. But I would like to answer some of the points that he raised and first by reading a couple of paragraphs of a letter sent by President Reagan to the Republican leader of the Senate, Senator DOLE.

If I may just quote, Mr. President, from President Reagan:

> We have received excellent operational level cooperation from the Bahamian Government. To date, no U.S. Government request has been denied. The Bahamas is the only country in the world which allows U.S. law enforcement units to enter its territory in hot pursuit of drug targets. These decisions reflect a political will * * * by the Bahamian Government to fight narcotics trafficking.
>
> As a result of our bilateral, cooperative efforts, there was a 300-percent increase in marijuana and cocaine seizures in 1987 compared to 1986. Last year's seizures amounted to over 24,860 pounds of cocaine and 146.5 tons of marijuana.

The letter goes on, and I will not continue with the letter, Mr. President, but only to urge others to read it because I think President Reagan in his request for the certification for the Bahamas makes some very important points, one of them being the operational level of cooperation. And I think, regarding the Bahamas, this is a very important point.

The Senator from Massachusetts raised another point regarding Nigel Bough, and this has been a problem in the extradition. But there is progress being made. The Bahamian court appeals decision has moved the case forward procedurally. It may seem to be a very slow process to us. But I think when we understand that court procedures there certainly do not work as we would wish or they might work as expeditiously as we would wish, progress is being made. I think at this juncture to send the message that a resolution of disapproval of certification is simply the wrong message to send.

Mr. DeCONCINI. Would the Senator from Kansas yield for a question or a semiquestion?

Mrs. KASSEBAUM. I am happy to.

Mr. DeCONCINI. Mr. President, I am sure the Senator from Kansas knows, but I am not sure everyone also knows, that the Bahamian Government has pending now with the United States 13 extradition cases for us to extradite people back to the Bahamas. We have not acted on them. So do not point the finger just across the ocean there a little ways, and, second, I am sure the Senator wants to point out, there are 700 islands in the Bahamas and there are only 250,000 people.

The Senator from Massachusetts thinks that is really a tragedy that we have more law enforcement people there trying to stop drugs than the Bahamians do. What more could you ask for a country with only 250,000 people with 700 islands than to let our law enforcement people roam their whole country, fly into their country, use boats in the country, put aerostat balloons and see everything that is going on in their country?

I do not know any other country that would let us do that. That is the fact. That is the case here. That is why we ought not to decertify the Bahamas. This Senator will be there for decertifying other countries that have not cooperated as the Bahamas have.

I thank the Senator.

Mrs. KASSEBAUM. I would like to thank the Senator from Arizona for making those excellent points. I simply add that I hope the U.S. Senate will not think because the Bahamas seem like a small country and perhaps their voice is not quite as influential in the court of world opinion that it will be easy for us at this point to ease our own consciences here and vote to decertify. I hope we will strongly support the President in his support for the certification.

Thank you, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. How much time remains?

The PRESIDING OFFICER. The Senator from Rhode Island has 18 minutes.

Mr. CHAFEE. I was not necessarily going to take it from that side. How much time does the Senator from North Carolina have?

The PRESIDING OFFICER. The Senator from North Carolina has 8 minutes and 48 seconds.

Mr. HELMS. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, I recognize that in this decertification process here there is a great chance to beat our chests and say we are against drugs. It is really a chance to look tough, to look good, particularly when we are picking on a country like the Bahamians where they have as was pointed out 700 islands and a population of a quarter of a million. But I would like to ask a couple of questions to see if I understood this correctly. I would like to ask the distinguished Senator from Arizona: Do I understand that the head of the Drug Enforcement Agency is opposed to this decertification of Bahama?

Mr. DeCONCINI. The Senator from Rhode Island is correct.

Mr. CHAFEE. Do I understand this action is opposed by the Commandant of the Coast Guard?

Mr. DeCONCINI. The Senator is correct and the letter has been entered here in the RECORD stating that.

Mr. CHAFEE. Do I understand from the President's letter that we are entitled to follow in swift pursuit, chase any aircraft into the territorial waters of the Bahamian Islands?

Mr. DeCONCINI. The Senator is correct. I might point out that is the only country that the United States has that right to do it because that country granted it.

Mr. CHAFEE. Mr. President, I am not sure what we are doing here. I know it is a great opportunity to appear tough, to show them who is boss, that we are against drugs all the way. So, therefore, we decertify this island, this group, country that is cooperating with us. This is an action, not just opposed by the President, opposed by the head of the Drug Enforcement Agency, opposed by the head of the Coast Guard. It just does not make much sense as far as I can see here, Mr. President. I am not quite sure why we are pursuing this route.

Mr. KERRY. Would the distinguished Senator yield for a question?

Mr. CHAFEE. I would be glad to yield.

Why do we not do it on the Senator's time?

Mr. KERRY. I do not know that we have any time.

Mr. CHAFEE. I am reluctant to do it on my time.

Mr. PELL. I would be delighted to give 4 minutes for this very interesting exchange.

The PRESIDING OFFICER (Mr. REID). The Senator from Rhode Island has yielded 4 minutes.

Mr. KERRY. Would the distinguished Senator be aware that the very same head of DEA opposes decertification on Panama?

Mr. CHAFEE. We are not discussing Panama here. I do not want to get side tracked. The matter before the Senate is the matter of the Bahamas. The head of the DEA has said as I understand it, from the testimony here, from the letter and the statements by the senior Senator from Arizona, that he is recommending that we not decertify.

Mr. DeCONCINI. Would the Senator yield for a question?

Mr. CHAFEE. Sure.

Mr. DeCONCINI. I want to ask the Senator from Massachusetts: Is the Senator from Massachusetts questioning the integrity of Mr. Lawn as it relates to the Bahamas or to Admiral Yost as it relates to the Bahamas or Commissioner von Raab as it relates to the Bahamas?

Panama is one thing, and if we made a mistake down there, we made a mistake. The Senator from Massachusetts did a great service to show that mistake. But I doubt whether the Senator from Massachusetts wants to go so far as to question the integrity of those three law enforcement officials.

Mr. KERRY. Mr. President, there is nothing whatsoever in the question of the Senator from Massachusetts that touches on integrity—nothing whatsoever.

There is, however, a significant question of judgment. This is the same head of the DEA who wrote letters of congratulations to General Noriega for his continued cooperation in the effort to stop the flow of narcotics. This is an administration that has been slow to pick up the cudgel.

All I am suggesting is that, once again, there are others who make a different judgment as to what may or may not be correct.

The letter that the Senator from Kansas read from the President of the United States is very careful to use the words "operational cooperation," and it cites seizures. But we know from testimony in front of us that more than operational cooperation is necessary. Seizures are not the measurement. The measurement, as we wrote the law, is whether or not we are stopping the flow of drugs, and that is not happening.

Mr. CHAFEE. Mr. President, I am not sure how much time I have remaining now.

The PRESIDING OFFICER (Mr. REID). The Senator from Rhode Island has about 3½ minutes.

Mr. CHAFEE. Mr. President, do I correctly understand the suggestion of the Senator from Massachusets, from his earlier comments, that what we can do is go ahead and vote to decertify the Bahamas, and then the President can come in and, under the powers he has, can recertify them by virtue of the part of the law that says that when it is in the national interest, he can certify them? Was that the argument of the Senator from Massachusetts? Did I follow that correctly or was I mistaken?

Mr. KERRY. Mr. President, what the Senator from Massachusetts is saying is that when we wrote this law, we wrote into the law a provision that the President, to make judgments of just the kind of considerations that are being spoken about by different Senators—that there are exigent reasons why we might want to continue the money. But the money should not be continued, under the law, under the pretense that they are in fact cooperating fully when they are not.

So, yes, the President has the right. We wrote that in the law. We gave it to him purposely, to avoid the very kind of contentiousness that takes place on this floor. But because the State Department's own recommendations are ignored—we have heard about the DEA, the Customs chief, and the Coast Guard on this. What about the State Department? It wrote a report, and its own report is replete with evidence of noncooperation. Are we going to make judgments or are we not? That is the question.

Mr. CHAFEE. Mr. President, it seems to me that what is being suggested here is that the U.S. Senate can proceed in rather an irresponsible method, and we can go off, as it were, on a frolic of our own, realizing that the President is always out there to rescue us. I do not think that is accepting our responsibility.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. I would like to finish. I do not think that is accepting our responsibility. We ought to do it or not, and not say that if we cause any trouble, we can be pulled back from the brink and rescued by the President recertifying another provision. I do not think that is the way we should proceed. Therefore, I do believe that this proposal to decertify the Bahamas is not a wise one.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. I yield.

Mr. DECONCINI. I am sure the Senator from Rhode Island realizes that the Commissioner of Customs, who is opposed to this decertification is the same Commissioner who has exposed corruption in Colombia and Mexico time and time again.

I wonder if the Senator is aware that the State Department writes to me in a letter dated today and says, among other things, "as a result of our bilateral, cooperative efforts, there was a 300-percent increase in marijuana and cocaine seizures in 1987."

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC.

Hon. DENNIS DECONCINI,
U.S. Senate

DEAR SENATOR DECONCINI: On March 1, President Reagan sent to the Congress the annual report on our efforts to combat the production and trafficking of narcotics. Coincidentally, the President recommended full certification for The Bahamas. The April 12 vote by the full Senate Foreign Relations Committee to deny such certification could seriously jeopardize our joint efforts to counter the flow of narcotics through that country.

When this issue comes before the full Senate, it is very important that this potential damage be assessed, as well as the basis on which the President recommended certification for The Bahamas. Since I understand you are disposed again to play a helpful and leading role in this important debate, I would like to review herewith the rationale for full certification.

We have received excellent operational level cooperation from the Bahamian government. To date, no U.S. government request has been denied. The Bahamas is the only country in the world which allows U.S. law enforcement units to enter its territory in hot pursuit of drug targets. These decisions reflect a political will at the highest levels of the Bahamian government to fight narcotics trafficking.

As a result of our bilateral, cooperative efforts, there was a 300% increase in marijuana and cocaine seizures in 1987 compared to 1986. Last year's seizures amounted to over 24,860 pounds of cocaine and 146.5 tons of marijuana.

Likewise, the Bahamian government made progress in 1987 in key areas of enforcement, investigation, and prosecution. Attorney General Adderley has exercised forceful leadership since taking over responsibility for the police and defense forces last summer. A Mutual Legal Assistance Treaty (MLAT) was signed, and the Bahamian parliament now has passed implementing legislation.

Despite problems with obtaining the extradition of Nigel Bowe, we are pleased to note that a recent Bahamian Court of Appeals decision has moved the case forward procedurally. Negotiations have been proceeding extremely well on a new modern extradition treaty which would greatly broaden the scope of extraditable offenses. We expect to conclude negotiations shortly.

Tough new asset forfeiture laws have been enacted. Three anti-narcotics laws tabled in Parliament would require mandatory drug testing of police and defense force personnel and life in prison for certain offenses.

Bahamians are not ignoring the corruption problems but are taking steps to prosecute offenders. An internal corruption unit was set up this year, reporting directly to the Deputy Police Commissioner. Cases have been investigated and presented for action. A new special drug court, and proposal for a second, should relieve the overburdened legal system.

With operational level cooperation excellent and anti-corruption efforts improving, we want to encourage and strengthen those Bahamians, including officials at the highest level, who clearly want to do more. The Administration feels strongly that congressional action to overturn the President's recommendation for certification for The Bahamas would be seriously counterproductive and unjust. I hope you will work to forestall such a move.

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative Affairs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. May I have one-half minute more?

Mr. PELL. I yield the Senator 2 minutes.

Mr. CHAFEE. Mr. President, one of the things that brought me to the floor on this matter was that, as I understand it, when they debated Mexico in the Foreign Relations Committee, it was suggested there that Mexico should be compared with the Bahamas. In the Bahamas, we do have the right to pursuit, and we do not have that in Mexico. The Bahamas permits us to do that, and we should be able to do that in Mexico. They turn around, and by a vote of 10 to 6 decertify the Bahamas.

I find it difficult to follow that rationale. The procedure we would like in Mexico, we have in the Bahamas, but in the Bahamas they vote to decertify by a vote of 10 to 6.

Mr. KERRY. Mr. President, will the Senator yield for 30 seconds?

Mr. CHAFEE. I yield.

Mr. KERRY. I point out two things about the Senator's concern.

First, he says, "I don't understand why we should be doing this in terms of decertifying and allowing the President to do it." The reason is that the distinguished Senator from Rhode Island, along with every other Member of the Senate, voted to do that. The distinguished Senator voted that that is what we are going to do, and that is the law. It is disappointing that he now finds that the law he voted for does not do exactly what he thought it would do.

Second, as to the question of seizures and why there is a difference between Mexico and the Bahamas, the only measurement is not the measurement of joint cooperative flights. There are many other measurements.

When a witness whose credibility is being put forward by the U.S. Government in the Federal trial against a major drug dealer says he gave $400,000 to the Prime Minister of the country, and when we cannot get 17 extraditions, let alone this important one—and, incidentally, it is the British system of justice; it moves faster in Great Britain than it does there—one has to ask whether we are getting full cooperation.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PELL. I yield to the Senator from Connecticut, the chairman of the committee, 5 minutes.

Mr. Dodd. I will try to do it in 5 minutes. I thank the chairman.

Mr. President, first, I commend my colleagues from Arizona, Rhode Island, and Kansas for their comments. They have laid out the case, it seems to me, pretty clearly on why this joint resolution of decertification is inappropriate.

I would like to make the further case that, frankly, this whole underlying process of dealing with this issue is faulty. It certainly is designed with good intentions, to try to bring to light the efforts that should be made to exercise proper leverage with other countries around the globe that are involved, to one degree or another, with trafficking or laundering money. We all agree with that.

As the Senator from Rhode Island pointed out, there is no debate about whether or not this institution or any Member of this body is equally opposed and determined, in their own way and collectively, to deal with the issue of drug abuse and the forces of drug abuse and the sources of drug abuse, both outside of this country and at home.

It is important to point out—from time to time we do this on other issues as well—that in our frustration of dealing with a domestic problem which has foreign influences, our tendency is to overemphasize, it seems to me, the foreign influences and to underemphasize too often our own domestic responsibilities in a variety of areas. We did this in the trade debate. We all know that about 85 percent of the trade problem is our failure to do certain things at home. Much the same can be said about the drug problem.

We certainly have problems with nations that allow drug traffickers to launder money or to grow and produce the product, but we ought to spend at least as much time, it seems to me. We have no similar process, I would point out, for sitting around and debating on expedited procedures what we are not doing at home, and yet we will consume as much as 8 or 10 hours today debating whether or not we want to decertify the Bahamas and Mexico, leaving out I might add, Bolivia, Colombia, Belize, Honduras, Pakistan, Thailand, Nigeria. They are not even in the debate today. They are not even being discussed here today.

In Honduras, they tried to burn down our Embassy because we tried to extradite a person involved in drug trafficking. Honduras will not even be debated here today, or Colombia, where the Attorney General advocates the legalization of drugs. We are not going to decertify Colombia. That is not part of the debate.

No. We are going to pick on little Bahamas, 700 islands, 250,000 people down there doing not everything we would like, not everything we would like, but they are engaged with us anew in the battle, and the data and the statistics are there to be read and seen by the naked eye.

Have they sent every person we would like them to to jail? Have we been able to extradite those individuals and bring them here? No, we have not yet.

But I know of no quicker way to end all of that effort than by saying to those countries, all foreign aid, every time you come up for a loan in one of the international organizations, our country is instructed to vote against you on those loans.

Take into consideration all of the foreign policy implications we are going to hang it on this issue, because in our frenzy, legitimate frenzy, I might add, to do something about drugs we lash out at countries like the Bahamas and Mexico, lash out at them because it is so much easier politically to go back home and say, "I fixed those Mexicans and I fixed those Bahamians."

That is how we are going to solve this drug problem. You get a standing ovation. You have been tough. But we just have not been smart. You have to be tough and smart.

And today the smart thing to do is to say you are doing a lot in the Bahamas. We want you to do some more. We are saying here today we are willing to help you do some more but we want more cooperation. We respect what you have done already. We respect the improvements that have occurred in your country, but we want to see you produce and do more.

Mr. President, I ask unanimous consent that an editorial in the Washington Post this morning, "The New Drug Crusade" be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE NEW DRUG CRUSADE

The focus of U.S. policy in Central America is changing from anticommunism to antidrug. The suddenness of the shift has provoked the suspicion that there's something devious afoot, like an intent by the administration to cover up its embarrassment at failing to sustain the Nicaraguan contras and an intent by its critics to cover their embarrassment at being seen to pull the plug. We don't necessarily buy that, but the change certainly has been noticeable just since a Nicaraguan cease-fire took effect.

The new emphasis was worked up chiefly in this country. Had the Latin Americans been carefully consulted, they no doubt would have urged a post-Nicaragua emphasis on economic development and relief. The drug trade plagues a number of Latin countries, but the priority the United States is attaching is its own. That builds in a certain tension at the start.

The manner in which Washington is proceeding builds in further tension. There is a component of unilateralism, of leaning on the Latins, of cutting the corners of their sovereignty, of crusade. It is possible to feel, as we do, that bringing diplomatic and economic pressure to bear against the corrupt, repressive, drug-dealing regime of Gen. Noriega is a legitimate U.S. activity, and yet to believe that these pressures need to be applied with more discrimination, discretion and restraint than appears to have been the case in Panama. To date, this country, which has been uncommonly, even startlingly, explicit in its assumption of a power to intervene in Panamanian affairs, has failed in its stated objective to remove Gen. Noriega even as it has succeeded in inflicting severe and potentially irreversible economic damage.

In Honduras, a friendly country whose anti-Sandinista alliance with Washington has left its government vulnerable to charges of being an American tool, U.S. officials arranged the kidnapping of an accused drug figure, in the process walking all over Honduran sovereignty. The United States seeks to act with local partners, but in both places it has pushed hard and the responses have tapped ample reservoirs of anti-Americanism.

Meanwhile, Congress weighs imposing economic penalties on a range of Latin countries deemed not adequately cooperative with the American antidrug drive. These are mostly countries, such as Mexico, already struggling in the cause. There may be no better way to chill their further effort than by a public rebuke of the sort under consideration now.

Central America's decade of revolution caught Americans unprepared and is scarcely over. Americans should have learned something about what a successful policy requires. The first need is for a considered American consensus on what policy ends and means in the region should be. Fighting drugs in the particular aggressive manner of the last month has not passed that test of consensus. Then, to engage Latins' respect

> for U.S. sensibilities and priorities, Americans must demonstrate a respect for those of the Latins. The month has shown how far the United States still must go to meet that test too.

Mr. DODD. It highlights exactly, it seems to me, the problem we face.

Mr. President, just to read a paragraph from it, it says:

> Meanwhile, Congress weighs imposing economic penalties on a range of Latin countries deemed not adequately cooperative with the American antidrug drive. These are mostly countries, such as Mexico, already struggling in the cause. There may be no better way to chill their further effort than by a public rebuke of the sort under consideration now.

We are not seeking cooperation with these resolutions. We are seeking penalties. We are going to discipline countries. The word "cooperation" means working together. This is not going to get cooperation. All it does is embarass and single out and ultimately will cause, it seems to me, a disruption in kind of the cooperation that we try to seek.

Mr. President, I hope that this joint resolution is resoundingly defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. GRAHAM. Mr. President, my State of Florida has been on the frontline of the destructive and escalating war against drug producers and smugglers and dealers for too long. We have struggled with the frustration of unchecked tons of cocaine and marijuana pouring across our borders—in speed boats, in cargo planes, in freighters. For years we fought those battles isolated from the international community around us—through which the illegal drug traffic had to pass.

But in recent years—and most notably in the last 2 years—the Bahamian Government has extended its cooperation to the United States in the war against drugs.

U.S. drug enforcement agents are permanently stationed and operate in the Bahamas. Customs and the U.S. Coast Guard work with the Royal Bahamian Defense Force and conduct their own investigations. There is one radar satellite balloon in Freeport, Grand Bahama Island, searching for smugglers' planes. A second balloon is due to go up in Georgetown, Abaco, and a third balloon is scheduled to complement the coverage from the Turks and Caicos Islands by 1990, allowing United States authorities to monitor over three-fourths of the Bahamas chain.

Two major DEA operations have yielded large seizures of cocaine. Drug seizures in the Bahamas are up 300 percent from 1986, according to DEA officials. The Bahamas has new narcotics laws and new asset forfeiture laws and has an agreement with the DEA to provide training for Bahamian police officers in drug enforcement techniques which will eventually educate 270 officers.

The only government anywhere to have given United States law enforcement hot pursuit permission—the permission for United States Customs and Coast Guard planes and vessels to chase suspected drug smugglers into foreign sovereign waters and air space—is the Bahamian Government.

Under the guidelines for legal certification required for each of 24 major drug transit countries every year—cooperation is the standard for approval or disapproval. State Department and Federal law enforcement agencies have no complaints about the cooperation from the Bahamian Government—in fact, one State Department official told me he would characterize Bahamian cooperation as excellent. Based on that standard, the Bahamas should be certified.

Despite this generally good record, disturbing allegations of Bahamian Government complicity with drug kingpins continue to surface and those questions must be answered. If there is corruption, it must be exposed and eliminated, if there is not, the integrity of the accused officials must be established. Only with full trust and mutual respect can a joint effort to make the Bahamas inhospitable turf for drug smugglers succeed.

We also need a strong extradition treaty as further deterrent to the idea of the Bahamas as safe haven for smugglers. When the full measure of Bahamian law and United States' prosecution can be brought to bear upon the drug empires, those extravagant networks will begin to crumble. The instant fortunes legendary in the drug world are an attractive lure. The possibility of a lifetime spent in prison, which should—and can be—the certain penalty for illegal drug activity, is decidely unattractive.

Mr. President, the question in the case of the Bahamas is this. If, despite the cooperation we are obviously receiving from the Bahamas, we decide to decertify that country, what kind of message is that going to send other countries whose cooperation we are seeking?

Drug smuggling is an international assault on our borders and we need the help of the international community, particularly that of our closet neighbors, if we are to successfully turn back that assault.

Mr. President, in summary, as we ask the question of has the Bahamas cooperated with the United States in its drug interdiction efforts, we are not going to find the answer to that question that will be perfection. Frankly, the United States is far from perfection in its own commitment effort and stability of response to this enormous national challenge. I submit that the efforts which have been made by the Bahamian Government as certified by responsible Federal, State, and local law enforcement officials in those jurisdictions that deal most intimately with the Bahamas have seen an increasing level of cooperation.

The end of our war against drugs is unfortunately nowhere in sight, but we have a promising beginning in the groundwork we are laying, including the groundwork of cooperation or increasing degree on a broader front with the Bahamian Government to derail the movement of drugs through that country. We need that cooperation of the Bahamian Government. We must build on that cooperation.

Mr. President, the question in the case of the Bahamas is this: If, despite the cooperation which we are obviously receiving from the Bahamas, we decide to decertify what message is that going to send to other countries whose cooperation we are seeking? Drug smuggling is an international assault on our borders. We need the help of the international community, particularly that of our closer neighbors if we are going to successfully turn back that assault.

The PRESIDING OFFICER. The time has expired.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes.

Mr. HELMS. Have the yeas and nays been ordered on this?

The PRESIDING OFFICER. They have not been ordered.

Mr. HELMS. I yield to the able Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. I thank the Senator from North Carolina.

Mr. President, seizures are up in the Bahamas, but the State Department report notes that 50 to 60 percent of all the cocaine and marijuana that enters the United States either transits the Bahamas or is transshipped in the Bahamas. That is not a record of success.

Two drug kingpins currently serve in the PLP, the Prime Minister's Party. In 1984, the Commission of Inquiry on Narcotics Smuggling identified Kendall Nottage as a front man for organized crime and drug smuggling and George Smith guilty of narcotics related corruption. The prime Minister nominated both to run for Parliamentary seats and appointed Nottage as chairman of the Bahamian Broadcast Corp. This demonstrates a complete lack of commitment to narcotics enforcement efforts.

The Bahamian Government has made no effort to take the initiative or enforce narcotics laws on their own. What good does it do to allow hot pursuit into Bahamian airspace, if the Bahamians are only going to release the dealers within hours of his capture? Arrests are high but convictions are nonexistant.

The State Department report calls attention to this problem by pointing out, "to date, the Bahamian Government has not vigorously enforced new narcotics legislation enacted in January 1987."

The State Department report also notes, the Bahamas "has not dealt effectively or in a comprehensive fashion with systematic corruption, which continues to make the Bahamas attractive to drug traffickers."

I do not see a pattern of initiative or cooperation on drug enforcement that would allow the Senate to do anything other than decertify the Bahamas. The Bahamian Government's cooperation amounts to no more than window dressing. They make an effort to appease us, but turn right around and undermine our actions. It's time to pay more than lip service to the Anti-Drug Abuse Act and demand full cooperation from our friends when trying to combat drugs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina has 40 seconds remaining.

The Senator from Rhode Island.

Mr. PELL. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. PELL. I yield 5 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I will not take 5 minutes.

I just want to clarify a couple points that have arisen in the course of the most recent moments of the debate. First of all, I really want to make it clear to my colleagues that this is not lashing out. This is not an effort to be tough. It is not an unreasonable spur-of-the-moment, moment-of-the-month respose to the headlines of recent days.

I was a cosponsor of this amendment last year, and I thank the distinguished ranking member of the Foreign Relations Committee for once again joining as a cosponsor this year.

We had a standard by which to measure last year. This is the same debate we had last year. Not too many words have changed except that we have a new report that measures the language of cooperation.

Mr. President, I heard the distinguished Senator from Connecticut say: "Why aren't we talking about all these other countries?" Well, Mr. President, we did look at all those other countries. We made the judgment that Colombia extradited Carlos Lehder, had its Minister of Justice assassinated, its Attorney General assassinated, half of its supreme court assassinated, and was still taking risks in trying to fulfill the limits of its ability. We made a judgment about the other countries.

But the fact is that the State Department report says 50 to 60 percent of all the marijuana and cocaine that enters the United States comes through the Bahamas and 30 to 35 percent of all the marijuana and cocaine entering the United States comes through Mexico.

So, Mr. President, if you take the low end of the estimate, we are dealing with 80 percent of the drugs that come into the United States. And if you take the high end of the estimate, we are dealing with 95 percent of the drugs that come into the United States through these two countries alone. That is not lashing out. That is not unreasonable. And it is fair that we make the tough judgment about 95 percent of the drugs coming into the United States of America.

Mr. President, the State Department report used words like: "much more needs to be done"; "no court proceedings to date"; "the government does not vigorously enforce"; "the lack of meaningful enforcement"; "they have yet to demonstrate the necessary will"; "the Nigel Bough proceedings continue."

This is not just one issue. It is not just one item of noncooperation. It is a pattern.

Now, I respect the letter from the President of the United States, but it was very carefully crafted. The letter said seizures are up and it said operational cooperation is good. That means the Coast Guard gets what it wants.

Let me read to you from a New York Times February article. This is the testimony of David Westrate, Assistant Administrator for Operations at the DEA. He said:

> The Drug Enforcement Administration has often been willing to overlook allegations of official corruption to insure continued cooperation with its operations. Mr. Westrate compared the level of cooperation in the Bahamas to that of the drug agency received from General Noriega. He said the agency has "never made a request in Panama that hasn't been honored."

If that does not tell the story about all this operational claptrap and about seizures.

Do you know what they do? We had a wonderful bit of testimony from two different witnesses, both of whom made a living smuggling drugs and now they are spending, between them, about 63 years in jail. Do you know what they said? That the Government of Mexico seized some ships, counted it as a seizure, and escorted them to the other side of the gulf and let them go. That is a seizure.

Do you know what happens to the drugs when they seize them? The police go out and sell them later. And we have had testimony of how one of the defendants even made a deal to get away by giving the police the drugs and they let him fly off into the sunset, Mr. President.

If we cannot make it a tougher judgment about seizures and operational cooperation, if General Noriega has not taught us a lesson, I am not sure what is going on.

The law is clear. The law sets standards. The question here today is whether the U.S. Senate is going to uphold its own laws or whether we are going to make a mockery of this process.

I yield back my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PELL. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 38 seconds.

AGREEMENTS ON NARCOTICS CONTROL

Mr. CHILES. Mr. President, this is a very tough question before us today.

Should we reject the President's certification that the Governments of Mexico and the Bahamas are cooperating fully in controlling narcotics.

In other words, should we deny further U.S. assistance to our neighbors to the south.

In 1986, the Congress passed a major new drug law (Public Law 99-570) which included a get-tough policy on international narcotics control. Specifically, the new law dictated that 50 percent of U.S. aid be delayed to those countries on the drug-producing and drug-transit list until they can show the United States that they have cooperated fully in reducing drug production and/or transshipment in their respective countries. Once such countries have cooperated, the United States will grant them certification which qualifies them for the other half of their intended foreign aid.

The rationale for such action and the intent were admirable. However, considerable confusion has arisen around the phrase "cooperated fully." Other than stating that such cooperation can be with the United States or on its own, the law does not specify what is meant by "cooperated fully."

I believe that such ambiguity was a great weakness in this law. The certification process this year and last year clearly demonstrates that weakness. In my opinion, many countries have been granted certification for U.S. aid which never came close to anything resembling full cooperation.

Last year the Congress approved my amendment to the continuing resolution (H.J. Res. 395) which provides a platform to strengthen the new certification process.

The new law would now require that each drug producing and drug transit country be required to negotiate and be party to a bilateral narcotics agreement with the United States. By requiring a detailed bilateral agreement, we will be installing a concrete benchmark for determining if a country has cooperated fully.

The specific goals negotiated by each individual country with the United States will be a signed document detailing what steps will be taken to reduce narcotics, such as: drug production, drug shipment, and money laundering.

Currently some countries have written agreements with the United States on narcotics control. But I was amazed when I asked the State Department to see the agreements with all drug producing and transit countries.

Some were detailed—some were very general. Some were only verbal agreements.

The control of narcotics worldwide is far too critical for simple or verbal agreements.

If a country wants our dollars, under my amendment it must show good faith by signing and being party to a bilateral narcotics agreements.

If a country refuses to participate in a bilateral agreement—it will automatically be determined ineligible for certification for additional U.S. dollars.

The bilateral narcotics agreement will thus be the first requirement for the new certification process—it is a benchmark that is desperately needed, in my view.

I cannot tolerate a policy that continues to give U.S. dollars to countries which blatantly and deliberately ignore international narcotics control. I believe my amendment sends a strong and direct message to the world that the United States wants and expects cooperation that is meaningful and measurable.

This year, some may claim that it is still fuzzy whether certain countries like the Bahamas and Mexico have cooperated fully. Hopefully, this will be the last year for that confusion. The bilateral agreements are required to be negotiated this year—fiscal year 1989. Next year, the administration as well as the Congress will have these agreements to use to measure the countries true good faith efforts and cooperation. I look forward to these developments and their contribution to narcotics control worldwide.

Mr. HELMS. Mr. President, I am a cosponsor of this resolution of disapproval because it is high time that we send a clear and unmistakable signal to the Government of the Bahamas that it better shape up fast on the matter of drugs and drug trafficking.

Let us not kid ourselves about the cooperation that we are getting from the Bahamas. It is true that on the surface the Government gives an impression of cooperation and allows the United States to conduct some antidrug activities within its territory. But it is equally true that the massive official corruption of the Government and police completely vitiates the effect on this supposed cooperation.

Mr. President, what good is superficial cooperation if drug traffickers get inside tips from corrupt Bahamanian officials warning them about imminent drug busts?

Mr. President, what good is superficial cooperation if drug traffickers who are arrested can bribe their way out of jail and out of trials?

Mr. President, what good is superficial cooperation if drugs that are seized are merely resold by corrupt Bahamanian officials?

These are not idle charges. There is evidence to support each of these serious charges. We should not kid ourselves or put our head in the sand.

The point is that official corruption in the Bahamas is so serious that it impedes, it undermines, it complicates, it vitiates, it prevents—and any other negative adjective one might want to employ—full cooperation with our drug enforcement efforts.

It is high time to send a strong signal to the Bahamas, a signal which will get their attention.

I yield back the remainder of my time. I suggest we vote.

The PRESIDING OFFICER. All time having expired, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have previously been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—40

Adams
Armstrong
Baucus
Bingaman
Bradley
Burdick
Byrd
Cohen
Conrad
Cranston
Dole
Exon
Grassley
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
McClure
McConnell
Mitchell
Pell
Pressler
Proxmire
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Specter
Symms
Trible
Warner
Wilson

NAYS—53

Bentsen
Bond
Boren
Boschwitz
Breaux
Bumpers
Chafee
Chiles
Cochran
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Harkin
Hatch
Hatfield
Hollings
Johnston
Kassebaum
Kasten
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pryor
Quayle
Reid
Rudman
Shelby
Simpson
Stafford
Stevens
Thurmond
Wallop
Weicker
Wirth

NOT VOTING—7

Biden
Evans
Gore
Inouye
Sanford
Simon
Stennis

So the joint resolution (S.J. Res. 292) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the joint resolution was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I have discussed this with the distinguished Republican leader. I move that the Senate proceed to the consideration of Senate Joint Resolution 285.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The motion was agreed to.

CLASSIFICATION OF HAITI AS A MAJOR DRUG-TRANSIT COUNTRY UNDER THE FOREIGN ASSISTANCE ACT

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The bill clerk read as follows:

The joint resolution (S.J. Res. 285) expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that act.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. There are 30 minutes designated for each side.

The majority leader is recognized.

Mr. BYRD. Mr. President, I yield the time on my side to Mr. PELL.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I yield my time to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senators from Rhode Island and North Carolina control the time.

Mr. PELL. Mr. President, this is an amendment that passed unanimously within the Foreign Relations Committee with voice vote, which I hope it does here, too. It is a motherhood amendment.

I yield such time as he might need to the author of the joint resolution, but I would suggest if we are all for it, we can move ahead quickly in a few moments with a voice vote.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Thank you, Mr. President. I think we can dispose of this in about 2 minutes. This is merely to include Haiti among those countries that must be measured for certification in next year's international narcotics control report.

As I think most of my colleagues know, just recently Col. Jean Claude Paul was indicted in Miami. In recent weeks, we heard testimony before a subcommittee of the the Foreign Relations Committee of significant narcotics trafficking with Haiti as a transshipment point.

This joint resolution lists Haiti as a major transshipment point and requires that next year we make a certification judgment with respect to it.

Mr. INOUYE. Mr. President, I support Senate Joint Resolution 285. The drug situation in Haiti is serious. Haiti has recently become a significant transshipmment point for illegal drugs into the United States.

However, I believe the record should be complete.

I would like to point out what the government of Haitian President Leslie Manigat is doing to combat the problem there:

First, on March 18, the Haitian Government issued a statement that outlined a stand against narcotics trafficking and displayed an eagerness to cooperate with the United States in antidrug efforts.

Second, in that statement, the government of President Leslie Manigat pledged to, and I quote, "strengthen its contribution to the regional, hemispheric, and international war against illegal drug trafficking."

Third, the Haitian Government has requested that solid documentation of evidence of Haitian involvement in international drug trafficking be forwarded to the appropriate Haitian authorities for investigation. President Manigat reiterated this position in an April 8 fireside chat to the people of Haiti.

Fourth, President Manigat also has made a commitment to establish a commission to investigate illegal drug activity in Haiti that would respond directly to him. He also stated that he will cooperate fully with the Drug Enforcement Administration's office in Port-au-Prince

I look forward to seeing positive results from these good intentions by President Manigat.

Mr. TRIBLE. Mr. President, I rise in support of this joint resolution, which states the sense of Congress that Haiti has become a major point of transit for narcotics reaching the United States.

I do so as a friend of Haiti. I have twice visited that country. I have seen firsthand its poverty and other problems.

But like so many other Caribbean nations, Haiti is not immune to the growing drug trade. It lies in the heart of the sea lanes between the United States and the source countries of South America, including Colombia. As a consequence, it has joined the Bahamas and Jamaica as favored transit points for drug runners in the Western Hemisphere.

The State Department's compliance report on Haiti begins with this sentence:

> Haiti remained a significant transshipment point for the movement of illegal narcotics, particularly cocaine, into the United States in 1987.

Seizures of cocaine rose dramatically over the past year. In 1986, only 31 kilograms were seized. In 1987, cocaine seizures were an astonishing 670 kilograms. This surge in drug seizures demonstrates the hard work and increased cooperation of many Haitian officials. But it is also evidence of the vastly increased flow of drugs through Haiti.

This should have come as no surprise. Haiti has a vast coastline, comprised of numerous small ports which are difficult to patrol. And as I've noted, it lies directly in the path between the United States and the drug producing nations of South America.

Mr. President, we cannot ignore this reality. I share Senator KERRY's belief that Haiti has become a major drug transit point, and that it should be included on the list of nations whose compliance with our antinarcotics efforts is reviewed annually.

I urge the adoption of this joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I am prepared to yield back the remainder of my time if the Republican leader is.

Mr. HELMS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 285) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 285

Whereas the Bureau of International Narcotics Matters of the Department of State, in its International Narcotics Control Strategy Report of March 1988, reported that "Haiti remained a significant transshipment point for the movement of illegal narcotics, particularly cocaine, into the United States during 1987", and that a significant rise in seizures of illegal narcotics in Haiti in 1987 "reflects the increased volume of trafficking through Haiti";

Whereas the same report states that "there are widespread rumors alleging that some Haitian military personnel and government officials are themselves involved in the drug trade," and that "the prospects for Haitian control of narcotics trafficking in Haiti are not good";

Whereas on March 10, a Miami grand jury returned an indictment against Colonel Jean Claude Paul, commander of the Haitian Army's Dessaline Brigade, on drug trafficking charges; and

Whereas the continued presence in the Haitian military of senior officers who are involved in the drug trade drastically undermines the efforts of the Haitian people to bring genuine democracy to Haiti: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the determination by the Bureau of International Narcotics Matters of the Department of State, as received by the Congress on March 2, 1988, that Haiti is not a major drug-transit nation, within the meaning of section 481(i)(5) of the Foreign Assistance Act of 1961, for the trafficking of illegal narcotics into the United States.

SEC. 2. The President should mandate that Haiti be classified as a major drug transshipment nation and be subject to section 481(h) of the Foreign Assistance Act of 1961.

Mr. PELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I see the Republican leader is on the floor. He is aware I am going to make this motion.

Mr. President, I move joint resolution 268 be discharged from the committee.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The motion was agreed to.

Mr. BYRD. Mr. President, I move the Senate proceed to consideration of Senate Joint Resolution 268.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The motion was agreed to.

DISAPPROVING THE CERTIFICATION OF MEXICO BY THE PRESIDENT

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 268) disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER (Mr. DIXON). There are 3½ hours equally divided on this joint resolution.

The Republican leader is recognized.

Mr. DOLE. I thank the Presiding Officer. I yield the time on this side to the Senator from North Carolina [Mr. HELMS].

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, can I make an inquiry of the distinguished majority leader? As I understand it, there are 3½ hours on this joint resolution, is that correct?

Mr. BYRD. Yes.

Mr. CHAFEE. Would it be his intention to complete action on this evening?

Mr. BYRD. Mr. President, before I respond to the inquiry of the distinguished Senator, I yield the time on this side to Mr. PELL.

Mr. President, there are 3½ hours on the joint resolution, as the distinguished Senator has stated. It is entirely, as far as I am concerned, up to those who are managing the joint resolution. What are their wishes?

Mr. PELL. As the manager of the joint resolution, I like the idea of pressing ahead, but I also realize Members would like to go home for dinner as well.

Mr. BYRD. May I say to all Senators, the Senate will be in business tomorrow and there will be business to transact, and there will be rollcall votes. It is 5:30 p.m. today.

The distinguished Senator, Mr. PELL, wishes to push ahead. All right, we will push ahead.

Does the Senator wish to reduce the time further?

Mr. PELL. Can we reduce the time to 2 hours?

Mr. HELMS. Let us compromise. 3 hours.

Mr. WILSON. There are several people on your side who want to be heard.

Mr. CHILES. Two hours is a long time.

Mr. WILSON. It may be.

Mr. HELMS. We can yield it back.

Mr. CHILES. It will never get yielded back.

Mr. PELL. Just in time for dinner, 7:30.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Three and a half hours plus 5:30 gets us pretty late. Is it not possible to debate here and then maybe vote at an hour certain tomorrow?

The PRESIDING OFFICER. Who is that question directed to, may I ask the Senator from Rhode Island?

Mr. CHAFEE. I think of all people to direct it to, it would probably be wisest to direct it to the majority leader.

The PRESIDING OFFICER. Very good idea.

The majority leader is recognized.

Mr. BYRD. That is the advantage of being the majority leader.

Mr. President, there would be an objection to such a request.

I will make this request, that the time be reduced to 2 hours and 30 minutes.

Mr. DOLE. Two hours.

Mr. BYRD. There is an objection to 2 hours 30 minutes.

Mr. ARMSTRONG. Mr. President, reserving the right to object.

Mr. BYRD. Senators may yield it back.

Mr. ARMSTRONG. Has there been an objection to the leader's request?

Mr. BYRD. There was an objection to the request.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. All right, shall we proceed and Senators may restrain their desires to articulate and yield time back and go home. I thank all Senators.

The PRESIDING OFFICER. Does the majority leader suggest then that the arrangement is 3½ hours equally divided and controlled by the distinguished Senator from Rhode Island and the distinguished Senator from North Carolina?

Mr. BYRD. Yes. The two leaders have control, equally divided. I have yielded my time to Mr. PELL.

Mr. ARMSTRONG. Mr. President, while the leader is still on the floor—

The PRESIDING OFFICER. May we have attention so that the Senator from Colorado may place his question into consideration.

Mr. ARMSTRONG. In this corner of the room there was some confusion about the decision we have reached and the reason for it. It was not apparent at least over here why we did not agree to the request of the Senator from Rhode Island.

Mr. WILSON. There was objection.

Mr. BYRD. There was objection over here.

Mr. ARMSTRONG. I see. Well, Mr. President, I guess there is nothing that can be done although it does seem to me that the Senator from Rhode Island is eminently correct in the notion, unless there is some urgent reason to act upon this matter tonight, that we are going to be in session tomorrow, and I do not know what the underlying considerations are but as one Senator I think we would be well advised to take the suggestion of the Senator from Rhode Island.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I certainly have no objection to that, but one objection, of course, kills the request and there would be an objection over here. I think if we move ahead we might surprise ourselves.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. BYRD. I perceive a strong inclination on both sides to cut the talk short and get on with the vote.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island.

Mr. PELL. Mr. President, is there anyone on this side who wishes to speak on this subject?

We are in position to yield back a lot of time.

Mr. WILSON. You have two on your side that I know about.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield such time as he may require to the distinguished Senator from Virginia [Mr. TRIBLE].

Mr. TRIBLE. I thank my friend from North Carolina.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. TRIBLE. I thank the Chair.

I strongly support this joint resolution. I commend the Senator from California [Mr. WILSON] and others for leading the effort. Like many other countries, Mexico has made a deal with the United States to join us on this war against drugs. But Mexico has failed to keep its end of the bargain. The administration's certification that Mexico is cooperating fully is a mistake and it ought to be overturned.

Last Tuesday, the Senate Foreign Relations Committee split evenly on this resolution. But our debate was framed largely around the question of which Members were willing—by passing this measure—to insult the Government of Mexico.

Mr. President, that is not the issue before us. The question is not one of national pride; it is one of national survival. The issue is the narcotics trade, and the strength of Mexico's commitment to combat it. And during 1987, that commitment was lacking.

It is most apparent in Mexico's reluctance to root out drug-related corruption. Earlier this year, the Commissioner of U.S. Customs reported:

> There is corruption among senior level Mexican law enforcement officials, and corruption is pervasive throughout the law enforcement and military systems. A concerted effort to synthesize concrete examples of Mexican official corruption would shock the American public. This corruption has effectively precluded our working with Mexican authorities on narcotics interdiction, and inordinately increased the level of resources we are forced to commit to the southwest border.

Mr. President, no law enforcement system so infected with corruption can effectively wage war on drug traffickers. It is clear that Mexico has failed to cooperate fully in this crucial respect.

It is also clear that Mexico's cooperation has been lacking in other important areas. We have repeatedly asked Mexico for a right of "hot pursuit," so that we can chase drug traffickers through Mexican airspace. Mexico has refused.

Mexico remains the largest single source of heroin and marijuana available in America. It is also a principal transit point for cocaine being shipped from Colombia and other South American nations.

Mexico has also been less than forthcoming on America's concerns about drug money laundering. Almost all of Mexico's banks are nationalized, yet they share little information with the United States. The State Department's own narcotics control report notes:

> Customs says that the lack of Mexican enforcement efforts and cooperation has greatly hindered efforts to arrest and prosecute those involved in money laundering.

I am deeply concerned as are my colleagues, that the war on drugs cannot be won until the vital money link in the international drug chain is broken, is severed once and for all. The lack of cooperation Mexico has exhibited on antimoney laundering efforts makes that task more difficult—indeed, impossible.

In short, the Government of Mexico has not carried its share of the burden. It has sacrificed much perhaps. It has expended much effort perhaps. But more is needed, and until more is accomplished, Mexico ought not to be certified as having cooperated fully.

For those reasons and others, I support this joint resolution and I urge my colleagues to do so as well.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from Kentucky asked for time before anybody else. How much time does the Senator need?

Mr. McCONNELL. Three minutes.

Mr. HELMS. I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. McCONNELL. Mr. President, I think we made clear our concern about Mexico's cooperation last year. We did not decertify, but we let the Government know we meant business by proceeding with a vote. We need to stop issuing warnings and get down to the business of demanding full support and cooperation.

We make a mockery of the Anti-Drug Abuse Act and the entire process of certification if we fail to decertify Mexico.

Mexico is a major producer of marijuana and opium poppy and continues to be the largest single-country source of heroin and marijuana available in the United States. Mexico also serves as a major transit route for cocaine imports.

In the opinion of the Customs Service the single most important factor which undermines effective narcotics cooperation with Mexico is the level of official corruption within the Mexican Government.

According to the State Department, official protection of narcotics activities ranges from simply looking the other way to facilitating safe passage of drugs through customs and military/police checkpoints.

The Mexican Government has recently denied a United States request for permission to pursue drug traffickers into Mexican airspace. Who is the Mexican Government helping here, the United States or drug dealers?

The State Department's overall assessment is "Mexico's effort * * * is below the level of efficiency and effect of which it is capable." the report also states "the Government of Mexico's cooperation with the United States investigation of the Camarena case has not been at the level of which is capable." In 1986 we demanded a resolution of this case of a DEA agent who was brutally tortured and murdered by the end of the year. Here we are in 1988 with no satisfactory resolution.

Production for both marijuana and heroin is up substantially. Last year Mexico alone produced 6,550 metric tons of marijuana. To put that figure in perspective think about how heavy an M-1 tank is. The amount of pot Mexico produced is equivalent to the weight of 113 tanks. And that is just Mexico.

We are fighting a drug war against a deadly and huge enemy. We can either be serious about our enforcement war and our expectations of our friends and allies or we can look the other way.

Drug dealers spare no expense in buying officials, transportation, couriers. We are not going to defeat this massive effort unless we enlist the support of every government that shares the problem of either production or transitting narcotics.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky yields the floor. Who yields time? The Senator from Rhode Island.

Mr. PELL. Mr. President, in my mind, decertification of Mexico is likely to have a serious negative impact on our already sensitive relationship with our southern neighbor, with which we share an undefended 2,000 mile border.

It is also very likely to have a negative impact on the cooperation that Mexico is giving to the antinarcotics campaign. As Secretary Whitehead points out in a letter to me, "I feel certain * * * that Mexico would terminate United States ties to their aerial eradication program and reject the $14.5 million in direct United States antidrug assistance that these ties involve."

The United States has vital strategic, security, economic, border, and population interests in Mexico; for example, Mexico has been the third largest market for United States exports, following Canada and Japan. In 1987, Mexico took 6 percent of U.S. exports—$15 billion.

Mexico is an important supplier of energy and strategic materials providing 14 percent of our crude oil imports in 1987.

Mexico is the largest source of legal and illegal migration to the United States and Mexican temporary workers make a major contribution to United States agricultural production.

The Mexicans are conducting an antinarcotics program; I would like to see it more vigorous. I would also like to see much more progress in the prosecutions of the Camarena and Cortez cases. I sincerely hope that when we deal with this issue next year, there will be substantive improvement. I believe that this discussion is having an impact on the Mexican Government.

In the interest of guaranteeing further cooperation from Mexico on the antinarcotics front and in the interest of maintaining a stable and friendly relationship essential for the many bilateral issues in the United States-Mexico agenda, I urge my colleagues to vote against the decertification of Mexico.

The PRESIDING OFFICER. The Senator from Rhode Island yields the floor.

Who yields time?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is the acting manager.

Mr. WILSON. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask the manager of the bill to allocate some time to me.

Mr. PELL. Mr. President, I yield to the Senator from Texas 7 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island yields 7 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, there is no question that Mexico is not doing enough to reduce the production and flow of illegal drugs. But neither is the United States, nor are other countries around this globe of ours. The real question posed by this resolution is whether we are going to impose on Mexico a largely symbolic penalty in order to demonstrate our fully justified frustration in the drug problem.

If this measure becomes law, no less aid would go to Mexico because that nation does not receive any aid from us today except on drug control programs, and I would certainly hope that would continue. Our representatives at international lending institutions would be instructed to vote against new loans for Mexico. But our vote by itself would not be sufficient to deny those loans.

Since the effect of this joint resolution is mainly just a slap in the face of our southern neighbor, do those facts warrant that kind of an action? Here you have a country with 85 million people, with a common undefended border between us. Any time something happens in Mexico, it affects us. And the reverse is also true.

Mr. President, I think that kind of a slap at Mexico is not justified. Everyone wishes the picture was brighter. But the recent evidence is still very encouraging.

According to the administration's report of last month on international drug control, efforts, "Despite severe domestic economic problems, the Government of Mexico has dedicated an increasingly large percentage of its budget to combat narcotics trafficking."

If you talk to the President of Mexico, as I have, about the drug trafficking, ask him, "How many people have you lost, how many drug enforcement officials have you had killed in action fighting drug traffickers?" he will tell you. Far beyond what we have experienced in that field.

The administration's report also says, "The Mexican military has become more involved in narcotics eradication and interdiction, and reports that more than 25,000 army personnel—that is 25 percent of their total troops—were engaged in full-time manual eradication."

Seizures of cocaine, heroin, and marijuana by Mexican authorities in 1987 were significantly above the figures for 1986.

Sure, you have some corruption of officials. That is a serious problem. It can be found in any one of those countries. Our nations have been working together to try to identify and to try to prosecute those kinds of officials.

The likely next President of Mexico has formally declared that defeating narcotics trafficking is an absolute national priority for Mexico.

During this year we expect increased cooperation with Mexico on these problems, particularly once the United States approves the Mutual Legal Assistance Treaty signed with Mexico last December.

Mr. President, this is not a record of failure. it is not evidence of refusal to cooperate with our drug control efforts. Maybe Mexico does not merit an honor grade, but it surely deserves a passing grade.

It would be a bad drug control policy and bad foreign policy to approve this resolution. These are a sensitive people. They are a proud people. If they finally decide that they get no credit for their international cooperation, for the lives lost of their drug enforcement officials, for the commitment of one-fourth of their troops in their army, that they get no credit, then why bother to cooperate? Why not let it go on across the borders? I think it is a self-defeating thing if you try to take this kind of action here to punish Mexico.

We should not deny the sacrifices of lives and resources that have been made by the Mexicans in trying to curtail drug trafficking. We should not jeopardize the cooperative efforts that we have underway by this backward-looking joint resolution of condemnation.

I think we ought to look ahead to continued cooperation on our shared goals of finding and eradicating the sources of illegal drugs.

Mr. President, I know about Mexico's problems, I was born and reared on that border. I can go to some of those areas today and see new houses being built on our side of the border, new pickup trucks being driven on our side of the border.

Agriculture is not doing that well in those counties. There is no question in my mind as to where some of that money is coming from to buy those things. That is on our side, where we think we are doing all we can to try to eradicate it.

Let us look in the mirror when we talk about our goals and how short we fall in trying to eradicate the drug traffic.

Let us try to keep the cooperation of our neighbor there and see if we can do everything we can to further that cooperation and accomplish our objectives.

The PRESIDING OFFICER. Who yields time?

Mr. WILSON. Mr. President, I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I commend the Senator from California [Mr. WILSON] for having the courage to take up this cause and this challenge and to move foward in spite of the administration's opposition, to call for decertification of Mexico, because Mexico has earned that.

Last year, this body, in a vote of 38 to 49, voted to table a decertification resolution. We sent a clear signal to the Government of Mexico that we were not serious.

We heard the same arguments about national pride, a slap in the face, and so forth. Why would we do this? International bankers are worried.

I would like to know when we are going to let people know that this issue is more than just talk for domestic political consumption, rhetoric for elections, because that is what the Mexicans and many in Latin America and other countries believe. They do not think this country is honest and sincere when we say that we are going to fight the drug war. They think it is domestic political pap, and I do not blame them, because we have failed to enforce our laws. We have failed to take necessary action both at home and abroad.

If we allow this cancer of the international drug cartel to continue to work and to grow, it will eat the whole hemisphere and take Latin America down with it. We need only look at Colombia to see how impotent that government has become at the hands of the cartel, where justice ministers are killed, where supreme court justices are killed.

I say to my colleagues who believe strongly that this may be the wrong signal, this may be just the signal Mexico needs to wake up before it is too late, as it probably is in Colombia and maybe some other Latin American countries. The cartel has eaten away the bone, the marrow, the muscle, and the sinew of these nations, and all there is left is jelly.

Mr. President, I rise today in strong support of Senate Joint Resolution

268. I am an original cosponsor of this joint resolution. If adopted, this joint resolution, offered by my good friend the junior Senator from California, would disapprove the President's certification that Mexico is cooperating fully with the United States in our antidrug efforts.

This resolution is a test. It is a reality check for all of us. If this resolution does not pass, we will prove to the world that the war on drugs is a war of words, not action.

The evidence of Mexico's lack of cooperation is clear and massive. Let us look at the State Department's most recent argument in favor of Mexican certification.

STATE DEPARTMENT LETTER

The State Department recently sent a letter to the distinguished chairman of the Foreign Relations Committee, signed by Deputy Secretary of State John Whitehead, urging the defeat of this joint resolution.

Mr. President, I ask unanimous consent that Secretary Whitehead's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See Exhibit 1.]

Mr. D'AMATO. Mr. President, the letter begins by stating, "The resolution poses significant dangers to major U.S. interests." He goes on to argue that "The decision to accomplish the President's certification with a special justification statement was predicated on our own belief we should send a strongly worded message to Mexico. All subsequent talks with the Mexicans confirm that this message was received and understood."

The letter then gets down to specifics. Again I quote:

> Should the Congress overturn the President's certification of full cooperation, the political impact this would have in Mexico could be devastating to U.S. interests. I feel certain, for example, that Mexico would terminate U.S. ties to their aerial eradication program and reject the $14.5 million in direct U.S. antidrug assistance that these ties involve.

Mr. President, what are we getting for the $14.5 million in United States funds we provide Mexico for support of their antidrug efforts?

GAO REPORT ON MEXICAN ERADICATION PROGRAM'S FAILURES

The General Accounting Office, in a January 1988, report to Congress titled U.S.-Mexico Opium Poppy and Marijauna Aerial Eradication Program stated, and I quote:

> U.S. officials reported that they were not permitted to take part in the nightly meetings held by the zone coordinators and military commanders to decide where the next day's spraying missions would occur.

Later in the report, the Comptroller continued, "The [Mexican] Army claims have not been independently verified and the United States officials have not been allowed access to the Army's eradication staging areas."

The report concluded:

> Mexico remains a primary source for the heroin and marijuana consumed in the United States, and program statistics indicate that the availability of Mexican heroin and marijuana is increasing. Despite years of eradication activity and significant bilateral funding, the aerial eradication program has not kept pace with cultivation and, during the past two years, it eradicated less than 40 percent of the estimated total cultivation of opium poppy and marijuana. In addition, growers have not abandoned traditional growing areas, providing the frustrating and costly prospect of endlessly spraying the same growing regions season after season.
>
> It is clear that simply maintaining aerial eradication at current levels will not eliminate Mexico as a major source of heroin and marijuana. Without improved eradication results, the gap between cultivation and eradication will probably expand further.

The GAO's pessimistic conclusions are fully justified by the facts.

THE CAMARENA CASE

The State Department's letter also said that if we pass this resolution, "The ability of the DEA to operate effectively within Mexico might also be impaired." What if the Mexicans do decide to prevent the DEA from operating effectively in Mexico? Let's take a closer look at that argument.

Let us start with the case of the murdered DEA agent, Enrique Camarena. What, exactly, has Mexican justice done to resolve that case?

Enrique Camarena Salazar, who was 37 years old at the time of his murder on February 9, 1985, was a special agent of the United States Drug Enforcement Agency stationed in Guadalajara, Mexico. His body, and his Mexican pilot's body, were found on a ranch some 65 miles north of that city on March 5, 1985.

Ambassador John Gavin, then United States Ambassador to Mexico, said that Camarena had been "brutally beaten" before being murdered. Both Camarena and his pilot were bound and gagged when their bodies were discovered. In 1986, a Justice Department official stated that the United States had come into possession of tape recordings of Camarena's torture before he was killed.

Camarena was tortured and killed because of his active role in a DEA investigation called Operation Padrino. Accoding to DEA congressional testimony, Operation Padrino began in April 1983, with the objective of neutralizing a major heroin distribution network.

In the course of that investigation, the DEA soon determined that Juan Ramon Matta Ballasteros, a well-documented international cocaine drug trafficker from Honduras, had joined forces with Miguel Angel Felix Gallardo, a well-known heroin trafficker, for the the purpose of distributing cocaine in the United States. This organization, spreading from Mexico to Colombia and Spain, moved many tons of cocaine into the United States.

It has been more than 3 years since Mexican judicial proceedings began against Rafael Caro-Quintero, Ernesto Fonseca-Carillo, Miguel Felix Gallardo and others, on April 3, 1985. Caro-Quintero is being held in a Mexican prison.

Since Caro-Quintero's capture, two escape tunnels, one 800 feet long, the other 500 feet long, were discovered leading into the prison where he is being held. Both were allegedly financed by Caro-Quintero.

EXCESSIVE DELAY DEALING WITH CAMARENA'S KILLERS

The Camarena case has been in the hands of Mexican justice since at least the day his body was discovered. That has been more than 1,000 days. In fact, as of today, it has been 1,134 days. What is the status of that case today? Caro-Quintero's defense has until August 22, 1988, to draw up its conclusions and submit them to the court in Mexico City. Once the court has received those conclusions, it will decide the case.

Justice delayed is justice denied. So far, the Camarena case has seen far more delay than justice.

CARO-QUINTERO'S LUXURY PRISON CELL

And Caro-Quintero—the mastermind of the crime—has unusual furnishings in his cell, according to a current Life magazine article. Reportedly, it is carpeted and equipped with a kitchen and a VCR. He has conjugal visits, receives shipments of fresh food from outside, and, in a surprise inspection, was caught with an estimated 12 kilos of cocaine in his cell.

I ask my colleagues, is this full cooperation?

OPERATION SABER

Mr. President, why does the Camarena case languish? Why is the eradication program such a failure? One answer is drug-related official corruption in Mexico.

In the United States, the Organized Crime and Drug Enforcement Task Force in the southern district of California conducted "operation saber" against a Mexican-Bolivian drug smuggling cartel that has exposed connections between major drug traffickers and upper levels of the Mexican Government. It resulted in indictments against three Mexicans, three Bolivians, and complaints against four additional Mexican nationals and one additional Bolivian.

Three Mexican suspects, Pablo Giron, Hector Brummel-Alvarez, and Jorge Carranza-Peniche, were arrested on January 14, 1988, in California. They are notable for their connections with the highest levels of the Mexican Government.

According to the United States Attorney's Office in San Diego, Pablo

Giron is a commandante in the Mexican Federal Judicial Police and was an agent of the Mexican Direccion Federal de Seguridad [DFS], until at least 1982. Hector Brumell-Alvarez reportedly has strong links to the Mexican military and served on a protective detail for Carlos Salinas, the man most likely to be the next President of Mexico. Finally, Jorge Carranza Peniche is a grandson of a former President of Mexico, and was discharged from the Mexican Army in 1970 as a major. He offered to arrange for protection for cocaine smuggler aircraft by the Mexican Army.

THE INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT

The State Department's international narcotics control strategy report lists numerous examples of Mexican failures to cooperate fully. The following statements are from page 131 of that report:

> Mexico is a major producer of cannabis and opium poppy and continues to be the largest single-country source of the heroin and marijuana available in the United States.
>
> U.S. officials estimate that in 1987, net Mexican production totaled 6,550 metric tons of marijuana (as compared to 4,000 to 6,000 metric tons in 1986) and 45 to 55 metric tons of heroin (as compared to 35 to 50 metric tons in 1986).
>
> U.S. officials report that the levels of U.S. bound cocaine transiting Mexico have significantly increased, and that Mexico represents a major transit point for cocaine from South America.
>
> U.S. officials are unable to verify the military's eradication claims, which equal or exceed U.S. estimates of total cultivation.

The report continues on page 132, as follows:

> In the opinion of the U.S. Customs Service, the single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican Government. Documented violations by Mexican law enforcement officials are becoming more prevalent.

And on page 133, the report states:

> However, there are extensive trade and financial ties between the United States and Mexico and some reports indicate that money laundering of narcotics profits through investment in legitimate businesses is extensive.
>
> Mexican banks, all but two of which are nationalized, do not provide information to the U.S. on their activities.

STATE DEPARTMENT PRIORITIES

The State Department was wrong last year on Panama. And they are wrong this year on Mexico. Their priorities are simply out of order. They talk about sending a strong signal to Mexico, but then they back away. That, in itself, is clear proof that Mexican narcotics interdiction, eradication, and enforcement are at the bottom of their list of priorities.

It is time for this order of priorities to change. It is time to prove, through action, that making meaningful progress against international drug traffickers is a real priority for this country.

LIFE MAGAZINE ARTICLE "HARVEST OF DEATH"

To further illustrate the truly massive scope of illegal drug trafficking and official corruption in Mexico, I would also like to quote from an article that appeared in the March 1988 issue of Life magazine.

Mr. President, I aks unanimous consent that the Life magazine article be printed in the RECORD in its entirety at the end of my remarks.

The **PRESIDING OFFICER**. Without objection it is so ordered.

[See exhibit 2.]

Mr. **D'AMATO**. Mr. President, the article, entitled "Harvest of Death," talks about America's No. 1 drug dealer. Who is that drug dealer? It is not a person, it is a nation—Mexico. Life magazine's reporters uncovered these startling facts:

> Mexico's $40 billion drug trade is the impoverished nation's single booming industry.
>
> Mexican traffickers are believed to wholesale 35 percent of all coke brought to the United States.
>
> U.S. Government sources believe as many as 10,000 Mexican officials are on the drug dole—not only policemen but highly placed judges, Government ministers and Army personnel.
>
> Top positions in Mexico's federal judicial police have proved so lucrative in trafficker payoffs that in the early 1980's they were bought for as much as $100,000. In 1986 a $5 million stash of a federal police chief was seized—not a sum saved on a $700 monthly salary.
>
> The king of the traffickers, Mexico's godfather, is Miguel Felix Gallardo. He is linked to dozens of crimes but remains untouchable, protected by bodyguards and government officials, including a former Governor of Sinaloa. His personal wealth is estimated at $5 billion. His last legitimate job, 14 years ago, was as a cop in Sinaloa.
>
> At least 2,500 unauthorized airstrips scar the Mexican landscape, from the Yucatan to the Rio Grande.

Mr. President, I know that Mexico does not feel comfortable being the center of attention and having Americans scrutinize their problems and policies, but our concerns over the tremendous amount of narcotics being produced in Mexico and transiting Mexico are legitimate and they are being substantially ignored.

I urge my colleagues to vote for this resolution.

If this resolution fails, we will have once again turned a blind eye to Mexican drug trafficking and official corruption, and we will pay a great and tragic price for it in our streets, schools, hospitals and prisons.

This is a price we cannot afford. So I urge my colleagues, act now, and vote for this resolution.

You will be saving American lives.

Mr. President, the time to act is now.

What about law enforcement? If the Mexicans are going to cooperate, why not cooperate in the area of hot pursuit, where we would even have a Mexican official on board the pursuit aircraft, tracking those drug dealers? No one wants to take away the Mexican sovereignty. The Mexican answer is, "No."

What about bank secrecy as it relates to drug transactions and the billions of dollars laundered through the national ally-owned banks of Mexico? We asked for cooperation, and again the answer is, "No."

What about official corruption? One need only read last month's Life magazine, an article entitled "The Harvest of Death." It turns one's stomach. A $40 billion drug trade is flourishing in Mexico, fueling the economy, buying 10,000 officials, high-ranking government officials, governors.

We want to make believe that it is not happening and go ahead with this certification. Official corruption is rampant. Look at the record.

Can anyone name one major Mexican narcotics trafficker who has been arrested and convicted and sentenced? No. Because it has not happened.

Will they cooperate with our customs people? No. Commissioner von Rabb has stated repeatedly that he gets absolutely no cooperation from them and that he is concerned for the integrity of any operation they carry out together, that corrupt Mexican officials would compromise them.

It is about time we began to give meaning to our rhetoric as it relates to war on drugs. We can do that by sending the Mexican Government a strong message and by sending the same strong message to those concerned about our relations with Mexico in the administration. I believe that it will strengthen our President's hand, because he can truly say that the Mexicans have got to begin to perform, no more promises without action, and that Congress has recognized this. If he has objections to this resolution on national security grounds, he can override the decertification. If we adopt this resolution, I believe at least we will be meeting the charge and the responsibility that the people of this country have placed upon us to provide for the domestic tranquillity. With one-third of all illegal drugs transitting through Mexico into our cities, hamlets, and streets, we are talking about the loss of our domestic tranquillity and the war that is being waged right here at home.

I yield the floor.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington.

HON. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: The Senate Foreign Relations Committee has before it resolutions to disapprove the President's certification of Mexico and The Bahamas under Sec 481(h) of the Foreign Assistance Act. Both resolutions involve risks that Congress should consider. In the case of Mexico, the resolution poses significant dangers to major U.S. interests.

I understand many members of Congress are attracted by the idea that, by overturning the "full cooperation" certification and urging the President to replace it with a "national interest" certification, we would be sending these countries a useful message while making proper allowance for the extensive foreign policy interests we have there. However, the law is clear that "national interest certification" is in fact a denial of certification on anti-narcotics grounds. Moreover, the design to accompany the President's certification with a special justification statement was predicated on our own belief we should send a strongly worded message to Mexico. All subsequent talks with the Mexicans confirm that this message was received and understood.

Should the Congress overturn the President's certification of full cooperation, the political impact this would have in Mexico could be devastating to U.S. interests. I feel certain, for example, that Mexico would terminate U.S. ties to their aerial eradication program and reject the $14.5 million in direct U.S. anti-drug assistance that these ties involve. The ability of the DEA to operate effectively within Mexico might also be impaired.

The Mexican Government would of course continue to fight the narcotics traffic on its own, but the efficiency of these efforts could drop significantly if the U.S. role is curtailed, and more drugs would flow into the United States. Moreover, if Mexico alone should prove unable to counter the increasing power of the narcotics traffickers, the very stability of our southern neighbor could be placed in jeopardy. We cannot afford to have a Colombia on our border.

The political spillover of a Congressional approval of the Mexico resolutions would probably affect every aspect of our bilateral relationship, including trade, investment, immigration and border-area cooperation. The U.S. would become a major issue in Mexico's current election campaign, and a more constructive bilateral relationship would become politically impossible for the next Mexican president. The political left and other elements in Mexico opposed to closer ties to the U.S. would get a strong new lease on life.

Aside from these considerations, the President's certification decision and the justification statement accompanying it are defensible. While we fault Mexican efforts in some areas, that does not mean we should overlook the substantial nature of their contribution and the many positive actions they took in 1987. For instance: Mexico was the first Latin American country to sign and ratify a Mutual Legal Assistance Treaty with us; they increased by 26% their eradication of marijuana while slightly improving opium poppy eradication; their seizures of all drugs were up (cocaine by 75%, opium derivative 12%, and marijuana 104%); they arrested 9,800 persons for trafficking including nine major (class 1) narcotics violators.

Despite these efforts, which involved many human casualties and a heavy outlay of scarce financial resources in the midst of a deep economic crisis, the drug producers and traffickers gained ground last year. Because of this, President Reagan stressed the importance of this issue above all others during his meeting of February 13, 1988 in Mazatlan with President de la Madrid and members of his Cabinet.

The Mexican President was highly responsive to our concerns. He declared drugs a national security concern for Mexico, and two weeks thereafter he appointed a Cabinet Committee, headed by Mexico's Attorney General, Secretary of Government and Secretary of Health, to coordinate Mexico's anti-drug efforts. This broadening of Cabinet-level attention to the drug war raises its visibility within the Mexican Government, increases the potential for more effective coordination, and responds to a recommendation made by President Reagan at Mazatlan.

In sum, I believe it would be both unfair and highly counterproductive for Congress to disapprove the President's certification of Mexico as a fully cooperating country.

With regard to The Bahamas, cooperation in 1987 between U.S. and Bahamian law enforcement agencies has been excellent. Cocaine seizures increased by 30% as a result of this cooperation. GCOB efforts in the key areas of enforcement, investigation, and prosecution improved during 1987.

Although allegations of corruption remain a serious concern, the Bahamian Government appears to be moving in the right direction to address the problem. Two new special drug courts should relieve the overburdened legal system. A police internal corruption unit has investigated and presented cases for prosecution.

Decertification would jeopardize this cooperation and discourage further GCOB law enforcement and anti-corruption efforts. With an estimated 50-60% of all marijuana and cocaine destined for the U.S. transiting The Bahamas, that would mean an increase in the amount of these drugs entering our country. The GCOB has demonstrated at the highest levels its readiness and willingness to cooperate with us in the drug fight. We want to encourage and strengthen the hands of those Bahamians who clearly want to do more.

In order to achieve results, there is no realistic alternative to working with these countries. Measures to sanction them, or to castigate their governments as corrupt, will only undercut the ability of honest, serious public servants to cooperate with us. And in the case of Mexico they will have an incalculable adverse effect upon some of the most important foreign policy interests the United States has.

Sincerely,

JOHN C. WHITEHEAD,
Acting Secretary.

EXHIBIT 2

THE VIOLENT WORLD OF DRUG TRAFFICKING HAS MOVED RIGHT NEXT DOOR. WITH UP TO 10,000 GOVERNMENT OFFICIALS ON THE TAKE, MEXICO HAS BECOME AMERICA'S NO. 1 DEALER

The crimson petals have fallen. This month the poppy harvest begins in the mountains of western Mexico, much of the work done by children. It takes delicate hands to slice the flower pods and scrape up the white opium gum. By June, after the crop has crossed the border as heroin, some 4,000 Americans will have overdosed on the drug. Mexico's $40 billion drug trade is the impoverished nation's single booming industry, raking in more sales than those other international consortiums Procter & Gamble, Eastman Kodak and Coca-Cola combined.

All year narcotics pour across the desolate 2,000-mile border from Texas to California, bound for U.S. cities. Mexico now produces nearly half the heroin and more than a third of the marijuana consumed in the U.S. In addition, it serves as middleman for a vast amount of South American cocaine. Mexican traffickers are believed to wholesale 35 percent of all coke brought to the U.S. Colombia may be run by drug lords, and strongman Manuel Noriega of Panama has been indicted for drug trafficking and money laundering, but U.S. drug agents consider Mexico, with its proximity and vast human traffic across the border, a far greater danger. "Mexico is the single most important country in the war on drugs," says Charles B. Rangel, chairman of the Congressional Select Committee on Narcotics Abuse and Control.

Mexico is aware of the severity of the problem. It devotes 60 percent of its federal crime fighting budget and a quarter of its army personnel to battling narcotics. Widespread corruption, however, has blunted its efforts. U.S. government sources (and three independent experts queried by LIFE) believe as many as 10,000 Mexican officials are on the drug dole—not only policemen but highly placed judges, ministers and army personnel.

Among the dozens of sources for this account of the drug world is an intelligence operative who spent two decades in Mexican law enforcement combating traffickers. Now working for the U.S., he cannot reveal his real name—he calls himself Osuns—or his whereabouts. Since taking up residence in the U.S., he has moved four times. Even so, three attempts have been made on his life by traffickers and corrupt Mexican cops. Osuna, who maintains an escort of bodyguards, knows their methods. "They'll strip and blindfold you and hang you from your thumbs," he says. "They mix highly flammable glue with gunpowder, then stick it to your body and light it."

The 1983 torture and murder of U.S. Drug Enforcement Administration agent Enrique "Kiki" Camarena revealed the viciousness, nerve and power of the Mexican drug world. Since then, the situation has only worsened, with pot plantations equipped with modern irrigation machinery; traffickers' jail cells furnished like hotel suites; booby-trapped poppy fields; cops who moonlight as dealers and as criminals' bodyguards; highway patrols who escort tankers loaded with contraband.

Battling this madness, U.S. and Mexican agents face a powerful enemy, strong in number, munitions and funds.

These familes finance elections—members of the Herrera clan, for example, have served as mayors and police chiefs for decades—bribe all levels of law enforcement, even maintain militias of up to 50 men. Says Luis Martinez Villacaña, governor of the state of Michoacan: "They walk around with machine guns—they've got weapons to fight the military, and they do. In the more isolated areas, they are the law." Families battle each other as well.

Not everyone considers the drug lords a menace. Mexico's economy is plummeting.

"Traffickers bring much money into the country, and the people need money; they don't care where it comes from," observes Osuna. "The narcos spend it on land, clothes, cars, parties, with the gunsmith. They spend all over the place. The government doesn't do that."

To many, the drug merchants are poor-boys-made-good, men who have broken the centuries-old class system. They cement allegiances in their home territories by building schools and health clinics and bringing drinking water and electricity to rural villages. Driving large, bulletproof American cars, they are heroes whose exploits are celebrated in corridos, folk songs popular on cantina jukeboxes.

The king of the traffickers, Mexico's Godfather, is Miguel Felix Gallardo. He is linked to dozens of crimes but remains untouchable, protected by bodyguards and government officials, including a former governor of Sinaloa. His personal wealth is estimated at $5 billion, but Felix Gallardo is an unlikely big shot. Wiry, almost delicate, he has telling nicknames—Pink Panther refers to his pencilly arms, and El Juevero (the eggman) is a holdover from his adolescence, when he sold eggs from the sidecar of a small motorcycle. His beginnings speak powerfully of the close relationship between drug lords and law enforcement.

Felix Gallardo learned from those he was charged with apprehending. He bought a small pharmacy and started selling the chemicals used to cut heroin. Soon he was building processing plants and warehouses and buying raw drug base and chemicals by the truckload. To dealers he offered a range of modern services—processing, trucking, security, packaging, air freight. Like other traffickers, he has branched out into legitimate businesses. He owns hotels, a Japanese restaurant, racehorses and ceramics and furniture factories.

"A joke is going around that he wants to make something called Cocamatic," says Osuna. "You insert your Coca-card into the Coca-teller and push buttons for what you want—a gram, two grams—any hour, day or night."

Like other traffickers, Felix Gallardo has indulged himself as he never could as a kid—or as a policeman. He is the sophisticate among traffickers. He has a taste for German white wine, sushi, and antique autos. His fleet of nearly 100 vintage cars includes a Bentley, a Silver Cloud Rolls and several Model-Ts—many with their original license plates. With his wife, Elvira, and son, Miguel, he is reported to be constantly in motion; he has seven houses, two ranches and, appropriate to a man on the lam, a custom-built mobile home. Drawn to pleasure outside the family, Felix Gallardo is also a rowdy host of orgies. "He's a sex maniac," says Osuna. "He loves young girls and likes to videotape himself in action."

Though outsiders claim that he had a man killed for stealing his son's motorbike, Felix Gallardo is known to be even-tempered, a regular gentleman compared to most in his line of work. By contrast, fellow trafficker Manuel Salcido—known as "the crazed pig"—once greeted intruders on his property with machine gun fire, then buried the corpses with a bulldozer.

Powered by cocaine, trafficker parties can last for days. Funerals can be boisterous. Mourners fire pistols into the air as the coffin is lowered into the grave. Tradition calls for the consumption of 10 cases of beer during the ceremony, with empties tossed onto the coffin. Osuna has attended several burials: "All during the procession, a band performs *corridos* about the dead one; ideally, the widow is pregnant with a son to carry on the tradition," he says.

With their cash and guns, traffickers have taken advantage of Mexico's hard times, making offers difficult to refuse. Peasants eking out a subsistence living growing corn and beans are tempted to turn over patches of land for pot or poppies. State cops stand to make far more than their $100 per month salaries if they jump to the other side of the law. "All I ever wanted to be was a cop, he said, "but I was seeing evil all around me. My chief threw so much money around I thought he was a millionaire. I was naive—he was a crook who worked for the traffickers and got paid with bags of cash. People like him are vampires. They are bleeding the people. What we have in Mexico now is an army of bloodsuckers. I had to get out for my self-respect." Corruption in the military can be equally blatant. On drug raids, soldiers have been known to strip houses of everything—furniture, TV sets, even toilet paper. Explains Osuna: "Planters must pay off the army. If not, officers wait until harvest time to destroy the crop or take and sell it."

Top positions in Mexico's Federal Judicial Police have proved so lucrative in trafficker payoffs that in the early 1980s they were bought for as much as $100,000.

For a while, traffickers virtually owned Guadalajara. Protected by law-enforcement agents, airplanes loaded with cocaine taxied directly to a special hangar at Guadalajara International Airport. Traffickers shared a private radio band with the Department of Federal Security, Mexico's CIA and DEA.

When these practices came to light during the investigation into the Camarena murder, they were sharply curtailed. Says Mexico's Attorney General Sergio Garcia Ramirez, "We're making a superhuman effort to stop the traffickers. Over 25,000 members of the army and 1,500 from my office are in the campaign." But his deputy adds, "Corruption just goes with drugs—speaking Spanish, English, whatever language it needs." U.S. and Mexican sources estimate that 70 percent of the federal agents in Mexico use cocaine.

Even drug raids are not what they seem. Agents and cops confiscate contraband all right, but they don't always turn all of it in. "When the police get a lead about a lot of pot," says an ex-state cop, "they go to the house, make plenty of noise so everyone can escape, then go inside and take 500 kilos. They report 250 kilos, and that becomes one of those statistics the attorney general is so proud of quoting. It'd be more interesting to hear how much they're selling."

Arrests are rare and incarceration often a joke, with wardens in cahoots with prisoners. "If you don't want to be searched in the main Tijuana jail," says Osuna, "hand the guard $20 to $100, depending on what you don't want found. You can get a private bath, a steam room, a telephone. Some jails have restaurants. A girl can stay with you."

"Cops don't get wages from traffickers," Osuna notes. "They make it seem more like friendship. They use cocaine together, then the cops start receiving cash, cars, gold flasks, guns and ammo."

Contraband is transported from the primitive world of growers to the modern one of processors and consumers by burros, on humans, in fleets of tanker trucks and aboard aircraft that fly as low as 1,000 feet to evade radar.

The PRESIDING OFFICER. Who yields time?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Chair has recognized the Senator from California, but has the Senator from New Jersey risen for another purpose?

Mr. WILSON. I thank my friend from New York.

Mr. President, it is a bad time to be a kid in America. That is what the headline proclaimed on the front page of the Easter Sunday edition of the Washington Post. It told two stories of two children, a 7-year-old girl and a 14-year-old boy. The headline came from the comment of the girl's father, who would no longer allow her to go out on the patio of their home after dark, for fear that she might again see a murder in the adjoining parking lot, which is habitually used for drug trading.

This 7-year-old child saw a murder, a drug murder, so her father does not want her going out on that patio. He is not certain that the pleasant home in which they live is a place he can stay, and he said it is a bad time to be a kid. I think that is a vast understatement.

The other story, about a 14-year-old boy, had to do with his mother, who, happily, was eavesdropping and picked up the phone when she heard her son, obviously distraught, in a telephone conversation and heard a 29-year-old man threatening to kill him if he did not join with that 29-year-old man in the illegal sale of dangerous drugs.

It is a bad time to be kid in America, Mr. President, and perhaps a worse time to be a cop—and not necessarily an undercover narcotics officer, but even a street cop. It is a very dangerous time to be a cop in America.

HAITI: A MAJOR DRUG TRANSIT COUNTRY

Mr. HELMS. Mr. President, I strongly support this resolution. Sadly, Haiti is a disaster zone from many standpoints—not just drugs. I am sure that all of us are deeply troubled by the poverty, the disease, and the political disarray stalking that unfortunate land.

Mr. President, I know that every Senator hopes that the future can be brighter for Haiti. But we must not mix our sincere and heartfelt concern for the people of Haiti with our responsibilities to the people of the United States.

While Haiti has not been a significant producer of narcotics, transshipment and processing of illegal drugs are indeed taking place to an alarming degree.

The "International Narcotics Control Strategy Report" of the State Department itself states, and I quote,

> Haiti remained a significant transshipment point for the movement of illegal narcotics, particularly cocaine, into the United States during 1987. With the departure of dictator Jean-Claude Duvalier in February 1986, it was hoped that steps could be taken to control the substantial drug trafficking which had existed under his corrupt regime. It appears that new traffickers, acting in collusion with Latin American suppliers, have filled the vacuum left by the departure of the Duvaliers.

Mr. President, information reaching my office during 1986, 1987, and this year has indicated a massive increase in the use of Haiti and its airports and airstrips for narcotics transshipment. Without mentioning any names, I have had a continuous flow of information provided to my office from several professional cargo pilots in the Caribbean who are appalled at the drug trade conducted by some of their fellow pilots.

This information, combined with information developed by the able Senator from Massachusetts [Mr. KERRY] during hearings he has recently conducted in the subcommittee on Narcotics and Terrorism which he chairs, leads me to support this resolution without reservation.

Why, Mr. President? Drugs—drugs in virtually every sector of our Nation.

It is a bad time to be a kid not just in the Nation's Capital or Los Angeles or New York City, or Miami, and not just in the inner city, not just in the suburbs, but in rural America, in every corner of America. It is front-page news not just in the Washington Post but in the Des Moines Register.

In the Des Moines Register there is an item about cocaine and marijuana seized in a Davenport drug bust.

It is front-page news in the Bridgeport Post where a story about the East End's slow, painful rise from rock bottom as in the very lead of the story residents complaining to officials on far off Golden Hill they must employ more police in the crime-ridden sections chasing the drug dealers away for good.

It is front-page in the Idaho Press Tribune where cocaine and weapons seized in a drug bust in Coeur D'Alene tells the story of a very dangerous arrest.

It is front-page in the Knoxville, TN, Journal, Mr. President, where 20 were arrested in a motel drug raid in Erwin where Unicoi County authorities arrested 20 people on drug charges during a raid on a local hotel.

It is front-page news in the Newark, NJ, Star Ledger where a story having to do with United States and Italian officials smashing a massive heroin ring contains in the lead among those arrested were two New Jerseyans, a man and woman in it for proft. I hope they never get to spend the profit.

A report on Detroit from the Chicago Tribune says that Detroit drug crackdown is going only so far.

Why, Mr. President, when the police arrested over 1,000 people on felony drug charges in the 3 months after Detroit declared war on crack were fewer than half of the suspects in custody as reported by a Detroit newspaper? Fewer than one in five of those arrested since November 30 are in prison or jail or have been convicted according to the Detroit Free Press.

The answer there, as in so many places, is that local authorities are literally overwhelmed.

Mr. President, here from the front page of today's Washington Post, we find that literally within hailing distance of the Nation's Capitol a "Union Station Squad Gives Couriers an Inhospitable Welcome" playing hide-and-seek with drug smugglers.

Mr. President, I could go on. These happened to be just what I collected by chance by going into the Senator's lounge this morning. I could do it any morning because these headlines are a daily fact of life all over America in communities large and small, in New York City and in tiny villages.

What does it all lead to, Mr. President? Perhaps to this story datelined Miami by George Will which I will not detail. The substance of the story is captured in the headline that says perhaps only half a generation has been lost to the drug trade.

Mr. President, that is not the kind of situation that we can tolerate.

Yes, it is a bad time to be a kid in America. Is that not a hell of a thing to have to acknowledge, Mr. President, in the pages of America's newspapers and on the floor of the U.S. Senate, and on one television special after another?

The most recent was ABC Peter Jennings' special on Sunday night entitled "Drugs, a Plague Upon the Land." That is not a melodramatic exaggeration. It is an accurate description of the situation in American today. And indeed that special by Mr. Jennings focused not just on the inner-city gangs which he detailed at great length in virtually every part of the country but it focused on Charleston, WV, a sleepy, quiet town with a population of only 3,000 people. This was not Central Park East, or Beverly Hills. This is not a trendy community. It is a small, quiet community of working class people who pretty much like to be left alone but they have not been left alone, Mr. President. A gang has terrorized that city.

It would seem at first blush an unlikely spot for the cocaine problem of the dimensions described by Peter Jennings. But that is the fact.

Mr. President, let us focus on what this joint resolution is really all about so that we can understand why it is regretably absolutely necessary. It will help us to do so if we stipulate to certain facts that I hope will clear away some misapprehensions.

First, this joint resolution is not offered to in any way excuse the inadequate performance of this and prior administrations or of this and prior Congresses.

Yes, this administration has done more than any other, but it has not begun to do enough.

Yes, this Congress, at least the 99th Congress and hopefully this one, if it will pass the DeConcini-D'Amato legislation, will have made a very significant start, but we have not yet done enough, not nearly enough.

This joint resolution is not an effort specifically to sidestep U.S. responsibility to make a much, much greater effort to curtail demand.

Yes, there are two parts to this problem, supply and demand. And if there were no demand, of course there would be no market.

That is all well and good. Let us stipulate that the effort required has not been made and must be made.

Mr. President, and this is not news to many of us, over 20 years ago when I was first a candidate for the State legislature I ran on a platform of trying to educate young people to the perils of drug abuse so that they could make an informed and intelligent choice not to engage in dangerous experiments.

We have a long, long way to go. Ask any sheriff or any police chief in the land. They will plead for the effort to be made to curtail demand. And making that effort to curtail demand is not solely the responsibility of police chiefs or sheriffs or of government. It is shared by all Americans, every parent, pastor, rabbi, teacher, every friend.

Mr. President, if friends do not let friends drive drunk, friends should tell friends not to ruin their lives with drugs.

Let us stipulate further the purpose of this joint resolution is not to bash Mexico but to defend the United States.

Let me just make the point as clearly as I can. For almost 12 years I was privileged to serve as the mayor of San Diego, the largest American border city. We sat astride the busiest international crossing in the world. Time and again I worked with a succession of mayors of Tijuana, three, with two different Governors of the State of Baja, California, in the solution of real problems, problems having to do with teenage gangs, having to do with providing needed fire protection and sewerage and water capacity and the kind of help from the State of California that could solve a seemingly intractable mystery that led to the poisoning of a contaminated grain supply in Mexico.

Mr. President, those relationships were solid. We worked at them at the local level. There were generations of good will spanning that border and that is threatened.

I take pride in the fact that I am the third citizen of my country to be made an honorary citizen of Mexico City because of the kind of relationships which I worked at and built with my colleagues on the other side of the Mexican border.

(Mr. ROCKEFELLER assumed the chair.)

Mr. WILSON. But for all the affection that I bear and all the respect I bear for more Mexican friends than I have time to count, I cannot be an apologist for a government which does not do what it can do, what, as a good neighbor, it is obliged to do.

So, Mr. President, let us not waste time on insinuations that have no basis in fact and let us proceed to another bogus defense that is raised against this resolution. It will be said by its opponents that Mexico is not the only drug producing nation that is not giving full cooperation. Well, of course it is not the only one. That is why even this administration, with an incredible capacity for tolerance, has decertified three others and why there have been efforts to decertify, in addition, five in the House. And here today we have spoken of the Bahamas. We have decertified or disapproved the resolution certifying Haiti.

Of course, it is not the only drug producing nation that is not giving full cooperation, but is that any reason to ignore what they are not doing?

And I will tell you, Mr. President, that Mexico is the most significant of the drug-producing nations. Even the State Department, in the little briefing sheet of talking points that they have provided to the opponents of the joint resolution, concedes that more marijuana and heroin come from Mexico than any other nation and that it is the major point of transshipment for cocaine and a growing point of transshipment.

Next, Mr. President, let us understand clearly that the purpose of this joint resolution and the others like it are not to aggravate anyone's economic crisis. There is no joy in putting economic pressure on someone from whom I have voted so many times in providing economic assistance.

When we voted for this leverage in the 1986 Drug Act, it was because it was thought to be the best available to us. It was a means whereby we could convey to those to whom we provide foreign assistance the urgency of this problem and the necessity of their cooperation.

But that is almost academic, Mr. President, because I do not think there is really, seriously, anyone in doubt on this floor that the President would avail himself of the power he has under the 1986 Act to, in effect, recertify Mexico. Indeed, if he chose to, he could veto this legislation if it got through both Houses. So it is all rather academic to talk about the economic ills that could befall Mexico, because they will not. It is not going to happen.

So let us get to the reality, that by adopting this joint resolution we will be sending a message to Mexico, to the Government of Mexico, because it is upon the Government of Mexico that the responsibility for cooperation falls.

Mr. President, we will be told that we should not adopt this resolution because there has been great improvement in the performance of Mexico since last year when a similar resolution gained many votes, not enough to pass, but evidenced the awareness and the unhappiness on this floor of the lack of cooperation. We are told that, in 1987, drug seizures were up sharply over 1986; that cocaine seizures were up by 75 percent; opium derivatives by 12 percent; marijuana by 104 percent. We are told that marijuana corp eradication increased 26 percent in 1987 and opium poppy eradication by 3 percent. We are told that a major effort is being made, that Mexico has increased its fleet of spray helicopters by 50 percent since 1984 and spent $18.2 million on eradication operations in 1987.

Mr. President, I have to tell you that we are taking all of that pretty much on faith. Because American officers are no longer permitted to accompany those who are presumably conducting the spraying in this marijuana eradication program. It has been faulted by every law enforcement agency familiar with it. Indeed, it has been faulted by the State Department which makes this powerfully unpersuasive testimony at this point.

We are not permitted to verify. We do not know whether they go where they are supposed to go. We provide them with maps, but we do not accompany them. We do not know whether what they are spraying is, in fact, the kind of chemical that is supposed to achieve the killing of the marijuana plants or whether it is simply water. And there have been instances verified when it was simply water.

Mr. President, we are told that 60 percent of the Mexican Attorney General's budget and 25 percent of Mexico's military are deployed in the drug war. We are told that 36 civilian personnel and an unknown number of military have been killed in antidrug operations since 1982.

Mr. President, I am prepared to believe that. I will only tell you that it is a travesty that the courageous and honest law enforcement personnel, civilian and military, have been sacrificed to the incredible profits that are permitted those trafficking in drugs in Mexico. Indeed, the other day Senator KERRY, without giving the specific names, detailed the offices that had been documented as being involved in drugs within the Mexican Government. It is a sad thing that there are honest, decent Mexican law officers who have been sacrificed, because one must ask: For what? Because there is, in fact, pervasive corruption and indeed the State Department has so stated.

We are told that Mexico has signed and ratified a Mutual Legal Assistance Treaty. Mr. President, I have read the treaty. It will not change very much. It is an expression of good intentions. The Mexican Executive, for the vaguest of reasons, can choose not to cooperate and be in compliance with the treaty. It is frankly not much; nothing upon which to rely. It says that if they wish to cooperate, they can.

Finally, Mr. President, in their talking points, the State Department says Mexico and the United States have agreed to cooperative border drug interdiction, each country operating within its own territory and exchanging extensive information on movements of traffic.

Mr. President, there are honest, decent and, God knows, courageous Mexican law enforcement officers fighting against drugs. It demonstrates great tenacity, great purpose, but, my God, the odds against which they labor are incredible. Because let me just tell you that for all these little talking points which the State Department has trotted out here are quotes from the State Department's 1988 certification report on Mexico.

First, the Mexican Government has turned down a United States request for unrestricted access to Mexican airspace to permit the pursuit of suspected drug-carrying craft.

Mr. President, this contrasts to the situation in the Bahamas. We have a 1,900-mile open border. The smuggling increasingly is by air. Sophisticated aircraft fly over that border from Mexican airstrips without a flight plan, make a drop, and someone later comes and picks up the heroin or the cocaine or the marijuana.

For all the effort that we put into surveillance—and it is not enough yet—when we do make a contact, are we able to pursue, in hot pursuit, a suspected aerial smuggler into Mexican airspace? Mr. President, we are not.

Why not? Because it is said that that would be an affront to Mexican sovereignty. The President of Mexico, President de la Madrid, has said that is not permissible. It is a matter of sovereignty.

Mr. President, with all due respect it is not a matter of sovereignty. No one is challenging Mexico's sovereignty. It is their airspace. It is their land beneath the airspace. And the Bahamians could just as easily assert sovereignty but they have recognized that international cooperation is required to deal with an international menace. Therefore they have accepted our invitation—not only may we engage in hot pursuit into their air space but they have at our invitation put their officers aboard American aircraft and when the suspected smuggler is tracked into their airspace and forced down on Bahamian land, the American aircraft behind him, once down, permits that Bahamian officer to alight and make the arrest. That is what I call international cooperation. And we have extended the same invitation to our friends in Mexico. It is not a good enough response, Mr. President, to assert sovereignty. We are not challenging their sovereignty. We are urging them to cooperate in the interests of their children and ours.

The second point noted by the State Department in this report which is the basis, ironically, for a recommendation to certify, they state with, I must say, an incredible capacity for understatement:

> The Mexican Government's cooperation with the U.S. Government investigation of the Camarena case has not been at the level of which Mexico is capable.

That should get a Pulitzer Prize for euphemism. The fact is that a young USDEA agent was abducted and tortured to death by Mexican judicial police in the pay of the drug trafficker known as Caro Quintero. He is in custody, in fact, in rather lavish custody, in Mexico City. He was almost recently at large. American agents discovered that a tunnel was being dug from across the street to beneath his cell in the prison.

Happily, Mexican officials have prevented his escape. But, Mr. President, when are we going to see a conclusion to the prosecution of Caro Quintero? It has been over 3 years. That is not swift justice. It is not justice at all.

What kind of message does that send to young DEA agents operating in Mexico? I will tell you the message it is supposed to send. It is supposed to intimidate them and probably does intimidate their families.

Third, the State Department report says, and I quote:

> U.S. officials report that the levels of U.S.-bound cocaine have significantly increased and that Mexico represents a major transit point for cocaine from South America.

So, frankly, what point is there in telling us that they have increased seizures when they make the statement that U.S.-bound cocaine has significantly increased from Mexico? Why has it?

Well, the next few points shed some light there. Point No. 4:

> Documented violations of Mexican law enforcement officials are becoming more prevalent.

Point No. 5 may shed even more light.

> Corruption exists in the Mexican Government bureaucracy and many corrupt officials are not prosecuted.

The quote continues:

> There is no indication that the level of market-related corruption has diminished either in absolute terms or in its impact on programs.

Like the drug eradication program.

The quote goes on:

> No data is available on the extent of money laundering in Mexico. Mexican banks, all but two of which are nationalized, do not provide information to the United States on their activities.

And finally, in another bit of euphemism:

> Mexico needs to further strengthen its criminal justice system and enforce existing laws in order to carry cases from arrest through conviction through imprisonment.

Mr. President, a moment ago I said the purpose of this joint resolution is not to aggravate an economic crisis in Mexico. The things that we are asking them to do, the criteria that have been set forth as measurements of coopertion, are not things that require that they spend any vast sum of money. Hot pursuit into their airspace costs them nothing. The Camarena prosecution may cost something but not very much, and it is going on and on and on without apparent conclusion. The marijuana eradication program has cost something. It has cost us a good deal more. It is no success. At one time, Mr. President, it was. But it has become, frankly, not worth the money.

And on cooperation with respect to gaining information from the Government or from the banks they own, those that they control, with respect to the laundering of drug money, we get no cooperation. We get no information.

Mr. President, that is from the State Department's certification report. Let me just say to you that we are at a point where I think many of us do not wish to be. We are compelled to face reality.

I will tell you who else was compelled to face that reality very recently. There is a drug policy board that advises the Reagan administration. Specifically, they advise the Department of State on matters of certification, among other things. And when the question came up as to whether or not the State Department should recommend to the President that he certify Mexico as being in full cooperation under the 1986 act, there was sharp division on the part of the drug policy board, so sharp that indeed they continued the decision. Ultimately, it was taken without reconvening the drug policy board, to the vast irritation of those members who had objected to the certification of Mexico. And, indeed, some of them were about ready to resign in protest. But what I will tell you, Mr. President, was that there was no unanimity. It was sharply split. Many thought that it would be a travesty for the administration to certify Mexico, as indeed it is.

Mr. President, let us get to the real point here as to why this is so regrettably necessary. At least one-third of all of the marijuana, the cocaine, and the heroin entering the United States comes from Mexico. This flood of drugs which is increasing, so says the State Department, so says the DEA, so says Customs, this flood of drugs which is increasing not only feeds demand, but it is used increasingly to create demand among the youngest, poorest, most vulnerable Americans, kids who are given free drugs by pushers and recruited into drug selling and other criminal activity in order to finance their habits.

Mr. President, if we understand nothing else on this floor we should not vote until we understand very clearly that supplying drugs is a business and an incredibly profitable business; one constantly seeking new customers, even as are legitimate businesses.

If you owned a publication, Mr. President, you would undoubtedly be engaged in sales techniques that would offer your publication free of charge, or perhaps at a limited cost on a trial subscription basis and after the trial, why, hopefully your readers would decide that they liked it well enough to continue paying the full price and get a full subscription.

If you were selling bottled water you might very well allow those that you wanted to make customers to enjoy your product free for a time or at a very reduced cost, in the hopes that they would find it so beneficial or desirable that they would, in fact, be willing to pay the full price. There is very little difference between those legitimate businesses, Mr. President, and the business of supplying drugs. Except that when you supply drugs what you are selling is dependency and death.

If you want to quit that subscription after a while, you can do so. If you decide you will go back to the tap and no longer continue with the bottled water, that is your decision.

Mr. President, you cannot make that decision once you have become addicted to heroin or to cocaine or even when you have developed a very substantial marijuana habit.

Let me refer again to the Washington Post story about the 14-year-old boy because it makes the point that there is a very important relationship between the widespread availability of drugs between the constant pressure of these people who are greedy for profits and their desire to get new customers and the kind of activity which that mother overheard being forced upon her 14-year-old son.

The child met a 29-year-old adult in a laundromat where the adult gave the kid drugs for nothing. Subsequently he said: "I am going to give you more, but you cannot use it all yourself. You must give it to your friends." And when the boy became frightened and tried to escape, the conversation occurred, which the mother overheard, in which the 29-year-old threatened to kill that boy if he did not continue cooperating with this man and be a part of his sales apparatus.

The creation of demand is part of the business. They even advertise sub rosa. If you watch the Peter Jennings show, you know it is out on the street. It is common parlance among those who are interested where you can make a score. Everybody knows in every town. They know.

Our colleague, the Senator from New York, without any great undercover training, went out one day on the streets of New York and scored. He was an impromptu undercover agent and was able to buy crack almost as soon as he hit the street.

What I am going to say next I hope is obvious to people, but it is the fundamental point. The creation of demand for dangerous drugs and the proliferation of the drug habit translates directly into unprecedented levels of crime, including violent crime as children resort to selling drugs, selling themselves in prostitution and to burglary and robbery in order to support their habit.

Mr. President, if you do not believe it, there are more statistics than we have time really to talk about, but these are available from the Wharton econometrics group. They have found that Americans spend approximately $20 billion per year on cocaine. I doubt they are spending that much on automobiles.

There is another thing they tell us, and that is emergency room visits nationwide resulting from cocaine abuse have increased by more than 300 percent over the last decade; that cocaine-related deaths in the United States have increased 1,000 percent over the last decade.

So you see what we are talking about when we talk of crime is not victimless crime, that favorite fiction of those who would liberalize and, indeed, even legalize the use of drugs, those who would dismiss it as simply something that we should not really be concerned with. Victimless crime?

These are the victims: consumers, interestingly enough, those who purchase from businesses who, according to the U.S. Chamber of Commerce, are experiencing an annual loss in productivity that costs them and the people to whom they pass on their costs $69 billion annually—taxpayers.

According to the Wharton econometrics study, there is a calculation that the following mean percentages of crime related to drug abuse in U.S. cities with a population over 100,000 or more are as follows: murder, 37 percent; rape, 27 percent; robbery, 61 percent; theft, 91 percent; burglary, 65 percent; auto theft, 35 percent; assault, 39 percent.

You go to any city, large or small, and ask the budget officer there what has been the increase in the past decade in the number of police officers. What is the increase in the police department budget?

What is the increase, if you are talking to the county budget officer, in the money that is being spent by taxpayers for probation officers.

What is the number of increased judgeships?

How many new courtrooms have we had to build?

How many new judicial salaries are we paying because of drugs?

How many prisons are so filled to overflowing that, in fact, people are being released, not because they are not guilty but because the authorities have to make room for yet more dangerous people?

You can measure the increase in the cost to consumers and taxpayers in many ways, but there is one statistic that is to me the most significant and the most depressing. That is the increase in the number of drug overdose deaths; 1,000 percent increase in the last decade in cocaine-related deaths.

Len Bias was a victim of this victimless crime; he and countless others less celebrated, and their parents.

I will tell you who the other victims are, Mr. President. Young street cops who are senselessly murdered, blown away by some idiot strung out on drugs who does not even know what he is doing.

I will tell you who else. Street cops like the young patrolman, 22 years old, gunned down in New York recently, patrolman Edward Byrne, gunned down as he sat in a police car guarding a witness in a drug case; murdered so that that witness could be accessible to the drug traffickers. His father said: "No one is safe anywhere."

His father is among the victims, and so are the widows and the children of literally dozens of police officers who have been killed within the past decade. The widow and the family of Enrique Camarena, murdered by those judicial police in Mexico.

I will tell you who are victims, Mr. President. All of those who are part of rising crime rates and statistics having to do with robbery, burglary, and assault. All of those who have been mugged to pay for the habit.

I will tell you who else are victims, and it seems incredible, but the other night sitting where Senator PELL is sitting now, Senator CHILES of Florida stated that there is a drug crisis in this land and sought unanimous consent to insert in the CONGRESSIONAL RECORD a story from the Philadelphia Inquirer entitled, "An Addict Is Born."

There is another story here from another newspaper. I will not ask that it be inserted in the RECORD. The nurse in charge of high-risk infants in that ward in a hospital stated that it tears her apart to see these infants with their eyes wild, thrashing about in such violent agitation that they do themselves harm, abrading skin from their limbs and their noses. These are children born addicts because their mothers have been drug users.

If there is something yet more painful and pathetic than that, perhaps it is the AIDS babies to whom AIDS has been transmitted by a mother who has either slept with a drug abuser or used an infected needle.

Mr. President, this is not victimless crime. The victims are everywhere. The point is that not only is the level of crime rising because the level of drug use is rising, local law enforcement is being overwhelmed by it. Overwhelmed. Career police officers will tell you with more than a gusty sigh that they are no longer able to go to work feeling that they are able to deal with the problem.

Recently, I was in Orange County. The sheriff of that county, who conducts a very good antidrug program, called to invite me to a news conference in which he was going to announce a record drug bust.

What he announced was the seizure of enough cocaine to provide fixes to 2¼ million people. Enough for evey man, woman, and child in Orange County. With it, his officers confiscated $5.7 million in small bills. If you have never seen that kind of cash, it covered a table about 40 feet long, about 5 feet wide and stood pretty high. They had to use the kind of bill counting machines which only large commercial banks would ordinarily require. And the stash of that cocaine, Mr. President, was about 5 feet square and stood about 10 feet high.

One other thing. They also confiscated a cache of arms, automatic weapons, AK-47 assault rifles. Mr. President, when I say that law enforcement is being overwhelmed, it is no longer even a fair fight in terms of the firepower. Officers equipped with service revolvers and an occasional shotgun are encountering automatic weapons, Uzi submachine guns, AK-47 assault rifles.

Mr. President, it was all on the Jennings special on Sunday night. But it is shocking how seriously outgunned, not just literally but figuratively, these officers are. The overwhelming odds faced by local law enforcement can be reduced, and this is the final point, Mr. President, in this simple syllogism that drug use has created, the market has created, and as it expands crime expands to the point where local law enforcement is overwhelmed. But if we are going to do something about curtailing demand, we have to understand we must also do something about interdicting the supply, and if we are going to be realistic about it we need to understand that the chance to do that is much greater outside our borders than once it is within them.

The Department of Justice estimates that for every dollar spent on foreign interdiction—interdiction outside the borders of the United States—over $7 of cocaine and heroin have been confiscated. By contrast, for every dollar spent on local law enforcement, something far less than half is the result.

Now, that is not a commentary on local law enforcement, Mr. President, except to say that they are fighting incredible odds, literally overwhelming odds.

Mr. President, we have been talking about what they do get in seizures. I ask you to think about what they are not getting, what is getting on the street, in the school yards, on the playgrounds, in the workplace, whether the workplace is a roundhouse for a railroad, whether it is the cockpit for an airplane, the cab of a locomotive, the seat of a bus, or a physician's office. The AMA is telling us that 10 to 20 percent of their members, their professionals, doctors and nurses, have a drug problem. Do you want your child treated by someone who has a drug problem?

Mr. President, we are told that we must vote against this resolution. Why? We are given dire predictions and shrill warnings by the opponents that its adoption risks the loss of Mexican cooperation.

Well, that is a small risk because it would be a small loss to lose cooperation we have not yet enjoyed after years of seeking it, and no pretense can magnify or give adequate worth to what is in fact so far from being even adequate.

Last year we voted 93 to 0 to urge the President to retaliate against Japan for violation of the semiconductor agreement. Quite rightly, Mr. President, the Senate was outraged by Japanese unfair trading practices which threatened the employment of United States workers and the profits of United States shareholders. So unanimously the Senate urged the President of the United States to take retaliation against our valued security ally and trading partner to protect American jobs and profits.

By contrast, this joint resolution proposes not retaliation to protect jobs and profits but a curtailment of the gift of foreign assistance to protect American lives. Are not lives at least as important as jobs and profits? Those who argue that we are kicking Mexico by not continuing to reward an inadequate effort that jeopardizes American lives warn that we risk a lessened effort. Do they realize they are counseling to pay a bribe, protection money to sustain what is clearly and dangerously inadequate Mexican performance?

Is there anyone who is seriously in doubt that the President of the United States will not exercise his power under the 1986 Act? He could, if he chose to, veto this legislation, but what I anticipate is that he will take the power that he has under the act and say that notwithstanding the inadequacy of the Mexican Government and its performance, he will nonetheless state that there is the requirement in our national security interest for full funding. If he does so, Mr. President, then so be it.

Mr. President, how much time remains?

The PRESIDING OFFICER. Senator HELMS has 40 minutes remaining on his side and the opposing side has 96 minutes.

Mr. WILSON. Mr. President, if full funding is to be urged on that basis, on the basis that it is in the vital national security interest of the United States, so be it. Probably most of us will not fight that. But we will fight the false pretense that Mexico is in full cooperation with antidrug efforts because they are not.

I will not oppose the President if he makes such a finding, but let us not make a mockery of the law or of the sacrifice of Enrique Camarena or other courageous DEA agents and police officers to whom Congress and this administration have given neither adequate resources nor adequate laws to protect them.

Mr. President, the people know this. The New York Times' survey of last Sunday made clear their response to what was the most pressing of all American foreign policy problems. It was drug traffic. It was not Central America. It was not the Middle East. It was not arms control. It was the drug traffic. And when they were asked what the focus should be, they said, by 50 percent, stop supply, and the others said stop use. Well, Mr. President, we must do both, but they are connected.

Mr. President, let us not make a mockery of the law. It is the responsibility of the Government of the United States to check that flow of unchecked drugs into the United States from outside our borders. The people know that. They know it is the responsibility of the Government. They know the administration and Congress are not doing the job. They do not know why and neither do I. But I do know, as do the American people, it is the most important thing we can do because, if we fail, the cost in human tragedy, in lost and wasted lives, the cost to our national future if we actually sustain a leadership gap that is waiting to happen, is literally incalculable.

The people know it. The parents and teachers, the cops, the victims of crime and drugs, the administration, and the Congress had better learn it. We had better adopt this, Mr. President. We are dealing with an epidemic. It is not my purpose to offend Mexican friends. It is my purpose to save American children and American cops.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 37 minutes remaining.

Mr. PELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ninety-six minutes.

Mr. PELL. Mr. President, I would like to yield at this time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I thank the distinguished chairman for yielding.

Mr. President, the Senator from California and a number of other speakers today said this resolution was about sending a message. It will not actually lead to decertification. The President would not allow that, but this is a debate about how best to send a message.

Mr. President, I oppose the joint resolution. It fails to recognize the significant efforts that Mexico has made in narcotics education. But as important, I strongly believe that a joint resolution such as this is not the way we should deal with the bilateral relationship that is clearly one of the two or three most important in the world. Perhaps no other country has caused so many changes in American society in recent decades as Mexico has. Such changes testify to the vital importance Mexico has to the United States Government and the American people.

If you doubt that statement, ask American manufacturers and farmers who rode the roller coaster of Mexican economic boom and that first made Mexico our third-largest trading partner, and then in the wake of the downturn in 1982, caused sharp business contractions in this country.

Or read the books that were written about the recycling of petroleum dollars to Mexico, or about our financial institutions, and then consider how the viability of those same institutions are threatened today by the possibility of Mexican default.

Socially, Mexican illegal immigration has changed the nature of our work force, and forced the first major revision of our immigration legislation in over 20 years.

The cultural implications of such immigration are less frequently noted. I do not mean here simply that there are more Mexican-Americans in our midst. Our customs, even our diets, have been altered. The economical impact of Mexican growth in the Southwest has been enormous, and as Latin America has become a focus of our foreign policy concerns we found Mexican diplomacy challenging our own policies. The list could go on and on and on. The point is made.

Mexico today is a power that affects us as virtually no other power does.

But if Mexico today is a power we cannot ignore, its emergence into that status has occurred at a time of great strains. The Mexican economy is passing through a painful period of adjustment, after decades of misguided protectionism, and more recently, unguided boom and bust. It is a time of deep debt, a time when Mexicans owe the world financial community over $100 billion, and a time when world bank loans are jeopardized to Mexico. The result could very well translate into higher interest rates in the United States, unemployment, job loss, and our own economic downturn in this country.

Mr. President, these economic conditions in Mexico occur precisely at a time when population is exploding. So population is exploding in Mexico and job creation is slowing.

One-half of the population of the country is under the age of 15. Mexico's need for new jobs would create enormous pressures; pressures—and make no mistake about this—that we will feel, too, dealing effectively with any country in such a demographic and economic situation, but specifically our neighbor in such a situation requires understanding, patience, and subtlety, particularly if we want to control the changes in our own lives that flow form Mexico.

Mr. President, clearly the flow of drugs over our southern frontier is the ugliest of those changes. But narcotics trafficking is also among the most dangerous trends that threaten Mexico's own society and political system.

In shaping our reaction to the menace of narcotics trafficking we have to remember that Mexico is also at risk from the traffic.

So, Mr. President, how will we handle the complex relationship with Mexico? I suggest that the two key words are "care," and "seriousness." By care I mean we should keep in mind that Mexico and the United States have a vital interest in living and working together cooperatively as close neighbors. We should not expect Mexico to respect us as a fair cooperative partner if we treat it as an irresponsible neighbor.

Care also means that we should be aware how many of the separate issues in our bilateral relationships interrelate. By seriousness, I mean that our actions should be designed to be effective in Mexico, not just sound good to our constituents. We should seek better Mexican attitudes and behavior, and not just demonstrate our frustration. This resolution to decertify Mexico in my view meets neither the criteria, the care, nor the seriousness. It addresses the narcotics issue in isolation from all others, and is not likely to alter the programs and policies of the Mexican Government. By challenging, indeed judging the Mexicans, we force them back into their historic sense of offended nationalism.

President de la Madrid understands how harmful that attitude, offended nationalism, has been to the relationship in the past, and he has thus worked with some success to foster a more productive Mexican view of the United States.

But, Mr. President, I doubt that he would be able to control the nationalistic reaction that resolutions such as this and others could unleash, nor would the Presidential candidate of PRI, Mr. Salinas, be able to control nationalistic reactions. That would be particularly damaging because Mr. Salinas has stated on various occasions his intention to pursue as President of Mexico a very vigorous narcotics eradication policy in cooperation with the United States.

Mr. President, we would be pulling the rug out from under his feet before he even entered office. Our other bilateral interests could not help but suffer.

Clearly we have to work closely with Mexico in shaping effective narcotic eradication programs. In doing so, we should not hesitate to express our own views and concerns but we must also treat Mexico as the power it has become and with the respect Mexico's importance deserves.

This means that the issues must be handled not with public pronouncements and unilateral actions, but through official and private contact, be it administration to administration, or legislature to legislature. That is the way major powers with mature relations handle bilateral problems.

Mr. President, I would suggest that is the best way to send a message.

In sum, Mr. President, I believe it would not only be wrong, but counterproductive to decertify Mexico as this resolution suggests.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield myself 10 minutes.

Mr. President, I have been listening patiently for the last couple of hours to the statements that have been made on this very important issue. And let us have no doubt that this is an important issue, because our relations with the country of Mexico, our nearest neighbor to the south, are indeed crucial.

Mr. President, I have been listening to stories, all of which I agree with, concerning the fact that this Nation is indeed at war—at war with drugs that are corrupting our entire society and tragically preying on our youth. But to lay the problems associated with this scourge that afflicts our society at the doorstep of Mexico, takes a great leap of imagination. Let there be no doubt about my commitment to eradicate our Nation of the malignancy created by use and abuse of illegal narcotics. As many of you know, illegal drugs are a virulent disease that is eating away at the very fiber of our society. But let's not cast shadows of dispersion on the Government of Mexico because we as a nation, as a people, cannot control the illegal use of drugs in this country.

I do not know anyone in this body, much less this Senator, who is willing to say that the Mexicans do not need to make significant improvement in areas of cooperation with the United States. The Senator from Connecticut [Mr. DODD] and I met with Mexican parliamentarians in New Orleans, where there was a very frank and honest discussion of the issues that separate our two countries, especially the issue of drugs. I sincerely believe that through the use of these forums and with a cooperative methodology, we will probably be able to attain a greater degree of cooperation, which I believe every Member of this body seeks. But I do not believe it is at all likely that the new President of Mexico will be able to cooperate with us if we engage in another round of what the Mexicans perceive—not what we perceive—as another round of Mexico bashing.

I recognize the drug problems confronting Mexico, but I would also point out that my friend and colleague from California comes from a State that, in the estimate of many, illegally cultivates vast quantities of marijuana.

As to my friend from New York, who spent a great deal of time in such compelling and emotional rhetoric about the evils of Mexico, I would like to point out that it is not safe on the streets of his city. But this is only indicative of the problems created by drugs. To illustrate how ludicrous this resolution is, I wonder if perhaps we should not penalize States until we are sure that they are fully cooperating in this war on drugs.

To turn back to the reality and seriousness of this matter, we have to assess the impact of this legislation and this resolution on our relations with Mexico. Mexico is not a vassal state of the United States. They are not our poor nephew. They are a sovereign nation, keenly sensitive to what happens right here in this body and what happens in the United States of America. Our actions have significant and profound impact not only on the ruling organizations of Mexico but also on the Mexican people.

I happen to come from a border State whose economy is inextricably intertwined to that of Mexico.

And I might proudly add that we have achieved a degree of cooperation in trade, in economics, in cultural matters that all of us are proud of. Let's maintain this reciprocal relationship; in fact, it is vitally important we do so.

I think it is important to repeat some things the Mexican Government has done, and although not enough, it is a substantial commitment.

There are certain facts that are worth noting: Drugs seizures in 1987 were up sharply over 1986; cocaine by 75 percent, opium derivatives 12 percent, and marijuana 104 percent.

Marijuana crop eradication increased by 26 percent in 1987, and opium poppy eradication by 3 percent.

Nine thousand eight hundred persons were arrested for drug trafficking in 1987, including nine major (class 1) narcotics violators.

Mexico has increased its fleet of spray helicopters by 50 percent since 1984 and spent $18.2 million on eradication operations in 1987.

Also, more than 60 people are incarcerated and standing trial for the 1985 murder of DEA Agent Enrique Camarena, and they have signed and ratified a Mutual Legal Assistance Treaty. Our first with a Latin American nation.

Sixty percent of the Mexican attorney general's budget and 25 percent of Mexico's military budget are deployed in the drug war.

I would like to see 25 percent of the American military budget devoted to the drug war but I realize this is not possible. I was one who, for some years, opposed the use of our military in the drug war, but now I have changed my opinion. I believe that because of the magnitude of this crisis, we need to use all the technological capability our military possesses in order to win this drug war. We have some very high technology items that I think could contribute to our drug interdiction efforts and ultimately ensure that our borders are not a seive for the flow of drugs.

Moreover, on February 13, 1988, President Reagan and President de la Madrid again reemphasized their commitment to the war on drugs.

What do the Mexicans have to do? I believe the area that has created the most controversy is the question of cross-border pursuit. I have relayed to my friends in Mexico that they have to take concrete steps so that we may set up joint operations between Mexican and American law enforcement officials, and to consider placing U.S. law enforcement officials on board aircraft and other vehicles, so that we can pursue drug runners across our borders. But I understand their concern regarding this matter.

Let me close, because the hour grows late, by pointing out that there is a new President of Mexico coming into office within the year. He has committed himself to greater cooperation between his country and the United States. And I believe President de la Madrid made some significant advances in dealing with the drug problem.

But let there be no doubt, if we pass this joint resolution, it will send the wrong message to the Mexican people and the Government of Mexico. It will cause anti-U.S. sentiment to flow back and forth across the country of Mexico, and it will achieve the opposite effect that we seek.

All of us in this body, no matter where we stand on this issue, seek greater assistance from the Mexican Government. But I can assure you, from my experience and relationship with the Mexican people and the Mexican Government, the feedback will not be favorable to this resolution.

So may I suggest that we give the Mexican Government another opportunity to address the problems that have beset their efforts on the war on drugs. For let us not forget that this evil is afflicting Mexican young people as well as Americans. Let's work together in an atmosphere of cooperation, candor, and honesty so that we can attack the scourge that has afflicted both our nations. It is essential that anti-narcotics cooperation between the United States and Mexico be strengthened. To decertify Mexico in spite of the considerable effort is both unjustified and seriously counterproductive. We must vote against this misguided resolution.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Rhode Island.

Mr. PELL. I yield 15 minutes to the Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. MOYNIHAN. Mr. President, last week ended with the destruction of an American Embassy building in Tegucigalpa, the capital of Honduras, in the course of violent, convulsive protest against the abduction of a Honduran cocaine dealer, wanted in the United States for crimes that may include the murder of an agent of the Drug Enforcement Agency. With the continuing presence of General Noriega in Panama, himself indicted by a United States grand jury for drug trafficking, our position in Central America is clearly in a state of crisis. I surely would not count myself an apologist for the Sandinista regime in Nicaragua, but I do not see that these events can be ascribed to them, although equally clearly, they are the beneficiaries.

Less dramatically, but surely more importantly, at least more importantly from the point of view of the Senate, this week began with the publication of a New York Times/CBS News Poll on April 10, 1988, in which 48 percent of Americans state that they regard drug trafficking as the most important international problem of this moment. By contrast, arms control is the choice of a mere 13 percent of this large and obviously authoritative sample; 22 percent chose Central America, 9 percent terrorism, and Palestinian unrest 4 percent.

The administration can find little consolation in the answer given by the public to one question in this poll:

> Some leaders in Central America are reported to be involved in smuggling drugs into the United States. But these Central American leaders are also strongly anti-Communist. Do you think it is more important for the United States to put a stop to their drug dealings, or more important for the United States to support them against Communism?

Sixty-three percent of the respondents said it is more important to put a stop to drug dealing by those leaders than to support them against communism; only 21 percent disagreed.

By the same measure, I can take but little comfort in the answer given to a second question:

> Do you think the United States Government should concentrate more on reducing the supply of illegal drugs coming into this country, or should it concentrate more on getting Americans to stop using illegal drugs?

By a margin of 50 to 35 percent, respondents said that reducing the supply of illegal drugs is more important than stopping their use.

It appears to me that if we really believe the latter, we are deluding ourselves. The courses of action indicated by this attitude are not likely to succeed. More seriously, it may be asked whether they are deserving of success.

As I propose to speak at some length, let me entreat the patience of the Senate, and possibly, also, a measure beyond mere forbearance. I have often enough addressed the subject of drug interdiction, but it may be I ought to have spoken even more. For it happens, as the old navigators would put it, that I have been down that way and know something of the coasts.

How am I to state this without seeming to be self-serving? I have puzzled over this some bit, and have concluded it cannot be done. So best out with it.

In a word, I am the person who conceived, and for the most part, put in place the strategy by which the United States broke "the French Connection." This took place almost 20 years ago.

Senators will or may, remember "the French Connection," if only because of a more than fine perfomance by Gene Hackman in a movie about New York when this phase of the heroin traffic was at its height. In the simplest terms, a criminal commerce had developed in which opium grown in the central provinces of Turkey was brought to Marseilles in France, processed into heroin, and smuggled into New York. By the mid-1960's heroin use had reached epidemic proportions in the city. Crime roared through the streets. The term "OD'd," for death from an overdose of heroin, entered the vocabulary of the police and the press.

The urban welfare culture took root in those years. This was in no way a casual association. Causal would be a more accurate term, and this is my tale.

In November 1968, President-elect Richard M. Nixon asked me to come to Washington to be his Assistant for Urban Affairs, a new position in the White House. I was then director of the Joint Center for Urban Studies of MIT and Harvard. I was a Democrat. I had supported, in sequence, Robert F. Kennedy, Eugene McCarthy, and Hubert H. Humphrey for the Presidency, but if the President-elect was willing to have me on his staff, given the crisis atmosphere of urban issues at that time, it was hardly for me to decline, and indeed, I did not.

I said to the President-elect that I would come to Washington for 2 years, and I asked and received his approval to pursue two issues. First, we had to reform the welfare system. Next, we had to place the international drug traffic on the agenda of American foreign policy.

There were other things to be done. Useful things. But these, in my view, were the two critical things if we were to emerge from what was then known as the urban crisis.

A good deal has been written about the welfare effort; little, or little that I know, about the narcotics initiative. I touched on the matter in the Godkin Lectures given at Harvard University in 1985, and published the following year, but a full account awaits a better, and perhaps less involved, narrator. Still, in the present, new, emergency, it is surely in order to tell what I know. Or as some might say, simply what I think.

Let me simply restate the account of these events as provided in the Godkin Lectures:

> In 1969 I became assistant for urban affairs, later counselor, to the President. I brought two priorities to the assignment: first, welfare reform; second, I wished to see the drug traffic placed on the agenda of American foreign policy.
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> (On the President's agenda, that is. Peter Reuter has pointed out that from the time of the Shanghai Treaty of 1909, the United States has been looking to foreign nations to curtail the drug traffic. Our own efforts have been minimal. In the early 1960s the Federal Bureau of Narcotics, as it then was, had fewer than 450 employees and only 5 agents posted in Europe. In the manner of the Federal Bureau of Investigation of that era, a much publicized agency head maintained a personal and institutional reputation for toughness by avoiding the toughest problems.)
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> In August of that year President Nixon proposed the Family Assistance Plan, a guaranteed income that would replace welfare assistance. Directly thereafter I flew west from San Clemente to India, then Turkey, then France, meeting with officials there, telling of the United States President's concern about the flood of heroin then coming into the United States. (Not then from India, where huge amounts of opium are grown but under effective government supervision that was well worth a look.) The drug traffic of that time consisted largely of opium grown in Turkey, processed into heroin in southern France, and thence smuggled to New York. Heroin-related-deaths had passed the thousand-a-year point in New York City alone.
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> I was courteously received in Istanbul by the Turkish foreign minister, Ihsan Sabri Laglayangil. He knew well enough that poppy was grown in Anatolia; poppy seed is part of the Turkish national diet. But he knew nothing of drug use, and if the United States wanted Turkish farmers to farm differently, we would have to pay them to do so. Which was reasonable, and which, in time, we did. But in Paris the matter assumed quite different levels of seriousness. Heroin use had appeared in France. Among youth! There had been deaths. As I made my way to and from Paris that autumn, the concern there grew. The Cultural, Family, and Social Affairs Committee of the French National Assembly begin hearings. On October 17 *Le Monde* reported that in a session the previous day, a government official had stated that the number of persons in France questioned by the police about drugs had risen from 107 in 1965 to 255 in 1969. The article carried the headline "Eight Out of Ten Minors Who Are Drug Addicts Come From Broken Homes." On October 24, there was a general debate on the subject in the National Assembly. One Deputy ascribed youth drug addiction to a crisis in Western civilization and insisted that the government must respond. A vast written and oral campaign on film and television was required. Others agreed and added thoughts of their own. French youth faced decimation if government did not act.
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> Note there was manifestly a crisis of drug abuse in the United States. (Crime associated with heroin use became epidemic in Washington, D.C., that year. A group of eminent citizens of the capital had asked to meet with me, as the assistant for urban affairs. Their proposal was direct. They wished the President to order the regular army into the capital to restore and maintain order.) But government in the United States was doing nothing, or as near to nothing as makes no matter, to limit the availability of drugs. On the last of these visits to Paris, in December, a kind of summit occurred at a lunch given by our ambassador, Sargent Shriver. On the American side were Egil Krogh, Jr., of the White House staff, who had taken on the task of getting a serious program started; John E. Ingersoll, director of the Bureau of Narcotics and Dangerous Drugs; and Anthony S. Pohl of the New York City Police Department. The French side was headed by Jean Dours, *directeur général de la Sûreté*. Now the name of the *directeur général de la Sûreté* is known in France, but he does not give interviews and rarely meets with foreigners. This was different: an American President was concerned about an issue that involved French youth as well. I spoke for our side, citing in particular the number of deaths in Manhattan, it being the worst case and the one most easily grasped by a Parisian. At the end French saw that they had to do something. (And in time they did.) But their bewilderment was scarcely concealed. The Americans were just *now* coming to tell us about a plague ravaging their cities, their youth? Lunch finished—vichyssoise, poularde louisianne, cauliflower hollandaise, salad, cheese, pears, coffee—our guests rose. In the hallway I helped the head of the *Sûreté* with his coat. He did not thank me. He turned, rather, looked straight at me, and asked in a tone of incredulity tinged with disdain: "What kind of people are you?"

A fair question to which there are a number of answers. The first, of course, is that we are not a people especially protective of our poor, especially when they are an urban, minority poor. There is no industrial democracy on Earth that allows people to live in the conditions of a half dozen large neighborhoods in, for example, New York City. The heroin epidemic of the 1960's, with Harlem as its epicenter, went largely unnoticed by the rest of our society, and especially our foreign policy establishment. When I arrived in Paris on the 11th of September in that first trip in 1969, the American Ambassador was away and so I met with our Minister, who is, of course, the second in command. And what pressing matter of state had brought about my visit on this auspicious occasion, Paris agleam in the morning sunlight as summer made her graceful farewells? Heroin. Heroin, you say? Yes, heroin. And? And the fact that they are manufacturing it in laboratories in South France and smuggling it into New York and killing our people. Really? Yes, really. Oh—I see—well, good—but now, where would you like to have lunch?

A second answer is that we are a people who know something of the world, and something of the governments of the world. We have made a study of such things for a long while. One of the nice touches of our Embassy in Paris is a likeness of Benjamin Franklin seated on a bench under a tree in a small garden in front of the building which faces onto the Place de la Concorde. He was, of course, our minister to the Court of Louis XVI and had a sharp eye for forms of government. And that is why I was making this journey.

In a word, both Turkey and France had strong central governments, capable, if they chose, of doing what we were going to ask them to do. Further, each was a military ally of the United States, which is to say we were all members of the North Atlantic Treaty Organization. The object of that alliance is far more to provide American protection of Turkey and France, rather than the other way around.

People who study government sometimes use the terms "hard" and "soft" to distinguish between different countries. Both France and Turkey have hard, centralized societies. This has nothing to do with being democratic or not. France is one of the most democratic nations on Earth. It has to do with whether governmental decisions get made, to begin with, and then get carried out. As regards narcotics, the French have the Surete, a national police force dating back to 1792 which specializes in "vice" crime. They don't much like taking on Marseilles, one tough town, but if they have to they will. The Turkish national police, the Jandarma, is in fact a paramilitary organization. They would be reluctant to close down the poppy fields of Afyon province, which means poppy in Turkish. Poppy seeds are a feature of Turkish baking. But if ordered to do, they would.

Now, President Nixon knew this; Secretary of State William P. Rogers knew it; I knew it. This, therefore, was not a mission impossible.

A third answer to M. Dours' question is that Americans know something of technology. The point here is that the world could not easily do without the cultivation of poppy, which is the raw material from which we get codeine and morphine. Recall that on my trip westward from California, I first visited India, which is the world's largest producer. A quite effective licensing system, held over from the Raj, and a fine police force kept production, then at least, entirely in legal channels. Until that time opium production had been stoop labor. Farmers would go out at night and make a small incision on the poppy capsule. A white fluid was slowly secreted. Some hours later this would be collected, fingertip full-by-fingertip full. Now, however, we had figured out a modern harvesting technique, called poppy straw. Simply put, the plants are left to mature until they are dried out—plants dry out in autumn. Then the fields are harvested, as a wheat field or hay crop is harvested. The plants go into a big machine which crunches them up, and out comes crude morphine, thereby bypassing the opium phase altogether. Thus, we could offer the Turks the technical assistance to introduce an advanced agriculture which would not deprive farmers of a livelihood. As for the French, we could offer them the opportunity to close down laboratories that sooner or later were going to start poisoning Frenchmen as well.

The rest, as they say, Mr. President, is history. It took a few years. If I recall, it was not until 1975 that the poppy straw equipment was in place in Turkey. The United States, of course, financed most of this. It took time, also, to clean out the heroin labs in Marseilles, but again it was simply a matter of time.

The results are to be read in "International Narcotics Control Strategy Report," March 1988. The entry on Turkey begins:

> There is no significant cultivation of illicit narcotic or psychotropic substances in Turkey.

There is no entry at all for France.

Success? Yes, so far as it went. But I would like to offer the thought that this success bred the seeds of subsequent failure.

To put the point I hope to make in context, let me recount an exchange that took place between me and George M. Shultz, then Director of the Office of Mangement and Budget, now our distinguished Secretary of State. A short while after it had become clear that the Governments of Turkey and France would join us in breaking the French Connection, I was in a helicopter traveling to Camp David in the company of the sometime professor of economics at the University of Chicago. The exchange went about as follows:

> DMP: You will be interested to know that it looks like the Turks and the French are going to shut down their opium and heroin production.
>
> GMS: Good.
>
> DPM (somewhat deflated): This is a great victory, you know.
>
> GMS. Is it?
>
> DPM (catching on): But I suppose that as long as there is a demand there will be a supply.
>
> GMS: You know, there is hope for you, yet.

And, or course, new supply sources did predictably enter the international drug market. And what was our response? We undertook to replicate our success with Turkey and France with ever more countries in ever more remote regions of the world.

But few if any of these countries have governments with the capacity to govern such as Turkey and France had, and have. To return to the usage of political studies, in overwhelming numbers these are "soft" societies. Decisions made at the center—the capital—may be carried out or may not be carried out. I invite Senators to consult the recent International Narcotics Control Strategy Report. There are country reports on 42 different nations. Not a half dozen of these are capable of carrying out a drug eradication program in the face of serious resistance of the kind we are increasingly familiar with.

That is the problem. We are pursuing a model of success which is plainly inapplicable. It isn't succeeding and it won't succeed. We are reduced to such hapless avoidance of reality as was evidenced by President Reagan's recent statement that America's war on drugs "is an untold American success story," adding that the use of illegal drugs "has already gone out of style in the United States."—February 29, 1988.

Mr. President, I will vote not to decertify the Bahamas or Mexico. Our present "supply" strategy is no strategy. I hope soon I may have an opportunity to set forth what seems to me a more realistic approach, addressed to the question of demand.

Mr. President, I thank the Chair and I yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Mr. **HELMS**. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The **PRESIDING OFFICER**. The Senator from New Mexico is recognized for 5 minutes.

Mr. **DOMENICI**. Mr. President, first I thank the distinguished ranking Republican for yielding.

Mr. President, clearly, enough has been said on the floor about the situation in these United States with reference to drugs. I will not repeat it, other than to state unequivocally that I have come to the conclusion that drugs are the worst social problem in the United States of America. It is one that, indeed, is so serious that we should not take the idea of declaring a war on drugs lightly. It, indeed, must be a war, because it is such a serious problem that the survival of these United States may be at stake.

Now, having said that, let me suggest that this is a very difficult situation that we find ourselves debating here on the floor of the U.S. Senate. I am an original cosponsor of the resolution dealing with the drug situation in Mexico. And, in spite of the difficult nature of this, I intend to vote for it.

Let me take just a few minutes to explain that vote that I believe is a difficult vote.

A vote against this resolution under the current laws of the United States would put this Senator, and I believe anybody who votes against this resolution, in a position of agreeing with the President of the United States and the President of Mexico in saying, and I quote, that "Mexico has cooperated fully with the United States to control narcotics production, trafficking and money laundering."

Mr. President, Members of the Senate, if we do not want that law on the books, the current law, which requires certification or decertification based on those words, "full cooperation of the Government of Mexico" in the three areas that I have described, then we ought to vitiate the law. We ought to take it off the books. But if it is on the books we cannot come down here and be untruthful.

How in the world can we come down here in opposition to this resolution, with that being our law, knowing what we know, in spite of some recent good efforts by Mexican law enforcement; in spite of the fact that they have serious drug problems, that many of their law enforcement people are suffering, many are being killed in the war on drugs? The preponderance of the evidence is that they are not fully cooperating in the areas that are required by our law.

This is unilateral on our part. We wrote this law, talking about certification and noncertification based upon full cooperation. Frankly, I want to say to Mexico, my vote is not an effort to punish Mexico. It is not an effort to penalize Mexico. As a matter of fact, I do not know how I can vote otherwise because the evidence is clear that there is not full cooperation. You vote the truth and tell the Mexican people and their leadership that you do not intend to be harmful to them; it is not going to cause an economic crisis. We in the United States have come to the conclusion—we are even willing to admit that it is late—but we have come to the conclusion that we must be involved in a war on drugs on the supply side and the demand side.

We are saying to them, and this is what my vote is, it is a plea to the Government of Mexico, with all the economic problems that they have, that they elevate to a common struggle this war against drugs and that they decide it is their struggle and our struggle in a commonality of purpose at the very highest level.

I do not believe it is asking too much, if that is the case, that we be able to say honestly that they are fully cooperating. Not imagine it or make it up or make excuses, but just honestly evaluate their cooperation and to find that it is not full cooperation as required by our law seems to me to be factual.

If that is the case, you have to vote for the Wilson resolution because, as a matter of fact, that is precisely what it says. It is what our law required of them. So I am fully aware that they have done a lot; that they are struggling mightily. I am aware that this is a difficult issue for them politically. It is difficult for us, too. Actually, if drugs continue among our current generation and if we let two or three more generations of young people become the victims of it, I submit to you that our very survival is at stake. It has become so pervasive that the governance of little countries and big countries has become dependent upon the trafficking of drugs.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 8 minutes to the Senator from Arizona, Mr. DECONCINI.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 8 minutes.

Mr. DECONCINI. I thank the Senator and let me say I thank the Senator sincerely for the efforts he has put in on these demanding issues. I think we have seen the Foreign Relations Committee give this body far more than what we could expect, with the INF treaties and everything else. So my remarks are certainly to be taken in that light because I mentioned the Mutual Legal Assistance Treaty that is still pending before them but not because the Foreign Relations Committee has not or will not delve into it and spend the time.

Mr. President. I rise in support today of Senate Joint Resolution 268, disapproving President Reagan's 1988 certification of Mexico because I believe the Government of Mexico has clearly failed to comply with the standards of full cooperation with United States efforts to stop the traffic in illegal narcotics.

Senator WILSON does not jump into it without realizing the consequences, and I place a lot of weight on that kind of deliberate exercise that the Senator from California has put into this particular effort. We might not be here if it was not for Senator WILSON.

As does the sponsor of this resolution, my good friend Senator WILSON, I represent a State that shares a common border with Mexico. In Arizona, that border stretches close to 400 miles. Our mutual borders have fostered a close and meaningful social, religious, and cultural relationship between the citizens of our two countries.

Economically, Mexico is our third largest trading partner. The Maguiladora Program, which I have worked hard to promote and expand, has dramatically strengthened the economy of northern Mexico. I have worked equally hard to insure that immigration reforms enacted by Congress would be fair with regard to Mexico.

In fact, last year I had the General Accounting Office conduct an investigation to analyze the impact of the Immigration Control and Reform Act on the Mexican political and economic system. To see whether or not our law had, perhaps, been to harsh on our good neighbors. Coming to the floor today to speak in favor of this resolution and to be critical of the lack of effort by Mexico in attacking drug production and trafficking, is not something I relish doing—but good friends must be honest and straightforward with one another. You are not a good friend if you do not tell the truth. You still respect that friend and, perhaps, the relationship grows even stronger when you are straightforward and candid. Since this body debated the question of Mexico's certification last year, the situation in that country has not improved. Let me provide some examples:

The Southwest border is now the No. 1 point of entry for narcotics coming into the United States. Traffickers are moving West in a big way. It is estimated that close to 40 percent of the cocaine coming into the country this year will be transshipped through Mexico. Federal, State, and local law enforcement agencies operating along the Southwest border are seizing record amounts of narcotics. Border patrol agents are involved in shootouts with smugglers almost daily. The increased narcotics activity has brought with it soaring crime rates. My State of Arizona now has the second highest crime rate in the country. Over two-thirds of the individuals in Arizona jails are being held for narcotics-related crimes.

Net production of opium poppy and marijuana in Mexico increased in 1987 over 1986 totals. This occurred despite the fact that Mexico has the largest air eradication program in the world—over 90 aircraft. But what good does it do to have the aircraft if you do not have the pilots and mechanics to fly and service them? The State Department has said this is a major problem, yet when Mexican officials were asked whether they could utilize United States pilots or United States narcotics' funds to increase the salaries of Mexican pilots and mechanics, the Mexicans said they would never approve such a plan.

It has now been over 3 years since DEA Agent Enrique Camarena was brutally tortured and murdered in Guadalajara, Mexico. Still no sentences have been handed down in Mexico for those individuals being held in connection with the murder. In fact, two of the suspects, drug kingpins Caro Quintero and Ernesto Fonseca, enjoy a country club environment at the prison in Mexico City where they are currently being held. In addition, U.S. Drug Enforcement agents in Mexico last year discovered a tunnel outside the prison leading into their cell block. The State Department has reported that a second tunnel into the prison was also found and that both tunnels were paid for by Quintero. Several law enforcement officials have told me that if pressure was not being applied on Mexico in the Camarena case, Quintero and Fonseca would be walking free by now. Before President Reagan met with Mexican President de la Madrid, I believe it was about the 12th or 14th of February in Mexico, I wrote a letter to the President, along with several of my colleagues, asking that the President seek the extradition of Quintero and Fonseca to Los Angeles where they have been indicted. I am still waiting for a reply from the White House.

Corruption is pervasive throughout the Mexican law enforcement and military systems and also at the state-level among Government officials. As the result of a joint Customs/DEA undercover investigation in January that involved shipping 5 tons of cocaine through Mexico, indictments were handed down in San Diego against a Mexican army general and lieutenant colonel active in their military. At a hearing I recently chaired, the Commissioner of the U.S. Customs Service, William von Rabb, testified that out of fear that they will be compromised by some Mexican official on the take from drug smugglers, the Customs Service finds it very difficult to enter into any sort of joint operation with the Mexicans. Von Rabb also testified that 100 miles south of the border is one great big safe haven for traffickers. This area contains well over 100 documented airstrips.

Because the Mexican Government will not allow Customs, with Mexican law enforcement agents on board, to pursue aircraft that come into the United States, smugglers simply drop their loads or sometimes do not because they are afraid and then return to Mexico.

We have to take off the gloves. We have to be honest and up front about it.

Mexico has done some things to improve.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DECONCINI. I ask for 2 additional minutes.

Mr. PELL. No objection.

Mr. DECONCINI. The Mexican Senate ratified a Mutual Legal Assistance Treaty that is pending now before the Foreign Relations Committee, and I hope it will come forward.

President de la Madrid last month called narcotics trafficking a threat to Mexico's national security and announced the creation of a cabinet-level committee to coordinate it. Improvements in drug eradiction may come about because of pressure from the United States.

I want to insert in the RECORD on behalf of Mexico's effort an article that appear in the Arizona Daily Star just the day before yesterday about a shootout and the efforts that the Mexican Government is making.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Arizona Daily Star, Apr. 12, 1988]

4 SHOT TO DEATH IN MEXICAN ATTACK LINKED TO DRUGS: BOMBS ROCK 2 HOMES; GUNMEN FLEE IN COPTERS

(By Keith Rosenblum)

CABORCA, SONORA.—Four men were shot and killed early yesterday morning in this Mexican city, and their assailants escaped in three helicopters after using explosives to blow up two homes.

One of the homes belonged to a brother of Rafael Caro Quintero, who was arrested in Mexico in connection with the 1985 slaying of U.S. Drug Enforcement Agent Enrique Camarena.

Police described the shootings to Mexican reporters as drug-related executions.

While the investigation was continuing yesterday, one of the homes was being leveled by the Caborca Volunteer Fire Department.

HOME'S ROOF BLOWN OFF

The assailants left in helicopters that had been waiting for them on the outskirts of this city of about 30,000 people.

Federal police said the attack took place at about 7 a.m.

A witness told Mexican reporters that he heard an explosion at a home near the downtown area, followed by gunshots and then a bigger explosion that blew off the home's roof.

The bodies of the men, described as being between the ages of 18 and 24, were found inside.

The assailants then drove to another home, near a cattle feedlot, where they placed explosives and blew it up, witnesses told Mexican reporters. No one was in that house.

The men then climbed into the helicopters and blew up the cars that they had been driving, state officials said.

One state prosecutor who asked that he not be identified said authorities were investigating the possibility "that the helicopters were flown by traffickers' militias."

The official said that one of the homes that was bombed may belong to the Paez family, which the U.S. Drug Enforcement Administration says is one of Mexico's most influential trafficking families.

The four people killed were in that house on Avenida K between Calles 5 and 6. The second house is owned by Miguel Angel Caro Quintero, brother of Rafael Caro Quintero.

The houses are about 1½ miles apart, authorities said.

Caborca is about 180 miles southwest of Tucson.

U.S. drug agents and Mexican authorities have labeled Caborca as "the Mexican staging area" for transporting drugs into the United States.

Caborca's notoriety stems in part from the city's reputed drug-trafficking families.

A Drug Enforcement Administration agent, who requested anonymity, said last year in an interview that the Paez family and another trafficking family from Sonora "transport millions and millions of pounds of marijuana across the border every year."

Mexican authorities said yesterday that the helicopters dropped "an explosive" on the cars that the assailants had been driving. They did not elaborate.

The victims were identified as Francisco Mendez Burgos of Atil, Sonora; Javier Mendez of Puerto Lobos, Sonora; Diego Paez Serrano of Cullacan, Sinaloa; and Hector Diaz Serrano, also of Cullacan.

The force of the second explosion at the house near the downtown area shattered windows in about a dozen neighboring houses.

Mr. DECONCINI. Top officials of the Mexican Attorney General's Office recently met with Customs to discuss operations in the Southwest. The PRI party candidate, Carlos Salinas, has admitted that Mexico has a drug-abuse problem itself. That is encouraging.

Like our own country, Mexico has suffered casualties from the drug war. Last year a Mexican Federal judge and army commander were murdered. This is an epidemic in Mexico, and there are good-will people here who want to do what is good for the United States and good for Mexico.

I want to compliment my friend from Connecticut, who has played a major role here, and my friend and colleague from Massachusetts, who has labored long hours over these subject matters. We are here not to bash anybody, not hurt anybody, but to tell it like it is. And it is time that we tell our good friends south of the border that you have to do something; you have to help us; you have to be part of this solution and not just the problem. We have problems here. We ask that you help us, and it is time the Mexicans turn attention toward this very important problem.

I hope that the Senate will approve the resolution by the Senator from California. I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Rhode Island.

Mr. EXON. Mr. President, will the Senator from Rhode Island yield for one question? Just 1 minute?

Mr. PELL. Certainly.

Mr. EXON. Mr. President, I would just like to call to the attention of the U.S. Senate the Sun is set and it is, therefore, safe for U.S. Senators to leave the building and trek their way home in the darkness once again.

Not taking away from the importance of the matter; I know it is a very important matter. It has been debated at great length. This Senator has made up his mind how he is going to vote, and I suspect most of my colleagues have done the same.

I would like to get home before midnight, if possible, although it is not critical for me to be home at midnight because I do not have any kids waiting for me at home. I suppose some of the other Members do.

My question is: We do not want to be like history. When it is famous for the English to say only mad dogs and Englishmen went out in the noonday Sun. We never leave in the noonday Sun. We were here last night at this time debating, and debating, and debating.

I am not taking away from the importance of the issue. I simply would like to ask about how long before we will be released from our nightly ritual of debating and voting?

Mr. PELL. Tonight is all I am responsible for at this moment. We will not be entering the sunlight. We will be entering the moonlight, and it will be about 9 o'clock.

Mr. EXON. I am disappointed, but I appreciate the information.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

Mr. PELL. I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KERRY. Mr. President, I have listened with interest to the debate on Mexico, and I want to join with my colleagues, particularly my colleague from Arizona, in stating that I think it is important to understand that the message, at least this Senator and some others are trying to send, is not one of declaring a lack of friendship or a lack of relationship or somehow trying to punish Mexico. That is not what is happening here, but we do have a law, and we do have a process which is in place for a period of time.

I think it is appropriate that we make judgments about how that law is or is not being implemented and how we, as a country, make judgments about what we ought to do in the implementation of our own laws.

I have listened to colleagues talk about the depth of our relationship with Mexico, about the economic trading partner. I have heard arguments about how they have had drug enforcement officers killed, that this is a slap in the face and so forth.

I have no doubt we will hear more arguments about that as the evening and the debate wears on, but I think the point really is that we have to make judgments about what tools we have available to us in this very difficult struggle.

Yes, it may be something of a slap in the face. Yes, it may make our relationship in the immediacy more difficult but, Mr. President, every time we have raised our voice in criticism up until now, there has been a response.

When a general and a couple of military people were arrested recently—Mexican general and military people—in San Diego, the immediate response was to have some arrests in Mexico, to show we are doing something about narcotics trafficking.

The fact is 30 to 35 percent or so of the narcotics, cocaine and marijuana, that comes into the United States is coming through this country.

I cannot think of any way to make a judgment about this more rationally, more calmly, more intelligently than to look at the document by which we are supposed to measure what is happening. That document is the International Control Strategy Report sent to us by the State Department, which is an interagency compilation. It is the reflection of the Customs, DEA, Coast Guard, and everybody having their input, and then they write up the document and the President sends us a certification.

I am not sure all my colleagues have had a chance to read that, and I want to read from it because what is remarkable is that for every other country certified, they were part of the regular part of the body of that document, but for a small group of countries that were decertified, there was an explanation as to why there was a decertification.

Curiously enough, only Mexico stood out in that small group, though certified, with a rationale for the certification. I want to read that rationale for certification. This is reading directly from the Control Strategy Report.

> U.S. officials welcome the spirit of enhanced bilateral cooperation of the recent Presidential summit.

That is a nice statement.

> But we also believe Mexico has the capability for far greater achievement in narcotics control.

I skip a little bit that is not relevant here, and then it says:

> A national interest certification has been waived. The final decision is to recommend full certification but reiterate that as President Reagan declared 1988 should be a year of positive results.

So they do not turn to what has happened. They do not judge as the law requires us to judge. They say it ought to be positive in 1988. Then they get to the gist of the message, Mr. President, and I quote:

> Mexico has improved its marijuana eradication campaign, but opium poppy eradication, while marginally improved in terms of total hectares eradicated, was short of the effort needed to reduce production.

Now, that alone, according to the standards by which we are to judge, is reason to vote. But then they say:

> The enforcement situation improved with some lab busts and increased seizures.

And we all know how easy it is to have increased seizures

> The Mexican Government has increased the commitment of resources. * * * But the overall assessment is that Mexico's effort has not kept pace with the increased flow of drugs and is below the level of efficiency and effect of which it is capable.

That is the judgment of our own report, that it is below the efficiency and effect of which it is capable.

> The trials in the Camarena and Cortez cases remain underway, with Caro Quintero and other defendants incarcerated. The Government has not yet addressed all allegations of official corruption in a systematic fashion.

And the final conclusion of this report, Mr. President, is:

> While appreciative of the efforts that have been made, and taking full note of Mexican casualties, the United States nevertheless believes that a higher level of cooperation is both possible and necessary.
>
> A higher level of cooperation is both possible and necessary.

Now, if you look at the details of the control report, it states:

> U.S. officials report the levels of U.S.-bound cocaine transiting Mexico have significantly increased.

That is 1, a significant increase.

> 2. U.S. officials are unable to verify the Mexican military's eradication claims which equal or exceed U.S. estimates of total cultivation.

So when people stand here on the floor and say they are eradicating more, the fact is they are claiming to eradicate more than they have even estimated was planted and there is no way we have been able to measure the truth of that statement.

> 3. Mexico will continue to be a major producer of illegal narcotics for the foreseeable future.
>
> 4. In the opinion of the U.S. Customs Service, the single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican Government. Documented violations by Mexican law enforcement officials are becoming more prevalent.
>
> 5. Mexican banks, all but two of which are nationalized, do not provide information to the U.S. on their activities.
>
> 6. Mexico needs to further strengthen its criminal justice system and enforce existing laws.
>
> 7. Mexico declined a proposal for the joint crewing of surveillance missions which would overfly both countries.
>
> 8. The overall assessment is that Mexico's effort has not kept pace with the increased flow of drugs and is below the level of efficiency and effect of which it is capable. The United States believes that a higher level of cooperation is both possible and necessary.

So here we are certifying whether or not they fully cooperate and here is a report that says a higher level of cooperation is both possible and necessary. How can you be fully cooperating and have your own Government tell you in the same breath that they have to have a fuller and more efficient level of cooperation?

Mr. President, you cannot have it both ways. The American people are tired of having an administration or a country that talks out of both sides of its mouth, that pretends there is a war on drugs, that passes laws saying we are going to do something about it and then blithely passes over them in official sanction by Congress or themselves.

Let me tell you about Mexican noncooperation. Here is a document from the Customs Service itself. In this document they go through a list of noncooperation.

> 1. Overflight. Mexico will not allow U.S. Customs air traffic overflight, even though the United States offered a solution to the sovereignty issue by offering a joint crew of customs aircraft. Operation Eagle. A year ago, Operation Eagle had originally been proposed as part of the agenda at U.S.-Mexico discussions.

What happened to that?

> Unfortunately, Mexican customs failed to allocate the necessary resources and that prevented the program's implementation.

Then there was an effort made to try to rectify that.

> Mexico customs failed to meet its commitment, resulting in a curtailment of the joint U.S.-Mexico customs enforcement effort.
>
> Banking. Lack of cooperation from the present administration's Banking Commissioner on currency laundering investigations.
>
> Border violence. In recent years, the U.S. Customs Service has had to contend with an alarming increase of incidents of border violence directed at our Federal inspection personnel.

On September 8, 1986, the U.S. Customs Service, a special agent in charge of the office in Tucson, Arizona, received information that all . . . Mexican federal law enforcement agencies were to identify, stop, and search all U.S. law enforcement officers, seize badges, guns, vehicles, and any other signs of authority.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. KERRY. Mr. President, is there an additional 2 minutes?

Mr. PELL. Without objection.

Mr. KERRY. I thank the Senator.

So, Mr. President, when you examine the totality of what has happened with Mexico, you have news articles from newspaper after newspaper, the Washington Post, the New York Times, citing the incidents of corruption, the degree to which there is still major highly lucrative narcotics trade corruption.

I have a memorandum here again from Customs listing directors of Customs, Governors of States, division commanders of military districts, all of whom are alleged to have been involved in narcotics trafficking.

The bottom line is that if our law is going to mean anything—and maybe Senators do not want it to mean something. Maybe we should repeal the law after our failure in the Bahamas. Maybe we should repeal the law if we cannot pass this. But it seems to me so clear that if we are incapable of sending a message to a country, no matter how large they are as a trading partner, no matter how significant they may be in terms of its relationship, if we cannot call the shots the way they are and say they are not cooperating fully when our own Government says they are not cooperating fully and when it is obvious on the facts that they are not cooperating fully, then we genuinely undermine our law enforcement officials' efforts and we undermine the meaning of our own law. I hope that the Senate will in fact vote a decertification, as painful as it is, as much as we do not like to do that, and let us see what happens as a consequence which is clear will be different from what we know will happen if we do not do that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank the Chairman.

Mr. President, first of all let me express my apologies to our colleagues. We have taken a lot of time this afternoon on these two matters principally, the Bahamas and Mexico, this being the last one, and I hope we can conclude this debate in the next 15 or 20 minutes or so and have a vote.

An awful lot of data and statistics have been laid before my colleagues. I think what we need to come back to is the question of whether or not this process we are engaged in is one that is in the best interests of our country, the best interests, of course, of the efforts to eradicate this scourge on our society. I will repeat once again, Mr. President, what I said during the debate on the Bahamas, and that is there is no one in this Chamber that I know of that is any less committed than anyone else in their determination to deal effectively with the problem of narcotics.

As we all know, it is a problem with two sides. It is a problem of supply and it is a problem of demand, and clearly we appreciate the fact that while supply is a significant factor, to quote a recent study that was reported in the New York Times on April 12, 1988, the lead of which is "Drug Users, Not Suppliers, Held Key Problem":

> The Federal Government's programs to control drug abuses are failing because they emphasize a futile crackdown on suppliers while neglecting the more important task of weaning the American public from its habits, according to a range of experts in the drug fight.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 12, 1988]

DRUG USERS, NOT SUPPLIERS, HELD KEY PROBLEM

(By Philip M. Boffey)

WASHINGTON, April 11.—The Federal Government's programs to control drug abuse are failing because they emphasize a futile crackdown on suppliers while neglecting the more important task of weaning the American public from its habits, according to a range of experts in the drug fight.

The Administration's crackdown on drug suppliers is by far the most costly ever conducted. The budget for drug law enforcement surged from $800 million in fiscal year 1961 to $2.5 billion in fiscal year 1988, the current year, more than tripling the funds for interdiction, investigations, prosecutions, intelligence, and international activities. This represents "the largest increase in drug law enforcement funding and manpower in the nation's history," according to the Administration's drug policy board.

But the effort has been largely ineffective, drug specialists say. Despite record confiscations of drugs and a threefold increase in arrests of major drug traffickers, only a small percentage of the cocaine and a somewhat larger percentage of the marijuana coming into the country in recent years have been seized, according to a Government-sponsored study. Large quantities of marijuana is also grown within the United States.

"LOST THE SUPPLY BATTLE"

"Supply reduction has been an abject failure," said Dr. Lloyd D. Johnston, a social psychologist at the Institute for Social Research at the University of Michigan, who conducts an annual survey of drug use by high school seniors and recent graduates for the Government. "The supply of cocaine has never been greater on the streets, the price has never been lower, the drug has never been purer. We've basically lost on the supply battle field and in my opinion will continue to lose even if we pour a quarter of the treasury into it."

The reason, he said, is that no matter how many drug suppliers or corrupt officials are eliminated, another 50 or 100 will be ready to take their place as long as the immensely profitable drug market remains untouched. And no matter how many fields of coca plants or marijuana plants are destroyed, there will always be yet more acreage available for planting illicit crops.

The lack of progress has made foreign officials increasingly bitter about risking their enforcement agents' lives in the drug fight when the United States appears unable or unwilling to curb the domestic appetite for drugs.

MEXICAN BITTERNESS

"Why do the deaths of Mexicans have no impact?" Mexico's Attorney General, Sergio Garcia Ramirez, asked in an interview in March, referring to the 154 Mexican police officers and soldiers killed by traffickers in the past five years. "Is it because they are Mexicans? I don't want the answer to be yes. I'm not saying that we're carrying on the battle alone, but all we get is criticism.

He also pointed out that the traditional separation between consumer and producer countries is no longer valid. "We've developed a black-and-white view of producer countries where there are delinquents and consumer countries where there are victims," he said. "This is wrong. In consumer countries, there is growing drug production for their own and foreign consumption, and there are alarming levels of laundering of drug money and financing of trafficking. Similarly, in producer countries, there is growing consumption. So we're all involved in all stages."

Most experts say they believe the last best hope for controlling drug abuse in the United States is to cut the demand for drugs—by treating those who are already hooked, developing prevention programs, and, some say, throwing the full weight of law enforcement against the users of drugs, not just the suppliers.

President Reagan himself acknowledged, in a speech Feb. 29 to the White House Conference for a Drug-Free America, that "as significant as stopping smugglers and pushers is, ending the demand for drugs is how, in the end, we'll win".

"NEED TO FOCUS ON DEMAND"

"We really do need to focus more on the demand aspect, the treatment and prevention side," said Chauncey Veatch 3d, director of the California Department of Alcohol and Drug Programs, who is president of the National Association of State Alcohol and Drug Abuse Directors. "We're seizing all these huge amounts of illicit drugs and yet we still have this tremendous problem."

"There is no obvious or easy solution except to reduce demand," agreed Dr. David F. Musto, a psychiatrist and historian at the Yale School of Medicine who is probably the nation's leading authority on the history of narcotics control in the United States."

To be sure, the Administration for many years now has been calling for a drug-free society and has exhorted the nation's youth to abstain from drugs. The foremost symbol of that concern is Nancy Reagan's frequent appeals to "Just say no" to drugs. These have been highly effective, Administration officials say, in helping to shift public attitudes against drugs. But the Administration's leadership has been primarily rhetorical. The overwhelming proportion of Federal dollars and manpower has been channeled into the fight to eliminate supplies.

THE DRUG PROBLEM: A BRIEF HISTORY

The call for a change in emphasis comes at a time when drug use in the United States remains high but is clearly receding from its recent peaks.

The drug problem emerged over the past three decades with explosive force. In the early 1960's only a handful of people in the nation—perhaps 2 percent of the population—had ever tried illegal drugs. Then came progressive waves of marijuana use in the 1960's, heroin in the 1970's, and cocaine in the 1980's, augmented by ripples of LSD, Quaaludes, PCP, amphetamines, barbiturates and inhalants, among others. By 1985, 37 percent of the population over the age of 12—some 70 million people in all—had used an illegal drug at least once, and 12 percent of the population—some 23 million people—were current users, according to projections from a Government-sponsored national household survey.

"An enormous number of people have at least tried drugs," said Edgar H. Adams, head of the division of epidemiology and statistical analysis at the National Institute on Drug Abuse. "It's incredible."

WHY THE UPSURGE?

Just why the surge occurred is a mystery. One leading theory, espoused by Dr. Musto, is that drug use runs in cycles. First comes a period of growing experimentation and epidemic spread in which drugs seem tantalizing and the dangers remote, according to this theory. That period is followed by a period of growing realization of the adverse consequences, this theory holds, and then comes a period of intolerance when society turns away from drugs.

A previous epidemic of heroin and cocaine abuse followed that course around the turn of the century, Dr. Musto said, after which Americans shied away from drugs until the 1960's, by which time societal memories of the dangers of the drugs had long since faded, opening the way for a new period of epidemic spread.

But the worst of the latest drug epidemic now appears to be over. Although marijuana and hashish remain the most widely used illegal drugs, use of these drugs by high school seniors peaked in 1979 at 50.8 percent, and fell by 1987 to 36.6 percent, according to a survey of high school seniors.

Heroin addiction peaked in the early 1970's, then tapered off to a stable population of about 500,000 addicts. The age of heroin abusers has grown progressively older, suggesting that it consists mostly of long-term addicts who started their habit in the 1960's and early 1970's, and just enough new users to replace the older addicts who die or undergo successful treatment.

Cocaine use, currently the major national concern, also shows signs of tapering off. Although the number of "current users" of cocaine has increased, reaching 5.8 million in 1985, the total number of people who use cocaine in a given year appears to have stabilized, at about 12 million. Even more promising, the 1987 survey of high school seniors and young adults reported the lowest level of cocaine use since 1978.

A major uncertainty about cocaine is "crack," a smokable form of the drug that can be sold in small, cheap units making it accessible to vast numbers of people who could not afford to inhale cocaine powder. The crack epidemic appears to have leveled off, or even declined, among high school seniors, according to the 1987 high school survey. But experts warn that it may pose an increasing threat to school dropouts and low-income users in the inner cities.

Opinions differ sharply on how devastating the drug epidemic really is. To Lois Haight Herrington, chairman of the White House Conference for a Drug Free America, drug abuse will determine "whether we continue as a great nation or whether we pass into history as yet another once-proud civilization eaten away from within." To Mr. Johnston, the social psychologist in charge of the national high school survey, "Our country has never had a period when such a large proportion of young people have been involved with illicit drugs."

By their mid-20's, 80 percent of young American adults have tried an illicit drug, he said, and by age 27, about 40 percent have tried cocaine. "We and our cultural twins in Canada have by far the highest rates of illicit drug use in the world," he said.

NOT "A RAGING EPIDEMIC"

But to Arnold S. Trebach, professor of justice at American University in Washington, drug abuse is not "a raging epidemic" that is "destroying" the nation. "Drug abuse is a serious problem in this country," he said, "but most people who use most drugs are not in trouble with them. They are not abusers." Instead of worrying about the tens of millions of Americans who have tried an illicit drug, he said, "I would focus on the addicts."

It is not clear how many people are in serious difficulty with drugs, because national surveys focus primarily on whether an individual uses drugs, not how much of a drug is used. The National Institute on Drug Abuse told the President's AIDS commission recently that some 6.5 million people "are severely dependent" on drugs. Dr. Trebach puts the number of addicts between 2 and 3 million.

Drugs cause far less health damage in this country than either alcohol or tobacco. In a typical year, there are only a few thousand deaths from drug overdoses and, by one estimate, a few tens of thousands of deaths from chronic health problems caused by drugs. This is far less than the 320,000 annual deaths attributed to smoking and the 100,000 or more deaths attributed to alcohol. "Drug abuse is a substantial public health problem, but an order of magnitude less than the public health consequences of alcohol and tobacco," said Don C. Des Jarlais, a top epidemiologist with the New York State Division of Substance Abuse Services. "However, it may be one of our biggest crime and social order problems."

In an effort to eliminate the corruption, violence and petty crime associated with the criminal drug trade, some specialists have urged that at least some of the drugs that are now outlawed be made available legally, either on the open market or by prescription for addicts. Supporters of this idea, which has been raised periodically, suggest that such a move would undercut the mob's profits and decriminalize a significant part of the business.

WHAT THE OPPONENTS SAY

But opponents of legalization argue that it would inevitably increase the number of drug users, generating enormous health damage that would undercut the gains from eliminating criminal drug trafficking. Legalization remains a topic of scholarly debate but has no serious political support.

Despite overall trends indicating that drug use is declining, the adverse health and social consequences of drug abuse—medical emergencies, death by overdose or disease, addicted babies, crime and violence—continue to soar.

Cocaine-related hospital emergencies almost tripled over a four-year period from about 5,200 in 1982 to about 14,000 in 1986. Most experts attribute the rise partly to the fact that these emergencies are caused by the cumulative effects of past drug abuse. And hanging over every addict who injects drugs with needles that are shared with other addicts lies a new specter—AIDS, or acquired immune deficiency syndrome.

"You can make a pretty good case that things have never been worse," said Dr. Donald Ian Macdonald, administrator of the Alcohol, Drug Abuse and Mental Health Administration and special assistant to the President for drug abuse policy.

FEDERAL POLICY: "LOOK FOR DOLLARS"

In its oratory, the Administration has often claimed that demand reduction was its primary strategy to combat the drug menance. At a March 1981 press conference, President Reagan, then new to his job, called it "virtually impossible" to halt drugs at the nation's borders because "it's like carrying water in a sieve." Instead, he said, "It's far more effective if you take the customers away than if you try to take the drugs away from those who want to be customers."

These declarations have seldom been backed with enough money. "These people say one thing and they do another," complained Karst J. Besteman, executive director of the Alcohol and Drug Problems Association. "You have to look for the dollars. That's where the real policy is."

For its first six years in office, the Administration poured most of its resources into law enforcement programs intended to disrupt supplies and prosecute suppliers while providing smaller increases for prevention and actually reducing the money available for treatment.

$2.5 BILLION FOR FISCAL YEAR

In the current fiscal year, drug law enforcement programs are receiving $2.5 billion, far above the $940 million allocated for treatment and prevention. The President's budget proposal for next year, fiscal 1989, would further increase the disparity.

Administration officials justify the disparity by asserting that much of the law enforcement work, such as border interdiction, Coast Guard patrols, the eradication of foreign fields, and investigations of major international criminals, has to be supported by the Federal Government, while most of the prevention and treatment work is primarily a state, local or private responsibility, or often a family's own responsibility.

Dr. Macdonald said the Federal Government has always played "a relatively minor role" in drug treatment programs, which are primarily supported by the states. "I think there is a large unmet treatment need in the country," he said, "but the ball is now in the states' court."

That is not accepted by critics who contend that the Federal Government has a responsibility to provide money to combat a problem that is supposedly a top national priority.

The principal focus of the Administration's demand-reduction strategy, Dr. Macdonald said, has been to change the public's knowledge and attitudes about drugs, with Mrs. Reagan's repeated advice to youngsters, "Just say no," leading the way.

JUST SAY NO CLUBS

White House officials say the campaign's effectiveness can be seen in polls and surveys showing a growing disapproval of drugs and a growing acceptance of such steps as urine testing in the workplace to detect drug users. They also say Mrs. Reagan's example has helped stimulate the formation of some 8,500 to 10,000 Just Say No clubs, which teach youngsters to refuse drugs and resist the social pressures toward drug abuse.

But others are skeptical that her campaign has had much impact on the young people who are most at risk of turning to drugs, such as school dropouts and minorities who may not look to the First Lady as a role model. A December 1987 report on Drug Abuse Prevention by the General Accounting Office, a Congressional investigating agency, concluded that "the federally endorsed and widely publicized 'Just Say No' program, likely to be utilized by many states and localities, has not yet been evaluated, and there are uncertainties about its applicability to all segments of the population and its long-term benefits.

Federal Funding: Who Gets What

The bulk of the Government's prevention funds has been allocated to the Department of Education to support the development and use of drug education programs in the schools. The department has distributed a booklet, "Schools Without Drugs," that recommends strategies to prevent drug experimentation and offers clear policies against drug abuse. But Education Secretary William J. Bennett has been openly skeptical that much of what passes for drug education has any value.

"I know there is a modest kind of sweet faith on the part of some that if you have a drug education course, young people will change their minds," he told the House Select Committee on Narcotics Abuse and Control last June. "In fact, there's no evidence that that's the case at all." The department has been trying to identify schools that appear to have effective programs and find ways to hold schools accountable for assessing their drug education programs.

But analysts are dubious that the campaign, which seems to have been forced upon a reluctant Education Department, is paying off in a major way. "It's highly unlikely that anything was accomplished," said Peter Reuter, a drug policy expert for the Rand Corporation.

The General Accounting Office found "considerable uncertainty about what works to prevent drug abuse." The traditional strategies used over the last 15 years either sought to increase one's knowledge of drugs and their adverse consequences or sought to increase self-esteem and social development to lessen the need for drugs. Although these programs often did increase knowledge, the G.A.O. said, "few had demonstrated any degree of success in preventing drug abuse."

Now hopes are shifting to some of the tactics used in weaning nicotine addicts off their smoking habit. Young people are taught to resist peer pressure to take drugs, and instead to form their own social pressure groups in favor of drug-free living, and to make public commitments not to use drugs, among other tactics.

"The success stories in prevention are beginning to come in," said Dr. Charles R. Schuster, director of the National Institute on Drug Abuse. "Peer resistance strategies have worked well for tobacco. They have worked less well with alcohol and marijuana. But I suspect when everybody is singing from the same song sheet, it will probably make a difference."

TREATMENT: WHAT WORKS?

Treatment programs rest on a more secure knowledge base than prevention programs, but here too there is disagreement over their effectiveness. The four principal treatments include detoxification, which helps addicts through withdrawal; methadone maintenance, which provides a more benign drug for heroin addicts; outpatient counseling and family therapy; and drug-free therapeutic residences.

"Treatment works, but only for people who stay in treatment," Dr. Schuster said. "Unfortunately, only about 20 percent of those who need treatment are in treatment programs."

Although there was a surge in treatment programs during the early 1970's, growth later slowed and failed to keep up with the rise in drug abuse. In many cities, addicts who seek treatment must wait weeks or even months to enter a program. There are only about 30,000 slots in methadone maintenance programs in New York City to meet the needs of more than 200,000 heroin abusers, according to city officials.

Most experts agree that, if the nation wants to make progress against drug abuse, it must minimally provide treatment for all those who seek it, and might maximally seek to entice virtually all addicts into a treatment program. The President's AIDS Commission recently called for a national policy of "treatment on demand" for an estimated 1.3 million intravenous drug abusers at risk of spreading AIDS. It urged expenditures of $15 billion over 10 years—half Federal and half state or local—to expand drug treatment services, construct 3,300 new treatment centers, and train 32,000 new drug workers. The likelihood that the Reagan Administration, nearing its end and faced with large budget deficits, would suddenly pour more money into drug treatment was deemed slight.

Increasingly, Administration officials have sought to reduce demand by "forceful and swift" actions targeted at the users, including arrests, fines, seizure of property, forfeiture of drivers licenses and other privileges, drug screening in the workplace, and compulsory work, education or even jail for offenders.

In a Feb. 29 speech to the White House Conference, Mrs. Reagan blamed casual users for creating a climate of acceptance for drugs and for financing the bullets that have murdered foreign drug officals and American narcotics agents. "We must be as adamant about the casual user as we are about the addict," she said, adding, "If you're a casual drug user, you're an accomplice to murder."

For those who subscribe to the cyclic theory of drug use, this showed that the intolerant phase of the latest epidemic had clearly arrived, signaling perhaps its inevitable decline.

Mr. DODD. Second, I listened to my colleague from New Mexico say the law says full cooperation—if you do not have full cooperation, then you get decertified. Well, that is what the law says. The problem with that law is that we are not applying that same standard equitably. We are dealing with that standard as it applies to two countries, Mexico and the Bahamas.

There is a list of nations that were certified, if you will, in those reports that we are not debating today. No one would argue that these nations, the ones I list, are fully cooperating with the United States on this issue. Certainly Bolivia, Honduras, Pakistan, Nigeria, to list four, Thailand is listed as in full cooperation, and Colombia is listed as a nation in full cooperation. None of those countries are fully cooperating.

But understandably, we are not sitting here indicting them because of the absence of full cooperation. We have chosen two. It seems to me if you are going to apply that standard to the letter as has been suggested by some, then we should be having I guess some 80 hours of debate here to include discussion of each of the ones of the countries I have mentioned, and I presume there are others that I failed to mention here who would certainly come short of the standard of full cooperation. So the law is not applied equitably.

Second, it is a medicine which I would suggest goes beyond what the problem warrants. We are not talking about here just a slap on the wrist. What you do is apply a standard across the board. Under the provisions of this law, if decertification were to occur, then the President of the United States is obligated to instruct our representatives in international lending institutions to vote against those countries in those international bodies when issues come up for loans for instance.

Everyone is conscious of the tremendous economic difficulties which the nation of Mexico faces today. I would suggest in no small measure they are of their own making but nonetheless, I do not think we want to take this issue as important as it is and make that a litmus test for a whole array of other issues that involve our relationship with Mexico.

This is one of the most complex relationships. We have immigration issues, environmental issues, we have obviously the drug issue, and we have economic issues. We are a major importer of oil from Mexico. It is our third largest trading partner, as has been pointed out. This is a set of complex problems that involve both of our countries. We share as we all know 1,700 miles of border. What we are suggesting by this is because of this one issue we are virtually going to say no to every one of those others. That is what the net effect is.

So the law is inequitable in its application, and frankly engages us in single-issue politics which none of us approve of in this body. We take one issue and apply it to all other relationships. So the law is fundamentally flawed in the first instance.

But, second, it is fair and without exaggeration to suggest that Mexico is being helpful. Is it fully being helpful? I would not want to engage in a debate on that issue. I would agree.

I ask my distinguished colleague for 1 additional minute.

I would not argue with my friend from North Carolina who I see on the floor. I mention him specifically because he has raised the issue of full cooperation. He is right. There is not full cooperation in the sense that he and I understand the meaning of those words. But I also happen to believe simultaneously that it would be irresponsible for us to engage in the medicine, if you will, that this legislation requires and apply it to Mexico under these circumstances.

We know that they have committed 60 percent of their justice department budget to drug eradication and interdiction. We know they apply 25 percent of their military budget. That is a significant step forward. There have literally been hundreds of Mexico officials who have died in this battle. Our two Presidents have met.

My colleague from Arizona, Senator McCAIN, talked about a heated 2-hour debate that he and I and CHARLIE RANGEL, our colleague from the House, joined ranks on in debating in an interparliamentary meeting with our Mexican colleagues. That is the kind of pressure and effort I suggest builds cooperation. The word is "cooperation," not "penalties," not "retribution," not trying to provide a whip to this situation but to improve cooperation.

I would suggest to you that there are a variety of means available to us to enhance cooperation. This means this measure sets us in the opposite direction. I urge my colleagues to reject this joint resolution.

I yield the floor.

The PRESIDING OFFICER. Who yields?

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleagues for the opportunity to rise on this occasion to address the question of certification with regard to Mexico. As a member of the Foreign Relations Committee, Mr. President, I have taken the interest of an active participant in the question of certification.

First of all, I find the process extremely inappropriate in the way in which the question of certification is applicable to the various countries that we provide assistance to.

The certification process leaves us with one of two choices. We either certify nations or we decertify them. It was evident in testimony before the Foreign Relations Committee that those responsible for the certification process were extremely frustrated, and as has been expressed by my colleagues on both sides on the issue the question of appropriate action, whether by decertifying a country like Mexico, we are making it more difficult to provide encouragement for drug eradication or if indeed this is an opportunity to send an appropriate message that the Mexicans indeed are not being responsive in reasonable matters relative to the drugs that are coming into the United States.

It is a dilemma, Mr. President, but it seems to this Senator that we have little choice. The action that we are taking today is a result of the Anti-drug Abuse Act of 1986.

As I have indicated to my colleagues, perhaps this is a flawed piece of legislation. I think it ought to be corrected. But under the existing legislation, the President has certified that Mexico is "cooperating fully" in combating the drug trade. We know that is not the case. The administration's own report and testimony before the Foreign Relations Committee indicates that Mexico has indeed a long, long way to go.

It is interesting to reflect on quotes from the administration.

First, "Foreign marijuana cultivation increased after eradication by 25 percent during 1987 with more than half of the increase occurring in Mexico and Colombia."

Second, "Despite improvements, Mexico continued to be the single largest source of marijuana exported to the United States."

Third, "Mexico must expand its opium poppy and Canada's eradication programs until eradication levels overtake expanding cultivation."

Finally, "Mexico remains the largest single country source of heroin and marijuana entering the United States. Mexico also serves as a major transit route for United States cocaine importers."

Mr. President, it is not this Senator's intention to unduly be critical of our neighbors in Mexico, but we have seen what has happened in Colombia. We have seen the highest law enforcement person in that country brutally murdered. We have seen the power and influence of what drugs can do in a country. Mexico is not fully cooperating and our administration is wrong to certify that it is. Yet, I will admit that the process of being left with simply a certification or noncertification is, in itself, flawed.

I think it is important to make clear that Mexico is not doing its best on combating drugs, that the effect of this legislation, as we all know, given the law under which we are acting, is truly negligible. Our only cash aid to Mexico is antidrug assistance which is exempt from any sanction under this law. So the Mexicans will still undoubtedly receive this regardless of the action of this body.

The Antidrug Abuse Act of 1986 has no teeth in this situation whatsoever. But I think it is time this body stood on the premise that we do not approve of what is happening in Mexico. Unfortunately, this is the only vehicle we have, currently.

As I have indicated, we need reform in the process. But there is something wrong with a law that allows the President to certify that our principal suppliers of drugs such as Colombia, Mexico, Burma, and Pakistan are "fully cooperating" with us and "taking adequate steps" on their own.

The steps they are taking are not adequate. We need to give the President and ourselves a wider choice of options to punish countries that do not discourage the drug trade. This is the reality, but we do not have that weapon at this time.

I think we should also have the capability to reward those countries that are responsive in a responsible manner. We need to look at the whole range, if we have to, of possible sanctions and incentives that should be applied. Are we going to have to consider sanctions to address those nations that perhaps are not willing to cooperate?

The reason they are not willing to cooperate is obvious. The price is absolutely too high.

I think a vote for this legislation, frankly, is the only tool we have to make the point that we demand greater cooperation from the Mexican authorities.

Again I remind my colleagues that Mexico is not about to lose the assistance we give it for drug eradication, by any means, but this is a strong and timely signal, and it is the only vehicle we have.

I remind my colleagues, in conclusion, that this vote will be watched closely by many people who are looking at an issue that has the highest significance in the Nation now. That is the war on drugs. They will wonder whether or not this body means business, or if we are simply going to take the out that there is a diplomatic concern here, and this legislation is not the appropriate way to do it. I think this is an appropriate signal. Now is the time to send that signal.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. Mr. President, I yield 5 minutes to the able Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, the real issue facing us tonight is whether a vote for decertification of Mexico will send a signal which will result in further cooperation with the

Government of Mexico on the drug problem.

Unfortunately, Mr. President, I believe that a vote for decertification will lead us to the exact opposite result than what the proponents have been arguing. Instead of improving cooperation, I believe a decertification vote will result in even less cooperation than we currently have which could be, I might add, significantly more cooperative and constructive.

We have argued back and forth how one defines "full cooperation."

However, Mexico has improved its cooperation with the United States over the past year. For example, the seizure of all drugs has increased, including cocaine by 75 percent. These efforts involved many human casualties and scarce economic resources. And, the President is confident, after his meetings with Mexican President de la Madrid that he has received a firm commitment to improve this cooperation over the coming year. He has reiterated this commitment in a letter to the Republican leader in support of certification.

I strongly believe that using the blunt instrument of a decertification vote after these high level consultations is the wrong way to deal with a very tragic problem.

All of us here recognize the severity and urgency of the drug problem. But, as several of us pointed out last year, the complexity of the problem is diminished by the provisions in the omnibus drug bill. The drug supply problem is one which is extremely difficult to control even under the most ideal arrangements of cooperation. And, it certainly will not be solved by decertification votes on the Senate floor.

We have set a standard of full cooperation in the omnibus drug bill which is difficult to certify for almost any country. This year, for example, the certifications for countries such as Colombia and Pakistan can also be seriously questioned.

If we decertify Mexico, we will be placing it in the category with Afghanistan, Iran, Syria, and Panama, countries that are not regarded traditionally as allies and which certainly are not even interested in cooperating.

I do not think Mexico fits in with these other countries, and a vote to decertify, I believe, would send a devastating signal to an ally at a very sensitive time in the region.

This situation throws into question, as has been stated during the debate on the floor frequently today, the validity of section 481 of the omnibus drug bill. For 2 years in a row, we have tried to determine what full cooperation is, and we have tied ourselves into a Gordian knot. I believe this section should be repealed.

However, the issue before us tonight is whether we should certify or decertify Mexico. I urge my colleagues who are still openminded on this issue that now is not the time to decertify Mexico, and I urge that we support the administration in certifying Mexico's cooperation.

I yield back any time remaining.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina has 10 minutes, and the Senator from Rhode Island has 37 minutes and 23 seconds.

Mr. HELMS. Mr. President, in the Baptist Church in North Carolina, they warn the preachers that they do not save any souls after 12 o'clock.

May I ask the Senator from New York how much time he desires?

Mr. D'AMATO. I would say 5 minutes.

Mr. HELMS. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. Mr. President, it was not too long ago that this Senator cast a vote, and that vote was cast with regard to the same law—a law, by the way, that was passed 2 years ago, before congressional elections, 1986.

People became concerned about drugs. In that concern, Congress passed unanimously Public Law 99-570, which basically said that those countries that produce and transit narcotics will be certified only if they have cooperated fully with the United States, and that may pose some difficulty—cooperating fully—or taken adequate steps on their own to control narcotics production, trafficking, and money laundering.

So it is not just cooperating fully. It is "or taken adequate steps on their own."

It was on that basis that this Senator cast a vote, and it was a troublesome one, as it related to whether or not we should certify the Bahamas as taking those adequate steps in relation to drug trafficking and money laundering. In my opinion, that is open to reasonable doubt. But I think we should at least give them that opportunity, because, as it relates to drug trafficking, they have undertaken certain cooperation with the United States that allows hot pursuit by our airplanes—hot pursuit as it relates to those who come over the waters, and in relation to the Coast Guard. Those cooperative efforts have been undertaken.

Let us look at Mexico. We debated this last year. We said let us give them an opportunity. My colleagues voted for certification, giving them ample warning.

What about hot pursuit? Do they allow our Air Force, our Navy, or our Coast Guard, to pursue those drug smugglers? The answer is no.

What about money laundering? Do they allow us access, cooperatively, as it relates to the money launderers, who launder billions of dollars through their banks? And the answer is no.

So much for this oversimplistic pap about what is full cooperation. Not only have we not gotten full cooperation, but there are not being taken adequate steps.

What about the killing of U.S. citizens who are drug enforcement agents? What about those who were charged with that killing only because of incredible pressure upon the country of Mexico by this Nation and by an outraged public and by one commissioner who had the guts to stand up and do something—Willie von Raab? Caro Quintero lives in luxury with women, drugs and everything supplied to him, and that is supposed to be adequate prosecution. And we talk about a war on drugs.

We ought to be ashamed of ourselves. And it is also oversimplistic to say that if we decertify Mexico that it ends, that we won the war.

What kind of commitment can we tell the people of this country that we are willing to undertake if we are not willing to stand up and to say that, in Mexico, there is not even the slightest cooperation?

Are we worried about the international bankers? What is going to happen? They may be offended. It is about time we told them they should be offended, because we are offended by the ravaging of our cities and communities and the killing of our children.

A month ago, I went to the funeral of Ed Byrne, 22 years old. Sitting in his patrol car at 3:30 in the morning, he was executed—executed by the drug lords who said, "Go out and get a policeman."

Mr. President, Eddie Byrne's father made an appeal. Let me tell you what he said. It is tough language for this Chamber. It is part of what is taking place in America. We have to start the battle here at home and abroad and let people know we are serious. That is what this is about. It is not about the State Department doing business as usual. It's about maybe rattling some cages.

Here is what Matt Byrne said, a former police officer himself, retired, the father of that 22-year-old boy. He said, "If a police officer can be wasted by scum, then none of us is safe, and I do not care where you live."

He said something else. I think that we should take cognizance. He said, "Don't let my son's death be in vain."

Let us make this appeal a turning point, not only as it relates to this resolution, but to a commitment that will galvanize us to work together, Republicans, Democrats, liberals, conservatives. Only our total commitment will bring about a meaningful crusade to bring domestic tranquility to the people of our land.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I rise today in support of Senate Joint Resolution 268, to disapprove the President's certification of Mexico as fully cooperative in the fight against narcotics.

As a background for my comments on Mexico, I will reiterate the standards for cooperation as set forth in the Anti-Drug Abuse Act of 1986. These are the standards against which we evaluate each country. First, the act specifies that a country must have taken steps to reduce drug production. The most recent State Department international narcotics report states that Mexico continues to be the largest single-country source of heroin and marijuana available in the United States. United States officials estimate that Mexico produced 6,550 metric tons of marijuana in 1987 as compared to 6,000 metric tons in 1986, and 45 to 55 metric tons of heroin as compared to 35 to 50 metric tons in 1986. During this past year, Mexico overtook Colombia, earning the dubious distinction as the largest supplier of marijuana to the United States. No matter how you look at it, there has been an increase in the production of narcotics in Mexico.

Meanwhile, the United States-provided narcotics-eradication planes sit on the ground in Mexico, too poorly maintained to fly despite generous funding by the State Department. A GAO report, which examined the Mexican crop eradication effort, stated that corruption in Mexico's law enforcement organizations has reduced the program's effectiveness. Whatever the cause, one thing is certain: Approximately 15 million United States dollars per year are going into the Mexican Eradication Program, most of which is specifically designated for maintenance on the airplanes, and yet the planes are not flying and the drug crops are not being eradicated.

Another concern is the glacial pace of the Camerena case. It is now more than 3 years since the torture and slaying of DEA special agent Enrique Camerena at the hands of Mexican law enforcement officials in tandem with narcotics kingpins. Three years later, of the 68 suspects rounded up in connection with the Camerena killing, 1 has been sentenced. One gets the impression that the political will is not there in Mexico to prosecute these cases.

A final major area of concern is drug-related official corruption. Last year I proposed, and the Congress adopted, an additional criterion for determining whether a foreign government has shown "full cooperation." This year the President must take into consideration whether a country has taken steps to prevent and punish corruption by government officials. Let me quote from the State Department's international narcotics report,

> According to the U.S. Customs Service, the single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican government.

As an example, the single largest narcotics trafficker in Mexico, a Mr. Felix Gallardo, is supposedly being sought in connection with the Camerena murder. Mexican authorities claim that they cannot find this person, although U.S. officials say that he has been spotted at private parties. Another more recent example involved the January 1988 arrest in San Diego of Mexican military district commander, Gen. Poblano Silva, in a massive cocaine smuggling conspiracy. The incident alleges that six Mexicans and six Bolivians conspired to import 5 metric tons of cocaine into the United States. One million dollars per ton of cocaine was to be paid to Mexican officials for protection. In addition to these specific examples, there have been numerous reports of Mexican law enforcement officials escorting loads of drugs across our Southwest border. In light of these circumstances, we simply cannot honestly say that we are receiving full cooperation from the Mexican Government in stopping narcotics-related corruption of their own public officials.

Mr. President, last year Mexico was not decertified despite serious misgivings by many of my colleagues. This year, according to our official reports, drug cultivation, transshipment, and export into the United States as well as narcotics-related corruption are all on the rise in Mexico. The Permanent Subcommittee on Investigations, of which I am the ranking minority member, has investigated money laundering and narcotics trafficking in Panama. In that instance, we saw how futile our drug interdiction efforts can be when they are undercut by officials who cooperate with the traffickers. The Permanent Subcommittee on Investigations is now undertaking a broader look into narcotics-related corruption of officials in other drug-producing and drug-transiting countries.

If our antinarcotics commitment is to have any meaning, we must be prepared to act upon facts which are presented to us by our own Government agencies. There is no disputing the reports of wide-scale corruption among Mexican officials. I understand that our relations with Mexico are not one-dimensional and for that reason, President Reagan may wish to certify Mexico on grounds of national interest. But to certify Mexico as fully cooperative undermines our credibility internationally and discredits our express commitment to the American people to fight against narcotics.

Mr. DOLE. Mr. President, I intend to vote for the Wilson resolution, but—as I think has been reflected in tonight's debate—this is a tough vote; a close call.

We live in the real world—a world which also encompasses conflicting facts and arguments. I think there is little doubt that Mexican performance on drugs continues to improve. Drug seizures are up; eradication is up. About a quarter of Mexico's Armed Forces are engaged in the war on drugs. And many, many Mexicans—in the Government and outside it—are making extraordinary efforts, and risking their own lives, to stop the production and flow of drugs. They deserve to be recognized and applauded.

But I do not see how you can argue with the basic contention of this resolution. If the English language has any meaning, the Mexican Government is simply not giving us full cooperation in the war on drugs, by anyone's standard. It is not giving us satisfactory cooperation. The administration, itself—even while certifying cooperation—acknowledges eight separate instances where the Mexican Government has failed to do what it should; what is right.

And, as the Senator from North Carolina and others have indicated so convincingly tonight, the abuses in the Mexican penal system and elsewhere in the Mexican system continue to be widespread and serious.

Sixty days ago, President Reagan and Mexican President De La Madrid met to discuss ways to strengthen joint antidrug efforts. President De La Madrid pledged a renewed and strengthened Mexican commitment to those efforts.

In making our decision tonight, we have to decide how best to send the message to Mexico that we expect it to live up to that pledge.

I have decided that the best, strongest, and clearest message can be sent by passing this resolution.

Mexico must understand: Our patience is exhausted. Our children are dying. Our demand of the Mexican

Government is simple: Do what is right. Do it now.

Mr. President, I urge passage of this resolution.

UTAH IS SUFFERING AT THE HANDS OF MEXICAN AND OTHER DRUG TRAFFICKERS—WE NEED TO DO MUCH MORE.

Mr. HATCH. Mr. President, I must rise in opposition to the certification of Mexico as a friendly nation that is doing all that it can to prevent drug trafficking.

I will not repeat the statistics and related horror stories that we have heard the past few days in this Chamber; they simply strengthen the conclusion that such certification is unjustified. Rather, Mr. President, let me tell you what is happening in my State, Utah, where in the not-too-distant past, there wasn't any trafficking that we couldn't handle. That situation is today radically different.

DRUG AVAILABILITY IN UTAH

Let me focus initially on heroin and cocaine, then turning to other dangerous drugs, and end with marijuana.

Virtually all heroin entering Utah is from Mexican sources. The drug enforcement agency, and the El Paso intelligence center, have confirmed that brown heroin, not white heroin that comes from Southeast or Southwest Asia. Mexicans are smuggling it across the United States border, entering my State through Arizona—as many police officials in southwest Utah can attest. In Utah, heroin sells for $10,000 an ounce, a low price by national standards, incidentally, suggesting that traffickers have begun "weaning" a market with low prices, as they have done so successfully elsewhere.

Cocaine is by far the most abused drug in Utah, and its use is growing. Depending on the part of the State in which it's sold, prices range from $1,200 to $1,800 per ounce. But, we are also seeing volume sales in kilogram quantities—that's 1,000 grams—at $35,000 to $42,000 a kilo. Again, the principal traffickers are Mexicans, along with other Latin Americans, including some Panamanians, incidentally, as well as Caucasians.

While marijuana is in ample supply, other dangerous drugs are also becoming increasingly available. These include methamphetamine. It is being made clandestinely, and selling for $900 to $1,200 an ounce. Wholesale, it fetches $13,000 to $18,000 a pound. I mention these drugs which, along with hallucinogens, like LSD and MDA, are now commonly available in Salt Lake City, only because, as horrible as they are, cocaine and heroin are more devastating problems, and here is where there is much more Mexican trafficking.

DRUG ARRESTS AND SEIZURES IN UTAH SIZABLE

Now let me say, Mr. President, that Utah is a State best known for the quality of its people, its work ethic, its State and national pride, its sense of family commitment, and a lifestyle that involves health and the out-of-doors as its underpinnings. Generally speaking, there is probably no State in our country where a revulsion toward drugs is more universal. Yet, even under these, near-optimal conditions, drugs are prominently trafficked and used. I emphasize this to demonstrate the nefarious nature of the drug problem in these United States, and to further demonstrate the deep malice that lurks in any country's leadership that would not make a maximum effort to control the transfer of drugs to our country.

In Utah last year, 61 percent of all drug arrests involved cocaine, while 10 percent were heroin-related. State, local and Federal agencies cooperated in seizing an incredible 175 kilograms of cocaine, and 1,172 kilos of marijuana.

OUR DRUG ENFORCEMENT AUTHORITIES ARE OVERTAXED

Mr. President, when we amended the posse comitatus statutes in 1983, we intended to allow more military assistance to law enforcement agencies. The record shows that we have not gone far enough, that we face a crisis of proportions beyond the human and technological capabilities of such agencies, and that we have no alternative but to declare drug trafficking a national security threat, and to thereby greatly increase military participation.

It can be done. We now have nearly 5 years of limited military participation without any real abuses; again the bleeding hearts were wrong: properly controlled and working closely under law enforcement agency supervision, military cooperation can work. Let me tell you how.

BRINGING MORE MILITARY INVOLVEMENT INTO DRUG ENFORCEMENT

Interdicting drug trafficking has three aspects: First, one must detect the trafficking. DOD has sophisticated communications electronic equipment which, if committed, will control traffickers. For example, the Army's ground radars, tactical radio nets, airborne and ground surveillance systems, coupled with, if necessary, Air Force satellite communications, airborne radars, and longer range radars can blanket our borders. I repeat: We have the means at our disposal to deter through detection.

But, Mr. President, the second step is to intercept traffickers, once detected. The capability of DOD is indisputably sufficient. I'm not just talking about sending a few token blackhawk helicopters to the Customs Service, or giving a couple of hapless C-12 aircraft to DEA; rather, I am saying that we need tactical unit deployments—an aviation unit, like an assault helicopter squadron, operating systematically along, say, the United States-Mexican border. Our new AH-64 Apache helicopter is being equipped with air-to-air missiles: Is this extreme? Let me reply rhetorically: Is the drug trafficking threat any less extreme? Equipped with friend or foe identification equipment, a warning shot ought to be sufficient to persuade a trafficking aircraft to land, quickly, I might add.

The same principles must be applied to sea traffickers, and to land-based traffickers. At sea, our nominal trafficking interception has worked well. Coast Guard officials manage coastal zone interceptions aboard Navy ships; the Navy has offshore interception authority. I support persons like Mayor Ed Koch, Representatives CHARLIE RANGEL, BEN GILMAN and, especially, CHARLIE BENNETT, who would vastly expand the use of our Navy.

Finally, interdiction requires one final law enforcement step: seizure and arrest. Our agencies will tell you: without this step, there can be no final step to prosecution. Again, military platforms alone can ferry law enforcement officials. What I am saying, Mr. President, is quite simply this:

Let our established law enforcement officials seize and arrest, but let our military detect, intercept, and facilitate the access of our law enforcement officials to these criminals.

In conclusion, Mr. President, I am declaring, on this floor tonight, my pledge to work to the maximum of my ability to destroy international drug trafficking cartels, beginning with those on our very borders, and especially, their cooperative networks in the United States, and the State of Utah.

Mr. SIMPSON. Mr. President, I oppose the resolution to decertify Mexico. I trust that the Senate will consider carefully what passage of this resolution would mean, not just to Mexico, but to our own efforts to stem the flow of illegal narcotics.

First, it would mean that United States foreign assistance to Mexico would be reduced by 50 percent. It would require the United States to oppose loans or other assistance to Mexico by international development banks, and trade restrictions would be imposed.

Second, it would impair our relations with Mexico, further hampering the ability of the Drug Enforcement Administration to operate efficiently in Mexico. As our enforcement efforts are hampered, and as resources available to Mexico are curtailed, the flow of drugs coming in from Mexico will grow rapidly.

There is no question that illegal drugs do make their way to this country from Mexico and that Mexico could do more, but there is evidence that Mexico has made great strides, is cooperating with the United States, and should not be decertified at this point. I recently had an opportunity to visit with my fine friend Mexican Ambassador Jorge Espinosa de los Reyes, and he shared with me some impressive figures on drug enforcement efforts of the Mexican Government. Sixty percent of the Mexican Attorney General's budget and 25 percent of Mexico's military are devoted to drug enforcement efforts. Drug seizures were up in 1987, as were drug trafficking arrests.

President Reagan and President de la Madrid of Mexico met in February, and President de la Madrid declared drug trafficking to be a "national security threat" to Mexico and assured the United States of Mexico's full cooperation in drug enforcement efforts. While Mexico may need to do more to control the flow of illegal drugs, the evidence supports the conclusion that it has cooperated with the United States, and that it will continue to do so.

Let us not ignore the significant efforts Mexico is making and the heightened level of cooperation promised. These efforts could significantly reduce or limit the drug trade. If we focus instead on shortcomings, we severely undermine the ability of President de la Madrid to cooperate with us in this and other areas.

If we impair Mexican-United States cooperation in this area, we make it easier for drug traffickers to operate. By voting to decertify Mexico, we vote to increase drug flows to the United States. If we vote to decertify Mexico, we send the wrong message to Mexico and virtually assure that opposition to the United States will increase in such issues as international debt, trade, and investment. We would be figuratively "cutting off our nose to spite our face" if we voted to decertify Mexico.

Sanctions would be imposed on Mexico that would operate to the detriment of the United States. If Export-Import Bank credits and guarantees were withheld, our exports to our third largest overseas market would be reduced, harming U.S. workers and businesses.

Some multilateral development bank loans benefit the United States directly, and the United States would be required to oppose those loans. For instance, conditions attached to a $36.4 million Inter-American Development Bank water supply project for Tijuana have helped to reduce sewage pollution along the southern California coast.

We must work with the Mexican Government to combat drug trafficking and production operations, and decertification would send the wrong signals and hinder cooperation. I urge my colleagues to defeat this ill-advised measure. It would be a very devastating thing to do to our fine neighbor to the south, and a wholly unnecessary act.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BYRD. Mr. President, this will be the last rollcall vote today. Inasmuch as it is the last vote and some Senators are probably a little distant from the Capitol, I ask unanimous consent that the rollcall vote be extended to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time has been yielded back.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The joint resolution having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Nevada [Mr. HECHT] are necessarily absent.

The PRESIDING OFFICER (Mr. GLENN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 27, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—63

Adams
Armstrong
Baucus
Bond
Breaux
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Heflin
Heinz
Helms
Humphrey
Karnes
Kasten
Kerry
Lautenberg
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NAYS—27

Bentsen
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Cochran
Cranston
Dodd
Durenberger
Glenn
Graham
Harkin
Hatfield
Inouye
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Matsunaga
McCain
Moynihan
Pell
Simpson
Wirth

NOT VOTING—10

Biden
Daschle
Evans
Gore
Hecht
Hollings
Pryor
Sanford
Simon
Stennis

So the joint resolution (S.J. Res. 268) was passed, as follows:

S.J. RES. 268

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the determination of the President with respect to Mexico as contained in the certification required by section 481(h) of the Foreign Assistance Act of 1961, received by the Congress on March 1, 1988.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that Senators MURKOWSKI, SPECTER, and GRASSLEY be added as cosponsors of Senate Joint Resolution 268.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

INTEGRITY IN POST EMPLOYMENT ACTIVITY

Mr. BYRD. Mr. President, after consultation with the distinguished Republican leader, I ask unanimous consent, for the purpose of laying it down tonight and there will be no action on it today, that the Senate now proceed to consideration of Calendar No. 227, S. 237.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 15 minutes and Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 1811

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from consideration of H.R. 1811, the Atomic Veterans Compensation Act, and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 373, a joint resolution that is a companion to my joint resolution that the Senate passed on February 26, designating the month of May 1988 as "National Trauma Awareness Month."

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The bill clerk read as follows:

A joint resolution (H.J. Res. 373) to designate May 1988 as National Trauma Awareness Month.

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 373) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JEWISH HERITAGE WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 527, and that Senate proceed to its immediate consideration. This is a joint resolution designating the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 527) designating the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 527) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PLAQUE PLACEMENT IN THE STATE OF DELAWARE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of House Joint Resolution 347, a joint resolution providing for the placement of a plaque at Fort Christiana in the State of Delaware, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 347) recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christiana in the State of Delaware.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 347) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LA PRENSA

Mr. ARMSTRONG. Mr. President, several weeks ago, when the Senate was last debating the issue of United States assistance to the democratic resistance in Nicaragua, I inserted into the RECORD a report prepared by the staff of the Republican Policy Committee called Sandinista Promises. This report catalogs the multitude of promises made by the Communist Sandinista regime in Nicaragua since before they took power in 1979. These promises, as the committee report documents, included freedom of speech, of the press, religion, a nonaligned foreign policy, elections, political pluralism, and so on. And, as again documented in that report, which is available from the committee, none of these promises was kept by the Sandinistas. On the contrary, even as they cynically made the same promises over and over again—they kept violating them, over and over again.

It was based on this record that I expressed great skepticism that the Sandinistas would perform any better now than they have in the past. Why should they respect basic rights now under the Sapoa cease-fire agreement or the Arias peace plan than they have before?

Today's news really seems to bear out that skepticism. As we all are aware, a prime index of civil liberty in Nicaragua is the ability of the independent newspaper, La Prensa, to publish and give an alternative to the Sandinista-controlled media. La Prensa was in fact allowed to reopen last fall under the terms of the Arias peace plan, and the current cease-fire agreement reaffirms the right of free expression—not only for La Prensa, but for all Nicaraguans. La Prensa, as we all know, is the leading independent newspaper that led the fight against the dictator Somoza, whose editor Violta Chamorro, with whom I met in Managua, was a member of the first Sandinista-dominated government of National Reconstruction in 1979.

So, how are the Sandinista's doing on just this one promise—on the promise to let La Prensa publish freely?

Well, according to today's papers, the Sandinistas are running true to form. Oh, they're not crude enough at this stage to just shut La Prensa down again, or censor every story of substance—as they've done in the past and will probably get around to when they think it appropriate. Instead, they're using a more subtle approach, hoping we won't notice that if you want to publish a newspaper, you need paper to print it on. Since at least last month, La Prensa has been plagued by artificial, discriminatory paper shortages. In a story in their March 24 issue, which they managed to get out, La Prensa notified its readers that they would not be able to publish future issues, and would have to wait—get this—for the arrival of a Soviet ship then in Panama that was supposed to have paper on it. According to the March 24 article, La Prensa had no success in its efforts with the Ministry of Industry—the source of newsprint in Nicaragua's state-controlled economy—to acquire paper, and was running out despite efforts to economize, such as elimination of the Sunday edition. Meanwhile, it is no surprise, the Sandinista papers, Barricada and El Nuevo Diario, have enough newsprint to print more copies than they can sell.

The lack of paper has continued to plague La Prensa. According to ABC-TV news this morning, as well as today's Washington Post, La Prensa has not been able to publish since April 5, when they ran out of paper—during this crucial time in the Sandinista talks with the resistance. According to today's Post, the Sandinistas have refused to allow an American humanitarian group to bring in a load of paper for La Prensa, along with 1,465 pounds of medicine for Cardinal Obando y Bravo. The plane is sitting in New Orleans ready to go to Managua. In addition, according to the State Department, during those periods in the past when La Prensa has had paper, the state-supplied electricity just "happens" to go out during the time the newspaper needs to roll their presses to run that day's edition. According to the Post, the Sandinistas doled out to La Prensa enough paper to publish yesterday—and we can guess how long that will last.

It's pretty clear that without outside attention and pressure, the Sandinistas' are going to get away with their efforts to crush La Prensa, without taking the heat for their actions. Increasingly, now that we've cut off aid to the armed resistance, we're distracted by other things—Noriega, the Kuwaiti hijacking, or whatever—and are not paying attention to the "peace settlement" that some in the Congress have been patting themselves on the back for.

But what about La Prensa?

I know of one Congressman in the House—CASS BALLENGER, of North Carolina—who has been doing a heroic job to get newsprint donated by American companies and get it transported. But the Sandinistas won't let it in. Where are those whom the Sandinistas were so eager to see in a mediation role? Where are those who argued against military aid to the resistance and instead wanted a "political process"? Most of all, we have meeting here in Washington the American Society of Newspaper Editors. I wonder: where are they when one of their colleagues is being denied their most cherished freedom—the right to publish?

Mr. President, we should not underestimate the power of publicity and moral suasion in cases like this. We can make a difference. In the past, we have seen public campaigns for Andrei Sakharov, Anatoli Shcharansky, and others, and these campaigns have helped these people. I think we need to show the same level of concern about Mrs. Chamorro and La Prensa. It may not be enough to make Nicaragua a democracy, but it is our duty to help those who are struggling for democracy.

There being no objection, the material was/were ordered to be printed in the RECORD, as follows:

[Translation of La Prensa article, Mar. 24, 1988]

LA PRENSA OUT OF PAPER; CITES "DISCRIMINATION"

[Text] This newspaper will not be able to circulate on 28 March because of the paper shortage; despite great efforts by the La Prensa management with the Industry Ministry upon forseeing the printing paper scarcity.

This newspaper has run out of newsprint, despite great efforts to economize, such as eliminating the literary section and the Sunday edition, La Prensa General Manager Luis Gonzalez said.

Gonzalez said there is marked discrimination against La Prensa in assigning printing paper quotas, and other newspapers are favored, as those newspapers can print up to 16 pages, literary sections, and in addition do outside work.

Gonzalez added that the La Prensa returns are below 5 percent, while for the other newspapers the percentage is 20, proving they print more because they have sufficient printing paper.

Due to this, La Prensa will print its last issue on 26 March and will await the arrival of a Soviet ship that is in Panama or about to arrive in Nicaragua.

Gonzalez said that after taking charge as general manager, the ministry advised the paper would arrive in February, then mid-March.

However, the fact is that the printing paper did not arrive, and La Prensa is faced with a lack of its main raw material, in addition to film and chemicals. Up to now the Central Bank has not replied to a request for $15,000 that was made the month our paper reopened, production engineer Francisco Rosales said.

Rosales said that the 700 tons of paper La Prensa had since October has run out, and according to the latest reports the Soviet ship that arrived yesterday only brought toilet paper and fine cardboard.

[From the Washington Post, Apr. 14, 1988]

NICARAGUA CUTS OFF AMERICAN AIRLIFT OF PAPER TO LA PRENSA

(By Julia Preston)

MANAGUA, NICARAGUA, April 13.—The Sandinista government has blocked an airlift by a private American humanitarian organization of newsprint for the opposition daily La Prensa and medicines for the Catholic Church, government officials and an executive of the private group said today.

The five-day episode started a storm of accusations between government officials here and Connecticut-based AmeriCares as well as members of the staff of Vice President Bush, who personally acknowledged that he backed efforts to expedite the shipment.

Although the incident apparently involved only a private donation, it is a sign of problems that are likely to arise when Washington seeks to deliver humanitarian aid from a $48 million package to feed and clothe the contra rebels during a two-month cease-fire and to help Nicaraguan children affected by the war.

AmeriCares President Robert Macauley said he reacted last Saturday to press reports from Nicaragua that La Prensa had run out of newsprint by pulling together a shipment of 15 tons of newsprint to fly to Managua.

La Prensa stopped publishing April 5 when it ran out of paper. The leftist government controls the distribution of newsprint and La Prensa's editors accused it of shutting the paper down to control press coverage in the days before the arrival of contra leaders for cease fire negotiations, which were scheduled to begin Friday.

Macauley, who is chairman of the Virginia Fiber Corp., a paper company, solicited private donations of newsprint. AmeriCares added 1,465 pounds of medicines, to be sent Cardinal Miguel Obando y Bravo, Macauley said in a telephone interview from Connecticut. AmeriCares did not consult with the Roman Catholic leader ahead of time because the medical cargo was small, Macauley said.

An airplane chartered from the Miami firm Transairlink sat in New Orleans all day Sunday while AmeriCares tried to get landing clearance from Managua, Macauley added.

Bush staff members called the Nicaraguan Embassy over the weekend to urge them to faciliate the shipment, aides to Bush said today in New York. Macauley said he had no knowledge that the vice president was involved with the shipment. But he noted that Prescott Bush Jr., the vice president's brother, is a member of the board of AmericCares.

On Monday, the clearance was denied, government officials said. A government communique called the shipment "a mockery of Nicaragua's children" and "a mere propaganda maneuver."

Sandinista officials accused AmeriCares of being a CIA front and part of the secret network of private groups used by Lt. Col. Oliver North to deliver aid to the contras during a two-year aid cutoff.

"We are not going to assist either Mr. Bush's presidential aspirations or AmeriCares' pro-contra activities," said a top Foreign Ministry official, Alejandro Bendana.

The government also argued, ironically, that the shipment would violate a three-year-old U.S. trade embargo against Nicaragua, which allows export from the United States of medicines but not newsprint.

"We were not going to facilitate loopholes in the embargo for a pittance of aid. We were simply helping to enforce the U.S. embargo," Bendana said.

"All of that is lies," Macauley said. He said AmeriCares is a nonpolitical, private, voluntary organization that has donated more than $170 million in medicines since 1981 to countries across the political spectrum.

AmeriCares delivered 200 tons of newsprint to La Prensa in 1986, during another shortage, Macauley said. In 1985, the group sent a shipment worth $291,383 of vitamins and malaria pills to Nicaraguan refugee children in Honduras through a contra organization run by Mario Calero, brother of top contra leader Adolfo Calero, he said.

AmeriCares currently is aiding one government-run health clinic in Managua, Macauley said, but had never attempted to deliver goods to it by air.

La Prensa resumed publishing yesterday. A government-run elections council provided it with 42 tons of newsprint, editor Cristiana Chamorro said. A major shipment of Soviet paper is expected in mid-April.

The aid package approved in late March by Congress includes $17.7 million in aid to sustain the contras during the trace and an equal amount for Nicaraguan children, to be administered by the U.S. Agency for International Development.

The contra aid according to March 23 cease-fire agreement, must be administered by a "neutral" organization.

[From the Washington Times, Apr. 14, 1988]

MANAGUA BLOCKS FLIGHT OF PAPER TO LA PRENSA

MANAGUA, NICARAGUA.—The Marxist government said yesterday it would not allow a shipment of newsprint for the opposition newspaper La Prensa into the country because it comes from a CIA-linked group. A government statement said the group that chartered a plane to fly 17,000 tons of newsprint for La Prensa and 2½ tons of medical supplies to Nicaraguan children has been used in the past by the CIA to supply the U.S.-backed Nicaraguan resistance.

The DC-6 carrying the supplies has been stuck in Costa Rica awaiting permission to land in Managua since flying from New Orleans Monday. It was hired by Americares, a companion organization of the Caribbean Commission. Caribbean Commission officials have described their group as a private anti-communist organization that has provided medical supplies and services to the anti-Sandinista rebels for several years.

CANTOR KURT SILBERMANN

Mr. LAUTENBERG. Mr. President, today I would like to honor Cantor Kurt Silbermann, the retiring cantor of Temple Emanu-el of Englewood, NJ. For over 25 years Cantor Silbermann has led his congregation, and been an outstanding figure in his community.

Cantor Silbermann has been widely recognized as one who has been involved with the young and old of the community. His influence has helped young boys and girls prepare for one of the most important days of their life, that of their Bar and Bat Mitzvah. An admirer of music, he has arranged for concerts for charity and for senior citizens at local hospitals.

Cantor Silbermann has been a member of the executive council of the Cantor's Assembly, the national organization of cantors, and from 1977 to 1979 has served as its president. He is a former student of the Hebrew Union School of Sacred Music, where he graduated cum laude in 1951.

Cantor Silbermann has long been dedicated to helping others and will continue to do so following his retirement. I hope these upcoming years are as fulfilling for him as the ones in the past and that he remain an active leader in the community.

A SALUTE TO OUR LEADER, SENATOR ROBERT BYRD

Mr. HOLLINGS. Mr. President, earlier this week our friend, colleague, and leader, the very distinguished senior Senator from West Virginia, announced that he will not run for a seventh term as leader of the Senate's Democrats. I respect Senator BYRD's decision and wish him well. I would note, however, that the Appropriations Committee's gain will be a great loss to the Senate as a whole.

As Democratic leader for the last 12½ years—6½ in the capacity of majority leader—Senator BYRD has earned our respect as a man of unfailing fairness and decency. If the Senate is a ship with 100 captains in the bridge, then BOB BYRD is the rudder that has kept this topheavy institution upright and on course. It is no mean feat. Indeed, it is a challenge that would have defeated a lesser man. Instead, BOD BYRD has prevailed and flourished. He is, as Senator KENNEDY described him the other day, "a Senator's Senator."

All of which is not bad for a coal miner's son from West Virginia, a man who started out life as a meatcutter and welder, and ended up at the pinnacle of the Senate. There is not a Senator who does not admire BOB BYRD the consummate gentleman, BOB BYRD the man of profound religious faith, BOB BYRD the passionate lover of learning.

His hard work and mastery of procedure are legendary, and need no elaboration here. Senator BYRD's real trademark as a parliamentary leader, however, is his fairness and evenhandedness to each and every Senator, without regard to party or ideology. Through the hottest floor debates, Senator BYRD stands firm as the guardian of order, courtesy, and reason.

Of course, BOB's other trademark quality is his unselfishness, or, should I say, his selflessness. I have never known his ego or personal political agenda to intrude upon his work as majority leader. In this sense, he is a true servant of the Senate—the Senate as a historic institution, the Senate as the temple of American democracy. In an era when television and the mass media have eroded the comity and fraternity of democratic institutions, BOB BYRD has labored tirelessly to defend the dignity and tradition of the Senate. On that score, it is fitting that a man with such a deep respect for the history of the U.S. Senate will himself be recognized by posterity as one of the Senate's truly outstanding leaders.

This same quality of unselfishness—of selfless service—also stands out in BOB BYRD's dealings with fellow Senators. In a thousands ways and on a thousand occasions, he has gone out of his way to make life easier for his colleagues—accommodating our needs, helping us get amendments before the Senate, arranging pairs, insisting on order and quiet in the Chamber during our speeches. Certainly, I am personally grateful to BOB for his many acts of kindness and consideration to me.

For more than three decades, the people of West Virginia have said there are three unfailing constants in their lives: God, Sears-Roebuck, and ROBERT BYRD—not necessarily in that order. Likewise, for the last 12 years ROBERT BYRD's leadership has been the keystone of life in the U.S. Senate. For his dedication and service, every Senator owes him an enormous debt of gratitude—as do the people of the United States.

Mr. President, lest this tribute sound too much like a eulogy for the departed, I hasten to add the good news, which is that Senator BYRD is still very much with us. Indeed, the Lord and the people of West Virginia allowing, we hope he will be with us for many years to come. I simply wanted to take this opportunity—for myself and for the Senator—to express our deep appreciation and affection for this remarkable Senator.

Before yielding the floor, Mr. President, I ask unanimous consent to enter the RECORD at this point the text of Senator BYRD's remarks before the Senate Democratic caucus this past Tuesday.

Thank you, Mr. President.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MAJORITY LEADER ROBERT C. BYRD—LEADERSHIP ANNOUNCEMENT

(April 12, 1988)

I have decided that this will be my final term as Democratic Leader. I have been proud to serve in that post since January 1977. Through a decade of quiet labor, I have led my Party from the ambivalence of the Carter years through the extremes of the Reagan administration. I have attempted to foster strength and unity. I have tried to do what is right, trusting my instincts rather than the polls.

I have tried to lead by example—stressing hard work, fairness, honesty, patriotism, and firmness, values intrinsic to the state I represent. I remain, as ever, convinced that those values are the bedrock of our nation.

Among the accomplishments I view with most pride are strengthening the Panama Canal Treaties, stressing the education of our young people, protecting the social security system, revitalizing the Senator's special role in our nation's foreign policy, opening the Senate to TV, and trying to ensure honest and good government for an honest and great people. I also hope to see the culmination of my long interest in a trade and competitiveness policy that restores America's world leadership come to fruition this year before I end my time as leader.

I thank my colleagues for entrusting the office of Democratic Leader to me through lean years and through good years. I have been proud and honored to represent them.

I am running for reelection in West Virginia and when my tenure as Majority Leader is complete, I will, if the Lord allows, Chair the Appropriations Committee. There is much to accomplish for my State in this capacity, and I look forward to these new opportunities.

In the coming months, I intend to continue to support moderate, pragmatic policies for our nation. I feel a deep sense of satisfaction for the part I have played in fulfilling the Senate's unique role in our Constitutional system, and will do what I can to further enhance it.

I could not have upheld my duties without the patient and steadfast support of my wife, Erma. And I thank my hardworking staff for always going the extra mile cheerfully.

As a man whose politics were shaped and disciplined during the hard years of this century, I have tried to set standards that, if not always welcomed, I hope have been trusted. I have tried to make the Senate more responsible to this nation. We cannot expect credibility without accountability. We cannot expect to lead as an insular debating society.

More than anything else, I have tried to open this institution's treasures to its membership—to teach its lessons, its history—to share its leadership. For there is not one of us who will ever outshine or outlast this unique body, the United States Senate.

April 12, 1988.

STATEMENT BY SENATE MAJORITY LEADER ROBERT C. BYRD—CONFERENCE STATEMENT

I have been spending a good deal of time thinking about the leadership. I have considered my decision and have thought back on the years since January 1977, when you first elected me leader.

Together over the years, we hve been a constructive force for the nation. During the Carter years, we overhauled the Civil Service System for the first time in over a century, approved the ratification of the Panama Canal Treaties, cut taxes for 46 million Americans, and increased the mimimum wage. We promoted education and research, passed housing and farm legislation, and created a Department of Education and a Department of Energy.

We placed the Defense budget on a path of steady growth, and emphasized readiness, manpower, and modernization. We enacted the Intelligence Authorization-Oversight bill to stress the value of consultation with Congress on critical intelligence questions. If the Administration had adhered to that law, there would have been no arms-for-hostages deal. We enacted a balanced budget which would have been achieved if a downturn in the economy had not occurred. We also reduced the number of Senate Committees and enacted a Code of Ethics for Senators.

Then came the Reagan years, and the long march back. During the six years in the minority, fairness was our battlecry as we attempted to moderate extreme Reagan policies. We offered alternate tax plans and alternative budget plans. We attempted to make nutritious school lunches available to the 2 million children cut off by the Reagan administration. Many of you will remember the Conference luncheon in 1982, when we all tried a new culinary experience—ketchup as a vegetable.

Perhaps our greatest success in those years was in turning the Administration around in its attempt to slash the minimum social security benefit for 3 million retirees. In party-line vote after party-line vote, Democrats demonstrated a deep commitment to maintaining the Social Security System.

We established an Independent Inspector General to look for waste in the Department of Defense. We tried to suspend the third year of the Kemp-Roth tax cut to help reduce budget deficits and pay for needed infrastructure programs. We offered a Democratic Jobs package to finance our crumbling roads and sewers, fund public works projects to employ unemployed workers, and retrain dislocated workers during a period of high unemployment and deep recession. We were defeated, but we tried to do what was right.

We sought to stress the vital need for real economic growth and competitiveness, and we tried to address the farm crisis which was devastating the family farm. Only by threatening to hold up the nomination of Ed Meese for Attorney General could the Democratic Leadership even secure an agreement from the Republicans to consider a proposal for emergency assistance for American farmers. Congress approved this legislation, but the President vetoed it.

In foreign policy, we opposed the administration's disastrous policy in Lebanon and sought to clarify America's objective in Central America. But the Administration rejected these initiatives, and the nation was left with tragedy in Lebanon, and uncertainty in Central America. America is reaping a harvest of the failure of the Reagan years to address those serious foreign policy crises.

We had a positive impact on foreign policy by encouraging the administration to support Democracy in the Philippines, pushing for renewed efforts at arms control, and supporting the Afghans in their war against Soviet invaders.

In the 100th Congress, we have regained the Majority. Already we have crafted a trade bill and addressed the nation's need to remain competitive: beaten back the President's attempts to veto important legislation on Clean Water, better highways, and civil rights; engineered a moderation in the Administration's single-minded policy in Central America; forced the arms-for-hostages deal into the open, and enacted legislation to prevent any such end-run around the Congress in the future.

We have addressed the necessity of catastrophic health care, provided aid to the homeless, stressed the need to restore education as a vital priority in our national policy, brought the administration to the table to begin to rachet down our triple-digit budget deficits. We will consider the INF treaty, pass comprehensive trade legislation, and hopefully, raise the minimum wage and enact welfare reform before the year is out. There are other vital measures which I hope we can enact before the curtain draws on the 100th Congress.

When in the minority, we have acted responsibly, offering alternatives, which embodied our beliefs, and moderating extremes and unwise policies whenever we could. When in the Majority, we have led, making tough and creative decisions, in the nation's interest, to meet the challenges ahead and at hand. Together, over the years, we have been a constructive force for this nation, whether in the Majority or in the Minority.

Twenty-two years ago, I was elected Secretary of the Democratic Conference. Since that time, I have served as your Majority Whip, Majority Leader, Minority Leader, and again, as Majority Leader. Eleven times, I have asked my party to elect me to various positions of leadership and eleven times you have given me your support.

I have been honored to serve the Conference in whatever way I could over the years and honored to serve my Party. I am proud of all of you and proud of the things we have stood for and accomplished together, and I am gratified that we have again achieved Majority status.

I have scheduled a press conference this afternoon to announce that I will not stand for another term as Democratic Leader. Many of you have come to me to ask that I run for the Leadership again, and I want to express my appreciation for your demonstration of support. I thank all of you for entrusting to me the role of Democratic Leader for twelve years. I feel a deep sense of satisfaction for what we have achieved together. I believe that I have been fair, firm, honest, and I have done my best. I hope that you agree.

Next January, I will have a new opportunity to serve as Chairman of the Senate Appropriations Committee. West Virginia has suffered under the economic policies of this administration. At this point in time, I believe I can best serve the people of my state by becoming Chairman of the Appropriations Committee.

As a man whose politics were shaped and disciplined during the hard years of this century, I have tried to set standards that, if not always welcomed, I hope have been trusted. I have tried to make the Senate more responsible and responsive to this nation—a voice with resonance and power. We cannot expect credibility without accountability. More than anything I have tried to open this institution's treasures to its membership—to teach its lessons and its history—to share its leadership. For there is not one of us who will ever outshine or outlast this unique body, the United States Senate.

RECOGNITION OF THE PASSING OF FRANCIS E. CONRAD, M.D. DIRECTOR OF QUALITY ASSURANCE, VETERANS' ADMINISTRATION

Mr. HEINZ. Mr. President, I rise today in recognition of the tragic death of Dr. Francis E. Conrad, Director of Quality Assurance for the Veterans' Administration.

Dr. Conrad was killed on April 7 as he attempted to intervene in an assailant's attack of strangers in a real estate office in Chicago. The nature of Dr. Conrad's death is a noble statement of his humanity, but a tragic loss for his family, friends and for the veterans he has served for so many years as a physician and, subsequently, as an administrator in the VA's national headquarters.

I speak in Dr. Conrad's honor as a long-standing advocate of quality assurance in my role as ranking member of the Senate Special Committee on Aging and as a member of the Senate Finance Committee. In these capacities, I have personally benefited from Dr. Conrad's expertise and have seen the VA progress in its implementation of a rigorous system of quality assurance standards and oversight under Dr. Conrad's stewardship. His contribution to veterans and to his profession has been invaluable. Dr. Conrad will be greatly missed.

Mr. President, I ask that a copy of a letter expressing my sympathies over Dr. Conrad's death to VA Administrator Thomas K. Turnage be inserted for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

THOMAS K. TURNAGE,
Administrator, Veterans Administration, Washington, DC

DEAR ADMINISTRATOR TURNAGE: I wish to extend my sincere regrets over the tragic death of Dr. Francis Conrad, Director of the Veterans Administration's Office of Quality Assurance. His passing is an immeasurable loss for veterans, who he has served since 1973, for the health profession, and for the many friends and family members who can speak personally of his warmth, humor and humanity.

I came to know of Dr. Conrad through this work in quality assurance with the VA. In this capacity; Dr. Conrad has demonstrated a level of expertise, ingenuity and commitment that is not easily matched. Based on my own experience in the quality arena, I am well aware of the challenge Dr. Conrad faced when he assumed the VA's quality assurance directorship three years ago this month. In this relatively short time, Dr. Conrad successfully moved the VA toward its goal of ensuring veterans the highest quality of health care possible.

The value of the Dr. Conrad's quality assurance work does not stop at the VA's walls. As Ranking Member of the Senate Special Committee on Aging and as a member of the Senate Finance Committee, I have seen the VA's approach serve as a model for the broader, health care community and have directly benefited from Dr. Conrad's expertise in my own quality initiatives. It is with this perspective and in Dr. Conrad's memory that I offer my continued support of the VA's quality assurance program, that was so ably advanced under Dr. Conrad's stewardship.

Dr. Conrad will be greatly missed, but his positive impact on the VA, on the quality of care veterans receive, and on those who knew him personally will be long remembered.

Sincerely,

JOHN HEINZ,
Ranking Member.

AGENT ORANGE AND THE THEORY OF ETERNAL RECURRENCE

Mr. DASCHLE. Mr. President, there is a saying that "history repeats itself." Nietzsche espoused the theory of "eternal recurrence," which, very simply stated, was that historical events are constantly repeated. Whether one wants to call it history repeating itself, eternal recurrence, or "deja vu," this concept is undeniably applicable to the Agent Orange story.

An Agent Orange history scholar would undoubtedly find a remarkable resemblance between past and present Agent Orange-related stories and events. The Government has historically claimed that there is not enough scientific evidence suggestive of a link between exposure to Agent Orange and diseases suffered by Vietnam veterans to justify compensation for those veterans. The Government continues to repeat that claim in spite of the numerous scientific studies that suggest such a link or, at the very least, cast reasonable doubt on the situation.

The Air Force Ranch Hand study is but one example of the eternal recurrence theory manifested through the Agent Orange story. In 1984, the Air Force released its baseline morbidity report concerning the health effects of exposure to Agent Orange and other toxic herbicides on Air Force personnel in Vietnam. The report was interpreted in various ways, but the Air Force and much of the press characterized the report as "reassuring to the Ranch Handers and to their families." While I and many other veterans expressed concern about many of the report's findings and dismay at the Air Force's apparent down-playing of those findings, the Ranch Hand study became widely viewed as a "negative" study. I and the other critics were called cynics looking for trouble where it did not exist.

Four years later, the Air Force has released a technical report reassessing the findings and conclusions of the 1984 study. The report cites group differences "in the direction of expected dioxin effects" and explains the severe limitations of the study's exposure index—limitations which, the Air Force admits, require that all the study's data be reviewed in the context of a new, improved exposure index.

It concludes that "dioxin is not exonerated as a causative agent because of the directionality of the observed group differences and the preliminary nature of the exposure index used in the * * * first morbidity report." The report also clarifies earlier data on cancers and birth defects, stating that cancers are not necessarily limited to the skin, that skin cancers were not caused by sun exposure, that birth defects are not limited to the skin, and that self-reported birth defects have been verified.

It took 4 years to clarify the interpretation of the 1984 morbidity report for the public. It took only 3 days to muddy the waters again.

Three days after the release of the Air Force technical report, a California clinic contracted to perform physical examinations of Ranch Hand personnel released a statement to the press quoting Air Force medical officials calling unidentified "updated results" of the Ranch Hand study "reassuring." Apparently the "updated results" are from the 6-month-old Ranch Hand first followup morbidity report. The statement does not mention the more recent technical report or the fact that the 1987 report is subject to the same criticisms facing the original morbidity study.

Mr. President, lest this all get too confusing, I ask that the following items be printed in the RECORD at the conclusion of my statement: First, a 1984 Washington Post editorial written upon the release of the original "reassuring" report, second, my response to the Washington Post editorial, third, a Newsday article outlining the troubling findings of the recently released Air Force technical report, and fourth, an Associated Press story, again calling the Ranch Hand findings "reassuring," written 1 day later.

If my colleagues will take the time to read these materials, I think they will quickly see why I am moved by the eternal recurrence theme. The events and arguments of 1984 have come back to haunt us, and we still have no definitive information about the relationship between Agent Orange exposure and negative health effects. We do know that Ranch Handers are suffering negative health effects in statistically significant numbers.

The studies will continue, as they should, so that we may someday have a clearer picture of the effects of exposure to Agent Orange and other toxic herbicides. In the meantime, disabled veterans wait for help and for the scientific evidence that we in Congress will consider conclusive enough to justify compensation. As policymakers, we must ask ourselves how long our Nation's veterans should be expected to wait.

Mr. President, I know that Senator KERRY also has something to say on this subject, and I want to take this time to thank him for his work on issues affecting America's veterans. He was a decorated combat veteran in Vietnam and has worked tirelessly on the myriad of issues facing the men and women who defended this country. I am very pleased to be working with him to address the Agent Orange issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 1, 1984]

NEW FINDINGS ON AGENT ORANGE

Many Vietnam veterans have, for too many years, been suffering from uncertainty about the health effects of exposure to the herbicide Agent Orange. Now, at last, there is scientific evidence that should offer them some measure of comfort. The Air Force has released findings from a study of heavily exposed veterans that found no evidence of either higher death rates or of diseases most strongly suspected of being linked to the types of dioxin found as contaminants in Agent Orange.

The government has been very slow in providing Vietnam veterans with the evidence to which they are entitled about possible long-term effects of their service. As a result it is right that the Veterans Administration—under congressional direction—has already taken the precaution of providing full health care for all veterans exposed to Agent Orange who suffer any disability not attributable to another cause. And, of course, the government should continue its extensive research program.

It is always possible that further study of the Air Force study participants, or the larger studies of the entire Vietnam veteran population being done by the Centers for Disease Control, will provide evidence of linkages between Agent Orange exposure and certain illnesses. But it is certainly encouraging that comparisons between the so-called Ranch Hands—the pilots and crews continuously involved in the spraying operations—and carefully chosen comparison groups found that, with a few possible exceptions, the Ranch Hands do not seem to have been affected by their exposure.

The Ranch Hands did experience higher rates of non-melanomic skin cancer—the commonest form of cancer among the white population—and certain liver and circulatory disorders. They also reported more minor birth defects, neonatal deaths and physical handicaps among their offspring, although these results have not yet been verified. The Air Force plans further study to determine whether these differences can be explained by exposure to sunlight, cigarette and alcohol consumption and other known causal factors.

Most striking is that the study did not find a single case of soft-tissue sarcoma (a form of cancer), chloracne (a severe skin disorder known to be caused by exposure to heavy dose of dioxin) or porphyria cutanea tarda (a rare liver disorder) among the Ranch Hands. A bill passed by the House last month would entitle Vietnam veterans who suffer from these illnesses to the same monetary compensation they would receive if they had suffered direct injury in battle.

Congress is understandably eager to compensate veterans for service-caused injuries. When slow-developing diseases can be reliably linked to service, compensation is certainly justified. But it would be a mistake to undermine the basis for compensation systems—or for warranted extensions of those systems—by indemnifying illness without adequate scientific basis.

RANCH HAND REALITY

(By Congressman Tom Daschle)

The Air Force claim that its Ranch Hand Agent Orange study findings can be viewed by Vietnam veterans and their families as reassuring is not supported by the study itself.

Let's again review what the study of personnel who handled Agent Orange in Vietnam actually found. In 5 of 13 health categories investigated, the Air Force Ranch Hand group's health compared unfavorably to that of the comparison group. These findings included higher rates of skin cancer, genitourinary cancers, throat cancer, as well as liver and circulatory disorders. Furthermore, increased rates of minor birth defects were verified in Ranch Hand children while significant increases in neonatal deaths (death within 28 days of birth) and physical handicaps were reported. This is hardly cause for jubilation.

Though the birth defect reports need further clarification, there is evidence for the first time that Vietnam veterans are fathering children who die at an inexplicably young age and are born with birth defects. Previously, these reports have been dismissed as anecdotal. This is no longer possible as the findings occurred in a group with a clear exposure history.

The Post's recent editorial makes much of the fact the Air Force Study found no cases of the three extremely rare conditions whose victims would be compensated under legislation enacted by the House earlier this year. You fail, however, to note these conditions are so rare in the general population that the discovery of even a single case among Ranch Handers would have been highly unusual. Soft tissue sarcoma, for example, appears at a rate of less than two persons per 100,000. Had the Air Force found just one sarcoma case among the 1,200 exposed Ranch Hands, that would have suggested a sarcoma rate nearly fifty times higher than is normal in the general public. It is little wonder the National Academy of Sciences said in 1979 that the Air Force study would, "lack the statistical power to uncover an effect of moderate strength, such as the uncommon disorders mentioned in the complaints of veterans."

You also question the wisdom of "undermining" the VA compensation system by indemnifying illness without adequate scientific basis. Nobody, of course, wants to undermine the VA compensation system or award monies without scientific basis. In the case of the three rare disorders covered by our legislation there is scientific basis for linking them with dioxin exposure. This evidence is not rebutted by the Ranch Hand study because that study lacked the statistical power to say anything one way or the other on the issue.

The premise of the legislation, a premise fully as valid today as it was the day before Ranch Hand was released, is that three rare diseases highly correlated to dioxin exposure should entitle the few veterans exposed to Agent Orange, and suffering from these maladies, to the presumption their disorders are service related. To offer them this presumption, and to offer it only until the thorough data promised by the CDC study now underway is available, is surely not too much to ask.

In fact, when entire cities are being bought out and evacuated because of dioxin contamination far lower than that found in Agent Orange, and when forty other conditions—some of which are less scientifically tied to military service than those covered by our bill—are already presumed service related under the current compensation system, I could forgive a Vietnam veteran who might think it too little.

(Congressman Daschle is Chairman of the Vietnam Era Veterans in Congress and is author of legislation to compensate veterans exposed to Agent Orange.)

[From Newsday, Mar. 24, 1988]

STUDY, AGENT ORANGE MAY BE CULPRIT

(By Carolyn Colwell)

A new U.S. Air Force study edges closer to saying for the first time that Vietnam veterans' exposure to Agent Orange may have caused serious adverse health effects, particularly in the form of cancer and birth defects.

The report, released Monday by Sens. Tom Daschle (D-S. D.) and John Kerry (D-Mass.), was prepared by a physician at the U.S. Air Force School of Aerospace Medicine. It takes a new look at data from a 1984 study of personnel in Operation Ranch Hand, in which Agent Orange was sprayed from Air Force planes in Vietnam. In 1984, the data were used to reassure veterans exposed to Agent Orange that they apparently had nothing to worry about.

Agent Orange was a herbicide used to defoliate the jungle. For more than 20 years, veterans have been saying, that their exposure to the herbicide severely damaged their health. But they have been stymied in every effort—in courts in Congress and by the Veterans Administration—to win any compensation. Officials have said they have no scientific proof linking Agent Orange exposure and human illness.

Now, the Air Force has announced that the Ranch Hand sprayers, when compared with noncombat Air Force veterans of Vietnam, statistically have a significantly higher incidence of five of 11 conditions that animal and human studies have linked with exposure to the toxic chemical dioxin, and ingredient in Agent Orange. The five conditions are neoplasia (tumors), birth defects, psychological changes, liver damage and cardiovascular changes.

Dr. Michael Gochfeld, medical adviser to the New Jersey State Agent Orange Commission, said yesterday that the report's conclusions appear spectacularly different from the ones in 1984.

"What they're saying [now] is that if you thought dioxin caused health effects, they're saying that the evidence here says it probably does. Everything I heard in 1984 was that there were no health effects due to dioxin. This [newest study] could not be interpreted that way."

The latest report said dioxin cannot be ruled out as the cause of such conditions, but neither can it be blamed conclusively.

"Dioxin cannot be confidently identified as the causative agent of these findings," the report said. At the same time, it added, "dioxin is not exonerated as a causative agent . . ." The report said the data was not conclusive mainly because of problems documenting veterans' exposure to the dioxin in Agent Orange.

The Air Force hopes that these doubts will be eliminated by the analysis of new tests measuring dioxin levels in veterans' blood, said Air Force spokesman Col. William Wolfe, chief of epidemiology at the service's medical school at Brooks Air Force Base, Texas.

Those results will enable researchers to see if there is a correlation between the veterans whose blood shows a high level of dioxin and those who have developed cancers and other conditions believed to be related to dioxin exposure, Wolfe said. "That will answer the question for us," Wolfe said. "That will be the crowning touch. Once we're not locked into making assumptions, we'll be in an absolutely super spot."

The Air Force is seeking at least $2.2 million to do the blood testing. Wolfe said.

Whether the results reported Monday were old statistics with new meaning is being debated by veterans advocates and the Air Force.

The Air Force is saying the report essentially repeats the same statistical conclusions announced in its 1984 Ranch Hand study. The difference is that, for the first time, the Air Force is correlating these statistics with studies of the effects dioxin exposure has on animals and humans, and saying that the conditions that might be expected had developed, Wolfe said.

But the Air Force also concedes for the first time that the higher than normal incidence of skin cancer of Ranch Handers may not be caused by the sun, as it concluded in 1984, Wolfe said. The other new thrust is that the Air Force now believes that the reported higher number of birth defects in Ranch Hand families is more serious than originally assumed, Wolfe said. More research is under way on the birth defect question, he added.

Veterans advocates are greeting the study as the first confirmation by the military of what they've been saying all along—that Agent Orange injured veterans' health.

VIETNAM VETERANS INVOLVED IN SPRAYING SUFFERED NO ILL EFFECTS, STUDY SAYS

(By Sharon L. Jones)

LA JOLLA, CALIF.—More than 1,000 Vietnam veterans involved in the spraying of the herbicide Agent Orange show no unusual health problems to date, according to updated results of a government study.

In a statement Thursday, U.S. Air Force medical officials called "reassuring" the findings that the chemical defoliant hasn't caused disease in Vietnam veterans, but warned that the results weren't conclusive.

"This is the definitive study on Agent Orange in Vietnam veterans, and so far it shows that disease is not related to apparent exposure, that there is no increased incidence of major long-term health effects," Dr. William Wolfe, senior investigator in the government's 20-year Agent Orange probe, was quoted as saying in the statement.

"These results are reassuring," said Wolfe, chief of epidemiology at the U.S. Air Force School of Aerospace Medicine at Brooks Air Force Base in Texas.

The findings reflect the latest tests of 2,309 veterans in the government's investigation into Agent Orange and its impact on soldiers who handled the dioxin-containing herbicide. The study will conclude in 2002.

Some Vietnam veterans are seeking compensation for ailments they say are tied to exposure to the toxic chemical.

"No matter how good this study is, it will never lay to rest the issue for people who argue they were hurt," said Dr. Arnold Gass, head of the Agent Orange registry operation at the La Jolla Veterans Administration Medical Center.

He said the study is scientifically sound but handicapped by its focus on Operation Ranch Hand, Air Force servicemen involved in handling and dropping the herbicide from aircraft.

"It doesn't answer the question about what happened to the man in the field," he said. "The Ranch Handers flew in, flew out. The men in the field were there for days. They didn't take showers."

Ranch Handers are used because they are assumed by the government to have had the greatest amount of exposure to the chemical.

The study, begun in 1982 and conducted for the past four years at Scripps Clinic and Research Foundation in La Jolla, examined 1,016 men involved in Operation Ranch Hand and 1,293 Air Force veterans not involved in the operation.

Scripps Clinic physicians assessed each participant for general health, malignancy, and the neurological, psychological, gastrointestinal, dermatological, cardiovascular, hematological, renal, endocrine, immunological, pulmonary and nervous systems.

"These examinations found no evidence of a relationship between Agent Orange exposure and adverse health," the statement said.

"A number of minor medical differences were seen but they appear to be unrelated to exposure to dioxin. They will be monitored and re-evaluated during the next scheduled examinations in 1992."

Last year, a Veterans Administration study found increased deaths due to lung cancer and certain lymph cancers among Vietnam veteran Marines, providing what veterans' groups called the first clear scientific data implicating Agent Orange.

The Scripps Clinic statement cautioned that the latest results are not conclusive because the study used estimated levels of herbicide exposure based roughly on amount of contact, not by actual bloodstream dioxin levels.

Scientists have recently discovered a way to detect dioxin levels in blood even years after exposure. Analysis of blood samples from 2,010 veterans is expected to be completed within two years.

Thursday's findings were released three days after an Air Force report admitted that an often-cited 1984 government study had been flawed because it didn't make clear that it couldn't exonerate the chemical from veteran's health problems.

NEW CONCERNS ON AGENT ORANGE

Mr. KERRY. Mr. President, a new report from the Air Force confirms what many Vietnam veterans have known for years—that there are serious health consequences associated with exposure to Agent Orange. The Air Force report was released last month to myself and Senator TOM DASCHLE. I would like to take this opportunity to commend Senator DASCHLE, himself an Air Force veteran, for his commitment and persistence in helping to obtain the release of this vital information for Vietnam veterans.

The new Air Force report shows that previous results from the Ranch Hand study on Agent Orange, released in 1984, are seriously flawed. The new report shows that cancers and birth defects among Vietnam veterans who were exposed to Agent Orange and their families are worse than previously reported.

For several years now, veterans have been told by the U.S. Government that there is nothing to worry about, that Agent Orange was not harmful to their health. The Ranch Hand study was often cited as being "reassuring" to Vietnam veterans. Now we are learning that the Ranch Hand study methodology was flawed, and that the results are not reassuring after all.

Many Vietnam veterans have suspected this truth all along. They have known what the Government has refused to tell them—that they are at greater risk of disease due to their service in Vietnam and their exposure to Agent Orange and other toxic chemicals.

Senator DASCHLE and I have introduced legislation which would begin the process of compensation of Vietnam veterans who are victims of Agent Orange. This is a long-overdue step which should be taken now, before it is too late for many veterans. While definitive scientific answers may never be available, there is still time to help veterans who are suffering. In a war which was questioned by many, Vietnam veterans gave their country the benefit of the doubt. Let us do the same for them.

I ask that articles from the New York Times and the Boston Herald about the Ranch Hand study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Herold, Mar. 22, 1988]

AGENT ORANGE STUDIES "MAY BE WRONG"

(By Tom Squitieri)

WASHINGTON.—The U.S. Air Force, admitting its earlier Agent Orange studies minimized health risks, yesterday called for new research on the effects the defoliant had on Vietnam veterans.

A new report, based on four years of study, said previous tests on Agent Orange exposure should be done over "to get a truer picture of how exposure to dioxin affected the health of Vietnam veterans and their families."

Air Force scientists writing in the report called for major blood analysis of Vietnam veterans this year as the first step—using new technology to determine Agent Orange effects.

The news of the Air Force report, which was finished in February and released after pressure from U.S. Sens. John Kerry (D-Mass.) and Thomas Daschle (D-S.D.), brought a swift reaction from Vietnam veterans, none of whom have been compensated for any Agent Orange injuries.

"How many times are we going to go around and around the circle until they find a crack? We already have got enough evidence to justify compensating those people injured by Agent Orange," said Barry Kasinitz, a spokesman for the Vietnam Veterans of America. "The Air Force first said no problem, then, 'Whoops, we were wrong.'

"We have to stop looking at this as a scientific issue and look at it as a political issue," Kasinitz said. "If you would have been wounded by being shot, you would have been compensated. If you were wounded by Agent Orange, it's time to start compensating."

The new information is certain to add public support to legislation introduced last October by Kerry and Daschle that would provide federal compensation to veterans exposed to Agent Orange.

The new report said that in two key areas—cancers and birth defects—errors were found in the original 1984 survey—known as the Ranch Hand Study. Only veterans who dumped the Agent Orange from the aircraft, the so-called "ranch hands," were examined for the 1979-to-1984 study, not veterans on the ground who were exposed to the toxin.

Until yesterday, the government has said the 1984 Ranch Hand study should be "reassuring" to veterans concerned about the negative health effects of exposure to Agent Orange.

But, according to the new report, cancers among the "Ranch Hand" veterans who were studied are not necessarily limited to the skin, as was concluded four years ago.

The new report also said the skin cancers found in the Ranch Hand veterans were not caused by exposure to the sun, as also suggested in the earlier study.

And birth defects among the Ranch Hand veterans' offspring also were not limited to the skin, as the 1984 report suggested.

"While dioxin cannot be conclusively (linked) to those clinical conditions, the study can no longer be seen as ruling out effects from dioxin exposure on human health," according to the new report.

Sources on Capitol Hill and elsewhere said the new Air Force research suggested there are links between exposure to Agent Orange and subsequent cancer and birth defects, but Air Force officials were not available for comment.

Kasinitz said the Air Force admission should finally push the federal government into compensating victims of Agent Orange. He said he did not expect it to have any impact on the $180 million out-of-court settlement veterans won from chemical companies in 1984.

"That was a sideshow. When the veterans realized the government was not going anywhere (in compensation) with nowhere else to go, the veterans thought they might get something," Kasinitz said. "But neither from that settlement fund nor form the V.A. has one dime been paid to veterans."

[From the New York Times, Mar. 23, 1988]

New Doubts Raised on Agent Orange

Washington, March 22.—A new Air Force report has raised questions about some conclusions of an often-cited 1984 Government study that was supposed to be "reassuring" for Vietnam veterans exposed to the herbicide Agent Orange.

The revised study said that while Agent Orange could not be "confidently identified" as the reason for a series of health problems among veterans who handled it, it could not be "exonerated" either. Agent Orange was used by American forces in the Vietnam War in an effort to defoliate areas in which the enemy operated.

The report, released Monday by two Democratic Senators, John Kerry of Massachusetts and Thomas A. Daschle of South Dakota, was hailed by advocates for veterans as a breakthrough.

"For the first time, the Air Force is saying in a major way that they cannot rule out dioxin as the cause of ill-health effects," said Barry Kasinitz, spokesman for Vietnam Veterans of America.

VETERANS' COMPENSATION SOUGHT

The Senators, both veterans of the Vietnam War, are pushing legislation to compensate veterans who suffer from certain conditions that may be linked to exposure to Agent Orange.

Dioxin, a contaminant of Agent Orange, causes cancer and birth defects in some animal species. Exposures to dioxin can cause skin ailments in humans, but most scientists say that links to cancer or birth defects in humans have not been proved.

The Air Force says it has never categorically ruled out a link between Agent Orange and health problems.

But critics say the 1984 study of Air Force personnel directly involved in spraying Agent Orange in Vietnam gave that impression when it said, "In the full context, the baseline study results should be viewed as reassuring to the Ranch Handers and their families at this time," Operation Ranch Hand was the Air Force's code name for the aerial spraying of Agent Orange.

"What they're doing is trying to reverse themselves without really saying so," said Eric Hamburg, an aide to Senator Kerry.

Laura Petrou, a Daschle aide, said, "We have gotten a clear sense that the Air Force wants to work with us to get the truth out."

SENATORS' CONTENTION REJECTED

The Air Force rejected the Senators' contention that the 1984 study was seriously flawed. "I think that's an overstatement," said Dr. William Wolfe, chief of epidemiology at the Air Force School of Aerospace Medicine at Brooks Air Force Base in Texas.'

"There are areas of that report that we have less confidence in the conclusions," said Dr. Wolfe, the senior Air Force investigator in the Agent Orange investigation. But he added that the bulk of the 1984 findings were upheld by the review.

The major problem with the original study, Dr. Wolfe said, was assumptions about exposure that failed to consider work habits. Government scientists now realize that some members of the armed forces were sloppier than others in handling Agent Orange, and therefore had a greater exposure that was not taken into account, he said.

Mr. Kerry and Mr. Daschle said the 1984 study incorrectly concluded that all birth defects were limited to the skin. They also said the revised study indicated that the 1984 study erred by saying the only type of cancer found among the Agent Orange veterans was skin cancer.

Dr. Wolfe defended the 1984 conclusion saying. "There is an increase in the skin cancer in the exposed group, but not in more serious forms of cancers."

NANCY HANKS

Mr. SANFORD. Mr. President, last night, hundreds of people from the arts and the government gathered for a lecture of fascination to all in attendance, and to pay tribute to the woman who had united these seemingly divergent groups in the pursuit of one worthy goal.

The topic of the lecture was "America, the Arts and the Future," delivered by the prominent historian and author, Arthur Schlesinger, Jr. The woman in whose memory the lecture was given was Nancy Hanks—1927-83—former president of the American Council for the Arts, and executive secretary of the special studies project of the Rockefeller Brothers Fund. She was chairman of the National Endowment for the Arts under three Presidents. In this capacity she advanced the cause of the arts in America to a greater extent than anyone in our history.

Nancy Hanks convinced many of us at the local, State, and national levels of government that public access to the arts and humanities enhances the quality of life, for everyone across the country. By acting on her belief that "the arts are not for the privileged few but for the many," Nancy Hanks cultivated a flourshing culture of creativity in American art and accessibility to art institutions today.

Her memory and mission will live on through the annual "Nancy Hanks Lecture on Arts and Public Policy," and through the many programs and activities she inspired. At Duke University, her alma mater, where she long served as a trustee, we have cherished her memory with the Nancy Hanks Artist Residency Program, the display of her substantial art collection, and her extensive papers.

Mr. President, I commend the American Council for the Arts, the Friends of Nancy Hanks and the Gannett Foundation for establishing the "Nancy Hanks Lecture on the Arts and Public Policy." I ask unanimous consent that the full text of Dr. Schlesinger's lecture last night be inserted in the Record today, as a thoughtful first entry to this new public forum on the arts and our Nation's well-being.

There being no objection, the text was ordered to printed in the Record, as follows:

America, the Arts and the Future

(By Arthur Schlesinger, Jr.)

It is a high honor to be invited to inaugurate this series of annual lectures in memory of Nancy Hanks and in support of the cause she so nobly served—the sustenance and enrichment of the arts in America. And it is appropriate that this series should be sponsored by the American Council for the Arts, an organization that for 28 years has given the artistic condition of our diverse and combative society searching analysis and vigorous advocacy; all the more appropriate because Nancy Hanks was president of the ACA before she moved on to become the brilliantly effective leader of the National Endowment for the Arts.

Our concern this evening is the arts and public policy; and we met, I believe, at a propitious time for stock-taking. For it was almost exactly twenty-five years ago that the first presidential Special Consultant on the Arts, August Heckscher, rendeed his report to President Kennedy on the "The Arts and the National Government"—a report that decisively advanced the movement which culminated two years later in the creation under President Johnson of the National Endowment for the Arts. Today, the more than two decades of practical experience under the Endowment afford us the opportunity to see where we have been, what we have learned and where we should go from here. The establishment of a governmental role in support of the arts has not taken place without argument. Still such a role is not some hideous novelty of the 20th century. The idea that the arts are so vital to society that they are entitled to public support is an old one on the continent of Europe. Princes and prelates commissioned Leonardo, Raphael and Michelangelo, Haydn, Mozart and Wagner. Louis XIV subsidized the *Comedie Francaise* and the *Opera.* Joseph I built the great opera house in Vienna. The small states of Germany nurtured music, theater and museums. The continental tradition of court patronage was readily adopted to the modern nation-state.

In Great Britain, they ordered this matter differently. There 17th century puritanism instilled suspicion of the arts, and 19th century laissez-faire left the arts to fend for themselves. As a result, public support, at least for new as against old art, took much longer to emerge. But Lord Keynes persuaded the British government to set up the Arts Council in 1945. The idea of the Council, Keynes said, "is to create an environment, to breed a spirit, to cultivate an opinion, to offer a stimulus to such purpose that the artist and the public can each sustain and live on the other in that union which has occasionally existed in the past at the great ages of a communal civilised life." Forty years later Sir William Rees-Mogg, Mrs. Thatcher's non-Keynesian chairman of the Arts Council, could declare that Britain has firmly "adopted the principle that the arts, like education, health and social security, are universal goods that ought to be generally available regardless of ability to pay."

The United States has lagged behind both the continent and Britain in public support of the arts. Here the case against the public role has rested on four propositions:

That public subsidy lacks constitutional authority;

That public subsidy endangers the autonomy of the arts by making the artist dependent on government and thereby vulnerable to government control;

That public subsidy represents a net transfer of income from the poor to the high-income and educated classes;

That public subsidy represents a paternalistic and elitist effort to dictate popular taste; if a cultural institution cannot please consumers and earn its way in a free market, then it has no economic justification, and, if no economic justification, no social justification.

I would suggest that the experience of the last quarter century has demonstrated these four propositions to be misleading, overwrought or simply wrong.

The constitutional objection is entirely devoid of merit. No one has seriously challenged the constitutionality of the 1965 act establishing the National Endowments. In view of the fact that Article I, Section 8, of the Constitution empowers Congress to provide for the general welfare, such challenge would be ill-advised. Enthusiasts for the jurisprudence of original intent might note that George Washington himself told Congress in his first annual message, "There is nothing which can better deserve your patronage than the promotion of Science and Literature." The Father of his Country proposed especially the creation of a national university for instruction in the arts and sciences and even left money in his will toward the endowment of such an institution. The Founding Fathers were influenced by the tradition of civic republicanism—a tradition that laid central emphasis on the inculcation of public virtue. Madison in the Federalist Papers held up the "public good"—"the permanent and aggregate interests of the community"—as the supreme goal of legislation.

John Adams, as we all remember, said he had to study politics and war so that his sons could study philosophy and science and his grandchildren painting, poetry, music and architecture: not a bad prediction, in fact, of the evolution of the Adams family. His son John Quincy Adams in his first annual message defined the "great object" of government as "the improvement of the condition of those who are parties to the social compact," described "moral, political, intellectual improvement" as duties assigned "to social no less than to individual man" and called for "laws promoting . . . the cultivation and encouragement of the mechanic and of the elegant arts, the advancement of literature, and the progress of the sciences." Failure to exercise constitutional powers for the elevation of the people, the younger Adams said, "would be treachery to the most sacred of trusts."

The civilized 18th century hopes of the men who founded the republic were disappointed in the 19th century for much the same reasons in America as in Britain—the dispiriting combination of a puritan heritage with a laissez-faire creed. Only undertakings like the Smithsonian Institution, defensible because both educational and practical, secured congressional and presidential support. But our contemporary policy toward the arts can be reasonably seen as a belated fulfillment of the expectations of the Founding Fathers.

Nor need we fear, I believe, that public support is per se corrupting or threatening for the artist. The argument that political pressure is bound to dominate any relationship between the state and intellectual or artistic endeavor is refuted every day. The record of the two Endowments and of such agencies as the National Science Foundation and the National Institutes of Health shows that public support does not restrict professional independence.

The last two propositions—that public funding of the arts is income redistribution from the poor to the rich; and that it is an elitist attempt to prescribe popular taste—raise more interesting questions. "What justification is there," the Nobel laureate economist Milton Friedman has asked, "for imposing taxes on low-income people to finance luxuries for high-income people?" Note the assertion that the arts are luxuries like yachts and Rolls-Royces, and therefore inessential to civilized society. The argument further implies that public support of these luxuries violates the sacred principle of consumer sovereignty for the benefit of a snobbish minority and that only those things that can "earn their way" in the competition of the marketplace are worth having.

A moment's reflection shows, I think, how absurd these contentions are. I do not believe, by the way, that the defense of public support need rest on the spill-over effects of the arts boom—tax revenues, jobs, business relocation, urban renewal, tourism, general commercial stimulus. These "vulgar benefits," as Professor William Baumol calls them, are all very well. But the case must be made on the intrinsic value of the arts to society as a whole. If the arts are worth pursuing at all, they are worth pursuing for their own sake.

And here one must ask: is it not the real elitism to suggest that low-income people have no interest in the arts and can derive no benefit from public support of the higher arts? Surely the poor as well as the better-off have appetites to be awakened, yearnings to be clarified, lives to be illuminated. The arts are, in Fees-Mogg's phrase, universal goods.

As for the argument that the arts, if they deserve to survive, must contrive to earn their own way, one can argue the reverse more persuasively: that the most precious institutions in society—our schools, universities, hospitals, clinics, libraries, museums, churches—are precisely those that do not earn their own way. All are characterized by the fatal gap between earned income and operating costs. Our civilization depends on activities that enrich the nation even if they do not meet the box-office test.

Government is, among other things—or should be—a trustee for future generations: a trustee of the national interest not only for the protection of military security and economic prosperity but for the protection of cultural legacies, choices and opportunities. Artistic creativity does not yield instant pay-offs. Sometimes decades pass before a society appreciates its own best art. The public obligation is to safeguard the integrity of the artistic process and heritage. Surely government has as strong an obligation to preserve the cultural environment against dissipation and destruction as it has to preserve the natural environment against pollution and decay. "We inherit a cultural structure," Professor Ronald Dworkin has well said, "and we have some duty, out of simple justice, to leave that structure at least as rich as we found it."

We owe that duty to ourselves and to generations to come, and we owe it to the glory of the nation. The United States will be measured in the eyes of posterity not by its economic power nor by its military might, not by the territories it has annexed nor by the battles it has won, but by its character and achievement as a civilization. In the third year of the Civil War, Abraham Lincoln ordered work to go ahead on the completion of the dome of the Capitol. When critics protested the diversion of labor and money from the prosecution of the war, Lincoln said, "If people see the Capitol going on, it is a sign that we intend this Union shall go on." Franklin Roosevelt recalled this story in 1941 when, with the world in the blaze of war, he dedicated the National Gallery in Washington. And John Kennedy recalled both these stories when he asked for public support of the arts in 1962. Lincoln and Roosevelt, Kennedy said, "understood that the life of the arts, far from being an interruption, a distraction, in the life of the nation, is very close to the center of a nation's purpose—and is a test of the quality of a nation's civilization."

Our political process is often halting and untidy in its operations. But it seems indisputable that, over the last quarter century, the constitutional policy has weighed the various objections to public support for the arts and found them all wanting. In these twenty-five years the republic has at last made an apparently irreversible commitment to the goal of cultural improvement for the public good—the goal contemplated two centuries ago by the Founding Fathers.

The Great Depression first made arts and artists a concern of the national government. Early in his administration Franklin Roosevelt appointed the painter Edward Bruce as head of the Fine Arts Section of the Treasury Department charged with improving decoration and design in public buildings. Then on 10 May 1935, four days after his creation of the Works Progress Administration, FDR sent Harry Hopkins, the WPA chief, a historic, one-sentence memorandum: "Will you and Bruce try to work out a 'project' for the artists." The WPA Arts Projects were emergency programs, regarded by many legislators with dark suspicion and abolished as soon as unemployment began to decline. In retrospect, however, the Arts Projects are accounted as among the New Deal's notable achievements, and their memory has done much to invigorate later proposals for federal support of the arts.

These proposals came in the 1950s, paradoxically, from Congress—the very body that killed the Arts Projects a dozen years before. It is invidious to signal out individuals; but no historian can overlook the role played in these years by Frank Thompson and Charles Howell of New Jersey and Jacob Javits of New York, and in later years by Sidney Yates of Illinois, John Brademas of Indiana and Claiborne Pell of Rhode Island, among so many others. A majority of Congress soon came to see intrinsic value in the cultivation of the arts as a means of promoting the general welfare. In 1958 a young second-term congressman from Texas named Jim Wright observed, "All of us like to portray ourselves as real, sure enough corn-fed, homegrown log cabin boys. . . . In striking such a pose, it is always kind of easy to ridicule and poke fun at things of a cultural nature. I plead guilty to having done my share of it, but I think, Mr. Speaker, that we have reached a state of maturity in this Nation where that kind of attitude no longer becomes us. Sooner or later we have to grow up and stop poking fun at things intellectual and cultural."

With the advent of John F. Kennedy in the White House in 1961, congressional advocates of a national arts policy received enlightened presidential collaboration and leadership. The Heckscher report of 28 May 1963 led on to the establishment of the Endowments in 1965 and President Johnson's designation of Roger Stevens as the first chairman of the National Endowment for the Arts. Roger Stevens avowed that his intention was to make Washington the artistic as well as the political capital of the United States; and, in the view of this envious if admiring New Yorker, I can testify that he has done his wicked work all too well. His labors in organizing the NEA and his benevolent dictatorship of the Kennedy Center have transformed and vitalized the cultural atmosphere of this city in ways of cliff dwellers of my youth could hardly have imagined.

The federal role in the arts thus began as a legislative-executive partnership, with each branch of government offering usable ideas on structure and program. At the same time, however, arts policy seemed the child of the Democratic party, originating in the New Deal and revived thereafter by Democratic legislators in alliance with lonely liberal Republicans like Jacob Javits and John Lindsay, men too often shunned by their own party. Republican members of the House Committee on Education and Labor denounced the 1965 bill for "creating Federal czars over the arts and humanities." In 1968 Republicans in the House voted nearly 2-1 against the reauthorization of the NEA; among the opponents were such future party leaders as Gerald Ford, Robert Dole and George Bush. The crucial test of the new national cultural policy came when the 1968 election brought a Republican president to the White House.

President Nixon had hardly been the candidate of the artistic and intellectual community. Many in that community feared that his victory portended the end of the Endowments. Instead, as we all know, the Nixon administration embraced the new cultural policy and gave the Endowments solid support and status. We owe this happy result to two people in particular—to Leonard Garment, a persuasive and public-spirited presidential special assistant who made the arts his special charge, and above all to Nancy Hanks, who in September 1969 became the new chairman of the NEA.

Nancy Hanks was not only a great North Carolina lady. She was also a tough, tenacious, resolute and resourceful public servant who skillfully deployed southern charm, northern determination and astute political instincts to achieve her objectives. Before coming to the ACA, she had worked for the Rockefellers in New York; and, as an administrator, she was reared in the Nelson Rockefeller school, which is to say that her creed was expansion. Leonard Garment persuaded President Nixon that support for the arts was good politics. Nancy Hanks then used White House backing to strengthen her case for bigger budgets and enlarged and diversified programs. The Endowment budget under her seductive ministrations grew tenfold, and its challenge grants increased incentives for private giving. Most important of all, her leadership, cordially supported by Presidents Nixon and Ford, gave national arts policy firm and enduring bipartisan support. That policy now expressed partnership not only between the executive and legislative branches but between the two major parties as well.

Partnership between the two branches of government and between the two political parties was accompanied by a third partnership—between the NEA and the state arts councils. Legislation setting aside 20 percent of NEA funds for state arts agencies stimulated state and community development, promoted local initiative and gave the public role in the arts the balance enjoined by our traditional federalism. The states have risen to the challenge. The aggregate budgets of state arts agencies now surpass the NEA budget by $245 million to $167 million for fiscal year 1988.

And the fourth, and most vital, partnership was with the arts community itself, cemented by the award of grants and the cherished NEA imprimatur through juries composed of artists—the so-called peer panel review process.

These four partnerships form the basis for the quiet revolution of the last quarter century in the relationship between government and the arts—an incremental revolution shaped by experiment, participation and consent and resulting in a complex and ingenious system of public support. The intricate network of national, state and local arts agencies has further benefited from invaluable supplementary initiatives proposed and enacted by Congress, such as the Institute of Museum Services and the Arts and Artifacts Indemnity Act, the latter facilitating the exhibit in American museums of art from abroad (an act that should be accompanied by a domestic version for the circulation of works of art within the United States).

The evolving national policy has been most effective when vitalized by concerned presidents or at least by White House assistants with a keen sense of responsibility for the arts. Presidential interest is the surest guarantee of a strong and lively arts policy. But arts policy can now survive even the indifference or hostility of presidents—as demonstrated in 1981 when the arts programs withstood the severe budgets cuts demanded, ironically, by the first president who was himself by vocation a performing artist. (All politicians are by avocation performing artists). Congress even in the conservative 1980s has remained steadfast in its belief in the centrality of arts to a civilized society. Both political parties have joined to defend the Endowment budgets against drastic retrenchment as well as the Institute of Museum Services against total abolition. The four partnerships have survived a time of adversity.

As late as 1958, William Faulkner could write, "The artist has no more actual place in the American culture of today than he has in the American economy of today, no place at all in the warp and woof, the thews and sinews, the mosaic of the American dream as it exists today." I doubt that anyone would so depose thirty years later. The policy of public support certifies the value the republic has come to place on the arts.

But the consensus that sustains the policy of federal support does not by itself resolve difficult questions of priority—questions rendered the more difficult by budgetary deficits that will cramp and constrain the federal role for years to come. In considering these questions, we can draw once more on the experience and wisdom of Nancy Hanks. In a panel discussion at Columbia University on 30 September 1980, three years before her death, Nancy Hanks gave her view of the major issues facing the arts community in the decade ahead.

"First and foremost" among the problems confronting the cultural development of the republic, Nancy Hanks said, is "our lack of understanding of the individual artist" and of "the importance of creating an environment in which the artist can flourish." How right she was! It is banal to remark that the source of art is the artist; but it is a banality too often forgotten in our overorganized society. Universities and foundations are splended institutions, and so too is government. But art results from the confrontation of experience by a disciplined, sensitive and passionate individual possessed of an intense interior vision and capable of rendering that vision in ways that will heighten and deepen the sensibility of others.

It is this individual, the artist, who must always remain in the forefront of our consideration. Creativity cannot be institutionalized. Art arises in conditions of individuality and diversity, even of doubt and estrangement. "Beauty will not come at the call of a legislature," said Emerson. "It will come, as always, unannounced, and spring up between the feet of brave and earnest men."

The creation of an environment in which the artist can flourish involves not only such lofty matters as the degree of honor accorded artists in a commercial society but such mundane matters as income, time, work space, health insurance, postal rates and the tax law. We must pay more attention to the unintended consequences of legislation indirectly affecting the arts. Sometimes these consequences can be benign. I suspect that the great subsidy to artists today is the system of unemployment compensation set up by Franklin Roosevelt in 1935—a result that might have surprised FDR but would certainly have gratified him. And for a long time the major subsidy to artistic institutions came from provisions in the tax code permitting deductibility on gifts to non-profit corporations. Writing in the *Economist* in 1984, Simon Jenkins argued that the American system of financing the arts indirectly through tax expenditures was far superior to the British system of direct subvention. Among other considerations, a diversity of funding sources is itself a guarantee of artistic freedom.

Alas, sometimes the unintended consequences of legislative action are malign. Congress, generally solicitous when dealing with direct support of the arts, has too often been cavalier when dealing with the impact on artists of revisions in the tax code. In the tax revision of 1969, Congress eliminated tax deductions for the donation of works of art and literature by the original artist or author to museums and libraries, while peculiarly retaining the deduction for collectors. And the Tax Reform Act of 1986, whatever its other merits, is notably harsh in its treatment of writers and artists, thereby erasing much of the superiority that impressed Simon Jenkins two years earlier.

This act abolishes the charitable deduction for non-itemizers. It also contains the notorious provision placing writers and artists under a uniform capitalization rule designed for industrial manufacturers and forbidding them to deduct business expenses in the year when the expenses were incurred. I understand that no one has been able to find out how the footnote applying the capitalization rule to writers and artists ever got into the act. Congress last fall was prepared to include a writers' exemption in a technical tax corrections bill, but this exemption was dropped under Treasury pressure in the budget reconciliation act. One must hope that Congress will act speedily to repair the grievous harm this provision will do to literary, scholarly and artistic productivity.

I might add that since the start of the republic writers have provided a direct subsidy to the government by permitting the free circulation of their books in public libraries—and it is surely time to correct this inequity by following the example of Britain, Canada and the Scandinavian countries and passing an Authors' Lending Royalty law. The same principle calls for the enactment of Senator Kennedy's Visual Artists Rights bill assuring painters resale royalties. Government, instead of carelessly discriminating against writers and artists, should at least give them a fair shake in the tax code and elsewhere—especially when most writers and artists (and their families) live from hand to mouth anyway.

Other problems confront the artistic community in the years ahead. To list some of them is to illustrate the dilemmas of a national cultural policy. One of the proven successes of the NEA, or so one had supposed, is the process of peer panel review. This procedure relieved the artistic community's fears of bureaucratic control, extended participation and solidified a constituency in support of the Endowment. Current proposals to confide grant-making to the computer raise disturbing questions about the virtue of trying to quantify aesthetic judgment.

Then there is the problem cogently posed by August Heckscher twenty-five years ago and still unresolved—the problem of mobilizing government across the board in support of aesthetic quality. For government, in Heckscher's words, "is the great builder, the coiner, the printer, the purchaser of art, the guardian of great collections, the setter of standards for good or for bad in innumerable fields where it is itself hardly aware today of its great influence"—hardly aware in 1963; much less aware in 1988.

There is the problem of maintaining a high level of discretion and expertise in arts administration, both private and public, remembering always that the function of the bureaucrat is to serve the artist and not the other way round. In this connection presidents and Congress must be considerably more conscientious and exacting about appointments to the National Council of the Arts. Not all our recent presidents have resisted the temptation to use these appointments as rewards for political or financial support. These places must be reserved for persons with serious interest in and experience of the arts.

There is the perennial problem of decentralization—that is, the division of labor and harmonizing of functions among federal, state and community arts agencies and striking the appropriate balance between established arts capitals and artistically impoverished outlying areas. There is the problem of meeting the needs of an ever more ethnically diversified population without lowering standards, fostering ghettos, encouraging politicization, rip-offs and cultural babble and diluting the precious artistic heritage of the west that we in America are especially obligated to preserve and transmit.

There is the problem, recently dramatized in the understandable protest against the horrid Tilted Arc in New York City, of reconciling the rights of the artist and the rights of the audience. There is the problem, dramatized by the "colorization" controversy, of preserving the artist's control over his own creations. There is the problem of assessing the artistic impact and exploiting the artistic possibilities of wondrous new technologies—television, the videocassette recorder, the compact disc.

All these problems arise, we must understand, at a time of crisis in the state of the arts. There is a crisis of funding. Federal budget deficits both foreclose an increase in subsidy and invite further discrimination against the arts in tax legislation, with tax exemption for non-profit institutions and the charitable deduction itself becoming likely targets. Major foundations, like Ford and Rockefeller, which have contributed so much to the nurture of the arts, are withdrawing from the field. Economic uncertainty on top of tax changes will reduce individual giving. Aggregate corporate giving has levelled out and may be declining; the merger mania reduces the number of corporate givers; and many corporations are shifting their charitable dollars from cultural activities to other worthy areas that more directly advance business interests. So Exxon is abandoning "Great Performances" on public television and New York Philharmonic concerts in order to put mathematics specialists in public schools.

Leisure time, according to the Louis Harris poll, is contracting, and audiences for theater, opera, classical music and dance are diminishing. Observers report a falling-off in artistic interest among business and community leaders and also among younger people. "My judgment in 1988," W. McNeil Lowry, whose intellectual leadership has contributed so much to the arts in America, said in a speech ten weeks ago, "is that . . . the reservoirs of good will on which non-profit institutions largely relied have begun to dry up." And this retrogression in finance and audience and attention and priority and participation is taking place in an age of implacably rising costs.

Yet the future is not entirely bleak. The Harris survey shows a surprisingly high degree of respect for artists, popular support for federal assistance to the arts and readiness to pay extra taxes for this purpose. It shows also an emphatic majority in favor of giving the arts a basic and continuing role in the school curriculum along with a mournful conviction that our schools presently fail to give our children adequate cultural opportunities. As one whose painter daughter teachers in New York City public schools in the Learning through an Expanded Arts Program, I know through her testimony of the responsiveness of even the children of poverty to artistic challenge. "Toward Civilization," the recent NEA report, makes a powerful case for action in the field of arts education. What better way to create not only an audience but a civilization.

I have a deeper reason for a measure of optimism. As I have argued elsewhere, our political life, at least in the view of this historian, flows in cycles and displays a fairly regular alternation between private interest and public purpose as its governing orientation. From this perspective the private-interest 1980s are a reenactment of the private-interest 1950s, as the 1950s were a reenactment of the private-interest 1920s. In the same fashion, the nation turns at 30-year intervals—the span of a generation—to public purpose, idealism and affirmative government: Theodore Roosevelt ushering in the Progressive period in 1901, Franklin Roosevelt the New Deal in 1933, John Kennedy the New Frontier in 1961. If the rhythm holds, and all indications are that it is holding, the 1990s should be a decade of innovation, experiment and idealism—a turn in the cycle of which the arts, which have thrived in earlier eras of public purpose, will again be a major beneficiary. As we prepare to seize these new possibilities and as we contemplate the dilemmas of our present cultural situation, surely the time has come, if we are to renew and elevate the public commitment to the arts, for a serious reconsideration of national arts policy. The last thing we need or want is official state doctrine on artistic matters. But we do require, after these last rather static years, a rebirth of purpose and a clarification of destination. We do require an uncompromising rededication to artistic quality as the supreme object and justification of a national arts policy. We do require fresh thought on the enlargement of artistic opportunity for our multifarious country and our variegated people. We do require the raising of the national consciousness and priority on the issues of our cultural future. The time for revaluation is upon us—and it should take place at the highest level.

Congress has recently established a National Economic Commission to seek remedies for our manifold forms of economic anguish. I would hope that the next president of the United States would ask Congress to establish a counterpart National Commission on the Arts. This Commission should be composed of eminent scholars, writers, artists and arts administrators and also business and labor leaders with special artistic concerns. Its charge would be to examine the range of governmental activity affecting the arts, to propose a comprehensive arts agenda and to set goals for national arts policy in the 1990s.

You are here in Washington today because you deeply believe in the arts as vital to fulfilled lives, to civilized society and to the glory of the republic. Your devotion in the months and years ahead can do a great deal to persuade our masters to restore momentum and meaning to a national arts policy. Government cannot create civilization. Its impact is at best marginal on the adventure and mystery of art and on the creative solitude of the artist. But public leadership reinvigorates the understanding of art as a common participation, a common possession and a common heritage.

It may be too much to support with Walt Whitman that the salvation of the republic will come from "prophetic" art "radiating, begetting appropriate teachers, schools, manners, and, as its grandest result, accomplishing, (what neither the schools nor the churches and their clergy have hitherto accomplish'd, and without which this nation will no more stand permanently, soundly, than a house will stand without a substratum,) a religious and moral character beneath the political and productive and intellectual bases of the States."Art will be only one, if an indispensable, strand in our salvation, if we are to be saved at all.

But we may at least more soberly conclude with George Washington: "The Arts and Sciences essential to the prosperity of the State and to the ornament and happiness of human life have a primary claim to the encouragement of every lover of his Country and mankind."

AMNESTY AWARENESS MONTH IN ILLINOIS

Mr. DIXON. Mr. President, today I rise to note that April has been declared amnesty awareness month in the city of Chicago and the State of Illinois. I salute these efforts and ask unanimous consent that the text of these proclamations be inserted in the RECORD at the conclusion of my remarks.

As you recall, we enacted the Immigration Reform and Control Act of 1986 with two goals in mind. One was to regain control of our Nation's borders, given the dramatically increasing number of illegal entries into the United States. The second was to grant amnesty to the millions of illegal aliens who had, by their long-term residence in the United States, become a vital yet unprotected part of our society. Statistics provided by the Immigration and Naturalization Service show that the first goal has been largely successful given the drop in illegal border crossings.

The Amnesty Program, however, has not experienced the same level of success. For example, as of January 12, 1988, only 65,323 aliens have come forward to apply for legalization in the Chicago area. Yet this number is only one-third of the Immigration and Naturalization Service's original estimate of 200,000 eligible aliens in the Chicago area.

Many reasons can be cited for the low number of amnesty applications. For instance, the Immigration and Naturalization Service, the agency designated to help the illegal alien, is the very one that the alien fears most. I have heard of aliens who believe that the entire Amnesty Program is merely a "sting" operation with the intent to locate all illegals and deport them.

Another reason for the lack of success is that illegal aliens are experiencing difficulties in gathering the required documentation to support their applications; I might say that I can appreciate how difficult it is to obtain physical evidence of one's residency when one has purposefully avoided leaving a "paper trail."

While these two problems are significant, I believe the greatest reason for the small number of applicants has been the lack of a far-reaching public education program. The Congress originally envisioned a 6-month public awareness campaign prior to the beginning of the Amnesty Program. Due to several factors beyond the control of the INS, the awareness program has been both late in beginning and, given the low turnout of aliens, relatively unsuccessful.

Earlier this month I joined with my distinguished colleague from Massachusetts, Mr. KENNEDY, in sponsoring legislation to extend the application process by 1 year. We must vigorously pursue the public education campaign in the remaining 4 weeks, since it is not certain that the extension legislation will be enacted in time.

Given this fact, I commend the efforts of the Immigration and Naturalization Service to develop an administrative solution. Commissioner Alan Nelson only 2 weeks ago announced that the INS would accept "skeletal" applications as long as they are filed before the current May 4 deadline; supporting evidence can be gathered until July 4, 1988.

Mr. President, I would also like to call to your attention the innovative program instituted in the Chicago district of the INS by A.D. Moyer. After noting that many aliens had not come forward for fear that their ineligible family members would be brought to the INS' attention, Mr. Moyer developed the "Family Fairness Program" whereby family members of qualified amnesty applicants could obtain the equivalent of extended voluntary departure status. This allows them to work and live with their legalized family member until such time as the remaining family members can legally immigrate to the United States. I share his optimism that this move will encourage more illegals to come forward. A.D. Moyer should be applauded for his innovative approach to making the Amnesty Program work.

In closing, Mr. President, I take this opportunity to urge all illegal aliens to come forward and inquire about their eligibility for amnesty. I cannot stress strongly enough that all information is strictly confidential. Should anyone have any questions about the program, I have put together an informational booklet on the Amnesty Program which is available in English, Spanish, and Polish, and I encourage interested parties to contact my office for copies. Additional information can be obtained directly from the INS at their toll-free legalization information hotline, 1-800-777-7700.

As the INS says, "Don't get left behind. Apply for legalization by May 4th."

I ask unanimous consent that the Illinois and Chicago amnesty proclamations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

PROCLAMATION

Whereas, just over a year ago, the President signed into law the most sweeping immigration reform in more than three decades. Among the provisions of the new law was a generous legalization or "amnesty" provision that allows persons who are unlawfully in the United States to become legal residents if they meet certain requirements; and

Whereas, more than 1.25 million persons of nearly every nationality have already come forward to accept this one-time amnesty provision in the immigration laws; and

Whereas, like other immigrants who have come through normal, lawful channels, they have shown a great willingness to work and contribute to our nation; and

Whereas, the United States has long welcomed immigrants. It is indicative of the great country we are that millions more people want to come here than even the generous quota permitted by law. In the generous spirit that is America, we have extended to these people the opportunity to come forward and become members of our country, and eventually citizens; and

Whereas, the time to make such application will end for most people on May 4, and there may still be those, who for one reason or another, have not taken advantage of this opportunity; and

Whereas, I call on all Americans to do whatever is in their power to remind their neighbors, friends, co-workers and others living outside our immigration laws, but eligible for legal residence, that the time is growing short for them to come forward and join us as recognized members of our nation and our society;

Therefore, I, James R. Thompson, Governor of the State of Illinois do hereby proclaim April 1988 as Legalization Awareness Month in the State of Illinois, and call upon the people of the State of Illinois to urge those who may be eligible to attain this privilege and benefit to do so promptly.

RESOLUTION—APRIL NATIONAL AMNESTY AWARENESS MONTH

Whereas, a year ago the President signed into law the most sweeping immigration reform in more than three decades. Among the provisions of the new law was a generous legalization or "amnesty" provision that allows persons who are unlawfully in the United States to become legal residents if they meet certain requirements. In general, they must have lived here continuously with only brief absences since prior to 1982, and they must have been contributing members of our society and free from serious criminal violations of our laws; and

Whereas, more than one and one-quarter million persons have already come forward to accept this one-time amnesty provision in the immigration laws. They are made up of nearly every nationality, from Hispanic and Asian to Polish and English. By their actions in this country over the past six years they have demonstrated that they deserve the privilege of remaining here in a fully legal status . . . without having to live in an underground society fearing discovery of their unlawful existence in this great nation; and

Whereas, like other immigrants who have come through normal, lawful channels, they have shown a great willingness to work and contribute to our nation while sharing in our economic well-being; and

Whereas, the time to make such application will end for most people on May 4, 1988. There may still be those who for one reason or another have not taken advantage of this one time opportunity and if they do not do so soon will be left behind while their brother and sister immigrants enjoy living in the day light of liberty;

Therefore, be it resolved that (1) all Americans do whatever is in their power to remind their neighbors, friends, co-workers and others who may be living outside our immigration laws but are eligible for legal residence that the time is growing short for them to come forward and join us as recognized members of our nation and our society, and (2) the mayor and the city council hereby proclaim April, 1988, as National Amnesty Awareness Month and call upon the people of Chicago to observe this month with appropriate ceremonies and activities and to pursue in the course of their regular activities the spirit of welcome and to urge those who may be eligible for amnesty to start the process without further delay.

REMARKS OF GARY L. BAUER, ASSISTANT TO THE PRESIDENT FOR POLICY DEVELOPMENT

Mr. TRIBLE. Mr. President, on Tuesday, Gary L. Bauer, assistant to the president for policy development, spoke at a conservative issues briefing that I hosted on Capital Hill. Gary spoke eloquently and powerfully about the family and our children.

Mr. President, I want to share Mr. Bauer's remarks with my colleagues and ask unanimous consent that they be made a part of the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF GARY L. BAUER, ASSISTANT TO THE PRESIDENT FOR POLICY DEVELOPMENT

I'd like to begin today by asking you to recall a famous story about Solomon and his wisdom. In the First Book of Kings we discover that when Solomon was King of Israel, two women came before him, each claiming to be the mother of the same baby. They asked Solomon to resolve the controversy. He pondered the matter and then ordered that the child be cut in two and that half be given to each woman. What followed was predictable. One woman gave up her claim and Solomon immediately decreed that the infant be given to her knowing that she must be the child's mother.

Solomon displayed a basic understanding here that our own policy makers could do well to emulate. Solomon knew that no one is more important to the care, nurture and the protection of a child than a parent. He knew that family was central and that government must recognize and take advantage of that fact. And, although the story leaves a lot to our imagination, I believe he also knew that government can seldom match or replace the care a parent can offer.* Michael Novak has summed it up in another way with his assertion that "the family is the original Department of Health, Education and Welfare." [1]

In recent years, perhaps rediscovering the wisdom of Solomon, politicians have started to notice the family. In 1980 President Reagan was wise enough to use "family" as one of five themes on which to build his campaign; the other four themes were work, neighborhood, peace and freedom. In addition to the rhetoric, he has also issued an Executive Order requiring that Washington bureaucrats take into consideration the impact on the family of any new policy they formulate.

The other side of the political spectrum, although a little late, finally understands that an appeal to family values can pay big political dividends. They appear to be ready to make up for their tardiness with the grandness of their plans and rhetoric.

Recently liberal Democrats convened at the Greenbriar resort in West Virginia and attended three days of meetings on the theme "Our Family, Our Future." According to political commentator John McLaughlin, "Democrats are aiming to use family issues in 1988 and Congress will be the staging ground for symbolic confrontations in the competition to seize the family banner on the campaign trail." "This is a very good way for the Democratic party to recover its soul," says Robert Kuttner, a liberal economist and political analyst. "The task for Democrats is to show that public spending and public intervention is part of the solution."

The new effort to substitute government for family is heavily dependent on an appeal to help children. Thus "Kids are a catchment for a broad range of voters," says analyst Stanley B. Greenberg. He adds, "Blue, white and new collar, black and white voters, each worry about kids, perhaps with different policy priorities in mind—but the kids are a common coinage." In his annual "state of the state" address on Jan. 6, New York Governor Mario Cuomo, called for a "decade of the child" featuring increased spending on child health and education programs. And in his "state of the state" message Governor James J. Blanchard, Chairman of the Platform Committee at the Democratic National Convention, listed children as "our highest priority" and vowed to veto any education bill that did not include his proposal for a major new-preschool program for "at risk" 4 year olds.

This concern for children is commendable. But the rhetorical use of children to sell the American people on big government solutions that substitute bureaucracy for family is not.

Sadly we have been down this road before. During the 60's and 70's the American people, heeding the advice of experts, applied a good deal of resources into improving the well-being of American children. We did this because we were and are a caring people. From 1960 to 1980 federal welfare spending—much of it aimed at women and children—rose 437 percent from $69.2 billion to $302.8 billion. By 1976 there were more than 260 federal programs in place whose primary mission was to benefit children. During this same period of time we doubled, in real terms the amount of money we spend on every student's education. The average class size shrank, and the educational level of our teachers increased markedly.

Americans in addition to having big hearts also are realistic. We know that if something works we ought to do it and if it doesn't we shouldn't. We have a right to ask what were the outcomes when our approach to the problem of our children was one built only on dollars and cents and new bureaucracy.

How did American children fare during those 20 years of unparalleled financial commitment? Regardles of the intentions of the social policies of the 60's and 70's, the answer is clear: the answer is that our children did not fare as well as we hoped and not as well as the experts promised.

In our schools, SAT scores fell 85 points during those years.

Unwed teenage births rose 200 percent. The United States now has the highest rate by far of teenage pregnancy of any industrial nation—twice the rate of England, the closest competitor.

In 7 years following the *Roe* v. *Wade* decision in 1973, the abortion rate for girls aged 15 to 19 nearly doubled. By 1980, nearly one-half of all teenage pregnancies were ending in abortion.

The rate of homicide among young people more than doubled from 1960 to 1980.

Teenage deaths from automobile accidents doubled.

Juvenile arrests more than doubled.

Most incredible of all, the mortality rate for all age groups of Americans improved except for one group-American teenagers. From 1970 to 1980, their mortality rate worsened not because they were getting bad health care, but because they were killing themselves not through youth suicide, but from drugs, homacides, drunk driving deaths and other examples of youth pathologies.

Some of these figures have improved since 1980, but the fact remains that no one can be satisfied when today's numbers are compared with the numbers of 25 years ago.

The reasons for these trends are of course numerous. But a noted professor at Cornell University, Urie Brofenbrenner, may have summarized them recently when he was asked, what is the key ingredient in the successful development of human being? He replied, "Someone has to be crazy about the kids." Some adult has got to make the child the first priority in his life—before a career, before the prospect of a new spouse. For too many of our children born and unborn, there is no such adult. All too often we treat children as if they were split infinitives or dangling participles—not central to what we think and do. Many of you will be shocked to learn that federal studies show American fathers on average spend only 2 minutes a day educating their children. What message do we send to a child when by age 6 he has spent more time watching TV than he will spend talking to his father during his entire life?

The problems of America's children and of the families who nurture and care for them will not be solved by an emphasis on money and bureaucracy. Does anyone really believe that there can be a government solution to the interpersonal problems of spouses and children? Is a new government program going to stop youth suicides? Can Ted Kennedy, or for that matter President Reagan, fashion a new government bureaucracy that will stop 15 year old girls from being promiscuous? Can we spend our way to a drug free nation?

The answer to all these question is "No" because these problems and the others that shout at us in each day's headlines are rooted in individual responsibility and family dysfunction. There never will be a governmental substitute for individual responsibility for the results of our own actions. There will never be a bureaucrat who can substitute for a father. But that does not mean government has to ignore problems that are rooted in a contemporary culture hostile to, or ambivalent towards, the family. Although government cannot mandate cultural change, public officials can, as opinion leaders, influence its direction. We can make sure that government programs aren't making the matter worse. We can look for government approaches that empower families instead of substituting government activity for them. We can build webs of support for the family so that struggling mothers and fathers don't feel they are surrounded by enemy territory.

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[1] I am indebted to Secretary William Bennett for first demonstrating the application of the Solomon story to today's public policy debate.

Unfortunately, in too many areas of our popular culture an anti-family ethic perseveres. For example, all too often, television throws families only crumbs—a Cosby show here and there, heralded by the critics but none the less a mere patch of green in the great wasteland—an aberration.

In contrast, how many times a day do children get messages from TV that tells them adultery is the norm, that commitment and fidelity are old-fashioned, that recreational drug use is acceptable? What a revolution would take place if our TV networks, while they consider whether to begin condom advertising during prime time, also did a few other things.

How about public service ads that explain to children why promiscuity is wrong? How about some TV sitcoms and soap operas where the heroes and heroines don't hop in bed at a moment's notice, but rather make a principled stand for virtue? Now while some say such changes would hurt the ratings, I say the American people will applaud such action and breathe a sigh of relief that they are no longer pushing against a culture that often belittles and undercuts everything they try to teach their children.

What about the schools? Here too family values often face rough sledding. Some of the so-called value-neutral approaches first implemented in the 1960's and 1970's are still gaining momentum. It can never be said too often: children must learn by example. If we are serious about strengthening families, we must do better than we have done in recent years when the example youngsters receive told them, "that there is no natural order of society and no inherently right patterns of living, loving, begetting and getting through life." Teachers must join parents in explaining that choices have consequences—that some are sounder, better than others. And by the way, for those civil libertarians within ear-shot: I have read and studied the Constitution too and there is nothing in it that prohibits the teaching of traditional values, even if those values rest on a foundation of Judeo-Christian beliefs.

Ladies and gentlemen, there is a war going on in our schools, and it reflects the larger conflict raging in our society. We have reached the point at which we must choose between two fundamentally opposed solutions to the challenges we face. On the one side are those who want to make a massive and open-ended commitment of public resources to deal with problems like illegitimacy, venereal diseases, teen suicide and promiscuity. On the other side are those who recognized that these things are symptoms of deeper problems and if we are going to save our children we must be ready to explain to them, for their own good, one clear standard of conduct which tells them how we expect them to grow up.

A proxy for this larger debate can be seen in the controversy all over the country as so-called experts attempt to install health care clinics in the nation's high schools. Inevitably these clincs have as one of their major functions the dispensing of birth control pills and implements to children without parental permission.

Think of the lessons these clinics teach. William Bennett has pointed out that there are certain types of surrender that adults must never make in the presence of children—particularly the surrender of moral authority. With such clinics we are throwing up our hands and saying, "We give up. Here take these things and try to limit the inevitable consequences of your acts." And what message do the clinics send to the 16-year old girl who has remained virtuous? That she is a fool. That she is behind the times. That her family is old-fashioned. That even those responsible for educating her are willing to be partners with her in bad behavior. The clinics are a slap in the face of every young woman who had ever found the courage to tell her boy friend no.

And just as importantly they don't work! A preliminary study done by a pro-clinic group, the Center for Population Options, of schools with such clinics, has found in the words of the director, "There is no measurable impact upon the use of birth control, nor upon pregnancy rates or birth rates."

Sadly, these clinics, as anti-family as they are, have been sold with pro-family rhetoric. It has been said that the family has a habit of burying its undertakers. While that is true, I wonder if the family can survive politicians who claim to be family friends while pushing the worst type of anti-family schemes.

Another example can be seen as Washington turns its attention to day care. Recently dozens of members of Congress supported by business and church groups introduced a major day care bill. They did it while repeating their commitment to the American family. What they gave us is another anti-family legislative disaster. Increasingly, I believe, the President is correct when he compares the Congress to an infant—a great appetite at one end and absolutely no responsibility at the other.

The "Act for Better Child Care" is a loser not only because of its $2.5 billion starting cost. Far worse is the way it tilts the balance against the most desired and effective day care approaches.

We have by now a pretty clear idea of what the nation's child care priorities should be. Survey after survey turns up the same results from parents in all socio-economic levels. If they must resort to day care, they want their kids supervised by family members or close neighbors. If that is not possible and a stranger is involved, then they prefer someone who will come to the home or, as a fall-back, who will provide home-like care in their own residence. Failing that, parents look to community institutions, especially churches. Only as a last resort do most parents place their kids in what might be called the day care business.

That lesson has been ignored by the ABC bill. The only form of child care it would subsidize is the kind least desired by working parents: the highly regulated, cookie-cutter standardized, group supervision advocated by the gurus of the child development lobby in university classrooms and congressional hearing rooms. Their underlying assumption, as some of them have been candid to admit over the years, is that raising children is too important to be left to parents and other amateurs.

It should not be beyond the ingenuity of our public policy process to apply both common sense and fairness to the subject of child care. The guiding principles are not too difficult to formulate. For example, Americans believe government should not discriminate against one-earner households, where child care is provided in the traditional way by the parent. They argue, if the raising of children is to be subsidized by the government, the benefits should be equally available to those who care for their own youngsters. I think they raise a valid point. We should not expect homemakers to ride in the back of the policy bus. (If the budget impact of fairness to women at home is a problem, then benefits can be targeted to lower income households, whether they have one or two earners.)

Second, government should facilitate choices in child care, not limit them or, worse yet, penalize those who choose contrary to the whims of strategically placed public officials. Bluntly put, legislators should not second-guess parents by trying to force their kids into institutional care as opposed to private arrangements.

The 1988 election may well determine what kind of family policy we will have in the next century. Will it be one built on fairness to families or one built on ever increasing government encroachment into the family? Will it be one that recognizes that "the traditional family, man and woman pairing in a lifelong bond for the purpose of raising children to adulthood," is this the ideal, or will it be one that pretends no family form is preferable to another and that indeed no one even knows what a family is?

Let me say I am an optimist. No trend is irreversible. Most of America's families are pulling through; most youngsters aspire to productive, independent lives. Most young adults, upright and responsible, hope to build families of their own. Most families endure.

For most Americans, life is not a matter of legislative battles, judicial decrees, and executive decisions. It is a fabric of helping hands and good neighbors, bedtime stories and shared prayers, lovingly packed lunch-boxes, tears wiped away, a precious heritage passed along. It is hard work and a little put away for the future.

No government commands these things. No government can replicate them. In a faddish culture that emphasizes living for the moment and for oneself, these practices affirm an older, more lasting, set of priorities.

For most of us success is not measured by whether we have a vacation home or if we are driving a BMW. It's not a question of our tax bracket or whether we picked a hot stock before its big move. For millions of us success, in spite of the efforts of Hollywood and Madison Avenue to convince us otherwise, is measured by how we did at home. Did we care and nurture our children? Did we produce responsible, mature citizens capable of using their liberty wisely? Our country, our culture, and our politicans must be allies in this endeavor not adversaries.

The idols of our recent past were those who defied norms and shattered standards, and indeed there was always a place for "rebels." But in a healthy society, heroes are the women and men who hold the country together one home at a time; the parents and grandparents who forgo pleasures, delay purchases, foreclose options, and commit most of their lives to the noblest undertaking of citizenship; raising children who, resting on the shoulders of the previous generation, will see farther than we, and reach higher.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:21 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes.

The message also announced that pursuant to the provisions of section 276(d) of title 22 of the United States Code, the Speaker appoints Mr. Brooks to the United States delegation to attend the 29th meeting of the Canada-United States Interparliamentary Group, vice Mr. Oberstar, resigned.

MEASURES PLACED ON THE CALENDAR

The Committee on Veterans' Affairs was discharged from the further consideration of the following bill, which was ordered placed on the calendar:

H.R. 1811. A bill to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributed to low levels of ionizing radiation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 2273. A bill to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe (Rept. No. 100-315).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Frank Ernest Schwelb, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years;

Cheryl M. Long, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years;

Frak DeGeorge, of Maryland, to be inspector general, Department of Commerce (which nomination had previously been reported favorably from the Committee on Commerce, Science, and Transportation and further referred to the Committee on Governmental Affairs for not to exceed 20 days).

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-11. Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (Exec. Rept. No. 100-15).

Reported with the recommendation that the Senate give its advice and consent to ratification thereof, subject to a condition set forth in the resolution of ratification, which is as follows:

Text of Resolution of Advice and Consent to Ratification Reported by the Committee on Foreign Relations

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and the two Protocols thereto, collectively referred to as the INF Treaty, all signed at Washington on December 8, 1987 (Treaty Doc. 100-11), provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the following condition, which shall be binding on the Executive:

That this Treaty shall be subject to the following principles, which derive, as a necessary implication, from the provisions of the Constitution (Article II, section 2, clause 2) for the making of treaties:

(a) the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to be a subsequent treaty or protocol, or the enactment of a statute.

This understanding shall not be incorporated in the instruments of ratification of this Treaty or otherwise officially conveyed to the other contracting Party.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 2282. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. BAUCUS (for himself, Mr. Melcher, Mr. Adams, Mr. Burdick, Mr. Conrad, Mr. Daschle, Mr. Evans, Mr. McClure, Mr. Pressler, Mr. Simpson, Mr. Symms, and Mr. Wallop):

S. 2283. A bill to require the Secretary of the Treasury to mint and issue $5 coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself, Mr. Simon, Mr. DeConcini, Mr. Melcher, Mr. Cranston, Mr. Gore, and Ms. Mikulski):

S. 2284. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for a moratorium on reversions to employers of assets of terminated pension plans and to establish as a fiduciary duty that assets of such plans which would otherwise revert to the employer but for the moratorium must be maintained in trust until the end of the moratorium; to the Committee on Labor and Human Resources.

By Mr. SYMMS (for himself and Mr. Wallop):

S. 2285. A bill to authorize the Secretary of Agriculture to exchange certain national forest lands in the Targhee National Forest; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 2286. A bill to amend the Internal Revenue Code of 1986 to increase the standard deduction for child dependents; to the Committee on Finance.

By Mr. HECHT:

S. 2287. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. Sasser):

S. 2288. A bill to amend the Bank Holding Company Act of 1956 to prohibit foreign bank holding companies from acquiring any shares of a company which is primarily engaged in making a tender offer for a United States company engaged in activities other than those permissible for United States bank holding companies and to provide for limitations on acquisitions of companies primarily engaged in other than financial services by certain companies owning banks; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN:

S. 2289. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for two-earner married couples, to provide for maximum individual tax rate of 38.5 percent, to eliminate the personal exemption phase-out, to insure a maximum individual long-term capital gains rate of 28 percent, to provide income averaging for farmers, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 411. A resolution urging the release of Adem Demaci; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2282. A bill to require reauthorization of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

SPENDING CONTROL AND PROGRAMS EVALUATION ACT

Mr. REID. Mr. President, 16, I repeat, 16 executive branch agencies have responsibility for providing assistance to the homeless. I am sure most of my colleagues did not know this, and I imagine even fewer know what the 16 agencies are. How much do these programs cost? How much money is wasted due to bureaucratic infighting? How much more efficiently and economically could these programs be managed if they were consolidated? More likely than not, these issues have never been considered by Congress.

I do not mean to single out programs for the homeless as being particularly inefficient. In fact, I am a strong supporter of providing aid for these unfortunate people. I merely wish to point out that with the homeless programs, as with many other Government programs, the Congress' left hand doesn't know what its right hand is doing. Congress is, in many cases, wasting the time of executive branch agencies and the money of taxpayers because we do not spend the time necessary to occasionally make a comprehensive examination of existing programs. With low public regard for Congress, and in an era when every penny must be stretched to the limit, this state of affairs cannot be allowed to continue.

That is why today I am introducing the "Spending Control and Programs Evaluation Act of 1988," to force Congress to evaluate and reauthorize nearly every Federal program at least once every 10 years. This process will include the reexamination of programs with a permanent authorization. The legislation I am introducing today is based on a bill originally introduced by Senator Muskie in 1978 and 1979. Then it was referred to as the Sunset Act and passed the Senate by the overwhelming margin of 87 to 1. If that legislation was urgently needed then, it is desperately needed now.

One of the major causes of our inability to make meaningful and permanent reductions to the budget deficit is because the vast majority of Federal spending is nondiscretionary. As a member of the Appropriations Committee, I can tell my colleagues it is not because of a lack of cutting discretionary programs. Congress rarely reviews nondiscretionary programs in a comprehensive manner. It is true the Budget Committee sets overall spending limits, but it does not make a detailed examination of programs. Only the authorizing committees have the ability to systematically examine and evaluate programs.

Beyond nondiscretionary programs, lies another problem. Because of overlapping jurisdiction and the relative autonomy of the various committees, Congress has no method by which to consolidate existing programs. For example, the Finance Committee and the Labor and Human Resources Committee both have jurisdiction over many of the same programs. Conflicts have arisen between these two committees that have killed needed programs or improvements in existing programs.

My legislation will consolidate programs by forcing committees to reexamine and reauthorize them, according to a definite schedule, at least once every 10 years. This reauthorization review requires the committees to file a report which: evaluates the effectiveness of the program; identifies any duplicative programs and requires a justification for their existence; explains the objectives of the program; and requires a comparison of the authorized level to the appropriated level. Notice this review does not require that a particular decision about a program must be made. A committee could decide the program is functioning the way it was intended and should be maintained exactly as is. That is fine. But I believe during the first review period, most committees will find plenty of existing programs to junk, consolidate, streamline, or in other ways modify before they are reauthorized. My bill does not require a particular decision to be made about a program, it only requires that a program must be examined once every 10 years.

My bill is also "turf neutral." That is, no new committees are created and no committee will lose jurisdiction over a program. However, committees are required to periodically examine all authorized programs under its jurisdiction. But shouldn't committees be doing this now anyway?

I say yes. I say Congress, but in particular the Senate, has become a firehouse. Instead of proactive work we are performing reactive work. As things stand now, Congress has come to rely on gimmicks to consolidate and streamline programs. We have the destructive Gramm-Rudman method that forces poor decisionmaking at the 12th hour. And we have the recent mindless rush to surrender accountability to the private sector in the name of an economic theory: privatization. What concerns me more than these legislative fads, however, is a phenomenon that has driven several Senators to quit this body in frustration. This body has become a legislative crisis management team. The Senate was forced to create new banking law both last year and this year. Congress was forced to consider an omnibus trade bill. And next year, Congress will be forced to come up with new housing policy.

I firmly believe that many of these crises can be prevented by a systematic reauthorization of our major national policies. My bill, by requiring a periodic, comprehensive look at all programs in a particular area, will enable Congress to become more proactive and a lot less reactive. We will return to enacting thoughtful, long-term policies. This will occur because the committees will let outside experts, assist in reviewing programs. Instead of waiting until our Nation is buried under a massive trade deficit, academic, executive branch, corporate, and other experts can come to Congress and tell us what current trends portend and how they are best addressed at the National level.

In 1978, this legislation won overwhelming approval because the then "massive" deficits of $40 billion needed to be reduced in order to control, in the words of Senator Muskie, "Inflation, public enemy number one". Today, public enemy No. 1 is the budget deficit itself. This time around, let the branch of Government most directly accountable to the people correct the problem that is eroding public confidence in the Government. Passage of my bill will not solve the deficit problem. But by periodically evaluating every program in a systematic fashion, Congress will streamline and rationalize the functions of Government without making mindless cuts to important programs.

I invite all of my colleagues to cosponsor this important legislation.

By Mr. BAUCUS (for himself, Mr. MELCHER, Mr. ADAMS, Mr. BURDICK, Mr. CONRAD, Mr. DASCHLE, Mr. EVANS, Mr. McCLURE, Mr. PRESSLER, Mr. SIMPSON, Mr. SYMMS, and Mr. WALLOP):

S. 2283. A bill to require the Secretary of the Treasury to mint and issue $5 coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South

Dakota, Washington, and Wyoming; referred to the Committee on Banking, Housing, and Urban Affairs.

STATEHOOD CENTENNIAL COMMEMORATIVE COIN ACT OF 1989

● Mr. BAUCUS. Mr. President, today I am introducing legislation, along with Senators Melcher, Adams, Burdick, Conrad, Daschle, Evans, McClure, Pressler, Simpson, Symms, and Wallop, to strike a palladium commemorative coin to mark the centennial of Montana, Idaho, North Dakota, South Dakota, Washington and Wyoming. The coin will be unique first because it will be struck from palladium, which is rare in the United States and mined as a primary product only in Montana. It will be unique also because it will be a multistate commemorative.

Providing this official congressional recognition of the 100th birthday of those six States which were admitted to the Union in 1889 is certainly appropriate given their unique heritage and importance.

These States represent the culmination of Thomas Jefferson's dream of one land, from sea to shining sea. Territories stretching from the Minnesota border to the Straits of San Juan de Fuca, and from the Canadian border to the Laramie Trail were brought together. The result was statehood for the great agricultural heartland and the northern tier of the Rockies to the Pacific Ocean.

This legislation recognizes that these six States, though sparsely populated, represent a great portion of the resource base of our country—metals and minerals, oil, timber, water and power.

This is a land of immigrants from Europe and the Orient and a land where native Americans are a proud part of our heritage. The six State commemorative recognizes the brilliance of Jefferson's Louisiana Purchase; it recognizes our foresight to claim to the Oregon Territory; and it recognizes the wisdom of Daniel Webster, who brilliantly negotiated a lasting boundary with our neighbor to the North in the Webster-Ashburton Treaty.

Rain forests and the Rockies, seafood and submarines, coal and cattle, Yellowstone Park and Glacier Park, the Olympic Peninsula and Lake Coeur d'Alene—all are part of this area. And we have people—sturdy people—as unique as the coin we propose to strike for this occasion.

The palladium for this coin comes from platinum in the Stillwater mine near Yellowstone Park. The mine currently produces 100,000 ounces of platinum metals every year, and soon will produce twice that amount. The mine, located on the edge of the Absaroka Beartooth Wilderness, was designed and built to complement the wilderness without damaging the beauty of the region or degrading the crystal clear Stillwater River.

A consortium of companies—Chevron, Manville and Lac Minerals—made a commitment to Montana's demand for environmental protection when they built this mine. Their efforts now provide a small measure of domestic independence for these essential metals.

Mr. President, I ask unanimous consent to insert in the Record at the conclusion of my remarks a copy of the legislation and some additional information on the Stillwater mine.

Mr. President, I hope we can achieve early enactment so that this coin can be struck and distributed throughout our States during our centennial year.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 2. STATEHOOD CENTENNIAL COMMEMORATIVE COINS.

(a) Authorization.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue 5 dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming.

(b) Limitation on the Number of Coins.—The Secretary may not mint more than 1,000,000 of the coins referred to in subsection (a).

(c) Specifications and Design of Coins.—Each coin referred to in subsection (a) shall—

(1) weigh 31.103 grams;

(2) have a diameter of 1.650 inches;

(3) contain 90 percent palladium and 10 percent alloy;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1989"; and

(B) the words "Liberty", In God We Trust", "United States of America", "E Pluribus Unum", and "Statehood 1889-1890"; and

(6) contain an engraving of the regional logo on one side and a combination of a bust of Thomas Jefferson and Lewis and Clark overlooking the Missouri, on the other side;

(D) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain palladium for the coins referred to in section 2(a) by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this paragraph.

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) Uncirculated and Proof Qualities.—The Secretary may mint and issue the coins referred to in section 2(a) in uncirculated and proof qualities.

(b) Use of the United States Mint.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 2(a).

(c) Commencement of Authority to Sell Coins.—The Secretary may begin selling the coins referred to in section 2(a) on January 1, 1989.

SEC. 5. SALE OF THE COINS.

(a) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(b) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) Surcharge Required.—All sales shall include a surcharge of $20 per coin.

SEC. 6. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2(a) shall not result in any net cost to the Federal Government.

(b) Sale Price.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 2(a).

The Stillwater Complex—A Platinum-Rich Oddity Near Big Timber

(By Dave Alt)

There is always talk about mining precious metals, and most of it is just talk, idle chit chat. But the news we hear these days about a new platinum mine in the mountains south of Big Timber is serious. There really is platinum, plenty of it, and it looks like it will be mined.

The precious metals are in the Stillwater complex, an enormous mass of very strange rocks in the northern edge of the Beartooth Plateau, where the Boulder River begins and Road 298 ends. The platinum is interesting, but not nearly as exciting as the story of the Stillwater complex.

Enormous as it is, thousands of feet thick and stretching for miles and miles, the Stillwater complex is a small sliver sliced out of something called a layered gabbro. The top was eroded off a long time ago, probably something more than a billion years ago. The northern two thirds of the Stillwater complex was chopped off along the big fault that defines the north edge of the Beartooth Plateau. That larger part almost certainly lies buried two or more miles down in the area south of Big Timber.

Layered gabbros are even rarer than the platinum they generally contain, so rare that we can almost count the world's inventory of them on our fingers. Other North American examples include the Duluth gabbro of northeastern Minnesota and the Sudbury complex in eastern Ontario. The biggest, most famous and most profitable of them all is the Bushveld complex in South Africa, now the source of most of our platinum.

As you would suppose from the name, layered gabbros are indeed layered, and they consist largely of varieties of gabbro, a dark and heavy rock composed mostly of black pyroxene and greenish plagioclase feldspar. Those that are not as deeply eroded as the Stillwater complex wear a thick cap of red rock similar to granite. The layering makes the gabbro, which is an igneous rock, look, from a distance, like sedimentary rock. We will get around to that curious masquerade in a few paragraphs.

Layered gabbro complexes that have not been chopped off along faults have a circular map outline somewhere between 60 and 150 miles in diameter. No one knows how thick they are because no one knows how deep they go—the figure must be a matter of miles. How do they form?

As usual with complicated geologic questions, there are at least several theories. I will exercise the prerogative of a columnist by limiting myself to the theory that seems to me to best explain the rocks. As it happens, my favorite theory is also fairly well accepted, and certainly the most exciting version of what happened. The thinking started with the Sudbury complex in Ontario.

Geologists working in the older rocks that immediately surround the Sudbury complex noticed that they are full of shatter cones, curious patterns of close-set fractures. You can occasionally see shatter cones in roadcuts or quarries opened 30 or more years ago when dynamite was still widely used in blasting rock. Watch old roadcuts for dense patterns of fractures that radiate a few inches from the edges of the drill holes. Those are shatter cones. They form only where rocks have been subjected to an extraordinarily violent shock such as that released by exploding dynamite—no lesser violence can do the job.

The only known kind of natural shock violent enough to fracture rocks into shatter cones is the explosion of a large meteorite, impacts of the sort that left the moon pocked with craters. So, it seems that the layered gabbro at Sudbury fills a circular crater left by the explosion of a meteorite, actually a small asteroid that may have been as much as 10 miles across. The Sudbury layered gabbro is one earthly equivalent to the big lunar craters called maria, the dark circles that make the "Man in the Moon." The Stillwater complex is another.

I have neither seen nor heard of shatter cones around the Stillwater complex but that is no surprise because none of those rocks is of the kind in which shatter cones easily form. In all other respects, the Stillwater layered gabbro is so nearly identical to that at Sudbury that they must have formed in the same way. Imagine the occasion.

Large meteorites come in from space at speeds somewhere between 20 and 30 miles per second. Their great speed gives them more energy of motion, pound for pound, than the energy stored in a nuclear bomb. When a big meteorite stops suddenly upon encountering a much larger object such as the earth, all that energy of motion suddenly converts into enough heat to transform the meteorite into a glowing ball of white hot vapor. That sudden release of heat causes an extraordinarily violent explosion, as though a bundle of thousands of nuclear weapons exploded all at once. The explosion blasts a big circular crater deep in the earth's crust.

Rocks below the earth's crust normally exist at a white heat, so hot that they would begin to melt if they were not under such great pressure. If an exploding meteorite blows a big enough hole in the crust to relieve that pressure, those rocks begin to melt to form basalt magma. If basalt magma cools slowly enough to allow time for large crystals to grow, it crystallizes into gabbro.

You wouldn't want to watch one of those big meteorites hit the earth from any place closer than the moon. Had you been there watching 2.71 billion years ago when the Stillwater complex began to form, you would have seen a blinding flash of light when the meteorite exploded. Then a glowing mushroom cloud of finely shattered fragments of rock and meteorite would have shot up form the spot and boiled over the entire earth, obscuring the view for months. Meanwhile, the crater would slowly fill with molten basalt magma. When the air finally cleared, you would have seen a glowing lava lake filling the wound left by the exploding meteorite.

As it cooled, that lava began to crystallize, and the growing crystals settled to the floor of the crater, where they accumulated in layers. So it is no wonder that layered gabbros look from a distance like sedimentary rocks; they form through sedimentation in a lava lake. The black pyroxene tends to crystallize first, so the lowest layers are the darkest, and they become generally lighter upwards as their content of plagioclase feldspar increases. Meanwhile the composition of the still molten lava changes, becomes richer in plagioclase, as it loses more and more pyroxene.

When the temperature and composition of the cooling and crystallizing molten lava reach just the right point, the platinum, palladium, rhodium, gold and other precious metals finally crystallize and settle to the floor of the lava lake. In the Stillwater complex, that happened after the layers of gabbro had accumulated to a depth of almost two miles. Then the rest of the lava crystallizes, burying the zone full of precious metals beneath more thousands of feet of gabbro layers. Much of the upper part of the complex is now lost to erosion.

So, the slowly crystallizing lava lake concentrates most of its precious metals in a layer hardly more than 10 feet thick that extends over dozens of square miles, an absolutely enormous mass of ore. In the Stillwater complex, that glittering layer is called the J-M Reef, which is, beyond any doubt, one of the world's richest layers of rock. But it takes more than good ore to make a mine.

South Africa's Merensky Reef has for decades supplied a large part of the platinum we use. Their ore has been more profitable than ours because they don't pay their black miners very well. But the increasing political instability in South Africa combined with trade sanctions makes the Merensky Reef a more expensive and less reliable source of platinum than it once was. Meanwhile, we are using more platinum than ever before.

Surprising amounts of platinum are used in the catalytic converters that help reduce air contamination from automobile exhaust. The platinum catalyst helps the converter burn a wide variety of poisonous gases into carbon dioxide and water vapor. Most of the other uses for platinum are in various industrial catalysts that help make all sorts of useful chemical products. Very little platinum goes into jewelry.

If we continue to use large amounts of platinum and if South Africa continues to come unstuck, the J-M reef in the north edge of the Beartooth Plateau will support some big mines. They will work underground. The layers of gabbro still lie nearly as flat as they formed, so the mines will be the kind you can walk or drive into, instead of descending a shaft.

Rich as the ore is, the metallic minerals still comprise less than one percent of the rock. So it will be necessary to mine and pulverize enormous volumes of rock to recover a small volume of metals. The next problem will be how to dump all that finely ground waste rock without despoiling the beautiful countryside along the north edge of the Beartooth Plateau. That will require some careful planning, lest we have the same kind of unholy mess for future generations that some of the earlier mines in Montana left for us.●

By Mr. METZENBAUM (for himself, Mr. Simon, Mr. DeConcini, Mr. Melcher, Mr. Cranston, Mr. Gore, and Ms. Mikulski):

S. 2284. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for a moratorium on reversions to employers of assets of terminated pension plans and to establish as a fiduciary duty that assets of such plans which would otherwise revert to the employer but for the moratorium must be maintained in trust until the end of the moratorium; to the Committee on Labor and Human Resources.

EMPLOYER REVERSION MORATORIUM ACT

● Mr. METZENBAUM. Mr. President, I rise to introduce the Employer Reversion Moratorium Act of 1988. This measure will temporarily halt the practice of turning pension programs into corporate piggy banks.

Since 1981 corporations have removed more than $16 billion from their pension plans to fund mergers, leverage buyouts, balance sheet improvements, aggressive ad campaigns, and other nonretirement activities.

These "pension reversions" are jeopardizing the retirement security of millions of workers and retirees. Their pension plans are left with no cushion in the event of a market downturn. Possibilities for pension benefit improvements or cost-of-living adjustments are wiped out. And the very promise of a permanent pension program too frequently evaporates because no replacement retirement program is created.

Mr. President, last year the Secretary of Labor presented an administration proposal to reform the practice of pension reversions. He testified that the current law is inadequate to fully protect the pension security of millions of Americans. In response to that proposal the House and Senate Labor Committees included a reform proposal in last year's reconciliation bill.

Unfortunately, the final conference version of that bill dropped those reforms. However, the Chairman of the Finance Committee promised to work with the Labor Committee in addressing this problem before the end of this year. I look forward to working with him and his committee to restore confidence in our pension system.

I believe that in the interim we should temporarily suspend the ability of employers to dip into their pension plans as an easy source of capital.

Why?

Because today there are some $218 billion in so-called surplus assets that could be removed from our Nation's private pension system. We must act now before millions of workers and retirees see the promise of a secure future broken by companies seeking quick cash.

The bill we are introducing today will provide protection until we can enact a permanent resolution. Congressman CLAY has introduced a companion measure, H.R. 4111, in the House.

This temporary measure makes it a fiduciary violation for a pension trustee to distribute so-called residual assets to an employer. If an overfunded pension plan is terminated, the residual assets would either have to be allocated to workers and retirees, or placed in an escrow account. The escrow account will not receive any special tax treatment.

This measure does not interfere with normal business transactions. For example, it does not prohibit a company from combining two different pension plans into one. But it does prevent pension assets from being used as a cheap source of financing capital.

I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employer Reversion Moratorium Act of 1988".

SEC. 2. MORATORIUM ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) IN GENERAL.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by redesignating section 414 (29 U.S.C. 1114) as section 415 and by inserting after section 413 (29 U.S.C. 1113) the following new section:

"MORATORIUM ON EMPLOYER REVERSIONS UPON PLAN TERMINATION

"SEC. 414. (a) IN GENERAL.—In any case in which a notice of intent to terminate a defined benefit plan (other than a multiemployer plan) is filed on or after March 9, 1988—

"(1) subsections (a) and (b)(9) of section 408 shall not apply with respect to any transaction constituting a distribution to the employer in connection with such termination, and

"(2) each party in interest having any authority with respect to the management or disposition of the assets of the plan shall be jointly and severally liable for a breach of fiduciary duty under this part unless, in the final distribution of assets of the plan, any amount which would have been available for distribution to the employer under the terms of the plan (but for any amendments to the plan adopted in conformance with the requirements of this section) is distributed to participants or beneficiaries or paid into a trust established by the employer or plan administrator in accordance with subsection (b).

"(b) TRUST.—The employer or plan administrator shall designate the trustee of a trust established pursuant to subsection (a). The terms of the trust shall provide for final distribution of the assets held by the trust in accordance with such applicable law as may be in effect on the date of distribution from the trust pursuant to subsection (d) and shall otherwise be consistent with any terms of the plan providing for such trust and such regulations as the Secretary may prescribe.

"(c) EXCLUSIVE PURPOSES OF TRUST.—Any trust established pursuant to subsection (a) shall be used exclusively for—

"(1) receiving and holding any amount paid into the trust under this section,

"(2) defraying the reasonable administrative expenses incurred in carrying out the trusteeship under this section, and

"(3) making the final distribution from the trust under subsection (d).

Any income earned on the balance in such trust shall be paid into such trust.

"(d) END OF MORATORIUM.—Subject to applicable law as in effect on October 1, 1989—

"(1) subsection (a) shall not apply with respect to terminations pursuant to which no distribution of plan assets has commenced as of such date, and

"(2) during the 30-day period beginning on such date, any trust established pursuant to subsection (a) shall be dissolved and any balance (including income) in such trust at the time of its dissolution shall be distributed from the trust in accordance with the terms of the trust.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 414 and inserting the following new items:

"Sec. 414. Moratorium on employer reversions upon plan termination.
"Sec. 415. Effective dates".●

By Mr. SYMMS (for himself and Mr. WALLOP):

S. 2285. A bill to authorize the Secretary of Agriculture to exchange certain national forest lands in the Targhee National Forest; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTAIN NATIONAL FOREST LANDS

Mr. SYMMS. Mr. President, today I am introducing legislation to allow the owners of Grand Targhee Ski Resort in Alta, WY, to exchange land in Idaho for title to Targhee National Forest property on which the ski resort is located.

Because of the difficulty financing real estate improvements on leased property, the owners of Grand Targhee are unable to upgrade their resort until they own at least part of the underlying property. Such improvements would be of tremendous benefit both to the quality and quantity of recreation at the resort. Grand Targhee is one of the main attractions in the Teton Basin, and improvement at the resort would contribute significantly to the local economy of Teton County, ID.

There is, under current law, a way in which the resort owner could acquire the needed property. The Fedeal Land Policy and Management Act, FLPMA, allows the Secretary of Agriculture to accept title to non-Federal lands in exchange for Forest Service property. It is under this exchange for Forest Service property. It is under this exchange authority that title to Targhee Ski Resort lands could be transferred to the resort owner.

The FLPMA authority, however, is limited to an exchange between properties located in the same State. Eighty percent of the Targhee National Forest is located in Idaho. The ski report just happens to be located on the 20 percent that is in Wyoming. This unique situation severely limits opportunities for a land exchange.

The legislation introduced today would permit an exchange of land on either side of the Idaho-Wyoming stateline. It makes this exception only for this one particular exchange. There is a reason for the FLPMA prohibition on exchanges between States. Education in the State of Idaho is funded primarily through property tax assessments. Withdrawal of land into Federal ownership, therefore, reduces the education tax base. In the case of Grand Targhee, however, the acreage—and, therefore, the loss to education—is relatively small and the potential boost to the Idaho economy is large.

I might add, Mr. President, that representatives of Idaho and Wyoming have introduced companion legislation to this in the other body of Congress. The bill introduced today in the Senate is nearly identical to theirs, with one notable exception. It does not specify or limit the lands in Idaho or Wyoming for which the ski resort property can be exchanged, but leaves such determination to current law. This will eliminate the fear that the land exchange has targeted any particular private property. Targeting private property where owners have no desire to sell is alien to the protections guaranteed in the Constitution. And even when owners are willing to sell, specifying their property for a congressionally mandated exchange has historically jacked up the property's price far above its former market value.

I urge the Senate Energy and National Resources Committee to move on this legislation quickly. There is bipartisan concensus that its passage is purely good public policy.

By Mr. RIEGLE:

S. 2286. A bill to amend the Internal Revenue Code of 1986 to increase the standard deduction for child dependents; to the Committee on Finance.

STANDARD DEDUCTION FOR CHILD DEPENDENTS

Mr. RIEGLE. Mr. President, today I am introducing legislation to increase the amount of income that dependents may earn before it is subject to Federal income tax. With April 15 only a day away, it is very important that we send a signal to parents and their children that the Federal Government is working to correct a very unfortunate consequence of the Tax Reform Act of 1986; namely the taxing of small incomes of those dependents who work and save.

Our economic system is based on the industriousness of our work force. We want to instill this work ethic at an early age because we know that our children should begin to see the rewards that come from work.

S. 2286, the Childrens Economic Equity Tax Act, will raise the amount of earned income of a dependent that is not subject to tax to $4,000 and will increase the unearned income level to $1,000. These increases will allow dependents to keep their hard earned income and to save for college and other expenses. At the same time, the abusive sheltering of income by parents that existed under the old tax law is still not allowed—the new tax law rules take effect after the new levels of earned and unearned income are reached.

I do not think it was the intent of the tax writers to go after children who work hard at delivering newspapers, doing yard work, babysitting, working at the local fast food restaurant, caddying, and stocking grocery store shelves. These types of jobs are absolutely essential; we should not penalize our children by imposing taxes on the earnings from such jobs. The new law hurts dependents who earn over $500 from jobs and also save some of the money they have earned. Even if the interest from a savings account is only $1, that income is taxed. This type of tax policy needs to be corrected. Such a correction does not weaken tax reform, it corrects the unwanted consequences of the 1986 reform law.

Increasing the earned income standard deduction level to $4,000 will both eliminate the tax for most of our children, but just as important, not encourage them to go around the system by seeking "cash only" types of jobs. Our laws should be designed to encourage our children to follow them, not to circumvent them.

Setting a reasonable unearned income level that is not subject to tax will also encourage our children to save a portion of their earnings. We want to instill this savings ethic at an early age. As my colleagues well know, the savings base in America is too low. We should be doing everything possible to raise this savings base.

The present problem we face with the so-called Kiddie Tax is outlined all too well by Joyce Hackel of the State News Service in an article dated January 12, 1988.

I ask unanimous consent that the article be printed in the RECORD.

Mr. President, I think the last line from that story shows how bad the new tax regulations are with respect to our children. It is my hope that Congress will act swiftly to amend our Tax Code and raise the levels for earned and unearned income of dependents.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON.—In a bygone era, children weren't expected to face existential crises like death and taxes.

But this year, the dawning of the "kiddy tax" and other changes in children's income-tax filing requirements, signal the end of another prerogative of youth.

Let's say you're a 12-year-old who cut lawns for a neighborhood landscaping agency in 1987 for $20 per week and managed to stash enough cash in a savings account to collect $10 in interest.

You previously avoided the tax collector's net and were free to squander the remainder of your income on comic books and candy bars.

But thanks to this year's new federal tax code, you must now collect the appropriate forms from the IRS, your employer and your bank, tackle 18 lines of calculations, and file your tax return before April 15 in order to reimburse Uncle Sam for the one dollar in taxes that you now owe.

That amounts to a lot of work for a 12-year-old, and for the IRS, to simply collect a few candy bars' worth of savings.

But all the changes in the tax laws affecting children aren't that frivolous. The intent of one of the reforms, dubbed the "kiddy tax," was designed to crackdown on high-income parents who hid their assets in their children's accounts to avoid taxation.

Effective this year, unearned income over $1,000 garnered by children under 14 years old is taxed at their parent's highest bracket. But wealthy parents can still cash in once their children reach 14 years; then the youngsters are again taxed at their lowest bracket.

"These changes were not designed to hit kids who mow lawns or rake leaves after school, said Mike Wessel, legislative director to Rep. Richard Gephardt, D-Mo. "The tax code changes were designed to prevent the tax evasions being used by wealthy individuals."

Gephardt, along with Sen. Bill Bradley, D-NJ, sponsored the original bill that became the Tax Reform of 1986.

Another key change in this year's tax law prevents parents and their children from simultaneously taking a $1,900 personal exemption. If youngsters claim themselves as a dependent, their parents can't "double dip" and take the exemption as well.

But the more controversial changes, like the one that hit the hypothetical young lawn mower, taxes small wage earners if they also collect unearned income such as interest on a savings account. Children who collect both earned and unearned income are taxed on any income over $500.

The architects of the tax reform defend their changes.

"It's sometimes necessary to use a shot gun approach to find those tax evaders you're trying to get at because you never know who the evaders are until you look at everyone's report," Wessel said. "So some people are swept into the system because of a few bad apples."

The changes effective this year are the most significant alterations in the tax code for half of a century.

And reform of children's tax laws are expected to create mountains of new paperwork for the IRS. Wilson Fadely, an IRS spokesman, said his agency will process approximately 104 million tax forms this year, up from 101 million filings last year. A signifcant portion of the upturn, he noted, is due to the expected increase in child taxation.

Fadely acknowledged that so long as they are legible, the IRS will accept 1040's completed in crayon.

By Mr. HECHT:

S. 2287. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Finance.

PAYMENT OF SOCIAL SECURITY BENEFITS FOR THE MONTH OF A RECIPIENT'S DEATH

● Mr. HECHT. Mr. President, many individuals are not aware that the Social Security Administration does not pay benefits for the month a person dies. This is clearly an unfair provision because Social Security recipients are deserving of these benefits that they have worked a lifetime to earn. As written, this law has created a great burden on American families and a terrible financial hardship for those who have lost loved ones. If a person dies even on the last day of the month a minute before midnight, his family will lose his entire Social Security check for that month. This provision has been in existence since the 1939 amendments and has never been repealed since the creation of the Social Security system.

Because of this great injustice, Mr. President, I rise today to introduce legislation that will ensure payment of Social Security benefits the month an individual dies. Specifically, my legislation will amend the Social Security Act to provide that an individual's entitlement to benefits continues through the day of his or her death. This legislation will prorate Social Security benefits in the month of death. For example, a Social Security recipient who passes away on January 20 would receive twenty-thirty-first of their regular monthly benefit with my legislation.

My bill will ensue that full benefits earned by the Social Security beneficiary continue through his death. Recently, one of my constituents, an 84-year-old woman in Las Vegas, received a notice from a local bank in Nevada, informing her that her deceased son's Social Security check had been returned to the Social Security Administration without payment. She had lived with her son who was blind and a diabetic for many years and was depending on his Social Security disability check. Her son had passed away on February 28.

Though he died at the end of the month, his check was automatically returned to the Social Security Administration and my constituent was denied money that rightfully belonged to the deceased. This I believe, Mr. President, is not fair. These benefits belong to him and not to the Social Security Administration. Further, his family was left without the finances they needed to pay for his medical and funeral expenses.

Mr. President, my legislation will correct the problem which my constituent encountered and ensure that the benefits that American citizens earn by contributing to the Social Security System during their working years will be rewarded to them up until the date of their death. I urge my colleagues to support this important legislative reform.●

By Mr. HEINZ (for himself and Mr. SASSER):

S. 2288. A bill to amend the Bank Holding Company Act of 1956 to prohibit foreign bank holding companies from acquiring any shares of a company which is primarily engaged in making a tender offer for a U.S. company engaged in activities other than those permissible for U.S. bank holding companies and to provide for limitations on acquisitions of companies primarily engaged on other than financial services by certain companies owning banks; to the Committee on Banking, Housing, and Urban Affairs.

HOSTILE TAKEOVERS

Mr. HEINZ. Mr. President, on April 11, this last Monday, the Senate Banking Committee held a hearing to consider legislation I first presented to the Senate during consideration of S. 1886, the Proxmire Financial Modernization Act of 1988.

I would like especially to thank the chairman of the committee, Senator PROXMIRE, who at this moment in fact occupies the chair as the Presiding Officer of the Senate, for scheduling that hearing so extremely promptly.

My amendment and the hearing were triggered by certain recent activities by Shearson Lehman Hutton, an investment banking subsidiary of the American Express Co. On March 3, 1988, Shearson, in a consortium with Beazer PLC and National Westminster Bank, initiated a hostile tender offer for Koppers Co., an industrial company headquartered in Pittsburgh.

As the senior Senator from the Commonwealth of Pennsylvania, I am, of course, concerned about the outcome of the hostile takeover attempt of Koppers. However, my greater concern involves a far larger issue than the future ownership of one company. That is this: Should companies which are primarily involved in financial services and which own FDIC-insured banks, also be permitted to make equity investments in commercial or industrial companies or to otherwise exercise influence or control over such nonfinancial companies?

Our hearing examined this and other facets of the hostile takeover attempt and brought to light certain points which I believe should be shared with the Senate.

During the hearing, officials of American Express Co. denied that they or Shearson were either equity partners with Beazer or were trying to gain control of Koppers. In particular, they stated that Shearson's $23 million equity stake in the takeover Shell Corp.—in addition to the more than $500 million in preferred stock that it is buying—was only temporary and merely part of a financing package for its client.

Mr. President, in my books, investment in a corporate entity through purchase of its common and preferred stock connotes ownership—that is clearly equity ownership and not debt. More importantly, despite Shearson's protestations, an investment of this magnitude provides the ability to influence and control the outcome of this transaction.

Shearson's involvement in this hostile tender offer represents the first time a major investment bank has taken an equity position in a hostile takeover attempt. That makes this deal different from any other. Shearson is both partner and financier of this deal. It can and will pull the financial strings of the tender offer. It can and did dominate and guide every aspect of the planning and execution of the Koppers takeover attempt.

This is significant, Mr. President, because this puts enormous financial pressure on both the acquirer and target corporations. Why? Simply because the financier calls the shots. It wants to maximize its short-term profits and to reduce its financial exposure in the transaction as quickly as possible. This does not mean repayment of the debt through the prudent operation of the merged corporations but rather by whatever means the financier/partner dictates. What this means is the target company's commitment to its mission—whether or not the takeover is successful—becomes sacrificed to pay off its debt.

That is exactly what Shearson will do despite Mr. Beazer's—the other partner in the acquiring corporation—testimony that he intends to eventually buy out the huge investment of Shearson/American Express. Unfortunately, it is not Mr. Beazer who will determine the future of Koppers if this takeover is successful. It is Shearson/American Express.

I can say this, Mr. President, because Shearson is not a passive participant in this endeavor. It dreamed up the deal. It suggested the deal to Beazer PLC last summer. And it supported the deal—when Beazer itself could not—by agreeing to provide almost 70 percent of the equity dollars and a total of almost $600 million in financing for the Shell Co. that would attempt the takeover. If this deal succeeds, Shearson will own almost 50 percent of Koppers.

Perhaps more startling at the hearing, Mr. President, was that American Express, through the actions of its subsidiary, Shearson revealed two things: First, it testified that, as the 60 percent owner of Shearson, it neither sought nor received any prior information on what was, in the words of the Wall Street Journal, an "unprecedented" transaction, the first of its kind. This hands off approach is troublesome, even frightening, given the size of the transaction, the amount of Shearson's capital invested in the transaction as equity, and the significant level of debt involved. It becomes more troublesome in view of the Senate's recent actions to permit certain diversified financial holding companies to own and operate banks.

Second, American Express in effect, condoned the abrogation of the longstanding policy in this country regarding the separation of banking from general commerce and industry. In fact, its witnesses testified that if S. 1886, the Proxmire Financial Modernization Act of 1988, is passed, then bank holding companies—through their securities affiliates—would be able to do this type of investment without any further action by Congress that is to say whether or not the Congress granted securities underwriting powers to these securities affiliates. American Express testified that if the legislation is passed, and I quote:

> The bill * * * would clearly allow a securities subsidiary of bank holding company to engage in all securities activities permitted for brokers or dealers * * * this would presumably include full service investment banking, and full service investment banking inherently permits an investment banker to provide "bridge financing" to its client even if such financing is structured to resemble "equity investment."

In fact, American Express even went so far as to suggest that it might be permissible for a bank holding company to engage in this activity right now, even though the Bank Holding Company Act—when I last read it—states that a BHC cannot own more than 5 percent of a company whose business in "not reasonably related to the business of banking for a proper incident thereto."

Mr. President, I do not know which laws they are following, but American Express and Shearson's interpretation is clearly contrary to the intent of national policy since 1933—separating commercial from investment banking—a policy which was reaffirmed in CEBA with the closing of the nonbank loophole and refined in the current legislation separating financial services from commerce. I might add that S. 1886 and this policy were overwhelmingly reaffirmed by the Senate just 2 weeks ago by a 94-to-2 vote.

This is a dangerous road for the future of our banking system. In S. 1886, the Banking Committee and the Senate agreed to redefine the barrier between banking and permitted financial services and commerce. We agreed to carve out a special category of holding company that was primarily involved in financial services, including banking and exempt it from certain Federal Reserve and Bank Holding Company Act regulations. We did not endorse any affiliation between this new type of holding company with general industrial or commercial operations. We did not endorse any affiliation between a bank holding company with general industrial or commercial operations—either under current law or in S. 1886.

Mr. President, if this is the public's perception of what is or will be permissible under our banking laws, then the public—including the commercial and investment banking sector—is in for a rude awakening. We never intended companies owning insured banks—whether they are regulated under the Bank Holding Company Act, grandfathered under CEBA or covered as diversified financial holding companies under S. 1886—to be able to invest substantial amounts of their capital in nonfinancial firms. We never intended that companies such as Shearson/American Express which own and benefit from federally insured banks be permitted to derive funds for their predatory efforts from banking institutions subsidized by the Federal Insurance System.

Based upon the testimomy of the hearing, I am introducing with my colleague, Mr. SASSER, legislation that will at a minimum, correct an unintended loophole in the grandfather provisions of CEBA and the laws regulating foreign bank holding companies.

The legislation does two things. First, it would prohibit foreign bank holding companies from acquiring shares of a shell company organized to make a tender offer for a publicly traded U.S. commercial or industrial firm that is conducting activities impermissible for a domestic bank holding company.

The purpose of this is quite clear. We will not allow foreign bank holding companies which own federally insured banks to take an active role in a hostile tender offer for a U.S. industrial company. Congress, in passing amendments to the Bank Holding Company Act in the Competitive Equality Banking Act last summer, clearly intended to prohibit foreign bank holding companies from engaging in such financial activities in the United States.

Yet, that is the situation in the current hostile takeover attempt of Koppers. National Westminster Bank, a bank holding company registered under the Bank Holding Company Act of 1956 is an equity partner in the takeover attempt. This equity participation by a bank holding company in a hostile tender offer for a company unrelated to banking is unprecedented. This could well be the beginning of even more aggressive involvement by such foreign commercial banks in the hostile takeover area.

Second, this legislation would prohibit a financial services company that owns a grandfathered nonbank bank from taking more than a 5-percent equity interest in a company that is not involved in financial services.

As I stated earlier, this provision is necessary to reaffirm and clarify the intent of Congress—most recently expressed in the Senate's passage of S. 1886—to maintain the barrier between financial services and commerce. The Shearson/American Express activity is inconsistent with this effort as well as with efforts to erect proper firewalls between banks and securities firms, other financial entities, and commercial business in order to protect the Federal deposit insurance funds—of which goals are realized in S. 1886.

Mr. President, we will seek to have expeditious consideration of this legislation before the Senate and House meet in conference on the pending banking legislation. On behalf of Mr. SASSER and myself, I urge my colleagues to support it.

Mr. President, I feel certain that our colleagues on the committee and that our colleagues both in the Senate and House will recognize what I have just described as a dangerous assault on the integrity of our banking laws. And I would predict that we will take action in the conference to resolve this matter favorably and for all time.

I ask unanimous consent to have the text of the bill printed in its entirety.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITIONS ON CERTAIN ACQUISITIONS BY FOREIGN BANK HOLDING COMPANIES.

Section 2(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(h)) is amended by adding a new subparagraph (6) as follows:

"(6) Notwithstanding any other provision of this Act, no bank holding company organized under the laws of a foreign country may acquire, directly or indirectly, after March 30, 1988, any share of common or preferred stock, voting or non-voting, of a company which is primarily engaged in the acquisition of 25% or more of any class of shares of a company organized under the laws of the United States (the "target company"), if (i) such target company is engaged in any activities other than those permissible for a bank holding company pursuant to Section 4 of this Act and (ii) the acquisition of target company shares is made pursuant to a tender offer subject to the provisions of Section 14(d) of the Securities Exchange Act of 1934. A foreign bank holding company which, prior to March 30, 1988, acquired shares whose acquisition would thereafter be prohibited by the foregoing sentence shall divest all such shares held within 60 days of the date of enactment of this provision.

SEC. 2. LIMITATIONS ON ACQUISITIONS BY CERTAIN COMPANIES OWNING BANKS.

Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding a new subparagraph (C) to subsection (2) as follows:

"(C) Such company has more than 50% of its consolidated assets devoted to financial services activities and more than 10% of its consolidates assets devoted to insured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and such company or any subsidiary thereof, after March 28, 1988, acquires control, directly or indirectly, except in the capacity indicated in subparagraph (2)(A)(ii), or more than 5% of the shares of common or preferred stock, voting or non-voting, of a company whose shares are registered under the Securitites Exchange Act of 1934 unless 50% or more of the consolidated assets of such company are devoted to financial services activities. For the purposes of this subsection, the term "financial services activities" shall mean:

(a) underwriting, distributing or dealing in securities of any type;

(b) securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940;

(c) insurance underwriting activities;

(d) insurance agency activities;

(e) real estate brokerage activities;

(f) real estate investment and development activities;

(g) travel agency activities;

(h) operating insured banks; and

(i) any other activities that the Board has determined to be financial.

● Mr. SASSER. Mr. President, I rise as a cosponsor of the legislation being introduced today by my distinguished colleague, Senator HEINZ of Pennsylvania. The issue, and indeed the legislation that Senator HEINZ is introducing, is timely. We have pending in Congress major legislation governing both the role of banks in the securities business, and corporate takeovers generally. Senator HEINZ' proposal is appropriate for incorporation in either bill.

The legislation addresses a situation where an investment bank has made an unprecedented equity interest in a highly leveraged hostile takeover—in effect acted as a corporate raider, rather than an offeror of investment advice. Most importantly, this investment bank has done this at the same time it is in the highly unusual position of owning the 20th largest federally insured bank in the United States.

Mr. President, I think it is fair to say that the banking industry in this country traditionally has followed a philosophy of conservatism and avoidance of risk. When it has strayed from this course it has gotten into trouble. Thus, when the owner of a bank, for whom the Federal Government is providing insurance, takes an enormous equity interest in a highly leveraged hostile acquisition, I think it is time for us to pause and reexamine the laws that permit this to occur.

The separation of banking and commerce has been a basic tenent of banking law in America for generations. It is good public policy. The separation of banking and commerce is a check against conflicts of interest. It protects federally insured deposits from risk, and it prevents these deposits from subsidizing nonbanking activities.

Mr. President, so-called nonbank banks are somewhat of an enigma in this scheme. In last year's banking bill, we grandfathered over 100 such banks to be owned by diversified companies. I supported this legislation and still do. However, we did not foresee a situation where a federally insured nonbank bank would be a very, very large part of a company's operation, at the same time the company engaged in corporate funding.

Thus, Senator HEINZ's bill has much merit. Quite simply, it says that when a bank comprises over 10 percent of a financial services company's business, that company cannot make an equity investment in a nonfinancial services firm of greater than 5 percent. Indeed, the proposal parallels just one of the many restrictions on traditional bank holding companies—the provision of the Bank Holding Company Act that limits equity investments in nonbanking activities to 5 percent.

Mr. President, it's often said that banks occupy a special place in our economic system. We confer certain advantages on both banks and their owners and in return expect them to fullfill certain obligations. I respectfully submit that corporate raiding is not one of these obligations.

In closing, I want to note that the Koppers Co., that has unfortunately become a takeover target recently, has been an outstanding public citizen of my home State for over 50 years. Its forest products division services some 400 sawmills statewide, and its Stone Man Construction operation is an important part of the east Tennessee economy.●

By Mr. LEVIN:

S. 2289. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for two-earner married couples, to provide for maximum individual tax rate of 38.5 percent, to eliminate the personal exemption phaseout, to insure a maximum individual long-term capital gains rate of 28 percent, to provide income averaging for farmers, and for other purposes; to the Committee on Finance.

TAX REFORM REFORM ACT

● Mr. LEVIN. Mr. President, 2 years ago, I voted against the Tax Reform Act of 1986 because, among other reasons, I believed that it would result in a tax increase for millions of middle- and low-income taxpayers and because it did nothing to reduce the deficit, and, in fact, would make it harder to deal with this dominant problem facing our Nation.

Last year, I introduced the Tax Reform Reform Act of 1987, S. 670, which was designed to remedy some of the most glaring problems with the 1986 act. S. 670 provided for a maximum individual tax rate of 35 percent, a partial restoration of the two-wage-earner deduction, and a restoration of income averaging for farmers. The net effect of this legislation would have been to decrease the deficit by $12 billion over 3 years, reduce taxes for more than 20 million taxpayers and increase taxes on the 600,000 highest income taxpayers.

This year, in spite of the White House-congressional budget agreement enacted in December 1987, we are confronted with a deficit mired in the $160 to $170 billion range. At the same time, an increasing number of taxpayers—particularly two-wage-earner couples—are becoming aware that the Tax Reform Act of 1986 meant a tax increase for them, at the same time that it has meant very large tax cuts for most of the highest income taxpayers in the country.

It is this need for greater deficit reduction and for greater equity in the Tax Code for average taxpayers that has led me to introduce today the Tax Reform Reform Act of 1988. This legislation, which would take effect in 1989, follows the basic outlines of the bill I introduced last year. However, in order to generate greater revenue to reduce the deficit further and to provide for more middle-income tax relief, this legislation sets the maximum individual income tax rate at 38.5 percent, the same maximum rate that was in effect in 1987, for married taxpayers filing joint returns with taxable incomes of $155,000 and for single taxpayers with taxable incomes of $93,350. Information from the Congressional Budget Office suggests that this proposal would only affect less than 1 percent of the total number of taxpayers. Under current law, the tax rate for these taxpayers has dropped to 28 percent. The legislation that I am introducing would retain this 28-percent rate for capital gains income.

In addition, the legislation I am introducing today would reduce the marriage penalty tax by re-establishing a two-wage earner deduction to a maximum of $1,000. It would be calculated by allowing for a deduction of 5 percent of the lesser earning spouse's income up to an income of $20,000. As such, this provision calls for a larger deduction than did the bill I introduced last year, but not as large as the deduction of $3,000 that was available to two-wage earner couples prior to the passage of tax reform in 1986. Restoring the full two-wage earner deduction is an admirable goal, but the reality of the budget deficit and the need to do something about it forces us to look to a more limited approach. Nevertheless, this provision would still reduce taxes for over 20 million taxpayers.

Furthermore, this legislation would restore income averaging for farmers. Even the version of the Tax Reform Act of 1986 which passed the Senate included income averaging for farmers. However, it was dropped in the conference with the House of Representatives. I believe that it is once again important to try to make the option of income averaging for farmers available to them as the farm sector struggles for economic recovery.

Finally, even after the partial restoration of the two-wage earner deduction and income averaging, the legislation I am introducing today would still allow for substantial deficit reduction. According to the Joint Committee on Taxation, restoring the 38.5 percent bracket these highest income taxpayers would increase revenues by $6.7 billion in fiscal year 1989, $13.3 billion in fiscal year 1990 and $15.3 billion in fiscal year 1991, even if the maximum capital gains rate was kept at 28 percent. This total revenue gain of $35 billion would be offset by the approximately $15 billion necessary to accommodate the partial restoration of the two-wage earner deduction and income averaging for farmers. Therefore, the net effect of this legislation would be to reduce the deficit by $20 billion over the next three years at the same time that it provides tax relief to millions of average taxpayers who were hit particularly hard by the "tax reforms" of 1986.

Mr. President, it is rare that we have an opportunity to meet the pressing national need to reduce the deficit at the same time that we can provide some relief to millions of average taxpayers who feel that they have been raked over the coals by the tax reforms of 1986. And there is no doubt that is how many Americans feel. In fact, just today in a poll published in USA Today, it is reported that 66 percent of Americans see the new Tax Code as unfair and 47 percent said they were paying more in taxes under the new code.

Many Members of the Congress thought they were doing taxpayers a favor when they voted for the new tax law. I had so many doubts that I voted against the 1986 tax reform bill. But now, regardless of what our positions were in 1986, we have an opportunity to really help average taxpayers by passing the Tax Reform Act of 1988.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Tax Reform Act of 1988.

SEC. 2. RESTORATION OF DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) In General.—Section 131 of the Tax Reform Act of 1986 is hereby repealed.

(b) Application of Internal Revenue Code of 1986.—The Internal Revenue Code of 1986 shall be applied and administered without regard to such section 131 (and the amendments made by such section).

(c) Modifications of Deduction.—Subsection (a) of section 221 of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) Deduction Allowed.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 5 percent of the lesser of—

"(1) $20,000, or

"(2) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 3. RESTORATION OF INCOME AVERAGING FOR QUALIFIED FARMERS.

(a) In General.—Section 141 of the Tax Reform Act of 1986 is hereby repealed.

(b) Application of the Internal Revenue Code of 1986.—The Internal Revenue Code of 1986 shall be applied and administered without regard to such section 141 (and the amendments made by such section).

(c) Income Averaging Allowed for Qualified Farmers.—

(1) In general.—Subsection (a) of section 1303 of the Internal Revenue Code of 1986 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(2) Qualified farmer.—Section 1303 of such Code (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) Qualified Farmer.—For purposes of this section—

"(1) In general.—The term 'qualified farmer' means a taxpayer other than a corporation who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e)(4) and (5)).

"(2) Actively engaged.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.".

(3) Conforming amendments.—

(A) The heading of part I of subchapter Q of chapter 1 of such Code is amended by inserting "FOR FARMERS" after "AVERAGING".

(B) The table of parts for subchapter Q of chapter 1 of such Code is amended by inserting "for farmers" after "averaging" in the item relating to part I.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SECTION 4. INCREASE IN MAXIMUM INDIVIDUAL INCOME TAX RATE TO 38.5 PERCENT.

(a) In General.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended—

(1) by striking out the item beginning "Over $29,750" and all that follows in subsection (a) and inserting in lieu thereof the following new items:

"Over $29,750 but not over $154,999.	$4,462.50, plus 28% of the excess over $29,750.
Over $154,999	$37,922.50, plus 38.5% of the excess over $154,999.".

(2) by striking out the item beginning "Over $23,900" and all that follows in subsection (b) and inserting in lieu thereof the following new items:

"Over $23,900 but not over $128,999.	$3,585, plus 28% of the excess over $23,900.
Over $128,999	$31,554.20, plus 38.5% of the excess over $128,999.".

(3) by striking out the item beginning "Over $17,850" and all that follows in subsection (c) and inserting in lieu thereof the following new items:

"Over $17,850 but not over $93,349.	$2,677.50, plus 28% of the excess over $17,850.
Over $93,349	$22,756.30, plus 38.5% of the excess over $93,349.".

(4) by striking out the item beginning "Over $14,875" and all that follows in subsection (d) and inserting in lieu thereof the following new items:

"Over $14,875 but not over $118,059.	$2,231.25, plus 28% of the excess over $14,875.
Over $118,059	$29,790.25, plus 38.5% of the excess over $118,059.", and

(5) by striking out the item beginning "Over $5,000" and all that follows in subsection (e) and inserting in lieu thereof the following new items:

"Over $5,000 but not over $27,092.	$750, plus 28% of the excess over $5,000.
Over $27,092	$6,630, plus 38.5% of the excess over $27,092.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 5. PERSONAL EXEMPTION PHASE-OUT ELIMINATED.

(a) In General.—Paragraph (2) of section 1(g) of the Internal Revenue Code of 1986 (relating to phaseout of 15-percent rate and personal exemptions) is amended to read as follows:

"(2) Limitation.—The increase determined under paragraph (1) with respect to any taxpayer for any taxable year shall not exceed 13 percent of the maximum amount of taxable income to which the 15-percent rate applies under the table contained in subsection (a), (b), (c), (d), or (e) (whichever applies). In the case of any individual taxable under subsection (d), the preceding sentence shall apply as if such individual were taxable under subsection (a).".

(b) Conforming Amendment.—The heading of section (1)(g) of the Internal Revenue Code of 1986 is amended by striking out "AND PERSONAL EXEMPTIONS".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 6. 28-PERCENT MAXIMUM INDIVIDUAL LONG-TERM CAPITAL GAINS RATE.

(a) In General.—Paragraph (1)(A) of section 1(g) of the Internal Revenue Code of 1986 (relating to phaseout of 15-percent rate) is amended by striking out "taxable income" and inserting in lieu thereof "taxable income reduced by the amount of net capital gain".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.●

ADDITIONAL COSPONSORS

S. 181

At the request of Mr. Riegle, the name of the Senator from Michigan [Mr. Levin], was added as a cosponsor of S. 181, a bill entitled the "Public Safety Officers' Death Benefits Amendments of 1987."

S. 1081

At the request of Mr. Bingaman, the names of the Senator from New York [Mr. Moynihan] and the Senator from Vermont [Mr. Stafford] were added as cosponsors of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1301

At the request of Mr. Leahy, the names of the Senator from Arizona [Mr. DeConcini], the Senator from Iowa [Mr. Grassley], the Senator from Wyoming [Mr. Simpson], and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 1301, a bill to amend title 17, United States Code, to implement the Berne Convention for the Protection of Literary and Artistic Works, as revised on July 24, 1971, and for other purposes.

S. 1429

At the request of Mr. Lautenberg, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1522

At the request of Mr. Riegle, the name of the Senator from Georgia [Mr. Fowler], was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1727

At the request of Mr. Harkin, the names of the Senator from Pennsylvania [Mr. Specter], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1774

At the request of Mr. Pryor, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1821

At the request of Mr. Breaux, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of S. 1821, a bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide that certain services performed by an individual in the processing of fish or shellfish are exempt from the definition of employee for Federal tax purposes.

S. 1992

At the request of Mr. Heinz, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 1992, a bill to promote intergovernmental and interagency cooperation in the development of ground water policy.

S. 2015

At the request of Mr. Kennedy, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2024

At the request of Mr. Baucus, the name of the Senator from North Carolina [Mr. Helms] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2032

At the request of Mr. Breaux, the names of the Senator from North Dakota [Mr. Burdick], the Senator from Tennessee [Mr. Gore], the Senator from South Carolina [Mr. Hollings], the Senator from Virginia [Mr. Warner], the Senator from Idaho [Mr. Symms], the Senator from Florida [Mr. Chiles], the Senator from Arkansas [Mr. Pryor], the Senator from Montana [Mr. Baucus], the Senator from West Virginia [Mr. Rockefeller], the Senator from South Dakota [Mr. Pressler], the Senator from Maryland [Ms. Mikulski], the Senator from Alaska [Mr. Stevens], the Senator from Maine [Mr. Mitchell], the Senator from Oklahoma [Mr. Boren], the Senator from Missouri [Mr. Bond], the Senator from Wyoming [Mr. Simpson], the Senator from Florida [Mr. Graham], the Senator from Indiana [Mr. Quayle], the Senator from New York [Mr. Moynihan], the Senator from South Carolina [Mr. Thurmond], the Senator from Nevada [Mr. Reid], the Senator from Minnesota [Mr. Boschwitz], and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2042

At the request of Mr. Durenberger, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2045

At the request of Mr. Dole, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 2045, a bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, to protect water quality and wildlife habitat, to otherwise improve the program, and for other purposes.

S. 2120

At the request of Mr. Matsunaga, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2120, to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

S. 2156

At the request of Mr. Lugar, the names of the Senator from Minnesota [Mr. Durenberger], the Senator from Vermont [Mr. Stafford], the Senator from Arkansas [Mr. Pryor], the Senator from Missouri [Mr. Danforth], the Senator from North Dakota [Mr. Conrad], the Senator from South Dakota [Mr. Pressler], the Senator from Delaware [Mr. Roth], the Senator from Kansas [Mrs. Kassebaum], the Senator from Louisiana [Mr. Breaux], and the Senator from Oklahoma [Mr. Boren], were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2216

At the request of Mr. Cochran, the names of the Senator from Indiana [Mr. Lugar], the Senator from Maryland [Mr. Sarbanes], the Senator from Maryland [Ms. Mikulski], the Senator from Alaska [Mr. Murkowski], the Senator from Connecticut [Mr. Weicker], the Senator from Tennessee [Mr. Sasser], the Senator from North Carolina [Mr. Sanford], the Senator from Nevada [Mr. Reid], the Senator from Arkansas [Mr. Pryor], the Senator from Oklahoma [Mr. Nickles], the Senator from New Mexico [Mr. Bingaman], the Senator from North Dakota [Mr. Burdick], the Senator from Kentucky [Mr. Ford], the Senator from Texas [Mr. Bentsen], the Senator from Illinois [Mr. Dixon], the Senator from Oregon [Mr. Hatfield], the Senator from Georgia [Mr. Fowler], the Senator from Michigan [Mr. Levin], the Senator from Alaska [Mr. Stevens], the Senator from South Dakota [Mr. Pressler], the Senator from Wisconsin [Mr. Kasten], and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of S. 2216, a bill to designate the National Space Technology Laboratories in Bay St. Louis, MS, as the "John C. Stennis Space Center."

SENATE JOINT RESOLUTION 248

At the request of Mr. Quayle, the names of the Senator from Missouri [Mr. Bond], the Senator from Tennessee [Mr. Gore], the Senator from Arizona [Mr. DeConcini], the Senator from Pennsylvania [Mr. Specter], the

Senator from New York [Mr. MOYNIHAN], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 264

At the request of Mr. RIEGLE, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. TRIBLE], and the Senator from Hawaii [Mr. MATSUNAGA], were added as cosponsors of Senate Joint Resolution 264, a joint resolution to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 268

At the request of Mr. HELMS, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 268, a joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961.

SENATE JOINT RESOLUTION 278

At the request of Mr. GLENN, the names of the Senator from California [Mr. CRANSTON] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating November 20-26, 1988, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential, elections.

SENATE JOINT RESOLUTION 288

At the request of Mr. BOREN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution to designate the week of June 5, 1988, through June 11, 1988, as "National Intelligence Community Week."

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. HUMPHREY, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. WEICKER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Ohio [Mr. METZENBAUM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Concurrent Resolution 95, a concurrent resolution to express the sense of the Congress with respect to the denial of health insurance coverage for disabled adopted children.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries for the purpose of resolving specific issues between the countries.

SENATE RESOLUTION 409

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Resolution 409, a resolution to express the sense of the Senate regarding the Community Development Block Grant and Urban Development Action Grant Programs.

AMENDMENT NO. 1944

At the request of Mr. METZENBAUM, his name was withdrawn as a cosponsor of Amendment No. 1944 proposed to Senate Concurrent Resolution 113, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991.

SENATE RESOLUTION 411—URGING THE RELIEF OF ADEM DEMACI

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 411

Whereas Adem Demaci is currently serving the latter part of a 13-year prison term in Yugoslavia;

Whereas Adem Demaci is reportedly the political prisoner with the longest prison record in Yugoslavia;

Whereas Adem Demaci was sentenced for distributing petitions opposing one-party rule in Yugoslavia and requesting a referendum for ethnic Albanians in Yugoslavia;

Whereas Adem Demaci has not been accused of using or advocating violence against the Yugoslav Government;

Whereas Adem Demaci is in very poor health and almost blind;

Whereas Adem Demaci has been adopted as a prisoner of conscience by Amnesty International;

Whereas Yugoslavia is a signatory to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Final Act; and

Whereas Principal VII of the Final Act contains provisions concerning respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion, or belief: Now, therefore, be it

Resolved, That the Senate urges, for humanitarian reasons, that the Government of Yugoslavia release Adem Demaci from prison.

● Mr. D'AMATO. Mr. President, I rise today to submit a Senate resolution calling upon the Government of the Socialist Federal Republic of Yugoslavia immediately to release from prison, on humanitarian grounds, Mr. Adem Demaci. This resolution is similar to House Resolution 411, introduced on March 23, 1988, by Representative JOSEPH DIOGUARDI, with Representatives LANTOS, BROOMFIELD, and GILMAN as original cosponsors.

Mr. Demaci is an Albanian activist. He has been imprisoned by Yugoslavian authorities for 24 years and is currently serving a 13-year sentence.

As Chairman of the Commission on Security and Cooperation in Europe—better known as the Helsinki Commission—during the 99th Congress, I presented a list of eight political prisoners to Yugoslav authorities. Mr. Demaci's name was on that list. Mr. Demaci is the only one on that list who has not been freed. In fact, he is the longest incarcerated political prisoner in Yugoslavia.

As a signatory of the Helsinki accords, Yugoslavia is bound to respect human rights and fundamental freedoms. Until Mr. Demaci is freed, Yugoslavia will not be in compliance with its international obligations.

Let me note at this point that it is the policy of the U.S. Government to support the independence, unity, sovereignty, and territorial integrity of the Socialist Federal Republic of Yugoslavia, consistent with our other obligations under international law. Nothing in this resolution should be interpreted by anyone as contradicting this policy or as support or encouragement for violent actions in support of independence for the Yugoslavian Province of Kosovo, or for unification of that province with Albania.

Now, I want to turn to amnesty international's description of the Demaci case. I quote now from amnesty's publication, Yugoslavia, Prisoners of Conscience:

> More Albanian nationalists from Kosovo were arrested and tried in 1975 and 1976. In February 1976, the writer Adem Demaqi [sic] (who had served two previous prison sentences for nationalist agitation) and 18 other Albanians were tried in Pristina and sentenced to 15 years' imprisonment.
>
> They were charged with "organizing against the people and the state," "hostile propaganda," and "crimes endangering the territorial integrity and independence of Yugoslavia." Adem Demaqi was accused of forming the "National Liberation Movement of Kosovo," whose alleged goal was the unification of Kosovo with Albania. The defendants were accused also of distributing publicity material attacking the policy of the SKJ, the system of socialist self-management and the leadership of the YFRJ in

the student quarters of Pristina University and other places in Kosovo and Macedonia. The defendants were not accused of either using or advocating violence and they were adopted as prisoners of conscience.

Also, Mr. President, I ask unanimous consent that the October 17, 1986 letter from myself as Chairman of the Helsinki Commission and Congressman STENY HOYER, then my distinguished cochairman, to his Excellency Mico Rakic, the Ambassador from Yugoslavia to the United States, be printed in the RECORD at the end of my remarks.

I commend this letter to my colleagues, because it expresses in balanced form our concerns about Yugoslavia, putting that nation's performance in perspective in terms of its Helsinki human rights obligations.

I urge my colleagues to support this resolution. Adem Demaci deserves our support on humanitarian grounds. His sentence, which was reduced to 13 years, has nearly ended, but he should never been imprisoned at all. He was exercising rights guaranteed to him by the Helsinki Final Act. With our support, he should be freed now.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE,
CONGRESS OF THE UNITED STATES,
Washington, DC, October 17, 1986.

His Excellency MICO RAKIC,
Embassy of the Socialist Federal Republic of Yugoslavia, Washington, DC.

DEAR MR. AMBASSADOR: As the Vienna Follow-Up Meeting of the Conference on Security and Cooperation in Europe (CSCE) approaches, we would like to take this opportunity to forward some CSCE-related thoughts and concerns relevant to Yugoslavia and ask that you convey them to the appropriate authorities in Belgrade.

Created by the U.S. Congress in 1976, the Commission on Security and Cooperation in Europe, on which we serve as Chairman and Co-Chairman, is an independent advisory agency mandated to monitor and encourage compliance with the Helsinki Final Act by all signatory states. Working with the Department of State and other U.S. Government agencies, the Commission is a strong proponent of the CSCE, its aims and goals.

It has been our experience that Yugoslavia, as a member of the neutral and nonaligned group of participating States, has played an important role in achieving positive results at various CSCE fora. Furthermore, we have noted Yugoslavia's strong advocacy of certain issues, such as national minorities, which are of concern to all. We fully appreciate Yugoslav concerns on these issues and are confident that, in Vienna, Yugoslavia will join efforts toward the achievement of improved security and cooperation in Europe.

As we are sure you will agree, a vitally important issue in the CSCE is that of human rights and other humanitarian fields. We cannot overstate the importance of progress in this area as a catalyst to improved relations among the countries belonging to the CSCE, including our own. In fact, it is our firm belief that the lack of respect for human rights and fundamental freedoms in several European states underlies many of the problems existent in Europe today, and our goal at Vienna will be to achieve compliance by all states with the human rights and humanitarian commitments made at Helsinki and Madrid.

With regard to Yugoslavia, we fully recognize the progress made in this area since the signing of the Final Act over eleven years ago. We note the toleration of a wider range of independent, individual expression and the open nature of Yugoslav society in terms of human contacts and access to information. Furthermore, we examine Yugoslav compliance with the Helsinki Final Act and Madrid Concluding Document in full realization of the many problems the Yugoslav Government has in maintaining economic and political cohesion in a country with such ethnic, cultural and religious diversity.

Despite these developments, we note that some individuals have been incarcerated or mistreated by Yugoslav authorities for acting upon their rights and freedoms as expressed in the Final Act and Madrid Concluding Document. In particular, we would like to bring to your attention the following individuals and request that your government take immediate action toward their release:

Ivan Zografski: a retired physician from Sarajevo, sentenced in January 1984 to 6 and ½ years, commuted to 5 and ½, confiscation of property and expulsion from the country (upon completion of his sentence) for "hostile propaganda" and "damaging the reputation of the Socialist Federal Republic of Yugoslavia." Dr. Zografski is over 70 years old and reportedly suffers from cirrhosis of the liver and diabetes.

Adem Demaqi: an Albanian writer, sentenced in Pristina in February 1976 to 15 years, commuted to 13-years, for allegedly "associating against the people and the state." He is reportedly in poor health.

Nikola Novakovic: imprisoned in Sarajevo in 1977 on a 12 year sentence, reduced to 10 on appeal, for "establishing contacts with hostile organizations abroad" and disseminating "hostile propaganda." He is known to be suffering from heart disease.

Vjenceslav Cizek: a professor, abducted in Italy and sentenced in Sarajevo in August 1978, to 15 years, commuted to 13 years, for "counter-revolutionary positions subversive to the social order." He reportedly has lost sight in one eye while in prison, allegedly due to inadequate medical treatment for glaucoma.

Miodrag Milic: a scenarist, sentenced in Belgrade to 2 years, commuted to 18 months, for "hostile propaganda" in February 1985 and imprisoned on July 17, 1986.

We also note that there are a significant number of ethnic Albanians currently serving lengthy prison sentences for what are considered political crimes. We urge the Yugoslav Government to review in a humanitarian spirit the cases of all Albanians currently imprisoned on political charges and to release those who have not used or advocated violence.

We want to stress that our expressions of concern for Yugoslav citizens who are denied their rights despite Yugoslavia's Helsinki and Madrid pledges in no way contradicts our support, nor that of the U.S. Government, for the independence, unity and territorial integrity of the Socialist Federal Republic of Yugoslavia. The raising of such concerns is an action legitimized by the CSCE itself, and the airing of problems regarding respect for human rights is a necessary step on the path towards their resolution, provided, as is the case between Yugoslavia and the United States, that there is good will and respect for national sovereignty on both sides. The Commission views serious Yugoslav consideration of our concerns, when followed by necessary actions, to be an important and positive aspect of U.S.-Yugoslav relations.

In conclusion, we hope you will ensure that our concerns are made known to the proper authorities in Yugoslavia. As our governments prepare to meet in Vienna, the favorable resolution of the cases mentioned herein will serve as a reaffirmation of Yugoslavia's stated commitment to implementation of the Helsinki Final Act and Madrid Concluding Document.

Sincerely,

ALFONSE M. D'AMATO,
Chairman.
STENY H. HOYER,
Co-Chairman.●

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE BUDGET

ARMSTRONG (AND OTHERS) AMENDMENT NO. 1945

Mr. ARMSTRONG (for himself, Mr. GRAMM, Mr. WALLOP, Mr. BOSHWITZ, and Mr. KASTEN) proposed an amendment to the concurrent resolution (S. Con. Res. 113) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991; as follows:

On page 2, decrease the amount on line 13 by $100,000,000.

On page 2, decrease the amount on line 14 by $200,000,000.

On page 2, decrease the amount on line 17 by $300,000,000.

On page 2, decrease the amount on line 18 by $300,000,000.

On page 2, decrease the amount on line 19 by $300,000,000.

On page 2, decrease the amount on line 23 by $100,000,000.

On page 2, decrease the amount on line 24 by $200,000,000.

On page 3, decrease the amount on line 11 by $100,000,000.

On page 3, decrease the amount on line 12 by $200,000,000.

On page 4, decrease the amount on line 1 by $200,000,000.

On page 4, decrease the amount on line 2 by $300,000,000.

On page 4, decrease the amount on line 3 by $300,000,000.

On page 4, decrease the amount on line 7 by $100,000,000.

On page 4, decrease the amount on line 8 by $200,000,000.

On page 15, decrease the amount on line 24 by $300,000,000.

On page 16, decrease the amount on line 9 by $300,000,000.

On page 16, decrease the amount on line 10 by $100,000,000.

On page 16, decrease the amount on line 19 by $300,000,000.

On page 16, decrease the amount on line 20 by $200,000,000.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the public that the hearing originally scheduled on April 18, 1988, before the Subcommittee on Energy Research and Development on S. 1480, has been rescheduled.

The hearing will now take place on May 11, 1988, at 2 p.m., in room SD-366 in the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 1480, The National Laboratory Cooperative Research Initiatives Act and proposed amendment No. 1627.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 3 p.m. in closed session to continue to receive testimony on the Intermediate-Range Nuclear Forces [INF] Treaty, and future weapons systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 14, 1988, at 9:30 a.m., to hold a hearing on S. 1632, the reauthorization of the National Science Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on April 14, 1988, at 2 p.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 9:30 a.m., to hold a hearing on S. 1559, the Small Business Federal Contracting Restoration Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, April 14, at 9:30 a.m., to hold markup on the nominations of Frank Schwelb, to be an associate judge of the District of Columbia Court of Appeals; Cheryl Long, to be an associate judge of the District of Columbia Superior Court; S. 2037, the Presidential Transition Effectiveness Act; S. 1856, reauthorization of National Historical Publications and Records Commission Amendment Act of 1987; S. 1381, the Cash Management Improvement Act of 1987; S. 533, elevation of Veterans' Administration to Cabinet status; and S. 1081, National Nutrition Monitoring and Related Research Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 10 a.m., to conduct a hearing on the Nurse Education Reauthorization Act, S. 2231.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 10:30 a.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on April 14, beginning at 9:30 a.m., to conduct a hearing on sham recycling and the recycling exemption in the Resources Conservation and Recovery Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, April 14, 1988, at 10 a.m., to continue oversight hearings on the recently released report of the National Housing Task Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 1 p.m. in open session to receive testimony on budgeted and unbudgeted alternatives for improving conventional defenses in NATO, including air defenses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Projection Forces and Regional Defense of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 2 p.m., in open session to receive testimony on the state of and plans for the U.S. Marine Corps in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 14, 1988, at 9 a.m., in open session to receive testimony on Department of Defense acquisition policies and management, and on S. 2254, the Defense Industry and Technology Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on April 14, 1988, at 10 a.m., to hold a hearing on S. 1961, the Federal Debt Collection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary, be authorized to meet during the session of the Senate on April 14, 1988, at 10 a.m., to hold a hearing on implementation of immigration reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on April 14, 1988, at 2 p.m., to receive testimony concerning S. 1052, a bill to establish a National Center for the U.S. Constitution within Independence National Historical Park In Philadelphia, PA; S. 1513, a bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes; S. 1682, a bill to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site; and S. 1690, a bill to amend the Historic Sites, Buildings, and Antiquities Act of 1935, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONDURAS

● Mr. BOREN. Mr. President, the people of Honduras are among the best friends of the United States in this hemisphere. They have had a clear understanding of the threat from Communist movements in Central America. They have been willing to take courageous positions to protect the long-range security interests of the region.

Honduras is also making substantial economic and social progress. Their educational system has markedly improved and the creative arts are flourishing. There is much to admire in the spirit of the citizens of this fine neighbor.

We must always remember that the surest way to lose a friend is to take that friendship for granted. The material integrity and legal system of Honduras are worthy of the highest level of respect from the leaders of our country. I am concerned that there are recent signs that we have not been sensitive enough to the special friendship which we have with Honduras. In our common desire to fight against drug traffic and to achieve other worthwhile objectives we must be careful to cooperate with other allied nations on the basis of equality and mutual respect.

Recently, I read an excellent analysis of the problems caused in Honduras as a result of the Matta case. It was written by Larry Rohter and appeared in the New York Times on April 13. I ask that it be printed in full in the RECORD.

The article follows:

ANGER AT UNITED STATES LONG BUILDING IN HONDURAS

(By Larry Rohter)

TEGUCIGALPA, HONDURAS, April 12.—At the American Embassy here, workers are already clearing away debris from the annex building set ablaze late last week. But the damage done to American interests in this strategic Central American nation will be much harder to repair, Honduran political leaders and foreign diplomats here say.

The violence at the embassy was set off by the decision of the Honduran Government to hand a powerful drug trafficker, Juan Ramon Matta Ballesteros, over to the United States. But that outburst was more than six years in the making, these analysts say, and it stemmed primarily from Honduran frustration with the Reagan Administration's treatment of this country, which they described as heavy-handed and short-sighted.

LIKE A CIRCUS DOG

"The Matta case is the culmination of resentments that have been building up in this country, above all in the area of Honduran relations with the United States over the Reagan Administration's policy toward Central America," said Manuel Acosta Bonilla, a prominent lawyer and politician here.

Since 1981, when the American presence began to grow as a result of the Reagan Administration's determination to support the Nicaraguan contras based here, Honduras has been "like the circus dog that jumps through the hoops when its master tells it to," said Mr. Acosta, a leader of the right-of-center Nationalist Party. "There has been a complete submission to the United States, and people are tired of it."

Diplomats here said that analysts at the American Embassy did draft a message warning that the local reaction to the handing over of Mr. Matta was likely to be intense and even violent. But for reasons that still remain unclear, they said, the document was not sent to Washington.

A spokesman for the United States Embassy here would neither confirm nor deny that such a report had been prepared. He also declined to discuss the reasons why such a document would not be sent to the State Department in Washington, saying the embassy does not discuss its internal deliberations and communications.

U.S. POLICIES CRITICIZED

The complaints mentioned by Hondurans' and diplomats range from the way in which American aid has been dispensed here to charges of indifference to human rights violations by the military. But the main criticism has been that Washington has subordinated Honduras's needs to the larger policy goals it has elsewhere in Central America.

"The United States does not have a policy toward Honduras," a European diplomat said today. It has a policy from Honduras, directed at Nicaragua and El Salvador."

The attack Thursday on the embassy annex, led by students from the National University was the most serious incident involving official American property in Latin America in more than a decade. Five people are believed to have been killed in the rioting, and estimates of damage run from $4 million to $6 million.

Honduras declared a state of emergency Friday in the cities of Tegucigalpa and San Pedro Sula after the outbreak of unrest, but President Jose' Azcona Hoyo said today that the decree would be lifted Wednesday, 10 days earlier than planned. "The reasons for decreeing the state of emergency have disappeared and normality has returned to the cities," a Government statement said.

Last weekend, Attorney General Edwin Meese 3d described the attack of the embassy as "a typical example" of how narcotics trafficking "can result in the kind of social upheaval which appears to be taking place" in Honduras. But Honduran officials and diplomats have dismissed that argument as not reflecting the reality of the forces at play here.

"When he says that, he's not just on another planet, he's in another galaxy," a Latin American ambassador here said of Mr. Meese's remarks. "The reason this is taking place is not because of a drug trafficker but as a popular response to six years of American impositions."

MILITARY ACTIVITIES RESENTED

In an interview here, Vice President Jaime Rosenthal Oliva, regarded as a friend of the United States, implicitly rejected Washington's explanation. He described Mr. Matta as a criminal who ought to be put on trial, but said a "popular reaction" to the Matta case had occurred because there was "a violation of the Constitution."

Even before the Matta controversy erupted, Honduran and foreign political analysts say, discontent was already running high as a result of American military activities here. Since 1981, the United States has built a base near Comayagua and conducted continuing troop maneuvers and last month sent more than 3,000 troops in response to what was said to be a Sandinista invasion of Honduras.

That last action underlined what Hondurans and foreigners alike regard as one of the central contradictions of American policy here. Though millions of dollars in aid and equipment have been channeled to the Honduran military in recent years, when an emergency arose, the United States chose to send in its own troops.

"Honduras was made to do something it didn't want to do, and that made the Hondurans look helpless," a European diplomat said. "In addition, there was resentment because Honduras was being used again not to defend Honduras but to defend the contras."

U.S. REPORTED SURPRISED

At the same time as the Honduran military has benefited from Washington's largess, there have also been large infusions of American economic aid here, in the form of loans, outright grants and development programs. But those too have contributed to popular dissatisfaction, a European diplomat said, since Hondurans have been made to feel "as if they are asking for and receiving charity."

"The money from the United States has favored only a small political, economic and military elite," he added. "The rest of the people continue to live in hunger and misery, and to them it looks as if the United States is buying their leadership."

Despite these and other warning signals pointing to growing dissatisfaction with its large military and political role here, Washington and some within the American Embassy were taken completely by surprise when the embassy annex was attacked, Honduran political leaders and foreign diplomats said.

"The Americans were caught with their pants down," a foreign diplomat said. "They didn't want to see that there was a whole series of events building up over a long period of time."

SLOW HONDURAN REACTION

For its part, the Honduran Government worsened the situation by reacting slowly to the attack, the same analysts argue. That delay in response, which they attribute to a paralysis of political will on the part of President Azcona, increased the damage from the attack, both politically and materially.

Mr. Azcona, a civilian, is at least nominally Commander in Chief of the country's military and police. But Honduran officials said the President failed to respond to a call from the United States Ambassador, Everett E. Briggs, asking for help from the security forces because he would have been forced to acknowledge his inability to get the military to do his bidding.

There is also evidence that the military high command deliberately kept Mr. Azcona unaware of worsening developments at the embassy. As the fire raged a prominent Honduran journalist who lives near the embassy received a phone call from the President asking him what was going on, the journalist's neighbors said.

"This entire disaster can be understood only as a double failure," a Latin American diplomat said. "There was a failure of intelligence on the part of the Americans, and a failure of leadership on the part of the Honduran civilians who were supposed to be in charge of this country, but who have been undermined by the American strengthening of the military."

A WARNING OF TROUBLE

Honduran political figures, including journalists and politicians, and foreign diplomats argue that there were many signs of trouble in the days before the attack. But those indicators of rising anti-American sentiment went largely unheeded, they said. "Normally, these things just flare up and then fade away after a couple of days," an Honduran official said. "But the reaction after Matta was handed over was stronger and more sustained, and several of us warned the Americans that trouble might be coming."

On April 6, one night before the attack on the embassy annex, protesters gathered in front of the Honduran Congress here. In addition to chanting slogans critical of the United States and President Azcona, they burned a copy of the Honduran Constitution and an American flag.

In late March, there had been a similar protest in which an American flag was also burned. That demonstration had been called to protest the dispatching of American troops and the continued presence of Nicaraguan contra units in Honduras.

Diplomats here said the head of security at the embassy, who recently won an award for his performance here, had on several occasions raised doubts about the defensibility of the building in the event of violence.

Several other diplomats here, none of them American, also criticized the timing of Mr. Matta's removal from the country. They noted that anti-American sentiment was already running unusually high as a result of the deployment of American military units here in mid-March.

"NATIONAL SEED" PLANNED

Nevertheless, the embassy attack seemed to many here to have been at variance with normal Honduran patterns of behavior. Hondurans have traditionally been regarded by their fellow Latin Americans as a passive, even docile, people, and their sudden outburst of fury is seen as an indication of just how serious are the obstacles the United States faces in repairing relations here.

"A national seed has been planted," a European diplomat said. "It is going to be hard to keep it from sprouting."

"This does perhaps bring down the curtain and open a new chapter in relations between the United States and Honduras," said Joseph T. Eldridge, former director of the Washington Office on Latin America, a liberal lobbying group, who is now a private development consultant here. "Until Thursday, the United States was the owner here, and now Americans are hiding in their homes."●

IN RECOGNITION OF THE 50TH ANNIVERSARY OF THE NATIONAL FEDERATION OF REPUBLICAN WOMEN

● **Mr. QUAYLE.** Mr. President, it gives me great pleasure to bring to the Senate's attention the golden special anniversary of an important civic organization.

This year, the National Federation of Republican Women marks 50 years of outstanding service promoting good government and the Republican Party.

A national federation was created in 1938 when 11 State affiliated organizations combined to form a nationwide network. I am proud to note that the State of Indiana was at the forefront of this movement as one of the original charter States.

For 50 years the National Federation of Republican Women has worked with great success toward promoting public participation in the political process, increasing the effectiveness of women in the cause of good government and fostering loyalty to the Republican Party.

Mr. President, I am sure my Republican colleagues join me in congratulating the National Federation of Republican Women for 50 years of dedicated service and wishing them many more years of success.●

MERCK SCIENTISTS ARE INVENTORS OF THE YEAR

● **Mr. LAUTENBERG.** Mr. President, I rise to pay tribute today to four New Jersey scientists who were named cowinners of the 1988 Inventor of the Year Award for their discovery of lovastatin or MEVACOR, a life-saving drug to lower cholesterol level. The scientists are Alfred W. Alberts, Georg Albers-Schoenberg, Richard L. Monaghan, and the late Carl H. Hoffman.

The scientists were all members of a research team at the Merck Sharp & Dohme Research Laboratories, a division of Merck & Co., Inc., headquartered in Rahway, NJ. Their discovery of a cholesterol-lowering drug will help fight coronary artery disease, which kills half a million Americans each year.

The award is being presented by the Intellectual Property Owners, Inc., a nonprofit association of corporations, small businesses, colleges and universities, individual inventors and patent attorneys. The IPO has as its mission the promotion of American research and innovation, through the improvement of our system of protection of intellectual property, that is, patents, copyrights, trademarks, and semiconductor maskworks.

Mr. President, it is a mission in which I have joined. America's competitive edge is its technological edge. Maintaining that edge depends on the risktaking of corporations like Merck and the pathbreaking research of these scientists. We need to encourage that risk-taking and that innovation. We do it by providing protection of intellectual property, by assuring our innovators of the chance to reap the fruits of their efforts. That is why I have sponsored legislation to expand protection of process patents, and to improve procedures of the International Trade Commission, to exclude infringing goods from our market. American innovation needs to be nurtured and protected.

The history of MEVACOR is one of the most dramatic examples of the collective effort among industry, academia, and government in the progress of controlling cardiovascular disease. Drs. Michael Brown and Joseph Goldstein, Nobel Prize winners, from the University of Texas Health Center in Dallas, demonstrated how the body regulates the level of certain kinds of cholesterol, called low-density lipoproteins, by receptors on the surface of the liver that take up cholesterol from the bloodstream. Another group of scientists at Rockefeller University showed that patients with severe cases of elevated blood cholesterol might not be able to lower their levels through diet alone. Drs. Brown and Goldstein proposed substances which inhibit the manufacture of cholesterol.

The Merck scientists pursued this lead until they discovered an inhibitor of this enzyme, which is called MEVACOR. The importance of reducing cholesterol was documented in 1984 by the National Heart, Lung and Blood Institute, a member of National Institutes of Health, in a report on a major clinical study providing the first definitive proof in humans that lowering blood cholesterol reduces the risk of coronary heart disease.

The award being given today by IPO to the inventors of MEVACOR highlights an outstanding achievement by the private sector in partnership with Government-sponsored research programs in keeping America on the leading edge of health innovation.

Mr. President, I applaud these scientists and their company. They have made an important contribution to the public health and to America's competitiveness. We need to do all we can, to encourage them and to assure them of a fair opportunity to reap the fruits of their labor.●

INFORMED CONSENT: ILLINOIS

● Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter from Karen Bak of Illinois in support of my informed consent bills S. 272 and S. 273 be inserted into the CONGRESSIONAL RECORD. The letter follows:

HAZELCREST, IL.

DEAR SENATOR: In 1973, I had an abortion. At that time, I was not informed about any fetal development or possible aftermath. I wish I had had a clearer picture of what was really inside me. I don't know what my decision would have been had I received counseling and all the information, but, at least it would have been more fair.

Sincerely,

KAREN D. BAK.●

HOLOCAUST REMEMBRANCE DAY

● Mr. LAUTENBERG. Mr. President, today, communities all over the world will gather to commemorate the atrocities of the Holocaust. Millions of people will pause to reflect on the cold years from 1933–45 in which the world witnessed one of the darkest chapters in human history.

At the State Department, candles were lit in memory of the 6 million victims of the Holocaust. Israel will observe 2 minutes of silence in their memory as well. During these moments, buses will sit silently on the streets, teachers will interrupt lessons, and children will quietly cease activity. For 2 minutes, the entire country will sit in suspended animation pondering the horrors of the Holocaust. The gas chambers. The starving children. The torture. The disease. The smell of death. The silence.

It is fitting that today has been designated as "Holocaust Remembrance Day," or Yom Hashoah, for it falls between the date of the uprising of the Warsaw ghetto against the Nazis and before Israel's War of Independence. It also falls during a traditional mourning period for the Jewish people.

Today not only Israel and the United States but people the world over mourn the senseless deaths of 6 million Jews together. We should also take a moment to praise the resolve of those who climbed back from the edge of annihilation to create a future in the State of Israel.

Mr. President, the tragedy of the Holocaust is a testimony to man's inhumanity to man. That Adolf Hitler and his Nazi forces set out to systematically exterminate a once vibrant and thriving community of Jews in eastern Europe—simply because they were born Jews—is unfathomable. But that the world stood by in silence and witnessed these heinous crimes is almost beyond belief.

No one protested when S.S. General Heidrich and some of the most educated people in Germany sat down to determine the "final solution" to the Jewish question.

No one took seriously the words of German boys and girls marching through the streets singing "When Jewish blood spurts from the knife, then all goes twice as well." Or the night of broken glass, when Jewish shops and businesses throughout Germany were ordered smashed and burned by the Nazis.

The world was silent in 1938 when the Gestapo first ordered and hauled thousands of Jews to concentration camps. And, too few listened to the cries of 6 million Jews or protested as they were carted off to their deaths in Nazi gas chambers. Because the voices of outrage were not heard, the Nazis came to power and began their campaign to exterminate the Jews of eastern Europe.

But the Jews of the Warsaw ghetto refused to keep silent. Under the leadership of Mordechai Anielewicz, Jews in the Warsaw ghetto organized resistance forces to fight Nazi liquidation. By smuggling in arms through the Polish underground, Anielewicz and his forces succeeded in holding off the German forces for 1 month. In the end, only a few crept their way to freedom through the pipes of the Warsaw sewer system. Although most of the resistance forces were killed by Germans, it was not without protest, struggle, anger.

The world should have learned a lesson from Anielewicz and his resistance forces. It should have organized and interceded in that era of desperation on behalf of the Jews. But the world sat in silence as 6 million were consumed by Nazi flames.

It is our job to assure that this silence is broken, again and again. That the world is never allowed to forget what happened during the Holocaust. We know that those who forget the lessons of history are condemned to repeat its mistakes. We have the responsibility to ensure that these horrors will never again be repeated. For the sake of the future, we must not forget the past.●

AARP DAY IN NEVADA

● Mr. HECHT. Mr. President, on April 29 the American Association of Retired Persons in the State of Nevada will celebrate the opening of their association State office at the Senior Services Center in Las Vegas. I am pleased to honor this great organization and submit the following proclamation for the CONGRESSIONAL RECORD:

PROCLAMATION

Whereas, the American Association of Retired Persons has contributed to the quality of life for every older Nevadan and its efforts will be enhanced by its new state office in Las Vegas and;

Whereas, AARP Volunteers work closely with state and federal legislators in monitoring, developing and sponsoring legislation affecting all older Nevadans and;

Whereas, AARP Tax Aide Program Volunteers in Nevada help older Nevadans prepare federal and state tax free of charge and;

Whereas, AARP Volunteer instructors teach the "55 Alive/Mature Driving" course that enables and proves older drivers are safe drivers and;

Whereas, AARP Volunteers in Nevada promote and enhance healthy lifestyles and the more efficient use of the health care system in the program "Health Advocacy Services" and;

Whereas, AARP Volunteers operate the "Worker Equity Initiative" in Nevada addressing the issues surrounding an aging workforce, and seek to expand worker options through preretirement planning, education and combating age discrimination and;

Whereas, AARP Volunteers operate the "Citizen Representation Program" in Nevada providing information, training and recruitment for older persons to serve on boards and commissions and;

Whereas, AARP provides information in Nevada on the specific needs and concerns of mid-life and older women in the AARP Women's Initiative and;

Whereas, Nevada AARP Volunteers and members numbering over 125,000 with 15 chapters and 5 units of the Retired Teachers Association continue to develop programs affecting the present and future generations of retirees, and;

Whereas, all Nevadans as a result of the messages and services of AARP derive a better quality of life with a brighter future made stronger by positive attitudes toward the volunteers with aging process, and;

Whereas, the Nevada State AARP Office is to be operated exclusively by the ability, experience and willingness "To Serve and Not to be Served";

I, Senator Chic Hecht of Nevada declare April 29th "AARP Day" in Nevada.●

DEMOCRACY IN BANGLADESH

● Mr. LUGAR. Mr. President, Bangladesh is one of the newest of the world's nations, having been born in 1971. Few new nations have faced the magnitude of problems that Bangladesh has. Bangladesh is the size of Wisconsin, packed with over 104 million people, and very poor. Flooding, cyclones, and famine have been endemic and the economic infrastructure is primitive.

Henry Kissinger once called Bangladesh the world's "basket case." While once possibly an accurate description, impressive progress toward economic development has been made in recent years. Increased food production, a declining birth rate, and a more responsive, decentralized government have combined to make Bangladesh a stronger, more self-sufficient nation.

Moreover, Bangladesh's export earnings have tripled over the last 6 years. Last year's earnings totaled over $1 billion. Other recent achievements include massive rural electrification and road building projects. Bangladesh is no longer the basket case it once was.

Nonetheless, serious difficulties still exist. One of the premier problems is how to bring representative government to a nation which lacks democratic traditions and has continued economic problems. Elections during its short history have been marred by violence and questionable results. Recent parliamentary elections were boycotted by the main opposition parties.

What makes this situation especially sad is that it comes at a time when political cooperation is desperately needed in order to capitalize on recent economic and developmental advances. No agenda of social and economic advancement can be pursued with any continuity without a stable political base from which to build. Functioning democratic government requires that free and fair elections be held, and that political parties which lose elections concede power to the winners. A dangerous trend is developing in Bangladesh, however. The credibility of any election is placed in doubt by those who fear they will not do well, and therefore boycott elections, or by those who do participate and lose, and therefore, declare the results unfair. If Bangladesh is ever to institutionalize a stable representative political system which is so necessary for sustained economic advancement, it must establish a credible election system which the government and the opposition believe is fair. Both must place national interest above more parochial ones.

The government must be willing to turn over the reins of power should it lose and the opposition must be mature enough to act as a loyal opposition. The willingness of those in power and those outside to allow their destiny to be determined through the electoral process is fundamental to freedom and the strength of the democracy. The boycotting of the March 3 election by the two main opposition parties brings into question their commitment to the democratic process.

In other developing countries commitment to the democratic process by the opposition has brought important changes. Recent events in the Philippines, South Korea, and Haiti should be an encouragement because they demonstrate that international standards for free and fair elections can be successfully established and used to determine the credibility of elections. Events unfolded differently in each of these nations, but one fact was common among them: Election standards were agreed upon between international observers and domestic political parties. These standards were then used to determine the credibility of subsequent elections.

In the case of the Philippines, President Marcos tried to rig elections and was deposed; in South Korea, the party in power won and the opposition conceded; and in Haiti, the elections held last November were exposed before the entire world as fraudulent. Surely, similar means of verification could be used to establish a credible election process in Bangladesh that would allow that nation to begin the process of institutionalizing representative government.

I was most encouraged to learn that when the Foreign Minister, Mr. Humayun Rasheed Choudhury, was here last month he met with representatives of the National Democratic Institute and the National Republican Institute to discuss election reform. The government has expressed a willingness to meet international standards. The opposition should seize this opportunity to ensure that the government is held to its promise and a free and fair electoral system is established, a system under which any objective observer can determine the justice of the results.

This initiative should be encouraged by the United States and by all democratic nations around the world. Bangladesh will be able to proceed more effectively with its agenda of economic growth and development when the current political deadlock is resolved. International assistance and a watchful eye have proven helpful in similar situations, and could very well be used at present in Bangladesh.

Responsibility for the development of a viable democratic system in Bangladesh rests as much with the opposition as with the government. In the Philippines and Korea the assertiveness and commitment to democracy by the opposition fundamentally altered the political terrain. The apparent lack of such a determined commitment to the democratic process by the opposition in Bangladesh can only impair the growth of important national institutions.

THE FETTER PRINTING CO.

● Mr. McCONNELL. Mr. President, all of my colleagues in this body can boast of companies in their State that excel in particular fields. My home-state of Kentucky is home of some of the world's leaders in many industries. However, I would like to insert into the RECORD an article that recently appeared in the Courier-Journal profiling the success enjoyed by Louisville's Fetter Printing Co., since it was acquired by Mr. E.A. Ford III in 1978.

Under Mr. Ford's leadership, Fetter has become a company of innovation as evidenced when it produced the first four-color printing in Louisville. In addition, the firm made headlines a few years ago when it introduced scented inks.

Fetter has diversified its products by printing items, such as buttons, labels, and posters, that are not traditionally covered by conventional printing services. This variety, combined with its renowned excellence in printing annual reports, has made Fetter one of the best printing companies in the Nation. The Advertising Club of Louisville has corroborated that statement by bestowing numerous awards on the firm.

The secret to Fetter's success may lie in Mr. Ford's skillful handling of the operations. Since he took over the firm, he has upgraded the equipment with printing systems that drastically reduced the time of the printing process. Additionally, because Mr. Ford offers a wide range of services, he has an advantage over many competitors.

I insert this article into the RECORD so that Mr. Ford's dedication to quality will receive well-deserved recognition by the Senate.

The article follows:

HARVESTING IN ANNUAL REPORT SEASON

(By Ric Manning)

It was a couple of years ago when E. A. Ford III found out just how important an annual report can be to a corporate chief executive.

Ford's firm, Fetter Printing Co., had a contract to print an annual report for a Fortune 500 company in Pennsylvania.

"The chairman was getting ready to retire and this was his swan song," said Ford.

"He kept a vice president in this place for a month and a half. He'd send the Lear jet down here and we'd send back a set of proofs. But he wouldn't change or correct them, he'd start all over with a whole different picture.

"He didn't know exactly what he wanted," said Ford, "but he knew he wanted it right."

It's not unusual for a corporation to lavish time and money on the one document that becomes its public face.

"A proud CEO can't show off his company of 25 plants in 12 countries with 35,000 employees, but he can hand someone an annual report," said Richard A. Lewis, chairman of Corporate Annual Reports Inc.

Lewis' New York firm designs annual reports for corporations, then farms out the printing work to companies like Fetter.

Most of Fetter's annual report work, however, comes from local firms. This year, the company will print about a dozen major reports, including those from Humana Inc., BATUS Inc., NKC Inc., Jewish Hospital HealthCare Services Inc. and The Cumberland Savings Bank.

He said Fetter used to do annual reports for more Louisville banks, but lost some of that business when some were bought by out-of-town companies.

Annual reports have been a good part of Fetter's business for several years. Last year they helped the company reach about $10 million in revenue, up about 9 percent from 1986. Ford declined to disclose profits.

Fetter, which will celebrate its 100th anniversary this year, traces its roots to the German immigrants who brought the lithographic arts to Louisville. Founded by

George G. Fetter, the company remained in his family's hands for two generations.

Under the Fetters, the company produced the first four-color printing done in Louisville.

Harold Braun bought the company in the early 1970s, then sold it to Ford in 1978.

About 115 employees work in a 59,000 square-foot building at 700 Locust Lane, across Interstate 65 from Cardinal Stadium.

Much of Fetter's work is mundane. It produced tool catalogs for Belknap Hardware until Belknap went bankrupt, and it still turns out a lot of paint can labels.

The bread-and-butter products are brochures and promotion pieces. The counter cards in Kentucky Fried Chicken restaurants that introduced Chicken Littles, for example, were printed at Fetter.

"I think color sells things and color is the business we're in," said Ford.

The company also goes after the more challenging projects, including annual reports.

It printed a fancy commemorative brochure for President Reagan's second inauguration. Its poster portfolio includes the Kentucky-Show poster work by Julius Friedman and the Louisville Zoo poster that features a thoroughbred mare and its zebra colt.

Fetter also has a shelf full of Louie awards from the Advertising Club of Louisville.

Fetter got a lot of national recognition a few years ago when it introduced scented inks. The first was a Friedman piece featuring a drill bit in a peach. Later projects captured the smell of baby powder, coffee and even cheeseburgers.

A banana poster, however, lost its smell by the time the work reached the loading docks. "The chemicals turned out to be too volatile and the scent evaporated," Ford said.

Lately, Fetter has been promoting its ability to make the oversized buttons worn by counter attendants in fast-food restaurants. The buttons say "Don't forget the fries," or some similar message.

"They get you in the door," said Ford. "Then you start talking about printing their product brochures or quarterly reports or annual reports."

An annual report, he said, can be a particularly high-ticket item. Companies routinely want high-quality color photos, expensive paper stock and fancy coatings.

Some reports cost $12 to $15 each, of which Fetter might get as much as $6.

Since Ford took over, he's installed several pieces of new equipment, including a high-speed Harris web press and a laser system that can reduce the time for making a color separation from four hours to 30 minutes.

"But all the best equipment isn't worth the powder to blow it up if you don't have craftsmen to run it," said John F. Johnston, creative manager for Humana Inc.

Johnston said Fetter has printed about half of Humana's annual reports over the past 15 years, including the last one.

"They met everything we needed," said Johnston. "It went so smoothly, we kept thinking something had to go wrong, but it didn't."

He said Humana printed 130,000 copies of its last report. Like many major companies, Humana uses its report as a sales and marketing tool as well as a report to shareholders.

"We give it to people who don't know much about us," said Johnston. "When you say you're from Humana Care Plus health plan, it's nice of show that you have a multibillion dollar corporation behind you."

Ford said he hopes the company's work on Humana's and other corporate reports will help Fetter land some new business outside Louisville. The company has sales representatives in Cincinnati and Indianapolis, and it's looking at Columbus, Ohio, and St. Louis.

Some of the big printers in those cities "are coming in here shooting at us, so we think we'll take a shot at them," he said.

Ford said Fetter has an edge over some of its competitors because it's a full-service shop. "We can cut, emboss, die-cut, stitch, even handle shipping and mailing," he said.

Fetter also can print annual reports in secrecy, for companies that are worried about information leaking out. That's no big deal, said Ford.

"If you want to see security, you should be here when we print coupons," he said. "Some of those things are worth $50."●

IN HONOR OF THE CHILDREN'S HOPE FOUNDATION OF NEW YORK CITY

● **Mr. MOYNIHAN.** Mr. President, I rise today to honor the Children's Hope Foundation [CHF] of New York City for its indefatigable efforts on behalf of New York's growing population of boarder babies with AIDS. Allow me to explain why CHF is supremely worthy of our honor and praise.

In New York City, it is estimated that out of every 61 children, one carries AIDS antibodies in his or her blood. In the Bronx, this number increases to 1 in every 43. Further, the New York State Department of Health estimates that 1,000 babies infected with the AIDS virus will be born in New York State this year, nearly all of them in New York City. We clearly have an epidemic on our hands.

The problems of a child with AIDS stretch far beyond the obvious physical effects of the illness. Nearly all children with AIDS in New York contracted AIDS from their mothers, who contracted the disease themselves from sharing needles with infected IV drug users; consequently, these children come from strained family environments. When there is no family unit, foster home placement for a child with AIDS is extremely difficult. Hospitals, which have become the homes of an increasing number of AIDS babies, often lack sufficient supplies to adequately care for these children, whose physical, emotional, and developmental needs are enormous. In New York City, there is one pediatric AIDS day-care facility with only 25 spaces available.

Last year, I introduced, and this body passed as a part of budget reconciliation, a measure authorizing $4 million yearly for 3 years to fund demonstration projects to provide residential care for new-born babies whose parents abandon them to the care of hospitals. A good proposal, a start. I am hopeful that it will help; however, as you and I know, Mr. President, in these days of deficit reduction, there are far too few such proposals. Programs for children, which, anyway, are few and far between, are pared, or worse, eliminated.

Why this disregard for children?

These poor children have no political action committees to plead their case. No slickly dressed Washington lobbyists to work the Halls of the Capitol. They have no constituency but the small constituency of conscience to keep them in our cluttered thoughts.

But now, they have the Children's Hope Foundation.

The Children's Hope Foundation, founded in 1986, addresses the special needs of children with AIDS. CHF works regularly with 12 metropolitan hospitals, providing developmental products, baby carriages, infant clothing, toys, and children's books to be distributed by the hospital specifically to children with AIDS. CHF has established emergency relief funds at King's County Hospital in Brooklyn, which I have visited, and Children's Hospital in Newark, NJ. These funds are distributed by the hospitals' social workers to cover some of the day-to-day needs of the patients, needs the hospitals otherwise would not be able to meet. CHF has provided clothing and funds to the only two half-way houses for children with AIDS in the entire country, Hale House in Manhattan and St. Claire's in Elizabeth, NJ. The Foundation has provided transportation grants which have enabled AIDS children to continue with vital treatment and therapy. CHF has also helped families to meet the home health care needs of their children by providing air conditioning units to children with respiratory ailments, as well as more routine equipment such as strollers and high chairs. Giving a pair of shoes to a toddler who has none is an example of the practical generosity of CHF.

The Children's Hope Foundation is a nonprofit organization founded and operated entirely by volunteers. The founder and chairman, Steven Fisch, is a second-year law student at NYU. Ann Roffwarg, the cochairperson, works full time as an account manager for the National Audubon Society. Despite the rigors of school and career, the members of the Children's Hope Foundation work tirelessly to aid in the development and enrichment of the often short lives of children with AIDS. Despite the media coverage afforded the AIDS crisis, the task undertaken by CHF is far from easy. Any organization dedicated to helping those with the AIDS virus has enormous obstacles to overcome; however, CHF has dedicated itself to address the needs of children with AIDS, and is succeeding in this goal every day.

It was with great pleasure that I nominated the Children's Hope Foundation of New York City for the prestigious 1988 President's Volunteer Action Awards earlier this year. I do not know if they shall win, that is for the judges to decide. I do know, however, that in the minds and hearts of the children CHF has helped, and in the minds and hearts of those who care about these children, CHF has already won.

I do thank you, Mr. President, for this opportunity to express my appreciation, and the appreciation of the people of New York, for the work of the Children's Hope Foundation.

FEBRUARY'S TRADE DEFICIT

● Mr. BINGAMAN. Mr. President, today the Commerce Department released its figures for our merchandise trade deficit for February. The size of the deficit, $13.8 billion, is an increase of $1.4 billion over January's level. Once again, our trade deficit is headed in the wrong direction.

For some time now, the administration has been claiming that our trade problems are over and that the trade deficit is on the decline. Last month, they explained away January's rise in the deficit as a statistical fluke. I am sure the administration will find some equally plausible explanation for today's number.

The truth is that our trade problem has not been solved. While the administration talks, our imports grow and our exports lag. While the administration proclaims that our economy is now export driven, their budget cuts or inadequately funds the export promotion programs. The United States continues to maintain far fewer export promotion staff in foreign countries than many of our economic competitors. And a number of United States and FCS positions remain vacant. For example, in my home State of New Mexico, the position of director of the Albuquerque office has remained vacant for over a year and a half. The budget request deeply cuts the Export-Import Bank's authority to guarantee the loans American businesses need from the private sector to finance their exports, cuts the Agriculture Department's Foreign Agricultural Service by over $3 million and cuts funding for the Trade and Development Program, one of this Nation's most successful export promotion programs, by over 18 percent.

For all the rhetoric, the administration's trade policy hangs on one thread—the devaluation of the dollar. It is more than clear from today's news that the fall of the dollar is not enough. This country needs a clear and coherent trade policy, not a policy of using currency fluctuations as an excuse for our problems.

The Congress is currently finishing up work on the Omnibus Trade and Competitiveness Act. It is, I believe, a modest step in confronting our trade problems. Yet, the administration has been fighting this bill at every step. I hope today's trade figures would convince the administration of the urgency of our trade problem and necessity of this bill. I am afraid it will not. In any event, we must push ahead with the trade bill. It is an important piece of legislation which deserves our support.●

CAPITAL GAINS DEBATE CONTINUES

● Mr. BOSCHWITZ. Mr. President, I rise to speak on the issue of capital gains, specifically the positive effect that a cut in capital gains taxes would have on the economy. As my colleagues recall, a primary goal of tax reform was to let the market, not tax considerations, influence investment decisions. Regrettably, the goal of tax equity has not been fully achieved.

The Tax Reform Act imposes a tax penalty on investments that return capital gains and, therefore, discourages such investments. When rates are relatively high, as they are now, there is a tendency to hold assets or not to invest. When rates are lowered, assets turn over more quickly and are put to more productive and risk-oriented uses that generate additional tax revenues.

Mr. President, at this time I ask to have an editorial which appeared in the Wall Street Journal, entitled "Capital Debate" inserted in the RECORD following my statement. Although the Congressional Budget Office study cited in the editorial concludes that a cut in capital gains taxes may cause a drop in revenue—the study also notes that revenues may increase due to a cut in rates—it later states that there are many factors other than revenue effects that deserve consideration in deciding how to tax capital gains.

History has proven that a cut in capital gains taxes results in increased high risk investments, spurs the sale of technology, and produces jobs. Studies have shown that net new venture capital investment increases as a result of a cut in capital gains taxes. For instance, in 1978 when the capital gains rate was lowered from 49 to 28 percent, net new venture capital investment in electronics companies jumped from $39 million in 1977 to $600 million in 1978, and to $4.5 billion in 1983.

The evidence clearly indicates that cutting the tax rate for capital gains will result in increased investment and more jobs. Unfortunately, the CBO study will not contribute to the debate over this issue.

The editorial follows:

[From the Wall Street Journal, Apr. 11, 1988]

CAPITAL DEBATE

Vice President George Bush has proposed a 15% top capital-gains rate, arguing that if U.S. experience in the 1970s is a guide it would raise more revenue than the current rates. Opponents of the vice president's proposal have been in full howl. They've called the idea of a capital-gains differential either a sellout to the rich or a threat to the 1986 tax act.

Not long ago, the idea's detractors seemed to get support from a widely publicized study of the capital-gains tax by the Congressional Budget Office. Much of the coverage made the same essential point: A 15% rate could "result in a net revenue loss." In the age of deficit reduction, that's as far as many people needed to read. They should have read further.

The actual CBO study—"How Capital Gains Tax Rates Affect Revenues: The Historical Evidence"—is actually more thoughtful in its analysis and tentative in its conclusions about capital-gains taxes than we'd been led to believe.

It's true that the study's authors believe a 15% rate would lose revenue in the context of other current tax rates. But if one reads through to page 66 of this 106-page report, one finds: "Still, as noted above, the range of uncertainty in the coefficient estimates is large enough that one cannot reject the possibility that a 15% rate might increase revenues." The authors, however, have more interesting matters to discuss than the slipperiness of the coefficient estimates in econometric studies.

"It is important to emphasize," the report says, "that many factors other than revenue effects deserve consideration in deciding how to tax capital gains." Maybe those words can be engraved on cards and distributed around the Beltway. Serious tax policy is indeed about more than revenue effects.

The study speculates, for instance, on the effect a reduction in capital-gains rates would have on the decisions corporations make with regard to retained earnings and debt financing. The level of capital-gains rates can also affect choices investors make between financial and tangible assets. Further, "Lower tax rates could increase saving and capital formation and channel more resources into venture capital." Creating venture capital is of course one of the main arguments made on behalf of lower capital-gains rates (and is why Senator Alan Cranston, the Democratic majority whip, endorses lowering such rates).

The quality of policy making in Washington degrades when instead of producing thoughtful debate, a CBO study is reduced to little more than a hit-and-run a hit-and-run attack on one public official's proposals. It would be enormously productive if the popular discussion of capital-gains tax rates took the time to examine some of the issues identified by the CBO's study.●

TRIBUTE TO ELLIOTT BARKER

● Mr. DOMENICI. Mr. President, I rise today to honor the life of a great American, and New Mexican, Elliott Barker, who died last week at the age of 101.

Elliott dedicated his life's work to his love of nature, and through that work he has enriched all of our lives. I don't know of any one man who has contributed as much to conservation and wildlife protection as did Elliott Barker. He was busy fighting for game laws and land management at a time in our history when few people saw a need for such protection. It is for this foresight that America owes him an enormous debt of gratitude.

It was Elliott Barker who, in 1950, after a fire in Lincoln National Forest in south central New Mexico, found a singed and frightened bear cub, and sent it to the National Zoo here in Washington to represent the U.S. Forest Service, a bear affectionately known to all by the name of Smokey the Bear. In fact Elliott was often referred to as Smokey the Bear's "stepfather."

As New Mexico's first game warden, Elliott helped the State acquire more than 75,000 acres of land for recreation and wildlife refuges, he established fish hatcheries, built up herds of elk and antelope, and reintroduced several species of animals to the State. His efforts didn't stop there. Elliott was a founding member of the National Wildlife Federation, and he was very active in citizen groups lobbying for laws to protect game and fish.

After coming to New Mexico on a covered wagon in 1889, Elliott lived a very long and full life. He witnessed a lot of history and saw many changes, but most importantly, he shaped history. He shaped history by realizing that some things shouldn't change, that some things are perfect just the way they are. Elliott Barker's legacy can be best expressed by his own words when he wrote that wild areas must be "handed down to our successors in the majestic condition in which God loaned them to us." Thanks to Elliott, they will be. I ask that an article from the Albuquerque Journal on the life of Elliott Barker be inserted into the RECORD at this point.

The article follows:

[From the Albuquerque Journal, Apr. 5, 1988]

ELLIOTT BARKER DIES AT 101 IN SANTA FE: CONSERVATIONIST RENOWNED AS AWARD-WINNING AUTHOR

SANTA FE.—Elliott S. Barker, the conservationist and author who helped make Smokey Bear a national symbol of forest fire prevention, has died at age 101.

Barker died Sunday at the Santa Fe nursing home where he had lived for more than a year.

Barker, a founding member of the National Wildlife Federation, was named a "hero of our time" in July 1987 by Newsweek magazine.

In 1950, Barker sent a bear cub rescued from a fire in the Lincoln National Forest to Washington to represent the National Forest Service. Smokey Bear became a fixture in the National Zoo where he became a living symbol for forest fire prevention.

Before a party in 1986 to honor Barker's 100th birthday, a friend of his, Don Bell, said, "I'm not sure any conservationist is more qualified than Elliott. Certainly no one is more respected."

Barker, who was born on Christmas Day 1886 in Moran, Texas, moved with his family to New Mexico in a covered wagon when he was 3 years old.

After graduating from Las Vegas High School, Barker went to photography school in Illinois. But "the life of a photographer was too tame for him," said his nephew, Ross Phillips.

"He came back to the ranch and went to work hunting grizzlies," Phillips said.

Barker worked for the U.S. Forest Service in New Mexico for 10 years as a ranger and a supervisor, but resigned in 1918 to return to ranching and farming on his family's land near Sapello, N.M.

He later was hired at the Vermejo Park Ranch, a private ranch, as a game manager and professional hunter.

Barker joined a group of New Mexicans who lobbied for the state's first laws to protect game and fish. The Legislature adopted a law in 1930.

He was named the state's first game warden in 1931 and stayed on the job until retiring 22 years later.

When he retired from state government in 1953, Barker focused on his writing and continued his work as a lobbyist. He also led more than 1,000 trail rides into the Pecos Wilderness, taking his last group at age 89.

As game warden, he ended a policy that required department employees to contribute to the state's ruling party.

"He didn't believe in politics," his son Roy said in an interview last year. "He believed everything was for everybody and everybody was supposed to be treated the same. There wasn't any favoritism. Once he decided something, nobody could budge him."

During his tenure, the state acquired 75,000 acres of land for recreation and wildlife refuges, established fish hatcheries and began the reintroduction of several species of animals into New Mexico.

Barker wrote seven books and in 1972 received the Golden Spur Award from the Western Writers of America for his book, "Western Life and Adventures, 1889-1970."

He is survived by his wife of 76 years, Ethel; three children, Roy Barker and Florence Giers, both of Santa Fe, and Dorothy Elmore of El Paso; and a sister, Grace Wilson of Aztec, N.M.

Services will be held Wednesday at St. John's United Methodist Church in Santa Fe.●

COLONEL JOHNSTON'S DESIGN FOR A KOREAN MEMORIAL

● Mr. DOMENICI. Mr. President, I wish to call the attention of the Senate to the dedicated work of Lt. Col. Sidney F. Johnston, Jr., for his hard work in producing a design for the Korean War Veterans National Memorial Library.

Colonel Johnston's memorial library proposal has been submitted to President Reagan's Korean War Veterans Memorial Advisory Board for possible selection as the design for the Korean war memorial.

The Johnston design, which was developed in concert with his cousin, James F. Martin, another veteran of the Korean era, consists of four wings, one for each of the three military services, plus an auditorium. The wings join at a central area under a 42-foot dome. The inside of the dome has a world map highlighting the 23 nations that sent forces to Korea. The floor of the dome depicts a map of Korea, laid out in terrazzo marble.

Approximately 1,000 combat veterans nominated the design to honor the 500,000 individuals who served in what is sometimes called the forgotten war, so-called because the Korean war is often ignored between World War II and Vietnam.

The memorial library would house books, films, and military records for historical research, and to inform younger generations of the sacrifice and dedication given by Korean veterans.

The career of Colonel Johnston is one of service to the U.S. Air Force, including great contributions in engineering technology. A resident of New Mexico for the past 30 years, he now lives in Albuquerque with his wife Suzanne, where he writes military history and engages in engineering consulting.

Colonel Johnston began his military career during World War II as an aviation cadet. He also flew in the Korean and Vietnam wars. During his military career, he flew every type of aircraft that the Air Force had to offer.

While in service in Korea, the colonel was a fighter pilot in the 6147 Tactical Control Group, also called the Mosquitos—a small group of fighter pilots whose leadership, devotion to God and country, and loyalty manifested itself in brave actions above and beyond the call of duty.

Colonel Johnston retired from the USAF with a command pilot's rating.

In addition to his combat experience, Colonel Johnston, with a bachelors degree in aeronautical engineering and a masters in missile engineering and production, has also been involved in various defense and scientific projects.

When he first came to New Mexico in 1957, he was stationed in the Missile Development Center of Holloman Air Force Base at Alamogordo. After that, the colonel served with the Special Weapons Center at Kirtland Air Force Base, working in the Space Vehicles Division. In 1973, as chief of the laser solid state branch at the Air Force Weapons Lab, he assisted in laser weapon design.

The University of New Mexico also had the opportunity to benefit from the colonel's insights when he served as their senior research engineer for 3 years. During that period, he spent time at Sandia National Laboratories working on the vertical axis wind turbine and photo voltex project.

In response to President Reagan's decision to dedicate a memorial to Korean war veterans, the Mosquito Association board of directors voted last year to submit a design proposal. Colonel Johnston, with his combat experience in Korea and knowledge of engineering, began the task of designing an appropriate memorial to honor the brave men and women who fought for our country and to commemorate those who gave their lives during that war.

Colonel Johnston invested a great deal of time and effort in producing his design for this memorial library. I would like to extend to him my thanks, as well as the thanks of the 31,600 Korean war veterans who live in New Mexico. We commend him on a job well done.●

A NEW DISCOVERY AT CARLSBAD CAVERNS

● Mr. DOMENICI. Mr. President, I would like to take a moment to share with my colleagues the newest discovery within Carlsbad Caverns National Park, NM. The exciting discovery of Lechuguilla Cave is the subject of an article in this month's Outside magazine.

Lechuguilla Cave is considered one of the most remarkable cave discoveries of this century. Its passages have only begun to be charted, and already it is known to be among the deepest caves in the United States. The cave may extend all the way down to the water table, 1,800 feet below the surface.

Among the many amazing discoveries so far in Lechuguilla Cave are the 42-mile-per-hour winds that roar out of its entrance, 16,000-year-old fossils imbedded in the walls inside, 20-foot-long gypsum crystal chandeliers, gigantic "soda straw" formations, an enormous crystal glacier, and a room filled with 40-foot-square crystal blocks.

Mere words cannot describe the fascinating, never before seen formations hidden within Lechuguilla Cave. I join the scientific community in eager anticipation of the completion of exploration. Not only is this cave a treasure trove for caverns and scientists, but some day we in New Mexico will be pleased to offer yet another spectacular attraction to visitors at the famous Carlsbad Caverns.

Mr. President, thank you for this opportunity to share such an important new discovery with my colleagues. At this time, I ask that a copy of the article from the April issue of Outside magazine be printed in the RECORD.

The article follows:

THE SECRET CAVE

A cave is like a giant weather barometer. It inhales air on high-pressure days, and exhales when the air pressure dissipates. It sucks or it blows, as they say in caving circles. And the intensity with which it does generally depends on the size of the cave.

That brings us to the story of one of the most remarkable cave discoveries of this century, in Carlsbad Caverns National Park in New Mexico. Lechuguilla is one of the countless pits that dot the austere limestone ridges of the park, but cavers have long suspected that there was more to this passage than met the eye. Lechuguilla blows much harder than a typical 90-foot cave; the wind from it can extinguish the flame of a carbide lamp. Cavers thought that deeper passages must lie below the pit's bat-guano-encrusted bottom.

About ten years ago, some overzealous explorers tried digging through Lechuguilla's floor. But the Park Service discovered their clandestine mining operation and shut it down. In 1984 two cavers, John Patterson and Dave Allured, tried again, this time by the book. They got permission from the Park Service to organize a volunteer project. Off and on over the next two years, more than a hundred cavers from 12 states worked on the digs. Finally, in 1986, after burrowing through 30 feet of rubble and powder-fine guano, workers punched through and discoverd passages below.

Today, Lechuguilla (pronounced "lech-a-gee-ah") is known to be the third-deepest cave in the United States, with no end in sight. It's already 170 feet deeper than the 1,037-foot Carlsbad Cavern, and the team of volunteers has explored only 12.86 miles of its passages. No one knows how much deeper it might go, but cavers are optimistic that it's the deepest in the country. Especially given the barometric evidence. With the blockage cleared, winds now roar out of the entrance at up to 42 miles per hour.

"This cave's potential is incredible," says Rick Bridges, who, along with Patterson and Roy Glaser, is an excavation leader. "The downward limit seems to be the water table, which could be anywhere from 1,400 to 1,800 feet." The deepest cave in the United States is the 1,550-foot Columbine Crawl in Wyoming's Teton Mountains.

"This is certainly the biggest find in 50 years," says Patterson. "The only way to talk about this cave is in superlatives. God, it's just incredible. And the opportunity to go where no one else has ever been before makes you simply euphoric." Adds Carlsbad Cave specialist Ronal Kerbo. "This is probably the most important thing to happen in my life."

The cave is tucked into the head of a canyon and wreathed with the bristling desert plants that give Lechuguilla its name. Its entrance is protected by a 24-foot culvert with a locked gate. The Park Service is restricting public access while volunteers map and survey the inner recesses of the cave. "We're finding out what we have, then we'll make it available to a wider segment of the caving community," says Park Superintendent Rick Smith.

The descent into the cave begins with a routine 90-foot free rappel. The first 600 yards are a paleontological treasure trove. "It's a time capsule," says Rick Smartt of the New Mexico Museum of Natural History. He found the femur of a bison or a camel that he estimates is roughly 16,000 years old.

But deeper into the cave, fossil finds give way to rock formations that are extremely delicate and rare. For instance, the largest known gypsum chandelier prior to last January was 12 feet long; mineralogists believed that anything larger would crumble under its own weight. But Lechuguilla has a room full of the formations; appropriately called the Chandelier Ball Room. Bridges has seen five chandeliers that are 15 to 20 feet long. Hydro-magnesite balloons, formations that look like inflated bubble gum, were previously known to exist in four places on earth. Lechuguilla makes five, and here the balloons are more abundant than at any other location.

Other unusual formations include aragonite bushes, which look like little pine trees made of crystal. "The floors and walls are covered with these for thousands and thousands of square yards," says Bridges. Cavers also found 20-foot-long "soda straws" and a U-shaped formation that no one had ever seen before. "In this cave, the outstanding is becoming commonplace," adds Bridges.

While some of the cave's features are fragile and simple, others are massive and complex. One chamber is named Glacier Bay for the 35-foot gypsum glacier, complete with crevasses, that runs down the room's slope. The most recent discovery is the Prickly Ice Cube Room. Here, 40-foot-square gypsum blocks, the size of a room in a house, litter the floor. Each block's top looks like a bed of nails; a frost of aragonite formed into barbs.

It will be at least another year before the exploration period is complete. After that, says Superintendent Smith, Lechuguilla may be opened to more cavers; or the Park Service may just videotape the inner passages for a film tour of the cave. Because of Lechuguilla's pristine condition, Smith is researching the possibility of declaring it the nation's first underground wilderness. After all, says Smith, "there have been millions of surface acres designated wilderness areas, but not a single acre underground." Lechuguilla, by all accounts, deserves to be the first.●

AMERICA'S FAVORITE WHIPPING BOYS

● Mr. BOSCHWITZ. Mr. President, I wish to call my colleagues' attention to an excellent article by Tom Clancy entitled "America's Favorite Whipping Boys." Like me, many of my colleagues may have read some of Clancy's books, such as "Hunt for Red October" and "Red Storm Rising." They are outstanding.

So is this article. It points out that the success or failure of a country's defense depends most upon its soldiers and sailors, who need support and proper training. As he shows, the men and women who serve in our Armed Forces have taken a few bum raps through the years, and they haven't always gotten the credit they deserved. I think his article expands the reader's understanding and appreciation for our Armed Forces.

Maybe I like it so well because I have never been part of the Blame America First crowd. How could I be, after walking down the gangplank of the S.S. *Majestic* on December 23, 1935, finding refuge with my mother and father in a country which has since allowed me such success?

Defense spending is never popular, and yet is as necessary as the lock on the door or the policeman in the street. As my colleagues know, most of the defense budget is not spent on heavy strategic systems, but on salaries and support for the people in our Armed Forces. Tom Clancy has an understanding for the importance of these issues that few have, and a rare ability to express it.

The questions he raises at the end of this article are questions that we in this Chamber need to address and answer. I hope my colleagues will enjoy this article and get as much out of it as I did.

The article follows:

AMERICA'S FAVORITE WHIPPING BOYS—BOTH LEFT AND RIGHT MISREPRESENT THE AMERICAN MILITARY

(By Tom Clancy)

The American military hasn't done anything right since the Inchon landing. It was unable to win in Korea, lost Vietnam completely, and had more than 200 Marines killed at Beirut through military incompetence—not to mention what happened to USS *Stark*—and barely managed to knock off a few hundred Cuban construction workers in Grenada. It's equipped with weapons that cost millions but don't work terribly well, if at all.

The Russian military is the most formidable in the world, lavishly equipped with more tanks, guns, ships, and aircraft than the rest of the world combined—all of which being nice and simple, work quite well, spasivo—designed with one single task in mind: the utter destruction of Western culture.

At least, those are the two views we hear from the political Left and the political Right, respectively. Together, these views form an unholy—not to say illogical—alliance between the Left and Right, resulting in a distorted view of the world balance of power that is as grotesque as it is damaging. In both cases, the distortion results from a fundamental lack of understanding based on a combination of intellectual laziness and ideological preconceptions that do not allow for the objective examination of evidence. Both sides are equally guilty.

WAITING FOR A STRATEGY

The American military—at least the service I know best, the Navy—is the most capable in the history of the world. That's not the same as "perfect," by the way, and in any case the effectiveness of any country's military is, in isolation, totally irrelevant. An army or a navy is a tool of national policy. Like any tool, a military establishment must have a purpose other than mere existence. When used, it is supposed to have a clear mission, preferably a mission that bears some semblance to its design. Anyone can use a wrench to drive a nail, and many do, but a hammer is better suited to the task. It is wrong and downright foolish to blame a wrench for not driving a nail well.

This has not recently been true of the U.S. military. One might remember that Korea was actually a success, even after Inchon. The mission of the U.S. Army was to prevent the conquest of South Korea by the Communist North. In view of the fact that the Republic of Korea has just had democratic elections, it is reasonable to observe that the mission was accomplished. Vietnam was a different matter entirely, however.

Blaming the Pentagon for Vietnam is akin to blaming surgeons for cancer deaths. On being assigned the mission of preventing the conquest of the Republic of Vietnam, the service chiefs drew upon their professional experience and made their proposals for carrying out the task. It was not their fault that their advice was not heeded. They got the blame, of course, but armies rarely choose their missions and almost never choose constraints on carrying them out. A severely ill patient who ignores his physician's advice will probably die, and even in contemporary society his heirs probably cannot sue successfully for malpractice; yet this is precisely what happened in Vietnam, and the blame carries on to this day.

DISARMAMENT AS "MILITARY REFORM"

People on the left look at Vietnam as the vindication of their political views: We failed, therefore we should never have gone; therefore we should never attempt anything even vaguely similar to Vietnam. (It is singularly ironic that the same politicians look fondly upon domestic programs founded by the same president who gave us Vietnam, but this is not the place to discuss what the Great Society has done to the American poor.) In supporting this political view, they find the reason for failure in the military itself. There are, I regret to observe, individuals on the political scene who would rather trash our young people in uniform than hug their own kids. Nothing is too small to ridicule. The stories of the overpriced hammers and toilet seats are repeated until they become as permanent as the figures on Mount Rushmore, despite the fact that they are inaccuracies at best, and outright lies at worst.

The Left has even sprouted its own "military reform" movement. It is noteworthy, first of all, for its single consistent thread: the weapons they oppose have real offensive capability, and those they suggest have none at all. Three examples are diesel-electric submarines versus nuclear ones, small carriers versus large ones, small, short-range fighters versus large, long-range ones. Every submarine officer I know has served aboard or commanded a diesel submarine; they all think that nuclear is the way to go. Had Great Britain retained full-sized carriers—or even just one—capable of power-projection instead of replacing them with smaller, less capable ships, the Falklands War would never have happened. The Israelis say the big, long-range F-15 Eagle is the best fighter in the world.

What objective evidence are the "reformers" looking at? The people who actually do the work don't seem to agree with their data. Their objective, therefore, appears to be ideologically based: if we remove America's capacity for taking war to the enemy, the threat that America poses to world peace can thus be reduced. Unable to make this statement openly, they propose that their weapons systems are superior, blithely contradicting the people who actually use them on a day-to-day basis.

BLAMING THE MILITARY FIRST

But what really galls me are the attacks on the men and women of our armed forces. They're stupid, the Left puts it bluntly. The commander of the Marines at Beirut was yet another example of military incompetence. We are supposed to believe that he chose to be at that precise spot, to have that precise mission (whatever it was), and decided that it was the militarily prudent action not to have his sentries load their rifles. That doesn't sound like any Marine I know. Nor did any fighter-bomber pilot in Vietnam ever decide that it was improper to attack a SAM site under construction (or MiGs on the ground), but rather to give the enemy the chance to complete it (or take off) before attacking, to make things more sporting.

The most recent example is USS *Stark*. The captain could have done better, but he did not choose to be in a war zone with an equivocal mission and rules of engagement that required him to be at war, and at peace, at the same time. One might also note that Lieutenant (j.g.) John F. Kennedy, USNR, was decorated after losing his command under more favorable tactical circumstances, while Captain Glenn Brindel lost his career even though he saved his ship.

Any military formation, regardless of its quality, can be undone by orders imposed from above. You cannot fault a soldier, sailor, or airman for trying to obey orders, no matter how inappropriate, that are issued by a duly constituted civilian authority. The alternative, remember, is incompatible with American democracy.

Grenada, for all its faults as an operation, is an illustration in contrast. The mission was to rescue American students and neutralize the government forces of that small island. Despite only a few hours of preparation and the consequent lack of good intelligence information, the mission was carried out rapidly, with minimal loss of life to friendly forces. What distinguished Grenada from Vietnam and Beirut, however, was clear mission concept and the delegation of command authority to the men on the scene. The result was success.

The Left, doubtless upset that our military did something right, again resorted to ridicule. The enemy, we are told now, were construction workers—whose shovels were apparently manufactured by Kalashnikov—who might as easily have been handled by a troop of Cub Scouts. The helicopters shot down were not lost to a few competent enemy gunners using effective Soviet weapons, but to a faulty American tactics. "Tomato-tomahto," a member of Congress said for the C-SPAN cameras, "Grenada-Grenahda: let's call the whole thing off." One's jokes are a measure of one's personal limitations, of course, but what I found especially offensive about this amateur comedian was that real guns were shooting real bullets at a friend of mine, a Navy helicopter pilot later decorated for rescuing 11 men whose UH-60 Blackhawk was snuffed out of the sky by the 23mm "shovels" of some Cuban "construction workers." As much as the political Left (and its pet "reform" movement) claims to desire an effective military, it invariably shrinks from acknowledging that we might actually have one. Whipping boys are hard to come by, especially the kind required by oath to respect public officials. It must be quite a thrill to abuse those who cannot reply in kind because of their loyalty to the constitutional process.

TARGET KIROV

I wish I could report that the political Right takes a more realistic view of defense issues, but it just is not true.

In the past few years, I have been exposed to nearly every element of the American military, and it seems a great shame indeed that all the men and women I have met are doomed to death or (worse) capture by their Soviet counterparts at whatever time the Soviets decide to gobble up the rest of the world. At least that's the impression one gets. One can only conclude that all the sophisticated weapons we buy and all the fine young people we train are being bought and trained to lose.

If there is something about that idea that bothers you, you should be bothered. You should, in fact, be offended.

Practically everyone has seen a glossy color photograph of the Russian "battlecruiser" Kirov, usually with an ominous caption about how she (the Soviets call ships "he," by the way) is the most powerful, best-armed surface warship built in the past generation. Back in 1983 I showed such a photograph to a friend of mine, a former commanding officer (C.O.) of an American submarine. "Tom, you know what that is?" he asked. "That's a Navy Cross that hasn't happened yet. That is a target." This view is shared by the skipper of every submarine in the United States Navy, and their main concern is that the British Royal Navy might get there first and spoil the fun.

The submarine community in the U.S. Navy and the Royal Navy, in both of which I have quite a few friends, is composed of the most indecently confident professionals one could ever hope to meet. If anything, the Brits exude—nay, radiate—even more confidence, and my reluctant observation is that, man for man, they are somewhat better trained than the Americans because of a different career track for their officers and less oversight from on high. They also are allowed to admit that they spend time at sea—our guys emulate the clam, while the Brits will tell the occasional story. I sprung my friend's line about Kirov on one of them a few years ago and got an even better reply: "Tom, do you know that Kirov has a great bloody bow sonar, that it ensonifies the whole bloody ocean, but it doesn't tell its operators a bloody thing! " When I asked how he knew this, of course, all I got was the Submariner's Smile. This is the facial expression that tells you, in this case: There I was, two thousand yards off her port bow, with a firing solution on all four fish, and he didn't know I was there despite the fact that his worthless bloody sonar was hammering energy into the water.

The submarine drivers in our Navy refer to the Soviet Navy as a "target-rich environment." The Brits are a bit more colorful.

So you have to ask yourself: why aren't American and British submarine captains properly terrified of the Soviet navy? Where does this confidence come from? Can't they count?

KNOW YOUR ENEMY

The confidence comes from the fact that, unique among Western military forces, the submarine community operates against the Soviets on a daily basis. The U.S. Navy has "Top Gun," and the Air Force has a virtually identical operation at Nellis AFB. The Army has the National Training Center, an incredible facility at Fort Irwin, California. At all of these installations, designated "aggressor" forces emulate Soviet tactics and doctrine to teach our men to fight the most likely major enemy. The submariners, however, can and do conduct the same sort of operations continually—against the real thing. That's one advantage of being in international waters, and being invisible. They track Soviet surface ships and submarines, gather intelligence information of various sorts, and generally conduct themselves as though on war footing at all times. To a submariner, the only difference between peace and war is pulling the trigger.

Their confidence, therefore, comes from the best possible perspective. The first rule of war is that one should know one's enemy; the men driving the fast-attack submarines do, and they think they can win.

The Soviet navy and the Soviet military in general look formidable. Anyone can get information on the numbers of ships and tanks and aircraft. That's called "bean-counting." It is an entirely valid approach, as far as it goes, but there is more to evaluating an enemy than counting beans.

What one cannot count in KH-11 photographs is the competence of the "drivers." The most cursory study of military history demonstrates that the decisive element on the battlefield is generally not raw numbers. At Cannae, Hannibal annihilated the largest army that Rome had ever fielded with a force only half as large. In France, in May 1940, the Germans defeated an Allied army with more of almost everything, including more and better tanks. For a more recent example, look at what has happened every time the Israelis have taken on the Arabs. In each case (and there are hundreds), the decisive factor was a combination of a skilled commander and professional troops.

An army or a navy is not a collection of tanks or missiles. A fighting force is composed of people. A tank is only a piece of steel—without a crew it won't go anywhere. Without proper maintenance support, even a good crew can't take it very far. The French navy throughout history was composed of better-designed ships than the Royal Navy that consistently defeated it. "Better to have good men in bad ships," as a submariner told me last year, "than bad men in good ships."

It's the men who count. (Women count, too, of course, but they're not allowed in combat arms at this writing.) How good are the Soviet soldiers and sailors?

The Soviet army is the first in modern history that tries to function without sergeants. Oh, they do have "sergeants," but what that means is that early into the conscription period individuals are selected on the basis of intelligence and political reliability to go to sergeant-school. After a few months they are sent to their units—but like everyone else, at the end of their two years, they go home. (It's worth noting that nearly every adult Soviet male can be recalled to the colors as a reservist, but they receive no training after leaving active duty.) I need hardly point out that two years do not a sergeant make. It takes more like five. The point here is that sergeants make the armies of the world work, if they are to work at all—ask any professional officer; that fact goes all the way back to Caesar's legions in Gaul—but the Soviet do not have them in any real sense.

SHARP AND PROUD

When I go aboard a U.S. Navy ship, I am always struck by the same fact. You expect the officers to be sharp. They're all college graduates, exquisitely trained, and reasonably well-paid. What always surprises, however, is the quality of the enlisted personnel. The average age is 22 or so. Most are high-school graduates with their first job, and they've been in for about four years. Already they have more experience than their Soviet counterparts (the conscription period in the Soviet navy is three years, and two years in their army). These kids are sharp. They are proud. They know why they're out there. They all have responsibilities. If a radar breaks, some 21-year-old kid fixes it, probably with the advice of a senior petty officer or a chief. Enlisted men on our ships stand watches. I've seen a Signalman First Class conn (direct the course of) his ship as the Junior Officer of the Deck, and a Chief Petty Officer stand watch as Officer of the Deck, with a new ensign—that is, an officer—as his conning officer. That's called democracy in action.

By contrast, when a Soviet navy ship is underway, either the captain or the starpom (executive officer) is always on the bridge—and if they have a flag officer aboard, the admiral frequently rides the bridge and gives rudder orders. Think about that for a moment; it consistently astounds American officers. How much confidence do Soviet captains have in their junior officers (and how much do Soviet admirals have in their C.O.'s?), and how will a captain be an effective warrior if he spends 12 hours per day, every day sitting on the bridge?

If something aboard a Soviet ship breaks, generally an officer fixes it—he has to, because the sailors don't know how. As a result, the best way the Soviets have to make sure things don't break is not to use them. While American sailors conduct DSOTs (daily systems operations tests) every day, the Soviets for the most part don't even turn on their radars, much less their weapons mounts. Their "days out of port" numbers may look impressive, but what they mean goes roughly as follows: a Soviet warship leaves port, generally accompanied by a sister ship and a small oiler. The two warships take turns towing each other (good seamanship practice, and it reduces wear and tear on the engines) to wherever they're going. They may conduct an underway replenishment (UNREP)—not alongside as we do it, but over the stern, with the oiler towing the destroyer—and when they get to where they're going, they drop their anchors and sit for a month or two, then return home the same way. By comparison, the U.S. Navy generally plows along at 20 knots, and conducts its UNREPs alongside, not uncommonly with an enlisted man in charge. In short, the U.S. Navy spends quite a bit more time actually working than does its Soviet counterpart.

Do the Soviets have good ships—yes, they do. They also have impressive weapons of all categories.

But so do we—though not as many—and we have people operating those ships and weapons who actually know their jobs. The Soviets generally do not.

So, how good are the Soviet armed forces? How good can they be? How good would our forces be if we operated under a similar system? How good would our submarines be if their at-sea time was cut by two-thirds? How effective would they be if they didn't train on their equipment every day? How much confidence would we have in a military in which only officers have professional experience?

Do the Soviets know the disadvantages under which they operate? Any American can subscribe to Krasnaya Zvesda ("Red Star") or Morskot Sbornik ("Naval Digest"), and if you can read Russian, you can see what they say to and about themselves. They know.

Why, then, do the Soviets hamstring their armed forces, you ask? Think about it for a moment. Soldiers and sailors the world over are not terribly different. They tend to be loyal to good leaders. If the Soviet military had real professional soldiers, they might start liking the officers over the party leaders . . . perhaps even enough to forget that they're supposed to be loyal to the CPSU . . . and the Soviet Army has a lot of guns . . . and even with the KGB's Third (Military-Oversight) Directorate to keep an eye on things, that worries the Politburo . . . A truly professional Soviet military might be more of a threat to the CPSU than to NATO.

I must assume that I can get this information, either from reading it in the open media or from unclassified conversation with our people in uniform, the same information is available to members of the House and Senate, to all the political lobbies and think tanks, and to the media. Why, then has the reader probably never seen it in this way?

Defense issues are hard to cover in 10 column inches of a newspaper or 120 seconds of air time. Reporters in particular seem to lack anything resembling expertise in the defense area. There are a few stellar exceptions, one of whom is John McWethy of ABC. I have on several occasions offered to show TV journalists how to acquire the sort of knowledge I have—and it is not difficult. I have yet to get a response. Instead, reporters take prepackaged information, either from the Right or the Left, and merely repeat it.

POLITICAL FAILURE

Our political leadership is also failing. There can be no consensus on defense policy until our political leadership assumes its responsibility of debating—and ultimately answering—the following questions:

What are the threats to America and the West?

What is our national defense strategy to deal with these threats?

What is the mission of the U.S. military?

What do we expect our armed forces to do?

How do we expect them to do it?

A lack of proper answers to these questions is far more dangerous to world peace than the weapons everyone worries about. Wars usually start because one side misperceives the strength and intention of the other. Overestimation of the enemy can sometimes be as dangerous as underestimation. If we are to assume that wars begin because of faulty or broken-down policy, it's time to ask how we expect to generate good public policy from skewed data, and perhaps to wonder just how dangerous poor data are to world peace.●

APRIL 14—AN ANNIVERSARY

Mr. DOLE. Mr. President, everyone has calendar dates that mark important events in their lives. Well, today is one of mine. On an Italian battlefield 43 years ago—April 14, 1945—my life changed forever.

OPERATION CRAFTSMAN

Forty-three years ago, I was a young second lieutenant in the 10th Mountain Division, leading a platoon of soldiers against some heavily entrenched German forces. It was but one small story in a large-scale Allied offensive called Operation Craftsman. We were supposedly driving the Nazis back to Berlin through the soft underbelly of Europe, but those of us who had been fighting through the mud and the mountains knew firsthand that the Italian underbelly was anything but soft.

My platoon was pinned down by fierce enemy fire. Ahead lay a deadly minefield. All around me, men were going down. I tried to bring one of them back to the safety of a foxhole. In doing so, I too became a casualty.

AN ANNIVERSARY FOR REVIEW

Now, Mr. President, I am not here today to tell old war stories. What happened to me 43 years ago today is not nearly as important as what has happened since.

As a disabled American—and there are 37 million of us—I choose to use this anniversary to review how far this country has come with respect to the lives of the disabled—and how far it has to go.

Mr. President, on this date 5 years ago I stood before this body and announced the formation of a foundation dedicated to expanding employment opportunities for people with disabilities.

THE DOLE FOUNDATION

A few years ago, the Dole Foundation was just an idea. An idea born out of the rehabilitation of one man and the support he received from his hometown of Russell, KS. But one foundation can't do it alone. I would like to believe that America stands on the brink of a new frontier. A frontier where disabled individuals will be judged not by their disabilities, but by their abilities.

Unfortunately, 67 percent of working-age persons with disabilities who want to work cannot find employment. In America today, 25 percent of all of our unemployed are disabled. Only 1 disabled woman in 5 works, and 82 percent of black disabled Americans are unemployed.

The Dole Foundation for Employment of People With Disabilities is working to change those statistics. In its short history, the Dole Foundation has awarded 75 grants totaling $2 million to grassroots nonprofit organizations all over America. These local organizations provide job training and job placement to people with disabilities.

OPPORTUNITIES, NOT HANDOUTS

In fact, the Dole Foundation is the only foundation in America that is solely dedicated to the economic independence of people with all types of disabilities. I am proud to say that the Dole Foundation is the national leader in providing grants to organizations that train and place people with disabilities in jobs.

Mr. President, I am convinced that the vast majority of people with disabilities don't want handouts. They want the opportunity to work, to take care of their families, and to pursue the American dream. But barriers still prevent them from reaching that goal. Sadly, many of these obstacles only exist in the minds of those who are not disabled.

REAFFIRMING THE COMMITMENT

With the passage of the Rehabilitation Act of 1973, Congress stated loud and clear that persons with disabilities must have an equal opportunity to participate in our society. This year, we reaffirmed that commitment with the overwhelming passage of the Civil Rights Restoration Act. I have always been committed to ensuring the rights of the disabled: I have not—and will not—veer from this commitment.

We need new initiatives in the public and private sector to help create new employment opportunities and to eliminate age-old disincentives.

TRANSPORTATION

The lack of accessible transportation remains a major concern for persons with disabilities. In the 99th Congress, I introduced the Air Carrier Access Act which later became law. The Department of Transportation should be issuing its rules and regulations within the next few months.

I look forward to seeing provisions that will finally eliminate discrimination against persons with disabilities, and will also end the mistreatment of the disabled by some air carriers.

Urban mass transit is another area that must be addressed. While the Department of Transportation has issued new regulations to mass transit systems, many transit authorities are still not providing service that allows persons with disabilities to get to work.

HOUSING

While affordable and appropriate housing is a major concern for millions of Americans, the situation is even worse for the disabled. Even if you are self-sufficient and can afford a house, it's almost impossible for the disabled to find one that is accessible. The fair housing bill is now in the Judiciary Committee with provisions that include persons with disabilities. I think it's about time that they are covered under this legislation.

VOTING

This year, American citizens can once again exercise their fundamental rights by voting in the Presidential election. Yet for many years, Americans with disabilities were kept from voting because registration and polling places were inaccessible. I was proud to be an original cosponsor of the "Voting Accessibility for the Elderly and Handicapped Act of 1984," and hope that it turns out to be landmark legislation. I expect to see record numbers of disabled men and women in wheelchairs, and otherwise disabled, vote this year because the polling places are accessible finally.

CHANGE THE FUTURE

No doubt about it, disabled Americans will be heard from in the 1988 elections. I urge the Presidential candidates from both parties to listen to them, and to reach out to them as many have tried to do in their campaigns and I tried to do in mine.

April 14, 1945 was a long time ago. I can't change the past. But working together, I believe we can change the future for millions of disabled Americans.

So I am not here to talk about the past. I am here to talk about the future, what the future holds, and the hopes and aspirations of millions of Americans. And I think we are seeing progress every day.

Mr. BYRD. Mr. President, as one American, I wish to express my appreciation to ROBERT DOLE, who became a casualty on the battlefield. I want to thank him for his services to his country, for his bravery under fire, and for his thoughtfulness and service toward others. He became a casualty as he was sacrificing for others.

I want to thank him, too, for the service he continues to render in this arena. He has been as courageous in the field of public service, and certainly he continues to render the same noble and gifted and dedicated service to his country as he sought to give when he served under our country's flag.

He has performed well in whatever rank, position, or station of life in which he received his calling. He continues to serve daily, and I continue to admire him. I admire him for the sacrifices he has made for our country.

As I sat here listening to BOB DOLE, and as one who is very interested in American history—as well as the history of England, incidentally—and particularly in the history of the U.S. Senate, I thought that it must have been men like ROBERT DOLE whom Emerson had in mind when he said:

> Not gold, but only men can make a nation great and strong;
> Men who for truth and honor's sake stand fast and labor long;
> Real men who work while others sleep,
> Who dare while other fly.
> They build a nation's pillars deep
> And lift them to the sky.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders under the standing order on tomorrow morning, there be a period for morning business not to extend beyond 11 o'clock a.m., that Senators may speak for not to exceed 5 minutes each during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF PENDING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock tomorrow the Senate resume consideration of the bill, S. 237.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there will be rollcall votes on S. 237 tomorrow. I hope that the Senate will be able to put in a good day—it is a Friday—just like any other of the 5 days during the week. This is a very important bill that is being considered tomorrow, and I hope the Senate can complete action on the bill tomorrow.

Mr. President, does the very distinguished Republican leader have anything further he would like to say or any business he would like to transact?

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. If the majority leader will withhold, the Chair has an appointment.

The Chair, on behalf of the President pro tempore, pursuant to section 1139 of the Social Security Act, as amended by section 9136 of Public Law 100-203, appoints the following members to the National Commission on Children:

Individuals providing services, activities, or research for children: Ms. Marian Wright Edelman, of the District of Columbia; Mr. David Weickert, of Michigan; Dr. James D. Northway, of California; and Mr. Barry S. Zuckerman, of Massachusetts.

Individuals who are elected or appointed public officials: Hon. JOHN D. ROCKEFELLER IV of West Virginia; Hon. LOWELL P. WEICKER, Jr., of Connecticut; Hon. William Clinton, of Arkansas; and Mr. William Honig, of California.

Individuals who are parents or represent parent organizations: Mrs. Betty Jo Hay, of Texas; Mr. Irving Harris, of Illinois; Mrs. Adele C. Hall, of Missouri; and Dr. William Cosby, of Massachusetts.

SENATOR BOB DOLE

Mr. MATSUNAGA. Mr. President, I rise to be able to join with the distinguished majority leader in the sentiments expressed relative to our beloved and distinguished minority leader, BOB DOLE.

I think all listening to what he had to say could not help but be impressed and I, too, as I sat here listening to him, was very much impressed to have in our midst a hero like him.

I would even go to the extent of saying that if he were running on the Democratic ticket, he would be our next President.

I thank the Senator.

Mr. DOLE. Mr. President, I thank my colleague. I am not certain about that last comment.

But Senator MATSUNAGA, of course, has a distinguished record and the Presiding Officer is the real American hero in this room right now.

I say to the distinguished majority leader, I particularly thank you for your generous remarks which were, as always—this is from my point of view—right on target.

But I speak not for BOB DOLE, but for all those people out there. And there are millions and millions of Americans who I think are making a difference because of what Congress has done.

I must say I thought about this yesterday as I saw Jennings Randolph come into the Chamber to say hello to the distinguished majority leader. Senator Randolph was in the forefront of a lot of legislation around this place that made life a lot easier for many, countless thousands and thousands, of Americans with disabilities.

So I thank my colleague, the majority leader, and my colleague from Hawaii.

Mr. BYRD. Mr. President, I again thank the distinguished Republican leader and I thank my good friend "SPARKY," Senator MATSUNAGA. There, too, a hero. He did not say that about himself, but he fought for this Nation and fought nobly. And, as was very well pointed out, our Presiding Officer today is JOHN GLENN, a hero who is known and beloved by millions of Americans. I am proud to stand in this Hall among these heroes.

I cannot say that I fought in the Nation's war, but I helped to build some Liberty ships and Victory ships and did some welding in the underbottoms in Baltimore building those ships. I also welded in the McCloskey Shipyard in Tampa, FL. That was a very, very little service as compared with the service that these men have performed. I am just proud to be in their company.

THE REPARATIONS BILL FOR JAPANESE-AMERICANS

Mr. BYRD. Mr. President, I expect and hope, and it is my intent upon the disposition of the lobbying bill, to go to the reparations bill for Japanese-Americans which has been authored by the distinguished Senator from Hawaii, Mr. MATSUNAGA. That bill number is S. 1009.

He has worked assiduously for months on this bill. He has contacted, I daresay, every Senator in this Chamber on both sides of the aisle and he has just about gotten most of them or all of them—he does not have all of them.

Mr. MATSUNAGA. Seventy-five.

Mr. BYRD. Seventy-five; three-fourths of them as cosponsors of this bill.

Now, it is through his persuasive talents that he got those 75 cosponsors and through his hard work and his dedication. We all know about our friend—we call him "SPARKY"—SPARK

MATSUNAGA's dedication to his work here in the Senate, to his country, to his family. We admire him. He is one whom we all would do well to emulate with respect to his dedication, his high sense of purpose, and his never-waivering loyalty to his friends and to this institution and, above all, to his country.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate—and the Republican leader has indicated he has nothing further he wishes to transact—then I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 tomorrow morning.

The motion was agreed to; and, at 9:14 p.m., the Senate recessed until Friday, April 15, 1988, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 1988:

DEPARTMENT OF COMMERCE

DONNA F. TUTTLE, OF CALIFORNIA TO BE DEPUTY SECRETARY OF COMMERCE, VICE CLARENCE J. BROWN, RESIGNED.

THE JUDICIARY

JUDITH RICHARDS HOPE, OF THE DISTRICT OF COLUMBIA, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE ROBERT H. BORK, RESIGNED.

EXTENSIONS OF REMARKS

PERCEPTION ABOUT THE U.S.S.R.

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. RICHARDSON. Mr. Speaker, I would like to bring to the attention of my colleagues a summary of an essay entitled "Perceptions about the U.S.S.R. from the Standpoint of International Security" by Louis Rosen of the Los Alamos National Laboratory. Louis, who is a personal friend of mine, has traveled to the Soviet Union on three occasions meeting with the likes of Serguei Kapitsa, a Soviet expert on arms control. From his experiences, Louis discusses the opportunities and risks we face in arms control. I believe my colleagues will find this essay enlightening. The essay is available in its entirety at my office for your review.

SUMMARY OF ESSAY

For the reasons above identified the INF Treaty will be seen as providing military advantage to the West and political advantage to the Soviet bloc. But the major significance will reside in the precedents the treaty sets. These precedents are vital for future negotiations on reductions in conventional, chemical, and biological weapons, as well as for reduction in strategic nuclear arsenals.

It would appear that the potential political advantages to the East could eventually outweigh the military advantages to the West, but not if the West acts wisely. However, in the unlikely event that the treaty is not ratified, the political damage to the West could be very serious and translate into a degradation in the NATO position relative to that of the Warsaw Pact. The point is that those who oppose the treaty will not be mollified by the fact it is not ratified. From their standpoint the damage will already have been done. On the other side, the much larger number of people in western Europe and the U.S. who applaud the treaty will be seriously alienated from the entire arms control process as conducted by the U.S.

Assuming INF ratification, what comes next? This year could bring agreement on reduction of strategic warheads to 50 percent of their present levels, since that would still leave an overabundance of deterrent force on each side. However, such an agreement will probably require a tacit agreement on compliance with the ABM treaty during the next decade. Such an agreement will probably be facilitated by Soviet confidence in their ability to neutralize, if feasible, or destroy, if necessary, any battle stations that appear over their territory. The Soviets appear already to have withdrawn their demand that SDI development cease. They only insist that the traditional interpretation of the ABM treaty remain in force, as do some of our allies and many members of Congress.

But what about the longer term future? Continued progress on arms control will depend on the survivability of Gorbachev's policies and public commitments. It will also depend on whether Gorbachev can persuade the world that it is in everybody's interest for his policies to be taken at face value and that there are no hidden agendas which could place western security and/or western values in jeopardy. The West, in turn, must understand that Soviet leadership is facing a great delemma. For the bureaucracy to stay in power they must improve the quality of life or demonstrate an imminent external threat. To do the former they must give their people more flexibility and freedom to communicate and travel—they must open up Soviet society. But an open society will expose the shortcomings of the bureaucracy and erode its power.

The most probable scenarios appear to be the following:

(1) General Secretary Gorbachev is sincere and will be successful, at least in the short term. This will be affirmed when we are told more about Soviet goals and intentions, about the true dimensions of their defense budget, when they relax restrictions on emigration and tighten controls against the abuse of human rights. Other indications will emerge when we see the extent to which military doctrine follows political policy, and the extent to which the Soviet Union desists from undermining legitimate governments through military coercion and political intrigue. The above are some of the benchmarks against which we can measure the sincerity of stated Soviet policy.

(2) Gorbachev will fail to achieve his aims through design or circumstance. He will change direction or be smothered by the bureaucracy; and his reforms will falter or even be reversed.

The communist party will reassert its dominance, from Moscow, over all facets of life and revert to previous styles of governance; or the military will become dominant.

(3) Gorbachev will succeed without accommodation with the West and the U.S.S.R. will become more dangerous to world peace than ever before.

(4) The arms control process will break down and the arms race will continue at ever higher levels and with ever greater danger to world survival. The Soviets will break out of the ABM treaty.

It seems to the writer that scenario (1) is both the most probable and the most desirable; and that it is in the interest of the entire world to avoid placing obstacles in its path. It is also the judgement of the writer that the scenario with the second highest probability is (2). Nonetheless, scenarios (3) and (4) cannot be ignored. The West is therefore faced with the necessity of adopting a political and military posture which is hospitable to scenario (1) but which can be responsive in timely fashion, to scenarios (3) and (4), as well as to (2).

If the U.S. and U.S.S.R. are to move beyond a 50 percent reduction in strategic missiles to major reductions and balance in conventional weaponry, arms treaties alone will not be sufficient. A lessening of fear, distrust, and suspicion is required. There will therefore be a need to put in place an extensive program of confidence building which, among other activities, would involve U.S.-U.S.S.R. collaboration on large-scale initiatives which will be seen as having major world benefits. I refer to collaborations in areas such as environmental protection, bolstering the world economy and improving world health through sanitation and medical programs. I also have in mind large programs of student exchange, as well as increased scientific and cultural exchanges.

It is not too early to start enhancing existing activities which contribute to confidence-building and to identify major new initiatives which can have global impact.

ELENA KEISS-KUNA AND HER FAMILY SHOULD BE PERMITTED TO LEAVE THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LANTOS. Mr. Speaker, I rise today to draw attention to another human rights violation in the Soviet Union. Although this is the time of "glasnost," Soviet officials blatently disregarded article 13 of the Universal Declaration of Human Rights, which proclaims that, "Everyone has the right to leave any country, including his own, and to return to his own country." The Soviet Union, a signatory to this document, has repeatedly denied its citizens the right to emigrate.

Mr. Speaker, I wish to bring to your attention and to the attention of my colleagues the case of Elena Keiss-Kuna and her family who are prisoners in their own country. Elena Keiss-Kuna and her family have been applying to emigrate since 1974, so they may be reunited with Elena's family—her mother and sister—in Israel. Since first applying to emigrate in 1974, she and her husband George have been unemployed in their field of engineering and survive on George's menial wages as a truckdriver. Their denial was attributed to their previous access to State secrets. Her family has long exceeded the 10 years wait required of those with access to State secrets, and still they are denied the chance to leave.

In March 1988, Elena resorted to extremes and embarked on a hunger strike. Mr. Speaker, it is tragic that human beings are compelled to resort to physical deprivation to make a statement and to bring change. At this time, we must focus attention on the Soviet failure to observe its international obligations in continuing to hold Soviet citizens captive in their own land. It is crucial that we uphold those beliefs upon which our country was founded and urge the Soviet Government to allow the free emigration of those citizens which they hold captive.

A TRIBUTE TO PEG WALLING

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. COURTER. Mr. Speaker, I rise today to share special tribute to Peg Walling of Boonton Township, NJ. Peg is a concerned citizen, a dedicated mother and a good friend.

Born in Belleville, NJ, on January 31, 1924, she has been a resident of the State for her whole life.

In 1952 she became involved in local politics when she joined the Republican Club of Hanover Township. In 1968 she also became active in the Morris County Women's Republican Club and the New Jersey Federation of Republican Women. She is still involved with both of these organizations today.

I could go on to mention the many other ways that Peg has been involved in politics, but this would not be fair. It would not be fair because it would ignore her many other fine attributes. She is involved with the Rockaway Valley United Methodist Church and through her work with a woman's group there has raised money for charity. Through her association with Dope Open, Inc., she has helped to raise money for use in the fight against one of our Nation's most pressing problems, drug abuse. Along with her husband Willis, she has also donated her time to work in a Morris Plains Easter Seal Rehabilitation Center.

Peg loves to golf and has been known to bowl a 149 on occasion. She is a devoted wife and mother as well as a good friend to all who know her. Over the years she has demonstrated concern for her family, concern for her neighbors, and concern for her country. That is why I rise today in tribute to Peg Walling.

NATIONAL ENTREPRENEURSHIP

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LEVINE of California. Mr. Speaker, I have been impressed by three recent pieces of information concerning Intel and its dynamic chairman, Dr. Andrew Grove. Together, they present an inspiring lesson to Congress and the Nation as to what is necessary to regain America's technological cutting edge: First, individual company excellence; second, intercompany cooperation; and third, government-industry cooperation.

Individual company excellence: The first was the report in the April 3 edition of the New York Times, entitled, "An 'Awesome' Intel Corners its Market." This article reports how Intel has almost entirely dominated the world market for the 386 chip used in today's cutting-edge personal computers. Significantly, the article notes that Intel invested over $100 million of its own capital in developing the 386 chip—a large and risky commitment of funds when the project was originally launched. Intel's success is an inspiring demonstration that America's industries can remain on the global cutting edge not only in developing new technology, but commercializing it.

Intercompany cooperation: The second was the March 23, 1988, announcement by Intel that it was entering into a cooperative arrangement with Micron Technology, Inc., of Boise, ID, in which Intel will sell Micron DRAMS—memory chips—under Intel's label. At a time when U.S. memory chipmakers find themselves under intense international competition, this is an important model of the kind of intercompany cooperation needed to keep America's lead. The American Electronics Association is also to be congratulated for the leadership it has shown in encouraging American companies to realize their mutual interest in working together.

Government-industry cooperation: The third is an article by Dr. Grove himself, entitled "Regain Leadership by Working Together," from the December 13, 1987, edition of the New York Times. In it, Mr. Grove notes that the American electronics industry registered a trade deficit of $13.5 billion in 1986, and that America's technological leadership is threatened unless America can reverse its disturbing trend. Most significantly, Dr. Grove called for a strategy of "National Entrepreneurship," which he defines as "coordinated action—Government and industry together—to promote industrial well being."

Mr. Speaker, it seems to me that American business—and the rest of us—have a great deal to learn from Dr. Grove and Intel. First, Intel's experience demonstrates that America can remain on the cutting edge—if its companies make the kind of long-term investment in R&D and quality that Intel has over the years.

Second, it is clearly time for more companies to begin learning how to cooperate with each other as well as compete. The electronics industry should be but the first of many that find ways to work together.

And finally, we need to heed Dr. Grove's call for a new strategy of "national entrepreneurship" in which Government and industry join together to keep America on the cutting edge. At a time when our Nation faces the greatest challenge to its technological supremacy in its history, we can no longer afford to remain trapped in old ways of thinking.

It is particularly noteworthy when companies like Intel are as innovative in their public policy thinking as in manufacturing. Surely we in Congress can be no less open to new ideas, and prepared to develop new initiatives to ensure that our country remains the world leader in technology and its applications.

Mr. Speaker, I include in the RECORD a copy of Dr. Grove's New York Times article and the Times recent article about Intel.

I urge my colleagues to take the time to read them. They are both important contributions to understanding how the United States can more effectively compete in the new world economy.

[From the New York Times, Dec. 13, 1987]

WINNING THE TRADE WAR—REGAIN LEADERSHIP BY WORKING TOGETHER

(By Andrew S. Grove)

Only a few years ago I used to brag about how the American electronics industry singlehandedly kept the United States trade balance positive. Over the past year or so, my little joke soured. Last year, the United States imported $13.5 billion more in electronics products than it exported.

What happened?

One can hardly discuss international trade, past or present, without immediately running into the activity of Japanese industry. In the 20's and 30's, Japan was accused of dumping silk on the world market and pricing it lower than cotton fabric in Britain's Far Eastern colonies. After World War II, trade friction shifted to the heavy industries, starting with shipbuilding, continuing on to steel, and then, more recently, to the automobile industry. These industries are interrelated. When shipbuilding got into trouble, steel costs rose due to a smaller available market. Higher cost steel then raised automobile costs, rendering that industry less competitive.

By the late 60's, the action turned to a high-tech industry—television manufacturing. In 1968, American television manufacturers lodged a dumping complaint with the Government, decrying the action of the Japanese manufacturers of black-and-white televisions. In 1971, a number of Government agencies confirmed these charges. But despite these rulings, our Government failed to assess or collect the $400 million in duties owed by the Japanese.

In 1975, having concluded that our dumping laws were not to be taken seriously, the Japanese manufacturers mounted a concentrated and focused attack on the color television market. They stockpiled huge inventories, and then flooded our market. The result: in an 18-month period, the Japanese share of the American market surged to nearly 50 percent, from 14 percent. As American manufacturers were drowning in red ink, Japanese companies bought what was left of the industry.

In 1967, before this sequence of events started, there were 28 American manufacturers of television sets. Today there is one. In the meantime, the world market for consumer electronics has grown to $100 billion.

At no time was there a significant American presence in the Japanese television market. At the peak of our industry's strength, in 1975, American sets had a total Japanese market share of less than 1 percent.

As these events suggest, Japanese industries follow a predictable progression:

1. While a specific American industry is competitive and its Japanese domestic counterpart is not, the Japanese home market is protected.

2. When both American and Japanese industries are vigorous, the Japanese companies mount a concentrated attack on the American market, regardless of the economic cost. The Director General of the Confederation of British Industries described it this way: "The Japanese adopt a laser-beam approach, concentrating on particular targets and virtually obliterating those industries, one by one." Meanwhile, their home market continues to be protected.

3. After the American industry has been driven from the scene, true free-market principles are proclaimed and practiced.

The semiconductor industry, in which I work, is a key element in the chain of industries that make up the electronics business. The earlier loss of the domestic consumer electronics industry affected us in the same way that the loss of shipbuilding affected the steel industry; an entire industrial segment that used our products vanished from our home territory into one where we were denied fair access. Consequently, our development and manufacturing costs must be borne by the remaining American-based semiconductor-consuming sectors, predominantly the information processing industry.

How are we doing? The American semiconductor industry came out of the bruising two-year slump of 1985 and 1986 tattered but alive. We actually gained market share at home from 1984 to 1987, but hanging in there cost us a bundle. We suffered major losses, around $2 billion. But the cost of this battle is estimated to have been more than twice as great for our Japanese competitors. In innovation and manufacturing, the American semiconductor industry is still competitive. But will it remain so?

Our biggest concern is that much of the information processing industry is gradually shifting out of the United Sates. First, electronic subsystems migrated across the Pacific Ocean. Now, a large portion of completed computer systems are being imported, even if they are sold here under American brand names.

If these trends continue, our industry will end up with a large share of a shrinking American market.

The picture is no more reassuring when we look at the makers of the tools of production that we use. The companies that develop such tools and production equipment are vitally dependent on our well-being, and vice versa. Even if we still buy most of our tools from American vendors, we increasingly find them weakened and not able to develop and produce critical pieces. This in turn weakens us vis-a-vis our foreign competition, leading to more decline.

Our industry is not unique. In 1980, American industry produced 6 percent more manufactured goods than our society consumed. By 1986, our manufacturing plants turned out only 85 percent of the goods consumer here. We have turned into a nation of people who sell one another foreign-built goods financed by selling off our capital assets.

What should we do about all this? I believe that what we need is a new vision of competitive behavior. Even though our preference and value system lean toward the individual, we need to think in terms of national entrepreneurship.

To start with, we must acknowledge loudly and clearly, starting with the President of the United States, that there is a national stake involved in how our industries fare in internatioal competition. We should use our access to foreign markets as a condition for foreign access to our markets. Our Government should enforce dumping laws quickly and consistently. And we must start taking coordinated action—Government and industry together—to promote industrial well being.

Sematech, the proposed manufacturing-development consortium, represents such an action. It would serve the interests of producers and users of semiconductors as well as those of the makers of the tools of production. It would also serve the interests of our Government. All beneficiaries have agreed—or, I hope, are about to agree—to being "taxed" to finance this important venture.

Some have criticized Sematech, calling it an example of a government bail-out. I see it as example of national entrepreneurship. I hope it will be given a chance and that it will be emulated in other industries.

[From the New York Times, Apr. 3, 1988]

AN "AWESOME" INTEL CORNERS ITS MARKET

[It has turned its key computer chip into Silicon Valley's latest cash cow.]

(By Andrew Pollack)

SANTA CLARA, CA.—In company presentations, the Intel Corporation's president, Andrew S. Grove, displays a cartoon that depicts Intel as a castle. Attackers are coming from all directions brandishing a variety of weapons—lawsuits, competitive products and imitations of Intel's product—all after the jewel of the kingdom that is hidden inside.

The jewel is a piece of silicon smaller than a postage stamp that contains 275,000 microscopic transistors. And so far, Intel has protected its prize well, perhaps too well for the comfort of some of its cutomers. The personal computer industry and Wall Street are waking up to the fact that Intel has one of the most lucrative monopolies in America. It is the designer and sole supplier of its silicon jewel—the 80386 microprocessor, a computer chip that is the central component of the latest and most advanced personal computers made by the International Business Machines Corporation and most other manufacturers.

There are other microprocessors on the market, but they do not easily run the industry's standard software. And while Intel licensed previous generations of its chips to other companies, it has kept control over the 386, as the chip is popularly known, except for giving permission to I.B.M. to produce some for its own needs. Other makers of personal computers have no choice but to go to Intel. As a result, Intel not only has the jewel, it now rules the kingdom.

"It's got a lock on the market," said Adam Cuhney, semiconductor analyst with Kidder, Peabody & Company. Rajiv Chaudhri of Goldman, Sachs & Company agreed: "It's awesome how well they are positioned."

Indeed, with the 386 in short supply for two years, just how Intel allocates the chip among its customers can determine who will prosper and who will fade in the computer industry.

Intel insists it has been fair in its allocation practices. "We are very meticulous about all of that," said Dr. Grove, who said Intel's supply will catch up to demand in a few months. Still, some customers are uneasy. A fire in an Intel factory, they say, could put the brakes on the growth of the entire personal computer industry. Moreover, even if Intel can supply enough chips, prices won't drop as fast as they would if there were competition. "Intel will be controlling the price," said Safi Qureshey, president of AST Research Inc. of Irving, Calif., a manufacturer of personal computers and circuit boards.

For Intel, the success of the 386 has been a boon, restoring the luster to a 20-year-old company whose reputation as the most innovative and successful semiconductor maker in the world has been tarnished by setbacks in the last few years.

Last year, Intel's revenues grew 50 percent, to $1.9 billion. Profits reached $248 million. Even excluding about $90 million in extraordinary gains, that is still a dramatic turn-around from the $173 million net loss in 1986. Analysts expect sales to grow another 40 percent this year, to $2.6 billion, and profits, excluding extraordinary gains, to more than double. If that rate were to continue, it wouldn't be too many years before Intel surpassed Texas Instruments Inc. and Motorola Inc. as the largest semiconductor company in the nation.

The 386, which cost $100 million to develop, is not the only reason for this growth, but it is a large one. Personal computers using the new chip, like I.B.M.'s PS/2 Model 80 and the Compaq Deskpro 386, began appearing on the market only in the last year or so. So far, the chips have been used in high-end machines but sales should increase dramatically in the coming years as users shift to a new generation of equipment employing a new operating system known as OS/2. In 1987, Intel sold about 700,000 of the 386 chips. This year it is likely to ship 2 million at an average price of almost $250, making the 386 a half-billion-dollar product.

What is irksome to competitors is that there is a fair amount of luck involved in all of this. Intel has made as many mistakes and missed as many opportunities as any company and yet is still coming out on top.

Its archrival, Motorola, introduced its 68020 microprocessor, the direct competitor of the 386, nearly two years before Intel did and some engineers believe it is superior. Motorola sells the chip to Apple, Commodore and Atari as well as to companies like Sun Microsystems, which produce work stations, a powerful desktop computer used by engineers and other technical professionals. Last year the 68020 still outsold the 386.

But in 1980, I.B.M. chose an earlier generation of Intel processor, the 8088, as the key to its new personal computer, and the entire industry of business personal computers, with the exception of Apple, then standardized around that. The PC industry now is locked into the Intel architecture, which is best suited to running the dominant MS-DOS and OS/2 operating systems.

"There is such a thing as luck and then you grab it and exploit it," said Dr. Grove. Intel aims to do just that. It realizes that competitors will eventually figure out how to compete with the 386. It also realizes that it is highly dependent on the personal computer market and could be vulnerable if that market slows.

So rather than merely defend its castle, Intel is initiating attacks of its own. On Tuesday, for instance, it will introduce a series of microprocessors intended for uses other than inside personal computers. On Wednesday, Sun Microsystems will introduce a family of work stations based on the 386, an announcement that will help push the 386 into the higher reaches of the computer industry.

Behind the moves is Intel's plan to transform itself from a semiconductor company into more of a computer company, or what it calls a microcomputer company, thereby escaping commodity pricing, Japanese competition and the capital-intensive nature of the semiconductor industry. "We are not a semiconductor company in a conventional sense," Dr. Grove said. "We are really a company that produces stuff for microcomputers."

How well Intel manages to capitalize on its temporary good fortune and make this transition could be the final test of the triumvirate of engineers that has led Intel since its inception and, in a few years, will be ready to pass on the mantle of leadership. It is a team that helped invent many key products in the semiconductor industry, but one that has also squandered its lead in many areas.

Intel was founded by two men who are now legends in the industry, Robert N. Noyce, the co-inventor of the integrated circuit, and Gordon E. Moore, a technical visionary, who remains shy and unassuming despite having become one of the country's wealthiest individuals. Drs. Noyce and Moore had founded the Fairchild Camera and Instrument Corporation, one of the earliest semiconductor companies in Silicon Valley and which later became known as the Fairchild Semiconductor Corporation. But in 1968 they became disenchanted and left to form Intel.

It was at Fairchild that Dr. Moore first hired Dr. Grove. Born in Hungary as Andras Grof, Dr. Grove left after the uprisings in 1956. Despite being weak in English, he graduated first in his class at City College in New York.

Dr. Grove was actually turned down for employment at Texas Instruments because his Ph.D. dissertation, involving fluid dynamics, was deemed not relevant for semiconductors. But Dr. Moore hired him after receiving a two-sentence letter of recommendation from his professor. "This is a truly exceptional individual," Dr. Moore recalls the letter as saying. "Whoever hires him will be very lucky."

Dr. Grove joined Intel on Day One, to run research and development. But he was a man with intense energy who probed into what everyone else was doing and soon became the third man at the top. Strong-willed and blunt-talking, Dr. Grove is a sharp contrast to Dr. Moore. "It's almost like Clark Kent and Superman," one Intel official said.

Last year, in a diner atop San Francisco's TransAmerica building, Dr. Moore surprised Dr. Grove by transferring the chief executive position to him.

In its early years, Intel quickly blazed a fiery path in the semiconductor industry. It developed the first dynamic random access memory chip, or D-RAM, now the main device used to store information in computers. Intel also was first with the EPROM and static RAM, two other types of memory chips.

"In 1973 and 1974, we had three products and we had a monopoly in all of them," Dr. Moore recalled. But Intel, being small, licensed its technology freely in return for favors from the larger companies. "We cross-licensed with everyone who could spell semiconductor," Dr. Moore said. Competition, especially from Japan, sprang up, and Intel lost much of its lead. In 1985, it exited the D-RAM market it had pioneered.

The invention that was to mean the most, however, was not a chip intended to store information but to manipulate it. In 1971, an Intel engineer named Marcian E. (Ted) Hoff was working on a chip for pocket calculators when he came up with the first microprocessor. Logic circuits built until that time were designed to do one task, like performing arithmetic operations. But the microprocessor, like a computer, was a general purpose device that could be programmed to do different tasks. That was why it quickly became known as the computer-on-a-chip.

But Intel missed some key opportunities, the biggest, of course, being the personal computer itself. As the inventor of the microprocessor, it could have invented the personal computer as well. "We slept through it," Dr. Grove recalled. By the time it woke up, Apple and others were way out in front.

Still, all this did not matter after Intel's microprocessor, the 8088, was chosen by I.B.M. for its initial PC. At first, to encourage widespread use of its designs, Intel licensed the designs to others. In some cases, these second sources outsold Intel. In its 1986 annual report, Intel noted, "We met our customer needs and helped expand the total market for our products, but we also lost control over a generation of our products and created our own competition."

Intel therefore says that it is determined to be the sole supplier for the 386 aside from its licensing arrangement with I.B.M. But competitors are trying to compete with it nonetheless.

Many companies are offering chips far faster than the 386. Many are based on a design philosophy known as reduced instruction set computing, or RISC. Borrowing a leaf from Intel's old strategy, Sun Microsystems is freely licensing its RISC chip, hoping it will become a standard.

These chips cannot easily run software developed for the MS-DOS or OS/2 operating systems. However, software translation programs, known as emulators, are being developed that allow microprocessors made by Motorola and others to run MS-DOS programs. Such emulation slows things down, but as mircoprocessors become more powerful, this is less of a problem.

Other companies are trying to clone the 386. How much Intel will be able to protect its chip through copyrights is likely to be determined by the outcome of a legal battle it is having with the NEC Corporation, which cloned an earlier generation of Intel microprocessors. If Intel loses, a bunch of 386 clones will come out of the woodwork, said Michael Slater, editor of Microprocessor Report, a newsletter published in Palo Alto, Calif.

Intel is also locked in a bitter arbitration with Advanced Micro Devices Inc., a chip company that is a second source for an earlier Intel microprocessor, the 286, and contends it is entitled by that agreement to license the 386. A lot is at stake, particularly for Advanced Micro, whose chairman, W.J. Sanders, 3d, has vowed to "fight until the last dog is dead."

A final threat could come from Intel's largest customer, I.B.M. Every time a rumor starts that I.B.M. is about to produce some of its own 386 chips, Intel's stock plungers. In truth, I.B.M. is not likely to begin making the chips for two years or so; under the license's agreement, Intel is guaranteed the right to provide much of I.B.M.'s needs until 1990.

Intel is not waiting for competition. It is hoping to blanket the market with the 386 in a variety of ways. Its tactics include the following:

Gradually lower the price of the 386 to spread it into new markets. As powerful RISC chips grab the high end of the market, the 386 will migrate to more of a mass market, becoming what Dr. Grove calls the "Volkscomputer."

Introduce a variety of microprocessors aimed at different markets. On Tuesday, Intel will introduce devices aimed at the so-called embedded controller market. These are microprocessors hidden inside appliances like sewing machines and laser printers. One family of chips, the 80960, will be a new fast set of controller chips using some elements of RISC technology. Intel will also introduce the 80376, a stripped-down version of the 80386 that will sell for $100 and which will not be able to run the MS-DOS operating system.

Sell computer systems, not merely chips. Intel is selling some customers circuit boards or complete computers. It is not likely to sell computers at retail because it would compete with its customers. But it is edging in that direction. One popular product, sold in retail stores, is a circuit board that plugs into an older generation computer and turns it into a 386-based machine. Intel's systems business accounted for $500 million in revenues in 1987 and is growing 20 to 30 percent a year.

Sell more Intel chips per personal computer. The earliest I.B.M. PC had only about $20 of Intel chips in it, including a $5 microprocessor, said Mr. Chaudhri of Goldman Sachs. The most sophisticated 386-based computers, like the Compaq Deskpro 386, have three or four Intel chips worth up to $800.

A company called Chips and Technologies Inc. of Milpitas, Calif., has prospered by selling a chip set that allows any computer manufacturer to quickly make an I.B.M.-compatible PC. Intel is expected to enter that market later this year, concentrating on chip sets for clones of the I.B.M. PS/2 Model 80, which uses the 386.

In the next few years, another challenge that will confront Intel is a management transition, which has already started. Dr. Noyce, the 60-year-old vice chairman, phased himself out of active management years ago. Dr. Moore, 59, the chairman, talks about reducing his role in two years or so.

For now, that is concentrating power in the hands of Dr. Grove, 51. Dr. Grove has been the inside man at Intel, in charge of such tasks as the cutback of 7,000 employees during the last semiconductor slump. That, and his strong-mindedness, have not made him universally popular at the company.

Still, those who know him say he is as quick to praise as to condemn and that he has refined many of the rough edges. Dr. Grove has warned to the public limelight, becoming a leading spokesman for Intel and the semiconductor industry. He has enunciated his management philosophy in two books, "High Output Management" and "One-on-One With Andy Grove." He also writes a syndicated newspaper column that has been dubbed the "Dear Abby of the workplace."

Still, Intel insiders say that as Dr. Grove takes on more of the top jobs, he must delegate more operations to underlings. That has not been easy for him to do.

Among the leading candidates to succeed Dr. Grove, Intel insiders say, are David L. House, 45, and Laurence R. Hootnick, 46. Both are senior vice presidents who share responsibility for Intel's business group that includes microprocessors and memory chips. Mr. House is described as an expert marketer, Mr. Hootnick as a no-nonsense operations man with a technical bent.

Other possible candidates are Craig R. Barrett, 48, a former Stanford professor who has helped whip Intel's manufacturing operations into shape, and Leslie L. Vadasz, 51, head of the systems business.

No successor is likely to be named for at least several years. While Dr. Grove has indicated he will retire at age 55, "that's as likely to be adhered to as the 55 mile-per-hour speed limit," said Dr. Moore.

In the meantime, Dr. Grove and the rest of Intel can look forward to a 20th birthday in which they are on top of two industries—semiconductors and personal computers—that they, as much as anyone, helped to create.

THE BIRTH OF THE SIKH NATION AND RELIGION

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. TORRICELLI. Mr. Speaker, I would like to bring my colleagues' attention to an event that occurred on this day almost three centuries ago. On April 13, 1699, Guru Gobind Singh began baptizing people in the name of the Sikh faith. Subsequently, Sikhs around the world have celebrated April 13 as the birthday of the Sikh religion and nation.

Guru Gobind Singh, the 10th master, transformed Sikhs into saint soldiers by baptizing them with Amrit; the Sikhs were to subscribe to the five "K's" or the five physical attributes: Kes or uncut hair usually worn in a turban, Kanga or a small wooden comb to signify cleanliness, Kirpan or a small, symbolic sword, Kara or a steel bracelet, and Kachha or a special type of underpants to symbolize a chaste and pure life.

The religion of the Sikhs is a monotheistic religion in which God is taken to be the absolute reality. Sikhism lays great stress on equality and the fraternity of man, self-respect for the human personality, service to humanity in the form of sharing and protection of others less fortunate, the virtues of hardwork and honesty, democratic values such as freedom of speech, the equality of women in all spheres of spiritual and secular life, and the nobility of fighting oppression and injustice.

These admirable qualities have attracted 16 million Sikh adherents in India and over 300,000 here in the United States. The Sikh community in India primarily reside in Punjab state, where favorable conditions and hard work have made that state the richest and the most agriculturally productive in India. Sikhs also remain an important element in the Indian military.

In recent years, however, celebration of the birth of Sikhism has come amid heightened anxiety among the Sikh community in India and among relatives and friends living in other countries. An escalation of violence in Punjab and other areas of India has resulted in several tens of thousands of deaths. This violence has greatly complicated hopes for a political resolution to the crisis in Punjab.

Commemoration of the birth of the Sikh religion requires a recognition that the citizens of Punjab cannot enjoy full democracy so long as violence prevails, the central government imposes direct control over local government and free press is denied in the region. As the Sikh community looks forward to celebrating a full 300 years of Sikhism in 1999, I hope that complete democracy can return to Punjab.

"TIMES WILL GET BETTER" ATTITUDE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. COMBEST. Mr. Speaker, a series of editorials recently appeared in the Andrews County News which I know will be of interest to my colleagues. While times have been very hard for the citizens of the oil patch, there remains a positive, times will get better attitude. I hope my colleagues will read these editorials and see that West Texans are working hard for a better future.

DRIFTING SANDS

(By James Roberts)

It's time for straight thinkin' and straight talkin'!

Andrews has ridden the old pump jack about as far as we can go.

The oil industry has been good to Andrews and this county has been good to the oil industry.

Oil carried us to heights unknown to most communities across this country. Few can match the quality of services provided local citizens because of oil-fueled tax base.

Because of the drilling and production of crude oil in this county, we've soared with eagles among green-tinted clouds. This county led the nation in two decades, the forties and fifties, in percentage population growth.

And we led the entire state of Texas for many, many years in annual production of oil and even today, thanks largely to tertiary recovery, we are third in annual crude oil production.

Because of leadership and professionalism of oil people, contractors, and the high standards set in the employment of city, county and school people, Andrews built right, built on a solid foundation, and built for the long haul.

Few communities of like size, can boast of better school, medical, municipal, recreational, or civic facilities than Andrews.

Thanks largely to an oil-based economy, we've had the jam on the top shelf for so long for so many, it's hard to believe that it is threatened.

But unlike the roller coaster rides of the past, of low prices, of six-day allowables, of labor shortages, the situation today is different, uniquely different.

The oil patch is never gonna be the same again—not in Andrews, not in Texas, not in the nation.

The oil industry is undergoing a major upheaval, a major revolution, a major restructuring that bodes ill for communities like ours everywhere.

If the Arab nations agree tomorrow, if the price of crude stabilized in the $18 to $20 range, if more sophisticated recovery methods were implemented, if the nation entered a long sustained frigid winter that lasted until hell itself froze over, the revolution in the oil industry would continue.

Because of the need to cut costs, because of new communication technology, because of both domestic and foreign competition, because of the threat of takeovers, mergers, stockholders revolt, the oil industry is moving with speed and dispatch toward centralization of most operations.

Most companies will centralize their operations in Houston and local, district, and regional offices will disappear as personnel is transferred to operational headquarters. That leaves Andrews, Brownfield, Odessa, Midland, Levelland and others with similar type production offices out in the cold.

Even more disastrous is the ultimate end result of most contracting done out of a Houston office. Local contractors will disappear into the maw of regional operations and regional operations will gradually be replaced by statewide operators.

If the contract hiring is done in Houston it stands to reason that contractors must be headquartered in Houston—to the detriment of the local economy.

It's coming as sure as death, taxes, and Congressional inertia.

With a gradual disappearance of oil company district offices, of local contractors, of local personnel, there is no way under the sun that Andrews can sustain it's present level of service, of quality, of promise.

It cannot be sustained by the city, not the school, nor the county, nor the hospital, nor the business district.

And above all, the present value of your home, your major investment in life, cannot be supported at its current level.

The oil industry revolution underway in Andrews, in Texas, and in the nation will ultimately destroy the real estate values of property in communities like Andrews.

As we stated at the beginning, Andrews has ridden the oil pump jack about as far as it will go. We'll be pumping oil in Andrews county for generations to come because you can't move the holes in the ground. And work will have to be performed on those holes.

But make no mistake. It ain't ever gonna be the same.

But there's a bucketful of hope on the horizon—and we'll tell you about it in the next issue.

There's hope in the future because Andrews people are different, Andrews people are unique.

You can't live out here through dust storms, through recessions, through drouths, through the ups and downs of the oil patch, through the uncertainty of scarcity of labor, water, facilities during boom times and too much of everything during the bad times, without developing a unique toughness.

You can't live in an oil field community like Andrews without experiencing the tragedies of the accident rate in the oil patch, the flaring of sour gas in the forties and fifties, the sudden exposure, the sudden death from hydrogen sulphide, the raw, stark disaster of a gasoline plant explosion.

Our people are accustomed to their silverware turning black overnight from gas fumes, of the odor of gas wafting into town from the south, of sudden boom employment and just as sudden unemployment.

Our people realize the disadvantages under which our area of the state labors—few people, no surface water, and for the vast portion of the county, little or no underground water and above all, isolation from the mainstream of life in Texas.

But those liabilities, those disadvantages are the very reason that there's hope on the horizon. Our disadvantages of little population, large isolation areas, no water could well become our most precious assets in the future.

This state needs us, this nation needs us.

We've missed out on a privately operated prison. We've missed on a low level waste management project. But in trying the word has spread in West Texas, in Austin, and in Washington that Andrews is out hustling jobs—non-oil related jobs.

The word is out in Odessa, Midland, Sweetwater, Big Spring, Abilene, Monahans, Kermit, Pecos, Lubbock, and especially in Austin, that Andrews folks are not rollin' over and playin' dead.

The words is out that Andrews is not content to sink with the inevitability of the decline of the oil industry. They're not content to sit passively while oil workers move away, valuable services are curtailed or cancelled, as home values wither away into thin air.

The idea of quickly bringing a major manufacturer to Andrews is remote if not downright impossible. Our liabilities of low population density, of isolation, of scarcity of water, of lack of a major interstate highway, make the odds too great.

But those advantages can be turned into major assets if we are willing to face the future with a passion for discerning fact from fiction, of inquiring with an open mind against myth, prejudice, and abnormal fears.

The three major growth industries in Texas in the next 20 years are high technology, prisons, and waste management.

And all three demand a certain degree of isolation, of low population density, and above all a people willing to act in concert against preconceived, ill-informed and illogical concepts.

We ought to be the first community in the nation to welcome the high technology of waste management. Next to the federal government's problem of deficits, the proper management of waste—waste in chemicals, in toxic compounds, in low level and high level nuclear waste—is one of this nation's most pressing problems.

With the vastness of University lands in this country, and the willingness of a major university to cooperate, waste management seems a natural for us.

No one in this nation, no government official, no politician, no scientist, no engineer, no technician, no community leader or public official wants, or is willing to accept, undue risk as far as waste management is concerned.

The best technology, the best minds, the most experienced people this nation has to offer, are dedicated to a risk-free environment for the management of all kinds of waste. And that is as it should be. No one wants it otherwise.

But our argument is simple. If any community in this nation can examine the facts, assess the risks against the benefits, and make up its collective mind—it's the people in Andrews.

Andrews acted as one mind, one heart, one body for so very many worthwhile projects in the history of this community, we're convinced that once again, we can act as one and do as no other community—invite in the exploration of the possibility of site locations in Andrews.

A look-see at all the possibilities is a step in the right direction. Of all the oil-field related communities in the nation, it offers the best opportunity to once again soar among the eagles, as a community, as a people, and as Andrewsans.

The answers are out there as is the brass ring as we'll discuss in the concluding article Sunday.

In this country, there are millions and millions of dollars circling overhead looking for a home.

But they are dollars much like in-laws—solid and good but unloved and unwanted. The in-law dollars are stable dollars—dollars that bring long-lasting, top-paying jobs.

The community that manages to grow and prosper and maintain its real estate home values, is that community that can offer attractive jobs to its returning young people. The health of any community is in direct proportion to its median age level—and a low age median results from a constant influx of young people.

In this decade, due largely to major oil company early retirement programs, Andrews has evolved into a community with a large sector of its population composed of active and basically prosperous senior adults. These people play a vital and important role in reducing the violent ups and downs in the oil patch. Their spending lends stability to the economic health of Andrews.

But an equally important sector is needed for working, active, vigorous and aggressive young people.

And to create the jobs needed to attract and hold young people, our best bet is to somehow attract and land those in-law dollars circling overhead.

But to move from generalities to specifics, take one example:

Two weeks ago, Congress, rushing to close out its work for 1987, voted to restrict the Department of Energy from looking at site possibilities for a high-level repository other than Yucca Mountains in Nevada. The move effectively stopped further consideration of either Hereford or Washington state.

Among the casualties at Herefore was Dr. William Fisher, head of the Bureau of Economic Geology at the University of Texas in Austin.

Dr. Fisher and his staff have a $4 million grant from the DOE to lend support engineering and studies of site possibilities. Now Fisher and his $4 million are looking for a home to continue their studies. Why not Andrews?

Example No. 2: Andrews was knocked out of the saddle for consideration of a privately-operated pre-release center for Texas inmates mainly because of the long distances involved in transporting prisoners from East Texas to out here.

But now the state has contracted for state prisons in Amarillo and Snyder. One of the sites chosen by the successful bidder was San Marcos—and San Marcos people are having none of it. The commissioners court of Hays county refuses to even put the item on the agenda for discussion.

Why not put it in Andrews and let the new Snyder and Amarillo prisons feed into a pre-release center here?

Example No. 3: Talk about dollars circling overhead looking for a home! How about 700 million of them?

Have you ever heard of the Monitored Retrievable Storage (MRS) facility? The MRS is a DOE operated facility to store fuel rods from nuclear power reactors. The rods are currently stored in yards at the reactor sites.

The warehouse type facility will accept this fuel and store it above ground until the nation finally settles on a disposal site.

The facility will be a $700 million project. At peak, the construction phase will employ 1300 people. Operations will employ 600 to 700 persons. The annual operating budget is $70 million of which $60 million goes for payroll.

In addition, in lieu of taxes, the DOE proposes to pay the local governments about $7 million a year during construction and $18 million a year during operation.

An industry with a $60 million a year payroll for 700 people going begging for a home? It's a natural for certain isolated University lands in far west Andrews county.

But unfortunately, such projects do not fall within the exclusive decision powers of Andrews people and the project operators.

Washington and Austin officials, the media, neighboring cities, state and national agencies—all become involved in such site studies and selections.

That's the reason Andrews cannot do it alone. Elected officials, from the governor on down, our senators and congressmen, DOE people, neighboring media and elected officials—all have to be correctly informed as to isolation factors, water scarcity, land availability, people scarcity, and above all, the collective attitude of Andrews people.

We especially need the help of the new UTPB Center for Energy Diversification and good news will be announced Tuesday on that vital project. Some of the staff employed for work at the Center can be oriented toward helping solve some of the problems associated with securing these projects. We need the help of area chambers, foundations, city and county officials, area media, and the help of the University in Austin to provide technical and scientific know-how to impart correct and factual information to all of us.

These projects, and others, are out there for a community willing to face the challenge of sorting out fact from fiction, of truly assessing the benefits against the risks, and acting accordingly with one mind, one heart, to bring the 21st century to town.

It'll take courage, shoe leather, and resolve. But if any community in the nation can do it, we can because that's our makeup, our heritage, our future.

MILITARY SUPPORT FOR SDI BUCKLING

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. JACOBS. Mr. Speaker, that which goes up must come down. Or, putting it another way, truth crushed to space shall fall again:

MILITARY SUPPORT FOR SDI BUCKLING

(By David Evans)

WASHINGTON.—Support within the Pentagon for the Strategic Defense Initiative, President Reagan's vision of missile defenses, is waning in the face of tightening military budgets over the next few years and the mounting cost of fielding even a rudimentary space-based defense against Soviet missiles.

"SDI is going down the tube," said a senior Pentagon official who spoke on condition that he not be identified. "The military services hate it. They're scared to death of SDI costs.

"The Army in particular is terrified about where all the people are going to come from to support the launch effort."

Recent statements by military officials before Congress, as well as interviews with Pentagon officials and experts on Capitol Hill and in Washington's think tanks, suggest that the system, often called "Star Wars" because it would be based in outer space, is in deep trouble.

In testimony before the Senate Appropriations Committee last Thursday, the director of SDI, Lt. Gen. James Abrahamson, said a "Phase One" missile defense—protecting only America's missile silos, not its population—could cost anywhere from $75 billion to $150 billion. This range is more than double his estimate of a year ago.

But the chief of staff of the Air Force, Gen. Larry Welch, recently told the Senate Armed Services Committee that "Star Wars" "is not an Air Force program. it is a national program." The suggestion was that the money to pay for "Star Wars" should not come out of an Air Force budget already strained to pay for other projects.

Informed sources say Defense Department spending plans for next year must be trimmed by more than $50 billion to have any chance of support in Congress. There is little enthusiasm within the military to protect "Star Wars" from these cuts.

Indeed, the Joint Chiefs of Staff "requirement" for "Star Wars" was produced last spring only after repeated requests from Abrahamson. The document the Joint Chiefs submitted was carefully crafted to support a very limited defense of U.S. military installations, which would also minimize the costs of a so-called "Phase One" missile defense.

The attempt to restrict the scope of "Star Wars" has led to consternation in Congress about conflicting Reagan administration plans to modernize America's strategic forces.

In his Senate testimony, Welch argued that the "Phase One" missile defense is designed only to blunt a limit, no-warning, "bolt out of the blue" Soviet attack.

However, Air Force plans to put MX missiles on railroad cars are based on the assumption that there will be a different kind of attack that will give the United States four to six hours' warning to disperse the missile trains.

"ECONOMIC NATIONALISM" AND PROTECTIONISM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GRADISON. Mr. Speaker, as our Nation girds itself for the November elections, "economic nationalism" has become the latest in our political rhetorical repertoire of buzz words and phrases. Of course, "economic nationalism" is but another euphemism for protectionism. Given the results of past protectionist policies on jobs and businesses, we should be mindful that encouraging competition is the key to sustaining our record-breaking economic recovery and job creation. In this vein, I wish to call my colleagues' attention to a Viewpoint I wrote for the week of April 4, 1988.

KICKING THE PROTECTIONIST HABIT

The U.S. semiconductor industry has an important lesson to learn if it wants to sharpen its competitive edge and broaden its market share in the coming years: protectionist measures are a palliative for industry's ills, and in the long run, do more harm than good.

A recent doubling in the price of dynamic random access memory chips (DRAMs) illustrates the myopia of some U.S. manufacturers in appealing for government help. In 1986, U.S. chip makers ran to the federal government to curb the growing presence of low-cost Japanese imports. As a result, the U.S. government pressured the Japanese to sign an agreement to guarantee U.S. chip makers greater access to the Japanese market and require the Japanese to sell DRAMs in America at or above prices fixed by the U.S. Department of Commerce. The objective was to open the Japanese market to U.S. semiconductors and to put a floor under the price of Japanese DRAMs sold in the United States.

Soon after the accord was signed in August 1986, Japan's Ministry of International Trade and Industry (MITI) imposed production quotas on Japanese chips. MITI justified its action by reasoning that the only mechanism to raise prices in the highly competitive Japanese market was to cut production. In effect, the semiconductor price-fixing accord wanted so badly by American chip makers handed MITI the perfect excuse to create a cartel for DRAMs. And because the Japanese already had 75% of the world DRAM market, once the price floor was in place, the Japanese had a recipe for reaping huge benefits. When the production cuts were made, prices rose, eventually to well above the price level set by the Department of Commerce.

For American chip makers, higher chip prices seemed to be just the right antidote to Japanese dumping. But this thinking soon proved illusory. Now, 18 months after the deal, our protectionist policy has rebounded in favor of the Japanese. A contrived policy to raise chip prices was ill-conceived and senseless at a time when most American chip makers were moving out of DRAMs production. Consequently, only a handful of U.S. producers were able to benefit from the price hike. The argument was that the higher prices would draw Americans back into the DRAMs market. This proved to be wishful thinking because it was too late in the product cycle to risk the new capital investments required. With the price floor in place and the Japanese dominating the DRAMs market, Japanese producers were poised to make big profits. They did and they are.

The sharp rise in the price of DRAMs has seriously hurt American computer manufacturers. Just when prospects for the American personal computer (PC) market seemed to be improving, thanks to a new generation of software with enhanced memory capacity, IBM and others are now hamstrung by a dependence on high-priced Japanese memory chips. As a result of the artificial price-floor on DRAMs and the subsequent production quotas imposed by MITI, price-reducing competition between Japanese producers has been disrupted, supply has been stifled, and the American computer makers have found themselves scrambling to secure memory chips. Consequently, the technological gains made by American computer makers are being neutralized by the increases in memory chip prices stemming from the 1986 semiconductor accord.

This is not the first time misguided protectionism has backfired. When U.S. trade officials pressured Japan to impose voluntary export restraints (VERs) on its fuel-efficient subcompact cars a few years ago, the Japanese countered by moving into the U.S. upscale market, the most profitable niche for American car makers. And, as Japanese producers began shifting their car exports upscale, they opened up the vast American market to small cars from Korea and other countries. Thus, as a result of the "voluntary" export restrictions, the U.S. auto industry was squeezed at both ends.

The lesson here is simple: by discouraging competition, protectionism stifles supply, increases prices, and costs jobs. When special interests raise the protectionist cry, they forget how many jobs are directly dependent on exports and freer trade. In Ohio alone, 136,000 manufacturing jobs are directly dependent on exports; that's one out of every eight manufacturing jobs! The Greater Cincinnati area alone has over 500 firms involved in international trade to some degree, earning $2.5 billion from export sales of jet engines, industrial robots, computer software, and consumer goods. Over 80 companies of foreign ownership operate in the tri-state area. Hamilton County is one of the largest exporting counties in the United States.

A recent letter from a constituent drives home the need to kick the protectionist habit. The constituent, a manufacturer highly dependent on steel supplies, expressed a concern that import quotas on steel have led to unnecessary delays in steel shipments and have sent prices soaring. As a result, his company has had to turn away many contracts. While the steel industry is enjoying some short-term profits under the quota policy, steel consumers are in a bind.

In this election year, as candidates appeal to populist ideals, we should remember that greater competition and less protectionism are in the best interests of workers and manufacturers alike. That's not just ivory-tower theory; it's plain for all to see considering the harm protectionism has inflicted on workers and businesses in the past.

A TRIBUTE TO THE PORTSMOUTH HIGH SCHOOL BASKETBALL TEAM—OHIO STATE CHAMPIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. McEWEN. Mr. Speaker, on April 15, the Portsmouth High School Trojans—the finest high school basketball team in the Nation—will be honored by the school and community for its outstanding accomplishment in winning the Ohio State AA championship in basketball. Their victory was a triumph for all of us in Portsmouth and southern Ohio.

Head Coach Joe Suboticki, his assistants Jim Rhea, Rick Ferrell and Jeff Lisath, deserve our congratulations for a job well done. And the players—Patrick Tubbs, Chris Apel, Rickey White, Dominic McKinley, Bo Burns, Jason Taylor, Jeff Leonard, Craig Miller, Brian Kelly, Mike Stephenson, David Barnes, Jeff Ramey, and Philip Whitehead—demonstrated that a true team effort combines hard work and commitment as well as skill. They are an example to the Nation of what can be achieved when individuals bind together in dedication to a singular purpose. They epitomize what athletic competition is all about—striving with the support of family and community to be the best they possibly can be. The Trojans have made us all very proud.

The players' parents, the teachers and administrators, and all of us had our emotions rise and fall with the efforts of these fine young men on the basketball court. Their victory became our victory.

This was a team effort not only in terms of the players on the court, but the school and community as well. I want to particularly commend the Portsmouth High School cheerleaders—Shaanee Caudill, Kelly Coburn, Kelley Laswell, Cindy Douthat, Kristina Eshem, Lori Roe, Stacie Stohla, Angie Walker, Stephanie Warsaw, Polly Workman, and sponsor Milinda Davis—who kept our spirits up. Let me take this opportunity also to congratulate the great job of the Boosters Club and its president, Dr. Joe Varacalli. The caravans that were organized to transport hundreds of avid Trojan fans to games on the road were a credit to a great organization and the enthusiasm of a community for its team.

Mr. Speaker, I commend to the attention of my colleagues in the House an article written by Portsmouth Daily Times Sports Editor Phil Bowman. I feel this article captures the spirit of the Portsmouth High School victory.

The article follows:

[From the Portsmouth Daily Times, Mar. 30, 1988]

TROJANS ARE CHAMPIONS

(By Phil Bowman)

Columbus.—A dream that began more than a decade ago on the playground basketball courts of Portsmouth became reality Saturday at St. John Arena in Columbus.

The Portsmouth Trojans won the Division II state championship, rallying to top West Geauga, 54-47 before a crowd of 12,595.

It was the Trojans' fourth state championship in the 66 years that the Ohio High School Athletic Association has held the tournament. The Trojans won their first crown in 1931 and had to wait until 1961 to win their second crown. The Trojans' third title came in 1978 and their fourth came 10 years later.

"It feels good," said Dominic McKinley who led the Trojans with 19 points including five key foul shots in the last 2:54 of the game. His first two free throws at the 2:54 mark gave the Trojans the lead for good.

McKinley had dreamed of playing in the state tournament ever since he can remember. He first played organized basketball back in the fifth grade in Bantam League. "This is the result of what the team has done over the years," McKinley said. "This is a result of hard work."

Portsmouth Coach Joe Suboticki won his second championship as a head coach. He was at the helm of Akron St. Vincent-St. Mary in 1984 when the Irish beat Wheelersburg, 75-71. He said Saturday's win was just as thrilling as the first one.

"They're all great. I'd like to come every year," Suboticki said.

"I've said it's the greatest experience that any high school player can have. It's too bad they can't all make it down here. This makes six times (as an assistant and head coach) for me and it doesn't change. This was just as great as the very first time."

As in past tournament games, Portsmouth had to use a rally, clutch free throws and great defense to win.

The Trojans had to come from behind in the sectional championship against Ironton when they were down by nine points with 4:56 to go. The Trojans had to use the same method again in the regional championship when they were down by five in overtime against Forest Park. And it happened again in the state semifinal Thursday when the Trojans needed two foul shots from McKinley with 13 seconds remaining to win.

The Trojans did it one more time Saturday, rallying from a 41-32 third quarter deficit.

Do you believe in deja vu?

West Geauga built the nine-point lead behind 6-7 senior forward Andy Suttell, who scored 14 of his game-high 23 points in the third quarter. Suttell hit 6 for 7 from the field and 2 of 2 from the line in the eight minute stretch.

Portsmouth's offense came to life in the last 55 seconds of the period as the Trojans hit three quick baskets to cut the deficit to 41-38.

Then the Trojans went to work on defense.

The Wolverines' Shaun Kearney scored to give his team a 47-44 lead with 5:35 to go in the game. It would be the Wolverines' last points of the game. Portsmouth outscored the Wolverines 10-0 in the last 3:36 of the game to claim the crown.

"I just think that our defense was the turning point," Suboticki said. "We dug in and dug down. Any time you can hold another team scoreless for five minutes, that's something."

"We had great difficulty generating any offense in the fourth quarter," West Geauga Coach Cliff Hunt said. "I thought we had a very effective defense. The problem was, we were having trouble getting any points on the board."

Chris Apel his a 12-foot jumper with 3:36 to go to cut the deficit to 47-46. McKinley hit two free throws 42 seconds later to give the Trojans the lead for good at 48-47.

Tubbs made it a 49-47 advantage with a free throw and McKinley hit two more charity tosses with 39 seconds left for a 51-47 lead.

McKinley added one free throw at the 8-second mark and Apel hit a pair with six seconds to go to complete the 10-0 run.

Portsmouth ended the season with a 27-1 record. The Trojans will begin next season with a 23-game winning streak. West Geauga closed with a 25-3 record.

McKinley led PHS with the 19 points, 13 coming in the second half. The 6-3 senior hit 6 of 10 from the field and 7 of 10 from the line in addition to grabbing seven of the Trojans' 27 rebounds. Tubbs added nine points while Barnes, Apel and Rickey White added six apiece.

Portsmouth hit 20 of 39 from the field for 51 percent and 14 of 24 from the foul line while committing 25 turnovers.

Suttell led West Geauga with 23 points, hitting 10 of 18 from the field. Kearney added six points.

BOB BULLOCK, A SYMBOL OF TEXAS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. BRYANT. Mr. Speaker, Bob Bullock, Texas' Comptroller of Public Accounts for the past 13 years, has been a fixture in the public life of Texas for more than three decades and is, in his own inimitable way, a symbol of Texas.

He's left his indelible mark along the way—as a member of the Texas House of Representatives, as an assistant attorney general, as a lobbyist, as legal counsel to a Governor, as secretary of state and chief elections officer, and as comptroller.

As comptroller, the State's tax collector, he breathed life into an archaic bureaucracy, making it the model of modern efficiency other State agencies and other States emulated.

Bob Bullock is a tough task-master. He demands the utmost of friends and employees. He's creative and innovative and expects no less of others than the best they can produce. He is loved and feared, but mostly admired and respected.

A recent profile in Texas Business magazine, which I share with my colleagues, paints an excellent portrait of Bob Bullock, the man and the public servant. Bob Bullock clearly is a unique individual and a credit to the State of Texas.

[From the Texas Business magazine, April 1988]

Calling the Shots

(By Michele Kay)

Bob Bullock sits back in a comfortable chair in his office, stretches his legs, and turns on his special brand of down-to-earth Texas charm. "There's an attitude problem in Texas," says the state comptroller of public accounts. "People are skeptical that we've turned the corner when, in fact, we are pulling out of the recession. The trouble is that when I was warning Texans that things were getting worse, they'd accuse me of playing politics. Now that I'm telling them the economy is finally improving, they don't believe me."

Bullock shrugs and smiles. Texas is headed for brighter days, and so is he. He feels he's long overdue. After struggling first through personal problems, followed by state budgetary crises and tough political decisions, things are going his way.

For a start, Bullock has at least shed his role as the perennial bearer of bad news. The economy is on the mend, he says, and good tidings are in the offing. When Bullock goes before the Legislature next year with his biennial revenue forecast, chances are his numbers will be cheered. He's confident the picture he paints in 1989 will not inspire the same budget impasse Texas witnessed in 1987.

At the same time, Bullock is getting satisfaction from the new attention being paid to the state's system of taxation. In recent sessions, he went blue in the face trying to convince the Legislature that Texas was badly in need of tax reform. His plea for long fell on deaf ears, but finally crisis proved him right. Last year the Legislature appointed a landmark tax equity committee, inviting Bullock to participate as an ex-officio member. He's refrained from saying, "I told you so" or "It's about time." Bullock also has refused to predict the committee's eventual recommendations. Whether or not he agrees with the final outcome of the committee's work is not the issue; the very fact that the state's tax system is being debated is a victory for Bullock. "What we have right now isn't a patchwork. It's a quilt," he complains.

Bullock now faces a new challenge. After 13 years as state comptroller, he's making a run for the job of lieutenant governor. Although elections are more than two years away, Bullock is already campaigning with the same intensity he brings to bear on every task. "I haven't found any opposition to my candidacy," he says firmly.

Equally important, he seems to have discarded much of the personal baggage that once upon a time impeded his professional progress.

Back in the 1960's and 70's, Bullock's life was marked by a series of chaotic and catastrophic events, allegedly triggered largely by alcoholism. But Bullock says he hasn't had a drink since 1981, a claim supported by the fact that he hasn't made a public spectacle of himself since then. Gone are the days when Austin buzzed with Bullock stories. These invariably involved a heavy drinking session at which Bullock would harangue staff, friends, or colleagues. Accounts of wild parties were supported by a drunken driving conviction and reports that Bullock once drew a gun on a reporter during an argument. Back in those turbulent days, Bullock was accused of using state funds and staff to run his political campaigns, and of abusing such privileges as the state-owned airplane available at his office's disposal. The charges, dismissed after a grand jury investigation, nevertheless fueled rumors of an extravagant lifestyle.

Bullock's unscrupulous behavior came to an abrupt end when he stopped drinking. And after four failed marriages, he tied the knot more than three years ago. Since then, all seems tranquil on the home front. Bullock's personal life is rarely a subject of conversation or anecdotes in Austin media or political circles. "I live a lot differently today," he says candidly. "It's been a long time since anyone heard of me being controversial."

While Bullock's personal life has certainly lost its controversial nature, in public life he is as opinionated and colorful as ever. The tone, however, is more moderate. For example, he once sent a package of horse manure to an editor in West Texas, saying it symbolized the contents of his editorials; Bullock now restricts his media critiques to terse notes.

His remaining challenge confronts a persistent vice; smoking. Following a lung removal several years ago, Bullock has received frequent warnings from his physician to give up cigarettes. Several unsuccessful tries culminated in February when, before minor surgery, he symbolically threw away a pack of cigarettes, vowing to conquer the habit. At 58, he has solidified his status as an outspoken but astute politician, and as a temperamental but strong and effective leader in state government.

"He's like the old-style Texas politicians; he has a job of substance," says Billy Hamilton, executive director of the Select Committee on Tax Equity and a former chief revenue estimator who worked for Bullock for 9½ years. "He's not a slick national candidate who has people create an image for him. My father was a postman in a small town in Texas and Bullock is the kind of guy my father would have liked."

Bullock, a native of Hillsboro, has been a player on the Texas political scene since 1956, serving first in the House and later working in various positions for Gov. Preston Smith, including a stint as secretary of state. It was drive, pure and simple, that propelled Bullock's political career. An inch shy of six feet, the blue-eyed, brown-haired politician does not immediately capture attention in a crowded room. Physically unassuming, Bullock relies on the charisma that stems from his assertive personality.

He became well-known as an out-spoken adversary. "He's a strong individual and he tends to be rather blunt. He says what's on his mind, and occasionally he stirs the waters," notes Jared Hazelton, vice-president for economics of Amarillo's Mesa Limited Partnership and, until recently, president of the Austin-based Texas Research League. "He's a tough opponent, but he's earned respect. That's just what you want in a public servant. I view that as a desirable quality." Bullock has butted heads with many a politician and state administrator. In the mid-1970s, Bullock accused Atty. Gen. John Hill of not diligently prosecuting delinquent tax cases. Hill was running for governor at the time, and the dispute became not only heated but highly publicized and politicized.

In spite of a lengthy political career, it wasn't until 1975, when he took over as comptroller, that Bullock's true leadership skills became widely evident. As the state's chief tax collector, he wields tremendous power over the state's purse strings. Since the Texas Constitution prohibits deficit spending, Bullock is responsible for estimating the state's revenues and putting a cap on the Legislature's budget. As a result, he plays a pivotal role in state government as the man who says aye or nay to opening or closing the financial tap. It's a role Bullock clearly relishes.

Although the comptroller's office is of vital importance to state government; when Bullock took over, the agency labored in a 19th-century environment. Modifications soon transformed it into a state-of-the-art model. "When I came in here, people didn't even have hand calculators," Bullock recalls. The new executive scouted the country looking for ideas and innovations that had been successfully applied in other state agencies, cajoled the legislature into increasing his budget, and vastly expanded the agency. Talented people were recruited and dozens of longtime employees were fired.

Bullock is a tough, demanding boss. Under his leadership, the comptroller's office became an asset rather than a liability to the Legislature and the business community. The agency's philosophy now emphasizes serving Texans. "He created the best environment in the nation for good government," says Harmon Lisnow, executive assistant for administration in the attorney general's office and a former executive at the comptroller's office.

Phone calls were immediately returned, correspondence was promptly answered, statistics were made available, and the agency's effectiveness and efficiency in those early days grew as rapidly as the state's booming economy. Bullock's revenue estimates may sometimes have been unpopular, but they've rarely been inaccurate. "He has quirks but he's brilliant," Lisnow continues. "Politicians are elected to be administrators, but many don't understand the difference between administration and leadership. Bullock understands it well. He provides the leadership that in turn creates a good administration."

Businessmen, legislators, and former employees are unanimous in their respect for Bullock's accomplishments. It is style rather than substance that has aroused controversy. Bullock is anything but a staid public servant. With a knack for identifying and recruiting the best and the brightest, Bullock offers top-notch training and gives his staff the resources and tools needed. "He's a great boss," says Bob Farley, a staffer at the Texas Department of Commerce who served two stints in Bullock's office. "He's very demanding but he's very fair. If your product is good, you get congratulated. If it isn't, you know exactly where you stand."

So far, so good. What's raised eyebrows is Bullock's creativity-through-chaos management style. "It's true that he creates chaos, but that's because he understands that out of chaos comes change. Chaos is necessary in government. Otherwise, things get sedentary," says Lisnow. A well-known Bullock tactic, for example, is to switch managers from department to department, without any warning or particular rationale. The result: Managers are familiar with every aspect of the agency's operation and no one has the opportunity to get complacent. The flip side is the nerve-racking atmosphere this creates. "He trains you well, but it isn't a summer camp," says former staffer Hamilton.

Longevity may guarantee security in some government departments, but that rule doesn't hold true on Bullock's turf. He's clearly not interested in staffers who look primarily for security; performance counts. While he may instill fear in the souls of many employees. Bullock rewards those who perform and, in turn, earns their loyalty and respect. Bullock demands hard work and challenges staffers to be aggressive, to be risk takers, and to pay excruciatingly thorough attention to every detail. He's impatient and doesn't tolerate slipshod work. "The comptroller's office is not run like a bureaucracy. It's run like a private business, but it works better than most companies," says Farley, who recalls a report that suggested some 200 items for the Legislature to consider as a means of increasing tax revenue. Bullock gathered the authors of the report and grilled them on each item. He wanted to make sure the document didn't contain a single indefensible hole.

With the talent comes a superhuman ability to work long hours. Staffers often wonder whether Bullock ever gets any sleep. Whether it's a thorny budget issue or a simple housekeeping matter, every question brought before the comptroller receives his undivided attention. To Bullock, every detail is worthy of intense scrutiny. "He's abrasive, electric, and energetic, and he's used to having his own way," says a former Bullock manager. "But he's also intuitive and able to figure out how to make things work. The trouble is, he's always churning out new ideas, looking for new things. He just wears you out. That's probably why he likes to take off for days and go hunting. It gives him a chance to relax."

Staffers grumble that at all hours of the day and night, as ideas and plans come into his head, Bullock dictates memos into a machine that he then plugs into a telephone. When secretaries at the comptroller's office report to work at 8 a.m. sharp and turn on their word processors, the memos immediately spew out, printed on the telltale blue paper. Woe betide the manager who doesn't act on them immediately.

When state expenditures were being trimmed in 1986 and 1987, the thrifty comptroller set an example by cutting back his own payroll. His statewide staff of 2,400 is 15 percent smaller than it was three years ago. However, his office continues to operate with the same fine-tuned precision. In fact, Bullock is credited with having trained much of the top talent in state govenment in Austin. "His proteges are everywhere," says Farley. Bullock fans say staffers leave because they want a new challenge, more money, or an opportunity to become specialists rather than the generalists needed by the comptroller. Bullock's critics attribute such employee turnover to his harsh manner, overdemanding attitude, and unorthodox management style. "Bullock didn't graduate from Harvard B-school, that's for sure," snaps a critic. Bullock would probably retort with pride. "Damn right. I didn't."

The very qualities that endear Bullock to his supporters—unlimited energy, a voracious appetite for facts and figures, and an unfailing aptitude for good government—are also characteristics his foes attack. They describe his energy as excessive and frenetic, but they concede he runs the best agency in state government. They question the purity of his revenue forecasts and wonder whether the numbers are peppered with political favors: at the same time they acknowledge his uncanny accuracy. In fact, Bullock has traditionally leaned toward conservative numbers, preferring to see a surplus at the end of each two-year budget period rather than having to defend a deficit. Within the conservative boundaries Bullock has drawn, there's so little room for maneuvering, it's inconsequential. "If Bullock plays a political game, it's not a heavy one." says Lisnow. "He has a historical perspective and a love for the state. He wouldn't do any thing to hurt the legislative process. He's always done what he thinks is right for Texas."

Bullock's record, both as a forecaster and as the head of a state agency, is bound to stand him in good stead in his race for lieutenant governor. He'll get a lot of support, he's a strong candidate," says Mesa's Hazleton. Name a recognition, experience.

WHAT'S A COMPTROLLER ANYWAY?

Within corporations, the common designation for comptroller is chief financial officer. And Bob Bullock is indeed this state's CFO, responsible for making economic forecasts, preparing the state's financial statement, and keeping a finger on the day-today economic pulse. At the same time, he collects taxes and acts as the state's chief paymaster. In turn, State Treasurer Ann Richards serves as the banker who deposits the money collected and manages the revenue until it needs to be paid out.

Bullock's empire spans some 45 offices in Texas manned by about 2,400 employees. In addition, the state audits books of large corporations with Texas operations. This massive project is accomplished through offices based in New York, Chicago, Tulsa, and Los Angeles.

Fiscal 1988 finds Bullock with an agency budget of $119.3 million. Next year, he'll have to manage with a smaller amount—$104.9 million.

The term comptroller has its roots in the French word comptable, which means accountant. but to call Bullock an accountant is like calling Ross Perot a computer salesman.

The question is whether he can muster the diplomatic, consensus-building abilities that have been Lt. Gov. Hobby's strength. "He's pretty frank and he's offended some groups," says Hazleton.

For example, when the Legislature was grappling with the budget deficit last year, Bullock didn't mince words. He let it be known that the state's tax system was overdue for an overhaul. "We have a new economy—a new economy of services and trade," he told the Senate. "But the state tax structure has not changed. It is old and tired. Some major parts of our tax structure are 80 years old. Even the newest major tax is a quarter-of-a-century old." Bullock drafted a revised tax plan and stuck his neck out even further, questioning sales tax exemption for services rendered by professionals such as accountants, lawyers, doctors, and the like. Bullock offended powerful lobbying groups and political contributors; if he deemed it necessary, he certainly would do it again.

Another unknown is whether he will face a strong opponent. At the moment, the most frequently mentioned possible foe is state Sen. Chet Edwards, a clean-cut young Democrat from Duncanville. While Bullock is better known and considerably more experienced than Edwards, the comptroller may be somewhat encumbered by his checkered personal past. "It's hard to run without an opponent, without someone taking snipes at you, because you have to run against yourself, against your own record," says Bullock. Still, he adds, his record is his main asset and source of pride.

"It will be a new day if he becomes lieutenant governor," says Hamilton, who pledges Bullock total support. "He'll move in a million directions, look in every nook and cranny, and examine things that haven't been dusted off in 20 years. There's no telling what will crawl out of the woodwork."

Bill Allaway, executive vice-president of the Texas Association of Taxpayers and another Bullock alumnus, expects Bullock to bring the same energy to the lieutenant governor's job that made him a successful comptroller. "He has a lot to offer the state," Allaway says. "I hope he gives the race a shot."

Bullock has announced in the past that he would run for a particular office, most recently that of governor, only to change his mind. Political reporters in Austin are taking bets on whether he'll go through with his latest candidacy. Bullock insists he's in the race to stay and he intends to win: "I started in the Legislature and I want to end up in the Legislature. I've got the experience for the job. I have cut all the ribbons. I've eaten all the barbecue. The lieutenant governor's office is where the action takes place. That's where the future of Texas will be determined, and that's where I want to be."

THE TEXAS ECONOMY ACCORDING TO BULLOCK

Millions upon millions of numbers spew out of computers in the comptroller's office in Austin. The latest figures have given Bob Bullock cause for cheer. The trends, he says, point to clearer days ahead. The outlook for real estate, financial, and insurance sectors remains murky, but the economy as a whole is emerging from the doldrums.

However, Texas no longer stands isolated from the nation. "We're tracking the national economy right on the button, and we will for a long time," says the comptroller, predicting that the state will prosper at a faster pace than predicted for average national growth. "Our growth is stable. I have a lot of enthusiasm for 1988 and 1989," Bullock adds. A look at the scenario as seen by Bullock:

Gross state product will grow by 2.8 percent this year and by 3.9 percent next year, reaching $290.3 billion in 1989 (measured in 1982 dollars).

Unemployment will continue to decline, falling to 7 percent this year and to 6.5 percent in 1989. Nonfarm employment will rise moderately—1.3 percent this year and 2.8 percent next year.

Texans will see personal income gains of 6.4 percent this year and 7.4 percent next year, when state wealth will total $265.8 billion.

Texas' rig count will move up, but only slightly. It's expected to reach an average of 321 this year versus the 1987 average of 305 and increase again in 1989 to 327. Bullock predicts oil prices will average $17.46 a barrel this year, and will rise to $18.61 next year. Natural gas prices also will see moderate improvement; they're expected to average $1.61 per thousand cu. ft. this year and $1.72 next year.

"The signs of recovery are solid and widespread," says Bullock. "The recovery is being fueled by a surge in the state's manufacturing industry. Manufacturing employment is up 3.6 percent over a year ago. Except for finance, insurance, and real estate, all of Texas' major industries have bottomed out and are now growing."

Nevertheless, Bullock tempers his optimism. "Unfortunately, we have a ways to go," he says. "But there is hope that once again our economy will be vibrant."

THE "NOTCH" ISSUE

HON. HAL DAUB

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. DAUB. Mr. Speaker, on April 14, the House Ways and Means Social Security Subcommittee is going to hold a hearing on the report of the General Accounting Office [GAO] on the Social Security "notch."

This hearing is an important event in the history of the "notch babies" struggle to be heard.

Today, I am pleased to share with you my testimony to the House Social Security Subcommittee.

STATEMENT OF HON. HAL DAUB BEFORE THE HOUSE WAYS AND MEANS SOCIAL SECURITY SUBCOMMITTEE, APRIL 14, 1988

Good morning. I thank all those who have labored on both sides of the "notch" issue. Both proponents and opponents of "notch" legislation in most instances have demonstrated a deep concern for both the future of the Social Security system and the well-being of Social Security recipients.

As a former member of the House Select Committee on Aging and a present member of the House Ways and Means Social Security Subcommittee, I have been a participant in the continuing evolution and refinement of the Social Security system—a system which has been harshly criticized by some and lavishly praised by others.

In the recently published book titled "Social Security—The System That Works," authors Merton C. Bernstein and Joan Bernstein said the following in their prologue:

> Sooner or later, most of us will need retirement income. The good news is that we can depend on Social Security benefits to be there when we need them. Social Security benefits alone, however, will not enable most to maintain their accustomed living standards after retirement. So, supplementation is needed, either from private plans, savings, or a more generous Social Security program; otherwise many will face declining living standards throughout their older years. The bad news is that other retirement income plans are surprisingly less dependable. Many participants won't get benefits; for those who do, benefits will probably be degraded by inflation.

This cogent excerpt summarizes all that is good and all that is bad in Social Security.

History teaches us to prepare for the bad and be thankful for the good. We in Congress historically have had only the best intentions in legislating Social Security, but what happens when the best intentions yield undesired results? More to the point, what happens when a person retires anticipating a fair shake from Social Security and receives a benefit which is less than he ever expected it to be?

The logical consequences is that the person will fight for the anticipated benefit, regardless of extenuating circumstances—such is human nature.

We are here to discuss what went wrong with Social Security back in 1977, and how we should address the problem—a problem, whether real or imagined, which must be confronted immediately.

The General Accounting Office (GAO) report can be looked upon as a source of edification for some very complicated questions. The report verified that the "notch" does exist, or more specifically, that there are benefit differences between those who were born on or before 1916 and those born between 1917-21.

This issue has fostered a large degree of lost faith in the Social Security System on the part of those individuals born in the years 1917-21. Many of the more than seven million workers born after 1916 who have filed for retirement benefits during the past eight years have vigorously expressed concern about the situation.

I share this concern, and I have worked to address the matter for the past several years.

In 1986 the House Social Security Subcommittee directed the General Accounting Office to conduct a thorough study of the "notch." After much anticipation, the GAO study has finally been released.

Several bills have been introduced to address the "notch" problem. Some "notch" bills propose to return to the old, flawed 1972 formula. Others would lengthen the phase-in period and "notch" more retirees. My bill is based on congressional intent. The transitional guarantee formula reduces benefits incorrectly and must be modified.

I have introduced "The Notch Baby Act of 1987" (H.R. 1721) which is responsive to the needs of the over seven million "notch babies."

"The Notch Baby Act of 1987" will allow Social Security beneficiaries born in the years 1917-21 to become eligible for a new alternative transitional computation method, which would affect benefits for months after December 1987.

This new alternative computation would guarantee a benefit of no less than the worker's benefit based upon new law wage-indexing procedures—that is, the average indexed monthly earnings or AIME, benefit—plus a declining percentage of the difference between, first, the benefit which would have resulted if the pre-1977 law had remained in effect, but modified to include only the 3 years of earnings after the year of attainment of age 61, and second, the law (AIME) benefit.

This formula allows for a phase-in of the new benefit computation law created by the 1977 Social Security amendments that is uniform and follows congressional intent relative to the 1977 law. And I want to emphasize that the declining percentages used in the formula are a function of providing a uniform phase-in; they are not indicative of the difference between old law and new law.

The basic philosophy behind H.R. 1721 is simple and can be represented graphically. Under old law there is a precipitous drop in benefits for those born between 1917-1921; whereas, under H.R. 1721, the drop in benefits for "notch babies" would be less abrupt.

Individuals born before 1917 are receiving benefits under a different formula—initiated in 1972—that erroneously results in their receiving dual compensation for inflation increases. Had the 1972 formula been maintained, the Social Security system would have gone bankrupt. The 1977 Social Security amendments bill, which affects everyone born after 1916, restored the system to solvency.

In order to protect benefits of people already receiving or about to receive Social Security, the 1977 amendments did not change the computation rules for anyone reaching age 62 before 1979. Further, so as to gradually phase-in the benefit change, individuals becoming eligible for retirement benefits by reaching age 62 in 1979-83 were allowed to compute their benefits under new rules or under the old rules with some limitations, whichever would result in higher benefits. The modified old law formula is called the transitional guarantee and is available to all individuals born from 1917 to 1921.

Despite these efforts to provide a fair phase-in in the necessary 1977 law, many individuals born in the years 1917 to 1921 find that their benefits are much lower than people with identical work histories born in 1916 and earlier. To a large degree, this is evident because those people born before 1917 were able to take advantage of the unexpected high inflation years of 1978 to 1981 in their benefit calculations.

H.R. 1721 addresses the unanticipated disparities created by the 1977 law by allowing "notch babies" to calculate earnings after age 61 on par with those individuals born before 1917 and providing a percentage of the difference between old law and new law.

I believe that this bill, which costs $24.3 billion from 1988-1996—an average of $2.6 billion per year—is a reasonable and responsible approach to resolving the "notch" problem.

Through legislation such as H.R. 1721 and a substantive Congressional effort, faith in the Social Security system will be restored and the "notch" will be addressed.

Chairman Jacobs, I thank you for holding this hearing and I look forward today to a healthy discussion on this important issue.

SENATOR GRAMM URGES VA UPGRADE TO CABINET LEVEL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SOLOMON. Mr. Speaker, one of the finest public servants your home State of Texas has ever produced is PHIL GRAMM, whose presence once graced this body and who now serves in the other body. Those of us who remember him here should not be surprised that he should rise to the defense of an idea whose time has come—the elevation of the Veterans' Administration to a cabinet-level department—with his usual eloquence.

On one full page of the April edition of VFW magazine, Senator GRAMM demolishes the reasoning of the liberal editorial writers arrayed against my bill to upgrade the VA. He reminds us that there are few families in this country unaffected by veterans legislation, which touches upon more areas of public life than many of us realize. In fact, the VA's impact will increase in the coming years.

He reminds us that upgrading the VA would be fiscally responsible and an act of overdue justice for the millions of men and women who have interrupted and risked their lives. It is my pleasure to enter the entire article in the RECORD.

IT'S TIME FOR A CABINET-LEVEL VA

(By Phil Gramm)

It is the third largest agency in the federal government; only the Department of Defense and the Postal Service are bigger.

It operates the largest health-care delivery system of its kind in the world, runs the nation's largest life-insurance program and implements housing and education plans that affect America's entire economy.

It can potentially affect the lives of 79 million citizens—almost one out of every three Americans.

Yet when the President and his Cabinet gather to decide national policies, its managers do not sit in conference with them.

Why? Because this agency is the Veterans Administration, an independent entity that does not have Cabinet status, despite its vast impact on the lives of our citizens.

I have cosponsored legislation to make the VA a Cabinet-level agency, a proposal that President Reagan has endorsed. The measure would, at long last, place veterans' affairs on the same level as agriculture, commerce, transportation and similarly important matters at the top of the nation's agenda.

What does "Cabinet status" mean? What benefit would giving such status to the VA produce for veterans and for the country?

Cabinet members are the President's chief advisers, providing guidance and information that permits the President to set the nation's future course. To be part of the Cabinet would permit the VA to be at the table when critical policy decisions are made. At a time when the government seeks to reduce federal deficits and set new national priorities, the inner councils of government need to hear from those who represent the interest of veterans.

That's because VA programs and policies affect us more than we may realize. They directly touch the lives of almost one American in three: 28 million veterans, 49 million of their family members, and 2 million survivors of deceased veterans. The Veterans Administration Home Loan Guaranty Program, for instance, has enabled 12 million American families to buy private homes at a reasonable cost. The VA health-care system operates 172 hospitals, 117 nursing homes, 230 outpatient clinics and 188 readjustment counseling centers nationwide. Half of all physicians now practicing in the U.S. received at least some of their training in a VA facility. Over $15 billion in VA compensation, pension and other entitlements ranging from job training to rehabilitation to education assistance go to our citizens each year. In turn, VA programs affect those in real estate, homebuilders, educators, bankers, doctors and many others.

The Veterans Administration doesn't just affect the private sector, however. Its actions affect other federal programs, many of which are run by Cabinet-level agencies. For instance, VA projects that deal with health care, medical training and research have an impact on the country comparable to that of the Department of Health and Human Services. Its housing policies affect home construction and financing as much as those of the Department of Housing and Urban Development. The education benefits provided by the VA make it as important in the field of post-secondary education as the Department of Education.

Moreover, the VA's impact on our lives will grow in the coming years. One statistic illustrates the point: although 36% of today's U.S. males 65 and over are veterans, by the year 2000 that percentage will rise to an estimated 62%. This aging veterans' population will place greater demands on our health-care systems and bring the VA even more prominently into the debate over national priorities.

Would making the Veterans Administration a Cabinet-level agency cost money? No. The VA already has 240,000 employees administering a budget of more than $28 billion a year. Its size and operations are dictated by veterans' needs and those of their dependents and survivors. Having the VA as part of the Cabinet would simply ensure that the interests of this key segment of the population are heard and considered at the highest levels of government when important budget or policy decisions are made.

Giving the Veterans Administration the status of a Cabinet agency is the right thing to do. It is a step consistent with the needs of veterans and the best interests of the country. It is in keeping with Abraham Lincoln's call in his Second Inaugural Address "to care for him who shall have borne the battle and for his widow, and his orphan." Our nation's veterans interrupted their jobs, their education and their families, and often risked their lives, to serve this country. Providing them the recognition and visibility they deserve through a Cabinet-level Department of Veterans Affairs is not too much to ask.

HE DIDN'T SAY A THING

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. ATKINS. Mr. Speaker, I would like to comment on the outrageous disclosure this week that former White House spokesman Larry Speakes made up quotes for his boss. I feel eminently qualified to comment because the following remarks are not my own.

Now, Mr. Speaker, there are many things that Mr. Speakes should be condemned for—for instance, distorting the truth, leaving government service to cash in on a big job on Wall Street; writing a kiss and tell book; and most particularly, getting into a fight with reporters, who always have the last word.

But the real crime here, Mr. Speaker, is not that Mr. Speakes made up quotes for his boss—he might just as well have admitted that Ronald Reagan is an actor. The real crime is that he bragged about it.

How often has it been said by reporters after listening to our speeches "Well, he didn't say a thing."

Mr. Speaker, in the interest of honesty in government, full disclosure, and the integrity of the CONGRESSIONAL RECORD, I must now declare that nothing of what I have just said have I just said.

THE PROMISE OF THE SUPERCONDUCTING SUPER COLLIDER

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. KOLBE. Mr. Speaker, I rise to share with my colleagues a recent address by the President of the United States reaffirming the commitment of this Government to construction of the world's largest particle accelerator. Moving forward on this project will assure the continued preeminence of this Nation in the rapidly advancing field of high energy physics, provide a scientific research tool that would not only attract the world's top physicists to this Nation, but would also boost our sagging education programs in the sciences. This technology has already produced significant societal benefits in such fields as cancer treatment and nuclear medicine, and commitment to the SSC at this time holds the promise of perhaps the most dramatic and important advances in the study of matter to date. Just as the space program has yielded tremendous benefits in not only our understanding of the universe but real world applications that have benefited mankind, so too does the SSC represent the key to a whole new generation of advances in science and beyond.

And yes, Mr. Speaker, we must remain steadfast in our pursuit of meaningful deficit reduction to preserve a bright economic future for our children. But we must also recognize that construction of the SSC now is nothing short of a national imperative if we are to sustain our leadership role in the world scientific community, and extend to our children and future generations the hope for an improved quality of life that the practical applications of this technology and the new knowledge it will give us brings.

Mr. Speaker, I ask unanimous consent to place in the RECORD the remarks of President Reagan from a Rose Garden ceremony of March 30, 1988. Joined by 4 Nobel Prize winners and 35 exceptional high school students from the Department of Energy's Science Honors Program, the President again made clear his commitment to construction of the SSC. I call on my colleagues to join with the President in making the commitment to fund construction of this historic undertaking. Our Nation's limitless thirst for knowledge, and the need to retain our position of leadership in an increasingly competitive world community demands that we pursue the promise of the superconducting super collider.

The PRESIDENT. Thank you, Dr. Weinberg. And thank you all very much and welcome to the White House.

It's a great pleasure to have so many present and future scientific pioneers in the Rose Garden with us today. Along with members of Congress and the administration, we have no fewer than four Nobel laureates in the audience, as well as many of the top science students from the Department of Energy's Science Honors Program. I'm tempted to paraphrase an earlier president who once said, there's never before been so much talent assembled in one place in the White House since—well, since I hosted the Washington Redskins on the South Lawn last month. [Laughter.]

But the reason we're here, of course, is to talk about the superconducting super collider, as you've probably guessed already. I have to confess that when I first heard about this place where things go round and round at great speeds and then crash into each other, I thought they were talking about a presidential campaign. [Laughter.]

At first I was a little nervous addressing so many distinguished scientists on a subject of such complexity, but then I realized these are people who spend their days talking about things called "quarks," which, some claim, exist in two places at the same time—and I thought, why worry? [Laughter.]

The fact is, I envy the students here today because they exist in a world that seems to put no limits on the imagination. Outer space used to be called "the final frontier," but today we've begun to tap another frontier—inner space—whose infinitesimal constellations hold out infinite possibilities.

It may be a cliche, but it's nevertheless true, that the pace of progress is constantly accelerating. I think one of the reasons I've always had so little patience with those who talk about the "limits to growth" is that in my lifetime I've seen those limits shattered again and again by questing minds. When I was very young, horsepower was still the kind you fed with hay. Powered flight was still a relatively new thing. And before the turn of the century, we plan to have men living and working in stations in space and a new hypersonic plane that can fly from here to Tokyo in less than three hours.

I know that some people may question the practical applications of the superconducting super collider. The strange world of subatomic particles they may think will never be more than an arcane interest to a few highly specialized scientists. But the truth is, the practical applications of this knowledge are already changing the way we live.

One of my favorite examples is from the computer industry. One scientist describes the progress in that industry by making this comparison: "If automotive technology had progressed as fast and as far as superconductor technology has in the last 20 years," he says, "a Rolls Royce today would cost less than $3.00, get three million miles to the gallon, and six of them would fit on the head of a pin." [Laughter.]

Well, the technological revolution he's describing is transforming our world, and it was only made possible by the knowledge scientists have brought back from their explorations of inner space. Every time someone turns on his desk computer, makes a phone call, or plays a video game, he's plugging into that mysterious world of quantum physics.

The superconducting super collider is the doorway to that new world of quantum change, of quantum progress for science and for our economy. In the face of ever increasing global competition, the United States must maintain the leading edge in science and technology, and building the world's largest particle accelerator is a visible symbol of our nation's determination to stay out front. Benjamin Franklin once said that an investment in knowledge pays the best interest."

I want to commend you all on your cause, your vision, and the message of progress and competitiveness you carry with you today. And it's my hope that Congress will show equal vision by approving funding to initiate construction of the super collider. I think all they'd need to do is meet some of these students here today to see to—that it is our responsibility to the next generation to keep America a place where we can dream big dreams and then make them real.

I have to interject something here before I conclude. In my lifetime, and not—and only the recent part of my lifetime—after about 25 years in movies and so forth, I was representing the General Electric Theatre on television. And I visited one of their plants in Schenectady early on, and they proudly took me in and showed me what turns out to be the first computer. They called it an electric brain. It would have—well, it would have fit in the Rose Garden here, but it was about as long as from the edge of the platform to the bushes over there and almost as thick. And that is what—I just thought of that when I mentioned here someone sitting down to his desk computer. That, in just those years, from there up to here, is what has happened. So maybe that fellow about the Rolls Royce was right—six of them on the head of a pin.

Well, I just want to thank you all very much for being here and for allowing me to participate and God bless all of you. Thank you. [Applause.]

GENOCIDE CONVENTION IMPLEMENTATION ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SYNAR. Mr. Speaker, I rise in support of H.R. 4243, the "Genocide Convention Implementation Act."

Determined to prevent a repetition of the Nazis' deliberate and systematic annihilation of a people, the United Nations General Assembly on December 11, 1946, unanimously passed a resolution declaring genocide "a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world." Two years later the General Assembly unanimously approved the text of the Convention on the Prevention and Punishment of the Crime of Genocide.

The Genocide Convention has been in force since January 12, 1951, and 96 other countries have become parties. Although United States representatives to the United Nations played an important role in drafting the treaty and signed it on December 11, 1948, the United States has not yet ratified it.

After nearly 37 years of consideration, on February 19, 1986, the Senate voted 83 to 11 to give its advice and consent to ratification of the treaty. Before the President can sign the formal instrument of ratification, it is necessary for both the House and Senate to act on legislation that would make genocide a crime in U.S. law. H.R. 4243 would, in effect, implement the Genocide Convention and make it the law of the land.

The vote on the Genocide Convention Implementation Act is appropriately scheduled for April 14, Holocaust Remembrance Day, an occasion to remember the very type of horror this legislation commits its signatories to work against.

As a member of the House Judiciary Committee, which has jurisdiction over the bill, I supported H.R. 4243 when it was reported out of committee March 31, and I intend to support the legislation once again today when it comes to a vote on the floor of the House.

Mr. Speaker, I would bring to the attention of my colleagues an excellent article on this subject by William Korey, entitled "Seal and Deliver the Genocide Pact," and I request that it be printed, in full, in the RECORD.

[From the New York Times, Apr. 2, 1988]

SEAL AND DELIVER THE GENOCIDE PACT

(By William Korey)

Finally, after nearly 40 years the Congress appears to be moving toward the crucial action required for ratification of the historic genocide treaty—the enactment of implementing legislation. With hearings in both houses recently completed, the target date set by Congressional proponents of the pact is April 14, Holocaust Day. Still, the endless delays for nearly 40 years generate a little uncertainty about the outcome.

Further delay would emphasize the extraordinary anomaly of a nation committed by law and spirit to commemorating the trauma of the Holocaust and not yet being a contracting party to the one international treaty whose aim is the prevention of its repetition.

While the treaty is largely symbolic, it nonetheless "can play some role," in the words of the United States Holocaust Commission, in stopping genocidal "acts in the future."

In recent testimony to Congressional bodies, William Proxmire, Democrat of Wisconsin, the principal advocate of ratification (he has delivered 3,300 Senate addresses on the subject), properly invoked the memory of the late Raphael Lemkin.

It was this Polish Jewish immigrant who coined the term "genocide" (joining the Greek word for "species" to the Latin word for the infinitive "to kill"). What Winston Churchill had called "a crime without a name" was forever given an appropriate one.

Using 11 languages, Mr. Lemkin had lobbied several dozen United Nations delegations between 1946 and 1948 in order to win a unanimous General Assembly vote for the treaty on Dec. 9, 1948. To the media's United Nations correspondents, he was a remarkable figure who had somehow prevailed over formal diplomatic niceties and the initial indifference of sovereign countries.

A brilliant international legal scholar, Mr. Lemkin had survived the Holocaust by fleeing first to Sweden and then to the United States, where he served on the law faculties of Duke University and Yale University. He remained painfully conscious of what the Nazi extermination policy involved, for it embraced some 50 members of his own family. The genocide treaty marked for him "an epitaph on my mother's grave."

It was to his adopted country that he looked for early ratification. This would serve, Mr. Lemkin said, as "an inspiration to the world." Indeed, the United States was the first to sign the treaty and President Harry S Truman soon afterward transmitted it to the Senate for its early "advice and consent." But there the treaty became caught up in interminable ideological conflicts, the logic of which makes little sense today.

The delay in ratification stunned the treaty's architect. He feared, as very well he might, that people would forget the Holocaust. Already, he noted, many "believe that Dachau, Auschwitz, Buchenwald are manufactured war propaganda." He died in 1959, disappointed but still hoping that America would provide the required leadership to champion human rights and international law.

Failure to ratify the treaty has, in fact, proved costly to the American image in the international community, and this inevitably has been exploited by the Soviet Union. Last Dec. 10, Human Rights Day, the press agency Tass, not surprisingly, trumpeted both at home and abroad the United States' nonratification of the treaty.

But our national embarrassment may soon be at an end. Implementing legislation making genocide a Federal crime with appropriate penalties seems to have won broad support in the Congress. Only the ultraright has testified in opposition.

Enactment of the legislation in both houses by April 14 would enable the United States to deposit with the United Nations Secretary General its formal instrument of ratification, which the Senate approved two years ago, together with the essential enabling statute.

"We have waited long enough," said Senator Bob Dole in calling for the advice and consent vote on Feb. 19, 1986. That cry is even more valid today, as Holocaust Day draws near. Raphael Lemkin would have welcomed such a moment as offering an epitaph for all genocide victims.

IN TRIBUTE TO R.H. ARMSTRONG OF PARSONS

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. STAGGERS. Mr. Speaker, recently Tucker County, in my district, lost one of its leading citizens. Mr. Richard H. (Dick) Armstrong of Parsons, one of Tucker County's largest employers and most avid supporter of youth sports, died of an apparent heart attack on March 18, while vacationing with his wife Catherine in Texas.

Mr. Armstrong was a successful businessman, a professional engineer, an owner and builder of race cars, a horseman, and a registered pilot. He was a member of the Tucker County Athletic Boosters Association, and he is credited with being the "driving force" behind the construction of a football stadium for Tucker County High School. Mr. Armstrong donated some $100,000 in labor and equipment to ensure that his community would have a stadium to be proud of. Mr. Armstrong turned down an invitation to have the new stadium bear his name, but now there are those in Tucker County who are asking that Tucker County Memorial Stadium be renamed in his honor.

I join with others in extending our deepest sympathy to Mr. Armstrong's wife, the former Catherine Shaffer of Parsons, and other members of the Armstrong family. There is no doubt that Tucker County has lost a fine person and dedicated civic leader with the passing of Mr. Richard H. (Dick) Armstrong.

Mr. Speaker, I insert two items from the Parsons Advocate about Mr. Richard Armstrong:

[From the Parsons Advocate, Mar. 23, 1988]

R.H. ARMSTRONG DIES ON VACATION

R.H. Armstrong of Parsons, one of Tucker County's largest employers and most enthusiastic sports fans, died last Friday afternoon of an apparent heart attack while vacationing in Texas.

Richard H. (Dick) Armstrong, 67, founder of R.H. Armstrong, Inc. Construction Company of Parsons and president of the National Bank of Davis, died March 18 in his vehicle. Family members said this week that Armstrong and his wife, the former Catherine Shaffer of Parsons, had just left the home of Mrs. Armstrong's sister and were traveling to Florida when he became ill. He stopped the van at the edge of the road and, it is believed that he died instantly. Mrs. Armstrong got out of the van and flagged traffic, finding it difficult to get help on the busy freeway, but was later returned to her sister's home by a passer-by.

Mr. Armstrong was president and owner of Tucker County Trucking Company, Inc. and Porterwood Machine and Welding Shop; was owner of R.H. Armstrong, Kelly Mountain Quarry in Elkins, and was president and chairman of the board of National Bank of Davis for four years, a professional registered engineer for the State of West Viriginia and a bituminous concrete technician with West Virginia Department of Highways. He was a professional registered pilot, a member of West Virginia Contractors Association and a member of Associated General Contractors of America. He was a veteran of World War II, and a member of the CCC Camp 518 of Parsons.

Mr. Armstrong was a member of Tucker County Athletic Boosters Association and was considered to be the driving force behind the building of Tucker County Memorial Stadium, a football field in Parsons for Tucker County High School. He was a member of Pythagoras Lodge 128 AF&AM of Parsons, a member of the Osiris Temple of Wheeling, and was affiliated with First United Methodist Church of Parsons.

He owned and built race cars, maintained a horse farm and was an avid helicopter pilot with his own aircraft and helipad.

Richard H. Armstrong was born Aug. 17, 1920 at Mill Creek, a son of the late Noble and Flora Bruce Armstrong. On Dec. 23, 1940 he married the former Catherine Shaffer who survivies in Parsons. Also surviving are three daughters, Mrs. Ronald (Brenda) Sturms, Mrs. William (Linda) Evick and Susan D. Carr, all of Parsons; two brothers, Charles (Bob) Armstrong of Mill Creek and Burton (Sonny) Armstrong of Valley Bend; a sister, Edna Channel of Mill Creek; and five grandchildren, Richard (Rick) Sturms, Debra Lynn Sturms Fike and Lori Kay Sturms, David Michael Evick and Marcie Anne Evick.

He was preceded in death by two brothers, Doyle D. and Jackson O. Armstrong and two sisters, Wionna Beisweinger and Juanita Stover.

Jeffery A. Barb Funeral Home of Parsons was in charge of arrangements. The family suggest that expressions of sympathy be in the form of contribution to Tucker County Athletic Boosters Weight Room Fund (for Tucker County High School) or to Five Rivers Public Library in Parsons.

March 21, 1988.

Mr. Ronald Knotts,
President, Tucker County Board of Education, Parsons, WV.

Dear Ron: As you know, not only Parsons, but Tucker County has lost not only a friend, but a great civic leader in the untimely death of R.H. "Dick" Armstrong.

As a follower and supporter of athletics in Tucker County one of Dick's many achievements was the completion of our great football stadium, presently known as Memorial Stadium.

After members of the Tucker County Athletic Boosters Club obtained a loan for $60,000, which was just a "drop in the bucket" compared to the approximately $100,000 in labor and equipment which Dick donated, the club was asked to name the stadium.

Members of the boosters club wanted to name it "Armstrong Stadium" but knowing Dick, he refused.

After talking with a number of the original athletic boosters we would like to request that the Tucker County Board of Education officially rename the stadium to be called R.H. Armstrong Memorial Stadium.

If the Board would grant this request, I personally will have a new sign painted and we would hope to have a rededication at the first home football game of the 1988 season.

Thanking you in advance for your consideration, I am

Sincerely,
Jerome V. (Jerry) DiBacco.

CIVIL RIGHTS RESTORATION ACT VETO

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GINGRICH. Mr. Speaker, I urge my fellow colleagues to read the following articles about the Civil Rights Restoration Act and President Reagan's veto of that bill. "Reagan Stands Up for Principle Against Both Politicians and Bureaucrats," by Robert Akerman appeared in the March 20, 1988, edition of the Atlanta Journal and Constitution. "The Hounding of Grove City College," by Edwin M. Yoder, Jr., appeared in the March 21, 1988, edition of the Washington Post.

[From the Atlanta Journal and Constitution, Mar. 20, 1988]

Reagan Stands Up for Principle Against Both Politicians and Bureaucrats

(By Robert Akerman)

President Reagan is to be commended for having the courage of his convictions in vetoing the so-called Civil Rights Restoration Act. Many Republicans, even some conservative ones who really don't like the bill, urged him not to veto it since they think the public doesn't understand the issue and would consider his veto "racist," with damaging consequences to the party in the current political campaign.

As far as matters of conscience are concerned, they could argue that a veto wouldn't accomplish anything anyway because the votes were there to pass the bill over a veto. Indeed, the Senate started the process the day after the president's veto. But Ronald Reagan honestly believed this was a bad bill and his conscience demanded that he at least tell the public so for the record, whether or not it made any difference in the end.

I have written about this bill many times, pointing out that it didn't simply "restore" the civil rights enforcement situation to what we thought it was before the Supreme Court's Grove City College decision. The aspect of the decision that concerned civil rights activists was the court's view that federal aid to an institution practicing discrimination could be cut off only in the program in which the discrimination occurred. Because that would weaken the impact of the federal-aid weapon in fighting discrimination, many activists wanted new legislation to make it clear that all aid was to be cut off if discrimination occurred in any part or program of the institution.

I never objected to that concept in itself, but what concerned me was the other part of the court decision. In the Grove City College case, the court also redefined federal aid to include anything that even indirectly benefited the institution—in the college's case, the fact that its students received federal loans and grants although the college, as matter of principle, rejected federal aid for itself. This part of the court decision greatly broadened the scope and coverage of civil rights legislation, well beyond what Congress intended when it enacted the original laws.

So if broad enforcement power is added to the newly broadened coverage of the law, what we have is far more than a "restoration"—it is a brand new law, expanding the authority of government as far as federal bureaucrats and judges want to go with it. That's more of a revolution, albeit a stealthy one.

Those who would interpret opposition to this as "racist" ought to remember that nowadays the civil rights laws ban discrimination on the basis of gender, age, handicap (which now also means contagious disease), and so on. Since there are many discrimination issues that have nothing to do with race, the cry of "racism" should no longer be used to stop all thought on the subject. We have to consider how far we want to go in enforcement in each area, but the "restoration" act applies the same definitions and enforcement methods to all of them. Yet, is segregation by sex in an apartment building the same kind of social evil as segregation by race in a neighborhood? I don't think so, but this is the sort of question we overlook in passing overly broad "civil rights bills" instead of addressing specific remaining problems.

But to me the best evidence that the president is right to question this new bill is to go back to the beginning, to the Grove City College case that gave rise to it. The college had not been found guilty of any kind of discrimination: in fact it hadn't even been accused of it. Its quarrel with the bureaucrats in the Carter administration was because of the simple fact that the college didn't accept federal aid and therefore did not think it had to submit paperwork required of recipients of federal aid. The bureaucrats took the institution to court not to fight discrimination within the college—there wasn't any—but to assert their power. They won in the court, and some of us think the so-called restoration bill also has far more to do with power for the sake of power than with preventing actual discrimination. President Reagan is defending a principle, and it's time the people understood it.

[From the Washington Post, Mar. 21, 1988]

The Hounding of Grove City College

(By Edwin M. Yoder, Jr.)

The lopsided vote by which Congress reversed the Supreme Court's 1984 Grove City College decision signals that President Reagan's veto probably won't change the outcome. Nor should it, necessarily.

But Congress whooped this legislation through with an unwarranted air of self-congratulation. And the president in his veto message missed a chance to make a useful point about academic freedom, a sizable bit of which has been lost.

You might assume, if you didn't know otherwise, that the Grove City decision denied someone his civil rights. In fact, what the court said was merely that the Department of Education might sanction the small Pennsylvania college which chooses, for reasons not now fashionable, to separate boys and girls in its intramural sports program; but the sanctions, said the court, must be limited to the offending department.

Were Grove City one of those institutions whose financial structure is heavily marbled with federal subsidies, the college wouldn't have had a leg to stand on, let alone a federal case. But Grove City is among the few institutions which, as a matter of principle, shun the outstretched hand of federal almsgiving. The usual basis for federal sanctions was absent.

Yet there was a small chink in Grove City's armor. The college did not turn away students whose tuition is partly paid by federal grants or loans, administered by the U.S. Department of Education. That was the camel's nose in the tent.

Under a 1972 law, it seemed clear that sanctions (fund cutoffs) might apply to any college program nourished by federal aid—possibly including Grove City's grants office. But was the whole college subject to sanctions—to being second-guessed by federal bureaucrats—because federal grants to individual students happened to be an indirect part of its operating budget?

That was the issue the court addressed. And all the court did was to say no, restricting federal sanctions to the scope of the alleged violation. That is the interpretation of the law that Congress has now shouted down by huge margins. The "Civil Rights Restoration Act" declares, in effect, that a college or university offending federal regulations in any program, however trivial, may be punished by the withdrawal of federal subsidy from all its programs.

But the president's veto message, with its alarmist imaginings of all sorts of threats to corporations and churches, flagrantly misses the real point: the truncation of academic freedom.

For two centuries the courts have made large allowance for the political independence of higher education. It began with the famous Dartmouth College case of 1819, argued by Daniel Webster. ("It is, sir, a small college, but there are those who love it.") The Marshall Court halted an effort by the New Hampshire legislature to revoke the college's original charter and convert Dartmouth into a public institution. The Supreme Court's solicitude for Grove City, another "small college," is in that tradition.

So energetic had been the federal hounding of Grove City, in pursuit of unisex intramural sports, that Justice Powell, no friend of discrimination, was moved to scold federal authorities. "An unedifying example of overzealousness," he called it—strong words for him, but certainly well warranted.

Zealousness aside, the key issue here is not civil rights against civil wrongs, but a clash of two valid views of freedom. In case upon case, for years and years, the federal judiciary has recognized the special vulnerability of educational institutions to political meddling and pressure—including the kind of pressure that emanates from the righteous causes of the moment.

In the past 20 years, that solicitude has been eroded, often because racial balancing in public or private colleges seemed a greater imperative than the full freedom of university administrators to make their own educational judgments.

Was the integration of the sexes on the playing fields of Grove City so great a cause, then, as to justify this legislation? Perhaps. But the unctuous self-righteousness that attended its passage is inappropriate. You can be sure that something has been lost as well as gained.

UNIVERSITY OF LOWELL BUCKS TREND

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. ATKINS. Mr. Speaker, under the leadership of Bill Hogan, the University of Lowell has become one of the outstanding science and engineering institutions in the country. But like so many others, it hasn't always done what it should have to advance opportunities for minority students.

The following news story tells how one school, the University of Lowell, has begun living up to the Federal mandates established for improving the quality of education for all students.

REVERSING A NATIONAL TREND: U OF LOWELL RECRUITER ADDS MINORITY GRADS

(By Mary B.W. Tabor)

LOWELL, MA.—On Friday evening at the University of Lowell, a lone light shines from an otherwise deserted administration building.

Prof. Wayne Dudley has already put in a long day as director of minority affairs, but Ena Williams, a first-semester student from Jamaica, is still trying to choose her courses. So he stays.

This kind of dedication is helping Lowell counter the sobering trend of declining numbers of blacks in college and graduate schools. It is also helping the university in this 19th-century industrial town respond to a government citation issued a couple of years ago for poor minority recruitment.

Black enrollment at graduate schools across the nation dropped by 22 percent between 1976 and 1984, but in just two years, Dr. Dudley has almost single-handedly increased the number of minority students at Lowell from seven to 102. Lowell's pool of undergraduate minorities is growing as well.

Students of varied nationalities stream in and out of his office in Southwick Hall. As a place where tutoring, business contacts, and even rides can be found, the sparsely furnished office has become a focal point of both personal and academic support for these students.

"When I first arrived, I had problems with calculus, and he found someone to help," says graduate student Elsie Williams Ewing.

His students—many of whom feel they might not be in school without his support—say his tireless efforts to recruit and then watch over them make the difference.

Dudley, who grew up in a small town in south Georgia, says his father, a sharecropper with only a second-grade education, used to tell him he was wasting time with his books. Four degrees, a tenured professorship, and accolades later, Dudley is proving that dedication toward getting an education pays off. What's needed, he says, is having someone believe in you.

A stutterer as a child, Dudley says he was "very, very shy" about talking in school until a history teacher noticed his efforts to learn. Intrigued by a picture of Henry the VIII, Dudley became an avid historian, reading everything on European monarchs he could find. "I blossomed in the classroom because that teacher took a special interest in me."

Recalling other teachers who promoted his studies, Dudley says his "mission" is to encourage and provide a safety net for those who can't otherwise afford to go to college. He rocks his head back and closes his eyes a little as he talks about years spent in a tin-roofed shack—sans running water and electricity—with his parents and eight brothers and sisters.

Not only has he, on occasion, driven car pools of students to and from campus, but he also sometimes dips into his own pockets for loans to students who can't pay for their books.

Dudley redefines the "eligible" minority student as anyone—a professional or student elsewhere—who wants to go back to school and might need some help to do so. He and his community contacts find such students and help smooth the transition from community to university. A personalized work-study plan, in which services—ranging from office assistance to community work—are exchanged for classes, is the basis of the financing.

Ms. Ewing, an office assistant, enters Dudley's office looking for Ken Carter, a black freshman from Georgia. Ken wants a job outside of school, and she has some ideas for him.

Ewing, who encouraged Ena Williams to come to Lowell, was working to pay off undergraduate loans from the University of Toronto. She talked with Dudley and decided to enroll in Lowell's MBA program. "His office is always there with its doors open," she says.

A college student in the '60s, Dudley marched with Dr. Martin Luther King Jr. and alongside his casket. His sense of mission, he says, is based on that of the civil rights movement and its leaders.

According to many Lowell administrators, the quality of new minority students Dudley has brought into the graduate and undergraduate programs is even higher than in previous years.

"They are very bright people," says Luis Garcia, one of Dudley's community contacts. "But I don't think many of them would be where they are without Dr. Dudley's assistance."

While citing the still low numbers of minorities at Lowell, Dr. Charles Willie, of Harvard's Graduate School of Education, commends Dudley's efforts as "a marvelous achievement," emphasizing the importance of getting blacks and Hispanics into graduate programs.

Dudley believes his program is adaptable to every type of educational institution. But, he says, limited financial aid funds remain a hurdle to increasing minority enrollment.

"Many students have just lost faith in the system," he says. "But the program assistants can help infuse a sense of confidence and faith in something that works. They can go back [to their communities] and say, 'Education really pays. I am going back, you can do it, too.'"

THE GREAT OUTDOORS OF AKRON

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SAWYER. Mr. Speaker, I would like to share with our colleagues a recent article from the Akron Beacon Journal which was submitted by the Journal's distinguished Associate Editor David B. Cooper. It reveals the astonishing diversity of parks and recreation areas in Akron, OH. The Akron area system of parks is a precious and vital resource, providing the opportunity for people in all parts of the community to step into a small section of the great outdoors.

In addition to the Cuyahoga Valley National Recreation Area, Akron contains a fine selection of State, metropolitan, and municipal parks. These clean and open spaces have contributed greatly to Akron's community life.

[From the Akron Beacon Journal, Mar. 13, 1988]

THE GREAT OUTDOORS OF AKRON

(By David B. Cooper)

It's odd how a place can affect your sense of well-being.

For the decade that we lived in Detroit, I liked that tough old city but also felt that something was missing in my life. I never could quite figure out what was missing.

We moved to Akron in 1977, having never been here before. I thought we were coming to a smaller version of Detroit—pleasant in many ways, but often harsh and with few amenities. Burning tires and urban decay lodged in my mind's eye.

I could not have been more wrong, and over time I realized what I had missed in the Detroit area for a decade and what, to my delight, I had found again in the Akron area.

It was and is the outdoors, the ability to get out into the country without a lot of fuss or a lot of time, and thus gain easy access to parks and open spaces, hills and valleys, streams and ponds, and a gracious variety of landscape.

Detroit was flat, and getting out into the country involved driving 2 to 2½ hours into outstate Michigan.

As I look out my office window in downtown Akron, I can see the gentle hills of west Akron, and the tops of trees above the houses. I know that just a few miles beyond, in any direction, are places to relax and commune with nature, lakes to fish, and trails to hike.

Sometimes I even forget that we have four different public park systems in the Akron area. They are: the Cuyahoga Valley National Recreation Area, Akron city parks, state parks, and the fine Akron Metropolitan Parks.

The latter are so well-run, so available, and so unobtrusive that users often don't even know what public agency runs them. I could not name them all; can you? (Note: Answers listed below.)

A recent opinion survey for the Metro Park district, conducted by Jesse F. Marquette of the University of Akron political science department, found that 80 percent of the respondents rate the 11 Metro Parks as good or excellent and that 98 percent think they are clean or very clean.

When you consider that the 11 parks in the system, and the 23-mile bike and hiking trail, were visited by almost 1.8 million people last year, many of them more than once, those are fine ratings, saying that people like the parks. They also don't mind paying an average of about $10 per household to maintain them; some mistakenly think they are paying much more than they are.

Under the leadership of John Daily, the Metro Parks' director-secretary, and its board, now composed of Chairman William Zekan, Robert Mercer and William Blodgett, this important public agency is now considering future plans for the 6,600-acre system.

The Marquette survey has offered a number of suggestions, including the need for the park system to find ways to reach citizens who do not have cars or easy access to public transportation to the parks. The survey found that "physical difficulties" were the reason most often given by the 37 percent of Summit residents who said they do not use the Metro Parks.

When users were asked what other amenities they would like in the park system, the responses included such things as: more shelters that could be reserved, bike and boat rentals, a canoe livery on the Cuyahoga River, a golf course, a refrigerated toboggan chute and toboggan rentals, and a restaurant or snack stands.

Some of these amenities may prove impractical for a public agency, but park officials expect to consider them all in the future.

The Akron Metropolitan Parks were created in 1921, and have a rich history. It was one of the first regional park districts in the country, and early plans were sketched by the Olmstead brothers, the famous landscape architects. Frederick Law Olmstead designed Central Park in New York and Belle Isle in Detroit. He and his brother were early advocates of preserving open space within and around growing American cities.

Their foresight helped shape Akron, as well as many other cities, and the foresight of the early leaders of the park system here helped make this a special place, an urban environment where the outdoors is just around the corner.

The New York architect James S. Polshek, a native of Akron who returned home last week, spoke of the significance of such amenities in his talk to the Akron Roundtable. I was struck by Polshek's reference to "the importance of places" in our lives; I recalled as he spoke how much special places, such as parks and green spaces and water, have meant to me.

Operating on a budget of about $2.25 million a year, the Akron Metropolitan Parks district adds to our lives, and, as part of an impressive array of city, state and national parks, helps create a unique environment here in and around an American city. We have more recreation opportunities as a result than most urban dwellers.

And, the parks that make up the Metro Park system are: Silver Creek, Cascade Valley, Deep Lock Quarry, Firestone, Furnace Run, Goodyear Heights, Gorge, Hampton Hills, Munroe Falls, F.A. Seiberling Naturealm, O'Neil Woods, and Sand Run.

JIM HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HAMMERSCHMIDT. Mr. Speaker, many words have been written since the recent death of our esteemed colleague, Congressman Jim Howard of New Jersey, and understandably so.

However, probably nothing that has been written better captures the real significance of what he did and the fervor and commitment with which he did it than the following article appearing in yesterday's Washington Post.

The commentary is authored by Joan Claybrook, president of Public Citizen, and Chuck Hurley, vice president for Public Policy at the National Safety Council.

Both of these individuals and the organizations they represent were well aware of Jim Howard's great ability and his successes in the legislative trenches. They knew well the depth of his concern for improved safety and a cleaner environment for all Americans.

I know that all of my colleagues will want to read the article, and I am submitting it for that purpose.

The article follows:

JAMES HOWARD AND HIS FIGHT FOR PUBLIC SAFETY

(By Joan Claybrook and Chuck Hurley)

The Post, in its March 26 obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean-water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dingell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speed limit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figures showed sharp increases in fatal high-speed crashes and were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspective too. "If I was waiting for the returns on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced a person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on others' expense accounts. This, unfortunately, is permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what The Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Product Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.; for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for canceling the synthetic fuels demonstration project; for reducing the dairy subsidy; and for deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesafers conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

SPEECH OF

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MILLER of Washington. Mr. Speaker, today we vote on yet another aid package for the democratic resistance in Nicaragua. The road to peace and democracy is a long one. In February 1987, I was in Central America when President Arias of Costa Rica first proposed his regional plan for peace and democracy. Impressed by his deep commitment to a peace which would bring freedom and liberty to all the people of Central America, I came back from this trip and worked hard for congressional and administration support for the Arias initiatiave. I believe strongly in this policy which uses a range of pressure and incentives to press for democracy in Nicaragua.

Since last February there has been considerable progress toward peace and democracy. The resistance and Sandinista leaders have met directly on Nicaraguan soil to negotiate a ceasefire. The newspaper La Prensa has been allowed to reopen, and some of the thousands of political prisoners held inside Nicaragua have been freed. What accounts for this progress? A combination of factors: President Arias' brilliant diplomatic initiative, the Soviet's weariness at pouring millions into its client state, insistent pressure from the political opposition and, yes, the effective military opposition of the democratic resistance. These are all crucial factors in the complex effort to bring democratic reform to Nicaragua and peace to Central America.

One thing we must remember at this crucial juncture is the simultaneity called for in the Arias initiative. This means that democratization and cessation of hostilities is to take place simultaneously. The Sandinistas have taken small steps toward democratization. A newspaper and radio station were allowed to reopen, some political prisoners have been released. However, last week, one of the major components of the peace and democratization plan was fulfilled, a negotiation of a ceasefire between the resistance and the Sandinistas. Thus, we now have a full cessation of hostilities, yet we do not have full democratization in Nicaragua. The Sandinistas continue to harass the internal opposition and others who try to exercise free speech, a truly open and free press is not yet a reality, and municiple elections have not occurred nor have they been scheduled. In light of the negotiated ceasefire, it is fair to ask the question, how much longer must we wait for democratization in Nicaragua?

Today, we vote on a package which will provide humanitarian aid to the resistance. This package will also provide funds for the verification commission to monitor compliance with the ceasefire by both the resistance and the Sandinistas. I support this package. By helping to sustain resistence it shows that we are keeping our options open in the event the Sandinistas fail to democratize. By providing funding for the verification commission, it shows that we will watch closely the progress of both democracy and peace in Nicaragua.

As we debate this package today and reflect on the events in Central America, I think it is also wise to reflect on our—the U.S. Government's—participation in those events. We have not been a model of consistency. Constantly changing congressional votes, administration concealment and lack of leadership, and bitter partisanship on both sides of the aisle created nonpolicy that confused both our allies and adversaries. In the last 2 months alone, we have had three votes on aid to the resistance. In each vote, there were legislative ploys, partisan fighting, and political maneuvering. Too many times the decisions by the Members seemed to be based more on these partisan, parochial concerns and less on the legitimacy of the policy itself. Last month I voted on final passage for the Democratic alternative based on the merits of the bill and the alternatives open to me. We must always remember that despite the prominence this issue has achieved as a domestic political football, we are talking about real people. People who are hungry, people who are dying, people who want and deserve a chance for freedom and liberty, and a chance for a better way of life. The Nicaraguan teenagers who are the bulk of the resistance army gain nothing from our strident, parochial battles. The people of Nicaragua gain nothing from noble statements for peace without a policy which supports democracy and freedom.

As we debate today, I hope that we finally achieve a truly bipartisan consensus based on the merits of the policy and not the politics.

THE CIVIL RIGHTS RESTORATION ACT

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SLATTERY. Mr. Speaker, it has been almost 25 years since Congress passed title VI of the Civil Rights Act of 1964. The legislation responded to increasing protest against continuing discrimination in schools, voting practices, public accommodations, and housing. Title VI bars discrimination based on race, color, or national origin in a "program or activity" that receives Federal aid, and was part of the most far-reaching civil rights legislation enacted since the post-Civil War reconstruction era.

Title VI became a major vehicle for challenging institutions and practices which denied basic opportunities to millions of Americans. Recognizing that other groups also were subjected to discrimination. Congress later enacted legislation protecting the civil rights of women, disabled persons, and older Americans.

Title IX of the Education Amendments of 1972 prohibits sex discrimination in educational programs or activities receiving Federal funds. This law removed a variety of gender-based barriers in education, including those limiting participation in athletics and in graduate degree programs.

Section 504 of the Rehabilitation Act of 1973 prohibits recipients of Federal funding from discriminating against disabled persons. Since this law was passed, opportunities for disabled persons have increased in education, employment, housing, health, and social services.

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in the delivery of services and benefits supported by Federal funds. This Act has helped increase public awareness of the barriers to full opportunity that continue to exist for millions of Americans.

Each of these statutes employs the same language to describe coverage so that the same standards are used to interpret and enforce all four laws. Therefore, on February 28, 1984, when the Supreme Court decided a title IX case, *Grove City College* v. *Bell,* 465 U.S. 555, all four statutes were affected.

The Court unanimously held that student aid dollars reaching the college through its students constituted Federal financial assistance to the school. In determining the scope of the duty not to discriminate, however, a divided court interpreted the law's "program or activity" phrase narrowly.

Because Federal money reaching the college was in the form of student aid, the Court concluded that only the financial aid office was covered by title IX. The rest of the college was left free to deny equal opportunities to women—and by analogy to minorities, the disabled and senior citizens. Grove City reversed years of enforcement practices by Republican and Democratic administrations and conflicted with prior judicial interpretations of the law.

The Department of Justice immediately applied Grove City to the other similarly worded statutes. The Department of Education's Office of Civil Rights halted investigations in hundreds of cases. Similar problems developed with respect to civil rights enforcement in the Department of Health and Human Services and in other Federal agencies.

Following Grove City, Congress moved to return the civil rights laws to their full original intent and purpose. On March 22, 1988, with bipartisan congressional support, the Civil Rights Restoration Act (S. 557) was approved by Congress, over President Reagan's veto. The act achieves a simple purpose: It broadens the prohibition of federally assisted discrimination by stating that the "program or activity" which must not discriminate is the entire entity if any part of the entity receives Federal financial assistance. Thus, even though the financial aid office may be the only part of Grove City College which receives Federal dollars, the entire college is defined by the bill as the "program or activity" which may not discriminate.

The act restores full coverage to title VI, title IX, section 504, and the Age Discrimination Act as intended and previously enforced. This means that:

For educational institutions, the act provides that if Federal aid goes anywhere within a college, university, or system of higher education, the entire institution or system is covered. If Federal aid is received anywhere in an elementary or secondary school system, the entire system is covered.

For State and local governments, only the department or agency that receives the aid is covered. If an entity of State or local government receives Federal aid and distributes it to another department or agency, both are covered.

For private corporations, if the Federal aid is extended to the corporation as a whole, or if the corporation provides public services, such as social services, education, or housing, the entire corporation is covered. If the Federal aid is extended to only one plant or geographically separate facility, only that plant or facility is covered.

The act also explicitly affirms that "ultimate beneficiaries" of Federal aid, for example, food stamp recipients, are not covered. Ultimate beneficiaries include farmers, AFDC recipients, and Social Security recipients.

In addition, the act clarifies that small providers such as pharmacies and grocery stores with fewer than 15 employees are not required to make significant alterations to their existing facilities to ensure accessibility to handicapped persons if alternative means of providing the services are available.

Critics of the act advanced two primary arguments. The first was that the act goes too far in broadening civil rights coverage beyond that provided by the Grove City decision, thus causing a major Federal intrusion into the lives of private citizens and holding the potential for disrupting many of our institutions. When title VI was introduced in 1964, opponents made similar claims. For example, it was stated, "Virtually every nook and cranny of the private lives of individual Americans would be touched and tainted by the obnoxious proposal." 110 Cong. Rec. 1619 (1964) (Rep. Abernathy). To the contrary, I believe that the vast majority of Americans agree that the country is a better place because of title VI, and the three statutes—title IX, section 504 and the Age Discrimination Act—which followed.

The critics' second argument was that the act goes beyond the interpretations and enforcement of these laws by past administrations. Legislative history, prior case law and agency regulations supporting the coverage and enforcement scheme put in place by the act demonstrate that this argument is without merit. Thirteen former high-ranking officials from the Johnson, Nixon, Ford, and Carter administrations testified that the measure would simply reaffirm previous judicial and executive branch interpretations and enforcement practices which provided for broad coverage of our antidiscrimination provisions.

A review of some of the specific allegations shows their lack of foundation:

Opponents of this legislation argued that recipients of Federal funds will be forced to provide homosexuals the protections provided women by title IX or provided under any of the other statutes amended by the act.

No Federal law prohibits discrimination on grounds of sexual preference, nor does this act. Neither title IX nor any of the other statutes have been interpreted by the courts to provide protection on the basis of sexual preference; none of the regulations have so provided; and nothing in the act creates any such protection. Simply put, the act does not create nor expand existing rights for homosexuals. This legislation is not a "Gay Bill of Rights." Homosexual groups recognize this lack of protection in this act and are seeking new legislation specifically prohibiting discrimination on the basis of a person's sexual preference.

The act does not preclude an entity from discriminating against an individual solely on the basis of the fact that the individual is homosexual. Thus, if an entity's religious tenets require it to take disciplinary action against any individual who is homosexual—regardless of whether such an individual is infected with the AIDS virus—and it takes such action solely because of that person's homosexuality, the fact that section 504 coverage happens to include AIDS as well as other debilitating diseases would offer no source of protection to such an individual. Legislation proposed as an alternative to the act by President Reagan at the time he vetoed S. 557 did not differ from the act with regard to homosexual rights.

In addition, the act does not require an employer to hire or retain in employment persons with contagious disease. An employer is free to refuse to hire or to fire any employee who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job if no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job. This determination must be made on an individualized basis and be based on facts and sound medical judgment.

Federal agencies, such as the Center for Disease Control, the Department of Labor, and professional organizations, such as the American Academy of Pediatrics and the American Hospital Association, have issued guidelines for ensuring safety in the workplace. These guidelines can be relied on for determining reasonable accommodations. Simply put, the act in no way changes pre-Grove City law. The same was true of President Reagan's proposed alternative to the act.

Critics of this legislation alleged that the act requires an employer who receives Federal funds to hire or retain in employment alcholics and drug addicts.

A person who is a current alcoholic or drug addict can be excluded or fired from a particular job if it is determined that such person poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential functions of the job. Since it became law in 1973, section 504 of the Rehabilitation Act consistently has been interpreted to enable employers to refuse to hire or fire alcoholics and drug addicts under these circumstances. Courts have upheld the right of employers to fire employees who cannot perform or who pose health and safety risks. The act simply restates existing law and those court rulings.

Opponents argued that Federal regulation under the act would expand to cover farmers and ranchers, subjecting them to a new set of Federal paperwork and regulatory requirements.

Both current law and the language of the act exempt farmers from coverage under the civil rights laws as "ultimate beneficiaries" of Federal financial assistance, such as crop subsidies, Federal irrigation and water projects, and disaster loans. Section 7 of the act sets forth a rule of construction which provides that "ultimate beneficiaries" which were excluded from coverage prior to enactment will continue to be excluded after enactment of the act.

Many allegations have been raised regarding religious institutions and the need for careful protection of religious rights and religious liberties. Nothing in the act, however, overrides the first amendment to our Constitution.

Title IX provides for an exemption where nondiscrimination requirements are inconsistent with the religious tenets of an educational institution controlled by a religious organization. An educational institution need only make application to the Department of Education for such an exemption. To date, no institution that has completed an application has been denied an exemption. Presently 151 colleges, universities, seminaries, theological schools and the like, have religious exemptions under title IX of the Education Amendments of 1972.

Religiously affiliated educational institutions governed by lay boards of directors are not covered by the title IX exemption. Congress rejected expansion of the exemption to include such institutions because creation of such a loophole could increase the number of institutions exempt from sex discrimination regulations as well as inviting other institutions, such as segregated private schools, to create a "religious identity" in order to discriminate while receiving Federal assistance.

In addition, critics of the act incorrectly argued that it would cover an entire church, even if it only received Federal funds for a day care center or a refugee placement program. Complete coverage of a corporation, partnership or "other private organization" occurs in only two circumstances. The first is where assistance is extended to the private organization "as a whole." "As a whole," refers to situations where the corporation receives general assistance that is not designated for a particular purpose. A grant to a religious organization to enable it to extend assistance to refugees would not be assistance to the religious organization as a whole if that is only one among a number of activities of the organization.

The second circumstance arises when the organization is "principally engaged in the business of providing education, health care, housing, social services or parks and recreation." The principal function of a church or diocese or synagogue is by definition"religious." Such an organization would not be covered in its entirety even if it conducts one or more programs in education or health care or social services.

Major religious groups, including the U.S. Catholic Conference, the Evangelical Lutheran Church of America, the American Baptist Churches, the National Council of Churches, the United Methodist Church, and the American Jewish Committee endorsed the Civil Rights Restoration Act.

I strongly supported the Civil Rights Restoration Act when it was before the House of Representatives. The act does what any responsible government must do. It makes those who use and spend public dollars accountable for the way they spend those funds. As was the case prior to Grove City, religious and secular institutions alike now have a simple choice: to accept Federal funds and obey the law, or to refuse the Federal funds. Simply put, if an institution accepts tax funds, that institution may not discriminate. We cannot eliminate private prejudice and bigotry by law. But we need not and should not subsidize it with taxpayers' dollars.

JOHN KANNENBERG RETIRES AS MAYOR OF WAUSAU, WI

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. OBEY. Mr. Speaker, earlier this month, the voters of my hometown of Wausau, WI, elected a new mayor to succeed John Kannenberg, who had occupied that office for the last 24 years.

John Kannenberg is a man of immense personal decency who cares about people. He knew how to get people to work together for the good of the entire community, whether it was economic development or housing for the elderly. He recognized that to get things done right in your community you need more than just the big shots with money and connections; you need the active participation of everyone in the community.

This remarkable public servant built a distinguished record during his six terms in office and I would like to call the attention of my colleagues to the outstanding public achievements of Mayor John Kannenberg.

HONORS AND RECOGNITIONS RECEIVED BY MAYOR KANNENBERG

Listed in Who's Who in Central Wisconsin.

Listed in Who's Who in Government.

The U.S. Conference of Mayors presented him with an award for exemplary programs and leadership of citizen volunteerism.

He was named "Boss of the Year" by the Wausau Chapter of National Secretaries (International).

He received an Award of Excellence from the U.S. Department of Housing and Urban Development. (A personal award signed by President Reagan.)

The Milwaukee County Board of Supervisors cited him for his years of exemplary service to the State of Wisconsin.

John L. Kannenberg Plaza was named for him since he championed the building of elderly housing units under great opposition.

Central Wausau Progress presented the Stanley Staples Sr. Memorial Award as someone "Who Served Wausau Well".

An Award from U.S. Department of Housing and Urban Development Action Grant Division for local Public-Private Partnership created to develop the "Wausau Center" project.

He received an award from the Wausau Common Council at the end of 20 years of perfect attendance at its meetings.

Wausau Area Chamber of Commerce presented an award for his unselfish and devoted attendance at meetings of the Common Council when he had attended 352 consecutive meetings of perfect attendance.

When he retired, he had 34 years and 575 consecutive meetings of perfect attendance of the Commom Council for the City of Wausau.

He received an Award of Merit from the Wausau Historic Landmarks Commission for his promotion of the Commission and its work.

Governor Dreyfus presented a special citation for his contributions to the City of Wausau and State of Wisconsin in light of his being an outstanding model of public servanthood. (He served the state of Wisconsin on Boards, Commissions, and Authorities under 4 Governors—Lucey, Earl, Dreyfus, and Schrieber.)

He received the "Pilgrim Degree of Merit" from the Loyal Order of the Moose—the highest degree of the National and International Lodge.

Central Wausau Progress presented an award for Mayor Kannenberg's manifold achievements for encouragement of the partnership between public officials, employees, and private citizens which has distinguished Wausau's redevelopment efforts.

CITY AWARDS

1. National Municipal League named Wausau "All America City" for 1983-84 (1 of 9 in the United States).
2. Wausau has received one of 10 Public-Private Partnership awards for National Excellence from Housing and Urban Development's National Recognition Program for Community Development.
3. National Arbor Day Foundation gave Wausau the Tree City USA award for 7 consecutive years.
4. Money Magazine listed Wausau as number one in the State of Wisconsin as a good place to live.

ACCOMPLISHMENTS AS MAYOR

Kannenberg promoted and established the first City County Data Center in 1975 which now does work for 115 units of government (cities, townships, villages in Marathon, Taylor, Lincoln, and Forest Counties).

Kannenberg helped lead the effort that established the Wausau Center Downtown Mall that was recognized by HUD as an excellent example of Downtown Development.

When John Kannenberg became mayor in 1964, there were no low-income housing units for the elderly in Wausau. Keeping his campaign pledge, Kannenberg has promoted the development of 254 low-income elderly units serving 273 residents. In addition the city has rehabilitated hundreds of homes and administers a program of rental assistance to low income families in an additonal 215 units.

Kannenberg has presided over the development of the first two industrial parks in Wausau. Twenty-six firms presently occupy these sites and currently have almost 1,200 employees.

Kannenberg, through an active annexation policy, has increased the size of Wausau by 87% or 7.56 square miles during his time as Mayor.

Not only has John Kannenberg exemplified what is good in local government, he has taken the lead in local civic affairs. It is no exaggeration to say that for the past 24 years John Kannenberg, more than any other single person, has worked to make Wausau, my hometown, the great city that it is.

LEADERSHIP AND QUASI-GOVERNMENTAL AND ORGANIZATION AFFILIATIONS

National

National League of Cities, served as member of the Public Safety Committee; Human Resources Development Committee; Small Cities Advisory Council; and Community and Economic Development Policy Committee.

National Citizens Committee for Revenue Sharing: Served as State Co-chairman.

State

League of Wisconsin Municipalities: Served as President 1973-74. Served previously as First Vice-President; Second Vice-President; Past Director; and presently as Chairman of the Finance and Taxation Committee.

Past President of the Association of Wisconsin Planners.

North Central Regional Planning Commission of Wisconsin: Served as Vice-Chairman and Vice-Chairman of the Highway Advisory and Economic Development Committee.

Past Chairman of the Wisconsin Olympic Band Committee.

Institute of Governmental Affairs: Past member of the Alcohol Safety Action Program sponsored by the University of Wisconsin.

Past member of the State Energy Conservation Advisory Council.

Past Chairman of the Wisconsin Council of Regional Planning.

Past Vice-Chairman of the Wisconsin Recycling Authority.

Past member of Wisconsin Rail Service Advisory Committee.

Past Vice-President of the Alliance of Cities.

Past State President of the Loyal Order of the Moose.

Past member of the State Board of the Palsy Association and Past President of United Cerebral Palsy Association of Wisconsin Valley.

Valley

Past President of the Wisconsin Valley Mayors, Chamber Executives, and Engineers.

County

Past Intergovernmental Personnel Study Committee for City of Wausau and Marathon County, member.

Member of the City/County Data Center.

Ex-officio director of Wausau Area Chamber of Commerce.

Ex-officio director of Central Wausau Progress.

City

Member of the Wausau Area Volunteer Exchange.

Member of the Wausau Hospital Advisory Board.

Member local board of the Federal Emergency Management Agency.

Memberships

Loyal Order of the Moose.
Breakfast Optimists.
United Commercial Travelers.
Benevolent Protective Order of Elks.
Wausau Taxpayers League.

JOHN KANNENBERG RÉSUMÉ

1. Mayor—Wausau 1964-1988 (24 years), Second only to Maier of Milwaukee (1960-88), Among major Wisconsin cities.

2. Alderman—Wausau 1954-1964.

3. In 34 years of public service, John Kannenberg has attended 575 consecutive meetings (as alderman and mayor) of the Wausau Common Council. He has never missed a single meeting.

JOHN KANNENBERG LEADERSHIP POSITIONS

1. Member of National League of Cities: Served on the Public Safety Committee, Human Resources Development Committee, and Small Cities Advisory Council

2. President League of Wisconsin Municipalities 1973-74. Currently serves as Chairman of League's Finance and Taxation Committee

3. Past President of Association of Wisconsin Planners

4. Past Chairman Wisconsin Olympic Band Committee

5. Past Chairman of Wisconsin Council on Regional Planning

6. Past President of Wisconsin Loyal Order of the Moose

7. Past President of United Cerebral Palsey Association of Wisconsin Valley

8. Past President of Wisconsin Valley Mayors, Chamber Executives, and Engineers

John Kannenberg has also taken part in a number of Civic Clubs: Loyal Order of the Moose, Breakfast Optimists, United Commercial Travelers, Benevolent Protective Order of Elks, and the Wausau Taxpayers League.

The U.S. Conference of Mayors presented Kannenberg with an award for exemplary programs and leadership in citizen volunteerism. He also received an Award of Excellence from the Department of Housing and Urban Development for local Public-Private Partnership created to develop the Wausau Center Project.

John L. Kannenberg Plaza Elderly Housing Project was named for him because of his efforts on behalf of low-income housing for the elderly.

AMERICA'S LIBERTY—OUR HERITAGE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. JEFFORDS. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies' Auxiliary sponsor a Voice of Democracy scriptwriting competition. The theme of this year's contest was "America's Liberty—Our Heritage."

Ms. Melissa May Colburn of Cavendish, was the winner of the competition in the State of Vermont. In her script, Melissa examines the processes that led to the development of our democratic political system. Melissa points out that the liberties and freedoms guaranteed by the Constitution are absolutely essential for true democracy. Without the guarantees of free speech, peaceable assembly, and the other civil rights embodied in the Constitution, democracy would be an empty promise.

During our celebration of the bicentennial of the Constitution, I feel it is important that we all take some time to look back on the founding of our democracy. I would like to commend Melissa for her thoughtful essay and hope others will set-aside a few moments upon the issues she raises in her essay.

Here follows the complete text of Melissa's winning script:

AMERICA'S LIBERTY—OUR HERITAGE

The firm foundation of sedimentary rock is built layer by layer over the centuries to it's present day strength and durability. Liberty like this rock, is a heritage composed of ideas that people have worked on many years to build into a stronger and more democratic way of life for America.

The first layers, those ideas of liberty were first brought to this country when the Mayflower put her anchor down in Provincetown Harbor during a midmorning on a Saturday in November, 1620. The passengers on the ship were searching for freedom and independence. Under the guidance of Captain Miles Standish, the voyagers became one of America's first settlers to fulfill their dream of freedom.

The second layer of rock building toward liberty for all, was set down by the men who wrote the Bill of Rights and the Constitution of the United States. After the states won independence from England in the Revolutionary War, they faced the problem of survival under a single unit of government. States now had to enforce law and order, collect taxes, pay a large public debt, and regulate trade among themselves. They also had to deal with Indian Tribes and negotiate with other governments. This is when leading statesmen, such as George Washington and Alexander Hamilton began to discuss the creation of a strong national government under a new constitution. A convention was called in Philadelphia in order to revise the Articles of Confederation, but instead, the majority of the delegates at the convention decided to write a totally new plan of government—the Constitution of the United States. The Constitution established a government that exercised it's authority over all citizens. The Constitution also clearly defined the powers of the national government. It also established protection for the rights of the states and the rights of every individual. Most of all, and most importantly, the right to be free.

As years passed, each succeeding generation provided more substance to the rock, strengthening the ideas of liberty for all. At this time, more strengths become additions to our ideas of liberty through the development of civil rights. Without civil rights for every individual, citizens would not be able to say what they freely want to express without fear of punishment. They could not even choose their own religion. These rights, are to me, the most important. These are the rights that affect all members of our society every single day of our lives. I tried to imagine my life forbidden the freedom given by the Constitution and I found it was just impossible. I feel extremely lucky to be an American whose civil rights are rights for all the people—for me and you, for our families and for our neighbors. Because of civil rights, blacks and minority groups have been given the equality they deserve. Before the civil rights acts, women were considered the lesser gender, and were not permitted to vote until 1920, when it became the 19th Amendment of the Constitution. The civil rights act of 1964 prohibited job discrimination on the basis of sex. It makes me angry to think that if I had been in the job market before 1964 and had wanted to become a policewoman or have a place in politics, I would have been laughed at and ridiculed.

Our forefathers have built a strong and sturdy rock, a foundation on which we can stand to fight for our rights and prevent mistreatment of any citizens of this, our great country. This foundation was built for all Americans to stand onto, to protect, and to build more layers providing for those who want to be a part of freedom in the future.

The quest for liberty is never-ending. We, as Americans should feel lucky that we have this liberty as our heritage, and we should proudly stand upon our rock and be thankful to those who helped to construct it.

PARALLEL COMPUTING BREAKTHROUGH AT SANDIA NATIONAL LABORATORIES

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LUJAN. Mr. Speaker, today I want to bring to the attention of my colleagues a very important technological advance that was recently made by engineers and scientists at Sandia National Laboratory, the Department of Energy national laboratory located in my hometown of Albuquerque, NM.

For years computer scientists in industry and academia have believed that no matter how many processors were tied together in a computer, the problem-solving speed of the computer could only be increased by a factor of between 50 and 100. This speedup limitation was called Amdahl's law. However, Sandia National Laboratory personnel recently demonstrated that this practical barrier to increasing the speed of computers doesn't exist when they were able to link together 1,024 computer processors to reduce the time required to solve complex problems by over a factor of 1,000.

In parallel processing, the computer first divides a problem into smaller pieces that may be solved by different sections of the computer. Various steps of the solution can then be performed at the same time rather than waiting for completion of a previous step.

The most capable off-the-shelf supercomputer available today is the Cray X-MP/416, which has four processors operating in parallel—in comparison to Sandia's 1,024 parallel processors. The Sandia discovery opens the door to the development of new, massively parallel computers that will solve problems that no computer in existence today can tackle. For example, it will be possible to solve problems in nonlinear wave simulation, circuit analysis, structural mechanics, and fluid dynamics which arise in technology areas as diverse as nuclear reactor safety, explosive technology, electronics circuit design and packaging, nuclear waste storage containers, and vertical axis wind turbines for electricity generation. This breakthrough will permit the optimization of designs in ways previously believed not to be possible.

I would especially like to congratulate and call attention to the Sandia staff who made this important breakthrough. Bob Brenner, John Gustafson, Gary Montry, and David Womble were the primary members of Sandia's team that did this work. Recognition is also due to Gil Weigand, Pat Eicker, Ed Barsis, and Venky Narayanamurti. Members of this team have already received two major computing awards: The Gordon Bell Award and the Karp Challenge Award. Their work has been reported in the New York Times, Newsweek, Time, and my colleague from New Mexico, Senator DOMENICI, has already entered into the CONGRESSIONAL RECORD the March 14 front page story from the Washington Post.

In recognizing Sandia's achievements, I also want to emphasize the importance of the ties that Sandia has to American industry. I believe that these ties are largely responsible for the success that Sandia continually exhibits as our Nation's leading national engineering laboratory. Many are unaware that Sandia National Laboratory has been operated by AT&T—now AT&T Technologies, Inc.—since 1949 when President Truman had the wisdom to ask AT&T to undertake this vital management task for the Atomic Energy Commission, the predecessor of today's Department of Energy. Few Americans are aware that AT&T has performed this public service without fee or profit for nearly 40 years. AT&T has vast experience in organizing and managing innovative electronics technology from research through development and into production, and it brought these management skills to the operation of Sandia.

In these critical times when we are concerned about the competitiveness of our industries, I invite my colleagues to visit Sandia National Laboratory to learn of their many research accomplishments and how these advances have been converted into products that are manufactured by private industry. I believe that it is critical that our national laboratories be managed by institutions such as AT&T that understand and work effectively with both universities and private industry. It is becoming clear that innovation done in an isolated research environment can experience long delays before it is converted into products that can improve our competitiveness. I congratulate Sandia and AT&T for these advances in computer technology and urge them and others to quickly turn these discoveries into commercial products.

HOSTILE TAKEOVERS IN AMERICA

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. WALGREN. Mr. Speaker, I join my Pennsylvania colleague, Congressman TOM RIDGE, in introducing a very timely piece of legislation designed to protect American companies, American workers, and American cities from the havoc threatened by a unique brand of hostile takeover.

The bill we are introducing today addresses the unique and highly questionable nature of a hostile takeover attempt recently initiated by Shearson Lehman Hutton, Inc., a subsidiary of the American Express Co., in concert with two British entities, Beazer PLC, a construction materials company, and National Westminster Bank.

Shearson's target is Koppers Co., Inc., an industrial company headquartered in Pittsburgh, which employs 1,300 people in the Pittsburgh area. Koppers employs a total of 12,300 people across 40 States.

In early March, after it had unsuccessfully solicited Koppers to become a client, Shearson announced that it was a partner in a $1.27 billion hostile tender offer for Koppers. The Shearson bid marks the first time that a major investment banking firm has taken an equity partnership in a hostile takeover attempt.

Shearson initiated these events almost 1 year ago by proposing the takeover to its client, Beazer PLC, and agreed to provide a bridge loan of nearly one-half billion dollars to finance it. At the same time, Shearson proposed to invest its own funds in financing for the shell company that would attempt the takeover. If this deal succeeds, Shearson will own almost 50 percent of Koppers.

Also implicated in this transaction is National Westminster Bank, PLC, one of the largest commercial banks in England and the parent company of several FDIC-insured banks in the United States. NatWest has committed itself to providing up to $300 million to Beazer to assist in financing the tender offer.

Shearson's conduct raises disturbing questions concerning the proper role of an investment banker in takeover bids. Whether any securities firm should be permitted to provide merger advice while simultaneously making an equity investment in a takeover contest, illustrates a serious potential conflict of interest.

Equally disturbing is the fact that both Shearson and NatWest own major FDIC-insured banks. Shearson/American Express, own the Boston Safe Deposit and Trust Co., the Nation's 20th largest bank with over $15 billion in assets. They have escaped the regulatory safeguards of the Bank Holding Company Act, which would normally not permit their investment banking activities, by virtue of a grandfather clause.

In the recent debate over the repeal or partial repeal of the Glass-Steagall Act that currently separates banking and commerce activities, both House and Senate banking committees agreed that equity underwriting by commercial banks at the present time is too risky.

I do not believe that Congress intended to permit one of the largest securities firms, owning the Nation's 20th largest FDIC-insured bank, to become engaged in the risky use of their own capital to finance hostile takeovers through equity acquisitions.

The legislation we are introducing today attempts to address this problem. It would prohibit a financial services company, like Shearson Lehman, that owns an FDIC-insured bank from taking more than a 5 percent equity interest in a company that is not involved in financial services.

The bill would also prevent foreign bank holding companies, like National Westminster, which owns one or more U.S. federally-insured banks, from engaging in activities not permissible for U.S. bank holding companies. Namely, no foreign bank holding company that owns U.S. banks could use their financial resources to acquire interest in a non-banking company in the United States. This prohibition would be effective as of March 30, 1988. Any foreign bank holding company that had already acquired such an interest prior to March 30, 1988, would be required under the bill to divest these shares within 60 days of date of enactment of this bill.

I am deeply disturbed by the implications of this hostile takeover attempt. Uncontrolled hostile takeovers have already cost thousands of jobs and millions of dollars. They destroy companies and jobs; they waste dollars on brokers, lawyers, and public relations firms; and they rape the assets of companies whether the takeover is successful or not.

If investment banks are permitted to become full partners in takeover efforts through an equity interest—that is, to go beyond the traditional role of lending money—corporate America will be controlled by these firms at unprecedented levels and America's landscape will be littered with the empty shells of abandoned office buildings and company plants.

The legislation we are introducing today deals with one part of the problem. Clearly, Congress needs to address the full challenge of hostile takeovers in America, but this effort, which incorporates much of Senator HEINZ' work in the Senate, is a solid first step. I urge my colleagues to cosponsor this legislation.

RECOGNIZING THE BIRTH OF THE SIKH NATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. BURTON of Indiana. Mr. Speaker, I rise to recognize and honor the birthday of the Sikh nation and the Sikh religion. It was on April 13, 1699, almost three centuries ago, that Guru Gobind Singh began to baptize people in the name of the Sikh faith. Today, Sikhism has about 16 million followers in India, most of whom live in the Punjab. There are over 300,000 Sikhs living here in the United States. The Sikh people are a peace-loving people who are currently being suppressed by the Government of India. The Government of India should be put on notice that the Sikhs have never, in their great history, submitted to suppression nor will they submit in the future. The Sikhs in the Punjab deserve freedom. I would like to place in the RECORD a series of articles which expose the repression imposed upon the Sikhs by the Indian Government.

COUNCIL OF KHALISTAN

[Press Bulletin, Mar. 16, 1988]

INDIA AMENDS CONSTITUTION IN CRACK-DOWN ON SIKHS

(By Oleg Volkonsky)

Both houses of the Indian parliament passed an amendment to the constitution March 15, empowering the government to declare a state of emergency in Punjab.

The amendment allows India to impose emergency powers in any of its states in peacetime. Until now, the Indian constitution allowed the government to impose a state of emergency only in cases of external aggression or "armed insurrection." A clause providing for emergency powers in situations of "Internal Disturbance," was taken out of the constitution by the Janta Party government which defeated Prime Minister Indira Gandhi's government in the late seventies.

The move to reinstate emergency powers in cases of internal disturbance was aimed specifically against the Sikhs of Punjab, where violence has recently escalated. The Indian government is trying to quell a strong independence movement in Punjab, which includes local demands to set up a new country of Khalistan. In 1987 a Council of Khalistan was formed in Amritsar, Punjab, the site of the Sikhs' holiest shrine, the Golden Temple, after a declaration of independence from India.

In 1984, Indian government troops stormed the temple, killing several thousand Sikhs who had gathered for a religious festival. Following Indira Gandhi's assassination in October 1984, 20,000 Sikhs were reported to have been slaughtered in India's capital, New Delhi, alone.

Some opposition to the state of emergency amendment was voiced by Indian parliamenterians this week who feared that emergency powers might be imposed on other states in the future, but a member of the ruling Congress (I) assured them that it was aimed at Punjab only, according to a B.B.C. report.

The amendment gives virtually unlimited powers to the police and military authorities, including the right to shoot on sight. "De facto," such powers are already exercised in Punjab under Premier Rajiv Ganghi's "iron fist" policy, but the amendment places the official stamp of approval on them. There are some 200,000 paramilitary troops currently stationed in Punjab, an area about the size of North Carolina.

"The new amendment takes away not only the right to liberty and the pursuit of happiness, but to life itself," the President of the Council of Khalistan, Dr. Gurmit Singh Aulakh, commented in Washington; "they are trying to destroy our nation," he said.

Dr. Aulakh called on international human rights agencies such as Amnesty International and the U.S. government, which he described as "our last hope for freedom and survival" to keep "a very close watch on the tragic situation in Punjab."

Meanwhile, the New York Times reported March 15, that over 23,000 people have been arrested in various parts of India within the last few days during a nationwide strike calling for new elections and the resignation of Prime Minister Rajiv Gandhi's government. Among the arrested were opposition politicians and trade union leaders. This is believed to be the largest strike in India in six years.

The strike was first called in December by India's two main communist parties to protest the government's economic and foreign policies. Among the demands of the communist and other parties which joined the strike was a solution to the problem of violence in Punjab. The communist and other leftists who support them on this particular issue, consider the "iron fist" crackdown by the Gandhi government against the Sikhs insufficient.

The conservative and religious Sikhs are natural and ideological enemies of the strong communist parties and their supporters in India.

COUNCIL OF KHALISTAN

[News Bulletin, Feb. 23, 1988]

The Council of Khalistan condemns last week's terrorist bombings at district courts in the Punjab and other killings in which over twenty innocent people are reported to have died. Such killings are contrary to the Sikh religion and to the policy of the Council of Khalistan.

The Council of Khalistan points out that the Sikhs in Punjab, who are standing up for their human rights, are not fighting against their own people, but defending them from the Indian government authorities, supported by 200,000 occupying paramilitary troops. The Council of Khalistan denies that last week's killings of innocent Sikhs were perpetrated by so-called Sikh "terrorists" or "extremists," as Indian news and government sources claim, and places the blame on the "agents-provocateurs" of the Indian government authorities. These authorities have a long history of staging false "encounters" in the Punjab, which later serve as an excuse for violent reprisals.

The Council is aware of the fact that the most recent tragic deaths in the Punjab are a result of such staged Indian government provocations with an utter disregard for human life. Last week's killings are such provocations aimed at justifying in the eyes of the international community: (a) the continued genocidal repressions by the Indian authorities (b) the strengthening and acceleration of Indian army rule, and (c) preparations for false elections, controlled by the central Indian government.

The Council would also like to draw attention to the fact that, for the most part, reports of the tragic deaths in Punjab, as in the most recent case, carry a New Delhi dateline and are based on information provided by Indian press and government agencies. Therefore, these reports cannot be objective and present only the Indian authorities' version of events. Punjab has been virtually sealed off to foreign visitors and journalists. This allows the Indian government to conduct a disinformation campaign and precludes a verification of facts on the scene.

The eleven-man Council of Khalistan was formed and proclaimed at Amritsar, Punjab, on October 7, 1987, by the Panthic Committee which represents and defends the rights and interests of the 16-million Sikh nation.

DR. GURMIT SINGH AULAKH,
President.

[From the Washington Times, Apr. 5, 1988]

POLICE WINK AS ASSASSINS STALK SIKHS

(By Richard S. Ehrlich)

AMRITSAR, INDIA.—A secretive pro-government death squad is cruising the holy city of Amritsar poised to assassinate Sikh rebels demanding an independent state in Punjab.

Members of the squad claim Indian police support their killings, supply them with ammunition and have issued them identification.

Police deny such squads exist. But squad members, carrying their weapons, have been seen chatting with officers at police stations.

One of their leaders, Santokh Singh Kala, is a burly, intimidating Sikh who clutches a U.S.-made Thompson submachine gun and carries a pistol between his bullet-belt and belly.

He says his victims were Sikh extremists who were using violence to turn the strategic northwest state of Punjab into an independent nation, to be called Khalistan or "Land of the Pure."

"I also formerly demanded Khalistan and was jailed for three years, but now I kill them to take revenge because my friends were killed by them," the counter-terrorist said.

"I have been gunning down some of the leading Khalistan militants," the black-bearded Kala boasted. He wore dark sunglasses and a cap and was accompanied by three other members of his squad.

"There are 20 to 25 of us in Amritsar district alone. I don't know how many of us there are in all of Punjab.

"I know 90 percent of the Khalistan militants," he said in a one-hour interview with two foreign correspondents in Amritsar, the holiest city of the Sikh religion. "I've got a network and they keep informing me."

Kala and his squad displayed their sense of invulnerability by openly showing their weapons as they strolled into the crowded lobby and elevator of the Amritsar International hotel for the interview.

"We patrol in my car. As soon as I see someone I know is a Khalistani, I shoot them," he said. He drives a white Indian-built Maruti-Suzuki car.

"I have orders that if I catch them, OK; otherwise kill them. If it is worth interrogating them, I catch them. Otherwise I kill."

He said he has killed 40 men since November 1986, but did not specify if he was referring to victims he slew while he was a member of the Khalistan rebels or since switching sides 10 months ago.

The Indian government says fundamentalist members of the Sikh religion are using "terrorism" in their drive to create an independent Khalistan. It says the extremists have killed more than 1,200 people in the past year.

Prime Minister Rajiv Gandhi is desperately trying to find a way to crush the separatists and control Punjab.

The death squad leader displayed what he said was his "permit," issued by the Central Reserve Police Force, one of India's national paramilitary police forces. The agency has deployed thousands of armed men throughout Punjab state to support overstretched local police.

The handwriting on the piece of paper certified that "the bearer of this letter, S. Santokh Singh Kala, is operating under the 25th Battalion of the CRPF in Amritsar city with arms and ammunition."

The paper was stamped in purple ink, "Commandant, 25th Battalion, CRPF," and bore a signature.

"I got my weapons from my Khalistan days," he said, proudly holding up the submachine gun which was so worn that much of its gray steel showed through its black coloring.

"The police give us ammunition. I take my bullets from the police. Whatever help we need from the police, they give it."

The counter-terrorist said his most recent assassination was of "Lieutenant-General Swaranjit Singh of the Bhindranwale Tiger Force, four months ago in Amritsar." The Bhindranwale Tiger Force is one of several Sikh insurgent groups fighting for Punjab's independence.

Analysts estimate that 800 to 1,000 armed Sikhs are fighting for independence.

They say the separatists' cause is supported by only a tiny minority of India's 16 million Sikhs. The Khalistan rebels have demanded a poll be taken to prove they enjoy widespread support:

The rebels know Kala, 29, and are hunting for him.

"Two months ago, I went to the market and three men with AK-47s attacked me," he said. "I escaped.

"There is a reward of 500,000 rupees [almost $40,000] and gold for whoever kills me. I have challenged all the Khalistani forces to get me.

"I'll keep taking revenge as long as I live."

[From India Abroad, Punjab, Apr. 8, 1988]

Separatist Hits Move on Punjab Rule

(By Aprajita Sikri)

Washington.—A separatist Sikh community leader here condemned the Indian government's attempt to extend President's Rule in Punjab through a constitutional amendment.

To give strength to his argument of the Indian government's "high-handed approach" towards the Punjab problem, Gurmit Singh Aulakh, president of the Council for Khalistan, presented the text of a statement made in Congress last week by Congressman Robert Lagomarsino (R-Calif.).

Lagomarsino, who is also a member of the subcommittee for South Asian and Pacific Affairs, has said that the Indian government "is using terrorism to enforce its will on the Sikh minority." He added "this is no way for a democracy to act." Calling the problem an international one he said the U.S. should act to help solve the problem.

Earlier last year, eight Congressmen signed a letter to the U.S. representative to the United Nations, protesting treatment of Sikhs in India. Separatist Sikh community organizations in the U.S. had heavily lobbied Congressmen to issue such a statement.

Lagomarsino last year led the battle in the subcommittee for an aid cut to India calling it a "Soviet client" and has strongly supported American aid to Pakistan.

Lagomarsino told the House last week: "The tension in Punjab is causing disturbances between mighty India and its much smaller neighbors. Our interests in this strategic region are vital and the maintenance of peace is an important deterrent to further Soviet expansion in south-west Asia."

[From India Abroad, Punjab, Apr. 1, 1988]

Killers in Punjab Who Are Gunning For the "Khalistanis"

Amritsar.—He was an admitted professional killer. He was also high on the hit list of Sikh extremists fighting for a separate state to be called Khalistan. For though he was a Sikh, Santokh Singh Kala was a member of a death squad that sought and gunned down "Khalistanis."

"You may call it vendetta killing," Kala told *India Abroad* in earthy Punjabi in an interview that took place in the heart of Amritsar. "Or you might call me a mercenary," he added.

He had a Thompson submachine gun in his hand while a .425-bore Spanish revolver was tucked into his denims. Wearing a peaked cap and dark glasses the bearded Kala could have walked straight out of a bad-guy role in a Hindi film thriller.

CALLED THE RED BRIGADE

But Kala's world, like that of about 50 mostly Sikh members of this deadly militia operating in and around this Sikh holy city, is far from make-believe. Called the Red Brigade, Kala and his friends kill for money as well as to settle old scores.

"Our job is to kill Khalistanis," he said matter-of-factly. And he claims to have accounted personally for at least 40 of them, including top extremist leaders like self-styled Lieut. Gen. Swaranjit Singh of the Bhindranwale Tiger Force.

Kala's style of operation is simple. Through his network of informers he gets to know of extremist movements, operations and hideouts. "Then I plan out my action for the day, leaving the rest to my weapon," he said, stroking his gun, which once belonged to a Sikh extremist.

What does he do when he spots a Khalistani? "If he is important enough we try to nab and interrogate him or just finish him on the spot," said Kala coldly. "Most of the time we grab their more sophisticated weapons as well." Not surprisingly the extremist groups have put a huge price on his head.

What made him take up this dangerous mission? Most of his associates apparently had friends or close relations who had been killed by extremists for not toeing their line. "We are here to take revenge," said Kala, and his partner, Surinder Pal Singh, nodded in assent.

HELP FROM THE POLICE

Kala admitted they got a lot of help from the police, in money, ammunition and information. This was confirmed by police sources who, while officially expressing ignorance about the group, admitted privately that it had official blessings. (All militia members carry identity cards issued by the police, who certify their guns and cars.)

An informed source told this reporter that the police had in fact released some hardcore criminals on parole, armed them with sophisticated weapons and recruited them into the Red Brigade.

"They have been told that the state would help in avenging the deaths of their relatives or friends," said the source. It suits both government and the criminals, the source added.

Kala said he had been introduced once to Punjab police chief Julio Ribeiro. "He asked us to keep up the good work," Kala asserted.

[From the Washington Times, Mar. 25, 1988]

Law Allowing a Crackdown in Punjab Sparks an Uproar

New Delhi, India (Agence France-Presse)—A constitutional amendment enabling the Indian government to declare a state of emergency in Punjab to fight Sikh separatism was greeted yesterday with loud protests and widespread fears that it could be used as an instrument of government repression.

Opposition parties, jurists and human rights groups called the bill, passed by Parliament Wednesday, a sinister law designed to crush civil liberties and help the government unleash terror in the northern state.

Assurances by Prime Minister Rajiv Gandhi's government that emergency powers would not be misused were met with skepticism.

The legislation empowers the government to impose emergency rule exclusively in Punjab or any part or parts of the state in the event of internal disturbances.

The "internal disturbance" clause is not in the constitution, which does allow for emergency rule in the event of armed revolt, war or threat of war.

The bill, requiring presidential assent to become law, will empower the government to suspend the basic rights of equality, life, liberty and human dignity in Punjab, constitutional experts said.

They said imposing emergency rule would empower the government to suspend Articles 20 and 21 of the constitution, which guarantee these rights.

The amendment would automatically take away the six fundamental freedoms guaranteed by the constitution, including freedom of speech, expression, movement, assembly and even trade and profession in Punjab, they added.

Leading civil rights activist V.M. Tarkunde said it would be the "blackest of black" laws.

Constitutional expert and opposition lawmaker Somnath Chatterjee said the legislation amounts to a "declaration of war on the people."

He said it could even be interpreted by the government to extend Parliament's duration beyond its five-year term and to put off general elections due at the end of 1989.

The pro-Moscow Communist Party of India said limiting emergency powers to Punjab was the "thin edge of the wedge" and called for a nationwide campaign against "this obnoxious bill."

Minister of State for Home Affairs Palaniappan Chidambaram told the lower house Wednesday such suggestions were "mischievous."

"We have already put it beyond a shadow of doubt that this will only apply to Punjab," he said.

"We sincerely hope that a situation will not arise calling for imposition of emergency in Punjab, but if the need arises, we will come before Parliament."

[From the Star-Ledger, Mar. 22, 1988]

"INSIDER" ACCUSED—UNITED STATES SAYS PROSECUTOR MAILED DEATH THREATS

(By Robert Rudolph)

A former top federal prosecutor was identified yesterday by authorities as the source of anonymous death threats sent to herself and to a U.S. judge during a highly publicized international terrorism case.

Authorities said an FBI probe had pinpointed former Assistant U.S. Attorney Judy Russell—the prosecutor who handled the extradition trial of two alleged Sikh extremists—as the author of the death threats.

U.S. Attorney Samuel Alito Jr., referring to what he termed the "shocking" nature of the situation, disclosed that an FBI search of Russell's Iselin home had turned up evidence identifying her as the source of the threats, and said the matter has been referred to the U.S. Justice Department for further investigation.

The threats had prompted extraordinary security measures during the Sikh hearings, including the deployment of federal sharpshooters on roofs surrounding the federal courthouse in Newark and the cordoning off of streets in the area. All visitors to the courthouse were forced to pass through metal detectors before being admitted to the building. Russell was given around-the-clock FBI protection.

Alito said the new disclosure will force U.S. authorities to scrap the earlier hearings and seek to try the accused extremists a second time.

A spokesman for Russell said she is now in a private hospital, where she reportedly is undergoing psychiatric treatment.

Thomas Roth, a law partner of Russell, said her alleged actions appeared "unexplainable" and added that if the government account is correct, "she is in desperate need of psychiatric help."

Russell had been a top aide in the U.S. Attorney's Office in New Jersey until late last year, when she resigned to become a partner in her own law firm. She had been selected by the U.S. Justice Department to serve as a special prosecutor during the Sikh proceedings earlier this year in Newark.

The hearings involved U.S. efforts to extradite two young members of the Sikh sect who were being sought by the Indian government in connection with the murders of a former Indian Army chief of staff and a minister of Parliament.

During those hearings, it was disclosed that U.S. Magistrate Ronald Hedges, who was presiding over the matter, had received an anonymous letter threatening his life and that Russell had reported receiving several similar messages.

Yesterday, Alito confirmed that FBI agents had turned up both the typewriter which authorities believed was used to prepare the threats, as well as several additional letters prepared but never sent.

Authorities focused their investigation on Russell, Alito said, after an FBI lab analysis matched the typing on the envelope of one of the death threats to the typing on Russell's 1983 application to join the U.S. Attorney's Office.

The letters, Alito said, were brief messages composed of words and phrases clipped from magazines and newspapers and then pasted on blank sheets of paper.

Among the messages, according to court documents, was one that stated: "Don't go to court—If you decide to stay, death is the ultimate revenge."

Friends and associates of Russell said they were shocked by the disclosure.

"This is not the person we knew," one attorney who had worked with her for years declared. "It is dramatically out of character. This is a woman who had so much going for her . . ."

"As a prosecutor and private attorney," her partner Roth said, "Judy Russell has been everything a lawyer should be—competent, intelligent and incorruptible."

Russell, a former reporter for the New York Daily News, had attended Rutgers Law School and served briefly as a defense attorney, assisting in the successful defense of former Hudson County Prosecutor Harold Ruvoldt.

Russell later joined the U.S. Attorney's Office, where she handled a number of the most significant criminal prosecutions developed, including the notorious "Concern for the Handicapped" case in which more than 50 persons were convicted in connection with the operation of a bogus charity that served as a cover for a major drug ring.

Russell, who rose to the rank of deputy chief of the criminal division, also handled the prosecution of actress-model Victoria Sellers, the daughter of the late film star Peter Sellers.

Last year, she and several other former prosecutors resigned their posts to form their own law firm.

Because of her expertise in the Sikh case, which included investigative trips to India, Russell was recruited to serve as a special prosecutor in the extradition hearings.

The two accused extremists, who were arrested in Monmouth County last year, had been ordered returned to India to stand trial, but as a result of yesterday's disclosures, authorities said the status of the case remains unclear.

Ron Kuby, a defense attorney, called the situation "the most astounding thing I've ever heard" and suggested that a further inquiry may be required.

Alito said the case is being investigated by the Justice Department's public integrity section, but stressed that "to the best of my knowledge, no party other than Ms. Russell was involved or knew about this . . ."

[From the Washington Inquirer, Mar. 25, 1988]

INDIA'S DRIFT TO THE SOVIET BLOC

(By Oleg Volkonsky)

In early February, a Soviet Charlie I class submarine completed its run from the Soviet Pacific Coast base of Vladivostok and slipped into the Bay of Bengal. India's Prime Minister Rajiv Gandhi stood atop the conning tower and took delivery of India's first nuclear-powered submarine. It was the first of a projected three, according to defense analysts. The Charlie I sub is equipped with 14 torpedoes and short-range cruise missiles which can be fired submerged.

India's latest aquisition was yet another sign of her growing alliance with the Soviet Union. This is causing concern among Pentagon planners and some U.S. congressmen. Increasingly, the wisdom of further U.S. aid to India is being questioned in Congress.

Currently, 80 percent of India's armaments are either supplied by the Soviet Union or manufactured in India under Soviet license. India builds advanced Soviet T-72 battle tanks and buys the sophisticated MiG-29 fighter, with look-down, shoot-down radar, which the Soviet Union has not entrusted even to its allies in the Warsaw Pact facing NATO forces in Europe. India is a nuclear power and its location on the map could give it geo-strategic command of the Indian Ocean.

Last year, India gained control over the strategically situated deep-water port of Trincomalee on the island nation of Sri Lanka, the old British Ceylon. Over 45,000 Indian troops now occupy the northern part of the island. They were brought in to help quell the rebellion of the Tamil Tigers of Eelam. Some sources claim it is an open secret that India herself helped train and supply some of the guerrillas it is now ostensibly trying to suppress. Tricomalee has been sealed off to shipping by Indian troops because of the disturbances in the area, a spokesman for the Sri Lankan embassy said in Washington last week. According to the Indo-Sri Lanka agreement signed July 29, last year:

"Tricomalee or any other ports in Sri Lanka will not be made available for military use by any country in a manner prejudicial to India's interest." In light of the special relationship between India and the Soviet Union, Trincomalee may soon become a base for the Soviet and Indian navies only.

The fact is often forgotten that India and the Soviet Union have a Treaty of Peace, Friendship and Cooperation in force since 1971, of which Article 9 reads:

"Each of the high contracting parties undertakes to refrain from giving any assistance to any third party taking part in an armed conflict with the other party. In case any of the parties is attacked or threatened with attack the high contracting parties will immediately start mutual consultations with a view to eliminating this threat and taking appropriate measures to ensure peace and security for their countries."

Last November, Rep. Robert Dornan (R-Ca.) introduced an amendment in the House calling for a cut-off in U.S. aid to any country which has such an agreement with the USSR . . . "except to the extent that the President determines that such assistance is in the national interest of the United States."

Since 1982, American aid to India has totalled over $1 billion. Last year, Congress, in an obvious warning to India, cut this aid by $15 million—a small amount, but this could be a sign of changing attitudes and a portent of things to come.

If attitudes are changing, India is herself to blame. Over the years, she has maintained a consistent anti-American and pro-Soviet policy. Among other things, India has:

Excused the Soviet invasion of Afghanistan on the grounds of "external interference" (presumably American and not Soviet) in that country

Voted against the United States at the United Nations over ninety percent of the time (more often than the Soviet Union)

Prevented the U.N. from examining human rights abuses in Castro's Cuba

Turned some of the American aid around by pledging $10.4 million to Daniel Ortega's Sandinista regime in Nicaragua; Ortega rewarded Rajiv Gandhi with the Sandinistas' highest decoration, the Order of Augusto Cesar Sandino

Turned Cuban sugar around by buying sugar-cane from Castro and reselling the sugar to the U.S., thus circumventing the American economic embargo against Cuba

Failed to condemn the Vietnamese invasion of Cambodia

Maintained warm relations with the PLO, while having no diplomatic mission in Israel

And recently, as a symbol of Indo-Soviet friendship, India erected a statue to Vladimir Lenin in New Delhi's Nehru Park.

In a ceremony celebrating the statue's unveiling, Gandhi extolled Lenin as a "visionary revolutionary" and a "towering figure of history," who "outlined new horizons for humanity." Gandhi called the current Soviet leader, Mikhail Gorbachev, "the great and dynamic leader of a great and friendly country."

There is an obvious pattern here, a pattern which demands scrutiny. Is it, then, in the national interest of the United States to continue economic aid to India, which over the last three years has amounted to over $500 million?

As for the world's largest so-called "democracy," is also appears to be the world's largest hypocrisy.

[From New Hampshire Sunday News, Mar. 13, 1988]

KILLERS FOR THE POLICE—FIGHTING FIRE WITH FIRE IN PUNJAB

(By Adam Kelliher)

AMRITSAR, India—Santokh Singh, a bomber, robber and confessed killer of at least 50 people, relaxed at the police station, cradling his submachine gun and shaking hands with various officers.

"They give me shelter to take revenge," explains Singh, 29. "If we can gun down about 200 main killers, we will be able to flush out terrorism in the region.

Singh was confirming what up to now has been only rumored—that officials in India's Punjab state have recruited former Sikh extremists to fight those still waging a bloody campaign for an independent Sikh nation of "Khalistan."

Singh, who said he decided to cooperate with the police after his brother was tortured and murdered by extremists, admitted playing a role in the killings of at least 25 militants to date.

Other vigilantes, who asked not be identified, said they turned on their former compatriots when they became disillusioned about the fight for "Khalistan."

"This is a war-type situation," said a senior police official. "In war, I feel sometimes you have to take some decisions which otherwise are morally and ethically incorrect."

The new tactic, he added, was undertaken with the knowledge of Prime Minister Rajiv Gandhi's government, which assumed control of Punjab last May, but remains totally frustrated in crushing the extremists by conventional means.

Militants still openly operate from the Golden Temple of Amritsar. Police cannot enter Sikhdom's holiest shrine without reviving memories of the June 1984 assault that left more than 600 Sikhs dead and led to the assassination of Prime Minister Indira Gandhi.

By using 50 former militants comprising the "Panthic Tiger Force" and the "Khalsa Commando Force," authorities hope to shatter the estimated 300 "hardcore" radicals, blamed for more than 1,500 murders in the past 14 months.

Most Panthic Tiger Force members are veteran cop killers, yet they are warmly accepted by security personnel when they wander through police stations brandishing weapons.

They possess certificates granting them the same powers as paramilitary troopers. They are even allowed to steal cars if they return the vehicles within 10 days.

"The police supply us with money, ammunition and vehicles," said Singh, who barely laments killing more than 50 civilians in assorted attacks and boasts that he masterminded a bombing campaign in New Delhi while on the other side of the law.

"When we break the law, we tell a higher authority so police do not register the case," he chuckled. "It is a mutual understanding."

Officially, authorities deny vigilantes exist, but endorse the idea of fighting terrorism with terror.

"If you decide as a civilian to fight against an extremist, I think it is proper for us to help you," Amritsar District Police Chief Mohammad Izhar Alam said, while five vigilantes waited outside his heavily guarded office for an appointment.

"We are trying to find a group of people who are willing to fight the extremists."

One police official said the vigilantes were "the brainwork of a group of local officials," and began shortly after Gandhi dismissed Punjab's moderate Sikh government in May for failing to tackle the extremists.

The anti-militants' zeal to eradicate their former comrades may be sparked more by personal vendetta than a desire for bettering society. But most observers agree their use has blunted the extremists' ability to strike.

"The government is successful in this case," said a senior member of a pro-Khalistan student group. "They have created many hurdles for the militants."

The vigilantes have their own informers within the Golden Temple. They identify many separatists by stationing themselves at roadblocks in vehicles with dark-tinted windows.

As a result, police say, the extremists have generally abandoned daytime actions and operate more at night.

Singh claimed to have assisted in "eliminating" some 25 prominent extremists, mostly through identifying former colleagues who died "trying to escape after interrogation."

The extremists have long claimed the police regularly execute suspected militants in "fake encounters." Authorities deny the charge.

Inside the Golden Temple, where militants around a central holy pool carry submachine guns barely concealed beneath cloaks, separatist leaders denied any concern.

"The Panthic Tiger Force is negligible," said Bhai Jagir Singh, spokesman for a five-member group that organizes extremist activities. "They are roaming the streets, but they will not deflect us from our goal. They can do what they like. We will do whatever we like."

Bhai Nirwair Singh, an acting high priest appointed by the militant committee, said vigilantes were all police informers during their time with the militants, and did not reflect any disillusionment among the separatists.

"Santokh Singh will get the same fate as a traitor," said the priest, miming the action of firing a rifle. "He can walk into this room, but his dead body will leave."

THE DEMILITARIZATION OF THE REPUBLIC OF CYPRUS: A CALL TO ACTION

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. FEIGHAN. Mr. Speaker, over the past year and a half, I have attempted to call Members' attention to the dangerous situation developing on the island nation of Cyprus. During this time, we have witnessed a doubling of Turkish troops on Cyprus, a qualitative change in the United States supplied equipment transferred to Cyprus, and the encroachment of the resort city of Varosha in violation of U.N. resolution 550. These attempts by Turkey to change the facts on the ground in Cyprus have only succeeded in heightening the barriers to reaching a just settlement to the Cyprus dispute.

I have also tried to point out the consequences that this conflict has for U.S. interests in the region. Cyprus has always been a sore point for our NATO Allies, Greece and Turkey. Last year, these countries almost went to war over a territorial conflict in the Aegean Sea. These developments do not bode well for a swift settlement to the Cyprus dispute.

At the same time, there are new reasons for hope. First, the January 31, 1988, meeting at Davos, Switzerland between Prime Minister Papandreou of Greece and Prime Minister Ozal of Turkey was an unprecedented first step toward the normalization of relations between those two countries. Both leaders recognized, however, that their goals cannot be reached until the Cyprus matter is resolved.

The second reason for hope comes in the form of a proposal from newly elected Cypriot President George Vasiliou. Under President Vasiliou's demilitarization plan, Turkey would withdraw both its 35,000 occupation force and its 65,000 illegal Turkish settlers from Cyprus. In an unprecedented action, the Republic of Cyprus would then dismantle its own defense systems and dissolve its National Guard. Also, the plan calls for the withdrawal of all foreign troops permitted by the 1960 Treaty of Alliance—both the Greek and the Turkish contingents. When the withdrawal of these troops is complete, the only forces remaining in Cyprus will be an international peacekeeping force under the auspices of the United Nations and a small joint Greek-Turkish Cypriot police force, also under U.N. supervision. Along with effective international guarantees, these forces will effectively protect the Republic of Cyprus from future threats to its internal and external security.

The benefits of such a demilitarization program cannot be underestimated. Demilitarization will allow the two Cypriot communities to work together to resolve their outstanding differences. Withdrawal of Turkish and Greek troops from Cyprus will eliminate the most likely scenario for conflict between these two NATO allies, thereby strengthening the southeastern flank of NATO. In addition, demilitarization would allow Turkey to utilize the funds now expended on its illegal occupation of Cyprus to fulfill its own defense needs and its NATO obligations.

The United Nations is on record in the two U.N. General Assembly resolutions in favor of the demilitarization concept. I urge my colleagues to join me in actively promoting the demilitarization of the Republic of Cyprus, the best opportunity for peace in that troubled nation.

COURT ALLOWS BROADER SERVICES BY BELL COMPANIES

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HASTERT. Mr. Speaker, the latest ruling by Federal Judge Harold Greene in allowing the Bell telephone systems to transmit information services will be very beneficial to average residential and small business customers.

This decision will result in easy and economical access to such services as voice message storage and retrieval services and electronic mail. Voices messaging, for instance, will allow every phone customer to have the benefits of an answering machine. But it is more sophisticated in that when a caller gets a busy signal, he can leave a message which will be forwarded to his party once the line is clear. Electronic mail will transmit printed messages.

This decision opens the door for new and advanced communication services that have been available only to a few in this country.

The significance of the decision is that the full benefits of the information age will be available to every home and company.

The telephone customer has seen over the past 4 years a drastic change in these utility services. The court has attempted to redefine services based on their actual costs and to provide the kinds of competition that will benefit telephone customers.

JEWISH HERITAGE WEEK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. SCHEUER. Mr. Speaker, I am pleased that the House has passed House Joint Resolution 527, designating the week of April 17–24 as "Jewish Heritage Week." I thank Chairman FORD for his assistance on this commemorative.

As Americans, we pride ourselves in the diverse culture which we share. The richness of American culture results from the values and ideals brought to our shores by peoples of many races and religions.

Among these immigrants, members of the Jewish community contributed significantly to the spiritual and cultural growth of our Nation. These individuals, along with their descendants, have helped to make the United States a stronger and more compassionate nation, grounded in law and dedicated to equal rights and justice. They have excelled in all walks of life, and have made vital contributions to our society. Our Jewish citizens have fought and died for the principles of this great country.

Jewish Heritage Week presents a unique opportunity to foster intergroup understanding and enhance appreciation of Jewish culture. This year, as in previous years, hundreds of thousands of schoolchildren and adults of all faiths and races will join in meaningful educational programs and celebrations. These cooperative educational ventures are the hallmark of Jewish Heritage Week.

Each spring, Jews throughout the United States and around the world unite for a number of major observances. Beginning with Passover, which celebrates the exodus from slavery to freedom, along with the observance of the Warsaw ghetto uprising and concluding with the celebration of Israeli Independence Day, American Jews rededicate themselves to the concepts of freedom, justice and democracy. This year's celebrations will culminate on April 21, the 40th anniversary of the founding of the State of Israel.

I thank my colleagues for their support of this resolution.

TRIBUTE TO LYN MEYERHOFF

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. CARDIN. Mr. Speaker, last Wednesday, Baltimore lost one of her finest citizens when Lyn Meyerhoff died.

Lyn once said she had "never worked a day in her life," but that's not true: Lyn Meyerhoff worked every day of her life making Baltimore a better city. Lyn, together with her husband Bud, was one of the most generous people ever to call Baltimore home. If it were not for the Meyerhoffs, there would be no Center for the Study and Treatment of Digestive Diseases at Johns Hopkins Hospital, no Center for Performing Arts at the Park School, and there would have been no opportunity for the Baltimore Symphony Orchestra to travel to the Soviet Union.

Lyn gave not only of her money, but of her time as well, serving our country under two administrations. President Gerald Ford appointed her as a member of the Council of International Economic Policy during his administration. Most recently, Lyn served this administration in 1983 as one of three public members of the U.N. delegation.

My deepest condolences go to Lyn's husband, Bud; her mother, Florence Pancoe; her four children; and her eight grandchildren. With great energy and wisdom, Lyn Meyerhoff has left an indelible mark on Baltimore and our Nation. The legacy she has left her community and her fellow man will speak of her presence for years to come.

RUSSELLVILLE, MO, TO CELEBRATE 150TH ANNIVERSARY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SKELTON. Mr. Speaker, in early June the community of Russellville, MO, will celebrate the 150th anniversary of its establishment. The Cole County community was surveyed May 3, 1988, for Richard Morris, Benjamin P. Griffen, and Buckner W. Russell. It was later incorporated as a community and named for Russell.

The area was first settled in 1830 when the families of Lammon Short and Enoch Enloe found the area suitable for their needs with plentiful game and a good water supply. As the population grew, several businesses and churches were established. The first newspaper, the Russellville Rustler, was founded by Gutman Wilson in 1895.

Business firms listed in the 1900 county directory included a barber, two butchers, a saloon, a photographer, a general store, a poultry dealer, an auctioneer, a real estate agent, a livery, and a dressmaker. Today Russellville has a grocery store, meat locker, beauty parlor, community bank, MFA exchange, lumber yard, funeral homes, several service stations, and many other businesses.

Education is an important part of the community's heritage. There is great local pride in the Cole County R–I school system. Just a few years ago a new elementary school was completed in the Russellville community. The religious heritage ramains strong, with five churches in town and five others within a few miles of the city limits.

Mr. Speaker, it is a pleasure to congratulate the citizens of Russellville for their efforts to recognize and commemorate their heritage. The pride in their community will serve them well as they build on the foundation of their forefathers.

LEGISLATION REGARDING SMOKELESS TOBACCO

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. DONNELLY. Mr. Speaker, earlier today, I introduced legislation to increase the excise tax on smokeless tobacco. I did so because smokeless tobacco is a health hazard which is undertaxed. At a time of unprecedented budget deficits, it is outrageous that this product is able to enjoy favorable tax treatment when compared to other tobacco products.

Currently, the excise tax on chewing tobacco is 8 cents per pound, and the excise tax on snuff is 24 cents per pound—far below the taxes on other tobacco products. At the same time that manufacturers of smokeless tobacco products enjoy such favorable tax treatment, young people are able to purchase these hazardous products at a lower cost. This must stop.

What my legislation will do is to equalize the tax treatment between cigarettes and smokeless tobacco, by increasing the tax on chewing tobacco to 40 cents per pound and increasing the excise tax on snuff to $1.20 per pound. The revenues derived from the excise tax on these products would be transferred to a newly-created trust fund on cancer research.

Thus, under my bill, all revenues derived from the excise tax on smokeless tobacco would be transferred to the trust fund that my legislation creates. Subject to the annual appropriations process, income from the trust fund would go to the National Cancer Institute to study cancer and other illnesses related to the use of tobacco.

Mr. Speaker, 3 years go, the acclaimed television show "60 Minutes" did an analysis of the health problems related to the use of smokeless tobacco. What struck me most about that show was the large number of children who use this hazardous and dangerous product. Young people are able to use smokeless tobacco because its cost is far below that of other tobacco products—and that low cost is attributable to lower excise taxes. My legislation equalizes that treatment and insures that funding for important research on dread diseases such as cancer is not compromised.

As a member of the Committee on Ways and Means, I intend to make every effort to insure that my legislation is considered later this year when the need for revenue to pay for important cancer research programs is needed.

IMPROVEMENTS ON THE SWAMPBUSTER PROGRAM

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LIGHTFOOT. Mr. Speaker, I'd like to share with you some complications which have come to my attention with respect to the operation of the swampbuster provisions of the 1985 farm bill. We made great strides in soil conservation efforts through that legislation and I have no desire to jeopardize those accomplishments.

Yet there is one area of concern which has arisen in my district among farmers affected by the swampbuster provisions. As you know, many of those producers who have highly erodible land and would be denied farm program benefits under the sodbuster provisions are eligible for the Conservation Reserve Program [CRP]. However, producers who are impacted by the swampbuster provisions of the farm bill may simply lose farm program benefits with no option for replacing that income.

For that reason, I am introducing a measure to allow farmers who have been planting crops on wetlands for 2 out of 5 years between 1981 and 1985 to be eligible for enrolling these acres in the Conservation Reserve Program. This is a companion bill to S. 2143 introduced by our colleagues in the Senate, Senators RUDY BOSCHWITZ, QUENTIN BURDICK, and KENT CONRAD. Representatives HORTON, GARCIA, ROBERTS, PENNY, and GRANDY are original cosponsors of the bill I am introducing.

This measure should not increase farm program costs because it does not raise the cap on the total number of acres to be enrolled in the CRP. It merely alters the definition of land which is eligible.

This bill also protects farmers who have planted wetlands from losing their entire livelihood by giving them the opportunity to receive CRP rental payments for conservation land and water resources.

Additionally, my legislation would not compromise the environmental benefits of the swampbuster law. As Senator BOSCHWITZ pointed out in his testimony before the Senate Agriculture Subcommittee on Conservation and Credit March 24,

> Rather than impose even stricter controls on farmers as some environmentalists would probably like, or relax controls as some farmers would like, (we) introduced what we think is a compromise that offers advantages to farmers and the environment alike.

This legislation is consistent with the goals of the Food Security Act of 1985 and will be beneficial in addressing the concerns of many producers in my congressional district and across the country. Furthermore, as commodity stocks fall and pressure builds to reduce the number of acres devoted to set-aside programs, this adjustment will allow us to continue to work toward our 45 million acre CRP goal.

As I stated earlier, I have no desire of reducing the effectiveness of the conservation provisions of the 1985 farm bill. But I believe government must be compassionate in its actions. Some people have expressed concern about this legislation diluting the effectiveness of the Conservation Reserve Program by reducing the amount of funds available for long-term conservation contracts or that the Department of Agriculture might place too high a rental price to enroll wetlands in the CRP. However, I have intentionally left the Department of Agriculture the discretion to reduce CRP payments where land is of lesser conservation or production value so as to prevent market distortion on land values. Both the American Farm Bureau Federation and the Sierra Club testified in the Senate in support of this legislation.

One final clarification: The wetlands we are considering for eligibility would have to have been cultivated for 2 out of 5 years. We are not proposing newly cultivated wetlands for eligibility in the CRP.

H.R. 4370

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GIBBONS. Mr. Speaker, today I am introducing a bill to correct an unintended consequence of the Budget Reconciliation Act of 1986—the "1986 Act". The 1986 Act accelerated the time when the excise taxes on tobacco products must be paid. I support that provision of the 1986 Act, but a minor adjustment is needed because the interaction of the provision with another rule has made it impossible for a cigar manufacturer in my district to continue to operate a line of his business.

The problem arises because imported cigars are taxed when they are removed from customs custody. Treasury Department regulations require that cigars be packaged in their commercial containers before the tax is imposed. Now, that looks like an innocent enough rule except some cigars are imported in bulk containers and packaged in the United States. As a result, Treasury will not permit these cigars to be delivered to the manufacturer for packaging. In short, the manufacturer is willing to pay the tax—Treasury won't let him.

Under present law, distilled spirits imported in bulk containers may be removed from customs custody and tax is collected when the bottled spirits are removed from a distilled spirits plant. My bill provides that identical rules will apply to tobacco products. It is a simple matter of equity.

HONORING THE SIKH NATION

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SHUMWAY. Mr. Speaker, today I ask that my colleagues join with me in honoring the Sikh nation as it celebrates its annual birthday on April 13. On this day in 1699, Guru Gobind Singh began to baptize people in the name of the Sikh faith. Today, some 16 million Sikhs in India, most of them in Punjab, join with their counterparts around the world in observing this anniversary.

More than 300,000 Sikhs reside here in the United States. My own congressional district is home to a large Sikh population and, individually and collectively, they have greatly enhanced the communities in which they reside. They are industrious, loyal, and resourceful, contributing greatly to the economy, and to civic causes. Sikhs believe strongly in equality, rejecting the social caste system which has been prevalent in India. They believe in one God, and in serving God through service to their fellow man.

Earlier this year, I reserved a special order to draw attention to the persecution and oppression which Sikhs experience in their homeland. On this, the birthday of the Sikh nation, I again appeal for an end to the violence perpetrated against the Sikhs.

I know that my colleagues will join with me in this appeal, and in extending to the Sikh nation every best wish on this important celebratory occasion.

FREEDOM FOR YEFIM OKUN

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. FAUNTROY. Mr. Speaker, it is with a sense of alarm that I bring to the attention of my colleagues the compelling case of Mr. Yefim Okun, a Jewish citizen of the Soviet Union who has been denied permission by the Soviet authorities to emigrate from the Soviet Union with his wife Evgenia.

Mr. Okun has been denied permission to emigrate since 1979 on the basis that he had access to secrets at his place of work. Mr. Okun, formerly employed as an engineer, was forced into early retirement in 1976, however, when his son Alex emigrated from the Soviet Union.

In 1986 Mr. Okun suffered a heart attack and had a major stroke affecting his memory in January 1987. During the week of June 15, 1987, Mr. Okun's wife Evgenia and a daughter, Tamara, were granted permission to emigrate; but Mr. Okun was not. An application seeking to appeal this decision was immediately filed with the Supreme Soviet Commission on Secrecy Refusals. The appeal was denied.

Mr. Speaker, this is clearly a compelling situation. I have, today, written to General Secretary Mikhail S. Gorbachev seeking his intervention and assistance toward gaining a humane resolution. This is yet another case to test whether glasnost is merely a passing flirtation; and it illustrates that, in our relations with the Soviets, human rights must be placed on the front burner. Mr. Okun must be permitted his human right to emigrate.

BUNNY SOLOMON

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. FRANK. Mr. Speaker, on May 6, Northeastern University, one of the outstanding educational institutions in the New England area, and an institution which does a superb job of providing an affordable education to people of varying economic backgrounds, will induct Bernard Solomon to its Athletic Hall of Fame. This is an honor which is entirely deserved, and I want to congratulate Northeastern for recognizing the excellent work Bunny Solomon has done for the students in this regard.

Bunny Solomon has been a strong supporter of the athletic program at Northeastern for more than 40 years: he's older than he looks. As a member of the board of trustees, he is chairman of the Athletic Development Program of the Board and has been unstinting in his efforts. Occasionally, large urban universities like Northeastern, which have a very large percentage of commuting students, don't provide the same kind of athletic programs for students as do more traditional schools. But a well balanced athletic program is an important part of an overall education, and it is to the credit of Bunny Solomon that he has done as much as he has to see that the students of Northeastern are fully able to benefit from such a program. He richly deserves the honor he will get on May 6 when he is inducted into the Hall of Fame and I congratulate him and Northeastern on this happy occasion.

RECOGNIZING GOODWILL INDUSTRIES OF THE CONEMAUGH VALLEY AND GOODWILL VOLUNTEERS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. MURTHA. Mr. Speaker, part of the great spirit of America has always come from a commitment to help others and give time to community activities. There has been an even stronger surge of volunteerism in recent years. A special recognition is appropriate for the local chapter of Goodwill Industries in the Johnstown, PA, area.

The Goodwill is in the community daily, helping with numerous individual and community problems. Virtually every household in our community has benefited from an experience with Goodwill Industries. Our area has faced flood, plant closing, economic setbacks, and a whole range of small city problems. A constant source of support for the community has been the Goodwill.

It is through such countless acts of volunteerism and community concern that America gains a great deal of its strength. The work of Goodwill Industries of the Conemaugh Valley and Goodwill volunteers mark an essential part of that dedication and is in the highest tradition of the American spirit and American principles.

I extend my congratulations to the Goodwill Industries of the Conemaugh Valley and Goodwill volunteers, and look forward to their continuing efforts on behalf of our community.

NEW APPROACH NEEDED IN THE PUNJAB

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HERGER. Mr. Speaker, during the past year I have spent a great deal of time exploring the political turmoil in India's Punjab state. I have discussed the problems with representatives from the Sikh community, officials from the U.S. Department of State, and the Indian Ambassador. On a number of occasions I have spoken on the House floor to urge that the parties involved work toward a peaceful and reasonable solution to their differences. I have urged India's Prime Minister Rajiv Gandhi to ensure that the human rights violations taking place be brought to an immediate halt, and allow democratic elections as soon as possible.

Unfortunately, no progress has been made. In fact, the Indian Government's actions have only served to increase the levels of tension and hostility between the people of the Punjab and the Government. Recently the Parliament imposed a stringent state of emergency on the Punjab. The decree, which suspends nearly all civil rights, demonstrates that India is simply unwilling to address the legitimate concerns of the Sikhs in a peaceful fashion, and is instead intent upon crushing the democratic aspirations of India's most productive minority group. The state of emergency extends the powers of the military and police to continue to disregard internationally accepted human rights standards. Combined with news that the Government recently arrested nearly 23,000 citizens who participated in a general strike, news of the emergency decree lends little hope to those of us who had hoped for a peaceful end to the dispute.

In addition, the Indian Government is now directing precious water resources, that have for centuries been used by the Sikhs, to other provinces that have been more willing to cooperate with India's policies of water redistribution. Punjab, which literally means "five rivers," depends on the waters from the Indus River and its tributaries to employ its citizens and produce the crops that account for 73 percent of India's wheat reserves and nearly 48 percent of its rice reserve. The Indian Government's actions have infuriated the Sikh agricultural community and have only served to damage the economic well-being of hard working Sikh men, women, and children, in the region.

Given these developments, it is clear that a new approach is needed. Many of us in this body believe that it is time for India to move forward with a more rational policy in the region; one which recognizes a legitimate right of self-determination.

My colleague, Congressman BERNARD DWYER, has proposed that India allow the Punjab to organize itself along the lines of the relationship between Italy and the Vatican. He suggests that allowing Punjab to become a state within a state could lead to a more productive and peaceful relationship between the Central Government and those who reside in the Punjab.

By allowing the Sikhs to control their own destiny, the Indian Government could also extricate itself from what has become an extremely tragic episode in Indian history. The challenge of peacefully governing the Punjab would fall to the Sikhs; a challenge that I am certain they would meet successfully.

Mr. Dwyer's proposal deserves the support of this Congress and the consideration of Rajiv Ghandi's government. The Sikhs have repeatedly demonstrated their aptitude for economic progress; it is past time for India to fulfill her commitment to democracy for this hard working Indian minority.

I am hopeful that these suggestions will be worthwhile and will be taken as such by all parties. The path to a peaceful solution in the Punjab will certainly not be without its share of obstacles. It is our responsibility, however, to do our best to encourage continued progress toward this goal. I strongly encourage the Indian Government to recognize that a new peaceful policy is needed and that constructive and innovative steps are required.

EAGLE SCOUT GERALD J. WASIK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Gerald J. Wasik. He was recognized on March 8 for achieving the highest rank in scouting, Eagle Scout, in Boy Scout Troop 654 of the Chicago Area Council.

Gerald is joining the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological, and more. His accomplishment becomes even more notable when it is viewed cumulatively. The high caliber of this individual is illustrated by the entire sum of achievements and the perseverance of character they demanded.

In today's society, our youth are truly bombarded with a variety of lifepaths from which to choose. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though credit is certainly due to the family of this young man and to the scout leaders who provided support, Gerald knows today that he can participate independently in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing Michael the best of luck in his future endeavors.

A SALUTE TO RADIOVISION AND ITS VOLUNTEERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to inform our colleagues to the fine work done by "Radiovision" in the mid-Hudson Valley of New York.

Since it began its services on October 1, 1979, "Radiovision" provides a window on the world to our sightless and visually impaired individuals. "Radiovision" provides its subscribers with news updates, commentary, and readings from periodicals and literature.

These services are provided 24 hours a day by 85 dedicated volunteers, who donate their time and services. Their selflessness and eagerness to serve has been an inspiration to all of us.

The excellent reputation earned by "Radiovision" has caused it to expand greatly since it was initiated 8½ years ago. Now, some 650 visually impaired subscribers throughout 8 counties—Orange, Rockland, Sullivan, Ulster, Putnam, Dutchess, Greene and Columbia—enjoy these fine services. Coupled with a similar service based in Albany, New York, all of the visually impaired in the Hudson Valley, from New York City to Albany, need not enjoy the services of a radio window on the world.

The fine "Radiovision" services are coordinated by Dan Hulse and Carol Cleveland, dedicated individuals with the journalistic expertise coupled with the compassion and insight which have helped make the "Radiovision" endeavor a success. They are, in great measure, responsible for inspiring so many volunteers to give of themselves year after year.

On Saturday, April 23, "Radiovision" will be celebrating its annual "Volunteer Recognition Day." This annual event is the only time that "Radiovision" takes time out of its busy schedule to give itself a well-deserved pat on the back. It is a time when our entire community can join in a well deserved round of applause for the outstanding services provided by "Radiovision".

Mr. Speaker, I invite all Members of Congress to join in saluting this fine institution serving the visually impaired of New York State.

LADY TECHSTERS WIN NATIONAL CHAMPIONSHIP

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. HUCKABY. Mr. Speaker, I hope this becomes a habit. For the second time in 4 months, I have the honor of bragging about a national championship for a university in my congressional district.

The Louisiana Tech Lady Techsters recently won the 1988 women's basketball championship by beating the Auburn Lady Tigers in a thriller in Tacoma, WA, by the score of 56 to 54.

In December, the Northeast Louisiana University Indians won the Division I-AA national championship in football. Northeast is located in Monroe, LA.

Thirty miles west of Monroe is Ruston, LA, the home of Louisiana Tech University and the Lady Techsters. Winning national championships is nothing new to the Lady Techsters, one of the premier teams in all of women's basketball. This one is the team's third national title in 8 years. The Lady Techsters have gone to the Final Four 8 of the last 10 years, and they hold the national record of 54 consecutive victories, established during the 1980-81 and 1981-82 seasons. Tech joins Immaculata, Delta State, and Old Dominion as the only teams to win three women's national titles.

The mastermind behind the Lady Techsters is head coach Leon Barmore, who has some impressive credentials himself. Leon, in guiding the Lady Techsters to the national championship, compiled a season record of 32-2, earning him the Naismith women's coach of the year honors. He became the first male coach to win the title outright. He shared the title with co-coach Sonja Hogg in 1982.

Since Leon came to Tech as an assistant in 1977, the Lady Techsters have compiled a 342-54 record. As head coach, Leon has a 179-19 record, the best winning percentage in women's basketball.

Deserving credit as well are Leon's capable assistant coaches—Mary Kay Hungate, Kim Mulkey-Robinson, and Jennifer White. Team manager is Amy Ringheim and the trainer is Rusty Scarborough.

Now to the players. A special congratulations to Erica Westbrooks of Camden, AR, who was named the MVP of the Final Four and to the All-Tournament team with teammate Teresa Weatherspoon of Pineland, TX.

The other players and their hometowns are: Tatia Brown of Tulsa, OK; Melinda Chambless of Catham, LA; Phoebe Dunn of Abernathy, TX; Shelia Ethridge of Ruston, LA; Lisa Harvey of Benton Harbor, MI; Venus Lacy of Chattanooga, TN; Angela Lawson of Longview, TX; Nora Lewis of Peoria, IL; Beanie Lincoln of Summerville, SC; Terri Meyer of Loveland, TX; Paulette Stall of LaCrosse, WI; and Jocelyn Watson of McNeil, AR.

Congratulations to all of you for a job well done. Not only the coaches and the players, but to the University President Dr. Daniel Reneau and Athletic Director Paul Miller, as well as the loyal fans of the Lady Techsters. All of us in Louisiana are extremely proud of you.

HONDURAS MERITS PRAISE FOR MATTA ACTION

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SMITH of Florida. Mr. Speaker, last week the Government of Honduras took decisive action in arresting international drug trafficker Juan Matta Ballesteros.

I congratulate all involved for their cooperative effort that took off the streets a major cocaine trafficker. We need similar cooperation to bring to justice other traffickers who brazenly flaunt their cocaine-produced wealth while remaining virtually immune to arrest.

Matt's arrest means that, if he is formally indicted for his part in the 1985 murder in Mexico of DEA agent Enrique Camarena Salazar, he can be brought to justice for that vicious crime.

For the past 3 years, the Task Force on International Narcotics Control has received periodic reports on the investigation of the Camarena murder and has held several hearings on the situation in Mexico. Each time we have seen little cooperation from the Mexican Government in the Camerena case. While Mexico waits, Honduras acted. Now the American judicial system will try one of the key figures in the international cocaine cartel.

I urge the elected leaders of Honduras to continue their cooperation with the United States in the war against international narcotics. The cocaine cartel and its henchmen throughout the Americas must not be allowed to reverse the positive steps that are now being taken.

INADEQUATE MEDICAL CARE FOR MILITARY RETIREES

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LANCASTER. Mr. Speaker, I would like to share with my colleagues in the House of Representatives a letter written by a decorated former marine to the editor of the Jacksonville Daily News, Jacksonville, NC, in my district.

It amounts to a cry of outrage from one man who gave all he was able to give for this Nation and is now faced with what he and I feel is an unsuitable reward for his services. Rick Jones spends his days in excruciating pain awaiting the availability of surgeons and facilities to perform a spinal fusion. His lower vertabrae have deteriorated as the result of a bomb concussion early in the Vietnam conflict.

In view of the critical lack of adequate medical care that our military retirees are now facing, I feel we should pay attention to this former U.S. marine. Though his case is a serious one, it is but one of many cases that we deal with daily. We simply are not keeping our end of the bargain made with our soldiers, sailors, and marines when they gave a lifetime of service expecting a reasonable level of medical care after their retirement.

To the Editor:

In 1963, I was young, full of ideals and believed in my country. I enlisted in the United States Marine Corps. About this same time a close friend of mine received a draft deferral and stayed home.

In 1965, I was "baptized" under fire during an operation called "Starlight" near Chu Lai, Republic of Vietnam. My friend drank beer and enjoyed college life at the University of Illinois.

In 1966, I was medivaced to the U.S.S. Repose. I had been wounded during a major attack at a place called Marble Mountain. My friend sent me a picture of his new Corvette. Later that summer, I was bayonetted in the stomach. It happened at a place called Elephant Valley. My friend went to Canada.

In 1967, I searched grave registrations for the remains of my rifle squad. My friend started law school in Montreal. I was discharged in 1967, tried to resume civilian life, but could not. I still believed, I still trusted, and I missed the Marine Corps.

In 1972, I was a Marine once more. My friend bought a house overlooking the St. Lawrence River.

In 1975, I was seriously injured in Japan and spent 11 months at the Navy Hospital in Yokusaka, Japan. My friend made his first million.

In 1981, I was injured at Camp Lejeune; it took four operations to rebuild my right arm and hand. President Jimmy Carter had given my friend amnesty. He brought his family and money home to Chicago.

In 1986, as a result of wounds received 20 years earlier, I was again hospitalized.

After surgery and another long period in the hospital, I was no longer "fit" to serve my country. I was retired with a pension. My friend purchased a prestigious North Shore address in Chicago. He paid cash.

On the evening of March 15, 1988, I was taken by ambulance to the Naval Hospital at Camp Lejeune. I still believed; I still trusted.

Sure, they took me in and gave me a large dose of pain medication. And they said, "We cannot help you. We will send you to Onslow Memorial Hospital (a county hospital which does not have the facilities to treat Jones)."

I should have gone to Canada.

RICK JONES,
Hubert, NC.

EULOGIZING FORMER CONGRESSMAN HAROLD T. "BIZZ" JOHNSON

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. PASHAYAN. Mr. Speaker, it is with a great sense of personal loss that I rise to join with my colleagues to eulogize our former colleague and friend, Harold T. "Bizz" Johnson.

It was my privilege to have served my initial term in Congress with this most gentle of men who was generous of his time and counsel. The issues then were reform of our reclamation laws, development of wilderness for Forest Service lands in California, and continuation of needed public works projects throughout the State.

Even after leaving the Congress, having served there from 1958 to 1980, he remained active in attaining one of his favorite projects—completion of Auburn Dam on the American River. That goal was one of the few he did not accomplish, but a project that nevertheless is needed, if not now, in the future.

California has lost a legislator whose political career encompassed tenures as a school board member, a mayor, a State senator, and as a Congressman. For those of us who have served with him, his was service with compassion, with understanding, and most importantly to me, with friendly instruction and advice for a new colleague.

LUPUS AWARENESS MONTH

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I am introducing legislation marking October 1988 as "Lupus Awareness Month." This bill will heighten awareness of the debilitating, occasionally fatal disease, known as lupus, from which many suffer, but about which few know.

Systemic lupus erythematosus is an inflammatory disease of connective tissue, which produces changes in the structure and function of the skin, joints, and internal organs. Abnormal antibodies are produced that react against the patient's own tissue.

Some 500,000 Americans suffer from this disease, which predominately strikes women in their late childbearing years. It is more common than leukemia, multiple sclerosis, and muscular dystrophy and attacks black women three times as often as white women.

Research has yet to find a cure for lupus, but the outlook is improving. However, in order for us to take advantage of the knowledge already gained, public awareness of the symptoms and treatment of lupus—and the need for continuing scientific research—remains essential.

Setting aside next October as "Lupus Awareness Month" costs nothing, but it will help focus attention, research, and fund-raising efforts to overcome this disease.

I urge my colleagues to join me in supporting this bill as we follow through on our commitment to provide a sense of hope and resolve to those stricken with this terrible and mysterious disease.

LANGUAGE TO MODIFY SECTION 129 OF TITLE 23, UNITED STATES CODE

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. CHAPMAN. Mr. Speaker, I rise today as a member of the Public Works and Transportation Committee to introduce legislation which would make minor, but much-needed, modifications to section 129 of title 23 of the United States Code.

The language I am introducing today would make changes in the United States Code so that the State of Texas may avail itself of the toll project pilot program provided for in section 120 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. Texas is one of the States designated by that act to participate in the toll project pilot program which allows the Secretary of Transportation to allocate a part of a qualifying State's Federal highway apportionment to fund up to 35 percent of the cost of the construction or reconstruction of a toll highway, bridge, or public tunnel.

The Texas Department of Highways and Public Transportation has designated a project pursuant to the terms of the act, and the Federal Highway Administration has approved this designation. However, Texas highway projects are constructed, operated, and maintained pursuant to an organizational structure unlike most other States; in Texas the Department of Highways and Public Transportation is responsible for apportioning Federal-aid highway funds for the construction of State highways, and the Texas Turnpike Authority, a separate agency, is responsible for constructing, operating, and maintaining all State toll facilities. Because of this unique structure, certain technical modifications to the act would facilitate my State's participation in and implementation of the toll project which was clearly contemplated by the act.

The language I am introducing today simply allows the Secretary of Transportation to allocate and to pay directly to the Texas Turnpike Authority such funds for toll road purposes as are jointly requested by that authority and the Texas Department of Highways and Public Transportation; these funds will be part of those already apportioned to the State. This legislation will greatly aid in bringing to fruition the designated toll project anticipated by the Surface Transportation and Uniform Relocation Assistance Act of 1987.

CONTINUING EDUCATION IN JEOPARDY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SCHAEFER. Mr. Speaker, I would like to express my strong support for H.R. 1692, legislation to restore the exclusion from gross income the value of employer-provided educational assistance. This exclusion expired on December 31, 1987, jeopardizing the continuing education of thousands of people.

This exclusion was included in the Revenue Act of 1978, and authorized through 1983. It has been extended twice since then, most recently in the Tax Reform Act of 1986. This exclusion, set at $5,250 a year, applied to educational assistance provided by employers to their employees. Millions of individuals have relied upon this exclusion to further their education, and now find themselves facing the prospect of ending this effort, or paying higher taxes.

For the last few years the national attention has focused on education, and the need to further promote it. A better educated America is a more secure and competitive America. This exclusion clearly benefits the employee, the employer, and the economy, and I urge my colleagues to join me in making this exclusion permanent.

A TRIBUTE TO DR. WILLIAM J. ZUKEL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. DINGELL. Mr. Speaker, today I rise to pay tribute to an outstanding and dedicated public servant, Dr. William J. Zukel. After 39 years of distinguished service in the U.S. Public Health Service, Dr. Zukel will be retiring at the end of April 1988.

From the earliest stages of his career, Dr. Zukel was involved in community prevention and demonstration medical practices. He joined the commissioned corps of the Public Health Service in 1949 to serve with the Newton Heart Demonstration Program in Massachusetts. He later directed the Newton Heart Demonstration Program followed by progressively senior positions in the heart disease section of the division of chronic diseases, U.S. Public Health Service. After serving 2 years as chief of the operational research section of the Heart Disease Control Program, he was assigned as assistant director of the National Heart Institute in 1957, which was followed by a 2-year tour of duty encompassing disease prevention in the Office of the Surgeon General of the United States.

Dr. Zukel in 1961 was responsible for one of the earliest Public Health Service missions to the Soviet Union, which was invaluable to the constant quest for improved relations in international medical research. In the same year, he rejoined the National Heart Institute to lead the program in epidemiology and biometry. He was also responsible for the concept and implementation of several major cardiovascular epidemiological studies both internationally and domestically.

In the 1970's, Dr. Zukel established the lipoprotein and phenotype studies, which provided important information on disease prevention to a large segment of the American population. In the area of clinical trials, he created the Coronary Drug Project, which was the first large-scale investigation to assess the effect on heart disease of the then widely advocated but untested lipid-lowering drugs. In addition, Dr. Zukel was instrumental in the planning and supervision of the multiple risk factor intervention trial, a rigorous long-term clinical study. He also guided a study of perhaps equal significance, the hypertension detection and followup clinical trial. These findings have had not only a lasting effect on the practice of preventive medicine in the United States, but also have contributed greatly to a dramatic reduction in cardiovascular mortality that has occurred in this country over the past two decades.

Since 1979, Dr. Zukel has had broad responsibilities in the division of heart and vascular disease at the National Heart, Lung and Blood Institute, first as associate director for program coordination and planning, then as associate director for scientific programs and finally as deputy director. His steadfast dedication to the highest standards of excellence and accuracy have influenced all aspects of the continuum of research in cardiovascular diseases and have won him the respect and regard of his colleagues in the institute and the scientific community at large. The outcome of his research has led to major improvements in the health of American citizens and members of the world community and has led to the preserving of millions of lives from cardiovascular disease.

I, along with the U.S. Public Health Service, honor this great man, Dr. William J. Zukel, for not only what he has contributed to the medical field but, more importantly, for what he has done for mankind.

CELEBRATING THE SILVER JUBILEE 75TH ANNIVERSARY OF THE OPENING OF EBBETS FIELD

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. SCHUMER. Mr. Speaker, April 9, 1988, marked the 75th anniversary of the official opening of Ebbets Field—probably the most popular and most colorful ballpark in this Nation's history. It has been gone for nearly three decades, but it will never be forgotten.

Named for Charles Hercules Ebbets, Sr., when the stadium opened in 1913, its palatial look made it the first sports facility to symbolize civic pride and community development.

Ebbets Field was the site where Jackie Robinson broke the color barrier as the first black major league baseball player in the 20th century. Ebbets Field was years ahead of its time. On any given afternoon, you could witness all of humanity unified in this unique atmosphere—blacks and whites, young and old, women and men, rich and poor. Yes, Ebbets Field was a place for everyone. It was truly a people's park.

This year, millions of Brooklyn Dodger fans all over the world say "thanks for the memories" and "happy 75th anniversary Ebbets Field."

UNITED STATES RESPONSE TO SOUTH AFRICAN CENSORSHIP ACT OF 1988

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. LOWRY of Washington. Mr. Speaker, today I am introducing the "United States Response to South African Censorship Act of 1988," for myself and Representatives DIXON, WILLIAMS, GRAY of Pennsylvania, DELLUMS, FAUNTROY, TOWNS, and DOWNEY. This legislation is intended to address the draconian press restrictions that the South African Government has imposed on the South African and international media. The South African Government has a long history of restricting the press in order to maintain its racist and oppressive system of apartheid. In recent years, the restrictions have increased greatly. The stories and pictures that once filled U.S. and world televisions, radios, newspapers, and magazines have all but disappeared. And the news that does get reported is highly distorted by the South African Government's censorship and the South African, United States and international media's self-censorship.

While the South African Government holds itself out as being a part of the Western democratic tradition, its actions have consistently belied this assertion. It is clear that the present South African Government does not possess the will to end apartheid or to cooperate in fashioning a nonracial society based on equality and justice for all South Africans.

International pressure is crucial in helping to bring such a society about. This pressure will only be mobilized if governments and people around the world are informed, through the media, about the oppression and violence that continues in South Africa.

The "United States to South African Censorship Act of 1988," which I hope will be incorporated into the comprehensive sanctions bill currently before the House, would attempt to counter the South African Government's stringent press restrictions. The purpose of these restrictions is to hide the full horror of all of South African Government's policies from the people of South Africa and others. They are also structured to influence public opinion by stopping the free flow of factual information about South Africa and substituting instead the South African Government's own biased, self-serving views.

Because of our Nation's, and my own, deep respect for freedom of the press, my bill will not directly parallel the restrictions imposed on the United States media by the South African Government. However, my bill's provisions seek to deny the South African Government, and its representatives, courtesies that now allow the promotion of a heavily censored and extremely distorted view of the situation in South Africa.

My bill would prohibit operations in the United States by the South African Broadcasting Corp. [SABC], whose entire Board of Governors is appointed, by law, by the South African Government. The private South African press would be unaffected by this or any other provision of my bill. Moreover, the prohibition on the South African Government's press arm here would be lifted as soon as the South African Government ends its emergency press restrictions at home. Another provision of my proposal would express the sense of the Congress that the President should close all South African consulates and tourist bureaus.

Although all South African consulates serve an administrative function, their major purpose is to promote the views, positions, and purposes of the South African Government. Under the provisions of my bill, Congress would further urge the President to impose a case-by-case review of requests for visas for entry into the United States by South African nationals. Visa requests would be scrutinized in light of the South African Government's actions in allowing South Africans, and in particular, members of the South African opposition press and other antiapartheid groups, to travel freely to the United States. My bill would not require the closure of the South African Embassy in Washington, DC.

South Africa has become an increasingly closed and insular society. And the Government's imposition of emergency orders and press restrictions have served to make a truly bad situation far worse. The reality that is South Africa must return to the world's view. I believe my bill will help in this effort. I urge my colleagues to join me in supporting and cosponsoring the "United States Response to South African Censorship Act of 1988."

TRIBUTE TO CONGREGATION SHAAREY ZEDEK

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to Congregation Shaarey Zedek, in Lansing, MI, on the occasion of the 70th anniversary of its founding—a cause for joy and celebration, for reflection on the past and contemplation of the future.

Shaarey Zedek has cultivated and been blessed with enormous support, both moral and spiritual, from its larger community. The decades of good will and understanding, extending from the founding of the congregation to its indispensable place in the religious, cultural and intellectual life of greater Lansing today, are an inspiration for all of us, a tribute to the American democratic tradition and the liberties we cherish.

Shaarey Zedek has literally fulfilled its name as a "Gate of Righteousness," and a force for good among its neighbors. In the highest traditions of the Jewish people, Shaarey Zedek has nurtured the distinctive values of the Jewish religion, and is today a vibrant, thriving institution contributing to the welfare of its members and all who are touched by its influence and leadership.

On April 24, Shaarey Zedek will receive a Torah whose final letters will be inscribed in commemoration of the congregation's milestone. There can be no more precious symbol both of Shaarey Zedek's ancient roots and its contemporary commitment to Judaism's ongoing renewal. This is a moment of great pride for all associated with Shaarey Zedek, and I wish the congregation continued success and fulfillment.

U.S. PROGRESS IN AND PLANS FOR MAGNETIC FUSION

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mrs. LLOYD. Mr. Speaker, it is with pride that I point out the accomplishments of the U.S. Magnetic Fusion Program over the past decade. The Subcommittee on Energy Research and Development, which I chair, has strongly supported this activity as a clean and inexhaustible energy source for future generations. Fusion energy is the equivalent of making a Sun on Earth and then extracting its power. To achieve these Sun-like reactions, we need to achieve temperatures similar to the Sun's interior, hundreds of millions of degrees. Material at such temperatures is broken down into its elemental charged components collectively called plasma, and external magnetic fields are needed to contain this violent plasma. The density and temperature—or plasma pressure—have to exceed a critical limit, Lawson's criteria, to achieve a long enough confinement time for fusion ignition to occur and generate energy/power.

For many years the program has been ably managed by Dr. John Clarke from the Department of Energy. I insert excerpts from his recent testimony before our subcommittee in the RECORD to emphasize the U.S. program's progress especially as it moves to achieve energy breakeven in fusion plasmas where energy output equals energy input:

EXCERPTS OF THE STATEMENT OF DR. JOHN F. CLARKE

If we can cast our minds back for a moment to 1978, if you'll recall, we had just begun the construction of the TFTR facility. The goal of that machine that we put forward was to investigate energy breakeven conditions and to produce between one and ten megajoules of fusion energy.

Now looking back over a decade, it is easy to forget how bold a step that was at the time. In order to achieve the goals that we set for that machine, it required us to increase the plasma temperature from what had been achieved in the largest similar machine by a factor of 5. We had to increase the energy confinement by a factor of 20, and we had to increase the plasma pressure by a factor of 5, and the energy gain by a factor of 50. These are all very, very large numbers.

This year I'm very happy to say that TFTR has achieved plasma conditions that reached the original goal but the production of three megajoules of fusion energy. We have also produced and in many ways exceeded scientific results that we only hoped for 10 years ago—300 million degree temperatures, which were two and a half times the original goal of TFTR; confinement exceeding the Lawson criteria in approaching that required for ignition, ten times the original TFTR goal; and perhaps more important, we have learned much that we didn't even suspect or expect to find 10 years ago.

We have been able to incorporate this new information into the experiments through modifications over the years, and we have been able to achieve 20 percent of energy break-even in the machine. Based on a recent review by the Magnetic Fusion Advisory Committee, we hope that we will be able to extend these results over the next few years to achieve between 50 and 100 percent of energy break-even in a deuterium-tritium plasma. We will get the first indications in a deuterium plasma this coming fiscal year.

* * * *

Looking to the future, we have started the final experimental campaign to study actual deuterium-tritium operation on TFTR, and I know to some members of this committee it seems like a long time—that we have waited a long time for that, but the progress has started. Now this is a very important and complicated task and it will require several years of very careful preparation to successfully complete.

* * * *

If all goes well, these experiments will introduce fusion research to the burning plasma physics era, the final frontier of fusion science, which we hope to complete the exploration of in the CIT in the late 1990s.

The CIT or Compact Ignition Tokamak referred to by Dr. Clarke was authorized by the subcommittee in 1988 and will begin operation in the mid-1990's. When it achieves its design goal of igniting a self-sustained burning plasma, it will demostrate the reality of fusion as an energy source.

MACKAY FILES LEGISLATION TO SAVE SOCIAL SECURITY FROM BUDGET CUTS

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. MACKAY. Mr. Speaker, today, I am introducing legislation to ask Congress to enact legislation that would exclude the Social Security trust funds when calculating the national deficit. My colleague in the Senate, Senator CHILES, is attaching this same legislation to the budget resolution currently under discussion in the Senate.

If we continue to calculate the deficit reduction targets using the surplus in the Social Security trust funds, we are creating an illusion of a budget deficit being brought into balance, when in fact, our operating deficit for current consumption is continuing to grow. My concern is that future workers will not be able to honor the claims of retirees without increasing taxes or reducing Social Security benefits.

With the rapidly growing number of people approaching retirement age, it is important to build up the Social Security surpluses. If we do not do so, another economic recession could again threaten the soundness of the Social Security System.

To protect Social Security trust funds, Congress should exclude them from the calculation of any deficit reduction targets. By using the Social Security trust funds as a source of national savings we would help bolster the economic capacity of the United States and ensure that Social Security benefit claims will be honored.

I hope you will support this legislation I am introducing today.

AMERICA'S LIBERTY—OUR HERITAGE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to submit for the record the enclosed essay, written by Michael Sweet of Fairbanks, AK. His essay, entitled "America's Liberty—Our Heritage", is the winning entry from Alaska, to the Voice of Democracy contest. This contest is held each year by the Veterans of Foreign Wars and its Ladies Auxiliary. This year over 300,000 secondary school students participated in the contest competing for the nine national scholarships.

Michael is a senior at West Valley High School and hopes to attend the University of Redlands or the University of San Diego. He is interested in reading, writing and raquetball and hopes to pursue a career as a writer. He is vice president of the National Honor Society, editor in chief of the West Valley High School newspaper and president of the National Junior Honor Society. Michael is also the borough student representative to the reader advisory panel of the Fairbanks Daily News-Miner and winner of the Daughters of the American Revolution Citizenship Award.

His winning essay follows:

AMERICA'S LIBERTY—OUR HERITAGE

The founders of our nation varied greatly in their history and character, but they all wanted the same thing. Whether the word itself was spoken in English, Dutch, French or German, the wish behind the word was "Liberty". This wish was felt by thousands of men and women in Europe, who fled the religious persecution and oppressive caste systems of their native lands, in order to search for something higher and freer than anything they had ever known before. And if they couldn't find it, then by God they would make it. This dedication to liberty has persisted within the hearts of Americans for two hundred years, and is as alive today as it was in the days of our forefathers.

Defining the word "Liberty" is not an easy thing to do, since no two people hold the same concepts of what liberty is. Some say it includes the right to carry a gun, while others say it includes the right to publish pornography. For two centuries, Americans have attempted to define and act upon that elusive thing called "Liberty", and it is this constant scrutiny, this never-ending cycle of debates and legislation which gives the American political system its stability. This is exactly what the framers of our Constitution hoped for when they were laying out that ingenious document—they realized that Americans would change, as would America's definition of "Liberty".

However, it has not just been the framers and politicians who have worked hard for liberty, rather, American history is filled with the stories of Americans who have struggled against the injustices that occur when liberty is not insured. From civil rights protests to global war, Americans have always spoken out against unjust persecution. Millions of American soldiers have given their lives so that other people may know what it means to be free. Perhaps, these other people are the future generations of America, or perhaps they are people who talk differently, think differently, and live differently, and who those dying soldiers will never know. In the end it makes no difference, for those soldiers' sacrifices have kept liberty alive.

Liberty is the very thing which brought America's rise as a world power. The free flow of information within the American system is responsible for the "good old American know-how", since it is the freedom to compete which keeps American business dynamic and progressive. When there is incentive to pursue excellence, there will be excellence. People work better when they can be proud of what they are working for—when they know that they are free to shape their own destinies, and that their government exists to protect, rather than to inhibit.

Every day, millions—if not billions—of American twenty-five cent pieces are handled by people all over the world. These coins bear not only our name, but also the word for what our nation is built upon, and what has indeed become our way of life. There, arcing gracefully above the portrait of this great nation's first president, is the word which all Americans can claim they live by. That word, that idea, is "Liberty", America's Heritage.

TRIBUTE TO THE VERY REV. STEVAN STEPANOV

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. KOLTER. Mr. Speaker, I rise before the U.S. House of Representatives to honor the Very Rev. Stevan Stepanov who is celebrating the 25th anniversary of his ordination in the priesthood.

Born May 25, 1940 in Gospodjinci, Yugoslavia, to the late Mr. and Mrs. Marko Stepanov, Rev. Stepanov has served with distinction at St. Elijah Serbian Orthodox Church in Aliquippa in my 4th Congressional District.

Desiring to become a priest since the age of 5, Rev. Stepanov enrolled in St. Sava Seminary in Belgrade in 1955, and enrolled in the Theological Seminary in Belgrade and later began studies at the University of Belgrade's School of Linguistics and Literature.

He married Ana Radosavljevic on Feb. 17, 1963 and the couple have two children, Ivana and Marko.

Appointed deacon and secretary for the diocese by His Grace Bishop Sava in Edgeworth, Pa., in 1971, he was ordained by Bishop Sava in 1973 and accepted the position of parish priest at St. Elijah Serbian Orthodox Church in Aliquippa.

Rev. Stepanov was promoted to Protonamesnik at the consecration of the St. Elijah Serbian Center by Bishop Sava. In 1981 he was promoted to the rank of Protopresbyter by His Grace Bishop Christoper, and he received a master's degree in Arts and Sciences at the University of Pittsburgh.

I especially commend Rev. Stevan Stepanov for his 25 years in dedicated service to the community of Aliquippa. He has been a leader, an inspiration and a dedicated servant of God and his neighbors, and that is why I rise to honor Rev. Stepanov today.

REFORMING THE IMPEACHMENT PROCESS FOR JUDGES

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 1988

Mr. KLECZKA. Mr. Speaker, in the next 2 months the House Judiciary Subcommittee on Civil and Constitutional Rights will begin hearings on the impeachment of Judge Walter Nixon, and the Judiciary Committee has already been investigating for over a year the impeachment case against Judge Alcee Hastings. These two impeachments make it more urgent that the House consider alternatives to the current removal process for Federal judges.

There was a time when the current removal system worked effectively. In the 18th century, there were only 37 Federal judges, so it could be reasonably expected that there would be few judges who would be impeached. However, there are now 731 Federal judges, and due to the rapidly growing volume of litigation, this number is sure to grow. This enormous expansion of the federal judiciary makes it likely that the Congress will impeach an increasing number of judges.

What can we do to free the Congress from the unnecessary and time consuming process of impeaching judges? I think we should follow the example of States which have amended their constitutions to establish new removal mechanisms for State judges. Over 45 States now have some type of judicial system for removing judges.

In some cases, States have established judicial inquiry commissions which investigate complaints against State judges. If the complaint is found to have merit, the case would be transferred to a court of the judiciary composed of members of the State judiciary and/or State bar. This body can remove, suspend, or censure judges, but its decisions are reviewable by the State supreme court.

Other States also employ a judicial inquiry commission, but the commission makes recommendations directly to the State supreme court. Either of these systems could be employed at the Federal level.

However, I believe that the most promising system for removing judges relies on the existing disciplinary process within the Federal judiciary. Under the Judicial Councils Reform and the Judicial Conduct and Disability Act of 1980, the judicial branch was given the power to reprimand and censure judges.

This law permits the judicial councils of each of the 13 Federal circuits to conduct extensive investigations of judges and take disciplinary action against them. The law also empowers the Judicial Conference—the chief policymaking organization of the Federal bench—to undertake an additional investigation and take final disciplinary action. In cases where a judge has been found to have committed an impeachable offense, the Judicial Conference recommends impeachment to the House of Representatives.

Thus a readymade structure exists for removing judges. No new staff would have to be hired, and no new committees created. The judicial councils and the Judicial Conference simply have to be empowered to remove judges.

The current effort to reform the removal system for judges is not the first; in the 20th century, four serious legislative efforts of this kind have been undertaken. However, these attempts were not successful due to widespread concern that altering the impeachment process was unconstitutional.

In 1969, Senator Joseph Tydings, chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery introduced S. 1506 to allow a court of five Federal judges appointed by the Supreme Court to remove judges. During the 94th Congress, Senator Sam Nunn introduced S. 1110 which established a system for removing judges similar to many State removal systems.

Ultimately constitutional concerns blocked further action on a dramatic overhaul of the impeachment process. But efforts to reform the impeachment process resulted in the passage of the 1980 judicial discipline law mentioned above.

To avoid the widespread concern that legislation modifying the removal process for judges is unconstitutional, I have introduced a constitutional amendment, House Joint Resolution 364, to allow for a new removal system. This will permit the Congress to focus on the desirability of establishing a new removal process for judges.

There is also interest in establishing a commission to conduct an in depth study of whether the constitution should be amended and a new removal system established. This might be an effective way of building support for creating a new removal system for judges.

House Joint Resolution 364 would make only a very limited change in the impeachment process. It does not change the grounds for impeachment, and it does not apply to the impeachment of officials in the executive branch or Supreme Court Justices. Rather, it simply amends the Constitution to give Congress the power to establish a new procedure for removing judges. Thus the legislation gives the Congress great freedom to craft the removal system it determines is most desirable.

However, House Joint Resolution 364 does specify that it must be Federal judges who determine whether a judge should be removed, and that the Supreme Court must be allowed to review any decisions concerning the removal of a judge. These provisions were included to assure that the independence of the judicial branch is protected from any possible political interference.

In the upcoming months, I hope that the Congress will carefuly consider establishing a new system for removing judges.

NATIONAL DRUG ABUSE RESISTANCE EDUCATION DAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. LEVINE of California. Mr. Speaker, I rise to introduce, along with my distinguished colleague, Frank Wolf, legislation designating September 15, 1988, as National Drug Abuse Resistance Education Day. This resolution commends DARE as an outstanding drug abuse education program. Similar legislation is being introduced in the other body.

DARE offers a 17-week curriculum teaching fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol. The DARE curriculum teaches decision-making skills, assertive response styles, and resistance techniques. Other DARE units help students understand self-image, recognize stress and manage it without taking drugs, and analyze and resist media presentations about alcohol and drugs.

The DARE Program is taught by veteran police officers who have direct experience with the tragedies and crimes caused by drug abuse. Each police officer completes a special 2 week training program which includes instruction on teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills. The DARE Program provides the opportunity for law enforcement, teachers, and school administrators to work together to reduce drug abuse.

Independent research has confirmed the success of the DARE Program. DARE graduates are less accepting of drug use, and more able to resist peer pressure to use drugs. The DARE Program also contributes to improved study habits and grades, decreased vandalism and gang activity, and a more positive attitude toward the police and school.

The success of DARE is also demonstrated in a student-parent survey taken in the Los Angeles Unified School District. Before taking the DARE Program 51 percent of the students surveyed equated drug use with having more friends. After completing the DARE Program, only 8 percent of the students made this association. Similarly, before witnessing the DARE presentation, 61 percent of parents thought that there was nothing parents could do to prevent their children from using drugs. However, after the DARE presentation, only 5 percent of the parents believed this.

The DARE Program is one of a number of innovative drug prevention programs sponsored by law enforcement in my district. Los Angeles County is sponsoring a similarly effective program known as SANE, the Substance Abuse Narcotics Education Program. SANE is taught in 54 school districts in Los Angeles County, and over 60,000 students have participated to date. The SANE Program offers a flexible curriculum, which can be tailored to the needs of each individual school district. In addition to classroom instruction, SANE emphasizes programs which reach the PTA and community groups.

I commend law enforcement for its willingness to sponsor innovative and effective programs like DARE. It is making an important contribution to fighting the abuse of drugs by our young people. I am pleased to have the opportunity to recognize this outstanding programs. A copy of the bill follows:

H.J. Res. 540

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester long program which teaches fifth- and sixth-grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs or alcohol and teaches the skills to make positive decisions and resist pressure to participate in negative behaviors;

Whereas more than 500 communities in 38 States now teach the D.A.R.E. program in their schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 1,500,000 students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience with ruined lives and crimes caused by substance abuse;

Whereas each police officer teaching the D.A.R.E. program completes an 80-hour training course including instruction in teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decisionmaking skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, and it has also contributed to improved study habits and grades, decreased vandalism and gang activity, and has generated greater respect for police officers;

Whereas the D.A.R.E. program is one of several highly effective law enforcement drug abuse education programs targeted to preventing drug abuse among children; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1988, is designated as "National Drug Abuse Resistance Education Day", and the President of the United States ia authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

NATIONAL SHIPBUILDING AND REPAIR INDUSTRY PRODUCTIVITY IMPROVEMENT WEEK—APRIL 10-16, 1988

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. BIAGGI. Mr. Speaker, I salute the maritime coalition that issued the proclamation making April 10-16 the second annual "National Shipbuilding and Repair Industry Productivity Improvement Week."

Around the world—with the notable exception of South Korea, the shipbuilding and ship repair industries are on the decline. Since 1975, the European Community's shipbuilding capacity has been cut by 45 percent, while Japan has seen a 22-percent drop in the same period—despite strong Government support and technological advances. South Korea's increase in construction potential of 350 percent in the last 13 years contrasts sharply with the rest of the world's experience. Yet, South Korea is looking over its shoulders at a nascent shipbuilding industry emerging from China.

Some international maritime industry observers argue that the inability of American shipbuilders and repairers to compete in the global market can be attributed to inefficiency rather than to a lack of Government support. The state of foreign shipyards—which benefit from direct and indirect subsidy—evidences the weakness of this argument. We have to recognize at last that free trade does not exist; it particularly does not exist in the world shipbuilding and repair market. Shipyards in nearly all foreign countries benefit from extensive government support. The results of asking the American shipbuilding and repair industries to go it alone in a highly competitive world market are clear; the decline will continue. That cannot be tolerated.

The United States needs a shipbuilding and ship repair capability that is sufficient to meet our commercial and military needs during peacetime and in the event of a war or national emergency. The condition of our shipbuilding, ship repair, and ship supplier industries—and the merchant marine work force is bleak. In the industry as a whole, between 1982 and 1986, about 52,500 jobs were lost; 76 shipyards and ship repair facilities were closed; and 22 building ways, 17 floating docks, and numerous plant facilities were lost. In August 1987, at least 15 of the surviving firms were operating under chapter 11 bankruptcy protection.

The long-term problem with losing shipyards and facilities is that, once they are converted to more profitable uses such as upscale housing and recreational marinas, the cost of returning the waterfront property to shipbuilding and repair is prohibitive—if possible at all.

One of the main reasons for the shipbuilding industry's decline is that we are not building any commercial ships in this country. Naval ship construction and repair are virtually all that remain for the industry. Commercial ships are not being ordered because of a worldwide surplus of shipyards and merchant ships, the United States' inability to compete in terms of price with most foreign shipyards, little coastal or inland maritime work, the offshore energy industry's collapse, and the failure of the construction-differential subsidy program.

The President's Commission on Merchant Marine and Defense—Bennett Commission—recently concluded that the shipbuilding, ship repair, and attendant industries have a valuable role to play in our national security. The Bennett Commission's seven recommendations included implementing a national program for merchant ship construction in U.S. shipyards and initiating and spear heading a public/private effort to improve business efficiency in the maritime industries. The Commission urged the Departments of Defense and Transportation to seek increased research and development funding for merchant marine—and ship-building technology-related activities that have industry-wide defense-related applications.

The deteriorated condition of our shipbuilding and repair base presents what the Commission deemed a "clear and growing danger" to the United States' economic and military strength. The U.S. Government must act swiftly to ensure that we can continue to build and repair ships in this country. Our Nation cannot afford to cede this important function to our highly subsidized foreign competitors.

As a Harvard Business School report warned in 1945:

> It may be argued that the next war, if it comes, will be waged so differently from World War II that no ships and shipyards will be required * * * a prudent government, charged with the responsibility of guarding national security, dare not take the risk * * *.

I urge my colleagues to support proposals designed to restore the strength of our shipbuilding and repair industries. Our national and economic security depend on swift action to turn this situation around.

STRATEGIC SIZING DECISIONS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. ASPIN. Mr. Speaker, Ron Tammen, Senator BILL PROXMIRE's chief of staff, recently had an article published in Defense Analysis, a British journal on national security issues. I would like to insert Mr. Tammen's remarks in the RECORD because I feel his article makes an interesting point that we have to look behind the official justifications for strategic systems to find out what really shapes those programs. As the defense authorization bill for fiscal 1989 was recently marked up by the House Armed Services Committee and will soon be considered on the floor, I thought this article would be very timely reading for my colleagues who are concerned with defense and national security issues.

STRATEGIC SIZING DECISIONS

(By Ronald L. Tammen)

Major US strategic weapons programs are initiated and justified by strategic imperatives. This tautology rests at the heart of public support for defense programs; and it is the glue which binds together Congressional and Executive Department budgeting.

There is no more powerful political theme than the call to arms when a new strategic threat materializes. Those who question may face doubts about their patriotism or run the risk that they be perceived as not sufficiently concerned about the nation's survival.

Such is the power of the strategic justification. The public will not credibly support any major new strategic weapons program without the promise that it enhances deterrence or shields the US from attack. The threat provides the justification. But does the threat fashion the program? Are US strategic responses driven by technology and force programming decisions related to the threat?

An examination of four key sizing decisions answers this question in such a way as to focus attention on nonstrategic factors. The first is the decision on the optimum number of tubes in the Polaris class of submarines.

MAINTAINING HARMONY

Ordinarily it might be expected that the decision to place 16 tubes and hence 16 missiles in the Polaris submarine was based upon strenuous analysis of the various trade-offs involved, such as volume constraints, cost-effectiveness, and targeting requirements. And in fact such studies were made. Harvey M. Sapolsky has provided the most authoritative examination of the Polaris system development program.[1] He found

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Footnote at end of article.

that a cost-effective study concluded that the new submarine should have 32 missile tubes.

This number met with skepticism within certain elements of the Navy. Traditional submarines were being asked to change ingrained habits. Not only would their mission be far less interesting, given the monotonous routines for fleet ballistic missile submarines, but they would be cohabiting with a new weapon system. Furthermore, the Air Force had raised safety questions about placing ballistic missiles on board submarines, land-based ICBMs, the Navy contrived the two-crew system for submarines.

Given these pressures, the head of the Polaris program, Admiral William F. Raborn, Jr., again according to Sapolsky, personally decided to reduce the number of tubes to 16. This number was picked in order to appease the undocumented personal fears of submariners and to bring them into the program with no initial ill will.

The lower number of 16 was selected to address their concerns about habitability and the safety risks of a larger submarine. Cost-effectiveness and force sizing considerations were laid aside. This decision proved so permanent that not only did it remain unchanged for the entire Polaris program, a not unsurprising factor given uniform production requirements, but it also became the nominal figure for the Poseidon program as well.

When the first Soviet and French submarines were launched, they also had 16 tubes—the magic American number. Given that they were deployed after the Polaris and were similar in many ways, it is reasonable to conclude that both countries looked to the US for technological leadership. They must have assumed that the US made a strategic decision to go with 16 tubes based on sound force level and technical considerations. The temptation to mirror image the US when in a position of inferiority undoubtedly was strong. And if the USSR, through espionage, had uncovered the 16-tube planning number, this would have been an additional incentive to copy the American design. In fact, however, the US decision rested on more mundane grounds.

COMPETITIVE TARGETING

Manipulating the number of tubes in a submarine is only one factor in force sizing. The number of warheads per missile and submarines in the fleet determines basic force capability. In the Polaris case, there is evidence that the total force of 41 submarines was tied to a rivalry with the Air Force over targeting.

Following World War II, the Air Force continued its dominance in strategic targeting matters. Only the Strategic Air Command had a strategic delivery system. When land-based missiles became operational a second targeting list was compiled—separate from the SAC list. Soon the Navy established its own inventory of Russian targets. This redundancy was viewed ominously by Secretary of Defense Thomas S. Gates who in 1960 consolidated the various components into the Joint Strategic Target Planning Staff. Located at SAC headquarters, the JSTPS originally had a composition of 65 percent Air Force personnel, 25 percent Navy and Marine Corps and 10 percent Army, with a total of about 300 people.[3]

Although producing a coordinated target list, service representatives at the JSTPS retained their close associations with their parent bodies. When the Navy began to draw up its force plan for the ballistic missile fleet, it relied on the Navy representatives at JSTPS to provide the full Soviet target list. The Navy looked at the Soviet target list and calculated it would take a force of 656 missiles in 41 submarines of 16 tubes each to attack the entire selection. This calculation did not make an allowance for Air Force participation in the attack according to then Assistant Secretary of Defense Alain C. Enthoven.[4] It was an all-Navy show with the result that a major force level decision was made independently of other strategic assets. This had two favorable repercussions. It allowed deployment of the largest possible fleet and it permitted the Navy to assert that it alone could carry out all strategic retaliatory war plans.

MINUTEMAN VS THE B-70

Robert S. McNamara was the key figure in another critical force sizing decision—the deployment of 100 Minuteman missiles. Requests for Minuteman deployments varied almost annually. The original request in 1958 was for 400 Minuteman Is in eight squadrons.

With early success, the planning number doubled to 800 in 1960. In 1962 the Air Force planning estimate increased by 500 Minuteman II missiles in 10 squadrons for a total force of 1300.[5]

The Secretary of Defense set the force level at 1200 in the FY 1963 budget. The cancellation of the Skybolt joint standoff missile program with Great Britain in January 1962 raised the planning number to 1300 as justified, the Secretary said, by the need for an extra 100 Minutemen to cut paths through sophisticated Soviet bomber defenses.[6] By the FY 1965 budget, the planning number was reduced back to 1200. The final sizing decision to reduce to 1000 was made in the fall of 1964.

These lower ceilings on Minuteman were not consistent with the wishes of the Air Force or the Joint Chiefs of Staff who considered 3000 as the appropriate planning number. The Air Force found ways to let its opinion be known. In March 1962 when President Kennedy and Secretary McNamara were being briefed at Vandenberg Air Force Base, General Thomas Powers, Commander of SAC, remarked about an eventual deployment of 10,000 Minutemen. The President was appalled and said that would never occur while he was in the White House.[7]

The final decision of 1000 was officially linked to certain "qualitative improvements" in the missile force—an early hint about the existence of the MIRV program. In testimony to Congress McNamara clearly made the point that holding the Minuteman force level at 1000 would be just as effective as expanding the force due to the increased kill capabilities then in development.[8]

Behind the scenes, McNamara was using the newly emerging MIRV program and the 1000-Minuteman deployment level as leverage against the B-70 lobby. Air Force General Curtis E. LeMay and Secretary McNamara had repeatedly clashed over increased funding for the B-70. LeMay had the Congress on his side. But McNamara refused to spend additional funds appropriated by the Congress for the B-70 by impounding them.

The President supported his Secretary of Defense but with reservations. According to Arthur Schlesinger, President Kennedy stood behind McNamara's decision to improve the Minuteman and Polaris forces even though he shared McNamara's opinion that such increases would provide little real additional military capability.[9] Both recognized it wise to avoid a conflict with the Joint Chiefs of Staff and the Congress. More specifically, David Halberstam provides the account of the President questioning the need for a deployment of 950 Minuteman missiles when 450 would have the same effectiveness only to be told "that's the smallest number we can take up on the Hill without getting murdered." [10]

The eventual deployment of 1000 Minuteman missiles resulted from internal countervailing pressures more so than any specific threat analysis. The Minuteman deployment became a leveraging tool for Secretary McNamara and the President. It was used as a cost-effective argument against the B-70 while at the same time the total deployment number was constrained by virtue of the embryonic new technology—MIRV.

HOLDING THE ABM IN CHECK

The 1967 decision to deploy a light ABM system for defense against Chinese and accidental launches is another force-sizing example dictated in large measure by domestic rather than international pressures.

On 19 January 1967, certain unidentified "high defense officials" gave a background news briefing on the then unknown new missile technology—MIRV. What made these high defense officials release data on the Top Secret MIRV project early in 1967 and then follow-up with greater detail publicly later in the year? Why the release at all since the system was not to be tested until August 1968 and there was no proof it would succeed?

The answer lies again in domestic politics. Throughout 1966 the pressure to deploy the Nike-X ABM grew. McNamara fought a rear guard action against this program but saw that it was a losing battle and attempted to ameliorate the impact of a deployment decision. He did so by pitting one weapon system against another.

Early in the year the Congress sent a strong signal to the Johnson Administration that the Nike-X should be deployed. Although $446 million in research and development funding was requested by the Pentagon, the Senate Armed Services Committee added $167.9 million for long lead time hardware.[11] The move was taken in reaction to the unanimous recommendation of the Joint Chiefs of Staff that an ABM system be developed and deployed.

While stressing the unfavorable exchange ratio between a US ABM and Soviet offensive force increases, Secretary McNamara was faced with opposition from all four Armed Services and Appropriations Committees in Congress and the Joint Chiefs as well. To add to his difficulties, Senator Henry Jackson charged that even with the added appropriations it might take 2 or 3 years before the US could catch up with the deployed system of the USSR.[12]

President Johnson, influenced by his former colleagues in the Congress, began to change his mind on the ABM. McNamara employed a stopgap measure of convincing the President in late 1966 to include $377 million in ABM funds in the FY 1968 budget but only contingent on the failure of arms talks with the Soviets. Although no deployment decision was made, the Administration was inching toward the inevitable.

On 20 January 1967 came a MIRV briefing, right on the heels of the budget presentation. This special backgrounder obviously was meant to have a public and legislative impact. Evidence of continuing Soviet ABM activity had prompted McNamara's announcement of Poseidon deployment the prior November. Now the Secretary was attempting to head off more pressures for a US ABM by supplying evidence of major improvements in US offensive capabilities. If he could convince Congress that the US MIRV made a Soviet ABM useless, the US ABM effort could be slowed down or halted.

The January leaks did not have the desired effects. The Chairman of the Joint Chiefs, General Earle G. Wheeler, continued to press his case for an ABM deployment. Senator Barry Goldwater stated that the US would have to break the nuclear test ban in order to develop an ABM, a charge denied by General Wheeler:[13] Though citing little progress toward negotiations through the summer, McNamara held out the promise that a light defense against small attacks might be acceptable to the USSR.

By mid-year, however, the ABM debate threatened to break wide open. Director of Defense Research and Engineering John Foster testified that X-rays could destroy incoming Soviet warheads and thus make possible an area defense system throughout the US.[14] On 10 September, a front-page story in the *New York Times* indicated that the USSR was giving top priority to developing a multiple-warhead system. The same day, Senator John Pastore, Chairman of the influential Joint Committee on Atomic Energy, pledged a fight for the ABM "with the same vigor" he displayed for the development of the hydrogen bomb and nuclear submarine.[15]

Five days later former Vice President Richard Nixon brought up the Kennedy missile gap controversy by saying "This 1960 issue can now be turned on the Administration: it's a deadly boomerang." He urged deployment of an ABM network.[16]

Finally the Secretary compromised. Working his way through a speech before the United Press International Editors and Publishers in San Francisco on the action-reaction phenomenon, McNamara concluded with the decision to deploy a light ABM system for defense against limited attacks.[17]

The Secretary wanted to reinforce the point that this was a thin system and should not inexorably grow into a nationwide system. Therefore he agreed to a *Life Magazine* interview and attempted to explain the relationship between the Soviet ABM and the US MIRV systems and why penetration was so much easier than defense. Though he had succumbed to domestic pressure, he waged a clever backdoor battle against the nationwide ABM system by providing further details about US strategic offensive capabilities—almost a year before MIRV tests were scheduled.

A second issue was on NcNamara's mind. The Soviets had been testing a fractional orbit bombardment missile system designated FOBS, using the SS-9 missile. FOBS had been a matter of public concern since the summer of 1967. McNamama was forced to call a hasty press conference on 4 November 1967, after learning that Senator Henry Jackson was going to make the Soviet tests public in a Congressional hearing the next day. In order to preempt the Senator from Washington, the Secretary briefed newsmen on the FOBS issue and offered his conclusions that the FOBS system suffered from degraded payload capacity and decreased accuracy. The US he noted, had given up such plans "some years ago."[18]

Senator Jackson recouped some of his planned statement by arguing that FOBS "has opened up a whole new dimension of problems" and that the US would have to start building an ABM for protection.[19] Some Republicans began to put the FOBS issue into a political setting. Congressman William Dickenson (R-Ala) called for McNamara's removal.[20]

The Administration was put under added strain by charges that the USSR had once again moved in a military environment not exploited by the US. The use of space by an orbiting vehicle was considered novel and threatening since it could evade detection radars by attacking from the South.

In response John Foster brought forth new details about the MIRV program in a speech in December. Two could play the game and the technology of the MIRV "space bus" was far beyond that of the FOBS concept. Thus the Administration met its domestic political problems with the selected release of data on new US weapons systems.

Without MIRV, it can be argued, the US may have initiated a heavy nationwide ABM system, the consequences of which are impossible to analyze even in retrospect. MIRV permitted ABM opponents to argue that saturation made strategic defense ineffective.

LIMITATIONS OF THREAT JUSTIFICATION

The four defense programs reviewed above represent the heart of the U.S. deterrent during the 1960s and 1970s. Minuteman, Polaris, Poseidon and the ABM debate were the centerpieces of public and official debate. While justified by the threat in posture statements and Congressional testimony, in each case key force-sizing decisions were influenced substantially by nonstrategic factors.

Should the same set of circumstances exist in the USSR—that domestic politics, rivalries and trade-offs help shape force sizing decisions—then the US and USSR may not only be competing for strategic reasons but also as a result of fundamental bureaucratic and internal political choices.

Behind every major weapon procurement decision rests a threat justification. That justification should not be taken as the only driving consideration. Bureaucratic and political factors have shaped the size and characteristics of our strategic deterrent in significant and lasting ways.

FOOTNOTES

[1] H. M. Sapolsky, *The Polaris System Development: Bureaucratic and Programmatic Success in Government.* Harvard University Press, Cambridge, MA (1972).

[2] Sapolsky, *op. cit.*, p. 54.

[3] This passage is based on a public address by Brigadier General Robert L. Cardenes before the Air Force Association Strategic Symposium in Orlando, Florida, 15–16 December 1971.

[4] A. C. Enthoven, System analysis—ground rules for constructive debate. *Air Force Magazine*, p. 38 (January 1968).

[5] US Congress, House Committee on Armed Services, *Hearings on Military Posture,* Part II, 91st Congress, 1st Session, May-August 1969, pp. 3267 and 3269.

[6] US Congress, Senate Armed Services Committee, *Military Procurement Authorization Hearings for Fiscal Year* 1964, p. 449.

[7] J. Newhouse, *Cold Dawn: The Story of SALT*, p. 61. Holt, Rinehart & Winston, New York (1973).

[8] US Congress, House Committee on Armed Services, *Hearings on Military Posture, 89th Congress, 1st Session, p. 211.*

[9] A. M. Schlesinger, *A Thousand Days*, p. 500. Houghton Mifflin, Boston, MA (1965).

[10] Cited by J. R. Kurth, A widening gyre: the logic of American weapons procurement. *Public Policy* 19, 382 (1971).

[11] B. Welles, Senate panel adds antimissile funds. *New York Times*, pp. 1, 17 (22 April 1966); *New York Times*, pp. 1, 4 (29 April 1966).

[12] Combat shortage denied by Vance, *New York Times*, p. 3 (25 April 1966).

[13] Wheeler backs antimissile net. *New York Times* (27 February 1967).

[14] J. W. Finney, U.S. plans X-ray defense against missile warheads, *New York Times*, p. 1 (10 May 1967).

[15] W. Beecher and E. Clark, Soviets reported stressing multiple warhead missile. *New York Times*, p. 1 (10 September 1967).

[16] Missile defense is urged by Nixon, *New York Times* (15 September 1967).

[17] R. S. McNamara, Remarks before the United Press International Editors and Publishers in San Francisco, cited by *The Bulletin of Atomic Scientists*, p. 26 (December 1967).

[18] McNamara statement on orbital bomb. *New York Times*, p. 2 (4 November 1967).

[19] G. C. Wilson, Calls for U.S. counter-weapon intensify. *Washington Post*, p. 14 (3 November 1967).

[20] *Ibid.*

50TH ANNIVERSARY OF SANTA MARIA RECREATION AND PARKS DEPARTMENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. LAGOMARSINO. Mr. Speaker, it is my pleasure to rise today to honor the city of Santa Maria Recreation and Parks Department on its 50th anniversary.

The city of Santa Maria Recreation and Parks Department will celebrate its 50th anniversary on July 4, 1988. The theme of the department's celebration is "A Starring Role for Everyone at Recreation and Parks." This theme reflects the wide variety of programs offered to citizens from small children, through people with special needs, to senior citizens.

A full year of activities and special events is planned to focus attention on the many recreational opportunities here in Santa Maria. Kickoff for the year-long project will be the city council meeting on April 19 at which members will review a specially created slide show featuring recreational programs available to all during this anniversary year.

Today, the recreation and parks department operates 15 parks, three community centers, a gymnasium and lawn bowling green, three night-lighted softball fields, and a swimming pool.

I ask that my colleagues join me in extending my warmest congratulations to the city of Santa Maria Recreation and Parks Department on this, its 50th anniversary.

FOUR SCIENTISTS HONORED FOR DISCOVERY

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to bring to the attention of the Members of this House an honor which is being bestowed today on four scientists in my district. Intellectual Property Owners, Inc. is honoring Georg Albers-Schonberg, Alfred W. Alberts, Richard L. Monaghan, and the late Carl Hoffman as the Inventors of the Year for a therapeutic discovery which has the potential of saving literally millions of lives.

These four were members of a research team at Merck Sharp & Dhome Research Laboratories, a division of Merck & Co., Inc., headquartered in my district in Rahway, NJ. They are being honored for their discovery of a new class of drugs that lowers cholesterol levels in the body and shows great promise of making significant inroads in the fight against heart disease, a killer which strikes down 500,000 Americans every year.

The development of this cholesterol-lowering drug, known as MEVACOR, is a tribute to the strength of American research and to the benefits to be derived from our patent system. The discovery and development of MEVACOR represents the culmination of a 10-year research effort, costing tens of millions of dollars, by these four scientists and many of their colleagues. Without the incentive of our patent system, such as effort might never have been made.

It is widely known, Mr. Speaker, that high levels of cholesterol can lead to atherosclerosis—hardening of the arteries—which can cut off the blood supply to the heart, brain, and elsewhere, leading to coronary artery disease, strokes, angina, and circulatory problems. About half of all American adults have cholesterol levels placing then at risk of developing these diseases and, of these, about 20 percent who may not be able to lower cholesterol through diet and exercise are at risk, without therapy.

MEVACOR works by inhibiting an enzyme in the liver called HMG-CoA reductase, which produces mevalonic acid, necessary to the body's synthesis of cholesterol.

Mr. Speaker, as we celebrate National Heart Savers Month, with cholesterol screening being conducted just across the street in the Rayburn House Office Building, it is fitting that we take a moment to commend the work done by these four scientists which has led to this breakthrough discovery.

I would also like to commend the members of Intellectual Property Owners, Inc., a nonprofit association of people working to improve our system of patents, trademarks, and copyrights, for their recognition of this therapeutic innovation.

TRIBUTE TO ST. FRANCIS PARISH

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I rise today to honor and celebrate the 50th anniversary of the dedication of St. Francis Roman Catholic Church. St. Francis reflects the diversity of traditions, customs and cultures of the community it serves and has responded with compassion and courage these past five decades to the changing needs of its parishioners.

Much work and sacrifice went into the building of the church. The pastors were responsible for providing leadership with vision and the parishioners responded with binding faith, devotion and loyalty. Together they created a church with tremendous spirit and compassion that has made a profound contribution to the pride and dignity of each member.

It is my hope that St. Francis Parish will continue to be a beacon of light and hope within the community it has served the past 50 years.

WORLD POPULATION AWARENESS WEEK

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. UDALL. Mr. Speaker, the issues of poverty, environmental degradation and inadequate health care are global problems rooted in overpopulation. The people of the State of Arizona will devote the week of April 17–23 to reflect upon the vexing issue of world population. Members of Congress can also benefit from reflecting upon this issue in the week ahead. I commend to the attention of my colleagues Arizona Governor Rose Mofford's proclamation of "World Population Awareness Week."

PROCLAMATION

WORLD POPULATION AWARENESS WEEK

Whereas, the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas, more than 90 percent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion; and

Whereas, rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas, the massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer; and

Whereas, the tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas, the disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them.

Now, therefore, I, Rose Mofford, Acting Governor of the State of Arizona, do hereby proclaim the week of April 17–23, 1988, as "WORLD POPULATION AWARENESS WEEK" in the State of Arizona, and call upon all of its citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

HERSCHEL AND PAT ROSENTHAL

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to two dear friends, Herschel and Pat Rosenthal. Having presented many plaques and resolutions over the years, we are sure they appreciate the significance of this CONGRESSIONAL RECORD statement. Over the years these two people have contributed a great deal to their community and on April 16 they will be honored by the Democratic Party of the San Fernando Valley at its First Annual Harry S. Truman Luncheon.

Herschel Rosenthal has been an active leader in both political and community affairs for more than 35 years. In 1973, he was appointed city commissioner of the Los Angeles Community Redevelopment Agency by Mayor Tom Bradley. He then served as a member of the California Assembly for 8 years. In 1982, he was elected to the State senate where he continues to serve as an effective representative of his Los Angeles constituency.

In Sacramento, Hersch has been a very effective and well respected legislator. As chairman of the senate energy and public utilities committee, he has been a key player in providing for California's increasing energy needs. He was also instrumental in passing legislation to protect the Santa Monica Mountains and led the fight to end discrimination in automobile insurance rate-setting based on occupation. He was also a major force behind California's law punishing companies supporting the Arab boycott in Israel.

Hersch and Pat both have been very active in the Jewish Centers movement. Hersch has previously served as president of the Westside Jewish Community Center and vice president of the Jewish Centers Association. He is currently president of the National Association of Jewish Legislators.

It is our distinct honor and pleasure to ask our colleagues to join the Democratic Party of the San Fernando Valley in honoring Herschel and Pat Rosenthal, two of southern California's most outstanding citizens.

ALTERNATIVE ENERGY CONSERVATION BUDGET IS INTRODUCED

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mrs. LLOYD. Mr. Speaker, today, I am submitting for the RECORD, the overview of the alternative budget for energy conservation for fiscal year 1989. The budget, which was prepared and will be presented by the Energy

Conservation Coalition [ECC] and other concerned organizations, provides a reasonable and far more rational funding alternative for energy conservation programs than that which was contained in the Department of Energy's fiscal year 1989 budget submission.

The "going-out-of-business" energy budget submissions of recent years would have decimated research and development activities in fossil, renewable, and energy conservation. Fortunately, the Congress has restored funds to continue those activities, albeit at reduced levels. Energy conservation has been a remarkable success since the mid-1970's when a national program was begun in earnest. Energy savings since 1973 are estimated to be at $130 billion per year. Clearly, the programs impressive gains would not have occurred without some Federal assistance. We should not become apathetic to the benefits of energy conservation because of our previous successes, although the savings are impressive.

I believe that even more progress in energy savings is attainable and that the Government still has a role in encouraging and supporting technology development. In this regard, my friend and colleague, Mr. PHIL SHARP and I introduced H.R. 4226, the Renewable Energy and Energy Conservation Act. The purpose of the legislation is to reaffirm the importance of our national energy policy; to focus on continued research and development and to expand commercial markets for those technologies both here and abroad. At a time when foreign countries are subsidizing energy research and development I believe it is important to offer a Federal funding commitment at a realistic and stable level for the next 3 years. The bill offers clear guidance and direction to future efforts for both energy conservation and renewable energy research and development programs.

I applaud the efforts of the Energy Conservation Coalition and would encourage Members to support their recommendations.

ALTERNATIVE BUDGET FOR ENERGY CONSERVATION FISCAL YEAR 1989

OVERVIEW

Introduction

The Alternative Budget for Energy Conservation recommends a total of $439.2 million for Federal energy conservation programs, an 19.0% increase above FY 1988 appropriations (see tables on pages 2 & 3). State and Local Assistance programs would receive $247.1 million, while Conservation R&D would receive $192.1 million. In real dollars, this is less than was appropriated in FY 1986. The alternative budget represents a modest proposal for restoring balance to the federal energy budget. It should be viewed as a first step toward significantly higher levels of funding for energy conservation that sound energy and economic policy dictates.

The President's proposed FY 1989 Budget would cut conservation programs 74.2% below FY 1988 appropriation levels, from $368.3 to $94.9 million. State and Local Assistance programs would be reduced by 96% from $212.1 million to $8.6 million, and Research and Development (R&D) program funds would be cut 55.2%, from $156.2 million to $86.3 million. Unfortunately, these deep cuts reinforce a long-established trend of decreased federal funding for conservation programs. Conservation now only accounts for one-half of 1% of the Department of Energy's proposed $16.1 billion budget.

Energy conservation is the fastest growing energy source in the U.S. economy; energy efficiency improvements made since 1973 are now saving the U.S. an estimated $130 billion per year. These enormous savings are largely due to the private sector, which responded rapidly and effectively to the energy price rises of the 1970's. But the federal government also played an important role in fostering these improvements. In areas where there was little or no likelihood of the private sector making improvements, such as weatherizing low-income housing, the federal government took a lead role. In other areas, such as technology development, the federal government formed cooperative arrangements with private industry that led to important efficiency advances.

However, this rapid trend toward improved energy efficiency may have stopped. Preliminary data from the Energy Information Administration indicate that the amount of energy consumed per unit of GNP may not have gone down in 1987. If correct, this will be the first time that U.S. energy efficiency has not improved in over ten years. Given that we have sharply cut our investment in energy efficiency, this turnaround should not be a surprise. There is a substantial lag between the time we invest in the development of new technologies and the time we reap their benefits. Past investments in new energy efficiency technologies may have carried us through most of the 1980's, but sharp cuts in energy efficiency expenditures during these years will affect future improvements in energy efficiency. Perhaps we are seeing the first signs of that reduced investment.

FISCAL YEAR 1989 "ALTERNATIVE" BUDGET RECOMMENDATIONS, DEPARTMENT OF ENERGY, SUMMARY OF ESTIMATES BY APPROPRIATION BY MAJOR ACTIVITY

[In thousands of dollars]

	Fiscal year—					Alternative versus Fiscal Year 1988	Alternative versus request
	1980 actual	1986 actual	1988 appropriation	1989 DOE request	1989 alternative		
ENERGY CONSERVATION							
I. Energy conservation R&D:							
A. Transportation	$109,500	57,457	51,828	28,382	55,100	+3,272	+26,718
New initiatives			0	0	5,400	+5,400	+5,400
B. Industrial	58,200	40,708	33,094	16,452	32,600	−494	+16,148
New initiatives			0	0	4,100	+4,100	+4,100
C. Buildings and community systems	98,300	37,862	33,596	14,950	47,250	+13,454	+32,300
New initiatives			1,050	0	8,700	+7,650	+8,700
D. Multi-Sector	77,800	25,922	29,003	24,157	34,075	+5,072	+9,918
New initiatives			0	0	2,500	+2,500	2,500
E. Policy and management	NA	1,726	1,662	2,386	2,386	+724	0
F. Facilities			6,000	0	0	−6,000	0
Subtotal, conservation R&D	343,800	163,675	156,233	86,327	192,111	+35,878	+105,784
II. State and local assistance programs:							
A. Institutional Conservative Program (schools and hospitals)	143,800	44,888	25,156	0	35,600	+10,444	+35,600
B. State Energy conservative Program (EPCA) grants)	37,800	17,903	9,159	0	18,800	+9,281	+18,800
C. Energy Extension Service	25,000	7,300	3,968	0	6,000	+2,032	+6,000
D. Weatherization Assistance program	199,000	182,084	161,357	0	168,000	+6,643	+168,000
E. Territories assistance	NA	476	0	0	200	+200	+200
F. Program direction	NA	9,745	12,095	8,605	18,500	+6,405	+9,895
G. Other	26,200	NA	NA	NA	NA	NA	NA
Subtotal, State and local assistance programs	431,800	261,920	212,095	8,605	247,100	+35,005	+238,495
Total, energy conservation	775,600	425,595	368,328	94,932	439,211	+70,883	+344,279

It is time to revitalize the deteriorating federal commitment to energy efficiency. Successful and productive federal energy conservation programs deserve funding increases and will sow the seeds for future increases in energy efficiency.

Establishing Federal energy priorities

Federal energy appropriations should be based upon potential for meeting important national needs. The following are important issues the Congress should consider when funding DOE energy programs:

Meeting Energy Needs Cost Effectively: Numerous studies conclude that the U.S. could further reduce its annual energy bill from $360 billion to $280 billion or less by employing energy conservation technologies and measures that are less costly than acquiring energy from conventional supplies. For example, saving energy by installing low-emissivity windows—an energy saving product developed through a federal program—costs about $2 per million Btu of energy saved, which is less than half the cost of natural gas. These technologies and measures are also highly cost-effective for consumers.

Reducing Oil Imports: Energy conservation can reduce oil imports and stretch the United States' diminishing domestic oil supplies. U.S. dependence on foreign oil has surged from 27% of oil consumption in 1985 to 37% by the end of 1987. In fact, oil imports accounted for more than 25% of the U.S. trade deficit in 1987. Oil imports would be even higher without the significant strides in energy conservation made over the last decade. If the U.S. economy still consumed oil and gas at the 1973 rate, we would be consuming an additional 13 million barrels of oil equivalent per day, almost half of OPEC's production capacity.

Improving America's International Competitiveness: Continued advances in energy-saving technology can play a key role in assuring the competitiveness of U.S. industry in the world market. Over the past decade, American automakers lost one-fourth of the global market to fuel-efficient Japanese cars. A similar challenge to our domestic and international market is emerging from foreign competitors in lighting, heating and air conditioning, motors, appliances, manufacturing equipment, and industrial processes. Unfortunately, as the President's Commission on Industrial Competitiveness Report noted, America has recently lost global market shares in 7 out of 10 high technology market areas despite leadership in developing high technology products. R&D in energy efficiency can help reverse this trend and insure against further erosion of competitiveness. For example, a federal conservation program to develop gas-fired heat pumps, which are at least 50% more efficient than today's most efficient gas furnaces, is competing directly with a similar Japanese program.

Improving Environmental Quality: Energy conservation reduces energy use and thus decreases environmental harm resulting from the exploration, production, transportation, and consumption of energy. A 1983 National Science Foundation report concluded that energy conservation provides the most important opportunity to ameliorate carbon dioxide accumulation—the greenhouse effect—caused primarily by burning fossil fuels. Recent studies have demonstrated that energy conservation can play a major role in reducing the cost of pollution abatement. Energy conservation can also play a significant role in reducing acid rain emissions, destruction of the ozone layer, thermal and solid waste, and nuclear waste.

Improving Quality of Life for Low-Income and Disadvantaged Households: While energy prices are important for everyone, they have special importance for the disadvantaged. Increases in energy prices have a disproportionate effect on low- and fixed-income citizens. Low-income families generally have the least energy efficient homes. In 1986, low-income households used 14-15% of their income for energy bills, three times the national average. Weatherization programs can assist the neediest families and also extend the benefits of assistance programs.

Energy conservation receives high marks in meeting each of these national needs and, therefore, funding for essential R&D and State/Local Assistance programs needs to be restored.

Research and development programs

New R&D Initiatives: The Alternative Budget proposes seventeen new initiatives to augment existing lean research programs. In the Buildings and Community Systems Program, new initiatives include an effort to combine research on improving the efficiency of commercial buildings with efforts to improve the energy efficiency of federal buildings, which could ultimately save taxpayers hundreds of millions of dollars annually. In the Industrial program, a new initiative is proposed to improve the energy efficiency of glass processing, an energy-intensive process that desperately needs improvement. New initiatives for the Transportation Program include an effort to apply new glass technology from the buildings sector to transportation to reduce solar heat gain in cars and thus substantially reduce the amount of fuel consumed by auto air conditioners. In the Multi-Sector Program, a new initiative is proposed to evaluate and distribute information addressing environmental problems through improved energy efficiency. Recent research shows that incorporating energy efficiency improvements into pollution control programs can substantially cut costs of pollution control. For further information on R&D new initiatives, a complete list of titles is attached.

New Initiatives Request: $21.7 million.

Transportation: The Transportation Program develops advanced technologies for automobiles and light trucks, advanced battery designs for electric vehicles, and technological options that enhance fuel flexibility for alternative fuels such as methanol. Current research projects include development of gas turbine engines with greater fuel efficiencies than conventional engines, and engine parts that can withstand very high temperatures. DOE supports research through arrangements with industry and research institutions that contribute from 20-50% of costs.

Alternative budget request: $60.5 million.

Industrial: DOE's Industrial Program advances energy efficiency for many U.S. industries including chemicals, petroleum, metals, pulp and paper, food, textiles, and machinery. The competitiveness of many industries is directly tied to energy consumption because many of America's languishing industries are energy-intensive. The Industrial R&D program emphasizes cooperative government/industry efforts to identify technological needs for energy conservation and high priority projects that are not being pursued by the private sector. The program has been very successful in developing technologies that are now commercially available or just entering the marketplace. For example, an R&D project developed in conjunction with United Merchants successfully demonstrated a process for finishing textiles that drastically reduces energy consumption and doubles the production rate. The process, known as foam finishing, has been widely adopted by the textile industry and had saved 3.6 trillion Btus of energy by 1987.

Alternative budget request: $36.7 million.

Buildings and Community Systems: The Buildings program supports research to better understand the nature of energy consumption in buildings; develop new technologies for building equipment and components (e.g. heat pumps, windows, and lighting); prepare better building design tools, standards and guidelines; improve the energy efficiency of existing buildings; and improve indoor air quality. The Community Systems part of the program develops new methods to improve energy efficiency and management at the community level, such as district heating and cooling systems. Buildings and community systems R&D provides enormous savings by accelerating the commercialization of new technologies. For instance, a one-time Federal investment of $5 million in the development of more efficient lighting controls (solid-state ballasts) and windows that reflect heat (low-emissivity windows) is projected to save users $38 billion over the five years by which the federal government advanced commercialization of these products—a return on federal investment dollars of 7,000 to 1.

Alternative budget request: $56.0 million.

Multi-Sector: This program conducts basic research applicable to all consuming sectors on combustion and thermal sciences, materials, biological and non-biological chemical conversion (such as ethanol production), and tribology (the study of friction, wear, and lubrication). In addition, the program promotes the development of promising technologies that probably not be commercialized without federal funding. The multi-sector budget also includes support for the National Appropriate Technology Assistance Service (NATAS), which provides technical assistance to individual homeowners, small business owners, and others.

Alternative budget request: $36.6 million.

State and local assistance programs

Institutional Conservation Programs (ICP): Also known as the Schools and Hospitals program, ICP was established to encourage energy conservation initatives in public and non-profit institutional buildings where energy consumption represents a significant percentage of operating budgets. Through FY 1967, the program has awarded 21,000 grants for energy conservation projects in over 59,000 schools and hospitals. The program has been highly successful. For example, each program grant dollar made in California is estimated to save $11 worth of energy. $64 million in conservation investments made in California during 1979-84, half of which were federal grants, now produce annual energy savings of more than $25 million. In Washington State, $12 million worth of ICP grants have resulted in $4 million worth of annual energy savings.

Alternative budget request: $35.6 million.

State Energy Conservation Programs (SECP): SECP supports innovative energy efficiency programs for all sectors of the economy to help states meet localized energy needs, while also benefiting local economies. For example, the Alaska Department of Community and Regional Affairs developed an energy mortgage valuation program to encourage the construction of more efficient homes by rewarding buyers of these homes a 2% credit on the debt-to-income ratio of their mortgage loans. The New York State Energy Office developed a below-market interest rate loan program to finance energy efficiency improvements for small industrial and commercial firms, not-for-profit organizations, and owners of multi-family dwellings. Arizona initiated a solar development plan that encourages solar energy business development and the utilization of solar energy for all sectors of the economy. Cumulative energy savings from SECP activities totaled approximately 670.7 million barrels of oil equivalent between 1977 and 1983.

New programs recommended for the FY 1989 State Energy Conservation Program include: (1) expanding the state role in helping establish energy efficient technologies in the marketplace; (2) enhancing state energy emergency planning capabilities; and (3) encouraging new state initiatives that include innovative energy financing, integrated (least-cost) energy planning, new programs in transportation and industrial energy efficiency, and promoting alternative transportation fuels and renewable resources.

Alternative budget request: $18.8 million.

Energy Extension Service (EES): EES provides information and technical assistance for small businesses, local governments, and homeowners on energy conservation and renewable energy options. EES programs are diverse and innovative. For instance, the Washington Energy Extension Service has developed an irrigation system audit guide and a computer program on water scheduling to help farmers reduce irrigation energy costs. The Maryland Small Town Energy Education Program has helped 30 towns design economical conservation strategies by providing free energy audits of their municipal buildings and water treatment plants and advising them on street lighting efficiency improvements. EES programs leverage federal dollars with local funds to achieve maximum conservation benefits.

Alternative budget request: $6.0 million.

Weatherization Assistance Program (WAP): WAP was developed to improve the energy efficiency of low-income housing, particularly those of the elderly and handicapped, and to reduce the energy costs of low-income consumers. National surveys have concluded that an average WAP expenditure of $1,100 per dwelling reduces annual household energy bills an average of 10-20%, making room in household budgets for other essential goods and services. While it is estimated that approximately 17.6 million households are eligible to receive assistance under WAP, only 3 million low-income homes were weatherized as of 1986. FY 1988 funding will enable states to weatherize only 150,000 dwellings. A modest goal of completing half of the eligible single-family buildings and priority multi-family buildings would cost approximately $7.5 billion.

Alternative budget request: $168.0 million.

CONCLUSION

We urge the Congress to reject the Administration's minimal request for Federal energy conservation programs and provide funding commensurate with national needs and energy efficiency opportunities. As stated above, energy conservation is the easiest and most economical way to meet U.S. energy needs. It reduces oil imports, improves U.S. international competitiveness, improves environmental quality, and helps reduce the burden on those with low and fixed incomes. The Congress is further requested to fund the promising new R&D initiatives that will assure future energy efficiency gains will match those of the past dozen years.

ALTERNATIVE BUDGET FOR ENERGY CONSERVATION

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. SHARP. Mr. Speaker, I am pleased to join my friend and colleague, Mrs. LLOYD, in calling attention to the alternative budget for energy conservation.

The proposed levels of funding in this budget are similar to those included in H.R. 4226, the Renewable Energy and Energy Conservation Act, which we recently introduced.

Both the budget and the bill reflect my belief that energy efficiency is a neglected and critically important element in our national energy future. Too often we think of conservation as sweaters and lowered thermostats; in fact we need to focus on it as a tool to make more efficient use of our resources, enhance our competitiveness, and improve our lives.

THE IMPORTANCE OF ENERGY CONSERVATION

Efficiency has already saved the United States tremendous amounts of energy. Between 1973 and 1985 the GNP grew 33 percent while energy use has stayed steady at 73 quads. If the economy had continued to grow at the same level of energy use per GNP, we would have used an additional 25 quads. That 25 quads is more energy than the total new supplies from all other forms of energy since 1973. It also represents an estimated $150 billion savings per year.

Compared to historical trends, our savings in oil and gas alone equal roughly half of OPEC's current capacity. This reduction in demand was a major factor in reducing OPEC's grip on the market.

There is much additional efficiency left to exploit in the economy. Various studies estimate there are between 5 and 18 million barrels of oil equivalent per day of efficiency improvements available in our economy. Many of these savings are available at fractions of the cost of new supply.

Many exciting efficiency technologies are available to us such as heat mirror glass, electronic ballasts for fluorescent lights, cars in the 30 to 50 miles per gallon range, and refrigerators, air-conditioners and furnaces that use far less energy while offering the same comfort and convenience.

Just as renewable energy can help with the trade deficit, so can energy efficiency. Obviously, greater efficiency can reduce imports. In addition, lower energy costs mean lower production costs and hence more competitive U.S. products.

There is also a burgeoning world market for efficient products including appliances, efficient motors and motor controls, automobiles and computerized energy management systems. Federal research and development can help us enhance our competitive edge in these growing markets.

The alternative budget for energy conservation details the many ways the U.S. Government can responsibly improve its efforts and regain its lost leadership in this critical area.

IN HONOR OF ALAN I. CASDEN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to a very distinguished citizen, Alan Casden. Alan's effectiveness, conviction, dedication, and generosity are qualities that have made him one of the leaders of our community. I am also pleased to call Alan and his wife Nancy very special friends.

Alan Casden is appropriately being honored with the University of Southern California's School of Accounting Outstanding Service Award, the 1988 Distinguished Alumnus Award. The 29th annual accounting awards dinner will take place on Tuesday, April 19.

Alan Casden has an impressive background of philanthropic, civic, and professional accomplishments. Alan is chairman of CoastFed Properties and the Casden Co. Under Alan's guidance, CoastFed Properties has grown from a small but successful builder of rental projects to its current status as one of the Nation's largest diversified real estate development and syndication companies.

Mr. Casden, having graduated cum laude in 1968, has remained an active alumnus of the University of Southern California. He has served on the board of councilors of the School of Business Administration and the board of advisors of the School of Accounting. He is a life member of the USC Associates, the university's premier support group. He also holds membership in the USC Accounting Circle, the USC Trojan Club, and he has personally supported the School of Accounting Building Fund Campaign.

Alan Casden's professional activities include membership in the American Institute of Certified Public Accountants, the California Society of Certified Public Accountants and the President's Council of the Building Industry Association and Land Institute. Mr. Casden was recently appointed as a member of the Senate Advisory Commission on Cost Control in State Government and to the special "Planned Growth and Development Task Force" for the Los Angeles West Chamber of Commerce.

Mr. Casden is involved in many civic and philanthropic causes as well. He served as chairman of the State of Israel bonds campaign in Los Angeles in 1986 and currently is chairman of the executive committee and a national vice chairman. He is a member of Hebrew University Society of Founders, and is a trustee of the Stephen Wise Temple. He currently serves as president of the Southern California region of AIPAC.

Throughout all his endeavors, Alan has enjoyed the love and support of his family, including his marvelous wife Nancy, and their two terrific sons, Aaron and Arik. It is with tremendous pleasure that I ask my distinguished colleagues of the U.S. House of Representatives to join me in congratulating Alan Casden on another job well done.

IN SUPPORT OF AMERICAN CREWS ON AMERICAN VESSELS AND AIRCRAFT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. BIAGGI. Mr. Speaker, on March 22, the House voted to support the American worker and passed H.R. 285, which bars the use of foreign workers during the course of a labor dispute. I am a proud cosponsor of the legislation, which closes a dangerous loophole in our immigration laws. In the event of a labor dispute, alien workers would no longer be admitted to the United States to take the jobs of Americans working on U.S. vessels and airplanes.

Under current law, most nonimmigrant aliens are specifically prohibited from working when Americans are on strike. One category of nonimmigrant alien—crews working on vessels or aircraft during international trips—may be admitted during a strike or lockout. H.R. 285 protects American workers involved in labor disputes from unfair competition and allows the U.S. Government to remain neutral in these disputes. Further, nothing in the legislation prohibits the American maritime and aviation industries from using American workers as strikebreakers.

H.R. 285 furthers the goal of ensuring that American workers crew American vessels and aircraft. The measure passed the House after careful study and with widespread bipartisan support.

STRATEGIC WEAPONS: WHAT WE ARE GETTING FOR OUR MONEY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. ASPIN. Mr. Speaker, today I begin a series of speeches evaluating our major strategic weapons. Activity in this area has been extraordinary. Dollars by the tens of billions are going into cruise missiles, bombers and ballistic missiles. What I will talk about in this set of speeches is what we are getting for the money.

Today's speech is about the ballistic missile programs—MX, D-5, and small ICBM. Other speeches will discuss the bomber and cruise missile programs. A final speech will cover the lessons learned from all of them.

I will not deal in these speeches with arms control implications. My concern in these speeches is how well these programs have been managed. They will be judged by whether they are one, on schedule, two, within cost and three, meeting performance standards, as well as the over all management.

In these speeches I will be drawing on an extensive series of reports released over the past year by the House Armed Services Committee. The committee has conducted a series of hearings and written reports on all of the weapon systems covered by these speeches. The committee reports are, of course, a committee product. This set of speeches, while drawing on the reports, is my own.

I will examine the cost performance of the programs compared to their own predictions, not in absolute terms, nor compared to other systems. Obviously, a missile that requires a submarine to take it to its alert station is going to be a more costly proposition than one that sits in a fixed silo in the ground. Similarly, schedule will be measured against the programs own predictions.

On performance, the yardstick is the total capability of the force deployed to date. If only some of the units now in the field are fully operational, as we shall see with MX, then the total performance assessment must suffer accordingly. Some of the systems reviewed have not reached the deployment stage. Of those, we will have to reserve judgment on performance.

Management is a complex issue. It is, in part the orchestrating of these other elements. But more is involved. I will examine not only how well the program managers have done, but also whether they have structured their programs for success. Here comparisons are useful, as I will make plain.

Timing is important. The House this month takes up the defense authorization bill that the Armed Services Committee recently completed. I hope to contribute to the debate on this bill with this series of speeches.

First, I'll deal with ballistic missiles. In subsequent speeches, I will review the two strategic bombers, the two cruise missiles programs, and finally I will offer an overall assessment of our strategic effort. To help clarify these issues, I've given a grade to each system in each of the critical areas of management, schedule, cost and performance. At first glance, the grades could be misleading. That's because not all categories are of equal importance. One "A" is not as good as another, as we shall see. The fact is, dean's list material is not plentiful among the ballistic missile systems.

Today I will discuss the Air Force's small ICBM and MX missile along with its proposed rail garrison basing, and the Navy's submarine-based Trident D-5 missile. These systems represent the future of two legs of our deterrent triad of strategic forces.

The table displays my evaluations.

BALLISTIC MISSILE REPORT CARD

Program	MX	Rail	Small CBM	Tri dent D-5
Management	C–	C	B+	A
Schedule	A	B	A	A
Cost	A	A	A	A
Performance	D	(1)	(1)	(1)

[1] System has not yet reached initial operating capability and is therefore not graded in this category.

Let's now look at the individual systems, starting with the MX. In late 1985, Congress agreed to limit the deployment of MX missiles to 50 in Minuteman silos. Additional missiles would be deployed—according to that agreement—only when and if an alternative basing mode was developed and approved by the Congress.

I give MX an A for cost because it has been kept within bounds established early in the program. Likewise, the missile met what is called the initial operational capability [IOC] date, that is the date on which there are enough weapons on hand to be militarily useful. The IOC called for 10 deployed MX's by December 1986, and in December of 1986, there were 10 deployed MX's. So, an A for schedule.

In other regards, the missile is not doing so well. The problem with the MX has been late deliveries and poor production of the guidance system—a vital element called an Inertial Measurement Unit or IMU. There are 33 MX's now deployed, but only two-thirds of them have a workable IMU. Without the IMU, MX can't be guided to the target.

Lagging IMU deliveries are still a problem. Northrop Corporation's Electronics Division, the IMU producer, is beginning to show some progress, but questions will remain until a sufficient number of IMUs are delivered. Already a number of promised get-well dates have come and gone without the IMU getting well. The Air Force has selected a second source to produce the complex units and that should help.

Thus, the performance of the program rates a grade of D.

The program also received low grade for management for a number of reasons. MX managers demanded more IMU production than was needed early in the program—that is, the program was "front-loaded". The producer, Northrop Electronics Division, encountered severe problems in turning out the complex components. Production rates fell and test results on the units were falsified in order to move more units out the door to meet the Air Force's unreasonable schedules.

These problems prompted the committee to direct the Secretary of Defense in this year's authorization bill to maintain an alternate program—the stellar inertial guidance system—for potential use on MX or a small ICBM.

Overall, the management of the MX program seems to have placed more stress on cost and schedule than performance. It is a trend of Reagan administration strategic programs that I will return to in later speeches. And it is a sure sign of poor management. The grade given for MX program management is C-minus.

The schedule for full operational capability (FOC) requires that all 50 missiles be in Minuteman silos by December 1988. This may be a problem even without the difficulties with the IMU. The tragic fire involving an MX first stage last December at the plant of the producer, Morton-Thiokol, will cause at least a 5-month halt in rocket production. This may make it difficult to meet the planned date for full operational capability.

Let us now turn to the rail garrison basing mode for MX. Rail garrison MX become inextricably bound up with the small ICBM (Midgetman) program. A few years ago we might have gone ahead with both, as we did with both the B-1 and the stealth or advanced technology bomber. But we are in leaner times now and we are forced to see these systems as competitors.

Rail garrison is the administration's response to congressional direction to come up with a basing mode other than silos before seeking to deploy another 50 MX missiles. The plan would put two MX missiles in each of 25 special trains that would be parked on Strategic Air Command bases. In times of international crisis, they would be dispersed onto the Nation's rail lines to prevent an adversary from targeting them with ICBMs.

Management of this program I rated a C chiefly because of concern about concurrency—the telescoping of development and procurement processes so that a decision to buy comes before all testing is complete. Rail garrison puts a particular twist on this. The plan calls for the hardware to be chosen before a formal plan for using the system is due to be completed. Management of the program also rated a C because it has given too little weight to the potential political and security problems associated with this type of mobile system.

The service has eased the concurrency issue somewhat by postponing the date at which it will go to full-scale development. Granted, producing a rail system is not as technologically demanding as some strategic system, but then we all thought patching together several existing components to make the Sergeant York air defense gun was no challenge, either. So, the House Armed Services Committee in the 1989 authorization bill is directing the Secretary of Defense to review program concurrency and report with next year's budget. The schedule slippage, however, earned the program a B in that category.

I'm also concerned that rail garrison may not have adequately dealt with all the potential political and security issues. To make sure they receive rigorous examination, the authorization bill requires that the Defense Department submit to the committee a report on a thorough-going "Red Team" analysis of rail garrison. Along with that, we're directing the National Academy of Sciences in conjunction with the Nuclear Regulatory Commission to evaluate rail garrison operational issues, particularly public reaction and the involvement of civilian railroad employees. We've asked for a report by March 1, 1989. The FBI has also been directed to look into the vulnerability of rail garrison to domestic saboteurs and protesters.

Rail garrison has stayed within cost and thus received an A. Its IOC is scheduled for late 1991 so its performance cannot be judged yet.

I turn now to the competitor of the rail MX, the small ICBM or Midgetman. The Midgetman's high mark for management, a B-plus, is due in part to events that occurred before it began. The first was the work of a Presidential Commission headed by retired Air Force Gen. Brent Scowcroft, former National Security Adviser under President Ford. The Scowcroft Commission set out a clear description of what the small missile should be. Second, it benefited from the work of another panel headed by another retired Air Force general officer, Bernard A. Schriever, which set out an acquisition strategy involving competition, aggressive cost management and a realistic schedule.

While an expensive program in absolute numbers, the small missile's cost estimates have gone down as the program has progressed, earning the A for cost. The schedule has been maintained, as well. Both are now threatened, however, by forces beyond the control of the program's management.

In January, the administration proposed termination of the SICBM in September 1989. While the next administration obviously can restart the program, the $200 million requested for fiscal year 1989 by the Defense Department to preserve SICBM into the next administration is inadequate. The contractor and subcontractor base supporting the SICBM would dissolve, and the program would be delayed 2 to 3 years if it were then restarted. The Armed Services Committee has responded by taking the $200 million requested for the SICBM and the $800 million requested for rail garrison, combining the funds and splitting them equally—$500 million for each program.

Perhaps a reason for the management stability in the SICBM is the absence of excessive outside interference. Let me illustrate this with the following example.

During the early 1970's, a rivalry existed within the Air Force. On one side were the supporters of the B-1; on the other side were those pushing the standoff capability of cruise missiles. Both systems were competing for the same mission. Thus, the rivalry and debate: cruise missiles versus the B-1 bomber. While the B-1 was the focus of the furious public debate, work on cruise missiles went forward. Today, while the B-1 remains at the center of debate, hundreds of air-launched cruise missiles have been deployed and their strategic value is unquestioned.

Like the debate in the seventies over the B-1, a current rivalry pits those favoring the deployment of a small, survivable missile against those supporting more 10-warhead MX's. With the administration strongly behind the MX, there has been a certain internal indifference toward the SICBM. Yet, like the cruise missile of a decade earlier, this indifference is not all bad.

Free from the high visibility and turbulence, the small missile—until the recent budget restructuring—was meeting the acquisition milestones outlined in the 1983 program baseline. For instance, in the immediate days after the Scowcroft report, there were those in the Department of Defense who argued that SICBM costs could exceed $60 billion. Yet the program history indicates just the opposite. Rather than increasing, costs for a 500-missile program are declining. The current cost estimate is $38 billion which puts the program in the same fiscal ball park as many other programs, including the advanced technology bomber.

Midgetman IOC is in late 1992 so we can't yet judge its performance. I give management a B-plus, but only to differentiate it from the Trident II D-5 missile program, the best-managed program I've seen. But the Midgetman is a very well-managed program.

Let's now turn to our straight-A missile, the Trident D-5. It receives high marks in every category. It has sound program management and a realistic and prudent schedule.

Again, I am unable to assess performance because the D-5 will not reach IOC until December 1989. And, we must recognize that even the best run programs can run into difficulties. This one is still young. So far, it is on cost and schedule, however, earning A's in those categories.

What gives the D-5 program its management success is a unique, cocoon-like organization called the Strategic Systems Program Office [SSPO]. This is a self-contained acquisition system—distinct and separate from the regular Navy—that controls all aspects of D-5 acquisition.

When the Navy first got into the missile submarine business back in the mid-1950's, there was the traditional intra-service resistance toward the new mission. As a consequence, the missile office was pushed into an isolated and self-contained unit which, in the three decades of its existence, has been noted for stability and continuity of management.

When the MX program ran into the first of several political problems in the early 1980's, there were those within the Department of Defense suggesting that the D-5 should be accelerated. SSPO officials resisted this acceleration and the baseline schedule did not change. This kind of schedule stability, and the simple fact that the full scale development process was not rushed to meet short term political goals but instead was structured to meet the system's technical gestation, is a prime reason why this system seems headed for success.

Beyond that, the committee report on the D-5 identified five key reasons that Trident II is an exemplary program:

First, the Navy has created a "no-coverup culture" in which early discovery of problems is rewarded.

Second, there has been continuity in management unmatched by other programs.

Third, the Trident missile program office has authority commensurate with its responsibility.

The fourth element is the "lust to dust" responsibility the program office has for its missiles. Most weapons developers are responsible only through early production. The Trident office manages the entire life cycle, removing any incentive to solve programs in the development stage at the expense of reliability and logistics.

Last, the program has avoided novelty for its own sake, inventing only what it must and building on proven technologies when it could.

The management of the Trident missiles provides lessons that could be applied throughout the Defense Department as we shall see in subsequent speeches on strategic systems.

The strategic buildup has produced two well-managed ballistic missile programs, the D-5 and the Midgetman, although the small missile cost and schedule performance are threatened by administration action to curtail or terminate the program.

After more than a decade of controversy, MX remains troubling and troubled. The only operational system among the new missiles, its performance rates a D.

Let me caution here against the temptation to produce an overall grade for each of these systems from the report card. Three of the four can't be judged on performance and that is an important category. If an overall grade were to be given, the categories would have to be weighted, with performance counting for as much as—perhaps more than—the others combined. Finally, there is the question of degree of difficulty. While it may not be too evident in comparing ballistic missiles, other systems have marked differences in just how hard they are to produce. Producing the stealth bomber is much more difficult a job than building B-1B. The degree of difficulty ought to be factored into any overall grade. In the end, I decided against trying to assign an overall grade to the systems.

What we can draw from the report card is a sense of how these programs are performing in the acquisition process. And excellence is the key standard for evaluating acquisition of strategic ballistic missiles.

What we are buying with strategic systems—or should be buying—is credibility as well as capability. These weapons have to be perceived not only in Washington but in the rest of the country as robust and safe and under control. And because it is the Kremlin we're deterring, ICBM's must be utterly convincing in the silo and at sea so we'll never have to find out if they really work.

To assure ourselves of this kind of credibility in these weapons, we must have an acquisition process that is confidence building, not confidence eroding. We don't always get that.

TRIBUTE TO THE LATE HONORABLE HAROLD T. "BIZZ" JOHNSON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 12, 1988

Mr. LAGOMARSINO. Mr. Speaker, between the ides of March and the advent of spring, we lost one of our own. Elected 10 times by his friends and constituents in California's massive First District, Bizz Johnson served 22 years in the House of Representatives. He was also a veteran of the California Senate from the days when a handful of powerful northern senators held sway over those from the south.

Being a Californian and a veteran of its senate, myself, I can only say one thing about Bizz Johnson—why couldn't he have been a Republican?

A solid, man's man, Mr. Johnson exhibited a good dose of old time horse sense. I never played poker with him, but he must have been good. He was a straight shooter who seemed never to give in on anything. We could certainly use more of his kind.

Can you imagine being able to chose between the chairmanships of the Interior and the Public Works Committees? Bizz Johnson did just this, chosing the chairmanship of Public Works. Many highway additions, sewer improvements, and water facilities later, California will not soon forget him.

I was one of many who admired this man's abilities and determination. His party, our State, and this body felt his presence in a big way. We feel his absence too. We miss you, Bizz Johnson. God bless you.

FEDERAL BUSINESS CENTERS CELEBRATE 50TH ANNIVERSARY

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to bring to the attention of my colleagues in the House of Representatives a business anniversary celebration which says a great deal about the strength of the American free enterprise system. This year marks the 50th anniversary of the founding of Federal Business Centers, a company whose history I would like to briefly recount.

Mr. Frank Visceglia was born in Bari, Italy, in 1914, and came to the United States at the age of 14. He worked in the coal and ice business with his older brothers in Jersey City, NJ.

In 1938, he founded Federal Business Centers, which consisted solely of the moving and storage of household goods. Over the years, the business branched out into real estate, warehousing, and distribution. In the mid-1960's, Mr. Visceglia purchased the former Raritan Arsenal site in Edison Township. Today, this 2,200-acre site is the east coast's largest industrial and office park, the home of hundreds of businesses and thousands of employees.

Federal Business Centers itself has grown to more than 7,500,000 square feet of space throughout northern New Jersey and provides employment for more than 400 persons. The company is actively managed by Mr. Visceglia and his two sons, Frank and Peter.

Mr. Speaker, I know you would want to join with me in extending the congratulations of the House to Mr. Frank Visceglia on this milestone in his long and successful business career in New Jersey as well as our best wishes for his continued success.

TRIBUTE TO BEATRICE LEWIS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. TORRICELLI. Mr. Speaker, I rise today to honor Mrs. Beatrice Lewis of Teaneck, NJ. As a member of my congressional staff, Beatrice has devoted her time and her abilities to the service of the Senior Citizens of Bergen County.

For over 5 years, since May 1, 1983, Beatrice has represented my congressional office in countless meetings and other gatherings of senior citizens to explain Federal programs concerned with the welfare of the elderly. She has touched thousands of lives as she has interpreted Government policy to anxious citizens overwhelmed by the complexities of our human services. Moreover, she has helped hundreds solve their individual conflicts with medicare, medicaid, food stamps, and dozens of other Federal agencies.

A retired teacher from the New York City School System, Beatrice has spent her retirement years in an unselfish devotion to the needs of others.

It is with great honor and pleasure that I join hundreds of senior citizens of the Ninth Congressional District in paying tribute to Beatrice Lewis. Her spirit and dedication deserve to be recorded in history as part of the CONGRESSIONAL RECORD. I wish her continued health and happiness as she retires this month from her second career.

WORLD POPULATION AWARENESS WEEK

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. SYNAR. Mr. Speaker, House Joint Resolution 148 would declare April 17–23, 1988, "World Population Awareness Week." As a cosponsor of this resolution, I sincerely hope that the observance it authorizes will focus attention on an issue of crucial importance to us all.

In order to draw my colleagues' attention to this issue, I ask that the proclamation of this observance by the Governor of Oklahoma be included in the RECORD.

PROCLAMATION OF THE EXECUTIVE DEPARTMENT, STATE OF OKLAHOMA

Whereas, the world's population has reached 5 billion and is growing at an unprecedented rate of 87 million a year; and

Whereas, rapid population growth causes or intensifies a wide range of grave problems in developing nations, including environmental degradation, urban deterioration, unemployment, malnutrition, hunger, resource depletion and economic stagnation; and

Whereas, 50 percent of the 10 million infant deaths which occur each year and 500,000 maternal deaths in the developing nations could be prevented if voluntary child spacing and maternal health programs could be substantially expanded; and

Whereas, some 500 million people in the developing world want and need facilities relating to family planning but do not have access or means to such information; and

Whereas, the United States historically has been the leading advocate for universally recognizing the basic human right of couples to determine the size and spacing of their families;

Now, therefore, I, Henry Bellmon, Governor of the State of Oklahoma, do hereby proclaim April 17-23, 1988, as "World Population Awareness Week" in the State of Oklahoma.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed.

Done at the Capitol, in the City of Oklahoma City, this 25th day of February, in the Year of Our Lord one thousand nine hundred and eighty-eight, and of the State of Oklahoma the seventy-ninth year.

STATE DEPARTMENT CORRESPONDENCE IN EGYPT-UNITED STATES M1A1 TANK

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. SMITH of Florida. Mr. Speaker, the United States and Egypt are planning to embark on an ambitious project to coproduce our top-of-the-line M1A1 tank.

This project represents a milestone in the military relationship between our two nations. As a result of this arrangement, Egypt not only will be the first foreign country to receive the M1A1, but also the first to join the United States in an M1A1 coproduction venture.

Last year, a high ranking Egyptian Government official made troubling statements concerning Egypt's desire to export the M1A1 to an Egyptian ally in the Middle East. This statement brings into question Egypt's and the State Department's understanding, or lack of understanding, of current arms exporting laws as they would apply to the coproduction agreement. Section 3(d)2(a) of the Arms Export Control Act clearly states that Congress shall have 30 days to review proposed "third country transfers." During this 30-day period, Congress has the authority to disapprove of a foreign country's request to reexport U.S. defense equipment.

To verify this point, on March 15, I asked Assistant Secretary of State Richard Murphy to request from the State Department's Legal Adviser, Judge Abraham Sofaer, an opinion on the applicability of the Arms Export Control Act to the Egypt M1A1 coproduction deal. Judge Sofaer responded by sending me a letter that Assistant Secretary of State J. Edward Fox had written to Chairman HAMILTON outlining the State Department's position on this issue. The letter states unequivocally that the Arms Export Control Act applies to the Egyptian M1A1 coproduction agreement. Specifically, according to Assistant Secretary Fox, "the Department of State shall provide the Congress with a 30-day certification period within which it can review" proposed third country transfers resulting from this coproduction agreement.

For the benefit of my colleagues, I ask that Assistant Secretary Fox's letter be printed in full.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives

DEAR MR. CHAIRMAN: I want to take this opportunity to thank you again for meeting with Mr. Djerejian, Mr. Gnehm, and Mr. McKalip on March 8 to discuss the Administration's proposal to enter into an M1A1 coproduction agreement with the Government of Egypt. The occasion was most helpful in terms of our informing ourselves of Congressional views on this issue, and we hope that you, the members of your Committee in attendance, and your staff also found the meeting useful.

One issue which did come up during the session as one of concern for the Congress was the question of ensuring that any Egyptian request to reexport M1A1 tanks, or components thereof, to a third country would be controlled adequately by the U.S. Government, including providing to Congress an appropriate opportunity to review the request. Regrettably, we were not able to respond fully to the questions posed on this subject. The Department's legal staff subsequently examined this issue and was able to shed some light on the matter. I am now taking the liberty of writing to you in order to complete and correct the record.

Section 3(d)(1) of the Arms Export Control Act stipulates that, prior to consenting to any request to re-transfer major defense equipment (MDE) valued at $14 million or more and provided under a Foreign Military Sales case, the Department of State shall provide the Congress with a 30-day certification period within which it can review the proposal. The only exception to this rule is applicable upon a Presidential certification of emergency. The notification and wait procedures of Section 3(d)(1) would apply to any request by the Government of Egypt to retransfer M1A1 tanks assembled in Egypt using parts or services procured by Egypt through the FMS cases underlying our coproduction agreement.

As was mentioned during the March 8 meeting, the AECA also stipulates that the Administration cannot approve the transfer of any U.S. military equipment to a country to which we would not transfer such equipment directly from the United States.

Our understanding of the concerns expressed during our March 8 meeting was that Congress should be given sufficient opportunity to review a notification by the Department of State of its intention to consent to an Egyptian request to retransfer this equipment. The provisions of the Arms Export Control Act as enacted to provide for such a period of review. We do not believe, therefore, that any amendment to existing law or informal agreement between the Administration and the Congress is needed in order to accomplish this end.

I hope that you find this information helpful. I would ask that you make it a part of the official record of our March 8 session. If I can be of any further assistance, please do not hesitate to contact me.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

AMERICA'S LIBERTY—OUR HERITAGE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. TAUKE. Mr. Speaker, I would like to bring to the attention of my colleagues a speech entitled "America's Liberty—Our Heritage," composed by Jennifer Rae Roehr, a young constituent of mine.

Jennifer is the winner from Iowa in a competition involving 300,000 secondary school students. The Voice of Democracy broadcast scriptwriting contest is sponsored annually by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. The VFW has sponsored this program for 28 years, having started with a $1,500 scholarship for the first place national winner; at present, there are nine scholarships totaling $42,500 with the first-place winner receiving a $16,000 scholarship to the college of his/her choice.

A senior at Regis High School, Cedar Rapids, IA, Jennifer is the daughter of James and Margaret Roehr, 4609 Bever Avenue, S.E., Cedar Rapids. Her script demonstrates an interesting insight into the hopes and dreams of millions of immigrants, and she makes a compelling case for preservation of our national heritage of liberty for future generations. Miss Roehr's script follows:

AMERICA'S LIBERTY—OUR HERITAGE

(By Jennifer R. Roehr)

"Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed to me, I lift my lamp beside the golden door!"

For generations, the Statue of Liberty has welcomed millions of immigrants to the shore of America with these words; and somehow, even without knowing the language, they recognized the symbol. They must have felt something in their souls that told them that this was America, that this was where they would find the answers to all of their dreams, along the streets lined with gold.

All soon discovered that the gold lined streets and the golden door Miss Liberty lit up were horrid misinterpretations, as they found themselves in small, dirty flats and at work seven days a week in unsafe and unsanitary factories. They were living in a country that they didn't understand and one that didn't seem to understand them.

After the original disappointment of the wonderland that they had expected, many began to find a faint glimmer of the gold they had heard of. They found it as they began to improve their lives due to their accomplishments, something most had never before experienced. They found it as opportunities opened up around them to change. They found it because of liberty.

This liberty was the gold. It was the major difference between their lives in America and their lives in their homelands, and it was the answer to their dreams. They would now govern their lives, not be governed by the whims of an ancient and callous government. America was fresh and new and full of opportunities.

Liberty was what enabled these pioneers to change their lives. It was what the pilgrims came in search of aboard the Mayflower and what they found. When they found that it was being suppressed by the British, it is what they fought for in the Revolutionary War. It is what our fathers and grandfathers fought for in the World Wars to keep alive for us. They left the security of American shores to fight on foreign soil to share their heritage of liberty with those in less fortunate areas of the world. In the sixties liberty was what the flower children sought to bring back and keep alive, not only for white men, but for every person of every race, color and creed. It is now what we must cherish as our heritage and pass on to every succeeding generation.

But today, in our society that can seem so unbending we sometimes fail to recognize the liberty that we still possess. Every day when we take the time to learn about the world around us and form our opinions, whether good or bad, we are exercising a common freedom. Even as we make our decisions as to what will happen to our lives in the future we are exercising the liberty that brought our ancestors to America.

It may seem that today our liberties are largely diminished from those of our forefathers, but they are simply a bit harder to recognize. For them liberty appeared as anything different from the society that they used to live in. We, on the other hand, live in a society built around the ideals of liberty. It is governed by the Bill of Rights, the most outright display of individual liberties that we know.

Maybe this is why we take our liberties so much for granted. They are law. We live in a country where liberty is law, there is not a lot more than we could ask for. But, if we do not take the time to remind ourselves and to recognize when we use these liberties, we may not recognize if they are ever taken away.

The Statue of Liberty, the struggles of the immigrants and the sacrifies of soliders in wars are all part of our heritage of liberty. We cannot stand by and watch our world change, we must participate in that world and save the liberty that America has given to us for the next generation. This liberty was our heritage and if we can accept and protect it, it will be the heritage of every generation to come.

THE 40TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. SCHUMER. Mr. Speaker, the following two articles appeared recently in a New York Times supplement honoring the 40th anniversary of the State of Israel. I find them both worthy of the widest possible audience, and I ask that they be reprinted here.

A Legacy of Friendship

(Moshe Yegar, Consul General of Israel)

"The Government has been informed that a Jewish State has been proclaimed in Palestine and recognition has been requested by the provisional government thereof. The United States recognizes the provisional government as the de facto authority of the new State of Israel."

With these words, U.S. President Harry S. Truman became, on May 14, 1948, the first world leader to recognize the newly-reborn State of Israel. Truman's statement, which came only eleven minutes after Israel was proclaimed, not only followed the culmination of a 2,000 year dream of the Jewish people to restore their lost sovereignty, but it also represented a milestone in the friendship between the U.S. and Israel. This friendship extends far beyond military and economic concerns of either nation, and far beyond commonality of interests in other areas, which have developed in the past forty years. The alliance is as old as the United States itself, and is based upon a solid foundation of historical antecedents in American society, shared values and ideals, and a common heritage.

Support for the idea of the return of the Jewish people to their homeland is a consistent thread which runs throughout American history from the colonial days until the present. American presidents, from John Quincy Adams onward, continually affirmed this support, which was deeply rooted in the Hebraic tradition practiced by America's founding fathers. In fact, the Hebraic tradition, specifically that embodied in the Old Testament, provided America's colonists with ethical, moral, and legal bases for self-governing institutions, as well as a significant impetus for their revolution against the British. The legacy of the Bible and the idea of the Jews' return to Zion became a basic element of America's ethos and inseparable part of its civilization.

In addition to both countries being founded upon a common concern for a democratic ideal, the histories of the two nations are intricately intertwined. The U.S. and Israel are similarly imbued with a pioneering spirit directly descended from the strife and sacrifice of earlier generations—from the American pioneers who headed west in the mid-nineteenth century, to the early Jewish settlers who set out on a mission to turn the swamps and deserts of the land of Israel into arable land, to the hundreds of thousands of brave souls who came to the shores of both nations and labored endlessly with only one goal in mind—a better world for their children and future generations. Both nations have established themselves as lands of hope and opportunity for the oppressed and downtrodden, and consequently have emerged as societies rich in ethnic diversity, a pluralism of ideas and opinions, and a vibrant cultural heritage. The strength of both nations—in fact the very essence of their progress and success—has been directly derived from those who came to their shores seeking a better and freer life.

Indeed, the multifarious web of common experience between our two nations is irrefutable. Yet, these commonalities serve merely as a backdrop to today's world. The United States is a superpower, with broad global and strategic interests, whose presence is felt around the world, while Israel is a relatively young, small nation, still struggling to achieve peace with and recognition from its belligerent neighbors who use diverse means in their continued harassment of Israel. Occasional big scale war, political, diplomatic or economic war, and terrorism. Only one Arab country, Egypt, accepted so far Israel's extended hand of peace and agreed to sign a peace-agreement with her. Israel is anxiously waiting for other Arab countries to follow suit.

The people and government of Israel are fully cognizant of the continued support of the U.S. as well as of the responsibilities which it entails. As with all relationships, there are indeed times when the alliance is strained. However, Israel's 40th anniversary is an appropriate opportunity to reflect on the fundamental and historical elements of Israel-U.S. friendship. This is the time to emphasize that Israel is fundamentally dedicated to the continual affirmation of the ideals which are equally shared by our two nations, and the maintenance of a societal structure based upon the supremacy of the law, a stable democracy, fundamental human rights, and a high standard of culture, ethics, education and technology.

The past forty years and the accompanying modern age have ushered in a new series of concerns and challenges to the U.S., Israel, and all freedom-loving peoples and nations. Man's mastery of his environment, with its inherent capacity for both constructive good and destructive evil, has forced us to turn our energies to positive cooperative efforts. Threats to our freedom, in the form of international aggression and terrorism and totalitarian regimes have strengthened the need for enhanced cooperation between the democracies, and threats to man's survival such as famine and disease have necessitated technological cooperation and the development of effective means of utilizing our resources. Israel is contributing her modest share in all of these efforts and will continue to do so.

The relationship between our two nations is continually evolving and changing. U.S. Secretary of State George Shultz spoke not only for his fellow Americans but also for most, if not all, Israelis when in an address delivered at the beginning of this year he said: "Israel is a democratic country seeking stability and peace and the ability to pursue its destiny, and we support that country and we support those objectives and we work closely with Israel. . . . Problems come up from time to time; we resolve those problems. Occasionally we disagree, but through all of that this relationship . . . is unshakable . . . . In fact, I suppose the ability to differ occasionally with a friend shows the depth of that friendship." The U.S. and Israel must continue to explore areas of common concern and to work together in formulating means by which we can effectively address them. Through the continued building of bridges between our two nations, cultures, and societies, the relationship which has already given us so much will continue to contribute to the enhancement of our lives, the furtherance of our ideals, and the betterment of our world.

Benjamin Netanyahu—Israel's Ambassador to the United Nations

In the life of a nation, forty years is like the blink of an eye. But in the past four decades, the Jewish People have undergone experiences as monumental as any in their four-thousand year odyssey.

Having died a thousand deaths, the Jews received history's final blow in the Nazi Holocaust. Even so they refused do die. Within a few years they had rebuilt an independent state in their ancestral homeland, fought off vast Arab armies, and liberated their ancient capital. The rise of modern Israel from the ashes is thus the compression of epic events—a people's greatest disaster followed by its greatest triumph.

But it is not merely, or even mainly, a triumph of the sword. It is a triumph of the Jewish spirit. The Jews transformed what Mark Twain described on his visit to the Holy Land as a "barren, desolate expanse" into a flowering and fruitful land. They brought to life an antique tongue and revived their cultural heritage. They established universities, theatres, and concert halls. And amidst the despotisms of the East, they built a vigorous democracy—and what a democracy! Fractious yet fraternal, it is an unabashed expression of Jewish individualism and Jewish tolerance.

Surrounded by enemies sworn to its destruction, Israel has given full political rights to its Arab citizens—the only Arabs anywhere to enjoy such rights. It has fostered free speech and free debate, and the only free press between Europe and India. Over 100 years ago a wise Englishman said, "If we know that a nation is capable of enduring continuous discussion, we know that it is capable of practicing continuous tolerance." He could have been speaking of present day Israel.

And yet Israel's cardinal challenge remains its survival. For most of the Arab world still clings adamantly to its basic grievance—Israel's very existence. The problem has always been not that the Arabs lack a state but that the Jews have one.

Shrewdly, the Arabs have been able to mask this truth. After each war, they present the consequences of their aggression as its cause: "Arab refugees" after 1948, "occupied territories" after 1967. But there was not a single refugee before the 1948 war, nor a single Israeli soldier in Judea, Samaria and Gaza when the Arabs launched their attack in 1967 from these very territories. Each such grievance becomes the justification and rallying cry for the next assault on Israel.

Having failed in war, having failed in terrorism, the Arabs have recently embarked on a new strategy—anarchy. Through a deliberate campaign of mass violence they hope to drive Israel back to the indefensible pre-1967 lines.

The Arabs know that he who controls the heights of Judea-Samaria, controls the fate of Israel. Eighty percent of Israel's population lives in the plain below. And if Israel were to relinquish control of the strategic passes leading from the Jordan River to the Mediterranean, Arab armies could overwhelm the Jewish state. Return to the 1967 boundaries is a prescription not for peace but for catastrophe.

Israel will continue to seek peace with its Arab neighbors and a negotiated settlement on the future of Judea, Samaria and Gaza.

But it will do so mindful of the history that so many wish to forget and the fragile security that it alone must safeguard.

Israel will also seek partners for its effort to rehabilitate Palestinian Arab refugees, used for so long by their fellow Arabs as political pawns and recruits for terror. This is hardly an impossible task. Israel itself has absorbed an equal number of Jewish refugees from Arab lands without the aid of petro dollars and endless territory.

And there are other challenges at home—a political system to reform, a bureaucracy to streamline, a promising economy that is poised to take off once it is liberalized. Above all, Israel must alter the balance according to which only one out of four Jews lives in the Jewish state, especially while millions of Jews remain captive in the Soviet Union.

The battle for Israel is thus far from over. But after forty years, an extraordinary transformation has clearly taken place. It has taken place in the soul of a people who have rediscovered the capacity to defend themselves, their lives and their liberty. It has taken place in the hearts of Jews everywhere, quickening their pride and sense of worth. And it has taken place in the imagination of non-Jews the world over, who see in the trials and triumphs of the Jewish state a testing of our common civilization.

For as in antiquity, Israel's struggle is the larger struggle for freedom. Israel has shown that we need not consign the future to the Kadafis, Khomeinis and Arafats, and that a free people, armed with ancient courage and resolve, can overcome impossible odds and regain control over its destiny.

HOLOCAUST REMEMBRANCE DAY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. ASPIN. Mr. Speaker, today is Yom Hashoah, Holocaust Remembrance Day. This day is designated each year by Congress and the State of Israel to commemorate the brutal deaths of more than 6 million Jews who perished under the cruelties of the Nazi regime.

The systematic program of genocide must continue to be remembered and studied if we as a free democratic nation are to prevent its recurrence. It is our obligation to remember the horrors of the Crystal Night, the Warsaw Ghetto, the gas chambers at Auschwitz, the children of Terenstadt, the mass shootings at Babi Yar, and other massacres suffered by the Jewish people during the 1930's and 1940's.

While there were heroes, such as the Gies family that housed Anne Frank, and the Swedish diplomat, Raoul Wallenberg, too many of us simply turned and looked the other way. This day serves as a permanent reminder of what happened during the Holocaust and what we must pass on to our children to ensure they remember the horrible atrocities that took place—to remember the past so we do not repeat it.

Because so many of our children were born after the Holocaust, they need to be made aware of the Nazi "solution" that left post-World War II Europe without its Jewish people and culture. On this day, the most important element that we can pass on to our young is not only the memory of the Holocaust's evil but the memory of the 6 million Jews who perished. We must remember these events in order not to repeat them. Holocaust Remembrance Day gives us just the opportunity to do so.

KILDEE HONORS MRS. ROBERTA V. COURTS, DR. THOMAS COURTS, MRS. CLARA SMITH, AND MR. WILBURN BANKS OF THE S.S. STEWART COMMUNITY SCHOOL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my colleagues and the Nation an appreciation dinner that will be held Saturday, April 23, in Flint MI, honoring Mrs. Roberta V. Courts, Dr. Thomas Courts, Mrs. Clara Smith, and Mr. Wilburn Banks. These individuals are being honored by the Stewart School Community Advisory Council for their unwavering dedication to S.S. Stewart Community School.

Mrs. Roberta V. Courts has taught in the Flint community school system for 28 years. Her dedication and creativety has had a lasting impact on the quality of education in our community and in the lives of hundreds of students. Mrs. Courts, who is retired from Coolidge Elemenatry School, has played a vital role in shaping educational programs that meet the real needs of our children in the most impressionable stage of their young lives. As a former kindergarten teacher at S.S. Stewart Community School, she has set an extraordinary example for the future leaders of our country.

Dr. Thomas Courts has played an essential role in the progress of S.S. Stewart Community School. As the founder and pastor of the Vermont Christian Church, which is located around the corner from S.S. Stewart Community School, Dr. Courts has unselfishly given of his time to provide our schoolchildren with spiritual inspiration and good judgment qualities. He has continually assisted in the planning and organizing of many school activities. Dr. Courts has distinguished himself as a highly successful pastor and as a community leader.

As the first woman principal of S.S. Stewart Community School, Mrs. Clara Smith has proven herself a most distinguished leader in education as well as an asset to the Seventh Congressional District. Her selfless dedication to improving the lives of thousands of children and adults who passed through her office door is extraordinary. Since retiring from S.S. Stewart Community School, Mrs. Smith has spent many hours continuing her public service by volunteering at agencies and institutions in our community. Mrs. Smith has succeeded in making Genesee County a better place in which to live.

Mr. Wilburn Banks has spent a lifetime devoting himself to maintaining the beauty of S.S. Stewart School. He began his career at S.S. Stewart Community School in 1955 as a custodian. Mr. Banks, however, has reached far beyond his custodial duties. He brought joy into many children's lives by playing Santa Claus at Christmas time and gently counseling children when they were mischievous. Since his retirement, Mr. Banks has been sorely missed by not just the children but by the faculty as well.

Mr. Speaker, Mrs. Roberta V. Courts, Dr. Thomas W. Courts, Mrs. Clara Smith, and Mr. Wilburn Banks have distinguished themselves as fine examples of the highest degree of good citizenship. They have touched the lives of many individuals, and they inspire those of us who know them to ask more of ourselves. I am congratulating them on their accomplished careers.

A TRIBUTE TO COACH PAULIE MILLER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. MAZZOLI. Mr. Speaker, I rise today to pay tribute to Coach Paulie Miller, who recently retired after 18 years of service as Jefferson County Circuit Court Clerk. Paulie, who was elected for three terms, is a past president of the Kentucky Circuit Court Clerk's Association.

Many Louisvilleians, however, respect Paulie mostly for his enormously successful career as a football coach at Flaget High School and at the University of Louisville.

At Flaget, Paulie coached six future college All-Americans including "Golden Boy," Notre Dame's Heisman Trophy winner Paul Hornung, and Kentucky All-American, Miami Hurricane Coach and current University of Louisville head football coach, Howard Schnellenberger. Among his many honors during his 18 years at Flaget, Paulie won four State titles and became the only coach in Kentucky to win Coach of the Year three times.

Upon his retirement from coaching in 1970, Paulie's immense popularity made him a successful public figure throughout the Commonwealth. Paulie, a strong supporter of the Democratic Party in Kentucky, was extremely influential in shaping the political careers of former Kentucky Governors Jullian Carroll, Martha Layne Collins, and U.S. Senator Wendell Ford as well as my own career.

But it was upon the little people with whom Paulie had his greatest impact. As a coach, Paulie reveled in taking young people under his wing and instilling in them the same work ethic and burning desire for success which he has displayed throughout his entire life. As circuit clerk, Paulie continued this philosophy by paying extra attention to those citizens who were less fortunate than himself.

Paulie's legacy in the Commonwealth of Kentucky will continue for many years to come. In addition to the many people I've already mentioned, Paulie's fine son Tony, was recently elected as his replacement as Jefferson County Circuit Court Clerk.

So, Mr. Speaker, I join all the citizens of Louisville, Jefferson County, and throughout the Commonwealth who have been inspired by Paulie's example in wishing him and his wife, Mary, many more years of health and happiness.

MARTY KMETZ: TRUSTEE OF THE YEAR

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mrs. MORELLA. Mr. Speaker, Shakespeare once wrote of an admirable man, "Those about him, from him, shall learn the perfect ways of honor." He could have been talking about Marty Kmetz.

Marty is a warm, gentle human being who has shown an extraordinary devotion to public service. He has served the people of Montgomery and Prince Georges Counties in many capacities and each time has done so with great devotion and remarkable success. In Montgomery County, he has been a member of the board of directors of the County Chamber of Commerce and of the county Red Cross. In Prince Georges County, he has been a member of the Council of the County United Way, a member of the board of directors of the County Crimesolvers, and a member of the board of directors of the Chamber of Commerce. He was also a member of the Air Conservation Committee of the Lung Association of Mid-Maryland and president of the Chillum Lion's Club.

Next week, Marty is being honored by the Montgomery County Medical Society as their hospital trustee of the year. Marty has been active on behalf of Holy Cross Hospital in Silver Spring, MD, for over a decade. Before becoming a trustee in 1984, Marty served on the Holy Cross Board of Directors, as president of the Men's Guild, and as chairman of various fundraisers. In each of these roles, he has distinguished himself by his commitment and by his inspired leadership. A mutual friend mentioned the other day that she wondered "when this man has time to eat." I don't know how Marty does it, but I know I'm impressed. This country could use a few more good men like Marty.

ABROGATE THE PANAMA CANAL TREATY

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. MACK. Mr. Speaker, I have recently returned from a 3-day trip to Panama to assess the impact of Panama's instability on the security of the Panama Canal. In reaction to the dangerous trends I have witnessed in Panama, I am today introducing legislation calling for the United States to withdraw from the Panama Canal Treaty.

Panama is a country where a reputed drug dealer has bullied his way to power, terrorized the citizens, destroyed the local economy and aligned himself with a Communist element headed by Fidel Castro. And, as we now know, General Manuel Noriega will not easily disappear from this country's political landscape. Each day he stays in power he infiltrates the Panamanian power structure with his personal cronies. Each day, Noriega's influence becomes institutionalized and more difficult, if not impossible, to root out.

One of the most disturbing discoveries of my trip was that Noriega is actively pursuing a growing "Cuban Connection." Noriega has been two-timing U.S. officials for quite a while with his close ties to Castro. Now there is no question about where his allegiance lies.

Recent reports indicate that Cuba has delivered several hundred tons of arms and ammunitions to Noriega followers in the Panama countryside. We have also learned that between 800 and 1,200 Cubans, Nicaraguans and Colombians have just entered the country and are bivouacking in strategic positions around the country.

Noriega's once monolithic support among the Panama Defense Forces, the traditional military, could be cracking. Apparently, because of this potential loss of support, he is assembling a new, personal militia. They are Marxists who will be loyal to him alone. These facts indicate the probability that if Noriega is forced to step down as commander of the military, he could lead a major insurgency that would destabilize Panama for years to come.

Noriega is driven by his lust for power, and judging from his affection for Fidel Castro, he would be glad to spearhead the "Cubanization" of Panama.

This should alarm us in Congress because the United States, as a nation, has staked immense resources in maintaining the Panama Canal as a viable waterway for commerce and defense purposes.

In 1978, the United States ratified treaties to give away the U.S. canal to Panama. President Carter, driven in his Central American policy to change our image as "the Colossus of the North," made a tragic mistake that has damaged our credibility and influence in the region.

I believe the United States acted wrongly in ratifying the misguided Canal Treaty. Now, we are seeing our worst fears about the treaty become reality. Two years after the treaty's ratification, Nicaragua fell into the hands of the Cuban-backed Sandinistas. Communist insurgents are fighting to topple the young democracy in El Salvador with arms supplied by Cuba and Nicaragua.

Now Panama is falling into a morass of instability and Cuban infiltration. This poses the most serious threat yet to U.S. interests. Under the terms of the treaty, the United States loses military base rights in the year 2000. A Cuban-backed government in Panama would certainly reject any consideration of renewing these base rights. And without a direct military presence, the United States cannot defend the canal.

Remember the claim that this "act of goodwill" was supposed to usher in a new era of peace and stability throughout the region? I tell you from firsthand knowledge that the Panama Canal Treaty has never worked, never will, and will actually create further unrest and turmoil in Central America.

If this Nation had to turn ownership of the canal over to Noriega tomorrow, Congress would be tripping over itself trying to void the treaty. This legislation recognizes the fact that Noriega's destabilizing influence on Panama is certain to extend for years, and resolves the problem today while we are in a position to take action.

We cannot wait until 1999 to take a hard look at the ability of Panama to operate the canal and our ability to defend it in a time of regional conflict. We must act now if we are to avoid a disaster at the turn of the 21st century.

I have carefully examined U.S. options for dealing with Panama and have concluded that we should abrogate the existing treaty, retain permanent U.S. control of the canal with permanent military base rights, and ensure the ability of the United States to intervene unilaterally to protect our interests in the canal.

This legislation expresses the sense of Congress that the President should immediately withdraw the United States from the 1977 Treaty, and begin discussions toward a new agreement to maintain U.S. control of the canal and permanently extend our base rights in Panama. The resolution also expresses Congress' intention to withhold funding for the Panama Canal Commission or take other appropriate action if the President does not take action within 90 days of enactment.

Our first responsibility must be to protect U.S. interests and to take actions that will encourage stability and security in Central America. We are enduring the consequences of the failed Carter appeasement policy. We, as Americans, must honestly reassess the future of the canal based on the harsh realities of the present. We can no longer afford wishful thinking; we must do what is necessary to protect our vital security interests in the canal.

THE 50TH ANNIVERSARY OF THE COMMODORE CLUB

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Ms. KAPTUR. Mr. Speaker, in Toledo, OH, one of the city's outstanding social clubs, the Commodore Club, reached its 50th anniversary recently. The purposes of the club, for which its members have worked since 1938, are to cooperate with the community and neighborhood, engage in welfare work and finance sporting activities. These goals have been continually pursued even when many of its members were in uniform during World War II.

Today the club has nine active charter members: Eugene Bogucki, Ray Jablonski, Ed Kaminski, Joe Nowak, Joe Puszczewicz, Steve Skibinski, Ollie Spitulski, Andy Zapiecki and Ted Zapiecki. It also has five life members: Frank Kujawa, Joe Nowak, Ollie Spitulski, Al Tesluk and Andy Zapiecki. Mr. Kujawa has been president for 6 years and is the 24th president of the club.

Congratulations to the Commodore Club as it begins its second 50 years in a healthy and wholesome condition as an honored member of Toledo's social life.

WORLD POPULATION AWARENESS WEEK IN OREGON, APRIL 17-23, 1988

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. DEFAZIO. Mr. Speaker, I would like to endorse the efforts of the Governor of Oregon, Neil Goldschmidt, to remind the citizens of his State of the serious consequences of unchecked growth in the world's population. Mr. Speaker, allow me to enter the Governor's proclamation in the RECORD:

PROCLAMATION

Whereas: The world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas: More than 90% of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion; and

Whereas: Rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas: The massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivatable fields and forests into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer; and

Whereas: The tragic results of the ever-increasing imbalance between population resources can be seen in the emergency of renewed famine in Africa and elsewhere; and

Whereas: The disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them.

Now, therefore, I, Neil Goldschmidt, Governor of the State of Oregon, hereby proclaim April 17-23, 1988, as World Population Awareness Week in Oregon and call upon all citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

In witness whereof, I hereunto set my hand and cause the Great Seal of the State of Oregon to be affixed. Done at the Capitol in the City of Salem and the State of Oregon, on this day, March 29, in the Year of our Lord, One Thousand Nine Hundred Eighty-Eight.

NEIL GOLDSCHMIDT,
Governor.
BARBARA ROBERTS,
Secretary of State.

SOLICITATION FOR DONATIONS ARE GOING TOO FAR

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. FEIGHAN. Mr. Speaker, in recent months, I have heard a rising chorus of concern in my district that solicitations for donations are going too far. My constituents are angry that solicitors are sending them contribution cards resembling bills or invoices.

It is already illegal for the U.S. Postal Service to deliver similar solicitations for goods and services. Today I am introducing a bill that will extend this prohibition to include solicitations for donations.

Contributions should be given voluntarily. It is an outrage that some solicitors are trying to make people feel obligated to contribute by enclosing what appears to be a bill. Recipients of these sleazy solicitations are often led to believe that they pledged money already. Rarely is this the case.

Legitimate charities are the biggest losers when solicitors try to extract donations. Anybody who feels they are being coerced may become cynical about giving. We must eliminate this threat to the well-being of thousands of reputable charities.

I expect this bill to get serious consideration because so many of my colleagues place a high priority on consumer protection. I look forward to strong bipartisan support.

Above all, I want donors to be aware of these predatory practices. In a recent article in the New Republic, an unnamed direct mailer betrayed the intentions of some in his profession. "To make a direct-mail package successful, you need to fool 2 percent of your audience. If you fool 5 percent, you strike gold." Our citizens deserve better.

COMMEMORATING GREEK NATIONAL INDEPENDENCE DAY

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Miss SCHNEIDER. Mr. Speaker, it is my great pleasure to take note of a very special occasion; Greek Independence Day. The 167th anniversary of Greece regaining its independence from the Ottoman Empire after 400 years of subjugation marks a time for reflecting on the history of this great nation. In the year 1821, Alexander Ypsilanti proclaimed the freedom of the Greek people from the foreign domination of the Ottomans.

Over 2,000 years ago, Athens was the scene of the rise of the first democratic republic in the history of man. Figures such as Aristotle and Socrates talked of the dignity and power of mankind. They believed, as we here do today, in the capacity of people to rule with compassion and justice.

The same ideals that inspired the birth of a democratic republic in Athens inspired the birth of our Nation. Men such as Thomas Jefferson, Alexander Hamilton, James Madison and other colonial intellectuals who shaped the American revolution read and believed in the basic ideas of government given birth in ancient Greece.

America has made its own contribution to democracy in Greece. After gaining independence in 1821, Greece translated the Constitution of the United States to be their own. This document, which was so influenced by their ancestors, was taken to heart to be the supreme law of their land. After 2,000 years, democracy returned to Greece.

America and Greece are tied together in more ways than simply intellectual ideals and the love of liberty. After the Second World War, Greece fought against Communist forces to preserve their freedom. The United States aided the Greeks in this battle in what became the first steps in the rebuilding of Europe through the Marshall Plan.

The fierce independence that burned in the Greek people at the battles of Marathon, Salamis, and Thermopylae, and burned in them 167 years ago on the day of their independence, still burns in them today.

Today Greece is our ally in the North Atlantic Treaty Organization. Greece, as it has throughout history, guards the Dardanelles, the important access way to the Black Sea and the southern front of Europe. The United States and Greece do not always agree on issues yet we remain friends and allies. That is the true nature of our relationship, friendship even in the face of disagreement.

Mr. Speaker, I join with my Greek-American friends in Rhode Island and throughout the country on this joyous occasion as we look forward to a future of cooperation and friendship between our great nations.

IN RECOGNITION OF COMDR. ROBERT V. LAW

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to honor and recognize Robert V. Law, commander, Supply Corps, U.S. Navy.

Just yesterday, Commander Law received the Meritorious Service Medal for his outstanding work in the area of acquisition and contracts. His work in this field has been of assistance to many of my colleagues, and in my opinion Commander Law has done a great service to this Nation.

In his current position as Deputy Director, Business Development, Small and Disadvantaged Business Utilization, Office of the Secretary of the Navy, I am sure that Commander Law will continue his superlative work. A man of Commander Law's talent and integrity is rare indeed, and it gives me great pleasure today to recognize him before my colleagues.

THE TRADE BILL MUST BE PASSED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. BONKER. Mr. Speaker, the Commerce Department's trade statistics revealed a $13.8-billion deficit for February, a $1.4-billion increase over January's deficit. This 11.2-percent increase is sending a signal to this congressional body that the need for the passage of sound trade legislation has never been more urgent. Congress must take the lead in reducing this Nation's deficit.

1987 taught this country a couple of difficult lessons with respect to the world economic order that many easily dismissed when the trade figures began to show improvement in the first quarter of 1988. The first of those lessons is that the fall in the dollar alone is not going to put America's house back in order. The second, dramatically demonstrated by the stock market crash of October 19, is that we cannot continue to allow our deficit to rise if we are unwilling to accept the consequences in that rise as it translates into lost jobs and declining investment. In fact, the only way to ensure a reduction in our trade deficit is to require that our exports exceed our imports. That will require a considerable surge in U.S. shipments to our trading partners.

It is time we stop complaining about the deficit and begin to act on measures which can lead this Nation on the road to recovery.

The omnibus trade bill will come to the floor of the House next week. I am encouraging my colleagues to study this legislation. There has never been a more urgent time than the present to send a signal to the American public that we are responsible legislators. We can do so by passing the trade bill.

While the media continues to falsely label the trade bill protectionist, it fails to present to the public the positive features of H.R. 3. Conferees have called for a lessening of export controls on nonstrategic commodities and an expansion of the distribution license into China, a market which contains enormous potential for U.S. exports. The bill also contains export promotion provisions, and language to toughen our negotiating stature in international trade disputes.

The bill is also kind to labor, a constituency that is often shadowed by the concerns of big business in discussions of the trade deficit. Labor would be provided with the safeguard of advance notice of plant closings or massive layoffs. Although the administration has threatened to veto H.R. 3 should this measure remain in its final version, we must see this as an empty threat. With today's trade figures, the administration would be foolish to stand in the way of legislation that could greatly enhance America's economy.

Mr. Speaker, I ask that Congress and the administration put this Nation back on its feet again. Join me in my effort to pass H.R. 3.

SOCIAL SECURITY TRUST FUND AND OUR BUDGET CRISIS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, the Social Security trust fund is accumulating a substantial surplus which is now included in calculating the budget deficit for purposes of the Gramm-Rudman law. These excess taxes are being taken from the paychecks of American workers and businesses with the promise that they will be set aside to fund their future retirement claims.

Continuing to include the Social Security trust fund in the deficit calculations masks the real extent of the budget crisis and may ultimately risk the faith that our constituents have in us to protect the integrity of their retirement system.

Ms. OAKAR and I are proposing that the Social Security trust fund be removed from the deficit calculation on September 30, 1989. Doing so will help to mitigate pressures to reduce Social Security benefits to offset spending for other programs. It will allow us to preserve the integrity of a retirement system that pays for itself and to restrict the use of this dedicated tax to its intended purpose. It will put us on a sound budget track as well.

EMIGRATION FROM SOVIET UNION HAS SHOWN DRASTIC REDUCTIONS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. BORSKI. Mr. Speaker, emigration from the Soviet Union has shown dramatic increases over the past several decades. Lately, however, there have been drastic reductions.

For example, in the months leading up to the December 1987 United States-Soviet summit meeting, the Soviet Union relaxed some of its procedures and granted more exit visas than it had earlier in the decade. Even the most pessimistic refuseniks permitted themselves a measure of hope during this brief "window of opportunity." But, as the new year began, the Soviets once again clamped down on emigration, dashing the hopes of the majority of Jews who remain in the Soviet Union.

Recently during a visit to my office, Naomi Goldman, Marc Bluestein, and Rachel Chanin, constituents and members of the Student Coalition for Soviet Jewry, expressed deep concern over the decline in Jewish emigration.

I share their concern for the plight of Soviet Jewry and recognize the need for concrete action.

Almost exactly 1 year ago, six long-term refuseniks were given an interview by a high ranking Soviet official. Since then five of them have received permission and left the country. The sixth man is Yuly Kosharovsky, a Moscow radio engineer and mathematician. Mr. Kosharovsky, also an Aliya activist and Hebrew teacher, has been repeatedly denied permission to leave the Soviet Union.

On February 12, 1988, permission to emigrate was denied again. Determined as ever, on March 10, as a strong show of opposition to the deplorable Soviet restrictions on emigration and the 17 years of denied permission to emigrate to Israel, Mr. Kosharovsky began a complete and indefinite hunger strike in Moscow to coincide with the anniversary of his 17th year in refusal.

Mr. Kosharovsky has suspended his hunger strike pending review of his 1987 application for emigration.

Last month in a letter to General Secretary Gorbachev, I, along with several of my colleagues, expressed our concern regarding the implementation of the Soviet emigration regulations. In addition, we reminded Secretary Gorbachev of his intention to place a 10-year maximum on the amount of time for which state security can be cited as a reason to deny emigration.

Moreover, a partial list of refuseniks who have been denied exit visas for 10 years or more because of their classification as security risks was included in the letter. Yuly Kosharovsky's name was at the top of that list of 14 refuseniks.

Because I believe that the facts and circumstances are overwhelmingly in favor of allowing Mr. Kosharovsky to emigrate and that there is a need for greater openness and respect for human rights in the Soviet Union, as well as improved relations with the United States, I am adopting Yuly Kosharovsky.

Adopting an individual refusenik's case, means agreeing to work on his/her behalf by directly communicating with the particular Soviet Jew, publicizing his/her case in various ways, and, in general, seeking to better his/her situation.

The need to adopt a refusenik, will be substantially lessened only when the obstacles that face Soviet Jews trying to emigrate are removed. Especially the following restrictions:

Citizens applying for exit visas must have first degree relatives—parent, child, sibiling—in the countries to which they wish to emigrate.

Many refuseniks, through their work in engineering communications, physics, or other specialties, once had access to state secrets and accordingly are denied emigration.

Army service expose refuseniks to classified information, thereby disqualifying them for emigration for up to 5 years.

Financial claims by relatives in the U.S.S.R. of refuseniks who assert that refuseniks owe them money allow the Soviet Government to refuse visas.

Estranged relatives often refuse to sign required emigration forms.

The Soviet Government has often told refuseniks that they have no legitimate reason to emigrate, and that therefore, they may not.

I, along with Naomi, Marc, Rachel, and countless numbers of my constituents, hope that my publicizing the cases of refuseniks, like Yuli Kosharovsky, it will encourage General Secretary Mikhail Gorbachev to grant all refuseniks permission to emigrate.

SALUTE TO THE FRESNO COUNTY DEMOCRATIC WOMEN'S CLUB DURING ITS 50TH ANNIVERSARY CELEBRATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. LEHMAN of California. Mr. Speaker, today I rise to honor and pay tribute to the Democratic Women's Club of Fresno County for its 50 years of commitment and service to furthering the ideals of the Democratic Party.

Chartered in 1938 by the Fresno County Democratic Central Committee, the Fresno County Democratic Women's Club is the oldest and largest Democratic club in the county. Membership now stands at over 200 and is open to all registered Democrats, male and female, who are interested in the political process and committed to the Democratic Party philosophies. Associate membership is available to any registered Democrat who is not a resident of Fresno County.

Over the course of 50 years, the contributions by the Democratic Women's Club have been extensive, having influenced election outcomes and Democratic policies on the local, State, and Federal levels. Members have consistently been involved in voter registration, get-out-the-vote efforts, fundraising for the Democratic Party and its candidates, the California Democratic Convention, and much more.

On a personal note, I am proud to say that I gave the first political speech of my career 20 years ago this month when I spoke in behalf of Senator Robert Kennedy before the Democratic Women's Club. That day Hubert Humphrey was represented by Simon Marootian and Ann Leavenworth spoke for Eugene McCarthy.

Fresno and the Democratic Party can be proud of the 50 years of accomplishments and contributions that the Fresno County Democratic Women's Club has put forth. I congratulate the members and send my best wishes as they continue to work toward a better government and Nation.

A TRIBUTE TO EILEEN POSEY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. LAFALCE. Mr. Speaker, on April 15, Ms. Eileen Posey, a legislative affairs specialist with the Small Business Administration, will retire from Federal service after spending 29 years with the SBA. For the last 22 years, Eileen has worked in the Office of Congressional and Legislative Affairs.

No matter the occasion or circumstances, Eileen has always conducted herself in a courteous and professional manner. Her assistance to the members of this committee over the years has been of immeasurable value and exemplifies the best traditions of dedicated career civil servants.

I know that I speak for all the members of the Small Business Committee when I say that we shall sorely miss Eileen. She has established a standard of service to the members and her agency that will be extremely difficult for any successor to meet. It is with strong feelings of personal warmth that we wish her the best of success in any future endeavor she may undertake.

LET US REMEMBER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. GREEN. Mr. Speaker, I would like to share with my colleagues a statement made by Benjamin Meed, president of the Warsaw Ghetto Resistance Organization, which is celebrating its 25th anniversary this year. Mr. Meed's moving speech was given on April 10, 1988, at the 45th annual commemoration of the Warsaw ghetto uprising and a memorial service for 6 million Jewish martyrs:

STATEMENT OF BENJAMIN MEED

Fifty years ago, during what is generally known as *Kristallnacht*, but truly the days of German programs, store windows from Frankfurt to Salzburg were shattered, and synagogues from Berlin to Vienna were set aflame.

Forty-five years ago, the Warsaw Ghetto Uprising began, a heroic chapter in Jewish history. Forty years ago, our beloved State of Israel was reborn from the ashes of the Holocaust. We were witnesses to all these events. *We were there.*

We now stand at a distance from these events which shaped our lives and which have molded Jewish history and we must again look back and remember—for our memories are a warning that history *can* repeat itself.

After half a century, we still remember how the culturally advanced German people were transformed almost overnight into screaming mobs, breaking windows, burning books and synagogues. It was the same German people whose science and technology, government and industry, religious leaders and intellectuals who were all willingly swept into a system whose goal was the murder of all Jews—men, women and children.

It has been forty-five years since I stood outside the walls of the fighting and burning Warsaw Ghetto and watched building after building engulfed by flames and dense smoke. I could hear the battle of those trapped inside. I can still see the entire ghetto in flames. I remember it as if it were yesterday.

We remember those days—the terrible loneliness—the utter isolation we felt—abandoned and betrayed by a cold and indifferent world.

It was a beautiful Sunday morning forty-five years ago this week, when I stood outside a church on Plac Krasinski in Warsaw. Before me, a carousel was playing loud music. At a distance of only 500 feet were the frightful walls of the Warsaw Ghetto surrounded by mighty German artillery. Inside those walls, only a few thousand of the ghetto population of 500,000 remained, but that morning Jewish fighters, poorly armed and alone, continued the resistance as they began their last struggle.

For the first time, the brutal enemy was forced to flee. It was a heroic hour of Jewish history, a moment that has entered the domain of legend, an event that will be spoken of for generations—the Warsaw Ghetto Uprising.

I knew those young fighters. They were my friends, my comrades, my colleagues. And yet when I think back to that morning, I remember. There were two worlds, two realities—the world of indifference and muteness and the world of lonely and abandoned Jewish fighters.

I was two people that morning—a Christian boy on the outside to blend in with those around me, but on the inside, my Jewish soul was shattered. It is so difficult to describe my feelings that Sunday in April—45 years ago.

Pride and anguish, sadness and fury, and above all anger—anger at the German Nazis who were ruthlessly destroying our people while the entire world was mute. And the skies over the fighting and burning ghetto were deathly silent. No bombers from the East or from the West. No allied parachutes dropping arms and food. Only beautiful sunshine and killers, killing.

Yes, we resisted in Warsaw and in other cities—in the death camps, in the forests as partisans—we defied the German Nazi murderers with our will and even then, we were taught "Yiddishkeit" and "Menschlichkeit" in the shadow of the flames.

Sadly, the world is still not free of the disease which led to Auschwitz and Treblinka. Anti-Semitism now wears the more fashionable cloak of anti-Zionism. In the United Nations, the countries of the world are united against Israel. Every day, the media which said so little and did so little when we were being murdered, vilifies Israel, decries Israel, and there are new malicious and misguided voices that echo the poisonous doctrines of the Nazis.

Forty-five years ago, the media and the world were virtually silent while millions of Jews were being murdered. Each day over 20,000 Jews were killed at Auschwitz alone and more in Treblinka. Who was keeping a daily tally at that time? Oh yes, today we know that the world knew and yet kept silent.

We have suffered like no one else has suffered, but our uniqueness is not to be found in our suffering.

We have used our pain to heal, to nourish and to renew life. We have remained faithful to our *Kedoshim* and we have told the tale. We must continue to bear witness as a statement of conscience and a warning to all people. Don't allow history to repeat itself.

For all the years, we have borne witness to the truth of our experience. Now we can see some results. In the great cities of America, we are building museums and memorials to the Holocaust. Important buildings on important sites. Important to each and every American. None of this could have happened without the *Neshome* and the spirit of the survivors. The museums cannot be built without the power of our act of witness. We must share our responsibility with the community at large to see that they are built in our lifetime.

Forty years ago next week, the Jewish people were reborn as a nation in the land of our forefathers. In the three years liberation, we traveled from the forests and the death camps, from the hiding places and infernos to Jerusalem, from the ashes of Auschwitz and Bergen-Belsen to the Land of Israel and America.

In the half century that separates us from the German pogroms of *Kristallnacht*, in the 45 years that distances us from the Warsaw Ghetto Uprising, we have grown older. We realize that time is our enemy. Against this enemy, we have one weapon—*memory*. As we grow older, the tragedy of the Holocaust and the blessing of Israel reborn and restored loom larger.

Indeed, we are at one with our people in Israel—heart and soul—because Israel is part of us and we are part of Israel. For us, Israel and Jewish dignity are one, Israel and survival are one.

We must fulfill the task which history and the memory of our *Kedoshim* has entrusted us. My friends, there is so much to do and so little time to do it in.

Let us continue to remember together!

GIVE KIDS AN OPTION BESIDES GANG LIFE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. EDWARDS of California. Mr. Speaker, I commend my esteemed colleague and friend, GEORGE MILLER for his insightful op-ed, "Give Kids an Option Besides Gang Life" which appeared in the Los Angeles Times on April 10, 1988.

As a distinguished leader in this Congress on the issues facing the youth of this Nation, GEORGE points out the critical need to reduce the gang violence in our cities, and to address the underlying fragmentation of our neighborhoods. GEORGE states:

[I]t is obvious that law enforcement, while essential, is not the answer to youth violence. If we want to stop children from killing each other, we must address a much tougher underlying issue—the neighborhoods they call home.

GEORGE has thoughtfully outlined a strategy for dealing with gangs through: the rebuilding of our neighborhoods; the strengthening of support programs for our youth and their parents; and encouraging giving youth a stake in their own future as well as in the future of their country.

I applaud my colleague's response, dedication, and commitment to this most difficult issue. I recommend the op-ed piece to my colleagues.

The op-ed piece follows:

GIVE KIDS AN OPTION BESIDES GANG LIFE

(By George Miller)

The epidemic of gang-related violence that has resulted in the deaths of more than 50 people in Los Angeles since the beginning of the year is shocking.

Prepare for further shocks.

In South-Central Los Angeles, Washington, D.C., and other communities, armed warfare is becoming a common response to the irritations of daily life—business deals gone awry, arguments with family members, envy over a neighbor's new leather jacket or designer sunglasses.

From 1984 to 1986, the rate of violence among youth rose 9% nationwide, a reversal of the decline of the past decade. To date, we have attempted to quell this upsurge with police crackdowns. But while police action may clear the streets for a few days, gang members brag that they easily adapt their operations and continue as before. It is obvious that law enforcement, while essential, is not the answer to youth violence. If we want to stop children from killing each other, we must address a much tougher underlying issue—the neighborhoods they call home.

It comes as no surprise that the highest incidence of crime occurs in communities where the supporting structures of school, job and family have come undone. Children growing up in our poorest neighborhoods are far more likely to fare poorly in school, become teen-age mothers, suffer chronic unemployment, and resort to crime and violence. They grow up with little investment in their future, and little evidence from their bleak environment that the future is something worth investing in. When they pull a gun and risk a jail term, they have little risk that their future is at stake.

In the past we have looked on the children of the underclass as an unfortunate anomaly within the nation's overall prosperity. That is no longer true. Today, 25% of all children under age 6 live in households in poverty. If we neglect them for their entire childhood, as we too often did their older brothers and sisters, we do so at their, and our, peril.

Rebuilding communities fractured by decades of neglect will not be easy. We must start at the most basic level, and give community institutions sustained, coherent support if they are to counteract the power of drug gangs. One of the most important components is the role that parents play. Fortunately, we know what needs to be done. Researchers testifying before the House Select Committee on Children, Youth and Families have repeatedly given us hard facts that demonstrate which programs—public and private—effectively help children become successful, law-abiding adults.

Set up local family resource centers. Parents at risk of abusing their children or whose youngsters are involved with drugs can turn to centers for professional advice on child-rearing. In Washington, New York and Hartford, programs link distressed families with volunteer "parent mentors" from churches who provide practical help with family problems.

Keep children in school. Preschool programs have proven highly effective in guaranteeing graduation from high school, yet only 20% of the children eligible for Head Start classes can attend them. We also need to improve services to children with learning disabilities and handicaps, and link students at risk of dropping out with counselors or other caring adults.

Promote jobs in impoverished communities. We need to encourage employers to return to these areas, through tax incentives and economic development programs, as well as business-community partnerships. In Boston, the business community agreed to hire local high school graduates and provide support to teachers if the schools enforced standards of attendance and behavior.

Augment teen pregnancy prevention programs, and fund in-school day-care and job-training programs, such as the New Futures program in Albuquerque for the 400,000 teen-agers who give birth each year.

Provide drug treatment to every child and parent who needs it. The National Institute on Drug Abuse estimates that 6.5 million people suffer impairment due to drug use, yet fewer than 250,000 receive treatment at any given time. The reason is not lack of interest but lack of treatment capacity. Abusers who seek help must wait months in most major cities.

Give youths a stake in the future of the community through volunteer service programs. At a Brooklyn church, teens who need tutoring get it, and they in turn tutor younger children—and are paid for their work.

These tasks are so far-reaching that every segment of society must act if we are to succeed: Federal, state and local government, schools, churches, businesses and community organizations—and families themselves. The job will take years, it will cost money, and it will not be glamorous, but it can be done. We must start now.

Regardless of where they live, most youths aren't violent, and given a choice, they would rather not live in a world of guns, drugs and death. Teen-agers desperately want to belong, to be involved in society and feel that their actions make a difference. By failing to provide the young people of gang-plagued neighborhoods with legitimate outlets for their talents, we are squandering the energy and resourcefulness of their youth. In so doing, we not only deny them the chance to participate in the American dream, we assure that out own dreams will be diminished by the cost of their failure.

ROCKLAND COUNTY LEADERS URGE SUPPORT OF ISRAEL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1988

Mr. GILMAN. Mr. Speaker, on Friday, April 1, an advertisement appeared in the New York Times expressing the strong support of the United Jewish Community of Rockland County, NY, for the State of Israel during its current difficulties. The message, headlined "The Security of Israel Should Be A Prime Concern For All Americans," was signed by most of the Jewish congregations of the county, many other Jewish organizations, and over 200 individuals.

This excellent statement deserves the most serious consideration by my colleagues, and accordingly, in order to share these views with my colleagues, I ask that it be entered into the RECORD at this point, along with a letter which I and 136 of my colleagues sent to the Secretary of State as he embarked on his most recent peace mission. The letter notes that while the Secretary's mission has our strong support, it is important, at this point, to concentrate on finding Arab leaders willing to negotiate with Israel—and say so publicly—and that it is also necessary to give strong reassurances to the State of Israel that the United States will continue its tradition of support during this period.

[From the New York Times, Apr. 1, 1988]

THE SECURITY OF ISRAEL SHOULD BE A PRIME CONCERN FOR ALL AMERICANS

We affirm our admiration and support for the State of Israel, for its commitment to democracy, freedom and moral values, for the courageous efforts to receive and resettle Jewish refugees from every corner of the world, and for the sacrifices which it has made and is prepared to make in the cause of peace. We recognize that maintenance of civil order is a primary obligation of any government and in this case, represents a difficult challenge for Israel.

For decades, the Palestinian Arabs of Gaza, Judaea and Samaria have been used as pawns by their Arab brethren. They have been abandoned and betrayed by the Arab nations with whom they share a common tradition, language, religion and culture. Except for Egypt, the Arab states have refused to recognize the state of Israel or to come to the peace table to negotiate a settlement with Israel. They have refused to integrate their Arab brethren into their societies, and they have resisted Israel's efforts to improve the conditions that breed today's despair, frustration and hatred.

We call for direct negotiations between Israel, a joint Jordanian-Palestinian delegation, and those other Arab states which border Israel to work out steps toward mutual security, and a just and lasting peace for all participants.

We the undersigned join in this expression of unity and identification with the embattled nation of Israel. We welcome the efforts of the United States with Israel to bring peace to the region.

To the people of Israel, we say: We stand with you in your hour of trial, are confident in your essential decency and commitment to democratic values. "We pray for the peace of Israel."

March 18, 1988—Rockland County, New York

UNITED JEWISH COMMUNITY OF ROCKLAND COUNTY

300 North Main Street
Spring Valley, New York 10977
(914) 352-7100

Barbara Grau, President; Rabbi Steven Bayar, Chairman-Community Relations Committee; Robert Posner, Executive Director.

Any portion of this advertisement may be used by other groups or individuals seeking to express similar sentiments.

HUDSON VALLEY POLITICAL ACTION COMMITTEE

Adolph Schreiber Hebrew Academy of Rockland.
AMIT Women—Sharon Rockland Chapter.
B'nai Jeshurun Synagogue—Israel Flam, Rabbi.
Chevra Bais Halevi—Henry Book, Rabbi.
Community Synagogue of Monsey—Moses D. Tendler, Rabbi.
Congregation Bais Torah—Berel Wein, Rabbi.
Congregation Bais Torah Sisterhood.
Congregation Eitz Chaim—Isaac Dahan, Rabbi.
Congregation Hadar—Nachum Muschel, Rabbi.
Congregation Sons of Israel, Suffern—Paul Schuchalter, Rabbi.
Congregation Sons of Jacob—Saul Wohlberg, Rabbi.
Jewish Community Center—Robert Pilavin, Rabbi.
Monsey Jewish Center—David Chanofsky, Rabbi.
Monsey Jewish Center Men's Club.
Monsey Jewish Center Sisterhood.
New City Jewish Center—Henry A. Sosland, Rabbi.
Ohaiv Yisroel of Blueberry Hill—Chaim Ozer Chait, Rabbi.
Pomona Jewish Center—David Eligberg, Rabbi.
Reform Temple of Suffern—Elyse Frishman, Rabbi.
Shaarey Tfiloh Congregation—Steven Bayer, Rabbi.
Temple Beth El—Louis Frishman, Rabbi.
Temple Beth Sholom Sisterhood.
Temple Beth Torah—George Stern, Rabbi.
West Clarkstown Jewish Center—Jonathan I. Kohn, Rabbi.
Young Israel of Monsey—Nosson Fromowitz, Rabbi.
Young Israel of Orangeburg—Abraham Morduchowitz, Rabbi.
David and Ellen Abramson.
Drs. Theodore and Gertrude Abramson.
Joe and Lillian Adler.
Dr. Jeffrey and Melanie Ambinder.
Murray and Estelle Applebaum.
Suzanne and Stewart Bader.
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Dr. Henry and Kathryn Baraket.
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Dr. Richard and Philomena Basuk.
Dr. Marvin and Barbara Bernstein.
Alvin and Lois Blumenfeld.
Dr. Lewis and Sharyn Bobroff.
Dr. Robert and Arlene Brenner.
Dr. Paul and Rachelle Burns.
Edwin and Hannah Cohen.
Assemblyman Sam and Shifra Colman.
Louis and Ethel Davies.
Dr. Joseph and Fagye Deutsch.
Dr. Fred and June Dubrowsky.
Florence and Elliot Eichler.
Sol and Beverly Einhorn.
Estelle and Allan Eisenkraft.
Irving and Carol Eisenman.
Ruth and Leon Ellner.
Arthur and Joyce Fein.
Hyman and Miriam Fein.
Marsha and Gary Forman.
Fay and Norman Friedman.
Charles Frohman.
Dr. Mandell and Sheila Ganchrow.
Sue and Arnie Garelick and Family.
Ruth and Leo Goldband.
Harry and Dinah Goldberg.
Jay and Martha Goldstein.
Richard and Marcia Grande.
Barbara and Gil Grau.
Al and Miriam Greenberg.
Dennis and Florence Gribetz.
Honorable Kenneth and Judy Gribetz.
David and Ruth Gubits.
Martin and Carol Halpern.
Dr. Oscar and Susan Hausdorff.
Dr. Elliot and Sally Heller.
Dr. Cary and Gayle Hirsch.
Morris and Ruth Hirsch.
Philip and Marcia Holzer.
Dr. Ernest and Roslyn Hurwitz.
Steven A. Hurwitz.
Mark and Michelle Karsch.
Dr. Sheldon and Cynthia Katz.
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Ronald and Susan Langus.
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Harry and Deborah Levinson.
Honorable Eugene and Geri Levy.
Rabbi Irving and Shirley Levy.
Dr. Seymour and Roselle Lutwak.
Sherri and Kenneth Malc.
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Ralph and Sandra Rothschild.
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Salzhauer Families.
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Dr. Leonard and Deanne Shapiro.
Samuel and Barbara Shaulson.
Jack and Sharon Siegel.
Phyllis and Saul Siegel.
Lois and Robert Silverman.
Sam and Helen Silverstein.
Drs. Solomon and Hana Simonson.
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Dr. David and Miriam Stein.
Dr. Kenneth and Jayne Steinglass.
Israel and Pearl Stern.
Jules and Lila Stern.
Ellen and Eddie Tager.
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Triumph Pet Industries.
Joseph and Ilse Warburg.
Sol and Leah Werzberger.
Harvey and Naomi Wolinetz.
Audree Yorkes.
Myron and Merle Zabusky.
Henry and Gloria Zeisel.
Alan and Lenore Zelinger.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 31, 1988.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing to express our support for your efforts to reinvigorate the Middle East peace process. In particular, we want to wish you success in your upcoming visit to the region. It is our hope that your endeavors will ultimately bring all parties to the Arab-Israeli conflict together in direct, bilateral peace negotiations and bring an end to decades of violence and bloodshed in the area.

Nonetheless, in advance of your trip, we wish to raise two items of concern. First, we are disappointed that, after 40 years, no Arab state, with the notable exception of Egypt, has agreed to direct negotiations with Israel or to guarantee unambiguously a peaceful settlement with Israel. It is important to keep this fundamental point in mind. Much of the attention regarding the Shultz plan has focused on the reaction of the Israeli government, and whether or not it will accept your proposal as presented. No one disputes that there is a split within Israel on certain aspects of the plan. However, the vigorous debate in Israel over your peace initiative contrasts starkly with the apparent absence of debate in Arab capitals, where the question is not how to make peace, but whether—even after four decades—to make peace at all.

In short, Mr. Secretary, what Israel decides is irrelevant if there is no serious Arab interlocutor. Therefore, it is our belief that you should seek, on this visit, public statements from the Arab governments and the Palestinian leadership on their commitment both to living in peace with Israel and to a diplomatic solution based on negotiations with Israel.

Second, this is the time when all partners to the peace process should feel full confidence in past commitments made by the U.S. Such promises were essential elements of the Israel-Syria and Israel-Egypt disengagement agreements following the 1973 war, as well as the Camp David Accords.

Similar assurances will play a vital role in any future settlement. Israel in particular cannot be expected to take the necessary risks for peace if there is uncertainty about America's ability to stand by its pledges.

American credibility is essential to moving this process forward. We cannot ask Israel to take great risks for peace and security and to rely on U.S. assurances about elements of the peace plan if, simultaneously, we were seen to be violating a commitment on the PLO which has been honored and restated consistently since 1975.

It is our express hope that, during your trip to the Middle East, you reassure Israel and remind the Arabs that the U.S. position on the PLO—as enunciated by written agreement and by law—remains unchanged until the PLO explicitly accepts U.N. Resolutions 242 and 338, accepts Israel's right to exist, and renounces terrorism. Ambiguity on this fundamental point can only retard the prospects for peace.

Thank you for your attention to our concerns and, again, we wish you success in your trip.

Sincerely,

Mel Levine, Vin Weber, Robert Torricelli, William Broomfield, Tony Coelho, John Miller, Charles Schumer, Ben Gilman, Dante Fascell, Guy Vander Jagt, Larry Smith, Sandy Levin, Ron Wyden, Matt Rinaldo, Nick Mavroules, Bill Thomas, Sam Gejdenson, Buddy MacKay, Martin Frost, David Skaggs, Howard Berman, Lawrence Coughlin, Barbara Boxer, Vic Fazio, Gerry Solomon, Robert Dornan, Richard Lehman, Mike Synar, Benjamin Cardin, Bart Gordon, Bill Richardson, Joseph DioGuardi, Arthur Ravenel, Wayne Owens, Jim Moody, Claudine Schneider, Albert Bustamante, Richard Gephardt, Tim Johnson, Dennis Eckart, Joseph Brennan, Bob Traxler, Bill McCollum, Gerry Sikorski, George Miller, Tom Lantos, Michael Bilirakis, Sonny Callahan, John Porter, Steny Hoyer, Christopher Shays, Norman Lent, Pat Saiki, Mac Sweeney, Robert Lagomarsino, Mickey Edwards, Newt Gingrich, Bob Walker, Dan Mica, Peter Rodino, Louise Slaughter, Connie Mack, Trent Lott, Lynn Martin, John Rowland, Fred Upton, Robert Matsui, Robert Roe, Jim Florio, George Hochbrueckner, Beau Boulter, Don Sundquist, Steve Gunderson, Barbara F. Vucanovich, Bill Schuette, Bill Green, John Spratt, Dean A. Gallo, Guy V. Molinari, Tom DeLay, Bernard J. Dwyer, George C. Wortley, Robert Borski, Jerry Lewis, Norman Sisisky, Don Bonker, Chet Atkins, Ernest Konnyu, Dick Armey, Tom Lewis, John J. Rhodes, Donald E. "Buz" Lukens, James Hayes, James McClure Clarke, Fred Grandy, Martin Lancaster, Jon Kyl, Bill Grant, Mike Espy, Dan Glickman, George Brown, Thomas Downey, Ted Weiss, Cass Ballenger, John J. Rhodes, James Inhofe, Jack Buechner, Ben Nighthorse Campbell, Tom McMillen, Jim Jontz, Claude Harris, Liz Patterson, William Lehman, James Scheuer, Edward Feighan, David Price, Matthew G. Martinez, Frank R. Wolf, Jim Leach, Stephen J. Solarz, Chris Smith, James Bilbray, Gary Ackerman, Solomon P. Ortiz, Tom Carper, Bill Lowery, Dan Burton, Robert K. Dornan, Duncan L. Hunter, Michael Andrews, Constance Morella, Les AuCoin, Jim Kolbe, and Raymond McGrath.

SENATE—*Friday, April 15, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.—Romans 13:7.

Let the elders that rule well be counted worthy of double honour.—I Timothy 5:17.

Almighty God, our Loving Heavenly Father, on Tuesday a rare public servant announced his retirement from the Democratic leadership which he has held for 12 years. All who know him are profoundly grateful for the privilege of serving under his strong leadership. With heartfelt thanks we express our appreciation for this uncommon man—worthy of double honor—whose esteem and reverence for the U.S. Senate has generated among all of us respect for this most powerful deliberative body. We thank You for his unsurpassed dedication, knowledge of Senate rules and procedures, fairness, fearlessness, and integrity. We thank You for his incredible memory, his familiarity with history and poetry, his love for the Bible, his sensitive faith. Gracious God, grant to beloved Senator BYRD and his lovely lady, Erma, the richest of divine blessings. May they be assured of the respect, admiration, and affection of their peers, and may they continue to enjoy the richest blessings from the God they have so faithfully, unremittingly served through so many years of public and private life. In the name of the Messiah King, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority leader be reserved for his use later in the day.

RECOGNITION OF THE REPUBLICAN LEADER

Mr. PROXMIRE. Mr. President, I also request the time of the minority leader be reserved for his use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AN ELOQUENT PRAYER

Mr. PROXMIRE. Mr. President, I want to thank the Chaplain for his beautiful tribute to our majority leader. The Chaplain speaks with enormous eloquence and this was a prayer that was most appropriate in view of the very deep religious convictions of our remarkable leader.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

WHY ARMS CONTROL MAKES SENSE NOW

Mr. PROXMIRE. Mr. President, in an article in the New York Times on March 30 Flora Lewis suggests it is time for military strategists to recognize we live in an "econo-military" world. Strangely only very few have recognized this fact. Fewer still have written or spoken about its implication. Oh, yes, every thoughtful person who appraises military power will recognize that the economic strength of a country has always been a critical element in its potential military power. With the sweeping rush toward ever more potent and hugely expensive weapons, national economic strength has become more critical than ever in military strength. It is no accident that the world's two superpowers have the world's largest and second largest gross national product. Military strength has never so critically depended on economic strength.

But there is a perverse, contrary effect. A big military buildup weakens the economy, even the economy of a superpower. Contrast the performance of the United States' economy with the performance of the economies of West Germany and Japan in the past 40 years. Compare the feeble growth of the Soviet Union economy burdened by its enormous concentration on military spending with the exuberant growth of the economies of the free world. Can there be any question about the sterility of the huge cost of modern military weapons? When a nation diverts its human and material resources from health, from education, from housing, from transportation, from agriculture to building weapons of war, its economy suffers.

The supreme irony is that in the long run a nation that concentrates too much of its resources—human and material in a military buildup diminishes the very economic strength on which any military progress must rely. This is precisely the plight of the Soviet Union today. It could be the plight of the United States tomorrow.

Back in 1953, it will be 35 years ago tomorrow, President Eisenhower made a speech to the American society of newspaper editors and he said:

> Every gun that is made, every warship launched, every rocket fired signifies in the final sense, a theft from those who hunger and are not fed, those who are cold and not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hope of its children * * * this is not a way of life * * * under the cloud of war, it is humanity hanging from a cross of iron.

In this nuclear age any major use of the huge war machine would be an act of gross stupidity. The mammoth nuclear arsenals of the superpowers have made war an act of suicide. Perhaps it is because the prospect of nuclear war is so terrible that we have not taken the time to think at any length about its implications. Implication No. 1 is that a superpower war would utterly, totally, absolutely, without question destroy both nations. What does this mean? It means that neither side,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

whatever the goodness or evil of its ideology, will begin a nuclear war. For a government to avoid a nuclear war takes about the same level of intelligence as it takes to keep one's bare hand off a red-hot stove. The biggest and most powerful countries—from time to time—have had governments, blinded by hate or fear or pride that have blundered into debilitating and destructive wars. Why did they go to war? Because there was always the possibility that the war could be won. There was never the fear that whether the war were won or lost, the country, its civilization, most of its people, all of its material possessions and the very system of government it espoused would all be lost—totally lost and lost with absolute certainty. Never before in history has this been true. Today it is true. In fact, this is precisely the situation today. In a nuclear war there would be no winners. There would be only absolute losers.

The prospect of a superpower nuclear war today is very small. We can and must make such a terrible prospect infinitesimally small. So why are we pouring so much of our resources into preparing to fight it? Why don't we do as the West Germans and Japanese have been doing. Why don't we stop wasting our resources on warships and war planes, on tanks and missiles and 2½ million troops, 2 million of which we will never use? We are told that the answer is that the best way to prevent war is to make ourselves militarily strong. We are told that we must be strong enough to deter any attack. We must be strong enough so that our strongest potential adversary will know that he cannot win by making war against us. Did that ever make sense? Sure it did. It was true until 1945. It no longer is true. We now live in the nuclear age. We live in an age in which our nuclear deterrent provides precisely the deterrence that leaders of nations have dreamed throughout the centuries would defend their countries. Now we know for sure, for certain, absolutely that we have the nuclear weapons strength to destroy any and all adversaries root and branch. We also know something else just as important. We know that our great potential adversary—the Soviet Union—has almost precisely the same power we have. We know the Soviet Union also knows it can destroy us. It knows we can destroy them.

What all this means is that peace now depends on preserving this understanding that war is impossible. It depends on using this understanding to build an assured peace through arms control. That arms control system must rely on establishing and protecting and preserving an impregnable nuclear arsenal for both superpowers. Such an impregnable arsenal will not require anything like the kind of economic resources both sides now pour into their military. With arms control, the military bleeding of our two societies can stop now.

The **ACTING PRESIDENT** pro tempore. Does the Senator from Nebraska seek negotiation?

The Senator from Wisconsin.

Mr. **PROXMIRE.** Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **WALLOP.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The Senator from Wyoming is recognized.

THE PROBLEM OF SOVIET COMPLIANCE

Mr. **WALLOP.** Mr. President, over the past few days I have reviewed some of the deficiencies of the INF verification regime and some possible Senate solutions to those problems. Today I would like to talk about another problem that, in many ways, is far more important than verification, and that is the issue of Soviet noncompliance.

A week before last December's summit, at which the INF Treaty was signed, President Reagan submitted a report to Congress that detailed Soviet violations of existing arms control agreements. It confirmed that the Soviet Union remains in violation of every major arms control agreement.

In particular, it noted that the Soviet Union continues to violate the ABM Treaty, which many regard as the cornerstone of arms control, and identified a new violation of that agreement: ABM radars illegally moved to an illegal site.

Mr. President, as a member of the Senate Arms Control Observers Group, I have had occasion to ask administration officials, including the President himself, how they intend to confront extant Soviet violations or respond to future ones. Their usual response: the United States would never sign an agreement that is not effectively verifiable.

The President himself said shortly after the summit:

> No treaty before has ever been based on as much verification and on-site inspection as this one.

Given the egregious record of Soviet cheating, President Reagan's response completely misses the mark. It is like arguing that AIDS testing is the solution to the AIDS epidemic.

The most verifiable agreement imaginable is meaningless if one party is allowed to violate its international commitments with impunity. For example, in the 1920's, Allied onsite inspectors caught the Germans and the Italians in numerous and well-documented violations of the Versailles Treaty and other arms agreements. The parallel to today is striking.

Then, as now, the problem was not verification. Then, as now, the problem was the unwillingness of the Allies, vainly and passionately hoping for new arms control agreements, to force Germany and Italy to abandon their rearmament programs. Violations then, as violations now, were no diversion to the pursuit of that process.

I wrote last December in an article in the Wall Street Journal that, perhaps as a healthy result of the Senate INF Treaty debate, the administration, working together with the Senate, could develop a comprehensive compliance policy to deal with possible Soviet cheating in the future.

I wrote a letter to the Secretary of State on January 20, which I will provide for the RECORD, asking that he explain what we would do to respond to Soviet violations of the INF Treaty, and how we plan to safeguard against possible cheating.

The Secretary of State did not respond directly, but instead the State Department's Legislative Affairs Secretary forwarded to me a set of truly anemic answers that have absolutely no authoritative imprimatur. The answers were also classified "Secret" even though there is not one shred of national security information in them.

I have tried in vain to get an unclassified version of these answers from the State Department, but they have not been forthcoming. I have no doubt the response I received, and which I would like to place in the RECORD but cannot, was so classified because it is an embarrassment.

It is an empty, meaningless response, unworthy of the administration, devoid of pride or confidence in their achievement.

After 5 years of reports on Soviet noncompliance, after Soviet violations of every major arms control agreement we have ever signed, we still have no policy for dealing with or responding to those violations.

We hear from the administration that the Soviets have no incentive to cheat on the INF Treaty? But what provisions are there in the INF Treaty, or in any treaty or policy or law or statute of this Nation, that would give the Soviet Union an incentive not to cheat? Thus far we have taken no responses to Soviet cheating.

The State Department claims we got out of SALT II because of Soviet cheating, but that treaty was never in force and could not have gotten 67 votes in the Senate of 1979 or the Senate of today, but even so we traveled the so-called extra miles for over 5 years to meet its requirements. What have we done to respond to Krasnoyarsk? Or the SS-25? Or the violation of the Biological Warfare Convention? Or the LTBT?

Mr. President, there are no incentives in this treaty not to cheat. The only provision in the agreement that has anything to do with noncompliance is that creating the so-called Special Verification Commission or SVC.

This Commission is yet another diplomatic channel that, like the SCC created in SALT, will have absolutely no effect on Soviet behavior. As the former Secretary of Defense, Caspar Weinberger wrote to the President in 1986 said of the SCC:

> Far from resolving disputes over compliance, the SCC has become a diplomatic carpet under which Soviet violations have been continuously swept, an Orwellian memory-hole into which our concerns have been dumped like yesterday's trash. Unwilling to face up to the mounting record of Soviet violations, successive administrations have consigned our concerns to the SCC where they have been "discussed," often for years on end, with wholly unsatisfactory results.

That description, sadly, is as true of this administration as the ones that preceded it. The SVC, Like the SCC, will "discuss" Soviet violations until we all forget about them.

I simply think the standard set by the administration is too low. We in the Senate should not be satisfied with a treaty that contains no positive incentives to cheat; we should demand a treaty which contains positive disincentives to cheat.

And let me remind my colleagues how the American people feel about this issue.

Many of you may have seen the March 1988 Yankelovich poll entitled "American Talk Security." That study shows overwhelming support for the INF Treaty.

But when asked, "Do you think the United States Senate should or should not require that President Reagan certify that the Soviet Union is adhering to all past arms control agreements before the treaty can take effect," 71 percent of the American people thought it should.

When asked further if they would still favor this condition if it meant the risk of killing the INF Treaty, 54 percent thought it should still be required.

The American people have a commonsense approach to these questions whose logic is irrefutable.

They are asking us how we can enter new arms control agreements when the Soviets continue to violate old ones? Why indeed?

We need a comprehensive compliance policy. Such a policy would establish a mechanism for responding to Soviet violations.

It would also set up a series of safeguards that we can erect in case the Soviets, despite our best efforts, continue to cheat on their international commitments.

Mr. President, the Senate Armed Services Committee rightly recognized this problem in their report to the Foreign Relations Committee.

The report states that "* * * the committee recommends the development of an effective compliance policy." It also reaffirmed its support for a vigorous ATBM Program as "a safeguard against Soviet use of covertly retained missiles prohibited by the treaty, as well as providing defense against remaining Soviet shorter range ballistic missiles * * *"

Mr. President, I endorse the Armed Services Committees support for an ATBM, and I applaud their call for a comprehensive compliance policy. But in the case of the latter, I think we cannot in the Senate prudently wait for this, or any future administration, to develop such a policy.

Accordingly I, along with Senators KARNES, GARN, MCCAIN, and NICKLES will offer an amendment to the INF Treaty that will provide for a U.S. response to possible violations of the INF Treaty.

Mr. President, this amendment will not go the extra mile, as the American people would seem to want, of requiring the Soviets to come back into compliance before we ratify, but it would establish the political process whereby future administrations and Senates can work together toward a response to violations.

I hope Senators come forward to cosponsor this amendment so that we can begin to establish a compliance policy for the INF Treaty, and for any future agreements that may come before the Senate.

Otherwise the administration will seek, and we will grant, consent to ratify past Soviet behavior, together with the INF Treaty.

We will say to the Soviets and the world—we are only serious about our own arms control obligations—you can continue in the future as you have in the past to violate these treaties.

Mr. President, I ask unanimous consent that a copy of my letter to the Secretary of State be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 20, 1988.

Hon. GEORGE SHULTZ,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR GEORGE: I am sure you are aware of my longstanding concern over Soviet violations of their arms control commitments and the consequences these extant violations have for U.S. arms control policy. In a December 18 Wall Street Journal editorial, I lamented the absence of any U.S. compliance policy despite this egregious record of violation. I suggested that a compliance policy, formulated by the President and submitted along with the INF Treaty, would go "far to diffuse some of the strongest opposition to this agreement."

Unfortunately, no such policy has been formulated and it appears unlikely that it will be. In this regard, I hope that you will answer the following questions for me prior to the opening of hearings on the INF Treaty.

1. Has the United States Government postulated scenarios for Soviet violations of the INF Treaty? If so, what are they? Where would the Soviets gain the most advantage by violating the Treaty? If not, why not? Is it the U.S. position that the Soviet Union has no incentive to violate this agreement? If so, why? What were the Soviet incentives to violate other arms control commitments?

2. A lot has been said in the press by administration officials that the Soviets could not gain any "military significant" advantage through violation of the INF Treaty? For the purposes of this treaty, what defines a "militarily significant violation?" Is the Soviet deployment of the illegal Krasnoyarsk radar militarily significant? Have the Soviets ever violated an arms treaty in a militarily significant way?

3. Given the Soviet pattern of violating arms control agreements, do you think the Soviets will comply with this Treaty? Would a covert deployment of 100-150 missiles be easy to conceal? Would it constitute a militarily significant violation? How many SS-16's were concealed at Plesetsk?

4. What would be the U.S. response to Soviet violation(s) of this Treaty? Would the U.S. withdraw from the Treaty? Resume INF deployment? How do you plan to "safeguard" this Treaty. In short, what is the administration's compliance policy with respect to this agreement?

The President's Commission on Long-term Integrated Strategy stated that arms control agreements providing for reductions in nuclear weapons could serve U.S. security if "the U.S. verification system and U.S. capability for responding to violations * * * [are] able to prevent (or be able to cope with) major Soviet cheating." I know you consider these questions vital to the Senate making an informed decision about the INF Treaty and will expedite the response of the State Department and whatever other government agencies might be involved in answering them. I look forward to your reply.

Sincerely,

MALCOLM WALLOP,
U.S. Senate.

Mr. WALLOP. Mr. President, I conclude by saying that absent some kind of verification regime in the INF Treaty, the President will be asking the Senate, in addition to giving its consent to ratify this treaty, our concept to continued Soviet behavior in the future as it has been indicated in the past. We will be ratifying both Soviet violations as well as the INF Treaty.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

NEED FOR COMPREHENSIVE ENERGY POLICY

Mr. WIRTH. Thank you, Mr. President. As the Chair knows, being from the trade State of Louisiana, over the past years we have been lulled into complacency by low energy prices and abundant supplies of oil. Reality should force us to recognize that one of the most pressing problems facing this Nation is the need to develop a comprehensive energy policy. Today, consumption of oil is increasing, while domestic production is decreasing. That gap between demand and domestic supply is being met by increased imports. And most experts predict these trends will continue and that by the middle of the next decade we will be importing 50 percent of our oil.

The past year's events in the Persian Gulf are a striking reminder that the Strait of Hormuz are as narrow today as they were 15 years ago. And only yesterday one of our Navy's ships hit a mine after escorting a reflagged Kuwaiti tanker. Increasing imports of oil from this region of the world represents a threat to our energy security, and we should be working hard to reduce the United States' dependence on oil from this region.

There are other, equally important, reasons to strengthen this Nation's energy independence. First, we can enhance our industries' competitiveness in international markets by cutting the energy costs of producing everything from computers to petrochemicals. Second, reducing energy consumption and increasing energy efficiency will help improve the Nation's balance of trade, since 25 percent of our merchandise trade deficit can be attributed to oil imports alone.

And third, preeminent atmospheric scientists from the United States and many other countries are sounding an alarm about a new, and potentially profound, threat to the Earth's environment—global warming. We now know that worldwide emissions of carbon dioxide from combustion of fossil fuels are causing an increase in the temperature of the atmosphere. And these scientists are very concerned that this global warming is proceeding at a rapid pace and will cause changes in the Earth's climate that far exceed not only human experience but also the ability of plants and animals to adapt to a changing environment.

Mr. President, these facts provide a compelling argument for the development of a strong, comprehensive national energy policy. These facts also suggest that a very important part of a national energy policy must be a renewed commitment in this country to energy efficiency.

Unfortunately, the Nation's energy efficiency, which had been steadily improving since 1973, has leveled off during the past year and may be declining.

So what we have to do, Mr. President, is to recommit ourselves in the United States to a comprehensive and sensible energy policy. We in the U.S. Senate, and the Federal Government as a whole, must reaffirm this commitment to energy efficiency and to a national energy policy in the Federal budget.

Unhappily, the request sent up by the administration, which was rejected by the House and the Senate, cut the Federal investment in energy conservation dramatically. Fortunately, in the budget resolution passed by the Senate yesterday, we were able to maintain something of our commitment to energy efficiency and overall to energy research.

We have, however, had placed before us by a broad alliance of energy organizations an alternative proposal for the fiscal year 1989 DOE energy conservation budget. The alternative proposal calls for continued support for technology currently being developed with the benefit of DOE research and identifies 17 new research initiatives that hold great promise for the future.

It also calls for a continued Federal commitment to support State efforts to improve energy efficiency in communities, especially weatherizing the homes of those most in need: low-income and elderly homeowners.

This proposal is representative of the kind of things that this Nation should be addressing through a comprehensive energy policy and has been offered to us in the U.S. Congress from a coalition that includes the Alliance to Save Energy, of which I am privileged to be the national chairman, the American Gas Association, the Energy Conservation Coalition, and the National Association of Regulatory Utility Commissioners.

An executive summary of that proposal has been placed in the RECORD by Congresswoman MARILYN LLOYD and Congressman SHARP, chairman of the Energy Subcommittee on the House side. It deserves our close attention and support.

I urge my colleagues to carefully review this proposal and look forward to working with other Members of the Senate as we continue our efforts in developing a strong overall energy policy for this Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado yields the floor. Who seeks recognition?

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

REVITALIZATION OF RURAL AMERICA: PHASE II

Mr. KARNES. Mr President, I rise as an original cosponsor to support legislation introduced by Senator BOSHWITZ from Minnesota to revitalize rural America.

Over the past decade rural America has become more and more dependent upon the vitality of agriculture. In this vein, we have held hours of hearings, spent billions of dollars, agonized over support prices that would keep family farmers in business. We have even held concerts to draw attention to the crisis on the farm. With broad congressional backing, we have, in the course of time and with a lot of sweat, begun to turn the farm economy around. Land prices are stabilizing and farm income reached a record $57 billion last year. Exports are making a come back in the most competitive markets our products have ever seen.

While I applaud these efforts and I support many of the initiatives that have made recovery for farmers possible, rural America has failed to become a part of that recovery. While the economy in general continues on the longest peacetime expansion America has ever had, our small towns are losing a fight for survival that will reshape America in the 21st century.

This is occurring for many reasons. Most economic incentive programs designed for business development are based upon formulas or assumptions that stack the deck against rural America. The benefits, which are usually significant, are designed for larger metropolitan areas and do not benefit the surrounding small towns. Many small towns in Nebrask have experienced the frutstration of losing business opportunities because of a formula that, defines their towns out of contention.

It is also apparent that farmers are much more conservative in their spending habits now.

Many farmers are now intent on paying down old debt. Indeed, they are often forced to do so by their lending institutions. They are much more reluctant to overextend themselves this time than they were in the past. Many farmers have taken off-farm jobs located in larger areas to supplement their income. In fact, fully half of a farm family's income is dependent on nonfarm sources—jobs that are in the small towns that dot states such as my own Nebraska.

With our current farm programs, we are well on the way to achieving the first phase of recovering from the farm crisis—revitalizing agriculture. It is time to begin phase II—a program to reinvest in the backbone of America; that is, small business and small towns.

People in my State have had enough of seeing their downtown shopping areas decline as shops have closed and gone out of business. We need to stimulate small town economies at the grassroots level, to breathe new life into the business districts. We need a program that will help shopkeepers pull the boards off their shop windows, open their doors, and get back in business.

As I visit the towns of rural Nebraska, I see that the people have the pride and determination to help themselves with the government acting as a partner. They are not looking for a handout, they are looking for assistance that is measured and appropriate. I think that the Rural Regeneration Act of 1988 offers a reasoned and measured level of assistance too often lacking in Federal programs.

The Rural Regeneration Act of 1988 is a multifaceted approach to a complex problem. It provides programs to help small communities help themselves. It is not another massive centralized government plan to cover every contingency. Instead, the Rural Regeneration Act is a flexible program that encourages small rural communities to work with State and local governments in designing plans that will be effective on a local level. It will engender more cooperation between levels of government in this area. It will target rural areas and states which have been hit hardest by the difficult years that agriculture has endured.

The Rural Regeneration Act accomplishes these goals in a number of ways. The act provides for job training funds for displaced farmers and targets these funds so that they will be utilized in rural areas. The act has rural development assistance in the form of matching grants for higher education and for greater use of the extension service provided by land-grant colleges. It will enhance the infrastructure of communities of less than 5,000.

The act will promote Farm Credit Systems local banks to increase funding of rural economic development projects. All of these efforts provide a needed boost for the small towns of this country to regain their rightful spot as partners with farmers and ranchers in a prosperous rural America.

Mr. President, I urge that my colleagues join with me in this new effort to broaden and expand the farm recovery to the towns and businesses in our country. As a member of the Senate Agriculture Committee, I will do all I can to move this legislation forward as quickly as possible. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SPECTER. I thank the Chair.

"FOR KIDS' SAKE DAY"

Mr. SPECTER. Mr. President, on April 16, 1988, KDKA-TV 2, Pittsburgh, Pa., will be holding "For Kids' Sake Day" as part of its third annual "For Kids' Sake" campaign, which is a community service program oriented to focus on kids, on children and on family life. KDKA-TV has undertaken this worthwhile public service program in an effort to focus regular attention on the family, the bedrock of our institutions in this country and in this world but too often neglected.

Now in its third year, the campaign is made up of special television programming, news stories, public service announcements, editorials, community events, and education pamphlets—all designed to improve the well-being of area youth and their families.

As part of its special programming which will take place over an 11-hour cycle from 7 a.m. until 7 p.m., channel 2 in Pittsburgh will feature special television programming made up of news stories, public service announcements, editorials, community events, and education panels.

In this effort, KDKA has had as its partners the Children's Hospital, First Federal of Pittsburgh, and Giant Eagle.

On "For Kids' Sake Day," Saturday, April 16, KDKA and its partners are asking family members to spend time with each other. To promote this goal, the television station will air only family programming between 7 a.m. and 6 p.m. on April 16. During this 11-hour span, KDKA will broadcast no locally originated commercials but, instead, will use this time for family-oriented messages which will contain socially relevant material.

This program is designed to encourage parents with their children to watch television and to engage in societal activities together.

In addition, KDKA has arranged for families to get special admission discounts at the Carnegie Museum of Art, the Carnegie Museum of Natural History, the Pittsburgh Zoo, the Buhl Planetarium, the Phipps Conservatory, the Pittsburgh Aviary, the Bowling Proprietors Association of Greater Pittsburgh, and the Cinema Theaters throughout western Pennsylvania.

These efforts by KDKA and its partners in trying to improve the lives of youngsters and their families are, indeed, commendable and deserving of our attention and support.

Our children are the future of our Nation and their families provide the indispensable love and dedication necessary for their best development.

It is altogether fitting then that the U.S. Senate take note of this fine endeavor by KDKA-TV and its partners, Children's Hospital, First Federal of Pittsburgh, and Giant Eagle, and congratulate and commend them for their efforts on behalf of young people and their families.

Mr. President, this is a unique undertaking now in its third year, and KDKA television deserves to be noted and complimented for these very worthwhile efforts on a special day to bring kids, their parents, and their families together to focus attention on family values, and to set a trend which could continue 365 days a year.

MEXICO DECERTIFICATION

Mr. SPECTER. Mr. President, I believe it is worthwhile to state my reasons for supporting the resolution of decertification for Mexico (S.J. Res. 268) which passed the Senate yesterday. These reasons are largely the same as those which I stated on the floor yesterday for supporting decertification of the Bahamas.

First, Mexico continues to be the largest single country source of the heroin and marijuana available in the United States.

Next, net Mexican production totaled 6,550 metric tons of marijuana (as compared to 4,000 to 6,000 metric tons in 1986) and 45 to 55 metric tons of heroin (as compared to 35 to 50 metric tons in 1986).

Next, U.S. officials report that the levels of U.S.-bound cocaine transiting Mexico have significantly increased.

Next, Mexico will continue to be a major producer of illicit narcotics for the foreseeable future. Its 2,000 mile border with the United States makes it a natural point of origin and transshipment to the United States.

Next, many corrupt officials are not prosecuted. Official protection of narcotics activities ranges from simply looking the other way to facilitating safe passage of drugs through customs or military/police checkpoints.

Next, rising imports of Mexican black tar heroin with its high purity and low price represent a new and significant threat. A sharp increase in U.S. heroin-related hospital emergencies has been connected to its increased use.

The State Department's 1988 International **Narcotics Control Strategy Report indicated that 9,000 hectares of cannabis and 8,000 hectares of opium were cultivated in Mexico in 1987.**

The report also stated that the Customs Service indicates that the single most important factor which undermines effective cooperation in narcotics control between the United States and Mexico is the level of corruption.

Mr. President, on the face of that record it seems to me that we certainly ought not to certify Mexico and allow it to receive more aid from the United States. We have been too timid, Mr. President, in our actions against foreign countries which have grown narcotics which end up in the United States or which permit narcotics to be transited from those countries.

We have at the present time 17 countries receiving $1.3 billion from the United States and the evidence is compelling that in many, many, many of those countries they have not done what they should to help us deal with the terrible problem of drugs in our streets and in our schools.

Mr. President, on April 13, 1988, I offered an amendment to the budget resolution which passed by an overwhelming vote, 76 to 18, to reprogram certain funds aimed at prison construction and enforcement of the career criminal bill, which I transferred from the travel allowances. But I was sorely tempted, as I said on the floor Wednesday afternoon, to take that $125 million as half of the foreign aid allocated to seven of the worst offenders on growing or transiting drugs which end up on the streets of the United States. And one of the countries on my list of seven was Mexico.

Mr. President, on February 29, 1988, President Reagan issued Presidential Determination No. 88-10 regarding certifications for narcotics source and transit countries pursuant to the Foreign Assistance Act of 1961, as amended. The President determined and certified that 17 major narcotics producing or major narcotics transit countries, including Mexico, "have cooperated fully with the United States, or taken adequate steps on their own, to control narcotics production, trafficking and money laundering." Considering the significant drug problems related to Mexico, the Presidential Determination included an attachment entitled, "Justification for Certification." Although the Justification included evidence of some improvement in Mexico's marijuana eradication campaign, the Justification also stated that opium poppy eradication "was short of the effort needed to reduce production."

The Justification for Certification also included the following statements.

> First. "Mexico is a major drug producing and transit country."
>
> Next. "Mexico has the capability for far greater achievement in narcotics control."
>
> Next. "[T]he overall assessment is that Mexico's effort has not kept pace with the increased flow of drugs, and is below the level of efficiency and effect of which it is capable."
>
> Next. "The Government has not yet addressed all allegations of official corruption in a systematic fashion."
>
> Next. The United States "believes that a higher level of cooperation is both possible and necessary."

Mr. President, it seems to me that what the U.S. Senate ought to do and what the U.S. Congress ought to do is to say to countries like Mexico, it is simply insufficient to have cooperation for whatever it is that generalization means. We expect, we require, we demand more. We ask for effectiveness. It is not enough to have good intentions. It is not enough to be cooperative. We expect some results on what the Mexican Government does.

When you take a look at the long list of defalcations which are specified in the International Narcotics Control Strategy Report, we should not settle for cooperation, however good that cooperation may be.

Mr. President, this resolution to decertify is unlikely to become the law of the land because under the requirements of the Chadha decision, the interpretation of the Supreme Court of the United States, it will have to pass the Senate and the House subject to a Presidential veto and then have to be overridden by a two-thirds vote of the Congress. On this state of the record it appears to me that enactment is unlikely to occur.

But notwithstanding that fact, I believe the Senate ought to be resolute and ought to put Mexico on notice and ought to put all of the 17 countries on notice, those 17 countries which receive $1.3 billion, that the U.S. Congress is sick and tired and fed up with the growth of drugs in those countries and with the transit of drugs from those countries and that we are not going to take best efforts and we are not going to take full cooperation. We are going to expect, demand, and accept only effective results.

That is why I voted in favor of this resolution of decertification, which passed the Senate by an overwhelming vote of 63 to 27.

I thank the Chair.

I yield the floor.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized for 5 minutes.

Mr. BYRD. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. Yes.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, morning business will come to a close shortly, and the distinguished Senator from Delaware wishes to speak. Mr. Pressler also wishes to speak. How much time would each Senator wish?

Mr. ROTH. I would ask for 10 minutes.

Mr. PRESSLER. I would ask for 5 minutes.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended 15 minutes, and that at the conclusion of the 15 minutes the Senate resume consideration of the lobbying bill, and that Senators may speak during morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Senator for yielding. I ask that no time thus far be charged against Senator Roth.

Mr. ROTH. I thank the distinguished leader for his courtesy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAX REFORM AND TAX SIMPLIFICATION

Mr. ROTH. Mr. President, today marks the first filing deadline under the Tax Reform Act of 1986. As the American people struggle with their new but not necessarily improved tax forms, their anger and frustration has risen.

I am wearing a black arm band to express my sympathy for the American taxpayer as they face the consequences of the 1986 tax reform bill.

The new law obviously has done nothing for tax relief or tax simplification in 1987. Many taxpayers are surprised at the big tax payments required for this tax year. This is a result, of course, of the act's delay of full rate reduction in 1987 relative to the full repeal of deductions in the same tax year.

By restricting IRA's, the tax bill discourages, rather than encourages, the American people from saving money.

This was a major factor in my decision to vote against the 1986 Tax Reform Act. Although I favored the marginal tax rate reductions, inspired by the earlier example of Roth-Kemp, the base broadening was done in a way potentially harmful to the economy. Fortunately, the underlying economy was extremely strong, plowing ahead despite the tax bill and the decline of the stock market.

Many taxpayers are probably asking themselves how and why their tax payments are going up this year. Anyone unfortunate enough to deal with any of the extra forms is especially unhappy. After all, was not tax relief and tax simplification part and parcel of tax reform from the beginning? For example, the Treasury's proposal was called tax reform for fairness, simplicity, and economic growth.

Well, the final product didn't move us in the direction of any of these worthy goals. As one wag said at the time: "Today I hold in my hands 925 pages of tax simplification." What he did not say is that the explanation of these provisions took another 886 pages.

The Tax Code is so complex, according to a new GAO report, that even IRS goofs 38 percent of the time in advising taxpayers. This shouldn't be too surprising, since IRS issued over 1,000 pages of new regulations implementing the 1986 Tax Act. According to Arthur Andersen & Co., IRS has also issued "82 'advance notices' outlining future regulatory changes, 74 press releases, 32 revenue rulings, and 20 revenue procedures."

This same source reports that IRS officials are very nervous about other hidden "gremlins" in the new tax law. Dealing with certain provisions of the new code are indeed reminiscent of the movie "gremlins," which portrays a community tormented by cute cuddly creatures which are transformed into little vicious monsters. Like these gremlins, the warm, fuzzy ideal of tax reform has been converted into certain spooky and brutal provisions of the current income Tax Code. The complexity of the new law is, in fact, a horror show for workers and small business alike.

The average person can see the impact of the new tax law in the amount of tax due and in the extra complexity. For example, let us take something relatively simple, such as the home mortgage deduction. As mortgage rates have fallen in recent years, many millions of Americans have benefited by purchasing homes. However, for tax year 1987 there is a restriction on this deduction which affects some taxpayers. How do you find out if this applies to you? Simple, consult the IRS book entitled "Your Federal Income Tax." You may need to file a form 8598.

According to IRS:

> You must file form 8598, home mortgage interest, with your return if you took out new mortgage debt on your home after August 16, 1986, or you increased the amount of existing debt after that date, and the total combined principal balance of all debt on that home at any time during 1987 was more than the cost of the home plus the cost of improvements.

Got that? How's that for tax simplification and clarity? This provision establishes two classes of homeowners according to whether they increased their mortgage debt over the limit before or after August 16, 1986. Does this make any sense? But do not worry, maybe you will luck out. IRS goes on to say: "If, besides purchasing or improving your home, you used the proceeds of the mortgage debt only for qualified medical or educational expenses—defined later—all your interest remains fully deductible. Even though you have to file 8598, you need fill out only part 1 of the form." This mortgage rule was so bad that Congress has tried to correct it for 1988.

The situation is equally grim for small business. According to a survey commissioned by the National Federation of Independent Business [NFIB], 75 percent of small business members find that complexity has increased under the new Tax Code. About half of the small business personal surveyed found that the new code costs more time both for firms and for their accountants.

Small business has not given up hope, however. A majority do support the concept of tax simplification. But small business does not want Congress to address the budget problem by raising taxes. Only 2 percent surveyed favored tax increases. They know the impact this would have on their own ability to compete and create most of the new jobs.

Mr. President, the 1986 act will hurt, not help, the taxpayers and the economy this year. We are fortunate that the foundation laid by previous economic policy has made the economy better able to deal with mistakes. Unfortunately, there are many in Congress who advocate increasing the burden of the American taxpayer even more.

Of course, they are planning tax increases for after, not before the election. They will argue that taxes need to be raised to fix the budget. But giving Congress more revenue to solve the budget problem is like making Dracula the head of the blood bank. As the author of Parkinson's Law explained, "taxation necessitates expenditure."

The same point was made in a study I released last year, which showed that Congress spends $1.58 for every additional dollar of tax increase. And now a new article in the Southern Economic Journal concludes that additional taxes tend to push Federal spending higher. This is not surprising, given the tremendous power of special interest groups.

Though the taxpayer has taken it on the chin again in 1987, the threat of future tax increases is very real. This despite the fact that the Treasury is now collecting more revenue than any government in the history of the world. Moreover, $365 billion will be added to the revenue base over the next 5 years under current law. Obviously America is not undertaxed. But there are those tax addicts who are never satisfied with the revenue base, no matter how high it is.

In conclusion, 1987 was not a great year for the American taxpayer. Moreover, the threat of big tax increases loom over the election horizon, posing future danger. Despite all the nonsense written on the subject, huge tax increases are not inevitable, but will only be the result of bad policy. Now is the time, before the election, for taxpayers to ask policymakers where they stand on this issue. Let me make my position clear: tax increases are not needed and will only undermine the economy and American living standards.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota, Senator PRESSLER.

VIETNAM REVISITED

Mr. PRESSLER. Mr. President, I have just returned from Vietnam where I spent the Easter recess. I was accompanied by professional staff members of the Foreign Relations Committee, of which I am a member; a New York Times reporter, Barbara Crosette; and a local CBS affiliate TV crew, KELO-TV.

One of those accompanying me was Pho Ba Long, now an American citizen and a professor of Georgetown University. I first met Pho Ba Long 21 years ago in Dalat, Vietnam, and we have been friends since.

The purpose of our trip was to look into the missing-in-action problem, the Amerasian problem, economic development, and also to visit some of the areas in which I served in the Army in Vietnam 21 years ago.

As I have reported earlier, I found the economic conditions in Vietnam worse than they were in 1967-68. There are fewer motorized vehicles. There are food shortages in the country. Indeed, babies are being born 1 to 2 pounds lighter than normal because of those food shortages.

Twenty-one years ago I wrote a memo while serving in Vietnam entitled "Motor Pump Permits in Dinh-Tuong Province."

The new Vietnamese Government changed the name to Tien Giang Province. I believe we may have been the first Americans to be in that area in 15 years.

American motor pumps that were delivered 21 years ago are still working in that province. These Kohler motor pumps were used for irrigation and driving sampans. There are also Briggs & Stratton motor pumps and Clinton motor pumps still in operation.

The point is, these pumps were part of a small United States AID economic development project, delivered primarily by the Army under the so-called pacification of that time in Vietnam.

Too often our USAID projects or economic development projects are grandiose—huge loans, huge grants to build big showcase-type things.

This was also true in Vietnam, but many of those grandiose projects have disappeared. But still remaining are the small economic development projects. During the 1960's, the United States was trying to win the hearts and minds of the Vietnamese people through the Pacification Program and the CORDS Program. About 1967 or 1968, that effort was largely turned over to the military, or at least the military became involved in the development teams, and I served as a second lieutenant and first lieutenant in the U.S. Army at that time.

I think there is a lesson in this for our aid to other countries. In the 1950's, 1960's, and 1970's we believed we could help these lesser developed countries with large-scale USAID projects. These efforts largely have been frustrated. Some of those countries have slipped backward rather than going forward and the reason, I believe, is that we have overemphasized big, visible projects, such as airports, big factories or big processing plants of one kind or another, sometimes competing against our own agriculture and industry.

The small economic development projects, such as the small irrigation pumps, still remain in Vietnam 21 years later even though there is a new government. They are still helping people, and the United States is remembered favorably for it, and this is true throughout the developing world, I believe.

At this time of budgetary deficits I think that our aid to other countries should rely more on the small-is-beautiful concept and focus on local grassroots economic development in villages and farms rather than on large-scale industry projects that cost so much money.

I shall have further things to say regarding the results of my thinking on economic development in the Foreign Relations Committee on which I serve when we mark up the next foreign aid authorization bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a memo I wrote and published on April 20, 1967, entitled "Motor Pump Permits in Dinh-Tuong Province."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MOTOR PUMP PERMITS IN DINH-TUONG PROVINCE

1. The purpose of this report is to outline the process through which a Vietnamese farmer in Dinh-Tuong province obtains permission from his government to purchase a motor pump to be used in irrigation, and to suggest ways by which the process might be simplified. The report is based on interviews of farmers, merchants, repair shop keepers, and government officials in Dinh-Tuong province in April 1967. The interviewing was done by three Vietnamese graduate students and this writer.

2. The present process of obtaining permission to purchase a motor pump is very lengthy and a source of great irritation and frustration to farmers and merchants. It represents a classic example of the large amount of red tape that has crept into everyday Vietnamese business transactions. In this writer's opinion, the best approach to the problem is to take a product by product approach, or a business by business approach, and determine what restrictions and red tape does exist, and which of these are really necessary. USAID should counsel the GVN to eliminate the unnecessary portions. Taking a product by product approach is slow, but it is better than not moving at all.

3. The type of motor pump under discussion usually consists of a four or five horsepower imported motor and of a pump built in Viet-Nam. The motors are imported to Viet-Nam under the Commodity Import Program. Kohler, Clinton, and Briggs & Stratton are the most popular brands. The motor pumps are used for irrigation—usually to lift water out of a canal into a farmer's field. There were 9,643 motor pumps sold in Dinh-Tuong Province in 1965 and 10,581 sold in 1966. A four horsepower motor usually costs a farmer about 9,500 piasters.

4. There is some renting of motor pumps, but since their use is seasonal and just during those portions of each month when the tides are up, farmers have a great desire to own their own pump so they can pump when water is in without having to chance not being able to rent. Four or five horsepower motor pumps rent for fifty to seventy piasters per hour.

5. The large scale use of motor pumps for irrigation has developed over the past three years in Dinh-Tuong Province. Prior to this, farmers did not usually pump water, and if they did, it was by manually operated pumps. There are now twenty-three licensed motor pump sellers in the province plus a number of small repair shops. The technical high school of the province specializes in the repair of motors and pumps. It turns out one hundred graduates per year.

6. Most of the motors are used strictly for irrigation. However, they can easily be converted for use on a sampan. And a regular sampan motor driver can be converted into an irrigation pump by reversing the rotor and putting a sleeve over the drive shaft. See illustration below.

The easy convertibility of a motor sampan driver to a pump and back, and the fact that any four-five horsepower motor can be used on a sampan, gives them a significant military value in moving men or supplies by water.

PROCESS THROUGH WHICH A FARMER OBTAINS PERMISSION TO PURCHASE A MOTOR PUMP IN DINH-TUONG PROVINCE

A. Farmer visits merchant(s). He decides which motor pump he wants and from whom he wishes to purchase it.

B. The farmer obtains two standard government application forms. One form requires him to tell why he needs the motor pump and where he intends to use it. The other form requires him to describe his means of transporting the pump. He must have two copies of each form.

C. The farmer goes to his Village Chief and receives stamp and signature approval of the application. If the farmer lives in an insecure or semi-insecure area, it is usually necessary for the Village Chief to write him a letter of character reference.

D. The farmer hand-carries the four copies to the district headquarters. He could mail them or send them by messenger, but to speed things up, he usually hand-carries. The District Economic Office and the District Security Police must stamp and sign all copies. The District Security Police are supposed to investigate the political activities of the farmer, but in fact, they seldom do because their staff is too small to do much besides signing and stamping applications. Although the whole process is supposed to be free, the farmer is expected to pay a 300 to 500 piaster "tip" or "bribe" privately to district officials if he wants fast service. During rush times of the year when many farmers are trying to buy motor pumps, this "tip" goes up to around 1,000 piasters if the farmer wants service within a week. At one district headquarters, we found some applications that were five weeks old and yet untouched. Apparently those farmers did not come across with a sufficient "tip".

E. If the pump motor is over five horsepower, the farmer must take the documents to the province headquarters for approval. At province headquarters it must be approved by the economic section and by the Deputy Chief of Province in charge of Military Affairs.

F. The farmer goes back to the merchant and the merchant sends his transportation permission application to the local police chief to be recorded and stamped. If the merchant's relations with the local police are good, the paper can be stamped in a matter of a few hours.

G. When this is complete, the farmer pays for his motor pump and goes home. He keeps one copy of the documents and if his ownership is ever challenged, he must produce them.

In addition to the regulations governing purchase, there are limitations on transporting a motor pump. If at some future time the farmer wishes to transport his pump from one province to another, he must get written permission at village, district and province level in his own province and permission at province level in the province to which he intends to ship.

REASONS FOR THE REGULATIONS AND THEIR EFFECTIVENESS

1. The main reason put forth for the regulations by every government official we interviewed was to keep motor pumps out of Viet-Cong hands. The Viet-Cong, it is contended, have a great need for motors to use on sampans, generators, and other small power driven equipment.

The fallacy to this thinking is that if the VC desire to procure motors, they would probably not try to purchase them. As one drives on almost any road in Dinh-Tuong Province, he can see three or four motors working in the adjacent fields. There are so many motors around that if the VC wish to "borrow" some for an operation, they would have little trouble. In this writer's opinion it is highly doubtful that the VC procures motors by purchasing them.

The regulation system also seems to assure that there are two economies—a VC economy and a non-VC economy. As Bob Samson has pointed out, this might be true in only five or six districts in the entire delta. But most of the delta is far too "grey" to draw black and white VC membership. We looked at one farmer's rejected application for purchasing a motor pump the Ben-Tranh District Headquarters in the town of Tan-Hiep. Written on the application was a note saying that since the farmer lived in an insecure area, he should not have a pump. The assistant district chief told us that the man had some friends who were thought to be VC. There was no proof that the man himself was a VC. The district security police, or district economic office—both of whose employees rarely leave their office—can hardly discover who is VC and who is not. Even if they tried they would not have a sufficient staff.

2. Another argument put forth in support of the system is that if a farmer has his approved papers, he is safe from having his motor confiscated by allied or GVN forces. It would seem that a simple title of ownership or receipt should serve as well.

3. A third argument for the system is that it prevents a black market for motor pumps by keeping tight control of all motors. To the contrary, it appears that the system encourages a black market. If a man wants a motor pump and is denied permission, he will probably seek other means to obtain it. Mr. Le-Van-Be, head of the Le-Hung shop, the largest motor pump distributor in the province said that during the season when farmers need water for their crops, he is frequently approached by those whose applications have not been approved to somehow obtain use of a pump. He said he sympathizes with them and always tries to help them, although he did not say exactly how. We interviewed six motor pump dealers and all said their main problem was the regulation process. Most of them suggested that approval by the village chief would be sufficient.

CONCLUSION

It appears that it would be wise for USAID to counsel the GVN Commissioner for Administration to eliminate most of the motor pump application procedure. Approval of an application by the village chief should be enough, if even that is necessary. The present system does not sort out VC. It does, however, give a most negative image of the government the farmer is told his son must fight for.

The original decree requiring the authorization dates back to 1962. It has been revised and changed on several occasions since. It was administered by the Ministry of Interior until the past year when it was turned over to the GVN Commissioner for Administration.

A first step in resolving the problem might be for the Associate Director for Development, USAID, to discuss the matter with the Commissioner for Administration and to recommend that as much of the procedure be eliminated as possible. The recommendation might be more specific, e.g., that the district headquarters and the police be eliminated entirely from the process, leaving only the village chief to sign off.

Mr. PRESSLER. Mr. President, the memo described the process by which Vietnamese farmers got permission to buy a motor pump and the bureaucracy that existed at that time. The process was felt necessary because of the security problems back then, the fear that the motors would fall into the hands of the Viet Cong, who might use them to power sampans, and so forth. I might report that the bureaucracy and paperwork largely have been removed by the new government, but there are no pumps for sale. They have no foreign currency to bring them into the country. They do not have an aid program to bring them in.

The available pumps are made in Japan. They are priced at the equivalent of $450. So no one can afford to buy them.

The Vietnamese peasants continue to rely on the older American pumps—Kohler, Clinton, and Briggs & Stratton pumps. You can see them working in the Mekong Delta of Vietnam 21 years later.

This is an example of one U.S. aid project that worked and is still working. It was one of the least costly aid programs and it proves that in foreign aid small is beautiful and effective.

Mr. President, I yield back the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Reid). The time for morning business has expired.

INTEGRITY IN POST-EMPLOYMENT ACTIVITY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 237, which the clerk will report.

The bill clerk read as follows:

A bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes.

The Senate resumed consideration of the bill.

Mr. METZENBAUM. Mr. President, it is my understanding that the bill S. 237 is before the body at the present time.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. We are waiting the arrival of Senator Thurmond. He and I are the principal sponsors of the bill. I think he is prepared to make an opening statement, and I will follow with one immediately thereafter.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the Senate is now taking up a very important bill. There will be rollcall votes and, contrary to a rumor, I have not said that we are just going to 3 o'clock today. I am not a 3 o'clock Friday man.

I have made an agreement with all Senators on both sides that we would be in 3 weeks and be out 1 week. I intend to stick to that agreement, but part of that agreement was we put in full days on Mondays and Fridays, so if we can get votes and make progress until, say, 5 o'clock today, that is all right by me. Of course, if we get to the point we are stalled and cannot do anything, I always try to face reality. But it is not a 3 o'clock day as far as I am concerned, nor a 4 o'clock one.

I want to make progress on this bill because we have other business to do, and I am sure that all Senators will want to get out of here sine die by October 8, if not earlier.

So I urge cooperation on the part of all Senators as well as their understanding. I thank the Chair.

Mr. THURMOND. Mr. President, I am sure we will cooperate with the majority leader in the statement he just made.

Mr. BYRD. I thank the Senator.

Mr. THURMOND. Mr. President, today, the Senate begins consideration of significant legislation, the "Integrity in Post-Employment Act of 1987." This legislation substantially strengthens the current law on post-employment activity by former Federal officials. The bill provides a uniform, straightforward, and enforceable way to prevent those who are employed by the Federal Government from leaving public service and marketing their access and influence for financial gain. In addition, the legislation prevents Federal employees from vending sensitive information vital to National interests to foreign entities for profit.

Clear threats arise out of the abusive use of access and influence and the vending of sensitive information: First, damage to the integrity of government, as undue and improper influence is brought to bear on decision-making processes; second, erosion of public confidence in the operation of the Government, as the American people sense former employees are exerting, or appear to be exerting, improper influence on current Government decisions; and third, jeopardy to the national interests, as some former employees advise foreign clients based on sensitive information gained while in positions of trust with the Federal Government.

Regarding the history of this bill, I originally introduced the "Integrity in Post-Employment Act" in the 99th Congress. The distinguished Senator from Ohio, Senator Metzenbaum, immediately joined in this effort. His commitment to this legislation has been substantial from the start. After some revision, the legislation was voice-voted out of the Judiciary Committee in June 1986. As no floor action occurred before adjournment, the bill was reintroduced in the 100th Congress. In May 1987, the legislation was again voice-voted out of committee without opposition. Recently, the distinguished Senator from Michigan, Senator Levin, made recommendations regarding this legislation. Although I prefer adoption of this legislation as originally reported by the Senate Judiciary Committee, I have agreed to some of Senator Levin's proposals in an effort to broaden support for the bill and to enhance the likelihood of Senate passage.

Major provisions of this substitute will:

Provide for an 18-month moratorium on all Government employees with a Civil Service rating of GS-16 or greater, commissioned officers of a uniform service assigned to a pay grade of 0-7 or above, and the Government's highest ranking officials—which includes Cabinet members and most of their principle deputies, Members of Congress, and top White House aides—from lobbying or working for a foreign entity after leaving Government service.

Create a three-tiered prohibition on domestic lobbying by former Government employees. Under this provision, those designated high-ranking officials, which include Cabinet members and most of their principal deputies, Members of Congress, and top White House aides, could not lobby any branch of the Federal Government for 1 year after leaving office. Executive level-three officials could not lobby the executive branch for 1 year after leaving Government service. Individuals holding jobs with a Civil Service rating of GS-16 and above or commissioned officers of a uniform service assigned to a pay grade of 0-7 or above, could not lobby their former agency or department for 1 year on behalf of a domestic entity.

In addition, this legislation maintains the lifetime ban in current law that prohibits all executive branch employees from lobbying on any issue in which they had "a personal and substantial" involvement while in Government service.

Under the substitute bill, foreign entities are defined as foreign governments, foreign political parties, or organizations substantially controlled by either. Also, exemptions are included to allow employment and lobbying by former Government officials for certain charitable, scholastic, or humanitarian purposes.

Maximum criminal penalties of $250,000 in fines and 5-year prison terms, or both, are included in the measure. An additional provision allows, along with any criminal action, recovery of up to twice the amount of proceeds obtained by any individual who violates restrictions in this bill.

This legislation would become effective 9 months after it is signed into law.

In summary, I believe S. 237 must be enacted so that much-needed improvements to the weak, confusing, and oftentimes conflicting laws governing former Members and Federal officials who lobby the Government or work for a foreign entity will be put into place. When we face a serious problem such as the misuse of influence and access or vending of sensitive information vital to National interests, we have two alternatives—do nothing, or take steps to resolve the problem. I believe we must take action to prevent irreparable damage to our Nation and to restore public confidence and integrity in our system of Government. It is time that public service be just that—not merely a stepping stone for future employment or profit. This legislation will help to ensure that future Federal officials serve their country—not themselves or foreign interests.

I urge my fellow colleagues to support passage of S. 237.

Mr. President, I would like to dispose of the committee amendment and then lay down the substitute.

The PRESIDING OFFICER. The clerk will now report the committee amendment.

The bill clerk read as follows:

On page 7, strike line 18, through and including "(c)" on page 8, line 3, and insert "(b)".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 1946

(Purpose: To make certain substantive and technical improvements)

Mr. THURMOND. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. METZENBAUM, Mr. LEVIN, and Mr. SPECTER, proposes an amendment numbered 1946.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Integrity in Post Employment Act of 1988".

SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT PROVISIONS OF SECTION 207 OF TITLE 18.

(a) OFFENSE.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former executive and legislative branch employees

"(a) LIFETIME PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed—

"(b) TWO-YEAR PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee described in subsection (a), within 2 years after that former officer's or former employee's employment has ceased—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States, by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under the former officer's or former employee's official responsibility within 1 year prior to the date that former officer or employee ceased employment.

"(c) PROHIBITIONS ON EXECUTIVE AND LEGISLATIVE BRANCH EMPLOYEES.—It shall be unlawful for any person, other than a special Government employee who has served no more than 60 days in the immediately preceding 365 consecutive days—

"(1) having been employed as a senior official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, commission, or legislative entity (or any member, officer, or employee thereof) in which the person served during the 1 year prior to the termination of such employment as an officer or employee;

"(2) having been employed as a high level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, or commission of the executive branch, (including any independent agency of the United States, or any officer or employee thereof;)

"(3) having been employed as a top level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive, legislative, or judicial branch of the United States, including any independent agency of the United States, or any member, officer, or employee thereof; or

"(4) having been employed as a senior, high level, or top level official, within 18 months after such employment has ceased, to be employed by, represent, or advise a foreign entity for compensation, financial gain, or other remuneration.

For the purposes of paragraph (1), the legislative entity in which a person served is the Senate, if the person was employed by the Senate, or the House of Representatives, if the person was employed by the House of Representatives.

"(d) AGENTS COMMUNICATING ON BEHALF OF A FORMER OFFICER OR EMPLOYEE.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

"(e) Coverage.—

"(1) Individuals covered.—For purposes of the coverage of subsections (a), (b), and (c) of this section—

"(A) the term 'senior official' means any officer or employee of the United States other than those of the judicial branch who is not a high level or top level official (including officers and employees of the legislative branch and officers and employees, including special Government employees, of the executive branch, including any independent agency, commissions, Government corporations, independent establishments as defined in section 104 of title 5, the Postal Service, the Postal Rate Commission, and the District of Columbia), who is—

"(i) compensated at the basic rate of pay for GS-16 of the General Schedule as prescribed in section 5332 of title 5, or at a comparable or greater rate of pay under other authority, including positions listed under sections 105(a)(2) (C) and (D) and 106(a)(1) (C) and (D) of title 3; or

"(ii) on active duty as a commissioned officer of a uniformed service and assigned to a pay grade of 0-7 or above as prescribed in section 201 of title 37;

"(B) the term 'high level official' means any officer or employee of the executive branch of the United States, including any independent agency, who is not a senior or top level official and who holds a position listed in section 5314 of title 5 or under sections 105(a)(2)(B) and 106(a)(1)(B) of title 3, or who is paid at a comparable rate of pay under other authority;

"(C) the term 'top level official' means—

"(i) any officer or employee of the executive branch of the United States, including any independent agency, who holds a position listed in section 5312 or 5313 of title 5 or under sections 105(a)(2)(A) and 106(a)(1)(A) of title 3, or is paid at a comparable rate of pay under other authority; or

"(ii) any Member of Congress, including Delegates and Resident Commissioners.

"(2) Exceptions.—(A) The prohibitions of subsections (a), (b), and (c) shall not apply to any person—

"(i) who is an elected official of a State or local government and whose actions are on behalf of such government;

"(ii) who is engaging solely in the solicitation or collection of funds and contributions within the United States to be used only for medical assistance, food or clothing to relieve human suffering, in accordance with subchapter II of chapter 9 of title 22, and any rules and regulations prescribed thereunder;

"(iii) whose actions are solely for the purpose of furnishing scientific or technological information if the head of the agency concerned with the particular matter, in consultation with the Office of Government Ethics, or the head of the legislative entity concerned with the particular matter, certifies that the person has outstanding qualifications in a technical discipline regarding the particular matter and that the national interest is served by the participation of such person, and publishes such certification in the Federal Register or, in the case of a legislative entity, in the Congressional Record; or

"(iv) who is providing a statement which is based on that person's special knowledge, provided that no compensation is received for such statement other than that regularly provided by law or regulation for witnesses.

"(B) The prohibitions of subsection (c) shall not apply to any person—

"(i) who is employed by—

"(I) an agency or instrumentality of a State or local government;

"(II) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965; or

"(III) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954,

and whose actions are on behalf of such agency, instrumentality, institution, hospital, or organization;

"(ii) who is appearing as an attorney or representative in a judicial proceeding before a court of the United States, provided that the department, agency, commission, or legislative entity having employed such person in the 12 months preceding the person's initial appearance in such proceeding, is not a party to, or otherwise involved in, such proceeding; or

"(iii) representing an international organization of which the United States is a member.

For the purposes of clause (ii), appearing in a judicial proceeding shall mean, in a civil case, participating in the case following the filing of a complaint; and, in a criminal case, participating in a matter on behalf of a person who has been the subject of an arrest, warrant, information, indictment, or grand jury investigation by the United States.

"(3) Special rules for detailees.—For purposes of this section, a person covered by this section who is detailed from one department, agency, or other entity to another department, agency or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies or such entities.

"(f) Penalties and Remedies for Violations.—

"(1) Criminal sanction.—Any person who engages in conduct prohibited by subsection (a), (b), or (c) shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both. Any person who corruptly engages in such prohibited conduct shall be fined not more than $250,000 or imprisoned for not more than 5 years, or both.

"(2) Civil recovery.—The United States may bring in addition to or in lieu of subsection (f)(1) above, a civil action in any United States district court against any person upon proof by a preponderance of the evidence who engages in conduct prohibited by subsection (a), (b), (c), or (d) and may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within 6 years of the later of (A) the date on which the prohibited conduct occurred, and (B) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.

"(3) Administrative action.—Upon finding, after notice and opportunity for a hearing, that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) the head of the department, agency, or commission of the executive branch, including any independent agency, before which the prohibited conduct occurred, may prohibit that person from representing anyone other than the United States before such department, agency, or commission, for a period not to exceed 5 years, or may take other appropriate disciplinary action. Any such disciplinary action shall be subject to review in a United States district court. Departments, agencies, or commissions shall, in consultation with the Director of the Office of Government Ethics, establish procedures and issue regulations to carry out this subsection.

"(4) Injunctive relief.—Upon a showing that a person has engaged or will engage in conduct prohibited by subsections (a), (b), (c), or (d) of this section, the United States may obtain an injunction to stop or prevent such conduct.

"(g) Partners of an Officer or Employee.—Whoever, being a partner of an officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with the intent to influence makes any oral or written communication on behalf of any other person other than the United States to, any department, agency, court, or commission of the United States or the District of Columbia in connection with a particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee, shall be fined not more than $10,000, or imprisoned for not more than one year, or both.

"(h) Testimony.—Nothing in this section shall prevent a person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) Definitions.—For purposes of this section—

"(1) The term 'foreign entity' includes—

"(A) the government of a foreign country as defined in section 611(e) of title 22;

"(B) a foreign political party as defined in section 611(f) of title 22; and

"(C) a foreign organization substantially controlled by a foreign country or foreign political party.

"(2) The term 'particular matter' includes, but is not limited to, any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, judicial or other proceeding.

"(3) The term 'participated personally and substantially' means an action taken as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.".

(b) Technical Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former executive and legislative branch employees.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) be effective nine months after the date of enactment of this Act; and

(2) apply to any Member or employee of Congress or employee or officer of the Fed-

eral Government, other than those of the judicial branch, employed by any agency, department, or entity of the Federal Government on or after nine months after the date of enactment of this Act.

SEC. 4. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or person is not affected thereby.

Mr. METZENBAUM. Mr. President, I am very pleased to be joining my colleague, the distinguished Senator from South Carolina, in coauthoring this bill. This product that is before the Senate represents probably 2 years of work where we have attempted to deal with the question of congressional lobbying after Members of the Congress leave the U.S. Senate.

As a matter of fact, the bill addresses a real crisis in Government, and that crisis has to do with the revolving door concept—if you leave Government and you are working to represent the people and the next day you turn around and you are out peddling your influence. There is something wrong about that, something distasteful, something the American people do not approve of and we in Congress should not approve of.

This legislation addresses the ugly sight of the Nation's senior officials, once out of office, brazenly cashing in on access to power and flouting the high standard of ethics that we expect of our national leaders.

We are all aware of the recent convictions of Mr. Deaver and Mr. Nofziger. They are the latest reminders of the abuse of trust by those once in power.

The legislation also says it is wrong for former Members of Congress to turn right around and use their special influence to lobby Government. For the first time in our Nation's history, it would apply the law's lobbying restrictions to Members of Congress as well as executive branch officials. That is the way it should be.

Congress never should have been exempted, but until this point, Congress is exempt, and there is nothing to keep a Member of Congress from leaving the Congress and the very next day coming back to Congress or coming back to those Government officials with whom he has developed or she has developed a relationship and becoming a lobbyist for special interests.

While influence peddling may have reached new lows, it is not unique to any one administration or Congress. It is not unique to any one party. It is endemic to Washington and to all administrations.

It is an inevitable byproduct that Members of Congress and high officials leaving Government, in the words of the deputy prosecutor in the Nofziger case, have too often cashed in on their influence. And there is a popular outrage which exists today and it is at an all-time high.

The sleaze factor has become a new household phrase and the collapse of public ethics is routinely lamented by the Nation's editorial writers.

Now is the time, while that outrage is high, that we try once again to rein in corruption in Washington. This bill, or a bill similar to it, was ready to be enacted in the last Congress and was held up at the very last moment. It should not have been. We should have passed it 2 years ago. I hope we will pass it this year.

The Ethics in Government Act has not done the job. It is an inadequate tool for closing the revolving door. It does not bar former Members of Congress from lobbying after they leave office. And this gigantic loophole in the law should be closed.

That law further permits top administration officials to lobby any part of the Government except their former agency, even though as a practical matter their political clout—and that is what it is, political clout—extends throughout the Government. The law now even lets them get around the 1-year ban of lobbying their former agency by getting permission from the Office of Government Ethics to lobby areas of their former agency in which they technically did not work.

It is as if Government were trying to find ways to permit that which should not happen to happen. As a consequence, former White House officials could lobby the OMB and argue that it was legal since the Office of Management and Budget, while part of the Executive Office of the President, is not a part of the White House.

Because of these loopholes, prosecutors have found the law practically impossible to enforce. In the 10 years that it has been on the books it has yielded only one conviction for unlawful influence peddling. The prosecutors have been frustrated by the law and they have been asking Congress to strengthen it.

The Senate now has that chance. A few months ago the Judiciary Committee unanimously approved this bill that would help stop the revolving door. And the substitute before us today significantly improves the committee bill and closes the loopholes in the current law.

I want to say publicly that there is one Member of this Senate who is not a member of the Judiciary Committee who has provided inestimable assistance to Senator THURMOND and myself in connection with improving the legislation and that is Senator CARL LEVIN, who has worked assiduously to try to make this bill a better bill. I think it is fair to say that it is, indeed, a Thurmond, Metzenbaum, Levin bill. Senator SPECTER has also been involved in connection with the drafting of this bill. And we are grateful to all who have pitched in to help.

I know today we will hear from Senator RUDMAN who will offer some amendments, some of which we will probably accept. Some we may have some question about and some we may think it appropriate that they be submitted to the body for a vote even though Senator THURMOND and I may ourselves see fit to vote for them, but we may feel that it is a matter that the Senate as a whole should act on.

I may say that we enthusiastically support the substitute. It is the product of bipartisan cooperation between any number of us and I am proud to be a principal cosponsor of the measure.

The substitute is simple. It says that the very top officials, most Members of Congress, but also Cabinet Secretaries and senior White House staff, cannot lobby at all for 1 year: a strict prohibition for 1 year.

In the next highest level, Assistant Secretaries and agency heads cannot lobby their own agency for 1 year.

It further provides that other senior administration and congressional staff cannot lobby their own agency for 1 year. It also says that these highest officials cannot work for a foreign government, or a foreign political party, for 18 months. This will stop foreign governments from hiring ex-U.S. officials, former U.S. officials, to get inside information on U.S. positions in connection with international negotiations.

These prohibitions are simple and they are tough and they have to be in order to be enforceable. But they are fair, too. They will not, and I repeat, they will not bar any Government official from going to work for private clients on the day he or she leaves office. They can put their talents and experience to work in the private sector at any time. But it is a question of what kind of work they do.

If the work is to come back and lobby the Government or lobby the Congress, that is where the proscription applies. What he or she could not do for a year, and should not be able to do, is to use the prestige of that former office to gain special access, to play upon the friendships, to get a special kind of consideration and treatment for their clients.

The proposal will, for the first time, apply the law's lobbying restrictions to Members of Congress. That should have been done years ago. If we passed this legislation, it will finally become a reality. It will end many of the flagrant abuses that now dominate the news.

It represents a balanced effort to preserve the ability of senior officials to pursue private employment while limiting their access to power until at least some of that special influence and clout has had time to wear off. It will ensure that Government decisionmaking remains focused as much as humanly possible on the merits of the legislation rather than on the personalities who are in a position to influence the legislation.

This legislation, when and if passed, will help attract public officials genuinely interested in Government as a place of public service, not as a halfway house for making lucrative contacts. It will give firms added incentive to recruit governmental talent based not on access but on real knowledge and expertise.

In short, the legislation not only will help curb influence peddling, it will improve the qualifications of our public servants and the work they do. It will elevate the status and stature of former members of Government and it will also, in my opinion, enhance the respect for Government officials that the people of this country now have.

It is only fair to say that in many respects that matter of holding our public officials up on a pedestal as being champions of independence and integrity has not always been as good as it should be. I believe this legislation will go far to help in that respect.

We do, indeed, have a crisis of confidence in the integrity of the Government of this country. This legislation is direct and it is an urgent response to that crisis. It has been in the Senate for 2 years; twice it has been overwhelmingly approved by the Judiciary Committee and it is time we finally act.

The legislation is sound. It is indeed. It is a bipartisan response to a serious national problem. I am proud to have worked with those who participated in the drafting process. When the Senate votes to pass this legislation, which I hope they will do, it will be a vote for honesty and restoration of public trust in our Government.

I yield the floor.

Mr. LEVIN. Mr. President, we have a serious problem. The public has seen and heard so much evidence, lately, involving what appears to be personal greed at the expense of good government, that they are losing trust in government's ability to fairly and competently perform. We must try to stop this flood of unethical behavior and what appears to be unethical behavior by improving our laws governing ethical conduct to eliminate unintended loopholes and to strengthen and clarify the prohibitions we already have.

One significant step toward plugging the loopholes and strengthening existing law on ethics in government is the substitute to S. 237, the bill we have before us today.

I am pleased to join with my colleagues Senator THURMOND, Senator METZENBAUM, and Senator SPECTER, in cosponsoring this substitute to S. 237. It is the product of lengthy negotiations over the past several months, and I think it is a good proposal—a bill that will significantly strengthen current law barring lobbying of government agencies by former high level officials, while avoiding the imposition of unfair and excessive restrictions.

I want to particularly commend Senators THURMOND and METZENBAUM for their total commitment and dedication to this bill. Our two colleagues have just been fierce in their determination to get this bill to the floor, get it passed, plug the loopholes that need to be plugged, and to strengthen the provisions of existing law that need to be strengthened. Without their joint effort, their bipartisan effort, their fair effort we would not be here this morning.

With the adoption of this substitute, we are going to send a strong message to the public that their government is not for hire; that public service is not a commercial product to be traded in the marketplace.

We have had laws restricting lobbying by former Government officials in place for many years: 18 U.S.C. 207, the law which this bill amends, was originally enacted in 1962. The purpose of that law is to avoid unfair influence in the outcome of Government decisions by prohibiting the personal intervention of a recent Federal official connected either to the subject matter or the decisionmaker. It prohibits such contacts that have the appearance of having special influence and resulting in favored treatment, for a specified period of time, and it imposes criminal penalties for knowing violations.

What we have learned lately from the trials of Michael Deaver and Lyn Nofziger is that the statute which we thought was protecting us from the conduct we condemned has problems that need fixing. This substitute attempts to fix those problems. But more than that, this substitute expands some of the existing provisions to cover more people in more situations.

The 18 U.S.C. 207(c), of the postemployment lobbying law—the 1 year ban on lobbying your former agency—is quite limited in its application. It has some gaping holes. As applied to persons at the GS-17 level or above and the military equivalent, it applies only to executive branch personnel; it does not cover us. It only bars those persons from lobbying their former agency, and it gives the Office of Government Ethics—or OGE—the authority to carve up agencies into even smaller units so that lobbying of most agencies, or the larger part of most agencies, is effectively allowed.

For instance, the Office of Government Ethics has carved up the Executive Office of the President into five pieces. That means, for instance, that the Deputy Chief of Staff of the White House is free the day after he or she leaves office to come and lobby the Office of the Vice President or the National Security Council or the Office of Management and Budget.

What this carving up, this compartmentalization, has done, is to permit, for instance, the Deputy Director of OMB the day after he leaves office to go back and lobby the White House, the National Security Council, the Trade Representative, or other parts of the White House which have been cared up by the Office of Government Ethics.

The Justice Department has been carved up into 200 separate agencies by the Office of Government Ethics. That means that 199 out of the 200 can be lobbied. Ninety-nine percent of your former agency, if you come out of the Justice Department, can be lobbied under the action of the Office of Government Ethics by carving up the Justice Department into 200 separate agencies the way they have done.

It just does not make sense. It is not what Congress has intended, and this substitute eliminates that problem.

By eliminating the authority of the Office of Government Ethics to carve up agencies, it eliminates compartmentalization. It does much more:

It includes Congress in its coverage for the first time, as I said. We are so often accused of making exceptions for ourselves in the statutes that we pass. In this substitute, we have an opportunity to bring Congress within coverage of one of our principal statutes.

The substitute creates three categories of individuals and provides different treatment for each category; top level employees, executive level I's and II's; in other words, Cabinet Secretaries and Deputy Secretaries and Members of Congress would be barred from lobbying anywhere in the Federal Government for a year—executive, legislative, or judicial.

High-level employees, who are executive level III's and their military equivalents, which are the Assistant Secretaries and heads of independent agencies, would be barred from lobbying anywhere in the executive branch for a year.

Senior employees would be barred from lobbying their former agencies for 1 year, similar to current law except, again, that the compartmentalization of agencies by the Office of Government Ethics would be prohibited.

The substitute does a number of other things:

It establishes a civil action for violation of all three subsections of the statute in addition to the existing criminal penalties. The addition of the option for the Government to obtain civil recovery in the post-employment lobbying cases is an important addition to enhancing the strength of this statute.

The GAO has recently reported on the extent to which the Justice Department prosecutes cases under 18 U.S.C. 207 and 208. That report, which looked at referrals by the inspectors general in 10 major agencies, concluded that of 124 cases referred by these IG's to the Justice Department for possible criminal prosecution, only 2 were actually prosecuted; 13 are still under consideration. The rest were declined. That means that the Justice Department takes action in approximately only 2 percent of the cases where inspectors general—not just an anonymous source, but inspectors general—believe criminal activity may have occured. When questioned about the reasons for this, several prosecutors have described the difficulty in proving all the elements required under the current law, as well as having to prove their case beyond a reasonable doubt. Adding a civil recovery provision will give the Justice Department the option of pursuing less serious cases civilly or pursuing the more serious cases both criminally and civilly.

The substitute bars a person from lobbying on behalf of a former official who is otherwise barred. The scope of this provision is a limited one, so as to not be unnecessarily restrictive of the activity of business associates of covered former officials. It prohibits a person from communicating—either orally or in writing—to a Government agency that that person is lobbying such agency on behalf of a barred former official. It does not prohibit a person from representing before a Government agency a client that is common to both that person and the barred former official. It is only addressing the situation, for example, where a person communicates to an agency that that person is there because the barred former official couldn't be there, or because the barred former official sent him or the like.

The substitute also increases the criminal penalties, and we have also eliminated some of the unnecessary hurdles in proving a case under current law.

With regard to subsection (c), we have struck the requirement that the contact was on a particular matter in which the former agency was a party or had a direct or substantial interest. It is desirable to simply prohibit all but specified contacts between a covered official and his or her former agency, regardless of whether or not they involve a particular matter of direct and substantial interest to that agency. Those elements are unnecessary hurdles to achieve the principal goal, which is to prohibit former officials from lobbying their former agencies, for whatever reason—but for a few stated exceptions—for 1 year in order to avoid the appearance of undue influence.

I would like to take a minute and go through additional changes to current law which the substitute makes to explain why we chose to do some of the things we did.

First, in subsections (a) and (b) we placed the descriptive language for the term "particular matter" and "personally and substantially involved" in a new definitions sections of the bill. We did this to make the sections more readable. We did not intend, by doing this, to change the interpretation or meaning of these terms. Likewise, we combined the terms "a specific party or parties" into the term "specific parties" for the sake of readability again, with the understanding that "a specific party" is included in the term "specific parties". We also condensed the reference to "any department, agency court," so forth in 207 (a)(1) and (b)(1) for the sake of clarity, but did not intend, by so doing, to change the substantive intent.

Second, we struck subsection (b)(ii) and included a prohibition on representing a person other than the United States by "personal presence at any formal or informal appearance before" an agency of the Federal or D.C. governments in (a), (b), (i), and (c). The current (b)(ii) provision is designed to prohibit a former covered official from being physically present in an agency proceeding on behalf of another person and thereby, despite the lack of oral or written communication, convey that former official's support for the represented party. That type of appearance should be prohibited for the lifetime ban established in (a), the 2-year ban established in current (b)(i) and the 1-year ban in (c). That is the purpose behind the change made by the substitute.

Third, the current (b)(i) establishes the time frame for determining coverage for the 2-year ban on representing another person in a matter that was under the former employee's official responsibility. Current law identifies that matter as one "which was actually pending under his official responsibility as an officer or employee within a period of 1 year prior to the termination of such responsibility." The substitute changes the reference for that time period to be 1 year prior to the termination of employment. As currently written, a matter that was under a former employee's official responsibility 10 years before that employee left the Federal Government, could be a matter covered under (b)(i). Since the former employee's knowledge of such a matter could be so stale in that situation, we decided it was more appropriate to link the former employee's responsibility to the year preceding his or her termination.

Fourth, subsection (e) states which individuals are covered by this statute. In (e)(1)(A)(i) we have specifically referenced positions in the White House and the Office of the President. We did this to make coverage of these positions obvious, since lobbying by former White House officials has been one of the motivating factors behind this legislation. The specific mention of these positions, however, is not meant to suggest that any position not so mentioned is not included. On the contrary, the general statement of coverage is controlling and any such person, whether or not specifically mentioned in this subsection, is intended to be covered by this statute.

Mr. President, this substitute is a significant improvement over the current law. It makes the current law more readable, more precise, tougher, more likely to be enforced, and, therefore, more likely to be followed. The vast majority of our public officials act with integrity. But for the few who cross the line, or for whom the line is an apparently irresistible temptation, this legislation makes such a step tougher to take and imposes more severe consequences.

I am pleased to have had a role in shaping the substitute, and again, I thank my colleagues and their staffs for their great efforts and willingness to modify—and I believe improve in the process—a number of provisions.

Again I want to commend my colleagues, Senators THURMOND, METZENBAUM, and SPECTER for what they have done here. I am proud to have been a part of the final substitute.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am delighted to join my colleagues in making opening statements as the Senate considers this legislation to improve the operation of Government by imposing stricter standards of ethics.

This legislation has been in process for some time. It was considered by the Judiciary Committee last year. It has received substantial impetus from the comments made by independent counsel Whitney North Seymour, Jr. Comments made following a recent trial when he noted, what many of us have long observed, that there was a lot of loose money around Washington, that the ethical standards left much to be desired, and that the law as written had so many loopholes that it was virtually impossible to enforce.

This legislation has been crafted over a substantial period of time. And I believe it is a good bill. Senator THURMOND, Senator METZENBAUM, and Senator LEVIN have provided leadership in this area in working through these intricate problems.

Based on the experience that I had as a prosecuting attorney, district attorney in Philadelphia from 1966 through 1974, being personally involved as a prosecutor in many corruption cases, I know how difficult these cases are to prove. But bringing corruption cases is so important because they effect the very core and the foundation of Government, and the current Federal law leaves uncovered an enormous number of cases that ought to be covered.

This bill is obviously subject to improvement like any other bill. And I believe that the time and attention which we will be directing toward these issues today, and probably in the course of the next several days, is very important. We will have some sharp minds analyzing these issues to see where, if at all, this legislation ought to be improved.

Among the most important provisions of the bill is the coverage of Congress, Senators, Members of the House of Representatives, and congressional staffs. I suggest, Mr. President, that it is an enormous embarrassment for the country, and a particular embarrassment for the Congress of the United States, to have so many laws and variety of contexts which apply to every one but the Congress.

We have the power as the legislative body of the U.S. Government to craft the laws. But we have a high responsibility to see to it that as Congressmen, as Senators, and as Members of the House, we do not exact special privileges for ourselves. To have a bill on ethics in government, as currently constructed, that does not cover Congress really constitutes exaction of special privileges, a sort of a conflict-of-interest in action. The Congress has the responsibility to enact the laws, and it is time that we police ourselves as well as the balance of the Federal Government.

There is great public concern on these issues. It is past time that we acted to include the Congress and congressional staffs within the purview of the Ethics in Government Act and perhaps, with this as a precedent to cover the Congress in many other areas of activity, for example labor matters and the many other activities where the Congress is currently exempted.

Mr. President, the provisions in this bill covering work for foreign employers is very, very important and closes an enormous loophole in the present law. There is special concern and a special problem when foreign interests are involved or when foreign governments are involved as demonstrated by the concern in Mr. Deaver's case over action on behalf of the Government of Canada.

If you have problems, and we do, in terms of lobbying on behalf of the Canadian Government, one of, if not our closest friends, then that problem is multiplied tremendously when you deal with other governments where we have hostile or adverse interests. This bill by including work for foreign employers covers this important area of omission.

The provisions in this bill with respect to high level governmental officials, Cabinet officers, subcabinet officers, Members of Congress, covering all Federal activity, including lobbyings beyond the agency where that particular individual was employed is also very important. The reality is that if you are Secretary of State, you have a lot of sway in the Treasury Department. If you are Secretary of Labor, you have a lot of sway in the Office of Management and Budget. Or, if you are a U.S. Senator you potentially have a lot of sway in many, many departments. Expanding the prohibitions to include this activity is a very, very important step.

The limitations on agencies being divided into sections and restricting the application of the law to only one section is another important area which this bill addresses. It is unrealistic when members of the White House, for example, say that they only have limited contacts with other parts of the White House staff and therefore should be free to lobby those in other sections. At high levels the potential for inappropriate influence is pervasive and ought to be restricted.

Mr. President, there is a great deal more which I could say on the matter. My colleagues have already spoken on it. I intend to listen carefully to the debate, and will have more to say during the course of our consideration of this legislation.

I thank the Chair and I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, the Senate is today taking up S. 237, otherwise known as the Integrity in Post Employment Act of 1988. As Senators will see when I begin to discuss the substance of the bill in a few minutes, this measure is a compilation of slogans, misplaced perceptions, and quite frankly, muddled thinking.

While I, of course, share the view of S. 237's sponsors that the laws governing the postemployment activities of Federal officials need improvement, the sad fact is that this bill is worse than the status quo. It can, however, be turned into a good bill. Over the course of this debate, I will be offering amendments to improve it.

Mr. President, my colleagues might wonder how a bill with such a high-sounding title can be a nightmare. The procedural background of the measure tells the story. First, there has not been a single hearing in the 100th Congress on this measure or even this subject by the Senate Judiciary Committee which reported it. Yes, there were two hearings on a related bill introduced by Senator THURMOND nearly 2 years ago. But those were limited hearings most notable for the fact that two parties who agree on almost nothing, the administration and the American Civil Liberties Union, could agree that the bill then pending was bad policy and unconstitutional.

When the Judiciary Committee took this bill up in the 100th Congress, it had a markup lasting minutes with a few speeches, no amendments, and no debate. The bill's flaws were so obvious that S. 237 has since gone through several rewrites, all in private and mostly just involving staff, and what we have before us today is much different than what emerged from committee. Since few people have seen the pending measure, nobody has had the opportunity to record their position on it. But the predecessor bills were not only opposed by the administration and the ACLU, but several highly respected officials from the previous administration men known for their ethics—Lloyd Cutler, Ben Civiletti, and Stuart Eizenstat—and one of the most respected critics of Congress, Norman Ornstein of the American Enterprise Institute. I might add that one of the two Nation's capital newspapers, the Washington Post, also editorialized against this legislation.

Second, the committees of substantive jurisdiction have had no role in the development of this measure. The Governmental Affairs Committee, which wrote the existing postemployment statute as part of the Ethics in Government Act, has not reviewed the measure. The Rules Committee, which has jurisdiction over the Senate rule restricting post employment activities of Senators and Senate staff to my knowledge was not consulted. The Ethics Committee, which I chaired for 2 years and of which I am vice chairman, which knows more about this subject than any other Senate committee because it enforces and oversees the current Senate rule on a daily basis, was not consulted.

In fact, Mr. President, the only reason the Judiciary Committee got into this is because of the technical fact that they have jurisdiction over title 18 of the Uniteds States Code, the criminal code, and that is what S. 237 amends. This Senator is sad to say that their lack of substantive knowledge shows.

Mr. President, I have one more procedural comment before I turn to the substance of the measure. It is premature for the Senate to be debating this bill today. The Senate is already scheduled to address legislation revising the Ethics in Government Act later this year. It will have to do that when it takes up legislation to reauthorize the Office of Government Ethics and the Governmental Affairs Committee has already had 2 days of hearings on the issue—and very good hearings, I might add. In fact, there was more discussion of postemployment rules in that committee last week than there has been in the Judiciary Committee the entire Congress. The Administrative Conference of the United States is currently conducting a major study of Government ethics rules, including post employment rules. The factual results of the study are scheduled to be released in September, and the recommendations of the Administrative Conference will be released in November. The Senate, and the Nation, would be better served if we waited a couple of months to take up this issue. Nonetheless, S. 237 is now before us, and thus I have no choice but to proceed.

Mr. President, the Senator from South Carolina will agree that his effort in this area began 2 years ago after press reports that one Mr. Lenahan, a former employee of the Department of Commerce, was advising foreign textile interests on textile trade issues. Mr. Lenahan, while in the Commerce Department, worked on that very subject and there were allegations that he had unethically used inside information, that is, information obtained from his Government work. The Senator from South Carolina, who represents the leading textile State in the country, and whom I support on those issues, was understandably upset.

Mr. President, I hope the Senator from South Carolina and his staff hears this. If S. 237 becomes law in its current form, a future Mr. Lenahan could go out and do virtually the same thing again, and it would still be legal under S. 237. It is unfortunate, however, that in this unsuccessful effort to prevent a reoccurence of the Lenahan incident—and I believe it ought to be prevented—the Senate may pass a bill that is unconstitutional and, in any event, bad public policy which will make it more difficult to recruit and retain talented Federal work force.

As the Senate evaluates this bill, it is important to keep in mind two simple facts. First, this bill does not regulate lobbying in the common meaning of the word. It prohibits contact between current and former Government officials on a wide variety of matters, many having nothing to do with lobbying. Second, Senators should keep in mind the relevant words of the first amendment. May I read them for those who have not read them recently. "Congress shall make no law * * * abridging the freedom of speech * * * or the right of the people * * * to petition the Government for redress of grievances.

Mr. President, the sponsors of S. 237 and I can agree on a few starting concepts. We agree that Federal officials, upon leaving Government, should not be able to trade on inside information they obtained while in Government service. We also agree that such departing Federal officials should not be able to casually trade on their easy access to former colleagues, subordinates, and even superiors. We also agree that the existing postemployment contact restrictions need strengthening.

Leaving aside the scope of the postemployment contact ban, there are some needed reforms in this bill with which I agree. I support enactment of a criminal statute on postemployment activities for the legislative branch. While the Senate has a rule, it is difficult for the Senate Ethics Committee to take action against former Members and ex-employees, and the House of Representatives does not even have a rule. An administrative enforcement mechanism, which S. 237 proposes, is also desirable. Clarifying the law is a good idea, although I am not persuaded that S. 237 succeeds in its effort to do so.

The fatal flaw, however, with S. 237 in its current form is the extent to which it prohibits contact between current and former Government officials on matters where the former official had no official responsibility and no substantial involvement—section 207(c) of this law before us. Obviously, when the former official had responsibility, substantial involvement, and access to inside information, the strongest contact bans are in order and that is covered separately in section 207 (a) and (b).

But right now, I am talking about cases of no former responsibility and involvement. For about 45 of the most senior executive branch officials and 535 Members of Congress, this bill says—I hope that my colleagues and their staffs who are listening will listen carefully—"You cannot, on behalf of any other person or entity, talk to any Government official in an attempt to influence them on any subject, for any reason, in any forum, for one year after you leave the Government." For the next 95 or so executive branch employees, the message is the same except that they can talk to Congress. For several thousand more Government officials, the message is the same but it is limited—I hate to use that word in this context—to employees of the same Cabinet department or agency. In some agencies, that is a lot of people—about 2.5 million in the Defense Department, 221,000 in the Veterans' Administration, 105,000 in the Agriculture Department, 150,000 in Treasury, and 115,000 in Health and Human Services.

As an aside, to show how poorly this bill is drafted, the new section 207(c) says the former employee cannot make contact with intent to influence, but it fails to say what cannot be influenced. Talk about a criminal statute failing for lack of definition. Theoretically, the Senator from Virginia, who is retiring this year, could call me up next year and invite me to speak to the Virginia Bar Association, and violate this bill.

Now, the proponents will say this is not what they intend. But, we are talking about a criminal felony with a maximum penalty of 5 years in jail and a $250,000 fine. I say, sincerely, the Senate better write what it means into this law. Furthermore, I point out that the sections 207 (a) and (b), which deal with the more serious acts where there was responsibility, involvement, and inside information, say with specificity what the former official has to be trying to influence. Thus, a prosecutor, not to mention a judge and jury, in looking at 207(c), could reasonably conclude that the speech invitation from Senator TRIBLE was intended to be covered, and the penalty is the same.

To return to the main point, what is wrong with a contact restriction this broad? Understanding this requires a look at the consequences that the Senator from South Carolina and the Senator from Ohio agree will occur and justify. For example:

The former Secretary of Transportation, Drew Lewis, was a distinguished businessman before entering Government and when he left he became CEO of a communications company. If this bill were in effect, had his company had a tax problem, he could not discuss it with the local IRS auditor. If the company was applying for a television license, he could not sign the federally required application to the Federal Communications Commission.

Joe Califano was a well known attorney and public figure before he became Secretary of Health and Welfare in 1977. When he left the Government, he returned to the practice of law. If this bill were in effect, he would have been legally prohibited from taking a Securities and Exchange Commission case, or an unfair labor practice before the NLRB, or a tax dispute, or any number of proper, legitimate matters all of which have nothing to do with lobbying and are in no way improper.

Under this bill, a career researcher at the National Institutes of Health would not, if he went to work for a drug manufacturer upon retirement from Federal service, be able to discuss the safety and effectiveness of a new drug with Food and Drug Administration officials, although by law the FDA has to approve the new drug before it can be sold.

Those are absolutely unmistakable effects of this bill, and I challenge anybody to debate that those are the results under the language as it is now written.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. RUDMAN. If the Senator will allow me to finish my statement, I will be happy to yield for questions.

Ironically—I do not know if this is funny or maddening—a retired or just-defeated Member of Congress could not contact the Social Security Administration to try to straighten out a problem with a friend's Social Security check, even if he was doing it as a favor and at no charge, although it would be legal for him to do that the day before he left office.

Mr. President, I could go on with these kinds of examples for several more hours. But there are so many and such extraordinary and so many unintended results, that I hope the Senate will pay attention to a substitute I will offer that will keep this bill strong where it should be strong but will make it constitutional in the area of the first amendment.

The sponsors of the bill acknowledge this and respond as follows. First, senior Federal officials have some influence, at least a portion of which may derive from their former Federal service, and it is somehow evil for them to have that influence. Second, they argue that a public perception exists that there are all sorts of Government decisions made on the basis of inside access, and this kind of draconian legislation is necessary to address that perception.

What is wrong with this? First and most important, the bill as now drafted clearly violates the first amendment to the Constitution. I concede that one can draw a constitutional restriction on the right of former Government employees to petition the Government. We have such a law now, and the Senate will later get the opportunity to vote on a constitutional measure that strengthens current law. But, S. 237 clearly fails the test.

To support this proposition, the Judiciary Committee's report cites only a decision by the D.C. Circuit Court of Appeals in 1971 in Capital Broadcasting Co. versus Mitchell where the court held that the first amendment does not apply to "commercial speech." But, the new section 207(c) created by S. 237 deliberately covers speech not for compensation, so Capitol Broadcasting is not on point on that ground. Second, that case related to cigarette advertising on television, and first year law students know that there has always been a different standard for speech on the public airwaves than for written and oral speech. In any event, 9 years later, in 1980, the Supreme Court effectively overruled that decision in Central Hudson Gas & Electric Corp. versus Public Service Commission of New York. In that case, the Supreme Court held commercial speech was protected by the first amendment and that, for the Government to restrict it, the Government interest must be substantial, the restriction must directly advance that interest, and the restriction may not be more extensive than necessary to serve that interest.

I want to repeat that, because that is the basis on which I am objecting to this section which denies contact. Obviously, it does not meet the test in any way.

Here is the test: For the Government to restrict it, the Government's interest must be substantial, the restriction must directly advance that interest, and the restriction may not be more extensive—read "prohibitive"—than necessary to serve that interest.

Frankly, if that case, the Capital Cities case, is all that the Judiciary Committee can cite, it is hard to take that argument seriously. The Supreme Court again enunciated the strict scrutiny test of the Central Hudson Gas case 3 years later in Widman versus Vincent. Furthermore, in 1980, in United States versus Snepp, the Court held that the test for regulating speech of individuals following public employment is stricter than the test during such employment. Finally, there is a whole line of cases that the first amendment's right to petition the Government is entitled to the same protection of freedom of speech.

What do we have with the proposed version of section 207(c). The restriction on speech is clearly broader than is necessary to protect the compelling Government interest against trading on inside information obtained and access obtained while working for the Government. The Senators from South Carolina and Ohio concede that.

The Senators, as well as the Judiciary Committee report on page 13, assert a compelling interest in fighting the appearance of improper influence. I agree that it is important to prevent the appearance of impropriety of Government. But, perception is not a sound basis for restricting a constitutional right properly protected under a strict scrutiny test.

Furthermore, even if it were, nobody has made the case except through unsupported rhetorical statements. I could not find it, either in the committee's report or in their miniscule hearing record from 1986. There is no factual showing that the public holds such a perception. There is no factual showing that such a perception, if it exists, is damaging the operation of Government. And, there is no showing that the alleged interest cannot be met through less restrictive means.

Even if the new section 207(c) were constitutional, it represents bad public policy. Among the major democracies of the world, the United States is unique for its constant flow of people back and forth between the private life and Government. In all the others—the United Kingdom, West Germany, France, Japan, and so on—there is a permanent Government establishment which essentially runs the Government headed by a small cadre of politicians, mostly professional career politicians, who change at election time. There is virtually no flow of people between the public and private sectors.

Most Americans believe that our system is the better one, and they are right. Our system of Government is designed to encourage that. We have many more political appointees in our executive branch who serve at the pleasure of the President and the American people at election time. We deliberately hold Government salaries at the top levels below what the people holding those jobs could make in the private sector. We revere George Washington, not only because he was the first President, but because he was dragooned into being a general, again dragged into being President, and then he quit that after 8 years when he could have held the job for life.

This constant exchange of people between public and private lives has served this country well. But, admittedly, there are a small number of instances where people have abused that exchange by, after leaving Government, unethically trading on inside information or access acquired while in Government. We had serious problems with that 30 and more years ago, and as a result, President Kennedy proposed and Congress enacted postemployment restrictions in the early 1960's. Those laws were tightened up in the late 1970's. Notwithstanding some recent, highly publicized cases, they have worked.

This bill, however, is so draconian that many distinguished Americans, irrespective of party or ideology, will simply refuse to come into Government. We now tell smart and capable Americans that, if they want to come into Government, they must tell the world everything about their financial holdings and take a loss of income. I agree there is a need for that.

This bill adds to that mix by saying to many that, if you come into Government, you cannot for 1 year after leaving engage in the same ethical and proper activities you did previously.

I have an amendment I am going to send to the desk. Before I do my good friend from Ohio wanted me to yield for a question. If he wishes me to do it at this time I would be pleased. It is wrong to say, it is wrong to assume guilt, it is wrong to assume unethical conduct will be the order of the day of the tens of thousands of good people who serve in this Government. That is self-defeating because the Government is going to lose that talent.

Mr. President, I will have more to say about the substance of S. 237 in its current form at a later time. This bill does nothing about the problems as they exist with ethics rules governing current employees and Members of Congress. I have some comments that Members will find interesting as they relate to former employees trading on inside information.

Mr. METZENBAUM. I appreciate my colleague from New Hampshire being willing to submit to a question.

I compliment him on the amount of time and effort that he has put into this bill. He has done so because I am sure he feels very deeply about it, and I am certain that with respect to some of the proposals that he will make today those of us who are managing the bill will seriously consider them and make every possible effort to accept them. As a matter of fact, it is fair to point out that we are now discussing language which would provide an affirmative defense in those cases where there is no compensation, but we want to be certain that if we do that the affirmative defense is very delimited.

The fact is the Senator mentioned Drew Lewis going out and heading a company and several other people going out and heading a company and saying he could not appear before the IRS or FCC or whatever. That is true. And if he were to appear within the 1-year period, he would indeed bring with him tremendous influence because of the respect that he had in Government.

That would not mean that his company could not be represented. It would only mean that he could not personally appear for the 1-year period, but any one of a number of employees of his or lawyers or whatever could appear and there would be no proscription at all with respect to that.

That being the case the fact is that Drew Lewis or whomsoever else it might be would have all the protection that he or she needs as far as presenting their case to the Federal Government.

Mr. RUDMAN. The Senator from Ohio makes a good point. I would respond simply by saying that the chief executive officer of a major corporation who has recently been in Government faced with an enormous problem facing that corporation might well decide he wanted to go and discuss that with the people who were contesting the right of his company to do something or assessing a levy against that company.

Frankly, in my dealings with Government agencies as a Member of the Senate, not one who will be a past Member some day, but as a current Member, I have great faith in the civil bureaucracy in making decisions that are according to law. I cannot conceive of an IRS office at an appellate level dealing with a chief executive officer of a company recently having left Government making a ruling that would be contrary to what the examiners felt.

For a practical reason, as the Senator from Ohio well knows, the one thing that does work that we passed around here are the whistleblower statutes, and they are very effective. The Senator from Michigan, my friend, Senator LEVIN, was instrumental in those areas and we worked together.

The fact is that Government employees are not going to be overly influenced to do something that they ought not to do because a man or woman who is now a chief executive officer of a company comes before a tribunal to plead the case so long as that tribunal has had nothing to do with what that person did in prior life.

Let me add to my friend from Ohio that based on my research I would very much like this bill to pass. I think there is much good about this bill, but we already have one problem with a bill that we are all interested in, the independent counsel bill, which has been ruled unconstitutional at several levels and is now before the Supreme Court. I think we ought to have no constitutional problems whatsoever with this bill, and I submit to my friend from Ohio that if you consult with leading constitutional scholars in this country, as I have, they will tell you that there are serious questions about the first amendment and the scope of 207(c), and that is why I have the deep concern that I do.

Mr. METZENBAUM. Mr. President, has the Senator yielded the floor?

Mr. RUDMAN. I am going to offer an amendment. I will be happy to yield the floor. But I understand the leader may wish to make a statement.

I yield the floor.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business beginning now until 12:45 p.m. today, that Senators may speak therein and then at the close of morning business, I ask that the Senate resume consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Are we in morning business?

The PRESIDING OFFICER. We are now in morning business.

Mr. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

APRIL 16, 1789: FIRST SENATE RULES ADOPTED

Mr. DOLE. Mr. President, 199 years ago tomorrow, on April 16, 1789, the Senate adopted its first set of standing rules.

The framers of the Constitution in 1787 set down only a handful of rules of govern Congress' internal procedures. Among those that applied to the Senate were provisions that the Vice President of the United States serve as its Presiding Officer; that the Senate could choose its own officers, including a President pro tempore to preside in the absence of the Vice President; that Congress was to assemble at least once a year; that a minority of Members could compel the attendance necessary for a majority quorum; that each House would judge the eligibility of its own Members; and that a two-thirds vote was required to convict in impeachment trials, to expel a Member, to override a Presidential veto, and to approve treaties. Otherwise, the Senate was free to determine its own rules of procedure.

After achieving its first quorum on April 6, the Senate created a temporary committee of five members to devise its rules. All five were lawyers and all had extensive legislative experience either in State assemblies, in the Congress under the Articles of Confederation, or in the Constitutional Convention. All were well acquainted with British parliamentary practice.

In 6 days the special Senate committee drafted 19 rules. Many of them were drawn from the rules that governed the previous Continental and Confederation Congresses. Committee members were particularly concerned with establishing rules that would preserve decorum and promote faithful attendance. In the years since 1789 the Senate has accomplished a general revision of its rules on only seven occasions, the most recent being in 1979. The 42 standing rules that govern Senate deliberations today, in substance and spirit, bear a direct resemblance to those first rules of 1789.

CLOSE OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTEGRITY IN POST EMPLOYMENT ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1947 TO NO. 1946

(Purpose: To eliminate the partial exemption for attorneys)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1947 to amendment No. 1946.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 14, strike all through line 21 and insert in lieu thereof "or".

On page 10, line 24, strike all through page 11, line 5.

On page 5, line 19, strike ", legislative, or judicial" and insert in lieu thereof "or legislative".

Mr. RUDMAN. Mr. President, this amendment would eliminate a massive loophole in this bill which was created for the purpose of benefiting one group of already privileged Americans—attorneys. Although the sponsors portray this bill as imposing a wide ban on contact between current and former Government employees, they have included an exemption for all contact by a former employee where that person is representing a party on a matter likely to involve legal action.

For civil cases, the exemption applies to all contact after a complaint has been filed, and for criminal matters, it applies where the party has been the subject of an arrest, warrant, information, indictment, or grand jury investigation. The complaint in civil cases need not be filed by the Government. It could be filed by the former Federal employee who, accordingly, has the option of initiating some minor action for the unstated purpose of exempting himself from the bill.

Now, Mr. President, who does that help? Ninety-nine percent of the benefit of this amendment will go to attorneys. Since I am an attorney, the easiest thing would be for me to keep quiet. But, quite frankly, I cannot sit by in good conscience while the Senate considers a bill of draconian nature which proposes to partially exempt 62 out of the 100 Members of this body, those that are lawyers, and I dare say the percentage is even higher in the House of Representatives.

My colleagues might be interested in the background on this provision. S. 237 originally included a limited exemption for attorneys, but only for appearances in courtroom proceedings. The committee report justifies that on the grounds that without it, attorneys might not be willing to enter the Government and that "such a result could discourage many talented individuals from entering Government service."

During discussions with the committee staff a few months ago, my staff noted that the committee's provision was meaningless because an attorney was ethically barred from taking a case when he could not discuss it with opposing counsel.

Unfortunately, the response from the bill's sponsors was not to go back and take a look at the scope of the entire bill. Instead, the response was to create a massive loophole for attorneys.

Well, albeit it may have been inadvertently, that is the result and I think everybody agrees that is the result.

Mr. President, I have three points to make and I will then yield the floor. First, there are a lot of talented individuals who are not attorneys, one of whom is sitting in the chair, who may be discouraged from entering Government because of S. 237 as now drafted. We should address that issue for all Americans, not just that fraction of a percent who happen to be lawyers.

Second, there is no exemption for attorneys, partial or otherwise, in current law.

Third, the sponsors of this bill are attorneys. Most Members of Congress are attorneys, including almost every Member of the Judiciary Committee which reported this bill. A high percentage of congressional staff are attorneys. What is good for the goose is good for the gander. If this is a good bill, everyone should have to live with it equally. We should not publicly pretend to be bringing Congress under the scope of the postemployment laws, and then on the sly give ourselves a partial exemption.

It is my understanding with a small revision which I made, a technical revision to the amendment, this amendment may well be acceptable. But because this well might be controversial in the House of Representatives, I believe it would be good to have a recorded vote of the Senate and therefore I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RUDMAN. Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Since the distinguished Senator from New Hampshire has made his remarks on this bill, I just want to say we do not agree at all with many of the remarks he made. We will be glad to consider any amendments he has offered. He has offered one here now. We think it is all right. We are willing to accept it. If he wants a rollcall, we have no objection to that. We will be glad to vote for it either way.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to concur with the comments of the Senator from South Carolina. I think the Senator from New Hampshire has done yeoman work in pointing out this change in the bill. I think it will improve the bill. We have suggested one change. I think it provides an element of fairness in connection with the legislation. I want to join the Senator from South Carolina and the Senator from New Hampshire in supporting the amendment and will urge my colleagues to vote yea.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I think it might be worth saying a word or two about the provisions in the bill. I believe there is merit to the provision which is currently in the bill and, at the same time, I acknowledge the merit in the arguments made by the distinguished Senator from New Hampshire, but I do think there ought to be a word of explanation as to why the bill is crafted in its current form to excerpt attorneys at law in a litigation context. This provision is included because where you have a position of prestige which might yield undue influence in governmental circles after a person leaves government, that situation is not likely to occur in a context of litigation where there is an adversary proceeding.

If you have a lawsuit, customarily, many times it is settled in advance. Most controversies are settled before litigation ensues.

So if you take it to a point where a complaint is filed, an answer is filed, and you go to court, it is in an adversarial relationship and there is not likely to be inappropriate influence on the governmental official.

If you have a former ranking governmental official or a former Senator or former Member of the House of Representatives and they have not been able to work it out, then certainly any suggestion of influence has been negated when it comes to a point where there is litigation.

Similarly, if there is a potential criminal prosecution, the practice is frequently followed where a counsel for a prospective defendant, perhaps during a grand jury proceeding, will negotiate with governmental officials to see if a defense can be offered in advance. It may be that in such a situation, a former Senator, a former member of the House of Representatives, a ranking governmental official might have some vestige of influence, and in order to avoid the vestige of influence or the appearance of influence, the prohibition will apply. However, if it comes to the point where there has been an indictment and warrant of arrest, and there is a clear-cut statement by the responsible governmental officials, that they take an adversary position to the person who is trying to get it resolved the potential impact of influence is greatly reduced.

So there is a very sound reason why a cutoff occurs at the point where there is litigation. If any efforts made by a Senator, Member of the House, or other governmental official to get it worked out fails, at the point of litigation or a warrant of arrest, there is an adversarial relationship.

It may be, however, that it would be a good idea to retreat on this position in order to remove any possible doubt that the lawyers who are sponsors of this bill, one of whom is this lawyer—and I look for no advantages as a private practitioner; in fact, I do not even look to be a private practitioner, are seeking some advantage. But where an issue is raised that there is a potential loophole, and it does not really amount to a great deal, I do not intend to oppose the amendment, but I do think it is important to put on the record why this exception was crafted in this way.

There was a very logical reason for it, but in order to bend over backward to avoid any appearance that we are trying to seek any preferential treatment for lawyers, I have no objection to concurring with the distinguished Senator from South Carolina who stated, as ranking member of the Judiciary committee, that he would accept the amendment and the distinguished Senator from Ohio who has also indicated his agreement. I think it is fine to make this concession in the spirit of compromise to try to get this bill enacted.

I thank the Chair, and I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I want to make one or two brief comments in response to my friend from Pennsylvania who I think lays out a good rationale as to why this was done.

Obviously, the thing that concerned me about this, and the Senator from Pennsylvania is a very distinguished attorney who had a distinguished public practice as district attorney, and he will understand what I am speaking of, in civil cases in particular where a Member of Congress is involved in a matter that comes to litigation, as soon as that litigation is commenced, the exemption would exist.

We all know civil litigation is handled in negotiations. The former Member of Congress would then be negotiating and, in a way, in a more onerous situation, it seems to me, than some of the other things that are covered here.

I just feel that that is not a very good idea to have a former Member of Congress, a few months after leaving this place, sitting with high-ranking officials of various departments involving litigation with a client. I think that is the very kind of undue influence the Senators from Pennsylvania, Ohio, Michigan, and South Carolina are trying to prevent. That is why I have suggested that.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I agree with my colleague from New Hampshire that a former Senator, or former Member of the House, would have a substantial influence in the negotiaton context. That is why this bill is crafted to cover Members of Congress.

What Senator RUDMAN is postulating, if I understand him correctly, is a circumstance where there might be a contrivance to put the case in litigation so that then the former Senator or former Member of the House would be exempted from the provisions of the bill and could participate in the negotiations.

In a controversy, if you can get it settled, you get it settled. I think it would be inappropriate for an attorney representing a party to hold back, let the matter go to litigation in order to have this exemption apply. So that if somebody wants to work a subterfuge, why, of course, it is possible to look for this kind of exemption.

Mr. RUDMAN. Will the Senator yield for a question and comment?

Mr. SPECTER. Certainly.

Mr. RUDMAN. I say to my friend from Pennsylvania, a close reading of this bill which is now pending does not reach that conclusion. I was not worried about subterfuge. I think the Senator from Pennsylvania, looking at page 10, lines 14 on, would agree with me that if a legitimate action is filed by a client, a regular client of that attorney who was a former Senator or Congressman, he then immediately has the exemption and may enter negotiations with anybody he wishes. That is what I am trying to prevent, and that is what this bill says clearly.

I do not think there is much disagreement that is what it says.

Mr. SPECTER. There is no doubt about that. The point I was making is if the matter could be settled and the attorney is handling it in the appropriate manner, that effort would have been made prior to the time of litigation so that once you have litigation, there is a substantial showing that the matter is not settled.

If you want it to go to litigation so the exemption applies, that is the kind of subterfuge which I have in mind. But I think the fact of the litigation having occurred is a sensible division to show where there is an adversarial relationship.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a good example of the legislative process and it's working well. That is, the Senator from New Hampshire proposed an amendment, actually on page 10 of the bill, which would eliminate the exemption that is therein provided as far as attorneys appearing in court in Federal proceedings.

However, language on page 5 of the bill had a provision that provided a further proscription and almost would have kept lawyers from being able to practice law in connection with negligence cases, in connection with private contract cases.

That was not the intention. Due to the astute observations of the Senator from Michigan and his staff, that has now been taken care of. It is a part of this amendment. I think the amendment is a good one, and I suggest that we go forward with the rollcall.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire [Mr. RUDMAN].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Montana [Mr. MELCHER], the Senator from North Carolina [Mr. SANFORD], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. HECHT], and the Senator from Oklahoma [Mr. NICKLES] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—83

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—17

Biden
Boschwitz
Burdick
Cranston
Dodd
Evans
Exon
Gore
Hatch
Hecht
Hollings
Inouye
Johnston
Melcher
Nickles
Sanford
Stennis

So the amendment (No. 1947) was agreed to.

(Later the following occurred:)

Mr. ADAMS. Mr. President, I have cleared this with both the Democratic and Republican sides.

Mr. President, on rollcall vote number 98, I am recorded in the negative. I ask unanimous consent that I may change my vote to "Aye." It will not affect the outcome of the vote in any way.

Mr. DOLE. Mr. President, this has been cleared by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, parliamentary inquiry. Was a motion to reconsider made?

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr FORD. Mr. President, I suggest that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. There is a motion to reconsider which is pending.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I did not hear the Chair announce the vote.

The PRESIDING OFFICER. The amendment was agreed to.

Mr. RUDMAN. I thank the Chair. I assumed that.

AMENDMENT NO. 1948 TO AMENDMENT NO. 1946

(Purpose: To prohibit Members of Congress from affiliating with professional corporations and from receiving compensation for professional services)

Mr. RUDMAN. Mr. President, for the information of my colleagues, I have several other amendments to offer this afternoon. It is my understanding that if agreements can be worked out—and that of course is in the hands of the majority leader—a major amendment changing the scope part of this bill I would offer on Tuesday, if that can be unanimously agreed to. That, of course, is something that I cannot speak to but I expect the leader will at some point.

I would also tell my colleagues that the next two amendments I have to offer have influence mainly on the other body because we have rules covering it. I understand that in some cases the leadership on the committee, the managers, are willing to accept them. I do not like to ask for rollcall votes just to drag people over here, but it is only 1:20 in the afternoon. We do work every day, and I daresay we ought to have rollcalls on at least a couple of these so that the other body recognizes the strength of feeling on this issue in the Senate.

Having said that, Mr. President, I then send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1948 to amendment No. 1946:

At the end of the amendment add the following new section:

"SEC. . Section 208 of title 18, United States Code, is amended by adding the following new paragraph:

"'(c) Any Member of the House or Senate who shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such firm, partnership, association or corporation; or (3) practice a profession for compensation shall be fined not more than $10,000 or imprisoned not more than two years, or both. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship'.".

The PRESIDING OFFICER (Mr. SHELBY). The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I wanted the clerk to read the entire amendment, as he did, because I believe it is a significant amendment.

Although this bill is dealing with post-employment practices, as one who chaired the Senate Ethics Committee for 2 years and now serves under the able leadership of Senator HEFLIN, as vice chairman, I believe Congress ought to be viewed as an entity, which it is by the American people. The American people do not make distinctions.

If we are talking about ethical conduct, frankly, I am much more concerned about having it while we are here than I am after we are gone. People do not care about us after we are gone, I am told. They care while we are here.

This amendment, with one minor change, is simply a codification of that portion of the Senate rule on conflict of interest that deals with the issue of affiliation and the performance of professional services.

The Senate rule now prevents a Senator from affiliating with a firm, partnership, association or corporation for the purpose of providing professional services for compensation or from allowing his or her name to be used by such an entity. In addition, Senators, as sole practitioners, may not practice a profession for compensation during regular office hours.

Parenthetically, if somebody could ever define regular office hours for me around here, I would like to know about it.

The change in that rule made by this amendment is that I have deleted the phrase "during regular office hours." The reason for this change is that, quite frankly, I do not think a Member of Congress should practice a profession, other than being a Member of Congress while they hold this public trust.

The House has no rule prohibiting affiliation or the practicing of a profession during office hours. Consequently, there are Members of the House who pull in quite a hefty income in the form of a partnership draw from firms with respect to which their name is on the firm's letterhead.

We have no way of knowing what type of work is being performed for such a draw. Nor do we have any control over the activities of the other members of such a firm. Section 207(g) does restrict the activities of a partner somewhat but unfortunately, it only deals with partners of officers or employees of the executive branch. A defect that is not cured by the bill pending before us.

But we need not correct section 207(g). We can make a more significant contribution to improving the public image of congressional ethics by simply forbidding any affiliation of a Member of Congress with a firm or association for compensation.

I am sure that there are Members of the other body who will disagree vehemently with this amendment. But I happen to think this Congress is not half the House and half the Senate. This is the U.S. Congress. We are concerned about legislation that affects Congress, and it ought to affect the whole Congress. Thus, I submit this amendment. I understand that it may be acceptable; but, as I said before, I think it is important that we have a record vote on this because this is the current Senate rule.

Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RUDMAN. I yield the floor.

Mr. THURMOND. Mr. President, as I understand it, this is an amendment that merely puts the House and the Senate on the same basis, and we see no objection to that. We think it is the fair thing to do, and we are willing to accept the amendment.

Mr. METZENBAUM. We are prepared to accept the amendment.

Mr. BYRD. Mr. President, some Senators probably have not gotten back to their offices yet. I wonder if this would be a worthwhile approach, and I will make the proposal:

The distinguished Senator has indicated that he has some more amendments, and he has indicated the reason why he wants rollcall votes, and it is a justifiable reason. I have upon occasion sought rollcall votes to strengthen the position of Senators in conference with the other body.

If there is not going to be much debate—perhaps the Senators do not know at this point—I was just going to suggest that we might be able to have two or three amendments discussed and then stack those votes, so that Senators could come and vote. Perhaps the Senator would be agreeable to that, or perhaps not.

Mr. RUDMAN. If I understand the majority leader's proposal, it would be that we debate the next several amendments that appear not to be controversial, but I wish to have a vote, and roll those votes together so that Members only have to come once and vote on all three.

Mr. BYRD. Yes.

Mr. RUDMAN. I think that is eminently fair, and I will not object to that request.

Mr. THURMOND. Mr. President, that is agreeable to us. However, if we accept amendments and there is no controversy about them, I see no need for a rollcall vote. However, if he wants it, I have no objection.

Mr. METZENBAUM. I have no objection. I think it is a good idea.

I know that the Senator from New Hampshire has this amendment and another immediately following which we are prepared to accept. Will he give us some indication of how many amendments he has beyond that?

Mr. RUDMAN. A great number. I am not convinced that I will offer them all. I will offer the next amendment, which applies to the Senate now by rule, and that is the so-called grandfather clause with respect to excess campaign funds. The House has that rule as well. I am going to offer that next. I believe that, for the time being, those will be the two I will offer, and we can have votes on those two.

Mr. METZENBAUM. Very well.

Mr. SYMMS. Mr. President, one comment: I hope we do not stack this up and wait so that a Member who has a plane to catch might miss four votes. Some of us have a schedule to meet.

Mr. RUDMAN. If I may have the attention of the managers and the majority leader, I represent that it would be my intention to offer these two. Any others that could be accepted, could be accepted without rollcall votes. At that point, I believe there is going to be a pending request so that the major amendment I wish to offer on this will be up on Tuesday, after the caucuses, with a time agreement that I am ready to agree to, to finish it in the late afternoon on Tuesday. That would be my proposal.

Mr. BYRD. Mr. President, I inquire of the distinguished Senator from New Hampshire how much time he would need on the second amendment, the one which would require a second rollcall vote.

Mr. RUDMAN. I think we could probably do this in about 3 minutes, plus whatever comments come from the managers.

Mr. METZENBAUM. As I understand it, that amendment has to do with the disposition of campaign funds.

Mr. RUDMAN. The Senator is correct.

Mr. METZENBAUM. Members may not take them into their own coffers.

Mr. RUDMAN. It would extend the Senate rule as it presently exists by statute.

Mr. METZENBAUM. There would be no debate, so far as I am concerned. We would be prepared to accept it.

Mr. THURMOND. Mr. President, we could accept it.

Mr. RUDMAN. I would like to be able to submit that amendment after the majority leader makes his request for those two amendments, and I would request no other votes this afternoon.

Mr. METZENBAUM. Will the Senator from New Hampshire be willing, subject to the majority leader's willingness, to agree that these will be the only two amendments this afternoon and that we will go over until Tuesday with respect to this major amendment?

Mr. THURMOND. Mr. President, does the Senator have any other amendments which are not controversial that he would like to take up this afternoon?

Mr. RUDMAN. Of course, I can only say to my dear friend from South Carolina that I can speak as to what I am willing to do. But I have just had whispered in my ear by able floor staff that there are other Senators, and whether they want to do that this afternoon, I do not know. I know what I want to do, and I can offer no other amendments this afternoon. As a matter of fact, it is possible that I will offer no other amendments at all, other than my major amendment on Tuesday.

Mr. BYRD. Mr. President, if it is of any solace, the distinguished Senator from New Hampshire has two amendments, one of which the yeas and nays have already been ordered on, and the second of which will require the yeas and nays and all Senators seem to be at this point willing to have back-to-back votes on those two amendments. If there are any remaining amendments that the Senator has to offer today, I understand there will probably be amendments on which he would not request rollcall votes. His substitute amendment would be called up next Tuesday following the conferences and that would constitute his sole efforts with respect to amendments to the bill. And if we could we will get an agreement to go to final passage on next Tuesday at a given hour.

In the meantime, as I understand what has also been said, the fact that the Senator will be finished with offering his amendments this afternoon does not mean that there are not other Senators who have amendments to offer. Am I correct in that?

Mr. RUDMAN. The leader is correct, although I am told that is only a possibility, not a probability, but I would also clarify one thing that the leader said. After submitting this amendment and having a rollcall vote, the Senator from New Hampshire will be done with this issue today. I will offer no other amendment.

Mr. BYRD. Very well.

Mr. LEVIN. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. LEVIN. Is it the intention of the Senator from New Hampshire to lay down the substitute today so we can see what it is we will be facing on Tuesday?

Is it printed in the RECORD?

Mr. THURMOND. Could I say something for the RECORD on that point?

Mr. RUDMAN. If I may answer the question of the Senator from Michigan, we had drafted that in the form that the Senator from South Carolina asked us to change from an amendment rather than substance. We will do that. I am happy to disclose in full to my colleague precisely what it will contain.

Mr. LEVIN. That is fine.

I have one other question. Why are we holding it off to Tuesday afternoon instead of Tuesday morning? That has been worked out?

Mr. RUDMAN. Yes, it has.

Mr. LEVIN. There is not a possibility for it to be proceeded to earlier than that?

Mr. RUDMAN. The Senator from Michigan is advised we had discussions earlier and it appeared to all here at that time that would be a prudent thing to do, and I am pleased with that.

Mr. BYRD. May I say now while I still have the floor, and I will yield it shortly, once this legislation is set aside for today it is my hope that we can take up the reparations bill, which Senator MATSUNAGA is very interested in. As to whether or not there will be any votes on that bill today remains to be seen. But that would be the business for Monday and there may be other business on Monday.

So that it might be clear to everyone, the fact the distinguished Senator from New Hampshire is not going to offer his substitute until next Tuesday afternoon, for reasons that some of us know about, good reasons, does not mean that there will not be business on Monday because the reparations bill will be up Monday.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. THURMOND. Mr. President, I understood from the Senator from New Hampshire that instead, after offering up a substitute, he may have several amendments and so he would rather wait until Tuesday to offer those instead of this afternoon.

Mr. RUDMAN. The Senator from South Carolina is correct. I believe there may even be a possibility between now and Tuesday of reaching some accommodation. I think that is possible.

Mr. THURMOND. Some amendments it is possible might be accepted.

Mr. RUDMAN. That is correct.

Mr. THURMOND. I understood the Senator is going to offer the amendments rather than the substitute.

Mr. RUDMAN. That is correct; at the Senator's request, that is precisely what I intend to do.

Mr. BYRD. Would it be possible, may I ask the distinguished Senator from New Hampshire, to have his substitute up Tuesday morning rather than Tuesday afternoon so we can dispose of this measure before the conferences?

Mr. RUDMAN. I am going to be very frank with the leader. I would rather do it Tuesday afternoon for the following reasons. I think there are some things in the pending measure that our colleagues are not aware of. There are Members of the leader's caucus who feel the same way. This is major legislation. It has in my view and the view of many some constitutional defects. We would like to get it drafted over the weekend and get it into the hands of everyone on Monday and be able to address our caucuses on Tuesday and proceed Tuesday afternoon.

Quite frankly, that is the explanation and reason. I think it is a reasonable reason.

Mr. BYRD. I thank the distinguished Senator.

I ask unanimous consent that there be 5 minutes for debate on the amendment which the distinguished Senator is about to call up, or has he called it up?

Mr. RUDMAN. It has not been called up.

Mr. BYRD. Which is about to be called up and in connection with which both managers are well aware of the contents, that there be 5 minutes, 3 minutes to the distinguished Senator, 1 minute to each of the managers, and that at the conclusion of that time the rollcall vote occur which has already been ordered on the previous amendment which the distinguished Senator from New Hampshire has offered and that be a 15-minute rollcall vote and that the call for the regular order be automatic and that immediately upon the disposition of that amendment the Senate then proceed to consideration of the amendment which the Senator is about to offer and on which there are 5 minutes allotted and that that be a rollcall vote limited to 10 minutes.

Mr. RUDMAN. Mr. President, will the leader yield for a comment?

Mr. BYRD. Yes.

Mr. RUDMAN. I have been advised by our floor staff there is a Senator who wishes to be consulted before any rollcall is reduced from 15 to 10. I would regretfully have to object.

Could we possibly move ahead with this and hopefully he can reach that Member of the Senate?

Mr. BYRD. He can forget that Member of the Senate.

I ask unanimous consent that the vote on the second rollcall if a rollcall vote is ordered—I assume it will be—that be a 15-minute rollcall vote also and that the call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That does not keep Senators from getting here within 10 minutes. When we are all here, we will call off the quorum.

I thank all Senators.

Mr. THURMOND. I have no objection.

Mr. BYRD. Mr. President, if he wishes to order the yeas and nays so all Senators will know, does he wish to now get the yeas and nays?

Mr. RUDMAN. I would like to send this amendment to the desk and immediately ask for the yeas and nays.

AMENDMENT NO. 1949

(Purpose: To prohibit all members of Congress from converting excess campaign funds to personal use on leaving Congress)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1949 to amendment 1946.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

"SEC. 8. Section 439a of title 18, United States Code, is amended by striking all beginning with 'with respect to' through 'January 8, 1980,'.".

Mr. RUDMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, if the Senator will allow me, that no amendments to this amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. No.

Mr. BYRD. And no amendments to the previous amendment be in order.

Mr. RUDMAN. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, as my colleagues will remember, in 1979 Congress passed a law prohibiting candidates from converting surplus campaign funds to personal use. Unfortunately, rather than grandfathering in funds already collected, to the answer anyone who might argue that there existed some type of property right in such funds, Congress choose to grandfather the collectors of those funds.

Although paragraph 2 of Rule 38 of the Senate Rules prohibits the conversion of campaign funds to the personal use of a Senator, section 439(a) of title 2, United States Code, permitting such a practice for those Members who were in office prior to January 8, 1980, arguably impliedly repeals that rule.

And, although the Senate has not as yet had a problem with compliance with this rule, even if it has not been impliedly repealed, it is, in reality, unenforceable against a former Senator. Morever, the House has adopted no similar rule.

Following the 1986 campaign, House candidates had over $49,000 in surplus campaign funds. I am corrected by my staff. I thought it was a typographical error. They had over $49 million in surplus campaign funds. Parenthetically, they should apply that to the deficit: 54 candidates, all reelected incumbents, claimed a surplus of $250,000, or more, and 47 of those 54 are covered by the grandfather clause.

We are supposed to deal with public policy, and I will ask a rhetorical question. What public policy is served by allowing one class of Members of Congress to convert, after paying taxes, campaign funds to personal use vis-a-vis who came after 1980. It is not public policy. It is a private policy.

I submit the amendment to debate and yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Mr. **THURMOND**. Mr. President, we have no objection to the amendment and are willing to accept it.

Mr. **METZENBAUM**. Mr. President, we have no objection to the amendment and we are prepared to accept it.

The **PRESIDING OFFICER**. Do all Senators yield back their time on the amendment?

Mr. **RUDMAN**. I yield back the remainder of my time.

Mr. **THURMOND**. I yield back the remainder of my time.

Mr. **METZENBAUM**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time has been yielded back.

VOTE ON AMENDMENT NO. 1948

The **PRESIDING OFFICER**. Under the previous order, a vote will now occur on amendment No. 1948. The yeas and nays have been ordered.

Mr. **BYRD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The question is on agreeing to amendment No. 1948. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. **BYRD**. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from North Carolina [Mr. SANFORD], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. **SIMPSON**. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. HECHT], the Senator from Idaho [Mr. MCCLURE], and the Senator from Oklahoma [Mr. NICKLES] are necessarily absent.

The **PRESIDING OFFICER** (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—81

Adams
Baucus
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—19

Armstrong
Bentsen
Biden
Boschwitz
Burdick
Cranston
Dodd
Evans
Exon
Gore
Hatch
Hecht
Hollings
Inouye
Johnston
McClure
Nickles
Sanford
Stennis

So the amendment (No. 1948) was agreed to.

VOTE ON AMENDMENT NO. 1949

The **PRESIDING OFFICER**. Under the previous order the vote will now occur on amendment 1949 and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **BYRD**. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from North Carolina [Mr. SANFORD], the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

Mr. **SIMPSON**. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. HECHT] and the Senator from Oklahoma [Mr. NICKLES], are necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber desiring to vote?

Mr. **BYRD**. May we have the announcement of the vote? Regular order, Mr. President.

The **PRESIDING OFFICER**. The Chair is observing the regular order. I understand there are 15-minute votes. There are 40 seconds left.

Mr. **BYRD**. All Senators are in.

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—83

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—

NOT VOTING—17

Bentsen
Biden
Boschwitz
Burdick
Cranston
Dodd
Evans
Exon
Gore
Hatch
Hecht
Hollings
Inouye
Johnston
Nickles
Sanford
Stennis

So the amendment (No. 1949) was agreed to.

Mr. **BYRD**. Mr. President, are there any other Senators who have amendments?

Mr. **THURMOND**. Mr. President, I have a modified amendment.

Mr. **BYRD**. May I inquire? There may be Senators who have amendments on which they want the yeas or nays. If there are, we would like to know now. Are there any?

I yield the floor.

Mr. **THURMOND** addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1946, AS MODIFIED

Mr. THURMOND. I ask unanimous consent that amendment 1946, as amended, be modified, and I send the modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

On page 14 between lines 4 and 5 insert the following new subsection.

"(i) Defense. In action under subsection (c) of this section, it is an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving or the expectation of receiving, directly or indirectly, any compensation, financial gain, or remuneration."

On page 14, line 5, strike "(i)" and insert in its place "(j)".

Mr. THURMOND. Mr. President, this amendment would provide a defense to any legal action brought for a violation of subsection (c) under this bill. If a former Government official receives no compensation for his lobbying activity, then it would be a defense to any prosecution. I believe this is an important amendment because the purpose of this legislation is to prohibit those who want to turn their former position into profit. We do not want to prohibit contact when there is no compensation.

The PRESIDING OFFICER. Is there further debate on the amendment (No. 1946, as amended), as modified? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 1946 as amended), as modified, was agreed to.

ORDER OF PROCEDURE

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, while the distinguished Republican leader is on the floor, may I say that he and I have been discussing the program for the rest of the day and for Monday and Tuesday. And our respective floor staffs have also been actively clearing these matters. There is a bill on the calendar which can be disposed of quickly by voice vote.

Mr. President, on this afternoon I would like to lay down the reparations bill without any speeches, with no action on the bill today so that it will take its turn in the mill. There will be no more rollcall votes today.

Then I would like to get consent to go on Monday to the constitutional amendment that is authored by Senator HOLLINGS, and be on that amendment on Monday. The reason why the Senate would not be able to return to the reparations bill Monday would be because Mr. HELMS, who is very much involved with that bill and has several amendments to it for very good reasons, would not be able to be present to present those amendments for personal reasons.

So on Monday then, if the Senate could go to the constitutional amendment, then on Tuesday the Senate would return to the lobbying legislation which is the pending matter, and would complete action on the lobbying legislation on Tuesday at some point after the conferences.

Then that matter having been disposed of, the Senate would return to the reparations bill which had taken its turn as No. 2 in line. And then upon the disposition of the reparations bill, Wednesday I suppose, or some such, the Senate would return to the Constitution amendment which would take its turn, it being No. 3 in the mix.

That is a rather involved approach, but there are sufficient reasons why if we are going to keep the Senate busy and doing the work that has to be done, this is the only way I see that we can do it and best use the time of the Senate.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. That having been said, I therefore, ask unanimous consent, Mr. President, that the Senate now proceed to the consideration of Calendar Order No. 383, the wartime reparations measure, and that after the clerk reads the title, that be all the action taken on that bill today; provided further that on Monday, the Senate proceed to the consideration of Calendar Order No. 604, the joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures by Mr. HOLLINGS and others; provided further that on Tuesday the Senate return to the consideration of the lobbying legislation, upon the disposition of which the Senate then resume the consideration of the wartime reparations measure.

Mr. CHAFEE. Mr. President, I wonder if the distinguished majority leader will use the mike.

Mr. BYRD. Yes.

Mr. CHAFEE. It is difficult to hear.

Mr. BYRD. Provided further that upon the disposition of the wartime reparations measure the Senate then resume consideration of the constitutional amendment.

I beg the Senator's pardon because I had the calendar between my lips and the microphone.

Does the Senator wish me to state that again? I would understand if he did wish me to do it.

Mr. CHAFEE. No.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there objection.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I have discussed this thoroughly with the distinguished majority leader, and I think it is a way to have an orderly flow of business so the Senate is not slowed down and we get some of these things completed. I know of no objection and have no objection myself.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his cooperation and very able assistance in making it possible for the schedule to go forward as outlined.

Let me state once more for Senators who may not have been able to hear precisely what I was saying about what is about to happen.

Now, the Senate shortly will take up the wartime reparations measure. The clerk will state the title of that measure, and then there will be no speeches or further action on the measure today. The Senate will then take up another measure which can be handled by unanimous consent, and then when there is no more business, the Senate will go until Monday.

On Monday, the Senate will proceed to take up the constitutional amendment on campaign expenditures and will debate that measure. On Tuesday, the Senate will return to the lobbying legislation and will complete action on that bill at some point after the two conferences.

On the disposition then of the lobbying measure, the Senate will resume consideration of the wartime reparations measure. Upon the disposition of that measure, the Senate will resume consideration of the constitutional amendment. And so that puts us up into Wednesday or later.

Mr. RUDMAN. Before the leader yields the floor, will he yield for a question?

Mr. BYRD. I will be happy to yield.

Mr. RUDMAN. While both leaders are on the floor, if there is going to be a unanimous-consent agreement entered into later today concerning the legislation that is still pending, the lobbying bill, I would just like to clarify one thing. I had planned to offer a series of amendments now rather than a substitute because the floor leaders had asked that a substitute not be offered. It would have been an easier way to do it, but I have agreed to that.

That being the case, I have only one major amendment to offer. This would be the only one requiring a rollcall vote. But if that amendment were adopted, a number of what I call technical amendments to that amendment would have to be offered for it to be accepted. I ask indulgence of the leader; if there is such an agreement, that I not be limited to one amendment. I only have one that is underlying. There are a number of others that have to be offered to make the bill coherent.

Mr. BYRD. This Senator understands. I thank the distinguished Senator for his explanation. I thank the Chair for his indulgence. If the Senate may now proceed.

WARTIME RELOCATION OF CIVILIANS

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1009) to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, reported with an amendment.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds that—

(1) the findings of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act, accurately and completely describe the circumstances of the exclusion, relocation, and internment of in excess of one hundred and ten thousand United States citizens and permanent resident aliens of Japanese ancestry and the treatment of the individuals of Aleut ancestry who were removed from the Aleutian and the Pribilof Islands;

(2) the internment of individuals of Japanese ancestry was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty by any citizens or permanent resident aliens of Japanese ancestry on the west coast;

(3) there was no military or security reason for the internment;

(4) the internment of the individuals of Japanese ancestry was caused by racial prejudice, war hysteria, and a failure of political leadership;

(5) the excluded individuals of Japanese ancestry suffered enormous damages and losses, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering;

(6) the basic civil liberties and constitutional rights of those individuals of Japanese ancestry interned were fundamentally violated by that evacuation and internment;

(7) as documented in the Commission's reports, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed;

(8) the United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control;

(9) the United States has not compensated the Aleuts adequately for the conversion or destruction of personal property caused by the United States military occupation of Aleut villages during World War II; and

(10) there is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

(b) PURPOSES.—The purposes of this Act are to—

(1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry;

(2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of the citizens and permanent resident aliens of Japanese ancestry;

(3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the reoccurrence of any similar event;

(4) make restitution to those individuals of Japanese ancestry who were interned; and

(5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—

(A) injustices suffered and unreasonable hardships endured while under United States control during World War II;

(B) personal property taken or destroyed by United States forces during World War II;

(C) community property, including community church property, taken or destroyed by United States forces during World War II; and

(D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use.

TITLE I—RECOGNITION OF INJUSTICE AND APOLOGY ON BEHALF OF THE NATION

SEC. 101. The Congress accepts the findings of the Commission on Wartime Relocation and Internment of Civilians and recognizes that a grave injustice was done to both citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. On behalf of the Nation, the Congress apologizes.

TITLE II—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

DEFINITIONS

SEC. 201. For the purposes of this title—

(1) the term "eligible individual" means any living individual of Japanese ancestry who—

(A) is a United States citizen or permanent resident alien on the date of enactment of this Act; and

(B)(i) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone; or

(ii) was confined, held in custody, or otherwise deprived of liberty or property during the period as a result of—

(I) Executive Order Numbered 9066 (February 19, 1942; 7 Fed. Reg. 1407);

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones" and approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action made by or on behalf of the United States or its agents, representatives, officers, or employees respecting the exclusion, relocation, or detention of individuals on the basis of race;

(2) the term "Fund" means the Civil Liberties Public Education Fund established in section 204;

(3) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 206;

(4) the term "evacuation, relocation, and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946; and

(5) the term "Commission" means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act.

CRIMINAL CONVICTIONS

SEC. 202. (a) REVIEW.—The Attorney General is requested to review any case in which a United States citizen or permanent resident alien of Japanese ancestry living on the date of the enactment of this Act was convicted of a violation of the laws of the United States, including convictions for violations of military orders, where such a conviction resulted from charges filed against such individuals during the evacuation, relocation, and internment period.

(b) RECOMMENDATIONS.—Based upon the review required by subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General finds were based on a refusal by such individuals to accept treatment that discriminated against them on the basis of race or ethnicity.

(c) PARDONS.—In consideration of the findings contained in this Act, the President is requested to offer pardons to those individuals recommended by the Attorney General pursuant to subsection (b).

CONSIDERATION OF COMMISSION FINDINGS

SEC. 203. (a) FEDERAL CONSIDERATION AND REVIEW.—Departments and agencies of the United States Government to which eligible individuals may apply for the restitution of positions, status, or entitlements lost in whole or in part because of discriminatory acts of the United States Government against such individuals based upon their race or ethnicity and which occurred during the evacuation, relocation, and internment period shall review such applications for restitution of positions, status, or entitlements with liberality, giving full consideration to the historical findings of the Commission and the findings contained in this Act.

(b) NO NEW AUTHORITY CREATED.—Subsection (a) shall not be construed to create new authority to grant restitution described in that subsection, or establish new eligibility to apply for such restitution.

TRUST FUND

SEC. 204. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Civil Liberties Public Education Fund, to be administered by the Secretary of the Treasury. Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and *shall only be available for disbursement by the Attorney General under section 205, and by the Board of Directors of the Fund under section 206.*

(b) Authorization.—There are authorized to be appropriated to the Fund $500,000,000 in fiscal 1989, $400,000,000 in fiscal 1990, $200,000,000 in fiscal 1991, $100,000,000 in fiscal 1992 and $100,000,000 in fiscal 1993.

RESTITUTION

Sec. 205. (a) Location and Payment of Eligible Individuals.—(1) The Attorney General, with the assistance of the Board, shall locate, using records already in the possession of the United States Government, each eligible individual and shall pay out of the Fund to each such individual the sum of $20,000. The Attorney General shall encourage each eligible individual to submit his or her current address to the Department of Justice through a public awareness campaign.

(2) If an eligible individual refuses to accept any payment under this section, such amount shall remain in the Fund and no payment shall be made under this section to such individual at any future date.

(b) Preference to Oldest.—The Attorney General shall endeavor to make payment to eligible individuals who are living in the order of date of birth (with the oldest receiving full payment first), until all eligible individuals who are living have received payment in full.

(c) Nonresidents.—In attempting to locate any eligible individual who resides outside the United States, the Attorney General may use any available facility or resources of any public or nonprofit organization.

(d) No Set Off for Administrative Costs.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) Extinguishment of Claims.—The claims of an eligible individual against the United States shall be extinguished—

(A) on a date which is ten years after the date of enactment of this Act; or

(B) on the date by which the individual has received the total amount of payments under this Act,

whichever date first occurs.

(f) Clarification of Treatment of Payments Under Other Laws.—Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the Internal Revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

BOARD OF DIRECTORS

Sec. 206. (a) Establishment.—There is hereby established the Civil Liberties Public Education Fund Board of Directors which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) Disbursements From Fund.—The Board of Directors may make disbursements from the Fund only—

(1) to sponsor research and public educational activities so that the events surrounding the relocation and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood;

(2) to fund comparative studies of similar civil liberties abuses, or to fund comparative studies of the effect upon particular groups of racial prejudice embodied by Government action in times of national stress;

(3) to prepare and distribute the hearings and findings of the Commission to textbook publishers, educators, and libraries;

(4) for the general welfare of the ethnic Japanese community in the United States, taking into consideration the effect of the exclusion and detention on the descendants of those individuals who were detained during the evacuation, relocation, and internment period (individual payments in compensation for loss or damages shall not be made under this paragraph); and

(5) for reasonable administrative expenses, including expenses incurred under subsections (c)(3), (d), and (e).

(c) Membership and Terms of Office.—(1) The Board shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate, from persons who are not officers or employees of the United States Government. At least five of the individuals appointed shall be individuals who are of Japanese ancestry.

(2)(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) five shall be appointed for terms of 3 years; and

(ii) four shall be appointed for terms of 2 years; as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. No individual may be appointed to more than two consecutive terms.

(3) Members of the Board shall serve without pay, except members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) Five members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) The Chair of the Board shall be elected by the members of the Board.

(d)(1) The Board shall have a Director who shall be appointed by the Board and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for GS-18 of the General Schedule under section 5332(a) of title 5, United States Code.

(2) The Board may appoint and fix the pay of such additional staff personnel as it may require.

(3) The Director and the additional staff personnel of the Board may be appointed without regard to section 5311(B) of title 5, United States Code, and may be appointed without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332(a) of such title.

(e) Support Services.—The Administrator of General Services shall provide to the Board of Directors on a reimbursable basis such administrative support services as the Board may request.

(f) Donations.—The Board may accept, use, and dispose of gifts or donations or services or property for purposes authorized under subsection (b).

(g) Annual Report.—Not later than twelve months after the first meeting of the Board and every twelve months thereafter, the Board shall transmit a report describing the activities of the Board to the President and to each House of the Congress.

(h) Sunset for Board.—The Board shall terminate not later than the earlier of ninety days after the date on which an amount has been obligated to be expended from the Fund which is equal to the amount authorized to be appropriated to the Fund or ten years after the date of enactment of this title. Investments shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

COMPLIANCE WITH BUDGET ACT

Sec. 207. No authority under this title to enter into contracts or to make payments shall be effective except to the extent or in such amounts as are provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

TITLE III—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

SHORT TITLE

Sec. 301. This title may be cited as the "Aleutian and Pribilof Islands Restitution Act".

DEFINITIONS

Sec. 302. As used in this title—

(1) the term "Administrator" means the person designated by the Secretary to advise and inform the Secretary concerning expenditures from the Aleutian and Pribilof Islands Restitution Fund;

(2) the term "affected Aleut villages" means those Aleut villages in Alaska whose residents were evacuated by United States forces during World War II, including Akutan, Atka, Nikolski, Saint George, Saint Paul, Unalaska, and the Aleut village of Attu, Alaska, which was not rehabilitated by the United States for Aleut residence or other use after World War II;

(3) the term "Association" means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term "Corporation" means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established pursuant to section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203);

(5) the term "eligible Aleut" means any Aleut living on the date of enactment of this title—

(A) who, as a civilian, was relocated by the authority of the United States from his home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation during World War II; and

(6) the term "Secretary" means the Secretary of the Interior.

ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND

SEC. 303. (a) ESTABLISHMENT.—The Secretary shall establish as an account in the Treasury of the United States the Aleutian and Pribilof Islands Restitution Fund (hereafter in this title referred to as the "Fund"), to be administered by the Secretary. The Fund shall consist of amounts appropriated to it, as authorized by sections 305 (duties of Administrator) and 306 of this title.

(b) REPORT.—It shall be the duty of the Secretary to hold the Fund and to report to the Congress each year on the financial condition and the results of operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year.

(c) INVESTMENT.—The Secretary shall invest such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. Such obligations may be acquired—

(1) on original issue at the issue price; or

(2) by purchase of outstanding obligations at the market price.

(d) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary at the market price.

(e) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(f) TERMINATION.—The Secretary shall terminate the Fund 3 years after the date of enactment of this title, or 1 year following disbursement of all payments from such Fund, as authorized by this title, whichever occurs later. On the date the Fund is terminated, all investments shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

DESIGNATION OF ADMINISTRATOR

SEC. 304. As soon as practicable after the date of enactment of this title, the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under the terms of this title. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of enactment of this title. If no agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with affected Aleut village leaders and the Corporation.

COMPENSATION FOR COMMUNITY LOSSES

SEC. 305. (a) IN GENERAL.—Out of monies from the Fund, the Secretary shall make restitution, as provided by this section, for certain Aleut losses sustained in World War II.

(b) TRUST ESTABLISHED.—(1) The Secretary shall establish a trust of $5,000,000 for the benefit of affected Aleut communities, and for other purposes. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) The trustees shall maintain and operate the trust as eight independent and separate accounts, including—

(A) one account for the independent benefit of the wartime Aleut residents of Attu and their descendants;

(B) six accounts, each one of which shall be for the independent benefit of one of the six surviving affected Aleut villages of Atka, Akutan, Nikolski, Saint George, Saint Paul, and Unalaska; and

(C) one account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established pursuant to subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 per centum of the principal amount credited by the Secretary to the trust. The remaining principal amount shall be divided among the accounts described in subparagraphs (A) and (B), in proportion to the June 1, 1942 Aleut civilian population of the village for which each such account is established, as compared to the total civilian Aleut population on such date of all affected Aleut villages.

(3) The trust established by this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representative eligible Aleuts, the residents of affected Aleut villages, and the Administrator. The trustees may use the principal, accrued interest, and other earnings of the trust for—

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need;

(B) the benefit of students in need of scholarship assistance;

(C) the preservation of Aleut cultural heritage and historical records;

(D) the improvement of community centers in affected Aleut villages; and

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(4) There are authorized to be appropriated $5,000,000 to the Fund to carry out the purposes of this subsection.

(c) COMPENSATION FOR DAMAGED OR DESTROYED CHURCH PROPERTY.—(1) The Administrator shall make an inventory and assessment of church property damaged or destroyed in affected Aleut villages during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established by subsection (b), elders of affected villages, congregation leaders, and the clergy. Within 1 year after the date of enactment of this title, the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary.

(2) The Secretary shall review the inventory and assessment provided pursuant to paragraph (1), and shall make payment to the trust established pursuant to subsection (b) in an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) The trustees shall make distribution of the compensation provided pursuant to this subsection in a manner consistent with the purposes of this title.

(4) There are authorized to be appropriated to the Fund $1,400,000 to carry out the purposes of this subsection.

(d) ADMINISTRATIVE AND LEGAL EXPENSES.—(1) The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out its responsibilities under this title.

(2) There are authorized to be appropriated to the Fund such sums as are necessary to carry out the purposes of this subsection.

INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS

SEC. 306. (a) PAYMENTS TO ELIGIBLE ALEUTS.—(1) In accordance with the provisions of this section, the Secretary shall make per capita payments out of the Fund to eligible Aleuts for uncompensated personal property losses, and for other purposes. The Secretary shall pay to each eligible Aleut the sum of $12,000. All payments to eligible Aleuts shall be made within 1 year after the date of enactment of this title.

(2) The Secretary may request, and upon such request, the Attorney General shall provide, reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages. In providing such assistance, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(3) The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts pursuant to this section.

(4) Any payment made under this subsection shall not be considered income or receipts for purposes of any Federal taxes or for purposes of determining the eligibility for or the amount of any benefits or assistance provided under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out the purposes of this section.

ATTU ISLAND RESTITUTION PROGRAM

SEC. 307. (a) WILDERNESS DESIGNATION.—In accordance with subsection (3)(c) of the Wilderness Act (78 Stat. 892), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System are designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island lands, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people in lieu of Attu Island conveyance shall be provided in accordance with this section.

(b) ACREAGE DETERMINATION.—Not later than 90 days after the date of enactment of this title, the Secretary shall determine the total acreage of land on Attu Island, Alaska, that was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the Aleut people, and shall further, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of base acreage and such additional acreage shall constitute the aggregate acreage determination, and shall be the basis for compensation to the Corporation pursuant to this section. The Secretary shall promptly notify the Corporation of the

results of the aggregate acreage determination made pursuant to this subsection.

(c) Valuation.—(1) Not later than 120 days after the date of enactment of this title, the Secretary shall determine the value of the aggregate Attu Island acreage determination, made pursuant to subsection (b), except that—

(A) no tract of acreage within such determination shall be valued at less than $350 per acre nor more than $500 per acre; and

(B) the total valuation of all acreage within such determination shall not exceed $15,000,000.

(2) In making the valuation pursuant to paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) The Secretary shall promptly notify the Corporation of the valuation made pursuant to this subsection, and such valuation shall constitute a final determination of compensation unless appealed within 30 days by the Corporation. If such appeal is made, the Secretary shall within 30 days review the valuation in light of the appeal, and issue immediately thereafter a final determination of the total value of that acreage determined to be subject to traditional use pursuant to subsection (b). Such final determination shall constitute the amount payable as compensation to the Corporation for the Aleuts' loss of ownership of Attu Island.

(d) In Lieu Compensation Payment.—The Secretary shall pay the full amount of compensation, as determined pursuant to subsection (c), to the Corporation in lieu of any conveyance of Attu Island as recommended by the Commission on Wartime Relocation and Internment of Civilians.

(e) Village Site Conveyance.—The Secretary of the Interior may convey to the Corporation the traditional Aleut village site on Attu Island, Alaska, pursuant to the authority provided by section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), except that following the date of enactment of this section, no site on Attu Island, Alaska, other than such traditional Aleut village site, shall be conveyed to the Corporation pursuant to such section 14(h)(1).

(f) Authorization.—There are authorized to be appropriated $15,000,000 to the Secretary for purposes of carrying out the provisions of this section.

COMPLIANCE WITH BUDGET ACT

Sec. 308. No authority under this title to enter into contracts or to make payments shall be effective except to the extent or in such amounts as are provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorized the enactment of new budget authority shall be effective only after September 30, 1988.

SEPARABILITY OF PROVISIONS

Sec. 309. If any provision of this title, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT

Mr. BYRD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1518 and that Mr. Rockefeller may be permitted to offer a technical amendment to strike section 8 of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1518) to amend the Motor Vehicle and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Methanol and Alternative Fuels Promotion Act of 1987".

FINDINGS

Sec. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline; and

(4) conversion of a portion of the transportation fleet of the Nation to methanol and alternative fuels would stimulate development of a domestic coal-to-methanol and methane industry, create jobs, reduce air pollution, and enhance national security.

PURPOSES

Sec. 3. The purposes of this Act are to—

(1) provide for the appropriate treatment under title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) applicable to methanol, ethanol, and natural gas powered automobiles, and dual fuel automobiles; and

(2) increase the use of methanol, ethanol, and natural gas by consumers and the production of methanol, ethanol, and natural gas powered automobiles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

Sec. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: ", or by methanol mixture, ethanol mixture, or natural gas"; and

(2) by adding at the end thereof the following new paragraphs:

"(15) The term 'methanol mixture' means the mixture of methanol with fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'ethanol mixture' means the mixture of ethanol with fuel, if any, used to operate an ethanol powered automobile.

"(18) The term 'ethanol powered automobile' means an automobile designed to operate on not less than 85 percent ethanol.

"(19) the term 'natural gas' means either natural gas mixture, or any mixture of natural and artificial gas.

"(20) The term 'natural gas powered automobile' means an automobile designed to operate on natural gas.

"(21) The term 'dual fuel automobile' means an automobile which—

"(A) is capable of operating on fuel and on either methanol or ethanol;

"(B) when it operates on either methanol or ethanol, operates as well as or better than when such automobile is operated on fuel for the entire range of mixtures (from 0.0 percent methanol or ethanol to at least 85 percent methanol or ethanol, as appropriate), or is capable of operating on natural gas and on fuel; and

"(C)(i) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent methanol mixture; or (ii) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent ethanol mixture.

The driving range for dual fuel automobiles operating on such methanol mixture or ethanol mixture specified in this paragraph may be lowered by the Secretary after a rulemaking proceeding, if the Secretary determines, as a result of such proceeding, that it is not feasible for such dual fuel automobiles to achieve such driving range, considering economic practicability, safety, and other factors determined by the Secretary to be relevant, but in no event shall the Secretary lower such requirement below 200 miles, based upon the combined EPA city/highway fuel economy.".

(b) Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended by adding at the end the following new paragraphs:

"(4)(A) In any of the consecutive model years beginning with the first model year after model year 1992 in which a manufacturer manufactures dual fuel automobiles and ending with the 10th model year or model year 2005, whichever occurs first, the EPA Administrator shall calculate the manufacturer's average fuel economy under paragraphs (1) and (2) by including as the denominator of the term for each model type of dual fuel automobile the fuel economy calculated pursuant to subsection (d)(4).

"(B) For any model year to which a calculation under subparagraph (A) applies, the EPA Administrator shall calculate the increase in a manufacturer's average fuel economy attributable to dual fuel automobiles by subtracting from the manufacturer's average fuel economy calculated under subparagraph (A) a number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in paragraphs (1) and (2) by including as the denominator for each model type of dual fuel automobile the fuel economy when such automobiles are operated on fuel.

"(C) In any of the first 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel econo-

my, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 1.2 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.5 miles per gallon.

"(D) In any of the second 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel economy, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 0.9 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.1 miles per gallon.

"(E) Not later than January 15, 2000, the Secretary shall, in consultation with the Secretary of Energy and the EPA Administrator, complete and submit to Congress a study of whether the increases permitted in subparagraph (B), as limited by subparagraph (D), should be extended for an additional period of up to 5 consecutive model years beyond the end of the period for which each manufacturer is eligible under subparagraph (A). The Secretary shall include in such study recommendations regarding such increases. If the Secretary determines that such increases should be extended, the Secretary shall, within 120 days after submission of such study, promulgate a rule extending the availability of such increases.

"(5) Notwithstanding any other provision of this subsection, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 miles per gallon to which a manufacturer of dual fuel passenger automobiles would otherwise be entitled in that year pursuant to paragraph (4) shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 miles per gallon.

"(6) Notwithstanding any other provision of this subsection, the average fuel economy of any manufacturer of natural gas powered automobiles or dual fuel automobiles which are capable of being operated on natural gas shall be calculated for a model year as if the vehicles were operated on fuel, if the Secretary of Energy determines, and notifies the Secretary, that entitling any manufacturer in that model year to an increase in average fuel economy calculated under paragraph (4) is likely to result in a significant increase in the average price of natural gas to consumers.".

(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a manufacturer manufactures any model type that is operated on methanol or ethanol, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(B) If a manufacturer manufactures any model type of duel fuel automobile, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. The fuel economy of a dual fuel automobile shall be determined by harmonically averaging (and equally weighting) the fuel economy when operated on fuel and when operated on a methanol or ethanol mixture. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considerd to contain 15 one-hundredths of a gallon of fuel.

"(C) If a manufacturer manufactures natural gas powered automobiles or dual fuel automobiles when operated on natural gas, the fuel economy shall be based on the fuel content of the natural gas. For purposes of this section, 100 cubic feet of the natural gas used to operate such automobiles shall be considered to contain 0.823 gallons equivalent of natural gas. A gallon equivalent of natural gas shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

SEC. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol, ethanol, or natural gas powered automobile, the fuel economy of such automobile when operated on the methanol or ethanol mixture, or natural gas, as the case may be, calculated under section 503(d)(4), multiplied by 15 percent, and

"(v) in the case of a dual fuel automobile, the fuel economy of such automobile calculated under section 503(d)(4), multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

SEC. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol, ethanol, natural gas, and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommended changes in the definition of 'duel fuel automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.".

ELECTRIC VEHICLES

SEC. 7. (a) The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar-powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Congress not later than 1 year after the date of enactment of this Act.

(b) If, as a result of the study conducted under subsection (a) of this section, the Secretary of Transportation and the Secretary of Energy determine that such regulations should be amended or that additional regulations should be promulgated, they shall commence a rulemaking proceeding for such purpose.

CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986

SEC. 8. Section 4064(b) of the Internal Revenue Code of 1986 (26 U.S.C. 4064(b)) is amended by adding at the end thereof the following new subparagraph:

"(8) EXCEPTION FOR ALTERNATIVE FUELS.—The determination of the tax to be imposed with respect to a methanol, ethanol, or natural gas powered automobile or dual fuel automobile shall be based on the fuel economy rating established under section 503(d)(4) of the Motor Vehicle Information and Cost Savings Act.".

CONFORMING AMENDMENT TO THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 9. Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of methanol, ethanol, or natural gas powered automobiles, and the Secretary shall consider dual fuel automobiles to be operated exclusively on gasoline.".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I understand the distinguished Senator from Vermont, Senator STAFFORD, will be in charge of the debate on this side as well as Senator DANFORTH.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield myself 5 minutes on the bill.

Mr. President, I am pleased that the Senate is today considering S. 1518, the Methanol and Alternative Fuels Promotion Act, which I introduced on July 20, 1987, along with many of our colleagues. The widespread support for the goals of this legislation is reflected in the fact that it is now cosponsored by over 60 of our colleagues.

My bill is intended to foster and accelerate the manufacture of alternative fuel vehicles, specifically those that run on methanol, ethanol, and natural gas.

The basic thrust of the bill is straightforward and practical. By calculating the fuel efficiency of automobiles that run on alternative fuels in a favorable way, we will encourage the major automakers to make early commercial introduction of these vehicles a priority.

Mr. President, for years we have talked about the need for alternative fuels, and the need to displace some of the 100 billion gallons of gasoline used in the transportation sector each year. Our sense of urgency became stronger at the time of the OPEC oil embargo 15 years ago and with the overnight doubling in the price of oil some 9 years ago. However, we never seized the opportunity to switch away from gasoline. In my view, that was a mistake that hurt us then and continues to hurt us today, economically and environmentally.

Today, we once again see oil imports on the rise. Tensions in the war-torn Persian Gulf region are increasing and at home, tough choices face us concerning the further development of domestic oil resources. This country is no more energy secure today than we were 9 or 15 years ago, and our petroleum consumption is just as large. This country must accelerate the development of alternatives to gasoline or suffer the economic and military consequences of its dependence on an unstable fuel supply.

There is another very important reason to push the development of alternative fuel vehicles, those that can operate on methanol, ethanol, and natural gas. Because of their clean burning characteristics, these fuels can make an exceedingly important contribution to the reduction of air pollution from automobiles. As many of the Nation's largest cities struggle to comply with the health standard for ozone pollution—caused largely by reactive hydrocarbons from autos—the use of methanol, ethanol, and natural gas vehicles grows in importance. Commercial introduction of alternative fuel vehicles will be a profoundly exciting new tool with which to address our urban air pollution problems.

In addressing air pollution problems, S. 1518 will help many of our urban areas. There are other promising aspects of the bill for my own State of West Virginia and for the rest of the country. Of course, coal is important to West Virginia. Methanol can be made from coal and, as a result, I look forward to new opportunities for coal in the future, as we develop and improve the existing technology.

We have plentiful supplies of grain in the United States that in many years get plowed under for lack of a market. These fields of plenty could be converted into ethanol, another alcohol fuel, to be used to address our motor fuel needs.

We also have vast supplies of natural gas in Alaska that are found in conjunction with oil development. These could be used both as a source for methanol fuel development and natural gas vehicles. Today, these gas supplies are reinjected into the ground for lack of an economic market, and substantial portion of the energy value is lost in the process.

All of this will take time and effort, but we must begin now.

The major auto companies consider alcohol fuel, and particularly methanol, a promising replacement fuel for the future. Nevertheless, there is significant capital investment required to begin production of these vehicles and substantial risk for the automaker. Because methanol is an alcohol, with more corrosive properties than gasoline, an automobile must be designed to accommodate its use. The technology to do this has been demonstrated, as has the technology to build a so-called dual-fuel car that can use both methanol and gasoline, and any blend of the two.

To move beyond mere demonstration of this alternative fuel technology, we must break the chicken and egg cycle that prevents mass production of methanol vehicles. Manufacturers will not make a commitment to full-scale production of methanol cars until consumers will buy them. Consumers won't buy them until mass production makes the price competitive and there are conveniently located service stations to serve them. And service stations won't sell methanol fuel—and refiners provide it—until Detroit puts cars on the road ready to use it.

Mr. President, the challenge is to escape from this cycle and to begin the transition to methanol and other alternatives now. The best and most effective way to do that is to hold out a reasonable incentive to automakers to pursue innovative options.

The incentives provided in the bill are in the form of increases in the corporate average fuel economy [CAFE] ratings of automobile manufacturers. Under the Motor Vehicle Information and Cost Savings Act [MVICSA], a manufacturer must achieve a CAFE rating set by the Secretary of Transportation across all of its production to avoid the assessment of monetary penalties. The MVICSA requires manufacturers to achieve a CAFE rating of 27.5 miles-per-gallon for passenger automobiles in model years after 1985. However, by regulation, the technical feasibility of attaining that rating allows a lowering of the standard. Currently, a manufacturer must achieve a CAFE rating of 26 miles-per-gallon. The standard for other than passenger automobiles, that is, light trucks—is set administratively on a year-by-year basis. Under the bill a manufacturer who produces automobiles capable of operating on alternative fuels would receive higher fuel economy ratings on those automobiles than if they were only capable of being operated on gasoline or diesel fuel. This will raise the manufacturer's overall CAFE rating and increase its ability to meet the CAFE standard set by the Secretary. Therefore, the incentives provided by the bill will encourage manufacturers to produce vehicles powered by alternative fuels, and an infrastructure will also develop to supply fuels to these vehicles.

The bill divides threatment of vehicles into two categories: First, "dedicated" vehicles—which use at least 85 percent of the alternative fuel at all times; and second, dual fuel vehicles, which are capable of operating on a range of mixtures of methanol and gasoline or ethanol and gasoline, or capable of operating on natural gas and gasoline.

Limitations to the permissible CAFE increase for dual fuel vehicles are imposed to preclude manufacturers from deriving extraordinary benefits from vehicles that are capable of operating on alternative fuels but which are, in fact, operating on gasoline a significant percentage of the time. Thus, the bill, while holding out a powerful and practical incentive to encourage the development of alternative fuels, puts a limit—a cap—on the size of the credits available for the production of dual-fuel vehicles. In this manner, we will preserve the integrity of the fuel economy law and also take the first step to break the dependency we have on the gasoline engine. At the same time, the bill in no way prevents continuing evaluation of our overall policy on fuel economy.

Mr. President, it is my hope that the auto manufacturers will use the incentives provided by the bill as an opportunity to develop substantial production of alternative fuel vehicles, perhaps in excess of the 200,000 vehicles number referred to throughout the bill. It should also be clear that a manufacturer which produces fewer than that number will receive the benefit of the incentives for each automobile that is produced, based on the formula provided in the bill.

I think a few examples will aid in the understanding of the bill's intent:

Example 1: A manufacturer plans to produce 200,000 dual fuel automobiles and obtain a CAFE increase attributable to those automobiles of 1.2 miles-per-gallon. If, however, changed market circumstances result in achievement of the 1.2 miles-per-gallon increase with 150,000 automobiles, the manufacturer would still be encouraged to produce the larger number of automobiles; for example, if the 1.5 miles-per-gallon could be earned with the volume attributable to 190,000 automobiles.

Example 2: If a manufacturer plans to produce 250,000 automobiles and the CAFE increase attributable to

250,000 is 1.2 miles-per-gallon while that attributable to 200,000 automobiles would be 0.9 miles-per-gallon, the manufacturer would be eligible for the 1.2 miles-per-gallon limit, but not the 1.5 miles-per-gallon limit. Dual fuel automobiles produced beyond that limit would revert to inclusion in the CAFE calculation as running solely on gasoline.

Example 3: If that manufacturer also produces 300,000 dual fuel light trucks but the increase that would have been attributable to production of 200,000 such light trucks would be 1.5 miles-per-gallon, that manufacturer would be limited to the 1.5 miles-per-gallon increase for the light truck fleet.

Mr. President, if this country is serious about achieving a stable energy future, if we are serious about breaking the West's addition to Middle Eastern oil, and if we are going to find a solution to our urban smog problems, we must turn to alternative fuels. A good place to begin this process is with the Methanol and Alternative Fuels Promotion Act.

The incentives provided under this bill are modest yet sufficient to begin this important program. The bill is important, however, both as a step toward increasing our energy options and as a reflection of a new recognition of a need for action on the economic front. The broad support for this bill reflects an emerging awareness that we must act now to anticipate the economic challenges ahead. In a world of fierce international rivalry and dwindling resources, we cannot be satisfied with a policy of inaction and drift. The United States must have the foresight to prepare today if we are to prevail in the new world economy that is emerging.

Because of the importance of this legislation, I want to extend and extra measure of appreciation to the many Senators, staff and others who have worked for passage of S. 1518. I commend the distinguished majority leader, Senator BYRD, an original cosponsor of the bill, the distinguished chairman and ranking minority member of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS and Senator DANFORTH, and our many other colleagues, who have worked to enact S. 1518.

Mr. President, I ask unanimous consent that a letter from the Independent Oil & Gas Association of West Virginia to me from Philip A. Reale, dated January 11, 1988, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT OIL & GAS ASSOCIATION OF WEST VIRGINIA,
Charleston, WV, January 11, 1988.

Hon. JOHN D. ROCKEFELLER IV,
Dirksen Senate Office Building,
Washington, DC.

Re: Production of Methanol From Natural Gas.

DEAR SENATOR ROCKEFELLER: During the first week of 1988 I have had an opportunity to follow up on the questions which you posed to me concerning the production of methanol from natural gas and how such an activity might be of benefit to West Virginia's natural gas industry. In so doing I have learned that most methanol is produced from natural gas by a process referred to as steam reforming. Through steam reforming carbon monoxide and hydrogen are isolated so that they may be mixed with a catalyst to make methanol.

Some of the people I spoke with concerning this matter reported that they believed in former years some of the chemical plants in the Kanawha Valley and along the Ohio River manufactured methanol in conjunction with other activities they had on-going.

The most informed person to whom you should be referred is Auggie Petrola, Director of the Morgantown Energy Center, U.S. Department of Energy, P.O. Box 880, Morgantown, WV 26505. His telephone number is (304) 291-4764. He expressed a willingness to be of service in this matter. I am certain that your office is acquainted with Mr. Petrola and as I spoke with him, I detected that he would be very interested in pursuing the potential benefits of manufacturing methanol from natural gas. In fact, his remarks led me to believe that presently, it would be more practical and cost effective to manufacture methanol from natural gas than it would from coal.

Generally, I have been led to believe that large volumes of natural gas would be necessary if a cost effective natural gas to methanol project were developed. Therefore, such a project would be of tremendous benefit to natural gas producers in West Virginia if the project were to be established in West Virginia or nearby and stable supplies of West Virginia produced natural gas were used to fuel the same.

In closing, I am in hopes that this finds you and your family enjoying a happy, healthy and peaceful new year. With best personal regards, I remain

Very truly yours,

PHILIP A. REALE,
President.

AMENDMENT NO. 1950

(Purpose: To strike section 8)

Mr. ROCKEFELLER. Mr. President, included in the time agreement covering this is the opportunity for me to offer to technical amendment to S. 1518. Before I yield to the Republican manager of the bill, I believe it would be appropriate to dispose of the amendment. Therefore, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment number 1950.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, strike lines 1 through 12.

Mr. ROCKEFELLER. Mr. President, this amendment would delete section 8 of the bill, which contains a conforming amendment to section 4064(b) of the Internal Revenue Code of 1986. As the Commerce Committee observed in its report, section 8 was designed to "clarify that the lower energy content of the alternative fuels covered by this bill do not trigger the so-called 'gas guzzler' tax provisions of current law." (S. Rept. 100-271, page 13). Specifically, section 8 would have addressed the determination of any tax that might apply under that provision of the Code by making clear that the determination of the tax for a methanol, ethanol, or natural gas powered automobile or dual fuel automobile shall be based on the fuel economy rating established under section 503(d)(4) of the Motor Vehicle Information and Cost Savings Act as added by this bill.

Mr. President, in our judgment, a proper interpretation of the gas guzzler tax by the Internal Revenue Service should ensure that the tax law is not applied in a way that is at cross purposes with S. 1518 and its encouragement of production of alternative fuel vehicles. For that reason, I would like to say in deleting section 8 from S. 1518 that we believe the interpretation of the law should remain exactly the same as it was with section 8 in the bill.

The reason for deleting the section is that some have suggested that the clarifying amendment might be viewed as a revenue related matter that should originate in the House of Representatives. While I am not persuaded that is the case, I have offered this amendment to eliminate any procedural questions regarding the bill. Since the amendment was merely a clarifying amendment, it is not necessary to retain the language of section 8 in the bill; and, as the sponsor of S. 1518, I want to say that I believe that the interpretation of the law should remain the same as when section 8 was in the bill.

Mr. DANFORTH. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1950) was agreed to.

Mr. DANFORTH. Mr. President, let me begin by thanking Senator ROCKEFELLER and the chairman of the Commerce Committee, Senator HOLLINGS, for their work in promoting this important legislation. I will continue to work with these other members to see that it is enacted into law.

Mr. President, OPEC may be down but it is not out. Although at present, this cartel is having difficulty agreeing on price and production levels, in many ways the United States remains as vulnerable to an oil shortage as it was 12 years ago. This vulnerability stems from the fact that our domestic oil reserves are in permanent decline.

Our need for imported oil remains so great that our economic well-being and national security have become linked to the stability of the Persian Gulf. This has been called an energy crisis. But we do not face a shortage of energy; our ability to produce electricity domestically has virtually no long-term limits. Instead, we face a shortage of liquid fuels, primarily for transportation. Transportation uses consume more than 60 percent of the oil used in this country.

FUELS THAT CAN REDUCE OUR DEPENDENCY ON FOREIGN OIL

Mr. President, there are a variety of fuels whose use may help reduce this dangerous dependency on foreign oil while maintaining the quality of the environment. The most promising of these fuels is methanol. It is currently available in excess supply and could be produced domestically in nearly inexhaustible quantities from natural gas, coal, or biomass. It is a proven transportation fuel that can be used in ordinary automobiles, and that can be delivered through our existing distribution network with only minor modifications.

Methanol can be used as an octane enhancer, 90 percent gasoline and 10 percent methanol, to form gasohol or as a replacement fuel for gasoline, 100 percent methanol or a 85-percent methanol/15 percent gasoline blend. Methanol burns so efficiently that race cars use it at the Indianapolis 500. Methanol burns more cleanly than gasoline, producing lower emissions of nitrogen oxide and hydrocarbons, and methanol can be delivered at a price that is competitive with gasoline.

Mr. President, there are other alternative fuels that might be used for transportation including ethanol and compressed natural gas. Ethanol is made from corn or agricultural wastes and, like methanol, has been used as an octane enhancer. Almost all of Brazil's automotive fleet operates either on pure ethanol or on ethanol-gasoline blends. Like methanol, ethanol burns more cleanly than gasoline.

Compressed natural gas is currently used to power 30,000 vehicles in the United States and has been used even more widely overseas. Its use would also lower harmful emissions.

In my judgment, we need to begin an effort to convert a portion of our automotive fleet to methanol and other alternative fuels. Such an effort would have positive consequences for our national security, our domestic economy, and for the environment. It is for these reasons that I have been working to promote alternative fuels since 1984. I am pleased to join Senator ROCKEFELLER as the primary cosponsor of the Methanol and Alternative Fuels Promotion Act of 1987, S. 1518.

The intent of the bill is simple. We intend to encourage the production and sale of cars that can run on methanol and other alternative fuels by providing an appropriate treatment for such cars under the corporate average fuel economy [CAFE] standards.

TAPPING OUR METHANOL PRODUCTION POTENTIAL

Mr. President, we need to tap our Nation's almost unlimited methanol production potential. At the present time, methanol is primarily used as a chemical feedstock; it is an important source of formaldehyde for use in plywood and other building materials. Virtually all of it is produced from natural gas, with one notable exception—the output of a coal-to-methanol plant opened in 1983 by Tennessee Eastman.

Natural gas is likely to meet the demand for methanol in the near term. Currently, the methanol equivalent of a gallon of gasoline can be produced from natural gas for $1.25. Indeed, an enormous amount of excess capacity for producing methanol from natural gas exists in the world today.

Broad adoption of methanol by the immense American auto market would eventually exhaust excess natural gas supplies and require conversion of coal, at a slightly higher cost—the energy equivalent of less than $2 a gallon of gasoline. Domestic coal supplies would be sufficient to meet the demand for centuries.

METHANOL—A PRACTICAL TRANSPORTATION FUEL WITH POSITIVE ENVIRONMENTAL CONSEQUENCES

The California Energy Commission and the Bank of America each have conducted major fleet tests of methanol cars, with excellent results. The Federal Government's faith in methanol vehicles was affirmed by its announcement in July 1987 of its plan to purchase 5,000 methanol fueled cars by 1990.

Methanol-powered cars have been shown to operate significantly more cleanly than gasoline-powered cars. Emissions of nitrogen oxides and hydrocarbons are reduced substantially. Controlling emissions through use of alternative fuels is particularly important for States with areas that are in noncompliance with the Clean Air Act's air quality standards. In future years when these jurisdictions are attempting to come into compliance, the availability of alternative fuel vehicles will be particularly important. For example, computer modeling has projected reductions of harmful pollutants by 15 to 25 percent in Los Angeles if methanol were substituted for gasoline and diesel fuels.

Mass production of methanol vehicles would not pose significant problems for American automakers. Some rubber parts and metal coatings must be replaced, the carburetor must be adjusted, and larger gas tanks may be desirable. However, the cost impact would be minor to nonexistent.

PROVIDING NECESSARY INCENTIVES FOR ALTERNATIVE FUEL USE

Given all of the advantages of alternative fuels, what, then, is preventing their widespread use? Inertia. For very good reason, automakers are unwilling to produce cars for which there is no current demand. Consumers are unwilling to purchase cars for which there is no readily available fuel supply, and service stations are unwilling to provide fuel for cars that are not on the road. This extremely difficult marketing problem could be overcome by the introduction of a flexible fuel vehicle, which could run on any combination of an alternative fuel, such as methanol and gasoline. Ford has an operating prototype of such a car.

Fuel economy standards were enacted to reduce our dependence on petroleum, not on fuel generally, and should encourage, not discourage, the use of alternative fuels. S. 1518 would offer an incentive to auto manufacturers to produce alternative fuel powered cars by the simple device of basing fuel economy ratings on the amount of gasoline consumed. Vehicles would be divided into two categories for determining the amount of incentive:

First, dedicated vehicles—those using at least 85 percent of the alternative fuel at all times would be rated based on 15-percent gasoline content.

Second, dual fuel vehicles—those capable at operating on a range of fuel mixes with up to 85 percent of the alternative fuel will be rated on a 50-percent gasoline and 50-percent alternative fuel basis.

To illustrate, suppose a particular gasoline-powered car gets 25 miles a gallon. When converted to run on a blend of 85 percent methanol and 15 percent gasoline, it might get only 15 miles per gallon, but for every gallon of gasoline in the blend, the car would travel 100 miles. The last figure is the significant one for CAFE purposes and that is how the car would be rated. Consumer labels would continue to show the actual fuel economy of the vehicle.

INSURANCE AGAINST OPEC

OPEC could deliberately underprice methanol and try to force it out of the market. This is unlikely, however, because OPEC itself is likely to become a major producer of methanol. But the cost of producing methanol from coal means that the real price of transportation fuel will be stabilized at a price below $2 a gallon. Conversion to methanol, in short, means that the energy crisis would be over for generations.

STIMULATING THE DOMESTIC ECONOMY

Mr. President, development of a major automotive market for methanol would stimulate the Nation's coal industry in an environmentally acceptable way. In my own State of Missouri, we have an abundance of coal; however, much of it has such a high sulfur content, it is undesirable for utility use. Since sulfur extraction is a necessary part of the coal-to-methanol process, such coal could be used to meet our energy needs without contributing to excess sulfur loading in the atmosphere. During a November hearing, a witness from the Environmental Protection Agency [EPA] told me that EPA thinks methanol conversion "is probably the most environmentally attractive use of coal in the country."

CONCLUSION

Mr. President, methanol and other alternative fuels can be produced from domestic sources. The use of alternative fuels can reduce our dependence on foreign suppliers of oil, which will have important economic and strategic consequences. It can reduce the pollution of our skies and stimulate our domestic economy. I believe we should move forward quickly to stimulate the development and growth of an automotive market for alternative fuels. I urge my colleagues to support this important legislation.

Mr. President, this bill has been several years in the making, and I express my appreciation to Senator ROCKEFELLER for his leadership in moving the bill this far. He has been very determined in pushing the legislation forward.

I think it is major legislation, because it does offer us the possibility of adjusting the CAFE requirements for energy consumption for automobiles so as to accommodate and encourage alternative sources of energy.

I think all of us recognize that we do not want to be totally dependent in this country on foreign sources of energy. This makes available a variety of domestic sources down the road, perhaps coal, certainly natural gas, biomass—all available to create methanol; and ethanol is made from grain, a major resource in this country that is in great abundance.

Without this legislation, these alternative fuel methods really would not be available because of the existing CAFE requirements. So I think Senator ROCKEFELLER has provided a great service.

Mr. HOLLINGS. Mr. President, it is rare that legislation offers the possibility of addressing at least two significant problems without costing the taxpayer a cent. However, legislation relating to fuel economy or alternative fuels can offer just such opportunity. For that reason, through the years I have been a strong supporter of such legislation, and I have cosponsored S. 1518 which the Senate considers today. I commend Senator ROCKEFELLER for his leadership on this issue.

In 1980 I introduced the Methane Transportation Research, Development, and Demonstration Act of 1980, which ultimately became public law. That bill authorized certain activities to advance the use of methane as a fuel substitute. Since then, the advantages of methanol as an alternative fuel have become even more clear, and other alternative fuel sources have emerged as well. S. 1518 is designed to further encourage the development and use of alternative fuel vehicles.

I am hopeful that the incentives to automobile manufacturers which are provided in S. 1518 will lead to the design and widespread production of automobiles capable of running on fuel other than gasoline. An official of the Environmental Protection Agency testified during the Commerce Committee's hearing on this bill that the increased use of alternative fuel vehicles may be the only hope for some urban areas to come into compliance with the EPA's clean air standards.

Additionally, both the energy crisis in 1973 and the uncertainties involved in the movement of oil tankers in the Persian Gulf demonstrate beyond any doubt the dangers of reliance on foreign oil. Reduced oil imports also should have a positive effect on our balance of trade and balance of payments. As the testimony at the committee's hearing demonstrated, this country has enormous domestic supplies of both coal and natural gas. The ability to utilize more fully alternative fuels for our motor vehicles is bound to have a salutary effect on both the energy supply and the balance of trade for this country.

Finally, as I alluded to earlier, it is of particular significance to me that the positive effects of this bill are obtained without any drain on the Federal Treasury. As I have for over 10 years, I continue to support the Federal Government's role in the development and use of alternative fuels. The passage of S. 1518 is an important aspect of that effort.

(At the request of Mr. ROCKEFELLER, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. I am pleased that the Senate is considering S. 1518, the Methanol and Alternative Fuels Promotion Act, which I am cosponsoring. I also want to applaud Senator ROCKEFELLER's leadership in encouraging the development and promotion of alcohol fuels. This legislation provides an incentive for automakers to invest in and mass produce alternative fuel vehicles by adjusting corporate average fuel economy standards for vehicles capable of using alternative fuels. Vehicles that can operate on methanol, ethanol, and natural gas promise to enhance our energy security by reducing our dependence on foreign energy sources and promise to assist in attaining clean air standards.

At current rates, imports of foreign oil are expected to exceed 50 percent of U.S. totals in the early 1990's. Meanwhile, the transportation sector drains more than 60 percent of our oil consumption. To avoid reliance on foreign energy sources, we must craft a comprehensive energy policy, and one key is to invest in alternative and renewable energy research and development.

Unfortunately, the current administration has failed to plan for a secure energy future and has completely neglected to design a coherent energy policy. Although present low oil prices do not create economic incentives for commercial investment in alternative and renewable energy sources, we need to plan for a time when oil prices will rise and we will need alternatives.

Alternative fuels promise us clean and abundant energy for our transportation needs. According to testimony during Commerce Committee hearings, methanol can be produced from coal, natural gas, or biomass. This country's natural gas supply is sufficient to last 250 years, and we have the largest percentage of the world's coal reserves. Harnessing these resources as a fuel for our vehicles would put us on track to freedom from a dangerous reliance on foreign oil.

While expanding energy sources, we must provide adequate environmental protection. Testimony at the committee hearing reflected the consensus that had increased use of alternative fuels should assist in the attainment of Federal clean air standards. Yet, we must also be aware of any increased emissions from the use of alternative fuels. For example, if aldehyde emissions are projected to be a problem, the Environmental Protection Agency should impose strict standards.

Some concerns have been raised regarding the relationship between the technology for converting coal to methanol and releases of carbon dioxide emissions. Since I have been long concerned about the "greenhouse effect," I agree that technology should be stimulated and developed to minimize any adverse effects from this coal-to-methanol conversion.

Senate bill 1518 requires no expenditure of taxpayer funds, and offers a real hope of addressing energy dependence and air pollution through improved technology. I urge my colleagues to join me in support of this bill.●

Mr. METZENBAUM. Mr. President, I would like to take this opportunity to commend my good friend, the Senator from West Virginia [Mr. ROCKEFELLER] for his determination in bringing S. 1518 to the Senate floor and in building a broad consensus for its passage. As he knows, we have worked on this legislation for 2 years and we share the desire to make the use of alternative fuels in our Nation's vehicles a component of the Nation's energy policy. This legislation is a major step in that direction.

There is an alarming dependence on imported petroleum in the transportation sector of our economy, and this dependence will grow substantially in the future unless we act to cut domestic petroleum demand.

This legislation will further that goal by encouraging the production of vehicles which can use nonpetroleum based fuels such as ethanol, methanol, and compressed natural gas. Each of these fuels can be produced domestically, and would thus help to free our Nation from its dependence on OPEC petroleum. More specifically, S. 1518 would encourage automakers to produce vehicles capable of operating on alternative fuels by allowing the automakers to obtain credits on their corporate average fleet economy [CAFE].

Although I strongly support this legislation, I admit that I had serious misgivings about similar legislation considered in 1985. The reason for my concern was that the previous legislation did not impose reasonable limits on the CAFE credit which automakers would receive for producing vehicles capable of using alternative fuels. That legislation would have opened an enormous loophole in the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), the CAFE law, and allowed automakers virtually unlimited CAFE credits on alternative fuel vehicles.

S. 1518 does not have this flaw. It would establish clear cap on the credits which automakers could receive, protecting the integrity of the existing law.

Mr. President, I raise this issue because I want the record to show my concern regarding the importance of these caps in S. 1518, and my concern regarding the potential for loopholes to be opened in the CAFE law during the conference with the House on this bill. I would like to ask my colleague from West Virginia to assure me of his commitment to maintain the caps included in S. 1518, and his commitment to oppose changes to S. 1518 which would create loopholes or would otherwise weaken the CAFE law.

Mr. ROCKEFELLER. Mr. President, let me first thank the gentleman from Ohio for his continuing interest in S. 1518. In addition, I would like to compliment him for his work in helping to shape this legislation over the last several years.

Mr. President, I think the record should reflect the long road that this legislation has taken and the hard work and patience that getting to this point has required. As the Senator from Ohio has stated, earlier versions of this legislation drew some criticism. Certain features of the bill, although not intended to do so, raised questions about the operation of the CAFE mechanism in conjunction with the bill. And numerous attempts to make certain the intent of the bill tended to negate important aspects of the incentive held out to the automakers.

S. 1518 has struck the balance that is necessary, Mr. President. It continues to contain significant and attractive incentives to the Nation's automakers to bring vehicles capable of using alternative fuels into commercial production. But this incentive is held out without making a fundamental change in the existing fuel economy law. Congress may or may not on some other occasion debate the many facets of national energy policy, but I have made every effort to keep this bill neutral on these hotly contested issues.

Mr. President, reasonable limits, or caps, on the CAFE increase available to an automaker will synchronize S. 1518 with existing law. I have worked hard to fashion these and other aspects of the bill to be realistic and effective.

So, Mr. President, I would answer the Senator from Ohio by saying that it is my intention to keep this balanced compromise intact. He has my commitment and assurance to maintain the approach taken by S. 1518, including the caps. He has my commitment that we will preserve the integrity of the CAFE law. The Senator from Ohio has made an important contribution to the furthering of this legislation, and I believe he will be pleased with the legislation that we bring back from a conference with the other body on this matter.

Mr. METZENBAUM. I thank the Senator for his reassurance, and for his continued leadership on this issue.

AMENDMENT NO. 1951

(Purpose: To recognize the need for the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry to avoid aggravation of the greenhouse effect and global climate change)

Mr. DANFORTH. Mr. President, on behalf of Senator CHAFEE, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for Mr. CHAFEE, proposes an amendment numbered 1951.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 22 strike "and".

On page 13, line 2 strike the period and insert in lieu thereof ";".

On page 13, following line 2 insert the following new paragraphs:

"(5) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum based fuel;

"(6) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

"(7) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes. Necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.".

Mr. CHAFEE. Mr. President, this amendment will add three new paragraphs to section 2 of the bill, the section that includes congressional findings with respect to alternative fuels. I understand that my amendment has been circulated on both sides of the aisle and that it is acceptable to the managers of the bill.

The amendment will insert recognition of the fact that, unless properly regulated, the shift to alternative fuels may cause more environmental harm than good. Sure, alternative fuels have a role to play in our battle to reduce urban pollution. Denver's use of oxygenated fuels is helping to solve the city's carbon monoxide problem.

But do we really know enough about alternative fuels to commit ourselves to a full-scale development program? I do not think so.

For example, let us consider methanol. It can be produced from two sources: natural gas or coal. As long as there is a relatively inexpensive supply of natural gas, it will not be economical to use coal. But most of the world's proven and potential natural gas reserves are in the Middle East and Eastern European countries. So, despite the claims of alternate fuel proponents, a strategy to substitute methanol for gasoline or diesel will not reduce our dependence on foreign energy supplies at any point in the near future.

Now, what happens when it is economical to make methanol from coal? We run headlong into another serious environmental problem: the greenhouse effect, the warming of the Earth and global climate change. This environmental threat is caused by the burning of fossil fuels that release carbon dioxide into the atmosphere.

Many of us in this Chamber are familiar with the threat presented by uncontrolled global climate change. In fact, on March 31 of this year, 42 Members of the Senate sent a letter to President Reagan urging him to use the next summit meeting with Soviet General Secretary Gorbachev in Moscow and the upcoming economic meeting in Toronto to call upon all nations of the world to begin the negotiation of a convention to protect our global climate. That letter explains the nature of this threat in more detail and I ask unanimous consent that a copy of the letter be printed in the RECORD at the conclusion of my statement.

Preliminary research on alternative fuels shows that we have a real problem here. One researcher concluded that methanol produced from coal would result in about twice as much carbon dioxide being released into the atmosphere when compared to a comparable amount of gasoline.

Another recent study concluded that the carbon dioxide released in the production, distribution, and end use of methanol from coal would be 60 percent greater than the amount released by the use of petroleum fuels.

These numbers give us all reason to pause and consider where we are going. Studies like these indicate the need for more study before we go charging down a path that may lead to a global disaster.

A number of people have been strong advocates of alternative fuels but they have done little, if any, analysis of carbon dioxide emissions and the implications for global climate change. To choose local, short-term environmental gains without considering the potential for global environmental disaster is inexcusable. My amendment is a modest attempt to correct this problem.

Proponents of this bill say that we should not worry. They tell us that methanol from coal will not be economical for 20 or 30 years and that, in the interim, new technologies will be developed to address the carbon dioxide problem. As one who has dealt with numerous environmental problems, I am extremely skeptical of such promises. The recently discovered problems with chlorofluorocarbons [CFC's] and destruction of the ozone layer should teach us a lesson. When scientists first sounded the alarm in 1974, most people said, "Don't worry, we have time to solve the problem." Well, here we are 14 years later, we have worldwide destruction of the ozone layer, an enormous annual hole over a large portion of the southern hemiphere, and we are no closer to having a technological fix than we were in 1980.

That experience tells me that if we know heading down path X may lead to a serious problem, we should not head down that path until we know that it is safe, until we know that we can control the problem.

If people are interested in using coal to produce methanol, they must start developing carbon dioxide control technologies now. Promotion of alternative fuels prior to the development of technologies that will eliminate emissions of carbon dioxide greater than those associated with petroleum-based fuels would aggravate the greenhouse effect and would be a serious mistake. The provisions added by this amendment should put people on notice that we will not tolerate a widespread shift to fuels that produce more carbon dioxide and exacerbate the problem of global climate change.

Finally, wholly apart from the problems associated with the production, distribution and use of alternative fuels, this bill will aggravate the greenhouse effect and increase carbon dioxide emissions because it relaxes the CAFE auto mileage standards in an attempt to encourage the production of alternative fuel vehicles. This moves us in precisely the wrong direction. If anything, we should be tightening the standards, not relaxing them. This is where our focus should be, not on new, alternative fuels that may simply trade one problem for another.

Mr. President, I thank the distinguished Senator from West Virginia, Mr. ROCKEFELLER, for his courtesy and willingness to work with me on this matter. I know he shares my concern about the greenhouse effect and I look forward to working with him in a continuing effort to address the problem. Similarly, we are all deeply indebted to the senior ranking member of the Environment Committee, Mr. STAFFORD, for his tireless efforts on this and many other environmental matters.

Mr. DANFORTH. Mr. President, this amendment adds three findings to the bill. The three findings are as follows:

First, there is a recognition that if we switch to methanol made from coal, we will be increasing the carbon dioxide emissions.

The second finding is that gases such as CFC's, CO_2, and methane are already contributing to the greenhouse effect that leads to climate changes.

The third finding is that we should not be making the shift to methanol made from coal until we have technologies in place that control CO_2 emissions.

This amendment is acceptable on this side, and it is my understanding that it is also acceptable to the majority.

Mr. ROCKEFELLER. It is acceptable to this side.

Mr. President, I appreciate the cooperation of the distinguished Senator from Rhode Island in bringing S. 1518 before the Senate.

One of the benefits of S. 1518 is that it will help deal with very serious air pollution problems in our Nation's cities. Use of alternative fuels, such as methanol, can make a significant contribution to reducing smog.

Many cities are out of compliance with Federal smog reduction standards and will suffer financial penalties if they fail to comply. Alternative fueled vehicles are an essential tool for these cities, and S. 1518 encourages auto manufacturers to make vehicles capable of running on alternative fuels.

Despite this very important contribution by S. 1518 to a cleaner environment, the Senator from Rhode Island has expressed concern about carbon dioxide emissions resulting from the use of methanol as a motor vehicle fuel. The Senator is concerned about the long term possibilities for global warming due to carbon dioxide emissions.

The underlying issues raised by the Senator from Rhode Island are numberous and complex and I must say candidly that I do not believe that they can be or should be resolved in connection with S. 1518. This legislation is simply designed to encourage production of alternative fuel vehicles. One of the benefits of using such fuel is a reduction in smog. With respect to carbon dioxide, this bill will actually help to reduce such emissions because with methanol produced from natural gas there are lower carbon dioxide emissions than with gasoline.

However, the Senator from Rhode Island is concerned about a future time when he suggests there will be emissions of carbon dioxide in connection with methanol produced from coal. Technological innovation, however, will enable us to deal with any such situation if need be.

Moreover, the basic issues raised by the distinguished Senator from Rhode Island require a national debate regarding potentially major changes in industrial society throughout the world. We should not imagine that the many considerations involved—from energy independence to employment to environmental protection—can be or should be resolved in the context of this narrow legislation.

Nevertheless, I know that the Senator from Rhode Island is sincere in his concern and believes that the issues he has raised should be brought to the attention of the country. The Senator's amendment is an amendment to the findings in S. 1518 and would not affect the substance of S. 1518 or the operation of the legislation in any way. Moreover, S. 1518 will have many important benefits for our country and it should not be delayed any longer. Accordingly, in the interest of accommodation, it is my understanding that the managers of the bill are prepared to accept the amendment of the distinguished Senator from Rhode Island.

With today's deliberations completed, I hope we can move swiftly to enactment of S. 1518 so that the country can begin to gain the important benefits of this legislation.

The **PRESIDING OFFICER**. Is there further discussion of the amendment?

Mr. **DANFORTH**. I yield back my time.

Mr. **ROCKEFELLER**. I yield back my time.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 1951) was agreed to.

Mr. **DANFORTH**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **ROCKEFELLER**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1952

(Purpose: To prevent increases in carbon dioxide and other air pollutants from the production and burning of methanol made from coal)

Mr. **STAFFORD**. Mr. President, I have an amendment which I send to the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] proposes an amendment numbered 1952.

Mr. **STAFFORD**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

SECTION 2. FINDINGS

On page 12, line 25 strike "would" and insert in lieu thereof "could".

On page 13, line 2 strike the period and insert in lieu thereof "; and";

On page 13, following line 2 insert the following new paragraphs:

"(8) the amount of carbon dioxide released in the production, distribution, and end use of methanol from a coal-to-methanol industry using currently available technologies has been estimated to be 60 to 100 percent greater than the amount released in the production, distribution, and end use of a comparable quantity of petroleum based fuel;

"(9) carbon dioxide is a 'greenhouse gas' that contributes significantly to uncontrolled and unacceptable global climate change;

"(10) technologies must be developed to eliminate the increased carbon dioxide emissions that result from the production, distribution, and end use of methanol from a coal-to-methanol industry prior to the use of such methanol as a fuel for any portion of this Nation's transportation fleet for purposes other than research, development and demonstration; and,

"(11) technologies exist, and should be applied, to control emissions of formaldehyde, methanol, and trace constituents of methanol from vehicles and engines.'.'

On page 13, line 9 strike "and" and on page 13, line 12 strike the period and insert in lieu thereof "; and", and insert the following new language:

"(3) control emissions of air pollutants, including but not limited to, carbon dioxide, formaldehyde, methanol, and trace constituents emitted as a result of methanol production or combustion.".

On page 14, line 3 insert the following immediately before the period: "and certified by the Administrator of the Envirnmental Protection Agency to comply with the standards applicable to such vehicles or engines pursuant to the requirements of section 5 of the Methanol and Alternative Fuels Promotion Act".

Section 4. Manufacturing Incentives for Automobiles

On page 15, line 23 strike the quotation marks and period at the end of the line.

On page 15, following line 23 insert the following new paragraph:

"(22) The term 'methanol' does not include coal-to-methanol products unless such methanol is produced, distributed, and used in conjunction with technologies that eliminate emissions of carbon dioxide greater than those associated with the production, distribution, and use of comparable quantities of petroleum-based fuels.".

On page 20, following line 10, insert the following new subsection:

"(d) Effective date—Section 4 of the Methanol and Alternative Fuels Promotion Act shall be effective on the effective date of regulations promulgated by the Administrator of the Environmental Protection Agency in accordance with section 5 of this Act.".

On page 20, line 11, insert a new section as follows and renumber succeeding subsections accordingly:

"ENVIRONMENTAL PROTECTION

"SEC. 5(a). Not later than July 1, 1989, the Administrator of the Environmental Protection Agency shall promulgate standards under section 202(a)(1) of the Clean Air Act requiring reductions in emissions from methanol-fueled vehicles and engines manufactured for installation in vehicles manufactured during and after model year 1992 of (i) formaldehyde and other aldehydes (ii) methanol and other hydrocarbons and (iii) trace constituents, including but not limited to heavy metals. Such standards shall require the application of the best technology which the Administrator determines is available, taking into account safety factors associated with any such technology. Such standards shall also apply to existing vehicles and engines which are converted to the use of methanol as a fuel. Each such new or converted vehicle shall, at a minimum, meet the emission standards applicable under section 202 of the Clean Air Act to gasoline-fueled vehicles of the same year, make and model.

"(b)(1) Not later than January 1, 1989, the Administrator shall, based on field testing of a significant number of in-use vehicles and engines fueled by methanol (both coal and non-coal derived) as well as petroleum based fuels, report to the Congress on the following:

"(A) the emissions from such vehicles of carbon monoxide (both at sea level and high altitude), carbon dioxide, oxides of nitrogen, hydrocarbons (both methane and non-methane), aldehydes, particulates and trace constituents;

"(B) the availability and efficiency of control technologies and techniques for such vehicles and engines; and,

"(C) the differing emissions patterns or characteristics of vehicles or engines depending according to engine type and use, driving cycle, age, maintenance and fuel type.

"(2) Not later than July 1, 1989, the Administration shall promulgate regulations pursuant to section 211 of the Clean Air Act, based on the report submitted pursuant to paragraph (1) and such other information as the Administrator deems appropriate, establishing standards for such fuels to reduce emissions of the pollutants listed in paragraph (1) and other such pollutants which in the Administrator's judgment may reasonably be anticipated to endanger human health, welfare or the environment.

"(c) Not later than January 1, 1990, the Administrator shall establish standards applicable to coal-to-methanol conversion facilties which began or increased production after April 1, 1988. Such standards shall require each such facility to employ the best available technology to minimize emissions of carbon dioxide and eliminate emissions greater than those associated with the production, distribution and use of comparable quantities of petroleum based fuels. Such standards may be made applicable by the Administrator to such other non-coal fuel facilities, whether petroleum or otherwise, if such standards would enhance protection of human health, welfare or the environment.".

Mr. **STAFFORD**. Mr. President, let me say at the outset that it is essential for the United States to investigate the feasibility and desirability of new fuel and power systems, including methanol. As such systems demonstrate their promise, it is appropriate for the Federal Government to support their demonstration. I have consistently supported, in both authorization and appropriation measures, research and development programs for such systems, including those which would be based on coal.

All such systems must, however, be environmentally acceptable. It is because of my questions and reservations regarding these aspects of the alternative fuels which would be encouraged by S. 1518 that I am offering an amendment. Adoption of this amendment would, in this Senator's judgment, in the long run, advance rather than impede the prospects for enactment of an environmentally sound and economically beneficial program.

Frankly, I have some questions regarding the consequences of large scale conversion to methanol which the proponents have been unable to answer. Perhaps additional, concrete information would satisfy many of these concerns, but thus far this has not been forthcoming. An example of this is the effect which large-scale conversions would have on smog levels through the United States. Proponents describe methanol, and methanol-fueled vehicles, as "clean." But all experts do not share this view. For example, a consultant who reported to the Office of Technology Assessment on this subject made the following statement:

> Forecasts of large ozone benefits are based on short duration smog chamber experiments of questionable applicability.

Having said this, my primary concern based on the data which I have been able to assemble is with the impact which the bill will have on emissions of so-called "greenhouse" or "hothouse" gases; that is, gases which cause the temperature of the planet to increase. Scientists estimate that the average temperature of the planet will increase between 1.5 and 4 degrees centrigrade when carbon dioxide levels in the atmosphere have doubled. The rate of that increase will be hundreds of times what humanity, or life itself, has ever experienced. Estimates are that the temperature will change as much in a 50-year period as in the previous 10,000 years. An increase of only one-half degree will make the temperatures their warmest in 1 million years.

The first temperature increases are expected to be confirmable beyond dispute in the decade of the 1990's, but there are some who believe that the signals of global warming and climate destruction are already manifesting themselves. They cite the fact that 4 of the 7 years in the 1980's are the hottest on record; that global average temperatures have increased by at least one-half a degree in the last century; and that a wide variety of circumstantial evidence—for example summer and winter droughts; mid-ocean blooms of algae; and death of Caribbean coral—is consistent with the trend of rising temperatures and virtually none is inconsistent.

Indeed, the reauthorization of the Clean Air Act reported by the Committee on Environment and Public Works requires, for the first time, that fossil-fueled powerplants be regulated on the basis of their efficiency. Officials within the executive branch are exploring the policy options available to the United States and the rest of the world for slowing and, hopefully, reversing the warming trend. At a time when the concerns are attracting the attention of the citizenry of the entire world, S. 1518, would, as presently drafted, accelerate global climate destruction.

I say this because, according to the Library of Congress, coal-derived methanol would increase carbon dioxide emissions from vehicles compared to gasoline by up to 160 percent. Although such increases would be greater in the case of methanol derived from coal, even methanol derived from natural gas would create more carbon dioxide than if the natural gas were used directly as the vehicle fuel. These conclusions are not mine alone. Independent researchers have said this, and their reports are consistent with information supplied by the Environmental Protection Agency. The Environmental Protection Agency said in a letter dated December 18, 1987, that converting the U.S. vehicle fleet to coal derived methanol would—

> amount to approximately * * * 310 additional million tons of carbon released to the atmosphere. A 100 percent conversion would correspond to approximately 25 percent of U.S. and 4-6 percent of global CO_2 emissions.

This is not to say that curbing carbon dioxide emissions is technologically infeasible. On the contrary, I am personally confident that given time and resources, engineering solutions could be identified, developed and adopted. However, that is not likely to happen in a matter of months or even a few years. Nor is it likely to occur absent a congressional mandate.

In the meantime, methanol—especially methanol derived from natural gas—could be utilized as an alternative fuel. Or, coal-derived methanol could be used on a limited, experimental basis as a niche fuel. But a level of coal-derived methanol production adequate to restore full employment quickly enough to benefit the many thousands of miners who are unemployed because of the low oil prices is unlikely unless a very substantial proportion of the vehicle fleet is converted to methanol very quickly.

While the likelihood of doubled carbon dioxide emission is my principal concern with proposals to rapidly convert to methanol, it is by no means my only one. Other questions include the following:

EMISSIONS OF ALDEHYDES

Numerous studies report that combustion of methanol will result in increased tailpipe emissions of aldehydes. A methanol-fueled car emits 10 times as much as cars burning gasoline. These chemicals are irritants and known carcinogens. While some studies have reported that aldehydes can be removed by the catalytic converters which are now installed on conventional gasoline engines, there is no requirement in current law which would assure the installation of these converters on methanol-fueled cars, and certainly no requirement which would require trucks or buses to be so equipped.

Indeed, the Environmental Protection Agency has decided affirmatively not to regulate formaldehyde emissions because to do so might, in the administration's views, impede the development of a methanol-fueled fleet.

Formaldehyde causes cancer and is regulated by other agencies of the Federal Government. Yet absent some change in S. 1518, the way would be paved for conversion of hundreds of thousands of cars to emit this cancer-causing chemical with no controls whatsoever.

EMISSIONS OF METHANOL

Another principal argument advanced in favor of methanol is the relative nonreactivity of its hydrocarbon emissions. If this is so, it suggests that methanol itself, which is highly toxic, will remain in the ambient air.

TRACE CONSTITUENT EMISSIONS

It seems likely that the commercially produced coal-derived methanol will be contaminated by a wide variety of chemicals and metals. This is very common with industrial-grade chemicals. It seems likely that coal and natural gas-derived methanols will differ from each other in this respect, but the vast majority of tests have been done on the latter with little, if any, work on the former.

EMISSIONS OF OXIDES OF NITROGEN

Even though advocates of methanol assert that it will result in decreased emissions of oxides of nitrogen, a report on the emissions impacts of blends of oxygenated fuels prepared by the Library of Congress reached an opposite conclusion. It contains the following statement:

> For nitrogen oxides, most studies show that emissions rise 6-9%, apparently across all model years. For hydrocarbons, there is not yet a good estimate of the aggregate change in emissions.

EMISSIONS OF CARBON MONOXIDE

This same report by the Congressional Research Service examined the impact of oxygenated fuel blends on emissions of carbon monoxide. There seems to be a consensus in favor of the proposition that oxygenated fuels reduce carbon monoxide emissions. However the CRS report states that this improvement would be temporary. It reaches the following conclusion:

> Thus, urban concentrations might initially decline between 3% and 10% at sea level and up to perhaps 20% at high altitudes. Such a decline might bring several areas into CO compliance for a brief period, but the decay in CO reductions coupled with historic growth in population and vehicle use would mean that gasoline/alcohol blends would not solve the CO nonattainment problem in many places and even where they did, not for very long.

While the Congressional Research Service report dealt with blends, the analysis applies with equal force to pure methanol fuels.

MISPLACED EXPECTATION FOR FARMER RELIEF

It is no secret that much of the support for encouraging ethanol/methanol use is because the two fuels are seen as providing help to hard-pressed farmers. But in the Rocky Mountain region, where the use of the fuels was mandated during the past winter, virtually no ethanol whatsoever was sold. Refiners added methanol-based additives prior to delivery of the fuels and, for all practical purposes, consumption of the farmer-based methanols was zero.

This is by no means a complete list of my questions regarding the wisdom of what appears to be a sudden but irrevocable commitment by the United States to methanol. Many have said that these concerns will never materialize or, if they do, it will be 30 to 50 years from now. For that to happen, the bill will have to have been a failure. It very clearly contemplates the widespread, substantial use of methanol not as an alternative, but as the primary fuel for the entire U.S. economy. While I have focused on vehicular uses of methanol, this is because that is the immediate thrust of S. 1518.

The truth of the matter is that the impetus for such legislation largely derives from a desire to develop an alternative to imported petroleum. This is a goal which I share, and for which I have voted time and again. However, because domestic supplies of natural gas are as limited as domestic supplies of petroleum, methanol can provide this alternative if and only if it is derived from coal. This, in turn, raises substantial questions. In fairness to the American public, these questions should be confronted squarely and, if at all possible, resolved. The adoption of my amendment will assure that this happens.

Mr. President, my amendment is very simple. It has three main functions;

First, it would require that methanol-fueled vehicles meet the same emissions standards as gasoline-fueled vehicles. If methanol is, in fact, an inherently clean fuel this requirement should pose no problem.

Second, the amendment would require the Environmental Protection Agency to establish tailpipe standards for pollutants which are peculiar to methanol fueled vehicles, such as formaldehyde and methanol itself. Again, if the emissions of these chemcials are so low that they pose no threat to public health, this requirement should be no problem.

Finally, the amendment would delay the special CAFE credit for coal-derived methanol cars until plants which are low in CO_2 pollution are designed and built. If coal methanol is a technology which will not be in place for another 30 to 50 years, this requirement should also pose no problem.

Mr. President, there is a point at which the Congress, and the world, can no longer evade the issue of worldwide climate destruction caused by carbon dioxide.

Three of the last seven years have been the hottest on record. With another temperature increase of one-half degree Centigrade the temperature will be the hottest in 1 million years.

Evidence that something may be amiss abounds.

The West is in the midst of a 2-year drought. Last year forest fires raged throughout the East. The ocean's temperature, as well as its levels, have risen. Iceburgs are proliferating in both number and size.

Whether or not these are the long-awaited signals of the arrival of the hothouse which Earth may become, there is no disagreement that unless we change our ways, it will eventually arrive. Probably that will happen within a decade, at the latest.

Under these circumstances, Mr. President, it makes little sense to commit this Nation to a course which could double the emissions of carbon dioxide from vehicles. Last week, 42 Members of the U.S. Senate wrote the President to urge that these issues—global climate change and the greenhouse effect—be placed on the agenda for the next summit meeting with General Secretary Gorbachev of the Soviet Union. Many of those Members are sponsors of S. 1518.

The world cannot have its cake and eat it too. Eventually, we must stop digging ourselves deeper and deeper into a hole in which our children might be buried.

Mr. President, I hope that other Members will see fit to support this Senator's amendments.

Once the Nation commits itself to such a program as this it will be too late to correct our mistakes. The time to take care of them is now, not later. And the way to do that is through the adoption of the pending amendment before this body.

Mr. President, I will say that this Senator also can count and knows the number of sponsors of the bill. As we used to say in court, Mr. President, I rest my case and ask that the amendment be adopted.

The **PRESIDING OFFICER.** Is there further discussion of the amendment?

Mr. ROCKEFELLER. Mr. President, I wish to thank my good friend, the distinguished Senator from Vermont, for his cooperation in bringing S. 1518 to the floor.

I know that the Senator from Vermont is sincere in his concern about the issues he has raised in connection with his amendment. However, I must strongly oppose his amendment because there is no justification for adding the restrictions contained in the amendment to S. 1518.

S. 1518 is a bill that would help our country deal with very severe environmental problems by reducing automobile emissions that contribute to smog. I do not believe that this point can be contested. State and local officials struggling to meet clean air standards tell us that use of clean fuels, particularly methanol, is the most promising long-term strategy for cleaning up the air.

The distinguished Senator from Vermont has stressed his concern with the long-term possibilities for global warming due to emissions of carbon dioxide. In so doing, the Senator raises issues over which there is great controversy and disagreement, but they are not issues that should be resolved in the context of S. 1518.

S. 1518 actually would help reduce the carbon dioxide emissions about which the Senator is concerned because with methanol produced from natural gas there are lower carbon dioxide emissions than with gasoline. The Senator from Vermont, however, expresses concern about a future time when he suggests there will be emissions of carbon dioxide in connection with methanol produced from coal. The fact is, however, that through technological innovation we will be able to deal with such emissions if need be, and I believe the Senator from Vermont agrees.

In short, there is no basis for adding this amendment to S. 1518. The amendment of the Senator from Vermont would set up a sweeping and unprecedented new regulatory regime for carbon dioxide emissions not only from methanol production, but from all fuels. The amendment raises issues that require a major national debate and potentially major changes in industrial society throughout the world. It may be that such a debate will take place, but there is nothing in S. 1518 that requires such an amendment.

The proposed amendment also contains requirements regarding other emissions, but these requirements are also unnecessary.

They address matters that are covered by existing law and regulatory proceedings already in process and matters within the oversight mandate of the Senate Environment Committee.

So, while I know that the Senator from Vermont is sincere in his belief that the issues he has raised are important and worthy of the attention of the country, I must ask my colleagues to oppose his amendment. In so doing, I commend the distinguished Senator from Vermont for the contribution he has made over the years to the well-being of our country.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the California Energy Commission, signed by Mr. Charles R. Imbrecht; a letter from the State of California Secretary of Environmental Affairs, Jananne Sharpless; a letter from the South Coast Air Quality Management District, El Monte, California, signed by Norton Younglove; and a letter from myself to Senator ROBERT STAFFORD, dated March 24, 1988.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

California Energy Commission,
March 18, 1988.
Hon. John D. Rockefeller IV,
U.S. Senate, Senate Hart Office Building, Washington, DC.

Dear Senator Rockefeller: The California Energy Commission urges your further efforts to enact S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987.

I would like to reiterate our support for efforts to develop the use of clean burning alternative fuels. As you know, there is growing consensus among air quality and energy officials, as well as environmental leaders in California that the widespread use of clean burning fuels, particularly methanol, is the most promising long-term strategy for cleaning up the air and improving our energy security. The CEC has actively pursued demonstrating clean alternative transportation fuels. We support your efforts to accelerate the mass production of fuel flexible vehicles such as those already produced by Ford and GM.

In planning for a transition to clean fuels, we have worked closely with the California Air Resources Board and local air quality management districts to make sure that our alternative fuels goals would be compatible with air quality goals. Working together, all of us have found that alternative fuels are necessary to help meet our goals for ozone, fine particulate, and airborne toxics and carcinogens, especially in the South Coast area. Our air quality studies have reinforced our feeling of urgency in proceeding with practical clean fuel programs.

We have carefully assessed the possible impacts of clean fuels use on the environment, particularly as researchers pursue new research on global warming. Our studies and others show that alternative fuel vehicles would use methanol derived from natural gas well into the future. Considering the total CO_2 emissions, from extracting fuel from the earth to converting to vehicle fuel to actual use in vehicles, natural gas and methanol from natural gas will produce less CO_2 than do gasoline and diesel fuel.

We have also considered the economics and availability of fuel supply as a part of our long-term strategy, including the impact on CO_2 formation. We are convinced that absent a technological change, the economics of converting coal to methanol will be well above conversion costs from natural gas for several decades. We project a crossover of prices in about 40 years, and throughout the period a reduction in CO_2 with use of these fuels compared to diesel and gasoline fuels.

We have determined, therefore, that clean fuels produced from natural gas are essential in the near term for both energy security and environmental reasons. In the long term, clean fuels can be produced from coal in processes in which it will be technically possible and economically feasible to capture CO_2 during production. In fact, the CEC is currently pursuing the research, demonstration and development (RD&D) of clean burning fuels for stationary sources such as power plants. SCE's Coolwater Coal Gasification facility is an important R&D test facility for stationary sources, and may be an appropriate testing ground for coal to methanol production and demonstration of CO_2 capture techniques. In all, accelerated RD&D efforts on clean fuel technologies is essential if we are to provide for the long-term availability of secure energy supplies in an environmentally acceptable fashion.

Because clean fuels offer so many benefits in energy security, air quality, and global climate, we have begun programs to make clean fuels a practical option. We have spent more than $15,000,000, matched by industry contributions of roughly $30,000,000 in clean fuels technology development and accumulated more than 18,000,000 demonstration miles in clean fuels vehicles. We are currently planning a new 5,000-car demonstration to prove that the flexible-fuel car concept can provide a practical transition from an almost exclusive use of diesel and gasoline to a substantial degree of clean fuels use in a market-driven approach rather than by inefficient mandate.

But to make the transition work beyond the demonstration, we will need most of the cars in California to be capable of using alternative fuels. These cars will not be available without the incentive provisions of S. 1518.

Without a Federal alternative fuels incentive, we cannot reach our objective of a market-driven transition to alternative fuels. S. 1518 is an essential complement to our efforts in California to enhance our future energy security and to reach air quality and global climate goals.

Sincerely,

Charles R. Imbrecht,
Chairman.

State of California,
Sacramento, CA, March 23, 1988.
Hon. John D. Rockefeller IV,
U.S. Senate, Washington, DC.

Dear Senator Rockefeller: The California Air Resources Board supports your efforts to enact S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987.

To meet health-based air quality goals, California has implemented stringent emissions control measures, the lowest vehicle emissions standards in the world, and a vigorous vehicle inspection and maintenance program. Yet even with these measures we cannot expect to meet air quality goals in the Los Angeles metropolitan area and perhaps other areas of the state, unless we can successfully substitute clean fuels for much of the diesel fuel and gasoline use.

To implement clean fuels use, we are demonstrating clean fuels vehicle technologies, developing emissions standards for clean fuels vehicles, and modeling the air quality benefits of clean fuels use. We believe these efforts, and the efforts of the California Energy Commission and local pollution control officials, will help remove many of the barriers to expanded use of clean fuels.

Yet to meet our air quality goals we must see the day when most of the cars in the vehicle population can use clean fuels. In our assessment, these cars will not become available to us without the clean fuels CAFE incentive in S. 1518. Without S. 1518, our California efforts to implement clean fuels use could fail for lack of available clean fuel vehicles. The enactment of S. 1518 is an essential complement to the efforts we are making in California to attain clean air standards.

Sincerely,

Jananne Sharpless,
Secretary of Environmental Affairs.

South Coast Air Quality Management District,
El Monte, CA, March 18, 1988.
Senator John D. Rockefeller IV,
Senate Hart Office Building,
Washington, DC

Dear Senator Rockefeller: The South Coast Air Quality Management District applauds your leadership in clean fuels and your efforts to enact S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987.

To meet health-based air quality standards in the South Coast area, the District will need to increasingly substitute cleaner fuels for our diesel and gasoline fuel. The District's air quality projections and computer modeling studies show that clean fuels substitution is required to attain and maintain air quality standards. Furthermore, cleaner fuels may help us avoid severe restrictions on future economic growth and business activity that otherwise would be required to attain standards. Clean fuels also represent a key control strategy for air quality improvement in terms of fine particulates, airborne toxics and acid deposition in future years.

Based on the long-range importance of clean fuels substitution, we have already begun a transition to clean fuels. The District is planning to establish rules which will require vehicle fleet operators to purchase clean-fuel vehicles as they replace their fleet. The incentives provided by S. 1518 are therefore very important to the District to help ensure that vehicle manufacturers will produce clean-fueled vehicles capable of operating on methanol or othe the clean fuels.

The District also now requires methanol or cleaner fuels as Best Available Control Technology for all emergency or backup standby fuel users in our air basin. We have also established a 5-year, $30 million development and demonstration program to advance clean fuel technologies in vehicles and stationary sources.

We cannot achieve the degree of clean fuels use required to meet our goals without getting a substantial fraction of the cars in our basin to use clean fuels. The District is also convinced that manufacturers will make such cars commercially available only with federal intervention. Without such intervention, our initiative and the funds we have committed to clean fuels will not be nearly as effective as needed. The enactment of S. 1518 is an essential complement to the other efforts we are making to attain healthful air quality.

Very truly yours,

Norton Younglove,
Chairman.

U.S. Senate,
Washington, DC, March 24, 1988.
Hon. Robert T. Stafford,
U.S. Senate, Washington, DC.

Dear Bob: I wish to respond to your letter of March 21, 1988, regarding S. 1518, the Methanol and Alternative Fuels Promotion Act. As you know, S. 1518 is cosponsored by over sixty of our colleagues as a means of addressing serious environmental problems, assisting in achieving energy independence, and stimulating new industries and jobs. Not all of these goals are conceived as short term. S. 1518 is a modest but important beginning.

Despite these widely recognized benefits of S. 1518, you have raised concerns about possible detrimental effects of the bill. While I understand your sensitivity to such issues, I believe the facts will allay your concern, and I appreciate this opportunity to provide the facts for you.

Your letter raises a number of possible environmental concerns regarding the impact of S. 1518, but I am afraid the information you have received is incorrect. I believe you will agree with me, upon review of the matter, that these concerns are based on numerous factual errors. In what follows, I am going to address each of the basic issues raised in your letter.

REDUCTION OF SMOG

Your letter reaches a false conclusion about the benefits of methanol in reducing smog, perhaps because your letter relies on a Congressional Research Service study that deals with low percentages of methanol (less than 5 percent blended with gasoline) while S. 1518 relates to vehicles designed to operate on high percentages of methanol (85 percent or over).

Actually, methanol fueled vehicles can make a very important contribution to reducing smog. The attached letter from the California Energy Commission observes that widespread use of clean fuels, particularly methanol, "is the most promising long-term strategy for cleaning up the air." With respect to current technology methanol vehicles, the Environmental Protection Agency recently indicated that reductions of 34 percent in organic compounds contributing to smog can be maintained. With more advanced technology, reductions of up to 83 percent are possible. ("Guidance on Estimating Motor Vehicle Emission Reductions," January 29, 1988)

In some areas of the country, use of methanol vehicles can make a contribution to smog reduction equal to the sum of all other strategies available. As you know, many cities throughout the country are out of compliance with smog reduction standards and will suffer financial penalties if they fail to take vigorous steps to comply. Methanol and other alternative fueled vehicles provide an essential tool for these cities and regions. (See attached letters from the California Secretary of Environmental Affairs/Air Resources Board and the California South Coast Air Quality Management District)

CO_2 AND THE GREENHOUSE PROBLEM

In your discussion of global warming due to carbon dioxide emissions, you neglect the fact that, in the near term, economic factors will dictate that methanol will be made from natural gas. Natural gas derived methanol will actually help in reducing the greenhouse problem, since natural gas derived methanol produces less carbon dioxide than gasoline.

You are concerned about CO_2 emissions when methanol is produced from coal. The fact is that reliance on coal for methanol production, as pointed out in the California Energy Commission letter, is decades away. I have always made clear that methanol is not a near term market for coal. But you also say that you are "confident that given time and resources, engineering solutions could be identified, developed and adopted." I share your confidence. The point is that we should not sacrifice the significant benefits of methanol in reducing smog and CO_2 emissions for decades because of a concern that can, in any event, be addressed through technological innovation over many years.

Since your letter incorrectly assesses the benefits of S. 1518, it not surprisingly reaches incorrect conclusions on the merits of the bill. This is why one could share your concern, eloquently expressed, about the global greenhouse problem, without sharing your conclusions about S. 1518. This is also why I cannot ask my fellow cosponsors of S. 1518 to accept an amendment such as you have proposed that would set up a sweeping and unprecedented new regulatory regime for CO_2 emissions not only from methanol production, but from all fuels. Such a proposal requires a momentous national debate and potentially major changes in industrial society throughout the world. That may be a debate that will take place, but I cannot in good faith argue that such a provision is required by the program contemplated in S. 1518.

FORMALDEHYDE

You mention high tailpipe emissions of formaldehyde associated with methanol fuel, but fail to note that when secondary formaldehyde formed in the atmosphere as a result of tailpipe emission is taken into account, the net result is that methanol is equal to or better than gasoline. You fail to mention that while methanol exhaust contains formaldehyde, gasoline exhaust also contains formaldehyde as well as other dangerous components like benzene, a known carcinogen. You say that EPA has decided not to regulate formaldehyde, but you fail to mention that EPA has issued a notice of proposed rulemaking to regulate all hydrocarbons, including formaldehyde, emitted with methanol fuel.

I would also note that throughout your letter you incorrectly suggest the prospect of converting the entire auto fleet of the country to methanol. In fact, given the structure of the incentives under the bill, the likelihood is that by the year 2003, the maximum percentage would be five percent of the nation's autos.

EMISSIONS OF METHANOL

You say that methanol emissions will remain in the ambient air, but you fail to note that methanol dissipates very quickly, resulting in low ambient concentrations. Unlike with gasoline hydrocarbon emissions, these low concentrations are not toxic.

PARTICULATE EMISSIONS

In discussing particulate emissions, you cite a study relating to buses, but buses are not covered by S. 1518 and the engine referred to in the study is obsolete.

CONTAMINANTS

You suggest possible toxic contamination of methanol fuel, such as experienced with pesticide production, but methanol chemistry and production methods for methanol are completely different from those for pesticides and negate the likelihood of the possibility suggested.

OXIDES OF NITROGEN AND CARBON MONOXIDE

Your discussion of those points is based on a Congressional Research Service study that deals with low percentages of methanol used in gasoline vehicles while S. 1518 relates to vehicles designed for fuels with high methanol percentages.

BENEFIT TO AGRICULTURE

You suggest that the low amount of ethanol sold during the past winter in "the Rocky Mountain region, where the use of the fuels was mandated," indicates that expectations of relief for farmers is misplaced. You appear to be referring to the mandate implemented in Colorado this winter. That is simply too recent to draw the conclusion you do. Farmers deserve our commitment to ethanol for the long haul. Moreover, sales of gasohol have been successful in many farm states, helping our farmers as well as reducing petroleum consumption.

JOBS

Since your letter raises the subject of jobs for unemployed coal miners, I would like to conclude on a somewhat personal note. To appreciate this issue, it is necessary to consider the once great coal fields of West Virginia. It is necessary to consider Marion County and Harrison County and McDowell County and Mingo County, and other counties where coal mining jobs have been cut in half in the last decade. Now, I know that there are colleagues who support S. 1518 because they have smog that is making the people of their cities sick. I know there are colleagues, perhaps most of them, who support S. 1518 because it is a step toward energy independence and improved national security. I support S. 1518 for those reasons. I also know there are colleagues who have plants padlocked in their states and people unemployed in their inner cities. But I represent West Virginia, and the desperate condition of our unemployed coal miners has a claim on national attention that is not second to any of these. Some may say that the odds are not good that S. 1518 will solve this desperate situation soon or with one stroke. I have never said otherwise. But I do not accept the notion that long odds in addressing difficult economic conditions in our state and nation is a reason we should give up. I have staked my entire career on the contrary proposition and I know you have, too.

Despite all that I have said, it goes without saying that I would like to continue to discuss this matter with you and see whether we can find an amicable way to bring S. 1518 to the floor of the Senate. I have the greatest respect for the important contribution you have made to our nation's well-being and I look forward to continuing to work with you.

Sincerely,

JOHN D. ROCKEFELLER IV.

I reserve the remainder of my time.

(Mr. HARKIN assumed the chair.)

Mr. STAFFORD. Mr. President, I simply want to say to the very able Senator from West Virginia that I am acquainted with the truth of the old adage that it is a mighty thin pancake that does not have two sides.

I am prepared to yield back the remainder of my time if the distinguished Senator from West Virginia wishes to yield back his time and let us go to a vote.

Mr. ROCKEFELLER. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. HARKIN). All the time has been yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1952) was rejected.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DASCHLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. I yield such time as he requires to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I rise in support of the legislation that is being offered because it holds out a bright promise for the State of California, indeed the Nation.

As the able Senator from West Virginia has just indicated by requesting unanimous consent to enter letters from the California Energy Commission, from the State of California Environmental Protection Agency, and the south coast air pollution control district, it is a very bright hope by offering to the automakers in Detroit incentives under the CAFE standards. He is also offering not only, as the Senator from Missouri has pointed out, a dramatically reduced dependency by the United States on imported oil, but also the hope and the very real promise of dramatically improved air quality for all Americans.

In a State like mine where air quality is a major consideration, he offers the hope that we may achieve almost as great a reduction in ozone emissions from alternative fuel-burning automobile engines as by the total removal of the 2.4 million trucks and passenger vehicles which daily traverse the streets and highways of the Greater Los Angeles area.

Mr. President, that is no mean accomplishment. I am pleased to tell the Senator from West Virginia that the initiatives that he and the Senator from Missouri have taken, and which I take pride in cosponsoring, I think will be positively responded to by the oil companies. As they see the market existing, they are prepared, in the case of two California-based companies, to move to a distribution system that will provide the alternative fuels required to make reality of that bright promise.

I thank him as well as commend him.

Mr. ROCKEFELLER. Mr. President, I yield such time as he might require to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I rise in strong support of the Methanol and Alternative Liquid Fuels Promotion Act of 1987, legislation introduced by my good friend from West Virginia, Senator ROCKEFELLER.

I am proud to be a cosponsor of this landmark legislation, which provides production incentives, in the form of adjusted corporate average fuel economy [CAFE] standards, for automobiles able to operate on a variety of fuels, including ethanol, methanol, and other alternative liquid fuels.

Senator ROCKEFELLER and I first became involved in this issue last July, when we conducted a demonstration of Ford's flexible fuel vehicle [FFV] technology on the east end of the Capitol. FFV's run on gasoline, ethanol, methanol, or any random combination of those fuels. I have driven FFV's both in Washington and in South Dakota, and I can tell you there is absolutely no noticeable difference in performance between FFV's and conventional automobiles. I am advised that if this car is mass produced, and we hope the passage of this legislation will facilitate that production, the multifuel capability feature will cost new car buyers approximately $300 per vehicle.

For a long time, we have known about the promise the use of alcohol fuels holds for us from energy security agriculture, and environmental points of view. We already reap those benefits with the marketing of 10 percent ethanol-blended gasoline, but American society has even more to gain from the use of neat—100 percent—alcohol fuel, or high alcohol content fuel mixes.

Although automobiles that run exclusively on ethanol are used in Brazil and other parts of the world, the development of neat alcohol automobiles in the United States has been stymied, in part by the so-called chicken and egg dilemma. That dilemma arises when automakers are reluctant to produce 100 percent alcohol burning cars because the fuel is not widely available at service stations, and service stations do not sell alcohol fuels because there are no alcohol-burning cars on the road.

Widespread availability of the flexible fuel vehicles will help resolve that persistent problem. While we clearly will not be able to switch to the use of neat alcohols, or high-alcohol mixes, overnight, FFV's will allow us the flexibility we need as alternative liquid fuels gradually break into markets across the country.

During this initial transition period when alcohols are becoming more and more cost competitive with gasoline, FFV's allow the American consumer the flexibility to pick the precise alcohol-gasoline fuel mixture that is most economical at any given time. Moreover, it will allow us to choose "regional fuels of choice." For instance, we can use methanol in an FFV in natural gas- and coal-producing States like Senator ROCKEFELLER's native West Virginia and later fill that same car with ethanol in agricultural States like my home State of South Dakota. This kind of flexibility in automotive technology is critically important for large-scale development of ethanol and methanol in a motor fuel market that will remain dominated by gasoline for some time to come.

Finally, in regions of the United States with stubborn air pollution problems, FFV technology will allow local leaders to choose the fuel mixture that will be most effective in meeting the mandates of the Clean Air Act. We already know, for example, that a 10-percent ethanol blend reduces the tailpipe emissions of carbon monoxide from 20 to 34 percent. The city of Denver, a carbon monoxide Clean Air Act nonattainment area, has already mandated the use of ethanol blends and other oxygenated fuels during periods of high pollution, and other cities are expected to follow suit shortly.

Since neat ethanol produces almost none of the pollutants associated with straight gasoline combustion, air pollution from transportation sources will decline even more dramatically if we provide the production incentives necessary to get FFV's on the road. The use of FFV's by government and corporate fleets will prove an invaluable environmental tool in our immediate battle against carbon monoxide and other dangerous pollutants, and could, in the future, virtually eliminate those persistent environmental problems as more and more individual citizens choose to purchase the vehicles.

Mr. President, our Nation must aggressively encourage the production of this revolutionary automotive technology, and this bill provides some strong incentives for Detroit to put multifuel vehicles on its assembly lines. I commend Senator ROCKEFELLER for his work on this far sighted initiative and strongly urge my colleagues to support the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, for a long time we have been trying to figure out a way in this country to get off our dependency on imported oil and yet at the same time put farmers back to work, put coal miners back to work. I think that with this bill which is about to be passed we will do it.

I look forward to a day in the future when we simply are not using gasoline in our automobiles at all. I can see a day some decades, perhaps, away, when most American cars will be burning methanol made from coal and therefore putting coal miners all over West Virginia and the country back to work.

I see cleaner air because of this methanol bill. I see a stronger Nation because of this methanol bill. Frankly, I see a stronger West Virginia in the future, not only in terms of natural gas but also coal, because of this methanol bill.

I yield back the remainder of my time.

Mr. DANFORTH. Mr. President, if no one else desires to speak on this side I am prepared to yield back the remainder of my time.

Mr. ROCKEFELLER. At this moment, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that a letter from Senator ARMSTRONG to Senator STAFFORD be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 15, 1988.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, DC.

DEAR BOB: I appreciated receiving a copy of your March 21, 1988 letter to Senator Rockefeller about S. 1518, the Methanol and Alternative Fuels Promotion Act.

As a cosponsor of S. 1518, I believe that increased use of cleaner burning fuels will help Colorado's Front Range cities and other cities across the United States achieve air quality standards. Your letter states that "virtually no ethanol whatsoever was sold" during Colorado's recent mandated oxygenated fuels program. Bob, ethanol accounted for 5% to 8% of all gasoline sales in Colorado.

There are four points I'd like to make about your comments on Colorado's mandated oxygenated fuels program and carbon monoxide emissions. First, during the oxy fuels program, the demand for ethanol exceeded the supply of gasoline necessary for ethanol blending. The shortage of gasoline for ethanol blending occurred because oil companies blended much of the available gasoline with methyl tertiary butyl ether (MTBE). Nationwide in 1987, Bob, before Colorado's program, oxygenated fuels (ethanol and MTBE) were added to about 21% of the nation's gasoline supply—10% ethanol blends to about 7.5% of the nation's gasoline and MTBE to about 13.5%.

Second, the Colorado Department of health did not anticipate ethanol to be a major player (less than 20%) during the first phase of the oxy fuels program for the reason that Colorado's initial mandated oxygenation level was within the EPA approved level for oxygenation by MTBE. That reason was coupled with the fact that MTBE is produced with a byproduct of crude oil refining, and the economics were good for refinery blending and distribution of gasoline oxygenated with MTBE at 1.5%. Because of storage limitations and the scouring effect of the alcohol-based ethanol, oil companies cannot blend and store ethanol nor use their pipeline system to distribute ethanol.

Third, you note a CRS report stating air quality improvement with oxygenated fuels is "temporary", that other factors such as population growth and increased vehicle use will overwhelm any benefits of oxy fuel use. Colorado has never expected oxy fuels to be the single answer to eliminating our carbon monoxide violations. Colorado recognizes oxy fuels are only one program necessary for us to achieve and maintain air quality standards. Colorado has become nationally noted for its aggressiveness in developing air pollution reduction programs. In 1970, downtown Denver violated the carbon monoxide standard 156 times, in 1986 36 times, and in 1987 19 times.

Fourth, Colorado's oxy fuels program met its goal of 8% to 10% reduction of carbon monoxide. Whether the fuel was oxygenated by ethanol, or by MTBE produced with methanol, Colorado's goal was met.

S. 1518 provides the chance for manufacturers to economically produce and market "dual fuel" vehicles. The production incentive is related to using 85% alternative fuel mixtures. An increased use of alternative fuels will not only improve air quality, but I anticipate will give an economic boost to the farming industry, and I hope to the coal mining industry as coal/methanol production technology develops.

The first phase of Colorado's mandated oxy fuels program ended with a notable lack of consumer problems and complaints. Now that the first phase is over and more gasoline is available as blend stock for ethanol, ethanol sales are estimated by that industry to be close to preprogram levels and possibly higher. People are keenly aware of the need to clean our air, and the oxy fuels program helped prove the benefits of oxygenated fuels and disprove the rumors of harm to our vehicles.

For these reasons and more, I am pleased to cosponsor S. 1518, and I hope you will join more than sixty of your colleagues in its support.

Best regards.

Sincerely,

WILLIAM L. ARMSTRONG.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, let me begin by expressing my appreciation for the leadership that Senator ROCKEFELLER and Senator DANFORTH have taken on this issue.

I am a cosponsor of the Methanol and Alternative Fuels Promotion Act because not only could it help ease the energy crisis our Nation faces, it could help protect our precious environment while preserving growth.

This bill can help us in achieving energy independence by encouraging the use of a broad range of alternative transportation fuels that can be produced from domestic sources. These fuels include methanol, ethanol, and compressed natural gas. In committee, I was successful in adding language to the bill that would also require that Secretaries of Transportation and Energy to conduct a comprehensive investigation of means to stimulate the production and introduction of electric and solar powered vehicles. Their production could increase our energy independence.

Mr. President, I want to make a few remarks about the environmental value of alternative fuels.

Latest estimates from the Environmental Protection Agency indicate that 62 metropolitan areas are in noncompliance with its ozone pollution standards. In addition, 65 metropolitan areas have carbon monoxide levels exceeding EPA's standards.

No part of the country is immune from these problems. People moved to my home State of Arizona in the past for its quality of life. They wanted to get away from pollution to ease their respiratory problems. Unfortunately, times have changed. In 1986, Phoenix had a greater number of days with carbon monoxide in excess of EPA standards than did New York City. Currently Phoenix is in nonattainment status for carbon monoxide and ozone. Tucson has also had this dubious distinction in the past and may well again in the future. To ensure the health of our citizens and the continued growth of Arizona, we need to control air pollution.

I believe that mobile sources play, if not the largest, certainly a very significant role in this problem. Alternative fuels are among the tools that local communities can use to lessen the impact of mobile source pollution. Methanol and other alternative fuels can substantially reduce ozone and carbon monoxide pollution because they burn cleaner than gasoline.

The technology for alternative fuel cars has already been developed and has been successfully used in major fleet tests in California.

Mr. President, the Methanol and Alternative Fuels Promotion Act can stimulate the use of alternative fuels without the expenditure of any tax dollars. It is an idea whose time has come and I urge colleagues to support it.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I want to congratulate my colleague from West Virginia for his excellent, excellent idea, to begin with, and the excellent work with his hands and his mind and his heart in fleshing out the idea and in bringing this legislation to the floor all the way from the idea to the committee and now here today in the organic body where final action will be taken on it, insofar as this body is concerned at this stage.

I compliment him. I want to add just a little supportive statement. I want my colleagues all to know, and I want the people of West Virginia to know, how able this man has been and how he has demonstrated his leadership and standing in this body by the way he has shepherded this legislation.

He has done a marvelous job. I thank him as a West Virginian for this legislation. I thank him for including my name as one who is supportive of the legislation, but I have not done anything on it except try to help pave the way for its being taken up in the Senate and passage today because I knew that he was so perfectly able of providing the leadership, and he would do so.

Mr. President, I am very pleased that today the Senate is acting on S. 1518, the Methanol and Alternative Fuels Production Act.

It is a tribute to my colleague from West Virginia, Senator ROCKEFELLER, the sponsor of this legislation, who has been a leader on the issue of alternative motor vehicle fuels.

This legislation will stimulate the production and use of methanol from coal or natural gas, ethanol from corn, and other alternative fuels in motor vehicles by favorably calculating the fuel efficiency of such vehicles.

The increased use of these alternative fuels will help lessen our dependence on foreign oil imports, which have increased to a level of over 40 percent.

We need to reduce this dependence as much as possible by beginning the transition to automobiles that run on methanol and ethanol, and other alternative fuels, instead of oil.

This legislation is an important step in that orderly transition.

Methanol- and ethanol-powered cars can also make a contribution to the reduction of air pollution from automobiles.

Their clean burning characteristics reduce the emissions of nitrogen oxides and hydrocarbons as compared with gasoline-powered cars.

This legislation is good energy policy, as well as good environmental policy. Senator ROCKEFELLER's leadership on this issue has been crucial to our consideration of this legislation, which will stimulate the development and growth of alternative fuels for automobiles, and which will be beneficial to the Nation, to our coal industry and our farmers. I want to commend his efforts, and I urge my colleagues to support this legislation.

Senator ROCKEFELLER's diligence and creativity in leading this fine effort to utilize alternative fuel sources will be deeply appreciated by his West Virginia constituents and all those who recognize the urgent need to begin to wean the United States from dependence on foreign energy sources.

Mr. BINGAMAN. Mr. President, I rise today in support of S. 1518, the Methanol and Alternative Fuels Promotion Act. I am pleased to have joined Senator ROCKEFELLER in introducing this important legislation.

This legislation will stimulate the production of methanol, ethanol, and natural gas vehicles. Specifically, the bill would provide for an appropriate application of the fuel economy standards to passenger vehicles powered by methanol, ethanol, or compressed natural gas. The bill would allow manufacturers of alternative-fuel vehicles to more easily meet Federal corporate average fuel economy [CAFE] standards. Incentives also would be established for the production of dual-fuel vehicles, which can run on either gasoline or alternative fuels. Specifically, the total miles per gallon of the vehicle would be averaged over a smaller amount of fuel-gasoline. Thus, the miles-per-gallon rating would be higher for the automobile. Since the law assesses a monetary penalty when a manufacturer fails to meet the statutory fuel economy standard, the increased mile-per-gallon rating for alternative fuel vehicles would provide encouragement to a manufacturer to develop this type of automobile.

The increased use of alternative fuels clearly helps us meet the energy security challenges facing this country from oil imports dependency—now at nearly 40 percent. The development of alternative fuels allows us to extend the useful life of our fossil fuels and reduce this dependency.

This is especially critical to a State such as New Mexico that has suffered tremendously from the decline of our oil and gas industry. The State will clearly benefit from this legislation.

AGRICULTURAL AND ENVIRONMENTAL BENEFITS

The future of ethanol is very important to my constituents in New Mexico. Ethanol provides a much needed market for the large amounts of surplus grain available from the eastern side of my State. Thus, this bill will serve as an important incentive for agricultural production. Ethanol also has been demonstrated to have a number of air quality benefits. These include being an effective octane additive, allowing refiners to block out environmentally harmful additives, such as lead and benzenes. Ethanol has proven effective in reducing harmful carbon monoxide and exhaust hydrocarbon emission; and because it contains oxygen, ethanol burns cleaner than gasoline. For these reasons, New Mexico has helped lead the Nation in its support of ethanol development and production.

I am pleased that this legislation serves so many useful purposes and I urge my colleagues to support this legislation. Thank you Mr. President.

INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

Mr. ARMSTRONG. Mr. President, simply put, reducing air pollution is critical to Colorado's future.

A primary contributer to air pollution in Colorado and elsewhere is carbon monoxide emissions from gasoline-burning automobiles, and today the Senate has the opportunity to consider legislation that may result in cleaner burning cars.

Carbon monoxide gas is odorless, tasteless, and invisible, but also a highly harmful poison. It reduces the capacity of the lungs to exchange oxygen and, thus, affects the respiratory and nervous systems. In Denver alone, smog-related health care costs amount to $70 million annually.

Carbon monoxide [CO] from car emissions are not unique to Denver, but the area's topography and weather combine with CO to produce some of the highest CO levels in the country. Temperature inversions at Denver's high altitude trap CO at breathing level and prevent its dispersal, and inversions are particularly prevalent during the winter months when car engines operate less efficiently and heating needs increase fuel requirements. As if this were not enough, Denver, lies in a bowl that winds cannot reach to disperse the pollution.

Overcoming challenges imposed by the environment is part of Colorado's heritage, and Coloradans today are equally as adamant in reducing air pollution as their forefathers were in settling the Rockies and High Plains. Already, the number of days downtown Denver exceeds Federal CO levels has been reduced from 156 in 1970 to 36 in 1986 and 19 in 1987.

Federal laws requiring new cars to be more efficient in fuel use and emissions control have boosted the clean air effort in Colorado. Since 1981, cars' onboard emissions systems adjust the air/fuel mixture as altitude increases, which reduces the amount of emissions.

Increasing traffic volumes, however, offset many of the technological improvements and aggressive local strategies. As a result, Colorado has enacted tougher vehicle inspection and maintenance standards and required use of oxygenated fuels during critical winter months.

Further significant improvements in technologies for autos operated on gasoline or diesel fuel may not be likely. Now, is the time to start developing autos that can operate on cleaner burning fuels.

Promising alternative fuels include methanol and ethanol. Methanol can be manufactured from natural gas, coal, biomass, or municipal waste. It burns more cleanly than gasoline and is already used at the Indianapolis 500.

Ethanol also burns more cleanly than gasoline and is derived from grain and other abundant agricultural products. Brazil already requires all its cars to operate on ethanol.

The fuels are there, and it is a matter of developing cars that can run efficiently, dependably, and affordably on the cleaner burning fuels. S. 1518, the legislation before us today, will provide an incentive for the development of alternative fuel vehicles. Under current law, there are Federal incentives for manufacturers to produce fuel efficient cars, but there is no distinction among autos powered by conventional fuels or ones powered by new and cleaner fuels.

S. 1518, the Methanol and Alternative Fuels Promotion Act, will adjust corporate average fuel economy [CAFE] standards in a manner more favorable to alternative fuel vehicles. An auto manufacturer currently must meet a CAFE standard of 26 miles per gallon across all lines of production. Thus, if half the cars produced achieve a fuel efficiency of 24 miles per gallon and the other half 28 miles per gallon, the auto manufacturer would meet the Federal requirement.

S. 1518 will calculate the CAFE standard for alternative vehicles based on the percentage the auto operates on gasoline, which can be no more than 15 percent under the legislation. An alternative fuel vehicle, for instance, that gets 15 miles per gallon, will receive a CAFE of 100 miles per gallon. The manufacturer, then, has an incentive to produce the alternative fuel vehicle, since the high CAFE rating will act as a credit toward meeting the CAFE standard required across all lines of production.

Mr. President, this bill will help Colorado and other States in the battle for cleaner air by stimulating the development of cleaner burning automobiles, and I urge its adoption.

ALCOHOL HEALTH WARNING LABELS

Mr. HARKIN. Mr. President, alcohol is the most widely used drug in America. It is the most lethal, deadly drug in our society

A recent Department of Health and Human Services study indicated that health warning labels on the containers of alcoholic beverages can be effective as part of a comprehensive campaign to educate the American consumer on the adverse consequences of alcohol consumption. Earlier this year, I was pleased to be an original cosponsor of legislation to require rotating health warning labels on alcoholic beverages. That bill, S. 2047, was sponsored by Senator THURMOND and has received strong bipartisan support in the Senate. It has also received endorsements from a wide range of organizations including the American Medical Association, PTA, American Academy of Pediatrics, National Association of State Alcohol and Drug Abuse Directors, National Education Association, National Council on Alcoholism, the March of Dimes and many more.

Mr. President, 55 of these organizations have joined together to express, in writing, their support of S. 2047. I ask unanimous consent that a copy of that letter follow my remarks in the CONGRESSIONAL RECORD. I also urge my colleagues to join me in support of S. 2047.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 16, 1988.

Hon. TOM HARKIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR HARKIN: We, the undersigned organizations, are writing to express our strong support of S. 2047, a bill to require health and safety warning labels on all alcoholic beverages. This legislation was introduced in the United States Senate on February 4, 1988, by Senators Strom Thurmond, Howard Metzenbaum, Dan Evans and Tom Harkin. We urge you to lend your support and cosponsor S. 2047.

The bill would require five rotating labels on beer, wine and distilled spirits. The labels address the dangers of drinking during pregnancy, drinking and driving, drinking in combination with other drugs, the association between drinking and increased risks of liver disease, hypertension and cancer, and the fact that alcohol is a drug and can be addictive.

We view labeling of alcoholic beverages with specific messages as an important component of a comprehensive strategy to address alcoholism and alcohol-related problems in this Nation. Furthermore, the labeling of alcoholic beverage containers will institutionalize important public health information and cannot help but enhance the public's knowledge regarding health and safety risks associated with alcohol use.

In a democratic society, consumers have a right to know about the risks associated with the consumption of any given legal product. This information is critical if individuals are to make informed decisions about their use or non-use of alcohol. Alcoholic beverages have long been exempt from a number of consumer information strategies. In fact, alcohol advertising, which generally glamorizes drinking, continues to be the major and most powerful source of information Americans receive about alcohol. The enactment of S. 2047 will make a major contribution to public health education about alcohol for American consumers.

We urge you to cosponsor S. 2047 today and to join us in actively facilitating its passage in 1988. Representatives of our organizations would be delighted to meet with you or your staff about this important legislation.

Sincerely,

Adventist Health Network.
Alcohol and Drug Problems Association.
American Academy of Pediatrics.
American Association of Retarded Citizens.
American Association on Mental Retardation.
American College of Preventive Medicine.
American Council on Alcohol Problems.
American Liver Foundation.
American Medical Association.
American Medical Students Association.
American Paralysis Association.
American Public Health Association.
American Youth Work Center.
Americans for Democratic Action, Consumer Affairs Committee.
Americans for Substance Abuse Prevention and Treatment.
Association of Junior Leagues.
Association of Schools of Public Health.
Association of Teachers of Preventive Medicine.
Center for Science in the Public Interest.
Children's Foundation.
Child Welfare League of America.
Christian Civic Foundation of Arkansas, Inc.
Christian Life of the Southern Baptist Convention.
Coalition for Scenic Beauty.
Consumer Federation of America.
Consumers Union.
Council on Alcohol Policy.
Doctors Ought to Care.
International Commission for the Prevention of Alcoholism and Drug Dependency.
Legal Action Center.
Make Today Count.
Mothers Against Drunk Driving.
National Alliance for the Mentally Ill.
National Association of Alcoholism and Drug Abuse Counselors.
National Association of Children's Hospitals and Related Institutions.
National Association of Lesbian and Gay Alcoholism Professionals.
National Association of State Alcohol and Drug Abuse Directors.
National Council on Alcoholism.
National Education Association.
National Federation of Parents for Drug Free Youth.
National Parent-Teachers' Association.
National Parent's Resources Institute for Drug Education.
National Perinatal Association.
National Spinal Cord Injury Association.
National Woman's Christian Temperance Union.
New Jersey Christian Conference on Legislation.
Public Citizen's Congress Watch.
Remove Intoxicated Drivers.
Southern Perinatal Association.
Therapeutic Communities of America.
U.S. PIRG.
Washington Office of the Presbyterian Church U.S.A.
Women's Action Alliance.
Women's Health Network.

NATO CENTER REGION MILITARY BALANCE STUDY, 1978-84

Mr. WIRTH. Mr. President, in 1979, the Department of Defense published a report on the military balance in NATO's central region. Once classified secret, it was declassified in 1985 and is now available for public examination. The list of those who participated in its preparation is impressive. Representatives from the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Office of Program Evaluation and Analysis, the Defense Intelligence Agency, and analysts from both the Central Intelligence Agency and the National Security Agency all contributed.

The report assesses the military balance in Europe at the end of the 1970's and then, on the basis of NATO's long-term defense plan and anticipated improvements in Warsaw Pact forces, forecasts the state of the balance in 1984. The report's assessment came at the end of the 1970's, a period in which the U.S. defense establishment had reportedly suffered serious neglect, and before the major military buildup of the Reagan administration. Nevertheless, it does not portray only a NATO of weakness and a Warsaw Pact of overwhelming strength. Both alliances are seen to have advantages and vulnerabilities.

The report is lengthy; well over 100 pages. Today, I offer an excerpted version of its executive summary for your consideration. It provides the report's major conclusions on the state of the NATO/Warsaw Pact balance, and a series of recommendations for improving the defense posture of our alliance. I commend it to your attention.

I ask unanimous consent that the summary be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATO CENTER REGION MILITARY BALANCE, STUDY, 1978-84

This study examines trends in the NATO-Warsaw Pact conventional military balance in the Center Region, now through the mid-1980's. It describes NATO's current defense posture, and assesses the impact NATO's force improvement programs will have in increasing the alliance's military security against the growing Warsaw Pact threat. The study analyzes NATO's forces in the initial stages of combat (through D+30).[1] It considers both ground and air forces, as well as other important force elements, including support structures and the impact of modern weapons in increasing force lethality.

SCENARIOS AND KEY ASSUMPTIONS

The study employs the present DOD planning scenario for Central Europe. It assumes that a conflict would be immediately preceded by a relatively short period of acute political tension before which either alliance would have further augmented active and reserve forces in being. During this period, the Pact is assumed to begin readying forward-deployed forces for combat, while simultaneously mobilizing and reinforcing by moving reserve forces into the forward areas as rapidly as possible. NATO (with France participating) is assumed to begin shortly thereafter (between M+4 and M+15).

The study examines NATO/Warsaw Pact forces when there are no other simultaneous contingencies that create competing demands for forces that otherwise would be used in the Center Region.

The analysis considers only NATO's conventional force needs and capabilities. It assesses only the impact on combat capability of major NATO and Warsaw Pact programs for procuring weapons, manpower, and other basic resources. It does not attempt to predict the outcome of combat since results also will be influenced by other factors—including training, leadership, and doctrine—many of which lie outside the program process and/or cannot be modelled reliably.

NATO force projections are based on the assumption that current U.S. and allied programs will be implemented on schedule at presently-planned funding levels. Warsaw Pact forces are assumed to be strengthened in accordance with the Defense Intelligence Projections for Planning.

CURRENT NATO/WARSAW PACT BALANCE

The study suggests that NATO already has provided most of the resources—taking into account forces deployed in Europe and CONUS—needed to match the Pact in total military assets and field a potentially strong conventional defense posture in Central Europe. As an indicator, NATO and the Warsaw Pact currently plan to commit equally-sized ground forces (combat manpower of 1.6 million each by M+30) and tactical air forces (4,200 combat aircraft by M+30) early to a Center Region conflict.

Even so, there is currently a serious military threat to NATO's security in Central Europe. The threat derives as much from the possibility that NATO's force might not be available soon enough in the initial stages, and might not be effectively structured to fight the war they are likely to face, as from asymmetry to the Pact in total resources. The solution is, therefore, more complicated than just increasing defense expenditures for Europe. NATO must also stress effective defense management to insure that its already large and growing assets are available in a timely fashion and can be used effectively.

The Warsaw Pact—in part by stressing austere military support structures—can field a large number of highly-mobile ground combat units (85-90 divisions) with powerful armor and artillery. With effective mobilization and reinforcement, this force could be ready for commitment as early as M+15; smaller forces could be ready earlier. While Pact forces might not be well-tailored for the prolonged theater-wide fighting that occurred in WW II, they are suited for an effort to defeat NATO quickly and decisively by breaching NATO's defenses with concentrated assaults, and then launching disruptive blitzkrieg drives deep into the rear areas.

NATO's ground forces are structured quite differently, in response to dissimilar missions, doctrines, and priorities. While being equal to the Pact in manpower at M+30, NATO allocates a larger portion of its ground manpower to support functions and consequently fields fewer combat forces than the Pact. Moreover, NATO's combat forces are, on the average, less heavily equipped and therefore generate less firepower per weapon operator.

NATO's forces, however, generally have much larger C^3I and support increments than the Pact. NATO's average Armored Division Equivalent (ADE) "slice" is about 40,000 men; the Pact's about 18,000.[2] NATO would have about 3.6 C^3I support personnel for every soldier operating a weapon, as compared to 11.8 for the Pact. While there is uncertainty in calculating the impact of support structures, these NATO assets potentially could enable NATO actually to commit more of its combat forces in the early stages than the Pact, and use them more effectively, as well as to provide long-term sustainability—given adequate replacements and war reserve stocks.

In order to provide supplementary firepower to compensate for the deficiency in firepower from ground combat forces, NATO needs large scale tactical air support. Accordingly, about 70% of NATO's tactical air forces (4,200 combat aircraft) are oriented to close air support/battlefield interdiction, and only 20%-30% to air defense. This compares with the Pact's 50% emphasis on air defense.

PROSPECTS FOR DEFENSE

NATO's forces are particularly designed to defend along a stable front, in combat dominated by sustained firepower and attrition. NATO's in-place forces meet initial needs for this concept: they can cover the 750 kilometer Forward Edge of the Battle Area (FEBA) on manageable division frontages and in sufficient density for a credible initial defense, except perhaps in the southernmost area defended by West Germany's II Corps.

We anticipate the Pact might attack as early as Pact M+4, for surprise, but more probably at about M+15, to emphasize mass with their 85-90 divisions. In an M+4 attack, the Pact initially would have about a 1.5:1 advantage in ADEs. However, NATO's combat forces are sufficient to cover the front in doctrinally-derived division frontages (15-30 kilometers per division) and to deny the Pact the sizeable (more than 3:1) localized advantages normally needed to gain a breakthrough. NATO's forces probably have enough firepower, with tactical air support, to provide a capability for containing this attack all along the front, given that NATO's forces are sufficiently ready to reach forward positions in time.

In an M+15 assault, the Pact would have about 2:1 ADE advantage, and probably would attack in successive waves of echeloned formations. NATO's ground forces, with tactical air support, have sufficient firepower to defend in the very early stages, and perhaps longer. . . . At a minimum, NATO's defenses could be difficult and costly to dislodge. There is uncertainty whether the Pact could do so, and still have sufficient fresh combat forces left over to continue a rapid advance. Pact weaknesses in C^3I and logistics support could be further constraints on their capability to advance rapidly.

However, NATO's present posture is vulnerable to early defeat because there initially are insufficient ground combat forces to perform all the military functions likely to be demanded on the modern battlefield.[3] In particular, once enough forces have been allocated to cover the front in sufficient density to implement the defense plan, there are few forces left over—especially in the Northern Army Group—to provide reinforcements or form a mobile reserve for containing penetrations and counterattacking. . . . NATO's smaller ground combat forces could be at a significant disadvantage, particularly since they currently lack adequate interoperability for out-of-sector operations, and their large sustaining support structures might have little impact.

There is thus a risk that NATO's forces, after possibly doing well in the very early stages, will suffer attrition and be worn down—before individual replacements and sustaining support can take hold—to the point where territory gradually is lost or, or more dangerously, the defense breaks down and the Pact gain a major breakthrough that NATO cannot control. The risk would be greatest if there is intense fighting and heavy casualties before more forces become available—to provide reserves—when the U.S. Army build-up is well-along after M+30. The risk would be less if NATO's tactical air power can be brought to bear effectively on the battlefield.

There are too many uncertainties to confidently predict the outcome of combat with current forces. The Pact faces significant risks than an attack could fail. However, while NATO's forces provide deterrence, they are sufficiently strong for confidence in their ability to defend successfully.

FUTURE TRENDS

NATO will substantially strengthen its ground and tactical air forces over the next several years, as will the Pact. NATO's force improvements, which derive from both modernization and acceleration of U.S. ground and air reinforcements, offset Pact improvements which drive from modernization alone. The United States provides the largest increase in ground forces, 33% in ADEs deriving primarily from modernization and modest expansion, and more rapid arrival of CONUS-based forces. U.S. and allied tactical air forces are modernized at about the same rate (38% turnover in five years); the United States will continue to field somewhat more sophisticated aircraft and munitions.

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[1] "D-Day" marks the onset of combat operations; D+30 is 30 days after the onsert. "M-Day" marks the beginning of mobilization; M+30 would indicate 30 days hence.

[2] An Armored Division Equivalent (ADE) is a measure of combat power that includes quantity and quality of weapons taking into account firepower, survivability, and mobility. A "slice" is an average logistic planning factor which includes the strength/requirements of the combat unit and its proportionate share of all supporting and higher headquarters personnel.

[3] Emphasis in the original.

However, a fundamental requisite for a net gain is a concerted alliance-wide force improvement effort along the lines now envisioned in member-nation force modernization programs and the NATO Long-Term Defense.

PACT TRENDS

Pact ground forces are projected to remain at 85-90 divisions and to be strengthened by 18% in ADEs, with major increases made in USSR-based Soviet divisions and East European Forces, primarily by replacing old weapons with new models. Pact air forces are projected to be modernized at a 35% turnover rate as more current models are introduced, to replace older versions. There will be significant increase in the Pact's air offensive capabilities as attack aircraft with larger payloads are introduced, providing a 70% increase in the Pact's deliverable payload.

NATO TRENDS

NATO's net gain against this threat is reflected in the improvements that are projected to be made in PACT/NATO theater-level ADE ratios for ground forces during the critical first 30 days—from 2.1:1 now at M+30 to 1.9:1 in 1984. More important, NATO's ground forces and tactical air forces together will provide a stronger, more cohesive defense posture—as suggested by static indicators, dynamic analyses, and assessments of non-quantifiable factors—that is more capable of implementing the alliance's forward defense concept.

For ground forces, NATO's in-place forces are programmed to improve by 19% in ADE's. While this modernization is offset by equivalent Pact increases in quality, NATO's programs are concentrated in providing more and better major firepower weapons—tanks, ATGMS, and artillery—where a 30% total gain is made (50% for ATGMs). As a result, present numerical deficiencies in these important weapons are reduced, and NATO's forces will have significantly greater firepower for countering Pact armor attacks. More rapid U.S. reinforcements via POMCUS and increased airlift will provide more combat force (8 DEs) early in the battle, thereby helping reduce the alliance's deficiency in maneuver units. Improved readiness, C^3I programs, harmonization of doctrine, and greater interoperability—all Long-Term Defense Plan improvements not measured by static indicators of weapon capability—will further strengthen the alliance. Stinger forces on the front therefore will reduce the risk that the Pact will gain major breakthroughs, especially quickly and easily, and the presence of more combat forces will strengthen NATO's ability to contain a penetration, should it occur.

For tactical air forces, NATO will remain about equal to the Pact in total aircraft (4,200), but as a result of accelerated USAF reinforcement, will achieve numerical equality earlier: M+10 in 1984, rather than M-30 now. NATO air forces will continue to be oriented primarily to ground attack, where they will have a 1.9:1 numerical advantage over the Pact. However, NATO will be at a disadvantage in interceptors of 1.7 to 2.7:1, depending on how many multi-mission USAF aircraft are used in air defense. NATO will be modernizing at about the same rate as the Pact (38%). However, NATO will be introducing generally superior models (F-15, F-16, A-10) and should regain a significant qualitative edge by the mid-1980's.

NATO will have improved air and ground-based air defenses—taking into account the combined effects of AWACs, F-15s, F-16s, and Patriot/Improved Hawk missiles, and Short-range Air Defense (SHORAD) systems—for inflicting high attrition rates on Pact aircraft penetrating NATO airspace.

REMAINING PROBLEMS AND PRIORITIES

Rapid U.S. Reinforcement

The accelerated reinforcement of U.S. ground and tactical air forces is the critical factor in enabling NATO to make a net gain against the Warsaw Pact. Without this program, NATO would have fewer tactical aircraft than the Pact in the early stages, and there would be no change in the presently adverse ADE ground-balance. More important, NATO's ground forces would remain critically deficient in mobile reserves.

Accordingly, there is priority need for full implementation of the POMCUS program, to include the last 3 DEs for 1986, and for completion of airlift-enhancement programs, including CRAF modifications.[4] Priority should be given to ground combat forces and combat essential support elements for the early stages, as opposed to units providing primarily long-term sustaining support.

Need for More Ground Combat Forces

Although progress is made in NATO's early deficiency in maneuver units, there is a need in the mid-1980's for more ground forces that provided in alliance programs. As a result of its approximate 2:1 ADE advantage, the Warsaw Pact still will be capable of massing large force superiorities (up to 8:1) in one or two NATO corps sectors and could achieve major breakthroughs. There are uncertainties in determining how many additional NATO forces are needed to hedge against this risk. However, an additional 5-6 ADEs could make an important contribution in providing more depth, as well as counterattack options, while 12 ADEs would be needed to achieve a 1.5:1 force ratio at M+15.

While there are fiscal constraints, adequate allied manpower resources are available. In particular, the allies have large support structures, rear area security forces, and reserve manpower pools which could provide resources for fielding more combat units.

Northern Army Group (NORTHAG) vs. Central Army Group (CENTAG)

With the current programs, the most noteworthy gains in strengthening NATO's defenses are made in CENTAG. In particular, the U.S. and German ground and air force there—which are responsible for initial defense of NATO's four corps sections—are modernized with highly-lethal weapons to the point where, as suggested by static indicators and DOD dynamic analyses, they will be able to inflict very high losses on attackers and should be difficult to defeat.

The presence of Canadian and French forces, along with U.S. and German units, also provides depth to the defense, including reserve forces. In NORTHAG NATO's defenses are currently more vulnerable than in CENTAG, and—with in-place forces alone—are strengthened less significantly by the mid-1980s. NORTHAG is vulnerable partially because direct responsibility for defending the four corps sector is divided among four nations with somewhat different doctrines and force structures, and there are few immediately available reserves to provide defense in depth. NORTHAGs ground forces are programmed to be modernized less rapidly than in CENTAG (14% vs 24%). NORTHAG tactical air forces are to be modernized about as rapidly as CENTAG, but they are not acquiring the specialized F-15 and A-10 aircraft what will provide particularly strong air defense and close air support capabilities. Allied ground and air ammunition deficiencies in NORTHAG also are important constraints on achieving a strong defense posture.

Need for Further Alliance Modernization

Defense is an alliance-wide responsibility that cannot be achieved solely by strengthening U.S. Army forces. Allied forces are responsible for initial defense in six of NATO's eight corps sectors, including all four NORTHAG sectors, as well as Schleswig-Holstein. West German forces are programmed for significant strengthening (20% in ADEs) by the mid-1980s. However, other allied forces—especially Belgium, Denmark, and Netherlands—currently are more lightly armed and make such smaller gains in 1984, and consequently will not be able to provide combat power in their sectors equivalent to U.S. and West German forces. Increases in artillery, armor, and ATGMs weapons in these forces would make an important contribution to a stronger defense posture.

Trends to Armor/Mechanization

U.S. and allies programs are stressing increased armor/mechanization for their forces to fight effectively on the modern European battlefield. Although most of NATOs in-place forces will be armor/mechanized by the mid-1980s, several U.S. Army reinforcement divisions still will be lightly armed and insufficiently mobile infantry forces. These forces could perform effectively in some defensive operations. However, there is a risk they will be needed to perform missions—such as meeting engagements and counterattacks—that can be executed only by forces with greater armor and mobility.

Barrier Plans

NATOs ability to prepare the terrain for combat by establishing prepared defense positions, barriers and minefields is a particularly important factor in determining the alliance's defense prospect's. To the extent feasible, given obvious political constraints, advance preparation is desirable, including pre-chambering, acquisition and forward preparation of barrier materials, and limited sculpturing.

Base/Support Structure for Tactical Air Forces

Although modernization in the air balance points to significant aircraft improvements for NATO, there also is a need to accelerate U.S. and allied efforts to ensure air base and support structures are adequate for making effective use of these forces.

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[4] POMCUS: Prepositioned organizational Materiel Configured in Unit Sets. Equipment stored in Europe for use by divisions stationed in the use in peacetime, but marked for early deployment to Europe in the event of hostilities.

CRAF: Civil Reserve Air Fleet: Civilian transport aircraft which can be called in to government service by the President or the Secretary of Defense.

Air Base Defenses

The Pact's growing offensive air threat creates compelling incentives for NATO to reduce the risk that many combat aircraft, airbase, and other facilities will be lost or seriously damaged in the first few days. Increased emphasis is needed on active and passive air base defense—especially shelters, runway repair, and aircraft dispersal. At present, the U.S. sheltering program is seriously deficient in providing shelters for reinforcements from the U.S.

Suppression of Soviet Air Defense

While NATO's tactical air forces have the physical capacity for providing substantial close air support in contributing to the land battle, there is significant uncertainty whether NATO will be able to suppress the Pact's growing air defenses adequately to permit effective operation by these aircraft. The uncertainty includes whether NATO will have enough interceptor aircraft to gain control of the air, and whether active and passive suppression systems will be effective against Pact missile and gun air defenses.

Readiness and Training

NATO forces must place strong emphasis on adequate advanced preparations and training to insure they are available, can fight effectively on short notice, and can operate NATO's new, highly modern weapons.

Electronic and Chemical Warfare

NATO's forces by the mid-1980's will be still be deficient in capabilities for dealing with electronic and chemical warfare.

RECOMMENDATIONS

1. Compete U.S. ground and air rapid reinforcement program, including POMCUS and airlift enhancement.
2. Accelerate modernization of allied ground forces, and create more allied ground combat forces to provide reserves.
3. Program more U.S. Army ground combat forces. The Office of the Assistant Secretary of Defense for Program Analysis and Evaluation believes that, in the context of further examining NATOs combat/support mix, follow-on analysis should consider ways to reduce U.S. Army support, especially general support and reserve support, to provide more combat units.
4. Program increased armor/mechanization for current U.S. Army infantry forces, and upgrade U.S. reserves.
5. Place increased emphasis on strengthening NORTHAGs defenses through combined U.S. and allied force improvements.
6. To the extent feasible in peacetime, West German terrain should be prepared to assist NATOs forces in conducting a forward defense.
7. Program resources to ensure NATO tactical air forces are survivable, and have sufficient air base and support structure to provide high sortie rate capabilities.
8. Stress effective Pact air defense suppression.
9. Improve NATO's capabilities for dealing with electronic and chemical warfare.

NOMINATIONS TO FEDERAL COURTS

Mr. LEAHY. Mr. President, on April 14, the Judiciary Committee reported favorably on seven nominations to the Federal courts. These nominees were examined at committee hearings held on March 24, 1988, at which I presided, and March 28, 1988, at which Senator HEFLIN presided. For the benefit of Senators who will soon vote on whether to confirm these nominations, I offer the following brief summaries of the nominees' qualifications, and of the testimony elicited at the hearings.

First, David Ebel of Colorado has been nominated to the U.S. Court of Appeals for the Tenth Circuit. Mr. Ebel has spent his 23-year career with the Denver firm of Davis, Graham & Stubbs, focusing until recently on civil litigation. Before that, he served for a year as a law clerk to Justice White on the Supreme Court. Mr. Ebel is 47 years old, and is a graduate of Northwestern University and the University of Michigan School of Law. Most of the comments the committee received concerning his reputation in the Denver legal community were favorable, and he was rated well qualified by the ABA committee—a minority thought him exceptionally well qualified.

At the hearing on March 24, the nominee was introduced by Senators ARMSTRONG and WIRTH. He was then questioned on the following subjects: first, why he switched to a corporate—office—practice 3 years ago but now wants to get back into the litigation area as a judge; second, what he gleaned from his Court clerkship about the proper role of a circuit judge; third, his view of proper judicial temperament; fourth, his views on due process and the doctrine of stare decisis; and fifth, the nature of his litigation practice.

Second, Kimba Wood has been nominated to the U.S. District Court for the Southern District of New York. She is 44, and has spent most of her career with the New York firm of LeBoeuf, Lamb, Leiby & MacRae. She has handled a good deal of extremely complex civil litigation, particularly in the fields of antitrust and products liability. Ms. Wood is a graduate of Connecticut College, Harvard Law School, and the London School of Economics. She appears to be well regarded in the legal community in New York, and was rated qualified by the ABA committee.

At the hearing on March 24, Ms. Wood was introduced by Senator D'AMATO. She was then questioned on the following subjects: first, her lack of trial experience; second, her lack of criminal law experience; and third, what conflicts might be posed by her representation of Lloyds of London in a major insurance antitrust case. Ms. Wood also responded to written questions submitted after the hearing about her involvement in bar association activities, her approach to managment of complex litigation, and the ability of courts to handle mass tort claims.

Third, Lowell Reed has been nominated for the U.S. District Court for the Eastern District of Pennsylvania. He is 57 and has spent almost his entire legal career with the Philadelphia firm of Rawle & Henderson, concentrating in the defense of worker's compensation, products liability, medical malpractice, and toxic tort cases. Mr. Reed is a graduate of the University of Wisconsin and Temple University School of Law. He appears to be well regarded in the Philadelphia legal community, and was rated well qualified by the ABA committee.

At the hearing on March 24, Mr. Reed was introduced by Senators HEINZ and SPECTER. He was then questioned on the following subjects: first, his lack of criminal law experience; second, the transition from being an advocate, always for one side, to being a judge; third, his understanding of the doctrine of stare decisis; and fourth, his participation in a case that resulted in an overhaul of the Pennsylvania workers' compensation statute.

Fourth, Jack Camp, Jr., has been nominated to the U.S. District Court for the Northern District of Georgia. Mr. Camp has been in private practice in Newnan, GA, since 1975, concentrating on commercial litigation and also representation of municipalities. Before that, he was an associate with a firm in Birmingham, AL. He is 44 years old, and holds an undergraduate degree from the Citadel and graduate and law degrees from the University of Virginia. He appears to be well regarded by the legal community in his area; a majority of the ABA committee rated Mr. Camp qualified, and minority found him well qualified.

At the hearing on March 24, Mr. Camp was introduced by Senator FOWLER. He was then questioned on the following subjects: first, his strong record of pro bono work; second, his relative lack of experience with Federal statutory law; third, the approach he would take to financial and other conflicts of interest he might face as a judge; and fourth, the fact that he recently resigned from the local Elks lodge—which does not admit women—out of sensitivity to the ABA Code of Judicial Conduct.

Fifth, Bernard Friedman has been nominated to the U.S. Distict Court for the Eastern District of Michigan. The nominee has been a judge of Michigan's 48th district court since 1982, and before that was in private practice for 12 years, specializing in municipal law and labor law. He is 44 years old, and is a graduate of Detroit Institute of Technology and the Detroit College of Law. Judge Friedman appears to be well respected by the legal community in his area, and was rated well qualified by a majority of the ABA committee—a minority rated him qualified.

At the hearing on March 28, Judge Friedman was introduced by Senators RIEGLE and LEVIN. He was then questioned on the following subjects: first, a recusal motion that he signed in a controversial case challenging the Detroit Police Department's affirmative action plan—the trial judge wrote a strongly worded opinion rebuking the motion as "racial judge shopping"; second, his lack of experience with Federal law; third, his approach to financial conflicts of interest; fourth, his involvement in educating the public about law; and fifth, his views of judicial activism and the doctrine of stare decisis.

Sixth, Emilio Garza has been nominated to the U.S. District Court for the Western District of Texas. The nominee has been a judge of Texas' 225th District Court since April of 1987. For 11 years before that, he was in private practice, specializing in insurance defense litigation. He is 40 years old, and is a graduate of the University of Notre Dame and the University of Texas School of Law. He appears to be highly regarded by the legal community in the San Antonio area, and received a unanimous qualified rating from the ABA committee.

At the hearing on March 28, Judge Garza was introduced by Senator GRAMM. He was then questioned on the following subjects: first, his lack of criminal law experience; second, his involvement in a local Hispanic organization; third, his participation in a committee dealing with ethical issues posed in the treatment of seriously ill children; fourth, the difficulty of shedding a defendant's bias on the bench; and fifth, his view of a judge's responsibility to follow the Constitution when it conflicts with personal preferences.

Seventh, Thomas Zilly has been nominated to the U.S. District Court for the Western District of Washington. The nominee has spent his 26-year legal career with a large Seattle law firm, where his litigation practice has ranged from the defense of professional liability lawsuits—for example, legal malpractice—to securities, State tax, consumer and commercial litigation. He is 53 years old, and is a graduate of the University of Michigan and Cornell Law School. He is generally well regarded by his peers and colleagues, and was rated well qualified by a majority of the ABA committee—a minority found him qualified.

At the hearing on March 28, Mr. Zilly was introduced by Senators EVANS and ADAMS. He was then questioned on the following subjects: first, his lack of criminal law experience; second, his extensive activities in the organized bar; third, his perspective on professional responsibility, as one who has frequently defended legal malpractice cases; fourth, his ongoing concern with bringing more members of racial minorities into the practice of law; fifth, his pro bono activities; and sixth, his views on judicial activism and proper judicial temperament.

Mr. President, the recent action of the Judiciary Committee in approving these nominees brings to 70 the number of Federal court nominations that have been reported to the Senate during this Congress. These nominations, like all the others previously reported, have been thoroughly and fairly considered by the Judiciary Committee. As to the pace of nominations processing, I would note that these seven nominations were made to fill vacancies which existed for an average of 9 months prior to nomination. The committee has acted on these nominations, on the average, about 3 months after the nominations were made. Thus, on average, about three-quarters of the vacancy period for each of these nominations is attributable to the executive branch rather than to the Senate. These facts conform to the pattern established throughout this Congress, which demonstrates that the real bottleneck in the process of filling vacancies on the Federal courts is located within the executive branch, not the Senate.

Mr. BYRD. Mr. President, I yield the floor.

Mr. ROCKEFELLER. I thank the majority leader. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the committee substitute as amended.

The committee substitute as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1518) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methanol and Alternative Fuels Promotion Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline;

(4) conversion of a portion of the transportation fleet of the Nation to methanol and alternative fuels would stimulate development of a domestic coal-to-methanol and methane industry, create jobs, reduce air pollution, and enhance national security;

(5) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum based fuel;

(6) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

(7) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes. Necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from coal-to-methanol industry.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) provide for the appropriate treatment under title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) applicable to methanol, ethanol, and natural gas powered automobiles, and dual fuel automobiles; and

(2) increase the use of methanol, ethanol, and natural gas by consumers and the production of methanol, ethanol, and natural gas powered automobiles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

SEC. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: ", or by methanol mixture, ethanol mixture, or natural gas"; and

(2) by adding at the end thereof the following new paragraphs:

"(15) The term 'methanol mixture' means the mixture of methanol with fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'ethanol mixture' means the mixture of ethanol with fuel, if any, used to operate an ethanol powered automobile.

"(18) The term 'ethanol powered automobile' means an automobile designed to operate on not less than 85 percent ethanol.

"(19) the term 'natural gas' means either natural gas mixture, or any mixture of natural and artificial gas.

"(20) The term 'natural gas powered automobile' means an automobile designed to operate on natural gas.

"(21) The term 'dual fuel automobile' means an automobile which—

"(A) is capable of operating on fuel and on either methanol or ethanol;

"(B) when it operates on either methanol or ethanol, operates as well as or better than when such automobile is operated on fuel for the entire range of mixtures (from 0.0 percent methanol or ethanol to at least 85 percent methanol or ethanol, as appropriate), or is capable of operating on natural gas and on fuel; and

"(C)(i) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent methanol mixture; or (ii) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent ethanol mixture.

The driving range for dual fuel automobiles operating on such methanol mixture or ethanol mixture specified in this paragraph may be lowered by the Secretary after a rulemaking proceeding, if the Secretary determines, as a result of such proceeding, that it is not feasible for such dual fuel automobiles to achieve such driving range, considering economic practicability, safety, and other factors determined by the Secretary to be relevant, but in no event shall the Secretary lower such requirement below 200 miles, based upon the combined EPA city/highway fuel economy.".

(b) Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended by adding at the end the following new paragraphs:

"(4)(A) In any of the consecutive model years beginning with the first model year after model year 1992 in which a manufacturer manufactures dual fuel automobiles and ending with the 10th model year or model year 2005, whichever occurs first, the EPA Administrator shall calculate the manufacturer's average fuel economy under paragraphs (1) and (2) by including as the denominator of the term for each model type of dual fuel automobile the fuel economy calculated pursuant to subsection (d)(4).

"(B) For any model year to which a calculation under subparagraph (A) applies, the EPA Administrator shall calculate the increase in a manufacturer's average fuel economy attributable to dual fuel automobiles by subtracting from the manufacturer's average fuel economy calculated under subparagraph (A) a number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in paragraphs (1) and (2) by including as the denominator for each model type of dual fuel automobile the fuel economy when such automobiles are operated on fuel.

"(C) In any of the first 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel economy, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 1.2 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.5 miles per gallon.

"(D) In any of the second 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel economy, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 0.9 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.1 miles per gallon.

"(E) Not later than January 15, 2000, the Secretary shall, in consultation with the Secretary of Energy and the EPA Administrator, complete and submit to Congress a study of whether the increases permitted in subparagraph (B), as limited by subparagraph (D), should be extended for an additional period of up to 5 consecutive model years beyond the end of the period for which each manufacturer is eligible under subparagraph (A). The Secretary shall include in such study recommendations regarding such increases. If the Secretary determines that such increases should be extended, the Secretary shall, within 120 days after submission of such study, promulgate a rule extending the availability of such increases.

"(5) Notwithstanding any other provision of this subsection, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 miles per gallon to which a manufacturer of dual fuel passenger automobiles would otherwise be entitled in that year pursuant to paragraph (4) shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 miles per gallon.

"(6) Notwithstanding any other provision of this subsection, the average fuel economy of any manufacturer of natural gas powered automobiles or dual fuel automobiles which are capable of being operated on natural gas shall be calculated for a model year as if the vehicles were operated on fuel, if the Secretary of Energy determines, and notifies the Secretary, that entitling any manufacturer in that model year to an increase in average fuel economy calculated under paragraph (4) is likely to result in a significant increase in the average price of natural gas to consumers.".

(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a manufacturer manufactures any model type that is operated on methanol or ethanol, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(B) If a manufacturer manufactures any model type of duel fuel automobile, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. The fuel economy of a dual fuel automobile shall be determined by harmonically averaging (and equally weighting) the fuel economy when operated on fuel and when operated on a methanol or ethanol mixture. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(C) If a manufacturer manufactures natural gas powered automobiles or dual fuel automobiles when operated on natural gas, the fuel economy shall be based on the fuel content of the natural gas. For purposes of this section, 100 cubic feet of the natural gas used to operate such automobiles shall be considered to contain 0.823 gallons equivalent of natural gas. A gallon equivalent of natural gas shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

SEC. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol, ethanol, or natural gas powered automobile, the fuel economy of such automobile when operated on the methanol or ethanol mixture, or natural gas, as the case may be, calculated under section 503(d)(4), multiplied by 15 percent, and

"(v) in the case of a dual fuel automobile, the fuel economy of such automobile calculated under section 503(d)(4), multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

SEC. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol, ethanol, natural gas, and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommended changes in the definition of 'duel fuel automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.".

ELECTRIC VEHICLES

SEC. 7. (a) The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar-powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Congress not later than 1 year after the date of enactment of this Act.

(b) If, as a result of the study conducted under subsection (a) of this section, the Secretary of Transportation and the Secretary of Energy determine that such regulations should be amended or that additional regulations should be promulgated, they shall commence a rulemaking proceeding for such purpose.

CONFORMING AMENDMENT TO THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 8. Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of methanol, ethanol, or natural gas powered automobiles, and the Secretary shall consider dual fuel automobiles to be operated exclusively on gasoline.".

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, I want to thank a number of people. This idea actually started back with Senator Jack Danforth, of Missouri. He put a bill not entirely like this one, but similar to this one, before the Commerce Committee in 1985. Senator Pete Wilson has been crucial in the passage of this bill. Senator Tom Daschle has been very helpful in a different way. There has traditionally been kind of a conflict between methanol and ethanol, and Tom Daschle and I decided at the beginning of this procedure over a year ago that we were going to cooperate; that the Senator from South Dakota and the Senator from West Virginia would cooperate as between ethanol and methanol, and I think that has been the difference.

There is no question that Senator Robert Stafford, of Vermont, is due great and extraordinary thanks, at least on my part. He could have caused a longer discussion today had he chosen to do so. His views, which are always in the interests of his State and his country, are strongly held, and he has done as much or more for the environment of this country as any person in this body. Probably more.

I also want to thank Senator Byrd, the majority leader, and his staff, both here on the floor and elsewhere, who contributed enormously toward making this possible.

I then want to thank Paul Joffe of my staff for the excellent job that he has done and William Ichord, formerly of my staff, for the excellent job he did when he was on my staff. I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

SCIENCE AND ENGINEERING INDICATORS—1987 MESSAGE FROM THE PRESIDENT—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to submit to the Congress a report of the National Science Board entitled *Science and Engineering Indicators—1987*. This report is the eighth in a continuing series in which important aspects of the status of American science and engineering are examined.

The importance of scientific and engineering research to the well-being of our Nation is widely recognized. Science and engineering play a vital role in maintaining our Nation's defense, improving its health, and increasing its economic productivity.

I commend *Science and Engineering Indicators—1987* to the attention of the Congress and those in the scientific endeavor.

Ronald Reagan.

The White House, *April 15, 1988.*

ANNUAL REPORT OF THE FEDERAL COUNSEL ON AGING—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 204(f) of the Old Americans Act of 1965, as amended, I hereby transmit the Annual Report for 1987 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

Ronald Reagan.

The White House, *April 15, 1988.*

ANNUAL REPORT OF THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I am pleased to transmit herewith the 22nd Annual Report of the National Endowment for the Humanities covering the year 1987.

Ronald Reagan.

The White House, *April 15, 1988.*

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary:

David M. Ebel, of Colorado, to be U.S. circuit judge for the Tenth Circuit;

Jack T. Camp, Jr., of Georgia, to be U.S. district judge for the Northern District of Georgia;

Kimba M. Wood, of New York, to be U.S. district judge for the Southern District of New York;

Lowell A. Reed, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania;

Bernard A. Friedman, of Michigan, to be U.S. district judge for the Eastern District of Michigan;

Emilio M. Garza, of Texas, to be U.S. district judge for the Western District of Texas; and

Thomas S. Zilly, of Washington, to be U.S. district judge for the Western District of Washington.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON:

S. 2290. A bill to temporarily suspend the duty on piperonyl butoxide; to the Committee on Finance.

By Mr. ARMSTRONG:

S. 2291. A bill to amend the Internal Revenue Code of 1986 to require a majority of employees to approve the establishment of an employee stock ownership plan, and for other purposes; to the Committee on Finance.

By Mr. DeCONCINI (for himself, Mr. Thurmond, Mr. D'Amato, Mr. Dixon, Mr. Cranston, Mr. Trible, Mr. Graham, Mr. Wilson, Mr. Hecht, Mr. Specter, Mr. McCain, Mr. Packwood, Mr. Symms, Mr. McConnell, Mr. Karnes, Mr. Heflin, and Mr. Cochran):

S.J. Res. 295. A joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day"; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 296. A joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI (for himself, Mr. THURMOND, Mr. D'AMATO, Mr. DIXON, Mr. CRANSTON, Mr. TRIBLE, Mr. GRAHAM, Mr. WILSON, Mr. HECHT, Mr. SPECTER, Mr. MCCAIN, Mr. PACKWOOD, Mr. SYMMS, Mr. MCCONNELL, Mr. KARNES, Mr. HEFLIN, and Mr. COCHRAN):

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day"; to the Committee on the Judiciary.

NATIONAL D.A.R.E. DAY

● Mr. DECONCINI. Mr. President, today I am thrilled to have the opportunity to introduce a joint resolution which designates September 15, 1988, as "National D.A.R.E. Day." D.A.R.E. is an acronym for Drug Abuse Resistance Education, a semester long program which teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol. The D.A.R.E. program was originally developed in Los Angeles by Police Chief Darrel Gates as a cooperative effort between the LA Police Department and the Unified School District. It is now being taught in more than 495 communities in 37 States. Additionally, a pilot program is being tested for use internationally in the Department of Defense Dependent Schools. To date, almost 1.5 million students have participated in the D.A.R.E. program with an estimated 500,000 additional students expected to be reached in 1988-89.

The D.A.R.E. program is also provided to kindergarten and junior high school students and their parents. The program has proven effective because it targets children who are young enough in that they have not received maximum exposure to illegal drugs, yet are old enough to fully comprehend the dangers of drug use. In my State of Arizona we now have 32 separate agencies that are involved in the D.A.R.E. program, and 74 certified officers. During this school year alone these officers will reach over 19,000 students in 120 public schools. These numbers are even more significant when you consider that this is a 17-lesson series, taught once a week over the course of an entire semester.

D.A.R.E. is a program that deserves national recognition because it is a program that is working. An evaluation done by the U.S. Department of Justice reveals great enthusiasm among school principals and teachers who say that D.A.R.E. students are less accepting of substance use and better prepared to deal with peer pressure as a result of the drug education lessons. Moreover, educators are finding that, because D.A.R.E. students get to know police officers in a positive and nonpunitive role, they develop a greater respect for both the law and law enforcement personnel.

The most exciting result of the D.A.R.E. program is the effect that it is having on the attitudes of our Nation's young people. As we all know, the root of the illicit drug problem in the United States is not the narcotics trafficker; it is not the addictive effect of drugs; it is the attitude of acceptance toward drugs that has permeated the minds of all too many Americans. If our attitudes were to change, then narcotics traffickers, dealers, and producers would be powerless to stop the tide of drug abuse from receding from our shores.

Thanks to program D.A.R.E., attitudes are changing. The National Institute for Justice reports that students who received D.A.R.E. in the sixth grade, compared with students who had no exposure to it, indicated significantly lower substance use since graduation from the sixth grade. These students also showed greater improvement, compared with non-D.A.R.E. students, in grades for work habits and cooperation during their first semester in junior high school. Beyond that, D.A.R.E. students were also more likely to use effective refusal strategies emphasized by the D.A.R.E. curriculum.

In the 1988 Omnibus Anti-Drug-Abuse bill, which Senator D'AMATO and I introduced on March 23, we have committed ourselves to a war on drugs that is fought on all fronts. In the area of drug education specifically, we have taken giant steps in providing accountability by setting up a system of review that studies the progression of drug education programs. Fortunately, what we have in D.A.R.E. is a program that is progressing rapidly and consistently. It is my hope that we will give D.A.R.E. the recognition it deserves, in order that it may grow, strengthen, and improve to meet the challenge of a drug epidemic.●

● Mr. THURMOND. Mr. President, The D.A.R.E. program, by educating America's youth on the dangers of drugs, is performing a vital function in our society. We have a much better chance of putting a stop to the terrible toll that drugs are taking on our society if we curb drug interest before it has a chance to start. This program is not only helping to accomplish this, but it is also bettering students' attitudes toward school, their communities and their local police. I believe in this program and its implementation into school systems in every State. Only if we act now can we have hope for a drug free America in the future.

By declaring September 15, 1988, as National Dare Day we can all help to end drug abuse by focusing public attention on outstanding drug education programs such as D.A.R.E.●

By Mr. SHELBY:

S.J. Res. 296. Joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month"; referred to the Committee on the Judiciary.

NATIONAL OUTDOOR POWER EQUIPMENT SAFETY MONTH

● Mr. SHELBY. Mr. President, today, I am introducing legislation of a timely and specific nature that would designate April as "National Outdoor Power Equipment Safety Month."

America's most precious resource is its people. And therefore, I feel it is imperative that we proclaim the month of April as a time of the year to heighten safety awareness among the 59.5 million U.S. households that use outdoor power equipment to mow their lawns, till their gardens and maintain their yards.

I am certain that many of us here today maintain our yards and gardens with these nonportable gas and electric powered lawn and garden maintenance products such as walk-behind and riding lawnmowers, garden tractors, rotary tillers, rotary snow throwers, lawn edger-trimmers, shredder-grinders, lawn vacuums and leaf blowers. However, it is also likely that many of us do not follow all safe operating procedures when using these powerful machines. In fact, the vast majority of our American people do not follow all safe operating procedures, nor do they realize the vital importance of safety as it relates to outdoor power equipment.

Since its inception in 1952, the Outdoor Power Equipment Institute [OPEI], a national trade association whose members manufacture about 95 percent of these nonportable gas and electric lawn and garden maintenance products, has been concerned with safety. The OPEI has implemented a number of safety education programs for manufacturers, retailers, consumers, schools and community groups. However, many outdoor power equipment injuries still result from inappropriate operator behavior.

Therefore, I am introducing what I think is an important and significant vehicle to help make America's millions of outdoor power equipment users more aware of the necessity of safety, as it relates to outdoor power equipment. So I ask you to consider the safety of Americans and the need to make them more aware of the importance of outdoor power equipment safety. I urge the support of my colleagues in designating April as National Outdoor Power Equipment Safety Month.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 296

Whereas maintaining a yard and garden adds to the beauty of real estate, thereby enhancing its value;

Whereas gardening and yard maintenance are productive activities that instill in all Americans a greater appreciation for nature and for the beauty of this country, an appreciation which fosters respect and care for the environment;

Whereas approximately 59,500,000 Americans maintain yards with the aid of outdoor power equipment, such as lawn mowers, tractors, garden tractors, tillers, snow throwers, shredders, log splitters, vacuums, and blowers;

Whereas inappropriate and unsafe behavior by operators of outdoor power equipment is the major cause of accidents involving such equipment;

Whereas regular maintenance and safe operation of outdoor power equipment is vital to the health and safety of operators and bystanders alike;

Whereas educational programs that increases awareness of how to safely operate outdoor power equipment can help reduce inappropriate and unsafe behavior by operators, and thus reduce the number of accidents caused by such behavior;

Whereas safety is a top priority of the Outdoor Power Equipment Institute (OPEI), a national association of 70 outdoor power equipment manufacturers whose products account for approximately 95 percent of the consumer sales of outdoor power equipment in the United States;

Whereas OPEI member companies work diligently to comply with nationally recognized, voluntary safety standards and with Federal regulations in producing their products and by providing consumers with appropriate precautionary literature upon their purchase of outdoor power equipment;

Whereas further information, further education, and national support are necessary to focus consumer attention more fully on the importance of taking appropriate safety precautions while operating and while in the presence of outdoor power equipment; and

Whereas by designating a special month to promote the safe operation of outdoor power equipment, Congress can help draw the Nation's attention to the potential dangers of unsafe operation of outdoor power equipment and to precautions that can be taken to eliminate such dangers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "National Outdoor Power Equipment Safety Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 612

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. MCCAIN], the Senator from Tennessee [Mr. GORE], the Senator from Tennessee [Mr. SASSER], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 675

At the request of Mr. MITCHELL, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 702

At the request of Mr. SIMON, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 1347

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1347, a bill to facilitate implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

S. 1393

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation and for other purposes.

S. 1616

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1616, a bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to provide long-term home care benefits under the medicare program for chronically ill individuals and children, to provide quality assurance for home care services, and for other purposes.

S. 1892

At the request of Mr. DIXON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1892, a bill to amend title 10, United States Code, and other provisions of law to maintain and improve the defense industries base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources.

S. 2024

At the request of Mr. BAUCUS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2083

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was withdrawn as a cosponsor of S. 2083, a bill to ensure that certain railroad retirement benefits paid out of the dual benefits payments account are not reduced, and for other purposes.

S. 2167

At the request of Mr. METZENBAUM, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

S. 2187

At the request of Mr. WALLOP, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2187, a bill to amend the Internal Revenue Code of 1986 to allow refundable credit against tax to taxpayers for dependents who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, and to repeal the credit for expenses for child care services necessary for gainful employment for expenses with respect to such dependents.

S. 2205

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. LEAHY], the Senator from Montana [Mr. MELCHER], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alabama [Mr. SHELBY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. Exon], the Senator from Kentucky [Mr. Ford], the Senator from Michigan [Mr. Riegle], the Senator from Louisiana [Mr. Johnston], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Arkansas [Mr. Pryor] were added as cosponsors of S. 2205, a bill to enact the Omnibus Anti-drug Abuse Act of 1988, and for other purposes.

At the request of Mr. DeConcini, the name of the Senator from Wisconsin [Mr. Proxmire] was withdrawn as a cosponsor of S. 2205, supra.

S. 2231

At the request of Mr. Kennedy, the names of the Senator from Maryland [Mr. Sarbanes] and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 2231, a bill to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such act, and for other purposes.

S. 2255

At the request of Mr. Durenberger, the names of the Senator from Hawaii [Mr. Inouye] and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of S. 2255, a bill to establish a program of demonstration projects, funded from the Federal hospital insurance trust fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly medicare beneficiaries residing in rural areas.

S. 2282

At the request of Mr. Reid, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 2282, a bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes.

SENATE JOINT RESOLUTION 271

At the request of Mr. Quayle, the names of the Senator from Maine [Mr. Cohen], the Senator from New Hampshire [Mr. Humphrey], and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 282

At the request of Mr. Hollings, the name of the Senator from Nebraska [Mr. Exon] was added as cosponsor of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. McCain, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries for the purpose of resolving specific issues between the countries.

AMENDMENTS SUBMITTED

INTEGRITY IN POST-EMPLOYMENT ACT

THURMOND (AND OTHERS) AMENDMENT NO. 1946

Mr. THURMOND (for himself, Mr. Metzenbaum, Mr. Levin, and Mr. Specter) proposed an amendment, which was subsequently modified, to the bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Integrity in Post Employment Act of 1988".

SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT PROVISIONS OF SECTION 207 OF TITLE 18.

(a) Offense.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former executive and legislative branch employees

"(a) Lifetime Prohibition on Executive Branch Employees.—It shall be unlawful for any former officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(b) Two-Year Prohibition on Executive Branch Employees.—It shall be unlawful for any former officer or employee described in subsection (a), within 2 years after that former officer's or former employee's employment has ceased—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States, by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under the former officer's or former employee's official responsibility within 1 year prior to the date that former officer or employee ceased employment.

"(c) Prohibitions on Executive and Legislative Branch Employees.—It shall be unlawful for any person, other than a special Government employee who has served no more than 60 days in the immediately preceding 365 consecutive days—

"(1) having been employed as a senior official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, commission, or legislative entity (or any member, officer, or employee thereof) in which the person served during the 1 year prior to the termination of such employment as an officer or employee;

"(2) having been employed as a high level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, or commission of the executive branch, (including any independent agency of the United States, or any officer or employee thereof;)

"(3) having been employed as a top level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive, legislative, or judicial branch of the United States, including any independent agency of the United States, or any member, officer, or employee thereof; or

"(4) having been employed as a senior, high level, or top level official, within 18 months after such employment has ceased, to be employed by, represent, or advise a foreign entity for compensation, financial gain, or other remuneration.

For the purposes of paragraph (1), the legislative entity in which a person served is the Senate, if the person was employed by the Senate, or the House of Representatives, if the person was employed by the House of Representatives.

"(d) Agents Communicating on Behalf of a Former Officer or Employee.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

"(e) Coverage.—

"(1) Individuals covered.—For purposes of the coverage of subsections (a), (b), and (c) of this section—

"(A) the term 'senior official' means any officer or employee of the United States other than those of the judicial branch who is not a high level or top level official (including officers and employees of the legislative branch and officers and employees, including special Government employees, of the executive branch, including any independent agency, commissions, Government corporations, independent establishments as defined in section 104 of title 5, the Postal Service, the Postal Rate Commission, and the District of Columbia), who is—

"(i) compensated at the basic rate of pay for GS-16 of the General Schedule as prescribed in section 5332 of title 5, or at a comparable or greater rate of pay under other authority, including positions listed under sections 105(a)(2)(C) and (D) and 106(a)(1)(C) and (D) of title 3; or

"(ii) on active duty as a commissioned officer of a uniformed service and assigned to a pay grade of 0-7 or above as prescribed in section 201 of title 37;

"(B) the term 'high level official' means any officer or employee of the executive branch of the United States, including any independent agency, who is not a senior or top level official and who holds a position listed in section 5314 of title 5 or under sections 105(a)(2)(B) and 106(a)(1)(B) of title 3, or who is paid at a comparable rate of pay under other authority;

"(C) the term 'top level official' means—

"(i) any officer or employee of the executive branch of the United States, including any independent agency, who holds a position listed in section 5312 or 5313 of title 5 or under sections 105(a)(2)(A) and 106(a)(1)(A) of title 3, or is paid at a comparable rate of pay under other authority; or

"(ii) any Member of Congress, including Delegates and Resident Commissioners.

"(2) Exceptions.—(A) The prohibitions of subsections (a), (b), and (c) shall not apply to any person—

"(i) who is an elected official of a State or local government and whose actions are on behalf of such government;

"(ii) who is engaging solely in the solicitation or collection of funds and contributions within the United States to be used only for medical assistance, food or clothing to relieve human suffering, in accordance with subchapter II of chapter 9 of title 22, and any rules and regulations prescribed thereunder;

"(iii) whose actions are solely for the purpose of furnishing scientific or technological information if the head of the agency concerned with the particular matter, in consultation with the Office of Government Ethics, or the head of the legislative entity concerned with the particular matter, certifies that the person has outstanding qualifications in a technical discipline regarding the particular matter and that the national interest is served by the participation of such person, and publishes such certification in the Federal Register or, in the case of a legislative entity, in the Congressional Record; or

"(iv) who is providing a statement which is based on that person's special knowledge, provided that no compensation is received for such statement other than that regularly provided by law or regulation for witnesses.

"(B) The prohibitions of subsection (c) shall not apply to any person—

"(i) who is employed by—

"(I) an agency or instrumentality of a State or local government;

"(II) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965; or

"(III) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954,

and whose actions are on behalf of such agency, instrumentality, institution, hospital, or organization;

"(ii) who is appearing as an attorney or representative in a judicial proceeding before a court of the United States, provided that the department, agency, commission, or legislative entity having employed such person in the 12 months preceding the person's initial appearance in such proceeding, is not a party to, or otherwise involved in, such proceeding; or

"(iii) representing an international organization of which the United States is a member.

For the purposes of clause (ii), appearing in a judicial proceeding shall mean, in a civil case, participating in the case following the filing of a complaint; and, in a criminal case, participating in a matter on behalf of a person who has been the subject of an arrest, warrant, information, indictment, or grand jury investigation by the United States.

"(3) Special rules for detailees.—For purposes of this section, a person covered by this section who is detailed from one department, agency, or other entity to another department, agency or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies or such entities.

"(f) Penalties and Remedies for Violations.—

"(1) Criminal sanction.—Any person who engages in conduct prohibited by subsection (a), (b), or (c) shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both. Any person who corruptly engages in such prohibited conduct shall be fined not more than $250,000 or imprisoned for not more than 5 years, or both.

"(2) Civil recovery.—The United States may bring in addition to or in lieu of subsection (f)(1) above, a civil action in any United States district court against any person upon proof by a preponderence of the evidence who engages in conduct prohibited by subsection (a), (b), (c), or (d) and may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within 6 years of the later of (A) the date on which the prohibited conduct occurred, and (B) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.

"(3) Administrative action.—Upon finding, after notice and opportunity for a hearing, that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) the head of the department, agency, or commission of the executive branch, including any independent agency, before which the prohibited conduct occurred, may prohibit that person from representing anyone other than the United States before such department, agency, or commission, for a period not to exceed 5 years, or may take other appropriate disciplinary action. Any such disciplinary action shall be subject to review in a United States district court. Departments, agencies, or commissions shall, in consultation with the Director of the Office of Government Ethics, establish procedures and issue regulations to carry out this subsection.

"(4) Injunctive relief.—Upon a showing that a person has engaged or will engage in conduct prohibited by subsection (a), (b), (c), or (d) of this section, the United States may obtain an injunction to stop or prevent such conduct.

"(g) Partners of an Officer or Employee.—Whoever, being a partner of an officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with the intent to influence makes any oral or written communication on behalf of any other person other than the United States to, any department, agency, court, or commission of the United States or the District of Columbia in connection with a particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee, shall be fined not more than $10,000, or imprisoned for not more than one year, or both.

"(h) Testimony.—Nothing in this section shall prevent a person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) Defense.—In action under subsection (c) of this section, it is an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving or the expectation of receiving, directly or indirectly, any compensation, financial gain, or remuneration.

"(j) Definitions.—For purposes of this section—

"(1) The term 'foreign entity' includes—

"(A) the government of a foreign country as defined in section 611(e) of title 22;

"(B) a foreign political party as defined in section 611(f) of title 22; and

"(C) a foreign organization substantially controlled by a foreign country or foreign political party.

"(2) The term 'particular matter' includes, but is not limited to, any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, judicial or other proceeding.

"(3) The term 'participated personally and substantially' means an action taken as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.".

(b) Technical Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former executive and legislative branch employees.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) be effective nine months after the date of enactment of this Act; and

(2) apply to any Member or employee of Congress or employee or officer of the Federal Government, other than those of the judicial branch, employed by any agency, department, or entity of the Federal Government on or after nine months after the date of enactment of this Act.

SEC. 4. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or person is not affected thereby.

RUDMAN AMENDMENTS NOS. 1947 THROUGH 1949

Mr. RUDMAN proposed three amendments to amendment No. 1945 proposed by Mr. Thurmond (and others) to the bill S. 237, supra; as follows:

Amendment No. 1947

On page 10, line 14, strike all through line 21 and insert in lieu thereof "or".

On page 10, line 24, strike all through page 11, line 5.

On page 5, line 19, strike ", legislative, or judicial" and insert in lieu thereof "or legislative".

Amendment No. 1948

At the end of the amendment add the following new section:

"Sec. . Section 208 of title 18, United States Code, is amended by adding the following new paragraph:

'(c) Any Member of the House or Senate who shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such firm, partnership, association or corporation; or (3) practice a profession for compensation shall be fined not more than $10,000 or imprisoned not more than two years, or both. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.'.".

Amendment No. 1949

At the end of the amendment add the following new section:

"Sec. 8. Section 439a of title 18, United States Code, is amended by striking all beginning with 'with respect to' through 'January 8, 1980,'.".

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT

ROCKEFELLER AMENDMENT NO. 1950

Mr. ROCKEFELLER proposed an amendment to the bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes; as follows:

On page 23, strike lines 1 through 12.

CHAFEE AMENDMENT NO. 1951

Mr. DANFORTH (for Mr. Chafee) proposed an amendment to the bill S. 1518, supra; as follows:

On page 12, line 22 strike "and".

On page 13, line 2 strike the period and insert in lieu thereof ";".

On page 13, following line 2 insert the following new paragraphs:

"(5) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum based fuel;

"(6) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

"(7) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes. Necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.".

STAFFORD AMENDMENT NO. 1952

Mr. STAFFORD proposed an amendment to the bill S. 1518, supra; as follows:

SEC. 2. FINDINGS.

On page 12, line 25 strike "would" and insert in lieu thereof "could".

On page 13, line 2 strike the period and insert in lieu thereof "; and";

On page 13, following line 2 insert the following new paragraphs:

"(8) the amount of carbon dioxide released in the production, distribution, and end use of methanol from a coal-to-methanol industry using currently available technologies has been estimated to be 60 to 100 percent greater than the amount released in the production, distribution, and end use of a comparable quantity of petroleum based fuel;

"(9) carbon dioxide is a 'greenhouse gas' that contributes significantly to uncontrolled and unacceptable global climate change;

"(10) technologies must be developed to eliminate the increased carbon dioxide emissions that result from the production, distribution, and end use of methanol from a coal-to-methanol industry prior to the use of such methanol as a fuel for any portion of this Nation's transportation fleet for purposes other than research, development and demonstration; and,

"(8) technologies exist, and should be applied, to control emissions of formaldehyde, methanol, and trace constituents of methanol from vehicles and engines."

On page 13, line 9 strike "and" and on page 13, line 12 strike the period and insert in lieu thereof "; and", and insert the following new language:

"(3) control emissions of air pollutants, including but not limited to, carbon dioxide, formaldehyde, methanol, and trace constituents emitted as a result of methanol production or combustion.".

On page 14, line 3 insert the following immediately before the period: "and certified by the Administrator of the Environmental Protection Agency to comply with the standards applicable to such vehicles or engines pursuant to the requirements of section 5 of the Methanol and Alternative Fuels Promotion Act".

SEC. 4. MANUFACTURING INCENTIVES FOR AUTOMOBILES.

On page 15, line 23 strike the quotation marks and period at the end of the line.

On page 15, following line 23 insert the following new paragraph:

" '(22) The term 'methanol' does not include coal-to-methanol products unless such methanol is produced, distributed, and used in conjunction with technologies that eliminate emissions of carbon dioxide greater than those associated with the production, distribution, and use of comparable quantities of petroleum-based fuels.".

On page 20, following line 10, insert the following new subsection:

"(d) Effective Date.—Section 4 of the Methanol and Alternative Fuels Promotion Act shall be effective on the effective date of regulations promulgated by the Administrator of the Environmental Protection Agency in accordance with section 5 of this Act.".

On page 20, line 11, insert a new section as follows and renumber succeeding subsections accordingly:

"ENVIRONMENTAL PROTECTION

"Sec. 5. (a) Not later than July 1, 1989, the Administrator of the Environmental Protection Agency shall promulgate standards under section 202 (a)(1) of the Clean Air Act requiring reductions in emissions from methanol-fueled vehicles and engines manufactured for installation in vehicles manufactured during and after model year 1992 of (i) formaldehyde and other aldehydes (ii) methanol and other hydrocarbons and (iii) trace constituents, including but not limited to heavy metals. Such standards shall require the application of the best technology which the Administrator determines is available, taking into account safety factors associated with any such technology. Such standards shall also apply to existing vehicles and engines which are converted to the use of methanol as a fuel. Each such new or converted vehicle shall, at a minimum, meet the emission standards applicable under section 202 of the Clean Air Act to gasoline-fueled vehicles of the same year, make and model.

"(b)(1) Not later than January 1, 1989, the Administrator shall, based on field testing of a significant number of in-use vehicles and engines fueled by methanol (both coal and non-coal derived) as well as petroleum based fuels, report to the Congress on the following:

"(A) the emissions from such vehicles of carbon monoxide (both at sea level and high altitude), carbon dioxide, oxides of nitrogen, hydrocarbons (both methane and non-methane), aldehydes, particulates and trace constituents;

"(B) the availability and efficiency of control technologies and techniques for such vehicles and engines; and,

"(C) the differing emissions patterns or characteristics of vehicles or engines depending according to engine type and use, driving cycle, age, maintenance and fuel type.

"(2) Not later than July 1, 1989, the Administrator shall promulgate regulations pursuant to section 211 of the Clean Air Act, based on the report submitted pursuant to paragraph (1) and such other information as the administrator deems appropriate, establishing standards for such fuels to reduce emissions of the pollutants listed in paragraph (1) and other such pollutants which in the Administrator's judgment may reasonably be anticipated to endanger human health, welfare or the environment.

"(c) Not later than January 1, 1990, the Administrator shall establish standards applicable to coal-to-methanol conversion facilities which began or increased production after April 1, 1988. Such standards shall require each such facility to employ the best available technology to minimize emissions of carbon dioxide and eliminate emissions greater than those associated with the production, distribution and use of comparable quantities of petroleum based fuels. Such standards may be made applicable by the Administrator to such other non-coal fuel facilities, whether petroleum or otherwise, if such standards would enhance protection of human health, welfare or the environment.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND LEGISLATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Friday, April 29, 1988, at 9:30 a.m. in SR332 to receive testimony on the reauthorization of the Federal Grain Inspection Service. Senator CONRAD will preside.

For further information, please contact Suzy Dittrich of the subcommittee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the committee on finance be authorized to meet during the session of the Senate on April 15, 1988, to continue hearings on the U.S.-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, April 15, 1988, to hold hearings on Organized Crime: 25 Years After Valachi.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence be authorized to meet during the session of the Senate on Friday, April 15, 1988, in closed session to receive testimony on the B-1B test plan and program mandated by the Fiscal Year 1988 Authorization Act, and the success to date in meeting test objectives, in review of the amended Fiscal Year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the subcommittee on Strategic Forces and Nuclear Deterrence of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Friday, April 15, 1988, in open and possibly closed session to receive testimony on the pace and direction of the strategic defense initiative, and compliance with the ABM treaty, in review of the amended Fiscal Year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO BOBBY CLARK

● Mr. LEAHY. Mr. President, I was elected to the U.S. Senate in 1974. That same year, Robert E. Clark of Essex Junction was elected president of the Vermont State Labor Council [AFL-CIO].

The elections themselves are coincidental to our personal friendship, but I have always viewed their concurrence as a timely stroke of good fortune.

I was involved in a very close election that year—seeking to be the first Democrat ever elected to the U.S. Senate from Vermont.

There were many disbelievers in those days—good friends who tried to dissuade me from setting out on this rather hopeless quest. Bobby Clark was not one of them.

Bobby was one of my most enthusiastic supporters, and he made believers out of many Vermonters who wouldn't have thought my candidacy credible, let alone, winnable.

I won by 4,406 votes, and since Bobby has at least that many close, personal friends, I've always given him credit for making the difference. And what a difference it has been, Mr. President.

I have worked with Bobby Clark for 14 years. Anytime I had a question on labor legislation, Bobby was a friend I could count on for direction. His instincts always sided with working Vermonters and he gave them a voice in Washington.

Bobby was born in Graniteville, VT, on April 25, 1927. He grew up in that strong, union community and enlisted in the Maritime Service at the outbreak of World War II. He served 2½ years as a deck engineer, learning the skills he was to use so effectively in private life.

Upon his honorable discharge from the service, he became a member of the International Union of Operating Engineers. He was only 26 years old when he rose to master mechanic, and in 1961, his organization skills led to his appointment as a business representative assigned to the Vermont office of local 98.

In 1965 he became vice president of local 98 and graduated from the Harvard University Trade Union Program.

In 1969, he was appointed to the board of trustees of the health, welfare, and pension funds, a position he held until he retired in December of last year. I might add, Mr. President, that his son, Chris, replaced him on the board, after following Bobby's footsteps and being appointed to his old post as business representative of local 98.

As president of the Vermont Labor Council since 1974, Bobby has strengthened the council and administered its programs. He has also been editor of the Vermont Labor Reporter, past chairman of the Vermont Housing Authority, chairman of the Chittenden County Democratic Committee, past president of the Champlain Valley Central Labor Council, a member of the Northeastern Governors Conference, vice chairman of the Vermont Apprenticeship Training Council, a member of the Employment Security Advisory Board, and served on the Governor's Blue Ribbon Education Panel and served as a special advisor to Gov. Madeleine Kunin. He has been a delegate to three Democratic National Conventions.

A devoted husband and family man, Bobby married his lovely wife, the former Nini Aja, on September 20, 1947. Besides a son Chris, they have a daughter, Randy-Kay Bechtel and a granddaughter, Sunny-Lyn.

Mr. President, Vermonters are planning a retirement party for Bobby—and I frankly don't know if our State has a hall big enough to handle the crowd, if all his friends are invited. Bobby has touched the lives and improved the fortunes of thousands of Vermonters who love the man and will want to pay tribute to him.

I have read Bobby's biography into the CONGRESSIONAL RECORD, Mr. President—but that does not begin to tell you about the man himself. Leo Durocher's oft-quoted comment "Nice guys finish last" would never have been uttered if Leo and Bobby had met.

Bobby Clark is a close personal friend whose counsel I will sorely miss. My wife Marcelle and I are close friends of the Clarks. Vermont working men and woman will miss him—for no one ever served them better, or with more humility and understanding than this fine gentleman.

We wish Bobby, Nini, and their family well deserved happiness in retirement. Not that this Senator won't hesitate to call Bobby, as he always has, for advice on legislation or some other matter. That's not out of habit Mr. President—but out of friendship to a man who has dedicated his life to improving the lot of the working man.

TRIBUTE TO JOHN B. AMOS

● Mr. HECHT. Mr. President, Forbes magazine, in its January 11, 1988, issue, presented its 40th Annual Report on American Industry, and recognizes Mr. John B. Amos, chairman and chief executive office of the American Family Corp. as "Insurance Executive of the Year."

John Amos has led his company to success in the United States and overseas. In fact, his success in Japan's highly competitive markets is most extraordinary. American Family is incomparably successful in Japan where it insures over 15 percent of the entire Japanese population and is classified as one of the 20 largest insurers in that country. This bold and innovative approach to successful penetration of foreign and domestic markets highlights and exemplifies the brilliant career of this great American. In these tough times of trade and budget deficits we need more people like John B. Amos.

As a friend of John's once said:

You took a hope, a wish, a dream.
And formulated plans
To mold that hope, that wish, that dream.
Into reality * * * a monument to man.
A monument to man's ability
To build for all eternity.
Outlasting plagues and war and strife
You built American Family Life.

Mr. President, John Amos is to be congratulated for his contribution to America and I ask that the Forbes article be printed at this point in the RECORD.

The article follows:

[From Forbes magazine, Jan. 11, 1987]

PATIENT INSURER

In the lexicon of remarkable innovations, consider the achievement of John Amos. The 63-year-old founder and chief executive of Columbus, Ga.-based American Family Corp. took a product that was controversial in the U.S.—cancer insurance—redesigned it and in 1974 shipped it off to Japan, a country with one of the biggest, most well-entrenched insurance industries anywhere. American Family has now emerged as one of the 20 largest insurers in Japan, covering one of every six families. Last year 66% of the company's revenues and 70% of aftertax earnings came from Japan.

Amos' strategy is simple: "Stick to niche marketing and you're not big enough to scare anyone. Then you've got to be patient as Job and figure out how to do things the Japanese way." Back in the Seventies he came up with an idea guaranteed to win favor with the Japanese Ministry of Finance: Use retired Japanese workers to sell his product to their former colleagues. "Their retirement benefits weren't good enough to last them forever, so American Family became a little like their social security," he recalls. American Family now employs about 10,500 mostly retired Japanese workers.

Tragically, Amos himself is currently grappling with lung cancer. But he remains involved in company affairs and has devoted himself in recent weeks to preparing American Family's listing on the Tokyo Stock Exchange. The firm's 25.5% return on equity last year led the major U.S. life insurers, thanks to favorable currency translations and Amos' decision in late 1986 to sell most of his Japanese stockholdings.●

MOTHER'S PEACE DAY

● Mr. LEVIN. Mr. President, on May 5, the Metro Detroit Chapter of Women's Action for Nuclear Disarmament [WAND] will celebrate Mother's Peace Day. The theme this year is "It's Up to the Women," a quote which can be attributed to Eleanor Roosevelt. This is an appropriate title to give to such a day. Women have certainly been at the forefront of the peace movement.

On this special day, Mary Diskin, the director of SANE/FREEZE, a local peace group with 18,000 members, will receive WAND's Peace Day Award. Ms. Diskin is being honored for her contributions toward assuring world peace. In her own words, she feels she has a mission to "help rid the planet of nuclear insanity."

Ms. Diskin grew up near the Strategic Air Command base in Omaha, NE, in the fifties. She lived with the daily fear of destruction. It left its mark on her, and in 1982 she joined FREEZE. In 1986 she coordinated the Michigan section of the U.S. Peace March, and in 1987 she became the coordinator of the Michigan Peace March for Global Disarmament.

Mary Diskin continues to support and work for special projects which promote peace. I congratulate her on receiving this important award and I commend the women of WAND for recognizing her achievements.●

THE PASSING OF WILLIAM C. HUFFMAN

● Mr. McCONNELL. Mr. President, I rise today to express my sorrow upon the death of a community leader and good friend of mine, Mr. William C. Huffman. I came to know Bill when he was the adviser of my fraternity, Phi Kappa Tau, at the University of Louisville.

When Bill passed away on April 8, the community of Louisville and the State of Kentucky lost a selfless, dedicated individual whose contributions to the community included a career at the University of Louisville that spanned four decades. While at the university, he was a professor of business administration, dean of the university college, and vice president of the University of Louisville Foundation, Inc.

But his active participation in campus activities didn't stop there. He developed the program that led to the creation of a master's degree in business education and established the General Electric workshop in economics for the school's summer session. In addition to being a member of the National Adult Education Association, he served as director and president of the American Association of Evening Colleges.

Bill's duties did not exclusively center around the university campus. He served for 6 years as a member of the Louisville and Jefferson County Planning Commission. Other organizations with which he was affiliated include the Advisory Board of Kentucky Educational Television, the Louisville Chamber of Commerce, and the Rotary Club of Louisville.

Bill Huffman was a great man and a dedicated individual who will be sorely missed by all who knew him and by all who benefited from his service to others. Mr. President, I know that my colleagues join me in sending our most sincere condolences to Bill's widow, his daughters, his sister, and his grandchild.●

EVIDENCE FOR THE ADVANTAGES OF REPROCESSING NUCLEAR WASTE

● Mr. HECHT. Mr. President, as I have repeatedly stated here on the floor, in committee, and in other arenas, I am completely opposed to deep geological disposal of unreprocessed high level nuclear waste, in Nevada or anywhere else. Deep geologic disposal will be terribly expensive, and has never been proven safe anywhere in the world. The way to handle high level nuclear waste is to reprocess it, recycle it, put it right back into conventional nuclear reactors and burn it for energy.

When the budget reconciliation bill containing the nuclear waste amendments first passed the Senate last November I opposed it. Nevertheless, the bill contained 17 amendments which I authored. Two of these amendments required the Energy Department to analyze the advantages and any disadvantages of reprocessing nuclear waste, both as a waste management practice and an energy conservation measure.

The first amendment required the Energy Department to immediately perform a series of analyses on the economics of reprocessing spent fuel that had aged for different periods of time. In many extensive discussions with prominent nuclear scientists all around the world I had learned that the cost of reprocessing spent fuel that has first aged for 20 or more years is dramatically less expensive than the cost of reprocessing relatively fresh spent fuel, material that has only been out of a reactor for 3 to 5 years.

The second amendment required the Energy Department to take a second look at the cost of reprocessing as a waste management tool, against the cost of deep geological disposal of unreprocessed spent fuel, at the time the Energy Department formally recommends to the President a site for a construction authorization for a repository. Thus my amendment gave America one last chance to avoid pouring billions of dollars down a repository rathole.

The conferees of the House of Representatives on the budget reconciliation bill chose politics over logic, parochial expediency over sensible national energy policy, and dropped both my reprocessing amendments.

However, the facts are the facts. Knowledge usually does triumph over ignorance and prejudice, and science has a way of opening the eyes of even those who refuse to see the facts before them. The concept of reprocessing and recycling high level nuclear waste may here and now be politically inconvenient for some members of the House of Representatives, but it is and must inevitably be the way of the future. Whether or not the ostriches eventually take their heads out of the sand, the world slowly and inexorably moves down the path of progress.

Last November, during the debate on the nuclear waste provisions, I inserted a table in the record that clearly demonstrated the world's commitment to nuclear energy. That table showed the present and future commitments of 38 nations to nuclear energy, with 395 nuclear power plants in operation. I now have an updated table which shows 39 nations with 418 nuclear power plants in operation. The key fact to be gained from this table is that many other industrialized nations have strong and growing commitments to nuclear energy, and a corresponding need to deal intelligently with the high level nuclear waste produced by their power plants. I ask unanimous consent that this updated table, entitled Nuclear Energy in the World, be inserted at this point in the RECORD.

Mr. President, as I have said many times before, the United States is virtually alone in the world in our mindless rush to put unreprocessed spent nuclear fuel in a deep geologic repository after only 5 years of cooling. Virtually every other major industrialized nation with a serious commitment to nuclear power plans to reprocess and recycle high level nuclear waste. Most also plan to store nuclear waste above ground in facilities that closely resemble modular dry cask storage or monitored retrievable storage for as long as a century. In some cases, the reprocessing would take place at the end of the storage period. In others, reprocessing is expected to take place fairly promptly, and the residual high level waste would be stored on the surface. Either way, the United States is all alone in the world in its doubly ill-advised determination not to reprocess spent fuel, and to put very fresh and very radioactive spent fuel in a deep geologic repository.

Mr. President, I ask that a table which appeared in the March issue of the publication Nuclear News, and which indicates how 19 nations are planning to deal with high level nuclear waste, be placed in the RECORD.

In March of this year, the Congressional Research Service reported on a study performed in Germany that indicates that the cost of reprocessing is dramacticallly reduced by 80 percent by letting spent nuclear fuel cool for 40 years before reprocessing. This study assumes the obvious fact that 40 year old fuel will be less radioactive and therefore easier to handle, that reprocessing costs will decrease as the technology matures and improves, and that a very modest 3 percent discount rate represents the time value of money. Last fall I introduced a number of scholarly articles into the CONGRESSIONAL RECORD that show that the costs of reprocessing can and are being reduced through new research. The 3 percent discount rate applies a standard tool of modern financial analysis, and merely reflects the fact that we are better off paying for something many years from now, than paying the same amount of money here and now.

According to the Congressional Research Service, the German study concludes that for spent fuel coming out of the reactors in 1990, reprocessing and recycling the waste after 40 years of storage would be 13 percent cheaper than putting the spent fuel in a deep geologic repository. For spent fuel coming out of the reactor in the year 2028, reprocessing and recycling would be 28 percent cheaper than deep geologic disposal of unreprocessing spent nuclear fuel.

Mr. President, I ask that this study by German technical experts be printed in the RECORD.

The results of this study are not particularly surprising, since the cost of building the one reprocessing plant we would probably need in this country has been recently estimated by the Energy Department to be between $1.5 and $2 billion, with a total price tag over 50 years of operation of no more than $7 billion. This can be compared with the Energy Department's June 1987 cost estimate of between $5 and $6 billion just to build a repository, and a total price tag for the repository program of more than $20 billion over 50 years of operation. Even if we need two reprocessing facilities and the costs of this approach are therefore twice as high, recycling nuclear waste still makes a lot more economic sense than deep geologic disposal in a repository.

The one nation on this planet that has experienced the most pain from the advent of the nuclear is certainly Japan. However, as can readily be seen from the tables that are not in the RECORD, Japan has not hesitated to dedicate itself wholeheartedly to energy generation from the atom. Eventually, nuclear power will provide the overwhelming bulk of Japan's energy. And Japan will reprocess its high level nuclear waste in order to help solve the nuclear waste problem, and get the most out of the energy potential of the nuclear fuel. If recent history has taught us anything about Japan, then it is certainly that the Japanese are very thoughtful and effective businessmen. It therefore can be no accident that the Japanese have dedicated so much of their energy sector to nuclear power. They recognize a sound economic and energy investment when they see one, and they are capitalizing on it.

Mr. President, I ask that an article from the November 21, 1987, edition of the Japan Times Weekly discussing Japan's commitment to reprocessing nuclear waste, and a similar article from the March issue of Nuclear News, both be published in the RECORD.

About this time last year, I traveled to Europe with a number of other Senators, to inspect nuclear energy and nuclear waste facilities in France and Sweden. France is fully committed to nuclear energy and to reprocessing nuclear fuel for recycling in conventional light water reactors. In fact, routine commercial operation using mixed oxide fuel, the plutonium-nuclear product of French reprocessing technology, just began in France last November.

The French are now doing what we discussed in this country in the mid-1970's, but foolishly abandoned for ill-conceived political reasons. Let me reiterate that the French are using reprocessing to create nuclear fuel for regular, conventional nuclear reactors; not for breeder reactors. There does not need to be any linkage between reprocessing and breeder reactors.

Mr. President, I ask that an article from the January issue of Nuclear News, which describes this significant French step forward, be printed in the RECORD.

The material follows:

NUCLEAR ENERGY IN THE WORLD

Country	Number of reactors	Generating capacity (megawatts)	Nuclear as percent of total electricity	Additional reactors planned
Argentina	2	935	11	1
Austria	1	692	4.7	
Belgium	8	5,465	64	1
Brazil	1	626	1	2
Bulgaria	5	1,620	32	3
Canada	18	10,343	13	4
People's Republic of China				3
Cuba				2
Czechoslovakia	8	2,380	25	8
Egypt				2
Finland	4	2,310	38	
France	53	44,945	71	13
West Germany	21	16,544	37	7
East Germany	5	1,702	12	6
Hungary	4	1,188	24	2
India	6	1,265		8
Iraq				1
Israel				1
Italy	3	1,285	4	5
Japan	36	23,740	32	15
South Korea	7	4,289	22	4
Libya				2
Mexico				2
Netherlands	2	507	6	
Norway	1	20	.1	
Pakistan	1	125		
Philippines				1
Poland				6
Rumania				6
South Africa	2	1,844		
Spain	8	5,677	24	9
Sweden	12	9,605	28.5	
Switzerland	5	2,930	40	2
Taiwan	6	4,884	52	20
Turkey				3
United Kingdom	38	11,340	20	5
United States	106	89,385	16	24
U.S.S.R.	54	27,999	11	23
Yugoslavia	1	615	6	
Total	418			191

INTERNATIONAL SPENT-FUEL STORAGE MANAGEMENT STRATEGIES A SUMMARY BY COUNTRY

County	Spent-fuel strategy	Away-from-reactor storage facilities
Argentina	At-reactor (AR) and away-from-reactor AFR) storage for 10 years minimum, and then reprocessing, with disposal of vitrified high-level waste (HLW) in deep geologic respository.	None.
Belgium	Reprocess spend fuel and dispose of vitrified HLW after 50–75 years of storage. Spent fuel is stored in AR pools, with expansion added as needed.	None.
Brazil	AR storage, followed by reprocessing, with vitrified wastes placed in geologic repository.	None.
Canada	Store approximately 50 years, then prepare for geologic disposal, with a possibility of reprocessing based on economic indications. Current policy is retrievable storage in AR wet pools and dry concrete canisters.	Dry concrete canisters in use at Whiteshell, Gentilly, and Douglas Point.
Finland	Store for a mimimum of 5 years, and then return to foreign suppliers (USSR) or transport to another foreign country for disposal. Domestic geologic diposal has not been ruled out. AR site expansion using wet pools has fulfilled storage needs.	KPA-STORE at TVO station completed in 1987.
France	Store AR for not more than one year and then transport for reprocessing. Vitrified HLW is stored for 20 years minimum and then placed in deep geologic disposal.	150–200–MTU vault facility under construction at Cadarache. Wet pool storage at La Hague.
Germany	Store AR for 5-10 years, to be followed by reprocessing and disposal of vitrified HLW in geologic repository. Spent fuel is stored in AR wet pools and dry casks.	Gorleben has operating permit for dry cask storage, but permit under litigation. Julich has 3 fuel elements stored in a metal cask inside a concrete vault.
India	Interim storage onsite, followed by reprocessing. Vitrified HLW to be buried in geologic repository. Current near-term needs met by AR pool storage..	None.
Italy	Reprocess via a foreign nation, with HLW to be returned for internal geologic disposal after 50 years of storage. High-density and compact racks have solved nearterm storage needs, and demonstration project on dry storage is under way.	12 PWR assemblies in modular concrete vault site at Trino Vercellese.
Japan	Reprocess via a foreign nation until domestic reprocessing capability is in place. AR pool storage planned, with 30-50 years of interim storage of HLW planned before geologic disposal..	Drywell vault storage tested at Tokai; development of dry storage casks tested by CPIEPI.
South Korea	AR storage, followed by central dry storage for 50 years at a separate facility. Near-term storage needs met through high-density racks.	None.
Netherlands	Reprocess via a foreign nation and then return vitrified waste for geologic disposal after 50-100 years of storage. Current needs are met with AR storage, with plans to build AFR storage facility..	5000-MTU capacity dry vault in planning stages for all types of radioactive waste, including spent fuel.
Spain	AR storage for 10 years, followed by 10-20 years of dry cask storage. Direct disposal in geologic repository is planned. Current and near-term needs met with AR pools..	None.
Sweden	Storage in AFR facility for 40 years and then disposal is geologic repository. Current spent fuel stored onsite for six months before transport to central facility (CLAB).	CLAB facility has capacity of 3000 MTU, with expansion planned to 9000. Assemblies stored in open canisters in stainless steel-lined reinforced concrete pools approximately 25-30 m below surface. CLAB located near Oskarshamn power plant
Switzerland	Ship to foreign country for reprocessing, with HLW to be returned for internal disposal. Current needs met with AR high-density racks..	Castor 1C dry cask tested and licensed.
Taiwan	Store AR, to be followed by AR or central dry cask storage facility for 50 years, Near-term and current storage capacity met through high-density racks..	None.
United Kingdom	Interim storage AR followed by reprocessing. Vitrified HLW to be placed in deep geologic repository after 50 years of storage. AR pools have met storage needs. Dry vault storage currently used at Wylfa for Magnox fuel.	Three modular dry vaults at Wylfa plant using natural convection for cooling; capacity is 83 MTU.
United States	Store for a mimimum of 5 years, then disposal in geologic repository. Current policy is AR wet pools or AFR dry casks or dry vaults.	Castor V/21 casks used at Surry's ISFSI. NUHOMS dry vault at Robinson.
U.S.S.R.	Interim storage AR followed by reprocessing. Vitrified HLW stored for a minimum period, then buried via deep geologic disposal. Also reprocessing spent fuel from Soviet plants sold to other nations.	

Source: Information obtained from U.S. Department of Energy, Office of Civilian Radioactive Waste Management, and other sources.

THE ALTERNATIVES FOR CLOSING THE NUCLEAR FUEL CYCLE

(By H. Schmale, Rheinisch-Westfälisches Elektrizitätswerk; K.P. Messer, Rheinisch-Westfälisches Elektrizitätswerk; and E. Merz, Kernforschungsanlage Jülich)

A comparative analysis under the long-term aspects of economy, ecology and risks with the potential for improvements through multinational solutions.

Precisely, the closing of the nuclear fuel cycle refers to the arrangements for the disposal of spent fuel elements. Spent fuel elements have the special feature that, on the one hand, they are waste that must be disposed of, while on the other hand they also represent a useful source of plutonium and reusable irradiated uranium. The feature of radioactivity brings with it special time influences of the handling of the fuel elements, processing steps and reuse of the recoverable fissile materials, for which the determination of an appropriate solution becomes a rather complex task.

1. GENERAL PROBLEMS AND PRESENT STATUS OF SPENT FUEL DISPOSAL

The basic procedures for the reprocessing of spent fuel, manufacture of plutonium as well as the conditioning and disposal of the wastes were developed four decades ago by the nuclear arms states in the scope of military plutonium production programs and were put to large industrial-scale application. However, a disposal solution for the purely peaceful use of nuclear energy has hardly gone beyond the testing or demonstration stage. In West Germany, this fact has been interpreted by the public of the nuclear power plant operators. Thus, the opinion became widespread that an immediate solution of the disposal question was an irrevocable prerequisite for the further use of nuclear energy. Referring to the general principle of responsibility and obligation for disposal of waste by the producer, the creation of the necessary disposal facilities was then made an official obligation of the electrical utilities. This shall be fulfilled through officially-issued step-by-step goals, the achievement of which will be treated as a legal condition for the building permits and operating licenses of nuclear power plants.

An analysis of the historical development of nuclear energy in the world shows in general the following causes why solutions for disposal lag behind in the peaceful application of nuclear energy:

Political fears in the nuclear arms states that the course of disposal gone exclusively in the past via reprocessing and plutonium would increase the risks of proliferation, sabotage and military misuse.

The unsuccessful efforts in the USA to transfer the peaceful use of nuclear energy with all steps of the fuel cycle to private ownership. Ruinous competition, bad experiences with technical setbacks, extreme difficulties in licensing, and political risks led to a reorientation in the competent chemical industry away from initially high ambitions with euphoric initiatives towards absolute disinterest or strict refusal.

The successful development of techniques for interim storage, making it possible to keep spent fuel safely and economically for several decades.

The growing awareness that for the present a deferral of the controversial fuel reprocessing for 30-40 years would result in considerable advantages.

With the exception of certain regional conditions, there is no real reason to push for a rash solution, without appropriately optimizing the approach to disposal. Both as a real possibility to cover the long-term energy demand of mankind, but also because of the particular dangers going beyond national borders, the use of nuclear energy has in any case become a global problem, which requires worldwide consent and cooperation. The most effective way of minimizing the environmental effects and the risks which fuel reprocessing and plutonium manufacture in particular bring with them would consist in restricting those activities to a few large-scale supranational centers, which should be built at sites specially predestined for this purpose. Only in this way can acceptable disposal services be made available to all eventual nuclear power plant operators in the various regions of the world, which otherwise would be hindered because of the more or less large differences in the prevailing boundary conditions.

2. SEQUENCE OF DECISIONS FOR SPENT FUEL DISPOSAL AND BASIC POSSIBILITIES FOR SOLUTION

Diagram 1 shows the sequence of decisions for spent fuel disposal with the resulting basic possibilities for solution. Thereby, the following 3 questions are to be answered in particular:

Should the spent fuel elements be disposed of through final storage or should they be used for the recovery of fissile material through reprocessing?

In case of reprocessing, what shall be done with the recoverable plutonium and irradiated uranium?

When must the various disposal facilities be ready for operation and what time schedule is to be set for the individual steps towards disposal?

Besides the one solution for disposal through final storage, there exists a range of possibilities if one goes the way of reprocessing. Therefore, the latter can only be clarified through representative examples, which show the essential differences. The appropriate starting point for determining the typical cases is the existing boundary conditions with their practical prerequisites.

For the irradiated uranium generated from the reprocessing of spent LWR fuel elements, the economically most favorable procedure is to use it as feed material for the enrichment process.

For the recoverable plutonium, one should consider either recycling for reuse in a reactor of the original type or reserving it as a start-up contribution for the required plutonium inventory in new breeder reactor capacity.

The framework of the time schedule is given by the overall duration of the back end of the fuel cycle. This is fixed by the feasibility of final storage, which must be reached through radioactive decay by application of a waiting period of 30 to 50 years. In this respect, there are no differences between the various alternatives for disposal.

The necessary waiting period can be overbridged by means of interim storage, which has to be performed either in the form of spent fuel elements or as concentrated high level waste. The transition point between these two forms is the reprocessing step, whose performance is fixed by the cooling time applied between unloading from the reactor and reprocessing.

The effective range of the cooling time can be investigated by studying the relations for the two boundary conditions. As a cooling time minimum, two years appear realistic. The maximum cooling time is set at 45 years, consisting of a 5-year period at the nuclear power plant and a max. interim storage time in dual-purpose casks, as permitted by licensing regulations, of 40 years.

In order to avoid the uneconomical and problematic interim storage of plutonium and irradiated uranium, these materials should be reused as soon as possible. As long as no real demand for the fast breeder reactor exists, it becomes practically mandatory to consume the plutonium in LWR's if direct reprocessing is used.

In the case of deferred reprocessing, interim storage is restricted to the form of spent fuel elements. With respect to the approach to disposal for the next decades, the solution thus becomes identical to that in the case of final storage of fuel elements. The necessary decision for the next decades is therefore restricted to the two alternatives:

"Direct Reprocessing or Interim Storage of Spent FE"

If interim storage is applied, all choices for disposal remain open. The decision concerning the actual disposal need only be reached after approx. 30 years between the two possibilities:

"Reprocessing or Final Storage of Spent Fuel Elements"

If reprocessing is chosen, an additional decision concerning the further utilization of the plutonium becomes necessary between the variants:

"Pu-Consumption in LWR's or Reservation for FBR's"

From the sequence of decisions, it follows that there are four principal possibilities for disposal to be investigated as representative examples:

1. Direct reprocessing (after 2 years' cooling time) with recycling of the plutonium and irradiated uranium.

Forty years' interim storage with subsequent:

2. Reprocessing with consumption of the plutonium and irradiated uranium in the PWR.

3. Reprocessing with reservation of the plutonium for the start-up of breeder reactor capacity.

4. Final storage of the spent fuel elements.

3. DEPENDENCE OF THE APPLICABLE SOLUTION FOR DISPOSAL ON THE REACTOR TYPE

The formation of the highly radioactive fission products associated with the production of a certain thermal energy is independent of the reactor type. In the generation of electricity, small deviations are only caused by differences in thermodynamic efficiency.

Fast breeder reactors can only fulfill their function if the spent core and blanket elements are subjected to direct reprocessing, and the recoverable plutonium is used for the immediate production of new core elements. The short cooling times required for a minimum plutonium inventory in the fuel cycle, burnups approx. three times higher than in LWR fuel elements, plutonium concentrations of nearly 20%, and eventual difficulties in dissolving the mixed oxide, all impose extremely high requirements on the reprocessing technique for spent core elements, whose feasibility is still to be achieved through special development programs.

The alternatives for disposal shown before are only valid in the category of so-called "thermal reactors". Here one must make a distinction between those which operate with natural uranium fuel elements and those whose fuel elements consist of enriched uranium. In the enrichment process performed for the latter, approx. ⅚ of the necessary initial natural uranium is transformed into so-called "tails waste". The irradiated uranium in the spent fuel of natural uranium reactors however contains so little U-235 that it is also to be treated as waste. In spite of this, due to its more than doubled plutonium content, the profitability of reprocessing is not lost. Since the total natural uranium requirement for both reactor systems is approximately the same, in the end there are no large differences with respect to disposal.

Quantitative comparisons of the disposal alternatives require a uniform reference basis and a defined reactor type. At the present, approx. 80% of the world nuclear power plant capacity are light water reactors. The predominance of the pressurized water reactor makes this type the most interesting case. The following analyses are therefore based on a nuclear power plant program exclusively consisting of PWR's.

4. EFFECT OF THE DISPOSAL SOLUTION ON THE DEMAND FOR NATURAL URANIUM AND THE QUANTITIES OF WASTE

In Diagram 2, the balance of natural uranium for the four basic disposal alternatives is given. As unit of reference, one GW-year of net electricity generation in PWR-power plants is used. Accordingly, the balance gives the annual mass flow for a power station of 1250 MWe operating 7000 hours per year. Thereby, the following break-down was used:

Natural uranium needed for the manufacture of new fuel elements for the annual reloads as the input quantity in the fuel cycle.

Quantities leaving the fuel cycle as uranium wastes.

Whereabouts of the remaining uranium as wastes in other chemical forms.

The demand for natural uranium is of importance both under the aspect of long-term fuel supply and with respect to the extent of damage to the environment through mining. Alternative 4 corresponds to the normal case of the "One-way or throw-away cycle" and therefore has the largest natural uranium requirement. In cases 1-3, a savings of natural uranium is made possible through reprocessing, for which the magnitude depends on the cooling time applied for reprocessing and on the reuse of the recovered fissile materials:

The combination of direct reprocessing with immediate recycling of the irradiated uranium and plutonium in Alternative 1 results in equilibrium conditions rather soon. The necessary annual fuel replacement can then be manufactured in constant proportions of natural uranium, irradiated reprocessing uranium and mixed oxide. In this way, the demand for natural uranium diminishes in approx. 7 years from initially 203 to 142 t U/GWa.

With both deferred reprocessing variants, the savings in natural uranium are only realized with a delay corresponding to the duration of interim storage. For securing the supply, this should hardly matter because there exists presently a surplus on the uranium market, which will probably continue for some time.

While the achievable savings of natural uranium from direct reprocessing amounts to 61 t U/GW a $\approx$ 30%, it increases in the case of a 40-year reprocessing deferment up to 66 t U/GWa $\approx$ 33%.

On the one hand, for variant 3 with Pu reservation for start-up of breeder reactors, the attainable savings of natural uranium for the PWR is lower by about 29 t U/GWa $\approx$ 14%. However, on the other hand with the reserved plutonium, the installation of breeder capacity corresponding to 25 MW_{el} FBR per GW-year of PWR operation is made possible. To such extent, the further generation of electricity in PWR's could be renounced. The FBR-power generated afterwards in its place could then be maintained under the exclusive use of the tails waste from previous PWR operations for approx. 5000 years. Thus, a permanent savings of approx. 4.1 t/a would arise in the following annual requirement of natural uranium for the overall nuclear power generation.

Also associated with the attainable savings in natural uranium through the disposal solution of reprocessing, there are corresponding reductions in the uranium waste to be disposed of, which should be welcomed because of the general principle of minimizing waste volume. A comparison of the values in the diagram shows the following relations:

For all the disposal solutions, around 98% of the input quantity of natural uranium leave the fuel cycle in the form of uranium wastes and are to be put to disposal through final storage.

The tails uranium produced in the enrichment of natural uranium amounts to around 85% of the original natural uranium demand and comes out in advance. Thus this material represents the real quantitative problem, which will furthermore become acute in relatively short time. In spite of this, little attention has been given to this problem until now.

With the reprocessing alternatives, a reduction in the total quantity of waste uranium results, which compared to final storage amounts to 30-33% in the case of reutilization of the irradiated U and Pu and diminishes to 18% in the case of Pu-reservation. However, the breeder makes it possible later to generate power without uranium wastes, thus paying for itself with a decline of approx. 3.4 t/a in the waste production.

Where the residual 2% of natural uranium remains is informative, especially with respect to the risks. The actual radioactivity problem stems from the fission products and the plutonium, which are therefore listed separately in the diagram:

The production of 1100 kg of fission products and approx. 300 kg of plutonium per GWa takes place independent of the approach to disposal. In the case of Alternative 4, both of these materials have to be finally stored as constituents of the spent fuel elements.

For the disposal solution through reprocessing, the fission products are to be disposed of in concentrated form as high active wastes, while the plutonium becomes a through-put and inventory item in the outer fuel cycle.

5. ECONOMIC COMPARISON OF THE ALTERNATIVES FOR DISPOSAL OF SPENT FUEL WITH THEIR TIME DEPENDENCES AND POSSIBILITIES FOR IMPROVEMENT

Diagram 3 shows the effect of spent fuel disposal costs on electricity generation in PWR-power plants for the example cases of the fuel discharge batches in the refueling years 1990, 2000, 2010 and 2030. Here, the specific disposal costs in "pfennig" allotted to one kilowatt hour on the real value basis of 1990 are plotted for the four basic alternatives in a bar graph. The total bar height shows the specific disposal costs expected in the case of a national approach under the boundary conditions of large industrialized nations. The upper section hatched with vertical lines indicates the improvements achievable through a multinational approach. The blank section below the zero line separately indicates the proceeds to be gained through the reuse of irradiated uranium and plutonium, which are taken into account in the disposal costs for the reprocessing cases. The time shifts of the various expenditures were accounted for using the present value method with an effective interest rate of 3%.

Disposal of spent fuel is still in an introductory phase. Accordingly, the costs are relatively high. The anticipated improvements in the boundary conditions for disposal in the form of technical progress, increasing power plant capacities and escalating uranium prices will greatly reduce the specific disposal costs with time in all cases.

However, the percentages of decline decrease steadily in the sequence of decades, because the limited possibilities for improvement through technical progress become gradually exhausted. Also, approaching the optimal throughput for fully utilized disposal facilities, the degression effect stops, so that finally only the increase in value of the recovered fissile materials due to the continuing uranium price escalation remains as an improvement factor.

Under the boundary conditions of the large industrialized nations, using the alternative with direct reprocessing for discharge batches in the year 1990, 1.65 Pf/kWh can be assumed as the disposal costs for electricity generation in PWR's. If one chooses the alternative of a preceding 40 year interim storage time, then the disposal costs of only approx. ⅕ the above amount are to be expected. This difference of 115 million DM/GWa of electricity generation is mainly due to the fact that the actual disposal measures will take place under the more favorable boundary conditions which prevail 40 years later due to the deferral. Furthermore, the deferral is associated with a decay in the radioactivity and the heat generation to below 10%, which facilitates or simplifies handling and processing. Finally, a postponement of the necessary plant investments leads to a substantial savings in capital costs. For the later discharge batches, this difference becomes smaller, but a remaining factor of 3 after 40 years indicates that the continued application of interim storage still remains attractive in the long term.

By comparison, the 3 interim storage solutions exhibit only modest cost differences, which are not essential for the decision to be made later. Under these circumstances, it should not be difficult to give preference to Alternative 3, which provides for making available plutonium for breeder purposes free of charge. From the additional disposal costs of Alternative 3 as compared to 2, an accounting price for plutonium could also be derived, based on the achievable savings in the case of Pu-consumption in the PWR. However, with the provision of plutonium free of charge, the desirable transition to the breeder technique would become much easier. Otherwise the fuel cycle of the fast breeder would be burdened with the capital costs of the plutonium inventory which would greatly detract from its competitiveness with the PWR.

Irrespective of the fact that the know-how and the national requirements in the large industrialized countries allow for independent solutions for waste disposal, there are still improvements to be achieved through cooperation and common solutions. The main effect for such improvements stems from the increased possibilities for site selection, through which the erection of large-scale integrated disposal centers would become feasible. In every respect, this could offer optimal premises. Further advantages could lie in an acceleration of the approach to favorable boundary conditions, savings in expenditures for development, and the pooling of the available know-how and experience. The colored sections of the bars indicate the achievable cost minimum for the disposal alternatives analyzed, which could be reached with a multi-national approach.

For the underdeveloped countries up to the smaller industrialized nations, the unfavorable boundary conditions practically prevent creation of a national disposal solution which goes beyond interim storage of fuel elements, at least for the foreseeable future. In the large industrialized nations with their densely populated areas, in particular the erection of reprocessing plants and plutonium processing facilities suffers increasing difficulties through public acceptance problems. Under these circumstances, the multinational approach in the spent fuel disposal sector offers not only the most economical solution, but for reasons of environmental protection and securing the disposal services could even become an absolute necessity for the worldwide, long-term utilization of nuclear energy.

6. CONCLUSIONS

It can be generally assumed that, for some time to come, only a decision must be made between direct reprocessing or interim storage of spent fuel elements. Interim storage makes it possible to defer the actual disposal solution for up to 40 years, without causing a delay in the possible closure of the fuel cycle through final storage. In detailed studies, it has been established that in particular a deferral of reprocessing creates great improvements with respect to economy, ecology, risks and long-term fuel supply.

Beside its great economy, interim storage of spent fuel offers great flexibility. If one makes use of the dual-purpose cask technology, then the freedom of decision with respect to type, scheduling and location of the subsequent disposal measures is enhanced by the unrestricted mobility during the interim storage phase. In this way, on the one hand the option of changing over from thermal reactors to breeder reactors can be held open. On the other hand, large-scale multinational solutions can be more easily realized, through which the necessary services in the nuclear fuel cycle could be made available under comparably favorable conditions to all countries of the world.

[From Nuclear News, March 1988]

Japan's 1987 Waste Management Activities

(The last few years have brought several important developments in Japan's radioactive waste management programs. These developments have included governmental decision-making, R&D work, and the start of construction on some facilities. While the waste management programs in Japan have not progressed as rapidly in recent years as had been hoped, Japan's progress in establishing actual national waste management facilities is seen as third only to those of Sweden and France. The following (based on information from officials in the Japanese nuclear program) reports on some of the activities taking place in Japan in 1987.)

FACILITIES DEVELOPMENT

In March 1980, Japan's electric utilities established a private reprocessing company, called Japan Nuclear Fuel Service Co. Ltd. (JNFS). Similarly, in March 1984, the Japan Nuclear Fuel Industries Co. Inc. (JNFI) was established to handle uranium enrichment and for storage of low-level reactor waste. The JNFS facility is to begin storing spent fuel in 1991 and to begin reprocessing in 1997, with full-scale reprocessing of 800 tons U/yr expected about five years later. JNFI's LLW facility, which is to have a capacity of 600,000 cubic metres, is to begin operation in 1991.

Both the reprocessing and LLW facilities are to be sited in Rokkashomura in Aomori Prefecture. Ground-leveling work at the site was completed in the latter part of 1987. When the LLW facilities start up in 1991, the LLW now stored at the nuclear plant sites will be transferred there.

In the area of high-level waste, the Power Reactor Nuclear Fuel Development Corporation (PNC) continued work on the proposed Storage Engineering Center for studies on HLW. In August, PNC completed deep boring in the Horonobe area, which has soft-rock formations, to study geological conditions there in conjunction with the proposed Center; construction work on the Center is expected to begin this year. PNC is also looking in at least two places for sites to study hard-rock formations.

In 1987, PNC carried out full-scale vitrification of cold (simulated) wastes as well as experimental vitrification of hot wastes at its Tokai Works. With the completion of the necessary government licensing reviews in December, PNC is to begin work this year constructing the proposed full-scale vitrification plant.

Short-lived medical radioisotope wastes have been collected nationwide by Japan Radioisotope Association (JRIA) and have been stored in JRIA's seven temporary storehouses (see map) in various parts of the country. In June 1987, JRIA opened its Takizawa Laboratory in Iwate Prefecture, and since August has been processing and storing the medical radioactive wastes there. Other radioactive wastes from industrial and academic applications are also collected by JRIA, and have been temporarily stored in the seven storehouses since 1961. Except for some of the wastes that have been processed at the Japan Atomic Energy Research Institute's (JAERI) treatment plant in Tokai, these radioisotope wastes have been accumulating in the storehouses.

Among the participants in radwaste-related industrial activities, JGC Corporation has had a leading role in LLW management, while NGK Insulaters has had a primary role in solid waste incineration. It is also noteworthy that both Mitsubishi Heavy Industries and Ishikawajima-Harima Heavy Industries have been expanding their business in HLW areas in recent years.

In the area of geological disposal, lead general constructors—such as Shimizu, Kumagai, Ohbayashi, Taisei, and Hazama—are actively engaged in general research and geological surveys.

GOVERNMENT ACTIVITIES

Government activities last year included the February 1987 establishment of the Radwaste Management Office in the Atomic Energy Bureau of the Science and Technology Agency (STA). This new office is the first formal government organization exclusively responsible for radwaste management; the Radwaste Licensing Office, which is attached to the Nuclear Safety Bureau of the STA, is responsible for regulating the management of radioactive wastes. Also playing an important role is the Ministry of Internation Trade and Industry (MITI), whose Nuclear Industry Divisions is responsible for all industrial activities (including the radwaste business) by the private sector.

In March 1987, the Nuclear Safety Commission (NSC) formulated upper limit radioactivity concentrations for LLW that is to be disposed of in the ground, the values being of the same order as those in the United States, France, and other countries. The nuclear industries in Japan were somewhat disappointed with this regulation because it made no mention of the lowest concentrations—i.e., those "below regulatory concern." In January 1988, however, the National Radiation Council did establish certain radiation concentrations below which there is exemption from regulatory control. In addition, in January 1988 the STA promulgated rules for controlling LLW shallow-land disposal. Meanwhile, the nuclear industry has been proceeding with design of shallow-land burial facilities for LLW, together with the necessary safety assessment work.

Much of the spent fuel generated in Japan is reprocessed by the United Kingdom's British Nuclear fuels plc and by France's Cogema. The radwaste from these reprocessing activities will be sent back to Japan beginning in 1990 or later. Last June, the NSC published a report concluding that transporting this waste can be done safely. And in October, the Commission issued a technical report on the transport containers.

RESEARCH AND DEVELOPMENT

In addition to the deep-boring activities in the Horonobe area, there were numerous other R&D activities last year. In August, after two years of study, the NSC's Committee on Radwaste Management revised its main safety research program list, adding some additional tasks on "natural analogue research" (a program to study the behavior of uranium and transuranium elements in specific geological formations) as well as research in other areas. The STA is very eager to build up the technical know-how on long-life impermeable concrete structures for LLW storage and disposal; consequently, it has selected 11 programs related to these structures from among those proposed by general constructors for government R&D grants. This R&D grant-in-aid system, which is intended to promote selected private R&D programs, was established by the government five years ago (usually the aid covers one-third of a program's budget). To date, it has been use for processing techniques development.

In recent years, the Central Research Institute of Electric Power Industry (CRIEPI) has been focusing its research activities on nuclear fuel cycle technologies. Included in this work is a study, at CRIEPI's laboratory, on long-life nuclide transmutation, an area in which JAERI has also been active for some years. Now there is a newly organized program, under the guidance of STA, on nuclide transmutation. Called the Phoenix Project, this five-year joint effort by JAERI, PNC, CRIEPI, some universities, and some research institutions is studying the possibility of, and the technical problems associated with, the transmutation concept.

In the academic community, the Universities of Tokyo, Kyoto, and Tohoku, and others have been active in radwaste-related R&D, but recently some leading professors have been retiring from these universities. In contrast with this, new leaders in active research programs are appearing at the Universities of Kyushu and Kochi.

Still another aspect of this issue is the matter of the fuel cycle "back-end" costs, which up to now have not been reflected in Japan's electricity rates. MITT's Electricity Rate Council issued a report in March 1987 arguing that the costs for spent-fuel reprocessing, radwaste management, and plant decommissioning should be included in the electricity rates. It appears, however, that it may be a few years before this is put into practice.

[From the Japan Times Weekly Overseas Edition, Nov. 21, 1987]

New N-Power Pact With U.S. Gives Japan More Elbow Room

Foreign Minister Tadashi Kuranari and U.S. Ambassador Mike Mansfield Nov. 4 signed a new U.S.-Japan nuclear power cooperation agreement that would give Japan more freedom in reprocessing nuclear fuel than the current 19-year-old pact.

The new agreement calls for transporting reprocessed fuel to Japan by plane, a stipulation that could stir controversy in Canada and Alaska, over which the aircraft would most likely pass.

The pact is subject to the approval of the U.S. Congress. Because it is not a treaty, it will be submitted to the House as well as the Senate and, if there are no objections, will become law after 90 days.

It is expected to take some time before it takes effect, however, because there is said to be strong opposition among lawmakers to giving Japan more leeway in handling spent fuel.

Nuclear power accounts for 27.8 percent of Japan's electricity supply. About 90 percent of the nuclear fuel used here is imported from the U.S.

The current agreement was signed in 1986. The U.S. agreed to provide Japan with the fuel but set limits on how this country could use it, in order to prevent Japan from using it for military purposes.

The nuclear power plants of Japan now produce about 700 tons of spent fuel a year. At present a reprocessing plant in Tokai Ibaraki Prefecture, is handling about 70 tons annually.

Japan has asked plants in Britain and France to reprocess the remaining spent fuel.

Under the new agreement, which will be good for 30 years, the U.S. will give Japan general approval for the reprocessing of nuclear fuel supplied by the U.S. If certain conditions are met.

Thus Japan will not be required to obtain U.S. approval each time it reprocesses spent nuclear fuel, as it is required to do under the current agreement.

The conditions include requirements that Japan submit data to the U.S. on reprocessing plants and power plants that use plutonium extracted from spent nuclear fuel, and that it accept on-the-spot inspections from the International Atomic Energy Agency.

The agreement stipulates that plutonium extracted from fuel reprocessed in Britian and France be transported to Japan by aircraft, if Japan wants overall approval for the European reprocessing.

Behind this requirements is the belief that airlines are less vulnerable to hijacking than sea shipments.

A guideline accompanying the agreement calls for assigning armed guards to the aircraft and developing strong containers able to withstand a plane crash.

There is also a provision that if Japan exports nuclear-related equipment to the U.S., Japan can get U.S. assurance that the imported equipment will be used for peaceful purposes only.

[From Nuclear News, January 1988]

ADVANCED FUELS

At a session on fuel cycle management and economics, Gerard Gambier, from Electricité de France, was able to announce that during the previous weekend—November 7 and 8—a reloading with plutonium fuel had been completed in the Saint Laurent B1 pressurized water reactor. Although there have been many demonstrations in European reactors of operation with mixed uranium-plutonium oxide (MOX) fuels in light-water reactors, the Saint Laurent loading marks the start of routine thermal recycle of plutonium that will be introduced into 16 of EdF's 900-MWe pressurized water reactors over the next seven years (*NN*, Dec. 1987, p. 110). These 16 reactors, which represent one-third of EdF's operating PWRs, are the ones that, in anticipation of plutonium recycle, had been provided with extra control rod positions in the upper core internals and vessel heat.

The fuel reloads will replace one-third of the reactor cores with 16 MOX assemblies and 36 standard assemblies with 3.25 percent enriched uranium. The MOX assemblies have a 17 × 17 array of pins with three radial zones of plutonium content to give an average content of 5.3 percent plutonium in a matrix of depleted uranium. An alternative scheme that may be introduced once equilibrium has been achieved will involve reload batches of one-fourth rather than one-third of the core, with discharge burnup increased from 33 to 42 GWd/te.

A further development under consideration is designed to avoid the three different plutonium concentration zones in MOX assemblies, thereby reducing fabrication costs This scheme would involve the shuffling of fuel pins using techniques that have been developed for fuel assembly reconstitution with present uranium fuel.

The use of MOX fuel in French reactors is designed to follow the build-up of reprocessing capacity at the La Hague plant and the plutonium fuel fabrication capacity of a specially formed company, Commox. Commox is a joint venture involving Cogema in France and Belgonucléaire. The initial batches of MOX fuel are being fabricated at an existing 35 te/yr facility at Dessel in Belgium, and this will be supplemented by capacity of 125 te/yr at Cadarache in France beginning in 1989. A completely new 100 te/yr plant, known as Melox, is proposed for introduction at Marcoule in France by 1995.

The EdF case for thermal recycle of plutonium at this time is based partly on partial economic compensation for the cost of reprocessing—to which the utility is firmly committed—and partly on the view that thermal recycle is the best way to "store" plutonium until its use in fast breeder reactors becomes economically attractive. Gambier maintained that, "plutonium will be the next century's most precious nuclear material, so it is important to use it in the most efficient way." One gram of total plutonium recycled in a PWR saves 90-110 francs ($16-$19) in natural uranium purchase and 90-110 F in uranium enrichment costs, which is more than enough to compensate for the higher cost of MOX fuel fabrication. On the basis of 500 te/yr of reprocessed spent fuel from French pressurized water reactors between 1992 and 1995, some 5 te of total plutonium would be obtained, and 95 te of MOX fuel fabricated. This could lead to a net benefit of 600 million F/yr ($103 million/yr), giving the plutonium an effective value of 120 F/g ($21/g).

EdF has not yet decided to recycle reprocessed uranium due to the present costs associated with reconversion, reenrichment, and refabrication, but this option will be reconsidered when later enrichment is commercially available.

TAX REFORM

● Mr. WALLOP. Mr. President, I rise to ask my distinguished colleagues a simple question: Do you know where your constituents are today? I have a hunch a good number of this Senator's fine Wyoming constituents are at this moment buried under a heap of tax forms. They are frantically working and reworking countless formulas, forms, and schedules in order to figure their 1987 taxes before midnight tonight. And it would not be idle speculation to say that their feelings toward the Congress which passed the Tax Reform Act of 1986 are far from amicable.

The Senator offers sympathy to the many frustrated taxpayers who are probably at this moment sweating bullets over a form 1040 while gnawing through yet another pencil. For this reason, I offer a thoughtful editorial which was printed in the Casper Star Tribune last month. I would expect the editorial by John Barrasso, M.D., sums up the feelings of taxpayers across the Nation today. In addition, it further proves that my vote against the tax reform conference report was one of the best things I have done since I have been in the Senate. I recommend it to my colleagues and ask that it be printed as part of the RECORD.

The editorial follows:

[From the Casper Star Tribune, Mar. 19, 1988]

HELP! FIGURING OUT SIMPLIFIED TAX LAW

When I went to the post office last year to mail my tax return the night of April 15, there was a man in a pick-up truck with his cab light on. He was filling out his tax return and had receipts spread out all over the seat of the truck. This year, he doesn't have a prayer.

The new tax law is complicated, confusing, and contradictory. According to Newsweek magazine, "The tax simplification act, as it has been called, has spawned 2,704 changes in the Internal Revenue Code, 42 regulations, 65 announcements, 32 revenue rulings and 48 new tax forms." Did they say tax simplification?

If you have any itemized deductions at all, Money magazine says that you should probably hire someone to prepare your taxes—that means anyone who owns a home and deducts the interest from the mortgage, plus anyone who is self-employed. That's many of us in Wyoming.

Rest assured, the tax preparers are just as confused by the new law passed by Congress. In a fascinating study done this January, 50 different reputable tax preparers nationwide were given the identical records of a hypothetical family. They were asked to prepare the family's tax return and submit a bill for their services. There were no trick questions.

The study found that no two tax preparers came up with the same amount of taxes to be paid. They ranged from a low of $7,202 to a high of $11,881, a 65 percent difference. The fees charged by the accountants ranged from $187 to $2,500.

You might think the accountants who charged the most found the most tax breaks and saved their clients more money. But there was absolutely no correlation between how much an accountant charged and how much taxes were owed.

If the accountants are having this much difficulty interpreting Congress's handiwork, what hope is there for the average Wyoming taxpayer trying to fill in the blanks?

Since all of these accountants have trouble figuring out the new law, there must be some help available for the guy with a pencil with teeth marks, a worn down eraser, a cup of coffee and a bottle of Alka Seltzer.

That brings us to the toll-free number. This is a service available from the IRS to help answer questions about the new law. This year there are 4,700 assistants to answer questions, 1,000 more than last year. There are also 30 percent more phone lines than last year.

This assistance still isn't enough to handle the complexity of tax simplification. Some callers have to dial dozens of times to get through and that may worsen as we get closer to April 15.

And getting through may not be the end of the frustration. The U.S. General Accounting Office wanted to know how accurate the phone answers were, so GAO Auditors came up with 20 different questions with the help of the IRS. Then they called the toll-free number over and over again, asking one of the twenty questions to whoever answered. The caller received a wrong answer 39 percent of the time.

It's hard to blame the people answering the phones. The tax law they are being asked to interpret is 925 pages long, weighs two pounds and was not even read by most of the elected officials who voted for it. The congressional leaders agreed on it in the middle of the night. It's hard to expect that someone recently hired to answer taxpayers questions could master all that material.

If the people employed to answer questions have this many problems with general information, how well are they going to handle tax questions from Wyoming ranchers? How in the world are they going to be able to interpret what is referred to as "the new heifer rule?"

If you rely on the phone information, it's no guarantee that your return will be accurate and you won't be audited. If you're auditied, it will help to prove you talked to someone from the IRS on the phone.

The IRS recommends you keep a record of the person's name as well as the date and time you called and the specific question and answer you received. If you can prove you got wrong information, you will still be responsible for the back taxes but won't have to pay a penalty.

It's hard to know for certain how we ended up in such a mess. It looks like there was an effort in Congress to pass something, anything, with the title of Tax Reform.

Judging from what's happening to the taxpayers in Wyoming, the title was more important than the substance—although I must admit I haven't read the law either. I followed the lead of my dad, a cement finisher, and my brothers, a car saleman and a construction worker. I went to an accountant.

(John Barrasso is a Casper orthopaedic surgeon active in community affairs.)●

CALL TO CONSCIENCE

● Mr. ARMSTRONG. Mr. President, as the free world continues to watch for developments in glasnost, the new policy of openness in the Soviet Union, I cannot help but question the sincerity of Soviet officials. I am very concerned that a country which has pledged its support for this new policy still regularly confiscates personal mail sent into and out of the U.S.S.R.

For several years I have been writing to citizens in the Soviet Union, and over time, it has come to my attention that the mail I send does not always reach its intended recipient. In fact, it appears that recently nearly all of the mail I send has disappeared for unknown reasons. It is neither delivered nor is it returned to me as undeliverable.

Some of you may remember that I inserted into the CONGRESSIONAL RECORD on October 30, 1987, a statement about mail delivery problems relating to my correspondence with Roald Zelichenok. In that case, Mr. Zelichenok was then and is still being prohibited from emigrating and mail service between us remains shoddy.

More recently, I have tried to correspond with Dr. Evgeny Lein, of Leningrad. On November 6, 1987, I sent him a letter regarding his attempt to have his 16-year-old son emigrate to Israel to join his sister and her husband. He never received my letter. In fact, he only heard about my support for his plight from a third party who forwarded my letter to him. I received a copy of his letter, again from a third party, in January, which stated in part:

> I was deeply touched to know about your letter (November 6, 1987) to General Secretary Gorbachev on my behalf. Thank you for your concern on my family problem.
>
> I remember your and Mr. Kemp's visit to the USSR in July, 1983. That time you spent some hours with refuseniks of Leningrad. And the picture of our group, kindly mailed by you, is on my desk. It reminds me of our meeting.
>
> Time flies. In July, 1987 my daughter Nehama got permission to leave the USSR after nine years of fighting for the exist visa. Now she and her husband and their two baby girls are happy in Jerusalem. But my 16-year-old son Alex is refused to join his sister in Israel. Why? According to Leningrad OVIR he is too young to travel without his parents. But his parents are kept here forced: I am refused on the ground of so-called "secrecy", but alas! I protested against this nonsense reason, but I have no official written answer.
>
> In spite of the many troubles that my family has had for the last ten years of our life in refusal, I believe we can succeed in our struggle for exit visas if people in free countries will support us.
>
> Dr. EVGENY LEIN.

Of utmost importance here is the fate of Dr. Lein and his family. The emigration practices in the Soviet Union continue to be a bureaucratic nightmare, and are further evidence of the basic lack of freedom and human rights as well as the oppression which continues under glasnost.

I don't want to diminish the importance of Dr. Lein's situation, but one injustice that goes to the heart of the problem is mail delivery. Frankly, I find the situation extremely disturbing. Surely, it would seem reasonable that mail service should improve rather than deteriorate as the Soviet Union seeks to become more open. If glasnost is a reality then why must mail be regularly and illegally examined. I and many of my colleagues have taken an active role in trying to improve human rights in the U.S.S.R. Dr. Lein's experience in attempting to emigrate is a prime example. Further, I imagine it is no coincidence that Dr. Lein's mail continues to be confiscated. It is one more indication that glasnost has far to go.

If we cannot trust the Soviets to prove their sincerity in improving human rights through something as basic as delivering the mail, then how can we honestly trust them on the more sensitive and vital issues of compliance on agreements made between our two countries.

My message to the Soviet Union is: Prove to the world that human rights are improving in your country, not with your words, but with actions. A good place to start is with the countless letters continually sent to and from your country.●

HARRY ARMSTRONG NAMED INDIANA MASTER FARMER

● Mr. QUAYLE. Mr. President, for many years, I have relied on the advice of Harry Armstrong of Springville, IN, on matters of interest and concern to Indiana farmers and ranchers.

Harry Armstrong is literally one of Indiana's agricultural giants. He has served as a pioneer for livestock producers throughout Indiana and around the country for decades and has shared his experience with me on important issues effecting Hoosier agriculture.

I am very pleased today to report that Harry has been recognized by his peers and named one of Indiana's Master Farmers. Let me join Harry's supporters and admirers in congratulating him on years of excellence in agriculture. Harry is both helpful to me personally and to his community. I applaud this recognition of Harry, and attach for the RECORD a copy of an article which appeared in the Indiana Prairie Farmer on March 15. I ask that this article be printed in full immediately following my remarks.

The article follows:

HARRY ARMSTRONG

It's accurate to call Harry Armstrong a rancher. That's what this Springville, Ind., cowboy does for a living. He and his son Kent own 1800 acres of hilly land that is best suited to pastures and timber. They have 350 beef cows and except for an occasional timber sale, their only income is from those beef animals.

Harry started assembling land during World War II when he was serving with the US Army Air Force. After he was discharged as a major, he added to those holdings in the 1950s and '60s.

Earlier, he attended the Indiana University Business School for two years and spent two years at Purdue. He carried a milk route in 1936 while a student at IU.

Harry's wife Gladys keeps all of the business records and Harry keeps production records on the cows in a spiral notebook.

CATTLE PRODUCTION RECORDS

All of the cattle are ranch-branded but they aren't identified individually. Weaning weights are kept by 50-cow groupings and cows are ear-notched for age. Cows are seldom kept beyond 10 to 12 years of age, but they are culled largely on the basis of inability to conceive or unsoundness.

He started with cows of mixed breeding in the 1950s. He decided at that point that he could get the most for his money by buying horned Hereford cattle. As Indiana cattlemen went out of business, Harry bought herds of 25 to 50 cows. He also bought some foundation cows and heifers from Nebraska and Texas.

Foundation bulls for the present herd, also horned Herefords, came from Nebraska and Texas. Although those bulls didn't have a clean pedigree, he has never had a dwarf calf born to his herd.

In recent years, he has raised most of his own bulls. Except for one Simmental and one Polled Hereford bull, he has had a closed herd for 20 years. He is attempting to breed half-Hereford, half-Simmental bulls to cows of similar breeding.

SEVEN SEPARATE PASTURES

The beef cows are kept in seven pastures with about 50 cows at each location. Each farm is equipped with facilities for working cattle, a shed to provide some shelter for cows and calves as needed, and adequate water. When calves are sick or chilled enough to need heat lamps, they are hauled to barns where Kent lives.

Except for the blizzard years of 1977 and 1978 when his calf crop was reduced to 50%, Harry has averaged an 85% calf crop.

At age 67, Harry is spending more of his time with off-farm interests and a full-time employee, Lloyd Phillips, is assuming more of the labor load. The only other labor hired is for having pastures bulldozed and some fences constructed. The farm has 25 to 30 miles of fences to maintain.

BEEF INDUSTRY LEADER

Harry was the Indiana Beef Cattle Association's first president in 1965 and has served on several important committees within the National Cattlemen's Association. He serves as the Southern Indiana representative on Sen. Dan Quayle's agricultural advisory committee.

He helped form and is a past manager of the Springville Feeder Cattle Auction.

Harry and Gladys have two children. Kent is a full partner in the farm business, and their daughter Janet Hensinger is a teacher and social worker in Bedford, Ind.●

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent there now be a period for morning business not to extend beyond 30 minutes and that Senators may speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the very distinguished Senator from Arkansas allow me to transact just about 1 minute's worth of business?

Mr. PRYOR. I would be proud to yield to the majority leader.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting leader on the other side of the aisle as to whether or not the following calendar orders on the Executive Calendar have been cleared for action: Calendar Orders Nos. 575, 594, 595, 596, 597, and 598.

Mr. DANFORTH. Mr. President, they have been cleared on this side.

Mr. BYRD. I thank the distinguished Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar orders numbered, and that they be considered en bloc, agreed to en bloc, and the motion to reconsider en bloc and laid on the table, and that the President be immediately notified of the confirmation, and any statements of the Senators appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Emmett Ripley Cox, of Alabama, to be U.S. circuit judge for the Eleventh Circuit.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Hans M. Mark, of Virginia, to be a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 2 years. (New position.)

NATIONAL MEDIATION BOARD

Walter C. Wallace, of New York, to be a member of the National Mediation Board for the term expiring July 1, 1990. (Reappointment.)

THE JUDICIARY

Frank Ernest Schwelb, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years.

Cheryl M. Long, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years.

DEPARTMENT OF COMMERCE

Frank DeGeorge, of Maryland, to be inspector general, Department of Commerce.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

TRIBUTE TO BILL WILKINS

Mr. CHILES. Mr. President, I want to note that as of today, the Senate will be losing one of its best and most professional staff members. I'm talking about Bill Wilkins, the staff director and chief counsel of the Senate Finance Committee.

Bill is one of those rarities in the Government: like his boss, the Senator from Texas, Mr. BENTSEN, Bill is someone who has a great deal of influence and yet remains the perfect gentleman. Bill has always been accessible, knowledgeable, and professional.

I understand that Bill is leaving to become a tax lawyer with one of Washington's more prestigious law firms. It is not lost on us here that he is going to work on tax law after April 15.

So I just wanted to take this opportunity on behalf of the Budget Committee to wish him the best of luck.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

TAXPAYERS' BILL OF RIGHTS

Mr. PRYOR. Mr. President, a voice from the crowd warned Caesar to beware of the Ides of March. But last year during hearings on the taxpayers' bill of rights, the Senate Finance Subcommittee on IRS Oversight learned that for the American taxpayer it is often beware of the Ides of April. The April 15 filing deadline is taxing in its own right.

Today, Mr. President, is in fact April 15, one of the most dreaded and feared days on the calendar for all American citizens. The added complexity of constant changes in the Tax Code is causing great anxiety for all taxpayers. A tax system, Mr. President, based on fear, rather than on respect, affects the lives of every American citizen.

The hearings demonstrated that there is often more to worry about than just getting that return in on time. We found instances where, despite good faith efforts by taxpayers to comply with the internal revenue laws, IRS incompetence or heavyhandedness resulted in taxpayer hardship or even bankruptcy or loss of business. But most of all, we discovered an arrogant, often callous, agency, independent of Government oversight and due process restraints.

There has been almost no monitoring, Mr. President, of the Internal Revenue Service for the past two and one-half decades. Congress, I think, must be a major part of this blame. Over the last three decades, Congress has increasingly turned to the IRS and asked it to be more aggressive in its collections. To fulfill this mandate, we have given it more employees—now 116,000 to be exact—authorized the use of computer matching programs, and have created a myriad of new tax penalties—now well over 150.

There are now over 152 penalties that the Internal Revenue Service can charge in some cases arbitrarily against the taxpayer.

Like any good citizen, I believe that everyone should pay his or her lawful share of taxes. That is the price of freedom. However, at the same time that we are allowing the IRS to be more intrusive into the lives of our citizens for the sake of compliance, we must also ensure that we maintain basic due process rights, which have eroded slowly but surely over these past two and one-half decades.

The data shows that the United States has the most efficient system of tax collection in the world. Last year the IRS expended 49 cents for every $100 collected. Unfortunately, what we learned from the hearings is that the IRS is not efficient in stopping the forward movement of the bureaucratic machinery in order to remedy its own mistakes and heavyhandedness. It wields immense powers to unilaterally decide the economic and personal fate of over 100,000 taxpayers. While at the same time, those who have been wronged by the IRS find little or no recourse for their damages.

In the taxpayer's bill of rights, Senators REID, GRASSLEY, and over 60 cosponsors in this body, have created a safety net for people who file their tax returns in good faith and yet become crosswise with the IRS. This safety net is widespread and would provide protection for taxpayers from the initial tax audit interview, through appeals, and during collection actions. For when we reach that stage, Mr. President, in the process of that relationship between the tax collector and the taxpayer, and once the 10-day letter has been received by the taxpayer stating that deficiency and that in 10 days the IRS is free to seize or to collect or levy upon personal property or real property, at that moment, the taxpayer loses all rights.

The bill would require the IRS to hold audit interviews at a time and place reasonable to the taxpayer. That is different and much different from the present system.

It would require the IRS to explain before an interview the taxpayers' rights and allow the taxpayer to suspend the audit at any time to consult with an attorney or accountant of his or her own choosing. The taxpayers' bill of rights, Mr. President, would allow the taxpayer to appeal liens and jeopardy levys. This would certainly be different from the present system today.

It would authorize the taxpayer ombudsman to issue administrative orders to stop wrongful collection activities against the taxpayer who had been abused by the Government of the United States. Most importantly, the bill would significantly expand the ability of taxpayers to recover costs associated with defending themselves against unreasonable claims by the IRS and it would allow taxpayers to sue the IRS to recover actual damages when an IRS employee carelessly, recklessly, or intentionally disregards any law or regulation, or right of the taxpayer.

The bill does much more, Mr. President, and at the end of my speech I would like to place a complete summary of the taxpayers' bill of rights as reported out of the Senate Finance Committee only 2 weeks ago.

I would like to close by saying, the IRS performs a necessary function—the collection of our Nation's revenues. With these revenues, we provide for our defense, find cures for dreadful diseases, keep our rivers and lakes free from pollution, build our roads, and provide many other things which make this the best and freest of all lands.

The problem, then, for Congress is to ensure that we maintain a proper balance between governmental intrusion and individual freedom in collecting revenue. I am afraid at this point in time that this balance leans too much in favor of the IRS. The taxpayers' bill of rights will help tilt it back in favor of taxpayers.

The taxpayers' bill of rights will help tilt this position back in favor of the American taxpayer.

Mr. President, I would like to especially thank Senator HARRY REID, of Nevada, Senator CHARLES GRASSLEY, of Iowa, who were the original cosponsors with me of the taxpayers' bill of rights. These two individual Senators have worked tirelessly, daily, weekly, monthly to help work with us in finding a constructive and positive piece of legislation that ultimately I feel will be successfully dealt with by the U.S. Senate, and then sent to the House of Representatives.

We now have almost two-thirds of this body as cosponsors. We have the support of such diverse groups as the U.S. Chamber of Commerce, and the American Civil Liberties Union, we have hundreds of small business organizations in support of the taxpayers' bill of rights. We worked carefully, Mr. President, with CPA's, with public accountants, with former Commissioners of the Internal Revenue Service, with present and past employees of the Internal Revenue Service, with small business groups, with the Taxpayers Union, with all of those groups that deal specially in the area of small business.

Also, Mr. President, we are looking at a hopefully near date whereby the taxpayers' bill of rights can become the issue and the piece of legislation on the floor of this Senate.

I will continue working with my colleagues. Some say that this legislation goes too far. Some might say that it does not go far enough. We think that it achieves a balance.

During the next 2 or 3 weeks we will be working carefully with those of our colleagues who feel that this piece of legislation can be strengthened even further. We hold ourselves open to talk with any Member of this body or their staffs about how the taxpayers' bill of rights might be better or more finely tuned.

Mr. President, finally, once again, the taxpayers' bill of rights has now cleared the committee. Hopefully, it will see final action and favorable passage by this body within the next several weeks.

I thank the chairman of the Senate Finance Committee, Senator LLOYD BENTSEN, who helped to shape and guide this legislation through the Senate Finance Committee.

Mr. President, finally, let me, if I might, ask unanimous consent that a summary, a very good summary I might add, of the taxpayers' bill of rights be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE TAXPAYERS' BILL OF RIGHTS AS REPORTED OUT OF THE SENATE COMMITTEE ON FINANCE

1. DISCLOSURE OF RIGHTS AND OBLIGATIONS OF TAXPAYERS

The provision requires the IRS to prepare a statement describing the rights and obligations of the taxpayer and the procedures for appeal, refund claims, and collection. The statement is to be distributed to taxpayers at the time the IRS makes its first contact regarding the determination or collection of any tax.

2. PROCEDURES INVOLVING TAXPAYER INTERVIEWS

The provision requires the IRS to issue regulations to identify what constitutes a reasonable time and place for the scheduling of IRS interviews and examinations. The provision also would allow the taxpayer to make an audio recording of the interview. The IRS also would be permitted to record interviews but the IRS then must inform the taxpayer of that fact (other than in a criminal investigation) and supply a copy of the recording or a transcript to the taxpayer upon the taxpayer's request.

The provision also requires the IRS employee to explain the audit and collection process to the taxpayer at the appropriate interview and allows the taxpayer to suspend the interview at any time if the taxpayer wishes to consult with an attorney or other qualified representative. The IRS would be prohibited from requiring the taxpayer to accompany his representative except upon an administrative summons. Where appropriate, the IRS may contact the taxpayer directly to notify that the representative is hindering or delaying the process.

3. ADVICE OF THE IRS

The provision requires the IRS to abate any penalties imposed on any deficiency attributable to erroneous written advice furnished to the taxpayer by the IRS, unless the taxpayer provided inaccurate or inadequate information.

4. TAXPAYER ASSISTANCE ORDERS

The provision authorizes the IRS Taxpayer Ombudsman to issue an administrative order to stop IRS action where the taxpayer faces unusual, unnecessary, or significant loss.

5. OFFICE OF INSPECTOR GENERAL

The provision establishes a statutory Inspector General for the Treasury and a separate Inspector General for the IRS.

6. BASIS FOR EVALUATION OF IRS EMPLOYEES

The provision prohibits the IRS from using records of tax enforcement results to impose production quotas on, or to evaluate its employees.

7. IMPACT OF TAX REGULATIONS ON SMALL BUSINESSES

The provision requires the IRS to solicit comments from the Small Business Administration prior to the issuance of all final tax regulations. The SBA would be given four weeks to provide its comments on the impact of the contemplated regulations on small businesses.

In addition, under the provision, each time the IRS issues temporary regulations, it is also required to publish those regulations in proposed form. At the time the IRS issues such temporary and proposed regulations, the IRS is required to solicit comments from the SBA. The SBA would be required to submit comments within four weeks. The temporary regulations would be permitted to remain in effect for no more than 2 years.

8. FULLER EXPLANATION OF TAX DUE, DEFICIENCY AND PENALTIES ASSESSMENTS

The provisions would require the IRS to more fully describe in its notices the basis for assessments of tax due, deficiencies, and penalties.

9. INSTALLMENT PAYMENTS OF TAX LIABILITY

The provision authorizes the IRS to enter into installment payment agreements. Such agreements are binding unless (1) the taxpayer fails to keep current on other tax liabilities or on the installment paymnents; (2) the agreement is based on inadequate or inaccurate information supplied by the taxpayer; (3) collection of the tax is seemed to be in jeopardy; or (4) the taxpayer fails to supply updated financial statements upon request. The IRS also may reject an agreement where the taxpayer's financial condition changes, but only upon giving notice to the taxpayer 30 days prior to the collection action.

10. LEVY AND DISTRAINT

The provision would extend the required waiting period after notice of intent to levy to 30 days (from 10 days), before the IRS may levy on a taxpayer's property. The provision also requires the notice to include a description of procedural alternatives to levy.

The provision requires the release of any levy on wages and salaries under certain circumstances. In addition, the provision indexes through the end of 1990 the current law levy exemptions for fuel, furniture, provisions, and personal effects and for books and tools of a trade or business. The provision also increases the amount of exempt weekly income from $75 (plus $25 per dependent) to an amount equal to the standard deduction plus exemptions divided by 52 (roughly a 50 percent increase).

The provision also requires the IRS assistant district director (or a superior) to personally approve any seizure of a taxpayer's principal residence or essential business property. The provision would prohibit any levy that is "uneconomical," that is, estimated expenses of levy and sale would exceed the fair market value of the property.

The provision prohibits the IRS from demanding the surrender of bank accounts until a 21-day period has passed after the levy notice has been delivered.

11. ADMINISTRATIVE APPEAL OF LIENS AND JEOPARDY LEVIES

The provisions would permit the administrative appeal of an IRS decision to file a notice of lien. The IRS would be required to file, upon any release of lien, a statement in the public record explaining why the lien was released. The provisions also would establish a procedure for the administrative review of jeopardy levies.

12 EXPANDED TAX COURT JURISDICTION

The provisions would expand the Tax Court's jurisdiction to empower it to review claims for refund, to restrain certain premature assessments, to enforce overpayment determinations, to review certain sales of seized property, to redetermine interest on deficiencies, and to modify certain estate tax decisions.

13. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND CIVIL ACTIONS

The provision expands the current law cause of action available to the taxpayer for recovery of expenses and fees where the IRS takes a position that is not substantially justified. Under current law, the taxpayer can only recover costs accruing after the case proceeds to court, and the taxpayer must take the case to final judgment and prevail. Under the taxpayer rights provision, the taxpayer may recover costs accruing from the time the taxpayer first receives a communication from the IRS that would enable the taxpayer to go to the IRS Appeals Office. In addition, the taxpayer is not obliged to take the case to final judgment but can recover if the case is settled in the taxpayer's favor.

The provision also shifts the burden of proof to the IRS to show that its position was substantially justified. If the IRS cannot carry the burden, the taxpayer may recover costs. But taxpayers seeking a recovery under this provision are required to show that they made a good faith attempt to resolve their case during the IRS examination.

14. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN

Where the IRS knowingly or negligently fails to release a lien when such release is required, the taxpayer may bring an action in Federal district court or the Tax Court and recover either: (1) actual economic damages, or (2) $100 for each day the lien is improperly maintained (beginning 10 days after receipt of notice from the taxpayer that the lien is improperly being maintained) up to $1,000, whichever is greater, plus reasonable litigation costs.

15. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO UNREASONABLE COLLECTION ACTIONS BY THE IRS

The provision allows taxpayers to recover actual damages plus reasonable litigation costs where an IRS employee carelessly, recklessly, or intentionally disregards any law or regulation. Damages would be denied where the taxpayer was contributorily negligent. Any suit under this provision would be subject to the penalty for instituting frivolous or groundless claims and the penalty may be assessed up to $10,000.

16. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICE

The provision establishes an "Office for Taxpayers Services," headed by an Assistant Commissioner for Taxpayer Service.

Mr. PRYOR. I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KARNES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF A COURAGEOUS MAN: BERNIE SIMON, MAYOR OF OMAHA

Mr. KARNES. Mr. President, it is with the greatest feeling of sadness that I rise today to express the sense of loss all Nebraskans feel with the death yesterday morning of Bernie Simon, mayor of Omaha.

First, I extend my heartfelt sympathies to Betty and the family for whom he cared so much and for whom he did so much. I can think of few public officials who exhibited more courage and leadership during trying times than Mayor Simon. His untimely passing is a loss for Omaha, and for all of Nebraska.

Those of us who knew Bernie and worked with him on projects he championed, keenly feel the loss of a comrade in arms. Bernie Simon was a most dedicated man, a fine human being, and a wonderful friend, who helped many.

Bernie's time in office was short, but his strides to help the community were long. His efforts to achieve Federal funds for completion of the north freeway were finally rewarded just a few weeks ago. This project is just one example of the many critically important projects to Omaha that he and I worked together on so closely. I wish he could have lived to see the fruits of his labor come to reality with the completion in the project.

Bernie Simon assumed the leadership of Omaha at a critical time. And it is a fitting tribute to him that he was able to heal the wounds of a divided city. After a recall of the previous mayor, Bernie quickly assumed his responsibilities with character, integrity, and honesty.

I will always remember my many opportunities to work side by side with Bernie—and his fine staff—for the betterment of Omaha. His efforts to revitalize the downtown were a fine example of how Bernie always put the interests of Omaha first. His strong business ties enabled him to play a great role in safeguarding these vital interests in the community.

His leadership in renaming a civic center plaza after Martin Luther King was greatly appreciated by many Omahans.

It is with mixed sentiments that I recall—vividly—the mayor, following cancer treatments, sporting his "go to bat for Rosenblatt" cap. Even in what must have been a trying personal time, Bernie remembered the community and its efforts to raise money for a favorite municipal ball park.

Mr. President, the spirit, optimism, and enthusiasm of Bernie Simon was unmatched. As mayor, Bernie strove to represent all citizens. He established the citizen's advisory committee for police issues to review the training of cadets and to insure police sensitivity to the needs of the whole community.

Mayor Simon exemplified his spirit and loyalty always. Beginning his 34-year career with the telephone company as a lineman, he moved up within the ranks to marketing manager. He was always involved in a number of civic activities. At every opportunity, Bernie Simon was willing to pitch in and help, and was often seen around town boosting a wide variety of local groups and organizations.

Bernie Simon was a true gentleman, an outstanding mayor, and a tribute to this family, city, and country. I will miss his optimism, warmth, and counsel.

Mr. President, I ask unanimous consent to have two articles regarding Mayor Simon's death, published by Nebraska newspapers, printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Lincoln, Star, Apr. 15, 1988]

MAYOR SIMON REMEMBERED FOR COURAGE, LEADERSHIP

OMAHA.—Mayor Bernie Simon, who died Thursday after a bout with recurring cancer, was eulogized by friends and colleagues as a common man and a hero who enjoyed a love affair with his city.

Simon, 66, was taken to Methodist Hosptal from his home at 4:50 a.m. after his wife, Betty, noticed he wasn't breathing. City officials said Simon was dead on arrival.

An autopsy showed the mayor died from a blood clot in his heart that may have originated in his leg, said Dr. Leo O'Brien, the mayor's personal physician. There was no evidence of cancer, but more extensive tests were being conducted, O'Brien said.

Funeral services were set for 11 a.m. Saturday at Holy Name Catholic Church.

Simon, who replaced recalled Mayor Mike Boyle last year, was stricken with cancer two months after taking office. He was hospitalized off and on for treatment but kept up a full schedule at City Hall until he began taking time off to rest last month.

When he was released from a hospital stay earlier this month, his doctor denied rumors that Simon was dying and said he expected the mayor to return to work within two weeks.

At a City Hall news conference Thursday, Simon was described as someone who gave others the courage to live.

"If you were to ask me about Bernie, only two words would come to mind—courage and leadership," Acting Mayor Fred Conley said. Conley said as recently as 10 days ago, Simon showed him pictures of his grandchildren and said be was planning a party to celebrate his return to office.

U.S. Sen. J. James Exon, said he would miss Simon's "ever-present smile and positive attitude."

"His courage in the face of adversity became a model for Omaha and made every citizen proud to have him as their mayor," Exon said.

Gov. Kay Orr called Simon "a man of peace and concord. He loved being mayor. He loved serving the people, and in public service he gave the very essence of his nature, a spirit of unity which brought the people of Omaha together."

"I think the people of Omaha had a love affair with him," added city council member Jim Cleary.

"He was really just a common guy that sincerely wanted, not for himself, but for the city of Omaha to be successful during his term," council member Steve Tomasek said.

Council member Walt Calinger said the mayor "learned not to give up and fought hard until the end. At a time when we worry about not having heroes and not having role models, Bernie was a hero."

Simon, a Democrat who was first elected to the City Council in 1981, was named mayor Feb. 3, 1987, after the controversial Boyle was recalled. Simon was to fill the 2½ years left on Boyle's term.

Simon had said becoming mayor was a lifelong dream. After taking office, he was diagnosed as having an inoperable tumor in his lung. That tumor was destroyed during treatment, but two more tumors were later found in his brain.

"Don't look so gloomy," he told reporters at the time. "I've whipped cancer before and I'm going to whip this one."

Radiation treatments and chemotherapy reduced the tumors, but they reappeared just before Christmas. Doctors declared that Simon was free of cancer last month.

Ray Simon, the mayor's eldest son, said although doctors were optimistic about recovery, his family had watched him lose his grip.

"That's what was heard. The doctors kept telling us he was getting better. We saw a man who was getting worse," he said.

Control of city government was turned over to Conley, who is City Council president. Conley said at the news conference that he would continue as acting mayor until the council meets after Simon's funeral to choose a new mayor.

Survivors include his wife; three sons, Ray, Curt and Todd; a daughter, Stacy Hall; and six grandchildren.

[From the Omaha World-Herald, Apr. 15, 1988]

BRAVE BATTLE ENDS—COMMUNITY LEADERS SAY HE WAS RIGHT MAN TO HEAL CITY'S WOUNDS

Bernie Simon, mayor of Omaha for 434 days, died Thursday after a yearlong fight against cancer.

Simon, Omaha's 43rd mayor, would have been 61 years old May 1.

His death brought an outpouring of sentiment from political and business leaders who said he was the right person for the job at a time when Omaha's city government was in turmoil following the recall of Michael Boyle from the Mayor's Office.

"I don't think anyone will make quite the impression on the citizens of Omaha that he did in the short time he was mayor," said Councilman Steve Tomasek. "We loved him dearly."

News of Simon's death surprised many, even though Omahans have known for a year that the mayor was fighting a life-threatening illness.

CONDITION DETERIORATED

Although Simon stepped down on a temporary basis last month, doctors and city officials had said he planned to return to work in a few weeks.

"I'd had nothing to indicate that death was imminent," Interim Mayor Fred Conley said. "I had no reason to believe that he wouldn't return."

But family members acknowledged Thursday that Simon's condition had deteriorated. They said they planned to discuss a possible resignation this weekend.

Although doctors appeared optimistic about a recovery, the family had watched him lose his grip, said Simon's eldest son, Ray.

"That's what was hard," Ray Simon said. "The doctors kept telling us he was getting better. We saw a man who was getting worse."

Simon was a city councilman in February 1987 when his colleagues selected him to replace Boyle, ousted in a divisive recall election following several controversies.

Two months later, Simon learned that he had lung cancer.

The mayor credited that personal setback with helping unify the city.

CITIZENS RALLIED

"I think that what happened is that I got, ill after 70 days in office and the citizens rallied around me," Simon said earlier this year. "They rallied around me and put behind the turmoil of the recall. . . . We were able to put our divisions behind us and go forward.

City Attorney Herb Fitle, who has served under 12 mayors, said Simon was the right mayor for the city.

"He had a personality which seemed to fit the situation," he said. "He loved to be mayor, and he put his heart and soul into the job."

Boyle said he has known Simon for 20 years and said the late mayor was "a real constant kind of person . . . a real classy guy with tremendous courage."

"He didn't look back. He never took cheap shots," said Boyle, who had several lunches with Simon following the recall and Simon's selection by the City Council.

"Bernie was a very positive person. I'm very proud of him. He set a great example."

City Council President Fred Conley will be interim mayor until a permanent replacement is selected. Conley, the first black to serve as mayor, has been acting mayor since March 25 when Simon relinquished authority after experiencing lengthy periods of disorientation.

UP TO COUNCIL

Simon's death means that seven City Council members will choose Omaha's top official for the second time in 15 months. The replacement will complete Simon's term, which expires in June 1989.

Conley said it is too early to talk about a successor and urged his colleagues and others to wait until after Saturday's funeral to begin speculation.

"I think today is probably an inappropriate time to say anything about who's going to replace who," Conley said.

Simon was released April 6 from Methodist Hospital, where he had been hospitalized since March 18. He has been treated for illnesses that arose because the cancer treatments weakened his immune system.

Mr. KARNES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY

RECESS UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees under the standing order on Monday next there be a period for the transaction of morning business to extend until the hour of 11 o'clock a.m. and that Senators may speak during that period of morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock a.m. on Monday next the Senate then proceed under the order that has previously been entered to the consideration of Senate Joint Resolution 282, the constitutional amendment authored by Mr. HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in on Monday at the hour of 10:30 a.m. Following the recognition of the two leaders or their designees under the standing order, there will be a period for morning business not to extend beyond 11 o'clock a.m., and during that period for morning business, Senators may speak for not to exceed 5 minutes each. At the hour of 11 o'clock a.m., the Senate will proceed to the consideration of Senate Joint Resolution 282, authored by Senator HOLLINGS and others. This is a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

Rollcall votes could occur during the day on Monday on amendments and motions relating to the resolution. Amendments may be adopted by majority vote and notwithstanding the fact that a supermajority of two-thirds will be required for the adoption of the joint resolution.

On Tuesday of next week, the Senate will resume consideration of S. 237 which has been the business before the Senate today and which is referred to as the lobbying bill. There will be rollcall votes on Tuesday in connection with that matter.

Then on Wednesday the Senate will resume consideration of S. 1009, the wartime internment reparations bill. Hopefully, the Senate will conclude action on that measure that day.

And upon the disposition of that measure, then the Senate will return to consideration of the Constitutional amendment by Mr. HOLLINGS, Senate Joint Resolution 282.

Now, there could be a slight modification in what I said. I said that on Wednesday the Senate will resume consideration of S. 1009. It is possible that the Senate will resume consideration of S. 1009 on Tuesday because I believe the order provided for the Senate to resume consideration of the wartime internment reparations upon the disposition of the lobbying bill. The lobbying bill will be disposed of on Tuesday, in all likelihood.

So this means that there will be rollcall votes daily. I urge all Senators to be here and to be prepared to call up their amendments and to vote.

Mr. President, I inquire of the distinguished Senator on the other side of the aisle, who is manning the post of leader, if he has any further statement or transaction of business for today.

Mr. KARNES. Mr. President, I say to the leader that I do not.

Mr. BYRD. I thank my friend.

RECESS TO MONDAY, APRIL 18, 1988, AT 10:30 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 a.m. on Monday next.

The motion was agreed to; and, at 3:56 p.m., the Senate recessed until Monday, April 18, 1988, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 15, 1988:

DEPARTMENT OF JUSTICE

JAY B. STEPHENS, OF VIRGINIA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF 4 YEARS VICE JOSEPH E. DIGENOVA, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 15, 1988:

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

HANS M. MARK, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF TWO YEARS.

NATIONAL MEDIATION BOARD

WALTER C. WALLACE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1990.

DEPARTMENT OF COMMERCE

FRANK DEGEORGE, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF COMMERCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

EMMETT RIPLEY COX, OF ALABAMA, TO BE U.S. CIRCUIT JUDGE FOR THE 11TH CIRCUIT.

FRANK ERNEST SCHWELB, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

CHERYL M. LONG, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS.

HOUSE OF REPRESENTATIVES—*Monday, April 18, 1988*

The House met at 12 noon.

Rev. Charles Mallon, permanent deacon of the Holy Family Church, Mitchellville, MD, offered the following prayer:

He who dwells in the shelter of the most High, who abides in the shadow of the Almighty, will say to the Lord, "my refuge and my fortress: my God, in whom I trust."—Psalm 91:1-2.

Inspire us, as a nation, to hold firm the belief that we are one Nation under God. And that we are a people unto Your heart. Keep our political alliances open to Your inspiration and allow our governing bodies the freedom of political expression.

Father we ask You to shelter this Congress, its Representatives and all the people they represent. Abide with us, that we might genuinely say You are our refuge and strength, our God in whom we trust.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware;

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 268. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991.

The message also announced that the Senate insists upon its amendment to the concurrent resolution (H. Con. Res. 268) entitled "Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CHILES, Mr. HOLLINGS, Mr. JOHNSTON, Mr. SASSER, Mr. RIEGLE, Mr. EXON, Mr. LAUTENBERG, Mr. DOMENICI, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. SYMMS, and Mr. GRASSLEY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1518. An act to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes;

S.J. Res. 268. Joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; and

S.J. Res. 285. Joint resolution expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that Act.

The message also announced that pursuant to section 1139 of the Social Security Act, as amended by section 9136 of Public Law 100-203, the Chair on behalf of the President pro tempore appoints the following to be members of the National Commission on Children:

Individuals providing services, activities, or research for children: Ms. Marian Wright Edelman of the District of Columbia; Mr. David Weickert of Michigan; Dr. James D. Northway of California; and Mr. Barry S. Zuckerman of Massachusetts.

Individuals who are elected or appointed public officials: The Honorable JOHN D. ROCKEFELLER IV of West Virginia; the Honorable LOWELL P. WEICKER, JR., of Connecticut; the Honorable William Clinton of Arkansas; and Mr. William Honig of California.

Individuals who are parents or represent parent organizations: Mrs. Betty Jo Hay of Texas; Mr. Irving Harris of Illinois; Mrs. Adele C. Hall of Missouri; and Dr. William Cosby of Massachusetts.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT AND AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-570) on the resolution (H. Res. 427) waiving certain points of order against the conference report on H.R. 5 and against consideration of such conference report, and providing for the consideration of a bill to amend the Communications Act of 1934, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4222, IMMIGRATION AND NATIONALITY ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-571) on the resolution (H. Res. 428) providing for the consideration of the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program, which was referred to the House Calendar and ordered to be printed.

WE MUST PROTECT OUR INTERESTS IN THE PERSIAN GULF

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, a U.S. naval vessel, the U.S.S. *Roberts*, has been struck by an Iranian mine, and we have responded with attacks on Iranian oil platforms and Iranian vessels.

This is a dangerous turn of events, and a dangerous policy for the Persian Gulf. A shooting war is now underway, and it won't take much effort to see it escalate. I think we can avoid that, and I have introduced legislation that would place a damper on the fires burning in the gulf. By creating a U.N. naval task force to patrol the area, we could reduce the Iranian incentive to carry out attacks against foreign navies currently in the gulf, and the foreign navy I worry most about is our own. We have the right to defend ourselves and our interests in the gulf, and while we're there, we should con-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tinue to do so. However, it is more important today than ever before that we find a way to protect our interests in the gulf, and at the same time, bring about an end to this fanatical war. I think my bill would enable us to do that.

CORRUPTION OF THE CONGRESSIONAL BUDGET OFFICE

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, it is all detailed in Saturday's issue of Congressional Quarterly.

I am, of course, referring to the political corruption of the supposedly nonpartisan Congressional Budget Office by members of the majority-party leadership here in the House of Representatives.

In its initial review of H.R. 1834, the minimum wage bill recently reported out of committee, the Congressional Budget Office concluded that raising the minimum wage to $5.05 an hour would wipe out nearly 500,000 jobs and cause additional inflation.

However, the folks who run the House did not like those conclusions, so they were suppressed.

The CBO is supposed to be nonpartisan.

It is supposed to give us the facts.

It is not supposed to be a propaganda arm of the House leadership.

This incident brings discredit on those who were involved.

It is clear that we need to help the working poor. Reform of the earned income tax credit, as provided by my Job Enhancement for Families Act, is the best approach. JEFFA would help those who need it without destroying jobs or boosting inflation.

But if we are to make the best decisions in Congress, we must have honesty from our research arms. Political corruption of the CBO is unacceptable.

NOT ANOTHER UNDECLARED WAR

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, I rise to discuss the situation in the Persian Gulf. The President and the Secretary of Defense still claim that the activities in the Persian Gulf and the involvement of U.S. forces do not require a War Powers Act. Last year 37 American sailors were killed when the *Stark* was attacked. Now 11 have been injured with the mine attack on the frigate. At the same time we are shelling Iranian oil platforms, blowing their ships out of the water as they attempt to shoot at ours, their planes are threatening our vessels.

Mr. Speaker, it is clear that hostilities are not even imminent, they are actual, and it is clear further that the President and his administration have an obligation under the War Powers Act to report their activities to the U.S. Congress, and report their objectives in the gulf and begin their consultations with this branch of the Government which retains the authority to declare war, and we shall not be entered into another undeclared war by this administration, and we will do all that we can to prevent that.

□ 1210

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *April 15, 1988.*

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House at 2:15 p.m. on Friday, April 15, 1988 as follows:

(1) Said to contain a message from the President whereby he transmits the 17th report of the National Science Board, entitled "Science and Engineering Indicators—1987";

(2) Said to contain a message from the President whereby he transmits the Annual Report for 1987 of the Federal Council on the Aging; and

(3) Said to contain a message from the President whereby he transmits the 22nd Annual Report of the National Endowment for the Humanities covering the year 1987.

With great respect, I am,

Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNUAL REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of Friday, April 15, 1988, at **page 7066.**

ANNUAL REPORT OF THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of Friday, April 15, 1988, at **page 7066.**

SCIENCE AND ENGINEERING INDICATORS—1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Science, Space, and Technology:

(For message, see proceedings of the Senate of Friday, April 15, 1988, at **page 7066.**

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order speech today by the gentleman from New Jersey [Mr. RODINO].

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TRIBUTE TO MAX RABB

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 60 minutes.

Mr. RODINO. Mr. Speaker, yesterday, Maxwell M. Rabb, our Ambassador to Italy—"Max" to everyone who has met him—set a record in United States-Italy diplomatic relations. On April 17, he became the longest serving U.S. Ambassador to the Republic of Italy.

While it is not a record which will find its way into the Guiness Book of Records, it is significant because it attests to Max's extraordinary qualities as a diplomat, a gentleman, a negotiator, and a humanitarian.

One has only to look at the list of his illustrious predecessors, such as Claire Booth Luce, James Clement Dunn, David Zellerbach, Frederick Reinhardt, and John Volpe to have an idea of the significance of this achievement.

Others will relate to you, I am sure, in detail Max's expert handling of various crisis situations in Italy, such as the *Achille Lauro* incident, the kidnaping of General Dozier, and the successful negotiation of an important extradition treaty with the United States.

In all of these, I supported Max's efforts to maintain the traditional good will and friendship between our country and Italy. His contribution to the successful negotiation of the extradition treaty with Italy has done much to help us thwart criminal and drug-related activities. Also, his participation, with the Italian Government and with many of us, in reversing the rise of terroristic activities in Italy must be recognized and applauded.

But I wish to look back to an earlier time, some 35 years ago. When I first met Max he was an Assistant to President Eisenhower and Secretary to the Cabinet. One of his many duties in the White House was to be the principal refugee adviser and coordinator for refugee affairs.

As a junior member of the Judiciary Committee at that time, I recall working closely with him to enact the Refugee Relief Act of 1953 to facilitate the admission of refugees from the Iron Curtain countries of that period. Under this act, the United States relieved internal economic and population pressures in the struggling post World War II Western European countries. Max can take credit for giving hundreds of thousands of refugees a new lease on life and for participating, in a true sense, in the economic recovery of those countries devastated by the war.

Again, in his humanitarian tradition, he participated with our Judiciary Committee colleagues in late 1956 in utilizing for the first time the parole provision of the Immigration and Nationality Act to allow some 38,000 Hungarian refugees to enter the United States following the Hungarian revolution in 1956.

Of course, since those days Max and I have met many, many times in a social and business context. Throughout the years, his wisdom and ingenuity have contributed toward enhancing the democratic and humane image of the United States, both nationally and internationally.

During my many visits to Italy over the years, I have had occasion to observe Max in his dealings with government figures, with Italian businessmen, and with the general populace. It is quite evident that from all his contacts and discussions that he is a highly respected and admired diplomat and one who has clearly earned the warmth and affection of the Italian people. Because of Max's understanding and compassion, he has clearly won the hearts of all Italians. Max can properly be described as an "Ambassador Extraordinaire."

This tribute would not be complete without giving equal recognition to Max's charming wife, Ruth. I have been fortunate to have been on numerous occasions a guest at the Ambassador's residence, the Villa Taverna in the heart of Rome. Ruth, with her elegance and social grace, has transformed this 16th century nobleman's mansion into a setting characterized by warmth, comfort, and hospitality. I admire her dedication and contribution to the public service in her own right—she is certainly our coambassador to the Republic of Italy.

I think that the bottom line is—if President Reagan were to search the length and breadth of this great country of ours—he could not find better representatives of the United States to Italy than Max and Ruth Rabb.

This special order I have taken today is a small measure of the gratitude and affection that I and my colleagues have for Max Rabb.

I congratulate Max and Ruth for their tenure record and I congratulate the President for having the foresight to select Max for this important diplomatic post and the wisdom to keep him there for this historic length of time.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my good friend, Congressman PETER W. RODINO, JR., in paying tribute to Ambassador Maxwell M. Rabb, who on April 17, became the longest serving United States Ambassador to Italy in the history of our Nation's diplomatic relations with that country.

I have had the honor of working with Ambassador Rabb on a number of occasions on several projects of significance to the mutual benefit of both the Republic of Italy and the United States, and I know firsthand the outstanding service he has performed in the representation of our country.

Ambassador Rabb has dedicated his life to the public service of our Nation. He was the administrative assistant to two U.S. Senators from Massachusetts beginning in 1937, and served our country with distinction in the Amphibious Corps of the U.S. Navy from 1944 to 1946. In 1946 he became a legal and legislative consultant to the Secretary of the Navy.

Under President Eisenhower, between 1953 and 1958, Ambassador Rabb served as a Presidential assistant and as the Secretary to the Cabinet. In 1958, President Eisenhower named him chairman of the U.S. delegation to the 10th Unesco Conference in Paris, and he continued to serve on the Executive Board of the U.S. National Committee for Unesco through 1960. President Johnson appointed him as a member of the Presidential Commission on Income Maintenance Programs, and also as the U.S. conciliator of the World Bank's International Centre for Settlement of Investment Disputes. He also received appointments from both Presidents Ford and Nixon.

Appointed American Ambassador to Italy in June 1981 by President Reagan, Ambassador Rabb has worked on several important projects promoting cooperation between the United States and Italy, including the deployment of intermediate-range nuclear weapons in Italy, and three multinational peace forces which were sent to the Middle East. He also was instrumental in the development of a new extradition treaty which has facilitated joint action in the prosecution of international drug traffickers and organized crime.

For his outstanding and dedicated service in enhancing the relationship between the United States and Italy, in 1982 he was named Cavaliere di Gran Croce by the then Italian President Sandro Pertini, an honor awarded to foreigners for their contributions to the Italian Republic.

Mr. Speaker, Ambassador Rabb is a fine public servant and an individual of great compassion and courage who has ably represented the best interests of the United States, while at the same time promoting the many ties which join the United States and Italy. In recognition of his many years of service as United States Ambassador to Italy, I would like to take this opportunity to commend him for his achievements and to extend to him my best wishes for future success, as he continues his service to our country in devotion to the highest standards of excellence.

Mr. BOLAND. Mr. Speaker, it gives me great pleasure to have this opportunity to pay tribute to Maxwell M. Rabb, who yesterday became the longest serving United States Ambassador to Italy.

I have known Max Rabb since 1953, the year I came to Washington as a freshman Member of Congress. Max had just been appointed Secretary of President Eisenhower's new Cabinet, a position which he held until 1958. He was renting an apartment on Massachusetts Avenue in the same building in which former Speaker Tip O'Neill and I were living.

I always found Max Rabb to be not only a personable and likeable neighbor, but an intelligent and tenacious administrator. The job of Cabinet Secretary is an extremely demanding one, and the responsibilities that come with it are diverse. It requires a discerning mix of assertiveness and delicacy and the ability to coordinate the agendas of not only an entire Cabinet, but the President as well. Max had that mix. The diplomacy he learned as Cabinet Secretary no doubt has served him well as Ambassador to Italy.

Max was appointed Ambassador to Italy by President Reagan in June 1981, a post which he holds to this day. He is a survivor who endured two extremely trying crises in the *Achille Lauro* hijacking and the kidnaping of Brig. Gen. James J. Dozier. The manner in which Ambassador Rabb persevered toward a solution in those emergencies earned him the respect of the diplomatic world and the world in general.

As many of my colleagues know, noncareer Ambassadors are limited to a 3-year term of office. But the rules were bent a little for Ambassador Rabb, as they should have been. He is, after all, exceptional.

I commend my colleague, Mr. RODINO, for calling this special order to allow full recognition of Ambassador Rabb's remarkable achievements.

Mr. GILMAN. Mr. Speaker, I am pleased to join with my colleague from New Jersey [Mr. RODINO], in paying tribute to Maxwell M. Rabb for his outstanding skill and distinguished accomplishments as the American Ambassador to Italy.

Ambassador Rabb had a long and distinguished record of public service prior to his current appointment. He served as a congressional staff member, in the Navy's Amphibious Corps during the Second World War, and as an assistant to President Eisenhower. Later on, he served as a U.S. delegate to several multilateral agencies and in other challenging posts while distinguishing himself in the New York Bar.

Since June 1981, Maxwell M. Rabb has served as the American Ambassador to Italy, and on April 17, 1988, became the longest serving United States Ambassador to that country. During his tenure, the United States and Italy have worked closely together on several projects of great importance, such as the development of a new extradition treaty concerning the prosecution of international drug traffickers and organized crime, the decision to deploy cruise missiles on Italian soil, and the development of numerous bilateral accords in the arts, sciences, and business.

In a nation that is governed by multiparty coalitions, Ambassador Rabb has won many friends across the broad political spectrum. Ambassador Rabb's ability to appreciate and synthesize many sides of a difficult question could not help but endear him to the Italians, whose own political system thrives on diversity.

In 1982, Ambassador Rabb was named Cavaliere di Gran Croce by Italian President Sandro Pertini, an honor that is awarded to foreigners for their distinguished contributions to the Italian Republic.

Mr. Speaker, I invite our colleagues to join with me in saluting Maxwell M. Rabb for his fine accomplishments as the longest serving United States Ambassador to Italy. He has been an outstanding diplomat, a great patriot, and an inspiration to us all. We wish him many more years of distinguished public service.

Mr. CONTE. Mr. Speaker, yesterday was a very special day for my good friend Max Rabb. On April 17, Max became the longest serving United States Ambassador to Italy in our Nation's history. I want to join my colleagues here today in congratulating Max on his years of dedicated service to our country.

Since June of 1981 Max has represented the United States in Rome. While 7 years may not seem like a long period of time, Max's service has extended for more than five decades. He began working for the Federal Government back in 1937, serving as administrative assistant to then U.S. Senator Henry Cabot Lodge of my home State of Massachusetts. Following that, he was AA for Senator Sinclair Weeks, also of Massachusetts.

As early as 1953 Max had become an expert on United States-Italy affairs. During that time he served as a Presidential assistant and as Secretary to the Cabinet of President Eisenhower, and was awarded the title of "Commendatore of the Order of the Italian Republc" by that Government.

Max has gone through some particularly trying incidents in his 7-year tenure as the United States Ambassador to Italy. Many will remember his yeoman efforts in 1981 when U.S. Brig. Gen. James Dozier was kidnaped by the Red Brigades from his home in Verona. For 6 weeks he quietly but effectively worked with Italian officials, eventually succeeding in getting Dozier released, unharmed.

But perhaps his most difficult moment came following the *Achille Lauro* incident, when the United States had to violate Italian airspace to bring down the plane carrying the perpetrators. As Max himself says now, the Italian Government—never one of the more stable governments—was dangerously close to falling as a result of this affair. What Max doesn't acknowledge was the integral role he played in keeping the Italian Government together during that trying crisis.

He has served under Presidents of both parties. His knowledge in Italian affairs is unequaled. His dedication to public service is commendable. I can say without exaggeration that Max is without peer in the ambassadorial ranks of the United States.

Mr. Speaker, I have known Max for longer than either of us care to remember. In fact, Max and I first met back in 1952 when we worked together on the first Eisenhower Presidential campaign. I consider Max Rabb to be a personal friend of mine. More than that, I consider him to be an outstanding representative of our country. My wife Corinne and I want to personally congratulate and thank Max and his lovely wife Ruth for years of service to this Nation.

Mr. GRADISON. Mr. Speaker, honoring Max Rabb for his outstanding record as our Ambassador to Italy is for me a chance to reflect not only on his recent contributions to our Nation, but on his lifetime of public service. I first met Max Rabb when he was Secretary of the Eisenhower Cabinet and I was a young assistant to a Cabinet member. Over the years—35 to be exact—I have observed how Ambassador Rabb has moved in and out of Government, taking on increasingly important posts, and now has the distinction of setting a record for the longest serving United States Ambassador to Italy.

Of course, the measure of the man is not his tenure but his accomplishments on behalf of the United States and the free world. I have been especially impressed by the close and effective working relations which he has fostered with Italy in the war against drug trafficking. Max Rabb and his wife Ruth as a team have set a standard for representing the United States abroad which will be an inspiration for others in years to come. I am delighted to join with my colleagues in this well-deserved tribute.

Mr. DE LA GARZA. Mr. Speaker, I am so very happy to join my good and dear friend, PETER RODINO—the very distinguished chairman of the Judiciary Committee—to add a few personal thoughts as we praise Ambassador Maxwell Rabb as he reaches a milestone in the history of the Foreign Service.

Althought not a career diplomat, he will have served longer in Italy than any other ambassador; but let me add the time served is really not the important thing. The quality of his service is really what counts.

I have personally been involved in some of the areas in which he has worked with great success. He has represented our country well-above and beyond the call of duty. I personally know he enjoys his job, but we must realize that he has served at great sacrifice to himself and his family—and at times his service has been at great personal risk.

It really would be appropriate to recite the story of his many careers, but let it suffice for me to say that he has served his country well as assistant and adviser to Senators, to Cabinet members and to Presidents. He is a great American. We are proud and certainly appreciate all of his contributions.

We are a better people, we are a better country because of his service. Now he adds Italy to his many accomplishments. We are better friends and our relations are that much better because of Maxwell Rabb: a great man, a great ambassador, a great American.

Mr. STRATTON. Mr. Speaker, I want to thank Mr. RODINO for suggesting this tribute to Maxwell Rabb. I have great respect for this man who has served longer than any other U.S. Ambassador, devoted so much of his life to the work of his Government and, particularly to diplomacy.

It isn't often you find someone who is equally valued by the Republicans and the Democrats in our partisan town. But President Eisenhower saw that Max was an invaluable asset; so did President Johnson. So have many others.

My affection for Max Rabb may have something to do with the similarities in our early careers. Some 40 years ago we served Members of Congress. We both came to Washington, DC, in the 1940's as assistances to Members of Congress—he in the Senate, was the AA of Henry Cabot Lodge, and I was a secretary in the House for Congressman Thomas Eliot of Massachusetts. We both then served in the Navy. After World War II Max moved on to his illustrious career of service to Presidents. I came to the House.

More important, of course, we share a world view which owes much to history and depends on calm, assured diplomacy. Max is an honorable man—the quintessential diplomat—and a great American. I extend my warmest regards and high esteem for Max and his wife, Ruth. I know they have many years ahead of them, and many memories in the Congress and in the diplomatic service.

Mr. GUARINI. Mr. Speaker, it is truly a pleasure to join with Chairman RODINO in this tribute to Ambassador Maxwell Rabb, who is now the longest serving United States Ambassador in the history of our relations with Italy.

My friendship with Max goes back many, many years. I have known him as a lawyer, as a political figure, as a statesman, as a humanitarian, and as a friend.

A recent book, "The Wise Men," by Walter Isaacson and Evan Thomas, described the achievements of leading American diplomats, who made such a great contribution to rebuilding the postwar world.

These statesmen had a number of important traits in common:

They believed in values, and used their considerable talents to promote democratic freedoms and a defense structure designed to keep the peace.

They performed in the service of the United States, and were beyond partisan politics, working with Democrats or Republicans in pursuit of common visions.

And they understood the need to work as partners with nations that share our goals, and our visions, and our hopes for a better world.

These words describe Max Rabb, who is a wise man par excellence.

Throughout his distinguished career, he has promoted good causes, elevated the legal profession, represented our country with distinction, and worked to help those in need.

When the poor sought simple justice, there was Max, on the board of the NAACP.

When people were starving in Bangladesh, there was Max, working to provide relief.

When freedom was challenged in war, there was Max, winning a Navy commendation.

When Democrats and Republicans were looking for able advice, there was Max: in the White House, in Congress, as Ambassador to Italy.

People sometimes forget that Italy is one of our most important and faithful allies. In times of crisis, we can count on Italy. And Italy can count on us. And no man better embodies the friendship that binds us than Ambassador Rabb. His ability, his warmth, and his commitment have made our friendship stronger than ever.

As Ambassador, he has been involved in many of the central issues of our time.

He worked with Italian leaders in the deployment of missiles in the early 1980's. Italy's support, and the successful deployment, helped open the door to the Reagan-Gorbachev negotiations that have already resulted in the INF agreement, and could result in a strategic arms agreement that would change the course of history.

During the difficult hours of the *Achille Lauro* incident, he walked a narrow line between United States and Italian officials to reduce tensions in an extremely dangerous situation.

In large measure through his wise counsel, the United States and Italy agreed on an important extradition treaty that made a major contribution to the battle against organized crime and the war against drugs.

As we speak here today, I have no doubt that Ambassador Raab is hard at work on matters of war and peace, economics and trade.

Mr. Speaker, I believe we all owe this distinguished public servant our thanks and our admiration for a job well done. As he crosses the historic threshold of being the longest serving United States Ambassador to Italy, we join his many friends on both sides of the Atlantic in wishing him continued health and success.

Mr. LANTOS. Mr. Speaker, I would like to thank our most distinguished colleague from New Jersey, Mr. RODINO, for arranging this special order to honor our Ambassador to Italy, Max Rabb. Chairman RODINO has been one of the most consistant leaders in the Congress to give appropriate attention to United States relations with Italy, and I commend him for his efforts.

It is most appropriate, Mr. Speaker, that we honor Max Rabb today since this marks the occasion when he becomes the longest serving American Ambassador to Italy in the long and productive history of our diplomatic relations with that country.

This distinguished record of service to the United States and to American-Italian relations is a tribute to Max Rabb and his dedicated wife, Ruth. Under their leadership in Rome, our relations with the Italian Government and our ties of friendship with the Italian people have strengthened and grown.

As always happens in relations between free and independent democratic nations, strains have surfaced in our relationship. But Max Rabb has skillfully and carefully managed those challenges, he has kept them in proportion, and he has made a successful effort to prevent disruption of the overall excellent relations between the United States and Italy.

Mr. Speaker, I, like many of our colleagues in this House, have had the great pleasure of enjoying the hospitality of Max Rabb and his charming wife, at their residence in Rome. When my wife, Annette, and I were there most recently on a private visit, they were most gracious in making us welcome.

Mr. Speaker, I am delighted to pay tribute to Max Rabb and to his lovely wife, Ruth, on the occasion of this important milestone. It is my sincere hope that they will continue to serve our Nation so well as they have done in the past.

Mr. GREEN. Mr. Speaker, I thank Congressman PETER RODINO for scheduling this tribute to honor Maxwell M. Rabb, who has been the American Ambassador to Italy for the past 9 years. Max Rabb, who has been a long time friend and an outstanding public servant. On April 17, 1988, Mr. Rabb will become the longest serving United States Ambassador to Italy in the history of our diplomatic relations with that country.

During his term as Ambassador, The United States and Italy have collaborated on several projects of importance including the deployment of intermediate-range nuclear missiles in Italy and a new extradition treaty which has permitted joint action in prosecuting international drug traffickers and organized crime. In 1982 Italian President Sandro Pertini named Ambassador Rabb Cavaliere di Gran Croce, an honor awarded to foreigners for distinguished contributions to the Italian Republic.

Mr. Rabb holds a long history of public service which includes work as an administrative assistant for several U.S. Senators, a Presidential Assistant and Secretary to President Dwight D. Eisenhower's Cabinet, and chairman of the U.S. delegation to the 10th Unesco Conference in Paris. He was also appointed by President Lyndon B. Johnson as a member of the Presidential Commission on Income Maintenance Programs and as U.S. conciliator to the World Bank's International Centre for Settlement of Investment Disputes, ICSID. President Richard Nixon appointed him to the Presidential Panel for Relief Aid for India, Pakistan, and Bangladesh.

Mr. Rabb was born in Boston in 1910. He attended Harvard University and Harvard Law School.

I ask all of my colleagues to join with me in paying recognition to this outstanding man who has done so much for our country.

LEGISLATION TO ESTABLISH A UNITED STATES-MEXICO JOINT DEVELOPMENT BANK

The SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this last week, to be precise last Thursday, I reintroduced a bill now numbered H.R. 4388 which I believe and have believed for 20 years is very critical because I first introduced a different form but essentially the same content of this bill 20 years ago in 1967-68. Those years were years that nobody seemed to think interest rates would ever reach such exorbitant and extortionist and usurious extents as 21 percent prime interest rate which in 1980 and 1981 we suffered through.

Mr. Speaker, at that time it was much less anticipated that our No. 1 trading partner at that time, which was Mexico, where we had a 700-percent-plus trade balance which no other country in the world could say the same as far as the United States international account was concerned. Nobody could visualize at that time that there were building up forces, though some of us spoke as I am today on the House floor for the RECORD so that I could hopefully attract the attention first of some of my colleagues on the Committee on Banking, Finance and Urban Affairs, and second, some of the leadership in the House. But there was no way that in that environment one could say it would not be too long before we will have distress of major proportions up and down the border and internationally the United States, an importing nation, a debtor Nation for the first time since 1914.

It was very difficult and it is even today as I reintroduce this bill. In 1982 with the advent of a new President in Mexico who happened to come up on May 12, 1982, to address a joint session of the Congress, I took advantage while meeting him to run across his consideration this that I envisioned in H.R. 4388 which I call the United States-Mexico Development Bank.

He was very enthusiastic and said that I would soon be hearing from the Mexican Ambassador to the United States, which I did and I received the then wholehearted support of the Mexican leaders.

In 1982 as my colleagues will recall, that was a year of a pinnacle triumph of Reaganomics and Ronald Reagan's retrenchment philosophy, and there was absolutely no sympathy, nor even knowledge much less concern about anything south of the border even though by then it was obvious that even south of Mexico we were having real crises of the first magnitude, it was not realized that sooner or later they would impinge on the United States first and foremost as I think now it is generally accepted has happened. So that in reintroducing this bill I would like to discuss the basic thrust of it and the whys and wherefores of it.

One must remember that in 1967 and 1968 there was no immigration crisis because President Johnson with great ado at the foot of the Statue of Liberty signed the 1965, what he called epoch-making codification of our immigration and naturalization laws and said that for the first time we in the United States are abolishing national and racial origins as a basis for immigration.

However, he had reference to the orientals.

In that same bill, which I voted against incidentally and was the only one to rise in the middle of the so-called debate to raise pointed questions that were not answered, because for the first time in our history we placed quotas in the same bill that my great friend and Texas leader, President Johnson, was touting as the greatest breakthrough in immigration and naturalization law reform. We placed for the first time in history in that bill quotas on our Western, Northern, and Southern Hemisphere neighbors.

Mr. Speaker, the question I raised in the House debate, so-called, resulted because of a floor amendment offered by the then semileader of the minority from the State of Minnesota, who later made some news as a President Nixon reelection campaign figure, and was very, very insistent on his amendment which was the one that placed quotas on our Nation regardless of whether they were geographically adjacent to us like Canada on the north or the Republic of Mexico on the south.

First of all, I went to the chairman of the Committee on the Judiciary, Mr. Cellar, because I had been monitoring that bill in the Committee on the Judiciary and had been assured by the same Chairman Cellar that no such amendment was going to be accepted by the committee or on the House floor, and then suddenly here he was on the House floor accepting the amendment.

The gentleman from Minnesota at that time as I say, and I repeat, in a very blustery fashion when I asked why he was not recognizing the fact that there are historical and political and social consequences if we did not differentiate between our two geographical neighbors, neighbors that destiny and fate placed them as our next immediate next-door neighbors. His reply was to me, and it is in the RECORD if any of my colleagues wish to check it out, and this was in August of 1965, his reply was, "We are going to place every nation on the same footing."

I interjected, interrupted him and said, "Do you mean you want to place Iceland on the same level as Mexico?"

He said, "Precisely."

Mr. Speaker, with that one cannot argue. There is no way one can argue with that abysmal lack of knowledge of our own history in the Southwest and particularly the fact that we had had since World War II the question of immigrants that under certain conditions we accepted evoking an outlawed practice of the 1870's when cheap European labor was imported from Middle Europe to work in the mines of Pennsylvania and other hard-core labor jobs. They were contract laborers, in fact the Congress some 10 years later just simply passed a law to abolish that practice. So for the first time we reverted to that during the pressure of World War II but then subsequent to the war's end the insistence on the part mostly of our growers in the Southwest and Far West and California on having this type of cheap labor, they did not have to worry about families, ostensibly, and they very blithely forgot the basic elements of human existence, and not realizing that that very fact alone would produce social conditions in our country that we would have to be paying for.

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Then, of course, the so-called Bracero Program, which my first year in the Congress I was given credit, rightfully, or blamed, according to some for the termination of that program, even though President Johnson favored it. I was the first to successfully attack it and win the attack, because as I said then, it was the misery and the poverty of one nation feeding on the misery and poverty of another.

Why did I say that? Because when I was in the State Senate of Texas, I gained by the standards of our establishment in Texas the dubious and questionable distinction of having submitted the first minimum wage bill in the history of the Texas Legislature, and that was in 1957, in my freshman year as a State senator.

One of my local newspaper editors called me in and said he had received this message from the Texas Associated Employers saying that I was guilty of importing the worst revolutionary legislation from the Mexican Revolution, which was so absurd that I had to laugh. The editor was deadly serious. He said, "Well, Henry, I am trying to get you in good with the business community, the conservative community, and here you are now, and I think you ought to withdraw." I said, "Mr. Editor, have you seen the bill?" He said, "No." I said. "Under those circumstances I am not about to withdraw anything."

I could not get a hearing at all either in 1957, the 57th legislature, and I could not get a hearing when I reintroduced it in 1959, in the second regular session of the legislature that I had the privilege of serving with. So it was not until 1965 or thereabouts, maybe later, and I could be in error, it could have been in 1967 that the State Legislature of Texas finally passed a minimum wage bill setting the minimum wage at $1.25. As far as I know, it never has been acted upon since then.

But at the time I introduced my minimum wage, and my colleagues will look in astonishment, what did I fix as a minimum wage? I fixed 40 cents an hour because two powerful governments, the United States and the Republic of Mexico, signed a solemn bilateral agreement that Mexico would permit the exportation of this labor, single laborer, usually young, aggressive, hard working, but they could not bring their families. They had a contract that they came on, and if any of the workers resisted that contract the Immigration officials were immediately called in and they were shipped back to Mexico. Some jumped their contract and entered the illegal status. How many? Only the Lord knows.

But I visited growing fields in the valley of Texas and in the same fields shoulder to shoulder were native born Texans, of the same ethnic group as the imported Mexican laborer, and he was earning as little as 23 cents an hour; yet, the very next laborer next to him, the Mexican imported laborer, was by law compelled to be paid 50 cents an hour. So I thought if we make it 40 cents, certainly people will see the justice of it and, of course, for the first time I was covering agricultural workers. Even on the national level that had not happened when I came up. I am the author of the first, and this was 1962, first farmworkers labor standards such as transportation, crew chiefs ever introduced in the history of the U.S. Congress. But it was not until quite a few years later that we had minimal adoption of those.

So in trying to attack the causes for these almost cyclical mass exoduses of workers seeking what every one of our ancestors sought when they came to the United States, a chance to work, earning a living, support families, have a home and have the nice things of life for their families, this is what pushes people out in Mexico today where they have over 150-percent inflation and where they have half of the work force and coming into the work force 15 year olds. Also where they have an unemployment rate, and I am not talking about submarginally unemployed, I am talking about an unemployment rate of over 50 percent. We do not have to read those statistics to know we have problems.

In the meanwhile with the financial crisis in Mexico in 1982, in September, the whole border area suffered so that on both sides, on the American side as well, we had levels of unemployment as high as 25 percent and 26 percent, and they have not diminished by too much. The crisis was created because of Mexico's financial, that is its fiscal and monetary problems.

I then addressed those problems and attempted to contact the chief of the Federal Reserve Board, that is the Chairman. I communicated with the then Secretary of the Treasury. I pointed out specific recommendations that could be utilized to help the Republic of Mexico stabilize the situation.

I was callously ignored by both groups, and the result is chaotic, because up here, like in the case of immigration and naturalization law, there is very little perception or knowledge about those border conditions and what makes things tick, and the economy up and down that border is so interlaced, so interdependent that we cannot sit back in sweet comfort and watch our neighbors suffer, sink in misery, disease, ignorance, unemployment, and poverty without eventually feeling it ourselves.

Mexico still is a substantial trading partner because as far as the United States is concerned it is within our orbit or economic dependency. That is, Mexico is like the United States now with respect to the industrialized nations in Europe and Japan. Ironically, we are back where our country was when it declared its revolution from the British Crown. The economic issue was that England was following the merchantile practice or theorem that is, no matter what natural product was raised in the Colonies, if we wanted to have anything manufactured it was prohibited to be done in the Colonies. We had to get that from the manufacturers and the factories of England. This is where we are today, not that crude, but to a certain extent the same because we are now an importing nation, not a producing nation, and our deficit and our international trade balances are clearly critical and are pointing a dagger at the heart of our fiscal, monetary, and economic well-being.

We might shake up and down here because of the stock market and not see its apparent consequences, because usually we do not see them for about 1½ or 2 years. But the processes are in, they have been in, the handwriting has been on the wall since 1966 and the credit crunch of June 1966. It has been very lonely. It has been almost demoralizing. But the reason it is almost demoralizing was not that we mentioned the problem was in the making, it is that we offered suggestions that have never been considered, that have been refused to be evaluated, which is all I have asked for.

When I introduce a measure I never do so frivolously or with any ulterior purpose other than legislative. Let me point out to my colleagues a little bit of the history here about my role in the last 26 years and 7 months as a duly elected Member of this great body.

There is no man in the membership of this Congress that has the number of bills, resolutions introduced, that is offered and introduced or amendments offered either during committee, subcommittee or on the House floor and enacted into law than the number that I can proudly and at the same time humbly say I have to my credit, because one does not do anything alone. One of those bills took 11½ years for fruition, and that is the beauty of our system. This what I want to point out and stress to my colleagues, that if one can survive, meaning if our constituents think and continue to think we should be the Representative and we survive and we have the reasons for being here, then I think we should be legislative. This is our prime constitutional duty. That is the reason why in the 26 years and 7 months my presence has been 99.9 percent in voting because all we have is our vote and our voice, and that is all we have. That is the only power. Everything else is illusory.

So I am proud of that. I would not have had the ability to say this had I not been offering suggestive legislation that passed the test of 434 other minds scrutinizing it, considering it, voting on it and improving it, certainly, because no one of us thinks of the perfect bill. It is improved as we go along. But the basic thrust and the need for the legislation, if it is emerging from the midst of our society, the beauty of our system is that sooner or later it will be here, and that is the beauty of our system which I hope we will sustain and maintain and flourish by our proper legislative role and behavior.

In this case I felt even before 1982, as I said, 1968 when it was not at all ever thought that we would have a depression on the border, not the border, everybody thought, I felt the root causes even in 1968, still thinking of the old bracero program where the average citizen in any country, and that means the countries south of the border, and our own homeland, no one really wants to move. Everyone wants to stay where they were born, where their neighbors are, where their relatives are so that when we have a mass exodus of people, but these people are select, they are young, they are aggressive, they are hard working, and all societies need to retain that kind of citizen as far as their abilities will allow them. When thousands and hundreds of thousands see it necessary to move against their own desires, and the proof of it is that for every three illegals that enter our country we will have one going back, maybe temporarily, true, but it is a constant movement that has not been evaluated by any study I have seen.

☐ 1240

And the reason for that is simple: Most want to stay in their native land but they are not going to starve, as any one of us would if there is an opportunity promising somewhere, even as difficult as it is. And every month we have reports of these pitiable people dying, stuffed, asphyxiated to death in tank cars because some wolf who has contracted—and they have had to pay a good price to get in that shipment—and has cared very little for their well-being, allows them to be out here suffocating to death. We have had almost every month reports of that. We have had reports almost every other week of some of these so-called undocumented illegal aliens dying, riding the rods, the railroads, getting crushed to death, almost every week whether it is in Texas or in New Mexico or Arizona or California but particularly Texas because Texas has always been the central highway for the dispossessed in Mexico.

This is why statistically it is interesting to note that in 1950 in Texas the average so-called Hispanic-surnamed—that was the only time they used the word then—14 years of age in Texas had less, less than 4½ years of schooling. In one county, Refugio County, the mean average, and this is average, was 1½ years. This is a 14-year-old. How in the world could we have anything but the reaping of the consequences of that a decade or two decades later and the need for us to inaugurate massive retraining programs to retrain these citizens to become self-supporting and to add, not detract from, the commonwealth of our communities? But in California the average was 8½ grades.

Now why would that be? Well, we studied that. I came to the conclusion the reason was that during that tremendous upheaval known as the Mexican revolutionary period—and there was so much unawaredness of this history in our country. This was the bloodiest revolution of all. Some of the Russian revolutionary leaders, the Bolsheviks used the Mexican Revolution and some of its heroes as examples of people rising, throwing up the yoke of tyranny.

And in fact such names as Juarez, Zapata, even Villa were popular in Russia during the incipiency of their revolution which happened 8 or 9 years after the beginning of the so-called Mexican Revolution.

But for 30 years, three decades, there was constant turmoil. During the course of that revolution more than a million died, more than a million left at a time when Mexico's population was not even 13 million. The poor, the uneducated, the so-called peon class had to travel the best and only way which was the main central rail through Monterey, up central Mexico to the border and Laredo and Nuevo Laredo. This was the main line of exodus for the poor, the illiterate, the people that in reality were economic slaves and had been for centuries. The more affluent were able to go up through the northern routes and ended up in California.

Well this tended to be the more educated. And not too unique to the Cuban situation in Florida. The upper class, many of whom were able to salt some money out not only here but in Spain, the educated class, the professional class were the ones that came to Miami overwhelmingly. It was similar in the United States in the case of the Mexican exodus, except for that difference.

I attribute the fact that in 1950 the median average educational attainment of a 14-year Hispanic-surnamed in California was 8½ grades and in Texas it was less than 5.

In Dallas County, which at that time did not have too many inhabitants of that extraction, the average was 2½ grades.

So that was 1950 and we are going to have a census 40 years later, incredibly in 1990, which will paint a different picture arithmetically but proportionately not that radically different.

So that I felt that if our two governments could get together—and mind you we never have. There never has been created a commission such as I have envisioned for over 20 years, a Mexico-United States bilateral commission to consider such things as immigration, but also economic questions.

So having been chairman of the International Finance Subcommittee for 10 years, and this was the committee that had jurisdiction of the regional banking institutions such as the Inter-American Development Bank, I was chairman at the time we created the Asian Development Bank and the other regional institutions of that nature. I came to the conclusion—let me say that Mexico is very proud. It never has accepted bilateral aid. It is very proud of its sovereignty and does not want any dependency on anybody. But it has gone very heavily through the development bank route.

So I propose, and I reintroduced it last week, a bill that would create a Mexico-United States Development Bank. The United States and Mexico would be on par. Each would offer the same amount of capitalization. The only thing I changed after 1982 was that the jurisdiction of this bank's activity would come into the United States as far as 200 miles into the interior of the United States. This was to make sure we realized that there was just as much a responsibility for us to focus on the American side.

The main idea was that through allocation of credit infusion in a proper way, not a continuation of the misery of labor of one nation feeding off the misery and deprivation of another, but through the investment process and the allocation of credit, fomenting economic activity and particularly job-producing activity.

We figured that for every job that could be produced as a result we would be able to prevent at least three to five so-called illegals because of the multiplier effect for each job produced.

Mexico cannot expand and has not been able to expand for 20 years its labor market to meet those coming into the labor market at all.

As I said awhile ago, 50 percent of that is threshold; they are going to be in that labor force right now because Mexico's growth populationwise has been very steady and a definite growth pattern.

The city of Mexico City, which has probably the most monumental problems of any major city in the world—and remember that it will soon be the largest city because they have everywhere over 17 million inhabitants. In 1965 when I was also a member of the Mexico-United States Interparliamentary Group I met with some of the leaders in Mexico City and the statistics were frightening then. And I visited some of those areas.

The statistics in 1965 were that over 84 percent of the housing in Mexico was substandard and absolutely inadequate. We can imagine what it would be like today.

So that I think even though it is late and even though we on our side have shown no interest, even though the present President of Mexico has been very much in favor, they realize that it can be a constructive way of working together without there being an inordinate overweening presence on the part of the United States, but rather as a partner.

My bill calls for a mutual, cooperative, coequal, venture with the Government of Mexico; this program recognizes the unique and special relationship between our two countries, recognizes our mutual interest, and treats realistically a situation that concerns both countries in a fundamental way.

My bill does not speak to Mexico's problems alone; it also addresses the vast human and economic needs that are going unmet on the United States side of the border—for in truth, huge stretches of the border zone are much in need of the same kind of assistance required in Mexico. The need does not stop at the border.

My belief is that the United States and Mexico must work cooperatively together, to meet human and economic needs on both sides of the border. This is the only way to alleviate the greatest single cause of illegal entry into this country, help meet needs within Mexico, and at the same time provide a realistic program to revive the economically shattered border zone of our country.

My bill calls for the creation of a joint United States-Mexico Development Bank. This bank would operate on the same tried, tested, and proven principles of the Inter-American Development Bank, the World Bank and similar multilateral lending agencies. It would be owned in equal shares by the United States and Mexico, and in every way be a completely mutual institution, dominated by neither side. Its management would be professional, its direction nonpolitical, and its aim strictly to get the maximum economic benefit out of every dollar invested.

The United States-Mexico Development Bank would have capitalization of 4 billion United States dollars, contributed equally by both governments. The actual paid-in capital would be $400 million; the remaining capitalization would be in the form of callable capital. The bank could float securities against the callable capital. Thus, for every $1 actually paid into the bank, the bank could generate $9 more worth of loanable funds. This is the same financing mechanism that has been used for many years by the multinational development banks. The result is that for a minimal outlay of government funds, we can generate a vast amount of private money for bank projects. For a total cash outlay of $400 million—half of which would be contributed by Mexico—there would be $4 billion in loan resources. What is more, additional capital could be created in the same way, yielding 9 dollars' worth of additional loan money for every dollar actually paid into the bank by the Treasury or by Mexico.

The bank could endeavor to finance economic development in those areas of Mexico that are known to be the main sources of this country's illegal immigrants. However, such targeting is not nearly so important as the fact that jobs must be generated in Mexico—since each job generated is one job less that would need to be sought in this country. Moreover, Mexico is changing rapidly from a rural to an urbanized society, so that the sources of illegal immigration can no longer be presumed to be simply the poor villages.

About half of all illegal entrants into this country come from Mexico. During each of the last 5 years of this century, Mexico will need to produce about 1.1 million new jobs, just to take care of labor force growth; but even in its best years, the Mexican economy has never been able to produce more than about half that number. Indeed, even today, the number of new jobs created each year in Mexico falls about 300,000 short of the labor force increase. It should startle no one that this corresponds to the number of illegal Mexican entrants who remain in this country each year. They in fact have no other choice.

As long as the Mexican economy fails to produce enough jobs to absorb labor force growth, the already appalling rate of unemployment in that country will continue to grow, and wage rates there will remain desperately low. The outlook clearly is that unless strong action is taken, millions of people in Mexico will have no chance, no hope at all for a decent life, unless they come to the United States. The bilateral bank bill addresses this vast need for opportunities within Mexico.

Likewise, we must understand that the border zone of the United States desperately needs help. Today, development is particularly needed in the border regions of Texas where a statewide depression has further exacerbated the unemployment and economic stagnation of the border region. The bilateral development bank, with its ability to operate on both sides of the border in a coordinated way, can help meet that need. The bank could finance joint water or sewer treatment works; it could finance farm development. With the flexibility it has, the bank could cofinance ventures of any kind with commercial banks or local development authorities—producing very attractive loan rates.

The bilateral development bank would make the maximum use of private capital; like the multilateral banks, it would need very little in the way of actual government outlays, since only 10 percent of the capital is paid in. The callable capital stays in each government's treasury and would only be used in the event of a total failure by the bank, an event that is extremely unlikely. The bank could make loans at attractive rates, because its bonds would be the highest grade—being guaranteed by the callable capital of the bank.

The bilateral development bank addresses the real problem of illegal immigration—which is the desperate need for human opportunity. The Simpson-Mazzoli immigration reform bill passed by Congress 2 years ago neither addresses the cause of illegal immigration, nor makes it practical for the typical immigrant to enter legally, it is an excercise in futility. The only realistic thing to do is to work on the basic cause of the problem, rather than to throw up a new paper fence.

My bilateral bank proposal is realistic; it is positive; it addresses the real problem; it relies on mechanisms that have been proven over decades, and that have worked throughout the world. It is a program that offers maximum flexibility, that requires very little government outlays and removes development efforts from the realm of politics—local or international. This is a program that is pragmatic, that will produce results, and that can be put in place quickly, since both governments already have vast experience with the techniques and organization involved in the concept. The bilateral development bank recognizes a mutual need, operates on the basis of mutual cooperation, and represents the kind of system in which both governments can place great confidence, because both governments have used the concept for decades, with great success.

Today, illegal immigration is seen as a United States problem with a Mexican solution. But for the Government of Mexicio, stopping illegal migration would only increase the already great problems of poverty and unemployment within the country. On our side of the border, there can be no hope that the immigrant wave can be stopped or even much affected by a reform bill that in no way addressed the root causes of illegal entry, let alone makes it possible for legal migration to take place. My bill provides the real solution—a cooperative program that helps both countries solve a problem that vexes and embarrasses both, because it gives neither side advantage nor disadvantage.

□ 1255

I trust that we can have some show of support. This is the 2d session of the 100th Congress. It was my hope that we had a pretty good chance 2 years ago when we were considering the so-called Immigration and Naturalization Reform Act; but as I said just 1 minute ago, nobody was addressing the causes. We were, as we have been in the case of every single congressional consideration of every immigration issue since the beginning, working out of fear. It used to be the Oriental hordes that we feared. Then it became the Mexican hordes that we feared, but now the unseen and still growing but unaddressed problem is substantial illegal immigration from south of the Mexican border. That had not happened before, but it is now. That has been the subject matter of ample discussion on my part for years and years, of course, I can see with about as much success as I have had with these other things. With this administration, I cannot see how we can expect it to be anything but negative when that is the way it has been with its own, with our own citizens.

What would have been the results? You know, I was one of the few who criticized the Reagan program from the very beginning, as they say in law, ab initio, I protested the 1981 tax bill, defined it and tagged it as the death blow to the American progressive tax system.

I predicted we would have more tax resisters than we have had in the accumulated history of our tax system since the income tax amendment to the Constitution in 1916. That is exactly what has been happening.

The last 5 years have seen an incremental, in fact, an exponential increase in the number of tax dodging efforts by individuals and organizations; but the 1981 bill was a real destructive bill, because it drained the Treasury of 755 billion dollars' worth of revenues over a 5-year period. That 5-year period when it ended coincided with our country becoming a debtor nation, and the biggest of all, for the first time since 1914.

There is no doubt about it, the saying is as old as Scripture, "A bad tree cannot produce good fruit. A good tree will product good fruit."

What are the fruits of Reaganomics? The most astounding international trade deficit in the history of all the combined nations of the Earth.

I said 3 years ago that we could piddle around with the domestic debt, but that we could not for long with this international debt, because I estimated by 1983 that for every $10 billion that our incremental growth in the international debt grew, we were losing one-quarter of a million jobs permanently, forever, in the United States.

I am sorry to say the statistics gathered since that time clearly reinforce that statement and that very sad expectation, all the time hoping that I would be the one who was dead wrong, and I would prefer to have been dead wrong, than getting up here to confess these dreary, dreary facts. These are facts. They are not political statements.

There is nobody, and I do not think anybody in the Congress, in the House of Representatives, those who have been here as long I have or longer or those who have not, who have addressed this House for the record more than I have; but never, never did I ever attempt to make this forum a political speech-stumping ground. I never have. I do not think there is anybody who studies the record of the many speeches or many whatever you want to call them, remarks, that I have made on the House floor that can attribute them to be out and out politically, because I feel that I would insult the intelligence not only of my colleagues, but of my constituents and of any American who would read the remarks, sober-minded and responsible Americans. That I leave for the political process back where I must be confirmed or not every 2 years by the constituency. That is where I keep it.

Yes, I have been critical of Presidents, and particularly this one, but I think the record will show that even the closest friend I had as a President, John F. Kennedy, even he, I sometimes crossed and dismayed.

The very first bill, the first session I served, shortly after I had been sworn in, the famous Kennedy round of the GATT, the General Agreement on Trade and Tariffs, he got it, but not with my vote.

Why did I not vote for it? The same reason I am explaining here. It had one little proviso, if I remember it was title V, and it said this was a bill that everybody was touting as the greatest boon to the United States, that everything but good would flow from it.

In the meanwhile, I had looked over the volumes of President Eisenhower's addresses and public papers. In his term of office, two terms, never once did he even mention the growing European Community, or Common Market as some prefer to call it. The real title is the European Community. Yet GATT and the Kennedy round was very much into that development. What I saw and what I think I remember to be correctly title V was that it said, "A commission shall be formed that will after the enactment of this legislation evaluate any detrimental impact on American industry."

So I went to the chairman and I said, "Mr. Chairman, if this bill you argue is in no way detrimental, why do you have those clauses?"

"Oh, well," he said, "that is just a precaution."

I said, "Well, if there is that possibility, and I think there is, because I think the whole idea here is to recognize the growing economic not only unity, but might, of Europe and wherein and how it would displace America, and to what extent would that impact on our fundamental industrial activity or producing activity?"

Nobody thought at that time that United States Steel, oh, well, was tops, and today it is the Rust Belt and we import steel.

So I voted no when I could not get a satisfactory answer, as I always do. If I cannot have my questions answered, I do not vote for the proposition. It is that simple, because I have to go back and if some citizen says, "Why did you vote?" And I say, "I don't know," I think I would be made to look very silly, and what is more important, kind of inefficient.

So I have spoken on a matter that relates and probably overarches our New World preoccupations, and that is that the fact that the United States has lost control of forces that are impacting us in such a way as to jeopardize our vaunted and traditional American standard of living.

I have been saying this since 1968—well, since 1966, to be exact; but more particularly, since 1979.

I have also introduced and suggested legislation in anticipation of this.

Now, I never intended to be seeking political office. I never planned it. I never dreamed it. As a matter of fact, it was the last thought or ambition that entered my mind until after the war and working in the juvenile court where I was named chief juvenile probation officer in 1946. I realized how wrongly we had been brought up, those of us born here, and how much we had at stake in not being participants in our democratic processes, and the rest followed. Actually, I still did not consider myself at all. I went to the then leaders. Both thought the idea was absurb to seek a position in the State Legislature of Texas. As they both said then, "It doesn't pay any money and a Mexican doesn't have a chance in Bexar County."

Well, I felt, "You don't know how you look until you have your picture took, and if you guys don't have the guts to go out and try, why are you complaining so bitterly every time you make a speech on the west side?" At that time it was pretty much ghettoized. That was where the Mexican-Americans were concentrated. They were always saying how "the gringo always has his heel on our necks."

□ 1310

I said, "I have always wondered why you come to tell us that on the west side instead of going up there and telling it to the people that you accuse of tyrannizing. But what is more important, you do not even seek forth to venture."

I pointed out to one of them, "Look, you were just elected to the school board when everybody said this was a big breakthrough, you were the first one elected to the San Antonio School Board."

He said, "Oh, listen, in the first place this is a whole new country, and a Mexican doesn't have a chance. Second, it does not pay anything."

That is where we parted company and I got like I have been ever since, I got around to asking questions.

I feel that if one can arouse the blood and the passions and decry the lack of representation which is true in that case, but is not willing to do anything about it, then I think one has lost the moral right to blame others in the first place, and second, if one says it is because it does not pay money then what I want to know is what are they interested in, money or representation, because obviously the Members representing the people in the State legislature of this county think it is worthwhile whether it pays money or not.

That got me thrown out of his office, I was thrown out of the office of one of the leaders.

I went to the second one who told me in nice terms the same thing.

One thing led to the other and I ended up filing for the State legislature in 1950. My name was the only one on the ballot like my last name, and I had no resources whatsoever. I had to borrow the filing fee which at that time was $100. But when they counted the votes, lo and behold I thought I had done poorly but I got into a runoff and in the runoff I was defeated by probably one of the most attractive young personalities of that time, but only by 1,800 votes, which when I look I realized what a miracle that was.

Even though I lost, that is what got the interest of some of the local business, and political minded businessmen and some politicans interested. Probably if I had been defeated soundly I would not be here today. Three years later we had what I call in San Antonio a rich man's war and a poor man's fight. I was asked by one group of millionaires to join what they called the ticket, and that was the first and the last time I ever ran on a ticket. But I won.

So on May 1, I will have this great, great honor that is one where I do not know of anywhere else on Earth one could have this experience other than in this country, and of having served in a political elective representative capacity for 35 years. So obedient to the reverence with which I hold that and the institutions that make it possible, I would never, never commit the travesty of addressing this House either in political passion or hatred or in any frivolity because too much is at stake today, my colleagues, too much. Too many of our citizens are really expecting us to fulfill our oath of office and the basic function for which this institution was created in the Constitution.

I am not saying that I am a star or an example or anything. I am just saying that I have been ever conscious of this tremendous privilege and honor and trust above all and responsibility so that I have been outspoken, and I have criticized Presidents. President Reagan is not the first. He is the one I have criticized on a more sustained basis than any of the other five Presidents under whom I have had the privilege of working with and around.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COMBEST) to revise and extend their remarks and include extraneous material:)

Mr. GUNDERSON, for 60 minutes, on April 21.

Mr. GILMAN, for 60 minutes, on April 21.

Mr. JEFFORDS, for 60 minutes, on April 20.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MFUME, for 5 minutes, on April 19.

Mr. OWENS of New York, for 60 minutes, on April 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COMBEST) and to include extraneous matter:)

Mr. FAWELL.

Mr. GILMAN in two instances.

Mr. SCHUETTE.

Mr. DANNEMEYER.

Mr. MADIGAN.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. SKELTON in two instances.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. UDALL.

Mr. ROE in two instances.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 268. Joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; jointly to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

S.J. Res. 285. Joint resolution expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that Act; jointly to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the *Calmare Nyckel* the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware;

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, and

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on April 14, 1988, present to the President, for his approval, a bill of the House of the following title:

H.R. 1900. An act to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 19, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3429. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Egypt for defense articles estimated to cost $50 million or more (transmittal No. 88-24), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3430. A letter from the Secretary of Defense transmitting a report which addresses United States expenditures in support of NATO, pursuant to 22 U.S.C. 1928 nt.; to the Committee on Armed Services.

3431. A communication from the President of the United States transmitting a report of his determination that the statutory fiscal year 1988 limits for Eximbank authority should be retained unchanged, pursuant to 12 U.S.C. 635e(a)(2)(A); to the Committee on Banking, Finance and Urban Affairs.

3432. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report analyzing the measures adopted to enhance the competitiveness of the medium-term financing program, pursuant to 12 U.S.C. 635(a)(3); to the Committee on Banking, Finance and Urban Affairs.

3433. A letter from the Assistant Secretary of State for Legislative Affairs transmitting a copy of Presidential Determination No. 88-14 concerning Panama, pursuant to 22 U.S.C. 2364; to the Committee on Foreign Affairs.

3434. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Egypt for defense articles and services estimated to cost $2 billion (transmittal No. 88-24), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3435. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3436. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of an amended lease prospectus consolidation of DOI, Fish and Wildlife Service, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3437. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting copies of the following annual reports which are contained in the winter issue, March 1988, of the Treasury Bulletin: Airport and Airway Trust Fund (26 U.S.C. 9502), Asbestos Trust Fund (20 U.S.C. 4014), Black Lung Disability Trust Fund (26 U.S.C. 9602), Harbor Maintenance Trust Fund (26 U.S.C. 9505), Hazardous Substance Superfund (26 U.S.C. 9507), Highway Trust Fund (26 U.S.C. 9602), Inland Waterways Trust (26 U.S.C. 9506), Leaking Underground Storage Tank Trust Fund (26 U.S.C. 9508), Nuclear Waste Trust Fund (42 U.S.C. 1022)(e)(1)), Reforestation Trust Fund (16 U.S.C. 1606a(c)(1)), and Statement of Liabilities and Other Financial Commitments of the U.S. Government (31 U.S.C. 331(b)); jointly, to the Committees on Agriculture; Education and Labor; Energy and Commerce; Interior and Insular Affairs; Public Works and Transportation; and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 427. Resolution waiving certain points of order against the conference report on H.R. 5 and against consideration of such conference report, and providing for the consideration of a bill to amend the Communications Act of 1934 (Rept. No. 100-570). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 428. Resolution providing for the consideration of H.R. 4222, a bill to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program (Rept. No. 100-571). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2641. A bill to amend the National Trails System Act to provide for cooperation with State and local governments, for the improved management of certain Federal lands, and for other purposes; with an amendment (Rept. No. 100-572). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 3869. A bill to amend the act providing for the establishment of the Tuskegee University National Historic Site, AL, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes; with amendments (Rept. No. 100-573). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DORGAN of North Dakota (for himself and Ms. Oakar):

H.R. 4396. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to exclude receipts and disbursements of the Social Security trust funds from the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Government Operations.

By Mr. DREIER of California:

H.R. 4397. A bill to amend the Internal Revenue Code of 1986 to provide that a 15 percent income tax rate shall apply to all individuals and to repeal all deductions, credits, and exclusions for individuals other than the standard deduction, the deduction for personal exemptions, and trade or business deductions; to the Committee on Ways and Means.

By Mr. LOWRY of Washington:

H.R. 4398. A bill to lift the trade and other economic sanctions imposed on Nicaragua by the President in 1985; to the Committee on Foreign Affairs.

By Mr. NELSON of Florida (for himself, Mr. Roe, Mr. Lujan, Mr. Walker, Mr. Brown of California, Mr. Packard, Mr. Volkmer, Mr. Smith of New Hampshire, Mr. Mineta, Mr. Slaughter of Virginia, Mr. Torricelli, Mr. Konnyu, Mr. Traficant, Mr. Buechner, Mr. Chapman, Mr. Hefley, Mr. Perkins, Mrs. Morella, Mr. McMillen of Maryland, Mr. Lewis of Florida, Mr. Nagle, Mr. Hayes of Louisiana, Mr. Hall of Texas, Mr. MacKay, Mr. Skaggs, Mr. Nowak, Mr. Lagomarsino, Mr. Sensenbrenner, Mrs. Lloyd, and Mr. Scheuer):

H.R. 4399. A bill to facilitate commercial access to space, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. FOLEY (for himself, Mr. Michel, Mr. Lantos, Mr. Lott, Mr. Fascell, and Mr. Broomfield):

H.J. Res. 541. A joint resolution commending the State of Israel and its people on the occasion of the 40th anniversary of the reestablishment of the independent State of Israel; to the Committee on Foreign Affairs.

By Mr. MADIGAN (for himself, Mr. Emerson, Mr. Glickman, Mr. Marlenee, Mr. DeWine, Mr. Dyson, Mr. Hiler, Mr. Horton, Mr. Lewis of Florida, Mr. Coleman of Missouri, Mr. Durbin, Mr. Frank, Mr. Hatcher, Mr. Espy, Mr. Fawell, Mr. Bruce, Mr. Olin, Mr. Dowdy of Mississippi, Mr. Skelton, Mr. Bereuter, Mr. Dorgan of North Dakota, Mr. Sikorski, Mr. Hayes of Louisiana, Mrs. Smith of Nebraska, Mr. Traficant, Mr. Schuette, Mr. Thomas of Georgia, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Chapman, Mr. Bevill, Mr. Roberts, Mr. Sweeney, Mr. Weber, Mr. Valentine, Mr. Mack, Mr. Grant, Mr. Bateman, Mrs. Bentley, Mr. Stenholm, Mr. Daub, Mr. Buechner, Mr. Sundquist, Mr. Houghton, and Mr. Holloway):

H. Con. Res. 282. A concurrent resolution to express the sense of the Congress regarding relief for the U.S. Soybean Industry under section 301 of the Trade Act of 1974; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mrs. Morella and Mrs. Schroeder.

H.R. 111: Mr. Lott.

H.R. 1158: Mr. Stark.

H.R. 1372: Mr. Boehlert.

H.R. 1815: Ms. Pelosi.

H.R. 1966: Mr. Panetta.

H.R. 2641: Mr. Chandler.

H.R. 2856: Mr. Edwards of Oklahoma.

H.R. 2999: Mr. Yates, Mr. Shays, Mr. Borski, Mr. Lowry of Washington, Mr. Jacobs, and Mr. Wortley.

H.R. 3215: Mr. Moorhead and Mr. Lagomarsino.

H.R. 3292: Mr. Atkins and Ms. Slaughter of New York.

H.R. 3340: Mr. Hochbrueckner and Mr. Sikorski.

H.R. 3511: Mr. Guarini, Mr. Owens of Utah, and Mr. Bryant.

H.R. 3562: Mr. Shays, Mr. Nagle, Mr. Crockett, Mr. Boulter, Mr. Kasich, Mr. Rhodes, Mr. Feighan, and Mr. Stump.

H.R. 3726: Mr. Borski.

H.R. 3878: Mr. Chapman and Mr. Brown of California.

H.R. 3883: Mr. Spratt, Mr. Grandy, and Mr. Jones of North Carolina.

H.R. 3885: Mr. Dymally, Mr. Dellums, and Mr. Pepper.

H.R. 3892: Mr. Badham.

H.R. 3893: Ms. Kaptur, Mr. Pashayan, Mr. McCandless, Mr. Fawell, and Mr. Hansen.

H.R. 3900: Mr. Hunter, Mr. Studds, and Mrs. Johnson of Connecticut.

H.R. 4023: Mr. Foglietta, Mr. Frost, Mr. Moody, and Mr. Smith of Florida.

H.R. 4066: Mr. Towns, Mr. Tallon, and Mr. Applegate.

H.R. 4074: Mr. Robinson.

H.R. 4190: Mr. Campbell.

H.R. 4206: Mr. Dannemeyer.

H.R. 4233: Mr. Pepper.

H.R. 4247: Mr. Dellums, Mr. Rangel, Mr. Weiss, Mr. Lewis of Georgia, Mr. Synar, Mr. Bosco, Mr. Gonzalez, Mr. Chapman, Ms. Kaptur, Mr. Owens of New York, Mr. Lehman of Florida, Ms. Snowe, Mr. Morrison of Connecticut, Mr. DeFazio, Mr. Jontz, Mr. Miller of California, Mr. Boehlert, and Mr. Fazio.

H.R. 4273: Mr. Price of Illinois, Mr. Matsui, Mr. Sabo, Mrs. Bentley, Mr. Fauntroy, Mr. Rangel, Mrs. Collins, Mr. Weiss, Ms. Kaptur, and Mr. Jontz.

H.R. 4312: Mrs. Boxer.

H.R. 4325: Mr. Dellums, Mr. Lehman of Florida, Mr. Akaka, Mr. Weiss, Mr. Solarz, Mr. Crockett, Mr. Beilenson, Mr. Owens of New York, Ms. Pelosi, Mr. Houghton, Mr. Miller of California, Mr. Udall, Mr. Mrazek, Mr. Studds, and Mr. Fazio.

H.J. Res. 138: Mr. Flake, Mr. Broomfield, Mrs. Johnson of Connecticut, Mr. Miller of California, Mr. Stangeland, Mr. Florio, Mr. Spence, Mr. Buechner, Mr. Darden, Mr. Hoyer, Mr. Walgren, and Mr. Russo.

H.J. Res. 171: Ms. Pelosi.

H.J. Res. 374: Mr. Frank and Mr. Nelson of Florida.

H.J. Res. 421: Mr. Boehlert, Mr. Lewis of Florida, Mr. Ackerman, and Mr. Bustamante.

H.J. Res. 423: Mr. Foley, Mr. Coelho, Mr. Akaka, Mr. Anderson, Mr. Aspin, Mr. Atkins, Mrs. Bentley, Mr. Berman, Mr. Blaz, Mr. Bliley, Mr. Borski, Mr. Bosco, Mr. Boulter, Mrs. Boxer, Mr. Brennan, Mr. Brown of California, Mr. Bruce, Mr. Burton of Indiana, Mr. Bustamante, Mrs. Byron, Mr. Carper, Mr. Chapman, Mr. Clay, Mr. Coleman of Texas, Mr. Conyers, Mr. Cooper, Mr. Davis of Illinois, Mr. DeFazio, Mr. Derrick, Mr. DeWine, Mr. Dixon, Mr. Donnelly, Mr. Dowdy of Mississippi, Mr. Dymally, Mr. Dyson, Mr. English, Mr. Espy, Mr. Evans, Mr. Fazio, Mr. Fields, Mr. Flippo, Mr. Foglietta, Mr. Frank, Mr. Frenzel, Mr. Fuster, Mr. Garcia, Mr. Grandy, Mr. Grant, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Gunderson, Mr. Hall of Texas, Mr. Hall of Ohio, Mr. Harris, Mr. Hatcher, Mr. Hayes of Louisiana, Mr. Henry, Mr. Hochbrueckner, Mr. Holloway, Mr. Horton, Mr. Huckaby, Mr. Jeffords, Mrs. Johnson of Connecticut, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Jontz, Mr. LaFalce, Mr. Lancaster, Mr. Lantos, Mr. Latta, Mr. Lehman of Florida, Mr. Lewis of California, Mr. Lewis of Georgia, Mrs. Lloyd, Mr. Lowry of Washington, Mr. McEwen, Mr. McHugh, Mr. Mack, Mr. Marlenee, Mr. Martin of New York, Mrs. Martin of Illinois, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Morrison of Washington, Mr. Murphy, Mr. Murtha, Mr. Nichols, Ms. Oakar, Mr. Olin, Mr. Owens of New York, Mr. Packard, Mr. Pashayan, Mr. Perkins, Mr. Petri, Mr. Price of Illinois, Mr. Rahall, Mr. Ravenel, Mr. Richardson, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Rowland of Georgia, Mr. Russo, Mr. Scheuer, Mr. Sisisky, Mr. Skeen, Ms. Slaughter of New York, Mr. Denny Smith, Mr. Smith of Iowa, Mr. Robert F. Smith, Ms. Snowe, Mr. Solarz, Mr. Solomon, Mr. Spratt, Mr. Staggers, Mr. Stallings, Mr. Stangeland, Mr. Stenholm, Mr. Sunia, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Thomas of California, Mr. Towns, Mr. Traficant, Mr. Traxler, Mr. Upton, Mr. Vander Jagt, Mr. Volkmer, Mr. Walgren, Mr. Weber, Mr. Wilson, Mr. Wolpe, Mr. Wortley, and Mr. Yatron.

H.J. Res. 458: Mr. Coyne, Mr. Price of Illinois, Mr. Petri, Mr. Bereuter, Mr. Walgren, Mr. Foley, Mr. Horton, Mr. Neal, Mr. Fauntroy, Mr. Shuster, Mr. Mazzoli, Mr. Boehlert, Mr. Cheney, Mr. Panetta, Mr. Price of North Carolina, Mr. Fawell, Mr. Wortley, Mr. Rinaldo, Mr. Bevill, Mr. Clarke, Mrs. Meyers of Kansas, Mr. Anderson, Mr. Skaggs, Mr. Dymally, Mr. Torricelli, and Mr. Wise.

H.J. Res. 464: Mr. Parris, Mr. Lujan, Mr. Conte, Mrs. Johnson of Connecticut, Mr. Lott, Mr. Early, Mr. Crockett, and Mr. Udall.

H.J. Res 489: Ms. Kaptur, Mrs. Collins, Mr. Thomas A. Luken, Mr. Espy, Mr. Dyson, Mrs. Johnson of Connecticut, Mr. Buechner, Ms. Slaughter of New York, Mr. Wortley, Mr. Bonior of Michigan, Mr. Foglietta, and Mr. Chandler.

H.J. Res. 508: Mr. DioGuardi, Mr. Packard, and Mr. Madigan.

H.J. Res. 524: Mr. Fazio, Mr. Lagomarsino, and Mr. Green.

H.J. Res. 526: Mr. Solomon.

H. Con. Res. 263: Mr. Nielson of Utah, Mr. Fawell, Mr. Holloway, Mr. Dornan of California, Mr. Solomon, Mr. Porter, and Mr. Jeffords.

H. Con. Res. 266: Mr. Panetta, Mrs. Morella, Mr. Lewis of Florida, Mrs. Roukema, Mr. Hughes, and Mr. Gekas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from Record of April 14, 1988]

H.J. Res. 287: Mr. Mfume.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. Res. 427

By Mr. LOTT:

(An amendment in the nature of a substitute.)

—Strike all after the resolving clause and insert in lieu thereof the following:

"That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration, except as provided by section 2 of this resolution, are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

"Sec. 2. It shall be in order pursuant to clause 4 of Rule XXVIII of the Rules of the House to raise a point of order against sec. 6101 of the conference report. If, pursuant to such clause, the point of order is sustained and the section is then rejected by a vote of the House, it shall immediately be in order, without intervening motion, for any Member to offer a preferential motion to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and to recede and concur in the Senate amendment with an amendment which shall consist of the text of that portion of the conference report not rejected together with the text of sec. 7003 of said Senate amendment as a substitute for sec. 6101 of the conference report as rejected by the House, said motion shall be considered as having been read, and all points of order against said motion are hereby waived.".

H.R. 4264

By Mr. SOLOMON:

—At the end of part C of title IX of division A (page 159, after line 21), insert the following new section:

SEC. 921. REPORT ON EFFECTS OF NAVAL SHIPBUILDING ON MARITIME INDUSTRIES.

(a) Report.—Each year the Secretary of Defense shall submit to Congress a report on the effects of the Secretary's plans for naval vessels on the private sector maritime shipbuilding and repair industries in the United States. In particular, the Secretary shall analyze the effects of his plans for the next five years for naval shipbuilding and conversion, naval vessel repair, and procurement of support equipment for naval vessels on the continued viability and mobilization preparedness of such industries in their role in the sealift component of the United States conventional defense deterrent.

(b) Deadline.—The report shall be submitted in 1989 and each year thereafter at the same time as the Secretary of Defense submits the Department of Defense annual report to Congress.

SENATE—*Monday, April 18, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *for the things which are seen are temporal; but the things which are not seen are eternal.*—II Corinthians 4:18.

For what is a man profited, if he shall gain the whole world, and lose his own soul?—Matthew 16:26.

Eternal Father, we so easily become the victims of the visible—we are so easily enslaved by the tyranny of the tangible. We are like the man who found a $100 bill in the gutter and spent the rest of his life looking in gutters. Trapped by the temporal—the transient—the transitory—we call real only what we can see and feel and measure—while we continue blind and deaf and indifferent to the transcendant environment in which we live and move and have our being. What incredible poverty—depriving ourselves of the reality of the invisible—the eternal—the Immanuel God who is always with us. The center and circumference of our lives are material as we preoccupy ourselves with the visible—the temporal. We starve our spirits, diminish our humanness—and become spiritual dwarfs, living in circumscribed, superficial boredom. We are hollow souls living on a totally horizontal plan with no vertical in our lives. Save us, Lord, from our one dimensional living. In Jesus name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 18, 1988.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.
>
> JOHN C. STENNIS,
> *President pro tempore.*

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

A THOUGHTFUL PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his provocative prayer, his thoughtful prayer, and a prayer which is very much needed in these times. I hope that it provokes thoughtfulness on the part of all of us and a desire on the part of all of us to lift ourselves above the horizontal thinking of our day.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the Republican leader is now recognized.

BICENTENNIAL MINUTE

APRIL 17, 1850, FIRST WOMAN IN THE SENATE PRESS GALLERY

Mr. DOLE. Mr. President, it was 138 years ago this week, on April 17, 1850, that the first woman reporter was admitted into the Senate Press Gallery.

Jane Gray Swisshelm, a fervent abolitionist, convinced Editor Horace Greeley to publish her occasional letters from Washington in the New York Tribune. Once in Washington, she set about convincing Vice President Millard Fillmore to grant her access to the press gallery. The Vice President thought this was a terrible idea. He warned her that she would find the company of the male reporters unpleasant, and that her presence would attract excessive attention. But Mrs. Swisshelm had so set her mind on her objective that Millard Fillmore capitulated.

On April 17, Mrs. Swisshelm took her seat in the Press Gallery in the Old Senate Chamber, and she was not disappointed in the scene below. "If you had only been here to see!" she wrote back to editor Greeley. "Such a scene as our Senate Chamber did present an hour ago!" During the debate over the compromise of 1850 that day, Mississippi Senator Henry S. Foote pulled a pistol to protect himself from the wrath of Missouri Senator Thomas Hart Benton. "Stand out of the way and let the assassin fire!" Benton had shouted melodramatically, before the two men were separated. "Here was all confusion," she wrote, "the President's gavel going but scarcely heard, the men in the gallery swearing, the Members of the floor rushing up and calling all manner of order and disorder."

"I sat in the reporters' gallery, directly opposite the gentlemen," Mrs. Swisshelm recorded, "and saw it all." Although the Press Gallery largely remained a male bastion until the 20th century, an increasing number of women journalists today follow in her path, sitting in the Press Galleries and seeing it all.

STRIKE AT IRANIAN TERRORISM

Mr. DOLE. Mr. President, within the past 10 hours, our naval forces in the Persian Gulf have struck back at Iran, in retaliation for its mine attack on a United States frigate.

In a situation where, literally, the smoke has not yet cleared, it is imperative that we hold our rhetorical fire. In particular, it is premature to comment on specific military operations, with some military action continuing. It is worth noting, though, that reports to date indicate there have been no U.S. casualties. We all pray that will remain true as events unfold.

I, and the other Members of the congressional leadership, were consulted last evening on the planned mission against Iranian targets—well before the mission was underway. I indicated my support for that planned action, as a fully justified response to Iran's continued unprovoked attacks on our vessels. The President intends to provide the Congress with a report on this action promptly—I expect we will see it yet this afternoon.

In short, the President has brought us in on the takeoff, and intends to keep us fully informed and involved as this action evolves. I hope we will keep that in mind as we ponder the questions about war powers that almost inevitably will arise.

In my view, now is the time to send only one message to our adversaries: That the United States—the Presi-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

dent, the Congress, and the people—are united, and determined to meet our responsibilities and defend our interests in the Gulf. I hope the Ayatollah gets that message, so that we can all avoid further violence and bloodshed.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

THE BEST WAY TO HANDLE THE ONCOMING SOCIAL SECURITY SURPLUS

Mr. PROXMIRE. Mr. President, recently I spoke on the floor about the oncoming huge Social Security surpluses. In that speech I strongly supported the position taken by economist, Herbert Stein, who argues that the Government should aim at more than a balanced budget. It should aim at a unified budget surplus equal to the Social Security surplus. Such a policy would prevent enormous increases in the national debt. It would also ease the traumatic readjustment Congress will have to make 30 years from now when the vast Social Security reserve begins to disappear with the huge wave of baby boom retirements.

In that speech, this Senator was compelled by time considerations to leave out any discussion of how, if the Congress has the good sense to pursue a policy of a unified budget surplus equal to the Social Security surplus, it could avoid a slowdown in the economy and a big increase in unemployment. Certainly, a multibillion dollar unified budget surplus year after year will create a powerful "fiscal drag" on the economy. And, yes indeed, that is an alibi born in heaven for Members of Congress who dearly love to do what is dead certain to make them hometown heroes; that is, increase popular spending programs and cut taxes. It is tough for Congress and the President to resist that snake oil policy when, as right now, the budget is head-over-heels, year after year, in deficit. To resist that sweet political policy when the unified budget is in technical surplus even if that surplus comes entirely, and then some, from Social Security, is a very long shot political possibility. Consider the year 2015. The unified budget will include a Social Security surplus of $500 billion. Does anyone who has served 1 day in this body believe that any Congress will do better than run a $500 billion deficit in the rest of the budget and crow about bringing in a balanced unified budget? It is far more likely that the Congress that meets 27 years from now will run a $600 billion or $700 billion deficit in the part of the budget that is exclusive of Social Security, and then crow about a unified budget that is only $100 or $200 billion out of balance.

Here is why the Congress blundered so badly last week when it refused to take the Social Security accounts out of the unified budget now. We should aim at a balance in the remainder of the budget exclusive of Social Security. We should acknowledge how incredibly poor Congress' balanced budget aim has been in the past 30 years. Think of it. Since 1958 we have run deficits in every single year with two tiny exceptions. Our huge accumulated deficits since 1958 have been more than 600 times our minisurpluses. Yes, that's 600 times. In spite of relatively prosperous times and with no major war in the last 30 years, we have exploded the national debt literally tenfold. Anyone who really believes the Congress is going to reverse that process and start running surpluses of any kind or description in the Federal budget will believe absolutely anything. Is there the remotest chance that this big fat sugarplum of a Social Security surplus in the Federal budget for the next 30 years will not be used as an alibi to cut taxes and bring on the heavy and oh so popular spending programs?

Can we temper that certainty of an upcoming 30 years of even grosser congressional irresponsibility? Yes. How? We can recognize an alternative to running deficits in the budget that will more than compensate for the long era of Social Security surpluses we are beginning now to enjoy. How about this for an alternative? First, take the Social Security accounts out of the unified budget. After all, that money belongs to those who have paid into the Social Security reserve and who have every right to expect that their payments will be returned to them with interest when they retire. Diversion of any part of that reserve into other Federal programs is downright theft.

Now, how do we prevent fiscal drag? Here is how. We recognize that the unified budget surplus should be counterbalanced by a Federal Reserve administered monetary policy that will hold down interest rates and encourage household spending and borrowing and business spending and borrowing that will easily compensate for the Social Security surplus.

Is that possible? Yes, indeed. For the past several years, the Federal Reserve Board has, in fact, pursued a monetary policy that has encouraged households to increase their borrowing and spending at the fastest rate in the history. Household savings have dwindled to only 3 percent of earnings as the incentive for savings; that is, interest rates, have been held down. Meanwhile, business borrowing has been truly explosive.

Business debt today is more than three times as high in relation to earnings as it was 30 years ago. Would household and business spending be big enough to counterbalance Federal Government surpluses? Easy. Big as the Federal debt is at present, at a mammoth $2.6 trillion, household debt is bigger at more than $3 trillion. And business debt is far bigger at $3.6 trillion. These private sectors of our economy combined are three times larger than the Government sector. The ratio is roughly $3 trillion for the private sector to $1 trillion for the Government.

It will be an uphill odds against fight. But the way to save this economy is to aim to run a unified budget surplus equal to the Social Security surplus, that is a balanced budget with Social Security set aside and apart. Then handle the fiscal drag by a monetary policy that permits a stronger expansion of household and business spending.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

10TH ANNIVERSARY OF RATIFICATION OF THE PANAMA CANAL TREATY

Mr. HEFLIN. Mr. President, today is the 10th anniversary of the Senate ratification of the Panama Canal Treaty. Ten years ago today, on April 18, 1978, the United States Senate ratified the Panama Canal Treaty by a vote of 68 to 32.

I have made no secret of the opposition I voiced against the ratification of these treaties when I was first campaigning for election to the U.S. Senate 10 years ago.

Senator Jim Allen, of my State, was one of the leaders in opposition to the ratification of the treaty.

And I have made no secret of my strong belief that the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal should be reviewed today in light of the conditions that exist in Central America.

Ten years is a short period of time. Yet, as we have seen in the last 10 years, much can happen in that short span of time. In the last 10 years Americans have watched as Panama has become controlled by a drug dealing dictator. Who knows what may be happening in Panama 10 years from now.

As required by the terms of the Panama Canal Treaties, in just over 10 years from now, in 1999, the United States will be required to surrender **the Panama Canal to the Republic of** Panama and to withdraw all United States troops which have been stationed in Panama to defend the canal. I seriously question whether the Republic of Panama will be stable enough—or with its increasing ties to Cuba and the Soviet Union, whether it will be willing—to comply with the terms of the Panama Canal Treaties and keep the canal open and neutral. Furthermore, I seriously question whether it is in the best interest of the American people to proceed with these treaties concerning the Panama Canal—a structure which all acknowledge as being critical to our national security and economic vitality.

On this 10th anniversary of the Senate ratification of the Panama Canal Treaty, let us review the mistakes of 10 years ago. I urge that actions be taken to ensure that the interests of the people of America and the people of Panama are not further compromised through short-sighted dealings with a corrupt Panamanian dictator.

Ten years ago, Panama Canal Treaty was ratified amidst claims that the giveaway of the Panama Canal would help Panama to become a more responsive democracy, and that a new relationship had begun which was based upon mutual respect between Panama and the United States. As it has turned out, the new relationship is based not on mutual respect, or common goals, but rather is now based on Panamanian drug trafficking into the United States. On this anniversary of the ratification of the Panama Canal Treaties, let us truly begin a new relationship based on the protection of the interests of the American people and the people of Panama. Let us begin a new relationship based upon realism instead of questionable idealism. Let us help the people of Panama to institute a more responsive democracy, but let us not fool ourselves into thinking that making gifts of the Panama Canal or money will institute democracy there.

On this 10th anniversary of the ratification of the Panama Canal Treaty, let us work to do what's best for America.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

MIDDLE- AND LOWER-INCOME TAXPAYERS BENEFIT MOST UNDER ROTH-KEMP

Mr. ROTH. Mr. President, we are now in the 65th month of the longest peacetime economic expansion in U.S. history. The economy has escaped from the stagflation and malaise of the period starting in 1979. Sustained economic growth, the central goal of economic policy, has been achieved.

The Roth-Kemp legislation, incorporated into the Economic Recovery Tax Act [ERTA] of 1981, laid the foundation for this economic progress. During this expansion 15 million jobs have been created and real family income has jumped 11 percent. ERTA was designed to encourage economic renewal, and its full implementation sparked the current upswing.

One of the more controversial aspects of Roth-Kemp from the beginning was the contention that the across-the-board tax cuts would amount to a "giveaway to the rich." For 10 years now this charge has been repeated, generally without benefit of the facts.

The evidence is now in. Today I am releasing a Senate staff report which is based on newly available data from the Statistics of Income Branch of the Internal Revenue Service. This report shows conclusively that real income tax payments by the wealthiest Americans have risen since 1981. Meanwhile, real tax payments by the middle- and lower-income taxpayers have declined over the same 1981-86 period.

Supporters of the 1981 tax bill had argued that by reducing excessively high tax rates, tax shelters and tax avoidance would become less attractive. Consequently, more income would be drawn into the taxable economy as those affected by the highest tax rates would respond by reporting more income and tax payments.

We were not arguing on the basis of some empty theory, but from historical experience. After the tax reductions of the 1920's and 1960's, rapid growth in the adjusted gross income [AGI] reported by upper-income groups increased both the tax payments and tax burden share of the wealthy.

This, indeed, has happened again under the 1981 tax cuts and the recent tax rate reductions of other nations as well. As noted by the prestigious publication the Economist:

> Across the world in recent years, a reduction in top rates of tax has quickly resulted in higher, not lower, yields to the exchequer.

The IRS data reported today confirms the strength of this trend.

The IRS tax data is organized into percentile groupings. The top 1 percent of taxpayers are defined here as "wealthy." With 1986 adjusted gross income [AGI] over $120,262; the top 5 percent, here call the "affluent," reported at least $62,480 in 1986 AGI. The middle class—comprised of the 51 to 95 percentiles—is defined as those earning between $17,300 and $62,480 of 1986 AGI, while those reporting AGI under $17,300—bottom 50 percent—are denoted as lower-income taxpayers.

According to these IRS data, there is a consistent trend toward higher tax payments by the upper-income groups. Even when adjusted for inflation, tax payments by the top 1 percent amount to a 57 percent real increase between 1981 and 1986. Meanwhile, real tax payments for middle income and lower taxpayers, as mentioned previously, declined between 1981 and 1986.

Another way to view the impact of the Roth-Kemp bill is to examine the change in the percent of the total tax burden paid by each group over time. According to IRS, between 1981 and 1986 the share of the tax burden shouldered by the wealthy surged from 18 to 26 percent. Meanwhile, the share of the tax burden paid by the affluent rose from 35 to 44 percent, while that of the middle class declined from 58 to 49 percent. The tax burden share paid by lower-income Americans dropped from 7.5 to 6.4 percent over the same period of time.

Yet another way of addressing the issue is to examine the change in effective tax rates. The IRS data shows that the largest reduction in tax rates went to middle- and lower-income Americans. Between 1981 and 1986 the effective tax rate of the middle class declined by 18 percent, while that of lower-income taxpayers dropped 15 percent. The top 5 percent saw a decline of only 1 percent in their effective tax rate, while that of the top 1 percent of taxpayers declined by 9 percent.

Mr. President, a tremendous amount of nonsense has been written about the alleged impact of the 1981 tax bill. The facts discussed here today make it clear that the wealthy are assuming a much larger share of the personal income tax burden in 1986 than in 1981. In fact, their share of the tax burden has jumped 44 percent, while that of the middle- and lower-income taxpayers has decined by 14 and 15 percent, respectively.

In sum, the richest 1 percent of the taxpayers now shoulder 26 percent of the personal income tax burden, while the bottom 50 percent, a group 50 times as large, pay 6.4 percent of the income tax. It seems to me that this result is anything but unfair.

We should not be surprised by what has happened. After all, the historical experience of the tax cuts during the 1920's and 1960's strongly suggests that reduction of excessively high tax rates should shift the tax burden upward. As the Economist points out, this has also been the result "across the world."

The Roth-Kemp tax cuts not only worked to promote economic recovery, they were also eminently fair. The rich are bearing more of the income tax burden, and everyone else less, since Roth-Kemp went into effect. The economy is strong, the unemployment rate hasn't been lower since 1974, and 15 million more Americans now have jobs. The expansion has continued for 65 months, while the Chicken Littles clucked that the sky was falling.

As a result of Roth-Kemp, the average taxpayer is saving about $1,351 annually. This suggests the real reason why congressional critics of the 1981 bill, while eager to blame it for everything form flooding to drought, never introduce legislation repealing its tax benefits. The average taxpayer and voter supports the 1981 tax cuts because they provided tax relief. The numbers reported today confirm the fact that Roth-Kemp helped middle- and lower-income taxpayers the most.

Mr. President, I ask unanimous consent that a report on the distribution of individual income tax burden from 1981 to 1986 be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF THE INDIVIDUAL INCOME TAX BURDEN

(By Christopher Frenzel)

INTRODUCTION

The Economic Recovery Tax Act (ERTA) of 1981 contained many provisions transforming both individual and corporate taxation. The major enduring change in personal taxation was the 23 percent across the board reduction in marginal tax rates. This reduction was an adaptation of the tax cuts provided under the Kemp-Roth bill, first introduced in 1977. Under ERTA the tax cuts would be implemented over three tax years ending in 1983, but a provision adopted from a rival measure was adopted which reduced the top marginal rate from 70 to 50 percent effective in January 1982.

The enactment of ERTA was driven by a radical transformation of the personal income tax during the late 1960's and 1970's. Inflation induced bracket creep pushed many middle-income taxpayers into tax brackets previously reserved for the wealthy. As Professor James Gwartney has pointed out in testimony before the Joint Economic Committee,[1] in 1965 only 2.9 percent of joint filers faced marginal tax rates over 28 percent; by 1979, 35 percent of joint returns fell into this category.

ERTA, as its name suggests, was designed to lay the groundwork for economic renewal by increasing economic incentives. High marginal tax rates raise the price of work relative to leisure, and that of saving relative to consumption. By reducing excessive tax barriers, increased resources could flow into production, boosting economic growth and employment.

Opponents argued that the bill would not help the economy but would be inflationary and unfair. The economic issue can and has been debated back and forth. The start of the longest peacetime expansion in U.S. history happened to occur about the same time as the final year of tax rate reduction. Some opponents would argue that this is just a coincidence, and that the subsequent economic prosperity had little or nothing to do with the economic policies adopted. However, this argument seems far fetched, as the stimulative effects of tax cuts can be argued from either a traditional Keynesian or neoclassical point of view. The inflationary consequences predicted by opponents also failed to materialize, as inflation collapsed during the implementation of the tax cuts.

If one wants to think that the 1981 tax cuts had nothing to do with the current economic expansion, no amount of evidence will persuade him otherwise. Another criticism of ERTA often put forth is that the Treasury has been starved of revenue by the 1981 tax act. However, since its adoption, individual income tax revenues have risen 61 percent. Total revenues grew at an only slightly faster rate of 65 percent, reflecting $337 billion in additional revenue collected between 1980 and 1987. It is true, unfortunately, that federal outlay growth has outpaced the robust increase in revenue over this period.

The purpose of this paper is to address another controversial aspect of the 1981 tax act, the contention that the tax cuts were unfair. Ever since ERTA was first advanced, opponents have alleged it would lead to a "giveaway to the rich." Supporters of ERTA pointed out that in many respects the apparent progressivity of the tax code was an illusion, and that a reduction of unrealistically high tax rates, while important mainly for other reasons, would also reduce incentives to shelter income and otherwise avoid taxation. As a result income earning potential then outside the taxable economy could be drawn into taxable activities, enlarging the tax base. This could well lead to the rich assuming a larger share of the tax burden, according to this view. This analysis is hardly novel. Secretary Mellon had argued along similar lines in support of his tax cutting initiatives in the 1920's.[2]

After the enactment of the 1981 tax legislation, the critics of ERTA periodically renewed their attacks, principally on the basis of the bill's alleged regressivity. These attacks have been based on the ideological desire for a steeply progressive tax rate structure in law, and generally without the benefit of facts as provided in actual income tax data. It is ironic that IRS tax collection data have played such a small role in discussion of this issue.

There are different views on the function of the tax system and the role of progressivity. According to one side of the argument, the tax code, in raising revenue, should additionally be used to alter the after-tax distribution of income. In other words, the tax code should be an instrument of social policy to redistribute income in a way deemed desirable by politicians and bureaucrats in Washington.

Another view sees the tax system principally as a device to raise revenue to finance needed public goods with a minimum of interference with the private sector. Attempts to manipulate income shares using the tool of tax policy mainly serves to drive the rich into tax shelters. As a result, middle and lower income taxpayers are forced to assume more of the tax burden. In other words, while some may feel good about "soaking the rich" with a high statutory tax rate, this rate will not in reality be paid; thus more of the revenue burden will consequently fall on others. By reducing excessively high tax rates, the tax burden can be shifted in a way that may be considered progressive. The income tax data reported below shows a marked upward shift in the distribution of the tax burden.

Historical experience supports the argument that reduction of very high tax rates can generate increased revenues from upper income groups. As noted in the Economist, this has occurred in the United Kingdom after tax cuts in 1979, and in the United States since 1981. According to this publication, "Across the world in recent years, a reduction in top rates of tax has quickly resulted in higher, not lower, yields to the exchequer." [3] A number of studies and reports have also documented similar results from the Mellon (1921, 1924, and 1926 tax cuts),[4] and the Kennedy tax cuts of 1964. Following both tax cuts, rapid growth in the Adjusted Gross Income (AGI) reported by upper income groups increased both the tax payments and tax burden share of the wealthy.[5]

The data reported here were provided by the Statistics of Income (SOI) division of the Internal Revenue Service (IRS). The groupings have been slightly reorganized and tax payments adjusted using the consumer price index to limit distortion from inflation.

THE UPWARD SHIFT IN THE TAX BURDEN

Table I below shows that the top 1 percent of taxpayers (here denoted as the wealthy, with 1986 AGI over $120,262) saw their tax payments jump from $61.4 billion in 1981 to $96.7 billion in 1986, measured in constant 1986 dollars to eliminate distortion from inflation. This amounts to an increase of 57.5 percent. As predicted, the revenue flow resulted from a rapid increase in AGI, reflecting the responsiveness of the tax base to tax rate reduction. If a more inclusive measure of upper income is preferred by selecting the top five percent of the taxpayers (the affluent, with AGI over $62,480), tax payments rose from $118.9 billion in 1981 to $164.3 billion in 1986, an increase of 38 percent.

It is possible that part of the extreme shift in the 1986 tax burden of the top 1 percent was due to anticipated changes in the tax law which raised the effective capital gains tax rate. According to the Treasury Department the percent of taxable capital gains of the "top" taxpayers climbed from 15 percent to AGI in 1985 to 25 percent in 1986. However, this would account for only about $13 billion of the additional $26 billion (current) collected from this group in 1986. In other words, about 50 percent of the additional revenue drawn from the top 1 percent is not attributable to the change in the relative portion of the capital gains as a percentage of AGI. Equally important is the long-term revenue trend evident since 1981.

What of the middle and lower income groups? Those taxpayers earning between roughly $17,300 and $62,400 of 1986 income (the middle class, comprised of the 51 to 95 percentiles) paid $196.2 billion in 1981 but only $182.7 billion in 1986, a decline of 6.9 percent. This occurred despite a 13 percent increase in real AGI. The lowest 50 percent of tax filers saw their tax payments decline by 5.9 percent over the same period. This decline in tax payments, reflected in lower tax rates and tax burden for this group, accompanied a 10.5 percent increase in real AGI. In other words, tax relief for low and middle income taxpayers was not a result of lower income, but changes in the tax law.

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[1] Congress of the United States, Fairness and the Reagan Tax Cuts: Hearing Before the Joint Economic Committee, 98th Congress, 2nd Session (Washington: U.S. Government Printing Office, 1984), p. 50.

[2] Annual Report of the Secretary of the Treasury, 1923 (Washington: U.S. Government Printing Office, 1924).

[3] The Economist (March 19, 1958), p. 54.

[4] Annual Report of the Secretary of the Treasury, 1927 (Washington: U.S. Government Printing Office 1928), p. 26.

[5] James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden?" Economic Review: Federal Reserve Bank of Atlanta (March 1982), p. 21.

TABLE I.—TAX PAYMENTS BY PERCENTILE

[Constant 1986 dollars/billions]

Year	Wealthy top 1 percent	Affluent top 5 percent	Middle income 51–95 percent	Lower income bottom 50 percent
1981	61.4	118.9	196.2	25.4
1982	60.8	113.0	177.5	23.1
1983	59.5	111.2	166.2	21.5
1984	66.1	121.2	169.4	23.1
1985	71.9	131.0	173.4	23.5
1986 [1]	96.7	164.3	182.7	23.9
1981–86 percent change	57.5	38.2	−6.9	−5.9

[1] Preliminary data.

Source: IRS.

Another way to view progressivity is to examine the change in the percent of the total tax burden paid by each group over time. Between 1981 and 1986 the share of the tax burden shouldered by the wealthy surged from 18.1 percent to 26.1 percent. Meanwhile the share of the tax burden paid by the affluent rose from 34.9 percent to 44.3 percent, while that of the middle class declined from 57.6 percent to 49.3 percent. The tax burden paid by lower income Americans dropped from 7.5 percent to 6.4 percent over the same period. Table II below presents annual data on tax burden shares between 1981 and 1986.

TABLE II.—SHARE OF TAX BURDEN BY PERCENTILE

Year	Wealthy top 1 percent	Affluent Top 5 percent	Middle income 51–95 percent	Lower income Bottom 50 percent
1981	18.1	34.9	57.6	7.5
1982	19.4	36.0	56.6	7.4
1983	19.9	37.2	55.6	7.2
1984	21.1	38.6	54.0	7.3
1985	21.9	39.9	52.9	7.2
1986	26.1	44.3	49.3	6.4
1981–86 percent change	+44.0	+27.0	−14.0	−15.0

Source: IRS.

Advocates of tax rate reduction argued that a cut in high marginal tax rates would tend to draw more income into the taxable economy. Those affected by the highest tax rates would respond to lower rates by generating more taxable income and tax revenue. Wealthy Americans seem to have responded to the tax incentives after 1981, and their share of the tax burden has increased. But the real income gains of middle and lower income Americans, less affected by tax avoidance, has resulted in lower real tax payments and tax burden.

It will be recalled that the 1981 tax bill cut tax rates 23 percent across the board, the indexed tax brackets starting in 1985. How were the effective tax rates paid by each percentile grouping affecting over this period? Table III below displays the effective average tax rates over this time.

TABLE III.—AVERAGE EFFECTIVE TAX RATES BY PERCENTILE

Year	Wealthy, top 1 percent	Upper income, top 5 percent	Middle income, 51–95 percent	Lower income, bottom 50 percent
1981	34,2	26.5	14.8	6.6
1982	32.1	25.0	13.7	6.1
1983	29.8	23.5	12.6	5.7
1984	29.8	23.7	12.3	5.8
1985	29.5	24.1	12.1	5.7
1986	31.1	26.1	12.1	5.6
1981–86 percent change	−9	−1	−18	−15

Source: IRS.

Finally, how did the change in average tax rates vary among the group? The decline in average tax rates was greater for the middle class and lower class than for the upper income groups. The average tax rate falls for the highest income group despite much higher tax payments because the lower marginal tax rates increased incentives to realize more taxable income, thus reducing the tax penalties for additional entrepreneurial and work effort as well as for capital gains.

CONCLUSION

The above IRS data demonstrate that upper income groups are now paying more taxes, and have assumed a much larger share of the income tax burden. In this context, the 1981 tax bill has clearly been progressive, and certainly not a "giveaway" to the rich. These data are consistent with similar conclusions drawn in studies by Professors Richard Veddera and Lowell Gallaway of Ohio University,[6] Lawrence Lindsey of Harvard University,[7] Paul Craig Roberts, Richard Rahn, Warren Brookes and others.[8]

As the share of the richest taxpayers' tax burden increased between 1981 and 1986, that of middle and lower income Americans declined, as shown in Table II. It is equally clear that average effective tax rates have fallen most for the middle and lower income taxpayers. The notion that tax payments by upper income taxpayers declined between 1981 and 1986 is obviously false. Tax payments by the wealthiest have increased strongly. Tax payments by middle and lower income taxpayers have declined despite higher real income reported by both groups.

THE FIRST AMENDMENT GOES TO COLLEGE

Mr. GRASSLEY. Mr. President, I rise today to note a disturbing trend on many college campuses in America. That is a troubling intolerance of any view not in lock-step with prevailing liberal orthodoxy.

I raise the issue because many of my colleagues, and other public commentators * * * usually so sensitive to content-based intrusions on the first amendment * * * have been strangely silent about these recent events.

A college campus ought to be an open marketplace for the free exchange of ideas. Instead, examples of close-mindedness abound.

For example, in my home State of Iowa, a conservative student newspaper was banned from distributing their campus paper at the University of Iowa law school. That paper had criticized some law professors for their political positions. The law school found the criticism so uncomfortable that it chose to cut off distribution of the paper—the transparent and clumsy effort to silence dissenting views.

At the University of Washington, a male student was dismissed from a women's studies class for being a disruptive influence * * * which is to say he challenged the radical-feminist and left-wing views of the instructors. The course description said the class would foster vigorous, open inquiry into women's issues. What the course catalog didn't say was that the inquiry had to be consistent with the teacher's views.

Perhaps this student should be thankful he's not at Dartmouth. There, three student reporters of the Dartmouth Review were suspended for having the nerve to speak up for high academic standards. The students' crime was that their comments about a certain professor were vexacious.

I didn't know there was a first amendment exception for vexacious speech * * * it's not in my copy of the Bill of Rights.

The latest mugging of the first amendment occurred at the State University of New York at Buffalo law school. The faculty there, responding to what they considered racism and sexism, issued a gag order against any offensive speech * * * offensive to whom, I wonder * * * the scope of the prohibition is exceeded only by its vagueness—another blunt assault based on the content of speech.

I hope my colleagues can see that what's at work here is little more than an old-fashioned double standard. Surely we can recall the outcry over the Supreme Court's decision in the Hazelwood School District case. There, the Court upheld a school principal's right to edit-out certain provocative items from the school-sponsored, school-staffed newspaper. Liberals were quick to denounce this decision, characterizing it as an infringement on student rights and freedom of the press.

The self-appointed guardians of free speech were quite willing to defend the right of high school students to write about teenage pregnancy. But they are mere bystanders when college students, willing to challenge longstanding liberal doctrines, are censored.

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[6] Richard Vedder and Lowell Gallaway, "Income Tax Shares and the Supply Side: A Reply," Tax Notes (June 10, 1985), pp. 1293–1295.

[7] Lawrence B. Lindsey, "Taxpayer Behavior and the Distribution of the 1982 Tax Cut" (Cambridge, Mass: National Bureau of Economic Research, Working Paper No. 1760, October 1985).

[8] Congress of the United States, Fairness and the Reagan Tax Cuts: Hearing before the Joint Economic Committee, 98th Congress, 2nd Session (Washington: U.S. Government Printing Office, 1984).

Thankfully, there are some people in America who know what the first amendment is all about.

As recently as this February, the Supreme Court unambiguously protected the freedom of unpopular speech. In a unanimous opinion in Hustler versus Falwell, the Court upheld the lawfulness of offensive speech—even when the speaker is motivated by hatred or ill will. Chief Justice Rehnquist's opinion recognizes that protecting such speech is part and parcel of the first amendment's breathing space.

In so ruling, the Court followed a long line of cases holding that the public expression of ideas may not be proscribed, simply because the listener or reader may be offended.

Mr. President, this is a lesson that those running our Nation's colleges and law schools would do well to learn.

THE PERSIAN GULF

Mr. SASSER. Mr. President, the Iranians have apparently chosen to ratchet-up the level of violence in the Persian Gulf.

The U.S. Naval Forces have responded by defending themselves against what appeared to be an impending Iranian attack on one of our warships in the Strait of Hormuz.

The Sun is now setting in the Persian Gulf. It is evening and I hope that the Iranians will take this night to reflect on the events of the day.

As many of my colleagues are aware, I did not initially support the policy of escorting Kuwaiti tankers last year; that is, escorting Kuwaiti tankers with U.S. warships. In the view of this Senator, that was a policy that we should not have implemented.

But it was implemented, the objections of a majority of the Members of the U.S. Senate notwithstanding. Now, the Iranians should be under no false illusions. They should not believe now that the Congress will do anything other than completely support our military forces that are now gathered in the Persian Gulf.

Last week, the Iranians deliberately, from all apparent evidence, placed a mine in the path of the United States frigate. The frigate was seriously damaged and 18 United States seamen were injured, some critically. The Pentagon chose an appropriate and measured response by attacking two Iranian oil platforms in retaliation. The U.S. Naval Forces took all appropriate steps to minimize the loss of human life, warning in advance before firing on the oil platforms.

The violence could have ended there. But the Iranians apparently chose to escalate the violence, instead. They have made what could become a fateful decision and I hope that the leadership of that troubled country would spend this evening and this night in that region of the world reflecting on their exposed and very vulnerable position.

When they chose to escalate the violence and send a warship, in an apparent attack on our ships and aircraft, in the Strait of Hormuz, they opened the door to a potentially wider retaliation by the Naval Forces of the United States.

The Pentagon has stated that our forces acted to defend themselves in the face of probable attack. And let there be no illusion on the part of our adversaries, the U.S. forces will do so again and should do so again if the Iranians choose the path of further violence.

Mr. President, the Iranians are in a very exposed and very vulnerable position. They have very few warships and very few aircraft which are currently operational.

It would appear, from the initial reports, that an Iranian frigate has been hit and seriously damaged. If that vessel should be sunk, that would mean that 25 percent of the Iranian naval frigate force would be lost. They have only a handful of operational aircraft and very few military installations.

Should the Iranians choose to escalate the violence through conventional or unconventional methods, such as terrorism or small boat attacks on our forces deployed in that area, the United States will continue to respond in an appropriate manner.

I hope that the Iranian Government, the Ayatollah Khomeini and his immediate advisers, would proceed very carefully from this point forward.

I would say to the Iranian people that the American people and the Congress are backing up our forces today in the Persian Gulf. We will not shy away from supporting proportional and appropriate responses to any continued Iranian violence. Of that there should be no mistake and there should be no misinterpreting on the part of our Iranian adversaries.

CONCLUSION OF MORNING BUSINESS

The DEPUTY PRESIDENT pro tempore (Mr. MITCHELL). Morning business is closed.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

The DEPUTY PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Joint Resolution 282, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

The Senate proceeded to the consideration of the joint resolution.

Mr. HOLLINGS. Mr. President, we do not amend the Constitution of the United States in a casual fashion. We do so in a very deliberate way. In this particular instance, Mr. President, we have arrived at this proposed amendment after a struggle of nearly 18 years.

We have been trying to regulate expenditures in Federal elections since 1970. The Congress thought then that we had enacted a sound measure that was fair to all, and in fact in this Senator's judgment it was sound and fair. However, in the flawed and contradictory decisions of Buckley versus Valeo, the court distorted the good work of the Congress in the Federal Election Campaign Act Amendments of 1974. And we have been struggling ever since.

Laboring under the restrictions of the Buckley versus Valeo decisions, we pursued a carrot-and-stick approach where candidates enticed by the carrot of Federal financing would accept spending limits. Notably of course those who chose not to participate would not be controlled. Those who did would be controlled. Therefore, a major evil, the wealthy buying the election, was left intact.

Otherwise, the Court really disregarded the true thrust of the Federal Election Campaign Act amendments. The true thrust, Mr. President, is that we are dealing strictly with the amplification of free speech, not free speech itself. No one, not this Senator, no one in the National Government or Congress is going to take away any American's freedom of speech. That is sacrosanct the land over. It is understood absolutely as the most precious of the individual rights we have as citizens of the United States.

Of course, there will always be some practical limits on speech. We all know that you cannot shout "fire" in the theater. As the distinguished Presiding Officer knows, as a former Federal judge, 60 Senators can come on the floor and vote to restrict my freedom of speech. I could talk from now until next week if it were not for the right of 60 Senators to come in and limit me. We set practical limits on speech. There have been limits from time to time.

It is generally understood that we as candidates have freedom of speech. And I can recall a time when I did not face this problem, 1947 and 1948, when I first ran for office. I did not worry then about amplification of my speech and message. There was not any television. So we did not bother about amplification. But now the amplification is taking over, and in a sense the tail wags the dog.

What we find is, if you have money and you can purchase the amplification, you have freedom of speech. If you do not have money, and are not able to amplify your speech, you have only the freedom to shut up, the freedom to go unheard, the freedom to be drowned out by your well-financed opponent.

This has disturbed all of us, because we have had no intention of proposing a blunderbuss constitutional amendment that would destroy that fundamental freedom.

I hasten to add that this amendment is drafted with assistance of the best of constitutional minds, the best of supporting testimony. We have had a public hearing, and we have rallied strong bipartisan support. Strong bipartisan support also exists within the House of Representatives.

We realize that four out of five of the amendments we have adopted to the Constitution in recent years have dealt with elections, so this latest amendment is not a rarity at all.

Surely, it is just as important that we in the Government control the excessive expenditure of funds and the resulting corruption, as it is to determine that an 18-year-old should be able to vote but a 17-year-old should not be able to vote, or, in a similar fashion, that Americans have the right not to be denied the vote as a result of a poll tax. This latest amendment says Americans are not going to be denied the right to hold office because they do not have the funds required for amplification of their freedom of speech, and Americans are not going to be denied the right to run for public office because they are poor. We in the National Government, having regulated elections in four of the last five constitutional amendments, certainly are within bounds in regulating the corruptive influence of far too much money.

According to one strained interpretation I have heard in debates, the President of the United States, one Ronald Wilson Reagan, will have his freedom of speech removed; that is, his freedom to run for President of the United States this year, because of the constitutional amendment limiting him to two terms.

If you want to use the Buckley-Valeo rationale, you come in and say: "Oh, no, this individual's freedom of speech has been taken from him because he does not have the right to speak out and run for the office, and therefore that particular amendment, limiting the President to two terms of office, is unconstitutional."

You see and begin to feel the perverted nature of Buckley versus Valeo, which is putting Congress into the untenable position of not being able to legislate spending limits, not being able to regulate a root cause of political corruption in our Nation.

I cannot overemphasize the fact that we have all joined in on the corruptive nature of money. I know from my experience of 40 years that we have veritably excluded many people from politics. In my small State of South Carolina, I have run 15 statewide campaigns and never expended over $600,000 on a campaign. But last time, in November of 1986, I was required to collect and spend over $2 million. That is the corruptive nature of today's spending trends. In a small State, candidates are put to the task of speaking just to the affluent or those willing to contribute, in order to collect money to get on TV, in order to collect money to get on TV, in order to collect money to get on TV.

Last year, 1987, I had a series of town meetings around the State, and friends said: "Look, what is going on? You have just been reelected in a landslide fashion, and you are acting like the election is tomorrow."

I said I had missed meeting with the people during the campaign of 1986 because I was only talking to the moneyed groups. I was not able to go out to the crossroads in Belton, SC, to Lyman, SC, where the people are.

Friends say: "Wait a minute. We haven't seen him. He has Potomac fever. We don't hear from him anymore."

One of the big reasons they do not see and hear from me is that 25 percent of the time of a U.S. Senator is expended in the collection of money.

What it comes down to is what Dick Russell, of Georgia, said: "A Senator is given a 6-year term so he can spend 2 years being a statesman, and then 2 more years being a politician, and then the last 2 years being a demagog." It's different now. These days we start off the first year being a demagog. People are collecting money for the full 6 years right after they get elected, and it is a constant treadmill situation.

If you listen to people in a campaign, you learn more about the issues and the feeling of the people in those issues, the position of your constituents. Regrettably, we are not afforded that luxury any longer because of the corruptive influence of money.

So what we have done is come around, finally, after seven cloture votes on S. 2, by our distinguished majority leader and our colleague from Oklahoma, Senator BOREN—we have now come to the up and down, put-up-or-shut-up time on this issue of campaign finance reform. The great virtue of Senate Joint Resolution 282 is that it will give us the authority, in a judicious fashion, to get back to what we intended in the Federal Campaign Act Amendments of 1974. In other words, we can restore the freedom of speech.

The issue is raised that spending limits would overwhelmingly aid incumbents. I never heard such nonsense. I can cite seven incumbents who bit the dust in 1980. They had more money. They spent more money. They were the incumbents, and they were defeated.

I look at the election of 1986. Incumbents with more money lost in the States of Alabama, North Carolina, Georgia, Florida, North Dakota, South Dakota, and the State of Washington. You can go right on down the list. They had not only more money, they had the President appearing on their behalf.

My point is that incumbency is no blessing, with the numerous votes on the issues that have come about, and with the state of the art of political campaigning being refined—especially the technique of the last-minute campaign ambushes. The latest technique is the last-minute ambush where a challenger unloads in a relatively small State with a million-dollar television, blitz, tagging his opponent with negative charges with no time left for a response.

Thus, the candidate with the good lead, say, on October 1, by November 1 could be in premature retirement, because by the time he can get up his answers on television, the parade is over.

So it is no favor to incumbents to limit campaign financing. Likewise, this bill is not anti-PAC.

The political action committees are a salutary development in politics today. They have brought about increased participation. The evil is not the increased participation, but on the contrary, the evil is the increase in money and the cost of campaigning and the time expended in collecting money.

I will never forget as a member of the junior chamber of commerce, our major objective was to get out the vote, to educate people to participate, to tell them it was their fundamental duty. We used to quote Elihu Root, the Secretary of State in Teddy Roosevelt's administration, who said that "politics is the practical art of self-government and good people must serve if we are going to have self-government." Root went on to observe that the greatest rebuke to an American citizen should be that he is not a politician.

In the participatory democracy that we have in these United States every citizen counts and we have asked them to participate and now small groups have come together and they have banded as nurses and teachers, as unionists or otherwise, and small groups that give a dollar, $5 or $10 have made their views known. They have won a greater impact by grouping together. This participation is a healthy development.

I repeat, this amendment in no way favors incumbents. Incumbency is no blessing. On the contrary, incumbents have a record to defend. In contrast, one's opponent might be someone who has been a good civic leader, worked on the community chest, the Red

Cross, been head of the rotary club, and there is nothing to attack him for or criticize about his particular record. So you end up spending the whole campaign defending yourself.

No, what Senate Joint Resolution 282 does is level the playing field with respect to the amplification of a candidate's message. The constitutional amendment is the only way we will be able to solve this particular problem.

I would say advisedly that S. 2 was DOA, dead on arrival. Even if we could have gotten it passed before the U.S. Senate, President Reagan was ready to veto it. And with some good reasons.

As you go home tonight, you will see homeless people on the grates and sleeping on the sidewalks.

Yet, here we were trying to find a half billion bucks for politicians in the U.S. Senate, but we could not find any money for the homeless of America. In S. 2, we proposed to start a new Federal funding program to do what? To finance politics. This crowd around here cannot pay the bills for anything. We get deeper and deeper in debt. We are a debtor nation. But we can find money for an expensive new entitlement program for politicians.

All we do is go to the public till and say "Give me the money now, because it is too embarrassing to raise it myself. I really do not like to ask for money."

I enjoy hearing these sophisticated politicians saying they do not like to ask for money. It makes you wonder how they got here in the first place.

I can tell you on good authority that there are 100 Senators who are not bashful at all about asking for money, except maybe our colleague from Wisconsin who runs on no money. And, incidentally, the Senator from Wisconsin has not had his freedom of speech removed by limiting his expenditures. However, I readily acknowledge he is unique. He is unique.

Mr. President, I return to the reason why this constitutional amendment is necessary: Buckley versus Valeo. In the face of spirited dissents, a divided Court drew a bizarre distinction in Buckley versus Valeo between campaign spending and campaign giving. For first amendment reasons, it struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo and by the overwhelming money-raising advantages of incumbency.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth or if you are well-heeled with PAC money, then you have access to television, you have freedom of speech. But if you do not have personal wealth or big PAC money, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

Mr. President, the Court fundamentally erred in Buckley by failing to distinguish between freedom of speech, per se, and the amplification of speech, which is another matter entirely. Campaign spending limits in no way whatsoever impact the unquestioned right of all Americans to freedom of speech. This is an absolute right under our Constitution. It is in no way compromised by spending limits.

Campaign spending limits are intended to impact only the amplification of speech. By limiting a campaign's financial resources, you place some outer limits on its ability to purchase media time and other means of disseminating it's message.

Again, freedom of speech remains untouched. All candidates in a race begin and end with equal freedom of speech. Spending limits do nothing more than restrict a wealthy candidate's ability to amplify his message through saturation media buys—the kind of media monopolization that drowns out the cash-poor opponent's message. Surely there is a public interest in assuring, if not parity of amplification, then at least not too great a disparity of amplification between candidates. So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech.

Mr. President, every man and woman in this room realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign contributions take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking $2,400 for 30 seconds of prime-time advertising. In New York City, you're talking about $30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flush with PAC money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

Buckley versus Valeo created a double blind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley versus Valeo. By striking down the limit on what a candidiate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a Senate race was $1.1 million in 1980, rising to $2.1 million in 1986. To raise that kind of money, the average Senator must raise money at the rate of $10,000 a week every week of his 6-year term. Senators from large States such as California and New York are obliged to raise three or four times that amount. At best, this obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the junior Senator from Kentucky's contention that we spend too little in our Federal campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense; that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation, than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of crass, marketplace values run amok. Federal offices should not be up for sale.

Mr. President, I repeat: campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. One, it would end the mindless pursuit of ever-fatter campaign war chests. Two, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas. Three, it would curtail the influence of special interests. And four, it would create a more level playing field for our Federal campaigns—a competitive environment where incumbency or personal wealth do not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach of Senate Joint Resolution 282. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that four of the last five amendments to the Constitution have dealt with Federal-election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Takes too long? We have been dithering on this campaign finance issue since early 1970. It has been 18 years now, and no conventional legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution and ratify the constitutional amendment in time for it to govern the 1990 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the final version of S. 2 would be vulnerable to a Presidential veto. In contrast, Senate Joint Resolution 282, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

Mr. President, Senate Joint Resolution 282 will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus "if you have the money you can talk" version of free speech. In its place, I urge passage of Senate Joint Resolution 282, what I call the "equal freedom of speech in federal campaigns" amendment. Let us ensure equal freedom of expression for all who seek Federal office.

Now, Mr. President, I will yield the floor at this time to my colleague.

(Mr. REID assumed the chair.)

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today in support of Senate Joint Resolution 282, as introduced by my distinguished colleague from South Carolina. This joint resolution proposes an amendment to our Constitution relative to contributions and expenditures and gives Congress the authority to address directly one of the preeminent problems facing our democratic election system today, namely the spiraling costs of political campaigns.

During the 1986 campaigns, the increasing costs of political races and the methods used to finance them once again turned public attention toward campaign financing. In my race for the U.S. Senate, close to $6.7 million was spent. I spent almost $2.2 million while my opponent spent more than $4.4 million. That averages out to $2.85 per voter in the 10th most expensive Senate race in the Nation.

No one has to be told that those numbers are out of hand. Campaign spending is just too high. The stakes are too precious to allow our election process to become a contest between who can raise and spend the most money.

Our system must remain a contest between who can raise and best address the most important issues. This is why I was an original cosponsor of Senate Joint Resolution 21, the precursor to the current bill before this great body today. The measure proposes to amend the Constitution by allowing Congress to limit expenditures in Federal elections.

In 1974, Congress passed the Federal Election Campaign Act amendments which established a system of public financing for Presidential campaigns and set political contribution and expenditure limits for candidates for Federal election. However, the Supreme Court, in Buckley versus Valeo, struck down the spending limits as a violation of the first amendment's guarantee of freedom of speech. Thus, a constitutional amendment is necessary to restore Congress' original intent and limit directly the amount of money spent in Federal elections.

It is obvious that political campaigns in the 1980's are vastly different from those even 20 years ago. Television, radio, direct mail and other events rapidly deplete campaign treasuries. With the rise in costs, there has been a growing public perception of corruption and mounting distrust for our very electoral process. Candidates are increasingly required to spend more time raising money and less time listening to constituents. This trend is not going to subside, but will only grow worse with time.

Much has been said and written about campaign finance reform throughout this 100th Congress. The Senate has devoted countless hours of discussion and debate to this issue, particularly during the consideration of S. 2, as introduced by Senators BYRD and BOREN. However, I object to the public financing of campaigns, and am unwilling to ask the American taxpayer to foot the bill for my next election. S. 2 would also give incumbents an unfair advantage over challengers, making it virtually impossible for a challenger to mount a credible campaign.

I remain committed to working toward realistic campaign finance reform in the 100th Congress. The American electorial process is an element of our democracy envied throughout the world. We must restore public confidence in our election system, but not at the expense of decreasing individual participation. Therefore, I am proud to cosponsor Senate Joint Resolution 282, and I commend Senator HOLLINGS for his leadership on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we are in the 212th year of our country, and in that 212 years we have amended the Constitution 26 times. Yet only three of those amendments shrank the rights of citizens: the power of Congress to tax, which was amendment No. 16; prohibition, which was amendment No. 18—prohibition was, of course, repealed by amendment No. 21; and then, in the 22d amendment, we put a two-term limit on the Presidency.

Suffice it to say that none of the other amendments limited individual rights. Yet the measure before us today seeks to adjust, if you will, the first amendment. Suffice it to say, Mr. President, that I do not think anybody has seriously suggested altering the first amendment throughout the history of our country. It is this rather draconian suggestion that has created an unusual situation today.

I find myself, Mr. President, with some rather odd bedfellows on this issue. Among those who oppose the measure before us, first I would mention Common Cause, the principal proponent of S. 2, which we debated over the last year and had eight cloture votes.

Common Cause, Mr. President, says that amending the first amendment is a bad idea. Let me read certain pertinent parts of a letter from Fred Wertheimer, their president, dated March 23 to those of us here in the Senate.

Wertheimer says:

> The Senate is expected to consider shortly S.J. Res. 21, a proposed amendment to the Constitution to give Congress the power to enact mandatory limits on expenditures in campaigns. Common Cause urges you not to support Senate Joint Resolution 21.

Further in the letter he says:

> So even assuming a constitutional amendment were to be ratified, after years of delay the Senate would find itself right back where it is today—in a battle over whether there should be spending limits in congressional campaigns. In the interim, it is almost certain that nothing would have been done to deal.

As he puts it.

> With the scandalous congressional campaign finance system.
>
> There are other serious questions that need to be considered and addressed by anyone who is presently considering supporting Senate Joint Resolution 21.
>
> For example, what are the implications if Senate Joint Resolution 21 takes away from the federal courts any ability to determine that particular expenditure limits enacted by Congress discriminate against or otherwise violate the constitutional rights of challengers?

And finally I would mention in Wertheimer's letter, what it seems to me is the most important point. Fred Wertheimer says:

> What are the implications, if any, of narrowing by constitutional amendment the first amendment rights of individuals as interpreted by the Supreme Court?

So, as you can see, Mr. President, there are some rather unusual alliances on the question of whether limiting the campaign expenditures rises to the level of amending of our Federal Constitution.

Another opponent of a constitutional amendment to authorize the spending limits is the American Civil Liberties Union, an organization with which I find myself rarely allied.

Joel Gora, who is a professor of law at Brooklyn Law School and who testified before the Subcommittee on the Constitution of the Committee on the Judiciary on March 17, stated their position, that is the ACLU's position on this matter.

First, he said in his testimony, Mr. President:

> The ACLU believes that government restrictions on political campaign funding infringe on freedom of speech and association.
>
> The ACLU perspective on the dangers to free speech posed by campaign finance controls was shaped from the very outset when in 1972 the brand new reform laws were almost immediately used by the federal government to bring suit against a handful of dissenters who had sponsored a newspaper advertisement in *The New York Times* calling for the impeachment of President Nixon. The ACLU successfully defended those dissenters, but ever since then we have viewed campaign finance restrictions with great skepticism. They appeared to us not so much as benign efforts to reform politics, but suspect attempts to restrict political speech and stifle citizen criticism of government.

Further, in his testimony, Gora says:

> Government restrictions on political expenditures and contributions inevitably have two unacceptable consequences: (1) limiting the quantity of political resources directly restricts the quality and content of political speech, and (2)

ACLU points out:

> Allowing government to monitor and control political speech in order to enforce such limitations is deeply disruptive of political freedom. Moreover, we do not believe that compelling governmental interests necessitate such restrictions and control of political funding. Two such interests are usually advanced: deterring governmental corruption and equalizing political opportunity.
>
> The corruption concern is not present when a candidate uses his or her own resources or family resources to fund a campaign. Disclosure is an effective antidote to any potential corruption or undue influence where candidates rely heavily on the contributions of others.
>
> The equality principle, which seeks to limit some individuals and groups in order relatively to enhance the political opportunity of others, seems inherently boundless and practically futile.

Further, the ACLU says:

> If that drastic step is taken, there remains the problem of the influence in a campaign of powerful media voices or issue-oriented organizations which may have an impact on the election. They will have to be restricted and controlled as well. To pursue the equality concern to these extreme lengths—to seek to monitor and control all speech which might affect the climate of opinion in an election—would radically change the nature of political discussion and debate in America.

Further, the ACLU says:

> The proposed constitutional amendments,

He goes on:

> Are a dangerous threat to our core constitutional values of freedom of speech, press, association and petition.
>
> If adopted, they would enshrine in the Constitution itself the power of government to restrict campaign activity and hence political speech.

The ACLU continues:

> Both the intended and unintended consequences of the proposals would pose the gravest dangers to freedom of speech, which Justice Cardozo described as "the matrix, the indispensible condition of nearly every other form of freedom."
>
> Our political and constitutional system is predicated on the necessity of free, uninhibited and robust discussion and debate of public issues, politics and government. Justice Brandeis observed that, "public discussion is a political duty." Indeed, speech about government and politics is more than self-expression; it is the essence of self-government. The proposed constitutional amendments would cut to the heart of our democratic system, by empowering the Congress or the States to restrict severely the ability of individuals and groups to communicate their views about candidates or causes if such advocacy were in any way "intended to affect" federal or local elections. By placing the regulation of political funding almost wholly at the mercy of government, these proposals would turn the free speech legacy of Holmes, Brandeis, Black, Douglas and Brennan on its head.

The ACLU continued:

> The proposed constitutional amendments would permit unacceptably sweeping and severe regulation on our system of political expression.
>
> Each of the various proposed amendments, referring to the various amendments that were before the committee at that time; would grant to Congress what the Supreme Court held that the First Amendment denied: plenary legislative control over the regulation of campaign finances. Since the common purpose of the proposals is, in varying degrees, to carve out an "exception" to the First Amendment principles announced by the Court, there would presumably no longer be any constitutional baseline against which to measure any "regulation" of the amount of campaign finances.

Further, the ACLU said:

> The Congress could make it a federal crime for a candidate to spend a relatively modest amount to personally sponsor a newspaper advertisement stating his or her views on public issues and asking the voters for their support.

Further in the testimony, Mr. Gora said:

> Nor does it improve matters significantly to specify, as does S.J. Res. 130, that Congress or the States may set "reasonable" limitations on political expenditures. Most challengers or insurgents might have a different view of "reasonable" spending limits than do most incumbents or majority parties; and it is the latter who will write the rules. In 1974, Congress thought that $1,000 was a reasonable limit on independent political expenditures and, in effect, made it a federal crime for any one to place a small one-eighth page advertisement in The New York Times criticizing the President of the United States and urging people to vote against him. In the *Buckley* decision the Supreme Court condemned that restriction in unqualified terms. With *Buckley* overruled by constitutional amendment, would that restriction now be viewed as "reasonable?"

Further in the testimony, Mr. President, the ACLU says:

> Our severe concerns about the reach of S.J. Res. 21 are underscored by the pervasive problem of enforcement. That has certainly been our experience with enforcement ever since the 1972 reforms, which were immediately applied against an ad hoc group that sponsored a newspaper advertisement urging the impeachment of President Nixon. The government claimed that the ad was for the purpose of influencing the outcome of the fall elections. The ACLU won that case, but the government has frequently applied campaign laws in an exceedingly sweeping fashion, despite warnings from the courts. In recent years, harassing complaints have been filed with the Federal Election Commission claiming that a whole host of non-partisan organizations, such as the ACLU, had violated federal campaign law restrictions because of their criticism of President Reagan's policies. Although the Commission ultimately dropped these charges, we were forced to spend considerable time, effort and resources to defend the right to criticize the President without offi-

> cial examination or sanction. As Justice Marshall once observed: "The value of a Sword of Damocles is that it hangs—not that it drops."
>
> It is thus possible that individuals, political candidates, political parties, labor unions, corporations, political action committees, issue organizations, interest groups, and even the media could all be subject to restrictive regulation of the resources they can employ for public and political advocacy. Ironically, if the ability of these groups and individuals to use resources to discuss public issues and political figures is diminished, the relative power of government and its officials to shape public opinion will be enhanced.

The ACLU went on:

> The avowed purpose is to overrule the key features of the *Buckley* decision and with it, presumably, the First Amendment principles of freedom of speech, press, association and self-government upon which that decision was explicitly and squarely based. The *Buckley* ruling was not a sport. It was solidly grounded in settled First Amendment principles. These included: (1) that "discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution;" (2) that this "reflects 'our profound commitment to the principle that debate on public issues should be uninhibited, robust and wide-open'"; and (3) that the First Amendment "protects political association as well as political expression."

Further the ACLU said:

> Just recently, Justice Brennan confirmed *Buckley's* recognition that "independent expenditures constitute expression 'at the core of our electoral process and of the First Amendment freedoms.'"

Mr. Gora continued further in his testimony:

> One solution would be to lift the current $1,000 ceiling on individual contributions to federal campaigns. That would encourage political access and opportunity, considerably ease fund-raising difficulties, and reduce the relative influence of political action committees. Concerns with undue influence could be addressed by requiring effective disclosure of large contributions.

The ACLU continued:

> To the extent efforts to limits campaign finances are based on concerns over undue influence, full disclosure of large contributions to candidates and campaigns permits the voters to make such judgments. Indeed, the best antidote to excessive campaign contributions and expenditures, if one is required, is that such campaigns may become politically counter-productive when a candidate's funding activities are made a campaign issue for the voters. Big spenders are not necessarily big winners.

The most recent example of that, much to the chagrin of those on this side of the aisle, were the Senate races in 1986.

So there you have the ACLU's position, Mr. President—the ACLU against a constitutional amendment for spending limits; Common Cause, the principal proponent of S. 2, against a constitutional amendment to provide for spending limits.

The Washington Post, a supporter of S. 2, is also against a constitutional amendment to provide for spending limits. I ask unanimous consent that the Post editorial and the full text of the ACLU statement before the Constitutional Amendment Subcommittee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 6, 1988]

CAMAPIGN SPINACH

Sen. Ernest Hollings was not an admirer of S. 2, the sturdy bill his fellow Democrats tried to pass to limit congressional campaign spending by setting up a system of partial public finance. He agreed to vote for cloture, to break a Republican filibuster, only after Majority Leader Robert Byrd agreed to bring up a Hollings constitutional amendment if cloture failed. Mr. Byrd, having lost on S. 2, is now about to do that.

Right now Congress can't just limit spending and be done with it; the Supreme Court says such legislation would violate the First Amendment. Limits can only be imposed indirectly—for example, as a condition for receipt of public campaign funds. The Hollings amendment would cut through this thick spinach by authorizing Congress to impose limits straightaway. The limits are enticing, but the constitutional amendment is a bad idea. It would be an exception to the free speech clause, and once that clause is breached for one purpose, who is to say how many others may follow? As the American Civil Liberties Union observed in opposing the measure, about the last thing the country needs is "a second First Amendment."

The free speech issue arises in almost any effort to regulate campaigns, the fundamental area of free expression on which all others depend. There has long been the feeling in and out of Congress—which we emphatically share—that congressional campaign spending is out of hand. Congress tried in one of the Watergate reforms to limit both the giving and the spending of campaign funds. The Supreme Court in its Buckley versus Valeo decision in 1976 drew a rather strained distinction between these two sides of the campaign ledger. In a decision that let it keep a foot in both camps—civil liberties and reform—it said Congress could limit giving but not spending (except in the context of a system of public finance). In the first case the court found that "the governmental interest in preventing corruption and the appearance of corruption" outweighed the free speech considerations, while in the second case it did not.

Mr. Hollings would simplify the matter, but at considerable cost. His amendment said, in a recent formulation: "The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices." But that's much too vague, and so are rival amendments that have been proposed. Ask yourself what expenditures of a certain kind in an election year are not "intended to affect" the outcome? At a certain point in the process, just about any public utterance is.

Nor would the Hollings amendment be a political solution to the problem. Congress would still have to vote the limits, and that is what the Senate balked at this time around.

As Buckley versus Valeo demonstrates, this is a messy area of law. The competing values are important; they require a balancing act. The Hollings amendment, in trying instead to brush the problem aside, is less a solution than a dangerous show. The Senate should vote it down.

STATEMENT OF JOEL M. GORA, PROFESSOR OF LAW, BROOKLYN LAW SCHOOL, ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION

My name is Joel M. Gora. I am a Professor at Brooklyn Law School, where I teach Constitutional Law. I am also a General Counsel of the New York Civil Liberties Union and a former National Staff Counsel of the American Civil Liberties Union. In that capacity, I have been actively involved since 1972 in studying and litigating the constitutionality of campaign finance restrictions. I was one of the attorneys for the plaintiffs in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), which is the target of the proposals before you to amend the Constitution of the United States. I appear here today, on behalf of the ACLU, in strong opposition to these proposals.

As a lawyer and a constitutional law teacher, it is a privilege and an honor to be requested to appear before this Committee to discuss an occasion as potentially momentous as a proposed amendment to our Constitution. But having been extensively against government restrictions, particularly those embodied in most campaign finance laws, I think these proposed constitutional amendments pose grave danger to First Amendment values and thus to the essence of self-government.

1. The ACLU believes that government restrictions on political campaign funding infringe on freedom of speech and association.

The ACLU perspective on the dangers to free speech posed by campaign finance controls was shaped from the very outset when in 1972 the brand new reform laws were almost immediately used by the federal government to bring suit against a handful of dissenters who had sponsored a newspaper advertisement in The New York Times calling for the impeachment of President Nixon. The ACLU successfully defended those dissenters, but ever since then we have viewed campaign finance restrictions with great skepticism. They appeared to us not so much as benign efforts to reform politics, but suspect attempts to restrict political speech and stifle citizen criticism of government.

That is why the ACLU believes that limitations on contributions or expenditures made for the purpose of advocating causes or candidates in the public forum impinge directly on freedom of speech and association and should generally be opposed. Government restrictions on political expenditures and contributions inevitably have two unacceptable consequences: (1) limiting the quantity of political resources directly restricts the quality and content of political speech, and (2) allowing government to monitor and control political speech in order to enforce such limitations is deeply disruptive of political freedom. Moreover, we do not believe that compelling governmental interests necessitate such restrictions and control of political funding. Two such interests are usually advanced: deterring government corruption and equalizing political opportunity.

The corruption concern is not present when a candidate uses his or her own resources or family resources to fund a campaign. Disclosure is an effective antidote to any potential corruption or undue influence where candidates rely heavily on the contributions of others.

The equality principle, which seeks to limit some individuals and groups in order relatively to enhance the political opportunity of others, seems inherently boundless and practically futile. First, of course, the powerful incumbency factor will always upset the political balance and undermine the goal of equal political opportunity. Moreover, if the equality principle justifies restricting the funds that candidates themselves can raise and spend—even those who rely on small contributions—then the sought-after equilibrium can easily be undone by extensive independent expenditures in a campaign. Accordingly, those too will then have to be controlled and restricted, as the proposals before you clearly contemplate. If that drastic step is taken, there remains the problem of the influence in a campaign of powerful media voices or issue-oriented organizations which may have an impact on the election. They will have to be restricted and controlled as well. To pursue the equality concern to these extreme lengths—to seek to monitor and control all speech which might affect the climate of opinion in an election—would radically change the nature of political discussion and debate in America. To fail to do so casts doubt on the efficacy of the attempt to equalize political opportunity by restricting political activity. Surely we can find better ways to enhance political access than by restricting political speech.

2. The proposed constitutional amendments are a dangerous threat to our core constitutional values of freedom of speech, press, association and petition.

The three proposals before you magnify these concerns enormously because, if adopted, they would enshrine in the Constitution itself the power of government to restrict campaign activity and hence political speech. The leading proposal, and perhaps the most sweeping, is S.J. Res. 21, which would provide as follows:

"The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to Federal offices." The purpose of such proposals is to overturn the Supreme Court decision in Buckley versus Valeo, which held that restrictions on campaign expenditures are restrictions on campaign speech and thereby prohibited by the First Amendment. Both the intended and unintended consequences of the proposals would pose the gravest dangers to freedom of speech, which Justice Cardozo described as "the matrix, the indispensible condition of nearly every other form of freedom."

Our political and constitutional system is predicated on the necessity of free, uninhibited and robust discussion and debate of public issues, politics and government. Justice Brandeis observed that, "public discussion is a political duty." Indeed, speech about government and politics is more than self-expression; it is the essence of self-government. The proposed constitutional amendments would cut to the heart of our democratic system, by empowering the Congress or the states to restrict severely the ability of individuals and groups to communicate their views about candidates or causes if such advocacy were in any way "intended to affect" federal or local elections. By placing the regulation of political funding almost wholly at the mercy of government, these proposals would turn the free speech legacy of Holmes, Brandeis, Black, Douglas and Brennan on its head.

3. The proposed constitutional amendments would permit unacceptably sweeping and severe regulation of our system of political expression.

Each of the various proposed amendments would grant to Congress what the Supreme Court held that the First Amendment denied: plenary legislative control over the regulation of campaign finances. Since the common purpose of the proposals is, in varying degrees, to carve out an "exception" to the First Amendment principles announced by the Court, there would presumably no longer be any constitutional baseline against which to measure any "regulation" of the amount of campaign finances "intended to affect" federal elections. Congress or the States would have largely unfettered discretion under any one of those new First Amendments to dictate the nature, scope and enforcement of campaign finance legislation.

Since prior constitutional interpretation holds that the power to "regulate" includes the power to prohibit, under both S.J. Res. 21 and S.J. Res. 166, Congress could conceivably outlaw any personal campaign expenditures by a candidate and force candidates to rely solely on public funding—at whatever inadequate level a Congress full of incumbents might choose. Alternatively, the Congress could make it a federal crime for a candidate to spend a relatively modest amount to personally sponsor a newspaper advertisement stating his or her views on public issues and asking the voters for their support. Under any theory of free speech—individual self-expression, democratic self-government, the market place of ideas—that is a chilling and intolerable prospect. The Supreme Court in Buckley held that such a restriction violated our current First Amendment; but, of course, the purpose of these proposed amendments is to overturn that ruling.

By the same token Congress could reduce the amount of allowable political contributions from $1,000 to $500 or even $100, thus effectively prohibiting all private contributions except for the most modest expression of support by contributors for a candidate for his or her campaign. By what constitutional yardstick could such regulation and reduction of the amounts of campaign funding be measured?

Nor does it improve matters significantly to specify, as does S.J. Res. 130, that Congress or the States may set "reasonable" limitations on political expenditures. Most challengers or insurgents might have a different view of "reasonable" spending limits than do most incumbents or majority parties; and it is the latter who will write the rules. In 1974, Congress thought that $1,000 was a reasonable limit on independent political expenditures and, in effect, made it a federal crime for any one to place a small one-eighth page advertisement in The New York Times criticizing the President of the United States and urging people to vote against him. That was a breathtaking provision that effectively suppressed a primary forum of citizen dissent from government policy. In the Buckley decision the Supreme Court condemned that restriction in unqualified terms. A decade later the Court, with only two dissents, reaffirmed the principle that independent political expenditures could not be restricted. See: *FEC* v. *National Conservative Political Action Committee*, 470 U.S. 480 (1985). With Buckley overruled by constitutional amendment, would the restriction now be viewed as "reasonable?"

Even more alarming is the prospect that Congress could ban *any* political expenditures by independent groups and individuals without recourse. The ability of citizens, individually or in groups, to publicly criticize political candidates, government officials and government policy is one of the mainstays of our democractic system. Under any of these new First Amendments, such core political speech could be suppressed by totally prohibiting the expenditures required to enable such criticism.

Just as Congress would be the sole judge of "regulating the amounts," and thereby the nature of campaign finance, so too, under S.J. Res. 21, Congress would be free to apply such controls to any contributions or expenditures "intended to affect" federal elections. Would that include news coverage or editorial endorsements by the press? In the past, government tried to prosecute the press for publishing editorial endorsements which might "influence" the public on election day. The Supreme Court held that a violation of the old First Amendment. How would the matter be decided under some new one?

The reach of the "intended to affect" language is of particular concern to groups such as the ACLU. Like so many other nonpartisan, issue-oriented organizations, we regularly comment on public policy, including the performance of elected officials, or inform our members or the public about the voting records of such officials on issues of concern. In the past, the government has attempted repeatedly and unsuccessfully to bring such issue discussion within the reach of campaign finance laws. Indeed, in 1974, as part of the sweeping campaign reforms, Congress included a provision explicitly intended to regulate groups like Common Cause, the Sierra Club, and the ACLU, because these organizations publish "box scores" rating the performance of Members of Congress. In the Buckley case, the lower court unanimously ruled that the First Amendment prohibited such government regulation of non-partisan efforts to influence public opinion. Several other courts have reached similar conclusions. And the Supreme Court in Buckley, in order to cure the First Amendment vagueness and overbreadth of statutory terms such as "for the purpose of influencing an election," sought to fashion a bright-line distinction between express partisan advocacy, which can be subject to some campaign finance regulations, and issue advocacy, which cannot. At least S.J. Res. 166, on its face, appears to hew to this carefully-crafted distinction, but S.J. Res. 21 does not and would permit Congress to regulate contributions or expenditures "intended to affect" federal elections. Since *Buckley* is to be overturned, could issue speech now be regulated or restricted on the ground that expenditures for such speech are "intended to affect" an election?

Our severe concerns about the reach of S.J. Res. 21 are underscored by the pervasive problem of enforcement. Giving government the power to regulate expenditures "intended to affect" elections invites intensive and disruptive official scrutiny of all public speech even arguably within that zone. That has certainly been our experience with enforcement ever since the 1972 reforms, which were immediately applied against an ad hoc group that sponsored a newspaper advertisement urging the impeachment of President Nixon. The government claimed that the ad was for the purpose of influencing the outcome of the fall elections. The ACLU won that case, but the government has frequently applied campaign laws in an exceedingly sweeping fashion, despite warnings from the courts. In recent years, harassing complaints have been filed with the Federal Election Commission claiming that a whole host of nonpartisan organizations, such as the ACLU, had violated federal campaign law restrictions because of their criticism of President Reagan's policies. Although the Commission ultimately dropped these charges, we were forced to spend considerable time, effort and resources to defend the right to criticize the President without official examination or sanction. As Justice Marshall once observed: "The value of a Sword of Damocles is that it hangs—not that it drops."

Under the broad "intended to affect" language, it is thus possible that individuals, political candidates, political parties, labor unions, corporations, political action committees, issue organizations, interest groups, and even the media could all be subject to restrictive regulation of the resources they can employ for public and political advocacy. Ironically, if the ability of these groups and individuals to use resources to discuss public issues and political figures is diminished, the relative power of government and its officials to shape public opinion will be enhanced.

4. The proposed amendments raise extremely uncertain questions of constitutional interpretation.

These possibilities are not far-fetched speculations. They are precisely the consequences—intended or unintended—of the proposed amendments. The avowed purpose is to overrule the key features of the Buckley decision and with it, presumably, the First Amendment principles of freedom of speech, press, association and self-government upon which that decision was explicitly and squarely based. The Buckley ruling was not a sport. It was solidly grounded in settled First Amendment principles. These included: (1) that "discussion of public issues and debate on the qualifications of candidates are intergal to the operation of the system of government established by our Constitution;" (2) that this "reflects our profound commitment to the principle that debate on public issues should be uninhibited, robust and wide-open'"; and (3) that the First Amendment "protects political association as well as political expression." 424 U.S. at 14, 15. Moreover, in striking down limitations on independent expenditures, the Court centrally relied on two important free press cases *Mills* v. *Alabama*, 384 U.S. 214 (1966) and *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974). The *Buckley* ruling and the principles it applied have been reaffirmed by the Court several times in the decade since it was decided. Just recently, Justice Brennan confirmed *Buckley's* recognition that "independent expenditures constitute expression at the core of our electoral process and of the First Amendment freedoms.'" *FEC* v. *Massachusetts Citizens For Life*, 107 S. Ct. 616, 624 (1986) (plurality opinion). Without those principles, and with a new First Amendment, the courts and the country will be totally at sea in uncharted constitutional waters.

That raises another very serious objection to these proposals, namely, how would a new amendment mesh or interlock with the existing constitutional provisions and structure? Would it only overrule the specific holding of Buckley on candidate, campaign and independent expenditures, but not disturb the underlying First Amendment principles of speech, press and association upon which the ruling was based? If shifting partisan majorities in Congress decide that the new amendment permits regulation of election day editorial endorsements by newspapers or election day exit polls by the networks, can the media still argue freedom of the press or does the new amendment control? If Congress provides total campaign subsidies only for Democrats and Republicans, and absolutely none for independent or third party candidates, can those excluded from the funding claim a denial of equal protection of the laws, or is such a claim preempted? For example, S.J. Res. 166 would seem to allow federal and state regulation of independent expenditures, except those made by a political party; apparently, the parties could speak, but the people could not. Could that distinction be challenged under equal protection guarantees, or the equality component of the First Amendment? Likewise, Justice Brandeis' classic exposition of free speech was premised to a great extent on principles of individual liberty and self-development. May a candidate or independent speaker claim that Congressional restrictions on personal campaign expenditures constitute a deprivation of "liberty" under the Fifth Amendment, quite apart from the now-superceded protections of the First?

The point is that we are not used to having a second First Amendment and there will be great uncertainty about how it meshes with the first one, as well as with other pertinent constitutional provisions.

5. *Less drastic and dangerous alternatives are available within the framework of current First Amendment doctrine.*

Surely a profound change in our constitutional course with such perils and uncertainties, should not be embarked upon if there are less drastic alternatives available within the existing constitutional framework. That political campaigns have become more costly is apparent. But the causes and consequences of this are far less clear. As one observer has noted: "American politics is not overpriced but underfinanced." The responsible approach is to seek out solutions that maximize political speech and activity, not by limiting those groups and individuals whose resources permit them to engage in speech and association, but by improving the ability of those who lack such resources to participate in the political process. That approach harmonizes, free speech and greater political participation without sacrificing the former in an illusory quest for the latter.

One solution would be to lift the current $1,000 ceiling on individual contributions to federal campaigns. That would encourage political access and opportunity, considerably ease fund-raising difficulties, and reduce the relative influence of political action committees. Concerns with undue influence could be addressed by requiring effective disclosure of large contributions. By virtue of inflation a lone, a $1,000 contribution supports far less speech for a candidate and allows far less access of influence by a contributor. Indeed, just last week, The New York Times, long a supporter of campaign reform proposals, editorially urged that, in light of the funding demands imposed on Presidential candidates by the "Super Tuesday" primaries, "the obsolete $1,000 limit on individual contributions ought to be raised," so that Presidential contenders could more quickly and easily generate campaign funds. See: New York Times, Mach 10, 1988, p. A30.

Another possible alternative is a system of public financing to facilitate candidacy and broaden the spectrum of campaign debate by providing meaningful floors to encourage political speech and not ceilings to restrict it. Such a system should make funds available in equal amounts to all legally-qualified candidates once they have demonstrated some objective measure of political support. Another method is to reintroduce a system of tax deductions or tax credits for modest individual political contributions.

To the extent efforts to limit campaign finances are based on concens over undue influence, full disclosure of large contributions to candidates and campaigns permits the voters to make such judgments. Indeed, the best antidote to excessive campaign contributions and expenditures, if one is required, is that such campaigns may become politically counter-productive when a candidate's funding activities are made a campaign issue for the voters. Big spenders are not necessarily big winners. Just look at the most recent round of Senate elections in 1986.

Such a remedy, democratically supplied by the people, is the kind contemplated by the existing First Amendment. Until these and other remedies are found wholly wanting, we should not embark on the uncertain path of fashioning a new one.

SUMMARY: STATEMENT OF JOEL M. GORA, AMERICAN CIVIL LIBERTIES UNION

The American Civil Liberties Union strongly opposes these proposed Constitutional amendments that would permit plenary government regulation of political campaign funding. These proposals pose a grave danger to the values of political speech and association, and thus to the essence of self-government.

1. The ACLU has long been critical of campaign finance restrictions because they limit the ability of individuals or groups to advocate candidates and causes in the public forum and require government monitoring and control of political activity. We share the concerns over preventing corruption, improving political access and opportunity and preserving the integrity of our electoral processes. But we reject the necessity to secure those objectives by limiting political expenditures and contributions, and thus controlling political speech.

2. The proposed amendments would authorize such restrictions by enshrining the power to impose them in the Constitution itself. The purpose is to overturn the Supreme Court ruling in Buckley versus Valeo, (1976) which held that restrictions on campaign funding are restrictions on campaign speech and thus violative of First Amendment principles. The effect would be to wholly undercut the free speech legacy that those principles represent.

3. S.J. Res. 21, for example, would allow government control of all political activities "intended to affect" federal elections, by giving Congress plenary power to regulate and limit the amounts of funding of such activities. With the Buckley decision overruled, and the principles it embodied in limbo, there would be no effective constitutional yardstick to measure campaign finance restrictions. Congress could severely reduce allowable contributions or expenditures to any minimal level it chooses. Congress could prohibit a candidate from spending any more than a modest amount of personal funds to communicate his or her views to the voters and ask for their support. Congress could, as it did in 1974, make it a federal crime for independent citizens to spend more than $1,000 on a small newspaper ad-

vertisement criticizing the President of the United States—or a Member of Congress—during an election season. Congress could broadly "intended to affect" as allowing regulation of the news media, public interest groups and all whose speech activities might conceivably come within that zone. Government has tried to impose such controls in the past, but decisions like Buckley stood in the way. Now such obstacles would be removed.

4. A new amendment would raise difficult problems of constitutional interpretation. Could free press or equal protection guarantees still be used to challenge campaign finance laws, or would the new amendment preempt those protections as well?

5. Given these perils and uncertainties, the prudent course would be to address the problems of campaign finance under the First Amendment we now have, not to create an exception to it.

Mr. McCONNELL. Now, Mr. President, clearly there is something disturbing about the possibility of amending the Constitution on this issue to bring about the opposition of such organizations or newspapers so supportive of the previous effort on S. 2. I think the message is that if campaign reform is needed, we ought to do that legislatively, that we ought not to be messing around with the first amendment to the Constitution.

There is, of course, ample room and reason for changing campaign finance laws. The Senator from Kentucky has suggested a number of proposals in a seemingly endless debate on that subject in the Senate over the last year. There are other changes that need to be made. Clearly, the idea behind the campaign spending limitation proposal is to create for congressional races a system similar to the Presidential system which we are seeing operate this year.

I have said frequently if there is a scandal waiting to happen in American politics related to the question of campaign finance reform, it is the Presidential system. That is what we ought to be discussing and what we ought to be changing. I would announce to my colleagues, many of whom have been interested in this subject, that a bill that I intend to introduce repealing the spending limits and public finance and making some other adjustments in the Presidential system is now ready. I will not be introducing that today, but it is ready. A dear colleague will go out shortly.

I hope that a number of people who share my view that the Presidential system under which we operate is the real scandal out there waiting to happen and ought to be changed will consider cosponsorship.

I will briefly give you a rundown of the provisions of that bill. It would repeal spending limits and public financing entirely for Presidential races. It would raise the individual contribution limit for Presidential contests from $1,000 per election to $5,000 per election. It would prohibit PAC contributions to Presidential candidates and their committees. It would require disclosure of soft money contributions in Presidential races. And it would try to deal with the so-called millionaire's loophole, about which we discussed numerous suggestions during the debate on S. 2, which would essentially mirror the suggestions I had made in regard to congressional races, that would require a Presidential candidate to declare at the outset whether he intend to spend or loan over a quarter million dollars of personal funds on his own campaign and, if he did that, it would raise the individual limit to $10,000 from the previous level of $5,000 for all of his opponents. It would also prohibit a Presidential candidate from recovering personal funds or loans contributed to his or her own campaign. In other words, if he decided to try to buy the Presidency, he would not have a chance to recoup his expenditures by going around and asking either political action committees or individuals to recover his losses for him.

So that is a bill which I think would address the real scandal out there waiting to happen. It seems to me the last thing we need to do is to extend the system similar to the Presidential races to congressional races. As I have said on several occasions, if we concocted a Presidential system and applied it to 535 races, the FEC would soon be the size of the Veterans' Administration. We would create a mass of problems and concerns that would emulate what is going on in the Presidential race.

I might review briefly some of the results of spending limits and public finance in Presidential races now that we have had one in 1976, one in 1980, one in 1984, and we are having another one in 1988. Let me report to the Senate that one out of four campaign dollars has gone to lawyers and accountants. In the 1980 Presidential race, $21.4 million was spent on compliance alone. That is as much as the most expensive race in Senate history.

Campaigns must process each contribution through many, many steps and one Presidential campaign reports going through 100 different steps on each individual contribution. Clearly, political decisions have become accounting decisions.

Now, has the system of spending limits and public finance stopped the rise in campaign spending? Why, or course not. Overall spending now is increasing at the same rate as before spending limits and taxpayer financing. The difference is far more spending is now outside legal limits and disclosure requirements and there is less accountability. As a matter of fact, someone described the limit to spending as effective as putting a rock on top of jello—it slides out some way.

That is, of course, precisely what has happened in the Presidential system. Every major candidate since 1976 has been cited for serious violations of the law, gotten bad press and large fines. One candidate in 1984 openly confessed to spending $2 million in a State with a $400,000 limit. Campaign managers report that the first planning priority is to identify in advance ways to circumvent limits and rules.

A respected observer and campaign staffer declared, "This whole FEC thing is a sham. It's your job to find every loophole. It also forces the special interesting spending outside of the law."

Again, looking at the 1984 general election just as an example—it would apply probably any year—special interests spent $25 million to oppose President Reagan. That is about 62 percent of Reagan's $40 million spending limit for the general election. Nearly half the money spent in the 1986 general election—half the money, Mr. President, $72 million—was outside the candidates' direct control. At least one-fourth of our money spent in Presidential races is unreported, unlimited, and unaccounted for. Soft money spending is roughly tripling each election cycle. Races resemble uncontrolled corrupt politics of the pre-reform era.

Now, that is what has happened, Mr. President, with this great Presidential system we set up in include spending limits and public finance. It is clearly the intent not only of S. 2 but, once the constitutional amendment is in place, of the constitutional amendment to give us the authority to take that kind of nightmare and extend it to 535 additional races. That is clearly, it seems to me, not a step in the right direction.

Let me finally say in concluding my opening statement that a great many, if not most, of the scholars in this country these days are not any longer advocating spending limits. This was a fashionable idea around 20 years ago. It was still fashionable when we passed some of the new legislation in the mid-seventies, but there are not many thoughtful scholars, Mr. President, who now feel this is a good idea. I want to list a few of them in concluding my opening remarks. These are the people, Mr. President, who teach, who write, and who observe the American political process as it unfolds. And these scholars do not feel that spending limits are a good idea: Herbert Alexander, professor at the University of Southern California, director of President Kennedy's Commission on Campaign Costs;

Christopher Arterton, who I am told is a liberal Democrat, former chairman of the Campaign Finance Study Group at the Kennedy School of Government at Harvard;

John Bibby, professor of political science at the University of Wisconsin;

Joel Fleischman, who is a member of the Committee on Election Reform and Voter Participation of the American Bar Association;

I just quoted extensively from Joel Gora, of the ACLU, who was the winning counsel in Buckley versus Valeo;

Gary Jacobson, assistant professor, University of California, San Diego;

Xandra Kayden, again a very liberal member of the opposition party, former director of the Women's Advisory Council of the McGovern-Shriver campaign;

Susan King, another liberal Democrat, chair, former chair of the U.S. Consumer Product Safety Commission under President Carter;

Michael Malbin, editor and coauthor of "Money and Politics" in the United States;

Nick Mitropoulos, former senior campaign staffer for George McGovern, Jimmy Carter, and Chuck Robb, another liberal Democrat;

Jonathan Moore, Director of the Institute of Politics at Harvard University;

Richard Neustadt, one of the most famous political scientists in the country, certainly a liberal Democrat, chairman of the Platform Committee of the 1972 Democratic National Convention;

Gary Orren, professor, Institute of Politics, Harvard University; member, Democratic Commission on Presidential Nominations; director, polling and survey research, Kennedy for President;

Nelson Polsby, professor, University of California, Berkeley;

Austin Rammey, professor, University of California, Berkeley;

Larry Sabato, associate professor of government, University of Virginia;

Richard Scammon, professor, American University.

These are just some of the many, many scholars. Many of them are very liberal Democrats who feel that spending limits in political campaigns, first, do not work; and second, are certainly not the sort of thing that we ought to amend the U.S. Constitution to achieve.

There are many other points that can be made during the course of this debate. But, Mr. President, that concludes my opening statement in opposition to the constitutional amendment by the distinguished Senator from South Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I want to join in this discussion. If I may just comment briefly before I comment on the amendment, yesterday's New York Times magazine had an article by our colleague, Senator EVANS, from Washington in which he talked about the fact that we had debates here and hardly anyone is here to listen. And that is a problem. I served in our State legislature in Illinois, and we had plenty of weaknesses. But on the floor of the house or on the floor of the senate you would have at least two-thirds of the members there to listen to the debate.

Here we are not talking about a statutory change. We are talking about a fundamental change in the Constitution of the United States, and right now I count five of us here on the floor listening to it.

Something is wrong with the process. That has nothing to do with the immediate amendment but I think we have to recognize that we need some change.

I differ with my friend from Kentucky on the Presidential race. We ought to change the law. We ought to improve it. But I do not favor taking away limitations or increasing limitations. Frankly, the Presidential system is much better today where each candidate for the two major parties gets a certain amount of money after the convention than in the old days when they had to go around and beg after the conventions. I strongly favor the bill that is before us here for public financing.

But I think the question that is posed by Senator HOLLINGS' amendment is should you be able to buy public office. My friend from Kentucky listed a number of people who said you should not have spending limitations. I doubt—and I have not discussed this with Herb Alexander, Jonathan Moore, or some of the others that he was talking about there—that there is a single one of those people who would not say there ought to be a limitation on what an individual should be able to spend. Should you be able to just go in if you happen to have $5 million or $10 million and spend that to be able to practically purchase a seat in the U.S. Senate or the U.S. House, or somewhere else? I do not think you ought to be able to do that. So there is a need for some restraint.

My friend from Kentucky said big spenders are not necessarily the big winners. That is true. I guess my presence here illustrates that, but it is generally true that whoever spends the most money wins the election. Let us not fool ourselves.

What is happening in this process of financing campaigns is that we are too much to a great extent pandering to those who finance the campaigns. We are the only major industrial society on the face of the Earth that has an underclass. One of my opponents in the Presidential race says we do not even have an underclass in our society, and I should not be talking like that. Let us not fool ourselves. We have an underclass. We are not paying attention to it. We are not doing what ought to be done.

The Presiding Officer, the Senator from Nevada, is cosponsoring a jobs bill that I have that really would deal with that problem. But, frankly, we are not going to get any campaign contributions dealing with that problem because that is not where you get campaign contributions. We are going to have to face up to this thing. I happen to think public financing is part of it. But I also believe that the unfortunate Buckley versus Valeo decision is one that we have to deal with. It may be if we pass this constitutional amendment here, and it goes over to the House, that in the meantime since there are some new members of the Court that a Court decision could change where we are. But I do not think we can count on that. I do not think we can just indefinitely drift on this situation.

I am quoting from his testimony before the subcommittee, when Justice Marshall said:

> It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start—

In any significant political race.

I do not know of anyone who can question that. There are some problems. And one is, and I just chatted informally with Senator HOLLINGS on this, I note that the proposal by Lloyd Cutler, and also the proposal by our colleague, Senator ROTH, has the word "reasonable" there; that instead of saying Congress shall have power to set limits on campaign expenditures and so forth, it would say Congress should have power to set "reasonable" limits. I have to say that it has some appeal to me as I read the statements of those who testified before the subcommittee.

I would be interested, if the Senator from South Carolina would yield to respond to a question. What is his feeling on the insertion of the word "reasonable" here? Let me give you an example here. One of the witnesses, Walter Dellinger, professor of law at Duke, said it would certainly allow Congress to regulate editorials that were intended to affect election for Federal offices if those editorials involved expenditures as surely they do in the publication of magazines and newspapers.

The absolute nature of the statement does seem to invite that kind of response.

I would be interested in the comments of the Senator from South Carolina on that.

Mr. HOLLINGS. Mr. President, I have two answers for my distinguished colleague, a political answer and a constitutional answer. The political answer is that we can go ahead and include the word "reasonable" if that picks me up some votes. The distinguished Senator from Delaware, Senator Roth, has corresponded with me to this same effect, as have others of the Senator's equal ability and talent. The Senator from Illinois definitely is an outstanding scholar in his own right. It perhaps could be a good idea. What I had was a constitutional misgiving with respect to the difference between what is politically reasonable and what is constitutionally sound.

Specifically, I do not want the U.S. Supreme Court to be resolved into determining what is politically reasonable.

We have just changed our minds politically on Glass-Steagall. For years, it was politically reasonable to regulate the banking industry's separation from the securities business. Today, however, we find in the U.S. Senate that it is politically unreasonable to maintain that restriction.

What is politically reasonable or unreasonable changes with the times. But what is fundamentally sound is that a constitutional right under the Constitution does not change.

When we say that Congress shall set limits, the individual is going to be protected under this amendment. There is no question that under all the decisions of the court, in interpreting one section of the Constitution, it should not negate or delimit or otherwise subordinate another section.

So we can turn immediately to the fifth amendment, where the individual shall not be deprived of life, liberty, and property without due process. I can think of extreme provisions that would deprive an individual of a right. Those provisions would be struck down under the Constitution.

Getting to the Senator's direct question about the matter of editorials, the thrust of the amendment is to allow us to limit campaign spending, period. Ensuing Congresses, once this amendment is ratified by the States, would then face the problem of what they want to limit. I can see them limiting individual contributions.

We had that in Illinois, where a gentleman came out of California, I think it was, and put up many thousands of dollars against a candidate for the U.S. Senate. I think Congress would want to restrict such expenditures. But, bear in mind that we are not passing a bill here with specific limitations. We are passing an amendment to the Constitution that would empower Congress to pass such limits.

That is my answer. I am not worried about these hypotheticals. We are raising hypothetical cases as if that is what we are doing here today. We are only allowing the limits to be set, and I cannot see a limit depriving an individual of his rights under the fifth amendment. Constitutionally, I think it is very unsound.

Perhaps we should go back to the early days and we ought to look at the Constitution. It says, "We, the people of the United States." Perhaps it should say, according to this particular approach, "We, the reasonable people of the United States."

Then, article 1, section 1: "All legislative powers herein granted shall be vested in a Congress of the United States." Perhaps we ought to amend that to say, "All legislative powers herein granted shall be vested in a reasonable Congress of the United States and consist of a resonable Senate and a reasonable House of Representatives."

Well, we all get the point.

We do not want anybody and everybody, whenever we enact limits, to appeal to the court to decide what is politically reasonable or politically unreasonable. What we want that court for is a third branch, to find out what is constitutionally sound, protecting fundamental rights.

I do not want the court to be put in the position to say, "We have to find whether it is reasonable politically because they have stated affirmatively in the provision that they should set reasonable limits." Shrug your shoulder and determine what that means. That is a moving target and an awfully untenable position to put the court in, and that is why I left the word "reasonable" out of my amendment.

Mr. PRESSLER. Mr. President, will the Senator yield?

Mr. SIMON. I yield to the Senator from South Dakota.

The PRESIDING OFFICER (Mr. Conrad). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I think that is a very good line of inquiry. I shall vote for this constitutional amendment when it comes to a vote. In fact, I was a cosponsor of the original proposal, and I ask unanimous consent that my name be added as a cosponsor of this amendment.

My question is this, in following up: What we are really doing here is reversing or overturning a Supreme Court decision which I think is poorly written. We are not doing anything more than that. Is that the purpose of the answer of the Senator from South Carolina? All we are doing here is empowering Congress or the State to do this. We are not really setting limits.

Mr. SIMON. I yield to the Senator from South Carolina, and then I will reclaim the floor.

Mr. HOLLINGS. On that point, Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Dakota be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I read from section 1:

> Congress shall have the power to set limitations on campaign expenditures in support of or in opposition to . . .

What we are alluding to is strictly the authority.

The distinguished Senator from Kentucky got off on a hypothetical into how tangent as to how he would craft a law under my proposed amendment. There were several things he stated that I would agree with and others I would not agree with. But this is not the time or place to enact a campaign expenditure law and set limits. Today, we seek only to reclaim the authority of Congress that was snatched away by Buckley versus Valeo.

Mr. McCONNELL. Mr. President, will the Senator yield for an observation?

Mr. SIMON. I yield briefly to the Senator from Kentucky.

Mr. McCONNELL. I thank the Senator.

I say to the Senator from South Dakota that it will not be the first time that we have amended the first amendment to the U.S. Constitution in the history of our country. That is why there are many organizations, such as Common Cause, the ACLU, and the Washington Post editorially, which oppose the constitutional amendment. They feel it is not appropriate to amend the first Constitution.

I thank the Senator from Illinois.

Mr. SIMON. I shall address that one point, on the question of "reasonable," because the question is how sweeping we want to make it. Is the amendment a little less sweeping in its authority if you put the word "reasonable" in? By implication, it is there, in other amendments, as I read the amendment.

For example, article 2:

> Well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

What we have said, really, is "shall not be unreasonably infringed, through statutes and through court decisions."

I am not sure that it makes a huge difference. Our colleague from Delaware is on the floor right now. If he were interested in putting in such an amendment, I would be inclined to support such an amendment, so that there would be no misunderstanding that we are affecting free speech here in the process.

I would simply recommend to the Senator from South Carolina that he consider this. But let us not fool ourselves. This is an approach to a fundamental problem that we have in our society, and that problem is not going to diminish. The problem is going to grow.

If we want to have key government positions filled just by those who have pocketsful of money, then just continue to drift in the present situation.

I think we have real dangers to our system of government if we do not address it. I hope something sensible can evolve.

Mr. McCONNELL. Will the Senator yield on that point?

Mr. SIMON. I will be pleased to yield to my colleague.

Mr. McCONNELL. Mr. President, since the Senator from Illinois began his remarks with an invitation to some discussion, let me say, on the question of the millionaire problem, I think there is almost unanimous concern in this body about the millionaire problem. I have suggested a couple of ways to try to get at it. One is to provide someone who is going to put in excess of a certain amount of money—say, a quarter of a million dollars—into his own campaign to notify the FEC at the beginning of the campaign, thereby triggering for all opponents the opportunity to receive contributions in higher amounts from others.

I have also suggested that the millionaire be prohibited from recouping money that he borrowed and put into his own campaign, or simply put into his own campaign out of his own funds, be prohibited from recouping that after the election, which would eliminate the practice of anteing up huge amounts of money and, as soon as the election is over, you go around and shake down all your friends and all the PAC's you can find and pay yourself back.

I do not think anybody likes the fact that millionaires can buy public office. The issue, however, is whether that particular problem is so important that we put a limitation on overall expenditures in a campaign which, in a typical campaign, comes from a whole lot of people. And that is the problem.

If we could figure out a way to deal with the millionaire's loophole in any creative way my friend from Illinois can come up with, I think there are a large number of us open to that. We do not feel, however, it is appropriate to put an overall limitation on participation—and that is what a spending limit is—in order to achieve that particular goal. But I think is is a terrible problem and I hope that we can work together to find some solution to it.

Mr. SIMON. Mr. President, I do not think we are talking about an either/or kind of situation. Some of the suggestions that the Senator has just made, I would be happy to join. That does not solve, for example, the problem of the Senator from California, who just independently spends a large amount of money. It does not solve some other problems that we have that I think we ought to have the constitutional ability to deal with.

I hope we can move and move decisively and, at the same time, protect free speech.

The Senator from Kentucky, in commenting, says he is usually not associated with the ACLU in these things. I usually am on the side of the American Civil Liberties Union. I think, in this instance, we are dealing with something that is such a serious problem that we cannot pretend it does not exist; that we cannot pretend that we are badly warping our system of government.

I yield back the floor.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, there are a couple of items with respect to the debate. First, my distinguished colleague from Illinois noted how very few Senators are present for debate.

I had occasion over the weekend to read the New York Times Magazine where our colleague from the State of Washington, DAN EVANS, wrote a very poignant and thoughtful article explaining why he is leaving the U.S. Senate. I understand his situation keenly.

I like to engage in discussion and learn from listening on the floor. I look forward to being corrected and being educated here. But the way we have conducted business recently, Mr. President, there is little discussion or interchange on the floor itself amongst the Senators to find out their true feelings on these matters.

As a result, we are no longer the most deliberative body in the world.

The question is, How do you correct it? You could come on the floor and demand a live quorum. This Senator entertained that thought. But trying to be realistic and considerate of my colleagues, I do not want to exhaust my credit in the political bank with their friendships, and I would reserve that tactic.

With respect to the points made by my colleague from Kentucky, this political forum is a very dangerous one. I can see someone quoting the Senator's comments in a race against him in Kentucky, accusing him of coming to Washington and getting Potomac fever. Today we have been treated to the spectacle of the Senator from Kentucky joining with the ACLU, the Washington Post, Common Cause, and liberal Democrats to block campaign reform. Just put that in a 20-second political ad and he would have to spend untold dollars trying to undo the damage. We would see a picture of him at a love-in with the ACLU and the Democrats at the Washington Post.

The fact is, the candidate with the money can come in and do exactly that. Excuse me, Senator, I will be glad to yield if you had a question. Do you wish to defect to the ranks of us conservative Democrats?

Mr. McCONNELL. I would just say to my friend from South Carolina that we need not be afraid of robust political discussion. It seems to me that in a rough and tumble campaign in which candidates are able to attract some support, there is going to be discussion and I do not think we should be offended by that. I think we ought to be prepared to defend ourselves.

When somebody comes after us and wants the seat of the Senator from South Carolina or the Senator from Kentucky, I think we can defend ourselves. Let the people decide.

Mr. HOLLINGS. The distinguished Senator from Kentucky alludes to robust political discussion. What disturbs this Senator is the all-too-robust political money.

I recall my former colleague and Senator from Kentucky, Dee Huddleston. I will never forget, about October 10, 1984, when a group of Senators, in the money chase as usual, Senator BENTSEN, Senator Long, Senator CHILES, and I had gotten together a sweep across the South to raise money for the campaign. We were joined in Florida by Dee Huddleston, who was running for reelection.

I said: "What are you doing there?"

He said, "Well, I have a good lead. I do not want to get in any trouble, and so I thought I would come down here and help."

Well, I understood at that time he had a 25-point lead, but he did not know about the McConnell entrapment, the McConnell ambush, that has educated all of us on the imperative of collecting huge sums of money in a campaign.

The McConnell ambush hit Dee Huddleston. There was about $1 million worth of TV, some of the most clever ads I have ever seen, Senator, with dogs running around and sniffing at empty offices.

The distinguished Senator from Kentucky instructed us all on the need to hire a dog team up here in Washington. I can tell you exactly where to go to get a pack of those same beagle hounds. They are ready, willing, and able to perform. That is the first thing I did, in 1986, was to cover my flank by making my own sniffing-hound commercial. I was going to have them sniffing around and find me in a green eyeshade, working late at night. The dog would sniff right on in and exclaim, "Oh, there he is, FRITZ HOLLINGS, working hard for the people of South Carolina."

You see, we learned that you can come in with $1 million of that robust political money; you can blitz the voters with $1 million worth of TV. If you were not prepared with the answers ahead of time, with response ads already in the can, you were a goner. You could work here 6 years and have a very laudable record of service in the U.S. Senate, but there are devices and strategies whereby you can be ambushed with robust political money. This is not political debate. Who can discuss 20-second political quotes? Just boom-boom-boom, one charge after another charge after another charge after another charge. It's a kind of assassination.

This is not a partisan thing. Senator THURMOND worried about the same kind of ambush from the Democrats. He collected and spent over $2 million and we have yet to find his opponent.

I collected and spent $2 million because I expected am ambush from my opponent, who did spend $1 million in his campaign. I was told throughout the campaign, do not worry, he has never held office, has not done this, has not done that. I said, "Oh, no, you have not heard of Senator MITCH MCCONNELL up in Kentucky. He has educated the entire body politic in how to run campaigns."

So the first order of business is not robust political discussion. You better get robust political money, for robust political ads in the can, ready for any and all kinds of assaults.

He has changed our way of living. And if that ain't enough he has changed the way we strut our stuff.

Mr. President, I will be glad to yield now to the Senator from Kentucky because I am sure he and I would be delighted to engage in robust political discussion because this is only costing the taxpayers at the moment.

Mr. McCONNELL. I thank my friend from South Carolina. I cannot, Mr. President, decide whether he is offended by the money that is spent or the way it is spent.

Mr. HOLLINGS. Both.

Mr. McCONNELL. First, with regard to the amount of money spent, since the Senator from South Carolina was referring to a race about which the Senator from Kentucky knows a little bit, I was outspent by my opponent by $500,000, half a million dollars. I was outspent all along the way: The beginning, in the middle, and at the end.

The Senator from Kentucky, just like many of the Democratic challengers in 1986, was outspent but still won. So I gather the concern is content. Maybe there is a suspicion in the mind of my friend from South Carolina that somehow the voters cannot deal with this robust debate, that they are somehow snookered. I would say to the Senator from South Carolina that for every charge the Senator from Kentucky made against the incumbent, there was a response. I would be happy to show the Senator from South Carolina, sometime, the attack ads against the Senator from Kentucky. It was a very vigorous campaign and the people decided. I do not think that anybody was particularly bamboozled or snookered. I think that the Senator from Kentucky, the former Senator from Kentucky, was very well prepared, defended himself throughout the campaign. If my friend from South Carolina is just upset that he was defeated, let me say that we do not own these seats. Once in a while we lose. It happens. If it did not happen, we would never have any change around here. We do not own these seats. We ought to have to compete for them.

Once in a while there is going to be a challenger who comes along who is aggressive, tough, smart, works at it, and wins. And that is not necessarily bad for the American people that once in a while a challenger wins.

I might say to my friend from South Carolina, I was the only Republican challenger in America who won in 1984, so whatever this problem is to which you are referring, it was not very widespread. As a matter of fact, the Senate was 55 to 45 Republican prior to 1984, and after 1984 it was 53 to 47 democratic. So I do not know what it is that we are trying to address here, but it seems to me that the race in Kentucky in 1984 was simply a good example of a hotly contested competitive contest in which we had a good turnout and a lot of interest.

I thank the Senator.

Mr. HOLLINGS. I thank my distinguished colleague from Kentucky. He and I come from the same section of the country, and we use the same vocabulary, and "snookered" is a good word. I like that.

I think Dee Huddleston was snookered. And justifiably so. I am not trying to say that the gentleman did anything unfair. But what you have done is set a standard of campaign spending, and it goes up, up and away.

Now, in another sister State of North Carolina, in a similar fashion, instead of acting at the last minute, we act in the first minute. In fact, a year and a half before the campaign started, the candidates started in on each other, and one of them spent $16 million just to get elected.

My comments go to the real world, to the real cause of corruption, which is robust political money. The issue is not discussion. It is what you can do with that tube and how you can really saturate the airwaves and dominate the voters' attention.

I see we have our distinguished colleague from Alabama on the floor, and I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise not to give robust weighting but to exhibit robustness. I rise to talk seriously about, not to snooker anyone, but I do strongly support Senate Joint Resolution 282, a constitutional amendment proposed by my friend and colleague from South Carolina, Senator HOLLINGS, which would give the Congress and the States the power to reform Federal, State, and local election laws and to limit campaign spending. I have long believed the only effective way to truly reform our Nation's election laws is through the adoption and ratification of a constitutional amendment.

I believe I was the first sponsor who joined Senator HOLLINGS in this constitutional amendment. I have been a strong supporter of it and previous constitutional amendments, which my friend from South Carolina has introduced in the past.

It was also my privilege to chair a hearing conducted by the Senate Judiciary Committee Subcommittee on the Constitution which considered the various constitutional amendments which have been proposed in the Senate. During that hearing, we heard some excellent testimony from the various sponsors of this legislation, and also from leading constitutional and election law experts. I believe the record of this hearing is very informative for anyone who has questions about the wisdom of this effort.

In the last few years, the costs of running a campaign for Federal office have escalated beyond reason. Something must be done to make ideas instead of money the determinate factor on election day. Our Federal election laws must be reformed, and the Senate has considered various reform measures during the last 2 years.

I do not point to any one campaign or anything like that, but already we have heard that as much as $20 million has been spent in a State and practically the same amount in another State in a senatorial election campaign year for the race for the U.S. Senate.

That is a tremendous amount of money. One of those States was a small State, a State practically the size of my State of Alabama, and to realize that such expenditures went on is rather mind-boggling.

In my State in this past senatorial campaign, as much as $8 million, or perhaps more, was spent: $3 million by one candidate and $5 million by another candidate.

This is, in my judgment, extremely outrageous to realize that that much money is being spent pertaining to a political campaign.

Among the proposals the Senate has considered has been S. 2, the Senatorial Election Campaign Act of 1987. As I am sure my colleagues are aware, I was a strong opponent of S. 2, which would have instituted voluntary limits on campaign spending in exchange for public financing of senatorial elections. Many may wonder why, in light of my opposition to that reform measure, I am such an ardent supporter of this constitutional amendment that would allow for the reform our campaign laws.

However, I have made it clear on many occasions that my opposition to S. 2 was based on its provisions mandating the taxpayer financing of Senate elections. I have long supported campaign reform, and have long supported spending limits, but in this time of high Federal deficits, and out-of-control Government spending, I could not support a reform measure which included the public financing of Senate elections. I believe that the hard-earned dollars of the American taxpayer can be better spent in efforts to improve education, to enhance our national defense, and to help the Nation's blind, handicapped, and underprivileged.

However, because of the Supreme Court decision of Buckley versus Valeo, in which the Court held that provisions of the Federal Election Campaign Act Amendments of 1974 which set limits on campaign expenditures imposed "direct and substantial restraints on the quantity of political speech" and were, thus, a violation of the first amendment right of free speech, the only constitutional means of instituting spending limits are taxpayer financing of elections and the adoption of a constitutional amendment.

Therefore, I am convinced that, faced with these options, the best constitutional way to institute election spending limits and accomplish lasting reform of our election laws would be for Congress to adopt and for the States to ratify a constitutional amendment that would overturn this Supreme Court decision.

While it was been argued that the process of passing a constitutional amendment that would allow Congress to truly reform our campaign laws would take too long, and for that reason is dismissed by many as an unrealistic alternative, I would like to remind my colleagues that the initial movement for campaign reform began some 15 years ago and is still not finished. Loopholes are still open; Common Cause and others continue to claim that the Congress is "for sale," despite the many attempts of the past to reform our campaign laws. It is, therefore, clear to me that these piecemeal attempts to reform our campaign laws are not and will not be effective.

The constitutional amendment proposed by Senator Hollings is simple and straightforward. It would enable the Congress "to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office," and it would provide the States with the same powers for State or local elections.

One of the primary objections to this constitutional amendment is that it would impair the first amendment right of free speech by enabling Congress to limit the amount of money a candidate could spend in an election. However, what about those candidates who do not have as much money as their opponents? As citizens of this country, aren't they entitled to the same rights of free speech. Yet, because they are not personally wealthy or have not amassed a huge campaign warchest, they are denied an equal opportunity to speak their minds on the America's airwaves because they cannot afford the broadcast rates. Is not this a denial of their first amendment rights of free speech? Is it a denial of the equal protection of the laws? Is it an invidious discrimination, a discrimination based upon accumulated wealth?

The right of free speech should not be tampered with lightly or in a haphazard manner. However, I believe that the condition of our elections and the state of our election laws demands limits on campaign spending, and necessitates such reform. Unlimited campaign spending is compromising the reputation of our Government, and endangers the reputation of our elected officials. It is time to decrease the effect of the almighty dollar on the elections process, and to put candidates on a more even footing in which ideas become the crucial factor in bringing voters to the polls.

Our forefathers set forth a way in which, with the consent of the people of America, our Constitution could be amended. I urge my colleagues to send this proposed amendment to the people of America for their approval or rejection.

I urge complete reform of our Nation's campaign laws. I urge the Senate and the Congress as a whole to take the only appropriate, the only legitimate, the only constitutional, and, most importantly, the only lasting and effective approach in reforming our Nation's Federal election laws. Let us consider and pass Senate Joint Resolution 282 and quickly pass it along to the people for their judgment. I believe that the people of America will support this proposal, and feel that they deserve the right to consider this election reform alternative.

I further feel that they will move rapidly on it because there will be universal support and we will find there will not be long delays.

I thank the Chair.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Harkin). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, while awaiting additional speakers, I ask unanimous consent that the Senate stand in recess for 45 minutes.

There being no objection, the Senate, at 1;05 p.m., recessed until 1:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Sanford).

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, in 1974, when Congress thought that it indeed had plenary authority to address the subject of campaign financing, it addressed all parts of the problem. It set limits not only on contributions to candidates, not only on candidate expenditures, but also on independent expenditures and on the ability of the wealthy to spend their resources. In 1976, the Supreme Court passed on the constitutionality of this comprehensive legislation in the landmark case of Buckley versus Valeo.

It is interesting to note that Common Cause defended the legislation against first amendment attacks before the Supreme Court. In its brief Common Cause argued that "the first amendment permits Congress to impose some reasonable limits on campaign contributions and expenditures." Common Cause pointed out that the comprehensive legislation was a less restrictive intrusion on first amendment rights than the Hatch Act, which had been upheld by the Court on several previous occasions and which, incidentally, Common Cause still defends today.

The reason I note this for the Record is that we have all received a letter from Common Cause, dated March 23, 1988, questioning "the implications, if any, of narrowing by constitutional amendment the first amendment rights of individuals as interpreted by the Supreme Court." Any one who has read the Common Cause brief would see that the implications, if any, are beneficial.

As we know, the Supreme Court made Swiss cheese out of the 1974 act. The purpose of the constitutional amendment before us is simply and only to overturn that Supreme Court decision. What would life be like if the constitutional amendment were ratified? Would the first amendment be dealt a serious blow? Not at all. In fact, first amendment goals would be advanced.

Those in Congress understand that reasonable limits on speech may advance the purpose of free debate. Can it be that every time the gavel sounds in the House of Representatives ending a Member's 5 minutes of debate on an amendment, the first amendment is violated? Can it be that every effort in the Senate to invoke cloture is an effort to choke off the first amendment? No, these rules are simple recognition that there comes a time when enough is enough.

The Supreme Court made a mistake when it denied Congress the authority to enact reasonable limits on candidates' expenditures, independent expenditures, and wealthy candidates use of their own resources. Since the Bill of Rights was ratified, there have been 16 additional amendments. Half of them were proposed and ratified to overturn Supreme Court decisions thought to be bad policy. So acting favorably on the proposal before us now would be nothing new in the history of our Constitution.

Of course, not every incorrect decision of the Supreme Court merits a constitutional amendment. The policy involved must be important to the Nation before we should consider amending our fundamental charter. In my opinion, campaign financing reform is important to the Nation. It involves political fundamentals—how Members of Congress are elected. The people believe that there is a serious problem with the status quo. And the Senate has certainly spent a great deal of time on the issue, in testitmony of its importance.

I recognize that many in my political party do not believe in the wisdom of expenditures limitations, whether resulting from a statutory solution or a constitutional amendment. I respect their viewpoint and applaud their consistency. The real rest here is for those who have professed support for expenditure limitations. Will they oppose a constitutional amendment because campaign financing reform is not important enough even though they spoke with such passion for 9 months? Will they oppose because it does not require public financing?

If you favor expenditure limitations, it is difficult to raise arguments against the constitutional amendment. The most common argument is that a constitutional amendment requires a larger vote, that of two-thirds majorities in both Houses, plus a lengthy ratification process. Let us examine that argument.

First, it is true that the proposal requires a two-thirds vote. But so would S. 2, for it surely would be vetoed. Thus both proposals—this constitutional amendment and S. 2—require the same two-thirds vote to pass both houses. The advantage of the constitutional amendment is that it does not carry the baggage of public financing. And that is a big difference. The people in my State responding to my questionnaire oppose public financing 69 percent to 29 percent.

Second, the ratification process need not take the 7 years mentioned in the preamble. That is only an outer limit. The last amendment ratified, the 26th took less than 4 months. The average ratification period for this century is about a year and a half. Moreover, this proposal, unlike most amendments, actually gives power to the ratifying legislatures. This is an incentive for the States to ratify.

In sum, the time factor is a red herring. Reform has been debated and analyzed for decades. Should the proposal take an extra year or two to ratify, the time need not be wasted. Congress could ready spending limit legislation to take effect on ratification. Such legislation could pass today, in my opinion, if it did not contain public financing. Even if the amendment took a little longer than S. 2's 1990 timetable, it would be well worth the time because the people would obtain broader and better reform and would not have to pay for public financing.

For those favoring expenditure limitations, the issue is the efficacy and breadth of reform. Under Buckley versus Valeo, Congress cannot impose expenditure limitations on any individual. S. 2 tries to remedy the problem by addressing only the candidates, by offering incentives and disincentives. Whether such incentives and disincentives, generally monetary, can affect the spending decisions of wealthy candidates is highly questionable. That they cannot effectively address the spending decisions of independent groups is clear.

Thus, S. 2 and similiar legislation try to contain spending by partial solutions. They are as useful as dams built only across part of a river. If limitations are legislated for some of the political players, the spending will flow where there is no effective regulation. If there were some value in increasing independent expenditures while decreasing candidate expenditures, S. 2 might accomplish that. However, few would argue for that policy. Moreover, I stand with my constituents in opposition to public financing.

Consequently, I have come to the conclusion that expenditure limitations must be pursued through a constitutional amendment and not through legislation like S. 2.

On May 15 of last year, I introduced Senate Joint Resolution 130. It differed from Senate Joint Resolution 21, introduced by Senator HOLLINGS, in three respects. First, my proposal addressed only the question of limits on expenditures rather than contributions and expenditures. I did not think it necessary to grant Congress authority over contributions in view of the fact that the Supreme Court had not invalidated contribution limits.

Second, my proposal gave the States an equivalent power with respect to elections for State offices.

Third, my proposal permitted judicial review of the legislated limitations.

Under Senate Joint Resolution 282, only the third difference remains. I am very pleased that the Senator from South Carolina has eliminated the first two differences in this new proposal. Yet I am constrained to express my concern regarding the lack of judicial review in Senate Joint Resolution 282.

The lack of judicial review is evident in the text of Senate Joint Resolution 282 as well as in the testimony given by Senator HOLLINGS before the Constitution Subcommittee on March 17, 1988. Since the text authorizes Congress and the States "to set limits on campaign expenditures," it appears clear that any limit falls within the constitutional authorization.

This is unfortunate since our intention ought to be to overturn Buckley versus Valeo, to place us where we were before the case was decided or to place us where we would have been had the Court gone the other way. Senate Joint Resolution 282 does not share that intention. Instead, it seeks to profit from the Court's mistake by giving Congress and the States more power than anyone ever thought they had and, for my part, more power than I believe they should have.

At a later time, I may seek to amend Senate Joint Resolution 282.

However, I do not wish my concern over the issue of judicial review to obscure my appreciation of the Senator's efforts in bringing the real answer to campaign financing problems before the Senate. The only real reform is through a constitutional amendment. I applaud the Senator from South Carolina for his efforts.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you, Mr. President.

In the months past, I have spoken numerous times on S. 2, trying to portray to this body and to the American public some of the things about which Senator SHELBY spoke this morning; namely, that campaigns cost a lot of money. The Senator from Alabama spoke about his having spent $2.2 million. A State like Alabama is much larger in numbers than the State of Nevada. However, even in the small State of Nevada, in 1986 this Senator spent over $2 million. My opponent spent much, much more than that. As indicated by the Senator from Alabama, his opponent spent nearly twice as much as he spent.

So during the times that I have spoken on S. 2, I have attempted to project the problems that one running for the U.S. Senate has in raising money. A great deal of the time that we spend during a campaign year is not spent in public debate. It is not spent visiting schools, visiting with college students and high school students, the faculty, not spent visiting the city halls and the county courthouses, but our time is spent raising money. That is not the best use of time of a person running for the U.S. Senate. We should be debating the issues. Something, therefore, must be done. S. 2 obviously is not going anywhere.

Therefore, Mr. President, I rise in support of Senate Joint Resolution 282, which proposes, as has already been mentioned, to overturn the Supreme Court decision in the Buckley versus Valeo case. Of course, in Buckley the Supreme Court determined that campaign spending limits are an unconstitutional limit of free speech unless the limits are accompanied by a mechanism such as public financing.

Throughout the debate on S. 2, opponents of the measure raised the objections to public financing. During the debate of S. 2, there were a number of amendments offered and accepted and, in fact, public financing is basically out of S. 2. Now, however, we still have people objecting to the change in the law even through constitutional amendment. People are saying money should be no object, that people should be able to spend as much as they want, in effect, or can afford. As I have said, I support S. 2 as a reasonable approach to the campaign financing crisis. And given the limitations of Buckley, I think that is even more necessary. Indeed, I believe it is a shame that a bill cosponsored and certainly voted upon by a strong majority of the Senate cannot reach the floor for a vote.

I am not going to dwell, Mr. President, on S. 2 any longer except to express my admiration for the majority leader and the Senator from Oklahoms [Mr. Boren] for their efforts to pass this needed measure.

Senator Hollings joined in an attempt to stop the debate on S. 2, but I would like to take a few minutes this time, Mr. President, to talk about my colleague from the State of South Carolina. Here is a man who formerly served as a Governor of his State. He is a long-time Member of this body. He serves as chairman of one of our major committees, and he formerly has run for the President of the United States, a man who certainly understands the political process. He believes—and speaks very well on the subject—that we need to have campaign spending limits.

The system is not working well now. We know that. Campaigns are too long and they cost too much money. This resolution will not solve all the problems, but certainly it will allow this body and the other body to pass spending limits. We need to do that. I applaud and commend the Senator from South Carolina for the work he has done in this area. He has spoken tirelessly on the need for this constitutional amendment. He did not do it starting 2 months ago but literally for years the Senator has spoken of the need for a constitutional amendment to allow Congress to solve a problem that it has in effect created.

So the proposal by Senator Hollings to amend the Constitution to allow Congress and the States to limit campaign expenditures I support, and again I commend the Senator for the work he has done in this area for many, many years.

The Senate Joint Resolution 282 goes to the root of the problem and with one stroke gives Congress the power that many of us believe it had before the court decision. Efforts to amend the Constitution, we all acknowledge, should not be taken lightly. Over the history of this country, they have not been taken lightly. That is the reason we have had so few constitutional amendments. I assure my colleagues that I heed the guidance of our predecessor, Senator Clay, who said:

> The Constitution of the United States was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity.

Senator Clay was right. However, we have learned through history that from time to time we must amend the Constitution in order to ensure that it can endure for posterity.

The problems of our current system of campaign financing are clear to most. Our Government is stalled while Members of Congress are compelled to spend too much of their time raising money, and the influence money buys is incompatible with our system of representative government.

I repeat, Mr. President, that when I decided to run for the Senate I served in the House of Representatives. I visited with some of the people who had preceded me from the House to the Senate, people who had preceded me the prior election. I had served with them in the House. Without exception they explained to me, "You're going to be surprised at how much time you are going to have to spend raising money." One Senator told me that I would have to spend 80 percent of my time raising money. When he told me that, I said to myself, "I am not going to have to spend 80 percent of my time raising money. He probably is not as efficient and probably does not know as many people as I do."

But little did I know I was wrong. I may not have spent 80 percent of my time raising money, but I spent far more than 50 percent of my time, I spent more than 60 percent of my time raising money, and that is not an appropriate allocation of time. That is not the way this Government was originally established. You cannot have representative government if a person running for the U.S. Senate has to spend 60 percent of his or her time raising money. It does not end there because now it is a never-ending crisis with a person who serves in the U.S. Senate because once you are elected, you have to start raising money again so that you can be competitive 6 years hence.

The time to address this problem is now. We cannot wait. We as a free government cannot wait. We cannot have this continue. Mr. President, I urge my colleagues to support Senate Joint Resolution 282, and I ask unanimous consent to be allowed to join as a cosponsor of this joint resolution.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **HOLLINGS** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from South Carolina.

Mr. **HOLLINGS.** Let me thank my distinguished colleague from Nevada. He has been overgenerous in his comments concerning this Senator. When he talks of the time squandered on raising money, it just emphasizes the corruption and the adulteration of the political process. The distinguished Senator is right on target. The corruption is not just of an individual Senator in the campaign. The corruption is of this entire body.

The U.S. Senate has changed its way of doing business in order to accommodate these financial demands. As a result, we waste a good 25 to 30 percent of our time here. No one is here on Monday. They say we cannot come back in time, because we have luncheons to address in order to raise money back in our States. Likewise, on Friday we have to get off early for the same reasons. Then during the evening we have what we call a "window." Everyone should know by looking at the legislation that we enact in this body that there is no window, that we operate more or less in the dark. But the window is Senate argot for just that, that we stop momentarily and go out so we can run downtown and collect our money, and then come back in and get on with the people's business at 8, 9, or 10 o'clock at night. It is an embarrassment really to the forefathers' concept of the Senate.

We appreciate, of course, from Senator Proxmire, and this Senator in the early days, that we can mobilize volunteers. We can motivate them to come and serve. We traveled around without money. But those were the good old days. Now that money is not only the need by the threat, what we really have to do is to prepare ourselves not for robust political discussion, but for robust political ambush. What robust money does is deprive us of robust discussion.

Today, with the elimination of true discussion, you are left with the political rat-a-tat-tat of rhetorical machinegun attacks, hitting voters on TV just like you sell soap and jello, just like you sell other commodities. And with the repetition of TV attacks again, and again, and again, plus the salesmanship or the Madison Avenue of politics, there is no room left for true discussion.

That is what money buys: robust political assault and ambush. That is what it is all about. We are trying to receive true discussion. That is our whole trouble. You do not discuss anything substantive in campaigns and in debates now. We are reduced to these plastic answers. And everyone is saying the same things.

The one not giving the plastic answer is my distinguished colleague from South Carolina, Reverend Jackson. That is why he is making the good impression that he is making around because he can talk from experience, and he talks with sense. On the issue of child nutrition, on the issue of education, on the issue of abuse of drugs, on the issue of housing, and right on down the line.

I cannot let stand the Senator from Kentucky's citation of the ACLU to the effect that Senate Joint Resolution 282 would restrict political freedom. The rebuttal on this score was set forth wastefully by none other than Associate Justice Marshall in the Buckley versus Valeo decision. Far from "restricting" political discussion, Justice Marshall said in Buckley versus Valeo that spending limits promote equal access to the political forum and to political participation.

That is what we are setting out to accomplish. We are not restricting anyone. On the contrary, we are opening the doors.

We in the Senate, today, are constantly in the posture of hand extended and palm up. The money chase has gotten totally out of hand. That is what Justice Marshall says needs to be corrected. But when it comes down to equal access amongst potential candidates, it is quite obvious that we will not be able to get that equal access unless there is some general limitations on the need for money.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I listened with interest to my friend from South Carolina, to some of the arguments that have been made extensively over the last year. One of them is the question about how time consuming it is to raise money.

First, I would say that there is one clear and easy way to do something about that. We could raise the limit on individual contributions. We have not done that since the mid-1970's. Obviously, if you keep the limit low, it takes more time to raise the money; it has to come from a lot of people. I have not advocated that, myself, because it seems to me good public policy to have contributions come from a lot of people rather than just a few. But if our problem around here is time, if that is our concern, we could simply raise the limit and cut down on the time involved in raising money.

Second, I point out that no one makes us raise money. A number of Members of this body have chosen not to raise money early. It is simply strategy. Some employ the strategy of raising money early in order to deter opposition, but nobody makes us do it. We do not have to do it. It is strictly a matter of tactics, of strategy.

I say to anyone that is offended by raising money early, "Don't do it; just don't do it." That is the ultimate protest against the time-consuming aspects of raising money.

In addition, the majority leader has done a very sensible thing this year. We have a schedule that allows us to be in session 3 weeks out of a month, Monday through Friday, and we have a week off to go home, to see our constituents and, yes, if we choose to, and if, as a matter of strategy or tactics, we decide to, raise money. That is our option. That is a week to do a variety of different things, away from the business of the Senate that is conducted in the Senate.

Further, in listening to the Senator from South Carolina, I say, with all due respect, that it seems to me he is harkening back to an earlier and simpler era. Sure, it was easier running for office in the South 15 or 20 years ago if you were a Democract. You had a one-party system. It was a piece of cake. In the town I was born in Alabama, we had a Republican, but he died when I was 8. That is what we called two-party competition. The Democratic primary was the election.

Things have changed. The two-party system has developed in the Southern region of our country. Thank goodness. It is better for the voters, better for the incumbents because it keeps them on their toes and makes them work to keep the seats we do not own.

Some people here think if they lay a hand on us, we should be offended. We should not be offended. We do not own these seats. We do not have a lifetime tenure in the Senate. To the extent that post-Watergate reforms have helped promote two-party competition in America, that is what has happened. I am sorry some of us have to work to keep our jobs, but that is the way it is in a competitive two-party system.

There is no question that those on this side of the aisle, in our party, have done a better job of raising money from small contributors. Bear in mind, Mr. President, big donors are not allowed anymore. In a congressional race, you can give $1,000 in the primary and $1,000 in the general, and that is it. The average Republican contribution in America is 300 bucks. Not exactly fat cat.

Those small donors across America have provided the wherewithal to develop a two-party system in the South.

Sure, we do not like being attacked. I do not enjoy it when I am attacked, but that is the way it works, because I do not own this seat. If I cannot defend myself, I do not have any business in this seat.

Admittedly, it was also simpler in the old days when you could have a courthouse meeting and somebody would show up. If we decry the fact that we cannot shake hands and have a meaningful exchange with everyone in America, that is the way America is in 1988. Politics is not on the front burner. It is not exactly something people are interested in.

I submit that you will never be able to put that genie back in the bottle and go back to the day when you could have a meaningful exchange in our States on the way to being elected. It was never practical in a big State, anyway. Can you imagine trying to meet everybody in Texas, California, New York, or Florida, and have some kind of meaningful exchange? Not possible. Who is to say that the handshake is a meaningful exchange, anyway?

I do not know how many of my colleagues work plant gates, but I expect it is everybody. My experience in working plant gates is that it is not an enlightening experience. With those coming in or going to work at 4 or 5 o'clock in the morning, the last thing they want to see is a politician shaking their hand and putting a pamphlet toward them. My experience has been that the pamphlets are all over the ground. If you think people going to work in the morning are not interested in talking to a politician, try it in the afternoon, when they are getting off, hot, tired. If you think they were not interested in hearing your pitch in the morning, they are doubly not interested in hearing it in the afternoon. This is not criticism of the workers.

The point is the handshake is not such a great, meaningful exchange anyway even if it were possible to shake hands with every person in California, New York, or Texas in the course of a campaign. In fact, the media age is here to stay. Television is here to stay. The issue is who is going to pay for it or whether or not we are going to limit expression.

As to the 30-second commercial that my friend from South Carolina decries, I would recommend that he not buy them if he does not like them. You can buy 30 minutes almost as cheaply as you can buy 30 seconds.

The reason the candidates do not buy 30-minute programs is nobody likes them and nobody watches them, but buying 30 minutes of time in many markets in many time slots is about as cheap as buying one 30-second commercial. We do not buy them because nobody wants to watch them.

So we need to wonder what we are striking out here. Are we striking out at progress? Are we striking out at the communications revolution? Are we striking out at a system that has allowed two-party competition to develop in every area of America?

If we are striking out at that, I say we are striking out in the wrong direction.

Further, there are observations frequently made about all the money that is being spent in politics. I would ask, compared to what?

We are, in fact, spending a pittance on politics compared to what is being spent in the communications era by many interests to advertise a product. Americans spent more on bottled water last year than they did on politics.

They talked about the trend toward the increase in spending. It certainly has gone up some, but it is beginning to cap out.

Beyond the question of spending when it occurs, what do you get for it? What you get is a high turnout because there is a direct correlation, Mr. President, between a competitive high spending contest and turnout and a contest in which the spending is low, there is low interest, and low turnout.

Let us take 1986, for example. The average turnout in 1986 Senate elections was 37 percent, nothing to brag about, but that is what it was.

But the States which spent the most per voter in campaigns had the highest turnout and the States which spent the least per voter had the lowest turnout.

It is pretty simple why. The races in which there was a lot of money spent were what races? Races in which there was a lot of support and lot of interest and competition, the high spending for more communication, reaching out to voters, more discussion.

The South Dakota race in 1986 is often cited as the race in which the spending was so obscene. I heard that word used time and time again over the last year in talking about spending limits. Nobody mentions the fact that South Dakota had the highest turnout in the land, had spent the most money but had the biggest return on that investment of individual competition because they had the highest turnout in the country, 56 percent. There is a direct tracking between the big spending, high turnout races and the low spending, low turnout races.

What the spending is doing is not turning the voters off; it is turning the voters on and the spending increases are dropping off.

There was a pretty big increase from 1976 to 1978. As a matter of fact, it went from $115 to $198 million in House and Senate races together, a 70-percent increase. From 1980 to 1982 spending went from $239 to $332 million. That was a 43-percent increase. It is beginning to level off a little bit. From 1984 to 1986, there was only a 20-percent increase.

Certainly the prices have gone up for television, something we talked about a lot during this debate. If we want to get a handle on this problem, we ought to do something about the cost of television. We can do that, but we have not done that yet.

The rate of increase in spending has in fact dropped dramatically by over 70 percent in the last 10 years. There is no reason to conclude that it will continue to increase as it has in the past.

As I started to say earlier, Mr. President, it is important to compare the spending to other things. We spend a lot of money in politics compared to what? In 1986 Americans spent $211 million electing Members to the Senate and a total of $450 million to choose all our leaders for the National Government.

We spent $23 billion on cosmetics, $55.4 billion for alcoholic beverages, $121.4 billion eating out.

The Senate's $211 million pales compared to the $230 million Americans spent on bottled water in 1986. We spent $883 million advertising cosmetics—that is just the top of six companies—and spent $20 million on Kennel Ration and Kibbles 'n Bits ads.

So when we talk about spending, we talk about compared to what?

The fact of the matter is that we are spending a pittance on elections in this country and what we are getting for it is a lot of participation from a whole lot of people in limited fully disclosed contributions, and the other thing we are getting from it is higher turnout in the races where there is true competition.

It is important to remember when talking about spending limits that candidates can spend only as much as people contribute. More contributions mean obviously more participation and more interest.

Candidates can appeal to more voters with more competition. The money pays for communication between the candidates and the voters. It pays for better information. It pays for more educated voters and it pays for a higher turnout.

And if we do not like the way it is being handled we do not have to do it. We do not have to raise money early. We do not have to buy 30-second spots. We do not have to accept PAC contributions. Some Senators do not.

We have a good deal of control over how we choose to structure our careers and to structure our own reelections.

But to rewrite the rules by amending the Constitution to snuff out two-party competition, to adjust the first amendment, no, Mr. President. I think that is not a good idea. I hope that the Senate will not do that.

I yield the floor.

Mr. HOLLINGS. Mr. President, I am listening with amazement to speculation about snuffing out the two party system with a constitutional amendment that says Congress can regulate expenditures in Federal elections. There are more red herrings in the Senator from Kentucky's statement than in all the world's oceans. I cannot imagine coming on the floor of this Senate and saying, "Look, if you want to cut down on the time spent raising money, just raise the limit on contributions."

I would hate to have that in my record. They would take me to task all over South Carolina the next time I ran.

If I dared to say that shaking hands did not do any good, they would blister me a new one, and they would say "That fellow done gone up there and said on the floor of the Senate he doesn't want to shake hands with voters."

You learn a lot by shaking hands. Early in the morning a lot of people are rushed, no doubt about it. But you would be surprised with the number of people who approach you with their problems. I get up a long list of notes, cases, suggestions, and things to do. I can hear a suggestion here and there that "You did good, I agree with you on this" or "Wait a minute, I cannot agree with you on that."

I just come back from shaking hands this weekend, and while we were shaking hands I was asked about Grove City. Up in the Bible Belt in my State of South Carolina where Bob Jones University is located, they had gotten the word from Reverend Falwell that under Grove City in order to teach Sunday school you had to have a homosexual, deviant, drug addict to do the teaching. I have seen it with my own eyes in a Falwell publication. I could not believe it.

Yes, in shaking hands I had time and again people shaking hands asking me about my vote in favor of Grove City in the U.S. Senate, and my vote to override the President's veto.

How else are you going to hear from the people? You cannot hear from them in a 30-second squib on TV?

The Senator lamented that we do not have 30-minute political programs. He said they do not have 30-minute television in politics any more because nobody wants to listen.

I agree with him that they do not want to listen to 30 minutes. They will go over and turn off the TV set.

And if they were track stars and like lightning could move to the set, they would cut off the 30-second one, too, because they are fed up. Any poll will show you in politics in this day and age that they do not think much of politics and politicians because we have not solved any of their problems. It gets worse and worse and they keep on hearing from politicians "I am concerned" in these little 30-second spots and nothing happens and indeed the problems worsen.

The Senator from Kentucky says Senate Joint Resolution 282 will stifle competition against incumbents, most of whom are Democrats, nonsense.

This is not a pro-Democrat or a pro-independent, or a pro-Republican constitutional amendment. It is absolutely nonpartisan in that sense. I have the most liberal of colleagues voting and supporting with us and the most conservative of colleagues voting and supporting.

I do not know where the Senator from Kentucky comes up with the red herring about somebody trying to stifle competition. I am down here defending competition. The Senator claims that some of us feel that we have a right to our office, that we own our office.

Good gosh, if I ever gave the impression that I owned my office, I would be a goner, I can tell you that. I have not been elected time and again at every level because I acted like I owned my office. On the contrary, I believe public office is a public trust and a wonderful opportunity not only to serve, but to learn. I do not know where his fantasy came from.

If somebody wants to momentarily pick up that and hope some reporter or some TV cameraman will pick it up and say, "In debate today on the floor of the U.S. Senate, the Senator from Kentucky said we don't have a right to the office and we have got to keep the doors open to competition," that would be a total distortion of the report on this particular joint resolution for a constitutional amendment.

This constitutional amendment says "the Congress." It does not say the "Republican" or the "Democratic" Congress. And, in my time, Congress has been controlled by both parties. I have served longer under a Republican President than I have served under a Democratic President. After this particular ratification, if we pass a law with specific spending limits, it would require not only the three readings in both Houses but it would also have to be signed by the President. And you are not going to be able to impose any one party's advantage.

Now, there was another assault made by my friend from Kentucky. He said we spend more money on Kibbles 'n Bits and cosmetics and bottled water than we do on politics. Heavens above, who would compare the cost of cat food with the cost of having a Congress up for sale?

That is what we are talking about. I don't know the cost of bottled water or the cost of Kibbles 'n Bits. I am aware of the cost of candidates. That is what we are talking about.

I will agree with the Senator's estimate that we spend more money on cosmetics, on liquor, and so on. But he forgot to mention something. Since he is digging a hole for himself by getting in bed with the ACLU and the Democrats and the Washington Post, he might as well note that we spend more money on bluegrass and horses, and just make a wonderful hurdle for himself when he runs for reelection. What he says has absolutely no relation to the constitutional amendment that we are discussing.

We are talking about the cost to candidates and how it has distorted the entire process by spending all that time and attention on preparing ourselves for the re-election assault.

And then, finally, he claims that higher contributions will mean more participation. Now, that brings us to the PAC argument. That is my argument. I believe in more participation, and that is small people in PAC's. So I want the distinguished Senator from Kentucky to remember that when he starts jumping on PAC's, the problem is not the degree of participation or amount of participation, it is the amount of money.

Realistically, to run a candidacy in the State of South Carolina, we can do it on $700,000. I would say the State of Texas would be nearer $5 million, maybe more. There has got to be realistic limits and the Congress will so decide what those limits are in order to be able to get into various TV markets over the State and make a meaningful impression.

But we are not setting those limits today. We are not agreeing on any limits. We are trying to debate the authority and not go down the primrose path with these side roads and red herrings. We are trying to find out if you really believe in limits. And if you do not believe in limits, then, as the distinguished Senator from Kentucky has done, put up a smoke screen about the cost of cosmetics and cat food and bottled water and horses and bluegrass and all the other nonsensical things that get everybody totally confused.

That is not the issue today. We are not going to set any limits. We are going to set the authority for limits.

I want to see, after this much time spent on this issue, that we make one good last try to clean up the process and get the Senate back to being a deliberative body, and more than anything else, that we limit campaign expenditures. That is all Senate Joint Resolution 282 provides.

It says that the Congress shall be empowered to limit campaign expenditures directly or indirectly affecting a candidacy, and it says the States can do the same thing with respect to State races. I think this is very important. It is in step with the last four of five amendments to the Constitution, which have all affected elections. It does not touch the freedom of speech. On the contrary, it enhances the freedom of speech. There is no doubt about it. Because right now, the freedom of the poor to speak has been taken from them.

They have got the freedom to shut up, the freedom not to be heard, the freedom not to participate, the freedom not to run those very attractive 30-second ads that the people do not have time enough to turn off.

We have really adulterated the process, Mr. President. I think if we can adopt this amendment we can get around to what was intended by our distinguished majority leader and the Senator from Oklahoma and bring order out of chaos, where we can become, once again, a truly deliberative body.

Mr. President, I ask unanimous consent for several items to be printed in the Record at this point.

I would ask that the decision of Justice Marshall in Buckley versus Valeo; the decision of Associate Justice Byron White in Buckley versus Valeo; the article by Mr. Jonathan Bingham, "Democracy or Plutocracy? The Case for a Constitutional Amendment to Overturn Buckley versus Valeo"; all be included in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Buckley *v.* Valeo]

OPINION OF WHITE, J.

Mr. JUSTICE WHITE, concurring in part and dissenting in part.

I concur in the Court's answers to certified questions 1, 2, 3(b), 3(c), 3(f), 3(h), 5, 6, 7(a), 7(b), 7(c), 7(d), 8(a), 8(b), 8(c), 8(d), 8(e), and 8(f). I dissent from the answers to certified questions 3(a), 3(d), and 4(a). I also join in Part III of the Court's opinion and in much of Parts I-B, II, and IV.

I

It is accepted that Congress has power under the Constitution to regulate the election of federal officers, including the President and Vice President. This includes the authority to protect the elective processes against the "two great natural and historical enemies of all republics, open violence and insidious corruption." *Ex parte Yarbrough,* 110 U.S. 651, 658 (1884); for "[i]f this government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government, it must have the power to protect the elections on which its existence depends from violence and corruption," the latter being the consequence of "the free use of money in elections, arising from the vast growth of recent wealth . . . ." *Id.,* at 657-658, 667.

This teaching from the last century was quoted at length and reinforced in *Burroughs* v. *United States.* 290 U.S. 534, 546-548 (1934). In that case the Court sustained the Federal Corrupt Practices Act of 1925, Title III of the Act of Feb. 28, 1925, 43 Stat. 1070, which, among other things, required political committees to keep records and file reports concerning all contributions and expenditures received and made by political committees for the purposes of influencing the election of candidates for federal office. The Court noted the conclusion of Congress that public disclosure of contributions would tend to prevent the corrupt use of money to influence elections; this, together with the requirement "that the treasurer's statement shall include full particulars in respect of expenditures," made it "plain that the statute as a whole is calculated to discourage the making and use of contributions for purposes of corruption." 290 U.S., at 548. Congress clearly had the power to further as it did that fundamental goal:

"The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted and the end to be attained, are matters for congressional determination alone." *Id.,* at 547-548.

Pursuant to this undoubted power of Congress to vindicate the strong public interest in controlling corruption and other undesirable uses of money in connection with election campaigns, the Federal Election Campaign Act substantially broadened the reporting and disclosure requirements that so long have been a part of the federal law. Congress also concluded that limitations on contributions and expenditures were essential if the aims of the Act were to be achieved fully. In another major innovation, aimed at insulating candidates from the time-consuming and entangling task of raising huge sums of money, provision was made for public financing of political campaigns for federal office. A Federal Election Commission (FEC) was also created to administer the law.

The disclosure requirements and the limitations on contributions and expenditures are challenged as invalid abridgments of the right of free speech protected by the First Amendment. I would reject these challenges. I agree with the Court's conclusion and much of its opinion with respect to sustaining the disclosure provisions. I am also in agreement with the Court's judgment upholding the limitations on contributions. I dissent, however, from the Court's view that the expenditure limitations of 18 U.S.C. §§ 608(c) and (e) (1970 ed., Supp. IV) violate the First Amendment.

Concededly, neither the limitations on contributions nor those on expenditures directly or indirectly purport to control the content of political speech by candidates or by their supporters or detractors. What the Act regulates is giving and spending money, acts that have First Amendment significance not because they are themselves communicative with respect to the qualifications of the candidate, but because money may be used to defray the expenses of speaking or otherwise communicating about the merits or demerits of federal candidates for election. The act of giving money to political candidates, however, may have illegal or other undesirable consequences: it may be used to secure the express or tacit understanding that the giver will enjoy political favor if the candidate is elected. Both Congress and this Court's cases have recognized this as a mortal danger against which effective preventive and curative steps must be taken.

Since the contribution and expenditure limitations are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech of particular candidates or of political speech in general, this case depends on whether the nonspeech interests of the Federal Government in regulating the use of money in political campaigns are sufficiently urgent to justify the incidental effects that the limitations visit upon the First Amendment interests of candidates and their supporters.

Despite its seeming struggle with the standard by which to judge this case, this is essentially the question the Court asks and answers in the affirmative with respect to the limitations on contributions which individuals and political committees are permitted to make to federal candidates. In the interest of preventing undue influence that large contributors would have or that the public might think they would have, the Court upholds the provision that an individual may not give to a candidate, or spend on his behalf if requested or authorized by the candidate to do so, more than $1,000 in any one election. This limitation is valid although it imposes a low ceiling on what individuals may deem to be their most effective means of supporting or speaking on behalf of the candidate—i.e., financial support given directly to the candidate. The Court thus accepts the congressional judgment that the evils of unlimited contributions are sufficiently threatening to warrant restriction regardless of the impact of the limits on the contributor's opportunity for effective speech and in turn on the total volume of the candidate's political communications by reason of his inability to accept large sums from those willing to give.

The congressional judgment, which I would also accept, was that other steps must be taken to counter the corrosive effects of money in federal election campaigns. One of these steps is § 608(e), which, aside from those funds that are given to the candidate or spent at his request or with his approval or cooperation, limits what a contributor may independently spend in support or denigration of one running for federal office. Congress was plainly of the view that these expenditures also have corruptive potential; but the Court strikes down the provision, strangely enough claiming more insight as to what may improperly influence candidates than is possessed by the majority of Congress that passed this bill and the President who signed it. Those supporting the bill undeniably included many seasoned professionals who have been deeply involved in elective processes and who have viewed them at close range over many years.

It would make little sense to me, and apparently made none to Congress, to limit the amounts an individual may give to a candidate or spend with his approval but fail to limit the amounts that could be spent on his behalf. Yet the Court permits the former while striking down the latter limitation. No more than $1,000 may be given to a candidate or spent at his request or with his approval or cooperation; but otherwise, apparently, a contributor is to be constitutionally protected in spending unlimited amounts of money in support of his chosen candidate or candidates.

Let us suppose that each of two brothers spends $1 million on TV spot announcements that he has individually prepared and in which he appears, urging the election of the same named candidate in identical words. One brother has sought and obtained the approval of the candidate; the other has not. The former may validly be prosecuted under § 608(e); under the Court's view, the latter may not, even though the candidate could scarcely help knowing about and appreciating the expensive favor. For constitutional purposes it is difficult to see the difference between the two situations. I would take the word of those who know—that limiting independent expenditures is essential to prevent transparent and widespread evasion of the contribution limits.

In sustaining the contribution limits, the Court recognizes the importance of avoiding public misapprehension about a candidate's reliance on large contributions. It ignores that consideration in invalidating § 608(e). In like fashion, it says that Congress was entitled to determine that the criminal provisions against bribery and corruption, together with the disclosure provisions, would not in themselves be adequate to combat the evil and that limits on contributions should be provided. Here, the Court rejects the identical kind of judgment made by Congress as to the need for and utility of expenditure limits. I would not do so.

The Court also rejects Congress' judgment manifested in § 608(e) that the federal interest in limiting total campaign expenditures by individual candidates justifies the incidental effect on their opportunity for effective political speech. I disagree both with the Court's assessment of the impact on speech and with its narrow view of the values the limitations will serve.

Proceeding from the maxim that "money talks," the Court finds that the expenditure limitations will seriously curtail political expression by candidates and interfere substantially with their chances for election. The Court concludes that the Constitution denies Congress the power to limit campaign expenses; federal candidates—and I would suppose state candidates, too—are to have the constitutional right to raise and spend unlimited amounts of money in quest of their own election.

As an initial matter, the argument that money is speech and that limiting the flow of money to the speaker violates the First Amendment proves entirely too much. Compulsory bargaining and the right to strike, both provided for or protected by federal law, inevitably have increased the labor costs of those who publish newspapers, which are in turn an important factor in the recent disappearance of many daily papers.

Federal and state taxation directly removes from company coffers large amounts of money that might be spent on larger and better newspapers. The antitrust laws are aimed at preventing monopoly profits and price fixing, which gouge the consumer. It is also true that general price controls have from time to time existed and have been applied to the newspapers or other media. But it has not been suggested, nor could it be successfully, that these laws, and many others, are invalid because they siphon off or prevent the accumulation of large sums that would otherwise be available for communicative activities.

In any event, as it should be unnecessary to point out, money is not always equivalent to or used for speech, even in the context of political campaigns. I accept the reality that communicating with potential voters is the heart of an election campaign and that widespread communication has become very expensive. There are, however, many expensive campaign activities that are not themselves communicative or remotely related to speech. Furthermore, campaigns differ among themselves. Some seem to spend much less money than others and yet communicate as much as or more than those supported by enormous bureaucracies with unlimited financing. The record before us no more supports the conclusion that the communicative efforts of congressional and Presidential candidates will be crippled by the expenditure limitations than it supports the contrary. The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the Act and that the communicative efforts of these campaigns would not seriously suffer. In this posture of the case, there is no sound basis for invalidating the expenditure limitations, so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are.

In the first place, expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption. The Court upholds the overall limit of $25,000 on an individual's political contributions in a single election year on the ground that it helps reinforce the limits on gifts to a single candidate. By the same token, the expenditure limit imposed on candidates plays its own role in lessening the chance that the contribution ceiling will be violated. Without limits on total expenditures, campaign costs will inevitably and endlessly escalate. Pressure to raise funds will constantly build and with it the temptation to resort in "emergencies" to those sources of large sums, who, history shows, are sufficiently confident of not being caught to risk flouting contribution limits. Congress would save the candidate from this predicament by establishing a reasonable ceiling on all candidates. This is a major consideration in favor of the limitation. It should be added that many successful candidates will also be saved from large, overhanging campaign debts which must be paid off with money raised while holding public office and at a time when they are already preparing or thinking about the next campaign. The danger to the public interest in such situations is self-evident.

Besides backing up the contribution provisions, which are aimed at preventing untoward influence on candidates that are elected, expenditure limits have their own potential for preventing the corruption of federal elections themselves. For many years the law has required the disclosure of expenditures as well as contributions. As *Burroughs* indicates, the corrupt use of money by candidates is as much to be feared as the corrosive influence of large contributions. There are many illegal ways of spending money to influence elections. One would be blind to history to deny that unlimited money tempts people to spend it on *whatever* money can buy to influence an election. On the assumption that financing illegal activities is low on the campaign organization's priority list, the expenditure limits could play a substantial role in preventing unethical practices. There just would not be enough of "that kind of money" to go around.

I have little doubt in addition that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising, and so free him and his staff to communicate in more places and ways unconnected with the fundraising function. There is nothing objectionable—indeed it seems to me a weighty interest in favor of the provision—in the attempt to insulate the political expression of federal candidates from the influence inevitably exerted by the endless job of raising increasingly large sums of money. I regret that the Court has returned them all to the treadmill.

It is also important to restore and maintain public confidence in federal elections. It is critical to obviate or dispel the impression that federal elections are purely and simply a function of money, that federal offices are bought and sold or that political races are reserved for those who have the facility—and the stomach—for doing whatever it takes to bring together those interests, groups, and individuals that can raise or contribute large fortunes in order to prevail at the polls.

The ceiling on candidate expenditures represents the considered judgment of Congress that elections are to be decided among candidates none of whom has overpowering advantage by reason of a huge campaign war chest. At least so long as the ceiling placed upon the candidates is not plainly too low, elections are not to turn on the difference in the amounts of money that candidates have to spend. This seems an acceptable purpose and the means chosen a commonsense way to achieve it. The Court nevertheless holds that a candidate has a constitutional right to spend unlimited amounts of money, mostly that of other people, in order to be elected. The holding perhaps is not that federal candidates have the constitutional right to purchase their election, but many will so interpret the Court's conclusion in this case. I cannot join the Court in this respect.

I also disagree with the Court's judgment that § 608(a), which limits the amount of money that a candidate or his family may spend on his campaign, violates the Constitution. Although it is true that this provision does not promote any interest in preventing the corruption of candidates, the provision does, nevertheless, serve salutary purposes related to the integrity of federal campaigns. By limiting the importance of personal wealth, § 608(a) helps to assure that only individuals with a modicum of support from others will be viable candidates. This in turn would tend to discourage any notion that the outcome of elections is primarily a function of money. Similarly, § 608(a) tends to equalize access to the political arena, encouraging the less wealthy, unable to bankroll their own campaigns, to run for political office.

As with the campaign expenditure limits, Congress was entitled to determine that personal wealth ought to play a less important role in political campaigns than it has in the past. Nothing in the First Amendment stands in the way of that determination.

For these reasons I respectfully dissent from the Court's answers to certified questions 3(a), 3(d), and 4(a).

II

I join the answers in Part IV of the Court's opinion, *ante*, at 141-142, n. 177, to the questions certified by the District Court relating to the composition and powers of the FEC, *i.e.*, questions 8(a), 8(b), 8(c), 8(d) (with the qualifications stated *infra*, at 282-286), 8(e), and 8(f). I also agree with much of that part of the Court's opinion, including the conclusions that these questions are properly before us and ripe for decision, that the FEC's past acts are *de facto* valid, that the Court's judgment should be stayed, and that the FEC may function *de facto* while the stay is in effect.

The answers to the questions turn on whether the FEC is illegally constituted because its members were not selected in the manner required by Art. II, § 2, cl. 2, the Appointments Clause. It is my view that with one exception Congress could endow a properly constituted commission with the powers and duties it has given the FEC.[1]

Section 437c creates an eight-member FEC. Two members, the Secretary of the Senate and the Clerk of the House of Representatives, are *ex officio* members without the right to vote or to hold an FEC office.[2] Of the remaining six, two are appointed by the President *pro tempore* of the Senate upon the recommendation of the majority and minority leaders of that body; two are similarly appointed by the Speaker of the House; and two are appointed by the President of the United States. The appointment of each of these six members is subject to confirmation by a majority of both Houses of Congress. § 437(a)(1). Each member is appointed for a term of years; none can be an elected or appointed officer or employee of any branch of the Government at the time of his appointment. §§ 437c(a) (2), (3). The FEC is empowered to elect its own officers, § 437c(a)(5), and to appoint a staff director and general counsel. § 437c(f). Decisions are by a majority vote. § 437c(c).

It is apparent that none of the members of the FEC is selected in a manner Art. II specifies for the appointment of officers of the United States. The Appointments Clause provides:

"[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the

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[1] That is, if the FEC were properly constituted, I would answer questions 8(b), 8(c), 8(d) (see *infra*, at 282-286), and 8(f) in the negative. With respect to question 8(e), I reserve judgment on the validity of 2 U.S.C. § 456 (1970 ed., Supp. IV) which empowers the FEC to disqualify a candidate for failure to file certain reports. Of course, to the extent that the Court invalidates the expenditure limitations of the FECA, Part I-C, *ante*, at 39-59, the FEC, however appointed, would be powerless to enforce those provisions.

Unless otherwise indicated, all statutory citations in this part of the opinion are to the Federal Election Campaign Act of 1971, §§ 301-311, 86 Stat. 11, as amended by the Federal Election Campaign Act Amendments of 1974, §§ 201-407, 88 Stat. 1272, 2 U.S.C. § 431 *et seq.* (1970 ed., Supp. IV).

[2] References to the "Commissioners," the "FEC," or its "members" do not include these two *ex officio* members.

Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officer, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." [3]

Although two of the members of the FEC are initially selected by the President, his nominations are subject to confirmation by both Houses of Congress. Neither he, the head of any department, nor the Judiciary has any voice in the selection of the remaining members of the FEC. The challenge to the FEC, therefore, is that its members are officers of the United States the mode of whose appointment was required to, but did not, conform to the Appointments Clause. That challenge is well taken.

The Appointments Clause applies only to officers of the United States whose appointment is not "otherwise provided for" in the Constitution. Senators and Congressmen are officers of the United States, but the Constitution expressly provides the mode of their selection.[4] The Constitution also expressly provides that each House of Congress is to appoint its own officers.[5] But it is not contended here that FEC members are officers of either House selected pursuant to these express provisions, if for no other reason, perhaps, than that none of the Commissioners was selected in the manner specified by these provisions—none of them was finally selected by either House acting alone as Art. I authorizes.

The appointment power provided in Art. II also applies only to officers, as distinguished from employees,[6] of the United States, but there is no claim the Commissioners are employees of the United States rather than officers. That the Commissioners are among those officers of the United States referred to in the Appointments Clause of Art. II is evident from the breadth of their assigned duties and the nature and importance of their assigned functions.

The functions and duties of the FEC relate to three different aspects of the election laws: First, the provisions of the Criminal Code, 18 U.S.C. §§ 608-617 (1970 ed., Supp. IV), which establish major substantive limitations on political contributions and expenditures by individuals, political organizations, and candidates; second, the reporting and disclosure provisions contained in 2 U.S.C. §§ 431-437b (1970 ed., Supp. IV), these sections requiring the filing of detailed reports of political contributions and expenditures; and third, the provisions of 26 U.S.C. §§ 9001-9042 (1970 ed., Supp. IV) with respect to the public financing of Presidential primary and general election campaigns. From the "representative examples of [the FEC's] various powers" the Court describes, *ante*, at 109-113, it is plain that the FEC is the primary agency for the enforcement and administration of major parts of the election laws. It does not replace or control the executive agencies with respect to criminal prosecutions, but within the wide zone of its authority the FEC is independent of executive as well as congressional control except insofar as certain of its regulations must be laid before and not be disapproved by Congress. § 438(c); 26 U.S.C. §§ 9009(c), 9039(c) (1970 ed., Supp. IV). With duties and functions such as these, members of the FEC are plainly "officers of the United States" as that term is used in Art. II, § 2, cl. 2.

It is thus not surprising that the FEC, in defending the legality of its members' appointments, does not deny that they are "officers of the United States" as that term is used in the Appointments Clause of Art. II.[7] Instead, for reasons the Court outlines, *ante*, at 131-132, 133-134, its position appears to be that even if its members are officers of the United States, Congress may nevertheless appoint a majority of the FEC without participation by the President.[8] This position that Congress may itself appoint the members of a body that is to administer a wide-ranging statute will not withstand examination in light of either the purpose and history of the Appointments Clause or of prior cases in this Court.

The language of the Appointments Clause was not mere inadvertence. The matter of the appointment of officers of the new Federal Government was repeatedly debated by the Framers, and the final formulation of the Clause arrived at only after the most careful debate and consideration of its place in the overall design of government. The appointment power was a major building block fitted into the constitutional structure designed to avoid the accumulation or exercise of arbitrary power by the Federal Government. The basic approach was that official power should be divided among the Executive, Legislative, and Judicial Departments. The separation-of-powers principle was implemented by a series of provisions, among which was the knowing decision that Congress was to have no power whatsoever to appoint federal officers, except for the power of each House to appoint its own officers serving in the strictly legislative processes and for the confirming power of the Senate alone.

The decision to give the President the exclusive power to initiate appointments was thoughtful and deliberate. The Framers were attempting to structure three departments of government so that each would have affirmative powers strong enough to resist the encroachment of the others. A fundamental tenet was that the same persons should not both legislate and administer the laws.[9] From the very outset, provision was made to prohibit members of Congress from holding office in another branch of the Government while also serving in Congress. There was little if any dispute about this incompatibility provision which survived in Art. I, § 6, of the Constitution as finally ratified.[10] Today, no person may serve in Congress and at the same time be Attorney General, Secretary of State, a member of the judiciary, a United States attorney, or a member of the Federal Trade Commission or the National Labor Relations Board.

Early in the 1787 Convention it was also proposed that members of Congress be absolutely ineligible during the term for which they were elected, and for a period thereafter, for appointment to any state or federal office.[11] But to meet substantial opposition to so stringent a provision, ineligibility for state office was first eliminated,[12] and under the language ultimately adopted, Congressmen were disqualified from being appointed only to those offices which were created, or for which the emoluments were increased, during their term of office.[13] Offices not in this category could be filled by Representatives or Senators, but only upon resignation.

Immediately upon settling the ineligibility provision, the Framers returned to the appointment power which they had several times before debated and postponed for later consideration.[14] From the outset, there had been no dispute that the Executive alone should appoint, and not merely nominate, purely executive officers,[15] but at one stage judicial officers were to be selected by the entire Congress.[16] This provision was subsequently changed to lodge the power to choose judges in the Senate,[17] which was later also given the power to appoint ambassadors and other public ministers.[18] But following resolution of the dispute over the ineligibility provision, which served both to prevent members of Congress from appointing themselves to federal office and to limit their being appointed to federal office, it was determined that the appointment of all principal officers, whether executive or not, should originate with the President and that the Senate should have only the power of advice and consent.[19] Inferior officers could be otherwise appointed, but not by Congress itself.[20] This allocation of the appointment power, in which for the first time the Executive had the power to initiate appointment to all principal offices and the Senate was empowered to advise and consent to nominations by the Executive,[21] was made possible by adoption of the ineligibility provisions and was formulated as part of the fundamental compromises with respect to the composition of the Senate, the respective roles of the House and Senate, and the placement of the election of the President in the electoral college.

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[3] U.S. Const., Art. II, § 2, cl. 2.

[4] *Id.*, Art. I, §§ 2, 3, and the Seventeenth Amendment.

[5] "The House of Representatives shall chuse their Speaker and other Officers. . . ." U.S. Const., Art. I, § 2, cl. 5.

"The Vice President of the United States shall be President of the Senate, but. . .[t]he Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States."§ 3, cls. 4, 5.

[6] The distinction appears *ante*. at 126 n. 162.

[7] Indeed the FEC attacks as "erroneous" appellants' statement that the Court of Appeals ruled that "the FEC commissioners are not officers of the United States. Rather, it held that the grant of power to the President to appoint civil officers of the United States is not to be read as preclusive of Congressional authority to appoint such officers to aid in the discharge of Congressional responsibilities." Brief for Appellee Federal Election Commission 16 n. 19 (hereafter FEC Brief).

[8] How Congress may both appoint officers itself and condition appointment of the President's nominees on confirmation by a majority of both Houses of Congress is not explained.

[9] Watson, Congress Steps Out: A Look at Congressional Control of the Executive, 63 Calif. L. Rev. 983, 1042-1043 (1975).

[10] U.S. Const., Art. I, § 6, cl. 2, provides in part:

"[N]o Person lholding any Office under the United States shall be a Member of either House during his Continuance in Office."

See 1 M. Farrand, The Records of the Federal Convention of 1787, pp. 379-382 (1911) (hereafter Farrand); 2 Farrand 483.

[11] Farrand 20.

[12] *Id*, at 210-211, 217, 219, 221, 222, 370, 375-377, 379-382, 383, 384, 419, 429, 435; 2 Farrand 180.

[13] *Id.*, at 487. As ratified, the Ineligibility Clause provides:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time . . . ." U.S. Const., Art. I, § 6, cl. 2.

[14] 1 Farrand 116, 120, 224, 233; 2 Farrand 37-38, 41-44, 71-72, 116, 138.

[15] 1 Farrand 63, 67.

[16] *Id.*, at 21-22.

[17] *Id.*, at 224, 233.

[18] 2 Farrand 183, 383, 394.

[19] *Id.*, at 533.

[20] *Id.*, at 627.

[21] C. Warren, The Making of the Constitution 641-642 (1947).

Under Art. II as finally adopted, law enforcement authority was not to be lodged in elected legislative officials subject to political pressures. Neither was the Legislative Branch to have the power to appoint those who were to enforce and administer the law. Also, the appointment power denied Congress and vested in the President was not limited to purely executive officers but reached officers performing purely judicial functions as well as all other officers of the United States.

I thus find singularly unpersuasive the proposition that because the FEC is implementing statutory policies with respect to the conduct of elections, which policies Congress has the power to propound, its members may be appointed by Congress. One might as well argue that the exclusive and plenary power of Congress over interstate commerce authorizes Congress to appoint the members of the Interstate Commerce Commission and of many other regulatory commissions; that its exclusive power to provide for patents and copyrights would permit the administration of the patent laws to be carried out by a congressional committee; or that the exclusive power of the Federal Government to establish post offices authorizes Congress itself or the Speaker of the House and the President *pro tempore* of the Senate to appoint postmasters and to enforce the postal laws.

Congress clearly has the power to create federal offices and to define the powers and duties of those offices, *Myers* v. *United States*, 272 U.S. 52, 128-129 (1926), but no case in this Court even remotely supports the power of Congress to appoint an officer of the United States aside from those officers each House is authorized by Art. I to appoint to assist in the legislative processes.

In *Myers*, a postmaster of the first class was removed by the President prior to the expiration of his statutory four-year term. Challenging the President's power to remove him contrary to the statute, he sued for his salary. The challenge was rejected here. The Court said that under the Constitution the power to appoint the principal officers of the Executive Branch was an inherent power of the President:

"[T]he reasonable implication, even in the absence of express words, was that as part of his executive power [the President] should select those who were to act for him under his direction in the execution of the laws." *Id.*, at 117.

Further, absent express limitation in the Constitution, the President was to have unrestricted power to remove those administrative officers essential to him in discharging his duties. These fundamental rules were to extend to those bureau and department officers with power to issue regulations and to discharge duties of a quasi-judicial nature—those members of "executive tribunals whose decisions after hearing affect interests of individuals." *Id.*, at 135. As for inferior officers such as the plaintiff postmaster, the same principles were to govern if Congress chose to place the appointment in the President with the advice and consent of the Senate, as was the case in *Myers*. Under the Appointments Clause, Congress could—but did not in the *Myers* case—permit the appointment of inferior officers by the heads of departments, in which event, the Court said, Congress would have the authority to establish a term of office and limit the reasons for their removal. But in no circumstance could Congress participate in the removal:

"[T]he Court never has held, nor reasonably could hold, although it is argued to the contrary on behalf of the appellant, that the excepting clause enables Congress to draw to itself, or to either branch of it, the power to remove or the right to participate in the exercise of that power. To do this would be to go beyond the words and implications of that clause and to infringe the constitutional principle of the separation of governmental powers." *Id.*, at 161.

Humphrey's Executor v. *United States*, 295 U.S. 602 (1935), limited the reach of the *Myers* case. There the President attempted to remove a member of the Federal Trade Commission prior to the expiration of his statutory term and for reasons not specified in the statute. The Court ruled that the Presidential removal power vindicated in *Myers* related solely to "purely executive officers," 295 U.S., at 628, from whom the Court sharply distinguished officers such as the members of the Federal Trade Commission who were to be free from political dominance and control, whose duties are "neither political nor executive, but predominantly quasi-judicial and quasi-legislative." *Id.*, at 624. Contrary to the dicta in *Myers*, such an officer was thought to occupy "no place in the executive department," to exercise "no part of the executive power vested by the Constitution in the President," 295 U.S., at 628, and to be immune from removal by the President except on terms specified by Congress. The Commissioners were described as being in part an administrative body carrying out legislative policies and in part an agency of the Judiciary, *Ibid.*; such a body was intended to be "independent of executive authority, *except in its selection*, and free to exercise its judgment without the leave or hindrance of any other official or any department of the government." *Id.*, at 625-626. (Emphasis in original.)

The holding in *Humphrey's Executor* was confirmed in *Weiner* v. *United States*, 357 U.S. 349 (1958), but the Court did not question what *Humphrey's Executor* had expressly recognized—that members of independent agencies are not independent of the Executive with respect to their appointments. Nor did either *Weiner* or *Humphrey's Executor* suggest that Congress could not only create the independent agency, specify its duties, and control the grounds for removal of its members but could also *itself* appoint or remove them without the participation of the Executive Branch of the Government. To have so held would have been contrary to the Appointments Clause as the *Myers* case recognized.

It is said that historically Congress has used its own officers to receive and file the reports of campaign expenditures and contributions as required by law and that this Court should not interfere with this practice. But the Act before us creates a separate and independent campaign commission with members, some nominated by the President, who have specified terms of office, are not subject to removal by Congress, and are free from congressional control in their day-to-day functions. The FEC, it is true, is the designated authority with which candidates and political committees must file reports of contributions and expenditures, as required by the Act. But the FEC may also make rules and regulations with respect to the disclosure requirements, may investigate reported violations, issue subpoenas, hold its own hearings and institute civil enforcement proceedings in its own name. Absent a request by the FEC, it would appear the the Attorney General has no role in the civil enforcement of the reporting and disclosure requirements. The FEC may also issue advisory opinions with respect to the legality of any particular activities so as to protect those persons who in good faith have conducted themselves in reliance on the FEC's opinion. These functions go far beyond mere information gathering, and there is no long history of lodging such enforcement powers in congressional appointees.

Nor do the FEC's functions stop with policing the reporting and disclosure requirements of the Act. The FEC is given express power to administer, obtain compliance with, and "to formulate general policy" [22] with respect to 18 U.S.C. §§ 608-617, so much so that the Act expressly provides that "[t]he Commission has primary jurisdiction with respect to the civil enforcement of such provisions." [23] Following its own proceedings the FEC may request the Attorney General to bring civil enforcement proceedings, a request which the Attorney General must honor.[24] And good-faith conduct taken in accordance with the FEC's advisory opinions as to whether any transaction or activity would violate any of these criminal provisions "shall be presumed to be in compliance with" these section.[25] § 437f(b). Finally, the FEC has the central role in administering and enforcing the provisions of Title 26 contemplating the public financing of political campaigns.[26]

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[22] § 437(a)(9).

[23] § 437c (b).

[24] Section 437g (a)(7) provides:

"Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any [relevant] provision . . . upon request by the Commission the Attorney General on behalf of the United States *shall* institute a civil action for relief. . . . " (Emphasis supplied.)

The FEC argues that " 'there is no showing in this case of a convincing legislative history that would enable us to conclude that "shall" was intended to be the "language of command." ' " FEC Brief 62 n. 32, quoting 171 U.S. App. D.C. 172, 244 n. 191, 519 F. 2d 821, 893 n. 191 (1975). The contention is that the FEC's enforcement power is not exclusive, because the Attorney General retains the traditional discretion to decline to institute legal proceedings. However this may be, the FEC's civil enforcement responsibilities are substantial. Moreover it is authorized under 26 U.S.C. §§ 9010, 9040 (1970 ed., Supp. IV), to appear in and to defend actions brought in the Court of Appeals for the District of Columbia Circuit under §§ 9011, 9041, to review the FEC's actions under Chapters 95 and 96 of Title 26, and to appear in district court to seek recovery of amounts repayable to the Treasury under §§ 9007, 9008, 9038.

[25] Although the FEC resists appellants' attack on its position that it has "no general substantive rulemaking authority with regard to Title 18 spending and contribution limitations" (FEC Brief 49), it agrees "that there is inevitably some interplay between Title 2 and Title 18." (*Id.*, at 55.) It seeks to minimize the importance of the interplay by noting that its definitions of what is to be disclosed and reported would not be binding in judicial proceedings to determine whether substantive provisions of the Act had been violated, but would simply be extended a measure of deference as administrative interpretations. Appellants' reply is the practical one that, whether the FEC's power is substantive or not, persons violating its regulations do so at their peril. To illustrate the extent to which the FEC's regulations implicate the provisions of Title 18, appellants point to the FEC's interim guidelines for the New Hampshire and Tennessee special elections, 40 Fed. Reg. 40660 (1975), and its regulations,

It is apparent that the FEC is charged with the enforcement of the election laws in major respects. Indeed, except for the conduct of criminal proceedings, it would appear that the FEC has the entire responsibility for enforcement of the statutes at issue here. By no stretch of the imagination can its various functions in this respect be considered mere adjuncts to the legislative process or to the powers of Congress to judge the election and qualifications of its own members.

It is suggested, without accounting for the President's role in appointing some of its members, that the FEC would be willing to forgo its civil enforcement powers and that absent these functions, it is left with nothing that purely legislative officers may not do. The difficulty is that the statute invests the FEC not only with the authority but with the *duties* that unquestionably make its members officers of the United States, fully as much as the members of other commissions charged with the major responsibility for administering status. What is more, merely forgoing its authority to bring suit would still leave the FEC with the power to issue rules and regulations, its advisory opinion authority, and primary duties to enforce the Act. Absent notice and hearing by the FEC and a request on its part, it would not appear that the Executive Branch of the Government would have any authority under the statute to institute civil enforcement proceedings with respect to the reporting and disclosure requirements or the relevant provisions of Titles 18 and 26.

There is no doubt that the development of the administrative agency in response to modern legislative and administrative need has placed severe strain on the separation-of-powers principle in its pristine formulation. See *Kilbourn* v. *Thompson*, 103 U.S. 168, 191 (1881). Any notice that the Constitution bans any admixture of powers that might be deemed legislative, executive, and judicial has had to give way. The independent agency has survived attacks from various directions: that it exercises invalidly delegated legislative power, *Sunshine Coal Co.* v. *Adkins*, 310 U.S. 381 (1940); that it invalidly exercises judicial power, *ibid.*; and that its functions are so executive in nature that its members must be subject to Presidential control, *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935). Until now, however, it has not been insisted that the commands of the Appointments Clause must also yield to permit congressional appointments of members of a major agency. With the Court, I am not convinced that we should create a broad exception to the requirements of that Clause that all officers of the United States be appointed in accordance with its terms. The provision applies to all officers, however their duties may be classified; and even if some of the FEC's functions, such as rulemaking, are purely legislative. I know of no authority for the congressional appointment of its own agents to make binding rules and regulations necessary to or advisable for the administration and enforcement of a major statute where the President has not participated either in the appointment of each of the administrators or in the fashioning of the rules or regulations which they propound.

I do not dispute the legislative power of Congress coercively to gather and make available for public inspection massive amounts of information relevant to the legislative process. Its own officers may, as they have done for years, receive and file contribution and expenditure reports of candidates and political committees. Arguably, the Commissioners, although not properly appointed by the President, should at least be able to perform this function. But the members of the FEC are appointed for definite terms of office, are not removable by the President or by Congress, and even if their duties were to be severely limited, they would appear to remain Art. II officers. In any event, the task of gathering and publishing campaign finance information has been one of the specialties of the officers of the respective Houses, and these same officers under the present law continue to receive such information and to act as custodians for the FEC, at least with respect to the Senate and House political campaigns. They are also instructed to cooperate with the FEC. § 438(d).

For these reasons I join in the Court's answers to certified questions 8(a), 8(b), 8(c), 8(e) and 8(f), and with the following reservations to question 8(d).

Question 8(d) asks whether § 438(c) violates the constitutional rights of one or more of the plaintiffs in that "it empowers the Federal Election Commission to make rules under the FECA in the manner specified therein." Section 438(c) imposes certain preconditions to the effectiveness of "any rule or regulation under this section . . . ," but does not itself authorize the issuance of rules or regulations. That authorization is to be found in § 438(a)(10), which includes among the duties of the FEC the task of prescribing "rules and regulations to carry out the provisions of this subchapter, in accordance with the provisions of subsection (c)." The "subchapter" referred to in the subchapter dealing with federal election campaigns and the reports of contributions and expenditures required to be filed with the FEC.[27] Subsection (c), which is the provision expressly mentioned in question 8(d), requires that any rule or regulation prescribed by the FEC under § 438 shall be transmitted to the Senate or the House, or to both as thereafter directed. After 30 legislative days,[28] the rule or regulation will become effective unless (1) either House has disapproved the rule if it relates to reports by Presidential candidates or their supporting committees; (2) the House has disapproved it if it relates to reports to be filed by House candidates or their committees; or (3) the Senate has disapproved it if the rule relates to reports by Senate candidates or their related committees.

By expressly referring to subsection (c), question 8(d) appears to focus on the disapproval requirement; but the Court's answer is not responsive in these terms. Rather, the Court expressly disclaims holding that the FEC's rules and regulations are invalid because of the requirement that they are subject to disapproval by one or both Houses of Congress. *Ante*, at 140 n. 176. As I understand it, the FEC's rules and regulations, whether or not issued in compliance with § 438(c), are invalid because the members of the FEC have not been appointed in accordance with Art. II. To the extent that this is the basis for the Court's answer to the question, I am in agreement.

If the FEC members had been nominated by the President and confirmed by the Senate as provided in Art. II, nothing in the Constitution would prohibit Congress from empowering the Commission to issue rules and regulations without later participation by, or consent of, the President or Congress with respect to any particular rule or regulation or initially to adjudicate questions of fact in accordance with a proper interpretation of the statute. *Sunshine Coal Co.* v. *Adkins*, 310 U.S. 381 (1940); RFC v. *Bankers Trust Co.*, 318 U.S. 163 (1943); *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935). The President must sign the statute creating the rulemaking authority of the agency or it must have been passed over his veto, and he must have nominated the members of the agency in accordance with Art. II; but agency regulations issued in accordance with the statute are not subject to his veto even though they may be substantive in character and have the force of law.

I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law it must pass both Houses and be signed by the President or be passed over his veto. Also, "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary . . ." is likewise subject to the veto power.[29] Under § 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution, or vote requiring the concurrence of both Houses.[30]

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rejected by the Senate, providing that funds contributed to and expended from the "office accounts" of Members of Congress were contributions or expenditures "subject to the limitations of 18 U.S.C. §§ 608, 610, 611, 613, 614 and 615." See notice of proposed rulemaking, *id.*, at 32951. Unless the FEC's regulations are to be given no weight in criminal proceedings, it seems plain that through those regulations the FEC will have a significant role in the implementation and enforcement of criminal statutes.

[26] The FEC itself cannot fashion coercive relief by, for example, issuing cease-and-desist orders. To obtain such relief it must apply to the courts itself or through the Attorney General.

[27] The same preconditions are imposed with respect to regulations issued under the public financing provisions of the election laws. 26 U.S.C. §§ 9009 and 9039 (1970 ed., Supp. IV). No such requirement appears to exist with respect to the FEC's power to make "policy" with respect to the enforcement of the criminal provisions in Title 18 or with respect to any power it may have to issue rules and regulations dealing with the civil enforcement of those provisions. See also § 439a.

[28] Section 438 (c)(4) defines "legislative day." See also 26 U.S.C. §§ 9009(c)(3), 9039(c)(3) (1970 ed., Supp. IV).

[29] U.S. Const., Art. I, § 7, cl. 3.

[30] Surely the challengers to the provision for congressional disapproval do not mean to suggest that the FEC's regulations must become effective despite the disapproval of one House or the other. Disapproval nullifies the suggested regulation and prevents the occurrence of any change in the law.

In terms of the substantive content of regulations and the degree of congressional influence over agency lawmaking, I do not suggest that there is no difference between the situation where regulations are subject to disapproval by Congress and the situation where the agency need not run the congressional gantlet. But the President's veto power, which gives him an important role in the legislative process, was obviously not considered an inherently *executive* function. Nor was its principal aim to provide another check against poor legislation. The major purpose of the veto power appears to have been to shore up the Executive Branch and to provide it with some bargaining and survival power against what the Framers feared would be the overwhelming power of legislators. As Hamilton said, the veto power was to provide a defense against the legislative department's intrusion on the rights and powers of other departments; without such power, "the legislative and executive powers might speedily come to be blended in the same hands." [31]

I would be much more concerned if Congress purported to usurp the functions of law enforcement, to control the outcome of particular adjudications, or to pre-empt the President's appointment power; but in the light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto. It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses. But here no action of either House is required for the agency rule to go into effect, and the veto power of the President does not appear to be implicated.

OPINION OF MARSHALL, J.

Mr. Justice Marshall, concurring in part and dissenting in part.

I join in all of the Court's opinion except Part I-C-2, which deals with 18 U.S.C. § 608(a) (1970 ed., Supp. IV). That section limits the amount a candidate may spend from his personal funds, or family funds under his control, in connection with his campaigns during any calendar year. See *ante*, at 51-52, n. 57. The Court invalidates § 608(a) as violative of the candidate's First Amendment rights. "[T]he First Amendment," the Court explains, "simply cannot tolerate § 608(a)'s restriction upon the freedom of a candidate to speak without legislative limit on behalf of his own candidacy." *Ante*, at 54. I disagree.

To be sure, § 608(a) affects the candidate's exercise of his First Amendment rights. But unlike the other expenditure limitations contained in the Act and invalidated by the Court—the limitation on independent expenditures relative to a clearly identified candidate, § 608(e), and the limitations on overall candidate expenditures, § 608(c)—the limitations on expenditures by candidates from personal resources contained in § 608(a) need never prevent the speaker from spending another dollar to communicate his ideas. Section 608(a) imposes no overall limit on the amount a candidate can spend; it simply limits the "contribution" a candidate may make to his own campaign. The candidate remains free to raise an unlimited amount in contributions from others. So long as the candidate does not contribute to his campaign more than the amount specified in § 608(a), and so long as he does not accept contributions from others in excess of the limitations imposed by § 608(b), he is free to spend without limit on behalf of his campaign.

It is significant, moreover, that the ceilings imposed by § 608(a) on candidate expenditures from personal resources are substantially higher than the $1,000 limit imposed by § 608(e) on independent expenditures by noncandidates. Presidential and Vice Presidential candidates may contribute $50,000 of their own money to their campaigns, Senate candidates $35,000, and most House candidates $25,000. Those ceilings will not affect most candidates. But they will admittedly limit the availability of personal funds for some candidates, and the question is whether that limitation is justified.

The Court views "[t]he ancillary interest in equalizing the relative financial resources of candidates" as the relevant rationale for § 608(a), and deems that interest insufficient to justify § 608(a). *Ante*, at 54. In my view the interest is more precisely the interest in promoting the reality and appearance of equal access to the political arena. Our ballot-access decisions serve as a reminder of the importance of the general interest in promoting equal access among potential candidates. See, *e.g.*, *Lubin* v. *Panish*, 415 U.S. 709 (1974); *Bullock* v. *Carter*, 405 U.S. 134 (1972). While admittedly those cases dealt with barriers to entry different from those we consider here, the barriers to which § 608(a) is directed are formidable ones, and the interest in removing them substantial.

One of the points on which all Members of the Court agree is that money is essential for effective communication in a political campaign. It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant "headstart." Of course, the less wealthy candidate can potentially overcome the disparity in resources through contributions from others. But ability to generate contributions may itself depend upon a showing of a financial base for the campaign or some demonstration of pre-existing support, which in turn is facilitated by expenditures of substantial personal sums. Thus the wealthy candidate's immediate access to a substantial personal fortune may give him an initial advantage that his less wealthy opponent can never overcome. And even if the advantage can be overcome, the perception that personal wealth wins elections may not only discourage potential candidates without significant personal wealth from entering the political arena, but also undermine public confidence in the integrity of the electoral process.[1]

The concern that candidacy for public office not become, or appear to become, the exclusive province of the wealthy assumes heightened significance when one considers the impact of § 608(b), which the Court today upholds. That provision prohibits contributions from individuals and groups to candidates in excess of $1,000, and contributions from political committees in excess of $5,000. While the limitations on contributions are neutral in the sense that all candidates are foreclosed from accepting large contributions, there can be no question that large contributions generally mean more to the candidate without a substantial personal fortune to spend on his campaign. Large contributions are the less wealthy candidate's only hope of countering the wealthy candidate's immediate access to substantial sums of money. With that option removed, the less wealthy candidate is without the means to match the large initial expenditures of money of which the wealthy candidate is capable. In short, the limitations on contributions put a premium on a candidate's personal wealth.

In view of § 608(b)'s limitations on contributions, then, § 608(a) emerges not simply as a device to reduce the natural advantage of the wealthy candidate, but as a provision providing some symmetry to a regulatory scheme that otherwise enhances the natural advantage of the wealthy.[2] Regardless of whether the goal of equalizing access would justify a legislative limit on personal candidate expenditures standing by itself, I think it clear that that goal justifies § 608(a)'s limits when they are considered in conjunction with the remainder of the Act. I therefore respectfully dissent from the Court's invalidation of § 608(a).

OPINION OF REHNQUIST, J.

Mr. JUSTICE REHNQUIST, concurring in part and dissenting in part.

I concur in Parts I, II, and IV of the Court's opinion. I concur in so much of Part III of the Court's opinion as holds that the public funding of the cost of a Presidential election campaign is a permissible exercise of congressional authority under the power to tax and spend granted by Art. I, but dissent from Part III-B-I of the Court's opinion, which hold that certain aspects of the statutory treatment of minor parties and independent candidates are constitutionally valid. I state as briefly as possible my reasons for so doing.

The limits imposed by the First and Fourteenth Amendments on governmental action may vary in their stringency depending on the capacity in which the government is acting. The government as proprietor, *Adderley* v. *Florida*, 385 U.S. 39 (1966), is, I believe, permitted to affect putatively protected interests in a manner in which it might not do if simply proscribing conduct across the board. Similarly, the government as employer, *Pickering* v. *Board of Education*, 391, U.S. 563 (1968), and *CSC* v. *Letter Carriers*, 413 U.S. 548 (1973), may prescribe conditions of employment which might be constitutionally unacceptable if enacted

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The regulation is void. Nothing remains on which the veto power could operate. It is as though a bill passed in one House and failed in another.

[31] The Federalist No. 73, pp. 468-469 (Wright ed. 1961).

[1] "In the Nation's seven largest States in 1970, 11 of the 15 major senatorial candidates were millionaires. The four who were not millionaires lost their bid for election." 117 Cong. Rec. 42065 (1971) (remarks of Rep. Macdonald).

[2] Of course, § 608(b)'s enhancement of the wealthy candidate's natural advantage does not require its validation. As the Court demonstrates, § 608(b) is fully justified by the governmental interest in limiting the reality and appearance of corruption. *Ante*, at 26-29.

In addition to § 608(a), § 608(c), which limits overall candidate expenditures in a campaign, also provides a check on the advantage of the wealthy candidate. But we today invalidate that section, which unlike § 608(a) imposes a flat prohibition on candidate expenditures above a certain level, and which is less tailored to the interest in equalizing access than § 608(a). The effect of invalidating both § 608(c) and § 608(a) is to enable the wealthy candidate to spend his personal resources without limit, while his less wealthy opponent is forced to make do with whatever amount he can accumulate through relatively small contributions.

into standards of conduct made applicable to the entire citizenry.

For the reasons stated in the dissenting opinion of Mr. Justice Jackson in *Beauharnais* v. *Illinois*, 343 U.S. 250 288-295 (1952), and by Mr. Justice Harlan in his dissenting opinion in *Roth* v. *United States*, 354 U.S. 476, 500-503 (1957), I am of the opinion that not all of the strictures which the First Amendment imposes upon Congress are carried out against the States by the Fourteenth Amendment, but rather that it is only the "general principle" of free speech, *Gitlow* v. *New York*, 268 U.S. 652, 672 (1925) (Holmes J., dissenting), that the latter incorporates. See *Palko* v. *Connecticut*, 302 U.S. 319, 324-325 (1937).

Given this view, cases which deal with state restrictions on First Amendment freedoms are not fungible with those which deal with restrictions imposed by the Federal Government, and cases which deal with the government as employer or proprietor are not fungible with those which deal with the government as a lawmaker enacting criminal statutes applying to the population generally. The statute before us was enacted by Congress, not with the aim of managing the Government's property nor of regulating the conditions of Government employment, but rather with a view to the regulation of the citizenry as a whole. The case for me, then, presents the First Amendment interests of the appellants at their strongest, and the legislative authority of Congress in the position where it is most vulnerable to First Amendment attacks.

DEMOCRACY OR PLUTOCRACY? THE CASE FOR A CONSTITUTIONAL AMENDMENT TO OVERTURN BUCKLEY V. VALEO

(By Jonathan Bingham)

Abstract: In the early 1970s the U.S. Congress made a serious effort to stop the abuses of campaign financing by setting limits on contributions and also on campaign spending. In the 1976 case of Buckley v. Valeo, the Supreme Court upheld the regulation of contributions, but invalidated the regulation of campaign spending as a violation of the First Amendment. Since then, lavish campaigns, with their attendant evils, have become an ever more serious problem. Multimillion-dollar campaigns for the Senate, and even for the House of Representatives, have become commonplace. Various statutory solutions to the problem have been proposed, but these will not be adequate unless the Congress—and the states—are permitted to stop the escalation by setting limits. What is needed is a constitutional amendment to reverse the Buckley holding, as proposed by several members of Congress. This would not mean a weakening of the Bill of Rights, since the Buckley ruling was a distortion of the First Amendment. Within reasonable financial limits there is ample opportunity for that "uninhibited, robust and wide-open" debate of the issues that the Supreme Court correctly wants to protect.

The First Amendment is not a vehicle for turning this country into a plutocracy," says Joseph L. Rauh, the distinguished civil rights lawyer, deploring the ruling in Buckley v. Valeo.[1] It is the thesis of this article that the Supreme Court in Buckley was wrong in nullifying certain congressional efforts to limit campaign spending and that the decision must not be allowed to stand. While statutory remedies may mitigate the evil of excessive money in politics and are worth pursuing, they will not stop the feverish escalation of campaign spending. They will also have no effect whatever on the spreading phenomenon of very wealthy people's spending millions of dollars of their own money to get elected to Congress and to state office.

When the Supreme Court held a national income tax unconstitutional, the Sixteenth Amendment reversed that decision. Buckley should be treated the same way.

BACKGROUND

The Federal Election Campaign Act of 1971 was the first comprehensive effort by the U.S. Congress to regulate the financing of federal election campaigns. In 1974, following the scandals of the Watergatge era, the Congress greatly strengthened the 1971 act. As amended, the new law combined far-reaching requirements for disclosure with restrictions on the amount of contributions, expenditures from a candidate's personal funds, total campaign expenditures, and independent expenditures on behalf of identified candidates.

The report of the House Administration Committee recommending the 1974 legislation to the House explained the underlying philosophy:

"The unchecked rise in campaign expenditures, coupled with the absence of limitations on contributions and expenditures, has increased the dependence of candidates on special interest groups and large contributors. Under the present law the impression persists that a candidate can buy an election by simply spending large sums in a campaign. . . .

"Such a system is not only unfair to candidates in general, but even more so to the electorate. The electorate is entitled to base its judgment on a straightforward presentation of a candidate's qualifications for public office and his programs for the Nation rather than on a sophisticated advertising program which is encouraged by the infusion of vast amounts of money.

"The Committee on House Administration is of the opinion that there is a definite need for effective and comprehensive legislation in this area to restore and strengthen public confidence in the integrity of the political process." [2]

The 1974 act included a provision, added pursuant to an amendment offered by then Senator James Buckley, for expedited review of the law's constitutionality. In January 1976 the Supreme Court invalidated those portions that imposed limits on campaign spending as violative of the First Amendment's guarantee of free speech.

In his powerful dissent, Justice White said, "Without limits on total expenditures, campaign costs will inevitably and endlessly escalate." [3] His prediction was promptly borne out. Multimillion-dollar campaigns for the Senate have become the rule, with the 1984 Helms-Hunt race in North Carolina setting astonishing new records. It is no longer unusual for expenditures in contested House campaigns to go over the million-dollar mark; in 1982 one House candidate reportedly spent over $2 million of his own funds.

In 1982 a number of representatives came to the conclusion that the *Buckley* ruling should not be allowed to stand and that a constitutional amendment was imperative. In June Congressman Henry Reuss of Wisconsin introduced a resolution calling for an amendment to give Congress the authority to regulate campaign spending in federal elections. In December, with the cosponsoring of Mr. Reuss and 11 others,[4] I introduced a broader resolution authorizing the states, as well as the Congress, to impose limits on campaign spending. The text of the proposed amendment was:

"Section 1. The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office.

"Section 2. The several states may enact laws regulating the amounts of contributions and expenditures intended to affect elections to state and local offices." [5]

In the Ninety-eighth Congress, the same resolution was reintroduced by Mr. Vento and Mr. Donnelly and by Mr. Brown, Democrat of California, and Mr. Rinaldo, Republican of New Jersey. A similar resolution was introduced in the Senate by Senator Stevens, Republican of Alaska. As of the present writing, the resolution has been reintroduced in the Ninety-ninth Congress by Mr. Vento.[6]

No hearings have been held on these proposals, and they have attracted little attention. Even organizations and commentators deeply concerned with the problem of money in politics and run-away campaign spending have focused exclusively on statutory remedies. Common Cause, in spite of my pleading, has declined to add a proposal for a constitutional amendment to its agenda for campaign reform or even to hear arguments in support of the proposal. A constituency for the idea has yet to be developed.

THE NATURE OF THE PROBLEM

This article proceeds on the assumption that escalating campaign costs pose a serious threat to the quality of government in this country. There are those who argue the contrary, but their view of the nature of the problem is narrow. They focus on the facts that the amounts of money involved are not large relative to the gross national product and that the number of votes on Capitol Hill that can be shown to have been affected by campaign contributions is not over whelming.

The curse of money in politics, however, is by no means limited to the influencing of votes. There are at least two other problems that are, if anything, even more serious. One is the eroding of the present nonsystem on the public's confidence in our form of democracy. If public office and votes on issues are perceived to be for sale, the harm is done, whether or not the facts justify that conclusion. In *Buckley* the Supreme Court itself, in sustaining the limitations on the size of political contributions, stressed the importance of avoiding "the appearance of improper influence" as " 'critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.' " [7] What the Supreme Court failed to recognize was that " 'confidence in the system of representative government' " could likewise be " 'eroded to a disastrous extent' " by the spectacle of lavish spending, whether the source of the funds is the candidate's own wealth or the result of high-pressure fund-raising from contributors with an ax to grind.

The other problem is that excellent people are discouraged from running for office, or, once in , are unwilling to continue wrestling with the unpleasant and degrading task of raising huge sums of money year after year. There is no doubt that every two years valuable members of Congress decide to retire because they are fed up with having constantly to beg. For example, former Congressmen Charles Vanik of Ohio and Richard Ottinger of New York, both outstanding legislators, were clearly influenced by such considerations when they decided to retire, Vanik in 1980 and Ottinger in 1984. Vanik said, among other things, "I feel every contribution carries some sort of lien which is an encumbrance on the legislative process . . . I'm terribly upset by the huge amounts that candidates have to raise." [8] Probably an even greater number of men and women who would make stellar legislators are discouraged from competing because they cannot face the prospect of constant fund-raising or because they see a wealthy person, who can pay for a lavish campaign, already in the race.

In "Politics and Money," Elizabeth Drew has well described the poisonous effect of escalating campaign costs on our political system:

> Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than his opponent wins—though in races that are otherwise close, this tends to be the case. What matters is what the chasing of money does to the candidates, and to the victors' subsequent behavior. The candidates' desperation for money and the interests' desire to affect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well-armed interests have a head start over the rest of the citizenry—or that often it is not even a contest. . . . It is not even relevant which interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative government, the soul of this country.[9]

Focusing on the different phenomenon of wealthy candidates' being able to finance their own, often successful, campaigns, the late columnist Joseph Kraft commented that "affinity between personal riches and public office challenges a fundamental principal of American life." [10]

SHORTCOMINGS OF STATUTORY PROPOSALS

In spite of the wide agreement on the seriousness of the problems, there is no agreement on the solution. Many different proposals have been made by legislators, academicians, commentators, and public interest organizations, notably Common Cause.

One of the most frequently discussed is to follow for congressional elections the pattern adopted for presidential campaigns: a system of public funding, coupled with limits on spending.[11] Starting in 1955, bills along these lines have been introduced on Capitol Hill, but none has been adopted. Understandably, such proposals are not popular with incumbents, most of whom believe that challengers would gain more from public financing than they would.

Even assuming that the political obstacles could be overcome and that some sort of public financing for congressional candidates might be adopted, this financing would suffer from serious weaknesses. No system of public financing could solve the problem of the very wealthy candidate. Since such candidates do not need public funding, they would not subject themselves to the spending limits. The same difficulty would arise when aggressive candidates, believing they could raise more from private sources, rejected the government funds. This result is to be expected if the level of public funding is set too low, that is, at a level that the constant escalation of campaign costs is in the process of outrunning. According to Congressman Bruce Vento, an author of the proposed constitutional amendment to overturn *Buckley*, this has tended to happen in Minnesota, where very low levels of public funding are provided to candidates for state office.

To ameliorate these difficulties, some proponents of public financing suggest that the spending limits that a candidate who takes government funding must accept should be waived for that candidate to the extent an opponent reports expenses in excess of those limits. Unfortunately, in such a case one of the main purposes of public funding would be frustrated and the escalation of campaign spending would continue. The candidate who is not wealthy is left with the fearsome task of quickly having to raise additional hundreds of thousands, or even millions, of dollars.

Another suggested approach would be to require television stations, as a condition of their licenses, to provide free air time to congressional candidates in segments of not less than, for instance, five minutes. A candidate's acceptance of such time would commit the candidate to the acceptance of spending limits. While such a scheme would be impractical for primary contests—which in many areas are the crucial ones—the idea is attractive for general election campaigns in mixed urban-rural states and districts. It would be unworkable, however, in the big metropolitan areas, where the main stations reach into scores of congressional districts and, in some cases, into several states. Not only would broadcasters resist the idea, but the television-viewing public would be furious at being virtually compelled during pre-election weeks to watch a series of talking-head shows featuring all the area's campaigning senators and representatives and their challengers. The offer of such unpopular television time would hardly tempt serious candidates to accept limits on their spending.

Proponents of free television time, recognizing the limited usefulness of the idea in metropolitan areas, have suggested that candidates could be provided with free mailings instead. While mailings can be pinpointed and are an essential part of urban campaigning, they account for only a fraction of campaign costs, even where television is not widely used; accordingly, the prospect of free mailings would not be likely to win the acceptance of unwelcome campaign limits on total expenses.[12]

Yet another method of persuading candidates to accept spending limits would be to allow 100 percent tax credits for contributions of up to, say, $100 made to authorized campaigns, that is, those campaigns where the candidate has agreed to abide by certain regulations, including limits on total spending.[13] It is difficult to predict how effective such a system would be, and a pilot project to find out would not be feasible, since the tax laws cannot be changed for just one area. For candidates who raise most of their funds from contributors in the $50-to-$100 range, the incentive to accept spending limits would be strong, but for those—and they are many—who rely principally on contributors in the $500-to-$1000 range, the incentive would be much weaker. This problem could be partially solved by allowing tax credits for contributions of up to $100 and tax deductions for contributions in excess of $100 up to the permitted limit. Such proposals, of course, amount to a form of public financing and hence would encounter formidable political obstacles, especially at a time when budgetary restraint and tax simplification are considered of top priority.

Some of the most vocal critics of the present anarchy in campaign financing focus their wrath and legislative efforts on the political action committees (PACs) spawned in great numbers under the Federal Election Campaign Act of 1974. Although many PACs are truly serving the public interest, others have made it easier for special interests, especially professional and trade associations, to funnel funds into the campaign treasuries of legislators or challengers who will predictably vote for those interests. Restrictions, such as limiting the total amount legislative candidates could accept from PACs, would be salutary[14] but no legislation aimed primarily at the PAC phenomenon—not even legislation to eliminate PACs altogether—would solve the problem so well summarized by Elizabeth Drew. The special interests and favor-seeking individual givers would find other ways of funneling their dollars into politically useful channels, and the harassed members of Congress would have to continue to demean themselves by constant begging.

PAC regulation and all the other forms of statutory regulation suffer from one fundamental weakness: none of them would affect the multimillion-dollar self-financed campaign. Yet it is this type of campaign that does more than any other to confirm the widely held view that high office in the United States can be bought.

Short of a constitutional amendment, there is only one kind of proposal, so far as I know, that would curb the super-rich candidate, as well as setting limits for others. Lloyd N. Cutler, counsel to the president in the Carter White House, has suggested that the political parties undertake the task of campaign finance regulation.[15] Theoretically, the parties could withhold endorsement from candidates who refuse to abide by the party-prescribed limits and other regulations. But the chances of this happening seem just about nil. Conceivably a national party convention might establish such regulations for its presidential primaries, but to date most contenders have accepted the limits imposed under the matching system of public funding; John Connally of Texas was the exception in 1980. For congressional races, however, it is not at all clear what body or bodies could make such rules and enforce them. Claimants to such authority would include the national conventions, national committees, congressional party caucuses, various state committees, and, in some cases, county committees. Perhaps our national parties should be more hierarchically structured, but the fact is that they are not.

On top of all this, the system would work for general election campaigns only if both major parties took parallel action. If by some miracle they did so, the end result might be to encourage third-party and independent candidacies.

Let me make clear that I am not opposed to any of the proposals briefly summarized earlier. To the extent I had the opportunity to vote for any of the statutory proposals during my years in the House, I did so. Nor am I arguing that a constitutional amendment by itself would solve the problem; it would only be the beginning of a very difficult task. What I am saying is that, short of effective action by the parties, any system to reverse the present lethal trends in campaign financing must have as a basic element the restoration to the Congress of the authority to regulate the process.

THE MERITS OF THE BUCKLEY RULING

The justices of the Supreme Court were all over the lot in the Buckley case, with numerous dissents from the majority opinion. The most significant dissent, in my view, was entered by Justice White, who, alone among the justices, had had extensive experience in federal campaigns. White's position was that the Congress, and not the Court, was the proper body to decide whether the slight interference with First Amendment freedoms in the Federal Election Campaign Act was warranted. Justice White reasoned as follows:

"The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the Act. . . . In this posture of the case, there is no sound basis for invalidating the expenditure limitations, so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are. . . .

". . . expenditure ceilings reinforce contribution limits and help eradicate the hazard of corruption. . . .

"Besides backing up the contribution provisions, . . . expenditure limits have their own potential for preventing the corruption of federal elections themselves."[16]

Justice White further concluded that:

"Limiting the total that can be spent will ease the candidate's understandable obsession with fundraising, and so free him and his staff to communicate in more places and ways unconnected with the fundraising function.

"It is also important to restore and maintain public confidence in federal elections. It is critical to obviate and dispel the impression that federal elections are purely and simply a function of money, that federal offices are bought and sold or that political races are reserved for those who have the facility—and the stomach—for doing whatever it takes to bring together those interests, groups, and individuals that can raise or contribute large fortunes in order to prevail at the polls."[17]

Two of the judges of the District of Columbia Circuit Court, which upheld the 1974 act—judges widely respected, especially for their human rights concerns—later wrote law journal articles criticizing in stinging terms the Supreme Court's holding that the spending limits were invalid. For example, the late Judge Harold Leventhal said in the *Columbia Law Review*:

"The central question is: what is the interest underlying regulation of campaign expenses and is it substantial? The critical interest, in my view, is the same as that accepted by the [Supreme] Court in upholding limits on contributions. It is the need to maintain confidence in self-government, and to prevent the erosion of democracy which comes from a popular view of government as responsive only or mainly to special interests.[18]

"A court that is concerned with public alienation and distrust of the political process cannot fairly deny to the people the power to tell the legislators to implement **this one word principle: Enough!"** [19]

Here are excerpts from what Judge J. Skelly Wright had to say in the *Yale Law Journal:*

"The Court told us, in effect, that money is speech.

. . . [This view] accepts without question elaborate mass media campaigns that have made political communication expensive, but at the same time, remote, disembodied, occasionally . . . manipulative. Nothing in the First Amendment . . . commits us to the dogma that money is speech.[20]

. . . far from stifling First Amendment values, [the 1974 act] actually promotes them. . . . In place of unlimited spending, the law encourages all to emphasize less expensive face-to-face communications efforts, exactly the kind of activities that promote real dialogue on the merits and leave much less room for manipulation and avoidance of the issues." [21]

The Supreme Court was apparently blind to these considerations. Its treatment was almost entirely doctrinaire. In holding unconstitutional the limits set by Congress on total expenditures for congressional campaigns and on spending by individual candidates, the Court did not claim that the dollar limits set were unreasonably low. In the view taken by the Court, such limits were beyond the power of the Congress to set, no matter how high.

Only in the case of the $1000 limit set for spending by independent individuals or groups "relative to a clearly identified candidate" did the Court focus on the level set in the law. The Court said that such a limit "would appear to exclude all citizens and groups except candidates, political parties and the institutional press from any significant use of the most effective modes of communication." [22] In a footnote, the Court noted:

"The record indicates that, as of January 1, 1975, one full-page advertisement in a daily edition of a certain metropolitan newspaper cost $6,971.04—almost seven times the annual limit on expenditures "relative to" a particular candidate imposed on the vast majority of individual citizens and associations."[23]

The Court devoted far more space to arguing the unconstitutionality of this provision than to any of the other limits, presumably because on this point it had the strongest case. Judge Leventhal, too, thought the $1000 figure for independent spending was unduly restrictive and might properly have been struck down. As one who supported the 1974 act while in the House, I believed, with the benefit of hindsight, that the imposition of this low limit on independent expenditures was a grave mistake.

Let us look for a moment at the question of whether reasonable limits on total spending in campaigns and on spending by wealthy candidates really do interfere with the "unfettered interchange of ideas," "the free discussion of governmental affairs," and the "uninhibited, robust and wide-open" debate on public issues that the Supreme Court has rightly said the First Amendment is designed to protect.[24] In *Buckley* the Supreme Court has answered that question in the affirmative when the limits are imposed by law under Congress's conceded power to regulate federal elections. The Court answered the same question negatively, however, when the limits were imposed as a condition of public financing. In narrow legalistic terms the distinction is perhaps justified, but, in terms of what is desirable or undesirable under our form of government, I submit that the setting of such limits is either desirable or it is not.

Various of the solutions proposed to deal with the campaign-financing problem, statutory and nonstatutory, raise the same question—for example, the proposal to allow tax credits only for contributions to candidates who have accepted spending limits, and the proposal that political parties should impose limits. All such proposals assume that it is good policy to have such limits in place. They simply seek to avoid the inhibition of the *Buckley* case by arranging for some carrot-type motivation for the observance of limits instead of the stick-type motivation of compliance with a law.

I am not, of course, suggesting that those who make these proposals are wrong to do so. What I am suggesting is that they should support the idea of undoing the damage done by *Buckley* by way of a constitutional amendment.

Summing up the reason for such an amendment, Congressman Henry Reuss said, "Freedom of speech is a precious thing. But protecting it does not permit someone to shout 'fire' in a crowded theater. Equally, freedom of speech must not be stressed so as to compel democracy to commit suicide by allowing money to govern elections." [25]

INDEPENDENT EXPENDITURES IN PRESIDENTIAL CAMPAIGNS

Until now the system of public financing for presidential campaigns, coupled with limits on private financing, has worked reasonably well. Accordingly, most of the proposals mentioned previously for the amelioration of the campaign-financing problem have been concerned with campaigns for the Senate and the House.

In 1980 and 1984, however, a veritable explosion occurred in the spending for the presidential candidates by allegedly independent committees—spending that is said not to be authorized by, or coordinated with, the campaign committees. In both years, the Republican candidates benefited far more from this type of spending than the Democratic: in 1980, the respective amounts were $12.2 million and $45,000; in 1984, $15.3 million and $612,000.[26]

This spending violated section 9012(f) of the Presidential Campaign Fund Act, which prohibited independent committees from spending more than $1000 to further a presidential candidate's election if that candidate had elected to take public financing under the terms of the act. In 1983 various Democratic Party entities and the Federal Election Commission, with Common Cause as a supporting amicus curiae, sued to have section 9012(f) declared constitutional, so as to lay the groundwork for enforcement of the act. These efforts failed. Applying the *Buckley* precedent, the three-judge district court that first heard the case denied the relief sought, and this ruling was affirmed in a 7-to-2 decision by the Supreme Court in *FEC* v. *NCPAC* in March 1985.[27]

The *NCPAC* decision clearly strengthens the case for a constitutional amendment to permit Congress to regulate campaign spending. For none of the statutory or party-action remedies summarized earlier would touch this new eruption of the money-in-politics volcano.

True, even with a constitutional amendment in place, it would still be possible for the National Conservative Political Action Committee or other committees to spend unlimited amounts for media programs on one side of an issue or another, and these would undoubtedly have some impact on presidential—and other—campaigns. However, the straight-out campaigning for an individual or a ticket, which tends to be far more effective than focusing on issues alone, could be brought within resonable limits.

LOOKING AHEAD

The obstacles in the way of achieving a reversal of *Buckley* by constitutional amendment are, or course, formidable. This is especially true today when the House Judiciary Committee is resolutely sitting on other amendments affecting the Bill of Rights and is not disposed to report out any such amendments.

In addition to the practical political hurdles to be overcome, there are drafting problems to solve. The simple form so far proposed[28]—and quoted previously—needs refinement.

For example, if an amendment were adopted simply giving to the Congress and the states the authority to "enact laws regulating the amount of contributions and expenditures intended to affect elections."[29] the First Amendment question would not necessarily be answered. The argument could still be made, and not without reason, that such regulatory laws, like other powers of the Congress and the states, must not offend the First Amendment. I asked an expert in constitutional law how this problem might be dealt with, and he said the only sure way would be to add the words "notwithstanding the First Amendments." But such an addition is not a viable solution. The political obstacles in the way of an amendment overturning *Buckley* in its interpretation of the First Amendment with respect to campaign spending are grievous enough; to ask the Congress—and the state legislatures—to create a major exception to the First Amendment would assure defeat.

The answer has to be to find a form of wording that says, in effect, that the First Amendment can properly be interpreted so as to permit reasonable regulation of campaign spending. In my view, it would be sufficient to insert in the proposed amendment,[30] after "The Congress," the words "having due regard for the need to facilitate full and free discussion and debate." Section 1 of the amendment would then read, "The Congress, having due regard for the need to facilitate full and free discussion and debate, may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office." Other ways of dealing with this problem could no doubt be devised.

Another drafting difficulty arises from the modification in the proposed amendment of the words "contributions and expenditures" by "intended to affect elections." This language is appropriate with respect to money raised or spent by candidates and their committees, but it does present a problem in its application to money raised and spent by allegedly independent committees, groups, or individuals. It could hardly be argued that communications referring solely to issues, with no mention of candidates, could, consistent with the First Amendment, be made subject to spending limits, even if they were quite obviously "intended to affect" an election. Accordingly, a proper amendment should include language limiting the regulation of "independent" expenditures to those relative to "clearly identified" candidates, language that would parallel the provisions of the 1971 Federal Election Campaign Act, as amended.[31]

These are essentially technical problems that could be solved with the assistance of experts in constitutional law if the Judiciary Committee of either house should decide to hold hearings on the idea of a constitutional amendment and proceed to draft and report out an appropriate resolution.

Many of those in and out of Congress who are genuinely concerned with political money brush aside the notion of a constitutional amendment and focus entirely on remedies that seem less drastic. They appear to assume that Congress is more likely to adopt a statutory remedy, such as public financing, than to go for an enabling constitutional amendment that could be tagged as tampering with the Bill of Rights. I disagree with that assumption.

Incumbents generally resist proposals such as public financing because challengers might be the major beneficiaries, but most incumbents tend to favor the idea of spending limits. The Congress is not by its nature averse to being given greater authority; that would be especially true in this case, where until 1976 the Congress always thought it had such authority. I venture to say that if a carefully drawn constitutional amendment were reported out of one of the Judiciary Committees, it might secure the necessary two-thirds majorities in both houses with surprising ease.

The various state legislatures might well react in similar fashion. A power they thought they had would be restored to them.

The big difficulty is to get the process started, whether it be for a constitutional amendment or a statutory remedy or both. Here the villain, I am afraid, is public apathy. Unfortunately, the voters seem to take excessive campaign spending as a given—a phenomenon they can do nothing about—and there is no substantial constituency for reform. The House Administration Committee, which in the early 1970s was the spark plug for legislation, has recently shown little interest in pressing for any of the legislative proposals that have been put forward.

The 1974 act itself emerged as a reaction to the scandals of the Watergate era, and it may well be that major action, whether statutory or constitutional, will not be a practical possibility until a new set of scandals bursts into the open. Meanwhile, the situation will only get worse.

FOOTNOTES

[1] Personal communication with Joseph L. Rauh, Mar. 1985; *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

[2] U.S. Congress, House, Committee on House Administration, *Federal Election Campaign Act. Amendments of 1974: Report to Accompany H.R. 16090*, 93rd Cong., 2d ses., 1974, H. Rept. 93-1239, pp. 3-4.

[3] 424 U.S., p. 264.

[4] The other representatives were Mrs. Fenwick, Republican of New Jersey; Ms. Mikulski, Democrat of Maryland; and Messrs. Bevill, Democrat of Alabama; Donnelly, Democrat of Massachusetts; D'Amours, Democrat of New Hampshire; Edgar, Democrat of Pennsylvania; LaFalce, Democrat of New York; and Wolpe, Democrat of Michigan.

[5] U.S. Congress, House, *Proposing an Amendment to the Constitution of the United States Relative to Contributions and Expenditures Intended to Affect Congressional, Presidential and State Elections*, 97th Cong., 2d sess., 1982, H.J. Res. 628, p. 2.

[6] Ibid., 99th Cong., 1st sess., 1985, H.J. Res. 88.

[7] 424 U.S., p. 27, quoting *CSC* v. *Letter Carriers*, 413 U.S. 548, 565 (1973); see also 424 U.S., p. 30.

[8] Quoted by Congressman Henry Reuss, in U.S., Congress, House, *Congressional Record*, daily ed., 97th Cong., 2d sess., 1982, 128(81):H3900.

[9] *New Yorker*, 6 Dec. 1982, pp. 55-56.

[10] *Washington Post*, 2 Nov. 1982.

[11] In the *Buckley* case the Supreme Court simply assumed that limits on spending were not a violation of free speech when acceptance of such limits was made the condition for receiving public funds. 424 U.S., pp. 85-110. See also Charles McC. Mathias, Jr., "Should There Be Public Financing of Congressional Campaigns?" this issue of *The Annals* of the American Academy of Political and Social Science.

[12] A variation of the idea of free television and/or mail, proposed by Common Cause and others, would provide for such privileges as a means of answering attacks made on candidates by allegedly independent organizations or individuals. See Fred Wertheimer, "Campaign Finance Reform: The Unfinished Agenda," this issue of *The Annals* of the American Academy of Political and Social Science.

[13] See ibid.

[14] The Obey-Railsback Act, which contained such restrictions, actually passed the House in 1979, but got no further. See ibid.

[15] See Lloyd N. Cutler, "Can the Parties Regulate Campaign Financing?" this issue of *The Annals* of the American Academy of Political and Social Science.

[16] 424 U.S., pp. 263-64.

[17] Ibid., p. 265.

[18] Leventhal, "Courts and Political Thickets," *Columbia Law Review*, 77:362 (1977).

[19] Ibid., p. 368.

[20] Wright, "Politics and the Constitution: Is Money Speech?" *Yale Law Journal*, 85:1005 (1979).

[21] Ibid., p. 1019.

[22] 424 U.S., pp. 20-21.

[23] Ibid., p. 21.

[24] *Roth* v. *United States*, 354 U.S. 476, 484 (1957); *Mills* v. *Alabama*, 384 U.S. 214, 218 (1966); *New York Times* v. *Sullivan*, 376 U.S. 254, 270 (1964).

[25] U.S., Congress, House, *Congressional Record*, 97th Cong., 2d sess., daily ed., 128(81):H3901.

[26] *New York Times*, 19 Mar. 1985.

[27] *FEC* v. *NCPAC*, 105 S.Ct. 1459 (1985).

[28] U.S., Congress, House, *Contributions and Expenditures*, H.J. Res. 628.

[29] Ibid.

[30] Ibid.

[31] 2 U.S.C.A. § 431(17).

Mr. HOLLINGS. I thank the distinguished officer. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. FOWLER) Without objection, it is so ordered.

AMENDMENT NO. 1954

(Purpose: To provide for a Balanced Budget-Tax Limitation Constitutional Amendment)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1954.

Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

ARTICLE—

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION 6. On and after the date this article takes effect, the amount of Federal public debt limit as of such date shall become permanent and there shall be no increase in such amount unless three-fifths of the whole number of both Houses of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. This article shall take effect for the second fiscal year beginning after its ratification.".

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, I have offered the balanced budget amendment to the Constitution that was adopted by the U.S. Senate in 1982. That amendment was discharged in the House after 218 Members of the House went to the Speaker's table and filed a discharge petition.

Under the discharge petition procedure, that would have brought the amendment voted on by the Senate to the floor of the House and would have required a vote.

As it turned out, the date for that vote would have been during a recess. An agreement was worked out between the Democrat and Republican leadership in the House which allowed the House leadership to offer an amendment that was written overnight and that, in essence, contained language to the effect that if and when Congress wanted to balance the budget, it would be wonderful.

That was offered as a substitute, and that failed. Then the amendment itself was not adopted by the requisite two-thirds vote in the House.

Mr. President, with the offering of this amendment, I give this great body an opportunity to vote on the No. 1 problem in America, and that problem is deficit spending. We have before us an amendment that was adopted by two-thirds vote in 1982. We came within one vote of adopting it again in the following Congress.

I think this is an important constitutional issue. I think it is one that is worthy of our attention.

I think the amendment before us, that this amendment was offered as a substitute for, is not worthy of our attention. It is the result of a long period of what I would call bait-and-switch procedure, whereby various special interest groups ran around the country screaming and hollering about political action committees taking over the political process, and about the need to limit PAC's, and then, lo and behold, we end up with a bill that has nothing to do with PAC's, but instead limits the freedom of people to go out and raise money and to use that money to put their message before the people.

I think it is instructive to note that long before we got to this stage, the various proposals to limit political action committees had been dropped. I do not claim there is not an issue here. I just claim that if you look at the whole history of our great Constitution, that the issue of campaign spending that is currently before us is not worthy of inclusion as an amendment to the Constitution.

The amendment that I have offered to the pending business is worthy of inclusion, however. I would like to remind my colleagues that when Jefferson came back from France where he had been minister to France during the writing of the Constitution, he had studied the document. He said:

> If I could change one thing about it, I would change the ability or limit the ability of the Federal Government to borrow money.

This amendment would correct a flaw in the Constitution found by Jefferson, a flaw that has been recognized many times since then. The balanced budget amendment would limit the power of the Federal Government to deficit spend. We would force Congress to address the deficit issue.

We have on the books a bill that I am quite proud of, a bill I coauthored with the distinguished Senator from South Carolina and the distinguished Senator from New Hampshire, and I believe it has had a good effect. It is not a perfect bill, but I think it has had a positive impact.

But the problem with it is: what Congress can make, Congress can unmake. By placing in the Constitution a requirement to balance the budget, we are saying that unless there is a sufficient consensus of opinion to reverse it through the constitutional process, then Congress will be forced to live up to it.

With the adoption of this amendment, we could change the fiscal policy of the Federal Government forever. I think we could greatly change for the better the projected economic future of the country.

I would be willing to bet that, if this amendment were adopted by the House and Senate and ratified by the States, there would be a substantial jump in the equity value of the American equity markets, that there would be a massive inflow of foreign capital, and there would be an economic boom resulting just from the fundamental change in the policy of the Federal Government.

I do not doubt that we can come back and do other things that can offset that and derail it, but I think we are talking about an opportunity to do something historic, an opportunity to change forever the fiscal course that the Nation is on.

I think no one argues that that course is the proper course if we want to promote the well-being of the working men and women of America and those future generations who will call themselves Americans.

So I hope we have an opportunity to vote on this amendment. It gives us a clear choice: Do we want an opportunity in this Congress to vote on the balanced budget amendment to the Constitution? The issues are well understood. We have voted on them before in 1982. The Senate by more than the required two-third's vote adopted this amendment. I look forward to having an opportunity to vote on it again. I hope we have the requisite numbers, and I urge my colleagues to join me in supporting this amendment.

Mr. HOLLINGS. Mr. President, my distinguished colleague from Texas gives us an opportunity to make some observations on an ancillary problem, namely deficit spending. We have all heard, I would not say ad infinitum but perhaps ad nauseam, from the Senator from South Carolina and the Senator from Texas concerning the famous Gramm-Rudman-Hollings efforts. I am proud, Mr. President, of the fact that of the 14 votes up and down on Gramm-Rudman-Hollings, a majority of Democrats in this body have supported and voted for Gramm-Rudman-Hollings. It has been a bipartisan approach, and it has been a bipartisan concern. We do not take from the Republicans and the Republicans do not take from us that fundamental of a properly run, fiscally responsible Government.

What has really occurred is that we have not had, Mr. President, the leadership at the executive level. I say that advisedly.

I came from 10 years of experience in the State legislature in both the House and Senate. At the time we had in South Carolina, and still have, the constitution of 1895, which said, "Thy budget shall be balanced" Of course, we used to disregard more than comply with that requirement; we always were in the red. I knew I had problems because we had a low per capita tax. We had all those moonlight magnolias and the barbeques to get people to come South and build industry, but we were mature enough to realize what the problem was. Our people lacked skills. They needed technical training. Businesses needed some kind of assurance that they would not get stuck with the bill for the previous year's extravagance.

So what occurred was that I determined we were going to pay that bill and set a course of conduct that could be relied upon by industry considering a move to our State. At the time, my colleagues in both the house and senate back in Columbia, SC, just before my inauguration, some very close friends, said, "You are going to bust your britches on this one." Every Governor comes in and he says, "It is my duty to outline the needs and let the General Assembly in their wisdom determine how to meet those particular needs." That gets the Governor out of being for taxes.

Well, I came out for taxes. I said, "That is a copout, and if the Governor cannot make up his mind how to take care of those needs, you cannot expect the house and the senate to get together."

So it was a track record of hard experience under a constitutional amendment that required this action. I know better than most that a constitutional amendment does not a balanced budget give.

Now, to get right to the point of the Senator from Texas, of course, it is not germane but he can come in under these rules and put in an amendment in the nature of a substitute and put us off the subject of campaign financing and on to the deficit spending. I really believe my distinguished colleague and I, who are in agreement on many things, also understand that what really in a genuine sense holds back certain Senators on this score is that they are fearful that the Senate will not pass limits of a sufficient amount in order to run a credible campaign.

Now, that is a rather hard statement to make, but I want to be realistic. In the State of Texas, it is going to cost way more than in the State of South Carolina. Each Senator will say, in order to get the proper exposure, you have to have a minimum of 3 million. The Senator from Texas would say, all right, the members of the Democratic Party all have a lot of good friends in organized labor, they have the personnel, they have the troops, they are willing to volunteer. They are willing to come around and operate the telephone banks. They are willing to get the cars and everything else. And if I am going to come into a campaign, I need a certain amount of money to overcome that already built-in advantage.

Well, right to the point, Senate Joint Resolution 282 does not give either party an advantage in terms of voluntary, noncash contributions to campaigns. It is not just labor that provides troops to campaigns, it is more the National Association of Manufacturers, the Chamber of Commerce, and the different right-to-work groups. They are organized, and they have personnel.

Mr. President, we have the authority to limit the freedom of speech of the contributor, but under Buckley versus Valeo, we do not have the authority to limit the freedom of speech of the participant or recipient of that contribution. He can spend to the high heavens his money or anything else he can get his hands on. The contributor is limited in his speech. The participant or recipient is unlimited. It is just an absolute distortion of legal rationale.

Incidentally, since I have the kind attention of the distinguished Presiding Officer, we have the independent contributions coming in from the side and in an oblique fashion. You can have two independent movements. The one independent movement can collect $1 million. The other independent movement can collect $1 million. One in behalf of your candidacy can come up to you and tell you about it, and say, "This is what I am doing," and everything else. If they spend that $1 million as an independent, it is over the limitations, because I am aware of it and I have given approval for it, and bam; they are subject to the criminal statutes. They are criminals. The other independent movement, say, in opposition to you, tells you nothing, just goes ahead with that $1 million, doesn't tell you, has not gotten your approval. And under Buckley versus Valeo, that is a proper independent expenditure.

So while I would on another occasion join in voting for a constitutional amendment for a balanced budget, I will decline this time so we can stay focused on the original Senate Joint Resolution 282. I realize there will be hell to pay. My future opponent will say I voted a dozen times for a constitutional amendment, but then I got reelected in 1986, and on April 17 on the floor of the U.S. Senate, I voted against the balanced budget amendment proposed by my own colleagues. You opposed Senator GRAMM. You were with him before. But then you got in with that fuzzy liberal crowd that is spending wild and breaking the Government, and now you are voting against a balanced-budget amendment.

So there you are. I am in a suit. These fellows are good. They are saying incumbency is an advantage. No, no. You get shot in the back every day around this blooming place. It is hard to defend yourself but defend I must on this particular score with respect to this constitutional amendment.

I am not interested in Kibbles n' Bits and cosmetics and bottled water, horses and bluegrass or the deficit.

I have given enough time to the deficit, and I want to get a little time now, let us say, Mr. President, to get on with the subject at hand.

AMENDMENT NO. 1955 TO AMENDMENT NO. 1954

Mr. HOLLINGS. So I send an amendment to the desk, Mr. President, and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], proposes an amendment numbered 1955 to amendment 1954.

In the matter to be inserted strike all after the word *"that"* on line 4 and insert the following:

The following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and one day after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1956 TO AMENDMENT NO. 1955

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], proposes an amendment numbered 1956.

In the matter to be inserted strike all after the word *"article"* on line 4 and insert the following:

Is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and two days after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.”.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, what I have obviously tried to do—I do not know whether I have done it successfully, but I have learned—is try to fill up the tree and get us back on track with respect to campaign financing. I would be delighted to hear from the Senator on the balanced budget.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

MOTION TO RECOMMIT

Mr. GRAMM. I send a motion to recommit to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Motion to recommit the pending joint resolution to the Committee on the Judiciary with instructions that the Committee report the joint resolution back to the Senate forthwith with the following amendment: That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

ARTICLE —

“SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the motion be dispensed with.

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. The clerk will continue to report the motion.

The bill clerk resumed reading the motion as follows:

The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that acual outlays do not exceed the outlays set forth in such statement.

“SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

“SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

“SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

“SECTION 5. The Congress shall enforce and implement this article by appropriate legislation.

“SECTION 6. On and after the date this article takes effect, the amount of Federal public debt limit as of such date shall become permanent and there shall be no increase in such amount unless three-fifths of the whole number of both Houses of Congress shall have passed a bill approving such increase and such bill has become law.

“SECTION 7. This article shall take affect for the second fiscal year beginning after its ratification.”.

Mr. HOLLINGS and Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1957 TO MOTION TO RECOMMIT

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1957:

In the amendment I strike all after the word *That* on page two, line one and insert the following:

The following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and three days after the date of final passage of this joint resolution:

“ARTICLE —

“SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

“SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.”.

AMENDMENT NO. 1958 TO AMENDMENT NO. 1957

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1958:

In the amendment strike all after the word “article” on line 4 and insert the following:

“Is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and four days after the date of final passage of this joint resolution:

“ARTICLE —

“SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

“SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.”.

FOURTH-FIVE MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent, in order that Senators may attend briefings that are going on in room S-407, that the Senate stand in recess for 45 minutes.

There being no objection, the Senate recessed at 3:38 p.m. until 4:23 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROCKEFELLER].

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I listened with considerable interest to the most recent remarks of my friend from South Carolina quoting the Senator from Washington, Senator EVANS' article, I believe it was yesterday, about his frustrations with this body. I have heard a number of people in the Senate discussing it. I have not read it.

I might say, again with the caveat that I have not read the article, that I assume among those frustrations was not the problem that we have been discussing here today since my colleague, Senator EVANS, is both a vigorous opponent of S. 2, and also an opponent of the constitutional amendment which would provide for spending limits.

So I would not want anyone in this body or out of it to conclude that was one of the frustrations.

With regard to the measure before us, obviously, the whole purpose here as everyone well knows is to allow the Congress to have the authority which it does not have under Buckley versus Valeo to impose a series of limits on campaign expenditures even without the incentive of public financing, the presumption being that if we could just get that public money out of it all of a sudden it would be a good idea.

Let me say, and I think the good people on this side of the aisle certainly believe that putting a limitation on participation, provided it comes in limited and fully disclosed contributions, is certainly not a step in the right direction. Beyond that, as we all know, as a practical matter my party has moved to a position of relative parity in this country during the last 12 or 15 years, has become competitive in the southern region of our country, principally because of its superior efforts and good success in attracting a broad array of rather small contributors to our cause.

The typical Republican contributor out across America is a person who owns the pharmacy, or takes care of patients, or deals with clients, or runs a small business and is very much involved in creating the wealth upon which this country thrives. Those kinds of folks are by definition not likely to be available for the telephone bank or going door to door or a variety of other political activities. The way they participate in the American political process is to make a contribution, and the contribution typically is not very large. The average contribution to my party and its candidates over those years has been 300 bucks. That is the way they participate in the political process, to give us a chance to compete in areas where we do not have any support.

In my area of the country we do not have any organizations, we do not have any businesses, we do not have the teachers, we do not have anything. How do we compete? We compete by building a group of small contributors not only in our State but across the land who stand for the things that we stand for, and are willing to back it up and give it a chance to be competitive. As a result of that we have now in my section of the country, in most States at least, some semblance at least of a two-party system.

It certainly does mean more vigorous competition. It means it is going to be very, very difficult to lock in your seat just because you happen to be an incumbent Democratic Senator in the South. You do not just automatically get a free ticket for reelection for the rest of your life. You have to get out and compete for it. Compete for it; that is what it ought to be about. The two-party system is good for America, and it is good for the States who have not had it.

What about the spending limit, Mr. President? What will it bring about?

We have an example before us, and that example is the Presidential system which was created in 1976, the Presidential election in that year. We have campaigns that are, by and large, choked with red tape.

In 1980, the Reagan and Carter campaigns both budgeted one out of every four campaign dollars to legal and accounting expense. Total spending in 1980 by all candidates on lawyers and accountants was $21.4 million, as much as was spent overall on the most expensive Senate race in history. That was just for compliance, in one Presidential race, 1980.

In 1984, Reagan and Mondale spent $1 million each on compliance costs, which means crack teams of lawyers and accountants who can find new loopholes and creative accounting methods.

In 1988, one of the candidate's campaign staff processed each contribution through over 100 steps to ensure compliance with a maze of regulations.

A blue-ribbon panel of campaign experts found that this system: "Restricts campaigns in a way that unduly dictates their political strategies. What should remain purely political decisions have become accounting decisions."

In presidential politics today, it does not matter anymore who has the best ideas or most suppport, it is who has the best lawyers and most accountants.

Professor Arterton of Yale University has said that:

> Trying to put a dollar figure on the money spent in presidential contests is akin to figuring out how much the outlaws carried away from a train robbery—there are just too many pockets to add up.

John F. Kennedy School of Government at Harvard found: Spending limits and taxpayer financing in presidential elections have not stopped the exponential growth of spending in campaigns.

After a temporary setback in 1976, the money flowing into presidential politics is increasing at approximately the same rate as was the case before spending limits and taxpayers financing were instituted.

We cannot even be sure any more how much spending is growing, because the spending limits are forcing money into soft money and internal communications—unreported to the FEC.

As I said earlier in the debate, spending limits are as effective as putting a rock on top of Jello: It just forces it out to the side and other channels, and the spending continues in an unlimited, undisclosed, unreported way.

The cheating goes on as never before. It is hard to use a word like that, but it is the inevitable result of a foolish proposal. I have likened it in the past to prohibition. This amendment would have as much chance limiting spending as prohibition did limiting the consumption of alcohol.

The number of Federal election commission enforcement actions has grown exponentially.

FEC actions—for substantive violations of Federal election law—have been filed against every major candidate since the system was instituted in 1976.

The simple fact is that spending limits are not working; they are merely an invitation for abuse, fraud, and disrespect for law.

Another aspect of cheating is the State spending limits. Under the Presidential system, we have a State-by-State spending limit, supposedly.

Candidates spend money to TV ads in Massachusetts to reach voters in New Hampshire.

Mail sent to Iowa from New York is charged to New York.

Incumbents use funds allotted for their primary to prepare for the general election contest.

In 1984, according to Bob Beckel, the top guy in the Mondale campaign, his campaign spent about $2 million in New Hampshire alone; the limit that year was $400,000.

The campaign finally got caught when it charged $56,000 to its Massachusetts budget—for rented cars that never left Iowa or New Hampshire.

Cheating on overall spending limits with delegate committees is another interesting circumvention.

This campaign also used its delegate selection committees to circumvent spending and contribution limits—and the nominee's own promise not to accept PAC contributions.

Campaign lawyers found that delegate committees were "a loophole big enough to drive a truck through."

Overall, these committees raised and spent $750,000, including contributions from "maxed-out" donors.

Another way to get around it is cheating on overall limits with precandidacy committees.

By the way, Mr. President, I do not mean to single out anybody in this. These are devices used by everybody who runs for President, the inevitable result of a system like this.

From 1981 to 1984, "Fund for a Democratic Majority" raised and spent $5 million—but gave away only $380,000—less than 8 percent—to other candidates.

Since 1980, nearly every contender forms a pre-candidacy committee for the supposed purpose of assisting other candidates.

Instead, these committees are creatively used to buy political favors and spread the contender's name across the country—all outside the legal spending limits.

By the way, all these are well tested and will work equally well in congressional campaigns as they have in the Presidential system, except the State-by-State limits. Other than that, these will work just fine to get around the law.

Have labor groups pay the deposit costs for phone banks, share office space with special interests and save on rent, get friendly banks and corporations to extend generous credit accounts with skimpy collateral, use personal credit cards to loan money to your campaign after you exceed the personal $50,000 limit.

This kind of cesspool of abuses breeds disrespect for law and the election process.

There is an interesting article in today's Star Tribune, a newspaper of the Minneapolis-St. Paul community. The headline is: "Plump Cats Help Make Campaign-Spending Reforms Into Joke." This is today's paper. Some pertinent quotations relating to how the system has been working under the Presidential system that we hope to emulate here:

> Reforms of the Watergate era were supposed to curb the influence of money in presidential politics. New laws limited the size of individual contributions and put a cap on candidate spending.
>
> The reforms have failed. Candidates are more obsessed with money than ever. The spending rules have become a joke.
>
> "There have been so many loopholes written into the law that it holds the whole thing up to ridicule," Walter Mondale said in a recent interview. "It encourages public cynicism and apathy."
>
> Mondale ought to know. In 1984, his campaign took advantage of some of those loopholes to build one of the most impressive Democratic fund-raising operations in recent times.

Further in the article:

> Well, the old cadre of fat cats who wrote big checks to candidates has been eclipsed. But they were simply replaced by a new group of "plump cats," moderately well-off lawyers and developers who know how to raise smaller contributions from a large number of people.
>
> And behind the scenes, the wealthy-still can give unlimited sums to a nominee. It simply requires more ingenuity than it did in the past.
>
> The spending limits that were supposed to level the playing field during the primary season have become an object of universal scorn. Campaign workers in 1988 can tell stories of evading the $770,000 spending cap in Iowa by renting cars in Nebraska and paying staff salaries with funds from other states. Using these and other techniques, several campaigns reportedly exceeded the Iowa spending ceiling by more than $1 million each this year.
>
> Candidates know that if they are caught breaking the rules, the risk is minimal. The Federal Election Commission (FEC), which has the job of enforcing finance regulations, is a toothless agency known for inconsistent and delayed decisions. It took until late 1987, for example, for the FEC to fine Mondale's campaign for exceeding the New Hampshire spending limits in 1984.
>
> To understand how fund raising works in the post-Watergate era, go back to the August 1984 telephone conversation between Minneapolis lawyer Tom Borman and Mark Dayton; the DFL stalwart and members of the department store family.
>
> The telephone call linked two young men whose experience spans the political fund-raising experience of the 1980s. Dayton is the Minnesota DFLer of the silver spoon (he spent nearly $7 million of his own money in his unsuccessful 1982 bid for the U.S. Senate). Borman is the DFLer of the golden Rolodex, a man who knows how to extract contributions from lots of people.
>
> Borman's skill helped Mondale raise $2 million in Minnesota and earned the 36-year-old attorney a national reputation as one of the best of the new breed of fund-raisers.
>
> On this day in late August, Borman told Dayton how well the Republican Party had done raising millions privately for the general election. Mondale needed help to compete, Borman said, and the money was needed fast.
>
> At the end of the call, Dayton acquiesced, writing a check on the spot for $100,000. News of his gift traveled quickly—the next day he received a thank-you call from Mondale. But the FEC never was informed of it nor should it have been. Dayton's contribution was perfectly legal.
>
> Wait a minute.
>
> Weren't individual donations to be limited to $1,000 and weren't those contributions supposed to be disclosed to the FEC? Well, that was the intent of the election reform law. But Dayton took advantage of one of the many large loopholes in the rules.
>
> Back about 1972, the nation was scandalized to learn that secret funds raised from a small circle of corporations and millionaries were used to finance Richard Nixon's presidential campaign. And there was a strong correlation found between those who gave large sums and those who received presidential appointments.
>
> That sort of unseemly behavior was supposed to be curbed by the reforms. But the rules had loopholes "as wide as a truck door," Mondale said. As a result, they never reduced the role of big money in presidential campaigns.
>
> The new rules reduced the visibility of rich men, like Dayton, very rich men like investment banker Herb Allen (who wrote out a $250,000 check for Hubert Humphrey) or insurance magnate W. Clement Stone (who wrote out checks totaling $5 million to Nixon's campaigns,) and has replaced them with men like Borman.
>
> But wealthy contributors still find ways to play. Dayton, for example, wrote his $100,000 to the Democratic National Committee rather than Mondale's campaign. As a result, a contribution, which was largely intended to benefit Mondale, could be given privately and legally.

I cite this article, Mr. President, appearing in today's Star Tribune not to criticize former Vice President Mondale but to make the point there simply is no way to construct a set of rules under which spending limits will limit spending.

It is high time that we recognize the basic good sense of the post-Watergate legislation as it applies to the congressional races and the logic was quite simple: A limit on individual contributors and full disclosure and beyond that go out and take your best hold. Go out and take your best hold. Get as many supporters as you can, as many participants to help you in your race.

The notion was that was not evil provided those contributions would be limited and fully disclosed so that if you get a contribution from somebody who had some kind of unsavory position on something your opponent was perfectly free to make an issue out of it and that frequently happens.

The John F. Kennedy School of Government at Harvard warned that the "creative accounting" spawned under spending limits is stimulating overwhelming cynicism about campaign reforms.

Hardened campaign staffers admit that one of the top planning priorities for a Presidential campaign is to identify in advance ways to circumvent the limits and rules.

Robert Beckel, who was Vice President Mondale's campaign chairman and political observer said recently:

> I think this whole FEC thing is a sham * * * if you're not finding every loophole that is available, you're not doing your job.

Why am I talking about the Presidential system? That is precisely what we are trying to establish here, either through S. 2 or through the constitutional amendment, giving us the authority to have spending limits without public financing, some kind of system for spending limits for 535 additional races, and I guarantee if we do that, the FEC is going to be bigger than the Veterans' Administration and we are going to call this progress? It is not going to work. It is going to be like the rock on Jell-O. The Jell-O is going to slide out to the side. The money is still going to be involved, and it will be unreported, unlimited, and undisclosed, and that is not going to be progress.

There has been, in fact, a surge of undisclosed, unlimited special-interest support since the Presidential race went to spending limits.

Let us take soft money.

For example:

SOFT MONEY

In 1980, organized labor provided estimated $11.1 million in soft money support—all unreported and unlimited.

In 1984 labor and other special interests spent $30.4 million in soft money to support their candidate.

This includes a $1 million ad campaign run by AFL-CIO which sharply criticized President Reagan's policies, but did not mention either candidate by name.

Ronald Brownstein of Paducah Sun, in my State, wrote that labor's soft money campaign became "an electoral Jihad."

In Ohio alone, AFL-CIO setup 80 phone banks and paid unemployed members $4 an hour to make 10,000 calls per day—without advocating a specific candidate.

The Teamsters spent $2 million and provided services worth $6 million to benefit the other candidate.

After the 1976 election, Michael Malbin wrote:

> The biggest winner (of the Presidential system) was organized labor. Public financ-

> ing shut off private contributions * * * party contributions also were limited. In contrast, labor could spend as much as it wanted, in communicating with union members, registering them to vote, and getting them to the polls.
>
> When labor unites behind one candidate, as it did in 1976, a system in which private contributions are prohibited leaves it in a position no other groups can match. Little wonder that labor calls the campaign finance experiment a success. (National Journal)

OVERALL INCREASE IN SOFT MONEY SPENDING

Since special interest soft money is under the table, no one knows for sure how much is spent.

But the rate of increase for soft money spending we estimate is about 300 percent each election cycle.

COMMUNICATIONS TO MEMBERS

In 1984, special interests reported to the FEC spending $4.7 million on political communications to members.

Ninety percent of this spending was by labor organizations.

Many analysts say this is "only the tip of the iceberg", since loopholes let most communications go unreported.

INDEPENDENT EXPENDITURES

This is something we are all a little bit frustrated about and wish we could do something about.

In 1980, special interests and single-issue groups spent $13.7 million to support or oppose a candidate.

By 1984, that kind of uncontrolled, unaccountable spending ballooned to $17.4 million, a 30 percent increase in one cycle.

TAX-EXEMPT ORGANIZATIONS

What about tax-exempt organizations, Mr. President?

In 1984, about $6.7 million was spent by 85 tax-exempt organizations to conduct "non-partisan" voter drives.

All of these operations were undisclosed and outside of legal limits.

Yet the funds raised and spent by these organizations were carefully directed by operatives from political parties and Presidential campaigns.

Let us look at another category.

TOTAL OUTSIDE, NON-CANDIDATE SPENDING

Before spending limits and taxpayer financing, outside spending constituted less than 10 percent of overall spending.

In 1980, special interest spending to influence elections represented at least one-quarter of all money spent.

In the 1984 general election in that year, special interests spent $25 million to oppose President Reagan, 62 percent of Reagan's $40 million spending limit.

Nearly half the total spending in the 1984 general election—$72 million—was spent outside candidates' direct control. That is certainly not a step in the right direction.

At least one-fourth of all money now spent in Presidential races is unreported, unlimited, and unaccountable.

Presidential races under spending limits are again resembling the uncontrolled, corrupt politics of the prereform era.

If there is any scandal hovering over our campaign finance system, it is happening now in our Presidential system.

RETURN OF THE FAT CATS

In 1983, Political Activist Stewart Mott bailed out a struggling contender by allowing him to charge $131,000 to his direct-mail firm—and then holding a $500-per-person fundraiser to help him pay the bill.

Mott had done the same thing in 1980, extending a line of credit worth half a million dollars to John Anderson.

This prompted Mott to boast, "I've figured out how to be a fat cat again."

A lot of people said, "Well, the reason we do not have better voter turnout in the country is because people are turned off by the campaign spending and, if we have spending limits, it will get better."

We have had spending limits in the Presidential races since 1976. The last year before we had spending limits was 1972. The turnout was 55 percent. In 1984, after having spending limits, the turnout went down to 53 percent.

It had absolutely no impact on turnout whatsoever, and, as I previously said, in contested Senate races, the one where there is good spending on both sides, hotly contested races, the turnout goes up.

In one race in American politics where we had spending limits, if anything, the turnout has gone down.

What has it done to grassroots politics and campaigns? My friend from South Carolina is talking about the virtue of grassroots politics and how we need to get back to that.

And I think that would be a good idea if that were possible. But, under the one system in this country where we have the spending limits that he would hope to achieve, grassroots politics has dried up.

David Broder, in the Washington Post, in reference to that problem, said:

> Public financing and spending limits in Presidential races has meant a virtual shutdown of local headquarters financed by small contributions. Grassroots democracy has died.

The reason it has died is because there has been a limited amount of money, a limited amount of money to spend. And when the candidates look at that and decide how to spend it, they decide, much to the chagrin of my friend, the Senator from South Carolina, they decide to spend it on TV. So the last item allocated, if there is anything else, are these kinds of grassroots activities.

So what happens in these Presidential election races, through a complete and total lack of funding, is grassroots democracy has just died. So spending limits certainly have not brought about a comeback of old-fashioned politics. It just meant, of the limited amount of money available, virtually all of it is spent on TV.

What kind of conclusions can we draw? If we want to know how the constitutional amendment would work in practice, we need to look at the Presidential system. It is the only example we have.

In all, this system has been a monumental failure by everyone's account at reducing spending, curbing scandal, and fostering respect for the law and the election process.

We should not be trying to put an arbitrary clamp on citizen participation in politics. That is all a spending limit is. That is all it is; saying you cannot have any more support than this much.

Instead, we should restrict the special interest input, enforce contribution limits, and require more disclosure.

As Justice Louis Brandeis said, "Sunlight is the best disinfectant."

We have the findings of the Kennedy School of Government at Harvard. In 1982, the Senate Committee on Rules and Administration asked the JFK School of Government at Harvard to study post-Watergate campaign finance reforms and to recommend changes. This is what the study group concluded and reported to the Senate Rules Committee. This is the JFK School of Government at Harvard study commissioned by the Senate Rules Committee.

These were the conclusions, Mr. President:

> Among the problems [of the post-Watergate reforms], the most troublesome are related to the attempt to restrict the money spent in Presidential campaigns.
>
> Candidates are not allowed to spend enough money, [and] the expenditure limits have spawned a whole series of serious problems of definition, allocation, and enforcement.
>
> On the other hand, the effort to control total spending has not succeeded. Those involved in Presidential politics are able to raise and spend unlimited amounts of money through conducts other than the candidates' campaign committees.
>
> To make matters worse, most of the other means through which money is now being poured into Presidential politics are inherently less accountable to the electorate and should not be encouraged by the campaign laws.
>
> Thus, our most important recommendation [is] to eliminate the limitations on expenditures made by the candidates. Spending limits have proved undesireable for a variety of reasons.

Among those reasons listed by the Kennedy School of Government looking at the Presidential system evaluating how the spending limits have worked over the last three elections, are: they have failed to equalize resources of different candidates; they have failed to curtail the growth of money in Presidential politics; they have failed to shorten the overall length of campaigns; they have failed to reduce the emphasis on early primaries; they intrude unduly into campaign strategy; they have created thorny problems with arbitrary definitions, creative accounting, and entangled enforcement; and they fostered disrespect for the law.

With that glowing recommendation, we are considering extending a system like that to 535 additional races. We are considering amending the U.S. Constitution which has only been amended 26 times in 212 years. We are considering modifying the first amendment to allow the creation of something like this.

Now, Mr. President, we have spent a lot of time around here on a variety of different issues over the years that this Senator had hoped we would not spend any time on. But among them, this has to be near the top of the list.

This is not the kind of proposal we ought to be enacting. We should not even be considering amending the U.S. Constitution to provide the authority to create another Presidential election system.

The spending limits that we have had in the Presidential elections have been quite disastrous enough without adding to the list 535 additional races and an incredible bureaucracy at the FEC to try to enforce the unenforceble. There is absolutely no evidence, none whatsoever, that it would work. None.

It is safe to say it would not work, not now or ever. All we would have is another big, old Federal bureaucracy running around trying to micromanage every campaign for Congress in America.

So, Mr. President, I hope that we will not approve this measure.

For the moment, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Kentucky yields the floor.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think I remember the Charles Dickens' tale of the Artful Dodger. My distinguished colleague from Kentucky could well play the part.

Now, he has taken to quoting the Kennedy school. I do not know how I am going to save that fellow in his reelection in Kentucky. He has quoted the ACLU and the Democrats and the Washington Post, and now he is ending up in his peroration on the Kennedy school. He will have a tough time in Kentucky, I can tell you, with those quotes. But I do admire his courage.

What he is doing now is saying, in essence, that you cannot get there from here. There is a long litany, Mr. President, about campaign excesses, which the Senator from Kentucky and the Senator from South Carolina are both in agreement on. I have had the sort of experience and I can go back to my own situation in Presidential races when we were up in Maine. I had done pretty well and come ahead of a lot of the other candidates, only to find out 9 months later that one campaign had spent much more in excess than I thought at the time was being expended. And you can go down the list of my distinguished colleague's recitation of delegate committees and precandidacy committees and sharing office space and personal credit cards and plump cats and fat cats and all kinds of problems that do not concern this particular constitutional amendment, except for the fact that if we have a constitutional amendment, you can bet your boots we can correct it. We can go right to the root. We can go right to the root if we would set limits on spending.

We had, under article 1, section 5: "Each House shall be the judge of the qualifications of its own Members."

Now, Mr. President, back in the 1920's I think there was a Truman Newberry, an elected Member from Michigan. Henry Ford took issue with him for spending too much money and he was momentarily set aside by this body on that very point. That was in the days of character: setting up, doing the job, and believing public office was a public trust. And we will find now the historical precedents.

There is no question that you can regulate campaigns and limit financing if you want to, except for this Buckley versus Valeo decision. That is what we thought we were doing. It is a 5-to-4 decision. It is an atrocity when you really read it, a per curial decision. Nobody wanted to take responsibility for it. And that is the problem with the U.S. Senate today. There are those knowledgeable that say, "I don't want to have any limits."

So one of the best ways, Mr. President, to get around those limits is to describe all the excesses and everything else of that kind to try to pose as if you were on the side of limitations, but then end up with such an air of futility that you just cannot get there from here, that it just cannot be done.

The truth of the matter is that if we adopt this constitutional amendment and ratify it by the several States, we can then expect action out of this Congress. And the reason for the opposition to the constitutional amendment approach is that we then clear the decks about the extraneous issues about PAC's and the evils of this and the evils of that and we come right down to fixing responsibility in a constitutional fashion, evenhanded; restoring, if you please, the freedom of speech so that we can have, as Justice Thurgood Marshall says, access to the political system.

If we do that, then we will have done our jobs and we will not be able to escape the responsibility. As it now stands, it is a dog chasing its tail around and around. As a result, there are enough little individual, separate items, Mr. President, that Senators can hide behind and vote not to end the debate and continue the cloture on S. 2.

So we have cleared out campaign financing of extraneous issues. Most respectfully, I differ from all of these raised by my colleague this afternoon because with this bill we can control all of those: separate committees, independence, personal credit cards, plump cats. We can put the penalties in. We can start disqualifying candidates. And you will see a discipline developed of responsibility and cutting out the monkeyshines.

Do not run around and try to sell the people of America that the Republican Party is the party of the little man. I mean, that is just going, Senator, a little too far. Yes, you can list your individual contributors and the Democrats can list their individual contributors. But we all know where the plump cats are. We know where the fat cats are. You folks have been educating me.

It has been wonderful to come to Washington and see the breakfasts, for example, that they put on. If you contribute $5,000 you can come and listen to the Senator and have a personal rubbing of elbows with him and get a firsthand report of what the issues were of the day.

Then it was a $10,000; $15,000 with the former majority leader on the Republican side, when he held his breakfasts.

Then when we started emulating that on this side of the aisle they wrote editorials and embarrassed all of us and now we are all out of that business.

But I have yet to form one of those eagles' clubs. They do not even know to whom they are sending the money. All they know is they all chip in $1,000 and join an eagle's club here and here and here, and then they buzz you 2 weeks before the election and they call up five or six eagles' clubs and say to the 30-some members there, send $35,000 to this candidate, $35,000 to that candidate.

The Republicans have their eagles.

We have on the Democratic side, sitting hens. We are just sitting, cluck, cluck, clucking, laying eggs, and we are not financing anybody.

In the 1986 race, the campaign committees of the House and Senate raised $17 million on the Democratic side compared to the $83 million on the Republican side. Those are the facts.

The FEC might be confused, but we can add up the amounts and that is what strikes terror in the heart of a person dedicated to public service. It does not make a difference what his voting record is and everything else of that kind. If he knows the other side in a small State can deliver $1 or $2 million at the last minute with TV and everything else for the ambush, you are in the soup.

So let us not try to get off on extraneous issues that the Republican Party is the party of the little man. We welcome the successes and we acknowledge the strength of the two-party system. No one is against that. It has been a healthy development. Over in the Sun Belt, at least where I live, we have good candidacies and better debates now, and there is a greater interest.

The truth of the matter is that we can constitutionally, with this amendment, allow the Congress and the several State legislatures in political campaigns to limit those campaign expenses, directly, indirectly, and we can get to all of these things that the distinguished Senator has referred to.

So, I could address some remarks here with respect to the comments of my friend from Kentucky, but we are back now to the bottom line and not the age-old "How do you fashion a bill," as they were trying to understand S. 2. We are trying to fashion the authority to get by the abortive decision of Buckley versus Valeo, and truly open up the process; truly allow us to come in and restore the freedom of speech eliminated by Buckley versus Valeo and give everyone equal access to the process and thereupon set the limits in an even fashion across the board and restore, frankly, credibility to us in public service.

We have lost it terribly, now, because those who contribute have been imposed upon. There is no question about that. They have constantly had all of us in office and those who oppose us come beating on their door. They have to have more, they have to have more, they have to have more. It costs you $2,400 for a 30-second ad in South Carolina. It goes into the thousands, $30,000 I think it is in New York, for 30 second alone; in the Boston area and such.

So in the average race, it has been pointed out, it costs $3 million to become a Member of this body. It requires us to hurry up. "It is 20 past 5 o'clock, I have not collected $10,000 for the week. But if I am going to stay on track and continue to serve I hope they will close this blooming thing down so I can get on and get my $10,000 because I have got to collect $10,000 every working week in order to reach the $3 million over a 6-year period." That is what has really destroyed us as a deliberative body.

We have windows where we go and come back in. We arrange the voting schedules. We do not come back because the Members have got to stay and collect money back home. We try to get out earlier so we can get to the affluent areas of New York and the west coast on the weekend, collect some more money, some more money to get on TV, some more money to get on TV.

I am confident this bipartisan approach can work. Forget the politics and the red herring of "you cannot do it," and "who is small and who is large," and what violations and excesses we have had heretofore—they are not addressed in the constitutional amendment. It is just the bottom line, very clear, very simple, saying to the Member: "Are you for limits or are you not?"

The one way to get the limits is to vote for the amendment, and we can easily, then, move from that point and have it ratified by the several States and then begin to argue what the Senator from Kentucky wishes to debate this afternoon. But, for the present time there is no reason for bogging us down. Why do we not spend more than 1 minute, talking about cosmetics, and Kibbles 'n Bits and cat food and bottled water, and horses and bluegrass and all these other things that cost money? Then about the time you want to answer that argument, he comes around from the other end and says, "Well, you cannot get there from here."

Look at this success, that success; upon this success, upon the next violation. So in frustration, it just cannot be done. That is irresponsible, Mr. President. I say that most seriously. We can and we must, and let us not bog down over Common Cause and PAC's and newspaper folks, who have not studied the Constitution, when they talk about an inhibition or some restriction on the sanctified, and it is sanctified, first amendment for freedom of speech.

This enhances it; it restores it the way it should be.

We talked about the amplification, and what we are talking about in the Federal Election Campaign Practices Act. There is no restriction on the freedom of speech. I have it. We can say anything we want to at any time. We can raise any issue at any particular time but, yes, money affords the amplification, and when we get to that, we certainly not only have the right, but the responsibility, to control that amplification.

Because the distinguished Senator from Oregon has $10,000 and I have $1 million, I can take away his freedom of speech. He will sound disinterested; he will sound lethargic; he will sound incapable of raising all the questions and issues I raise about him as a particular candidate. Even his friends will abandon him and say: "We haven't heard from him," because the only way to hear from the amplification of the fundamental freedom of speech is through television, and that costs.

If you have the money, then you have the freedom of speech or that amplification. If you do not have the money, you have the freedom to shut up, and that must be corrected by a constitutional amendment.

Mr. President, I yield the floor.

The **PRESIDING OFFICER**. The Senator from South Carolina has yielded the floor. The Senator from Oregon.

Mr. **HATFIELD**. Mr. President, I thank the Senator from South Carolina for his very learned remarks and learned out of experience as well as out of his vast knowledge of how Government operates. I have known the Senator for many years. I am only sorry I was not in on the beginning of his dissertation for I always appreciate his insights, whether I agree or disagree with his conclusions.

Mr. **HOLLINGS**. Mr. President, I join in the comments of my distinguished colleague from Oregon. I get into too many debates and I cannot keep up with all of them, but on this particular matter I think the record should show at this moment, if it does not already, the genesis of the war powers resolution.

Years ago I served on a policy committee. The Democrats were in charge. Mike Mansfield, of Montana, was our majority leader. We were seated in a room in his office just off the floor at a regular policy committee meeting, and the distinguished Senior Senator from Georgia, Richard Brevard Russell, after whom we have named in respect a Senate office building, turned to Mike Mansfield—we were talking about the war in Vietnam and how we had gotten into it. I will never forget Mr. Dick's words. He went down more or less calling the roll at every particular turn. He said, "I opposed getting into that. And we kept moving and moving and moving and once the President got into it, of course, I have tried my best to support him as strongly as I can. But," He said, "We have got to have a better system." And he was talking in a hesitant fashion in that he had emphysema and could not speak without drawing deep breaths. He said at the particular time, "Presidents go around the world and they talk and they have these executive sessions with heads of state, off the record sometimes," which they have got to be. They do not get on television and radio. They meet with heads of state, as Secretaries of State do. And he says, sometimes months, sometimes a year later they come back." Even Vice Presidents go around and bring back the camel driver, as Vice President Johnson did. And then he said, "I end up here with the Armed Services Committee authorization for defense. I have to flesh it out and put all of this money in and you folks do not cross-examine me very closely," which was the case at that particular time when the Senator from Oregon and I came to the Senate in 1966. He says, "There has to be a better way so that this Vietnam situation never occurs but that we have the President, the Congress, and the people all going down the same road together." He said, "This is a disaster." They were out on the front steps again demonstrating. He says, "Here I have opposed it and now I have to support it in loyalty to the President, but it never has been explained adequately."

On the contrary, we have not been firm enough. We have not made a commitment. War is a bitter thing, categorically, and in order to fight a war, you have to fight a war. So he said, "We have been trying to build and destroy at the same time." You remember search and destroy and win the hearts and minds, that defective approach.

But he said, "We must have some approach for when we become engaged in imminent hostilities." And he got right to the Gulf of Tonkin resolution. He said, "We ought to have a limited time. You cannot hold the President. You sure cannot get a quorum in the Senate by calling around the country late at night or whatever. The President has to have that authority under the Constitution as Commander in Chief. After a period of 60 or 90 days, he submits what our commitment is, the potential, and what have you, and then we can have a vote on it so we will all be together, so the President, the Congress and the people will be headed down that one path."

Senator Mansfield turned to him and said, "Dick, write it up. Let's look at it and see what we do." I will never forget it. He said, "Look, I can't do that physically right now. That is Foreign Relations. Get Bill to write it up."

I wish we could go back to our policy committee minutes and review that particular occurrence. He asked the distinguished Senator from Arkansas, the then chairman of the Foreign Relations Committee, to draw up what later developed as a War Powers Resolution.

I am constantly listening now to somehow or the other this is to get the Republican President in the White House.

Point 1. The War Power Resolution was initiated by the most popular of Democratic Senators under the auspices and during the administration of his, as he saw it, most popular President of the United States.

Of course, Lyndon was becoming unpopular on account of the war, but he swept the country in 1964 as we all remember it.

So that is the genesis of it. It did not materialize at that particular time under the Foreign Relations Committee leadership, I say to the Senator, because there was a cleavage in this body with respect to anything that the Foreign Relations Committee came out with. In fact, it cost the distinguished chairman of the Foreign Relations Committee his job, an otherwise very distinguished Senator. There is no question that Bill Fulbright was quite an educator, quite a brilliant Senator in his own right, but the circumstances were not at the moment propitious to follow through.

Later Senator Javits, on the other side of the aisle, brought out and we passed the War Powers Resolution during the Nixon administration. At that time I tried to emphasize this and people thought it was just an attempt to embarrass President Nixon, but I was supporting President Nixon in his policy. When he wanted to start bombing Hanoi, the Senator from South Carolina was right behind him, and so was our distinguished senior Senator, the President pro tempore, Senator STENNIS from Mississippi. He and I and others supporting President Nixon voted to override that particular veto on account of that very genesis. JOHN STENNIS from Mississippi will tell you about it.

I think it is well to take note, in light of the comments of the distinguished Senator from Oregon at this particular hour because what we really want and what we need now and what every President should want is his people behind him. It is not a game of outfoxing the Democratic Congress; we showed them and they cannot catch me. If I were in the White House, I would want to be speaking openly and on top of the table in hostilities.

We did not lose any lives, I understand, in the last 24 hours, but the Iranians have. It is serious. It is hostilities. They are not imminent. They are actual. In this particular situation then you want the Congress to be behind you. You do not want to outsmart your own people.

I think that was the mistake that our distinguished President from Texas, Lyndon Johnson, made. He was smarter. He knew way more. He was outsmarting the people, and it just did not work at that particular time.

So the comments made by the distinguished Senator from Oregon are right on point. We ought to bring this thing into a War Powers Resolution concept, not a constitutional question. This is as constitutional as it can be. It has been passed by both bodies, overridden in accordance with the Constitution and now the law of the land, and we need that President not just in little briefings here for our group and saying this is off the record and this is on the record.

I do not know what to say. I have got television stations calling me. I say it is a very dangerous situation and I give them exactly what I was telling the Senator from Kentucky, I am deeply concerned and that gets me by. I am deeply concerned.

Then put that on TV. That is not adequate now. We ought to be talking about what really is involved, then what we intend to do about it, how much of a commitment there is, what lives will be involved in this matter, and work together hand and glove, not a political jousting about up here in Washington, DC. The people are sick and tired of these politics. The best politics is no politics.

That is the War Powers Resolution, Senator. The Senator is right on target. I agree with him. The President ought to submit it over here, tell us where we all are, and let the people of the Nation decide. I have Navy people down in my backyard in those ships. They want to know. We have lost them from the *Stark* already. We have had actual hostilities and actual losses in the Persian Gulf. We ought to understand it and then we ought to support it or limit it as we will or whatever else is the pleasure, but move forward in an orderly, parliamentary way here in Government, and not the political jousting and who has the top bracket on the 7 o'clock news with a nonpolicy.

I cannot tell you intelligently what our policy is really at the moment as your Senator even though I watch it very closely.

Mr. HATFIELD. Mr. President, I am most grateful to the Senator from South Carolina for providing us with this historic perspective on the origins of the War Powers Resolution. He is quite right. I remember many of those instances and the evolution of that act very clearly. I will always remember that Senator Jack Javits, of New York, who built upon that earlier proposal and had a great hand in finally finalizing that draft, often said that he would stake his whole career and his reputation as an outstanding constitutional lawyer on the validity of that act, on the constitutionality of that act.

We heard that attack on the act's constitutionality during this last period during the Persian Gulf debate on applying the War Powers. It came out of the White House as well: they claimed it was an infringement on the constitutional powers of the President to conduct foreign relations.

The Senator, who has a chair in constitutional law named in his honor at his alma mater at the University of South Carolina, speaks as a constitutional lawyer, and knows very well that that is really not the issue. That is a diversion to avoid an action that would put this body on record based upon the often-expressed concern that we were engaged in Vietnam in a Presidential war that had never had the approval of the Congress. That war, by the way, I think divided this country more severely than anything in the history of this country since the War Between the States. I use that phrase in deference to my dear friend from South Carolina. We out west call it the Civil War.

But anyway, it was a very divisive issue and, in fact, I think we are still recovering from the wounds of that war because the President had the full responsibility and given the authority, and the Congress sat back, particularly the Senate, and began to second-guess it, and began the kibitz on the Monday morning, a kind of armchair kibitz. And out of this came the so-called opposition to the war. It became then the Congress against the White House and the President against the elected representatives of the people.

I would venture that, if this War Powers Act were invoked and the clock started running, and if we were to have any vote in this body today, the President would get the support of this body. It probably would not get my vote. But from talking with my colleagues and hearing discussions around, I would imagine that the majority of the colleagues here in this body would vote "aye" in confirming the policy, the wisdom of the policy, of the President's policy in the Persian Gulf as of today, as of the date that the ships were flagged and any events since that time.

So I do not understand the White House, or why the White House has helped lead the opposition for the establishment of the War Powers Resolution as far as the clock ticking and putting us on record with the joint effort, joint responsibility.

I believe again, I say to the Senator from South Carolina, that unfortunately we do not read enough of our history, the continuity of history in this body. We do not have the time to pay attention to it and to learn from it. That is why again I want to stress my gratitude to the Senator. We should put this whole issue back into the context of avoiding another one of those international situations that, through gradualism, evolution, got us deeper and deeper and deeper by Presidential edict, Presidential role that avoided a congressional involvement or dodged as the Congress was able to dodge the responsibility.

All I am asking for, like we debated from last June on, is for us to stand up and take a position on the very role we created for ourselves. This was not imposed upon the Congress by a President, Democrat or Republican. This was not imposed upon the Congress by some outside force. We created it out of our own ingenuity, one of those great dynamics of Government that does not come around very often. But this to me was one of those great creative moments of the U.S. Senate, and then we turn on our own creature, and disown it and in effect say we do not want to do the things that we created ourselves the role to do.

I find that very difficult, and I find it very difficult too to believe that avoidance of responsibility and duty is really carrying out the very oath of office we took. And I think we are denying ourselves that responsibility, turning our back on it and putting it in the President's lap in effect again we are giving him total responsibility, leaving our hands free and our voices ready to come out and turn on the President, to say it is a lousy policy once it tends to go against us because we have not had anything to do with it—even though the law requires us to do so.

We are turning our back on the law. We are in effect, from my layman's point of view being a nonlawyer, violating law by our inaction that calls for action very clearly under the statute.

It has been not enjoyable, but it has been very enlightening to have the opportunity to share these thoughts with the Senator from South Carolina this afternoon.

Mr. President, I yield the floor.

FACING OUR RESPONSIBILITY: U.S. ACTIONS IN THE PERSIAN GULF

Mr. HATFIELD. Mr. President, we have been lulled into complacency in these last couple months. Because no United States ships have run into trouble in the Persian Gulf recently, because there have been no headlines of late about Iranian speedboats firing at the Stars and Stripes, we had all but forgotten about the gulf. And we had all but forgotten about the thousands of U.S. servicemen we allowed to be put squarely in the middle of one of history's bloodiest wars—the 8-year-old Iran-Iraq war.

The unfortunate truth is that there are a lot of trouble spots in the world, a lot of desperate situations that cry out for our attention. Obviously, we cannot pay attention to all of them. So we prioritize—from most urgent to least urgent. Somewhere along the way, the Persian Gulf slid down our list.

Mr. President, the presence of U.S. troops in the middle of a de facto war zone should always be considered most urgent—from the moment they are introduced until the moment they are withdrawn. But we allowed the gulf to slide down our list anyway, and if today's events had not occurred, the situation would have remained low on our agenda.

When I turned the news on this morning, Mr. President, my first thought was the War Powers Resolution. My colleagues will remember the clause about imminent involvement in hostilities. Is there any question that today's events constitute imminent involvement in hostilities?

But then I thought again. I thought about last summer and last fall. I thought about our refusal in June to state on the record that the War Powers Resolution would apply as soon as the flagging and escort operation began. I thought about our filibuster in July of an amendment to delay implementation of the operation for 90 days, about our tabling in September of an amendment to invoke the War Powers Resolution after U.S. servicemen in the area were awarded "imminent danger pay," about our parliamentary maneuvering in October to avoid a vote on another resolution invoking the War Powers Resolution. And finally, Mr. President, I thought about the refusal—our refusal—in November to consider a resolution which went so far as to authorize the reflagging and escort policy for 6 months under the War Powers Resolution.

Mr. President, the War Powers Resolution has applied to the situation in the Persian Gulf since the day last July that the United States began to escalate its military presence there.

The potential for "imminent involvement in hostilities" has existed from the beginning. We all know that. But if I learned anything last year, it is that the U.S. Senate does not have the courage to accept its constitutional responsibility. We do not want it: if we never actually vote on the policy—as the War Powers Resolution would require us to do—our hands are clean. That way, if its a clean strike we launch—as it appears the one today was—we can issue statements praising the action. But if it starts to get out of hand—if U.S. boys start coming in flag-drapped coffins—we can blast the administration for its reckless military policy.

The irony, Mr. President, is that we do share in the responsibility. We stood by as our boys were put into the midst of a bloody struggle we can neither understand nor control. We stood by as our boys were used as decoys in an elaborate game of chicken. And we stood by as our boys were used as an excuse for our inability to find creative diplomatic alternatives.

Our silence is our complicity—whatever happens in the hours and days and weeks ahead will have our implicit endorsement written all over it.

My question is this: What is the threshold? What is it that must occur before we stand up to be counted? Our ships being fired on? Thas has already happened. Or U.S. soldiers being injured? That has already happened. Or maybe Iran declaring war on the United States? Well, Mr. President, now that has happened too, But I do not hear very many voices calling for the War Powers Resolution—in fact, most everybody seems to be cheering the action. My fear is that it will take dead bodies—the dead bodies of U.S. servicemen—to force us to stand up, be counted and to face our responsibility under the very act that we passed, that we—the U.S. Congress—passed and repassed over a Presidential veto.

GEORGE ALLEN: FOCUSING ON FITNESS

Mr. CRANSTON. Mr. President, George Allen's name is familiar to every sports fan in America. One of the winningest coaches in the history of professional football and the NFL, he's been remarkably successful here in Washington—with the Redskins—and in my home State of California with the Los Angeles Rams. His professional achievements have, in fact, made his name synomymous with the best in spectator sports. But they're far from the whole story.

In 1981, President Reagan appointed George as Chairman of the President's Council on Physical Fitness and Sports. Over the next 7 years, George traveled more than 450,000 miles promoting the benefits of exercise and physical fitness. He enlisted the support of businesses, associations, clubs, schools and health professionals to remind the American public that it's not necessary to be a professional athlete to benefit from athletic activity, and that the rewards of physical fitness aren't limited to bigger muscles or even to improved cardiovascular systems.

Although George strongly believes that people of all ages can benefit from staying in shape, he does put particular emphasis on youth fitness, which, he pointed out, will have a dramatic and lasting effect on the future of this great country.

So will something else George has been working on. After three years of preparation, he recently realized his goal of establishing an exchange of youth physical fitness tests between the United States and the Soviet Union. American youngsters will take the Soviet fitness test; Soviet youngsters will take the American test. A lot will be learned. Currently, 281 U.S. schools and over 100,000 students—ages 6 to 17— are scheduled to participate in the program. George sees two primary benefits that will be gained from the test exchange: Hundreds of thousands of kids all across the country will be motivated to get in shape, and a better understanding between the two most powerful nations on Earth will be fostered.

Recently, George left the President's Council, but he's still working to make Americans aware of the need to keep fit. Indeed, he's formed the National Fitness Foundation—a privately funded nonprofit corporation—to develop, coordinate and conduct programs to encourage physical fitness. The centerpiece of the Foundation will be a sports summer camp with a curriculum that includes health and fitness, nutrition, drug and alcohol abuse, stress management and sports.

Mr. President, George Allen has provided endless enjoyment to football fans like me. But more importantly, he's provided a model of commitment to a cause he truly believes in for all of us. I'm proud to say that he's a Californian. I'm even prouder to say that he's my friend.

THE PERSIAN GULF

Mr. KASTEN. Mr. President, I wish to express my support of the actions taken by the President this morning in defense of our forces in the Persian Gulf.

Prudence means choosing an exactly appropriate, measured, and effective action to achieve a desired goal. President Reagan's decision to attack two Iranian oil platforms in the Persian Gulf was prudent. It was exactly appropriate response to the Iranian mine warfare that damaed the U.S.S. *Samuel B. Roberts* and injured its crewmen last week.

It is important for all of us to remember the strategic importance of Iran as a potential bulwark against communism in the gulf region. The United States would like nothing more than peace and friendship with Iran. But Iran's acts of unprovoked aggression against a peaceful convoy of ships loaded with oil for us and our allies require a clear and effective response. We have to send the Iranians a message that we will not tolerate these senseless attacks on international shipping in the Persian Gulf.

That is in fact in the message we sent them this morning. If they insist on committing terrorist acts against international shipping, we will take the appropriate, measured response. We have no desire to escalate the conflict in the Persian Gulf—quite the opposite. The choice is now Iran's: Attack the sea lanes of commerce, and you'll pay the price.

America's goal in the Persian Gulf is to secure the lanes of shipping, promote peace in the region, and enhance the security of our allies. The Iranian mining was a belligerent act against this goal. President Reagan's action this morning was the correct response, and I applaud him for it.

Thank you.

THE AMERICAN LEGION/ROBERT E. "JACK" DAVID VIETNAM VETERANS CHILDREN'S SCHOLARSHIP FUND

Mr. THURMOND. Mr. President, in December of 1987, the South Carolina Department of the American Legion launched an ambitious scholarship program to assist in financing the college education of children of Vietnam veterans.

Titled "The American Legion/Robert E. "Jack" David Vietnam Veterans Children's Scholarship Fund," this scholarship was established with a $25,000 donation from Dr. Robert E. "Jack" David, the current Commander of the American Legion in South Carolina and a longstanding advocate of veterans. A retired army colonel, Dr. David served in World War II, the Korean War, and the Vietnam War. His contributions on behalf of veterans are also evident through his work as executive director of the South Carolina Employment Security Commission, a position he has held since 1975. As executive director, Dr. David testified last year before the Senate Veterans' Affairs Committee on S. 999, the Veterans' Employment, Training, and Counseling Amendments of 1987. His testimony and suggestions certainly proved valuable to the committee in preparing the bill which passed the Senate. To list all of his contributions and services to mankind would be an extensive undertaking. I would, however, like to point out that Dr. David has served as past president of the Interstate Conference of Employment Security Agencies, and as current American Legion Department Commander he is active on both the State and National levels.

Mr. President, these scholarships would be available to eligible children of the approximately 101,000 Vietnam veterans in South Carolina. The scholarships would be paid from a trust fund. State Legionnaires have indicated a first-year goal of $100,000 for 1988, with the hope of obtaining a principal balance of $1 million, and using the interest from the fund for the scholarships.

Mr. President, I commend the leadership of Dr. David and all the other members of the South Carolina American Legion for their initiative in establishing this worthy scholarship fund. I now ask unanimous consent that an article summarizing this fund which appeared in the April 1988 American Legion magazine be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From American Legion Magazine, April 1988]

SOUTH CAROLINA LEGIONNAIRES MEMORIALIZE VIETNAM VETERANS

Legionnaires in South Carolina are building a memorial to Vietnam veterans that neither time nor the elements can erase, a tribute that will grow with each passing year.

The Department of South Carolina has launched The American Legion/Robert E. "Jack" David Vietnam Veterans Children's Scholarship Fund to help students meet their college expenses.

The scholarship fund is named after the current South Carolina department commander, who provided a seed donation of $25,000 to the fund. A career Army officer, who served in World War II and the Vietnam and Korean wars, David heads the South Carolina Employment Security Commission. He is known throughout the state as a staunch veterans'-rights activist.

Dept. Adjutant Bernard L. Black said the scholarship program was created in late 1987, after receiving the approval of the department's executive committee.

"Our goal for 1988 is to raise $100,000," Black said. "Eventually, we'd like to obtain a principal of $1 million in the account, using the interest to pay for the scholarships." About $40,000 had been raised as The American Legion Magazine went to press.

The scholarship project was unveiled Dec. 17 at the foot of the Vietnam monument in Columbia. Among the prominent Legionnaires attending the ceremony was retired Army Gen. William C. Westmoreland, who commanded U.S. military forces in Vietnam.

Contributions to the fund will be placed in a trust account administered by three Legionnaire trustees. The trustees and a steering committee are completing details on scholarship eligibility.

Funds will be available to all eligible children of Vietnam veterans in the state, South Carolina Legion officials said. They said that VA statistics indicate that about 101,000 Vietnam veterans live in the state.

"The scholarships probably will not become available until the beginning of 1989," Black said, adding that Legion posts throughout the state already are planning fund-raising events to help reach the $100,000 first-year goal. Donations from corporations and individuals are tax-deductible.

The fund, however, is more than just a way to help students pay for higher education. As one Legionnaire explained: "The Legion in South Carolina long has believed that the Vietnam veteran has never been adequately recognized. The scholarship fund pays tribute to those fine men and women from our state who served."

"The fund is more than just a monument," Black said. "It is a living memorial, which will ensure that the Vietnam veteran is never forgotten in South Carolina."

TRUCKING DEREGULATION AND HIGHWAY SAFETY

Mr. PACKWOOD. Mr. President, last summer an important conference was held at the Transportation Center of Northwestern University. The leading experts in the Nation gathered to investigate the linkage between economic deregulation and safety performance in the U.S. aviation and motor carrier industries.

The report of this conference was recently released and its conclusions are very encouraging. According to the experts, there is no objective evidence that reduced economic regulation has had an adverse impact on highway safety. Indeed, the report finds that truck accident rates have actually fallen substantially since 1978.

These findings are very important. They show beyond question that the only effective means of safety regulation is through direct enforcement. Clearly, our resources are best used on safety programs that have demonstrated success, rather than on continued economic regulation of the trucking industry.

I ask unanimous consent that a summary of the Northwestern conference findings with respect to the trucking industry, together with some recent editorials on trucking regulations and safety in California, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSPORTATION DEREGULATION AND SAFETY—SUMMARY REPORTS ON A CONFERENCE

EXECUTIVE SUMMARY

1. On June 23, 1987 the Transportation Center of Northwestern University convened a three day conference on the implications for safety of the Airline Deregulation Act of 1978 and the Motor Carrier Act of 1980. These Acts were passed because it was felt that increased competition and freedom for carriers to quote individual rates would lead to lower real rates and benefits to consumers, while not denigrating the quality of service, particularly its safety component. It was commonly believed that the environment of strict economic controls by regulatory bodies, and the practice of legal collusion between carriers within rate bureaus had led to excessive reliance on some forms of costly quality competition. In addition, the tendency of the regulatory bodies to treat cost increases as pass throughs in granting rate increases had, it was believed, resulted in wage rates that were out of line with productivity. It is clear that changes in the regulatory situation have greatly slowed the rate of increase in real wages in the two industries.

2. There is still debate as to how large the benefits to consumers and shippers from increased competition and reduced rates have been, though few dispute the fact that they are positive and substantial. However, serious questions have been raised about the impact of regulatory reform on the quality of service in the two industries, safety being the major issue.

The Airline Industry * * *

The Motor Carrier Industry

7. Concerning the motor carrier industry, there is clear evidence that open entry and a reduction in the power of rate bureaus have led to rates that are lower than they would otherwise have been. Moreover, when it comes to the impact of regulatory reform on quality of service, there is a very clear difference between the airline and motor carrier industries. Complaints by shippers that the quality of service has deteriorated are largely absent. One can read as widely as one wishes in the professional literature on logistics, physical distribution and materials management and fail to find evidence of the kind of user unrest that characterizes airline passenger travel.

8. There is a commonly held belief that the motor carrier industry now poses a more serious threat to highway safety than it did in the era of economic regulation. There are many new entrants, and it has been found that their *initial* accident record is inferior to that of established carriers. Operating margins have been depressed by increased competition, and there is evidence, though it is weak, that financially stressed carriers invest less in safety measures. The quality of the labor force also appears to have declined somewhat, at least as a short run phenomenon, because of the significant increase in the number of operators as a result of deregulation.

9. Despite the evidence on new entrants and financially stressed firms, the index of truck accident per truck mile fell by 12 percent between 1978 and 1985. The decline is 30 percent if obvious deficiencies in the index are eliminated. Much of the concern about the impact of trucks on safety comes from automobile drivers and their representatives. There is serious reason to question the perception of an increased risk to highway safety from trucks. Automobile fatalities in truck related accidents (per mile of auto travel) actually fell by 21 percent in the deregulated period. Of course no claim is made that all of this decline is the result of deregulation.

10. The essential conclusion is that there is no objective evidence to support a position that economic deregulation has so far caused a degradation in highway safety. Participants at the Northwestern University Conference strongly supported the position that where safety difficulties are indentified they should be addressed by safety measures not economic regulation. There was general agreement that the program of road inspection and safety audits should be expanded; that there should be continued emphasis on driver licensing and training; and that there should be an expanded system of data gathering on accidents and violations, including those of intrastate and commercial zone operators, which would be available to enforcement personnel. To the writers of this report it seems that the availability of such data to shippers would also serve to put pressure on some carriers to operate more safely. Additionally, the commercial zones of cities no longer appear to serve the function for which they were created. They should be done away with and the firms who operate within them granted regular certificates.

[From the Jose Mercury News, Mar. 11, 1988]

DEREGULATE TRUCKING

The California Public Utilities Commission began hearings Thursday on regulation of trucking rates, and the hope is that history repeats itself.

The commission conducted the same exercise almost 10 years ago, and concluded that trucking deregulation was in the best interest of both the industry and consumers.

And for a while it was. But in 1986 the PUC did an about-face and re-regulated some rates, ostensibly to relieve economic problems it said were associated with deregulation and to promote highway safety.

Though the new regulations affect a relatively small segment of intrastate trucking—perhaps less than 10 percent—critics say they add significantly to the cost of doing business in California.

By requiring that truckers charge specified rates, regulation removes any incentive to reduce costs and pass those savings along to the consumer. In short, it's anti-competitive.

Meanwhile, regulation appears to have done little or nothing to promote safety.

No one has been able to establish a link between trucking rate deregulation and a decline in highway safety—not the PUC staff, not the California Highway Patrol, not the state's legislative analyst. In fact, the rate of truck accidents declined sharply in the first, deregulated half of this decade.

The improvement had nothing to do with rate regulation or the lack thereof, but with more vigorous vehicle inspections by the CHP.

The safety argument against deregulation, like the economic ones, doesn't wash. The PUC should again roll back rate regulation.

If the commission goes too slowly, it will be up to the Legislature.

[From the San Jose Business Journal, Mar. 7, 1988]

TRUCKING REGULATION

One of the most far-reaching regulatory questions for California industry comes before the state Public Utilities Commission this week.

The PUC, under prodding from the state legislature, is reviewing whether to drop its two-year experiment with re-regulation of the trucking industry.

Trucking price regulation by state and federal governments dates back to the Great Depression, done largely to keep rates at levels necessary to support safe operations. In 1980, trucking fell under the same deregulatory fervor that affected communications and airlines and the upheaval has been just as dramatic.

In 1986, the PUC instituted its general freight program and a mandatory 10 percent general freight increase. However, many observers contend that the effect has been to make it more costly to ship intrastate than interstate where rates are still deregulated.

Yet, trucking companies have suffered from downward cost pressures generated by manufacturers that increasingly use trucks as their warehouses for just-in-time manufacturing. Flexibility and low prices are the bywords from shippers confronting foreign competition.

Although the choices are tough, we would agree with commission staff and the legislative analyst for the joint Legislative Budget Committee that the commission is not best equipped to handle those choices. In a deregulated environment, innovative, quality-conscious companies like the San Jose-based Viking Freight are best capable of making pricing decisions to respond to their customers.

The commission will never be able to control safety indirectly through rates. The tool for that task is the California Highway Patrol.

[From the Los Angeles Daily News, Mar. 16, 1988]

THE BIG PAY BACK

If ever there were a textbook case of long-term special-interest lawmaking, it would have to be the saga of California's regulation of the trucking industry. In 1915, in order to undercut the competitive edge of unregulated trucks, the railroads secured a writ from the California Supreme Court directing the Public Utilities Commission to exercise jurisdiction over common carriers by motor vehicle. Not to be outdone, the Legislature passed an act in 1917 authorizing the PUC to fix rates.

Some things never change. When the federal government, other states, and California itself finally started moving away from regulation, the PUC bucked that trend in 1986 by reimposing trucking-rate regulation and hiking rates by 10 percent. Lawmakers have done nothing since then to reverse that action, apparently because deregulation is good for generous special interests—the Teamsters and certain trucking concerns—that support them.

Note the trademarks of special-interest lobbying:

Money rose to the occasion. In 1987, the year after the PUC action and one in which opponents of regulation tried to get the Legislature to overrule the PUC, Teamster's contributions hit $143,078 almost double the amount of the previous non-election year, 1985.

In 1986, the Teamsters gave $203,980 to elect grateful candidates to state office.

Last year, Sen. Rebecca Morgan, R-Menlo Park, authored a bill to end PUC rate regulation of trucking. It never made it out of committee.

It is estimated that PUC regulation costs the state between $180 million and $500 million each year, because it's cheaper to haul out-of-state goods on trucks that aren't subject to California's more expensive rates. The PUC has also given California companies a wrong incentive to leave the state.

A report written by the PUC's own staff gives a solid case for ending regulation: "Because regulation keeps rates high, it compromises the efficient operation of the inherently competitive trucking industry. . . . It benefits some individual carriers and the Teamsters. These benefits, however, may come at the expense of the carrier industry as a whole, shippers, California consumers, and labor in general."

As with most special-interest favors, supporters of PUC regulation produce a red herring to justify it. In this case, the smelly fish is safety. But according to Federal Highway Administration statistics, there has been a *decrease* in the big-truck accident rate per mile since federal deregulation in 1980. If there are more accidents, it's only because there's more hauling and more miles being driven.

These truths are hardly a secret in Sacramento, but nothing is done in response. Chalk this us to a paralysis that sets in when California politicians consider bills that would be deterimental to the earning power of favored special interests.

Capitol torpor may also explain the behavior of deregulation supporters who appear to have given up on the Legislature. Instead, they talk of getting lawmakers after the 1988 elections to pressure the PUC into ending its costly regulation.

This year, Morgan introduced Senate bill 2222, a slightly watered-down version of her earlier legislation to overturn the 1986 PUC move. We support SB 2222. But in keeping with the lowered-expectations attitude prevalent in Sacramento on this issue, we also appeal to the PUC to follow the advice of its own staff and the legislative analyst and end state rate regulation of the trucking industry. Moreover, we would like legislators to know that if they act more interested in paying back contributors than in serving the public interest, the voters have a payback mechanism of their own.

[From the Times Tribune (Palo Alto, CA), Mar. 5, 1988]

REMOVING A HEAVY LOAD

Preposterous as it may sound, it can cost less to haul a truckload of consumer goods or other freight from Las Vegas to San Francisco than it costs to haul it from Oakland to San Francisco. And it can cost less to truck a load from Salt Lake City to Los Angeles than from San Francisco to Los Angeles.

Why? Because the California Public Utilities Commission regulates the intrastate freight rates charged by trucking firms. One might think the commission is working to keep rates down, as it does with electric, gas and water charges. Instead, the panel has been increasing rates, without regard to market pressures or the financial havoc it wreaks on California's economy.

It hurts consumers, to whom shippers ultimately pass these extra costs. It can mean fewer new jobs because businesses that want to sell products in California are less inclined to manufacture them in California. It also entices the state's existing manufacturers to relocate or expand outside California, in states where trucking rates are unregulated and/or lower.

So why does the PUC do what it does? Why shouldn't intrastate trucking be completely deregulated so that a competitive, completely free-market atmosphere exists?

According to the California Trucking Association, rates must be kept higher than the norm so that haulers make enough money to pay for truck maintenance and repairs. Haulers also need to pay truck drivers adequately so they're not on the roads for excessively long hours in order to make ends meet.

In effect, the CTA argues, the issue is roadway safety. But if that's the issue, in place is an extremely circuitous—and extremely costly—method of promoting it.

It also doesn't assure safety. The PUC has no control over 61 percent of the trucks registered to operate within California. It also cannot make truckers spend their extra profits in safety-related fields.

A more direct approach is being pushed by state Sen. Becky Morgan, R-Los Altos Hills, and the California Coalition for Trucking Deregulation, headquartered across the Bay in Newark. Morgan is sponsoring two bills: SB 2222, which would free from rate regulation retail freight carriers who can prove they're profitable, and SB 2121, which would increase a variety of safety standards related to trucks and truck drivers.

Would rate deregulation make it tougher for manufacturers to find competent truckers? Legislative Analyst Elizabeth G. Hill studied other states' statistics and said the competitive spirit came through. "In fact," she wrote in her analysis, "shippers found many truck companies working harder to accommodate their needs and offer better service than previously."

Would rate deregulation spawn more truck-caused traffic accidents? Not if police and other officials strictly enforce safety standards that are higher, as they would be under Morgan's proposal. Moreover, no carrier wants to develop a reputation for causing collisions that injure innocent people, damage and destroy goods and other vehicles and prompt lawsuits. It's not just bad for business. It's economically suicidal.

The public needs regulations on truck safety, not freight rates. We urge the Legislature and Gov. Deukmejian to support SB 2222 and SB 2121.

OBJECTIVES, CONCEPTS, AND POLICIES FOR CONVENTIONAL ARMS REDUCTIONS

Mr. WIRTH. Mr. President, in his testimony before the Senate Armed Services Committee, Karl Kaiser, professor of politics at the University of Cologne and director of the research institute at the German Council on Foreign Relations, Bonn, stresses the need for the West, in this time of nuclear disarmament, to focus upon the conventional threat to Western Europe, the issue at the heart of NATO's formation and continued vitality. What is needed is a connection between nuclear modernization and arms control and conventional arms control that is real and yet flexible.

Kaiser sees conventional arms control operating in a new context. Nuclear deterrence is losing appeal as NATO doctrine with influential sectors of public opinion, making conventional war more acceptable. This imperils the West, which lags behind the East bloc in this realm. While this is ameliorated somewhat by the reforms taking place in the Soviet Union, the INF Treaty not only makes the prudent handling of remaining nuclear arsenals crucial. It also demands, given the current conventional imbalance, even greater assymetrical reductions and more intrusive verification provisions for conventional arms than those found in the INF Treaty.

Kaiser also takes issue with the opinion widely prevalent in Britain and the United States that further nuclear arms control treaties should be avoided until the conventional balance has been adequately redressed. For Kaiser, short-range nuclear weapons serve not only to deter a Warsaw Pact conventional attack, but war itself. As such, NATO must seek to maintain an adequate and minimal structure of flexible response, a task that should not be delayed in waiting for a conventional arms control pact to happen. Moreover, since the pact maintains a 14:1 superiority in short-range, land-based missiles, without meaningful arms control in this category of weapon, NATO forces would be reluctant to escalate, as its decisionmakers would suffer from self-deterrence. Therefore, if NATO is to maintain a nuclear capacity that can threaten an aggressor, the 1983 Montebello decision to modernize the NATO nuclear arsenal must be refined and expanded. The nuclear artillery that plays such a large role in NATO's low-level nuclear arsenal is relatively worthless, according to Kaiser, and West Germany bears a disproportionately high share of the risk if such weapons were to be used. Items such as new standoff weapons, aircraft with modern penetration technology, and a small number of SLCM's and ALCM's assigned to SACEUR are needed in order to maintain a minimum nuclear posture. Thus, any "triple zero" solution would only serve to further undermine West European security, for the Soviet Union would then be able to further exploit its conventional superiority.

A conventional arms control treaty, Kaiser feels, is not going to happen soon. To bring about a worthwhile treaty, he suggests what many take as a given: enhance stability by eliminating existing capacities for short-warning attack and large-scale invasion. Aiming for common ceilings is one way to do this. The Western allies will have troubles, as always, in maintaining a unified front, but must at least agree on what types of weapons to reduce, and in what order. Potential geographic disaggregation will be an especially divisive topic. The talks themselves will be extraordinarily complex, and, in Kaiser's opinion, would be much aided by in initial and thorough discussion of the military doctrines of both alliances. This way, the participating elites would be exposed to a critical analysis of their own doctrine and posture. From there further and extensive confidence-building measures would be in order, followed by an agreement to reduce the production of military equipment to roughly equal levels, thereby focusing in future outcomes rather than disagreements in the data of the moment. From that point, negotiations over asymmetrical reductions would still be most difficult and complex.

Mr. President, I ask unanimous consent that the testimony of Karl Kaiser be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

KARL KAISER—TESTIMONY BEFORE THE SENATE ARMED SERVICES COMMITTEE ON FEBRUARY 17, 1988

I. THE CENTRALITY AND RAMIFICATION POTENTIAL OF CONVENTIONAL ARMS CONTROL

The purpose of preventing and countering a Soviet conventional aggression has been the main driving force behind the establishment of NATO in the 1940s. The primacy of that purpose has not changed since then. For citizens in the two superpowers, in particular Americans, that primary may not be as obvious today as it was then. To them conventional war is a geographically distant and rarely considered eventuality, whereas nuclear war and its prevention is the dominant subject of their preoccupation and the public debate. Even in Europe there are many who have been so overwhelmed by the awesome destructiveness of nuclear weapons that they tend to underestimate the dangers of conventional war.

But to the overwhelming majority of Europeans and to the political forces determining Alliance policy, the problem of conventional aggression is the central and immediate issue. If ever war were to start, it would begin not as a nuclear war but as conventional aggression in Europe. Not unlike the 1940's the Soviet Union continues to have the capacity for strategic conventional offensive along the NATO-Warsaw Pact border. Consequently Europeans have every reason to be most concerned with the eventuality of becoming the victim of conventional aggression which in turn would be the only event that could trigger nuclear conflict. Though the probability of conventional war in Europe is extremely low or nil today, the future inevitably remains uncertain. Conventional arms control, were it to be successful, would therefore address the central problem of European security that has plagued the alliance for four decades.

Within NATO's strategy of flexible response the conventional and nuclear dimensions form an organic whole. In such a system of interaction changes in the conventional sector will spill back into the nuclear sector. If conventional arms control fails to reduce the East's conventional superiority, given present conditions of the Warsaw Pact's superior arms production, the West will become even more dependent on nuclear deterrence. Should nuclear disarmament be successful, the elimination of the Eastern capacity for strategic conventional offensive becomes even more imperative.

II. THE NEW CONTEXT OF CONVENTIONAL ARMS CONTROL

1. The forthcoming round of conventional arms control will take place under conditions totally different from those of its unsuccessful predecessor, the MBFR negotiations. Within the Soviet Union a new leadership is committed to radical reform that requires avoidance of external conflict, greater resources for the civilian sector, and a more harmonious relationship with the members of its empire. For each of these three areas Soviet conventional forces are crucial. Conventional arms control, therefore, inevitably carries with it potentially profound implications for the political order in Europe.

2. The delegitimization of nuclear deterrence has been going on for several years. The political forces working in this direction span the entire political spectrum and range from President Ronald Reagan (in justifying SDI), the Catholic Bishops of America, the anti-nuclear protest movements of Western Europe to Gorbachev's campaign for "New Thinking" and the elimination of all nuclear weapons by the year 2000. A reversal of values becomes apparent which replaces the priority of war prevention as a consequence of the incalculable risk of nuclear weapons by the priority of damage limitation dictated by the enormous destructiveness of nuclear weapons. In this context a more probable conventional war becomes more acceptable than an improbable nuclear war. Conventional arms control must, therefore, take into account that a delegitimization of nuclear deterrence makes the conventional field the decisive arena for stability in Europe, i.e. the very area where the West suffers a structural disadvantage. For this very reason such a delegitimization is not in the West's interests.

3. The new round of the conventional arms control will take place *after* the conclusion and amidst the implementation of the INF-Agreement. As its results both sides have given up important options for nuclear strike. Though the agreement has not undermined NATO's strategy of flexible response, the West does give up important nuclear options of its land based nuclear arsenal to strike Soviet territory as part of its posture aimed at deterring aggression. Under these circumstances a prudent handling of the remaining nuclear capacities becomes even more important as a necessary corollary of arms control negotiations in order to maintain stability in Europe.

4. During the entire post war period obstinate Soviet opposition to meaningful verification through on site inspection has been the most important obstacle blocking progress in disarmament and arms control. With the Stockholm agreement of 1987 on

Confidence Building Measures and even more so with the Washington Treaty on INF the Soviet Union has at last created one of the preconditions for a new agreements by accepting on site inspection.

Whether the Soviet Union is willing to continue travelling on this road remains to be seen. After all, whereas the INF deal carried with it significant advantages for the Soviets worth substantial concessions, conventional arms control requires that the Soviet Union abandons an advantage, surely much appreciated and acquired at tremendous cost, namely conventional superiority in Europe. Only the future will show whether she is willing not only to make that concession but to accept a kind of verification which in the case of conventional arms control must be significantly more intrusive than it has been agreed upon for the INF-Agreement.

III. THE INTERACTION OF CONVENTIONAL AND NUCLEAR ARMS CONTROL

Although it is common knowledge that the conventional and nuclear sector are closely interrelated within NATO's strategy of flexible response, there is considerable disagreement within the Alliance about how to treat that interconnection in the arms control process. Consensus exist in one important point, that nuclear weapons and carrier systems (including dual capable systems) should not be dealt with in the Vienna talks on a mandate for negotiations on conventional stability. But that is where the agreement ends.

With regard to the ongoing discussion about how to relate conventional and nuclear arms control to each other two schools of thought appear to be of particular importance. The first, predominant in American and British thinking, suggests that further steps of nuclear arms control should be undertaken only after conventional balance has been achieved through negotiations and that in the meantime the 1983 Montebello decision of NATO about the modernization of shorter range nuclear weapons should be implemented. Another school of thought predominant in the Federal Republic of Germany argues that measures should be taken only on the basis of a comprehensive concept to be worked out that encompasses both modernization and arms control in the nuclear field in connection with steps in the conventional area.

1. Nuclear arms control only after the achievement of conventional balance?

At first sight the proposition, as enunciated e.g. by President Reagan, to wait with further reductions of short range nuclear weapons until conventional balance is achieved, appears convincing. It was one of the functions of nuclear weapons to compensate for the conventional superiority of the Warsaw Pact which the West could not and did not want to match since the 1950s. The result is known: The East armed itself into a status of conventional military superiority and relative economic poverty whereas the West relied on nuclear deterrence and thereby bought social and economic progress. Moreover, given growing budgetory constraints for conventional armament in NATO and the continued superiority of Warsaw Pact production of armament, the West's dependence on the deterrence function of nuclear weapons has actually increased. Would it not make sense under these circumstances to insist on the recreation of conventional balance? Such an argument overlooks that shorter range nuclear weapons not only have the function of compensating for Eastern conventional superiority but, more important, to deter war as such, even under conditions of conventional balance. In this connection the INF Treaty is relevant. Since it removed specific nuclear options at the very moment when the West's reliance on nuclear weapons increased as a result of deteriorating conventional balance, care must be taken that an adequate and minimal structure of flexible response is preserved under these circumstances. To postpone such a task until conventional balance is created actually aggravates the problem.

Moreover, to make nuclear arms control dependent on conventional balance may well be a prescription for inaction. As will be shown later, the difficulties that have to be overcome to produce the kind of balance which satisfies NATO's needs, are simply enormous. Negotiations on conventional arms reduction will take a long time before substantial results can be achieved. Finally, after a withdrawal of the land based systems according to the INF Agreement the Warsaw Pact will retain a 14:1 superiority of land based missiles with a reach of less than 500 kilometers. In view of this superiority Western decision makers are likely to suffer from "self-deterrence", since they would face the prospect of triggering an immensely destructive strike with superior tactical weapons of the Soviet Union if ever they were to make the first escalatory step. If their reluctance to escalate were to become a reasonable certainty, a zone of non nuclear war-fighting would be created which would allow the Warsaw Pact to bring its conventional superiority into play and in which relatively calculable risks would make war more probable.

2. Re-interpretation of the Montebello decision

At the time of the Montebello decision it was highly doubtful whether an INF Agreement would be concluded, notably one that would actually achieve a zero level of systems down to a reach of 500 kilometers. In the meantime that agreement is a reality and has changed the context of the Montebello decision. After the implementation of the INF Agreement, NATO's option for a low level nuclear response by ground based systems is confined to LANCE which faces a crushing superiority on the other side and to nuclear artillery. The political function of nuclear artillery in escalation is almost nil and its military value on the battlefield is doubted by almost all field commanders. The Montebello decision is therefore inadequate if NATO is to recreate a certain flexibility in nuclear options, notably a nuclear capacity that can affect vital interests of an aggressor.

Finally, the Federal Republic of Germany would carry a disproportionately high share of the risk of a low level nuclear response. To be sure, the "singularization" of the Federal Republic is a myth, since others carry a nuclear risk as well, but the fact remains that most of the remaining weapons of shorter range are either on German soil or are likely to hit German territory. In democracies elected politicians can ask their voters to make a sacrifice only if they present a convincing case that minimizes their threat and proves that they have explored every other available avenue to maintain security. It is easy for Allied politicians to accuse their German counterparts of being difficult or dragging their feet, for most of them do not have to face a reluctant electorate on these issues. Surely, nobody can be interested in undermining the legitimacy of nuclear deterrence in Germany when the task must be the opposite: Maintain and strengthen a minimum nuclear deterrence in a post-INF-world.

3. Toward a comprehensive approach

The ongoing nuclear disarmament must not slip into a "triple zero". Such a solution would be supported by the existing anti-nuclear groups in Western Europe who, encouraged by similar proposals from Gorbachev, aim at the total elimination of all nuclear weapons from Western and Central Europe. Such a course would find the support of those conservative and liberal Americans who feel uneasy about extended deterrence and would like to confine the American nuclear posture to a purely strategic one. Naturally such an outcome would be vigorously sought by the Soviet Union whose strategic goal has always been to eliminate nuclear weapons from Central and Eastern Europe. Such a state of affairs would bring to bear its own conventional superiority and geopolitical advantage without in any way relinquishing the threat of its own strategic nuclear weapons which can be directed at any point in Western Europe in a tactical mode (e.g. through the SS 24). A triple zero solution would, therefore, fundamentally undermine West European security. For these reasons neither the coalition partners of the German government nor most other Allied governments support such an outcome.

First, the Allied governments must make an effort to restate vis-a-vis their democratic publics that even under conditions of nuclear and conventional disarmament an adequate minimum deterrence remains imperative. Though conventional disarmament would decrease dependence on the use of nuclear weapons, it would not eliminate the need for nuclear deterrence, for its purpose remains to prevent war as such by introducing an incalculable risk to a potential aggressor. The minimum nuclear posture must be made independant of developments in conventional arms control.

Second, the Montebello decision should be enlarged in order to define the minimum elements of a nuclear posture in Europe. Such a bottom line of flexible response would consist of a modernized version of LANCE in its present numbers, adequate aircraft capacity with modern penetration technology in combination with a new stand-off weapon that can reach targets within the Soviet Union, and the assignation of a small number of sea-based and air-launched cruise missiles to SACEUR.

Third, such a modernization should be pursued in conjunction with negotiations on American and Soviet nuclear systems with two purposes: First, an elimination of all nuclear artillery shells from Central Europe. This should be done in full awareness of the limited verifiability of such an agreement. If nuclear artillery is militarily of almost no value to Western commanders, the same must be true for their Eastern counterparts. Second, the present disparity of short range nuclear missiles with a range below 500 kilometers should be negotiated down to the Western level.

Though the modernization of nuclear weapons and further nuclear arms control should be seen and treated within a comprehensive concept, linkages should be avoided which give the Soviet Union a droit de regard with regard to LANCE modernization, after having completed that process for her own systems. As for the link between nuclear modernization and arms control on the one hand and conventional arms control and the other there should be a connection which is real and yet flexible at the same time. Without explicitly addressing this question in the mandate for conventional stability negotiations the West should communicate to the East its willingness to negotiate nuclear weapons in a new forum after conventional arms control has made some initial and real progress.

IV. PROBLEMS OF CONVENTIONAL ARMS CONTROL

1. Improving stability

As the West enters a new round of conventional arms control the obvious deserves restating: Military stability will not only be created by arms control but also by defense improvement. Considerable energies and resources are spent on improvement as a routine matter. It goes without saying that they should not only continue but should be subordinated to the same principle that guides arms control, i.e. augment military stability. That applies in particular to equipment and technics that strengthen the defensive side of the military equation.

Though MBFR negotiations never produced a concrete result they did provide an important learning experience to both East and West. Its results are reflected in the consensus which unites the members of the Alliance with regard to the goals of the forthcoming negotiations. The central notion is stability, the dangers to be eliminated: existing capacities for short warning attack and for initiating large-scale invasion. It is interesting to note that in the ongoing Vienna negotiations on a mandate for military stability talks East and West do not disagree any more about the basic goals, and not even on the abstract enumeration of methods to achieve them, such as reductions, limitations, redeployment provisions, equal ceilings and related measures. The difficulties will arise when concrete packages are to be negotiated by implementation.

For NATO the Warsaw Pact's conventional superiority resulting in a capacity for surprise attack and invasion, represents the most important problem. Consequently asymmetrical reductions are an essential and indispensable element of a meaningful approach to increase stability. According to a RAND study (James R. Thomson and Nanetta C. Gantz) a reduction in division equivalents in favour of NATO would substantially worsen NATO's situation unless the ratio reaches 4:1. If such ratios are denounced by the Soviet Union as excessive Western, governments must remain firm and point to the military realities of unnecessary and excessive build-up on the Soviet side during the last decades. In this connection a return to the well proven concepts of common ceilings is adviseable.

Not only can it be justified more easily in the political process but also provides a more objective criterion. However, common ceilings as such need not yet be a guarantee for stability, because they could hide a forward deployment of highly offensive capacities. Consequently the notion of equal ceilings must be implemented in the context of other measures that make sure that it increases stability.

Although negotiations will have to deal with a wide variety of approaches they should concentrate on those dimensions where measures have the highest impact on reducing the capacity to conduct large scale offensive action. Consequently two elements should be at the center of Western preoccupation: The elimination of those weapons' systems which are particularly threatening for offensive purposes, in particular tanks and artillery and, second, the Soviet Units, since, for political and military reasons, they represent the threat that NATO has to worry about and not the Soviet allies. That requires proposals steams that eliminate weapons systems suitable for offensive actions and concentrate on reducing the disproportionately high share of Soviet forces in the Warsaw Pact forward deployed armed forces.

2. Problems within the West

The recent intra-Western disagreements concerning negotiating methods, i.e. the problem of the inter-alliance and the CSCE framework of negotiations, are likely to appear trivial in comparison with the divergencies which will probably emerge once NATO moves beyond the present agreement on general principals, such as stability, invasion capacity etc. and attempts to work out practical proposals which translate them into reductions, force redeployments, geographical zones, verification schemes etc. Differences of opinion could quickly come into the open if the Soviet Union were to seize the initiative and present proposals before the West has worked out a practicable negotiating strategy. In such a case a superficially attractive offer with an asymmetric reduction, which is presented as fair and possibly even accepted as such by many groups in the Western public, could reduce the chances for working out sensible solutions that could increase stability.

Consensus on reducing the invasion capacity of the Warsaw Pact has to be translated into agreement on what types of weapons should be reduced first and in what order of priority. The East and Gorbachev personally have agreed to the principle that defense should be "non-offensive" meaning that there should be no capacity for strategic offensive (which is the intended meaning of the somewhat ambiguous term of "structural incapacity to attack" popularized by the Social Democratic Party of Germany, which does not want to advocate the elimination of tactical attack capabilities so essential to any defense). The packages to be worked out to achieve a superiority of defense over offense have to combine many different elements: quantity and quality of weapons, training, combat readiness etc. Many weapons can be used both for offense and defense, and whether they can be used in one or the other mode depends on numerous other factors that have to be taken into account. For the time being opinions differ considerably on these questions both within the West and between West and East.

The disaggregation in geographic zones will no doubt represent another difficult problem. Such a disaggregation is a prerequisite for restructuring the military postures of both sides according to agreed criteria in order to maintain adequate defense without providing capacities for offense and invasion. But any geographic disaggregation creates differences in status of those zones and therefore raises delicate political problems, e.g. for a country in which reductions take place (like Germany), and countries that have to receive redeployed units or material (like the Benelux or France).

France will have the special problem of being forced to make up its mind about the status of its territory if redeployment schemes in negotiations require the availability of French territory for units or weapons. Moreover, both France and the Federal Republic of Germany will no doubt want to avoid that measures in the field of conventional arms control impede their effort to build a stronger mutual security relationship.

Verification will be another difficult problem to be approached. Since the formulas of reduction, restructuring or redeployment of forces will inevitably be complex, they require an intensity of intrusive verification that will be without precedent in the history of arms control. How far one can go is above all an Eastern problem, but the West may have problems with it as well.

3. Problems within the East

Soviet troops have always had a double function in Eastern Europe. They are a factor of defense and offense opposing the forces of NATO and, secondly, a policing factor guaranteeing Soviet dominance in its sphere of influence. Significant reductions which are bound to affect Soviet troops more than of its allies are likely to affect the internal policing role. While the West has an interest in seeing that role reduced this factor cannot be introduced explicitly into the East-West arms control negotiations. The evolution of the internal structure of the Warsaw Pact will greatly determine the relevance of this question. Moreover, as the 1981 Polish crisis has shown, Soviet troops can play their hegemonial role within the Warsaw Pact system without being inside the territory of the country in question. In the last analysis the relevance of this factor in forthcoming negotiations on conventional arms control can only be decided by the Soviets themselves.

Whether the Soviet Union will accept sufficiently asymmetrical reductions remains to be seen. Though the principle has been accepted by Gorbachev in a speech on 10 April 1987 and at the Warsaw Pact Summit in May 1987 the long history of MBFR gives no clue whatsoever as to a willingness to practically proceed in that direction. What reasons could induce the Soviet Union to give up a significant military and political advantage? The list is only moderately convincing:

First, such asymmetric reductions would lead to savings of resources, but that is only true in the very long run, since initially, conventional disarmament will absorb additional funds for the re-direction of personnel as well as investments for the conversion of armaments industry.

Second, such a movement would no doubt have a positive impact on the world and improve the standing of the Soviet Union.

Third, Gorbachev could use external success to boost his image and position at home in a difficult process of internal reform. Finally such asymmetrical reductions might conceivably be facilitated if there is a reasonably good climate in East-West political and economic relations which the Soviets would like to encourage.

V. TOWARDS A FEASIBLE APPROACH TO CONVENTIONAL ARMS CONTROL

Even a superficial look at the issues of the forthcoming round of conventional arms control reveals the extraordinary complexity of the issues to be negotiated, even if they are broken down into smaller components of negotiation, such as reduction packages, verification measures, thinning out moves, etc. Moreover, each item is interconnected with many other sensitive areas. Within the West views differ on many important issues. It can, therefore, be predicted with reasonable certainty that it will take a long time before the first substantial agreements can be concluded between East and West in this field. The question therefore arises whether one could not organize an approach to negotiations according to feasibility and practicability of progress and proceed accordingly in succeeding phases.

1. A Discussion of Military Doctrine

A first phase of negotiations could consist of a thorough discussion of the military doctrines of both alliances. Several practical reasons speak for such an approach. First, such a round in which both military and diplomats take part, could lay the groundwork for later negotiations on specifics by analyzing thoroughly which threats each side perceives with regard to the military posture, procedures and doctrine of the other. By identifying the central elements of threats, important criteria and priorities for the ensuing negotiations could be identified. Such discussions can, thirdly, be started without being forced to overcome the numerous divergencies of views within the West and can, therefore, begin reasonably soon.

Moreover, such discussions have eminently political reasons. First, they are directed at the Western public besides clarifying the issues at the negotiating table. A review of the military doctrine offers the opportunity to bring into relief the striking disparity between the defensive claim of the Warsaw Pact's doctrine and the offensive reality of force ratios, force structure, training and readiness. A review of these issues will lay the ground for a better understanding of Western publics—not only of the general issues but in particular of the necessity for asymmetric reductions.

Such a discussion is, secondly, likely to have an impact on the East as well. Not only are some of the public arguments carried into the East with the potential of a moderate though not insignificant impact, but, more important, the participating elites will be exposed to a critical analysis of their own doctrine and posture. Conceivably such a process may help those forces in the Soviet bureaucracy willing to challenge military orthodoxy and its tremendous political and economic burden for the Soviet Union.

Some argue against such a discussion of doctrine on the grounds that it will either be used by Soviet propaganda to denounce NATO's policies, such as FOFA and no-first-use of nuclear weapons, or that it will result in a confrontation of irreconcilable views on military data worse than that experienced during MBFR. However, NATO has nothing to fear from such a debate. By now the alliance is used to controversy about its policies which, after all, enjoy clear political support by the participating countries. NATO has a good case in comparing Eastern and Western military doctrine. Finally, only a test will show whether or not a discussion will get bogged down in disagreements on data and whether or not Gorbachev's glasnost policy will have its impact here as well.

2. The Priority of Confidence-Building

Even if East-West measures on military hardwear or troops are difficult and time-consuming to agree upon, a lack of success in this area need not prevent progress in the realm of confidence-building. New measures of confidence-building could superimpose greater transparency on the existing military set-up in East and West with all its asymmetries so that both sides can become confident not to be the object of surprise moves or disadvantageous changes in military strength.

Such confidence-building measures could consist of a further intensification in scope of the measures agreed upon at the Stockholm Conference in 1986 by creating a dense network of observation on both sides of the East-West border, notably in Central Europe. Such measures could cover both manoeuvers and all movements of troops and material. Moreover, they would have to include the perhaps most important element that the Stockholm Agreement failed to cover, alert exercises of military units; from the point of view of crisis stability such exercises deserve prior notification and some degree of observation even more than manoeuvers do.

Confidence-building measures as an opening of a new round of conventional arms control in Europe would have the net effect of increasing stability even without reductions, would lay the groundwork for the relatively dense network of verification that has to accompany later reductions or redeployment measures and would hopefully create a political atmosphere conducive to more far-reaching measures of conventional arms control.

3. An Agreement on Equal Levels of Arms Production

Agreement on military data, not to mention reduction and redeployment formulas will be difficult and time-consuming. If the asymmetries which the West is rightly concerned about cannot be reduced quickly, one can at least try to prevent them from getting worse in a parallel action.

Taking the average of 1984-1986 production of both alliances in military equipment particularly relevant for the conventional posture in Europe and consequently for stability, the following picture emerges:

Category	*NATO as a percent of Warsaw Pact*
Tanks	40
Other armoured fighting vehicles	55
Towed field artillery	21
Self-propelled artillery	19
Multiple rocket launchers	27
Self-propelled AA artillery	24
Towed AA artillery	4
Bombers	18
Fighters	79

(Source: Department of Defense, *Soviet Military Power*, 1987, p. 122)

An agreement to reduce—possibly in phases—the production of military equipment to roughly equal levels would circumvent the inevitably controversial discussion on what forces exist and where (though that has to take place when reductions and redeployments are negotiated) and instead focuses on future outcomes. Verification is relatively easy since it need not cover large areas but only the exit points of production.

The fact that it is Soviet production that has to go down substantially not only underscores the Western point about excessive military overinsurance of the Soviet Union in the past but may be attractive to those forces in the Soviet elites who want to liberate themselves from the tremendous economic cost of that unnecessary over-insurance.

The proposal to lower arms production to agreed levels has been countered with the argument that such an agreement cannot be regionally confined. Some countries, like the Soviet Union, the United States or France, produce weapons for export to countries outside the East-West conflict. Such a constellation, the argument runs, makes production limitations between East and West impossible. A closer analysis, however, reveals that there are a number of weapon systems which are not exported at all or not in significant numbers to countries outside the East-West constellation. These weapons happen to be crucial for military stability between East and West. They include the advanced version of battle-tanks, multiple rocket launchers, self-propelled anti-aircraft guns, and bombers. An agreement between East and West is, therefore, possible with regard to weapons which are, in fact, only produced for use within each alliance.

4. Key Measures

A discussion of military doctrine, new confidence-building measures, and an agreement to scale down asymmetries in production could be the elements of a first phase of conventional arms control to be followed by carefully worked-out and inevitably complex packages of reductions, redeployments etc. Nevertheless an attempt could be made to identify approaches that are simple, feasible, and affect conventional stability favourably. Such measures could be initiated relatively early. They could include proposals such as that of Senator Sam Nunn to reduce equal percentages of American and Soviet troops in Germany or Phil Karber's suggestions to phase out tanks to roughly equal levels in the Central front area.

The proposal of Senator Nunn would have the great advantage of producing the kind of asymmetric reduction (approximately 4:1) indispensable for NATO security and of increasing stability by concentrating on armoured units. If such a proposal can be implemented an effort would have to be made within NATO to reorganize the front line in Germany to avoid the creation of weak spots in the area of the United States' corps. Moreover, the public must be politically prepared that such a withdrawal of U.S. troops, following the return of about 10,000 U.S. soldiers as a result of the INF Agreement, would not represent any decoupling or weakening of U.S. resolve to honour her Alliance commitments.

CONCLUSION

As a result of changes of policy within the Soviet Union the Alliance may possibly for the first time have a chance to make substantial progress on an issue which was at the origin of its creation: military stability in Europe.

In exploiting that opportunity NATO may not only be able to lower the cost of modern defense which it finds increasingly difficult to bear, but, perhaps even more important, to stabilize constellations which could be conceivable causes of nuclear conflict.

However, conventional arms control could be counterproductive and undermine Western security unless it is undertaken within the context of a more comprehensive approach of the Alliance that creatively combines the preservation of an adequate minimum of nuclear deterrence in Europe with improvements in conventional stability through East-West negotiations.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes;

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes;

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Henniz and Ginvanni Bizzini, and depicting the *Calmare Nyckel*, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware;

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2968. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report on the status of our hazardous waste minimization activities and "conforming storage;" to the Committee on Armed Services.

EC-2969. A communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, notification of a proposed foreign military sale to Pakistan; to the Committee on Armed Services.

EC-2970. A communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, notification of a proposed foreign military sale to the United Arab Emirates; to the Committee on Armed Services.

EC-2971. A communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, notification of a proposed foreign military sale to Israel; to the Committee on Armed Services.

EC-2972. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the reserve retirement system; to the Committee on Armed Services.

EC-2973. A communication from the Director of the Federal Home Loan Bank Board, transmitting, pursuant to law, a report on the agency's efforts to prevent unfair and deceptive trade practices in the thrift industry; to the Committee on Banking, Housing, and Urban Affairs.

EC-2974. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the 1987 Annual Report of the National Credit Union Administration; to the Committee on Banking, Housing, and Urban Affairs.

EC-2975. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the Twenty-sixth Annual Report of the Federal Maritime Commission for the fiscal year which ended September 30, 1987; to the Committee on Commerce, Science, and Transportation.

EC-2976. A communication from the Secretary of Commerce, transmitting, six copies of a draft of proposed legislation "To terminate the Public Telecommunications Facilities Grants Program of the National Telecommunications and Information Administration in the Department of Commerce;" to the Committee on Commerce, Science, and Transportation.

EC-2977. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on Federal Government activities to obtain, translate, abstract, and disseminate Japanese technical literature; to the Committee on Commerce, Science, and Transportation.

EC-2978. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1986 Annual Report to Congress for the Office of Surface Mining Reclamation and Enforcement [OSMRE]; to the Committee on Energy and Natural Resources.

EC-2979. A communication from the Department of Agriculture, transmitting, pursuant to law, the Department of Agriculture's [USDA] 1988 Report to Congress on the Colorado River Control Program; to the Committeee on Energy, and Natural Resources.

EC-2980. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report providing statistical and financial information about the Government's helium program for fiscal year 1987; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1989. A bill to implement the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America (Rept. No. 100-316).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 2292. A bill to amend title 38, United States Code, to provide for judicial review of rulemaking by the Veterans' Administration, to allow attorneys' fees in cases involving veterans' claims for benefits, and to make other improvements in the provision of veterans' benefits; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (by request):

S. 2293. A bill to amend title 38, sections 5002(d) and 5004(a)(4), United States Code, to raise the Veterans' Administration's minor construction cost limitation from $2 million to $3 million and for other purposes; to the Committee on Veterans' Affairs.

S. 2294. A bill to amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans' Administration [VA] to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel; to the Committee on Veterans' Affairs.

By Mr. BENTSEN:

S. 2295. A bill to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO:

S.J. Res. 297. Joint resolution designating the week of May 29, 1988, through June 3, 1988, as "America Salutes Broadway Week"; to the Committee on the Judiciary.

S.J. Res. 298. Joint resolution designating September 1988 as "National Library Card Sign-Up Month"; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S.J. Res. 299. Joint resolution to designate June 22-28 of each year as "National Friendship Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2292. A bill to amend title 38, United States Code, to provide for judicial review of rulemaking by the Veterans' Administration, to allow attorney's fees in cases involving veterans' claims for benefits, and to make other improvements in the provision of veterans' benefits; to the Committee on Veterans' Affairs.

VETERANS' JUDICIAL REVIEW ACT

● Mr. MURKOWSKI. Mr. President, I am pleased to introduce the Veterans' Judicial Review Act, a bill to provide for judicial review of certain decisions of the Veterans' Administration.

This bill is designed to achieve many of the same objectives as S. 11, the Veterans' Administration Adjudication Procedure and Judicial Review Act, introduced by my colleague and chairman of the Senate Veterans' Affairs Committee, Senator ALAN CRANSTON. But the means I propose to achieve those objectives are quite different from those contained in S. 11. I strongly believe that the passage of my bill would result in a similar degree of benefit for our Nation's veterans and their dependents, while avoiding the very high costs that the changes in the system for adjudicating veterans' benefits called for by S. 11 would likely bring about.

This bill provides for: First, court of appeals review of VA regulations and regulatory processes; second, authority for this Board of Veterans' Appeals [BVA] to rule on the validity of VA regulations in the context of an appeal, with review of such rulings available in the court of appeals; third, reasonable attorney's fees for services rendered in connection with a challenge to VA regulations before BVA and courts of appeals; and fourth, more independence for BVA.

It is no secret that there has been opposition to S. 11 and its predecessors. There are good reasons for that, Mr. President, and I say that as a Senator who has supported those bills in past Congresses:

Claims for veterans' benefits have traditionally been handled within the VA on a nonadversarial basis; it is felt in many quarters that the injection of attorneys with their wholly legitimate adversarial approach would change that, and not for the better.

There is a feeling that the system "ain't broke": the services of highly trained service officers from our great veterans' services organizations provide first-class assistance and advocacy to our veterans at absolutely no charge.

The Social Security experience has not been a happy one. The decisions of that agency have been subjected to Federal district court review for the past dozen years and are a significant percentage of civil cases on the dockets of those courts. The Judicial Conference of the United States—which speaks for the Federal bench—has consistently warned the Congress of the potential effect of a glut of VA benefit cases in our courts.

And yet, Mr. President, there are powerful reasons to support some form of judicial review:

The VA, the second largest agency in the Federal Government, makes regulations which affect millions of veterans but which are, for the most part, exempt from review in our courts.

Despite the enviable track record of the VA in its fairness to veterans, there is a natural tendency toward less rigor in some of its policy pronouncements than there would be if the agency knew those pronouncements were subject to Federal court review.

Because VA policy determinations are not, for the most part, reviewable in courts, the Congress often finds itself in the position of rewriting VA regulations in the form of new laws. This leaves the Congress open to—and, as former chairman and currently ranking member of the Committee on Veterans' Affairs, I must admit legitimately so—charges of micromanaging the Veterans' Administration. A thoughtful program of judicial review could, at the least, provide the kind of review of executive action that is both more feasible and more in line with the rest of the Federal Government.

While we properly extol the quality of the Board of Veterans' Appeals, there is an obvious drawback to making the decisions of that appellate body subject to the administrator's instructions and legal opinions from general counsel, which is the current law. BVA could benefit, frankly, from more independence.

THE RATIONALE

Two converging principles of contemporary government have caused me to weigh with great care the costs and benefits of any legal reform in the current adjudicatory system of the Veterans' Administration. One is an actual awareness of the Federal deficit, which makes all Federal programs most sensitive to additional costs they must absorb. If Congress adopts reforms that add administrative costs to a program or lead to out-of-pocket costs by program beneficiaries, there will be little budgetary flexibility to offset them.

The other is the modern reaction to the litigation explosion in this country that began some three decades ago which has led all observers to concentrate increasingly on alternate dispute resolution mechanisms to minimize the costs occasioned by an excessive reliance on courts and lawyers.

In my view, the primary goals of the VA benefit system are that claims should be adjudicated quickly and inexpensively in a manner that inspires public confidence. In recent years, controversy has arisen over the fairness of the VA's claims evaluation. I believe that the perception of flaws in the VA system far outstrips the true incidence of error prejudicial to veterans. At the same time, it is clear that errors have been made and, while not completely surprising given the magnitude of the system, signals the need to insure continued confidence in the system's fairness.

I believe that there are several ways to improve the VA adjudication system without risking loss of its uniquely valuable character.

First, a frequently cited concern about the VA system is the lack of independence of the Board of Veterans' Appeals, which creates the appearance—however unjustified—that its decisions are influenced by considerations outside the merits of a claimant's case. My bill seeks to eliminate that cause for concern by its several provisions that would create true independence for the Board and simultaneously expand its authority to determine the validity of agency policies affecting claims.

Second, management opportunities abound to insure that deficiencies identified in various forums are addressed and corrected. We are considering elevation of the VA to Cabinet-level status. Particularly if this worthy and justifiable step is taken, a revitalized management team with a renewed sense of purpose presents manifest potential for making beneficial course corrections.

Our final goal, after all, is not just the procedural one of providing a mechanism for appealing VA decisions, but rather ensuring that veterans receive the benefits to which they are entitled. A quick, convenient and responsive method to appeal decisions is only one way to approach this goal. There are other steps, both administrative and management, which can also be taken:

The VA could simplify its regulations, rules and procedures so they could be better understood by all concerned, including the claims examiners making the decisions.

These regulations, rules and procedures could be computerized, indexed, and cross indexed, so that the information is easily accessible to all the people involved, including the claims examiners.

Many of the tasks performed by claims examiners could be automated, which would then allow them to spend more time making decisions and less time on the mechanics of implementing them.

Claims examiners turnovers could be reduced so that more resources are devoted to serving veterans rather than to training new personnel.

VA's quality assurance system can be improved.

VA's work measurement system can be clarified to make clear that VA employees are rewarded for working claims correctly, not just working claims.

Thus, before considering an expanded role for courts and lawyers, I see these two steps—a truly independent Board of Veterans' Appeals and agency management—as providing much of the resources needed to deal effectively with such problems as do exist in the VA adjudication system, including the perception of the widespread nature and extent of those problems. At the same time, I also believe that an increased role for courts and lawyers can play a very important substantive and symbolic part, so long as the increase is tailored to insure that those benefits will outweigh the costs of expansion.

Accordingly, my bill provides broad, meaningful judicial review without destroying the nonadversarial nature of the process and without thrusting thousands of individual benefit determinations into our already overburdened Federal district courts.

Just as important, I am also pleased to say that this bill has the support of many of the major veterans' service organizations, including the Veterans of Foreign Wars, the Disabled American Veterans, service organizations whose officers provide such high-quality assistance and which have for years reminded us of the drawbacks of throwing VA fact-finding into the adversarial arena of Federal district court but who just as consistently voiced support for some form of review. I ask unanimous consent that letters in support of this bill from Earl Stock, national commander-in-chief of the Veterans of Foreign Wars, and Gene Murphy, national commander of the Disabled American Veterans, be inserted following my remarks.

The specific provisions of this bill, Mr. President, are as follows:

REVIEW OF RULEMAKING AND REGULATIONS

The bill would statutorily impose the rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553, on the VA rulemaking procedure. This, by the way, is something the VA says it already does. More importantly, however, the bill would subject such determinations—except the rating schedule—to judicial review in the courts of appeals.

The bill would also permit claimants to challenge regulations—broadly defined—before the Board of Veterans' Appeals in the context of an appeal, with review of the BVA decision on the regulation subject to review in U.S. courts of appeals. Further, where the BVA holds a regulation invalid, the bill would permit the administrator to appeal that ruling to the U.S. Court of Appeals for the Federal Circuit.

ATTORNEYS' FEES

The ideal role for courts and lawyers is to permit them to perform their classic function of resolving legal questions. Accordingly, this bill would permit the Board of Veterans' Appeals to allow attorneys' fees for services rendered in connection with representation before the VA under two criteria:

For services rendered prior to the issuance of a notice of disagreement or for services not otherwise provided for, a fee not to exceed $10; and

For services in connection with a challenge to the validity of a regulation before the VA—including BVA—rendered on or after the issuance of the notice of disagreement, not to exceed, first, 25 percent of past-due benefits awarded on the basis of the claim, if such an agreement was made between the claimant and attorney, or, second, $500 if there was no such agreement.

The bill also gives BVA authority to review all agreements with respect to attorneys' fees.

With respect to actions taken to the U.S. courts of appeals, the bill would require a reviewing court to determine and allow a reasonable fee for services rendered before it. The bill would also permit a court to award fees under the Equal Access to Justice Act.

BOARD OF VETERANS' APPEALS

The bill would delete 38 U.S.C. 4004(c), which currently binds BVA decisions to VA regulations, the Administrator's instructions and the General Counsel's precedential opinions.

The bill would require that the chairman and vice chairman be appointed by the President subject to Senate confirmation. Members would be appointed by the chairman with the approval of the President. All terms are 15 years.

There are, obviously, differences between this bill and S. 11:

This bill would explicitly authorize judicial review of VA regulations; S. 11 would not.

This bill would prevent the onslaught of veterans' claims into Federal district courts; S. 11 would explicitly authorize litigation in Federal district courts over virtually every individual claims for veterans' benefits.

This bill would increase the independence of the Board of Veterans' Appeals in terms of dependence on the Administrator's instructions, appointment, removal, compensation and authority over VA regulations; S. 11 merely creates a complex array of procedures for adjudication which cannot help but create antagonism between the VA and veterans.

This bill would permit attorneys to be reasonably compensated for representing claimants only with respect to legal challenges to VA regulations; S. 11 would allow attorneys to be compensated for virtually any type of representation, insuring that the nonadversarial atmosphere that currently exists will be gone.

I think, Mr. President, that this is a bill whose time has come. It provides review without, I do not believe, rending the fabric we have preserved for more than half a century. Just as important, I believe this is a bill that can become law.

We do not need another expression of the sense of the Senate that judicial review is a good thing: we need judicial review. This bill, with the support of veterans services organizations, can effect that review. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of the bill and the letters mentioned earlier in my remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Act."

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or a repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision to title 38, United States Code.

SEC. 3. JUDICIAL REVIEW OF AGENCY RULEMAKING.

(a) APA PROCEDURES.—(1) Chapter 3 of title 38, United States Code, is amended by inserting after section 222 the following new section:

"SEC. 223. RULEMAKING: PROCEDURES AND JUDICIAL REVIEW.

"(a) The provisions of section 553 of title 5 (other than subsection (a)(2) thereof) shall apply, according to the provisions of that section, to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator.

"(b) Any action of the Administrator subject to subsection (a) (other than the adoption or readjustment of the schedule of ratings for disabilities under section 355 of this title) may be reviewed in accordance with chapter 7 of title 5. Such review shall be brought in the United States Court of Appeals.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Rulemaking; procedures and judicial review.

(b) CONFORMING AMENDMENT.—Section 211(a) of such title is amended by striking out "except as provided in sections 775, 784" and inserting in lieu thereof "except as provided in sections 223, 775, 784, 4010,".

SEC. 4. ATTORNEYS' FEES.

(a) Section 3404 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board of Veterans' Appeals shall approve reasonable attorneys' fees to be paid by the claimant to attorneys for representation before the Veterans' Administration (including representation before the Board of Veterans' Appeals) in connection with a claim for benefits under laws administered by the Veterans' Administration, but in no event shall such attorneys' fees exceed—

"(1) for any services rendered prior to the issuance of a statement of the case under section 4005(d) of this title, or for any services not otherwise provided for, $10; or

"(2) for services in connection with a challenge to the validity of regulations of the Veterans' Administration provided in section 4010, rendered on or after the issuance of a statement of the case under section 4005(d) of this title—

"(A) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the challenge is resolved in a manner favorable to the claimant, 25 percent of the total amount of any past-due benefits awarded on the basis of the claim; or

"(B) if the claimant and an attorney have not entered into such an agreement, the lesser of—

"(i) the fee agreed upon by the claimant and the attorney; or

"(ii) $500, or such greater amount as may be specified from time to time in regulations which the Board shall prescribe based on changed national economic conditions subsequent to the date of enactment of this subsection, except that the Board may, in its discretion, determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee.

"(d) Actions before the Court of Appeals

"(1) If, in an action brought in a United States Court of Appeals under section 223 or 4010 of this title, the matter is resolved in a manner favorable to a claimant who was represented by an attorney, the court shall determine and allow a reasonable fee for such representation to be paid to the attorney by the claimant.

"(2) If, in an action brought in a United States Court of Appeals under section 223 or 4010 of this title, the matter is not resolved in a manner favorable to a claimant who was represented by an attorney, the court, taking into consideration the likelihood at the time such action was filed that the claimant would prevail, may determine and allow a reasonable fee not in excess of $750 to be paid to the attorney by the claimant for the representation of such claimant.

"(3) For the purposes of this subsection, a matter shall be considered resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(4) In an action brought in a United States Court of Appeals under section 223 or 4010 of this title, the court may award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of subsection (d) of section 2412 of title 28.

"(e) To the extent that past-due benefits are awarded in proceedings before the Veterans' Administration (including proceedings before the Board of Veterans' Appeals), the Administrator shall direct the payment of any attorneys' fee that has been determined and allowed under this section (including allowances made by a Court of Appeals pursuant to subsection (d)(1) or (d)(2) of this section) be made out of such past-due benefits, but in no event shall the Administrator withhold for the purpose of such payment any portion of benefits payable for a period subsequent to the date of this final decision in such case.

"(f) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, including petitions for review by the Administrator pursuant to section 4010, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are applicable.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to cases in which a statement of the case is issued after the date of the enactment of this Act.

SEC. 5. BOARD OF VETERANS' APPEALS.

(a) Review of Regulations of the Veterans' Administration.—(1) Section 4004 of title 38, United States Code, is amended:

(A) by striking out subsection (c); and

(B) by redesigning subsection (d) as subsection (c).

(2) Chapter 71 of such title is amended by adding at the end the following new sections:

"Sec. 4010. REVIEW OF REGULATIONS.

"(a) Right of Review.—Where an appellant before the Board has challenged the validity of regulations of the Veterans' Administration involved in his or her case (other than the validity of the schedule of ratings for disabilities under section 355 of this title), he or she shall be afforded the right to have such challenges adjudicated and resolved by the Board, subject to review by the United States Court of Appeals.

"(b) Procedure.—(1) When challenges to the validity of regulations of the Veterans' Administration involved in an appeal (other than challenges to the validity of the schedule of ratings for disabilities under section 355 of this title) have been raised, the Board shall adjudicate and resolve such challenges separately from the adjudication and resolution of all other issues in the appellant's case.

"(2) Upon the final resolution of the case of which the challenge referred to in subsection (b)(1) is a part, the Board's determination of the validity of the regulations challenged shall be subject to review in the United States Court of Appeals. The subject matter of such action shall be limited to the validity of the regulations of the Veterans' Administration involved in the appeal, to include the Board's determination, separate from its adjudication of all other issues in the appellant's case, of the validity of those regulations.

"(3) The appellant shall have 60 days from the date of the final resolution referred to in subsection (b)(2) within which to initiate a petition for review before the United States Court of Appeals—

"(A) If such action is not initiated within such period, the Board's determination shall be final and conclusive and no other official or any court of the United States shall have power to review any such decision by an action in the nature of mandamus or otherwise, except as provided in subsection (b)(4).

"(B) Where the reviewing court has reviewed and resolved the questions raised, the case shall be remanded to the Board for further proceedings.

"(C) Notwithstanding any other provision of law, the Board's determination of all other issues on appeal shall be final and conclusive and no other official or any court of the United States shall have power to review any such determination by an action in the nature of mandamus or otherwise.

"(4) In any case in which the Board rules that a regulation of the Veterans' Administration is invalid, the Administrator may, upon the final resolution of such case, petition for review of such ruling to the United States Court of Appeals for the Federal Circuit. Such petition shall be filed within 60 days from the date of the final resolution referred to in subsection (b)(2). The appellant before the Board shall be notified of such filing and shall be entitled to appear in such action.

"(5) In the case of an appellant, a request for review pursuant to this section shall be brought in the United States Court of Appeals where the appellant resides, or in the United States Court of Appeals for the Federal Circuit.

"(6) To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning of the terms of the regulations challenged. The reviewing court shall hold unlawful and set aside regulations found to be—

"(A) contrary to constitutional right, power, privilege, or immunity; or

"(B) in excess of statutory jurisdiction, authority, or limitations, short of statutory right; or

"(C) resting upon a policy judgment, reasoning or factual premise so unacceptable as to render the regulation arbitrary.

"In no event shall the facts of the appeal or the application of any law or regulation to those facts be subject to review by the reviewing court unless they raise a constitutional issue, nor shall the validity of the schedule of ratings for disabilities under section 355 of this title be subject to review under this section.

"(7) The right of review granted under this section is in addition to the right of review under section 223 of this title.

"(8) For the purposes of review under this section, the term "regulation" includes those statements of general policy and interpretations of general applicability which have been adopted by the Administrator.".

(b) Review of Attorneys' Fees.—Chapter 71 of such title is amended by adding at the end of the following new section:

"SEC. 4011. REVIEW OF ATTORNEYS' FEES.

"The Board may review the reasonableness of any fee arrangement for payment of attorneys' fees by a claimant during proceedings within the Veterans' Administration or before the Board. If the Board finds that any amount to be payable from past due benefits is excessive or unreasonable, the Board may reduce such amount. A decision of the Board under this section is final and may not be reviewed by any court.".

(c) Changes to the Board.—(1) Section 4001 of such title is amended:

(A) in the first sentence of subsection (a), by striking the words "directly responsible to the Administrator";

(B) by amending subsection (b) to read as follows:

"(b) The Chairman and Vice Chairman of the Board shall be appointed by the President with the advice and consent of the Senate for a term of 15 years. Members of the Board shall be appointed by the Chairman with the approval of the President for a term of 15 years.";

(C) in the first sentence of paragraph (3) of subsection (c) of such section, by striking out "In each annual report to the Congress under section 214 of this title, the Administrator shall provide" and inserting in lieu thereof "The Chairman of the Board shall submit an annual report to the Congress providing";

(D) in the second sentence of paragraph (3) of subsection (c) of such section, by striking out "the Administrator" and inserting in lieu thereof "the Chairman"; and

(E) by adding the following new subsections at the end of such section:

"(d) Notwithstanding any other provision of law, no member of the Board, and no temporary member while so serving, shall be eligible for or receive, directly or indirectly, bonuses in addition to salary.

"(e) The Administrator shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Board to carry out its responsibilities under this chapter.".

(3) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4009 the following new items:

"4010. Review of regulations.
"4011. Review of attorneys' fees.".

Veterans of Foreign Wars
of the United States,
Washington, DC, April 18, 1988.

Hon. Frank K. Murkowski,
U.S. Senate,
Washington, DC.

Dear Senator Murkowski: On behalf of the more than 2.2 million members of the Veterans of Foreign Wars of the United States, I would like to commend you for your efforts to resolve the controversy surrounding the judicial review issue. As you know, the VFW has long supported providing for judicial review of questions of law and regulation as it pertains to VA benefit claims. Your bill, S. 2292, goes a long way in meeting the mandates of the Veterans of Foreign Wars.

We also commend you for including language in your legislation which would give more independence to the VA Board of Veterans Appeals, an action which can only quell the apprehension of many of our nation's veterans.

Without having had ample time to review your bill in detail, we can say, for the most part, it appears to be a step in the right direction to finally allow veterans to enter into the judicial system.

With best wishes and kind regards, I am,

Sincerely,

Earl L. Stock,
National Commander-in-Chief.

Disabled American Veterans, National Service and Legislative Headquarters,
Washington, DC, April 18, 1988.

Hon. Frank H. Murkowski,
U.S. Senate,
Washington, DC.

Dear Senator Murkowski: I am writing this letter to inform you of the strong support of the Disabled American Veterans for S. 2292, the Veterans' Judicial Review Act of 1988, which you have recently introduced in the U.S. Senate.

As you are most certainly aware, judicial review and its application to the Veterans Administration has been the subject of scrutiny—and controversy—in the United States Congress for a number of years. In fact, since 1979, the Senate has passed a judicial review bill on four separate occasions and each time the House has failed to act upon the measures.

The thrust of these prior bills has been directed at (a) authorizing judicial review of individual VA benefit determinations in the federal district court system and (b) removing the $10 fee limitation that presently applies to private attorney representation in VA proceedings.

The DAV, based upon past resolutions approved by the delegates to our National Conventions, has long opposed judicial review as set forth in this prior legislation . . . and we continue in our opposition to this day.

In our view, notwithstanding the frustration of some categories of VA claimants (primarily, Agent Orange and Atomic Veterans) and admitted deficiencies in the VA's adjudication process (primarily, at the Board of Veterans Appeals), the past judicial review proposals have represented, and still represent, an exaggerated solution to the problem—one that would impose tremendous costs on the current system without providing any clearly defined, offsetting benefits. Jauxtapositioned against the possibility of securing a handful of reversed or remanded VA denials of claims, we see the legalization and formalization of current nonadversarial, informal VA proceedings; the siphoning off of millions of dollars of compensation and pension entitlements from veterans to private attorneys; and the overburdening of federal courts with "factual" determinations that they are ill equipped, and were not designed, to handle.

Your proposal, on the other hand, by authorizing appellate court review and attorney involvement in matters relating to VA rules and regulations, would permit outside oversight of Agency policy—that is to say, redress in a broad, meaningful fashion affecting thousands of claimants—while, at the same time, protecting the VA's massive adjudicative system from the disruption caused by wholesale intrusion of courts and lawyers.

Not inconsequently, your proposal also provides a significant degree of independence to the VA's Board of Veterans Appeals, conferring upon that entity the ability to render decisions free of formal and informal Agency influence.

Senator Murkowski, the DAV regards S. 2292 as an important, meaningful alternative to the past judicial review proposals that have failed to achieve a congressional consensus. We believe it represents an opportunity to finally address this very complex issue to the satisfaction of all interested parties and in the best interest of our federal system of veteran's benefits and services. We commend you for its introduction and we shall strongly support S. 2292 during the forthcoming hearings to be held by the Veterans Affairs Committee.

Sincerely,

Gene A. Murphy,
National Commander.●

By Mr. CRANSTON (by request):

S. 2293. A bill to amend title 38, sections 5002(d) and 5004(a)(4), United States Code, to raise the Veterans' Administration's minor construction cost limitation from $2 million to $3 million, and for other purposes; to the Committee on Veterans' Affairs.

INCREASE IN DOLLAR LIMIT FOR VETERANS' ADMINISTRATION MINOR CONSTRUCTION PROJECTS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2293, legislation to increase the dollar limit on Veterans' Administration construction projects considered minor projects. The Administrator of Veterans' Affairs submitted this legislation by letter dated April 7, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point, together with the April 7, 1988, transmittal letter and enclosed analysis.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 81 of title 38, section 5002(d), United States Code, is amended by striking from section 5002(d) the language "medical facility which is expected to involve a total expenditure of more than $2,000,000," and inserting in lieu thereof the phrase "major medical facility project as defined by section 5004(a)(4)."

Sec. 2. Chapter 81 of title 38, section 5004(a)(4), United States Code, is amended by striking the dollar threshold stated in section 5004(a)(4) "$2,000,000," and inserting in lieu thereof "$3,000,000."

Veterans Administration,
Washington, DC, April 7, 1988.

Hon. George Bush,
President of the Senate, Washington, DC.

Dear Mr. President: There is transmitted herewith a draft bill, "To amend title 38, section 5044(a)(4), United States Code, to raise the Veterans Administration's minor construction cost limitation from $2 million to $3 million and for other purposes." It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

The draft measure would amend title 38, section 5004(a)(4), by changing the dollar threshold which, in part, defines a VA major medical facility project, from $2 million to $3 million. A corresponding amendment is required to title 38, section 5002(d), which requires the Administrator to consider the sharing of health-care resources with the Department of Defense when projects cost over $2 million. Raising the cost limitation from $2 million to $3 million is necessary as project costs have risen due to inflation. This proposal would not produce any additional costs of savings.

The Office of Management and Budget advises that there is no objection to the submission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

Thomas K. Turnage,
Administrator.

Section-by-Section Analysis of Proposed Bill

Section 1 of the draft bill would amend section 5002(d) of title 38 to provide that the Administrator will consider the possibility of a sharing agreement with the Department of Defense as an alternative to all or part of a major medical facility project. This proposed change ties the statutory requirement to all major medical facilities projects as defined by section 5004(a)(4). That is, all medical facility projects for which appropriations are sought as "major construction" projects.

Instead of using a specific dollar level, section 5002(d) would be amended to indicate that consideration to the option of sharing must be given before the "construction, alteration, or acquisition . . . of a major medical facility project." Under the existing statute "major medical facility project is defined as a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000." *See* 38 U.S.C. § 5004(a)(4) (1984).

Section 2 of the draft bill would amend section 5004(a)(4) of title 38 to increase the statutory minor construction cost limitation from $2 million to $3 million. This proposed change reflects increased costs for construction as a result of inflation.

Current law (38 U.S.C. § 5004(a)(4) and the Construction, Minor, appropriation language) limits the cost of minor construction projects to $2 million or less. This level has been in effect since Fiscal Year 1981. Prior to Fiscal Year 1981, the cost limitation for minor projects was $1 million.

By Mr. CRANSTON (by request):

S. 2294. A bill to amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans' Administration [VA] to continue major health-care pro-

grams, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION HEALTH CARE AMENDMENTS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2294, legislation to extend, modify, and enhance Veterans' Administration health-care and health-care personnel authorities. The Administrator of Veterans' Affairs submitted this legislation by letter dated April 7, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 7, 1988, transmittal letter and enclosed analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2294

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Health Care Amendments Act of 1988."

(b) Except as otherwise expressly provided, whenever in this act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 620A is amended by striking subsections (e) and (f) in their entirety, and by redesignating subsection (g) as (e).

SEC. 3. Section 620B(c) is amended by striking "1989" and inserting in lieu thereof "1991".

SEC. 4. Section 628(a) is amended by striking the word "found" and all that follows in clause (D) of paragraph (2), and inserting in lieu thereof "a participant in a vocational rehabilitation program as defined in section 1501(9); and".

SEC. 5. (a) Section 632(a) is amended by striking "1989" and inserting in lieu thereof "1994".

(b) Section 632(b)(1) is amended to read as follows:

"(b)(1) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center, there is authorized to be appropriated for each fiscal year occurring during the period beginning October 1, 1988, and ending on September 30, 1994, the sum of $500,000 to be used by the Administrator for making grants to the Veterans Memorial Medical Center. The sum of $50,000 of these grants shall be used for the education and training of health service personnel who are assigned to the Veterans Memorial Medical Center, the remainder to be used for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the center.".

SEC. 6. Section 641(a) of title 38, United States Code, is amended by striking "$7.30", "$17.05", and $15.25" and inserting in lieu thereof "$10.67", "$20.48", and "$20.48", respectively.

SEC. 7. (a) Section 4142(a)(1)(B) is amended by striking in the words "medicine, osteopathy, dentistry, podiatry, optometry, or nursing", and inserting in lieu thereof "a field of training or study in direct health-care services".

(b) Section 4143(b) is amended:

(1) By inserting "(i)" before the word "With" in subparagraph (C) in paragraph (3).

(2) By striking the period after the words "leading to such degree" in paragraph (3), subparagraph (C).

(3) By inserting after the word "degree" in the last sentence of paragraph (3), subparagraph (C), the following words:

"or, if a license or other credential is required for VA employment, the effective date of such license or credential except that the Administrator may, at the request of such participant, defer such date until the end of the period required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.".

(4) By inserting at the end of paragraph (3), subparagraph (C), the following new clause:

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.".

(5) By inserting the words "or (3)(C)" in paragraph (4) after "(3)(A)".

(c) Section 4144(b)(4) is amended by inserting the words "or other person who provides direct health-care services" after the word "auxiliary".

(d)(1) The heading of section 4141 is amended to read as follows:

"§ 4141. Establishment of scholarship program; purpose; duration".

(2) The item relating to such section in the table of sections at the beginning of chapter 73 of such title is amended to read as follows:

"4141. Establishment of scholarship program; purpose; duration.".

SEC. 8. (a) Subchapter IV of Chapter 73 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 4147. Establishment of tuition reimbursement program

"(a) Notwithstanding section 4104(4), 4107(c)(2), and 4108 of title 5, United States Code, the Administrator may establish a tuition reimbursement program for nurses appointed under this Chapter, and may prescribe regulations for the implementation of such a program.

"(b) To be eligible for participation in such a program, an applicant must:

"(1) have accrued one year of current satisfactory service;

"(2) be enrolled or accepted for enrollment in an institution approved by the Administrator in a course of study or training leading to completion of a degree in nursing;

"(3) be free of any obligation under any other Federal program to perform service after completion of a course of study or other training program; and

"(4) meet such criteria as may be set forth in the Administrator's regulations.

"(c) As a condition of reimbursement, a participant must:

"(1) maintain employment as a Veteran's Administration nurse while pursuing an approved course under the reimbursement program;

"(2) successfully complete an approved course under the reimbursement program; and

"(3) agree, in accordance with the Administrator's regulations, to perform a period of obligated service as a Veterans' Administration nurse or in a field related to nursing.

"(d) If a participant fails to either:

"(1) maintain Veterans' Administration employment; or

"(2) successfully complete the approved course under such program;

no reimbursement may be provided and no period of obligated service will be incurred.

"(e) The Veterans' Administration may recover any reimbursements made under this section in the event of a participant's breach of the agreement to perform obligated service.

"(f)(1) The Chief Medical Director may

"(A) waive the right of the Veterans' Administration to recover under this section, and

"(B) waive any nurse's obligation to provide service, whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Chief Medical Director determines that waiver would be in the best interest of the Veterans' Administration.

"(2) Any such waiver must be in accordance with the Administrator's regulations.".

"(b) The table of sections at the beginning of subchapter IV of chapter 73 is amended by inserting after the item relating to section 4146 the following new item:

"4147. Establishment of tuition reimbursement program.".

"(c) The Catchline of Subchapter IV is amended to read as follows: "Veterans Administration Health Professional Educational Assistance Program".

SEC. 9. Section 5033(a) is amended by striking "1989" and inserting in lieu thereof "1992".

SEC. 10. Section 201(b) of Public Law 99-576 is amended by deleting "1989" and inserting in lieu thereof "1991".

SEC. 11. EFFECTIVE DATE.—The amendments made by section six shall apply with respect to hospital care, domiciliary care, and nursing home care furnished in State homes after September 30, 1988.

VETERANS' ADMINISTRATION, OFFICE
OF THE ADMINISTRATOR OF VETERANS' AFFAIRS, WASHINGTON, DC,
APRIL 7, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans Administration (VA) to continue major health-care programs, to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel." We request that it be referred to the appropriate committee for prompt consideration and enactment.

Among its key provisions, this draft bill would extend the VA's authority to operate major programs. Of particular importance, the bill would authorize an extension through Fiscal Year 1992 of the State home construction grant program which provides the States with assistance in the construction or acquisition of State home facilities. The grants make it possible to provide medical care to many more veterans than can receive care in VA facilities. It is a cost-effective program in which Federal participation is limited to no more than 65 percent of the cost of any one project. Extension of VA's authority now, assuring States of the Federal Government's continued interest in the program, would encourage States to submit grant applications for placement on the July 1, 1989, priority list for Fiscal Year 1990 funds. Extension of this grant program for three years would result in estimated costs of $42.0 million in each of Fiscal Years 1990, 1991, and 1992.

We are also proposing to increase the per diem rates VA pays to States for the care of veterans in State homes. The amount payable for the domiciliary level of care would increase from $7.30 to $10.67, and a single rate of $20.48 would be payable for both hospital and nursing home care, up from $15.25 and $17.05 respectively. The increase would take effect October 1, 1988. These VA contributions encourage States to establish, operate, and partially fund State homes for veterans, thereby helping to care for veterans who are eligible for VA care. Increases in per diem rates are necessary due to the substantial increases in States' costs of providing care to veterans since the last per diem rate increases in 1984. Increasing the per diem rates would result in estimated costs of $19.0 million in Fiscal Year 1989 and $102.0 million over five fiscal years.

The draft bill would also authorize the VA to continue its program to contract for rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. The VA's experience with this program, which began as a pilot project in early 1980, has shown it to be a valuable, cost-effective modality to supplement VA treatment and rehabilitation of certain veterans. In 1985, Congress extended VA's authority for the program until September 30, 1988, and deleted reference in the law to its being a pilot program. Its success demonstrates that it should be continued. Consistent with our recognition of the value of providing these services, we do not believe it remains necessary or cost-effective to scrutinize the performance of each contract facility or to maintain special program evaluation requirements distinct from the generic evaluations VA conducts of other ongoing programs. Extension of this contract program would result in estimated costs of $10.1 million in Fiscal Year 1989 and $50.6 million over five fiscal years.

Another important provision of the draft bill would extend for two years, through September 30, 1991, VA's authority to operate respite care programs. This service allows VA to provide chronically ill service-connected veterans who reside at home with brief, planned periods of care in VA facilities in order to provide members of the veterans' families with some relief from the physical and emotional rigors of continuous home care. The respite care program was expressly authorized in Public Law 99-576 and VA has begun to gain some experience with its operation. It is expected that this program will help allow veterans to remain at home in the care of their loved ones, rather, than requiring them to be institutionalized for protracted periods. The draft bill would also extend by two years the date by which VA must report to the Congress on its evaluation of the new respite care program, allowing for a more thorough and complete analysis of the program's effectiveness. Extension of the respite care program for two years would not result in significant costs.

We also urge you to extend for five years, through September 30, 1994, the authority of the President to enter into contracts with the Veterans Memorial Medical Center (VMMC) in the Philippines to provide payment for hospital care, including nursing home care, to United States veterans in that facility. Our proposal would also extend for five years VA's authority to make annual grants to the VMMC for replacing and upgrading equipment and rehabilitating its physical plant and facilities. Additionally, a portion of the grants would have to be used for education and training of health-service personnel at that facility. Extension of these authorities would not result in significant costs.

In addition to extending existing programs, the measure would also address recruitment and retention issues. To help meet recruitment and retention needs for critical health-care personnel, it would make the Veterans Administration Health Professional Scholarship Program more flexible by authorizing scholarships in any field of training or study in direct health-care services. The current scholarship program, authorized by 38 U.S.C. § 4141 *et. seq,* has been used to provide scholarships only to nursing students. It has been successful in helping to alleviate an acute shortage of registered nurses in many locations. The current authority, however, does not authorize scholarships for the full range of health-care occupations. It cannot be used, for example, to meet the current acute shortage of physical therapists. The proposed amendment would broaden the scope of eligibility to include persons in any field of training or study in direct health-care services, including physical therapists. The cost of including physical therapists in the scope of the scholarship program is $1.02 million for each of the next 5 years, totaling $5.1 million for that period. Those amounts are already included in the President's Fiscal Year 1989 Budget.

In another effort to meet recruitment and retention problems, the draft bill would authorize VA to reimburse nurses for tuition expenses incurred in pursuing professional courses leading to a degree in nursing. In an era of acute shortages of qualified nurses, VA can stay competitive with other employers of nurses only if it can offer a full range of fringe benefits. Indeed, fringe benefits, and particularly the popular tuition support programs, are central factors used by employers to affect nurses' employment choices. VA has authority to provide tuition support for individual courses as a form of professional training for employees, but current law prohibits the agency from providing support solely for degree programs. As a result of this restriction, VA has experienced significant difficulty in recruiting and retaining nurses. The draft bill would broaden tuition support authority for those nursing candidates the agency would most like to hire and retain, namely those with the motivation to continue advancing professionally. We estimate the costs of this proposal as $5.0 million each year, for a total cost of $25 million over five fiscal years. Those amounts are already included in the President's Fiscal Year 1989 Budget.

Finally, the draft bill would update and clarify the authority of VA to pay for the medical costs of veterans participating in a VA-sponsored vocational rehabilitation program when those costs are incurred in a medical emergency, and a VA or other Federal health-care facility is unavailable to provide the needed care. Enactment of this provision would not result in significant costs.

The estimated cost of this entire draft bill, which is included in the President's Fiscal Year 1989 budget, would be $78.5 million in Fiscal Year 1990 and $313.5 million over five fiscal years. Of this amount, the only provision of the draft bill that would impose new costs is the proposed increase in the per diem rates VA would pay to States for care of veterans in State homes. Costs for that provision are estimated to be $19.0 million in Fiscal Year 1989 and $102.5 million over five fiscal years.

A detailed analysis of the separate provisions in this proposal is enclosed.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal and that its enactment would be in accord with the program of the President.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

ANALYSIS OF PROPOSED BILL

Section 2 would amend 38 U.S.C. § 620A to provide ongoing authority for the VA to contract for care, treatment, and rehabilitation services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. The contract program for community based inpatient treatment of veterans suffering from alcohol and drug abuse problems allows these veterans to reside in, and receive help in an appropriate supportive environment while making the difficult transition from a hospital in which they have undergone medical detoxification, back into the community at large. The program, which began as a pilot project in 1980, has proved to be a successful, cost-effective alternative for the care and treatment of veterans suffering from alcohol and drug abuse disabilities. Ongoing authorization of the program is warranted.

The VA has had considerable experience with the halfway house program, treating more than 27,000 veterans since the program began in 1980. Approximately 94 VA medical centers now participate in the drug and alcohol halfway house program and they administer approximately 400 contracts with non-VA community based halfway house programs. A recent study revealed that the mean per diem rate paid by the VA for this halfway house care is $26, and may be contrasted with the average estimated cost of inpatient hospital care of $93/103 per day. The typical cost of providing 60 days of halfway house care approximates the cost of providing 9 days of VA inpatient hospital care. The same study demonstrated the many other benefits from the program associated with the improved lives of the veterans when they are able to be drug and alcohol free. Thus, the income status of patients increased dramatically following the halfway house care. Further, for example, the medical costs of individuals in the halfway house program for non-alcohol related illnesses dropped significantly after completing the program. These are but a few of the benefits of being able to provide this mode of care.

Section 2 would also amend section 620A(f) to eliminate the requirement that the Administrator monitor the performance of each contract facility under the program, conduct extensive evaluations, and maintain detailed records, as specified in the law. A reporting requirement which has already been met would also be deleted. Because this program has been very successful, and warrants standing as an ongoing authority, there is limited benefit in relation to its cost to maintain the special scrutiny and recordkeeping that the statute now requires. Since the purposes of those provisions have been met, the program should be treated like other ongoing health care programs and be evaluated accordingly.

Section 3 would amend 38 U.S.C. § 620(B) to extend for two years from September 30, 1989, to September 30, 1991, the VA's authority to provide respite care services. Under its respite care program the VA furnishes certain chronically ill service-connected veterans who are in VA outpatient programs with brief, planned periods of inpatient care in VA hospitals or nursing homes. This inpatient care provides respite to members of the veteran's household who otherwise would be rendering needed care in the home. While a veteran may benefit from special care that can be provided during the period of respite, the primary objective of providing the care is to support the care-givers, the loved ones who provide essential care in the home. It is generally recognized that chronically ill persons not needing hospital care can most effectively be cared for at home by their family, but it is also recognized that this often places intolerable physical and emotional strains on the care-givers. These difficulties can become exacerbated when there is never any break in the continuum of the veteran's care.

The VA's respite care program was first expressly authorized in late 1986 with enactment of Public Law 99-576. During 1987 it became organized with VA's Central Office providing medical facilities throughout the country with guidance on how to establish and administer respite care programs. The program was expected to provide a basis for evaluating whether respite care will help delay or avoid the need for prolonged institutionalization of veterans because they are able to receive continued care in the home. If that is the case, the program may have great potential for avoiding the high costs of providing the institutional care. A two-year extension of the program would enable the VA to better evaluate the cost-effectiveness of respite care.

Section 4 would amend 38 U.S.C. § 628 to clarify that VA has the authority to pay for emergency medical services for veterans participating in a vocational rehabilitation program under 38 U.S.C., Chapter 31, when the veteran cannot reasonably obtain medical care through VA or other Government facilities. Under existing law, VA will generally pay for care of veterans in private non-Federal facilities only when the care has been authorized in advance. Section 628 provides an exception to that rule for certain veterans when a medical emergency exists and a VA or other government facility is not reasonably available at the time of the emergency. Among the veterans eligible for reimbursement of such emergency care are some, but not all veterans participating in a vocational rehabilitation program under chapter 31. Specifically, section 628 applies if a veteran found to be "(i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition."

Since section 628 was first enacted, changes have been made in the VA's vocational rehabilitation programs. For example, VA now conducts a program of independent living that does not necessarily involve a so-called "course of training" with a specific vocational goal. This proposal would authorize VA coverage of emergency care for a veteran in such a program by amending section 628 to include all veterans participating in a vocational rehabilitation program as that term is defined in 38 U.S.C. § 1501(9). This amendment is also intended to cover an individual who has just completed a course of training under the vocational rehabilitation program, but has not yet obtained employment. In that case, the individual is still a participant in the program, and VA would still be providing vocational rehabilitation services. The proposal would clarify that all participants in vocational rehabilitational programs are authorized emergency medical care if a VA or other Federal medical facility is not available to provide the needed care.

Section 5(a) would amend 38 U.S.C. § 632(a) to extend through September 30, 1994, the authority of the President, with the concurrence of the Republic of the Philippines to authorize the Administrator to contract with the Veterans Memorial Medical Center (VMMC), to provide for payments for care in the VMMC for eligible United States veterans. Care of the veterans is authorized by, and on the same conditions set forth in 38 U.S.C. § 624. Extending this authority would enable the United States to fulfill its longstanding moral obligations to Filipino veterans who served in components of the United States Armed Services. The United States undertook this obligation in 1948 when construction of the VMMC was begun, and Congress has continued to renew the authority out of concern that the Philippine Government, on its own, would be unable to provide high quality care to these U.S. veterans.

Section 5(b) would amend 38 U.S.C. § 632(b)(1) to extend through 1994, the authority of the Administrator to make grants of up to $500,000 annually to the VMMC. The bulk of the money would be used for the purpose of replacing and upgrading equipment, and for rehabilitating the physical plant of the VMMC. The draft bill would mandate, however, that the first $50,000 of such grant be used for the purpose of educating and training health service personnel who are assigned to the VMMC. The grants are intended to further assure the effective care and treatment of United States veterans in the VMMC. The grants would continue to be made on such terms and conditions as the Administrator shall prescribe, and may include prior approval by the Administrator of all purchases for equipment and all plans for rehabilitating and upgrading the physical plant and facilities of the VMMC.

Section 6 would amend 38 U.S.C. § 641(a) to increase the per diem rates VA pays to States for the care of veterans in State homes. The amount payable for the domiciliary level of care would increase from $7.30 to $10.67, and a single rate of $20.48 would be payable for both hospital and nursing home care, up from $15.25 and $17.05 respectively.

Under the State home per diem program, VA contributes funds to States for the care of veterans in State homes. The VA's contribution is fixed by law on a per diem basis depending on the type of care provided. These contributions encourage States to establish, operate, and partially fund State homes for veterans, thereby helping to care for veterans who are eligible for VA care. Congress first authorized this program 100 years ago—in 1888. Since that time, Congress has increased the contributions to keep up with the cost of operating State homes. The last increase was effective April 1, 1984. In 1986, VA evaluated the adequacy of per diem rates in a report to Congress required by section 641(c) of title 38, United States Code. The report concluded that some increase in per diem rates over the next five years may be appropriate. Between September 30, 1984, and September 30, 1987, the cost of providing nursing home care to a veteran in a State home increased by 25%. During the same time period, the cost of providing domiciliary care rose 4% and the cost of providing hospital care rose by 18%. Accordingly, we believe the proposed increases are warranted.

Section 7(a) of the bill would amend 38 U.S.C. § 4142(a)(1)(B) by deleting the specific listing of professions eligible for the Veterans Administration Health Professional Scholarship Program. The specific listing of professions limits the flexibility of the VA to provide scholarships in professions needed by the VA which are not listed. It would also enlarge the scope of the scholarship program to encompass persons engaged in a field of training or study in direct health-care services. This language provides the VA with the flexibility it needs to help it meet future health-care needs by enhancing the potential to recruit people in varying occupations as needed.

Section 7(b)(1) of the bill amends 38 U.S.C. § 4143(b)(3)(C) by creating the the first of two clauses under subparagraph (C).

Section 7(b)(2) of the bill amends 38 U.S.C. § 4143(b)(3)(C) by striking the period after the words "leading to such degree". Deleting the period allows the sentence to continue to include new language after the period.

Section 7(b)(3) of the bill amends 38 U.S.C. § 4143(b)(3)(C) to define the period of obligated service for those newly included participants in the scholarship program as starting after these participants have obtained the necessary licensure or credentialing for VA employment. The law currently does not define when the period of obligated service starts for the newly included participants in the scholarship program. This amendment would also give the Administrator the power to defer the service obligation of newly included participants in the scholarship program in the same manner as those presently included in the scholarship program. Under the current law the Administrator would not have the authority to defer the period of obligated service for the newly included participants in the scholarship program.

Section 7(b)(4) of the bill amends 38 U.S.C. § 4143(b)(3)(C) by prohibiting any period of internship, residency, or advanced clinical training as being counted towards the newly included participant's period of obligated service. The current law would not prohibit the crediting of advanced training towards the period of obligated service for the newly included participants in the scholarship program.

Section 7(c) of the bill amends 38 U.S.C. § 4143(b)(4) by making applicable to the newly included occupations in the Veterans Administration Health Professional Scholarship Program the same requirements for the deferral of obligated service as those which apply to occupations specified in paragraph (3)(A). Under the current law, newly included participants in the scholarship program would not have to meet the requirements for the deferral of obligated service as they are set forth at paragraph (4). It would also make applicable to the newly included occupations the same liabilities for failing to complete obligated service by virtue of not becoming licensed as those which apply to occupations presently listed. Under the current law, newly included participants who fail to become licensed would not be liable to the Government for the amount paid under the scholarship program.

Section 7(d) of the draft bill amends the heading of section 4141, and the heading of that section in the table of sections at the beginning of chapter 73, to clarify that section 4141 refers to the scholarship program. The change is necessary because subchapter IV of chapter 73 is broadened by section 8 of the bill to include a tuition reimbursement program as well as the scholarship program.

Section 8(a) of the draft bill adds a new section 4147, "Establishment of tuition reimbursement program," to subchapter IV of chapter 73 of title 38, United States Code. There are six subsections in the proposed new section 4147.

Subsection (a) authorizes the VA Administrator to establish a tuition reimbursement program for VA nurses pursuing professional courses leading to a bachelor or an advanced degree in nursing, and to issue regulations implementing such program (The authority in subsection (a) is intended to complement the authority already being used by VA under chapter 41, of title 5, United States Code, to support training. That authority does not empower VA to support courses solely to obtain a degree. 5 U.S.C. § 4107(c)2. Thus, in order for VA to offer such support, the additional authority in subsection (a) is necessary.);

Subsection (b) sets out the eligibility standards that applicants must meet in order to participate in the tuition reimbursement program, i.e., one year of current satisfactory service, enrollment in an approved institution, freedom from any obligation to perform service under any other Federal program, and any additional criteria established in VA regulation;

Subsection (c) provides the conditions a participant must meet in order to be entitled to reimbursement, i.e,, remain employed with the VA while enrolled in an approved professional course under the tuition reimbursement program, successfully complete that professional course, and agree to a period of obligated service, the terms of which the Administrator is empowered to set, including the length of such service;

Subsection (d) states the consequences for a participant who fails either to complete the professional course successfully or to maintain VA employment i.e., the participant is neither entitled to reimbursement nor liable for obligated service;

Subsection (e) empowers the VA, when the participant breaches the duty to perform obligated service, to recover any reimbursement paid;

Subsection (f) authorizes the Chief Medical Director to grant waivers of either the VA right of recovery or the participant's obligation to perform VA service, whenever the participant cannot comply due to circumstances beyond the participant's control, or whenever waiver would be in the best interest of the VA. (By necessary implication this authority includes less than full waiver in appropriate cases.);

Section 8(b) adds section 4147 to the table of sections.

Section 8(c) of the draft bill amends the catchline of subchapter IV, "VA Health Professional Scholarship Program". This existing title is not sufficiently broad so as to encompass also the tuition reimbursement program. The new title, "VA Health Professional Educational Assistance Program" makes the description consistent with the new section 4147 adding a tuition reimbursement program.

Section 9 of the draft bill would amend 38 U.S.C. § 5033(a) to extend for an additional three years, through Fiscal Year 1992, the program for grants to States for the construction and acquisition of State home facilities for furnishing domiciliary and nursing home care and for the expansion, remodeling, and alteration of State home facilities for furnishing hospital, domiciliary, and nursing home care. The authority for this program expires at the end of Fiscal Year 1989.

These grants make it possible to extend medical care to veterans beyond that which is provided in VA facilities. It is a cost-effective approach, with Federal participation limited to no more than 65 percent of the cost of any one project. There are now State homes in 35 States. Nursing home care is provided in 49 homes, domiciliary care in 43 homes, and hospital care in seven homes. From Fiscal Year 1966 through Fiscal Year 1987, approximately $245 million was obligated in support of new nursing home care and domiciliary beds and for remodeling and modifying existing buildings. Eighty-one percent of the funds have been used for remodeling and renovation.

Section 10 would amend section 201(b) of Public Law 99-576 to extend for two years from September 30, 1989, to September 30, 1991, the date by which VA must report to the Congress on its evaluation of the respite care program authorized in late 1986 by Public Law 99-576. Agency policy on establishing respite care programs was developed and promulgated by late 1987, and programs are now being implemented throughout the VA health care system. An extension of the due date for this report is needed to provide the Agency with sufficient time to continue to develop the program, conduct the study mandated by the law, and consider the findings of the study in relation to medical efficacy and cost effectiveness of providing respite care.

Section 11 would provide that the new per diem rates established by section 6 would be effective on October 1, 1988.

By Mr. BENTSEN:

S. 2295. A bill to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

TEXAS WILDERNESS ACT

● Mr. BENTSEN. Mr. President, the bill which I introduced today will make some needed adjustments in the boundaries of the wilderness areas in Texas. The suggested changes would even out jagged boundaries and move those boundaries to make them more easily marked and recognizable. This bill is identical to legislation introduced in the House by Congressman WILSON of Texas with the support of Congressmen BRYANT, BARTLETT, and BARTON.

In 1984 I introduced and helped pass the legislation to establish these wilderness areas. The original measure designated 34,000 acres of Federal land as components of the National Wilderness Preservation System. This insured the continued protection of these unique ecosystems, assuring that they would remain unsoiled for the enjoyment of future generations.

In 1986 I sponsored legislation which made a number of boundary adjustments, in the process providing some additional acreage to the east Texas wilderness areas of Upland Island, Big Slough, Turkey Hill, Indian Mounds, and Little Lake Creek. Not all of the boundary adjustments included in my original bill were adopted. This legislation will make those additional boundary adjustments to the Upland Island, Turkey Hill, and Big Slough wilderness areas, in the process adding 693 acres of land to those wilderness areas.

This bill provides for the acquisition of these small parcels of private lands, but only from willing sellers. The private land owners would be compensated through exchange of U.S. Forest Service lands of comparable value, so there will be no Treasury outlays to add to the budget deficit.

More importantly than the acreage, however, is the improvement in the quality of these wilderness areas which these additions will make. These boundary adjustments will bring into the wilderness areas several peninsulas of private land. These private lands make enforcement of wilderness regulations more difficult, and they are of course subject to development at some point in the future. Such development would greatly degrade the quality of the wilderness experience in adjoining areas. These additions will also add to the already outstanding sampling of ecological niches represented in these wilderness areas.

Mr. President, I urge the passage of this legislation.●

By Mr. D'AMATO:

S.J. Res. 297. Joint Resolution designating the week of May 29, 1988, through June 3, 1988, as "America Salutes Broadway Week"; referred to the Committee on the Judiciary.

AMERICA SALUTES BROADWAY WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to elevate public awareness of the individuals and organizations who devote their time and energy to advancing the cause of live theater. This resolution with Broadway as the focus of the tribute designates the week of May 29, 1988, through June 3, 1988, as "America Salutes Broadway Week."

Broadway theater has enriched the lives of almost every American and is the cornerstone of our modern culture. Broadway enjoys a great cultural legacy that continues to stir the American imagination; it recalls our past, but it also speaks to future generations. Today, Broadway is as healthy as it has been in years, and its future looks just as bright. Broadway represents the best live entertainment in the world.

Broadway can be described as the longest street in the United States, stretching from Maine to Hawaii and Florida to Alaska. It is easily accessible to all Americans since its touring productions travel to all 50 States. Every American has the opportunity to see a Broadway show in or near his or her hometown.

Broadway is a street of dreams. It is a magnet that draws young American theater artists—actors, playwrights, designers and directors and inspires them to create their best work.

Broadway shows provide an economic boost to every city in which they are seen. It is documented that for every $1 spent at the box office, an additional $3 are pumped into local economies through such ancillary services as hotels, restaurants, retail stores, and transportation.

If you want to be thoroughly entertained by a musical spectacular, attend a Broadway show. If you want your mind opened to ideas about political, social, and religious ideologies or if you want a simple diversion from everyday life—attend a Broadway show. Broadway can be many things to many Americans.●

By Mr. D'AMATO:

S.J. Res. 298. Joint resolution designating September 1988 as "National Library Card Sign-Up Month"; to the Committee on the Judiciary.

NATIONAL LIBRARY CARD SIGN-UP MONTH

● Mr. D'AMATO. Mr. President, it is my pleasure today, as we begin our 31st annual observance of National Library Week, to introduce a joint resolution designating September 1988 as "National Library Card Sign-up Month."

America is rich with libraries of all kinds, from public libraries and school library media centers to various academic, research, and other special libraries. Our libraries are essential to our national literacy, to the life-long learning of our citizens, and to the vitality of our economy.

Libraries play an especially important role in the education and development of our children. Children who are read to in the home and who use the library not only perform better in school, but are more likely to continue to use the library as adults. Because 50 percent of a child's intellectual development occurs between birth and 4 years of age, it is important that children be exposed to the many offerings of the library at as early an age as possible.

Recognizing that our children's education depends on ready access to books, Secretary of Education William Bennett, in his 1986 report "First Lessons", called for a national campaign to encourage every child to obtain a Library card—and to use it. In response to Secretary Bennett's challenge, the National Commission on Libraries and Information Science and the American Library Association joined together last fall to launch the national library card campaign. This national campaign has inspired a myriad of imaginative promotional efforts—the public library in Queens, NY has even presented library card to the Mets on the field—all to ensure that every school-age child in the Nation will have and use a library card.

It is my strong hope that the designation of September 1988 as "National Library Card Sign-up Month" will bring further impetus to the national library card campaign. As children across the country return to school in September, this designation should serve as a clear reminder to parents that a library card is an essential resource in the education of their children.

I urge my colleagues to join me in this effort to promote the use of library cards by every American child. A library card is indeed one of the greatest gifts we can give our children: it opens new horizons, it cannot be outgrown, and it is good for a lifetime of learning and enjoyment.●

By Mr. MURKOWSKI:

S.J. Res. 299. Joint resolution to designate June 22-28 of each year as "National Friendship Week"; to the Committee on the Judiciary.

NATIONAL FRIENDSHIP WEEK

● Mr. MURKOWSKI. Mr. President, I am introducing Senate Joint Resolution, designating June 22-28 of each year as "National Friendship Week." A special time for all Americans to cherish the friendship that exists in their lives, and to extend it to others around them.

Friendship Week has been recognized in California, Alaska and Hawaii as a time for everybody to reflect upon the value that friendship has in their lives, and their Nation. The idea has been initiated by the former mayor of Anchorage, AK, George Byer, who now resides in Hemet, CA. It is mainly because of his efforts that friendship week has been successsful on the local level.

We seem to live in a world where war, terrorism, crime and a myriad of other problems dominate our thoughts and conversation. How easily we take for granted the constructive power of friendship to heal wounds and alleviate hatred caused by men. We should celebrate our common humanity instead of dwelling on our differences.

National Friendship Week is a small, symbolic step, but small gestures like this one can sometimes capture the imagination of mankind. As I noted when I introduced this resolution in the 99th Congress—Pope John Paul II in a drab Italian prison extending a hand of forgiveness to the young man who tried to kill him—Turkish terrorist Mahmet Ali Aga. Amidst all the violence in the world, this act of forgiveness will long endure in the thoughts of many people, and it is with this vision in mind that I request the support of my colleagues of this most worthwhile effort.

The passage of this resolution will not bring peace tomorrow, but it will clearly show that hope can still triumph and friendship prevail in the world.●

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1378

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Montana [Mr. MELCHER], was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1600

At the request of Mr. FORD, the names of the Senator from Montana

[Mr. Baucus], the Senator from Arkansas [Mr. Bumpers], the Senator from Illinois [Mr. Dixon], and the Senator from Vermont [Mr. Leahy] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1839

At the request of Mr. Melcher, the names of the Senator from Rhode Island [Mr. Chafee] and the Senator from Alaska [Mr. Stevens] were added as cosponsors of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the medicare program, and for other purposes.

S. 1897

At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs Inc.

S. 2015

At the request of Mr. Kennedy, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2024

At the request of Mr. Baucus, the names of the Senator from Missouri [Mr. Bond] and the Senator from Illinois [Mr. Dixon] were added as cosponsors of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2062

At the request of Mr. Nickles, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

S. 2079

At the request of Mr. Bumpers, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 2079, a bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund.

S. 2083

At the request of Mr. Heinz, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 2083, a bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes.

S. 2205

At the request of Mr. DeConcini, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2258

At the request of Mr. Karnes, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of S. 2258, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain agricultural and firefighting vehicles.

SENATE JOINT RESOLUTION 7

At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of Senate Joint Resolution 7, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 261

At the request of Mr. Pressler, the names of the Senator from Oregon [Mr. Hatfield], the Senator from Indiana [Mr. Quayle], the Senator from Alabama [Mr. Shelby], the Senator from Florida [Mr. Graham], the Senator from Texas [Mr. Bentsen], the Senator from North Carolina [Mr. Sanford], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 264

At the request of Mr. Riegle, the names of the Senator from Michigan [Mr. Levin], the Senator From Virginia [Mr. Warner], the Senator from Rhode Island [Mr. Chafee], the Senator from New York [Mr. D'Amato], the Senator from Mississippi [Mr. Cochran], and the Senator from Alabama [Mr. Heflin], were added as cosponsors of Senate Joint Resolution 264, a bill to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. Symms, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of Senate Joint Resolution 266, a joint resolution to designated the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. Pressler, his name was added as a cosponsor of Senate Joint Resolution 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional, and Presidential elections.

At the request of Mr. Reid, his name was added as a cosponsor of Senate Joint Resolution 282, supra.

At the request of Mr. Hollings, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of Senate Joint Resolution 282, supra.

SENATE JOINT RESOLUTION 295

At the request of Mr. DeConcini, the names of the Senator from Virginia [Mr. Warner] and the Senator from Delaware [Mr. Roth] were added as cosponsors of Senate Joint Resolution 295, a joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E Day."

SENATE RESOLUTION 383

At the request of Mr. Lautenberg, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Resolution 383, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE RESOLUTION 389

At the request of Mr. Lautenberg, the names of the Senator from Pennsylvania [Mr. Heinz] and the Senator from Georgia [Mr. Fowler] were added as cosponsors of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants program of the Clean Water Act.

SENATE RESOLUTION 409

At the request of Mr. Lautenberg, the name of the Senator from Michigan [Mr. Levin] was added as a consponsor of Senate Resolution 409, a resolution to express the sense of the Senate regarding the Community Development Block Grant and Urban Development Action Grant Programs.

AMENDMENTS SUBMITTED

WARTIME RELOCATION OF CIVILIANS

GLENN AMENDMENT NO. 1953

(Ordered to lie on he table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (S. 1009) to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Interment of Civilians; as follows:

On page 40, line 12, insert ", subject to the availability of monies appropriated for such purposes," after "shall".

On page 40, line 14, insert ", subject to the availability of monies appropriated to the Fund for such payments," after "shall pay".

On page 40, line 15, insert ", subject to the availability of monies appropriated for such purposes," after "shall".

On page 46, strike lines 9 through 15 and insert the following:

Section 207. No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance of appropriation Acts. In any fiscal year, the Administrator of the Fund shall limit the total benefits conferred by this program to an amount not in excess of the appropriation for such fiscal year, and if the requirements of this program exceed the limitations set in this section, the benefits shall be limited, consistent with the provisions of section 205(b), to the extent necessary to comply with the provisions of this section.

On page 50, line 2, strike "Out of monies from the" and insert "Subject to the availability of monies appropriated to the".

On page 50, line 6, after "shall" insert ", subject to the availability of monies appropriated for this purpose,".

On page 53, line 21, insert ", subject to the availability of monies appropriated to the Fund for such payments," after "shall pay".

On page 53, line 22, strike beginning with "All" through line 24.

On page 54, strike lines 8 through 13 and insert the following:

(4) Any payment made under this subsection—

(1) shall be treated for purposes of the Internal Revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

On page 56, line 25, after "shall pay" insert ", subject to the availability of monies appropriated for this purpose,".

On page 57, line 6, strike "the traditional" and all that follows through line 11 and insert "all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made pursuant to the authority provided by section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), except that following the date of enactment of this section, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land,".

On page 57, strike lines 18 through 23 and insert the following:

SECTION 308. (a) No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance in appropriation Acts.

(b) In any fiscal year—

(1) the Secretary, with respect to the Fund set forth pursuant to section 303; and

(2) the Secretary with respect to the trust set forth pursuant to section 305, and with respect to the provisions of sections 306 and 307,

shall limit the total benefits conferred to an amount not in excess of the appropriation for such fiscal year, and if the requirements exceed the limitations set in this section, the benefits shall be reduced to the extent necessary to comply with the provisions of this section.

CONSTITUTIONAL AMENDMENT RELATING TO CAMPAIGN EXPENDITURES

GRAMM AMENDMENT NO. 1954

Mr. GRAMM proposed an amendment to the joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections; as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION 6. On and after the date this article takes effect, the amount of Federal public debt limit as of such date shall become permanent and there shall be no increase in such amount unless three-fifths of the whole number of both Houses of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. This article shall take effect for the second fiscal year beginning after its ratification.".

HOLLINGS AMENDMENT NO. 1955

Mr. HOLLINGS proposed an amendment to amendment No. 1955 proposed by Mr. GRAMM to the joint resolution (S.J. Res. 282), supra; as follows:

In the matter to be inserted strike all after the word "That" on line 4 and insert the following:

the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and one day after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".

HOLLINGS AMENDMENT NO. 1956

Mr. HOLLINGS proposed an amendment to amendment No. 1955 proposed by him to the joint resolution (S.J. Res. 282), supra; as follows:

In the matter to be inserted strike all after the word "Article" on line 4 and insert the following:

is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and two days after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".

HOLLINGS AMENDMENT NO. 1957

Mr. HOLLINGS proposed an amendment to the motion of Mr. GRAMM to recommit, with instructions, the joint resolution (S.J. Res. 282), supra; as follows:

In the matter to be inserted strike all after the word "That" on page 2, line 1, and insert the following:

the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and three days after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".

BYRD AMENDMENT NO. 1957

Mr. BYRD proposed an amendment to amendment No. 1957 proposed by Mr. HOLLINGS to the motion to recommit with instructions proposed by Mr. GRAMM to the joint resolution (S.J. Res. 282), supra; as follows:

In the matter to be inserted strike all after the word "article" on line 4 and insert the following:

is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years and four days after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Congress shall have the power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

"SECTION 2. The States shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".

INDIAN DEVELOPMENT FINANCE CORPORATION ACT

INOUYE AMENDMENT NO. 1959

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 721) to provide or promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economics; as follows:

On page 60, on line 1, after the word "shall", add a comma (,) and insert the following phrase: "subject to availability of appropriations made in advance for this purpose,".

On page 61, line 22, after the word "authorized", add a coma (,) and insert the following phrase: "subject, in any fiscal year, to appropriations made in advance,".

TRIBLE AMENDMENT NO. 1960

Mr. DOLE (for Mr. TRIBLE) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 2210) to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints; as follows:

In lieu of the matter to be inserted by the amendment of the House to the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organotin Antifouling Paint Control Act of 1988".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 6 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 4. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) PROHIBITION.—Subject to section 12(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) EXCEPTIONS.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 5. PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS.—Subject to section 12(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) PROHIBITION OF CERTAIN ORGANOTIN ADDITIVES.—Subject to section 12(d), no person in any State may sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 6. CERTIFICATION.

(a) INITIAL CERTIFICATION.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) SUBSEQUENT CERTIFICATION.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 7. MONITORING AND RESEARCH OF ECOLOGICAL EFFECTS.

(a) ESTUARINE MONITORING.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) NAVY HOME PORT MONITORING.—The Secretary shall provide for periodic monitor-

ing, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters.

(c) Navy Research of Ecological Effects.—The Secretary shall continue existing Navy programs evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(d) Report.—The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under subsection (b) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(e) Assistance to States.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(f) Five-Year Report.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Administrator shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment;

(2) compliance with water quality criteria established pursuant to section 9 of this Act and any applicable water quality standards; and

(3) recommendations for additional measures to protect human health and the environment.

SEC. 8. ALTERNATIVE ANTIFOULANT RESEARCH.

(a) Research.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 9. WATER QUALITY CRITERIA DOCUMENT.

Not later than March 30, 1989, the Administrator shall issue a final water quality criteria document concerning organotin compounds pursuant to section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)).

SEC. 10. PENALTIES.

(a) Civil Penalties.—(1) Any person violating section 4 or 5 shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 4 or 5 is liable to the United States Government for the civil penalty assessed under subsection (a). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) Criminal Penalties.—Any person knowingly violating section 4 or 5 shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 11. OTHER AUTHORITIES; STATE LAWS.

(a) Other Authorities of the Administrator.—Nothing in this Act shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this Act.

(b) State Laws.—Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

SEC. 12. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) In General.—Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Termination of Interim Prohibition.—Section 5(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) Final Decision Defined.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) Use of Existing Stocks.—Notwithstanding the prohibitions contained in sections 4 and 5, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

NOTICE OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 2 p.m., on Tuesday, April 26, 1988, in SR-301, Russell Senate Office Building to hold a hearing on S. 1786. This bill, introduced by Senator Dixon, would establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of the President of the United States.

Members of Congress and other individuals and organizations interested in testifying or submitting a statement for the hearing record are requested to contact Jack Sousa, chief counsel of the Rules Committee, on 224-5648.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Monday, April 18, 1988, to conduct a hearing on "Oversight of the Occupational Safety and Health Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Monday, April 18, 1988, to hold a hearing on "Adult Day Health Care: A Vital Component of Long-Term Care."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence be authorized to meet during the session of the Senate on Monday, April 18, 1988, in open and closed session to receive testimony on the pace and direction of the strategic defense initiative, and compliance with the ABM Treaty, in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

30TH ANNIVERSARY OF THE CITY OF SOUTHFIELD

● Mr. RIEGLE. Mr. President, I rise today to recognize the city of Southfield, on the occasion of its 30th anniversary as an incorporated city in the State of Michigan. The city will celebrate this anniversary on April 28, 1988.

Before its birth as a city, the area that now comprises Southfield was sparsely populated and filled with family farms. Following the conclusion of World War II an explosive growth in suburban communities across the Nation occurred. Adjacent to the city of Detroit, Southfield was an ideal location for the growth of one of the leading suburbs in southeastern Michigan.

In the early 1950's Southfield was known as a quiet bedroom community, but in the late 1950's the city began to emerge as something quite unique and different from a typical suburb. Southfield soon became home to huge shopping complexes, corporate headquarters, hotels and office towers. Educational institutions such as Lawrence Institute of Technology and Oakland Community College opened campuses and the city developed outstanding cultural and recreational facilities to serve its growing population.

Today, 80,000 people reside in Southfield and a total of 250,000 people are employed in the city. In 30 short years, Southfield has changed from a rural agricultural community, to a bedroom suburb, and now to a dynamic metropolis.

Residents should be proud of the accomplishments of their city. However, Southfield is not special just because of its buildings and institutions, it is special because of its people.

Like our Nation, the city of Southfield was built by hard working families looking to improve the quality of their lives and the lives of their children. The city is comprised of an ethnic, religious and cultural diversity that few communities are able to achieve. Through the vision of its citizens and leaders, the city of Southfield will continue to grow and change to fit the needs of its residents and remain a vital and important community.

I congratulate the citizens of Southfield for their achievements in building a dynamic and energetic city and hope that the next 30 years are as successful as their first 30.

MANDATED HEALTH BENEFITS

● Mr. McCONNELL. Mr. President, I rise today to address a piece of legislation that will soon be before the Senate: S. 1265, the "Minimum Health Benefits for All Workers Act of 1987." I imagine nearly everyone in this body has received stacks upon stacks of mail from concerned constituents over this legislation. Recently, I received a letter from Mr. Fred Higgins, president of Minit Mart Foods, Inc., which is located in Bowling Green, KY.

In his letter, Mr. Higgins informed me what the impact of S. 1265 would be on his business. Minit Mart currently maintains a health program covering 233 employees out of a total of 663. The proposed legislation would force this company to pay the entire premium for each covered employee, instead of a percentage as they do now. The cost to Minit Mart for this additional coverage would be $18,160.70 per month.

In addition, Minit Mart has 430 employees who are not covered under their health program. Sixty of these employees have been employed less than 90 days and would thus not be covered under S. 1265. However, the other 370 employees would have to be given coverage, and Minit Mart would have to pay the entire premium. This cost would total $125.80 a month per employee or $64,706.70 a month. Adding this total to the previously mentioned $18,160.70, S. 1265 would cost Minit Mart $82,867.40 a month, for a total of $776,480.40 a year. This is well over three-quarters of a million dollars a year in added expense for a medium-sized company.

Mr. President, if this bill wasn't such a serious threat to the economy of this Nation, it would be laughable. We are talking about jobs out of one side of our mouth and destroying jobs by the thousands out of the other. The American economy is dancing on a tightrope. Our massive budget deficit will only grow larger if we force businesses into bankruptcy and cause the employees to lose their jobs.

Certainly, the goal of the bill is laudable. I hope someday, in the not-too-distant future, every citizen in this county will be part of a good health coverage program. But mandating such benefits won't help uncovered employees today, if the added cost forces their employers to trim them from the work force.

Mr. President, I am looking forward to the debate on this bill when it comes before the full Senate. I believe the debate will be very enlightening for the people of this Nation, but I hope we can move past such destructive proposals toward initiatives that actually will benefit American workers, through a more competitive, healthy, and growing economy.

I yield the floor.●

THE METHANOL AND ALTERNATIVE FUELS PROMOTION ACT OF 1987

● Mr. INOUYE. Mr. President, I am pleased to take this opportunity to commend my colleague, JAY ROCKEFELLER of West Virginia, for his outstanding efforts in the passage of S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987.

I cosponsored this bill, because I firmly believe that the United States must move in the direction of decreasing its dependence fossil fuel. This bill would provide incentives and promote the manufacture of duel, or alternative fueled vehicles.

Mr. President, this bill will not only help the agriculture, coal and sugar industries of the United States, but would also promote a cleaner environment.

Senator ROCKEFELLER'S efforts have insured the passage of this bill.●

DEGRADABLE PLASTICS

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the sense-of-the-Senate resolution which calls for the Environmental Protection Agency to encourage the use of degradable plastics through its programs, and for the General Services Administration to implement the use of degradable plastics in its operations.

Plastic products are all around us. While they serve a useful purpose, they also present some real disposal problems. Many plastics are nondegradable and as a result have become part of the larger waste disposal problem. Plastics pollution has become a problem both on land and at sea. Last fall the Senate ratified the Marpol Treaty which restricts the dumping of plastics into our oceans. On land, many municipalities are assessing their disposal options. With available land space becoming harder to find, incineration is receiving much attention.

The biggest problem associated with most plastics is that it is nondegradable. Fortunately, new technologies are being developed to produce degradable plastics at costs competitive to, or cheaper than, nondegradable plastics. One of these new technologies is the use of cornstarch in producing plastic bags.

In order for these new technologies to catch on, there must be a vocal advocate. I view this as a perfect opportunity for the U.S. Government to take the lead by taking steps to implement an environmentally and economically sound Federal policy.

This resolution serves the purpose of highlighting the technologies that are being developed to meet the problems associated with nondegradable plastics and recognizing the need for a sound Federal policy to address the disposal issues confronting plastics.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 303(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the budget act.

This report shows that current level spending is under the budget resolution by $900 million in budget authority, and by $2.9 billion in outlays. Current level is under the revenue floor by $10.6 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the budget act is $154.1 billion, $1.2 billion below the maximum deficit amount for 1988 of $155.3 billion.

The material follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington DC, April 11, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1988 and is current through March 31, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Congressional Resolution 32.

No changes have occurred since my last report.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100th CONGRESS, 2d SESSION, AS OF MAR. 31, 1988

[Fiscal year 1988—in billions of dollars]

	Current level	Budget resolution (H. Con. Res. 93) [2]	Current level (+/−) resolution
Budget authority	1,145.1	1,146.0	0.9
Outlays	1,031.7	1,034.18	2.9
Revenues	922.2	932.8	10.6
Debt subject to limit	2,497.3	[3] 2,565.1	67.8
Direct loan obligations	34.4	34.6	.2
Guaranteed loan commitments	155.1	156.7	1.6

[1] The current level represents the estimated revenue and direct spending effects budget authority and outlays of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with section 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800 billion.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988, AS OF CLOSE OF BUSINESS MAR. 31, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Rescission of Jewish Education Centers Abroad (Public Law 100–251)	−8	−5	
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Assistance and Support for Central America (Public Law 100–276)		43	
Total enacted this session	−8	39	

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988, AS OF CLOSE OF BUSINESS MAR. 31, 1988—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans readjustment benefits	16		
Veterans' compensation	282		
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	650	276	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of Mar. 31, 1988	1,145,107	1,031,789	922,250
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	893	2,911	10,550

Note.—Numbers may not add due to rounding.●

ADDRESS BY POSTMASTER GENERAL ANTHONY FRANK

● **Mr. STEVENS.** Mr. President, the recent congressional action on the Postal Service's budget and the recent postal rate increase have caused the media to focus more than usual attention on the operations of the U.S. Postal Service. In addition, various suggestions being made by individuals and groups to modify the present express statutes, or significantly change the laws, affecting the U.S. Postal Service have spurred additional interest.

Last week the Cato Institute of Washington, DC, held a one day conference entitled "Privitization and the Postal Monopoly." One of the speakers was Postmaster General Anthony Frank. This was one of Postmaster Frank's first major speeches.

I ask to insert at the end of my comments for the RECORD the complete text of Postmaster General Frank's speech and urge those interested in the efficient and economic operation of the postal system to read carefully his words.

The speech follows:

REMARKS BY ANTHONY M. FRANK, POSTMASTER GENERAL OF THE UNITED STATES

Good afternoon. I am pleased to have the opportunity to participate in this Conference. I realize my situation today is somewhat akin to a Lakers' fan in the middle of Boston Garden . . . and I'll admit I did wonder if Ed Crane was trying to tell me something when he mailed me my invitation . . . but I want you to know I got it overnight, and was delighted to accept.

I'm not here today necessarily to argue for "business as usual." My mother used to tell me everything is achievable in this world except maintaining the status quo. You can go backward or forward, but you cannot stay the same. I've built my career on anticipating and managing change, and I expect to continue doing just that during my tenure in the Postal Service.

In California, my wife and I have always enjoyed the outdoors—hiking, camping, rock climbing. When a rock climber is going up a rock face, he tests out every new hand hold before he lets go of that old one. In the Postal Service, as we approach an uncharted and rapidly changing future, we must also test and probe, to make sure we are always moving forward securely and responsibly.

This Conference provides a good opportunity for some testing and probing of ideas. What I would like to do today is examine with you what is meant by this term "privatization," because, frankly, despite all the headlines and heat, I sense some hesitancy, even among the most ardent privatizers. I sense a desire to go slowly, a recognition that the mail system, like Humpty Dumpty, once broken, couldn't be put back together again.

So what does this term "privatization" mean? Does it mean throwing out the private express statutes, eliminating the letter-mail monopoly? If so, I am against it, because I believe the U.S. Postal Service is a legitimate and necessary public institution that serves an important social function as a binding, unifying force in our national life. Government should continue to provide mail service on a fair and equitable basis to all its citizens.

Is privatization simply a code word for union-busting? Well, if it is, I'm not in the business of union-busting and I do not intend to reopen any contract negotiations. Our 1987 contracts with the major postal unions stand.

Is privatization an attempt to let private companies selectively skim off the profitable segments of postal business while leaving the Postal Service to continue to serve those groups and areas deemed not profitable? If it is, I oppose it because I believe we must preserve the economic base that supports our ability to provide universal service at uniform, and affordable, rates.

Is privatization, on the other hand, a genuine effort to promote efficiency in the Postal Service through increased worksharing initiatives with major mailers and more private sector contracting for non-critical postal services? If so, I am certainly interested in exploring what more can be done in these areas.

I am from the private sector and know well the virtues of competition. I have no automatic negative reaction to every proposal for more private sector involvement in the mail business. But neither do I accept the broad-brush picture painted by our critics that nothing in the Postal Service works.

In fact, the U.S. Postal Service is working pretty well. It can work better, and I guarantee you, changes are coming. But, on balance, we are already a remarkably efficient operation, given our size and the breadth of the services we provide. Let me give you just a few numbers to illustrate.

The U.S. Postal Service handles over 500 million pieces of mail every business day. That's more than twice the volume handled by Federal Express in a year, and we handle more pieces in one week than UPS does in a year.

The U.S. Postal Service provides daily mail delivery—six days a week—to more than 95 million addresses across the country. We have added an average 1.7 million new delivery addresses annually over the last five years.

The U.S. Postal Service receives no direct federal subsidy for operations. The revenue forgone appropriation, which we do get, covers the cost of actual services provided at "preferred" or free rates at the express direction of Congress.

As these numbers make clear, no private company today even remotely approaches the size or the experience of the U.S. Postal Service in providing all types of mail service to all locations and every individual address throughout the country. I do not believe the American people want to lose this convenient, affordable public service. I do believe they want it to be even more convenient and no less affordable in the future. The real challenge, then, is to improve the efficiency of our operations and constrain costs while continuing to improve service for all customers, large and small.

Let's examine this issue of efficiency for a minute. The fewer times we must handle a letter, the more efficient we are said to be. Efficiency is enhanced when mail is presorted to 9-digit ZIP Codes or carrier routes, prepared for processing on high-speed equipment like our optical character reader/barcode sorter technology and deposited in bulk in a mail processing center. Such "efficient" mail is typically generated by a business mailer.

Obviously, not all mail can be so "efficient." All of us individually hand address letters and cards, which may or may not include a correct 5-digit ZIP code, and deposit these along with our bills, a few at a time, in the neighborhood mailbox. Such mail is much less "efficient," but certainly no less deserving of service.

The point I am making is not simplistic, and it goes to the heart of much of the debate about "efficiency" in the Postal Service. As a public institution, we serve all the American people, not just those groups or areas or segments which are clearly profitable.

We can and do, of course, encourage efficiency through the incentive discounts we offer major mailers for certain types of worksharing. We will certainly continue to support and expand worksharing efforts which make good economic sense for both business mailers and the Postal Service. But we will also continue to provide universal mail service at uniform rates to every American, and to give equal attention to the quality of service for the individual as well as the large—profitable—mailer.

Efficiency is a factor not only of day-to-day operations, but also of management's overall ability to control and apply its resources in response to the marketplace. Here I find it particularly ironic that some of the people who complain the loudest about Postal Service inefficiency and the need for competition are the very same people who took the lead within the Administration in tying our hands in the Omnibus Budget Reconciliation Act of 1987.

These are the people who pushed the idea that a dollar spent for capital investment is no different than a dollar spent on paper clips. These are the people who sought to limit our discretion to use postal resources as we judged best. What private business could operate efficiently under such outside intrusion?

I am deeply concerned about the long-term implications of the wrenching cuts imposed on our capital improvement programs last December, and even more concerned that the mailing public not be required to further underwrite deficit reduction efforts in the future. If we want greater efficiency in the Postal Service—and believe me, I do—we must not tie management's hands. Management must have discretion to apply postal resources in the best interest of postal business, and it must have pricing flexibility to respond to market competition.

I want to make one point very clear today—all of us in the Postal Service are acutely aware of the ongoing need for serious and permanent measures to control costs and improve productivity. We manage a very large system which can and must be improved in significant ways. We also recognize that a healthy Postal Service must avoid simply passing along every cost increase through higher rates.

Perhaps the most obvious answer to the efficiency/cost containment issue is technology. For example, First-Class, letter-size mail can be sorted manually at a rate of 800 pieces per work hour. Mechanical sortation processes 1,850 pieces per work hour, and fully automated technology handles 10,000 pieces per work hour.

In 1983 the Postal Service initiated deployment of a full-scale automation program scheduled for completion in 1989. The total cost of this program is approximately $750 million dollars. As a result, our labor requirements in 1987 were 23,000 work years below what they otherwise would have been. That translates, in dollar terms, to $750 million in avoided labor costs.

Additional efficiencies are being gained through worksharing programs in which business mailers perform a good deal of the work before they deposit their mail with us. In return, they pay discounted rates.

You might be interested to know that we are in the process of structuring a joint Postal Service-Industry group to identify additional opportunities for worksharing. We are now developing guidelines for the group, which will seek out tangible ideas for substantial new worksharing efforts that would reduce costs for both mailers and the Postal Service.

While on this subject, I will also note that we were disappointed in the recent Postal Rate Commission decision not to approve our proposal for a palletization discount for second-class mailers. Palletization is an important worksharing area, and we plan to continue to pursue appropriate incentive discounts for mailers who make this effort.

More automation—not just in mail processing but also in the carrier casing function—and more worksharing are two essential answers to improving efficiency and holding down costs. Other potential areas for improved efficiency and savings—through curb-side and cluster-box delivery systems in newly developed areas, for example—require a degree of public acceptance that, frankly, hasn't been fully gained yet, and I'm not certain it ever will be.

Incidentally, Canada has recently tried this cluster-box approach, which they call "super mail boxes." The initiative has been roundly criticized by postal customers there, large and small.

The Postal Service must also do more contracting out in situations where it represents a real cost savings. I would call your attention, however, to the fact that contracted services now account for roughly 10 percent of annual Postal Service expenditures.

We already contract with private companies for virtually all mail transportation beyond the local area. We are also actively pursuing efforts to sell stamps at no more than face value through major grocery chains and other retail outlets. This not only expands the retail network at minimal cost but, equally important, it makes an essential postal service much more accessible and convenient for the vast majority of Americans.

Contracting out is no different than the "make or buy" decisions made everyday by businesses throughout the country. We already make these decisions—we are comfortable with the concept—and, as I said, we intend to do more of this where it makes sense.

Automation, worksharing and contracted services are areas we will continue to address as part of our commitment to improve the efficiency of our operations and the quality of our service. This is certainly my personal commitment as Postmaster General. But, if I can return to the analogy of the rock climber, we must test and probe thoroughly as we proceed. We want to avoid the problems experienced in some other countries as they attempted to make their postal systems more profitable.

I'm sure many of you saw the news reports about Great Britain's current cancellation postmark—"Jesus Is Alive." For approximately $88,500, a Christian bookseller "bought" the rights to have the country use this cancellation stamp through the Easter holiday—hardly the kind of private enterprise most of us would find compatible with our constitutional commitment to the separation of church and state.

In a similar but even more serious vein, on April 1, 1987 New Zealand restructured its postal-telecommunications-banking system into separate government enterprises, each with a mandate to be profitable. As a result, the postal enterprise determined to close one-third of its 1,200 post offices as uneconomic, a policy it is aggressively implementing. Again, I suspect this approach would not be popular with the American people.

We want to avoid mistakes and missteps. We want our progress to be sure and lasting. But above all, we do want progress—and we will have it in the Postal Service. I have been in Washington just over a month, and this is still a period of listening and learning for me. I have enjoyed this opportunity to meet many of you today and I hope I have contributed something to your discussion.

I realize I have not espoused the traditional arguments of those who support our present postal system. These include questions as to how, in a balkanized private system, we would ensure the sanctity and security of the mails, or how we would deal with labor strikes or bankruptcies, or where we would send change of address notices. Neither have I touched on the complexities of managing international mail in a world postal system of 168 sovereign nations that cooperate to ensure the secure flow of mail and proper exchange of postal payments within the world community.

These are all valid, important considerations. These and many other practical issues would have to be addressed in any comprehensive debate on the merits of privatization. In not raising them specifically, I do not mean in any way to minimize their importance.

But my purpose today has been to attempt to focus on precisely what is meant by this term "privatization." Is it immediate, total postal entrepreneurism? Is it a thinly disguised attempt to destroy the postal unions? Is it a move to let private companies skim the profitable segments of the business? Or is it an effort to encourage more worksharing and contracting out in the name of efficiency?

I believe the U.S. Postal Service is a necessary and proper public institution. Together, our employees and our management can and will adapt and change to better serve the changing needs of the American people. I see my job as helping the Postal Service to anticipate change and respond in ways that promote the common good.

To do this, we must have greater discretion to manage our finances and plan and invest to meet future needs efficiently. We must also have greater flexibility in setting rates in order to respond to our competitors and provide worksharing incentives where these represent real cost improvement to both the mailer and the Postal Service.

I may be naive in saying this—one month on the job leaves a lot of room for additional learning—but why must the arguments always be "Either-Or?" Are we positive there is no middle ground? In my view the Postal Service should not be a for-profit institution. It should be the most efficient, reliable, convenient public service in the country.

And the fact is—the Postal Service is a much more efficient, productive business enterprise than our critics acknowledge. Contrary to the popular wisdom in some quarters, our productivity increases since reorganization are comparable to those in the non-farm private sector economy. While postal employees did receive substantial wage increases in the early 1970's, over the last decade our employee wage increases have tracked with inflation and have generally corresponded to wage increases in the non-farm private sector. The Postal Service is not deficit ridden; in fact, over the decade we have produced a slight surplus of $560 million or 0.2 percent above break even for the period.

There's a great deal more of this information—information that clearly refutes assertions about inefficiency and ineptitude in the Postal Service. If you are interested in the facts, I hope you will follow up with us on these points.

To conclude, then, the Postal Service is an old and established public institution that is a vital link in the economic and social life of the United States. Like most large enterprises today, private or public, it is experiencing change and competition. Our commitment is to manage that change constructively and make the Postal Service a better public service—in terms of cost and quality—that is provided fairly and equitably to all the American people.

Thank you. I will be happy to take your questions.●

TRIBUTE TO DR. RACHEL ANDRESEN

● Mr. HEINZ. Mr President, on April 8, Dr. Rachel Andresen celebrated her 81st birthday. This remarkable woman of vision and courage has earned worldwide recognition for her efforts in founding and guiding Youth for Understanding International Exchanges.

A native of Michigan, Dr. Andresen was a teacher, a social worker and the executive director of the Ann Arbor-Washtenaw County Council of Churches before turning her efforts in 1951 to create a program that provides young people from around the world with the chance to experience life and culture in another country. Through Youth for Understanding, Rachel Andresen's leadership in youth and international education has made an outstanding contribution to world peace and understanding. I would like to thank her for her dedication and wish her a happy birthday.●

ORGANOTIN ANTIFOULING PAINT CONTROL ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2210.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2210) entitled "An Act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints", with the following amendment:

In lieu of the matter to be inserted by the amendment of the Senate, insert:

TITLE I—ORGANOTIN ANTIFOULING PAINT CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Organotin Antifouling Paint Control Act of 1987".

SEC. 102. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this title is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 111(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 106 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 104. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) PROHIBITION.—Subject to section 111(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) EXCEPTIONS.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 105. INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS.—Subject to section 111(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) PROHIBITION OF CERTAIN ORGANOTIN ADDITIVES.—Subject to section 111(d), no person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 106. CERTIFICATION.

(a) Initial Certification.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) Subsequent Certification.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 107. MONITORING.

(a) Estuarine Monitoring.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) Navy Home Port Monitoring.—(a) The Secretary shall—

(A) provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters; and

(B) continue existing Navy programs evaluating the environmental risks associated with the use of antifouling paints containing organotin.

(2) The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under paragraph (1) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(c) Assistance to States.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(d) Five-Year Report.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment; and

(2) recommendations for additional measures to protect human health and the environment.

SEC. 108. RESEARCH.

(a) Alternative Antifoulants.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Secretary and the Administrator shall submit reports to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 109. PENALTIES.

(a) Civil Penalties.—(1) Any person violating sections 104 or 105(a) shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated sections 104 or 105(a) is liable to the United States Government for the civil penalty assessed under paragraph (1). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) Criminal Penalties.—Any person knowingly violating sections 104 or 105(a) or violating section 105(b) shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 110. OTHER AUTHORITIES; STATE LAWS.

(a) Other Authorities of the Administration.—Nothing in this title shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this title.

(b) State Laws.—Nothing in this title shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this title.

SEC. 111. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) In General.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) Termination of Interim Prohibition.—Section 105(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) Final Decision Defined.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) Use of Existing Stocks.—Notwithstanding the prohibitions contained in sections 104 and 105, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

TITLE II—GRAYS HARBOR NATIONAL WILDLIFE REFUGE

SEC. 201. SHORT TITLE.

This title may be cited as the "Grays Harbor National Wildlife Refuge Act of 1987".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington—

(A) is of critical importance to certain migratory shorebirds and waterfowl; and

(B) provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known a Bowerman Basin is—

(A) a high tidal mudflat within the Grays Harbor estuary; and

(B) attracts hundreds of thousands of migratory shorebirds during the spring and fall migrations as well as peregrine falcons and other birds of prey;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to—

(A) prevent vegetative encroachment; and

(B) protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by the Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SEC. 203. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is being established, and for which it shall be managed, include—

(1) the conservation of fish and wildlife species within the Refuge, including the western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, other shorebirds, migratory birds, and birds of prey, and their habitats;

(2) the fulfillment of international treaty obligations of the United States with regard to fish and wildlife and their habitats;

(3) the protection of endangered and threatened fish and wildlife species within the Refuge; and

(4) the provision of opportunities, consistent with paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SEC. 204. DEFINITIONS.

For purposes of this title—

(1) the term "Refuge" means the Grays Harbor National Wildlife Refuge;

(2) the term "lands and waters" includes interests in lands and waters; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 205. ESTABLISHMENT OF REFUGE.

(a) BOUNDARIES.—Subject to subsection (b), the boundaries of the Grays Harbor National Wildlife Refuge include the approximately 1,800 acres of lands and waters—

(1) located in the State of Washington; and

(2) depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated December 1987, and on file and available for public inspection in—

(A) the office of the Director of the United States Fish and Wildlife Service, Department of the Interior; and

(B) appropriate offices of the United States Fish and Wildlife Service in the State of Washington.

(b) BOUNDARY REVISIONS.—The Secretary of the Interior may make minor revisions in the boundaries of the Refuge if the Secretary determines that such revisions are necessary—

(1) to carry out the purposes specified in section 203; or

(2) to facilitate the acquisition of lands or waters for the Refuge.

(c) ACQUISITION.—(1) Within the 3-year period beginning on the effective date of this Act, the Secretary shall acquire by transfer or purchase, or both, the approximately 1,711 acres of land and waters owned by the Port of Grays Harbor within the boudaries of the Refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (1) as meeting in whole or in part, mitigation obligations of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); except that the validity of such mitigation is subject to compliance with the guidelines issued under subsection (b)(1) of such section.

(3) The Secretary may—

(A) acquire not to exceed 68 acres of lands and waters owned by the City of Hoquiam, Washington, within the boundaries of the Refuge; and

(B) compensate the lessees on such lands and waters for improvements and relocation costs.

(d) ESTABLISHMENT.—Whenever the Secretary determines that sufficient lands and waters have been acquired under subsection (c) to constitute an area that can be effectively administered as a wildlife refuge, the Secretary shall establish the Refuge as a part of the National Wildlife Refuge System by publication of a notice to that effect in the Federal Register.

SEC. 206. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands and waters acquired under section 205(c) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) OTHER AUTHORITY.—Consistent with subsection (a), the Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretive education as the Secretary considers appropriate.

(c) MANAGEMENT PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare a management plan for the development and operation of the Refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis on interpretative education and research;

(2) viewpoints, boardwalks, and other means of access in the Refuge;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth management priorities and strategies for the Refuge.

SEC. 207. REFUGE DEVELOPMENT FUND.

The Director of the United States Fish and Wildlife Service shall promptly consult with the National Fish and Wildlife Foundation established by section 2(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(a)) to request such Foundation to set up a separate account for the purpose of encouraging, accepting, and administering private gifts of property to carry out this subtitle. The Secretary shall, in preparing the management plan required by section 206, give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing such plan can be encouraged.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of lands and waters under section 205(c); and

(2) $2,500,000 to carry out the other provisions of this subtitle.

AMENDMENT NO. 1960

Mr. DOLE. Mr. President, I move to concur in the House amendment with a further amendment I send to the desk on behalf of Senator TRIBLE.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas Mr. DOLE (for Mr. TRIBLE) proposes an amendment numbered 1960.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the Senate of the United States,

Resolved, That the Senate agree to the amendment of the House to the amendment of the Senate to the bill (H.R. 2210) entitled "An Act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints", with the following amendment:

In lieu of the matter to be inserted by the amendment of the House to the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organotin Antifouling Paint Control Act of 1988".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 6 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Is-

lands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 4. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) Prohibition.—Subject to section 12(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) Exceptions.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 5. PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) Interim Prohibition of Certain Organotin Antifouling Paints.—Subject to section 12(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) Prohibition of Certain Organotin Additives.—Subject to section 12(d), no person in any State may sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 6. CERTIFICATION.

(a) Initial Certification.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) Subsequent Certification.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 7. MONITORING AND RESEARCH OF ECOLOGICAL EFFECTS.

(a) Estuarine Monitoring.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) Navy Home Port Monitoring.—The Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters.

(c) Navy Research of Ecological Effects.—The Secretary shall continue existing Navy programs evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(d) Report.—The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under subsection (b) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(e) Assistance to States.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(f) Five-Year Report.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Administrator shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment;

(2) compliance with water quality criteria established pursuant to section 9 of this Act and any applicable water quality standards; and

(3) recommendations for additional measures to protect human health and the environment.

SEC. 8. ALTERNATIVE ANTIFOULANT RESEARCH.

(a) Research.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 9. WATER QUALITY CRITERIA DOCUMENT.

Not later than March 30, 1989, the Administrator shall issue a final water quality criteria document concerning organotin compounds pursuant to section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)).

SEC. 10. PENALTIES.

(a) Civil Penalties.—(1) Any person violating section 4 or 5 shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 4 or 5 is liable to the United States Government for the civil penalty assessed under subsection (a). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) Criminal Penalties.—Any person knowingly violating section 4 or 5 shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 11. OTHER AUTHORITIES; STATE LAWS.

(a) Other Authorities of the Administrator.—Nothing in this Act shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this Act.

(b) State Laws.—Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

SEC. 12. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) In General.—Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Termination of Interim Prohibition.—Section 5(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) Final Decision Defined.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) Use of Existing Stocks.—Notwithstanding the prohibitions contained in sections 4 and 5, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

Mr. TRIBLE. Mr. President, in response to a serious threat to America's aquatic environment, I introduced legislation to suspend the use of highly toxic marine paints containing organotin. I am pleased that Senators Mitchell, Cohen, and Chafee joined me in this important effort.

On November 10, 1987, this legislation was unanimously approved by the Committee on Environment and Public Works. It subsequently passed the Senate by unanimous vote on December 11, 1987. We now have successfully worked out minor differences with our colleagues in the House, and are ready to move ahead to final passage of this very important bill.

Today, over 70 percent of the world's commercial and recreational vessels are painted with antifouling paint generally known as organotins. These paints are also applied to buoys, crab pots, fish nets, and other marine structures because they are extremely effective in eliminating barnacles and other fouling organisms. Unfortunately, these paints also have a lethal effect on other marine and fresh water life.

Fortunately, many States and countries—realizing the tremendous threat these highly toxic paints pose to the aquatic environment—have taken legislative action to protect America's rivers, bays, and oceans. Businesses and concerned citizens have taken an active role in financing and conducting research into the problems associated with these paints. As a result of these actions, the tremendous flow of organotin into our Nation's waters has been diminished.

I applaud the responsible actions already taken to reduce the amount of harmful chemicals entering our waters. However, the organotin problem demands a uniform national response. That is why I sponsored this legislation. It will immediately reduce the amount of organotin entering U.S. waters, and also provide long-term monitoring requirements to assess the need for additional action.

In developing this legislation, we worked closely with the Environmental Protection Agency [EPA], the Navy, the Coast Guard, recreational boaters and the U.S. shipping industry. Due to this collaboration, I believe we have developed a workable plan to protect America's waters.

Mr. President, I want to thank Senators MITCHELL, COHEN and CHAFEE for their hard work on this important measure. Their sensitivity to this issue, and willingness to expedite consideration of urgently needed legislation was invaluable.

Mr. President, I consider this an emergency situation. We must act now to protect our marine environment and I urge my colleagues to support this measure.

Mr. MITCHELL. Mr. President, I am pleased to rise today in support of legislation to control the harmful effects of the chemical tributyltin and related organotin compounds on marine life.

The Organotin Antifouling Paint Control Act, S. 1788, was passed by the Senate December 11, 1987, following passage of similar legislation by the House of Representatives (H.R. 2210).

The Senate legislation was based on a previous bill, S. 428, and testimony received at a hearing of the Subcommittee on Environmental Protection in April of 1987—see Senate hearing Record 100-89. The Environment and Public Works Committee reported the bill in November of 1987—see Senate report 100-237.

The legislation passed by the Senate was considered and revised by the House of Representatives and passed by the House on December 18, 1987 and the bill before us today includes several additional changes which constitute a final agreement on all provisions of the bill.

Throughout this process, it has been a pleasure to work with Senators TRIBLE and COHEN. They were the first to alert us to the threats to the marine environment posed by organotins in antifouling paints. They have been successful in preventing fleet-wide use of organotin paints by the U.S. Navy until this issue was better understood. And, they have played a major role in developing the legislation we are considering today. Senator TRIBLE was the sponsor of both S. 428 and S. 1788.

I also want to express my appreciation to the distinguished ranking minority member of the Environmental Protection Subcommittee, Senator CHAFEE. He has always been a leader in efforts to protect water quality and he made substantial contributions to this legislation.

And, I want to thank my colleagues in the House of Representatives for their help in finalizing this legislation. Representatives STUDDS, JONES and others worked with interested Senators to develop the best possible combination of the House and Senate bills.

Mr. President, the coastal and marine waters of our country are a natural resource of tremendous value. Marine bays and estuaries play an essential part in the ecological system which supports fisheries and wildlife. And, our coastal waters provide recreational opportunities for millions of Americans.

We must be especially alert to threats to the quality of marine waters and the integrity of the marine and coastal environment.

In hearings last year, we heard of the growing scientific evidence indicating that an organotin compound known as tributyltin, or TBT, may pose a serious threat to marine organisms and the marine environment. The subcommittee also heard testimony on options for restricting TBT use, including regulation by the Environmental Protection Agency and legislative action by the Congress.

We also learned of the major impacts of TBT on the Chesapeake Bay and heard from representatives of States, such as Maryland and Virginia, which have adopted legislation to protect coastal waters from TBT contamination.

I should note that a number of other States, ranging from Hawaii to my home State of Maine, have also adopted legislation restricting the use of TBT.

Other witnesses at the hearing provided an overview of the scientific research of TBT and related compounds and described the views of the U.S. Navy and the paint industry.

The legislation before us today contains most of the elements of the bill developed following the hearing and passed by the Senate last year.

The bill prohibits the use of any paint containing TBT on boats of less than 25 meters in length. An exception to this length limit is made in the case of aluminum boats and outboard motors. Aluminum boats and motors can be painted with paint containing TBT if the paint meets the standard established in the bill.

The bill prohibits purchase of TBT for the purpose of adding it to paint to make an antifouling paint. These so-called free association paints release TBT at very high rates and pose a significant threat to the environment and the health of the marine environment.

The bill provides for monitoring of coastal waters to identify TBT contamination. In addition, the Secretary of the Navy is directed to conduct monitoring in harbors serving as home ports and report on any TBT contamination identified.

The EPA Administrator is directed to publish a water quality criteria document identifying levels or concentrations of TBT in fresh and marine waters which are a threat to the environment.

The EPA Administrator is also to conduct a research program, in consultation with the Secretary of the Navy, to identify additional alternatives to TBT and to develop nonchemical antifouling systems.

There are several changes to the bill passed by the Senate last December.

Both the House and the Senate bills established a maximum rate of release of TBT from antifouling paint. The Senate bill established this limit as 3 micrograms per square centimeter per day and the House bill provided for 5 micrograms per square centimeter per day. The bill before us provides for a release rate of 4 micrograms per square centimeter per day.

I should note that both bills provide that the specified release rate will be replaced by a rate set by the EPA, if the EPA takes final action to establish a release rate under alternate legislative authority.

The EPA is considering such action and it is our intention that the release rate determined to be appropriate by the EPA, using the full range of available data, be the effective release rate restriction in the long-term. This legislation, however, will protect the environment until EPA is able to reach a decision and take a final regulatory action.

The Senate bill provided a period of 180 days for owners of existing stocks of paint to sell and use the paint. The bill before us allows 180 days for sale of existing stocks and one year for the application and use of such paints.

The Senate bill provided for civil penalties for violations of the act. The bill before us adds a provision from the House bill providing for criminal penalties for knowing violations of the act.

The bill before us includes a new requirement for a report to the Congress on the status and effectiveness of programs for the control of organotin compounds in paint not later than 5 years after the date of enactment.

A number of other minor changes were made to the bill to improve and conform the legislation.

The majority of the changes noted above were included in an amendment to the Senate passed bill, passed by the House on December 18, 1987. The bill before us today includes the changes made by the House and makes several further amendments to the bill.

The bill is amended to include the addition of a new section requiring the EPA Administrator to publish a criteria document for organotin compounds under section 304(a) of the Clean Water Act not later than March 30, 1989.

The bill is also amended to delete title II of the House passed bill concerning the Grays Harbor National Wildlife Refuge. The Environment and Public Works Committee recently held a hearing on legislation concerning Gray's Harbor and is developing legislation similar to that passed by the House.

Mr. President, I am confident that this legislation will be an important step forward in our efforts to protect the quality of marine and fresh waters.

I hope my colleagues will give this bill their full support.

Mr. TRIBLE. Mr. President, I have worked closely with Senators MITCHELL, CHAFEE, and COHEN in development of this important legislation to limit the use of highly toxic marine paints.

The Subcommittee on Environmental Protection of the Environment and Public Works Committee conducted hearings on this issue and we learned of the significant environmental benefits of limiting TBT use.

We also learned of a potential problem in limiting use of TBT on aluminum hulls. In response to this concern, the legislation bans use of TBT on boats under 82 feet, but allows paints with specified release rates to be used on hulls of more than 82 feet and on an aluminum-hulled boat of any size.

Some concerns have been expressed by the Coast Guard and others about the effect of the bill on aluminum-hulled vessels. I understand this concern to involve the limited data available to firmly establish the effectiveness of qualified paint on certain aluminum vessels, such as high-speed military vessels.

Should serious problems arise over the next few years with respect to the performance of Coast Guard or military aluminum vessels as a result of the specified release rate of TBT paints, and the problems are clearly documented, I think it is agreed that we would not object to addressing the problems either legislatively or through the EPA's regulatory authority.

Mr. CHAFEE. Mr. President, I concur with the comments made by my colleague from Virginia. I know that the Navy is concerned about potential problems in this area and, if these problems materialize, we should address them in a responsible manner.

Mr. MITCHELL. Mr. President, I agree with my distinguished colleagues and would be pleased to work with them to resolve any problems relating to military or related vessels, should these problems be clearly established in the future.

TRIBUTYLTIN (TBT) IN THE MARINE ENVIRONMENT

Mr. CHAFEE. Mr. President, I rise today in strong support of a bill being considered today by the U.S. Senate to mitigate the effects of the marine paint additive tributyltin [TBT] on the marine environment. This bill was introduced by my distinguished colleague from Virginia, Senator TRIBLE, along with Senators COHEN, MITCHELL, and myself.

The bill will prohibit the use of paints containing TBT's on vessels that are under 82 feet in length, and will limit the release rate of TBT's on larger vessels to 4 micrograms per square centimeter per day. I want to emphasize, Mr. President, that this bill will remain in effect only until the Administrator of the Environmental Protection Agency issues a final decision regarding an environmentally safe release rate of this chemical into the marine environment. In the interim, this bill will sharply limit the amount of this toxic chemical effecting aquatic organisms. We cannot afford to wait months, or even years, to find that we have contaminated precious marine resources, especially when those resources can become part of the human food chain.

In discussing TBT, two observations come immediately to mind. On the one hand, it is without a doubt the most effective antifouling compound yet developed, and it cannot be matched for preventing the attachment of barnacles, algae, and other marine organisms that hasten the decay of wood and cause drag on boats. This explains its popularity with the Navy and many recreational boaters.

On the other hand, there is growing evidence that TBT is extremely toxic, and is affecting "nontarget" marine and freshwater organisms rather than just organisms that are trying to grow on boat hulls. Toxic effects occur to some marine organisms at exposures of less than 100 parts per trillion. This is equivalent to 1 drop of water in 100,000 tanker trucks of liquid. And effects on reproduction and development are thought to occur at much lower levels.

Since the known toxic effects are on marine organisms and not humans, you might ask why we should be so concerned about this chemical. The answer is because TBT is already being detected in the human food chain. The National Marine Fisheries Service recently published findings providing evidence of TBT at alarmingly high levels in chinook salmon which had made its way to the marketplace. Common cooking practices do not destroy or remove TBT's from fish.

Aside from the potential effects on human health—and very little is known about what effects TBT will have on humans—there are serious implications for marine habitats from the continued use of TBT. In Great Britain and France, TBT is now regulated, because it has caused serious problems in oyster fisheries. Not only did the oyster cultures decline in certain areas with high TBT levels, but scientist also noticed unusual abnormalities in the shell formation of adult oysters. The symptoms these oysters exhibited are associated only with chronic exposure to TBT.

Narragansett Bay in my home State of Rhode Island, is one of the most magnificent by areas in the country. This precious national resource supports the entire spectrum of marine life. In October 1985 the U.S. Navy tested samples of water taken at the Castle Hill Coast Guard Station, and found TBT levels of 130 parts per trillion, higher than that necessary to cause toxic effects on some marine organisms. Other samples taken by the Navy turned up 36 parts per trillion at a nearby marina, and 9 parts per trillion at a yacht club.

While far from conclusive, this sampling, and other more extensive data on Chesapeake Bay, suggest that it is time to find out conclusively what the long- and short-term effects of using TBT will be on our marine environment. We cannot afford to wait until species of fish begin to disappear before we get definitive answers.

As a former Secretary of the Navy, I can fully appreciate the cost and effort required to defoul and paint large vessels. The cost of servicing a large Naval aircraft carrier or a supertanker can easily run into the millions of dollars. The use of TBT instead of the more conventional copper-based paints greatly reduces the frequency of this servicing. Yet, until we understand the environmental consequences of the widespread use of TBT, I cannot approve of its indiscriminant use.

The bill we are introducing today is a reasoned, interim approach that will quickly reduce the amount of TBT in the aquatic environment. I would emphasize that the EPA needs to proceed with all speed to evaluate the long-term effects of this chemical. We must know whether we are poisoning our oceans and lakes, or if indeed a safe level of use for TBT or a reasonable alternative exists.

I urge my colleagues to join me in giving approval to this urgently needed legislation.

Mr. COHEN. Mr. President, last December, the Senate passed S. 1788, the Organotin Antifouling Paint Control Act of 1987, legislation that I, along with Senators TRIBLE, MITCHELL, and CHAFEE had introduced in October.

Mr. President, I am very pleased to join my colleagues to report that we have resolved the differences with our House colleagues.

The dangers of tributyltin [TBT] first came to my attention in 1985, and at that time I cosponsored a resolution urging the Environmental Protection Agency to speed up its investigation into the environmental and health effects of the chemical. In addition, I and a number of my Senate colleagues pushed through a measure that barred the Navy from painting its ships with any paints containing TBT.

As I stated during the floor debate on December 9, 1985, our amendment was not specifically aimed at the Navy. We were not accusing the Navy of any wrongdoing. On the contrary, the Navy has met all Environmental Protection Agency regulations. Its paint specifications are far more stringent in terms of toxicity and release rates than any used in the recreational and commercial industry. The Navy has been in the forefront of ongoing efforts to reduce the toxic content of organotin-bearing antifouling paints, and it has researched this matter far more extensively than any other segment of the maritime industry.

Our concerns, instead, Mr. Chairman, must of necessity, be focused on the potentially harmful effects the highly toxic pesticides of the organotin family of compounds may have on estuarine marine live and public health.

Organotin is an effective, tin-based antifouling compound used in paint. TBT is the active ingredient in organotin-bearing paints. It is used to keep ship hulls free from barnacles, sea grasses, and other fouling organisms that may damage or increase friction on the hull. The increased friction requires more power and hence more fuel to maintain ship speed. Increased fuel consumption means higher operating costs. Navy officials estimate that fleetwide use of TBT copolymer paints would save $150 million per year in fuel costs and $5 million in maintenance once the entire fleet is so treated. TBT is superior to copper-based paints that were used in the past because it extends the duration of the antifouling action. A majority of the worldwide commerical shipping fleets and pleasure craft are painted with organotin-bearing paints.

While there may be substantial economic benefits derived from the use of TBT based antifouling paints, there are potentially severe environmental and human risks. The Environmental Protection Agency [EPA], the Navy, the Virginia Institute of Marine Sciences, the States of Maine, New York, Maryland, Virginia, North Carolina, California, Washington, Oregon, Alaska, Michigan, Delaware, Texas, and Hawaii, have established restrictions on the use of organotin paints.

The principal concern is not whether organotin-bearing paints kill the organisms that foul a ship's hull. Rather, concern centers on whether the organotins leach out of the paints into the water at rates and toxicity levels that contaminate or kill nontarget aquatic organisms such as clams, shrimp, oysters, crabs, lobsters, and fish.

While organotin-bearing paints are presently registered with the EPA as pesticide antifouling compounds, many of these compounds were registered for use over 25 years ago. Recent studies raise new and troubling questions about the acute and chronic toxicity of these compounds even at extremely low concentrations, and their potential transmission into the food chain.

Biological damage by organotin leaching from boat bottoms has been noted in other countries. In 1982, France banned the use of TBT on boats under 25 meters—80 feet—in length. French scientists noted that oysters in and around boat moorings and marinas were found to have abnormal shell growth, reduced reproduction rates, and mutations in oyster larvae. Evidence of these abnormalities was no longer present following the prohibition.

In 1985, William Waldegrave, England's junior environmental minister, stated that he had "seldom been faced with clearer scientific evidence of the need for environmental action—and fast; that the apparent tendency of organotin-bearing paints to stunt the growth of Britain's Pacific oyster is just the visible tip of a potentially massive environmental iceberg." England is now regulating the use of TBT. In addition, Canada, Japan, West Germany, and Switzerland have prohibitions on freshwater use.

Mr. Chairman, preliminary findings seem to confirm the suspicion that contamination levels that are adverse to our marine resources may be present at some marinas and shipyards in this country. Very high levels of TBT were recorded in the Chesapeake Bay last summer. These high readings have led many scientists to conclude that we must, without delay, take whatever steps are necessary to reduce the levels of TBT being introduced into our marine environment.

A large part of my strong concern about the dangers involved in this compound relate to Maine, a State with a long coastline, thousands of boats, and tens of thousands of individuals and families whose livelihood depends on a clean and productive marine environment. Few States would be as adversely affected by any unhealthy side effects of this organotin-bearing paint as Maine, and the interests of my State and all coastal States are clearly at stake here. Any coastal area with recreational, commercial, or naval activities has the potential for being so affected.

This legislation is urgently needed. It would significantly reduce the impact of TBT in the environment by suspending the use of antifouling paints containing TBT that have unacceptable release rates as certified by the Administrator of the EPA.

Mr. President, it has been a privilege working with Senators TRIBLE, MITCHELL, and CHAFEE on this important legislation, and I urge my colleagues to support its passage.

Mr. WARNER. Mr. President, I rise today to support H.R. 2210, the Organotin Anti-Fouling Paint Control Act of 1987. The use of highly toxic marine paints containing organotin on vessels that use our Nation's ports and waterways has adversely affected marine life for many years. Although we do not know the full extent of these effects, our scientists agree that even in very small quantities, concentrations of organotin present in the marine environment can be harmful.

I am pleased that many coastal States have already taken action to reduce the use of organotin. My home State of Virginia, where a tremendous amount of research was done which raised the level of awareness and sensitivity of this problem across our Nation, was in fact the first State to enact legislation that protects their waterways and the Chesapeake Bay.

I want to particularly congratulate my colleague Senator TRIBLE for sponsoring this needed legislation. Senator

TRIBLE has been a tireless worker on this effort and I applaud his efforts, as well as those of Senators MITCHELL, COHEN, and CHAFEE in working closely with numerous States, Federal agencies, and public interest groups in developing a very reasonable and well-balanced bill.

This legislation, which the Committee on Environment and Public Works approved unanimously, will reduce the amounts of organotin entering our Nation's waterways. The Senate unanimously passed the committee bill on December 11, 1987. Since that time minor differences which existed between the House and Senate versions of this legislation have been resolved. I can, therefore, urge my colleagues to support the Organotin Anti-Fouling Paint Control Act of 1987. And I look forwward to consideration of this bill by the House of Representatives in the near future.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN FUNDS TO THE SECRETARY OF THE INTERIOR FOR THE BENEFIT OF THE CROW INDIANS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 612, S. 2273.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2273) to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Indians.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF FUNDS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall transfer to the Secretary of the Interior $180,000 of the funds appropriated to provide a grant to the Crow Tribe under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988.

SEC. 2. USE OF TRANSFERRED FUNDS.

[The funds transferred to the Secretary of the Interior under section 1 shall be used by the Secretary of the Interior to provide, through the Crow agency social service program of the Bureau of Indian Affairs, the assistance and benefits available under the Low-Income Home Energy Assistance Act of 1981 to those members of the Crow Tribe who meet the eligibility criteria established by the Crow Tribe who meet the eligibility criteria established by the Crow Tribe in its fiscal year 1988 grant application, for the assistance and benefits provided under such Act.**]**

The Secretary of the Interior and the Secretary of Health and Human Services shall enter into a Memorandum of Understanding which shall specify the minimum requirement necessary to administer on an expedited basis the funds transferred under section 1. Such funds shall be used to provide, through the Crow agency social service program of the Bureau of Indian Affairs, the assistance and benefits otherwise available under the Low-Income Home Energy Assistance Act of 1981 to those Indian households who meet the eligibility criteria established by the Crow Tribe in its grant application for fiscal year 1988 and the agreement between the State of Montana and the Crow Tribe for such year. The provisions of the Memorandum of Understanding shall be in lieu of any other legal requirements that would otherwise be applicable to the administration of such funds or the assistance and benefits to be provided with such funds.

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to affect the eligibility of the Crow Tribe to receive a grant under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1989, or any succeeding fiscal years, **[***Provided,* That the Crow Tribe meets any eligibility standards required of grantees by the Department of Health and Human Services**]**.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINTS

Mr. BYRD. Mr. President, on behalf of Mr. CRANSTON, I ask unanimous consent that S. 2267, S. 2268, and S. 2269 be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, on tomorrow after the two leaders or their designees have been recognized under the standing order, there be a period for morning business not to extend beyond 11 a.m. and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 237

Mr. BYRD. Mr. President, I believe tomorrow, under the order previously entered, when the Senate completes its morning business, it will proceed to the further consideration of S. 237, that is the lobbying bill.

The PRESIDING OFFICER. The Senator is correct.

S. 1009

Mr. BYRD. Mr. President, I believe that upon the disposition of the lobbying bill—and I assume that would be tomorrow—the Senate under the order will then proceed to the consideration of Calendar Order No. 383, S. 1009. That is a bill to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The PRESIDING OFFICER. The Senator is correct.

S.J. RES. 282

Mr. BYRD. Mr. President, I believe that upon disposition of that bill, S. 1009, the Senate will resume consideration of the constitutional amendment by Mr. HOLLINGS, Senate Joint Resolution 282, proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I expect rollcall votes tomorrow—as a matter of fact, I do not see how it can be avoided—and Senators should be aware of that.

Does the distinguished Republican leader have any further statement to make or any business he wishes to transact?

Mr. DOLE. No further statement. But if I am not available at 10:30, if the majority leader would reserve my leader's time, I would appreciate it.

Mr. BYRD. I would be happy to do that.

Mr. President, I thank my friend, the Republican leader.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 tomorrow morning.

The motion was agreed to and, at 6:09 p.m., the Senate recessed until Tuesday, April 19, 1988, at 10:30 a.m.

EXTENSIONS OF REMARKS

STRATEGIC WEAPONS: WHAT WE ARE GETTING FOR OUR MONEY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. ASPIN. Mr. Speaker, today I rise to give the second in a series of speeches on our major strategic programs. On Thursday I assessed the status of our ballistic missile systems. The results were mixed, but with some good news. Today I turn to my assessment of our two new bomber programs—the B-1B and the B-2 advanced technology bomber. The results are again mixed, but without much to cheer about.

That there are two active bomber programs instead of one is the product more of a unique fiscal circumstance than of any analysis of military need. The Carter administration had canceled the B-1 to press on with the ATB.

The Reagan administration took office and revived the B-1 as the B-1B. There were those who questioned the need to spend so much money on two bombers. But it was a time when programs were matched to the flood of dollars, rather than the other way around. The B-1 was revived as the B-1B.

My discussion of these programs will draw on an extensive, year-long examination of strategic programs conducted by the House Armed Services Committee. This examination resulted in a series of reports. As many as possible were made public, such as those concerning the B-1B, the Trident II D-5 missile, the MX and its rail garrison basing mode and the small ICBM. But others—those on the ATB and the ACM—remain locked in the safe because of the high level of classification maintained on those programs.

The assessments of these programs contained in this series of speeches remain mine alone, however.

On the B-1B, I will also be able to offer an update. Since the committee report outlining its problems, there has been some progress. On the B-2 the discussion will be in generalities. It is unfortunate that the Department of Defense has not elected to make basic, authoritative cost and schedule information available to the American public. Discussion and debate would help clear the air.

As with the ballistic missiles, I have developed a report card for the two programs. The table sets out the grades.

BOMBER REPORT CARD

Program	B-1B	ATB
Management	F	C+
Schedule	A	B
Cost	A	C+
Performance	F	[1]

[1] No performance rating was possible since the ATB has not reached initial operating capability (IOC).

Let's take up the B-1B, the first program to turn up with F's on my strategic report card. The reason for the F in performance is simple. The B-1B doesn't work as advertised. When the Armed Services Committee issued its report on the bomber just about 1 year ago, it found serious problems in three areas—terrain-following radar, flight controls and electronic countermeasures or ECM, the means by which enemy radars can be foiled.

Since then, one problem, the terrain-following radar, has been fixed. A second problem, involving the flight controls, is on the way to solution. But the third, most vexing issue, concerns the plane's ECM. Although much effort has been made to reduce the blip that the B-1B makes on radar, it is by no means a stealth aircraft. The ECM is necessary to foil radar that would otherwise pinpoint the big bomber for air defense missiles and planes.

The Air Force says the ECM can be fixed, that it will finally have the capability it was supposed to have in 1986 by 1991. I'm concerned that this timetable means the B-1B will never be fixed in the sense that it performs as advertised against Soviet air defenses. The Soviet Union puts a great deal of effort into its air defenses. By the time the B-1B is fixed, the Soviets will have undoubtedly improved those defenses so the bomber will be facing a more difficult task.

The Air Force has dealt with the importance of ECM for the B-1B in two studies, one of them partially classified, the other highly classified.

The first, the Air Force bomber study of 1981, issued immediately prior to the October 1981 production start of the B-1B, reviewed the expected penetration capability of the B-1B. "With robust ECM," said an unclassified passage in the report, the B-1B's capability to penetrate hostile territory was considerable. The key measurement was "robust ECM."

In 1985, the Air Force updated the bomber study. At that time, the ATB was entering into a critical phase and there was congressional debate on whether an additional 100 B-1 aircraft should be bought. While this report was submitted with special access classification, and thus cannot be quoted, I can say that it raised questions as to the capability of the B-1B to penetrate defended Soviet airspace, especially in comparison with the more sophisticated stealth technology.

By any measurement the current performance of the B-1B is something short of "robust." We are now trying to find out how effective the aircraft is without "robust" ECM, and, what alternatives exist.

The Armed Services Committee report issued a year ago prompted concern about how good a penetrator the bomber would ever be. The Defense Department was directed to create an independent advisory group to evaluate and report on the penetration capabilities of the aircraft. This report is late. It was due March 1. It now appears that it will not be available until August.

A provision in the current defense authorization bill would require the Air Force to test the current B-52 electronic defensive systems in the B-1B. Completing these initiatives will help determine the plane's capability.

In the meantime, we should make a distinction between this program and the ills of the MX. As I reported last week, performance of the MX has been degraded by problems with a complex element of its guidance system called the Inertial Measurement Unit or IMU. If and when the IMU problems are solved, the MX will work as advertised.

My concern is that the B-1B will never work as advertised because of the time it's taking to fix the problem—time during which Soviet air defenses are improving. The bomber's electronic countermeasures will be fixed at great cost only to meet more effective defenses or, at best, it will be rendered redundant by the B-2. Either way, we will have spent billions for something we didn't need.

We should consider now whether it's worth spending any more money to make the B-1B operable but obsolescent. The B-1B may have a future as a cruise-missile carrier or penetrating bomber against less sophisticated foes, but the cost effectiveness of the plane as a penetrator against Soviet air defenses of the 1990's is in question.

In addition to an F for performance, B-1B program recieved an F for management. It was earned by a management strategy that didn't work any better than the ECM. The Air Force did not have a prime contractor for the B-1B—that is a company hired to put the weapon together. Instead, it had a principal contractor, Rockwell International. The Air Force itself acted as the prime contractor or integrator of the various B-1B systems.

The point was to save $2 to $3 billion. It didn't work. The Air Force was not qualified to do the job. When problems mounted, the impulse of Air Force Systems Command, the organization in charge of the B-1B, was to coverup. It wasn't only Congress and the public who were kept in the dark. It was also Defense Department civilian leaders and even Air Force higher ups. For this performance, the program managers earned an F.

The B-1B did get two A's. The first was for cost. The B-1B was brought in at the advertised cost cap of $20.5 billion. We have since learned that this figure excluded essential program elements such as simulators. It also doesn't include the cost of fixing what ails the bomber. But we in Congress and elsewhere initially signed up for the cost cap and the Air Force made it. Thus their A.

The high mark for schedule follows a similar path. Rockwell contracted to turn out 100 B-1B's on schedule and the contractor made it. The bombers don't work as they were sup-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

posed to, but we've already graded performance. So, the schedule was met for pushing airplanes out the plant door and the grade is A.

Turning to the B-2, we find a program that's been too highly classified for too long. The over classification has stifled the kind of technological crossfertilization that can help solve problems, and it has hurt oversight—two ills a program of this complexity does not need.

We are waiting for a report that was due April 1 from the Secretary of Defense on the cost, performance and management of the program. This report is required under last year's defense authorization bill, and is the result of congressional insistence that greater scrutiny and oversight be directed at the ATB.

In preparing for this series of speeches, I asked the Department of Defense to declassify very limited information on schedule and cost. I was refused. That stubbornness may hurt this program in the long run.

I'm concerned about schedule. While the contractor, Northrop Corp., has fallen behind with certain tasks, that isn't the real issue. Too often, schedule is measured only in terms of pushing completed hardware out the door. Schedule is more than the capability to develop and produce. It also involves the ability to test and correct. Last year the Congress, backed by a RAND Corp. study, required that the ATB program be shifted to a milestone basis, rather than be tied to the calendar. What this means is that critical B-2 program performance milestones, not arbitrary calendar dates, determine progress in the program. Pushing hardware out the door to match a calendar is not the challenge. Delivering hardware that has been tested and meets operational needs is the real requirement.

Two factors prompt the grade of B on schedule. First, there has been schedule slippage so it should not get an A. But, second, the schedule has been placed on a more realistic basis of performance milestones, even if it took outside pressure to achieve it. So, it should not be graded less than a B.

Cost remains a concern. In this year's authorization bill, the Armed Services Committee directed the General Accounting Office to perform an independent cost analysis of the ATB program.

It is important to better understand the cost growth in the aircraft's development. We know from publicly available documents that the program experienced cost growth as it moved into full scale development. Part of that growth has stemmed from Northrop's decision to begin using manufacturing techniques usually seen during mature production. It is supposed to bring savings later, but it presents difficulties now. Other elements of the increases in full scale development are more troubling.

For instance, manufacturing hours—the estimated time it takes to perform certain work—were grossly underestimated. Understanding these miscalculations is important. The contractor's in-house cost reporting system may be failing and that is a serious matter. Without an approved cost tracking system in place, it may be impossible to fully understand why the costs keep rising.

Cost has not been one of the priority concerns of management. Emphasis has instead been placed on security and performance. As this program changes from development to production, cost will be even more significant. Already, there are indications that production rates and out-year budget projections for this program may be changing.

The overall B-2 picture on cost deserves a C-plus.

With the B-1B, cost and schedule were emphasized at the expense of performance. The B-2 was heading in that direction until outside pressure forced the adoption of a milestone-based schedule. However, the B-2 is today benefiting from a hard-nosed, aggressive program manager, Brig. Gen. Richard Scofield. Weighing the pluses and minuses, the B-2 gets a C-plus for management.

In considering these two programs, as well as the others in my survey of strategic systems, I have avoided giving an overall grade to each. The categories of schedule, cost, management and performance aren't of equal importance. Performance should probably count as much as the other three combined. Many of the new systems aren't operational yet, making an assessment of their performance impossible.

The B-1B is a completed program while the ATB is just starting. There is also a great difference in the degree of difficulty of the programs. The B-B1 is an airplane well within the state of the art. The B-2 is pushing the state of the art.

The Air Force needs all the managerial talent it can find for these kinds of advanced programs. My next speech, on cruise missiles, will demonstrate that.

DEDICATION OF THE WILLIAM C. HOPKINS BUILDING AT STATE FAIR COMMUNITY COLLEGE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. SKELTON. Mr. Speaker, on April 17, 1988, I had the opportunity to speak at the dedication of a new building on the State Fair Community College campus in Sedalia, MO. This new facility, the William C. Hopkins Student Services Building, was dedicated to the memory of my long-time friend and adviser—Bill Hopkins—who devoted much of his life to the founding and improvement of State Fair College.

Bill Hopkins was one of the most outstanding individuals I have ever known, and establishing a building in his name is a more than fitting tribute to a man who served for 20 years as chairman of the board for the school's trustees. Further, Bill's horizons extended well beyond the college campus to a concern for the community as a whole. As a member of several local civic organizations, he was recognized by all who knew him as a man who selflessly devoted his time and energy to making the world a better place. Bill was also a successful businessman and served for 12 years as a special agent for the FBI.

Although Bill Hopkins passed away in 1986, his dedication and generosity obviously have left their mark on his Missouri community. The student services building that was dedicated in his name at State Fair Community College will serve as a reminder to current and future students of Bill Hopkins' legacy of service to the Sedalia area.

HISPANIC WOMEN'S COUNCIL, INC. SALUTES WOMEN FOR SUCCESS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. TORRES. Mr. Speaker, the Hispanic Women's Council, Inc., is a nonprofit organization which provides the motivation and opportunity for women to become effective participants in their communities. It is dedicated to improving the status of Hispanic women through education and career development activities. The council strives to enhance the leadership skills and social consciousness of women while providing positive role models and motivational programs for the young. On Thursday, April 21, 1988 the Hispanic Women's Council will hold its seventh annual "Women for Success" Awards Dinner in Los Angeles.

This year's honorees are: Elizabeth Pena for Woman of the Year, Ana Barbosa for community service, and Genoveva Arrellano for Woman of Promise. Special recognition will be given to Jaime Escalante for his tremendous contribution to excellence in education and Pacific Bell has been chosen to receive the "Corporate Award" for its many years of support to HWC and the community.

Elizabeth Pena—Woman of the Year, 1988. Elizabeth was born in Cuba where she spent most of her first 8 years before immigrating to the United States. Her love of acting began at an early age in large part because of her parent's involvement in the business. Her father, Mario, is an actor/writer/director and her mother Margarita, is the administrator for the Latin American Theatre Ensemble, an off-Broadway bilingual theatre in New York. She attended New York's High School of the Performing Arts, and Elizabeth has appeared in more than 20 off-off-Broadway plays and had studied dance mime and clowning.

Elizabeth is probably best remembered for her portrayal of the vivacious maid, Carmen, in the box office hit "Down and Out in Beverly Hills" and for her role as Rosie, the late Richie Valens sister-in-law, in "La Bamba." This summer, Elizabeth will be seen in a featured role in the film "Vibes" with Jeff Goldblum and Cyndi Lauper. 1987 was an incredible year for this young actress with her own TV series, and two major film releases.

Ana Barbosa Community Service Award 1988. Ana Barbosa is a wife, mother, entrepreneur and community volunteer. She is comfortable performing any task, behind the scenes or at the helm of a project, as long as the goal positively impacts lives.

Ana has earned the reputation as a successful fund-raiser and joins the ranks with some of the most regarded and respected philanthropic groups—a tribute to her unselfish contributions. For many years Ana has been a volunteer and a board member of the United Way's Regent II Task Force and was involved with their Hispanic Leadership Development Program Advisory Board. In addition, she is a member of the board of directors of La Posada, a corportion dedicated to developing housing for senior citizens residing in east Los Angeles; active with a better chance [ABC], a national organization which provides educational opportunities for impoverished children; and the Camp Fire Board of Mt. San Antonio, San Gabriel Valley.

With her husband Henry, she has created a pleasant and challenging life for her family in the community of Rowland Heights. Through her example, her concern for the quality of life, she develops a family motto and a legacy of community service for her family and for her community to emulate.

Genoveva Arellano—Woman of Promise, 1988, Genoveva's future is bright with vivid images of success and accomplishment. Her competitive nature and determined character will not allow her to deviate from the goals and challenges she has set for herself. At the age of 24, she maintains a busy schedule which consists of her professional work, community service along with personal and family commitments.

Genoveva's parents were raised and married in Aguascalientes, Mexico. They moved to Los Angeles in 1948 with their first son. Genoveva was born in West Covina in 1964, the eighth of nine children. Genoveva graduated from Baldwin Park High School with awards and honors for her leadership as Associated Student Body President, athletic and academic excellence. She attended the University of Southern California where she immediately distinguished herself in academia and student activities. Targeted as a leader and role model by her peers, she was elected to serve on the executive committee of the Latin Business Students Association.

In her final year at USC, she obtained an internship in Washington, DC, at the executive office of the president, Office of Management and Budget [OMB] as an assistant intergovernmental liaison. The internship provided her the opportunity to translate her skills to professional projects and to also experience working with senior management. In 1985, she graduated cum laude in her class with a bachelor of science degree in public administration and a minor in Spanish.

In order to ensure her long-range professional goals, she was awarded a scholarship to attend Harvard University this fall. She will pursue a master's degree in public policy from the university's John F. Kennedy School of Government. Genoveva is enthusiastic about her upcoming experience. "I am eager to meet new people, exchange ideas * * * to educate and to be educated in an area which is unfamiliar to me and where I, as an Hispanic woman am unfamiliar to most."

In announcing the selection of Genoveva Arellano, a "Woman of Promise" the HWC said that, "with her history of achievement, Genoveva will experience all facets of life in her own special way—with compassion, conviction, and an open mind to accept new knowledge and ultimately obtain wisdom."

Jaime Escalante.—Jaime Escalante taught Mathematics and Physics in his native country, Bolivia, for 12 years before immigrating to the United States. Although he had earned a national reputation in Bolivia as an outstanding teacher and trainer of teachers neither his experience, degrees, or credentials were recognized in California.

Mr. Escalante was determined to continue his teaching career and while working as a bus boy in a local restaurant he returned to college. He received his Associate of Arts degree at Pasadena City College and his bachelor of science degree and teaching credential from California State University, Los Angeles.

When Mr. Escalante began teaching at Garfield High School in 1974, the math classes assigned to him were high school math and Basic Math. It did not take him long to decide that his students must be taught more than what was being offered to them. He wanted to teach Calculus but before students could enroll in this most demanding of all math classes they must have completed Algebra, Trigonometry and Math Analysis.

With his motto, "Calculus doesn't need to be made easy . . . it already is" visibly displayed in his classroom, Mr. Escalante's students sign a contract agreeing to do a minimum of 30 hours of homework each week. Students also agree to come to class 1 hour before and after school and to attend class on Saturdays and holidays including summer vacation.

Mr. Escalante's methods have produced staggering results. In 1979, four out of five students passed the AP calculus exam. In 1982, the 18 students that passed the AP calculus exam represented a record for southern California. Between 1982 and 1987, the number of Escalante-taught students taking, and passing the AP calculus test increased substantially each year. In 1984, AP calculus was added to the curriculum at Garfield.

Pacific Bell.—Corporate Award. Pacific Bell's relationship with the Hispanic Women's Council extends back to 1982 when, as Pacific telephone, it made its first of many contributions to the council. Over the years, Pacific Bell has not only offered financial support to the Hispanic Women's Council, but has been an active supporter of the many programs HWC offers to Latinas.

Through individuals like Maury Rosas, area vice president of Corporate Communications, Pacific Bell is able to meet its commitment to the public by actively supporting worthwile organizations. As a long-time supporter of the council, Mr. Rosas has served as an advisor to the Hispanic Women's Council.

Mr. Speaker, I ask my colleagues to join with me in saluting the many accomplishments and outstanding contributions of the recipients of the 1988 Women for Success Awards and the Hispanic Women's Council for its 15 years of service to the community.

A TRIBUTE TO ROBERT MANHEIM

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly outstanding member of my community, Robert Manheim. Bob governs 32 Rotary Clubs and 5 Provisional Clubs ranging in size from 20 to 150 members each. On May 2, 1988, Rotary International will present him with a Certificate of Commendation for his hard work and dedication to its worthy cause.

In addition to running monthly president's meetings and grooming all his clubs at visits, Bob also finds the time to be on the Rotary Rose Parade Board. This year he will serve as Secretary. Bob has also sent forth a group study exchange of six from the San Fernando Valley area, non-Rotarians, to learn about India and the Indian culture where they exchange ideas in their chosen professions.

Bob began his Rotary service in 1973; he is now senior active. He served in all five avenues of service as chairman in addition to being secretary, vice president, and president. He has also been on the board of directors for 10 years. His Rotary district participation includes being president of the Northridge Rotary from 1981-82, and chairman of the Business Management Conference from 1982-83. During 1983-84, Bob served as Gov. Elmer Jordan's representative for Northridge, Encino, West Van Nuys, and Reseda. In 1984-85 he was a member of Governor-elect Bolden's advisory board. In 1985-86 Bob was the district assembly chairman before assuming his duties as district governor in 1987.

In addition to his extensive involvement in Rotary activities, Bob has been an active member in his community. He is past president of the Northridge Chamber of Commerce and was Citizen of the Year for 1986-87 as well as a Mayor Bradley appointee to the Japanese Gardens Division of the Tillman Water Reclamation Plant. He has been on the board of directors at the West Valley YMCA for 15 years, where he served on many committees and was vice president. He served on the business community board and was involved in the President's Club at the California State University at Northridge. Bob is currently serving on the Community Service Board at Northridge Hospital. Bob was recognized as the Kiwanis Man of the Year for 1981-82 and in 1981 he received a special presentation from the American Cancer Society. He has been a member and a past board member of the Congregational Church of Northridge for 25 years.

Bob has been happily married to Paula Conte Manheim for 31 years and they have three children. Tom, Jamie, and Bill. It is my distinct honor and pleasure to ask my colleagues to join Rotary International and me in paying tribute to Mr. Robert Manheim whose many years of dedicated service to his community is an inspiration to us all.

TRIBUTE TO DR. EUNICE T. SMITH

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. ESPY. Mr. Speaker, today I am honored to draw attention to the dedicated services of one of my constituents, Dr. Eunice T. Smith, assistant dean of the School of Business at Jackson State University. She was recently honored at Jackson State University's second annual Business Education and Administrative Services Day Program for her 19 years of dedication to Jackson State University and to her community.

Dr. Smith was selected to represent JSU as outstanding educator at the Mississippi Legislature and was nominated for the University Teaching Excellence Award, 1984-85. Dr. Smith was also the recipient of the Lytle C. Fowler Award, presented by Upsilon Chapter, Delta Pi Epsilon, University of Mississippi, in November 1982 and received the 1980 MBEA Teacher Educator of the Year Award.

Aside from dedicating 19 years of service to Jackson State University, she has also served 12 years as head of the JSU Business Education and Administrative Department. Under her leadership, the department has made great strides because Dr. Smith was responsible for the development and implementation of the Master of Business Education Program and the concentration in the office administration for the Business Administration Degree Program.

Additionally, Dr. Smith and two other faculty members wrote a proposal and developed the 600-level courses for the Educational Specialist Program in 1978. Dr. Smith wrote the rationale and proposal to change the department title from business education to business education and administrative services and assisted the department in attaining membership in the National Association for Business Teacher Education. She also initiated the establishment of the JSU chapter of Pi Omega Pi, the National Business Teacher Education Honor Society and was instrumental in the establishment of the JSU chapter of the National Collegiate Association for Secretaries in 1982.

She is also a member of several prestigious professional organizations, such as Mississippi Business Education Association, Southern Business Education Association, National Business Education Association, Kappa Delta Pi, National Education Honorary Society, Phi Delta Kappa, and Delta Sigma Theta Sorority. Dr. Smith has held many elective and appointed offices, as well. They include the following: Institutional representative, National Association for Business Teacher; Mississippi representative to the Southern Business Education Association; President of the Mississippi Business Education Association; chairperson of the Constitution and Bylaws Committee for the MBEA; a college and university member of the Mississippi Team for National Standards of Excellence; and a sponsor of the JSU chapter of the National Collegiate Association.

On top of all these accomplishments, Dr. Smith also taught 10 years in the Mississippi high schools and has published articles in many State and national magazines on education. Dr. Smith continues to volunteer her services for numerous professional, social, and civic organizations. I am honored today to be able to commend Dr. Smith for her many accomplishments and contributions to the State of Mississippi.

SALUTE TO MONTCLAIR COMMUNITY HOSPITAL ON ITS 65TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. ROE. Mr. Speaker, as I am certain we all know, the well-being of a community is vitally linked to the effectiveness of the health care delivery system which serves that community. Indeed, the very lives of an area's citizens depend on the scope and efficiency of the care provided by its local health facilities.

In my Eighth Congressional District, in Montclair, NJ, we are extremely fortunate to have a distinguished institution which has made an immeasurable contribution to the well-being of citizens throughout the greater Montclair area. I speak of Montclair Community Hospital, which is currently celebrating its 65th year of excellence in the field of health care. This special anniversary will be observed this Friday, April 22, with a flag raising ceremony and reception at the hospital.

Mr. Speaker, for more than a half century Montclair Community Hospital has provided a wide range of vital services for those in the montclair area, including 24-hour emergency service, physical and respiratory therapy, radiology, intensive care and coronary care units, same-day surgery, a social service department, cancer care programs, CPR training, patient visitation service, a health speakers' bureau, community care concept and an outreach program as part of the hospital's approach to preventive medicine.

I would especially like to congratulate the hospital's administrator, Emilie M. Murphy; Dr. Charles W. Riley, president of the board of trustees, and Dr. Joseph Bellino, president of the hosptial's medical staff, for their efforts which have helped to bring Montclair Community Hospital to its current pinnacle in the North Jersey health care delivery system.

Mr. Speaker, for the benefit of our colleagues I would like to note the background of this great institution by citing Montclair Community Hospital's official history:

Two decades of planning and hard work preceded the opening of Montclair Community Hospital. From 1904 until 1923, a dedicated group of women worked unremittingly to raise funds, find a suitable building and to foster a philosophy of a "Hospital opened to all."

On April 23, 1923, the old-fashioned, but fully remodeled home of Samuel H. Wench, former Montclair Town Treasurer, welcomed its first patients. The capacity of the hospital was 25 patients.

Just 18 months after it came into being, a week-long community appeal for $50,000 was oversubscribed. Soon thereafter, the board of trustees bought a house directly to the south of the original property, as a nurses' residence. Plans were already underway for adding a modern brick wing to the 60-year-old frame house, and in 1928 the core of the present hospital was built.

By 1946, those close to the hospital realized that expansion was necessary and the south wing was completed in 1953. That addition provided the hospital with a new surgical suite, including two major and one minor operating room, recovery room, a central supply and a new elevator. The south wing also contained additional patient rooms, a new maternity department, labor and delivery room.

With the demolition of the original wooden structure on August 31, 1962, the original (central), north and south wings, emerged and came into full view. Montclair Community Hospital now has a completely modern building of three sections. The original brick wing was constructed in 1928, the south wing built in 1961 and 1962. In addition to its patient units, the north wing provides the latest facilities to be found in hospitals, including dietary and dining units, pharmacy, main entrance and lobby, meditation room, medical records department, medical staff library and conference room.

The recently modernized emergency and outpatient departments are now located on the first floor of the central wing. Alterations and renovations of the west area end of the central wing's first, second and third floors provided additional patient rooms, intensive and coronary care units, also offices for nursing service, public relations, personnel, purchasing, volunteers and auxiliary.

The capacity of the hospital is now 110 patients.

Mr. Speaker, the township of Montclair recently recognized the vital importance of Montclair Community Hospital in providing for the well-being of the township's citizens by proclaiming 1988 as the Year of Montclair Community Hospital.

I, too, would like to add my voice to those singing the praises of this outstanding facility. Mr. Speaker, I invite you and our colleagues to join me in congratulating Montclair Community Hospital for 65 years of vital and excellent service to its community. Truly it has made not only Montclair, but all of New Jersey a far better place to live.

NYACK HOSPITAL: A COMMITMENT TO EXCELLENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. GILMAN. Mr. Speaker, I rise to call to the attention of our colleagues the outstanding example set by the Nyack Hospital in Nyack, NY.

Shortly before the turn of the century, a group of five concerned citizens recognized an urgent need for a community hospital. Although many citizens of the Nyack community opposed the building of a hospital in the "Woods," these founding fathers combined their resources and determination to raise one-third of the $3,000 necessary to purchase the land and half of the $5,800 required to construct the hospital. But on the first day of the 20th century, following 5 years of struggle against community criticism and apathy, Nyack Hospital opened its doors to the Rockland community. In less than a century, Nyack Hospital has grown from a two-story building with just nine beds, to one of the finest medical institutions in the Northeast.

Nyack Hospital has maintained its reputation for excellence, in part due to the competence of the medical and dental staff that has been assembled, and in part due also to the generous volunteers who work so hard to assure that Nyack Hospital is equipped with the most modern equipment and facilities.

This year, two "balls of fire," Barbara J. Caldwell and Tess McCormack, have joined forces to cochair the second annual physicians ball. Knowing that $24,000 was raised by this event last year, Barbara and Tess put their energies to work and have already surpassed that monumental goal. With an anticipated income in excess of over $30,000, this year's physician's ball is anticipated to be even more successful than the first.

Assisting these two dedicated ladies are the medical and dental staff at the hospital, whose only concern is the well-being of the patients. Under the leadership of physician's president, Dr. Louis Martorello, the entire community has united to make this event a memorable and productive one.

The funds raised by the physicians ball will be utilized for critical care units at Nyack Hospital, a worthy goal that will benefit the community for generations to come.

A great deal of credit for the success of this event is also due to the leadership of James M. Dawson, the president of Nyack Hospital, and the dedicated board of directors who have given every encouragement and assistance to the medical staff and the hospital volunteers.

The highlight of this year's physician's ball will be the presentation of the award to the "Doctor of the Year," to be announced at the ball.

The physicians ball will take place this year in the delegates' dining room of the United Nations. Mr. Speaker, permit me to call to the attention of our colleagues the committee, for this event, who have diligently working cochairpersons Barbara Caldwell and Tess McCormack to make this event, a success: Mary Bianchini, Dr. Timothy Chang, Dr. Mitchell Cohn, Phoebe Colwell, James M. Dawson, Dr. George Glick, Dr. Tai Hahn, Barbara Kalvert, Dr. Michael Kalvert, Dr. Richard King, Nancy Kriz-Morton, Kathleen Kubik, Elizabeth Lavin, Dr. Donald Levine, Dr. Martha MacGuffie, Rosanne Martorella, Madelyn Medici, Dr. Glenn Patterson, Joseph Raso, William Ricco, Elinor Silver, Dr. William Silver, Brigitte Simon, Dr. Lawrence Simon, Dr. David Southren, and Paula Southren.

Mr. Speaker, I invite my colleagues to join with me in wishing continuous success in providing health services to the public.

TRIBUTE TO JOSEPH WILLIAMS, OF OWOSSO, MI

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. SCHUETTE. Mr. Speaker, today I would like to take the opportunity to pay tribute to a very special man from Owosso, MI. This man is Joseph Williams who is entering his 25th year of ministry at United Pentecostal Church.

During the past 25 years, Joseph Williams has helped and changed the lives of many people in the Owosso community. His unselfish efforts can be seen through his active participation as district youth director, sectional youth director, member of district Sunday School Board, scouting coordinator for Tall Pine Council in Michigan, and member of the board of governors for Apostolic Coalition. As well as the many organizations in which Joseph Williams has been active, he is also an author and national recording artist. Not only has he attained many honors and awards during his life, but he has also attended special briefings at the White House and the Embassy of Israel.

As you can see from his many accomplishments, Joseph Williams has been a very active participant in his community. He has devoted his time, effort and work to the enhancement of the lives of others. The quality of life of many has been changed for the best because of Joseph Williams. He has comforted the distraught, given hope to the needy, and provided love for the entire community.

Mr. Speaker, I hope all my colleagues in the House will join me today in honoring Joseph Williams for his commitment and dedication to the community of Owosso, MI. I would like to extend my special congratulations during his silver anniversary of his ministry. I urge you, Mr. Speaker, and my colleagues in the U.S. House of Representatives, to join me in commending Joseph Williams for his outstanding achievements.

A RESOLUTION COMMENDING USTR FOR RECOGNIZING EC'S IMPORTANCE TO U.S. SOYBEAN PRODUCERS

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. MADIGAN. Mr. Speaker, on behalf of myself, Congressman BILL EMERSON and over 40 of our colleagues, I am today introducing a resolution expressing support for the recent action of the U.S. Trade Representative [USTR] to initiate an investigation under the 1974 Trade Act of the European Communities' [EC] oilseed subsidies.

The resolution commends the Trade Representative for his recognition of the importance of the European market to our domestic soybean producers and his prompt action in intitiating an investigation under section 301 of the Trade Act of 1974 of the European Communities' subsidization of oilseeds that violates the General Agreement on Tariffs and Trade [GATT].

In return for a series of trade concessions and as part of an overall trade agreement in 1962, the European Communities agreed to provide permanent duty-free or free trade status for American soybean imports. After extensive market development efforts by American farmers, Europe became by 1982 the market for nearly one-fourth of all U.S. soybean production, totaling nearly $3.5 billion in sales that year.

In recent years, the EC has rapidly increased the subsidies offered on rapeseed, sunflowerseed, and soybeans. These subsidies have reached levels that guarantee European farmers prices as much as two to three times the price received by U.S. farmers. The predictable result has been a 340-percent increase in EC oilseed production since 1981—in Italy the increase was over 8,000 percent over the same period.

To ensure the sale and consumption of these costly oilseeds, the EC further subsidizes the European processing industry to maintain their purchases of EC oilseeds. The effect of these twin subsidies is to freeze out U.S. imports. As a result, U.S. soybean and soybean meal exports to the EC declined by 40 percent between 1982 and 1986.

In effect, subsidization of the EC oilseed industry is eroding and displacing the duty-free bindings negotiated in the 1962 agreement. The duty-free bindings created an open, free market for American farmers. Increasing subsidization is closing that market just as surely as would a new tariff. Unilateral nullification of negotiated trade bindings is a violation of the European Communities' obligation under the GATT. Once there is an official determination of violation, if the practice does not cease, the offender can be subjected to retaliation.

There is no doubt that the EC subsidies do exist. There is no doubt that United States soybean exports to Europe have been displaced by subsidized oilseed production in the EC. The American farmer is being denied the benefit of a trade agreement of 25 years' standing without even the pretense of compensation.

The sponsors of this resolution commend USTR for intitiating the section 301 investigation of the EC oilseed subsidies. The resolution also calls for an expeditious investigation to be followed by prompt action by the President to restore the full benefit of the duty-free bindings on U.S. soybeans exported to the EC.

The soybean farmers of this country have always supported free trade in the belief that American farmers can maintain themselves in any free market in the world. No farmer, however, can compete against the resources of a coalition of governments. The European Communities freely entered into an agreement for duty-free entry of U.S. soybeans, and now they have attempted to void that agreement indirectly through subsidization. American soybean farmers want a free market, and they demand a fair market. Now is the time to halt this incursion on the trade rights of our farmers.

The sponsors of this sense of the Congress resolution urge your support for the actions of the Trade Representative and a return to fair trade for U.S. soybean farmers with the European Communities.

AMERICA'S LIBERTY—OUR HERITAGE

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. FAWELL. Mr. Speaker, I am delighted to recognize a proud and patriotic young constituent of mine from Palos Heights, IL, Miss Michelle Kassen, for her prize-winning essay on "America's Liberty—Our Heritage," sponsored by the Veterans of Foreign Wars of the United States. She is the Illinois State winner of the Voice of Democracy broadcast scriptwriting contest. I trust that we will all remember that our heritage is based on the promise of freedom and the challenges we have faced throughout our history to achieve and maintain freedom. I salute Michelle's outstanding and articulate contribution to remind us of our duty as representatives of the people and respectfully request that her speech be submitted in its entirety.

My country, my heritage, my very life is an unwavering quest to realize a dream—a dream that cast "We, the People" onto a singular parchment, a written Constitution that emancipated the hearts and minds of all the colonists and perpetuated the blending of many races, colors, and creeds into one species, the American species. The pursuit of the dream sculpted a rugged frontier into a highly organized society, a divided nation into one body, a disjointed people into one humankind. The pursuit of the dream moved mountains, redirected waterways, paved over endless expanse and afforded opportunity to all who dared. This is the foundation of my American Heritage—a heritage of challenges, a never ending quest to soar with the eagles.

Only through the eyes of the past can we surmise the future. Through the triumphs and tribulations of faded memories, we navigate the course of our nation and breathe life into her very soul. The heroes of old have not perished, but remain vivid reminders, icons of the past, the mortar and stone foundation of our modern world.

While pondering this American Heritage, I find solace in yesterday. I envison General Washington gazing thoughtfully on the banks of the Potomac, reflecting on the sacrifices his men must soon endure. I hear Patrick Henry's resounding call to arms shouting, "Give me liberty or give me death." I smell the gunpowder of exploding cannon shells with Andrew Jackson in 1812 at the Battle of New Orleans. I taste the tears of Lincoln at Gettysburg, mourning the death of so many valiant men. I hum George M. Cohan's tune "Over There" as our troops embark for France in World War I. I am stunned by the Day of Infamy at Pearl Harbor on December 7, 1941, the date of our involvement in World War II. I salute the memory of General Douglas MacArthur's retirement speech during the Korean conflict, "Old Soldiers Never Die, They Just Fade Away". I read the names of fallen heroes of Vietnam etched in stone, soldiers of the clouds, and I weep.

What a rich heritage has been bestowed upon us, the American people. Through the endless sacrifice of blood, sweat, tears and bone, there emerged a legacy of unity that brazed together a once divided house into a unified structure of "We, the People" of the United States, which has fortified us against the ravages of time, turmoil and tyranny. "We, the People" have persevered. The zeal of our nation remains undaunted—our heritage is a testament of human spontaneity, adaptability and valor. We were the huddled masses that shed our coats of deprivation and woe, only to assume a vibrant new identity, that of an American citizen. May the pages in the cherished book of American history never succumb to the vile hands of despotism and servitude.

Our heritage is the welding of the memories of the past, with the hopes of the present, and the dreams of tomorrow.

Our heritage is the promise of freedom.

IN HONOR OF NORMAN AND FANI ADELSBERG

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to recognize two people from Southfield, MI who have devoted themselves to enriching their culture, their children, and their community.

Norman and Fani Adelsberg are both natives of Poland who came to the United States after surviving internment in concentration camps. The Adelsbergs settled in the Detroit area nearly 40 years ago, soon becoming vital participants in their religious and secular communities. They have been committed to teaching the lesson of the Holocaust—that we must never forget—but concurrently moving forward to establish a new life for themselves. The Adelsbergs are active in many organizations including Bnai Brith, Mizrachi, Shaarit Haplaytah, United Hebrew Schools, and Congregation Shomrey Emunah. They are both past presidents of their respective Bnai Brith entities.

The Adelsbergs have been particularly strong advocates of education. They have been active supporters of Akiva Hebrew Day School since the school's founding in 1964. On April 24, 1988 Akiva is bestowing the Adelsbergs with their Tomchei Torah Award. Tomchei Torah literally means supporters of torah—the bible. The Adelsbergs give life to those words through their deep and genuine commitment to the values that the torah teaches us to uphold and respect—family, education, community.

On behalf of my colleagues in the 100th Congress I salute the Adelsbergs with a hearty yasher koach in recognition of their efforts, and of earning this award.

A TRIBUTE TO DR. JAMES T. AMSLER

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to bring to the attention of the Congress the accomplishments of a foremost member of my constituency, Dr. James T. Amsler.

Dr. Amsler, currently the president of Salem State College, is retiring after a dedicated and distinguished career in the field of education. The growing initiative to improve the quality of learning of the young people in this country will require a close cooperation between those in education and those in the Government. I believe that we in Congress can be aided in this endeavor by a look at the ideas and service of Dr. Amsler.

Dr. Amsler's career in education spans four decades, most of it with Salem State College. He has been president there for 10 years, and has served in previous positions as professor in education, director of student teaching, director of admissions, and dean of students. He also served as president of North Adams State College for 9 years, and was associate director of the Division of State College in Boston.

Dr. Amsler was designated by his peers in 1986 as one of the top 100 college presidents in the country. This selection, determined by 400 college presidents plus other leading members of the education community, recognizes his leadership at Salem State College.

Dr. Amsler has diversified and expanded the college's academic programs to meet the wideranging needs of his students and his community. He has been successful as a pioneer in fundraising for public colleges and at bringing nationally known figures to speak in Salem. He has also been a leader in intercollege relations, establishing the Northeast Consortium of Public and Private Colleges and Universities. Largely from his initiatives, Salem State College has grown to be the largest 4-year public college in New England.

Dr. Amsler has also contributed greatly to his community. He has served as president of the Salem Chamber of Congress and is active in a number of professional and philanthropic organizations.

James Amsler is an outstanding individual who has dedicated his life to serving his college and his community. I, myself, have benefited both personally and professionally from his friendship. I would like to join his many admirers in honoring him, as I would like to admonish my colleagues in the Congress to learn from his examples as we look for adept leadership and direction in the important field of education.

100TH ANNIVERSARY OF ST. GEORGE'S CATHOLIC CHURCH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. SKELTON. Mr. Speaker, it has come to my attention that St. George's Catholic Church of Odessa, MO, will be celebrating its 100th anniversary on April 24.

Early day Odessans report that St. George's Catholic Church was located at the southwest corner of Second and Dryden streets. It was built in 1890, after an earlier church burned shortly after it was built in 1888. Many of the early church records were destroyed by the fire while being housed in the Higginsville Catholic Church. St. George's church was a mission and was served by the Franciscan Fathers from Higginsville in 1927.

The church and property was sold in the early 1960's when the present church property was obtained. A new brick church was constructed at a cost of $17,000, during which time St. George's parish was a mission from St. John Lelande in Blue Springs. Father Donald Miller was the pastor at that time. The church was dedicated by Bishop Charles Helmsing in August of 1964.

St. George remained a mission parish from St. John Lelande until July 1977 when Father James Hardy became its first resident pastor. There were at that time 150 parishioners. Through his efforts, a parish hall was built in 1978 at an approximate cost of $65,000.

Father Hardy was replaced in July of 1980 by the present pastor, Father Joseph A. Mancuso. Soon after his arrival the parish was able to make the purchase of its first parish home on the corner of Crestview and Third Streets at a cost of $49,500. At present the parish spirituality report shows that St. George had 380 parishioners, 145 households and 80 children in its CCD Program. In 1981 the church was air conditioned and in the spring of 1982 all the windows of the church were replaced with the new thermal-view windows.

Mr. Speaker, it is my pleasure today to use this statement as a vehicle to recognize the centennial of St. George Catholic Church and congratulate it for 100 years of service to the community.

TRIBUTE TO THE CITY OF BALDWIN PARK POLICE DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. TORRES. Mr. Speaker, I rise today to recognize the outstanding law enforcement efforts by the city of Baldwin Park Police Department.

Gang violence in Los Angeles County has become increasingly worse. Local law enforcement agencies are faced with incredible obstacles in order to maintain a safe environment in their communities. However, gang violence in the city of Baldwin Park has decreased by 53 percent. This astounding reduction is a result of a well-organized enforcement program developed in 1986 by the Baldwin Park Police Department to apprehend gang offenders.

The Baldwin Park Police Department also works in conjunction with other criminal justice agencies to prosecute gang offenders. As a result of their efforts, the prosecutions of known gang offenders have increased by 76 percent.

The department was recently presented the distinguished service award by the California Youth Authority for their contribution to juvenile justice and the youth of California. They were one of 18 law enforcement programs competing for the important award.

Richard Hoskin, who serves as the chief of police in Baldwin Park, has clearly been quite effective in eradicating gang violence in the area. Indeed, the Baldwin Park Police Department's efforts to eradicate gang violence has been tremendously successful. Other law enforcement agencies would do well to follow the lead set by the city of Baldwin Park Police Department.

I urge my colleagues to join me in commending the Baldwin Park police force for their phenomenal success and dedication.

A TRIBUTE TO WILLIAM F. MYERS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to the memory of an outstanding member of the Los Angeles community, William F. Myers. As a member of the City of Hope's Toychest Chapter, Mr. Myers worked to provide funds for the treatment and research of major diseases inflicting children. To honor the outstanding contribution of time and energy that Mr. Myers selflessly donated, an Immunological Research Fund will be established in his name.

The City of Hope was established in 1913 for the purpose of education, research, and patient care. The Toychest Chapter provides funds for the treatment and research of major diseases afflicting children. Currently there are 500 chapters nationwide providing a network for care.

Mr. Myers was not only a successful business executive, he was also a true philanthropist. He never let his financial success interfere with his concern for others. His work with the Toychest Chapter was one way in which Mr. Myers reached out to those in need. Many children have surely benefited from the medical research that this organization has helped to foster. Mr. Meyers' generous nature was also demonstrated through his wife, Vickey, and their two children, Eddy and Lauren.

Bill Myers' dedication to helping others served as an inspiration to all who knew him. His spirit of giving will appropriately continue through the William F. Myers Immunologic Research Fund.

SALUTE TO VINCENT AND LINA BATTAGLIA "MAN AND WOMAN OF THE YEAR"

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. ROE. Mr. Speaker, it is with great admiration and pride that I rise today to salute two outstanding residents of New Jersey whose untiring civic efforts have made their community a better place in which to live.

I am speaking of Vincent and Lina Battaglia of Paterson, NJ, whose great work on behalf of their friends and neighbors will be honored as Man and Woman of the Year by the St. Anthony's Ladies Society on Sunday, April 24, 1988, with a dinner at the Brownstone in Paterson, NJ.

I would briefly like to make note of those officers of the St. Anthony's Ladies Society who have worked so hard to make this event possible; President Fannie DeGrado, Vice Presidents Florence Sciala, and Ersilia DelGuidice, Treasurer Anna Campagna, Corresponding Secretary Connie Incremona, Financial Secretary Sadie Viarella, Auditor Carmella DeCara, Cerimoniera Connie Sortino, Sergeant at Arms Alvina Bruno, and Trustees Mary Scalzetta, Josephine Lazzara and Mrs. N. Stuppiello.

Mr. Speaker, Vincent Battaglia was born in Comiso, a large city on the beautiful southern coast of Sicily. During his early years, he worked on the farms owned by his parents. Later, at age 16, in order to learn a trade, he worked as a heavy equipment operator for a large construction company which built numerous bridges, highways and high-rise buildings. The experience gained in this youth helped Vincent Battaglia to start his own excavating company here in the United States.

In 1972, Vincent married Lina Cappello, a childhood sweetheart from his hometown. While in Comiso, the couple had the first of their two children before coming to the United States in 1975.

Mr. Speaker, Vincent Battaglia was the founder and organizer of the Comiso Casmene Club, a civic, social club founded under a set of guiding principles that the organization still adheres to today, for people to be of mutual assistance to each other and to be of service to the community and to establish a center for the promotion of good fellowship.

Both Vincent and Lina Battaglia, who was highly active in church and community activities in Sicily, have held positions of vice president in the Comiso Casmene Organization and its auxiliary, and currently serve as activity chairpersons. Under their firm and steady guidance, this outstanding organization has contributed to many worthy causes, including Rotary International and the fight against drugs.

Mr. Speaker, as the St. Anthony's Ladies Society official biography of these two fine people notes, "The warmth and affection of their ancestral land is reflected in their sincere concern for family, friends, and community welfare. The Battagalias always find time to volunteer their services in whatever capacity they are called upon."

Vincent and Lina Battaglia, who reside in Haledon, NJ, are outstanding examples of the kind of people who help make their town, State, and Nation a far better place to live through their tireless dedication to their community.

Mr. Speaker, I invite you and our colleagues to join me in saluting Vincent and Lina Battaglia, the St. Anthony's Ladies Society Man and Woman of the Year.

WORLD POPULATION AWARENESS WEEK

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. ESPY. Mr. Speaker, today I am honored to recognize World Population Awareness Week, proclaimed the week of April 17 through 23, 1988. At its present growth rate, the world's population of more than 5 billion will double in the next 40 years. More than 90 percent of this unprecedented growth takes place in nations of the Third World least able to accommodate such rapid expansion.

Rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment, and basic health services, and undermines economic development as well as social, cultural, and political stability. The massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the Earth's land and waters, and the destruction of its ozone layer.

The tragic results of the ever-increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere. Unchecked population can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them.

This week, I call upon all citizens to reflect upon the consequences of world over-population and the opportunities to contribute to a solution.

THE 175TH ANNIVERSARY OF GRACE BAPTIST CHURCH

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. GILMAN. Mr. Speaker, I rise to call to the attention of my colleagues the remarkable fact that the Grace Baptist Church of Suffern, NY, will be celebrating its 175th Anniversary later this month.

In 1813, when worshipers began to gather at the Grace Baptist Church, our Nation and our world were completely different. The Grace Baptist Church was located then, as it is now, less than 30 miles from downtown New York City. However, in those days, those 30 miles were almost insurmountable. There were no commuter buses or automobiles, or even railroads. The 30-mile journey on horseback took about 2½ hours, after which the brave traveler had to find his way across the wide Hudson, for there were no bridges or tunnels.

When Grace Baptist Church was founded, Abraham Lincoln was only a 4-year-old child. The problems which would divide and change our Nation—the Civil War, economic depression, the influx of immigration from all corners of the globe, and the problems of an emerging industrial state—were still far in the future. The role of the United States as leader of the free world was not forseen.

In fact, the "Star Spangled Banner" would not have been written until the following year.

Those problems which were so crucial to the forging of our Nation came and went, and fortunately, the Grace Baptist Church endured. The problems which divided our Nation only helped make the faith of the parishioners stronger. And the waves of immigrants were welcomed into the Grace Baptist Church with open arms, making it a melting pot of the culture and wisdom of many peoples, joined together by common faith.

When the Grace Baptist Church was founded, most of its parishioners were farmers, who tilled the land with their families to eke out a living. Today, its parishioners come from all walks of life: lawyers, dentists, teachers, nurses, auto mechanics, and financial consultants, to name just a few. However, all have in common the abiding faith which has kept the Grace Baptist Church together for almost two centuries.

Despite all the changes and differences of the past 175 years, the congregation of Grace Baptist Church has much in common with the congregation of 1813. For faith in God and the eternal words of the Bible do not change, no matter how much the world around us may change.

To Pastor Howard J. Crist, to his assistants, and to all parishioners, we extend our greetings and our congratulations for keeping alive a remarkable religious sanctuary in our community, and in our hearts.

Mr. Speaker, I invite our colleagues to join with us in extending best wishes upon this outstanding milestone for the Grace Baptist Church.

IRVING CLAY, JR., RETIRES IN ST. LOUIS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. CLAY. Mr. Speaker, one of the most distinguished public officials in the city of St. Louis is planning to retire next month. I would like to take this opportunity to salute Mr. Irving Clay, Jr. He is, by all accounts a deeply dedicated and devoted public servant whose untiring contributions have significantly improved the quality of life in the St. Louis community; Irving Clay is also my lifelong friend and brother.

The citizens of St. Louis will lose a great asset when Irving Clay steps down next month. In his honor, I would like to take this opportunity to share with my colleagues a brief description of some of the highlights of Irving Clay's career.

[From the St. Louis Post-Dispatch, Apr. 10, 1988]

IRVING CLAY SET TO RETIRE FROM CAREER OF SERVICE

(By Tim O'Neil)

Irving C. Clay, who chose a quieter form of government work than did his congressman brother, hopes to retire soon from a career that began at a city playground.

Clay, 63, plans in May to be among the employees who take an early-retirement plan that is under consideration at City Hall. He is an executive assistant to Mayor Vincent C. Schoemehl Jr. and is in his 37th year as a St. Louis city employee.

Clay is the older brother of U.S. Rep. William L. Clay, D-Mo. Having a congressman in the family clearly has not hurt Irving Clay's career, but he has shown little public interest in the politics that gave his brother status and power.

By Irving Clay's own description, and by reports from many at City Hall, the elder brother has minded his own business. That was true even during the much-reported feuds between Schoemehl and the congressman.

"I never had any aspirations to be an elected official," Irving Clay said Friday. "My interest has always been in professional government service. I did my job."

Irving Clay is the oldest son and the third of seven children of the late Irving C. Clay Sr. and Luella Clay, who still lives in the city's West End. When he was growing up, the family lived near 11th and Carr streets, which is now part of the Columbus Square redevelopment.

Irving Clay was first hired by the city in 1944 as a recreation employee. He was assigned to a playground on the Near North Side, not far from his family's home.

He graduated in 1943 from Vashon High School, but a shoulder injury he suffered playing football disqualified him from military service. He worked upward through the Parks and Recreation Department ranks and became recreation commissioner in 1969, a job he held until 1974.

His brother, meanwhile, had made a name for himself as an alderman and a leader of a well-known civil rights protest at the Jefferson Bank & Trust in 1963. William Clay was elected congressman in 1968.

Irving Clay said politics and protests weren't his style. He said he was not with his brother at the Jefferson Bank protest, although he took part in some marches.

Irving Clay did make headlines in 1969 when he publicly accused Louis W. Buckowitz, then parks director, of not giving the North Side its fair share of recreation programs.

Clay called his time as commissioner "the boom years in public recreation." Federal money was a big reason, and among Clay's projects was a mobile playground that a truck pulled from neighborhood to neighborhood. He also set up special sprinklers on fire hydrants during the summers.

In 1974, Clay became parks and recreation director in Richmond, Va. He returned to St. Louis to become city welfare director in 1981, shortly after Schoemehl was elected with his brother's help. Irving Clay became a special mayoral assistant in 1983. He has worked on such major issues as infant mortality and the homeless, and also deals with local charities and scholarship funds.

He said he would stay busy with charity work and with such groups as the local United Way and Interfaith Partnership. But Clay said it is time to retire from a full-time job.

"I have worked a long time. I am ready," he said. "But I do plan to use my time constructively."

Schoemehl called Clay "the definition of a gentleman. He is the prototype of a public servant."

Despite his shoulder injury, Clay played softball and baseball until he was in his 30s. He has been a regular runner since the 1960s—"before it became popular," he quips—and has run in six marathons in recent years. He says his best time is 4 hours and 22 minutes, which figures to about 10 minutes a mile.

Irving and his wife Evelyn have been married 37 years and live in the Central West End. They have two children and a granddaughter.

Clay said he wanted to "thank all of the individuals I have worked with in my career. Anything I have accomplished has been with their support."

EXPLANATION OF VOTE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. DANNEMEYER. Mr. Speaker, due to a longstanding commitment to constituents, I participated in a trade mission overseas during the week of March 28 and, unavoidably, missed the recorded votes of that week. Had I been present, I would have voted as follows:

March 29, 1988, rollcall No. 46, S. 858, Abandoned Shipwreck Act—"nay."

March 30, 1988, rollcall No. 47, H.R. 3933, National Historical Publications and Records Commission Amendments of 1988—"nay."

Rollcall No. 48, H.R. 3396, to rehire certain former air traffic controllers—"nay."

Rollcall No. 49, House Joint Resolution 523, providing assistance and support for peace, democracy, and reconciliation in Central America—"yea."

March 31, 1988, rollcall No. 50, H.R. 3932, Presidential Transitions Effectiveness Act, Walker amendment—"yea."

Rollcall No. 51, H.R. 3932, final passage—"nay."

SCHOLARSHIP PROGRAM BRINGS DEMOCRACY HOME TO YOUNG PEOPLE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. OBERSTAR. Mr. Speaker, democracy is our society's most cherished asset, for it is only through self-government that we can ensure the continuation the many freedoms and blessings America enjoys.

Every year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary encourages the young people of our country to explore, contemplate and present their views on the meaning of democracy through the Voice of Democracy Scholarship Program.

It is with great pleasure that I share with you the words of Ziad Wael Munson, a junior at Duluth East High School in Duluth, MN. Ziad placed first in Minnesota and seventh nationally in the VFW's annual Voice of Democracy Broadcast Scriptwriting Contest. This year's contest carried the theme "America's Liberty—Our Heritage."

AMERICA'S LIBERTY—OUR HERITAGE

(By Ziad W. Munson)

"Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore." With this immortal inscription, the Statue of Liberty greets refugees from around the globe that come to America in search of a better life. They come for a fresh start, a new beginning. They come for an opportunity to better their lives and the lives of their loved ones. But most of all, they come for something unique to this country, something so sacred, so cherished, that for over 200 years human beings have given their lives in its name. That special something is what we call Liberty. Liberty, something that Americans have held above all else throughout our history. American Liberty—Our Heritage.

Our nation's very foundation rests on the concept of liberty, that uncompromisable quality of being free. We find Liberty in every facet of our lives. We see our nation's Liberty best in the political, social, and economic affairs of all American citizens. These three elements make up the components of American Liberty.

Political Liberty has preserved in American the true meaning of the term 'freedom'. Citizens of America have the liberty of self-determination, a basic right that makes up part of any free society. Because of political liberty we have been safeguarded against the tyrants and dictators that have plagued so many other nations of the world. It is not possible for America to sprout a Hitler, or a Stalin, or an Idi Amin because of our strong heritage of political liberty. We allow every adult citizen of America to help decide who should govern our nation. The fact that we have expanded our defintion of 'citizen' to include blacks and women simply proves the effectiveness of political liberty. The United States fosters a concept of liberty, of political liberty, and this concept has helped America remain free since it's birth from the Revolutionary War.

Social liberty is the second component of the total American heritage of freedom. It has been a part of the American experience since the signing of the Declaration of Independence. A citizen of our country is not bound to the social caste system so prevalent in so many other nations of the world. In America, we are given the chance to do with our lives what we wish. Our future is not predestined by a rigid social system. We do not doom the peasants to remain peasants or guarantee social power as a birth right. Throughout our history, we see a heritage of social liberty. Consider Abraham Lincoln. This famous American was born into poverty in a log cabin in Kentucky. From this humble beginning, he climbed the social ladder and finally became the sixteenth President of the United States. In no other country, in no other part of the world would this have been possible. America's social liberty gave our country one of the greatest men ever to live.

The last component of American liberty is economic freedom. An economic liberty that is not reserved for just a lucky few, but one that is applied universally to all citizens of our nation. In many areas of the world, a person is bound to the same prosperity as his parents. America's economic liberty allows each person to determine for himself his level of economic prosperity. A person born in the ghettos of New York can use his economic liberty to work his way out. Each American's economic liberty allows him to seek his own furtune. Andrew Carnegie was a man who was very aware of America's economic liberty. Carnegie was born in Scotland in 1835 as the son of a poor hand weaver. When the steam weaving machine was invented, Andrew's father lost everything and the family decided to immigrate to the United States. Once in this country, Andrew Carnegie used the economic liberty given to him to better his financial standing. When Carnegie retired, his fortune was worth over half a billion dollars. Our heritage of economic liberty bestows in all Americans the ability to prove themselves.

America's heritage of Liberty has led to the greatest nation on earth. A nation whose most extraordinary tradition is the tradition of liberty. The three components of our liberty—political, social, and economic—make up the greatest group of freedoms ever bestowed on a group of people. A group of people—called Americans. Now we know what that sparkle in every immigrant's eyes is as they pass through the borders of America. It is a sparkle of triumph and a sparkle of hope. A knowledge that they are now part of the American experience. An experience created with the heritage of liberty.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 19, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 20

8:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform Act of 1987.

SR-332

9:00 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee

To hold hearings on reports by the Aviation Safety Commission and the Office of Technology Assessment on aviation safety.

SR-253

Labor and Human Resources

To continue oversight hearings on activities of the Occupational Safety and Health Administration.

SD-430

Select on Indian Affairs

To hold hearings on S. 1987, to establish a separate program to provide housing assistance for Indian and Alaska Natives.

SR-485

9:30 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

Armed Services
Conventional Forces and Alliance Defense Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

10:00 a.m.

Appropriations
Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for Army military construction and family housing programs.

SD-124

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

SD-138

Banking, Housing, and Urban Affairs

To hold oversight hearings on market manipulation.

SD-538

Environment and Public Works
Environmental Protection Subcommittee

To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee

To hold hearings on the Treaty with the United Kingdom Concerning the Cayman Islands Relating to Mutual Legal Assistance in Criminal Matters (Treaty Doc. 100-8), Mutual Legal Assistance Cooperation Treaty with Mexico (Treaty Doc. 100-13), Treaty with Canada on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 100-14), Treaty with Belgium on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 100-16), and the Treaty With the Bahamas on Mutual Assistance in Criminal Matters (Treaty Doc. 100-17).

SD-419

1:00 p.m.

Armed Services
Readiness, Sustainability and Support Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Deparment of Defense.

SR-222

1:30 p.m.

Appropriations
Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

*Conferees

On H. Con. Res. 268, setting forth the congressional budget for the United States Government for fiscal years 1989, 1990, and 1991.

210 Cannon Building

APRIL 21

9:00 a.m.

Rules and Administration

Business meeting, to mark up S. Res. 41, to provide for germaneness or relevancy of amendments, S. Res. 42, to limit legislative amendments to general appropriations bills, S. Res. 43, to establish a procedure in order to overturn the Chair on questions of germaneness under cloture, S. Res. 274, to limit sense of the Senate or Congress amendments, S. Res. 277, to require amendments to a bill, resolution, or other measure to be in the order that sections appear in such legislation and relate to the subject of such section, S. Con. Res. 88, to facilitate the convening of the National Silver Haired Congress, and other pending legislative and administrative business.

SR-301

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
Conservation and Forestry Subcommittee

To hold joint hearings on alternative agricultural systems and related agronomic and economic research and extension efforts.

SR-332

Armed Services
Defense Industry and Technology Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

Commerce, Science, and Transportation
Surface Transportation Subcommittee

To hold hearings on truck access from interstate highways onto primary highways.

SR-253

Foreign Relations

To hold hearings on the nomination of George A. Trail III, of Pennsylvania, to be Ambassador to the Republic of Malawi.

SD-419

Governmental Affairs
Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SD-342

10:00 a.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations
Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Defense and related agencies.

SD-192

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

Finance

To resume hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.

SD-215

Judiciary

Business meeting, to consider pending calendar business.

SD-226

10:30 a.m.

Foreign Relations

Closed briefing on recent developments in the Iran-Iraq War and the Persian Gulf region.

S-116, Capitol

1:30 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

2:00 p.m.

Energy and Natural Resources

To resume oversight hearings on the implementation of the U.S.-Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.

SD-366

Governmental Affairs

To hold hearings on S. 42, to establish an optional early retirement program for Federal employees.

SD-342

Judiciary

To hold hearings on pending nominations.

SD-226

APRIL 22

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SD-342

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

Banking, Housing, and Urban Affairs

To hold hearings on S. 1776, to require U.S. coins to be redesigned, to require that one coin be redesigned to commemorate the bicentennial of the U.S. Constitution, and to require profits from the sale of proof sets of U.S. coins to be used to reduce the national debt.

SD-538

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 2089, to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and H.R. 1039, to prohibit the issuance of patents for oil shale claims after a specified date.

SD-366

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of ground water policy.

SR-428A

APRIL 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-128, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.

SD-116

2:00 p.m.

Governmental Affairs

To hold hearings on regulatory reform.

SD-342

Rules and Administration

To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of the President of the United States.

SR-301

APRIL 27

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1935, to provide for the assessment and collection of a fee on the transfer of spectrum licenses and the establishment of a trust fund for public broadcasting.

SR-253

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings to review the current state of U.S. financial markets, focusing on the problems surrounding the October 1987 market break.

SD-562

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

Banking, Housing, and Urban Affairs

To hold hearings on S. 2073, Thrift Charter Enhancement Act.

SD-538

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2272, to authorize funds for fiscal years 1989 and 1990 for programs of the Fish and Wildlife Conservation Act of 1980.

SD-406

Foreign Relations

International Economic Policy, Trade, Oceans and Environment Subcommittee

To resume hearings to review the advancement of environmentally sustainable development worldwide in Central America through United States foreign assistance policy.

SD-419

Governmental Affairs

To hold hearings on restructuring the Nuclear Regulatory Commission.

SD-342

2:00 p.m.

Appropriations

*Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transportation Administration, and the Washington Metropolitan Transit Authority.

SD-138

APRIL 28

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

*Veterans' Affairs

To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals.

SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the Review of the Dairy Policy Commission Study.

SR-332

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-116

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.

S-146, Capitol

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.

SD-406

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.

SD-366

2:00 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

Conservation and Forestry Subcommittee

To resume joint hearings on alternative agricultural systems and related agronomic and economic research and extention efforts.

SR-332

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.

SD-116

2:30 p.m.

Select on Indian Affairs

Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.

SR-485

APRIL 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Federal Grain Inspection Service, Department of Agriculture.

SR-332

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

10:00 a.m.

Judiciary

*Courts and Administrative Practice Subcommittee

To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.

SD-226

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Service, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume hearings on S. 1480, to promote the integration of universities and private industry in the National Laboratory system of the Department of Energy in order to improve the development of technology in areas of

economic potential, and Amendment No. 1627 proposed thereto.
SD-366

MAY 12

8:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

Governmental Affairs
To resume hearings on restructuring the Nuclear Regulatory Commission.
SD-342

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.
S-146, Capitol

MAY 16

9:30 a.m.
Governmental Affairs
To resume hearings on regulatory reform.
SD-342

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor research and development.
SD-366

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Governmental Affairs
Government Efficiency, Federalism, and the District of Columbia Subcommittee
To resume hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of groundwater policy.
SD-608

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.
SD-366

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-126, Capitol

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 10

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.
S-126, Capitol

JUNE 14

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

POSTPONEMENTS

APRIL 28

9:30 a.m.

Veterans' Affairs

Business meeting, to mark up S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and other pending committee business.

SR-418

SENATE—*Tuesday, April 19, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

Mr. REID. The prayer today will be offered by Rev. Richard C. Halverson, Jr., pastor of Chesterbrook Presbyterian Church in Falls Church, VA.

PRAYER

The Reverend Richard C. Halverson, Jr., offered the following prayer:

Let us pray together:

Our Father in Heaven, it is written that: Unless the Lord build the house, those who build it labor in vain and unless the Lord watches over the city, the watchman stays awake in vain.

We sometimes wonder whether or not in the midst of our labors and our watchings, You are still with us in this project of building this Nation. And we ask the question: Lord, is there something we are doing that we should not be doing? Or is there something that we are not being that we should be? And we tremble at the possibility that You would take Your Holy Spirit from us.

And so, very, very humbly this morning we come to You and ask that You would be the invisible divine builder in our midst. We pray that You would assist us in all of our labors and in all of our work and not only for the household of this Nation do we pray, but also for our own homes and families.

We pray for those children of ours, and grandchildren, and wives and related family and members of our neighborhoods. We pray there, too, that You would be in our midst and assist us.

We do not presume upon Your presence, Lord. We love You and we need You and we come to You as one who, for the sake of only a few righteous men, would save an entire city which was woefully evil.

By the grace of God we ask these things in Christ's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 19, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is now recognized.

THE SENATE PRAYER

Mr. BYRD. Mr. President, the Chaplain for today is the illustrious son of the illustrious Chaplain of the Senate. I thank him for his prayer. He has exhorted us to be builders. And he has admonished us that, unless God is at the center of our thoughts and unless we look to Him for guidance in our works, we will not ultimately be successful in our good objectives.

He importunes us to take note of this, not only as a nation and as we seek to do the public's business, but also in relation to our own private affairs. He quotes those Scriptures which say, "Except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain."

I am grateful that today's Chaplain has reminded us not only of these great and beautiful passages of Scripture, but also of the fact that they are as important today in our public and private lives as in the days when they were written.

There is a bit of verse that I will seek to recall which puts the same lesson in rhyme and perhaps more informal words:

I saw them tearing a building down,
A group of men in a busy town;
With a "Ho, heave, ho" and a lusty yell,
They swung a beam and the sidewall fell.
I said to the foreman, "Are these men skilled
The type you'd hire if you had to build?"
He laughed, and then he said, "No, indeed,
Just common labor is all I need;
I can easily wreck in a day or two,
That which takes builders years to do."
I said to myself as I walked away,
"Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square?
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a fellow who walks the town,
Content with the labor of tearing down?"

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved to him. He is, at the moment, I believe, at a meeting at the White House with the President.

The ACTING PRESIDENT pro tempore. Without objection, that will be the order.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

WHY NOT A SUPERPOWER AGREEMENT FOR REDUCTION OF CONVENTIONAL ARMS NOW?

Mr. PROXMIRE. Mr. President, it has been widely accepted as an article of faith that the INF Treaty will be overwhelmingly ratified by the Senate. The general view is that the treaty might enjoy the support of 80 or more Senators. It should. Here is why: First, here is a treaty that requires the destruction of three times as many Soviet nuclear weapons as American nukes. Second, in the past arms control treaties with the Soviet Union have been opposed by a single primary argument: The Soviets will cheat. They will not comply. In the case of INF, the administration has met that argument with verification of compliance provisions that go much further than in any United States-Soviet treaty to date. In fact, INF verification requires such intrusiveness that our own military has complained that our negotiators may have gone too far in giving Soviet observers access to the United States nuclear arsenal. Since maximum intrusiveness provided in the INF Treaty certainly gives our open society an advantage compared to the Soviet tightly closed system, from our standpoint this is an impressive plus for the INF Treaty.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Third, the administration plus the INF Treaty is the most anti-Communist, promilitary administration in this century. To accuse the Reagan administration of being soft on communism or weak on the military is a laugh.

Because the prospects for runaway Senate ratification of the INF Treaty is so strong, the forces that oppose arms control are looking forward to the ratification battle over the START Treaty as the real showdown time in the OK Corral—the arms control battle of the century. We already know the rough outlines of the START Treaty. It would require both sides to cut their strategic nuclear weapons roughly in half. This would mean a reduction in strategic warheads of both superpowers from the present 10,000 to 5,000. START advocates contend such a reduction would reduce the destructive threat to both sides by 50 percent. They contrast the effective warhead reduction of only 4 percent in the INF Treaty to a 50-percent cut back in nuclear power the START Treaty would achieve. They argue that the START Treaty has to be seen as building on the momentum of the INF Treaty that achieved a 4-percent reduction in superpower nuclear capacity. Further cutbacks after START could diminish nuclear arsenals further. One expert, Richard Garwin of International Business Machines has called for an attempt to reduce both arsenals to 1,000 nuclear warheads each in a treaty that would bring the United Kingdom, China, and France down to 200 nuclear warheads and would further tighten up the Antiproliferation Treaty.

Mr. President, let us not kid ourselves. Neither superpower will agree to a significant reduction in its nuclear deterrent to a point where the deterrent could conceivably lose its credibility. Nor should they. Oh, yes, the superpowers may agree to the 50-percent reduction in their mutual nuclear arsenals called for by START or even a 90-percent reduction down to 1,000 warheads each suggested by Dr. Garwin. But they will only agree to such a drastic reduction if they are confident that it will not diminish the lethality of their deterrent one whit. Is it possible that such a reduction would not diminish the real power of our nuclear deterrent? Indeed, it is. Keep in mind that over the past 28 years both the Soviet Union and the United States arsenals have reduced the megatonnage of their nuclear arsenals by up to 75 percent. That diminution in nuclear explosive force was achieved without a word of arms control negotiations between the Soviet Union and the United States. Why then did it happen? It happened because both sides were able to dramatically improve the delivery and the invulnerability of their nuclear deterrent. The technological improvement made the massive megatonnage redundant and useless. The nuclear weapon technology proceeds apace on both sides. As it continues there is every reason to expect that a United States or a U.S.S.R. armed with 5,000 strategic nuclear warheads 5 or 10 years from now will have an assured destructive capability at least equivalent to the destructive capability possessed by the present arsenal of each superpower. And some years later, the two countries would conceivably reduce their arsenals to 1,000 strategic warheads with no loss of assured lethal power. So what does arms control that diminishes the number of nuclear weapons on both sides without reducing the effective power of each arsenal accomplish except for a valuable public relations coup and the superficial appearance of advancing peace?

The answer is that in this nuclear world, peace between the great nuclear powers can be maintained by nuclear deterrence. The real payoff for arms control will come not in agreements to limit the nuclear deterrent. It shall come by applying the same principles to conventional arms reduction that has permitted the United States and the Soviet Union to agree to the INF Treaty. The conventional arms race is where the money is. Here is where our Government has poured most of the $300 billion that each and every year burdens our taxpayers and adds so enormously to the national debt. Would the Soviets agree to a treaty requiring thorough verification of compliance and reduction in conventional military spending? They would have every reason to do so. The burden of military spending hangs more than twice as heavily on the Soviet economy as it does on ours.

The next President of the United States should push hard for such an agreement. It would aim to cut Soviet and Warsaw Pact tank, plane, artillery, and troop deployment in Europe to the same level as NATO and at a much lower level. It would reduce naval forces sharply on both sides. Such an agreement would enhance security for both alliances. And it would greatly reduce the cruel and senseless burden of enormous military power in a world in which nuclear deterrence makes superpower war an unthinkable double suicide.

RELEASE OF GAO REPORT ON THE TONGASS NATIONAL FOREST IN ALASKA

Mr. PROXMIRE. Mr. President, yesterday, I released a just-completed General Accounting Office report on the management of the Tongass Forest in Alaska which Senator STEVENS and I requested in July 1986. I said then that the Tongass Timber Supply Fund deserved my Golden Fleece as a "classic case of logrolling where the taxpayers get rolled while the timber companies get the logs." I asked the GAO to investigate the financial condition of the program.

According to the GAO, during 1986, the Tongass Timber Program spent $47.9 million and brought in just $3.3 million. Even excluding deferred costs which eventually need to be accounted for, the program managed to lose $22 million last year or 50 cents on the dollar. Even worse, if you amortize the Forest Service's deferred costs over a 20-year period, the per year loss jumps to a whopping $34.1 million or over 70 percent on a program which should break even.

Worse still, between 1981 and 1986, spending on the Tongass doubled, but the number of jobs fell by one-half, so even as a jobs program the Tongass program was a miserable failure. However, fishing and tourism, two growing industries in the Tongass region may be timber cutting.

Yet, while private employment declined, the Forest Service's own work force stayed stable. In 1980, one Forest Service employee serviced every four employed by industry in southeast Alaska; now there are just two private employees for each Federal one.

Mr. President, while the Forest Service spends enough money to offer for sale 450 million board feet of southeast Alaska timber, according to testimony by the Chief of the Forest Service on April 14, 1988, in 1987 the Service sold only one-third of that amount. What this shows is that the market for this timber is so soft that no matter how much is spent, demand can't be increased. So $40 million or $400 million won't bring it back.

The GAO report also confirms my view that the entire program needs scrapping. According to the report.

> The timber program should be revised so that the amount supplied would be based on anticipated demand for the timber.

My bill, S. 708, the Tongass Timber Reform Act, allows Congress to do just that by repealing the existing program which requires sale preparation and expenditures in spite of lack of demand.

When I requested the report I said that the importance of fish and wildlife in the spectacular Tongass Forest far outweighs in both dollar and spiritual value the entire Alaska timber program. But even if the largest habitat for bald eagles and grizzly bear and the world's richest salmon fishery did not exist on the Tongass, it would still make no sense to sell 800-year-old trees for $2 apiece when it costs the same timber purchaser $150 or $200 a tree in Oregon and Washington. In the Tongass the taxpayer picks up the difference.

Mr. President, there are numerous bills before the Congress to save tropical rain forests in South America yet

Congress allows the destruction of our own much rarer temperate zone rain forest in the Tongass. I urge my colleagues to cosponsor S. 708.

I yield the floor.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized for 5 minutes.

THE UNEQUAL ASPECTS OF THE INF TREATY

Mr. WALLOP. Mr. President, when the INF Treaty is discussed by its advocates, one frequently hears cited as a cardinal virtue its requirement that the Soviets reduce substantially more INF missiles than will the United States.

Acknowledgment of that feature is usually the first and only aspect of this agreement conjured up when one inquires about the treaty's asymmetries or inequalities. In fact, as I have discussed previously, the beneficial effect of this obvious asymmetry can be substantially offset by illegal Soviet retention of undeclared SS-20's and other banned systems.

There are, moreover, other provisions which give rise to an unequal result—to the detriment of U.S. interests.

Of course, there is underlying the very process of negotiated arms control with the Soviet Union an implicit acceptance of a basic asymmetry: the notion of moral equivalency which assumes that the two superpowers are equally committed to peace, equally threatened—and threatening—and equally responsible for the arms buildups which have driven negotiated arms agreements.

While it is unfashionable to say so, the United States—by the very act of entering into arms control agreements with the U.S.S.R.—assists and legitimizes Soviet efforts to propound these pernicious untruths and, thereby, to conceal important differences between the values, objectives and military capabilities of the two sides.

It flows from this artificial model of equality which arms control agreements embrace that the best we can hope for from their terms is equivalent constraints. Yet, the fact of the matter is that even nominally equal constraints, such as those authorizing one party's inspections of the other's facilities can—and will—have asymmetrical effects.

Consider, for example, contrasting the effect that between 10, 20 or 30 onsite inspections per year will have on Soviet confidence in our compliance, given their access to essentially unlimited information about our activities, compared to the value of such inspections to us—given our extremely limited knowledge about what is going on in the Soviet Union's closed, totalitarian society.

I am sufficiently realistic, Mr. President, to appreciate that, however much the situation might warrant it, we are unlikely to succeed in obtaining Soviet acquiescence in a regime of asymmetrical inspection provisions. We would be rewarded and the Soviet Union penalized for the contribution our respective societies would make to the ease of verifying a given agreement.

But we must, at a minimum, obtain genuine equality in the provisions of an agreement which will profoundly affect its verifiability.

Unfortunately, the INF agreement, in important ways, does not stipulate such equality.

Mr. President, I believe four examples of basic inequalities involving the Soviets' main INF system—the SS-20—merit the Senate's careful examination:

Despite the INF Treaty's ban on production of INF missiles, the Soviet Union alone is permitted to continue to produce at least the first stage of the SS-20.

This right was granted the U.S.S.R. during the closing days of the negotiations as a means of finessing a troublesome reality—the Soviets acknowledged that this stage was externally indistinguishable from that of the nonlimited SS-25, an intercontinental ballistic missile produced in violation of the SALT II Treaty.

As I discussed in remarks delivered last week, this exception will make substantially easier any Soviet efforts to retain an illegal capability for SS-20 production and covert deployment; conversely, it will make much more problematic our task in monitoring Soviet behavior by legitimizing activity which will be difficult to distinguish from banned functions. It is also the ultimate irony to the treaty.

The SS-25, so carefully authorized under the INF Treaty, is the principal violation of the SALT II Treaty which preceded it.

Two other inequities in the INF Treaty flow from this unique Soviet right. First, in an effort to minimize the damage done to the treaty's verifiability as a result of this provision, a permanent U.S. onsite inspection system would be utilized.

The Soviets insisted that this system not be emplaced at the facility—or facilities—where the SS-20 and SS-25 stages are produced but rather at the site—near Votkinsk—where they are assembled into full-up missiles and loaded into canisters.

It should be borne in mind that the Soviets alone have this problem of indistinguishable legal and illegal missile stages.

Despite the fact that the United States had neither a similar program, nor a final assembly facility for United States. INF ballistic missiles, nor even a site where such missiles were still being produced, our negotiators agreed to permit the U.S.S.R. to establish a permanent presence at a site in this country.

Obviously, there was no way to do so without creating an entirely false equality; this then is precisely what the INF Treaty does. It accords the Soviets the right to monitor for the next 13 years a facility at Magna, UT, used to produce strategic ballistic missiles and other rocket motors.

Second, the inequity of this provision is further distorted by the treaty's adoption of an asymmetric counting rule. For the Soviet Union, the treaty makes full-up missiles—or their canisters, that is, objects about 20 meters in length—the unit of measurement—and the basis for United States inspection of objects at Votkinsk.

By contrast, the United States agreed to make its missile stages the unit of account, thereby permitting the Soviet Union to insist on monitoring at Magna any object the size of or larger—that is, over 3.68 meters—than the first stage of a Pershing II missile.

Moreover, this unequal right carries over to the right to view objects in the course of baseline, close-out and annual onsite inspections.

Yet another example of inequality in the INF Treaty is the granting to the U.S.S.R. the right to treat as "eliminated" mobile missile launchers which have actually simply been modified.

Whereas our Pershing II and ground-launched cruise missile launchers must be cut in half to qualify as eliminated, the Soviet Union will be able to retain hundreds and hundreds of mobile missile launchers.

This makes it exceedingly difficult, if not impossible, to monitor them and to ensure that the Soviets have not either reversed the treaty-mandated modifications made to these systems or introduced into their number unmodified launchers.

Mr. President, each of these examples of unequal provisions of the INF Treaty should raise questions in Senators' minds about the adequacy of this agreement. Each of them, in my view, represents an accommodation to the Soviets in order to get an agreement, undertaken ill-advisedly in the endgame of the negotiations.

Each of them will make more difficult the task of verifying Soviet compliance with this accord and establishing clearly and persuasively, should the Soviets not comply, that violations are taking place. Perhaps the administration could profile Soviet sacrifices worthy of these unequal provisions.

What I find particularly worrisome is the fact that the same approach is, even now, being applied to the infinitely more difficult proposition of verifiably reducing strategic arms. The same Soviet cynicism in haggling over the details so as to leave the U.S.S.R. ample room to circumvent its obligations; the same inattention on the part of the U.S. executive branch and the Congress to the implications of such details; and the same perceived necessity to subordinate differences over the details to the task of reaching agreement on virtually any terms—all are characteristics of the head-long rush to a START accord, just as they were of the final months of the INF negotiations.

In short, Mr. President, as the Senate reflects upon the inequalities of the INF Treaty, I urge my colleagues to bear in mind that our willingness—or unwillingness—to come to grips with such details may affect not only the efficacy of this accord but also establish in terms of precedents and in terms of expectations a basis for an entirely unacceptable, unequal START agreement.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME FOR TRADE LEGISLATION

Mr. BYRD. Mr. President, the Congress is about to complete its work on the thousand page omnibus trade and competitiveness bill. This is historic legislation, Mr. President. It is no rush to judgment in the face of crisis. It is a measured response that is long overdue. Today's competitiveness legislation is the product of earlier studies done in both Houses and by both parties. A broad trade and competitiveness bill passed the House in 1986. But administration opposition delayed its consideration in the Senate. It was not called up.

Mr. President, the Speaker and I have made trade and competitiveness legislation a top priority for the 100th Congress. In the Senate, I have worked closely with nine committee chairmen to develop a comprehensive, bipartisan approach to international competition. In place of a series of individual bills, we adopted an omnibus approach in which different legislative initiatives were knitted together into a consistent whole. It is, Mr. President, a procedural departure that has helped the existing Senate committee structure deal with a new and complex challenge.

I met with our committee chairmen following the elections in 1986 and prior to the convening of the 100th Congress, when we anticipated that we would be passing trade legislation. I again met with those chairmen after the 100th Congress convened.

I urged them to report their various pieces of legislation early in the session to the floor where I would mold them together into an omnibus bill, put the omnibus bill on the calendar, and later call it up, and that was the course that was followed.

The Speaker took a similar approach in the House. Altogether, 14 House committees and 9 Senate committees have worked on 17 subconferences to put the final touches on this bill.

Most striking of all, Mr. President, the omnibus trade and competitiveness bill is a long step beyond traditional trade legislation. The Congress is looking at the whole of the economy, not just its parts. This is a bill that looks at our problems in the whole, full circle—encompassing everything from exchange rates to education; from training assistance to trade negotiations. Trade has become too important to be treated in isolation. For the first time, Mr. President, our actions on trade are part of an integrated approach to making American products competitive at home and abroad. This bill will bring America up to speed in today's world marketplace and prepare it for the international economy of the year 2000, and beyond.

The trade-specific provisions are important in themselves. The Congress makes a clear statement that America is going to compete, not retreat. The bill gives new negotiating authority to the administration and broad bipartisan support to America's efforts to strengthen the international trading system. We will give the President new tools to go after unfair trade practices that are keeping American exports out of foreign markets. We will give the President a mandate to go beyond piecemeal negotiation to concentrate on overall trade talks with key countries. And, where talks will not open doors, we will be making the offending country pay an economic price

Mr. President, this country has been beset by one record trade deficit after another. In 5 short years, the trade deficits have turned the world's largest creditor into the world's largest debtor. We lost a million manufacturing jobs. Industries have been staggered over the sudden force of foreign competition, in many instances unfair. Whole communities have been affected.

Trade was the alarm, Mr. President, but the problems run even deeper. When we looked at trade we saw problems of overvalued currencies, Third World debt, and slow growth in Europe and Japan. When we looked at the quality of foreign products we saw the quality of foreign education, the supporting role of foreign governments, and the quickening pace of foreign innovation.

Lawyers, Mr. President, like to refer to the law as a seamless web. As we looked at America's declining competitiveness, we saw the same kind of closely woven complexity. We have tried, Mr. President, to act on many of these problems in a consistent manner.

We push the President to continue working for international economic coordination and more competitive exchange rates. We include programs for more and better education in math, science, foreign languages, and engineering. We enhance our technological infrastructure and take steps to protect U.S. inventions.

We make a commitment, Mr. President, to keep our markets open. That commitment will bring more prosperity but also economic change for some workers and industries. We have streamlined the procedures for workers and industries to get temporary relief and put a new emphasis on their becoming internationally competitive.

We take steps to open new opportunities to workers affected by shifts in the economy. We encourage upgrading skills before workers are faced with a new challenge. We have worked with the administration to improve the dislocated worker program. We have made training an integral part of any assistance given to workers who lose their jobs to imports. And we have assured workers of 2 months notice that change is going to force their plant to close.

Mr. President, Thursday's trade figures were another warning that it is time to act. Fifteen years ago, Mr. President, the $13.8 billion trade deficit for February would have been a record for the entire year—15 years ago.

Now, that 1 month deficit sent the dollar down and pushed the Dow Jones industrials to their fifth steepest decline in history.

Despite the warnings, despite the persistent trade deficits, the President is still talking veto. The Congress has walked the extra mile and then walked some more in accommodating the concerns of the administration and others. The country needs a trade policy that draws on the strengths that come with a commitment to long term competitiveness. We have gone a long way toward meeting that need with this bill. I hope the President will recognize this, put aside the rhetoric and do what is in the best interests of this country. I hope he will sign the trade bill.

I should also mention that as he ponders this problem and reaches his decision, he will undoubtedly want to keep in mind the United States-Canadian trade agreement. The action by Congress on that trade agreement could be affected by the outcome of action on the trade legislation which is making its way from the conference to the floor of both houses.

Mr. President, I ask unanimous consent to have printed in the Record a summary of the conference agreement on H.R. 3, the Omnibus Trade and Competitiveness Act of 1980.

There being no objection, the material was ordered to be printed in the Record, as follows:

TRADE AND TARIFF LAWS; TRADE AGREEMENTS

(Subconference No. 1)

I. NATIONAL TRADE POLICY; ADVICE AND CONSULTATIONS

A. Requires the President's annual report on the trade agreements program to include an *annual trade policy agenda* setting forth trade policy objectives and priorities, proposed actions and legislation to achieve them, and progress made toward their accomplishment; the USTR must consult with Congressional committees on objectives and their status.

B. Expands the *private sector advisory committee functions* to include information and advice on development and implementation of overall U.S. trade policy and priorities, as well as on negotiation issues; expands the advisory committee structure and advice to the Congress.

C. Strengthens the *prenegotiation procedural requirements* under existing law (e.g., public hearings, advice from the ITC) to include nontariff as well as tariff matters and trade policy development and priorities.

D. Expands *consultation requirements* between the USTR and the Congress:

1. Requires consultation and advice from the existing congressional advisors on trade policy development and priorities, as well as on negotiations; provides for additional special congressional advisors on specific policy matters or negotiations.

2. Requires USTR consultations on a continuing basis with the House Ways and Means and Senate Finance Committees on the development, administration, and implementation of overall U.S. trade policy matters and specific actions under the trade laws.

II. TRADE AGREEMENT NEGOTIATING AUTHORITY

A. *Nontariff barrier agreements.*—Extends nontariff agreement negotiation authority for *5 years,* until *May 31, 1993.* Extends "fast track" Congressional approval procedure of implementing legislation for agreements entered into on or before May 31, 1991, with extension until May 31, 1993, unless either House passes disapproval resolution before May 31, 1991, because of insufficient progress in negotiations or extension is not requested. The President and the Advisory Committee for Trade Policy and Negotiations must submit progress reports on negotiations 90 days before expiration of the original "fast track" extension as a precondition to further extension.

"Reverse fast track". The "fast track" approval procedure is terminated if the Senate Finance and House Ways and Means and Rules Committees report and both the House and Senate separately pass disapproval resolutions under the "fast track" within any 60 legislative day period because the USTR fails or refuses to consult with the Congress on trade negotiations and trade agreements.

B. *Tariff agreements.*—Reestablishing Presidential authority to enter into multilateral tariff agreements until *May 31, 1993,* and to *proclaim* changes in U.S. rates of duty required or appropriate to carry out such agreements. Maximum 50 percent cuts on all articles, except duties of 5 percent ad valorem or below may be reduced to zero, under proclamation authority. Duty reductions on any article cannot exceed 3 percent ad valorem per year, or one-tenth of total reduction, whichever is greater; no staging requirement if ITC determines there is no U.S. production of the article; rounding authority identical to Trade Act of 1974. President must take into account ITC and private sector advisory committee advice identifying import sensitive or potentially import sensitive articles. Any duty reductions exceeding 50 percent or any tariff increases would be subject to "fast track" Congressional approval.

C. *Bilateral trade agreements.*—Extends authority to enter into bilateral tariff and nontariff barrier agreements until *May 31, 1993,* if certain pre-negotiation conditions are met, subject to Congressional approval under "fast track" implementing procedure and subject to same possible disapproval and "reverse fast track" procedures as for multilateral authority.

D. *Restrictions on trade agreements.*—

1. Requires that the President's statement accompanying submission of trade agreements to Congress under the "fast track" include a description of the extent foreign parties to the agreement maintain noncommercial *state trading enterprises* that may adversely affect or nullify or impair U.S. benefits under the trade agreement involved, and whether and to what extent the trade agreement deals with or affects purchases or sales of such enterprises.

2. Agreements must make progress in achieving *applicable negotiating objectives.*

3. Requires the President to recommend that trade agreement benefits and obligations apply solely to parties to the agreement, if such treatment is consistent with the agreement (*conditional MFN*).

4. Requires the President to determine before May 31, 1993, whether any major industrial country has failed to make concessions providing substantially equivalent competitive opportunities for U.S. commerce, and to recommend implementing legislation to restore equivalence.

E. *Special trade agreement authorities.*—

1. *Harmonized Commodity Description and Coding System.*—Implements the International Convention effective on date of enactment and the Harmonized Tariff Schedules on January 1, 1989.

2. *U.S.-European Community (EC) citrus and pasta agreement.*—Authorizes the President to implement U.S. duty reductions agreed in the U.S.-EC citrus/pasta agreement and to modify or terminate any reductions at any time. Semiannual section 301 report must include assessment of whether the EC is in compliance with the pasta agreement (Statement of Managers to state noncompliance should be treated as a trade agreement violation under section 301).

3. *GATT accession of state trading regimes.*—Before a major country accedes to the GATT, the President must determine whether state trading enterprises account for a significant share of the country's trade and unduly burden and restrict or adversely affect U.S. trade or the U.S. economy. The GATT shall not apply between the United States and that country unless it enters into an agreement with the United States to conduct state trading enterprises on a commercial basis or a bill is enacted under the "fast track" procedures approving extension of the agreement to that country.

4. *Compensation authority.*—Provides compensation authority for section 301 actions and tariff reclassifications, as well as import relief actions, if necessary or appropriate to meet U.S. international obligations. General tariff authority limits apply while in effect; present law (30 percent duty reduction limit) applies after May 31, 1993.

5. *Currency exchange rates.*—Requires that whenever in the course of negotiating a trade agreement the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations manipulates its currency exchange rate, the President shall initiate exchange rate negotiations with that country on an expedited basis.

F. *Negotiating objectives.*—Sets forth overall and principal U.S. trade negotiating objectives on the following subjects:

1. Agriculture,
2. Dispute settlement,
3. Unfair trade practices (e.g., diversionary dumping),
4. Services,
5. Intellectual property,
6. Foreign direct investment,
7. Import safeguards,
8. Improvement of GATT and MTN agreements,
9. Specific barriers,
10. Worker rights,
11. High technology,
12. Border tax adjustments,
13. Transparency,
14. Developing countries,
15. Current account surpluses,
16. Trade and monetary coordination, and
17. State trading enterprises; unfair trade concession requirements.

III. ENFORCEMENT OF U.S. RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES (SECTION 301 REFORM)

A. *Transfers determination, decision-making and implementation authority.*—Transfers to the U.S. Trade Representative (USTR), from the President, the authority to make determinations of whether foreign practices meet section 301 criteria. Also transfers to the USTR, subject to the direction, if any, of the President, the authorities in all cases to determine whether and what type of action is appropriate and to implement such action.

B. *Makes action mandatory for foreign trade agreement violations.*—Requires that in cases involving foreign violations of trade agreements or other "unjustifiable" practices, the USTR must take retaliatory action in an amount equivalent in value to the foreign burden or restriction on U.S. commerce. The form of retaliation would be at his discretion, with preference given to tariff rather than quota restrictions. No retaliation would be required:

1. If the GATT Contracting Parties determine or GATT panel reports the foreign practice does not violate or deny U.S. rights or does not deny or nullify or impair U.S. trade agreement benefits.

2. If the foreign government has agreed to eliminate or phase out the practice or has agreed to a satisfactory imminent solution to remove the burden or restriction on U.S. commerce.

3. If number 1 or 2 cannot be achieved, the foreign country has agreed to provide satisfactory compensatory trade benefits.

4. In extraordinary cases, where action would have an adverse impact on the U.S. economy substantially out of proportion to the benefits of action, taking into account

the impact of not acting on the credibility of section 301.

5. If taking action would cause serious harm to the U.S. national security.

With respect to cases involving *"unreasonable"* or *"discriminatory" practices*, which do not violate U.S. trade agreement rights, the USTR would retain *discretionary authority* to retaliate as under present law. (The Statement of Managers will state there is a presumption that USTR would take action on such cases where it has a reasonable indication that such action will be effective in changing the country's practice or barrier).

Authorizes the USTR to enter into binding agreements that commit a foreign country to eliminate or phase out the practice, to eliminate the burden or restriction, or to provide satisfactory compensation. Any compensation agreement must provide trade benefits in the same or a closely related economic sector, unless such benefits are not feasible or would be more satisfactory in another sector.

C. *Reduces and imposes time limits for action.*—Requires USTR determinations on whether an act, policy, or practices is actionable under section 301 in all cases. Consultations must be initiated with the foreign government on the day USTR determines to initiate an investigation (may be delayed by up to 90 days if necessary to prepare the case). USTR must request dispute settlement proceedings, if any, if consultations are not concluded within 5 months. The USTR must make the *unfairness determination and decide what, if any, action to take within 12 months in subsidy and non-trade agreement cases* and *within 18 months in trade agreement cases other than subsidies. Action must be implemented within 30 days, subject to delay for up to 180 days* if the petitioner or domestic industry request or are responsible for a delay, or the USTR determines substantial progress is being made or delay is necessary or desirable to obtain U.S. rights or a satisfactory solution.

D. *Additional actionable practices.*—In addition to practices specifically actionable under current law, the following foreign country practices would be defined as "unreasonable" and actionable if the statutory criteria are met:

1. *Export targeting* that is a burden or restriction on U.S. commerce. Action is discretionary as for other unreasonable practices, except if no action is taken the USTR must convene a private sector panel to report on measures to promote the domestic industry's competitiveness.

2. A persistent pattern of conduct that denies certain specified *worker rights*, except if the USTR determines the foreign country has taken or is taking actions that demonstrate a significant and tangible overall advancement in providing the rights and standards throughout the country or the practices are not inconsistent with the country's level of economic development.

3. Denial of *market opportunities* in the form of toleration by a foreign government of systematic anti-competitive activities by or among private firms in that country that have the effect of restricting on a basis that is inconsistent with commercial considerations, access of U.S. goods to purchasing by those firms.

Reciprocal opportunities in the United States for foreign nationals and firms would be taken into account, as appropriate, in determining whether an act, policy, or practice is "unreasonable."

With respect to enumerated causes of action, the USTR would have discretion in initiation of cases to determine whether action would be effective in addressing the foreign country's barrier or practice.

USTR is required in the annual foreign trade barriers (national trade estimates) report to estimate, where feasible, the value of additional U.S. exports or investment that would have occurred in the previous year if each of the identified barriers did not exist. The next report will be submitted on April 30, 1989 and on March 31 in subsequent years.

USTR is required to initiate an investigation of Japanese barriers to U.S. architectural, engineering, construction, and consulting services in Japan.

E. Adds *modification and termination and monitoring authorities.*—

1. Allow modification or termination of section 301 retaliation at any time if the same exceptions criteria (described under B. above) are met as for the initial action, after public comments and consultation with domestic interests. Any action would terminate automatically after 4 years, subject to the petitioner or domestic industry requesting continuation and the USTR reviewing the actions.

Adds a requirement that the semiannual report to the Congress on section 301 cases describe the commercial effects of any actions.

2. Requires the USTR to monitor foreign country implementation of, or compliance with, any agreement to grant U.S. rights, to eliminate or phase out its practice, to remove the burden or restriction on U.S. commerce, or to provide compensatory benefits. If the foreign country is not implementing or complying with a settlement agreement, the USTR must take action, subject to the mandatory retaliation provisions and to the time limits and procedural requirements for initial section 301 actions.

F. Adds provisions to identify and deal with *trade liberalization priorities.* Within 30 days after submission to Congress of the foreign trade barriers report in 1989 and 1990, the USTR must:

1. Identify priority practices, including major barriers and trade distorting practices whose elimination is likely to have the most significant potential to increase U.S. exports. In determining priority practices USTR must take into account:

(a) the international competitive position and export potential of U.S. products and services:

(b) circumstances in which the sale of a small quantity of a product or service may be more significant than its value; and

(c) the measurable medium-term and long-term implications of government procurement commitments to U.S. exporters;

2. Identify priority foreign countries, taking into account the number and pervasiveness of the acts, policies, or practices included in the report and the level of U.S. exports of goods and services that could reasonably be expected if a country fully implemented its trade agreements, based on the international competitive position of such products and services; and

3. Estimate the amount by which U.S. exports would have increased during the preceding calendar year if those barriers and practices did not exist.

A report to Congress by USTR is required on the identification of priority countries and practices and on the trade estimates.

Within 21 days of filing the report with Congress, USTR must initiate section 301 investigations with respect to all the priority practices identified in the report for each of the priority countries. Investigations may be initiated for other priority practices.

During the consultations with a priority foreign country, the USTR must seek to negotiate an agreement which provides for:

a. the elimination of, or compensation for, the priority practices identified by the USTR, within 3 years of the date on which the investigation was initiated; and

b. the reduction of those practices over a 3-year period, with the expectation that U.S. exports to that country will, as a result, increase incrementally during each of the 3 years. An investigation must be suspended if an agreement is reached within the time limits prescribed generally. If the USTR determines that a foreign country is not in compliance with an agreement entered into under this section, he must continue the section 301 investigation which was suspended as a result of the agreement, applying the same time limits for investigation that were applicable prior to suspension. Section 301 provisions relating to USTR determinations and action apply. The USTR is not required to take action when any of the exceptions to action under section 301 apply.

The USTR must submit a report to Congress annually, beginning in 1990, which includes the following information:

a. revised estimates of the amount by which U.S. exports to a country would have increased in the absence of its identified priority practices;

b. in the case of a country that has entered into an agreement, evidence that demonstrates (in the form of increased U.S. exports during the previous year) that substantial progress has been made toward the goal of eliminating the priority practices;

c. in the case of a country that has not entered into or not complied with an agreement, evidence that demonstrates (in the form of increased U.S. exports) the elimination of the priority practices;

d. to the extent that evidence under paragraphs (b) and (c) cannot be provided, a description of the actions taken by the USTR under section 301 to eliminate the priority practices. The USTR may exclude any previously identified foreign country from the report in any calendar year after 1993 if, for the two previous years, the report demonstrated that all of the country's priority practices have been eliminated.

IV. IMPORT RELIEF UNDER THE ESCAPE CLAUSE (SECTION 201 REFORM)

A. Reforms section 201 of the Trade Act of 1974 to encourage efforts by domestic industries to undertake actions to make a positive adjustment to import competition.

1. Defines *"positive adjustment"* as when (1) the domestic industry is able to compete successfully with imports after termination of action, or the domestic industry experiences an orderly transfer of resources to more productive pursuits, and (2) dislocated workers experience an orderly transition to productive pursuits.

2. Encourages petitioner to submit, at any time prior to the ITC injury determination, *a plan to promote positive adjustment* to import competition.

3. Provides petitioner with an *opportunity to consult* with other members of the domestic industry and with government officials concerning appropriate steps to facilitate positive adjustment. Authorizes firms and workers to submit individually, on a confidential basis, *commitments* regarding their individual steps to promote positive adjustment.

B. *Provisional relief.*—

1. Authorizes emergency import relief for *perishable agricultural products* within 28 days after filing a petition if the ITC has monitored imports for at least 90 days and the ITC makes an affirmative preliminary injury determination.

2. Requires ITC monitoring of *lamb imports* for 2 years and authorizes emergency import relief for *perishable agricultural products* within 28 days after filing a petition if the ITC has monitored imports for at least 90 days and the ITC makes an affirmative preliminary injury determination.

3. Authorizes provisional import relief within 127 days after a petition is filed if ITC makes an affirmative injury determination and also determines that *critical circumstances* exist.

C. *ITC investigation and procedures.*—

1. Requires ITC to make its injury determination and, when appropriate, its critical circumstances determination, within 120 days of petition (30-day extension authorized for extraordinarily complicated cases).

2. Requires ITC, in defining the domestic industry and determining serious injury, to consider only domestic production facilities.

3. Requires ITC, in determining *threat of serious injury,* to consider a decline in market share, diversions, and inability to maintain existing levels of R & D expenditures.

4. Clarifies that, in determining whether imports are a substantial cause of serious injury, ITC shall consider industry conditions over the relevant business cycle and shall not aggregate the causes of declining demand associated with a *recession* into a single cause of injury.

5. Clarifies that the ITC remedy recommendation will be based only on the recommendations of ITC Commissioners who voted affirmative on injury; however, other Commissioners may submit separate views on the issue of remedy.

6. Provides that, if *ITC* makes an affirmative injury finding, it *shall recommend* the action that would address the injury and be the most effective in facilitating efforts by the domestic industry to make a positive adjustment; such recommended action must be either tariffs, tariff-rate quota, quantitive restriction, adjustment measures, or a combination thereof.

7. Requires *expedited consideration of TAA petitions* from all workers and firms in the domestic industry subject to an affirmative injury finding by ITC.

8. Requires ITC remedy recommendation and report to the President within 6 months of petition.

D. *Presidential action.*—

1. Within 60 days of the ITC report, the *President shall take all appropriate and feasible action* within his power which he determines will facilitate efforts by the domestic industry to make a positive adjustment and will provide greater economic and social benefits than costs. Any import relief provided may not exceed the amount necessary to prevent or remedy the serious injury.

2. In determining what action is appropriate, the President is required to consider a number of factors, including the adjustment plan (if any), individual commitments, probable effectiveness of action to promote positive adjustment, other factors related to the national economic interest, and the national security interest.

3. *Expands the actions authorized* to be taken by the President to include import relief, adjustment measures, auctioned quotas, orderly marketing agreements, international negotiations, legislative proposals, and any other action within his power.

4. Authorizes action to be taken for up to 8 years (if action is for less than 8 years, authorizes an extension so that total action is for no more than 8 years).

E. *Post-investigation action.*—

1. Requires *ITC to monitor developments* in the industry, including efforts by the domestic industry to adjust, and to report thereon every 2 years. Authorizes the President to request ITC advice on probable economic effects of any proposed reduction, modification, or termination of action.

2. Authorizes the President, after 2 years have lapsed, to *reduce, modify, or terminate action* if either (1) the domestic industry requests it on the basis that it has made a positive adjustment, or (2) the President determines that changed circumstances warrant such reduction, modification, or termination.

3. Requires ITC to evaluate and *report on the effectiveness of the action* after its termination.

4. Prohibits a *subsequent investigation* with respect to the same product if import relief is provided, for a period of time equivalent to the period of import relief granted.

V. TRADE ADJUSTMENT ASSISTANCE

A. *Eligibility expansion to secondary workers.*—

1. Expands eligibility to otherwise qualified workers or firms that supply *essential goods* (parts, materials, or components) or *essential services* to directly affected firms for their production of articles like or directly competitive with increased imports; effective 3 years after date of enactment if an import fee is imposed within two years.

2. Expands eligibility of workers in the oil and gas industry (exploration and drilling); effective on date of enactment and retroactively to workers laid off after September 30, 1985 covered by a certified petition filed within 90 days after enactment.

B. *Supplemental wage allowance.*—

1. Requires Department of Labor to establish a *demonstration project* to evaluate supplemental wage allowances as an option for workers qualified for trade readjustment allowances (TRA) who take a new full-time job paying less than their previous job.

2. The Secretary must submit a report to the Congress evaluating the results, with recommendations.

C. *Separation from employment.*—Specifies that the most recent separation from employment shall be used for determining the beginning of a worker's eligibility period. Applies on enactment and retroactively to workers who were separated from employment between August 13, 1981, and April 7, 1986, if they have been continuously unemployed since original layoff and are enrolled in training.

D. *Training requirement.*—Requires training as a condition for receiving weekly cash (TRA) benefits unless training is not feasible or appropriate. Statement of Managers to define that training is not necessarily appropriate if there is a reasonable prospect of reemployment. Effective on enactment for workers certified eligible on or after that date.

E. *Breaks in training.*—Treats workers as participating in approved training and eligible for TRA benefits while in training during any training break of less than 2 weeks if the break is provided under such training program (e.g., semester breaks).

F. *Training cost entitlement.*—

1. Removes the appropriation limitation and requires the Secretary of Labor to approve training for a worker if the five criteria in present law are met, plus a new sixth criteria requiring training to be appropriate for suitable employment and available at a reasonable cost (guidelines in Statement of Managers). Fourth criteria would require that approved training be "reasonably" available. *Approval entitles the worker to payment of the cost* directly or through a voucher system, except that the *total annual training cost entitlement would be capped at $80 million.* Appropriated entitlement from general revenues until one year after import fee goes into effect. Effective on enactment for workers certified eligible on or after that date.

2. Remedial education is among the options for approved training; costs of on-the-job training must be paid in 12 equal monthly installments.

G. *Trust Fund.*—Establishes a Trust Fund consisting of revenues from an import fee to go into effect if and when the import fee is imposed; in the meantime the worker and firm TAA programs are funded from general revenues.

H. *Import fee.*—

1. President must seek GATT agreement and agreement of parties to bilateral free trade areas to permit imposition by countries of a small uniform duty on all imports (with limited exceptions) to fund TAA-type programs. The fee could not exceed program cost, up to a maximum level of 0.15 percent ad valorem.

2. Provides two years for negotiations to seek agreement. If the negotiations are successful, the fee would be imposed. If the negotiations are not successful, the President would decide whether the implementation of the fee was in the national economic interest. If he decides that the fee is not in the national economic interest, he would not implement the fee, but instead would report to the Congress on his decision and the reasons. The Congress would then have 90 days to pass a "fast-track" joint resolution disapproving the President's decision. This joint resolution could be vetoed, in which case the Congress would then have an override vote. If the override is successful, the fee would be implemented.

I. *Program administration.*—

1. *Commingling of funds.* Permits partial payment of TAA training costs from other Federal and State funds; permits training approval and total or partial nonreimbursable payment of training costs from private sources (subject to any wages received being deducted and nonreimbursable from TRA benefits); effective on date of enactment.

2. *Benefit information.* Strengthens and expands State agency benefit information and notice requirements, effective on date of enactment.

3. *Coordination.* Provides for coordination at the State level of the administration of training and other employment services between worker TAA and the dislocated worker program of the Job Training Partnership Act.

J. Extends *worker and firm TAA program authorization* for 2 years, from September 30, 1991 to *September 30, 1993.*

VI. MARKET DISRUPTION BY IMPORTS FROM COMMUNIST COUNTRIES

Amends section 406 of the Trade Act of 1974 to define the terms "rapidly" and "significantly cause" and to clarify the factors which ITC is to consider in determining market disruption.

VII. AMENDMENTS TO THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

A. *Subsidy provisions.*—

1. Clarifies the application of the countervailing duty law to *domestic subsidies* by requiring that the Commerce Department base its determination on whether a particular subsidy is in fact bestowed upon a specific industry or group of industries, or instead is bestowed upon industries in general.

2. Clarifies the application of the antidumping and countervailing duty laws to "leases equivalent to sales."

3. Requires cumulation of all subsidies provided to members of an *international consortium.*

4. Requires subsidies provided for a raw agricultural product to be deemed as subsidies provided for a processed agricultural product if certain conditions are met.

5. Clarifies that USTR has authority to revoke the injury test for any country that *violates a Subsidies Code commitment* to the U.S. Also requires USTR to review and report on Subsidies Code commitments by foreign countries, including compliance issues and policy recommendations for U.S. commitments policy.

B. *Dumping provisions.*—

1. Amends the antidumping law with respect to imports from *nonmarket economy countries* so that "foreign market value" would be determined using a constructed value methodology in which factors of production are valued from the best available information in a market economy country or countries. If adequate information is not available, the foreign market value may be based on export prices of such or similar merchandise from a market economy country or countries.

2. Establishes new procedures for domestic industries to request USTR to apply for antidumping actions by foreign countries as authorized under Article 12 of the GATT Antidumping Code when *third-country dumping* injures a U.S. industry.

3. Clarifies authority for Commerce, in antidumping investigations involving *constructed value,* to disregard actual prices *between related parties* for purchases of an input, and instead use a reasonable estimate of the cost of production for such input.

4. Clarifies that different home market price movements for different forms of a product subject to an antidumping duty order may establish a *fictitious market.*

5. Limits the circumstances under which Commerce may institute *expedited reviews* of dumping determinations under section 736(c).

6. Requires expedited antidumping investigations of *short life cycle products involving multiple offenders* (2 or more dumping margins of 15 percent or more within an 8-year period).

C. *Material injury provisions.*—

1. Authorizes ITC to include producers or growers of a raw agricultural product as part of the domestic industry producing the processed product if certain conditions are met.

2. Clarifies that ITC is required, in determining material injury, to consider each of the specified factors in every case, and to explain its analysis of each factor. Clarifies that ITC is to consider price underselling, which does not require evidence of predatory pricing.

3. Clarifies that ITC should consider various economic factors in the context of the business cycle and conditions of competition relevant to the domestic industry.

4. Requires ITC to consider ability of domestic producers to develop and produce subsequent generations of a product; dumping findings in other GATT countries with respect to the same merchandise; and product-shifting between raw and processed agricultural products.

5. Authorizes ITC to cumulate imports from two or more countries in determining threat of material injury. Provides a *limited exception to mandatory cumulation* with respect to negligible imports and imports from Israel.

D. *Miscellaneous provisions.*—

1. Authorizes Commerce to *prevent circumvention* of antidumping or contervailing duty orders through assembly or finishing operations in the U.S. or in third countries, or through minor alterations of merchandise or later-developed products. Provides for consultations between Commerce and ITC in certain circumstances on whether inclusion of the merchandise is consistent with the ITC injury finding.

2. Authorizes restrictions on *steel imports* from non-VRA countries or insular possessions if the steel was melted and poured in a VRA country, in order to prevent circumvention of steel VRAs. Also authorizes USTR to take such actions as necessary to enforce "third country equity" provisions of steel VRAs.

3. Provides new procedures to *monitor imports of downstream products* to assist in identifying the diversionary impact of significant antidumping and countervailing duties on major materials or parts.

4. Clarifies procedures for Commerce to determine *critical circumstances* and amends standard by which ITC determines critical circumstances.

5. Requires any person submitting factual information in a proceeding to *certify* that such information is accurate and complete to the best of that person's knowledge. Amends procedures for *disclosure of business proprietary information* under administrative protective order in proceedings before Commerce and ITC. Requires Commerce to establish procedures for correction of ministerial errors.

6. Prohibits antidumping and countervailing duties paid on imported merchandise from being eligible for refund under *drawback* provisions. Provides that *U.S. Government purchases* of imported merchandise are not exempt from antidumping or countervailing duties, with a limited exception for certain merchandise imported by the Defense Department.

7. Requires a study of market-oriented reforms being undertaken by the People's Republic of China and their implications for applicaton of U.S. trade laws.

VIII. INTELLECTUAL PROPERTY RIGHTS

A. Improves the effectiveness of intellectual property protection under section 337 of the Tariff Act of 1930:

1. *Eliminates* the *injury requirement* in *intellectual property rights cases.* (The domestic industry requirement is retained with an expanded definition).

2. *Shortens time period for* issuance of *temporary exclusion orders* to 90 days after initiation (extension of 60 days permitted for more complicated cases).

3. Clarifies that cease and desist orders may be issued *"in addition to or in lieu"* of exclusion orders and increases the maximum penalty for violations of such orders to $100,000 or twice the domestic value of the articles."

4. Provides for the ITC to use *default* procedures against persons who have been served with notice of proceedings and fail to appear to answer complaint in cases where petitioner seeks relief solely affecting that person. A general exclusion order may be issued by default if no respondent contests the investigation and violation is established.

5. In cases where a party previously found to be in violation petitions the ITC, the *burden of proof* that he is no longer in violation is on the *petitioner* and relief may be granted only on the basis of new evidence or on other grounds permissible under the Federal Rules of Civil Procedure.

6. Provides procedures for treating *confidential information* submitted in section 337 cases.

7. Explicitly authorizes the ITC to issue *consent orders* as the basis of settlement agreements.

8. Allows the ITC to prescribe sanctions for *abuse of discovery* and *abuse of process.*

9. Authorizes the ITC to order *seizure and forfeiture of goods* subject to an exclusion order if an attempt has been made to import the goods and the owner or importer has been notified that a further attempt to enter the goods would lead to seizure and forfeiture.

B. Creates a mechanism (relating to piracy and market access) to *improve international intellectual property rights protection* through identification by the USTR of foreign priority countries and self-initiation of section 301 investigations. Section 301 procedures apply generally in such investigations, except that a decision by USTR on whether or not to act is required within six months of initiation, with a possible three month extension in exceptional circumstances. If the USTR determines action is warranted under section 301, requires implementation within 30 days of an affirmative determination, or four months in exceptional circumstances.

IX. TRADE AGENCY FUNCTIONS

A. *U.S. Trade Representative.*—Specifies that the USTR has primary responsibility for developing and coordinating implementation of international trade policy, international trade negotiations, and trade policy guidance, and is principal trade spokesman; the USTR must consult and be advised by the interagency trade organization. Specifies USTR functions for coordinating interagency resources to deal with unfair trade practices.

Expresses the sense of Congress that the USTR should be the senior representative on any body the President establishes dealing predominantly with international trade matters and should be a participant in all meetings where international trade is a major topic.

Specifies the agency membership of the statutory *interagency trade organization,* chaired by the USTR, to assist the President and to advise the USTR; expands the organization's responsibilities to specifically include development and implementation of U.S. trade policy objectives.

B. *U.S. International Trade Commission.*—

1. Designates the ITC as an "independent regulatory agency" for purposes of the Paperwork Reduction Action.

2. Provides that, in determining eligibility for the ITC chairmanship, all of a Commissioner's service shall be taken into account, including prior terms of service.

3. Allows the ITC not to release confidential business information to the President or

the Congress in section 332 investigations without the consent of the affected party.

X. MISCELLANEOUS TRADE LAW PROVISIONS

A. *Caribbean Basin Initiative.*—

1. Sets forth findings regarding the economic and political importance of the region and expresses *intent of the Congress* to ensure a strengthening of the trade elements of the CBI and that trade law changes not unduly affect the CBI program or discriminate against CBI imports.

2. Authorizes the President to withdraw, suspend or limit duty-free treatment on particular articles under the CBI in lieu of removing country beneficiary status.

3. Adds "grandfather" provision for two Caribbean-owned ethanol facilities and extends the grandfather period to all eligible companies until December 31, 1989, at a level of 20 million gallons per plant per calendar year. Requests ITC and GAO studies to recommend appropriate feedstock requirements.

B. Extends until October 31, 1989, the President's authority to implement U.S. obligations under the *International Coffee Agreement.*

C. Expresses the sense of the Congress that the objectives of the 1983 Joint Policy Statement on Energy Cooperation, as it relates to *U.S. exports of coal to Japan,* have not been achieved. Urges the President to direct the USTR, in negotiating a steel trade arrangement with Japan, to take into account the amount of coal that Japan purchases from the United States in determining the level of steel products that can be imported into the United States. Requires report to Congress by November 1, 1988.

D. Expresses the sense of the Congress that the Congress strongly supports current talks to increase opportunities for *U.S. automobile parts* producers to supply parts for Japanese automobiles; determines that the success of such talks will be measured in part by a significant increase in U.S. sales; and directs the Administration to report to Congress on the talks and on any agreements reached.

E. Requires one-time study of auto-producing countries' *barriers to auto imports* and the impact of such barriers, both in the presence and absence of the U.S.-Japan voluntary restraint agreements, on diverting auto imports into the U.S. markets.

F. Requires the USTR to request all relevant agencies to prepare appropriate recommendations for improving the *enforcement of restrictions on Cuban imports.*

G. Eliminates requirement for 48-hour delay in *release of trade data* based on the f.a.s. value of imports, following release of trade data based on the c.i.f. value of imports. Require *Census Bureau study* within one year on the feasibility of developing and publishing an index to measure and report the real *volume of U.S. merchandise trade* on a monthly basis.

H. Requires USTR and Treasury jointly to prepare and submit annually to the Committees on Ways and Means and Finance a comprehensive *report on specified trade and economic indicators,* with projections and conclusions.

I. Requires that monthly and cumulative reports on the U.S. *merchandise trade balance* be reported on a *constant dollar basis* (i.e., adjusted for inflation), as well as on a current dollar basis.

J. Repeals excise tax imposed on *windfall profits* on crude oil.

XI. NATIONAL SECURITY IMPORT RELIEF

A. Amends section 232 of the Trade Expansion Act of 1962 to require the Secretary of Commerce to report to the President within 270 days of initiating an investigation.

B. Requires the Secretary of Commerce to consult with the Secretary of Defense regarding the methodological and policy questions raised by the investigation; and requires the Secretary of Defense, upon request of the Commerce Secretary, to provide defense requirements with respect to the article under investigation.

C. Requires the President to decide, within 90 days of receiving the Commerce Secretary's report, on whether to take action and if so to proclaim such action within 15 days.

D. Requires the President to report to Congress within 30 days on the action taken and reasons for such action.

E. Authorizes the enforcement of the quantitative restrictions negotiated with respect to machine tool imports.

XII. TELECOMMUNICATIONS

Provides specific negotiating authority and remedies to address lack of foreign market openness in telecommunications trade.

A. Requires *USTR investigation,* within five months, *of priority foreign countries,* taking into account a number of factors for identifying such countries, including the nature and significance of the acts, policies, and practices that deny *mutually advantageous market opportunities.* USTR may add or drop countries from the priority list, taking into account the same factors used for original identification of countries.

B. Requires the *President to negotiate and to establish specific, country-by-country negotiating objectives* necessary to meet certain general objectives applicable to negotiations with all countries. After consulting with industry, labor, and Congress, the *President may modify* specific negotiating objectives in response to changed circumstances. Requires report to Congress.

C. *If no agreement is reached, requires the President to take whatever actions* authorized in the bill are appropriate and most likely to achieve the general objectives, as defined by the specific objectives established by the President for the individual country. Action must be taken within a time certain (18 months to 3½ years, depending upon a Presidential decision as to progress being made in negotiations). A broad range of possible options for action is available to the President. The President may *modify or terminate* any action taken, subject to certain considerations.

D. USTR is required to conduct *annual reviews* to determine if a country has violated a telecommunications trade agreement or otherwise denies mutually advantageous market opportunities. In the case of an affirmative determination, it shall be treated as a trade agreement violation under section 301.

E. Provides *negotiating authority* concomitant with the general trade agreement authority provided in the bill (until 1993). *Compensation authority* is granted, in the event that action taken is GATT-illegal. Defines telecommunications products, and specifies that nothing in the bill shall be construed to require action inconsistent with U.S. international obligations.

F. *Requires the FCC to submit to Congress certain data* made public relating to foreign sales of telecommunications equipment in the U.S. market. Requires the *Secretary of Commerce,* in consultation with the FCC and USTR, to conduct a *study* within one year of the competitiveness of the U.S. telecommunications industry and to submit findings and recommendations to Congress.

XIII. TARIFF AND CUSTOMS PROVISIONS

Includes over 100 miscellaneous tariff and trade provisions covering duty suspensions, duty-free measures, classification changes and customs-related nontariff matters. In addition to the many provisions affecting the tariff status of particular articles, there are provisions to repeal the existing prohibition on the importation of Soviet furskins; to implement the Nairobi Protocol of the Florence Agreement; to provide for statutory and regulatory control of duty-free sales enterprises; and to increase the penalty for intentional mismarking of the country of origin on imported goods.

TRADE AND FOREIGN POLICY

(Subconference No. 2)

I. RELATIONS WITH MEXICO

Endorses the recently negotiated bilateral framework agreement between the United States and Mexico on trade and investment, and urges the President to pursue consultations under the agreement to expand mutually beneficial trade and investment.

II. SILKWORM MISSILES

Expresses sense of the Congress that other nations should cease transfers of offensive weapons to belligerents in the Persian Gulf.

III. FAIR TRADE IN AUTO PARTS

A. Directs the Commerce Secretary to establish an initiative to increase the sale in Japanese markets of auto parts and accessories made in the U.S.

B. Requires the Secretary to report annually to Congress on sales of U.S.-made auto parts to Japan.

C. Creates a Special Advisory Committee to assist the Secretary in carrying out the initiative.

EXPORT PROMOTION AND EXPORT CONTROLS

(Subconference No. 3)

I. EXPORT PROMOTION

A. U.S. and Foreign Commercial Service

1. Establishes in statute the United States and Foreign Commercial Service within the International Trade Administration of the Commerce Department.

2. Authorizes the Commerce Secretary to designate 8 U.S. missions overseas at which the senior Comercial Service officer may use the diplomatic title of Minister-Counselor.

3. Requires the Commerce Secretary to report to Congress an evaluation of U.S. export services and on the possible integration of the domestic and foreign export services.

B. Commercial Service Officers and MDB Procurement

1. Directs the Commerce Secretary, in consultation with the Treasury Secretary, to appoint a US&FCS officer to serve with each U.S. Executive Director to a multilateral development bank in order to promote U.S. exports and procurement from American businesses.

2. Directs the Treasury Secretary to designate a MDB procurement officer in Treasury.

C. Market Development Cooperator Program, Trade Shows, and Other New Export Initiatives

1. Authorizes the Commerce Secretary to establish a market development cooperator to develop foreign markets for American

nonagricultural exports through joint government-private sector cooperation.

2. Authorizes the Commerce Secretary to create a partnership program in which individuals from the private sector serve with Commercial Service officers overseas in market development.

3. Authorizes the Commerce Secretary to provide assistance for trade shows in the U.S., and to encourage participation in such trade shows by U.S. small businesses.

4. Authorizes a total of $6 million in FY 1988/89 for these activities.

5. In addition, directs the Commerce Secretary to create a pilot Commerical Service program to promote U.S. exports to Japan, Korea and Taiwan; and authorizes the Commerce Secretary to provide assistance for exports of authentic American Indian arts and crafts.

D. Export Promotion Data System

Establishes within the Commerce Department, as part of the National Trade Data Bank, the export promotion data system to provide U.S. exporters timely and accurate data on business opportunities overseas.

E. Export Trade Companies

Directs the Commerce Department to establish a program to encourage the formation of other export intermediaries, and requires the Commerce Secretary to report to Congress on progress in this effort.

II. EXPORT CONTROLS

A. Streamlines Licensing Requirements

1. Eliminates licenses for exports to COCOM (NATO + Japan, except Iceland) countries of goods which can currently be exported to the People's Republic of China without multilateral approval (PRC greenline level).

2. Requires within 3 months that COCOM countries with effective export control systems be certified to eliminate licensing requirements to such designated countries (such countries also subject to only limited mandatory U.S. sanctions for future export control violations).

3. Eliminates licenses for exports to the Free World of goods which can currently be exported to controlled countries without multilateral approval (AEN level).

4. Eliminates unilateral reexport licenses for COCOM countries, and for U.S. parts and components incorporated into foreign-made goods when U.S. content is 25 percent or less, with certain exceptions.

5. Requires annual reviews of technical performance thresholds, and provides a mechanism for exporters to petition for review of goods eligible for export under such categories.

B. Reduces the Control List

1. Decontrols low-level technology (below AEN) worldwide, except for goods which COCOM agrees to maintain notification requirements.

2. Clarifies existing embedded microprocessor provision that goods are to be controlled on the basis of overall functional characteristics and not solely on component parts, thereby easing restrictions on most medical equipment.

3. Eliminates unilateral national security controls unless negotiations are underway to achieve multilateral control, or the item is unique to the United States.

4. Directs National Academy of Sciences to conduct a follow-up study to examine the current export control system and make recommendations for regulatory and legislative reforms.

C. Provides Dispute Resolution Mechanisms and Improved Administration

1. Provides timetables for resolution of disputes on license applications and inclusion of items on the control list.

2. Clarifies that basis of DoD's review is limited to national security, not foreign policy, considerations, and requires the Secretaries of Commerce and Defense to evaluate and jointly report to Congress on DoD's review of exports to non-controlled destinations.

3. Provides limited judicial review for civil penalties and temporary denial orders.

4. Prohibits user fees for processing export license applications.

5. Permits industry advisors to the U.S. Delegation to COCOM, and provides for Commerce Department consultation with industry technical advisory committees (TACs) on list review.

D. Clarifies and Expands Foreign Availability Procedures

1. Establishes a maximum of 9 months for foreign availability determinations.

2. Provides for decontrol and expedited licensing of goods available in Western countries (West-West foreign availability).

3. Authorizes additional funds to the Department of Commerce to carry out foreign availability functions.

E. Expands Trade With the People's Republic of China

1. Authorizes the use of distribution licenses for multiple exports to the People's Republic of China.

2. Presumption of approval for licenses for U.S. exporters to display products at trade shows in the PRC, so long as the exporter retains title.

F. Strengthens Enforcement of Export Controls

1. Authorizes Secretary of Commerce to bar persons convicted of export control violations from receiving export licenses.

2. Extends the effective period for temporary denial orders to 180 days.

3. Prohibits Customs Service from detaining for more than 20 days goods which are eligible for export under a general license.

G. Authorization of Appropriations/Termination Date

1. Authorizes $46,913,000 for export administration functions for fiscal year 1989.

2. Extends the authorization date for the EAA by 1 year to September 30, 1990.

H. Permits Crude Oil Exports to Canada Under Free Trade Agreement

1. Permits exports of up to 50,000 barrels per day of Alaskan crude oil to Canada pursuant to approval of the U.S.-Canada Free Trade Agreements.

2. Requires Secretary of Commerce in consultation with Secretary of Energy to study whether existing restrictions on crude oil exports in the United States are adequate to protect U.S. national security and energy interests.

I. Controls on Export of Refined Petroleum Products From Alaska

A new refinery constructed in Alaska which refines Alaskan crude is prohibited from exporting more than 50 percent of annual output of refined petroleum products (except ethane, butane and propane), excluding sales to U.S. military bases and U.S. flag airlines. In no case may more than 70,000 barrels per day be exported.

J. Enforcement of Multilateral Export Controls

1. Retroactive Sanctions on Toshiba and Kongsberg:

Mandatory 3 year sanctions against Toshiba Machine, Kongsberg Trade, and other guilty parties: (1) prohibition on USG contracting and procurement; (2) prohibition on importation.

Mandatory 3 year sanctions against the parent corporations: (1) prohibition on USG contracting and procurement.

Limited exceptions: (national security, spare parts, component parts, routine servicing and maintenance, information and technology, and contracts signed prior to June 30, 1987).

2. Prospective Sanctions for Future Violations:

(a) *Mandatory Sanctions*

Mandatory sanctions for 2-5 years against any foreign person (including the parent, subsidiaries, successors, and affiliates) if the President determines that a COCOM violation has occurred that has had a serious adverse effect on the strategic balance of forces.

Sanctions are debarment from USG contracting and prohibition on importation.

Limited exceptions (same as above)

Sanctions on all but the guilty party may be limited by the President under specified circumstances; however, the President may not waive the USG contracting and procurement ban on the parent for at least 2 years.

In the case of countries the President determines had an effective export control system in effect at the time of the violation, sanctions shall not be applied to any but the guilty party.

The President shall initiate discussions with the guilty party and its government for compensation by the company in an amount proportionate to the increased costs to the U.S. and allied governments for R&D and procurement of new defensive systems.

The Attorney General may seek civil damages against the violator and its parent.

(b) *Discretionary Sanctions*

Similar sanctions could be applied on a discretionary basis in cases which did not have a serious adverse impact on the strategic balance of forces.

3. Other provisions:

Annual reports of the President on costs of illegal technology transfers.

Negotiating objectives for improved multilateral cooperation.

EXPORT ENHANCEMENT

(Subconference No. 4)

I. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN

Directs the American Institute of Taiwan to employ a number of personnel commensurate with the number of U.S. Commercial Service personnel at the U.S. mission in Seoul, South Korea.

II. COUNTRY REPORTS ON ECONOMIC POLICIES AND TRADE PRACTICES

Requires the Secretary of State to prepare and submit to Congress an annual report, comparable to the annual human rights report, on the economic policies and trade practices of U.S. trading partners, including their macroeconomic policies, debt status, export subsidies, intellectual property protection, and their laws and practices relating to worker rights.

III. Overseas Private Investment Corporation

Raises overall ceiling on OPIC's loan guarantee program from $750 million to $1 billion.

Raises annual minimum loan guarantee program from $150 million to $200 million.

Raises annual minimum direct investment fund from $15 million to $25 million.

Requires detailed justification for worker rights determinations on OPIC projects in the PRC.

IV. Trade and Development Program

Codifies TDP's status as independent agency within International Development Cooperation Agency.

Requires an annual report to Congress on TDP's activities.

Creates an advisory board, including representatives from international engineering and construction industry associations.

Earmarks for TDP at least an additional $5 million but not more than $10 million in each of Fiscal Years 1988 and 1989, to be taken in equal amounts from AID's Private Enterprise Revolving Fund and ESF.

Authorizes an additional $10 million in FY 1988 and 1989 for education and training programs with particular emphasis on training nationals from the PRC and Taiwan; of this $10 million, 50 percent shall be made available only for programs administered by U.S. small businesses.

Transfers to TDP responsibility for the foreign assistance portion of the tied aid credits program under the Trade and Development Enhancement Act.

Authorizes the TDP Director, with concurrence of the Secretary of State, to use ESF funds for the tied aid credits program.

V. Countertrade

Establishes an interagency group on countertrade and offsets, chaired by the Commerce Secretary, to review U.S. policy on countertrade, and to monitor foreign countertrade activities.

Creates within the Commerce Department an Office of Barter to monitor information on international barter and provide assistance to enterprises seeking barter opportunities.

VI. Protection of U.S. Intellectual Property

Encourages Secretary of State to seek to strengthen intellectual property protection overseas.

Authorizes AID to provide technical assistance in intellectual property protection.

VII. Registration Fees for Munitions Controls

Directs that $100,000 in arms export control license fees be credited annually to a State Department account to automate the licensing system.

VIII. Worker Rights Report

Requires Secretary of State to report to Congress within 6 months of enactment on ways to improve and provide more detailed reporting on the status of worker rights.

IX. Japanese Imports From Developing Nations

Urges Japan to purchase more manufactured goods from developing countries.

X. Japan and Arab Boycott of Israel

Urges Japan to expand trade with Israel and urges Japanese firms to end compliance with Arab boycott of Israel.

XI. Facilitation of Jewelry Exports

Urges United States to join Convention on Control and Marking of Precious Metals in order to open foreign markets to American jewelry products.

XII. Loan Guarantees

Authorizes use of AID's Private Sector Revolving Fund to guarantee loans up to 50 percent of project or $3 million, whichever is less.

XIII. Poland

Authorizes $1 million for implementation of 1987 United States-Polish science and technology agreement.

Directs Agriculture Secretary to donate surplus feed grains for sale in Poland; proceeds to be used by nongovernment agencies for specified projects in Poland.

Authorizes up to $2 million to provide medical supplies and hospital equipment to Poland through PVO's.

Creates joint United States-Polish Commission to oversee provision of U.S. aid to Poland.

INTERNATIONAL FINANCIAL POLICY

(Subconference No. 5)

I. Exchange Rates and International Economic Policy Coordination

A. *Findings:* The Conference Agreement includes findings that the macroeconomic policies, including the exchange rate policies, of the leading industrialized countries require increased coordination; that currency values have a major role in determining the patterns of production and trade in the world economy; that the rise of the dollar in the early 1980's contributed substantially to the current U.S. trade deficit; and that a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the U.S. current account should be a major focus of national economic policy.

B. *Statement of Policy:* The Conference Agreement states it to be U.S. policy that the U.S. and the other major industrialized nations should take steps to continue the process of coordinating monetary, fiscal and structural policies initiated in the Plaza Agreement of September 1985; that the goal of the U.S. in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows; that the U.S., in close coordination with the other major industrialized countries should participate in international currency markets with the objectives of producing more orderly adjustments and, in combination with macroeconomic policy changes, assisting adjustments toward a more appropriate and sustainable balance in current accounts.

C. *International Negotiations on Exchange Rates and Economic Policies:*

1. Multilateral Negotiations: Under the Conference Agreement, the President shall seek to confer and negotiate with other countries to achieve better coordination of macroeconomic policies of the major industrialized countries; more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and to develop a program for improving mechanisms for coordination and improving the functioning of the exchange rate system.

2. Bilateral Negotiations: Under the Conference Agreement, the Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the IMF, and consider whether countries manipulate the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that have material global current account surpluses and significant bilateral trade surpluses with the U.S., the Secretary will initiate negotiations with such countries, in the IMF or bilaterally, to ensure that such countries regularly and promptly adjust the rate of exchange between their currencies and the U.S. dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

3. Reporting Requirements: Under the Conference Agreement, the Treasury Secretary shall submit a written report on international economic policy, including exchange rate policy, to the House and Senate Banking Committees on or before October 15 of each year, as well as a written update of developments six months after the initial report. The report will include an analysis of currency market developments and the relationship between the U.S. dollar and the currencies of our major trade competitors; an evaluation of the factors in the U.S. and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows; a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar; an assessment of the impact of the exchange rate of the U.S. dollar on: the ability of the U.S. to maintain a more appropriate and sustainable balance in its current account and merchandise trade account, the international competitive performance of U.S. industries, and the external indebtedness of the U.S.; recommendations for any changes necessary in U.S. economic policy to attain a more appropriate and sustainable balance in the current account.

II. International Debt Provisions

A. *International Debt Management Authority:*

1. Provides for the Secretary of the Treasury to study the feasibility and advisability of establishing the multilateral financial authority described in the section. Unless he determines that initiation of such discussions would carry a material risk of reducing the value of the debt, disrupting debt service, or causing defaults, the Secretary will initiate discussions with industrialized and developing countries on the establishment of the authority. The Secretary will submit interim reports on the progress being made on the study or discussions six months and twelve months after the date of enactment of the Act, as well as a final report upon the conclusion of the study or discussions.

2. The authority would undertake to purchase sovereign debt of less developed countries from private creditors at an appropriate discount and enter into negotiations with the debtor countries to restructure the debt in order to ease the debt service burden and provide opportunities for increased economic growth; any loan restructuring assistance, provided by the authority should involve commitments by the debtor country to the preparation of an economic management plan calculated to provide sustained economic growth; and support for the authority should come particularly from industrialized countries with large current account surpluses.

B. *World Bank-IMF Review of International Debt Problem:* The U.S. executive directors to the World Bank and the IMF will request those institutions to prepare a review and analysis of the debt burden of the developing countries, including consideration of the various alternatives for dealing with the debt problem.

C. *Regulatory Provisions Affecting International Debt*:

1. Sense of the Congress resolutions on: Regulatory objectives for Federal banking agencies for banks with loans to heavily indebted developing countries; flexibility in debt restructuring; recapitalization by banks with loans to debtor countries; and appropriate levels of reserves for loan losses by banks engaged in lending to heavily indebted developing countries.

2. Data on Banks Foreign Loan Risks: Amends the International Lending Supervision Act of 1983 to require the Federal banking agencies to submit an annual report on the level of loan exposure of banking institutions to loans which are rated "value impaired", "substandard", "other transfer risk problems", or are placed in any other troubled debt categories established by the banking agencies.

3. Regulatory study: The Federal banking regulatory agencies will conduct a study of debt service obligations associated with sovereign debt of developing countries.

D. *Study of Limited Purpose Special Drawing Rights for the Poorest Heavily Indebted Countries*: The Secretary of the Treasury, in consultation with the directors and staff of the IMF, will conduct a study of the feasibility of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the IMF of limited purpose Special Drawing Rights to such countries.

III. Multilateral Development Bank Procurement

The Conference Agreement requires that a member of the U.S. and Foreign Commercial Service or a representative of the International Trade Administration be appointed by the Secretary of Commerce to serve as a liaison with each multilateral development bank. Each liaison shall work to increase the ability of U.S. firms to do business with each multilateral development bank.

IV. Export-Import Bank and the Tied Aid Credit Fund

A. *Tied Aid Credit Fund*:

1. The Conference Agreement reauthorizes the Tied Aid Credit Fund, also known as the "war chest", for one year. The Tied Aid Credit Fund was first Authorized in 1986 and is intended to provide U.S. exporters with the tools necessary to compete against predatory financing by foreign countries.

2. The Conference Agreement would also require the Chairman of the Export-Import Bank to work with international organizations to prepare a report on the tied aid credit practices in other countries.

B. *Comparative Injury Determinations*: The Conference Agreement requires the Export-Import Bank to be concerned about extending loans or guarantees for production of certain commodities when the product is first to be sold on the world market if it causes harm to U.S. producers. The Conference Agreement defines substantial injury if the loan guarantee for the production of a certain commodity will expand production in excess of 1 percent of the U.S. production of that commodity.

V. Export Trading Company Act Amendment

A. *Standard For Determination as an Export Trading Company*:

1. The Conference Agreement requires that an export trading company must obtain more revenue from exporting or facilitating the export of U.S.-produced goods or services than it receives from importing goods or services into this country.

2. The Conference Agreement further stipulates that an export trading company must obtain at least one-third of its total revenue from exporting or facilitating the export of U.S. goods or services which are produced by persons who are not affiliated with the bank holding company that controls the export trading company.

B. *Period For Determining Status As An Export Trading Company*:

1. The Conference Agreement provides a two year "start up" period during which an export trading company does not have to meet the revenue test described in item A above.

2. The Conference Agreement also provides that the above mentioned determination period shall be for a time period of not less than four years and shall not begin until two years after the initial operations of an an export trading company.

C. *Leveraging Ratio*: the Conference Agreement prohibits the Federal Reserve from disapproving an export trading company's application solely because the leveraging ratio exceeds 20:1.

D. *Inventory*: the Conference Agreement prohibits the Federal Reserve from implementing general regulations placing an across the board dollar amount limitation on the size of inventories held by export trading companies. The Federal Reserve may limit the size of an inventory of specific export trading companies if the Board finds that the size of the inventory threatens the safety and soundness of a bank.

VI. Primary Dealers in United States Government Securities

The Conference Agreement prohibits the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York from designating or permitting the continued designation of a foreign entity to be a primary dealer in U.S. government securities unless the home nation of that entity accords U.S. firms national treatment in dealing in that country's government securities. This provision takes effect 1 year after date of enactment. Exempt from the provisions of this section are primary dealers which were purchased by foreign persons prior to July 31, 1987 or which notified the Federal Reserve Bank of New York prior to July 31, 1987 that a foreign person intended to purchase such primary dealer.

VII. Financial Services Studies

A. *Reports on Foreign Treatment of U.S. Financial Service Institutions*: The Conference Agreement provides that the Secretary of the Treasury, in conjunction with the Secretary of State, the Federal Reserve, the Comptroller of the Currency, the FDIC, the SEC, and the Department of Commerce shall report to the Congress not less than once every four years on the foreign countries from which foreign financial services institutions have entered the U.S. financial services market, the kinds of financial services which are being offered, the extent to which foreign countries deny national treatment to U.S. banks and securities companies, and the efforts undertaken by the U.S. to eliminate such discrimination.

B. *Banks Loan Loss Reserves*: Directs the Federal Reserve Board to submit a report to Congress by March 31, 1989 on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes.

VIII. International Discussions on Fair Trade in Financial Services

The Conference Agreement provides that the President shall conduct discussions with the governments of countries that are major financial centers aimed at ensuring that U.S. banking organizations and securities companies have access to foreign markets and receive national treatment in those markets. After completing the discussions, the President will transmit to the Congress any recommendations that have emerged from those discussions.

AGRICULTURAL TRADE

(Subconference No. 6)

I. Agricultural Trade Policy

The Conference agreement will provide that it is the policy of the United States to provide agricultural commodities for export at competitive prices; to support the principle of free and fair trade in agricultural commodities; to support the negotiating objectives set forth in the Conference agreement; and to seek the elimination of barriers to agricultural trade.

II. Long-Term Agricultural Trade Strategy Reports

The Conference agreement will require the Secretary of Agriculture to prepare annual long-term agricultural trade strategy reports establishing policy goals for United States agricultural trade and exports. The reports must set forth recommended levels of spending on international activities of the Department of Agriculture for 1, 5, and 10 year periods.

III. Triggered Marketing Loan

The Conference agreement will require the President to submit a certification to Congress no later than 45 days after January 1, 1990, as to whether there has been significant progress toward achieving an agreement with respect to agricultural trade under the General Agreement on Tariffs and Trade (GATT). If the President cannot certify that there has been significant progress toward reaching an agreement, the President must instruct the Secretary of Agriculture to implement a marketing loan program for the 1990 crops of wheat, feed grains and soybeans unless the President determines that the implementation of a marketing loan would harm further negotiations. If the President so determines, an expanded Export Enhancement Program must be implemented unless the implementation of such a program would be a substantial impediment to achieving an agreement under the GATT. The President is authorized to stop the implementation of either of these programs at any time if they have their intended effect, namely, they spur the GATT negotiations and the President determines that continued implementation would harm further negotiations.

IV. Export Enhancement Program

The Conference agreement will extend the authorization for the export enhancement program (EEP) through 1990 and increase the ceiling on the value of commodities that can be used under that program from $1.5 billion to $2.5 billion. The Conference agreement also provides that in carrying out the program, the Secretary of Agriculture may consider for participation all interested United States exporters, processors, users, and foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products.

V. TARGETED EXPORT ASSISTANCE PROGRAM

The Conference agreement will authorize an increase in the level of funding for the Targeted Export Assistance Program (TEA) for 1988 from $110,000,000 to $215,000,000. This increase is subject to appropriations. The TEA program is also amended to provide discretionary authority to the Secretary of Agriculture to provide compensation for expenses incurred by trade associations in defending countervailing duty actions instituted after January 1, 1986, in foreign countries.

VI. DAIRY EXPORT INCENTIVE PROGRAM

The Conference agreement will require that payments in commodities under the Dairy Export Incentive Program be made in the form of generic commodity certificates. Further, if the generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that the dairy products are sold for export and that the sales do not disreplace usual United States export sales of dairy products.

VII. AGRICULTURAL TRADE WITH COUNTRIES WITH LARGE TRADE SURPLUSES

The Conference agreement will provide that if a country has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State, may develop an appropriate plan under which that country may purchase United States agricultural commodities for use in development activities in developing countries.

VIII. FOREIGN AGRICULTURAL SERVICE

The Conference agreement will strengthen the Foreign Agricultural Service (FAS) of the Department of Agriculture by providing for an overall increase in authorized appropriations for fiscal years 1988 through 1990 of $20,000,000. The increase is to be used for general market development activities, including market development efforts in developing countries, and to increase in number and quality of international trade shows. The Conference agreement will also provide for a minimum level of FAS personnel of 900 and would call for the designation of senior FAS officers as Minister-Counsellors.

IX. RECIPROCAL MEAT INSPECTION

The Conference agreement will provide that if the Secretary of Agriculture determines that a foreign country applies meat inspection standards that are not based on scientific standards, the Secretary must consult with the United States Trade Representative and they must make a recommendation to the President as to what action should be taken. The President may require that a meat article produced in the foreign country not be permitted entry into the United States unless it is determined that the meat article has met the standards applicable to meat articles in commerce within the United States.

X. TRADE WITH JAPAN

The Conference agreement will provide that it is the sense of Congress that the import barriers imposed by Japan on agricultural products, including rice, citrus, and beef should be removed. The provision draws an analogy between those import barriers and the barriers recently determined by a GATT panel to be inconsistent with the GATT.

XI. TRADE WITH KOREA

The Conference agreement will provide that it is the sense of Congress that Korea should permit greater access to its markets by United States beef producers. Further, the United States Trade Representative should aggressively pursue negotiations to gain greater access to the Korean market for United States beef and should try to achieve a reduction in beef import tariffs imposed by Korea.

XII. WOOD AND WOOD PRODUCTS

The Conference agreement will make wood and wood products fully eligible for use in Public Law 480 market development projects and in the short and intermediate term export credit guarantee programs. The substitute will also establish a cooperative national forest products marketing program that is designed to improve the competitiveness of the United States forest products industry.

XIII. MARKETING ORDERS

The Conference agreement will provide for an additional period during which marketing order requirements could be in effect if the Secretary of Agriculture determines it is necessary to prevent circumvention of a marketing order by imports. The necessity for such additional period must be reviewed, on request, every 3 years. The additional period can be no longer than 35 days and the Secretary must take certain issues into consideration when deciding whether to establish the additional period.

XV. IMPORTED MEAT AND POULTRY PRODUCTS

The Conference agreement will require the Secretary of Agriculture, within 90 days after enactment of the Act, to submit a report to Congress specifying the planned distribution of resources of the Department of Agriculture for sampling imports of meat, poultry, and egg products to ensure compliance with the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act governing permitted levels of pesticide, drugs, and other residues in such products. The report must also respond to a 1987 Inspector General audit report.

XVI. OTHER PROVISIONS

The Conference agreement also contains a provision concerning the export credit guarantee program. The Conference agreement also calls for studies to be conducted concerning egg imports, rose imports, the Canadian wheat import licensing scheme, the use of intermediate export credit, dairy imports, sugar imports, and honey imports.

INVESTMENT, COMPETITIVENESS AND FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

(Subconference No. 7)

I. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT

A. The FCPA was enacted in 1977 in response to disclosures of questionable and in some cases illegal foreign payments made by U.S. companies to foreign officials in order to secure export business. The 1977 Act attempted to stop corporate bribery through three basic means: (1) requiring U.S. firms to keep detailed books, records, and accounts to accurately reflect corporate payments and transactions; (2) requiring U.S. firms to institute and maintain an internal accounting system to assure management's control over the firm's assets; and (3) making it a crime to bribe foreign officials to obtain or maintain business. The evidence suggests that the FCPA has been effective. Almost from its enactment, however, certain of its provisions have been criticized for vagueness and for creating unnecessary paperwork burdens and concerns among exporters over their liabilities for unauthorized acts of their agents.

B. In order to clarify its provisions and to alleviate unnecessary paperwork and needless concerns about criminal liability, the conferees agreed to amend present law to:

1. Limit criminal liability for violations of accounting standards to those who "knowingly circumvent" a system of internal accounting controls or "knowingly falsify" records kept pursuant to accounting requirements.

2. Define the "reasonable detail" in which companies must keep books, records, and accounts, and the "reasonable assurances" of management control over corporate assets as being "such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs."

3. Define the responsibilities of an issuer for the accounting practices of a domestic or foreign subsidiary. An issuer's responsibility for a subsidiary's compliance with the accounting requirements (when an issuer holds 50 percent or less of the subsidiary's voting power) is discharged if the issuer proceeds in good faith to use its influence to cause its subsidiary to comply with the requirements.

4. Change the current law, which applies criminal and civil liability to firms and individuals who make payments to third parties "knowing or having a reason to know" that the payments would be used by that third party for purposes barred under the statute. Conferees agreed to limit liability to "knowing" violations with a definition of knowing from the House Judiciary Committee passed revisions to the U.S. Criminal Code in the 96th Congress. Conferees also agreed to develop report language further clarifying the scope of the agreed statutory language definition of "knowing."

5. Include within prohibited payments those made to a foreign official to induce him to do any act in violation of the lawful duty of such officials. This conforms the foreign bribery standard to the domestic bribery standard found at 18 USC 201.

6. Clarifies that payments made to procure the performance of certain routine governmental actions by foreign officials such as processing governmental papers, or loading and unloading cargoes, and similar actions are not covered by the FCPA's prohibition on bribery.

7. Makes it an affirmative defense to the prohibition on bribery that a payment to a foreign official is lawful under the written laws and regulations of the foreign official's country. Conferees agreed to develop report language to further clarify the scope of their statutory language agreement on this item.

8. Gives companies an affirmative defense to the prohibition on bribery for payments that constitute reasonable and bona fide expenditures that are directly related to promoting products or performing contracts.

9. Provides increased penalties for criminal and civil violations of the FCPA.

10. Establishes a procedure under which the Attorney General may issue general guidelines regarding activities that would or would not conform with the Justice Department's enforcement policy regarding FCPA violations.

11. Charges the Executive Branch to pursue an international agreement with OECD countries to ban foreign bribery.

12. Repeals the Eckhardt amendment of the FCPA, thus allowing employees and agents to be prosecuted for FCPA violations even if the firm for which they work has not been found guilty of violating the Act.

13. Provides new civil subpoena authority to the Justice Department to enhance enforcement of the FCPA.

II. PRESIDENTIAL AUTHORITY WITH REGARD TO REVIEWING CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS—THE "EXON/FLORIO" PROVISION

A. The proposed purchase earlier this year of an 80 percent share of Fairchild Semiconductor Corporation by Fujitsu, Ltd. sparked Congressional interest concerning takeovers of American firms by foreign companies which raise national security considerations. Because of concerns that the Federal Government lacked the specific authority to prevent such acquisitions, the conferees agreed to legislation to give the President such authority.

B. Title VII of the Defense Production Act of 1950 (50 USC app. 2158 et seq.) is amended by adding provisions that give the President the authority, if he first makes certain findings, to take actions to suspend or prohibit any acquisition, merger, or takeover of a person engaged in interstate commerce in the United States by or with foreign persons so that such control will not threaten to impair the national security.

1. To activate this authority, the President would have to find that there is credible evidence that leads him to believe the foreign interest exercising control might take action to impair the national security and that other laws do not provide adequate authority to protect the national security in the matter.

2. The President would have to report his findings to the Congress with a detailed explanation.

3. In making any decision to exercise his authority under this provision the President may consider factors such as: (a) domestic production needed for projected national defense requirements; (b) the capability and capacity of domestic industries to meet national defense requirements; and (c) the control of domestic industries and commercial activities by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

III. REGISTRATION OF FOREIGN INVESTMENT (THE "BRYANT AMENDMENT")

At the time of publication, the conferees had not reached agreement on this provision.

EDUCATION AND LABOR

(Subconference No. 8)

PART A—EDUCATION

I. LITERACY ASSISTANCE

A. *Worksite Literacy Programs: $30 million.*—New $30 million authorization in FY 88 for demonstration matching grants to educational partnerships for workplace basic skills programs. (This and several other provisions are crosswalked to H.R. 5 for authorization through 1993.)

B. *English Family Literacy Grants: $25 million.*—$25 million discretionary grants to serve adults who are limited-English proficient.

C. *Literacy Corps Assistance: $10 million.*—Authorizes $10 million for each of 2 years for grants to institutions of higher education to establish literacy corps programs which offer students credit for voluntary literacy tutoring.

II. EDUCATION FOR ECONOMIC SECURITY ACT

A. *Reauthorization of Title II of the Education for Economic Security Act at $175 million for FY 88.*—This Act provides grants to local educational agencies (LEAs) and state educational agencies (SEAs) to upgrade instruction in math, science, foreign language and computer instruction.

B. *Reauthorization of Title III at $20 million; additional Title III partnership program for elementary and secondary schools only.*

III. FOREIGN LANGUAGE ASSISTANCE TO ELEMENTARY AND SECONDARY SCHOOLS: $20 MILLION

A. $20 million authorization for matching grants to SEAs on a per capita basis to assist LEAs in developing, improving, and implementing model programs in foreign langauge instruction in elementary and secondary schools.

B. *Presidential Award for Language Instruction: $1 million*—Presidential awards to one elementary and one secondary teacher in each State, the District of Columbia, and Puerto Rico for excellence in foreign language instruction.

IV. PARTNERSHIPS FOR EXCELLENCE: $10 MILLION

Authorizes $10 million demonstration program for partnerships among LEAs, SEAs, higher education institutions, private sector, CBO's, chambers of commerce and federal agencies to improve and enhance education. Up to 25 percent of the funds may be used for programs for the gifted and talented.

V. TECHNOLOGY

A. *Star Schools: $37.5 million for FY 1988.*—Adds Star Schools program to the Education for Economic Security Act as a new title. Provides grants to partnerships to establish telecommunications networks which provide and enhance math, science, and foreign language instruction.

B. *Training Technology Centers: $15 Million.*—Authorizes $15 million for regional technology transfer centers, $3 million of which will be reserved for the Technology Transfer Training Act, to facilitate the transfer of training technology from Federal agencies to the private sector, state and local governments, and educational institutions. Such transfer capability would improve training programs for workers, and students in schools, the private sector, and the military. Program would be housed in Department of Education.

C. *Technology Education: $2 million.*—$2 million in demonstration grants to vocational training centers and community colleges for modular training in basic skills, with purpose of rendering participants technologically literate.

D. *Technology Literacy: $2 million.*—New $2 million authorization for FY 88 for demonstration programs for innovative programs in technology literacy in secondary schools: communications, construction, manufacturing, etc.

VI. ACCESS DEMONSTRATION PROGRAM: $5 MILLION

$5 million in discretionary grants to establish rural education assistance centers. Grants may be awarded to regional labs, IHE's, SEA's or consortia thereof.

VII. VOCATIONAL EDUCATION

A. Reduces authorization for Part C of Title III of the Vocational Education Act (Adult Training, Retraining and Employment Development) from $35 million to $25 million, and creates new $25 million authorization under Part C for adult retraining for current workforce.

B. Increases from $20 to $30 million authorization for Part E of Title III (Industry-Education Partnerships for Training in High Technology Occupations).

Funds under A and B would provide training, retraining and employment services in high technology occupations for workers who are adversely affected by foreign competition. Includes a special provision for workers over 55.

VIII. SECONDARY SCHOOL PROGRAMS: $250 MILLION

A. *Compensatory Education (Part B).*—New $200 million authorization in FY 1988 for Secretary's demonstration grants for basic skills for secondary students.

B. *School Dropout Demonstration Grant Program.*—New $50 million in FY 1988 for demonstration grants to LEAs, partnerships and CBO's for programs that prevent students from dropping out and that encourage those who have left school to reenter and finish.

IX. HIGHER EDUCATION

A. *International Education and Business Joint Degrees: $5 million.*—Authorizes an additional $5 million under Part B, Title VI of HEA (International Education) to provide assistance for graduate programs which offer joint degrees or coordinate degrees in business and international studies.

B. *Progarms to Promote Studies in Fields of National Need.*—Provides an additional $21.5 million to encourage increased participation in science, engineering and mathematics. Special programs for graduate studies and minority students.

C. *Facilities and Instrumentation.*—Provides $85 million for upgrading of the nation's university and college research facilities.

D. *Materials Assistance.*—Authorizes $1 million annually to provide assistance in acquiring and processing foreign technical and scientific periodicals. Provides $2.5 million to enable college libraries to better carry out the initiatives funded under the trade bill.

PART B—LABOR

I. AUTHORIZATION OF APPROPRIATIONS

Beginning October 1, 1988, authorizes an annual appropriation of $980 million and such sums as may be necessary thereafter.

II. ELIGIBILITY

Same as current Title III of Job Training Partnership Act (JTPA).

III. ALLOCATION OF FUNDS

A. 80 percent of the funds are allocated to the States according to the existing Title III formula. However, as soon as data are available, the Secretary is required to allocate 25 percent of the funds to the States on the basis of plant closings and permanent layoffs and farmers and rancher dislocation. 50 percent of the substate funds must be spent on retraining activities although that requirement may be waived by the Governor to 30 percent if requested and justified by the substate grantee.

B. 20 percent is reserved for the Secretary. However, for fiscal year 1989 through 1991, not less than 10 percent of such funds shall be expended on two of the four demonstration projects listed in the bill.

IV. CARRYOVER LIMITATION AND REALLOCATION AUTHORITY

Allows no more than 20 percent of the funds allocated to the States to remain available for obligation and expenditure during the next program year. A State which has expended at least 80 percent of its allotment in the previous year and which has an unemployment rate which exceeds the national average for the 12 preceding months may be eligible to receive reallocated funds.

V. DESIGNATION OF SUBSTATE AREAS

Requires the automatic designation of any JTPA service delivery area (SDA) with a population of 200,000 or more as a substate area for this Title. The bill also permits two or more contiguous SDAs with an aggregate population of 200,000 or more which so request to be designated as a single substate area. Designations may not be revised more than once every two years and no JTPA service delivery area shall be divided among two or more substate areas under this Title.

VI. DESIGNATION OF SUBSTATE GRANTEES

Substate grantees shall be designated in accordance with an agreement among the Governor, the local elected officials and the private industry councils. In the event that agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

VII. PERCENTAGE OF FUNDS RESERVED FOR THE GOVERNOR

The bill allows the Governors to retain 40 percent of the State's allocation or statewide readjustment activities. However, the Governor may retain an additional 10 percent of the State's allocation, which must be distributed to one or more substate areas based on need within the first 9 months of the program year.

The Governor must distribute the remainder of the State's allocation to the substate areas. The allocation is based on a formula prescribed by the Governor. The formula must contain the following six factors: insured unemployment data; unemployment concentrations, plant closing and mass layoff data; declining industries data; farmer-rancher economic hardship data, and long-term unemployment data. (The Governor is not precluded from including additional factors in the formula.)

VIII. RAPID RESPONSE ASSISTANCE

The State will designate or create an identifiable state dislocated workers unit or office with capability to respond rapidly to permanent closures and substantial layoffs throughout the State. The dislocated worker units shall establish on-site contact with employer and employee representatives within a short period of time after such closures or layoffs (preferably 48 hours or less).

IX. DISPLACED HOMEMAKERS

If it can be established in the State plan that services can be provided, without adversely affecting the dislocated workers described in Section 301(1)(A)-(D), additional dislocated workers may be served as if they were eligible dislocated workers for programs and activities provided under this Title. Additional dislocated workers are defined as the term "displaced homemaker" is defined in Section 4 of JTPA.

X. COMPOSITION OF THE STATE JOB TRAINING COORDINATING COUNCIL

The bill reconstitutes the existing SJTCC in the following manner:

30 percent business and industry;

30 percent appropriate State agencies, local governments, and local education agencies;

30 percent organized labor and community-based organizations;

10 percent general public.

XI. LIMITATION ON NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES

Not more than 25 percent of the funds expended under this Title may be used for these purposes.

XII. ADVANCE NOTICE PROVISIONS

A. Requires 60 days advance notice of—

1. A plant closing that results in employment loss of at least 50 employees at a site of employment,

2. A layoff of more than 6 months that results in employment loss for 50 or more employees if 33 percent of the workforce at a site of employment are affected, or that results in an employment loss for 500 employees, whether or not 33 percent of the workforce is affected.

B. No employer with fewer than 100 full-time employees is covered.

C. Only employees working at least 20 hours a week who have worked for the employer for at least six months are included in calculating the number of employees who have experienced a job loss.

D. Employees are not considered to have experienced a job loss if they have: been offered transfers within a reasonable commuting distance of their current job; accepted transfers to any of the employer's facilities; or been rehired by a purchaser of the business.

E. Exceptions to the notice requirement are provided for unforeseeable business circumstances, faltering companies, and closure or layoffs from temporary projects or undertakings where the employees knew their work was temporary.

F. Remedies for violation of the notice requirement are limited to those specified in the statute:

1. The employer is liable to employees who should have, but did not receive, notice; damages are equivalent to a day's pay and the cost of related fringe benefits for up to the 60 days that the notice should have been but was not given.

2. The employer is liable to the local community for up to $500/day for each day of the 60 day period that notice was not given, to a maximum of $30,000; the employer is relieved of this liability to the community if it satisfies its liability to the employees expeditiously.

TECHNOLOGY

(Subconference No. 9)

I. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

A. Changes the name of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST). The new name is intended to reflect not only the enhanced role and responsibility assigned to NBS but also to stress NBS's traditional function of providing the measurements, calibrations and quality assurance standards which are vital to U.S. commerce.

B. Modernizes and expands the functions of NIST. NIST is specifically required to carry out every function now assigned to NBS, including all of its functions as the Nation's national standards and measurement laboratory. The rewording of the statute significantly expands the role of NIST as the government's lead laboratory in support of U.S. industrial quality and competitiveness while retaining and encouraging growth and modernization of the core metrology mission.

C. Removes reponsibilities of the National Telecommunications and Information Administration (NTIA) from the NBS Organic Act. Traditionally, the NBS Organic Act has served as the statutory authority for the Department's telecommunications research. Restating NTIA's authorities separately provides NTIA permanent and unambigous legal authority to carry out its mission. The inclusion of the telecommunications language in the new statement of mission for NIST does not transfer the work from NTIA to NIST or vice versa, but rather describes those activities that have traditionally have been performed by NIST.

D. Modifies Section 5 of the NBS Act to specify the appointment process for the NIST Director as well as the responsibilities and the requirements of that office. In order to assure a smooth transition, the current NBS Director is designated as the NIST Director until the NIST Director is installed in office. This section makes clear that NIST, like NBS before it, is to run as a discrete entity with general supervisory powers in the NIST Director.

E. Requires an organization plan for NIST to be submitted to its Congressional authorizing committees at least 60 days before the plan's effective date and not later than 120 days after enactment of this legislation. The organization plan is to establish the major operating units of NIST and to distribute the activities and functions listed in the new section 2(c) of the NBS Act accordingly. The NIST Director may revise the organization plan after a formal 60-day notification of Congress. The Center for Fire Research and the Center for Building Technology must continue in their current forms under this plan.

F. Repeals archaic language or provisions of the original NBS Act that no longer apply.

G. Requires the NIST Director to keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all activities of NIST and requires the NIST Director to justify to the Congress in advance and in writing all changes in policies regarding fees for NIST services to industry.

II. TECHNOLOGY EXTENSION ACTIVITIES AND CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

A. *Regional Centers for the Transfer of Manufacturing Technology (Regional Centers).*—

1. Authorizes $5.0 million which should permit the start of two to three Regional Centers during FY 1988 and $40 million total during FY 1989 and FY 1990 for expansion of the program. Regional Centers are to provide outlets for the demonstration of technology developed by NIST to small and medium-sized firms, beginning with the technology developed at the Automated Manufacturing Research Facility of NIST. Regional Centers are eligible for federal financing for a maximum of 6 years with an initial federal contribution of up to 50 percent which will be phased down beginning in the 4th year.

2. The Secretary of Commerce is required to publish for comment, in the Federal Register, in advance of the establishment of any Regional Centers under this section, a detailed description of plans for administering

the Regional Center program. The description is to include criteria and procedures for selecting Regional Center applicants, the role these Regional Centers are to play in promoting the use of improved manufacturing techniques by American small- and medium-sized businesses, projected schedules for reduction of direct financial support of the Regional Centers by the NIST, and preliminary criteria for evaluation of the effectiveness of Regional Centers.

Potential grantees are limited to U.S. based, non-profit institutions, and the companies they assist to U.S. based, small- and medium-sized manufacturers who intend to apply the technology at facilities in the United States. Merit review of applications by qualified individuals outside the Department of Commerce is required as part of the process.

B. *Technology Extension Services.*—

1. Authorizes the NIST to provide technical assistance to state technology extension programs.

2. Requires the Secretary of Commerce to conduct a nationwide survey of current state technology extension programs to determine their expenses, structure, services and needs.

3. Authorizes $2 million a year for FY 1989, 1990, and 1991 for cooperative agreements between NIST and state technology extension programs.

C. *Non-Energy Inventions Program.*—Establishes within the Institute a Non-Energy Inventions Program to complement but not replace the existing Energy-Related Inventions Program. The NIST Director is required to submit, along with the initial organization plan for the Institute, an initial implementation plan including specific cost estimates, implementation schedules, and proposed mechanisms to help finance the development of technologies deemed to have potential. The NIST Director is required to consult with appropriate federal agencies, State and local governments, universities, and private sector organizations and to set up cooperative arrangements, as appropriate, for various phases of the Inventions Program including both the referral of inventors to the program and aid to those inventors deemed to have concepts with commercial potential.

D. *Clearinghouse for State and Local Initiatives.*—Provides for a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation within the Office of Productivity, Technology, and Innovation (OPTI) that concentrates on collection and dissemination of information on state and local initiatives related to promotion of technological innovation. The Clearinghouse may collect and disseminate information on federal, state, and local initiatives, and is authorized to develop methodologies which state and local governments can use to evaluate their own programs. The Clearinghouse may provide technical assistance and advice to such governments with respect to such initiatives.

III. ADVANCED TECHNOLOGY INITIATIVES

A. *Advanced Technology Program (ATP).*—

1. Establishes an Advanced Technology Program (ATP) under the NIST Director to serve as a focal point for cooperation between the public and private sectors in the development of industrial technology and to encourage business to use the research, research techniques and know-how developed in the program of NIST.

2. Establishes ATP's main purpose as aiding in the solving of generic problems of concern to large segments of an industry rather than promotion of individual companies. The ATP is to encourage American companies to form joint research and development ventures as defined by the National Cooperative Research Act of 1984, provided that such joint ventures are not under the effective control of a single company.

3. Permits ATP to participate in industrial joint R&D ventures and to contribute limited start-up funding if appropriate, and a minority share of the ongoing costs of projects of these consortia for a period of up to five years. Principles and conditions governing the awarding of financial assistance by the ATP shall be set out in the Federal Register. Awards shall be made only after completion of a merit review of the quality of the successful proposals.

B. *Visiting Committee on Advanced Technology (VCAT).*—Replaces the present NBS Visiting Committee with a Visiting Committee on Advanced Technology (VCAT), with majority representation from U.S. industry, as the statutory advisory committee for NIST. VCAT is not intended to be a policy board which orders the NIST Director to adopt specific policies; rather it is expected to provide the best available advice for the NIST Director to use in making agency decisions.

C. *National Academies of Sciences and Engineering Study of Government-Industry Cooperation in Civilian Technology.*—Specifies that the NIST Director may contract periodically with the Academies to receive advice and studies on the nation's significant national needs and opportunities in manufacturing and emerging technologies. The bill specifies the responsibilities of this review panel of the Academies.

IV. TECHNOLOGY REVIEWS

A. Requires the President, when submitting the fiscal year 1990 budget to Congress also to submit a report on administration policy and proposals in semiconductors, semiconductor manufacturing, fiber optics, and superconductors, since federal research efforts are generally dispersed throughout a wide range of agencies, and budget information is often difficult to obtain.

B. Creates the National Advisory Committee on Semiconductors (NACOS) with the responsibility for devising a national semiconductor strategy to assure continued U.S. leadership in semiconductor technology. Annual reports are required to be submitted to the President and the Congress on the NACOS's activities. NACOS shall cooperate with any other committee or commission established by law which has overlapping responsibilities.

C. Requires the President to appoint a National Commission on Superconductivity (National Commission) to review major policy issues regarding U.S. applications of recent research advances in superconductors to assist Congress in devising a national strategy in superconductivity technologies. Bill specifies the make-up and responsibilities of National Commission members. The National Commission is to terminate one year after establishment with all residual functions vesting in the National Critical Materials Council.

V. AUTHORIZATION OF APPROPRIATIONS

A. Establishes $144,783,000 for fiscal year 1988 as the base authorization level for the traditional activities to be carried out by NIST. These are: Measurement Research and Technology, $41,939,000; Engineering Measurements and Manufacturing, $40,287,000; Materials Science and Engineering, $23,521,000; Computer Science and Technology, $7,941,000; Research Support Activities, $19,595,000; Cold Neutron Source Facility, $6,500,000 (for a total authorization of $13,000,000), and $5,000,000 was authorized for the new programs of the National Institutes.

B. Authorizes $2,400,000 for OPTI, $500,000 for the patent licensing activities of NTIS, and $500,000 for the Japanese Technical Literature Program. The Clearinghouse for State and Local Initiatives is authorized appropriations of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990.

VI. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS

A. Enables the patent licensing program of the National Technical Information Service to receive promptly, from the agencies contracting with it, the revenues it needs to continue its traditional programs of providing worldwide patent licensing services to other government agencies.

B. Restates the Federal Laboratory Consortium for Technology Transfer's funding formula to ensure that the $900,000 to $1,000,000 per year the Congress originally intended for the FLC's responsibilities under the 1986 Act is available. The portion of an agency's R&D budget that must go to the FLC is increased from .005 percent to .008 percent.

C. Bars NIST from charging fees to research associates in the absence of express statutory authority to do so.

D. Requires the Institute to submit a plan to the authorizing Committees in the House and Senate detailing how the Institute will make small businesses more aware of NIST activities in order to increase their participation in NIST research.

E. Forbids contracting out of activities or functions of the National Technical Information Service (NTIS), not performed by contractors on September 30, 1988, without specific statutory authority. The only exception permits NTIS to let small contracts not in excess of $250,000 per year to supplement the activities of the NTIS government employees. NTIS is required to maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.

F. Requires each federal agency to use the metric system in procurements, grants, and other business-related activities by the end of fiscal year 1992 to the maximum extent feasible. Each agency is expected to establish guidelines similar to Department of Defense (DOD) Directive Number 4120.18, dated September 16, 1987 as soon as possible following the date of enactment. Conversion to metric is not required when its use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Agencies are to assist domestic federal contractors and subcontractors, including small business, in developing the capability to compete in metric units so that increased use of metric by federal agencies does not become a windfall for companies from foreign countries which have already converted.

VII. SYMMETRICAL ACCESS TO FOREIGN RESEARCH AND DEVELOPMENT

The Conference Agreement establishes a process to monitor international science and technology agreements. The section provides a mechanism to ensure that these agreements provide Americans the same access to research and development opportunities and facilities abroad as foreigners have here.

The Conference Agreement amends Title V of P.L. 95-426 (The Foreign Relations Authorization Act) to state that federally supported international science and technology agreements should be negotiated to assure proper protection of intellectual property rights and equitable and reciprocal access to international scientific and technological opportunities, facilities, and information. In addition, the provision directs the President to include in the annual report mandated by Title V information on American access to public and publicly supported private research and development opportunities and facilities in each country which is a major trading partner of the U.S.

The Conference Agreement also requires the Secretary of State to consult with federal agencies having primary responsibility for, or a substantial interest in, the subject matter of potential science or science and technology agreements between the United States and foreign countries in advance of negotiations leading to such agreements. While the Secretary of State is assigned primary responsibility for coordination and oversight of such agreements, the consulted agencies will use their expertise in technology management, national security, and trade policy to ensure that the Secretary of State crafts effective final agreements.

VIII. NATIONAL CRITICAL MATERIALS COUNCIL

A. Requires the Council to submit a National Federal Program for Advanced Materials Research and Development not later than 180 days after enactment of this law.

B. Requires the Executive Director to increase the number of current employees by five full-time employees, of which at least four shall be permanent, professional employees with expertise relevant to the responsibilities of the Council.

C. Authorizes the Council to use services or personnel of other federal agencies on a non-reimbursable basis.

D. Extends the authorization of the National Critical Materials Act programs to FY 1992 of appropriations in the amount of "such sums as are necessary".

GOVERNMENT PROCUREMENT

(Subconference No. 10)

I. IDENTIFICATION OF COUNTRIES

The Conference Agreement requires the President to identify, in an annual report, countries that engage in discriminatory government procurement practices against U.S. firms. The President will use a strict set of criteria to make his judgment. A country will be identified as discriminatory only if it has violated the GATT Agreement on Government Procurement or otherwise has systematically and persistently closed Americans out of its government procurement markets in a manner that has caused identifiable harm to U.S. businesses.

II. MONITORING

Discrimination in the procurement of both goods and services are monitored. In this way, the provision will provide for a consistent U.S. policy response to incidents such as the discrimination experienced by Americans in the awarding of contracts for the Kansai Airport project in Japan.

III. CONSULTATION AND DISPUTE SETTLEMENT

All countries named by the President as discriminatory are granted an informal consultation period in which they can work with the United States to eliminate their discriminatory procurement practices. Signatories of the Agreement are allowed a further year in which they can argue their case through GATT's formal dispute settlement procedure.

IV. PROCUREMENT BAN

If the period set aside for consultation (for countries that have *not* signed the Agreement) or consultation *and* formal dispute settlement procedures (for those countries that *have* signed the Agreement) does not result in the foreign country removing its discriminatory practices, then a ban on U.S. government procurement of that country's goods and services goes into effect. The ban will not apply to U.S. government purchases overseas for use in foreign countries.

V. MODIFICATION

The President is given discretion to modify the ban. In lieu of the ban, the President can impose a sanction equivalent in effect to the discriminatory practice of the foreign country; one example of this sort of sanction is the recent banning of Japanese firms from the U.S. public works market in response to Japan's discrimination against U.S. firms in public works contracting. The President can also eliminate, in whole or in part, the sanction in response to actions taken by the foreign government to eliminate its discriminatory practices.

VI. WAIVER

In addition to modifying a ban, the President (or head of a Federal agency) can waive the required sanction for a contract or class of contracts (1) if he determines that to do so would be in the public interest, (2) to avoid limiting the procurement to a single, sole-source vendor, or (3) if insufficient competition would result.

VII. RULES OF ORIGIN

The Conference Agreement retains the current rules of origin for determining whether or not a *product* is American. However, it requires the Administrator of the Office of Federal Procurement Policy to conduct a study to determine what factors should be used to make such rule of origin determinations. The Administrator is to complete his study 18 months from enactment of the provision.

VIII. SPECIAL RULE FOR SERVICES

With regard to *services*, a contractor or subcontractor is considered foreign if it is owned or controlled, directly or indirectly, by citizens or nationals of a foreign country. The Conference Agreement adopts criteria with regard to construction service contracts for implementing this rule of origin consistent with the criteria currently used to implement Section 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988. With regard to other services, the Administrator of OFPP, after public hearings, is to issue policy guidance to the agencies no later than 180 days after enactment.

IX. SUNSET

The provision is sunsetted on April 30, 1996 unless reauthorized by Congress at an earlier date.

PATENT LAW

(Subconference No. 11)

I. PROCESS PATENTS

A. Gives process patent owners the right to exclude others from using or selling in the United States, or importing into the United States products made by that process. Any such unauthorized act becomes an act of patent infringement under Title 35, United States Code.

B. Limits remedies against noncommercial users or retailers by requiring exhaustion of remedies against importers and nonretailer sellers. Excludes from liability products which have been materially changed by subsequent processes or products which are trivial and nonessential components of another product.

C. Excludes from the damage limitation provision those who practiced the process or those who had knowledge before the infringement that the patent process was used.

D. Provides no remedies against products in possession or in transit at the time of notice. The notice that triggers infringement liability is actual knowledge, or receipt of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person it is likely that a product was made by an infringing process.

E. Provides that compliance with the request for disclosure provision is evidence of good faith in an infringement action.

F. Presumes that a product has been made by the patented process if the court finds there is a substantial likelihood that the product was made in violation of the process patent and the claimant has made a reasonable effort to determine the process actually used.

G. Establishes an effective date of six months following date of enactment for goods imported after such effective date. Persons in business using, selling or importing goods already in production on January 1, 1988 are exempt, except those who are parties in certain cases before the ITC. Reports on effect of legislation to be submitted by Secretary of Commerce.

II. PHARMACEUTICAL PATENT EXTENSION

A. Extends the patent on gemfibrozil for 3½ years in the form of a private patent bill.

III. PATENT LAW FOREIGN FILING AMENDMENTS ACT

A. Permits an applicant to file "modification, amendments and supplements containing additional subject matter," with a foreign patent office without procuring a special license. Clarifies the situations in which an inventor may be granted a retroactive license.

SMALL BUSINESS

(Subconference No. 12)

I. OFFICE OF INTERNATIONAL TRADE

The legislation provides increased authority and direction for the Small Business Administration's Office of International Trade, and authorizes $3.5 million to perform the functions outlined in the bill.

II. EXPORT ASSISTANCE

Provides an additional $5 million in export assistance grants to be used by the Small Business Development Center Network to provide export related services to small business.

1. Such export services include providing information to small businesses on existing trade promotion and trade financing programs, both private and public, as well as on translation services, trade data and other services useful to exporting.

2. Such export assistance will be modeled on successful programs presently in operation in certain Small Business Development Centers.

3. Funding for export assistance would be limited to the SBDC network, though, under certain conditions, others would be eligible for the grant funding. Specifically, the agreement will allow non-profit oganizations in a state which does not have an

SBDC to be eligible for export assistance funding. Non-profits will also be eligible for funding in states where an SBDC has not applied.

III. SBA LOANS

The agreement will increase the lending limit for the 7(a) and 504 SBA loan programs from $500,000 to $750,000, and will also allow for guaranteed loans between $750,000 and $1,000,000 to be made for trade oriented industries only. This is bolstered by combining the $1 million guarantee with up to $250,000 for working capital under the 7(a) program. This financing arrangement would be essentially the same as a guaranteed bank loan, with a requirement that such loans be sold in the secondary market.

IV. MISCELLANEOUS

A. Requires SBA to prepare reports on policy options for a number of export related issues affecting small business, such as expedited trade remedies procedures for small business.

B. Expresses the sense of the Congress that small business interests have not been adequately represented in trade negotiations, that the Administrator of SBA should be consulted in any new round of trade talks and that the U.S. Trade Representative should have on his staff a full-time assistant for small business.

C. An independent office of Trade Remedy Assistance will be established in the International Trade Commission under a different title of The Omnibus Trade Bill. The office will be required to provide assistance to small business. The Small Business Title requires the Small Business Administration to facilitate small businesses' access to the office. In addition, a report on the costs incurred by small business in pursuing legitimate claims under the trade laws, and other possible federal assistance in this area is ordered by this title.

COMPETITIVENESS POLICY COUNCIL

(Subconference No. 13)

I. ESTABLISHMENT OF COUNCIL

The Conference Agreement establishes the Competitiveness Policy Council (CPC) comprised of government, business, labor, and academic leaders. The CPC is an independent body subject to the strictures of the Federal Advisory Committee Act (FACA). It will serve as a forum for the discussion and evaluation of U.S. competitiveness policy.

II. MEMBERSHIP

The CPC will have 12 members—4 appointed by the President, 4 appointed by the majority and minority leaders of the Senate, and 4 appointed by the majority and minority leaders of the House of Representatives. Membership will be evenly divided between business, labor, academic, and government leaders, and no more than 6 members will come from the same political party.

III. DUTIES

The CPC's duties are wide ranging. Among other things, it will recommend national strategies for enhancing U.S. productivity and international competitiveness; it will comment on private sector requests for governmental assistance and the recovery plans for recipients of such relief; and it will evaluate the impact of Federal policy on U.S. competitiveness and monitor changes in the U.S. economy for their effect on the same.

IV. SUBCOUNCILS

The CPC also has the power to establish subcouncils of public and private leaders to analyze specific competitiveness issues. These subcouncils will have the same mission as the full council but concentrate their efforts on a particular industry or a policy problem that affects several industries.

V. REPORT

The CPC will submit a report to Congress once a year. The Conference Agreement provides an annual authorization of $5 million for the CPC for 1989 and 1990 only.

OCEAN AND AIR TRANSPORTATION

(Subconference No. 14)

I. SHIPPING PRACTICES

The Foreign Shipping Practices Act of 1988 gives the Federal Maritime Commission (FMC) discretion to initiate investigations on its own motion or upon petition by any person for purpose of determining whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that: (1) adversely affect the operations of United States carriers in United States oceanborne trades; and (2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

The Act requires the FMC to complete an investigation and render a decision within 120 days after it is initiated. The FMC may however extend this period for an additional 90 days.

If the FMC determines that conditions (1) and (2) exist, in order to level the playing field for U.S. carriers it may take a variety of actions against any foreign carrier who is a contributing cause to, or whose government is a contributing cause to such conditions.

Before the FMC takes any action, the FMC must submit it to the President, who may disapprove the proposed action on national defense or foreign policy grounds.

The FMC is required to file an annual status report with the Congress with respect to its experience in implementing the legislation.

Finally, the legislation reestablishes the authority of the Department of Commerce to provide assistance to mobile trade fair projects without requiring a specific or new authorization or appropriation.

II. INTERNATIONAL AIR TRANSPORTATION

A. Current law establishes procedures for United States air carriers to file complaints with the Department of Transportation that a foreign government or instrumentality, including a foreign air carrier, is engaging in discriminatory practices against a United States air carrier or imposing unreasonable restraints on access of a United States air carrier to foreign markets. Current law further provides that if the Secretary of Transportation determines that it is in the public interest to eliminate such practices or restructuring, the Secretary may take remedial actions, including suspending or revoking a foreign air carrier's permit or tariff.

B. The Conference Agreement shortens the deadline from 180 days to 90 days for the Secretary of Transportation to act on complaints, but also establishes conditions by which the deadline can be extended for another 90 days. The Agreement also requires consultation with the Department of Commerce and the United States Trade Representative, in addition to the Department of State, which is all that is required under current law. The Agreement also requires reports to Congressional Committees by the Secretary of Transportation on actions taken on complaints.

PESTICIDE MONTORING

(Subconference No. 15)

I. PESTICIDE MONITORING AND ENFORCEMENT INFORMATION

This provision requires the Secretary of Health and Human Services to establish computerized data management systems to track and evaluate the results of the Food and Drug Administration's program for monitoring domestic and imported food products for pesticide residues. The information summarized under this provision must be compiled annually and made available to Federal and State agencies and other interested persons.

II. FOREIGN PESTICIDE INFORMATION

This provision requires the Secretary of Health and Human Services to enter cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration. The cooperative agreements will specify the means by which such foreign countries will provide to the Secretary of Health and Human Services current information on pesticide use in such countries.

If the Secretary is unable to enter a cooperative agreement with a major food importing Nation, the Secretary is required, to the extent practicable, to obtain information on pesticide use in such country from other Federal or international agencies or private sources. Foreign pesticide use information collected under this provision must be made available to State agencies engaged in the monitoring of imported food for pesticide residues.

III. PESTICIDE ANALYTICAL METHODS

This provision requires the Secretary of Health and Human Services to develop a research plan for the development and validation of new and improved methods for the detection of pesticide residues and mandates the Agency to conduct a review to determine the potential use of rapid pesticide detection methods.

FEDERAL BUDGET DEFICIT

(Subconference No. 16)

The Conference Agreement requires the Office of Management and Budget and the two Congressional Budget Committee to assess annually the impact of the federal budget on the U.S. trade balance and other important economic indicators. OMB and the Committees are to project, for the fiscal year in which the budget is submitted, the amount of Government borrowing in private credit markets, net domestic savings, net private domestic investment, the merchandise trade and current accounts, U.S. foreign indebtedness, and the effect of Government borrowing on interest and exchange rates.

SEMATECH AND COMPETITIVENESS IMPACT STATEMENT

(Subconference No. 17)

I. COMPETITIVENESS IMPACT STATEMENTS

The President or the head of the appropriate department or agency must include in every recommendation or report made to Congress on legislation which may affect U.S. competitiveness in domestic and foreign markets, a statement of the impact of such legislation on international trade and public interest of the U.S. and the ability of U.S. firms engaged in the manufacture, sale, distribution or provision of goods and services to compete in foreign or domestic markets. This requirement would sunset in six years after the date of enactment.

II. STUDY AND REPORT ON SEMATECH

A. The Council on Federal Participation in Sematech (established in P.L. 100-180) is required to conduct a study under the direction of the Undersecretary of Commerce for Economic Affairs, of the progress being made toward achieving the defense and civilian goals of Sematech and to report annually to Congress on these matters in each year in which Federal funds are extended.

B. The reports shall include an identification of potential sources of Federal funds, recommendations concerning methods and terms of such support, and an exploration of the feasibility of recoupment of the federal investment in the event of royalties or fees resulting from the licensing of Sematech technology or as a result of its dissolution and sale of its assets. In addition, the reports shall enumerate the long and short range civilian technology and commercialization goals of Sematech, describe how the major components of the Sematech program are designed to achieve these goals, and report on the annual progress of each of the components.

III. NATIONAL TRADE DATA BANK

A. This provision establishes a National Trade Data Bank to be managed by the Secretary of Commerce in the Department of Commerce and consisting of both an export promotion data system and an international economic data system. The expert promotion data system shall contain information designed to be useful to business; the international economic data system shall contain information useful to policymakers and analysts concerned with international economics.

B. An Interagency Trade Data Advisory Committee is established, comprised of the heads of departments and agencies concerned with trade policy. The Committee would be chaired by the Secretary of Commerce and would advise the Secretary regarding the operation of the Trade Data Bank.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Connecticut, Mr. WEICKER.

S. 1220—AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. WEICKER. I thank my good friend, the distinguished majority leader, the Senator from West Virginia. I might add I am glad he is on the floor because a piece of legislation that came out of the committee of the distinguished Senator from Massachusetts, Senator KENNEDY, on which he has worked very hard, and I have always assisted him in that regard, has yet to make its appearance on the floor. I am referring to S. 1220 which is commonly referred to as the AIDS bill. This is a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

It came to my attention yesterday from a member of my staff that apparently somebody expressed concern that I was in some regard responsible for S. 1220 not getting called up for consideration by the full Senate. I do have one amendment to S. 1220 that relates to providing AIDS education programs to our children in the schools but I want to assure the majority leader and my colleagues that I am perfectly willing to accept a 30-minute time limitation equally divided on my amendment and then a vote. I hope, as a matter of fact, that those who are somewhat separate and apart from this Senator as a matter of general AIDS philosophy would also accommodate the majority leader and minority leader and agree to time limitations on their amendments. To have a matter as overriding in its importance to the health of this Nation as is AIDS languish really does no justice to our task out here.

I want to make it very clear that I hope this legislation will appear soon, that I am willing to abide by very small time limitations on the one amendment I have, or indeed if I have another one time limitations on it, in order that we might do the job we are elected to do on behalf of those who desperately need our care and our assistance. I really think any further delay is a blot on the escutcheon of the United States and I do not think we are deserving of that.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. President, I wish to state to the Senator that I welcome his remarks. They are contributory, as they usually are, to what, in the final analysis, I think, will be a positive result. They reflect the kind of cooperation that is needed in the Senate.

I assure him that it is my hope that the Senate can take up the AIDS bill following, or very soon following—and I would be happy to see immediately following—the action on the three measures which are presently in the multiple track system: First, the lobbying legislation, which will be completed today; second, the Japanese reparations bill, which is in the second track, and I hope that that will be completed today or tomorrow; and third, the constitutional amendment by Mr. HOLLINGS, which would provide for a limitation on campaign expenditures. I do not know how long that will take, but I hope we will be able to dispose of all of these this week and in time, perhaps, to take up the AIDS legislation before we take up the trade conference report which the House will act upon Thursday. I do not want anything to interfere with that legislation because I would like to send that legislation down to the President before the break.

But I assure the distinguished Senator that we are working on the AIDS legislation. I have spoken to the distinguished Republican leader about it on yesterday, I believe indicating that I would hope we could move this. He is very much aware of it and I think very receptive to our doing that.

We have been trying to iron out a time agreement; our floor staffs have been working in this regard. I am told that we could hopefully look to some ironing out of the problems, and I look forward with the distinguished Senator from Connecticut to taking this bill up. I want to take it up. It is important that we take it up, we act on it quickly, and right now following the items that I have mentioned already I think is an excellent time to take up the legislation and dispose of it.

Mr. WEICKER. I thank the distinguished majority leader and the distinguished minority leader.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the time for morning business be extended for 10 minutes under the same restrictions as heretofore.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. I thank the distinguished majority leader and the distinguished minority leader because I do feel this is terribly important. As far as I am concerned, even though people might view AIDS somewhat differently, there is no reason why we should not have up-and-down votes around here, abide by those votes, and at least say we have done our job when it comes to the matter of public health. I am very optimistic, by virtue of the comments of the distinguished majority leader, that certainly at the latest by next week we might be debating the matter, voting on it, and in whatever form it takes move it on.

Mr. BYRD. I thank the distinguished Senator.

THE MIDDLE EAST

Mr. SPECTER. Mr. President, On Wednesday, April 6, 1988, at 4 p.m., defense Minister Yitzhak Rabin's deputy arrived at the King David Hotel in Jerusalem to tell me that Mr. Rabin could not keep his appointment with me because he had just departed for Beita in the West Bank to investigate the killing of 15-year-old Tirazh Porat. That incident following 4 months of uprisings in the refugee camps virtually eclipsed Secretary of State George Shultz's strenuous diplomatic efforts for a peace initiatve in the Middle East.

My recent travels in the region have provided some insights which I believe are worth sharing with my colleagues and others. While it is obvious that the parties are not now ready to accept the U.S. plan, it is equally obvious that the problems are so serious that continuing U.S. leadership is vital. The one point on which there is agreement among Prime Minister Shamir, Foreign Minister Peres, King Hussein, President Mubarak and President Assad is that Secretary Shultz should continue his efforts. Acknowledging the difficulties, the Secretary has stated his intention to continue this work to leave his successor in the next administration in the best possible position to pursue a peace initiative.

In a sense, the Middle East is a giant jigsaw puzzle whose pieces have been scattered over the region for centuries, if not millennia, intensified by the Arab-Israeli struggle for the past 40 years. The tremendous achievements of the Camp David accords plus some current glimmers of hope suggest that some improvements are possible with sufficient U.S. persistence even though the pendency of Israeli elections this year probably precludes any major breakthrough now.

Secretary Shultz has already made some progress in identifying key parts of the puzzle with a beginning outline of how to put the pieces together. The U.S. Senate, as an on-going body, can be of some assistance in providing continuity in promoting the peace process through our various committees which have some jurisdiction like the Foreign Operations Subcommittee of the Appropriations Committee on which I serve. It is in this context that I offer these observations.

First, the disturbances in the West Bank and Gaza Strip have captured the world's attention and impel the parties to deal with the issues now. The spontaneous uprisings are said to have been sparked by the failure of the Arab Conference in Amman, Jordan in November 1987 to deal with Palestinian issues. That conference instead concentrated on the Iran-Iraq war. Some Palestinians complained to me that the United States and the U.S.S.R. ignored the Middle East at the summit in Washington, DC in December 1987, by dealing with no regional issue other than Afghanistan.

Israeli leaders insist that they will not be pressured by the uprisings, with Prime Minister Shamir stating that negotiating under pressure would show weakness and lead to excessive demands. At the same time, Israeli officials agree that the problems of the refugee camps have long been neglected. I was discouraged from visiting refugee camps in the West Bank and Gaza Strip because of the difficulties which others have faced on similar visits. I did, however, visit the Beqaa Refugee Camp just outside Amman in Jordan.

Living conditions in the Beqaa Camp are dreadful—far worse than slums in U.S. cities. Eighty thousand people are huddled in the Beqaa Camp with families allotted only an area approximately 30 feet by 30 feet. I visited a family of 10 living in one room about 12 feet square. Another 30 foot living unit held three families consisting of parents and two brothers with the brothers' children, all in the limited area, a total of 16 people. There was no heat in the winter even though temperatures dipped to zero; they had no electricity; they cooked with a small kerosene heater; there was no sewage system; family incomes were very low, with most provisions being supplied by UNRWA [United Nations Relief Works Agency].

We were told that this camp, 1 of 10 such camps in Jordan, is comparable to the 10 refugee camps on the West Bank and better than the 8 camps in the Gaza Strip.

The problems of the refugee camps have long required attention. There is blame enough to go around the world. Contributions to UNRWA of $200 million, $67 million supplied by the United States, are grossly insufficient. Prime Minister Shamir, although opposed to an international conference generally, told me that he would like to see an international conference on the refugee issue. Palestinian leaders concede that they are reluctant to change the deplorable status quo of the camps if that would defuse the pressure for return of the territories and an independent Palestinian State. The situation in other parts of the West Bank, like the city of Bethlehem, also is very bad. Bethlehem's Mayor Freij noted that 90 percent of the 50,000 inhabitants of his city are unemployed. Because of general strikes and the disturbance attendant to the recent uprisings, many of Bethlehem's restaurants, markets, and shops are closed much of the time and there is general despair.

At best, the reason for these problems in the territories is neglect; at worst, the motive by some is to use the refugees as political pawns to try to compel Israeli withdrawal from the administered territories. This is obviously a very sad commentary. My sense is that the spontaneous uprisings of the past 4 months signal the refugees' unwillingness to be neglected, used and abused any longer. And it is a strong signal that some action has to be taken to improve the quality of life in those camps. While the maintenance of law and order will be difficult and costly, it may serve as a catalyst because the attention of international TV cameras and world politicians has now been captured, and that may lead to very strenuous efforts which could perhaps provide a breakthrough, perhaps ultimately a solution.

The uprisings in the territories is creating some fear in the region that revolutionary Islamic fundamentalism may be fomented around the Arab world—and beyond—if the Palestinian problem is not solved. The U.S.S.R. has a significant Islamic fundamentalist population in Azerbaijan. The impact of Islamic fundamentalism has been seen in Iran. Stable nations like Egypt and Tunisia might well be affected if the uprisings in the administered territories continue.

A favorably development has arisen from the apparent interest of the United States and the Soviet Union to address the Middle East problems. Secretary of State Shultz has demonstrated his interest, his energy, and his determination to move forward on his proposals for a Middle East settlement.

His old skills as a labor negotiator give him a unique perspective in this complicated international chess game. While he talks of his last days in office, he moves with vigor toward three goals: First the INF Treaty; Second, a start treaty; and third, a Middle East settlement, or at least a breakthrough which can be pursued by the next administration. His subtle diplomacy has attracted universal admiration, if not agreement, among some Middle East leaders. His April 6 appearance on Israel TV (a meet-the-press format) drew rave reviews.

Some Palestinian leaders have criticized the United States and Secretary Shultz for not moving ahead in 1985 when King Hussein and Yasser Arafat seemed to come to terms. But Secretary Shultz is now energized, perhaps because he sees his term of office about to expire.

Similarly, the U.S.S.R. seems eager to use the waning days of the Reagan administration as its own window of opportunity. The responses and warm-up time of a new administration are problematical, so the Soviets are on their own fast track. With INF now before the Senate, the U.S.S.R.'s principal focus is on START. The INF Treaty ratification process already has identified major verification problems with START. Sensing that and being very interested in using President Reagan's High credibility with the American people on arms treaties, Soviet leaders may be more flexible in agreeing to Secretary Shultz' ideas on the structure and role of an international conference on the Middle East.

General Secretary Gorbachev is sending clear signals to Arab leaders that he favors a negotiated resolution of the problems in that region. Previously, he told Syrian President Assad that it is "abnormal" for Syria not to have diplomatic relations with Israel. This week, he told Yasser Arafat that he should recognize Israel's right to exist within secure borders, as an important step in achieving peace in the Middle East. "The Palestinians are a people with a difficult fate," General Secretary Gorbachev reportedly told Arafat during a meeting in Moscow Sunday, April 10. "But they receive broad international support, and this is the guarantee for resolving the main question for the Palestinians—self determination." He continued to say, "in the same way, recognition of the State of Israel, consideration of its security interests, the solution of this question is a necessary element for the establishment of peace and good neighborliness in the region based on principles of international law."

General Secretary Gorbachev's remarks represent a further evolution in the Soviet Union's position on the Middle East, showing greater flexibility toward Israel and a desire to steer the Palestinian leadership away from armed struggle and toward a negotiated settlement.

Secretary Shultz seems to be making his negotiating moves regarding an international conference slowly but adroitly. Egypt's President Mubarak favors an international conference, but would probably agree to bilateral talks if other Arab leaders found that acceptable. Jordan's King Hussein has pressed hard for the legitimizing umbrella of an international conference. He is agreeable, however, to a conference which would make recommendations but not dictate or veto a settlement. The United States wants an international conference only to receive reports; after convening, the conference would break down into bilateral talks.

Syria and the PLO, poised in the wings but not on stage, want an international conference to do much more. If Secretary Shultz can persuade the Soviet Union to limit the scope of the international conference to the U.S. position, the Arab nations would probably follow the Soviet lead in accepting such limitations. That would then put the issue squarely up to Israel. It will very probably require a decision by Israel's electorate because of the deadlock between the Likud and Labor parties.

Third, Israel's opposition to an international conference may turn more on domestic than international political considerations. Some say that Prime Minister Shamir's principal opposition to the international conference arises from the fact that it is supported by his rival, Foreign Minister Shimon Peres. But Mr. Shamir and the Likud Party have opposed an international conference in the past and there are substantive reasons for that position: (A) an interest in keeping the U.S.S.R. out of the Middle East; and (B) the potential for adverse world reaction if Israel refuses to go along with a solution acceptable to all others at such a conference.

If Secretary Shultz is successful in limiting the scope of the international conference, then the potential for Soviet influence is similarly curtailed. If Secretary Shultz obtains the agreement of the Soviets and Arabs to a very limited international conference, then Israel might look worse in rejecting the conference than it would in going to the conference but rejecting the conference's recommendations.

The Israelis have demonstrated their ability to resist pressure. With U.S. assurances and support, it is doubtful that Israel will be embarrassed in an international conference. As November grows closer, it is doubtful that Israel's elections will be advanced from their current November schedule. As more time passes, it also is doubtful that Israel's opposition to an international conference will change prior to the Israeli elections.

Fourth, Syria may be ready to acquiesce in, or at least not obstruct, a Middle East settlement. While no firm conclusions are possible because of our difficult experiences with Syria for many years, there are some recent signs that Syria's other problems may have affected its current position with respect to Israel. Secretary Shultz has had extensive discussions with President Assad, who has at least encouraged the United States to keep trying.

Contrasted with a very cool reception which I received in 1984, I had cordial talks with President Assad and Foreign Minister Al-Shara' earlier this year. It is well known that Syria has serious economic problems, and that the U.S.S.R. has turned down Syria's military requests and encouraged President Assad to cooperate with King Hussein.

United States discussions with Syria should be pursued. With some direction or even pressure from the U.S.S.R., Syria might become involved in the negotiations. A relaxation of military tensions between Syria and Israel would be very significant. While Israeli leaders are pessimistic about reaching agreement with Syria on the peace process, they acknowledge that Syria keeps its commitments once made.

Fifth, the Palestinian representation at an international conference, as part of a Jordanian-Palestinian delegation, probably will pose no real problem once the other issues are resolved. The PLO continues to be an anathema to the United States as well as to Israel. In addition to U.S. insistence that the PLO should not be a party to any negotiations, we should forcefully spread the word that the reason the United States opposes PLO participation is that organization's established record of violence and terrorism.

Many European as well as Arab leaders approve of the PLO and Yassar Arafat. The United States simply has not done an adequate job of specifying the evidence of the PLO's and Arafat's direct involvement in such terrorist incidents as the murder of our Ambassador and Deputy Chief of Mission in the Sudan in 1973, hijackings of United States planes, and the terrorist murder of Leon Klinghoffer in connection with the *Achille Lauro* incident. When confronted with these specifics, I have found that PLO apologists usually do not want to pursue the subject. In a meeting with Palestinians in east Jerusalem this past week, for example, I was asked why I had not met with Arafat. When I responded that I rejected his personal involvement in terrorism and cited the specific evidence, the issue was dropped.

There are Palestinians who, unlike Arafat, already have been found acceptable by all the parties. We should not delude ourselves into thinking, of course, that the PLO will be far off stage; while we may not wish it, the PLO certainly will be consulting closely with any Jordanian-Palestinian delegation.

In my discussions with Palestinian leaders, I was once again struck by the extent of their differences with the Jordanians and their insistence on a separate Palestinian State. They acknowledge that there will not be a separate Palestinian delegation; and while they may understand that the chances of a separate Palestinian State are virtually nonexistent, they do not acknowledge that. They voice strong objections to the way King Hussein rules Jordan, pointing out the absence of democratic institutions and freedom of the press. They articulate their own nationalistic aspirations to have a separate Democratic State, living side by side with Israel. They have seen Israel's democratic institutions and like them, especially in comparison to Jordan.

Mayor Freij of Bethlehem spoke of the tradition of elections in Palestine going back to 1922 under the British mandate. Local elections were held in 1972 and 1976 on the West Bank, with women being allowed to vote for the first time in 1976. Elections were thereafter discontinued.

Notwithstanding Palestinian interest in a separate State, it seems a foregone conclusion none will result, because other parties are opposed. They fear PLO control and the other problems implicit in any arrangement beyond local autonomy or possible confederation with Jordan.

Sixth, the prospects for settlement of the substantive issues appear even more difficult than the troublesome procedural questions. The emotional level is very high. That may be why one Israeli leader explained that his country never asks America to send help on military matters—only diplomatic problems.

Even with preparation and care, it is impossible to avoid terminology pitfalls. When using the term West Bank, I was admonished by an Israeli—albeit not an official—to use the "proper" terms Judea and Samaria. When talking to a Palestinian, I was cautioned not to refer to Israel alone, but to "Israel/Palestine."

Listening to the Jordanian Prime Minister and the Israeli Prime Minister—separately, of course—on the issue of returning to the pre-1967 borders, I had doubts that negotiations would produce anything other than another war—this time a war of words. But President Assad now accepts U.N. Resolution 242 and Prime Minister Shamir now praises the Camp David accords, which is an enormous change of position for both men, so perhaps anything is possible and should be tried.

I have grave reservations about moving away from the Camp David accords because that document represents the most significant agreement between Israel and an Arab State, and it establishes a framework for future negotiations and action. When I voiced my objections to President Mubarak on his statement that the Camp David accords was "a thing of the past," he replied that Egypt stood by peace with Israel, but that new approaches and new parties had to be found.

Listening closely to Prime Minister Shamir, I see some flexibility on the "land for peace" issue when he says: First, the ultimate disposition of the territories is subject to negotiation after the parties have lived together under local autonomy for a period in which attitudes may change; second, there may be ways which have not been thought of yet to work out problems; and third, there may be new leaders with new ideas who will handle the later negotiations.

Israel certainly has much to gain through negotiations which would provide guarantees for peace. The risk to Israel's security is evident after listening to Minister of Industry and Commerce Ariel Sharon identify the number of tanks of various Arab countries plus the Saudi, Syrian and Iraqi missiles and other Arab weapons. Jordan, Egypt and even Syria have much to gain from a settlement. Perhaps the threat of Islamic fundamentalism, which would be fanned by further Palestinian uprisings, is the major inducement to other Arab countries and even the Soviet Union to find a solution now.

While the results of Secretary Shultz's recent efforts and my own personal impressions produce little tangible reason for optimism, I did sense a real interest in finding a solution in my talks with leaders in Israel, Egypt, Jordan, and Syria.

These leaders appear to welcome the interest of the Congress, so I urge my colleagues in the House and Senate to include talks with as many parties as possible on their trips to the Middle East. Since the U.S. Secretary of State cannot devote full time to Middle East problems, there is much to recommend former President Richard Nixon's suggestion that an Ambassador Plenipotentiary, like former Secretary of State Henry Kissinger, should be appointed to concentrate on this critical issue.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business closed?

The ACTING PRESIDENT pro tempore. Morning business is closed.

INTEGRITY IN POSTEMPLOYMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 237 which the clerk will report.

The legislative clerk read as follows:

A bill, (S. 237), to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Thurmond modified amendment No. 1946, in the nature of a substitute.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I am constrained to hope that on the basis of information that I have that the Senate will be able to dispose of this bill in fairly short order after the party conferences today. I believe that a tentative agreement has been reached between the principal parties, and I would then expect that the Senate would go on to the reparations bill this afternoon. I hope progress can be made on that bill this afternoon.

Between this hour and the hour of 12:45 when the Senate will recess for the party conferences, if Senators have any statements they wish to make on the lobbying bill or if there are amendments around that I am not aware of, I hope Senators will come to the floor and discuss them. In the meantime, if there are no such amendments and if Senators do not wish to discuss the lobbying bill between now and the party luncheons, it may be that Senators will want to discuss the constitutional amendment.

I therefore, ask unanimous consent that it be in order, notwithstanding the Pastore rule, for any Senator, if he or she wishes to discuss the constitutional amendment, or any other matter for that fact, may do so as well of course, which is all inclusive, which includes the lobbying bill, and that they may do so between now and the hour of 12:45 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate today stand in recess at the hour of 12:45 p.m. until the hour of 2 p.m. to accommodate the two regular party conferences.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1220, ACQUIRED IMMUNODEFICIENCY SYNDROME RESEARCH AND INFORMATION ACT

Mr. BYRD. Mr. President, earlier, I outlined the three measures that are in the multiple track system at the moment, they being lobbying, Japanese reparations, and the constitutional amendment on limitation on campaign expenditures.

I ask unanimous consent that the majority leader, following consultation with the minority leader, may, upon disposition of these matters, proceed to the consideration of Calendar Order No. 271, S. 1220.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I have listened to the distinguished majority leader, and during the policy luncheon I will bring up the lobbying bill, AIDS, campaign financing, and the constitutional amendment, to see if there is an inclination to vote up or down on that. I assume there could be a vote just on that measure. I understand that there have been amendments offered, and we can work that out.

So that we will expedite the business of the Senate wherever possible.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader. I thank him for the fine cooperation that I have been getting from the other side of the aisle, from him, and, earlier, from the assistant Republican leader.

I hope that we can complete action on these measures, do the trade bill, and catastrophic illness. I would like also to see legislation on welfare reform, minimum wage, the several appropriations bills dealt with separately, the U.S.-Canadian Trade Agreement; and, barring any unforeseen economic problems or other problems, and barring any Gramm-Rudman sequester problems, which hopefully will not occur, I would like to see the Senate and House adjourn not in October but in September. Barring such unfortunate and unforeseen eventualities, we can do this. I hope we will.

The kind of fine cooperation that is being displayed here between the two parties in this body will contribute to that end.

This is not to say that the party on the other side of the aisle will welcome, perhaps, one or two of these matters. But the fact that we have this good working relationship between the leadership on the other side of the aisle and on this side of the aisle augurs well, I think, and certainly is a foundation for hope that we can dispose of our business, take care of the two conventions, get out to campaign, and visit with the people in our respective States, which is an important part of our total service.

I thank the Republican leader.

COOPERATION BETWEEN THE PRESIDENT AND CONGRESS

Mr. DOLE. Mr. President, the Republican leadership met with the President this morning, and I indicated to the President that I felt that the bipartisan leadership was grateful for the consultation we had on Sunday evening with reference to the action followed in the Persian Gulf.

Having attended a number of "consultations," I have found over the years that they primarily have been notifications, not consultations; but I think that in this instance, to the credit of the administration, there was consultation. We did have an opportunity not only to ask questions but also to express reservations, knowing all the time, of course, that the President would be the final arbiter and would have to make the final decision.

So I hope that this is an indication of even greater consultation in the weeks and months ahead, that it may set a precedent not only for this administration but also for future administrations.

I have said many, many times that if the President of the United States, regardless of his party, cannot trust the leadership in Congress—two Democrats, or three Democrats in this instance, and two Republicans—we are in fairly sad shape in this country, if we cannot sit down with the leadership.

I hope this is an indication that we will have more and more consultation. I believe that any President, in either party, will benefit from consultation. I have learned over the years that occasionally there is some wisdom in Congress. It is not all vested in the White House or those who advise the President.

So I certainly commend the President and the administration.

I believe that the response which followed our meeting was a measured response, and I hope the Ayatollah—as I indicated yesterday—has gotten the message, that we may now have a little calm in that area of the world, and that we can ensure safe passage in the gulf without the necessity for further armed conflict.

Primarily, I want to indicate that I think the President is on the right track when he consults with the leadership on anything, when it is very sensitive and affects the national interest or the economic interests of this country. We need to develop a strong bipartisan approach to foreign policy, and this is one way to initiate it, one way to start it, one way to keep it going.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, from time to time I have been talking about the past in the Senate just to remind my colleagues and others who may read the RECORD of events which occurred a long time ago.

BICENTENNIAL MINUTE

APRIL 17, 1850: BENTON-FOOTE CONFRONTATION

Mr. DOLE. Mr. President, 138 years ago this week, on April 17, 1850, a most dramatic confrontation took place on the floor of the Old Senate Chamber between Thomas Hart Benton of Missouri and Henry Foote of Mississippi. Both men were known for their violent tempers. Foote especially had a penchant for personal feuds. He took part in four duels, being wounded in three. During the previous session of the Senate, Foote scuffled with Simon Cameron of Pennsylvania, and promised John Hale of New Hampshire that he would "hang him from the highest tree if he ventured to set foot in Mississippi."

Throughout March 1850, debate raged in the Chamber over Henry Clay's proposed compromise, and its implications on the question of slavery. During the debates, Foote went out of his way to aggravate the aging Benton. On March 26, Foote directly challenged Benton, and inquired as to whether Benton wished to "patch up his reputation for courage, now greatly on the wane."

The feud between the two Senators reached a climax on April 17 when Benton attacked the doctrines of the late Senator John C. Calhoun, dead less than 3 weeks. Foote, a protege of Calhoun's, leapt to his feet and charged that the "late, illustrious Senator from South Carolina" was being denounced by "a gentleman who * * *" Foote failed to finish as Benton advanced menacingly down the aisle toward him. Foote began to retreat and drew a pistol from his coat. Benton, who was being restrained by Henry Dodge of Wisconsin, pulled himself free and shouted, "I have no pistols. Let him fire. Stand out of the way. Let the assassin fire." Pandemonium broke loose in the Chamber. Daniel Dickinson of New York took possession of the pistol; and Benton and Foote, still seething, were returned to their seats.

A special Senate committee later absolved Foote of "premeditated use of his weapons," but criticized the introduction of personal feuds into the Senate Chamber.

I do not know of any since I have been around. So maybe that committee has had some impact.

BYRD EDITORIALS

Mr. DOLE. Mr. President, last week, following the announcement that Senate Majority Leader BYRD will not seek reelection to his leadership post, a number of fine editorials appeared in the national press.

The New York Times, for instance, wrote:

> Robert Byrd has given long, honorable service, and promises more.

And the Washington Post said:

> The Democratic Senators will choose a successor in November, after the elections. The three current candidates, Daniel Inouye, Bennett Johnston, and George Mitchell, each would alter the prevailing tone and agenda in a different way. But whoever is chosen will mirror at least as much as lead that balky institution, which is also what Robert Byrd has done.

The Philadelphia Inquirer meanwhile wrote:

> Mr. Byrd's notion of finishing out his public career by concentrating on helping his hard-pressed State fits neatly with his personal story. * * * Through hard work rather than insider connections, he worked his way up through both chambers of the

State legislature, to the U.S. House, then the Senate, then the Senate leadership.

Mr. President, I ask unanimous consent that these editorials be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. As I noted last week, Senator Byrd has had a long and illustrious career in public service, which, the people of West Virginia are likely to prolong for years. And whatever his title, or role here in the Senate, Senator Byrd will always be an integral part of the institution and always play a very important role.

EXHIBIT 1

SENATOR BYRD MOVES ON

The smallest of electorates chooses the Senate majority leader, but the colleague they elevate acquires extraordinary national standing. Consider, for example, the careers of Lyndon Johnson, Mike Mansfield and Robert Dole. Consider also the incumbent, Robert Byrd, who has announced that he'll retire as leader at the close of this session.

In nearly 12 years as the Senate's No. 1 Democrat, six of them as minority leader and the rest as majority leader, Senator Byrd has not cut as large a figure as those predecessors. But for dogged determination and mastery of Senate procedure, he has stood unchallenged.

A Southern conservative-turned-moderate in 36 years in the House and Senate, Mr. Byrd's mix of courtliness and down-home folksiness has seemed outdated. Yet colleagues respect his shrewdness, his willingness to let others advance themselves and their causes, and his ability to pull fractious Democrats together.

Critics find him uninspiring. One likened him to a "conductor on a train." Always the champion of coal interests and other causes dear to his home state of West Virginia, he has only occasionally led on major issues, this year notably and persistently to reform Congressional campaign financing. In this, and in his valiant efforts to temper President Reagan's adventures in economic policy and foreign affairs, he has simply been outgunned.

Mr. Byrd's personal rise from bleak youth has been heroic. Raised by an aunt and uncle in West Virginia's coal fields, he was a self-taught butcher, a welder and a grocer, took college courses at night and taught an adult Bible class. Radio spread his eloquent Baptist oratory, which then led to state politics and, in 1952, to the House. At age 45, by then a Senator, he took a law degree.

Up for a sixth term this November Mr. Byrd, now 70, is virtually assured of re-election, which will make him the senior Senate Democrat and President pro tem if the party retains control. He plans also to claim the powerful chairmanship of the Appropriations Committee. Robert Byrd has given long, honorable service, and promises more.

[From the Washington Post, Apr. 14, 1988]

SENATOR BYRD STEPS ASIDE

Robert Byrd has announced he will step aside as Senate Democratic leader at the end of this Congress. Assuming he wins a sixth Senate term and the Democrats keep their majority, he will seek the chairmanship of the Appropriations Committee instead.

It's the right thing to do, and a good time to do it. Mr. Byrd, now 70, has always been much more a Senate insider (though never a fully comfortable member of the club) and attentive stationmaster than a smooth front man for his party and articulator of its views. Appropriations, where he would succeed John Stennis, who is retiring, is the ultimate inside baseball diamond. It was on Appropriations that he first came to national prominence in the early 1960s, as the scourge of the local welfare rolls, in a job—chairman of the subcommittee on the District of Columbia—that, typically, no one else wanted and he made significant mainly by mastery of the details. In a sense Mr. Byrd is returning home.

The senator's shortcomings are well known; they and he have become a caricature in the 12 years of his leadership. He is stiff and elaborate and funny only in ways he doesn't intend, has not been a strong philosophical leader and, though a master of the rules, has not left his mark on much legislation. For some, he has been a symbol of the lost purpose of the party, and has shared the blame for its failures. That goes too far.

The senator succeeded Mike Mansfield as majority leader in 1977, at the start of the Carter administration. Those were not glorious years for the Democrats, but Sen. Byrd is not a leading reason why. In the Reagan years that followed, the Democrats have mainly been on the defensive; for six of them, they were in the minority in the Senate. Mr. Byrd can't quite be held responsible for that, either. If no one has ever accused him of being an inspirational figure, which Democrat has been in these years? The Senate Democrats were free to choose another, and didn't. In a fundamental sense that some of them find hard to acknowledge, Mr. Byrd fit and suited them quite well.

An irony of his tenure is that it has been a period of continuing decline in the stature of the Senate, whose ornate traditions and reputation are so important to him. He has recognized and on occasion bewailed this but been helpless to arrest it. It was one ot his motives in pressing for campaign finance reform. He lost to a Republican filibuster—another hallmark of his years is that he has never had the big battalions—but it was a courageous effort for which he deserves to be well remembered.

The Democratic senators will choose a successor in November, after the elections. The three current candidates, Daniel Inouye, Bennett Johnston and George Mitchell, each would alter the prevailing tone and agenda in a different way. But whoever is chosen will mirror at least as much as lead that balky institution which is also what Robert Byrd has done.

[From the Philadelphia Inquirer, Apr. 14, 1988]

TURNING AWAY FROM TV, BYRD TENDS TO HIS ROOTS

Democrats in the U.S. Senate never tired of muttering about the man who has been their leader this past decade. They called him egotistical and myopic, but their greatest woe was that Robert C. Byrd didn't come across too well on television. Although this seemingly trivial standard would have ruled out such extraordinary Senate leaders as Lyndon B. Johnson, it is no small concern in the tube-dominated politics of the '80s. Even for casual viewers, it was often painful to watch Mr. Byrd take his turn before the cameras after the Great Communicator had delivered another rousing State of the Union address.

In announcing Tuesday that he is giving up the post next year, Mr. Byrd, 70, has thus freed party colleagues to choose a new leader from among three well-respected men, all younger and more telegenic. Some observers have questioned his magnanimity by speculating that a challenger would have toppled him anyway. But they forget that Mr. Byrd crushed two earlier bids to oust him and in fact has never lost an election either in the Senate or in his home state of West Virginia.

Mr. Byrd argues credibly that the position he can have by stepping down—chairman of the Appropriations Committee (if the Democrats stay in control)—will let him do more for his constituents. After all, that's where the money is. With the retirement of the committee's current chairman, John C. Stennis, it looks as if Mississippi will be faring a little less well and West Virginia a little better in terms of federally funded projects. Lest anyone become too outraged, bear in mind that Mississippi is the nation's poorest state and West Virginia the runner-up.

Mr. Byrd's notion of finishing out his public career by concentrating on helping his hard-pressed state fits neatly with his personal story. Unlike most senators, he knows about poverty from having pulled himself up from it. After high school, he worked odd jobs for 12 years before he could afford to go to college. Through hard work rather than insider connections, he worked his way up through both chambers of the state legislature, to the U.S. House, then the Senate, then the Senate leadership.

As Sen. Byrd sets his sights on a new role, one that will leave him less in the public eye, it is easy to see only a dour workaholic with a pompadour. Behind that image are personal endurance and legislative expertise that few colleagues will ever match.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kerry). Is there objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:09 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Dodd].

INTEGRITY IN POST EMPLOYMENT ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. In my capacity as a Senator from Connecticut, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 1949, AS AMENDED

Mr. RUDMAN. Mr. President, I send to the desk a modification to amendment No. 1949.

There was a typographical error in one of the amendments the Senate adopted on Friday. Therefore, I ask unanimous consent that amendment No. 1949 be modified by inserting 2 in lieu of 18, and that amendment No. 1946, as amended, be modified accordingly.

I believe the request has been cleared by all parties.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

AMENDMENT NO. 1961 TO AMENDMENT 1946, AS AMENDED AND MODIFIED

(Purpose: To improve the bill)

Mr. THURMOND. Mr. President, on behalf of myself, Mr. Rudman, Mr. Metzenbaum, Mr. Levin, and Mr. Specter, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. Thurmond], for himself and others, proposes an amendment numbered 1961.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is a follows:

On page 4, strike all beginning with line 18 through line 22 on page 5 and insert the following:

"(2) having been employed as a top level official in the executive branch, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive branch of the United States, including any independent agency of the United States, or any officer or employee thereof, or any Member of Congress; or

"(3) having served as a Member of Congress, within 1 year after such service has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the legislative branch of the United States, or any member, officer, or employee thereof, or any top level official of the executive branch; or

On page 5, lines 23 and 24, strike ", high level,".

On page 7, line 2, strike "high level or".

On page 7, line 10, after "who" insert ", at any time during the 12-month period preceding the date of termination of employment of the officer or employee,".

On page 7, strike lines 16 and 17 and insert "under section 5314 of title 5 or sections 105(a)(2) (B), (C), and (D) and 106(a)(1) (B), (C), and (D) of title 3; or".

On page 7, line 21, after the semicolon insert "and".

On page 7, beginning with line 22, strike all through line 4 on page 8.

On page 8, line 5, strike "(C)" and insert "(B)".

On page 8, line 8, after "who" insert ", at any time during the 12-month period preceding the date of termination of employment of the officer or employee,".

On page 11, line 24, strike upon proof by a preponderance of the evidence".

On page 11, line 25, after "and" insert, ", upon proof of such conduct by a preponderance of the evidence,".

On page 13, line 2, strike "or will engage".

On page 14, line 23, strike the quotation marks and the second period.

On page 14, between lines 23 and 24, insert the following:

"(4) For purposes of subsection (c), the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States including Members of Congress."

Mr. THURMOND. Mr. President, this amendment modifies the Thurmond-Metzenbaum-Levin proposal by incorporating certain changes suggested by the distinguished Senator from New Hampshire [Mr. Rudman]. Although I prefer the substitute proposal currently pending be adopted as is, I am willing to accept this amendment out of a spirit of compromise.

Senator Rudman has given a lot of attention to this matter, and it is my desire to cooperate with him in any way I reasonably can. I believe adoption of this amendment will lead to a strong vote in favor of this vital legislation, and that is important, too. An overwhelming vote in favor of this bill will send a strong message to the House of Representatives that the Senate strongly believes reform of current ethics laws is necessary.

Briefly, I would like to explain how this amendment alters the pending substitute. The current substitute provides for a Government-wide ban on lobbying which applies to top executive branch officials, top White House employees, and Members of Congress. This amendment still provides for a Government-wide proscription. However, the Government-wide ban which restricts Members of Congress would prohibit contacts with the legislative branch and the top executive level officials as opposed to all executive branch employees. Regarding high-level executive branch officials, they would not be allowed to lobby anywhere in the executive branch nor would they be allowed to lobby Members of Congress. Although I favor the original substitute, I believe these changes are acceptable. They do not substantially weaken the bill, and I feel we can get unanimous support for them. I commend my good friend, Senator Rudman, for working with us to reach this compromise.

As to the rest of the Thurmond-Metzenbaum-Levin substitute, it remains the same with only some technical and clarifying changes.

Mr. President, I ask my colleagues to vote in favor of this amendment.

Mr. LEVIN. Mr. President, the amendment offered by Senator Rudman to the substitute to S. 237 introduced on Friday by Senators Thurmond, Metzenbaum, Specter and myself is one that I and my colleagues who offered the substitute have agreed to support. It addresses a concern Senator Rudman had about the breadth of the substitute without sacrificing its strengthening elements. The collaboration that has occurred amongst the offices of the proponents of S. 237 and Senator Rudman has resulted in a solid piece of legislation with which we—the sponsors and Senator Rudman—can all agree. I am pleased to have been a part of this process.

The substitute would have barred Members of Congress and top level officials in the executive branch—that is Cabinet Secretaries, Deputy Secretaries and those highest paid officials serving in the Executive Office of the President—for 1 year from lobbying any office in the Federal Government. It would have barred Assistant Secretary and commissioners of independent agencies from lobbying the executive branch for 1 year. And, it would have barred executive and legislative branch employees paid at the rate of GS-16 and above from lobbying their own agencies for 1 year. The Rudman amendment modifies that by reducing the scope of the ban for top level officials. Under the Rudman amendment, top level officials in the executive branch would be barred for 1 year from lobbying any office or person in the executive branch as well as Members of Congress. They could lobby other legislative offices and congressional staff. Members of Congress would be barred for 1 year from lobbying any office or person in the legislative branch as well as any top official in the executive branch. Members of Congress could, therefore, lobby any office or person in the executive branch other than top officials. Assistant Secretaries and commissioners of independent agencies would be placed in the category of senior official and would, therefore, be barred for 1 year from lobbying only their former agencies and not the entire executive branch.

What we are all trying to do, here, with this bill and our various substitutes and amendments is to establish clear lines of criminal and noncriminal behavior in the area of post employment lobbying; to be as expansive as we must to avoid appearances of favoritism or using public office for private gain; to be as fair as possible in permitting former Government employees to use their talents and experience for their own benefit and that of society's. Our goals have been similar; our views as to the best and appropriate paths to reach those goals have been diverse. With the acceptance of the Rudman amendment, we have reached a common ground on a key issue.

In addition to addressing the question of scope of 207(c), the Rudman amendment includes a definition of the term "intent to influence". The definition is included in order to help clarify the activity that is being barred, because of the additional coverage of the legislative branch. For purposes of the executive branch, the amendment is not intended to modify or amend the current law.

Judge Flannery in the trial of Lyn Nofziger interpreted this provision of current law according to the plain and ordinary meaning of its words which, in his opinion, do not require a "specific intent" to violate the law, but only a "general intent", that is, that the defendant was conscious of his or her actions. (Memorandum Opinion at 19-26, filed November 10, 1987, in U.S. versus Nofziger, et al.) This is a correct and reasonable interpretation of the term "intent to influence" as used in section 207 of current law and neither our substitute nor the Rudman amendment seeks to change that interpretation.

In addition, the requirement of proof of an intent to influence should not be construed to create an exemption for communications that ostensibly involve only innocuous contacts with an agency, such as a request for information on the status of a matter before an agency. So-called status calls or other contacts which appear unobjectionable on the surface, in fact may be disguised attempts to influence the agency or may have the forseeable effect of influencing the agency. The prohibitions of subsections (a), (b), and (c) are intended to apply to all government communications by a covered former official, including "status calls" which are made with the intent to influence or which forseeably will have the effect of influencing the Government entity or employee.

The amendment defines intent to influence as meaning "the intent to affect any official action by a government entity of the United States through any officer or employee of the United States including Members of Congress." Because there is no clear guidance as to when a Member of Congress is acting in his or her official capacity or not, we have inserted the definition of intent to influence to show that the influence must be directed at a government or official action as opposed to an unrelated personal action. For example, while a contact to a Senator to march in a parade or to speak at a commencement exercise would be one made with the intent to influence his or her conduct, it would not be one made to affect a government action, although the Senator is a government employee and one can argue that anything a Senator does as a Senator is an official action. Such a contact is not the type of contact intended to be covered by 207(c).

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from South Carolina stated the facts correctly. This amendment does represent a slight modification as far as the applicability of the original bill is concerned. But the overall thrust is the same, and that is that we want to keep people who have been Members of the Congress or at high-level positions in Government from coming back and using their connections in order to enhance their own pocketbooks.

I think the amendment is a good one, and I support it totally. As has already been indicated, I am a cosponsor of it. But having said that, let me just say a public word of thanks because the amendment did not just develop out of thin air. It represents a considerable amount of work that was done by the staffs of Senator THURMOND, myself, Senator LEVIN, and certainly Senator RUDMAN, and without that wholehearted effort and the cooperation of the staff, we probably could not have achieved this result today. So I thank each of them for their efforts and also thank Senator RUDMAN, who has been willing to give so much of himself to try to improve this bill.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first, I thank my friends from Ohio, South Carolina, and Michigan for their gracious comments. We have all had the same purpose in mind. When I took the floor on Friday, my concerns as expressed at that time were that if we were to pass a bill, the bill would have to pass some severe legal tests.

As we have seen, every ethics bill that the Congress has passed, including the independent counsel law, has had those tests and thus I felt it important. From my own particular background, having been attorney general of my State and having been involved in a number of prosecutions, I tend to look at these things in a more sensitive way than others might, having been on the receiving end against prosecution because of legislative history and draftsmanship that did not meet constitutional muster.

Thus, I intend to speak for about 10 or 15 minutes at this point, Mr. President, for the record; I believe it is essential that we have some legislative history because I have no doubt whatsoever that at some point several years down the line this legislation will be involved in litigation before a circuit or the U.S. Supreme Court. I think it is important, since there is a fairly brief legislative history of this bill, I now address this change that has been agreed to by my colleagues from South Carolina, Michigan, and Ohio.

Mr. President, this amendment represents a compromise which has been worked out after difficult and lengthy negotiations. As with any such compromise, none of the Senators who participated in the negotiations are completely satisfied. For my part, although I am inclined to believe it meets the constitutional objections I cited last Friday to the underlying bill, I still believe it is an extremely close question. In addition, while I believe that the amendment is fair in its treatment of the highest officials of the Federal Government—Members of Congress and Executive Level 1's and 2's in the executive branch—I continue to hold policy concerns about the treatment of lower level officials ranging in rank from EL-4 to GS-16 as well as members of congressional staffs.

For the highest officials, this amendment would impose a 1-year ban on postemployment contact with all comparably ranked officials throughout Government and all other employees of their branch. Thus, Members of Congress would be precluded from any lobbying within the legislative branch and from lobbying those within the top two ranks of the executive branch. The logic for this limited cross-branch prohibition is that we are addressing instances where there are well-established personal relationships which could lead to undue access. I believe this provision is totally fair.

In the executive branch, the prohibition is the same but reversed. Those with the rank of EL-1 and EL-2, Cabinet Secretaries and Under Secretaries, would be barred, while representing a third party, from any contact within the entire executive branch as well as directly with Members of Congress, but they would not be precluded from contact with officers or employees of the legislative branch. I believe the thrust of the executive branch version is generally fair. Unfortunately, it includes independent agencies as part of the executive branch. I believe that inclusion is a mistake and I have only agreed to it as part of the overall compromise. I have serious questions whether or not that inclusion is proper and justified.

For all other officials ranging in rank from EL-3 to GS-16, the military equivalent, and other individuals paid at rate higher than GS-16 or about $64,000, the postemployment contact prohibition is agency wide, as in current law. Congressional staff would be covered by this provision, which they are not under current law. This is a generally good provision, although I have some related reservations which I shall discuss in a minute.

Finally, the compromise clarifies that the prohibited contact has to attempt to influence the outcome of an official act of department, agency, House of Congress, or congressional committee, and so on. This will ensure that purely informational contacts or contacts in connection with a non-Government act, such as an invitation to give a speech, are not included. I believe this addition to section 207(c) is necessary and critical.

I want to point out at this point parenthetically that one of the problems I had with the basic bill was that this is a criminal statute. It is a felony. And if there is anything the courts will look to, it is what was the intent. The intent was vague. You cannot prosecute on a vague intent within a criminal statute. I believe the definition we have placed here is sufficient.

Although I support this compromise, I hold serious reservations about the proposed elimination of the Office of Government Ethics' authority to compartmentalize executive agencies and, tied to that, the manner in which congressional staff is being treated. For those who have not followed the issue as closely, the authority to compartmentalize refers to the authority to divide Cabinet departments into separate agencies for purposes of contact prohibition.

The problem is that many agencies of the Government consist of separate components which rarely interact except at the highest levels. Many of these agencies are quite large and geographically spread out—the Defense Department employs 2.5 million people, the Veterans' Administration 221,000, Treasury 150,000, and Health and Human Services 115,000. Eliminating compartmentalization creates a situation where many senior career employees and lower level political appointees, people between EL-4 and GS-16, will be prohibited from engaging in contact where there is no possibility of improper influence and undue access.

I have agreed to this because it was quite obvious that the sponsors did not want to compromise that issue, but I think that raises some problems, if not legal, in terms of fair treatment for people who work in agencies of that size.

United States and many assistant U.S. attorneys will be prohibited from taking judicial disputes for a year after leaving Government where the Justice Department is handling the litigation, even if it is in a different part of the country and where there is no contact with the core of the Justice Department. Scientists employed anywhere in the Department of Health and Human Services will, if they enter the private sector, be prohibited from applying for a biomedical research grant funded by NIH, even though NIH has a strict peer review process. Specialists in guidance systems or munitions who left the Navy and went to work in the private sector would be prohibited from discussing technical matters with the Army, the Air Force, or the Defense Logistics Agency.

The impact of this change will be threefold. First, it will almost certainly lead to a constitutional challenge that S. 237 is overly broad. Having reviewed the case law, it is my opinion that an overbreadth challenge might succeed, and that in any event it is a close quest*** BAD MAG TAPE ***ion which could endanger the entire heart of this bill.

Nonetheless, by the major changes we have made I believe it stands an excellent chance of surviving constitutional challenge.

The constitutional argument in support of this legislation even as it will be modified, largehy rests on the presumption that we are regulating commercial speech since the fkrmer eiployees would be making a profit from their advocacy. Last Friday, I briefly discussed the case of Central Hudson Gas & Electric Corp. versus Public Service Commission of New York, the primary case now governing commercial speech issues. In that case, the Supreme Court defined commercial speech in two similar but not identical ways. First, they specifically defined commercial speech as "expression related solely to the economic interests of the speaker and its audience." They also referred to commercial speech in a somewhat narrower context as a "commonsense distinction between speech proposing a commercial transaction in an area traditionally subject to govenment regulation, and other varieties of speech." The Central Hudson case involved a regulated utility promoting the use of energy and the Court, by an 8-1 vote, threw out the speech restriction. It is noteworthy that three of the eight justices argued that the speech in the case was not commercial and that the majority's definition of commercial speech was too broad. Two of the other five Justices are no longer on the Court.

The majority's definition, should it survive, is also not comforting. In this instance, we are dealing with speech that, in the main, will not be proposing a commercial transaction. We are dealing with expression that does not relate solely to the economic interests of the speaker, and which involves public policy issues pending before the Federal Government.

Interestingly, 4 months before Central Hudson, the Supreme Court decided the famous case of U.S. versus Snepp, which involved the publication of a book by a former CIA official. Although the commercial speech concept had already been enunciated in other cases and even though Mr. Snepp was making money from his book, the Supreme Court used a much stricter test inolving "irreparable harm" to the United States. No reference to commercial speech and that line of first amendment reasoning can be found anywhere in the opinion. The Snepp case involved national security, potentially classified information, and a specific preemployment contract. None of those elements are present in this case. If the elimination of compartmentalization has to meet an "irreparable harm" test, it could be in trouble.

If we are dealing with commercial speech, Central Hudson controls and it is worth looking at the test that the Court enunciated for regulating such. First, the "asserted Government interest has to be substantial." Second, "we must ask whether the regulation directly advances the Government interest asserted," and third, "whether it is not more extensive than is necessary to serve that interest."

Last Friday, I asserted that S. 237, even with the substitute proposed by its sponsors, failed the test and was clearly unconstitutional. I am not prepared to make that unequivocal assertion with today's modification, but I do believe it is an extremely close call with the repeal of compartmentalization for those at or below the rank of EL-4.

The second problem I have with the repeal of compartmentalization relates to the impact on personnel recruitment and retention in the executive branch. I have already given some examples of the type of ethical and appropriate contact that will be prohibited, and few will dispute that the result will be some reduction in the earning prospects of Federal employees immediately after leaving Government.

Many make substantially less than they could outside of Government. For those who are not career employees, many take a substantial reduction in earnings upon entering the Government. These are sacrifices we ask of these who wish to serve the public, but it is a sacrifice some people are unwilling to make. We also require total financial disclosure as a condition of public service, a necessary requirement but one that now costs the Government some talent.

To add to this mix a further restriction on the postemployment earning capacity of Federal officials could exacerbate the problem of retaining and recruiting these upper midlevel officials. As I stated last week, the regular flow of individuals between Government and the private sector is a uniquely American system, one which has served the public interest and which the public supports, and we should lightly take steps to further damage it.

In this regard, the Subcommittee on Oversight of Government Management, which is chaired by Senator LEVIN who has been actively involved in this bill, has before it a Harvard School of Government study which suggests less intrusive financial disclosure requirements because of its impact on recruitment and retention of Federal officials. The Administrative Conference of the United States is sufficiently concerned about the impact of and basis for Government ethics laws, including the one on postemployment contact, that it is sponsoring an extensive study of the issue. The results of the study are due in the fall.

If we are honest with ourselves, we do not know what the impact of this bill will be. We simply have no good empirical evidence. As Marshall Breger, Chairman of the Administrative Conference noted in a letter to me, "while anecdotal evidence exists to support various conclusions, we would like to develop 'harder' evidence on this question."

He further stated, and I will stress this:

> This area frequently has been subject to piecemeal change made in reaction to distasteful current events. While we have made progress in federal conflict-of-interest regulations, I believe we do not yet have a coherent regulatory system—one characterized by clear standards of conduct and penalties appropriate to all branches of government and to the various levels of service. What we need now is a comprehensive refinement of the system, and it should be done at once and not piecemeal.

That statement is applicable to this entire bill, but I believe it is especially relevant to the decision to repeal compartmentalization.

Finally, the decision to abandon compartmentalization has led to a serious mishandling of congressional staff. As now drafted, the measure applies the executive branch provision to House and Senate staff, thus prohibiting all employees making over $64,300 from lobbying the entire House which employs them. While some staff at this pay range probably should be subject to a Housewide ban, the Sergeant at Arms for example, all of them should not be. Administrative assistants to Members probably fall into the latter category.

At the same time, the $64,300 threshold is too high. While that target makes sense in the executive branch, every one of us is aware that there are a great many congressional staff paid lesser amounts who are highly influential and have substantial access. None of them, and they are much more numerous that those who make over $64,000, would be covered by this law.

In my view, the right way to deal with House and Senate staff is to drop the threshold to $25,000 or $30,000 in order to bring most professional staff within the scope of the statute, and then to authorize the House and Senate Ethics Committees to write rules to compartmentalize the respective bodies. However, I believe it would be unreasonable to reduce the salary threshold without compartmentalization authority, so the two are intertwined. And, I agree with the sponsors on one point: we cannot have such authority in Congress if we do not allow it for the executive departments.

I have one other point on this issue. The proponents believe that subdividing agencies is a bad policy. I disagree, but I respect their view. However, it has also been argued that the existing authority has been used poorly and inconsistently. While that observation is true in some instances, it does not support repeal of the authority. We should not throw out the baby with the bath water, but rather engage in the more difficult task of ensuring that the power is used wisely and consistently.

Finally, I would like to comment on the foreign entity provision which, I must confess, would not have been the subject of my amendment even before the compromise was reached. I fully support the goal of Senator THURMOND, who authored the language, of preventing former Federal employees from using their knowledge in ways inimical to U.S. interests, even where there is no direct contact with Government employees. As presently drafted, however, the language reaches a wide variety of activities where the United States has either no interest or a positive interest in seeing the activity occur. In the interest of time, I will cite just one example of the latter. The provision would now preclude a former FDA official from advising a foreign govenrment on how to design a regulatory scheme to ensure that only effective drugs go on the market in that country. A lot of countries in the world need help on that score, and I do not believe that is what Senator THURMOND is trying to stop.

In conclusion, Mr. President, I support the pending amendment and I support passage of this bill. Although I have reservations about elements of this compromise, I believe it is important that we keep the process moving forward.

Part of the reason for this rather lengthy statement is to provide ample legislative history to the other body when this legislation reaches them sometime next week. I do so in the hope that the other body will take a careful look at some of these provisions and make improvements to the bill which I think are necessary.

Mr. President, I ask unanimous consent that the letter from Marshall Breger and the Supreme Court decisions in the Central Hudson case be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE CONFERENCE
OF THE UNITED STATES,
Washington, DC, April 15, 1988.

Hon. WARREN B. RUDMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR RUDMAN: This responds to your request for information about Administrative Conference activities in the ethics-in-government area and, in particular, any which might have a bearing on the subject of post-employment conduct of former government officials.

The Conference has begun a process to review systematically and develop recommendations for statutory and administrative improvements in the Ethics in Government Act and its implementation. Late last year I appointed a Special Committee on Ethics in Government to survey this area and develop proposed recommendations for the whole membership to consider. The committee is chaired by Fred F. Fielding, and the other members are Professor Philip C. Bobbitt (University of Texas Law School), Lloyd N. Cutler, Alan B. Morrison (Public Citizen), and Phillip N. Truluck (Heritage Foundation).

As an initial step, the committee held a Working Conference on March 1st, at which approximately 40 conflict-of-interest experts and leaders in the field discussed current problems and solutions. Post-employment restrictions were discussed at length, and Senator Thurmond discussed his bill, S. 237 with the other participants. I enclose the transcript and participant list for your information. The committee will meet April 26 at 3:00 at our offices to consider several transition-related issues, such as conflict-of-interest rules for transition team members and the Ethics in Government Act's requirements for divestiture of assets by new appointees. We hope to have proposed transition-related recommendations on the agenda of the next general meeting of the Conference in June.

Over the summer and into the fall the committee will examine other issues, including the financial reporting requirements, post-employment conduct restrictions, enforcement, and the ethics rules for federal advisory committees. For this effort, we have secured the tentative agreement of Professor Thomas Morgan of Emory University to serve as the reporter to the committee. Professor Morgan is an authority on federal conflict-of-interest law, and he previously prepared a study for the Conference on the so-called "revolving-door" problem.

His study, *Appropriate Limits On Participation By A Former Agency Official in Matters Before An Agency,* 1980 Duke L.J. 1, was the basis for Administrative Conference Recommendation 79-7 on this topic. I enclose both his study and our recommendation for your information.

We will be commissioning studies as needed to support the committee's work. One study now underway involves the extent to which potential presidential appointees are deterred from accepting appointments by the conflict-of-interest laws. The focus will be on the public financial disclosure requirements and the post-government employment restrictions. While anecdotal evidence exists to support various conclusions, we would like to develop "harder" evidence on this question. The study is being conducted by Professor William Chambliss, chairman of the Sociology Department at George Washington University. His initial charge is limited to determining whether an empirical study of the subject is feasible and, if so, designing such a study for the Conference. We have taken this "feasibility analysis" approach because there are a number of methodological problems that need to be resolved at the outset. If we cannot design a methodologically-sound and impartial study, the results simply will not have sufficient credibility to support action. Professor Chambliss' initial study will be completed within a couple of months. A full study will not be available before the fall at the earliest.

I appreciate the fact that currently there is a variety of pending legislation that could change the laws before our work is completed. In addition to S. 237, both House and Senate subcommittees are considering reauthorization of the Office of Government Ethics. As you know, I testified before the Senate Subcommittee on Oversight of Government Management on April 12. However, the Conference is not equipped, nor do I think inclined, to act in this area in piecemeal fashion.

This area frequently has been subject to piecemeal change made in reaction to distasteful current events. While we have made progress in federal conflict-of-interest regulation, I believe we do not yet have a coherent regulatory system—one characterized by clear standards of conduct and penalties appropriate to all branches of the government and to the various levels of service. What we now need is a comprehensive refinement of the system, and it should be done at once and not piecemeal.

I hope you find this information useful. Do not hesitate to call upon me if you have questions or need additional information about our work.

Sincerely,

MARSHALL J. BREGER,
Chairman.

SNEPP v. UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 78-1871. Decided February 19, 1980[*]

Held: A former employee of the Central Intelligence Agency, who had agreed not to divulge classified information without authorization and not to publish any information relating to the Agency without prepublication clearance, breached a fiduciary obligation when he published a book about certain Agency activities without submitting his manuscript for prepublication review. The proceeds of his breach are impressed with a constructive trust for the benefit of the Government.

Certiorari granted; 595 F. 2d 926, reversed in part and remanded.

PER CURIAM.

In No. 78-1871, Frank W. Snepp III seeks review of a judgment enforcing an agreement that he signed when he accepted employment with the Central Intelligence Agency (CIA). He also contends that punitive damages are an inappropriate remedy for the breach of his promise to submit all writings about the Agency for prepublication review. In No. 79-265, the United States conditionally cross petitions from a judgment refusing to find that profits attributable to Snepp's breach are impressed with a constructive trust. We grant the petitions for certiorari in order to correct the judgment from which both parties seek relief.

I

Based on his experiences as a CIA agent, Snepp published a book about certain CIA activities in South Vietnam. Snepp published the account without submitting it to the Agency for prepublication review. As an express condition of his employment with the CIA in 1968, however, Snepp had executed an agreement promising that he would "not . . . publish . . . any information or material relating to the Agency, its activities or intelligence activities generally, either during or after the term of [his] employment . . . without specific prior approval by the Agency." App. to Pet. for Cert. in No. 78-1871, p. 59a. The promise was an integral part of Snepp's concurrent undertaking "not to disclose any classified information relating to the Agency without proper authorization." *Id.,* at 58a.[1] Thus, Snepp had pledged not to divulge *classified* information and not to publish *any* information without prepublication clearance. The Government brought this suit to enforce Snepp's agreement. It sought a declaration that Snepp had breached the contract, an injunction requiring Snepp to submit future writings for prepublication review, and an order imposing a constructive trust for the Government's benefit on all profits that Snepp might earn from publishing the book in violation of his fiduciary obligations to the Agency.[2]

The District Court found that Snepp had "willfully, deliberately and surreptitiously breached his position of trust with the CIA and the [1968] secrecy agreement" by publishing his book without submitting it for prepublication review. 456 F. Supp. 176, 179 (ED Va. 1978). The court also found that Snepp deliberately misled CIA officials into believing that he would submit the book for prepublication clearance. Finally, the court determined as a fact that publication of the book had "caused the United States irreparable harm and loss." *Id.,* at 180. The District Court therefore enjoined future breaches of Snepp's agreement and imposed a constructive trust on Snepp's profits.

The Court of Appeals accepted the findings of the District Court and agreed that Snepp had breached a valid contract.[3] It specifically affirmed the finding that Snepp's failure to submit his manuscript for prepublication review had inflicted "irreparable harm" on intelligence activities vital to our national security. 595 F. 2d 926, 935 (CA4 1979). Thus, the court upheld the injunction against future violations of Snepp's prepublication obligation. The court, however, concluded that the record did not support imposition of a constructive trust. The conclusion rested on the court's perception that Snepp had a First Amendment right to publish unclassified information and the Government's concession—for the purposes of this litigation—that Snepp's book divulged no classified intelligence. *Id.,* at 935-936.[4] In other words, the court thought that

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[*] Together with No. 79-265, *United States* v. *Snepp,* also on petition for certiorari to the same court.

[1] Upon the eve of his departure from the Agency in 1976, Snepp also executed a "termination secrecy agreement." That document reaffirmed his obligation "never" to reveal "any classified information, or any information concerning intelligence or CIA that has not been made public by CIA . . . without the express written consent of the Director of Central Intelligence or his representative." App. to Pet. for Cert. in No. 78-1871, p. 61a.

[2] At the time of suit, Snepp already had received about $60,000 in advance payments. His contract with his publisher provides for royalties and other potential profits. 456 F. Supp. 176, 179 (ED Va. 1978).

[3] The Court of Appeals and the District Court rejected each of Snepp's defenses to the enforcement of his contract. 595 F. 2d 926, 931-934 (CA4 1979); 456 F. Supp., at 180-181. In his petition for certiorari, Snepp relies primarily on the claim that his agreement is unenforceable as a prior restraint on protected speech.

When Snepp accepted employment with the CIA, he voluntarily signed the agreement that expressly obligated him to submit any proposed publication for prior review. He does not claim that he executed this agreement under duress. Indeed, he voluntarily reaffirmed his obligation when he left the Agency. We agree with the Court of Appeals that Snepp's agreement is an "entirely appropriate" exercise of the CIA Director's statutory mandate to "protec[t] intelligence sources and methods from unauthorized disclosure," 50 U.S.C. § 403(d)(3). 595 F. 2d, at 932. Moreover, this Court's cases make clear that—even in the absence of an express agreement—the CIA could have acted to protect substantial government interests by imposing reasonable restrictions on employee activities that in other contexts might be protected by the First Amendment. *CSC* v. *Letter Carriers,* 413 U.S. 548, 565 (1973); see *Brown* v. *Glines, ante,* p. 348; *Buckley* v. *Valeo,* 424 U.S. 1, 25-28 (1976); *Greer* v. *Spock,* 424 U.S. 828 (1976); *id.,* at 844-848 (POWELL, J., concurring); *Cole* v. Richardson, 405 U.S. 676 (1972). The Government has a compelling interest in protecting both the secrecy of information important to our national security and the appearance of confidentiality so essential to the effective operation of our foreign intelligence service. See *infra,* at 511-512. The agreement that Snepp signed is a reasonable means for protecting this vital interest.

[4] The Government's concession distinguished this litigation from *United States* v. *Marchetti,* 466 F. 2d 1309 (CA4), cert. denied, 409 U.S. 1063 (1972). There, the Government claimed that a former CIA employee intended to violate his agreement not to publish any *classified* information. 466 F. 2d, at 1313. *Marchetti* therefore did not consider the appropriate remedy for the breach of an agreement to submit *all* material for prepublication review. By relying on *Marchetti* in this litigation, the Court of Appeals overlooked the difference between Snepp's breach and the violation at issue in *Marchetti.*

Snepp's fiduciary obligation extended only to preserving the confidentiality of classified material. It therefore limited recovery to nominal damages and to the possibility of punitive damages if the Government—in a jury trial could prove tortious conduct.

Judge Hoffman, sitting by designation, dissented from the refusal to find a constructive trust. The 1968 agreement, he wrote, "was no ordinary contract; it gave life to a fiduciary relationship and invested in Snepp the trust of the CIA." *Id.*, at 938. Prepublication clearance was part of Snepp's undertaking to protect confidences associated with his trust. Punitive damages, Judge Hoffman argued, were both a speculative and inappropriate remedy for Snepp's breach. We agree with Judge Hoffman that Snepp breached a fiduciary obligation and that the proceeds of his breach are impressed with a constructive trust.

II

Snepp's employment with the CIA involved an extremely high degree of trust. In the opening sentence of the agreement that he signed, Snepp explicitly recognized that he was entering a trust relationship.[5] The trust agreement specifically imposed the obligation not to publish *any* information relating to the Agency without submitting the information for clearance. Snepp stipulated at trial that—after undertaking this obligation—he had been "assigned to various positions of trust" and that he had been granted "frequent access to classified information, including information regarding intelligence sources and methods." 456 F. Supp., at 178.[6] Snepp published his book about CIA activities on the basis of this background and exposure. He deliberately and surreptitiously violated his obligation to submit all material for prepublication review. This, he exposed the classified information with which he had been entrusted to the risk of disclosure.

Whether Snepp violated his trust does not depend upon whether his book actually contained classified information. The Government does not deny—as a general principle—Snepp's right to publish unclassified information. Nor does it contend—at this stage of the litigation—that Snepp's book contains classified material. The Government simply claims that, in light of the special trust reposed in him and the agreement that he signed, Snepp should have given the CIA an opportunity to determine whether the material he proposed to publish would compromise classified information or sources. Neither of the Government's concessions undercuts its claim that Snepp's failure to submit to prepublication review was a breach of his trust.

Both the District Court and the Court of Appeals found that a former intelligence agent's publication of unreviewed material relating to intelligence activities can be detrimental to vital national interests even if the published information is unclassified. When a former agent relies on his own judgment about what information is detrimental, he may reveal information that the CIA—with its broader understanding of what may expose classified information and confidential sources-could have identified as harmful. In addition to receiving intelligence from domestically based or controlled sources, the CIA obtains information from the intelligence services of friendly nations [7] and from agents operating in foreign countries. The continued availability of these foreign sources depends upon the CIA's ability to guarantee the security of information that might compromise them and even endanger the personal safety of foreign agents.

Undisputed evidence in this case shows that a CIA agent's violation of his obligation to submit writings about the Agency for prepublication review impairs the CIA's ability to perform its statutory duties. Admiral Turner, Director of the CIA, testified without contradiction that Snepp's book and others like it have seriously impaired the effectiveness of American intelligence operations. He said:

"Over the last six to nine months, we have had a number of sources discontinue work with us. We have had more sources tell us that they are very nervous about continuing work with us. We have had very strong complaints from a number of foreign intelligence services with whom we conduct liaison, who have questioned whether they should continue exchanging information with us, for fear it will not remain secret. I cannot estimate to you how many potential sources or liaison arrangements have never germinated because people were unwilling to enter into business with us." 456 F. Supp., at 179-180.[8]

In view of this and other evidence in the record, both the District Court and the Court of Appeals recognized that Snepp's breach of his explicit obligation to submit his material—classified or not—for prepublication clearance has irreparably harmed the United States Government. 595 F. 2d, at 935; 456 F. Supp., at 180.[9]

III

The decision of the Court of Appeals denies the Government the most appropriate remedy for Snepp's acknowledged wrong. Indeed, as a practical matter, the decision may well leave the Government with no reliable deterrent against similar breaches of security. No one disputes that the actual damages attributable to a publication such as Snepp's generally are unquantifiable. Nominal damages are a hollow alternative, certain to deter no one. The punitive damages recoverable after a jury trial are speculative and unusual. Even if recovered, they may bear no relation to either the Government's irreparable loss or Snepp's unjust gain.

The Government could not pursue the only remedy that the Court of Appeals left it [10] without losing the benefit of the bargain it seeks to enforce. Proof of the tortious conduct necessary to sustain an award of punitive damages might force the Government to disclose some of the very confidences that Snepp promised to protect. The trial of such a suit, before a jury if the defendant so elects, would subject the CIA and its officials to probing discovery into the Agency's highly confidential affairs. Rarely would the Government run this risk. In a letter introduced at Snepp's trial, former CIA Director Colby noted the analogous problem in criminal cases. Existing law, he stated, "requires the revelation in open court of confirming or additional information of such a nature that the potential damage to the national security precludes prosecution." App. to Pet. for Cert. in No. 78-1871, p. 68a. When the Government cannot secure its remedy without unacceptable risks, it has no remedy at all.

A constructive trust, on the other hand, protects both the Government and the former agent from unwarranted risks. This remedy is the natural and customary consequence of a breach of trust.[11] It deals fairly with both parties by conforming relief to the dimensions of the wrong. If the agent secures prepublication clearance, he can publish with no fear of liability. If the agent publishes unreviewed material in violation of his fiduciary and contractual obligation, the trust remedy simply requires him to disgorge the benefits of his faithlessness. Since the remedy is swift and sure, it is tailored to deter those who would place sensitive information at risk. And since the remedy reaches only funds attributable to the breach, it cannot saddle the former agent with exemplary damages out of all proportion to his gain. The decision of the Court of Appeals would deprive the Government of this equitable and effective means of protecting intelligence that may contribute to national security. We therefore reverse the judgment of the Court of Appeals insofar as it refused to impose a constructive trust on Snepp's profits, and we remand the cases to the Court of Appeals for reinstatement of the full judgment of the District Court.

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[5] The first sentence of the 1968 agreement read: "I, Frank W. Snepp, III, understand that upon entering duty with the Central Intelligence Agency I am undertaking a position of trust in that Agency of the Government. . . ." App. to Pet. for Cert. in No. 78-1871, p. 58a.

[6] Quite apart from the plain language of the agreement, the nature of Snepp's duties and his conceded access to confidential sources and materials could establish a trust relationship. See 595 F. 2d, at 939 (Hoffman, J., concurring in part and dissenting in part). Few types of governmental employment involve a higher degree of trust than that reposed in a CIA employee with Snepp's duties.

[7] Every major nation in the world has an intelligence service. Whatever fairly may be said about some of its past activities, the CIA (or its predecessor the Office of Strategic Services) is an agency thought by every President since Franklin D. Roosevelt to be essential to the security of the United States and—in a sense—the free world. It is impossible for a government wisely to make critical decisions about foreign policy and national defense without the benefit of dependable foreign intelligence. See generally T. Powers, The Man Who Kept the Secrets (1979).

[8] In questioning the force of Admiral Turner's testimony, Mr. Justice Stevens' dissenting opinion suggests that the concern of foreign intelligence services may not be occasioned by the hazards of allowing an agent like Snepp to publish whatever he pleases, but by the release of classified information or simply the disagreement of foreign agencies with our Government's classification policy. *Post*, at 522-523. Mr. Justice Stevens' views in this respect not only find no support in the record, but they also reflect a misapprehension of the concern reflected by Admiral Turner's testimony. If in fact information is unclassified or in the public domain, neither the CIA nor foreign agencies would be concerned. The problem is to ensure *in advance*, and by proper procedures, that information detrimental to national interest is not published. Without a dependable prepublication review procedure, no intelligence agency or responsible Government official could be assured that an employee privy to sensitive information might not conclude on his own—innocently or otherwise—that it should be disclosed to the world.

The dissent argues that the Court is allowing the CIA to "censor" its employees' publications. *Post*, at 522. Snepp's contract, however, requires no more than a clearance procedure subject to judicial review. If Snepp, in compliance with his contract, had submitted his manuscript for review and the Agency had found it to contain sensitive material, presumably—if one accepts Snepp's present assertion of good intentions—an effort would have been made to eliminate harmful disclosures. Absent agreement in this respect, the Agency would have been borne the burden of seeking an injunction against publication. See *Alfred A. Knopf, Inc.* v. *Colby*, 509 F. 2d 1362 (CA4), cert. denied, 421 U.S. 992 (1975); *United States* v. *Marchetti*, 466 F. 2d 1309 (CA4), cert. denied, 409 U.S. 1063 (1972).

[9] Although both the District Court and the Court of Appeals expressly found otherwise, Mr. Justice Stevens says that "the interest in confidentiality that Snepp's contract was designed to protect has not been compromised." *Post*, at 516-517. Thus, on the basis of a premise wholly at odds with the record, the dissent bifurcates Snepp's 1968 agreement and treats its interdependent provisions as if they imposed unrelated obligations. Mr. Justice Stevens then analogizes Snepp's prepublication review agreement with the Government to a private employee's covenant not to compete with his employer. *Post* at 518-520. A body of private law intended to preserve competition, however, simply has no bearing on a contract made by the Director of the CIA in conformity with his statutory obligation to "protec[t] intelligence sources and methods from unauthorized disclosure." 50 U.S.C. § 403(d)(3).

[10] Judge Hoffman's dissent suggests that even this remedy may be unavailable if the Government must bring suit in a State that allows punitive damages only upon proof of compensatory damages. 595 F. 2d., at 940. The Court of Appeals majority, however, held as a matter of *federal* law that the nominal damages recoverable for any breach of a trust agreement will support an expemplary award. *See id.*, at 936, and n. 10, 937-938.

[11] See *id.*, at 939 (Hoffman, J., concurring in part and dissenting in part).

So ordered.

Mr. Justice Stevens, with whom Mr. Justice Brennan and Mr. Justice Marshall join, dissenting.

In 1968, Frank W. Snepp signed an employment agreement with the CIA in which he agreed to submit to the Agency any information he intended to publish about it for prepublication review.[1] The purpose of such an agreement, as the Fourth Circuit held, is not to give the CIA the power to censor its employees' critical speech, but rather to ensure that classified, nonpublic information is not disclosed without the Agency's permission. 595 F. 2d 926, 932 (1979); see also United States v. Marchetti, 466 F. 2d 1309, 1317 (CA4 1972), cert. denied, 409 U.S. 1063.

In this case Snepp admittedly breached his duty to submit the manuscript of his book, Decent Interval, to the CIA for prepublication review. However, the Government has conceded that the book contains no classified, nonpublic material.[2] Thus, by definition, the interest in confidentiality that Snepp's contract was designed to protect has not been compromised. Nevertheless, the Court today grants the Government unprecedented and drastic relief in the form of a constructive trust over the profits derived by Snepp from the sale of the book. Because that remedy is not authorized by any applicable law and because it is most inappropriate for the Court to dispose of this novel issue summarily on the Government's conditional cross-petition for certiorari, I respectfully dissent.

I

The rule of law the Court announces today is not supported by statute, by the contract, or by the common law. Although Congress has enacted a number of criminal statutes punishing the unauthorized dissemination of certain types of classified information,[3] it has not seen fit to authorize the constructive trust remedy the Court creates today. Nor does either of the contracts Snepp signed with the Agency provide for any such remedy in the event of a breach.[4] The Court's per curiam opinion seems to suggest that its result is supported by a blend of the law of trusts and the law of contracts.[5] But neither of these branches of the common law supports the imposition of a constructive trust under the circumstances of this case.

Plainly this is not a typical trust situation in which a settlor has conveyed legal title to certain assets to a trustee for the use and benefit of designated beneficiaries. Rather, it is an employment relationship in which the employee possesses fiduciary obligations arising out of his duty of loyalty to his employer. One of those obligations, long recognized by the common law even in the absence of a written employment agreement, is the duty to protect confidential or "classified" information. If Snepp had breached that obligation, the common law would support the implication of a constructive trust upon the benefits derived from his misuse of confidential information.[6]

But Snepp did not breach his duty to protect confidential information. Rather, he breached a contractual duty, imposed in aid of the basic duty to maintain confidentiality, to obtain prepublication clearance. In order to justify the imposition of a constructive trust, the majority attempts to equate this contractual duty with Snepp's duty not to disclose, labeling them both as "fiduciary." I find nothing in the common law to support such an approach.

Employment agreements often contain covenants designed to ensure in various ways that an employee fully complies with his duty not to disclose or misuse confidential information. One of the most common is a covenant not to compete. Contrary to the majority's approach in this case, the courts have not construed such covenants broadly simply because they support a basic fiduciary duty; nor have they granted sweeping remedies to enforce them. On the contrary, because such covenants are agreements in restaint of an individual's freedom of trade, they are enforceable only if they can survive scrutiny under the "rule of reason." That rule, originally laid down in the seminal case of *Mitchel* v. *Reynolds*, 1 P. Wms. 181, 24 Eng. Rep. 347 (1711), requires that the covenant be reasonably necessary to protect a legitimate interest of the employer (such as an interest in confidentiality), that the employer's interest not be outweighed by the public interest,[7] and that the covenant not be of any longer duration or wider geographical scope than necessary to protect the employer's interest.[8]

The Court has not persuaded me that a rule of reason analysis should not be applied to Snepp's covenant to submit to prepublication review. Like an ordinary employer, the CIA has a vital interest in protecting certain types of information; at the same time, the CIA employee has a countervailing interest in preserving a wide range of work opportunities (including work as an author) and in protecting his First Amendment rights. The public interest lies in a proper accommodation that will preserve the intelligence mission of the Agency while

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Mr. Justice Stevens concedes that, even in the absence of a written contract, an employee has a fiduciary obligation to protect confidential information obtained during the course of his employment. *Post* at 518. He also concedes that all personal profits gained from the exploitation of such information are impressed with a constructive trust in favor of the employer. *Post*, at 521. In this case, he seems to think that the common law would not treat information as "confidential" unless it were "classified." See *e.g.*, *Post*, at 518. We have thought that the common-law obligation was considerably more expansive. See, *e.g.*, Restatement (Second) of Agency §§ 396(c), 400 and Comment *c*, 404 and Comments *b*, *d* (1958); 5 A. Scott, Trusts § 505 (3d ed. 1967). But since this case involves the breach of a trust agreement that specifically required the prepublication review of all information about the employer, we need not look to the common law to determine the scope of Snepp's fiduciary obligation.

[1] Snepp also signed a termination agreement in 1976 in which he made substantially the same commitment.

[2] In response to an interrogatory asking whether it contended that "Decent Interval contains classified information or any information concerning intelligence or CIA that has not been made public by CIA," the Government stated that "[f]or the purpose of this action, plaintiff does not so contend." Record Item No. 24, p.14. Because of this concession, the District Judge sustained the Government's objections to defense efforts to determine whether Decent Interval in fact contains information that the Government considers classified. See, e.g., the testimony of Admiral Stansfield Turner, Director of the CIA, Tr. 135; and of Herbert Hetu, the CIA's Director of Public Affairs, Tr. 153.

[3] See, e.g., 18 U.S.C. § 798, which imposes a prison term of 10 years and a $10,000 fine for knowingly and willfully publishing certain types of classified information; 18 U.S.C. § 794, which makes it a criminal offense punishable by life in prison to communicate national defense information to a foreign government; and 5 U.S.C. § 8312, which withdraws the right to Government retirement benefits from a person convicted of violating these statutes. See also Exec. Order No. 12065, 3 CFR 190 (1979), note following 50 U.S.C. § 401 (1976 ed., Supp. II), which provides administrative sanctions, including discharge, against employees who publish classified information. Thus, even in the absence of a constructive trust remedy, an agent like Snepp would hardly be free, as the majority suggests, "to publish whatever he pleases." Ante, at 513, n. 8.

[4] In both his original employment agreement and the termination agreement Snepp acknowledged the criminal penalties that might attach to any publication of classified information. In his employment agreement he also agreed that a breach of the agreement would be cause for termination of his employment. No other remedies were mentioned in either agreement.

[5] In a footnote, see ante, at 515, n. 11, the Court suggests that it need not look to the common law to support its holding because the case involves a written contract. But, inasmuch as the contract itself does not state what remedy is to be applied in the event of a breach, the common law is the only source of law to which we can look to determine what constitutes an appropriate remedy.

[6] See. *e.g.*, *Sperry Rand Corp.* v. *A-T-O, Inc.*, 447 F. 2d 1387, 1392 (CA4 1971) (Virginia law), cert. denied, 405 U.S. 1017; *Tlapek* v. *Chevron Oil Co.*, 407 F. 2d 1129 (CA8 1969) (Arkansas law); *Structural Dynamics Research Corp.* v. *Engineering Mechanics Research Corp.*, 401 F. Supp. 1102, 1120, (ED Mich. 1975) (Michigan law); Restatement (Second) of Agency § 396(c) (1958) ("Unless otherwise agreed, after the termination of the agency, the agent: . . . (c) has a duty to account for profits made by the sale or use of trade secrets and other confidential information, whether or not in competition with the principal . . .").

[7] As the court held in *Herbert Morris, Ltd.* v. *Saxelby*, [1916] A.C. 688, 704, the employer's interest in protecting trade secrets does not outweigh the public interest in keeping the employee in the work force. "[A]n employer can[not] prevent his employee from using the skill and knowledge in his trade or profession which he has learnt in the course of his employment by means of directions or instructions from the employer. That information and that additional skill he is entitled to use for the benefit of himself and the benefit of the public who gain the advantage of his having had such admirable instruction. The case in which the Court interferes for the purpose of protection is where use in made, not of the skill which the man may have acquired, but of the secrets of the trade or profession which he had no right to reveal to any one else. . . ."

[8] See, *e.g.*, *Briggs* v. *R.R. Donnelley & Sons Co.*, 589 F. 2d 39, 41 (CA1 1978) (Illinois law); *American Hot Rod Assn., Inc.* v. *Carrier*, 500 F. 2d 1269, 1277 (CA4 1974) (North Carolina law); *Alston Studios, Inc.* v. *Lloyd V. Gress & Associates*, 492 F. 2d 279, 282 (CA4 1974) (Virginia law); *Mixing Equipment Co.* v. *Philadelphia Gear, Inc.*, 436 F. 2d 1308 1312 (CA3 1971) (New York law); *Water Services, Inc.* v. *Tesco Chemicals, Inc.*, 410 F. 2d 163, 167 (CA5 1969) (Georgia law); Restatement (Second) of Contracts § 330 (Tent. Draft No. 12, Mar. 1, 1977).

not abridging the free flow of unclassified information. When the Government seeks to enforce a harsh restriction on the employee's freedom,[9] despite its admission that the interest the agreement was designed to protect—the confidentiality of classified information—has not been compromised, an equity court might well be persuaded that the case is not one in which the covenant should be enforced.[10]

But even assuming that Snepp's convenant to submit to prepublication review should be enforced, the constructive trust imposed by the Court is not an appropriate remedy. If an employee has used his employer's confidential information for his own personal profit, a constructive trust over those profits is obviously an appropriate remedy because the profits are the direct result of the breach. But Snepp admittedly did not use confidential information in his book; nor were the profits from his book in any sense a product of his failure to submit the book for prepublication review. For, even if Snepp had submitted the book to the Agency for prepublication review, the Government's censorship authority would surely have been limited to the excision of classified material. In this case, then, it would have been obliged to clear the book for publication in precisely the same form as it now stands.[11] Thus, Snepp has not gained any profits as a result of his breach; the Government, rather than Snepp, will be unjustly enriched if he is required to disgorge profits attributable entirely to his own legitimate activity.

Despite the fact that Snepp has not caused the Government the type of harm that would ordinarily be remedied by the imposition of a constructive trust, the Court attempts to justify a constructive trust remedy on the ground that the Government has suffered *some* harm. The Court states that publication of "unreviewed material" by a former CIA agent "can be detrimental to vital national interests even if the published information is unclassified." *Ante*, at 511-512. It then seems to suggest that the injury in such cases stems from the Agency's inability to catch "harmful" but unclassified information before it is published. I do not believe, however, that the Agency has any authority to censor its employees' publication of unclassified information on the basis of its opinion that publication may be "detrimental to vital national interests" or otherwise "identified as harmful." *Ibid.* The CIA never attempted to assert such power over Snepp in either of the contracts he signed; rather, the Agency itself limited its censorship power to preventing the disclosure of "classified" information. Moreover, even if such a wide-ranging prior restraint would be good national security policy, I would have great difficulty reconciling it with the demands of the First Amendment.

The Court also relies to some extent on the Government's theory at trial that Snepp caused it harm by flouting his prepublication review obligation and thus making it appear that the CIA was powerless to prevent its agents from publishing any information they chose to publish, whether classified or not. The Government theorized that this appearance of weakness would discourage foreign governments from cooperaing with the CIA because of a fear that their secrets might also be compromised. In support of its position that Snepp's book had in fact had such an impact, the Government introduced testimony by the Director of the CIA, Admiral Stansfield Turner, stating that Snepp's book and others like it had jeopardized the CIA's relationship with foreign intelligence services by making them unsure of the Agency's ability to maintain confidentiality. Admiral Turner's truncated testimony does not explain, however, whether these unidentified "other" books actually contained classified information.[12] If so, it is difficult to believe that the publication of a book like Snepp's, which does not reveal classified information, has significantly weakened the Agency's position. Nor does it explain whether the unidentified foreign agencies who have stopped cooperating with the CIA have done so because of a legitimate fear that secrets will be revealed or because they merely disagree with our Government's classification policies.[13]

In any event, to the extent that the Government seeks to punish Snepp for the generalized harm he has caused by failing to submit to prepublication review and to deter others from following in his footsteps, punitive damages is, as the Court of Appeals held, clearly the preferable remedy "since a constructive trust depends on the concept of unjust enrichment rather than deterrence and punishment. *See* D. Dobbs, Law of Remedies § 3.9 at 205 and § 4.3 at 246 (1973)." 595 F. 2d, at 937.[14]

II

The Court's decison to dispose of this case summarily on the Government's conditional cross-petition for certiorari is just as unprecedented as its disposition of the merits.

Snepp filed a petition for certiorari challenging the Fourth Circuit's decison insofar as it affirmed the entry of an injunction requiring him to submit all future manuscripts for prepublication review and remanded for a determination of whether punitive damages would be appropriate for his failure to submit Decent Interval to the Agency prior to its publication. The Government filed a brief in opposition as well as a cross-petition for certiorari; the Government specifically stated, however, that it was cross petitioning only to bring the entire case before the Court in the event that the Court should decide to grant Snepp's petition. The Government explained that "[b]ecause the contract remedy provided by the court of appeals appears to be sufficient in this case to protect the Agency's interest, the government has not independently sought review in this Court." In its concluding paragraph the Government stated: "If this Court grants [Snepp's] . . . petition for a writ of certiorari in No. 78-1871, it should also grant this cross-petition. If the peition in No. 78-1871 is denied, this petition should also be denied." Pet. for Cert. in No. 79-265, p. 5.

Given the Government's position, it would be highly inappropriate, and perhaps even beyond this Court's jurisdiction, to grant the Government's petition while denying Snepp's. Yet that is in essence what has been done.[15] The majority obviously does not believe that Snepp's claims merit this Court's consideration, for they are summarily dismissed in a footnote. *Ante*, at 509, n. 3. It is clear that Snepp's petition would not have been granted on its own merits.

The Court's opinion is a good demonstration of why this Court should not reach out to decide a question not necessarily presented to it, as it has done in this case. Despite the fact that the Government has specifically stated that the punitive damages remedy is "sufficient" to protect its interests, the Court forges ahead and summarily rejects that remedy on the grounds that (a) it is too speculative and thus would not provide the Government with a "reliable deterrent against similar breaches of security,"

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[9] The covenant imposes a serious prior restraint on Snepp's ability to speak freely, see n. 17, *infra*, and is of indefinite duration and scope—factors that would make most similar covenants unenforceable. See, *e.g., Alston Studios, Inc.* v. *Lloyd V. Gress & Associates, supra*, at 283 (holding void under Virginia law a covenant with no geographical limitation); *American Hot Rod Assn., Inc.* v. *Carrier, supra*, at 1279 (holding void under North Carolina law a convenant with no durational or geographical limitation); *E.L. Conwell & Co.* v. *Gutberlet*, 429 F.2d 527, 528 (CA4 1970) (holding void under Maryland law a convenant with no durational or geographical limitation).

[10] The Court correctly points out that the Government may regulate certain activities of its employees that would be protected by the First Amendment in other contexts. *Ante*, at 509, n. 3. But none of the cases it cites involved a requirement that an employee submit all proposed public statements for prerelease censorship or approval. The Court has not previously considered the enforceability of this kind of prior restraint or the remedy that should be imposed in the event of a breach.

[11] If he had submitted the book to the Agency and the Agency had refused to consent to the publication of certain material in it, Snepp could have obtained judicial review to determine whether the Agency was correct in considering the material classified. See *United States* v. *Marchetti*, 466 F. 2d 1309, 1317 (CA4 1972), cert. denied, 409 U.S. 1063. It is noteworthy that the Court does not disagree with the Fourth Circuit's view in *Marchetti*, reiterated in *Snepp*, that a CIA employee has a First Amendment right to publish unclassified information. Thus, despite its reference in footnote 3 of its opinion to the Government's so-called compelling interest in protecting "the appearance of confidentiality," *ante*, at 509, n. 3, and despite some ambiguity in the Court's reference to "detrimental" and "harmful" as opposed to "classified" information, *ante*, at 511-512. I do not understand the Court to imply that the Government could obtain an injunction against the publication of unclassified information.

[12] The District Judge sustained the Government's objections to questions concerning the identity of other agents who had published the unauthorzed works to which Admiral Turner referred. Tr. 136. However, Admiral Turner did testify that the harmful materials involved "[p]rimarily the appearance in the United States media of identification of sources and methods of collecting intelligence. . . ." *Id.*, at 143. This type of information is certainly classified and is specifically the type of information that Snepp has maintained he did *not* reveal in Decent Interval. See, *e. g.*, Snepp's December 7, 1977, interview on the Tomorrow show, in which he stated: "I have made a very determined effort not to expose sources or methods. . . ." Government's Requests for Admissions, Record Item 19, Exhibit I, p. 5.

[13] Snepp's attorneys were foreclosed from asking Admiral Turner whether particular foreign sources had stopped cooperating with United States' authorities as a direct result of the publication of Decent Interval. Tr. 138. Thus, it is unclear whether or why foreign sources may have reacted unfavorably to its publication. However, William E. Colby, the CIA's former Director, did indicate in his testimony that foreign nations generally have a stricter secrecy code than does the United States. *Id.*, at 175-176.

[14] One of the Court's justifications for its constructive trust remedy is that "it cannot saddle the former agent with exemplary damages out of all proportion to his gain." *Ante*, at 516. This solicitude for Snepp's welfare is rather ironic in view of the Draconian nature of the remedy imposed by the Court today.

[15] I have been unable to discover any previous case in which the Court has acted as it does today, reaching the merits of a conditional cross-petition despite its belief that the petition does not merit granting certiorari.

ante, at 514, and (b) it might require the Government to reveal confidential information in court, the Government might forgo damages rather than make such disclosures, and the Government might thus be left with "no remedy at all," *ante*, at 515. It seems to me that the Court is foreclosed from relying upon either ground by the Government's acquiescence in the punitive damages remedy. Moreover, the second rationale[16] is entirely speculative and, in this case at least, almost certainly wrong. The Court states that "[p]roof of the tortious conduct necessary to sustain an award of punitive damages might force the Government to disclose some of the very confidences that Snepp promised to protect." *Ante*, at 514.

Yet under the Court of Appeals' opinion the Government would be entitled to punitive damages simply by proving that Snepp deceived it into believing that he was going to comply with his duty to submit the manuscript for prepublication review and that the Government relied on these misrepresentations to its detriment. I fail to see how such a showing would require the Government to reveal any confidential information or to expose itself to "probing discovery into the Agency's highly confidential affairs." *Ante*, at 515.

III

The uninhibited character of today's exercise in lawmaking is highlighted by the Court's disregard of two venerable principles that favor a more conservative approach to this case.

First, for centuries the English-speaking judiciary refused to grant equitable relief unless the plaintiff could show that his remedy at law was inadequate. Without waiting for an opportunity to appraise the adequacy of the punitive damages remedy in this case, the Court has jumped to the conclusion that equitable relief is necessary.

Second, and of greater importance, the Court seems unaware of the fact that its drastic new remedy has been fashioned to enforce a species of prior restraint on a citizen's right to criticize his government.[17] Inherent in this prior restraint is the risk that the reviewing agency will misuse its authority to delay the publication of a critical work or to persuade an author to modify the contents of his work beyond the demands of secrecy. The character of the covenant as a prior restraint on free speech surely imposes an especially heavy burden on the censor to justify the remedy it seeks. It would take more than the Court has written to persuade me that that burden has been met.

I respectfully dissent.

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[16] Which, it should be noted, does not appear anywhere in the Government's 5-page cross-petition.

[17] The mere fact that the Agency has the authority to review the text of a critical book in search of classified information before it is published is bound to have an inhibiting effect on the author's writing. Moreover, the right to delay publication until the review is completed is itself a form of prior restraint that would not be tolerated in other contexts. See *e.g., New York Times Co.* v. *United States*, 403 U.S. 713; *Nebraska Press Assn.*, v. *Stuart*, 427 U.S. 539. In view of the national interest in maintaining an effective intelligence service, I am not prepared to say that the restraint is necessarily intolerable in this context. I am, however, prepared to say that, certiorari having been granted, the issue surely should not be resolved in the absence of full briefing and argument.

CENTRAL HUDSON GAS & ELECTRIC CORP. v. PUBLIC SERVICE COMMISSION OF NEW YORK

APPEAL FROM THE COURT OF APPEALS OF NEW YORK

No. 79-565. Argued March 17, 1980—Decided June 20, 1980

Held: A regulation of appellee New York Public Service Commission which completely bans an electric utility from advertising to promote the use of electricity violates the First and Fourteenth Amendments. Pp. 561-572.

(a) Although the Constitution accords a lesser protection to commercial speech than to other constitutionally guaranteed expression, nevertheless the First Amendment protects commercial speech from unwarranted governmental regulation. For commercial speech to come within the First Amendment, it at least must concern lawful activity and not be misleading. Next, it must be determined whether the asserted governmental interest to be served by the restriction on commercial speech is substantial. If both inquiries yield positive answers, it must then be decided whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest. Pp. 561-566.

(b) In this case, it is not claimed that the expression at issue is either inaccurate or relates to unlawful activity. Nor is appellant electrical utility's promotional advertising unprotected commercial speech merely because appellant holds a monopoly over the sale of electricity in its service area. Since monopoly over the supply of a product provides no protection from competition with substitutes for that product, advertising by utilities is just as valuable to consumers as advertising by unregulated firms, and there is no indication that appellant's decision to advertise was not based on the belief that consumers were interested in the advertising. Pp. 566-568.

(c) The State's interest in energy conservation is clearly substantial and is directly advanced by appellee's regulations. The State's further interest in preventing inequities in appellant's rates—based on the assertion that successful promotion of consumption in "off-peak" periods would create extra costs that would, because of appellant's rate structure, be borne by all consumers through higher overall rates—is also substantial. The latter interest does not, however, provide a constitutionally adequate reason for restricting protected speech because the link between the advertising prohibition and appellant's rate structure is, at most, tenuous. Pp. 568-569.

(d) Appellee's regulation, which reaches all promotional advertising regardless of the impact of the touted service on overall energy use, is more extensive than necessary to further the State's interest in energy conservation which, as important as it is, cannot justify suppressing information about electric devices or services that would cause no net increase in total energy use. In addition, no showing has been made that a more limited restriction on the content of promotional advertising would not serve adequately the State's interests. Pp. 569-571.

47 N. Y. 2d 94, 390 N.E. 2d 749, reversed.

POWELL, J., delivered the opinion of the Court, in which BURGER, C.J., and STEWART, WHITE, and MARSHALL, JJ., joined BRENNAN, J., filed an opinion concurring in the judgment, *post*, p. 572 BLACKMUN, J., *post*. p. 573, and STEVENS, J., *post*, p. 579, filed opinions concurring in the judgment, in which BRENNAN, J., joined, REHNQUIST, J., filed a dissenting opinion, *post*, p. 583.

Telford Taylor argued the cause for appellant. With him on the briefs were *Walter A. Bossert, Jr.*, and *Davison W. Grant.*

Peter H. Schiff argued the cause for appellee. With him on the brief was *Howard J. Read.*[*]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents the question whether a regulation of the Public Service Commission of the State of New York violates the First and Fourteenth Amendments because it completely bans promotional advertising by an electrical utility.

I

In December 1973, the Commission, appellee here, ordered electric utilities in New York State to cease all advertising that "promot[es] the use of electricity." App. to Juris. Statement 31a. The order was based on the Commission's finding that "the interconnected utility system in New York State does not have sufficient fuel stocks or sources of supply to continue furnishing all customer demands for the 1973-1974 winter." *Id.*, at 26a.

Three years later, when the fuel shortage had eased, the Commission requested comments from the public on its proposal to continue the ban on promotional advertising. Central Hudson Gas & Electric Corp., the appellant in this case, opposed the ban on First Amendment grounds. App. A10. After reviewing the public comments, the Commission extended the prohibition in a Policy Statement issued on February 25, 1977.

The Policy Statement divided advertising expenses "into two broad categories: promotional—advertising intended to stimulate the purchase of utility services—and institutional and informational, a broad category inclusive of all advertising not clearly intended to promote sales."[1] App. to Juris. Statement 35a. The Commission declared all promotional advertising contrary to the national policy of conserving energy. It acknowledged that the ban is not a perfect vehicle for conserving energy. For example, the Commission's order prohibits promotional advertising to develop consumption during periods when demand for electricity is low. By limiting growth in "off-peak" consumption, the ban limits the "beneficial side effects" of such growth in terms of more efficient use of existing powerplants. *Id.*, at 37a. And since oil dealers are not under the Commission's jurisdiction and thus remain free to advertise, it was recognized that the ban can achieve only "piecemeal conservationism." Still, the Commission adopted the restriction because it was deemed likely to

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[*] Briefs of *amici curiae* urging reversal were filed by *Cameron F. MacRae* and *Robert L. Baum* for the Edison Electric Institute; by *Burt Neuborne* for Long Island Lighting Co.; by *Edward H. Dowd* and *Myrna P. Field* for the Mid-Atlantic Legal Foundation et al.; and by *Edwin P. Rome* and *William H. Roberts* for Mobil Corp.

[1] The dissenting opinion attempts to construe the Policy Statement to authorize advertising that would result "in a net energy savings" even if the advertising encouraged consumption of additional electricity. *Post*, at 604-605. The attempted construction fails, however, since the Policy Statement is phrased only in terms of advertising that promotes "the purchase of utility services" and "sales" of electricity. Plainly, the Commission did not intend to permit advertising that would enhance net energy efficiency by increasing consumption of electrical services.

"result in some dampening of unnecessary growth" in energy consumption. *Ibid.*

The Commission's order explicitly permitted "informational" advertising designed to encourage "*shifts* of consumption" from peak demand times to periods of low electricity demand. *Ibid.* (emphasis in original). Informational advertising would not seek to increase aggregate consumption, but would invite a leveling of demand throughout any given 24-hour period. The agency offered to review "specific proposals by the companies for specifically described [advertising] programs that meet these criteria." *Id.*, at 38a.

When it rejected requests for rehearing on the Policy Statement, the Commission supplemented its rationale for the advertising ban. The agency observed that additional electricity probably would be more expensive to produce than existing output. Because electricity rates in New York were not then based on marginal cost,[2] the Commission feared that additional power would be priced below the actual cost of generation. The additional electricity would be subsidized by all consumers through generally higher rates. *Id.*, at 57a-58a. The state agency also thought that promotional advertising would give "misleading signals" to the public by appearing to encourage energy consumption at a time when conservation is needed. *Id.*, at 59a.

Appellant challenged the order in state court, arguing that the Commission had restrained commercial speech in violation of the First and Fourteenth Amendments.[3] The Commission's order was upheld by the trial court and at the intermediate appeallate level.[4] The New York Court of Appeals affirmed. It found little value to advertising in "the noncompetive market in which electric corporations operate." *Consolidated Edison Co.* v. *Public Service Comm'n*, 47 N.Y. 2d 94, 110, 390 N.E. 2d 749, 757 (1979). Since consumers "have no choice regarding the source of their electric power." The court denied that "promotional advertising of electricity might contribute to society interest in "informed and reliable' economic decisionmaking." *Ibid.* The court also observed that by encouraging consumption, promotional advertising would only exacerbate the current energy situation *Id.* at 110, 390 N.E. 2d, at 758. The court concluded that the governmental interest in the prohibition outweighed the limited constitutional value of the commercial speech at issue. We noted probable jurisdiction, 444 U.S. 962 (1979), and now reverse.

II

The Commission's order restricts only commercial speech, that is, expression related solely to the economic interests of the speaker and its audience. *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 762 (1976); *Bates* v. *State Bar of Arizona*, 433 U.S. 350, 363-364 (1977); *Friedman* v. *Rogers*, 440 U.S. 1, 11 (1979). The First Amendment, as applied to the States through the Fourteenth Amendment, protects commercial speech from unwarranted governmental regulation. *Virginia Pharmacy Board*, 425 U.S. at 761-762. Commercial expression not only serves the economic interest of the speaker, but also assists consumers and furthers the societal interest in the fullest possible dissemination of information. In applying the First Amendment to this area, we have rejected the "highly paternalistic" view that government has complete power to suppress or regulate commercial speech. "[P]eople will perceive their own best interests if only they are well enough informed, and . . . the best means to that end is to open the channels of communication, rather than to close them. . . ." *Id.*, at 770; see *Linmark Associates, Inc.* v. *Willingboro*, 431 U.S. 85, 92 (1977). Even when advertising communicates only an incomplete version of the relevant facts, the First Amendment presumes that some accurate information is better than no information at all. *Bates* v. *State Bar of Arizona, supra*, at 374.

Nevertheless, our decisions have recognized "the 'common-sense' distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech." *Ohralik* v. *Ohio State Bar Assn.*, 436 U.S. 447, 455-456 (1978); see *Bates* v. *State Bar of Arizona, supra*, at 381; see also Jackson & Jeffries, Commercial Speech: Economic Due Process and the First Amendment, 65 Va. L. Rev. 1. 38-39 (1979).[5] The Constitution therefore accords a lesser protection to commercial speech than to other constitutionally guaranteed expression. 436 U.S. at 456, 457. The protection available for particular commercial expression turns on the nature both of the expression and of the governmental interests served by its regulation.

The First Amendment's concern for commercial speech is based on the informational function of advertising. See *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765, 783 (1978). Consequently, there can be no constitutional objection to the suppression of commercial messages that do not accurately inform the pubic about lawful activity. The government may ban forms of communication more likely to deceive the public than to inform it, *Friedman* v. *Rogers*, *supra*, at 13, 15-16; *Ohralik* v. *Ohio State Bar Assn.*, *supra*, at 464-465, or commercial speech related to illegal activity, *Pittsburgh Press Co.* v. *Human Relations Comm'n*, 413 U.S. 376, 388 (1973).[6]

If the communication is neither misleading nor related to unlawful activity, the government's power is more circumscribed. The State must assert a substantial interest to be achieved by restrictions on commercial speech. Moreover, the regulatory technique must be in proportion to that interest. The limitation on expression must be designed carefully to achieve the State's goal. Compliance with this requirement may be measured by two criteria. First, the restriction must directly advance the state interest involved; the regulation may not be sustained if it provides only ineffective or remote support for the government's purpose. Second, if the governmental interest could be served as well by a more limited restriction on commercial speech, the excessive restrictions cannot survive.

Under the first criterion, the Court has declined to uphold regulations that only indirectly advance the state interest involved. In both *Bates* and *Virginia Pharmacy Board*, the Court concluded that an advertising ban could not be imposed to protect the ethical or performance standards of a profession. The Court noted in *Virginia Pharmacy Board* that "[t]he advertising ban does not directly affect professional standards one way or the other." 425 U.S., at 769. In *Bates*, the Court overturned an advertising prohibition that was designed to protect the "quality" of a lawyer's work. "Restraints on advertising . . . are an ineffective way of deterring shoddy work." 433 U.S., at 378[7]

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[2] "Marginal cost" has been defined as the *"extra* or incremental cost of producing an *extra* unit of output." P. Samuelson, Economics 463 (10th ed. 1976) (emphasis in original).

[3] Central Hudson also alleged that the Commission's order reaches beyond the agency's statutory powers. This argument was rejected by the New York Court of Appeals, *Consolidated Edison Co.* N. *Public Service Comm'n*, 47 N.Y. 2d 94, 102-104, 390 N.E. 2d 749, 752-754 (1979), and was not argued to this Court.

[4] *Consolidated Edison Co.* v. *Public Service Comm'n* 63 App. Div. 2d 364, 407 N.Y.S. 2d 735 (1978); App. to Juris. Statement 22a (N.Y. Sup. Ct., Feb. 17, 1978)

[5] In an opinion concurring in the judgment. MR. JUSTICE STEVENS suggests that the Commission's order reaches beyond commercial speech to suppress expresson that is entitled to the full protection of the First Amendment. See *post*, at 580-581. We find no support for this claim in the record of this case. The Commission's Policy Statement excluded "institutional and informational" messages from the advertising ban, which was restricted to all advertising "clearly intented to promote sales." App. to Juris. Statement 35a. The complaint alleged only that the "prohibition of promotional advertising by Petitioner is not reasonable regulation of Petitioner's commercial speech. . . ." *Id.*, at 70a. Moreover, the state-court opinions and the arguments of the parties before this Court also viewed this litigation as involving only commercial speech. Nevertheless, the concurring opinion of MR. JUSTICE STEVENS views the Commission's order as suppressing more than commercial speech because it would outlaw, for example, advertising that promoted electricity consumption by touting the environmental benefits of such use. See *post*, at 581. Apparently the opinion would accord full First Amendment protection to all promotional advertising that includes claims "relating to . . . questions frequently discussed and debated by our political leaders." *Ibid.*

Although this approach responds to the serious issues surrounding our national energy policy as raised in this case, we think it would blur further the line the Court has sought to draw in commercial speech cases. It would grant broad constitutional protection to any advertising that links a product to a current public debate. But many, if not most, products may be tied to public concerns with the environment, energy, economic policy, or individual health and safety. We rule today in *Consolidated Edison Co.* v. *Public Service Comm'n*, *ante*, p. 530, that utilities enjoy the full panoply of First Amendment protections for their direct comments on public issues. There is no reason for providing similar constitutional protection when such statements are made only in the context of commercial transactions. In that context, for example, the State retains the power to "insur[e] that the stream of commercial information flow[s] cleanly as well as freely." *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 772 (1975). This Court's decisions on commercial expression have rested on the premise that such speech, although meriting some protection, is of less constitutional moment than other forms of speech. As we stated in *Ohralik*, the failure to distinguish between commercial and noncommercial speech "could invite dilution, simply by a leveling process, of the force of the [First] Amendment's guarantee with respect to the latter kind of speech." 436 U.S., at 456.

[6] In most other contexts, the First Amendment prohibits regulation based on the content of the message. *Consolidated Edison Co.* v. *Public Service Comm'n*, *ante*, at 537-540. Two features of commercial speech permit regulation of its content. First, commercial speakers have extensive knowledge of both the market and their products. Thus, they are well situated to evaluate the accuracy of their messages and the lawfulness of the underlying activity. *Bates* v. *State Bar of Arizona*, 733 U.S. 350, 381 (1977). In addition, commercial speech, the offspring of economic self-interest, is a hardy breed of expression that is not "particularly susceptible to being crushed by overbroad regulation." *Ibid.*

[7] In *Linmark Associates, Inc.* v. *Willingboro*, 431 U.S. 85, 95-96 (1977), we observed that there was no definite connection between the township's goal of integrated housing and its ban on the use of "for Sale" signs in front of houses.

The second criterion recognizes that the First Amendment mandates that speech restrictions be "narrowly drawn." *In re Primus*, 436 U.S. 412, 438 (1978).[8] The regulatory technique may extend only as far as the interest it serves. The State cannot regulate speech that poses no danger to the asserted state interest, see *First National Bank of Boston* v. *Bellotti, supra*, at 794-795, nor can it completely suppress information when narrower restrictions on expression would serve its interest as well. For example, in *Bates* the Court explicitly did not "foreclose the possibility that some limited supplementation, by way of warning or disclaimer or the like, might be required" in promitional materials. 433 U.S., at 384. See *Virginia Pharmacy Board, supra* at 773. And in *Carey* v. *Population Services International*, 431 U.S. 678, 701-702 (1977), we held that the State's "arguments . . . do not justify the total suppression of advertising concerning contraceptives." This holding left open the possibility that the State could implement more carefully drawn restrictions. See *id.*, at 712 (POWELL, J., concurring in part and in judgment); *id.*, at 716-717 (STEVENS, J., concurring in part and in judgment).[9]

In commercial speech cases, then, a four-part analysis has developed. At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.

III

We now apply this four-step analysis for commercial speech to the Commission's arguments in support of its ban on promotional advertising.

A

The Commission does not claim that the expression at issue either is inaccurate or relates to unlawful activity. Yet the New York Court of Appeals questioned whether Central Hudson's advertising is protected commercial speech. Because appellant holds a monopoly over the sale of electricity in its service area, the state court suggested that the Commission's order restricts no commercial speech of any worth. The court stated that advertising in a "noncompetitive market" could not improve the decisionmaking of consumers. 47 N.Y. 2d. at 110, 390 N. E. 2d, at 757. The court saw no constitutional problem with barring commercial speech that it viewed as conveying little useful information.

This reasoning falls short of establishing that appellant's advertising is not commercial speech protected by the First Amendment. Monopoly over the supply of a product provides no protection from competition with substitutes for that product. Electric utilities compete with suppliers of fuel oil and natural gas in several markets, such as those for home heating and industrial power. This Court noted the existence of interfuel competition 45 years ago, see *West Ohio Gas Co.* v. *Public Utilities Comm'n*, 294 U.S. 63, 72 (1935). Each energy source continues to offer peculiar advantages and disadvantages that may influence consumer choice. For consumers in those competitive markets, advertising by utilities is just as valuable as advertising by unregulated firms.[10]

Even in monopoly markets, the suppression of advertising reduces the information available for consumer decisions and thereby defeats the purpose of the First Amendment. The New York court's argument appears to assume that the providers of a monopoly service or product are willing to pay for wholly ineffective advertising. Most businesses—even regulated monopolies—are unlikely to underwrite promotional advertising that is of no interest of use to consumers. Indeed, a monopoly enterprise legitimately may wish to inform the public that it has developed new services or terms of doing business. A consumer may need information to aid his decision whether or not to use the monopoly service at all, or how much of the service he should purchase. In the absence of factors that would distort the decision to advertise, we may assume that the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising.[11] Since no such extraordinary conditions have been identified in this case, appellant's monopoly position does not alter the First Amendment's protection for its commercial speech.

The Commission offers two state interests as justifications for the ban on promotional advertising. The first concerns energy conservation. Any increase in demand for electricity—during peak or off-peak periods—means greater consumption of energy. The Commission argues, and the New York court agreed, that the State's interest in conserving energy is sufficient to support suppression of advertising designed to increase consumption of electricity. In view of our country's dependence on energy resources beyond our control, no one can doubt the importance of energy conservation. Plainly, therefore, the state interest asserted is substantial.

The Commission also argues that promotional advertising will aggravate inequities caused by the failure to base the utilities' rates on marginal cost. The utilities argued to the Commission that if they could promote the use of electricity in periods of low demand, they would improve their utilization of generating capacity. The Commission responded that promotion of off-peak consumption also would increase consumption during peak periods. If peak demand were to rise, the absence of marginal cost rates would mean that the rates charged for the additional power would not refect the true costs of expanding production. Instead, the extra costs would be borne by all consumers through higher overall rates. Without promotional advertising, the Commission stated, this inequitable turn of events would be less likely to occur. The choice among rate structures involves difficult and important questions of economic supply and distributional fairness.[12] The State's concern that rates be fair and efficient represents a clear and substantial governmental interest.

C

Next, we focus on the relationship between the State's interests and the advertising ban. Under this criterion, the Commission's laudable concern over the equity and efficiency of appellant's rates does not provide a constitutionally adequate reason for restricting protected speech. The link between the advertising prohibition and appellant's rate structure is, at most, tenuous. The impact of promotional advertising on the equity of appellant's rates is highly speculative. Advertising to increase off-peak usage would have to increase peak usage, while other factors that directly affect the fairness and efficiency of appellant's rates remained constant. Such conditional and remote eventualities simply cannot justify silencing appellant's promotional advertising.

In contrast, the State's interest in energy conservation is directly advanced by the Commission order at issue here. There is an immediate connection between advertising and demand for electricity. Central Hudson would not contest the advertising ban unless it believed that promotion would increase its sales. Thus, we find a direct link between the state interest in conservation and the Commission's order.

D

We come finally to the critical inquiry in this case: whether the Commission's complete suppression of speech ordinarily protected by the First Amendment is no more extensive than necessary to further the State's interest in energy conservation. The Commission's order reaches all promotional advertising, regardless of the impact of the touted service on overall energy use. But the energy conservation rationale, as important as it is, cannot justify suppressing information about electric devices or services that would cause no net increase in total energy use. In addition, no showing has been made that a more limited restriction on the content of promotional advertising would not serve adequately the State's interests.

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[8] This analysis is not an application of the "overbreadth" doctrine. The latter theory permits the invalidation of regulations on First Amendment grounds even when the litigant challenging the regulation has engaged in no constitutionally protected activity. *E. g., Kunz* v. *New York*, 340 U.S. 290 (1951). The overbreadth doctrine derives from the recognition that unconstitutional restriction of expression may deter protected speech by parties not before the court and thereby escape judical review. *Broadrick* v. *Oklahoma*, 413 U.S. 601, 612-613 (1973); see Note, The First Amemdment Overbreadth Doctrine, 83 Harv. L. Rev. 844, 853-858 (1970). This restraint is less likely where the expression is linked to "commercial well-being" and therefore is not easily deterred by "overbroad regulation." *Bates* v. *State Bar of Arizona, supra, at 381.*

In this case, the Commission's prohibition acts directly against the promotional activities of Central Hudson, and to the extent the limitations are unnecessary to serve the State's interest, they are invalid.

[9] We review with special care regulations that entirely suppress commercial speech in order to pursue a nonspeech-related policy. In those circumstances, a ban on speech could screen from public view the underlying governmental policy. See *Virginia Pharmacy Board*, 425 U.S., at 780, n. 8 (STEWART, J., concurring). Indeed, in recent years this Court has not approved a blanket ban on commercial speech unless the expression itself was flawed in some way, either because it was deceptive or related to unlawful activity.

[10] Several commercial speech decisions have involved enterprises subject to extensive state regulation. *E.g., Friedman* v. *Rogers*, 440 U.S. 1, 4-5 (1979) (optometrists): *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977) (lawyers): *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council, supra*, at 750-752 (pharmacists).

[11] There may be a greater incentive for a utility to advertise if it can use promotional expenses in determining its rate of return, rather than pass those costs on solely to shareholders. That practice, however, hardly distorts the economic decision whether to advertise. Unregulated businesses pass on promotional costs to consumers, and this Court expressly approved the practice for utilities in *West Ohio Gas Co.* v. *Public Utilities Comm'n*, 294 U.S. 63, 72 (1935).

[12] See W. Jones, Regulated Industries 191-287 (2d ed. 1976).

Appellant insists that but for the ban, it would advertise products and services that use energy efficiently. These include the "heat pump," which both parties acknowledge to be a major improvement in electric heating, and the use of electric heat as a "backup" to solar and other heat sources. Although the Commission has questioned the efficiency of electric heating before this Court, neither the Commission's Policy Statement nor its order denying rehearing made findings on this issue. In the absence of authoritative findings to the contrary, we must credit as within the realm of possibility the claim that electric heat can be an efficient alternative in some circumstances.

The Commission's order prevents appellant from promoting electric services that would reduce energy use by diverting demand from less efficient sources, or that would consume roughly the same amount of energy as do alternative sources. In neither situation would the utility's advertising endanger conservation or mislead the public. To the extent that the Commission's order suppresses speech that in no way impairs the State's interest in energy conservation, the Commission's order violates the First and Fourteenth Amendments and must be invalidated. See *First National Bank of Bostonv. Bellotti*, 435 U.S. 765 (1978).

The Commission also has not demonstrated that its interest in conservation cannot be protected adequately by more limited regulation of appellant's commercial expression. To further its policy of conservation, the Commission could attempt to restrict the format and content of Central Hudson's advertising. It might, for example, require that the advertisements include information about the relative efficiency and expense of the offered service, both under current conditions and for the foreseeable future. Cf. *Banzhaf* v. *FCC*, 132 U.S. App. D.C. 14, 405 F. 2d 1082 (1968). cert. denied *cert. denied sub nom. Tobbaco Institue, Inc.*v. *FCC*, 396 U.S. 842 (1969).[13] In the absence of a showing that more limited speech regulation would be ineffective, we cannot approve the complete suppression of Central Hudson's advertising.[14]

Our decision today in no way disparages the national interest in energy conservation. We accept without reservation the argument that conservation, as well as the development of alternative energy sources, is an imperative national goal. Administrative bodies empowered to regulate electric utilities have the authority—and indeed the duty—to take appropriate action to further this goal. When, however, such action involves the suppression of speech, the First and Fourteenth Amendments require that the restriction be no more extensive than is necessary to serve the state interest. In this case, the record before us fails to show that the total ban on promotional advertising meets this requirement.[15]

Accordingly, the judgment of the New York Court of Appeals is

Reversed.

Mr. JUSTICE BRENNAN, concurring in the judgment.

One of the major difficulties in this case is the proper characterization of the Commission's Policy Statement. I find it impossible to determine on the present record whether the Commission's ban on all "promotional" advertising, in contrast to "institutional and informational" advertising, see *ante*, at 559, is intended to encompass more than "commercial speech." I am inclined to think that Mr. JUSTICE STEVENS is correct that the Commission's order prohibits more than mere proposals to engage in certain kinds of commercial transactions, and therefore I agree with his conclusion that the ban surely violates the First and Fourteenth Amendments. But even on the assumption that the Court is correct that the Commission's order reaches only commercial speech. I agree with Mr. JUSTICE BLACKMUN that "[n]o differences between commercial speech and other protected speech justify suppression of commercial speech in order to influence public conduct through manipulation of the availability of information." *Post*, at 578.

Accordingly, with the qualifications implicit in the preceding paragraph, I join the opinions of Mr. JUSTICE BLACKMUN and Mr. JUSTICE STEVENS concurring in the judgment.

Mr. JUSTICE BLACKMUN, with whom Mr. JUSTICE BRENNAN joins, concurring in the judgment.

I agree with the Court that the Public Service Commission's ban on promotional advertising of electricity by public utilities is inconsistent with the First and Fourteenth Amendments. I concur only in the Court's judgment, however, because I believe the test now evolved and applied by the Court is not consistent with our prior cases and does not provide adequate protection for truthful, nonmisleading, noncoercive commercial speech.

The Court asserts, ante, at 566, that "a four-part analysis has developed" from our decisions concerning commercial speech. Under this four-part test a restraint on commercial "communication [that] is neither misleading nor related to unlawful activity" is subject to an intermediate level of scrutiny, and suppression is permitted whenever it "directly advances" a "substantial" governmental interest and is "not more extensive than is necessary to serve that interest." Ante, at 564 and 566. I agree with the Court that this level of intermediate scrutiny is appropriate for a restraint on commercial speech designed to protect consumers from misleading or coercive speech, or a regulation related to the time, place, or manner of commercial speech. I do not agree, however, that the Court's four-part test is the proper one to be applied when a State seeks to suppress information about a product in order to manipulate a private economic decision that the State cannot or has not regulated or outlawed directly.

Since the Court, without citing empirical data or other authority, finds a "direct link" between advertising and energy consumption, it leaves open the possibility that the State may suppress advertising of electricity in order to lessen demand for electricity. I, of course, agree with Court that, in today's world, energy conservation is a goal of paramount national and local importance. I disagree with the Court, however, when it says that suppression of speech may be a permissible means to achieve that goal. Mr. JUSTICE STEVENS appropriately notes: "The justification for the regulation is nothing more than the expressed fear that the audience may find the utility's message presuasive. Without the aid of any coercion, deception, or misinformation, truthful communication may persuade some citizens to consumer more electricity than they otherwise would." Post, at 581.

The Court recognizes that we have never held that commercial speech may be suppressed in order to further the State's interest in discouraging purchases of the underlying product that is advertised. *Ante*, at 566, n. 9. Permissible restraints on commercial speech have been limited to measures designed to protect consumers from fraudulent, misleading, or coercive sales techniques.[1] Those designed to deprive consumers of information about products or services that are legally offered for sale consistently have been invalidated.[2]

I seriously doubt whether suppression of information concerning the availability and price of a legally offered product is ever a permissible way for the State to "dampen" demand for or use of the product. Even though "commercial" speech is involved, such a regulatory measure strikes at the heart of the First Amendment. This is because it is a covert attempt by the State to manipulate the choices of its citizens, not by persuasion or direct regulation, but by depriving the public of the information needed to make a free choice. As the Court recognizes, the State's policy choices are insulated from the visibility and scrutiny that direct regulation would entail and the conduct of citizens is molded by the information that government chooses to give them. *Ante*, at 566, n. 9 ("We review with special care regulations that entirely suppress commercial speech in order to pursue a nonspeech-related policy. In those circumstances, a ban on speech could screen from public view the underlying governmental policy"). See Rotunda, The Commercial Speech Doctrine in the Supreme Court, 1976 U. Ill. Law Forum 1080, 1080–1083.

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[13] The Commission also might consider a system of previewing advertising campaigns to insure that they will not defeat conservation policy. It has instituted such a program for approving "informational" advertising under the Policy Statement challenged in this case. *See supra*, at 560. We have observed that commercial speech is such a sturdy brand of expression that traditional prior restraint doctrine may not apply to it. *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S., at 771–772, n. 24. And in other areas of speech regulation, such as obscenity, we have recognized that a prescreening arrangement can pass constitutional muster if it includes adequate procedural safeguards. *Freedman* v. *Maryland*, 380 U.S. 51 (1965).

[14] In view of our conclusion that the Commission's advertising policy violates the First and Fourteenth Amendments, we do not reach appellant's claims that the agency's order also violated the Equal Protection Clause of the Fourteenth Amendment, and that it is both overbroad and vague.

[15] The Commission order at issue here was not promulgated in response to an emergency situation. Although the advertising ban initially was prompted by critical fuel shortage in 1973, the Commission makes no claim than an emergency now exists. We do not consider the powers that the State might have over utility advertising in emergency circumstances. *See State* v. *Oklahoma Gas & Electric Co.*, 536 P. 2d 887, 895–896 (Okla. 1955).

[1] See *Friedman* v. *Rogers*, 440 U.S. 1, 10 (1979) (Court upheld a ban on practice of optometry under a trade name as a permissible requirement that commercial information "'appear in such a form . . . as [is] necessary to prevent its being deceptive,'" quoting from *Virginia Pharmacy Board* v. *Virginia Consumer Council*, 425 U.S. 748, 772, n. 24 (1976)); *Ohralik* v. *Ohio State Bar Assn.*, 436 U.S. 447 (1978).

[2] See *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977); *Carey* v. *Population Services International*, 431 U.S. 678, 700–702 (1977); *Linmark Associates, Inc.* v. *Willingboro*, 431 U.S. 85 (1977); *Virginia Pharmacy Board* v. *Virginia Consumer Council*, 425 U.S. 748 (1976); *Bigelow* v. *Virginia*, 241 U.S. 809 (1975).

If the First Amendment guarantee means anything, it means that absent clear and present danger government has no power to restrict expression because of the effect its meassage is likely to have on the public. See generally Comment, First Amendment Protection for Commercial Advertising: The New Constitutional Doctrine, 44 U. Chi. L. Rev. 205. 243-251 (1976). Our cases indicate that this guarantee applies even to commercial speech. In *Virginia Pharmacy Board* v. *Virginia Consumer Council*, 425 U.S. 748 (1976), we held that Virginia could not pursue its goal of encouraging the public to patronize the "professional pharmacist" (one who provided individual attention and a stable pharmacist-customer relationship) by "keeping the public in ignorance of the entirely lawful terms that competing pharmacists are offering." *Id.*, at 770. We noted that our decision left the State free to pursue its goal of maintaining high standards among its pharmacists by "requir[ing] whatever professional standards it wishes of its pharmacists." *Ibid.*

We went on in *Virginia Pharmacy Board* to discuss the types of regulation of commercial speech that, due to the "commonsense differences" between this form of speech and other forms, are or may be constitutionally permissible. We indicated that government may impose reasonable "time, place, and manner" restrictions, and that it can deal with false, deceptive, and misleading commercial speech. We noted that the question of advertising of illegal transactions and the special problems of the electronic broadcast media were not presented.

Concluding with a restatement of the type of restraint that is not permitted, we said: "What is at issue is whether a State may completely suppress the dissemination of concededly truthful information about entirely lawful activity, fearful of that information's effect upon its disseminators and its recipients. . . . [W]e conclude that the answer to this [question] is in the negative." *Id.*, at 773.

Virginia Pharmacy Board did not analyze the State's interests to determine whether they were "substantial." Obviously, preventing professional dereliction and low quality health care are "substantial," legitimate, and important state goals. Nor did the opinion analyze the ban on speech to determine whether it "directly advance[d]," *ante*, at 566, 569, these goals. We also did not inquire whether a "more limited regulation of . . . commercial expression," *ante*, at 570, would adequately serve the State's interests. Rather, we held that the State "may *not* [pursue its goals] by keeping the public in ignorance." 425 U.S., at 770. (Emphasis supplied.)

Until today, this principle has governed. In *Linmark Associates Inc.* v. *Willingboro*, 431 U.S. 85 (1977), we considered whether a town could ban "For Sale" signs on residential property to further its goal of promoting stable, racially integrated housing. We did note that the record did not establish that the ordinance was necessary to enable the State to achieve its goal. The holding of *Linmark*, however, was much broader.[3] We stated:

"The constitutional defect in this ordinance, however, is far more basic. The Township Council here, like the Virginia Assembly in *Virginia Pharmacy Bd.*, acted to prevent its residents from obtaining certain information . . . which pertains to sales activity in Willingboro. . . . The Council has sought to restrict the free flow of these data because it fears that otherwise homeowners will make decisions inimical to what the Council views as the homeowners' self-interest and the corporate interest of the township: they will choose to leave town. The Council's concern, then, was not with any commercial aspect of "For Sale" signs—with offerors communicating offers to offerees—but with the substance of the information communicated to Willingboro citizens." *Id.*, at 96.

The Court in *Linmark* resolved beyond all doubt that a strict standard of review applies to suppression of commercial information, where the purpose of the restraint is to influence behavior by depriving citizens of information. The Court followed the strong statement above with an explicit adoption of the standard advocated by Mr. Justice Brandeis in his concurring opinion in *Whitney* v. *California*, 274 U.S. 357, 377 (1927): "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression." 431 U.S. at 97.

Carey v. *Population Services International*, 431 U.S. 678, 700-702 (1977), also applied to content-based restraints on commercial speech the same standard of review we have applied to other varieties of speech. There the Court held that a ban on advertising of contraceptives could not be justified by the State's interest in avoiding " 'legitimation' of illicit sexual behavior" because the advertisements could not be characterized as " 'directed to inciting or producing imminent lawless action and . . . likely to incite or produce such action,' " *id.*, at 701, quoting *Bradenburg* v. *Ohio*, 395 U.S. 444, 447 (1969).

Our prior references to the " 'commonsense differences' " between commercial speech and other speech " 'suggest that a different degree of protection is necessary to insure that the flow of truthful and legitimate commercial information is unimpaired.' " *Linmark Associates*, 431 U.S., at 98, quoting *Virginia Pharmacy Board*, 425 U.S., at 771-772, n. 24. We have not suggested that the "commonsense differences" between commercial speech and other speech justify relaxed scrutiny of restraints that suppress truthful, nondeceptive, noncoercive commercial speech. The differences articulated by the Court, see *ante*, at 564, n. 6, justify a more permissive approach to regulation of the manner of commercial speech for the purpose of protecting consumers from deception or coercion, and these differences explain why doctrines designed to prevent "chilling" of protected speech are inapplicable to commercial speech. No differences between commercial speech and other protected speech justify suppression of commercial speech in order to influence public conduct through manipulation of the availability of information. The Court stated in *Carey* v. *Population Services International*:

"Appellants suggest no distinction between commercial and noncommercial speech that would render these discredited arguments meritorious when offered to justify prohibitions on commercial speech. On the contrary, such arguments are clearly directed not at any commercial aspect of the prohibited advertising but at the ideas conveyed and form of expression—*the core of First Amendment values.*" 431 U.S., 701, n. 28 (emphasis added).

It appears that the Court would permit the State to ban all direct advertising of air conditioning, assuming that a more limited restriction on such advertising would not effectively deter the public from cooling its homes. In my view, our cases do not support this type of suppression. If a governmental unit believes that use or overuse of air conditioning is a serious problem, it must attack that problem directly, by prohibiting air conditioning or regulating thermostat levels. Just as the Commonwealth of Virginia may promote professionalism of pharmacists directly, so too New York may *not* promote energy conservation "by keeping the public in ignorance." *Virginia Pharmacy Board*, 425 U.S., at 770.

Mr. Justice Stevens, with whom Mr. Justice Brennan joins, concurring in the judgment.

Because "commercial speech" is afforded less constitutional protection than other forms of speech,[1] it is important that the commercial speech concept not be defined too broadly lest speech deserving of greater constitutional protection be inadvertently suppressed. The issue in this case is whether New York's prohibition on the promotion of the use of electricity through advertising is a ban on nothing but commercial speech.

In my judgment one of the two definitions the Court uses in addressing that issue is too broad and the other may be somewhat too narrow. The Court first describes commercial speech as "expression related solely to the economic interests of the speaker and its audience." *Ante*, at 561. Although it is not entirely clear whether this definition uses the subject matter of the speech or the motivation of the speaker as the limiting factor, it seems clear to me that it encompasses speech that is entitled to the maximum protection afforded by the First Amendment. Neither a labor leader's exhortation to strike, nor an economist's dissertation on the money supply, should receive any lesser protection because the subject matter concerns only the economic interests of the audience. Nor should the economic motivation of a speaker qualify his constitutional protection; even Shakespeare may have been motivated by the prospect of pecuniary reward. Thus, the Court's first definition of commercial speech is unquestionably too broad.[2]

The Court's second definition refers to " 'speech proposing a commercial transaction.' " *Ante*, at 562. A salesman's solicitation, a broker's offer, and a manufacturer's publication, of a price list or the terms of his standard warranty would unquestionably fit within this concept.[3] Presumably, the definition is intended to encompass advertising that advises possible buyers of the availability of specific products at specific prices and describes the advantages of purchasing such items. Perhaps it also extends to other communications that do little more than make the name of a product or a service more familiar to the general public. Whatever the precise contours of the concept, and perhaps it is too early to enunciate an exact formulation. I am persuaded that it should not include the entire range of communication that is embraced within the term "promotional advertising."

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[3] In my view, the Court today misconstrues the holdings of both *Virginia Pharmacy Board* and *Linmark Associates* by implying that those decisions were based on the fact that the restraints were not closely enough related to the governmental interests asserted. *See ante*, at 564-565, and n. 7. Although the Court noted the lack of substantial relationship between the restraint and the governmental interest of each of those cases, the holding of each clearly rested on a much broader principle.

[1] See *Ohralik* v. *Ohio State Bar Assn.*, 436 U.S. 447, 456, quoted *ante*, at 563, n. 5 *Cf. Smith* v. *United States*, 431 U.S. 291, 318 (Stevens, J., dissenting).

[2] See Farber, Commercial Speech and First Amendment Theory, 74 Nw. U.L. Rev. 372, 382-383 (1979):

"Economic motivation could not be made a disqualifying factor [from maximum protection] without enormous damage to the first amendment. Little purpose would be served by a first amendment which failed to protect newspapers, paid public speakers, political candidates with partially economic motives and professional authors." (Footnotes omitted.)

This case involves a governmental regulation that completely bans promotional advertising by an electric utility. This ban encompasses a great deal more than mere proposals to engage in certain kinds of commercial transactions. It prohibits all advocacy of the immediate or future use of electricity. It curtails expression by an informed and interested group of persons of their point of view on questions relating to the production and consumption of electrical energy—questions frequently discussed and debated by our political leaders. For example, an electric company's advocacy of the use of electric heat for environmental reasons, as opposed to wood-burning stoves, would seem to fall squarely within New York's promotional advertising ban and also within the bounds of maximum First Amendment protection. The breadth of the ban thus exceeds the boundaries of the commercial speech concept, however the concept may be defined.[4]

The justification for the regulation is nothing more than the expressed fear that the audience may find the utility's message persuasive. Without the aid of any coercion, deception, or misinformation, truthful communication may persuade some citizens to consume more electricity than they otherwise would. I assume that such a consequence would be undesirable and that government may therefore prohibit and punish the unnecessary or excessive use of electricity. But if the perceived harm associated with greater electrical usage is not sufficiently serious to justify direct regulation, surely it does not constitute the kind of clear and present danger that can justify the suppression of speech.

Although there were written in a different context, the words used by Mr. Justice Brandeis in his concurring opinion in *Whitney* v. *California*, 274 U.S. 357, 376-377, explain my reaction to the prohibition against advocacy involved in this case:

"But even advocacy of violation, however reprehensible morally is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted on. The wide difference between advocacy and incitement, between preparation and attempt, between assembling and conspiracy, must be borne in mind. In order to support a finding of clear and present danger it must be shown either that immediate serious violence was to be expected or was advocated, or that the past conduct furnished reason to believe that such advocacy was then contemplated.

"Those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty. To courageous, self-reliant men, with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can be deemed clear and present, unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. If there be time to expose through discussion the faleshood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression. Such must be the rule if authority is to be reconciled with freedom. Such in my opinion, is the command of the Constitution." (Footnote omitted.)[5]

In sum, I concur in the result because I do not consider this to be a "commercial speech" case. Accordingly, I see no need to decide whether the court's four-part analysis, *ante*, at 566, adequately protects comerical speech—as properly defined—in the face of a blanket ban of the sort involved in this case.

MR. JUSTICE REHNQUIST, dissenting.

The Court today invalidates an order issued by the New York Public Service Commission designed to promote a policy that has been declared to be of critical national concern. The order was issued by the Commission in 1973 in response to the Mideastern oil embargo crisis. It prohibits electric corporations "from *promoting* the use of electricity through the use of advertising subsidy payments . . . . or employee incentives." State of New York Public Service Commission, Case No. 26532 (Dec. 5, 1973), App. to Juris. Statement 31a (emphasis added). Although the immediate crisis created by the oil embargo has subsided, the ban on promotional advertising remains in effect. The regulation was re-examined by the New York Public Service Commission in 1977. Its constitutionality was subsequently upheld by the New York Court of Appeals, which concluded that the paramount national interest in energy conservation justified its retention.[1]

The Court's asserted justification for invalidating the New York law is the public interest discerned by the Court to underlie the First Amendment in the free flow of commercial information. Prior to this Court's recent decision in *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council*, 425 U.S. 748 (1976), however, commercial speech was afforded no protection under the First Amendment whatsoever. See. *e.g., Breard* v. *Alexandria*, 341 U.S. 622 (1951); *Valentine* v. *Chrestensen*, 316 U.S. 52 (1942). Given what seems to me full recognition of the holding of *Virginia Pharmacy Board* that commercial speech is entitled to some degree of First Amendment protection, I think the Court is nonetheless incorrect in invalidating the carefully considered state ban on promotional advertising in light of pressing national and state energy needs.

The Court's analysis in my view is wrong in several respects. Initially, I disagree with the Court's conclusion that the speech of a state-created monopoly, which is the subject of a comprehensive regulatory scheme, is entitled to protection under the First Amendmdent. I also think the Court errs here in failing to recognize that the state law is most accurately viewed as an economic regulation and that the speech involved (if it falls within the scope of the First Amendment at all) occupies a significantly more subordinate position in the hierarchy of First Amendment values than the Court gives it today. Finally, the Court in reaching its decision improperly substitutes its own judgment for that of the State in deciding how a proper ban on promotional advertising should be drafted. With regard to this latter point, the Court adopts as its final part of a four-part test a "no more extensive than necessary" analysis that will unduly impair a state legislature's ability to adopt legislation reasonably designed to promote interests that have always been rightly thought to be of great importance to the State.

In concluding that appellant's promotional advertising constitutes protected speech, the Court reasons that speech by electric utilities is valuable to consumers who must decide whether to use the monopoly service or turn to an alternative energy source, and if they decide to use the service how much of it to purchase. *Ante*, at 567. The Court in so doing "assume[s] that the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising." *Ante*, at 568. The Court's analysis ignores the fact that the monopoly here is entirely state-created and subject to an extensive state regulatory scheme from which it derives benefits as well as burdens.

While this Court has stated that the "capacity [of speech] for informing the public does not depend upon the identity of its source." *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765, 777 (1978), the source of the speech nevertheless may be relevant in determining whether a given message is protected under the First Amendment.[2]

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[3] See *id., at 386-387.*

[4] The utility, characterization of the Commission's ban in its complaint as involving commercial speech clearly does not bind this Court's consideration of the First Amendment issues in this new and evolving area of constitutional law.

Nor does the Commission's intention not to suppress "institutional and informational" speech insure that only "commercial speech" will be suppressed. The blurry line between the two categories of speech has the practical effect of requiring that the utilities either refrain from speech that is close to the line, or seek advice from the Public Service Commission. But the Commission does not possess the necessary expertise in dealing with these sensitive free speech questions; and, in any event, ordinarily speech entitled to maximum First Amendment protection may not be subject to a prior clearance procedure with a government agency.

[5] Mr. Justice Brandeis quoted Lord Justice Scrutton's comment in *King* v. *Secretary of State for Home Affairs ex parte O'Brien*, [1923] 2 K. B. 361, 382: "'You really believe in freedom of speech, if you are willing to allow it to men whose opinions seem to you wrong and even dangerous. . . .'" 274 U.S., at 377, n. 4.

See also *Young* v. *American Mini Theatres, Inc.*, 427 U.S. 50, 63 (opinion of STEVENS, J.).

[1] The New York Court of Appeals stated:

"In light of current exigencies, one of the policies of any public service legislation must be the conservation of our vital and irreplaceable resources. The Legislature has but recently imposed upon the Commission a duty 'to encourage all persons and corporations . . . to formulate and carry out long-range programs. . . . [for] the preservation of environmental values and the conservation of natural resources' (Public Service Law, § 5, subd. 2). Implicit in this amendment is a legislative recognition of the serious situation which confronts our State and Nation. More important, conservation of resources has become an avowed legislative policy embodied in the commission's enabling act (see also, *Matter of New York State Council of Retail Merchants* v. *Public Serv. Comm. of State of N.Y.*, 45 N.Y. 2d 661, 673-674)." *Consolidated Edison Co.* v. *Public Service Comm'n*, 47 N.Y. 2d 94, 102-103, 390 N.E. 2d 749, 753 (1979).

[2] In *Brown* v. *Glines*, 444 U.S. 348 (1980), for example, we recently upheld Air Force regulations that imposed restrictions on the free speech and petition rights of Air Force personnel. See also, *e.g.*,

When the source of the speech is a state-created monopoly such as this, traditional First Amendment concerns, if they come into play at all, certainly do not justify the broad interventionist role adopted by the Court today. In *Consolidated Edison Co.* v. *Public Service Comm'n, ante,* at 549-550, MR. JUSTICE BLACKMUN observed:

"A public utility is a state-created monopoly. See, *e.g.,* N.Y. Pub. Serv. Law § 68 (McKinney 1955); Jones, Origins of the Certificate of Public Convenience and Necessity; Developments in the States 1870-1920, 79 Colum. L. Rev. 426, 458-461 (1979); Comment, Utility Rates, Consumers, and the New York State Public Service Commission, 39 Albany L. Rev. 707, 709-714 (1975). Although monopolies generally are against the public policies of the United States and of the State of New York, see, *e.g.,* N.Y. Gen. Bus. Law § 340 (McKinney 1968 and Supp. 1979-1980). . . . utilities are permitted to operate as monopolies because of a determination by the State that the public interest is better served by protecting them from competition. See 2 A. Kahn, The Economics of Regulation 113-171 (1971).

"This exceptional grant of power to private enterprises justifies extensive oversight on the part of the State to protect the ratepayers from exploitation of the monopoly power through excessive rates and other forms of overreaching. . . . New York law gives its Public Service Commission plenary supervisory powers over all property, real and personal, 'used or to be used for or in connection with or to facilitate the . . . sale or furnishing of electricity for light, heat or power.' N.Y. Pub. Serv. Law §§ 2(12) and 66(1) (McKinney 1955)."

Thus, although *First National Bank of Boston* v. *Bellotti, supra,* holds that speech of a corporation is entitled to some First Amendment protection, it by no means follows that a utility with monopoly power conferred by a State is also entitled to such protection.

The state-created monopoly status of a utility arises from the unique characteristics of the services that a utility provides. As recognized in *Cantor* v. *Detroit Edison Co.,* 428 U.S. 579, 595-596 (1976), "public utility regulation typically assumes that the private firm is a natural monopoly and that public controls are necessary to protect the consumer from exploitation." The consequences of this natural monopoly in my view justify much more wide-ranging supervision and control of a utility under the First Amendment than this Court held in *Bellotti* to be permissible with regard to ordinary corporations. Corporate status is generally conferred as a result of a State's determination that the corporate characteristics "enhance its efficiency as an economic entity." *First National Bank of Boston* v. *Bellotti, supra,* at 825-826 (Rehnquist, J., dissenting). A utility, by contrast, fulfills a function that serves special public interests as a result of the natural monopoly of the service provided. Indeed, the extensive regulations governing decisionmaking by public utilities suggest that for purposes of First Amendment analysis, a utility is far closer to a state-controlled enterprise than is an ordinary corporation.[3] Accordingly, I think a State has broad discretion in determining the statements that a utility may make in that such statements emanate from the entity created by the State to provide important and unique public services. And a state regulatory body charged with the oversight of these types of services may reasonably decide to impose on the utility a special duty to conform its conduct to the agency's conception of the public interest. Thus I think it is constitutionally permissible for it to decide that promotional advertising is inconsistent with the public interest in energy conservation. I also think New York's ban on such advertising falls within the scope of permissible state regulation of an economic activity by an entity that could not exists in corporate form, say nothing of enjoy monopoly status, were it not for the laws of New York.[4]

II

This Court has previously recognized that although commercial speech may be entitled to First Amendment protection, that protection is not as extensive as that accorded to the advocacy of ideas. Thus, we stated in *Ohralik* v. *Ohio State Bar Assn.,* 436 U.S. 447, 455-456 (1978):

"Expression concerning purely commercial transactions has come within the ambit of the Amendment's protection only recently. In rejecting the notion that such speech 'is wholly outside the protection of the First Amendment.' *Virginia Pharmacy, supra,* at 761, we were careful not to hold 'that it is wholly undifferentiable from other forms' of speech. 425 U.S., at 771, n. 24. We have not discarded the 'common-sense' distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech. *Ibid.* To require a parity of constitutional protection for commercial and noncommercial speech alike could invite dilution, simply by a leveling process, of the force of the Amendment's guarantee with respect to the latter kind of speech. Rather than subject the First Amendment to such a devitalization, we instead have afforded commercial speech a limited measure of protection, commensurate with its subordinate position in the scale of First Amendment values, while allowing modes of regulation that might be impermissible in the realm of noncommercial expression." (Footnote omitted.)

The Court's decision today fails to give due deference to this subordinate position of commercial speech. The Court is so doing returns to the bygone era of *Lochner* v. *New York,* 198 U.S. 45 (1905), in which it was common practice for this Court to strike down economic regulations adopted by a State based on the Court's own notions of the most appropriate means for the State to implement its considered policies.

I had thought by now it had become well established that a State has broad discretion in imposing economic regulations. As this Court stated in *Nebbia* v. *New York,* 291 U.S. 502, 537 (1934):

"[T[here can be no doubt that upon proper occasion and by appropriate measures the state may regulate a business in any of its aspects. . . .

"So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy, or, when it is declared by the legislature, to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court *functus officio.* . . . [I]t does not lie with the courts to determine that the rule is unwise."

And Mr. Justice Black, writing for the Court, observed more recently in *Ferguson* v. *Skrupa,* 372 U.S. 726, 730 (1963):

"The doctrine . . . that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws."

The State of New York has determined here that economic realities require the grant of monopoly status to public utilities in order to distribute efficiently the services they provide, and in granting utilities such status it has made them subject to an extensive regulatory scheme. When the State adopted this scheme and when its Public Service Commission issued its initial ban on promotional advertising in 1973, commercial speech had not been held to fall within the scope of the First Amendment at all. *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council,* 425 U.S. 748 (1976), however, subsequently accorded commercial

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Parker v. *Levy,* 417 U.S. 733 (1974) (commissioned officer may be prohibited from publicly urging enlisted personnel to disobey orders that might send them into combat); *Snepp* v. *United States,* 444 U.S. 507 (1980) (employees of intelligence agency may be required to submit publications relating to agency activity for prepublication review by the agency).

[3] In this regard the New York Court of Appeals stated:

"Public utilities, from the earliest days in this State, have been regulated and franchised to serve the commonwealth. Our policy is 'to withdraw the unrestricted right of competition between corporations occupying . . . the public streets . . . and supplying the public with their products or utilities which are well nigh necessities' (*People ex rel. New York Edison Co.* v. *Wilcox,* 207 N.Y. 86, 99: *Matter of New York Elec. Lines Co.,* 201 N.Y. 321). The realities of the situation all but dictate that a utility be granted monopoly status (see *People ex rel. New York Elec. Lines Co.* v. *Squire,* 107 N.Y. 593, 603-605). To protect against abuse of this superior economic position extensive governmental regulation has been deemed a necessary coordinate (see *People ex rel. New York Edison Co.* v. *Willcox, supra,* at pp. 93-94)." 47 N.Y. 2d, at 109-110, 390 N.E. 2d, at 757.

[4] The Commission's restrictions on promotional advertising are grounded in its concern that electric utilities fulfill their obligation under the New York Public Service Law to provide "adequate" service at "just and reasonable" rates. N.Y. Pub. Serv. Law § 65 (1) (McKinney 1955). The Commission, under state law, is required to set reasonable rates. N.Y. Pub. Serv. Law §§ 66 (2) and 72 (McKinney 1955); § 66 (12) (McKinney Supp. 1979). The Commission has also been authorized by the legislature to prescribe "such reasonable improvements [in electric utilities' practices] as will best promote the public interest . . ." § 66 (2). And in the performance of its duties the Commission is required to "encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values, and the conservation of natural resources." N.Y. Pub. Serv. Law § 5 (2) (McKinney Supp. 1979). Here I think it was quite reasonable for the State Public Service Commission to conclude that the ban on promotional advertising was necessary to prevent utilities from using their broad state-conferred monopoly power to promote their own economic well-being at the expense of the state interest in energy conservation—an interest that could reasonably be found to be inconsistent with the promotion of greater profits for utilities.

speech a limited measure of First Amendment protection.

The Court today holds not only that commercial speech is entitled to First Amendment protection, but also that when it is protected a State may not regulate it unless its reason for doing so amounts to a "substantial" governmental interest, its regulation "directly advances" that interest, and its manner of regulation is "not more extensive than necessary" to serve the interest. *Ante*, at 566. The test adopted by the Court thus elevates the protection accorded commercial speech that falls within the scope of the First Amendment to a level that is virtually indistinguishable from that of noncommercial speech. I think the Court in so doing has effectively accomplished the "devitalization" of the First Amendment that it counseled against in *Ohralik.* I think it has also, by labeling economic regulation of business conduct as a restraint on "free speech," gone far to resurrect the discredited doctrine of cases such as *Lochner* and *Tyson & Brother* v. *Banton,* 273 U.S. 418 (1927). New York's order here is in my view more akin to an economic regulation to which virtually complete deference should be accorded by this Court.

I doubt there would be any question as to the constitutionality of New York's conservation effort if the Public Service Commission had chosen to raise the price of electricity, see, *e.g., Sunshine Anthracite Coal Co.* v. *Adkins.* 310 U.S. 381 (1940): *Old Dearborn Distributing Co.* v. *Seagram-Distillers Corp.,* 299 U.S. 183 (1936), to condition its sale on specified terms, see, *e.g., Nebbia* v. *New York, supra,* at 527-528, or to restrict its production, see, *e.g., Wickard* v. *Filburn,* 317 U.S. 111 (1942). In terms of constitutional values, I think that such controls are virtually indistinguishable from the State's ban on promotional advertising.

An ostensible justification for striking down New York's ban on promotional advertising is that this Court has previously "rejected the 'highly paternalistic' view that government has complete power to suppress or regulate commercial speech. '[P]eople will perceive their own best interests if only they are well enough informed and . . . the best means to that end is to open the channels of communication, rather than to close them. . . .' " *Ante,* at 562. Whatever the merits of this view, I think the Court has carried its logic too far here.

The view apparently derives from the Court's frequent reference to the "marketplace of ideas," which was deemed analogous to the commercial market in which a laissez-faire policy would lead to optimum economic decisionmaking under the guidance of the "invisible hand." See, *e.g.,* Adam Smith, Wealth of Nations (1776). This notion was expressed by Mr. Justice Holmes in his dissenting opinion in *Abrams* v. *United States,* 250 U.S. 616, 630 (1919), wherein he stated that "the best test of truth is the power of the thought to get itself accepted in the competition of the market. . . ." See also, *e.g., Consolidated Edison* v. *Public Service Comm'n, ante,* at 534; J. Mill, On Liberty (1858); J. Milton. Areopagitica. A Speech for the Liberty of Unlicensed Printing (1644).

While it is true that an important objective of the First Amendment is to foster the free flow of information, identification of speech that falls within its protection is not aided by the metaphorical reference to a "marketplace of ideas." There is no reason for believing that the marketplace of ideas is free from market imperfections any more than there is to believe that the invisible hand will always lead to optimum economic decisions in the commercial market. See, *e.g.,* Baker, Scope of the First Amendment, Freedom of Speech, 25 UCLA L. Rev. 964, 967-981 (1978). Indeed, many types of speech have been held to fall outside the scope of the First Amendment, thereby subject to governmental regulation, despite this Court's references to a marketplace of ideas. See, *e.g., Chaplinsky* v. *New Hampshire,* 315 U.S. 568 (1942) (fighting words); *Beauharnais* v. *Illinois,* 343 U.S. 250 (1952) (group libel); *Roth* v. *United States,* 354 U.S. 476, (1957) (obscenity). It also has been held that the government has a greater interest in regulating some types of protected speech than others. See. *e.g., FCC* v. *Pacifica Foundation,* 438 U.S. 726 (1978) (indecent speech); *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council, supra* (commercial speech). And as this Court stated in *Gertz* v. Robert Welch, Inc., 418 U.S. 323, 344, n. 9 (1974): "Of course, an opportunity for rebuttal seldom suffices to undo [the] harm of a defamatory falsehood. Indeed the law of defamation is rooted in our experience that the truth rarely catches up with a lie." The Court similarly has recognized that false and misleading commerical speech is not entitled to any First Amendment protection. See, e.g., ante, at 566.

The above examples illustrate that in a number of instances government may constitutionally decide that societal interests justify the imposition of restrictions on the free flow of information. When the question is whether a given commercial message is protected, I do not think this Court's determination that the information will "assist" consumers justifies judicial invalidation of a reasonably drafted state restriction on such speech when the restriction is designed to promote a concededly substantial state interest. I consequently disagree with the Court's conclusion that the societal interest in the dissemination of commerical information is sufficient to justify a restriction on the State's authority to regulate promotional advertising by utilities; indeed, in the case of a regulated monoploy it is difficult for me to distinguish "society" from the state legislature and the Public Service Commission. Nor do I think there is any basis for concluding that individual citizens of the State will recognize the need for an act to promote energy conservation to the extent the government deems appropriate, if only the channels of communication are left open.[5] Thus, even if I were to agree that commerical speech is entitled to some First Amendment protection, I would hold here that the State's decision to ban promotional advertising, in light of the substantial state interest at stake, is a constitutionally permissible exercise of its power to adopt regulations designed to promote the interests of its citizens.

The plethora of opinions filed in this case highlights the doctrinal difficulties that emerge from this Court's decisions granting First Amendment protection to commercial speech. My Brother STEVENS, quoting Mr. Justice Brandeis in *Whitney* v. *California,* 274 U.S. 357, 376-377 (1927), includes Mr. Justice Brandeis' statement that "[t]hose who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty." *Ante,* at 582, MR. JUSTICE BLACKMUN, in his separate opinion, joins only in the Court's judgment because he believes that the Court's opinion "does not provide adequate protection for truthful, nonmisleading, noncoercive commercial speech." *Ante,* at 573. Both MR. JUSTICE STEVENS, *ante,* at 582, and MR. JUSTICE BLACKMUN, *ante,* at 577, would apply the following formulation by Mr. Justice Brandeis of the clear-and-present-danger test to the regulation of speech at issue in this case:

> "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression." *Whitney* v. *California, supra,* at 377 (concurring opinion).

Although the Court today does not go so far as to adopt this position, its reason for invalidating New York's ban on promotional advertising make it quite difficult for a legislature to draft a statute regulating promotional advertising that will satisfy the First Amendment requirements established by the Court in this context. See Part III, *infra.*

Two ideas are here at war with one another, and their resolution, although it be on a judicial battlefield, will be a very difficult one. The sort of "advocacy" of which Mr. Justice Brandeis spoke was not the advocacy on the part of a utility to use more of its product. Nor do I think those who won our independence, while declining to "exalt order at the cost of liberty," would have viewed a merchant's unfettered freedom to advertise in hawking his wares as a "liberty" not subject to extensive regulation in light of the government's substantial interest in attaining "order" in the economic sphere.

While I agree that when the government attempts to regulate speech of those expressing views on public issues, the speech is protected by the First Amendment unless it presents "a clear and present danger" of a substantive evil that the government has a right to prohibit, see, *e.g., Schenck* v. *United States,* 249 U.S. 47, 52 (1919), I think it is important to recognize that this test is appropriate in the political context in light of the central importance of such speech to our system of self-government. As observed in *Buckley* v. *Valeo,* 424 U.S. 1, 14 (1976):

> "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order 'to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.' "

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[5] Although the Constitution attaches great importance to freedom of speech under the First Amendment so that individuals will be better informed and their thoughts and ideas will be uninhibited, it does not follow that "people will perceive their own best interests," or that if they do they will act to promote them. With respect to governmental policies that do not offer immediate tangible benefits and the success of which depends on incremental contributions by all members of society, such as would seem to be the case with energy conservation, a strong argument can be made that while a policy may be in the longrun interest of all members of society, some rational individuals will perceive it to their own shortrun advantage to not act in accordance with that policy. When the regulation of commerical speech is at issue. I think this is a consideration that the government may properly take into account. As was observed in *Townsend* v. *Yeomans.* 301 U.S. 441, 451 (1937), "the legislature, acting within its sphere, is presumed to know the needs of the people of the State." This observation in my view is applicable to the determination of the State Public Service Commission here.

And in *Garrison* v. *Louisiana,* 379 U.S. 64, 74-75 (1964), this Court stated that "speech concerning public affairs is more than self-expression; it is the essence of self-government."

The First Amendment, however, does not always require a clear and present danger to be present before the government may regulate speech. Although First Amendment protection is not limited to the "exposition of ideas" on public issues, see, *e. g., Winters* v. *New York, 333 U.S. 507, 510 (1948)*—both because the line between the informing and the entertaining is elusive and because art, literature, and the like may contribute to important First Amendment interests of the individual in freedom of speech—it is well established that the government may regulate obscenity even though it does not present a clear and present danger. Compare, *e. g., Paris Adult Theatre I* v. *Slaton,* 413 U.S. 49, 57-58 (1973), with *Brandenburg* v. *Ohio,* 395 U. S. 444. 447 (1969). Indecent speech, at least when broadcast over the airwaves, also may be regulated absent a clear and present danger of the type described by Mr. Justice Brandeis and required by this Court in *Brandenburg. FCC* v. *Pacifica Foundation,* 438 U. S. 726 (1978). And in a slightly different context this Court declined to apply the clear-and-present-danger test to a conspiracy among members of the press in violation of the Sherman Act because to do so would "degrade" that doctrine. *Associated Press* v. *United States,* 326 U. S. 1, 7 (1945). Nor does the Court today apply the clear-and-present-danger test in invalidating New York's ban on promotional advertising. As noted above, in these and other contexts the Court has clearly rejected the notion that there must be a free "marketplace of ideas."

If the complaint of those who feel the Court's opinion does not go far enough is that the "only test of truth is its ability to get itself accepted to the marketplace of ideas"—the test advocated by Thomas Jefferson in his first inaugural address, and by Mr. Justice Holmes in *Abrams* v. *United States,* 250 U.S. 616, 630 (1919) (dissenting opinion)—there is no reason whatsoever to limit the protection accorded commercial speech to "truthful, nonmisleading, noncoercive" speech. See *ante,* at 573 (BLACKMUN, J., concurring in judgment). If the "commercial speech" is in fact misleading, the "marketplace of ideas" will in time reveal that fact. It may not reveal it sufficiently soon to avoid harm to numerous people, but if the reasoning of Brandeis and Holmes is applied in this context, that was one of the risks we took in protecting free speech in a democratic society.

Unfortunately, although the "marketplace of ideas" has a historically and sensibly defined context in the world of political speech, it has virtually none in the realm of business transactions. Even so staunch a defender of the First Amendment as Mr. Justice Black, in his dissent in *Breard* v. *Alexandria,* 341 U.S., at 650, n., stated:

"Of course I believe that the present ordinance could constitutionally be applied to a 'merchant' who goes from door to door 'selling pots.' "

And yet, with the change in solicitation and advertising techniques, the line between what Central Hudson did here and the peddler selling pots in Alexandria a generation ago is difficult, if not impossible to fix. Doubtless that was why Mr. Justice Black joined the unanimous opinion of the Court in *Valentine* v. *Chrestensen,* 316 U.S., at 54, in which the Court stated:

"This court has unequivocally held that the streets are proper places for the exercise of the freedom of communicating information and disseminating opinion and that, though the states and municipalities may appropriately regulate the privilege in the public interest, they may not unduly burden or proscribe its employment in these public thoroughfares. *We are equally clear that the Constitution imposes no such restraint on government as respects purely commercial advertising.* Whether, and to what extent, one may promote or pursue a gainful occupation in the streets, to what extent such activity shall be adjudged a derogation of the public right of user, are matters for legislative judgment." (Emphasis added.)

I remain of the view that the Court unlocked a Pandora's Box when it "elevated" commercial speech to the level of traditional political speech by according it First Amendment protection in *Virginia Pharmacy Board* v. *Virginia Citizens Consumer Council,* 425 U.S. 748 (1976). The line between "commercial speech," and the kind of speech that those who drafted the First Amendment had in mind, may not be a technically or intellectually easy one to draw, but it surely produced far fewer problems than has the development of judicial doctrine in this area since *Virginia Pharmacy Board.* For in the world of political advocacy and *its* marketplace of ideas, there is no such thing as a "fraudulent" idea: there may be useless proposals, totally unworkable schemes, as well as very sound proposals that will receive the imprimatur of the "marketplace of ideas" through our majoritarian system of election and representative government. The free flow of information is important in this context not because it will lead to the discovery of any objective "truth," but because it is essential to our system of self-government.

The notion that more speech is the remedy to expose falsehood and fallacies is wholly out of place in the commercial bazaar, where if applied logically the remedy of one who was defrauded would be merely a statement, available upon request, reciting the Latin maxim *"caveat emptor."* But since "fraudulent speech" in this area is to be remediable under *Virginia Pharmacy Board, supra,* the remedy of one defrauded is a lawsuit or an agency proceeding based on common-law notions of fraud that are separated by a world of difference from the realm of politics and government. What time, legal decisions, and common sense have so widely severed, I declined to join in *Virginia Pharmacy Board,* and regret now to see the Court reaping the seeds that it there sowed. For in a democracy, the economic is subordinate to the political, a lesson that our ancestors learned long ago, and that our descendants will undoubtedly have to relearn many years hence.

III

The Court concedes that the state interest in energy conservation is plainly substantial, *ante,* at 568, as is the State's concern that its rates be fair and efficient. *Ante,* at 569. It also concedes that there is a direct link between the Commission's ban on promotional advertising and the State's interest in conservation. *Ibid.* The Court nonetheless strikes down the ban on promotional advertising because the Commission has failed to demonstrate, under the final part of the Court's four-part test, that its regulation is no more extensive than necessary to serve the State's interest. *Ante,* at 569-571. In reaching this conclusion, the Court conjures up potential advertisements that a utility might make that conceivably would result in net energy savings. The Court does not indicate that the New York Public Service Commission has in fact construed its ban on "promotional" advertising to preclude the dissemination of information that clearly would result in a net energy savings, nor does it even suggest that the Commission has been confronted with and rejected such an advertising proposal.[6] The final part of the Court's test thus leaves room for so many hypothetical "better" ways that any ingenious lawyer will surely seize on one of them to secure the invalidation of what the state agency actually did. As MR. JUSTICE BLACKMUN observed in *Illinois Elections Bd.* v. *Socialist Workers Party,* 440 U.S. 173, 188-189 (1979) (concurring opinion):

"A judge would be unimaginative indeed if he could not come up with something a little less 'drastic' or a little less 'restrictive' in almost any situation, and thereby enable himself to vote to strike legislation down."

Here the Court concludes that the State's interest in energy conservation cannot justify a blanket ban on promotional advertising. In its statement of the facts, the Court observes that the Commission's ban on promotional advertising is not "a perfect vehicle for conserving enegy." It states:

"[T]he Commission's order prohibits promotional advertising to develop consumption during periods when demand for electricity is low. By limiting growth in 'off-peak' consumption, the ban limits the 'beneficial side effects' of such growth in terms of more efficient use of existing powerplants. [App. to Juris. Statement] 37a." *Ante,* at 559.

The Court's analysis in this regard is in my view fundamentally misguided because it fails to recognize that the beneficial side effects of "more efficient use" may be inconsistent with the goal of energy conservation. Indeed, the Commission explicitly found that the promotion of off-peak consumption would impair conservation efforts.[7] The Commission stated:

"Increased off-peak generation, . . . while conferring some beneficial side effects, also consumes valuable energy resources and, if it is the result of increased sales, necessarily creates incremental air pollution and thermal discharges to waterways. More important, any increase in off-peak generation from most of the major companies producing electricity in this State would not, at this time, be produced from coal or nuclear resources, but would require the use of oil-fired generating facilities. The increased requirement for fuel oil to serve the incremental off-peak load created by promotional advertising would aggravate the nation's already unacceptably high level of dependence on foreign sources of supply and would, in addition, frustrate rather than encourage conservation efforts." App. to Juris. Statement 37a.[8]

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[6] Indeed appellee in its brief states:

"[N]either Central Hudson nor any other party made an attempt before the Commission to demonstrate or argue for a specific advertising strategy that would avoid the difficulties that the Commission found inherent in electric utility promotional advertising. The Commission, therefore, continued to enforce its ban on promotion which it had instituted in 1973." Brief for Appellee 15.

The Court makes no attempt to address this statement, or to explain why, when no state body has addressed the issue, the Court should nonetheless resolve it by invalidating the state regulation.

[7] In making this finding, the Commission distinguished "between promotional advertising designed to shift existing consumption from peak to off-peak hours and advertising designed to promote additional consumption during off-peak hours." App. to Juris. statement 58a, n. 2. It proscribed only the latter. *Ibid.*

The Court also observes, as the Commission acknowledged, that the ban on promotional advertising can achieve only "piecemeal conservationism" because oil dealers are not under the Commission's jurisdiction, and they remain free to advertise. Until I have mastered electrical engineering and marketing, I am not prepared to contradict by virtue of my judicial office those who assume that the ban will be successful in making a substantial contribution to conservation efforts. And I doubt that any of this Court's First Amendment decisions justify striking down the Commission's order because more steps toward conservation could have been made. This is especially true when, as here, the Commission lacks authority over oil dealers.

The Court concludes that the Commission's ban on promotional advertising must be struck down because it is more extensive than necessary: it may result in the suppression of advertising by utilities that promotes the use of electrical devices or services that cause no net increase in total energy use. The Court's reasoning in this regard, however, is highly speculative. The Court provides two examples that it claims support its conclusion. It first states that both parties acknowledge that the "heat pump" will be "a major improvement in electric heating," and that but for the ban the utilities would advertise this type of "energy efficien[t]" product.[9] The New York Public Service Commission, however, considered the merits of the heat pump and concluded that it would most likely result in an overall increase in electric energy consumption. The Commission stated:

"[I]nstallation of a heat pump means also installation of central air-conditioning. To this extent, promotion of off-peak electric space heating involves promotion of on-peak summer air-conditioning as well as on-peak usage of electricity for water heating. And the price of electricity to most consumers in the State does not now fully reflect the much higher marginal costs of on-peak consumption in summer peaking markets. In these circumstances, there would be a subsidization of consumption on-peak, and consequently, higher rates for all consumers." App. to Juris. Statement 58a.

Subsidization of peak consumption not only may encourage the use of scarce energy resources during peak periods, but also may lead to larger reserve generating capacity requirements for the State.

The Court next asserts that electric heating as a backup to solar and other heat may be an efficient alternative energy source. *Ante*, at 570. The Court fails to establish, however, that an advertising proposal of this sort was properly presented to the Commission. Indeed, the Court's concession that the Commission did not make findings on this issue suggests that the Commission did not even consider it. Nor does the Court rely on any support for its assertion other than the assertion of appellant. Rather, it speculates that "[i]n the absence of authoritative findings to the contrary, we must credit as within the realm of possibility the claim that electric heat can be an efficient alternative in some circumstances." *Ibid.*[10]

Ordinarily it is the role of the State Public Service Commission to make factual determinations concerning whether a device or service will result in a net energy savings and, if so, whether and to what extent state law permits dissemination of information about the device or service. Otherwise, as here, this Court will have no factual basis for its assertions. And the State will never have an opportunity to consider the issue and thus to construe its law in a manner consistent with the Federal Constitution. As stated in *Barrows* v. *Jackson*, 346 U.S. 249, 256-257 (1953):

"It would indeed be undesirable for this Court to consider every conceivable situation which might possibly arise in the application of complex and comprehensive legislation. Nor are we so ready to frustrate the expressed will of Congress or that of the state legislatures. Cf. *Southern Pacific Co.* v. *Gallagher*, 306 U.S. 167, 172."

I think the Court would do well to heed the admonition in *Barrows* here. The terms of the order of the New York Public Service Commission in my view indicate that advertising designed to promote net savings in energy use does not fall within the scope of the ban. The order prohibits electric corporations "from *promoting the use of electricity* through the use of advertising, subsidy payments .... or employee incentives." App. to Juris. Statement 31a (emphasis added). It is not clear to me that advertising that is likely to result in net savings of energy is advertising that "promot[es] the use of electricity," nor does the Court point to any language in the Commission order that suggests it has adopted this construction. Rather, it would seem more accurate to characterize such advertising as designed to "discourage" the use of electricity.[11] Indeed, I think it is quite likely that the Commission would view advertising that would clearly result in a net savings in energy as consistent with the objectives of its order and therefore permissible.[12] The Commission, for example, has authorized the dissemination of information that would result in *shifts* in electrical energy demand, thereby reducing the demand for electricity during peak periods. *Id.*, at 37a.[13] It has also indicated a willingness to consider at least some other types of "specific proposals" submitted by utilities. *Id.*, at 37a-38a. And it clearly permits informational as opposed to promotional dissemination of information. *Id.*, at 43a-46a. Even if the Commission were ultimately to reject the view that its ban on promotional advertising does not include advertising that results in net energy savings, I think the Commission should at least be given an opportunity to consider it.

It is in my view inappropriate for the Court to invalidate the State's ban on commercial advertising here, based on its speculation that in some cases the advertising may result in a net savings in electrical energy use, and in the cases in which it is clear a net energy savings would result from utility advertising, the Public Service Commission would apply its ban so as to proscribe such advertising. Even assuming that the Court's speculation is correct, I do not think it follows that facial invalidation of the ban is the appropriate course. As stated in *Parker* v. *Levy*, 417 U.S. 733, 760 (1974), "even if there are marginal applications in which a statute would infringe on First Amendment values, facial invalidation is inappropriate if the 'remainder of the statute . . . covers a whole range of easily identifiable and constitutionally proscribable . . . conduct. . . .' *CSC* v. *Letter Carriers*, 413 U.S. 548, 580-581 (1973)." This is clearly the case here.

For the foregoing reasons, I would affirm the judgment of the New York Court of Appeals.

Mr. RUDMAN. Mr. President, I will now yield the floor so that there can be other comments on the amendment. I will then have two other amendments to offer, which I understand will be agreed to and on which I will make a very short statement.

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[8] And in denying appellant's petition for rehearing, the Commission again stated:

"While promotion of off-peak usage, particularly electric space heating, is touted by some as desirable because it might increase off-peak usage and thereby improve a summer-peaking company's load factor, we are convinced that off-peak promotion, especially in the context of imperfectly structured electric rates, is inconsistent with the public interest, even if it could be divorced in the public mind from promotiong electric usage generally. As we pointed out in our Policy Statement, increases in generation, even off-peak generation, at this time, requires the burning of scarce oil resources. This increased requirement for fuel oil aggravates the nation's already high level of dependence on foreign sources of supply." *Id.*, at 58a (footnotes omitted).

[9] As previously discussed, however, it does not follow that because a product is "energy efficient" it is also consistent with the goal of energy conservation. Thus, with regard to the heat pump, counsel for appellees stated at oral argument that "Central Hudson says there are some [heat pumps] without air conditioning, but . . . they have never advised us of that." Tr. of Oral Arg. 32-33. The electric heat pump, he continued, "normally carr[ies] with it air conditioning in the summer, and the commission found that this would result in air conditioning that would not otherwise happen." *Id.*, at 33. This is but one example of the veritable Sargasso Sea of difficult nonlegal issues that we wade into by adopting a rule that requires judges to evaluate highly complex and often controversial questions arising in disciplines quite foreign to ours.

[10] Even assuming the Court's speculation is correct, it has shown too little. For the regulation to truly be "no more extensive than necessary," it must be established that a more efficient energy source will serve only as a means for saving energy, rather than as an inducement to consume more energy because the cost has decreased or because other energy using products will be used in conjunction with the more efficient one.

[11] This characterization is supported by the reasoning of the New York Court of Appeals, which stated:

"[P]romotional advertising . . . seeks . . . to encourage the increased consumption of electricity, whether during peak hours or off-peak hours. Thus, not only does such communication lack any beneficial informative content, but it may be affirmatively detrimental to the society. . . . Conserving diminishing resources is a matter of vital State concern and increased use of electrical energy is inimical to our interests. Promotional advertising, if permitted, would only serve to exacerbate the crisis." 47 N.Y. 2d, at 110, 390 N.E. 2d, at 757-758.

[12] At oral argument counsel for appellant conceded that the ban would not apply to utility advertising promoting the nonuse of electricity. Tr. of Oral Arg. 6. Indeed, counsel stated: "If the use reduces the amount of electricity used, it is not within the ban. The promotional ban is defined as anything which might be expected to increase the use of electricity." *Ibid.* And counsel for appellee stated that "the only thing that is involved here is the promotion by advertising of electric usage." *Id.*, at 30. "And if a showing can be made that promotion in fact is going to conserve energy," counsel for appellee continued, "which . . . has never been made to us, the commission's order says we are ready to relax our ban, we're not interested in banning for the sake of banning it. We think that is basically a bad idea, if we can avoid it. In gas, we have been relaxing it as more gas has become available." *Id.*, at 40.

[13] By contrast, as previously discussed, the Public Service Commission does not permit the promotion of off-peak consumption alone. *Supra*, at 600-601, and n. 8.

MEANING OF "INTENT TO INFLUENCE" ELEMENT

Mr. METZENBAUM. Mr. President, I wish to address a few items for the purpose of contributing to the legislative history of this legislation. First, under current law, the prohibitions of section 207 cover only those former officials who "knowingly" represent another person before the Federal Government, or, with the "intent to influence" official Government action, make communications with the Government on behalf of another person. The substitute retains this requirement of either a "knowing" representation or a communication with the "intent to influence" official Government action. This requirement was interpreted by Judge Flannery in the Nofziger trial according to the plain and orginary meaning of its words which, in his opinion, do not require a "specific intent" to violate the law, but only a "general intent," for example, that the defendants were conscious of their actions. (Memorandum opinion at 19-26, filed Nov. 10, 1987, in United States versus Nofziger, et al.) This is a correct and reasonable interpretation of the terms "knowing" and "intent to influence" as used in section 207 of current law, and should govern as well the meaning and application of these terms under the substitute.

The requirement of proof of an "intent to influence" official Government action should not be construed to create an exemption for communications that ostensibly involve only innocuous contacts with a Government entity, such as a request for information on the status of a matter before an agency. So-called status calls, or other contracts which appear unobjectionable on the surface, in fact may be disguised attempts to influence the agency or may have the foreseeable effect of influencing the agency. The prohibitions of subsections (a), (b), and (c) are intended to apply to all government communications by a covered former official, including "status calls," which are made with the intent to influence, or which foreseeably will have the effect of influencing, official government action.

CLARIFICATION OF THE TERM "TO REPRESENT"

Second, the term "to represent," as used in the legislation, means to act on behalf of another person, in order to further the interests of such person, thus, it is not intended to include social contacts where no reference is made to the person represented. Similarly, it does not include social contacts which include an incidental or casual reference to the represented person where there is no intent to further the interests of such person.

SUBSTITUTE "CORRUPTLY FOR WILLFULLY"

Third, the bill as reported by the committee included in subsection (f), the term "willfully" in connection with an offense punishable by a fine of no more than $250,000 or imprisonment no more than 5 years, or both. The committee report stated that this term was intended to require proof that the defendant knew the law and consciously violated it. Knowledge of a criminal statute is not a traditional element of an offense, and is frequently impossible to prove. The substitute includes the word "corruptly" in lieu of the term "willfully" to make clear that there is no requirement that the Government prove knowledge of the law. The word "corruptly" is intended to mean that the prohibited conduct was engaged in with bad faith, evil intent, or with a purpose to corrupt the decision-making process.

FIRST AMENDMENT ISSUE—TALK POINTS

Fourth, I wish to set forth the reasons why I believe that this legislation is clearly constitutional. The lobbying restrictions in this legislation do not violate anyone's first amendment rights.

The bill does not prohibit Government contacts in a former official's own personal behalf; it in no way infringes the right of self-expression or the right to petition Government for redress of grievances.

It prohibits only Government contracts on behalf of another. It prohibits only lobbying on behalf of another person's interest.

Further, it only prohibits paid representation. If you are not paid, you are not restricted. If you are paid, you are restricted, and should be. Representation for profit is clearly commercial speech, not political speech.

The government can regulate commercial speech without violating the first amendment if it has a good reason to do so. And the legislature's belief that commercial speech should be restricted is entitled to great deference by the reviewing court.

The Supreme Court reaffirmed this principle in a 1986 decision by Justice Rehnquist in *Posadas de Puerto Rico Association* v. *Tourism Company of Puerto Rico,* 106 S. Ct. 2968.

In Posadas, the Puerto Rican Legislature banned casino advertising because it believed it encouraged gambling, which the legislature was opposed to. The Supreme Court upheld the ban, saying it was justified by the Government's interest in not wanting to encourage gambling. The Court said it had "No difficulty in concluding that the * * * legislature's interest in the health, safety, and welfare of its citizens constitutes a 'substantial' governmental interest." It also accepted at face value the legislature's judgment that casino advertising increased demand for gambling and therefore could be restricted to further the legislature's policy of not encouraging gambling. In other words, the Court in Posadas has given great deference to the legislature in making determinations as to whether the Government has a substantial interest in limiting commercial speech and whether the restriction advances the Government interest.

Our interest in tightening up lobbying restrictions by former high-level Government officials is compelling and self-evident—to eliminate abuse of the public trust and the appearance of abuse. Our purpose is to clean up Government so that the public will once again respect and trust Government.

I ask, what governmental interest could be more compelling—more vital to democracy—than this? And what court in the land would not defer—would not be required by the Posadas decision to defer—to this determination made by the Congress of the United States?

Further, while the Court upheld a permanent ban on direct self-expression in Posadas—for example, commercial advertising on one's own behalf—the restraints in this bill are not nearly this extensive. They do not prohibit self-expression—for example, Government contacts made in one's own behalf. They do not restrict any Government official's right to seek private employment—except with a Government-controlled foreign entity. They apply only to Government contacts made by the highest Federal officials. They apply only when a covered official is paid to make a Government contact for another person. And they apply only to the first year after that official leaves office.

In short, the restrictions are reasonable, narrowly tailored to apply only to the highest levels where the worst abuses of trust occur, and advance the Government's interest in eliminating actual and apparent abuse and restoring public confidence in Government.

In short, the restrictions are fair, justified, and clearly constitutional.

At this point, I ask unanimous consent to print in the RECORD, at the end of these remarks, a written legal opinion on the constitutionality of this legislation prepared by Archibald Cox, president of Common Cause, professor of law at Harvard, and a recognized authority on the Constitution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, D.C., April 18, 1988.

Hon. HOWARD METZENBAUM,
Senate Russell Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: The Senate now has before it S. 237, vitally important ethics in government legislation. During floor debate last week, the constitutionality of this legislation was challenged.

There can be no serious question about the constitutionality of S. 237.

The suggestion that the bill would unconstitutionally abridge the freedom of speech guaranteed by the First Amendment has no substantial foundation. The bill would not forbid anyone from speaking on his own behalf anywhere at any time. The bill forbids only speaking for another person—representation of another person—in a limited number of forums. One may well doubt whether the First Amendment gives any right to act in a representative capacity. Such cases as *Central Hudson Gas & Electric Corp.* v. *Public Service Commission*, 447 U.S. 557 (1980) are beside the point. They uphold a seller's limited right to speak on behalf of its own product. They do not deal in any way with the question of whether there is a First Amendment right to speak as the representative of another.

Even if the restriction implicates the First Amendment, S. 237 is constitutional. The restriction is not upon pure speech. Speaking for another involves association—a relationship sometimes protected by the First Amendment but not as absolutely as pure speech. See, *e.g., Buckley* v. *Valeo*, 424 U.S. 1 (1976). The limitations imposed by S. 237 are narrowly tailored to prevent the actual and apparent perversion of the processes of government and are amply justified by compelling public interests. Ample Supreme Court precedent upholds such restrictions when designed to preserve the integrity of our political processes and public confidence therein. *Buckley* v. *Valeo, supra; United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947); *Broadrick* v. *Oklahoma*, 413 U.S. 601 (1973); *Federal Election Commission* v. *National Right to Work Committee*, 459 U.S. 197 (1982).

There is no greater merit to the suggestion that S. 237 would unconstitutionally curtail an individual's pursuit of a profitable activity in violation of the Fifth Amendment. That the Constitution protects such an interest against arbitrary and capricious deprivation is too plain for argument. It is no less plain that reasonable restrictions curtailing employment and other profit-making activities in the public interest are constitutional. The present restrictions do not bar anyone from any occupation or any general kind of employment (except, in a limited class of persons, working for a foreign government). The restrictions are against appearing before particular forums of a limited class in a representative capacity. The public interests served are more than substantial. Among the wealth of cases that sustain the constitutionality of such restrictions are the precedents sustaining limitations upon appearances before courts and administrative tribunals. Other compelling analogies are found in cases upholding the power to bar persons from certain categories of employment where their past activities or concurrent associations show a sufficient danger of abuse to warrant prophylactic legislation. *Board of Governors* v. *Agnew*, 329 U.S. 441 (1947); *De Veau* v. *Braisted*, 363 U.S. 144 (1960).

S. 237 is not a bill of attainder because neither its purpose nor effect is to inflict punishment. Even measures permanently barring members of class from specified occupations are upheld where the nonpunitive aims are as clear and convincing as they are in the present instance. *Hawker* v. *New York*, 170 U.S. 189 (1898); *De Veau* v. *Braisted, supra.* The non-punitive nature of the limitation in S. 237 is even more apparent because the restriction is limited to the relatively short period in which the risk of improper influence or advantage is great.

The Nation's headlines these days are filled with news of corruption and moral decay in Washington. Unless Congress acts promptly to arrest the decline it will be too late. The challenge now is to restore faith in public service, to infuse dignity, respect and impartial concern for the general public interest into the conduct of government not only by officials in the Executive Branch but also by our elected representatives and their senior aides in Congress. S. 237 provides the opportunity to begin to do just that.

Sincerely,

ARCHIBALD COX,
Chairman.

Mr. METZENBAUM. Mr. President, I want to take a couple of minutes to talk about this bill because I think that, for once, with no question, Congress is doing the right thing. Congress is going on record in saying that ethical standards should be applicable to Members of Congress. We have many rules to that effect for other senior Government officials, we have no laws for those times when Members of Congress leave their offices and immediately turn around and do lobbying, for very substantial fees.

I cannot think of anything more right, more appropriate, than to say that we in Congress ought to be subjected to the strictest of ethical rules, and this measure does just that.

We want to change the way the rules operate in this city. Lobbyists should be paid for what they know, not for whom they know. I think it is high time that we do that. We find, day after day, former Members of Congress, former high staff officials in Congress, and former highly paid Government officials, coming back and getting paid unbelievably high fees to take care of special interests and not to speak for the public interest.

For the first time, if we pass this bill, Congress will say that we are willing to live by the same rules everyone else must obey. There is no question about it: The people of this country do not have the respect for Members of Congress that they should have. This legislation hopefully will do something to increase the public's respect for Congress and those who serve in it.

I am not going to stand on the floor of the Senate today and say that is all going to change when we pass this legislation. But at least we will be sending out a signal, loud and clear, that we want to have an ethical code, laws having to do with the ethics of Members of Congress, both while they are in office and for a reasonable period of time thereafter.

I think it is time we get the respect of the public in the old fashioned way, and that is to earn it. Congress throws a lot of stones, and has an obligation to put its own house in order; and today, when we pass this bill, we will have taken a major step in that direction.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM. We are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1961) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1962 TO AMENDMENT 1946, AS AMENDED AND MODIFIED

(Purpose: To prohibit undue influence by partners of a Member, officer or employee of Congress)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1962.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 13, line 6, insert "(1)" before "Who—".

At page 13, line 8, insert "or the legislative branch" following "executive branch".

At page 13, line 17, insert "or the house of Congress in which the Member, officer or employee serves or is employed" following "District of Columbia".

At page 13, line 7 and line 22, strike "an officer" and insert in lieu thereof, "a Member, officer".

At page 13, line 20, insert "Member," before "officer".

At page 13, line 24, following "or both." add the following new subsection:

"(2) Whoever, being the partner of a member, officer or employee of the legislative branch in a partnership for the provision of professional services, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with intent to influence makes any oral or written communication on behalf of any other person other than the United States to any member, officer, employee or other component part of the house in which the member, officer or employee serves in connection with a matter pending before either house or a matter which is the subject of legislative oversight in either house shall be fined not more than $10,000, or imprisoned for not more than one year, or both: *Provided however,* That the prohibition of this subsection shall not prohibit a formal or informal appearance before, or oral or written contact to a member, officer, employee or other component part of either house on behalf of the partnership itself. For the purposes of this paragraph, the term 'professional services' includes but is not limited to those involving a fiduciary relationship.".

Mr. RUDMAN. Mr. President, S. 237 was designed, as I understand it, to apply the same rules to the legislative branch with respect to contacts with public officials as are applied to the executive branch. This amendment addresses one area which was not addressed in the bill.

Last Friday, the Senate passed an amendment by a unanimous vote which would codify what is essentially the Senate rule on affiliating with a firm that provides professional services.

I understand that that amendment may not be well received in the House. That is unfortunate. I think Members of Congress have a full-time job if they are adequately to serve their constituents. If the Senate does not prevail on the House to adopt the affiliation amendment, however, I think we must adopt restrictions on contacts by those partners which are analogous to the restrictions imposed with respect to the executive branch.

This amendment would apply the same rule to partners of Members, officers or employees of the legislative branch as are applied to partners of officers and employees of the executive branch with respect to a particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee participates or has participated personally and substantially. Recognizing the different nature of the legislative branch, however, this amendment contains an additional prohibition for partners of a Member, officer or employee if the partnership provides professional services.

This additional prohibition would prevent a partner of a Member, officer or employee of the legislative branch, in a partnership providing professional services, to make an appearance or communication to any Member, officer or employee of the House in which his or her partner is a Member in connection with any matter pending before Congress.

The amendment contains an important proviso, however. It permits contacts on behalf of the partnership itself. For instance, the firm could testify before the Finance Committee regarding the impact of a proposed Tax Code revision on the partnership.

Mr. President, this is a reasonable proposal to prohibit the types of contacts most likely to result in undue influence and I urge its adoption.

Mr. THURMOND. Mr. President, I am willing to accept it on this side of the aisle.

Mr. METZENBAUM. We are willing to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1962) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1963 TO AMENDMENT 1946, AS AMENDED AND MODIFIED

(Purpose: To prohibit the use of insider information by former executive branch officers and employees)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1963.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 2, line 7, strike "LIFETIME" and add "IN A PARTICULAR MATTER" following "EMPLOYEES" at page 2, line 8.

At page 2, line 12, insert "(1) with intent to influence," before "(1) knowingly", redesignate clauses "(1)" and "(2)" as "(A)" and "(B)" respectively.

Following the end of subparagraph "(1)" insert a new subparagraph "(2)" as follows:

"(2) within 2 years after that former officer's or former employee's employment has ceased, knowingly to act as an agent or attorney for, or otherwise represent or assist in representing—or to aid, counsel, advise, consult or to assist in representing, aiding, counseling, advising or consulting—any person, other than the United States, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.".

Mr. RUDMAN. Mr. President, I think the greatest irony associated with this legislation is that the kind of behavior that Senator THURMOND so rightly was incensed about last year would not be handled in many situations by the underlying bill.

I mentioned several times in the debate that I am deeply troubled by the lack of any evidentiary record to support the bill's sweeping prohibitions. But the one area in which the sponsors are absolutely right is the case in which a gentleman left the Commerce Department, went to work for a company, that was advising a foreign company and used inside information, according to the allegation, to influence the outcome of trade negotiations for the benefit of his foreign client.

There is no question that there is a compelling need to protect such inside information across the scope of this Government.

Section 207(a) prohibits inside information only insofar as it involves an appearance or communication by the former official or employee. It does not prohibit the employee from sitting in his or her office and telling an adverse party all the inside information he or she learned during their stewardship in a very important position in Government.

This amendment would impose a 2-year ban on any representation, advising, consulting, with respect to a particular matter in which the former employee had been involved in his or her Government position. It is a 2-year ban, rather than a lifetime ban, because the likelihood is that any inside information would be stale after 2 years.

I suspect, Mr. President, that my colleague from South Carolina will find this amendment appealing. I have heard that the other sponsors of this measure believe this proposal to be unenforceable.

I have two responses to that. First, I think it is enforceable. Second, if difficult enforcement were a disqualifying factor from the Criminal Code, then title XVIII would be a lot thinner. It should be a crime to use inside information against the interests of the U.S. Government.

I hope the sponsors will agree to this amendment.

Mr. THURMOND. Mr. President, I think the amendment of the distinguished Senator from New Hampshire will strengthen the bill, and I support the amendment.

Mr. METZENBAUM. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1963) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I wish to thank the Senator from Ohio, the Senator from Michigan, and the Senator from South Carolina. Although I am not a member of the Judiciary Committee, I want to offer them my full support when this bill eventually reaches conference, as I hope it will. And I hope it is passed by the House of Representatives.

I share their goal that we must have stronger and clearer ethical rules that meet every test of both the criminal law and the Constitution. I have enjoyed the experience of working with them over the last few days and thank them and their staffs for their cooperation.

Mr. METZENBAUM. It was our privilege to work with the Senator from New Hampshire, and I thank him.

FURTHER MODIFICATION TO AMENDMENT NO. 1946, AS AMENDED AND MODIFIED

Mr. METZENBAUM. Mr. President, I ask unanimous consent to further modify the amendment numbered 1946. This modification merely makes a technical change to a modification of amendment No. 1946 that we adopted last Friday. That modification makes it an affirmative defense to an alleged violation that the defendant received no compensation for representing another person before the Government of the United States. It is a technical amendment. I am certain it is not controversial.

The PRESIDING OFFICER. Is there objection to the technical amendment?

Mr. THURMOND. Mr. President, we favor the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

Subsection (i), as added by the amendment, is amended by inserting after "In an action under" the following: "paragraphs (1), (2), or (3) of".

Mr. THURMOND. Mr. President, I strongly urge my colleagues to vote for final passage of S. 237, the Integrity in Post Employment Act of 1987. Enactment of this legislation is critical. S. 237 strengthens current law by extending coverage to former Federal employees of not only the executive branch, but the legislative branch as well. This bill will protect the integrity of the decisionmaking process of the Government by imposing restrictions on the ability of former Federal officials to leave Government service and then improperly use access, influence, and information acquired during public service for personal gain or profit. Unquestionably, the public loses confidence in its system of Government when former officials leave public service and immediately begin lobbying or working for organizations or individuals with interests potentially adverse to those of the United States. The restrictions this bill embodies will instill public confidence in those who serve in Federal positions by halting not just actual conflicts of interest, but appearances of conflict as well.

Mr. President, this legislation has twice been approved by the Judiciary Committee. In May of last year, it was voice voted out of the Judiciary Committee without opposition. This unanimous vote indicates the strong bipartisan support behind this legislation.

Briefly, I would like to discuss the long history of the Integrity in Post Employment Act. I originally introduced it early in the 99th Congress. My original bill was extremely tough. It provided for coverage of all Federal employees and mandated lifetime bans against employment with foreign entities for some. As this legislation made its way through the arduous process of Senate consideration, I have compromised when necessary. Although this legislation that is now before the Senate for a vote is not as tough as the bill that I originally introduced, it is still a strong bill which vastly strengthens current law. I believe that this bill will solve the threats that arise out of the abusive use of access and influence and the vending of sensitive information.

In closing, it is time to strengthen the current ethics law and to establish clear, straightforward, and enforceable postemployment restrictions. Those who seek employment with the Federal Government should do so to serve their country and their fellow citizens and not to gain information and access that is then used to influence the outcome of issues for the benefit of a paying client.

Passage of this legislation will protect the integrity of our democratic process. The American people demand, deserve, and expect a standard of ethics which will instill confidence in all of us that this Government makes decisions based on the merits of an issue—not based on positions taken by those who have the most access, influence, or financial clout. This bill is tough, but fair.

I strongly urge its passage.

Mr. President, as a final word, I wish to express my appreciation to Senator METZENBAUM and Senator LEVIN for their important work on this bill. I also wish to express my appreciation to Senator RUDMAN for the amendments he has offered the spirit of compromise exhibited by him regarding this legislation in order that we can get it passed.

As I have stated, it is not everything I wanted. When there is a compromise, no Senator gets everything he desires. But I am confident that we have a good bill here. Again, I express my sincere appreciation to Senator METZENBAUM, Senator LEVIN, and Senator RUDMAN for their cooperation in working together to try to bring about a bill that we could pass and that will improve the integrity of this body. This bill is one that is fair, just, and reasonable.

I also wish to express my appreciation to some of the staff members who worked so hard on this bill. I would like to thank Terry Wooten, the minority chief counsel on the Senate Judiciary Committee for the outstanding work he did on this bill. Additionally, I would like to thank Dennis Shedd, the former chief counsel on the Judiciary Committee. Both of these individuals put in substantial amounts of time on this matter. I thank them for their important work.

I also want to thank Mark Goodin, formerly of my staff, for all that he did to promote this bill.

I express my appreciation to Eddie Correia and Bill Rothbard of Senator METZENBUAM's staff; Linda Gustitus of Senator LEVIN's staff; and Tom Polgar and Marianne McGettigan of Senator RUDMAN's staff.

These staff members worked very hard in trying to arrive at a fair compromise that would not unreasonably weaken the bill and yet would enable us to get a bill passed that will be effective. I am very proud of what they did. I wish to again express my appreciation to them and again thank those Senators I have mentioned for efforts to work toward a bill this body could act upon.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, I would just like to take this moment to join my colleague from South Carolina in thanking the staff people who have worked so hard, not just over this past weekend, but over such a long period of time, to make this bill possible. Without their help, we could not have done it.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, all Senators are grateful, I know, to the distinguished managers of the bill, the authors. I feel a debt of gratitude to the distinguished Senator from New Hampshire who has raised a lot of questions that were on my mind.

But I have a few other questions. Let me say at the outset that I have no personal interest as a Senator in this legislation because I do not plan to leave this body any time soon and I do not plan to do any lobbying when I do leave the Senate. I will modify that, I may go home and try to lobby my grandchildren a little bit but that will be the extent of it.

But I do have some concerns, or at least some need to be assured about a few provisions of the bill. If the able manager of the bill would indulge me, let me go down the list.

As we all know, the intent of the bill is to prohibit various high-level Government officials from lobbying after they leave Government service. That much all of us understand.

But could a Member of Congress within 1 year of leaving office lend his name to an organization, and I will use an example, the Tobacco Institute, if it is done to aid that organization in lobbying for or against legislation?

And I might add, the distinguished former Senator from Kentucky, Mr. HUDDLESTON, left the Senate and became associated with the Tobacco Institute. This would not apply to him because far more than 1 year elapsed since he became associated with the

Tobacco Institute. But would it prohibit him from talking to me or any other Senator interested in tobacco legislation if we asked him for information or advice on a piece of legislation? Would he be violating the law if he responded to a call from us?

Mr. METZENBAUM. I am prepared to answer, but it was my understanding Senator RUDMAN wanted to answer.

Mr. RUDMAN. No, I just want to make sure the answer of the Senator from Ohio agrees with what I think, what my answer would be.

Mr. METZENBAUM. I will be happy to answer.

As I understand the question, a Member of Congress, within 1 year after leaving office, wants to lend his name to an organization and if it is done to aid that organization in lobbying for or against legislation, if it is done with the intent to influence legislation, I would say that he could not do that.

Mr. HELMS. Yes, sir.

Mr. METZENBAUM. If the former Member makes a contact on another's behalf with any Member of the Congress, with the intent to influence official Government action, he would have to wait 1 year.

Mr. HELMS. Suppose he did not contact the Member of Congress, but merely worked for or with the institute which I alluded to?

Mr. METZENBAUM. He could advise the institute. And if he did not make a contact with the intent to influence official Government action, he would not be committing any violation of law. If he contacts a Member of Congress on another's behalf, within the first year, with the intent to influence official Government action, he would be violating the law.

Mr. HELMS. Suppose I contacted him? Suppose I, as a Senator, contacted him?

Mr. METZENBAUM. If the former Member were representing another, and in his response would be intending to influence official Government action, then I think the former Member of Congress would be obligated under those circumstances to say, "I am not in a position to speak to you on this issue. The law precludes me from doing so."

Mr. RUDMAN. I would say that I agree with the answer of the Senator from Ohio on the first two questions. On the last question, I would simply say to my friend from North Carolina I believe the Members of Congress have an absolute constitutional right to seek information anywhere they wish to seek it. If they initiate the request and they make the request, I do not believe the bill would bar them from doing that.

Obviously, the Senator from Ohio is quite correct, the former Member at that point would be violating the law if in response to that request, he attempted to influence the current sitting Member. But in terms of the ability of the Senator from North Carolina to contact anyone, including a former Member, I do not think this bill would prohibit the contact.

Mr. HELMS. I thank the Senator.

Now, is the Senator from Ohio saying that the former Senator from Kentucky, had not the 1 year expired long ago, would be violating the law if he became counsel?

Mr. METZENBAUM. If he did what?

Mr. HELMS. If he became counsel to the Tobacco Institute? That would not be violating the law?

Mr. METZENBAUM. That would be permissible.

Mr. THURMOND. I would answer "no" to that, too.

Mr. HELMS. Very well. But even a social contact, where arranged by a Senator, where legislation was discussed, would be unlawful? Is that what the Senator is saying?

Mr. METZENBAUM. The prohibited lobbying contacts are those that are made on behalf of another person and are made—and this is the language, "with the intent to influence an official Government action."

Merely going out and having dinner, merely going out and having lunch, there is nothing wrong with that. But if there is the intent to influence a Government action, that is where you would be getting in trouble.

Mr. HELMS. I think I would be in a lot of trouble with trying to establish what the intent of somebody was.

Mr. RUDMAN. Will the Senator yield?

Mr. HELMS. Certainly.

Mr. RUDMAN. It was the subject of a lot of discussion with the Senator from Ohio and the Senator from South Carolina and that is the reason, in the substitute I offered, we put together a very specific intent to influence definition which is a criminal standard. In my view, the circumstances described by the Senator from North Carolina would not meet that standard. I think the Senator from Ohio agrees with me.

Mr. HELMS. Do you agree?

Mr. METZENBAUM. I agree.

Mr. THURMOND. I agree.

Mr. HELMS. Both managers of the bill agree.

Second, could an employee of that organization contact Members of Congress on behalf of the former Member? In other words, could they come and say: Well, Senator X was discussing this legislation with us and he mentioned so and so. We wanted you to know what his opinion is.

Would that be violative of the law?

Mr. METZENBAUM. You were kind enough to share with me a written question. Let me repeat it as I read it here so I am sure that I am answering the right question.

Mr. HELMS. Right.

Mr. METZENBAUM. Could an employee of a particular organization contact Members of Congress on behalf of the former Member?

Mr. HELMS. That is right.

Mr. METZENBAUM. My answer is: No. If there is an express reference to the Member.

In other words, let us assume he contacts him and he says he is contacting him on behalf of former Senator X, or Y; that would be prohibited. But if he says I am calling you in reference to former Senator X, and he wants to know merely if you want to have dinner or he wants to know merely whether you could come out and play golf or tennis, that is certainly no violation.

This is the section of the bill on this specific question. It reads:

> AGENTS COMMUNICATING ON BEHALF OF A FORMER OFFICER OR EMPLOYEE.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

In other words, the contact is permissible if it is not made on behalf of a covered former official and there is no intent to influence Government action. But if the name of the former Member of Congress is used in making the contact, and if a message is relayed that the former Member wanted it to be known that he thinks a vote should be cast in a certain way, that is, yes or no, whatever the case may be, that would be prohibited.

But if he is just saying that he wants to send you word he will meet you at the golf course at 10 a.m. tomorrow morning, that is fine.

Mr. HELMS. I thank the Senator.

May I assume that the Senator from South Carolina agrees to that?

Mr. THURMOND. Mr. President, I concur in the answer the distinguished Senator from North Carolina just gave.

Mr. HELMS. Obviously, Mr. President, I am trying to make some legislative history because I think some lawyers are going to be looking at this statute later on.

The bill makes it unlawful for certain high-level Government officials to represent someone, "by physical presence in a formal or informal appearance before"—the agency in which he serves.

Does this mean that a former Senator could not exercise his privilege to come on the floor of the Senate, and a

House Member on the floor of the House of Representatives, or even use the private dining rooms?

Mr. THURMOND. Mr. President, in answer to that I would say the answer is no, unless he is going to use it for the purpose of lobbying.

Mr. HELMS. Does Senator METZENBAUM agree?

Mr. METZENBAUM. I totally agree with that answer.

Mr. HELMS. I thank both Senators.

Suppose I am talking to a former Member who is now employed by or retained by an outside organization and it is I who initiated a question about pending legislation? I believe Senator METZENBAUM said, under the law, he would be required to say: "I can't answer that question." Is that understanding on my part correct?

Mr. THURMOND. I think he would want to be careful and not be put in the position of trying to exert influence in the matter. I think it depends on whether there is an effort to influence.

Mr. HELMS. Mr. President, the problem is, we influence people every day of our lives, either by what we do or fail to do. Frankly, I do not know how you are going to enforce the legislative history we just heard.

Let me put it another way to Senator METZENBAUM and Senator THURMOND.

Let us use the hypothesis that former Senator Harry Byrd, who is a dear friend of mine—and this will never happen, but I use him as an example. Suppose Senator Byrd should be retained by some organization or group to represent them, and I ask Senator Byrd: "How do you feel about S. blank? " whatever the number is. And he says: "Well, I don't think much of it." Or, "I think it's a good bill," Or, "I don't know anything about it"?

Mr. METZENBAUM. I did not hear what you just said.

Mr. HELMS. I am just saying if I ask a question of a friend who happens to be a former U.S. Senator, is he putting himself in a position of violating the law by answering the question posed to him by his friend?

Mr. METZENBAUM. Is he answering on behalf of himself as an individual, or is he acting on behalf of an organization that has a special interest in the legislation, with the intent to influence the legislation? It would make a difference. If the Senator saw a former colleague and asked him a question about how he felt about a particular piece of legislation in a purely social relationship and the former colleague was not representing anybody as an advocate for or against the legislation, and the former colleague was asked about his views on Contra aid, or whatever, and he answered, I do not see that as being a violation.

Mr. HELMS. No, in my question, I had a hypothetical instance where he would be retained by some group or organization.

Mr. METZENBAUM. If he is retained by someone, and he is being paid, and he intends to influence official Government actions, and it occurs within the first year after he leaves office, and you ask him a question and he answers you, he would be violating the law.

Mr. HELMS. Even if I initiated the question?

Mr. METZENBAUM. If you initiated the question.

Mr. HELMS. In his living room?

Mr. METZENBAUM. In my view, if within his first year out of office he is being compensated by an organization on a particular subject and you asked him a question about that issue, and in his response he intends to influence official Government action, I think he, in my opinion, would be violating the law. Let us see what the Senator from New Hampshire has to say.

Mr. RUDMAN. Will the Senator yield?

Mr. HELMS. Yes.

Mr. RUDMAN. I come to the opposite conclusion, and I will tell you why. Underlying any criminal statute, whether it be this highly-complex statute or one dealing with breaking and entering in the night or any form of white-collar crime, the central issue in any crime has to be the criminal intent, the mens rea. You cannot have an attempt to influence if what started the event was a sitting Member of Congress with a legitimate right to ask anyone anything saying: "I know you represent the Tobacco Institute. We have this enormously important bill pending here. I am sure you have a position on it, and I want to know your position and your organization's opinion."

If the former Member, who is now working for the organization, wanted to be extremely cautious and say: "I do not think I want to talk about it because of section such-and-such of the Criminal Code," which this bill hopefully will become, then he is very safe.

But it seems to this Senator, based on my experience of the criminal law, that if he said: "Well Senator, you are asking me that question; you made that request, and I am giving you the answer," no jury in the world, no judge, no prosecutor will assume a crime was committed because the movement did not come from that party. The movement came from the person with the right to ask the question.

I might add parenthetically, since the court pays attention to legislative history of Members, as well as managers, I want to put that on the record.

Mr. THURMOND. Mr. President, I agree with the distinguished Senator from New Hampshire in that instance.

Mr. HELMS. So the managers are divided on the answer to this question.

Mr. METZENBAUM. I think it is fair to say to the Senator from North Carolina——

Mr. HELMS. I am not trying to be difficult.

Mr. METZENBAUM. I understand. It is fair to say that you need the intent to influence. An intent to influence is not something you press a button and you find the answer to. Since he did not initiate the inquiry, since it was you who was the initiating party and you asked him his point of view, it is entirely likely that that intent would not be there.

But I can conjecture a situation where he invites you to his home and anticipates you are going to move in that direction, and he is trying to set it up so that there is an intent to influence. In that situation I think there could be violation. We can come up with many hypothetical situations in this debate. My point here simply is that we can write laws, but we cannot determine in advance all conceivable situations in which the requisite "intent to influence," which is necessary for a violation of this law, will or will not be present. This element of proof will have to be determined on case-by-case basis, according to the facts of the particular circumstances.

Mr. HELMS. I think the Senator is right about that. I can understand.

Mr. METZENBAUM. I do not think we are in disagreement.

Mr. HELMS. Perhaps I am being too specific in my hypothesis.

Mr. SYMMS. Will the Senator yield for a question?

Mr. HELMS. Certainly.

Mr. SYMMS. I think it is pertinent to this. I would like to direct a question. Let us say a Senator retires and goes back to life in paradise and is not being paid or compensated to lobby or get any income from it. Some of his friends call up—say they have a local highway project, for example—and say: "Well, you know the guy who is chairman of the committee. We are going to Washington. Will you call him and get an appointment for us?" He is getting no compensation for this. He is living in his community minding his own business.

Is that illegal to call up a chairman of a committee and say: "We have a group of people coming to town"?

Mr. METZENBAUM. If he is not being compensated, it is not illegal at all.

Mr. THURMOND. As long as there is no compensation, there is nothing illegal.

Mr. RUDMAN. If the Senator will yield, the answer is correct, but I want to point out how it is correct. Under the bill, as currently stated, there could be an indictment, and there could be a trial. But we have now inserted in the bill, at the suggestion of all the staffs, an affirmative defense. Affirmative defense is if you can prove you received no compensation, then that is the absolute bar to conviction.

Mr. HELMS. I have a couple more. Let us say a former official of the Department of Agriculture, say, level GS-17, is following the Department's rulemaking process for tomatoes, tobacco, or peaches, or whatever. Could that employee, under this bill, lawfully call the Department of Agriculture and request information about the impending regulation? I hope I know the answer to that.

Mr. THURMOND. Mr. President, I would say as long as there is no intent to influence, I think that would be the test.

Mr. HELMS. I thank the Senator, and I certainly agree with that.

The last one: Let us say that a former attorney employed by the Labor Department, now in private practice, is handling a case before the NLRB, and during discovery, he files a request under the Freedom of Information Act.

Can he, under this proposed law, lawfully call the Department of Labor and ask them to expedite the request for information?

Mr. THURMOND. Mr. President, I would say the answer is no for 1 year because he is attempting to influence.

Mr. METZENBAUM. If it occurs in the first year out of office, my answer also is no, because it is an effort to influence an official Government action.

Mr. HELMS. I thank the managers of the bill for answering these questions, and I thank the Chair for recognizing me. I yield the floor.

Mr. THURMOND. Mr. President, I thank the able Senator from North Carolina for preparing these questions. They are very practical questions, and I hope our answers were satisfactory.

Mr. HELMS. They certainly have been. I thank both Senators.

Mr. METZENBAUM. I thank the Senator for his cooperation.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Ms. Mikulski). The Senator from Connecticut.

Mr. DODD. Madam President, I had the luxury of presiding for the last hour or so and had an opportunity to listen to this debate. I was highly impressed by it. I commend the Senator from New Hampshire for his erudite discussion of what is included in the legislation. He raised a point that has been a matter of some concern to this Senator, and I regret I did not proceed earlier to try to draft something that might be included in the whole notion of how you try to recruit people to come to Government for 1 year or 2 or 3, or whatever it may be, to work in the executive branch or even to work on the Hill, and the difficulty we have in attracting good people, or at least the suspicion we have. As he pointed out, much of the information is anecdotal. We do not know to what extent we actually have in recruiting good people to come to Government.

A lot of concern I have heard anyway is the requirement of full exposure of all their financial backgrounds. In most cases, 9 out of 10, 90 out of 100, there is never a problem with information, but it does concern some that they are going to have to expose their entire life history. Unlike ourselves who seek these offices, seek public support for them, I do not think there is any question we should make those full financial disclosures.

I wonder if it might be possible in some way before action is completed on the bill—and obviously we are going to move rather rapidly here today—that some sort of study be conducted by the General Accounting Office or someone to determine whether or not in fact the suspicion that some of us have about recruiting good people to come to Government is, in fact, the case and whether or not there may be some proper mechanism or means by which we could at least examine that question. It is constantly raised by people, and I think the response is a proper one; it is anecdotal. I do not know if, in fact, the problem is as extensive as some would suggest, but there ought to be some way at least to determine whether or not that is an ongoing concern.

Mr. RUDMAN. Will the Senator yield for a brief comment?

Mr. DODD. I am delighted to yield to my colleague from New Hampshire.

Mr. RUDMAN. It is a very interesting point because one of the points I tried to make earlier is that this has been a subject of some concern, not for people elected but for all of those terrific young people who decide they want to leave their State—Connecticut, Ohio, whatever—and come to Washington to work in Government for 2 or 3 years and go back. It is a terrific sacrifice for them, and if they have some reason because of family situations they do not want to disclose, we lose a lot of good people. At the Kennedy School of Government there is a study that has been underway, and I have referred to it, in which there are some preliminary findings—and I will make the record correct at the close of this statement to put some of that in—that it well may be counterproductive, the amount of disclosure we ask now for some of those people at lower levels of Government.

There is no question those of us who sit here in U.S. Senate and in the House of Representatives and high level Cabinet positions ought to fully disclose everything. The people are entitled to that. But the amount of people discouraged from coming in at working levels of the Government to serve their country is a problem. And I would say to the Senator from Connecticut that is already under study. I would not be surprised if in the next Congress it were not addressed, because this administration and other administrations are going to have real trouble getting people to serve who are here for the right reason, to serve their country because they want to spend several years of their life working on behalf of the people.

Mr. DODD. The Senator from Connecticut should stand corrected then. There is an ongoing study by Harvard; is that correct?

Mr. RUDMAN. I am not sure it is ongoing, but I am going to check the record and I will inform the Senator from Connecticut and will place it in the Record. I made reference in my remarks to a preliminary study by the Kennedy School had indicated that. I am not sure of the status of the study. But it is a very good point that my friend from Connecticut brings up because I think one of the major problems in Government, whether it be scientists, engineers, environmentalists, researchers, this is a real problem for Government today and it is going to be more of a problem.

Mr. DODD. I thank my colleague from New Hampshire for his response and I hope possibly the managers of the bill would also be sympathetic to this notion because I am deeply concerned that we are losing those good people.

In our intention to clean up the ethics problems in this country, my fear is we are allowing too many talented people to not come to this town and not to work in administrations or for the Congress for a few years when we could use that talent around here so desperately.

Mr. THURMOND. Mr. President, I just want to say that there is no coverage here of anyone receiving a salary of under $64,000. I think that would take care of most of the cases, would it not?

Mr. METZENBAUM. Madam President, will the Senator yield?

Mr. DODD. I will be glad to yield. I have an additional comment to make.

Mr. METZENBAUM. Let me say to my friend from Connecticut, I share his concern. We have to get people who want to work in Government. We do not want to make it more difficult to get good people. It is my understanding that the Administrative Conference is now studying the very question that the Senator has raised. If I am wrong in my understanding, then I would inquire of my friend and my colleague, Senator John Glenn, as to whether or not he would like to initiate an inquiry of the General Accounting Office. Absent either a study presently taking place or the Government Operations Committee getting into it, I will assure the Senator that if nothing is being done, then I will attempt to initiate such a study on behalf of the Judiciary Committee.

Mr. DODD. I thank my colleague from Ohio. That is a very supportive and helpful statement.

Mr. RUDMAN. If my friend will yield for one moment, just for the record——

Mr. DODD. I will be glad to yield.

Mr. RUDMAN [continuing]. Last week before the Governmental Affairs Committee—my staff has given me the exact quote—a very distinguished American, Lloyd Cutler, testifying with Archibald Cox on the whole question of ethics in government, testified before the Oversight Subcommittee of the Governmental Affairs Committee and stated that "the Kennedy School study stated categorically at this point that disclosure is becoming a fundamental problem with respect to the executive recruitment." That is not Mr. Cutler's statement. That is Mr. Cutler quoting the Kennedy School study. I think that the Senator is right on target. We better look at the realities of staffing this Government and this Congress and some of those problems, and I thank the Senator for raising the point.

Mr. SYMMS. Will the Senator from Connecticut yield?

Mr. METZENBAUM. I would just like to add one word. That study had to do with disclosure. Disclosure is not an issue in the legislation. It is a different issue.

Mr. DODD. I understand that, but it is related.

Mr. SYMMS. Will the Senator from Connecticut yield?

Mr. DODD. I will be glad to yield.

The PRESIDING OFFICER. Will the Senate please come to order? The Senator from Connecticut has the floor. The Chair has indulged a very informative but rather loosely arranged conversation. It would help the Presiding Officer if Senators would either speak on their own time or the Senator from Connecticut yield time. The Senator from Connecticut has time.

Mr. DODD. I will be glad to yield, Madam President, to the Senator from Idaho.

Mr. SYMMS. I wanted to ask the Senator a question, Madam President, and I thank the Senator for yielding. First, I wish to compliment him for the point he brought up because I have long said that the highways to hell are paved with good intentions. I know that the authors of this bill have good intentions and it sounds good and passage of such a bill makes people feel good, but on the ultimate impact of what it does to young people or successful business people, professionals, who might come into Government, I think the Senator from Connecticut is right on target.

The question I would like to direct to the Senator, or to the managers of the bill or someone is this. Let us take, for example, an administrative assistant. I happen to have one who is an attorney. Now, after this becomes law, if he goes back to Boise and starts practicing law, what are his restrictions? Does he just have to stay in Government the rest of his life or is there an opportunity if he or she might want to leave?

Mr. DODD. I suggest the question ought to be more properly addressed to one of the managers. I will be glad to yield to my colleague from Ohio in response.

Mr. METZENBAUM. There is only a 1-year restriction on lobbying the Senate on behalf of another person. There is no restriction on lobbying the Senate or any other part of the Government in his own behalf. And there is absolutely no restriction on seeking private employment and advising clients about matters of interest to them in the Senate or the Federal Government as a whole.

Mr. SYMMS. On the Senate or on the whole of Government or what?

Mr. METZENBAUM. The Senator's administrative assistant, is that what he is asking?

Mr. SYMMS. Let me make it specific. We come from a State where two-thirds of the State is owned by the Federal Government. You cannot do anything out there without having to deal with the Federal Government. What happens to a person practicing law who has worked for a U.S. Senator? Can they go practice law and take a case and represent sheep growers or wool growers or someone like that?

Mr. METZENBAUM. Administrative assistants who earn a salary equal to or greater than the salary of a GS-16, which today is approximately $64,000, would only be banned for 1 year with respect to lobbying the Senate.

Mr. SYMMS. How about if he went down to the Department of Interior and tried to get a job?

Mr. METZENBAUM. That's fine. That would not be banned.

Mr. SYMMS. No problem.

Mr. METZENBAUM. No problem.

Mr. SYMMS. I thank the Senator.

Mr. DODD. I did not mean to get into this.

Madam President, let me conclude by saying I truly appreciate the response of my colleague from Ohio and others in looking into the question of disclosure, and as it relates to younger people, anybody for that matter, experienced people. We are not just talking about younger people, but people who are acquiring a significant amount of knowledge who could be very helpful. That willingness to have some sort of a study to examine those questions I find very helpful. I appreciate the response.

Madam President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

I wonder if I might ask the manager of the bill, on page 10—of course, this involves persons who are excepted from the requirements of this bill; that is to say, there is no prohibition against their engaging in one or more activities which will be applicable to anybody else.

I refer, of course, to provision (c) which reads:

> Activities in furtherance of the purpose of an international organization of which the United States is a member * * *.

And of course, I am thinking about the United Nations. There are a number of examples of what I am about to talk about, but I want to talk about one specific example involving Mr. John Washburn, a Foreign Service officer assigned to handle U.N. matters as a member of the policy planning staff at the State Department.

Mr. Washburn worked diligently to oppose any effort to control the U.N. budget, and he strongly advocated the U.N. line in various memoranda that he sent to the Secretary of State.

Mr. Washburn, while he was taking advantage of his direct line to the Secretary of State, was at that very same time seeking employment with and by the United Nations. He was rewarded by the United Nations for his advocacy of the U.N. views when he received a job paying him $100,000 a year in the Office of the Secretary General of the United Nations.

I would point out to the distinguished managers of the bill that the $100,000 salary is reportedly tax free. Do the managers of this bill seriously contemplate letting people like Mr. Washburn get by with that sort of conduct?

Mr. THURMOND. Madam President, I am not familiar with the facts about which the Senator refers. The exclusions in this bill applies to bona fide religious, charitable, scholastic, academic, or fine arts pursuits which are not engaged in lobbying. Additionally, there is an exemption for international organizations such as the United Nations and the Red Cross.

Mr. HELMS. I understand that. Again, I do not want to be difficult.

Mr. THURMOND. I am not too sure I understand the specific concern.

Mr. HELMS. I am just saying here is the case of a State Department official who had a job as a member of the policy planning staff at the State Department, Washington, DC. And he spent weeks and months espousing the United Nations' line, and then he was at that time seeking employment with the United Nations and got it. Subsequently, he got a $100,000-a-year U.N. job, and his salary is tax free. I hope that the managers of the bill would want to reconsider including international organizations in the exemptions. Otherwise, the barn door is wide open for this sort of thing.

I might add that, in my capacity as ranking member of the Foreign Relations Committee, I could identify countless instances where this sort of thing has happened. I was wondering if the managers of the bill would be willing to accept an amendment simply striking that exemption for people involved in international organizations. I think they ought to play by the same rules as former Senators and all the rest.

Mr. METZENBAUM addressed the Chair.

Mr. HELMS. I yield to the Senator.

The PRESIDING OFFICER. Before the Senator from Ohio takes the floor, is the Senator from North Carolina offering that as an amendment or discussion as a possible amendment?

Mr. HELMS. Not yet. I was just feeling out the managers of the bill to see if they would agree.

The PRESIDING OFFICER. Thank you. I just wanted to be sure to protect the right of the Senator from North Carolina.

The Senator from Ohio.

Mr. THURMOND. It is very difficult to determine whether or not we can accept this amendment without having a chance to see it. If the Senator would provide us with the amendment, we would be glad to consider it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I suggest the absence of a quorum.

Mr. STENNIS. Madam President, would the Senator yield to me?

Mr. HELMS. Yes. I withhold the request.

Mr. STENNIS. May I be recognized?

The PRESIDING OFFICER. Of course. The Senator from Mississippi.

Mr. STENNIS. Madam President, I thank the Chair.

May I ask unanimous consent in presenting this matter that I remain seated?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Madam President, I have been concerned about this bill since we first brought it up several months ago. I know the very high purposes in the minds of those who are for the bill. The Senator from South Carolina and I usually see things together on ethical matters of this kind. But, I understand Senator RUDMAN has proposed an amendment that would greatly modify the bill and respectfully I say it would make it much more practical. I commend him for his efforts.

This is a highly important and a very relevant subject, and I think something ought to be done. But I do not believe it is necessary in getting the adequate remedy to provide a disincentive toward public service for a great number of our men and women that are highly qualified and trained, and highly versed in their experience of matters along this line.

I believe we have drafted a bill here as amended that will reach this problem and provide a remedy without being excessive in nature.

I appreciate the chance to be heard on this. I think some splendid points have been made in this argument by those who have given their time. They are busy people.

I want something to be done that reaches this problem. I believe this bill in its amended form will meet this goal and I urge its passage.

AMENDMENT NO. 1964 TO AMENDMENT 1946, AS AMENDED AND MODIFIED

(Purpose: To include international organizations in the definition of foreign entities for which officers and employees of any branch of the U.S. Government are prohibited from representing or advising for a proscribed period after such officer or employee leaves Government service and to require employees seeking employment with international organizations to recuse themselves from further formulation of U.S. policies toward such organizations)

Mr. HELMS. Madam President, I have consulted with the distinguished managers of the bill, and I believe they are prepared to accept the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1964 to amendment numbered 1946.

Mr. HELMS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. METZENBAUM. Madam President, I reserve the right to object.

There is a lot of material on the printed page, and if the Senator is just taking out lines 22 and 23, which is to achieve the objective he spoke about, I have no objection. But I do not know about some of the other language.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina to dispense with reading of the amendment?

Mr. METZENBAUM. Reserving the right to object, it is my opinion that the Senator from North Carolina has included more language than is necessary to achieve his objective. I think the managers of the bill are prepared to accept the two lines that provided for the exemption if one is going to work for an international organization.

The amendment is as follows:

On page 10, line 21, after "proceeding", strike "; or" and insert "." ".

On page 10, strike lines 22 through 23.

On page 14, line 12 and 13, strike all after "political party", insert "; or", and add the following new subparagraph (D):

"(D) a foreign organization substantially controlled by foreign countries or foreign political parties.".

On page 15, after line 2, insert a new section as follows:

"SEC. . AVOIDANCE OF CONFLICT-OF-INTEREST IN INTERNATIONAL ORGANIZATIONS.

"No employee of the United States Government responsible for the conduct of United States policy, or for advising those responsible for United States policy, toward any international organization or organizations shall enter into discussions with such organization for the purpose of seeking employment with such organization without having first formally recused himself from any and all participation in the formulation of United States policies toward such organization.".

Mr. HELMS. Madam President, I think we are talking about the same thing, but just to make sure, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I sent to the desk a modification of the pending amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment will be so modified.

Mr. METZEMBAUM. The Chair did not see fit to have the modification read. I think it is just two lines.

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The clerk will read the amendment, as modified.

The legislative clerk read as follows:

On page 10, line 21, after "proceeding," strike "; or " and insert ". " ".

On page 10, strike lines 22 through 23.

Mr. HELMS. Madam President, the amendment I have sent to the desk is a friendly amendment that I am confident the managers will be able to accept.

First, it removes a possible loophole by making the provisions applicable to foreign entities controlled by more than one foreign government or political parties.

Second, it makes the provisions of the bill applicable to the United Nations and other international organizations.

As originally offered, it would have prohibited U.S. Government employees who participate in the formulation of U.S. policy toward the U.N. organizations from entering into discussions or negotiations for employment with these organizations while continuing to participate in formulating U.S. policy toward them. However, at the suggestion of the managers, I will confine the amendment to the points outlined above.

Since the bill was reported from committee, I have learned of what I consider a particularly disturbing example of how the integrity of the U.S. Government's own policymaking processes can be endangered by offers of employment from the United Nations. I mentioned earlier the example of Mr. John Washburn, a foreign service officer assigned to handle U.N. matters as a member of the policy planning staff at the Department of State, who worked diligently to oppose any effort to control the U.N. budget and advocated the U.N. line within the State Department.

This is but one of a growing number of cases where U.S. Government employees retire from either the civil service or the Foreign Service, and then join an international organization which in their U.S. capacity, they had the responsibility to supervise or monitor.

We have often spoken in this body of the danger of the revolving door at the Pentagon. We have spoken of the danger that contract officers in the Pentagon will be suborned by the possibility of second career jobs with the contractors they are supposed to be monitoring. Is there any difference between a military officer seeking a job with the contractor he is supervising and a Foreign Service officer seeking a job with the United Nations when he is supposed to be monitoring and supervising the United Nations? The only difference is that the first is illegal, and the second may be illegal, but is widespread in the State Department.

There are many examples of this practice. Among them are the following: The U.S. representative to the U.N.'s Food and Agriculture Organization [FAO] retired and went to work as the FAO's representative in Washington. The U.S. representative at the United Nations responsible for trying to get the United Nations budget under control quit that job and was immediately hired by the United Nations as an Under Secretary General. An officer in the International Organizations Bureau at the State Department, also responsible for U.N. budget matters, planned for years to retire and take a job with the U.N.'s Geneva office. A few years ago, the Assistant Secretary of State for U.N. matters retired from the service and immediately was hired by the United Nations. How can our principal policymakers be allowed to make policy and look for a job in the organization they monitor at the same time?

It is no wonder that the State Department has allowed the U.N. salary and benefits to soar to unheard of levels. Almost all these Foreign Service officers retiring from the State Department to take U.N. jobs get jobs whose total compensation is over $100,000. To add insult to injury U.S. taxpayers must finance a portion of these high salaries.

I am sure that each of these officers will defend his integrity and insist that no conflict of interest existed in his mind when setting U.S. policy toward the United Nations while negotiating for a job with them. Maybe that is so but the longstanding principle is that Government employees should avoid even the appearance of conflict of interest.

The American taxpayer has the right to demand that an absolute standard of integrity in Government is maintained. My amendment gives that assurance. I hope the amendment can be accepted by the managers of the bill. It is fully consistent with the purpose of the bill—to prevent foreign controlled entities from undermining the integrity of the U.S. Government by holding out the possibility of post-employment financial gain to U.S. employees. There is no real difference, I submit, between a single foreign government and an organization controlled by a group of foreign governments. The principle is the same.

Mr. President, the amendment, as modified, strikes the exemption in the pending bill which was proposed for "activities in furtherance of the purposes of an international organization of which the United States is a member."

This exemption was apparently intended to apply to the United Nations, its affiliated organizations, as well as other multilateral organizations such as the international multilateral banks.

I know of no sound rationale for such an exemption. After consultation with the managers, I have modified the amendment to strike this exemption. By so doing, the amendment incorporates international organizations in the definition of foreign entities for which officers and employees of any branch of the U.S. Government are prohibited from representing or advising for a proscribed period after such officer or employee leaves Government service.

This is accomplished by virtue of the definition of "foreign entity" which remains in the bill. A foreign organization substantially controlled by a foreign country or foreign political party includes organizations substantially controlled by more than one foreign country, such as the United Nations, international organizations affiliated with it, the multilateral development banks, the International Monetary Fund, and other international organizations.

I have described some of the examples which warrant the striking of the exemption, and I shall not repeat them now.

The proposed amendment would have precluded these unfortunate episodes, and I am optimistic that when enacted, this aspect of the bill will make important strides in improving the integrity of the relations between various Government agencies and the international organizations which they monitor.

Mr. THURMOND. Madam President, we understand what the amendment does. We have considered it and are willing to accept it on this side.

Mr. METZENBAUM. Madam President, I agree. We are prepared to accept the amendment. It is a good amendment.

Mr. HELMS. I thank the distinguished managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1964), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1965 TO AMENDMENT NO. 1946 AS AMENDED AND MODIFIED

(Purpose: To prohibit candidates in Federal elections from soliciting contributions to repay contributions or loans made by such candidate to his campaign)

Mr. McCONNELL. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 1965 to amendment numbered 1946.

Mr. McCONNELL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE II—FAIRNESS IN PERSONAL CAMPAIGN EXPENDITURES

SECTION 1. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person after the election to such candidate or the principle campaign committee of such candidate to repay any such expenditure or loan.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and any spouse of any such person.".

SEC. 2. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate may use any contributions in manner prohibited by section 315(i)".

SEC. 3. EFFECTIVE DATE.—The amendments made by this title shall be effective on the date of enactment.

SEC. 4. SEVERABILITY.—If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

Mr. McCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Madam President, the Senator from Kentucky has an amendment that is pending at the desk. I, frankly, do not have any objections to it, but I think it is only fair to point out that it does not really fall within the parameters of this legislation. I am not opposed to it, but those who have been more involved than I in connection with campaign finance reform and campaign spending ought to be aware of the fact that this amendment does provide that anybody who lends money from his own funds, or anybody from his immediate family, may not, after the election is concluded, then solicit funds in order to pay off the debt.

Have I stated it correctly?

Mr. McCONNELL. My friend from Ohio has stated it correctly.

I might say that this measure was not a contentious item when the group of eight met, prior to the demise of S. 2, to try to work out a compromise campaign finance bill. This item was not in contention. The group of eight agreed without dissent that this provision should be included in any kind of campaign finance reform bill that we could come up with on a bipartisan basis. We did not succeed in doing that, unfortunately.

This provision, I might say, Madam President, simply does this: It says, in effect, that if you take your own funds, or funds that you personally obtain from a lending institution, and put those funds into a political campaign, you cannot recover those funds after the election from postelection contributions. It is intended to prohibit the unethical practice of shaking down special interests after an election to repay personal campaign debt.

One of the items that has driven up the cost of campaigns in recent years has been the infusion of personal funds into campaigns. The pattern often has been that, as soon as the election is over, the winner goes around town, to political action committees or individuals, and repays himself from postelection gifts. It has become almost a modern spoils system.

In my judgment, this is an issue of ethics. Before us today, we have an ethics in postemployment bill. My amendment requires ethics in postelection fundraising. In my judgment, it is relevant. Further as I said, again, this measure is not something that was contentious in the discussions that we held on this and other campaign finance proposals.

Mr. METZENBAUM. I understand the Senator from Kentucky. Will he yield for a question?

Mr. McCONNELL. Yes.

Mr. METZENBAUM. Does the Senator from Kentucky want to stand by the statement that making a loan from an outside source, from a bank, for example, and then repaying it would be in violation? I do not believe the language of your amendment so states. I just want to be certain.

Mr. McCONNELL. It is the intention of the Senator from Kentucky to prohibit a candidate for Federal office from repaying either himself or a leading institution, from contributions raised from others once the election is over.

Mr. METZENBAUM. I am prepared to accept it, but I do not want this colloquy on the floor of the Senate to be interpreted as indicating that I think that making a loan from a financial institution could not be repaid afterward. I do not read the language that way, but, obviously, the language of the legislation will speak for itself.

Mr. McCONNELL. It seems to me it is a distinction without a difference, in terms of the problem we are seeking to get at there, whether the funds come out of a candidate's savings account or whether they come from an institution from which he borrowed the money personally.

The problem that we are seeking to address here is putting up a large amount of money or money that we are obligated to repay and then, after the election, going around recouping those dollars from special interests or from individuals. It would not entirely solve the millionaire's loophole, which was created by Buckley against Valeo, but it would at least say that if you are going to try to buy the election out of your wealth, you better be prepared, as my teenage daughter would say, to eat the whole thing.

Mr. THURMOND. As I understand the purpose, this amendment would apply when a candidate is responsible for the loan made to the campaign, is that not correct?

Mr. McCONNELL. That is correct.

Mr. THURMOND. And, therefore, he should not to be allowed to borrow a large amount of money and loan it to his campaign for election, and then call on others to repay it?

Mr. McCONNELL. After the election.

I would say to my friend from South Carolina, this would not, in the opinion of the Senator from Kentucky, prohibit a candidate to put in some of his own money into a race early on in a campaign just to solve a cash flow problem and repay himself.

Mr. THURMOND. Not prior to an election.

Mr. McCONNELL. It would only apply to the situation after the election. That would seem to the Senator from Kentucky to be an ethics violation.

Mr. THURMOND. Madam President, we are willing to accept it on this side.

Mr. METZENBAUM. Madam President, I want to say that I want to be fair to all parties concerned. I do not have any problem with the thrust of the Senator's amendment, but we are in an election cycle at the moment. I am prepared to represent on the floor of the Senate that I have no intention of doing anything prohibited by this legislation and you have my word on it that I will not. But there may be other candidates who already borrowed money or have taken similiar steps.

Since the entire thrust of this legislation is to be effective 9 months after the date of enactment, if the Senator from Kentucky would be willing to amend that language with respect to applicability, which I think is entirely fair, then I would be prepared to accept it.

Mr. McCONNELL. The Senator from Kentucky is prepared to accept that.

Mr. METZENBAUM. Would the Senator from Kentucky be good enough just to modify his amendment as to the effective date so that that would be the case, where it says "Amendments made by this title shall be effective 9 months after the date of enactment"?

Mr. McCONNELL. The Senator from Kentucky has a right to modify his own amendment, does he not?

The PRESIDING OFFICER. That is correct.

Mr. McCONNELL. I so modify the amendment and sent that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of this substitute, add the following new title:

TITLE II—FAIRNESS IN PERSONAL CAMPAIGN EXPENDITURES

SEC. 1. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person after the election to such candidate or the principal campaign committee of such candidate to repay any such expenditure or loan.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister of half-sister of the candidate's spouse and any spouse of any such person.".

SEC. 2. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate may use any contributions in a manner prohibited by section 315(i)".

SEC. 3. SEVERABILITY.

If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

Mr. METZENBAUM. On that basis, I am prepared to join the Senator from South Carolina and accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky [Mr. MCCONNELL].

The amendment (No. 1965) as modified, was agreed to.

Mr. McCONNELL. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Madam President, I think the longer we stay here the longer we will have for Senators to offer amendments. I am prepared to move forward and pass the legislation if the distinguished manager from South Carolina is prepared to do so.

Mr. THURMOND. Madam President, I am prepared to do so.

The PRESIDING OFFICER. The question is on the substitute, as modified.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 1963

Mr. RUDMAN. Madam President, the managers and I have found that there is a matter which needs modification. Since it was my amendment, I ask unanimous consent to modify amendment No. 1963. This modification makes a technical correction to the amendment No. 1963 which was offered by the Senator from New Hampshire earlier today.

The PRESIDING OFFICER. Without objection, the Senator may proceed to modify.

The amendment is so modified.

The Chair will ask the clerk, does he have the modification of the Senator from New Hampshire? The modification is at the desk.

The amendment, as modified, is as follows:

At page 2, line 7, strike "LIFETIME" and add "IN A PARTICULAR MATTER" following "EMPLOYEES" at page 2, line 8.

At page 2, line 12, insert "(A)" after "(1)" and redesignate clause "(2)" as "(B)".

Following the end of subparagraph "(1)" insert a new subparagraph "(2)" as follows:

"(2) within 2 years after that former officer's or former employee's employment has ceased, knowingly to act as an agent or attorney for, or otherwise represent or assist in representing—or to aid, counsel, advise, consult or to assist in representing, aiding, counseling, advising or consulting—any person, other than the United States, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.".

Mr. RUDMAN. I thank the Chair for the Chair's usual courtesy, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Madam President, I ask, unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Madam President, it is my understanding that we are prepared to pass the bill. No rollcall has been requested. Let us roll.

Mr. THURMOND. Madam President, as I understand it, the amendment in the nature of a substitute, as amended and modified, is up for consideration now?

The PRESIDING OFFICER. The Senator is correct. The question will be on agreeing to the substitute amendment of the Senator from South Carolina, as amended and modified.

The Chair will repeat. If there be no further debate, the question is on agreeing to the amendment in the nature of a substitute as amended and modified, of the Senator from South Carolina.

The amendment (No. 1946), as amended and modified, was agreed to.

Mr. THURMOND. Madam President, as I understand it, it appears it is agreed unanimously, the substitute.

Mr. SASSER. Mr. President, I am pleased at the action of the Senate today in passing S. 237, the Integrity in Post-Employment Act.

It is critical that our citizens have confidence in the integrity of their elected officials and their conduct both during and after their public employment. We must ensure that former officials avoid not only impropriety but even the appearance of impropriety.

The bill we are considering today is another step in a process that stretches back to 1872 when the first law was passed to restrict post-employment activities by Government employees. The current law regulating the conduct of former officials is the Ethics in Government Act, enacted in 1978. The process, however, is far from complete. There are still gaps in the law, gaps that this legislation will go a long way toward closing.

In recent years, we have seen several investigations of questionable conduct by former public officials. We have seen at least one conviction for violations of the ethics in Government law. But we have also seen countless cases of conduct that we all concede to be improper—to be wrong—but not illegal. Thus, there are still several gaps in the current law which this legislation will go a long way toward closing.

Current law forbids a former employee from lobbying an agency on matters where he or she worked "personally and substantially." This prohibition, however, reaches only a small number of situations.

The bill extends the law in several significant ways.

First of all, the legislation extends the law to legislative branch employees. Current law applies only to the executive branch. There is no reason why some employees should be excluded from the lobbying law. What is improper conduct for one employee is certainly improper for another employee.

The bill bans former Government employees who were in a position of influence from lobbying the agency where they were employed for 1 year.

These are necessary and proper steps. It is simply not acceptable that employees can leave the Government—taking with them the influence and knowledge and expertise that they have gained—and immediately use it for personal gain.

I am particularly pleased that this legislation addresses the problem of former employees who go to work for foreign governments and other foreign interests. I have cosponsored legislation in this area and it is an important part of this bill. Such lobbying raises serious questions of the national interest and national security when former employees can use their influence to advocate policy which may not be in the national interests of the United States. Thus, this specific problem must be addressed.

This legislation prohibits high-ranking former executive and legislative personnel, as well as Members of Congress, from representing foreign interests for 18 months after leaving the Government.

Current law prohibits the disclosure of classified and confidential information. However, there is no law against advising a client based on that knowledge. Mr. President, we simply cannot allow those with access to classified or sensitive information to sell their knowledge to foreign interests. This legislation provides a period of time—a buffer if you will—until the sensitivity of the information that former officials possess declines.

Importantly too, it provides for the forefeiture of any proceeds and profit gained in violation of the law, as well as significantly increasing the current penalties. The huge fees to be made in lobbying mean that those current penalties are not even a slap on the wrist. This bill increases the fine to $250,000 and the penalty to up to 5 years in jail. That is enough to give even the greediest person pause.

So, Mr. President, this is important legislation and it closes a major loophole in our ethics laws. I hope our colleagues in the House will give this matter their prompt attention and that we will be able to have this law in place in the very near future.

The **PRESIDING OFFICER.** The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Integrity in Post Employment Act of 1988".

SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT PROVISIONS OF SECTION 207 OF TITLE 18.

(a) OFFENSE.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former executive and legislative branch employees

"(a) PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES IN A PARTICULAR MATTER.—It shall be unlawful for any former officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia—

"(1)(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(2) within two years after that former officer's or former employee's employment has ceased, knowingly to act as an agent or attorney for, or otherwise represent or assist in representing—or to aid, counsel, advise, consult or to assist in representing, aiding, counseling, advising or consulting—any person, other than the United States, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(b) TWO-YEAR PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee described in subsection (a), within two years after that former officer's or former employee's employment has ceased—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States, by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under the former officer's or former employee's official responsibility within one year prior to the date that former officer or employee ceased employment.

"(c) PROHIBITIONS ON EXECUTIVE AND LEGISLATIVE BRANCH EMPLOYEES.—It shall be unlawful for any person, other than a special Government employee who has served no more than sixty days in the immediately preceding three hundred and sixty five consecutive days—

"(1) having been employed as a senior official, within one year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, commission, or legislative entity (or any member, officer, or employee thereof) in which the person served during the one year prior to the termination of such employment as an officer or employee;

"(2) having been employed as a top level official in the executive branch, within one year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive branch of the United States, including any independent agency of the United States, or any officer or employee thereof, or any Member of Congress; or

"(3) having served as a Member of Congress, within one year after such service has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the legislative branch of the United States, or any member, officer, or employee thereof, or any top level official of the executive branch; or

"(4) having been employed as a senior or top level official, within 18 months after such employment has ceased, to be employed by, represent, or advise a foreign entity for compensation, financial gain, or other remuneration.

For the purposes of paragraph (1), the legislative entity in which a person served is the Senate, if the person was employed by the Senate, or the House of Representatives, if the person was employed by the House of Representatives.

"(d) AGENTS COMMUNICATING ON BEHALF OF A FORMER OFFICER OR EMPLOYEE.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

"(e) COVERAGE.—

"(1) INDIVIDUALS COVERED.—For purposes of the coverage of subsections (a), (b), and (c) of this section—

"(A) the term 'senior official' means any officer or employee of the United States other than those of the judicial branch who is not a top level official (including officers and employees of the legislative branch and officers and employees, including special Government employees, of the executive branch, including any independent agency, commissions, Government corporations, independent establishments as defined in section 104 of title 5, the Postal Service, the Postal Rate Commission, and the District of Columbia), who during the twelve-month period preceding the date of termination of employment of the officer or employee, is—

"(i) compensated at the basic rate of pay for GS-16 of the General Schedule as prescribed in section 5332 of title 5, or at a comparable or greater rate of pay under other authority, including positions listed under section 5314 of title 5 or sections 105(a)(2) (B), (C), and (D) and 106(a)(1) (B), (C), and (D) of title 3; or

"(ii) on active duty as a commissioned officer of a uniformed service and assigned to a pay grade of 0-7 or above as prescribed in section 201 of title 37; and

"(b) the term 'top level official' means—

"(i) any officer or employee of the executive branch of the United States, including any independent agency, who, at any time during the twelve-month period preceding the date of termination of employment of the officer or employee, holds a position listed in section 5312 or 5313 of title 5 or under sections 105(a)(2)(A) and 106(a)(1)(A) of title 3, or is paid at a comparable rate of pay under other authority; or

"(ii) any Member of Congress, including Delegates and Resident Commissioners.

"(2) Exceptions.—(A) The prohibitions of subsections (a), (b), and (c) shall not apply to any person—

"(i) who is an elected official of a State or local government and whose actions are on behalf of such government;

"(ii) who is engaging solely in the solicitation or collection of funds and contributions within the United States to be used only for medical assistance, food or clothing to relieve human suffering, in accordance with subchapter II of chapter 9 of title 22, and any rules and regulations prescribed thereunder;

"(iii) whose actions are solely for the purpose of furnishing scientific or technological information if the head of the agency concerned with the particular matter, in consultation with the Office of Government Ethics, or the head of the legislative entity concerned with the particular matter, certifies that the person has outstanding qualifications in a technical discipline regarding the particular matter and that the national interest is served by the participation of such person, and publishes such certification in the Federal Register or, in the case of a legislative entity, in the Congressional Record; or

"(iv) who is providing a statement which is based on that person's special knowledge, provided that no compensation is received for such statement other than that regularly provided by law or regulation for witnesses.

"(B) The prohibition of subsection (c) shall not apply to any person—

"(i) who is employed by—

"(I) an agency or instrumentality of a State or local government;

"(II) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965; or

"(III) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954,

and whose actions are on behalf of such agency, instrumentality, institution, hospital, or organization.

"(3) Special rules for detailees.—For purposes of this section, a person covered by this section who is detailed from one department, agency, or other entity to another department, agency or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies or such entities.

"(f) Penalties and Remedies for Violations.—

"(1) Criminal sanction.—Any person who engages in conduct prohibited by subsection (a), (b), or (c) shall be fined not more than $10,000 or imprisoned for not more than two years, or both. Any person who corruptly engages in such prohibited conduct shall be fined not more than $250,00 or imprisoned for not more than five years, or both.

"(2) Civil Recovery.—The United States may bring in addition to or in lieu of subsection (f)(1) above, a civil action in any United States district court against any person who engages in conduct prohibited by subsection (a), (b), (c), or (d) and, upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years of the later of (A) the date on which the prohibited conduct occurred, and (B) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.

"(3) Administrative action.—Upon finding, after notice and opportunity for a hearing, that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) the head of the department, agency, or commission of the executive branch, including any independent agency, before which the prohibited conduct occurred, may prohibit that person from representing anyone other than the United States before such department, agency, or commission, for a period not to exceed five years, or may take other appropriate disciplinary action. Any such disciplinary action shall be subject to review in a United States district court. Departments, agencies, or commissions shall, in consultation with the Director of the Office of Government Ethics, establish procedures and issue regulations to carry out this subsection.

"(4) Injunctive relief.—Upon a showing that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) of this section, the United States may obtain an injunction to stop or prevent such conduct.

"(g) Partners of an Officer or Employee.—Whoever, being a partner of a Member, officer or employee, including a special Government employee, of the executive branch or the legislative branch of the United States, including any independent agency, or of the District of Columbia, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with the intent to influence makes any oral or written communication on behalf of any other person other than the United States to, any department, agency, court, or commission of the United States or the District of Columbia or the house of Congress in which the Member, officer or employee serves or is employed in connection with a particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such Member, officer or employee or special Government employee participates or has participated personally and substantially as a Member, officer or employee, shall be fined not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Whoever, being the partner of a Member, officer or employee of the legislative branch in a partnership for the provision of professional services, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with intent to influence makes any oral or written communication on behalf of any other person other than the United States to any Member, officer, employee or other component part of the house in which the Member, officer or employee serves in connection with a matter pending before either house or a matter which is the subject of legislative oversight in either house shall be fined not more than $10,000, or imprisoned for not more than one year, or both; provided however, that the prohibition of this subsection shall not prohibit a formal or informal appearance before, or oral or written contact to a Member, officer, employee or other component part of either house on behalf of the partnership itself. For the purposes of this paragraph, the term 'professional services' includes but is not limited to those involving fiduciary relationship.

"(h) Testimony.—Nothing in this section shall prevent a person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) Defense.—In an action under paragraph (1), (2), or (3) of subsection (c) of this section, it is an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving or the expectation of receiving, directly or indirectly, any compensation, financial gain, or remuneration.

"(j) Definitions.—For purposes of this section—

"(1) The term 'foreign entity' includes—

"(A) the government of a foreign country as defined in section 611(e) of title 22;

"(B) a foreign political party as defined in section 611(f) of title 22; and

"(C) a foreign organization substantially controlled by a foreign country or foreign political party.

"(2) The term 'particular matter' includes, but is not limited to, any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, judicial or other proceeding.

"(3) The term 'participated personally and substantially' means an action taken as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.

"(4) For purposes of subsection (c), the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States including Members of Congress.".

(b) Technical Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former executive and legislative branch employees.".

Sec. 3. Section 208 of title 18, United States Code, is amended by adding the following new paragraph:

"(c) Any Member of the House or Senate who shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such firm, partnership, association or corporation; or (3) practice a profession for compensation shall be fined not more than $10,000 or imprisoned not more than two years, or both. For the purposes of this paragraph, 'professional service' shall include but not be limited to those which involve a fiduciary relationship".

SEC. 4. Section 439a of title 2, United States Code, is amended by striking all beginning with "with respect to" through "January 8, 1980,".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) be effective nine months after the date of enactment of this Act; and

(2) apply to any Member or employee of Congress or employee or officer of the Federal Government, other than those of the judicial branch, employed by any agency, department, or entity of the Federal Government on or after nine months after the date of enactment of this Act.

SEC. 6. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or person is not affected thereby.

TITLE II—FAIRNESS IN PERSONAL CAMPAIGN EXPENDITURES

SEC. 201. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person after the election to such candidate or the principle campaign committee of such candidate to repay any such expenditure or loan.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and any spouse of any such person.".

SEC. 202. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate may use any contributions in a manner prohibited by section 315(i)".

SEC. 203. SEVERABILITY.

If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

Mr. THURMOND. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. METZENBAUM. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I think this is a signal day in the history of the U.S. Senate. The Senate has unanimously passed a piece of legislation indicating that it wants to reform some of its own procedures and the Senate has said unanimously that Members of this body are to be governed by some of the same rules that are applicable to other people in Government.

I think it is a signal victory and I cannot say how pleased I am to have worked with my distinguished colleague from South Carolina in his providing leadership and with Senator LEVIN and Senator SPECTER and Senator RUDMAN in bringing about the passage of this bill.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have already expressed my appreciation for work and efforts made by Senators METZENBAUM, RUDMAN and LEVIN. Again, I want to thank them for their important work on this bill. This is a critical piece of legislation which will improve the public's opinion and perception of the Senate. It is vital for this Nation. I am extremely satisfied that it has passed.

I congratulate all who had a part in accomplishing it.

WARTIME RELOCATION OF CIVILIANS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the bill.

The assistant legislative clerk read as follows:

A bill (S. 1009) to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Senate resumed consideration of the bill.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The committee substitute to S. 1009 is the pending question.

Mr. GLENN. I thank the distinguished Presiding Officer.

Mr. President, S. 1009 is a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Commission was established by Congress in 1980 to examine the facts surrounding the U.S Government's relocation and detention of citizens and resident aliens of Japanese ancestry during World War II. The Commission was also mandated to examine the circumstances surrounding the evacuation of the Aleutian and Pribilof Islands and the relocation of Native American Aleuts. The Commission held over 20 days of hearings, heard from over 750 witnesses, and subsequently submitted its findings and recommendations to Congress in the form of a report entitled "Personal Justice Denied."

The Commission found that the exclusion, relocation and detention of the primarily American-born citizens of Japanese ancestry was not justified by military necessity, thus violating their basic constitutional rights and civil liberties. The Commission also found that the United States failed to provide reasonable care for the health and property of the Aleuts.

S. 1009 was introduced by Senator MATSUNAGA in April, and it now has 73 cosponsors.

I think that attests to how the Senate looks at this particular piece of legislation.

In June, Senator PRYOR, chairman of the Subcommittee on Federal Services of the Governmental Affairs Committee, held a hearing on the bill. Subsequently, the subcommittee reported favorably on S. 1009, with an amendment in the nature of a substitute. On August 4, the Governmental Affairs Committee, by voice vote, agreed to send the bill, as amended, to the Senate floor with a favorable recommendation.

I agree it is time to redress the wrong committed over 40 years ago. The internment of civilians of Japanese ancestry without regard to their demonstrated loyalty was a grave injustice. S. 1009 includes a long overdue apology from Congress on behalf of the Nation for this treatment.

The bill also includes a total authorization of approximately $1.3 billion to compensate the surviving Japanese-American internees and Aleuts for the harm they sustained, for the establishment of an education fund, and for other purposes. Obviously, this is the most controversial aspect to the bill. Concerns have been raised about the substantial sums necessary to make the proposed individual payments at this time of large budget deficits, and in general, about the propriety of making lump-sum payments.

The committee made certain changes to the bill to address these concerns. Budget authorization will be available no earlier than fiscal year 1989, and authorization for the funds allocated to compensate the surviving individuals of Japanese ancestry will be done in increments over a 5-year period beginning in fiscal year 1989.

Let me add a few words on this subject as well. I would like to note this bill's important symbolic significance. At the time of the exclusion, relocation and internment of civilians of Japanese ancestry, I was fighting in the war.

I was a junior in college at the time of Pearl Harbor and then went in the service, went into flight training, and fought in the Pacific during that war. I recall at that time that I thought that the Government's action was unfair—to take a whole class of people and treat them in this way without giving them individual consideration. But I also recall that national passions were running very, very high.

This bill reminds us of the harm that can come when national passion is directed at persons with certain racial characteristics. Passage of this bill, and its authorization to finance efforts to inform the public about the treatment of such individuals, will not only help to prevent the occurrence of another similar event, but will set a particularly shining example to the world of America's concrete commitment to justice and the redress of wrongs. No other nation on Earth would take this unprecedented action—and I am sorry about that. Let us then be proud that in America, this can and will be done.

At this time, I send to the desk modifications to the bill which are technical in nature. These modifications were suggested by several different committees after the bill was reported out of the Governmental Affairs Committee.

The PRESIDING OFFICER. Are these amendments or modifications?

Mr. GLENN. They are technical modifications.

The PRESIDING OFFICER. The Senator has a right to modify on behalf of the committee.

Mr. GLENN. Yes; that is correct.

The PRESIDING OFFICER. The bill is so modified.

The modifications to the committee-reported substitute are as follows:

On page 40, line 12, insert ", subject to the availability of monies appropriated for such purpose," after "shall".

On page 40, line 14, insert ", subject to the availability of monies appropriated to the Fund for such payments," after "shall pay".

On page 40, line 15, insert ", subject to the availability of monies appropriated for such purpose," after "shall".

On page 46, strike lines 9 through 15 and insert the following:

SEC. 207. No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance in appropriation Acts. In any fiscal year, the Administrator of the Fund shall limit the total benefits conferred by this program to an amount not in excess of the appropriation for such fiscal year, and if the requirements of this program exceed the limitations set in this section, the benefits shall be limited, consistent with the provisions of section 205(b), to the extent necessary to comply with the provisions of this section.

On page 50, line 2, strike "Out of monies from the" and insert "Subject to the availability of monies appropriated to the ".

On page 50, line 6, after "shall" insert ", subject to the availability of monies appropriated for this purpose,".

On page 53, line 21, insert ", subject to the availability of monies appropriated to the Fund for such payments," after "shall pay".

On page 53, line 22, strike beginning with "All" through line 24.

On page 54, strike lines 8 through 13 and insert the following:

(4) Any payment made under this subsection—

(1) shall be treated for purposes of the Internal Revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 21, United States Code, or the amount of such benefits.

On page 56, line 25, after "shall pay" insert ", subject to the availability of monies appropriated for this purpose,".

On page 57, line 6, strike "the traditional" and all that follows through line 11 and insert "all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made pursuant to the authority provided by section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), except that following the date of enactment of this section, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land,".

On page 57, strike lines 18 through 23 and insert the following:

SEC. 308. (a) No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance in appropriation Acts.

(b) In any fiscal year—

(1) the Secretary, with respect to the Fund set forth pursuant to section 303; and

(2) the Secretary with respect to the trust set forth pursuant to section 305, and with respect to the provisions of sections 306 and 307,

shall limit the total benefits conferred to an amount not in excess of the appropriation for such fiscal year, and if the requirements exceed the limitations set in this section, the benefits shall be reduced to the extent necessary to comply with the provisions of this section.

Mr. GLENN. The purpose of the modifications suggested by the Budget Committee is to make clear that titles II and III of the bill do not create new entitlement funds. Rather, the bill directs that the authority to enter into contracts and make payments under titles II and III is subject to the availability of appropriations. It further provides that benefits conferred in any fiscal year shall not exceed the funds appropriated in that fiscal year and requires benefits to be limited if appropriations are insufficient to cover the total costs of the benefits.

The modifications suggested by the Finance Committee amend the tax treatment of payments to the Aleuts in title III to conform with the treatment of payments to the Japanese-Americans in title II. Also, the provision in title III concerning the impact of payments to the Aleuts for purposes of eligibility to receive other Federal benefits is amended to conform to its counterpart provision in title II.

The modification suggested by the Commerce, Justice and State Subcommittee of the Appropriations Committee concerns the bill's direction to the Justice Department to locate eligible Japanese-Americans and to conduct a public awareness campaign. The modification makes these requirements on the Justice Department subject to the availability of appropriated funds for those purposes.

Finally, Senator STEVENS suggested a technical amendment concerning title III's authorization of the transfer of the Attu Island village site to the Aleut Corp. The modification clarifies that the transfer is limited to 10 acres of surface estate.

Mr. President, I want to say a few words personally about Senator MATSUNAGA. SPARK, as we know him around the Senate, is the junior Senator from Hawaii. He deserves full credit for the success of this legislation. I do not believe that in the 13 years I have been in the Senate I have ever seen anyone pursue a particular piece of legislation, buttonhole Senators more effectively, call on them in their office, make certain he had their support for a particular piece of legislation, and do that job as well as SPARK MATSUNAGA has done on S. 1009.

He has been a real bird dog on this one. He really has followed it through. That is the reason he has 73 cosponsors for S. 1009. He has convinced those Senators of the rightness of his position. Before turning over the floor management of the bill to him, I would like to make a few additional remarks about the service that he, Senator INOUYE, and thousands of other Japanese Americans rendered to this country during World War II. Senators MATSUNAGA and INOUYE both volunteered for active service during World War II. They served with the 442d Infantry Regimental Combat Team in Europe. That was the most decorated and one of the most celebrated American military units in all of World War II.

Senator INOUYE enlisted in the Army in March 1943 at the age of 18, and was very seriously wounded 2 years later. His military decorations include the Distinguished Service Cross, Bronze Star, and the Purple Heart.

Senator MATSUNAGA, who has done such an effective job with this legislation, himself was commissioned as an Army officer after his graduation from college in 1941. He was also twice wounded in battle. He resigned from the Army with the rank of captain in 1945, and his decorations include the Bronze Star, the Purple Heart, and the Army Commendation Medal.

Many of the other decorated soldiers of the 442d Regiment volunteered out of the internment camps set up in the West Coast States during World War II. Even though their relatives were still interned in those camps, they volunteered for service to this country. The courage of these men and their remarkable fighting skills are unimpeachable proof of their willingness to sacrifice everything for their country.

Yet, while they fought and died, thousands of their relatives and friends remained confined to internment camps in the States. It is their unfortunate experience that Senator MATSUNAGA has diligently sought to redress through this bill.

So I am very proud to be able to relinquish my position here as floor manager to Senator MATSUNAGA. He deserves full credit for this legislation.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. MATSUNAGA. Mr. President, as of September 17 of last year, we have been observing the bicentennial of the greatest human document ever written—the U.S. Constitution. With pride in our unique heritage, we Americans should reaffirm our commitment to the proposition that the United States is "one nation * * * with liberty and justice for all."

I am, therefore, extremely grateful to the chairman of the Governmental Affairs Committee, Senator GLENN, for expediting the reporting of this bill to the floor, and I thank the chairman for his most generous remarks. I assure him that the admiration is mutual. I do appreciate all the help he has given me on this piece of legislation. I thank him very much.

I also wish to thank the ranking member of the committee, Senator ROTH, and the distinguished majority and the distinguished minority leader for scheduling for floor action S. 1009, a bill which I introduced with 73 cosponsors, to provide a long overdue remedy for one of the worst violations of individual civil liberties in our Nation's history—the evacuation, relocation, and detention of American citizens and resident aliens of Japanese ancestry during World War II.

In the life of every individual, and every nation, there are certain events which have a lasting, lifelong impact and which change the shape of their future. For some Americans, the October 1987 stock market decline brought back frightening memories of the Crash of 1929 and the Great Depression which followed it. For others, the image or words of a slain president or civil rights leader remind them of a turning point in their lives.

For Americans of Japanese ancestry who are over the age of 45 years, the single, most traumatic event, the one which shaped the rest of their lives, is the wholesale relocation and incarceration in American-style concentration camps of some 120,000 Americans of Japanese ancestry and their parents and grandparents, who were legal resident aliens barred by United States law from becoming naturalized American citizens.

All Americans of that generation no doubt recall with great clarity where they were and what they were doing on December 7, 1941, the day that Japan attacked the American naval base at Pearl Harbor. I myself was in active military service on the Hawaiian Island of Molokai as an Army officer in temporary command of an infantry company. In fact, I was one of 1,565 Americans of Japanese ancestry who had volunteered for and were in active military service before Pearl Harbor, and who, with other Americans, stood in defense of the Territory of Hawaii against the enemy.

We remember vividly the atmosphere which prevailed in this country immediately after the bombing of Pearl Harbor. Rumors of a Japanese attack on the West Coast of the United States were rampant and numerous false sightings of enemy war planes off the coast were reported. A great wave of fear and hysteria swept the United States, particularly along the West Coast, where a relatively small population of Japanese Americans had, even before the outbreak of war, been subjected to racial discrimination and often violent attacks.

Two months after the attack on Pearl Harbor, in February 1942, President Franklin D. Roosevelt issued Executive Order 9066. The Executive order gave to the Secretary of War the authority to designate restricted military areas and to exlcude any or all persons from such areas. Penalties for violation of the restrictions were subsequently established by Congress in Public Law 77-503, enacted in March 1942.

At about the same time, the military commander of the Western District, Lt. Gen. John DeWitt, issued public proclamations establishing restricted military zones in eight Western States, instituting a curfew applicable to enemy aliens and persons of Japanese ancestry, and restricting the travel of Americans of Japanese ancestry and enemy aliens. The first "civilian exclusion order" was issued by General DeWitt on March 24, 1942, and marked the beginning of the relocation and internment of the Japanese American population on the West Coast.

Significantly, the military commander of the then Territory of Hawaii, which was under martial law, did not believe that it was necessary to order the wholesale evacuation of all Americans or resident aliens of Japanese ancestry, although about 1,400 leaders of the Japanese American community in Hawaii were rounded up immediately after the attack and sent to detention camps on the mainland.

J. Edgar Hoover, then Director of the Federal Bureau of Investigation, opposed the mass incarceration of Japanese Americans, pointing out that the FBI was capable of apprehending and arresting any spies or saboteurs. Japanese diplomats, consular officials and military attaches who were in this country at the outbreak of war between the United States and Japan were not incarcerated in detention camps. On Hoover's orders, they were confined to house arrest and treated courteously, because the FBI director hoped that American citizens in Japan would be treated in a similar manner. The Office of Naval Intelligence had also informed President Roosevelt that the wholesale incarceration of Japanese Americans was unnecessary, pointing to the lack of evidence of any acts of espionage or sabotage by Americans of Japanese ancestry or their parents, before, during or after the attack on Pearl Harbor.

Of the 120,000 individuals who were ordered on 72 hours notice to pack, leave their homes, and report to assembly centers prior to being moved to camps in the interior United States, about 80 percent were native-born American citizens—many of them young children and teenagers. The remainder, including many elderly people, were legal alien residents of the United States who were prohibited by the Oriental Exclusion Act of 1924 from becoming naturalized American citizens regardless of how much they wanted to be, like my father and mother. All of them, citizens and alien residents alike, were entitled to the protection of the U.S. Constitution, but their constitutional rights were summarily denied. Without being charged or indicted, without trial or hearing, without being convicted of a single crime, they were en masse ordered into what can only be described as American-style concentration camps, surrounded by barbed wire fences, with searchlights, watch towers and armed guards—and there they remained, many for over 3 years.

In 1980, 38 years after the beginning of the relocation and internment of Japanese Americans, Congress authorized a thorough study of the circumstances surrounding the event. A distinguished nine-member Commission, appointed by the President of the United States, was mandated to examine the facts surrounding the issuance of Executive Order 9066 and the subsequent relocation and internment of Japanese Americans. In addition, the Commission was authorized to study the circumstances surrounding the evacuation of the Aleutian and Pribilof Islands in Alaska and the relocation of Native American Aleuts. The Commissioners were Joan Z. Bernstein, a Washington, DC, attorney, chairman; Daniel E. Lungren, a Member of Congress from California, vice chairman; Edward W. Brooke, a former U.S. Senator from Massachusetts; Robert F. Drinan, a former Member of Congress from Massachusetts; Arthur S. Flemming, formerly chairman of the U.S. Commission on Civil Rights; Arthur J. Goldberg, a former Justice of the U.S. Supreme Court; Ishmael V. Gromoff of Alaska; William M. Marutani of Pennsylvania; and Hugh B. Mitchell of Washington State.

In 1983, following 20 days of public hearings which included more than 750 witnesses, and extensive review of Federal records, contemporary writings, personal accounts and historical analyses, the Commission filed its report, entitled "Personal Justice Denied." See how thick a volume it is.

The Commission's comprehensive report was welcomed by Americans of Japanese ancestry who had lived through the relocation and internment. It revealed publicly for the first time what they had always known: The relocation and internment of Japanese Americans was not justified by military necessity or national security, but was the result of racial prejudice, wartime hysteria and the failure of political leadership.

The Commission found that the precipitous action had been taken under the leadership of men like General DeWitt, who believed, and stated to the U.S. House of Representatives Naval Affairs Subcommittee on April 13, 1943:

> A Jap's a Jap. They are a dangerous element, whether loyal or not. There is no way to determine their loyalty . . . it makes no difference whether he is an American; theoretically, he is still a Japanese, and you can't change him. . . . You can't change him by giving him a piece of paper.

Moreover, the Commission found that the exclusion of Japanese Americans from the west coast and their detention continued long after the initial panic following the attack on Pearl Harbor had abated. In a meeting with Justice Department officials in 1944, Assistant Secretary of War John J. McCloy is reported to have remarked that:

> It was curious how the two major cases in which the Army had interfered with civilians had started out for serious military reasons and had ended being required by wholly non-military considerations. For example, the Japanese were evacuated back in the dark days before Midway when an attack on the Pacific Coast was feared. Now the exclusion is being continued by the President for social reasons.

The Battle of Midway, a great American naval victory, took place in June 1942, at the very beginning of the Government's relocation and detention of Japanese Americans. It ended the threat of a Japanese attack on the continental United States.

While revelation of the truth at last by a congressionally created commission is a great relief to Americans of Japanese ancestry who were victims of this grave wartime mistake, the public report alone is not enough to provide them with justice too long denied—anymore than it would be for any other American falsely imprisoned for years on trumped-up charges. In our great society, the victims of such errors in justice are entitled to more tangible relief.

What kind of relief is appropriate? The Commission recommended and S. 1009 provides, first, for an official acknowledgement of the injustice and an apology to the surviving internees. Second, the bill establishes a civil liberties education fund which would conduct educational research and fund projects designed to inform the public of the events surrounding the relocation and internment of Japanese Americans, to ensure that such a thing never happens again. S. 1009 also provides that court cases wherein Japanese Americans were convicted of violating curfew and travel restrictions imposed by the western military district be reviewed by the U.S. Department of Justice, and that Presidential pardons be recommended where appropriate. Finally, S. 1009 provides for the payment of $20,000 to each of the approximately 60,000 former internees who are still alive.

This last provision is perhaps the most controversial in the bill, Mr. President, and I would like to take a few minutes to address it.

Opponents of the individual payments provision often ask why the Commission picked the seemingly arbitrary figure of $20,000 and why there was not an effort to base the compensatory payments on actual losses.

In 1983, the Commission asked the firm of ICF, Inc. to estimate the value of losses sustained by Japanese Americans because of their evacuation, relocation, and incarceration during World War II. Michael C. Barth, the president of ICF, Inc., testifying before the House Judiciary Subcommittee on Administrative Law and Governmental Relations, on April 28, 1987, stated that:

> We were asked in the late winter of 1983 to estimate the economic losses in the aggregate of American citizens of Japanese descent and resident aliens as a result of their exclusion and detention during the Second World War.
>
> My firm, ICF, Inc., then endeavored to determine what information was available and to determine the concepts of losses that could be estimated. Economic losses were divided into two categories—income losses and property losses.
>
> Two other important categories of losses were not either susceptible of estimation or able to be estimated. The first were what are called human capital losses, which are no doubt of immense importance. These are losses resulting from losses in education, training, and experience during exclusion and detention. We were unable to come up with any estimate of these.
>
> The report also does not address concepts such as pain and suffering. Therefore I will concentrate on our estimates of income losses and property losses.
>
> Income losses were defined to be the amount of income that might have been earned by excludees had they not been in the detention camps during the period 1942-46. These were adjusted for the actual income that was earned by excludees—by detainees while they were in the camps since modest amounts of pay was paid.
>
> This analysis yielded an estimate of the income losses, and we produced a range estimate, in 1945 dollars, of between $108 million and $164 million for that concept. Adjusting that to 1983 dollars yielded an amount of between roughly $600-$900 million, and we further adjusted that for illustrative purposes because it's possible that had this money been available to the detainees they might have been able to invest it as other citizens might have, and that yielded an amount between $900 million and $1.4 billion.
>
> Property losses were particularly difficult to estimate because of the lack of information. We were given access to all of the claims files available for the 1947 Japanese-American Evacuation Claims Act, (which has been referred to earlier) as well as the private files of some citizens who were involved in litigation at that time.
>
> Based on this information, we estimated ranges of the amounts of losses per claimant. Now it's possible that not all persons who had property losses filed under the 1947 Evacuation Claims Act. Accordingly then, in order to ensure that we were not grossly underestimating claims, we conducted various analyses of the amounts of claims that might have been claimed for had people not been ignorant or unaware or otherwise unable to make claims for which they could not provide adequate justification.
>
> We also then adjusted our estimates for the fact that $37 million was in fact paid by the U.S. Government to claimants, and between 1947 and 1956 when the final claim was paid (sic). These estimates, because of the substantial data problems, resulted in a large range, but putting together the income and the property loss estimates and adjusting that for inflation to 1983 yielded a range of $810 million to $2 billion. Adjusting for the foregone interest that might have been earned yielded a range of $1.2-$3.1 billion.
>
> It's my understanding that the commission then used our range of losses in the aggregate to develop what they thought was the appropriate amount of restitution per claimant. . . .

Those who contend that token payments are an inappropriate way to redress this injustice overlook the basic fact that compensatory remedies are deeply rooted in American jurisprudence. It has long been considered proper for our courts to award monetary damages to individuals who have been unjustifiably injured. In tort law, for example, there are virtually thousands of reported cases in which substantial damages have been awarded to persons who were falsely arrested or imprisoned, on nonracially motivated grounds.

The amounts of damages in such cases vary considerably, ranging from several hundred dollars to well over $100,000. The vast majority of reported awards stem from detentions lasting no more than a few days in duration, as compared to 3 years in the case of Japanese Americans. In many jurisdictions, an award for false arrest or imprisonment can include an amount for mental suffering. Humiliation, shame, and fright are elements that are considered in determining mental suffering. In addition, many jurisdictions include punitive damages where the conduct of the wrongdoer was particularly egregious or outrageous. Mr. President, I ask unanimous consent that I may append to my remarks examples of false arrest and false imprisonment cases in which monetary damages were awarded, including the factors upon which the judge relied in upholding the award.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. These examples are contained in the appendix of testimony by Mr. Angus Macbeth, former special counsel to the Commission on Wartime Relocation and Internment of Civilians.

When one considers the fact that most of the internees were detained for 3 years or more, the $20,000 lump-sum payments simply cannot be considered excessive. The funds authorized for these payments are allocated over a period of 5 years and will constitute but a tiny fraction of our trillion dollar Federal budget. In addition, as was pointed out several times during the House debate on this legislation, the $20,000 lump-sum payments are equivalent to less that $3,000 in 1945 dollars, a very small amount of compensation considering the degree of economic, social, and emotional injury incurred by the internees during their 3-year confinement.

In addition, opponents of S. 1009 often express the concern that enactment of the bill will set a dangerous precedent and invite similar claims by other minority groups.

It should be noted that under the provisions of S. 1009, payments are to be made only to those living individuals who were victims of the Federal Government's wartime policy. No payments are to be made to heirs or descendents of the former internees. S. 1009 would, therefore, not open the door for claims by descendents of former slaves or the descendents of Native American victims of the Federal Government's 19th century policies with respect to American Indians. When we look for cases of people alive today who were themselves directly injured by the Federal Government because of their race or ethnicity, the incarceration of Japanese-Americans is unprecedented.

Finally, I am often asked about the case of American citizens who were held captive by Japan during World War II. The War Claims Act of 1948 compensated each civilian American citizen who was held by the Imperial Japanese Government in the amount of $60 per month. The act was later extended to cover civilians captured by North Korea during the Korean conflict. Later still, it was extended to cover Ameican civilians captured by North Vietnam during the war in Vietnam. Civilians captured in Vietnam were compensated in the amount of $150 for each month they wre imprisoned. Like the Japanese-Americans, these Americans suffered a loss of liberty; the difference is that Japanese-Americans were deprived of their freedom through the actions of their own Government—the United States of America, not the enemy.

Federal courts have also addressed constitutional violations and false imprisonment in individual or class action settings. In *Dellums* v. *Powell*, 566 F. 2d 167 (D.C. Cir. 1977), the case which grew out of the mass arrests of demonstrators at the 1972 May Day demonstration in Washington, DC, damages for false imprisonment were awarded in amounts ranging from $120 for 12 hours or less to $1,800 for 48 to 72 hours of detention.

Individual payments have also been made to Americans held hostage as a consequence of terrorism. Of the 52 Americans held hostage in Iran for 444 days, all but one were U.S. Government employees. Congress voted each of these 51 a special bonus of $50 per day for that period—a total of $22,200 for each former hostage.

So it is clear that Congress can act to provide appropriate compensation to individuals who were the victims of such a grave injustice. Such compensation is long overdue. Since the end of World War II, many who were directly or indirectly involved in the mass evacuation and detention of Japanese-Americans and resident aliens of Japanese ancestry have acknowledged the wrong inflicted on the evacuees.

President Roosevelt, in approving the induction of Japanese-Americans into the U.S. Army, observed that "Americanism is a matter of the mind and heart—not race or ancestry." Henry L. Stimson, then Secretary of War, recognized that "To loyal citizens, this forced evacuation was a personal injustice." Francis Biddle, then the Attorney General of the United States, expressed his belief that "The program was ill-advised, unnecessary, and unnecessarily cruel." Milton Eisenhower, the first Director of the War Relocation Authority, described the evacuation and detention of Japanese-Americans as "An inhuman mistake." The late Chief Justice of the U.S. Supreme Court, Earl Warren, who, as attorney general of the State of California, urged evacuation of Japanese-Americans, stated "I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens."

S. 1009 also has the strong support of a large number of contemporary individuals and organizations, and I ask unanimous consent that such a list may be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. MATSUNAGA. Mr. President, it is time that Congress, too, recognized the grave injustice inflicted by the Federal Government on American citizens of Japanese ancestry and move to make amends. Passage of S. 1009 would remove a longstanding blot on our National Constitution—a most appropriate way to commemorate its bicentennial. It would also remove a cloud which has hung over the heads of innocent Americans of Japanese ancestry since World War II.

When the Japanese-American 442d Regimental Combat Team, described by Gen. Mark Clark as the "most fightingest and most highly decorated military unit in the history of the United States," marched up Pennsylvania Avenue to the White House, upon its return from the European Theater at the end of World War II, President Harry S. Truman, in presenting the team with its seventh Presidential Unit Citation said, "You fought not only the enemy, but prejudice—and won."

Mr. President, as a twice-wounded veteran of the 100th Infantry Battalion, which is the first battalion of the 442d Regimental Combat Team, I plead with my colleagues to make that victory complete and meaningful by passage of S. 1009.

EXHIBIT 1

The following are examples of cases, principally those cited in briefs submitted to the Commission on Wartime Relocation and Internment of Civilians, in which damages have been awarded in false arrest and false imprisonment cases, including the factors upon which the judge relied in upholding the award.

In *Bucher* v. *Krause*, 200 F.2d 576 (7th Cir. 1952), the police mistakenly identified and arrested the wrong man for a crime. There was a scuffle in the bar where he was arrested and he was detained for injuries sustained in a hospital that was an adjunct to a jail. His I.D. clearly showed him to be the wrong man and his fiancee told the police that he was not the man the police were seeking to arrest. The plaintiff was to be married the day of the scuffle and his detention. The period of confinement was less than a day and plaintiff was awarded $50,000 in damages based on assault and battery and the false arrest and imprisonment. Punitive damages were also awarded because of the outrageous conduct of the police.

In *Hoffner* v. *State*, 207 Misc. 1070, 142 N.Y.S.2d 630 (Ct. Cl. 1955), a man was wrongfully convicted of first degree murder and served 12 years in prison. Upon his release he was awarded $112,290 in compensatory damages based on pain and suffering and mental anguish due to the false imprisonment. The court noted that the award was low, but the judge took into account that the improperly convicted man had low earnings prior to his incarceration.

In *Skillern & Sons, Inc.* v. *Stewart*, 379 S.W.2d 687 (Tex. Civ. App. 1964), a woman was awarded $10,000 actual damages and $10,000 punitive damages for assault and battery and false imprisonment because she was fired and wrongfully detained by her employer who charged her with shoplifting. She was harassed into signing a statement that she was guilty, even though she was not, and she was handled roughly by the interrogator. Her doctor reported that he had seen the plaintiff weekly for four months because of nervous tension and the doctor predicted that he would have to see her at least once a month for the following two years. The doctor testified the women was on the verge of a nervous breakdown.

In *Quinn* v. *Rosenberg*, 399 S.W.2d 433 (Mo. App. 1966), a female lawyer received court authorization to inspect a doctor's patient records of an employee who was making a claim before the Workmen's Compensation Board. The lawyer had a past history of spinal and neck injuries and the doctor-defendant roughly handled her when he refused to permit her to inspect his patient's records. The police were summoned and she was arrested for disturbing the peace and was briefly detained. The woman was awarded $10,000 in actual damages for mental pain and suffering caused from the false arrest and imprisonment and $500.00 punitive damages.

In *State* v. *Vargas*, 419 S.W.2d 926 (Tex. Civ. App. 1967), one of the most egregious cases found, a man was wrongfully imprisoned for murder for four years and was on death row for about two months. The day he was to be executed, his head was shaved and he was shown the coffin in which he was to be buried. His sentence was then commuted by the governor and he was found not to have committed the murder. He was awarded $20,000 for pain and suffering caused by the false imprisonment.

In *S.S. Kresge Co.* v. *Prescott*, 435 S.W.2d 203 (Tex. Civ. App. 1968), the plaintiff, who was a store owner was arrested by police when plaintiff forcibly evicted his competitor's employees who were checking prices in his store. There was a public scene and heated discussions on both sides including pushing and shoving. The jury awarded the plaintiff $100,000 which was remitted by the court to $35,000 in actual damages.

In *Rothschild* v. *Drake Hotel, Inc.*, 397 F.2d 419 (7th Cir. 1968), plaintiff refused to pay her hotel bill and she was arrested by the police. The woman would not pay until she moved out even though the manager demanded payment prior to that time. She had a small child with her. She spent three days in jail and the court found there was no probable cause to arrest the woman. She had no prior arrest record. Although the jury awarded her $400,000 damages, this award was reduced to $75,000 by the court.

In *Thomas* v. *E.J. Korvette, Inc.*, 320 F. Supp. 1163 (E.D. Pa. 1971), plaintiff was security guard of a store. He put an article from the store which he intended to buy in the trunk of his car and then returned and paid for both it and an additional article. He then put the other article in the trunk of his car with the sales slip covering both articles. When his employer went out with the security manager to check the trunk, no sales slip was found. The sales clerk who had sold the articles to the security guard corroborated the plaintiff's story but the security guard was still arrested and jailed. The man recovered $100,000 for the destruction of his career as a security guard, the costs of defending himself, and for pain and suffering. This case is instructive of the principle that if wages are lost or a career is destroyed because of the false imprisonment, the damage award will be greater than when damage to income is not proven.

In *Globe Shopping City* v. *Williams*, 535 S.W.2d 53 (Tex. Civ. App. 1976), the plaintiff was awarded $35,000 for being falsely imprisoned for five to six hours in jail as compensation for his physical and mental pain and suffering.

In *Guion* v. *Associated Dry Goods Corp.*, 56 App. Div. 2d 798, 393 N.Y.S.2d 8 (1977), the court approved the award of $10,000 in compensatory damages for a three-hour detention on the basis of loss of earnings and mental suffering.

In *Joseph* v. *Jefferson Stores*, 228 So. 2d 103 (Fla. Dist. Ct. App. 1969), the court awarded $5,000 actual and $10,000 punitive damages to a woman accused of shoplifting who was detained along with her two small children for two and one-half hours.

In *Enright* v. *Groves*, 560 P.2d 851 (Colo. App. 1977), an award of $1,500 for false imprisonment was affirmed. The plaintiff, a woman, was approached for violating a dog leash ordinance but refused to hand over her driver's license after the officer demanded to see it. He yanked her out of the car and took her to jail. She was eventually convicted of the ordinance violation. She was recompensed for her physical injury and the mental pain and suffering which she suffered as a result, partially due to the fact that persons were not normally arrested for failing to produce a license to an officer or for a violation of the dog leash ordinance.

In *Stowers* v. *Wolodzko*, 386 Mich. 119, 191 N.W.2d 355 (1971), a housewife was wrongfully committed to a mental institution against her will by a psychiatrist and remained there for 23 days. She was awarded $40,000 in actual damages for pain and suffering.

As is readily discernible, the cases do not provide a consistent and rational basis for predicting a court award for false arrest and false imprisonment in any particular situation. However, the following factors will increase the size of a damage award: assault and battery or other outrageous conduct on the part of the captors, such as creating a sense of fear or unjustifiable assertion of authority; physical pain suffered as evidenced by medical bills; loss of wages or other income; damage to reputation; and shame, humiliation and the like.

It should be noted that the length of the incarceration is generally correlated to the amount of damages, i.e., the longer the imprisonment, the higher the damages. Yet the correlation is not by any means proportionately similar between short and long periods of incarceration. In the preceding cases, the damage awards levied per hour of the time incarcerated are much larger for brief periods of incarceration, than those for longer periods. For instance, in Hoffner, supra, an award was made of $112,290 for a 12-year wrongful incarceration. This amounts to 1.8 cents per minute of incarceration. In Vargas, supra, the man who was wrongfully imprisoned for four years and placed on death row, a particularly egregious false imprisonment case, was awarded $20,000, or .095 cents per minute of incarceration. On the other hand, in Rothschild, supra, a woman who was jailed for three days for failing to pay her hotel bill was awarded $75,000 in damages, which is $17.36 per minute of incarceration. In Guion the man who was accused of shoplifting and detained for three hours was awarded $10,000 or $55.56 per minute of incarceration. If the Hoffner plaintiff were awarded the same per minute damage award for his 12-year incarceration as the plaintiff in Guion for his three hour detention, the total award would have been $350,418,038.

Deprivation of Constitutionally-Protected Liberty. The common law torts of false imprisonment and false arrest have constitutional ramifications under certain circumstances. Under the Fifth Amendment no person may be "deprived of life, liberty, or property, without due process of law. . . ." A person who has been deprived of liberty by a federal official in a constitutionally impermissible manner may bring an action under the Fifth Amendment. The celebrated analogous case of *Bivens* v. *Six Unknown Federal Narcotic Agents*, 403 U.S. 388 (1971), recognized that a person may recover damages for governmental invasion of his Fourth Amendment right to security in his house, papers and effects where there is no probable cause justifying a search. In Bivens the police conducted a warrantless search and seizure without probable cause, and falsely arrested plaintiffs, in violation of the Fourth Amendment to the U.S. Constitution.

From the cases, there is no reason to believe that damage awards in constitutional tort cases will be computed differently from common law false arrest and imprisonment cases. However, the calculation of damages on a class basis, rather than on proof of injury by each individual, may be somewhat different.

In *Dellums* v. *Powell*, 566 F.2d 167 (D.C. Cir. 1977) the court awarded class damages in the Vietnam War demonstration case where 2,000 demonstrators were corralled into a fenced compound and detained without a warrant. The court found that there was a constitutional tort for false arrest, the elements of which were defined as an imprisonment which was unlawful, i.e., lack of probable cause to arrest. The court awarded damages of between $120 and $1,800, the award increasing as the length of the imprisonment increased. Id. at 174 n.6. The court was not awarding "general damages" in that case, but rather awarded actual damages based on the length of incarceration and other aggravating circumstances. Cf. id. at 196. The award was an estimate of these damages on behalf of the 2,000 incarcerated individuals as a class without requiring separate proof as to each individual's damages.

In *Anderson* v. *Robinson*, 497 F.2d 120 (5th Cir. 1974), civil rights demonstrators were wrongfully imprisoned by police. Damages were calculated at $5.00 per day per individual, but the court did not award "general damages," but rather termed the damages "nominal."

In *Tatum* v. *Morton*, 386 F. Supp. 1308 (D.D.C. 1974), plaintiffs were Quakers who were peacefully demonstrating against the Vietnam War. They were arrested, fingerprinted, photographed and confined in cells after refusing to disperse at the request of police. The case was brought under 42 U.S.C. § 1983 and the court found that the plaintiffs had failed to mitigate damages by posting a small $10 bail, thereby aggravating their own damages. The court noted that "nominal damages are presumed to follow from the violation of any valuable legal right, even if no actual damages are involved." Id. at 1313. In the recent case of *Memphis Community School District* v. *Stachura*, 106 S. Ct. 2537 (1986), the Supreme Court ruled that damages based on the abstract "value" or "importance" of constitutional rights was not a permissible element of compensatory damages in Section 1983 cases, so that the award in Tatum would probably not be allowed today.

EXHIBIT 2

ORGANIZATIONS WHICH HAVE ENDORSED S. 1009 THE WAR REPARATIONS ACT, APRIL 19, 1988

The following is a list of major endorsements for JACL-LEC's legislative campaign for redress. "Endorsement" often denotes organizational support for the recommendations made by the Commission on Wartime Relocation and Internment of Civilians, including individual monetary compensation for former internees. The term may also mean that an organization has acknowledged the injustice of the internment, but has not addressed the question of monetary redress.

(1) NATIONAL

Americans for Democratic Action, National Board.
Congressional Black Caucus.
Congressional Hispanic Caucus.
Democratic Party Platform.
National League of Cities.
Republican Party Platform.
U.S. Conference of Mayors.

(2) PROFESSIONAL ORGANIZATIONS

American Bar Association.
American Federation of Teachers.
American Immigration Lawyers Association.
American Orthopsychiatric Association.
American Psychiatric Association.
American Public Health Associations.
Association of Asian American Educators.
California State Bar Association.
California Flower Cooperative.
California State Teachers Associates.
Civil Rights in Education Committee, State Council, CTA.
National Associates of Social Workers, Minority Issues Conference.
National Education Association.
Peralta Federation of Teachers.
Philadelphia Federation of Teachers.

(3) LABOR ORGANIZATIONS

AFL-CIO Executive Council.
AFL-CIO of Florida.
California Labor Federation, AFL-CIO.
California Labor Federation, Executive Council, AFL-CIO.
International Brotherhood of Teamsters; Chauffeurs, Warehousemen & Helpers of America.
International Brotherhood of Teamsters; American Communications Associates.
International Longshoremen's and Warehouse Union.
Federated ILWU Auxiliaries 1985 Convention.
ILWU Auxiliaries 1986 Convention.
ILWU California Auxiliaries No. 16 & 17.
ILWU Locals No. 6, 8, 10, 12, 40, 50, 53, and 92.
ILWU Columbia River and Northern California District Councils.
Office and Professional Employees International Union, 1986 Convention.
Office and Professional Employees, Local 29, AFL-CIO.
Service Employees International Union, Local 87, AFL-CIO.

(4) VETERANS GROUPS

34th Infantry Division Association of Chicago.
34th Infantry Division Association of Minneapolis.
503 Parachute RCT Association.
American Legion, Chicago Nisei Post 1183.
American Legion, 6th District Council, Department of Illinois.
American Legion, 66th National Convention.
Jewish War Veterans of the USA.
Veterans of Foreign Wars.
Veterans of Foreign Wars, Americanism Com., Department of California, 64th Annual Convention.
Veterans of Foreign Wars, Department of California.
Veterans of Foreign Wars, USA, 85th National Convention.
Veterans of Foreign Wars, Department of North Dakota.

(5) ETHNIC/CIVIL RIGHTS ORGANIZATIONS

American Civil Liberties Union Foundation.
ACLU of Monterey County.
American Jewish Committee.
American Jewish Congress.
American Jewish Congress Executive Committee.
American Jewish Congress of Northern California Division.
Anti-Defamation League of B'nai Brith.
Anti-Defamation League, National Civil Rights Executive Committee.
Chinese American Citizens Alliance.
Chinese American Service League.
Jewish Community Council of Greater Washington, D.C.
Jewish Community Relations Council of Greater Eastern Bay.
Jewish Community Relations Council of South New Jersey.
Jewish Community Relations Council of Greater Philadelphia.
Jewish Community Relations Council of Seattle.
Jewish Community Relations Council, National Advisory Board.
National Council of La Raza.
Office of Hawaiian Affairs.
Pan American Nikkei Association.
U.S. Commission on Civil Rights, State Advisory Chairs.

(6) CIVIC/CULTURAL ORGANIZATION

Committee on Police & Fire, Ill.
League of Women Voters, Salinas.
Northshore Kiwanis.
Salinas Bonsai Club.
Satsuma Bonsai Club.
Urban League of Portland.

(7) RELIGIOUS ORGANIZATIONS

American Friends Service Committee.
American Baptist Churches, USA.
Asian American Baptists.
Buddhist Churches of America.
Buddhist Temple of Salinas.
Christ Church, Diocese of California.
Christian Church (Disciples of Christ), General Board.
Church of Brethren, General Board.
Congregation of Nevah Shalom.
Disciple of Christ, General Board.
Ecumenical Ministries of Oregon.
Episcopal Church Center.
Episcopal Church, Executive Council.
Episcopal Church (Trinty) Rector, Warden and Vestry.
Episcopal Asiamerica Strategies Task Force, Bay Area Convocation.
Immanuel Lutheran Church Society.
Japanese Presbyterian Conference.
Lutheran Church in America, Committee of Reference and Counsel.
Association of Evangelical Lutheran Churches.
Lutheran Church, Red River Valley Synod.
Presbyterian Churches: Lincoln Avenue & Parkview.
Presbyterian Church of USA, 1984 General Assembly.
Presbyterian Synod of Alaska.
Presbytery of the Cascades.
Presbytery of Riverside.
Religious Society of Friends, San Francisco, California.
Second United Unitarian Church.
United Church of Christ, 14th General Synod.
United Methodist Church, California Nevada Annual Conference.
United Methodist Church, California Pacific Annual Conference.
United Methodist Church, Pacific/Southwest Conference.
United Methodist Church, National Federation of Asian American U. Methodist 1987 Convocation.
United Methodist Church, Board of Church and Society.
United Methodist Church, 1980 General Conference.
United Methodist Church, USA General Assembly.
United Presbyterian Church.

(8) STATEWIDE

California State Assembly.
California State Senate.
California Association of Human Rights Organizations.
Hawaii House of Representatives.
State of Hawaii.
Gov. of the State of Illinois.
Illinois Committee on Intergovernmental Relations.
Gov. of Massachusetts.
Minnesota State Legislature.
State of Missouri.
New Jersey General Assembly.
New York State Legislature.
Oregon State Legislature.
Oregon State Rainbow Coalition.
Washington State Democratic Central Committee.
State of Washington.
Governor, State of Washington.
State of Wisconsin.
Western Governors' Conference.

(9) COUNTYWIDE

California 2nd Dist. Board of Supervisors.
Contra Costa County Supervisors.
King County (WA) Democratic Central Committee.
Marin County Human Rights Association.
Marin County Human Rights Comm.
Monterey, CA Board of Supervisors.
Multnomah, Ore. County Commissioners.
Placer County Supervisors.

Sacramento, CA County Supervisors.
San Francisco City & Co. Supervisors.
San Mateo Supervisors.
Santa Clara County Supervisors.
Santa Cruz, CA Board of Supervisors.
Ventura County Supervisors.

(10) CITYWIDE

City of Cambridge, Massachusetts.
City of Chicago City Council.
Cleveland, Ohio City Council.
El Cerrito, CA City Council.
Marina, CA City Council.
Orinda-Lafayette-Moraga Council for Civic Unity.
Orinda-Moraga Democratic Club.
New York City Council.
Major, City of New York.
City of Philadelphia, PA.
Portland City Council.
Richmond, CA City Council.
Sacramento City Council Members.
Salinas City Council.
Salinas Valley Democratic Club.
San Jose City Council.
Seaside City Council.
Seattle City Council.
Watsonville City Council.

(11) MISCELLANEOUS ORGANIZATIONS

Asian Pacific American Advocates of California.

Mr. RUDMAN. Mr. President, I am a cosponsor of S. 1009, the legislation being considered by the Senate to carry out the recommendations of the Commission on Wartime Relocation and Internment of Civilians. I wish to commend my distinguished colleagues from Hawaii for their efforts over several years to right the wrong imposed upon those individuals who were interned during World War II as a result of their Japanese heritage. It is appropriate that the United States apologize to those Japanese Americans whose liberties were deprived and make restitution for the losses and hardships they suffered as a result of their internment.

My colleagues should be aware, however, that this bill does not in itself provide compensation for these losses. Further the possibility of providing such compensation during fiscal year 1989 appears bleak, since these claims will not be paid from the judgment fund as other claims against the Government are paid.

Mr. President, in an effort to comply with the terms of the Budget Act, the bill, as reported by the Government Affairs Committee, was amended to make the payment of compensation to Japanese Americans through a Civil Liberties Public Education Fund subject to the availability of appropriations, with an authorization of $1.3 billion over fiscal years 1989 to 1992, of which $500 million is authorized for fiscal year 1989. In other words, we are authorizing new domestic discretionary spending. This $500 million program will fall within the jurisdiction of the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Subcommittee, on which I serve, since the Attorney General is charged with making the payments to those individuals eligible to receive compensation.

Mr. President, I am concerned over the impact this bill will have on other programs funded by the Commerce, Justice, State Appropriations Subcommittee if it is the intent of my colleagues to request appropriations during fiscal year 1989 to establish this trust fund.

Realistically in the current budget climate, it is not possible to absorb a new $500 million program within the allocation the Commerce, Justice, State Subcommittee will receive under the fiscal year 1989 budget resolution which passed the Senate earlier this week. The budget resolution complies with the terms of the budget summit agreement reached between the White House and the Congress last fall by placing a cap on domestic discretionary spending for fiscal year 1989. The only increases assumed in that resolution for the domestic discretionary programs funded by the Commerce, Justice, State Appropriations Subcommittee are for major law enforcement programs—FBI, DEA, INS, and the Bureau of Prisons. Absorbing a new program of this magnitude would force the subcommittee to make choices between compensating for inequities imposed upon Japanese Americans over 40 years ago or funding such high priority areas as core Federal law enforcement and drug enforcement efforts being carried on by the FBI, DEA, INS, the Marshals Service, and U.S. attorneys; the critical expansion program of the Bureau of Prisons; the 1990 census being undertaken by the Commerce Department, necessary growth needed in the Federal court system to keep pace with the burgeoning bankruptcy and criminal caseload; or traditional congressional priority areas such as NOAA's fishery programs, and State and local grant programs in the areas of juvenile justice and drug enforcement.

Mr. President, these are difficult choices. I personally do not believe the Commerce, Justice, State Subcommittee, the full Appropriations Committee or the U.S. Senate will be willing to make substantial cuts in existing high priority programs in order to fund this new program. Nor do I believe that it is fair to offer hope to the individuals affected by this legislation that their claims will be settled during fiscal year 1989. If we are to authorize new programs, regardless of their merit, we simply must be willing to find a way to pay for them. Given where we seem to be headed in the budget process, the Senate should be aware that the new discretionary authorization provided by this bill cannot be funded during fiscal year 1989. However, I am willing to work with the distinguished Senators from Hawaii to attempt to resolve the funding problem.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I want to, first of all, compliment our colleague from Hawaii, Senator MATSUNAGA, as well as Senator GLENN, and the committee for reporting this legislation.

My interest in this legislation is, in part, personal. I grew up in the State of Oregon. My father was a Lutheran minister.

To understand what happened in 1942 you have to be my age, if you will forgive me, Mr. President, because I think you and I are roughly the same. I am 59 years old.

You have to understand that there was a patriotic fervor like we have never known since. And 2½ months after Pearl Harbor, President Roosevelt issued the Executive order saying—Senator MATSUNAGA used the figure 120,000, some people use the figure 130,000—people should be removed from their homes.

That was backed and requested by Secretary of War Stimson. It is interesting that the Attorney General of the United States, Francis Biddle, said he thought it was not necessary, would be a violation of their rights. And a man who was not that sensitive to civil liberties, J. Edgar Hoover, head of the FBI, said that it was not necessary. But it happened.

My personal involvement was just that of a son of a Lutheran minister who stood up. We had in Eugene, OR, then, a station called KORE. I do not know if it exists at all anymore. But my father got on that station and said this is wrong to do this to Japanese-Americans.

Again, you have to understand the tenor of the times. Even the American Civil Liberties Union, for instance, did not stand up for Japanese-Americans at that time.

I wish I could tell you as part of the story that I went around and was very proud of my father. I can remember my father explaining to my brother and me, I was then 13, why he had done it. But I remember some of my friends shunning me. I remember being embarrassed, wishing my father had not done it.

But now, as I look back on it, it is one of the things I am proudest of my father for. But it was a horrible, horrible violation of civil rights.

Senator MATSUNAGA called it one of the worst violations of civil liberties in our Nation's history. And it is hard to deny that is precisely what it was.

This bill, in addition to the compensation and everything else, on page 36 of the bill, and I read through the bill, it has one sentence in there that I would guess is unprecedented. At least I know of no such sentence in any legislation ever passed before. Page 36, down to line 11, it says very simply:

"On behalf of the Nation, the Congress apologizes."

That is a powerful sentence and it is a sentence that we owe to the Japanese-Americans.

This bill, and I see the two Senators from Alaska here, applies not only to Japanese-Americans but to some of Aleut ancestry in the Aleutian Islands. They can explain the details there.

But it is hard to deny that what happened was a massive, massive injustice. And then the question is, why have the compensation?

Let me explain what happened after the war to the people who came back. People, typically, were given 72 hours' notice and it was said you have to leave your homes and you can take with you anything you can carry. Nothing more. Everything else had to either be sold or abandoned. In 72 hours. And people suffered massive losses.

After the war, they were permitted to be compensated but, again, even after the war the prejudice against Japanese-Americans, unfortunately, was very real. We said they could be compensated to 75 percent of proven losses or $2,500, whichever is less. In other words, if you had losses of $100,000 that you could prove, and most people could not even prove them, but if you have losses of $100,000, then you would be, in theory, eligible for $75,000 or $2,500, whichever is less. And they were given $2,500. A massive, massive injustice.

I was pleased to note among the organizations who have endorsed this bill are the American Legion and the Veterans of Foreign Wars. I am a little prouder to belong to those two organizations right now, after seeing that, because they are also standing up for seeing that we have justice.

There is no question, something terrible happened. We look at what Hitler did, and I am not comparing them, but we look at what Hitler did and we say, "How could that massive violation of civil liberties have taken place in Germany?"

Well, we had a massive violation of civil liberties, and I want to pass this bill, not simply—and I do not mean this disrespectfully to my friends who are Japanese-Americans—not simply to apologize and provide a little justice to them. I want to pass this so we send a signal to future administrations and Congresses and Supreme Courts of this Nation. At no time should we ever again perpetrate this kind of an injustice to a people. We ought to pass this bill and pass it overwhelmingly and resolve never again this kind of an injustice.

I yield my time, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am here today also to speak in support of this legislation that implements the recommendations of the Commission on Wartime Relocation in Internment of Civilians.

Let me say to my good friend from Illinois that I, too, was involved at that time as a high school student in California when over half of the student body of my school was removed pursuant to this order that relocated people of Japanese ancestry.

It was a sad time for many of us who lost contact with Japanese-Americans that we had known for years. It was very difficult to understand what was going on.

This Commission that, we are reviewing the recommendations of today, was established pursuant to Public Law 96-317, and it was directed to review the relocation and the internment of American citizens of Japanese ancestry during that period of World War II.

It was at my request that Congress expanded this mandate to include the examination of the Federal Government's treatment of our Aleut people of Alaska during that war.

In discharging its congressional mandate, the Commission held 20 hearings, 3 of which were held in Alaska. It received the testimony of more than 750 witnesses.

Through exhaustive research in the National Archives and elsewhere, the Commission was able to document in minute detail the tragic circumstances surrounding the detention and relocation of Japanese-Americans and Alaska's Aleuts.

The Senators from Hawaii, Mr. INOUYE and Mr. MATSUNAGA, can speak and have spoken far more eloquently than I about the internment of thousands of loyal Americans of Japanese ancestry, so I will confine my remarks to the relocation of the Aleuts in Alaska.

Let me mention as an aside, however, that there are a number of Alaskans of Japanese ancestry who were also interned during the war.

One of the young women in my office, Marie Matsuno, a lifelong Alaskan of Aleut and Japanese descent, was born in a relocation camp in Idaho. Her Japanese father was a loyal American who fought with honor in the Fighting 442d. Marie's family was uprooted from their home in Ugashik, AK, a remote native village on the Alaska peninsula, and their lives were never the same.

He was of Japanese ancestry. He was sent to the relocation camp in Idaho, and that is where Marie was born.

We have several other Japanese families I know who were interned at that time, but mostly Alaskans who were relocated in that period were Aleuts.

It was in my capacity as Solicitor of the Department of the Interior during the Eisenhower administration that I first learned about the facts surrounding the relocation of the Aleut people during World War II and the terrible hardships they had endured.

There really had been no press accounts of these events at the time; correspondence and information between Alaska and what we call the lower 48 had been censored during the war. It was only after the Commission had completed its report, "Personal Justice Denied," that the true story was fully revealed.

Let me just mention some of the facts that came out in that report.

After the bombing of Dutch Harbor and the conquest of Attu and Kiska Islands by the Japanese in June 1942, the United States military authorities ordered the evacuation and relocation of the Aleut villages located on the Pribilof Islands and those west of Unimak Island on the Aleutian chain.

Nearly 900 Aleut, American citizens, were removed from their island homes and placed in squalid relocation camps in southeastern Alaska.

The evacuation and relocation were a logistical nightmare. Housing, eating, and sanitation conditions were totally deplorable.

The long abandoned canneries and gold mining camps from the turn of the century that served as housing were not properly insulated for the harsh Alaska winters. They were never intended for habitation during the winter.

There were repeated epidemics; disease ran rampant. Medical care was entirely inadequate and nearly 10 percent of the Aleut people died during their internment.

I emphasize that: This was internment of Aleut people who were moved from their own homes for their protection, but they were literally interned.

According to the Commission: "This treatment clearly failed to meet the Government's responsibility to those under its care."

The trauma of the relocation was recently brought to light in an article that appeared in the Anchorage Daily News on October 1, 1987. In that article, another good friend of mine, Flore Lekanoff, recounts the painful story of his village's relocation through the eyes of a 15-year-old boy. His own personal experience.

He said it was a beautiful Sunday afternoon and his family had just returned from church. The village manager came to the house and informed young Flore's father that the Japanese had just bombed Dutch Harbor and that a Navy ship was on its way to take them off the island.

They had only 2 hours to gather together their possessions and could take what they could carry on their backs. The family went to wait on the beach along with 200 other residents of St. George Island, each with a small sack containing his personal possessions.

Flore recalled that as they waited for the Navy ship that would take them over 2,000 miles away from their homes, some people prayed, some wept, and some were in shock.

Flore and his family, along with the entire village populations of St. George and St. Paul Island in the Pribilof, were taken to Funter Bay, an abandoned fish cannery in southeastern Alaska. Flore remembers how entire families lived in drafty 10-by-10-foot rooms and how he and others contacted tuberculosis.

He recalls that "Funter Bay Camp was unsanitary, without toilets, dilapidated, and cold. Food was scarce." He said: "We ate a lot of beans and corn soup." But this is the thing that amazes me about Flore's story:

During his internment, Flore, a young boy, was forced into labor for the Government, our Government, without pay. He, along with 34 other Aleut boys and men, were sent back to St. Paul Island without their families to harvest fur seals for the military.

He said: "We were there for 6 months during the war. We never got paid. The bosses told us the Army needed the seal oil for guns."

After the war ended, the Lekanoff family and other Aleuts were allowed to return home. They expected a joyous homecoming, but instead were shocked to find that their personal possessions had been destroyed by military order or had been vandalized.

Their homes had been ransacked. Their Russian Orthodox Churches had been burned to the ground. Their sacred Icons, many of which dated back to Czarist Russia, had been either lost or stolen.

There were some attempts made to provide restitution for these losses, but they were woefully inadequate. Consider, for instance, that the Aleuts, when they returned home, received only $12 each from the Government to help them rebuild their lives. They were never fully compensated for their losses, but they were literally kept prisoner in the southeast Alaskan cannery for the period of the war.

The Commission on Wartime Relocation found that "appropriate, full compensation clearly has not been made in the case of the Aleuts."

After evaluating the evidence, the Commission recommended five specific measures of restitution for Aleut losses during World War II.

These included: A trust to be established for the beneficial use of the six surviving Aleut villages which were relocated and for the beneficial use of surviving Aleuts and their descendants; per capita payments to each surviving Aleut evacuee; no payment to descendants or any dependents—strictly to the survivors; the rehabilitation of churches and restoration of property damaged or destroyed by U.S. forces in those villages during the war; and the cleanup of wartime debris left on populated islands of the Aleutians.

Few Americans realize that the only place where World War II debris still remains is on the islands of the Aleutians in Alaska. Much of the wartime debris there is still contaminated with wartime ordnance, making it totally unsafe for habitation. It still remains.

One of the recommendations of the Commission is that debris be cleaned up. We cleaned up everywhere else in the world that we were associated with in World War II, except the only part of the United States that was occupied by the Japanese during World War II, the Aleutian Islands.

The Commission also calls for the rehabilitation of Attu Island for Aleut ownership and use.

Unfortunately, that is not possible, as I will mention later.

The legislation we consider today would make reparations substantially in accordance with the Commission's recommendations. This bill includes the $5 million trust fund that was recommended.

Each Aleut who survived the camps would be entitled to receive a $12,000 payment over a period of time, as in the case of the Japanese, from the fund in exchange for relinquishing all claims against the Government related to their relocation and internment.

The authorization of appropriations for the rehabilitation of churches and church property is established at $1,400,000.

In lieu of conveyance of Attu Island to the Aleut people, this measure provides compensation for the loss of the island in an amount to be determined by an appraisal conducted by the Secretary of the Interior.

This is necessary because Attu Island was designated as wilderness by an act passed by the Congress in 1980 and is not now available to be conveyed back to the Aleut people.

Mr. President, the Aleuts suffered great physical harm and 10 percent of them or more, as I said, suffered death due to the negligence of the Government as it assumed the burden of care for these people as they were moved from their homes in the Aleutian Islands during World War II.

Flore Lekanoff lost a sister and both grandparents in the camp in which he was located due to disease. As I said, he contracted TB and spent 3 years recuperating in a sanitarium in Alaska after the war.

The Aleuts were also victims of vandalism, as I mentioned, by military personnel, who occupied the islands during the war. Neither of those islands were under attack by the Japanese, by the way. Lekanoff's home was ransacked and looted during the family's internment.

I believe this bill is an attempt to remedy those wrongs and this year of the bicentennial of our Constitution is a good year for us to consider this.

I, too, call attention to the apology that is in the bill. In my opinion, that is an apology that ought to be made. Many of my constituents do not agree, but I tell the Senate, being one who lived through that period and, as did the Hawaiian Senator, served in World War II, when we came home we had no idea these wrongs had been inflicted on our generation, and I believe they should be remedied at this time.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ADAMS. I yield to the majority leader.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, there will be no rollcall votes today. The Senate ladies are having a very important function this evening to which they are going to be kind enough to invite their husbands. I take the floor at this time to say that I would like tomorrow morning at 9:30 to get started on this bill. I would like at that time, and will intend to move, that the Sergeant at Arms request Senators to attend. That will be a rollcall vote. In view of the fact that it will be an early vote, I will ask that it be either a 20-minute vote or something a little longer than a 15-minute vote since it is early and the first vote of the day.

I want the Senate to get started early on this bill tomorrow in the hope that we can finish action on it tomorrow. I do not know whether we can, but at least we should put in a full day on the effort.

Mr. ADAMS. Mr. President, I am deeply honored to rise in support of S. 1009 today. Before the distinguished Senator from Alaska leaves the floor—and I want also to thank the distinguished Senator from Illinois—we share a common experience in that all of us were on the west coast in 1942 and 1943. We later served in World War II, and we were aware, as I will indicate in my statement, of all of a sudden everyone leaving—a third of my high school class left in 1 day and we did not see them again for 3 years, and some of them we did not see again ever.

So it is with great emotion and support for this bill as an original cosponsor, Mr. President, that I rise today. People in my State and in my city have waited a long time for this legislation and the presentation that has been made by the great Senator from Hawaii, SPARK MATSUNAGA. I, too, agree with the Senator from Alaska that one of the most important parts of this bill as far as my constituents are concerned, particularly my Japanese-American constituents, Mr. President, is the fact that the Government of the United States does issue an apology. I agree with the Senator from Alaska; not all of my constituents are in agreement with the position I take today, but I think the position is right and those of us who were there in the 1940's and came back at the end of World War II feel that way. I think it is important that we say so.

I particularly pay my respects to Senator SPARK MATSUNAGA and to Senator INOUYE and the others who have and will speak eloquently about this bill. My thoughts and feelings are based on my experience, Mr. President, and on what happened in terms of the hardship, loss of life, really psychological pain, and personal struggle by people who have consistently demonstrated the best qualities of American citizenship.

Mr. President, as I said before to the Senator from Alaska, I watched a third of my classmates of Broadway High School in Seattle leave and just vanish. People like Shig Murao, John Okamoto, and others, we were all playing basketball together one day and the next day they were gone. I saw families with small children, grandparents residing in our central district and North Beacon Hill forced to report—of which I think we need to remind people because many do not know really what happened, and those of us who remember need to share it—to specific collection points within the city.

It happened all around me—in Tacoma, White River, Auburn, Kent, Yakima, and in the process families were forced to sell their homes, their possessions, even their children's toys, for pennies on the dollar. For my friends and their families, the physical hardship came close to unbearable. They were forced to live in parking lots of the Puyallop Fairground, and later, for 2 incredible years, in the heat, cold, and dust of camps located in very lonely and desolate areas, Mr. President, like Minikoka, ID, and Tule Lake, CA. It is even more incredible to accept the fact that this hardship was forced upon the Japanese-American communities despite the assessment by both the FBI and the Navy that the Army was overreacting to the issue and mass incarceration was unnecessary.

Even worse than physical hardship, though, was the psychological pain. For example, one of my Seattle constituents, Ms. Shigeko Uno, assured her family that aliens might be affected, but American-born citizens need not fear—she told them that just before she, an American citizen was shipped off. Or consider the fear and dread of Mrs. Yasashi Ichikawa and her family of seven children, as she watched her minister husband led from their home on Jackson Street in central Seattle by the FBI to a military prison in Crystal City, TX, not knowing if she would ever see him again.

You know, I am proud of the fact her grandson works on my staff, and a wonderful person he is, and how lucky I am.

Maybe in some way we can look at those tragedies, Mr. President—and we should. But we also need to remember that at the same time that America was placing people in prison simply because they had Japanese blood flowing in their veins, other Japanese Americans were shedding their blood for America.

We need to remember the men of the all-Nisei 100th Infantry Battalion, 442d Regimental Combat Team and the Military Intelligence Service of the Pacific campaign. Many of the top officers of the 5th Army called the 100th Battalion the finest offensive combat unit in the Italian theater of operations. As for the 442d, they were well known among the German command as one of the top offensive combat teams, and their movement to another sector was always closely watched. Called the most decorated unit of its size in the U.S. Army, the 442d Regimental Combat Team received throughout its tenure—to me this is just incredible—seven Presidential Unit Citations, a Congressional Medal of Honor, 52 Distinguished Service Crosses, 588 Silver Stars and 9,486 Purple Hearts. In the seven major campaigns fought by the unit, 680 men were killed in action. Col. Sidney Mashbir, who headed the allied translator and interpreter section, for the military intelligence service probably best summed it up when he said:

> The United States owes a debt to these men and to their families which it can never fully repay.

I would remind my colleagues that our friends, Senators MATSUNAGA and INOUYE, served in those forces.

They never talk about it. So some of us who know them well and know the history must do that.

As an aside, I would say that I remember the day that Senator, then Representative SPARKY MATSUNAGA took the floor of the House of Representatives with seven other decorated veterans and declared what we needed to do in Vietnam. It took courage, and it made a great deal of difference because these were people who had served with distinction in World War II.

So we owe them a great debt not only for what they did in that war but what they did to save lives in later wars and do to this day, Mr. President. I am proud to be associated with them. They represent courage, valor, and personal sacrifice that reach an epitome that we may never reach again.

Mr. President, ever since our fellow citizens were forced to assemble their meager belongings, and the Senator from Illinois, the Senator from Alaska stated it very well, they could take what they could carry. They went to places like Union Station, Jefferson Golf Course in the city of Seattle, and there they had to assemble and wait to leave. There has now been an effort to correct the blight on the country's record. It has been a slow and painful process. With leadership provided by our two colleagues, and particularly by Senator MATSUNAGA in his efforts on this particular bill, it now appears we are ready to act.

My friends, I think we finally are going to be able to do it. But they have not led the fight alone, Mr. President. There are people in my city, citizen activists like Ms. Cherry Kimoshita who is from my State, and locally affected city officials like council member Dolores Sibonga and Washington State Senator George Fleming, and others, and many that I have met with who served as volunteer lawyers who worked on this bill and this effort from countless years.

One last thought, Mr. President. For those who say that what was done should be accepted as a wartime necessity, that is not so. The Constitution stands for basic and fundamental truth, Mr. President.

We speak about a document that stands for not only a specific generation in time, but for a principle in perpetuity. The Constitution of this country does not change day to day, nor does it protect some but not others. It embodies an incontrovertible axiom that speaks for liberty and prohibits the loss of that liberty without due process of law.

In conclusion, Mr. President, Mr. Frank Kitamoto, from Bainbridge Island, in my State put it very simply and succinctly when he asked for the passage of this legislation. He said, "Only 50 percent of the American citizens held in the internment camps remain alive. Are we waiting until all of us are dead—and the memory gone?"

Mr. President, the time to act is now. The States are ready for this legislation; this country is ready for this legislation. I believe that we in the Senate are ready to follow our conscience to do what is morally right. That is why I am supporting this bill. That is why I urge my colleagues to support this bill.

I am honored to be a cosponsor with the Senator from Hawaii.

Mr. MATSUNAGA. Would the Senator yield?

Mr. ADAMS. I am pleased to yield.

Mr. MATSUNAGA. I wish to thank the Senator for his statement. It was much more meaningful because of his personal experience with those who had been interned. And I wish to thank him also for being one of the earliest cosponsors of the bill. I share his optimism that this bill will pass.

Mr. ADAMS. I thank the Senator from Hawaii. It is a great pleasure to be associated with him and particularly on this bill.

Thank you, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. I thank my colleague from Pennsylvania. I will be very brief.

I just wanted to take this opportunity to once again join Senator MATSUNAGA, Senator INOUYE, and Senator STEVENS in the sponsorship of S. 1009, legislation to implement the recommendations of the Commission on the Wartime Relocation and Internment of Civilians. The Senator from Hawaii has over 70 cosponsors at this time, and I think it merits this important legislation. That is certainly clear.

Of course, Senator MATSUNAGA has eloquently stated the merits in titles I and II of this bill, addressing the internment of Japanese-Americans during the World War II. I am going to confine my remarks, Mr. President, to title III, and that is the portion of the bill which addresses the injustices suffered by the Aleut people in my State of Alaska.

Mr. President, nearly 900 Aleuts were removed from the Pribilof and Aleutian Islands during World War II. The Japanese threat necessitated removal of these people. But we must ask: Was it necessary to intern Alaska Natives in temporary homes of old abandoned fish canneries and mining camps? To provide substandard food and sanitary facilities? To provide no medical assistance or medical assistance to some communities for only a few months during their 3-year internment? The Commission on Wartime Relocation and Internment found: "There was no justification for the manner in which the Aleuts were treated in the camps in southeastern Alaska."

Ten percent of the Aleuts interned in these camps died there. Those who survived had no homes to return to. Instead they returned to ransacked houses, desecrated churches and the debris of the U.S. military occupation. The Government has not compensated the Aleuts for their damaged or destroyed homes, churches, and material goods.

Mr. President, let me just very briefly refer to the comments of one of my constituents, Mary Bourdukofski, as a specific example of how Aleut individuals were affected by forced relocation and internment.

On a Sunday afternoon in 1941, Navy boats arrived off the coast of St. Paul Island, the village where Mary lived in Alaska. She was told that the boats were there to evacuate the village residents from the island and that she could not take anything but what she was wearing and a suitcase of personal items. Mary recalls she tried to put away personal belongings such as antiques that had belonged to her mother, but was not given time to do so. She was told to leave her home and not to lock the door. Within 12 hours, all 500 residents of St. Paul were evacuated. The boat then picked up all the residents of St. George and other residents of the Aleutian Islands and the Alaska Peninsula. After 10 days on the boat, the nearly 800 individuals were taken to abandoned canneries and mining camps in southeastern Alaska where camps were established nearly 1,000 miles away in the wilderness.

At the camps, Mary describes the living conditions as terrible. The only running water in the Funter Bay Camp where she was located was in the mess hall. There were no rooms, and partitions were established by hanging blankets from the ceiling in order to gain some privacy. There was no stove to cook food. The unsanitary conditions and inadequate shelter lead to a substantial number of deaths. At Funter Bay alone, it is estimated 40 people died.

After 2 years of living in these conditions, Mary and the surviving Aleuts were returned to their villages. Mary found her home had been converted into a club where the only items left in the house were a pool table, dart board, and a stove. All of her personal effects, including her mother's antiques, were gone.

Mary's experience is not unique; approximately 881 residents of Alaska suffered similar losses and they are all entitled to compensation.

From the time when the Aleuts were placed in the holds of U.S. ships to the time when they were finally returned to their ransacked homes in 1944 and 1945, these natives endured great hardships. With the encampment of these people and the loss of their precious icons, a vital part of Aleut and American culture was lost, never to be replaced or regained.

Mr. President, our legislation implements the five recommendations of the Commission to provide restitution to the Aleut people for the losses they suffered as a consequence of Government operations during the war years. Title 3 of S. 1009 sets up a restitution fund out of which will come:

Individual payments of $12,000 to surviving Aleut evacuees;

assistance for the needy, elderly, disabled, or severly ill;

persons and scholarships for needy students in Aleut villages;

funds for restoring church property that was lost or damaged; and

compensation to the Aleuts for the loss of their land on Attu Island.

While the Commission recommended the return of Attu Island to the Aleuts, monetary restitution is provided because this area is now designated as wilderness and environmental groups strongly oppose giving the Aleuts back their land.

Mr. President, I recall, as a small child, observing on the outskirts of Ketchikan, the Aleut camp at Ward Lake. It was a very isolated area at the end of the road along side a creek that flowed into a lake. The military used the old Civilian Conservation Corps dormitories to house relocated Aleuts. Their only running water was what they could fetch from the creek.

It was generally known that a large number of the residents, the Aleuts, were suffering from tuberculosis. While there was limited medical care available, this was an area that was prone to some of the exposure of the outdoors in Alaska, which at times can be quite severe. The city of Ketchikan, to a large degree, attempted to facilitate food and clothing for these people, who were brought in from 1,000 miles away, from their previous home, the Aleutian Islands.

It was a trying and difficult time, and I hope that the pending legislation will offset, in some small way, the injustice that was done to these Americans.

Mr. President, 40 years and more have passed since the Aleuts were relocated to unimaginably inadequate camp facilities in southeast Alaska. A number of those who suffered the most are now very old—an even greater number have already passed away. I urge the Senate to pass this important legislation today, as substantial justice to the Aleut people demands compensation for losses sustained as a result of U.S. Government activities in World War II. The restitution provided in our bill should not be delayed any longer.

Mr. MATSUNAGA. Mr. President, will the junior Senator from Alaska yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. MATSUNAGA. I thank the Senator from Alaska and his senior colleague for being two of the earliest copsonsors of the bill which is now pending. I thank him and his colleague, Senator STEVENS, for the great assistance they have given me in getting the bill on the floor today.

Mr. MURKOWSKI. I appreciate the comments of the Senator from Hawaii. As he and I know, Alaska and Hawaii have much in common. We are two States not connected to the rest of the United States, and for that uniqueness we share a common interest and many other common interests.

I am very pleased to work with my colleague from Hawaii on this very important legislation.

Mr. CRANSTON. Mr. President, I would like to express my support for S. 1009, legislation aimed at redressing one of our Government's greatest acts of injustice. This legislation would implement the recommendations of the Commission on Wartime Relocation and Internment. I am pleased to be an original cosponsor of this legislation which my very good friend from Hawaii, Senator MATSUNAGA, introduced on April 10, 1987. It is similar to legislation, S. 1053 in the 99th Congress, and S. 2116 in the 98th Congress, which I cosponsored. I hope that this measure will be supported today by my colleagues in the Senate.

The passage of this legislation by the Senate will culminate many years of seeking a means to provide the apology the U.S. Government owes to those Americans of Japanese or Alaskan Aleut ancestry who were unjustly interned during the Second World War and to provide some redress for those who lost so much as a result of this unfortunate act of our Government.

As we look back with regret on this painful period of injustice—45 years ago—we must reaffirm our pledge that this kind of injustice must never recur.

Enactment of this legislation will help to prevent a recurrence.

I believe that our Government's action in this case was a terrible affront to the ideals for which our Nation stands.

My involvement in opposing the relocation of Japanese-Americans dates back to the very beginning.

Shortly after Pearl Harbor, I was assigned to the Office of War Information. There I worked closely with Eleanor Roosevelt and Archibald MacLeish trying to dissuade President Roosevelt from forcefully evacuating Japanese-Americans from the west coast and interning them in so-called relocation camps.

Unfortunately for 120,000 Japanese-Americans—and for the good name of our Nation—military authorities prevailed, and the orders for internment were issued.

More than two-thirds of the internees were American citizens. The rest were legal U.S. residents.

After the internment process began, I visited two of the camps, Tule Lake in California and Hart Mountain, WY. Recently, the children of internees visited Hart Mountain trying to sense what their parents had felt. In part I can tell them.

For 4 days in the cold, snow-covered camp at Hart Mountain, I spent my time round the clock inside the barbed-wire camp, talking to internees and visiting with a number of boyhood friends from Los Altos.

We ate meals together, talked over old times, walked around in the bitingly cold weather, played poker, and cheered at a football rally.

My friends and former classmates justifiably felt themselves robbed of their citizenship. They were distressed at the racial prejudice behind their internment. They were anxious for their Government to prove its own adherence to democracy and to the very ideals for which we were then at war.

President Roosevelt himself proclaimed, "In vindication of the very ideals for which we are fighting this war it is important to us to maintain a high standard of fair, considerate and equal treatment for the people of this minority as for all other minorities."

But this standard was not upheld.

The mere presence of Japanese blood in loyal American citizens was believed to be enough to warrant removal and exclusion from places they otherwise had a right to go.

The argument that they were removed for their own good, because of possible vigilante attacks, was not persuasive. Most, if not all, Japanese-Americans would rather have faced the risk of being killed by individuals than deprived of their liberties by their own American Government. Given the choice to remain interned or fight in the war, most enlisted and served.

It was ironic to see American-Nisei soldiers, home on furlough and clad in uniform, wandering around inside a fenced-in camp. These Nisei soldiers returned from the battlefields of Europe as the most distinguished and decorated combat unit of the war, and from the Pacific theater as loyal soldiers and as officers in military intelligence. I have never forgotten these impressions.

One of my most poignant memories is of an intelligent and progressive-minded mother who was still managing—with much difficulty—to conceal from her 4-year-old child that they were prisoners in what most inmates considered a racial internment camp.

In 1980, I was a cosponsor of the legislation establishing the Relocation Commission. The Commission report issued in 1983 called for our Government's official apology—41 years overdue—to the internees and their families.

It confirmed what a great many conscientious Americans have long believed: these Americans of Japanese descent were clearly mistreated, and their basic civil liberties violated.

The ACLU singled out the internment and related abuses at the time as "the worst single wholesale violation of civil rights of American citizens in our history."

As one commentator on the period said:

> Japanese-Americans were the immediate victims of the evacuation. But larger consequences are carried by the American people as a whole. Their legacy is the lasting one of precedent and constitutional sanctity for a policy of mass incarceration under military auspices. This is a result of the process by which the evacuation was made. That process betrayed all Americans.

Since those tragic events took place, a number of the participants have had changed hearts and minds. Henry L. Stimson, who was Secretary of War, realized that "to loyal citizens this forced evacuation was a personal injustice." Former Attorney General Francis Biddle reiterated his belief that "the program was ill-advised, unnecessary, and unnecessarily cruel." Justice William O. Douglas, one of the Supreme Court majority in the Korematsu decision hold the evacuation constitutionally permissible, later said the case "was ever on my conscience." And Chief Justice Earl Warren, who as California's attorney general had urged evacuation, afterward said:

> I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens.

On February 17, 1942, Attorney General Francis Biddle wrote to Secretary Stimson opposing the proposed exclusion order, stating that the War Department and the FBI had found no danger of imminent attack or evidence of planned sabotage. Biddle especially objected to removal from their homes of 60,000 American citizens who happened to be of Japanese descent. He refused to let the Justice Department participate in any way with the exclusion policy.

Not a single documented act of espionage, sabotage, or fifth column activity was committed by the Nisei or by resident Japanese aliens on the west coast. Yet their lives were disrupted, fortunes were lost, and loyal citizens and legal residents incarcerated.

The victims of this policy were held collectively guilty, and collectively punished.

Moreover, the Government's attitude toward these innocent people fostered suspicions that often led to violence against them. Many were attacked when they attempted to return to the homes 3 years later.

The legislation we are considering today redresses this mass violation of civil liberties and compensates internees for their suffering.

Although the loss of liberty and the personal stigma attached to internment can never be erased, Federal reparations are a justifiable response to the legitimate financial losses incurred. An independent study done for the Commission found the economic losses alone to evacuees between $2.5 and $6.2 billion in today's dollar values, including interest for the past 40 years. Many consider this a conservative estimate of the real economic losses of homes and other property, stores and businesses. And these estimates do not begin to measure the personal hardships suffered.

The Commission found the cause of the exclusion and internment policies to be "race prejudice, war hysteria and a failure of political leadership."

On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066. Shortly afterward, all American citizens of Japanese descent were barred from living, working or traveling on the east coast. The same exclusion applied to a whole generation of Japanese immigrants residing at that time in the United States who, because of Federal law, were not permitted to become U.S. citizens.

After the initial plan for "voluntary" exclusion failed, these American citizens or legal residents were forcibly removed by the Army, first to "assembly centers"—makeshift quarters in fairgrounds and racetracks—and then to "relocation centers." These latter camps, located in desolate western areas, were surrounded by barbed wire and guarded by military police.

The U.S. Government carried out its policy without reviewing individual cases or providing due process of law, and continued its policy virtually without regard for individuals who demonstrated loyalty to the United States.

Congress made it a crime to violate Executive Order 9066. The U.S. Supreme Court—in one of its most agonizing decisions—held the removal constitutionally permissible because of the war. Interestingly, since that decision a number of Justices from the majority—enough to have reversed the 5-to-4 decision—have written that on hindsight, they would have voted differently. The Supreme Court in a related case struck down imprisonment of these admittedly loyal American citizens. But long after the fact.

The Commission found that the main impetus leading to the exclusion order was the mistaken notion that individuals of Japanese descent would be loyal to Japan, not to the United States, and groundless fears of fifth column activity even though no evidence of such activities could be uncovered. The Commission stated that "the record does not permit the conclusion that military necessity warranted the exclusion of the ethnic Japanese from the west coast."

After exclusion became official policy, the War Relocation Authority [WRA]—the civilian agency charged with supervising the relocation—assumed that the vast majority of evacuees were loyal and should be allowed to resettle outside of the west coast. But because of harsh objections from certain Mountain State politicians, a consensus plan for detention of the evacuees emerged. The WRA gave up on its idea of resettlement, and accepted a program of confinement. Despite WRA's belief that evacuees should be returned to normal productive life, it had, in effect, become their jailer. Since there was no military justification for detention, the WRA instead contended that the program was for the evacuees' own safety.

The history of life during the evacuation and in the relocation camps is one of suffering and deprivation. On the average, families received only 1 or 2 weeks notice of evacuation to an unknown destination. They could take with them only what could be carried. All else was lost or sold for cutrate prices. Life in the relocation camps was spartan, with shoddy and crowded buildings, defective facilities, faulty heating, inadequate health care, and limited education programs. Privacy was impossible. Families and individuals alike lost their identities and became known only by identification numbers.

Because the Western Defense Command opposed individual loyalty reviews—for fear of weakening the blanket exclusion—no opportunity for individual review was created in the assembly centers. The War Department favored conducting loyalty reviews, but did not act on this until the end of 1942. Although these reviews eventually permitted some to leave relocation centers, it didn't end the exclusion from the west coast. Moreover, even this belated process was offensive, since it treated Japanese-Americans as guilty until proven innocent.

In the spring of 1943, Secretary of War Henry L. Stimson, Assistant Secretary of War John McCloy, and Gen. George C. Marshall reached the conclusion that the loyalty reviews eliminated any justification for exclusion from the west coast. They kept their view private, however, and General DeWitt repeatedly opposed ending exclusion until he left the Western Defense Command in late 1943, as did west coast anti-Japanese fractions. Secretary Stimson finally put the recommendation before the Cabinet in May 1944. But no action was taken until December 7, 1944, while confinement continued for the great majority of Japanese-Americans.

The exclusion and removal of Japanese-Americans resulted from a long history of anti-Japanese-American agitation and legislation on the west coast. By contrast, in Hawaii, where the military commander restrained plans for radical measures and treated the ethnic Japanese as loyal residents—absent evidence to the contrary—only 2,000 ethnic Japanese were taken into custody. The policy developed was in sharp contrast to Government actions against enemy aliens or citizens of non-Japanese descent. For example, the United States never ordered a mass exclusion or detention against American citizens of German or Italian descent.

This episode in American history should never have happened. It's the Government's responsibility to set the record straight and to try, at least, to recognize and partially compensate for past injustices, although the tarnish on our Constitution can never be completely removed.

Our purpose is to recognize and redress the injustices and violations of civil liberties against U.S. citizens and U.S. residents of Japanese and Aleut ancestry by the United States and to discourage similar injustices and violations of civil liberties in the future.

The bill provides for the establishment of a $1.5 billion trust fund from which individual payments to the surviving internees would be made.

Those eligible are people of Japanese or Alaskan Aleut ancestry excluded from the west coast between December 7, 1941, and June 30, 1946, or deprived of liberty or property as a result of a series of executive orders, proclamations, laws, Armed Forces directives, or other Federal actions resulting in exclusion, relocation, and/or detention of individuals on the basis of race. The remaining moneys in the trust fund would be utilized for humanitarian and public education efforts to preclude this event from occurring again in the future.

This act is a just and fair redress to those individuals who were excluded and/or interned without justification, in gross violation of their civil liberties as American citizens and residents. I urge my colleagues to support it.

(Mr. ROCKEFELLER assumed the chair.)

Mr. MATSUNAGA. Will the distinguished Senator from California yield?

Mr. CRANSTON. Of course.

Mr. MATSUNAGA. Mr. President, I did not know of the Senator's experience during the early period of the war and his efforts to convince President Roosevelt that he not issue Executive Order 9066.

I want to thank him also for his excellent statement and for the great assistance he has provided in bringing this measure to this point.

I wish also to thank him for his early cosponsorship of the measure. I thank the Senator very much.

Mr. CRANSTON. Mr. President, I thank my friend from Hawaii very much. It has been a long, long time over my life that I have been involved, in one way or another, from time to time, in this issue. I have many friends in the Japanese-American community in California who went through this experience and who look upon it as something they would never expect to happen in the United States.

I, again, praise you for your leadership, for the remarkable way you have shepherded this measure to this point in this legislative progress. Now we have to carry it to the final victory.

Thank you very much, Senator MATSUNAGA.

Mr. MATSUNAGA. Mr. President, there were others who had indicated that they would like to speak in support of the measure. At least one Senator indicated that he would like to speak tomorrow rather than this evening.

I am pleased that we have had no one speak against the measure all day today.

Tomorrow, Senator HECHT will offer an amendment and Senator HELMS will offer a series of amendments to the measure. I announce now that I will oppose any and all amendments which will be offered tomorrow and am confident that these amendments will be defeated.

S. 1009: A WELL-INTENTIONED BILL THAT IS WRONG IN PRINCIPLE

Mr. HOLLINGS. Mr. President, I rise to speak in opposition to S. 1009. The regret is that I must oppose my good friend, the junior Senator from Hawaii, a man whom I respect enormously. He has presented an effective and passionate case for S. 1009, and I am not surprised that his eloquence has rallied more than 70 Senators to join him as cosponsors.

I hope, however, that the Senator from Hawaii will respect my principled opposition to his bill. I cannot overcome my basic philosophical objections to the approach taken in S. 1009. To attach a price to the Japanese-American internees' suffering—as I see it—would have the unintended effect of demeaning and cheapening their tragic experience.

In essence, S. 1009 seeks to attach a monetary value to human suffering. It strikes me, however, that the idea of doling out $20,000 to each internee is an unfortunate example of knowing the price of everything and the value of nothing. Once we start down that path, where do we stop? How do you monetize the suffering of, for instance, the soldier who was killed in action, or the black man who fought in the front line yet returned home to sit in the back of the bus? Should we monetize that suffering? And what about the suffering of American Indians, of prisoners of war, of Americans who returned from war with crippling injuries. Surely they are no less deserving than the internees? If we establish a precedent with S. 1009, where do we draw the line against reparations to the countless other groups of Americans who have suffered because of actions of the U.S. Government? Or do we tell those other groups that their suffering was somehow less meaningful, less tragic, less deserving of recompense?

In contrast to this dubious practice of monetization, it is my conviction that there can be no more meaningful and valuable compensation to internees than the solemn apology of the American people expressed by their Congress and President. Certainly, this Senator apologizes. I vow to do everything in my power to prevent any recurrence of such an outrage against any of our citizens in the future.

What's more, it strikes me that a solemn and formal apology is especially appropriate in this case. The internment of Japanese-Americans was a mistake—no question about that. But it was an honest mistake committed by honorable men. The internment was not the result of bigotry or maliciousness. It was the result of our leaders' legitimate determination, in the aftermath of Pearl Harbor, that extreme measures were necessary in order to safeguard our Nation's security. Of course, from the perspective of history, we know that the internment was an overzealous measure; it was a tragic mistake. But—I repeat—it was an honest mistake committed under extraordinary circumstances.

Mr. President, I opposed this bill in principle. I must also oppose it for obvious budgetary reasons. To put it bluntly, the Government is broke. We do not have money to finance this new program. Certainly, there is no provision for S. 1009 in the budget resolution we just passed. It is a cruel irony that S. 1009, which purports to make amends for the injustices done the internees, risks dealing them a fresh injustice if no money can be found to finance this bill.

RESOLUTION OF THE DEMOCRATIC CONFERENCE HONORING THE DEMOCRATIC LEADER OF THE SENATE—ROBERT C. BYRD

Mr. CRANSTON. Mr. President, 1 week ago, the senior Senator from West Virginia (Mr. BYRD) announced that he would not seek reelection as majority leader in the 101st Congress. The majority leader has decided that he can best continue his service to West Virginia and the Nation in the next Congress as chairman of the Committee on Appropriations.

The members of the Democratic Conference are justly proud of the Senator from West Virginia's many achievements. Today the Conference adopted, by acclamation, a resolution honoring the Democratic leader of the Senate—ROBERT C. BYRD. This resolution, drafted by the senior Senator from New York (Mr. MOYNIHAN), eloquently expresses our feelings.

I ask unanimous consent that the complete text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE DEMOCRATIC CONFERENCE HONORING THE DEMOCRATIC LEADER OF THE SENATE—ROBERT C. BYRD

Whereas in the history of the American republic, there have been forty Presidents of the United States but only fourteen Majority Leaders of the United States Senate; and

Whereas Presidents are chosen by vast electorates and decisions are essentially tests of policy, Majority Leaders are chosen by a small group of intimates and the outcomes are preeminently a judgment of character; and

Whereas in the history of the Senate, no one has greater deserved or better understood the role of Majority Leader than Robert C. Byrd: born in the bleak years of the century, apprenticed to adversity, hardened by experience, strengthened by faith, enlarged by learning, and in the end, ennobled by a life of service to his people and his nation; and

Whereas Robert C. Byrd has been the longest serving among the 30 persons who have represented West Virginia in the United States Senate; the only West Virginian to serve in both houses of the state legislature and both houses of the United States Congress; the only public officer of his state to have won a contested general election in all of its fifty-five counties; the only West Virginian elected without opposition in a general election; and at the close of the 100th Congress will have served longer than all but 27 of the Senators elected since 1789; and

Whereas in his mastery of the rules of the Senate he has over and over again affirmed the shining truth that law gives liberty, and that out of order comes freedom; and

Whereas in the 1980s he led his party in the long march back to majority status, and in so doing changed the course of American political history; Now, therefore, be it

Resolved, That the Senate acknowledges the unequaled service of Robert C. Byrd of West Virginia on behalf of the people of the United States and proclaims its pride that this body should have produced a man such as he to lead a government such as ours: that rarest and until now most fugitive of human achievements, a bounteous and enduring democracy.

ADVERSE DRUG REACTIONS AND THEIR IMPACT ON THE ELDERLY

Mr. PRESSLER. Mr. President, I rise today to address the topic of adverse drug reactions [ADR's] and their impact on hundreds of thousands of our Nation's elderly. Unnecessary admissions to hospitals, and in some cases deaths, are the result of adverse drug reactions. This national tragedy easily can be prevented. Public awareness programs directed to the elderly, physicians, pharmacists, and other health care providers can be a foundation to launch our response to this serious problem.

The Senate Special Committee on Aging held an excellent hearing entitled, "Adverse Drug Reactions and Their Impact on the Elderly" on March 25, 1988. I hope that this hearing will increase the visibility of this widespread problem on the political and legislative agenda.

In just 40 years, there has been an explosion in the number of new drugs and technologies associated with drug research in the United States. There are well over 8,000 prescription drugs or combinations of drugs available in our country.

The availability of medications to reduce the devastating impact of disease and disability has been a great blessing to 30 million Americans who are 65 years and older. These individuals purchase 30 percent of all drugs prescribed in the United States. On average, they obtain more than twice as many prescriptions as those under the age of 65. It is estimated that by the year 2000 there will be 35 million older people who will consume 50 percent of all prescription drugs.

But, this blessing brought about by medical and pharmaceutical research can quickly become a terrible curse to our older population. According to Assistant Secretary for Health Robert E. Windom, there are 1 million addicts taking illegal drugs, but there are 30 million older Americans intentionally and unintentionally misusing of drugs legally prescribed by health care professionals.

The intentional or unintentional misusing of medications can result in adverse drug reactions. The U.S. General Accounting Office reports that 40 percent of those suffering from adverse drug reactions are over age 60. Adverse drug reactions in persons aged 60 to 70 occur at twice the rate of those aged 30 to 40, and seven times more often in individuals aged 70 to 79 than in those aged 29.

However, statistics may not be a good gauge to determine the extent of this terrible problem. The number of adverse drug reactions may be underreported because physicians may not notice reactions or may judge them to be unrelated to the medical condition of the elderly patient. In some cases, a physician may choose not to report a reaction because of fear of a lawsuit.

Noncompliance in following a medical regimen can seriously harm the older adult. Excessive and inappropriate prescribing may expose the elderly to unnecessary pains, and suffering. Undermedication can lead to inadequate treatment and increased severity of disease. Overmedication can lead to increased hospital admissions and in some cases death. More than 20 percent of nursing home admissions are attributable to the inability to manage drugs properly.

Noncompliance also can be the result of poor communication between the elderly patient and the health care professional. Many older individuals do not understand the instructions given to them by their physician. Some may not ask appropriate questions that might help them understand instructions because they feel intimidated. Others may not hear the instructions given to them by their physician because of poor hearing.

Health care providers also must share the blame for noncompliance. Some elderly say that they receive little or no information about either the side effects or the contraindications of the medication prescribed by their physician or provided by pharmacists.

Even with the additional support of a home health care nurse, the elderly continue to have medication error problems. One home health care nurse commented that insufficient printed literature written in simple English needs to be made available to provide the older patient with adequate information about drug side effects and medication errors. She must read the "Physicians Desk Reference" to determine the side effects of her elderly patient's medication. Patients often are given a handwritten piece of paper which may be misplaced or lost.

Inappropriate prescribing of medicine is a result of the elderly population's heterogeneity. Drug reaction can vary widely among older people with different combinations of diseases and treatments. Some older adults have metabolic functions similar to those of younger people.

Noncompliance can occur when the elderly take more than one prescription drug at the same time to control multiple chronic conditions. For example, in one study, older women took an average of 5.7 prescription drugs and 3.2 over-the-counter drugs at the same time.

Taking a large number of pills that are in most cases different sizes, shapes, and colors can be confusing to the elderly. Different dosage schedules can increase the probability of error in taking the medication at the wrong time. Combining prescription drugs and over-the-counter drugs can result in adverse drug reactions, not to mention food-drug interactions.

Multiple chronic illnesses that occur in old age can force the elderly patient to visit numerous medical specialists who unknowingly prescribe medications that either counteract the benefits of a medication ordered by another physician or interact adversely with other prescribed medications. Lack of communication between these specialists, compounded by automatic refills of medication, can further increase the adverse effects of medication.

It is time to move to reduce the high incidence of adverse drug reactions. Educating health care providers and increasing awareness of this problem surely can be considered a step in the right direction. We can also utilize other ways to attack this problem.

The Federal Drug Administration [FDA] must become more sensitive to the needs of the elderly. Many of the FDA-approved drug labels which advise physicians, pharmacists, and other health care providers are inadequate. They do not address special needs of the frail elderly population. It is time for the FDA to consider special labeling that would contain specific warnings and precautions to the elderly.

Labeling and packaging of prescriptions should take into account the visual impairment of many of the elderly. Why not provide the elderly reader with large-type, easy-to-read instructions that are printed in colors that are easy to see?

Area agencies on aging, State units on aging, senior centers, day care centers, and local community organizations across the country could be actively involved with brown bag programs. In such a program, physicians and pharmacists volunteer their time to examine the medications brought to them in brown lunch bags by the elderly. Potential problems could be detected early.

New technology and user friendly devices could be used to assist the elderly in taking their medication when they reside at home in the community. Pharmacist Bob Ehrke, owner of Western Hills Pharmacy in Rapid City, SD, provides a very important service to his elderly clientele. He provides them with a special medicine container for their weekly medication. Pills are placed in the appropriate time of day and day of week compartment. A pharmacist will check their container at the end of the week when it is brought in to be refilled. Again, potential problems can be detected before serious injury can occur.

Drug therapy programs to reduce the amount of drugs taken by the elderly in nursing homes and in the community could be encouraged by the Federal Government through funding of pilot projects and education programs.

Mr. President, I appreciate this opportunity to tell our colleagues here in the Senate of this serious problem that can cause needless pain and suffering. Elderly Americans should benefit from the advances in medicine and pharmaceutical research, not die from it.

THE IMPORTANCE OF CIVIL RIGHTS

Mr. PRESSLER: Mr. President, on February 4, 1988, I had the pleasure of seeing Mrs. Coretta Scott King at the National Prayer Breakfast. She is an incredible woman, and seeing her reminded me of her great husband, Dr. Martin Luther King, Jr. Two weeks ago, I was once again reminded of Martin Luther King. It was the 20th anniversary of his tragic assassination. Dr. King was a man of tremendous vision, wisdom, and courage; and his contributions are still apparent throughout our American society.

I remember standing by the Lincoln Memorial on that famous hot August day in 1963 when Dr. King spoke to the American people about his dream—"that one day this Nation will rise up and live the true meaning of its creed—we hold these truths to be self-evident, that all men are created equal." That same year he was selected "Man of the Year" by Time magazine. The following year another honor was bestowed upon Dr. King. He was awarded the Nobel Peace Prize. In his all-too-short life, Martin Luther King, Jr. paved the way for all of the disadvantaged members of our society.

The Reverend King was a man of God. He knew that our God had created all people to enjoy equal rights and liberties. In his time, and to a lesser extent now, black men, women, and children were denied their inalienable rights because of racism in American society. Martin Luther King toiled to break down the artificial barriers racism had erected in front of his people. He had a vision of equality. He was not looking for handouts or special treatment for minorities. He simply wanted black Americans to have full access in society so that they might use their God-given talents instead of having them buried beneath racism, fear, and hatred.

Martin Luther King's integrity shone brightly when he responded to violence and hatred with thought, intelligence, and love instead of more violence and hatred. He declared, "If I meet hate with hate, I become depersonalized." Dr. King did not seek to destroy the men who oppressed him; he sought to educate them. Martin Luther King had the wisdom, integrity, and courage to defeat violence. He knew violence and bloodshed would never have produced positive social change. Nonviolent demonstrations and education helped topple the initial imprisoning walls of racism.

Dr. King dramatized the injustices in our society through oration and nonviolent demonstrations. A student of the Indian hero Mahatma Gandhi, King knew that violent protests would only shed the blood of his followers and that violence would completely close the minds of the white society with which he was striving to establish an attitude of love and equality. "I still believe in nonviolence, and no one is going to turn me around on that point. If every Negro in the United States turns to violence, I am going to be the only voice to say that it is wrong," he said. At a time when lesser men would have looked to violence, the Reverend King vowed to remain a man of peace. As he said in his Nobel Peace Prize acceptance speech, Martin Luther King Jr. "* * * the lion and the lamb shall lie down together."

Martin Luther King, Jr. was truly a great American. He must not be forgotton and, more importantly, his dream for America must not be forgotten. Now that some of the fervor surrounding his life has subsided, we must remember that the fight against racism is ongoing, because racism shall sting our society for as long as it exists. We must pursue his dream and remember his famous words, "we shall overcome," until we may honestly say we have overcome. If someday we know the joy of having overcome, we will remember the great American civil rights pioneer Martin Luther King, Jr.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT—PM 131

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I transmit herewith the Annual Report of the National Endowment for the Arts and the National Council on the Arts for Fiscal Year 1987.

RONALD REAGAN.

THE WHITE HOUSE, *April 19, 1988.*

MESSAGES FROM THE HOUSE

At 4:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 1609. An act for the relief of James P. Purvis; and

S.J. Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. A concurrent resolution to authorize the printing of the annual three volume report "Developments in Aging: 1987" prepared by the Special Committee on Aging.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4401. An act to amend the Communications Act of 1934 with respect to Dial-a-Porn.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4401. An act to amend the Communications Act of 1934 with respect to Dial-a-Porn.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The **ACTING PRESIDENT** pro tempore (Mr. REID) reported that on today, April 19, 1988, he had signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes;

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes;

H.J. Res. 347. Joint resolution recognizing the identical plaques initiated by Sami Bandak, created by Margareta Henniz and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware;

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week".

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, April 19, 1988, he had presented to the President of the United States the following enrolled bills:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes; and

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2981. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, a draft of proposed legislation to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House; to the Committee on Energy and Natural Resources.

EC-2982. A communication from the Deputy Administrator of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, a report on a demonstration project; to the Committee on Environment and Public Works.

EC-2983. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the quality control systems of the Aid to Families with Dependent Children (AFDC) and Medicaid programs; to the Committee on Finance.

EC-2984. A communication from the Acting Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report to provide the information required in the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, P.L. 100-204, Section 701(b)(2)(F); to the Committee on Foreign Relations.

EC-2985. A communication from the Acting Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report on the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations as required in the Foreign Relations Authorization Act, P.L. 100-204, Section 701; to the Committee on Foreign Relations.

EC-2986. A communication from the Assisant Legal Advisor (Treaty Affairs), Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-2987. A communication from the Vice President, Farm Credit Banks of Columbia, transmitting, pursuant to law, a report on the Farm Credit Retirement Plan Columbia District; to the Committee on Government Affairs.

EC-2988. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a report concerning the activities of the Commission to ensure competition in contracting; to the Committee on Governmental Affairs.

EC-2989. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notification on a computer matching program, to the Committee on Governmental Affairs.

EC-2990. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, "Alleged Alteration of Personnel Evaluation Profile;" to the Committee on Governmental Affairs.

EC-2991. A communication from the Assistant Secretary for Health, Department of Health and Humans Services, transmitting, pursuant to law, a report on the Department's Health Resources and Services Administration (HRSA) matching program report; to the Committee on Governmental Affairs.

EC-2992. A communication from the Controller of the Boys Club of America, transmitting, pursuant to law, the Club's audited financial report for the year ending December 31, 1987; to the Committee on the Judiciary.

EC-2993. A communication from the Legal Counsel, Administrative Conference of the United States, transmitting, pursuant to law, a report regarding the agency experience in dealing with FOIA request in calendar year 1987; to the Committee on the Judiciary.

EC-2994. A communication from the Attorney General, transmitting, pursuant to law, a report concerning "the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities;" to the Committee on the Judiciary.

EC-2995. A communication from the Chief Immigration Judge, Department of Justice, transmitting, pursuant to law, a report on grants of Suspension of Deportation regarding certain cases; to the Committee on the Judiciary.

EC-2996. A communication from the Director of the National Institute of Justice, Department of Justice, transmitting, pursuant to law, the annual report of the National Institute of Justice; to the Committee on the Judiciary.

EC-2997. A communication from the President of the United States, transmitting, pursuant to law, notification of an incident in the Persian Gulf involving United States military personnel; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY (for himself, Mr. DeConcini, and Mr. Kasten):

S. 2296. A bill to amend the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend life of the Commission on the Ukraine Famine; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself, Mr. Bond, Mr. Boschwitz, Mr. Chafee, Mr. Cochran, Mr. D'Amato, Mr. Danforth, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Gramm, Mr. Grassley, Mr. Hecht, Mr. Humphrey, Mr. Karnes, Mr. Lugar, Mr. McCain, Mr. McClure, Mr. Murkowski, Mr. Quayle, Mr. Roth, Mr. Simpson, Mr. Stevens, Mr. Trible, Mr. Wilson, Mr. Bumpers, Mr. Burdick, Mr. Chiles, Mr. Conrad, Mr. Dixon, Mr. Gore, Mr. Heflin, Mr. Hollings, Mr. Inouye, Mr. Johnston, Mr. Levin, Mr. Matsunaga, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Shelby, Mr. Stennis, Mr. Adams, and Mr. DeConcini):

S.J. Res. 300. A joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "Just Say No Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER (for himself, Mr. Dixon, Mr. Kennedy, Mr. D'Amato, Mr. Stevens, Mr. Durenberger, Mr. Simon, Mr. Exon, Mr. Moynihan, Mr. Grassley, Mr. Symms, Mr. Levin, Mr. Harkin, Mr. Wirth, Mr. Bumpers, and Mr. Stafford):

S. Res. 412. A resolution expressing the sense of the Senate with regard to the use of degradable products; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. DeConcini, Mr. Cochran, Mr. Durenberger, Mr. Garn, Mr. Packwood, Mrs. Kassebaum, Mr. Symms, Mr. Weicker, Mr. Simpson, Mr. Stafford, Mr. Pell, Mr. Murkowski, and Mr. McConnell):

S. Res. 413. A resolution to express the sense of the Senate that the Temporary Emergency Food Assistance Program has been an effective means of distributing surplus commodities to needy Americans and should continue so long as sufficient surplus commodities remain in Government storage; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY (for himself, Mr. DeConcini, and Mr. Kasten):

S. 2296. A bill to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine; to the Committee on Foreign Relations.

EXTENSION OF COMMISSION ON THE UKRAINE FAMINE

● Mr. BRADLEY. Mr. President, today I am introducing legislation along with my colleagues from Arizona [Mr. DeConcini] and from Wisconsin [Mr. Kasten] to extend the life of the Ukrainian Famine Commission. Four years ago we created the Commission to study the great famine of 1932-33. This tragedy was primarily a result of a conscious decision by the Soviet Government to use starvation as a political tool. An estimated 7 million people died in Ukraine. Additionally, thousands of American citizens are survivors of this genocide. Such a catastrophe should never reoccur. By studying its causes we may be preventing another similar tragedy.

The mandate of the Ukrainian Famine Commission expires on April 22. The Ukrainian-American community has urged us to extend that mandate an additional 2 years so that the Commission can complete its study. To demonstrate their support, the Ukrainian community has donated thousands of dollars to the project, thus relieving the American taxpayers of the funding responsibilities. I believe we too should demonstrate our support for this effort.●

By Mr. GRAHAM (for himself, Mr. Bond, Mr. Boschwitz, Mr.

Chafee, Mr. Cochran, Mr. D'Amato, Mr. Danforth, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Gramm, Mr. Grassley, Mr. Hecht, Mr. Humphrey, Mr. Karnes, Mr. Lugar, Mr. McCain, Mr. McClure, Mr. Murkowski, Mr. Quayle, Mr. Roth, Mr. Simpson, Mr. Stevens, Mr. Trible, Mr. Wilson, Mr. Bumpers, Mr. Burdick, Mr. Chiles, Mr. Conrad, Mr. Dixon, Mr. Gore, Mr. Heflin, Mr. Hollings, Mr. Inouye, Mr. Johnston, Mr. Levin, Mr. Matsunaga, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Shelby, Mr. Stennis, Mr. Adams, and Mr. DeConcini):

S.J. Res. 300. A joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "Just Say No Week"; to the Committee on the Judiciary.

JUST SAY NO WEEK

● Mr. GRAHAM. Mr. President, today, with 44 original cosponsors, I am introducing a joint resolution designating the week of May 8-14, 1988, as "Just Say No To Drugs Week."

We recognize that the enormous and largely unchecked influx of illegal drugs across our borders is a particularly ominous threat to the youth of our Nation.

Peer pressure and the revelations that role models from the fields of sports and entertainment are addicted to drugs can contribute to the temptation to try illicit drugs.

The "Just Say No To Drugs" clubs which have been founded in schools across America have given our young people an option and the support to help them choose that option.

This joint resolution recognizes the Nation's young people who are publicly fighting drug abuse by saying no to drugs. They are contributing—by dedication and by courageous example—to the important goal of a drug-free America.

Next week, local communities around the country will be conducting events and rallies to demonstrate their commitment to fighting drug abuse. With the leadership of First Lady, Nancy Reagan, thousands of schoolchildren, their parents, and other concerned citizens will participate in these events.

In the State of Florida, over 75 communities will host Red Ribbon Day on May 9. Floridians will wear red ribbons. Police cars and city vehicles in Miami will have red ribbons attached to their antennas.

On May 13, 50,000 Florida schoolchildren will march statewide in the national "Just Say No" Walk. In Tallahassee, the capitol and other government buildings will be wrapped with red banners as a reminder to be vigilant in the war against drug abuse.

We can only combat the tragedy and waste of drug abuse among children and teenagers by education and reinforcement—and positive peer pressure. I ask my colleagues to salute this effort, and the young people who are making a difference, by supporting this joint resolution to declare "Just Say No To Drugs Week."●

ADDITIONAL COSPONSORS

S. 268

At the request of Mr. Kerry, his name was added as a cosponsor of S. 268, a bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government employees.

S. 1161

At the request of Ms. Mikulski, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 1161, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program for routine mammograms.

S. 1220

At the request of Mr. Kennedy, the names of the Senator from Minnesota [Mr. Boschwitz] and the Senator from Louisiana [Mr. Johnston] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1489

At the request of Mr. Moynihan, the name of the Senator from Texas [Mr. Gramm] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through passthrough entities.

S. 1774

At the request of Mr. Pryor, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from Iowa [Mr. Grassley], the Senator from Iowa [Mr. Harkin], and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of S. 1776, a bill to modernize U.S. circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1789

At the request of Mr. Kasten, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 1789, a bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on long-term capital gains of individuals from 28 to 15 percent.

S. 1817

At the request of Mr. Kennedy, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1839

At the request of Mr. Melcher, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 1931

At the request of Mr. Simon, the names of the Senator from North Carolina [Mr. Sanford], the Senator from Michigan [Mr. Levin], the Senator from Minnesota [Mr. Boschwitz], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 1931, a bill to amend part B of title IV of the Higher Education Act of 1965, relating to the guaranteed student loan programs, to reduce the high-default rate under that program, and to improve debt collection under that program, and for other purposes.

S. 2024

At the request of Mr. Baucus, the name of the Senator from Florida [Mr. Graham] was withdrawn as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033

At the request of Mr. Thurmond, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2047

At the request of Mr. Thurmond, the name of the Senator from Florida [Mr. Chiles] was added as a cosponsor of S. 2047, a bill to require a health warning on the labels of all alcoholic beverage containers.

S. 2051

At the request of Mr. McClure, the name of the Senator from New Hampshire [Mr. Humphrey] was added as a cosponsor of S. 2051, a bill entitled the "Prohibition of Undetectable Firearms Act."

S. 2099

At the request of Mr. Symms, the name of the Senator from Colorado

[Mr. WIRTH] was added as a cosponsor of S. 2099, a bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to pay tax shown on return in installments and to authorize the Secretary to enter into installments agreements.

S. 2123

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2123, a bill to provide hunger relief, and for others purposes.

S. 2174

At the request of Mr. BURDICK, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2174, a bill to amend the Department of Transportation Act so as to reauthorize local rail service assistance.

S. 2200

At the request of Mr. SIMON, the names of the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2200, a bill to amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month.

S. 2255

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2255, a bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly Medicare beneficiaries residing in rural areas.

SENATE JOINT RESOLUTION 261

At the request of Mr. PRESSLER, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. HEFLIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Arizona [Mr. MCCAIN], the Senator from North Carolina [Mr. HELMS], the Senator from Connecticut [Mr. WEICKER], the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Nevada [Mr. HECHT] and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the names of the Senator from California [Mr. WILSON], the Senator from Indiana [Mr. LUGAR], the Senator from Alabama [Mr. HEFLIN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Vermont [Mr. STAFFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November, 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 285

At the request of Mr. KERRY, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Florida [Mr. GRAHAM], the Senator from Tennessee [Mr. GORE], the Senator from North Dakota [Mr. CONRAD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 285, a joint resolution expressing the sense of Congress that Haiti falls under the definition of "major drug-transit country" as stated in section 481(i)(5) of the Foreign Assistance Act of 1961, and therefore should be subject to the certification process mandated by section 481(h) of that act.

SENATE JOINT RESOLUTION 294

At the request of Mr. TRIBLE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines.

SENATE RESOLUTION 394

At the request of Mr. HEINZ, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 394, a bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid Highway and Mass Transit Programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

AMENDMENT NO. 1680

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of amendment No. 1680 intended to be proposed to 100-11, a resolution expressing the sense of the House of Representatives that Federal excise tax rates should not be increased.

SENATE RESOLUTION 412—RELATIVE TO THE USE OF DEGRADABLE PLASTICS

Mr. PRESSLER (for himself, Mr. DIXON, Mr. KENNEDY, Mr. D'AMATO, Mr. STEVENS, Mr. DURENBERGER, Mr. SIMON, Mr. EXON, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. SYMMS, Mr. LEVIN, Mr. HARKIN, Mr. WIRTH, Mr. BUMPERS, and Mr. STAFFORD) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 412

Whereas, society is increasing its attention to the issue of solid waste, and plastic waste in particular, for environmental and economic reasons; and

Whereas, at least twelve states, several local communities, and foreign countries, such as Italy and Denmark, have enacted or proposed bans on various non-degradable plastic products; and

Whereas, a recent estimate by the U.S. Conference of Mayors indicated that more than fifty percent of the nation's municipalities have less than ten years of landfill capacity left; and

Whereas, despite our long "Keep America Beautiful" campaign, persistent litter still is strewn about our highways, parks and communities; and

Whereas, deadly threats to fish and wildlife exist from entanglement, strangulation, and consumption of discarded plastic materials; and

Whereas, recycling technologies are not as available to manage the plastics waste stream as are available for metals, glass and paper; and

Whereas, incineration systems are not yet widely used, and may not be feasible in many parts of the country; and

Whereas, farmers are faced with depressed commodity prices, while the federal government pays for price supports and surplus crop storage costs which could be alleviated by expanded markets; and

Whereas, new technologies are being developed which address these problems, such as currently marketed applications that use cornstarch to produce biodegradable plastics: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Environmental Protection Agency encourage the use of biodegradable plastic bags and other degradable plastic applications through its pertinent regulatory and informational programs.

SEC. 2. The General Services Administration should implement, when possible, the use of biodegradable bags and other degradable plastic products in its operations.

Mr. PRESSLER. Mr. President, today I am submitting a sense-of-the-Senate resolution calling for the Environmental Protection Agency to encourage the use of degradable plastics and the General Services Administration to implement, when practical, the use of degradable plastics in its programs.

Society is paying increasing attention to the issue of solid waste, and plastic waste in particular, for economic and environmental reasons. In this Congress, 10 bills related to land or marine disposal of plastic materials have been introduced. At least 12 States, several local communities, and foreign countries, such as Italy and Denmark, have enacted or proposed bans on various nondegradable plastic products. Concerns over nondegradable plastics stem from several problems.

Last summer the world watched the spectacle of a lone garbage barge searching the east coast and the Caribbean for a home for its refuse. Nobody wanted it. This pathetic incident demonstrated a national problem: landfills are filling up and alternative sites are becoming less available due to increasing urbanization. For example, New York State will close landfills on Long Island by 1990. The U.S. Conference of Mayors recently estimated that more than 50 percent of the Nation's municipalities have fewer than 10 years of landfill capacity left.

Despite our long Keep America Beautiful campaign, persistent litter still mars our highways, parks, and communities. We also have become aware of the deadly threats to fish and wildlife from entanglement, strangulation, and consumption of discarded plastic materials.

Plastics consitute about 10 percent of packaging waste. Although new technologies are being developed to recycle more plastics, at this time these technologies are not as readily available for plastics waste management as they are for metals, glass, and paper. Most community recycling centers do not accept plastics. Waste-to-energy incineration systems are not widespread yet and some types of plastics produce toxic gases when burned.

Plastics are made from petrochemicals. Our Nation's increasing demand for petroleum, and our need for sources that cannot be jeopardized by foreign interests, stimulate a wide range of proposals for energy development and conservation. Some of these proposals are controversial and/or costly. For example, in this Congress we are currently considering energy exploration on the Arctic National Wildlife Refuge [ANWR]. This issue has occupied an immense amount of time and human resources both in Congress and around the Nation. The future undoubtedly will bring more issues like ANWR development since estimates of our domestic reserves have been reduced and demand for petroleum products continues to increase.

On the other hand, the Nation's agricultural sector is confronted with serious financial concerns. Farmers in South Dakota and elsewhere are faced with depressed commodity prices, while Federal Government farm-program costs are at near record levels. Expanded markets using agricultural commodities for industrial feedstocks could increase commodity prices, reduce farm-program costs and in some areas create new industrial jobs.

New technologies are being developed to address these problems. One new technology that is currently being marketed uses cornstarch to produce biodegradable plastics. It can be used in storage bags and agricultural mulches. One company now uses 20,000 bushels of corn per day for the production of degradable plastic film and estimates future growth could reach 70,000 bushels per day if appropriate market applications could be developed in North America. Other potential degradable plastic products include time-release medication and pesticide delivery systems, noncorrosive road deicers, biodegradable bottles and other packaging containers, biodegradable disposable diapers, and disposable toys.

Another technology undergoing development is cornstarch-based blown-foam containers which could replace polystyrene foam containers currently popular in the fast-food industry. Polystyrene foam is produced with chlorofluorocarbons [CFC's] which are implicated in global warming and ozone depletion.

Many innovative researchers and developers are making progress in their efforts to make these technologies feasible, economical, and practical. Some observers argue that these efforts will not result in significant improvements in overcoming any of these problems, but I believe that even small improvements are meaningful. They encourage further efforts to cope with pollution. Many useful plastics have been developed, for which other materials are not suitable, and it is true that degradable plastics are not suitable for all uses. However, it is time for the U.S. Senate to recognize, encourage, and applaud these research, development, and implementation efforts. We have an opportunity to make enthusiastic progress to achieve results with widespread benefits to society as a whole.

● Mr. HARKIN. Mr. President, I am very pleased to cosponsor this resolution to encourage and promote the use of biodegradable plastics. We are all aware of the environmental problems arising from the use and disposal of plastic containers and packaging. Conventional plastic is very slow to decompose naturally, and thus it continues to clutter the landscape and despoil the environment long after its use. Moreover, our landfills are now near capacity and no adequate solution for dealing with the Nation's burgeoning volume of trash is imminent. Biodegradable plastics can help to alleviate these environmental problems.

I also am cosponsoring the resolution because it reflects what I believe is great economic potential for my State and the Nation through the development of new products derived from agricultural commodities. I truly believe we are now only in the initial stages of promising new research into industrial applications for agricultural crops. This research can provide alternatives to materials produced from petroleum and thereby reduce our dependence on foreign oil, cut the trade deficit and spur our domestic economy. Because this research is so important, I introduced S. 970, a bill providing funding for research into new uses for agricultural crops. I am pleased that the Senate voted in favor of the bill, but disappointed that the provisions of the bill were dropped from the trade bill by the House conferees. I hope that Congress will soon vote to approve funding of this important research.●

SENATE RESOLUTION 413—RELATING TO THE TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

Mr. HATCH (for himself, Mr. DeConcini, Mr. Cochran, Mr. Durenberger, Mr. Garn, Mr. Packwood, Mrs. Kassebaum, Mr. Symms, Mr. Wiecker, Mr. Simpson, Mr. Stafford, Mr. Pell, Mr. Murkowski, and Mr. McConnell) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 413

Whereas the President initiated the Temporary Emergency Food Assistance Program to provide for the distribution of surplus commodities to aid needy Americans;

Whereas Congress has subsequently provided necessary appropriations to fund this program and favors the continuation of it at appropriate levels consistent with the availability of government-owned surplus commodities;

Whereas the Temporary Emergency Food Assistance Program has functioned as an effective supplement to primary government programs of food assistance which include the Food Stamp Program, The School Lunch Program, the School Breakfast Program, the WIC Program, the Special Milk Program, the Child Care Food Program, the Summer Food Service Program, the program of Commodities for Charitable Institutions, the Needy Family Program on Indian Reservations and Trust Territories, the Nutrition Program for the Elderly, the Commodity Supplemental Food Program, and the Puerto Rico Nutrition Assistance Program;

Whereas almost 5 billion pounds of cheese, nonfat dry milk, butter, flour, rice, corn meal and honey have been effectively distributed to needy people throughout the country since the program began;

Whereas state governments, local agencies, and private volunteers have contributed resources and labor to make the Temporary Emergency Food Assistance Program a success; and

Whereas legislative changes in agricultural commodity programs have significantly reduced the levels of agricultural commodities being acquired by the government and contributed to depleted surplus stocks to such an extent that previous levels of surplus commodity distribution under the Temporary Emergency Food Assistance Program cannot be maintained in the future. Now, therefore, be it

Resolved by the Senate, That—

(1) The Temporary Emergency Food Assistance Program be recognized and cited for the important role it has served in helping to meet the basic food requirements for needy people throughout America since it was initiated;

(2) The Department of Agriculture, state governments, local agencies, and citizen volunteers who have worked hard to make this program successful are commended for their compassion and dedicated work in connection with this unprecedented distribution of surplus food to the needy; and

(c) Congress is committed to the continued distribution of surplus commodities through the Temporary Emergency Food Assistance program as a supplement to permanent food assistance programs for as long as the Secretary of Agriculture, in accordance with the law, deems the supply of government-owned surplus commodities to be sufficient for an effective national distribution program.

AMENDMENTS SUBMITTED

INTEGRITY IN POST-EMPLOYMENT ACT

THURMOND (AND OTHERS) AMENDMENT NO. 1961

Mr. THURMOND (for himself, Mr. Rudman, Mr. Metzenbaum, Mr. Levin, and Mr. Specter) proposed an amendment to amendment No. 1946 proposed by Mr. Thurmond (and others) to the bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; as follows:

On page 4, strike all beginning with line 18 through line 22 on page 5 and insert the following:

"(2) having been employed as a top level official in the executive branch, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive branch of the United States, including any independent agency of the United States, or any officer or employee thereof, or any Member of Congress; or

"(3) having served as a Member of Congress, within 1 year after such service has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the legislative branch of the United States, or any member, officer, or employee thereof, or any top level official of the executive branch; or".

On page 5, lines 23 and 24, strike ", high level,".

On page 7, line 2, strike "high level or".

On page 7, line 10, after "who" insert ", at any time during the 12-month period preceding the date of termination of employment of the officer or employee,".

On page 7, strike lines 16 and 17 and insert "under section 5314 of title 5 or sections 105(a)(2) (B), (C), and (D) and 106(a)(1) (B), (C), and (D) of title 3; or ".

On page 7, line 21, after the semicolon insert "and".

On page 7, beginning with line 22, strike all through line 4 on page 8.

On page 8, line 5, strike "(C)" and insert "(B)".

On page 8, line 8, after "who" insert ", at any time during the 12-month period preceding the date of termination of employment of the officer or employee,".

On page 11, line 24, strike "upon proof by a preponderance of the evidence".

On page 11, line 25, after "and" insert ", upon proof of such conduct by a preponderance of the evidence,".

On page 13, line 2, strike "or will engage".

On page 14, line 23, strike the quotation marks and the second period.

On page 14, between lines 23 and 24, insert the following:

"(4) For purposes of subsection (c), the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States including Members of Congress.".

RUDMAN AMENDMENT NO. 1962

Mr. RUDMAN proposed an amendment to amendment No. 1946 proposed by Mr. Thurmond (and others) to the bill S. 237, supra; as follows:

At page 13, line 6, insert "(1)" before "Who—".

At page 13, line 8, insert "or the legislative branch" following "executive branch".

At page 13, line 17, insert "or the house of Congress in which the Member, officer or employee serves or is employed" following "District of Columbia".

At page 13, line 7 and line 22, strike "an officer" and insert in lieu thereof, "a Member, officer".

At page 13, line 20, insert "Member," before "officer".

At page 13, line 24, following "or both." add the following new subsection:

"(2) Whoever, being the partner of a member, officer or employee of the legislative branch in a partnership for the provision of professional services, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with intent to influence makes any oral or written communication on behalf of any other person other than the United States to any member, officer, employee or other component part of the house in which the member, officer or employee serves in connection with a matter pending before either house or a matter which is the subject of legislative oversight in either house shall be fined not more than $10,000, or imprisoned for not more than one year, or both; provided however, that the prohibition of this subsection shall not prohibit a formal or informal appearance before, or oral or written contact to a member, officer, employee or other component part of either house on behalf of the partnership itself. For the purposes of this paragraph, the term 'professional services' includes but is not limited to those involving a fiduciary relationship.".

RUDMAN AMENDMENT NO. 1963

Mr. RUDMAN proposed an amendment, which was subsequently mofified, to amendment No. 1946 proposed by Mr. Thurmond (and others) to the bill S. 237, supra; as follows:

At page 2, line 7, strike "LIFETIME" and add "IN A PARTICULAR MATTER" following "EMPLOYEES" at page 2, line 8.

At page 2, line 12, insert "(A)" after "(1)" and redesignate clause "(2)" "(B)".

Following the end of subparagraph "(1)" insert a new subparagraph "(2)" as follows:

"(2) within 2 years after that former officer's or former employee's employment has ceased, knowingly to act as an agent or attorney for, or otherwise represent or assist in representing—or to aid, counsel, advise, consult or to assist in representing, aiding, counseling, advising or consulting—any person, other than the United States, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.".

HELMS AMENDMENT NO. 1964

Mr. HELMS proposed an amendment, which was subsequently modified, to amendment No. 1946 proposed by Mr. Thurmond (and others) to the bill S. 237, supra; as follows:

On page 10, line 21, after "proceeding," strike "; or" and insert "." ".

On page 10, strike lines 22 through 23.

McCONNELL AMENDMENT NO. 1965

Mr. McCONNELL proposed an amendment, which was subsequently modified, to amendment No. 1946 proposed by Mr. THURMOND (and others) to the bill S. 237, supra; as follows:

At the end of this substitute, add the following new titles:

TITLE II—FAIRNESS IN PERSONAL CAMPAIGN EXPENDITURES

SECTION 1. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person after the election to such candidate or the principle campaign committee of such candidate to repay any such expenditure or loan.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and any spouse of any such person.".

SEC. 2. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate may use any contributions in a manner prohibited by section 315(i)".

SEC. 4. SEVERABILITY

If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

CIVIL ACTIONS FOR DAMAGE TO RELIGIOUS PROPERTY

CRANSTON AMENDMENT NO. 1966

(Ordered referred to the Committee on the Judiciary.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 794) to amend chapter 13 of title 18, United States Code, to impose criminal penalties and provide a civil action for damage to religious property and for injury to persons in the free exercise of religious beliefs; as follows:

On page 4, line 3, after "RELIGIOUS BELIEFS" insert "OR AFFECTIONAL OR SEXUAL ORIENTATION".

On page 4, line 7, after "religious beliefs" insert "or affectional or sexual orientation".

On page 4, line 15, after "religious beliefs" insert "or affectional or sexual orientation".

On page 6, after line 10, insert "or affectional or sexual orientation" after "religious beliefs".

Amend the title to read as follows: "A bill to amend chapter 13 of title 18, United States Code, to impose criminal penalties and provide a civil action for damage to religious property and for injury to persons in the free exercise of religious beliefs or affectional or sexual orientation.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, May 19, 1988, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the Economic Regulatory Administration's prosecution of individuals in oil overcharge cases under the central figure theory, as adopted in *Citronelle-Mobile Gathering, Inc. et al.* v. *Herrington*, 826 F. 2d 16 (TECA 1987).

For further information, please contact Joel Saltzman, staff counsel, at (202) 224-7932.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on April 28, 1988, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on four measures currently pending before the subcommittee. The measures are:

S. 1927, a bill to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument and for other purposes;

S. 2057, a bill to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes;

H.R. 1100, a bill to authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park, in the State of Illinois, and for other purposes; and

H.R. 3869, a bill to amend the act providing for the establishment of the Tuskegee University National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes.

For further information regarding the hearing, please contact Tom Williams of the subcommittee staff, at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, April 19, 1988 on DOD/SDIO compliance with Federal Advisory Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 19, 1988, at 2:30 p.m. to mark up S. 1511, a bill to reform the Nation's welfare system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 19. To hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 19 to receive testimony on the implementation of the U.S. Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, April 19, 1988 to conduct hearings on S. 2256, the Intermarket Coordination Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, April 19, 1988 to conduct a hearing on "Oversight of the Occupational Safety and Health Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 19, 1988 to hold a hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, April 19, 1988, to hold a hearing on the Management of Columbia River Indian Fisheries.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Manpower and Personnel be authorized to meet during the session of the Senate on Tuesday, April 19, 1988, in closed session to conduct a markup of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Energy and Natural Resources Committee, be authorized to meet during the session of the Senate on Tuesday, April 19 to receive testimony on S. 1720 and H.R. 900, bills to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; S. 1850, a bill to amend the Wild and Scenic Rivers System and for other purposes; and S. 1914, a bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 19, 1988, to hold an oversight hearing on international telecommunications activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Affairs, Subcommittee on Federal Spending, Budget, and Accounting, be authorized to meet during the session of the Senate on Tuesday, April 19, 1988, on the subject of Oversight of Government in Sunshine Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, Subcommittee on Government Efficiency, Federalism, and the District of Columbia, be authorized to meet during the session of the Senate on Tuesday, April 19, 1988, on the subject of fraud hotlines.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MCI HERITAGE CLASSIC: A MEMORABLE SUCCESS

● Mr. HOLLINGS. Mr. President, I'd like to take a moment to congratulate all the people involved in the MCI Heritage Classic this past weekend in Hilton Head, SC. This year's tournament was one of those special events that brings out the very best in people. It started out as a spectacularly successful fund-raising event, with the Children's Hospital of the Medical University of South Carolina as the principal beneficiary. But that was just for starters. What made this an unforgettable event was the presence of 17-year-old Jamie Hutton of Madison, WI.

As we all now know, Jamie Hutton is gravely ill with leukemia, and his trip to Hilton Head was arranged by the charitable group Thursday's Child, which attempts to grant the wishes of seriously ill youngsters. Jamie's wish was to walk the course with his hero, the Australian golfer Greg Norman. His wish was granted, and then some.

Jamie walked with Greg Norman the entire third and fourth rounds. In the final round on Sunday, he cheered Norman on as the Australian rallied from four strokes back to win the tournament with a bogey-free, 5-under-par performance. As Jamie left the 18th green, Paula Bethea of the Heritage Committee presented him with her special plaid Heritage Classic jacket, and Greg Norman bestowed on him the championship trophy.

Norman commented that Jamie "showed me inspiration and courage." The fact is, Jamie showed all of us inspiration and courage. And Greg Norman showed us a lot of class. It was a tournament I feel privileged to have attended—a tournament I will never forget.

Mr. President, my hat is off to MCI, the PGA Tour, and the Heritage Classic Corp. for an exceptional tournament. And, most important, our prayers are with Jamie Hutton as he returns to Wisconsin. He is an exceptional young man.●

UNTIED LOANS TO THE SOVIET UNION

● Mr. DECONCINI. Mr. President, we spend in the neighborhood of $300 billion a year on the defense of this country. The majority of that money is spent to offset the military advances of the Soviet Union. Yet the United States and her allies in the West loaned approximately $24 billion to the Soviet Union last year and roughly $19 billion of that was untied cash loans. By untied cash loans I mean loans that are pure cash with no ties to trade transactions or projects. Because these loans are untied the cash involved can be diverted to projects that may be detrimental to Western security. I believe it is a travesty that we are spending billions of dollars to counter technology that we helped finance in the first place. Any practices that increase our defense burden, such as untied loans to the Soviet Union, should be carefully looked into, carefully evaluated, and carefully scrutinized.

Our national security is involved in these decisions. We have a responsibility to evaluate programs which threaten our defense. The Soviets have a huge problem securing hard currency and in 1986 their total hard currency earnings were only about $29 billion. Evidently, a majority of the funding needed by the Soviets for their world wide interests were supplied by Western financial markets. That does not seem like a sound policy to me. This is not prudent from a United States banking and financial perspective. This is not wise from a national security perspective. Why should we be funding the exploits of the Soviet Union when our taxpayers are expected to pay $300 billion a year to maintain our national security? Who knows how much money could be saved on our defense budget if Western allies would agree not to allow untied loans to Soviet bloc countries? This is an area where the United States needs better coordination with its allies. I ask that an article from the National Security Report, "Western Democracies Finance Soviet Power," be entered into the RECORD.

The article follows:

WESTERN DEMOCRACIES FINANCE SOVIET POWER

(By Roger W. Robinson, Jr.)

(Roger W. Robinson, Jr., the former Senior Director for International Economic Affairs at the National Security Council (1982–1985), was the featured speaker at last month's meeting of ASC's Business Advisory Committee. On the morning he spoke, Robinson was featured in articles in The Washington Post, The New York Times, and The Wall Street Journal, and ASC Chairman John M. Fisher introduced him by saying, "No individual has done more than Roger to expose the external financing of the Soviet Union. His research and writings have demonstrated that the free world should be held accountable for its role in fostering Soviet power projection, and I feel all Americans should be grateful to Roger for his perseverance." Excerpts from his remarks are reprinted below.)

"A security-oriented cash flow analysis of the Soviet Union clearly shows Moscow's serious annual hard currency shortfalls, which have to be offset through extensive borrowings from Western banks and governments. Total Soviet hard currency income in 1986 was only about $29 billion, or the equivalent of roughly one quarter of the total sales of General Motors that same year. The vast majority, if not all annual Soviet hard currency earnings, could be absorbed solely by Western imports and debt service requirements. Assuming that Moscow's hard currency income was earmarked for these two purposes in 1986, then virtually 100% of Soviet hard currency requirements to fund a global empire stretching from Managua to Hanoi were funded on Western financial markets.

It has become very apparent that the ease with which the Soviet Union is able to maintain and expand costly global commitments is largely due to the Western banks offering untied, general purpose loans to the USSR and other Warsaw Pact countries. By untied loans, I mean pure cash loans with no underlying trade transactions or projects—funds which can be flexibly diverted by the Soviets for purposes inimical to vital Western security interests. For example, of the $24 billion loaned by the West to the Soviet bloc in 1986 (averaging about $2 billion a month), approximately 80% of those credits, or roughly $19 billion, took the form of untied, cash loans. The interest rates of these untied loans to certain Warsaw Pact countries have also been extremely generous usually ⅛ of 1% over the cost of funds (about 7½%) on loans ranging from 8-12 years to Bulgaria, the USSR, and Czechoslovakia.

In addition to offsetting its hard currency earnings shortfalls with large scale borrowing in the West, the USSR has launched a kind of global "economic offensive" to secure as many commercial benefits from Western patterns as possible. Other components of the current economic offensive include: 1) Soviet entry for the first time into the international securities markets (e.g. the issuing of bonds); 2) strenuous efforts to join the GATT, the IMF, the World Bank, the Asian Development Bank, the Multi-Fiber Arrangements, and other Western economic and financial institutions; 3) a more aggressive approach to the illegal acquisition of military-relevant Western technology; 4) actively recruiting Western joint venture partners who they expect will provide the necessary technology, equipment, capital, management, and marketing skins required to expand Moscow's hard currency export earnings; 5) an effort to overturn the alliance agreement of May 1983 limiting Soviet natural gas deliveries to Western Europe; and 6) securing a one year waiver of the Jackson-Vanik and Stevenson Amendments to the Trade Act of 1974 currently inhibiting equal tariff treatment and access to U.S. Eximbank credits.

The Administration could make a major contribution to our national security by leading a multilateral approach to immediately phasing out untied, general purpose lending to potential adversaries and scrutinizing the extent to which the Soviets rely on Western bank deposits in Soviet and East European-owned banks. Precisely, each loan to a potential adversary should have a specific and verifiable purpose—be it an equipment export, a project (with loan drawdowns calibrated to project expenditures), or a short-term commodity transaction such as grain sale. Each loan should have a maturity structure that is strictly matched against the duration of the underlying transaction. For example, grain transactions should be financed with maximum loan maturities of 180 days rather than, say, three years which *de facto* provides the Soviets with 2½ years of cash for their discretionary use.

Finally, U.S. banks should aggregate their interbank deposit exposure in all Soviet-owned banks including those located in the West, and periodically report these aggregate exposures to U.S. bank regulators. The same practices should be applied to Eastern Europe. In this connection, I am not arguing for the discontinuation of interbank deposit activity with the USSR—only that specific information be developed on the amounts and the proper use and maturity of such deposits.

Currently, the Reagan Administration opposes any multilateral initiative to phase out Western untied loans to Soviet bloc countries, even on a voluntary basis. However, numerous Senators and Congressmen in a bipartisan effort support such a U.S. policy initiative with our allies for solid commercial, national security, and human rights reasons. Legislations is pending in the Senate (Garn/Proxmire S. 786) and in the House (Kemp/Roth H.R. 3095) on this crucial international financial security issue. Action by the Executive Branch is preferable to that of the Congress, but we can no longer afford to ignore this issue given the multi-billion dollar annual defense-related savings that could be achieved by a coordinated alliance policy on ending the undisciplined cash underwriting of Soviet global operations by Western banks.

In conclusion, there do not have to be any "losers" in the West as a result of these policy recommendations. Unsubsidized, non-strategic trade can go forward unimpeded; the U.S. can continue to streamline and expedite its export licensing procedures; Western loans can continue to be provided in support of specific trade transactions and projects; and incentives for greater Soviet geopolitical cooperation can hopefully be created through continued East-West economic and commercial relations. Nevertheless, we simply cannot continue to avert our eyes from those economic and financial practices which are seriously damaging to our long term security interests; nor can we sidestep the urgent need to develop a more comprehensive picture of how the Soviet Union funds itself and its global activities.

Prior to sitting down with Moscow on short range nuclear weapons reductions talks, it is imperative that we secure comprehensive NATO (including Japan) agreements on economic and financial security policies toward Warsaw Pact countries and client states. This strategic agenda item and precondition to talks with the Soviet Union is, in many ways, as important as securing East-West parity in conventional forces and mutual reductions in chemical weapons. U.S. taxpayers cannot be expected to shoulder the burden of some $300 billion in annual defense expenditures while Soviet global adventurism and aggression continues to be unwittingly funded, for the most part, by the commercial banks of allied countries."

WORLD REFUGEE SURVEY

● Mr. HATFIELD. Mr. President, in recent months, a serious crisis has developed in Thailand that affects the right to asylum of thousands of Indochinese refugees. Since January, more than 1,500 Vietnamese boat refugees have been pushed back out to sea, and at least 170 people have died. Thailand's humanitarian record toward refugees has been long and generous, but the crisis reminds us, once again, of the vulnerability of the worldwide system of refugee protection. At the forefront of protecting the human rights of these voiceless people stands the U.S. Committee for Refugees. USCR's extraordinary work in the last months to ensure that the American public and policymakers respond swiftly and compassionately to this most recent crisis of protection is but one example of their admirable record.

Just this month, USCR has produced the 30th anniversary issue of their authoritative World Refugee Survey. In this survey are two articles in particular which speak with authority on separate refugee dilemmas.

The first, on the southern Africa situation, is by my colleague, the senior Senator from Massachusetts, Senator Kennedy, who as current chairman of the Immigration and Refugee Policy Subcommittee, perhaps knows more about this subject than any other Member of the Senate. He is a champion of a humane U.S. refugee policy, and I look forward to working with him again this year to maintain a generous U.S. response to the cries of the world's refugees.

The second piece that I wish to bring to the attention of my colleagues is the work of Court Robinson on refugees in Thailand. This cogent analysis of the refugee situation in Thailand is must reading for all who wish to understand the ongoing first asylum crisis in Thailand, and respond to it.

I ask that both of these articles from the 1987 World Refugee Survey be included in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Devastation Beyond Measure: Refugees in Southern Africa

(Senator Edward M. Kennedy)

Millions of refugees are on the move today in Africa—millions of men, women, and children in search of peace and relief. In no other region of the world are refugees more in need than in Africa, and in no area of the continent are refugees more neglected and abused than in southern Africa.

The international community is witnessing another escalating humanitarian crisis in southern Africa, with no end in sight. We are confronting a regional crisis of people that, proportionally, is as large as the Ethiopia-Sudan famine crisis of 1984-85. But this time the people are on the move not primarily because of drought or natural calamity, but in flight from conflict, insurgency, and the growing confrontation with apartheid in South Africa. As is often the case in such conflicts, it is the most vulnerable of the region's population—the millions of children and innocent civilians—who are the first victims of famine and violence.

What we see today in southern Africa is a man-made crisis that has much of its origin in the unyielding racial policies and growing racial conflict spawned by South Africa. An entire region of Africa is paying an enormous human price because the minority government in South Africa continues to pursue a policy of apartheid and confrontation.

While the root causes of the refugee flow in southern Africa are clearly political, and are focused in South Africa's fight to preserve its sanctuary of racism and repression, the urgent need today is to assist those who are paying the price of this struggle—the refugees in the "frontline" states and those fleeing South African-sponsored insurgencies in neighboring countries.

A year and a half ago, reflecting the overwhelming will of the American people, Congress voted to put the United States on the right side of the struggle against apartheid. Congress passed the Anti-Apartheid Action Act of 1986, and today the United States stands as the world leader in the international campaign to end apartheid. In passing strong economic sanctions against the government of South Africa, Congress sent a message to the people of South Africa—black and white alike—that the American people firmly support freedom in their land.

The challenge before us this year is to put flesh on the bones of that commitment. This year, we must support efforts to preserve the independence and integrity of South Africa's neighbors who are besieged and beleaguered by the refugees from apartheid.

There can be no doubt that a war is going on in southern Africa, and the cause is apartheid. The first front is, of course, within South Africa itself. We have been told that the State of Emergency will continue for another three to five years. The press has been silenced with ever more draconian decrees, and American correspondents are now expelled from South Africa for the crime of reporting the news. Thousands remain in detention, and millions still live in subjugation. The South African military is deployed throughout the land, and the people of that country live under an army of occupation. South Africa has become one of the world's truly totalitarian states.

But apartheid's war extends beyond the borders of South Africa into the territory of its neighbors. By fostering economic dependence, by fomenting internal disorder, by exporting chaos into the nations that live along its borders, South Africa works steadily to preserve its hold on its own people.

South African Defense Forces have conducted raids on the capitals of Botswana, Zambia, and Zimbabwe. But military pressure is only one element of apartheid's war on its neighbors. It is no small accident of history, but rather a legacy of British colonialism, that the lines of transportation, communication, and trade—the very life blood of commerce in the region—run from north to south through South Africa, giving that government a stranglehold over the economies of the neighboring states. For the nations of the frontline states to be truly independent, South Africa's grip must be loosened and its stranglehold lifted.

Therefore, the challenge before the international community today in southern Africa lies on two fronts.

First, we must fulfill our commitment to assisting the struggling nations that border on South Africa. By providing assistance to the frontline states, by making a five-year pledge of support, we will be telling the peoples of southern Africa that the American people are involved in their struggle, that we have a stake in the outcome. The United States should be helping those nations to achieve economic independence from South Africa and to preserve their political independence in the face of the threats and attacks from the armies of apartheid.

The second, and even more urgent, task is to address the growing humanitarian needs of the victims of this struggle—the growing flow of refugees throughout the region. Tragically, not only have refugees come to play an intrinsic role in the struggle taking place in southern Africa, but the displacement of civilian populations can now be seen as a major cause, as well as a devastating effect, of an impending famine that threatens millions of people in the region.

Massive displacements of populations in southern Africa are not a recent phenomenon. Since the early 1960s, the Republic of South Africa, through the infamous Group Areas Act, has forcibly relocated more than 3.5 million of its citizens, imprinting on the nation a mosaic pattern of racially defined areas. Although the government officially suspended forced removals in 1985, it coerced some 64,000 black South Africans to "resettle" away from areas designated for whites only in 1986, and thousands more were similarly displaced in 1987.

Neither the terms used to describe South Africa's physical separation of its racial communities—*relocation*, for example, or *resettlement*—nor even the enormity of the numbers affected conveys a sense of the tragedy that this program has entailed. Entire families have been uprooted at the convenience of the state: children have been forced to leave their homes, their schools, and their friends; adults have been displaced from their communities and forced to live at great distances from places of employment. More serious, many thousands of South Africans have been deprived of their rights of citizenship and forced to live in the artificial *homelands* created by the South African authorities in an attempt to reduce the black majority population of the nation.

ANGOLA AND MOZAMBIQUE—THE MASSIVE UPROOTING OF PEASANTS

As harsh and cruel as the fate of the victims of forced displacement is in South Africa, however, the immediate plight of peasants in Angola and Mozambique is immeasurably worse. Since gaining independence from Portugal in 1975. Mozambique has been beset by a persistent insurgency mounted by the Mozambique National Resistance (MNR), a movement organized initially by the white minority regime of Southern Rhodesia (which is now majority-ruled Zimbabwe) and supported in recent years by the military establishment of South Africa. The effects of the insurgency on the social and economic infrastructure of Mozambique have been all too obvious.

In the dozen years since Mozambican independence, nearly 4,000 schools—about two-thirds of all educational facilities in the country—have been destroyed or abandoned as a result of the conflict. Similarly, since 1982, some 600 health posts and rural clinics have been destroyed, looted, or forced to close. Railroads, bridges, factories, mines, and utilities—virtually every form of productive infrastructure—have been targets of sabotage, and the nation has been brought to the point of economic ruin.

The impact upon the population of Mozambique has been devastating. Because most schools have been destroyed, less than half of Mozambique's primary school-aged children are enrolled in classes. As a result of reduced access to health care, one-third of all Mozambican children die before their fifth birthday. Of equally great consequence is the massive displacement of the Mozambican people, which has increased at an alarming rate during the 1980s. By mid-1983, the conflict in Mozambique had already seriously affected close to two million of the nation's total population of 14 million. Today that number is more than four million. At the end of 1987, more than two million of these affected persons are physically displaced within Mozambique, and more than 800,000 others have sought refuge from the conflict in the neighboring countries of Tanzania, Malawi, Zimbabwe, Zambia, Swaziland, and South Africa.

Across the narrow base of Africa, the situation in Angola is in many ways similar to that in Mozambique, and in some ways it is worse. Following its 13-year armed struggle for liberation from Portugal, Angola also achieved independence in 1975. For the dozen years since independence, the Angolan population has suffered terribly as a civil war, exacerbated by super-power involvement, has wracked the country. The economy of Angola has been decimated and the population devastated, with the nation no closer to the peace and unity that it so desperately seeks.

As in Mozambique, the continuing conflict in Angola has resulted in the pervasive destruction of the social and economic infrastructure. UNICEF has estimated that 55,000 children under the age of five died from violence-related causes in Angola in 1986 alone. An especially disturbing aspect of the war has been the indiscriminate laying of land mines—in agricultural fields and village footpaths—that have already crippled some 20,000 Angolans, many of them women and children.

Since 1975, nearly 40 percent of Angola's population of 8.6 million have been uprooted. Almost 400,000 of these have sought refuge from the violence in neighboring Zaire and Zambia while, within Angola, millions of rural civilians have been internally displaced, forced into the comparative safety—but abject poverty—of Angola's towns and cities.

The massive uprooting of rural populations in Mozambique and Angola has had an adverse impact not only on the people displaced, but on the entire well-being of their nations, contributing substantially to severe food shortages in each of those countries. The peasants forced from their villages have crowded into cities and have clustered around municipalities, where little land is available for farming. As a consequence, they have cultivated too intensively the small plots available, depleting the soil in those areas of its nutrients. Thus, while fertile but insecure fields lie fallow in rural areas, soil fertility and crop yields in the populated centers have declined sharply. Angola and Mozambique, once net exporters of food, are now no longer able to feed themselves.

In Mozambique, more than 6.5 million people rely of food assistance from the international community, as total marketed production from Mozambique's poor 1987 harvest will meet only about 7 percent of their grain requirements through April 1988. More than half of these people are considered to be at risk, meaning that they lack sufficient food—or resources to acquire sufficient food—to avert a nutritional crisis, and who, as a result, require specific intervention to avoid a life-threatening situation. The United States has taken the lead in assisting the government of Mozambique to respond to the needs of these people.

Since 1984, the United States government has sent approximately 509,000 metric tons of food aid to Mozambique, and has contributed more than $17 million toward the costs of transporting and distributing emergency relief of needy communities. Dedicated personnel of American voluntary agencies, such as CARE and World Vision, have also participated substantially in the relief effort in Mozambique, working under conditions that are at best difficult, and often dangerous, to assure that relief commodities reach those in need. Other private agencies, such as Catholic Relief Services, have contributed clothing, blankets, and cash to local organizations operating in Mozambique.

In Angola, the government has been considerably less forthright about its food shortages. This has unfortunately hindered the formulation of an appropriate international response to the needs of the Angolan people. Recent reports from Angola suggest that the 1987 Angolan harvest will meet less than half of the total grain requirements of the country through April 1988. At particular risk because of the food shortage are approximately one million destitute Angolans who, during the past dozen years, have sought safety from armed conflict in Angola's major urban centers, as well as about 700,000 others who have gathered in rural centers during the last 24 months.

The United States does not have normal diplomatic relations with the government in Angola, but has nonetheless made significant contributions of food and money—through UNICEF and the International Committee of the Red Cross—to help meet the most pressing humanitarian needs of the Angolan people. But, unlike Mozambique, few private voluntary organizations are active in Angola, and the absence of the usual network of such agencies imposes added difficulties to mounting an effective relief effort. Meanwhile, the crisis affecting Angola's displaced civilians appears to be worsening, and an expanded international response is necessary if the most vulnerable segments of the population—infants and children under the age of five—are to be saved from preventable hunger, disease, and death.

PROVIDING ASYLUM—A HEIGHTENED SECURITY RISK

While displaced South African, Mozambican, and Angolan civilians suffer most directly and severely from their forced displacement, the crisis of uprooted populations in southern Africa extends beyond the borders of these nations. A major burden has been assumed by the countries of southern Africa that have received the refugees—the tens of thousands of South Africans and hundreds of thousands of Angolans and Mozambicans—who have crossed international frontiers in search of sanctuary and asylum.

Refugee flows have profoundly affected the security, as well as the economic and social development, of the nations of asylum in southern Africa. Most threatened have been those nations that have accepted significant numbers of South African refugees. In 1986 and 1987, South Africa accused its neighbors of harboring members of the African National Congress (ANC) among their South African refugee populations, and sent commando units and assassination squads to attack suspected ANC targets in Lesotho, Swaziland, Botswana, Zambia, and Zimbabwe.

Since December 1986, for example, South African government raids against ANC targets in Swaziland have resulted in the deaths or abductions of a Canadian, a South African child, and at least ten South African anti-apartheid activists residing there. Raids into Zambia, in April and June 1987, caused the deaths of five Zambian citizens, and, in Botswana, two bombing incidents in 1987 caused considerable property damage and heightened concern about the presence of South African refugees.

As a consequence, local populations in frontline asylum countries are reluctant to rent housing to refugees or even allow them to live in their neighborhoods. South African refugees arriving in Swaziland and Lesotho are often required to move on to other African states as quickly as possible, and Botswana has requested the United States and other Western governments to increase their offtake of South African refugees in that country.

Refugee flows from Angola and Mozambique have similarly heightened security concerns in Zambia and Zimbabwe, and there is evidence to suggest that the presence of refugees in those countries has been used to mask cross-border insurgent activities. Sadly, innocent refugee populations are sometimes subject to host country reprisals when such incidents occur. Following repeated incursions by Angolans insurgent forces into refugee populated areas in Zambia in 1986 and 1987, for example, Zambian security forces arrested and tortured a number of Angolan refugees suspected of being sympathetic to the cause of the insurgent movement. Worse, in June 1987, following an attack on a Zimbabwean village by the South Africa-backed Mozambique National Resistance, Zimbabwean armed forces beat and killed a number of Mozambican refugees and forced some 15,000 back into war-ravaged Mozambique.

A STRAIN ON ECONOMIC AND SOCIAL DEVELOPMENT

The movements of large numbers of refugees in southern Africa have also seriously impeded the economic and social development of asylum countries in the region. Even prior to the refugee influxes, the refugee receiving countries of southern Africa were experiencing high rates of unemployment. The presence of many thousands of destitute refugees needing work has greatly compounded the unemployment problem. Environmental degradation has also become a major concern in nations such as Malawi, where the simple fuel needs of several hundred thousand Mozambican refugees have accelerated the deforestation of wide areas of land.

Large-scale refugee movements have also strained the health delivery systems and administrative capacities of the asylum nations. With United Nations High Commissioner for Refugees (UNHCR) sponsorship, the French medical group *Médecins sans Frontières* has provided medical assistance to some of the nations with large refugee populations, as have the International Committee of the Red Cross and World Vision International. While these organizations have helped ease the burden, local hospitals and clinics in major refugee-impacted areas are generally treating caseloads far beyond normal size, sometimes exceeding what is considered the maximum capacity of the health facilities. Likewise, the administrative structures of local authorities are being strained by the added burden of managing large refugee populations.

As heavy as the load is on the nations offering refuge in southern Africa, the most tragic burden is on the refugees and displaced persons themselves. Countless thousands of young South Africans, Angolans, and Mozambicans—the children of a dozen years ago—have grown to adulthood under the most violent and brutal of circumstances. In South Africa, children as young as twelve years old have been arrested, held incommunicado, and tortured. In Angola and Mozambique, innocent rural families have been subjected to some of the most brutal and dehumanizing treatment known to man. Teachers and health workers have been cruelly disfigured; the heads of suspected collaborators have been crushed upon rocks; women and girls have been brutally raped; young men have been flayed and crucified; and entire communities have been slaughtered for no fathomable reason.

Old and young have been subjected to torture or have witnessed the savage abuse of loved ones; some have lost limbs, and some have lost their families; all have lost the stability of their homes and their land. Hungry and exhausted, uprooted peasant families continue to arrive daily in South Africa, Malawi, Zimbabwe, Zambia, and Zaire. While these atrocities are plainly beyond comprehension, their cumulative effects—the traumatization of hundreds of thousands of innocent peasants and the depopulation of broad areas of productive land—require our response. At the very least, these refugees deserve a secure sanctuary, free from the fear of being forced back into the violence and brutality that they risked their lives to escape. For many, however, this most basic need is not being met.

The South African government has tried to insulate itself from the very catastrophe it has to deliberately fostered. To stem the influx of refugees, South Africa has erected an electrified fence along its border with Mozambique. Mozambican refugees who nevertheless manage to escape the war in their country, and who are then discovered outside a *homeland* in South Africa, are routinely expelled to Mozambique. According to South African government estimates, it forcibly repatriated some 2,000 Mozambicans from South Africa each month during 1987, and even those Mozambicans who have obtained permission to remain in a South African *homeland* live in constant fear that their temporary residence permits may be rescinded at any time. Unfortunately, UNHCR, the international body responsible for the promotion of refugee protection, is not present in South Africa.

UNHCR is active in the other nations of southern Africa, and assists their governments in meeting the needs of their refugee populations. While most of these nations maintain generous asylum policies, however, refugees in some situations have grave concerns for their continued security. The forced repatriations of Mozambicans from Zimbabwe, for example, are as heinous and intolerable as South Africa's similar actions.

Other requirements, too, remain unmet. There is an urgent need for clothing in many of southern Africa's refugee communities, and health and sanitation problems continue to be pressing. A number of isolated settlements of uprooted persons in war-torn Angola and Mozambique are inaccessible to relief agencies due to security concerns. Clearly, there is a desperate need for a broad, humanitarian commitment to southern Africa's afflicted populations, not only on the part of the United States, but also from all the parties to the conflicts in Angola and Mozambique and from the countries of asylum in the region.

AVERTING AN ENORMOUS HUMAN TRAGEDY

Nowhere has the devastating impact of the struggle in southern Africa on the people of the region been more dramatically documented than in a UNICEF report made public at a hearing I chaired earlier last year before the Senate Subcommittee on Immigration and Refugee Affairs. In their testimony, UNICEF field representatives said that each day "more than 360 children under the age of five will die as a result of war and economic destabilization in Angola and Mozambique . . . one small child every four minutes." UNICEF found that in 1986, "140,000 small children died from these causes. This year, the figure will probably be higher. Every hour 15 innocent and defenseless children will perish . . . not as a result of gunfire, but of preventable disease and malnutrition, made worse by economic destabilization and war destruction."

Early in 1987, the United States ambassador in Mozambique cabled the Department of State seeking to invoke the disaster assistance provisions of our foreign assistance program because of urgent food needs. He declared, "It is now evident that the disruption of social and economic life (mainly food production and transportation) by civil strife has reached disaster proportions." He reported that the total population at risk was 3.5 million, of which only 38 percent were accessible to relief agencies. Coupled with urban dwellers and others dependent upon food distribution, 5.7 million—over a third of Mozambique's population—were then in need of assistance. Conditions have only worsened since.

The issue before us today is urgent and clear: there is much more that we and the international community must do if an enormous human tragedy is to be averted.

1. We must sustain a bipartisan coalition in support of legislation that will give substance to the political commitment Congress made in 1986 to help bring an end to the rule of apartheid. We need to continue to send a signal to the frontline states that America is also firmly on their side as they struggle to resist the conflict and economic destabilization launched against them by the minority government of South Africa.

2. There are a number of immediate steps that must be taken to strengthen the international community's ability to assist those in need—the refugees throughout the region. The United States should:

Support efforts to enhance the presence of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross throughout the region. Specific steps might include diplomatic efforts to pressure South Africa into permitting a Branch Office of the UNHCR to be opened in the country that is the source of the problem, as well as adding resources to the ICRC and UNHCR in Zimbabwe and Malawi.

Support international efforts to assure the free passage of relief commodities, through the International Red Cross, to affected areas in Angola and Mozambique.

Respond urgently and generously to the growing food needs in Angola and Mozambique.

Support better emergency planning programs in the region, involving governments, major donors and local and international relief organizations. We must remain vigilant about the need for better international coordination and the possible need for the appointment of a United Nations coordinator for the region.

3. The United States should review our current refugee resettlement policies and practices towards refugees from South Africa who are in Swaziland, Lesotho, and Botswana. While local settlement remains the preferred option at the current time, there may be a time and there may be a growing number of cases for whom third-country resettlement should be considered.

4. Given current conditions along the borders of many southern African countries, "self-settled refugees" should be moved from border areas where there is conflict and violence—this despite the reluctance of many of these refugees to move into organized settlements. This can only be encouraged if there is adequate international support to sustain their movement and improve their conditions.

Finally, it is important for us not only to ponder America's role in helping to address the humanitarian problems of southern Africa, but also our role in helping create them.

During hearings our Subcommittee held in early 1987, I questioned Administration witnesses about whether—in Angola and other areas—they had reviewed, in their policy considerations, the impact of military and foreign policy decisions on the creation of refugees and civilian war casualties. I wondered whether they had given some thought as to what the impact of the military and covert assistance operations they were about to approve would mean in the creation of refugees, civilian war victims, orphans, and others in need. I did not receive a very satisfactory answer.

In the environmental field—at least on paper—our government at all levels must consider the environmental impact of government programs. Perhaps it is time for those making our foreign and military policies to consider making a *refugee impact statement*—an up-front assessment of what those policies will mean in the creation of refugees, civilian casualties, and others in need.

At least we might be better prepared to deal with the human debris of our distant foreign policy decisions if we did—and be better prepared to provide the resources necessary to save refugees and others so directly affected by those foreign policy decisions. And it would certainly help open our eyes as to what we are doing—today in southern Africa and Central America—and tomorrow, who knows where?

Our response to the humanitarian needs of the people of southern Africa has been generous, but our task is not complete. While we will continue to do all we can to provide food, medicines, and other life-sustaining aid, we must also do more to deal with the *root cause* of the refugee crisis—the system of injustice in South Africa that has spawned the conflict in southern Africa.

REFUGEES IN THAILAND

(By Court Robinson)

By most accounts, 1987 was a good year for Thailand. The economy grew by more than six percent, and steady annual growth was predicted through 1992. "Visit Thailand Year," a special tourist promotion that runs through July 1988, will likely attract more than 3 million visitors who may spend as much as $1.8 billion. No coups were even attempted in 1987, marking the eighth year of relative political stability under Prime Minister Prem Tinsulanond. The much revered King Bhumipol Adulyadej celebrated his 60th birthday on December 5, and in July will become the longest reigning monarch in the country's history.

But if most of Thailand was a more festive and prosperous place in 1987, its borders remained tense, volatile, and crowded with refugees. Cambodians along the border and in Khao I Dang camp now number close to 290,000. There are 60,000 Hmong and other highland Laotians in Ban Vinai and Chiang Kham camps to the north, and 24,000 lowland Lao in Ban Napho. The arrival of Vietnamese boat refugees in 1987 was at a five-year high as more than 11,000 newcomers crowded into Section C, where Vietnamese are segregated from the other refugee groups in Phanat Nikhom.

Indochinese constitute Thailand's largest and best publicized refugee population, but there are also hilltribe refugees from Burma, including 20,000 Karen, 4,000 Shan, and smaller groups of Akha, Lisu, and Kayah, who have fled into Thailand to escape the recurring conflicts between the Burmese government and various ethnic minorities.

Since 1975, more than 690,000 Cambodians, Laotians, and Vietnamese have registered in refugee camps around Thailand. Of these, about 560,000 have moved on to resettlement in other countries, with the United States taking roughly 70 percent. For the first time in three years, the overall number of refugees in Thailand declined, as 28,000 people left in 1987 to start new lives in other countries. But that still leaves 120,000 refugees in camps administered by the UN High Commissioner for Refugees (UNHCR), more than 270,000 Cambodian "displaced persons" on the border, and at least 25,000 refugees from Burma scattered from Mae Sot to Chiang Rai.

These are daunting statistics, telling a long and desperate story. It is no wonder that Thailand worries, along with the rest of the world, how and when it will all end.

For the Cambodians, this year started badly when Thai authorities closed Khao I Dang, the last remaining Cambodian refugee camp administered by UNHCR. On three separate occasions in the course of the year, approximately 500 camp residents were moved to the Thai-Cambodian border, largely to Site B, run by followers of Prince Norodom Sihanouk, leader of a Cambodian coalition government-in-exile. About 21,000 refugees remain in Khao I Dang, the majority of whom have already been rejected by one or more resettlement countries, including the United States. It is estimated that another 2,000 Cambodians live "illegally" in Khao I Dang, hiding out underground and behind false partitions, sharing the scarce rations of friends or relatives, and hoping someday to get away to another country.

In November, the Thai government gave permission for resettlement countries to interview about 7,000 Khao I Dang residents who previously had been denied that opportunity. These were the so-called "ration-card holders" who arrived in camp between August 1984 and October 1985. One can only hope that officials from the United States and other resettlement countries will interpret the refugee definition generously for everyone still in Khao I Dang. Their forced return to the conflict on the border is inhumane, and can only add to the tensions there.

More than 270,000 Cambodians live along the volatile Thai-Cambodian border without benefit of international refugee status and the protection that derives from that. In February 1987, the New York-based Lawyers Committee for Human Rights published a report documenting the widespread violence and human rights abuses suffered by border Cambodians at the hands of Vietnamese troops and Thai security units, as well as Cambodian bandits and guerrilla forces.

In December, Thailand announced that the ranger units who guard the border camps will be replaced by special Displaced Persons Protection Units. The DPPU teams will be recruited from army reservists or those with territorial guard training. The units will patrol only the perimeters of the camps, leaving internal security to unarmed Cambodian civilian police.

Other changes at the border announced by the Thai government include the relocation to a new site of at least half of the population in Site 2, now a sprawling camp of 160,000 run by the Khmer People's National Liberation Front, a demoralized and disintegrating faction of the tripartite Cambodian government-in-exile, the Coalition Government of Democratic Kampuchea (CGDK). Open markets reportedly are to be set up in Site 2, to replace the black markets that have been such breeding grounds for smuggling, extortion, and violence.

In November, the Thai government granted U.S. officials access to interview just over 1,000 Cambodians on the border and in Khao I Dang who may be eligible to enter the United States as immigrants. Thailand had previously discouraged efforts to process people on the border for fear that this might both undermine morale in the resistance and draw more Cambodians into Thailand in hopes of resettlement.

A far more intractable problem is what to do about the Khmer Rouge presence on the border. On three nights in January 1987, 1,683 people were forcibly moved from a relatively open Khmer Rouge camp called Site 8 to an inaccessible military camp, Na Trao, run by Ta Mok, one of the most brutal of the Khmer Rouge commanders.

There is a growing sentiment among relief workers on the Thai-Cambodian border that UN aid to the Khmer Rouge military camps must end and that the residents of these camps, along with the 32,000 people in Site 8, should have an opportunity to remove themselves freely and safely from Khmer Rouge domination if they so wish. It is bad enough that a genocidal faction derives credibility and political validation from continued UN recognition as a member of the CGDK. It is appalling that the international community continues to provide aid to these mass murderers in the name of humanitarianism.

It was an up and down year for the Hmong as well. More than 8,500 Hmong and other groups from the highlands of Laos were resettled in the United States in fiscal year 1987, the highest total since 1980. The U.S. Immigration and Naturalization Service continued to approve 99 percent of the Hmong interviewed for resettlement, based in large part on their support of U.S. efforts during the second Indochina conflict.

Two particularly serious pushbacks of Hmong occurred in 1987. On March 15, Thai authorities removed 105 Hmong from Ban Vinai, a UNHCR-administered camp, claiming that the group had entered illegally. Shortly afterward, 38 of the group were handed over to Laotian officials and taken back across the Mekong River. As of December, their fate was still unkown.

On the evening of November 16, a group of 34 Hmong were apprehended trying to enter Ban Vinai. Thai government sources report that they were given a choice of going to a detention center or returning to Laos. They reportedly chose to return and were ferried across the river that evening. Some time later, gunfire was heard. Reports differ as to what happened, but circumstantial evidence suggests that some or all of the group were killed.

Since 1985, Thailand has operated a border screening program to distinguish bonafide refugees from economic migrants. Of the 10,000 or so highland and lowland Lao who have been interviewed by Thai border officials, 2,400 have been screened out and await return to Laos. On October 30, the first nine people from this group were returned home, after approval was obtained from the Laotian government. Another 100 may be returned shortly under UNHCR auspices.

The most serious problem with the screening program is that the Hmong have been afraid of presenting themselves to a Thai border official, for fear of being pushed back without a fair hearing. The Thai position is that Hmong who try to smuggle themselves into the country rather than come forward voluntarily are illegal immigrants and subject to deportation.

"It's a vicious circle," said a UNHCR official in Bangkok. "The Hmong are sneaking into Thailand because they feel they might be pushed back to Laos if they make their presence known. And because the Hmong are still sneaking in, pushbacks are more likely to take place."

In testimony before Congress this year, and in repeated representations to the Thai and U.S. governments, USCR has urged that all Laotians have access to the screening program, and that pushbacks be halted.

On December 2, the Thai National Security Council agreed that up to 10,000 unregistered Hmong living in or around Ban Vinai would be given the opportunity to apply for refugee status, along with about 1,300 Hmong in the area of Nam Pun, and smaller numbers detailed at Pak Chom and Nong Khai. As of early January, about 4,000 Hmong had been moved from Ban Vinai to Chiang Kham for screening. Equally good news is the Thai announcement that local pushbacks will stop and that any further repatriation will take place through UNHCR with the acknowledgement of the Lao government.

Phanat Nikhom became the largest Vietnamese refugee camp in Southeast Asia, as boat arrivals in Thailand climbed above 11,000 in 1987. Section C, the Vietnamese section in Planat Nikhom, housed close to 12,000 people in November. The overcrowding, the isolation from the rest of the camp—Section C is surrounded by a high, galvanized metal fence—and the stress of long confinement with an uncertain future are creating growing numbers of refugees with "deep suicidal depression," according to David Loveridge, a clinical psychologist working in the camp. "As people lose the things that have meaning for them, there is a quiet dying that goes on inside."

The Thai anti-piracy program continued to show results in 1987. Despite an increase in arrivals, piracy attacks in the Gulf of Thailand dropped sharply. In the southern part of the Gulf, where piracy is at its worst, 26 percent of the Vietnamese refugee boats reported attacks, down from 44 percent in 1986. Overall, in 1987, 75 boats were attacked and 35 people were reported missing, of whom 4 were believed abducted. The figures for 1986 were 55 boats attacked, with 107 missing and 26 abductions.

In a September issue paper, *Uncertain Harbors: The Plight of Vietnamese Boat People*, USCR reported that a decline in attacks has been accompanied by an increase in the arrest and conviction of pirates. In 1986, 50 suspects were arrested and charged, 20 more than in the previous four years combined.

Hilltribe refugees from Burma did not fare well in 1987. On September 18, Thai officials began a ten-day operation to forcibly return 1,800 hilltribe people, mostly from the Lisu and Akha tribes, to Burma. Humanitarian workers in Chiang Rai Province reported that several of the villages were raided at dawn by border patrol police and rangers. After the people were trucked out, the villages were torched.

1987 was a contradictory year for refugees in Thailand, with encouraging gains and dispiriting setbacks alike, but, at the close of the year, some cause for hope existed that government policy would continue to demonstrate increasing guarantees of fair treatment for all who sought asylum there.

These hopes were shattered in January 1988, when Thailand declared, in essence, that first asylum was at an end for Vietnamese. More than 1,000 Vietnamese have been pushed back out to sea since January 28, and more than 100 are dead. In February, Thailand showed signs of moderating its pushback policies, but it appears likely that all newly arriving Vietnamese will be moved to site 2, and resettlement opportunities will be restricted.

UKRAINIAN FAMINE COMMISSION

● **Mr. KASTEN.** Mr. President, I am glad to be included as an original cosponsor of the bill seeking to extend the mandate of the Ukrainian Famine Commission beyond its initial termination date of Friday, April 22.

The Commission was created 4 years ago to investigate the manmade Soviet famine of 1932-33. The Commission has not been able to complete its study, and we ought to support it for an additional 2 years as it completes its important task.

Mr. President, the horrible famine of 1932-33 is not of interest merely to Ukrainian-Americans. It is instructive for all men and women of good will who are seeking to understand the central conflict of our times. That basic conflict opposes the forces of liberty and human dignity to the forces of repression, tyranny, and dehumanization.

The government-enforced starvation of 7 million Ukrainians is a stark reminder of the brutal political values that have risen to prominence in our century. It is only right for us to help the Ukrainian Famine Commission tell the true story of the Great Famine.●

THE TWENTIETH ANNIVERSARY OF THE BERGEN YOUTH ORCHESTRA

● **Mr. LAUTENBERG.** Mr. President, I rise to pay tribute today to the Bergen Youth Orchestra which celebrates its 20th anniversary this year. This group of fine young musicians has received high acclaim from area critics for its successful performances at Alice Tully Hall, Lincoln Center, and The John Harms Center. The Bergen Youth Orchestra has performed such works as Mahler's Symphony No. 1, Tchaikowsky's Symphony No. 5, and Symphony No. 4, by composer Vincent Persichetti, who was a member of the Bergen Youth Orchestra Executive Board. May of next year, these talented young musicians will perform at Carnegie Hall.

In celebration of their anniversary this spring, the orchestra will present a very special concert on June 12, 1988, at Orrie de Nooyer Auditorium in Hackensack, NJ, under the baton of Eugene Minor. Its two prep orchestras, the Bergen Junior Orchestra and the Bergen Youth Preparatory String Orchestra will join the performance and celebration.

I'd like to commend these fine young musicians and the people who have supported them through both musical instruction and financial contributions. Since its inception, the orchestra has provided orchestral training for young musicians throughout northern New Jersey.

The high acclaim the Bergen Youth Orchestra receives illustrates the potential of American youth to express themselves musically and the need for strong viable music programs in our schools. Musical artistic development is a very important part of good education. Mr. President, I applaud these young musicians for the time they devote to practice and development of their musical talents, and I wish them well on their orchestra's 20th anniversary.●

CLOSING OF LA PRENSA

● Mr. KASTEN. Mr. President, it has often been said that the price of freedom is vigilance. Twice in the last week international events have borne witness to the truth of this observation.

The signing of accords mandating the withdrawal of Soviet forces from Afghanistan demonstrates that an American commitment to freedom can be effective in a regional context. We have to remain as committed to seeing the accords implemented as we were to helping the Afghan freedom fighters bring the Soviets to the negotiating table.

The recent events in Nicaragua also require our close attention. In utter disregard for basic freedom of expression, the Sandinista junta has harassed and closed down the independent newspaper La Prensa. It is essential that we examine the actions of the Nicaraguan Government when deciding whether to lend credence to its professions of willingness to implement democratic reforms.

With that in mind, I call the attention of my colleagues to an important editorial in today's Washington Post appraising the Sandinistas' exercise of arbitrary power in the closing of La Prensa. I ask that it be included in the RECORD.

CLOSING DOWN LA PRENSA

One more small but pointed lesson in arbitrary power was administered by the Sandinistas the other day, and once again the victim was La Prensa. For 15 months, until last October, this vibrant opposition newspaper had been closed down, and earlier this month it was closed down again, this time ostensibly because it had used up its allotment of newsprint. It was lost on no one that this was happening just on the eve of the first broad negotiations between the Sandinistas and the rebels in Managua—talks that are meant to define the terms under which the current temporary cease-fire will be converted into a permanent political settlement of the country's nearly decade-long civil war.

One can guess that, by denying La Prensa the newsprint, the Sandinistas meant in general to show who is in charge and in particular to silence the opposition at a critical moment in Nicaragua's passage. The deeper message conveyed, however, is the impossibility of relying on the existing Sandinista structure to ensure a fair political future for Nicaragua. The system the Sandinistas now run gives the party extraordinary control over the levers of power, including the press. Newsprint, for instance, is the Sandinistas' to provide or to withhold. Indeed, in the fuss the other day, once some attention began to be turned to La Prensa and a private American organization offered to send down an emergency ration of newsprint, the Sandinistas suddenly came up with a supply sufficient to tide the newspaper over until its next scheduled allotment. The authorities went on to claim credit for this benefaction, which they said was not formally required of them under the prevailing newsprint allotment scheme.

The Sandinistas do not deserve credit. Nicaragua deserves a system in which the freedom of the press does not depend on the discretion of the Sandinistas. A system that makes one party—a party demanding a leading role, no less—the lone arbiter is by definition a system in which freedom of the press does not exist. No Nicaraguan's freedom should depend on how the Sandinistas gauge the political winds when they get up in the morning. Real freedom can exist only when it is institutionalized in a political system that has a built-in respect for the press, for a multiplicity of parties and for rules of law that ensure an open and equal competition among them.●

WHY PRESERVE THE SCIENTIFIC ARCHIVES?

● Mr. BENTSEN. Mr. President, 1 year ago I commented here on concerns about the permanence of the scholarly record archived in our libraries. The majority of scientific literature in existence today is printed on high-acid content paper. Without expensive efforts at preservation, it is destined to disintegrate over the period of a lifetime. Acid-free paper which will last for centuries rather than decades in ordinary library use is now available. The printed word is expected to remain the premier means for imparting knowledge for the foreseeable future. By using more permanent, acid-free paper in the production of scientific literature, much of the preservation problem can be stopped at its source.

Early last year, the Board of Regents of the National Library of Medicine, joined by our colleague in the House, the Honorable WILLIAM H. NATCHER, brought these issues to a public forum to initiate discussion and to increase awareness of this serious problem. As its result, the library convened this January a permanent paper task force to develop a plan to encourage the increased use of acid-free paper for biomedical literature and guide its implementation. Task force participants include publishers, editors, paper manufacturers, and librarians. Its activities should ultimately contribute to facilitating the preservation of the printed record also in fields of scholarly endeavor other than biomedicine.

Lois DeBakey, Ph.D., professor of scientific communication at the Baylor College of Medicine cochairs the task force with Gerard Piel, chairman emeritus of Scientific American. Because, in the long run, the preservation of scholarly literature is a responsibility we as a society all share, I ask that Dr. DeBakey's keynote statement of its mission to the task force be printed in the RECORD.

The statement follows:

WHY PRESERVE THE SCIENTIFIC ARCHIVES?

(By Lois DeBakey, Ph.D.)

The question—"Why Preserve the Scientific Archives?"—seems gratuitous to us, to whom scholarship and the recorded past are vital. To others, however, the answer is not so obvious, and we may therefore have to persuade them of the need for preservation.

André Cournand asked the question thus: "Is it of benefit to revive the knowledge of the past?" His answer, and I quote:

"In unfolding the common patrimony which unites successive generations of inquiring men, in meeting them as individuals, in attempting to understand the problems they had to face, the intellectual climate in which their investigations were pursued, . . . it is my belief that a sharper consciousness of our own nature is brought forth, and the continuous doubt of the truths which we are building is revealed as our main motivation."

In a more practical vein, the first step in investigative research, as every responsible scientist knows, is a comprehensive review of previous publications on the topic of interest—to uncover what is already known about the subject, what previous investigators have observed, and what the remaining questions are. In this way, the researcher can circumvent mistakes committed or paths that proved unfruitful in earlier experiments and can avoid duplicating previous studies that have yielded conclusive answers.

The scientific archives are sprinkled with instances of discoveries ignored or overlooked for varying periods, then rediscovered later. The cost to the advancement of science is high. Mendel's classic work on genetics in 1866, for example, was virtually forgotten until several botanists rediscovered it at the turn of the century. The CAT-scan represents another instance. Physicists A.M. Cormack, a pioneer in the development of computer tomography, encountered a mathematical problem in the 1950s and 60s whose solution was essential to his work. He spent considerable time and effort in solving the problem, only to discover, fourteen years later, that mathematician J.H. Radon had published a paper in 1917 that contained the solution he was seeking.

In an address to The American Philosophical Society in 1986, Sir Andrew Huxley cited six examples of key discoveries having been made in the nineteenth and early twentieth centuries, but forgotten by 1950. If much of the well-substantiated and generally accepted knowledge of muscle could be lost in a "collective amnesia" by 1950, then, Sir Andrew reasoned, it could surely happen again, especially when the bulk of publications continues to proliferate and it becomes ever more difficult to pay attention to anything but the most recent work.

Today, in fact, promising young scientists seem to search only the recent past for information on their subject of interest. I see a troubling trend for contemporary scientific authors to cite only electronically retrievable references, that is, those within the past couple of decades. Should we encourage the tendency to push forward in new directions before existing knowledge is thoroughly absorbed? If we do, don't we risk a multiplication of isolated observations whose interpretation and significance may never be realized?

Ignorance of past research can lead to redundant studies. It is a tendency that ill serves science. Reading of the investigations of others, moreover, often generates new ideas and suggests additional lines of inquiry. Without access to and consultation of earlier work, further medical advances might well be delayed.

So access to past publications is important. But many of the books and articles published since the 1850s are crumbling inexorably on our library shelves, reducing information to dust and obliterating a century or more of history. A fourth of the collections at the Library of Congress and at Stanford University, a third at the Yale University Library, and half of the New York Public Library's five million volumes are disintegrating. Ninety-seven per cent of nonfiction books published in the first half of this century will not last until the next. While pages of the Gutenberg Bible remain white and supple and their bindings firm, the pages of a 1912 work by Henrik Ibsen are turning to dust.

Thanks to the foresight of the architects and staff of the National Library of Medicine, with its protective environment, our collection has a smaller proportion of embrittled books than many other major libraries. Even so, while we undertake symptomatic treatment of the 12% of the collection that is already embrittled, we need to encourage preventive measures for the future by urging the use of acid-free paper for publications worthy of being preserved more than fifty years. Such a policy implies the establishment of criteria distinguishing the worthy from the not-so-worthy—admittedly a formidable task.

Despite the gravity of the problem, almost all action has been rehabilitative, not preventive. Doesn't our indifference to the silent destruction of our medical archives reflect a disrespect for the efforts and knowledge of the past? Isn't it a kind of arrogance to assume that the discoveries of our predecessors are not worth preserving and that the wonders of modern hi-tech science vindicate the obliteration of past ideas, observations, and wisdom? Or is there, perhaps, a scintilla of truth in the proverb that "There is no new thing under the sun"?

And what about the incentive value of preservation for authors? Scientists and scholars receive comparatively little remuneration for sharing their information with others. A strong incentive for their efforts is the possible durability of their work. The perishability of scientific books and journals, however, adds considerably to the odds against such a reward.

Remember that scholars and scientists, unlike journalists and authors of popular articles and books, not only surrender their intellectual property to editors without compensation, but sometimes pay reviewing charges, accept revisions in their manuscripts that they may not prefer, and are required to buy back their own words in the form of reprints. Is it, then, any wonder that they consider durability important? [I use the term "durability" in its conventional and primary sense, not the secondary sense attributed to NISO and ASTM standards. You will notice that I have also avoided using permanence in a loose sense. But that is something we can discuss later.]

An author's literary product, if of some potential value to humanity, deserves more stable paper than the acidic material on which many scientific journals and books are printed today. Editors and publishers should consider the question: If an original scientific report is not worth preserving, is it worth publishing?

If we can raise the awareness of authors, researchers, archivists, librarians, and readers—all of whom have an interest in preservation—perhaps our collective voices will be heard by publishers, printers, and even government officials. There is no doubt that a national preservation policy is needed to address this serious issue. According to the National Conservation Advisory Council, the United States is the only major nation that does not have a coordinated national policy for conservation. I hope that our own efforts will capture the interest of others, serve as a model, and lead to national action.

With information now available in machine-readable form, the hi-tech euphorics may ask if it is really necessary to be concerned about print preservation. But long-term preservation of the new media remains uncertain. The effective life of machine-readable storage devices and optimal environmental conditions for archival storage are unknown. Even when these questions are resolved, we must still address today's and tomorrow's disintegrating printed scientific publications or lose access to them for future generations. Moreover, the new technology has still not matched the printed book's portability and easy readability. A book requires only our eyes and hands—no cumbersome equipment like computers or microfiche readers.

We must, of course, remedy the mistakes of the past by rehabilitating currently deteriorating books and journals, but, as Dr. Lindberg wisely noted, it makes little sense to continue a policy that will require such rehabilitation and infinitum. That is why we would like to see a switch to acid-free paper now, with some designation in the journal or book that the paper is acid-free. An ounce of prevention here is surely worth a pound of cure.

Most methods of remedial preservation, moreover, are time-consuming and costly. Microfilming is not only expensive and tedious, but is cumbersome for the user and therefore not very popular. The other methods of copying documents for preservation are also expensive and associated with various problems. Tapes break and stretch, videotape formats quickly become obsolete, and optical systems, magnetic disks, and computer equipment are still in a state of rapid development, so that conversion is a constant problem. Semiconductor chips and laser disks are the latest technology, but archivists are skeptical, and some contend that paper is still best for storage.

As a bibliophile, I hope, and believe, that printed books and journals will not become obsolete in the foreseeable future. If I am right, we need to begin publishing them on more stable paper.

As I see it, therefore, the question is not "Why Preserve the Scientific Archives?"—for most thoughtful people agree with Santayana that "Those who cannot remember the past are condemned to repeat it." The question, rather, is: What shall we preserve, and how shall we do it? If the cost of more stable paper is excessive—and I am not sure it is—then selectivity becomes important. Perhaps a Committee on Intrinsic Value of the Scientific Archives, similar to that of the National Archives and Records Service, will need to make recommendations. I have argued long and hard that many scientific publications are inherently flawed—redundant, inconsequential, premature, invalid, or frankly fraudulent. So although I would be the last to say that every scientific article deserves publication, I do believe that once published, they all contribute to the history of science, however glorious or inglorious parts of it may be. Even scientific fraud, once published, should not be suppressed. It, too, is a part of scientific history, and deserves to remain exposed—to remind editors, reviewers, and readers to be more vigilant and to allow historians to analyze the record accurately.

Our expectations are modest. If we can reduce the problem by even a small percentage each year, we will have made a worthwhile contribution. The funds saved from remedial preservation can be used far more productively, particularly in light of the current emphasis on cost containment. Our purpose is in no way to inhibit exploration of technological innovations, but rather to ensure that the library of the future will be a true library of record, with access not simply to current publications but to the historical record of medical science, which is essential for further productivity and advance.

With a clear danger of losing more than a century of the human record, can we afford to continue storing problems for the future? I think not. We must begin prevention now—for the hour is already late.●

THE TRADE DEFICIT

● Mr. SIMON. Mr. President, I would like to take this opportunity to recognize the efforts of one of the cities in my State to reduce our Nation's foreign trade deficit.

Rockford is the second largest city in Illinois, located about 90 miles west of Chicago. It is a town built around heavy manufacturing, in particular, the machine tool industry. For years, Rockford's economy was stagnant, and it suffered from one of the highest unemployment rates in Illinois.

Recently, the Council of 100, an organization affiliated with the Rockford area Chamber of Commerce, initiated a project to increase the foreign trade activity in the Rockford area. The council has been active in advertising what the Rockford area has to offer, as a producer of goods and as a location for foreign investment.

On Tuesday, council members and selected Rockford business people will be leaving for a trip to Hanover and Stuttgart, West Germany, and then on to Stockholm, Sweden. They will be meeting with German and Swedish business leaders and elected officials, initiating the person-to-person contact essential to international trade. From these contacts business will grow.

This is the council's second trip to Germany and Sweden, and the first has already paid off. Krause Co., a German extendable ladder company, has located a new plant in Roscoe, IL, as a result of the council's first venture.

Soon, we in Congress will be given the opportunity to vote on the trade conference's report, embodying 3 years' worth of work in this area. I have supported several measures that would make our Nation better able to trade in the world market. As I outlined in my book "The Tongue-Tied American," we absolutely must commit more of our resources toward foreign language education. We should also spend more on Eximbank export loan guarantees, and target them toward medium and small manufacturers, the sector that offers the greatest potential for export growth. These measures would improve the United States' competitive position.

But our massive trade deficit cannot be solved only through legislation, no matter how well crafted. It will take effort from all sectors: business, consumers and local governments.

I am proud that a city in my State has had the initiative to take on world-class competition and seek out additional business abroad, and I commend them.●

MILITARY MEDICAL MALPRACTICE

● Mr. SASSER. Mr. President, I would like to draw the attention of my colleagues to an important Supreme Court decision which was rendered last week. On April 4, 1988, the High Court wisely denied certiorari in the case of Atkinson versus U.S. In Atkinson, the Ninth Court of Appeals permitted an active-duty servicemember to sue for an act of medical malpractice which occurred during the course of her service in the military. The plaintiff in the case, Joyce Atkinson, charged that she received improper prenatal treatment at Tripler Army Medical Center, causing her baby to be stillborn.

Mr. President, I would like to take a few minutes to expand upon the facts of this case. In March 1982, Joyce Atkinson was serving as a specialist, fourth class, with the U.S. Army in Hawaii. On March 26, during the second trimester of her pregnancy, she reported to Tripler Army Medical Center, complaining of dizziness, nausea, edema, and hypertension. The staff at Tripler did not treat her, and told her to go home. Three days later, Atkinson returned to Tripler, again complaining of dizziness, nausea, and hypertension. Once again the Tripler staff merely told her to go home. Three weeks later, Atkinson returned to Tripler complaining of severe abdominal pain and hypertension. She was then hospitalized and treated for preeclampsia, a condition occurring in pregnancy which is threatening to both mother and fetus due to associated kidney failure, high blood pressure, stroke, and premature birth.

Unfortunately, this diagnosis was made much too late. By the time Atkinson was hospitalized, it was impossible to save the life of her unborn child. Atkinson brought suit in the ninth circuit, seeking redress both for the death of her unborn child, as well as for physical and mental injuries of her own. As noted, the Court ruled in Atkinson's favor.

The ninth circuit's decision creates an important exception to a judicially created rule known as the Feres doctrine. The Feres doctrine precludes active-duty servicemembers from seeking judicial redress for noncombat injuries sustained while serving our country. This rule has been justified on the grounds that permitting servicemembers to sue would undermine military discipline. However, oftentimes the Feres doctrine has been applied to situations in which no military command relationship exists. The Atkinson case is one such case. As the Atkinson court notes:

> The *Feres* doctrine bars suit only where a civilian court would be called upon to second-guess military decisions or where the plaintiff's admitted activities are of a sort that would directly implicate the need to safeguard military discipline. * * * No military considerations govern the treatment in a non-field hospital of a woman who seeks to have a healthy baby. (*U.S.* v. *Atkinson*, 804 F. 2d 561 (9th Cir. 1986) @ 563-565.)

Mr. President, I applaud the Supreme Court's decision to let the decision reached by the Ninth Circuit Court of Appeals stand. The significance of the Atkinson case lies in the fact that the highest court in the land has seen fit to allow the ninth circuit to amend Feres, a judicially created doctrine, to allow an active-duty member to sue for military medical malpractice during peacetime.

While the ninth circuit's decision in Atkinson v. U.S. is a step in the right direction, it represents a piecemeal approach to a nationwide problem. What is really called for is legislation which would guarantee all active duty military members the right that all other Americans enjoy—the right to a day in court when they are victims of medical malpractice. By not permitting active duty servicemembers to sue for noncombat injuries, the Feres doctrine effectively relegates these members of our Armed Forces to second-class citizenship. It is time for the Congress to act and guarantee the rights of active-duty servicemembers to initiate a suit in instances of military medical malpractice.

Mr. President, this deplorable situation can no longer be tolerated. I have introduced legislation, S. 347, which is designed to correct this situation and permit our active-duty service personnel to enjoy the same judicial redress accorded to every other citizen. A similar bill, H.R. 1054, passed the House in February by an overwhelming majority of 312 to 61. Mr. President, I urge my Senate colleagues to cosponsor this important piece of legislation, which would extend the basic right of judicial redress for military medical malpractice to members of our Armed Forces.●

20TH ANNIVERSARY OF THE PLAISTED NORTH POLAR EXPEDITION

● Mr. BOSCHWITZ. Mr. President, I would like to take this opportunity to honor the 20th anniversary of the Plaisted North Polar Expedition.

This day has special significance to Minnesotans. On April 19, 1968, the Plaisted Expedition, consisting entirely of Minnesotans, made the first undisputed successful journey to the North Pole over the sea ice. This was also the first expedition to attempt the North Pole on snowmobile.

The members of the expedition: Ralph Plaisted, the leader; Don Powellek, the radio operator; Gerald Pitzl, the navigator; and Walter Pederson, the snowmobile mechanic have a special place in the hearts of Minnesotans and explorers everywhere. Although their first expedition in 1967 ended in failure, these hardy souls set off for the North Pole again the following year. This time, they reached their goal, but only after a 42-day struggle across the pack ice in their snowmobiles. The 1967 expedition was recorded in Charles Kuralt's moving book "To the Top of the World."

These four men—and the many brave men in their base camp team—embody the pioneering spirit of Minnesota. I'm sure you will join me in saluting them on the 20th anniversary of their conquest of the North Pole. ●

WORLD POPULATION AWARENESS WEEK

● Mr. LEVIN. Mr. President, the world population, already exceeding 5 billion, grew by some 90 million people last year alone. At the present rate of growth, the world's population will double within the next 40 years. Of even more concern is the fact that over 90 percent of the growth is taking place in developing nations, among those nations least able to accommodate such expansion.

The implications of such growth are far-reaching. Massive population growth outstrips the supply of resources, and overwhelms the capacity of human society to provide even the most fundamental essentials necessary for human existence. The emergence of such large-scale growth overwhelms the ability to provide food, housing, education, employment, and basic health care services. The economic and political ramifications are equally great.

It is estimated that by the end of this century, almost all of the world's 20 largest cities will be located in the lesser developed nations. This is clearly a significant matter. We have witnessed the problems associated with population concentrations in our own States. In my own State of Michigan, Detroit and other cities have faced a wide range of challenges and difficulties. The fact that this occurs in an industralized nation only serves to underscore the scope of the problems that the developing world will soon be facing.

The environmental consequences of rapid population growth are equally troubling. Enormous strains will be placed on an already over-burdened global environment. These new demands will only further deplete the natural resources while adding to the destruction of a thinning ozone layer, and the pollution of this planet.

The task before us is to chart our course of action to reach the goal of population stabilization. For that purpose, the week of April 17 through 23, 1988, has been designated as "World Population Awareness Week." This is a week in which we can reflect on the challenges that are before us.

I am pleased that the State of Michigan will be taking an active role in the activities of this week. I urge my colleagues to join me in recognizing this important event.

Mr. President, I ask that a copy of the proclamation by Governor Blanchard on World Population Awareness Week be printed in the RECORD following my remarks.

The proclamation follows:

WORLD POPULATION AWARENESS WEEK

The world's population of more than 5 billion will, at its present growth rate, double in the next 40 years. More than 90 percent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion.

Rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability.

The massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forest into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer.

The tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere. The disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services, but lack the means or access to obtain them.

Therefore, I James J. Blanchard, Governor of the State of Michigan, do hereby declare April 17 through 23, 1988, as World Population Awareness Week in Michigan. I encourage all citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution, and to join me in commemorating this important observance.●

NEVADA'S WATER RESOURCES

● Mr. HECHT. Mr. President, Nevada is a very dry State, and that is probably why we put such a great store of value in our lakes and wetland resources.

Yesterday I spent 4 long hours at the Department of the Interior being briefed on how the Department proposes to deal with some of Nevada's most precious water resources: the water of the Carson and Truckee River basins in northwestern Nevada. The briefing was on the Department's proposed operating criteria and procedures, or OCAP, for the Newlands reclamation project.

The OCAP is supposed to provide for the efficient management of water in the irrigation project, in order to make greater amounts of water available for the fishery resources of Pyramid Lake.

Now I think it's fair to say that more ink, dollars, and I imagine blood has been spilled over the knotty water resource conflicts in the Carson and Truckee River basins over the last 70 years than over just about any other water resource issue in Nevada's history.

My purpose today is not to pass judgment on the Interior Department's proposed OCAP. It is very complicated and will require considerable analysis by all the parties affected. My purpose today is to focus the attention of the Senate on one incredibly significant side effect of the proposed OCAP; namely, the destruction of the Lahontan Valley wetlands, including Stillwater National Wildlife Refuge.

The Department admits that the OCAP will dry up about 18,000 acres of this prime waterfowl habitat, that also supports fishing in my State. When the Department distributed an earlier version of this OCAP last December, some 8,000 acres of vitally important Pacific Flyway wetland habitat appeared to be at risk. Although this overall OCAP proposal is clearly superior in a number of ways, the wetlands get the short end of the stick once again.

Interior does realize that it has some responsibility to prevent a National Wildlife Refuge and large State-managed wildlife areas from drying up and blowing away. It is less obvious to me that the Department truly understands that its OCAP is likely to reproduce at Stillwater, in larger and more grotesque fashion, the contaminant catastrophe that has already made the network television news at Kesterson National Wildlife Refuge in California.

In recognition of the wetlands problems, Interior has indicated its intent to seek congressional permission to reprogram $1.2 million in appropriated funds to make some physical improvements to the water delivery system at Stillwater. This is commendable, but I think everyone who is familiar with the condition of the wetlands realizes that they are eventually going to need more and cleaner water, and I can't help but wonder whether this $1.2 million might not be better spent in acquiring water rights from willing sellers, pursuant to Nevada State water law, for the benefit of the refuge and the adjacent State-managed wetlands.

In the next few days I will be consulting with the leaders of conservation organizations in Nevada, to solicit their views on this subject. At this point, Mr. President, I want to publicly indicate my support for the grassroots efforts being made by the Lahontan Audubon Society, the Nevada Wildlife Federation, the Toiyabe Chapter of the Sierra Club, and other conservation groups in Nevada, to raise funds from private sources to buy water rights for this valuable wetland wildlife habitat.

Mr. President, it is simply unacceptable in this day and age that the U.S. Government should knowingly and willingly destroy such crucial environmental resources. I have opposed the destruction of the Lahontan Valley wetlands in the past, and I will continue to fight to protect them in the future.

Mr. President, I ask that a letter to Interior Secretary Hodel from Mr.

Peter Bontadelli, chairman of the Pacific Flyways Council, and a resolution of the council on this issue, both be printed in the Record.

The material follows:

Department of Fish and Game,
Sacramento, CA, April 12, 1988.

Mr. Donald P. Hodel,
Secretary, Department of the Interior,
Washington, DC.

Dear Secretary Hodel: The Pacific Flyway Council, whose membership is composed of state fish and wildlife directors of the 11 western states met in Louisville, Kentucky, March 20, 1988, to deliberate recommendations concerning migratory birds and their attendant habitat within the Pacific Flyway.

As a result of the deliberations the Pacific Flyway Council again adopted for your consideration a resolution entitled "Wetland Habitat Protection of Nevada's Lahontan Valley" (copy attached). This resolution reiterates that the Department of the Interior, through its Bureau of Reclamation—Mid-Pacific Region, continues to ignore its legal responsibilities to wetlands and migratory birds as delineated by the various international migratory bird treaties, congressional and executive mandates and the Federal Public Trust Doctrine.

Your thoughtful and serious consideration of this resolution is requested.

Sincerely,

Peter Bontadelli,
Chairman, Pacific Flyway Council.

Attachment.

RESOLUTION OF THE PACIFIC FLYWAY COUNCIL WETLAND HABITAT PROTECTION OF NEVADA'S LAHONTAN VALLEY

Whereas, the historical wetland acres in Nevada's Lahontan Valley have decreased in size some 81 percent since the turn of the century because of water and land use conversions primarily for agriculture; and

Whereas, the remaining wetland acres support the largest portion of wetland-associated wildlife resources in the state, including 75 percent of Nevada's fall duck population, 65 percent of the state's Tundra swan population, 50 percent of the state's Canada goose population and 50 percent of the Pacific Flyway's fall canvasback population; and

Whereas, the major cause of the loss of thousands of acres of Lahontan Valley wetland habitat has been water diversion developments for the Newlands Reclamation Project; and

Whereas, to date the federal government has failed to provide mitigation for the loss of wetland habitat attributable to the development and operation of the Newlands Reclamation Project; and

Whereas, the Bureau of Reclamation's recently released Final Environmental Impact Statement, Operating Criteria and Procedures (FEIS OCAP) for the Newlands Project fails to recognize the federal government's legal responsibility to the maintenance and protection of the Lahontan Valley wetlands; and

Whereas, the avowed purpose of the FEIS OCAP is to decrease water consumption in the Newlands Project by reducing diversion inflows and improving irrigation efficiency in order to allocate more water to Pyramid Lake; and

Whereas, the net result will be continued deterioration of Lahontan Valley wetlands due to reduced inflows and a diminishment in water quality; and

Whereas, the remaining wetlands of Lahontan Valley are without certified prime water rights to protect and maintain viable wetlands and associated wildlife values at current levels: Now, therefore, be it

Resolved, That the Pacific Flyway Council strongly requests the Secretary of the Interior to meet his legal responsibilities for the protection and maintenance of the Lahontan Valley wetlands and their associated migratory birds by preparation of the required Fish and Wildlife Coordination Act Report to accurately address wetland/wildlife impacts of the proposed OCAP and to describe the necessary mitigation to offset the impacts; and be it further

Resolved, That the Pacific Flyway Council requests the Secretary of the Interior to consider the purchase and transfer of prime water rights from the Carson/Truckee watersheds to the Lahontan Valley wetlands as the primary mitigation strategy and that the accompanying cost be solicited through congressional appropriation.—Adopted March 20, 1988, Pacific Flyway Council, Peter Bontadelli, Chairman.●

BILL PLACED ON CALENDAR—H.R. 4401

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4401, the Prevention of Telephone Pornography Act of 1988, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if the following calendar orders have been cleared on his side: The nominations under the Judiciary on page 3 and page 4, running from Calendar Order No. 599 through Calendar Order No. 605, inclusive.

Mr. DOLE. Yes, those have been cleared, I advise the majority leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I thank the leader.

I ask unanimous consent, Mr. President, that the Senate go into executive session to consider the aforementioned nominations; that they be considered and confirmed en bloc; that the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of the nominees; that statements by Senators appear appropriately in the Record as though read; and that the several nominations appear individually on the face of the Record and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

The Judiciary

David M. Ebel, of Colorado, to be U.S. circuit judge for the 10th circuit vice William E. Doyle, retired.

Jack T. Camp, Jr., of Georgia to be U.S. district judge for the northern district of Georgia.

Kimba M. Wood, of New York, to be U.S. district judge for the southern district of New York.

Lowell A. Reed, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Bernard A. Friedman, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Emilio M. Garza, of Texas, to be U.S. district judge for the western district of Texas.

Thomas S. Zilly, of Washington, to be U.S. district judge for the western district of Washington.

NOMINATION OF THOMAS S. ZILLY, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON

Mr. ADAMS. Mr. President, it gives me great pleasure to stand before the U.S. Senate and recommend confirmation of Thomas Zilly as a U.S. district court judge for the western district of Washington. Thomas Zilly has my complete and unqualified support.

I am very familiar with the courts in the western district of Washington, having served as the U.S. attorney there and being a member of that bar for over 35 years. One of the stable forces over the past 15 years has been the guidance and stewardship of Chief Judge Walter McGovern. Judge McGovern is a "judge's judge." I can't think of anyone more qualified to replace Judge McGovern than Thomas Zilly.

Since Tom Zilly was nominated, I have received many letters of support for his nomination. They have come from all sectors of the legal community in King County. There has been a consistent theme in the description of Mr. Zilly in these letters and calls. He is described as diligent and thorough, and those who have worked with him admire his preparation and organization. He is an extremely capable advocate known for his hard work and discipline.

The attribute most commonly noted, though, in descriptions of Tom is his professionalism.

I am convinced that with his intellectual ability and his professionalism, Tom Zilly has all the attributes necessary to be an outstanding Federal judge.

If I can speak briefly about Mr. Zilly's background, I think this commitment to professionalism is evident in his practice and his other legal activities. From 1986 to 1987, he was president of the Seattle King County Bar Association. He is also a recognized authority on professional responsibility and legal malpractice and has authored several works on these subjects.

Mr. Zilly's desire to improve the image and the stature of the legal profession can also be seen in his dedication to pro bono work. Through Mr. Zilly's leadership, his firm Lane, Powell, has an extremely active pro bono program associated with Evergreen Legal Services. It is my understanding that Lane Powell logged in over 3,500 hours in pro bono time in 1986 and in 1987 handled approximately 290 cases.

Mr. Zilly has also been active as an officer and trustee of the bar association in soliciting lawyers of other firms to donate their time to provide legal service to the poor. During his tenure as president of the bar association, Mr. Zilly worked to double the number of lawyers who participated in the pro bono panel of the bar association.

Finally, I am greatly impressed by Thomas Zilly's genuine interest in recruiting and training young lawyers. His dedication to the legal profession carries through to the next generation and I am sure that when he steps up to the Federal bench, Tom Zilly will be a shining example and a role model to the lawyers, young and old, who will practice before him.

Mr. EVANS. Mr. President, I am extremely pleased that the Senate is confirming today the nomination of Thomas S. Zilly to be a U.S. district judge for the western district of Washington. The Senate Judiciary Committee, and the full Senate, have acted with admirable dispatch in filling the Federal court vacancy left when Judge Walter T. McGovern retired.

I recommended Tom to the President as a candidate for the Federal bench because I had no doubts about his ability to help maintain the outstanding record compiled by the remarkably talented judges already serving and to perform at the high level we in our State have come to expect. In the future he will reflect proudly on the fact that the President nominated him without hesitation, and the Senate confirmed him as a Federal judge without a dissenting vote.

Until he was confirmed today, Tom was a senior partner at the prominent Seattle law firm of Lane Powell Moss & Miller. Well respected by his peers on the bar, Tom was voted by a majority of the American Bar Association Standing Committee on the Federal Judiciary to be "well qualified," their highest rating.

He has throughout his distinguished legal career been active in bar activities and has done much to help ensure that the legal community meets its obligations to those who may not be able to pay the price of the best legal talent, but who nonetheless deserve it. I am particularly proud of his advocacy within his own firm of public interest work and his promotion during his tenure as president of the Seattle-King County Bar Association of a 100-percent increase in the number of bar association members who participate in public interest work.

I am confident that Tom Zilly will be an outstanding district court judge. I wish him and his family all the best as he undertakes this new and rewarding challenge.

NOMINATION OF DAVID EBEL TO THE TENTH CIRCUIT COURT OF APPEALS FOR THE JUDICIAL DISTRICT OF COLORADO

Mr. WIRTH. Mr. President, I am particularly pleased that the Senate will today consider the nomination of David Ebel from Denver, CO, to the Tenth Circuit Court of Appeals.

Mr. Ebel brings to the appellate court a solid legal background that has spanned more than 23 years, and has included broad experience in such diverse areas of the law as product liability, taxation, criminal law, mergers and acquisitions, antitrust, employment and discrimination, corporate and securities law, personal injury, mining and natural resources, commercial contracts and municipal law.

For the past 18 years, he has been a partner in the Denver-based law firm of Davis, Graham & Stubbs. He is now an adjunct professor of law at the University of Denver Law School, and maintains an active membership in the American Bar Association, the Colorado Bar Association, the American College of Trial Lawyers and the Colorado Judicial Institute.

The American Bar Association has found Mr. Ebel to be well-qualified to serve on the 10th circuit bench, a minority of the ABA panel pronounced him exceptionally well-qualified, and my own bipartisan Judicial Nomination Review Committee, comprised of distinguished Colorado attorneys and judges, unanimously recommmended Mr. Ebel for elevation to the court of appeals.

I am especially pleased that the Senate is taking action today on Mr. Ebel's confirmation today because of the extraordinary length of time that this vacancy has been pending. Since December 1984, Colorado has not been fully represented on the 10th circuit and I am joined by my fellow Coloradans in looking to a speedy resolution of that situation.

Senator LEAHY, Senator THURMOND, and their very professional staffs on the Judiciary Committee must be commended for having moved expeditiously to consider and approve this important nomination, especially when one notes the administration did not actually nominate Mr. Ebel until December 1987.

I encourage my distinguished colleagues to join me in supporting David Ebel's confirmation as a judge for the Tenth Circuit Court of Appeals.

NOMINATION OF JACK T. CAMP, JR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA

Mr. NUNN. Mr. President, today the Senate is considering President Reagan's nomination of Jack Camp of Newnan, GA, to the Federal district court bench. If confirmed by the Senate, he will fill a seat on the Northern District of Georgia Circuit.

I am in favor of his nomination and I urge the Senate to vote for his confirmation. Jack comes very highly recommended from a number of Georgians who have worked closely with him on business, civic, and personal matters. I believe that he will do a fine job in this important position of service to the people of Georgia and to the Nation as a whole.

Jack Camp has an extensive record of public service. He is significantly involved in the Newnan community through various civic and church activities. He also has an impressive record of military service to our country. Jack served in the U.S. Army, including a tour of duty in Vietnam. In recognition of his service, he was awarded the Bronze Star Medal.

A Newnan, GA native, Jack has been a partner in the Newnan firm of Glover & Davis since 1975, primarily handling the firm's banking, bankruptcy, and commercial law practice. A 1973 graduate of the University of Virginia's School of Law, Jack also holds a master's degree in history from Virginia. He was graduated with honors from The Citadel in 1965 with a bachelor of arts degree in history. Not only does Jack have a strong academic background, he also has a proven track record of professional experience in his position with his firm.

Mr. President, in my view, Jack Camp is a well-qualified and well-rounded individual. I would respectfully request that the full Senate vote in favor of his confirmation.

NOMINATION OF JACK T. CAMP, JR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA

Mr. FOWLER. Mr. President, and my distinguished colleagues in the Senate, I am pleased to come before you today in support of Jack Camp, an attorney from Newnan, GA, who you are now considering for the position of U.S. district court judge, northern district of Georgia.

Mr. Camp is a distinguished graduate of The Citadel who followed his undergraduate education with a master's degree in history at the University of Virginia. After the completion of his graduate studies, Jack entered active duty as a second lieutenant in the U.S. Army. He served for 3 years as an intelligence officer, including service in Vietnam where he was awarded the Bronze Star. After his discharge from the Army, Jack returned to the University of Virginia to earn a law degree.

Since 1973, Mr. Camp has been a practicing attorney in Alabama and Georgia, and has developed a broad and varied range of legal experience. In addition to his work with criminal law and general trial practice, he has had considerable experience in the areas of commercial litigation and bankruptcy law during his legal career. Also, since 1975, he has been a member of the State Bar of Georgia, with service on the Judicial Procedure and Administration Committee, and in 1987 was elected to the bar's Board of Governors.

I appreciate the consideration that my colleagues serving on the Judiciary Committee have given this nominee from the State of Georgia thus far. In conducting a full and fair examination of his qualifications—his credentials, his character, and the content of his views—they have held this nominee to the standard of excellence we all seek in a U.S. district court judge. Jack Camp has the experience we need in a Justice, and I urge my colleagues to confirm this candidate to the United States District Court for the Northern District of Georgia.

LEGISLATIVE SESSION

The Senate resumed consideration of legislative business.

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further he would like to say or any business he would wish to transact?

Mr. DOLE. No. I would advise the distinguished majority leader we have no other business.

Mr. BYRD. I thank my friend.

ORDERS FOR TOMORROW

RECESS UNTIL TOMORROW AT 9 A.M. MORNING BUSINESS

Mr. BYRD. Mr. President, the distinguished acting Republican leader, Mr. Stevens, is here. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning; that following the two leaders or their designees under the standing order, there be a period of morning business not to extend beyond 9:30 a.m. and that Senators may speak during that period for morning business for not to exceed 5 minutes each, and provided further that at the hour of 9:30 a.m. the Senate resume consideration of the pending business, the reparations bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

LIVE QUORUM

Mr. BYRD. Mr. President, at that time I will suggest the absence of a quorum, and it will be a live quorum. I will then make a motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

I ask unanimous consent that it be in order at this time to order the yeas and nays on that motion.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. I ask unanimous consent that if the yeas and nays are ordered on the motion, which they in all likelihood will be, the rollcall vote be a 20-minute rollcall vote, it being the first vote of the day and being fairly early, and that the call for the regular order be automatic at the conclusion of the 20 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on that motion, at such time as it is made.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow at 9 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business not to extend beyond the hour of 9:30 a.m. and Senators will be permitted to speak for not to exceed 5 minutes each during that period for morning business.

At 9:30 a.m., the Senate will resume consideration of Calendar Order No. 383, S. 1009, wartime relocation and internment of civilians bill. At that time, I will suggest the absence of a quorum.

It will be a live quorum, and I will then move that the Sergeant at Arms be instructed to request the attendance of absent Senators. There will be a rollcall vote on the motion, and, by the order previously entered, that will be a 20-minute rollcall vote.

The call for the regular order will be automatic at the conclusion of the 20 minutes.

So I would urge that Senators be prepared for a vote at circa 9:30 a.m., and it will be a 20-minute rollcall vote, as I have indicated.

I do this for the purpose of having Senators come to the floor early and begin to call up amendments to the pending bill.

I hope that the Senate will complete action on the bill tomorrow. There are several amendments at the desk. I have no way of knowing what amendments will be called up. I hope that the Senate will complete action on the bill, and I expect rollcall votes throughout the day.

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 6:18 p.m., the Senate recessed until tomorrow, Wednesday, April 20, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 1988:

DEPARTMENT OF STATE

ROBERT SOUTH BARRETT IV, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

WILLIAM GRAHAM WALKER, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

DEPARTMENT OF COMMERCE

W. ALLEN MOORE, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, VICE S. BRUCE SMART, JR., RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

S. JAY PLAGER, OF INDIANA, TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULAORY AFFAIRS, NEW POSITION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR TERMS EXPIRING JANUARY 26, 1994:

GARY L. MCDOWELL, OF LOUISIANA, VICE RITA RICARDO-CAMPBELL, TERM EXPIRED.

WILLIAM P. WRIGHT, JR., OF TEXAS, VICE PETER J. STANLIS, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES EUGENE BURNETT, JR., OF ARKANSAS, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF 2 YEARS, REAPPOINTMENT.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. CASPER T. SPANGRUD [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. WILLIAM E. THURMAN, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RALPH E. HAVENS, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN M. LOH [redacted] FR, U.S. AIR FORCE.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

THOMAS R. MORGAN, [redacted] U.S. MARINE CORPS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

LINE OF THE AIR FORCE

To be major

DAVID N. ANDERSON, [redacted]

BIOMEDICAL SCIENCES CORPS

KENNETH L. MEYER, [redacted]

THE FOLLOWING STUDENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1988, FOR APPOINTMENT IN THE REGULAR AIR FORCE, EFFECTIVE UPON THEIR GRADUATION UNDER THE PROVISIONS OF SECTION 2114, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

DAVID E. ANISMAN, [redacted]
BRANTLEY W. BAYNES, [redacted]
WILLIAM BENINANTI, [redacted]
WAYNE A. BREARLEY, [redacted]
IRVIN P. BROCK, III, [redacted]
MARK S. CAMPBELL, [redacted]
JOHN R. CHU, [redacted]
KATHLEEN S. CRAWFORD, [redacted]
RICHARD T. DAHLEN, [redacted]
MICHAEL C. EDWARDS, [redacted]
THOMAS A. ERCHINGER, [redacted]
JOHN R. FISCHER, [redacted]
NED J. GROSS, [redacted]
STEVEN M. HETRICK, [redacted]
LEWIS A. HOFMANN, [redacted]
LESTER A. HUFF, [redacted]
DARRYL C. HUNTER, [redacted]
LEO D. HURLEY, [redacted]
DONALD H. JENKINS, [redacted]
CAROL J. KOEBLE, [redacted]
JOHN E. LANCASTER, JR., [redacted]
MARIO ALFRED LANZA, [redacted]
MARY R. LANZA, [redacted]
THEODORE S. LAWSON, [redacted]
JACOB C. MARSHALL, JR., [redacted]
THOMAS V. MARTIN, [redacted]
MARK E. MAVITY, [redacted]
ALAN G. MCNABB, [redacted]
JOHN MIRABELLO, [redacted]
PATRIC Y. NASSAUX, [redacted]
MICHAEL PATRICK PARSONS, [redacted]
EDWIG K. PLOTNICK, [redacted]
MARK W. RICHARDSON, [redacted]
MATTHEW R. RICKS, [redacted]
LINDA M. SAKAI, [redacted]
BRIAN P. SCHAFER, [redacted]
CHRISTINE SCHAFER, [redacted]
ROBERT D. SHUTT, [redacted]
DAVID L. SMITH, [redacted]
ANDREW J. STASKO, [redacted]
DAVID EUGENE SULLIVAN, [redacted]
DAN E. THOMAS, [redacted]
ELIZABETH A. VANDERBURGH, [redacted]
WALTER D. VAZQUEZ, [redacted]
LINDA M. WANG, [redacted]
SCOTT A. WEGNER, [redacted]
KEVAN L. WONG, [redacted]
KINDI WONG, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED UNITED STATES AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PUSUANT TO TITLE 10, UNITED STATES CODE, SECTION 2107:

MARK W. GILSON, [redacted]
BRUCE R. HALL, [redacted]
KEVIN S. HILL, [redacted]
KENNETH T. KILMURRAY, [redacted]
THOMAS A. MCDANIELS, [redacted]
DAVID A. SCHLICHTING, [redacted]
TRAVIS A. TEBBE, [redacted]
CYRUS C.M. WHINNERY, [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE OF THE AIR FORCE

JAMES D. AADLAND, [redacted]
SUSAN E. ABDERHALDEN, [redacted]
JOHN R. ABELL, [redacted]
MARVIN R. ABERNATHY, [redacted]
JEANNE K. ABRAMS, [redacted]
STEPHEN J. ACELLO, [redacted]
PAUL R. ACKERMAN, [redacted]
BRYAN C. ADAMS, [redacted]
FRANCIS P. ADAMS, JR, [redacted]
PERRY J. ADAMS, [redacted]
BETTY J. ALDRICH, [redacted]
DAVID G. ALLEN, [redacted]
HENRY J. ALLEN, [redacted]
JOHN H. ALLEN, [redacted]
ROBERT W. ALLEN, [redacted]
THOMAS G. ALLEY, [redacted]
DAVID H. ALLISON, [redacted]
MARK D. ALLWORDEN, [redacted]
KIM L. AMBARIAN, [redacted]
STEPHEN T. AMELING, [redacted]
JAMES R. ANBRO, [redacted]
BRIAN D. ANDERSON, [redacted]
JIMMIE L. ANDERSON, [redacted]
JOHN K. ANDERSON, [redacted]
MICHAEL A. ANDERSON, [redacted]
STEVEN B. ANDERSON, [redacted]
STANLEY ANDRAY, [redacted]
CRAIG L. ANFINSEN, [redacted]
JOHN P. ANTON, [redacted]
RHONICE M. APPLEBERRY, [redacted]
ANDREW W. APPLEGATE, [redacted]
ROBERT L. ARENDS, [redacted]
HERBERT M. ARMENY, [redacted]
MARK C. ARMSTRONG, [redacted]
DANIEL E. ARNOLD, [redacted]
JAMES L. ASHWORTH, [redacted]
JOHN N. ATKINS, JR, [redacted]
ANDREW C. ATTWOOD, [redacted]
SUZANNE T. ATWOOD, [redacted]
ALAIN A. AUDET, [redacted]
REXFORD R. AUSTIN, [redacted]
JAMES S. AVRIT, [redacted]
HARRISON B. AXUM, [redacted]
KEVIN I. BAGATTA, [redacted]
CHARLES S. BAILEY, [redacted]
JAMES W. BAINBRIDGE, [redacted]
ADOLPHUS BAKER, III, [redacted]
DONALD G. BAKER, JR, [redacted]
JENNY M. BAKER, [redacted]
PERRY J. BAKER, [redacted]
RICHARD D. BAKER, [redacted]
TODD S. BAKITA, [redacted]
MICHAEL S. BALTZER, [redacted]
DAVID S. BARDASH, [redacted]
PAUL R. BARRE, [redacted]
HENRY L. BARRY, [redacted]
PAUL F. BARTON, [redacted]
JOAN C. BARTOSCH, [redacted]
DIANE A. BASILE, [redacted]
STEPHEN L. BAUER, [redacted]
CARL R. BAUMANN, [redacted]
RICHARD A. BAUMANN, [redacted]
PAULA M. BAYER, [redacted]
WILLIAM W. BEANLAND, JR, [redacted]
BARRY M. BEARD, [redacted]
THEODORE E. BEATON, [redacted]
MARGARET H. BEATY, [redacted]
WILLIAM C. BECKINGER, [redacted]
EDWARD L. BEECH, [redacted]
DANA A. BEERS, [redacted]
THOMAS E. BELL, [redacted]
PAUL J. BELLAIRE, JR, [redacted]
GEORGE H. BENEFIELD, JR, [redacted]
KEVIN M. BENNER, [redacted]
BRIAN R. BENNETT, [redacted]
DAVID L. BENNETT, [redacted]
EDWARD J. BENNINGFIELD, [redacted]
PHILIP S. BERAN, [redacted]
DONALD H. BERCHOFF, [redacted]
LEIF BERGE, [redacted]
JON H. BERRIE, [redacted]
THOMAS C. BERRY, [redacted]
WILLIAM K. BERRY, [redacted]
STEVE E. BERTONE, [redacted]
STANLEY P. BEYER, [redacted]
PAUL T. BIGELOW, [redacted]
CHANG YOL BIGGS, [redacted]
RICHARD A. BIHARY, [redacted]
CASEY D. BLAKE, [redacted]
MICHAEL A. BLAYLOCK, [redacted]
GUY V. BLESSING, [redacted]
GARY J. BLIED, [redacted]
DAVID L. BOARDMAN, [redacted]
DONALD E. BODLE, JR, [redacted]
WALLACE E. BOLDUC, [redacted]
PHILIP A. BOLGER, [redacted]
JAMES N. BONDS, [redacted]
STEPHEN H. BONNER, [redacted]
MICHAEL J. BONNETTE, [redacted]
DAVID B. BONORDEN, [redacted]
RONALD A. BOOHER, [redacted]
THOMAS J. BORLAND, [redacted]
RICHARD W. BORN, [redacted]
KEVIN A. BORNHOFT, [redacted]
MARK T. BOSWELL, [redacted]
J. ROGER BOWEN, [redacted]
JOHN C. BOWER, [redacted]
BRIAN J. BOWMAN, [redacted]
ANDREW D. BOYD, [redacted]
CHRISTOPHER D. BOYER, [redacted]
CRAIG E. BRACKBILL, [redacted]
CHARLES R. BRACKENHOFF, [redacted]
BURL E. BRADFORD, [redacted]
CHRISTOPHER E. BRADSHAW, [redacted]
ALAN E. BRADY, [redacted]
DAVID M. BRANDT, [redacted]
JAMES R. BRANDT, [redacted]
STEPHEN M. BRANNEN, [redacted]
ANTHONY S. BRANTLEY, [redacted]
DAVID N. BRAWLEY, [redacted]
WARREN P. BREEDING, [redacted]
MICHAEL A. BREMBECK, [redacted]
PAUL Q. BRENDEMUHL, [redacted]
DAVID J. BRIDGES, [redacted]
RONALD L. BRINK, [redacted]
BRETT O. BRINKLEY, [redacted]
MATTHEW J. BRINKMAN, [redacted]
MICHAEL J. BRIODY, [redacted]
EDWARD M. BROLIN, [redacted]
MARK A. BRONAKOWSKI, [redacted]
HEIDI S. BROTHERS, [redacted]
RONALD V. BROUGHTON, [redacted]
GERALD A. BROUILLETTE, [redacted]
JEFFREY R. BROWN, [redacted]
PENNY D. BROWN, [redacted]
THOMAS P. BROWN, [redacted]
STEPHEN L. BRUESKE, [redacted]
BERNARD K. BRUHN, [redacted]
IVAN D. BRYSON, [redacted]
MICHAEL J. BUCKNAM, [redacted]
GREGORY S. BUELT, [redacted]
MATTHEW J. BUNDY, [redacted]
JEANETTE L. BURCHARD, [redacted]
DAVID G. BURGESS, [redacted]
TIMOTHY L. BURGESS, [redacted]
WILLIAM M. BURGESS, [redacted]
JOSEPH M. BURKE, [redacted]
THOMAS P. BURKE, [redacted]
KAREN J. BURNETT, [redacted]
RICHARD E. BURNS, [redacted]
DANIEL C. BUSCHOR, [redacted]
ROBERT L. BYRD, [redacted]
WALTER R. BYRD, [redacted]
PETER J. BYRNE, [redacted]
ANTHONY J. CAFARCHIO, [redacted]
CHRISTINA L. CAIN, [redacted]
ROCKY L. CALKINS, [redacted]
PEDRO J. CAMEJO, [redacted]
WILLIAM P. CAMERON, JR, [redacted]
LOUIS P. CAMPBELL, JR, [redacted]
VERONICA L. CAMPELLI, [redacted]
ALLAN T. CANNAMORE, [redacted]
MICHAEL M. CANNON, [redacted]
CARLOS CAPANO, [redacted]
ROSARIO J. CAPUTO, [redacted]
MARK G. CARBO, [redacted]
GLENN W. CARLSON, [redacted]
KENNETH D. CARLSON, [redacted]
CYNTHIA R. CARLSTEAD, [redacted]
DOUGLAS B. CARNEY, [redacted]
BRUCE C. CARPENTER, [redacted]
BRUCE S. CARPENTER, [redacted]
ROBERT M. CARPENTER, [redacted]
TERRY L. CARPENTER, [redacted]
MARCUS E. CARTER, [redacted]
RANDALL A. CARTWRIGHT, [redacted]
DONALD K. CARVER, [redacted]
DANIEL B. CARY, [redacted]
MARK A. CASBURN, [redacted]
RONALD A. CASE, [redacted]
KEVIN C. CASEY, [redacted]
RICHARD L. CASHMAN, [redacted]
ROBERT A. CASSARLY, [redacted]
BRIAN K. CASSIDAY, [redacted]
CHRISTOPHER W. CASTLEBERRY, [redacted]
ROBERT C. CAVIN, [redacted]
ALFRED R. CERBINS, [redacted]
AMY E. CHALFANT, [redacted]
JOSEPH W. CHAMBERLAIN, [redacted]
SCOTT A. CHAMBERLAIN, [redacted]
JAMES F. CHAPMAN, [redacted]
DONNIE G. CHAPPELL, [redacted]
VINCENT M. CHEREL, [redacted]
JOHN E. CHERRY, [redacted]
DELTON G. CHILD, [redacted]
CHARLES B. CHILDS, [redacted]
CONSTANCE M. CHINTALL, [redacted]
DEREK L. CHISOM, [redacted]
KEITH J. CHISUM, [redacted]
MARK A. CHRISTOFFERSON, [redacted]
SHARON L. CHRISTY, [redacted]
WAYNE M. CHUNN, [redacted]
CHRISTOPHER T. CIECKA, [redacted]
PETER J. CITRONE, [redacted]
WILEY M. CLAPP, III, [redacted]
JOHANNA S. CLARK, [redacted]
JONATHAN C. CLAUS, [redacted]
JEFFERY D. CLAY, [redacted]
GEORGE K. CLAYTON, [redacted]
DANIEL E. CLEARWATER, [redacted]
DEAN R. CLEMONS, [redacted]
BRYAN S. CLINE, [redacted]
LESLIE C. CLINGER, [redacted]
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JAMES D. COPPOLA, [redacted]
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LEE VOLKER COX, [redacted]
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DOLORES J. CREAMER, [redacted]
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MARK S. HAIR, [redacted]
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KAREN K. KUSY, [redacted]

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VIVIAN M. RYAN, [redacted]

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JOSEPH J. SACCHINI, [redacted]
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MARY F. SALAMONE, [redacted]
RICARDO SALVADOR, [redacted]
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GUY SANITATE, [redacted]
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JEFFERY W. WILLIAMS, [redacted]
KENNETH D. WILLIAMS, [redacted]
NORMAN R. WILLIAMS, JR, [redacted]
ROBERT W. WILLIAMS, III, [redacted]
ROGER L. WILLIAMS, [redacted]
STEVEN E. WILLIAMS, [redacted]
JAMES C. WILLOUGHBY, [redacted]
JONATHAN B. WILLS, [redacted]
BRIAN M. WILSON, [redacted]
MICHAEL E. WILSON, [redacted]
MICHAEL L. WILSON, [redacted]
JOHN J. WILT, JR, [redacted]
STEVEN W. WINCHESTER, [redacted]
EUGENE L. WINTERHALTER, [redacted]
LANCE J. WIRES, [redacted]
KERRY M. WISLER, [redacted]
KEVIN L. WITTE [redacted]
JAMES R. WOLF, [redacted]
MICHAEL J. WOLTMAN, [redacted]
JACQUELINE E. WOMACK, [redacted]
RUSSELL C. WOOD, [redacted]
DAVID E. WOODEN, [redacted]
KEVIN M. WOODS, [redacted]
STEVEN S. WORCESTER, [redacted]
MARIA T. WOZNYJ, [redacted]
DANIEL G. WRIGHT, [redacted]
ROBERT H. WRIGHT, [redacted]
ANTHONY T. WRZESINSKI, [redacted]
SCOTT A. WYCKOFF, [redacted]
KEITH R. WYNKOOP, [redacted]
ERIC C. WYSS, [redacted]

PAUL M. YAMAGUCHI, [redacted]
MICHAEL A. YEMEC, [redacted]
WAYNE G. YENNE, [redacted]
DARRELL E. YOST, [redacted]
ARNOLD L. YOWELL, [redacted]
KEE Y. YU, [redacted]
MARK A. YUTKO, [redacted]

RONALD J. ZAMPINI, [redacted]
ADAM Q. ZIMMERMAN, [redacted]
PETER H. ZUPPAS, [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS, UNITED STATES AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

STEPHEN G. ASH, [redacted]
KENNETH W. BACKES, [redacted]
MATTHEW C. BAKER, [redacted]
ARILD K. BARRETT, [redacted]
KEITH M. BOYER, [redacted]
JAMES H. BROOKS, JR, [redacted]
MARK S. BROWN, [redacted]
RICHARD H. BROWN, [redacted]
REBECCA L. CALDWELL, [redacted]
THEODORE S. CALDWELL, [redacted]
HERBERT E. CARPENTER, [redacted]
RUSSELL G. CARRIKER, [redacted]
ALBERT T. CHAMILLARD, [redacted]
GEORGE G. CHAPPEL, JR, [redacted]
JAMES C. COLLINS, [redacted]
DAN W. DORR, [redacted]
WAYNE F. DUBOSE, [redacted]
ANDREW J. DYMEK, [redacted]
DEBORA A. ELAM, [redacted]
DEBORAH L. ELSASSER, [redacted]
JUDY G. ERICKSON, [redacted]
ALISA N. FALLS, [redacted]
PAUL R. FRANCIS, [redacted]
ALAN J. GARDESKI, [redacted]
ELAN M. GORDON, [redacted]
CATHRYN D. GREGORY, [redacted]
KAREN E. GRUBER, [redacted]
DANIEL D. GUESS, [redacted]
MARK R. HALL, [redacted]
CYNTHIA C. HARDING, [redacted]
DWIGHT E. HODGE, [redacted]
JAMES G. HOSSLEY, [redacted]
KEITH J. HOWARD, [redacted]
DENNIS L. KREPP, [redacted]
JON A. LARVICK, [redacted]
THOMAS J. LAUDERBACK, [redacted]
ELIZABETHE LEDBETTER, [redacted]
JOHN P. MARKS, [redacted]
MICHAEL A. MARZEC, [redacted]
ERIC Q. MEADOWS, [redacted]
DELLA M. MEDEIROS, [redacted]
RONALD L. MELE, [redacted]
ELIZABETH A. MEYER, [redacted]
MICHAEL F. MIHALYO, [redacted]
STEPHEN P. MOLLICK, [redacted]
TIMOTHY P. NEWMAN, [redacted]
PHILIP M. NOE, [redacted]
ALAN P. OSTENBERG, [redacted]
KENNETH N. OVERSBY, [redacted]
RICHARD D. PEPPERS, [redacted]
MARGARET B. POORE, [redacted]
RANDALL J. RICHERT, [redacted]
LARRY A. RIDOLFI, [redacted]
LAWRENCE J. SCHMITT, [redacted]
DAVID M. SCHROEDER, [redacted]
WILLIAM J. SCHUNK, [redacted]
KENNARD W. I. SCRIBNER, [redacted]
DIANE M. SMITH, [redacted]
LAWRENCE SMOTHERMAN, [redacted]
KAY L. SPANNUTH, [redacted]
MARK T. SPRINGER, [redacted]
DAVID M. STANTON, [redacted]
ROSS T. STEARN, [redacted]
ROBERT A. STEVENSON, [redacted]
DOUGLAS R. STICKLE, [redacted]
LINDA N. SUBERVI, [redacted]
STEVEN P. SWAN, [redacted]
SHANE R. SWITZER, [redacted]
CHRISTOPHER P. WALKER, [redacted]
GAVIN P. WILSON, [redacted]
JAMES H. WILSON, [redacted]
KATHY WOHLSTEINCLARK, [redacted]
MARSHALL S. I. WOODSON, [redacted]
KEVIN J. ZIESE, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be major

MARY M. *. AARON, [redacted]
CHARLES R. *. ABBOTT, [redacted]
ROBERT B. ABERNATHY, JR, [redacted]
CHRISTOPHER A. ACKER, [redacted]
KAREN J. *. ACOSTA, [redacted]
DAVID A. ADAM, [redacted]
GEORGE L. ADAMAKOS, II, [redacted]
PATRICK V. ADAMCIK, [redacted]
BENJAMIN F. ADAMS, III, [redacted]
DAVID W. *. ADAMS, [redacted]
HOWARD B. *. ADAMS, [redacted]
JOHN C. *. ADAMS, [redacted]
ROBERT C. *. ADAMS, [redacted]
WILLIAM G. ADAMS, [redacted]
VICTOR AGUILAR, [redacted]
SUSAN E. *. AKLEY, [redacted]
KEVIN B. ALANO, [redacted]
CHARLES R. ALEXANDER, JR, [redacted]
JERALD A. *. ALEXANDER, [redacted]
WINFRED B. ALEXANDER, [redacted]
HAL K. ALGUIRE, [redacted]
DALE T. *. ALLDREDGE [redacted]
CHARLES D. ALLEN, [redacted]
CHARLES W. ALLEN, JR, [redacted]
GARY W. ALLEN, [redacted]
KENNETH R. ALLEN, JR, [redacted]
LEWIS ALLEN, JR, [redacted]
RAYMOND P. *. ALLEN [redacted]
RICKY D. *. ALLEN, [redacted]
ROBERT E. *. ALLEN, [redacted]
DAVID M. *. ALLEY, JR, [redacted]
DARRELL D. *. ALLMAN, [redacted]
LLOYD M. ALSTON, JR, [redacted]
RICHARD J. *. ALTER, [redacted]
KEVIN E. *. ALTHAUS [redacted]
MICHAEL J. *. ALTOMARE, [redacted]
MICHAEL D. AMMEL, [redacted]
JAMES E. *. AMOS, JR, [redacted]
ROBERT P. ANASTOS, [redacted]
KURT W. ANDERSENVIE, [redacted]
ALLAN H. *. ANDERSON, [redacted]
CARL ANDERSON, [redacted]
CLIFFORD *. ANDERSON, [redacted]
DAN K. *. ANDERSON [redacted]
GUSTAF E. *. ANDERSON, III, [redacted]
JAMES R. ANDERSON, [redacted]
JOHN R. ANDERSON, [redacted]
KENNETH E. ANDERSON, [redacted]
MICHAEL P. *. ANDERSON, [redacted]
OSCAR R. ANDERSON, [redacted]
PAUL L. *. ANDERSON, [redacted]
SAMMY J. *. ANDERSON, [redacted]
STEVEN M. ANDERSON, [redacted]
WALTER N. ANDERSON, [redacted]
BRAD T. ANDREW, [redacted]
ELIZABETH A. *. ANDREW, [redacted]
DE S. *. ANDREWS, [redacted]
ROGER A. *. ANDREWS, [redacted]
RONALD J. *. ANDREWS, [redacted]
WAYNE L. *. ANDREWS, [redacted]
MICHAEL R. *. ANTHONY, SR, [redacted]
WILLIAM R. *. APPLEGATE, [redacted]
DALE E. ARCHER, [redacted]
DANIEL L. ARCZYNSKI, [redacted]
DANIEL J. *. ARENA, [redacted]
ROBIN S. *. ARLEDGE, [redacted]
JOAN C. ARNOLD, [redacted]
KEVIN J. ARNOLD, [redacted]
WILLIAM G. ARNOLD, [redacted]
WILLIAM G. *. ASHLEY, [redacted]
STEVEN J. *. ASPERA, [redacted]
PAUL L. ASWELL, [redacted]
ROBERT T. ATTERBURY, JR, [redacted]
STEVEN N. AUDE, [redacted]
JAMES M. *. AULTMAN, [redacted]
ALLISON T. AYCOCK, [redacted]

JUAN A. *. BACIGALUPI, [redacted]
WILLIAM G. BACON, [redacted]
MICHAEL F. *. BADGER, [redacted]
MICHAEL F. BAILEY, [redacted]
STEVEN L. *. BAILEY, [redacted]
JAMES A. *. BAILIE [redacted]
GERALD R. BAIRD, JR, [redacted]
BIFF L. BAKER, [redacted]
TERRY L. BAKER, [redacted]
DENNIS J. BALDRIDGE, [redacted]
BRIAN R. BALDY, [redacted]
STEPHEN C. *. BALL, [redacted]
ALBERT E. BALLARD, JR, [redacted]
ELISHA L. *. BALLARD, [redacted]
THOMAS A. *. BANASIK, [redacted]
MARK H. BANGSBOLL, [redacted]
MELVIN *. BANKS, [redacted]
STEPHEN W. *. BANKS, [redacted]
JAMES M. BANNANTINE, [redacted]
TIMOTHY J. *. BARBER, [redacted]
JAMES R. *. BARBOUR, [redacted]
JAMES O. BARCLAY, III, [redacted]
REX N. *. BARFUSS, [redacted]
ARTHUR F. *. BARKER, JR, [redacted]
JOHN L. BARKER, [redacted]
JOHN C. *. BARLOW, [redacted]
PAUL L. BARNARD, [redacted]
AUDY D. BARNETT, [redacted]
JACK V. BARNHILL, [redacted]
RODNEY V. BARNUM, [redacted]
RENARD O. BARONE, [redacted]
PAUL W. *. BARRENTINE, [redacted]
WILLIAM S. *. BARRINGER, [redacted]
ROBERT F. BARROW, [redacted]
CURTIS R. BARTHOLOMEW, [redacted]
DAVID P. BARTLETT, JR, [redacted]
RANDALL L. *. BARTLEY, [redacted]
JOSEPH C. BARTO, III, [redacted]
STEPHEN K. BARTON, [redacted]
JAMES R. BARTRAN, [redacted]
DAVID J. BASILE, [redacted]
CHRISTOPHER J. *. BATES, [redacted]
JAMES M. *. BATES, JR, [redacted]
HENRY R. *. BAUER [redacted]
KEVIN M. BEAM, [redacted]
DAVID A. *. BEASON, [redacted]
WILLIAM D. BEATTY, III, [redacted]
RUBEN BECERRA, [redacted]
MICHAEL W. *. BECHTOLD, [redacted]
JOHN D. *. BECKER, [redacted]
JOHN P. BECKER, [redacted]
WILLIAM M. *. BECKERMAN, [redacted]
DEBORAH J. *. BECKWORTH, [redacted]
DAVID F. BEDEY, [redacted]
PATRICK J. BEER, [redacted]

STEPHEN S. *. BEITLER, [redacted]
SHERMAN C. *. BEKKUM, [redacted]
WILLIAM V. *. BELCHER, [redacted]
SANDRA L. *. BELDEN [redacted]
DAVID F. *. BELL, [redacted]
RANDY A. *. BELL [redacted]
ROBERT C. *. BELL [redacted]
ROBERT M. BELL, [redacted]
DIMITRI M. BELMONT, [redacted]
JOHN D. BELTER, [redacted]
STANLEY W. BEMBRY, [redacted]
RODOLFO BENAVIDES, [redacted]
RICKY BENITO, [redacted]
JAMES S. *. BENTLEY [redacted]
JASPER R. *. BENTON, [redacted]
STANLEY P. BERCEAU, [redacted]
MICHAEL D. BERENDT, [redacted]
KEVIN J. BERGNER, [redacted]
SARI L. *. BERMAN, [redacted]
JOHN P. *. BERNHARD, [redacted]
ELZIE *. BERRY, [redacted]
HARRY L. BERRY, JR, [redacted]
LEE W. BERRY, III, [redacted]
CHARLES N. BETACK, [redacted]
PAUL A. *. BETHKE, [redacted]
FREDERICK E. *. BIEL, [redacted]
DAVID J. BIELAWSKI, [redacted]
MICHAEL W. BIERING, [redacted]
TONY R. *. BILLINGS, [redacted]
STEPHEN A. *. BILLINGSLEY, [redacted]
DAVID M. BILYEU, [redacted]
JOHN M. *. BILYEU, [redacted]
CASTER D. *. BINION, [redacted]
DONALD A. *. BIRD, [redacted]
RONALD H. *. BIRD, JR, [redacted]
ROBERT P. BIRMINGHAM, [redacted]
ALLEN B. BISHOP, [redacted]
DONALD W. *. BLACKWELL, [redacted]
MARCUS D. *. BLAIR, [redacted]
THOMAS M. *. BLAKE, [redacted]
FRANK E. BLAKELY, [redacted]
GORDON A. *. BLAKER, [redacted]
HUGH V. BLANCHARD, [redacted]
WILLIAM A. BLANDING, [redacted]
SCOTT A. BLANEY, [redacted]
ROCKY D. *. BLANKENSHIP, [redacted]
STEVEN J. BLASKA, [redacted]
DONALD L. BLAZEK, [redacted]
SUSAN L. *. BLIXT, [redacted]
TERRY BLOCKETT, [redacted]
HERBERT W. *. BLOMQUIST, [redacted]
HARRY D. *. BLOOMER, [redacted]
THOMAS G. BLUE, [redacted]
DIAN E. *. BLUM, [redacted]
ROBERT M. BLUM, [redacted]
RAYMOND C. *. BOCCELLI, [redacted]
JAMES H. *. BOCHERT, [redacted]
BRIAN F. BOCKLAGE, [redacted]
ANNEKE J. BOGARDUS, [redacted]
RAYMOND G. *. BOGDAN, JR, [redacted]
ERVIN C. BOGER, JR, [redacted]
ROBERT B. BOGGS, [redacted]
RONALD J. *. BOKOCH, [redacted]
JOHN M. BOLCHOZ, [redacted]
JAMES M. *. BOLING, [redacted]
BRYAN E. *. BOLT, JR, [redacted]
WILLIE R. *. BOND, [redacted]
JOHNNIE L. BONE, JR, [redacted]
GORDON C. BONHAM, [redacted]
KEITH E. BONN, [redacted]
MICHAEL B. BONNER, [redacted]
MICHAEL J. BONNER, [redacted]
DOUGLAS M. BOOKER, [redacted]
DOUGLAS A. BOONE, [redacted]
KIRK A. BOOTHE, [redacted]
MICHAEL R. BORDERS, [redacted]
JAMES M. *. BORLAND, [redacted]
MICHAEL BOSACK, [redacted]
MICHAEL K. *. BOUCHER, [redacted]
ROBERT S. BOUCHER, [redacted]
RICHARD D. *. BOURGAULT, [redacted]
MARK J. *. BOWEN, [redacted]
CRAIG W. *. BOWERMAN, [redacted]
MARK T. *. BOWERS [redacted]
MICKEY L. *. BOX, [redacted]
JOSEPH P. *. BOYD, [redacted]
APRIL J. *. BOYLE [redacted]
PATRICK A. *. BRADFIELD, [redacted]
DON F. *. BRADFORD [redacted]
NANETTE E. *. BRADISH, [redacted]
GREGORY J. *. BRADNER, [redacted]
JODY L. BRADSHAW, [redacted]
PAMELA J. BRADY, [redacted]
JEFFREY A. BRANDL, [redacted]
PHILIP J. BRANDLI, [redacted]
CHARLES A. BRANNON, [redacted]
STEPHEN A. *. BRASIER, [redacted]
DAVID N. BRASWELL, [redacted]
ARNOLD N. *. BRAY, [redacted]
JAMES D. BRAY, [redacted]
WILLIE L. *. BRAZILE, [redacted]
RICHARD C. BREAKIRON, JR, [redacted]
MICHAEL P. BREHLER, [redacted]
BARRY W. BREITENBACH, [redacted]
CHARLES S. BRENNAMAN, [redacted]
VICTOR L. *. BRENNAN, [redacted]
JAMES T. *. BRENNER, [redacted]
DANA B. *. BRES [redacted]
KENNETH M. BRESNAHAN, [redacted]
JOHN W. BRESSLER, II, [redacted]
DEWAYNE L. BREWER, [redacted]
JAMES D. *. BREWER, [redacted]
RICHARD J. BREWER, [redacted]
KEVIN J. BRICE, [redacted]
RANDY S. *. BRINDLE, [redacted]
LARRY A. BRISKY, [redacted]
ORVEL D. *. BRITNELL, [redacted]
STEVEN H. *. BRITTON, [redacted]
ROBERT R. *. BROADHEAD, [redacted]
LINWOOD R. *. BROCKETT, [redacted]
GERALD K. BROCKUS, [redacted]
LEO A. BROOKS, JR, [redacted]
WILLIAM C. BROOKS, [redacted]
FREDERICK J. BROSK, [redacted]
WILLIAM D. BROSNAN, [redacted]
DALE E. BROWN, [redacted]
DALLAS C. BROWN, III, [redacted]
DANIEL S. *. BROWN, [redacted]
DAVID A. *. BROWN, [redacted]
EARNEST P. BROWN, [redacted]
FRANK P. *. BROWN, III, [redacted]
HARRY D. BROWN, JR, [redacted]
JACK R. BROWN, [redacted]
JERRY P. *. BROWN, [redacted]
KEVIN S. *. BROWN, [redacted]
RICHARD F. *. BROWN, JR, [redacted]
ROBERT A. *. BROWN, [redacted]
ROBERT E. *. BROWN, [redacted]
THOMAS F. *. BROWN, [redacted]
ULYSSES *. BROWN, JR, [redacted]
WILFRED F. BROWN, JR, [redacted]
WILLIAM C. *. BROWN, [redacted]
MARK H. BROWNING, [redacted]
GARRISON C. *. BRUMBACK, [redacted]
GREGG P. *. BRUMBURGH, [redacted]
STEVEN E. BRUNOW, [redacted]
ROBERT E. *. BRUNS, JR, [redacted]
CLIVE G. BUCHAN, [redacted]
LEWIS E. *. BUCHANAN, [redacted]
CHARLES A. *. BUCK [redacted]
MARK E. BUCK, [redacted]
MILDRED P. *. BUCKINGHAM, [redacted]
CHRISTOPHER W. BUDDEN, [redacted]
JAMES J. BUDNEY, JR, [redacted]
ROBERT M. BUDROE, [redacted]
JOSE A. *. BUITRAGO, JR, [redacted]
JOSEPH A. *. BUKARTEK, JR, [redacted]
DONALD A. BULLOCK, [redacted]
HERMAN E. BULLS, [redacted]
MICHAEL A. BUMBULSKY, [redacted]
CLEMENT M. *. BUONO [redacted]
LINDA F. *. BURDETTE, [redacted]
WILLIAM H. *. BURGESS, III, [redacted]
JOSEPH R. *. BURKE, [redacted]
KENNETH M. BURKE, [redacted]
KEVIN J. BURKE, [redacted]
RICHARD W. *. BURKE [redacted]
WILLIAM E. BURKE, [redacted]
LARRY D. *. BURKETT, [redacted]
ROBERT BURNHAM, [redacted]
WILLIAM L. BURNHAM, [redacted]
JAMES R. BURNS, [redacted]
KEVIN M. BURR, [redacted]
BYRON L. *. BURROW, [redacted]
ROSS A. *. BURTON, [redacted]
ULALIA S. *. BURTON, [redacted]
JERRY A. BUSH, [redacted]
STEPHEN R. BUSH, [redacted]
THOMAS A. BUSH, [redacted]
AMY A. *. BUTLER, [redacted]
BENJAMIN H. BUTLER, [redacted]
JOSEPH C. BUTLER, [redacted]
RICKEY C. BUTLER, [redacted]
MICHAEL A. BYRNE, [redacted]

BRIAN D. CADE, [redacted]
STEVEN D. CAGE, [redacted]
MARY K. *. CAHILL, [redacted]
MARK J. CAIN, [redacted]
JAMES W. CALDER, [redacted]
JOHN R. *. CALI, [redacted]
JOSEPH E. *. CALL, [redacted]
LOIS F. *. CAMP, [redacted]
DONALD E. CAMPBELL, [redacted]
DONALD M. CAMPBELL, JR, [redacted]
JOHN F. CAMPBELL, [redacted]
KEVIN H. CAMPBELL, [redacted]
MARLYS M. *. CAMPBELL, [redacted]
ROY E. CAMPBELL, [redacted]
SCOTT S. *. CAMPBELL, [redacted]
CARLOS E. CAMPOS, [redacted]
WILLIAM M. CANIANO, [redacted]
CRAIG L. CANNIFF, [redacted]
LAWRENCE A. CANNON, [redacted]
ROBERT M. *. CANNON, [redacted]
CHRISTOPHER A. CANO, [redacted]
BRUCE E. *. CANTRELL [redacted]
RICARDO M. CANTU, [redacted]
DAVID J. CAPP, [redacted]
HENRY Y. *. CARA, [redacted]
THOMAS P. *. CARBERRY, II, [redacted]
JUAN P. CARDENAS, [redacted]
JAMES R. CAREY, [redacted]
CARSHALL C. *. CARLISLE, II, [redacted]
CRAIG L. *. CARLSON, [redacted]
ALFRED B. *. CARLTON, [redacted]
DUANE C. *. CARLTON, [redacted]
STEVEN M. CARMICHAEL, [redacted]
RUSSELL D. *. CARMODY [redacted]
GARY B. *. CARNEY, [redacted]
PATRICK O. CARPENTER, [redacted]
SALOME A. CARRASCO, [redacted]
TERRY L. CARRICO, [redacted]
JOSE *. CARRINGTON [redacted]
COLUS L. CARROLL, [redacted]
GERALD A. CARROLL, [redacted]
THOMAS M. CARROLL, [redacted]
AUBREY H. *. CARSWELL, [redacted]
ROY A. CARTER, III, [redacted]
VICKI C. *. CARTER, [redacted]
CARL J. *. CARTWRIGHT, [redacted]
MICHAEL J. CASAS, [redacted]
GERALD T. *. CASEY, JR, [redacted]
DANNY N. *. CASH [redacted]
TONY W. *. CASON, [redacted]
EAMON G. *. CASSELL, [redacted]
DAVID B. CASSIDY, [redacted]
MICHAEL P. CASTELLI, [redacted]
CARLOS A. CASTILLO, [redacted]
ALAN C. CATE, JR, [redacted]
JOSEPH T. CATUDAL, [redacted]
DAVID A. *. CAUDILL, [redacted]
STEVEN E. *. CAUSEY, [redacted]
BARRY A. *. CAVE [redacted]
GARY H. *. CAVENDER, [redacted]
MARK F. CAWLEY, [redacted]
JOSEPH D. *. CELESKI, [redacted]
ROBERT J. *. CELSKI, [redacted]
JOHN J. CENNEY, [redacted]
KEVIN D. CHAFFIN, [redacted]
HAL CHAIKIN, [redacted]
BROOKS B. CHAMBERLIN, [redacted]
JAMES E. *. CHAMBERS, [redacted]
PETER M. *. CHAMPAGNE, [redacted]
ALEJANDRO L. CHAMPIN, [redacted]
BERNARD S. *. CHAMPOUX, [redacted]
HUBERT W. *. CHANCEY, [redacted]
BONNIE S. *. CHANDLER, [redacted]
JAMES D. CHANDLER, JR, [redacted]
JIMMY J. *. CHANDLER, [redacted]
ROBERT L. CHANDLER, [redacted]
MICHAEL E. *. CHAPMAN, [redacted]
HAROLD L. CHAPPELL, [redacted]
JEANNE M. *. CHARBONNEAU, [redacted]
ALAN S. CHARTERS, [redacted]
FRANK S. CHASE, [redacted]
RAFAEL G. *. CHAVEZ [redacted]
JAMES A. CHEN, [redacted]
JAMES E. CHEREB, [redacted]
DAVID R. CHERRY, [redacted]
STEVEN A. CHESTER, [redacted]
ALLAN N. *. CHEUVRONT, [redacted]
ROBERT A. *. CHILDERS, [redacted]
CRAIG S. *. CHILDS, [redacted]
GEORGE CHINEA, [redacted]
DARRYL K. CHING, [redacted]
JERRY L. *. CHISM, [redacted]
JAMES E. CHRISHON, JR, [redacted]
PAUL E. *. CHRISTENSEN, [redacted]
MARK J. *. CHRISTIAN, [redacted]
PAUL A. CHRISTIANI, [redacted]
SCOTT W. CHRISTIE, [redacted]
NICHOLAS A. CHRISTOFF, [redacted]
FREDRICK J. *. CHRONIS, [redacted]
DAVID C. *. CHUBER, [redacted]
DAVID G. *. CHUNG, [redacted]
JOHN L. CHURCHILL, [redacted]
DEBRA M. *. CILUAGA [redacted]
ROBERT P. CLAIR, [redacted]
DAVID S. CLARK, [redacted]
DUANE A. CLARK, [redacted]
JAMES R. CLARK, [redacted]
JAMES T. *. CLARK, [redacted]
JOYCE M. *. CLARK [redacted]
MICHAEL G. CLARK, [redacted]
MICHELL C. CLARK, [redacted]
ARNALDO *. CLAUDIO, [redacted]
MARK W. *. CLAY, [redacted]
ROBERT CLAYTON, [redacted]
TERRY L. CLEMONS, [redacted]
CHARLES T. CLEVELAND, [redacted]
DANIEL L. *. CLEVER [redacted]
STANLEY B. *. CLINARD, [redacted]
AARON L. COBB, [redacted]
KENNETH W. *. COBB, [redacted]
DONALD A. COE, [redacted]
JAMES H. COFFMAN, JR, [redacted]
RICHARD COHEN, [redacted]
STEWART L. COKER, [redacted]
BARRY L. COLE, [redacted]
JERRY COLE, [redacted]
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ROGER D. *. COLEMAN, [redacted]
ERIC A. *. COLEN, [redacted]
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GLEN C. COLLINS, JR, [redacted]
JOHN W. *. COLLINS, JR [redacted]
TERRY W. COLLINS, [redacted]
LYDIA E. *. COLON, [redacted]
MICHAEL COLPO, [redacted]
DAVID O. *. COLVARD, [redacted]
JOHN F. *. COMER, [redacted]
ROBERT W. CONE, [redacted]
RONALD G. *. CONN, [redacted]
JAMES A. *. CONNELL, [redacted]
KEVIN T. CONNELLY, [redacted]
THOMAS J. CONNERAN, [redacted]
ERIC E. *. CONNERS, [redacted]
KEVIN CONNORS, [redacted]
BYRON D. *. CONOVER [redacted]
MICHAEL J. CONRAD, JR, [redacted]
PATRICK B. CONWAY, [redacted]
DAVID P. COOK, [redacted]
RAND J. *. COOLEY, [redacted]

JOHN E. *. COOPER, [redacted]
PETER C. *. COOPER, [redacted]
FRANK E. *. COOTS, III, [redacted]
JOIE COPPEDGE, [redacted]
EDDY C. *. COPPOCK, [redacted]
MICHAEL F. CORCORAN, [redacted]
MARK CORDA, [redacted]
RONALD C. CORDELL, [redacted]
RADAMES *. CORNIER, JR., [redacted]
JOHN W. *. CORR, [redacted]
CRAIG D. *. COSTELLO, [redacted]
RANDY M. COTTON, [redacted]
DAVID S. COTTRELL, [redacted]
ANTHONY B. *. COUCH, [redacted]
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WILLIAM D. *. COURINGTON [redacted]
MICHAEL P. COVILLE, [redacted]
DAVID A. *. COVINGTON, [redacted]
JOEL A. *. COWAN, [redacted]
GREGORY B. COX, [redacted]
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STEVEN J. *. COX, [redacted]
JOHN B. *. CRAFTON, [redacted]
CYNTHIA A. *. CRAIG, [redacted]
MARK B. CRAIG, [redacted]
CAMERON A. CRAWFORD, [redacted]
KEVIN K. CRAWFORD, [redacted]
ERIC R. * CRAWLEY, [redacted]
MICHAEL J. CREEN, [redacted]
LEIGH J. * CREIGHTON, [redacted]
WILLIAM B. * CREWS, [redacted]
DAVID B. CRIPPS, [redacted]
LARRY W. CROCE, [redacted]
GORDON W. CROM, [redacted]
RODNEY W. * CROMER, [redacted]
BRIAN K. CROTTS, [redacted]
KENNETH E. CROWDER, [redacted]
KENNETH M. * CROWE, [redacted]
CATHY K. * CRUMP, [redacted]
RUSSELL B. CRUMRINE, JR., [redacted]
RAYMOND CRUTCHFIELD, [redacted]
ANTHONY A. CUCOLO, III, [redacted]
CLARENCE * CULBERT, JR., [redacted]
JAMES S. CULLEN, [redacted]
JOHN D. * CULP, [redacted]
WINFRED S. CUMMINGS, [redacted]
EDWARD T. CUNEO, JR., [redacted]
ALLEN W. * CUNNIFF, [redacted]
JOHN M. * CURD, [redacted]
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MARK L. * CURRY, [redacted]
DONALD R. CURTIS, JR., [redacted]
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STEPHEN L. CURTIS, [redacted]
RODNEY K. * CUSHING, [redacted]
GORDON F. * CVACH, [redacted]

STEPHEN C. DAFFRON, [redacted]
DOUGLAS M. DAILY, [redacted]
CHARLES F. * DAIS, [redacted]
DANIEL G. DALEY, [redacted]
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JESSE J. DANIEL, JR., [redacted]
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DEAN A. * DANIELSON, [redacted]
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FRED J. * DAUM, [redacted]
BRIAN L. DAUTREMONT, [redacted]
NANCY H. * DAVENPORT, [redacted]
ADDISON D. DAVIS, IV, [redacted]
ARTHUR K. * DAVIS, [redacted]
DANNY H. * DAVIS, [redacted]
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IRA J. * DAVIS, [redacted]
JOHN W. * DAVIS, [redacted]
LAUREN S. DAVIS, JR., [redacted]
OSCAR L. * DAVIS, III, [redacted]
ROBERT C. * DAVIS, JR., [redacted]
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WALTER L. DAVIS, [redacted]
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TERRY S. *. DAY, [redacted]
ANDREW K. DEAN, [redacted]
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RICHARD P. DEFATTA, [redacted]
GREGG F. DEGEN, [redacted]
EDWARD J. DEGNAN, [redacted]
DAVID D. DEHNEL, [redacted]
SERGIO *. DELAPENA, [redacted]
WILLIAM *. DELAURO, [redacted]
DEAN G. DELIS, [redacted]
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JAMES N. DELOTTINVILLE, [redacted]
GAIL E. DELZELL, [redacted]
DAVID R. *. DEMAYO, [redacted]
JOHN J. *. DEMPSEY, III, [redacted]
JAMES M. DEPAZ, [redacted]
JOHN P. *. DERAIMO, [redacted]
TERRY K. DEROUCHEY, [redacted]
WILLIAM R. *. DERR, [redacted]
PATRICK C. DESMOND, [redacted]

KRISMA D. DEWITT, [redacted]
ROBERT L. DEWITT, [redacted]
ROGELIO *. DIAZ, [redacted]
VICTOR M. *. DIAZ, JR., [redacted]
FELIX *. DIAZVAZQUEZ, [redacted]
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MANFRED A. *. DIETZE, [redacted]
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PETER J. DILLON, [redacted]
HAROLD E. *. DINGMAN, [redacted]
CHARLES G. DISHAROON, [redacted]
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JAMES A. *. DIXON, JR., [redacted]
DOUGLAS B. *. DOBSON [redacted]
ALFRED E. DOCHNAL, [redacted]
NELSON C. DODD, [redacted]
DENNIS E. DODSON, [redacted]
RICHARD C. DOERER, [redacted]
PRISCILLA A. *. DOLLOFFCRANE, [redacted]
JOHN C. *. DONAHUE, [redacted]
BRUCE J. DONALDSON, [redacted]
STEPHEN C. *. DONEHOO, [redacted]
EDWARD P. DONNELLY, JR., [redacted]
KEITH R. DONNELLY, [redacted]
DENNIS P. DONOVAN, [redacted]
MARK T. *. DOODY, [redacted]
MELVIN R. *. DOOLAN, [redacted]
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WILLIAM C. *. DORMAN, [redacted]
RICK A. *. DORSEY, [redacted]
GRACE A. DORTA, [redacted]
GEORGE W. *. DOSSETT, [redacted]
HAROLD E. DOTSON, [redacted]
STEVEN G. *. DOUGHTON, [redacted]
PAMELA A. *. DOUGLASS, [redacted]
KENNETH S. *. DOWD [redacted]
BILLY J. *. DOWDY, [redacted]
MATTHEW G. *. DOWNING, [redacted]
MICHAEL J. *. DOYLE, [redacted]
TERESA M. DOYLE, [redacted]
TERRY L. *. DRAFFEN, [redacted]
JAMES E. DRAKE, [redacted]
RICHARD R. DRAKE, [redacted]
DENNIS S. *. DRIGGERS, [redacted]
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MARK W. DRUMM, [redacted]
DONALD G. DRUMMER, [redacted]
JAMES M. *. DUBINSKY [redacted]
JOHN B. *. DUBOIS, JR [redacted]
ERIC J. *. DUCHOW, [redacted]
JOSEPH J. DUDA, [redacted]
GLEN P. DUDEVOIR, [redacted]
ROBERT J. DUESING, [redacted]
JEROME A. DUIGUID, [redacted]
DAVID R. DUNAWAY, [redacted]
JEFFREY D. DUNCAN, [redacted]
RICHARD L. DUNCAN, [redacted]
RILEY C. *. DUNCAN, [redacted]
MICHAEL S. *. DUNFORD, [redacted]
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WILLIAM J. DUNHAM, [redacted]
JOHN N. *. DUQUETTE, [redacted]
MARK E. DURANT, [redacted]
EDWARD R. DWAN, [redacted]
MARK G. *. DYKES, [redacted]

CLAY B. *. EARNEST, [redacted]
VINCENT R. *. EBERHART, JR [redacted]
RICHARD L. ECCLES, [redacted]
MARTIN J. *. ECKERT, [redacted]
JAMES L. *. EDGAR, [redacted]
WILLIAM R. *. EDGAR, [redacted]
RICK J. *. EDMOND, [redacted]
CHARLES T. *. EDMUNDSON, [redacted]
LARRY R. *. EDWARDS, [redacted]
BRUCE R. *. EGGERS, [redacted]
PAUL S. *. EGLEY, [redacted]
THORWALD E. *. EIDE, [redacted]
DALE C. EIKMEIER, [redacted]
HENRY L. EISENBARTH, [redacted]
JEFFREY A. *. EISENBEIS, [redacted]
SCOT D. *. EISENHARD, [redacted]
DOUGLAS R. ELLER, [redacted]
BERVIN D. *. ELLIOTT [redacted]
JERRY B. ELLIOTT, [redacted]
JACK F. *. ELLIS, JR., [redacted]
VICTOR M. *. ELLIS, [redacted]
DONALD L. EMERSON, JR., [redacted]
JAMES H. *. ENDAHL, [redacted]
DAVID C. ENDERS, [redacted]
MARK A. ENGLISH, [redacted]
PAUL L. *. ENGLISH, JR., [redacted]
GREGORY L. ENGMAN, [redacted]
MARVIN E. *. ERICKSON, [redacted]
ADOLPH H. ERNST, III, [redacted]
ROBERT A. *. ESLINGER, [redacted]
CHRISTOPHER G. ESSIG, [redacted]
ALLEN C. ESTES, [redacted]
HANS J. *. ESTES, [redacted]
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TERRY P. *. ETTINGER, [redacted]
BRYAN EVANS, III, [redacted]
GARY L. EVANS, [redacted]
GEORGE S. *. EVANS [redacted]
HENRY C. EVANS, III, [redacted]
LEIGHTON J. EVANS, JR., [redacted]
MICHAEL G. *. EVANS, [redacted]
WENZEL G. EVANS, JR., [redacted]
JAMES E. *. EWING, [redacted]
JAMES W. EWING, JR., [redacted]
JEFFERSON G. *. EWING, [redacted]

LOIS E. *. FAIRES, [redacted]
STEVEN FALCK, [redacted]
HARVEY A. *. FALK, III, [redacted]
JOHN W. FALKENBURY, [redacted]
KIMBERLEE L. *. FALL, [redacted]
EDWARD M. FALLON, [redacted]
JOSEPH M. *. FALLS, JR., [redacted]
CARL G. FAMBRO, [redacted]
DOUGLAS A. *. FARGO, [redacted]
GEOFFREY G. *. FARMER, [redacted]
JOHN M. *. FARRELL, [redacted]
JOHN C. FARRIS, [redacted]
DAVID G. *. FARRISEE, [redacted]
GINA S. *. FARRISEE, [redacted]
DAVID J. *. FARRUGGIA [redacted]
JOSEPH E. *. FAUBION, [redacted]
MICHAEL J. FAUGHNAN, [redacted]
JOHN W. FAULCONBRIDGE, [redacted]
LAWRENCE J. *. FEAST, [redacted]
RICHARD K. *. FELTENBERGER, [redacted]
BILLY W. *. FELTNER, [redacted]
JAMES C. *. FELTON, JR., [redacted]
KENNETH D. FELTS, [redacted]
WAVIE W. FENTRESS, II, [redacted]
RICO T. *. FEREBEE, [redacted]
BARBARA A. *. FERGUSON, [redacted]
ORLANDO J. FERNANDEZ, [redacted]
MICHAEL FERRITER, [redacted]
CHARLES J. FIALA, JR., [redacted]
DENNIS E. FIELDS, [redacted]
DONALD E. *. FIELDS, [redacted]
BRUCE A. FINK, [redacted]
KENNETH FINLAYSON, II, [redacted]
CHARLES E. *. FIORELLA, [redacted]
KURT A. FISCKO, [redacted]
DIANNE P. *. FISHER [redacted]
JAMES G. *. FISHER [redacted]
TIMOTHY B. *. FISHER, [redacted]
DENNIS A. *. FITZGERALD, [redacted]
MICHAEL D. *. FITZGERALD, [redacted]
DAVID J. FITZPATRICK, [redacted]
STEPHEN A. *. FLANDERS [redacted]
JAMES M. FLEMING, [redacted]
JONATHAN S. FLORA, [redacted]
WILLIAM R. *. FLOYD, JR., [redacted]
TIMOTHY L. FLUGUM, [redacted]
MICHAEL R. FLYNN, [redacted]
THOMAS J. FLYNN, [redacted]
GORDON J. FOLSE, [redacted]
MICHAEL J. *. FONCANNON, [redacted]
JOSEPH F. FONTANELLA, [redacted]
JOHN O. *. FORD, [redacted]
STANLEY H. FORD, [redacted]
HENRY R. FORE, [redacted]
WILLIAM H. FORRESTER, JR., [redacted]
SCOTT T. FORSTER, [redacted]
JAMES E. *. FORSYTH, JR., [redacted]
KENNETH E. FORTUNE, II, [redacted]
ANTHONY E. *. FOSTER, [redacted]
THOMAS G. *. FOSTER, IV, [redacted]
BARRY J. FOWLER, [redacted]
DAVID D. *. FOWLER, [redacted]
EDDIE L. *. FOWLER, [redacted]
BRUCE W. *. FOX, [redacted]
KIM J. *. FOX, [redacted]
WILLIAM L. FOX, [redacted]
JOSE A. FRANCO, [redacted]
DARYN J. *. FRANK, [redacted]
EDWARD *. FRANKLIN, [redacted]
CLAUDIS L. *. FRAZIER, JR., [redacted]
MELVIN R. *. FRAZIER [redacted]
RICHARD D. FRAZIER, [redacted]
RICKY L. *. FREDIEU, [redacted]
GERALD C. *. FRELIGH, JR., [redacted]
MARY C. *. FRELS, [redacted]
MARK R. FRENCH, [redacted]
JOHN R. FREUND, [redacted]
DONN M. *. FREY, JR., [redacted]
PETER J. *. FRICKER, [redacted]
JOHN W. *. FRIEL, [redacted]
GEORGE M. *. FRIES, III, [redacted]
WILLIAM D. FRINK, JR., [redacted]
WILLIAM H. *. FRITZ, JR., [redacted]
ALEXANDER O. *. FROEDE, III, [redacted]
DONALD L. FRY, [redacted]
DONALD R. *. FRY, [redacted]
LOUIS L. *. FUERTES, [redacted]
JOHN E. FUGATE, [redacted]
MICHEAL W. FULLER, [redacted]
JIMMY L. *. FUNCHESS, [redacted]

JAMES T. *. GAETJEN, [redacted]
GEORGE D. GAGARIS, [redacted]
RONNIE GAHAGAN, [redacted]
RICARDO G. GALINDO, [redacted]
JEFFREY J. *. GALLAGHER, [redacted]
SAMUEL L. GALLAGHER, [redacted]
JOHN R. GALLO, [redacted]
MARK J. GALVIN, [redacted]
ALAN D. *. GAMBRELL, [redacted]
ORTIZ J. *. GARCIA, [redacted]
RUDOLPH N. GARCIA, [redacted]
CARL G. GARDNER, [redacted]
RANDY J. GARIBAY, [redacted]
RONALD E. *. GARNER, [redacted]
JOSEPH L. *. GARNES, [redacted]
DOUGLAS L. *. GARRETT [redacted]
GRADY B. GARRETT, [redacted]
TONI M. *. GARRETT, [redacted]
JOHN F. GARRITY, III, [redacted]
WILLIAM A. *. GAWTHROP, [redacted]

RICHARD P. GEBHART, [redacted]
ROBERT W. GEE, [redacted]
RAYMOND L. *. GEECK, [redacted]
ALAN W. GEISHECKER, [redacted]
CHARLES D. GEMAR, [redacted]
GARY M. GENTRY, [redacted]
RICHARD R. *. GEORGE [redacted]
RICHARD B. GEORGI, [redacted]
RONALD J. GEOUQUE, [redacted]
ROGER A. GERBER, [redacted]
SARA C. *. GERHARTZ, [redacted]
JOHN A. GESSNER, [redacted]
WILLIAM G. GESSNER, JR, [redacted]
MARY E. *. GEURTS, [redacted]
THOMAS J. GIBBONS, [redacted]
ROBERT A. GIBBS, [redacted]
BILLY R. *. GIBSON, [redacted]
GRAY M. GILDNER, [redacted]
JOHN H. *. GILL [redacted]
TROY E. *. GILLELAND, JR [redacted]
HENRY S. GILLEN, IV, [redacted]
STEVEN G. *. GILLER [redacted]
RONALD D. GILLETTE, [redacted]
DONALD L. *. GILLIAM, [redacted]
LARRY E. *. GILMORE, [redacted]
MARC G. GIRARD, [redacted]
PETER J. *. GITTO [redacted]
JOSEPH V. *. GLUTH, [redacted]
MICHAEL V. GOETZ, [redacted]
JOHN P. GOGGIN, [redacted]
LORENZO A. *. GOINS, [redacted]
SAMUEL R. *. GOLDEN, [redacted]
MICHAEL M. GOLDSTEIN, [redacted]
RICHARD G. GOLLAN, [redacted]
FELIX O. GONZALES, SR, [redacted]
EMILIO T. *. GONZALEZ, [redacted]
JOE R. GONZALEZ, JR, [redacted]
RUBEN L. GONZALEZ, [redacted]
RAMON L. *. GOOD, [redacted]
TED M. GOOD, [redacted]
DOUGLAS E. GOODMAN, [redacted]
MARK L. GORACKE, [redacted]
GARRETT GORDON, [redacted]
MARTIN C. *. GORDON [redacted]
DEBRA A. *. GORGACZ, [redacted]
MONICA M. *. GORZELNIK, [redacted]
WILLIAM J. GOTHARD, [redacted]
LARRY D. GOURDINE, [redacted]
MARK A. *. GRABLIN, [redacted]
THOMAS W. GRACE, [redacted]
FRANK J. GRAND, III, [redacted]
MICHAEL L. *. GRANDY, [redacted]
SHERMAN L. GRANDY, [redacted]
BRUCE A. *. GRANT [redacted]
MICHAEL O. *. GRANT, [redacted]
CAROLYN S. GRAVES, [redacted]
WILLIAM G. GRAVES, [redacted]
CLEMENT E. *. GREEK, IV, [redacted]
BELLANCE R. *. GREEN, [redacted]
ROBERT K. GREENAWALT, II, [redacted]
MILTON L. *. GREENBERG, JR, [redacted]
JAMES J. *. GREENEY [redacted]
LLOYD B. *. GREER, III, [redacted]
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STEPHANIE M. *. GREGORY, [redacted]
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WILLIAM M. *. GREULING, [redacted]
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CHARLES A. GRIFFIN, [redacted]
QUE R. *. GRIGSON, [redacted]
ANDREW M. GRIMALDA, [redacted]
WILLIAM C. GRIMES, [redacted]
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WILLIAM A. *. GUINN, [redacted]
PATRICK A. GUINNANE, [redacted]
GARY J. GUMM, [redacted]
PETER J. GUSTAITIS, JR [redacted]
MICHAEL J. GUTHRIE, [redacted]
ANNE G. GUTIERREZ, [redacted]
ROBERT G. GUTJAHR, [redacted]
THOMAS J. GUZMAN, [redacted]
JOSEPH F. *. GUZOWSKI [redacted]
JURGEN J. *. GWIN, [redacted]

MARK L. HAALAND, [redacted]
NELSON A. HAGER, [redacted]
JEROME W. *. HAGGINS [redacted]
WILBERT J. HAGGRAY, [redacted]
WAYNE D. HAGIE, [redacted]
THOMAS C. HAID, [redacted]
MARIA E. *. HAIN, [redacted]
MARK L. *. HAINES, [redacted]
BURNIS A. HALL, [redacted]
DAVID C. HALL, [redacted]
HENRY F. *. HALL, JR, [redacted]
MAX N. HALL, [redacted]
MICHAEL J. HALL, [redacted]
MILLARD HALL, JR, [redacted]
FREDERICK S. *. HALTIWANGER, [redacted]
PETER L. *. HALVER [redacted]
DAVID D. HALVERSON, [redacted]
DALE A. HAMBY, [redacted]
RUSSELL L. *. HAMILTON, [redacted]
WILLIAM W. HAMILTON, JR, [redacted]
PHILIP A. *. HAMLINE, [redacted]
GREGOR M. HAMM, [redacted]
BENNIE E. *. HAMMOND, [redacted]
DANIEL R. HAMMOND, [redacted]
JEFFERY W. HAMMOND, [redacted]
DAVID W. *. HAMON, [redacted]
JACK W. HAMPTON, JR, [redacted]
DANIEL Q. HAND, JR, [redacted]
WILLIAM E. *. HANER, JR [redacted]
KNUTE E. HANKINS, [redacted]
BOBBY G. HANNA, JR, [redacted]
JONATHAN C. HANNA, [redacted]
RANDALL R. *. HANNAH, [redacted]
FRANCIS M. *. HANNON, [redacted]
DAVID L. *. HANSEN, [redacted]
PETER A. *. HANSEN [redacted]
MARK D. HANSON, [redacted]
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DANA R. *. HARDING, [redacted]
PERRY HARGROVE, [redacted]
RONALD K. HARING, [redacted]
JOE L. *. HARKEY [redacted]
DAVID L. *. HARLESS [redacted]
ROBERT S. *. HARLOW, [redacted]
RUSSELL D. *. HARMON, JR, [redacted]
WILLIAM E. HARNER, [redacted]
MARIA R. *. HARPER, [redacted]
SION H. HARRINGTON, II, [redacted]
GEORGE R. HARRIS, [redacted]
JAMES E. HARRIS, III, [redacted]
JOHN D. *. HARRIS, [redacted]
LAWRENCE D. HARRIS, [redacted]
LEE A. *. HARRIS, [redacted]
ROBERT L. HARRISON, [redacted]
WILLIAM E. *. HARRY, [redacted]
BRUCE T. *. HART, [redacted]
EDWARD A. HART, [redacted]
WILLIAM E. HARTER, [redacted]
THOMAS R. *. HARTT, [redacted]
HERBERT *. HARVELL, JR, [redacted]
DEREK J. *. HARVEY, [redacted]
PATRICIA I. *. HARVEY, [redacted]
ROBERT P. HARWIG, [redacted]
SAMMIE E. *. HASKIN, [redacted]
JAY A. HATCH, JR, [redacted]
SEARLESS B. *. HATHAWAY, [redacted]
JASON C. HAUCK, [redacted]
STEVEN G. *. HAUGHTON [redacted]
THOMAS B. *. HAUSER, [redacted]
CHARLES J. *. HAVEN [redacted]
JOHN M. *. HAWKINS, [redacted]
MICHAEL A. HAWKINS, [redacted]
ROY HAWKINS, [redacted]
LORAN A. *. HAWORTH, [redacted]
LAWRENCE M. HAYDEN, [redacted]
THOMAS W. HAYDEN, [redacted]
RAYMOND HAYES, JR, [redacted]
JACOB N. *. HAYNES [redacted]
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JAMES J. HAYS, [redacted]
PETER T. *. HAYWARD [redacted]
SCOTT A. HEALY, [redacted]
STEPHEN V. HEARD, [redacted]
RONALD L. *. HEATER, [redacted]
TED E. HEATH, [redacted]
DEBRA L. HECKMAN, [redacted]
BENNY C. HEDDEN, [redacted]
THOMAS D. HEDGLIN, JR, [redacted]
STEPHEN M. *. HEDRICK, [redacted]
JOHN J. HEEMSTRA, [redacted]
MARK E. *. HEFREN, [redacted]
TIMOTHY J. *. HEIDENREICH, [redacted]
GREGG J. *. HEILIG, [redacted]
THOMAS K. HEINEKEN, [redacted]
RICHARD N. HELFER, [redacted]
JAMES A. HELIS, [redacted]
DANIEL L. HELLER, [redacted]
GUSTAF A. HELLZEN, III, [redacted]
EDWARD J. HELMS, [redacted]
VERLICIA H. *. HELTON, [redacted]
DAVID S. HENDERSON, JR, [redacted]
GERALD O. *. HENDERSON, [redacted]
PETER W. *. HENDERSON, [redacted]
THOMAS H. HENDERSON, [redacted]
DONALD J. HENDRIX, [redacted]
JOSEPH G. *. HENDRIX, [redacted]
MONTE F. *. HENGST [redacted]
LONNIE D. HENLEY, [redacted]
TOMMY G. HENNESSEE, [redacted]
JOSEPH E. *. HENRY [redacted]
JOSEPH O. *. HENRY, [redacted]
MARK R. HENSCHEID, [redacted]
KENT HENSON, [redacted]
KEVIN *. HENSON, [redacted]
DAVID J. HEPP, [redacted]
CONNIE V. HERBIN, JR, [redacted]
DAVID M. HERGENROEDER, [redacted]
LEO S. HERGENROEDER, [redacted]
MANUEL J. HERNANDEZ, [redacted]
ROBERT A. HERNANDEZ, [redacted]
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STEPHEN R. *. HESLER, [redacted]
ANDREY B. HETMANSKY, [redacted]
JAMES M. HEVERIN, III, [redacted]
JYUJI D. *. HEWITT, [redacted]
KATHRYN H. HEWITT, [redacted]
DAVID M. *. HICKEY [redacted]
JAMES R. HICKEY, [redacted]
JOSEPH *. HICKMAN, [redacted]
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RONALD P. HIGHAM, JR, [redacted]
ROY A. *. HIGHTOWER [redacted]
MARK R. *. HILBORN, [redacted]
WILLIAM L. *. HILDEBRAND, [redacted]
MARC R. HILDENBRAND, [redacted]
MILTON M. HILEMAN, [redacted]
JAMES H. HILL, JR, [redacted]
NITA M. *. HILL, [redacted]
ROBERT M. HILL, [redacted]
WILLIAM O. HILLARD, [redacted]
MARY F. *. HILLEARY [redacted]
EDWARD L. HILLENBRAND, [redacted]
THOMAS S. *. HILLIARD [redacted]
MICHAEL W. *. HINSON, [redacted]
ROBERT M. *. HNAT, JR, [redacted]
RICHARD K. *. HOBBY, [redacted]
JAMES L. HODGE, [redacted]
RICHARD A. *. HOEFERT, [redacted]
DANIEL P. HOEH, [redacted]
PAUL A. *. HOEKENGA, [redacted]
DAVID J. *. HOFFMAN, JR, [redacted]
JAMES C. HOFFMAN, [redacted]
JANET L. HOFFMAN, [redacted]
MICHAEL E. HOFFPAUIR, [redacted]
WILLIAM H. HOGAN, [redacted]
JACK D. *. HOGGE, JR, [redacted]
BILLY C. HOH, [redacted]
RICHARD M. *. HOLCOMB, [redacted]
LARRY G. *. HOLDER, [redacted]
JANE E. HOLL, [redacted]
JAMES A. *. HOLLAND, II, [redacted]
LARRY K. *. HOLLARS, [redacted]
JEFFREY C. *. HOLLE, [redacted]
STEVEN L. *. HOLLEY [redacted]
CYRUS E. *. HOLLIDAY, [redacted]
REGINALD N. HOLLOWAY, [redacted]
JOSEPH *. HOLMAN, III, [redacted]
SANFORD E. HOLMAN, [redacted]
BRADLEY A. *. HOLMES, [redacted]
LARRY J. *. HOLMES [redacted]
SHARON L. HOLMES, [redacted]
JAMES H. *. HOLSTEIN, II, [redacted]
LAURENCE D. HOLT, [redacted]
ROGER A. *. HOOD, SR, [redacted]
CHARLES W. HOOPER, [redacted]
ANDERSON G. *. HOPE [redacted]
TIMOTHY W. HOPE, [redacted]
ANDREW R. *. HOPKINS, [redacted]
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RONALD P. *. HORN, [redacted]
ANN L. HORNER, [redacted]
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NATHAN W. *. HUGGINS, [redacted]
REBECCA L. HUGGINS, [redacted]
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CLEN S. *. HUMPHREY, JR, [redacted]
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TRAVIS L. *. HUMPHRIES, [redacted]
DALE A. HUNGERFORD, [redacted]
ANDREW L. *. HUNT, [redacted]
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CLIFTON M. *. HUNTER [redacted]
JEFFREY J. *. HUNZINGER, [redacted]
ROBERT F. *. HURD, [redacted]
LEROY T. HURT, [redacted]
ERIC D. HUTCHINGS, [redacted]
JANE C. HUTCHINS, [redacted]

DAVID F. IFFLANDER, [redacted]
ORLANDO J. ILLI, JR, [redacted]
STEVE H. *. INADA [redacted]
STERLING P. INGRAM, III, [redacted]
WILLIAM C. INGRAM, [redacted]
BYRON J. *. INMAN, [redacted]
KENNETH M. IRISH, III, [redacted]
IVORY L. IRVIN, [redacted]
WYMAN W. IRWIN, [redacted]
ROBERT A. ITALIANO, [redacted]
JAN P. *. ITHIER, [redacted]

ALFRED *. JACKSON, [redacted]
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PAUL J. JACOBSMEYER, [redacted]
KEITH T. JACQUE, [redacted]
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DANNY G. *. JAMISON, [redacted]
FOID K. JANES, [redacted]
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VICTOR W. JARRETT, [redacted]
LESTER C. JAURON, [redacted]
CHARLES T. *. JEAN, [redacted]
SCOTT H. JEFFERS, [redacted]
PETER F. JELEN, [redacted]
BARRY W. *. JENKINS, [redacted]
DENNIS L. *. JENKINS [redacted]

JAMES S. JENKINS, JR, [redacted]
WILLIAM F. *. JENNES, [redacted]
CORWIN K. JENNINGS, [redacted]
DAVID C. JENNINGS, [redacted]
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MARK S. *. JENSEN [redacted]
WILLIAM F. *. JERNIGAN, JR [redacted]
EDWIN W. *. JETT, [redacted]
ORLEY H. JOHNS, [redacted]
ALAN B. *. JOHNSON, [redacted]
BRENT A. JOHNSON, [redacted]
CARL M. JOHNSON, [redacted]
ERNEST *. JOHNSON [redacted]
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JACOB I. *. JOHNSON, [redacted]
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RALPH W. JOHNSON, JR, [redacted]
RUSSELL A. JOHNSON, [redacted]
STEPHEN L. JOHNSON, [redacted]
STEVEN J. *. JOHNSON, [redacted]
THEODORE E. JOHNSON, [redacted]
WESLEY J. *. JOHNSON [redacted]
WILLIAM R. JOHNSON, JR, [redacted]
JOHN G. JOHNSTON, [redacted]
CHARLES W. *. JONES, [redacted]
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JOHN R. *. JONES, [redacted]
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LAURIS T. *. JONES, III, [redacted]
LOUIE JONES, JR, [redacted]
LYNDA S. *. JONES [redacted]
MARK W. JONES, [redacted]
NORMAN D. *. JONES, JR, [redacted]
PHILLIP M. *. JONES, SR, [redacted]
REUBEN D. JONES, [redacted]
THOMAS C. *. JONES, [redacted]
VANDON R. *. JONES, JR [redacted]
WILLIAM E. JONES, [redacted]
WILLIE C. *. JONES [redacted]
KEITH F. *. JORDAN, [redacted]
STEPHEN T. JORDAN, [redacted]
RONALD L. *. JORGENSEN, JR [redacted]
CHARLES H. JORGENSON, [redacted]
OSCAR H. *. JUDD [redacted]
PAUL C. JUSSEL, [redacted]

DENNIS R. KAI, [redacted]
WILLIAM E. *. KAISER, JR, [redacted]
HOWARD W. KAMAUU, JR, [redacted]
GENE C. KAMENA, [redacted]
RICHARD J. *. KANE, [redacted]
TERRENCE A. KANKA, [redacted]
MICHAEL D. KANNER, [redacted]
ROBERT A. *. KANT, [redacted]
GEORGE F. *. KARPINSKI, [redacted]
JAMES J. *. KARR, [redacted]
RAYMOND W. *. KASELONIS [redacted]
BRUCE G. KAY, [redacted]
PAUL E. *. KAYE, JR, [redacted]
ROBERT V. KAZIMER, [redacted]
KAREN A. *. KEARNEY, [redacted]
MICHAEL R. KEATING, [redacted]
LEO F. KEECHI, JR, [redacted]
FRANK *. KEEN [redacted]
WAYNE KEEN, [redacted]
JOHN F. KEENA, [redacted]
JAMES T. *. KEENE, JR, [redacted]
CHRISTOPHER J. *. KEESING [redacted]
PAUL T. *. KEIL, [redacted]
JAMES D. KELL, [redacted]
STEVEN M. KELLER, [redacted]
JAMES H. KELLY, [redacted]
KEVIN M. *. KELLY, [redacted]
JACKIE D. KEM, [redacted]
CARRIE W. *. KENDRICK, [redacted]
JOHN S. *. KENNEDY [redacted]
PAUL W. *. KENNEY, [redacted]
TIMOTHY J. *. KENNY, [redacted]
ROBERT M. *. KENT, JR [redacted]
ROBERT W. KENYON, [redacted]
MICHAEL G. *. KEOUGH, [redacted]
LOUIS P. *. KERNISAN [redacted]
ROBERT B. KEYSER, [redacted]
FREDERICK R. KIENLE, [redacted]
JAMES P. KILEY, JR, [redacted]
JOHN R. KILIAN, [redacted]
JOHN P. KIMMEL, [redacted]
BRUCE M. *. KING, [redacted]
CHARLES A. KING, [redacted]
GREGORY KING, [redacted]
JOHN D. KIPLEY, [redacted]
DANIEL R. *. KIRBY [redacted]
DONALD W. KISZKA, JR, [redacted]
ALBERT B. *. KITCHEN, III, [redacted]
ROBERT T. *. KLEPPINGER, [redacted]
WILLIAM K. KLIMACK, [redacted]
RICHARD J. *. KLINE, [redacted]
CHRISTINE A. KLUKA, [redacted]
GEORGE E. *. KNAPP, [redacted]
RONALD K. KNAPP, JR, [redacted]
JAMES E. KNAUFF, JR, [redacted]
TIMOTHY M. *. KNIGGE [redacted]
ROBERT E. KNOTTS, [redacted]
BRIAN K. KNOX, [redacted]
ABBOTT C. KOEHLER, [redacted]
ROYAL W. KOEPSELL, [redacted]
ROBERT F. *. KOESTER, [redacted]
THOMAS M. *. KOLB [redacted]
JOSEPH A. *. KOPINESS [redacted]
THEODORE J. *. KORNHOFF, [redacted]
ALEXANDER D. KORZYK, [redacted]
LEONARD S. *. KOSAKOWSKI [redacted]
GARY W. KOSINUK, [redacted]
STEPHEN R. KOSTEK, [redacted]
ROBERT K. KOSTER, [redacted]
DONALD P. KOTCHMAN, [redacted]
EDWARD R. KOUCHERAVY, [redacted]
KEITH *. KOWADLO [redacted]
RONALD S. *. KOZORA, [redacted]
STEPHEN W. *. KRAJEWSKI [redacted]
ANTHONY H. KRAL, [redacted]
MICHAEL E. *. KRECK, [redacted]
GARY A. *. KREHBIEL [redacted]
JESSE D. *. KREINOP, [redacted]
RONALD D. *. KRETZ, [redacted]
THOMAS A. KRUEGLER, [redacted]
ERIC L. KRUM, [redacted]
WALTER W. KRUPCO, [redacted]
LARRY W. *. KRUSE [redacted]
PAUL M. KUCAN, [redacted]
BERNARD E. KULIFAY, JR, [redacted]

GERARD J. LABADIE, [redacted]
ROYCE G. *. LABOR, [redacted]
EDWARD N. LACEY, JR, [redacted]
THOMAS L. LACROSSE, [redacted]
PAUL R. *. LACUSKY, [redacted]
HARRY S. *. LAFEVERS, [redacted]
RICHARD L. LAJOIE, [redacted]
WILLIAM G. LAKE, JR, [redacted]
MICHAEL J. LALLY, III, [redacted]
ROBERT J. LAMB, III, [redacted]
RONALD LAMB, [redacted]
TIMOTHY J. LAMB, [redacted]
PHILIP W. *. LAMBERT, [redacted]
RICHARD T. LAMBERT, II, [redacted]
ROBERT A. LAMBERT, [redacted]
WILLIAM C. LAMBERT, [redacted]
JOHN P. *. LAMPLOUGH, [redacted]
PATRICK G. LANDRY, [redacted]
NEAL E. *. LANG, [redacted]
ERVIN P. *. LANGAN, [redacted]
KIM A. LANGDORF, [redacted]
RUSSELL W. *. LANGE, [redacted]
KURT L. LANGENWALTER, [redacted]
NEIL C. LANZENDORF, JR, [redacted]
PAUL E. *. LAPEIKIS, [redacted]
JAMES B. *. LARA, [redacted]
CARMINE LARGO, [redacted]
HARVEY L. *. LARSEN, [redacted]
KENT A. *. LARSON [redacted]
MARK D. *. LARSON, [redacted]
CALVIN B. *. LASMITH, [redacted]
JAMES E. LASTER, [redacted]
GEORGE A. LATHAM, II, [redacted]
DOUGLAS E. *. LATHROP, [redacted]
BELINDA W. *. LAVALLE, [redacted]
MICHAEL E. LAVALLE, [redacted]
PAMELA A. *. LAVENDER, [redacted]
LOYD F. LAWING, JR, [redacted]
JERRY L. *. LAWRENCE, JR [redacted]
DAVID E. *. LAWSON, [redacted]
STEPHEN R. LAYFIELD, [redacted]
HOWARD S. LAZARUS, [redacted]
KIM C. *. LEACH [redacted]
LEROYAL LEBLANC, [redacted]
JOSE A. LEBRON, [redacted]
CHARLOTTE H. LEE, [redacted]
KATHERINE M. LEE, [redacted]
MARK W. LEE, [redacted]
ROBERT E. LEE, [redacted]
ROBERT H. *. LEE [redacted]
CRAIG W. *. LEEKER [redacted]
MICHAEL N. *. LEHMAN, [redacted]
ROBERT M. *. LEHNHERR [redacted]
JOSEPH P. *. LEIDY [redacted]
ROBERT C. LEINBERGER, [redacted]
LEOPOLD H. *. LEMELSON, III, [redacted]
WILLIAM F. LEMNITZER, [redacted]
THOMAS C. *. LEMON, [redacted]
DAVID R. LENDERMAN, [redacted]
JOHN T. LENNON, [redacted]
LAWRENCE J. *. LENTZ [redacted]
ROBERT E. *. LENTZ, [redacted]
STEPHEN J. *. LEONARD [redacted]
HENRY R. LEPAGE, JR, [redacted]
FRANCIS A. LESIEUR, III, [redacted]
FRANK G. LESTER, III, [redacted]
HERBERT J. LEVER, JR, [redacted]
ROBERTO A. LEVOIT, [redacted]
ADRIAN R. LEWIS, [redacted]
CHARLES S. LEWIS, [redacted]
DONALD G. LEWIS, [redacted]
DOUGLAS R. *. LEWIS, [redacted]
JAMES M. LEWIS, [redacted]
JEFFREY M. *. LEWIS, [redacted]
JOHN A. LEWIS, [redacted]
LARRY L. *. LEWIS [redacted]
RICHARD G. *. LEYDEN [redacted]
MITCHELL J. *. LIAKOS, [redacted]
MARILYNN K. *. LIETZ, [redacted]
THOMAS W. LIGHT, [redacted]
JOE L. LINDSEY, [redacted]
ROBIN H. LINDSTROM, [redacted]
THOMAS A. *. LINEER, [redacted]
DAVID O. LINTHICUM, [redacted]
WAYNE G. *. LIPSCOMB, [redacted]
KENNETH W. *. LISTON, [redacted]
LARRY G. *. LITER, [redacted]
JAMES C. *. LLOYD, [redacted]
WILLIAM J. LOADHOLTES, [redacted]
JOHN W. *. LOCKHART, JR [redacted]
JONATHAN S. *. LOCKWOOD, [redacted]
JOSEPH D. *. LOFGREN [redacted]
JOHN J. LONDA, [redacted]
STEVEN W. *. LONG, [redacted]
JAMES C. LONGANECKER, [redacted]
ROBERT A. *. LOOMIS, [redacted]
SCOTT L. LOOMIS, [redacted]
ARMANDO *. LOPEZ, JR, [redacted]
JOHN *. LOPEZ, JR, [redacted]
NICOLAS *. LOPEZ, [redacted]
RAMON B. LOPEZ, [redacted]
THOMAS *. LOPEZ, JR, [redacted]
WARREN J. LOPEZ, [redacted]
NICHOLAS W. LORBER, [redacted]
EDWIN G. LORD, [redacted]
LYNN R. LOTT, [redacted]
TROY L. LOVETT, [redacted]
JAMES K. LOWE, [redacted]
MARK P. *. LOWE, [redacted]
WILLIAM R. *. LOWE, [redacted]
GLEN J. LOZIER, [redacted]
JOHN M. *. LUCAS, [redacted]
JAMES H. LUCKETT, [redacted]
ERIC R. *. LUKAVEC, [redacted]
CARL M. *. LUNDQUIST, [redacted]
ALBERT *. LUSTER [redacted]
GREGORY M. *. LUZE [redacted]
RONALD L. *. LYKINS, [redacted]
KEVIN D. *. LYMAN, [redacted]
PHILLIP E. *. LYNAH, [redacted]
KURT O. LYNAM, [redacted]
DAVID L. *. LYNCH, II, [redacted]
JERRY W. *. LYNCH [redacted]
DELORIS A. LYNDERS, [redacted]
LARRY J. *. LYONS [redacted]
RICHARD J. LYONS, [redacted]

JAMES K. *. MABREY, [redacted]
JOHN A. MACDONALD, [redacted]
DOUGLAS L. MACHAMER, [redacted]
TADEUSZ S. MACIUBA, [redacted]
JOHN F. MACK, [redacted]
PHILLIP D. MACKLIN, [redacted]
STEVEN D. MACLELLAN, [redacted]
VICTOR A. MACLEOD, [redacted]
DONNA S. *. MACTAGGART, [redacted]
THOMAS C. MAFFEY, [redacted]
PETER *. MAGADAN, JR [redacted]
FELIX B. *. MAGALONG, JR, [redacted]
JONATHAN C. *. MAGEE, [redacted]
JOHN D. *. MAGUIRE, [redacted]
THOMAS R. MAGUIRE, [redacted]
FRANCIS G. MAHON, [redacted]
SCOTTY MAHONE, [redacted]
JOHN D. MAHONY, [redacted]
CHRISTOPHER B. MAITIN, [redacted]
ROBERT M. MAJO, [redacted]
RODNEY A. MALLETTE, [redacted]
MICHAEL J. MALLORY, [redacted]
ROBERT P. MALLORY, [redacted]
PAUL B. MALONE, IV, [redacted]
BILLY M. MALONEY, [redacted]
MICHAEL E. MAMER, [redacted]
JEFF A. MANLEY, [redacted]
GERALDINE D. MANNING, [redacted]
JONATHAN A. *. MANSON, [redacted]
JOSEPH A. *. MARASCO [redacted]
LYNN B. MARIANO, [redacted]
JAMES N. MARINO, [redacted]
HOUSTON J. *. MARKS, II, [redacted]
TOMMY L. MARKS, [redacted]
JOHN E. MARLIN, [redacted]
TERRY K. MARLOWE, [redacted]
SCOTT A. *. MARQUARDT, [redacted]
DANNY J. *. MARR [redacted]
ANNIE B. *. MARTIN [redacted]
DAN H. *. MARTIN [redacted]
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MICHAEL R. *. MARTINEZ, [redacted]
PETER H. MARTINI, [redacted]
JOSEPH E. MARTZ, [redacted]
JOHN F. MASKAVICH, JR, [redacted]
BRADLEY J. MASON, [redacted]
DAWAYNE H. MASON, [redacted]
FREDERICK J. *. MASON, [redacted]
RAYMOND V. MASON, [redacted]
DALE V. *. MASSEY, [redacted]
WILLIAM C. *. MASSEY, [redacted]
ROGER F. MATHEWS, [redacted]
STEVEN V. *. MATHEWS, [redacted]
GEORGE J. MATIS, II, [redacted]
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KEITH E. *. MATTOX, [redacted]
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ROY D. MAURER, [redacted]
ROBERT A. MAUST, [redacted]
CHRIS C. MAXFIELD, [redacted]
BARRY A. MAXWELL, [redacted]
JODY A. MAXWELL, [redacted]
JOSEPH C. *. MAY, III, [redacted]
DAVID S. MAYER, [redacted]

KELLY L. MAYES, [redacted]
ROBERT D. *. MAYFIELD, [redacted]
LARRY D. MAYNARD, [redacted]
BRIAN K. MAYS, [redacted]
JOHN T. *. MAYS, [redacted]
ANITA M. *. MAZZOLI, [redacted]
DANIEL F. *. MCCAFFERTY, [redacted]
KEITH C. MCCAFFREY, [redacted]
JAMES C. *. MCCANTS, [redacted]
WILLIAM R. MCCARTER, [redacted]
MICHAEL T. *. MCCARTHY, [redacted]
THOMAS C. MCCARTHY, [redacted]
HARRY W. MCCLELLAN, JR, [redacted]
JOHN J. *. MCCLUSKEY, JR, [redacted]
DAVID T. MCCOLLUM, [redacted]
DOUGLAS R. *. MCCORMICK, [redacted]
LARRY *. MCCORMICK, [redacted]
MARK M. MCCORMICK, [redacted]
CURTIS L. MCCOY, [redacted]
MITCHEL L. *. MCCOY, [redacted]
MATTHEW T. *. MCCRACKEN, [redacted]
RICHARD E. MCCREA, [redacted]
GREGORY P. *. MCCRIGHT [redacted]
JOHN F. MCCUE, JR, [redacted]
MICHAEL S. *. MCCULLOUGH, [redacted]
CRAIG P. *. MCCURDY, [redacted]
JEFFREY B. MCDANIELS, [redacted]
HENRY N. *. MCDILL, JR, [redacted]
MARK K. *. MCDONALD, [redacted]
BRUCE H. *. MCFETRIDGE, [redacted]
JOHN J. *. MCGARRY, JR, [redacted]
JAMES P. *. MCGAUGHEY, IV, [redacted]
JOHN K. *. MCGEE, [redacted]
PHILLIP E. *. MCGHEE, [redacted]
VOL F. MCGLOTHLIN, [redacted]
ROBERT E. *. MCGOVERN, JR, [redacted]
HOUSTON *. MCGOWAN, JR, [redacted]
ROBERT C. MCGOWAN, [redacted]
KEVIN P. MCGRATH, [redacted]
LANA L. *. MCGRATH, [redacted]
DONALD C. MCGRAW, JR., [redacted]
TERRENCE J. MCGRAW, [redacted]
JULIO G. MCGRUDER, [redacted]
MARK L. MCGRUDER, [redacted]
DOUGLAS P. MCINTOSH, [redacted]
HARRY L. MCINTOSH, JR., [redacted]
MARK A. *. MCKEAN, [redacted]
GARY D. MCKEE, [redacted]
MARTIN J. *. MCKINLEY, [redacted]
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CAROL A. *. MCKINNEY, [redacted]
MICHAEL W. *. MCKINNEY, [redacted]
MICHAEL H. MCKINNON, [redacted]
JAMES W. *. MCKNIGHT, JR., [redacted]
ROY E. MCLENDON, [redacted]
STUART G. MCLENNAN, III, [redacted]
DOUGLAS E. *. MCLEOD, [redacted]
IRMGARD I. MCMAHON, [redacted]
KAREN E. *. MCMANUS, [redacted]
ROGER V. MCMASTER, [redacted]
MARVIN K. MCNAMARA, [redacted]
PATRICK E. *. MCNAMARA, [redacted]
ROBERT L. *. MCNAMARA, [redacted]
KURT A. MCNEELY, [redacted]
RICHARD R. MCPHEE, [redacted]
ISRAEL R. MCREYNOLDS, [redacted]
REX H. *. MCTYEIRE [redacted]
JOSEPH J. MCVEIGH, JR., [redacted]
THOMAS A. MCWHORTER, [redacted]
KENNETH D. *. MEADOWS, II, [redacted]
DOUGLAS B. *. MECKLEY, [redacted]
GARY R. MEDEN, [redacted]
MARIA A. *. MEDINA, [redacted]
JAMES R. MEDLIN, JR., [redacted]
CAROLYN V. *. MEEKS, [redacted]
RICHARD D. *. MEGAHAN, [redacted]
ROBERT J. *. MENDIOLA, JR., [redacted]
MIGUEL A. MENDOZA, III, [redacted]
MARK A. MEONI, [redacted]
SUSAN D. *. MERRICK, [redacted]
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PAUL R. *. MESSIER, [redacted]
JAMES R. *. MEUCCI, [redacted]
GREGORY E. *. MEYER, [redacted]
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GABRIEL J. *. MICHEL, [redacted]
THOMAS G. *. MICHELS, [redacted]
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PHILIP F. *. MIGLIORE [redacted]
AUSTIN K. MIKASA, [redacted]
HOWARD P. *. MIKKELSEN, [redacted]
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FRANCIS G. *. MILES, [redacted]
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KIM A. MINKINOW, [redacted]
FRANK A. *. MINNER, [redacted]
JOSE E. *. MIRANDA, [redacted]
ROLANDO *. MIRANDA, [redacted]
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STEVEN R. MIRR, [redacted]
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DAVID E. *. MOCK, [redacted]
ALAN R. *. MOELLER, [redacted]
MARY A. MOFFITT, [redacted]
MICHAEL J. *. MONAHAN, [redacted]
JON C. *. MONEYHUN, [redacted]
JAMES F. *. MONG, II, [redacted]
STEPHEN A. *. MONGELLUZZO, [redacted]
LARRY E. *. MONGER, [redacted]
MICHAEL G. MONNETT, [redacted]
GLEN L. *. MONROE [redacted]
JOE MONTANO, JR, [redacted]
BARRY C. *. MONTGOMERY [redacted]
BENNIE L. MONTGOMERY, [redacted]
GARY A. MOODY, [redacted]
JAMES S. MOODY, [redacted]
BERNARD F. MOONEY, [redacted]
BENJAMIN E. *. MOORE, [redacted]
BUDDY K. *. MOORE, [redacted]
CATHERINE D. *. MOORE, [redacted]
EDWARD J. *. MOORE, [redacted]
FURMAN E. *. MOORE, [redacted]
JOSEPH I. *. MOORE [redacted]
JOSEPH R. *. MOORE, [redacted]
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RICHMOND *. MOORE, JR, [redacted]
ROGER M. MOORE, [redacted]
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WAYNE A. MOORE, [redacted]
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LUIS A. *. MORALES, [redacted]
REINALDO MORALES, [redacted]
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CRAIG A. MOREHEAD, [redacted]
ELIZABETH A. *. MOREHEAD, [redacted]
ROBERT J. *. MORELAN, II, [redacted]
SAMUEL E. *. MORFIA, [redacted]
JAMES K. *. MORGAN, [redacted]
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ROBERT C. *. MORRIS, JR, [redacted]
GUY A. MORRISON, [redacted]
RICHARD C. *. MORTENSEN, JR, [redacted]
JAMES C. MOUGHON, III, [redacted]
MICHAEL T. *. MOUNTJOY, [redacted]
THOMAS P. MOYER, [redacted]
DON R. MUELLER, [redacted]
TERRY J. *. MULARKEY, [redacted]
MATTHEW J. *. MULCH, [redacted]
MAUREEN M. *. MULHALL, [redacted]
DAVID A. *. MULLEN, JR, [redacted]
RANDALL P. MUNCH, [redacted]
SAMUEL E. *. MUNOZ, [redacted]
BRIAN F. MURPHY, [redacted]
COLLEEN F. *. MURPHY, [redacted]
FRED *. MURPHY, JR, [redacted]
MARK W. *. MURPHY, [redacted]
MICHAEL F. *. MURPHY, [redacted]
MARK D. *. MURTON, [redacted]
JOSEPH V. MUSCARELLA, [redacted]
JOHN E. MUSKE, [redacted]
EDWIN L. MYERS, [redacted]
JEFFREY F. MYERS, [redacted]
JOSEPH D. MYERS, [redacted]

IRA S. *. NAIDITCH, [redacted]
CRAIG M. *. NAKAJO, [redacted]
JOHN K. *. NAKAMURA, [redacted]
BERNARD J. NALLY, [redacted]
MICHAEL P. NALLY, [redacted]
DAVID W. *. NANTZ, [redacted]
EDWARD P. *. NAPIER [redacted]
MICHAEL T. *. NATUSCH, [redacted]
MAURA K. *. NAUGHTON, [redacted]
DONALD L. *. NAUSS, [redacted]
SCOTT M. *. NEIL, [redacted]
DIRK NELSON, [redacted]
ROBERT J. *. NELSON, [redacted]
METRO J. *. NESTOR, JR, [redacted]
MICHAEL E. *. NETTROUR, [redacted]
GARY F. NEUSER, [redacted]
JEFFREY D. *. NEWLAND, [redacted]
HUBERT W. NEWMAN, [redacted]
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JOHN M. *. NEWMAN, JR, [redacted]
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GARRY L. *. NEWTON, [redacted]
JAMES D. NEWTON, [redacted]
JOHN E. NEY, [redacted]
FREDDIE W. *. NICHOLAS, JR, [redacted]
THEODORE C. NICHOLAS, [redacted]
GEORGE P. NICHOLS, [redacted]
JAMES W. NICHOLS, [redacted]
JONI L. NICHOLS, [redacted]
RALPH D. *. NICHOLS, [redacted]
STEVEN H. NICHOLS, [redacted]
DAVID A. NIEDRINGHAUS, [redacted]
RANDY NIELSON, [redacted]
FRANK S. *. NIGRO, [redacted]
ALLEN E. NIX, [redacted]
JOSEPH P. NIZOLAK, JR, [redacted]
SUSAN K. *. NORRIS, [redacted]
JOSEPH P. NORTHROP, [redacted]
MICHAEL A. *. NORTON, [redacted]
DOUGLAS E. *. NORVELL, [redacted]
DANIEL G. *. NORWALK, [redacted]
DEAN A. NOWOWIEJSKI, [redacted]
FERNANDO J. *. NUNES, [redacted]
JOE P. *. NUNEZ, [redacted]
LEON D. *. NURSEWILLIAMS, [redacted]
BRIAN T. *. NYE, [redacted]
ROY A. *. NYQUIST, [redacted]

MICHAEL L. OATES, [redacted]
CECILIA K. *. OATNEY, [redacted]
GEORGE A. *. OBAR, [redacted]
WILLIAM P. OBERLE, [redacted]
HENRY C. *. OBRIEN, [redacted]
THOMAS N. *. OBRIEN, [redacted]
WILLIAM V. OBRIEN, [redacted]
CHRISTOPHER E. OCONNOR, [redacted]
PATRICK J. OCONNOR, [redacted]
DAVID O. ODEGARD, [redacted]
WILLIAM O. ODOM, [redacted]
THOMAS J. ODONNELL, [redacted]
JOHN B. ODOWD, [redacted]
RODGER A. OETJEN, [redacted]
ROBERT D. OGG, JR, [redacted]
THOMAS E. *. OGRADY, [redacted]
MICHELE M. *. OLIVANT [redacted]
JOSE R. OLIVERO, [redacted]
ARILD W. OLSEN, [redacted]
JAMES R. OMAN, [redacted]
TIMOTHY *. ONEIL, [redacted]
GUY P. ONTAI, [redacted]
JEAN L. *. ONTIVEROS, [redacted]
ALMA A. *. ORIVE [redacted]
STEPHEN M. ORLOFF, [redacted]
MARK S. *. ORNDORFF, [redacted]
PAUL D. OROURKE, [redacted]
LAWRENCE D. *. ORR, [redacted]
EDWARD D. *. ORTA, [redacted]
ROBERTO A. *. ORTIZ, [redacted]
WILFREDO ORTIZ, [redacted]
ROBERT J. OSELES, [redacted]
JAMES C. OSHAUGHNESSY, [redacted]
PAUL A. *. OSWALD, [redacted]
ROBERT *. OTLOWSKI, JR, [redacted]
PHILLIP M. *. OWNBEY, [redacted]
ALBERTO *. OYOLA, [redacted]
THEODORE K. *. OZELIUS, [redacted]

JOHN D. *. PACE, [redacted]
JOHN C. *. PACEY, [redacted]
CHARLES A. *. PAGE, [redacted]
LORRANINE C. PAINTER, [redacted]
PETER J. *. PAIZS, [redacted]
PHILLIP L. *. PALLONE, [redacted]
LEONARD E. PALMER, [redacted]
RONALD J. PALMER, [redacted]
ROBERT P. PANGRAZZI, [redacted]
PHILLIP PANZARELLA, [redacted]
ROY J. PANZARELLA, [redacted]
LAWRENCE R. *. PAPINI, JR [redacted]
GERALD L. *. PARATORE, [redacted]
BRADLEY S. *. PARKER, [redacted]
CHRISTOPHER J. *. PARKER, [redacted]
JAY M. PARKER, [redacted]
KEVIN S. *. PARKER, [redacted]
WILLIAM A. PARKER, [redacted]
DAVID R. *. PARKS, [redacted]
NORMAN S. PARLIER, [redacted]
GARY L. PARRISH, [redacted]
JANE H. PARRISH, [redacted]
DAVID S. PATE, [redacted]
MICHAEL G. PATENAUDE, [redacted]
MELISSA E. *. PATRICK, [redacted]
RICHARD J. *. PATRICK, [redacted]
TERRY S. PEARDON, [redacted]
PATRICK M. PEDDEN, [redacted]
MAURICE L. *. PELLETIER, [redacted]
EDOUARD A. PELOQUIN, JR, [redacted]
WALLACE V. *. PEOPLES, [redacted]
WILLIAM E. *. PEPPER, [redacted]
MIGUEL A. PEREZ, JR, [redacted]
ORLANDO J. PEREZ, II, [redacted]
DAVID D. *. PERKINS, [redacted]
ROGER L. PERKINS, [redacted]
EDWARD L. *. PERRIN, [redacted]
ARTHUR S. PERRITT, [redacted]
ANTHONY G. *. PERRY, [redacted]
EMMETT E. PERRY, JR, [redacted]
JEFFREY J. *. PERRY, [redacted]
RICHARD C. *. PERRY, [redacted]
JIMMIE D. *. PERRYMAN, [redacted]
JAMES D. PETERSON, [redacted]
SCOTT E. *. PETH, [redacted]
DAVID A. *. PETREY, [redacted]
GARY F. *. PETRICH, [redacted]
JOHN F. *. PETRIK, [redacted]
FRANK S. PETTY, [redacted]
FREDERICK W. *. PFANZ, [redacted]

JOSEPH J. PFANZELTER, [redacted]
THOMAS L. PHARR, [redacted]
LEO J. *. PHILBEN, [redacted]
GREGORY B. PHILLIPS, [redacted]
JOHNNY *. PHILLIPS, JR, [redacted]
PAUL W. *. PHILLIPS, [redacted]
CHARLES K. *. PICKAR, [redacted]
DAREL W. *. PICKENPAUGH, [redacted]
KENNETH L. PIEPER, [redacted]
JOHNNY *. PIERCE, JR, [redacted]
LAWRENCE S. PIERCE, [redacted]
THOMAS D. PIJOR, [redacted]
JAMES F. PIKE, [redacted]
CALVIN F. PILGRIM, [redacted]
HARRY *. PILLOT, [redacted]
CHARLES D. *. PILLOW, [redacted]
RONALD C. PILZ, [redacted]
QUINNSANDER M. *. PINCKNEY, [redacted]
PATRICIA E. PIPPIN, [redacted]
TIMOTHY D. *. PISHDAD, [redacted]
GREGORY L. *. PITT, [redacted]
ROBERT C. *. PITTARD [redacted]
CLARENCE *. PITTMAN, III, [redacted]
ROBERT L. PLATT, [redacted]
GREGORY *. PLAYER, [redacted]
ROBERT M. PLAYER, JR, [redacted]
PAUL R. PLEMMONS, [redacted]
ROBERT W. *. PLYLER, JR, [redacted]
STEVE M. POET, [redacted]
PATRICK N. *. POHL, [redacted]
KENNETH L. POINDEXTER, [redacted]
STEPHEN J. *. POLCHEK, [redacted]
RICHARD L. POLCZYNSKI, [redacted]
PETER B. POLK, [redacted]
JOHN D. POLSON, [redacted]
ROY K. PONDER, [redacted]
WINIFRED E. *. PONDER, [redacted]
JOHN *. POOLE, III, [redacted]
EDWARD T. POORE, JR, [redacted]
JOHN L. *. POPP, JR, [redacted]
ERNEST E. PORTER, [redacted]
MONTE L. *. PORTER, JR, [redacted]
ANDREW L. *. POSEY, [redacted]
JAMES R. *. POST, [redacted]
DARRELL E. *. POSTON [redacted]
CLARENCE W. *. POTTER, [redacted]
JAMES M. *. POTTER, [redacted]
WILLIAM S. POTTER, [redacted]
CHARLES G. POWELL, [redacted]
GARY C. *. POWELL, [redacted]
STEPHEN H. POWELL, [redacted]
CHARLES C. *. POWERS, JR, [redacted]
GARY M. *. PRATER, [redacted]
GINGER T. *. PRATT [redacted]
WILLIAM H. PRATT, [redacted]
DONALD F. *. PRESCOTT, [redacted]
SAMUEL P. PRESTIPINO, [redacted]
JACK M. *. PRESTON, [redacted]
RUSSELL L. PREWITTCAMPBELL, [redacted]
VIRGIL R. *. PRIESTLY, [redacted]
CALVIN *. PRINCE, [redacted]
CURTIS B. *. PRINCE, [redacted]
MICHAEL W. *. PRITCHARD, [redacted]
RUSSELL V. *. PRITCHARD, JR, [redacted]
STEVEN M. *. PRITCHETT [redacted]
RODNEY L. *. PROPST, [redacted]
GEORGE C. PRUEITT, [redacted]
CLAUDE E. PRYOR, [redacted]
VERNITA B. *. PRYOR, [redacted]
WILLIAM N. PULLIAM, [redacted]
LARRY L. *. PURINTUN, [redacted]
ROBERT C. *. PUTNAM, [redacted]
RONALD A. *. PUTNAM [redacted]
JEFFREY S. PYCK, [redacted]

KEVIN D. *. QUEEN, [redacted]
TIMOTHY J. QUINN, [redacted]

DUANE T. RACKLEY, [redacted]
JOSEPH B. RACZKOWSKI, [redacted]
ROBERT W. RADCLIFFE, [redacted]
DAVID L. RAE, [redacted]
JAMES B. RAINEY, [redacted]
ROBERT M. RALSTON, [redacted]
JOHN L. *. RAMEY, [redacted]
SAMUEL RAMIREZ, [redacted]
BURT G. RAMOS, [redacted]
ROBERT L. RAMSEUR, [redacted]
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MATTHEW P. *. RANSDELL, [redacted]
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EARL D. RASMUSSEN, [redacted]
JAMES R. *. RASNICK, [redacted]
HAROLD E. RAUGH, JR, [redacted]
GLORIA J. *. RAVEN, [redacted]
MARK E. *. RAY [redacted]
VOLDI F. *. RAYBORN, [redacted]
ALLEN D. RAYMOND, IV, [redacted]
DAVID A. *. RAYMOND, [redacted]
GERALD E. *. READ, [redacted]
JAMES P. REALINI, [redacted]
DARRELL K. *. RECTOR, [redacted]
STEVE A. *. REDDING, [redacted]
ROBERT S. REDFERN, JR, [redacted]
DAVID A. REDMON, [redacted]
DENNIS K. REDMOND, [redacted]
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ANDREW J. *. REINERTSEN, [redacted]
GARY E. REISENWITZ, [redacted]
THOMAS R. RENTON, [redacted]
SAMUEL J. *. REPP, [redacted]
RICHARD A. *. RESLER, [redacted]
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STEPHEN J. RESSLER, [redacted]
KEVIN D. *. RETHERFORD, [redacted]
SAMUEL B. RETHERFORD, [redacted]
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MARTIN I. *. REYES, [redacted]
NORRIS R. *. REYNOLDS, [redacted]
ROBERT O. *. REYNOLDS, [redacted]
LOREN M. *. RHOAD, [redacted]
BARRY L. RHODEN, [redacted]
RICHARD C. RHODEN, [redacted]
RHONDA F. *. RHYNES, [redacted]
CHARLES F. *. RICE, III [redacted]
LARRY T. RICH, [redacted]
SANDRA V. *. RICHARDSON, [redacted]
WAYNE P. RICHARDSON, [redacted]
WALTER *. RIEDLE, JR, [redacted]
RICKEY L. RIFE, [redacted]
ROBERT D. *. RIFFLE, [redacted]
MICHAEL N. RILEY, [redacted]
GARRY P. *. RINALDI, [redacted]
MARCUS A. RINEHART, JR, [redacted]
ROBERT M. *. RISCHE, [redacted]
HARRY N. RISING, III, [redacted]
ERNEST *. RITTER, II, [redacted]
SHERMAN C. *. RIVERS, [redacted]
DENNIS L. *. ROACH, [redacted]
ROBERT M. *. ROBARDEY, SR, [redacted]
JAMES A. ROBARDS, JR, [redacted]
DAVID M. ROBERSON, JR, [redacted]
HENRY D. *. ROBERSON, [redacted]
FREDERICK S. *. ROBERTS, [redacted]
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VON J. *. ROBERTS, [redacted]
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WILLIE J. *. ROBINSON, [redacted]
MARK D. ROCKE, [redacted]
CHARLES A. *. ROCKWOOD, [redacted]
TERRY L. *. RODEN, [redacted]
JAMES D. RODGERS, JR, [redacted]
CARLOS RODRIGUEZ, [redacted]
ERNESTO *. RODRIGUEZ, [redacted]
GUILLERMO A. *. RODRIGUEZ, [redacted]
ISIDRO *. RODRIGUEZ, [redacted]
JAMES H. *. ROE, [redacted]
ANNE M. *. ROESCHGODSEY, [redacted]
GEORGE P. *. ROESE, III, [redacted]
DOUGLAS W. *. ROGALLA, [redacted]
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SUSAN ROMA, [redacted]
DONNA C. *. ROMANCIK, [redacted]
JEFFREY A. ROMER, [redacted]
ROBERT V. *. ROMIGH, [redacted]
MARK A. RONCOLI, [redacted]
JOSEPH M. ROSE, JR, [redacted]
MICHAEL D. ROSENBAUM, [redacted]
KEITH J. ROSS, [redacted]
FREDERICK C. *. ROTCHFORD, [redacted]
PAUL S. *. ROTERMUND, [redacted]
CHARLES N. ROTH, [redacted]
THOMAS J. ROTH, II, [redacted]
BRADLEY N. ROUNDING, [redacted]
DENNIS M. *. ROURKE, [redacted]
WILLIAM E. ROUSSEAU, [redacted]
JAMES R. ROWAN, [redacted]
STEVEN A. *. ROY, [redacted]
DAVID A. ROZELL, [redacted]
RAUL G. *. RUBALCAVA, [redacted]
MICHAEL RUDZINSKI, [redacted]
JOHN A. RUFFIN, JR, [redacted]
PAULETTE F. RUFFIN, [redacted]
LARRY D. RUGGLEY, [redacted]
RONALD R. *. RUIZ, JR, [redacted]
MICHAEL W. RUNYONDAVIS, [redacted]
ROBERT C. RUSH, JR, [redacted]
ROBERT J. RUSH, [redacted]
BUCK L. *. RUSSELL, JR, [redacted]
FRANK E. RUSSELL, JR, [redacted]
MICHAEL D. *. RUSSELL, [redacted]
MONICA J. *. RUSSELL, [redacted]
JACKIE N. *. RUTHERFORD, [redacted]
JAMES P. RYAN, [redacted]
MICHAEL L. *. RYAN, [redacted]

JOHN J. *. SABATELLO, [redacted]
FRANCIS G. *. SABELLICO, [redacted]
ROBIN H. *. SAKODA, [redacted]
RORY A. SALIMBENE, [redacted]
ROBERT B. SALISBURY, [redacted]
WAYNE L. SALLS, [redacted]
RICHARD E. *. SAMPSON, [redacted]
NORMAN D. SAMS, [redacted]
BRYAN R. SAMSON, [redacted]
SCOTT R. *. SAMSON, [redacted]
AMOS L. *. SAMUEL, [redacted]
WILLIAM J. SANDBROOK, [redacted]
DONALD L. *. SANDERS, [redacted]
JAMES P. *. SANDERS, [redacted]
MICHAEL C. SANDRIDGE, [redacted]
LUIS D. *. SANS, [redacted]
RONALD E. *. SARGENT, [redacted]
TIMOTHY A. *. SATRANG, [redacted]
LAWRENCE H. SAUL, [redacted]
CARL S. SAVINO, [redacted]
STEVEN B. *. SBOTO, [redacted]
ANTHONY J. *. SCARPELLI, JR, [redacted]
GREGORY C. *. SCHAACK, [redacted]
DOROTHY L. *. SCHEITLIN, [redacted]
JACK V. SCHERER, [redacted]
JAMES S. *. SCHISSER [redacted]
STEVEN J. *. SCHLOSSER, [redacted]
JOHN E. SCHLOTT, [redacted]
MATTHEW M. SCHMIDT, [redacted]
SCOTT G. *. SCHMIDT, [redacted]
RICHARD L. *. SCHNEIDER, [redacted]
THOMAS A. SCHNEIDER, [redacted]
GEORGE R. *. SCHNELLER, [redacted]
HENRY L. SCHNEPF, JR, [redacted]
JOHN D. *. SCHOEDEL, JR, [redacted]
THOMAS J. *. SCHOENBECK, [redacted]
DAVID M. *. SCHOENFELD, [redacted]
MARK A. *. SCHOENROCK, [redacted]
RICHARD H. *. SCHRAMKOSKI, [redacted]
JOHN W. *. SCHULTZ, JR, [redacted]
ALMA M. *. SCHUTT, [redacted]
MICHAEL R. *. SCHWEIKERT, [redacted]
FRED L. *. SCHWIEN, [redacted]
CLARENCE A. *. SCOTT, [redacted]
DENIS K. *. SCOTT, [redacted]
RANDLE E. SCOTT, [redacted]
PHILIP H. SCRIBER, JR, [redacted]
DAVID C. *. SEAREY, [redacted]
MARION J. SEATON, JR, [redacted]
DANIEL F. *. SEEMANN, [redacted]
JOSEPH M. *. SEERLEY, [redacted]
JAN P. SEITER, [redacted]
KENNETH R. SEITZ, [redacted]
CHARLES M. SELLERS, [redacted]
TODD T. SEMONITE, [redacted]
DANNY E. SENTERFITT, [redacted]
PAMELA H. *. SENTERFITT, [redacted]
MICHAEL C. *. SEVCIK [redacted]
RICHARD L. *. SEVERSON, [redacted]
CURTIS W. *. SEWELL, JR, [redacted]
SAMMIE E. SEYMORE, [redacted]
DAVID G. SHADDRIX, [redacted]
MICHAEL E. SHAFFER, [redacted]
HAROLD D. *. SHAMBLEY, [redacted]
RICHARD E. SHARP, [redacted]
THURMAN P. SHARPLES, [redacted]
ELBERT T. *. SHAW, JR, [redacted]
PATRICK M. SHAW, [redacted]
ROBERT G. SHAW, [redacted]
WADE H. SHAW, JR, [redacted]
KEVIN P. SHEEHAN, [redacted]
JOHN W. *. SHELEY, [redacted]
ROBERT M. *. SHELL, [redacted]
CHARLES E. *. SHELTON, [redacted]
WENDELL K. SHELTON, [redacted]
DORSE M. *. SHERRILL, [redacted]
GUY T. SHIELDS, [redacted]
WILLARD E. *. SHIFFER, [redacted]
WILLIAM L. *. SHILLITO, [redacted]
PAUL B. *. SHORT, JR, [redacted]
PATRICIA C. *. SHORTER, [redacted]
WILLIAM B. SHORTHILL, [redacted]
JOHN W. SHROPSHIRE, JR, [redacted]
LEWIS E. *. SHRYOCK, [redacted]
KEVIN A. *. SHWEDO [redacted]
JENNY SIDRI, [redacted]
KAREN M. SIELSKI, [redacted]
WARD R. SILVOLA, [redacted]
RICHARD J. *. SIMCHIK, JR, [redacted]
HIRAM D. SIMKINS, [redacted]
JAMES E. *. SIMMONS, JR, [redacted]
JAMES W. *. SIMMONS, [redacted]
DAVID L. SIMPSON, [redacted]
LARRY L. SIMPSON, [redacted]
ROBERT H. SIMPSON, [redacted]
CLYDE J. SINCERE, III, [redacted]
JOHN H. SINCLAIR, [redacted]
WARREN C. SINGLETON, [redacted]
TERRI L. *. SIPANTZI, [redacted]
HENRY *. SIPPLE, [redacted]
CARL E. *. SISSON, JR, [redacted]
RICHARD S. *. SITO, [redacted]
MITCHELL C. *. SIVAS, [redacted]
MICHAEL J. SIX, [redacted]
MICHAEL R. SKAGGS, [redacted]
RONALD *. SKVIR, [redacted]
DOUGLAS F. SLATER, [redacted]
TERRENCE M. SLATTERY, [redacted]
JAMES V. *. SLAVIN, [redacted]
WILLIAM M. SLAYTON, [redacted]
MICHAEL D. SLOTNICK, [redacted]
LEON P. SMALLS, [redacted]
JAMES O. *. SMAUGH, JR, [redacted]
ANDREW F. *. SMITH, [redacted]
CARLETON M. SMITH, [redacted]
CURTIS SMITH, [redacted]
DAVID J. SMITH, [redacted]
DAVID M. SMITH, [redacted]
DAVID S. *. SMITH, [redacted]
EARL SMITH, JR, [redacted]
GLADYS V. *. SMITH, [redacted]
JEFFREY G. SMITH, JR, [redacted]
JOHN C. *. SMITH, JR, [redacted]
KEVIN M. SMITH, [redacted]
LARRY SMITH, [redacted]
LARRY D. SMITH, [redacted]
LESLIE W. *. SMITH, [redacted]

LINDA R. SMITH, [redacted]
MICHAEL J. *. SMITH, [redacted]
MICHAEL J. *. SMITH [redacted]
TERRY B. *. SMITH, [redacted]
WILLIAM J. *. SMITH, [redacted]
CHARLES O. SMITHERS, III, [redacted]
GERALD SMITHLEVEROCK, [redacted]
GARRY D. *. SMOTHERS, [redacted]
JOHN C. SNIDER, [redacted]
THOMAS J. SNUKIS, [redacted]
RICHARD M. SOSSAMON, [redacted]
TIMOTHY P. *. SOUDER [redacted]
LEONARD W. SOWELL, [redacted]
DAVID E. *. SPARROW, [redacted]
THOMAS R. *. SPENCER, [redacted]
JOSEPH L. SPENNEBERG, [redacted]
BRENDA *. SPOONER, [redacted]
OREN D. SPRAGUE, [redacted]
ERNEST S. *. SPRUILL [redacted]
MICHAEL A. *. SPRY, [redacted]
VIRGIL K. SPURLOCK, [redacted]
DONNA K. *. STACEY, [redacted]
RANDALL S. *. STAGE [redacted]
DAVID T. STAHL, [redacted]
JOSEPH L. *. STALLINGS, JR [redacted]
LEVELL E. *. STANTON, [redacted]
JOHN G. STAPLETON, JR, [redacted]
MARK L. STAPLETON, [redacted]
JOHN R. STASER, [redacted]
HENRY A. *. STAUFFENBERG, III [redacted]
DANIEL L. STEADMAN, [redacted]
MICHEL R. *. STEARLEY [redacted]
DAVID M. *. STEARNS [redacted]
HENRY J. STEIN, III, [redacted]
JONATHAN J. *. STEIN, [redacted]
KEVIN M. STEIN, [redacted]
AIDA I. *. STEINKE, [redacted]
JAMES G. STEINKE, [redacted]
RALPH R. STEINKE, [redacted]
DAVID P. *. STENBERG, [redacted]
BRYAN K. STEPHENS, [redacted]
MARSHALL L. *. STEPHENSON, [redacted]
JOE E. *. STEPP, [redacted]
ROBERT D. *. STERN, [redacted]
GEORGE W. *. STEUBER, [redacted]
MARK A. *. STEVENS, [redacted]
ROBERT B. *. STEWARD, [redacted]
LESLIE D. *. STEWART, [redacted]
KERRY M. STILL, [redacted]
STEPHEN C. STONE, [redacted]
WARD B. *. STONE, [redacted]
JOHN C. STORBECK, [redacted]
ALLEN T. *. STOREY, [redacted]
HENRY T. *. STOREY, [redacted]
JOSEPH C. *. STOREY, [redacted]
WILLIE G. *. STOREY, [redacted]
WILLIAM H. *. STORMER, [redacted]
STANLEY B. *. STOUT [redacted]
JAMES L. STOVER, [redacted]
DAVID M. *. STRAND, [redacted]
JOHN A. *. STRATTON, JR, [redacted]
VICTOR L. STREET, [redacted]
THOMAS D. *. STRICKLIN, [redacted]
TIMOTHY B. *. STROUD, [redacted]
DAVID R. *. STRUTHERS [redacted]
GRANT E. *. STRZELCZYK, [redacted]
VINCENT A. *. STUBBS, [redacted]
JOHN W. *. STUCK, JR, [redacted]
HARRY D. STUDEBAKER, [redacted]
GREGORY A. STUMP, [redacted]
KEVIN M. STUMP, [redacted]
DANIEL V. SULKA, [redacted]
GARRETT J. SULLIVAN, [redacted]
GERALD *. SULLIVAN, [redacted]
JAMES F. SULLIVAN, JR, [redacted]
JAMES P. *. SULLIVAN, [redacted]
JAMES S. SULLIVAN, JR, [redacted]
JOHN J. SULLIVAN, [redacted]
MICHAEL J. SULLIVAN, [redacted]
JACK N. SUMME, [redacted]
HARRY G. *. SUMMERS, III, [redacted]
KIM L. SUMMERS, [redacted]
DENNIS R. SUNDELL, [redacted]
PATRICIA A. SUNDET, [redacted]
BRIGHAM H. *. SUSAN, [redacted]
WILLIAM M. SUSONG, [redacted]
ROBERT L. SUTHARD, JR, [redacted]
FRED L. *. SVEDARSKY [redacted]
DAVID F. SWAFFORD, [redacted]
BRUCE M. SWAGLER, [redacted]
ROBIN P. SWAN, [redacted]
DAVID C. SWANSIGER, [redacted]
LINDA D. SWANSON, [redacted]
RANDY P. *. SWARTZ, [redacted]
TIMOTHY J. SWEENEY, [redacted]
MICHAEL S. SWEET, [redacted]
WILLIAM D. *. SWISHER, [redacted]

FRANK *. TAKACS, JR, [redacted]
MARSHA M. *. TAKAO, [redacted]
GLENN H. TAKEMOTO, [redacted]
LYTLE D. TAKEMOTO, [redacted]
ROBERT S. TALIANKO, [redacted]
ANDREW M. *. TARR, [redacted]
ANNE E. TARRANT, [redacted]
KENNETH D. *. TARRANT, [redacted]
ROBERT F. *. TARRANT, [redacted]
DALE C. TATAREK, [redacted]
BENJAMIN H. *. TAYLOR, II [redacted]
CHARLES W. TAYLOR, [redacted]
DANIEL L. TAYLOR, [redacted]
FRANCIS P. TAYLOR, III, [redacted]
FREDERICK G. *. TAYLOR, II, [redacted]
RANDY J. TAYLOR, [redacted]
STUART S. *. TAYLOR, [redacted]
FREDDIE A. *. TEAFORD, [redacted]
CARL M. TEGEN, [redacted]
MICHAEL N. *. TERHUNE [redacted]
BETH A. *. TERRANOVA [redacted]
MARK S. *. TERRY, [redacted]
MICHAEL J. TERRY, [redacted]
ROBERT F. TERRY, [redacted]
GLENN T. *. TETREAULT, [redacted]
KEVIN L. THEEDE, [redacted]
RICHARD R. *. THIBODEAU, [redacted]
ALBERT P. *. THOMAS, JR, [redacted]
CHARLES E. THOMAS, [redacted]
STEVEN M. *. THOMAS, [redacted]
TED A. THOMAS, [redacted]
RICHARD G. THOMPSON, [redacted]
WILLIAM R. THOMPSON, [redacted]
EDWARD R. *. THORSBY, [redacted]
KEVIN G. THORSON, [redacted]
PAUL W. *. THORSON, [redacted]
JAMES G. *. THYNE, JR, [redacted]
ALAN R. THYNG, [redacted]
KATHERINE J. *. TIFFANY, [redacted]
SCOTT E. TILLSON, [redacted]
ERIC M. TILTON, [redacted]
WILLIAM H. *. TIMMERMANN, [redacted]
CHESTER D. *. TINDALL [redacted]
RANDALL E. TINDALL, [redacted]
ROBERT L. *. TINSLEY, JR, [redacted]
MICHAEL T. TOBIN, [redacted]
LARRY J. TODD, [redacted]
ROBERT C. TODD, [redacted]
STEVE A. *. TOLBERT [redacted]
JOSEPH V. *. TOMKIEL, [redacted]
RONALD E. *. TOOMBS, [redacted]
KEVIN O. *. TOPP [redacted]
JOSE A. TORRES, [redacted]
ARTHUR T. TRACY, [redacted]
TIMOTHY A. *. TRAX, [redacted]
JAMES L. TRAYERS, [redacted]
HUGH M. *. TRENT, [redacted]
MARK A. TREXLER, [redacted]
WILLIAM S. TRICE, II, [redacted]
ROBERTO *. TROCHE, [redacted]
SIMEON G. TROMBITAS, [redacted]
JEFFREY L. TROWER, [redacted]
RAYFORD E. *. TRUESDALE [redacted]
THOMAS H. TRUMPS, [redacted]
DONALD L. *. TUCKER, [redacted]
MICHAEL S. TUCKER, [redacted]
GERRY B. *. TURNBOW, [redacted]
CALVIN J. *. TURNER, [redacted]
CARL E. *. TURNER, 430-11-0232
CLARENCE E. *. TURNER [redacted]
RICHARD B. *. TURNER, JR, [redacted]
ROBERT G. TURNMEYER, [redacted]
NELVIN E. TYLER, JR, [redacted]
HUGH H. *. TYNDALL, III, [redacted]
THOMAS E. *. TYSON, [redacted]

ROBERT P. UFFORD, [redacted]
JOSEPH V. *. ULANS, [redacted]
WALTER F. ULMER, III, [redacted]
CHARLES B. *. ULRICSON, [redacted]
JOHN T. UPTON, [redacted]
CARLOS A. USERA, [redacted]

MARK S. *. VAGNERINI, [redacted]
MARK E. *. VALENTINE, [redacted]
KARL K. VALINE, [redacted]
JON E. *. VANCE, [redacted]
JOHN V. VANDERBLEEK, [redacted]
TIMOTHY A. VANDERSOMMEN, [redacted]
LANE M. *. VANDESTEEG, [redacted]
STEVEN L. VANDREW, [redacted]
WOUTER H. *. VANGUMSTER, [redacted]
RICHARD *. VARELA, JR, [redacted]
PETER J. VARLJEN, [redacted]
SOLOMON G. *. VARNADO, [redacted]
VAUGHN G. VASCONCELLOS, [redacted]
THOMAS B. *. VAUGHT, JR, [redacted]
JAMES E. VEDITZ, [redacted]
MATHIAS R. VELASCO, [redacted]
CARLOS *. VELEZ, [redacted]
DAVID J. VERSAGE, [redacted]
SCOTT M. VICKERS, [redacted]
RODNEY W. VICTORINE, [redacted]
RUBEN *. VIERA, [redacted]
MERLYN J. *. VILLERY, [redacted]
ROBERT H. *. VOKAC [redacted]
MARK VOLK, [redacted]
JAMES I. VOSLER, [redacted]
MARTIN L. VOZZO, [redacted]
PATRICK D. VYE, [redacted]

LEIGH W. WACENSKE, [redacted]
DEIRDRE K. *. WACKERMAN, [redacted]
MICHAEL R. *. WAGERS, [redacted]
ROY C. WAGGONER, III, [redacted]
DWAYNE K. WAGNER, [redacted]
JOHN H. *. WAGNER [redacted]
LARRY E. *. WAKS, [redacted]
JOSEPH L. WALDEN, [redacted]
JAMES E. WALDO, [redacted]
GARY E. *. WALKER, [redacted]
GARY S. WALKER, [redacted]
RANDEL F. *. WALKER, [redacted]
STEPHEN L. WALKER, [redacted]
DENNIS A. WALL, [redacted]
KEVIN B. WALL, [redacted]
MARVIN O. *. WALL, [redacted]
GARY R. WALLACE, [redacted]
LEE R. WALLACE, [redacted]
PHILLIP R. *. WALLACE [redacted]
ROY A. *. WALLACE, [redacted]
WILLIAM W. WALLIN, [redacted]
ROBERT G. WALTERS, [redacted]
DOUGLAS L. *. WAMPLER, [redacted]
WILLIAM J. *. WANDS, JR [redacted]
WILLIAM J. WANSLEY, [redacted]
DANIEL *. WARD, [redacted]
JAN T. *. WARD, [redacted]
RODNEY G. WARD, [redacted]
MONROE P. WARNER, [redacted]
WENDELL C. *. WARNER [redacted]
CURTIS K. *. WARREN, [redacted]
GEORGE M. *. WARREN, [redacted]
GERALD R. *. WARREN, [redacted]
DWIGHT C. *. WASHINGTON, [redacted]
GEORGE A. *. WASHINGTON, JR, [redacted]
HENRY L. *. WASHINGTON, [redacted]
MICHAEL WASHINGTON, [redacted]
LEONARD D. *. WATERWORTH, [redacted]
GAYLE L. WATKINS, [redacted]
JOHN R. *. WATKINS [redacted]
WILLIAM J. *. WATKINS, [redacted]
EARL B. *. WATSON, [redacted]
THOMAS W. WEAFER, [redacted]
LAWRENCE J. *. WEATHERLOW, [redacted]
MICHAEL T. WEAVER, [redacted]
CHARLES B. WEBB, [redacted]
HAROLD W. WEBB, [redacted]
LARRY D. WEBB, [redacted]
KEVIN J. WEDDLE, [redacted]
CHARLES L. *. WEEKS, [redacted]
ROBERT L. WEEKS, [redacted]
JAMES E. WEGER, [redacted]
JOANNE P. WEISHAR, [redacted]
MORRIS B. WEISS, [redacted]
BILLY H. WELCH, [redacted]
DONALD J. WELCH, JR, [redacted]
RONALD W. *. WELCH, [redacted]
CHARLOTTE D. *. WELLS [redacted]
GORDON M. WELLS, [redacted]
WILLARD B. WELLS, JR, [redacted]
JOHN M. *. WELSH, [redacted]
KEVIN R. WENDEL, [redacted]
ROBERT P. WENTZEL, [redacted]
JOE C. *. WEST, [redacted]
KATHY J. *. WEST, [redacted]
STEVEN A. *. WEYMAN, [redacted]
CARL E. *. WHALEY [redacted]
GEORGE A. *. WHEAT, [redacted]
ALVIS A. WHEATLEY, [redacted]
BENJAMIN G. *. WHITE [redacted]
FRANK W. WHITE, [redacted]
JESSE A. WHITE, [redacted]
KENNETH J. *. WHITE, [redacted]
PAUL W. *. WHITE [redacted]
WAYNE L. WHITE, [redacted]
CURTIS G. WHITEFORD, [redacted]
WAYNE E. WHITEMAN, [redacted]
THOMAS M. *. WHITESIDE, JR, [redacted]
LLOYD T. *. WHITFIELD, [redacted]
DOUGLAS D. *. WHITNEY, [redacted]
EUGENE A. *. WHITNEY, [redacted]
DAVID F. *. WHITTAKER, [redacted]
CECIL D. WHITTINGTON, [redacted]
STEVE T. *. WILBERGER [redacted]
ELIJAH R. *. WILBURN, [redacted]
BUFFIE D. *. WILCOX [redacted]
PAUL A. *. WILCOX [redacted]
DANIEL R. *. WILHELM, [redacted]
DAVID C. WILHIDE, [redacted]
STEPHEN L. *. WILKINSON, [redacted]
MONTY E. WILLEY, [redacted]
GREGORY M. WILLIAMITIS, [redacted]
FLOYD D. WILLIAMS, JR, [redacted]
GARY L. *. WILLIAMS, [redacted]
KATHERINE M. *. WILLIAMS, [redacted]
KENNETH R. WILLIAMS, [redacted]
LALETA A. *. WILLIAMS, [redacted]
MARK W. *. WILLIAMS, [redacted]
RANDY *. WILLIAMS, [redacted]
RONNIE M. *. WILLIAMS, [redacted]
WESLEY G. *. WILLIAMS, [redacted]
WRIGHT A. *. WILLIAMS [redacted]
THOMAS L. WILLIAMSON, [redacted]
GEORGE W. *. WILLIS, III, [redacted]
PAUL L. WILLIS, [redacted]
CLYDE T. *. WILSON, [redacted]
DALE E. WILSON, [redacted]
GREGORY J. *. WILSON [redacted]
KEITH H. WILSON, [redacted]
WILLIAM G. WILSON, [redacted]
KEVIN S. *. WIMMER, [redacted]
JAMES E. WINBUSH, [redacted]
EARL R. WINGROVE, III, [redacted]
RANDALL W. *. WINTER, [redacted]
GARY J. WINTON, [redacted]
RONALD L. *. WITT, [redacted]
PETER V. WOJCIK, [redacted]
PERCIVAL D. *. WOLF, [redacted]
JAMES M. WOLFE, [redacted]
ROBERT W. *. WOLFENDEN [redacted]
TERRY A. WOLFF, [redacted]
JEFFREY K. *. WOMACK, [redacted]
KEITH A. WOOD, [redacted]
STEPHEN C. WOOD, [redacted]
ALLEN F. *. WOODHOUSE [redacted]

ROBERT H. WOODS, JR, [redacted]
RAY C. *. WOOLERY [redacted]
HARLEY K. WOOSTER, JR, [redacted]
ROGER J. *. WORTMAN [redacted]
BRUCE J. WOZNIAK, [redacted]
ANTHONY W. WRIGHT, [redacted]
DAVID *. WRIGHT, JR [redacted]
KEVIN V. WRIGHT, [redacted]
STEPHEN E. *. WRIGHT [redacted]
MARK B. WROTH, [redacted]
DENNIS C. *. WUERTH, [redacted]
JEFFREY W. YAEGER, [redacted]
MARIANNA M. *. YAMAMOTO, [redacted]
JAMES C. YARBROUGH, [redacted]
LARRY J. *. YARBROUGH, [redacted]
PAUL J. *. YARGER [redacted]
DANIEL B. YAROSS, [redacted]
JAMES E. *. YATES, [redacted]
JOHN W. YBARBO, [redacted]
ALAN K. *. YESKE [redacted]
ROBERT W. *. YINGLING, II, [redacted]
JOHN A. YLINEN, [redacted]
BRUCE P. YOST, [redacted]
CHARLES A. *. YOUNG, JR [redacted]
CHRISTOPHER J. YOUNG, [redacted]
DAVID N. YOUNG, [redacted]
JOSEPH D. *. YOUNG, [redacted]
MORRIS M. YOUNG, [redacted]
NOLAN B. *. YOUNG [redacted]
OTIS E. *. YOUNG, III [redacted]
JAMES P. YUENGERT, [redacted]
MICHAEL E. ZABOROWSKI, [redacted]
PAUL A. ZACHARZUK, [redacted]
WILLIAM R. *. ZACOVIC, [redacted]
FRANK H. *. ZAHRT, JR, [redacted]
GEORGE A. *. ZANDIOTIS, [redacted]
JAMES E. ZANOL, [redacted]
MICHAEL A. *. ZARATE, [redacted]
JOHN W. *. ZEDAKER, [redacted]
PHILLIP J. ZELLER, III, [redacted]
WILLIAM J. ZIENTEK, III, [redacted]
KEITH L. ZIMMERMAN, [redacted]
ROBERT M. *. ZIMMERMAN [redacted]
DANIEL L. ZIMMERMANN, [redacted]
MARK J. *. ZODDA [redacted]
WILLIAM D. *. ZOELLERS, [redacted]
LIN B. ZULICK, [redacted]

*. [redacted]
*. [redacted]
*. [redacted]
*. [redacted]
*. [redacted]
*. [redacted]
*. [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

TRUMAN D. ANDERSON, JR, [redacted]
MARK R. BOUNDY, [redacted]
MARK J. BOURDON, [redacted]
CECILE H. BUDIMIER, [redacted]
DAVID G. BUELL, [redacted]
STEVEN W. BUSBY, [redacted]
RICHARD S. CHRISTENSEN, [redacted]
DAVID C. COKER, [redacted]
BRIAN E. HULBERT, [redacted]
MICHAEL J. KEEGAN, [redacted]
JEFFREY G. MEEKS, [redacted]
VERNON B. MILES, [redacted]
DAVID R. NELSON, [redacted]
WARD E. SCOTT, [redacted]
THOMAS G. SCULLY, [redacted]
JOHN M. SESSOMS, [redacted]
THOMAS S. SOROKA, [redacted]
MARK A. SULLIVAN, [redacted]
BILL WHITSON, [redacted]
CHARLES R. ZELNIS, [redacted]

To be lieutenant

BENJAMIN P. ALLEGRETTI, [redacted]
MARK J. ANDERSON, [redacted]
TIMOTHY T. ARMSTRONG, [redacted]
MARK D. BRANDON, [redacted]
MICHAEL G. BROIHIER, [redacted]
STEPHEN L. CAREY, [redacted]
JAMES S. CASON, [redacted]
ROBERT D. CLARK, [redacted]
JOSEPH F. COCHRAN, [redacted]
GLADYS S. COOPER, [redacted]
KRISTA J. CROSETTO, [redacted]
DOUGLAS A. CYPHER, [redacted]
TIMOTHY R. DALLY, [redacted]
DAVID D. DEAN, [redacted]
JEFFREY R. DEBEER, [redacted]
JON G. DOERING, [redacted]
DANIEL W. ELZIE, [redacted]
JAMES R. FINLEY, [redacted]
RICHARD F. FITTS, [redacted]
ALEXANDER A. FORD, [redacted]
ROBERT C. GARDNER, [redacted]
SCOTT A. GARRIS, [redacted]
DENNIS J. GEHRT, [redacted]
MICHAEL J. GEORGE, [redacted]
BRUCE M. GIBSON, [redacted]
BRIAN H. GUDMUNDSSON, [redacted]
DUDLEY C. HARRIS, [redacted]
KENNETH S. HELFRICH, [redacted]
ROBERT J. HOUDE, [redacted]
SCOTT J. JAEGER, [redacted]
JEFFREY A. JOHNSON, [redacted]
STACY D. KAUCHER, [redacted]
KIMBERLY S. KEENEY, [redacted]
RONALD M. KENT, [redacted]
LAWRENCE S. LOCH, [redacted]
DOUGLAS M. MAGOFFIN, [redacted]
RONALD J. MARTIN, [redacted]
WAYNE R. MARTIN, [redacted]
JAMES C. MCDONALD, [redacted]
JOHN F. MCIVOR, [redacted]
PATRICK N. MCMANN, [redacted]
JEFFREY C. MECKERT, [redacted]
PATRICK A. MUIR, [redacted]
NIEL E. NELSON, [redacted]
ANDREW S. OHARA, [redacted]
JON E. OMEY, [redacted]
HOWARD T. PARKER, JR, [redacted]
RICHARD S. PARKER, JR, [redacted]
BILLY PARSON, [redacted]
ROBERT G. PETIT, [redacted]
RONALD B. RADICH, [redacted]
THOMAS M. READ, [redacted]
PHILIP G. RYNN, [redacted]
RAYMOND J. SANCHEZ, JR, [redacted]
RICHARD S. SHAW, [redacted]
JOHN D. SIMPSON, [redacted]
TIMOTHY W. STALLMAN, [redacted]
BRUCE H. STILLMAN, [redacted]
BRIAN G. TEEPLE, [redacted]
DONNA J. VAN VLERAH, [redacted]
RONALD D. WALLACE, [redacted]
CAROL A. WALTZ, [redacted]
THOMAS W. WARD, [redacted]
DREW M. WEST, [redacted]
WESLEY C. WILLIAMS, II, [redacted]
SCOTT T. WINTER, [redacted]
PHILLIP J. WOLF, [redacted]
PAUL T. WOLFROM, [redacted]
DANIEL D. YOO, [redacted]
PETER A. ZARCONE, [redacted]
CHRISTOPHER ZELEZ, [redacted]
ANDREW L. BLACK, [redacted]
TRENT BLACKSON, [redacted]
BRYAN K. BUCKLES, [redacted]
MICHAEL D. CARPENTER, [redacted]
ROBERT C. CLEMENTS, [redacted]
CHRISTOPHER EDWARDS, [redacted]
ERIC L. GEISSLER, [redacted]
ROBERT C. KUCKUK, [redacted]
MICHAEL B. LILLEY, [redacted]
THOMAS D. PLEITGEN, [redacted]
LARRY C. RHINEHART, [redacted]
FRANKLIN J. ROSA, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED U.S. NAVAL ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BRIAN T. ALEXANDER, [redacted]
PETER D. ALEXANDER, [redacted]
MELINDA W. ALLEN, [redacted]
DANIEL T. ALTOMARE, [redacted]
NICHOLAS J. AMATUCCIO, [redacted]
VAN A. ANDERSON [redacted]
THOMAS E. ARNOLD [redacted]
CURTIS D. AVERY [redacted]
ROBERT T. BADEER [redacted]
FRANCISCO M. BALL, [redacted]
MATTHEW L. BALTERS, [redacted]
BRIAN S. BARTHOLF, [redacted]
THOMAS E. BASE, [redacted]
DAVID C. BASS, [redacted]
DONALD R. BATES, [redacted]
WALTER T. BAUGH, [redacted]
PETER B. BAUMGARTEN, [redacted]
THOMAS H. BECK, [redacted]
BRIAN E. BELL, [redacted]
BRUCE S. BENNETT, [redacted]
DAWN L. BENNETT, [redacted]
GREGORY C. BERNARD, [redacted]
PAUL F. BERTHOLF, [redacted]
ERIC S. BLOCK, [redacted]
RICHARD L. BOMHOLD, [redacted]
BRAD A. BOOKWALTER, [redacted]
MICHAEL L. BRAMBLE, [redacted]
KEVIN A. BROOKS, [redacted]
THOMAS M. BUEHNER, [redacted]
JON D. BUNN, [redacted]
WILLIAM W. BURKHART, [redacted]
MARK A. BUTLER, [redacted]
AUGUSTO G. CATA, [redacted]
ROBERT A. CECCHINI, [redacted]
STEVEN E. CEDRUN, [redacted]
JOHN C. CHURCH, [redacted]
THOMAS M. CLEARY, [redacted]
CHRISTINE A. COETZEE, [redacted]
MICHAEL G. COLEMAN, [redacted]
DANIEL B. CONLEY, [redacted]
KENNETH C. COOPER, [redacted]
ROBERT W. COOPER, [redacted]
JAMES L. COX, [redacted]
DEAN E. CRAFT, [redacted]
ARTHUR G. CROWE, [redacted]
RICHARD C. CULP, [redacted]
ROBERT E. CURRAN, [redacted]
LEO L. DEBANDI, [redacted]
MICHAEL J. DEE, [redacted]
RALPH A. DENGLER, [redacted]
TIMOTHY J. DEVLIN, [redacted]
ANTHONY T. DIAZ, [redacted]
DAVID G. DIEUGENIO, [redacted]
MICHAEL W. DINARDO, [redacted]
SALVATORE A. DIPAOLA, [redacted]
HENRY V. DOYLE, [redacted]
ANTHONY W. EATON, [redacted]
SCOTT H. EVANS, [redacted]
JOHN R. FELDKAMP, [redacted]
STEPHEN J. FERNANDEZ, [redacted]
STEPHEN A. FERRO, [redacted]
JEFFREY E. FORTE, [redacted]
ANDREW J. FRIE, [redacted]
STEVEN E. GALL, [redacted]
DOUGLAS K. GELBACH, [redacted]
MICHAEL W. GEORGE, [redacted]
BRYAN P. GRAHAM, [redacted]
ALAN M. GREENWOOD, [redacted]
SEAN D. GRIFFIN, [redacted]
DANIEL J. HAAS, [redacted]
MARK A. HADEN, [redacted]
BRIAN M. HARE, [redacted]
CORDEL W. HARRIS, [redacted]
JAMES D. HAWKINS, [redacted]
ANDREW J. HEINO, [redacted]
FRED K. HERRMANN, [redacted]
LAWRENCE J. HERTZOG, [redacted]
DANIEL J. HIGGINS, [redacted]
DAVID M. HITCHCOCK, [redacted]
TUCKER M. HITE, [redacted]
WILLIAM R. HITTINGER, [redacted]
ROBERT W. HONEYCUTT, [redacted]
MICHAEL T. JAMES, [redacted]
RUDOLPH M. JANICZEK, [redacted]
JOHN M. KASUDA, [redacted]
WESLEY B. KAUFMAN, [redacted]
TIMOTHY P. KEEFE, [redacted]
SCOTT L. KISCH, [redacted]
KEVIN K. KITTS, [redacted]
ERIK J. KNUTILA, [redacted]
MICHAEL J. KRAFT, [redacted]
MARK A. LAMCZYK, [redacted]
JAMES J. LANDON, [redacted]
PETER T. LIMOGE, [redacted]
CHARLES W. LOCHARD, [redacted]
TODD J. MACDONALD, [redacted]
JOSEPH R. MAGUIRE, [redacted]
MICHAEL F. MAJEWSKI, [redacted]
JOHN M. MARES, [redacted]
PAUL G. MARTEL, [redacted]
DAVID W. MAXWELL, [redacted]
CRAIG A. MCCARTER, [redacted]
THOMAS R. MCCARTHY, [redacted]
JAMES F. MCGRATH, [redacted]
THOMAS E. MCKEAN, [redacted]
GEORGE D. MEEHAN, [redacted]
CRAIG M. MILLER, [redacted]
MARK A. MILLER, [redacted]
HARRY MONROE, [redacted]
JAMISON C. MOORE, [redacted]
JOHN E. MOORE, [redacted]
JOSEPH M. MORALEZ, [redacted]
ADRIAEN M. MORSE, [redacted]
PAUL L. MULLER, [redacted]
DANIEL W. MULLIGAN, [redacted]
YOSHIYUKI C. MURAKI, [redacted]
GREGG M. NAKANO, [redacted]
TIMOTHY R. NOONAN, [redacted]
KERRY M. OCONNOR, [redacted]
JACK E. ODONNEL, [redacted]
DEAN H. ORVIS, [redacted]
JUAN C. OSORNO, [redacted]
ROBERT A. PESCATORE, [redacted]
SCOTT T. PETERSON, [redacted]
JOSEPH P. PHILLIPS, [redacted]
THOMAS F. PIETKIEWICZ, [redacted]
PATRICK J. PORTER, [redacted]
ROBERT D. PRIDGEN, [redacted]
WARD V. QUINN, [redacted]
JEFFREY M. REAGAN, [redacted]
CLIFF D. REES, [redacted]
AUSTIN E. RENFORTH, [redacted]
VINCENT L. REYES, [redacted]
CLAUDE E. RICHARDSON, [redacted]
PAUL J. ROCK, [redacted]
KEVIN J. ROSS, [redacted]
GREGORY W. ROUILLARD, [redacted]
TIMOTHY M. SALMON, [redacted]
JAMES C. SARFERT, [redacted]
DOUGLAS R. SCHUELER, [redacted]
ERIC J. SHARPE, [redacted]
ANDREW L. SHAW, [redacted]
GREGORY R. SHIMP, [redacted]
ROBERT F. SIMI, [redacted]
STEPHEN D. SKLENKA, [redacted]
DARRYL L. SMITH, [redacted]
CHRISTOPHER B. SNYDER, [redacted]
FRANK A. SYNDER, [redacted]
RONALD F. STARTZEL, [redacted]
JAMES C. STEWART, [redacted]
ROBERT W. STRONG, [redacted]
DAVID P. STUDER, [redacted]
MARSHALL L. SWOR, [redacted]
PAUL L. TIEDE, [redacted]
NHUT Q. TRAN, [redacted]
THOMAS E. TURNER, [redacted]
RICHARD C. VAILL, [redacted]

MICHAEL J. VALAIK, [redacted]
KURT A. VANETTEN, [redacted]
TODD C. VAUPEL, [redacted]
ERIC M. VEIT, [redacted]
THOMAS J. VICTORY, [redacted]
DAVID E. VILLARREAL, [redacted]
JAMES A. VOHR, [redacted]
SCOTT W. WASSEL, [redacted]
DAVID P. WELLS, [redacted]
BERNARD R. WERNER, [redacted]
MARK M. WESLEY, [redacted]
JOSEPH S. WHITAKER, [redacted]
GERALD A. WHITMAN, [redacted]
KIRK A. WILLIAMS, [redacted]
MICHAEL J. WILMOT, [redacted]
LESTER M. WOLF, [redacted]
ANTHONE R. WRIGHT, [redacted]
JOHN T. YANVARY, [redacted]
TRAVIS D. ZACH, [redacted]
KENNETH ZIELECK, [redacted]
THOMAS J. ZOHLEN, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTIONS 531 AND 2107:

DANIEL L. ADAMS, [redacted]
PETER W. AGUILAR, [redacted]
THOMAS C. ALAKSA, [redacted]
DARYL D. ALBERTSON, [redacted]
DENNIS M. ALBRECHT, [redacted]
SAMUEL ALCALA, [redacted]
MARLON R. ALDRIDGE, [redacted]
KELLY P. ALEXANDER, [redacted]
RICHARD D. ALEXANDER, [redacted]
BRIAN L. ANDERSON, [redacted]
MICHELE R. ANDREWS, [redacted]
LAWRENCE A. ANGEL, [redacted]
DWIGHT A. AYLES, [redacted]
ROBERT E. BABCOCK, [redacted]
EDWARD S. BACON, [redacted]
LORENZO G. BALDWIN, [redacted]
CRAIG P. BARDEN, [redacted]
ERIC R. BARDEN, [redacted]
MICHAEL R. BARRETT, [redacted]
ANTHONY Y. BARTHOLET, [redacted]
STUART A. BARTOSH, [redacted]
MATTHEW C. BAUGHER, [redacted]
JOSEPH L. BAXTER, JR, [redacted]
MERLIN E. BEATTY, JR, [redacted]
WILLIAM J. BECKER, [redacted]
SCOTT L. BEDGOOD, [redacted]
DALE O. BEETHE, [redacted]
ROBERT W. BELCHER, [redacted]
WILLIAM D. BERGER, [redacted]
JOSEPH M. BERNING, [redacted]
JOHN A. BINGER, [redacted]
MATTHEW R. BIONDI, [redacted]
DAVID A. BLACKWOOD, [redacted]
LEE A. BLAKELY, [redacted]
PHILLIP H. BLANK, [redacted]
CHARLES D. BOLAR, [redacted]
JOSEMARIA L. BORJA, [redacted]
ANDREW R. BOSTOCK, [redacted]
RODNEY J. BOULWARE, [redacted]
THOMAS P. BRADY, [redacted]
MELINDA D. BRAY, [redacted]
DOUGLAS V. BRENNAN, [redacted]
KEVIN J. BRENNAN, [redacted]
HENRY G. BRICE, [redacted]
CRAIG J. BROWN, [redacted]
GEORGE V. BROWN, [redacted]
KEVIN W. BROWN, [redacted]
LANCE A. BROWN, [redacted]
ROGER J. BROWN, [redacted]
STEPHEN M. BROWN, [redacted]
JEFFREY L. BRUENER, [redacted]
MICHAEL P. BRUNNICK, [redacted]
CHARLES J. BURK, [redacted]
DAVE W. BURTON, [redacted]
THOMAS L. BURTON, [redacted]
RAYMOND D. BUTLER, [redacted]
CHAD A. BUXTON, [redacted]
CAROLYN J. CAPOZELLA, [redacted]
JOHN Y. CARLSTROM, [redacted]
NEIL C. CARNS, [redacted]
CHRISTOPHER C. CAROLAN, [redacted]
MICHAEL B. CAVANAUGH, [redacted]
FRANK E. CESARIO, [redacted]
PHILLIP W. CHANDLER, [redacted]
JAMES D. CHANEY, [redacted]
BYRON V. CHAPMAN, [redacted]
MARTIN L. CHEN, [redacted]
GREGORY L. CHESTERTON, [redacted]
MATTHEW D. CHISHOLM, [redacted]
CHRISTOPHER J. CHIVERS, [redacted]
JEFFREY W. CHLEBOWSKI, [redacted]
BARBARA D. CHRISTENSEN, [redacted]
DAVID H. CLEARY, [redacted]
STEVEN J. COLCOMBE, [redacted]
COET D. CONLEY, [redacted]
JAMES S. CONNELLY, [redacted]
JAMES P. CONNOLLY, [redacted]
NATHAN S. COOK, [redacted]
MICHAEL A. COOLICAN, [redacted]
DANIEL P. COOMBES, [redacted]
JOHN C. COPELAND, [redacted]
GREGORY K. CRAMER, [redacted]
ERIC P. CRUDO, [redacted]
SEAN A. CUMISKEY, [redacted]
THOMAS C. CUMMINGS, III, [redacted]
STEPHEN P. CUNNINGHAM, [redacted]
TIMOTHY D. CURP, [redacted]
SCOTT C. CUSHING, [redacted]
DALE S. DANIEL, [redacted]
JEFFREY T. DAUGHARTY, [redacted]
JOHN C. DAVID, [redacted]
JOEL J. DAVIS, [redacted]
WALTER T. DAVIS, [redacted]
ADRIENNE N. DEFOREST, [redacted]
JAMES M. DELANI, [redacted]
ALLEN J. DELATTRE, [redacted]
LUIS G. DELVALLE, [redacted]
MARK C. DERUSHA, [redacted]
KENNETH M. DETREUX, [redacted]
MICHAEL S. DEVINE, [redacted]
ERIC M. DIFRANCESCO, [redacted]
JEFFREY B. DIXON, [redacted]
THEODORE E. DOGONNIUCK, [redacted]
DAVID J. DOMMEL, [redacted]
JAMES E. DONNELLAN, [redacted]
WILLIAM J. DONNELLY, [redacted]
JEFFREY C. DORSEY, [redacted]
LEO T. DOTY, [redacted]
ROBERT C. DUNCAN, [redacted]
JOHN R. DYSART, [redacted]
JOHN E. EANS, [redacted]
JOSEPH W. EASON, [redacted]
CHARLES C. EGERTON, [redacted]
JOSEPH D. ELIE, [redacted]
TODD R. EMO, [redacted]
WALTER R. ESQUIVEL, [redacted]
RAYNARD G. ESTRADA, [redacted]
MICHAEL FARACE, [redacted]
TRACEY A. FARRIS, [redacted]
FREDRICK G. FERARES, [redacted]
MICHAEL J. FITZGERALD, [redacted]
PAUL C. FITZGERALD, [redacted]
MICHAEL E. FLOWERS, [redacted]
JAMES E. FORREY, [redacted]
THOMAS P. FORT, [redacted]
SCOTT G. FOSDAL, [redacted]
KEVIN R. FOSTER, [redacted]
MARK D. FREEMYER, [redacted]
NATHAN E. FREER, [redacted]
STEPHEN M. FRENCH, [redacted]
ALAN G. FREY, [redacted]
ADAM FRIEDRICK, [redacted]
RANDAL E. FRY, [redacted]
LISA M. FURIA, [redacted]
MAX A. GALEAI, [redacted]
ROBERT M. GATCH, JR, [redacted]
JOHN M. GEISLER, [redacted]
JAMES E. GIBBS, [redacted]
CHRISTOPHER T. GIBES, [redacted]
ERIC P. GIFFORD, [redacted]
TODD D. GILLESPIE, [redacted]
IAN C. GODWIN, [redacted]
JOHNATHAN C. GOFF, [redacted]
JOHN A. GONZALES, [redacted]
HAROLD W. GRAEF, [redacted]
JOSEPH M. GRANT, [redacted]
DUANE S. GRAY, [redacted]
JULIA L. GRAY, [redacted]
BRENT D. GUELL, [redacted]
DAVID W. HACKER, [redacted]
JEFFREY A. HAGAN, [redacted]
MARC K. HALYARD, [redacted]
DANIEL W. HAMMOND, [redacted]
WALTON L. HARE, [redacted]
MICHAEL A. HARMAN, [redacted]
JAMES M. HARRINGTON, [redacted]
WAYNE C. HARRISON, [redacted]
KEVIN A. HAWLEY, [redacted]
ROGER C. HAYWARD, [redacted]
SHAWN D. HEALY, [redacted]
ROBERT L. HEFNER, [redacted]
DENIS H. HEINZ, [redacted]
DANIEL S. HENDERSON, [redacted]
DANIEL S. HENRY, [redacted]
STEPHEN E. HERRERA, [redacted]
JAMES A. HERZBERG, [redacted]
RICHARD K. HILBERER, [redacted]
ROBERT L. HILDEBRAND, [redacted]
HAYDN H. HILLING, III, [redacted]
CHARLES M. HOLLER, [redacted]
LINDELL L. HOLM, [redacted]
BRIAN C. HORNBERG, [redacted]
LANE D. HORNUNG, [redacted]
DARYLE L. HUBERT, [redacted]
DOUGLAS G. HURLEY, [redacted]
MARK J. HUTNAN, [redacted]
KATHRYN A. HYDER, [redacted]
CHRISTIA A. ISHAM, [redacted]
BRANDON R. ITO, [redacted]
THOMAS C. JAGIELLA, [redacted]
DONALD M. JAMESON, [redacted]
DAVID B. JENKINS, [redacted]
WILLIAM L. JENKINS, JR, [redacted]
ALEXANDER C. JIMENEZ, [redacted]
NEALE T. JOHNSON, [redacted]
WALLACE E. JOHNSON, JR, [redacted]
GARY S. JOHNSTON, [redacted]
JAMES R. JUDKINS, [redacted]
MICHAEL S. KALAVRITINOS, [redacted]
DAVID M. KEECH, [redacted]
PATRICK N. KELLEHER, [redacted]
BRIAN M. KENNEDY, [redacted]
JAMES G. KIRCHNER, [redacted]
GLENN A. KLECKER, [redacted]
EDWIN A. KLEIN, [redacted]
JESSICA M. KLEINBAUM, [redacted]
JOSEPH J. KLOCEK, [redacted]
EDWARD W. KOSTRZEBSKI, [redacted]
BRADLEY J. KRUGER, [redacted]
IAN E. KUBICKI, [redacted]
JAMES F. KUDLINSKI, [redacted]
MICHAEL L. KUHN, [redacted]
LAURA A. LANGER, [redacted]
JAMES G. LAPRAD, [redacted]
JOHN G. LAWTON, [redacted]
YURI N. LAZAR, [redacted]
FREDERICK H. LENGERKE, [redacted]
JONOTHAN A. LESTED, [redacted]
CARLA A. LEVY, [redacted]
COLT W. LEWIS, [redacted]
ERIC S. LEWIS, [redacted]
STEPHEN C. LEY, [redacted]
PETER E. LINDSTROM, [redacted]
JORGE E. LIZARRALDE, [redacted]
CHRISTOPHER R. LONG, [redacted]
ROD LONG, [redacted]
JAMES D. LUNDQUIST, [redacted]
RICHARD M. LYNCH, [redacted]
WALLACE P. MACK, IV, [redacted]
ERIC W. MACKEY, [redacted]
MICHAEL J. MACLANE, [redacted]
BRIAN G. MAHER, [redacted]
WAYNE K. MAIORANO, [redacted]
MICHAEL P. MANGAN, [redacted]
SHAWN K. MANGUM, [redacted]
JEFFREY L. MANNING, [redacted]
GREGORY J. MARADEI, [redacted]
TIMOTHY A. MAXWELL, [redacted]
THOMAS O. MAYBERRY, [redacted]
ANDREW S. MCALLISTER, [redacted]
RALPH V. MCCREARY, [redacted]
LANCE A. MCDANIEL, [redacted]
DOUGLAS T. MCGETCHIN, [redacted]
JAMES P. MCGUIRE, [redacted]
KENT E. MCKOWN, [redacted]
DAVID W. MCMORRIES, [redacted]
RICHARD J. MENDELOW, [redacted]
EDWIN E. MIDDLEBROOK, [redacted]
CRAIG L. MIKLESAVAGE, [redacted]
JOHN P. MILLER, [redacted]
MARK C. MILLER, [redacted]
TIMOTHY P. MILLER, [redacted]
WILLIAM J. MITCHELL, [redacted]
FRANK G. MITTAG, [redacted]
BERNARD B. MOORE, [redacted]
HOMAYOUN MORADIAN, [redacted]
SHANE E. MORRIS, [redacted]
SCOTT MULLER, [redacted]
WILLIAM A. MURPHY, [redacted]
JACQUES C. NAVIAUX, II, [redacted]
STEPHEN M. NEARY, [redacted]
KEVIN J. NEKOLA, [redacted]
JOSEPH T. NEVILLE, [redacted]
JONATHAN S. NISSEN, [redacted]
ERNEST F. NORMAN, [redacted]
MICHAEL R. NOSBISCH, [redacted]
JOHN M. NOVAK, JR, [redacted]
RONALD M. OATES, [redacted]
JOSEPH P. OCONNELL, [redacted]
TERENCE A. OCONNELL, [redacted]
BRENDAN P. OCONNOR, [redacted]
JOHN F. OCONNOR, JR, [redacted]
NICHOLUS R. ODEM, [redacted]
DERON F. OGLETREE, [redacted]
DAVID S. OLIVER, [redacted]
ERIC J. OLSON, [redacted]
MARTIN B. OMALLEY, [redacted]
MICHAEL J. ONDA, [redacted]
WILLIAM H. OSBORNE, JR, [redacted]
ERIC E. PARANA, [redacted]
JOSEPH F. PASCHALL, [redacted]
SEAN E. PECHON, [redacted]
ANDREW A. PELLETIER, [redacted]
STEVEN D. PETERSON, [redacted]
JAMES W. PHILLIPS, [redacted]
JOHN K. PITCHFORD, [redacted]
CHRISTOPHER R. POLLARD, [redacted]
PETER D. PONTE, [redacted]
SERGIO POSADAS, [redacted]
JASON E. PRICE, [redacted]
LESTER B. PRICE, III, [redacted]
NORMAN G. PRINTER, JR, [redacted]
PAUL H. RACICOT, JR, [redacted]
SCOTT A. RAGNONE, [redacted]
MARK S. RAJECKI, [redacted]
WILLIAM C. RANDALL, [redacted]
MICHAEL A. REID, [redacted]
PHILLIP C. REYNOLDS, [redacted]
LARRY D. RICHARDS, II, [redacted]
MICHAEL B. RICHARDSON, [redacted]
GEORGE G. RIESCO, [redacted]
STEVEN M. RIOUX, [redacted]
STEPHEN B. RIPLEY, [redacted]
CURTIS L. ROBINSON, [redacted]
CHRISTOPHER W. ROLLINS, [redacted]
PAUL A. ROMANS, [redacted]
KENT E. ROSS, [redacted]
JOSEPH J. ROSSI, [redacted]
GARTH P. ROUBLE, [redacted]
CHARLES J. ROWE, [redacted]
STANLEY K. RUSSELL, [redacted]
JOHN F. RYMAN, [redacted]
JEFFREY B. SACCO, [redacted]
FERNANDO R. SALAZAR, [redacted]
JUAN R. SANCHEZ, [redacted]
ALBERTO A. SANDOVAL, [redacted]
ANDREA M. SCHAD, [redacted]
DAVID L. SCHLIMME, [redacted]

DWIGHT C. SCHMIDT, [redacted]
JEFF R. SCHOBY, [redacted]
JAMES A. SCHROEDER, [redacted]
HARVEY T. SCHWARTZ, [redacted]
DIRON C. SCOTT, [redacted]
EDWARD B. SEIDL, [redacted]
STEVEN D. SHAFFER, [redacted]
ANTOINE C. SHAW, [redacted]
CHARLES J. SHUSTER, [redacted]
DENISE A. SHUSTER, [redacted]
SCOTT C. SHUSTER, [redacted]
JAMES L. SIGMON, III, [redacted]
ANTHONY M. SILVA, [redacted]
KENT D. SIMON, [redacted]
WAYNE A. SINCLAIR, [redacted]
WILLIAM N. SLAVIK, [redacted]
CHARLES J. SLICK, [redacted]
ANTONIO B. SMITH, [redacted]
LARRY E. SMITH, [redacted]
LOY L. SMULL, [redacted]
CHARLES E. SNEE, IV, [redacted]
BRUCE W. SODERBERG, [redacted]
IAN A. SOLOMON, [redacted]
DAVID J. SPECA, [redacted]
DENNIS S. STACHELEK, [redacted]
DAVID A. STANLEY, [redacted]
CHRISTOPHER C. STARLING, [redacted]
ARLEEN D. STEPHENS, [redacted]
RICHARDO C. STEWART, [redacted]
KEVIN E. STRAKA, [redacted]
ROBERT J. STUART, [redacted]
JOHN D. SULLIVAN, [redacted]
EUGENE L. SUMMERS, [redacted]
JACQUELINE R. SUTTON, [redacted]
BRIAN E. SWEENEY, [redacted]
PETER K. SWISHER, [redacted]
DAVID V. SYMM, [redacted]
JOHN P. TALNAGI, [redacted]
TODD N. TAPPE, [redacted]
THOMAS TAYLOR, [redacted]
ROBERT T. TOBIN, [redacted]
RICHARD T. TOOLEN, [redacted]
PATRICK M. TOOMEY, [redacted]
MATTHEW E. TRAVIS, [redacted]
GREGORY R. TRIBO, [redacted]
JAMES P. TUEMLER, [redacted]
KENNETH M. VANDERWORP, [redacted]
JOHN C. VANHECKE, [redacted]
SCOTT T. VEJSICKY, [redacted]
FRANK W. VIDO, [redacted]
MICHAEL L. VITULANO, [redacted]
GREGORY WADSWORTH, [redacted]
HOWARD S. WALTON, [redacted]
JOHN J. WANAT, [redacted]
PETER J. WARD, [redacted]
DAVID M. WARNER, [redacted]
ROBERT W. WARNER, [redacted]
WILLIAM R. WARREN, II, [redacted]
DAVID N. WATSON, [redacted]
JAMES G. WATSON, [redacted]
KELLY J. WEAVER, [redacted]
BRADLEY A. WEBB, [redacted]
DOUGLAS E. WEBB, [redacted]
MICHAEL S. WEIDMAN, [redacted]
BRADLEY E. WEISZ, [redacted]
CATHY M. WESTERMAN, [redacted]
TAMPER N. WHEELER, [redacted]
ROBERT E. WHITE, JR, [redacted]
JAMES W. WIECKING, [redacted]
JAMES A. WILEY, [redacted]
BRUCE O. WILKINSON, [redacted]
DAVID A. WILLIAMS, [redacted]
DELANEY C. WILLIAMS, [redacted]
GARY A. WILSON, [redacted]
JOHN P. WILSON, [redacted]
PENNY S. WILSON, [redacted]
STEPHEN M. WILSON, [redacted]
SCOTT D. WITTE, [redacted]
WILLIAM P. WITZIG, [redacted]
DAVID C. WONG, [redacted]
ANDREW J. WOOLLEY, [redacted]
IVAN A. WRAY, [redacted]
ROAHN H. WYNAR, [redacted]
JOHN W. YATES, IV, [redacted]
JOHNATHAN E. YELLEN, [redacted]
JON D. ZABINSKI, [redacted]
EDWARD F. ZALESKI, [redacted]

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, CODE, SECTION 531:

ANTHONY C. ANGION, [redacted]
JESSE C. BENTON, [redacted]
LLOYD J. BIGGS, [redacted]
JAMES B. BRITTON, [redacted]
LARRY A. DICKEY, [redacted]
FREDERICK V. DORAN, [redacted]
JONATHAN S. DORANTICH, [redacted]
GEORGE D. FITTS, [redacted]
WIILIAM K. GEISSLER, [redacted]
PATRICK G. GIBBONS, [redacted]
STEPHEN J. GREENE, [redacted]
MARK A. GRILLO, [redacted]
KARL J. HACKBARTH, [redacted]
RICHARD D. HALL, [redacted]
KONSTANTIN D. HEMMERLY, [redacted]
DAVID A. HICKS, [redacted]
JAMES W. HODGE, [redacted]
JOSEPH R. JAMES, [redacted]
MARK D. JOHNSON, [redacted]
OLAV E. KJONO, [redacted]
SCOTT A. KRAMNICK, [redacted]
KENNETH M. LASURE, [redacted]
CURTIS L. LOVINS, [redacted]
DANIEL J. MEDRANO, [redacted]
ARTHUR N. MOATS, JR, [redacted]
SEAN T. MOORE, [redacted]
VAN Q. NGUYEN, [redacted]
ANDREW M. NOVAK, [redacted]
STEVEN T. ROBERTSON, [redacted]
ROBERT A. ROWLETTE, [redacted]
NOEL B. SANDLIN, [redacted]
MARIO C. SOLIS, [redacted]
BLAISE R. STRANDQUIST, [redacted]
JEFFREY R. TRAVIS, [redacted]
WILLIAM C. VINYARD, [redacted]
KENNETH M. WARBURTON, [redacted]
JAMES F. WERTH, [redacted]
KENNETH P. WOLF, [redacted]
SCOTT E. YOST, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate April 19, 1988:

THE JUDICIARY

DAVID M. EBEL, OF COLORADO, TO BE U.S. CIRCUIT JUDGE FOR THE 10TH CIRCUIT.

JACK T. CAMP, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

KIMBA M. WOOD, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

LOWELL A. REED, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

BERNARD A. FRIEDMAN, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

EMILIO M. GARZA, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

THOMAS S. ZILLY, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

HOUSE OF REPRESENTATIVES—*Tuesday, April 19, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, for the power of Your spirit in our lives and in our world. Just as people so easily turn to instruments of conflict, so we turn to the power of the spirit, a spirit that heals, that renews, that reconciles people to each other and to themselves. May Your loving spirit, O God, bless us, encourage and strengthen us, and give us peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Emery, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2210) "An act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints," with an amendment.

The message also announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 2273. An act to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar.

The Clerk will call the first individual bill on the Private Calendar.

CHUN WEI WONG, AND OTHERS; EMILIE SANTOS; SAMUEL O. JOHNSON; RODNEY E. HOOVER; ELIZABETH PALANSKY SURAK; AND CATHLEEN S. O'REGAN

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that Nos. 25 through 37 on the first page of the Private Calendar, H.R. 2108, S. 393, H.R. 2358, H.R. 1491, H.R. 1672, and H.R. 2684 be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

TRAVIS D. JACKSON

The Clerk called the bill (H.R. 1385) for the relief of Travis D. Jackson.

There being no objection, the Clerk read the bill, as follows:

H.R. 1385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby waives the liability of Travis D. Jackson of Wytheville, Virginia, who, on June 23, 1986, was an Assistant District Director of the Farmers' Home Administration, to repay the sum of $6,709.26, representing the amount advanced to him by the Farmers' Home Administration for temporary living expenses and later determined by the Comptroller General of the United States not to have been properly advanced to Travis D. Jackson under agricultural travel regulations applicable to employees of the Farmers' Home Administration.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay to Travis D. Jackson out of any money in the Treasury not otherwise appropriated the sum of any amounts received or withheld from Travis D. Jackson on account of the amount determined to have been improperly advanced to him as described in the first section of this Act.

SEC. 3. Not more than 10 percent of the sum appropriated in section 2 shall be paid to or received by any agent or attorney as consideration for any services rendered in connection with the sum so appropriated, any contract to the contrary notwithstanding. Violation of this section shall be deemed a misdemeanor punishable by a fine of not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HELEN LANNIER

The Clerk called the bill (H.R. 1864) for the relief of Helen Lannier.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HILARIO R. ARMIJO, AND OTHERS

The Clerk called the bill (H.R. 2682) for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Madalena, Jr., Dennis P. Magdalena, Anthony M. Pecos, Lawrence A. Seonia, Jose R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FRANCES SILVER

The Clerk called the bill (H.R. 2889) for the relief of Frances Silver.

There being no objection, the Clerk read the bill, as follows:

H.R. 2889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of determining the entitlement of Frances Silver of Philadelphia, Pennsylvania, to a survivor annuity under section 8341 of title 5, United States Code, Frances Silver shall be deemed to have been married to Joseph Silver on December 31, 1963, the date of his retirement from the United States Post Office Department, and continuously thereafter until May 9, 1970, the date of his death, and to have been designated by Joseph Silver, at the time he so retired and in conformity with all applicable regulations of the Office of Personnel Management, as the beneficiary of such survivor annuity.

SEC. 2. (a) Survivor benefits payable by virtue of the first section of this Act shall be payable to Frances Silver under chapter 83 of title 5, United States Code, commencing on the first day of the first calendar month beginning after the date of the enactment of this Act. The initial rate of such payment shall be the rate of survivor benefits which Frances Silver would have been entitled to receive for such month if she had become entitled to a survivor annuity under section 8341 of title 5, United States Code, on May 10, 1970, and had continued to be so entitled through the last day of the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

calendar month in which this Act is enacted.

(b) The Director of the Office of Personnel Management shall pay to Frances Silver, out of the Civil Service Retirement and Disability Fund, a lump sum annuity payment equal to the amounts which Frances Silver would have been entitled to receive under chapter 83 of title 5, United States Code, if she had been entitled to a survivor annuity under section 8341 of title 5, United States Code, during the period beginning May 10, 1970, and ending on the last day of the calendar month in which this Act is enacted.

SEC. 3. No part of the sums paid under section 2 in excess of 10 percent thereof shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with this claim, and such acts shall be unlawful, any contract or agreement to the contrary notwithstanding. Any person violating the preceding sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES P. PURVIS

The Clerk called the bill (H.R. 3185) for the relief of James P. Purvis.

There being no objection, the Clerk read the bill, as follows:

H.R. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST UNITED STATES.

Pursuant to the report of the United States Claims Court in Congressional Reference No. 1-84 (filed on March 7, 1986), the Secretary of the Treasury shall pay, out of any funds not otherwise appropriated, $700,000 to James P. Purvis of Coeur d'Alene, Idaho. This payment shall be in full satisfaction of any claim of James Purvis or the Purvis Construction Company against the United States arising out of a contract between Purvis Construction Company and the United States for construction of the Federal Exhibit Buildings for the Century 21 Exposition at the World's Fair in Seattle, Washington, in 1962.

SEC. 2. LIMITATION ON ATTORNEY'S FEES.

Not more than 33⅓ percent of the amount referred to in section 1 shall be paid to or received by any agent or attorney as consideration for any services rendered in connection with the claim specified by this Act, any contract to the contrary notwithstanding. Violation of this section shall be deemed a misdemeanor punishable by a fine of not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1609) for the relief of James P. Purvis, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

Pursuant to the report of the United States Claim Court in Congressional Reference Numbered 1-84 (filed on March 7, 1986), the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $700,000 to James P. Purvis of Coeur d'Alene, Idaho. The payment of this sum shall be in full satisfaction of any claim of such person, and of Purvis Construction Company, against the United States arising out of a contract between Purvis Construction Company and the United States for construction of the Federal Exhibit Buildings for the Century 21 Exposition at the World's Fair in Seattle, Washington, in 1962.

SEC. 2. LIMITATION ON ATTORNEYS' AND AGENTS' FEES.

It shall be unlawful for more than 33.3 per centum of the sum appropriated in section 1 to be paid to or received by any agent or attorney for any service rendered in connection with enactment of this Act. Any person who violates this section shall be fined not more than $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3185) was laid on the table.

BIBIANNE CYR

The Clerk called the bill (H.R. 3347) for the relief of Bibianne Cyr.

There being no objection, the Clerk read the bill, as follows:

H.R. 3347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Bibianne Cyr of Caribou, Maine, the spouse of a former employee of the Department of the Air Force, is relieved of liability to the United States in the sum of $750, representing erroneous payments of travel expenses incident to her attendance at an award ceremony conducted by the Department of the Air Force in November 1985. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BENJAMIN H. FONOROW

The Clerk called the bill (H.R. 3388) for the relief of Benjamin H. Fonorow.

There being no objection, the Clerk read the bill, as follows:

H.R. 3388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT REQUIRED.

The Secretary of Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Benjamin H. Fonorow (Social Security Number 075-12-0669) the sum of $3,100. Such sum represents the travel, transportation, and relocation expenses incurred by Benjamin H. Fonorow in good faith reliance on erroneous information contained in his travel authorization that the United States would pay such expenses incident to his beginning employment with the General Services Administration in Peachtree, Georgia.

SEC. 2. RELIEF FROM LIABILITY.

(a) RELIEF.—Benjamin H. Fonorow is relieved of liability to the United States for the sum of $1,880.50. Such sum represents the amount paid by the United States to pack and transport his household goods and personnel effects incident to his beginning employment with the General Services Administration in Peachtree, Georgia.

(b) EFFECT OF RELIEF.—In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the sum referred to in subsection (a).

SEC. 3. LIMITATION ON ATTORNEY'S AND AGENT'S FEES.

Not more than 10 percent of the sum referred to in section 1 shall be paid to or received by any agent or attorney for services rendered in connection with obtaining such sum. Any person who violates this section shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARISELA, FELIX, AND WILLIAM MARRERO (FUSTER)

The Clerk called the bill (H.R. 3439) for the relief of Marisela, Felix, and William Marrero.

There being no objection, the Clerk read the bill, as follows:

H.R. 3439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Marisela, Felix, and William Marrero, the children of Manual Marrero, a Secret Service agent who was killed in a fire while on duty in the Dupont Plaza Hotel in Puerto Rico, shall for the purposes of section 6(c) of the Act of September 30, 1950 (20 U.S.C. 241(c)), be considered to be children residing with a parent employed by the United States and thus be eligible to receive free public education arranged by the Secretary of Education under such section.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRENDA W. GAY

The clerk called the bill (H.R. 3606) for the relief of Brenda W. Gay.

There being no objection, the Clerk read the bill, as follows:

H.R. 3606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF ANNUAL LEAVE.

(a) TRANSFER AUTHORIZED.—Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the director of the Greensboro district of the Internal Revenue Service in Greensboro, in the State of North Carolina, an employee of the Internal Revenue Service whose official station is the Greensboro district may transfer accumulated annual leave accrued under section 6303 of title 5, United States Code, to the account of Brenda W. Gay, an employee of the Internal Revenue Service in the Greensboro district.

(b) EFFECT OF TRANSFER.—For purposes of chapter 63 of title 5, United States Code, annual leave transferred under subsection (a) shall be treated as sick leave accrued by Brenda W. Gay.

(c) REDUCTION OF LEAVE ACCOUNT.—The transfer of annual leave under subsection (a) by an employee shall reduce the account of the employee by the amount of leave transferred.

SEC. 2. AUTHORITY TO RESTORE TRANSFERRED LEAVE.

With approval of the director of the Greensboro district of the Internal Revenue Service, Brenda W. Gay may, transfer, restore unused leave that is transferred under section 1 to the annual leave account of an employee from whom leave is received under the section, except that the amount of leave restored may not exceed the amount of leave received by Brenda W. Gay from the employee.

SEC. 3. EXPIRATION OF AUTHORITY.

The authority to transfer leave under section 1(a) and the authority to restore unused leave under section 2 shall expire on whichever of the following occurs earlier:

(1) The date on which Brenda W. Gay is no longer an employee of the Internal Revenue Service in the Greensboro district.

(2) The date on which the director of the Greensboro district of the Internal Revenue Service determines that Brenda W. Gay no longer requires the transfer of leave under section 1(a).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOANNE SALYARDS

The Clerk called the bill (H.R. 3625) for the relief of Joanne Salyards.

There being no objection, the Clerk read the bill, as follows:

H.R. 3625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF ANNUAL LEAVE.

(a) TRANSFER AUTHORIZED.—Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the district manager of the office of the Social Security Administration located in the James M. Hanley Federal Building in Syracuse, New York, an employee of the Social Security Administration whose official station is such office may transfer accumulated annual leave accrued under section 6303 of such title to the account of Joanne Salyards, an employee of the Social Security Administration whose official station is such office.

(b) EFFECT OF TRANSFER.—For purposes of chapter 63 of title 5, United States Code, annual leave transferred under subsection (a) shall—

(1) be treated as sick leave accrued by Joanne Salyards; and

(2) accumulate as provided in section 6307(b) of such title.

(c) REDUCTION OF LEAVE ACCOUNT.—The transfer of annual leave under subsection (a) by an employee reduces the account of employee by the amount of the leave so transferred.

SEC. 2. RESTORATION OF TRANSFERRED LEAVE.

With the approval of the district manager of the office of the Social Security Administration located in the James M. Hanley Federal Building in Syracuse, New York, Joanne Salyards may, by transfer, restore unused leave, which, was transferred under section 1, to the annual leave account of an employee from whom leave was received under such section, except that the amount of leave so restored may not exceed the amount of leave received by Joanne Salyards from such employee.

SEC. 3. EXPIRATION OF AUTHORITY.

The authority to transfer leave under section 1(a) and the authority to restore unused leave under section 2 shall terminate 180 days after the disease of Joanne Salyards no longer exists.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAMUEL R. NEWMAN

The Clerk called the bill (H.R. 3941) for the relief of Samuel R. Newman.

There being no objection, the Clerk read the bill, as follows:

H.R. 3941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Samuel R. Newman of Kings Park, New York, an employee of the Federal Aviation Administration, is relieved of liability to the United States in the sum of $324.29, representing an erroneous payment of travel expenses incident to his emergency return travel from his temporary duty station in Lawton, Oklahoma, in 1985. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MELISSA JOHNSON

The Clerk called the bill (H.R. 4099) for the relief of Melissa Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 4099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR THE BENEFIT OF CLAIMANT.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $125,000 to Melissa Johnson of Barryville, New York. Such sum shall be in full and complete settlement of all claims against the United States arising out of the personal injuries and mental pain and suffering incurred as a result of the sexual assault and molestation of Melissa Johnson by an employee of the United State Postal Service on June 3, 1982, and various other dates.

SEC. 2. DEPOSIT OF AMOUNT IN TRUST ACCOUNTS.

Barbara Johnson Lizzi of Barryville, New York, the mother of Melissa Johnson, shall deposit the sum paid under section 1 in a federally insured depository institution in an interest bearing account or accounts in trust for Melissa Johnson. Barbara Johnson Lizzi shall serve as sole trustee of such account or accounts and, as such trustee—

(1) shall pay those debts and obligations which are outstanding at the time the sum is paid under section 1 to the extent those debts and obligations arise from the injuries and pain and suffering described in section 1;

(2) shall, until Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay, from the amounts in the trust account or accounts, expenses incurred for Melissa Johnson's medical care and education; and

(3) shall, when Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay to Melissa Johnson all amounts remaining in the trust account or accounts.

SEC. 3. LIMITATION ON ATTORNEYS' FEES.

Not more than 10 percent of the amount appropriated by section 1 may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim described in section 1, notwithstanding any contract which provides otherwise. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PINE RIDGE INDIAN RESERVATION

The Clerk called the bill (H.R. 2711) to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

WAR POWERS ACT MUST BE INVOKED

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the law is the law. American forces are engaged in a shooting war in the Persian Gulf. In response to the Iranian mining of our ships, we have attacked the Iranians and they have retaliated. Whatever the merits of the policy, we are clearly, unequivocally, engaged in hostilities in the gulf. That means the War Powers Act must be invoked.

It does not matters how measured our response was. It does not matter how popular our response was.

What matters is that the law of this land must be followed. President Reagan must respect the law as much as any other citizen of this country. He must not only consult with Congress, he must gain congressional authorization for the continued presence of American troops and hostilities. That is what the laws requires.

Mr. President, it is your responsibility to obey the laws of this country. Invoke the War Powers Act.

OUR EFFICIENT BOMBER PROGRAM

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, one of the greatest and most tangible achievements of this decade is the rebuilding of our military forces. Quite simply, we are now prepared to meet the threat against us. Seven years ago we were not. A major part of the progress we have achieved during the past 7 years is the direct result of a prudent, efficient bomber program.

The various versions of B-52's are remarkable aircraft. They have survived longer than almost anyone expected. They have played a critical role in nuclear and conventional deterrence. But by the 1970's, it was absolutely urgent to find a way to replace these aging relics.

The question then was when to bring an aircraft on line to supplement and then replace the B-52. Some argued that we should pursue extoic technologies and wait until we had an aircraft invisible to Soviet radar. Others argued we should go ahead and build the best possible replacement for the B-52 and then take our time to develop an even better advanced bomber. When wings started falling off B-52's while the planes were sitting on the ground, we chose the prudent course and now we have 99 B-1B's, which, if nothing else, should keep us from rushing a second-rate advanced bomber into production.

But the B-1B serves another purpose. Right now, it is an excellent standoff bomber and it has significant penetration potential. Quite frankly, neither the Soviets nor the Air Force know for sure how well the B-1B would do against Soviet air defenses and that fact alone severely complicates Soviet war planning. The B-1B is clearly a credible deterrent now, and as it becomes more of a threat to confuse Soviet radar, it will become a better deterrent.

My colleague from Wisconsin has argued that it may not be a good idea to upgrade the B-1B to improve its electronic countermeasures. I would most respectfully disagree. While there are some valid concerns about Soviet defense technology, I think there is too much pessimism about our own technological capability and potential.

The men who fly these aircraft deserve a state-of-the-art ECM system, not only to protect them from Soviet weapons, but from the new and dangerous defensive capability being established by potential adversaries around the world. We can give them an afforable, effective system to make the B-1B an even more powerful deterrent.

Congressman Aspin has graded the B-1B on an A-F scale. I agree with the A's he awarded for schedule and cost, but the F for performance is a mistake and the F for management belongs to Congress and the Carter administration.

The B-1 never should have been canceled in the first place. President Carter needed an issue to appeal to the liberals in his party, so he picked the B-1 before he really understood the need for it and its deterrent value. But the ultimate responsibility lies with the Congress, which went along. It's unfair to give the B-1B an F for management when the real responsibility lies in this Chamber. In fact, the B-1B turned out pretty well, considering the fickle nature of this body.

As for performance, no, it's not as good as was promised. Aircraft technology requirements have advanced, but the B-1B remains an aircraft with awesome power. If I were Gorbachev, with a defense force that recently let a Cessna land in Red Square, I would not feel too comfortable with a couple dozen B-1B's headed my way.

But the B-1B was not intended to successfully penetrate Soviet air defenses forever. It is, however, supposed to tide us over until the B-2 is ready. Then it can be used as a stand-off bomber. Whichever purpose it is used for, it should have electronic countermeasures equipment that works.

My point, Mr. Speaker, is that the two-bomber program is working. With the B-1B now in service, a measure of credibility has been restored to an important component of the triad. The better the ECM system we install in this plane, the more credible the deterrent. While progress on the B-2 is encouraging, as with any highly advanced program, we should leave ourselves some breathing room. There is no guarantee that all of the B-2 technology will come on line on schedule. If it doesn't work out as well as we expect, historians may look back on a decision not to upgrade the B-1B as irresponsible, leaving a critical part of the triad seriously underequipped.

INVOKE THE WAR POWERS ACT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, Iranian actions in the gulf make no sense and that is the issue. We are engaging an irrational enemy who is willing to die and go meet Allah. Our kids are not raised that way.

What bothers me the most is that we put our troops in harm's way and we spend $150 million a month, and our so-called allies sit back and say, "Let Uncle Sam do it," I am tired of that. I think it is time there be a neutral global force to insure the shipping lanes of the gulf. This policy as gulf peacekeeper is so misdirected that if we threw it at the ground it would miss.

I commend our troops for doing what they had to do and I do commend the President for at least conferring with congressional leaders, but I say this today, these other nations are not just freeloaders anymore, they are overloaders and it is time they pay their fair share.

Mr. Speaker, I rise and ask Ronald Reagan to officially invoke the War Powers Act before we get involved any further. America cannot be allowed to be irrational and in that period of time allowed under the act the President would have time to put together and promulgate a plan to develop a neutral global force to protect the shipping lanes in the gulf.

LEGISLATION TO COMBAT A GROWING DRUG PROBLEM

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. SCHULZE. Mr. Speaker, the word should go out: If you turn in the supplier of illegal narcotics, you will benefit. Today, I am introducing legislation which will combat this Nation's growing drug problem. We can rid our streets of the scurrilous drug pusher by having his associates help convict him.

My legislation will give this incentive to those who know the drug pusher best: If you inform on a drug boss, you get half his assets. If you turn in the man who has a yacht and a million dollar home, bought from drug profits, you get half of all his property. The street dealer or the young person who has seen a friend or relative die from drugs, or others who know of this illegal activity, can receive half of the assets should they help convict a drug trafficker.

If Congress can create the incentive for citizens to become involved at all levels, we can begin to win the war on drugs. I invite all my colleagues who want to declare war on drugs to cosponsor this legislation.

INTRODUCTION OF THE ETHICS IN CONGRESS ACT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, today I have introduced legislation to extend the "revolving door" provisions of the Ethics in Government Act of 1978 to the legislative branch.

Americans expect honesty, integrity, and accountability for Congress.

Until the legislative branch faces the same laws and standards of accountability as the executive branch, those executive branch employees could well quote Benjamin Franklin when he said: "Clean your fingernails before you point at me."

No current Federal law restricts the postemployment activities of Members and employees of Congress, although restrictions on other Federal employees have been inexistence for more than 100 years.

It is the purpose of the Ethics in Congress Act to apply postemployment conflict of interest laws to Members and employees of Congress.

It is right and fair to apply to the legislative branch what now applies to the executive branch.

Strengthening the public's trust in Congress is a worthy goal.

The Ethics in Congress Act strives for a balance between the public's right to have Members and employees of Congress avoid the appearance or actuality of impropriety, and a Federal employee's right to earn a living after he or she has left the Government.

□ 1215

THOUGHTS OF OUR SAILORS AND SAILORS IN THE PERSIAN GULF

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, 3 months ago I had occasion to visit American forces in the Persian Gulf and for several days I received the advice and good counsel of sailors and officers on American warships. Today, while they remain under fire, their advice and counsel to use is not for the moment available. But it is worth today sharing the thoughts that they offer to me on that occasion.

First, while American warships can certainly deal with current threats to their security there are almost certainly additional threats, potentially catastrophic threats, that must be considered. Only access to Saudi air facilities, providing for American airplanes to provide air cover for American ships, will give us the added measure of safety that is required to protect our sailors.

Second, assumptions that Iran would not be so irrational to challenge our superior forces are clearly wrong. We must now assume the worst. We must assume that Silkworm missiles with their 1,000-pound warheads will be continually used against our forces. Therefore, America must act preemptively and take the Silkworm force away from the Iranians.

I would ask, therefore, that the President order a preemptive strike to eliminate the Silkworm threat before lives are lost, and at the same time ask access to Saudi air facilities.

If our military experiences in the Middle East hold any lesson it is that we must anticipate threats before they arrive. We must provide security before it is required. Now is the time to act.

UNFOUNDED ACCUSATIONS

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, this morning on the "Phil Donahue Show" Tennessee Senator ALBERT GORE stated in essence that the Central Intelligence Agency has made personal payments to a known drug runner, Panamanian General Noriega.

Mr. Speaker, such accusations are simply unfounded. Our Nation in particular, in general, and our intelligence services in particular are poorly served and severely damaged by such disinformation.

I call upon Senator GORE to inform himself on this issue and to correct and desist from further error.

CLOSING DOWN LA PRENSA

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, one more small, but pointed lesson in the arbitrary power was administered by the Sandinistas the other day, and once again the victim was la Prensa.

That is a quote from the lead editorial in the Washington Post this morning, "Closing Down La Prensa."

Mr. Speaker, one of the most interesting comments and poignant statements that I heard on my visit to Nicaragua on January 30 and 31, just before our February 3 vote was Mrs. Chimora who said, "If you vote for aid to the Contras on the 3d of February, my paper will be closed immediately. If you do not vote for aid to the Contras on the 3d of February, my paper will not be closed for several months. But at that time my people will have no hope."

Today La Prensa is once again closed.

TV AND THE MOVIES ATTACKING OUR INTELLIGENCE AGENCIES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to underscore the remarks of my distinguished colleague in Ohio, Mr. McEWEN, about the "Phil Donahue Show" and a general slander that is going on throughout television, and particularly the motion picture business and Hollywood, against our Central Intelligence Agency and also the Defense Intelligence Agency. Mr. Donahue, by virtue of his power, the reach of his voice and his image is, as I have said before, the Nation's No. 1 anti-Catholic bigot, and again by virtue of his power, and the reach of his voice and image he has now become the Nation's worst CIA baiter. Donahue knows that our intelligence agencies are the easiest to pick on because they have no ability to defend themselves. It would be counterproductive to the CIA to confirm or deny any of Donahue's silly allegations.

There are two films out currently, many more as a matter of fact, that rip our CIA. One I saw in the airplane was "No Way Out" in which supposedly in the Pentagon some "thugs" recently back from Central America—who are "CIA agents"—and who were engaging in assassinations and helping the death squads in El Salvador and Honduras. This perpetuates an absolutely filthy lie. Another major Hollywood production with actors in it who received Academy Awards, called "Above the Law," also makes a disgusting, slanderous attack, Mr. Speaker, on our Central Intelligence Agency.

Mr. Speaker, I will take a special order, an hour tomorrow, to explain it in depth.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. WEISS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Tuesday, April 19, 1988.)

AUTHORIZING PRINTING OF ANNUAL REPORT "DEVELOPMENTS IN AGING: 1987"

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from the further consideration of the Senate concurrent resolution (S. Con. Res. 98) to authorize the printing of the annual three-volume report "Developments in Aging: 1987" prepared by the Special Committee on Aging, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Tennessee [Mr. JONES] for his comments.

Mr. JONES of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the resolution authorizes the printing of a three-volume report entitled, "Developments in Aging" to be used by the Senate Committee on Aging. The resolution passed the Senate on March 3.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, this is a noncontroversial printing resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That there be printed as a Senate document "Developments in Aging: 1987", a three volume report, as prepared by the Special Committee on Aging of the Senate.

SEC. 2. Such document shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consideration with the Special Committee on Aging.

SEC. 3. There shall be printed 3,000 copies of volume I of the report, 1,000 copies of volume II of the report, and 5,000 copies of volume III of the report.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

□ 1225

AUTHORIZING PRINTING OF PREVIOUSLY PRINTED REPORT CONCERNING INVESTIGATION OF KATYN FOREST MASSACRE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 270) authorizing printing of a House report, previously printed in the 82d Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. WIESS). Is there objection to the requests of the gentleman from Tennessee?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 270

Resolved by the House of Representatives (the Senate concurring), That House Report Number 2505, Eighty-second Congress, dated December 22, 1952, the final report of the Select Committee to Conduct an Investigation and Study of the Facts, Evidence, and Circumstances of the Katyn Forest Massacre, shall be printed as a House document. In addition to the usual number, 25,000 copies of the report shall be printed for the use of the House of Representatives.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. JONES] is recognized for 1 hour.

Mr. JONES of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I state that this resolution authorizes the printing of a House report that was previously printed in the 82d Congress concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre.

Mr. ANNUNZIO. Mr. Speaker, House Concurrent Resolution 270 is a resolution authorizing the reprinting of a 35-year-old report—House Report 2505 of the 82d Congress. The report is out of print, and there are no copies left in the warehouse of the Government Printing Office.

This House report outlined the findings of a House Select Committee, chaired by our former colleague, the late Hon. Ray Madden of Indiana, regarding the facts, evidence, and circumstances of the Katyn Forest Massacre, which is reputed to have taken place in 1940. The report states that the massacre involved approximately 15,000 Polish Army officers and intellectual leaders, who were captured when Russia invaded Poland in September of 1939. The report summarizes the information and testimony that was available for examination in 1952, during the height of cold war tensions.

As the 50th anniversary of the event approaches, historical scholars, students, and intellectuals, are reexamining this information, including the reports of several nations and the Red Cross, pertaining to the disappearance of the 15,000 Poles. The Washington Post carried the following article on March 9, 1988, pertaining to the subject:

[From the Washington Post, Mar. 9, 1988]

POLES ASK FOR AIRING OF MASSACRE: LETTER TO SOVIETS URGES JOINT EFFORT

(By Jackson Diehl)

WARSAW, March 8.—A group of Polish intellectuals has launched an unusual initiative to set up an independent dialogue with leading Soviet figures on the long-taboo issue of the World War II Katyn massacre of Polish officers.

In a letter released here today, 59 Poles representing a broad sample of the country's political opposition and intelligentsia appeared to a group of Russian intellectuals to speak up about the killings, which the Poles described as one of the most sensitive issues in Polish-Soviet relations.

About 16,000 Polish officers are believed to have been killed on Soviet territory in the early years of the war, and the bodies of about 4,000 were discovered in mass graves at Katyn, near Smolensk. Western historians and Polish popular opinion blame Soviet forces for the massacre, but Moscow has refused to alter its contention, officially accepted by Poland's communist authorities, that the atrocity was carried out by German troops.

"The truth must be told," the Poles' letter said. "That word is demanded from us by the debt of memory to those murdered and by the conviction that this is an essential condition for radical change in the relations between our two nations."

The letter says Polish intellectuals believe that "the time has come for a public dialogue, a dialogue of free and independent people unrestricted by official visits and diplomatic agreements." It adds: "We want relations from which servilism, lies and the danger of repression are eliminated."

The letter was signed by Solidarity trade union leaders Lech Walesa and Zbigniew Bujak, dissident intellectuals such as Adam Michnik and Jacek Kuron, and a number of Catholic and independent intellectuals, including writer Tadeusz Konwicki, filmmaker Andrzej Wajda, and editors Jerzy Turowicz and Marcin Krol.

It was addressed to a diverse group of Soviet intellectuals, and dissidents, including physicist Andrei Sakharov, economist Abel Aganbegyan and dissident editor Sergei Grigoryants. Polish activists said they had arranged for copies of the letter to be delivered personally to the addressees in Moscow.

The letter was released following a new session in Warsaw of an official Polish-Soviet commission charged with clearing up the "blank spots," or taboo issues, in the two countries' relations. The commission released a statement yesterday saying it had studied such issues as the Polish-Soviet war of 1920 and deportations of Poles to the Soviet Union but had made no progress in "elucidating all the circumstances of the Katyn tragedy."

Under the policy of glasnost, or openness, being pursued in both the Soviet Union and Poland, the Polish state press recently has published articles about the Soviet invasions of eastern Poland in 1939 and the subsequent deportation of 3 million Poles to prison and labor camps in Siberia or above the Arctic Circle.

But the subject of Katyn has remained largely taboo. An article on the massacre, prepared for publication this month in an official literary monthly, was banned by censors because it presented evidence of Soviet responsibility for the killings, editors said.

The article suggests that, under the policy of glasnost, or openness, this formerly taboo subject may be addressed by an official Polish-Soviet commission charged with clearing up "blankspots" or taboo issues between the two countries. Reprinting this report will provide an additional historical research tool for those examining the subject.

The substance of the report has not been reexamined by the House since its issuance in 1952, and this request for the reprinting of the report does not constitute an affirmation or a reaffirmation of its conclusions.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF TRANSCRIPT INCIDENT TO PRESENTATION OF PORTRAIT OF THE HONORABLE JACK BROOKS

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 325) authorizing printing of the transcript of proceedings of the Committee on Government Operations incident to presentation of a portrait of the Honorable JACK BROOKS, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Tennessee [Mr. JONES], chairman of the subcommittee, for an explanation.

Mr. JONES of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this resolution authorizes the printing as a House document the transcript of the proceedings upon the presentation of a portrait of the Honorable JACK BROOKS to the Committee on Government Operations.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 325

Resolved, That the transcript of proceedings of the Committee on Government Operations on November 19, 1987, incident to presentation of a portrait of the Honorable Jack Brooks to the committee, shall be printed as a House document with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed, for the use of the Committee on Government Operations, five hundred and fifty copies, of which one hundred and fifty copies shall be casebound.

AMENDMENT OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Tennessee: On page 1, lines 8 and 9, strike out "five hundred and fifty copies, of which one hundred and fifty" and insert in lieu thereof "190 copies, of which 90".

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF TRANSCRIPT INCIDENT TO PRESENTATION OF PORTRAIT OF THE HONORABLE DANTE B. FASCELL

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution [H. Res. 288] authorizing printing of the transcript of proceedings of the Committee on Foreign Affairs incident to presentation of a portrait of the Honorable DANTE B. FASCELL, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, this is the last in a series of four printing resolutions from the House Administration Committee. Two of them were complicated by the fact we had to make amendments. I hope the House will tolerate our conduct, particularly since the amendments reduce the cost to the taxpayers of these printing resolutions.

Mr. Speaker, under my reservation of objection I yield to the gentleman from Tennessee [Mr. JONES], the distinguished chairman of the subcommittee.

Mr. JONES of Tennessee. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, this authorizes the printing as a House document of the transcript of proceedings upon the presentation of a portrait of the Honorable DANTE B. FASCELL to the Committee on Foreign Affairs.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 288

Resolved, That the transcript of proceedings of the Committee on Foreign Affairs on April 7, 1987, incident to presentation of a portrait of the Honorable Dante B. Fascell to the committee, shall be printed as a House document with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed, for the use of the Committee on Foreign Affairs, 2500 copies of such document, of which 250 copies shall be casebound.

AMENDMENT OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Tennessee: On page 1, line 8, strike out "2500 copies of such document, of which 250 copies" and insert in lieu thereof "185 copies of such document, of which 85 copies".

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

NATIONAL TRAILS SYSTEM IMPROVEMENTS ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2641) to amend the National Trails System Act to provide for cooperation with State and local governments, for the improved management of certain Federal lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "National Trails System Improvements Act of 1988".

SEC. 2. FINDINGS.

Congress hereby finds that—

(1) State and local governments have a special role to play under the National Trails System Act in acquiring and developing trails for recreation and conservation purposes.

(2) Many miles of public land rights-of-way have been granted to the railroads by the United States, and much of this mileage could be suitable for trail use at such time as it may be abandoned.

(3) The United States should retain any residual interest it may have in such public land rights-of-way and relinquish it, where appropriate, in favor of State and local governments or other nonprofit entities for trail purposes.

SEC. 3. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Section 9 of the National Trails System Act (16 U.S.C. 1248) is amended by adding the following new subsections after subsection (b):

"(c) Commencing upon the date of enactment of this subsection, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in the Act of March 8, 1922 (43 U.S.C. 912), shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such Act.

"(d)(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this Act.

"(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this section.

"(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, unless the Secretary determines that it is appropriate to dispose of such lands pursuant to subsection (e) of this section.

"(e)(1) The Secretary of the Interior is authorized to release and quitclaim to a unit of government or to another entity meeting the requirements of this subsection any and all right, title, and interest in the surface estate of any portion of any right-of-way to the extent any such right, title, and interest was retained by the United States pursuant to subsection (c), if such portion is not located within the boundaries of any conservation system unit or National Forest. Such release and quitclaim shall be made only in response to an application therefor by a unit of State or local government or another entity which the Secretary of the Interior determines to be legally and financially qualified to manage the relevant portion for public recreational purposes. Upon receipt of such an application, the Secretary shall publish a notice concerning such application in a newspaper of general circulation in the area where the relevant portion is located. Such release and quitclaim shall be on the following conditions:

"(A) If such unit or entity attempts to sell, convey, or otherwise transfer such right, title, or interest or attempts to permit the use of any part of such portion for any purpose incompatible with its use for public recreation, then any and all right, title, and interest released and quitclaimed by the Secretary pursuant to this subsection shall revert to the United States.

"(B) Such unit or entity shall hold the United States harmless for any legal liability arising out of the release and quitclaim by the Secretary or arising out of any act or omission of any party, other than the United States, in relation to the possession or use of the relevant portion of such right-of-way prior to, or after, such release and quitclaim by the Secretary.

"(C) The United States shall be under no duty to inspect such portion prior to such release and quitclaim, and shall incur no legal liability with respect to any hazard or any unsafe condition existing on such portion at the time of such release and quitclaim.

"(2) The Secretary is authorized to sell any portion of a right-of-way retained by the United States pursuant to subsection (c) located outside the boundaries of a conservation system unit or National Forest if any such portion is—

"(A) not adjacent to or contiguous with any portion of the public lands; or

"(B) determined by the Secretary, pursuant to the disposal criteria established by section 203 of the Federal Land Policy and Management Act of 1976, to be suitable for sale.

Prior to conducting any such sale, the Secretary shall take appropriate steps to afford a unit of State or local government or any other entity an opportunity to seek to obtain such portion pursuant to paragraph (1) of this subsection.

"(3) All proceeds from sales of such retained rights of way shall be deposited into the Treasury of the United States and credited to the Land and Water Conservation Fund as provided in section 2 of the Land and Water Conservation Fund Act of 1965.

"(4) The Secretary of the Interior shall annually report to the Congress the total proceeds from sales under paragraph (2) during the preceding fiscal year. Such report shall be included in the President's annual budget submitted to the Congress.

"(f) As used in this section—

"(1) The term 'conservation system unit' has the same meaning given such term in the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.), except that such term shall also include units outside Alaska.

"(2) The term 'public lands' has the same meaning given such term in the Federal Land Policy and Management Act of 1976.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 2641, the legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2641, which was introduced by the gentlewoman from Maryland, Representative BYRON, would amend the National Trails System Act to facilitate the use of those abandoned railroad rights-of-way where the Federal Government retains a property interest for recreational trail and conservation purposes.

The use of abandoned railroad rights-of-way for trails is already encouraged by both the National Trails System Act and the Railroad Revitalization and Regulatory Reform Act. More than 55,000 miles of railroad rights-of-way have been abandoned since 1975, and the rate of abandonment has been increasing in recent years. Abandoned rights-of-way are, in many instances, fine ready-made trail corridors. Considerable interest has been generated in using whatever retained Federal interest there may be in these rights-of-way for trail and other conservation uses.

H.R. 2641 provides that for the purposes of all future abandonments of railroad rights-of-way, previously granted by the United States, the United States would retain whatever interests it may have in the abandoned railroad right-of-way, rather than relinquishing those rights as previously had been the case. As a matter of policy we should use these retained interests for public purposes, especially recreational trail and conservation uses, which are so readily compatible with these right-of-way corridors.

This legislation also provides for the assimilation of these retained interests into the Federal estate and their transfer, where appropriate, to State or local government or qualified private entity for public recreation purposes. Further, where public use of the right-of-way would be unfeasible, the legislation provides for the sale of such retained rights with the proceeds to be credited to the Land and Water Conservation Fund so that these moneys will be available for conservation and recreational uses, especially trail uses.

H.R. 2641, as amended by the Committee on Interior and Insular Affairs, modifies the bill to address several matters that were raised in hearings before the committee. The changes include with slight modifications, the substantive amendments suggested by the administration, as well as other revisions that provide a clearer statement of policy and intend.

I recognize that the bill before us today does not solve all the obstacles relating to trail use but it is an important step in the recognition of trails in our public land policies and builds upon our previous efforts in law. As I noted earlier, existing law encourages and supports the use of abandoned rights-of-way for trail use. Unfortunately, in the administration of these statutes, certain Federal agencies have carried out their responsibilities under the law with greater diligence than others. While agencies such as the National Park Service, actively promote trail usage, other Federal agencies, in particular the Interstate Commerce Commission take a "laissez faire" attitude to their responsibilities. As the President's Commission on Americans Outdoors noted outdoor recreation needs are expanding even as readily available recreation opportunities are diminishing. Trail corridors can help meet those needs in a cost effective fashion. The Interstate Commerce Commission should and must take seriously its responsibilities under the law to promote trail formation and use rather than permitting the foregoing of opportunities to develop trail corridors to serve public purposes enumerated in law.

Mr. Speaker, I want to take this opportunity to commend our colleague, Representative BYRON, for her efforts on behalf of H.R. 2641. She has been a tireless advocate for trail use and her leadership on these matters has been enlightening and productive.

H.R. 2641, as amended, will facilitate the achievement of important public policy purposes and I urge adoption of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my able colleague and subcommittee chairman from Minnesota, Mr. VENTO, and my friend from Maryland, Mrs. BYRON, the sponsor of this bill, have done an admirable job in bringing this legislation to the floor of the House.

Since my colleagues have already explained what the bill does, I, as a cosponsor, would like to point out what it does not do. When H.R. 2641 was first introduced, there was a great deal of concern that the provisions of the bill which retained the Federal interests in abandoned railroad rights-of-way was actually taking private property without paying the property owners any compensation. As my colleagues are aware, many of the landowners adjacent to various railroad rights-of-way will become the owner of the right-of-way once the right-of-way is abandoned. This is true because many of these rights-of-way are merely easements which are extinguished when the easement is no longer used for the purpose for which it was granted.

In other instances, the adjacent landowner may have a future interest in the right-of-way once it is abandoned because the 1922 Abandonment Act gave adjoining landowners a reversionary interest in the right-of-way.

However, as we discovered at the hearing on this last issue, there is an ongoing debate in the courts as to whether an adjacent landowner or the United States owns the particular rights-of-way subject to the 1922 Abandonment Act.

The subcommittee was very careful to amend the original version of the bill to clarify that Congress does not intend to take back any interest it might have given away with respect to federally granted railroad rights-of-way. In fact, the committee specifically points out in the report which accompanies H.R. 2641:

> It is the committee's intent that nothing in this legislation favors one legal theory over the other. The legislation is only applicable in those cases arising after enactment [of this Act] where it has been or can be determined that the federal government has a property interest in a previously granted and abandoned railroad right-of-way.

Therefore, it is clear: where the Federal Government has no right, title or interest in the right-of-way, the Government has nothing to grant by quitclaim deed to a local government which may apply for ownership of the abandoned right-of-way.

Finally, Mr. Speaker, I commend my colleague Mrs. BYRON for working to provide more recreational trails for the public. I believe that where these rights-of-way pass through our public lands like U.S. Forest Service, Park Service, or the Bureau of Land Management land, it makes perfect sense to preserve these rights-of-way for all kinds of recreational use.

Thank you, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

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Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BYRON] the primary sponsor of this measure and someone who has taken a very active interest in trails in her tenure in Congress, an able member of the subcommittee of the Committee on Interior and Insular Affairs.

Mrs. BYRON. Mr. Speaker, as the sponsor of H.R. 2641 and a hiking enthusiast, I am very excited about this bill and its prospects for trail development and acquisition. Public demand for trails has grown significantly in the last 20 years. Hikers, bikers, and horseback riders, especially in more urban areas, are having increasing difficulty in finding open space.

This bill H.R. 2641 provides an efficient and logicial means for trail development. Federally granted rail rights-of-way often lend themselves well to trail conversion upon abandonment. H.R. 2641 reaffirms the public interest in these tracts of land and calls for their conversion to trails wherever possible. If trail conversion is not feasible for a particular tract, it may be sold. The proceeds would then go to the land and water conservation fund.

Another important feature of the bill is its recognition of the role that State and local governments and groups can play in trail development. State and local groups and organizations are often willing and capable managers. But unfortunately they do not always have the means to acquire land for trail use. H.R. 2641 would enable the Federal Government to transfer management of portions of the rights-of-way to appropriate State and local entities. This will give the State and local level a greater role, minimize the cost to the Federal Government, and provide for a greater trail network for the Nation to enjoy.

Trails afford their users recreation combined with an opportunity to enjoy the environment. In a time of budget constraints, H.R. 2641 provides a sound and innovative mechanism by which the trail system can be expanded at little cost to the Federal Government. I urge my colleagues to support passage of this legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I am pleased to lend my support today to the pending measure, H.R. 2641, the National Trails System Improvements Act of 1988. But, first, my compliments to the gentlelady from Maryland [Mrs. BYRON] who has worked so diligently and effectively to bring this measure to the House floor. As an original cosponsor of H.R. 2641, I view the measure as an important step to increase the outdoor recreational resources that are available for Americans.

More and more, Americans of every age are taking advantage of hiking/biking trails for recreational use. The number of hikers, bikers, and horseback-riders has more than tripled in recent years and is now looking for additional trails to pursue their recreational activities. In 1986 the President's Commission on Americans Outdoors reported: "Thousands of miles of abandoned rail lines should become hiking/biking, and bridle paths." That is an important motivation behind the bill we consider today.

The United States has at least 1,605 miles of trails that have been converted from abandoned rail lines. Abandoned rail lines represent a significant resource for increasing the Nation's trails system.

The U.S. rail system initially comprised some 257,000 miles of right-of-way. This system is being abandoned at a rate of 2,000 to 3,000 miles per year. Studies show that about one-third of these miles—some 600 to 1,000 miles per year—would be desirable for conversion to alternate uses such as trails.

There is enormous potential for significantly increasing the Nation's trail system by converting abandoned rail lines. Why spend millions of dollars each year to build new trails when an already established system of trail corridors is in place? These lines traverse some of our most scenic vistas, many through Federal lands, and are a resource that should not be ignored. In my own congressional district, planning is already underway to convert portions of the old Rock Island rights-of-way into a hiking/biking path in Nebraska's capital city.

As the potential for converting abandoned rail lines to trails becomes known, so too have a range of legal problems been identified. H.R. 2641 reaffirms the public's interest in Government granted railroad rights-of-way upon abandonment. The bill provides for the conversion of the abandoned rails to trail use wherever possible. Additionally, the bill enables the Federal Government to transfer management of portions of the rights-of-way to State and local governments and organizations when appropriate.

The sponsors of this legislation, together with our colleagues on the House Interior Committee, have fashioned a bill that provides a sound and efficient mechanism with which Federal, State, and local entities can acquire and develop trails. This is a good bill. By its passage we will be providing one more example of this Nation's commitment to preserving and enhancing the environment in which Americans live. Also an important part of our past will be preserved and enjoyed by millions of Americans.

Again, I commend my colleague from Maryland for her dedicated efforts to move this legislation through the Congress.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, this is one of those ideas that you sit down and ask yourself "Why didn't we think of this before?" Here we have a resource that is not being used, thousands of miles of scenic real estate suitable for hiking, biking and all of the rest and for no cost, no obligation, no payment from the States or localities we can give them what amounts to a huge new injection of excellence in the system of national trails.

It is a pleasure to be associated with this legislation. Your Committee on Interior and Insular Affairs is proud to bring this measure to the floor.

Mr. Speaker, I join with the remarks made by the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from California [Mr. LAGOMARSINO]. The gentleman from Minnesota [Mr. VENTO], the great chairman of our subcommittee has done so much in this area and we all thank our colleague from Maryland for proposing this legislation. I urge that this legislation be approved.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. CHANDLER]

Mr. CHANDLER. Mr. Speaker, I have a formal comment which I would like to submit for the RECORD. Let me make just a few points.

First, I congratulate the sponsor of the legislation, Mrs. BYRON, from the State of Maryland. The gentlewoman has come upon an idea which I think is well overdue. We who live here in the northern Virginia area, as I do, benefit from what has been developed here, a fairly extensive trail system utilizing abandoned railways. The Four Mile Run is one area that is extensively used by the people of this urban community and it is something about the area that I think makes it particularly civilized.

Out in the West and especially in the State of Washington where I live there are some unfortunate conflicts underway right now over these abandoned railway rights-of-way.

I hope this legislation will contribute to the solution of the problem of conflict over these properties. I certainly think that as this Nation continues to age, as people in their retirement years are healthier, live longer, and need better recreational facilities, this bill will help contribute to the provision of trails, a resource for those people to use. They have the advantage of usually being of a grade that is not terribly steep; they are very often along scenic routes; they rarely have a lot of highway crossings and so they are very safe. This is an absolutely ideal way to expand the recreational opportunities for the people of this country but especially for those who are in their senior years.

Let me simply add a second thought that as we have more and more competition for outdoor recreational resources and even in the West where you would think the vast open spaces would be more than adequate to accommodate all of the users, I can assure it is not. Even in the wilderness areas in our State we are suffering from severe overuse.

This kind of program along with the development of other trail areas, is going to go a long way toward alleviating the overuse of some of those most delicate and primitive areas in our national forests.

So again congratulations to the author of the bill.

Mr. Speaker, I rise in support of H.R. 2641, the National Trails System Improvements Act. This bill would lead to the conversion of thousands of miles of abandoned railroad rights-of-way into needed recreation trails. It would also provide an important new source of income for the land and water conservation fund.

Most importantly, it would alleviate many of the confusing inconsistencies in the way we are currently dealing with abandoned railroad rights-of-way.

One worst case scenario is apparent in the State of Washington. There, the completion of the popular Burke-Gilman Urban Trail in Seattle has been challenged by the controversial abandonment and sale of a vital railroad right-of-way. The resulting legal nightmare has caused a major controversy and unnecessarily damaged the reputation of an otherwise outstanding corporate citizen—the Burlington Northern Railroad Co.

There is still hope that this case will be resolved by the Interstate Commerce Commission or through negotiations being held among involved and interested parties. But there is no reason why future abandonments should have to be so complicated.

The fact is that this land was given without charge to the railroads by the Federal Government. Both parties have profited greatly from this arrangement. But now, as certain sections of railroad are abandoned, the land should be returned to the Federal Government.

While this bill willl not resolve the current dispute over the Burke-Gilman Trail, it would prevent similar conflicts from occurring in the future.

H.R. 2641 specifies that abandoned rights-of-way are to be retained by the Federal Government. If they are located within the boundaries of a national forest or conservation area, they are to be incorporated into that forest or area, and those adjacent to public lands are to be managed in accordance with the Federal Policy and Management Act.

In both cases, provisions of the National Trails System Act would apply, requiring that rights-of-way be made available for use as recreational trails to the greatest extent practicable.

The measure calls for other retained abandoned rights-of-way—those not located within or adjacent to Federal lands—to be managed by the Interior Department and used for recreational trails or other public recreation purposes, when they are suitable for such use.

In the case of an urban area, like the proposed future route of the Burke-Gilman Trail, which is located outside of a national park or conservation area, the Department can transfer its interests in a retained right-of-way to a unit of State or local government, or a private entity which has applied to manage it for public recreation purposes.

Finally, in cases where rights-of-way are not suitable for recreational use, the land can be sold, with the proceeds deposited in the land and water conservation fund, which funds land acquisition and management for national parks, wildlife refuges, and other conservation and recreation areas, including recreational trails.

This bill is badly needed, both to avert otherwise unavoidable conflicts, and to further the development of adequate recreational trails. I strongly urge my colleagues to support it.

Mr. SYNAR. Mr. Speaker, I rise in strong support of H.R. 2641, the National Trails System Act amendments and urge my colleagues to suspend the rules and pass this legislation.

Since enactment of the National Trails System Act, the Federal Government has been encouraging the conversion of abandoned railroad tracks into trails for hiking, biking, jogging, and horseback riding. My own State of Oklahoma has taken advantage of these programs to develop trails. The River Parks Trail in Tulsa is an excellent example of a rails-to-trails conversion. The Tulsa River parks system has become an important part of that city's recreation and tourism industry.

The Oklahoma State Department of Tourism is working now to get access to an abandoned line for the creation of a trail between the cities of Henryetta and Durant. The Tulsa River Parks Authority also is working to expand the trail system by converting additional nearby track into trails. Oklahoma has nearly 2,000 miles of abandoned railroad track which could be converted into a system of trails.

Under existing law, taking advantage of the rails-to-trails program is not easy. State and local governments face a mess of bureaucratic redtape at the Interstate Commerce Commission to get access to the abandoned tracks. H.R. 2641 streamlines the process and should lead to increased conversion of abandoned railroad tracks into recreational trails.

Oklahoma outdoor recreational activities already attract thousands of visitors each year. Tourism is the State's third largest industry. A statewide system of trails could complement the existing outdoor resources and enhance Oklahoma's tourism potential. H.R. 2641 will make it easier for State and local governments to convert abandoned railroad tracks into trails, increasing the State's attractiveness as a vacation spot for out of State visitors and expanding the recreational and fitness opportunities for residents within the State.

I am pleased to support this legislation and I urge the House to vote "yes" on H.R. 2641.

Mr. BONKER. Mr. Speaker, before us today is the National Trails System Improvements Act, H.R. 2641, legislation to encourage the conversion of abandoned railroad rights-of-way on Federal lands to recreational trails. I urge support for this important measure.

The legislation would convert thousands of miles of abandoned rail lines into recreational trails. Abandoned railroads follow a gentle grade and are ideal for a number of recreational acativities. In addition, they would provide for important wildlife habitat and would help prevent soil erosion. This bill would also help to prevent further erosion of the Nation's trail system.

It is estimated that in the next 15 years, 10,000 to 20,000 miles of Forest Service trails will be lost. The problem of increasing numbers of hikers and backpackers crowding onto trails has diminished the value of the experience for many people and caused unacceptable environmental damage.

In the State of Washington alone, 48 locations have been identified in the Mount Baker-Snoqualmie National Forest as being seriously damaged due to the overuse of trails. At the same time that these wilderness areas are being destroyed, other beautiful nonwilderness areas lie unused, simply because they have no trails.

Conservationists in Washington State have recently proposed a Trails 2000 Program to rebuild the trail system in Washington State. The proposal would restore the trail system in the State to the approximately 2,000 mile system that existed in the late 1930's, by the year 2000. Specifically, it would replace land lost to logging and off-road vehicles [ORV's], and reopen 200 miles of abandoned trail in the Mount Baker-Snoqualmie National Forest.

As the population and interest in outdoor recreation increase, the demand for trails is growing rapidly. This is especially true in those natural areas located close to urban areas. The result is overcrowding of these hiking trails and damage to adjacent areas. The answer is an increased emphasis on the restoration, maintenance, and construction of hiking trails.

The legislation before us today provides an opportunity to reverse the trend toward a shrinking network of trails in this country. Abandoned railroad lines can be put to good use by converting them to hiking trails and bike paths. Please join with me today in voting to support H.R. 2641, the National Trails System Improvement Act.

Mr. CAMPBELL. Mr. Speaker, H.R. 2641, the National Trails System Improvements Act is a great idea. This bill will allow communities in my district to take abandoned railroad beds and rights-of-way and convert these ribbons of land into trails.

The real beauty of the bill is that it doesn't cost taxpayers a thing.

Miles of railroad track are abandoned each year. With the right program to convert these miles we can add considerably to our park and recreation inventory while not increasing the budget burden.

Throughout the country, suitable park and recreation land is at a premium, and, while my constituents are asking for a greater Federal commitment to recreation, we are facing ever-increasing pressure on limited financial resources.

Expanding our trail system is a good way to balance our recreation needs with budgetary restraints. A trail is a simple yet versatile recreational asset. Plus, as more land goes into buildings, malls, and subdivisions, anything we can do to break up developed tracts with greenbelts will be appreciated now and in the future.

I hope my colleagues will support Representative BYRON's hard work by voting to pass H.R. 2641.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WEISS). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2641, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passsed.

A motion to reconsider was laid on the table.

TUSKEGEE UNIVERSITY NATIONAL HISTORIC SITE ACT AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3869) to amend the act providing for the establishment of the Tuskegee University National Historic Site, AL, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes; as amended.

The Clerk read as follows:

H.R. 3869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(a)(5) of the Act entitled "An Act to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewall-Belmont House National Historic Site, Washington, District of Columbia, and for the other purposes", approved October 26, 1974 (88 Stat. 1461), is amended by striking out "(5)" and inserting in lieu thereof "(5)(A)" and by changing the semicolon to a period, deleting the word "and" thereafter, and inserting the following new subparagraph:

"(B) If, following the acquisition of Grey Columns, the Secretary determines that it would be in the public interest and in furtherance of efficient administration of the national historic site to do so, the Secretary may convey Grey Columns to Tuskegee University and in exchange therefor he may accept from the University properties which the Secretary deems necessary for administrative, parking, and maintenance facilities for the national historic site. As to the property between the Carver Museum and the Oaks, the Secretary may accept an easement from the University which shall limit development for the purpose of maintaining the view between the Carver Museum and the Oaks and provide for construction and maintenance by the Secretary of a public walkway from Campus Avenue to Montgomery Road. The conveyance of Grey Columns shall be made upon the express condition that the grantee shall maintain its historic integrity in accordance with the Secretary's standards on historic preservation and make the property available for public use subject to its primary purpose as the residence of the University's president. The exchange herein authorized shall be accomplished without monetary consideration to or from either party. Following such exchange, the Secretary shall cause to be published in the Federal Register a revised boundary map or other boundary description of the national historic site.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3869, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3869 is a bill introduced by our good friend and colleague, BILL NICHOLS from Alabama. It authorizes an exchange between Tuskegee University and the National Park Service. It will help in the preservation and interpretation of Tuskegee Institute National Historic Site, one of the—which is really too few—parks in the National Park System which specifically documents the role of black history in America's past. It is located within the heart of Tuskegee University. Tuskegee Institute National Historic Site preserves and interprets part of the history of black life after emancipation in the Civil War. It tells a story of black educational efforts. Booker T. Washington guided the establishment and development of Tuskegee Institute, of course. George Washington Carver taught and worked there for nearly half a century. Today, the Tuskegee Institute National Historic Site remembers their lives and accomplishments as well as those of other students, families, and supporters.

H.R. 3869 simply authorizes an exchange between Tuskegee University and the National Park Service to facilitate the missions of each organization. The bill transfers Grey Columns, an antebellum home from the National Park Service to Tuskegee University in exchange for administrative, maintenance and parking facilities for the national historic site.

Grey Columns will continue to be used as the official home of the president of Tuskegee University, as it is today.

This bill makes permanent the existing agreement between Tuskegee University and the National Park Service and will be beneficial to both.

The Committee on Interior and Insular Affairs amended the bill to correct a minor mistake in the title.

The National Park Service unit located at Tuskegee University is Tuskegee Institute National Historic Site, not Tuskegee University.

Mr. Speaker, it is especially appropriate that we make this exchange because the entire resource which comprises Tuskegee Institute National Historic Site was initially donated by Tuskegee University.

Therefore, of course, the relationship between the two, both the park and the university, is a very, very long and important relationship. This, of course, will foster the continued relationship in a way that is most beneficial to the public. The bill will facilitate the public's learning about our history, increase the ability of the National Park Service to preserve Tuskegee Institute National Historic Site. I strongly urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, notwithstanding the objections of OMB, H.R. 3869 merely ratifies the existing management arrangement that the Park Service and Tuskegee University have been operating under for the last several years. It authorizes, not requires, a land exchange.

The administration's primary complaint is that the exchanges involved in H.R. 3869 are not of equal value. The Park Service testified that Tuskegee University will receive Grey Columns, an historic antebellum mansion, while the Park Service will receive in return a university building to be used as an administrative headquarters, parcels for visitor parking and for a maintenance facility as well as a scenic easement to restrict development that might interfere with the view between the Carver Museum and the Carver University. The Park Service maintains Grey Columns is worth $700,000 while the property it is receiving is only worth $150,000.

But Mr. Speaker, this position fails to recognize that in 1984 the Park Service and the university signed a memorandum of understanding which allowed the university to use Grey Columns as a residence in return for the use of university buildings and land for Park Service administration and visitor parking. The primary reason for this MOU was that Grey Columns was too far from the visitor attractions making the building unsuitable for visitors as well as Park Service staff.

So there is good reason for this exchange which will allow the public to enjoy better the university founded by Booker T. Washington for black Americans.

Finally, Mr. Speaker, the exchange proposed by H.R. 3869 will not preclude the public's use or enjoyment of Grey Columns nor will the historic integrity of the mansion be diminished. H.R. 3869 requires public use to continue and that Grey Columns be properly preserved.

I urge my colleagues to support H.R. 3869.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I know of no opposition to this measure in the Congress.

Mr. Speaker, I have no further requests for time, and I yielded back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3869, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the act providing for the establishment of Tuskegee Institute National Historic Site, AL, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes."

A motion to reconsider was laid on the table.

PIPELINE SAFETY REAUTHORIZATION ACT OF 1988

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2266) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—NATURAL GAS PIPELINES
Sec. 101. Certification authority.
Sec. 102. State notification and pipeline inventory.
Sec. 103. State enforcement.
Sec. 104. Qualifications for State grant programs.
Sec. 105. Federal-State cooperation in case of accident.
Sec. 106. Destruction of signs or markers.
Sec. 107. Additional inspection and testing.
Sec. 108. Feasibility of regulating excavation activities.
Sec. 109. Authorization for appropriations.
TITLE II—HAZARDOUS LIQUID PIPELINES
Sec. 201. Certification authority.
Sec. 202. State notification and pipeline inventory.
Sec. 203. State enforcement.
Sec. 204. Qualifications for State grant programs.
Sec. 205. Destruction of signs or markers.
Sec. 206. Additional inspection and testing.
Sec. 207. Feasibility of regulating excavation activities.
Sec. 208. Federal-State cooperation in case of accident.
Sec. 209. Authorization for appropriations.
Sec. 210. Carbon dioxide.
TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS
Sec. 301. Grants-in-aid authorization.
Sec. 302. Additional hirings.
Sec. 303. Minimum requirements for one-call notification systems.
Sec. 304. Internal inspection of pipelines.
Sec. 305. Emergency flow restricting devices.

TITLE I—NATURAL GAS PIPELINES

SEC. 101. CERTIFICATION AUTHORITY.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1) is amended by inserting after the second sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

SEC. 102. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsections:

"(e) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this Act (to the extent practicable) to provide, and revise as necessary, information relating to the operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) A map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities, including all transmission lines and significant distribution lines, of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all product transported through the operator's pipelines within the State.

"(5) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

"(f) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this Act, to the extent practicable, to complete and maintain for the Secretary, and to revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of gas in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment used with the compression of gas.".

SEC. 103. STATE ENFORCEMENT.

Section 5(a)(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 104. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 105. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1676) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, after consultation with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 106. DESTRUCTION OF SIGNS OR MARKERS.

Section 11(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(c)) is amended by adding at the end the following new paragraph:

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

SEC. 107. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended—

(1) by inserting "(a) PIPELINE OPERATOR'S RESPONSIBILITIES.—" before "Each person who engages"; and

(2) by adding at the end the following new subsection:

"(b) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, if appropriate, shall require testing of pipeline facilities subject to this Act and not covered by an agreement or certification under section 5 to ensure the safety of such pipeline facilities. Subject to advance appropriations, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter; except that the Secretary may reduce the frequency of such inspections with respect to master meter systems. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most reliable technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 3 of such Act (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(g) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new transmission facilities, and

"(2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities,

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

(c) IMPROVEMENT OF MASTER METER INSPECTION PROGRAM.—

(1) Study.—The Secretary of Transportation shall undertake a study to assess the need for an improved inspection program for master meter systems.

(2) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under paragraph (1) together with any recommendations of the Secretary for appropriate legislation.

SEC. 108. FEASIBILITY OF REGULATING EXCAVATION ACTIVITIES.

Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by adding at the end the following new sentence: "The Secretary shall assess the feasibility of regulating persons whose excavation activities may result in pipeline damage and, not later than 1 year after the date of the enactment of this sentence, transmit to Congress a report on the results of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.".

SEC. 109. AUTHORIZATION FOR APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $3,733,000 for the fiscal year ending September 30, 1988;

"(7) $3,978,000 for the fiscal year ending September 30, 1989; and

"(8) $4,086,000 for the fiscal year ending September 30, 1990.

The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training. The Secretary may expend in fiscal year 1989 or fiscal year 1990 not to exceed $50,000 of funds appropriated pursuant to this subsection for such fiscal year for establishing a training program for persons who install, operate, and maintain a system of providing natural gas for more than one unit in a definable area (including a building or series of buildings, a mobile home park, a housing project, or an apartment complex) through use of a master metering system in lieu of separate meters.".

TITLE II—HAZARDOUS LIQUID PIPELINES

SEC. 201. CERTIFICATION AUTHORITY.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended by inserting after the first sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

SEC. 202. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsections:

"(i) Notification Standards.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this title (to the extent practicable) to provide, and revise as necessary, information relating to operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) A map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

"(j) Pipeline Inventory Standards.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this title, to the extent practicable, to complete and maintain for the Secretary, and revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of hazardous liquids in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment associated only with the pipeline pumps or storage facilities.".

SEC. 203. STATE ENFORCEMENT.

Section 205(a)(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 204. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) is amended by adding at the end the following new paragraph:

"(5) Qualifications for State Grant Programs.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 205. DESTRUCTION OF SIGNS OR MARKERS.

Section 208(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(c)) is amended by adding at the end the following new paragraph:

"(3) Destruction of Signs or Markers.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

SEC. 206. ADDITIONAL INSPECTION AND TESTING.

(a) Inspection and Testing.—Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2009) is amended by adding at the end the following new subsection:

"(d) Secretary's Responsibilities.—

"(1) In general.—The Secretary shall inspect and, if appropriate, shall require testing of pipeline facilities subject to this title and not covered by an agreement or certification under section 205 to ensure the safety of such pipeline facilities. Subject to advance appropriations, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most reliable technology practicable.

"(2) Criteria for frequency and type.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilites.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) Instrumented Internal Inspection Devices.—Section 203 of such Act (49 U.S.C. App. 2002) is amended by inserting at the end the following new subsection:

"(k) Instrumented Internal Inspection Devices.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new pipeline facilities, and

"(2) when the replacement of existing pipeline facilities or equipment is required, the replacement of such existing facilities,

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such pipeline facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

(c) Technical Correction.—Section 210 of such Act (49 U.S.C. App. 2009) is amended by striking the last sentence of subsection (c)(3) and inserting such sentence at the end of subsection (a).

SEC. 207. FEASIBILITY OF REGULATING EXCAVATION ACTIVITIES.

Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by adding at the end the following new sentence: "The Secretary shall assess the feasibility of regulating persons whose excavation activities may result in pipeline damage and, not later than 1 year after the date of the enactment of this sentence, transmit to Congress a report on the result of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.".

SEC. 208. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsection:

"(d) Coordination Procedures.—Not later than 1 year after the date of the enactment of this subsection, after consultation with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 209. AUTHORIZATION FOR APPROPRIATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $921,000 for the fiscal year ending September 30, 1988;

"(7) $995,000 for the fiscal year ending September 30, 1989; and

"(8) $1,021,000 for the fiscal year ending September 30, 1990.

The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training.".

SEC. 210. CARBON DIOXIDE.

(a) Regulation.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is further amended by adding at the end the following new section:

"SEC. 219. CARBON DIOXIDE.

"(a) General Rule.—In addition to hazardous liquids, the Secretary shall regulate under this title carbon dioxide which is transported by pipeline facilities.

"(b) Regulations.—The Secretary, as necessary and appropriate, shall amend regulations issued with respect to hazardous liquids under this title and shall issue new regulations to ensure the safe transportation of carbon dioxide by pipeline facilities.".

(b) Conforming Amendment.—The table of contents in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by inserting

"Sec. 219. Carbon dioxide."

after

"Sec. 218. Savings provisions.".

(c) Effective Date.—Section 219(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (a) of this section, shall take effect 18 months after the date of the enactment of this Act.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

SEC. 301. GRANTS-IN-AID AUTHORIZATION.

(a) In General.—Subsection (c) of section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended—

(1) by striking "and" after "September 30, 1986,"; and

(2) by inserting ", $5,000,00 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,000,000 for the fiscal year ending September 30, 1990" after "September 30, 1987".

(b) Maximum Allocation on Indirect Expenses.—

(1) In general.—Subsection (d) of such section is amended by inserting "(1) Set aside for hazardous liquid grants-in-aid program.—" before "Not less than" and by adding at the end thereof the following new paragraph:

"(2) Maximum allocation to indirect expenses.—Not more than 20 percent of the amount of a pipeline safety grant made to a State under section 5(d) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 may be allocated to indirect expenses.".

(2) Conforming amendments.—Such subsection is further amended—

(A) by inserting "Limitation on Grants-in-Aid Funds.—after "(d)" the first place it appears; and

(B) by indenting paragraph (1), as designated by this subsection, and aligning such paragraph with paragraph (2) of such section, as added by this subsection.

SEC. 302. ADDITIONAL HIRINGS.

Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsection:

"(e) Additional Hiring.—For purposes of hiring 8 additional inspectors to carry out inspections under section 13(b) of this Act and section 210(d) of the Hazardous Liquid Pipeline Safety Act of 1979 and necessary support staff, there is authorized to be appropriated $500,000 for fiscal year 1989. For purposes of retaining the persons hired under the preceding sentence and for hiring 8 additional inspectors to carry out such inspections and necessary support staff, there is authorized to be appropriated $1,000,000 for fiscal year 1990.".

SEC. 303. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS.

(a) Requirement and Grant Program.—The Natural Gas Pipeline Safety act of 1968 (49 U.S.C. App. 1671-1686) is amended by adding at the end thereof the following new section:

"SEC. 20. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS.

"(a) State Adoption of System.—In making allocations under section 5, and under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979, the Secretary shall consider whether a State has adopted or is seeking adoption of a one-call notification system under subsection (b). If the Secretary determines that any State has not adopted, and is not seeking adoption of, such a system, such State may not receive the full reimbursement under such sections to which it would otherwise be entitled.

"(b) One-Call Notification Systems.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations establishing minimum Federal requirements for establishment and operation of one-call notification systems for adoption by States as described in subsection (a) relating to notification of operators of pipeline facilities and underground electric transmission and distribution lines of activities in the vicinity of a pipeline facility or underground electric transmission or distribution line which could threaten the safety of such facility or line. Such regulations shall include, but not be limited to, the following:

"(1) A requirement that the system or systems apply to all areas of the State containing underground pipeline facilities or underground electric transmission and distribution lines.

"(2) A requirement that any person intending to engage in any activity, as determined by the Secretary, that could cause physical damage to an underground pipeline facility or underground electric transmission or distribution line, must contact the appropriate one-call notification system to determine if there are underground pipeline facilities or underground electric transmission and distribution lines present in the area of the intended activity.

"(3) A requirement that all operators of underground pipeline facilities or underground electric transmission and distribution lines participate in the appropriate one-call notification system.

"(4) Qualifications for operation of such a system whether by operators of pipeline facilities and underground electric transmission and distribution lines, private contractors, or State or local agencies.

"(5) Procedures for advertisement and notice of the availability of such a system.

"(6) Requirements for the information to be provided by persons contacting the system under paragraph (2).

"(7) Requirements for the response of the operator of such notification system and of the operator of the pipeline facility or underground electric transmission or distribution line to contact by a person under paragraph (2).

"(8) A requirement that each State determine whether the notification system will be toll free or not.

"(9) Requirements for sanctions substantially the same as are provided under sections 11 and 12 of this Act.

In amending or issuing regulations under this subsection relating to underground electric transmission and distribution lines, the Secretary shall consult with the Federal Energy Regulatory Commission and other appropriate organizations.

"(c) Grants to States.—The Secretary may make grants to States for development and establishment of one-call notification systems which are consistent with all of the requirements established under subsection (b).

"(d) Limitation.—Nothing in this section or any regulation issued under this section shall alter any liability established under Federal or State law for damages caused by activities described in subsection (b)(2).

"(e) Pipeline Facility Defined.—As used in this section, the term 'pipeline facility' includes, in addition to pipeline facilities as defined by this Act, any pipeline facility which is described in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979.

"(f) Authorization of Appropriations.—For purposes of carrying out subsection (c), there is authorized to be appropriated $1,000,000 per fiscal year for each of fiscal years 1989 and 1990. Such sums shall remain available until expended.".

(b) Conforming Amendments.—(1) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking "section 19" and inserting in lieu thereof "sections 19 and 20".

(2) Section 17(a) of such Act is amended by inserting "or section 20" after "subsection (b) or (c)".

SEC. 304. INTERNAL INSPECTION OF PIPELINES.

(a) Study.—The Secretary of Transportation shall undertake a study assessing the feasibility of requiring the inspection of transmission facilities with instrumented internal inspection devices at periodic intervals determined after consideration of the factors set forth in section 13(b)(2) of the Natural Gas Pipeline Safety Act of 1968 and section 210(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

SEC. 305. EMERGENCY FLOW RESTRICTING DEVICES.

(a) STUDY.—The Secretary of Transportation shall undertake a study of the safety, cost, feasibility, and effectiveness of requiring operators of pipeline facilities subject to Natural Gas Pipeline Safety Act of 1968 and operators of pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations. The Secretary of Transportation shall also assess the cost and effectiveness of initiating a demonstration project of such emergency flow restricting devices.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished chairman and members of the Public Works Committee and the Energy and Commerce Committee for their cooperation in the development of this pipeline safety bill. From the technology standpoint, the bill is comparatively complex. It therefore took a great deal of time to develop and consider. The excellent cooperation between the two committees and between the two sides of the aisle clearly facilitated the writing of an excellent piece of legislation.

The substitute before us today is a compromise between the slightly different bills reported out by the Public Works and Transportation Committee, and the Energy and Commerce Committee. The bill is a 3-year reauthorization for both Natural Gas and Hazardous Liquid Pipeline Safety Programs with several notable improvements to the program. Authorization totals for the Federal program, including grants to the States, are: fiscal year 1988, $9.7 million; fiscal year 1989, $11.5 million; and fiscal year 1990, $12.1 million.

This does represent a small increase in program spending; however, it will have no effect on the annual deficit. The Pipeline Safety Program is fully paid for by the imposition of user fees on the pipeline industry itself, and the industry supports this level of spending.

Contained within these figures is an interim grant of $1 million per year in fiscal year 1989 and fiscal year 1990 to assist the States in setting up required one-call systems. This is a system that allows individuals engaged in excavation to make one call to a central number and ascertain what underground utilities are in the vicinity of pending excavations.

There are several minor differences between the bill reported by the Energy and Commerce Committee and the bill before us now:

The requirement that Department of Transportation initiate a licensing or certification program has been modified to a simple certification and testing program. This change more clearly indicates that the tests are to be focused on specific pipelines and equipment rather than more generic pipeline technology.

The bill is a 3-year authorization instead of the 2-year authorization contained in the Energy and Commerce Committee bill.

The "one-call" program has been expanded to include underground electric utilities as well as pipeline. This requirement has been reviewed by the electric industry who recognize the benefits of their participation.

An 18-month deadline for completion of development of carbon dioxide regulations has been included.

Several points of clarification concerning the one-call system should be made. First, underground telecommunications lines are not included in this bill. These were omitted at the recommendation of the Telecommunications Subcommittee, which has advised that due to the special nature of fiberoptic telecommunications systems, special considerations not appropriate to other ground utilities must be addressed. Second, the committees have not addressed the question of fee structure to pay for the one-call systems. We believe that the fee structure is a local issue; however, in the interests of equity we believe that the fee structure should be based on frequency of use of the one-call system.

With the exception of these changes, the bill is substantially like the bill reported by the Energy and Commerce Committee. It has broad support among committee members, the pipeline industry, and State officials who together with the pipeline safety office in DOT must enforce the Federal pipeline safety regulations.

The Pipeline Safety Program is a model of Federal and State cooperation. Considering the size of the U.S. pipeline system—1.5 million miles of gas pipelines, 150 thousand miles of liquid pipelines, and 2,470 pipeline operators—this is a remarkably cost effective safety program. I recommend to all my colleagues that they support this significant improvement to the Nation's Pipeline Safety Program.

Mr. Speaker, Congressman JAMES L. OBERSTAR of Minnesota has brought to my attention, and I fully agree, that small towns deserve the protection that a one-call system would provide. However, these small towns must not be forced to pay more than their fair share of operating that system.

He has brought to my attention that the State of Minnesota deserves considerable credit for recognizing this problem and adopting an innovative solution which could serve as a model for this program.

Recognizing that not all utilities are alike in either size or density of their service territory, the State of Minnesota, in coordination with the Minnesota Municipal Utilities Association, has adopted a sliding fee structure for its one-call system based upon the number of times a contractor requests information for a given utility's service territory. All utilities pay a nominal registration fee, with all other charges based upon usage.

Not only is this fee structure equitable, but it encourages participation, since small utilities are not faced with an unfair economic barrier. I agree with Congressman OBERSTAR that, when the Secretary of Transportation promulgates rules to implement one-call systems, full consideration should be given to the encouragement of a sliding fee structure based upon usage, and that those States that have already adopted a sliding fee structure should not be prevented from continuing to do so.

I commend Congressman OBERSTAR for his support of this concept. I do not intend to suggest a mandate that would bind the hands of the Secretary. Rather, it is my intent to ensure that equitable participation is considered and that the efforts of the individual States to adopt an appropriate fee structure are supported. The gentleman from Minnesota informs me that he intends, through the Public Works Subcommittee on Investigations and Oversight, to closely follow this matter.

Mr. Speaker, I yield 10 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

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Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 2266, a bill which authorizes funds to carry out the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act.

The bill, as amended, represents a compromise agreed to by the Committee on Public Works and Transportation and the Committee on Energy and Commerce. I want to thank my colleagues on both committees for their spendid cooperation in reaching agreement on this legislation.

The Department of Transportation's pipeline safety programs are underwritten by user fees paid by pipeline companies. At the hearings on pipeline safety, there were two main themes advanced for improving safety. The themes were to improve the quality and quantity of inspections, and improve the safety aspects of one-call systems. The legislation does that.

It does so by building a clear foundation for increasing the quality of State inspectors who bear the responsibility for inspecting all intrastate pipelines and some interstate pipelines, and it authorizes an increase in the number of Federal inspectors from 20 to 36 over a 2-year period.

The bill also provides the Department of Transportation with authority to formulate a model one-call system for adoption by the States. This proposal is widely supported by industry and public safety experts, and, if adopted and implemented, should result in the reduction of the leading causes of pipeline accidents; namely, outside construction activities. Some funding is provided to help the States adopt the system. The funding is for 2 fiscal years, and it will be reviewed at the end of those 2 years in order to determined if any further funding is needed. The anticipation is that none, or very little additional funds will be required.

Other aspects of the bill provide for better knowledge of pipeline location, product movement, and emergency response procedures. These along with other provisions in the bill aimed at leak and corrosion detection, and damage containment, should improve the safety record of the pipeline industry.

Finally, the bill provides for the regulation of carbon dioxide under the Hazardous Liquid Pipeline Safety Act. The Secretary is instructed to provide regulations that address the safety aspects of the pipeline transportation of this product in a clear and precise manner. In doing so, the Secretary shall consider the particular qualities of carbon dioxide and regulate accordingly. This may mean that the Secretary may regulate carbon dioxide in a manner similar to, but not necessarily the same as hazardous liquids.

I urge my colleagues to support this bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Pipeline Safety Authorization Act [H.R. 2266]. This legislation would revise and extend Natural Gas and Hazardous Liquid Pipeline Safety programs. Under current law the Department of Transportation is required to regulate interstate pipeline safety, while allowing States to assume authority over pipelines within their borders. This bill would require the DOT to inspect and test pipelines under its jurisdiction at least once every 2 years. The bill would also make it a Federal crime to damage pipeline right-of-way markers.

Mr. Speaker, the bill also provides:

A requirement that new or replacement pipelines be constructed so as to allow use of advanced instrumented internal safety inspection devices.

A requirement that DOT study whether pipelines should install emergency flow restricting devices (to automatically shut-off the flow of materials through the pipe if a safety emergency occurs).

A requirement that pipeline operators provide DOT and the appropriate State official with information on the location and characteristics of major pipeline facilities.

A requirement that pipeline operators maintain inventories of the types and operating characteristics of their pipeline facilities.

A provision giving DOT authority to reduce grants-in-aid to States which do not have a one-call system—a central clearinghouse which third parties call before digging—and which do not plan to establish such a system.

Mr. Speaker, I am pleased to see that since pipeline safety programs are funded by user fees, passage of this bill will have no negative effect upon the Federal budget. I encourage my colleagues to support the passage of this well-drafted bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I am pleased to rise to express my support for H.R. 2266, legislation to reauthorize the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

By any objective measurement these two statutes have been very successful in helping to ensure the safety of pipeline transportation. The National Transportation Safety Board has found again and again that the movement of substances by pipeline is the safest mode of transportation currently in use.

Nonetheless, accidents do occur, and in the vital area of safety our goal must always be to reduce the number of personal injuries to the lowest level possible. Thus, over the last several years the members of the Committee on Energy and Commerce have worked on a bipartisan basis to upgrade the Federal Safety Oversight Program within the Department of Transportation.

In the last authorization bill it passed, the Congress amended the pipeline safety statutes to strengthen the standards for reporting of potentially unsafe conditions to appropriate State and Federal officials.

Today the House has before it a package of amendments that should improve significantly the present and future safety activities of pipeline operators. These amendments were approved by unanimous voice vote of both the Subcommittee on Energy and Power and the full Committee on Energy and Commerce. I am also pleased to recognize the cooperation of the pipeline industry in crafting these provisions. They have demonstrated their strong interest in continuing to improve upon their safety record. I should also note the cooperation of officials from the Research and Special Programs Administration, which is the office within the Transportation Department that implements the Pipeline Safety Program. Finally, we have been in close consultation with members of the Committee on Public Works and Transportation throughout the period that we have worked on this legislation. As a result, the bills reported by our two committees differed only in a few minor respects. The language we present to the House today reconciles these differences.

The amendments contained in H.R. 2266 are straight forward and I will not repeat them here. I will simply say that the enactment of these changes will increase the amount of information on pipelines that is readily available to public officials and excavators. This should reduce the likelihood of an accident taking place, and also enhance the ability to respond to accidents that do occur. These improvements will not, moreover, greatly increase the costs of maintaining and operating pipelines.

I would like to add two additional points about the Pipeline Safety Program which deserve consideration by the Members. First, the Federal Government shares its safety responsibility with the individual States. A good portion of the moneys authorized by H.R. 2266 are for grants to State agencies so that they may implement their own safety programs with respect to pipelines that do not cross State lines.

Second, all of the money authorized and expended pursuant to this legislation is recouped through the assessment of user fees on the affected pipelines. Thus, this important Federal and State safety program is conducted at no net cost to the American taxpayer and makes no contribution to the Federal budget deficit. I am proud to note that the user fee system was implemented pursuant to legislation reported by the Energy and Commerce Committee in 1985.

In closing, I join with my colleagues on the committee, and our colleagues from the Committee on Public Works and Transportation, to urge the House to approve H.R. 2266.

Mr. SHARP. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong support of H.R. 2266, the Pipeline Safety Reauthorization Act, and want to commend both the distinguished chairman of the Energy and Commerce Subcommittee on Energy and Power, Mr. SHARP, and the chairman of the Public Works and Transportation Subcommittee on Surface Transportation, Mr. ANDERSON, for their cooperative efforts in bringing this important legislation to the House floor today.

I also want to thank both of the chairmen and their staffs for their consideration and willingness to address several concerns which I have had with the safety of natural gas and hazardous liquid pipeline operations. I especially want to recognize the effective work of Subcommittee Chair JAMES OBERSTAR who had a very valuable series of oversite hearings concerning this issue and whose effort is reflected in this final work product.

Unfortunately, Mr. Speaker, Minnesotans especially the residents of Mounds View, located in my congressional district, learned a tragic lesson about the importance of pipeline safety.

It has been nearly 2 years now since a gasoline pipeline ruptured and exploded in the predawn hours of July 8, 1986. A young mother and her 7-year-old daughter tragically perished in the inferno which engulfed Mounds View. Another woman was severely burned. Many homes were damaged. The scars of that tragedy have not all healed. Mr. Speaker, that nightmare will never be forgotten in our community.

A subsequent investigation by the National Transportation Safety Board [NTSB] and the Transportation Department's Office of Pipeline Safety [OPS] revealed that a seam in the pipeline had failed. The investigation also found that the operator of that pipeline, the Williams Pipeline Co., had failed to maintain cathodic protection on this pipeline. The Office of Pipeline Safety ultimately fined the Williams Pipeline Co. $115,000 as a result of an extensive investigation of Williams' operations. Unfortunately, these enforcement actions come too late to help Beverly Spano and her daughter, Jennifer. Hopefully future accidents will be averted and other lives will be saved because of a renewed commitment to safety by the pipeline operators and by the Federal regulators. One lesson is clear, however. Good intentions alone are no substitute for strong and tough enforcement of pipeline safety laws and regulations. Ironically I've long maintained an interest in this problem introducing legislation first in 1983 and again in 1986 before the accident and 1987 H.R. 262 to reduce the risk of pipeline accidents. In 1984 and again in 1986, I along with the subcommittees of jurisdiction requested reports from the General Accounting Office [GAO] to assess the effectiveness of OPS and existing Federal laws and regulations. The GAO investigations were alarming, they reported that instead of a strong and effective pipeline safety program, we had a facade of safety, with only 17 inspectors responsible for monitoring the safety of nearly 1.7 million miles of hazardous liquid and natural gas pipelines.

I'm very pleased that H.R. 2266 the work product of the subcommittee reflect many elements first prepared in my legislative proposals and in the excellent work of Minnesota Gov. Rudy Perpich's Pipeline Commission. The legislation before us today provides authorization for the hiring of an additional 16 OPS inspectors over the next 2 years. The bill also mandates more frequent inspections of these pipeline systems.

Significantly, this bill also promotes the establishment of one-call systems in the States. The authorizing committees received extensive testimony last year which convincingly demonstrated that one-call systems, where excavators may call to learn about the location of underground pipelines, may be the most effective means of reducing third-party damage to pipelines. The bill before the House today authorizes $1 million in both fiscal year 1989 and fiscal year 1990 for DOT grants to the States for the development of one-call systems consistent with Federal standards.

H.R. 2266 gives the States the authority to request pipeline operators to provide maps and information about their pipeline facilities for dissemination to local government agencies, such as fire departments and public safety agencies. Many communities are located directly above hazardous liquid and natural gas transmission pipelines. Yet many of these same communities know very little about the exact underground location of these lines and even less about what to do in an emergency situation, such as a leak or rupture. This provision in the bill is an important first step in assuring that local communities and their residents will have the information they need to recognize hazardous conditions and how to respond to pipeline accidents.

Finally H.R. 2266 also calls for the Secretary of Transportation to initiate a study of emergency flow restriction devices, such as automatic shutoff valves and other technologies. Such devices can prevent a back-flow which can limit the scope of a pipeline accident. A study will also be undertaken on requiring the use of internal instrumental inspection devices in pipeline systems so that pipeline operators will be more alert to the internal conditions of their systems. While I would have favored immediate implementations of back-flow safeguards and "smart pigs." I believe that these new studies will pave the way for future implementations of such policy and goals.

Mr. Speaker, I urge my colleagues to join me in supporting the passage of H.R. 2266 and to send the strongest possible signal that this Congress is concerned about hazardous liquid and natural gas pipelines and that we are going to do something.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2266, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. SIKORSKI], who was very much involved in this legislation as well.

Mr. SIKORSKI. Mr. Speaker, 2 years ago a pipeline carrying unleaded gasoline exploded in a suburban community in Minnesota, shattering the predawn darkness, killing, injuring, and destroying. A mother and her 7-year-old daughter died a terrible agonizing death from the ensuing blaze and another woman was critically burned.

This is not an isolated incident. There have been thousands of accidents, hundreds of serious injuries, and too many deaths. We all have constituents in quiet communities like Mounds View, MN. We all have hazardous liquid pipelines under the streets, in the neighborhoods, through the shopping centers, playgrounds, and parks in our districts.

According to a report on the Mounds View incident by the National Transportation Safety Board, Federal pipeline regulations are not tough enough. It says the Office of Pipeline Safety [OPS] treats the powerful pipeline industry with kid gloves. It levies fines that amount to "little more than a gnat on a camel's back." Despite congressional oversight and GAO reports, NTSB recommendations and public pressure, OPS has done little to improve the dismal safety record of companies like Williams. According to the father and husband of the little girl and mother killed in Mounds View, "a lot of us in the neighborhood and in the State are looking for more than just statements. We're looking for action, and so far, there hasn't been any."

Mr. Speaker, today we will take action. The bill we are considering today contains important improvements over current law. It is not enough, but it is important. It lays the groundwork to better protect our families and our communities from the common hazard that these pipelines present.

I would like to point out a few of the most significant improvements over current law.

First, the substitute authorizes the hiring of 16 new Federal pipeline inspectors over the next 2 years. The current force of 17 inspectors, is responsible for monitoring over 1.7 million miles of pipelines. In its investigation of the Mounds View incident, the NTSB cited inadequate testing and inspection as a major cause. This provision will help avoid that situation in the future.

Second, it requires the Department of Transportation to study methods, such as automatic and remote control shutoff valves, for limiting releases of hazardous liquids or gases from a pipeline break. In the Mounds View accident, flaming gasoline spewed from the ruptured pipe in a back-flow for over an hour and a half before the valve was located and manually turned off. I will work to see that this study leads to pilot testing of such valves, and to laws requiring their use where appropriate. Greater use of automatic and remote control valves has been recommended by the NTSB.

Third, the substitute requires pipeline operators to provide information to State authorities on all pipelines within the State. This will allow State agencies to give local governments the information they need to formulate appropriate emergency response plans. In addition, the bill requires operators to maintain a standard inventory of their pipeline networks. Experience has shown that some types of pipelines are more likely to fail than others. The line that exploded in Mounds View was an electric resistance weld [ERW] pipe. These ERW pipelines have a tendency to corrode along the seams, a factor which has caused a disproportionate number of fatal accidents, including the one in Mounds View. The inventory requirement will allow DOT inspectors and State and local authorities to focus their efforts on pipelines which have a greater tendency to fail.

I commend the gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power and the gentleman from California [Mr. ANDERSON] and the minority who have worked hard in formulating this legislation. It is good legislation.

I also want to say that my colleague, the gentleman from Minnesota, Mr. BRUCE VENTO, has been fighting for years to improve pipeline safety and should take great solace in this victory here today. He deserves much of the credit for many of these proposals. This effort finally is appreciated by all of us in Minnesota who saw first-hand the need for tougher pipeline safety laws.

I am sure that all the constituents, all the Members of Congress, thank us for these efforts as well, but I pray that they never have this issue emblazoned upon their early morning skies as we did in Minnesota too recently.

Mr. CLINGER. Mr. Speaker, I rise in support of H.R. 2266, the Pipeline Safety Authorization Act of 1988.

Mr. Speaker, this legislation represents the bipartisan efforts of the House Committees on Public Works and Transportation, Energy and Commerce, and Administration, aided greatly by the expertise of the natural gas and hazardous liquid pipeline industries. I think it is significant that the overall thrust of H.R. 2266 is consistent with the findings of hearings held in May 1987 by the Public Works Committee's Subcommittee on Investigations and Oversight.

Permit me to focus briefly on the deficiencies addressed by a few key provisions of the legislation. First, the bill addresses the lack of standards governing Federal pipeline inspectors as well as the currently inadequate number of such inspectors by authorizing the establishment of minimum standards for inspector qualification and certification and by providing for the hiring of 16 additional Federal inspectors over the next 2 fiscal years.

In addition, the legislation attempts to remedy a lack of available data on various types of pipelines and their leak history by requiring operators to establish and maintain pipeline inventories detailing the types of pipeline they operate and their materials and leak history. Hopefully, the data base generated will allow us to identify certain potentially leak prone pipes so that we can more effectively target our limited inspection resources.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 2266, a bill to reauthorize the natural gas and hazardous liquid pipeline safety programs. The bill makes a number of improvements to these programs, which already possess an excellent overall safety record. I would like to touch on a few of the bill's highlights.

First, the bill grants the Secretary of Transportation authority to issue regulations establishing minimum Federal requirements for establishment and operation of one-call notification systems for adoption by the States. They will serve to notify operators of pipeline facilities of activities in the vicinity of a pipeline which could threaten its safety. The primary cause of pipeline incidents is external damage from excavating operations. One-call systems should aid in preventing these types of pipeline accidents. The bill also authorizes the Department of Transportation to study the feasibility of regulating excavators.

Second, the bill adds a new requirement that limits the amount of indirect expenses that a State may be reimbursed to 20 percent of their requested grant allocation. In the past, indirect expenses requested by States have varied broadly from 1 to 47 percent. The limit of 20 percent would result in a more consistent nationwide level of funding allocated toward inspection efforts.

The bill requires the hiring of 16 new inspectors over 2 years so that all pipelines can be inspected biennially.

The bill also requires the Secretary to regulate carbon dioxide lines by amending existing hazardous liquid regulations and issuing new regulations to ensure the safe transportation of carbon dioxide.

The bill authorizes $11.473 million in appropriations for fiscal years 1988-90 to carry out these programs.

Mr. Speaker, the Committees on Public Works and Transportation and Energy and Commerce have worked hard to achieve the balance of solid safety measures reflected in the bill before us.

The bill will assure that the pipeline industry's excellent safety record will continue. I urge my colleagues to support it.

Mr. SHUSTER. Mr. Speaker, I rise in support of this legislation which will reauthorize the natural gas and hazardous liquid pipeline safety program.

This program, a Federal and State partnership, has worked well over the years as indicated by the industry's overall safety record. There are, however, a number of areas where improvement can be made, and the substitute before us makes these changes.

H.R. 2266 requires a one-call system so that a contractor or an excavator may be alerted to a pipeline before he digs, not after an accident occurs. Since the No. 1 cause of pipeline accidents is an excavator unknowingly digging up a pipeline, this simple requirement will significantly improve the safety record for this mode of transporting gas and liquids.

The second area of improvement is the authorization to hire 16 new safety inspectors over a 2-year period and to provide for more frequent inspections of pipeline facilities.

Mr. Speaker, this legislation is a consensus bill of both the Public Works Committee and the Energy and Commerce Committee. It is also, I might add, a bipartisan bill and I urge my colleagues to support it.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 2266, the Pipeline Safety Reauthorization Act of 1988. This bill is a product of two committees dedicated to the improvement of pipeline safety nationwide.

We in Minnesota experienced a brutal tragedy on July 8, 1986, when a leaking fuel pipeline exploded, sending a wall of fire through the quiet community of Mounds View, killing a mother and her 6-year-old daughter and severely injuring another woman.

This tragedy riveted the Nation's attention on the dangers posed by unsafe pipelines, and the need for a strong, national pipeline safety program. The Public Works Committee's Surface Transportation Subcommittee, under Chairman GLENN ANDERSON, and the Subcommittee on Energy and Power, chaired by the gentleman from Indiana [Mr. SHARP], have crafted a solid bill, one that is the product of a broad spectrum of input, including recommendations from 2 days of hearings before my Investigations and Oversight Subcommittee in May of last year.

Pipelines crisscross our Nation, carrying gasoline, natural gas, and other volatile, dangerous substances, located often only a short distance from homes, schools, and businesses. A leaking pipeline is a time-bomb, ticking away, out of sight, waiting for a wayward spark to set it off and bring us another tragedy like Mounds View.

A strong and effective Federal pipeline safety program could prevent a countless number of deaths and injuries from pipeline explosions. Such a program benefits all of us, and this bill will lead us in that direction.

I urge its passage.

Mr. LENT. Mr. Speaker, I rise today for the purpose of expressing support for this legislation to reauthorize and reform the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

This legislation is intended to improve upon a program that is already working very well. As my colleague on the Energy and Commerce Committee, Congressman Carlos Moorhead notes in his remarks, the movement of natural gas and hazardous liquids is accomplished in a safe manner. A comparison of the safety record of the pipeline operators with the record of other transporters makes this point quite clear.

This does not mean that improvements cannot be made. Indeed, H.R. 2266 makes several important improvements to the existing statutory regime which should enhance the safety of pipeline operations. Most of these new safety procedures are to be implemented by the pipelines themselves, and it is to their credit that they have endorsed these procedures and have cooperated in drafting technically correct language.

I am particularly pleased with the one-call provisions of this bill. This one call system provides an accurate, up to date and readily accessible source of information on the location of underground pipe that will help ensure against accidents arising from excavation work. The legislation encourages States to establish these one-call systems and authorizes additional grant funds to defray their expenses in doing so.

Finally, I would note that the spending on the Federal Pipeline Safety Program, including the grants to States, are recouped through user fees assessed on the regulated companies. Thus, these safety activities are implemented at no net cost to the Treasury.

I urge my colleagues to support passage of this legislation.

Mr. SLATTERY. Mr. Speaker, I strongly support H.R. 2266, the Pipeline Safety Reauthorization Act, and I urge my colleagues to approve this much needed legislation. I rise today, however, to bring to the attention of my colleagues a matter of serious concern to me and to many northeast Kansans: The problem of low-frequency welded pipeline.

On February 28, 1988, the Lawrence, KS., Daily Journal-World published several articles concerning a petroleum products pipeline that runs through northeast Kansas. I have reviewed them with interest, and I have included them in the Record for the review of my colleagues. These articles spell out the potential danger faced by many Kansas residents due to the presence of this pipeline. This type of pipeline, a low-frequency welded, or ERW, pipeline, is identical to the pipeline that ruptured in Mounds View, MN, in July 1986, killing two people. According to the National Transportation Safety Board, for the 18 years prior to that accident, ERW pipe experienced 79 seam failures nationwide, causing 12 deaths and 5 injuries.

Unfortunately, regulating the safety of ERW pipe was not addressed in the legislation before us today because a study being conducted on the pipe by the Office of Pipeline Safety has not been completed. It is my understanding that the office is now working on the fourth draft of that report, and that the report has not yet reached the desk of that agency's administrator. There is no timetable for the completion of the report. It is commendable that the Office of Pipeline Safety instigated this report without being requested to do so by Congress. However, I would like to see this study completed as soon as possible so that the information gathered on the extent of the problem faced by communities with ERW pipelines can be acted upon, under the provisions of the legislation before the House today.

I intend to personally raise this issue with Transportation Secretary Jim Burnley, and I will continue to follow the progress of the study closely.

In the meantime, H.R. 2266 will authorize the hiring of additional pipeline safety inspectors and it will encourage greater use of instrumented inspection devices—known as smart pigs—to examine the internal condition of the pipelines. Use of this inspection device will help to determine the condition of the ERW pipeline in northeast Kansas.

I commend Energy and Power Subcommittee Chairman Phil Sharp for his leadership in moving this legislation through the House and I hope this bill will move quickly to the President for his signature.

The articles follow:

[From the Lawrence (KS) Daily Journal-World, Feb. 28, 1988]

30-Year-Old Pipeline, Raises Safety Issues

(By Gwyn Knudsen)

Although the Williams Pipe Line Co. has been ordered to conduct safety tests on a petroleum products line that runs through the northern part of Lawrence, one local man believes the 30-year-old pipeline will always pose a threat.

"These things are going to go off like bombs all over the damn nation," said Lawrence resident Rick Spano. "It's a disaster waiting to happen. Those pipelines are not going to get better."

Although WPL strongly denies its petroleum lines jeopardize the public, Spano said he is concerned that WPL's track record of safety violations and the apparent deterioration of some of WLP older lines do not demonstrate a commitment to safety.

"This is an instance in which local people have relatively little influence over what occurs. And the older the interstate pipeline system gets, the more potential for disaster there is," he said in a recent interview.

If Spano has taken more than the average citizen's interest in the condition of WPL's interstate pipelines, it's because the issue has touched his life personally.

On July 8, 1986, a Williams line at Mounds View, Minn., similar in construction to the line that passes through Lawrence, ruptured beneath a residential neighborhood and touched off an explosion that killed two people: Spano's sister-in-law and his 7-year-old niece.

The Topeka-Kansas City line, which passes through the northern part of Lawrence, does not run directly under any residential neighborhoods. It enters the city limits on the northwest corner of the Santa Fe Industrial Park and from the intersection of North Iowa Street and Lakeview Road it juts to the southwest, passing within several feet of the Wells Acres subdivision. The pipeline then turns northeast, crossing the Kansas River and Riverfront Park.

The line, which carries petroleum products such as gasoline—not natural gas—from refineries on the Gulf Coast and at Tulsa and El Dorado to distribution points throughout the Midwest, is marked where it intersects streets and railroad tracks.

Jason Huso, WPL's director of facility safety, said the majority of the product moved through the common carrier system is gasoline, but that fuel oil, heating oil and other petroleum products also pass through the lines.

The pipeline does not appear to be widely known in Lawrence. Fire Chief Jim McSwain, who has taken an active interest in industrial safety concerns, said he was not even aware that a petroleum products pipeline entered the city limits until the Journal-World inquired about it.

Then, as part of what Huso said was the first phase of a public awareness program, WPL notified McSwain whose department would respond in the event of a rupture, of the presence of the line for the first time.

City Manager Buford Watson said he knew the pipeline existed because city paving projects have crossed pipeline rights of way. Watson said, however, that he did not know what kind of fuels the line carried.

The pipeline here is one of several that have come to national attention in recent months.

As a result of the Mounds View accident, as well as ruptures on other Williams lines, the federal Office of Pipeline Safety conducted a study of similar lines the Tulsa-based company operates in other parts of the Midwest.

Part of OPS' concern about the Topeka-Kansas City pipeline, which was installed in 1957, is that it was constructed using a low-frequency welding procedure. According to OPS reports, that type of pipe, called ERW pipe, was manufactured prior to the federal standards for pipeline construction. It has experienced a high incidence of seam failure in recent years.

The ruptures at Mounds View and other locations occurred on pipelines of the same type and vintage as the line that runs through Lawrence, OPS reports say.

The Federal investigation into those ruptures spun off two OPS orders last year requiring WPL to perform tests to determine the integrity of various lines, including the Topeka-Kansas City section.

In October the OPS, which had issued a "notice of hazardous facility" for the WPL interstate system, ordered that WPL perform hydrostatic tests on 52 sections of pipeline, including the line which passes through Lawrence.

The test on that line, which must be performed by Dec. 31, 1990, calls for water to be pumped through the line at high pressure to determine its integrity. That test would determine seam strength and would detect small holes in the line.

The OPS also ordered Williams to reduce the transmission pressure on the lines by roughly 20 percent.

"The lines have been chosen as those having higher probability of seam failure prior to the completion of the hydrostatic testing program," OPS Director Richard Beam said in the order.

Although the OPS and the National Transportation Safety Board, which both investigated the Mounds View accident, agreed that corrosion was a factor in that rupture, they also said a seam defect shared the blame.

"The defect apparently grew over a period of time, and following hydrostatic testing in 1984, advanced to the extent that its size was sufficient to cause failure of the longitudinal weld in July 1986," according to the OPS' report.

In reviewing the WPL system's history of seam failures, the NTSB found that from 1968 to 1986 "79 hazardous liquid pipeline ERW seam failures occurred which involved 12 fatalities and five injuries."

Then in December, Beam took another, harder swing at Williams. In an order following an investigation and hearing on WPL's systemwide compliance with federal safety regulations, Beam fined the company $209,000 for violations. The biggest chunk of the fine—$200,000—was assessed for WPL's failure to maintain cathodic protection on four lines, including the Topeka-Kansas City section, from 1983 to 1985.

A cathodic protection system electromagnetically protects a pipeline from corrosion. Without it, corrosion can eat away at pipe walls to the point that they won't stand up under the pressure of fuel transmission.

Beam gave WPL a September 1988 deadline to perform a "smart pig" test on the Topeka-Kansas City line, which he singled out for that scrutiny. The "smart pig" is an electronic instrument that is run through the length of the pipe to detect any thinning of the pipe wall during the period of inadequate cathodic protection.

In that December order, Beam conceded that WPL "turned itself in" for the noncompliance and had restored cathodic protection to the lines in question. Beam noted that WPL spent $3.6 million to upgrade its cathodic protection system between 1983 and 1986 and had budgeted $4.7 million for improvements in 1987 and 1988.

However, Beam cited "the importance of cathodic protection as a primary means of assuring the continued safe operation of buried high pressure steel pipelines" and noted that after the Mounds View explosion, WPL was assessed a $115,000 civil penalty for failing to maintain cathodic protection on that line.

In its investigation of the Mounds View accident, the NTSB also concluded that rupture was caused in part by WPL's "failure . . . to correct known deficiencies in the cathodic protection" on the Mounds View line, which the company had been aware of since 1981.

In assessing the $200,000 fine against WPL in December for the additional lines that were under inadequate cathodic protection, including the Topeka-Kansas City line, Beam wrote, "Some of the cathodic protection violations in the instant case involve lines containing the same type of pipe as in the Mounds View accident."

He added: "(WPL) has not offered any excuse for its failures with respect to cathodic protection."

Beam also chastised WPL for "the serious nature of the violations, their extent, and (WPL's) widespread failures in this area."

However, an OPS spokesman said that although the Topeka-Kansas City pipeline is the only one on which the "smart pig" test was ordered and considerable time will lapse before completion of the two tests, federal officals feel comfortable allowing the line to continue operating at a reduced pressure.

"They feel fairly confident there will not be a similar problem on that line but to make sure that's why they've ordered the hydrostatic testing and the pigging," said OPS spokesman Suzette Paes.

Carl Locke, dean of the Kansas University School of Engineering, said the smart pig is "state-of-the-art inspection tool." What the pig could miss, such as pinhole-sized leaks, hydrostatic testing should detect, Locke said.

Locke, who teaches courses on corrosion and has engineering students design cathodic protection systems as part of their course work, said the smart pig test will be a reliable indicator of the pipeline's safety as long as WPL maintains cathodic protection on the line.

"The corrosion is an active process. If they've tested it, that tells you what the wall thickness is at that point. You've got to continue to protect it," Locke said.

For its part, WPL maintains that fears such as Spano's about the age of the pipeline, are unfounded.

"Given that a line is wrapped (with protective coating) and under cathodic protection, there's no reason a line can't go on indefinitely," Huso said. He noted that hydrostatic testing will provide even more assurance of the line's safety.

"Some people have created the image that 30-year-old pipe should be replaced but that's not true," Huso said. "It's not like an automobile."

Huso said WPL plans to run the smart pig test sometime this summer. The hydrostatic test is not on the company's 1988 test schedule, so it will be done next year, he said.

Huso cited other NTSB statistics that show pipelines are the safest mode of petroleum product transportation—200 times safer than by rail and 1,900 times safer than by truck.

"If you have an accident on any mode of transportation, suddenly the attention is focused on that mode of transportation. But when you sit down and take a look at the overall record you can see that pipelines are a safe mode of transportation for this type of material," Huso said.

"I haven't any reservations about living near a pipeline," he added. "I feel quite confident that the pipelines are safe."

Such assurances don't appease Spano, who claims his family has been stonewalled by federal officials in trying to get answers to questions about the safety of the Mounds View line, which was repaired and reopened after the explosion.

"I got no response in my first inquiries to the Office of Pipeline Safety. I did get a response when I went through Sen. Dole, who at that time had a close relationship with the secretary of transportation." Spano said.

But even then and with a clamor of support from Mounds View's local government and a good many of its citizens, the Spano family didn't find answers much easier to come by, he said.

"This is an instance in which public employees and not elected officials are making crucial decisions," Spano said.

Spano said he is concerned that once federal officials stop focusing on WPL, the pipeline company will revert back to what he called a pattern of violating safety regulations documented in studies on the Mounds View accident.

The NTSB's report said that Williams' "history of compliance with the regulations has not been a shining example of strict compliance."

Mounds View officials, who objected to the reopening of the pipeline after the explosion, were sued by WPL, which sought and received a court order bringing the line back into service.

"That's interstate transportation and cities and counties do not have a voice in the operation of that pipeline," Spano said. "The experience we've had simply drives home the point that there is nothing a community can do to protect itself. The best intentions of a local community simply don't work."

FAMILY TRAGEDY SPURRED MAN'S CONCERN

(By Gwyn Knudsen)

Over the past year and a half Rick Spano has spent a lot of time writing letters to Washington, D.C.

Members of Congress and officials in the Federal Department of Transportation are on Spano's mailing list. He hopes they'll strengthen and enforce pipeline safety regulations.

Although the safety of the interstate petroleum pipeline system may seem an unlikely topic for a clinical social worker on the Kansas University faculty, Spano believes it's the least he can do to try to make something good come out of the worst tragedy his family has ever experienced.

What happened to the Spano family on July 8, 1986, should never have happened to anybody, he said recently. He believes it could have been avoided.

This is his story: At 4:45 a.m. on that date Spano's brother, Don, and sister-in-law, Beverly, were awakened in their Mounds View, Minn., home by an explosion. They smelled what they thought was natural gas and decided to evacuate their home in the Minneapolis suburb.

Beverly grabbed Jennifer, their 7-year-old daughter, and headed out the front door. Don had trouble finding Allison, their 8-year-old daughter who sometimes left her bed to sleep on the couch.

"By the time he got her and walked to the front door, the smoke was real thick," Spano said. "He made a last-second decision and went back through the house and out the back door toward a lake they have on their property."

That's when Don heard the next explosion. The fumes he and Beverly had smelled were not from natural gas but unleaded gasoline. It was spewing into their street from a transmission pipeline that had ruptured underneath their neighborhood.

Exhaust from the automobile of a newspaper carrier, who had turned into the street to deliver the morning paper, had ignited the first blast. Because no one had yet closed the valve to the pipeline, gasoline continued to flow into the street, feeding the fire and setting off a second explosion.

"It simply exploded in a 50-foot ball of flame," Spano said. "My niece and my sister-in-law had made it to the curb running away from the house, so they were caught in the firestorm. They were burned over 100 percent of their bodies."

Beverly and Jennifer Spano died within hours. Now, Spano said, he and his sister, who lives in Minnesota, have committed themselves to do what they can to make sure pipeline companies, such as the Williams Pipe Line Co. of Tulsa, which owns the Mounds View gasoline line and one that passes through Lawrence, are held accountable for violations of federal government safety regulations.

"If there was a legacy from this, we were taught by our parents that it ought to be a positive one," Spano said.

"The harm has already been done to us. They can't hurt us anymore. But there are a lot of people in the United States who live along those pipelines and they deserve to be protected," he said.

Federal investigations that followed the Mounds View disaster documented several facts that trouble Spano deeply, not the least of which was WPL's track record of safety violations and the revelation that WPL officials had been aware of defects on the Mounds View line for several years before the accident.

"What's most frustrating to me is that it's simply more economical for them to respond on a suit-by-suit basis than to make the pipeline safe," Spano said. "If your net profit is $25 to $28 million, then how do you measure the worth of a human being? And two people are dead."

Spano said his family was shocked, first, when WPL took the city of Mounds View to court and got the pipeline reopened after the town tried to pass a resolution forcing the company to remove its line, and, second, when WPL took out full-page ads in Minnesota newspapers reassuring the public that the line was safe.

"Their public expressions of concern while they're filing suit to get their pipelines reopened is the hypocrisy of it," Spano said. "It's like pouring salt in the wounds, their attempts to convince the public how safe their pipeline is, to counteract the negative publicity."

Spano said his big concern now is that pipeline markers have a way of blending into the landscape and many people—like his brother—aren't aware of where the pipelines are until there is a problem.

Spano said the Mounds View accident, which drew attention to the proximity of that pipeline to his brother's neighborhood, has hurt property values to the point that homes there are difficult to sell. Twenty-two home owners recently filed suit for damages against Williams.

INSPECTION RECORD DRAWS COMMENTS FROM SAFETY BOARD

(By Gwyn Knudsen)

Williams Pipe Line Co. of Tulsa wasn't alone in being chastised by federal officials who studied the cause of a 1986 pipeline rupture and explosion that killed two people in Mounds View, Minn.

The federal Office of Pipeline Safety, which is responsible for monitoring and enforcing compliance with pipeline safety regulations, also came in for comment in the National Transportation Safety Board's report on the Mounds View disaster.

Specifically, the safety board called OPS on the carpet for a record of inefficient and infrequent inspections of Williams pipelines and for failing to impose stringent sanctions when safety hazards were found.

"In reviewing WPL's response to previous enforcement actions, it is clear that WPL was not concerned about any actions OPS might take if it discovered violations of the federal pipeline safety regulations," the NTSB said.

"AT present, OPS must depend on voluntary compliance with the federal regulations to ensure the safety of the public from pipeline accidents," the safety board added.

Nineteen months and a few legislative battles later, little has changed in the way the OPS can do business, because pipeline safety has become one more casualty of federal budget cuts, congressional aides say.

"The agency continues to function in basically the same status," said Steven Francisco, an aide to Rep. Bruce Vento, D-Minn., who represents the district that includes Mounds View.

Faced with the federal funding shortage last year, Francisco said, "Congress did not get around to passing a separate bill to reauthorize the federal pipeline safety program, which was scheduled to go out of business in September." Instead, Francisco said, Congress passed a continuing appropriation resolution for the U.S. Department of Transportation, "which was what we did basically with every federal agency," and which maintained the status quo at OPS.

The bill that failed to receive congressional approval last year included authorization for the OPS to hire additional inspectors, Francisco said.

Ironically, provisions in the bill that would have beefed up inspection of pipelines weren't met with enthusiasm by OPS officials who appeared before the House Energy and Commerce Committee, Francisco said.

"My impression," Francisco said, "was that the OPS was not ready to move vigorously on the matters that were of concern to us." Instead, he said, OPS' concerns involved "more mundane matters" having to do with record keeping and issues not directly related to safety.

"By passing the continuing resolution we've really put off reckoning with these other (safety) issues," Francisco said.

Although the reauthorization bill is still alive in Congress, the pending legislation would merely give the OPS more inspectors to enforce safety regulations already in place, said Roger Staiger, an aide to the House Energy and Power Subcommittee.

"OPS already has fairly wide enforcement authority," Staiger said. "I think it's a question of their decision to enforce their authority, not a question of what they can or can't do."

Increasing regulations when they are warranted is a chore, he said. "It's hard to get expert testimony because all the experts are with the pipeline companies and they aren't anxious to have more enforcement. Just ask the average motorist whether he wants more radar cops on the highway."

Staiger said he thinks the bill reauthorizing the Federal Pipeline Safety Program might be in trouble again this year, even though the program would be funded by fees from pipeline companies.

"But nonetheless, Congress is reluctant to spend any money," Staiger said.

But even if Congress passed the version of the reauthorization bill, which could go to the floor of the House soon, one issue of increasing concern to pipeline experts still won't be dealt with, sayd Cynthia Rapp, press aide to Rep. Jim Slattery, D-Kan., who represents the district that includes Lawrence. Slattery also is a member of the House Energy and Commerce Committee.

Rapp said the reauthorization bill does not address the hazards of low-frequency welded, or ERW, pipeline, the kind of pipe involved in several rupture incidents, including the one at Mounds View, Rapp said.

A Williams pipeline that passes through the northern tip of Lawrence also was manufactured using the low-frequency welding procedure. In its report on the Mounds View accident, the NTSB said that for 18 years prior the accident, ERW pipe experienced 79 seam failures nationwide, causing 12 deaths and five injuries.

"The DOT did not feel it had enough data to make a recommendation," Rapp said. "It's long overdue but they are doing a study that should be out soon."

But until the DOT reports back with its study, the OPS has no power to force pipeline companies to upgrade or replace ERW pipe, Rapp said.

"This type of pipeline isn't even in any legislation. It's not even being watched over," she said.

□ 1315

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore. (Mr. BENNETT). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 2266, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DEMONSTRATION CITIES METROPOLITAN DEVELOPMENT ACT AMENDMENTS

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4389) to amend the Demonstration Cities Metropolitan Development Act of 1966 to provide relocation assistance to certain persons affected by closures of Coast Guard bases and installations.

The Clerk read as follows:

H.R. 4389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary of Defense shall provide assistance under this section with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987.

"(2) Assistance under this subsection shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(3) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.".

The SPEAKER pro tempore (Mr. Gray of Illinois). Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4389, a bill to provide relocation assistance to certain persons affected by closures of Coast Guard bases and installations. The issues addressed in this bill are not new to the House. In fact, a similar provision was contained in H.R. 2342, the Coast Guard Authorization Act of 1987 which originally passed the House on July 8, 1987. The language was modified by the Senate and when the bill once again came before the House, this exact language was included in the bill as section 11. The House once again passed the Coast Guard authorization bill on December 18, 1987.

Regretfully, it has now been over 3 months since we sent the bill back to the Senate and I fear that it will be indefinitely delayed. The issue dealt with by this legislation is of a time sensitive nature and we have therefore chosen to strip this portion of the bill out in an effort to move it in a timely fashion. The bill amends the Demonstration Cities Metropolitan Development Act of 1966 to include service members and Federal employees who are affected by Coast Guard closures or reductions in the same Home Owners Assistance Program provided for service members and Federal employees who are affected by Department of Defense closures or reductions.

The need for the legislation arises due to the fact that as a result of a base closure or major reduction of operations at a Coast Guard facility, residential property values in the local area are adversely affected. The service member or Federal employee who must relocate bears the burden of trying to sell his or her home in the temporarily depressed real estate market.

Currently, members or employees of bases or installations ordered closed by the Department of Defense are aided by the Home Owner's Assistance Program provided under 42 U.S.C. 3373. Regretfully, this program does not currently extend to the Coast Guard. This bill would correct this situation and apply this change retroactively to January 1, 1987, and is intended to provide assistance to members who were adversely affected by the Coast Guard's realignment initiative.

The Committee on Merchant Marine and Fisheries has sole jurisdiction over the U.S. Coast Guard. However, the committee fully acknowledges that the Committee on Banking, Finance and Urban Affairs is charged with oversight of the Demonstration Cities Development Act of 1966. To that end we appreciate their consent to permit our moving of this time-sensitive legislation in an expedient fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4389—a bill I introduced on April 14, 1988. This bill is almost identical to H.R. 2374 which I introduced on April 3, 1987, and which was incorporated into the Coast Guard authorization which passed this body last fall. The exact language of H.R. 4389 was passed by this body as section 11 of H.R. 2342 the Coast Guard authorization for fiscal year 1988 just before we went out of session at the end of the first session.

This bill would simply extend coverage of the Department of Defense Housing Relocation Assistance Program to include certain Coast Guard employees. Under this program, if the Secretary of Defense determines that, as a result of a military base closing or a reduction in scope of operations at a base, there is no present market value for the sale of property in the area on reasonable terms and conditions, the Secretary may give assistance to those Coast Guard employees who sell their homes in order to relocate as a result of a job transfer. This program would also allow the Secretary to compensate those employees for certain losses they incur when they sell their homes, purchase the employee's homes under certain conditions, or pay the amount owing as the result of foreclosure.

This bill would have a minimal budgetary effect according to CBO estimates. This minimal sum will alleviate an extreme inequity to Coast Guard personnel. Because of the minimal cost and important benefit the administration strongly supports prompt passage of this bill.

I would urge my colleagues to join me in support of this important legislation.

Mr. WYLIE. Mr. Speaker, this legislation is necessary in order to provide housing and relocation assistance for Coast Guard personnel who are transferred in line of duty.

The Department of Defense provides financial support by agreement with the Departments of Transportation and Housing and Urban Development for the purchase and disposition of homes owned by Coast Guard and military personnel who are transferred by realignment or closing of bases or installations. H.R. 4389 simply amends existing legal authority to allow for the use of FHA mortgage insurance and property disposition functions to facilitate this process.

The Department of Housing and Urban Development will be fully reimbursed for any necessary costs incurred by the Department of Defense.

HUD has reviewed this proposed amendment and has no objections. We have no objections to this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from North Carolina [Mr. Jones] that the House suspend the rules and pass the bill, H.R. 4389.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXPRESSING SUPPORT FOR THE INF TREATY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 422) to support the INF Treaty and to provide for the continued security of NATO.

The Clerk read as follows:

H. Res. 422

Whereas on December 8, 1987, the President of the United States and the General Secretary of the Communist Party of the Soviet Union signed the INF Treaty eliminating all intermediate nuclear missile forces;

Whereas the INF Treaty confirms the principle that mutual, substantial, effectively verifiable arms reductions with the Soviet Union, negotiated from a position of NATO strength and consensus, can contribute to strategic stability;

Whereas the principle of asymmetrical reductions to achieve equal United States-Soviet force levels is an important underlying tenet of the INF Treaty;

Whereas the verification provisions included in the INF Treaty represent an extremely stringent arms control verification regime designed to monitor effectively Soviet compliance with the treaty;

Whereas the INF Treaty vindicates the importance of NATO security cooperation, and illustrates the ability of the members of NATO to act in concert to accomplish meaningful reductions in Soviet nuclear systems;

Whereas military challenges for NATO will continue in the post-INF period and will require important military decisions for future NATO military strategy;

Whereas the Warsaw Pact continues to hold quantitative superiority over NATO in conventional military forces;

Whereas on March 3, 1988, the President and the NATO allies reconfirmed their joint commitment to the continuation of a credible NATO nuclear deterrence;

Whereas NATO members should continue to strengthen their conventional forces and should consider plans for modernizing NATO nuclear deterrent forces in Europe, such efforts being fully consistent with NATO's ongoing arms control efforts; and

Whereas such efforts can only be understood and hence accepted by the public in NATO countries if a convincing long-term alliance plan exists to counter anticipated Soviet arms control and defense strategies: Now, therefore, be it

Resolved,

SECTION 1. EXPRESSION OF SUPPORT FOR THE INF TREATY.

The House of Representatives hereby expresses its support for the INF Treaty.

SEC. 2. ADDITIONAL STATEMENTS OF POLICY.

It is the sense of the House of Representatives that—

(1) the President should continue to provide a credible United States nuclear deterrent force, including weapons systems based in Europe, to help ensure the collective security of the United States and the NATO allies;

(2) the President should provide leadership within NATO with respect to the strengthening of NATO conventional forces and the consideration of plans for modernizing the NATO nuclear deterrent forces in Europe;

(3) the President should seek effectively verifiable conventional arms agreements which will result in Warsaw Pact conventional arms reductions in those areas, in which the Warsaw Pact is superior, in a manner which will create genuine conventional stability in Europe;

(4) the President should continue to discuss with our NATO allies how the alliance can best develop a truly comprehensive strategy for arms control and nuclear and conventional defense modernization in the post-INF period;

(5) the President should continue to work for the achievement of effectively verifiable strategic nuclear reductions which contribute to stability;

(6) if, at any time after the entry into force of the INF Treaty, the President determines that the Soviet Union has violated that treaty and that the violation may deny the United States the essential benefits of that treaty, the President, in consultation with the Congress, should take appropriate action to protect the vital national interests of the United States, including exercise of the right to withdraw from the INF Treaty as specified in Article XV; and

(7) the President should propose specific mechanisms or procedures to resolve existing Soviet arms control violations and to address any future Soviet arms control violations in a decisive manner.

SEC. 3. DEFINITIONS.

As used in this resolution—

(1) the term "INF Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate Range and Shorter Range Missiles, signed on December 8, 1987; and

(2) the term "NATO" means the North Atlantic Treaty Organization.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while being prepared and strong in the preservation of our own rights, we must never fail to explore thoroughly with the other superpower those avenues which can lead to a reduction in tensions. The challenge is to make the world a safe place within the national security interests of both countries. That is vital. One thing is for sure: There is overwhelming bipartisan support for House Resolution 422, legislation in support of the INF Treaty, in the Congress and among the American people. Support for this resolution, is support for something other than an unrestricted, unregulated arms race. There must be something better for the future of mankind and it falls on the leadership of both countries to take the steps necessary to see if we cannot arrive at that point.

Mr. Speaker, credit should go to President Reagan and this administration for negotiating the INF Treaty and for continuing discussions on all other matters of equal importance—strategic arms reductions, chemical warfare, nuclear testing, and ultimately and hopefully conventional arms reductions.

As has been made clear by the leadership in the executive branch and in the Congress and restated by the gentleman from Michigan [Mr. BROOMFIELD] and myself when we met with General Secretary Gorbachev in Moscow, agreements in these areas are welcome. Even though it might be difficult to conclude such agreements, it is essential that we do so, and it is essential that we get the approval of the American people and the Congress of the United States to do so.

Such action would lead to a reduction in tensions between the superpowers and depends not only on these agreements but on a whole host of other issues which are interrelated but do not necessarily have to be formally linked but are linked as a matter of fact. I shall only mention two. One is regional disputes. There is no way that any permanent reduction in tension or way of life can be agreed to between the superpowers if the Soviets have the idea that they can extend their system with impunity whether by military means directly or indirectly, whether economically or politically, directly or indirectly, anywhere in the world. The Soviets cannot expect to do this without meeting a challenge. Right now that challenge is being presented to the Soviet Union by the United States and the West and other peoples in the world.

Mr. Speaker, the saddle is on us because we are a superpower with the capability to fundamentally make that challenge and we have done it and we will continue to do it. There is no hope for the future of mankind unless the reduction in tensions between the superpowers makes it possible for us to live together, and one of the things that has to be considered in this struggle is the fact that the Soviet Union cannot go with impunity everywhere in the world and try to impose its system without facing a challenge.

□ 1330

Mr. Speaker, I think that the American people have made it abundantly clear—not only in the Persian Gulf, but everywhere—that people have the right to make their own decisions.

The other point, Mr. Speaker, is on the question of human rights. We have made it abundantly clear, that while it may be Soviet domestic policy, the fact is that under generally accepted principles of humanity and internationally—recognized human rights standards. Soviet mistreatment of its own people—whether they are Soviet Jews, or Pentecostals, or those who simply want to express an adverse opinion, or commemorate the millennium of Christianity in Kiev—will be considered by reasonable people in other parts of the world to be brutalizing of their own people and that will be an obstacle to the reduction of tensions between superpowers.

We have seen an amelioration on the part of the Soviet Union under the leadership of Gorbachev. We should welcome this. We may have reservations, we may be concerned, but on all of these issues there has been some change.

We in the United States, the West and in the free world need to continue to be strong enough and willing enough to take up that challenge to do everything we can in order to make the world not only a safer place in which to live, but a more pleasant place in which to live.

So, Mr. Speaker, ratification of the INF Treaty, which House Resolution 422 supports is a historical step, not only in the history of this country, but in the history of the world as it affects the relations between our two superpowers, and I would hope that my colleagues would overwhelmingly and unanimously, support this resolution.

Let me proceed to explain in detail the committee action on House Resolution 422 and the specifics of the INF Treaty.

COMMITTEE HISTORY ON INF TREATY

On March 30, the House Foreign Affairs Committee expressed broad bipartisan support for the INF Treaty eliminating all United States and Soviet intermediate and shorter-range nuclear missiles in Europe.

By approving House Resolution 422 by a vote of 39 to 2, the committee underscored the vital contributions that arms control can and must make to our country's national security.

This resolution is the result of several hearings conducted by the Foreign Affairs Committee at which the committee explored the full range of issues associated with the INF Treaty, including: the contributions of the treaty to U.S. national security interests; European reactions to the INF Treaty; implications of the treaty for conventional spending and arms control; and verification provisions of the treaty and their application to future arms control agreements with the Soviet Union, in particular a strategic nuclear reductions agreement.

Beginning on December 16, 1987, the committee first explored the impact of the INF Treaty on the future of United States-Soviet relations. At this hearing, the committee specifically discussed the Reagan-Gorbachev summit and its implications for United States-Soviet relations.

On March 22, the committee heard testimony from private witnesses on the INF Treaty, its impact on the NATO/Warsaw Pact conventional balance and the importance of a follow-on agreement to the INF Treaty that would limit United States and Soviet strategic offensive arms. The committee heard from the Honorable Ralph Earle II, the National Policy Director for the Lawyers Alliance for Nuclear Arms Control and former Director of the U.S. Arms Control and Disarmament Agency from 1980-81; Michael Moodie, chief of staff of the resources strategy project at the Center for Strategic and International Studies; and Phillip Karber, project associate and contributing author of the resources strategy project at the Center for Strategic and International Studies.

On March 29, the committee heard from the administration on the implications of the INF Treaty for U.S. arms control and national security policy. We heard from the honorable Max Kampelman, head of the delegation for the negotiations on nuclear and space arms and the Honorable Paul Nitze, special adviser to the President and the Secretary of State for Arms Control Matters.

The committee proceeded to markup and approve the resolution on March 30. Prior to and after the signing of the INF Treaty, the committee also held numerous closed briefings with administration officials on the merits of the treaty.

PRINCIPLES AFFIRMED BY INF TREATY

The INF Treaty contains several important features, including the principle of asymmetrical reductions resulting in equal United States and Soviet force levels. Under the terms of the INF Treaty this means that the Soviets will eliminate some 1,752 deployed and nondeployed missiles and the United States will eliminate some 859 deployed and nondeployed missiles. Hopefully, the principle of asymmetrical reductions will be reflected in future arms control agreements with the Soviet Union. The treaty also bans the production, modernization, flight tests, and deployment of future Soviet INF missiles.

Furthermore, the INF Treaty contains unprecedented verification measures, not the least of which includes the establishment of an on-site inspection regime for up to 13 years on Soviet territory. The Treaty also provides for mandatory, challenge, short-notice inspections of key United States and Soviet facilities.

PURPOSE OF HOUSE RESOLUTION 422

In addition to expressing support for the INF Treaty, the Fascell-Broomfield resolution: encourages the completion of a START agreement; calls for a comprehensive NATO-supported arms control strategy; calls for effectively verifiable conventional arms agreements which will result in Warsaw Pact conventional arms reductions in those areas in which the Warsaw Pact is superior; and underscores the necessity for a unified executive branch-congressional approach to Soviet compliance with arms control agreements.

Action on this resolution by the Foreign Affairs Committee a few weeks ago and action today by the full House is a testament to the active role the House of Representatives should play on all matters affecting U.S. arms control policy.

FUTURE ARMS CONTROL AGREEMENTS SUBMITTED AS AN EXECUTIVE AGREEMENT

I would now like to direct the attention of the Members of this body to future arms control agreements. The administration is working diligently to conclude a more far-reaching agreement with the Soviet Union that would reduce United States and Soviet strategic nuclear arsenals by half their current levels. This would be an extremely important development in United States-Soviet relations.

In my view and that of a number of my colleagues on both sides of the aisle, the House of Representatives not only has the responsibility for influencing the direction of this country's arms control policies, but should exercise this right by urging the administration to submit any major arms reductions agreement with the Soviet Union as an executive agreement. Submission of such a START agreement as an executive agreement would require majority approval by both Houses of Congress and would ensure the House's active participation in the direction of U.S. arms control policy.

At this time I would like to insert in the RECORD, two documents. The first is a legal analysis entitled "Congressional Approval of an Arms Control Agreement by Legislation Rather Than Treaty Ratification," prepared at my request, by the House general counsel and deputy general counsel to the Clerk on May 23, 1985. The second document is another legal analysis entitled "Form of Submission of Arms Control Agreements" prepared in response to an inquiry made at the committee's March 30 markup by the State Department's deputy legal advisor on April 14, 1988. Both documents reach the same conclusion. There is nothing in the Constitution or in any statute which prohibits the submission of an arms control agreement as an executive agreement. The decision is left up to the administration as to the form in which it will submit an agreement. If an agreement is submitted as a treaty, it is sent only to the Senate for approval by a vote of two to three. If an agreement is submitted as an executive agreement it is sent to both Houses of Congress for approval by a majority vote. To quote the House general counsel:

> The historical precedents, and the judicial and scholarly opinions, are in agreement that legislation and treaty ratification are interchangeable methods of congressional approval of international agreements.

Similarly, the State Department's deputy legal advisor concluded that:

> Neither the [Arms Control and Disarmament] Act nor the Constitution dictates which of these two options the President should exercise with respect to a particular agreement.

CONCLUSION

In an effort to express the House's strong support for the INF Treaty and the continued security of NATO, I urge the Members today to vote in favor of House Resolution 422.

I would also call on my colleagues to urge the administration to submit a future START agreement as an executive agreement to both Houses of Congress. This would ensure the fullest representation of the American people in the arms control process.

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 23, 1985.

MEMORANDUM

To: The Honorable Dante B. Fascell, Chairman, House Committee on Foreign Affairs.
From: Steven R. Ross, General Counsel to the Clerk; Charles Tiefer, Deputy General Counsel to the Clerk.
Subject: Congressional Approval of an Arms Control Agreement by Legislation Rather than Treaty Ratification.

In light of the current negotiations between the United States and the Soviet Union in Geneva toward an arms control accord, we have been asked for a legal opinion regarding Congressional approval of such an accord. Specifically, this opinion[1] addresses whether such an accord could be in the form known as a "Congressional-Executive agreement," meaning that it would be approved by legislation adopted by both Houses of Congress, as distinguished from a treaty, which is approved by a resolution of two-thirds of the Senate.[2] The question naturally has considerable importance because, during negotiation of this accord, the House of Representatives may raise the visibility of the option of approval by legislation. Ultimately, such approval can prove a preferable route in circumstances in which treaty ratification might not be viable. For example, the Senate refused to ratify the Treaty of Versailles and has long proved resistant to ratifying the Genocide Convention. The "Congressional-Executive agreement" option can also be viewed as a politically attractive alternative, which can be utilized to establish a broader base of governmental and public support for an international accord.

We have examined both the historical precedents, and the judicial and scholarly opinions, regarding the approval of international agreements by legislation. Both the precedents and opinions confirm the generally accepted view that approval by legislation is an interchangeable method with treaty ratification as a means for the United States to enter binding international agreements. Thus, the United States may appropriately choose to negotiate an arms accord in the form of a Congressional-Executive agreement, and approve it by legislation, as an alternative to treaty ratification.

I. HISTORICAL PRECEDENTS

As noted by a recent study prepared for the Senate, "Congressional authorization for the conclusion of international agreements"—i.e., approval by legislation rather then treaty ratification—"dates from the earliest days of the Nation's constitutional history."[4] Starting in 1792, Congress authorized the conclusion of international postal agreements, approved by legislation rather than treaty ratification.[5] In the nineteenth century, the classic example of interchangeability of agreements approved by legislation, and treaties, was the 1845 ageement for annexing Texas, which had previously been an independent republic following its secession from Mexico in 1836. A treaty of annexation of Texas was signed in April 1844; however, the Senate rejected it two months later. Accordingly, in 1845, the House of Representatives adopted a joint resolution, closely paralleling the language of the defeated treaty, authorizing the annexation of Texas. The Senate also adopted the resolution,[6] and the Republic of Texas assented to it, resulting in the annexation of Texas.

The Supreme Court subsequently upheld this method of approval.[7] Similarly, in 1898, the United States annexed Hawaii by joint resolution following the failure of the Senate to ratify treaties of annexation.[8] Again, the Supreme Court approved this method of acquisition.[9]

In the twentieth century, following the dramatic refusal of the Senate to ratify the Treaty of Versailles, there was a strong interest in approval of agreements by legislation requiring the concurrence of a majority of both Houses of Congress, rather by treaty ratification which could be defeated by a mere one-third plus one of the Senate. A few of the scores of twentieth-century examples may be cited. Since the Senate had refused to ratify the Treaty of Versailles, and had thereby left the United States formally in a state of war with Germany (though without hostilities, of course, after the armistice agreement of November 11, 1918), the formal means of ending the United States' involvement in World War I against Germany was a joint resolution of Congress declaring the end of the war.[10] Similarly, since the Senate had refused, in rejecting the Treaty of Versailles, to allow the United States to join any of the international organizations associated therewith, the United States joined the International Labor Organization by joint resolution.[11]

During and after World War II, a host of agreements were approved by legislation.[12] Prominent examples included the United States' joining the International Monetary Fund,[13] and the United States' military aid and base agreements with foreign countries from Lend-Lease through the Cold War.[14] Most notably, the SALT I Agreement [15] was approved in 1972 by joint resolution.[16] Part of the accord reached at that time—the agreement restricting antiballistic missile systems—was approved by ratification of a treaty, the so-called ABM Treaty. However, the other part, adopting restraints on development of strategic missile systems for the following five years, was approved by joint resolution. This dual method fit the framework established by Section 33 of the Arms Control and Disarmament Act of 1961, which provided:

> That no action shall be taken under this chapter or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty making power of the President under the Constitution *or unless authorized by further affirmative legislation by the Congress of the United States.*[17]

The Arms Control and Disarmament Act stands as a lasting indication of the appropriateness of either method of Congressional approval—"affirmative legislation by the Congress," or ratification of a treaty—for arms control accords.

II. JUDICIAL AND SCHOLARLY OPINIONS

The Supreme Court has repeatedly indicated its virtually automatic acceptance, in light of the historical precedents, of the interchangeable status of treaties and legislation as vehicles for approval of valid international law. As noted above, the Supreme Court approved, in two separate cases, the use of joint resolutions to annex, respectively, Texas and Hawaii. In another key case, the Court confirmed the appropriateness of a law authorizing agreements (not treaties) with other nations for reciprocal tariff exemptions. The Court stated summarily that it was "of the opinion that the [section of the law authorizing those agreements] is not liable to the objection that it transfers legislative and treaty-making power to the President." [18]

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[1] This opinion focuses on the central issue and the key authorities bearing thereon. A fuller treatment may be forthcoming at an appropriate later occasion.

[2] For simplicity, the process of approval by the Senate will be called "treaty ratification." Technically, the Senate does not ratify treaties; rather, the Senate, by its two-thirds vote of approval of the resolution of ratification, advises and consents to ratification, and the President then performs the formal act of ratification.

"Approval by legislation" includes both prior authorization by legislation to enter into an agreement, as in the foreign military sales legislation authorizing major sales of military equipment, and subsequent confirmation by legislation of a previously negotiated agreement, as in the joint resolution confirming the SALT I agreement. (Both these examples are addressed below.)

[3] A sharp distinction must be drawn between *either* of the two methods of Congressional approval—by legislation or by treaty ratification—and the mere execution by the President of an executive agreement based on his asserted inherent powers, without Congressional approval. The President's inherent power to make agreements without Congressional approval has been sharply disputed since the period when the Nixon Administration indulged relatively heavily in such agreements outside the narrow areas historically reserved for such agreements (such as resolution of foreign claims associated with the President's power of recognition of foreign governments, and armistice agreements in wartime). *See, e.g.,* A.M. Schlesinger, *The Imperial Presidency* 299-303 (1974); R. Berger, *Executive Privilege: A Constitutional Myth* 140-56 (1974). Apart from the strong constitutional and legal criticism of the claimed inherent powers, it is generally accepted that an agreement entered into without Congressional approval, solely by Presidential fiat, has failed to receive the scrutiny by accountable representatives, and the nation's consent through those representatives, necessary to create a lasting national commitment.

[4] Senate Committee on Foreign Relations, 98th Cong., 2d Sess., *Treaties and Other International Agreements: The Role of the United States Senate: A Study Prepared for the Committee on Foreign Relations by the Congressional Research Service,* S. Prt. No. 98-205, at 71 (1984) (*"Treaties and Other International Agreements"*).

[5] Act of Feb. 20, 1792, ch. 7, § 26, 1 Stat. 239. See McDougal & Lans, *Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy: I,* 54 Yale L.J. 181, 240 (1945).

[6] 5 Stat. 797 (1845). See W. McClure, *International Executive Agreements: Democratic Procedure Under the Constitution of the United States* 62-67 (1941); McDougal & Lans, *supra,* 54 Yale L.J. at 263-64.

[7] *Texas v. White,* 7 Wall. (74 U.S.) 700 (1868).

[8] 30 Stat. 750 (1898); McClure, *supra,* at 67-68; McDougal & Lans, *supra,* at 266-67.

[9] *Hawaii v. Mankichi,* 190 U.S. 197 (1903).

[10] 42 Stat. 105 (1921); McClure, *supra,* at 11.

[11] 48 Stat. 1182 (1934); McClure, *supra,* at 125.

[12] See *Treaties and Other International Agreements, supra,* at 72.

[13] 39 Stat. 669 (1945).

[14] 55 Stat. 31 (1941) (Lend-Lease); 22 U.S.C. § 2751 (Arms Export Control Act). See J. Paige, *The Law Nobody Knows: Enlargement of the Constitution—Treaties and Executive Agreements* 58 (1977).

[15] Interim Agreement between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms, May 26, 1972, 23 U.S.T. 3462, T.I.A.S. No. 7504.

[16] Sec. 2 of H.J. Res. 1227, Pub. L. 92-448, 86 Stat. 746 (1972). See *Agreement on Limitation of Strategic Offensive Weapons: Hearings Before the House Comm. on Foreign Affairs,* 92d Cong., 2d Sess. (1972).

[17] 22 U.S.C. § 2573. (Emphasis added.)

[18] *Field v. Clark,* 143 U.S. 649, 694 (1892).

The courts have also addressed the question of the interchangeability of approval by legislation or treaty ratification indirectly. On several occasions, the Supreme Court and other courts have dealt with whether agreements approved by legislation have the same rank as treaties, for purposes of provisions of American law conferring authority on "treaties" or "conventions." Each time, the courts have confirmed the interchangeability of agreements approved by legislation and treaties.[19] Most recently, in 1982, the Supreme Court held that the term "treaty" in a federal antidiscrimination statute embraced a military base agreement authorized by legislation.[20]

Based on the historical precedents noted above, on the numerous other historical precedents, and on the judicial opinions, the generally accepted scholarly view has supported the interchangeability of approval by legislation or treaty ratification. The recent review of the scholarly literature prepared for the Senate in 1984 concluded:

It appears to be the majority view of legal scholars today that Congressional-Executive agreements [i.e., agreements approved by legislation] and treaties are wholly interchangeable modes of agreement-making for the United States. . . . *Treaties and Other International Agreements, supra,* at 77. The survey cited a number of the respected authorities, including, most notably, Professor Henkin's leading work in the field.[21]

CONCLUSION

The historical precedents, and the judicial and scholarly opinions, are in agreement that legislation and treaty ratification are interchangeable methods of Congessional approval of international agreements. Between these methods, choice is a political one. The House of Representatives may soundly take steps to raise the visibility of the option of approval of a Geneva arms accord by legislation, as an alternative method to treaty ratification.

DEPARTMENT OF STATE,
THE LEGAL ADVISER,
Washington, DC, April 14, 1988.

To: Ambassador Kampelman, Counselor.

From: Michael J. Matheson, Deputy Legal Adviser.

Subject: Form of submission of arms control agreements.

Section 33 of the Arms Control and Disarmament Act provides that the President may not obligate the United States to reduce or limit U.S. armaments except pursuant to the treaty-making power or unless authorized by further legislation. Neither the Act nor the Constitution dictates which of these two options the President should exercise with respect to a particular agreement.

With one exception, the significant arms control agreements of the past few decades have all been submitted for the advice and consent of the Senate as treaties. This was true, for example, of the Limited Test Ban Treaty, the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, the Non-Proliferation Treaty, the Biological Weapons Convention, the Seabed Arms Control Treaty, the Environmental Modification Treaty, the Latin American Nuclear Free Zone Treaty, the ABM Treaty, the SALT II Treaty and the INF Treaty. In part, this reflects the very strongly held view of the Senate that this is the only appropriate form for agreements of this importance.

The only exception to this pattern was the SALT I Interim Agreement, which the Congress, by enactment of Public Law 92-448 (September 30, 1972), authorized the President to approve on behalf of the United States. Senator Jackson, a prominent sponsor of that legislation, stated that Congressional approval was given on the clear understanding that this was an interim agreement of limited duration and effect that would be replaced by a treaty subject to the Senate's advice and consent. This agreement was designed not to bring about a permanent reduction of armaments, but rather to establish temporary limits on armament levels while more far-reaching negotiations occurred.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that we are considering this resolution today and I am satisfied that it has strong bipartisan support. In this regard, I would especially like to thank Chairman FASCELL for helping to fashion a resolution which expresses Democratic and Republican support for the INF agreement. I would like to add that the administration welcomes passage of this resolution.

I firmly believe that the INF Treaty, which this resolution supports, could not have been concluded without the President's continuing commitment to military strength and alliance solidarity. To be sure, the INF accord was also the product of NATO's dramatic dual track decision to seek both INF modernization and arms control reductions.

The INF agreement should be supported without complicating amendments including provisos relating to treaty interpretation. We simply do not need to further delay or otherwise complicate approval of the INF accord.

The INF Treaty will require NATO to develop a new strategy for allied security in the post-INF period. The resolution before us recognizes this.

The resolution calls for a comprehensive NATO-supported defense modernization and arms control strategy and underscores the necessity for compliance with arms control agreements. The solution before us also encourages the President to work toward the achievement of effectively verifiable strategic nuclear reductions which can contribute to stability.

In short, this legislation strikes a delicate balance of many concerns. With this resolution, we have an opportunity to send a thoughtful bipartisan message to the American people and the other body regarding arms control and defense modernization. I urge my colleagues to adopt the resolution before them.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of House Resolution 422, the resolution of which I am an original cosponsor, which supports the INF Treaty and provides for the continued security of NATO. These are two very important, directly related issues that warrant our strong support.

In 1981, when President Reagan proposed the zero-zero option for no intermediate or short-range nuclear missiles in Europe, his critics, some of them Members of the House, ridiculed the President's proposal as unreasonable and unacceptable. They claimed that because of proposals like the zero-zero option, it was apparent that President Reagan was not serious about arms control, because, the Soviets, they argued, would never agree to this. Today, some of these same critics are the INF Treaty's strongest endorsers. Through Western resolve—making the tough political decision to deploy the Pershing II and cruise missiles in Europe in response to the Soviet's earlier unilateral deployment of SS-20's—we brought the Soviets to the bargaining table. Clearly, the Reagan administration's policy of dealing with the Soviets from an equal position of strength was the reason for this arms control success. I warn those advocating significant cuts in our strength that they are jeopardizing future positive arms control measures.

The INF Treaty is an historic first—for the first time we will actually reduce, in fact eliminate, nuclear weapons, not just limit the increases of them. The INF Treaty will eliminate two entire classes of nuclear missiles. The INF agreement is superior to previous arms control treaties because it is not based on trust in the Soviets, but on the most stringent verification regime in the history of arms control. As President Reagan said, "Trust, but verify." These measures are critical to the treaty's success because of the lengthy and serious record of Soviet cheating.

Like many of my colleagues, I further support the INF Treaty because its comprehensiveness has positive implications for future arms control reduction agreements, like START.

This resolution also wisely provides for the continued security of NATO. The removal of intermediate-range nuclear missiles from Europe means NATO will have to rely more on conventional means of deterrence. The Soviets have an overwhelming conventional advantage. To redress this dangerous imbalance, this resolution urges NATO—including the United States—to continue to strengthen and modernize our nonnuclear forces while pursuing negotiations to reduce the huge Warsaw Pact forces already deployed. I remind my colleagues that conventional forces cost—in dollars and manpower—much more than nuclear ones. Soon, we will be considering the defense authorization bill. Already, our defense has been subject to 3 years of negative growth. I urge Members to remember the commitment they are making—to strengthen the security of NATO.

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[19] *B. Altman & Co. V. United States,* 224 U.S. 583 (1912); *Louis Wolf & Co. v. United States,* 107 F.2d 819 (C.C.P.A. 1939).

[20] *Weinberger v. Rossi,* 456 U.S. 25 (1982). See *Treaties and Other International Agreements, supra,* at 76-77.

[21] L. Henkin, *Foreign Affairs and the Constitution* 175 (1972).

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time and also for bringing the House of Representatives into the debate on this very, very important issue.

I, needless to say, am a strong supporter of House Resolution 422 for all kinds of reasons. In terms of its own provisions the INF agreement is an important milestone in United States-Soviet relationships and in the general cause of arms reduction.

But it is not only important in its own terms. It is important as a precedent for arms control agreements to come. It affirms very strongly the principle of asymmetrical reductions resulting in equal United States-Soviet force levels. It prohibits the modernization of the flight test and deployment of future Soviet INF missiles, and it provides an unprecedented verification measure including a 13-year onsite inspection regime on United States and Soviet territory and mandatory challenge short-notice inspections at key United States and Soviet facilities.

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But I would like to take a moment just to speak to the question of treaties versus executive agreements and to argue and plead for this administration to consider the role of executive agreements in arms control policy. I think it serves many purposes.

In the first place, it institutionally involves the House of Representatives, as it should be, in the arms control process, building support for that process. I would suggest to our colleagues that it allows us to avail ourselves of our responsibility to be an active and informed voice in future arms control agreements.

Some may question the appropriateness or the legality of an executive agreement to deal with these important issues. But two recent opinions that have been obtained, one from the House legal counsel and a second from the Department's deputy legal adviser both make it quite clear that there is nothing in the Constitution or anything else in the statutes which prohibit the submission of an arms control agreement as an executive agreement. It is totally within the discretion of this administration as to which form it chooses in submitting such an arms control agreement.

If an agreement is submitted as a treaty, it is sent only to the Senate for approval by a vote of two-thirds. If an agreement is submitted as an executive agreement, it is sent to both Houses of Congress for approval by a majority vote.

For purposes of strengthening the constituency and support for arms control and for the administration's meaningful and good-faith efforts in this area, I would suggest that the executive agreement offers a better opportunity to build the kind of consensus that is going to be necessary for future arms control agreements.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], a member of the Foreign Affairs Committee.

Mr. SOLOMON. Mr. Speaker, I rise in strong support of this resolution, of which I am pleased to be an original cosponsor.

I support the INF Treaty, Mr. Speaker, because I am convinced that it represents a vindication of the Reagan administration's policy of peace through strength. Who among us can believe that this treaty would be an accomplished fact if this Congress had gone on record a few years ago as favoring a so-called nuclear freeze? A freeze, I remind you, that would have frozen in place a 12-to-1 Soviet advantage in long-range intermediate forces in Europe and would have done nothing but freeze the rate of accelerated growth of nuclear weapons.

What has been accomplished under the INF Treaty? What has peace through strength accomplished?

For the first time in the history of arms control, we have an agreement that actually reduces the stockpile of weapons. Up until now, the Soviets have always used so-called arms control negotiations as a way of preventing the deployment of new American weapons systems. What has been supposedly "controlled," is merely the rate at which each side's arsenal has been permitted to expand. This time, the United States deployed first—and then the Soviets, in Ben Wattenberg's phrase, "Sat down and cut the cards."

What else has peace through strength accomplished?

The Soviets yielded on the "zero option" and also dropped their demand that the British and French nuclear forces be included under the limits of this treaty.

The Soviets will not be deploying or redeploying INF missiles in Asia, and the shorter range missiles on both sides will be subject to the same restraints.

Finally, Mr. Speaker, peace through strength has accomplished something that gets to the heart of the whole matter: verification. The INF Treaty establishes a verification regime that is unprecedented in the history of United States-Soviet arms control. This regime includes:

The establishment of a commission to resolve disputes over implementing and interpreting the treaty;

Detailed exchanges of data on the location and capabilities of all launch facilities;

The requirement that all missiles be kept in fixed locations in agreed-upon areas during the elimination period;

Regularly-scheduled, onsite inspections to verify the elimination of missiles; and

Mandatory, unscheduled onsite inspections on short notice.

I would add, Mr. Speaker, that House Resolution 422 also contains some very important language giving the President the right to respond appropriately if the Soviets do cheat; and so I believe we would be derelict in our duty if we missed this chance to declare that this House supports the INF Treaty.

No one will deny that there are other issues that now must be dealt with in light of the INF Treaty. A post-INF Europe will be different from the one we already know. But this treaty is a good first step. If we can build on the precedents that are established by this treaty—namely, the verification regime and the principle that nuclear force modernization and deployment can proceed on a parallel track with arms control—then I believe we will have made a major contribution toward a more stable world.

So, Mr. Speaker, let us all get behind this. For the first time in history, let us reduce these nuclear weapons throughout this world. Let us support Ronald Reagan, the great peacemaker.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as an original cosponsor, I rise in strong support of House Resolution 422, a resolution that expresses the support of the House of Representatives for the INF Treaty signed by President Reagan and Soviet leader Gorbachev in Washington on December 8, 1987.

Although it is the proper role of the Senate to ratify international agreements that are submitted as treaties, it is entirely appropriate for the House of Representatives to record its formal support for the approval of the INF Treaty. I commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, for introducing this resolution and for his efforts in bringing it to the floor in a timely fashion.

The INF Treaty is a significant foreign policy accomplishment, and the Reagan administration deserves our praise for pursuing it in a dedicated manner. Unlike any previous arms control agreement, it will completely eliminate an entire class of nuclear arms. All United States and Soviet land-based nuclear missiles with ranges of 500 to 5,500 kilometers will be eliminated within a period of 3 years, reducing the likelihood that an East-West conflict would escalate quickly to the nuclear level. Moreover, the treaty will institute the most comprehensive verification regime in the history of arms control.

Opponents of the INF Treaty have raised the specter of a weakened alliance facing the threat of an overwhelming Warsaw Pact advantage in conventional arms. However, this scenario is not based on reality. The presence of American troops in Europe will continue to provide convincing evidence of our unwavering commitment to Europe's defense.

Moreover, conventional capability cannot be measured in quantitative terms alone. Once we move beyond a "bean count" to an assessment that includes the quality, readiness, and loyalty of opposing forces, it is apparent that the NATO alliance is not at a significant disadvantage in comparison to our potential foes. Although some aspects of our conventional defense clearly need improvement, NATO is surprisingly strong in other categories. In fact, it is likely that current NATO conventional forces are sufficient to deter an assault by the Warsaw Pact.

The resolution before us today wisely calls on the President to take steps not only to strengthen our conventional forces, but also to seek verifiable reductions in conventional arms that will enhance stability in Europe. It is my urgent hope that the President will take this advice to heart and negotiate on conventional arms with as much vigor and enthusiasm as he has demonstrated in the area of short- and intermediate-range nuclear weapons.

The resolution also notes that Western Europe will continue to be defended by nuclear weapons. In fact, even after the provisions of the INF Treaty have been fully complied with, NATO will maintain over 4,000 nuclear warheads in Europe. Great Britain and France will also continue to maintain their own nuclear forces independent of NATO.

Currently, there is a great deal of discussion of the potential modernization of NATO short-range nuclear forces [SNF], nuclear weapons with ranges shorter than the weapons covered by the INF Treaty. In the 1983 Montebello decision, the NATO allies agreed to withdraw some nuclear warheads from their inventory and to modernize remaining nuclear warheads and delivery systems. The goal of modernizing some short-range nuclear forces was reaffirmed in a March 3, 1988, communique issued by NATO leaders. However, the communique also calls on the allies to eventually negotiate reductions in short-range nuclear weapons.

I strongly believe that such negotiations are in the best interests of the NATO alliance. Short-range nuclear weapons pose a unique threat to stability in Europe. Their deployment in forward areas poses the risk that they will be attacked at an early stage of an East-West conflict. There will be enormous pressure placed on European commanders to use these weapons or lose them. Thus, we run the risk of a rapid escalation to the nuclear level—an escalation that would likely result in a catastrophic all-out strategic nuclear exchange.

Because short-range nuclear weapons pose such a serious threat to stability, it is important that reductions in these systems be negotiated sooner, rather than later. However, there are also certain unilateral steps that the United States and its allies can take in the interim to reduce the risk posed by these weapons.

The first step would be to adopt a policy of "no early use" of nuclear weapons. Under such a policy, the Western alliance would withdraw its short-range nuclear forces from forward areas, reducing the risk that they would be used quickly in the event of a conflict. Next, the allies should formally renounce any intention of being the first to use short-range nuclear weapons in Europe.

According to such defense experts as McGeorge Bundy, George Kennan, Robert McNamara, Gerard Smith, and Paul Warnke, NATO's reliance on the first use of nuclear weapons has harmed alliance security and reduced our capacity to fight a conventional war. For example, as we have increased our nuclear presence in Europe, we have been forced to decrease the number of personnel devoted to conventional defense. In addition, the predominance of dual-capable launchers means that the United States will be forced to withhold launchers for nuclear missions just when they are most needed for conventional purposes. There are many other examples of this same dilemma.

Therefore, a policy of "no early use," followed by a renunciation of the first use of short-range nuclear weapons, would contribute substantially to NATO's conventional capability. In doing so, they would strengthen the cohesion of the alliance. At a time when the INF Treaty has renewed the debate over European security, these points deserve considerable emphasis.

The resolution before us today also calls on the President to continue his pursuit of a strategic arms agreement that will contribute to stability. In my mind, this will be the real test of the President's commitment to arms control. While the INF Treaty is a formidable achievement, it will only eliminate a small fraction of superpower arms. Therefore, it is extraordinarily important for President Reagan to honor his promise to negotiate in good faith to reduce strategic arms by 50 percent.

There are now encouraging signs that the ongoing strategic arms negotiations in Geneva are making progress. In passing this resolution, we congratulate the President on what has already been done and urge him to redouble his efforts to achieve a United States-Soviet agreement for drastic reductions in strategic arms.

However, it is my view that reductions in numbers alone are an inappropriate goal in the area of strategic arms. We must also seek to ensure that the cuts made will maximize deterrence.

It has been my long-held belief that we ought to base our strategic planning on the premise that we will never, in any instance, initiate the use of nuclear weapons. In other words, we ought not to stop with a pledge involving short-range nuclear forces in Europe, but we ought to extend this pledge to include strategic arms as well.

Such a pledge would significantly enhance deterrence and reduce the risk of war. It would also provide us with the perspective necessary to judge whether individual weapons systems will enhance or detract from deterrence.

For example, if we were to adopt such a pledge, we would clearly have no need for weapons that are capable of engaging in a first strike against Soviet nuclear forces. Thus, we would have no need for the MX or Trident II missiles, which are designed for precisely that purpose.

Nor would we have need for the strategic defense initiative [SDI]. We know that SDI could never be completely effective in protecting against Soviet attack. However, SDI could play a role in mopping up a Soviet response to an American first strike. In combination with other weapons we are building, SDI will contribute to the Soviet perception that we are readying a first strike capability.

In keeping with the notion that the United States should never initiate a nuclear attack, we need to move away from weapons that threaten to give us a first strike capability. Instead, we need to emphasize weapons that enhance deterrence by providing us with a secure retaliatory capability. Moreover, we ought to demand that the Soviet Union do likewise. I strongly urge the President to abide by this principle in the ongoing Geneva arms control negotiations.

Mr. Speaker, I once again would like to compliment the President for his efforts in negotiating the INF Treaty. However, the real tests of foreign policy expertise still lie ahead. I join the American people in urging the President to capitalize on the momentum created by the INF Treaty by striving for greater accomplishments in the months to come.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I commend the distinguished gentleman from Florida [Mr. FASCELL], chairman of our committee, as well as the gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member, for bringing this measure to the floor at this time.

Mr. Speaker, I rise in support of House Resolution 422, expressing the sense of the House in support of the INF agreement.

Mr. Speaker, without doubt, the conclusion of the INF treaty is a real triumph for the administration's arms control policies; more importantly, it is a victory for the American people.

House Resolution 422 describes the treaty as a confirmation of "the principle that mutual, substantial, effectively verifiable arms reductions with the Soviet Union, negotiated from a position of NATO strength and consensus, can contribute to strategic stability."

I have little doubt that if it were not for the staunch support of the American people for the administration and the Alliance's strategy of deployment of INF forces in Europe, the Soviets would have never returned to the bargaining table and we would have neither gotten this treaty nor made the progress we have achieved in the strategic arms reduction talks that have been made so far.

At this point, we need to look to the future. America's allies in Europe will be pressing for additional reductions in conventional and nuclear arms, and also looking for assurances that we are not "decoupling" from them.

We need to move forward in the effort to achieve a greater measure of conventional stability; but at the same time we must continue in our position that stability in Europe means more than nuclear and conventional stability. It also involves political stability and the observance of internationally recognized human rights. Thus, it is crucial to get a balanced resolution to the ongoing talks in the Helsinki review process in Vienna as part of our overall negotiating strategy.

Mr. Speaker, I am quite confident that the Senate will approve the treaty now before it and that the ratification process will be successfully completed. As we look forward to future progress on disarmament, we should not hesitate to congratulate our negotiators and their political leadership in the White House, the Arms Control Agency, the State Department, and the Pentagon for a job well done.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I join also in congratulating Ronald Reagan for signing this deal with the "Evil Empire." I think it shows a maturation and an evolution in his thinking which is useful.

There have been various explanations of how we got to this treaty, and a variety of factors contributed, not the least of which was the ascension to power in the Soviet Union of Mr. Gorbachev, not a man who is eligible for admission into the Civil Liberties Union now or in the future, but a man who is realistic about mutual interests to be agreed upon between us. What this says is that neither side is doing the other a favor, but there can be solid agreements based on the recognition of mutual interests.

Mr. Speaker, I want to address one other part of the historical record. We have been told for years by Members on the other side in particular that when this House and this Congress legislate in favor of an arms reduction further than the President is ready to go, we undercut the chances of there being a treaty signed. We have been told that when we adopt pro-arms-reduction measures we remove from the Russians an incentive to negotiate. In fact, the signing of this treaty came still after the House and the Congress as a whole legislated more arms reduction than ever in history, over the objections of the administration.

The historical record is clear. Action by the Congress to mandate arms reduction, abiding by SALT, abiding by ABM, talking about reductions in Star Wars in no way gives the Soviet Union an incentive not to agree. As a matter of fact, look at 2 years. We had a summit with Darth Vader and Luke Skywalker in 1986, and just before that we were told do not adopt any arms reduction measures because the President will not be able to get the "Evil Empire" to sign a deal. So we killed all of the arms reduction measures and we got nothing.

A year later when they tried it again, we did not listen. We went ahead on SALT and on ABM and nuclear testing and in a number of other areas over the administration's objections, and subsequent to that they had a meeting and an agreement was signed.

I do not argue a specific cause and effect in the latter situation, but I argue that the facts clearly undermine the argument that our affirmative action in favor of arms reduction keep us from getting agreements. We get agreements based on mutual interests, and I hope we will continue to have them.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I may be the only person today who comes to the well to oppose this treaty, but I do oppose it.

Before we entered into this agreement we should have done something about the conventional force imbalance as respects the Warsaw Pact countries, the Communists, and our NATO allies. They outnumber us 2 to 1, and they outnumber us 5 to 1 as far as mechanized equipment is concerned. Nothing was done about that.

The Soviets have violated every single treaty that I can think of going back 20, 25, 30 years, and yet we are going to trust them again.

The fact of the matter is that Defense intelligence, the Defense Department, the State Department all differ on how many SS-20's are in the Soviet arsenal or how we are going to verify if the Soviets dismantle all of them. It is a mobile weapons. It is on the back of trucks. It can be moved anywhere and we do not know how many there are. And yet we are going to trust them. They say we can verify this treaty.

Gen. Bernard Rogers, the last Supreme Allied Commander of NATO, does not agree. He thinks it is a step in the wrong direction. Frank Gaffney, former Assistant Secretary of Defense for International Security, resigned partially because of the INF treaty because he did not think it should be signed and ratified.

The Soviet Union traditionally sucks us into agreements and then later violates them. We really, in my view, are making another serious mistake. The Soviets cannot be trusted. Anything we agree to with them should be totally verifiable, and in my view this is not a verifiable agreement.

The Soviets are going to dismantle their SS-20's. We are going to dismantle our Pershing II and ground cruise missiles. That sounds great. They are dismantling more missiles than we are. But the fact of the matter is every single weapon in their nuclear arsenal can be retargeted on the same targets that the SS-20's are targeted on today. The intermediate- and short-range targets and the new SS-25 that they are producing in large quantities is an intercontinental ballistic missile that is designed to hit the United States, but it too can be retargeted on short- and intermediate-range targets. So, in fact, the Soviet Union is giving up virtually nothing. As a matter of fact, they are improving their capability.

Their new technology with the SS-25 shows that they can hit those targets with greater accuracy with the SS-25 than they could with the SS-20, and there is no prohibition against the SS-25 being produced in mass quantities in the INF Treaty.

So, what are the Soviets giving up? In my view, they are giving up nothing.

What is the United States and our allies giving up? We are giving up the Pershing II and ground cruise missiles, which are the only missiles that can strike deep within the Soviet Union's territory if they launch a first-strike attack at NATO.

So, in my view, Mr. Speaker, we are making another tragic mistake. We should not be entering into an agreement unless we are really getting something in return.

The Soviets are going to replace the SS-20's with the SS-25. We are not going to replace the Pershing II and ground cruise missiles with anything. So, they are gaining the store and we are gaining an empty sack.

□ 1355

Not only that, we cannot verify that they are taking apart the SS-20's. As a matter of fact, the guidance systems and the warheads on those weapons systems can be shelved and kept. The only thing that is going to be taken apart according to the INF Treaty is the delivery system itself.

I think it is a terrible mistake we are making today. Once again we are going to trust the Soviet Union when they have violated every single treaty, almost without exception, that they have ever made with us.

Mr. Gorbachev, his people say, has the smile of an angel, the teeth of steel. He is Andropov's protege, the man who was the head of the KGB, who mowed down the Hungarian freedom fighters after he promised them amnesty.

We should not enter into the agreement. I think it is a tragic mistake.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I rise because I thought the gentleman from Massachusetts in his usual way brought a very interesting point to the House. The trouble with his point was, though, that it is a little confusing. First of all, had we listened to what the left have said on arms control we never would have had the weapons in place in Europe to bargain with to get the treaty in the first place.

Second, had we listened to the left a little bit later we never would have had the ability to negotiate this treaty and get rid of warheads on the Soviet side because we would have had them all frozen into place.

The left has been wrong time and time again when it comes to how you bargain with the Soviets. They always want to bargain from the stand of appeasement rather than from the stand of strength.

I think it is very clear that Ronald Reagan because he was not willing to listen to the advice of the left but rather listened to his own counsel, and that was to bargain from strength, has achieved a treaty of at least modest proportions that moves us in the direction of some real arms control based upon strength. I think that that is an accomplishment that needs to be recognized.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I appreciate the gentleman yielding.

A couple of things I would like to say about the treaty. The most important thing is that if you go back to 1981 we have got to be very happy about where we are today, because the President said in 1981 that if the Soviets will take their missiles out we will not put ours in. We did move from a position of peace with strength. We put ours in and said, "Look, if you are willing to negotiate we will take them all out."

The tragedy here is that we never had to expend any resources whatsoever in order to get them to take theirs out. It is a shame we could not have had arms control without having to spend the money, but it goes back to the argument on this side which is the only way you are going to get reductions is by having something that the Soviets want to negotiate for. There are some very positive things in the agreement. The fact that we have an entire elimination of a class of nuclear weapons is just fantastic and it comes about because that was the vision that Reagan had and I think it has been borne out. In fact, some of the leadership on the Democrat side said to the President when they discussed this issue that, "You were right, Mr. President."

The other thing is it talks about the need for NATO to be careful in working together to devise the next step in defense strategy. It is not something we can take lightly. We just cannot race forward without carefully considering the consequences of any further moves.

That is an important part of this resolution.

Finally, I think that the area of verification is a major breakthrough. We have not been able to achieve this kind of verification before and I think we should all feel very good that we have made a breakthrough in this area.

One other area of the resolution that I was particularly interested in because I introduced the resolution essentially incorporated in this resolution, and that is the area that deals with Soviet violations.

I think we get ourselves into a real difficult position when we sign an agreement with the Soviets because when the Soviets violate an accord, be it the ABM accord or be it the SALT II accord, we in Congress are in a very difficult position. We argue that we ought to respond by taking some very strong steps to address the Soviet violations. People on the more liberal, in the more liberal train of thought say, "No, we can't do that because then the United States looks like an aggressor in the world," and the argument goes back and forth on both sides of the aisle. I think that when we sign an agreement we should make it very clear from the beginning up front that if the Soviets are going to violate this agreement that the Congress is calling upon the President to take positive steps upon the determination that the Soviets are violating an agreement. In that way we are in a position of being able to address these violations in a positive way without having to lose the worldwide battle for PR, where the people on the left throughout the world will say, "The United States is trying to be aggressors and they are violating the treaties," or "they want to end treaties." As you will recall what we went through on SALT II.

This resolution incorporates language that directs the President to act in the United States' interests and to take firm and decisive steps to respond to any Soviet violations of this treaty.

I want to compliment you, Mr. Chairman, for putting this kind of language into the resolution. I think it is an important first step in addressing what is an inability to make sure the Soviets live within the treaty and allows us to take what I think is positive and firm and needed action.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the resolution and commend the leadership on both sides of the committee for bringing it to the floor today. I think we have a good agreement and I would join those who are offering their words of congratulations to the administration for negotiating successfully this modest arms control treaty.

I do think we ought to give credit where credit is due. The credit is due in the first instance, in one instance on the part of the President of the United States.

As the gentleman from Massachusetts [Mr. FRANK] has indicated, I think this shows a degree of maturity in the administration that is long overdue but most welcome. Second, I think we ought to recognize and give credit where credit is due on the other side. I think what we have in the case of this treaty agreement is some profound change in thinking on the part of the Soviet leadership.

First we have in this agreement an agreement on the other side to reduce a class of weapons. Second, we have an agreement for asymmetrical reductions, more reductions on their side than on ours.

Third, we have the precedent for highly intrusive verification for compliance with this agreement. I think this suggests we have a whole new leadership in the Soviet Union with which we can begin to do business. I hope this administration will recognize this opportunity and move forward smartly for further agreements in this strategic field.

Mr. MARLENEE. Mr. Speaker, the House of Representatives has a rare opportunity today to vote on a resolution to support the Intermediate-range Nuclear Forces [INF] Treaty. While I welcome steps toward peace and real arms reductions, I am compelled to vote against H. Res. 422 because I believe that the INF agreement, in its current form, will ultimately work against long-term U.S. national security interests.

Not only is the INF Treaty vague in technically crucial points, but the United States still has not developed any coherent policy that will deal with the eventual Soviet violations. I can assure you that the Soviets will violate this treaty. The only thing we will do is express a weak diplomatic "protest" to the Soviets and the violation would be ignored—with Gorbachev laughing all the way to the Kremlin.

As I see it, there is no way the United States can effectively counter any violation of the treaty besides a vague feel-good resolution that is before us today. Senator DAN QUAYLE wrote a compelling piece in the Wall Street Journal last February that expresses my reservations about the INF Treaty in this regard. I have also included this for the RECORD and I trust that my colleagues will take the time to read this.

It is essential to peace and stability that our present nuclear deterrence strategy remain credible and capable of implementation. In addition, at a time when we are struggling to achieve budget deficit reduction, it seems imprudent to increase military spending to supplement conventional defenses in an effort to produce parity with the Soviet Union.

There are also technical flaws in the INF Treaty. As we know, the treaty does not destroy warheads—just missile launchers. It allows the Soviets to continue to produce the first and second stages of the SS–20 intermediate-range missile, which can be used for SS–25 intercontinental ballistic missiles [ICBM's] or for secret SS–20 production, while banning comparable United States missile production. The agreement also permits the Soviets to convert SS–20 bases into SS–25 bases while the United States dismantles its INF missiles. In addition, there are still discrepancies regarding the number of SS–20 missiles. Some United States intelligence analysts believe that a significant number of SS–20's were omitted from the original Soviet count.

I hope that the Senate attaches language to the INF Treaty that would mandate a strong United States response to any Soviet violation, including the option of redeploying our INF forces. This is what we should be doing today. We have seen too many Soviet violations of treaties in the past and we've done next to nothing in response.

Fool me once, shame on you. Fool me twice, shame on me. Mr. Speaker, how many times do we have to relearn the lesson that the Soviets regularly violate international arms agreements? Until we get a rigid verification system, let's remember that the Soviets are not our friends in detente but our ravenous adversaries, willing to exploit any weakness. I regret that I am unable to join my colleagues in supporting H. Res. 422.

[From the Wall Street Journal, Feb. 8, 1988]

INF TREATY'S DANGEROUS VAGUENESS

(By Dan Quayle)

A potentially explosive paragraph is tucked away in the 56-page Intermediate Range Nuclear Forces Treaty. It is Article 14, commonly known as the non-circumvention clause, and could present serious obstacles to our ability to defend Europe once the INF missiles are removed.

The reason is that Article 14—in conjunction with the treaty's vague provisions concerning what's banned—may spawn a debate over what kinds of INF-capable systems may or may not be deployed in Europe at some point in the future. Unless the administration moves quickly to clarify the situation, Article 14 and the treaty's missile-definition provisions may become to the INF debate what Agreed Statement D was to the ABM Treaty last year on the Senate floor: the cause of a bitter dispute over interpretaton of the treaty.

Agreed Statement D attempted to set out the guidelines for the eventual development and deployment of future systems—those based on "other physical principles" not known at the time of the 1972 negotiations—with ABM capabilities. The interpretation of that statement languished for a decade. Not until Ronald Reagan proposed the Strategic Defense Initiative did the U.S. begin to take a closer look at the ABM treaty to determine what kinds of ABM-capable systems would circumvent it.

What the administration discovered was, at best, a quagmire of uncertainty about whether the treaty banned the development of "futuristic" ABM systems. It was precisely this lack of any clarity on what the ABM treaty—or, more specifically, Agreed Statement D—had to say about "future" systems that prompted the protracted Senate debate last year over the treaty interpretation.

Interpreting the INF Treaty's various restrictions on future INF-capable systems may prove equally difficult.

Under Articles 2 and 7, for instance, only new missile types that are unarmed or dedicated to air defense are allowed, yet there's no definition of what a new "type" is. Could the Soviets take an existing missile, paint it a different color, claim it was unarmed and deploy it?

Under Article 14, both the U.S. and the Soviet Union agree that they will not assume any "international obligations or undertakings which would conflict with its provisions." There is, however, no explanation accompanying Article 14 to clarify what kinds of "international obligations or undertakings" might conflict with the treaty or even what the term "conflict" means in the context of the treaty.

Yet the interpretation of Article 14 is absolutely crucial to the future defense of Europe.

Is, for example, a NATO decision to modernize the outdated Lance missile (a tactical nuclear missile not banned by the INF Treaty) and extend its range to nearly 500 kilometers an "undertaking" that would "conflict" with the treaty's provisions? The Soviets have already hinted publicly that they might object to such a Lance follow-on—that it would violate at least the intent and spirit of the INF treaty. Will the Soviets formally object to a follow-on Lance nuclear missile—which NATO's supreme commander has said is critical to the defense of Europe once the INF missiles are removed—and use Article 14 as the basis of their objection?

More important, will NATO capitulate before the Soviets even formally object? From what I've seen of NATO's and the Pentagon's post-INF plans, I fear that this is precisely what may occur.

It shouldn't. Given the growing East-West military imbalance, it seems clear that NATO must abide by the decision its defense ministers made in 1983 at Montebello, Canada, to reduce but modernize its tactical nuclear deterrent.

Whether NATO has the political will to modernize its remaining nuclear deterrent—especially if it is faced with Soviet challenges on the no-circumvention issue—remains to be seen. But the need to implement the Montebello decision must be pushed aggressively by U.S. leaders.

Beyond the Lance, what about possible future systems that overlap with the current INF mission in Western Europe? Will Article 14—in conjunction with Articles 2 and 7—keep NATO from deploying additional cruise missiles (either nuclear or non-nuclear) or dual-capable aircraft? And what about the deployment of a hypersonic boost glide vehicle—which is a crossbreed between a cruise and ballistic missile—and other hypervelocity weapons still being researched?

In addition, what will the Soviets say if the British and French develop their own nuclear arsenals using guidance systems similar to those in the banned INF missiles? Is this an "undertaking" by the U.S. that "conflicts" with the treaty?

I don't know the answers to these questions. And, based on testimony during the first few days of INF hearings, I don't think the administration knows yet either. The Defense Department, genuinely stumped, is groping for answers. The State Department meanwhile apparently believes there is no problem.

What we do know, however, is that the ability to deploy such "smart" weapons systems based on new or emerging technology will be critical to Europe's safety after the INF missiles are gone.

We also know that, during the lengthy negotiations over the INF forces in Europe, the Soviets pressed American negotiators quite hard on Article 14. In fact, it is my understanding that the Soviets demanded a list of specific types of future INF-capable systems that could not be deployed because, in their view, they circumvented the treaty. While the U.S. apparently did not capitulate to those Soviet demands, the resulting language dealing with the issue—in Articles

2, 7, and 14—may still present considerable problems for future administrations. These problems are aggravated even further by the treaty's vague descriptions of how existing cruise and ballistic missiles will be destroyed and monitored.

The Senate must have a clear understanding of what these and other vague or ambiguous provisions mean before it consents to the INF treaty. The U.S. needs to know whether this treaty prohibits the development of certain kinds of future INF-capable systems and whether both sides have agreed to such a ban.

If there is any question about what Article 14 or any other provision prohibits, then it is only fair that we express this uncertainty both to the Soviets and our own defense planners, who are even now developing a new military strategy for the NATO alliance.

Mrs. MEYERS of Kansas. Mr. Speaker, as an original cosponsor of House Resolution 422, I rise in support of this resolution expressing House support of the INF Treaty. I believe it is important that the House indicate its support of the first nuclear arms agreement eliminating an entire class of nuclear weapons. I am hopeful that the Senate will soon be acting on this agreement.

This resolution also addresses concerns about the security of NATO in a post-INF era, and the strength of our conventional forces; seeks specific procedures for resolving existing and any future Soviet violations of arms control agreements; and encourages completion of a start agreement.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution, House Resolution 422.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5, rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PREVENTION OF TELEPHONE PORNOGRAPHY ACT OF 1988

Mr. HALL of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4401), to amend the Communications Act of 1934 with respect to dial-a-porn.

The Clerk read as follows:

H.R. 4401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prevention of Telephone Pornography Act of 1988".

SEC. 2. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

The SPEAKER. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas [Mr. HALL] will be recognized for 20 minutes and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill which I have introduced today is identical to the Helms amendment which was passed overwhelmingly by the Senate. It sets forth a policy whereby the transmission of dial-a-porn on the interstate telephone network is prohibited. This measure is necessary because the current regulations adopted by the FCC are not effective in stopping the spread of dial-a-porn to minors.

It has become clear that more is necessary than requiring vendors of pornography to use access codes or credit cards or scrambling devices.

The bill I have introduced and whose passage I am urging at this time would address the problem of child access to pornography by eliminating pornography from the national telephone network.

Now some may have doubts about the constitutionality of this measure. Nevertheless it is in my view the most straightforward, the most direct way of dealing with the problem which has reached crisis proportions in the Nation today.

It is direct in that it bans pornography on the interstate network. Parents, concerned citizens, church groups all want an end to dial-a-porn. This measure does it in the most direct way possible.

I urge my colleagues to vote in favor of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Helms-Bliley amendment which contains the same legislative language as H.R. 1786, The Telephone Decency Act, which I introduced just over one year ago. That legislation has been **co-sponsored** by 171 Members of this House and represents an important step in the fight against telephone pornography.

Mr. Speaker, the purpose of the Telephone Decency Act is to amend the section 223 of the Communications Act of 1934 to prohibit the transmission of obscene and indecent communications for commercial purposes by means of telephone to any person, regardless of age. This amendment is necessary as the history of the fight to restrict pornographic telephone services will show.

The original section 223, as passed in 1968, prohibited obscene, lewd, lascivious, filthy or indecent communications by means of the telephone. The law did not state that the maker of the comment must also be the maker of the call, so the service, dial-a-porn, in which a caller accesses by telephone a recorded message of a sexually explicit nature, was clearly covered by the language of the statute. However, because dial-it services did not exist when the law passed, the FCC claimed uncertainty concerning its ability to act.

In September of 1983, I proposed an amendment to the Federal Communications Commission reauthorization legislation which would have clarified the law by stating that the pornograhic communications were prohibited regardless of who placed the call. This amendment was adopted unanimously by the members of the Committee on Energy and Commerce, which had jurisdiction over the authorizing legislation.

However, on the last day of the legislative session of the House in 1983, an agreement was reached on the House floor to replace the text of this amendment with that which we have in the law today. Members of the Judiciary Committee made it quite clear that they would demand a sequential referral to their committee if their language was not accepted. The substitute permitted obscene and indecent communications to adults but not to children. It also required the FCC to report regulations describing methods by which dial-a-porn providers could screen out underage callers, and specified that compliance with such regulations constituted "* * * a defense to a prosecution." The President signed this legislation into law on December 8, 1983.

The FCC has attempted three times to satisfy the requirement of the 1983 amendment which instructed it to formulate procedures which would prevent children from gaining access to dial-a-porn without great inconvenience to adults. The first set of regulations, which placed time-of-day restrictions on dial-a-porn, were set aside by the Second Circuit Court of Appeals. The court rightly judged that these restrictions did not place much of a barrier between the children and pornographic telephone services. On October 16, 1985, the FCC released new regulations requiring an authorized access or identification code or payment by credit card. Carlin Communications, Inc., challenged these regulations and the second circuit held a hearing on the matter on December 19, 1985. The regulations were scheduled to go into effect on November 25, 1985, but the FCC issued a stay pending court review. The new date on which they were scheduled to take effect was December 26, but on December 20 the court, out of concern for the business interests of the purveyors of the pornographic messages, issued another stay pending its decision.

On April 11, 1986, the Second Circuit Court set aside the FCC's second set of regulations for those services operating under the New York telephone system for the reason that "there was no evidence that access codes are technically feasible under the NYT system * * *." The court also concluded, in its majority opinion, that "the record contained insufficient evidence that access codes are the least restrictive means of limiting minors' access to dial-a-porn * * *." This opinion was based, not on first amendment grounds, but on what the court interpreted to be Congress' intent in passing the 1983 amendment. In July 1986, the FCC issued its third notice of proposed rulemaking and in May of 1987 issued its final rules. These regulations are currently being challenged by Carlin Communications. In the meantime, tens of millions of telephone calls are being made to dial-a-porn messages without the slightest hindrance to minors.

In the more than 4 years during which dial-a-porn has been technically illegal, these services have spread from New York to many other major cities around the United States. A representative from Pacific Telesis testified at a Telecommunications Subcommittee hearing in 1986 that the company was forced to carry these "adult entertainment" services.

The amendment my colleagues and I are supporting today, the Helms-Bliley amendment, will stop this abuse of telephone communication once and for all. The changes we are suggesting are simple and take into consideration Supreme Court decisions with regard to obscene and indecent speech. In fact, we are doing nothing beyond restoring the original intent of my 1983 amendment which, you will remember, was a clarification of the law. It was not until 1983 that obscene and indecent communications over the telephone became legal. Our purpose is to restore, not change. Parents around the country are demanding that we rectify the situation.

This amendment is constitutional. We have many court decisions stating clearly that obscenity is not protected by the Constitution. To quote Roth versus United States, "We hold that obscenity is not within the area of constitutionally protected speech." Though in Stanley versus Georgia the court ruled that adults may possess obscene material in their homes, the Justices ruled in United States versus Orito that this does not create a correlative right to receive it, transport it, or distribute it.

Mr. Speaker, I would like to make a couple of important points regarding the effect and the intent of this legislation. This legislation is intended to prohibit the transmission of obscene or indecent material for commercial purposes by means of telephone. It is the intent of this legislation that any communication made for commercial purposes means any communication that is made in furtherance of—and as a regular part of—the conduct of a business. It is further intended that a common carrier not be liable for prosecution under 47 U.S.C. 223(b) if the common carrier does not exercise editorial control over the communication, does not have an equity interest in the vendor providing the communication, and refers complaints alleging violation of section 223(b) to the appropriate regulatory and law enforcement agencies. Equity interest does not mean any incidental ownership, such as pension fund investment, in entities providing such illegal communications that the common carrier is unaware of.

It is also the intent of this legislation that common carriers not be subject to civil suits arising out of their cooperation with appropriate regulatory and law enforcement agencies in conducting investigations of potential violations of section 223(b).

Mr. Speaker, I supported the initial effort to provide conferees with the latitude necessary to arrive at a content neutral, technological solution. After 4 months of negotiations between the various staffs and groups concerned with this issue, it became clear that there was not a technological solution that would adequately and effectively protect our children from the effects of this material. We looked for effective alternatives to a ban—there were none.

First, we looked at an across the board subscription requirement for all dial-a-porn services. Vendors of other legitimate information services and phone companies presented evidence to suggest that such an approach would put legitimate information providers out of business, while allowing dial-a-porn services to survive. Additionally, it became clear that in many parts of the country it would be impossible to adequately prevent access to this material by children. For instance, in California alone blocking cannot be accomplished for some 12 percent of residential phones—more than 3 million.

Second, we looked at customer requested blocking of telephones. Again, this approach was deficient. It placed the onus for preventing access to dial-a-porn on the telephone subscriber. Further, it would not have prevented cases where a child uses an unblocked telephone other than the one in his home to access dial-a-porn. We have direct knowledge of cases where young boys and girls have gained access through phones—not under their parents control—and then proceeded to act out the sex acts they had heard described. It is our view that this approach would have failed to deal effectively with the problem.

Third, we came to the solution offered as part of the conference report. It is deficient for several reasons, some of which were discussed in connection with an across the board dial-it services subscription requirement. Additionally, because it reintroduced content into the discussion it raised first amendment concerns by discriminating between forms of legally protected—as opposed to constitutionally protected—speech. While obscene or indecent communications by telephone are not constitutionally protected, current law—47 U.S.C. 223(b)—gives legal protection to obscene or indecent communications.

The constitutionality of the Helms-Bliley amendment has been questioned by some. Those concerns are misplaced. The proposed ban on obscene or indecent telephone communications for commercial purposes is constitutional. Following is a constitutional analysis of relevant case law which supports the constitutionality of the Telephone Decency Act—or the Helms-Bliley amendment.

MEMORANDUM OF LAW IN SUPPORT OF H.R. 1786, "TELEPHONE DECENCY ACT"

This legislation amends Section 223(b) of the Communications Act of 1934 (47 U.S.C. § 223(b)), and as amended will prohibit obscene and indecent communications by means of telephone to any person, regardless of age. It is the purpose of this memorandum of law to demonstrate the need for this legislation, and to provide supporting legal authority for its enactment.

I. THE HISTORY OF DIAL-A-PORN AND THE FAILURE OF PREVIOUS LEGISLATIVE EFFORTS

Today, any child in America can hear hardcore sexually explicit messages on the country's telephone system. These recorded and live so-called "dial-a-porn" messages contain graphic descriptions of ultimate sex acts, both heterosexual and homosexual, sadomasochism, of incest, bondage, and sex with animals. Attorneys representing this industry are admitting that dial-a-porn is openly available to children, but according to them:

"The exposure of this material to children is the price we must pay for a free society." *Carlin Communications, Inc., et al.* v. *The Mountain States Telephone & Telegraph Company, et al.* CIV. 85-1420 (D. Ariz. 1985) (transcript of proceedings). In every major city across this country, dial-a-porn telephone services became readily accessible to children by mid-1985, with Federal and State law enforcement agencies apparently unable or unwilling to stop it.

This dial-a-porn "industry" is still in its infancy, dating back to March of 1983. Yet, in less than four years, it grew from only one service operating nationally from its New York headquarters, to many services operating in every major city. The messages continue to become more sexually explicit and deviant in their content.

When dial-a-porn first became available in March 1983, it should have been prosecuted under already existing federal law. 47 U.S.C. Section 223 of the Federal Code then provided: "(a) Whoever—(1) in the District of Columbia or in interstate or foreign communication by means of telephone—(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent . . . shall be fined not more than $500 or imprisoned not more than six months or both." Section 223, by its plain meaning, should have been used by the FCC and the Department of Justice (DOJ) to control dial-a-porn services. However, throughout 1983, the FCC and DOJ issued letters to one another and to the general public creating every possible excuse as to why Section 223 could not be enforced.

The FCC went on record as ruling: "Section 223(1)(A) applies only to persons who utter obscene or indecent words during calls they place." "Second Report and Order," Gen. Docket No. 83-989 (Oct. 16 1985) (emphasis added). According to the FCC, since dial-a-porn vendors did not "place" the calls, Section 223 did not apply to them. This restrictive and erroneous interpretation given Section 223 by the FCC resulted in a lack of legal action taken against dial-a-porn during its first year of operation. The FCC refused to take administrative action, and the DOJ refused to take criminal or civil court action. Such lack of prosecution allowed the services to flourish. Meanwhile, the content of the messages became far more sexually explicit, moving from merely "indecent" suggestive language, to language which clearly fell within the restrictions of both state and federal obscenity legislation.

Congress became frustrated at the lack of legal action taken against dial-a-porn and, in late 1983, amended Section 223, making it a crime to make "any obscene or indecent communication for commercial purposes to any person *under 18 years of age* or to any other person without that person's *consent*." 47 U.S.C. Section 223(b)(1)(A) (emphasis added). In so amending Section 223 Congress "legalized" dial-a-porn. For the first time in the history of this country, obscene material was de-criminalized for "consenting adults.' This legalization of obscene dial-a-porn messages for consenting adults directly violated legal precedent as established by the Supreme Court in cases such as *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49 (1973), which rejected the "consenting adults" defense.

In amending 223, Congress further provided that the FCC was to issue regulations which would deny access to dial-a-porn services to persons under 18 years of age. Compliance with these regulations would be a complete defense to liability under Section 223. In other words, even if a minor breaks through the restrictions and calls dial-a-porn, the dealer, having complied with FCC regulations, cannot be prosecuted. It is now clear that no regulations from the FCC will adequately protect children from these dial-a-porn services.

The history of this issue reveals two major flaws in the 1983 amendments to section 223 which have resulted in the failure to control dial-a-porn. First, legalizing dial-a-porn for "consenting adults" was contrary to the decisions of the U.S. Supreme Court and placed Section 223 in conflict with all other federal obscenity statutes. Consequently, the legalization of dial-a-porn assured that it would always be accessible to children. The second major flaw in the 1983 legislation was to give the FCC the power to issue defenses to liability under § 223(b)(2)—the FCC has demonstrated its inability to issue workable regulations that will protect children.

Finally, as a result of the 1983 legislation and of the indecision by the FCC on this matter, the courts and the law enforcement community are in a state of confusion concerning the control and/or prosecution of dial-a-porn distributors. At this time, federal prosecutors will not prosecute the distributors of obscene dial-a-porn messages, even where they have been blatantly available to the children. The reason for this lack of federal enforcement is the belief that dial-a-porn distributors can only be prosecuted under § 223(b) and under none of the other federal obscenity laws.[1] State law enforcement authorities will not prosecute because of the confusion in the federal arena, fear of legal action by the dial-a-porn industry against state officials, and a mistaken belief that the FCC has preempted this field of law. At this time, there are *no* federal or state criminal cases pending against dial-a-porn distributors—they are operating freely, sensing a complete immunity from prosecution.

II. THE PROPOSED AMENDMENT TO 47 U.S.C. 223 DOES NOT VIOLATE A DIAL-A-PORN RECIPIENT'S RIGHT TO PRIVACY OR RIGHT TO ACCESS

The first objection that may be leveled at this legislation is that it violates a customer's right to receive dial-a-porn messages. As will be shown, this criticism is without merit. It is well settled that obscenity, in whatever form, is not protected by the First Amendment. *Miller* v. *California*, 413 U.S. 15 (1973); *Kaplan* v. *California*, 413 U.S. 115 (1973). Hence, the states and federal government may lawfully prohibit its commercial distribution, whether telephonically or through other media. *Id.* The Supreme Court has made clear that the "mere private possession of obscene materials" in the home cannot be made a crime. *Stanley* v. *Georgia*, 394 U.S. 557 (1967). However, there is no correlative right to purchase obscenity in the public marketplace or to have it distributed to your house through channels of public commerce. In *United States* v. *12 200-ft Reels*, 413 U.S. 123 (1973), the Court held that the "right to possess obscene material in the privacy of one's home does not give rise to a correlative right to have someone sell or give it to others." 413 U.S. at 128. In so holding, the Court ruled that *Stanley* is to be viewed as "explicitly narrow and precisely delineated." 413 U.S. at 127. "We are not disposed to extend the precise, carefully limited holding of *Stanley*. . . ." 413 U.S. at 128. Indeed, the Court has squarely held that there is no right to "*receive it*" in "the privacy of the home." *United States* v. *Orito*, 413 U.S. 139, 141 (1973). In *Orito*, the Court further held that there is no right to use "common carriers in interstate commerce" (such as the telephone company) for delivery of obscene material to the home. 413 U.S. at 142. See also, *United States* v. *Reidel*, 402 U.S. 351, 353-54 (1971) (there is ***no* right to deliver obscene material for use** in the home.)

Furthermore, the Supreme Court in *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), held, *inter alia*, that radio and television do not have the right to "broadcast" "indecent" material into the home. The Court rejected the contention that an individual has a right of access in the privacy of his home to "indecent" radio or television broadcasts. The Court reasoned that such broadcasts are "uniquely accessible to children" and "that the government's interest in the 'well-being of its youth' justified the regulation of otherwise protected speech." 438 U.S. at 749. This government interest in the "well-being of its youth" and the "accessibil[ity] to children" are similarly present, and are triggered, upon the transmission of "indecent" or "obscene" dial-a-porn into the home. As the Court stated: "[T]he ease with which children may obtain access . . ., coupled with the concerns [for children] recognized in *Ginsberg*, amply justify special treatment of indecent" material. 438 U.S. at 250.

Assuming *arguendo* that exposure of dial-a-porn to children can be prevented, the Supreme Court has rejected the contention that the distribution or transmission of obscene materials between consenting adults is constitutionally sanctioned. In *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49 (1973), the Court held that notwithstanding lack of exposure to children, the distribution of obscene material between consenting adults could be regulated:

"We categorically disapprove the theory . . . that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only. . . . [W]e hold that there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even assuming it is feasible to enforce effective safeguards against exposure to juveniles and to passersby. Rights and interests other than those of the advocates are involved." 413 U.S. at 57. This holding squarely does away with any contention that "consenting adults" have a right to transmit or receive obscene dial-a-porn. It should again be stressed, however, that many dial-a-porn distributors have openly made their "product" available to children and have refused to acknowledge any responsibility for excluding children's access.

The products of the dial-a-porn industry are clearly not protected by a constitutional right of privacy. These messages are being publicly distributed and have become openly available to children through channels of public commerce. Because of the complete public and commercial nature of this dial-a-porn industry, regulation under Section 223 is clearly permissible.

III. THE FEDERAL GOVERNMENT MAY LAWFULLY PROHIBIT THE TRANSMISSION OF OBSCENE AND INDECENT DIAL-A-PORN

A. Obscene dial-a-porn

Without question, obscene speech is not protected by the First Amendment. *Brockett* v. *Spokane Arcades, Inc.*, 472 U.S. , 86 L.Ed.2d 394, 105 S.Ct. (1985); *Miller* v. *California*, 413 U.S. 15 (1973). Hence, the government may lawfuly prohibit its distribution, whether telephonically or through other media. *Kaplan* v. *California*, 413 U.S. 115 (1973). See also, *United States* v. *Lampley*, 573 F.2d 783, 50 A.L.R. Fed. 525 (3rd Cir. 1978) (upholding constitutionality of 47 U.S.C. § 223). This issue is so well settled that there has been no serious claim to date that the Congress may not constitutionally prohibit "obscene" dial-a-porn.

B. Indecent dial-a-porn

The more frequently repeated assertion is that Congress may not legislate against "indecent" dial-a-porn. This assertion is erroneous and ignores sound legal precedents permitting the use of the "indecency" standard for the telephone medium. These precedents and authority are set forth herein.

In its landmark case of *F.C.C.* v. *Pacifica Foundation*, 438 U.S. 726 (1978), the Supreme Court defined the word "indecent" as "nonconformance with accepted standards of morality." It is a "shorthand term for patent offensiveness." *Id.*, at 470 n. 15. This definition obviously does not coincide with the three-part definition of "obscenity" found in *Miller* v. *California*. Yet, the Supreme Court has never limited government restrictions on speech to the obscenity standard.[2] For example, the Court has upheld restrictions on all of the following types of speech: false advertising, speaking a prayer in a public school, libel, slander, speaking words which amount to a conspiracy or an obstruction of justice, sedition, yelling fire in a crowded theatre, using words which constitute offering a bribe, words that threaten social harm because they advocate illegal acts, words (from a loudspeaker) at 3:00 a.m. in a residential neighborhood, speaking in contempt of court, committing perjury under oath, saying words which have been classified (e.g., secret) by the government, copyright violations, pretrial publicity which might interfere with a defendant's opportunity to secure a fair trial, U.S. government employees engaging in political speech (Hatch Act), sexually explicit material which is harmful to minors, non-obscene sexually explicit movies shown in violation of a zoning ordinance, child pornography, and finally, "indecent" speech.[3] Thus, the broad contention that government restrictions on expression are limited to the obscenity standard are quite incorrect. Regulation of sexually-oriented expression has by no means been limited to that standard, although the degree of permissible regulation has varied with the circumstances.

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[1] Federal criminal charges were dismisseed in 1985 in Utah, where numerous children had been exposed to the dial-a-porn services. Because § 223(b) is in a state of confusion, the U.S. Attorney **attempted to prosecute Carlin Communications and** others for violations of other federal obscenity laws. However, the Judge dismissed the indictments, ruling that violations could only be prosecuted under § 223(b). *U.S.* v. *Carlin Communications, Inc. et al.* No. CR-85-00086G (D. Utah 1985).

[2] In its unamended pre-1983 form, § 223 prohibited the use of the telephone to make "any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent . . ." 47 U.S.C. § 223(a)(1)(A). This precise language was upheld as constitutional in *United States* v. *Lampley*, 573 F.2d 783, (3rd Cir. 1978). Hence, the prohibition on "indecent" telephone language in § 223 has already passed constitutional muster.

The application of the "indecency" standard to dial-a-porn is supported by the Supreme Court's analysis of the First Amendment, which accords some varieties of speech (e.g., "indecent" speech) less protection than others.[4] The Supreme Court's rulings that certain types of expression are entitled to little or no protection under the First Amendment find their modern beginnings with *Chaplinski* v. *New Hampshire,* 315 U.S. 568 (1942), where the Court upheld a "fighting words" statute under which Chaplinski had been convicted for a calling a policeman "a God damned racketeer" and a "damned fascist." *Id.* at 569. Justice Murphy's rationale for upholding the statute against a First Amendment attack is set forth in the following excerpt from the opinion:

> "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

Id. at 571-72. The Supreme Court has embraced the position that differing degrees of protection and afforded different classes of speech. Speech protected in some contexts may in others be so harmful, or of so little value, that it can be regulated because the harm to society outweighs the expressive interests. Thus, First Amendment protection "often depends on the content of the speech." *Young* v. *American Mini Theatres, Inc.,* 427 U.S. 50, 66 (1976). Furthermore, as Justice Stevens has stated, "the First Amendment affords some forms of speech more protection from governmental regulation than other forms of speech," *New York* v. *Ferber,* 102 S.Ct. 3348, 3367 (1982) (Stevens, J. concurring), and the *context* of speech may determine whether or not it is protected. *F.C.C.* v. *Pacifica Foundation, supra,* at 747-48 (1978). The Court has allowed government regulation of non-obscene speech, based upon subject matter and context, in numerous cases. *See, Rowan* v. *Post Office Department,* 397 U.S. 728 (1970) (banning erotic material from the mails at recipient request); *C.B.S.* v. *Democratic National Committee,* 412 U.S. 94 (1973) (upholding network refusal to accept commercial advertising); *Lehman* v. *Shaker Heights,* 418 U.S. 298 (1974) (upholding policy of accepting commercial advertising but refusing political advertisements on city-owned bus line); *Greer* v. *Spock,* 424 U.S. 828 (1976) (barring political speakers from a military base); *Jones* v. *North Carolina Prisoners Union,* 433 U.S. 119 (1977) (banning in-prison solicitation of membership in a prisoners union); *Young* v. *American Mini Theatres, supra,* and *Renton* v. *Playtime Theatres, Inc.,* U.S., 89 L.Ed.2d 29, 106 S.Ct. (1986) (placing zoning restrictions on the location of adult theatres); *F.C.C.* v. *Pacifica, supra,* (prohibiting radio broadcast of *indecent* programming); *Board of Education* v. *Pico,* 457 U.S. 853 (1982) (certain books may be removed from a high school library because of their vulgarity); *New York* v. *Ferber, supra,* (banning non-obscene sexually explicit depictions of minors); *Ginsberg* v. *New York,* 390 U.S. 629 (1968) (banning distribution to minors of non-obscene materials which is "harmful to minors"); *Bethel School District No. 403* v. ***Fraser,* 478 U.S., 92 L.Ed.2d 549, 106 S. Ct.** (1986) (upheld restriction on indecent sexually suggestive language in a political speech by high school student); *City of Newport* v. *Iacobucci,* 479 U.S., 93 L.Ed.2d 334, 107 S.Ct. (1986) (upheld city ordinance banning non-obscene nude or nearly nude dancing in bars).

It is important to recognize that laws restricting "indecent" or "obscene" speech are not directed at a particular viewpoint. They proscribe only the mode or *form* of expression, not any ideas the "indecent" language or pictures may purport to convey. If the speaker is concerned with ideas, he can escape the penalty by expressing them in some other form. The Court has recognized that content is separable from form and that other modes of expression are virtually always available. Restrictions on "indecent" or "obscene" speech do not preclude advocacy of any ideas such speech might otherwise convey. For example, prohibitions on "indecent" telephone recordings may be compared with a lawyer who, in open court, addresses the judge in "indecent" terms. Rules against that sort of speech will undoubtedly be enforced by the judge (holding lawyer in contempt). The Court recognizes that other more acceptable means of objecting to the judge are available and the lawyer must use them. As the Court stated in *Pacifica:*

> "A requirement that indecent language be avoided will have its primary effect on the form, rather than the content, of serious communications. There are few, if any, thoughts that cannot be expressed by the use of less offensive language. . . . At most . . . [i]t will deter only . . . patently offensive references to excretory and sexual organs and activities. . . . [T]hey surely lie at the periphery of First Amendment concerns."

438 U.S. at 473 n.18.

Since March of 1983, when dial-a-porn was first commercially marketed, countless children have been exposed to it. It constitutes an attractive nuisance in every home in America where children are present. There is no completely effective way to prevent children from being exposed to "indecent" or "obscene" dial-a-porn so long as it is lawfully and commercially marketed. Make no mistake, dial-a-porn providers care little whether a caller is a child of 9 or an adult of 19—their motive is profit. Children are being injured every day through "indecent" dial-a-porn.

The Supreme Court has repeatedly held that where the interests of children are at stake the government is fully justified in regulating non-obscene material. This significant governmental interest in the protection of minors has been identified in a number of cases. See *Prince* v. *Massachusetts,* 321 U.S. 158, 168 (1944) ("[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens"); *New York* v. *Ferber, supra,* 756-57 ("a state's interest in 'safeguarding the physical and psychological well-being of a minor' " is "compelling" and justifies banning non-obscene sexually explicit depictions of minors); *F.C.C.* v. *Pacifica, supra,* 749 (government interest in the "well-being of its youth" sufficient to ban all *indecent* broadcasting to children, *as well as adults*).

In *Ginsberg* v. *New York, supra,* the Supreme Court upheld a ban on the distribution of a non-obscene sexually explicit material to children. The prohibition on distribution of such "indecent"[5] material to children is supported by the exact same interest present when "indecent" dial-a-porn is exposed to children. The "government's interest in the 'well-being of its youth' and in supporting 'parents,' claim to authority in their own household justified the regulation of otherwise protected expression." *Pacifica, supra,* at 749; *Ginsberg, supra,* at 639-40. The Court in Ginsberg elaborated on those compelling interests. There were two governmental interests which justified limitations on the availability of sexually explicit ("indecent") material to children. First, the Court noted that "constitutional interpretation has consistently recognized that the parents claim to authority in their household to direct the rearing of their children is basic in the structure of our society," and that parents and others responsible for children's well-being "are entitled to the support of laws designed to aid discharge of that responsibility." *Id.,* at 639. Second, the Court stated that "government has an independent interest in the well-being of its youth." *Id.,* at 640. The Court declared that:

> "While the supervision of children's reading may best be left to their parents, the knowledge that parental control or guidance that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justify reasonable regulation of the sale of material to them. It is, therefore, altogether fitting and proper for a state to include in a statute designed to regulate the sale of pornography to children special standards, broader than those embodied in legislation aimed at controlling dissemination of such material to adults."

Id. Indeed, Justice Stewart, in his concurring opinion in *Ginsberg,* at 649-50, provided an additional theoretical justification for stricter regulation of dissemination of sexually explicit "indecent" material to minors:

> "I think a State may possibly determine that, at least in some precisely delineated areas, a child—like someone in a captive audience—is not possessed of that full capacity

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[3] *See,* "Where Do You Draw the Line?" ed. Victor B. Cline (Brigham Young University Press, 1974).

[4] *See,* L. Tribe, American Constitutional Law, § 12-18 (1978); Krattemaker & Powe, "Televised Violence: First Amendment Principles and Social Science Theory," 64 Va. L. Rev. 1123, 1207-1212 (1978); Stone, "Restrictions of Speech Because of its Content: The Peculiar Case of Subject Matter Restrictions," 46 U. of Chi. L. Rev. 81 (1978); Note, "*Young* v. *American Mini Theatres, Inc.*: Creating Levels of Protected Speech," 4 Hastings Const. L. Quarterly 321, 344-54 (1977); "The Supreme Court, 1975 Term," 90 *Harv. L. Rev.* 58, 200-205 (1976).

[5] "Bookstores and motion picture theatres, for example, may be prohibited from making *indecent* material available to children." *F.C.C.* v. *Pacifica Foundation, supra,* at 749 (explaining *Ginsberg*).

for individual choice which is the presupposition of First Amendment guarantees."

As the Court more recently stated, the government's interest in "safeguarding the physical and psychological well-being of a minor" is "*compelling.*" *New York* v. *Ferber, supra*, at 756-57 (emphasis supplied).

Today, children are suffering injury through exposure to sexualy explicit "indecent" dial-a-porn. Thus, "society's right to 'adopt more stringent controls on communicative materials available to youths than on those [only] available to adults'" is well established. *Pacifica, supra*, at 757 (Powell, J. concurring) (quoting *Erznoznik* v. *Jacksonville*, 422 U.S. 205, 212 (1975)); *See also*, *Miller* v. *California, supra*, at 36 n.17; *Interstate Circuit, Inc.* v. *Dallas*, 390 U.S. 676, 690 (1968); *Jacobellis* v. *Ohio*, 378 U.S. 184, 195 (1964). No member of the present Court has dissented from this principle. Indeed, in the recent case, *Bethel School District No. 403* v. *Fraser*, 478 U.S. , 92, L.Ed.2d 549, 106 S.Ct. (1986), the Court made emphatic the government's ability to ban sexually indecent speech to children even in the context of a political speech. The Court emphasized that bans on indecent speech have been upheld repeatedly where the welfare of children was at issue. Criting Thomas Jefferson, the Court stated:

"The Manual of Parliamentary Practice, drafted by Thomas Jefferson and adopted by the House of Representatives to govern proceedings in that body, prohibits the use of 'impertinent' speech during debate and likewise provides that '[n]o person is to use indecent language against the proceedings of the House. Jefferson's Manual of Parliamentary Practice, §§ 359, 360, reprinted in Manual and Rules of the House of Representatives, HR Doc. 97.271, pp. 158-159 (1982)."

92 L.Ed.2d at 557 (emphasis added). The Court thus noted that Congress itself bans "indecent" speech during Congressional proceedings. It is interesting to note that dial-a-porn messages are so offensive and obscene that they cannot be quoted on the House floor or their transcripts placed in the CONGRESSIONAL RECORD.

The governmental right to restrict access to non-obscene but "indecent" material even to adults, when it is sufficiently harmful to children, is a key part of the Court's rationale in the landmark *F.C.C.* v. *Pacifica Foundation* case.[6] Radio and television broadcasting, like the telephone, is "uniquely accessible to children." *Id.*, at 749.

The Court's willingness to deny access to non-obscene material to adults when children would otherwise be harmed was demonstrated in *Board of Education* v. *Pico*, 457 U.S. 853 (1982). In *Pico*, the Court remanded with instructions for the lower court to determine whether improper motivations had tainted the Board's removal of certain books from a high school library. The First Amendment would be offended if the court found the books had been removed with intent "to deny respondents access to ideas with which petitioners disagreed." *Id.*, at 872. On the other hand, "an unconstitutional motivation would not be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books were pervasively *vulgar.*" *Id.*, at 871 (emphasis supplied). *Pico* identifies another context in which government may restrict dissemination of indecent materials to children, as well as adults.

Probably the most frequently cited case in opposition to the use of an "indecency" standard is *Butler* v. *Michigan*, 352 U.S. 30 (1957), with its oft-quoted assertion that the government may not "reduce the adult population . . . to reading only what is fit for children." *Id.*, at 383. In a brief opinion the Court struck down a criminal conviction under a manifestly overbroad Michigan statute that forbade the publication, sale or other distribution of *any* publication, writing, picture: "or other thing, including any recordings, containing obscene, immoral, lewd or lascivious prints, pictures, figures or descriptions, tending to incite minors to violent or depraved or immoral acts, manifestly tending to the corruption of the morals of youth . . ."

Id., at 381. The Court correctly ruled that the law was overboard and "not reasonably restricted to the evil with which it is said to deal." *Id.*, at 383. It is significant to note that Michigan had another statute specifically proscribing the distribution of erotic materials to minors, but that statute was not before the Court. *Id.*

The more recent *Pacifica* Court limited the Butler case by distinguishing it. In a real sense, of course, *Pacifica* bans the broadcast of "indecent" material to adults as well as children. However, the Court ruled that unlike *Butler*, the F.C.C. order did not "reduce adults to hearing only what is fit for children" because adults "may purchase tapes and records or go to theatres and nightclubs to hear these words." *Pacifica, supra*, at 750 n. 28; and *See*, Powell, J. (concurring) at 760 ("the Commission's holding does not prevent willing adults from purchasing Carlin's ["indecent"] records, from attending his performances, or, indeed, from reading the transcript reprinted as an appendix to the Courts opinion"). Clearly, this analysis is squarely applicable to "indecent" recordings heard over the telephone. They are easily available to adults from other sources and their removal from the telephone (where they are exposed to children) would not "reduce adults to hearing only what is fit for children." Indeed, the Court itself analogized "indecent" broadcasting with "indecent" telephone language, stating that neither is given "constitutional immunity" to "avoid a harm that has . . . taken place." *Id.*, at 749. The Court cited as justification for its holding the need for newly enacted Congressional legislation against "obscene or profane" telephone language. *Id.*, at n. 27.

One must remember that the *Butler* statute prohibited the distribution of *all* material "unsuitable" for minors no matter what the source or media. It made it *impossible* for adults to obtain the material anywhere. As in *Pacifica*, the dial-a-porn prohibition would deal only with *one* medium which is uniquely hurtful to children. As Justice Powell stated in his *Pacifica* concurrence:

"In most instances, the dissemination of this kind of degrading speech to children may be limited without also limiting willing adults access to it. Sellers of printed and recorded matter and exhibitors of motion pictures and live performances may be required to shut their doors to children, but such a requirement has no effect on adult access. . . . The difficulty is that such a physical separation of the audience cannot be accomplished in the broadcast [or telephone] media. . . . [B]oth adults and unsupervised children are likely to be in the broadcast or [dial-a-porn] audience, and the broadcaster [or provider] cannot reach willing adults without also reaching children."

Id., at 758-59 (Powell, J. concurring). Justice Powell went on to state that "[t]his, as the Court emphasizes, is one of the distinctions between" such media and others "justifying a different treatment . . . for First Amendment purposes." *Id.*

As in *Pacifica*, the prohibition of "indecent" dial-a-porn involves a limited form of regulation of a single medium whose adult and youth audiences cannot be physically separated. *Butler*, on the other hand, applied to *all* media and embraced a wide-ranging (and vaguely defined) subject matter. Moreover in *Butler*, dissemination of the materials to children could generally be controlled at the point of distribution without denying access to willing adults. This is impossible with broadcast radio (as in *Pacifica*) and dial-a-porn.

Indeed, the very facts present in *Butler* limit it to the situation wherein the distributor of "indecent" material can differentiate between adults and children. This obviously cannot be done when the child telephones a tape-recorded message. Clearly, the ruling that better applies to dial-a-porn is *Pacifica*. Telephones are precisely like radio and television because of their easy accessibility to children and the virtual impossibility for parents to monitor their use.[7]

The Court in *Pacifica* also reasoned that "broadcast media" has a pervasive presence in the lives of all Americans. "Patently offensive, indecent material presented over" such a pervasive media "confronts the citizens . . . in the privacy of the home, where the individuals right to be left alone plainly outweighs the First Amendment rights of an intruder." *Id.*, at 748 (citing *Rowan* v. *Post Office Dept., supra*, banning erotic material from the mails at recipients request). This analysis is squarely applicable to dial-a-porn. It is of the utmost importance to be cognizant that dial-a-porn is presently in the home whether the homeowner wants it or not. Today one cannot have telephone service in the privacy of one's family environment without being required to have dial-a-porn with it. Families with children must give up telephone service to be "left alone" from exposure of their children to this "intruder". Is there really a medium more "pervasive" than the telephone? We know that children (especially teens) spend countless hours on the telephone. At present, no family can be left alone in their own homes without the harmful nuisance of indecent or obscene dial-a-porn.[8]

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[6] The Court also rested its holding on the "pervasiveness" of the medium which carries the "indecent" material to children, discussed *infra*. 438 U.S. at 748.

[7] Also, one cannot discount the fact that *Pacifica* in 1978 is the most recent expression of the Supreme Court's will. No member of the 1957 *Butler* Court remains on the Supreme Court bench. Indeed, Justice Stewart, who dissented in *Pacifica*, is no longer a member of the Court.

[8] Recently the Supreme Court affirmed the case *Jones* v. *Wilkinson*, 800 F.2d (10th Cir. 1986), aff'd.— U.S.— (March 23, 1987). There the 10th Circuit held that the federal Cable Communications Policy Act of 1984, 47 U.S.C. § 521-559, had *preempted* the states from regulating "indecent" cable programming. 800 F.2d at 990-91. Contrary to many published media accounts of this case, the issue here was "preemption" by the federal government, not the constitutionality of the "indecency" standard. Still, it is pertinent to point out that a family can have non-cable broadcast television in their home if they choose. They *cannot* have a telephone in their home without dial-a-porn. Unlike television, the telephone choice is either *no* telephone or dial-a-porn. Indeed, since deregulation of cable, many companies are competing for the same customers. The telephone subscriber has only one choice—a local telephone company which imposes dial-a-porn on its subscribers.

Further, an argument can be made that because the telephone system is a regulated and protected system serving such a vital public function, it should be held to a higher standard of conduct than, say, a newspaper. In essence, the telephone system carries out the governmental function of providing telephone communication to all citizens who choose to have it at a rate set by governmental regulatory bodies. They are given de facto monopoly protection by the government and often use publicly owned property to carry out their business. In return for such privileged status, the telephone system has a public trust. The trust is breached when the telephone system enters the pornography business by exposing "indecent" dial-a-porn to virtually every child in America. Cf., *United Church of Christ* v. *F.C.C.*, 359 F.2d 994, 1003 (D.C. Cir. 1966) (opinion authored by Chief Justice Burger, then a member of the District of Columbia Court of Appeals).

IV. UNDER 47 U.S.C. § 223(B)(4), THE ATTORNEY GENERAL MAY LAWFULLY ENJOIN TRANSMISSION OF DIAL-A-PORN WHICH VIOLATES § 223(B)(1)(a) OR (1)(b)

Without question, the government may lawfully restrain a party's violation of an obscenity statute through the use of a civil injunction proceeding, as permitted by 47 U.S.C. § 223(b)(4) (as redesignated by the Helms-Bliley Amendment). Such a procedure, whereby the government files a civil action petitioning the court to issue an injunction against the future distribution of specifically named or identified materials has been categorically approved by the Supreme Court. *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49, 50-55 (1973); *Kingsley Books* v. *Brown*, 354 U.S. 436, 441 (1956). The holdings of *Paris Adult Theatre* and *Kingsley Books* are clearly applicable to § 223 (b)(4) and permit the Attorney General to proceed against violations of this statute by injunction.

The Supreme Court has set forth the guidelines for such an injunction proceeding in several cases. Specifically, the Court has held such a proceeding is constitutionally permissible when, as here, the burden of proof and of initiating the judicial review is the government's, and the dial-a-porn provider is allowed to transmit pending a full adversary judicial proceeding, with a prompt final judicial review available. *Paris Adult Theatre*, 413 U.S. at 55; and see *Blount* v. *Rizzi*, 400 U.S. 410 (1971); *Freedman* v. *Maryland*, 380 U.S. 51 (1965). Subsection 223(b) (4) is fully supported by authority of the Supreme Court.

V. CONCLUSION

It has been demonstrated that the open availability of dial-a-porn is a serious problem for adults, as well as children. It has further been demonstrated that attempts to regulate dial-a-porn have been a complete failure since the start of this "industry" in 1983. This present situation can *only* be corrected if the present legislation is enacted by Congress. This memorandum of law has clearly shown that § 223(b) as amended is firmly supported by legal precedent, and by a tradition for the protection of children from this type of harm. There is no legal or constitutional obstacle to the passage of this legislation by Congress.

Clearly, Congress has the authority to enact this legislation. It is sound policy—it is constitutional policy and I urge my colleagues to join in supporting its immediate enactment.

□ 1410

Mr. BLILEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, when the historians of our era seek to provide a classic example of how Congress can go through a process of now-you-see-it, now-you-do-not, how you can vote to ban dial-a-porn and yet a year later realize it is still in existence, how did that happen?

Just look at what we are witnessing in the legislative process today. This should be identified as exhibit A of a course in duplicity because the House of Representatives seeks to say to the American public that we are going to ban dial-a-porn, but in reality, we are not banning anything at all. What we are doing is going through the charade of giving the impression that we are banning it, because that is what this measure does, but the fact of the matter is, legislatively speaking, this measure on the suspension calendar is not going anywhere beyond the House of Representatives today. Because in the nature of things that is just the way it will work out.

What we will do with this meritorious measure, for which I intend to vote, by the way, is we will give political cover for those in the House of Representatives when we take up the conference committee report on the education bill which is the next item on the agenda. We want to defeat the previous question on that measure and some in this body will then say, "You don't have to worry about defeating the previous question or defeating the rule. We have got you covered, friends." You now have the opportunity of voting against dial-a-porn so nobody in your district will be able to say that you failed to vote against the continued availability of dial-a-porn, a classic example of duplicity, at the best it can be creating in the minds of those who brought this procedure to the floor today.

Mr. DINGELL. Mr. Speaker, I ask that the words of the gentleman from California be taken down.

The SPEAKER. The Clerk will report the words of the gentleman from California objected to.

The Clerk read as follows:

> You now have the opportunity of voting against dial-a-porn so nobody in your district will be able to say that you failed to vote against the continued availability of dial-a-porn, a classic example of duplicity, at the best it can be creating in the minds of those who brought this procedure to the floor today.

□ 1425

The SPEAKER. The Chair is of the opinion that the use in the pejorative of the term "duplicity" by the gentleman from California [Mr. DANNEMEYER] was not directed specifically at any Member, but referred rather to a circumstance, and under those conditions the Chair would feel that the rules of the House have not been offended. If the term had been directed expressly to a Member of the House as descriptive of a Member, then it would have been another matter.

The Chair is going to rule that under the circumstances the reference of the gentleman from California [Mr. DANNEMEYER] had to do with a circumstance of consideration and did not intend to be descriptive of any Member of the House.

The gentleman from California may proceed in order.

Mr. DANNEMEYER. I thank the Speaker.

After we have disposed of this item on the Suspension Calendar, and I say that this Member from California intends to vote "aye" because I think it is a constructive step for us to take, but let no one misunderstand where we are. The fight on banning dial-a-porn in America will come on defeating the previous question on consideration of the rule on the bill relating to providing additional educational assistance for the people in our country. That matter is up on the Calendar today, H.R. 5, School Improvement Act of 1987. We hope to defeat the previous question so that we can offer a rule that will accomplish what there is now just an appearance that we are doing here by banning dial-a-porn.

The rule that logically should be presented for consideration by the House, to truly ban dial-a-porn is one that would do this: It would substitute the banning language of such a vote for the language that is in the conference report that in effect, if adopted by the House, would assure the continued availability of dial-a-porn in this country. The proponents of that measure are going to tell us that it bans dial-a-porn intrastate because it limits its availability to a telephone subscriber who asks that it come into their home and they pay for it on their telephone bill.

That is all well and good as far as it goes, but what they are not saying is that it leaves a giant hole in the whole effort to deal with this matter, through which one can drive the biggest truck, because any citizen in the country who wants to get dial-a-porn would get out their credit card, dial the number that is available in commercial establishments, then punch in their credit card number, not their telephone number, their credit card number, and they would continue to get dial-a-porn. That is part of the problem.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman from California for yielding. My understanding is that the gentleman from California [Mr. DANNEMEYER] will vote for the bill that is before the House which is a total ban on dial-a-porn. Is that a correct understanding?

Mr. DANNEMEYER. This bill right now, that is correct.

Mr. PANETTA. Further it is my understanding that this bill passed 97 to 0 in the other body.

Mr. DANNEMEYER. That is right.

Mr. PANETTA. And if the gentleman will yield further, it is further my understanding that if this were signed into law, and we also enacted the provision in H.R. 5, that this would prevail because it is an outright prohibition on dial-a-porn, is that the gentleman's understanding?

Mr. DANNEMEYER. Well, that raises a question. Nobody knows the answer to that. It depends, I think, in part to be honest on what was the sequence of the signing.

The SPEAKER. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. BLILEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. It would depend in part on the sequence of the signing of the two measures. One legislative school of thought says the latest expression of the legislative body is determinative. If the banning of dial-a-porn is signed as the last act, I think it would control, but I suspect that those who want to continue the continued availability of dial-a-porn would argue that they would construe the language to favor their cause, and no one knows what the resolution would be, but the correct thing is to outright ban it.

Mr. PANETTA. If the gentleman will yield further, it seems to me the most effective approach is to vote for the outright ban itself which would rule out any dial-a-porn and if the courts fail to uphold that, we would still have the provision contained in H.R. 5 dealing with dial-a-porn.

I would rather to that and then if it were not upheld, we would have the other provision.

Mr. DANNEMEYER. Mr. Speaker, reclaiming my time, I will say to my friend the gentleman from California [Mr. PANETTA] that that is not the logical thing that we want to do. What we should do is defeat the previous question on H.R. 5 and offer a rule whereby the language banning dial-a-porn is substituted for the conference report that continues its availability as a matter of statutory language. When we substitute "prohibition" for "continued availability" we have then achieved the goal of banning dial-a-porn. That is what we should be doing.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume. In answer first to the gentleman from Virginia [Mr. BLILEY], let me pierce any bubble of a charade at this time. There is no question that the gentleman from Virginia is the moving force behind this legislation, probably more than any other person that he has worked with to bring this legislation to this stage. I think also, to answer the gentleman from California [Mr. DANNEMEYER] with whom I very rarely disagree, I think we should make every assault upon pornography that we can make, direct or indirect. I think that this is the first line of defense, outright banning of it. I think we ought to send it to the courts. Logically they get last guess at whether the law is constitutional but let us let them vote on it.

The second line of defense would be the presubscription approach. That is in the education bill. There is a safety net there.

I think for the gentleman from California [Mr. DANNEMEYER], to quote another former Democratic Congressman, Mr. Hance, who said he would shoot at everything that flew and claim everything that fell, let us take both shots at it. I think this is a direct shot.

Mr. BLILEY. Mr. Speaker, I yield myself 1 minute to try to answer the gentleman from California [Mr. PANETTA], a very serious Member of this body, and I would like to point out to him because he may not be aware that on this issue even though the House spoke twice, instructed the conferees twice to get rid of dial-a-porn, that on this issue the conferees never ever met face to face as they are required to do under House rules.

I saw the draft of the conference report on H.R. 5 when I went to the Committee on Rules the first time and indeed the proceeding was bizarre. The gentleman from Massachusetts [Mr. MOAKLEY] was in the chair, and he opened the meeting and said that it related to a situation such as in his district where he wanted to get his car fixed one time and he tried to call his repairman, and the repairman's phone was out of order, so the gentleman from Massachusetts finally drove to the repairman's place of business and asked him, "What is the matter with you? How come your phone is out of order?" And the repairman said, "Your phone would be out of order, too, if your son had run up $600 worth of bills on dial-a-porn."

I figured that the leadership wanted to go in another direction, which they have done, but lo and behold when the gentleman from Mississippi offered a motion to make my amendment in order, lo and behold we prevailed whereupon there was a quick recess of the Committee on Rules and then we got back to where we are today.

I say to my colleagues, when we pass this thing on suspension it is going over to the other body and since everything over there moves by unanimous consent, it is going to be put on hold. Sure, if it gets the light of day, it will pass 97 to 0 but the machinery over there will see that it never sees the light of day. That is why when we get to the rule later on we need to vote down the previous question.

Mr. Speaker, might I inquire how much time I have remaining?

The SPEAKER. The gentleman from Virginia [Mr. BLILEY] has 5 minutes remaining, and the gentleman from Texas [Mr. HALL] has 7 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time. I would remind the House that the other day a number of our colleagues voted against a bill or an amendment to stop drug runners on the premise that if we amended the bill at all on shipwrecks it would go over to the Senate and die because of the unanimous-consent procedure that the gentleman from Virginia [Mr. BLILEY] just referred to. Those of my colleagues who voted that way the other day may not want to vote proporn here today and take the opposite point of view.

The fact is that this particular bill being brought before us at this moment is akin to giving a guy a parade just before he is taken out to be shot. While we have the big parade where we have a massive number of votes for this bill, what we are really doing is burying it and we will then not ever get to the read issue.

The people who are interested in this issue are going to know what the real vote is. The real vote is going to occur not here but when we get to the previous question on the rule. The people who have organized around the country about this issue are going to know that. They are going to know when we cast the real vote.

I will tell my colleagues, I think it is going to be very difficult to explain why they would vote for this position this minute and then the next minute when we get to the previous question would vote against the very same language. I think that would be an awfully difficult explanation to make to the anti-porn coalition and it is something they are not going to buy, they should not buy, and they will not buy.

This is another attempt to pull the old switcheroo here in the House. That is where Members get cover to say one thing while doing another thing with their vote. This time the old switcheroo is not going to work because the people who are knowledgeable about this issue are going to know when the real vote occurs. The real vote occurs when we vote on the previous question on H.R. 5 and the rule on H.R. 5.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time. I think Members today should focus on the issue rather than the procedure. The issue is whether or not this body, the Representatives of the people of the United States of America, will stand up and say that we do not want dial-a-porn as part of our society. We are not judging what an adult should do in privacy. We are judging what is available to minors, to children under the age of 18.

Most of us have been convinced that it is not technologically possible to keep this information out of the hands of young people. Those that pursue the dial-a-porn use indiscriminate marketing strategies, place fliers on windshields, indiscriminately flier neighborhoods, and spread the telephone numbers around to anyone without regard to age. Records show that a substantial portion of the calls that are made are made by young children, children of very impressionable ages that hear graphically pornographic material that leaves a vivid impression on them. Experts have testified that such messages can cause drastic changes in behavior in some of those young people. We should not be in a position of condoning that in any way.

Now some say that they are worried about constitutional problems. We are not elected in this body to stand here and make a constitutional decision, that is done across the street at the Supreme Court.

We are elected to reflect the will of the people, and the will of the people is to ban dial-a-porn, and keep this out of the hands of our young people. The only way we can do it is to ban it because every technological device or every less-than-ban device proposed has loopholes that continue to give access to young people to this material.

I plead with the Members of this body to take this opportunity to vote "yes" on the suspension bill and then join with us in defeating the previous question so that we can ensure and guarantee that both sides of the Congress will ban outright this pernicious evil that is affecting our society and having such an impact on our young people.

Mr. Speaker, I urge Members to join us in doing that, put the procedural efforts aside and do what is right and ban dial-a-porn in whatever possible way we can do it. Let us send one single clear message to the telephone industry, to the dial-a-porn industry, to the pornography industry, to the parents of America and the people of America that this House stands for not two confusing approaches, but one single, united approach—that we do not want, we will not allow, we will not tolerate dial-a-porn in this country.

Mr. HALL of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I had not intended to talk on this matter. I thought it was simple enough as to what the House was doing. I would point out to some of my colleagues that the temper of the debate today and the comments that have been made today do no credit to the Members who have made them nor do they do credit to the House, nor do they do credit to the proceedings in which we are now engaged.

I would point out for the benefit of the gentleman from Virginia [Mr. BLILEY] that I have been working on this matter of dial-a-porn for some time, as he very well knows. I would point out and remind him that for some while I have seen to it that the staff of the Committee on Energy and Commerce was working with him and his staff on a sensible and a rational mechanism for dealing with the problem of dial-a-porn. I would remind the gentleman from Virginia that it was I who came to him long before any attempts were made to include this matter in legislation in the Senate or to tie this matter to the education bill and I was working with the gentleman from Virginia to deal with this problem long before any attempt was made to instruct the conferees on this particular matter. I would remind the gentleman from Virginia and his colleagues on the minority side who have been making a great to-do and using some rather strong language on the floor of the House with regard to things like "duplicity" and "switcheroo" and things of this kind that I was making an effort to craft a package which would deal with this problem of salacious, scandalous, scurrilous and pornographic material on the wires of this Nation so as to bring that practice to a halt, but I was seeking to do so in a fashion which comports with the clear requirements of the Constitution.

I would remind the gentleman from Virginia and some of my colleagues on the minority side that one of the reasons that this package is before the House at this time and in this way is because I have made the suggestion that this matter should be voted on and that they should have an opportunity to have this matter placed before the House and considered in an appropriate and proper fashion.

Mr. Speaker, I take unkindly the kind of comments and charges that have been made on the Republican side which we have heard in this discussion today. They are lacking in truth, and they reflect poorly upon the makers of those comments, and I will yield to any Member on the Republican side who wishes either to agree or to disagree with the comments that I have made, and I will begin by yielding to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I thank the gentleman from Michigan for yielding. If I was in error, in that the conferees have met on this issue?

Mr. DINGELL. Mr. Speaker, reclaiming my time, I have asked the gentleman from Virginia [Mr. BLILEY] to deal with the questions that I have stated and the statements that I have made and the questions that I have raised with regard to my personal behavior. Would the gentleman from Virginia care to comment?

Mr. BLILEY. Mr. Speaker, I thought the gentleman from Michigan [Mr. DINGELL] did raise those questions, and if the gentleman from Michigan will continue to yield, I would like to respond.

The gentleman has said that I have implied that Republicans and this Member from Virginia made scurrilous statements.

Mr. DINGELL. Mr. Speaker, again reclaiming my time, I did not say that the gentleman from Virginia [Mr. BLILEY] made any such statement. I said it was coming from that side of the aisle.

☐ 1440

Mr. BLILEY. Did the conferees ever meet in open session?

Mr. DINGELL. That has nothing to do with the matter. The fact of the matter is the conferees have agreed. The signatures will be on the paper. The process is regular, and I defy the gentleman to cite a precedent that says that the conference cannot be achieved by agreements by the members without a formal meeting.

I have asked the gentleman to tell if the statements that I have made with regard to my efforts on this matter are true or false.

Mr. BLILEY. I believe the last one, Mr. Speaker, is false in that I believe rule XXVIII, clause 6(c)——

Mr. DINGELL. Mr. Speaker, I decline to yield further since the gentleman does not appear to be disposed to respond to the comments that I have made.

There are some hard facts that have to be identified here. The fact of the matter is that this proposal will work perfectly well with the other proposal in the education bill. If the House adopts this measure, then there will be a prohibition on dial-a-porn.

I would point out to my colleagues that this proposal is of extraordinary shaky and doubtful constitutionality.

So I point out to my colleagues what should be done is if they really are opposed to dial-a-porn as we hear from such vociferous comments on the Republican side, if they are really opposed to dial-a-porn then vote for this bill and vote for the rule, and my colleagues will have in place then a proposal which because of its constitutional questions is subject to challenge. Also that Members vote for the other proposal in the education bill which deals with the technology of the matter, and then if the courts do, as can be reasonably anticipated, find this proposal to be lacking in constitutionality, we have in place then a measure, a mechanism significantly curbing and dealing with the problem of dial-a-porn in a fully constitutional and effective way.

Mr. HALL of Texas. Mr. Speaker, how much time do we have remaining?

The SPEAKER. The gentleman from Virginia [Mr. BLILEY] has one-half minute remaining and the gentleman from Texas [Mr. HALL] has 12 minutes remaining.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to restate the points that were made by the gentleman from Michigan with regard to the sincerity and the good faith on the part of the majority in working with the minority to resolve this issue before the Helms amendment was ever passed in December over in the Senate. Before there was any such knowledge of the Helms amendment, the gentleman from Michigan, the gentleman from Massachusetts was working with the gentleman from Virginia to in fact develop a constitutionally defensible piece of legislation which could deal with the issues which the gentleman was concerned with. We were meeting back in August and September and October on this issue.

If there are Members here who believe that in the face of testimony before our committee that has been rendered by the Justice Department, by the U.S. attorney for the State of Utah, by the Federal Communications Commission that this provision that we are now dealing with is unconstitutional, they are free to vote for it if they want to send a message as was stated earlier on the floor by some other testimony.

However, if in fact Members want to have the additional insurance that this type of service is going to be blocked out of people's homes, then H.R. 5, which will also be voted on today, will provide a technological block to this service from going into people's homes, and families of this country will not have access to it because telephone companies will be instructed to block it right across the country.

So, if in fact Members concerned about this problem want in fact to have a safety net in the event that this provision is struck down, as the Justice Department and FCC and U.S. attorney from Utah indicate that it very probably will be, then they have an additional protection which is a technological solution, which will act subsequent to the striking down of this particular piece of legislation.

So for those who are listening to this debate, who are interested in dealing with the problem and not just sending a message, we offer both solutions here today on the floor. One, a provision which in all probability will be struck down as unconstitutional according to Ed Meese's Justice Department, and second a technological solution which we have been working on with the minority and those who are opposed to this type of product being provided to families and children without their permission, which Democrat and Republican and liberal and conservative all agree is wrong, should in fact be blocked out of people's homes, will be provided for in the subsequent piece of legislation which will be heard on this floor later today.

Mr. HALL of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from yielding me this time.

Mr. Speaker, I congratulate the gentleman from Michigan [Mr. DINGELL], chairman of the full committee, as well as the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee, for their very thoughtful and creative work on this compromise that will permit parents to exercise some control over this smut and the filth that their kids may be permitted to hear.

I think we are all constitutionalists. I know the gentleman from Massachusetts and I know he believes in the free flow of information and the unfettered flow of thought in every way, as I do. But I do not think the Founding Fathers ever wanted to give kids the constitutional right to submerge themselves in filth and porn. This kind of material, which is especially aimed at kids, was not within the purview of the Founding Fathers. So I think the committee has come up with an eminently acceptable, an eminently justifiable and an eminently sensible solution—to give parents control over their children's access to this kind of material.

As far as adults are concerned, every man and every woman has a right to make fools of themselves and degrade their own minds or waste their own time in a manner of their own choosing. Nobody is trying to protect adults from porn. Every year, there are 9,000 or 10,000 portrayals of sexual acts shown on television. Unfortunately, kids are exposed to that, too, and I might say most of it is sex without responsibility. But nobody is trying to control adults. They can indulge their fantasies in any manner they want, in any manner appropriate to them. This permits them to do that and still permits parents to exercise proper control over their kids.

Again I congratulate the subcommittee chairman and the full committee chairman.

Mr. HALL of Texas. Mr. Speaker, I would like to close debate, if I might.

Mr. BLILEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Virginia is recognized for one-half minute.

Mr. BLILEY. Mr. Speaker, while I urge the support of this measure, later today I strongly urge all Members to vote down the previous question. I am joined in this by Citizens for Decency through Law, Morality in Media, U.S. Catholic Conference, National Coalition Against Pornography, Religious Alliance Against Pornography, Knights of Columbus, and American Family Association.

Mr. Speaker, I quote from Monsignor Hoye. "The Rules' provision allowing the House to vote later on the dial-a-porn ban, provides absolutely no assurance that the ban will be enacted into law in this Congress."

Mr. HALL of Texas. Mr. Speaker, I yield myself my remaining time.

The SPEAKER. The gentleman from Texas is recognized for 7 minutes.

Mr. HALL of Texas. Mr. Speaker, first let me say that I question no one's motives. It is my very sincere belief that every man and woman who is a Member of this body stands for that which is embodied in this legislation. I think the gentleman from Virginia [Mr. BLILEY] is not only a gentleman, but he is the father of this legislation. He is a cosponsor of the bill that I am offering at this very moment, and I take a back seat to no one in the fight against pornography, having started it in the early 1960's in the Texas State Legislature.

I have seen the pitfalls and the roadblocks. I think this Congress, this House is united toward that to which this bill is directed.

I certainly believe as does the gentleman from Pennsylvania who talked about the real vote, that the real vote is going to appear in the Journal, and unless I guess wrong about the gentleman from Pennsylvania, he is going to be recorded among the "ayes."

This House should pass this bill 435 to nothing. The Senate passed it 97 to nothing.

We should also remember that we are talking about two shots at it. Presubscription is the second line of defense where people can say I want to be able to receive this program or that program, whether it be the snow conditions in Aspen or a dial-a-prayer or whatever it might be, they have the right to do that under the fallback provision.

Certainly I think in closing we should say that Senator Byrd is for this legislation pursuant to a conversation with the Speaker of this House and the majority leader of the Senate. He will bring it up. He will do nothing to oppose it, and it passed the Senate 97 to 0.

☐ 1450

So, Mr. Speaker, I urge the passage of this legislation.

Mr. BOULTER. Mr. Speaker, the conferees on H.R. 5 were instructed "to agree to language that offers a solution to the dial-a-porn problem." I submit to you today that the Senate, by a vote of 98–0, passed the only solution to the dial-a-porn problem which would insure that none of our children have access to this pernicious evil in our society—an outright ban of dial-a-porn services. As an original cosponsor of the Pornographic Prohibition Act in the House of Representatives, I stand with my friends and colleagues Ralph Hall and Tom Bliley in support of H.R. 4401 and in opposition to the "subscription only" solution of the conferees on H.R. 5 as unacceptable.

The Senate has unanimously acted on this question. It is now time for the House to vote to outright ban dial-a-porn services in our society and to voice our intention to return to the Judeo-Christian values upon which the Nation was founded.

Mr. ROTH. Mr. Speaker, I rise in support of this legislation which will ban the disgrace of dial-a-porn. The scourge of dial-a-porn, capable of infiltrating every household despite parents' efforts at a decent environment for their children, can and must be erased. This legislation is a plus for decency and a needed act of concern for our children.

However, I would like to express my deep disappointment at the Democratic leadership for not allowing the dial-a-porn ban to be incorporated into the H.R. 5 conference report. On March 1, the House voted 274–17 to instruct the H.R. 5 conferees to accept a ban into their report. The majority conferees decided instead to ignore the will of this body and to adopt a watered down provision that would be completely ineffective. Instead of eliminating dial-a-porn, the Democratic leadership legitimizes and accepts this nefarious trade.

I ask the Democratic leadership, if you are serious about accepting a ban on dial-a-porn, if you are serious about protecting our children, why was such a watered down provision accepted while the effective Helms amendment was forced out? Our children deserve better. Their parents deserve more courage on the part of this House to stand up to pornographers' interests and guarantee a decent family environment.

Mr. STARK. Mr. Speaker, let's hope today's votes dealing with dial-a-porn will not be distorted by the same forces who deceived and misled millions into believing the Civil Rights Restoration Act was anything but a good piece of legislation. I'm not naive enough to think that such gross distortions and lies won't happen again.

The vote against the so-called Helms amendment and the additional votes in favor of subscription-only access was not, as some will claim, a vote in favor of these pernicious peddlers of pornography. But, as Yogi Berra so aptly proclaimed, "It's beginning to look like deja vu all over again."

I can just hear it now: by choosing to not vote for an outright ban of dial-a-porn, House Members of both parties will be accused of endorsing dial-a-porn and promoting a destruction of family values. Believe me, there's not a Member of this body who doesn't want to see this issue resolved and sleazy pornographic operators put out of business. However, the true test of our legislative abilities is meeting the constitutional litmus test.

I voted the way I did because an outright ban of dial-a-porn is unconstitutional—any seventh grade civics student can recite the first amendment and tell us that the guarantee of freedom of speech is the foundation of our form of government. If the Reagan Justice Department and the Federal Communications Commission both consider an outright ban to be unconstitutional and, thus, blantantly ineffective, then what is the purpose of the legislation other than for political expediency?

Since the public cries out for an answer to this problem, let's provide them one: subscription-only telephone access to these messages. Subscription-only access is essentially free blockage of commercial and residential telephones. Free blockage is an idea I've supported for some time and was the premise behind the stop smut legislation I introduced several weeks ago. Subscription-only access allows us to fight against other dial-it services which are just as obnoxious, inflammatory and objectionable.

Hypothetically, suppose our wishes were granted and dial-a-porn was no longer the menance to society, families, and our children. What then are we to do about the menacing problem of "gab" lines? These gab lines, where absolute strangers are matched together in absolute anonymity, are an open invitation to abuse. Tantamount to live, spontaneous, unadulterated telephone pornography, these "gab" lines are just as exploitive of our children. If you're concerned about resolving this pervasive problem, then consider the options available to stop gab lines. Once again, the best option available is subscription-only access.

Those of us who voted today for subscription-only access can take pride in knowing that their vote is responsible, prudent, and workable, and it doesn't violate the first amendment.

Yes, subscription-only access to dial-a-porn services is just one viable answer to this dilemma. It's not the only way to stop dial-a-porn operators, but the measure will prove to be profamily, prochildren, and constitutional.

Mr. HALL of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. Hall] that the House suspend the rules and pass the bill, H.R. 4401.

The question was taken.

Mr. HALL of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5 of rule I, the Chair will now put the question on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: First, House Resolution 422 by the yeas and nays, then on H.R. 4401 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

EXPRESSING SUPPORT FOR THE INF TREATY

The SPEAKER. The pending business is the question of suspending the rules and passing the resolution, H. Res. 422.

The Clerk read the title of the resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. Fascell] that the House suspend the rules and pass the resolution, H. Res. 422, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 7, not voting 32, as follows:

[Roll No. 55]

YEAS—393

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Darden
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson

Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—7

Burton
Crane
Dannemeyer
Hunter
Marlenee
Stump
Traficant

NOT VOTING—32

Ackerman
Barnard
Biaggi
Boulter
Clay
Clinger
Crockett
Daub
Davis (IL)
de la Garza
Emerson
Fields
Foglietta
Ford (TN)
Garcia
Grant
Jenkins
Kemp
Kleczka
Mack
Manton
Mollohan
Moody
Morella
Owens (NY)
Price (IL)
Rangel
Ray
Savage
Sisisky
Taylor
Towns

□ 1512

Mr. MARLENEE changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, I was unavoidably detained earlier this afternoon and was unable to vote on House Resolution 422, a resolution to support the INF Treaty and to provide for the continued security of NATO. Had I been here, I would have voted for the resolution.

Like all Americans, I am pleased that the United States and the Soviet Union are working to reduce the threat of nuclear war. The INF Treaty is testimony to the fact that the only way to deal with the Soviet Union is to negotiate from a position of strength.

But, I am concerned about several aspects of the INF Treaty. House Resolution 422 addresses these concerns by calling on the President to provide for the continued security of our NATO allies and to exercise his right to withdraw from the treaty in the event he determines the Soviets have violated the INF Treaty.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the provisions of clause 5, rule I, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

PREVENTION OF TELEPHONE PORNOGRAPHY ACT OF 1988

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4401.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. HALL] that the House suspend the rules and pass the bill, H.R. 4401, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 380, nays 22, answered "present" 1, not voting 29, as follows:

[Roll No. 56]

YEAS—380

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Markey

Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—22

Beilenson
Berman
Bosco
Dellums
Dixon
Dymally
Edwards (CA)
Frank
Gejdenson
Green
Hawkins
Hayes (IL)
Lehman (FL)
Morrison (CT)
Rodino
Roybal
Stark
Studds
Waxman
Weiss
Wheat
Yates

ANSWERED "PRESENT"—1

Pease

NOT VOTING—29

Ackerman
Barnard
Biaggi
Boulter
Clay
Clinger
Crockett
Daub
Davis (IL)
de la Garza
Emerson
Fields
Garcia
Grant
Kasich
Kemp
Kleczka
Mack
Manton
Mollohan
Moody
Morella
Owens (NY)
Price (IL)
Rangel
Ray
Savage
Sisisky
Towns

☐ 1522

Mr. HAYES of Illinois changed his vote from "yea" to "nay."

Mr. SWIFT and Mr. LOWRY of Washington changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, I was unavoidably detained earlier today and missed the vote on H.R. 4401, legislation to ban dial-a-porn, had I been here, I would have voted for H.R. 4401. Today, pornography is only a phone call away for America's children, I believe our children deserve protection from pornographers who care only about making an easy buck. This legislation will end children's access to telephone pornography.

DEPLORING SOVIET GOVERNMENT'S ACTIVE PERSECUTION OF RELIGIOUS BELIEVERS IN THE UKRAINE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 235) deploring the Soviet Government's active persecution of religious believers in the Ukraine, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the gentleman form Indiana [Mr. HAMILTON] the opportunity to explain the purpose of this resolution, and I yield to the gentleman from Indiana for that purpose.

Mr. HAMILTON. Mr. Speaker, I rise in support of Senate Joint Resolution 235, commemorating the millennium of Christianity in the Ukraine, and deploring the Soviet Government's active persecution of religious believers in the Ukraine.

This resolution is a companion bill to House Joint Resolution 429, introduced by the gentleman from Illinois [Mr. LIPINSKI]. I commend the gentleman for his strong leadership on this issue.

The occasion of the millennium of Christianity is an event of great national pride for Ukrainians everywhere. Ukrainian-Americans have made a rich contribution to the United States, in the arts and sciences, and through their culture and faith. Therefore, I believe this resolution is an appropriate expression by the Congress. I support and commend the efforts of the Ukrainian-American community to celebrate this landmark event.

This resolution does not just look back and celebrate 1,000 years. It also looks forward, and calls upon the Soviet Government to lift prohibitions on the Ukrainian Orthodox and Catholic Churches, so that believers may practice openly. During this period of change in the Soviet Union, I believe we should take steps to encourage openness and reform in the Soviet Union.

I hope my colleagues will join me in support of this resolution commemorating the millennium of Christianity in the Ukraine.

I urge the adoption of Senate Joint Resolution 235.

Mr. BROOMFIELD. Mr. Speaker, continuing my reservation, I yield to the principal sponsor of the resolution, the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, last December Senator DECONCINI and I introduced this bill deploring the Soviet Government's active persecution of religious believers in the Ukraine. We both felt that in this time of celebrating 1,000 years of Christianity in the Ukraine, it was not only appropriate, but imperative that our Government's official policy reflect the traditional and historical meaning of this great event for the people of the Ukraine.

Our bill brings to light the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches in the 1930's and 1940's, and the harassment, job discrimination, arbitrary arrest and imprisonment, clergy, and lay members of these churches must still contend with in the Ukraine.

Our bill calls for the legalization of the Ukrainian Catholic and Orthodox Churches and discourages official participation in ceremonies of the millennium of Christianity in the Soviet Union so long as individuals remain harassed and imprisoned for their religious beliefs, and are denied access to religious literature.

Perhaps most importantly, our bill sends specific greetings to the Ukrainian people as they mark this most solemn and beautiful event in their history. While the millennium certainly has significance for other ethnic groups, it has undoubted importance and significance for the Ukrainian people. The Soviet Government would like nothing more than to label the celebration a "Russian" millennium so it can continue to deny the existence of many unique—and often rebellious—nationalities in the country. Sadly, our Western press has essentially accepted this line of reasoning. Many major U.S. newspapers, including the Washington Post, have referred to the millennium as a Russian event and have misinformed the public of its special importance to Ukrainians. This legislation will go a long way in correcting these inaccuracies and generalizations.

The fact that deputies of the Supreme Soviet of the Ukrainian Socialist Republic found it necessary to refute our bill's findings is proof in my eyes that we hit a raw nerve. In their letter, they state that Soviet law proclaims the separation of church and state and noninterference of state bodies into church affairs. If this is true, why are the Ukrainian Orthodox and Ukrainian Catholic Churches still banned? Why do the faithful in the Ukraine continue to appeal to Secretary General Gorbachev for more religious freedom? Why have 150 churches been either closed, desecrated, or destroyed in the last 2 years? Why do the Soviets continue to find it necessary to jail people like Josyp Terelya—a man whose only crime was his desire to practice his faith freely and openly. These are questions no one can refute.

That is precisely why we are hoping the President will sign this resolution as soon as possible and make it official United States policy in relation to the millennium and to the religious situation in the Ukraine. It is not enough to draw attention to a historically significant event. We must draw attention to the state of religious freedom in the Ukraine today and support the strong tradition of Christianity in the country.

I want to thank Chairman HOYER and the members of the Congressional Helsinki Commission who lent their support to and helped gain additional sponsors for this important measure. I would also like to thank the members of the Ukrainian Millennium Committee for their perseverance in making certain this resolution was passed quickly without any additions or deletions. They should be proud of their accomplishment in helping their oppressed brothers and sisters in their native land.

Mr. BROOMFIELD. Mr. Speaker, under my reservation, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I am pleased and honored to be a cosponsor of this resolution, given its important focus on the religious persecution that rules Ukraine and the other nations now held captive by the Soviet leadership. Our consideration of this resolution, however, also presents us with an opportunity to recognize the long history of this nation, great both in its achievement and in its tragedy.

As noted in this resolution, Prince Vladimir of Kievan Rus, the early state that stood in the present Ukraine, accepted the Christian religion for his nation in his baptism on the banks of the River Dnieper a millennium ago. This act of acceptance of Christianity placed Kievan Rus in its proper place among the ranks of the nations of Europe as, in the very same period, paganism was also giving way to Christianity in Hungary, Poland, Denmark, Norway, and elsewhere.

Despite its vulnerable position on the frontiers of Europe and the considerable damage of frequent wars with the peoples on its eastern borders, Kievan Rus began to play a role in the European scene, and its cultural achievements grew and took on a Christian influence that was to survive this European nation's later demise in brutal warfare. The Ukrainian people today note with pride that the princes of Kievan Rus and their families married into royal families throughout Europe, including Sweden, France, Hungary, Norway, Bohemia, and Poland, and that these same princes provided asylum as well to royal exiles from as far away as England.

The evolution of this nation 1,000 years ago held great promise for its future. At the time of its acceptance of Christianity, its laws, systems of agriculture and finance, trade, and literature were taking root. A small class, what we today might call a middle class, was growing in its towns, and assemblies of heads of households often met in the marketplaces to decide important issues facing their communities. The Church established hospitals, provided education, and dispensed charity. Christian principles heavily influenced the Kievan literature, born in those distant days, further promoting the people's allegiance to Christian standards of behavior.

Kievan Rus as a nation-state met its tragic and untimely end in the year 1240, as an overwhelming Mongol army swept through the region, destroying all in its path. We might well contemplate the fate of the rest of Europe and of our democratic way of life had the death of the Great Khan not resulted in the withdrawal of this army from its advance through central Europe. For Ukraine, the more than two centuries of Mongol rule was to separate that nation from the evolution of the rest of Europe and frustrate its attempts as a nation to regain its full independence.

I join my colleagues in recognition of the Ukrainian people, their history and traditions. In this, the 1,000th anniversary of their Christianization, I call upon the Soviet leadership to honor their right to freedom of religion.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

□ 1525

Mr. GILMAN. Mr. Speaker, I would like to add my own words of congratulations to the sponsor of this legislation, the gentleman from Illinois [Mr. LIPINSKI] and to the entire Ukrainian-American community with regard to the objective of the legislation.

Millennium celebrations do not come along every day. We would all do well to pause and reflect on the contributions to the Ukrainian people made by the Ukrainian Catholic and Orthodox churches and the other churches which have been active in the Ukraine for the past 1,000 years.

At the same time, Mr. Speaker, we should certainly bear in mind the fact that the people of the Ukraine are not free. Their churches, to the extent they are allowed to function at all, are all under the thumb of the Soviet authorities. Yet the Ukrainian churches—Ukrainian belief—are essential elements in the propagation of Ukrainian culture. We need to speak out in support of the free exercise of religion in the Ukraine on this of all days.

This afternoon, at this very time, the Commission on the Ukraine Famine is meeting to review its final report. The seminal event in the modern history of the Ukraine, the attempt to destroy the Ukrainian people perpetrated by Joseph Stalin, has led the Ukrainian people in their homeland and around the world to strengthen their culture, their pride, their awareness of their past. They are not willing to give Stalin a posthumous victory.

Mr. Speaker, this resolution is deserving of the support of all of our colleagues and I hope we will support it unanimously.

Mr. BROOMFIELD. Mr. Speaker, under my reservation of objection I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Michigan, the ranking minority member for yielding.

Mr. Speaker, I rise today in support of legislation deploring the Soviet Government's active persecution of religious believers in Ukraine. I would like to commend my distinguished colleagues BILL LIPINSKI and the distinguished cochairman of the Helsinki Commission, Senator DENNIS DECONCINI, for their leadership on this important resolution and their unyielding commitment to human rights.

Mr. Speaker, you recently forwarded to the Helsinki Commission, which I chair, a letter from the deputies of the Ukrainian SSR Supreme Soviet which protests against the submission of this resolution as an act of "brazen interference in the internal affairs of the U.S.S.R." But our concern for the fate of believers in Ukraine, as manifested in this resolution, is legitimate and appropriate in view of Soviet obligations freely undertaken in the Helsinki final act of 1975, to "respect the freedom of the individual to profess or practice, alone or in a community with others, religion or belief in accordance with the dictates of his own conscience." In other words, human rights issues have become a legitimate topic of international discourse, which the Soviet Government itself has recognized. In the spirit of furthering open and honest dialog between the Congress and the Supreme Soviet of the Ukrainian SSR, we cannot, and will not, merely sweep unpleasant issues under the rug.

The Soviet Government has taken limited positive steps in the past 2 years in addressing human rights concerns in Ukraine, including in the religious sphere. While I am encouraged by the recent initiative to import 100,000 Ukrainian language Bibles and by increased discussion of problems in the area of religion in the Soviet Ukrainian press, these positive steps are overshadowed by the Soviet Government's treatment of the Ukrainian Catholic and Ukrainian Orthodox Churches. The sad reality is that even in this year of the millennium of the Christianization of Kievan-Rus, the Soviet Government continues to ban the Ukrainian Orthodox and Ukrainian Catholic Churches, which it forcibly liquidated in the 1930's and 1940's. Those who want to practice their religious beliefs must do so clandestinely, or risk persecution, harassment and even imprisonment. Yet, despite these risks, Ukrainian Catholics continue to express their hopes for the renewal of their church. Within the last year, there have been several appeals by Ukrainian Catholics, both underground clergy and laity, calling for the legalization of the Ukrainian Catholic Church. The most recent of these quests for renewal was made in late February by over 5,000 Ukrainian Catholics in an appeal to the U.S.S.R. Supreme Soviet.

I can cite many other instances of the Soviet Government's failure to live up to their Helsinki commitments, notably the severe restrictions on the activities of Ukrainian Baptists, pentecostals, and members of other religious denominations.

The fact is that if the Soviet Government wants to commemorate the millennium of Christianity properly and if the Ukrainian Supreme Soviet truly wishes to improve the image of Ukraine as a place in which religious rights are respected, it should allow its people the right to practice their faith freely without the omnipresent fear of retaliation.

Mr. Speaker, I congratulate the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON], the gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member, and the gentleman from Illinois [Mr. LIPINSKI] for their leadership on this critical issue.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I will make a short statement.

Mr. Speaker, as a cosponsor of the House counterpart resolution (H.J. Res. 429) I strongly support Senate Joint Resolution 235, before us today, deploring the persecution of Christians in the Ukraine.

I know that as we in the Congress prepare to celebrate the millennium of the introduction of Christianity in Kievan-Rus, we greet this important date with mixed emotions.

We feel a deep indignation in the knowledge that the Soviet Government has actively persecuted the Christian faithful and sought to restrain and undermine the propagation of Christianity in the Ukraine and the rest of the Soviet Union.

The Soviet Union is a signatory to the Helsinki accords, the International Covenants on Human Rights, and the United Nations Universal Declaration of Human Rights. Even the Soviet Union's constitution guarantees freedom of religion. Yet Moscow's real policy mocks the words in these documents and the principles these documents seek to assure.

The evidence of a disgraceful policy of religious persecution is clear. The Ukrainian Orthodox and Ukrainian Catholic churches were both forcibly oppressed and driven underground in the 1930's and 1940's, and to this day remain outlawed. Their clergy and laity have been persecuted and even murdered for their religious beliefs. Yet their faith remain strong and continues to function underground.

Religious persecution by the Soviet Government is also aimed at Protestant churches. The followers of the Ukrainian Evangelical churches—the Baptist, Methodist, and Pentecostal congregations—face serious harassment, job discrimination, and imprisonment for their faith.

Yet even though there are severe consequences for those who choose to practice their religion, the Soviet Government has been unable to destroy the Ukrainians' faith in God. The Christian faith which was brought to the Ukraine a millennium ago, continues to live in the hearts of the people.

Mr. Speaker, it is important that we in the House join the Senate in passing Senate Joint Resolution 235. I wish to congratulate our colleague, Mr. LIPINSKI, and the Ukrainian community, especially in the Detroit area, for their hard work and leadership in bringing this serious matter to the floor. Senate Joint Resolution 235 sends a strong message to the Soviet Government protesting the persecution of those who seek to pursue their religious beliefs in the Ukraine.

The resolution also urges the release of all those imprisoned for their religious beliefs, and calls upon that government to abide by the principles of religious freedom that they have promised many times over.

The celebration of the millennium of Christianity in Kievan-Rus is the opportune time for General Secretary Gorbachev to demonstrate the depth to which he is willing to bring openness to Soviet society. I would hope he will not let this opportunity pass.

□ 1540

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. RITTER. Mr. Speaker, I would like to echo the comments of the chairman of the Helsinki Commission. If glasnost is genuine, it would seem that Ukrainian churches would be allowed religious freedom. As the Soviets set about to celebrate the millennium of Christianity in Ukraine, it would seem they would stop persecuting religious believers. It seems hypocritical, on the one hand, to seek foreign tourists and foreign recognition of official celebrations of the millennium and, on the other hand, to suppress the religious liberties of those individuals living in the area where Christianity came to Ukraine.

A true celebration of the millennium of Christianity in Ukraine would include providing freedom for the church.

So, Mr. Speaker, I fully support this resolution which confirms 1,000 years of faith.

In addition, I would like to bring to the attention of my colleagues the glowing editorial which appeared in the Ukranian Weekly. In this editorial it is accurately argued that the United States Congress was fully justified in suggesting that United States officials not participate in "staged" Soviet "celebrations" of the millennium of Christianity in the Ukraine as long as believers and the church are suppressed. The United States Government should not lend legitimacy to the Soviet desire to make the world falsely believe religion is preached freely in the Soviet Union.

The following is the text of the editorial:

[From the Ukrainian Weekly, Apr. 10, 1988]

REBIRTH OF UKRAINIAN CHURCHES

In the Ukrainian SSR deputies' letter to the U.S. Congress condemning the joint Senate and House resolution which discourages official U.S. participation in the Soviet Union's Millennium celebrations, the Soviet Ukrainian signatories imply that such actions taken by U.S. legislators will be detrimental to the "certain positive changes beginning to take shape in Soviet-American relations."

However, we must point out to the Ukrainian deputies that no positive exchanges can exist between the two countries if they continue to propagate their mythological view of the religious reality in Ukraine today, if they continue to rewrite history to suit their own means.

Just recently, the works of Ukrainian historian Mykhailo Hrushevsky have been resurrected, and will be in print in the near future, according to reports in Izvestia. Maybe it is time that our Soviet Ukrainian deputies look into the real situation of the Ukrainian Catholic and Ukrainian Orthodox Churches during the 1930s and 1940s; perhaps texts on Church history can be made available to them.

It was during the first Soviet invasion of western Ukraine that the regime began setting the stage for the Uniate Church's eventual "liquidation," or, as they prefer to refer to it, "reunification" with the Great Orthodox Mother Church of Russia. Beginning with well-timed articles and pamphlets penned by Yaroslav Halan, the Soviet regime played a key role in setting the stage for the eventual "reunification."

According to the deputies' letter: "The decision was adopted by the Uniates themselves at the Lviv Church Council in March 1946, with the participation of 216 delegates of Uniate clergy and representatives of laymen."

What they neglect to mention is that no hierarchy of the Ukrainian Catholic Church was present, for they were arrested in April 1945, almost one year earlier, and eventually sentenced to long years of internment, with most of them dying martyrs' deaths for their faith in the depths of Siberian labor camps.

Statistics show that more than 2,950 Ukrainian Catholic priests resided on western Ukrainian lands at the time; of this can 216 clergy be a representative number? (Most of that small number were intimidated into appearing at the Lviv Sobor; many did not know why they were summoned.)

None of the parishioners, no Ukrainian Catholic believers knew what was going on behind the closed doors of St. George's on the weekend of March 8-10; thus, they were not prepared to learn that they had accepted Russian Orthodoxy on that Sunday during the Lenten season. How could Soviet Ukrainian deputies in their letter possibly infer that this "reunification" was what the people wanted.

The letter to congress also attacks the Uniate Church, saying that is "soiled its name through close collaboration with foreign oppressors, Hitlerite occupants." Do the deputies need to be reminded that it was the head of the Ukrainian Catholic Church, Metropolitan Andrey Sheptytsky, who condemned the policies of Nazi Germany in Ukraine and directed his faithful to hide Jews in St. George's Cathedral, and in monasteries and nunneries.

The Soviet deputies accuse the Ukrainian Autocephalous Orthodox Church of being a "zealous underling of Nazi invaders." What they neglect to mention is the oppression the hierarchs and clergy of that Church experienced both from the Soviets and the Germans. During its first liquidation in 1930, it was the GPU (the deputies letter highlights the fact that Soviet laws proclaim separation of the Church from the State) who called an "extraordinary council in January 1930, pressuring the Church to announce its liquidation.

The Ukrainian Autocephalous Orthodox Church was not able to revive itself until September 1941. In the 1940s, the Church, was re-established, only to be persecuted by the Nazis. During the German invasion of Ukrainian lands, the Nazi authorities dissolved the All-Ukrainian Orthodox Church Councils and banned all activities. The SS and the Police issued directives to "create as many obstacles as possible to prevent the creation of a general Ukrainian Autocephalous Church under the leadership of a metropolitan."

The Ukrainian Autocephalous Orthodox Church ceased to exist in Ukraine as its hierarchs were forced to flee Ukrainian lands during the return of the invading Soviet armies.

How was it possible that the Ukrainian Orthodox Church was an "underling" of the Germans, when it was the Germans who forbade the bishops and priests of the Ukrainian Autocephalous Orthodox Church to serve the needs of their faithful, even in Germany.

The Soviet deputies explain that the UAOC ceased to exist because of its "treacherous, anti-popular nature, because it lost its believers." They add that the Uniate Church cannot be revived because this would contradict the autonomous decisions of believers, and interference of the state into internal affairs of the Church would be inadmissible."

Yet, dissenters, such as the Rev. Vasyl Romaniuk, who considers himself a member of the Ukrainian Autocephalous Orthodox Church, continue to be persecuted for their beliefs; former political prisoner Oles Shevchenko, in January, also wrote an appeal to General Secretary Mikhail Gorbachev requesting the restoration of the Ukrainian Autocephalous Orthodox Church on the occasion of Millennium of the Christianization of Rus'-Ukraine.

The Ukrainian Catholic Church, or Church of the Catacombs as it has come to be known, is also seeking legalization, with leaders of the lay movements (such as Yosyp Terelia before his emigration to the West, and most recently Ivan Hel, who has taken over the leadership role in the lay movement) appealing to Mr. Gorbachev and believers numbering in the thousands.

Do the signatories of the Soviet Ukrainian letter to Congress ignore what the people want? Are their eyes closed to reality?

In this season of Resurrection, in the Light of Truth, let us hope that the Ukrainian Churches will experience their rebirth in this Millennial year.

Mr. RITTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. SMITH of New Jersey. Mr. Speaker, reserving the right to object, I rise in full support of this resolution.

Mr. Speaker, I rise in support of this resolution which deplores in the strongest terms the Soviet Government's systematic and active persecution of religious believers in Ukraine. As a cosponsor of the resolution, I am pleased that this issue is being openly debated in both in the House and the Senate prior to the summit between President Reagan and Secretary General Gorbachev.

In various forums, as a member of the House of the House Foreign Affairs Committee and the Helsinki Commission, I have taken the opportunity to raise the plight of those living under the dominance of the atheistic authorities in Moscow, especially the Ukrainians who have a millennium-long Christian heritage. This resolution, Mr. Speaker, pulls together the specific, egregious abuses perpetrated by the Soviet Government since the 1930's when the forcible liquidation of both the Ukrainian Orthodox and the Ukrainian Catholic Churches began. The harassment and imprisonment of Ukrainian religious believers continues to this day. Their crime is usually described as slandering the Soviet state and social order or promotion of anti-Soviet agitation and propaganda. In fact, the believers are being arrested because of their religious activities.

I commend the sponsors of this resolution for their efforts to confront the Soviet authorities in this year of the millennium of the Christianization of Kievan Rus'. Mr. Speaker, the Soviets are manipulating the commemoration of the millennium to display to the West that religious activity is tolerated and unrestricted in the Soviet Union. There is also concern that the Soviets will coopt well-meaning westerners into advocating arms control positions favorable to the Soviet Union.

Mr. Speaker, this resolution focuses on the real issues concerning the religious believers in Ukraine, namely the right of religious worship and banning the prohibition of the Ukrainian Orthodox and Catholic Churches in Ukraine. If the Soviets want to commemorate the millennium appropriately, let them allow freedom of worship in Ukraine, and throughout the Soviet Union.

Mr. FEIGHAN. Mr. Speaker, I want to thank and commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, and the chairman of the Subcommittee on Europe and the Middle East, Mr. HAMILTON, for their leadership in bringing this resolution to the floor today as expeditiously as they have. I want to commend the chairman of the Helsinki Commission, Mr. HOYER, for his outstanding leadership in this area as well.

I'd also like to take this opportunity to pay tribute to the sponsor of House Joint Resolution 429, Mr. LIPINSKI, for his leadership and his dedication to this cause.

Mr. Speaker, I strongly support House Joint Resolution 429 which deplores the Soviet Government's persecution of religious believers in the Ukrainian nation.

The Ukrainian people deserve our unwavering support at all times. But it is especially appropriate that we pass this resolution during this year—the year in which Ukrainians are celebrating the millennium of Christianity.

House Joint Resolution 429 discourages United States Government officials from participating in ceremonies marking the millennium—so long as Ukrainians are harassed and imprisoned for their religious beliefs, so long as Ukrainians are denied access to religious literature, so long as Ukrainians are denied the opportunity to receive religious instruction, and so long as the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed.

In passing this legislation, we are commemorating this important Ukrainian anniversary. But we are also sending a message of our support to the Ukrainian people who are longing for religious freedom.

Mr. Speaker, I strongly urge my colleagues to support House Joint Resolution 429.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 235, deploring the Soviet Government's active persecution of religious believers in Ukraine and urge its immediate adoption.

This resolution uses the occasion of this year's commemoration of the millennium of Christianity in Ukraine to draw attention to the ongoing difficulties facing many churches and their adherents there and throughout the Soviet Union. For despite some welcome improvements in the human rights situtation in the Soviet Union in the last year, religious believers, particularly members of the outlawed Ukrainian Catholic and Orthodox churches and unregistered Baptist and Pentecostal congregations, face discrimination in employment and education, restricted access to religious materials, instruction and literature, and a wide range of offical harassment, such as house searches, interrogations, and arrest.

Senate Joint Resolution 235, which passed the other body unanimously on March 4, 1988, deplores the Soviet Union's activie persecution of religious believers and calls upon the Soviet Government to abide by its international commitments in the field of religious liberty and release all those imprisoned for their religious beliefs. This measure is identical to House Joint Resolution 429, introduced by our distinguished colleague from Illinois, Representative LIPINSKI, with over 140 cosponsors from both sides of the aisle. I commend the authors of this initiative for their efforts on this important issue which has been an ongoing concern of the Committee on Foreign Affairs, especially the Subcommittees on Europe and the Middle East and in Human Rights and International Organizations. I urge passage of the resolution.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of Senate Joint Resolution 235, which deplores the Soviet Government's active persecution of religious believers in the Ukraine.

I would like to take this opportunity to commend my good friend and colleague from the city of Chicago, Congressman WILLIAM LIPINSKI, for introducing in the House of Representatives the companion version of this bill, House Joint Resolution 429, of which I am an original cosponsor.

Although this year marks the milliennium of Christianity in the Ukraine, the Soviets continue in their brutal treatment of Ukrainians who have worked hard to preserve their cultural and religious heritage. They continue to seize churches and imprison scores of individuals, whose only crimes have been the desire to practice their own religious beliefs.

It is essential that we focus the world's attention on the religious persecution of Ukrainians living udner the barbarity of Soviet rule. Freedom-loving people the world over continue to work for the day the Ukrainians will be free to practice their religious beliefs without fear of reprisal and passage of this measure will help to move us closer to that day. I urge, therefore, that my colleagues extend bipartisan support to this important bill.

Ms. SLAUGHTER of New York. Mr. Speaker, in this year of the millennium of the Christianity of Kievan Rus', I rise today in support of House Joint Resolution 429 deploring the Soviet Government's active persecution of religious believers in Ukraine.

While we in the free world are obseving this joyous occasion, it is important that we remember our oppressed brethen in the Soviet Union who are being denied religious freedoms. Despite the policy of glasnost, the Ukrainian Catholic and Orthodox churches have still not been accorded official status. Those that attempt to practice their faith are denied access to established religious institutions and literature, and are strongly discouraged from receiving religious instruction. Over 150 churches have been either desecrated, closed, or destroyed since May 1986. Practitioners continue to be harassed and imprisoned for their faith.

Mr. Speaker, Christianity has endured for a millenium in Ukraine. If we wish to see it continue, we must express our support for those that wish to practice their religion. I urge my colleagues to join with me in voting for House Joint Resolution 429.

Mr. SMITH of New Jersey. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 235

Whereas 1988 marks the Millennium of the Christianity of Kievan Rus', adopted by Prince Volodymyr in a ceremony on the banks of the Dnieper River;

Whereas today freedon of religion is a fundamental right which is explicitly guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Soviet Government has violated the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe by engaging in the persecution of religious believers in the Soviet Union, including the systematic liquidation of the historic and national churches in Ukraine;

Whereas the Ukrainian Orthodox and Ukrainian Catholic churches, both forcibly liquidated in the 1930's and 1940's, respectively, have remained outlawed while their clergy and laity have been murdered, imprisoned, or exiled for their religious beliefs:

Whereas despite decades of severe persecution, Ukrainian Orthodox and Ukrainian Catholic believers to this day continue to practice their faiths clandestinely for fear of persecution by Soviet authorities;

Whereas the Soviet Government has, in addition, sought to restrain and undermine the spiritual mission of the Evangelical Church in Ukraine, and has established restrictive legislation in direct contravention of the Biblical precepts that undergird the evangelical movement;

Whereas many members of the Ukrainian Evangelical churches, in particular unregistered Baptist and Pentecostal congregations, are currently imprisoned and harassed for their faith;

Whereas suspected clergy and lay members of the Ukrainian Orthodox, Ukrainian Catholic, Baptist, and Pentecostal churches are victimized by job discrimination, their access to religious literature is restricted, and they are subject to various forms of harassment such as house searches, interrogations, and arbitrary arrests by Soviet authorities;

Whereas despite the Soviet government's policies of religious persecution in Ukraine, faith in God is widespread among Ukrainians as evidenced by the underground Ukrainian Catholic movement which embraces hundreds of priests headed by a number of secret bishops assisted by more than 1,000 religious women in orders; and

Whereas Ukrainian Catholic catacomb bishops, priests, and laity have placed themselves in direct danger of persecution by appealing to the Kremlin to end its prohibition of the Ukrainian Catholic Church: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States deplores the Soviet Government's active persecution of religious believers in Ukraine, as well as the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches.

SEC. 2. On the occasion of the Millennium of Christianity in Kievan Rus', the Congress of the United States—

(1) discourages official participation by the Government of the United States in ceremonies of the Millennium in the Union of Soviet Socialist Republics, so long as individuals remain harassed and imprisoned for their religious beliefs, are denied access to religious literature and the opportunity to receive religious instruction, and the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed;

(2) sends its greetings to the Ukrainian people as they mark this solemn event in the history of the Ukrainian nation;

(3) voices its concern for those Ukrainian religious believers who are persecuted for attempting to exercise their rights to religious worship;

(4) urges the President of the United States, the Secretary of State, the United States delegation to the United Nations, the United States Delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue to speak out forcefully against violations of religious liberty throughout the Soviet Union and specifically in Ukraine during this anniversary year;

(5) calls upon the Soviet Government to abide by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, and release all those imprisoned for their religious beliefs; and

(6) urges, in observance of the Christian Millennium, the Soviet Government to legalize the Ukrainian Orthodox and Ukrainian Catholic Churches.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 235, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 5, ELEMENTARY AND SECONDARY EDUCATION

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 427

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration. A motion to recommit the conference report may not contain instructions.

Sec. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of a bill containing the text printed in section three of this resolution, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed thirty minutes, equally divided and controlled by a proponent and an opponent, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit, which may not contain instructions.

Sec. 3. The text of the bill as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

"Section 223(b) of the Communications Act of 1934 is amended—

"(1) in paragraph (1)(A), by striking out 'under eighteen years of age or to any other person without that person's consent';

"(2) by striking out paragraph (2);

"(3) in paragraph (4), by striking out 'paragraphs (1) and (3)' and inserting in lieu thereof 'paragraphs (1) and (2)'; and

"(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.".

The SPEAKER. The gentleman from Texas [Mr. Frost] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi [Mr. Lott], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 427 is a rule waiving all points of order against the conference report on H.R. 5, the School Improvement Act of 1987, and waiving all points of order against its consideration. The rule provides that the conference report shall be considered as having been read when called up for consideration and that a motion to recommit the conference report may not contain instructions.

Mr. Speaker, the conference agreement on H.R. 5, named the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is the result of months of work on the part of both the House and the Senate and both the majority and the minority. Its provisions reauthorize almost every Federal elementary and secondary education program and enjoy wide bipartisan support. The conference agreement contains new programs designed to improve educational opportunities for all children, but the agreement focuses especially on those children who have the greatest needs and encourages greater parent participation and involvement. Mr. Speaker, the provisions of this conference agreement will, in the coming years, assist our schools in providing the best educational opportunities possible for our Nation's schoolchildren.

However, Mr. Speaker, the conference agreement does contain a provision which is a matter of some controversy and because of that controversy, the House earlier today took action directly relating to it. As Members know, a bill was added to those bills originally scheduled to be considered today under suspension of the rules. H.R. 4401 contained the text of a Senate amendment to H.R. 5 which, like a measure introduced in the House by our colleague, the gentleman from Virginia [Mr. Bliley], prohibits the interstate transmission of obscene and indecent communications by means of telephone for commercial purposes.

As Members will recall, on March 1 the House agreed to a motion to instruct conferees on H.R. 5 offered by the gentleman from California [Mr. Dannemeyer]. That motion instructed the House conferees to agree to section 7003 of the Senate amendment to the House-passed bill. Section 7003, of course, contained the same text as the Bliley bill and was offered by Senator Helms. However, since the conference reported back language which provides that telephone companies must, to the full extent technically feasible, provide "dial-a-porn" services only to those telephone subscribers who specifically request access to such services, a number of Members feel that the House should be afforded the opportunity to consider an amendment to the conference agreement which would substitute the Helms-Bliley language for the language reported from the conference.

Yesterday, when the Committee on Rules met to consider the rule for the conference report on H.R. 5, the committee reported a rule which recommended a procedure by which the House could take a direct up or down vote on the Helms-Bliley language as freestanding legislation. Section 2 of House Resolution 427 provides that at any time after the adoption of the rule, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole for the consideration of a bill printed in section 3 of the resolution. Section 3 contains the text of the Helms-Bliley dial-a-porn language.

While the Committee on Rules recognized that a great many Members feel very strongly that the only way to deal with dial-a-porn is to eliminate it entirely, the committee recommended the procedure in section 2 of the resolution to preserve the regular order in the House. As Members know, the normal procedure for the consideration of conference reports in the House does not permit the consideration of amendments to a conference agreement. For that reason, the Committee on Rules provided for the separate consideration of the Helms-Bliley language as incorporated in section 7003 of the Senate amendment to H.R. 5.

However, since the House has just passed this legislation by suspension of the rules, the provisions of section 2 of the resolution are no longer necessary. It is also my understanding that the House leadership is negotiating an agreement with the leadership of the Senate to bring this bill up for consideration at the earliest possible time. While a number of my colleagues may believe that the resolution now before us will preclude the Congress from sending legislation to the President's desk which would end the spread of dial-a-porn, I suggest, Mr. Speaker, that this rule is fair, and should be adopted. Because the House has passed H.R. 4401, freestanding legislation has been sent to the Senate for its consideration and the matter at hand is, and should be, the conference report on the authorization of Federal elementary and secondary education programs.

For that reason, Mr. Speaker, I urge my colleagues to support the previous question and the rule. Arguments may be made during the debate on this rule that inclusion of the Helms-Bliley dial-a-porn language in the conference report is the only way to ensure that this legislation will reach the President's desk. I must disagree with that assessment and urge my colleagues, especially those who are parents like myself, to support this rule so that education programs may be reauthorized.

□ 1550

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 427 provides for the consideration of the conference report on the bill H.R. 5, the School Improvement Act. The rule waives all points of order against the conference report and its consideration and prohibits instructions on a motion to recommit.

The rule also provides for consideration at any time of a bill which is identical to the one we just passed under suspension of the rules under a sudden change in scheduling. I think this is the first time I can recall in which we passed a bill before adopting the rule making it in order. I think it says something about the extent of the leadership's concern that Congress might actually enact a meaningful dial-a-porn provision as part of the conference report. We still should.

Mr. Speaker, it goes without saying that this is a highly unusual rule. It was obviously hammered-out in some

Democratic leadership committee. If a camel is a horse designed by a committee, then the Democratic leadership has given us a camel with two humps.

Only in this case, the humps have been placed on the opposite sides of the camel, with one pointing east, and the other pointing west. The reason for this strange beast is the Democratic leadership's unwillingness to allow the Congress to enact a dial-a-porn ban as part of this conference report.

Despite the fact that the Senate previously voted 98 to 0 for such a ban, and the House voted 274 to 17 to instruct its conferees to accept the Senate language, the conferees came back with a new dial-a-porn subscription service that most 10-year-olds could find a way to tap-in to.

When this matter came to the Rules Committee, I offered an amendment to the rule that would permit us to vote on the competing alternatives—the dial-a-porn ban versus the new phone-porn subscription service, as part of the conference report. My amendment initially carried on a 6-to-5 vote. But, before the rule was finally adopted, the majority recessed the meeting for 10 minutes. Those 10-minutes mysteriously stretched into 5 days.

At 10:30 a.m. on Monday, the Rules Committee rubber-stamped this freak camel, thus reversing my amendment that would have permitted the issue to be settled in the context of the conference report, as it should be.

What's wrong with this two-step process? Quite simply, you will be asked to vote on two different approaches to the dial-a-porn problem, without having to choose between them. The new dial-a-porn subscription service approach will be buried in the single vote on the education conference report. And, the separate dial-a-porn ban bill just passed under suspension is a cruel hoax. While you might think you are covering all the bases politically, the fact is you will be riding a mutant camel that's not going anywhere. Why isn't this camel going anywhere? Because that's how it was designed by the leadership. They know darn well that the separate dial-a-porn ban bill just passed won't make it through the other body. This is their way of killing it without leaving their fingerprints on the murder weapon.

Mr. Speaker, if my colleagues think for 1 minute that the American people will be hood-winked by a meaningless vote on a bill that is destined for oblivion, they've got another think coming. The American people don't want meaningless gestures and votes that don't do the job. They want us to enact a flat ban on these teleporn services.

The only way to get this enacted law is to reinsert the dial-a-porn ban in the conference report. And the only way to achieve that is to change this rule to permit a vote on substituting the pornography ban for the porno subscription service. That's what I offered in the Rules Committee and that's what was initially adopted on a 6-to-5 vote before the leadership sent in their ridiculous camel.

I am therefore asking my colleagues to defeat the previous question so that I can offer this substitute rule that will put the dial-a-porn ban issue back in the debate on the conference report. Under my substitute rule, it would be permitted, pursuant to the provisions of clause 4 of rule XXVIII, to raise a point of order against the existing dial-a-porn subscription service on grounds that it is nongermane to the original House bill. Under that House rule, if the point of order is sustained, it would then be in order to offer a motion to reject that provision. The motion is subject to 40 minutes of debate.

If the section is then rejected, the conference report is technically considered to be defeated. However, it would then be in order under my rule and House Rule XXVIII, to take up the original House bill, H.R. 5, with the Senate amendment, and move to recede and concur in the Senate amendment with an amendment. That amendment would be the nonrejected part of the conference report together with the original Senate dial-a-porn ban language.

My colleagues should make no mistake about the significance of this previous question vote. This is the real test of whether you want to have a dial-a-porn ban enacted. Only by the procedure prescribed in my substitute rule is such a ban likely to make it to the President's desk. A "no" vote on the previous question means you want the dial-a-porn ban to be included in this conference report, and not be shunted-off to some form of limbo in the other body. A "no" vote on the previous question means you want to put this issue on a swift horse and fast track to the White House, and not on a slow camel to nowhere.

Mr. Speaker, let me conclude by pointing out that since the House has already passed the separate dial-a-porn ban bill under suspension, half of the reported rule is irrelevant. What is relevant at this point is that the House has now twice overwhelmingly expressed its support for a ban. The time has come to put that ban and that overwhelming sentiment into a measure we know will be enacted. We've made our gestures. Now let's make law. Vote down the previous question.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am sure the gentleman from Mississippi has been contacted by numerous individuals from his district and from across the country who are concerned about this issue. Am I correct to say that those individuals who have had a direct concern on this issue are going to regard the vote on the previous question as being the key vote in dial-a-porn here today?

Mr. LOTT. The gentleman is absolutely correct. In fact, I have before me a list of 12 or 15 organizations of different denominations, religious organizations, family groups that are making it clear that they understand this vote and they say that they support a ban on dial-a-porn. "Vote no on the previous question." So yes, they understand what is going on here.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. Bliley].

Mr. BLILEY. Mr. Speaker, I rise in strong opposition to the rule before us today. I oppose this rule because it represents just one more attempt to sidestep the issue of dial-a-porn through clever procedural gimmicks. It's precisely this type of gimmickry that has put us in the situation we're in today.

Five years ago, I began the crusade against dial-a-porn when I sought to have this type of service banned from our Nation's telephone system through an amendment to the FCC authorization bill. Unfortunately, the amendment was altered in a manner that, for the first time, legalized commercial obscenity over the phone lines. A vote for this rule is—in essence—a vote to maintain the only place in the entire United States Code where commercial obscenity is given legal protection.

That is precisely the thrust of the language that is included in the conference report—language that was included in the conference report without the conferees on that issue ever having met in open public session as required by rule 28 clause 6.

Let's look for a moment at the proposed conference language. Will it be effective? No; the FCC, as the expert agency in the field of telecommunications, has provided us with an analysis of the conference language. They say it won't work. What effect will it have on live, obscene sex services that are billed through personal credit cards? Absolutely none. What effect will it have on dial-a-porn services where the phone company provides billing information to the dial-a-porn vendors, but doesn't do the billing itself? Absolutely none. What about rural areas where digital switching technology is not available and phone companies do not have the ability to block customer phones? No effect. What about pay phones? No effect. What new burdens or obligations does the conference report language place on dial-a-porn vendors? None. It doesn't impose one new burden on the providers of this smut. In fact, it actually makes it easier for them to challenge phone company efforts to terminate their services.

We will hear arguments that we can have both subscription and a ban on dial-a-porn if we adopt this rule. That simply isn't the case. If we adopt the conference language and adopt the Helms-Bliley language at some later date, we will create the absurd situation of telling phone companies that if it is technically feasible they must connect subscriber telephones to illegal services upon request of. That would be like saying it's illegal to sell drugs unless you go down to 14th and K Streets and sell them to people who ask for them—I doubt there is a Member in this House who would suggest that such an approach would represent sound policy.

As the gentleman from Mississippi [Mr. LOTT] has said, if you are against dial-a-porn, if you believe dial-a-porn should be illegal—then you will vote against the previous question and permit the House to follow through on the instructions it gave its conferees on March 1 to agree to the Helms-Bliley amendment as part of this important education bill.

Mr. Speaker, decency and religious organizations see this rule for the charade it is—that's why Citizens for Decency Through Law, Morality in Media, the U.S. Catholic Conference, the National Coalition Against Pornography, the Religious Alliance Against Pornography, the Knights of Columbus, and the American Family Association—all support our efforts to defeat this rule.

As Citizens for Decency Through Law have noted in their letter to Members of Congress, and I quote,

> A "no" vote on the previous question is a vote for the Helms-Bliley amendment which will put an end to dial-a-porn. A "no" vote is a profamily, antiobscenity vote. We consider a "yes" vote a pro-obscenity vote because it will create the same type of legal confusion that has existed for the past 5 years and which has prevented any effective action against dial-a-porn.

I urge my colleagues to join us in putting an end to dial-a-porn. Support the Telephone Decency Act and the Helms-Bliley amendment by voting "no" on the previous question.

□ 1605

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, the House has had an opportunity to vote on the bill sponsored by the distinguished gentleman from Virginia which is essentially the Helms bill from the Senate. The House has passed it. There is good reason to believe that that proposal is of doubtful constitutionality. The U.S. attorney from Utah, speaking before the Committee on Energy and Commerce, in response to a question asked by the gentleman from Virginia [Mr. BLILEY] as to the constitutionality of this package, had this to say:

> I think the likelihood is that it would be unconstitutionally overbroad under my reading of the cases. That has been the department's position since this issue came up in 1984 and it continues to be our position.

The position was that the package that was offered earlier is unconstitutional.

The general counsel of the FCC said, in response to a similar question, that the bill just passed would be subject to a swift and unfavorable constitutional response by the courts.

Now the issue before the House at this moment is not whether or not you are in favor of dial-a-porn. The question is do you want to have two mechanisms to attack this most questionable and most immoral practice.

The bill passed deals with the problem through proscribing speech in a fashion which is probably open to serious constitutional challenge. Indeed, there is good reason to believe that the bill that was just passed is not going to be found constitutional and will not be so held by the courts.

The issue before us now is are we going to have a second technological approach which is accepted by the telephone companies and which will assure that only persons desiring this kind of service can get it.

This will assure that those who do not want it will not be plagued by having this kind of filth coming into their homes and will not be bothered unless they choose to subscribe to it.

If you really want to protect the children of this Nation and if you want to see to it that a citizen is not plagued with this kind of filth entering their homes then vote for the previous question, vote for the conference report and let us move forward.

The Senate majority leader in response to a call from the Speaker of the House today has indicated the following: First, he favors the Helms bill as just passed by the House, H.R. 4401; second, he will program it as quickly as possible; and third, he will do everything he can to see to it that the Senate acts favorably upon the House passed legislation which we have just passed under the suspension of the rules.

That effectively says to us today that if you are really sincere about dealing with the problem of pornography entering the homes of the people of this Nation by telephone you should take both courses. If you really want to deny this kind of offensive matter access to the homes of the American people and to the ears of our innocent children then what should be done is, at this moment, to vote "aye" on the previous question and "aye" on the conference report.

The issue is not one which should wait while the question of constitutionality is determined. If you really want to see to it that the young people of this country are protected against this kind of filth, vote "aye" on the previous question and "aye" on the rule.

That will give a technological approach to this matter in which the flow of this matter into American homes can only come on the basis of a specific request of the telephone subscriber and we will not become dependent solely upon whether or not a proposal of the kind of doubtful constitutionality that one could observe in the Helms provision which was just passed by the House is the only device which affords protection to our people.

When the Senate sent H.R. 5 back to the House with a nongermane dial-a-porn amendment, I refused to let the House ignore the issue any longer. I was determined to provide Members with an opportunity to address this problem, and joined in a bipartisan, cooperative effort to craft a constitutional solution during the conference on H.R. 5.

Members should know that the transmission of dial-a-porn to children is already prohibited by law, and that, under FCC regulations, vendors of these services must take certain precautions such as the use of credit cards, scrambling devices, and access codes to ensure that children are not exposed to this material.

Our task in the conference on H.R. 5 was to find practical mechanisms that would strenghten current law and regulation to provide children with even more protection from exposure to this harmful material.

Mr. BLILEY and Mr. MARKEY and I attempted to reach an accommodation on this contentious issue through a presubscription approach.

Our initial effort required universal presubscription for all dial-it services, whether pornographic or not. This approach proved to be economically infeasible and was opposed by the entire telephone industry and by the legitimate information providers who furnish the public with services such as dial-a-sports score, ski condition reports, and the like.

We were then hopeful that we could craft an alternative presubscription approach which would not hamper the emerging information industry.

Despite our good faith reports, and the hard work with numerous outside parties including telephone companies, decency groups, parents groups, civil liberties groups, and information providers; and despite several meetings of the House conferees themselves, the conferees were unable to craft an alternative presubscription approach acceptable to our minority colleagues.

I am sincerely sorry that we have been unable to reach agreement on this issue, and that we now find ourselves at odds at the end of a long process of negotiation.

The conference adopted an approach that would require telephone companies to block all access to dial-a-porn services unless customers specifically requested access to those services. This presubscription approach would put control over access to pornographic material back into the hands of parents—who need do nothing to be assured that children will not be able to use their telephones to reach pornographic material.

I stress that this measure is in addition to all requirements of current law and regulation.

Some have claimed that under the conference report, the obligation to restrict access to dial-a-porn ceases to bind telephone companies when dial-a-porn vendors lie or fail to disclose the nature of their services.

That is simply not so.

The conference report does provide that telephone companies are immune from damage claims if they rely in good faith on the representations of dial-a-porn vendors, but,

First. The obligation to restrict access does not depend on the truthfulness of dial-a-porn purveyors.

Second. Telephone companies are still subject to enforcement actions by courts or regulatory agencies if they fail to restrict access to dial-a-porn.

Third. If telephone companies ignore complaints or other information about the nature of services provided by a particular vendor, they are not acting in good faith and are subject to damage claims in addition to enforcement actions.

Some have claimed that the conference report measure on dial-a-porn diminishes the telephone companies' incentive to cut off dial-a-porn. That, too, is false.

Some telephone companies such as Bell South do not knowingly permit dial-a-porn on their networks.

However, under current law, telephone companies have no legal liability for carrying dial-a-porn and no legal advantage in choosing not to carry this material. Their motivation in cutting off dial-a-porn is to avoid damage to their good name and reputation—not to avoid legal liability.

The conference report creates a legal obligation to restrict access to dial-a-porn and creates a legal liability for unauthorized access.

Telephone companies must act in good faith to restrict access to dial-a-porn, and are subject to enforcement actions and even court suits for damages if they fail to act in good faith.

By establishing these new obligations for carrying dial-a-porn, the conference report increases the likelihood that telephone companies will cut off dial-a-porn. As the statement of managers explicitly notes, one way telephone companies can avoid being in violation of these new requirements is to refuse to carry dial-a-porn.

Some have also claimed that this report would preempt State and local protections against dial-a-porn.

That claim is also false.

The statement of managers specifically notes that nothing in the relevant section of the bill shall be construed to preempt any State or local laws which prohibit the transmission or obscene or indecent communications for commercial purposes.

The National Parents Teachers Association states that it supports this measure unequivocally. Six of the seven regional Bell operating companies, AT&T, GTE, and United Telephone state that the measure is technically feasible, can be implemented, and is acceptable. The information Industry Association states that this measure will not harm their industry. The Office of Communications of the United Church of Christ and the National Council of Churches support this approach as preferable to an approach of dubious constitutionality that would ban dial-a-porn services.

Many Members would like to ban dial-a-porn as called for in the Helms amendment. I wish such a straighforward approach would really solve the problem. But I do not believe that the Helms "Ban dial-a-porn" approach—by itself—would be effective.

The Department of Justice, the American Civil Liberties Union, and the Federal Communications Commission all agree that it will not withstand constitutional challenge. It will almost certainly be enjoined immediately and prevented from going into effect until the litigation is over.

In the meantime, nothing would be done to protect our children. Indeed, the protective measures currently on the books would be stripped away.

Moreover, the Helms ban applies only to interstate dial-a-porn, in contrast to the presubscription approach which applies within each State.

The rule governing consideration of H.R. 5 allows Members to treat the Helms approach and the presubscription approach as parts of an interlocking solution to the dial-a-porn problem. Members wishing to vote to ban dial-a-porn have had an opportunity to do so. Now, they should vote to provide a workable second line of defense in case Helms is ruled unconstitutional.

Once passed, the two provisions can work together. If the Helms amendment is found to be constitutional, then dial-a-porn would not be allowed on the telephone network. If Helms is found to be unconstitutional, however, then the presubscription requirement comes into force, providing effective constitutional protection against dial-a-porn.

I urge my colleagues to support this rule.

A vote against the rule is a vote to kill the presubscription approach.

In the likely event that the Helms approach is stayed or declared unconstitutional, children will be deprived of all protection from dial-a-porn, unless we act now to establish a technological safety net.

H.R. 5 contains this safety net.

Even if you prefer the Helms approach, why deprive the Nation's children of an extra measure of protection?

I urge you to support the rule on H.R. 5.

Let me add a comment on the obligations of telephone companies to verify a request for access to dial-a-porn.

Telephone companies must obtain a written request from adult subscribers before permitting access to dial-a-porn services, and must make good faith efforts to verify that these requests are, in fact, from the responsible subscriber rather than from a minor.

Telephone companies normal processes require some verification that special service, has, in fact, been requested. For instance, requests for special services of this type would normally be part of the billing process and so would be accessible only to the adult subscriber himself.

The conferees also expect that telephone companies will notify the subscriber in writing that his telephone can be used to access dial-a-porn services.

Under the conference report, telephone companies will take extra precautions to ensure that all requests for access to dial-a-porn are legitimate because if they cannot demonstrate that they took good faith steps to keep dial-a-porn out of the homes of those adult subscribers who have not requested access, they are liable to court suits including suits for damages.

Finally, any unauthorized access will not last past the next telephone billing period. Parents will detect any actual use of their telephone for access to dial-a-porn almost immediately because the bill for this use will show up on the subscriber's monthly bills.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, I think it would be appropriate for all of us to just understand where we are on this issue. Actually, there is a law in place right now, it has been there since March 1983 at the time when dial-a-porn first became available. It is 47 U.S.C. 223.

That clearly says whoever in interstate or foreign communications by means of a telephone makes any comment, requests, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent shall be fined and so on.

Unfortunately, the Department of Justice and the FCC have interpreted that ban to mean that it only pertains to the person who picks up the phone and makes the statement themselves. It does not reach the recording that comes across in dial-a-porn.

This Member does not believe that is a rational interpretation, but that is what the people in the Department of Justice have interpreted it to mean.

So, as a result, Congress has been frustrated in banning dial-a-porn.

In 1983 we added some language which we thought would resolve the matter: We said, "Ban it for persons under 18 years of age." The problem is the difficulty of restricting the availability to kids in that age group. So, we are back to square one.

If we truly want to ban dial-a-porn, the proper vote is to vote to defeat the previous question so that a rule can be offered whereby we will substitute the prohibitory language of the ban in place of the language of continued availability of dial-a-porn which is part of the conference report of H.R. 5.

Now, one of the previous speakers, Mr. DINGELL, observed that the language in the conference report would restrict dial-a-porn as much as we can. This is the language of the conference report. I respect that point of view.

But the point of the matter is that whether the language of the conference report or the ban is adopted, within a week's time I would estimate the pornography industry in America is going to file a suit in some Federal court in this country and seek a temporary restraining order to prevent the imposition of whichever version is passed because there are powerful interests that are making a lot of money in this business who want to continue to have this trash available to the kids of our country, indeed all of the people of our country.

So, I would suggest that a rational course for us to take is not to put out a ridiculous work product which on the one hand says that we are going to permit the availability of dial-a-porn; on the other hand on the same day pass a law that says we are going to prohibit it. That makes no sense.

We should be replacing the permissive continued availability which is a part of the conference report, with the prohibitory language.

Then we cut out the charade of giving a fig leaf that we have done something and in place substitute the language that, in fact, we have banned it totally.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman very much.

Mr. Speaker, I would like to take this time to inform the Members as to what this debate is all about. The vote which has immediately preceded this debate which passed out the Helms language which is a total ban on obscene and indecent speech, is a piece of legislation which may or may not be constitutional.

Now, there is great reason to believe that it is unconstitutional. Ed Meese's Justice Department testified before the Telecommunications Subcommittee that they believe it is unconstitutional.

The Federal Communications Commission testified before us that it is unconstitutional. The second circuit court has ruled that a ban on indecent speech is unconstitutional.

So, as a result what we are offering here today, not in substitution for, but in addition to the language which has already been voted upon earlier today, language which serves as an insurance policy, it serves as a safety net in the event that Ed Meese, the FCC, the second court is, in fact, correct in their reading in the Helms language as it has been voted upon by the House of Representatives.

What we put into place is a ban on obscene language coming into the home but it is a technological fix. It puts control in the hands of the parents of our country. If they do not want this to come into their homes they will not have it in their homes. It will be blocked by telephone companies across this country.

In the absence of an affirmative request of any family in this country it will not be in the homes of this country.

Now we offer some additional protections in this legislation. We deal, in our language, with intrastate delivery of this service. Ninety percent of this traffic is intrastate. The bill which we passed earlier deals with interstate. Our language covers the additional problem and in fact the greater problem of intrastate communication of this language as well.

Now just so we can clarify this issue so that we are not characterizing this as being one in which groups support one position and do not support the other. The National PTA endorses the provision which we have included in H.R. 5. The United Churches of Christ endorse our provision. The National Council of Churches in Christ endorse our provision. The telephone companies find our provision to be the acceptable and workable answer to this question to insure that that technological fix is put in place.

Now although we do have and have raised the serious constitutional questions to the earlier provision which has been voted upon, we have great sympathy for the intention which underlies the framing of that earlier piece of legislation.

□ 1620

However, if in fact that piece of legislation is ruled to be unconstitutional, we want to ensure that parents in this country still can protect their children for that year or years that it might take to in fact come back and to pass additional legislation which would look very much like this back-up piece of legislation we are passing right now.

So to make it clear, your language dominates. If it is ruled constitutional, that is fine, because the parents of this country will be protected, but if it is Ed Meese and the FCC and the second circuit court have indicated it is unconstitutional, we offer this second line of defense, which also keeps it out of the home, but does it in a fashion that will withstand constitutional muster.

There should be a vote for the previous question. The work of our staff, Howard Homanoff and Mark McCarthy at the majority level has been exemplary. They have worked in cooperation with the minority.

We hope that the previous question is agreed to.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

So that I may make just a couple of observations, first of all, when is something unconstitutional? It is not unconstitutional until the Supreme Court says it is unconstitutional.

This body has never been particularly deterred by that argument before, but we felt strongly on an issue, like we obviously feel strongly about this issue, or at least that is the way we vote. We have not let the threat of maybe there being some unconstitutional ruling by the Supreme Court to deter us.

And listen to this. The second circuit has said that a ban on indecent speech is unconstitutional.

I mean, do we want to be on the side of indecent speech? What kind of threat is that? That is still the circuit court, not the Supreme Court.

As far as this being a technological ban, I understand technologically it may not even be possible to ban this dial-a-porn activity, particularly in rural areas.

Just remember this: This language in this conference report as it stands now does allow dial-a-porn, perhaps by description, but there is no question it does allow dial-a-porn.

Also, as I understand it, the courts quite often look at the last bill passed by the Congress or the last law enacted as to what our real feelings are, and I suspect that the last bill passed on this subject may be the one we are fixing to vote on unless we change it and make it clear that we are absolutely opposed to dial-a-porn, there may be confusion on the part of the court, and they would rule, well, maybe even the Congress did not really mean it when we said we were opposed to dial-a-porn.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. COATS]. remarks.)

Mr. COATS. Mr. Speaker, I was one of those Members that stood here on the floor not too long ago arguing on behalf of the instruction to the conferees that would find a technological solution, the instruction to them to go and find a technological solution that would meet constitutional muster in dealing with this dial-a-porn problem. I did so because I thought that if we could do that we could avoid, potentially avoid a Supreme Court fight.

When I looked at the result that came back from that conference, I was convinced that we should reject that solution, because it was inadequate to deal with the problem and that we should send one unified, unanimous signal from Congress indicating where we stood on this particular issue.

No, we have had several votes in just the last few weeks on where this Congress stands, and it is unequivocally clear to me and it should be to everyone that the vast majority of the Members of this House of Representatives is opposed to dial-a-porn. The question then is: How do we get rid of it?

If we could have come up with a technological solution to deal with the problem that removed the dial-a-porn from access to minors, then I would have supported it. But let me cite for Members who are listening to some of the reasons why this so-called compromise solution, the "let's-fix-it-technologically" solution does not work.

First of all, under this approach, obscenity is not banned. The Supreme Court has ruled many times, as we all know, that obscenity is not entitled to first amendment protection, and that indecency can be regulated to prevent access by children, but under the proposal before us today, the obscene and indecent messages over the telephone will continue to be permitted.

Second, the proposed amendment will not solve the problem for interstate telephone calls. Interstate access to local 976 services or to long-distance 900 services will be allowed to continue.

The ability to selectively unblock 976 services everywhere at a customer's request is not possible.

Thus, the proposed House amendment will not guarantee the immediate use of selected interstate blocking, and dial-a-porn will still be available on an interstate basis.

Third, the proposed amendment before us obliges the telephone companies to block only if it is technologically feasible. If blocking is not technologically feasible, the telephone company is under no obligation to block dial-a-porn at all.

Further, the amendment would inevitably give a rise to disputes over what is feasible, who should decide what is feasible, et cetera.

Fourth, the proposed amendment authorizes the telephone companies to block dial-a-porn services only if the telephone company does not provide billing and collection services. However, telephone companies which continue to carry dial-a-porn services but do not provide the billing and collection, thus, under this proposal any telephone company that does not offer billing and collection services would be exempted entirely from the requirement to block dial-a-porn and could continue to carry it.

Finally, the proposal gives the telephone company the ability to discriminate among messages on the basis of content.

If we wish to explore content-based solutions that discriminate against dial-a-porn messages, we should be exploring approaches that would result in the banning of messages which are outside first amendment protection.

The House's original instruction was to solve the problem, not to adopt a solution which is a proposed technical fix but creates additional problems.

I think the clear message from this House of Representatives ought to be that we do not want dial-a-porn offered on our telephone services in this country. We have not been able to come up with a technological solution which guarantees our young people will not have access to this and, in fact, as I have just indicated, there are many loopholes in the so-called technological fix.

Let us send an unequivocal, clear, united message, and let us send it quickly. Each day that we delay, each day that we attempt to find a technological solution, hundreds, if not thousands, of children are getting access to these numbers, are calling up and receiving these messages which leave an indelible impression on their minds, many for their life.

As ranking member of the Children, Youth and Family Committee, we have seen some of the devastating impacts on children.

I urge the Members to send a clear, unmistaken voice out of the House of Representatives: No more dial-a-porn.

Vote down the previous question.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. HAWKINS] the distinguished chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding me this time.

May I inquire of the gentleman, first of all, what happens if the previous question is voted down and the efforts of those who are offering the antipornography amendment in the form of a bill is inserted into the conference agreement? What becomes of the conference agreement?

Mr. FROST. Mr. Speaker, if the gentleman will yield, it is my understanding from the procedure as described by the gentleman from Mississippi [Mr. LOTT] the spokesman for the minority, that it is their intent to follow a procedure which will result in rejection of the conference report, and then the conference report will be brought up as a new piece of legislation.

Mr. HAWKINS. Would that, in effect, nullify the conference agreement, and would it be necessary then for those of us who support H.R. 5 to begin the process of dealing with a new bill on the other side?

Mr. FROST. It is my understanding, again, of the procedure as described by Mr. LOTT that the legislation would be brought up as a new piece of legislation, if it were passed by this body, and sent to the Senate. Then it could be opened up by the Senate for additional amendment at that time.

Mr. HAWKINS. Well then, I thank the gentleman for the answer.

Mr. Speaker, I must then rise in support of education. It seems to me that we have a conflict of two national issues, one, the issue of pornography, and I think that there is general agreement of all of us to do something about it.

On the other hand, there are some of us who are committed to dealing with the issue of education, and if there is one issue in this Nation that is No. 1 in priority, it certainly is education.

Now, I know that some of us have worked on an educational bill, and that has gone on for 2 years. I wonder where were those who were concerned about pornography while some of us were trying to deal with the education of our children. If they are so dedicated to doing something, fighting pornography, then why not do it independent of education? Why should we in a sense submerge education in what I have been listening to for several hours today, and no one has mentioned anything about the education of our children?

Now, we have worked out in the conference agreement an excellent bill, a bill which passed this House 401 to 1 and one which passed the other body with only 1 opposing vote.

It will be very difficult for us to go back and reopen that conference and to deal with amendments that have not been before this body. I think those of us who are sincerely concerned with the education of our children should think twice before they vote against the rule.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time.

Let me put the mind of the gentleman from California at rest on this particular issue. The gentleman does not have to fear this question. All the Senate will have to do under the procedures as outlined by the gentleman from Mississippi [Mr. LOTT] is to accept the anti-dial-a-porn amendment which they have already voted for 98 to nothing and there would be no need to revisit any other issue, so we would follow the precise procedure that is indicated under the rules that are followed in these kinds of cases.

So the bottom line is that the Senate would simply accept the anti-dial-a-porn language and we would move on from there.

I might also talk about the situation the gentleman from Michigan [Mr. DINGELL] talked about. He said that they have checked with the Senate and they said that this particular bill was going to come up right away over there, that the majority leader had assured them of that.

I must say that last week when we were arguing about doing something about drug runners and we got the same kind of assurance from the Senate, then at that point people on that side of the aisle were arguing, well, that was not good enough for us. We ought to go ahead and vote down doing something about the drug runners.

I have also been interested in the debate here that suggests that we always intended to have a two-track approach on this. I do not think that is really the case. I think really what we ended up with was a situation where the majority all of a sudden found themselves without the votes when it came to the previous question and all of a sudden we have created the two-track approach on the floor that assures that we get votes. If we had not gone after the previous question, it is my guess that they would have been perfectly willing to accept the technological approach and never have gone with the idea that we would have a flat-out ban on dial-a-porn, despite the fact that the House instructions have told them time and time again that that is what we wanted.

So the only issue now before us is how to deal with that.

The other issue that we have had before us is the Constitution. How much we are going to be faithful to the Constitution in this vote. Well, I would suggest to Members who have brought that up, it seems to me that I remember some of you voting for the War Powers Act where everybody at that point suggested that it was of doubtful constitutionality. There are still many questions about it, but that was important enough that we simply did away with that.

When it came to the independent counsel issue recently, we have had issues about the independent counsel, but that was not important enough for us to set aside because there were constitutional questions, and even the legislative veto which I think was one of those items that was before the committee some years ago and the Commerce Committee at that point decided that the legislative veto was more important than any constitutional questions and they eventually had the whole thing thrown out by the Supreme Court.

When it comes to some of those kinds of questions, we somehow ignore the Constitution, but when it comes to pornography, by golly, on pornography then we ought to get out here and defend the Constitution's ability to protect pornography.

Well, I would suggest this is the real question. It is the fundamental question here and it is the question of whether are you for protecting dial-a-porn. If you are for protecting dial-a-porn, you will vote yes on the previous question.

□ 1635

Mr. FROST. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to inquire of the gentleman from Mississippi [Mr. LOTT] at this time, because of the statements of the preceding speaker in order to make sure that I stated correctly the response to the gentleman from California's [Mr. HAWKINS] question.

I believe I understood the gentleman from Mississippi [Mr. LOTT] to say that if the previous question is defeated, that he would follow a procedure that would result in the rejection of the conference report. Is that a correct understanding?

Mr. LOTT. Mr. Speaker, I apologize. Would the gentleman from Texas please repeat the question?

Mr. FROST. The question deals with comments made by the gentleman from California [Mr. HAWKINS]. I want to be sure the question that the gentleman from California propounded to me, I want to be sure I correctly stated what would be the effect of your procedure. It is my understanding from your remarks earlier that if the previous question is defeated that your intention would be to follow a procedure that would lead to the rejection of the conference report.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FROST. I am happy to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, the way this process would work is if the previous question is defeated, we would then make a point of order, we would be able to make a point of order against the language in the conference report. There would then be a vote on the dial-a-porn conference report language. If that is rejected, technically the conference report would be rejected, but then we would offer for another vote the conference report with the dial-a-porn language.

Mr. FROST. As a new matter?

Mr. LOTT. As a new matter. That would then go back to the Senate for approval, and they have already given that approval previously by a vote of 98-0.

Mr. FROST. I just wanted to make sure, because the gentleman from Pennsylvania [Mr. WALKER] raised this question, that this would be a rejection of the conference report.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. FROST. I am happy to yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, would this open up the conference report which goes back to the Senate for amendments on the Senate side? Would that open up the report for amendments that would be able to affect the educational aspects? That is the point that I am making. Would the educational components be subjected to alteration?

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FROST. Mr. Speaker, I yield to the gentleman from Mississippi for the purpose of responding. Does the gentleman from Mississippi agree with that?

Mr. LOTT. Mr. Speaker, it is unfortunate that these two issues are tied together but they are tied together.

Mr. HAWKINS. We agree with that.

Mr. LOTT. If the Members want to get a chance to ban dial-a-porn, this is probably their only chance.

If this goes back to the Senate, it does not start anew. The Senate can accept it, which they have already done in both the conference report and the dial-a-porn language with no problem. If they defeat the previous question, I guess they could add more issues to it but the Senate supports this education bill, the House supports this education bill, the question is are we going to have a ban on dial-a-porn or not that is really binding, or are we going to start a new system of subscriptions for dial-a-porn? That is the fundamental question.

Mr. FROST. Mr. Speaker, it is clear that the gentleman from California [Mr. HAWKINS] is technically correct, that the Senate could reopen the entire matter if we follow the procedure of the gentleman from Mississippi [Mr. LOTT].

I understand what the gentleman from Mississippi is saying, which is that he does not believe the Senate will do that. We in this body however can never predict what the other body will do under their procedures.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN] whom I am sure will clear all this up.

Mr. DORNAN of California. Mr. Speaker, I will say this, what I will clear up is that every group across these United States, religious or secular, that is deadly serious and earnest about doing something about the pollution in the public marketplace is going to consider this vote, on the previous question, a vote for or against dial-a-porn.

Mr. Speaker, my bishops, the Catholic bishops, have been all over the map on arms control, economics, and issues which they readily admit are not binding but in their last pastoral on women the press got all obsessed with whether or not women should be ordained but they missed the toughest words in the language of that pastoral letter where the bishops lashed out at sins against women. In all of this pretense that we are trying to walk a fine constitutional line to help save our children from corruption but raise them in an utterly polluted marketplace, we forget about women in general that are used by this vicious form of pornography and we have done nothing about live dial-a-porn, just about the recorded dial-a-porn.

Here is what the bishops talk about when they talk about sins against women: rape, prostitution, adultery, emotional and physical abandonment, pornography, and that includes what we are discussing here, and the trivalization of the talent of women. Such issues cut across religious lines, and they also cut across sexual lines.

Mr. Speaker, we have our ways on our side of the aisle of finding out what goes on in caucuses held by the other side. We know what goes on in the discussions on communism in this hemisphere and on key issues like that; we also find out what is discussed on morality issues. There have been outstanding Members on your side that have gotten up in your caucus and said. "Why are you doing this to yourselves? Why do you want this wrapped around the neck of your party in an election year that you are not trying to cut out dial-a-porn like a cancer out of our society, but you are engaging in all this dancing on the head of a pin?"

This previous question vote no is to try and stop this sin against women, this perversion of the telephone lines of our country, this corruption of the public marketplace where it would otherwise be left to credit cards and assume that we are going to trick children. This is what we discussed for 20 years with putting the words "adults only" on different materials. The theater rating system just does not work. "Adults only" is like attracting an addict to drugs or a bear to honey. We have failed miserably since the 93d Congress in its freshman year when the Miller decisions came out on June 21, 1973, from the Supreme Court. That Supreme Court issue has been resolved. Pornography is not constitutionally protected speech, nor is dial-a-porn. We have got probably the most conservative Court that we are ever going to have, far more conservative than that which rendered the decisions in June 1973. Let us do what is right for the public marketplace, for the women, and for all of us and for the families of America and not pretend we are trying to help youth and continue the pollution of American life. Vote "no" on the previous question.

Mr. FROST. Mr. Speaker, for purpose of debate only I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I cannot believe that anyone would be so naive as to believe that those who are fighting pornography, and I think that includes all of us, do not have other opportunities to do it. Why have we been sitting around until we bring before the body a conference report on American education in order to fight pornography? It does not make sense.

The statement has been made that a vote against the previous question will in some way open up the opportunity to fight pornography. If my colleagues vote against the previous question, they are voting against education. I would hope that they believe that. If it reopens all that we have gone through here through the past year in the House to put together an education package, a package that will educate the children of our country, will fight illiteracy and which will put math and science into our schools which will reduce the illiteracy rate of a country that stands 17th among the countries of the world in literacy, this is the time to address education. There are other times when we can join together and fight pornography. We have had that opportunity. We slept through it but we can reopen that opportunity. This is not the only opportunity to fight pornography. This is not the only opportunity to fight pornography. I think we are doing a disservice to the children of this country by adding a nongermane amendment to the education bill on the other side. This is a vicious system of legislating. I would hope that we come to our senses and separate the issues so that we can march down the road to fight pornography, but at this time let us join together and support education.

If this package goes back to the Senate, I cannot promise my colleagues that they will not alter it over there. We have a very balanced formula as between the cities and the counties, and the rural areas of this country. That formula could be upset. We could be upset by a balance which we have made between educating the disadvantaged and the talented children of this country. It is a fine balance and I would hope that those who are going to vote on the previous question would support education and vote for the previous question because that itself is a vote for education and let us not make it otherwise.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, one final time just to make it perfectly clear what the intention of the provision which is in this particular bill is intended to accomplish, it is intended to work in concert with the piece of legislation which passed earlier today. It is not meant to substitute for it, but to work in concert with it, and if there is in fact a court ruling which strikes down the Helms language, as the Department of Justice and the Federal Communications Commission indicates that there is a high probability will in fact occur, what we have is a backup safety net that will offer real protections to parents to keep this porn, to keep this smut out of people's homes. So if my colleagues vote for the previous question, think of it as voting for a double-barreled attack on pornography, on smut coming into the homes. Vote "yes" on the previous question.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

I believe I have just 1 minute remaining but I have two brief comments. I know that at least in some instances those now saying let us work together on dial-a-porn voted "no" on the bill that just passed on suspension. So it makes it difficult to feel like we are going to get that type of cooperation we really need on dealing with this dial-a-porn issue.

It just really boils down to this: if my colleagues are opposed to dial-a-porn, vote "no" on the previous question. That is all that is at stake.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have come to the conclusion of this debate. We had a vote earlier today, a clear-cut up-or-down vote on the Helms language and it passed. The House passed the Helms language and has sent that to the Senate. It is unnecessary to complicate this very important education conference report with the Helms language. The House has already spoken clearly by an overwhelming majority.

Mr. Speaker, our leadership has been in communication with the leadership of the other body and it is clear that the other body will take up the Helms matter as a freestanding piece of legislation that this Congress will act on on the dial-a-porn question. We have already acted clearly and dramatically today.

We need to get on to the business of educating the children of this country at this time, so I urge that we pass the previous question. I urge that we pass the rule and enact this very important conference report.

Mr. Speaker, I move the previous question on the resolutions.

The previous question was ordered.

The SPEAKER pro tempore (Mr. KILDEE). The question is on ordering the previous question.

The question was taken.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 131, nays 272, answered "present" 1, not voting 27, as follows:

[Roll No. 57]

YEAS—131

Akaka
Alexander
Anderson
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bonior
Bonker
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Campbell
Cardin
Carper
Carr
Chappell
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Early
Edwards (CA)
Evans
Fascell
Fazio
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Gray (IL)
Green
Hall (TX)
Hawkins
Hayes (IL)
Hertel
Hoyer
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kostmayer
LaFalce
Lantos
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lowry (WA)
Markey
Martinez
Matsui
Mazzoli
McCloskey
McHugh
McMillen (MD)
Miller (CA)
Mineta
Moakley
Morrison (CT)
Mrazek
Murtha
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Panetta
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Rodino
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Skaggs
Smith (FL)
Solarz
Stark
Stokes
Studds
Swift
Synar
Torres
Traxler
Udall
Vento
Visclosky
Waxman
Weiss
Wheat
Whitten
Wilson
Wolpe
Yates

NAYS—272

Andrews
Annunzio
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Chandler
Chapman
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Courter
Craig
Crane
Dannemeyer
Darden
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Duncan
Durbin
Dyson
Eckart
Edwards (OK)
English
Erdreich
Espy
Fawell
Feighan
Fields
Fish
Flippo
Florio
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kaptur
Kasich
Kennelly
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mavroules
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nagle
Neal
Nelson
Nichols
Nielson
Ortiz
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Williams
Wise
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Pease

NOT VOTING—27

Ackerman
Barnard
Biaggi
Borski
Boulter
Clay
Coughlin
Daub
Davis (IL)
Emerson
Garcia
Grant
Kemp
Kleczka
Mack
Manton
Mollohan
Moody
Owens (NY)
Price (IL)
Rangel
Ray
Savage
Sisisky
Stratton
Towns
Vander Jagt

☐ 1708

The Clerk announced the following pair:

On this vote:

Mr. Moody for, with Mr. Barnard against.

Mrs. BYRON, Ms. SLAUGHTER of New York, Ms. KAPTUR, Messrs. SCHUETTE, DAVIS of Michigan, MFUME, ROSE, ROE, KOLTER, DERRICK, BOLAND, VOLKMER, MICA, GAYDOS, GUARINI, MacKAY, THOMAS A. LUKEN, ROSTENKOWSKI, ESPY, WILLIAMS, RICHARDSON, TRAFICANT, HAMILTON, LEHMAN of California, FLORI, DeFAZIO, SPRATT, ORTIZ, WYDEN, MURPHY, GRAY of Pennsylvania, WISE, OWENS of Utah, SMITH, of Iowa, NAGLE, JOHNSON of South Dakota, ST GERMAIN, FEIGHAN, STAGGERS, RUSSO, BUSTAMANTE, JONES of Tennessee, LEWIS of Georgia, TORRICELLI and MAVROULES changed their votes from "yea" to "nay."

Mr. PEASE changed his vote from "yea" to "present."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LOTT

Mr. LOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LOTT: Strike all after the resolving clause and insert in lieu thereof the following:

"That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration, except as provided by section 2 of this resolution, are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

"SEC. 2. It shall be in order pursuant to clause 4 of rule XXVIII of the Rules of the House to raise a point of order against sec. 6101 of the conference report. If, pursuant to such clause, the point of order is sustained and the section is then rejected by a vote of the House, it shall immediately be in order, without intervening motion, for any Member to offer a preferential motion to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and to recede and concur in the Senate amendment with an amendment which shall consist of the text of that portion of the conference report not rejected together with the text of sec. 7003 of said Senate amendment as a substitute for sec. 6101 of the conference report as rejected by the House, said motion shall be considered as having been read, and all points of order against said motion are hereby waived."

☐ 1720

The SPEAKER. The gentleman from Mississippi [Mr. LOTT] is recognized for 1 hour.

Mr. LOTT. Mr. Speaker, I see no reason to prolong this debate any further. There is no need to take any longer than a couple minutes.

I would like to urge the adoption of this substitute rule which would provide for the consideration of the ban on dial-a-porn language in the conference report and also, of course, the conference report on H.R. 5, the education bill.

We all know what is involved in the debate. We know what is in the rule.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. LOTT. For purposes of debate only, I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding.

We have no requests for time and I do not intend to yield, of course, or ask that any other speakers be recognized. I would only like to make some observations.

I think that is important that we proceed on this matter today, that this be passed today.

I hope that the gentleman is correct, that once this matter goes to the Senate that they will accept it without further amendment, so that the conference report can be passed and sent to the President. I hope the gentleman is correct in his view that the Senate will not further complicate matters.

I also hope and I think it is important that Members understand that there is an element of risk in the strategy being followed by the minority in that should the courts subsequently strike down the Helms amendment as unconstitutional, there will be no fallback language. The language that was contained in the original conference report to dial-a-porn will no longer exist, so that there will be no remedy against dial-a-porn at all should this Helms amendment be struck down by the courts.

Mr. Speaker, I have no further comment.

Mr. LOTT. Mr. Speaker, I would be happy to yield to anyone for purposes of debate only, but I think we have debated this issue at length for the last hour and 5 minutes, so I am ready to move the previous question.

Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and the resolution.

The SPEAKER. The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi [Mr. LOTT].

The amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, pursuant to House Resolution 427, I call up the conference report on the bill (H.R. 5) to improve elementary and secondary education, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 13, 1988.)

POINT OF ORDER

Mr. BLILEY. Mr. Speaker, pursuant to the rule just adopted and clause 4 of rule XXVIII, I make a point of order against section 6101 of the conference report, and ask to be heard on my point of order.

The SPEAKER. The gentleman's point of order is well-taken. the modification of the Senate provision in question is not germane to the bill as passed by the House. The point of order is sustained.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves pursuant to clause 4 of rule XXVIII and House Resolution 427 as adopted by the House that the House do now reject section 6101 of the conference report on the bill H.R. 5.

The SPEAKER. The gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes and a Member, of opposed, will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, we have been over this ground all day and in deference to the time of the Members and in the light of the vote we just had on voting down the ordering of the previous question, I would urge the Members to adopt this motion so that we can get on with the business at hand.

Mr. Speaker, I have no requests for time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY].

The motion was agreed to.

Mr. HAWKINS. Mr. Speaker, if I might be heard merely for a technical explanation, since the conference report is no longer applicable I would simply like to ask unanimous consent to make the statement of the managers of the conference applicable in this instance. It does not affect in any way the procedure that is being followed, but since the conference report is not before us, I simply would like to have the statement on behalf of the managers of the conference report applicable to the motion that has just been passed. It is only in regard to the education aspect.

Mr. BLILEY. Mr. Speaker, I could not hear the gentleman from California. Will the gentleman please restate his request?

Mr. HAWKINS. Mr. Speaker, let me repeat my statement.

Mr. Speaker, it now appears that the difference between the House and the Senate on H.R. 5 will be disposed of through the approval of the pending motion which was just approved.

This further amendment embodies all the statutory text of the conference agreement on all education provisions. The only change from the conference report relates to the so-called dial-a-porn issue. The statement of the managers signed by the conferees from the Committee on Education and Labor should be made applicable to the enactment of H.R. 5 in its final form if the House approves the pending motion, which it has already done.

Mr. BLILEY. Mr. Speaker, I have no objection, provided it does not in any way apply to the sections that deal with dial-a-porn.

Mr. HAWKINS. Mr. Speaker, I assure the gentleman that is not the intent.

Mr. BLILEY. I accept that.

Mr. HAWKINS. I did not even ask for a recorded vote. We accept that as a fact now and we are simply trying to protect the statement made by the managers on behalf of the educational provision in the agreement.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAM AUTHORIZED

Sec. 1001. Amendments to the Elementary and Secondary Education Act of 1965.

"Section 1. Short title.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"Sec. 1001. Declaration of policy and statement of purpose.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SUBPART 1—ALLOCATIONS

"Sec. 1005. Basic grants.
"Sec. 1006. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

"SUBPART 2—BASIC PROGRAM REQUIREMENTS

"Sec. 1011. Uses of funds.
"Sec. 1012. Assurances and applications.
"Sec. 1013. Eligible schools.
"Sec. 1014. Eligible children.
"Sec. 1015. Schoolwide projects.
"Sec. 1016. Parental involvement.
"Sec. 1017. Participation of children enrolled in private schools.
"Sec. 1018. Fiscal requirements.
"Sec. 1019. Evaluations.

"Sec. 1020. State educational program improvement plan.
"Sec. 1021. Program improvement.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Sec. 1051. Statement of purpose.
"Sec. 1052. Program authorization.
"Sec. 1053. Allocation.
"Sec. 1054. Uses of funds.
"Sec. 1055. Eligible participants.
"Sec. 1056. Applications.
"Sec. 1057. Award of grants.
"Sec. 1058. Evaluation.
"Sec. 1059. Authorization of appropriations.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"Sec. 1101. Purpose.
"Sec. 1102. Allocation.
"Sec. 1103. Uses of funds.
"Sec. 1104. Applications.
"Sec. 1105. Award of grants.
"Sec. 1106. Fiscal requirements and coordination provisions.
"Sec. 1107. Evaluations.
"Sec. 1108. Authorization of appropriations.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

"Sec. 1201. Grants—entitlement and amount.
"Sec. 1202. Program requirements.
"Sec. 1203. Coordination of migrant education activities.

"SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

"Sec. 1221. Amount and eligibility.
"Sec. 1222. Program requirements.
"Sec. 1223. Uses of funds.
"Sec. 1224. Service and program applications.
"Sec. 1225. Eligible children.
"Sec. 1226. Federal monitoring requirement.

"SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

"Sec. 1241. Amount and entitlement.
"Sec. 1242. Program requirements.
"Sec. 1243. Transition services.
"Sec. 1244. Definitions.

"SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

"Sec. 1291. Reservation of funds for territories.
"Sec. 1292. Dual eligibility for programs.

"PART E—PAYMENTS

"Sec. 1401. Payment methods.
"Sec. 1402. Amount of payments to local educational agencies.
"Sec. 1403. Adjustments where necessitated by appropriations.
"Sec. 1404. Payments for State administration.
"Sec. 1405. Funds for the implementation of school improvement programs.
"Sec. 1406. Limitation on grant to the Commonwealth of Puerto Rico.

"PART F—GENERAL PROVISIONS

"SUBPART 1—FEDERAL ADMINISTRATION

"Sec. 1431. Federal regulations.
"Sec. 1432. Availability of appropriations.
"Sec. 1433. Withholding of payments.
"Sec. 1434. Judicial review.
"Sec. 1435. Evaluation.
"Sec. 1436. Coordination of Federal, State, and local administration.
"Sec. 1437. Authorization of appropriations for evaluation and technical assistance.
"Sec. 1438. Application of General Education Provisions Act.
"Sec. 1439. National commission on migrant education.

"SUBPART 2—STATE ADMINISTRATION

"Sec. 1451. State regulations.
"Sec. 1452. Records and information.
"Sec. 1453. Assignment of personnel.
"Sec. 1454. Prohibition regarding State aid.

"SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

"Sec. 1456. Program authorized.
"Sec. 1457. Application priority requirements.
"Sec. 1458. Coordination, dissemination, and report.
"Sec. 1459. Authorization of appropriations.

"SUBPART 4—STUDIES

"Sec. 1461. Report on State and local evaluations.
"Sec. 1462. National study on effect of programs on children.
"Sec. 1463. Authorization of appropriations.

"SUBPART 5—DEFINITIONS

"Sec. 1471. Definitions.

"SUBPART 6—MISCELLANEOUS PROVISIONS

"Sec. 1491. Transition provisions.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"Sec. 1501. Findings and statement of purpose.
"Sec. 1502. Authorization of appropriations; duration of assistance.

"PART A—STATE AND LOCAL PROGRAMS

"SUBPART 1—GENERAL PROVISIONS

"Sec. 1511. Allotment to States.
"Sec. 1512. Allocation to local educational agencies.

"SUBPART 2—STATE PROGRAMS

"Sec. 1521. State uses of funds.
"Sec. 1522. State applications.

"SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

"Sec. 1531. Targeted use of funds.
"Sec. 1532. Authorized activities.
"Sec. 1533. Local application.

"SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

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"PART B—NATIONAL PROGRAMS AND ACTIVITIES

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"Sec. 1562. National diffusion network activities.
"Sec. 1563. Inexpensive book distribution program for reading motivation.
"Sec. 1564. Arts in education program.
"Sec. 1565. Law-related education program.
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"PART C—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 1571. Maintenance of effort; Federal funds supplementary.
"Sec. 1572. Participation of children enrolled in private schools.
"Sec. 1573. Evaluations and reporting.
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"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

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"Sec. 2003. Program authorized.
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"Sec. 2005. In-State apportionment.
"Sec. 2006. Elementary and secondary education programs.
"Sec. 2007. Higher education programs.
"Sec. 2008. State application.
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"Sec. 2012. National programs.
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"PART B—FOREIGN LANGUAGES ASSISTANCE

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"Sec. 2102. Findings.
"Sec. 2103. Program authorized.
"Sec. 2104. Allotments.
"Sec. 2105. Definitions.
"Sec. 2106. Authorization of appropriations.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

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"Sec. 2202. Administrative provisions.
"Sec. 2203. Authorization of appropriations.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"Sec. 3001. Authorization of appropriations; reservation.
"Sec. 3002. Eligibility.
"Sec. 3003. Statement of purpose.
"Sec. 3004. Program authorized.
"Sec. 3005. Definition.
"Sec. 3006. Uses of funds.
"Sec. 3007. Applications and requirements.
"Sec. 3008. Special consideration.
"Sec. 3009. Prohibitions.
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"TITLE IV—SPECIAL PROGRAMS

"PART A—WOMEN'S EDUCATIONAL EQUITY

"Sec. 4001. Short title; findings and statement of purpose.
"Sec. 4002. Program authorized.
"Sec. 4003. Application; participation.
"Sec. 4004. Challenge grants.
"Sec. 4005. Criteria and priorities.
"Sec. 4006. Reports, evaluation, and dissemination.
"Sec. 4007. Authorization of appropriations.

"PART B—GIFTED AND TALENTED CHILDREN

"Sec. 4101. Short title.
"Sec. 4102. Findings and purposes.
"Sec. 4103. Definitions.
"Sec. 4104. Authorized programs.
"Sec. 4105. Program priorities.
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"Sec. 4107. Administration.
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"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

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"SUBPART 2—PROGRAMS FOR OLDER AMERICANS AND RECENT IMMIGRANTS

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"Sec. 4331. Administrative provisions.
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"Sec. 4402. Definitions.
"Sec. 4403. Authorizations and allocation of appropriations.
"Sec. 4404. State administrative costs.
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"PART E—TERRITORIAL ASSISTANCE
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"Sec. 4502. Territorial teacher training assistance.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION
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"Sec. 4602. Optional tests for academic excellence.
"Sec. 4603. Technology education.
"Sec. 4604. Programs for computer-based education.
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"TITLE V—DRUG EDUCATION
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"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS
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"Sec. 5124. Responsibilities of State educational agencies.
"Sec. 5125. Local drug abuse education and prevention programs.
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"PART C—NATIONAL PROGRAMS
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"Sec. 5132. Federal activities.
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"Sec. 5142. Functions of the Secretary of Education.
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"PART E—MISCELLANEOUS PROVISIONS
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"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT
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"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH
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"Sec. 7033. Program evaluation requirements.
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Sec. 2018. Treatment of children residing on property assisted under section 8 of the United States Housing Act of 1937.
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"TITLE III—ADULT EDUCATION PROGRAMS
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"PART A—BASIC PROGRAM PROVISIONS
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"Sec. 312. Definitions.
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"Sec. 322. Use of funds; local applications.
"Sec. 323. Private sector adult education training.
"Sec. 324. Local administrative cost limits.

"SUBPART 2—PROGRAMS FOR CORRECTIONS EDUCATION AND EDUCATION FOR OTHER INSTITUTIONALIZED INDIVIDUALS
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"SUBPART 3—STATE ADMINISTRATIVE RESPONSIBILITIES
"Sec. 331. State administration.
"Sec. 332. State advisory council on adult education.

"SUBPART 4—PLANNING AND APPLICATIONS
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"SUBPART 6—DEMONSTRATION PROJECTS
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"Sec. 361. Payments.

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"Sec. 382. Adult literacy volunteer training.
"Sec. 383. State program analysis assistance and policy studies.
"Sec. 384. National research activities.
"Sec. 385. Limitation.".

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"Sec. 902. Statement of purpose.
"Sec. 903. Program authorized.
"Sec. 904. Eligible telecommunications partnerships.
"Sec. 905. Applications.
"Sec. 906. Dissemination of courses and materials under the Star Schools program.
"Sec. 907. Definitions.".

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"Sec. 670n. Child development projects.
"Sec. 670o. Limitation.
"Sec. 670p. Applicability of certain rules and regulations.
"Sec. 670q. Continuing evaluation of projects.
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SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

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SUBPART 3—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

Sec. 5330. Improvement of educational opportunities for adult Indians.

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Sec. 6205. Study of local use of chapter 2 funds.
Sec. 6206. National study of effective schools programs.
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Sec. 6208. Study relating to women's educational equity.
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PART D—GENERAL PROVISIONS

Sec. 6301. Definitions.

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TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAMS REAUTHORIZED

SEC. 1001. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) (other than title X of such Act) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) DECLARATION OF POLICY.—In recognition of—

"(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

"(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

"(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

"(B) expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993; and

"(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

"(b) STATEMENT OF PURPOSE.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Allocations

"SEC. 1005. BASIC GRANTS.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR TERRITORIES.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under this section. The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter.

"(2) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

"(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(3) SPECIAL ALLOCATION PROCEDURES.—

"(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties or may continue to make such allocations if the agency had the authority to do so under chapter 1 of the Education Consolidation and Improvement Act of 1981. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—

"(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per pupil expenditure in the State in which the agency is located, or (B) 120 percent of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F. Such agreement shall consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies. If, in the capacity as a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary shall comply with section 1451 of this Act and with section 553 of title 5 of the United States Code, relating to administrative procedure, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

"(e) STATE MINIMUM.—(1) For any fiscal year for which—

"(A) sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988; and

"(B)(i) sums available for the purpose of section 1006 equal or exceed $400,000,000, or

"(ii) sums available for the purpose of section 1005 equal or exceed amounts appropriated for such purpose in fiscal year 1988 by $700,000,000,

the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988.

"(3)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(g) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

"SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000,

whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding

the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

"(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

"(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of subparagraphs (A) and (B) of paragraph (1). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

"(B) In counties where no local educational agency meets the criteria of subparagraph (A) or (B) of paragraph (1), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

"(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

"(i) In accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

"(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

"(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of subparagraphs (A) and (B) of paragraph (1), but are otherwise ineligible.

"(b) PAYMENTS; USE OF FUNDS.—

"(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

"(c) RESERVATION OF FUNDS.—

"(1) For any fiscal year for which amounts appropriated for part A of this chapter exceed $3,900,000,000, the amounts specified in paragraph (2) of this subsection shall be available to carry out this section.

"(2)(A) The first $400,000,000 in excess of $3,900,000,000 appropriated for part A of this chapter in any fiscal year shall be available to carry out this section.

"(B) Whenever the amounts appropriated for part A exceed $4,300,000,000 in any fiscal year, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section, except that no State shall, as a result of implementation of paragraph (2) of this subsection, receive less under section 1005 than it received for the previous fiscal year under such section or under section 554(a)(1)(A) of the Education Consolidation and Improvement Act of 1981.

"(d) RATABLE REDUCTION RULE.—If the sums available under subsection (c) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"Subpart 2—Basic Program Requirements

"SEC. 1011. USES OF FUNDS.

"(a) PROGRAM DESCRIPTION.—

"(1) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

"(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

"(3) State and local educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

"(b) INNOVATION PROJECTS.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(1) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(2) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan for a period not to exceed 2 years;

"(3) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(4) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

"(5) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(6) encouraging the involvement of community and private sector resources (includ-

ing fiscal resources) in meeting the needs of eligible children; and

"(7) assistance by local educational agencies of schools identified under section 1021(b).

"SEC. 1012. ASSURANCES AND APPLICATIONS.

"(a) State Educational Agency Assurances.—Any State desiring to participate under this chapter shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in section 435 (b)(2) and (b)(5) of the General Education Provisions Act relating to fiscal control and fund accounting procedures;

"(2) will carry out the activities required under this chapter with regard to evaluation and school program improvement;

"(3) has on file a program improvement plan that meets the requirements of section 1020; and

"(4) will ensure that its local educational agencies and State agencies receiving funds under this chapter comply with all applicable statutory and regulatory provisions pertaining to this chapter.

Such assurances shall remain in effect for the duration of participation under this chapter.

"(b) Local Applications.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the procedure to be used under section 1014(b) to assess students' needs and establish program goals, describes the programs and projects to be conducted with such assistance for a period of not more than 3 years, and describes the desired outcomes for eligible children, in terms of basic and more advanced skills that all children are expected to master, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency and developed in consultation with teachers and parents.

"(c) Local Assurances.—Such application shall provide assurance that the programs and projects described—

"(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

"(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017;

"(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program; and

"(4) in the case of participating students who are also limited English proficient or are handicapped, provide maximum coordination between services provided under this chapter and services provided to address children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

"SEC. 1013. ELIGIBLE SCHOOLS.

"(a) General Provisions.—

"(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest within each grade span grouping or for the entire local educational agency, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence of this paragraph.

"(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all school attendance areas within a grade span grouping or for the entire local educational agency, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

"(b) Local Educational Agency Discretion.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

"(1) A local educational agency may designate as eligible and serve all of its attendance areas within a grade span grouping or in the entire local educational agency if the percentage of children from low income families in each attendance area of the agency is within 5 percentage points of the average percentage of such children within a grade span grouping or for the entire local educational agency.

"(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency eligible under subsection (a) in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year if such attendance areas qualify for such amounts under subsection (c)(1).

"(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of deprived children from low-income families in project areas served by the local educational agency.

"(4) Funds received under this part may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(5) If an eligible school attendance area or eligible school was so designated and served in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify as eligible under such subsection in such additional year.

"(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this part, except that (A) the number of children attending private elementary and secondary schools who receive services under this part shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this part shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(c) Allocations.—

"(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this part among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

"(2) Children in eligible schools, who receive services under this part and subsequently become ineligible due to improved academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

"SEC. 1014. ELIGIBLE CHILDREN.

"(a) General Provisions.—

"(1) Except as provided in subsections (c) and (d) of this section and section 1015, a local educational agency shall use funds received under this part for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

"(2) The eligible population for services under this part are—

"(A) those children up to age 21 who are entitled to a free public education through grade 12, and

"(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this part only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—(1) Educationally deprived children who begin participation in a program or project assisted under this part, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this part, may, if the local agency so determines, continue to participate in a program or project funded under this part for the duration of that same school year.

"(2) In providing services under this part a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this part.

"(3) A child who, in the previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this part while continuing to be educationally deprived for a maximum of 2 additional years.

"(d) SPECIAL RULES.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this part, if they have needs stemming from educational deprivation and not related solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this part. Funds under this part may not be used to provide services that are otherwise required by law to be made available to such children.

"(2) A student who at any time in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

"SEC. 1015. SCHOOLWIDE PROJECTS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this part and in which, for the first year of the 3-year period of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this part to upgrade the entire educational program in that school if the requirements of subsections (b), (c), (d), and (e) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

"(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

"(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

"(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

"(D) describes the specific uses of funds under this part as part of that program; and

"(E) describes how the school will move to implement an effective school program as defined in section 1471, if appropriate;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

"(3) the plan provides for consultation among individuals described in paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (e);

"(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

"(5) the plan includes procedures for measuring progress, as required by subsection (e), and describes the particular measures to be used; and

"(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

"(c) APPROVAL OF PLAN; OPERATION OF PROJECT.—

"(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this part with respect to the commingling of funds provided under this chapter with funds available for regular programs;

"(B) shall use funds received under this part only to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a schoolwide project under paragraph (1);

"(C) shall comply with the provisions of section 1018(c); and

"(D) may not be required to identify particular children as being eligible to participate in projects assisted under this part but shall identify educationally deprived children for purposes of subsections (b) and (e) of this section.

"(d) USE OF FUNDS.—In addition to uses under section 1011, funds may be used in schoolwide projects for—

"(1) planning and implementing effective school programs, and

"(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended school-day programs.

"(e) ACCOUNTABILITY.—

"(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of 3 years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional 3-year period.

"(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of educationally deprived children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of educationally deprived children in that school exceeds the average achievement of such children in that school in the 3 fiscal years prior to initiation of the schoolwide project.

"(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels over the 3-year schoolwide project period, compared with the 3-year period immediately preceding the schoolwide project, do not decline.

"(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

"SEC. 1016. PARENTAL INVOLVEMENT.

"(a) FINDINGS; GENERAL REQUIREMENT.—

"(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

"(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activities, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size,

scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

"(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

"(b) GOALS OF PARENTAL INVOLVEMENT.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating children, develop programs, activities, and procedures which have the following goals—

"(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

"(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

"(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students;

"(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children;

"(5) to provide a comprehensive range of opportunities for parents to become informed, in a timely way, about how the program will be designed, operated, and evaluated, allowing opportunities for parental participation, so that parents and educators can work together to achieve the program's objectives; and

"(6) to ensure opportunities, to the extent practicable, for the full participation of parents who lack literacy skills or whose native language is not English.

"(c) MECHANISMS FOR PARENTAL INVOLVEMENT.—

"(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

"(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all such parents are given an opportunity to participate.

"(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and, to the extent practical, hold a parent-teacher conference with the parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter.

"(4) Each local educational agency shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

"(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children.

"(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

"(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

"(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided, to the extent practicable, in a language and form which the parents understand.

"SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011(a), 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BYPASS PROVISION.—

"(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

"(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

"(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

"(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secre-

tary may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965, as in effect prior to July 1, 1988, or chapter 1 of the Education Consolidation and Improvement Act of 1981 shall remain in effect to the extent consistent with the purposes of this chapter.

"(d) CAPITAL EXPENSES.—

"(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agencies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter.

"(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

"(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

"(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, $40,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected.

"(4) For the purposes of this subsection, the term 'capital expenses' is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (including but not limited to mobile educational units and leasing of neutral sites or space), insurance and maintenance costs, transportation, and other comparable goods and services.

"SEC. 1018. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) Each State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

"(c) COMPARABILITY OF SERVICES.—

"(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

"(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

"(i) a districtwide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

"(3) Each educational agency shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. Each State educational agency shall monitor the compliance of local educational agencies within the States with respect to the requirements of this subsection.

"(4) Each local educational agency with not more than 1 building for each grade span shall not be subject to the provisions of this subsection.

"(5) Each local educational agency which is found to be out of compliance with this subsection shall be subject to withholding or repayment of funds only to the amount or percentage by which the local educational agency has failed to comply.

"(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

"(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency or a State agency operating a program under part D of this chapter may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children after prior determination pursuant to paragraphs (3) and (4) of this subsection that such programs meet the requirements of subparagraph (B).

"(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

"(i) all children participating in the program are educationally deprived,

"(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

"(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and

"(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

"(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(i) bilingual education for children of limited English proficiency,

"(ii) special education for handicapped children, and

"(iii) certain State phase-in programs as described in subparagraph (B).

"(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

"(i) the program is authorized and governed specifically by the provisions of State law;

"(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(v) the program will benefit all children in a particular school or grade-span within a school;

"(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

"(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

"(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determination. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

"(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"SEC. 1019. EVALUATIONS.

"(a) LOCAL EVALUATION.—Each local educational agency shall—

"(1) evaluate the effectiveness of programs assisted under this part, in accordance with national standards developed according to section 1435, at least once every 3 years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

"(2) submit such evaluation results to the State educational agency at least once during each 3-year application cycle;

"(3) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year.

"(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1107(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every 2 years, submit that evaluation to the Secretary and make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

"(3) collect data on the race, age, gender, and number of children with handicapping conditions served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

"(c) SPECIAL CONDITION.—Projects funded under this part that serve only preschool, kindergarten, or first grade students or students in such grade levels who are included in projects serving children above such grade levels shall not be subject to the requirements of subsection (a).

"SEC. 1020. STATE EDUCATIONAL PROGRAM IMPROVEMENT PLAN.

"(a) PLAN REQUIREMENTS.—A State educational agency which receives funds under part A, part C, and part E of this chapter shall develop, in consultation with a committee of practitioners constituted pursuant to section 1451(b) of this chapter, a plan to ensure implementation of the provisions of this section and section 1021. Each such plan shall contain, but shall not be limited to—

"(1) the objective measures and standards the State educational agency and other agencies receiving funds under part A, part C, and part E of this chapter will use to assess aggregate performance pursuant to section 1021, and may include implementation of section 1019;

"(2) the means the State educational agency will use to develop joint plans with local educational agencies which have identified, pursuant to section 1021(b), schools in need of program improvement to attain satisfactory student progress, the timetable for developing and implementing such plans (within parameters defined pursuant to section 1431) and the program improvement assistance that will be provided to such schools pursuant to section 1021. Such program improvement assistance may include, but shall not be limited to, training and retraining of personnel, development of curricula that has shown promise in similar schools, replication of promising practices in effective schools models, improving coordination between programs assisted under this chapter and the regular school program, and the development of innovative strategies to enhance parental involvement.

"(b) DISSEMINATION AND AVAILABILITY OF PLAN.—(1) The State educational agency shall disseminate the plan developed under this subsection to all local educational agencies and other State agencies receiving funds under this chapter.

"(2) The State educational program improvement plan shall be available at the State educational agency for inspection by the Secretary and may be amended by the State educational agency after consultation with a committee of practitioners when necessary.

"(c) AVAILABILITY OF FUNDS.—In any fiscal year for which appropriations are made pursuant to section 1405, the State educational agency shall fully implement the program improvement activities described in sections 1020 and 1021. In any fiscal year for which appropriations are not made, the State educational agency shall conduct, at a minimum, the activities required under section 1021(d), and other program improvement activities to the extent practicable.

"SEC. 1021. PROGRAM IMPROVEMENT.

"(a) LOCAL REVIEW.—Each local educational agency shall—

"(1) conduct an annual review of the program's effectiveness in improving student performance for which purpose the local educational agency shall use outcomes developed pursuant to section 1012 and subsection (b) of this section, and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

"(2) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year;

"(3) use the results of such review and of evaluation pursuant to section 1019 in program improvement efforts required by section 1021(b); and

"(4) annually assess through consultation with parents, the effectiveness of the parental involvement program and determine what action needs to be taken, if any, to increase parental participation.

"(b) SCHOOL PROGRAM IMPROVEMENT.—With respect to each school which does not show substantial progress toward meeting the desired outcomes described in the local educational agency's application under section 1012(a) or shows no improvement or a decline in aggregate performance of children served under this chapter for one school year as assessed by measures developed pursuant to section 1019(a) or subsection (a), pursuant to the program improvement timetable developed under sections 1020 and 1431, the local educational agency shall—

"(1) develop and implement in coordination with such school a plan for program improvement which shall describe how such agency will identify and modify programs funded under this chapter for schools and children pursuant to this section and which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children, including—

"(A) a description of educational strategies designed to achieve the stated program outcomes or to otherwise improve the performance and meet the needs of eligible children; and

"(B) a description of the resources, and how such resources will be applied, to carry out the strategies selected, including, as appropriate, qualified personnel, inservice training, curriculum materials, equipment, and physical facilities; and, where appropriate—

"(i) technical assistance;

"(ii) alternative curriculum that has shown promise in similar schools;

"(iii) improving coordination between part A and part C of this chapter and the regular school program;

"(iv) evaluation of parent involvement;

"(v) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter, and

"(vi) other measures selected by the local educational agency;

"(2) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

"(3) A school which has 10 or fewer students served during an entire program year shall not be subject to the requirements of this subsection.

"(c) DISCRETIONARY ASSISTANCE.—The local educational agency may apply to the State educational agency for program improvement assistance funds authorized under section 1405.

"(d) STATE ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES.—(1) If after the locally developed program improvement plan shall have been in effect according to the timetable established under sections 1020 and 1431, the aggregate performance of children served under this chapter in a school does not meet the standards stated in subsections (a) and (b), the local educational agency shall, with the State educational agency, and in consultation with school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved performance is sustained over a period of more than 1 year.

"(2) The State educational agency shall ensure that program improvement assistance is provided to each school identified under paragraph (1).

"(e) LOCAL CONDITIONS.—The local educational agency and the State educational agency, in performing their responsibilities under this section, shall take into consideration—

"(1) the mobility of the student population,

"(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

"(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter,

"(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter, and

"(5) whether a change in the review cycle pursuant to section 1019 or 1021(a)(1) or in the measurement instrument used or other measure-related phenomena has rendered results invalid or unreliable for that particular year.

"(f) STUDENT PROGRAM IMPROVEMENT.—On the basis of the evaluations and reviews under sections 1019(a)(1) and 1021(a)(1), each local educational agency shall—

"(1) identify students who have been served for a program year and have not met the standards stated in subsections (a) and (b),

"(2) consider modifications in the program offered to better serve students so identified, and

"(3) conduct a thorough assessment of the educational needs of students who remain in the program after 2 consecutive years of participation and have not met the standards stated in subsection (a).

"(g) PROGRAM IMPROVEMENT ASSISTANCE.—In carrying out the program improvement and student improvement activities required in subsections (a), (b), (c), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers and appropriate regional rural assistance programs established by section 1456 to the full extent such resources are available.

"(h) FURTHER ACTION.—If the State educational agency finds that, consistent with the program improvement timetable established under sections 1020 and 1431, after one year under the joint plan developed pursuant to subsection (d), including services in accordance with section 1017, a school which continues to fall below the standards for improvement stated in subsections (a) and (b) with regard to the aggregate performance of children served under part A, part C, and part E of this chapter, the State educational agency shall, with the local educational agency, review the joint plan and make revisions which are designed to improve performance, and continue to do so each consecutive year until such performance is sustained over a period of more than one year. Nothing in this section or section 1020 shall be construed to give the State any authority concerning the educational program of a local educational agency that does not otherwise exist under State law.

"(i) MUTUAL AGREEMENT.—Before any joint plan may be implemented under subsection (d) and subsection (h) both the local educational agency and State educational agency must approve such plan.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SEC. 1051. STATEMENT OF PURPOSE.

"It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as 'Even Start'. The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

"SEC. 1052. PROGRAM AUTHORIZATION.

"(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part which are not inconsistent with the provisions of this subsection, to make grants to local educational agencies or consortia of such agencies to carry out Even Start programs.

"(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States from allocations under section 1053 to enable States to carry out Even Start programs.

"(c) DEFINITION.—For the purpose of this part, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1053. ALLOCATION.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—The Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) STATE ALLOCATION.—Except as provided in section 1052(a) and subsection (c) of this section, each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated under section 1052(b) in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) Subject to the provisions of paragraph (2), no State shall receive less than the greater of—

"(A) one-half of one percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"SEC. 1054. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out the program under this part, funds made available to local educational agencies, in collaboration with, where appropriate, institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations, shall be used to pay the Federal share of the cost of providing family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) PROGRAM ELEMENTS.—Each program assisted under this part shall include—

"(1) the identification and recruitment of eligible children;

"(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

"(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided for under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in the program authorized by this part;

"(4) the establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

"(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

"(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

"(7) coordination of programs assisted under this part with programs assisted

under this chapter and any relevant programs under chapter 2 of this title, the Adult Education Act, the Education of the Handicapped Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

"(c) FEDERAL SHARE LIMITATION.—The Federal share under this part may be—

"(1) not more than 90 percent of the total cost of the program in the first year the local educational agency receives assistance under this part,

"(2) 80 percent in the second such year,

"(3) 70 percent in the third such year, and

"(4) 60 percent in the fourth and any subsequent such year.

Funds may not be used for indirect costs. The remaining cost may be obtained from any source other than funds made available for programs under this title.

"SEC. 1055. ELIGIBLE PARTICIPANTS.

"Eligible participants shall be—

"(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

"(2) the child or children (aged 1 to 7, inclusive), of any individual under paragraph (1), who reside in a school attendance area designated for participation in programs under part A.

"SEC. 1056. APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a grant under this part a local educational agency shall submit an application to the Secretary under section 1052(a) and to the State educational agency under section 1052(b) in such form and containing or accompanied by such information as the Secretary or the State educational agency, as the case may be, may require.

"(b) REQUIRED DOCUMENTATION.—Such application shall include documentation that the local educational agency has the qualified personnel required—

"(1) to develop, administer, and implement the program required by this part, and

"(2) to provide special training necessary to prepare staff for the program.

"(c) PLAN.—Such application shall also include a plan of operation for the program which includes—

"(1) a description of the program goals;

"(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

"(3) a description of the population to be served and an estimate of the number of participants;

"(4) if appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, private elementary schools, or other appropriate nonprofit organizations in carrying out the program for which assistance is sought;

"(5) a statement of the methods which will be used—

"(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

"(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

"(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

"(6) a description of the methods by which the applicant will coordinate programs under this part with programs under chapter 1 and chapter 2, where appropriate, of this title, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

"SEC. 1057. AWARD OF GRANTS.

"(a) SELECTION PROCESS.—The Secretary or each State educational agency, as the case may be, shall appoint a review panel that will award grants on the basis of proposals which—

"(1) are most likely to be successful in meeting the goals of this part;

"(2) serve the greatest percentage of eligible children and parents as described in section 1055;

"(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(4) submit budgets which appear reasonable, given the scope of the proposal;

"(5) demonstrate the local educational agency's ability to provide additional funding under section 1054(c);

"(6) are representative of urban and rural regions of the State or of the United States, as the case may be; and

"(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

"(b) REVIEW PANEL.—A review panel shall, to the extent practicable, consist of 7 members as follows:

"(1) an early childhood education professional;

"(2) an adult education professional;

"(3) a representative of parent-child education organizations;

"(4) a representative of community-based literacy organizations;

"(5) a member of a local board of education;

"(6) a representative of business and industry with a commitment to education; and

"(7) an individual involved in the implementation of programs under this chapter within the State.

The panel shall contain members described in paragraphs (1), (2), (6), and (7).

"(c) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In approving grants under this part under section 1052(a), the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(d) DURATION.—(1) Grants may be awarded for a period not to exceed 4 years. In any application from a local educational agency for a grant to continue a project for the second, third, or fourth fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary or the State educational agency, as the case may be, shall review the progress being made toward meeting the objectives of the project. The Secretary or the State educational agency, as the case may be, may refuse to award a grant if the Secretary or such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(2) The Secretary shall establish criteria for carrying out the provisions of paragraph (1) in the transition fiscal year whenever the provisions of section 1052(b) apply to authorized State grant programs.

"SEC. 1058. EVALUATION.

"(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) services to special populations;

"(2) adult education services;

"(3) parent training;

"(4) home-based programs involving parents and children;

"(5) coordination with related programs; and

"(6) training of related personnel in appropriate skill areas.

"(b) CRITERIA.—

"(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1993. The annual evaluations shall be submitted to the National Diffusion Network for consideration for possible dissemination.

"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purposes of this part $50,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"SEC. 1101. PURPOSE.

"It is the purpose of this subpart to provide additional assistance to local educational agencies with high concentrations of low-income children, low-achieving children, or school dropouts to improve the achievement of educationally disadvantaged children enrolled in secondary schools of such agencies, and to reduce the number of youths who do not complete their elementary and secondary education.

"SEC. 1102. ALLOCATION.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—From the amount appropriated under section 1108 for the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) STATE ALLOCATION.—Except as provided in subsection (c), each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) State Minimum.—(1) No State shall receive less than the greater of—

"(A) one-quarter of 1 percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"(d) Local Educational Agency Allocation.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

"(1) the eligibility of such agency for funds under section 1005 of this Act; and

"(2) the criteria described in section 1105.

Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.

"(e) State Administration.—A State may reserve not more than 5 percent of the amounts available under this part for any fiscal year for State administrative costs.

"SEC. 1103. USES OF FUNDS.

"(a) General Rule.—A local educational agency may use—

"(1) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b), and

"(2) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).

"(b) Basic Skills for Secondary Schools.—Funds made available under this subpart may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches for—

"(A) surmounting barriers that make secondary school programs under this subpart difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) courses leading to successful completion of the general education development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, preemployment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other student services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subpart and under part A, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(c) Uses of Funds for School Dropout Prevention and Reentry Projects.—Funds made available under this subsection may be used for—

"(1) effective programs which identify potential student dropouts and prevent them from dropping out of elementary and secondary school;

"(2) effective programs which identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective programs for early intervention designed to identify at-risk students in elementary and early secondary schools;

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school;

"(5) school dropout programs which include coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(6) projects which are carried out in consortia with a community-based organization, any nonprofit private organization, institution of higher education, State educational agency, State and local public agencies, private industry councils (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station, or community-based organization; or

"(7) any of the activities described in section 6005 or 6006 of title VI.

"(d) Limitation.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

"SEC. 1104. APPLICATIONS.

"(a) Application Required.—Any local educational agency which desires to receive a grant under this part shall submit to the State educational agency an application which describes the program to be supported with funds under this part and complies with the provisions of subsection (b).

"(b) Contents of Application.—Each application submitted under subsection (a) shall—

"(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, school dropouts, and potential school dropouts;

"(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this part);

"(3) assure that the programs will be conducted in schools with the greatest need for assistance, in terms of achievement levels, poverty rates, or school dropout rates;

"(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part;

"(5) assure that services will be provided under this part, as appropriate, to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

"(7) describe the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

"(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

"(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part; and

"(10) provide such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

"(c) Special Rule.—If the Secretary determines that a local educational agency has substantially failed to comply with paragraph (9) (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students.

"(d) Duration of Grants.—Grants may be awarded for a period of 3 years.

"SEC. 1105. AWARD OF GRANTS.

"Each State educational agency shall award grants to local educational agencies within the State which—

"(1) demonstrate the greatest need for services provided under this part based on their numbers of low-income children, numbers of low-achieving children, or numbers of school dropouts;

"(2) are representative of urban and rural regions of the State;

"(3) offer innovative approaches to improving achievement among eligible youth or offer approaches which show promise for replication and dissemination; and

"(4) offer innovative approaches to reducing the number of school dropouts.

"SEC. 1106. FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.

"(a) General Rule.—(1) The provisions of subsections (a) through (d) of section 1018 of this Act shall apply to the program authorized by this part.

"(2) Administrative Costs.—Not more than 5 percent of a grant may be used for local administrative costs.

"(3) Coordination and Dissemination.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(b) Special Rule.—(1) Each local educational agency shall use funds under this part to supplement the level of funds under this chapter that are used for secondary school programs.

"(2) In order to comply with paragraph (1), any local educational agency which operates secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which is operating secondary school basic skills programs under this part shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

"SEC. 1107. EVALUATION.

"The provisions of sections 1019 and 1021 shall apply to local educational agencies receiving grants under this part.

"SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for the fiscal year 1990, $450,000,000 for the fiscal year 1991, $500,000,000 for the fiscal year 1992, and $550,000,000 for the fiscal year 1993 to carry out this part.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

"SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT.

"(a) Entitlement.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen which meet the requirements of section 1202.

"(b) Amount of Grant.—(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than the Commonwealth of Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as the Secretary may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States may not exceed a standard error rate of 5 percent.

"(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

"(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"SEC. 1202. PROGRAM REQUIREMENTS.

"(a) Requirements for Approval of Application.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Education of the Handicapped Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

"(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen; and

"(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

"(b) Continuation of Migrant Status.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker (including migratory agricultural dairy workers) or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of 5 years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

"(c) Definitions.—The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 (as in effect on April 30, 1985). No additional definition of 'migratory agricultural worker' or 'migratory fisherman' may be applied to the provisions of this subpart.

"(d) Bypass Provision.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in 1 or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

"SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

"(a) Activities Authorized.—(1) The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies (in consultation with and with the approval of the States) for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant

issued under this paragraph shall not exceed 3 years for its stated purpose.

"(2)(A) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including individualized education programs approved under the Education of the Handicapped Act).

"(B) Except as provided in subparagraph (C), for the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year.

"(C) Beginning on July 1, 1992, and every 4 years thereafter, the Secretary shall conduct a competition to award such contract.

"(D) No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

"(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $6,000,000 nor more than 5 percent of the amount appropriated.

"Subpart 2—Programs for Handicapped Children

"SEC. 1221. AMOUNT AND ELIGIBILITY.

"(a) ELIGIBILITY FOR GRANT.—(1) A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year for programs (as defined in sections 1222 and 1223) for handicapped children (as defined in paragraph (2)(B)).

"(2) For the purpose of this subpart—

"(A) 'children' includes infants and toddlers described in part H of the Education of the Handicapped Act, as appropriate, and

"(B) 'handicapped children' means children who by reason of their handicap require special education and related services, or in the case of infants and toddlers, require early intervention services and who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities.

"(b) STATE EDUCATIONAL AGENCY APPLICATION.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary which provides assurances that—

"(1) all handicapped children (other than handicapped infants and toddlers) in the State participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) programs and projects receiving assistance under this subpart are administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act, including the monitoring by such agency of compliance under paragraph (1);

"(3) programs and projects under this subpart will be coordinated with services under the Education of the Handicapped Act;

"(4) for fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this subpart through the State office responsible for administering part B of the Education of the Handicapped Act;

"(5) the agency will report annually to the Secretary—

"(A) the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

"(B) the number of children served under this subpart in each of the educational placements described in section 618(b)(2) of the Education of the Handicapped Act (and will report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs); and

"(C) on the uses of funds and the allocation of such funds for such uses under this subpart; and

"(6) the agency will report to the Secretary such other information as the Secretary may reasonably request.

"(c) AMOUNT OF GRANT.—(1) Except as provided in subsection (e) and section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of handicapped children, from birth through 21, enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants, toddlers and children operated or supported by a State agency which—

"(i) is directly responsible for providing free public education for handicapped children (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency); or

"(ii) is directly responsible for providing early intervention services for handicapped infants or toddlers (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency),

in the most recent fiscal year for which satisfactory data are available. The State educational agency shall distribute such funds to the appropriate State agency on the basis of the December 1 child count by distributing an equal amount for each child counted.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. Except as provided in subsection (e), a grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In any case in which a child described in sections 1225(1)(A) and 1225(1)(B)(i) leaves an educational program for handicapped children operated or supported by a State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—

"(1) the child was receiving and continues to receive a free appropriate public education; and

"(2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State educational agency under this section which are attributable to such child, to be used for the purpose set forth in section 1223.

"(e) SPECIAL REQUIREMENT.—The State educational agency may count handicapped children aged 3 to 5, inclusive, in a State only if such State is eligible for a grant under section 619 of the Education of the Handicapped Act.

"SEC. 1222. PROGRAM REQUIREMENTS.

"(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children (other than handicapped infants and toddlers) or the early intervention needs of handicapped infants and toddlers. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

"(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children (other than handicapped infants and toddlers) or early intervention services for handicapped infants and toddlers.

"(c) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children served.

"SEC. 1223. USES OF FUNDS.

"(a) GENERAL RULE.—Programs, and projects authorized under this subpart may include, but are not limited to—

"(1) services provided in early intervention, preschool, elementary, secondary, and transition programs;

"(2) acquisition of equipment and instructional materials;

"(3) employment of special personnel;

"(4) training and employment of education aides;

"(5) training in the use and provision of assistive devices and other specialized equipment;

"(6) training of teachers and other personnel;

"(7) training of parents of handicapped children;

"(8) training of nonhandicapped children to facilitate their participation with handicapped children in joint activities;

"(9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living;

"(10) outreach activities to identify and involve handicapped children and their families more fully in a wide range of educational and recreational activities in their communities; and

"(11) planning for, evaluation of, and dissemination of information regarding such programs and projects assisted under this subpart.

"(b) PROHIBITION.—Programs and projects authorized under this subpart may not include the construction of facilities.

"SEC. 1224. SERVICE AND PROGRAM APPLICATIONS.

"(a) APPLICATION REQUIRED.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than 3 years, and each such application has been approved by the State educational agency. Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsections (b) and (c).

"(b) REQUIREMENTS.—At a minimum each such application shall—

"(1) indicate the number of children to be served;

"(2) specify the number of children to be served for each disability and age category as described in part B of the Education of the Handicapped Act;

"(3) describe the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or program;

"(4) specify the services to be provided with the funds furnished under this subpart; and

"(5) include other information the Secretary or State educational agency may request.

"(c) APPLICATION ASSURANCES.—Any such application shall provide assurances that—

"(1) all handicapped children in the State (other than handicapped infants and toddlers) participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) services, programs, and projects conducted under this subpart are of sufficient size, scope, and quality to give reasonable promise toward meeting the special educational and early intervention needs of children to be served;

"(3) funds made available under the subpart will supplement, not supplant State and local funds in accordance with section 1018(b);

"(4) the agency will maintain its fiscal effort in accordance with section 1018(a);

"(5) the agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

"(6) the parents of children to be served with funds under this subpart are provided an opportunity to participate in the development of its project application; and

"(7) the agency will comply with all reporting requirements in a timely manner.

"(d) LETTER OF REQUEST.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than 5 children with its payment. In such a letter the agency shall include an assurance that the payment will be used to supplement the provision of special education and related services.

"SEC. 1225. ELIGIBLE CHILDREN.

"The children eligible for services under this subpart are—

"(1) those handicapped children from birth to 21, inclusive, who—

"(A) the State is directly responsible for providing special education or early intervention services to (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency), and

"(B)(i) are participating in a State-operated or State-supported school or program for handicapped children (including schools and programs operated under contract or other arrangement with a State agency), or

"(ii) previously participated in such a program and are receiving special education or early intervention services from local educational agencies; and

"(2) other handicapped children, if children described in paragraph (1) have been fully served.

"SEC. 1226. FEDERAL MONITORING REQUIREMENT.

"Whenever the Secretary conducts monitoring visits under part B of the Education of the Handicapped Act, the Secretary shall monitor the program authorized by this subpart, if applicable.

"Subpart 3—Programs for Neglected and Delinquent Children

"SEC. 1241. AMOUNT AND ENTITLEMENT.

"(a) ENTITLEMENT TO GRANTS.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"SEC. 1242. PROGRAM REQUIREMENTS.

"(a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 2 of part F and sections 1011(a), 1014, and section 1018 (other than subsection (c)). The transfer of neglected and delinquent student records among State and local educational agencies, institutions, and programs shall include any individualized education programs of such students.

"(b) COMPLIANCE.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

"(c) THREE-YEAR PROJECTS.—Where a State agency operates programs under this subpart in which children are likely to participate for more than 1 year, the State educational agency may approve the application for a grant under this subpart for a period of more than 1 year, but not to exceed 3 years.

"(d) EVALUATION.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program or special education program operated by a local educational agency.

"SEC. 1243. TRANSITION SERVICES.

"(a) TRANSITION SERVICES.—Each State may reserve not more than 10 percent of the *amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.*

"(b) CONDUCT OF PROJECTS.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

"SEC. 1244. DEFINITIONS.

"For the purposes of this subpart, the following terms have the following meanings:

"(1) The term 'institution for delinquent children', as determined by the State educational agency, means a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

"(2) The term 'institution for neglected children' means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

"Subpart 4—General Provisions for State Operated Programs

"SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES.

"There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter.

"SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS.

"Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

"PART E—PAYMENTS

"SEC. 1401. PAYMENT METHODS.

"The Secretary shall, from time to time, pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter or chapter 1 of the Education Consolidation and Improvement Act of 1981 (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under sections 1053 and 1102 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

"SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.

"(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided for in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this chapter for such year, the allocations to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—(1) If additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis as they were reduced.

"(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State, and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter shall be in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding 2 sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

"SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

"(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter (other than section 1021), except that the total of such payments in any fiscal year shall be the greater of the following:

"(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

"(2) $325,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

"SEC. 1405. FUNDS FOR THE IMPLEMENTATION OF SCHOOL IMPROVEMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to pay, for the purpose of carrying out program improvement plans described in section 1021, to each State an amount equal to—

"(1)(A) 0.25 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1989, 1990, and 1991; and

"(B) 0.5 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1992 and 1993; or

"(2)(A) $90,000 or $15,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1989, 1990, and 1991; and

"(B) $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1992 and 1993.

"(b) LIMITATIONS.—(1) No funds made available to States under subsection (a) may be used for administrative functions related to any provisions of this chapter.

"(2) Funds made available to States under this section shall only be used for direct educational services in schools implementing program improvement plans as described under section 1021.

"(3) Parents of participating children, school staff, the local educational agency and the State educational agency shall jointly agree to the selection of providers of technical assistance and the best use of funds available under subsection (a) for the effective implementation of the program improvement plan. Uses of such funds include assistance from—

"(A) an institution of higher education;

"(B) federally supported educational laboratory or center;

"(C) State personnel with expertise in educational improvement;

"(D) locally, State, or nationally based consultants; and

"(E) other possible providers of the specific services required by the school's program plan.

"SEC. 1406. LIMITATION ON GRANT TO THE COMMONWEALTH OF PUERTO RICO.

"Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by the Commonwealth of Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which the agencies are eligible under section 1005.

"PART F—GENERAL PROVISIONS

"Subpart 1—Federal Administration

"SEC. 1431. FEDERAL REGULATIONS.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(b) PROCEDURE.—(1) Prior to publishing proposed regulations pursuant to this chapter, the Secretary shall convene regional meetings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter.

"(2) Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) In an emergency situation in which regulations pursuant to this chapter must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

"(c) SPECIAL RULE.—Funds made available under sections 1437 and 1463 of this chapter shall be released for expenditure by the Secretary only at such time as final regulations pertaining to this chapter are published in the Federal Register.

"(d) LIMITATION.—Programs under this chapter may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1432. AVAILABILITY OF APPROPRIATIONS.

"(a) GENERAL PROVISION.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(b) CARRYOVER AND WAIVER.—Notwithstanding section 412 of the General Education Provisions Act, subsection (a) or any other provision of law—

"(1) not more than 25 percent of funds appropriated for fiscal year 1989 and 15 percent of funds appropriated for fiscal year 1990 and each subsequent year may remain available for obligation for 1 additional year;

"(2) a State educational agency may grant a 1-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

"(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

"SEC. 1433. WITHHOLDING OF PAYMENTS.

"(a) WITHHOLDING.—Whenever the Secretary, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter, the Secretary shall notify such agency of these findings and that beginning 60 days after the date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in the Secretary's discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

"(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

"SEC. 1434. JUDICIAL REVIEW.

"(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act.

"(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 1435. EVALUATION.

"(a) NATIONAL STANDARDS.—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. In developing such standards, the Secretary may use the Title I Evaluation and Reporting System designed and implemented under title I of this Act, as in effect prior to the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 as the model. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluations.

"(b) REPORTS.—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107, 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1436. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

"(a) POLICY MANUAL.—The Secretary shall, not later than 6 months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

"(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

"(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, *apply, and enforce requirements under this chapter throughout the United States.*

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available. The manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried out under this chapter, including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

"(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

"(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

"(6) summaries of appropriate court decisions concerning programs under this chapter; and

"(7) model forms, policies, and procedures developed by State educational agencies.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not more than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

"(d) TECHNICAL ASSISTANCE.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruction, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

"(e) FEDERAL DISSEMINATION OF EXEMPLARY PROGRAMS.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with the National Diffusion Network.

"(f) FEDERAL REVIEW OF STATE AND LOCAL ADMINISTRATION.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement activities, and the detection and resolution of problems of local noncompliance.

"SEC. 1437. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION AND TECHNICAL ASSISTANCE.

"There are authorized to be appropriated for the purposes of sections 1435 and 1436 for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $4,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"SEC. 1438. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) SUPERCESSION RULE.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter.

"(2) Section 426(a) of such Act is superseded by section 1437 of this chapter.

"(3) Section 427 of such Act is superseded by section 1016 of this chapter.

"(4) Section 430 of such Act is superseded by sections 1012, 1056, 1104(b), 1125, 1202(a), and 1224 of this chapter.

"(5) Section 455 of such Act is superseded by section 1433 of this chapter.

"(6) Section 458 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments.

"(c) EXCLUSION RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1439. NATIONAL COMMISSION ON MIGRANT EDUCATION.

"(a) ESTABLISHMENT.—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including 2 Members of the House, 1 from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 Members of the Senate, 1 from each political party.

"(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed 4 members of the Commission and designated a chairman within 60 days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

"(c) STUDY.—The Commission shall make a study of the following issues:

"(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

"(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

"(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

"(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

"(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

"(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

"(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas schools.

"(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

"(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

"(10) How many of the students being served are identified as 'currently migrant' and how many are 'formerly migrant'; what differences are there in their needs; and how do services provided differ between those of 'currently migrant' and those of 'formerly migrant'.

"(11) How does interstate and intrastate coordination occur at the State and local levels.

"(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

"(d) REPORTS.—

"(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate committees of the Congress on the studies required to be conducted under this section. The reports for the studies required shall be submitted as soon as practicable.

"(2) Any recommendations and reports submitted under this paragraph which con-

template changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(e) Special Study on the Migrant Student Records Transfer System.—(1) The Commission shall conduct a study of the function and the effectiveness of the Migrant Student Records Transfer System.

"(2) The Commission shall prepare and submit to the Secretary of Education and to the Congress, not later than 2 years after the first meeting of the Commission, a report on the study required by paragraph (1).

"(f) Compensation.—

"(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) Staff.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(g) Administration.—

"(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

"(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or the donor's representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of 2 or more may conduct hearings.

"(h) Termination.—The Commission shall terminate 3 years after the date of its first meeting.

"(i) Authorization of Appropriations.—Effective October 1, 1988, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

"Subpart 2—State Administration

"SEC. 1451. STATE REGULATIONS.

"(a) In General.—(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

"(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, mathematics, or language arts) to be addressed; instructional settings, materials or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

"(3) Nothing in this subsection may be construed to inhibit the State educational agency's responsibility to work jointly with local educational agencies and other State agencies receiving funds under this chapter in program improvement activities pursuant to section 1021 where the State may suggest various activities and approaches as it works with such agencies to develop program improvement plans.

"(b) Review by Committee of Practitioners.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) Identification as State Requirement.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"SEC. 1452. RECORDS AND INFORMATION.

"Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

"SEC. 1453. ASSIGNMENT OF PERSONNEL.

"(a) Limitations.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. The time spent by public school personnel on duties described in the preceding sentence may not exceed either—

"(1) the same proportion of total work time as prevails with respect similarly situated personnel at the same school site, or

"(2) one period per day,

whichever is less.

"(b) Use in State Programs.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs.

"SEC. 1454. PROHIBITION REGARDING STATE AID.

No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"Subpart 3—Rural Educational Opportunities

"SEC. 1456. PROGRAM AUTHORIZED.

"(a) General Authority.—The Secretary shall make grants to, or enter into contracts with, institutions of higher education, private nonprofit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1436(d), public agencies, State education agencies, or combinations of such agencies or institutions within particular regions of the United States, to pay all or part of the cost of operating at least 10 rural assistance programs. The Secretary may not make a grant to, or enter into a contract with, any agency, institution, organization, or combination thereof under the preceding sentence unless such agency, institution, organization, or combination thereof has extensive experience providing educational assistance to State and local educational agencies.

"(b) Functions of Regional Rural Assistance Programs.—Each regional rural assistance program established under subsection (a) shall provide technical assistance, consultation, training, and such other assist-

ance as will assist State educational agencies and local educational agencies in the region to improve the quality of the education provided to educationally disadvantaged children participating in programs under this chapter who reside in rural areas or attend small schools. Each such program shall give special consideration to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

"SEC. 1457. APPLICATION PRIORITY REQUIREMENTS.

"(a) In carrying out this subpart, the Secretary shall give priority to applicants which describe assistance to school districts in local educational agencies in rural areas—

"(1) with the highest concentrations of children from low-income families;

"(2) that have significant number or percentage of schools serving children from low-income families; and

"(3) in which there are a significant number of schools in which evaluations indicate lack of substantial progress toward meeting desired outcomes, no improvement, or a decline in aggregate performance by the children participating in programs under this chapter.

"(b) Applicants shall consult with State educational agencies and local educational agencies in the application process.

"SEC. 1458. COORDINATION, DISSEMINATION, AND REPORT.

"(a) COORDINATION.—Each program established under this subpart shall—

"(1) coordinate its activities with technical assistance centers established under section 1436(d),

"(2) coordinate its activities with the activities of local educational agencies and State educational agencies under section 1021, and

"(3) assist in identifying successful programs and practices for dissemination through existing dissemination networks and efforts.

"(b) DISSEMINATION AND REPORT.—(1) Each rural assistance program shall be accessible through electronic means.

"(2) Regional rural assistance programs shall submit a report to the Secretary every 2 years containing such reasonable information about its activities as the Secretary may request, but including at a minimum information on efforts to provide effective services under this chapter in rural school districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of 2 or more districts.

"SEC. 1459. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"Subpart 4—Studies

"SEC. 1461. REPORT ON STATE AND LOCAL EVALUATIONS.

"The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1462. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN.

"(a) NATIONAL LONGITUDINAL STUDY.—The Secretary shall contract with a qualified organization or agency to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the correlations between participation in programs under this chapter and academic achievement, delinquency rates, truancy, school dropout rates, employment and earnings, and enrollment in postsecondary education. The study shall be conducted throughout the country in urban, rural, and suburban areas and shall be of sufficient size and scope to assess and evaluate the effect of the program in all regions of the Nation.

"(b) FOLLOW-UP.—The agency or organization with which the Secretary has entered a contract under subsection (a) shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

"(c) REPORT.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

"SEC. 1463. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $4,000,000 for the fiscal year 1989, $4,200,000 for the fiscal year 1990, $4,400,000 for the fiscal year 1991, $4,700,000 for the fiscal year 1992, and $5,000,000 for the fiscal year 1993 for carrying out sections 1461 and 1462.

"Subpart 5—Definitions

"SEC. 1471. DEFINITIONS.

"Except as otherwise provided, for purposes of this Act:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the 50 States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2 of this title, or chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981.

"(7) The term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and, particularly, educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

"(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(ii) emphasis on the acquisition of basic and higher order skills;

"(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(iv) a climate of expectations that all children can learn under appropriate conditions; and

"(v) continuous assessment of students and programs to evaluate the effects of instruction.

"(8) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(9) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(10) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(12) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(13) The term 'more advanced skills' means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

"(14) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(15) The term 'parent advisory council' means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

"(16) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

"(17) The terms 'pupil services personnel' and 'pupil services' mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

"(18) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(19) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(20) The term 'Secretary' means the United States Secretary of Education.

"(21) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(22) The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(23) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"Subpart 6—Miscellaneous Provisions

"SEC. 1491. TRANSITION PROVISIONS.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued by the Secretary under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of this Act (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Acts on or before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this section under chapter 1 of the Education Consolidation and Improvement Act of 1981 or this title.

"(c) TRANSITION.—With respect to the period beginning on July 1, 1988, and ending June 30, 1989, no recipient of funds under this chapter, or chapter 2 of this title, or under chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

"(2) State and local governments have placed a new focus on education;

"(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management; and

"(4) teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this chapter—

"(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

"(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

"(3) to meet the special educational needs of at risk and high cost students, as described in section 1531(b);

"(4) to enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

"(5) to allow State and local educational agencies to meet their educational needs and priorities for targeted assistance described in section 1531.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this chapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—There are authorized to be appropriated $580,000,000 for the fiscal year 1989, $610,000,000 for the fiscal year 1990, $640,000,000 for the fiscal year 1991, $672,000,000 for the fiscal year 1992, and $706,000,000 for the fiscal year 1993, to carry out the provisions of this chapter.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purpose of this chapter.

"PART A—STATE AND LOCAL PROGRAMS

"Subpart 1—General Provisions

"SEC. 1511. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) The Secretary shall reserve an additional amount, not to exceed 6 percent of the sums appropriated in each fiscal year, to carry out the provisions of part B.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term "school-age population" means the population aged 5 through 17.

"(2) The term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1512. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 1511, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State accord-

ing to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this chapter,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) From the funds paid to it pursuant to section 1511 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1533 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

"SEC. 1521. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this chapter only for—

"(1) State administration of programs under this chapter including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds;

"(C) monitoring and evaluation of programs and activities under this part; and

"(D) operations of the State advisory committee;

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 1531;

"(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

"(b) LIMITATIONS AND REQUIREMENTS.—

"(1) Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"(2)(A) At least 20 percent of funds available for State programs under this part in any fiscal year shall be used for effective schools programs under subsection (a)(3).

"(B) If a State is spending from non-Federal sources an amount equal to twice as much as the State is required to use for the purposes of subsection (a)(3), the Secretary may waive the requirement of subparagraph (A). In deciding whether or not to grant such a waiver, the Secretary shall use the definition of effective schools contained in section 1471(18).

"SEC. 1522. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

"(A) public and private elementary and secondary schoolchildren;

"(B) classroom teachers;

"(C) parents of elementary and secondary schoolchildren;

"(D) local boards of education;

"(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

"(F) institutions of higher education;

"(G) the State legislature;

"(H) elementary and secondary school librarians; and

"(I) school counselors and other pupil services personnel,

to advise the State educational agency on the allocation among targeted programs in accordance with section 1531 (not to exceed 20 percent of the amount of the State's allotment) reserved for State use under section 1512(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

"(3)(A) sets forth planned allocation of funds reserved for State use under section 1512(a) among the targeted assistance programs described in section 1531 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(4) describes how funds reserved under section 1521(b)(2) will be used to carry out subpart 4;

"(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

"(6)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this chapter;

"(B) in fiscal year 1992, provides for an evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

"(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

"(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

"(9) provides the following information: (A) how the State will adjust its formula to comply with section 1512(b)(2), (B) how children under section 1512(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1512(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1512; and

"(10) contains assurances that there is compliance with the specific requirements of this chapter.

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every 5 years.

"Subpart 3—Local Targeted Assistance Programs

"SEC. 1531. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this chapter shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs to meet the educational needs of students at risk of failure in school and of dropping out and students for whom

providing an education entails higher than average costs;

"(2) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction;

"(3) innovative programs designed to carry out schoolwide improvements, including the effective schools program;

"(4) programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members;

"(5) programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and

"(6) other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

"SEC. 1532. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Activities authorized under this subpart may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 1531. Such activities may include—

"(1) training of educational personnel in any of the targeted assistance programs described;

"(2) guidance and counseling services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 1531.

"(b) ADMINISTRATIVE AUTHORITY.—In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 1533. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 1531 of this chapter and describes the programs, projects, and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(2) describe how assistance under this chapter will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with provisions of this chapter including the participation of children enrolled in private, nonprofit schools in accordance with section 1572;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

"(5) provides, in the allocation of funds for the assistance authorized by this chapter, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

"Subpart 4—Effective Schools Programs

"SEC. 1541. ESTABLISHMENT.

"Funds shall be available under this chapter in accordance with sections 1521 and 1531 to—

"(1) plan, implement, support, evaluate, revise, and strengthen effective schools programs;

"(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

"(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

"(4) develop and implement systems to evaluate and analyze effective schools programs;

"(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

"(6) support model and demonstration programs related to effective schools programs; and

"(7) develop and disseminate educational materials related to effective schools programs.

"SEC. 1542. EFFECTIVE SCHOOLS.

"For the purposes of this chapter the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

"SEC. 1561. GENERAL AUTHORITY.

"(a) AUTHORIZATION.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

"(b) PRIORITY FUNDING.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

"(1) not less than $11,200,000 for National Diffusion Network Activities under section 1562;

"(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

"(3) not less than $3,500,000 for the Arts in Education program under section 1564;

"(4) not less than $3,200,000 for the Law-related Education program under section 1565; and

"(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

"SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

"(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

"(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

"(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

"(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(2) assist such persons in implementing programs, products, and practices which

such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

"(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

"In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

"(c) Eligible Recipients of Grants and Contracts.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

"(d) Funding Criteria.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

"(A) The applicant has a workable plan for disseminating its program.

"(B) The program's approach is innovative.

"(C) The program is accurate and up-to-date.

"(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

"(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall consult with interested parties, including participants in the National Diffusion Network.

"(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

"SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

"(a) Authorization.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the "contractor"), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) Requirements of Contract.—The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary school children;

"(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

"(c) Restriction on Payments.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) Definitions.—For purposes of this section the term "Federal share" means—

"(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

"(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

"SEC. 1564. ARTS IN EDUCATION PROGRAM.

"The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as—

"(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

"(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

"(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the organization Very Special Arts.

"SEC. 1565. LAW-RELATED EDUCATION PROGRAM.

"(a) Authorization.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"(b) Definition.—For the purpose of this section, the term "law-related education" means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

"(c) Authorized Activities.—Funds made available for the purposes of this section may be available for activities such as—

"(1) awareness activities to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for law-related personnel in the substance and practice of law-related education, including preservice and inservice seminars, workshops, institutes, and courses;

"(5) research and evaluation to study and improve the effectiveness of materials and methods in law-related education;

"(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experiences with the law and the legal system.

"SEC. 1566. BLUE RIBBON SCHOOLS PROGRAM.

"(a) General Authority.—The Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as "Blue Ribbon Schools". In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) Selection Process.—(1) The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) Administrative Provisions.—(1) The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) For the purposes of this section, the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART C—GENERAL ADMINISTRATIVE PROVISIONS

"SEC. 1571. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 1572. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this chapter, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

"SEC. 1573. EVALUATIONS AND REPORTING.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1531. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educa-

tional agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) State Educational Agencies.—A State educational agency which receives financial assistance under this chapter shall evaluate the effectiveness of State and local programs under this chapter in accordance with section 1522(a)(6)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) Reports.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this chapter.

"(B) The Secretary shall not later than October 1, 1992, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

"SEC. 1574. FEDERAL ADMINISTRATION.

"(a) Technical Assistance.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

"(b) Rulemaking.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(c) Availability of Appropriations.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(d) Special Rule.—The provisions of sections 1433 and 1434 shall apply to the programs authorized by this chapter.

"SEC. 1575. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) General Rule.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) Applicability.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this chapter:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1574(b) of this chapter.

"(2) Section 426(a) of such Act is superseded by section 1574(a) of this chapter.

"(3) Section 427 of such Act is superseded by section 1534(a)(5) of this chapter.

"(4) Section 430 of such Act is superseded by sections 1522 and 1533 of this chapter.

"(c) Special Rule—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1576. TRANSITION PROVISIONS.

"(a) Regulations.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

"(b) Effect on Pending Proceedings.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981.

"(c) Transition.—With respect to the period beginning July 1, 1988, and ending June 30, 1989, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

"SEC. 2001. SHORT TITLE.

"This part may be cited as the 'Dwight D. Eisenhower Mathematics and Science Education Act'.

"SEC. 2002. STATEMENT OF PURPOSE.

"The purpose of this part is to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools through assistance to State educational agencies, local educational agencies, and institutions of higher education.

"SEC. 2003. PROGRAM AUTHORIZED.

"(a) Grants.—The Secretary is authorized to make grants to States and discretionary grants in accordance with the provisions of this part for strengthening the skills of teachers and improving instruction in mathematics and science.

"(b) Authorization of Appropriations.—There are authorized to be appropriated for the purposes of this part, $250,000,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 2004. ALLOCATION OF FUNDS.

"(a) In General.—(1) From the amount appropriated under section 2003(b) for any fiscal year, the Secretary shall reserve—

"(A) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part;

"(B) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior consistent with the purposes of this part; and

"(C) 4 percent for section 2012.

"(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

"(A) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to such 1/2 of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of chapter 1 of title I of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than one-half of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"(5) The Secretary shall make payments under paragraph (1)(B) on whatever terms the Secretary determines will best carry out the purposes of this part.

"(b) Reallotment of Unused Funds.—The amount of any State's allotment under subsection (a) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

"SEC. 2005. IN-STATE APPORTIONMENT.

"(a) Elementary and Secondary Education Programs.—(1) For each fiscal year, an amount equal to 75 percent of each State's allotment under section 2004 shall be used for elementary and secondary education programs in accordance with section 2006, for demonstration and exemplary programs under section 2006(c) and for technical assistance under section 2006(d).

"(2) Not less than 90 percent of such amount shall be distributed as follows:

"(A) The State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school districts of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and—

"(i) private nonprofit schools, or

"(ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this part.

Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this part.

"(B) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged 5 to 17 who—

"(i) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and

"(ii) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;

in the schools of the local educational agencies within the State.

"(b) HIGHER EDUCATION PROGRAMS.—For each fiscal year, 25 percent of each State's allotment under section 2004 shall be used for higher education programs in accordance with section 2007.

"SEC. 2006. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) IN GENERAL.—The amount apportioned under section 2005(a)(2) from each State's allotment under this part shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

"(b) LOCAL EDUCATIONAL AGENCIES.—(1) Each local educational agency shall use funds distributed under this part for—

"(A) the expansion and improvement of preservice training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study they teach;

"(B) recruitment or retraining of minority teachers to become mathematics and science teachers;

"(C) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families after all other training needs have been met);

"(D) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum; or

"(E) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

"(2) Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. Agreements for funds available under section 2004(a)(1)(B) may be made with institutions of higher education receiving funds under the Tribally Controlled Community College Assistance Act of 1978. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics and science programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and, especially, gifted and talented children from within such groups.

"(3) A local educational agency for any fiscal year may apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. The State educational agency may assist in the formation of consortia between local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency at the request of such local educational agency.

"(4) Not more than 5 percent of funds available to the local educational agency for the purpose of this section for any fiscal year may be used for local administration.

"(c) DEMONSTRATION AND EXEMPLARY PROGRAMS.—Not less than 5 percent of the amount available under this section shall be used by the State educational agency for—

"(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science;

"(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance;

"(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students; or

"(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics and science.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics and science to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

"(d) TECHNICAL ASSISTANCE AND ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount available under this section may be used by the State educational agency—

"(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified in subsection (b); and

"(2) for the costs of administration and assessment of programs assisted under this part.

"SEC. 2007. HIGHER EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the amount apportioned under section 2005(b) from each State's allotment under this part shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

"(2) Funds available under section 2004(a)(1)(B) and reserved under section 2005(b) shall be used, in accordance with the provisions of this section, to support programs conducted within institutions of higher education funded through the Bureau of Indian Affairs.

"(b) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—(1)(A) Not less than 95 percent of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

"(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

"(2) The amount available under this subsection shall be used for—

"(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics or science to specialize in the teaching of mathematics or science, including the provision of stipends for participation in institutes authorized under title I of the Education for Economic Security Act or any other program of the National Science Foundation;

"(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, including stipends for participation in institutes authorized under title I of the Education for Economic Security Act, or any other program of the National Science Foundation.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics and science and careers by students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will ensure cooperative agreements or cooperative arrangements with local educational agencies.

"(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (2)(C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

"(c) COOPERATIVE PROGRAMS.—The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and

nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science and mathematics.

"(d) ASSESSMENT AND ADMINISTRATIVE COSTS.—Not to exceed 5 percent of the amount available under this section may be used by the State agency for higher education for—

"(1) the State assessment required by section 2008(c); and

"(2) the costs incurred by such agency for administration and evaluation of programs assisted under this part.

"SEC. 2008. STATE APPLICATION.

"(a) APPLICATION.—Each State which desires to receive a grant under this part shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) designate the State educational agency for the purpose of programs described in section 2006, and the State agency for higher education for the purpose of programs described in section 2007 as the agency or agencies responsible for the administration and supervision of the programs described in section 2006 or 2007, as the case may be;

"(2) provide assurances that—

"(A) payments will be distributed by the State in accordance with the provisions of this title;

"(B) for programs described in section 2006, the provisions of section 2010 will be carried out;

"(C) the State will provide such fiscal control and funds accounting as the Secretary may require;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 3-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

"(F) the State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and the handicapped;

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use; and

"(H) that the programs conducted with State funds will be assessed annually (including statistics on the number of students and teachers involved in these programs) and that the data from such assessments, as well as a summary of the local assessments required under section 2009(b)(6), will be submitted to the Secretary;

"(3) if appropriate, provide a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to any program available from the National Science Foundation or the Department of Energy, or both; and

"(4) describe procedures—

"(A) for submitting applications for programs described in sections 2006 and 2007 for distribution of payments under this part within the State, and

"(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) INFORMATIONAL REQUIREMENTS.—Each State application shall also contain the following:

"(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

"(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science.

"(d) DESCRIPTION OF ASSISTED ACTIVITIES.—Each application shall also contain the following descriptions:

"(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsections (c)(1) and (c)(2).

"(2) The specific activities that will be undertaken that involve institutions of higher education.

"(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

"(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

"(e) APPROVAL.—The Secretary shall expeditiously approve any State application that meets the requirements of this section.

"SEC. 2009. LOCAL APPLICATION.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application which covers a 3-year period (singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit).

"(b) CONTENTS OF APPLICATION.—A local educational agency application shall—

"(1) provide a summary assessment of—

"(A) the needs of its current teachers in mathematics and science and whether a shortage of such qualified teachers exists or will exist within 5 years after the date of the application;

"(B) the current levels of mathematics and science student achievement in the local educational agency;

"(C) the curricular needs of the local educational agency in mathematics and science;

"(2) describe how the local educational agency plans to use funds received under this part to meet the needs described in paragraph (1)(A);

"(3) if applicable, describe how funds under this part will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the National Science Foundation, or the Department of Energy, or both;

"(4) if applicable, describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including, museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

"(5) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

"(6) assure that the programs will be assessed, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

"(c) RENEWAL OF PAYMENTS.—The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this part. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

"SEC. 2010. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 2011. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives, shall develop procedures for State and local evaluations of the programs under this part.

"(b) SUMMARY.—The Secretary shall submit to the Congress every 2 years a summary of

the State evaluations of programs under this part.

"(c) Model Reporting Standards.—In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2008 and 2009.

"SEC. 2012. NATIONAL PROGRAMS.

"(a) Amount Available.—From 4 percent of amounts appropriated under section 2003(b), the Secretary shall make grants or enter into cooperative agreements in accordance with this section.

"(b) Eligible Grantees.—The Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private nonprofit organizations, providing special services to historically underserved and underrepresented populations (and especially gifted and talented children from within such populations) in the fields of mathematics and science.

"(c) Programs for Training and Retraining Teachers.—In awarding grants and cooperative agreements, the Secretary shall also give special consideration to programs of such institutions and organizations (such as museums) which train and retrain teachers in methods of scientific inquiry and provide materials which aid the education of students. In awarding grants and cooperative agreements, the Secretary shall give preference to developed and currently operating programs which are disseminated throughout the region in which such an institution or organization is located.

"(d) Dissemination of Information.—The Secretary shall disseminate information concerning grants and cooperative agreements under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"SEC. 2013. DEFINITIONS.

"As used in this part:

"(1) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(2) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"PART B—FOREIGN LANGUAGES ASSISTANCE

"SEC. 2101. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1988'.

"SEC. 2102. FINDINGS.

"The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this part.

"SEC. 2103. PROGRAM AUTHORIZED.

"(a) General Authority.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

"(b) Application.—Any State educational agency desiring to receive a grant under this part shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

"(1) contains a description of model programs which—

"(A) are designed by local educational agencies,

"(B) represent a variety of alternative and innovative approaches to foreign language instruction, and

"(C) are selected on a competitive basis by the State educational agency;

"(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

"(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

"(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

"(c) Federal Share.—(1) The Federal share for each fiscal year shall be 50 percent.

"(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

"(d) Participation of Private Schools.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

"(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of this Act.

"SEC. 2104. ALLOTMENTS.

"(a) General Rule.—(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(b) Availability of Funds.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

"SEC. 2105. DEFINITIONS.

"(a) General Rule.—For the purpose of this part:

"(1) The term 'foreign language instruction' means instruction in critical foreign languages as defined by the Secretary.

"(2) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"(b) Special Rule.—For the purpose of section 2104—

"(1) the term 'school age population' means the population aged 5 through 17; and

"(2) the term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2106. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this part.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) General Authority.—(1) The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

"(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

"(b) Limitation.—Each year the President is authorized to make 104 awards under subsection (a)(1), and 104 awards under subsection (a)(2). In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

"The President shall carry out the provisions of this part, including the establishment of the selection procedures, after consultation with the Secretary of Education, and other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—(1) Funds to carry out this part for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education.

"(2)(A) There are authorized to be appropriated $2,000,000 for each fiscal year to carry out the provisions of this part.

"(B) Not more than $1,000,000 are authorized to be available to carry out the provisions of paragraph (2) of section 2201(a).

"(b) Availability.—Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out the provisions of this part.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"SEC. 3001. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

"(a) Authorization.—There are authorized to be appropriated $165,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal years 1990 through 1993 to carry out the provisions of this title.

"(b) Availability of Funds for Grants to Agencies Not Previously Assisted.—(1) In any fiscal year in which the amount appropriated pursuant to section 3001 exceeds $75,000,000, the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies which—

"(A) meet the requirements of section 3002; and

"(B) have not received a grant under title VII of the Education for Economic Security Act, or under this title, in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made.

"(2) In awarding grants with the first $75,000,000, the Secretary shall not take into account, in whole or in title, whether a local educational agency has received an award in the prior funding cycle.

"SEC. 3002. ELIGIBILITY.

"A local educational agency is eligible to receive assistance under this title if the local educational agency—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

"SEC. 3003. STATEMENT OF PURPOSE.

"It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 3004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 3005. DEFINITION.

"For the purpose of this title, the term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"SEC. 3006. USES OF FUNDS.

"Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where, with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

"SEC. 3007. APPLICATIONS AND REQUIREMENTS.

"(a) Application.—Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

"(b) Requirements Certified.—As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

"(1) to use funds made available under this title for the purposes specified in section 3003;

"(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan.

"(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students;

"(6) to describe how assistance made available under this title will be used to promote desegregation;

"(7) to provide assurances that the agency will carry out a high quality education program that will encourage greater parental decisionmaking and involvement;

"(8) to provide a description of the manner in which the local educational agency will continue the magnet schools program after assistance under this title is no longer available; and

"(9) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

"(c) Special Rule.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in clauses (3), (4), and (5) of subsection (b) will be met.

"SEC. 3008. SPECIAL CONSIDERATION.

"(a) Priority.—In approving applications under this title the Secretary shall give priority to—

"(1) the recentness of the implementation of the approved plan or modification thereof;

"(2) the proportion of minority group children involved in any approved plan;

"(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

"(b) Special Consideration.—In approving applications under this title, the Secretary shall give special consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

"SEC. 3009. PROHIBITIONS.

"Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

"SEC. 3010. LIMITATION ON PAYMENTS.

"(a) Limitation on Duration and Progress.—No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary de-

termines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

"(b) LIMITATION ON PLANNING FUNDS.—No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

"(c) SPECIAL RULE ON CHAPTER 2 FUNDS.—No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

"SEC. 3011. PAYMENTS.

"(a) GENERAL RULE.—(1) The Secretary shall pay to each local educational agency having an application approved under this title the amount set forth in the application.

"(2) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available to local educational agencies for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

"(3) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412(b) and (c) of the General Education Provisions Act.

"(4) Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year, except that no such agency shall receive more than $4,000,000 under this title in any one grant cycle.

"(b) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies under this title no later than June 30 of the applicable fiscal year.

"SEC. 3012. WITHHOLDING.

"The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

"TITLE IV—SPECIAL PROGRAMS

"PART A—WOMEN'S EDUCATIONAL EQUITY

"SEC. 4001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act'.

"(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

"SEC. 4002. PROGRAM AUTHORIZED.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

"(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development, where such materials are commercially unavailable, and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed 2 years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities described by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

"(b) LIMITATION.—For each fiscal year, the Secretary shall use $4,500,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $4,500,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

"SEC. 4003. APPLICATION; PARTICIPATION.

"(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the purposes set forth in section 4001(b) which holds promise of making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application, including where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period.

"(b) SPECIAL RULE.—In approving applications under this part, the Secretary shall give special consideration to—

"(1) applications submitted by applicants that have not received assistance under this part or under part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect prior to October 1, 1988); and

"(2) proposals from applicants on the basis of geographic distribution throughout the United States.

"(c) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

"SEC. 4004. CHALLENGE GRANTS.

"(a) PURPOSE.—In addition to the authority of the Secretary under section 4002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 4002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) GRANT RECIPIENTS.—For the purpose described in paragraphs (1) through (4) of subsection (a), the Secretary is authorized to make grants to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

"SEC. 4005. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under sections 4002(a)(1) and 4002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. The criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

"SEC. 4006. REPORTS, EVALUATION, AND DISSEMINATION.

"(a) REPORTS.—The Secretary shall, from funds authorized under this part, not later than September 30, 1992, submit to the President and the Congress a report setting forth the programs and activities assisted under this part, and provide for the distribution of this report.

"(b) EVALUATION AND DISSEMINATION.—The Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $9,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART B—GIFTED AND TALENTED CHILDREN

"SEC. 4101. SHORT TITLE.

"This part may be referred to as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1988'.

"SEC. 4102. FINDINGS AND PURPOSES.

"(a) Findings.—The Congress finds and declares that—

"(1) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(2) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(3) gifted and talented students from economically disadvantaged families and areas, and students of limited English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs; and

"(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest.

"(b) Statement of Purpose.—It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students. It is also the purpose of this part to supplement and make more effective the expenditure of State and local funds, and of Federal funds made available under chapter 2 of title I of this Act and title II of this Act, for the education of gifted and talented students.

"SEC. 4103. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(2) The term 'institution of higher education' has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

"(3) The term 'Hawaiian native' means any individual any of whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

"(4) The term 'Hawaiian native organization' means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

"SEC. 4104. AUTHORIZED PROGRAMS.

"(a) Establishment of Program.—From the sums appropriated under section 4108 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this Act that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students or in supervising such personnel.

"(b) Uses of Funds.—Programs and projects assisted under this section may include—

"(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented students, including summer programs and cooperative programs involving business, industry, and education;

"(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students;

"(4) programs of technical assistance and information dissemination; and

"(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) Establishment of National Center.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) Limitation.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

"SEC. 4105. PROGRAM PRIORITIES.

"(a) General Priority.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of gifted and talented students who may not be identified through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented students from such groups; and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented students.

"(b) Service Priority.—In approving applications under section 4104(a) of this part, the Secretary shall assure that in each fiscal year at least one-half of the applications approved contain a component designed to serve gifted and talented students who are economically disadvantaged individuals.

"SEC. 4106. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.

"In making grants and entering into contracts under this Act, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in preservice and inservice training programs for serving such children.

"SEC. 4107. ADMINISTRATION.

"The Secretary shall establish or designate an administrative unit within the Department of Education—

"(1) to administer the programs authorized by this part,

"(2) to coordinate all programs for gifted and talented students administered by the Department, and

"(3) to serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet those needs.

The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional qualifications and experience in the field of the education of gifted and talented students.

"SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"SEC. 4301. FINDINGS.

"The Congress makes the following findings:

"(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

"(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

"(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

"Subpart 1—Program for Secondary School Students and Teachers

"SEC. 4311. ESTABLISHMENT.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students and teachers shall be known as Allen J. Ellender fellowships.

"SEC. 4312. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

"(2) that not more than 1 secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

"(3) that every effort will be made to ensure the participation of students and teachers from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority students, gifted and talented students, and students of migrant parents; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 2—Programs for Older Americans and Recent Immigrants

"SEC. 4321. ESTABLISHMENT.

"(a) General Authority.—(1) The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans and recent immigrants.

"(2) For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans and recent immigrants who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 4322. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans and recent immigrants;

"(2) that every effort will be made to ensure the participation of older Americans and recent immigrants from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans and recent immigrants with special needs, including handicapped individuals and ethnic minorities;

"(3) that activities permitted by section 4321 are fully described; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 3—General Provisions

"SEC. 4331. ADMINISTRATIVE PROVISIONS.

"(a) General Rule.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) Audit Rule.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 4332. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorization for Subpart 1.—There are authorized to be appropriated to carry out the provisions of subpart 1 of this part $3,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(b) Authorization for Subpart 2.—(1) There are authorized to be appropriated to carry out the provisions of subpart 2 of this part $2,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(2) No funds may be appropriated pursuant to paragraph (1) for the fiscal year 1989 unless amounts appropriated pursuant to subsection (a) for such fiscal year total not less than $2,500,000. In each of the fiscal years 1990 through 1993, no funds may be appropriated pursuant to paragraph (1) unless sufficient amounts are appropriated pursuant to subsection (a) for the fiscal year to carry out activities under subpart 1 of this part at the level established during the fiscal year 1989.

"PART D—IMMIGRANT EDUCATION

"SEC. 4401. SHORT TITLE.

"This part may be cited as the 'Emergency Immigrant Education Act of 1984'.

"SEC. 4402. DEFINITIONS.

"As used in this part—

"(1) The term 'immigrant children' means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

"(2) The term 'elementary or secondary nonpublic schools' means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

"SEC. 4403. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

"(a) Authorizations of Appropriations.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) Allocation of Appropriations.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

"SEC. 4404. STATE ADMINISTRATIVE COSTS.

"The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

"SEC. 4405. WITHHOLDING.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 4406. STATE ENTITLEMENTS.

"(a) Payments.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through

1993 for the purpose set forth in section 4407.

"(b) Entitlements.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

"(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

"(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

"(c) Determinations of Number of Children.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(d) Reallocation.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"SEC. 4407. USES OF FUNDS.

"(a) Supplementary Educational Services and Costs.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

"(b) Kinds of Services and Costs.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

"(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

"(A) English language instruction;

"(B) other bilingual educational services; and

"(C) special materials and supplies;

"(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

"SEC. 4408. APPLICATIONS.

"(a) Submission.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

"(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

"(b) Approval of Application.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

"SEC. 4409. PAYMENTS.

"(a) Amount.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

"(b) Services to Children Enrolled in Nonpublic Schools.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

"SEC. 4410. REPORTS.

"(a) Biennial Report.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency re-

ceiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

"PART E—TERRITORIAL ASSISTANCE

"SEC. 4501. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

"There are authorized to be appropriated $5,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"SEC. 4502. TERRITORIAL TEACHER TRAINING ASSISTANCE.

"There are authorized to be appropriated $2,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"SEC. 4601. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—(1) From funds appropriated under this part, the Secretary is authorized to carry out programs and projects which show promise of identifying and disseminating innovative educational approaches.

"(2) The Secretary, in carrying out the provisions of this part, is authorized to—

"(A) develop, prepare, and conduct an optional test for academic excellence in accordance with section 4602;

"(B) carry out programs for technology education in accordance with section 4603;

"(C) strengthen and expand computer education resources available in public and private elementary and secondary schools in accordance with section 4604; and

"(D) establish and strengthen comprehensive school health education programs in accordance with section 4605.

"(b) ADMINISTRATIVE AUTHORITY.—The Secretary is authorized to carry out programs and projects under this section directly, or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"SEC. 4602. OPTIONAL TESTS FOR ACADEMIC EXCELLENCE.

"(a) TEST OF ACADEMIC EXCELLENCE AUTHORIZED.—The Secretary is authorized, after consultation with appropriate State and local educational agencies and public and private organizations, to approve comprehensive tests of academic excellence or to develop such a test where commercially unavailable, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) PREPARATION AND CONDUCT OF TESTS.—(1) The Secretary is authorized to establish a program through arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part may be given by such agencies or schools, on a voluntary basis, to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education. Such students may file applications for the test at such time and in such manner as the Secretary may prescribe. Upon application by any appropriate agency or school by such time and in such manner as the Secretary may determine, the Secretary shall pay to such agency or school the cost of the administrative expenses it has incurred pursuant to an arrangement made under this section.

"(2) The Secretary shall assure that the tests authorized by this part are conducted in a secure manner, and that test items remain confidential so that such items may be used in future tests.

"(c) CERTIFICATE.—(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given the test.

"(2) Each certificate awarded pursuant to this section shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this subpart.

"SEC. 4603. TECHNOLOGY EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs which use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers.

"(b) USES OF FUNDS.—Funds available to carry out this section may be used for—

"(1) programs and projects which use such technology to address specifically the educational needs in critical subject matter areas;

"(2) programs and projects to assist in the training of public and private elementary and secondary school teachers, administrators, and other educational personnel to use in the schools of such television programming, radio programming, telecommunications programs, or video resources, or in the coordination of such technology with the school curriculum; or

"(3) educational television, educational radio, telecommunications or video resources programs or projects which promote a partnership between elementary and secondary schools, the parents of elementary and secondary students, State educational agencies, and institutions of higher education or the community in which such schools are located.

"(c) DEFINITION.—For the purpose of this section the term 'telecommunications' means the full range of technologies that can be used for educational instruction, including closed circuit television systems, educational television and radio broadcasting, cable television, satellite transmission, computer laser discs, and video and audio discs and tapes.

"SEC. 4604. PROGRAMS FOR COMPUTER-BASED INSTRUCTION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants and enter into contracts, as authorized by section 4601 for the purpose of strengthening and expanding computer education resources available in public and private elementary and secondary schools.

"(b) USES OF FUNDS.—Projects assisted under this section may include—

"(1) the acquisition and leasing of computer hardware for instructional purposes, including services necessary for the operation, installation, and maintenance of computer hardware;

"(2) the acquisition of computer software and complementary instructional materials; or

"(3) teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the curriculum. Such programs may make provision for teacher stipends at a rate of $275 per week for the period of attendance in such program. The Secretary may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out programs under this section.

"(c) SPECIAL RULE.—No grant may expend more than 25 percent for the acquisition of computer hardware.

"(d) PLANNING REQUIREMENT.—No grant may be made under this section unless the applicant carries out planning activities designed to facilitate the use of Federal financial assistance under this section for the expansion of computer resources in elementary or secondary schools. Such planning activities shall include—

"(1) the goals for computer education in the schools;

"(2) integration with the curriculum;

"(3) where appropriate, provisions for computer use after school by students, parents, teachers, and adult learners; and

"(4) standards for the evaluation of computer education programs.

"SEC. 4605. PROGRAMS FOR THE IMPROVEMENT OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary through the Office established under subsection (c) of this section, may—

"(1) encourage State and local educational agencies to provide comprehensive school health education to the elementary and secondary school students in the schools of such agencies;

"(2) provide technical support to State and local educational agencies on health education programs and curricula;

"(3) make grants to State and local educational agencies in accordance with this section;

"(4) provide an annual report on the progress of the Office (established under subsection (c)) and the status of school health education in the United States;

"(5) cooperate with other Federal agencies carrying out school health education programs to ensure coordination of such programs; and

"(6) advise the Secretary on school health education policy.

"(b) USES OF FUNDS.—Grants under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;

"(2) nutrition;

"(3) mental and emotional health;

"(4) prevention of chronic diseases;

"(5) substance use and abuse;

"(6) accident prevention and safety;

"(7) community and environmental health;

"(8) prevention and control of communicable diseases;

"(9) effective use of the health services delivery system; and

"(10) development and aging.

"(c) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

"(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

"SEC. 4606. ALTERNATIVE CURRICULUM SCHOOLS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist—

"(1) local educational agencies;

"(2) consortia of such agencies; and

"(3) intermediate educational units;

which have significant percentages of minority students to establish and conduct programs which reflect a minority composition of at least 50 percent in the alternative curriculum school established by the applicant to strengthen the knowledge of elementary and secondary school students in academic subjects and to contribute to the desegregation of the schools of the applicant.

"(b) ELIGIBILITY.—A local educational agency, consortium of such agencies, or intermediate educational unit, is eligible to receive a grant under this section if such agency, unit, or consortium submits an application which contains evidence of collaborative arrangements between the applicant and an institution of higher education, a community-based organization, another local educational agency, an appropriate State educational agency, or any combination of such institutions, organizations, or agencies.

"(c) USES OF FUNDS.—Grants under this section may be used for—

"(1) planning and outreach activities directly related to expansion and enhancement of academic programs and services in the alternative curriculum school;

"(2) the acquisition of books, materials, and equipment (including computers and the maintenance and operation thereof) necessary for the conduct of educational programs in the alternative curriculum school; and

"(3) the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of educational programs in the alternative curriculum school; whenever such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving the vocational skills of elementary and secondary school students.

"(d) APPLICATIONS.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) provide assurances that the assistance will be used for the purposes described in subsection (c);

"(2) provide assurances that the local educational agency or intermediate educational unit would have a minority composition of at least 65 percent, or in the case of a consortium, that at least one local educational agency would have a minority composition of 65 percent;

"(3) provide assurances that the students served in the alternative curriculum school established reflect a minority composition of at least 50 percent;

"(4) demonstrate the extent to which the alternative curriculum school will contribute to desegregation throughout in the local educational agency;

"(5) demonstrate the extent to which the alternative curriculum school will contribute to the improvements of the academic quality of the education offered by schools throughout the local educational agency;

"(6) describe the collaborative efforts required by subsection (b);

"(7) provide assurances that teachers will be employed in the courses of instruction assisted under this section who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(8) provide assurances that the applicant will not engage in discrimination based upon race, religion, color, national origin, sex, or handicapping conditions in—

"(A) hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

"(B) the mandatory assignment of students to schools or to courses of instruction within schools of such applicant, except as is necessary to carry out an approved desegregation plan; and

"(C) designing or operating extracurricular activities for students;

"(8) describe how funds made available under this section will be used to promote integration and provide a high quality education program for local educational agencies with significant concentrations of minority students;

"(9) describe how such applicant will devote its resources to continuing the program when funds made available to it under this section may no longer be made available; and

"(10) provide such other assurances as the Secretary determines necessary.

"(e) UNUSED AMOUNTS.—In any fiscal year in which amounts are appropriated but not allocated under this section, the Secretary shall use such amounts to make grants under title III of this Act (relating to magnet schools).

"(f) SPECIAL EVIDENTIARY RULE.—Notwithstanding any other provision of law, the award of funds under this section may not be used in any cause of action or administrative proceeding as evidence relating to the issue of desegregation of a public school of a local educational agency receiving such an award.

"SEC. 4607. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993, to carry out the provisions of this part (other than section 4606).

"(b)(1) Subject to paragraph (2), there are authorized to be appropriated $35,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993 to carry out section 4606.

"(2) No appropriation may be made under paragraph (1) for any fiscal year unless the amount appropriated for the Magnet Schools Assistance Program in title III for that fiscal year is equal to or exceeds $165,000,000.

"TITLE V—DRUG EDUCATION

"SEC. 5101. SHORT TITLE.

"This title may be cited as the 'Drug-Free Schools and Communities Act of 1986'.

"SEC. 5102. FINDINGS.

"The Congress finds that:

"(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

"(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

"(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

"(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

"(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

"(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

"SEC. 5103. PURPOSE.

"It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

"(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

"(3) to States for development, training, technical assistance, and coordination activities;

"(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

"(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"SEC. 5111. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) AVAILABILITY.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

"(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

"SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS.

"(a) RESERVATIONS.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

"(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

"(2) 1 percent for programs for Indian youth under section 5133;

"(3) 0.2 percent for programs for Hawaiian natives under section 5134;

"(4) 8 percent for programs with institutions of higher education under section 5131;

"(5) 3.5 percent for Federal activities under section 5132; and

"(6) 4.5 percent for regional centers under section 5135.

"(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

"(3) For purposes of this subsection, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"PART B—STATE AND LOCAL PROGRAMS

"SEC. 5121. USE OF ALLOTMENTS BY STATES.

"(a) STATE PROGRAM.—An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

"(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

"SEC. 5122. STATE PROGRAMS.

"(a) IN GENERAL.—Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

"(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

"(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

"(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

"(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

"(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

"(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program.

"(b) INNOVATIVE PROGRAMS.—(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

"(2) For purposes of this subsection, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

"(A) is a school dropout;

"(B) has become pregnant;

"(C) is economically disadvantaged;

"(D) is the child of a drug or alcohol abuser;

"(E) is a victim of physical, sexual, or psychological abuse;

"(F) has committed a violent or delinquent act;

"(G) has experienced mental health problems;

"(H) has attempted suicide; or

"(I) has experienced long-term physical pain due to injury.

"SEC. 5123. STATE APPLICATIONS.

"(a) IN GENERAL.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

"(b) CONTENTS OF APPLICATIONS.—The application submitted by each State under subsection (a) shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

"(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and nonFederal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other nonFederal funds;

"(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

"(5) contain assurances that there is compliance with the specific requirements of this part;

"(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

"(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

"(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

"(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

"SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

"(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private nonprofit schools within the areas served by such agencies. Any amount of the funds made

available for use in any area remaining unobligated for more than 1 year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

"(b) State Programs.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

"(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

"(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

"(3) demonstration projects in drug abuse education and prevention;

"(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

"(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

"SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

"(a) In General.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

"(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

"(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

"(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

"(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers;

"(5) programs of referral for drug abuse treatment and rehabilitation;

"(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

"(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

"(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

"(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

"(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

"(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

"(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

"(b) Eligibility.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

"SEC. 5126. LOCAL APPLICATIONS.

"(a) In General.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

"(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

"(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

"(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the practices and procedures it will enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;

"(G) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

"(H) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

"(I) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

"(J) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(K) provide assurances of compliance with the provisions of this part;

"(L) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

"(M) include such other information and assurances as the State educational agency reasonably determines to be necessary.

"(b) Progress Reports.—(1) An applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved.

"(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

"SEC. 5127. STATE REPORTS.

"Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted under this Act in the State.

"PART C—NATIONAL PROGRAMS

"SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) In General.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

"(b) TRAINING GRANTS.—Training grants shall be available for—

"(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

"(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

"(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

"(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

"(c) GRANTS FOR MODEL DEMONSTRATION PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

"(d) GRANTS FOR PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

"(e) COLLABORATIVE EFFORTS.—In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

"SEC. 5132. FEDERAL ACTIVITIES.

"(a) USE OF RESERVED FUNDS.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

"(b) FEDERAL DRUG ABUSE EDUCATION AND PREVENTION ACTIVITIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts—

"(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

"(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

"(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

"(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

"(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

"(c) STUDIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title. In addition the Secretary may conduct periodic evaluations of programs authorized by this Act.

"SEC. 5133. PROGRAMS FOR INDIAN YOUTH.

"(a) USE OF RESERVED FUNDS.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

"(b) FINANCIAL ARRANGEMENTS.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

"(c) GRANT AND CONTRACT AUTHORITY.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

"(d) ADDITIONAL PROGRAMS.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

"SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

"(a) GENERAL AUTHORITY.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

"(b) DEFINITION OF 'HAWAIIAN NATIVE'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"SEC. 5135. REGIONAL CENTERS.

"The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

"(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

"(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

"(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

"(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

"PART D—GENERAL PROVISIONS

"SEC. 5141. DEFINITIONS.

"(a) GENERAL RULE.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

"(b) SPECIFIC DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

"(1) The term 'drug abuse education and prevention' means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

"(2) The term 'illicit drug use' means the use of illegal drugs and the abuse of other drugs and alcohol.

"(3) The term 'Secretary' means the Secretary of Education.

"(4) The term 'school-age population' means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school dropout' means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

"(6) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(7) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(8) The term 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'consortium' (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

"SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

"(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

"(b) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

"SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

"(c) WAIVER; PROVISION OF SERVICES BY SECRETARY.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 5144. MATERIALS.

"Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

"PART E—MISCELLANEOUS PROVISIONS

"SEC. 5191. INDIAN EDUCATION PROGRAMS.

"(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

"(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

"(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

"(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

"(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

"SEC. 5192. TRANSITION.

"Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"SEC. 6001. SHORT TITLE.

"This part may be cited as the 'School Dropout Demonstration Assistance Act of 1988'.

"SEC. 6002. PURPOSE.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

"(1) effective programs to identify potential student dropouts and prevent them from dropping out;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 6003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $50,000,000 for the fiscal year 1989.

"SEC. 6004. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6003 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary stu-

dents. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) Special Treatment of Educational Partnerships.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

"(2) Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) Award of Grant.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6005 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

"(d) Use of Funds When Not Fully Needed for Educational Partnerships.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) Use of Funds When Not Fully Allotted to Categories Under Subsection (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(f) Federal Share.—(1) The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part, and

"(B) 75 percent of such cost for the second such year.

"(2) The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 6005. APPLICATION.

"(a) In General.—(1) A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) Applications shall be for a 1-year period.

"(b) Contents of Application.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 5141(b)(5); and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

"(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this part, such as—

"(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

"(B) addressing the special needs of school-age parents;

"(C) disseminating information to students, parents, and the community related to the dropout problem;

"(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

"(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

"(G) establishing annual procedures for—

"(i) evaluating the effectiveness of the project; and

"(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

"(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

"(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

"(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) Priority.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6004(a).

"(d) Special Consideration.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"SEC. 6006. AUTHORIZED ACTIVITIES.

"(a) In General.—Grants under this part shall be used to carry out plans set forth in applications approved under section 6005. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school staff on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between handicapping conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

"(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part.

"(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this part may be used by educational partnerships for—

"(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(2) internship, work study, or apprenticeship programs;

"(3) summer employment programs;

"(4) occupational training programs;

"(5) career opportunity and skills counseling;

"(6) job placement services;

"(7) the development of skill employment competency testing programs;

"(8) special school staff training projects; and

"(9) any other activity described in subsection (a).

"SEC. 6007. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 6004(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

"SEC. 6101. SHORT TITLE.

"This part may be cited as the 'Secondary Schools Basic Skills Demonstration Assistance Act of 1988'.

"SEC. 6102. PURPOSE.

"It is the purpose of this part to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

"SEC. 6103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1989.

"SEC. 6104. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) GENERAL AUTHORITY.—From the amount appropriated under section 6103 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this part.

"(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6105 in cooperation with community-based organizations.

"(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of this Act other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this part.

"SEC. 6105. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this part may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches—

"(A) for surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of this Act, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this part may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

"SEC. 6106. APPLICATION.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall include—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this part);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

"(6) a statement of the methods which will be used—

"(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

"(B) an assurance that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of this Act;

"(9) a description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"(c) Approval of Applications.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

"(A) demonstrate the greatest need for services assisted under this part based on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

"(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

"(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

"(d) Administrative Costs.—Not more than 5 percent of any grant under this part may be used for administrative costs.

"PART C—GENERAL PROVISIONS

"SEC. 6201. GENERAL PROVISIONS.

"(a) Definition of School Dropout.—The Secretary shall, not later than 60 days after the date of the enactment of this title, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups. If the Secretary has defined the term 'school dropout' for fiscal year 1988 that definition shall apply for the purposes of this section.

"(b) Timely Award of Grants.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this part not later than June 30 preceding such fiscal year.

"(c) Grants Must Supplement Other Funds.—A local educational agency receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

"(d) Evaluation.—The Secretary shall evaluate programs operated with funds received under this title, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991.

"(e) Coordination and Dissemination.—The Secretary shall require local educational agencies receiving grants under this title to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(f) Audit.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

"(g) Withholding Payments.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6105 or section 6106, the Secretary shall withhold payments under this title in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

"SEC. 6202. DEFINITIONS.

"(a) As used in this title—

"(1) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(2) The term 'basic skills' includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SEC. 7001. SHORT TITLE.

"This title may be cited as the 'Bilingual Education Act'.

"SEC. 7002. POLICY; APPROPRIATIONS.

"(a) Policy.—Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

"(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

"(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(9) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(11) that children of limited English proficiency have a high dropout rate and low median years of education;

"(12) that the segregation of many groups of limited English proficient students remains a serious problem;

"(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;

"(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

"(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;

"(16) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

"(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(18) that parent and community participation in bilingual education programs contributes to program effectiveness; and

"(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

"(b) Authorization.—(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), $200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.

"(2) There are further authorized to be appropriated to carry out the provisions of section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary may reserve not to exceed 25 percent for special alternative instructional programs and related activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) Notwithstanding paragraphs (1) and (2), no amount in excess of $200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).

"(7) The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to which section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

"SEC. 7003. DEFINITIONS; REGULATIONS.

"(a) GENERAL RULE.—The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant; and

"(C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which—

"(i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or

"(ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b) REGULATION REQUIREMENT.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

"(c) SPECIAL INFORMATION RULE.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

"(a) USES OF FUNDS.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs; and

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

"(b) APPLICATIONS.—(1) A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by 1 or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with 1 or more local educational agencies.

"(2) A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local educational agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

"(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) An application for a grant under subsection (a)(3) of this section shall receive priority if the application—

"(A) describes the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language,

"(B) describes the unavailability of personnel qualified to provide bilingual instructional services, or

"(C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d) DURATION OF GRANTS.—(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.

"(B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

"(C) Upon reapplication, grants authorized under subsections (a) (1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"(2) Grants made pursuant to subsections (a)(4), (a)(5), and (a)(6) shall be for 3 years.

"(3)(A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled—

"(i) conducts a comprehensive evaluation of the overall academic progress of the student, and

"(ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program.

Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

"(B)(i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.

"(ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.

"(iii) Each evaluation shall indicate how the students' English language development

will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

"(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

"(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by—

"(i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;

"(ii) lowering per pupil ratios, including the use of professional and volunteer aides; and

"(iii) the application of technology to the course of instruction.

"(e) Application Requirements.—An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served;

"(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and

"(5) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) Approval of Applications.—An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

"(4) that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act;

"(5) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

"(A) preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(6) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(7) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

"(8) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

"(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

"(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs;

"(9) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(g) Priority Consideration of Grants.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) Priority for Programs Serving Underserved Children.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

"(i) Limitation on the Assignment of Students.—No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

"(j) Programs in Puerto Rico.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(k) Bypass Provision.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

"SEC. 7022. INDIAN CHILDREN IN SCHOOLS.

"(a) Eligible Entities.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly consti-

tuted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) ANNUAL REPORT.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"SEC. 7031. USE OF FUNDS.

"Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

"SEC. 7032. GRANTS FOR STATE PROGRAMS.

"(a) DATA COLLECTION AND DISSEMINATION.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) REPORT TO SECRETARY.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

"(c) OTHER USES OF FUNDS.—State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) PAYMENTS.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year may not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

"The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;

"(4) the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and

"(5) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

"SEC. 7034. EVALUATION ASSISTANCE CENTERS.

"The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

"SEC. 7035. RESEARCH.

"(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the

language and cultural differences of their students;

"(9) studies to determine effective and reliable techniques for providing bilingual education to handicapped students;

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and

"(11) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

"(c) Consultation and Delegation of Authority.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) Publication of Proposals.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) Limitation of Authority.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

"SEC. 7036. COORDINATION OF RESEARCH.

"Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"SEC. 7037. EDUCATION STATISTICS.

"(a) Data Collection.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) Use of Data.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"SEC. 7041. USE OF FUNDS.

"(a) Use of Funds.—Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

"(b) Applications.—(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) Application Requirement for Training Programs.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

"(d) Training Program Requirements.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

"(e) Preference in Assistance and Purpose of Training.—(1) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(A) teaching English as a second language;

"(B) use of a non-English language for instructional purposes;

"(C) linguistics; and

"(D) evaluation and assessment;

and which involve parents in the educational process.

"(2) Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

"SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.

"(a) Establishment.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) Required Services.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"SEC. 7043. FELLOWSHIPS.

"(a) Authorization.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

"(b) Fellowship Requirements.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"SEC. 7044. PRIORITY.

"In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated compe-

tence and experience in programs and activities such as those authorized under this Act.

"SEC. 7045. STIPENDS.

"In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

"SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

"(a) ESTABLISHMENT.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

"(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on—

"(A) the grants and contracts made pursuant to this title in the preceding fiscal year;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

"(D) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and

"(E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

"(c) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

"(d) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"(e) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

"SEC. 7052. LIMITATION OF AUTHORITY.

"The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7063. TRANSITION.

"This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively.

(b) SPECIAL DEFINITION RULE.—Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"DEFINITIONS

"SEC. 8001. Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act.".

SEC. 1003. REPEALS.

(a) EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981.—The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

(b) ELLENDER PROGRAM.—The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

(c) IMMIGRANT EDUCATION.—Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

(d) TERRITORIAL ASSISTANCE.—Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

(e) ANTI-DRUG ABUSE ACT OF 1986.—Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed.

SEC. 1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM.

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

PART A—IMPACT AID PROGRAM

SEC. 2001. SHORT TITLE.

This part may be cited as the "Impact Aid Reauthorization Act of 1988".

Subpart 1—Public Law 874

SEC. 2011. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this subpart as the "Act") is amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

(2) Section 5(b)(3)(C)(vii) of the Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

(3) Section 403(9) of the Act is amended to read as follows:

"(9) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULES.—(1) Section 7(c)(1) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(2) The last sentence of section 7(d) of the Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2012. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of the Act is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $735,000,000 for fiscal year 1989, $785,000,000 for fiscal year 1990, $835,000,000 for fiscal year 1991, $885,000,000 for fiscal year 1992, and $935,000,000 for fiscal year 1993, to carry out the provisions of this Act.".

SEC. 2013. FEDERAL ACQUISITION OF REAL PROPERTY.

Section 2(a) of the Act is amended by adding at the end of such subsection the following: "In making the determination of the amount that would have been derived in such year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed for fiscally dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property.".

SEC. 2014. ENTITLEMENTS AND PAYMENTS.

(a) AMOUNT FOR SECTION 3(a) CHILDREN.—Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) AMOUNT FOR OTHER CHILDREN.—Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

(c) SPECIAL RULES.—(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows:

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and *from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year to the prior fiscal year;".*

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i)." For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.".

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph—

"(i) available funds may not include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds may not include 30 percent of the local educational agency's operating costs.".

(d) DISTRICTS WITH UNUSUAL GEOGRAPHIC FACTORS.—(1) Section 3(d)(3)(B)(ii) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 3(d)(3)(B)(ii) of the Act is amended by adding at the end thereof the following new sentence: "The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.".

(e) COTERMINOUS AGENCY RULE.—Section 3(h) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for coterminous local educational agencies under paragraph (1) shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made unless such payment would raise the per pupil expenditure above the average for that State. Whenever the preceding sentence applies, the local contribution rate may not be less than the amount necessary to raise the per pupil expenditure for that district to the average per pupil expenditure for the State in which such agency is located. The first 2 sentences of this paragraph shall not apply for local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law would require that the State contribution would be reduced in proportion to such additional funds. The local contribution rate for local educational agencies under this paragraph may not be less than 50 per centum of the average per pupil expenditure in all States during the second preceding fiscal year prior to the fiscal year for which the determination is made.".

SEC. 2015. METHOD OF PAYMENT.

(a) ROUNDING OF PAYMENTS.—The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,".

(b) DISPOSITION OF RECOVERED FUNDS.—Section 5(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following sentence: "The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal years 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were appropriated, or that remain in Department of Education accounts after that time.".

(c) PRELIMINARY PAYMENTS.—Section 5(b)(2) of the Act is amended to read as follows:

"(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

"(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

"(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.".

(d) GENERAL RULE ON PAYMENTS.—Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to the supplemental 50 per centum of the entitlement that each child described in section 3(d)(2)(C) served by such agency is eligible to receive under section 3(d)(2)(C).

"(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

"(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).".

(e) ALLOCATION OF PAYMENTS RULE.—(1) Section 5(c)(2) of the Act is amended to read as follows:

"(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement to each local educational agency under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses shall be ratably reduced. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

(2)(A) Section 5(c)(3) of the Act is repealed.

(B) The sentence following paragraph (2) of section 5(c) (as amended by subparagraph (A)) is amended by striking out "or (3)".

(C) The last sentence of section 5(c) of the Act is repealed.

(f) State Aid Rule.—Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(g) Hold Harmless Rules.—Section 5(e) of the Act is amended to read as follows:

"(e)(1)(A) For any fiscal year after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

"(B) For any fiscal year beginning after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

"(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational agency for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

"(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

"(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

"(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous paragraph, such amounts shall be ratably reduced.

"(3) In no event shall the amount allocated to any local educational agency in any fiscal year under paragraph (1) exceed the amount received by such agency in the fiscal year 1987.".

SEC. 2016. CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION.

Section 6 of the Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

SEC. 2017. DISASTER ASSISTANCE.

(a) General Rule.—Section 7(a)(1) of the Act is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) Eligibility.—Section 7(a)(3) of the Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

(c) Availability of Funds.—Section 7 of the Act is amended by adding at the end thereof the following new subsection (f):

"(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2018. TREATMENT OF CHILDREN RESIDING ON PROPERTY ASSISTED UNDER SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937.

(a) General Rule.—Notwithstanding any other provision of law, for fiscal years prior to fiscal year 1989, applicants may claim and receive payments under section 3 of Public Law 81-874 on behalf of children residing in or whose parents are employed on property assisted under section 8 of the United States Housing Act of 1937, if such property was claimed by such applicants and such payments were received for the previous fiscal year.

(b) Special Rule.—Payments made to any local educational agency under section 3(b) of the Act for fiscal years prior to fiscal year 1989, on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, shall stand, and such payments withheld or recovered shall be made or restored.

SEC. 2019. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended by adding at the end thereof the following: "Funds received under this section may be used to pay tuition for any student not eligible for funding under section 1128 of Public Law 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.".

SEC. 2020. REGULATION REQUIREMENTS.

No regulations may be established to carry out the provisions of this Act unless such regulations will become final only after a period for comment which is not less than 90 days. No provision of the regulations may have a retroactive effect which results in the recovery of assistance by the United States (other than such recovery based on regulations in effect at the time the assistance was made). To the extent that the provisions of section 431 of the General Education Provisions Act are not inconsistent with the provisions of this section, the provisions of section 431 shall apply to regulations established under this Act.

SEC. 2021. DEFINITION.

Section 403(5) of the Act is amended by striking out "under title I, II, or III" and inserting in lieu thereof "under chapter 1 or 2 of title I".

Subpart 2—Public Law 815

SEC. 2031. REAUTHORIZATION.

(a) Extension of Program.—The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) in section 3 by striking "1988" and inserting "1993";

(2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and

(3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989".

(b) Authorization of Appropriations.—The first section of such Act is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $26,000,000 for fiscal year 1990, $27,000,000 for fiscal year 1991, $28,000,000 for fiscal year 1992, and $29,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2032. ADMINISTRATIVE AMENDMENTS.

(a) General Rule.—(1) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is further amended by striking out

"the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

(2) Section 11(b) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

(3) Section 15(14) of such Act is amended to read as follows:

"(14) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULE.—The fifth sentence of section 16(c) of such Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2033. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 16(a)(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 16(a)(5) of such Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

SEC. 2034. TECHNICAL AMENDMENT.

Section 14 of the Act is amended—

(1) by striking out subsection (d); and

(2) by adding after subsection (c) the following:

"(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.".

PART B—ADULT EDUCATION

SECTION 2101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1988".

SEC. 2102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

"SEC. 311. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

"SEC. 312. DEFINITIONS.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who are not enrolled in secondary school;

"(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(C) who are not currently required to be enrolled in school; and

"(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 481 of the Higher Education Act of 1965.

"(11) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(12) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(13) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(14) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

"(15) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993 to carry out the provisions of this title (other than sections 371 and 372).

"(b) ALLOTMENT.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States.

"(c) REALLOTMENT.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

"(d) RESERVATION OF FUNDS FOR NATIONAL PROGRAMS.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in part D, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS.

"(a) USE OF FUNDS.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

"(3) The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4)(A) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(B) The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this subpart exceeds the amounts available for such grants in fiscal year 1988.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) Not less than 10 percent of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with subpart 2.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

"SEC. 323. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—Programs for Corrections Education and Education for Other Institutionalized Individuals

"SEC. 326. PROGRAM AUTHORIZED.

"Funds set aside under section 322(b)(1) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

"(1) academic programs for—

"(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

"(B) special education programs as defined by State law;

"(C) bilingual or English as a second language programs; and

"(D) secondary school credit programs;

"(2) vocational training programs;

"(3) library development and library service programs;

"(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology;

"(5) guidance and counseling programs;

"(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

"(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

"(b) As used in this section, the term—

"(1) 'criminal offender' means any individual who is charged with or convicted of any criminal offense; and

"(2) 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"Subpart 3—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION.

"(a) STATE AGENCY RESPONSIBILITIES.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) STATE IMPOSED REQUIREMENTS.—Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

"(c) LIMITATION ON STATE ADMINISTRATIVE COSTS.—Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION.

"(a) REQUIREMENT.—(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this subpart for the purposes of this subsection.

"(b) Representation on Council.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) Certification.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) Procedures.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) Terms.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) Duties.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

"Subpart 4—Planning and Applications

"SEC. 341. STATE PLAN AND APPLICATION.

"(a) Requirement.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) Procedure for Submission and Consideration.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA Provision.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN.

"(a) Procedures Required in Formulating State Plan.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 332 of this title.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

"(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Required Assessments.—In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

"(c) Components of State Plan.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7004(a) of title VII of the Elementary and Secondary Education Act of 1965 or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

"(7) describe how the particular educational needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purpose of this title during the 4-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to assure maximum use of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 382 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"(d) Limited English Proficiency Rule.—Programs conducted under subsection (c)(6) shall be designed to teach English to limited

English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

"SEC. 343. STATE APPLICATIONS.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant such State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

"Subpart 5—Evaluation and State Plan Amendments

"SEC. 351. STATE PLAN AMENDMENTS.

"(a) TIMELY SUBMISSION.—When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

"(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"(c) TRANSITION RULE.—Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

"SEC. 352. EVALUATION.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

"(1) annually submit data to the Secretary with respect to grant recipients;

"(2) before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider—

"(A) the planning and content of the program;

"(B) the curriculum, instructional materials, equipment, and qualifications of all personnel;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other factors determined to affect program operation; and

"(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 6—Demonstration Projects

"SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) USE OF FUNDS.—Of the funds allotted to a State under section 313 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this title, or

"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) APPLICATIONS.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 7—Federal Share; Federal Administrative Responsibilities

"SEC. 361. PAYMENTS.

"(a) FEDERAL SHARE.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be—

"(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

"(2) 85 percent of such cost for fiscal year 1990;

"(3) 80 percent of such cost for fiscal year 1991; and

"(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share of such cost shall be 100 percent.

"(b) MAINTENANCE OF EFFORT.—(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

"SEC. 371. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

"(a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocation-

al school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 342 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

"(A) includes in a State plan submitted to the Secretary under section 342 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3) shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this part) for that year is equal to or greater than $110,000,000.

"(3) Amounts appropriated under this subsection shall remain available until expended.

"SEC. 372. ENGLISH LITERACY GRANTS.

"(a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 342 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 342 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d).

"(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

"PART D—NATIONAL PROGRAMS

"SEC. 381. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the

Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

"(b) PRIORITY.—In carrying out the provisions of this part, the Secretary shall from funds reserved under section 313(d) give first priority to the portion of the program described in subsection (a) for migrant farmworkers.

"SEC. 382. ADULT LITERACY VOLUNTEER TRAINING.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"(b) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give second priority to the portion of the program described in subsection (a) for adult volunteers.

"SEC. 383. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) FEDERAL ASSISTANCE.—(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance shall include, but are not limited to—

"(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

"(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(2) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give third priority to the portion of the program described in paragraph (1) for evaluation and research.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first 2 years after enactment of the Adult Education Amendments of 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation.

"(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1988, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 384. NATIONAL RESEARCH ACTIVITIES.

"(a) APPROVED ACTIVITIES.—The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

"(b) RESEARCH CONCERNING SPECIAL NEEDS.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 313(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

"SEC. 385. LIMITATION.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.".

PART C—EDUCATION FOR ECONOMIC SECURITY

SEC. 2301. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

(2) by striking "1986," and inserting "1986 and"; and

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

SEC. 2302. STAR SCHOOLS PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $60,000,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership which includes three or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of the Elementary and Secondary Education Act of 1965,

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965) in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965), programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 1471(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(16) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 2303. REPEAL.

Titles II, IV, VI, and VII of the Education for Economic Security Act are repealed.

PART D—VOCATIONAL EDUCATION

SEC. 2401. TECHNICAL AMENDMENT.

(a) Uses of Funds.—Section 201 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2331) is amended—

(1) in subsection (b)(4), by striking "or homemakers;" and inserting ", homemakers, or single pregnant women;"; and

(2) in subsection (f), by striking "and homemakers" each place it appears and inserting ", homemakers, and single pregnant women".

(b) Distribution of Assistance.—Section 202(a)(4) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332(4)) is amended by striking "and homemakers;" and inserting ", homemakers, or single pregnant women;".

(c) Conforming Amendment.—Section 202 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 2402. THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

(a) In General.—From funds appropriated for the fiscal year 1987 for section 404 of the Carl D. Perkins Vocational Education Act of 1984, the Secretary of Education shall provide financial assistance to a Center for Research in Vocational Education at The Ohio State University in the amount of $2,000,000 and the University of California at Berkeley in the amount of $2,000,000 to support ongoing activities, but not to support any new hiring after April 10, 1988, through December 31, 1988. Funds allocated to either institution shall be shared equitably according to the expenses of all subcontractors. The funds made available under this section shall not be affected by the outcome of the final decision on a grant award recipient for the National Center for Research in Vocational Education. Any funds received under this section shall be deducted from the total award made for a National Center for the 1988 grant award year.

(b) Construction.—Nothing in this section shall be construed to affect the decision with respect to the location of the National Center for Research in Vocational Education.

PART E—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

SEC. 2501. SHORT TITLE.

This part may be cited as the "Comprehensive Child Development Centers Act of 1988".

SEC. 2502. STATEMENT OF PURPOSE.

It is the purpose of this part to provide financial assistance to projects, on a multiyear basis, that—

(1) are designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families;

(2) will enhance their physical, social, emotional, and intellectual development and provide support to their parents and other family members; and

(3) target services on infants and young children from families who have incomes below the poverty line and who, because of environmental, health, or other factors, need intensive and comprehensive supportive services to enhance their development.

SEC. 2503. PROGRAM AUTHORIZED.

Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 et seq.) is amended by adding at the end the following:

"Subchapter E—Comprehensive Child Development Program

"SHORT TITLE

"Sec. 670M. This subchapter may be cited as the 'Comprehensive Child Development Act'.

"CHILD DEVELOPMENT PROJECTS

"Sec. 670N. (a)(1) The Secretary is authorized to make operating grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10, but not more than 25, eligible agencies to carry out this section.

"(3) In carrying out this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the project for which assistance is sought;

"(B) the proximity of the eligible agency and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of intensive and comprehensive support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project; and

"(F) the eligible agency's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of section 2402 of the Comprehensive Child Development Centers Act of 1988;

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such infants and young children will be met by the project;

"(D) describe the intensive and comprehensive supportive services that project planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the entities that the eligible agency intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered;

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the project; and

"(I) contain such other information as the Secretary may reasonably require.

"(c)(1)(A) The Secretary shall make operating grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(C) In making operating grants in a fiscal year, the Secretary shall give priority to eligible entities that received operating grants under this section for the preceding fiscal year.

"(2)(A) To be eligible to receive an operating grant under this section, an eligible agency shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section; and

"(ii) submit an operating grant application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for intensive and comprehensive support services;

"(iv) identify the referral providers, agencies, and organizations that the eligible entity will use to carry out the project for which such operating grant is requested;

"(v) provide assurances that intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to infants and young children, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency, through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the project for which such operating *grant is requested, from non-Federal sources;*

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and met, and such other information as the Secretary may require;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the project,

"(II) individuals with expertise in furnishing services the project offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the project will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, and agree to submit such necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in such applications.

"(B) The Federal share of such costs shall be 80 percent for each fiscal year.

"(C) The non-Federal share of such costs may be provided in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested in order to carry out the evaluation required by paragraph (1).

"(f) Not later than October 1, 1993, the Secretary shall prepare and submit to the Congress a report on the evaluation required by subsection (e)(1), together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"LIMITATION

"SEC. 670O. For purposes of making any grant under section 670N, the Secretary may not take into consideration whether the applicant for such grant applies for or receives funds under subchapter B.

"APPLICABILITY OF CERTAIN RULES AND REGULATIONS

"SEC. 670P. Except when inconsistent with the provisions of this subchapter, the rules and regulations prescribed by the Secretary, as in effect from time to time, to carry out subchapter B shall apply to carrying out this subchapter to the extent that services provided under this subchapter are similar to services provided under subchapter B.

"CONTINUING EVALUATION OF PROJECTS

"SEC. 670Q. (a) The Secretary shall provide, directly or through grants and contracts, for the continuing evaluation of projects under this subchapter in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services. Such evaluation shall include—

"(1) evaluations that measure the impact of such projects; and

"(2) where appropriate, comparisons of individuals who participate in such projects with appropriate control groups composed of individuals who do not participate in such projects.

"(b) Each evaluation conducted under subsection (a) of a project shall be conducted by persons who are not directly involved in the administration of such project.

"(c) In carrying out subsection (a), the Secretary may require eligible agencies to provide for independent evaluations.

"GENERAL ADMINISTRATION

"SEC. 670R. The Secretary shall carry out this subchapter through the administrative entity of the Department of Health and Human Services used by the Secretary to carry out subchapter B.

"DEFINITIONS

"SEC. 670S. As used in this subchapter—

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act (20 U.S.C. 1472(2));

"(2) the term 'eligible agency' means a Head Start agency, an agency that is eligible to be designated as a Head Start agency under section 641, a community-based organization, an institution of higher education, a public hospital, a community development corporation, or a public or private nonprofit agency or organization specializing in delivering social services to infants or young children;

"(3) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(4) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and such term includes infant and child health services (including screening and referral), child care that meets State licensing requirements, early childhood development programs, early intervention services for children with or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and such term includes prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(5) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(6) the term 'low income' means persons who are from families having incomes below the poverty line as determined and revised in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(7) the term 'Secretary' means the Secretary of Health and Human Services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670T. (a) Subject to subsection (b), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this subchapter.

"(b) Notwithstanding any other provision of law, no funds shall be available for fiscal year 1989 or 1990 to carry out this subchapter if the amount appropriated for such fiscal year to carry out subchapter B is less than 104 percent of the amount appropriated for the preceding fiscal year to carry out subchapter B.

"(c) Funds made available in accordance with this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which such funds are appropriated.".

SEC. 2504. CONFORMING AMENDMENTS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) by inserting "(a)" after "SEC. 638."; and

(2) by adding at the end thereof the following:

"(b) For purposes of providing financial assistance under subsection (a) to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter E.".

PART F—HIGHER EDUCATION

SEC. 2601. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

(a) AMENDMENT TO TITLE OF PROGRAM.—Section 421 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by adding at the end the following new subsection:

"(c) The program established under this part may be referred to as the 'Robert T. Stafford Student Loan Program'.".

(b) CONFORMING AMENDMENT.—The heading for Part B of title IV of the Act is amended to read as follows: "PART B—ROBERT T. STAFFORD STUDENT LOAN PROGRAM".

TITLE III—EDUCATIONAL ASSESSMENT, ACHIEVEMENT, AND ADMINISTRATION

PART A—STATISTICS

SEC. 3001. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended—

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following: "The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.".

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center. The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for

terms of 4 years, except that the initial appointment shall commence June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

(3) TRANSITION PROVISION.—During the period beginning on the date of the enactment of this Act and ending on the date that an appointment is made pursuant to section 406(a)(2)(A) (as inserted by paragraph (1)), the individual serving as the director of the Center for Education Statistics on the date of the enactment of this Act may serve as acting Commissioner.

(c) ADVISORY COUNCIL ON EDUCATION STATISTICS.—Section 406(c) of the Act is amended—

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting a comma; and

(C) by adding at the end the following subparagraphs:

"(D) Commissioner of Education Statistics, and";

"(E) Chairman, National Commission on Libraries and Information Science.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) CONDITION OF EDUCATION REPORT.—Section 406(d) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by adding "and" at the end of subparagraph (B);

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking all of subparagraph (D);

(2) by redesignating paragraph "(2)" as paragraph "(3)"; and

(3) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) AUTHORITY OF COMMISSIONER.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

"(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

"(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

"(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

"(9) The Commissioner is authorized to—

"(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code, (governing appointments in the competitive service) and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

"(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.".

(f) REPORTS ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by inserting after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) SPECIAL STUDY PANEL ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended by adding after paragraph (2) (as added by subsection (F)) the following new paragraph:

"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

(h) DROPOUT AND RETENTION STUDY AND REPORTS.—Section 406(g) of the Act is amended by adding after paragraph (3) (as added by subsection (g)) the following new paragraph:

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator.

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) FINANCIAL AID STUDIES.—Section 406(g) of the Act is amended by adding after paragraph (4) (as added by subsection (h)) the following new paragraph:

"(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study.".

"(B) Concurrent with each survey, the Center shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.".

(j) DECENNIAL ANALYSIS OF SCHOOL DISTRICTS.—Section 406(g) of the Act is amended by adding after paragraph (5) (as added by subsection (i)) the following new paragraph:

"(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas

served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.".

(k) NATIONAL LONGITUDINAL SURVEY.—Section 406(g) of the Act is amended by adding after paragraph (6) (as added by subsection (j)) the following new paragraphs:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

"(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system. Attention should be given to ensuring timely, consistent and accurate reporting.".

(l) SCHOOL REFORM EFFORTS STUDY.—Section 406(g) of the Act is amended by adding after paragraph (8) (as added by subsection (k)) the following new paragraph:

"(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.".

(m) CONFIDENTIAL TREATMENT OF DATA.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) no department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E)), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

"(F) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

(n) EDUCATION INFORMATION AND DATA.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by redesignating subsection (h) as subjection (i);

(3) by inserting after subsection (g) a new subsection (h):

"(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) the availability and use of school libraries and their resources;

"(iv) teachers, librarians, and school administrators;

"(v) the financing of elementary and secondary education;

"(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vii) the progress of education reform in the States and the Nation; and

"(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

"(3) To establish and maintain the system, the Commissioner—

"(A) shall—

"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and

"(ii) to the extent possible, implement standard definitions and data collection procedures; and

"(B) may—

"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.";

(4) in subsection (f)—

(A) by inserting "(1)" after "(f)"; and

(B) by adding after paragraph (1) the following paragraphs:

"(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State—

"(A) of meeting the information and data gathering requirements in compliance with such subsection; or

"(B) for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.".

(o) STATE TRAINING PROGRAM.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)".

(p) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:

"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

(2) Section 405(f)(1) of the Act is amended by striking "and section 406 of this Act".

(q) CONFORMING AMENDMENTS.—The heading of section 406 of the Act is amended to read as follows:

"NATIONAL CENTER FOR EDUCATION STATISTICS"

SEC. 3002. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the Elementary and Secondary Education Act of 1965 and chapter 1 of the Education Consolidation and Improvement Act of 1981".

PART B—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

SEC. 3201. SHORT TITLE.

This part may be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act".

SEC. 3202. ESTABLISHMENT OF FUND.

There is established a Fund for the Improvement and Reform of Schools and Teaching.

Subpart 1—Grants for Schools and Teachers

SEC. 3211. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) General Authority.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, nonprofit organizations, individual schools, consortia of such schools, and consortia of such schools and institutions, to improve educational opportunities for and the performance of elementary and secondary school students and teachers by—

(1) helping educationally disadvantaged or at risk children meet higher educational standards;

(2) providing incentives for improved performance;

(3) strengthening school leadership and teaching;

(4) promoting closer ties among school teachers, administrators, families and the local community;

(5) providing opportunities for teacher enrichment and other means to improve the professional status of teachers;

(6) encouraging projects that reallocate existing resources (both human and financial) to serve children better by refocusing priorities;

(7) allowing local schools to establish closer ties with an institution of higher education to increase educational achievement;

(8) increasing the number and quality of minority teachers;

(9) providing entry-year assistance to new teachers and administrators;

(10) improving the teacher certification process, especially for schools, school districts, or States facing serious shortages; and

(11) encouraging pride in schools by teaching students to be responsible for their school environment, involving students in the care and maintenance of their classrooms and promoting individual responsibility and involvement in civic activities.

(b) Priority Rule.—The Secretary shall give priority to proposed projects that—

(1) will benefit students or schools with below average academic performance;

(2) will lead to increased access of all students to a high quality education; and

(3) develop or implement systems for providing incentives to schools, administrators, teachers, students, or others to make measurable progress toward specific goals of improved educational performance.

(c) Administrative Rule.—The Secretary shall carry out the provisions of this part through the Board established under section 3231.

SEC. 3212. APPLICATIONS.

(a) Contents of Applications.—(1)(A) For grants described under this subpart, each applicant shall, if relevant, describe how the program relates to the priorities listed in section 3211(b). Where appropriate, proposals shall contain a description of the incentive system described in section 3211(b)(3), including specific goals and timetables for progress toward such goals.

(B) For the purpose of this section, incentives may include financial rewards, regulatory waivers, open enrollment among schools, grants to schools for innovative projects, or other rewards for meeting specific goals.

(C) For the purpose of this section, the goals described in subparagraph (A) may include increased graduation rates, reduced dropout rates, increased attendance rates, increased student achievement, reduced rates of incidents of juvenile delinquency or vandalism, or other goals of educational improvement.

(2)(A) Each teacher and administrator desiring to receive a grant at the school level shall submit an application for school level projects involving an individual school or a consortium of schools. Each application shall contain assurances that the project will be carried out under the responsibility of a full-time teacher or school administrator.

(B) Each such application shall be reviewed by the appropriate local educational agency. The local educational agency shall act as the fiscal agent in administering the school's grant to the school, but funds must be expended at the school level.

(b) State Educational Agency Review.—Each application for a grant under this subpart (other than an application from a State educational agency) shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency must complete its review of the application and comment to the Secretary within 30 calendar days of receipt.

(c) Special Evaluation Rule.—In evaluating an application for a grant or contract under this subpart, the Secretary shall consider the extent to which the proposed project is likely to improve teaching and learning at the school level.

Subpart 2—Family-School Partnership

SEC. 3221. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) it has been clearly demonstrated that parent involvement is directly related to better student achievement, attitudes, and performance in school;

(2) demographics of the American family are changing to the degree that significant numbers of children attending school come from families with single parents, families in which both parents are employed outside the home, or where the primary caregiver is not the biological parent;

(3) the demographics mean that current approaches to developing and maintaining partnerships with educators in compensatory education programs require review and modification to make them more responsive to the needs of both families and schools; and

(4) effective approaches to more fully involving families as partners in their children's education should be encouraged as a matter of Federal policy.

(b) Purpose.—The purpose of this subpart is to encourage eligible local educational agencies to increase the involvement of families in the improvement of the educational achievement of their children in the preschool, elementary, and secondary schools within such agency.

SEC. 3222. ELIGIBLE AGENCY.

In order to be eligible to receive a grant under this subpart, a local educational agency must be eligible to receive a grant under section 1005 of the Elementary and Secondary Education Act of 1965.

SEC. 3223. PROGRAM AUTHORIZED.

(a) General Authority.—The Secretary, through the Fund, is authorized to make demonstration grants to eligible local educational agencies for the development of innovative, promising family-school educational partnership activities designed to—

(1) support the efforts of families, including training, to the maximum extent practicable, to work with children in the home to attain both the instructional objectives of the schools within eligible local educational agencies and instill positive attitudes about the importance of education;

(2) train teachers and other staff personnel involved in the program supported under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to work effectively as educational partners with the families of participating students;

(3) train families, teachers and other staff personnel in the schools within such agency to build an educational partnership between home and school; and

(4) evaluate how well family involvement activities of the schools within such agency are working, what barriers exist to greater participation, and what steps need to be taken to expand participation in such family involvement activities.

(b) Uses of Funds.—The activities and procedures for which grants may be made under this subpart may include—

(1) training programs for the family on the family's educational responsibilities and reasonable and necessary expenditures associated with the attendance of parents or guardians at training sessions;

(2) planning and development of new school procedures and practices to meet the changing demographic characteristics of the families of school-age children;

(3) planning and development of modifications of school procedures and practices necessary for the involvement of parents of special groups, including minorities, disadvantaged, gifted and talented, and students with handicaps;

(4) hiring, training, and use of educational personnel in eligible local educational agencies to coordinate family involvement activities and to foster communications among families, educators, and students;

(5) development and purchase by a local educational agency of educational materials where such materials are commercially unavailable to reinforce school learning at home and assistance in implementing other home-based education activities that reinforce and extend classroom instruction and student motivation; and

(6) securing technical assistance, including training, to design and carry out family involvement programs.

(c) Private School Students.—An application may, consistent with the number of children enrolled in private elementary and secondary schools located in the school district of an eligible educational agency, provide for the participation of such children, their families and teachers.

Subpart 3—Administrative Provisions

SEC. 3231. BOARD AUTHORIZED.

(a) Fund for the Improvement and Reform of Schools and Teaching Board Established.—(1) There is established the Fund Board.

(2)(A) The Board shall—

(i) advise the Secretary concerning developments in education that merit the attention of the Secretary;

(ii) identify promising initiatives to be supported under this part; and

(iii) advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, planning documents, guidelines, and procedures for grant competitions carried out by the Fund.

(B) The Secretary shall provide such information and assistance as may be necessary

to enable the Board to carry out its functions under this part.

(3)(A) The Board shall be composed of 15 members and the Secretary. Appointed members of the Board shall be appointed from among individuals who have extensive backgrounds in the field of education and shall represent a broad range of viewpoints and experience.

(B)(i) The term of office of each member of the Board shall be 3 years, except that, subject to the provisions of paragraphs (4) and (5), the members first taking office shall serve as designated by the Secretary, one-third of the members for terms of 1 year, one-third of the members for terms of 2 years, and one-third of the members for terms of 3 years;

(ii) Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed. No Board member may serve more than 2 consecutive terms.

(4) The initial membership of the Board shall be appointed by the Secretary after consultation with appropriate educational organizations and other interest groups.

(5) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. The Board shall nominate at least 3 individuals for each vacancy.

(6) The Board shall elect a chairman and vice-chairman from among its membership.

(7) The Board shall meet at least 3 times each year. A meeting shall also be held whenever one-third of the Board members request in writing that a meeting be held. A majority of the Board shall constitute a quorum.

(b) DIRECTOR OF THE FUND.—(1) The Secretary shall appoint a Director of the Fund to serve a 4-year term. No individual may serve as Director for more than 8 years.

(2) The Director shall advise the Board about developments in education that merit the attention of the Board, identify promising initiatives, coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education, and provide such information and assistance as may be necessary to enable the Board to carry out its functions. The Director may offer comments to the Board on any application to the Fund.

(3) The Director shall—

(A) consult with the Board on priorities for the improvement of education,

(B) design grant competitions,

(C) solicit proposals,

(D) administer grant competitions,

(E) review and prioritize proposals,

(F) monitor funded projects, and

(G) disseminate the results of successful projects.

(c) PRIORITIES RULE.—In January of every calendar year, the Board shall advise the Secretary and the Congress of the priorities of the Board for the improvement of education and the implications of the priorities for the Fund. The Secretary shall give careful consideration to the priorities set forth by the Board. By December 31 of each calendar year, the Director shall provide the Congress with a report for that year summarizing the projects funded for that year.

(d) REVIEW AND EVALUATION PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. The procedures established under this subsection for reviewing grant applications or contracts for financial assistance under this Act may not be subject to any review outside of officials responsible for the administration of the Fund.

(e) PROPOSAL REVIEW.—In reviewing proposals, the Director shall consider the need for the proposed project and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals and priorities of the Fund. The Secretary shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Secretary shall take appropriate steps to ensure that new applicants are encouraged to participate in any grant competition sponsored by the Fund for the Improvement and Reform of Schools and Teaching.

(f) PERSONNEL.—The Secretary may appoint for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 3232. DISSEMINATION AND REPORTING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that exemplary projects that are developed with assistance furnished under this part are made available to institutions of higher education and State and local educational agencies. In carrying out this paragraph the Secretary and Director shall ensure that exemplary projects apply to the National Diffusion Network for dissemination through the procedures established by that program.

(b) REPORT.—The Secretary shall submit a final report to Congress not later than June 1, 1990. The report shall describe the programs assisted by this part, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 3233. COORDINATION WITH THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

In order to facilitate coordination between the Fund and the Fund for the Improvement of Postsecondary Education, the Director of the Fund shall meet regularly with the Director of the Fund for the Improvement of Postsecondary Education. The Board of the Fund shall meet at least once each year with the Board of the Fund for the Improvement of Postsecondary Education to discuss priorities and projects to be funded.

Subpart 4—General Provisions

SEC. 3241. SPECIAL GRANT RULES.

(a) GRANT CONDITIONS.—(1) Federal funds paid under this part shall supplement, not supplant, other resources available to the grantee.

(2) Financial assistance made under this part is not intended to be used for the acquisition of capital equipment as a primary purpose.

(b) DISTRIBUTION OF FUNDS.—(1) At least 25 percent of the funds appropriated for the Fund in any fiscal year shall be used for grants to applicants described in section 3212(a)(2)(A).

(2) Grants to a single school as described in section 3212(a)(2)(A) may not be less than $5,000 nor more than $125,000 in any fiscal year.

(3) No grant may be made for more than a 3-year period.

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the provisions of this part $30,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, 1992 and 1993.

(b) RESERVATIONS.—

(1) The Secretary shall reserve one-third of the funds appropriated for activities under subpart 2 of this part.

(2) The Secretary shall reserve $150,000 from funds appropriated for activities authorized by section 3232.

SEC. 3243. DEFINITIONS.

For the purpose of this part—

(1) the term "at risk" means students who, because of learning deficiencies, lack of school readiness, limited English proficiency, poverty, educational or economic disadvantage, or physical or emotional handicapping conditions face greater risk of low educational achievement and have greater potential of becoming school dropouts;

(2) the term "Board" means the Fund Board established under section 3231;

(3) the term "Fund" means the Fund for the Improvement and Reform of Schools and Teaching established under section 3202; and

(4) the term "Secretary" means the Secretary of Education.

PART C—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 3401. SHORT TITLE.

This part may be cited as the "National Assessment of Educational Progress Improvement Act".

SEC. 3402. STATEMENT OF PURPOSE.

The purpose of this part is to improve the effectiveness of our Nation's schools by making objective information about student performance in selected learning areas available to policymakers at the national, regional, State, and local levels. To enhance its utility, such information shall be both representative and comparable and shall be maintained in a manner that ensures the privacy of individual students and their families. It is not the purpose of this Act to authorize the collection or reporting of information on student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

SEC. 3403. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) GENERAL AUTHORITY.—Section 406 of the General Education Provisions Act (hereafter in this part referred to as "the Act" and as amended by section 3001 of this title) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following:

"(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of

children and adults in the basic skills of reading, mathematics, science, writing, history/geography, and other areas selected by the Board.

"(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall—

"(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

"(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(iii) report achievement data on a basis that ensures valid reliable trend reporting;

"(iv) include information on special groups.

"(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

"(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D), shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

"(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data.

"(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted.

"(D)(i) The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

"(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

"(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

"(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

"(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

"(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

"(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the 'Board').

"(ii) The Board shall formulate the policy guidelines for the National Assessment.

"(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

"(i) two Governors, or former Governors, who shall not be members of the same political party;

"(ii) two State legislators, who shall not be members of the same political party;

"(iii) two chief State school officers;

"(iv) one superintendent of a local educational agency;

"(v) one member of a State board of education;

"(vi) one member of a local board of education;

"(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(viii) one representative of business or industry;

"(ix) two curriculum specialists;

"(x) two testing and measurement experts;

"(xi) one nonpublic school administrator or policymaker;

"(xii) two school principals, one elementary and one secondary;

"(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

"(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

"(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

"(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

"(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

"(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

"(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

"(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

"(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(iii) developing assessment objectives;

"(iv) developing test specifications;

"(v) designing the methodology of the assessment;

"(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

"(vii) developing standards and procedures for interstate, regional and national comparisons; and

"(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

"(B) The Board may delegate any functions described in subparagraph (A) to its staff.

"(C) The Board shall have final authority on the appropriateness of cognitive items.

"(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

"(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

"(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

"(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized by the Board) and to carry out the functions described in paragraph (6)(A).

"(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

"(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment;

"(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

"(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

"(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

"(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 405 of the Act is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) RESERVATION OF FUNDS FOR ASSESSMENTS.—(1) Section 405(f)(1)(D) of the Act (as redesignated by subsection (b)(1)) is amended to read as follows:

"(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);".

(2) Section 405(f)(1)(E) of the Act (as redesignated by subsection (a)(1)) is amended by inserting a comma and "except for subsection (i) of that section," immediately after "Act".

PART D—GENERAL EDUCATION PROVISIONS ACT

SEC. 3501. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

"(1) recovery of funds hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 455 of this Act,

"(3) cease and desist hearings pursuant to section 456 of this Act, and

"(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 453. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

"SEC. 452. RECOVERY OF FUNDS.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not al-

lowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

"(d) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

"(f)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g).

"(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

"(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

"(g) A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

"(2) remands the decision to the Office.

"(h) The Secretary shall publish decisions that have become final agency action under subsection (g) in the Federal Register or in another appropriate publication within 60 days.

"(i) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

"(j)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

"(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(k) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

"(l) No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

"SEC. 453. MEASURE OF RECOVERY.

"(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

"(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

"(b)(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

"(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient.

"(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

"(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

"(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

"(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

"(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

"(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

"(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

"(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

"SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

"(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

"(1) withhold further payments under that program, as authorized by section 455;

"(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

"(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457; or

"(4) take any other action authorized by law with respect to the recipient.

"(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

"SEC. 455. WITHHOLDING.

"(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

"(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

"(1) the intent to withhold payments;

"(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

"(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

"(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

"(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

"(2) remands the decision of the Office.

"SEC. 456. CEASE AND DESIST ORDERS.

"(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

"(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

"(1) make a report in writing stating its findings of fact; and

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

"SEC. 457. COMPLIANCE AGREEMENTS.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

"SEC. 458. JUDICIAL REVIEW.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program described in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 459. USE OF RECOVERED FUNDS.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 452(e) is taken.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

"SEC. 460. DEFINITIONS.

"For purposes of this part:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

(b) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

(c) CONFORMING AMENDMENTS.—Section 435(a) of the General Education Provisions Act is amended by striking "titles I and IV" and all that follows through "such Act)" and inserting "chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)".

TITLE IV—EDUCATION FOR NATIVE HAWAIIANS

SEC. 4001. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are over-represented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students;

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density; and

(9) special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required.

SEC. 4002. PURPOSE.

It is the purpose of this title to—

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 4003. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT.

(a) CURRICULUM DEVELOPMENT AUTHORITY.—In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to—

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) SPECIAL RULE.—By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993, to carry out the provisions of this Act. Such funds shall remain available until expended.

SEC. 4004. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

(a) FAMILY-BASED EDUCATION CENTERS GENERAL AUTHORITY.—The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands. Such centers shall include—

(1) Parent-Infant programs (prenatal through age 3);

(2) Preschool programs for four and five year-olds;

(3) continued research and development; and

(4) a long term followup and assessment program.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for the centers described in subsection (a), there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for such centers for fiscal years 1989 through 1993. Such funds shall remain available until expended.

SEC. 4005. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAM.

(a) HIGHER EDUCATION GENERAL AUTHORITY.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section;

(4) appropriate research and evaluation of the activities authorized by this section; and

(5) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) GRANTS AUTHORIZED.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

(c) Special Condition Required.—For the purpose of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) Administrative Costs.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of Appropriations.—

(1) There are authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a).

(2) There are authorized to be appropriated $750,000 for fiscal year 1988, and for each succeeding fiscal year through 1993, for the purpose of funding the fellowship assistance demonstration project provided under subsection (b).

(3) Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. 4006. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

(a) Gifted and Talented Demonstration Authority.—

(1) The Secretary shall provide a grant to, or enter into a contract with, the University of Hawaii at Hilo for—

(A) the establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, and

(B) for demonstration projects designed to—

(i) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students, and

(ii) provide those support services to their families that are needed to enable such students to benefit from the project.

Such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 3 years.

(2) After the term of the grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary shall, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, the public, 4-year, fully accredited institution of higher education located in the State of Hawaii which has made the greatest contribution to Native Hawaiian students. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate, including with the Children's Television Workshop.

(b) Uses of Funds.—Demonstration projects funded under this section may include—

(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

(A) the emotional and psychosocial needs of these students, and

(B) the provision of those support services to their families that are needed to enable these students to benefit from the projects;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii and to other Native American peoples, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such children, and

(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

(c) Information Provision.—The Secretary shall facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) Administrative Costs.—No more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of Appropriations.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Such sums shall remain available until expended.

SEC. 4007. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

(a) Special Education Authority.—The Secretary shall make grants to, and enter into contracts with, the State of Hawaii, or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects assisted under this section may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special education services;

(2) the conduct of educational activities consistent with part B of the Education of the Handicapped Act which hold reasonable promise of improving the provision of special education and related services to Native Hawaiian children who are identified as being handicapped; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) Administrative Costs.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of Appropriations.—In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Such sums shall remain available until expended.

SEC. 4008. ADMINISTRATIVE PROVISIONS.

(a) Application Required.—No grant may be made under this title, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) Special Rule.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

SEC. 4009. DEFINITIONS.

For purposes of this title—

(1) The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development.

(4) The term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians.

(5) The term "elementary school" has the same meaning given that term under section 1471(7) of this Act.

(6) The term "local educational agency" has the same meaning given that term under section 1471(10) of this Act.

(7) The term "secondary school" has the same meaning given that term under section 1471(7) of this Act.

TITLE V—INDIAN EDUCATION

PART A—BUREAU AND CONTRACT SCHOOLS

SEC. 5101. SHORT TITLE.

This part may be cited as the "Indian Education Amendments of 1988".

SEC. 5102. PROHIBITION ON TRANSFERS OF BUREAU AND CONTRACT SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by adding at the end of subsection (g) the following new paragraph:

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987, or

"(B) any program of such a school that is operated on or after April 1, 1987,

only if the tribal governing body approves such action.",

(2) by striking "Such standards and procedures shall require that whenever" in subsec-

tion (g)(3) and inserting in lieu thereof "Whenever",

(3) by inserting "transfer to any other authority," after "close," and after "closure," each place either term appears in paragraphs (3) and (4) of subsection (g), and

(4) by adding at the end thereof the following new subsection:

"(j) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.".

SEC. 5103. REPORT ON TEMPORARY ACTIONS TAKEN FOR A YEAR.

Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) is amended—

(1) by redesignating subsection (d) as subsection (e),

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall conduct a review of the guidelines used by the Bureau in determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety. By no later than June 30, 1989, the Secretary shall publish in the Federal Register the final form of regulations which shall be used by health and safety officers of the Bureau in making such determinations.

"(C)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form the regulations required under subparagraph (B) before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.".

SEC. 5104. ELIGIBILITY AND EXPANSION OF BUREAU FUNDED SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by striking out "Indian controlled contract schools (hereinafter referred to as 'contract schools')" in subsection (a) and inserting in lieu thereof "contract schools", and

(2) by adding at the end thereof the following new subsection:

"(k)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that has not previously received funds from the Bureau,

"(ii) applications from any tribe or Bureau school board for—

"(I) a school which has not previously been operated or funded by the Bureau, or

"(II) the expansion of any program currently funded by the Bureau which would increase the amount of funds received by the Indian tribe or school board under section 1128.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau operated program, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6)(A) Any application for expansion of the grade levels offered by a tribally controlled school which has been submitted to the Secretary prior to the date of enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date on which such application was submitted, unless the applicant elects to have the provisions of this subsection apply to the review of such application.

"(B) Notwithstanding any other provision of law, if the school board of the Bureau funded schools at the Pueblo of Zia and the Tama Settlement vote within the 2-year period beginning on the date of enactment of the Indian Education Amendments of 1988 to expand each of the schools to include kindergarten through grade 8, the schools

shall be so expanded at the beginning of the next school year occurring after the vote.".

SEC. 5105. DORMITORY CRITERIA.

Section 1122 of the Education Amendments of 1978 (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(b) may be waived under section 1121(d).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By no later than May 1, 1989, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.".

SEC. 5106. REGULATIONS.

Section 1123 of the Education Amendments of 1978 (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.".

SEC. 5107. FORMULA MODIFICATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)) is amended to read as follows:

"(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an average daily attendance of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.".

(2) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 5324 of the Indian Education Amendments of 1988), and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 5324(c)(6)(B) of the Indian Education Act of 1988, or

"(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(5) For each of the fiscal years 1989 and 1990, the Secretary shall adjust the formula established under subsection (a) to provide funding to schools operated by Indian tribes that are treated under State law as political subdivisions of the State in an amount sufficient to enable the schools to meet standards imposed by the State.".

(b) STUDY.—

(1) The Comptroller General of the United States (hereafter in this subsection referred to as the "Comptroller General") shall conduct a study to determine—

(A) the number of children who—

(i) are 3 or 4 years of age,

(ii) are eligible for services provided by the Bureau of Indian Affairs of the Department of the Interior, and

(iii) are handicapped children (within the meaning of section 602(1) of the Education of the Handicapped Act (20 U.S.C. 401(1))),

(B) the geographic disbursement of such children,

(C) the number of such children who the Comptroller General estimates will receive services under the pre-school set-aside program under Public Law 99-457,

(D) the sufficiency of the pre-school services described in subparagraph (C),

(E) the unmet needs of such children,

(F) the number of such children who the Comptroller General estimates will attend education programs (schools or residential programs) funded by the Bureau, and

(G) the information described in subparagraphs (B), (C), (D), and (E) with respect to the children described in subparagraph (F).

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under paragraph (1).

SEC. 5108. ADMINISTRATIVE COST.

(a) IN GENERAL.—The Education Amendments of 1978 (25 U.S.C. 2008) is amended by inserting after section 1128 (25 U.S.C. 2008) the following new section:

"ADMINISTRATIVE COST GRANTS

"SEC. 1128A. (a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to each of the direct cost education programs operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the one hundredth of a decimal point.

"(d)(1)(A) Funds received by a contract school as grants under this section for tribal elementary or secondary educational programs may be combined by the contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration,

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(4) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(5) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(6) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) one third of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one third of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) one half of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one half of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).".

(b) SCHOOL BOARD TRAINING.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (20 U.S.C. 2008(c)(3)) is amended to read as follows:

"(3)(A) The Secretary shall reserve for national school board training 0.133 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1986. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $4,000, or

"(ii) 2 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.".

(c) PERCENTAGE OF FUNDS NOT SUBJECT TO FISCAL YEAR LIMITATION.—Section 1128 of the Education Amendments of 1978 (20 U.S.C. 2008) is amended by adding at the end thereof the following new subsection:

"(h) At the election of the local school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation.

SEC. 5109. LOCAL PROCUREMENT.

Paragraph (4) of section 1129(a) of the Education Amendments of 1978 (25 U.S.C. 2009) is amended to read as follows:

"(4) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $25,000 of the amount allotted the school under section 1128 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.".

SEC. 5110. COORDINATED PROGRAMS.

Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end thereof the following new subsection:

"(f)(1) From funds allotted to a school under section 1128, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(j)) whose children are served by a program operated by the Bureau, implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves education programs operated by the Bureau. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.".

SEC. 5111. CONSULTATION.

Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010) is amended—

(1) by striking out "Bureau" the first time it appears and inserting in lieu thereof "the Secretary and the Bureau",

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall", and

(3) by adding at the end thereof the following new subsection:

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented during the discussions, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.".

SEC. 5112. INDIAN EMPLOYMENT PREFERENCE.

(a) APPLICANTS.—Subsection (f)(1) of section 1131 of the Education Amendments of 1978 (25 U.S.C. 2011) is amended by striking

out "an employee" and inserting in lieu thereof "an applicant or employee".

(b) PROVIDERS OF SUPPORT SERVICES.—

(1) Subparagraph (A) of section 1131(n)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(n)(1)(A)) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by adding at the end thereof the following new clause:

"(iv) support services at, or associated with, the site of the school; or".

(2) The amendments made by paragraph (1) shall apply with respect to an individual who is employed by the Bureau of Indian Affairs of the Department of the Interior on the date of enactment of this Act only if such individual elects, in such form and at such time as the Secretary of the Interior may prescribe, the application of such amendments with respect to such individual.

SEC. 5113. PERSONNEL COMPENSATION, RECRUITMENT, AND RETENTION STUDIES.

(a) IN GENERAL.—The Secretary shall conduct such studies and gather such information as may be necessary to prepare a report that the Secretary shall submit to the Congress by no later than the date that is 6 months after the date of enactment of this Act. The report shall compare personnel compensation in Bureau funded schools with—

(1) nearest public schools that—

(A) have successful educational programs, and

(B) are comparable in size, geographic location, grade levels, and student population characteristics to Bureau funded schools, and

(2) schools operated within the United States by the Department of Defense.

(b) INCLUSIONS.—The report required under subsection (a) shall include—

(1) detailed information on the current salaries and personnel benefits for comparable positions in the Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(2) a comparison of starting salaries, tenure, length of service, educational and certification requirements, length of work year and work day, and fringe benefits between Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(3) a projection of the compensation factors described in paragraphs (1) and (2) for Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a) over the next five years, and

(4) such additional information and analysis as the Secretary deems appropriate.

(c) FUNDING AND STAFF.—

(1) The cost of the studies and the report required under subsection (a) (including, but not limited to, costs for all contracts, travel, and staff assigned to the study) shall be paid from amounts appropriated to the Bureau's Management and Administration subactivity of the General Administration activity, except that the salaries and personnel benefits of employees detailed to the study from the Office of Indian Education of the Bureau may continue to be charged to the amounts appropriated to the Bureau's Education account.

(2) If the Secretary does not conduct the studies required under subsection (a) by contract, the staff detailed to work on the studies and report required under subsection (a) shall include not less than two career employees from the Office of Indian Education of the Bureau who have substantial experience in the administration (at the level of an agency office) of school operations and in the drafting of personnel regulations, including but not limited to those under this Act.

(d) CONTRACTS.—The Secretary may conduct part or all of the studies required under subsection (a) through contracts entered into with one or more Indian education organizations.

(e) ADDITIONAL STUDIES.—The Secretary shall conduct such other studies of personnel compensation and recruitment in Bureau funded and public schools as are desirable in carrying out the purposes of title 11 of the Education Amendments of 1978.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

SEC. 5114. REGULAR COMPENSATION OF BUREAU EDUCATORS; NONVOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Paragraph (1) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) by inserting "or on the basis of the Federal Wage System schedule in effect for the locality" after "is applicable",

(2) by striking out "The Secretary shall" and inserting in lieu thereof "(A) Except as otherwise provided in this section, the Secretary shall", and

(3) by adding at the end thereof the following new subparagraphs:

"(B) By no later than the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988, the Secretary shall establish, for contracts for the 1991-1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than the close of the 6-month period described in subparagraph (B), the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989-1990 academic year, at rates which reflect one-third of the changes in the rates applicable to such positions on the date of enactment of the Indian Education Amendments of 1988 that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991-1992 academic year, and

"(ii) for contracts for the 1990-1991 academic year, at rates which reflect two-thirds of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day.

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.".

(b) FURLOUGHS.—Section 1131 of the Education Amendments of 1978 (20 U.S.C. 2011) is amended by adding at the end thereof the following new subsection:

"(p)(1) No educator whose basic compensation is paid from funds allocated under section 1128 may be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to a shortage of funds, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determina-

tion of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.".

SEC. 5115. POST DIFFERENTIALS.

Paragraph (3) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(3)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(A) The Secretary", and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time it is approved, approved with modification, or disapproved by the Secretary.

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.".

SEC. 5116. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

Title XI of the Education Amendments of 1978 is amended—

(1) by striking out part C, and

(2) by adding at the end of part B the following new section:

"EARLY CHILDHOOD DEVELOPMENT PROGRAM

"SEC. 1141. (a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members, or

"(ii) by one or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) There are authorized to be appropriated for fiscal year 1989, and for each succeeding fiscal year, $15,000,000 for the purpose of carrying out the provisions of this section.".

SEC. 5117. DEFINITIONS.

Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;",

(2) by redesignating paragraphs (4) through (10) as paragraphs (6) through (12), respectively, and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d);".

SEC. 5118. SEQUESTRATION ORDERS.

Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended by adding at the end thereof the following new paragraph:

"(5) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1128 for any fiscal year by more than 7 percent of the amount of funds available for allotment under section 1128 during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1128, and

"(B) the Secretary may waive the application of the provisions of section 1121(g) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1128 for such fiscal year.".

SEC. 5119. TRIBAL DEPARTMENTS OF EDUCATION.

Part B of title XI of the Education Amendments of 1978 is amended by adding at the end thereof the following new section:

"TRIBAL DEPARTMENTS OF EDUCATION

"SEC. 1142. (a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded

educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 104(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.".

SEC. 5120. SCHOOL BOUNDARIES.

Subsection (b) of section 1124 of the Education Amendments of 1978 (25 U.S.C. 2004(b)) is amended—

(1) by striking out "On or after" and inserting in lieu thereof "(1) Except as provided in paragraph (2), on or after", and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.".

PART B—TRIBALLY CONTROLLED SCHOOL GRANTS

SEC. 5201. SHORT TITLE.

This part may be cited as the "Tribally Controlled Schools Act of 1988".

SEC. 5202. FINDINGS.

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

(3) Indians will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons;

(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement nor created the diverse opportunities and personal satisfaction which education can and should provide;

(6) true local control requires the least possible Federal interference; and

(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

SEC. 5203. DECLARATION OF POLICY.

(a) RECOGNITION.—The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) COMMITMENT.—The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

(c) NATIONAL GOAL.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(d) EDUCATIONAL NEEDS.—The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

(e) FEDERAL RELATIONS.—The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) TERMINATION.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) operate tribally controlled schools which are eligible for assistance under this part, and

(B) submit to the Secretary applications for such grants.

(2) Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is provided.

(3)(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education-related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including but not limited to, expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and

(ii) support services for the school, including transportation.

(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operation and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

(b) Limitations.—

(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

(c) Limitation on Transfer of Funds Among Schoolsites.—

(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

(B) $400,000 of such funds,

at any other schoolsite.

(2) For purposes of this subsection, the term "schoolsite" means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract with, the Bureau for which a discreet student count is identified under the funding formula established under section 1128 of the Education Amendments of 1978.

(d) No Requirement To Accept Grants.—Nothing in this part may be construed—

(1) to require a tribe or tribal organization to apply for or accept, or

(2) to allow any person to coerce any tribe or tribal organization into applying for, or accepting,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications, and the timing of such applications, shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

(e) No Effect on Federal Responsibility.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) Retrocession.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

(g) No Termination for Administrative Convenience.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 5205. COMPOSITION OF GRANTS.

(a) In General.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs,

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and other facilities accounts for such schools for such fiscal year under section 1126(d) of the Education Amendments of 1978 or under any other law, and

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are allocated to such schools for such fiscal year.

(b) Special Rules.—

(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are distributed through the Bureau, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the Education of the Handicapped Act, or

(iii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

SEC. 5206. ELIGIBILITY FOR GRANTS.

(a) In General.—

(1) A tribally controlled school is eligible for assistance under this part if the school—

(A) was, on the date of enactment of this Act, a school which received funds under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.),

(B) was a school operated (as either an elementary or secondary school or a combined program) by the Bureau and has met the requirements of subsection (b),

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c), or

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

(2) Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of this Act shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

(b) Additional Requirements for Bureau Schools and Certain Electing Schools.—

(1) Any school that was operated as a Bureau school on the date of enactment of this Act, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) make a determination of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) if the school is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization, and

(ii) whether the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) shall determine that the school is eligible for assistance under this part,

unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment,

(ii) bookkeeping and accounting procedures,

(iii) substantive knowledge of operating the school,

(iv) adequately trained personnel, or

(v) any other necessary components in the operation of the school.

(c) Additional Requirements for Schools That Have Not Received Bureau Funds.—

(1) A school for which the Bureau has not provided funds meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) with respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(ii) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation to education; and

(IV) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or an earlier date, at the Secretary's discretion.

(d) Applications and Reports.—

(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education of the Department of Education. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment is submitted to the Secretary.

(2) Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(e) Effective Date for Approved Applications.—Except as provided in subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning with the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(f) Denial of Applications.—

(1) Whenever the Secretary declines to provide a grant under this part, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time,

(B) provide assistance to the tribe or tribal organization to overcome all stated objections,

(C) provide the tribe or tribal organization a hearing, under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(D) provide an opportunity to appeal the objection raised.

(2) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(g) Report.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to the Congress the budget under section 1105 of title 31, United States Code.

SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

(a) In General.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) Annual Reports.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school an annual report that shall be limited to—

(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

(c) Revocation of Eligibility.—

(1)(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school, and

(ii) at least one of the following subclauses applies with respect to the school:

(I) The school is certified or accredited by a State or regional accrediting association as determined by the Secretary of Education, or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(IV) The school accepts the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(V) A positive evaluation of the school is conducted once every 3 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act prior to the date of enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. Upon failure to agree on such an evaluator, the governing body of the tribe shall choose the evaluator or perform the evaluation.

(B) The choice of standards employed for purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination, and

(ii) the actions that are needed to remedy such deficiencies, and

(B) affords such authority an opportunity to effect any remedial actions.

The Secretary shall provide such technical assistance as is necessary to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

(a) Payments.—

(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments:

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a

contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) For any school for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(b) INVESTMENT OF FUNDS.—

(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c, et seq.) except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of enactment of this Act may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

(2) Any election made under paragraph (1) shall take effect on the later of—

(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made, or

(B) the date that is 60 days after the date of such election.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

SEC. 5210. ROLE OF THE DIRECTOR.

Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

SEC. 5211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

SEC. 5212. DEFINITIONS.

For purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3)(A) The term "tribal organization" means—

(i) the recognized governing body of any Indian tribe, or

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization, and

(II) includes the maximum participation of Indians in all phases of its activities.

(B) In any case in which a grant is provided under this part to an organization to perform services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

PART C—DEPARTMENT OF EDUCATION

SEC. 5301. SHORT TITLE.

This part may be cited as the "Indian Education Act of 1988".

Subpart 1—Financial Assistance to Local Educational Agencies for the Education of Indian Children

SEC. 5311. DECLARATION OF POLICY.

In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both.

SEC. 5312. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—The Secretary shall, in order to effectuate the policy set forth in section 5311, carry out a program of making grants to local educational agencies which are entitled to payments under this subpart and which have submitted, and have had approved, applications therefor, in accordance with the provisions of this subpart.

(b) AMOUNT OF GRANTS.—

(1)(A) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of eligible Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(B) For purposes of this subpart, the term "eligible Indian children" means Indian children whom the Secretary has determined—

(i) were enrolled in a school of the local educational agency, and

(ii) were provided free public education by the local educational agency.

(2)(A) From the sums appropriated under section 5316(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this subpart an amount which bears the same ratio to such sums as the product of—

(i) the number of eligible Indian children, multiplied by

(ii) the average per pupil expenditure per local educational agency,

bears to the sum of such products for all such local educational agencies.

(B) A local educational agency shall not be entitled to receive a grant under this subpart for any fiscal year unless the number of eligible Indian children, with respect to such agency, is at least 10 or constitutes at least 50 percent of its total enrollment. The requirements of this subparagraph shall not apply to any local educational agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency is equal to the amount determined by dividing—

(i) the sum of—

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus

(II) any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), by

(ii) the aggregate number of children who were in average daily attendance for whom *such agencies provided free public education during such preceding fiscal year.*

(3)(A) The first fiscal year for which schools operated by the Bureau of Indian Affairs of the Department of the Interior shall be treated as local educational agencies for the purposes of this subpart (other than sections 5314(b)(2)(B)(ii) and 5315(c)(2)) is the first fiscal year beginning after the date of enactment of this Act for which the amount of funds appropriated for allocation under this subsection equals or exceeds the amount of funds that, if such schools are not treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to subparagraph (B)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(i) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)), plus

(ii) 2 percent of the amount described in clause (i).

(B)(i) Notwithstanding any other provision of this subpart, for each fiscal year to which this clause applies—

(I) paragraph (2) shall first be applied to allocate the portion of the funds appropriated for such fiscal year for allocation under this subsection that does not exceed the amount determined to be necessary under subparagraph (A) among only those local educational agencies that received funds under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)) for fiscal year 1988, and

(II) paragraph (2) shall then be applied to allocate the remaining portion (if any) of the funds appropriated for such fiscal year for allocation under this subsection among only those local educational agencies that are schools operated by the Bureau of Indian Affairs.

(ii) Clause (i) applies to the first fiscal year described in subparagraph (A), and each succeeding fiscal year, until the amount of funds appropriated for allocation under this subsection for any fiscal year beginning after the date of enactment of this Act equals or exceeds the amount of funds that, if all schools operated by the Bureau of Indian Affairs are treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to clause (i)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(I) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under the Indian Elementary and Secondary School Assistance Act, plus

(II) 2 percent of the amount described in subclause (I).

(c) GRANTS TO SCHOOLS THAT ARE NOT, OR HAVE NOT BEEN, LOCAL EDUCATIONAL AGENCIES.—

(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this subpart to schools—

(A) which are located on or near reservations; and

(B) which—

(i) are not local educational agencies, or

(ii) have not been local educational agencies for more than 3 years.

(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma, or Alaska.

(d) GRANTS FOR DEMONSTRATION PROJECTS.—In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve educational opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 percent of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

SEC. 5313. USES OF FEDERAL FUNDS.

Grants under this subpart may be used, in accordance with applications approved under section 5314, for—

(1) planning and development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of such programs, including, in accordance with regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment; and

(3) the training of counselors at schools eligible to receive funds under this subpart in counseling techniques relevant to the treatment of alcohol and substance abuse.

SEC. 5314. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

(a) IN GENERAL.—A grant provided under this subpart, except as provided in section 5312(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subpart is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 5313, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that—

(A) the planning was or will be directly related to programs or projects to be carried out under this subpart and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subpart, and

(B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subpart;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subpart; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subpart and to determine the extent to which funds provided under this subpart have been effective in improving the educational opportunities of Indian students in the area served, and for the keeping of such records, and the affording of such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) APPROVAL OF APPLICATIONS.—An application by a local educational agency or agencies for a grant under this subpart may be approved only if it is consistent with the applicable provisions of this subpart and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee—

(I) which is composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary-school students, and

(II) of which at least half the members shall be parents described in subclause (I);

(3) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of paragraph (2)(B)(ii); and

(4) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws

for the conduct of the program for which assistance is sought.

(c) Amendments of Applications.—Amendments of applications submitted under this subpart shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

(d) Eligibility Forms.—

(1) The Secretary shall require that each application for a grant under this subpart for each fiscal year include a form for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

(2) The Secretary shall request on the form required under paragraph (1) at least the following information:

(A) either—

(i) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

(ii) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available) and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

(B) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership is federally recognized;

(C) the name and address of the parent or legal guardian;

(D) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(E) any other information which the Secretary deems necessary to provide an accurate program profile.

(3) Nothing in the requirements of paragraph (2) may be construed as affecting the definition set forth in section 5351(4). The failure of an applicant to furnish any information listed in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

(4) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985-1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of paragraph (1) after the date of enactment of this Act.

(5) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in paragraph (2) may be construed as requiring the furnishing of enrollment numbers.

(e) Auditing; Penalties for False Information.—

(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local education agencies receiving funds under this subpart and shall submit to the Congress an annual report on the findings of the audits.

(B) For purposes of any audit conducted by the Federal Government with respect to funds provided under this subpart, all procedures, practices, and policies that are established by—

(i) the Office of Indian Education of the Department of Education, or

(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

(C) No local education agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit conducted before the date of enactment of this Act that—

(i) relate to the date of completion, or the date of submission, of any forms used to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act, and

(ii) are the subject of any administrative or judicial proceeding pending on the date of enactment of this Act.

(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be ineligible to apply for any other grants under this subpart and shall be liable to the United States for any funds provided under this subpart that have not been expended.

(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this subpart.

SEC. 5315. PAYMENTS.

(a) In General.—The Secretary shall, subject to the provisions of section 5316, from time-to-time pay to each local educational agency which has had an application approved under section 5314, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b) Denial of Payments if Payments Taken Into Account by State.—No payments shall be made under this subpart for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subpart in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(c) Reduction for Failure To Maintain Fiscal Effort.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subpart for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

SEC. 5316. AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS.

(a) In General.—For the purpose of making payments under this subpart, there are authorized to be appropriated—

(1) for fiscal year 1988, $70,000,000, and

(2) for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

(b) Reallocations.—The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this subpart, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children

SEC. 5321. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) In General.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

(b) Demonstration Projects.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effective-

ness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

(A) to provide educational services not available to such children in sufficient quantity or quality, including—

(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(ii) comprehensive academic and vocational instruction;

(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

(iv) comprehensive guidance, counseling, and testing services;

(v) special education programs for handicapped and gifted and talented Indian children;

(vi) early childhood programs, including kindergarten;

(vii) bilingual and bicultural education programs; and

(viii) other services which meet the purposes of this subsection; and

(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

(A) encouraging Indian students to acquire a higher education, and

(B) reducing the incidence of dropouts among elementary and secondary school students.

(d) TRAINING.—

(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

(e) GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.—

(1) The Secretary is authorized to make grants to, and to enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, and Indian organizations, and to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this Act and under other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and adults and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 5314(b)(2)(B)(ii) in evaluating and carrying out programs assisted under this Act, through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children and adults, including information on successful models and programs designed to meet the special educational needs of Indian children.

(2) Grants or contracts made under this subsection may be made for a term not to exceed 3 years and may be renewed for additional 3-year terms if provision is made to ensure annual review of the projects.

(3) From funds appropriated under the authority of subsection (g)(1), the Secretary is authorized to make grants to, and to enter into contracts with, Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(4) The sum of the grants made under this subsection to State educational agencies for any fiscal year shall not exceed 15 percent of the total amount of funds appropriated for the provision of grants under this subsection for such fiscal year.

(f) APPLICATIONS FOR GRANTS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for a grant under subsection (c)—

(i) subject to such criteria as the Secretary shall prescribe, provide for—

(I) the use of funds available under this section, and

(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and

(ii) provide for the training of personnel participating in the project; and

(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

(2)(A) The Secretary may approve an application for a grant under subsection (b), (c), or (d) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

(i) demonstrate that—

(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

(II) there will be such participation in the operation and evaluation of the project, and

(ii) provide for the participation, on an equitable basis, of eligible Indian children—

(I) who reside in the area to be served,

(II) who are enrolled in private nonprofit elementary and secondary schools, and

(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(3) The Secretary may approve an application for a grant under subsection (e) only if the Secretary is satisfied that the funds made available under that subsection will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under that subsection, be made available by the State or local educational agency for the activities described in that subsection, and in no case will be used to supplant those funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) For the purpose of making grants under the provisions of this section, there are authorized to be appropriated $35,000,000 for each fiscal year ending prior to October 1, 1993.

(2) For the purpose of making grants under subsection (e)(1), there are authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1993.

SEC. 5322. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

(a) IN GENERAL.—

(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

(B) providing in-service training for persons teaching in such programs.

(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

(b) FELLOWSHIPS AND TRAINEESHIPS.—

(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals

and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances.

(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year ending prior to October 1, 1993, such sums as may be necessary to carry out the provisions of this section.

SEC. 5323. FELLOWSHIPS FOR INDIAN STUDENTS.

(a) In General.—During each fiscal year ending prior to October 1, 1993, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a post baccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) Stipends.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments to Institutions in Lieu of Tuition.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

(d) Special Rules.—

(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

SEC. 5324. GIFTED AND TALENTED.

(a) Establishment of Centers.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

(b) Demonstration Projects.—

(1) The Secretary shall award separate grants to, or enter into contracts with—

(A) 2 tribally controlled community colleges that—

(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

(ii) are fully accredited, or

(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide those support services to their families that are needed to enable the students to benefit from the project.

(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

(3) Demonstration projects funded under this section may include—

(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions;

(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (d) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of those support services to their families that are needed to enable such children to benefit from the project.

(c) Additional Grants.—

(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

(A) gifted and talented students,

(B) college preparatory studies (including programs for Indian students interested in teaching careers),

(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

(D) math and science education.

(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

(4) In providing grants under paragraph (1), the Secretary shall—

(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

(B) ensure that a definition of the term "gifted and talented student" for purposes of this section and section 1128(c)(1)(A)(ii) of the Education Amendments of 1978 is developed as soon as possible.

(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B).

(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the evaluator.

(B) If no funds are provided under subsection (b) for—

(i) the evaluation of activities funded by grants made under paragraph (1),

(ii) technical assistance and coordination with respect to such activities, or

(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

(d) Information Network.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

(e) Authorization of Appropriations.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993 for the purpose of carrying out the provisions of this section. Such sums shall remain available until expended.

Subpart 3—Special Programs Relating to Adult Education for Indians

SEC. 5330. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

(a) In General.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of pro-

grams for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate—

(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

(d) APPLICATIONS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought; and

(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

(2) The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that—

(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

(B) there will be such a participation in the operation and evaluation of the project.

(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

Subpart 4—Program Administration

SEC. 5341. OFFICE OF INDIAN EDUCATION.

(a) IN GENERAL.—There is established, in the Department of Education, an Office of Indian Education.

(b) DIRECTOR.—

(1) The Office of Indian Education shall be under the direction of the Director of the Office of Indian Education, who shall be appointed by the Secretary from a list of nominees submitted to the Secretary by the National Advisory Council on Indian Education.

(2) The Director of the Office of Indian Education shall—

(A) be responsible for administering the provisions of this part,

(B) be responsible for the development of all policies and procedures relative to the implementation of this part,

(C) be involved in, and primarily responsible for, development of all policies affecting Indians under programs within the Office of Elementary and Secondary Education of the Department of Education, and

(D) coordinate the development of policy and practices for all programs in the Department of Education relating to Indians and Alaskan Natives.

(2) The Director of the Office of Indian Education shall report directly to the Assistant Secretary of Education for Elementary and Secondary Education.

(3) The Director of the Office of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to the Director by the Secretary. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(c) INDIAN PREFERENCE.—

(1)(A) All professional staff within the Office of Indian Education shall have experience with Indian education programs. The Secretary shall give a preference to Indians in all personnel actions within the Office of Indian Education. Such preference shall be implemented in the same fashion as the preference given to any veteran referred to in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(B) The provisions of this paragraph shall apply to all personnel actions taken after the date of enactment of this Act.

(2) The Secretary shall provide a one-time preference for qualified individuals who—

(A) are not Indians,

(B) are serving within the Office of Indian Education on the date of enactment of this Act, and

(C) desire to take another position in the Department of Education which is not within the Office of Indian Education and for which there is a vacancy.

SEC. 5342. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) IN GENERAL.—

(1) There is hereby established the National Advisory Council on Indian Education (hereafter in this subpart referred to as the "National Council"), which—

(A) shall consist of 15 members who are Indians appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and

(B) shall represent diverse geographic areas of the country.

(2) Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1993.

(b) FUNCTIONS.—The National Council shall—

(1) advise the Secretary with respect to—

(A) the administration (including the development of regulations and of administrative practices and policies) of any program—

(i) in which Indian children or adults participate, or

(ii) from which they can benefit, including this part, and

(B) adequate funding of such programs;

(2) review applications for assistance under this part and make recommendations to the Secretary with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under subpart 1;

(6) submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs, and

(7) submit to the Congress by no later than June 30 of each year a report on its activities, which shall include—

(A) any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, and

(B) a statement of the National Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) CONTRACTING.—With respect to functions of the National Council described in paragraphs (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) FUNDING.—From sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

SEC. 5343. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1989, and each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this subpart.

Subpart 5—Miscellaneous

SEC. 5351. DEFINITIONS.

For purposes of this part—

(1) The term "adult" means any individual who—

(A) is 16 years old or older, or

(B) who is beyond the age of compulsory school attendance under State law.

(2) The term "adult education" means instruction or services below college level for adults who are not enrolled in a secondary school and who do not have—

(A) the basic skills to enable them to function effectively in society, or

(B) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(3) The term "free public education" means education that is provided at public

expense, under public supervision and direction, and without tuition charge, and that is provided as elementary or secondary education in the applicable State.

(4) The term "Indian" means any individual who is—

(A) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band, or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A),

(C) considered by the Secretary of the Interior to be an Indian for any purpose,

(D) an Eskimo, Aleut, or other Alaska Native, or

(E) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the National Advisory Council on Indian Education.

(5)(A) The term "local educational agency" has the meaning given to such term by section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(B) The term "local educational agency", for purposes of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)(2)) includes—

(i) any Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe if the school either—

(I) provides its students an educational program that meets the standards established by the Secretary of the Interior under section 1121 of the Education Amendments of 1978, or

(II) is operated by that tribe or organization under a contract with the Department of the Interior in accordance with the Indian Self-Determination and Education Assistance Act, and

(ii) for the fiscal year described in section 5312(b)(3)(A) and each succeeding fiscal year, any school operated by the Bureau of Indian Affairs of the Department of the Interior, either individually or in cooperation with any other local education agency.

(6) The term "parent" includes an individual acting in loco parentis, other than by virtue of being a school administrator or official.

(7) The term "Secretary" means the Secretary of Education.

(8) The terms "Bureau school", "contract school", and "Bureau funded school" have the respective meaning given to such terms by section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019).

SEC. 5352. CONFORMING AMENDMENTS.

The following provisions of law are hereby repealed:

(1) The Indian Elementary and Secondary School Assistance Act.

(2) Section 1005 of the Elementary and Secondary Education Act of 1965.

(3) Section 315 of the Adult Education Act.

(4) Sections 421(b)(2), 422, 423, 441, 442, and 453 of the Indian Education Act (title IV of Public Law 92-318).

PART D—MISCELLANEOUS PROVISIONS

SEC. 5401. NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(b) of the Navajo Community College Act (25 U.S.C. 640c-1(b)(1)) is amended to read as follows:

"(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

"(A) the maintenance and operation of the college, including—

"(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

"(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

"(iii) summer and special interest programs,

"(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

"(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

"(D) supplemental student services, including student housing, food service, and the provision of access to books and services.".

SEC. 5402. PAYMENT OF GRANTS; INTEREST.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Subsection (b) of section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(b)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

"(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

(b) NAVAJO COMMUNITY COLLEGE.—The Navajo Community College Act is amended by adding at the end thereof the following new section:

"PAYMENTS; INTEREST

"SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act.

"(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

SEC. 5403. MATCHING FUNDS.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(b) NAVAJO COMMUNITY COLLEGE.—Section 6 of the Navajo Community College Act is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) Except", and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(c) VOCATIONAL EDUCATION FUNDS.—Notwithstanding any other provision of law, funds provided by the Bureau for adult vocational education to any vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965) may be treated as non-Federal, private funds of such school for purposes of any provision of Federal law which requires that non-Federal or private funds of such school be used in a project or for a specific purpose.

SEC. 5404. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau has been making general assistance payments for at least 3 months (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—

(1) a college assisted by the Bureau under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25

U.S.C. 1801) or the Navajo Community College Act (85 Stat. 645; 25 U.S.C. 640a);

(2) an institution of higher education or a vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965);

(3) a course the Secretary determines will lead to a high school diploma or an equivalent certificate; or

(4) other programs or training approved by the Secretary.

(b) FACTORS NOT TO BE CONSIDERED.—In determining the amount of general assistance provided by the Bureau of Indian Affairs, the Secretary of the Interior shall not include consideration of—

(1) additional expenses in connection with the study or training described in subsection (a), and

(2) the amount of any financial assistance received by the individual as a student or trainee.

(c) NO EFFECT ON OTHER ELIGIBILITY REQUIREMENTS.—This section does not alter any eligibility requirement for general assistance from the Bureau of Indian Affairs other than the requirement to be available for employment and to seek employment.

SEC. 5405. USE OF BUREAU FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior may permit tribal, student, and other non-Federal organizations to use facilities, lands, and equipment administered by the Bureau of Indian Affairs if such use does not interfere with the purpose for which the facilities, land, and equipment are administered by the Bureau. The Secretary of the Interior may charge the user for the actual or estimated additional cost of utilities or other expenses incurred because of the use and the amounts collected shall be credited to the appropriation or fund from which the expenses are paid.

(b) SCOPE OF AUTHORITY.—The authority provided by this section is in addition to, and not in derogation of, any other authority available to the Secretary of the Interior.

SEC. 5406. INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) TERMINATION OF CIVIL SERVICE POSITIONS.—Paragraph (1) of section 1509(g) of the Higher Education Amendments of 1986 (20 U.S.C. 4416(g)(1)) is amended by striking out "At the end of the 2-year period beginning on the date referred to in section 1514(f)" and inserting in lieu thereof "On June 30, 1989".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) by striking out "From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which" in subsection (a)(1) and and inserting in lieu thereof "From amounts appropriated under section 1531(a), not more than $500,000", and

(2) by striking out "ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for" in subsection (d) and inserting in lieu thereof "PAYMENT OF FEDERAL CONTRIBUTION.—Amounts appropriated under section 1531(a) for use under this section shall be paid by the Secretary of the Treasury to the Institute as".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1531 of the Higher Education Amendments of 1986 (20 U.S.C. 4451(a)) is amended to read as follows:

"(a) PART A—

"(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

"(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

"(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

"(A) the beginning of the fiscal year, or

"(B) upon enactment of such appropriation.".

(d) UNOBLIGATED APPROPRIATION AND RESPONSIBILITY FOR OBLIGATIONS.—Subsection (e) of section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any funds appropriated for the Institute for fiscal year 1988 that are not expended or obligated on the date described in paragraph (2) shall be paid to the Institute within 10 days of that date.

"(4) The Institute shall be responsible for all obligations of the Institute incurred after the date described in paragraph (2) and the Secretary of the Interior shall be responsible for all obligations of the Institute incurred on or before that date.".

(e) ACCOUNTING FOR NON-FEDERAL FUNDS.—Section 1507 of the Higher Education Amendments of 1986 (20 U.S.C. 4414) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(a) IN GENERAL.—In carrying out", and

(2) by adding at the end thereof the following new subsection:

"(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.".

(f) BUDGET PROPOSALS.—Subsection (b) of section 1515 of the Higher Education Amendments of 1986 (20 U.S.C. 4422(b)) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in section 1514(f)" in paragraph (1) and inserting in lieu thereof "Prior to October 1, 1988", and

(2) by striking out "the period described in paragraph (1)" in paragraph (2) and inserting in lieu thereof "September 30, 1988".

PART E—WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

SEC. 5501. FINDINGS.

The Congress finds that—

(1) the Government of the United States has a special relationship with the Indians which has given rise to a responsibility to assure superior educational opportunities for all Indians;

(2) this responsibility is being carried out by Federal schools and federally funded programs;

(3) while the States provide educational services to the majority of Indian students in the United States, the State services are largely funded by Federal funds and are not, in any way, in derogation of the Federal responsibility;

(4) changes in the Federal and State systems in the past decade and the growth of tribal control over schools has led to substantial improvements in the educational opportunities and successes of Indian students;

(5) substantial and substantive problems continue to exist and interfere with the realization of full opportunities for Indian students; and

(6) identification of these problems through the convening of a White House conference will facilitate formulation of solutions.

SEC. 5502. AUTHORIZATION TO CALL CONFERENCE.

(a) IN GENERAL.—The President shall call and conduct a White House Conference on Indian Education (hereafter in this part referred to as the "Conference") which shall be held not earlier than September 1, 1989, and not later than September 30, 1991.

(b) PURPOSE.—The purpose of the White House Conference on Indian Education shall be to—

(1) explore the feasibility of establishing an independent Board of Indian Education that would assume responsibility for all existing Federal programs relating to the education of Indians, and

(2) develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, in accordance with the findings set forth in section 5501.

SEC. 5503. COMPOSITION OF CONFERENCE.

(a) IN GENERAL.—The Conference shall be composed of—

(1) representatives of the Bureau of Indian Affairs of the Department of the Interior;

(2) representatives of Indian educational institutions, public schools, agencies, organizations and associations that deal with the education of Indians;

(3) educators from reservations and urban areas where Indians make up a substantial portion of the student population; and

(4) individuals with a special knowledge of, and special competence in dealing with, Indians and Indian problems, including education and health.

(b) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of the participants, and the President pro tempore of the Senate shall select the remaining one-third of the participants.

(c) DISTRIBUTION OF PARTICIPANTS.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that—

(1) one-fourth of the participants are individuals who are currently active educators on Indian reservations;

(2) one-fourth of the participants are educators selected from urban areas with large concentrations of Indians;

(3) one-fourth of the participants are individuals who are Federal and tribal government officials; and

(4) one-fourth of the participants are Indians, including members of Indian tribes that are not recognized by the Federal Government.

SEC. 5504. ADMINISTRATIVE PROVISIONS.

(a) PLANNING AND DIRECTION.—The Conference shall be planned and conducted by the Interagency Task Force on the White House Conference on Indian Education (hereafter in this part referred to as the "Task Force").

(b) ESTABLISHMENT OF TASK FORCE.—

(1) If the President calls the Conference, the Secretary of the Interior and the Secretary of Education, acting jointly, shall establish the Task Force on the White House Conference on Indian Education which shall consist of such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education de-

termine to be necessary to enable the Task Force to carry out its duties.

(2) The Secretary of the Interior and the Secretary of Education shall each appoint no less than 2 professional staff members and one support staff member to the Task Force.

(3) All staff assigned to the Task Force shall work on preparations for, and the conduct of, the Conference on a full-time basis.

(4) The Secretary of the Interior shall provide office space and materials for the Task Force, including an allowance for mailing costs.

(5) Each professional staff person appointed to the Task Force shall have expertise directly related to Indian education and at least one person appointed by the Secretary of the Interior shall be experienced in dealing with the Congress, Indian tribes, and nongovernmental organizations.

(6) The Secretary of the Interior and the Secretary of Education, acting jointly, shall designate one staff person as the Director of the Task Force.

(c) FUNCTION OF THE TASK FORCE.—The Task Force shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) prepare and make available background materials for the use of participants in the Conference and any associated State conferences, and prepare and distribute such reports of the Conference and of any associated State conferences as may be appropriate;

(3) make technical and financial assistance (by grants, contracts, or otherwise) available to the States and intertribal organizations to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(4) conduct fiscal oversight activities with respect to the preparation for, and the convening of, the Conference, including contracting for the services of an auditor.

(d) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—

(1) Each Federal department and agency shall cooperate with, and provide assistance to, the Task Force upon request made by the Task Force under subsection (c)(1). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Task Force.

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the Director of the Indian Health Service of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part.

(e) PERSONNEL.—In carrying out the provisions of this part, the Task Force is authorized to engage such personnel as may be necessary to assist the Conference and the Advisory Committee of the Conference, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) EXPENSES.—Participants in the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed such travel expenses, including per diem in lieu of subsistence, as are allowed under section 5703 of title 5, United States Code. Such expenses may be paid by way of advances, reimbursement, or in installments, as the Task Force may determine.

SEC. 5505. REPORTS.

(a) IN GENERAL.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations of the President with respect to such report.

(b) DISTRIBUTION.—The Conference is authorized to publish and distribute for the Conference the reports authorized under this part. Copies of all such reports shall be provided to the Federal depository libraries.

SEC. 5506. ADVISORY COMMITTEE.

(a) COMPOSITION.—There is hereby established the Advisory Committee of the Conference (hereafter in this part referred to as the "Advisory Committee") composed of—

(1) five individuals designated by the Speaker of the House of Representatives, with not more than three being Members of the House of Representatives;

(2) five individuals designated by the President pro tempore of the Senate, with not more than three being Members of the Senate;

(3) ten individuals appointed by the President;

(4) the Assistant Secretary of the Interior for Indian Affairs or a delegate of the Assistant Secretary;

(5) the Secretary of Education or a delegate of the Secretary; and

(6) the Director of the Task Force.

The President, the President pro tempore of the Senate, and the Speaker of the House of Representatives, shall, after consultation with Indian tribes, ensure that members of the Advisory Committee are broadly representative of all Indians of the United States.

(b) FUNCTION.—The Advisory Committee shall assist and advise the Task Force in planning and conducting the Conference.

(c) ADMINISTRATION.—

(1) The Director of the Task Force shall serve as vice chairman of the Advisory Committee. The Advisory Committee shall elect the chairman of the Advisory Committee from among those members of the Advisory Committee who are not full-time Federal employees.

(2) The Advisory Committee shall select the chairman of the Conference.

(3) The chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Task Force in carrying out its duties.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation at a rate fixed by the President that does not exceed the rate of pay specified at the time of such service for grade GS-18 under section 5332, of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code.

SEC. 5507. GIFTS AND TITLE TO CERTAIN PROPERTY.

(a) GIFTS.—The Task Force shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Task Force in furtherance of the Conference. Such grants, gifts, or bequests offered the Task Force, shall be paid by the donor or his representative into the Treasury of the United States in a special account to the credit of the Conference for the purposes of this part.

(b) DISPOSITION OF MATERIALS.—Materials and equipment acquired for the use of the Conference, or for the Task Force, shall be transferred to the Bureau of Indian Affairs after the close of the Conference.

SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1988, 1989, and 1990 such sums as may be necessary to carry out this part. Such sums shall remain available until expended.

TITLE VI—GENERAL AND MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS EDUCATION PROVISIONS

Subpart 1—Education for the Homeless

SEC. 6001. TECHNICAL AMENDMENT.

Section 702 of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by inserting at the end of subsection (b) the following: "Each such application shall include an estimate of the number of homeless expected to be served and the number of homeless adults within each of the school districts within the States to be served."; and

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) The Secretary of Education shall, in making grants under this section, give special consideration to the estimates submitted in the application under subsection (b) of this section.".

Subpart 2—Special Grant Program

SEC. 6011. EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK.

(a)(1) GENERAL AUTHORITY.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and

(B) individuals with limited English proficiency.

(2) The project funded under this section may include the development of—

(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems;

(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for the fiscal year 1989 to carry out the provision of this section.

PART B—PROHIBITION OF DIAL-A-PORN

SEC. 6101. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

PART C—STUDIES

SEC. 6201. EVEN START STUDY.

(a) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of a representative sample of programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) CRITERIA.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress the results of such evaluations. The evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

SEC. 6202. STUDENT DROPOUT STUDY.

With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under title VI of the Elementary and Secondary Education Act of 1965. The Secretary shall take into account data collected from the national school dropout study and shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be made available to the Congress, State educational agencies, and the National Diffusion Network.

SEC. 6203. STUDY OF STATE OPERATED PROGRAM FOR HANDICAPPED CHILDREN.

(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study of the State Operated Program for Handicapped Children under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(2) Not later than January 30, 1989, the Comptroller General shall prepare and submit a report to the appropriate committees of the Congress containing the findings of such study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(3) For the purpose of this section, the term "children" includes infants and toddlers.

(b) STUDY COMPONENTS.—The study shall include—

(1) a description of State and local agencies that participate in the program, the children the agencies serve, and the programs for which the agencies use funds;

(2) how such program is administered by the State educational agency or any predecessor agencies serving as fiscal agents for the States;

(3) the major policies, procedures and practices pertaining to the determination of when a child is considered eligible to be counted under such program; the allocation of funds to agencies, schools, programs and projects within schools; the supplementary nature of the services provided; and authorized use of funds;

(4) the policies and procedures governing the placement of handicapped children, including local educational agency transfer children, in schools and programs and projects receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(5) the relationship between the chapter 1 of title I of the Elementary and Secondary Education Act of 1965 program and parts B and H of the Education of the Handicapped Act (conceptual relationship; comparison of how the two programs are administered by the State educational agency; and a comparison between the programs with respect to the extent to which handicapped children receive a free appropriate public education and such children and their parents are provided the rights and procedural safeguards guaranteed under part B of the Education of the Handicapped Act); and

(6) such other information as the Comptroller General considers appropriate.

(c) FINDINGS AND RECOMMENDATIONS.—The Comptroller General shall include in the report the findings based on the study, a State-by-State analysis for the States subject to the study, together with such recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

SEC. 6204. STUDY ON TUTORING PROGRAMS.

The Secretary shall conduct a study of tutoring programs for eligible participants under chapter 1 of the Elementary and Secondary Act of 1965 carried out by students in institutions of higher education. In conducting such research, the Secretary shall (1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs are effective if conducted on a volunteer basis or whether it is necessary to offer incentives, such as tuition assistance, academic credit or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) review available evidence on programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

SEC. 6205. STUDY OF LOCAL USE OF CHAPTER 2 FUNDS.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Act of 1965 shall report annually to the State educational agency on the use of funds under section 1531 of such chapter. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit not later than October 1990 and October 1992 a report to the appropriate committees of the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

SEC. 6206. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

From funds available for the purposes of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under such chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

SEC. 6207. STUDY OF FUND DISTRIBUTION.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as *the reliability and currency of poverty data used for purposes of program allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. The Secretary shall submit an interim report of such study on June 30, 1990, and shall submit a final report of such study not later than June 30, 1991.*

SEC. 6208. STUDY RELATING TO WOMEN'S EDUCATIONAL EQUITY.

The Secretary is directed, not later than September 30 of each of the years 1988 through 1993, to submit to the President and the Congress a report setting forth the programs and activities assisted under part A of title IV of the Elementary and Secondary Education Act of 1965, and to provide for the distribution of this report to all interested groups and individuals, including the appropriate committees of the Congress, from funds authorized under such part.

SEC. 6209. IMMIGRANT EDUCATION REPORT AND ASSESSMENT.

(a) ANNUAL REPORT.—Each State educational agency receiving funds under part D of title IV of the Elementary and Secondary Education Act of 1965 shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under such part. Each local educational agency receiving funds under such part shall submit to the State educational agency such information as may be necessary for such report.

(b) REPORT TO CONGRESS.—The Secretary shall submit biennially a report to the appropriate committees of the Congress concerning programs under such part.

(c) ASSESSMENT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and assess programs conducted under such part. The Comptroller shall submit the findings to the appropriate committees of the Congress by March 15, 1991.

SEC. 6210. ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the appropriate committees of the Congress, the President, and the Secretary by September 30 of every other year a report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of title IV of this Act in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

SEC. 6211. RESEARCH RELATING TO BILINGUAL EDUCATION.

(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title; and

(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 6212. BILINGUAL TRAINING FELLOWSHIP IMPACT STUDY.

The Secretary shall by grant or contract undertake a study of the impact of recipients of fellowships under section 7043 of the Elementary and Secondary Education Act of 1965 on the field of bilingual education. The report shall be submitted no later than December 31, 1991. Copies of the report shall be sent to the appropriate committees of the Congress.

SEC. 6213. REPORT ON BILINGUAL EDUCATION.

The Secretary shall prepare and, not later than June 30, 1991, and June 30, 1992, shall submit to the appropriate committees of the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of title VII of the Elementary and Secondary Education Act of 1965 and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.

SEC. 6214. JOINT STUDY OF SERVICES.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of this Act, a joint report shall be submitted to the appropriate committees of the Congress describing the findings of the study.

SEC. 6215. REPORT ON PROJECTS DEVELOPED WITH ASSISTANCE FROM THE FUND FOR IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that information regarding exemplary projects that are developed with assistance furnished under part B of title III of this Act are made available to institutions of higher education and State and local educational agencies.

(b) REPORT.—The Secretary shall submit a final report to the appropriate committees of the Congress not later than June 1, 1990. The report shall describe the programs assisted by part B of title III of this Act, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 6216. STUDY OF EFFECTIVENESS OF PUBLIC LAW 815.

(a) GENERAL AUTHORITY.—The Comptroller General shall conduct a thorough study of the need for financial assistance for school construction as authorized by the Act of September 23, 1950, (Public Law 815, 81st Congress). The Comptroller General shall prepare and submit a report on the study required by this section not later than 1 year after the date of enactment of this Act together with such recommendations, including recommendations for such legislation, as the Comptroller deems necessary.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a) of this section, the Comptroller General shall examine a representative sample of federally impacted school districts of local educational agencies. The Comptroller General shall—

(1) identify the number of children affected in each such school district;

(2) determine the type of school facility needed for such school district; and

(3) determine the estimated cost involved for building or repairing the school facility in each such district.

(c) SPECIAL CONSIDERATION REQUIRED.—In conducting the study required by this section, the Comptroller General shall give special consideration to—

(1) the eligibility criteria used for determining which federally impacted school districts are entitled to Federal funds for school construction,

(2) the criteria used for setting the priorities for the approval of such applications, and

(3) the process for reevaluating the needs of previously approved applicants which are on the waiting list for funds covered under Public Law 815, Eighty-first Congress.

PART D—GENERAL PROVISIONS

SEC. 6301. DEFINITIONS.

Except as otherwise provided, for the purpose of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6302. BUDGET ACT PROVISION.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 6303. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect July 1, 1988.

(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act.

(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

(3) The amendments made by section 3403 shall take effect for assessments made after September 30, 1989, with respect to State data.

The SPEAKER. The gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes and the gentleman from California [Mr. HAWKINS] or his designee from the majority party will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise in strong support of the Helms-Bliley amendment which contains the same legislative language as H.R. 1786, The Telephone Decency Act, which I introduced just over one year ago. That legislation has been cosponsored by 171 Members of this House and represents an important step in the fight against telephone pornography.

Mr. Speaker, the purpose of the Telephone Decency Act is to amend the section 223 of the Communications Act of 1934 to prohibit the transmission of obscene and indecent communications for commercial purposes by means of telephone to any person, regardless of age. This amendment is necessary as the history of the fight to restrict pornographic telephone services will show.

The original section 223, as passed in 1968, prohibited obscene, lewd, lascivious, filthy or indecent communications by means of the telephone. The law did not state that the maker of the comment must also be the maker of the call, so the service, dial-a-porn, in which a caller accesses by telephone a recorded message of a sexually explicit nature, was clearly covered by the language of the statute. However, because dial-it services did not exist when the law passed, the FCC claimed uncertainty concerning its ability to act.

In September of 1983, I proposed an amendment to the Federal Communications Commission reauthorization legislation which would have clarified the law by stating that the pornographic communications were prohibited regardless of who placed the call. This amendment was adopted unanimously by the members of the Committee on Energy and Commerce, which had jurisdiction over the authorizing legislation.

However, on the last day of the legislative session of the House in 1983, an agreement was reached on the House floor to replace the text of this amendment with that which we have in the law today. Members of the Judiciary Committee made it quite clear that they would demand a sequential referral to their committee if their language was not accepted. The substitute permitted obscene and indecent communications to adults but not to children. It also required the FCC to report regulations describing methods by which dial-a-porn providers could screen out underage callers, and specified that compliance with such regulations constituted "* * * a defense to a prosecution." The President signed this legislation into law on December 8, 1983.

The FCC has attempted three times to satisfy the requirement of the 1983 amendment which instructed it to formulate procedures which would prevent children from gaining access to dial-a-porn without great inconvenience to adults. The first set of regulations, which placed time-of-day restrictions on dial-a-porn, were set aside by the Second Circuit Court of Appeals. The court rightly judged that these restrictions did not place much of the barrier between the children and pornographic telephone services. On October 16, 1985, the FCC released new regulations requiring an authorized access or identification code or payment by credit card. Carlin Communications, Inc., challenged these regulations and the second circuit held a hearing on the matter on December 19, 1985. The regulations were scheduled to go into effect on November 25, 1985, but the FCC issued a stay pending court review. The new date on which they were scheduled to take effect was December 26, but on December 20 the court, out of concern for the business interests of the purveyors of the pornographic messages, issued another stay pending its decision.

On April 11, 1986, the Second Circuit Court set aside the FCC's second set of regulations for those services operating under the New York telephone system for the reason that "there was no evidence that access codes are technically feasible under the NYT system * * *." The court also concluded, in its majority opinion, that "the record contained insufficient evidence that access codes are the least restrictive means of limiting minors' access to dial-a-porn * * *." This opinion was based, not on first amendment grounds, but on what the court interpreted to be Congress' intent in passing the 1983 amendment. In July of 1986, the FCC issued its third notice of proposed rulemaking and in May of 1987 issued its final rules. These regulations are currently being challenged by Carlin Communications. In the meantime, tens of millions of telephone calls are being made to dial-a-porn messages *without the slightest hindrance to minors.*

In the more than 4 years during which dial-a-porn has been technically illegal, these services have spread from New York to many other major cities around the United States. A representative from Pacific Telesis testified at a Telecommunications Subcommittee hearing in 1986 that the company was forced to carry these "adult entertainment" services.

The amendment my colleagues and I are supporting today, the Helms-Bliley amendment, will stop this abuse of telephone communication once and for all. The changes we are suggesting are simple and take into consideration

Supreme Court decisions with regard to obscene and indecent speech. In fact, we are doing nothing beyond restoring the original intent of my 1983 amendment which, you will remember, was a clarification of the law. It was not until 1983 that obscene and indecent communications over the telephone became legal. Our purpose is to restore, not change. Parents around the country are demanding that we rectify the situation.

This amendment is constitutional. We have many court decisions stating clearly that obscenity is not protected by the Constitution. To quote Roth versus United States, "We hold that obscenity is not within the area of constitutionally protected speech." Though in Stanley versus Georgia the court ruled that adults may possess obscene material in their homes, the Justices ruled in United States versus Orito that this does not create a correlative right to receive it, transport it, or distribute it.

Mr. Speaker, I would like to make a couple of important points regarding the effect and the intent of this legislation. This legislation is intended to prohibit transmission of obscene and indecent material for commercial purposes by means of telephone. It is the intent of this legislation that any communication made for commercial purposes means any communication that is made in furtherance of—and as a regular part of—the conduct of a business. It is further intended that a common carrier not be liable for prosecution under 47 U.S.C. 223(b) if the common carrier does not exercise editorial control over the communication, does not have an equity interest in the vendor providing the communication, and refers complaints alleging violation of section 223(b) to the appropriate regulatory and law enforcement agencies. Equity interest does not mean any incidental ownership, such as pension fund investment, in entities providing such illegal communications that the common carrier is unaware of.

It is also the intent of this legislation that common carriers not be subject to civil suits arising out of their cooperation with appropriate regulatory and law enforcement agencies in conducting investigations of potential violations of section 223(b).

Mr. Speaker, I supported the initial effort to provide conferees with the latitude necessary to arrive at a content neutral, technological solution. After 4 months of negotiations between the various staffs and groups concerned with this issue, it became clear that there was not a technological solution that would adequately and effectively protect our children from the effects of this material. We looked for effective alternatives to a ban—there were none.

First, we looked at an across the board subscription requirement for all dial-a-porn services. Vendors of other legitimate information services and phone companies presented evidence to suggest that such an approach would put legitimate information providers out of business, while allowing dial-a-porn services to survive. Additionally, it became clear that in many parts of the country it would be impossible to adequately prevent access to this material by children. For instance, in California alone, blocking cannot be accomplished for some 12 percent of residential phones—more than 3 million.

Second, we looked at customer requested blocking of telephones. Again, this approach was deficient. It placed the onus for preventing access to dial-a-porn on the telephone subscriber. Further, it would not have prevented cases where a child uses an unblocked telephone other than the one in his home to access dial-a-porn. We have direct knowledge of cases where young boys and girls have gained access through phones—not under their parents control—and then proceeded to act out the sex acts they had heard described. It is our view that this approach would have failed to deal effectively with the problem.

Third, we came to the solution offered as part of the conference report. It is deficient for several reasons, some of which were discussed in connection with an across the board dial-it services subscription requirement. Additionally, because it reintroduced content into the discussion it raised first amendment concerns by discriminating between forms of legally protected—as opposed to constitutionally protected—speech. While obscene or protected, current law—47 U.S.C. 223(b)—gives legal protection to obscene or indecent communications.

The constitutionality of the Helms-Bliley amendment has been questioned by some. Those concerns are misplaced. The proposed ban on obscene or indecent telephone communications for commercial purposes is constitutional. Following is a constitutional analysis of relevant case law which supports the constitutionality of the Telephone Decency Act—or the Helms-Bliley amendment.

MEMORANDUM OF LAW IN SUPPORT OF H.R. 1786, "TELEPHONE DECENCY ACT"

This legislation amends Section 223(b) of the Communications Act of 1934 (47 U.S.C. § 223(b)), and as amended will prohibit obscene and indecent communications by means of telephone to any person, regardless of age. It is the purpose of this memorandum of law to demonstrate the need for this legislation, and to provide supporting legal authority for its enactment.

I. THE HISTORY OF DIAL-A-PORN AND THE FAILURE OF PREVIOUS LEGISLATIVE EFFORTS

Today, any child in America can hear hardcore sexually explicit messages on the country's telephone system. These recorded and live so-called "dial-a-porn" messages contain graphic descriptions of ultimate sex acts, both heterosexual and homosexual, sadomasochism, of incest, bondage, and sex with animals. Attorneys representing this industry are admitting that dial-a-porn is openly available to children, but according to them:

"The exposure of this material to children is the price we must pay for a free society." *Carlin Communications, Inc., et al.* v. *The Mountain States Telephone & Telegraph Company, et al.* CIV. 85-1420 (D. Ariz. 1985) (transcript of proceedings). In every major city across this country, dial-a-porn telephone services became readily accessible to children by mid-1985, with Federal and State law enforcement agencies apparently unable or unwilling to stop it.

This dial-a-porn "industry" is still in its infancy, dating back to March of 1983. Yet, in less than four years, it grew from only one service operating nationally from its New York headquarters, to many services operating in every major city. The messages continue to become more sexually explicit and deviant in their content.

When dial-a-porn first became available in March 1983, it should have been prosecuted under already existing federal law. 47 U.S.C. Section 223 of the Federal Code then provided: "(a) Whoever—(1) in the District of Columbia or in interstate or foreign communication by means of telephone—(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent . . . shall be fined not more than $500 or imprisoned not more than six months or both." Section 223, by its plain meaning, should have been used by the FCC and the Department of Justice (DOJ) to control dial-a-porn services. However, throughout 1983, the FCC and DOJ issued letters to one another and to the general public creating every possible excuse as to why Section 223 could not be enforced.

The FCC went on record as ruling: "Section 223(1)(A) applies only to persons who utter obscene or indecent words during calls they place." "Second Report and Order," Gen. Docket No. 83-989 (Oct. 16 1985) (emphasis added). According to the FCC, since dial-a-porn vendors did not "place" the calls, Section 223 did not apply to them. This restrictive and erroneous interpretation given Section 223 by the FCC resulted in a lack of legal action taken against dial-a-porn during its first year of operation. The FCC refused to take administrative action, and the DOJ refused to take criminal or civil court action. Such lack of prosecution allowed the services to flourish. Meanwhile, the content of the messages became far more sexually explicit, moving from merely "indecent" suggestive language, to language which clearly fell within the restrictions of both state and federal obscenity legislation.

Congress became frustrated at the lack of legal action taken against dial-a-porn and, in late 1983, amended Section 223, making it a crime to make "any obscene or indecent communication for commercial purposes to any person under 18 years of age or to any other person without that person's consent." 47 U.S.C. Section 223(b)(1)(A) (emphasis added). In so amending Section 223 Congress "legalized" dial-a-porn. For the first time in the history of this country, obscene material was de-criminalized for "Consenting adults." This legalization of obscene dial-a-porn messages for consenting adults directly violated legal precedent as established by the Supreme Court in cases such as *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49 (1973), which rejected the "consenting adults" defense.

In amending 223, Congress further provided that the FCC was to issue regulations which would deny access to dial-a-porn services to persons under 18 years of age. Compliance with these regulations would be a complete defense to liability under Section 223. In other words, even if a minor breaks through the restrictions and calls dial-a-porn, the dealer, having complied with FCC regulations, cannot be prosecuted. It is now clear that no regulations from the FCC will adequately protect children from these dial-a-porn services.

The history of this issue reveals two major flaws in the 1983 amendments to section 223 which have resulted in the failure to control dial-a-porn. First, legalizing dial-a-porn for "consenting adults" was contrary to the decisions of the U.S. Supreme Court and placed Section 223 in conflict with all other federal obscenity statutes. Consequently, the legalization of dial-a-porn assured that it would always be accessible to children. The second major flaw in the 1983 legislation was to give the FCC the power to issue defenses to liability under § 223(b)(2)—the FCC has demonstrated its inability to issue workable regulations that will protect children.

Finally, as a result of the 1983 legislation and of the indecision by the FCC on this matter, the courts and the law enforcement community are in a state of confusion concerning the control and/or prosecution of dial-a-porn distributors. At this time, federal prosecutors will not prosecute the distributors of obscene dial-a-porn messages, even where they have been blatantly available to the children. The reason for this lack of federal enforcement is the belief that dial-a-porn distributors can only be prosecuted under § 223(b) and under none of the other federal obscenity laws.[1] state law enforcement authorities will not prosecute because of the confusion in the federal arena, fear of legal action by the dial-a-porn industry against state officials, and a mistaken belief that the FCC has preempted this field of law. At this time, there are *no* federal or state criminal cases pending against dial-a-porn distributors—they are operating freely, sensing a complete immunity from prosecution.

II. THE PROPOSED AMENDMENT TO 47 U.S.C. 223 DOES NOT VIOLATE A DIAL-A-PORN RECIPIENT'S RIGHT TO PRIVACY OR RIGHT TO ACCESS

The first objection that may be leveled at this legislation is that it violates a customer's right to receive dial-a-porn messages. As will be shown, this criticism is without merit. It is well settled that obscenity, in whatever form, is not protected by the First Amendment. *Miller* v. *California*, 413 U.S. 115 (1973); *Kaplan* v. *California*, 413 U.S. 115 (1973). Hence, the states and federal government may lawfully prohibit its commercial distribution, whether telephonically or through other media. *Id.* The Supreme Court has made clear that the "mere private possession of obscene materials" in the home cannot be made a crime. *Stanley* v. *Georgia*, 394 U.S. 557 (1967). However, there is no correlative right to purchase obscenity in the public marketplace or to have it distributed to your house through channels of public commerce. In *United States* v. *12 200-ft Reels*, 413 U.S. 123 (1973), the Court held that the "right to possess obscene material in the privacy of one's home does not give rise to a correlative right to have someone sell or give it to others." 413 U.S. at 128. In so holding, the Court ruled that *Stanley* is to be viewed as "explicitly narrow and precisely delineated." 413 U.S. at 127. "We are not disposed to extend the precise, carefully limited holding of *Stanley*. . . ." 413 U.S. at 128. Indeed, the Court has squarely held that there is no right to "*receive it*" in "the privacy of the home." *United States* v. *Orito*, 413 U.S. 139, 141 (1973). In *Orito*, the Court further held that there is no right to use "common carriers in interstate commerce" (such as the telephone company) for delivery of obscene material to the home. 413 U.S. at 142. See also, *United States* v. *Reidel*, 402 U.S. 351, 353-54 (1971) (there is no right to deliver obscene material for use in the home.)

Furthermore, the Supreme Court in *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), held, *inter alia*, that radio and television do not have the right to "broadcast" "indecent" material into the home. The Court rejected the contention that an individual has a right to access in the privacy of his home to "indecent" radio or television broadcasts. The Court reasoned that such broadcasts are "uniquely accessible to children" and "that the government's interest in the 'well-being of its youth' justified the regulation of otherwise protected speech." 438 U.S. at 749. This government interest in the "well-being of its youth" and the "accessibil[ity] to children" are similarly present, and are triggered, upon the transmission of "indecent" or "obscene" dial-a-porn into the home. As the Court stated: "[T]he ease with which children may obtain access . . ., coupled with the concerns [for children] recognized in *Ginsberg*, amply justify special treatment of "indecent" material. 438 U.S. at 250.

Assuming *arguendo* that exposure of dial-a-porn to children can be prevented, the Supreme Court has rejected the contention that the distribution or transmission of obscene materials between consenting adults is constitutionally sanctioned. In *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49 (1973), the Court held that notwithstanding lack of exposure to children, the distribution of obscene material between consenting adults could be regulated:

"We categorically disapprove the theory . . . that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only. . . . [W]e hold that there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even assuming it is feasible to enforce effective safeguards against exposure to juveniles and to passersby. Rights and interests other than those of the advocates are involved." 413 U.S. at 57.

This holding squarely does away with any contention that "consenting adults" have a right to transmit or receive obscene dial-a-porn. It should again be stressed, however, that many dial-a-porn distributors have openly made their "product" available to children and have refused to acknowledge any responsibility for excluding children's access.

The products of the dial-a-porn industry are clearly not protected by a constitutional right of privacy. These messages are being publicly distributed and have become openly available to children through channels of public commerce. Because of the complete public and commercial nature of this dial-a-porn industry, regulation under Section 223 is clearly permissible.

III. THE FEDERAL GOVERNMENT MAY LAWFULLY PROHIBIT THE TRANSMISSION OF OBSCENE AND INDECENT DIAL-A-PORN

A. Obscene dial-a-porn

Without question, obscene speech is not protected by the First Amendment. *Brockett* v. *Spokane Arcades, Inc.*, 472 U.S. , 86 L.Ed.2d 394, 105 S.Ct. (1985); *Miller* v. *California*, 413 U.S. 15 (1973). Hence, the government may lawfuly prohibit its distribution, whether telephonically or through other media. *Kaplan* v. *California*, 413 U.S. 115 (1973). See also, *United States* v. *Lampley*, 573 F.2d 783, 50 A.L.R. Fed. 525 (3rd Cir. 1978) (upholding constitutionality of 47 U.S.C. § 223). This issue is so well settled that there has been no serious claim to date that the Congress may not constitutionally prohibit "obscene" dial-a-porn.

B. Indecent dial-a-porn

The more frequently repeated assertion is that Congress may not legislate against "indecent" dial-a-porn. This assertion is erroneous and ignores sound legal precedents permitting the use of the "indecency" standard for the telephone medium. These precedents and authority are set forth herein.

In its landmark case of *F.C.C.* v. *Pacifica Foundation*, 438 U.S. 726 (1978), the Supreme Court defined the word "indecent" as "nonconformance with accepted standards of morality." It is a "shorthand term for patent offensiveness." *Id.*, at 470 n. 15. This definition obviously does not coincide with the three-part definition of "obscenity" found in *Miller* v. *California*. Yet, the Supreme Court has never limited government restrictions on speech to the obscenity standard.[2] For example, the Court has upheld restrictions on all of the following types of speech: false advertising, speaking a prayer in a public school, libel, slander, speaking words which amount to a conspiracy or an obstruction of justice, sedition, yelling fire in a crowded theatre, using words which constitute offering a bribe, words that threaten social harm because they advocate illegal acts, words (from a loudspeaker) at 3:00 a.m. in a residential neighborhood, speaking in contempt of court, committing perjury under oath, saying words which have been classified (e.g., secret) by the government, copyright violations, pretrial publicity which might interfere with a defendant's opportunity to secure a fair trial, U.S. government employees engaging in political speech (Hatch Act), sexually explicit material which is harmful to minors, non-obscene sexually explicit movies shown in violation of a zoning ordinance, child pornography, and finally, "indecent" speech.[3] Thus, the broad contention that government restrictions on expression are limited to the obscenity standard are quite incorrect. Regulation of sexually-oriented expression has by no means been limited to that standard, although the degree of permissible regulation has varied with the circumstances.

The application of the "indecency" standard to dial-a-porn is supported by the Supreme Court's analysis of the First Amendment, which accords some varieties of speech (e.g., "indecent" speech) less protection than others.[4] The Supreme Court's rulings that certain types of expression are entitled to little or no protection under the First Amendment find their modern beginnings with *Chaplinski* v. *New Hampshire*, 315 U.S. 568 (1942), where the Court upheld a "fighting words" statute under which Chaplinski had been convicted for a calling a policeman "a God damned racketeer" and a damned fascist." *Id.* at 569. Justice Murphy's rationale for upholding the statute against a First Amendment attack is set forth in the following excerpt from the opinion:

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[1] Federal criminal charges were dismissed in 1985 in Utah, where numerous children had been exposed to the dial-a-porn services. Because § 223(b) is in a state of confusion, the U.S. Attorney attempted to prosecute Carlin Communications and others for violations of other federal obscenity laws. However, the Judge dismissed the indictments, ruling that violations could only be prosecuted under § 223(b). *U.S.* v. *Carlin Communications, Inc. et al.* No. CR-85-00086G (D. Utah 1985).

[2] In its unamended pre-1983 form, § 223 prohibited the use of the telephone to make "any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent . . ." 47 U.S.C. § 223(a)(1)(A). This precise language was upheld as constitutional in *United States* v. *Lampley*, 573 F.2d 783, (3rd Cir. 1978). Hence, the prohibition on "indecent" telephone language in § 223 has already passed constitutional muster.

[3] *See*, "Where Do You Draw the Line?" ed. Victor B. Cline (Brigham Young University Press, 1974).

[4] *See*, L. Tribe, American Constitutional Law, § 12-18 (1978); Krattemaker & Powe, "Televised Violence: First Amendment Principles and Social Science Theory," 64 Va. L. Rev. 1123, 1207-1212 (1978); Stone, "Restrictions of Speech Because of its Content: The Peculiar Case of Subject Matter Restrictions," 46 U. of Chi. L. Rev. 81 (1978); Note, "*Young* v. *American Mini Theatres, Inc.*: Creating Levels of Protected Speech," 4 Hastings Const. L. Quarterly

"There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

Id. at 571-72. The Supreme Court has embraced the position that differing degrees of protection and afforded different classes of speech. Speech protected in some contexts may in others be so harmful, or of so little value, that it can be regulated because the harm to society outweighs the expressive interests. Thus, First Amendment protection "often depends on the content of the speech." *Young* v. *American Mini Theatres, Inc.*, 427 U.S. 50, 66 (1976). Furthermore, as Justice Stevens has stated, "the First Amendment affords some forms of speech more protection from governmental regulation than other forms of speech," *New York* v. *Ferber*, 102 S.Ct. 3348, 3367 (1982) (Stevens, J. concurring), and the *context* of speech may determine whether or not it is protected. *F.C.C.* v. *Pacifica Foundation*, supra, at 747-48 (1978). The Court has allowed government regulation of non-obscene speech, based upon subject matter and context, in numerous cases. *See, Rowan* v. *Post Office Department*, 397 U.S. 728 (1970) (banning erotic material from the mails at recipient request); *C.B.S.* v. *Democratic National Committee*, 412 U.S. 94 (1973) (upholding network refusal to accept commercial advertising); *Lehman* v. *Shaker Heights*, 418 U.S. 298 (1974) (upholding policy of accepting commercial advertising but refusing political advertisements on city-owned bus line); *Greer* v. *Spock*, 424 U.S. 828 (1976) (barring political speakers from a military base); *Jones* v. *North Carolina Prisoners Union*, 433 U.S. 119 (1977) (banning in-prison solicitation of membership in a prisoners union); *Young* v. *American Mini Theatres, supra*, and *Renton* v. *Playtime Theatres, Inc.*, U.S. , 89 L.Ed.2d 29, 106 S.Ct. (1986) (placing zoning restrictions on the location of adult theatres); *F.C.C.* v. *Pacifica, supra*, (prohibiting radio broadcast of *indecent* programming); *Board of Education* v. *Pico*, 457 U.S. 853 (1982) (certain books may be removed from a high school library because of their vulgarity); *New York* v. *Ferber, supra*, (banning non-obscene sexually explicit depictions of minors); *Ginsberg* v. *New York*, 390 U.S. 629 (1968) (banning distribution to minors of non-obscene materials which is "harmful to minors"); *Bethel School District No. 403* v. *Fraser*, 478 U.S. , 92 L.Ed.2d 549, 106 S.Ct. (1986) (upheld restriction on indecent sexually suggestive language in a political speech by high school student); *City of Newport* v. *Iacobucci*, 479 U.S. , 93 L.Ed.2d 334, 107 S.Ct. (1986) (upheld city ordinance banning non-obscene nude or nearly nude dancing in bars).

It is important to recognize that laws restricting "indecent" or "obscene" speech are not directed at a particular viewpoint. They proscribe only the mode or *form* of expression, not any ideas the "indecent" language or pictures may purport to convey. If the speaker is concerned with ideas, he can escape the penalty by expressing them in some other form. The Court has recognized that content is separable from form and that other modes of expression are virtually always available. Restrictions on "indecent" or "obscene" speech do not preclude advocacy of any ideas such speech might otherwise convey. For example, prohibitions on "indecent" telephone recordings may be compared with a lawyer who, in open court, addresses the judge in "indecent" terms. Rules against that sort of speech will undoubtedly be enforced by the judge (holding lawyer in contempt). The Court recognizes that other more acceptable means of objecting to the judge are available and the lawyer must use them. As the Court stated in *Pacifica*:

"A requirement that indecent language he avoided will have its primary effect on the form, rather than the content, of serious communications. There are few, if any, thoughts that cannot be expressed by the use of less offensive language. . . . At most . . . [i]t will deter only . . . patently offensive references to excretory and sexual organs and activities. . . . [T]hey surely lie at the periphery of First Amendment concerns."

438 U.S. at 473 n.18.

Since March of 1983, when dial-a-porn was first commercially marketed, countless children have been exposed to it. It constitutes an attractive nuisance in every home in America where children are present. There is no completely effective way to prevent children from being exposed to "indecent" or "obscene" dial-a-porn so long as it is lawfully and commercially marketed. Make no mistake, dial-a-porn providers care little whether a caller is a child of 9 or an adult of 19—their motive is profit. Children are being injured every day through "indecent" dial-a-porn.

The Supreme Court has repeatedly held that where the interests of children are at stake the government is fully justified in regulating non-obscene material. This significant governmental interest in the protection of minors has been identified in a number of cases. See *Prince* v. *Massachusetts*, 321 U.S. 158, 168 (1944) ("[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens"); *New York* v. *Ferber, supra*, 756-57 ("a state's interest in 'safeguarding the physical and psychological well-being of a minor' " is "compelling" and justifies banning non-obscene sexually explicit depictions of minors); *F.C.C.* v. *Pacifica, supra*, 749 (government interest in the "well-being of its youth" sufficient to ban all *indecent* broadcasting to children, *as well as adults*).

In *Ginsberg* v. *New York, supra*, the Supreme Court upheld a ban on the distribution of a non-obscene sexually explicit material to children. The prohibition on distribution of such "indecent" [5] material to children is supported by the exact same interest present when "indecent" dial-a-porn is exposed to children. The "government's interest in the 'well-being of its youth' and in supporting 'parents' claim to authority in their own household justified the regulation of otherwise protected expression." *Pacifica, supra*, at 749; *Ginsberg, supra*, at 639-40. The Court in *Ginsberg* elaborated on those compelling interests. There were two governmental interests which justified limitations on the availability of sexually explicit ("indecent") material to children. First, the Court noted that "constitutional interpretation has consistently recognized that the parents claim to authority in their household to direct the rearing of their children is basic in the structure of our society," and that parents and others responsible for children's well-being "are entitled to the support of laws designed to aid discharge of that responsibility." *Id.*, at 639. Second, the Court stated that "government has an independent interest in the well-being of its youth." *Id.*, at 640. The Court declared that:

"While the supervision of children's reading may best be left to their parents, the knowledge that parental control or guidance that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justify reasonable regulation of the sale of material to them. It is, therefore, altogether fitting and proper for a state to include in a statute designed to regulate the sale of pornography to children special standards, broader than those embodied in legislation aimed at controlling dissemination of such material to adults."

Id. Indeed, Justice Stewart, in his concurring opinion in *Ginsberg*, at 649-50, provided an additional theoretical justification for stricter regulation of dissemination of sexually explicit "indecent" material to minors:

"I think a State may possibly determine that, at least in some precisely delineated areas, a child—like someone in a captive audience—is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees."

As the Court more recently stated, the government's interest in "safeguarding the physical and psychological well-being of a minor" is "*compelling.*" *New York* v. *Ferber, supra*, at 756-57 (emphasis supplied).

Today, children are suffering injury through exposure to sexually explicit "indecent" dial-a-porn. Thus, "society's right to 'adopt more stringent controls on communicative materials available to youths than on those [only] available to adults' " is well established. *Pacifica, supra*, at 757 (Powell, J. concurring) (quoting *Erznoznik* v. *Jacksonville*, 422 U.S. 205, 212 (1975)); *See also*, *Miller* v. *California*, supra, at 36 n.17; *Interstate Circuit, Inc.* v. *Dallas*, 390 U.S. 676, 690 (1968); *Jacobellis* v. *Ohio*, 378 U.S. 184, 195 (1964). No member of the present Court has dissented from this principle. Indeed, in the recent case, *Bethel School District No. 403* v. *Fraser*, 478 U.S. , 92, L.Ed.2d 549, 106 S.Ct. (1986), the Court made emphatic the government's ability to ban sexually indecent speech to children even in the context of a political speech. The Court emphasized that bans on indecent speech have been upheld repeatedly where the welfare

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321, 344-54 (1977); "The Supreme Court, 1975 Term," 90 *Harv. L. Rev.* 58, 200-205 (1976).

[5] "Bookstores and motion picture theatres, for example, may be prohibited from making indecent material available to children." F.C.C. v. *Pacifica Foundation*, supra, at 749 (explaining Ginsberg).

of children was at issue. Citing Thomas Jefferson, the Court stated:

"The Manual of Parliamentary Practice, drafted by Thomas Jefferson and adopted by the House of Representatives to govern proceedings in that body, prohibits the use of 'impertinent' speech during debate and likewise provides that '[n]o person is to use *indecent* language against the proceedings of the House. Jefferson's Manual of Parliamentary Practice, §§ 359, 360, reprinted in Manual and Rules of the House of Representatives, HR Doc. 97.271, pp. 158-159 (1982)."

92 L.Ed.2d at 557 (emphasis added). The Court thus noted that Congress itself bans "indecent" speech during Congressional proceedings. It is interesting to note that dial-a-porn messages are so offensive and obscene that they cannot be quoted on the House floor or their transcripts placed in the CONGRESSIONAL RECORD.

The governmental right to restrict access to non-obscene but "indecent" material even to adults, when it is sufficiently harmful to children, is a key part of the Court's rationale in the landmark *F.C.C.* v. *Pacifica Foundation* case.[6] Radio and television broadcasting, like the telephone, is "uniquely accessible to children." *Id.*, at 749.

The Court's willingness to deny access to non-obscene material to adults when children would otherwise be harmed was demonstrated in *Board of Education* v. *Pico*, 457 U.S. 853 (1982). In *Pico*, the Court remanded with instructions for the lower court to determine whether improper motivations had tainted the Board's removal of certain books from a high school library. The First Amendment would be offended if the court found the books had been removed with intent "to deny respondents access to ideas with which petitioners disagreed." *Id.*, at 872. On the other hand, "an unconstitutional motivation would not be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books were pervasively *vulgar.*" *Id.*, at 871 (emphasis supplied). *Pico* identifies another context in which government may restrict dissemination of indecent materials to children, as well as adults.

Probably the most frequently cited case in opposition to the use of an "indecency" standard is *Butler* v. *Michigan*, 352 U.S. 30 (1957), with its oft-quoted assertion that the government may not "reduce the adult population . . . to reading only what is fit for children." *Id.*, at 383. In a brief opinion the Court struck down a criminal conviction under a manifestly overbroad Michigan statute that forbade the publication, sale or other distribution of *any* publication, writing, picture: "or other thing, including any recordings, containing obscene, immoral, lewd or lascivious prints, pictures, figures or descriptions, tending to incite minors to violent or depraved or immoral acts, manifestly tending to the corruption of the morals of youth . . ."

Id., at 381. The Court correctly ruled that **the law was overbroad and "not reasonably** restricted to the evil with which it is said to deal." *Id.*, at 383. It is significant to note that Michigan had another statute specifically proscribing the distribution of erotic materials to minors, but that statute was not before the Court. *Id.*

The more recent *Pacifica* Court limited the *Butler* case by distinguishing it. In a real sense, of course, *Pacifica* bans the broadcast of "indecent" material to adults as well as children. However, the Court ruled that unlike *Butler*, the F.C.C. order did not "reduce adults to hearing only what is fit for children" because adults "may purchase tapes and records or go to theatres and nightclubs to hear these words." *Pacifica, supra*, at 750 n. 28; and *See*, Powell, J. (concurring) at 760 ("the Commission's holding does not prevent willing adults from purchasing Carlin's ["indecent"] records, from attending his performances, or, indeed, from reading the transcript reprinted as an appendix to the Courts opinion"). Clearly, this analysis is squarely applicable to "indecent" recordings heard over the telephone. They are easily available to adults from other sources and their removal from the telephone (where they are exposed to children) would not "reduce adults to hearing only what is fit for children." Indeed, the Court itself analogized "indecent" broadcasting with "indecent" telephone language, stating that neither is given "constitutional immunity" to "avoid a harm that has . . . taken place." *Id.*, at 749. The Court cited as justification for its holding the need for newly enacted Congressional legislation against "obscene or profane" telephone language. *Id.*, at n. 27.

One must remember that the *Butler* statute prohibited the distribution of *all* material "unsuitable" for minors no matter what the source or media. It made it *impossible* for adults to obtain the material anywhere. As in *Pacifica*, the dial-a-porn prohibition would deal only with one medium which is uniquely hurtful to children. As Justice Powell stated in his *Pacifica* concurrence:

"In most instances, the dissemination of this kind of degrading speech to children may be limited without also limiting willing adults access to it. Sellers of printed and recorded matter and exhibitors of motion pictures and live performances may be required to shut their doors to children, but such a requirement has no effect on adult access. . . . The difficulty is that such a physical separation of the audience cannot be accomplished in the broadcast [or telephone] media. . . . [B]oth adults and unsupervised children are likely to be in the broadcast or [dial-a-porn] audience, and the broadcaster [or provider] cannot reach willing adults without also reaching children."

Id., at 758-59 (Powell, J. concurring). Justice Powell went on to state that "[t]his, as the Court emphasizes, is one of the distinctions between" such media and others "justifying a different treatment . . . for First Amendment purposes." Id.

As in *Pacifica*, the prohibition of "indecent" dial-a-porn involves a limited form of regulation of a single medium whose adult and youth audiences cannot be physically separated. *Butler*, on the other hand, applied to *all* media and embraced a wide-ranging (and vaguely defined) subject matter. Moreover in *Butler*, dissemination of the materials to children could generally be controlled at the point of distribution without denying access to willing adults. This is impossible with broadcast radio (as in *Pacifica*) and dial-a-porn.

Indeed, the very facts present in *Butler* limit it to the situation wherein the distributor of "indecent" material can differentiate between adults and children. This obviously cannot be done when the child telephones a tape-recorded message. Clearly, the ruling that better applies to dial-a-porn is *Pacifica*. Telephones are precisely like radio and television because of their easy accessibility to children and the virtual impossibility for parents to monitor their use.[7]

The Court in *Pacifica* also reasoned that "broadcast media" has a pervasive presence in the lives of all Americans. "Patently offensive, indecent material presented over" such a pervasive media "confronts the citizens . . . in the privacy of the home, where the individuals right to be left alone plainly outweighs the First Amendment rights of an intruder." *Id.*, at 748 (citing *Rowan* v. *Post Office Dept., supra*, banning erotic material from the mails at recipients request). This analysis is squarely applicable to dial-a-porn. It is of the utmost importance to be congizant that dial-a-porn is presently in the home whether the homeowner wants it or not. Today one cannot have telephone service in the privacy of one's family environment without being required to have dial-a-porn with it. Families with children must give up telephone service to be "left alone" from exposure of their children to this "intruder". Is there really a medium more "pervasive" than the telephone? We know that children (especially teens) spend countless hours on the telephone. At present, no family can be left alone in their own homes without the harmful nuisance of indecent or obscene dial-a-porn.[8]

Further, an argument can be made that because the telephone system is a regulated and protected system serving such a vital public function, it should be held to a higher standard of conduct than, say, a newspaper. In essence, the telephone system carries out the governmental function of providing telephone communication to all citizens who choose to have it at a rate set by governmental regulatory bodies. They are given de facto monopoly protection by the government and often use publicly owned property to carry out their business. In return for such privileged status, the telephone system has a public trust. The trust is breached when the telephone system enters the pornography business by exposing "indecent" dial-a-porn to virtually every child in America. Cf., *United Church of Christ* v. *F.C.C.*, 359 F.2d 994, 1003 (D.C. Cir. 1966) (opinion authored by Chief Justice Burger, then a member of the District of Columbia Court of Appeals).

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[6] The Court also rested its holding on the "pervasiveness" of the medium which carries the "indecent" material to children, discussed infra. 438 U.S. at 748.

[7] Also, one cannot discount the fact that *Pacifica* in 1978 is the most recent expression of the Supreme Court's will. No member of the 1957 *Butler* Court remains on the Supreme Court bench. Indeed, Justice Stewart, who dissented in *Pacifica*, is no longer a member of the Court.

[8] Recently the Supreme Court affirmed the case *Jones* v. *Wilkinson*, 800 F.2d (10th Cir. 1986), aff'd.— U.S.— (March 23, 1987). There the 10th Circuit held that the federal Cable Communications Policy Act of 1984, 47 U.S.C. § 521-559, had *preempted* the states from regulating "indecent" cable programming. 800 F.2d at 990-91. Contrary to many published media accounts of this case, the issue here was "preemption" by the federal government, not the constitutionality of the "indecency" standard. Still, it is pertinent to point out that a family can have non-cable broadcast television in their home if they choose. They *cannot* have a telephone in their home without dial-a-porn. Unlike television, the telephone choice is either *no* telephone or dial-a-porn. Indeed, since deregulation of cable, many companies are competing for the same customers. The telephone subscriber has only one choice—a local telephone company which imposes dial-a-porn on its subscribers.

IV. UNDER 47 U.S.C. § 223 (B)(4), THE ATTORNEY GENERAL MAY LAWFULLY ENJOIN TRANSMISSION OF DIAL-A-PORN WHICH VIOLATES § 223(B)(1)(a) OR (1)(b)

Without question, the government may lawfully restrain a party's violation of an obscenity statute through the use of a civil injunction proceeding, as permitted by 47 U.S.C. § 223(b)(4) (as redesignated by the Helms-Bliley Amendment). Such a procedure, whereby the government files a civil action petitioning the court to issue an injunction against the future distribution of specifically named or identified materials has been categorically approved by the Supreme Court. *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49, 50-55 (1973); *Kingsley Books* v. *Brown*, 354 U.S. 436, 441 (1956). The holdings of *Paris Adult Theatre* and *Kingsley Books* are clearly applicable to § 223 (b)(4) and permit the Attorney General to proceed against violations of this statute by injunction.

The Supreme Court has set forth the guidelines for such an injunction proceeding in several cases. Specifically, the Court has held such a proceeding is constitutionally permissible when, as here, the burden of proof and of initiating the judicial review is the government's, and the dial-a-porn provider is allowed to transmit pending a full adversary judicial proceeding, with a prompt final judicial review available. *Paris Adult Theatre*, 413 U.S. at 55; and see *Blount* v. *Rizzi*, 400 U.S. 410 (1971); *Freedman* v. *Maryland*, 380 U.S. 51 (1965). Subsection 223(b) (4) is fully supported by authority of the Supreme Court.

V. CONCLUSION

It has been demonstrated that the open availability of dial-a-porn is a serious problem for adults, as well as children. It has further been demonstrated that attempts to regulate dial-a-porn have been a complete failure since the start of this "industry" in 1983. This present situation can *only* be corrected if the present legislation is enacted by Congress. This memorandum of law has clearly shown that § 223(b) as amended is firmly supported by legal precedent, and by a tradition for the protection of children from this type of harm. There is no legal or constitutional obstacle to the passage of this legislation by Congress.

Clearly, Congress has the authority to enact this legislation. It is sound policy—it is constitutional policy and I urge my colleagues to join in supporting its immediate enactment.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, perhaps I should direct this question to the Chair. I want to know whether or not under this procedure if that time is yielded back we will have any opportunity at all to discuss the features of H.R. 5 with respect to the educational aspects, or else will this end the debate today and pass it back to the Senate.

The SPEAKER. Now is the time for the debate to occur with respect to the substance of the motion.

Mr. JEFFORDS. Then I would ask the gentleman, Mr. Speaker, if he would yield to me and other Members who want to discuss what we believe are the most important aspects of this conference report, and that is the basic educational programs which we have been waiting for over a year to have considered.

Mr. BLILEY. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from California [Mr. HAWKINS].

If I control all the time, I will yield half of it to the other side.

Mr. HAWKINS. Mr. Speaker, it was my understanding that we might proceed to discuss the educational aspects of the matter without any reference to the Helms amendment which was just added, unless someone so desires.

I think that it will be most appropriate, however, for the Members to know what is in the education aspects of the agreement.

Mr. BLILEY. Mr. Speaker, in order to clarify the situation, for purposes of debate only, I yield all my time to the gentleman from Vermont [Mr. JEFFORDS].

The SPEAKER. Let the Chair state the situation.

Under the rule, the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 30 minutes of debate on the motion to concur in the Senate amendment with an amendment, and the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor and the chairman of the House conferees, will be recognized for 30 minutes to discuss such matters as he may care to discuss or to yield such time as he may care to yield on the motion.

The Chair recognizes the gentleman from Vermont [Mr. JEFFORDS].

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Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the courtesies that have been extended to us. We know this has been a very complicated matter not involving the educational aspects but involving something which is important to us all, that is the unfortunate use of dial-a-porn.

Let us now turn back, however, to the issues which are so incredibly important to us today, and that is what is the status of those basic educational programs which do so much for the people of this country and especially those who live in the economically disadvantaged areas.

This is an incredibly important bill, and it is $7 billion. It has to do with our basic education in our Nation. First of all I want to commend the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor, for the tremendous work that he and others have done, and commend the gentleman from Pennsylvania [Mr. GOODLING] on our side as the ranking member on the subcommittee dealing with primary and secondary education. They have worked long and hard. There are new innovative provisions in here which my colleagues should listen to and understand because this does deal with the future of the country.

First of all I am pleased that we have recognized the ability of the gentleman from California [Mr. HAWKINS], the chairman of the committee by naming the bill after him along with my good Senator from the State of Vermont, Senator STAFFORD, who is retiring. They have all worked extremely hard over the years and deserve those accolades.

At this particular point however, in view of the fact of the tremendous amount of work on this side that the gentleman from Pennsylvania [Mr. GOODLING] has put in, I yield such time as he may consume to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, we have 25 million illiterates in the United States. We have another 50 million functional illiterates in the United States. That is about 75 million illiterates, and we spend most of our time talking about dial-a-porn when we should be talking about what in the world it is we are going to do if we are going to be competitive in this country, and that means we are going to do something about education. That is what this was supposed to be all about, and I am glad we are finally getting to it.

First of all, I want to pay tribute to one of the finest gentlemen I think that I have ever met in my time and that is the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor. Like my ranking member, the gentleman from Vermont [Mr. JEFFORDS], I am happy that the bill is named the August F. Hawkins and Robert T. Stafford Elementary and Secondary Education Improvement Act Amendments of 1988. I want to pay tribute to the staff who worked a long time working out the details with the Senate, and I am happy to tell my colleagues that we won in almost every area. We have the bill practically the way it was when we voted 401 to 1 when it left here. That was not easy to do for the staff, and of course, the heavy hitters like the gentleman from California [Mr. HAWKINS] and the gentleman from Michigan [Mr. FORD] came in and resolved the final issues that staff could not resolve or otherwise handle. But we are happy to present a bill here that began back on January 6, 1987. We are dealing with chapter 1, we are dealing with Even Start. I would like to talk about that program because I think in my years of experience in education if we are going to do anything about illiteracy we have to do it with the parents and the child both and we have to do it long before they get to first grade. In the program called Even Start we try to do that because we have the children and the illiterate or functionally illiterate parents working together trying to make the parents literate and at the same time trying to show the parents what we would just normally do in a home setting to help prepare youngsters for school.

When we look at our immigration situation we can see how important this bill is because now we are also beyond all the functional illiterates we have, we are adding more and more people into the country who not only have a language barrier but way beyond that they have had very little if any formal education and that will make it even more difficult.

We have made chapter 1 better. We have improved chapter 2. We have improved the adult education section. We have improved the Dwight David Eisenhower math and science program for teachers. We have a dropout prevention, and basic skills in secondary school program added to the bill. We have an auditing procedure that for the first time school districts will have a fighting chance. In the past the only person that had a fighting chance of course was the Department of Education. The gentleman from Michigan [Mr. FORD] and I had been battling this for a long, long time. We have to pay tribute to Jo-Marie St. Martin on the staff. She is the young lawyer who came up with all these fancy terms that made the Department of Education angry, but at the same time, it got what we wanted to get. So I think that we are presenting our colleagues with an ideal bill, a bill that should go unanimous this time, so I want to tell the gentleman from Illinois not to vote against the bill because he is opposed to the Department of Education. Let us make it a unanimous vote for an outstanding bill, one of the most important that we will ever pass and one that we must pass if we are going to be competitive and if as a matter of fact we are going to continue our lifestyle.

All of that goes by the board if we cannot do something about the functional illiteracy problem that we have that is growing and if we cannot do something about giving all people an equal opportunity to participate in a great society.

Mr. HAWKINS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the conference report we bring before you today is the most significant education bill to be considered by the Congress during this decade.

H.R. 5 is the bipartisan product of a team effort by the members of the Subcommittee on Elementary, Secondary, and Vocational Education. BILL GOODLING, the subcommittee's ranking minority member, has been an outstanding leader in bringing his expertise to bear on fashioning this bill. JIM JEFFORDS, BILL FORD, DALE KILDEE, PAT WILLIAMS, and all the other members of the subcommittee also contributed immensely in this huge undertaking.

H.R. 5 extends through 1993 almost all the major Federal elementary and secondary education programs, but the bill does much more than that. Enactment of this measure holds forth the promise that America can regain its competitive edge in the world economy.

H.R. 5 achieves this goal through two purposes. First, it contains provisions to help those who are furthest behind in school to achieve their fullest potential. Second, it seeks to hone the skills all students will need to be more productive workers, such as, math, science, and foreign languages.

A few weeks ago, the Carnegie Commission issued a report concluding that the poorest and most disadvantaged students have been left behind during this decade's push for school reform.

The reform movement, while most significant for those who have already been well prepared for school, has neglected, at peril to our economy, those furthest behind in school. Disadvantaged students now compromise one-fourth of the Nation's school population. And within 12 years, they will constitute a full one-third of all those in elementary and secondary schools. And further, as the Carnegie report indicates, education has worsened for urban and rural school districts alike.

The prime emphasis of Federal aid has been on helping those disadvantaged students, but unfortunately the aid has declined in effectiveness as the budget cutbacks have occurred during the 1980's. H.R. 5 places Federal aid back on the road toward expansion. In addition, it does far more than that; H.R. 5 demands greater accountability for the uses of these funds.

The key features which achieve these purposes are the following:

First, the chapter 1 program is amended to require schools to adopt plans to revise their programs whenever poor children are not adequately achieving. School districts and State departments of education will also become involved in order to provide the additional resources to raise the level of students' achievement.

Second, chapter 1 is also amended to urge additional funding of at least $500 million a year, above inflation, in order to serve all eligible children within 5 years.

Third, the program is also amended to target the bulk of this new funding on school districts with the largest concentrations of poor children.

Fourth, additional aid is also provided in chapter 1 to expand basic skills programs into the high schools and attempt to prevent high school dropouts.

Fifth, a new program is created to teach basic skills to illiterate parents of preschool-age poor children. These children, who must live in chapter 1 areas, would also receive preschool training at the same time as their parents are being assisted.

Sixth, the chapter 1 program is also amended to require much greater involvement of parents in the educational process.

Seventh, the chapter 2 program is amended to require States to spread the effective schools' techniques among local school districts. Research has shown that effective schools can be achieved through a structured approach to administration and learning.

Eighth, the Adult Education Act is amended to place the greatest emphasis on teaching literacy to those who are the most disadvantaged. New programs are also created to provide literacy training at the work site and to provide English literacy training for those who are deficient in speaking and writing English.

All these amendments are intended to help those who are behind educationally to achieve at their full abilities. America cannot tolerate a drag on its economy through having millions of citizens who cannot perform the simple tasks of reading and writing and understanding instructions at work.

H.R. 5 has as its second purpose honing the skills all workers will need in order to allow America to compete with Japan, South Korea, and the European nations. These countries have been cultivating skills in their schools which we have been neglecting far too long. As a result, they have greatly increased their workers productivity, while we are losing our competitive edge.

Several features of H.R. 5 which seek to address this are:

First, the science and math teacher retraining program is greatly expanded. Additional aid will be provided so that thousands more of our local science and math teachers will be able to upgrade their teaching skills. This upgrading will lead to improved math and science education in our elementary and secondary schools.

Second, a new foreign language program will focus on the most critically needed foreign languages and will provide funding for model programs to serve as examples for other schools districts.

Third, a new program is created for gifted and talented children. These children are the yeast which will help the rest of society rise to its full potential and we must direct additional resources to help them develop their skills.

Fourth, the star schools program is extended in order to permit greater use of telecommunications in our schools. Rural schools are particularly in need of electronic transmission into their classrooms of math, science and foreign language instruction.

H.R. 5 also makes other improvements in a variety of education programs. The impact aid program is amended to correlate the amount of payments to make up for loss of local taxes due to exempt Federal presence, more closely with the degree of need within school districts. The Women's Educational Equity Act is renewed to continue funding the development of curriculum materials leading to the eradication of sex-stereotyping and bias.

The conference report also upgrades the visibility of Federal statistics-gathering within the Department of Education. It is our intent to have a Commissioner of Education Statistics who will be Presidentially appointed and who will lead a professional, nonpolitical organization developing far more reliable and objective education statistics.

Related to this upgrading of statistics gathering, the conference report also expands the National Assessment of Educational Progress. NAEP provides the only national data on the performance of American school children which is reasonably reliable. The conference report expands NAEP to include several additional subject areas and also permits a very limited 2-year experiment in State-by-State comparision of educational achievement in reading and mathematics. This experiment is tightly restrained to have a full independent evaluation before any further attempts are made to expand it.

Although participation by States in this experiment is voluntary, I am concerned that such comparisons will tend to unfairly place urban and rural school districts in an unfavorable light. These districts are already struggling as a result of inadequate resources and inequality of educational opportunity. Currently, NAEP results are reported in terms of national data and serve to provide educational baselines or standards which can be useful in determining the performance of students in various subject areas. Therefore, the new experiment of State-by-State comparisons must be approached with caution. We all know that the use of standardized testing to measure educational achievement is fraught with shortcomings, and we must be extremely careful before the Congress endorses the idea of full 50-State comparisons of achievement.

This year is the 20th anniversary of title VII of the Elementary and Secondary Education Act, which is our Nation's primary legislation for equal education opportunity for limited-English proficient children, youth, and adults. H.R. 5 greatly strengthens the program by increasing the funding flexibility for local programs without mandating any particular teaching methods. We believe academic achievement is as important as English language acquisition, and developmental programs are the most appropriate for reaching these twin goals. Parental involvement has been strengthened, and we have augmented the funds for State departments of education in order to improve these programs. Finally, we have assured that bilingual programs will be of the highest academic quality, since we have clarified the evaluation requirements at every level of accountability.

The last major improvement made by H.R. 5 would revise the audit process used by the Department of Education and the appeal process used in reviewing audit determinations. Our committee has been concerned about this area since the early 1980's and we have worked very closely with civil rights groups and education organizations in order to bring equity and fairness into the procedure.

The amendments we have adopted would revise that procedure by professionalizing the hearing process through the use of administrative law judges, by permitting the use of discovery, by permitting a setting of the penalty to be proportionate to the harm caused to a Federal interest, and by reducing the penalty due to mitigating circumstances. Our objective is to have a process which is perceived to be fair to all parties, so that when wrong is done it can be righted in a just manner.

Mr. Speaker, I honestly believe that we in the House, and our colleagues in the other body, under the leadership of Senators PELL and STAFFORD, have fashioned an excellent and strong education bill. The original Elementary and Secondary Education Act of over 20 years ago, gave us the foundation for ensuring a quality education for all students. H.R. 5 provides us with the bricks, and other building materials necessary to build a strong framework. Now, the promise of this conference report depends on only one further action by the Congress. Only through the mortar of sufficient appropriations can we complete the construction of our national education policy.

I look forward to working with Chairman NATCHER and the members of the Appropriations Committee, and in this regard, I hope that the appropriations bill we consider next month will provide us with the wherewithal to put American education back on the right track.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I would like to join in all of the congratulations that have been made from both sides of the aisle, particularly in the comments of our distinguished chairman, the gentleman from California [Mr. HAWKINS], who has led us to probably the finest example of a bipartisan product that I have seen produced in this House.

I rise in support of the House-Senate conference agreement on H.R. 5, the Augustus Hawkins-Robert Stafford Elementary and Secondary School Improvement Act of 1988.

The agreement reauthorizes through fiscal year 1993 virtually all major Federal programs that assist elementary and secondary education—including chapter 1 compensatory education, chapter 2 education block grants, bilingual education, adult education, Indian education, magnet schools, math-science programs, and several new education initiatives.

Mr. Speaker, it was 23 years ago, almost to the month and day, that I stood on this floor as a freshman Member of the House, and a freshman member of the Committee on Education and Labor, to vote for passage of H.R. 2362, the Elementary and Secondary Education Act of 1965, providing Federal aid to those schools with high concentrations of both educationally and economically deprived or disadvantaged children. The vote was 263 to 153 in favor of this bill.

President Johnson signed the bill into law, Public Law 89-10, on April 11, 1965, which became the first "general school aid" in the Nation's history.

Mr. Speaker, H.R. 2362 was introduced and guided to enactment by President Johnson after dozens of bills had been introduced, and then abandoned, because of intense opposition and pressure from different groups. These bills, for the most part, attempted to provide across-the-board aid to schools, for construction, teacher training and salaries, for example, but the opposition claimed that the costs were too high.

Finally, when all else had failed, President Johnson appointed a task force, headed by John W. Gardner, who later became Johnson's Secretary for the Department of Health, Education and Welfare, which proposed a bill offering "specialized aid for districts with concentrations of children from low-income families." By using this "aid to children" approach, for "specialized" rather than "across-the-board" aid, the bill avoided much of the cross-fire over aid to private schools that had helped kill school-aid bills in the past. Because, aside from the fact that this legislation represented the first-ever "general aid for schools" in the Nation's history, it also mandated that children in private or parochial schools, who were eligible under the criteria set forth in the bill, would receive "equitable" services to those received by children in public schools.

While the aid to private school children became a "church-state" issue that was certainly divisive during the 1965 floor debate on the bill, the most divisive issue by far was over the formula for distributing the title I funds.

Title I of the original Elementary and Secondary Education Act, now called chapter 1, provided grants to States based on the number of children between the ages of 5 and 17 years, who were from families with incomes at $2,000 a year or lower, times 50 percent of each State's average expenditure per school child. Claims were heard from various members of both parties, but most notably Mrs. Edith Green, Democrat from Oregon and member of the Education and Labor Committee, that rich States got richer while poor States remained poor, under the formula. Efforts to change the formula failed in both bodies on record votes.

In September 1965, the supplemental appropriations bill, H.R. 10586, contained an appropriation of $1.016 billion to fund the Elementary and Secondary Education Act.

Mr. Speaker, while the delivery system has changed dramatically since 1965, I am pleased to note that we have tested ourselves 23 years later to see how strong our commitment as a nation is to providing services to all needy children, in both public and private schools, and find that we are as strongly committed now as we were then. To be sure there are new concerns we have addressed since 1965—such as illiteracy, math and science, foreign languages, computer instruction, magnet schools, migrant education, audit reform, and others—the original purpose of providing "general school aid" as envisioned by President Lyndon Johnson, is preserved and enhanced beyond our wildest dreams.

Mr. Speaker, the conference agreement on H.R. 5, the Hawkins-Stafford School Improvement Act of 1988 which is before us today, is legislation that cannot be characterized as just another omnibus education reauthorization bill, but a bill that is a historical account of the success of the American experiment. It contains our response to the duty that is upon all of us—to provide knowledge—a duty that has rested on each successive generation. As Johnson said 23 years ago, and it is true today, "that duty weighs most heavily upon us."

H.R. 5, as agreed to by House-Senate conferees, reauthorizes more than 14 education programs which are about to expire, and adds a variety of new "initiatives" such as Mr. Hawkins' Effective Schools Program, and Mr. Goodling's Even Start Program. This bill is being referred to today as the "Hawkins-Stafford Elementary and Secondary Education Act Amendments of 1988." Conferees on H.R. 5, in recognition and appreciation of the 26 years of devoted service by our Committee Chairman AUGUSTUS HAWKINS, during which time he has been one of our most stalwart advocates for education and training programs, have med these amendments for him and for our esteemed colleague in the U.S. Senate, ROBERT T. STAFFORD, who is retiring at the end of the 100th Congress. Senator STAFFORD's name appears in the title of the H.R. 5 amendments in tribute to his 17 years of distinguished service in the Senate and 11 years in the House. In addition, Mr. Speaker, the conferees have also named the Guaranteed Student Loan Program a permanent program, after Senator ROBERT T. STAFFORD.

Mr. Speaker, before continuing my statement in support of the education programs contained in H.R. 5, I would like to make a further statement concerning Senator STAFFORD's long service.

In 1965 Mr. STAFFORD was, like me, a Member of the House of Representatives. He supported passage of the Elementary and Secondary Education Act under a Democratic President who, it was claimed, had coerced Members of his party in both the House and Senate into "rubber-stamping" a White House bill. Senator STAFFORD, a Republican, not only voted for the 1965 ESEA bill sponsored by a controversial and strong Democratic President, he did so in the face of overwhelming opposition from members of his own party. On that day 23 years ago, Senator STAFFORD said:

> The needs of our children must be met. * * * I support the intent and purpose of this legislation. There is sufficient evidence that our States and local governments need assistance from the Federal government in order to meet those needs, and I am convinced as a lawyer and as a former attorney general of my state of Vermont, that sufficient safeguards are written into this legislation to keep controls of our education system at the State and local level and with public agencies. * * * For those who are unalterably opposed to any type of Federal aid to elementary and secondary schools, I cannot make any appeal.

The record will show, Mr. Speaker, that Senator ROBERT T. STAFFORD has continued, and particularly over the past 7½ years under a controversial and strong Republican President, whose policies have not always been in support of education programs begun in 1965, to be convinced that the educational needs of our children must be met. During our many budget and appropriations battles over the past several years, Senator STAFFORD, in direct and strong opposition to White House policy, has fought alongside his colleagues who supported continuation of the Federal role in education, no matter what their party affiliation—because he believed the "educational needs of our children must be met." We are deeply appreciative of his leadership during these most difficult years, not only as a U.S. Senator who could be counted on to vote for education, but also for his leadership, during 6 of the past 8 years, as chairman of the Senate Subcommittee on Education, Arts and Humanities.

Mr. Speaker, as Senator STAFFORD, put it 23 years ago, I am "ready to get on with the task we face in education by supporting this measure now at hand."

Mr. Speaker, I will not go into great detail on the content of H.R. 5, but I would like to describe some of the more important, and perhaps controversial issues that are addressed and that, for a while, divided the conferees before agreeing to a final bill.

CHAPTER 1

Always a highly targeted program, chapter 1 appears to be working still to achieve program objectives to enhance educational opportunities for children in low-income families, and to raise their academic achievement levels to national norms. H.R. 5 will continue those objectives. In addition, H.R. 5 provides for program improvements, a new section under chapter 1, which for awhile was at the center of a storm of protest among conferees and educators alike. But the final agreement on program improvements will not only assure that children enrolled in local chapter 1 programs will improve academically each year of enrollment, but provides as well for a collective effort among local and State education officials, parents, and teachers to improve local programs that have remained static or have declined in achievement levels over a period of 2 years or more. In addition, in recognition of the fact that H.R. 5 places even more responsibility on both State and local school officials to provide equal and effective educational opportunities for disadvantaged children, the conferees have agreed to allow modest incremental increases in State administrative expense accounts [SAE], provided, however, that such funds are strictly used for technical assistance, by and for the local school program authorities offering chapter 1 services. These modest increases for technical assistance are authorized to be 0.25 of 1 percent per year for the first 3 years, rising to 0.50 of 1 percent for the second 3-year period.

The second major change to chapter 1 is the provision of a "concentration" grant formula intended to serve areas with high concentrations of low-income families, thereby enabling high numbers or percentages of educationally disadvantaged children to be served. We still, as we did in 1965, Mr. Speaker, find a strong correlation between low income and low achievement among children in the Nation's schools, particularly those in highly concentrated areas of low-income families.

While the concentration grant formula does not do all things for all people, and while the eight largest States including Michigan do not exactly gain a lot under the concentration grant formula as adopted by the conferees, we have all had to accept that concentration means concentration—and that you cannot send additional funds to needy areas with high concentrations of eligible chapter 1 children while, at the same time, demanding that your State or district, which may not have those concentrations of eligible children, still receive vast increases in chapter 1 funds. We can't have it both ways. We are pleased to have been able to be realistic, if not outright noble, in putting forth the House formula and having it adopted, because it truly does, to the greatest extent possible, serve those areas and those States, particularly the Southern States where educationally deprived children have long been concentrated, and where they have for too long been underserved. I will admit—do admit freely—that it would have been much nicer if I had been able to travel back to my district, indeed to my State of Michigan, and claim that of the $400 million authorized the first year for concentration grants under chapter 1, vast amounts were going to show up in every school district, or every county, in my State. That is not the case. Four counties in Michigan show a gain under the concentration formula—Genesee, Kent, Oakland, and Wayne Counties. Of the four, Wayne County gains the most—between $14 and $16 million, most of which will go to Detroit public schools where the highest concentrations of eligible, poor, and needy children live and go to school.

CHAPTER 2

H.R. 5 extends and revises chapter 2, the education block grant to the States. It has been streamlined and, while it still serves all school-age children, it does so through several new initiatives and incentives. The new Effective Schools Program is to be funded by requiring the use of 20 percent of State set-asides of chapter 2 block grant funds. It should work very well in the State of Michigan, which pioneered research and demonstrated Effective School Programs beginning more than a decade ago. The bill also provides a waiver of this requirement for States which can show an expenditure of State funds of at least 40 percent more than required in the act for Effective Schools Programs.

Aside from the reauthorization of chapters 1 and 2 in H.R. 5, the conference agreement also revises and extends:

The Education for Economic Security Act, math and science, and the Adult Education Act, which extends the traditional adult education programs while also addressing the adult illiteracy problem, targeting funds so that all adults are able to acquire "basic literacy skills."

H.R. 5 continues the historic requirement that private school children residing in eligible school districts receive chapter 1 services on an equitable basis with children in public elementary and secondary schools.

It took nearly 20 years for the Supreme Court to rule on the question raised back in 1965—and the Supreme Court ruled that indeed it is unconstitutional for public school teachers to go to private/parochial schools, particularly the church-owned schools, to teach remedial classes to eligible children, Aguilar versus Felton, 1984.

Our response in H.R. 5 to the Court decision is to provide for an authorization of funds to cover the costs of "capital expenses" incurred by local school officials in attempting to continue to provide equitable services to these children as required by statute, while at the same time being in compliance with the Court's ruling.

Mr. Speaker, other programs being revised and extended under H.R. 5 include Bilingual Education, Magnet Schools, Drug Free Schools and Communities Act, Indian Education, Impact Aid, new Dropout Prevention/Basic Skills for Secondary School Students Programs, new Gifted and Talented Programs, Women's Educational Equity, Ellender Fellowships, and others.

I would like to specifically, but briefly, address several programs being reauthorized and expanded under H.R. 5, such as: the Migrant Education Program, the Education Audit Reform Act, and the Child Care Development Centers Act.

AUDIT REFORM

The audit reform amendments have evolved over a period of 4 years. There has been extensive consultation between representatives of State and local education agencies, civil rights and child advocacy groups, and the Department of Education. The amendments strike a balance. Four important features of these audit reform amendments are: First, replacing the present Education Appeals Board [EAB] with administrative law judges [ALJ's]. These ALJ's must have legal training, experience with education programs, and be full time, which was not true in any case with members of EAB panels. Second, provision for an orderly and limited process of discovery available to the State and local education agencies. Third, requirement that the Secretary establish a prima facie case for recovery of funds in the preliminary departmental audit decision—no current requirement exists. Fourth, provision that the amount of funds recovered will be proportional to the amount of harm that has been done to the achievement of the purpose of the Federal education programs. In other words, if a State or local agency receives a $5 million grant and misuses $100,000, then the maximum audit liability of the educational agency will be $100,000, not $5 million as in current practice.

MIGRANT EDUCATION

The Migrant Education Program was first enacted in 1966 in recognition that the Federal Government had a compelling responsibility to address the severe educational programs which are unique to children of migrant workers in this country. These children are at risk because they are normally older than their peers, they exhibit a high degree of language difficulties, they come from families where combined annual income is less than $10,000, and where, as a rule, neither parent has graduated from high school, and they have a pattern of high mobility with frequent interruptions in their schooling.

H.R. 5 continues the Migrant Education Program in its present form, but with several improvements which include: A call for full funding; expansion of the age range of children to be served from those 5 to 17 years of age to ages 3 to 21 years; encouraging parents to become and remain involved in their children's education including participation on parent advisory councils for this purpose; the development of a national certificate of eligibility to assist with the administration of the program, and to provide for the development of a program of accrual and credit exchange to facilitate graduation from high school.

NATIONAL COMMISSION ON MIGRANT EDUCATION

Mr. Speaker, I am extremely pleased to note the adoption by the conferees of the House bill's establishment of a National Commission on Migrant Education. I would like to thank my colleagues on the conference committee for agreeing to authorize this 3-year Commission whose mission will be to create a blueprint of changes needed to meet the needs of migrant children over the remainder of this century.

Since the National Migrant Education Program began in the mid-1960's, hundreds of thousands of young people have had the opportunity to acquire an elementary and secondary education that previously had been impossible to obtain. At one time the children of migrant families were a forgotten population who moved in and out of classrooms, barely noticed, rarely completing a coherent year of studies, and finally dropping out of school. As recent as 1974, studies documented a 90-percent high school dropout rate among this mobile population. While the children of migrant families are still at greatest risk of dropping out of school, they have made great educational strides due in large part to the federally funded Migrant Education Program, the High

School Equivalency Program, and the College Assistance Migrant Program.

The National Commission on Migrant Education will attempt to anticipate the future pattern of migrancy and recommend the appropriate educational services. It will take into consideration the changes in agricultural economics due to worldwide competition, the new immigration laws which will affect the makeup of the agricultural labor force and the shift in the skill levels required by employers. As one of its first mandates, the Commission will make an indepth study of the migrant student record transfer system, documenting its strengths and weaknesses. This unique system, also sensitive to patterns of migrancy as well as today's rapid technological advancements, transmits essential health and educational data about each child as he moves from school to school. The Commission will, in short, help describe where we are today in educating the children of migratory workers and what needs to be done for those children of tomorrow.

CHILD CARE DEVELOPMENT CENTERS ACT

Mr. Speaker, I am pleased that the House-Senate conferees on H.R. 5 agreed to adopt a Senate-passed provision known as the Comprehensive Child Development Program.

Authorized as part of the Head Start Act, it authorizes funds for making Federal grants to organizations to establish Comprehensive Child Development Centers.

It is the first early, continuous, and comprehensive program that will deliver the necessary support services to extremely young, poor children and their families that will, in turn, enable the children to enter school prepared to succeed.

The CCDCA does not duplicate existing services. Rather, it fills out what is missing—and services offered will range from prenatal and neonatal care, to health screening and referrals, shots, immunizations, well-baby care, child care, Head Start, nutrition, and parent education in parenting, infant and child development, health and nutrition, and so forth. It is not a day care bill. The goal is not to provide a place for parents to leave their child while they work. The purpose of CCDCA is to provide a place where extremely poor children and their families can go to receive support services that will help the children develop physically, socially, emotionally, and intellectually from birth to kindergarten.

Mr. Speaker, the CCDCA is a pilot program, authorizing no more than 10 to 25 projects—and its a very good way to demonstrate the efficacy of a program before huge amounts of dollars are spent on it.

I strongly favored making the CCDCA Program a part of H.R. 5, and am happy that it has been adopted by conferees. Its companion programs, like Head Start, WIC, and Immunizations, have already been proven as to their beneficial effects on both children and their families. This program has the same potential for success.

Mr. Speaker, we have made a great and I believe, successful, effort to improve the quality of education, as well as to call for full accountability on the part of schools and their officials with respect to student outcomes, within the framework of the old and the new programs we reauthorize in H.R. 5. I believe we have done this without imposing excessive administrative burdens on our State and local education officials, and without hampering their ability to be flexible and creative in the use of Federal education funds.

I congratulate, again, my committee chairman, Mr. HAWKINS, and the committee's ranking minority members, Messrs. GOODLING and JEFFORDS, for their foresight, energy, and commitment to excellence in guiding this important education bill to enactment.

Mr. Speaker, while I have briefly outlined the major provisions contained in H.R. 5, I would like to provide a full and accurate summary of the bill, including authorized funding levels. I recently read an unusually well-prepared summary of H.R. 5 in the April 9, 1988, edition of the Congressional Quarterly. I ask unanimous consent that excerpts from that article, which are attached, be inserted at the end of my statement.

H.R. 5, carefully crafted over a period of more than 2 years, will have an immediate and immensely beneficial effect on education throughout the rest of this decade, and far into the next. I commend it to my colleagues, and recommend that it do pass.

COMPENSATORY EDUCATION (CHAPTER 1)

Purpose.—Reauthorize through fiscal 1993 the federal program to help educationally deprived children, now authorized by the education provisions of the 1981 deficit-reduction law (PL 97-35). HR 5 would repeal Chapter 1 of the 1981 law and amend Title 1 of the 1965 Elementary and Secondary Education Act.

Basic Grants.—Distribute Chapter 1 "basic grants" to state educational agencies (SEAs)—to be allocated to local educational agencies (LEAs)—based on the number of children, aged 5-17, that come from families below the poverty level (according to the most recent census data). Children from families whose income is pushed above the poverty line by Aid to Families with Dependent Children (AFDC) benefits would also be eligible. At least 10 children within the school district must be eligible for the district to receive basic grant money.

Concentration Grants.—Reserve appropriations between $3.9 billion and $4.3 billion for school districts with an exceptionally high number of poor children—exceeding 6,500 or 15 percent of enrollment. If basic-grant appropriations exceed $4.3 billion, 10 percent of the total appropriation is reserved for concentration grants, provided no state receives less basic-grant money than it did in the preceding fiscal year. At least 2 percent of concentration grants are reserved for school districts that meet the requirements but are in counties that do not.

Guarantee each state a minimum of 0.25 percent of concentration-grant money. If concentration grants are not funded, each state would be guaranteed a minimum of 0.25 percent of basic-grant money as long as new appropriations exceed $700 million. No state could receive less than it received in fiscal 1988.

Use of Funds.—Require LEAs to use Chapter 1 funds for schools with a high number or percentage of low-income children. If there is not enough money to meet demonstrated need, an agency must rank its school according to the number of low-income children enrolled and allocate money to the schools with greatest need first. LEAs also must conduct an annual needs assessment, identifying educationally deprived children and the instructional areas on which a Chapter 1 program should focus, with the intent that those with the greatest need will receive additional help.

Maintain current restrictions on the use of Chapter 1 funds for preschool through secondary-school programs (to buy books or train teachers, for example). A local education agency, with state approval, can use up to 5 percent of its grant for certain innovative educational projects.

Allow any Chapter 1 school with 75 percent or more low-income children to use its grant, under the supervision of the local and state educational agencies, to upgrade the school's entire educational program.

Parental Involvement.—Encourage parents to get involved in their children's education by requiring local agencies to include parents in the planning and implementation of Chapter 1 programs. The bill requires that information and activities for parents be provided in a language and form that parents will be able to understand without difficulty.

Private Schools.—Authorize $30 million in fiscal 1988, $40 million in fiscal 1989 and such sums as necessary thereafter, to provide Chapter 1 services to educationally deprived children enrolled in private and parochial schools. The money is designated for capital expenses such as the purchase or lease of mobile units and computer equipment; insurance and maintenance costs; and transportation.

Achievement Standards.—Require Chapter 1 schools to improve their programs with the help of the LEA if, after a year, low-income children are not meeting certain achievement standards. After two years, if there is no significant improvement, the state educational agency must work with the local agency to improve the school's program. The bill authorizes a percentage of state and local funding—0.25 percent in fiscal years 1988-91 and 0.5 percent in fiscal years 1992-93—to carry out improvement programs.

"Even Start."—Create an "Even Start" program to extend Chapter 1 services to young children (aged 1-7) and their parents. The bill authorizes $35 million in fiscal 1989 and such sums as needed thereafter, with a state minimum of $250,000 or 0.5 percent of appropriations, whichever is greater. The federal government's share would be no more than 90 percent of the program's cost in the first year, 80 percent in the second, 70 percent in the third and 60 percent in the fourth and succeeding years. Three percent of the appropriation would be reserved for eligible migrant children. The secretary of education must submit a program evaluation to Congress in 1993.

Secondary Schools.—Authorize $400 million in fiscal 1990, $450 million in 1991, $500 million in 1992 and $550 million in 1993 for dropout prevention and basic-skills improvement of educationally deprived secondary-school students. A state agency can reserve no more than 5 percent of its grant for administrative costs; the rest must be allocated to LEAs with the greatest number of poor children and dropouts. No state shall receive less than $250,000. The program continues a demonstration-grant program for dropout prevention and basic-skills improvement, but shifts control of the program from the education secretary to the states.

Migrant, Handicapped, Neglected Children.—Provide authority for distributing funds to state educational agencies for programs for children of migrant workers (aged 3-21), including seasonal agricultural and dairy workers and fishermen, handicapped children (from birth to age 21) and for neglected and delinquent children. The General Accounting Office must submit to Congress by Feb. 28, 1989, a study of Chapter 1 programs for the handicapped.

Require, in years when Chapter 1 appropriations are insufficient to cover all programs, that state-administered programs for migrant children, the handicapped, and neglected and delinquent children receive full payment before funds go to LEAs for other Chapter 1 programs.

Establish a National Commission on Migrant Education to study the educational needs of migrant children and authorize $2 million for the commission's operation. The commission would be terminated after three years.

Grants for Territories.—Reserve 1 percent of Chapter 1 appropriations for grants to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Bureau of Indian Affairs.

Technical Assistance, Research.—authorize $10 million for fiscal 1989 and such sums as necessary thereafter for evaluation, technical assistance and research, including: a study to assess the effectiveness of Chapter 1 programs (an interim report must be sent to Congress by Jan. 1, 1993, and the final report by Jan. 1, 1997); the preparation and distribution to state and local agencies and other interested parties of a policy manual explaining Chapter 1 programs; and grants to pay all or part of the cost of operating nine rural-assistance programs.

Require the secretary of education to develop national standards for local evaluation of Chapter 1 programs. LEAs must evaluate the effectiveness of their Chapter 1 programs at least once every three years and state agencies, every two years. The state agency's report must be submitted to the secretary of education, who is required to report to Congress biennially on state and local results.

BLOCK GRANTS (CHAPTER 2)

Retain the program of block grants for state and local education agencies established in 1981 and authorize $580 million in fiscal 1989; $610 million in 1990; $640 million in 1991; $672 million in 1992; and $706 million in 1993. The bill would maintain the current grant split of 20 percent for state agencies and 80 percent for local agencies. State agencies must submit an annual report to the secretary of education on the use of Chapter 2 grants, the types of services provided and the students served.

Limit the use of Chapter 2 funds to six areas: (1) programs for at-risk students, including those most likely to drop out; (2) purchase of educational materials such as library books and computer software; (3) innovative programs for schoolwide improvement, including the effective-schools program; (4) teacher and personnel training; (5) programs for personal excellence, such as classes in ethics, performing and creative arts, physical fitness and health; (6) innovative programs, including those for gifted and talented students, early-childhood development and suicide prevention.

Effective Schools.—Authorize a state agency to reserve 20 percent of the money it receives under Chapter 2 for the effective-schools program to promote school-level planning and improvement and to increase the academic achievement of all children in the school.

National Programs.—Reauthorize such national programs as the National Diffusion Network, the Inexpensive Book Distribution Program (Reading is Fundamental), Arts in Education and Law-Related Education, and require that they be funded at least at fiscal 1987 levels, plus 5 percent. The bill also creates a new program, called "Blue Ribbon Schools," to recognize excellent elementary and secondary schools or programs, and authorizes not more than $1.5 million for the program.

MATH AND SCIENCE

Teacher Training.—Authorize $250 million in fiscal 1989 and such sums as necessary thereafter for grants to state and local educational agencies to strengthen the skills of teachers in the instruction of math and science. Four percent of those funds would be reserved for the education secretary's discretionary grants; 0.5 percent for schools for Indian children; and not more than 0.5 percent for U.S. territories. The remainder is to be distributed to states, half on the basis of children enrolled and half based on Chapter 1 poverty formulas. Five percent of the state grant can be used by the SEA for administrative purposes; another 5 percent can be used by the state agency for higher education for the same purpose. Of the remainder, 75 percent of the grants are to go to elementary- and secondary-school activities, such as the purchase of computer equipment for schools with 50 percent low-income children, and 25 percent to higher education activities, such as establishing training programs for new teachers who will specialize in math and science.

Teacher Recognition.—Authorize the president to recognize math, science and foreign-language teachers who have demonstrated outstanding teaching qualifications in their fields.

Extend the Partnership in Education for Mathematics, Science and Engineering through 1993, authorizing $10 million in fiscal 1988 and such sums as necessary thereafter.

"Star Schools"—Create a "Star Schools" program of grants to state and local educational agencies, higher education institutions and school consortia to introduce satellite technology into the classroom. Funding is authorized at a total of $100 million over five years, not to exceed $20 million a year. No grant can exceed $10 million in a year, and no recipient can receive more than $20 million over the life of the program. Grants will be awarded for equipment purchases and instructional programming.

MAGNET SCHOOLS

Increase the authorization for the magnet school program to $165 million in fiscal 1989 and such sums as necessary thereafter for grants to schools that specialize in such academic areas as music, math and science, or foreign languages as part of a desegregation plan to attract students of diverse racial, ethnic and social backgrounds. The education secretary must give special consideration to eligible LEAs that have applied for but not received a magnet school grant when awarding funds beyond the fiscal 1988 appropriation of $75 million.

DRUG EDUCATION

Reauthorize the 1986 Drug Free Schools and Communities Act through 1993 at a funding level of $250 million in fiscal 1989 and such sums as necessary thereafter.

Allow 50 percent of the funds to be used for grants to local governments and other public or private non-profit organizations for drug and alcohol education, prevention and early intervention programs; training programs for teachers, parents and local public service personnel; and a youth suicide prevention program. The remaining 50 percent will be targeted to community-based programs for high-risk youths such as dropouts and children of drug and alcohol abusers.

Require the secretary of education along with the secretary of health and human services to coordinate a national program of drug education that includes using athletes and entertainers as drug-free role models and providing technical assistance to state and local organizations.

Maintain five regional centers specializing in drug education.

SPECIAL PROGRAMS

Gifted and Talented.—Authorize $20 million in fiscal 1989 and such sums as necessary thereafter for a new program of grants to state and local educational agencies, institutes of higher education and other private and public organizations for programs to meet the needs of gifted and talented children.

Allow grants to be used for training teachers, creating models programs, providing technical assistance and carrying out national research, evaluation and data collection.

Establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth. Funding for the center and other national activities cannot total more than 30 percent of the amount appropriated for the entire program.

Women's Educational Equity.—Authorize $9 million in fiscal 1989 and such sums as necessary thereafter for grants to public agencies and private non-profit organizations for programs to provide educational equity for women. The funds are earmarked for demonstration projects, such as developing gender-neutral tests, and for costs related to carrying out current law that prohibits discrimination against women. In addition, "challenge grants," not to exceed $40,000 each, would be available for innovative programs to achieve women's educational equity. The bill would abolish the National Advisory Council on Women's Educational Programs.

Ellender Fellowships.—Authorize $3 million in fiscal 1989 and such sums as necessary thereafter for the Ellender Fellowship Program, which provides grants to the Washington, D.C.-based Close-Up foundation, a non-profit organization that promotes a greater understanding of federal government processes among secondary-school students and their teachers. Funds can be used only to help economically disadvantaged students and their teachers participating in the program, with special consideration given to handicapped students, migrant children, children of recent immigrants, and gifted and talented children.

Dropout Prevention, Basic-Skills Improvement.—Authorize $200 million in fiscal 1989 for basic-skills improvement programs for secondary-school students. Authorize $50 million for demonstration projects on ways to prevent students from dropping out of school and to encourage those who have dropped out to return and finish school. LEAs with 100,000 or more enrolled elementary- and secondary-school students are eligible for 25 percent of the grants; 20,000-100,000—40 percent; 0-20,000—30 percent. The remaining 5 percent would be awarded to community-based organizations. The federal grant shall cover 75 percent of the costs of the demonstration programs. In awarding dropout-prevention grants, the secretary of education shall give first priority to schools with a high dropout rate. The program will become a state grant program under Chapter 1 in 1990.

Immigrant Education.—Extend the 1984 Emergency Immigrant Education Act through 1993 at $40 million in fiscal 1989 and such sums as necessary thereafter. The program provides financial assistance through state formula grants to local school districts enrolling a substantial number of immigrant students—at least 500 or 3 percent of total student enrollment.

Territorial Assistance.—Authorize $5 million in fiscal 1989 and such sums as necessary thereafter for general financial assistance to elementary and secondary schools in the Virgin Islands, and authorize $2 million in fiscal 1989 and such sums as necessary thereafter for teacher-training programs for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

Excellence in Education.—Repeal the 1984 Excellence in Education Act (PL 89-377) which supported elementary- and secondary-school programs demonstrating ways to improve educational quality.

Improvement Fund.—Authorize $30 million in fiscal 1989 and such sums as needed thereafter for grants to state and local educational agencies and other eligible organizations, such as non-profit groups, for programs to improve the performance of students and teachers. Included would be a new "Pride in Schools" program to involve students in the care and responsibility for their school and a new family-school partnership program. The latter, entitled to one-third of the fund's authorization, is to provide grants to LEAs for activities to increase family involvement in a child's education and improve that child's educational achievements.

Secretary's Fund for Innovation.—Establish a fund, authorizing $20 million in fiscal 1989 and such sums as necessary thereafter, for the following programs: technology education, including educational radio and television programming; computer-based instruction; comprehensive school-health programs; and optional tests for academic excellence.

Alternative-Curriculum Schools.—Create, as part of the secretary's fund, a program to provide grants to schools specializing in certain academic areas that are not eligible for magnet school grants, as long as those districts prove their commitment to integration and quality education. Alternative-curriculum schools must be in a school district that is 65 percent minority; the school must be at least 50 percent minority. The new program could get up to $35 million in fiscal 1989 and such sums as necessary thereafter, but only if the magnet school program receives full funding.

Child Development Program.—Authorize $25 million a year for a demonstration program to provide educational and social services to young children and their parents. Based on private-sector plans such as the Beethoven project in Chicago, the program will include services such as parenting classes, child-care and nutrition classes. During the first two years, the program can be funded only if the Head Start program receives 104 percent of its fiscal 1988 appropriation.

Disability Demonstration Project.—Authorize $4 million for a statewide project for the disabled, aged infant to adult, and individuals with a limited proficiency in English. The project may include the coordination of existing education and special-service programs for the handicapped and a way to make adaptive technologies, such as alternative communication systems, available to the handicapped.

ADULT EDUCATION

Reauthorize education programs for adults, 16 years or older, who lack the basic educational skills needed for productive employment, or who have not graduated from a secondary school or its equivalent. The bill authorizes $200 million in fiscal 1989 and such sums as necessary thereafter for grants to states and other eligible participants, such as public or private non-profit agencies, to establish and expand educational programs for economically disadvantaged adults. States and grant recipients may use 5 percent of the award for administrative costs.

Reduce the maximum federal share for adult education programs from 90 percent in fiscal 1989 to 85 percent in fiscal 1990, 80 percent in fiscal 1991 and 75 percent in fiscal 1992 and thereafter.

Delete the 20 percent cap on programs for the institutionalized, requiring that at least 10 percent of state grants be used for corrections education and for the institutionalized.

Create two new literacy programs: (1) work-place literacy partnership grants designed to improve employees' productivity by improving their literacy skills, authorized at $30 million in fiscal 1988, $31.5 in 1989 and such sums as necessary thereafter—the grants can be used to fund up to 70 percent of the program and administrative costs; (2) English literacy grants for instruction to adults with a limited proficiency in English, authorized at $25 million in fiscal 1988, $26.3 million in 1989, $27.6 million in 1990, $29 million in 1991, $30.5 million in 1992, and $32 million in 1993.

Require each state with adult education programs to establish an advisory council, appointed by the governor, to review the state's program, submitting a biennial evaluation, and advise state agencies on private-sector initiatives.

Require the education secretary to establish national programs for adult migrant-farm worker and immigrant education, state program analysis and policy studies on adult literacy, and adult literacy volunteer training. The secretary is required to set aside up to 3 percent of total adult education funds for national programs as long as the total appropriation exceeds $108 million and the set-aside does not exceed $3 million.

Abolish the National Advisory Council on Adult Education.

VOCATIONAL EDUCATION

Make single pregnant women, including teenagers, eligible for vocational education services provided under the set-aside for homemakers and single parents (equaling 8.5 percent of state vocational education funds).

Authorize $2 million for Ohio State University and $2 million for the University of California at Berkeley to support the ongoing activities through Dec. 31, 1988, of their respective "National Centers for Research in Vocational Education" while the Comptroller General reviews the grant-award process.

BILINGUAL EDUCATION

Revise the federal program of aid to bilingual education, authorizing $200 million in fiscal 1989 and such sum as necessary thereafter.

Require that at least 60 percent of appropriations be reserved for grants for native-language and alternative instruction, family English-literacy programs, and supplementary special education programs. At least 25 percent of all appropriations must be reserved for bilingual teacher training and technical assistance, including the establishment of 16 resource centers. The bill also provides such sums as necessary, within the authorization level, for data collection and research.

Retain the ceiling on grants to traditional bilingual instruction courses—75 percent of the amount reserved for instruction courses. The bill would allow the education secretary to allocate up to 25 percent of the reserved funds to alternative instructional programs, such as "English as a second language" and "immersion."

Current law limits grants to alternative programs to 4 percent of total appropriations up to $140 million, and half of any additional funds, but no more than 10 percent of the total.

Require that recipients of transitional bilingual education grants in fiscal 1987 continue to receive at least as much through the remainder of existing contracts.

Prohibit, except in certain cases, a student from participating in a federally funded bilingual education program for longer than three years. Under certain conditions, a student could remain in the program for five years.

Establish within the Department of Education an Office of Bilingual Education and Minority Language Affairs to oversee bilingual education programs. The office would submit an annual report to Congress detailing grants made in the preceding year and the number of students who benefited from the programs. In addition, the education secretary must submit a report to Congress by Feb. 1, 1992, assessing the state of bilingual education programs and mapping out a plan to extend the programs and mapping out a plan to extend the programs for another five years.

IMPACT AID

Create a new formula for the "Part A" program of grants—for maintenance and operation of school facilities—to local school districts in areas where enrollments and local revenues are adversely affected by federal activities such as military bases, government offices, Indian lands and low-rent public housing. The bill authorizes $735 million in fiscal 1989, $785 million in 1990, $835 million in 1991, $885 million in 1992, and $935 million in 1993.

Extend the "Part B" program of payments for construction of facilities in federally impacted school districts, authorizing $25 million in fiscal 1989, $26 million in 1990, $27 million in 1991, $28 million in 1992, and $29 million in 1993.

Reduce the existing 16 categories of students to two basic groups: those whose parents work and live on federal property or are Indians (A), and those whose parents live or work on federal property (B).

Divide the categories into five subgroups for payment purposes: districts with 20 percent or more "A" children; 15-20 percent A children; 0-15 percent A children; 20 percent or more "B" children; fewer than 20 percent B children. The bill also establishes distribution rates among the groups when the program is less than fully funded.

EDUCATION STATISTICS

Establish the National Center for Education Statistics within the Department of Education to collect and disseminate education statistics—similar to the Bureau of Labor Statistics. The director of the center is to be appointed by the president and confirmed by the Senate for a four-year term and is directed to conduct numerous studies, including a national survey of high-school dropouts and another on financial aid for post-secondary schools. The bill authorizes $25.8 million in fiscal year 1988, $32.8 million in 1989, $37.3 million in 1990, and such sums as necessary thereafter.

Include, under the purview of the center, the National Assessment for Educational Progress, which is directed to conduct two demonstration studies: one due in 1990 on math skills; a second due in 1992 on math and reading skills. The studies are intended to provide state-by-state data, contributed on a voluntary basis, of basic educational skills.

Require the secretary of education to conduct a study of school reform to measure student achievement, the number of students graduating (especially from schools with increased graduation requirements as part of their reform efforts) and the amount of money spent on reform programs, and authorize $1 million for the study, which must be submitted to Congress by July 1, 1989.

INDIAN EDUCATION

Authorize $70 million in fiscal 1989 and such sums as needed thereafter for grants to LEAs and Bureau of Indian Affairs (BIA)-run schools for projects to meet the supplementary educational and cultural needs of Indian schoolchildren. BIA-run schools will receive grants under this provision only after LEAs receive funding equal to what they received in fiscal 1988, plus 2 percent. The bill also reauthorizes demonstration programs for such things as curriculum development and dropout prevention ($38 million per year); fellowship grants for Indian students; and adult education programs.

Prohibit the Interior Secretary from closing any BIA-funded schools without tribal or congressional approval and bar changes in BIA education regulations over the next 14 months.

Strengthen provisions in existing law that require BIA to consult with tribes before making any changes that would affect schools for Indian children. This was in response to an attempt by Assistant Secretary of the Interior for Indian Affairs Ross Swimmer to transfer control of BIA-run schools to LEAs or other organizations.

Create a new grant program, "self-determination grants," to allow tribally controlled schools to receive a block grant for running the school as opposed to operating under a BIA contract. The program would give the tribe more flexibility in deciding how the school should be run.

Create a gifted and talented program for Indian children, authorizing $3 million a year. The program would establish resource centers in two tribal colleges that would provide assistance to five Indian schools in developing educational programs for gifted and talented children.

Create a program for early-childhood development, requiring BIA to coordinate existing educational and social programs for very young children. The bill authorizes $15 million a year for the program.

Establish tribal departments of education (similar to SEAs) to oversee schools run by BIA and by tribes.

Provide authority for a White House Conference on Indian Education to occur between September 1989 and September 1991.

Require the Office of Indian Programs within the Department of Education to give priority to Indians when hiring.

Native Hawaiian Education.—Authorize $10 million in fiscal 1989 and such sums as necessary thereafter for supplementary education programs for native Hawaiians, preschool to postsecondary.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of this legislation. I want to pay very special tribute to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor, and to my good friend and colleague the gentleman from Pennsylvania [Mr. GOODLING], who is really our father of elementary education on this side of the aisle. In particular I want to thank and join in commending everyone on the committee and in this Congress who worked so hard on this issue of concentration grants, and my district alone will receive over $390,000 more than they would have by virtue of the House adopting a fair, reasonable formula. That is something that this entire country can benefit from.

Mr. Speaker, I would like to offer my wholehearted support of the Conference Report on H.R. 5, the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary Education Improvement Act. I congratulate Representative AUGUSTUS F. HAWKINS, chairman of the Elementary, Secondary, and Vocational Education Subcommittee, and Representative WILLIAM F. GOODLING, and the vice chairman of this subcommittee for their diligence, hard work, and leadership in bringing this omnibus legislation to the floor today.

The Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary Education Improvement Act serves to reaffirm our Federal commitment and cooperation with States and local school districts, through 1993, by enhancing and strengthening elements of our popular current programs while providing for a number of new initiatives. H.R. 5 responds to our Federal focus on enhancing excellence in education, and providing access to a quality education.

Prior to the Easter recess, the House/Senate conference committee completed action on H.R. 5, and I am pleased to share an area of personal commitment and interest: chapter 1—Concentration grants.

One of the last items of difference between the House and Senate bills to be discussed by conferees were chapter 1—concentration grants. These grants are made to local education agencies [LEA's] in counties with a large number or percentage of chapter 1 students. The concentration grant concept was established in 1978, however, the last time it was funded was in 1981. Historically, recipients of concentration grants have been schools located in large, metropolitan areas while our schools in rural communities have been generally overlooked.

The House/Senate conference committee adopted the House version of the concentration grant formula, which I strongly supported, because it considers serving chapter 1 students in less densely populated areas.

An amendment I offered in the full Education and Labor Committee last spring was also adopted by the conference committee. This amendment will assist LEAs that do not receive concentration grants under the formula. State educational agencies [SEA's] are allowed to reserve 2 percent of their concentration grant moneys to distribute to LEA's with concentrations of low-income students, even though the county itself is ineligible for funds.

From a Wisconsin perspective, under the 1978 chapter 1—concentration grant provision, only 5 of Wisconsin's 72 counties were eligible to receive concentration grant dollars. Under the new formula recently agreed to by the conference committee, 19 Wisconsin countries could receive concentration grants. This new formula for allocating concentration grants gives greater sensitivity to schools in smaller, rural communities.

Under the House version, western Wisconsin would be able to secure potential concentration grant funding at a level of $439,000 each year through fiscal year 1993 which would assist in funding LEA's in six western Wisconsin counties. This is a major victory because the Senate version would have authorized only $48,000 for two LEA's in western Wisconsin.

Concentration grants will be implemented when chapter 1 funding is above $4.3 billion per year; $400 million will be allowed for this purpose. Chapter 1 funding for fiscal year 1988 is $4.3 billion. When chapter 1 appropriations exceed $4.7 billion, 10 percent of the total would be devoted to concentration grants.

I greatly appreciate the efforts on behalf of the House concentration grant formula demonstrated by Chairman HAWKINS, Vice chairman GOODLING, and Representative PERKINS. I also want to extend my appreciation to the Congressional Research Service [CRS] Education and Public Welfare Division—which was instrumental in providing numerous concentration grant formula alternatives. Their assistance helped us to formulate a concentration grant formula that will benefit areas of greatest need, rural and urban alike.

Mr. Speaker, thank you for the opportunity to speak on behalf of the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary Education Improvement Act. I urge my colleagues to support this important conference agreement reauthorizing our elementary and secondary education programs through fiscal year 1993. H.R. 5 will continue a very special partnership providing access to quality education and enhance excellence in education for our elementary and secondary students.

Mr. JEFFORDS. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I, too, as a member of the Committee on Appropriations, the Subcommittee on Labor-Health and Human Services-Education, will guarantee that our committee in a bipartisan effort will lead the fight to see that this authorization bill is fully funded. I have had a chance to analyze H.R. 5, both the compensatory and other important programs including the new gifted and talented center, and the teacher service program. I think they have done an outstanding job for their country and I congratulate the ranking and minority ranking leadership on the committee and the committee as a whole for their leadership.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the conference agreement before us today. The conference agreement on H.R. 5 represents one of the most far-reaching education bills of the decade and I commend the Chairman, Mr. HAWKINS, Mr. JEFFORDS, and our colleague from Pennsylvania [Mr. GOODLING] for their forward leadership. H.R. 5 makes good on the Federal promise to join with States and local school districts in enhancing the quality of our Nation's elementary and secondary schools. It does so by offering a package of programs that collectively reaffirm the Federal commitment to access to quality education for disadvantaged students and other students with special needs.

I come to you today as a former educator and local school board member. I am acutely aware that we must encourage and reward excellence in education and provide assistance to children who might otherwise never catch up with their more fortunate classmates. H.R. 5 accomplishes that goal.

However, I must reiterate my belief that the role of the Federal Government in education should be a limited one. Beyond my philosophical opposition to sending tax dollars to Washington, only to see 60 cents returned, it is undeniable that State and local governments are best equipped to know what their particular community needs most. Local governments can provide the kind of flexibility, creativity, and attention to detail that is impossible on the Federal level.

The final version of H.R. 5 includes my amendments on youth suicide prevention. The Roukema amendments establishes authorized youth suicide prevention programs as allowable programs under the Anti-Drug Abuse Act and chapter II block grant fund.

The chapter II block grant, which provides money for such programs as early childhood development, "at risk" students, schoolwide improvements, now includes one more important program: suicide prevention. Let me be clear, this does not mandate suicide prevention education. This allows suicide prevention programs as an option. My amendment allows local schools, if they desire, to apply chapter II block grant money to establish needed programs in youth suicide prevention.

My own district in northern New Jersey was the scene of a terrible tragedy last year. We all remember so vividly that four young people took their own lives. Dramatic evidence of the rising incidence of suicide across the country. In the aftermath, the community sought funds to develop a program to counsel children, teachers, and parents. However, their only recourse was the lengthy, difficult process of applying for a Federal grant, which in the end was denied.

Now, I do not want a national competitive grant program to be the only recourse for communities to receive money if they desire. My amendment is constructed to give the authority solely to the local entity without imposing the Federal Government's will or discretion on local agencies. It is an effort to supplement and help schools deal with a tragic problem within their communities, if they choose that option.

The school is the one institution that is the common denominator for all these students. The purpose of my amendment is to use the schools to identify high-risk students and to identify them before they drop out. In addition, our local option provides the opportunity for the community to decide if there is a genuine need. Principals, school teachers and officials who are most sensitive to the specific local circumstances will have the opportunity to establish programs and train personnel.

There is no doubt that suicide among teenagers is among the most serious social problems in that age group. Suicide is the leading cause of death among persons between the ages of 15 and 24, second only to traffic fatalities. The number of young people taking their lives has increased greatly in the last few decades.

Last year, the Subcommittee on Elementary, Secondary and Vocational Education conducted hearings on teenage suicide prevention. A panel of expert witnesses offered their advice on how to prevent these tragedies. The experts confirmed that there is a well-established relationship between drug abuse and youth suicide. My amendment recognizes this connection between drugs problems and other problems facing our young people.

Mr. Speaker, no piece of legislation can be perfect and this bill is no exception. I have serious reservations about one program included in H.R. 5—that is the Bilingual Education Act. I have long been a critic of the Bilingual Education Program for its failure to recognize the need to teach English to non-English speaking children as early as possible. Experience, during the life of this program, has demonstrated that teaching students in their native language has not proven effective.

Although this compromise allows additional funding for alternative teaching methods such as "immersion" and "English as a second language," I would have liked to have seen it go further. While alternative methods provide some flexibility, bilingual education programs should be geared toward getting school children assimilated into English-speaking classes rapidly and effectively.

The inability to speak English can severely hamper a citizen's ability to participate fully in the mainstream of America. We should not hesitate to support educational methods that ensure such participation.

Another issue of great concern to me was the program improvement provision. Program improvement requires States to perform evaluations of local education agencies to determine improvement or decline in school progress. State and local jurisdiction must be clearly defined. While locals deserve the freedom to determine their curricula and programs, States have certain oversight authority to ensure that schools remain in compliance with basic program requirements.

The conference agreement carefully balances this relationship. States will receive a percentage of program funds to be used at the local level for program improvement. Furthermore the compromise allows local agencies workable time frames for improvements and provides States with the needed funds to help implement such changes. The dual Federal and State commitment is clearly formalized in this compromise. I commend my colleague Mr. GOODLING for his tireless effort in forging this solution.

Mr. Speaker, in the spirit of compromise the House accepted the Senate proposal on magnet schools, but not without a fight! The Senate proposal establishes a separate program, identical to magnet schools, yet without desegregation as the main objective. I simply do not see the need for establishing a new costly program for alternative schools. The current program is effective and commendable in its purpose, yet underfunded.

Magnet schools have established quality schools in areas with a high concentration of minority students. These schools have excelled in their academic standards and vocational skills. They offer a curriculum capable of attracting substantial numbers of students of different racial backgrounds. But most noteworthy, students are accepted on the basis of talent, not wealth.

Although magnet schools are one of the most effective programs in H.R. 5, in the last year only 48 of the 126 districts which applied for funds received them. There simply was not enough money to be distributed.

There can be no questioning the impact and far-reaching effects of this bill. It's scope reaches all ages; from early intervention programs for our very young, to dropout prevention and school improvement for teenagers and adults to close-up programs for the elderly. I want to commend my colleagues from the House and Members from the other Chamber for their diligent efforts in fashioning this final piece of legislation.

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Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 5, particularly the magnet school section, the bilingual section and the Indian education programs in the bill.

Mr. Speaker, as we know, H.R. 5 is a major piece of legislation that reauthorizes almost every elementary and secondary education program until 1993, and creates a number of new initiatives. However, I would like to touch briefly on three areas in the bill in which I have a particular interest.

As sponsor of the legislation to reauthorize the magnet schools, I am especially pleased that H.R. 5 incorporates this popular and important program. Magnet schools specialize in different programs and draw students throughout desegregating school districts with an interest or aptitude in that subject. As a result of this creative approach to education, magnet schools bring together children from varying social, economic, and racial backgrounds. It is the only Federal program that combines desegregation efforts with academic excellence, and I am proud to be the sponsor of legislation that continues the historical purpose and intent of magnet schools.

There has always been a heavy demand by local school districts for magnet school grants, and I am pleased that the conferees were able to provide more funding for this program—$165 million has been authorized for fiscal year 1989, and such sums thereafter. The increased authorization level is more than double the current figure and reflects the great need throughout the United States for funds to facilitate desegregation within school districts. I am grateful that conferees were so supportive of the original intent of magnet schools and provided additional funding for the continuation of this vital program.

H.R. 5 also incorporates legislation to reauthorize bilingual education. In addition to simply extending this program, H.R. 5 makes several changes that were in response to hearings and research on bilingual education. Moreover, H.R. 5 authorizes $200 million for fiscal year 1989 and such sums thereafter—an increase over current funding levels. H.R. 5 recognizes that the number of limited-English-proficient [LEP] students has been expanding rapidly; indeed, demographic projections indicate that the LEP student population will continue to grow 2½ times as fast as the overall student population through the end of the century.

H.R. 5 reserves at least 60 percent of appropriations for bilingual education programs, but also emphasizes the importance of instruction in the student's native language by stipulating that 75 percent of this amount be directed toward traditional bilingual education. The bill also encourages the use of developmental bilingual education, a novel approach in which students with different language backgrounds learn from and teach one another their respective languages. This method is an important one which may lead to both the acquisition of English and successful academic achievement by limited-English-proficient students. Moreover, H.R. 5 recognizes the importance of training teachers for bilingual education by reserving 25 percent of appropriations for this purpose.

I also take particular pleasure in the amendments to Indian education programs included in title V of the conference report. As a member of the committee who has had a decade-long commitment to meeting the educational needs of native Americans, I have had the lead role in crafting these provisions. Two provisions are of primary importance in the effort to obtain true self-determination. The first is the prohibition in the bill against any unilateral transfer of Bureau of Indian Affairs schools to third-party, nontribal entities. The second is a new authority to fund tribally controlled community schools under a grant authority, which will provide more flexibility and local control than the current contract authority. In passing the new grants authority, the Congress will be taking another historic step in its relationship with Indian nations. The policy provision in the grants authority specifically repudiates the outdated and failed policy of unilateral termination of treaties and the trust relationship between Indian nations and the United States. The policy of termination, set forth in a House concurrent resolution in 1953, has been a dark shadow on our relationships with our Indian constituents for the past 35 years. Today, we admit the error of the past, lift this cloud, and move forward.

In reauthorizing the Indian Education Act Program, the conference report has simplified the measure by reenacting the current, disorganized set of authorities into a separate, freestanding authorization. I am also proud that the conference report addresses the problem of proof of eligibility for services. Briefly, the problem of proof eligibility surfaced in 1985, when the department attempted to restrict the eligibility of Indian students to participate in this program by limiting the acceptable proofs which the students' parents could bring forward. Whether done for programmatic reasons or as an attempt to cut down the budget and justification for this program, the effect was to cut the eligible population of students in half and to effectively terminate the programs for urban and non-reservation-based school districts. Note that this was not a matter of whether or not these students were eligible. It was a matter of whether they could prove eligibility.

In fashioning a response, the conferees have been greatly aided by the cooperation of the entire Indian community. Basically, the conferees agree that the form, which was used in the 1985-86 school year to establish eligibility, will continue to be the form used for this purpose. The department shall continue to request specific information as set out on that form. However, the statute makes it clear that: First, other proof of eligibility shall be likewise considered and valid; second, the Secretary shall establish no limitations of the proof to be considered and failure to fill out any parts of the form shall not be sufficient, in and of itself, to find a child ineligible; and third, the policies and practices in effect in academic year 1985-86 relating to sufficiency of proof of eligibility, specifically including the rule on "good-faith compliance," shall be used in reviewing the forms submitted. Nothing in the statute is meant to require submission to the department of all forms.

The conference report also calls upon the President to convene a White House Conference on Indian Education. Such a national meeting is overdue. I look forward eagerly to the discussion surrounding preparation for, and actual participation in, this national conference, and anticipate recommendations from this body which will lead to substantial improvements.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, it is an honor and indeed, a delight for me to rise to offer my strong support for the conference report on the bill H.R. 5, now known as the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. In my view, there is no justifiable reason why this conference report should not be passed unanimously.

As usual, Chairman HAWKINS and his Elementary and Secondary Education Subcommittee staff are to be commended for their outstanding work in bringing to the House a conference report that each and every Member of Congress can be proud of. I would like to commend the majority and minority counsels for the subcommittee, and in particular, Jack Jennings, for their diligence in defending the House position during staff negotiations on the proposal before us. Not only should Chairman HAWKINS and his staff be proud of the work they have done on this measure, in fact, when these amendments are enacted into law, the entire Congress should be proud of the renewed commitment to quality effective education that H.R. 5 will foster.

While there are many notable provisions in the conference report, in particular, I am pleased with the provisions dealing with dropouts which I first proposed in H.R. 738, the School Dropout Demonstration Assistance Act. For the first time in years, the Federal Government will once again devote funding for the express purpose of addressing the plight of young people who have either dropped out of school or who are contemplating dropping out. The $50 million dollars authorized for this new program will more than be repaid with the useful information we will garner from the results of the programs set up for dropouts.

With the implementation of this section of H.R. 5, we will begin the process of rescuing the futures of thousands of young people who otherwise would be destined to become part of society's growing underclass.

I also want to discuss an issue that has become very popular in these days of record setting budget deficits—the issue of fiscal accountability. While attention has understandably been focused on fiscal accountability with the expenditure of Federal funds, H.R. 5 ensures that this focus is clear by putting in place requirements for program quality and improvement.

Chapter 1 now has a mandate that clearly states that local educational agencies and State educational agencies must assume responsibility for improving chapter 1 programs when they are not helping children to make substantial progress toward achieving local goals in terms of the basic and advanced skills that all children are expected to master. Thus, children not showing meaningful progress toward achieving those local goals will not be subjected to repeating a program that has failed to improve their level of skills. This will serve the dual purpose of ensuring that Federal funds are spent wisely with positive results.

As stated in H.R. 5, the Local Educational Agency [LEA] will begin the process of assessing the effectiveness of its chapter 1 programs and submit full evaluation results to their respective State Educational Agency [SEA]. If the program has not helped students to make substantial progress during the first year in question toward achieving locally determined outcomes expressed in terms of the basic and more advanced skills that all children are expected to master, then the LEA is obligated to institute a program improvement plan. If this plan does not result in adequate improvement to achieve the desired outcomes, the LEA, jointly with the SEA, develops and implements a further program improvement plan, with program improvement assistance made available from the appropriate source by the SEA. In this instance, the SEA has two well defined roles, both of which affect the quality of the program. The first is in program improvement and technical assistance and the second is in program monitoring and enforcement. Thus, we ensure that Federal funds spent on this program will be used in a most fiscally responsible manner.

Another provision which I would like to make mention of is the coordination of chapter 1 programs with regular school programs that schools employ to help students master basic skills. Many times minority and poor children, those often served by chapter 1, are most at risk of being placed in lower tracks of the regular program, misclassified, given a watered down curriculum, and held to lower expectations than their peers. All too often these students are assigned to a group or track which is itself not designed to accomplish mainstreamed achievement of the skills which the school has deemed appropriate for its students.

With respect to chapter 1, enactment of H.R. 5 will mean that schools will have to examine the chapter 1 students' regular program and modify any features, including grouping practices, which may be frustrating achievement of the overall chapter 1 goals. Thus, the coordination called for in H.R. 5 will result in curricular goals which will foster meaningful achievement for chapter 1 children which parallels the achievement expected from regular program students.

In closing, Mr. Speaker, let me just say that this conference agreement and the bill it relates to, the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, signals a new day in addressing the priorities of those who will, someday, plan our space missions, run our corporations, write our newspapers, and in fact, take our places in this very Chamber. In short, when it comes to priorities, the well-being of our children should be at the top of the list. H.R. 5 recognizes that priority and does so in a manner that we can all stand behind. I urge my colleagues on both sides of the aisle to support passage of this most worthwhile agreement.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise to support the bill and to commend Chairman HAWKINS on the excellent job he's done in providing us with a bill that truly deserves bipartisan support.

His staff and all of the conferees' staff should be commended also for their outstanding effort to resolve the differences of the Members and the House and the Senate.

It is approriate that this bill has been named in recognition of Chairman GUS HAWKINS who, as a Member of the House for the past 26 years, has been one of the most stalwart advocates of education and training programs in this effort to open opportunities for all Americans.

H.R. 5 reauthorizes over a dozen elementary and secondary education programs. It strengthens accountability by ensuring program improvement in schools with lagging chapter I programs; it sets priorities for chapter II block grants, and strengthens data collection and evalation, as well as reforming audit procedures.

The compromise on NAEP strikes a reasonsable balance and it helps meet our nation's need for quality information on educational achievement, while avoiding wasteful spending, biased or misleading data, or creation of a national curriculum.

Kindergarten is too late if we want cost-effective educational excellence. Head Start and other programs show that an "ounce of prevention" in early childhood education boosts achievement and saves taxpayer dollars by preempting school failure, dropping out, and unemployment problems. The Federal Government saves $6 eventually for every dollar spent on high quality preschool programs. The "even start" program will provide preschool education to younger children, and provide a bridge between Head Start and programs for older disadvantaged children.

Mr. Speaker, another important aspect of the bill deals with our Nation's high dropout rate. Dropping out of school means dropping off the ladder of achievement and economic independence. H.R. 5 establishes a Dropout Prevention Program to keep at-risk students in school and to help those who have dropped out get back into the classroom.

At a time when command of languages is increasingly important for American competitiveness and security, and when the limited English school population is growing at a rate three times that of the general school population, America needs to invest in our language resources. Bilingual education and improved foreign language education programs do this.

As author of the legislation reauthorizing the Emergency Immigrant Education Act, and coauthor of the legislation reauthorizing bilingual education I've worked with other Members to meet this important need.

With other Members we have worked for flexibility in bilingual education including acceptance of the Senate provisions on innovative programs and improved assessment of achievement in building English language proficiency. Along with foreign language programs, developmental bilingual classes that build student proficiency in two languages are an essential part of America's investment in language resources for commerce and community. The department currently funds just 2 developmental programs—accounting for one fourth of 1 percent of part a funds. It is essential that title VII's flexibility include increased funding for developmental bilingual programs. Other changes in title VII strengthen parent involvement and enhance service to minority language handicapped students.

It is ironic that America's first children have yet to receive the kind of educational services they are entitled to—in part due to the department's effort to unreasonably restrict the participation of LEP American Indian children in bilingual education. H.R. 5 narrows the Secretary's discretion to ensure that these children receive the educational opportunities they need.

Long waiting lists for adult English courses have been reported in many parts of our country. In Los Angeles alone over 40,000 adults were on waiting lists. The new immigration law's English proficiency requirement is amplifying this need. The English Literacy Grants Program, which I introduced, stimulates grass-roots programs by local schools, community organizations, and others to provide the English language skills adults need to participate in America's vast opportunities.

A Star Schools Program is established to help speed schools along the learning curve in adopting telecommunications and electronic technology to the classroom. This is a significant step toward creation of an electronic classroom that enhances the ability of teachers to better meet the educational needs of all our Nation's students.

Mr. Speaker, America cannot afford to lose so many of its best and brightest young people just because they are not male, their skin is not white, or they live in a neighborhood where property values are low. America cannot let so many of its young people fall through a hole in the flag. America offers the best education in the world for some students—but it provides a Third World education for others. H.R. 5 works to ensure equal educational opportunity and to build the American community so that our Republic will never become a land of the separate and the unequal.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. Fawell].

Mr. FAWELL. Mr. Speaker, as a conferee on H.R. 5, the conference report to the School Improvement Act is one bill that we can all unanimously and enthusiastically support. Our good colleagues, Augustus Hawkins and Bill Goodling, are to be commended for their fine efforts to steer this legislation through conference.

H.R. 5 is critical to the Federal Government's commitment to education. The well-respected report "A Nation At Risk" leads me to conclude that too many of our young people are inadequately prepared to meet the challenges of the 21st century. The reforms included in H.R. 5 are designed to help us meet those challenges for the next century.

H.R. 5 reauthorizes and improves every major elementary and secondary education program, including chapter 1 compensatory education, chapter 2 school improvement, math and science teacher training, drug prevention education, bilingual education, adult education, and magnet schools. H.R. 5 also establishes some new and bold initiatives tackling illiteracy, improving basic skills and keeping potential dropouts in school, providing assistance to gifted and talented children, and improving the performance of students and teachers.

The major focus on H.R. 5 is the reauthorization of chapter 1 compensatory education. Chapter 1, the centerpiece of Federal efforts for improving the basic skill needs of educationally disadvantaged children, is already a good program. The conference report makes it better by including several provisions designed to improve chapter 1's effectiveness and help educationally disadvantaged children master grade-level proficiency.

The most significant improvement requires chapter 1 schools to meet certain achievement standards and reverse any declining achievement trends. If the chapter 1 program shows no significant improvement after 1 year, the local school district must provide the necessary technical assistance to bring the program up to par. If there is no improvement in achievement rates after 2 years, the local school district must work in partnership with the State educational agency to prevent further decline and implement the necessary reforms. The program improvement provisions are crucial for ensuring that schools will be accountable for addressing the needs of their educationally disadvantaged students.

An effective chapter 1 program is also dependent on parental involvement. School districts will be required to develop programs, activities, and procedures to involve parents in the education of their children. Parents will be directly involved in the planning and implementation of chapter 1 programs.

Introducing innovative concepts in chapter 1 will help to sustain and enhance the program's effectiveness. School districts will now be allowed to use up to 5 percent of their chapter 1 grants for innovative projects, including incentive payments to schools that have demonstrated success, encouraging innovative approaches for parental involvement, and fostering community and private sector participation in the program.

The conference report also recognizes that a correlation exists between low academic achievement and areas with high poverty levels. H.R. 5 includes a concentration grant formula that truly targets additional chapter 1 funding to high poverty school districts where the number of poor children exceeds 6,500 or 15 percent of enrollment.

Two new initiatives are incorporated into chapter 1: First, Even Start; and second, basic skills improvement and dropout prevention. Even Start will expand chapter 1 services to at-risk children ages 1-7 and their parents. This partnership of early childhood and adult education is based on the understanding that childhood advancements in education are linked to the presence of literate parents at home.

Helping at-risk high school students and keeping them in school is the purpose of the Basic Skills Improvement and Dropout Prevention Program. This program provides much needed basic skills services to educationally deprived secondary students, helps to keep students from dropping out of school, and encourages those who have dropped out to return and finish school.

The conference report wisely maintains the block grant approach of the chapter 2 program. This school improvement program gives States and local school districts the flexibility to meet changing educational needs—something which they could not achieve through numerous, small categorical programs. Local school districts may use their chapter 2 funds to improve education in several broad areas, including programs for at-risk children, gifted and talented children, teacher training, and effective schools.

Several improvements are made in the math and science teacher training program under the conference report. The current program has been ineffective because of hampering set-asides and reporting requirements. H.R. 5 streamlines the present program by limiting funding to math and science teacher training, thus eliminating funding for computer learning and foreign language instruction.

The conference report channels an overwhelming majority of funding to local school districts, ensuring that enough funding will be available to operate effective teacher training programs. In cases where school districts receive small grants, they may apply for funding in a consortium with other school districts or higher education institutions. This provision, which is a variation of an amendment I offered in committee and was included in the original House bill, helps to put viable teacher training programs in place.

The conference agreement also sets aside 4 percent of the overall appropriation for the Secretary's discretionary fund to conduct national programs. Although an original draft of the math and science program eliminated the Secretary's discretionary fund, I felt that such a set-aside was needed. The committee eventually adopted my view that this relatively new program needed direction at the Federal level to determine what works in math and science teacher training. The Secretary will award grants for programs of national significance in math and science instruction and disseminate information about exemplary national programs to State educational agencies, school districts, and higher education institutions.

The most positive and unexpected changes in H.R. 5 are probably made in bilingual education. As an original sponsor of legislation which would give school districts greater flexibility in determining the method of instruction for teaching limited English proficient [LEP] children, I am genuinely pleased that the conference report lifts the 4-percent funding cap on special alternative instruction programs to 25 percent. This reform in the bilingual program is critical and recognizes that the research does not demonstrate that transitional bilingual education, or native-language instruction, is more effective than special alternative instruction—usually English as a second language or English immersion—in teaching LEP children.

Under the current program, only 4 percent of part A funding can be used for special alternative instruction programs. The remaining 96 percent is earmarked for native-language instruction programs. H.R. 5 lifts the cap on alternative instruction to 25 percent.

Lifting the cap on alternative instruction to 25 percent takes into account the concerns of many local school districts that this method of instruction best meets their needs for educating LEP children. When school districts must educate LEP children from numerous language backgrounds, alternative instruction provides very diverse students with the most efficient method of preparing them to read, speak, and write English.

The demand for alternative instruction clearly exists. In 1985, the first year alternative instruction funding was available to school districts, over 25 percent of the grant applicants requested this type of funding. With the restrictions on alternative instruction loosened, there may even be a greater demand for these grants.

To ensure that LEP children move into all-English classrooms as quickly as possible, H.R. 5 limits student enrollment in federally funded bilingual programs to no longer than 3 years. This restriction ensures that quality bilingual education programs will be implemented.

The success of magnet schools is affirmed under H.R. 5. Research shows that magnet schools are successful at fostering educational excellence, giving parents broader choices for their children's education, and achieving racial desegregation without forced busing. More importantly, the existence of magnet schools in a school district may challenge other schools to improve the quality of their programs, resulting in benefits to the entire school system.

Congressional and administration support for this program is rightfully growing. The House-passed budget resolution increases the appropriation for magnet schools from $72 million this year to $110 million in 1989. I strongly support H.R. 5's $165 million authorization for this program in fiscal 1989.

Because magnet schools have been successful, H.R. 5 establishes a new program of alternative curriculum schools, which are very similar to magnet schools. Under this program, grants will be made to schools specializing in certain academic areas that are not eligible for magnet school assistance, as long as those school districts prove their commitment to integration and quality education. Eligible schools must be in districts that are at least 65 percent minority, and the school itself must have at least 50 percent minority enrollment.

The conference report also includes initiatives to tackle illiteracy, particularly among limited English proficient adults. A new component of the adult education program authorizes funding for adults with limited English proficiency. Because adult education services are in great demand, the basic grant program is not able to serve all of the eligible limited English proficient adults. This new program specifically targets this population for adult education services.

Improvements I sought in the Drug Free Schools and Communities Act to help States and localities get drugs out of schools and off college campuses are incorporated in the conference report. I authored a change requiring local applicants to describe the extent of the drug and alcohol problems in their schools. The applicant must also describe its drug and alcohol policy, including an explanation of the practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises.

To determine if schools are implementing effective programs and demonstrating success in combating drug use, the conference report includes my amendment requiring the local applicant to submit progress reports to the State educational agency. The reports must include information about the applicant's significant accomplishments and the extent to which the original objectives of the plan were achieved. If the State agency determines that the applicant is not making reasonable progress toward accomplishing its objectives, it must provide technical assistance to the applicant.

The School Improvement Act embodies significant policy changes in our Federal elementary and secondary education programs. These improvements reflect the changing needs in educating our Nation's young people and preparing them for their future. I strongly urge my colleagues to support this conference report and its significant policy changes.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, I rise in support of the conference agreement on H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Amendments of 1988. As a member of the conference committee I worked very closely with the legislation. I truly feel that this agreement reflects the best combination of House and Senate bills. I would like to speak to one part of the bill in which I have a particular interest, the comprehensive child care development centers. The conference agreement authorizes $25 million in competitive grant money for pilot projects designed to help insure that the very young, potentially at-risk children get a fair chance. The centers, which are to be tailored to local needs, will coordinate existing services and fill in the gaps where necessary. The goal of such centers is to bring the various vital services under one roof, or at least provide easy access to them. I have heard many stories of how families were referred from one agency to another until they finally gave up, or how families were unable to take advantage of the services offered because they could not not get to the facility during business hours.

The services provided under this initiative will include: prenatal and postnatal nutrition, infant screening, maternal health and nutrition, parent support groups, home visits by peer paraprofessionals, as well as job training programs. The object is to reach kids before the damage is done. More and more research is showing the vital importance of the first 3 years of life. Such programs make good economic sense. We need to start spending our limited budget more wisely, this includes putting more money into very early intervention programs. There is language earmarking funds for rural areas such as West Virginia. Mr. Speaker, $300 billion per year is spent on education from age 6 to 18. Yet less than $1 billion is spent from birth to 6. Our child development center program begins to correct this. This initiative projects need to exist for at least 5 years. Mr. Speaker, I again urge my colleagues to vote in favor of the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Henry].

Mr. HENRY. Mr. Speaker, I want to add my thanks and congratulations to Chairman Hawkins and to my ranking Republican Representatives Jeffords and Goodling and to their staffs for their hard work and constructive effort in bringing this bipartisan education bill to this point.

I am pleased to have played a part in crafting what is one of the more important educational reforms in this bill—the effort to include educational accountability in the chapter 1 program. For many years we have required local school districts to show compliance with fiscal requirements of chapter 1. We have not, up to this point, required that they show educational achievement on the part of the students served as a result of receiving these funds. The so-called program evaluation and program improvement sections of this bill require that schools evaluate the educational progress of students in the chapter 1 program. Where improvement is not shown, assistance by, first, the local school district, and then by the State educational agency, is required until that program is turned around.

I want to also highlight two other changes in chapter 1 requirements which I hope will go a long way in achieving a better targeting of these funds on the students we intend to help. One is a specific requirement that schools which receive chapter 1 funds select for the program those students within the school who are in greatest need of these compensatory education services. Thus if a school has students in the program who are at a higher achievement level than others who are not in the program, the school must be able to show a specific reason, such as that the school is not serving a particular grade level, for that situation.

The second change requires that, just as special attention must be given to a school program that is not showing improvement in educational achievement, so too special attention must be given to individual students who are not improving educationally despite participation in the chapter 1 program. If, after one year in the program, a student has not made progress toward achieving grade level, the school and school district must review the chapter 1 program and its appropriateness to that student's needs. If the situation continues for a second year, a more complete evaluation of the student's needs must be done. One of the unfortunate problems associated with the number of special and compensatory education programs set up over the past two decades or so is the frequent lack of coordination between programs and the placement of students in one program or another on the basis of factors other than which one best fits the student's specific needs. Hopefully this provision, along with specific requirements for coordination amongst a school's programs, will help to prevent chapter 1 from becoming a separate educational track as sometimes now occurs.

These amendments, along with the effort to concentrate funds in areas of greatest poverty, go to several of the shortcomings of the current chapter 1 program which I and Representative Petri identified at the beginning of the reauthorization process and which led us to introduce reform legislation called Children's Options for Intensive Compensatory Education [Choice]. The reforms we proposed were considered radical, particularly for an area—education—in which reform comes slowly and painfully, and were indeed too radical for this reauthorization. While I am pleased that the concerns we raised were at least the cause of some changes in the program in this reauthorization, the route taken to much needed educational accountability in this bill comes at a price—increased bureaucratic requirements and control. I would have preferred, and the Choice bill proposed, a different approach—to give greater responsibility and accountability to parents, by encouraging a variety of institutions and organizations to offer remedial education services, and allowing poor parents the opportunity to choose the best program for their child. That would have required a more dramatic change in the chapter 1 program, which this bill does not make. But I hope that we can continue to search for new ways of making this program more effective in giving the benefits and opportunities of education to our disadvantaged youth.

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Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. Perkins].

Mr. PERKINS. Mr. Speaker, it is with great pleasure that I am able to rise today and to voice my strong support for the conference agreement on H.R. 5, the School Improvement Act.

I want to express my great appreciation to my distinguished chairman for his leadership throughout this conference. We were very successful in carrying the overwhelming charge that was given to the conferees with the passage of the original legislation by a vote of 401 to 1 back in May of 1987. We were able to do this because of the leadership of Chairman Hawkins and the bipartisan commitment to the legislation that was shared by the conferees.

This legislation contains many positive programs that are going to directly impact on the lives of children and adults all across this great Nation. They may be in a school district that receives funds from the chapter 2 block grant that will enable the school to provide programs for gifted and talented children or to target the "at risk" children who may be likely to become dropouts. Also included are programs that will help with our efforts in math and science education, immigrant education, adult education, magnet schools and may more critically important areas.

In particular I am excited about the conference agreement that renewed this Government's commitment to the chapter 1 program which has proven to be a shining example of how a Federal program can successfully work in assisting the local school districts with basic grants. Of primary interest is the agreement to endorse the House version of the $400 million concentration grant. Within the framework that was agreed upon we will see the most deserving of the youth in this country targeted for additional assistance. We are answering the few critics that say that chapter 1 is not targeted enough by showing that we are willing to zero in on the most needy with our valuable Federal support.

I want to particularly point out my satisfaction with the specifics of the distribution formula that will fairly recognize the extremely high levels of poverty children that exist in the rural South. Twenty-five years after the "War on Poverty" programs were introduced we are still seeing the rampant growth poverty in the Appalachian regions because of the lack of needed education and economic development. The support that will be coming in the form of concentration grants is welcome indeed so that we may continue with the war at the most important level, our children.

We may throw around millions for other wars on foreign shores and question the reasoning and purpose but this is the true war for freedom that is going on today all across this country. Our people seek the freedom that only an education and a sense of self-worth can bring. All of us should commit our time and effort to assist in this battle so that some day all of our own people will be able to experience the true meaning of a phrase many only sing about: "Let Freedom Ring."

I call on all Members of this body to show their commitment to this cause of freedom and cast a vote in support of the timely and critically needed education legislation. For our Nation's future I feel we must support H.R. 5, the School Improvement Act.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Solarz].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to begin first of all by paying tribute to our extraordinarily distinguished chairman, the gentleman from California [Mr. Hawkins], for the magnificent leadership he has provided in bringing this historic legislation before us today. Tribute is also owed to the gentleman from Vermont [Mr. Jeffords], the ranking minority member of the committee, and the gentleman from Pennsylvania [Mr. Goodling], and to my colleagues on both sides of the aisle who made the adoption of this legislation possible. The enactment of this conference report will go a long way toward making this country a stronger country and a better country because it will provide the children of our Nation with the opportunity to receive the kind of quality education to which they are entitled.

The centerpiece of this bill, in my judgment, is the reauthorization of chapter 1, which provides Federal funding for those educationally and economically disadvantaged youngsters who need remedial educational assistance if they are going to be able to fulfill their intellectual potential. I am particularly pleased to take note of a provision in this conference report which will authorize incremental increases of $500 million a year for the duration of the bill so that by 1993 literally every child in America who is economically or educationally disadvantaged will be able to get the benefit of the chapter 1 program, assuming, of course, our colleagues on the Appropriations Committee see fit to appropriate the necessary funding. But this provision constitutes a kind of educational bill of rights for the young people of our country. It means that everyone will have the opportunity to get the education they deserve, and I therefore urge the adoption of the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I join with the rest of my colleagues on the Education and Labor Committee and fellow conferees in saluting the chairman and vice chairman of the committees and appropriate subcommittees who fashioned this very important legislation, appropriately named the School Improvement Act.

Mr. Speaker, we are all familiar with the catch-phrase that by investing in education, we are investing in our future. How true. And education is also a vital beginning for solutions to immediate problems—unemployment, poverty, crime, and drug abuse. Today, we are voting on one of the most important reauthorization bills which the 100th Congress will debate: The School Improvement Act. I want to take this opportunity to thank my Education and Labor Committee colleagues for their cooperative approach in fashioning this legislation.

The bill before us represents the Federal effort to assist in what is a basic function of the State governments. While we are continuing an effective program of assistance for disadvantaged students, we have at the same time maintained local control over the program—a major reform of the previous reauthorizing legislation.

Central to the School Improvement Act is the chapter 1 program which has proven to be a successful assistance package to our schools. Although I am supportive of chapter 1, I am concerned about the formula used to distribute these Federal funds. The legislation requires 1980 census data to be used in determining need. As we all know, rural areas of the Midwest have undergone a tremendous economic transformation since 1980, and although improvements are being made, statistics taken from 1980 will simply not be an accurate measure of need in 1992. It is important to remember that this reauthorization will extend the chapter 1 program through 1993—13 years beyond the 1980 census data. I point this out to remind everyone that there is much work remaining to be done. I hope the programs we are reauthorizing will serve us well until we again have the opportunity to improve Federal education programs.

Mr. Speaker, I urge my colleagues to support the conference agreement before the committee.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise today to join my colleagues from the Education and Labor Committee in expressing my strong support for the conference agreement on H.R. 5—the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

I want to take a minute to thank our distinguished chairman for joining with me in the effort to reinvigorate the Math and Science Program which H.R. 5 will reauthorize for the next 5 years. The new Math and Science Program will have a noticable impact on school districts across the country. The previous law suffered from two serious defects which undermined its effectiveness; lack of funding and lack of focus. Essentially, the goals of the program fell prey to far too many intentions and requirements.

The new program substantially simplifies administration of the program and—instead of requiring that States divide the money 13 different ways—drives nearly 75 percent of the available funds to local school districts. Local school districts are permitted to decide how they can best use their math and science funds and Taylor programs to meet their local needs.

The litany would be hackneyed if its implications weren't so dangerous.

It has become almost cliche to cite the need to increase, dramatically, the math and science skills of todays students—and there is a great deal of evidence that we have a long way to go. There are 7,100 high schools in this country that do not offer physics courses, 4,200 offer no chemistry courses, and 1,900 offer no courses in biology. In fact, only one-third of the students in grades 10 through 12 take any science courses at all.

Where will we get the next generation of American scientists and the full spectrum of workers literate in math and science? Good question. An even better question might be: Where will we find the teachers to teach them? One of the primary reasons that so many schools are unable to offer good math and science curriculum is that there are not nearly enough teachers qualified to teach those disciplines. Those who are qualified can usually be found in other, more lucrative fields. Factor in the probability that one-half of our Nations 2.5 million teachers will turn over within the next decade and you can see that we are facing a clear and present danger.

My legislation emphasizes the teacher training and retraining needs of local schools. That might mean recruiting new teachers, retaining the current biology teacher who was actually trained in English, or by offering in-service training opportunities such as summer seminars of school year course work at postsecondary institutions.

The conference agreement authorizes $250 million for this program and the expectation is that the Appropriation's Committee will treat the Math and Science Program as a high priority. I urge my colleagues to examine this program very carefuly because it offers great promise to school districts attempting to upgrade the quality of math and science instruction.

Let me conclude by thanking my chairman for his devotion to the concept of quality in educational opportunity. This was a long and difficult conference and due, in large measure, to his efforts were we able to produce this landmark reauthorization.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I would like to engage in a colloquy with the gentleman from California [Mr. HAWKINS], chairman of the Committee, regarding section 2402 of part D of H.R. 5 which is funding for research in vocational education.

Is it the chairman's understanding that the $2 million made available to the Ohio State University and the $2 million made available to University of California at Berkeley under section 2402 of part D was intended to cover the cost of performing research on vocational education during the time period beginning January 1, 1988 through December 31, 1988?

Mr. HAWKINS. If the gentleman will yield, yes, that is my understanding.

Mr. GOODLING. Then both institutions would be able to use funds provided under this legislation to pay for the costs of such research during the first quarter of 1988?

Mr. HAWKINS. Yes, that was the intention of the conference committee.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for his response.

Mr. Speaker, I would just like also to compliment the gentleman from Vermont [Mr. JEFFORDS], our ranking member. This may be his last hurrah on this side as far as education is concerned, and then we will have to deal with him across the table next time over on the Senate side, and we will beat him down just like we did the rest of those Senators over there. But he has meant so much to the children of this Nation and I think we owe him a debt of gratitude.

Mr. HAWKINS. Mr. Speaker, yielding myself such time as I may consume, I join in that reference to the ranking minority member and commend him. His support in this instance and in many other instances has proven him to be one of the great statesmen I think of this session and previous sessions. I will certainly miss him. But I want to wish him certainly much happiness and success. I do not know whether it is a promotion or not, but when he goes to the Cave of the Winds, I hope he will bring some stability.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to thank my colleagues, the chairman of the committee and my ranking members on the primary and secondary committees for their very kind words. Certainly I have enjoyed nothing more than serving with these two gentlemen and look forward to continue working with them. I am not through this year and I am going to continue to work. But I do appreciate very much their kind remarks.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, today we are considering the conference report to H.R. 5, the Augustus Hawkins and Robert T. Stafford Elementary and Secondary Education Amendments of 1988. This bill makes a number of changes which will improve the basic educational services that are provided to needy students throughout the country. There are three programs in this bill that I would like to focus upon: the State-operated program for handicapped children, the Bilingual Education Program, and the national assessment of educational progress.

The State-operated program for handicapped children, commonly known as the 89-313 program, is the predecessor to Public Law 94-142, the Education for all Handicapped Children Act. In 1965, when the 89-313 program was created, most students with severe handicaps were educated in segregated facilities with little or no opportunity to interact with their nonhandicapped peers. With the enactment of Public Law 94-142 which requires a free and appropriate education for all handicapped children, segregation of severely handicapped children has been greatly reduced. However, there are many States which continue to segregate severely handicapped students under the 89-313 program.

This conference report will allow the Congress to learn more about the 89-313 program in terms of where the program is now and where it ought to go in the future. Since 1965, when the 89-313 program was created, information on who participate in the program has been very limited. H.R. 5 will require the State Educational Agency as part of its grant application to report annually to the Secretary of Education on the number of children served in the 89-313 program according to age, type of disability, and the location of their educational placement. This information will tell us exactly who participates in the program and how they are being educated.

In addition, this conference report authorizes the GAO to conduct a study on the State-operated program for handicapped children. This study will include a description of State and local agencies that participate in the program, the children and the agencies serve, and the program for which the agencies use funds. GAO will look at how the program is administered by the State, and the what the policies and procedures are for determining when the child is eligible to be counted under the 89-313 program. Most importantly, the study will look at the policies and procedures governing the placement of handicapped children including where these children reside, where they receive their education, and the policies and procedures for transferring children from State-operated facilities into LEA's.

In particular, I am concerned that all severely handicapped students are not being served in an appropriate integrated educational environment. While the majority of school systems around the country integrate their severely handicapped children with nonhandicapped students, there are too many children who are segregated for no valid educational reason. This conference report, particularly the GAO study, will give the Congress the information it needs to make the necessary changes so that severely handicapped children have the opportunity to be educated with their nonhandicapped peers.

In the Bilingual Education Program, H.R. 5 modernizes and strenghthens the provisions which enable students to achieve full competence in English and to meet school grade promotion and graduation requirements. H.R. 5 provides that the Secretary of Education may reserve up to 25 percent of the funds appropriated under part A for grants for special alternative instructional programs. The 75-percent setaside for part A funds is not changed. This reflects the support by the conferees and myself of both teaching methods: the transitional bilingual method and special alternative methods.

The need to improve and expand bilingual education programs is particularly critical at this time due to the increasing number of non-English-speaking students entering our educational system. I believe these changes protect the current programs under part A while providing the Secretary greater flexibility in funding alternative methods of instruction. I support these changes and believe it will allow local school districts the flexibility they need to teach their limited English proficient students.

Finally, H.R. 5 makes significant improvements in the National Assessment for Educational Improvement which measures the academic performance of our students. This conference report expands the subject areas to be assessed and provides for two trial State assessments in math and science in 1990 and 1992. The conference report eliminates the controversial State-by-State comparison of State and local school systems. The subject areas in NAEP are expanded to include science, history, and geography. Currently only mathematics, reading, and writing are the learning areas which are assessed. In addition, H.R. 5 establishes an independent National Assessment Board which will set the policy for the National Assessment, develop objectives for assessing learning areas, and determine how to report the results fairly and accurately.

These improvements in the national assessment will provide more reliable and accurate data on student academic performance so that policymakers at the national, State, and local levels as well as educators and the public can better monitor the effectiveness of American education.

I commend the chairman, Mr. HAWKINS and my colleagues Congressman JEFFORDS and Congressman GOODLING for their hard work on this comprehensive education and their dedication to maintaining excellence in our public schools. H.R. 5 reflects their commitment to provide the best education possible to all of our young people.

I support this conference report and believe it will have a beneficial effect on education for many years to come.

Mr. HAWKINS. Mr. Speaker, I yield 45 seconds to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I congratulate the conferees on a fine job. I believe this bill has been shaped by a unique understanding of where we have been over the past two decades with respect to education and the foresight to increase the depth and breadth of education throughout our society in order to meet the increasing challenges that the 21st century will offer us.

The conference report on the School Improvement Act presents each one of us the opportunity to take back to our districts innovative and realistic goals for the enhancement of education across all ages and segments of society.

Only the educated are truly free: Free to understand a driving test and attain their driver's license; free to attain the needed criteria to enter a career of their choice; but most importantly, free to live a life outside the shadows of ignorance.

Twenty-four centuries ago Plato made a statement that holds true today and which requires us to pass this report and ultimately the School Improvement Act:

> The direction in which education starts a man, will determine his future life.

Mr. JEFFORDS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the conference report to H.R. 5, legislation to improve elementary and secondary education. I commend the committee's distinguished chairman, the gentleman from California [Mr. HAWKINS] and the ranking minority member, the gentleman from Vermont [Mr. JEFFORDS], and I would, as ranking minority member of the Select Committee on Narcotics Abuse and Control, like to focus my colleagues attention on title V of this legislation.

This section of the bill reauthorizes the Drug Free Schools and Communities Act of 1986, a most important act initially created by the Omnibus Anti-Drug Abuse Act of 1986. This landmark legislation, for the first time, gave the Federal Government the necessary leadership in the area of drug abuse prevention education efforts. Recognizing that the epidemic of drug abuse and narcotics trafficking throughout this country is one rooted in demand as well as supply, all efforts must be brought to bear to raise a generation that is aware of the dangers of illicit substance abuse. Title V, therefore, reauthorizes the Drug Free Schools and Communities Act for fiscal years 1989-93, and authorizes $250 million for fiscal year 1989 and such sums as may be necessary for the out years.

Funding is made available to the States, to local school districts, as well as to community organizations, for the purpose of providing drug abuse prevention, early intervention, and rehabilitation referral programs to elementary and secondary school-age students. Moreover, funds are allocated to community organizations targeting their substance abuse prevention efforts to school dropouts, and other high risk youth. Special consideration has been given at this time to the addition of youth suicide prevention programs to the jurisdiction of this act, which I fully support and which I hope will further stem the rising tragedy of teenage suicides that have plagued our urban areas in recent years.

Funding is also authorized for programs offered by institutions of higher learning, and each State receives a share of the funding for its own efforts above and beyond those developed by local schools and community organizations.

Mr. Speaker, I cannot emphasize strongly enough the need for this important act's reauthorization. The scourge of drug abuse knows no societal or geographic bounds. Too many have already succumbed to the death and misery that is drug addiction. Yet by providing comprehensive drug abuse education programs in our schools and communities, we can hope to rescue a generation of youngsters from the clutches of the narcotics traffickers. Accordingly, I urge my colleagues to support the conference report accompanying H.R. 5.

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Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Speaker, I thank the gentleman from Texas for yielding time to me, and I also want to thank him for his support to provide adequate funding for coterminous school districts.

I would like to use this time to address the distinguished chairman of Education and Labor Committee, Chairman HAWKINS.

Mr. Chairman, as a Member representing several of the impact-aid-recipient local school districts known as coterminous—that is, with boundaries the same as the military reservation they serve and with no local tax base—I rise out of concern for the treatment of these districts in H.R. 5.

As you know, the insufficiency of Federal impact aid funding for these districts led several of us to seek new language in H.R. 5 specifying that the local contribution rate for these coterminous districts be not less than 70 percent of the national average per pupil expenditure.

While this language, which came from the Senate amendment, was approved by conferees, a new limitation was added that the recipient district's per pupil expenditure could not rise above the average of all districts for its State.

I originally interpreted the language quite differently to mean that impact aid payments to coterminous districts would not exceed the State's per pupil expenditure.

After closer examination, this clause has the effect of negating the intent of position I attempted to represent.

The three coterminous districts in Texas already expend more per student than the State average for a variety of valid reasons arising from their unique characteristics. Ironically, the new coterminous agency rule in the impact aid reauthorization cuts rather than raises existing funding levels for these districts.

I was relieved to note that a final clause was added to the conterminous agency provision to ensure that their funding would not be allowed to fall below 50 percent of the average per pupil expenditure in all 50 States. Is it the gentleman's understanding that this clause applies to all coterminous districts?

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. BUSTAMANTE. I yield to the gentleman from California [Mr. HAWKINS] the chairman of the committee.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, may I say to the gentleman the answer is yes, that is my understanding.

Mr. BUSTAMANTE. Mr. Speaker, I appreciate the gracious understanding of the chairman. At least this will offer some small measure of security until we can again seek to assure that these districts receive the adequate funding they deserve.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as a cosponsor of the original House bill, H.R. 5, I rise in strong support of the conference report on the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary Education Amendments of 1988.

This legislation extends through 1993 almost every Federal elementary and secondary education program. The centerpiece of this legislation is the reauthorization of chapter 1 compensatory education programs for educationally disadvantaged children. This bill requires a better targeting of services to low-income students, and would require school districts to show progress in teaching disadvantaged students. In addition, a one-time appropriation is authorized to help school districts provide compensatory education services to children in private schools. This measure also strengthens methods for service delivery, expands access to more eligible students, and provides for more parental involvement in local chapter 1 programs.

In addition to the important changes in the chapter 1 program, this bill makes several changes in other education programs. The Federal commitment to science and math education is strengthened, the Education Block Grant Program is streamlined to more sharply focus the uses of Federal education funds, the national assessment of educational progress is expanded to include additional areas of testing, the Impact Aid Program is substantially revised in order to simplify the number of categories of eligible children and the payment rates for those children, and additional flexibility is given local school districts to determine the method of instruction in the bilingual education program.

Mr. Speaker, this bill is landmark legislation and as such it is fitting that it is named for the distinguished chairman of the Education and Labor Committee, GUS HAWKINS. Chairman HAWKINS' leadership has been vital to maintaining and strengthening the Federal commitment to quality education programs.

I urge a vote in favor of the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I thank the gentleman for yielding time to me.

On behalf of native Hawaiians I want to thank my colleagues for providing the necessary authority to address their dire educational status.

Mr. Speaker, today I rise to express my strong support for the conference report on the bill, H.R. 5. I would like to commend the members of the conference committee, especially Congressman KILDEE and Congressman WILLIAMS, and their staff, for the excellent work they have done in fashioning a bill that thoroughly addresses the educational needs of our youth.

This measure is a matter of extreme importance to all who support the fulfillment of human potential.

In particular, it is about a problem that has gnawed at our country for longer than any of us would be inclined to admit; the severe educational status of our Nation's native Hawaiian population.

That persons of native Hawaiian ancestry have suffered disproportionately from educational inequity for some time has been clearly documented. Congress has studied the issue, as have the State of Hawaii's local educational institutions; and, each time the results have been the same. Overall, native Hawaiians score below parity with national norms on standardized achievement tests. They continue to score well below national norms in achievement of basic skills. An estimated 37 percent, for example, of Hawaiian elementary students register in the lowest scoring groups, compared with a meager 12 percent in the uppermost groups—versus 23 percent nationally.

H.R. 5 takes a valuable step in the direction of addressing the dire educational needs of native Hawaiians. It focuses the attention of Congress and the Federal Government on the special needs of this native group for the first time in the history of education.

It is with the gracious support of those who are sensitive to the needs of native Hawaiians that this measure has come to fruition; a measure that is comprehensive, prudent, innovative and most importantly, responsive. I urge my colleagues support for its speedy approval.

Mr. Speaker, at a time when our Nation's competitive power is on the decline, our attention should be focused on strengthening our domestic base. Surely, our people can compete only if they have been provided with the means to achieve. A sound education is perhaps the most fundamental tool that America can offer its citizens. Native Hawaiians, as citizens of this great Nation, are in desperate need of that tool; and, Congress is prepared to place it in their hands.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it was nearly 1 year ago that the Education and Labor Committee brought H.R. 5, the School Improvement Act, to the House floor. The House approved that version of H.R. 5 by a vote of 401 to 1. Subsequently, the Senate and House have met in conference on this important education legislation and worked out their differences. The resulting legislation is not significantly different from the original House-passed bill and, in fact, has been improved and strengthened by the hard work of House and Senate conferees.

Let me point out a few of the significant provisions of H.R. 5. First of all, I am pleased that this major piece of legislation now bears the name of our chairman, Mr. HAWKINS of California. The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is a fine and fitting tribute to the dedication he has shown in improving the educational opportunities for all children. Under the leadership of Mr. HAWKINS, the Education and Labor Committee and the House of Representatives have produced a bill they can be proud of. I am also pleased that the conferees chose to recognize the contributions of the Senator from Vermont [Mr. STAFFORD] by joining his name with Mr. HAWKINS.

The House and Senate conferees wrestled with a difficult problem in attempting to create a mechanism for program improvement in chapter 1 while maintaining educational decisionmaking at the local level. I believe that the program improvement section of this bill maintains this balance.

During the conference on H.R. 5, the Senate accepted the House provision creating a small State minimum in the basic grants portion of chapter 1. When this funding provision takes effect, it will ensure that the smallest States will receive a chapter 1 grant adequate to continue providing services of high quality despite relatively small student populations. The minimum grant was constructed so that no small State will receive a windfall payment, other States will not be adversely affected relative to their current grant, and the chapter 1 program must show substantial growth before the provision takes effect.

Rural States such as Vermont face unique and difficult problems in providing their students with a high-quality education as a result of small numbers of students, isolation from resources, and conditions that are quite different from the typical urban-suburban school setting. I was pleased that the House accepted the Senate provision creating new rural education assistance centers as part of chapter 1. These centers will help rural schools improve their chapter 1 programs and provide increased opportunities to their students.

I am pleased that the conference report for H.R. 5 contains the provisions, originally adopted by the House, for the chapter 1 Handicapped Program. These provisions make four improvements in this program: First, the provisions clarify and simplify administrative requirements; second, they increase the legislation's compatibility with the Education of All Handicapped Children's Act; third, suggested uses for funds should facilitate the quality of educational opportunities for participating students; and finally, the provisions call for a GAO study which will tell us more about this program.

H.R. 5 establishes a new educational program aimed at preventing students from dropping out of school. The high rate of dropping out is a problem in Vermont and across the country. In the 99th Congress, I worked with the original sponsors of this legislation to guarantee that funds made available under this program would go to rural and urban areas on an equitable basis. The funding provisions in the legislation we are considering today reflect my original concerns and provide a fair share of funds to small schools.

In closing, there are many other programs worth noting in H.R. 5—such as Mr. GOODLING's Even Start Program—but I will not take the time to elaborate further. H.R. 5, as contained in this conference report, represents good educational policy for my State of Vermont and good policy for the Nation. I recommend H.R. 5 to my colleagues and urge them to support its passage today.

Mr. Speaker, this concludes our eloquent testimony to the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

Mr. BIAGGI. Mr. Speaker, I want to express my full support for the conference report on H.R. 5, the School Improvement Act. As New York's ranking member on the House Education and Labor Committee I am proud to be a cosponsor of what is clearly the most significant measure affecting elementary and secondary education to be considered this decade.

This conference agreement reauthorizes through fiscal year 1993 nearly all major Federal elementary, secondary and adult education programs. These programs include chapter 1—the largest Federal aid program to elementary and secondary schools; chapter 2 education block grants; adult education; bilingual education; and impact aid.

I am particularly pleased that the agreement authorizes a major new Federal grant program for gifted and talented children. I was proud to have authored the provisions establishing this grant program, which is a critical component of our overall effort to raise the level of America's competitiveness in the world marketplace. Clearly, if our Nation is to regain its competitive edge we must work to better fulfill the vast potential of our schoolchildren. The greatest potential of all lies with our Nation's gifted and talented students. Unfortunately, though, these same students are also some of our most neglected.

Gifted children are intellectually advanced, creative people, who possess great curiosity. Often, however, these children are bored or unresponsive, have poor grades or may become disciplinary problems as schools fail to provide the attention and resources gifted and talented children need to fulfill their potential. This conference agreement would respond effectively to this very serious deficiency in our educational system by authorizing $20 million in fiscal year 1989 and such sums as may be necessary in fiscal years 1990 through 1993 for a new program of grants to States, school districts, institutions of higher education, and other private and public agencies to support programs that identify and meet the needs of gifted and talented students.

This is in stark contrast to the fact that we are presently spending less than $5 per child in Federal funds to support the approximately 2 million brightest and most promising of our Nation's students. The results of this serious neglect were reported by the National Commission on Excellence in Education in a study entitled "A Nation At Risk." The report noted that "over half of the gifted students do not match their tested ability with comparable achievement in school" and that "both the number and proportion of students demonstrating superior achievement in the scholastic aptitude test have also dramatically declined." Their recommendation—"the Federal Government, in cooperation with States and localities should help meet the needs of key groups of students such as the gifted and talented"—is now being acted upon, and it's about time.

Another key provision in the conference agreement, which I was also proud to author, creates workplace literacy partnership grants designed to improve employees' productivity by improving their literacy skills. This grant program is authorized at $30 million in fiscal 1988, $31.5 million in 1989 and such sums as necessary thereafter.

These funds will support adult education programs which teach literacy skills needed in the workplace. Activities will be supported that assist in the completion of a high school diploma or its equivalent; help meet the literacy needs of adults with limited English proficiency; improve the competency of adult workers in speaking, listening, reasoning, or problem solving; and provide education counseling.

The need for such a program is overwhelming. Quite simply, this Nation is facing perhaps the most severe trade crisis in our history. Yet I believe we have been losing sight of the most important factor in influencing America's competitive posture in world trade—the education of our citizens. We must provide services to our workers so they can function effectively within a rapidly changing economy and who can adapt to the everchanging environment of the workplace.

Simply consider this very telling fact. According to a recent study by the National Assessment of Educational Progress, 43 percent of persons ages 21 through 25 are unable to perform at a level sufficient to master multistep directions, communicate ideas and directions to other workers, or calculate at a level needed for high technology occupations. The workplace literacy grant program contained in this conference agreement will help to correct this very serious problem.

There are many other important provisions in this agreement, most notably the reauthorization of the chapter 1 compensatory education program, which seeks to meet the special educational needs of low-income and disadvantaged children. Central to the chapter 1 reauthorization is the concentration grant provision, which will focus additional resources and services on those areas most in need. Special efforts were made to ensure that these concentration grants are distributed equitably among the States.

Other provisions that I believe merit special attention are those providing for impact aid and bilingual education, both of which are vitally important to my home State of New York. I am also very pleased with the new Dropout Prevention and Reentry Program authorized under this agreement. The agreement specifically provides for $50 million to fund demonstration projects on ways to prevent students from dropping out of school and to encourage those who have dropped out to return and finish school. The dropout problem has long plagued New York City schools and this has been a special concern to me. I am pleased to note that this grant program places a special emphasis on areas with a high dropout rate. I want to commend my good friend from Illinois [Mr. HAYES] for his exemplary leadership in this matter.

There is perhaps no greater threat to the future of our great Nation than drug abuse and this legislation recognizes that fact. The agreement extends the authorization for the drug abuse education programs of the Drug-Free Schools and Communities Act of 1986. It authorizes $250 million in fiscal year 1989 and such sums as may be necessary in fiscal years 1990 through 1993 for drug and alcohol education, prevention and early intervention programs.

Mr. Speaker, we can all be very proud of the legislative product before us today. We are making a very substantial investment in the future of our country—an investment that should yield a very high rate of return. I wish to close by commending the distinguished chairman of the Education and Labor Committee, Mr. HAWKINS, and the ranking minority member of the Elementary, Secondary and Vocational Education Subcommittee, Mr. GOODLING, for their outstanding leadership in crafting this vital piece of legislation.

Mr. CAMPBELL. Mr. Speaker, today I rise in support of the conference agreement on H.R. 5. I want to commend Chairman HAWKINS and distinguished Members of both sides of the aisle for the excellent job they have done on the School Improvement Act.

H.R. 5 renews support for important Federal elementary and secondary education programs, including key programs such as chapter I, math and science, bilingual education and Indian education. This bill embodies our Nation's commitment to meet the needs of our youth and adult students, offering them a chance to build their skills and self-esteem.

Carefully crafted to address economic and social changes, H.R. 5 will help ensure that all our citizens have access to a quality education. This legislation is designed to meet the special needs of low-achieving, economically disadvantaged students and helps redistribute funds to poor rural areas that often get the short end of the stick. Many school districts in Colorado will benefit from these provisions.

Education is an investment in our future. I urge my colleagues to support H.R. 5.

Mr. ACKERMAN. Mr. Speaker, over the past year 500,000 young people have attempted to take their own lives. Tragically, 5,000 have succeeded. These youngsters have slipped away from us. They have become a cruel reminder of our failure to communicate, listen, and help. A new chapter 2 provision, included in H.R. 5, provides a small, but significant step to assist in fighting the No. 3 killer of our young.

This new section provides a successful battle plan in the fight against youth suicide. It was included in H.R. 5 in recognition of strong bipartisan support of legislation introduced earlier this year by myself, Mr. LANTOS, Mr. DIOGUARDI, and Mr. KILDEE—H.R. 457, the Young Suicide Prevention Act. A bill identical to H.R. 457 passed the House in July 1986.

At this time, I want to express my sincere appreciation to Chairman HAWKINS for his commitment and leadership on the issue of youth suicide, and for ensuring that the youth suicide prevention program was included in the final version of H.R. 5.

The youth suicide prevention provision authorizes chapter 2 funds for school-based suicide prevention programs. It is my strong desire that the Secretary of Education identify exemplary programs, and disseminate information regarding those programs to interested school districts and nonprofit organizations.

I strongly believe that, in its entirety, H.R. 5 provides the education that our youngsters need, and the youth suicide prevention provision enables our kids to live to enjoy the fruits of their education.

Mr. FLORIO. Mr. Speaker, I urge my colleagues to vote in favor of the conference report on H.R. 5, the School Improvement Act. The programs in H.R. 5 go a long way toward meeting the educational needs of our Nation's youth.

The school improvement act is particularly significant because of increased authorizations for basic skills programs in high schools.

I am pleased that the conference report includes funding for secondary schools basic skills programs. Until now, high schools have not received the Federal support needed to teach the fundamentals to disadvantaged students. The legislation creates a program specifically designed to meet the needs of high school students.

At the same time, as agreed to by the conferees, funding will be closer to the realistic funding needs originally envisioned by my legislation.

Together with Congressman PAT WILLIAMS, I authored the Secondary Schools Basic Skills Act. The act targets Federal support at high schools. Today, few of the available chapter 1 funds go to high schools. Only 12 percent of the available funds go to high schools.

But without those critical funds, needy and disadvantaged high school students have not been and cannot be fully served.

Today, half of all educationally disadvantaged high school students do not have access to basic skills programs. And yet these programs could help overcome their learning needs.

The funding gap has created an education gap in high schools. More students graduate into the real and cruel world of functional illiteracy. Throughout the Nation, one-sixth of all 17-year-olds lack needed basic skills. These are the basic skills necessary to complete a job application. These are the basic skills necessary to add two and two together.

In every district, in every State, the needs of high school students are urgent. In New Jersey, only one-third of college freshmen demonstrated proficiency in verbal skills and math. Only 12 percent passed the algebra test.

The need for basic skills programs in high schools is obvious.

I am pleased by the recognition given to education as a priority. I am also pleased to have played a role in improving access to educational opportunities for high school students.

Graduating high school students with basic skills is the difference between success and failure. Our society cannot afford to neglect these students anymore. Our society should afford to help them achieve and succeed.

Once again, I urge my colleagues to vote for the conference report on H.R. 5. This bill will help decide whether our Nation's youth fail or pass with flying colors.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference agreement on H.R. 5, the School Improvement Act, which extends and revises many of our most important Federal elementary and secondary education programs.

The cornerstone of the legislation is chapter 1, Compensatory Education for Disadvantaged Children, which assures children who are educationally disadvantaged with equal access to education services. Chapter 1 has made great strides in raising the academic achievement levels of students. A study commissioned by the U.S. Department of Education found that chapter 1 students gained 7 to 12 months in reading and 11 to 12 months in math for every year they participated in the program—a significantly higher gain than in a control group.

Chapter 1 saves money too. An investment of $750 in compensatory education, can save the $3,700 cost of repeating a grade. Yet 50 percent of educationally disadvantaged children still do not receive chapter 1 services under the LEA Basic Grant Program. While wise investments should be a priority during this period of fiscal constraint, the administration proposed increasing financial assistance to school districts by a mere 5 percent, barely covering inflation.

Other improvements include a set-aside in the Chapter 1 Basic Grant Program for concentration grants to school districts with an exceptionally high number of poor children. As the select committee has documented, with an increase just since 1979 of almost 3 million more children in poverty who are at educational and social risk, such action is critical.

This provision also reflects the findings of a report of the Carnegie Foundation for the Advancement of Teaching. They found that the Nation's urban schools are failing to improve educational outcomes for disadvantaged inner-city children because of a lack of money. The foundation recommended that Federal aid for schools having large numbers of poor children be increased so that all eligible children could be served. By including such an increase in the legislation we are considering today, Southern and rural schools which have large percentages of poor children would also be able to significantly benefit from these concentration grants.

The Select Committee on Children, Youth, and Families has documented in a new report, "Opportunities for Success: Cost Effective Programs for Children, Update, 1988," that significant savings accrue in human potential as well as in dollars when investments are made in successful early intervention programs such as those authorized in this legislation.

In 1987, distinguished business leaders in the Committee for Economic Development reaffirmed the select committee's findings when they endored a massive public and private investment in early childhood education, citing it as essential to creating a technologically skilled work force for the 21st century.

The act establishes two new programs which carry out these principles: the Even Start Program to assist parental involvement in their children's education and to provide early childhood education for their children; and Comprehensive Child Development Centers to provide an array of family centered preventive and early intervention services beginning prenatally and assisting high risk, vulnerable children until they become school age.

The Even Start Act extends chapter 1 services to young children ages 1 to 7 and their parents by integrating basic adult education for parents with early childhood development for their children. Perhaps no service is more critical to averting costly special education services, or to preventing crime, unemployment, and welfare dependency in adulthood, than early educational opportunities. For every dollar invested in quality preschool education, $6 is returned because of lower costs of special education, public assistance and crime. As a result of this new program, not only will children be better prepared to enter school, parental guidance and self-sufficiency will be fostered.

I want to bring particular attention to the provision in the bill that supports Comprehensive Child Development Centers to provide intensive and comprehensive supportive services to infants and young children from low-income families. This legislation builds on the Chicago-based "Beethoven Project," conceived by philanthropist and businessman, Irving Harris, which is providing critical intervention services from cradle to kindergarten for high risk mothers and their infants. The program represents not only an effort to extend comprehensive and intensive services to often very isolate and precarious families, but also a significant effort to rethink how those services should be delivered.

The legislation also maintains and strengthens the important Bilingual Education Act, which has proved critical to ensuring the academic success of non-English speaking students. As the select committee learned, culturally appropriate curricula can mean the difference between success in school or eventually dropping out. This program especially benefits Hispanic youth who are of special concern because their high school dropout rate is high—in 1985, 37 percent Hispanic 18 to 24 year olds had not graduated from high school. A recent study of 483 public high schools in 100 school districts in metropolitan Los Angeles revealed that Hispanic students, who comprise over one-third of the public school age population in Los Angeles County, lagged far behind white students in reading, writing, and math skills. Hispanic youth also face increasing poverty and limited employment opportunities at a higher rate than any other group.

National concern about the high incidence of drug and alcohol abuse among the Nation's youth is also addressed in this bill through the establishment of drug education programs. Given the increasing use of cocaine among teenagers, such efforts are especially timely and build on work begun by the last Congress to ameliorate the growing drug problem.

Another provision will fund innovative efforts to prevent students from dropping out of school. As many as 25 percent of the Nation's youth may never finish high school. In some communities this percentage may be as high as 50 percent. Without a high school education, few will be able to compete in the new, high-technology centered labor market. Dropout prevention programs are essential to help at-risk students stay in school, obtain critical training and obtain employment which will be adequate to support a family and prevent the cycle from starting over again with a new generation of children.

This legislation makes tremendous strides by fostering educational equity for handicapped students, female students, and high-risk disadvantaged students through a continuum of services from preschool to high school. A new Federal program, long overdue, creates a program to identify and meet the needs of gifted and talented children as well, such as those which now serve gifted and talented students in my district of Contra Costa County. I am delighted that Federal efforts will permit replication of similar programs nationwide.

I am particularly pleased that the conference agreement safeguards children against dial-a-porn—telephone pornography which can be accessed by simply dialing a code number. Along with my colleague from California, Ms. BOXER, I have been working with telephone companies to address the problem of child access. The conference agreement, agreed to by six of seven regional companies and a number of long distance carriers, provides an essential remedy.

The agreement addresses this controversial constitutional question in a reasonable fashion by making dial-a-porn a subscription service. Access to telephone pornography would be blocked to households unless the service is specifically requested by an adult. Both children and the constitutional right to free speech are protected.

Chairman HAWKINS and the members of the conference committee on H.R. 5 are to be commended for reaching agreements in a timely fashion and for instituting important reforms. I urge my colleagues to support their efforts by supporting this legislation.

Mr. LEVINE of California. Mr. Speaker, as we prepare to vote on H.R. 5, the School Improvement Act, we should remember that the generation of children now entering kindergarten will be the first to graduate from high school in the 21st century. It is vital that we act today to begin the process of laying a foundation to ensure that our school children receive the best education in the world.

I have no doubt that this bill is one of the most important we will consider this year. Providing a world class education for our young people must be one of our highest national priorities. This legislation will make a significant contribution toward improving the quality of education in our public schools.

This bill will provide much needed funding for a number of important programs. Particularly important are the funds targeted for areas with a high concentration of poor children. It is vital that we do a better job of educating the less affluent children in our society. It will be impossible for these children to get meaningful work in the work place of the future if they do not have adequate skills. Further, we, as a society, cannot hope to compete with other nations with literacy rates of nearly 100 percent when fully 20 percent of our population is functionally illiterate. It is among the poor that we have traditionally seen the highest rates of illiteracy.

Also important are the funds earmarked for mathematics and science education. It is vital that we increase the number of scientists and engineers we produce in this country. We will not long remain the world's pre-eminent economic power if we do not address the serious shortfall in these programs. We must reverse the situation which last year saw more foreign students than American students graduate from our universities with engineering degrees.

It is impossible to overstate the importance of this legislation. The quality of the education we provide to our young people will not only determine the quality of the life they lead when they enter the work force but will, in large measure, determine the ability of this country to effectively compete in the high technology world of the future.

As important as this bill is, it is only a first step in making the kind of fundamental changes necessary in our education system needed to prepare our young people for the 1990's and beyond. We cannot afford to stop here.

It is absolutely critical that we do a better job of educating the less affluent children in our society. America cannot prosper if we do not effectively address the problem of a poorly educated underclass which lacks the skills necessary to obtain and hold a decent job. This means we must develop new programs specifically targeted to poor children, particularly of preschool age.

We must also improve the quality of the math and science education our children receive. An understanding of mathematics and science will be critical to success in the future.

Improving the quality of education will also require increasing the amount of time our children spend in their classrooms. We cannot expect our children to compete with Asian children or European children who spend 25 percent more time in their classrooms. Today, a Japanese high school student has received the equivalent of 3 additional years of education when compared to American students. This means that by the time they graduate from high school they are the equivalent of college juniors in this country. Unless we address this imbalance in classroom time, American students will continue to fall further behind their international counterparts.

We also need to improve the way in which our schools use the resources they already have. This means that our schools must use the funds they have more efficiently. There is no question we should get a bigger bang for our education buck. Even though the Japanese spend less than we do on educating their children, they have a longer school year, have a nearly 100-percent literacy rate, pay their teachers more than we do, and are able to give their children the finest education in the world. Maximizing the funds already earmarked for education will allow us to spend new funds in the areas in which they are most needed.

I urge my colleagues to join with me in supporting final passage of this important legislation. With its passage we are making an important investment in the future of education in this country.

Mr. TALLON. Mr. Speaker, today the House is considering a landmark piece of legislation—the conference agreement on H.R. 5 the School Improvement Act. After months of redrafting, this $7.5 billion comprehensive education package is replete with both House and Senate improvements.

H.R. 5 strengthens the Federal Government's commitment to primary and secondary education. Although the Federal Government plays a support role in public education, Federal programs are absolutely vital to the strength of local school systems. These programs will be reauthorized through fiscal year 1993.

The changes marked in H.R. 5 are improvements that make education more accessible in a variety of ways. This is best illustrated in the new provisions for chapter 1 compensatory education. Chapter 1 was designed to give disadvantaged students the opportunity to succeed in school; the new changes are designed to better assist schools in achieving this goal.

Included in chapter 1 is the new initiative Even Start to target parental involvement and adult literacy. It is a boost to our secondary schools in the form of dropout prevention and basic skills improvement. It promises a brighter future for the Sixth Congressional District of South Carolina where barely 50 percent of the adult population have high school diplomas.

A new funding requirement for chapter 1 favors counties with more than 6,500 low-income children, or with more than 15 percent of their schoolage children from low-income families. This provision alone has the potential to increase the quality of education in each county of the Sixth District.

Other provisions of H.R. 5 should be noted. The chapter 2 block grant which maintains over 30 different types of programs reaching every public school in the Nation is reauthorized.

The impact aid program has been improved by a more coordinated system of payment to affected school districts from the Departments of Education and Defense. Drug abuse education, mathematics and science education, bilingual education, magnet schools, and emergency immigrant education and a host of other programs are authorized in this legislation.

South Carolina's recent efforts to raise the overall level of education for its citizens is well known throughout the country. The Federal Government has played a key role in this success. The Education Improvement Act ensures continued progress because it addresses the fundamental idea that the future prosperity of our State and Nation depends on the educational success of individual citizens.

Mr. McCURDY. Mr. Speaker, I am opposing the rule today because the conferees ignored the instructions of the House majority and did not include in the conference agreement the Senate-passed language prohibiting dial-a-porn. My colleagues and I voted 274 to 17 to adopt Senator HELMS' amendment to ban this abhorrence entirely. I regret that the conferees chose to disregard our clear message that we will no longer stand for the filth that is being transmitted to our children.

Pornography cannot be tolerated in any form. Dial-a-porn is operated by those who would, to earn the almighty dollar, abuse and plunder the minds of our young people. It is indiscriminate; it is wrong; it is an outrage to public decency. My constituents are among the majority of Americans who will not tolerate it any longer—nor will I.

If Senator HELMS' bill is unconstitutional, that is for the courts to decide. Today, we in Congress are expressing community standards as they apply to the sordid business of dial-a-porn. This is a step that must be taken to protect the decency of America—let the porn kings take their case to court.

As a father of three young children and the spouse of a child psychiatrist, I fully support legislation that will protect our children and our families. We need more education on responsible sexual behavior—not free access to pornographic messages. Our children are faced daily with moral dilemmas in today's world; this is one instance that we can help eliminate.

As Members of Congress we need to send a strong message that we will no longer stand for these obscene and indecent operations. Dial-a-porn lines must be permanently disconnected. I urge my colleagues to defeat the previous question on the rule.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the conference report on H.R. 5, the School Improvement Act of 1987. I voted in favor of this measure the first time it was considered and urge my colleagues to join me in doing so again today. The bill renews and expands Federal programs affecting most of the Nation's elementary and secondary schoolchildren. It is the most comprehensive elementary and secondary education authorization legislation the Congress has considered since 1978 and is a bill for the times. It confronts head on the most critical issues in education today.

The cornerstone of H.R. 5 is the program known as chapter 1 which provides supplementary, compensatory services for educationally disadvantaged children. The largest

Federal elementary and secondary program, and one that study after study has validated as being effective, chapter 1 supports special programs that improve the achievement of educationally deprived children living in poor areas. H.R. 5 expands this worthy program by providing more funding for basic skills education at the critical preschool and secondary school level. Furthermore, the bill strengthens the role of parents in their children's education, and holds schools more accountable for the quality of their chapter 1 instructional programs.

In addition, I strongly support the language regulating dial-a-porn telephone services. My interest and concern about the pornography issue in general go back to my service in the California State Senate where I was one of the leaders in the fight against pornography, especially child pornography. I am deeply concerned about this growing epidemic and believe that the regulation of dial-a-porn operations is an important first step.

I want to commend my colleagues on the conference committee who worked hard in putting this report together. I think it is a good one and urge passage immediately.

Mr. STOKES. Mr. Speaker, I rise in support of H.R. 5, the School Improvement Act of 1987. I also want to thank Chairman HAWKINS for the opportunity to address this important legislation.

Education has played a vital role in the building of this great Nation. The recent debate about the quality of our educational product, and thereby our ability to compete in the international marketplace, has received considerable national attention. H.R. 5, the School Improvement Act of 1987, provides one opportunity for us to respond positively to some critical shortcomings in our educational system.

Faced with the challenge of a generation marked for failure, H.R. 5 has far-reaching implications for the United States. By extending and strengthening most of the Federal elementary, secondary, and adult education programs, this bill provides needed support at all ascending levels of our educational system. H.R. 5 focuses on key elements of reform recommended by leading educational experts. This effort reaffirms the Congress' commitment to excellence in education as a top national priority.

Mr. Speaker, I again commend Chairman HAWKINS and his committee for the development of this initiative. Our support of this measure is an indication of our commitment and concern about the survival and quality of our children and youth—the single most important determinants of the quality of the national and world future. I urge my colleagues to take this opportunity to recommit themselves to a better and brighter America. We owe it to ourselves; and to our future generations.

Ms. PELOSI. Mr. Speaker, I rise today in support of H.R. 5, the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. The bill authorizes major Federal elementary and secondary education programs through fiscal year 1993. These programs include chapter 1 compensatory education, chapter 2 education block grants, bilingual education, adult education, Indian education, and impact aid. The chapter 1 program has been amended to authorize additional funds to school districts with high concentrations of poor children, to expand the teaching of basic skills in high schools and to prevent dropouts.

In sum, I believe H.R. 5 demonstrates the Congress' commitment to correcting the most serious problems in our country's education system. By working hard to draw young people from the streets back to the classroom, this bill helps to solve many problems. It is the poor and troubled children and teenagers in America who desperately need an improved education system. The bill also authorizes funds for gifted and talented students, foreign language training, and star schools, which emphasize math and science.

Chairman HAWKINS and Senator STAFFORD deserve a great deal of praise for their work on H.R. 5. By their hard work, they have crafted a bill that will benefit millions of Americans. Thank you.

Mr. LANTOS. Mr. Speaker, I rise in support of the conference report to the reauthorization of the Elementary and Secondary Education Act, and to commend my colleague, Congressman GUS HAWKINS of California, for his hard work and the intelligent negotiations he conducted to ensure that this critically important bill would come before us today.

The Federal share of education spending in our Nation is insignificant in numbers—$20 million in Federal funding compared to the close to $300 billion spent by States, local jurisdictions, and individuals. It is a small percent, but it is critical funding because Federal programs both leverge local spending and address problem areas where there are few resources available.

The chapter 1 funds for disadvantaged children target those elementary and secondary students most in need of a helping hand to make sure that they can achieve to their highest level of academic ability. Chapter 2 funds, allocated by State student populations, give flexibility to those closest to the schools for programs which can best benefit the locality, whether the program is in teacher training and retraining or in curriculum reform which updates materials and classes to prepare students for the world of the 21st century.

I'm pleased and grateful that the Senate adopted and the House concurred in a provision which initially was part of a youth suicide prevention bill I have cosponsored over the last several years. This provision will allow States flexibility to focus on immediate needs in the schools, and for some school districts, that need may be to address the ever increasing problem of youth suicide. The bill does not require any particular programs nor does it mandate a program. However, it does allow for school administrators and school boards to consult with the State educational agency to determine priorities which can include addressing problem which is taking the lives of thousands of young people in our Nation today. Whether a State wants to put in place a central response team to be made available to local districts when particular series or events involving youth suicide occurs in their area, or whether a program of teacher training includes a section on the signs and signals of troubled youth is to be decided by State and local jurisdictions. The Federal Government does not dictate programs nor does it encourage States to identify and begin to solve problems in any particular way. It does allow State and local jurisdictions to make their own decisions, within a set series of allowable programs, to make our schools better, to train our teachers to continue to improve and to be the best, and to treat our children as students who can achieve, and as young people who have a future full of hope.

Again, I commend Chairman HAWKINS for his fine work and express my appreciation for both his commitment, his emotion, and his legislative accomplishment in this bill.

Mr. PANETTA. Mr. Speaker, as the conference report to H.R. 5 is now being considered by the House, I wish to comment on two foreign language provisions contained in the act. The first restores a provision for the Critical Foreign Languages Program in the Secretary's discretionary fund of the Department of Education, while the second establishes Presidential awards for excellence in the teaching of foreign languages. These provisions were added to H.R. 5 in amendments added when the bill was first considered by the House last May. At that time, I was very pleased to be joined by my distinguished colleague, Mr. SAWYER, in introducing the first amendment, and to have had your support, that of Mr. GOODLING, and finally that of the House and Senate for both measures.

In addition, I am very pleased that the final version of H.R. 5 includes a program of "model foreign language" grants, which you authored, that is similar to a provision from H.R. 1875, the International Education for a Competitive American Act, that I introduced in 1987. While model a foreign language program nearly identical to that of H.R. 1875 is included in the Senate version of H.R. 3, I am delighted that you wrote this provision and that it is now a part of the School Improvement Act.

The Critical Foreign Language Program of the Secretary's discretionary fund is a small but important component of the Federal Government's involvement in the foreign language education at the elementary and secondary levels. For the past 3 years, this program has been allocated $2 million each year, mostly for grants to fund a total of 70 foreign language programs at the elementary and secondary levels.

The types of programs funded are those that are superior in and of themselves are good models, mostly in the areas of teacher training and curriculum development for "critical foreign languages." this category officially includes a total of over 100 languages, though there is a narrower category of the 11 most critical, and a large portion of the programs are actually in just three languages: Chinese, Japanese, and Arabic. There is a concentration on these three because, among those languages critical to our national security and economic prosperity, there is a special need for programs in these three. Most of the programs to date have been cooperative ventures between local schools and institutions of higher education. In addition, some money has gone directly to State education associations to aid in the development of statewide plans for foreign language curriculums.

The Critical Languages Program has become one of the most effective among those funded by the Secretary's discretionary fund, and, as I mentioned, one of the best foreign language programs at the Federal level. However, historically, nearly all the money in the discretionary fund not specifically earmarked for foreign languages has been used to meet pressing math and science needs. This is the reason that Representative SAWYER and myself authored the amendment restoring a specific designation for foreign languages in the discretionary fund that was originally to have been deleted in H.R. 5. The Critical Foreign Languages Program of the Secretary's discretionary fund is much more valuable than its small funding level of approximately $2 million would suggest. It is the only part of title II specifically earmarked for foreign languages, and departmental staff have ensured that these funds are used for innovative and solid programs. Eliminating critical foreign languages from the discretionary fund would mean that, in reality, little or no title II money would go toward foreign languages, and a small but important portion of the Federal Government's foreign language program would be lost.

The provision in H.R. 5 adds "foreign languages" to math and science as an eligible area for funding under section 2130: national programs, of "title II—critical skills improvement" of the School Improvement Act. In addition, it sets aside 25 percent of the funds in national programs specifically "for the improvement and expansion of instruction in critical foreign languages." In so doing, it guarantees the continuation of a small but important program focusing on languages essential to our security and economic well-being, and therefore constitute a contribution to our country far in excess of the resources devoted to it.

The second measure establishes a system of Presidential awards for teaching excellence in foreign languages. These awards, by recognizing special achievement in this area, focus on the crucial need to attract and keep good foreign language teachers in our elementary and secondary schools. Few people would, I believe, deny that such a pressing need exists. In a recent survey by the National Association of State Supervisors of Foreign Language Teachers, 57 percent of the States responding reported a current shortage, and almost 65 percent expect to experience such a shortage in the near future.

While considerable attention has been devoted to decreasing the shortage of teachers in other areas, notably math and science, important to our security and economic prosperity, relatively little effort has been made to remediate a comparably great shortage of foreign language teachers.

The Presidential awards take a small but significant step toward correcting this major deficiency in our educational system. A total of 104 awards would be made by the President to elementary and secondary teachers who have demonstrated outstanding teaching qualifications in the field of foreign languages. At least one elementary and one secondary school teacher from each State, as well as the District of Columbia and Puerto Rico, would be selected, thereby ensuring attention across the Nation to foreign language teachers. The cost of this program would be $1 million for fiscal year 1988, with the necessary sums being allocated in subsequent years.

This provision, without even creating a new Federal foreign language program, should significantly add to the prestige of good foreign language teachers, and thereby motivate a greater number of more highly qualified persons to become and remain foreign language teachers. This would have significant value beyond the relatively small cost of the program, as it is now difficult for many school districts across the country to attract and retain highly qualified foreign language instructors.

Mr. Speaker, as you know, foreign language instruction has to date been largely neglected at the elementary and secondary levels in favor of other "critical skills." Given that the ease of learning a second language is inversely proportional to age, it is discouraging to find that only 1 percent of students in our elementary schools receive any kind of foreign language training. Moreover, a 1982–83 survey showed that only 21.3 percent of all high school students were enrolled in foreign language courses, 88 percent of which were in Spanish and French. These distressing facts attest to the need to devote much more, and higher quality, attention to foreign languages, especially at the elementary and secondary levels.

The two measures discussed here should help improve instruction in and attention to foreign languages far more than is reflected by their modest cost. Again, I am delighted that the provisions on the Presidential awards and critical foreign languages, as well as the grants for model programs, are included in the final version of the School Improvement Act. All of these measures should help put our foreign language and international education system back on track, and thereby enhance our future national security and prosperity.

Mr. SCHEUER. Mr. Speaker, the Joint Economic Committee's Subcommittee on Education and Health, which I chair, recently completed 9 days of hearings on education and economic competitiveness.

In the hearings, witness after witness forecast a bleak future for the Nation if we fail to match the efforts of our leading economic competitors in producing educated and skilled workers.

Our education system graduates students who cannot adequately read, write or think; who are incapable of filling the jobs of today, let alone the high tech jobs of tomorrow.

Overhauling our education system is a national challenge from which we cannot afford to turn our backs. The future of our children our economy and our Nation depend upon it.

H.R. 5 is an enormous step in the right direction. It provides vital funding to address a wide range of serious problems which plague our population, including adult illiteracy and student dropouts. And vitally important, H.R. 5 encourages program innovation and effectiveness in the awarding of grants.

This bill has been years in the making and is, indeed, a tribute to the dedication and hard work of Congressman HAWKINS. We are all truly indebted to him and his fine staff for the excellent job they have done and the excellent service they have performed for the Nation.

Mr. CONTE. Mr. Speaker, I rise to add my voice to the chorus of support for the conference report on the School Improvement Act of 1987. The conference has made good choices and adequate compromises, where necessary, and has come out with an excellent bill.

We have a tremendous need for the programs reauthorized and newly created by this legislation. They will have an immediate impact on the lives of our kids, particularly those kids who are poor or disadvantaged. Improving their education is the best investment we can make in their future.

That is the way to think about the $7.5 billion we are authorizing today: an investment. The return on the investment will be apparent when these kids become productive citizens because they know how to read and write and multiply and divide, because they know U.S. history, because they have learned how to think about and solve problems.

I am quite pleased that the bill continues and expands a number of programs that have proved so successful in the past—such as the chapter 1 compensatory education programs to help disadvantaged children overcome the limits imposed by poverty, chapter 2 block grants for State and local educational agencies, reauthorizations for magnet schools, impact aid, drug education, adult education.

I also think that we are creating some programs that address real problems and provide real opportunities. The Even Start Program is going to help parents start their children off on the path to knowledge—giving children an opportunity their parents never had. Some of these Even Start kids may eventually find themselves benefiting from the new gifted and talented students program we're authorizing today. The $200 million we are authorizing for basic skills improvement, and the $50 million for dropout prevention, will now enable States to reduce the terrible waste of minds that results from illiteracy, and the hopelessness of high school drop outs.

One other important provision restores the ability of deprived children attending private and parochial schools to benefit from chapter 1 compensatory education programs. Currently, private and parochial schools must cover all the expenses of setting up separate facilities for chapter 1 programs. H.R. 5 authorizes moneys to cover those capital costs.

If there is a downside to this bill, it is that the issue of dial-a-porn has had such a divisive impact on the discussion. I want to solve the problem as much as anybody here. I don't want kids calling those numbers, and I don't think that the committee solution would have worked. I hope we now have a solution that does work. We've got a good bill before us, which I am as proud to support as the original Elementary and Secondary Education Act of 1965. Let's pass it today.

Mr. BRENNAN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 5.

This legislation reaffirms the Federal commitment to education: the best investment we can make for our future and our children. I am particularly impressed with innovative programs included in this education bill to:

> Teach our children about the dangers of drugs;
>
> Prevent high school students from dropping out and limiting their future success; and
>
> Provide educational opportunities to very young children, and their parents.

This last program, called Even Start, is especially exciting and timely, given our current efforts in Congress and around the Nation to provide affordable, high-quality child care to parents of young children.

"Even Start" would integrate early care and education of children between the age of 1 and 7, with basic adult education for their parents who do not have a high school diploma.

The parents have the opportunity to learn—perhaps to seek a better job—while alongside of them their children are being cared for and provided with the early intellectual stimulation that we know is so important in developing their minds and contributing to their future success.

The benefits of early care and education cannot be overstated, as study after study has shown. Children enrolled in such programs, compared to others from similar backgrounds, are much more likely to graduate from high school, go on to college, and hold a full-time job. They are much less likely to face problems with drugs, teenage pregnancy, dropping out, illiteracy, and welfare dependency.

A relatively small investment in early care and education today reaps tremendous rewards for our children, and for our future economy, by enabling them to compete in an increasingly complex world marketplace.

And while we commit ourselves to educating our children to help them reach their full potential, it is also important to combat influences which can harm, our children, such as drugs and pornography.

I share the concerns of parents and teachers who have contacted me about so-called dial-a-porn telephone services, which amount to over a $50-million-a-year industry. I am very pleased that this legislation takes action against those companies which sell pornography to children over the phone, and charge their parents for the privilege—sometimes hundreds of dollars a month. By passing this legislation, we can protect our children from the influences of pornography.

The elementary and secondary programs that are authorized in H.R. 5, are extremely important to the children of our Nation. It is our responsibility as adults and policymakers to ensure that these children have the chance to reach their full potential, and pursue their own personal goals to better both themselves and the Nation as a whole.

Ms. OAKAR. Mr. Speaker, I rise in support of the School Improvement Act of 1988. I am especially pleased that drug abuse education has been extended in this legislation.

Our children are our future and they are endangered by drugs and the criminal activity that surrounds it. Although the national incidence of drug abuse is decreasing, its use by children is increasing dramatically. Drug use, in part, accounts for the marked increase in violent activity by children in recent years. According to Mr. Payne of New York's Family Court:

> We've had almost a 50-percent incease in drug crime. Crack is the main reason. We are seeing kids as young as 10 or 11. They can make $800 a week. They only stay in school because that's where their constituency is.

Children are used as lookouts and couriers for gangs running drugs. Police in Washington, DC, have discovered that child couriers are used to escort drugs on planes from New York City to Washington, DC.

Children in the inner city are in greater danger of being drawn into increasingly violent gangs, gangs that are better equipped with the weapons that their drug money affords.

According to an investigator in the Manhattan homicide unit, the new gangs seem to have "less respect for human life" than previous and older drug dealers.

They kill to intimidate.

They shoot their victims in public, crowded places, often in broad daylight: walking up to them and shooting them several times at point-blank range.

A New York Times article tells of two suspected gang members who were shot and wounded as they alighted from a Mercedes limousine. An 18-year-old woman in the car was shot and paralyzed; her 6-month-old fetus was killed.

By supporting measures against drugs, we in Congress reaffirm our commitment to eradicating substance abuse in our Nation's schools, college campuses, and communities. The School Improvement Act will provide for drug abuse education, counseling, family and school based prevention programs, treatment, referral and training. I urge passage of the conference report.

Mr. DREIER of California. Mr. Speaker, I rise in support of the conference report to accompany H.R. 5, the comprehensive 5-year reauthorization of most Federal elementary, secondary, and adult education programs.

H.R. 5 increases Federal authorization levels for education programs by about $1.5 billion a year. Among the programs reauthorized by H.R. 5 are chapter 1, supplementary services for educationally disadvantaged children; chapter 2, a flexible block grant program for State and local educational agencies; math and science programs; magnet schools; the Drug-free Schools and Communities Act; the Indian Education Act; and Impact Aid. H.R. 5 provides additional funding for alternative bilingual education programs such as "English as a second language" and "immersion" and establishes a number of new programs, including Even Start, to provide educational and social services to very young children and their parents; "Star Schools," to support education by satellite technology; and a dropout-prevention program for secondary school students.

I am especially pleased that we will have an opportunity to vote on a provision to bring dial-a-porn telephone services to an end. I have received hundreds of letters from my constituents who share my outrage over these obscene telephone services and want to see the Federal Government intervene.

In 1983, Congress passed an amendment, with my support, to the Federal Communications Commission reauthorization bill to outlaw sexually explicit telephone communications to minors. The FCC has attempted to satisfy the requirements of this amendment twice, yet neither attempt has survived court challenges. A third attempt was proposed last July, but no final rules have yet to be issued. The problem with the 1983 amendment is finding a way to differentiate between the minor and adult callers.

Rather than continue the search for a way to satisfy the 1983 amendment, the Bliley amendment prohibits dial-a-porn services altogether, for both minor and adult callers. As originally brought before the House, H.R. 5 did not include the Bliley language, so I am pleased that we will now have an opportunity to vote on the Bliley language and I am hopeful that it will pass.

Again, Mr. Speaker, I support the conference report accompanying H.R. 5 because it recognizes the importance of education of our Nation's children and I support the Bliley amendment which prohibits obscene dial-a-porn telephone services.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the conference agreement on the school improvement amendments. As a member of the conference committee, I commend the chairman and my conference colleagues for their bipartisan efforts. I believe we have a strong and effective omnibus education package dedicated to excellence in education.

These amendments reauthorize 14 Federal elementary and secondary programs, extending them through 1993 to avoid a "patch work" approach to our most vital asset: the education of our children. In the future, these programs will be considered comprehensively so as to better coordinate education policy and resources.

The core of this legislation is chapter 1, compensatory education for disadvantaged children. Education enhances one's daily life but more importantly, education can help break the cycle of poverty. Chapter 1 is committed to just that: improving the educational achievements of disadvantaged children to increase their opportunities as well as enrich their lives.

The changes adopted in this bill greatly improve chapter 1. First, chapter 1 is expanded into preschools and secondary schools. Second, funds will be targeted for dropout prevention, a critical problem for minority and disadvantaged students. The amendments also target funds to those with greatest need. As the representative of a rural State, I was pleased agreement was reached on a concentration grant formula which shifts a greater portion of funds to poor, rural areas.

The school improvement amendments also reauthorize the Bilingual Education Act. My district is over 40-percent Hispanic. Thus, the Spanish language is an integral part of our culture and heritage. More importantly, Spanish is often the first language of many of our children. As a result, I want to emphasize the importance of developmental programs in the Bilingual Education Act. Developmental or dual language programs are an effective way to bridge the gap in acquiring English language proficiency, particularly for young Hispanic children who know no other language.

I am pleased that the conference report includes a number of initiatives which I proposed when this bill was first considered in committee. I am gratified conferees came to an agreement on my amendments to the Adult Education Act which target funds to the least literate adults—those who read at a fifth-grade level or below.

As the representative for a number of Indian tribes, including our Nation's largest tribe, the Navajo Nation, I am also pleased with conference action on impact aid and Indian education programs. I supported amendments to impact aid which recognize the added cost factors associated with educating Indian children. Specifically, the amendments provide 25 percent in additional funds above the standard base of 100 percent. These additional funds will directly benefit Indian students and are prohibited from being equalized by State governments.

Additionally, I worked to insure that these funds could not be considered categorical in nature. This provides needed flexibility so local education agencies can expend these funds to the greatest benefit. I also worked to insure that all Indian tribes would be eligible to apply for grants to establish tribal departments of education to coordinate both Federal and tribal education programs, and to develop education standards and policies.

Finally, I am pleased conferees maintained my native American model schools provisions. These provisions direct the secretary of education to designate five schools nationwide for program development in such areas as: math and science, gifted and talented, programs for Indian students interested in teaching as a career, and special needs including social and lingual.

The school improvement amendments will ensure that all of our Nation's children, regardless of ethnic background or economic standing will have equal access to a quality education. In closing I would like to emphasize that education is valuable not only because it increases our Nation's competitiveness but because it enhances our daily lives and enables us to respond to a changing environment.

Ms. OAKAR. Mr. Speaker, I rise in support of H.R. 5, the School Improvement Act of 1988 and its commitment to equal, quality education. I would like to thank Chairman HAWKINS for his work on this legislation.

Our Nation is based on the principle of the equal right to the pursuit of liberty and happiness. We reaffirm our support of this right by offering equal opportunity in education.

Our children are our future, and yet an increasing number are disadvantaged. Twenty percent of U.S. children live in poverty, and since 1979 the rate of children in poverty has increased by over 25 percent. The School Improvement Act provides critically needed funds for disadvantaged children. Currently, chapter 1 programs serve almost 5 million disadvantaged school aged children, one out of every nine students enrolled in U.S. elementary and secondary schools.

Today's legislation will improve our commitment to disadvantaged children by expanding services to preschool children and their parents through Even Start programs, by providing additional funding to districts with high concentrations of poor children if needed, and by targeting secondary schools as an area in need of improvement.

As a former teacher, I realize how important education is to help children to become productive and thoughtful members of our society; as the chair of the Subcommittee on Economic Stabilization, I know how important education is to our Nation's development and ability to compete in the international market.

Changes in the world's economy make high levels of literacy, skill with numbers, and the ability to communicate well imperative to our Nation's competitiveness. To take advantage of rapid changes in technology and increase productivity, our society must become better educated.

Education is the foundation of our Nation's future. As the Children's Defense Fund reported, "A major national commitment shared by Federal, State, and local governments, parents, teachers, and children will be required if all of today's children are to be educated adequately and trained for tomorrow's challenges." This legislation demonstrates that kind of commitment, and I urge all of my colleagues to join me in supporting the conference report.

Mrs. LLOYD. Mr. Speaker, I rise in support of H.R. 5 because I believe the promise of a quality education for each and every child in this country is not just a promise but a right.

The School Improvement Act of 1987 makes good on the Federal promise of participation with States and local schools to ever improve our educational system all across the Nation. We owe it to our children, our future leaders, and the generations to come to continue our diligence in promoting excellence in education. States and local communities cannot provide the best educational opportunities without commitment from the national level.

The current administration has consistently tried to shift the major financial burden away from the Federal level. Many of the programs we are reauthorizing today could have been lost entirely in 1981 were it not for the resolve of the Congress. I am proud to note that the advocacy of educational opportunity is bipartisan as is evidenced in the overwhelming votes for passage of the original bills in each Chamber. Education is recognized as a critical investment in the future of this Nation on both sides of the aisle.

Yes, we are talking about 7 billion. Yes, that's a lot of money. But when we look at many other programs—several costing hundreds of billions of dollars—$7 billion drops into perspective. The Federal Government has an important leadership role in education. We cannot dispute that a strong educational system is vital to economic growth and social progress. Our commitment to America's school children and public education is crucial to our competitiveness.

Mr. Speaker, the programs in this legislation represent our continuing commitment in assisting in the educational reform movement and a commitment to national educational priorities. All of these programs are important, and some of the additional benefits, such as smaller class sizes and parental involvement, are directions toward which we should be moving.

There are two elements of this bill that I am particularly pleased to see included—dropout prevention and youth suicide prevention programs and drug education. Studies reveal a serious connection between dropouts and teen suicides to drug abuse.

We in this body remember well passing the omnibus drug bill in the closing days of the 99th Congress. The bill had overwhelming support in both chambers and was eagerly signed into law by the President. A short 3½ months later, the administration cut its funding request for these antidrug education programs from $250 million as approved by Congress and signed into law by the President to $100 million. Fortunately, these important programs were funded by the Congress at the $230 million level.

I am grateful that the joint House-Senate conference recommends funding for drug abuse education funding to the tune of $250 million. We must reach our youths and teach them the facts if we ever hope to eliminate the demand for illegal drugs in this country. Taking it one step further, we leave the "authorization door" open for the subsequent years relating to this bill—fiscal year 1990 through 1993.

I urge my colleagues to wholeheartedly support the conference report before us today.

Mr. HAMMERSCHMIDT. Mr. Speaker, since March 1983, we have witnessed the rapid growth of a new "industry" in America—that of the dial-a-porn market. Since 1983, when the Federal Communications Commission ruled that dial-a-porn dealers do not fall under existing obscenity laws—specifically section 223 of the Communications Act of 1934—the industry has grown from one national service operating out of New York City to several services operating in major cities across the Nation. At the same time, I have been told by outraged constituents that these messages continue to become more sexually explicit and deviant in their content, no longer falling under the realm of "indecent," but clearly falling within the restriction of both State and Federal obscenity laws.

There are numerous court decisions which have established that obscenity, in any form, is not protected by the first amendment. Therefore, the Government may lawfully prohibit its commercial distribution. Specifically, in 1973 the Supreme Court ruled in the *United States* v. *12 200-ft Reels*, 413 U.S. 123 (1973), that "the right to possess obscene material in the privacy of one's home does not give rise to a correlative right to have someone sell or give it to others."

Mr. Speaker, the issue of pornography in general, and dial-a-porn in particular is one that greatly concerns my constituents. They are concerned that their children have unrestricted access to this degrading material. They are especially concerned that Congress for the last 5 years has permitted this type of obscenity to be transmitted over our Nation's telephone lines.

Today, we here in Congress have the opportunity to protect our next generation from the distribution of pornographic material via the telephone. I would, therefore, urge my colleagues to accept the Helms-Bliley language on dial-a-porn.

Mr. VISCLOSKY. Mr. Speaker, I would first like to commend Chairman HAWKINS for the outstanding job that he has done in guiding this measure that we are considering today. I was privileged to be a member of the conference committee that he chaired and my respect for him has only increased. His unfailing efforts have resulted in a comprehensive measure that is fair to all and that greatly benefits our country's students.

This bill reauthorizes virtually all the major Federal programs that assist elementary and secondary education. I support the provisions that are designed to improve chapter 1 and encourage greater parental involvement. Additionally, this legislation creates several new programs, including one aimed at preventing students from dropping out of school and one targeted to the gifted and talented.

I am especially pleased that the Senate accepted the amendment I authored. The amendment's purpose is to strengthen the Center for Education Statistics. Data and information provided by the Center is used by Congress to help formulate policy and monitor progress in education. Because education is the second largest industry in the Nation and it is overwhelmingly supported by public tax dollars, it is crucial that adequate data be available to determine our efficiency and success in providing educational services to the American people.

Overall, this measure will help a tremendous amount of our children. It is especially critical to those who are educationally needy and disadvantaged. Education is the key to our children's future and thus our country's future. Throughout our history, education has played the central role in allowing each successive generation to achieve beyond their predecessor. I urge my colleagues to support this important legislation. By doing so, we reaffirm our commitment that education is, and must remain, a national priority.

Mr. JEFFORDS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

Mr. RANGEL. Mr. Speaker, I rise in support of the conference report on H.R. 5, the School Improvement Act. This comprehensive legislation extends through fiscal year 1993 virtually all major Federal programs for elementary and secondary education. It also includes a number of new provisions to help improve the skills of educationally disadvantaged children and programs to enhance the math, science and foreign language abilities of all our children.

As chairman of the Select Committee on Narcotics Abuse and Control, I am especially pleased that this legislation extends the Drug-Free Schools and Communities Act of 1986. That act is the drug abuse education component of the omnibus Anti-Drug Abuse Act of 1986. It authorizes for the first time a comprehensive program of Federal assistance to State education agencies and local schools to help them educate our young people about the dangers of drugs.

The Drug-Free Schools and Communities Act is currently authorized through 1989 at an annual level of $250 million. Under H.R. 5, the act would be reauthorized through 1993 at "such sums as may be necessary" for each year. This will provide flexibility for the program to grow as needed.

Drug abuse is a problem of both supply and demand. Our efforts to reduce drug abuse must attack both facets of this problem.

As a strategy to reduce the demand for drugs, drug abuse education must be an integral component of a comprehensive program against drugs. Teaching our children to reject drugs is especially important at this time. Despite congressional actions to enhance drug supply reduction efforts, the unfortunate reality is that we are years away from seeing any reduction in the supplies of illicit drugs affecting our cities and communities.

The state department's international narcotics control strategy report for 1988 documents that worldwide production of heroin, cocaine, and marijuana continues to increase. Coca cultivation in Latin America is expanding at an estimated rate of 10 percent a year. The amounts of illegal drugs entering our country and flooding the streets of our communities are greater than ever before. These drugs are also cheaper and purer than ever before. Our enforcement agencies at all levels of Government are outmanned and outgunned in their losing battle to stem the rising tide of drug trafficking and drug-related crime.

Drug treatment programs offer little hope of reducing the demand for drugs in the near term. This is not because treatment is ineffective. We know treatment works, but existing programs are woefully inadequate to meet the growing need for services. Most major U.S. cities report long waiting lists for treatment.

With our current efforts in these other areas falling far short of what is needed, drug abuse education offers our best hope to protect our children against the onslaught of drugs. The Anti-Drug Abuse Act of 1986 was a good first step. But the testimony of State and local education officials before the Select Committee last year emphasized the need for a long-term commitment to drug abuse education by Federal, State, and local governments if we are to have any impact on drug abuse by our Nation's youth.

H.R. 5 reaffirms the commitment of the Congress to a strong Federal partnership with State and local school agencies in developing comprehensive drug abuse education programs in our schools. The bill demonstrates that Congress did not intend the Anti-Drug Abuse Act to be merely one-time seed money but a down payment on continuing Federal support for drug abuse education as part of a comprehensive strategy to fight drug abuse and drug traffic.

At the same time the bill includes some revisions to improve the act. It clarifies the authority of the Department of Education to conduct evaluations of programs authorized by the act. It also adds provisions to increase the accountability of State and local programs.

The conference agreement retains language added by the House that requires State educational agencies to provide technical assistance to local schools that fail to make reasonable progress toward implementing an effective drug education program. This provision was accepted in lieu of proposed Senate language that would have authorized States to cut off Federal drug education funding to local schools that fail to make reasonable progress in establishing effective drug education programs.

I have no quarrel with the concept that ineffective programs should not continue to receive Federal funding. I have been concerned, however, that the Department of Education has not fully accepted the responsibilities Congress gave it in the Anti-Drug Abuse Act to help State and local school agencies identify effective programs and evaluate programs funded under the act.

From my years in Congress, I have learned that when we pass legislation the executive branch does not want—as was the case with the Anti-Drug Abuse Act of 1986—Congress cannot count on the executive to vigorously implement the law. The President signed the Anti-Drug Abuse Act amid a great deal of public fanfare, but 2 months later he proposed deep cuts in many programs authorized by that law including the Drug-Free Schools and Communities Act.

Congress restored funding for that and other programs, and the President's budget this year requests the full amount authorized by Congress for drug abuse education. I remain concerned, however, that the Education Department may be shoveling this money out to States without proper guidance on how to use it effectively.

A recent GAO report, "Drug Abuse Prevention: Further Efforts Need To Identify Programs That Work," GAO/HRD-88-26, December 1987, prepared at my request along with Representative GILMAN, the Select Committee's ranking minority member, justifies my concerns. A number of the report's findings raise serious doubts as to whether the Federal Government is doing enough to identify effective programs and ensure proper evaluation of programs funded under the Anti-Drug Abuse Act.

According to GAO, the Department of Education is not providing the States with an evaluation instrument or guidance because evaluation is a State responsibility and evaluation instruments are already available from other sources. But the report concludes that States are ill-prepared to handle this responsibility on their own. GAO says most States do not have a system to collect information on local drug abuse prevention and education activities; States and localities lack evaluation experience; and most States have not monitored drug abuse prevention and education activities in the past.

Moreover, information Federal agencies are required to collect and disseminate on effective and ineffective drug abuse prevention and education curricula and school-based programs is not yet available to help States and localities.

The GAO report endorsed H.R. 5 as passed by the House requiring States to provide technical assistance to schools that fail to make reasonable progress on their own in establishing effective drug abuse education programs.

This is the approach incorporated in the conference agreement.

The GAO report also recommended that Congress permit States to terminate Federal antidrug funding to local schools that do not make reasonable progress on a drug education program after receiving technical assistance.

I believe the conference agreement is the right approach at this time. In light of GAO's findings, Congress should be extremely cautious before it cedes to States the authority to cut off Federal funding to local schools. The Anti-Drug Abuse Act was intended to provide strong Federal leadership to help States and local schools develop effective drug abuse education programs. It was not intended to punish schools that need help. Before Congress grants States authority to cut off funds, Congress should be satisfied that the Department of Education is doing all that it can to help States and localities identify the programs that work and that the Department is providing guidance and standards for States and localities to follow in evaluating programs.

The conference report on H.R. 5 is a good bill and deserves the full support of the House. I regret my absence for the vote on H.R. 5; at the time I was in my district trying to increase voter participation in the 1988 New York Presidential primary. I would, however, urge all Members to support it.

Mr. DE LUGO. Mr. Speaker, with the approval of the conference report on the School Improvement Act now at hand, I want to publicly commend my colleagues who have worked so hard on this vital legislation and shown their continued support for education in the U.S. Virgin Islands and other insular areas.

The Virgin Islands has been fortunate to gain the steady support of many of my colleagues who are concerned about the schools in our territory and have gone out of their way to help us improve our educational system.

I especially want to thank my good friend from California, the Chairman of the Education and Labor Committee, and the gentleman from Kentucky, Chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education. It has been a great pleasure to work with gentlemen of their stature over the years. I also am grateful for the help provided by other longstanding friends of the Virgin Islands in the other body.

The General Education Assistance and Territorial Teacher Training Programs are still vital to improving our public schools. We are now moving to gain the annual appropriation for these programs, as authorized in this legislation. This legislation will provide critically needed new buildings, equipment and programs for our growing school-age population. The Virgin Islands is determined to further improve its schools in order to maintain its political stability, prepare its young people for productive roles in society, and move toward greater economic self-sufficiency.

Again, I want to thank my colleagues for making all this possible.

Mrs. SAIKI. Mr. Speaker, education is the promise of our Nation. We Americans have stressed the importance of learning in order to achieve our dreams to make the best of ourselves. As a teacher originally in profession and now at heart, I strongly support H.R. 5, the School Improvement Act, and the effort it makes toward quality education for all Americans.

At the heart of this measure are the chapter I and chapter II programs providing compensatory education and block grants to State and local agencies. These programs are the primary means by which the Federal Government supports education, and they are vital to ensuring equal education opportunities to low-income students.

As my State of Hawaii is highly affected by military bases and other federally funded activities, I must stress the critical importance of the re-authorization of impact aid as included in H.R. 5. Although the formula for this program, affecting "part A" of program grants for operations and maintenance of school facilities, and "part B" for construction of facilities, will not be dramatically affected by this bill, I feel it is nonetheless important to note the continuation of this vital program, which I fully support. The burden which federally impacted districts experience is significant, and under the conference report before us today, impact aid will be re-authorized through fiscal year 1993.

I would like to make a special note of the $10 million authorized for native Hawaiian education. This provision was authorized by my colleague from Hawaii, Congressman AKAKA, and I fully support and commend him for his work in this crucial area.

There are many other programs in H.R. 5 worthy of mention. Through this legislation, our young people as well as older Americans from all backgrounds can take advantage of diverse programs such as vocational and adult education. Magnet schools specializing in music, math and science, or foreign languages will also receive increased funding. I was also pleased to note the inclusion of gifted and talented program funding, so that our "best and brightest" student can reach their full potential.

I commend the members of the House Education and Labor Committee for preparing such a comprehensive piece of legislation and I fully support this conference report.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of the conference report on School Improvement Act [H.R. 5], authorizing approximately $7.5 billion for elementary and education programs through fiscal year 1993.

This bill creates a Presidential Award for excellence in teaching foreign languages. It provides 104 awards to foreign language teachers [1 elementary and 1 secondary teacher per State] and appropriates $1 million annually over 5 years for the program.

Last August, the National Endowment for the Humanities issued its report, "American Memory—A Report on the Humanities in the Nation's Public Schools." The report recommends that "foreign language study should start in grade school, and continue through high school. From the beginning, it should teach students the history, literature, and thoughts of other nations."

In this report, Lynne Cheney notes that "teachers of foreign languages emphasize the lasting value of foreign language study as well as its immediate practical benefits: Studying a second language gives us greater mastery over our own speech, helps us shape our thoughts with greater precision and our expression with greater eloquence." The report continues that the study of foreign languages "provides more than practical skills. It can be a way of understanding ourselves and others."

In recent years, there has been a renewed interest in studying foreign languages. The report states that "nationwide, 29 percent of high school students were enrolled in foreign language classes in 1985-86. This represents a 38 percent increase since 1978. In that year, only 21 percent of these students were enrolled in either a classical or modern foreign language.

The report also states that "severe shortages in foreign language teachers are occurring, and threaten to become worse, particularly in parts of the country where expanded programs are under way."

At this time, it is essential that foreign language educators continue their excellent work and help motivate and encourage their students' interest in another country's language, culture, literature, and history. Knowledge of a foreign language helps to foster mutual understanding between peoples, and most importantly, strengthens U.S. competitiveness in trade.

Both the Congress and the administration have emphasized the importance of increasing our exports and decreasing our trade deficit, and people with language skills are an important part in attaining these goals.

In order to promote the study of a foreign language(s), it is critical that the government encourage teachers in the field, and those majoring in education, to continue their efforts in this area. This is the reason that a Presidential Award should be given to these educators.

Mr. WEISS. Mr. Speaker, I rise in support of the conference agreement on H.R. 5, the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

This House, nearly a year ago, passed sweeping legislation to greatly improve and strengthen the Federal commitment to elementary and secondary education. With near unanimity, we said to the Nation and the world that we are not going to sit back and watch our Nation's schools continue to decline. We are not going to punish our children and youth through inaction and neglect.

The Federal role in education is extremely important. While education is mainly in the purview of State and local governments, the Federal commitment is to those children, adults and communities with special needs: those who suffer behind the barriers of poverty, disability, language and discrimination.

We know that our children are the future. But we must realize that today, one-fifth of our Nation's children live in poverty. By the year 2000, close to one-third will be minority or non-English speaking. These children need us, and we desperately need them. Through Federal education programs, we can help each other.

The bill we passed so overwhelmingly last May reauthorizes virtually all major Federal programs that assist elementary and secondary education, including chapter 1 compensatory education, chapter 2 education block grants, bilingual education, adult education, Indian education and impact aid. Passage of H.R. 5 signalled our commitment to our youth and the future of our Nation.

Unfortunately, the companion bill adopted by our colleagues in the Senate stretched beyond education. Responding to the protests of parents outraged by their children's easy access to "dial-a-porn" telephone services, the Senate voted not only to protect the children, but to ban access to "dial-a-porn" for all Americans. It is neither the right of Congress nor its duty to enact such a prohibition.

Clearly, children should not have access to pornography. In fact, transmission of "dial-a-porn" to children is already illegal. However, a ban on adult access to "dial-a-porn" is a different matter. Congress has no right to judge the merits of adult access to this material.

The first amendment to the Constitution protects the right of free speech. It is one of the most highly coveted and widely exercised rights we enjoy. Some limits have been placed on this right, but the courts have not held that obscene speech in all contexts is without constitutional protection.

When the House instructed its conferees to address the "dial-a-porn" issue, we asked them to find a solution—one that would stop the transmission of "dial-a-porn" to children, and also withstand constitutional muster.

I congratulate the conferees for their success in this effort. The agreement called for the prohibition of access to "dial-a-porn" messages unless the phone customer requests such access. Transmission to minors would remain illegal, and in areas where selective blocking is not now possible, "dial-a-porn" services would be halted until it is.

This compromise was endorsed by the National Parents and Teachers Association, the Office of Communication of the United Church of Christ, the National Council of Churches and the American Civil Liberties Union.

But this compromise did not go far enough for those in this body who believe that "dial-a-porn" should not be available to anyone. They sought to substitute a complete ban for the level-headed compromise reached by the conferees. They asserted that a vote against this ban would be tantamount to support for sleaze and obscenity. Unfortunately, this false and exaggerated rhetoric led the House to adopt a total ban on "dial-a-porn"—a ban that violates the first amendment.

The Department of Justice, the Federal Communications Commission and the ACLU all agree that an outright ban will not withstand constitutional challenge. Therefore, I voted against the measure to ban all "dial-a-porn" services. I do not support "dial-a-porn," I support the Constitution.

I will vote for final passage of the conference agreement as amended, because I am strongly committed to our Federal education programs.

I am disappointed, however, that the frenzy to solve the "dial-a-porn" problem has resulted in a nonsolution. The complete ban on "dial-a-porn" adopted by Congress will almost certainly be ruled unconstitutional. With no fall-back provision in place, we will find ourselves right where we started in the battle against access to "dial-a-porn" by children. This is extremely disappointing to those of us who favor action, rather than posturing, in addressing this important problem.

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report on H.R. 5, the School Improvements Act of 1988. As the chairman of the Subcommittee on Telecommunications and Finance, and as a conferee on H.R. 5, I wish to focus my remarks on the section of the conference report pertaining to dial-a-porn services.

Mr. Speaker, this House stands united on the goal of protecting children from the exploitation of scurrilous pornographic telephone messages carried through dial-a-porn services. Parents have the right to shield their children from such pernicious practices and to assure that their own telephones be protected against infiltration by dial-a-porn providers who prey on unsuspecting families. There is no disagreement on this goal—the question is the means to accomplish that goal effectively, constitutionally, and promptly.

The conference agreement before the House today, the product of extensive negotiations with numerous outside groups and industry representatives over the last several months, is a monumental step toward the elimination of access by children to dial-a-porn services. Under the proposal, phone companies must, to the full extent technically feasible, provide dial-a-porn services only to those telephone subscribers who specifically request access to such services. If you don't ask for smut, you don't get it.

The conference report is a workable, technologically feasible approach to the dial-a-porn problem which the National Parent Teachers Association, a group most seriously concerned with the protection of children, "unequivocally supports." The proposal is also supported by the United Council of Churches of Christ in the USA. Furthermore, the proposal is recognized as acceptable by the regional Bell operating companies, by AT&T, by GTE, by a number of smaller telephone carriers and by the Information Industry Association, which represents nonadult oriented information service providers. All of these groups are committed to making this proposal an effective one.

Under the conference report proposal, for the first time, Congress will force telephone companies to take specific steps to stop the dial-a-porn problem. And for the first time, Congress will specifically be regulating local, intrastate dial-a-porn services which are not regulated in any way by current Federal law. This is a crucial element of this proposal because 90 percent of dial-a-porn is carried within local areas.

For those who would argue that this proposal is ineffective, let me point to a recent letter of the National Decency Forum, composed of groups such as Citizens for Decency Through Law and Morality in Media. That letter listed three preferences for how to solve the dial-a-porn problem. The first choice, a refusal by a telephone company to carry dial-a-porn services, would be permitted under the conference report. The second, permitting access to dial-a-porn only by written request, is specifically mandated by the conference report. The third preference, refusal to provide billing services, is also fully acceptable under the conference report. Thus even for those who have fought longest and hardest against dial-a-porn, the conference report would provide a swift and effective remedy.

The conference report seeks to take a maximum approach to the dial-a-porn problem while at the same time avoiding the profound constitutional concerns expressed regarding the original Senate language, which would flatly ban all obscene or indecent telephone speech. This approach has already been rejected as unconstitutional in recent congressional testimony by the Department of Justice and the Federal Communications Commission, along with the American Civil Liberties Union. Even the original House sponsor of this language, the gentleman from Virginia [Mr. BLILEY], stated before the House on February 17, that if Congress approved that language, and I quote, "We would still not be closer to a solution of the problem, because immediately the purveyors of these messages would go into court and get a restraining order * * *" We must take action which will realistically address the dial-a-porn problem.

The most clearly objectionable and unconstitutional piece of the Helms-Bliley langauge is its ban on nonobscene, indecent telephone communications. According to the floor statements of the gentleman from Virginia [Mr. BLILEY], this bill represents a "[p]roposed ban on obscene or indecent telephone communications. * * *" It could be more clearly stated that the authors of this proposal seek to ban nonobscene "indecent" telephone speech, despite the fact that no court has upheld any content-based regulation of nonobscene telephone speech, not to mention a complete ban on such speech in any context. Such a ban would directly threaten a huge area of constitutionally protected speech and chill an even broader category of speech.

Despite the constitutional concerns surrounding the Helms-Bliley language, the House has already approved this proposal in H.R. 4401. Thus, the technological proposal contained within H.R. 5 would serve as a backup in the event this language were struck down in court. Members who oppose this technological proposal clearly seek refuge in the all-or-nothing Helms language. If this should be struck down, nothing would be standing in its place.

The conference report before the House today provides Members an effective, pragmatic solution to dial-a-porn that can be implemented today. Given the strong feelings that many Members have expressed regarding the original Senate language, Members will also have the opportunity to vote up or down on that. But given the constitutional questions surrounding that measure, we must have something in place should that fall to constitutional challenge. Members can vote for that safety provision in the conference report—for a real-world technological solution that will help sound the deathknell for access by minors to dial-a-porn services. I urge my colleagues to support the rule and the conference report on H.R. 5.

I am also inserting in the RECORD a memorandum of law on the constitutionality of the Helms-Bliley language which was submitted to the Subcommittee on Telecommunications and Finance last fall following our hearing on this issue. Furthermore, I am inserting a series of letters from organizations expressing their support and acceptance of this technological proposal, including its constitutionality, technical workability, and effectiveness.

ACLU

Washington, DC, April 13, 1988.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House Office Building, Annex II, Washington, DC.

DEAR CONGRESSMAN MARKEY: We are writing to commend you and the House conferees for your diligent efforts to improve Senator Jesse Helms' amendment to the Education Authorization Bill regarding so-called "dial-a-porn". We have long opposed Senator Helms' language because it infringed upon the constitutional rights of adults, yet in the process did not effectively deny minors access to these messages. A patently unconstitutional statute, mired in endless litigation, would serve no purpose for the many American parents who wanted some federal help in recapturing control of their telephones. Your innovative technological solution would not suffer these extensive constitutional infirmatives.

The most blatantly unconstitutional provision in Senator Helms' language is that which would seek to ban dissemination of so-called "indecent" messages to adults. Although the Supreme Court has indicated in *F.C.C.* v. *Pacifica* 438 U.S. 726 (1978) that some regulation of (but not necessarily criminal sanctions upon) non-obscene, "indecent" broadcasting is permissable, it has never even hinted that a flat ban on "indecent" broadcasts would be constitutional.

The Second Circuit Court of Appeals in its recent decision in *Carlin Communications* v. *F.C.C.* (No. 87-4054, Jan. 15, 1988) found the prohibition in § 223(b)(1)(A) of "indecent" communications to minors to be unconstitutional. Although recognizing the *Pacifica* precedent, the court determined that "indecency" regulation for broadcasting may not translate into a justification for regulation of other means of communication. The Second Circuit noted that several courts have struck down legislation which barred "indecent" material on cable televison, distinguishing it from broadcasting because technology exists which enables parents to prevent or limit childrens' access to objectionable cable service: "For some of the same reasons, telephone calls made by an individual over a private line differ significantly from the public broadcast in *Pacifica*". We heartily agree with this reasoning and believe that if this decision is reviewed by the Supreme Court, it will concur that "indecent" speech cannot be regulated over the telephone.

What the courts are recognizing in these "indecency" decisions is that any regulation, even in a medium which is as pervasive and uncontrollable as broadcasting, which is not very narrowly drawn has the effect of sharply curtailing access by everyone because such access is viewed as inappropriate for children. The Supreme Court has never itself offered a clear definition of "indecency"; the Federal Communications Commission has over the years come up with multiple, largely incomprehensible formulations. If there were administrative or criminal sanctions for allowing a telephone system to contain "indecent" material, the effect would have service providers and telephone carriers steering far clear of the "forbidden zone" to avoid liability. In the telephone area, it is quite foreseeable that services such as healthliness which provide non-obscene, but candid and explicit messages on AIDS prevention, or even "dial-a-joke" lines which may contain some adult humor would all be caught in the net.

It is not even clear that Senator Helms' language is constitutional insofar as it attempts to bar "obscene" communication to adults. Although certain kinds of dissemination of "obscene" material can be prohibited (including importation of "obscene" films or screening of "obscene" motion pictures in public theaters) even if available only to adults, the highly private nature of telephone communications presents different constitutional issues. The Supreme Court in *Miller* v. *California* 413 U.S. 15 (1973) provided the basis for prosecution of certain "public and commercial activities" involving obscenity. Although dial-a-porn is clearly commercial, it is hard to construe it as "public" since it generally occurs through an automated, electronic switching system which involves no third parties and has no unwitting participants. The private nature of listening to a recorded message in one's home arguably makes it similar to possessing "obscene" material in one's residence, a right upheld in *Stanley* v. *Georgia* 394 U.S. 565 (1969).

Even if courts uphold the facial constitutionality of the statute, it faces challenges as it is applied. Unlike publishers who decide whether to ship material to a specific locale, "dial-it" providers simply make a message available and do not have any way to know where callers will avail themselves of the service. In effect, the law would create a "national" standard of obscenity (tied to the offensiveness in the least tolerant community), rather than rely on local community standards. The Second Circuit noted in its most recent decision on § 223(b):

"True, telephone messages differ from mailings and broadcastings because the caller rather than the provider controls where the message is received. Individuals can access adult telephone messages from anywhere in the country, potentially subjecting the providers of such messages to suit in any district. While we are sympathetic with the argument that providers, to avoid liability, may be forced to comply with the most stringent local obscenity standard, that is a matter for resolution only if and when the statute is challenged as applied. *Carlin Communications* v. *F.C.C.* F.2d" (Jan. 15, 1988).

The Conference Committee proposal, however, wisely substitutes a technological solution for expanded criminal sanctions. Moreover, it will effectively eliminate minors' access to such services without seeking to terminate the First Amendment rights of adult Americans.

New § 223(c) essentially recognizes that carriers as well as message providers have a legal obligation to keep obscene communications out of the reach of children. As a practical matter, it provides them with a safe harbor from criminal liability under § 223(b)(1)(B) if they provide otherwise proscribed communications only to those who specifically requested access.

Some dial-it providers have indicated that any effort by a carrier to treat them differently from other providers will result in litigation. Increasingly, however, carriers have claimed that "dial-it" message providers need not be treated identically, and courts have upheld certain content-based judgments. See e.g. *Carlin Communications Inc.* v. *Southern Bell Telephone and Telegraph* 802 F.2d 1352 (11th Cir. 1986); *Carlin Communications* v. *Mountain States Telephone and Telegraph Co.* 827 F.2d 1921 (9th Cir. 1987). Unlike Senator Helms' language which faces innumerable challenges on its face and as applied, the Committee language faces only one possible challenge: may the carrier require subscription for only some services, or is this an unlawfully discriminatory state-directed outcome. Support for such distinctions by carriers is found in a footnote to *Carlin* v. *Mountain States Telephone* 827 F.2d 1291, 1297 n.6:

"Depending on whether Carlin's messages are legally obscene, Mountain Bell could still face criminal liability for carrying Carlin's messages. To that extent it could be said that the phone company remains subject to state pressure not to carry Carlin's message. That Mountain Bell might yield, however, to the pressure of an otherwise valid and applicable obscenity law does not convert that law into an unlawful prior restraint . . . Some self-censorship is an inevitable result of all obscenity laws."

To the extent that a carrier requires pre-subscription in order to prevent liability for "knowing" transmission of obscenity to minors, it would seem to be reacting only to the impetus of "an otherwise valid and applicable obscenity law."

When the Education Authorization bill reaches the House floor, some may try to defeat the rule or Conference Report under the bogus argument that this "dial-a-porn" language is too weak. On the contrary, if the purpose of the statutory change is to effectively return control of home telephones to parents and to virtually eliminate access by children to sexual messages their parents consider inappropriate, the Conference Committee language is the most realistic proposal. Although Senator Helms' language may appeal to idealogues, it is so clearly unconstitutional that it will prove useless for its intended purposes.

Again, we commend you and your colleagues for your hard work in this area.

Sincerely,

MORTON H. HALPERIN,
Director.
BARRY W. LYNN,
Legislative Counsel.

THE NATIONAL PTA,
Chicago, IL, April 11, 1988.

Hon. JOHN D. DINGELL,
Chairman, House Energy and Commerce Committee, Rayburn House Office Building, Washington, DC.

Hon. EDWARD J. MARKEY,
Chairman, House Telecommunications and Finance Subcommittee, House Annex 2, Washington, DC.

DEAR CHAIRMEN DINGELL AND MARKEY: The National PTA, an organization of over 6.1 million parents, teachers and other child advocates, commends your leadership in sponsoring Part B, Requirements for Common Carriers with Respect to Dial-a-Porn, an amendment to the Communications Act of 1934. Dial-A-Porn has been a source of frustration and complaint by hundreds of parents nationwide. Children have too often been the target populations of obscene and indecent messages; and parents have often been the recipients of unexpected and exorbitant phone bills as a result of a service they did not affirmatively elect.

The National PTA is concerned with the protection of children, not censorship. The delegates to the National PTA 1986 convention voted to support federal regulation of

Dial-A-Porn, allowing telephone companies to offer the service only as a paid subscription to customers who affirmatively elect such services.

Therefore, the National PTA unequivocally supports your measure and urges its passage. It provides for an affirmatively elected option for parents who are offended by universal access. The Dial-A-Porn issue is particularly difficult to resolve and we found ourselves walking that fine line of how to protect the children from obscene and indecent telephone messages on the one hand, while not wanting to violate constitutional protection on the other. Your bill clearly meets both concerns.

The strength of the bill lies in its focus. Most of the problems related to Dial-A-Porn are at the local level where children dial the 976 number. Your bill would directly drive national policy down to that level to get at the local Dial-A-Porn services. Your bill would immediately reduce the obscene and indecent message at the point where the consumer makes connection with the vendor—the telephone in the home.

The National PTA believes that your measure is an acceptable compromise and meets our organizational criteria. The bill would not censor, but would allow the market to work; the bill would provide universal blockage, but would allow those who wished the opportunity to elect to do so; the bill would not force parents to accept a service they did not request, but neither would it deny them that service. Above all, we believe this bill is in the best interest of children and would provide parents a relief from unwanted obscene and indecent messages. Again, we thank you for your efforts in protecting the children's interest.

Sincerely,

MILLIE WATERMAN,
Vice-President for Legislative Activity.

UNITED CHURCH OF CHRIST, OFFICE OF COMMUNICATION,
New York, NY, April 13, 1988.

Hon. JOHN DINGELL,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: Thank you for taking time yesterday from your busy schedule to meet with me and other representatives of the Telecommunications and the First Amendment Conference. We are grateful for your continued work to codify the Fairness Doctrine and to protect the public interest in such areas as children's programming and public access channels on cable television.

Thank you also for sharing with us your concern about the need for parents to be able to exercise control over their children's access to certain "976" or "dial-it" telephone services. As I have reflected on this issue it seems to me that it is appropriate under the Communications Act for Congress to set parameters under which particular communications services are rendered, as long as such guidelines do not proscribe the free speech of the provider.

The United Church of Christ abhors pornography, but we are equally concerned about the matter of censorship. Your proposal to put certain "dial-it" services on a particular exchange that would be automatically blocked unless the rate payer specifically asked for the service seems to be a good solution. As a matter of principle, the Office of Communication would prefer that all "dial-it" numbers be blocked unless specifically requested, since access to such services frequently creates economic hardship for families that do not understand the financial implications of such calls. Equally important to us is that this solution would keep the telephone companies from making decisions about what types of material should be blocked. For those like the UCC who are concerned to preserve First Amendment rights, this proposal is preferable to any approach that would ban an entire class of speech from the telephone network, or place a common carrier in the position of discriminating between various types of speech.

Just this week two members of my own small office recounted unfavorable experiences with dial-it services. One, having moved from New Jersey to New York, discovered that calls to dial-it weather were three times as costly and had run up a bill of close to $10 in one month. The second case is cause for greater concern. The six year old daughter of one of our secretaries wrote down a television number to call to hear a children's story. When her mother explained that they could not afford calls to such services, the child argued, "Mommy, we don't have to put money into our phone."

These two examples indicate a great need to protect parents financially from unauthorized calls by their children or other persons who may be in their homes. While the need to punch in a code or otherwise authorize access to "976" may cause some inconvenience, it is necessary for the financial protection and safety it affords. Children use the phone freely and do not understand the financial burden it creates.

I am writing this letter as Director of the Office of Communication of the 1.7 million member United Church of Christ and as Chair of the Communications Commission of the National Council of Churches of Christ in the USA, which includes among its membership 32 communions representing 40 million members. While neither of these organizations may speak for any group beyond its own membership, those whom we represent are convinced that parents have a right to protect their children from indecent material entering their home. They may take away a book of which they do not approve and they have a right to blocked access to telephone or cable information which they do not approve without the need for special devices or charges for this right. Your proposal provides this.

Sincerely Yours,

BEVERLY J. CHAIN.

INFORMATION INDUSTRY ASSOCIATION,
Washington, DC, April 15, 1988.

Hon. EDWARD J. MARKEY,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN MARKEY: On behalf of the Information Industry Association (IIA), I wish to provide our thoughts on the "dial-a-porn" legislation included in the Education bill. The IIA represents over 650 leading companies pursuing business opportunities associated with the creation, distribution and use of information.

With certain very limited exceptions (such as national security), our nation has long resisted government restrictions on the ability of citizens to acquire and use information as inconsistent with the principles of a democratic society. If we are to realize the benefits of the information age, we must now—more than ever—adhere firmly to this fundamental precept. For the same reason, we must avoid inappropriate government regulation of new technologies.

At the same time, new challenges and issues are emerging which require a careful balancing of competing interests. The "dial-a-porn" issue is an excellent case in point. We strongly sympathize with those who are concerned about the ease with which children may be able to access adult-oriented voice information services. It would, however, be most unfortunate if this problem is resolved in a manner which stifles the growth of the non-adult-oriented services. Such a result would certainly deny our citizens the benefits of new information technologies and may also legitimize government regulation of information solely because its content is objectionable to some persons.

In view of the above, we have worked closely with the Congress to devise a legislative solution which will directly address the dial-a-porn problem. The IIA believes that the solution embodied in H.R. 5 represents an acceptable approach which properly balances these concerns without unnecessarily impeding the operations and growth of other, valuable information services.

The Congressional response to this difficult issue will do much to shape the future of the information age. To ensure that our society reaps the benefits of this new age, we stand ready to provide additional information and assistance if desired.

Sincerely,

KENNETH B. ALLEN,
Senior Vice President, Government Relations.

NATIONAL DECENCY FORUM REPORT ON CURRENT POLICIES OF AT&T AND THE SEVEN HOLDING COMPANIES

One of the seven, the NYNEX Corporation, provides telephone service in New York, Massachusetts, New Hampshire, Vermont, Rhode Island and Maine. Two proposals have been submitted by NYNEX this month before the Public Service Commission of New York state. The first requests shifting all undesirable messages to one separate number; the second aims to allow blocking of these lines, free for ninety days and then at $5.00 thereafter. NYNEX executives have stated openly that they find Dial-A-Porn "repugnant" but, nevertheless, they claim that NYNEX does not have the right to deny service to anyone. Most of the states under NYNEX have no 976 Dial-A-Porn service. The only exception is New York state, home of the Second District Court that has earned notoriety for systematically frustrating attempts to enforce obscenity laws, under the guise of First Amendment rights. New York, perhaps by coincidence, is also the home of Carlin Communications, by far the largest of all national Dial-A-Porn businesses.

Weakesses: Most people will not bother to request blocking or pay for it, either free or later at a $5.00 cost. Therefore, children will still be able to access Dial-A-Porn messages on most phones. If it can be blocked, all Dial-A-Porn should be blocked and unblocking should be requested in writing. This way most phones would not have access to Dial-A-Porn.

BellSouth Corporation, serving North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee and Kentucky, has, perhaps, the best record of all telephone firms. When Dial-A-Porn appeared in 1983, BellSouth decided to fight. After tough battles in the District

Courts of Georgia and Florida, they won the right to disconnect and reject obscene material. The Eleventh District Court upheld Florida's rejection of Dial-A-Porn businesses, stating that so-called "Dial-It" services are private business activities that entitle companies to private business decisions, and are not "common carrier" activities subject to federal law and not permitted to turn down subscribers.

(This seems to be the best action the phone companies can take. Other phone companies should ride the ruling of the Ninth and Eleventh Circuit Courts that Dial-It services are not an essential common carrier activity but a private business activity and not subject to the same government requirements. This would apply both to the regional companies and to some of the AT&T network.)

As efficiently as some companies or their state offices have worked to eliminate 967 numbers from some states, lurid messages can be reached easily by calling long distance to sources in other states or by using an AT&T 900 number available in many states.

The phone companies tell us that due to reasons strictly technical, it is at present not possible for any of them to control calls between or through states (interstate); technology and legislation permitting this is at least a year away, they say.

One noteworthy exception is Southwestern Bell who says that they have successfully blocked access by outside callers in some of their area. They serve five states: Kansas, Oklahoma, Missouri, Arkansas and Texas; all have been free of obscene 976 numbers, except Texas which has four. Southwestern Bell is proceeding against Dial-A-Porn on two fronts. On the state level it has applied to rightfully demand presubscription by users before access is allowed and it has already obtained free blocking upon request. On the federal level, it actively supports the Helms Amendment of the 1934 Communications Act. The bill, if passed, provides for the elimination nationwide of obscene and indecent messages. Known as HR-5, it has passed the Senate 98 to 0 but is now held in the House where observers report some opposition. It should be noted that HR-5 would have jurisdiction only over interstate services, those that cross over state lines, and they represent only a small percentage of the national traffic. Also, if it passes, HR-5 would probably face very serious tests in the district courts of liberal states.

Another network, Pacific Telesis, offering service in California and Nevada tells us that Nevada has no obscene message services. Here, as is also the case in many successful Dial-A-Porn battles, if was a large volume of consumer complaints that prompted effective action by the network. It is not unrealistic to think that widespread and clearly expressed customer dissatisfaction has more effect on telephone companies than practically everything else. Pacific Telesis has recently filed with its state's utility commission for the right to disconnect (commercial) "customers harmful to its reputation;" and it is very close to obtaining the right to block at a nominal fee, one cent.

Their neighbor, U.S. West, offers service to Washington, Oregon, Montana, Wyoming, Idaho, Utah, Colorado, New Mexico and Arizona; out of all these, prurient messages are only available in Denver, Phoenix, Albuquerque and Salt Lake City. In a few weeks the company expects to offer free blocking or to move all offensive messages to a separate prefix or a 960 prefix. This new prefix would require the end-user to presubscribe with the local phone company; at this point the company would also discontinue billing for the pornographers, who would henceforth, have the responsibility of billing their clients.

Moving to separate prefixes is not favored by all phone companies. Some do not like the burden it places on them of having to determine what is or is not obscene or offensive. But this has not deterred Bell Atlantic. This large east coast firm covering Washington, DC., Maryland, Virginia, Pennsylvania, New Jersey, West Virginia, and Delaware recently filed with commissions in three of its states to put objectionable messages on such "alternate exchanges" and to block all lines until service is requested by a customer. Like most phone companies, Bell Atlantic says that it is cooperating with all federal efforts. Three Bell Atlantic states, Virginia, West Virginia and New Jersey, are free of 976 Dial-A-Porn numbers.

Phone clients in these states may, in certain areas, find access to phone smut in neighboring states blocked. But, if such is the case, there exists in many parts of the country the possibility of dialing an AT&T 900 number in order to listen to lewdness or obscenity.

Since May 1987, AT&T has taken a number of measures. It has adopted scrambling proposals and has authorized "adult" phone numbers to be clearly marked on their bills. In what is termed "stringent policy," AT&T announced that Dial-A-Porn subscribers (the porn producers) will no longer receive "promotional compensation," a small rebate of .02 to .05 per call offered to promote advertising. AT&T adds that all customer complaints will be referred to the F.C.C. and that upon F.C.C. direction it will disconnect an explicit message. All complaints must include a copy of the telephone bill.

In the north central part of the country, Ameritech (Indiana, Illinois, Ohio, Michigan and Wisconsin) announces measures of free blocking and affirms their right to refuse to bill for message services that are a "financial nuisance to customers" or harmful to the firm's reputation.

The Second Circuit Court recently clarified the F.C.C.'s right to fine ($50,000 per day) and suspend Dial-A-Porn operators who do not screen calls with I.D. numbers, credit cards or scrambling. On December 7, the F.C.C. initiated warnings against two Dial-A-Porn operators. If the F.C.C. would move quickly against several Dial-A-Porn operators with suspensions and $50,000 per day fines, we would also see a significant impact.

The final wording of Dial-A-Porn legislation being considered by confereees in the House and Senate has complications because:

1. It only addresss interstate traffic, which is less than ten percent of the problem.

2. If indecency is included, it may take several months or years to establish criteria for an indecent Dial-It message or for consenting adults' right of access.

3. If all Dial-It messages are blocked, the entire weight of the phone industry lobby will move against the measure because most Dial-It services are legitimate and growing businesses (i.e. Dial-A-Sport, Dial-A-Prayer, Dial-the-Weather, etc.).

Our recommendations, in order of preference, are:

1. That AT&T and the regional phone companies all refuse service in accordance with the Ninth and Eleventh Circuit Court's decision that Dial-It service is a private business activity and not a required common carrier activity. This relieves the problems of blocking and scrambling and trying to determine what is obscene as opposed to indecent, etc. which could take years to unravel.

2. Breaking out Dial-A-Porn and adult live talk services to a different prefix and giving access only by written request is the next best measure.

Note: If customers are required to request blocking rather than request access, a large percentage of the phones will still have access to Dial-A-Porn service. The neighborhood children will find these phones.

3. The F.C.C. does not require automatic billing for Dial-It services and the phone companies refusal to collect money for the Dial-A-Porn operators may also directly dry up their access to our children.

The SPEAKER pro tempore (Mr. DURBIN). The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 397, nays 1, not voting 34, as follows:

[Roll No. 58]

YEAS—397

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo

Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—1

Crane

NOT VOTING—34

Ackerman
Berman
Biaggi
Borski
Boulter
Clay
Clement
Conyers
Coughlin
Daub
Emerson
Frank
Garcia
Gordon
Grant
Kemp
Kleczka
Lent
Mack
Manton
Mollohan
Moody
Nichols
Owens (NY)
Price (IL)
Rangel
Ray
Savage
Sisisky
Stratton
Towns
Vander Jagt
Whitten
Yates

□ 1841

Mr. CRANE changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JEFFORDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 5.

The SPEAKER pro tempore (Mr. DERRICK). Is there objection to the request of the gentleman from Vermont?

There was no objection.

RECOGNIZING TUFTONIA'S DAY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHARDSON. Mr. Speaker, I rise to bring my colleagues' attention that today, throughout the world, my fellow Tufts University alumni are celebrating the fourth annual university "holiday" of reminiscence and revelry we call Tuftonia's Day.

Held every year on April 19, Tuftonia's Day is a special time for the 60,000-plus alumni of this great international institution located in Medford, MA. It is a day for Tuftonians to get together with one another to remember, recognize, and celebrate their alma mater.

Tuftonia's Day derives its name from the title of the venerable Tufts football fight song written by E.W. Hayes, class of 1916. This Tufts holiday has been celebrated in diverse ways and recognized by people throughout the world.

Official proclamations for Tuftonia's Day have been issued by the Governor of Massachusetts and the mayors of Boston, Medford, and Sommerville, MA. In addition to a formal ceremony on campus, there are local and international observances ranging from small gatherings in restaurants to champagne receptions in museums, art galleries, and private homes; from a group trolley ride to a ride on a jumbo elephant in India. Tufts alumni from Hartford to Hong Kong and from San Diego come together to think Tufts, thank Tufts, and toast Tufts.

Tufts University was founded in 1852 and currently enrolls approximately 7,200 students from 48 States and 75 foreign countries. The main campus in Medford, MA, houses the College of Liberal Arts, the College of Engineering, Jackson College, the Boston School of Occupational Therapy, the College of Special Studies, the School of Nutrition, and the Fletcher School of Law and Diplomacy. The Boston campus contains the Schools of Medicine and Dentistry, while the School of Veterinary Medicine, the only one in New England, is located in Grafton, MA.

I take this opportunity to recognize Tuftonia's Day and join my fellow Tufts alumni throughout the world in saluting the rich history, great accomplishments and continuing excellence of Tufts University. To Tufts students, faculty, administration, and alumni, happy Tuftonia's Day.

[From the Tufts Daily, 1985]

FLYNN, DUKAKIS PROCLAIM TODAY TUFTONIA'S DAY

(By Ellen Spirer)

"In spirit of Tufts' contribution to Boston and Massachusetts," Boston Mayor Ray Flynn and Massachusetts Governor Michael S. Dukakis have proclaimed today Tuftonia's Day in Boston and the Commonwealth of Massachusetts, according to Assistant Director of Alumni Relations Mike Durall.

Tuftonia's Day, originally the idea of Director of Alumni Relations Ron Brinn, is a day for all members of the Tufts community around the world to "bring Tufts to mind," Durall said.

Brinn noted that the official proclamations "add . . . a nice element" to the day's celebration.

Dukakis proclamation commends Tufts "and its associated hospitals (for housing) long been an integral part of the character of the Commonwealth of Massachusetts."

"Tufts University has contributed to the educational and intellectual climate of the Commonwealth since 1852," it continues.

"Whereas Tufts has educated Massachusetts residents for many generations and Tufts has locations throughout the Commonwealth and whereas 1985 marks the 75th anniversary of E.W. Hayes' song, 'Tuftonia's Day,' I, Michael Dukakis, proclaim April 19 as Tuftonia's Day," the document concludes.

Tuftonia's Day will be celebrated both at Tufts and by alumni around the world, Durall said. Notices were sent to all alumni, he explained.

In addition, a contest will be held, Durall said, and a prize will be awarded to the alumni or alumnae who celebrate the day in the most interesting way.

Festivities on campus will begin today at 10 a.m. with a speech by President Jean Mayer in front of Ballou Hall.

The proclamations will be displayed in Alumnae House, Durall said.

PROCLAMATION

Whereas Tufts University and its associated hospitals have long been an integral part of the character of the Commonwealth of Massachusetts;

Whereas Tufts University has contributed to the educational and intellectural climate of the Commonwealth since 1852; and

Whereas Tufts University had educated Massachusetts residents for many generations; and

Whereas Tufts University has locations throughout the Commonwealth, in Medford, Boston, and Grafton; and

Whereas 1985 marks the 70th anniversary of E.W. Hayes' song, "Tuftonia's Day";

Now, therefore, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim April 19, 1985, as "Tuftonia's Day" in the Commonwealth, and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

BOSTON PROCLAMATION

Whereas Tufts University and its associated hospitals have long been an integral part of the character of the City of Boston; and

Whereas Tufts University has contributed to the educational and intellectual climate of the Greater Boston area since 1852; and

Whereas Tufts University has educated Boston residents for many generations; and

Whereas Tufts University and its downtown locations have become a vital part of the City of Boston and because 1985 marks the 70th Anniversary of E.W. Lewis's song, Tuftonia's Day: Now therefore,

I, RAYMOND L. FLYNN, Mayor of the City of Boston, do hereby proclaim Friday, April 19, 1985 to be "Tuftonia's Day" in the City of Boston and urge all my fellow Bostonians to join me in recognizing the achievements of Tufts University to the quality of life in our city.

[From the Medford Daily Mercury, Apr. 18, 1985]

TUFTS STAFF, ALUMNI SET FOR CELEBRATION

MEDFORD.—Alumni, students, and members of the Tufts University community will gather on Friday, April 19, to celebrate Tuftonia's Day, the official school holiday.

Derived from the title of a rousing old Tufts song, Tuftonia's Day is a time of revelry and reminiscence when Tufts graduates, from Medford to Malaysia, from Boston to Brazil, and from Grafton to Greece will raise a toast to Tufts.

The Medford campus will be the scene of day-long activities in honor of the "Spirit of Tufts." President Jean Mayer and Medford Mayor Paul Donato will officially proclaim the day at 10 a.m. on the portico of Ballou Hall, the oldest building on campus. The Beelzebubs, a popular student singing group, will sing "Tuftonia's Day."

The public is welcome to don brown and blue (the school colors) apparel and join the ranks of Tuftonians for these ceremonies.

At 2:30 p.m. in the Goddard Chapel, Tufts traditions will be the subject of an address by university archivist Russell Miller.

Among the other festivities, an ice cream fest will be held on the library roof, the bookstore will offer a 10 percent discount on all Tufts clothing, and the day will come to a rousing conclusion with a Tuftonia's Day party on the Carmichael quad.

Ron Brinn, director of alumni relations, says of the holiday, "April 19 is Tuftonia's Day because it was for a long time Patriots Day, a holiday peculiar to Massachusetts. To a large number of our 50,000 graduates, the day marks the end of winter, the beginning of Spring, the Boston Marathon, and other nostalgic rites of passage."

AN "AUSPICIOUS START" FOR TUFTONIA'S DAY

From the Museum of Contemporary Art in Los Angeles to the French-Swiss border near Geneva, from a flowerpot in Marion, Mass., to a Mexican cafe in San Diego, loyal friends of Tufts all over the world turned their minds and hearts to alma mater in late April as they celebrated the first-ever Tuftonia's Day.

The new holiday was inaugurated by Director of Alumini Relations Ronald C. Brinn, A58, as a way of symbolically uniting each year those alumni who cannot physically return to campus for such annual celebrations as Alumni Weekend and Homecoming. It was officially set for April 19, a date marked in Massachusetts by Patriots Day celebrations and the running of the Boston Marathon. Taking its title from the lusty Tufts fight song composed in 1912 by Elliott W. Hayes, A16, the date was formally designated as Tuftonia's Day on proclamations signed by Massachusetts Governor Michael Dukakis and the mayors of Medford, Somerville, Boston and Grafton.

Though the event may not have evoked the 50,000-alumni participation that he had optimistically called for, Brinn described the day's festivities as "an auspicious start for a new tradition."

On Tufts' Hill campus, there were a formal ceremony, an ice cream fest and numerous parties, as well as an address on "Tufts Traditions" by university historian Russell Miller. Blue and brown balloons were sold for the benefit of Oxfam America, brown and blue beer was served at MacPhie Pub, and the campus bookstore gave a 10 percent discount on Tufts togs. Both the Beelzebubs and the Jackson Jills sang their renditions of "Tuftonia's Day," and the evening was marked by the university's annual academic awards ceremony and the Jumbo Club award dinner.

In New York's Times Square, the famed electronic billboard on the Allied Chemical tower beamed Tuftonia's Day greetings at 10-minute intervals throughout the day. It then "blitzed" Tufts' message from 10:30 to 11 p.m., when the neighborhood was bustling with theater-goers following the evening's final curtains, Brinn says, adding that the electronic extravaganza was paid for by the Tufts Community Union Senate. A group of young alumni stopped to pose for a picture there in the land of George M. Cohan and Calvin Klein before proceeding on to a party at J.D.'s restaurant on 52nd Street, where, according to group leader Lloyd Zuckerberg, A84, they sang "We Are the World" because they didn't know the lyrics to "Tuftonia's Day."

Los Angeles area graduates gathered more than 100 strong at the city's Museum of Contemporary Art for guided tours of the Count Panza collection and a Tuftonia's Day reception organized by John Nyhan, A65, Sunny (Moran) Breed, J66, Hal Taylor, A55, Laura A.S. Phillips, J77, and Mark Simmons, A80. The event was first sponsored by the Tufts Alumni Alliance of Greater Los Angeles, and, according to Phillips, it was "smashing."

On the West Coast of Florida, three dozen alumni, spouses and friends jumped the Tuftonia's Day gun by one day, gathering at the Windjammer Restaurant in Sarasota April 18 for a good lunch, good fellowship and an update on campus happenings from Senior Vice President Dr. Thomas Murname, A58, D62, D65, G68.

Other parties were held in restaurants and homes from San Diego to Virgin Gorda, and included one in a Chicago restaurant where Nancy (Redfield) Carkhuff, J61, reports that a group "conducted its merrymaking in a rather outrageous manner (just ask the waiter!)." Herb Nelson, E46, describes a quieter celebration which he shared with Bill Burgess, E46. "Bill," he writes, "had grown a special hibiscus to be in full bloom for Tuftonia's Day. His goal next year is that the blossom be on time with the correct colors, brown and blue."

Eric Tiger, Rob Sweren and Kevin Thurm, all A83, observed Tuftonia's Day in Paris together, while Tufts European Center assistant director John Kodis, A81, celebrated Tufts in two countries at once, raising a toast with one foot in France and one in Switzerland. Monica D. Williams, J69, who was traveling closer to home reports with delight, "I was landing at Logan Airport in Boston, and the first thing I saw was a big sign, 'Welcome, Tufts Alumni! Celebrate Tuftonia's Day!' "

Writes Anne Symanovich, J75, "I celebrated Tuftonia's Day with Don Anderson, A74. We had lunch at a Chinese restaurant, where we toasted Tufts with Chinese tea and ordered a jumbo plate of shrimp rolls and beef with elephant-ear mushrooms."

Mementos of the first Tuftonia's Day will be sent to all who wrote to share news or photos of their festivities, says Brinn, adding, "We may never know for sure exactly how many people actually marked the day, but we believe it was a significant percentage of our alumni."

□ 1845

AT&T AND THE WHITE SUPREMACISTS

The SPEAKER pro tempore (Mr. DERRICK). Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 5 minutes.

Mr. MFUME. Mr. Speaker, when we think of affirmative action programs as a means to right the wrongs of decades of discrimination against minorities, much of the attention is focused on such corporate giants as the American Telephone & Telegraph Co. [AT&T]. While AT&T has had a minority hiring program in place for several years, a recent incident causes me to question the sincerity of the company's efforts to ensure equal opportunities for its 300,000-member work force.

The National Alliance—a self-avowed white supremacist organization that openly expounds the philosophies of Adolf Hitler—owns 100 shares of valuable AT&T stock. The group submitted a proposal forcing AT&T stockholders to schedule a vote tomorrow to suspend the company's minority hiring program. The Nazis' poisonous rhetoric contends that black Americans are intellectually inferior and affirmative action causes low morale among whites.

Identifying the so-called conclusive evidence that the National Alliance cites as proof of its position would run the risk of legitimizing the kinds of racist theories we had hoped were behind us. My festering anger about this matter stems from what appears to AT&T's passive reaction to the white supremacists' proposal.

It is my understanding that AT&T's response was to simply urge shareholders to vote against the National Alliance's proposal so that the company can continue to qualify for Government business. If the almighty dollar is AT&T's only concern about an issue as blatantly racist as this one, minorities and all Americans have been ruefully insulted. AT&T—with all its skilled lawyers and advisors—should have presented the Securities and Exchange Commission [SEC] with an ironclad argument against the inclusion of the National Alliance's resolution on the stockholders' ballot. Not having done so, the SEC ruled to allow such.

I have written to AT&T's board of directors to get a complete understanding of the corporation's position on this incident, and a feel for the depth of the company's commitment to minority hiring.

The AT&T/National Alliance issue has surfaced at a time when we as a nation are analyzing our progress in race relations in the 20 years since the assassination of Dr. Martin Luther King, Jr. Unfortunately, evidence reflecting a lack of such progress abounds.

Last year, the Howard Beach murder in New York and the mass demonstrations in Forsyth County, GA reeked of an apparent relapse into a society we had hoped was relegated to the pages of the history books.

Once regarded as havens for social change, institutions of higher learning are revealing demonic elements of bigotry as well. Race related confrontations have been documented at a number of colleges and universities nationwide.

It is quite distressing to see that our future leaders are no closer to resolving longstanding differences than our former leaders were 40 years ago.

Actions by groups such as the National Alliance are likely to haunt us for countless decades, but any entity that uses the teachings of Adolf Hitler as the bases for its beliefs should not be allowed to influence corporate America. Moreover, individuals and businesses—including AT&T—that are in a position to educate the ignorant and misinformed must always take a firm stand in doing so. It troubles me that, in the case of AT&T and the National Alliance, a corporate giant may have proven to be a shrinking violet in the face of a racially inspired act. I anxiously await AT&T's reply concerning this very important issue.

"JUST SAY NO WEEK"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, I am very pleased to introduce a bill designating the week of May 8–14, 1988, as "Just Say No Week." We are all well aware of the tremendous ramifications due to involvement in illegal drugs. This plague is of great concern to most Americans. Parents of school-age children are particularly aware of this problem.

Peer pressure is a major factor in the increasing use of drugs by teenagers. Because of greater emphasis on the contribution of peer pressure to the drug abuse problem, Just Say No clubs are being formed in schools all across America. These clubs are designed to help prepare elementary and junior high students to take a stand against the pressure to experiment with and use drugs.

This week of May 8–14 is designed to recognize the fact that our youth are our most precious resource and encourage them to contribute to drug abuse prevention by starting Just Say No clubs. Children all across America will participate in a national Just Say No Walk Against Drugs on May 11. Our young people should be recognized and applauded for these efforts.

Because of the work of many in this body, a war against illegal drug use was begun with the passage of the omnibus drug bill. Let us continue our efforts to fight drug abuse and observe the week of May 8–14 as Just Say No to Drugs Week. We must keep up the good work to rid America of the infestation of drugs and make our society drug-free.

COIN DESIGN CHANGES ARE NOT REVENUE RAISERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, there are in both Houses proposals which would encourage the Secretary of the Treasury to change the designs of our circulating coinage. Supporters of these proposals have claimed that design changes will generate billions of dollars of revenue to reduce the deficit through an increase in seigniorage. Seigniorage is the difference between the cost of minting a coin and its face value. The more coins that are minted the greater the seigniorage which would be generated. Supporters claim that design changes will greatly increase coin demand, thereby increasing seigniorage.

Some have claimed that the increase in seigniorage could be as much as $2.3 billion over 5 years. History shows that the chances of that happening are remote.

In the past 42 years, there have been six changes in the designs of U.S. coins which have not involved the introduction of a new coin or a change in metallic content.

The changes since 1946 have involved every denomination except the nickel. One change, the cent, involved only the reverse of the coin. Two changes, the dime and the half dollar, involved a redesign of both sides of the coin. The three remaining changes involved 2-year changes for the Bicentennial of Independence of the reverse of the quarter, half dollar, and dollar coins.

None of these changes support the premise that design changes involve great increases in coin demand. In fact, some of the changes showed a decline in mintages.

In 1946 the Liberty Head dime was replaced by the Roosevelt dime. The mintage increased from 241.2 million in 1945 to 344.2 million coins in 1946. Increased mintage of the dime in 1946 may also be due in part to the increased economic activity following the end of the Second World War. Regardless of the reason, the 1946 mintage is virtually identical to that of the 1944 Liberty Head dime. In 1947 dime mintage drops off sharply in the second year of the new design, perhaps due to economic conditions or perhaps to an excess of dimes minted in the first year of the design. Mintage of Roosevelt dimes during its first 2 years is actually 6.3 percent less than the last 2 years of Liberty Head dimes.

The Franklin half, introduced in 1948, actually shows a lower mintage than the last year of the Walking Liberty coin that it replaced, with the number of coins declining from 8 million to 7 million. Although the mintage for the second year of the new design increased, it was still less than for the next to last year of the Walking Liberty design. Like the Roosevelt dime, the mintage for the first 2 years of the new design was less than for the last 2 years of the previous coin. Indeed the first 2 years of the new design showed a mintage 21.6 percent lower than the last 2 years of the old design, 20.4 million coins compared to 26.0 million.

The reverse design of the cent was changed in 1959. This change provides the most evidence of increased mintages resulting from new designs. In 1959 1.89 billion cents with the new Lincoln Memorial reverse were minted, up from 1.05 billion coins the previous year. What role a new design had on the increase mintage is hard to ascertain because the Nation suffered a rather severe recession in 1958. Coin demand, which is affected by economic conditions, had fallen in that year, and cent mintages for 1958 had declined 21 percent from 1957. The increase in cent production was more likely due to the improved 1959 economy than to the design change. While the 79 percent increase in cent production appears large, it is dwarfed by the 154 percent increase from 1963 to 1964, a period during which the design—and composition—of the cent remained unchanged.

For 1975 and 1976 the reverses of the quarter, half dollar, and dollar coins were changed in commemoration of the Nation's bicentennial. In 1977 the old reverses were resumed. The mintages of those coins, like the permanent changes previously discussed, show no consistent pattern. The mintages of the three coins share no common pattern. Claims that design changes generate large increases in coin demand find no support in the evidence from that period.

Considering the 2-year periods before, during and after the bicentennial design, a consistent decline in quarter mintage is apparent, from 1.73 billion in 1973–74, through 1.67 billion in 1975–76, to 1.53 billion in 1977–78.

For the first year of the commemorative design in 1975, when interest would have been expected to be the highest, the number of coins struck declined 29 percent from the preceding year, from 1.155 billion in 1974 to 817 million in 1975.

Bicentennial half dollars and dollars show different and more erratic mintage patterns then the quarter. For those two coins, the 2-year bicentennial coinage has a higher mintage than for either the preceding or succeeding 2-year periods. The first year's mintage of the bicentennial coinage is higher than for the second year. The number of coins struck in the second year of the bicentennial design is less than the number of coins struck in the year before the new design was used.

Mintage patterns for the half dollar and the dollar show differences as well as similarities. Mintages for the preceding 2 years was higher than for the succeeding period of the half dollar. For the dollar the pattern was reversed. More dollars were minted in the 2 years following the bicentennial coinage than in the 2 years preceding the bicentennial design.

Those claiming that design changes will generate billions of dollars in revenue base those claims on assumptions that have no connection with fact or reality. They include such wild claims that demand for half dollars will increase twenty-fivefold in the year preceding a change in design, and that quarter demand will quadruple.

As anyone can see from a study of past design changes, there is absolutely nothing that supports the assumption that a change in design will lead to great increases in coin demand. Indeed, the evidence suggests that the effect that coin design changes has on coin demand is so small as to be impossible to measure. It is negligible at best. Without that demand, there will be no increase in seigniorage. And without that seigniorage, there is no increase in revenues to reduce the deficit.

Mr. Speaker, I want Members to understand that there is no additional revenues to be gained from changing coin designs. If there is any reason to change our Nation's coin designs the Secretary of the Treasury has the authority to do so without congressional approval. We should reject attempts to respond to the siren's song of easy revenue through coin design changes, because there are no profits to be made.

LEGISLATION TO ESTABLISH NATIONAL SYSTEM OF TRAUMA CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today, I am introducing legislation to amend Medicare to provide incentives for the establishment of a national system of trauma care.

Trauma is the medical term for injury. Motor vehicle crashes, firearms, falls, drownings, poisons and fires account for most trauma deaths in the United States. Trauma is the most preventable public health problem in the country today, but it remains the leading cause of death for Americans under age 44. More than 4.1 million preretirement work years are lost to injury each year, nearly three times the amount of work years lost to cancer.

While there has been a great deal of improvement in the quality of emergency medical care in the United States, not enough attention has been given to the very specialized problems of trauma. My legislation does not deal with the normal, outstanding operations of the Nation's emergency rooms: The broken finger, the stitches for a child, or even a heart attack. It does deal with bringing the miracles of modern medicine to the victims of various traumatic accidents who face death or lifelong handicaps unless they receive very specialized care very, very quickly.

In the United States, 1 out of every 12 deaths is from trauma and an estimated 80 percent of the severely injured never get appropriate care. Only 10 percent of American communities are served by an effective trauma system. The overall death rate from trauma for American teenagers and young adults is 50 percent higher than it is for their contemporaries in other industrial societies. It is appalling that in this age of advanced medical technology we continue to allow trauma to take lives and permanently maim 340,000 people each year. These people lose limbs, sight, and mobility as a result of preventable accidents and inadequate post-accident response system.

Trauma is not an age-specific disease. Severe injury affects all age groups. Each year more than 160,000 Americans die from injuries. Trauma is the number one killer of children under 14 and is responsible for four-fifths of the deaths that occur between age 15 and 24.

It is particularly appropriate that the Medicare laws be used to encourage the improvement of the Nation's trauma care, because seniors are especially vulnerable to death and handicap from accidents. Approximately 30,000 persons age 65 or older die of injuries each year. Patients over 65 have up to two to three times the risk of dying from their injuries than those under age 65. Not only are older trauma victims more likely to die from their injuries, they are more likely to develop complications and die from those complications.

When addressing appropriate care for the trauma victim, time is of the essence. Studies prove that patients die for lack of prompt diagnosis and treatement. The key word is "prompt". The key issue is how to provide the patient with the most appropriate care in as short a time as possible. Immediate treatment saves lives and restores the victim of serious injury to an optimum level of function.

As our emergency medical service system exists today, trauma treatment within the appropriate time period is not norm. In about a third of trauma cases, there is what experts call the golden hour after injury during which the victim's life could be saved by proper treatment—but too often is not. Due to the lack of an organized structure in which to deliver effective and efficient treatment, appropriate trauma care is often delayed. The usual cause of preventable death is related to timeliness of surgical intervention or lack of surgery when surgery is needed. An appropriately configured and focused acute health care system can substantially reduce the mortality of major injury, as well as the morbidity and societal costs which, in 1986, approached $120 billion.

Trauma centers are hospitals with highly skilled surgical teams on duty around the clock. Patients suffering life-threatening injuries are rushed to these centers where the trauma team's quick response can save their lives. Organized, regional trauma care systems have been shown to reduce preventable deaths from injury and to improve patient outcome. In Orange County, CA, preventable death rates were as high as 34 percent. Following the establishment of an organized regional trauma system, preventable mortality was reduced to 15 percent. In San Diego and Imperial Counties, CA, a 22-percent preventable death rate was reduced to 6 percent as a result of an organized system of trauma care delivery.

But the treatment of trauma victims is very expensive: In today's increasingly tight Medicare budgets, hospitals have found that being a trauma center is less an honor and mark of distinction than it is an invitation to red ink and bankruptcy. This is particularly true in urban areas. We must find ways to ensure that hospitals which are designated as trauma centers under the plan required by my bill will be adequately reimbursed. One of the sections of the bill calls for an early report on the adequacy of DRG payments and outlier policy for trauma treatment.

The primary objective of the "Medicare Trauma Care and Emergency Services Quality Assurance Act of 1988" is to require each State to plan and develop a regionalized trauma system in order to ensure optimal emergency medical treatment for citizens in all areas of the Nation. A section-by-section description follows:

MEDICARE TRAUMA CARE AND EMERGENCY SERVICES QUALITY ASSURANCE ACT OF 1988—SECTION-BY-SECTION DESCRIPTION

I. REDUCTIONS IN MEDICARE PAYMENT FOR STATES WITHOUT TRAUMA PLANS

Provides that the Medicare weighting factor under the prospective payment system for trauma-related cases to hospitals in states without a trauma and emergency services plan will be considered to be zero. This will have the effect of reducing payment to zero but the hospital will still have an obligation to provide the service.

A hospital in state with a plan will be required to provide evidence satisfactory to the Secretary that it complies with the standards and guidelines of the plan.

II. DEVELOPMENT OF STATEWIDE TRAUMA AND EMERGENCY MEDICAL SERVICE PLANS

A trauma plan must provide for designation of hospitals as trauma centers, specify standards for pre-hospital care and emergency transport, and specify standards for inter-hospital transfers.

The plan must be developed by an agency of state government designated by the Governor.

The plan must establish standards and criteria for the designation of Level I, II, and III trauma centers, taking into account geography, transport system capabilities, trauma center distribution, and population density.

III. GRANTS TO STATE FOR DEVELOPMENT AND IMPLEMENTATION OF STATEWIDE TRAUMA AND EMERGENCY MEDICAL SERVICES PLANS

The Secretary shall make grants from the Medicare Part A Trust Fund to states to develop and implement statewide trauma and emergency medical services plans.

Each state may receive up to five cents per capita under this authority subject to a matching requirement of 60 cents in State funds for every 40 cents in Medicare funds.

IV. STUDY AND REPORT.

The Secretary is required to study and report to Congress by March 1, 1990 on the adequacy of payment under Medicare for trauma discharges including payment for outliers.

WAR IN THE PERSIAN GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, today in talking by telephone with my constituents, I find a great deal of confusion about the status of the war in the Persian Gulf. I have tried to explain to them that war in the Persian Gulf is the price we pay for dependence on foreign oil from the Middle East. To protect the oil lifeline, the U.S. Navy escorts oil tankers to insure safe passage to destinations in the United States, Western Europe, and Japan.

U.S. ships have the right to sail in international waters. The U.S. Navy has the responsibility to protect its ships and sailors at sea. We Arkansans support a shoot-back policy in the Persian Gulf, but we also know that if we had a national energy policy, our military presence there would not be necessary. What we are currently seeing in the Persian Gulf is the inevitable escalation of the war that may continue for years to come.

Our dangerous dependence on foreign oil is likely to get worse in the future, if our policies do not change. The Office of Technology Assessment has reported that imports could reach 50 percent of U.S. oil consumption by the early 1990's or earlier. The Office estimated that this could amount to a $50 to $60 billion drain on the U.S. balance of payments.

If our energy came from the heartland of America, and not the Persian Gulf, we would not have to ride the emotional roller coaster of sudden upsurges and declines in the price of oil. Immediately after the United States-Iranian naval clash in the gulf, prices on world oil markets jumped to their highest levels this year. That surge continued a rally in oil prices that was set off in early April when the Organization of Petroleum Exporting Countries convened an unprecedented conference with oil-exporting countries that are not OPEC members to seek strategies for inflating prices. The volatile oil markets could change at any time, and the price could fall or skyrocket again; but the point is that our energy prices should not be determined by OPEC, or by the latest military clashes in the Persian Gulf—it should be determined by what we do in the heartland of America. Otherwise, we can be buffeted about by the changing winds of international politics, at the mercy of far away events over which we have little or no control.

A national energy policy would strengthen America from within and enable us once again to become a producer nation instead of a consumer nation dependent on foreign production to supply our vital interests at home.

DR. FRANCIS E. CONRAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, the Veterans' Administration and the Nation have lost a great friend and truly dedicated public servant because of a senseless act of violence. On April 7, Dr. Francis E. "Frank" Conrad, Director of the VA Office of Quality Assurance here in Washington, was stabbed to death by an irate tenant of a Chicago apartment complex who was upset that he was about to be evicted. Dr. Conrad had gone to the complex to help his daughter find an apartment.

Dr. Conrad, who had been with the VA for 15 years, established the first technology assessment program for the agency's Department of Medicine and Surgery. He also developed the foundation for a computer-based quality assurance information system, technology that will enable the VA to monitor and maintain the delivery of high quality health care to our Nation's veterans.

Dr. Conrad worked closely with the Veterans' Affairs Committee and, in fact, was scheduled to testify on VA quality assurance at a hearing this week.

Mr. Speaker, I know my colleagues will want to join with me in expressing sympathy to Dr. Conrad's two daughters upon the loss of their father and in solemnly noting the passing of a fine gentleman and distinguished physician. He will be greatly missed.

VIEWING THE WORLD FROM THE PACIFIC RIM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I was among the Members who had the privilege of representing this House at the Pacific Parliamentary Caucus in Makaha, Oahu, HI, January 9-11, 1988.

This annual meeting of Parliamentarians and other officials from the Pacific nations is sponsored privately by the Pacific Forum and the Atlantic Council of the United States.

I found the Pacific Parliamentary Caucus an extremely valuable forum for discussing economic, political, and security issues with our friends and allies in the Pacific. It was so useful, in fact, that I am urging my colleagues to take a greater interest in this forum and to give it our strong support.

At this point, I would like to insert in the RECORD an executive summary of the proceedings of this year's Pacific Parliamentary Caucus, as well as a list of participants. This summary was prepared by Adm. L.R. Vasey, president of the Pacific Forum, and M. Mark Earle, Jr., Asia-Pacific consultant to the Aspen Institute for Humanistic Studies.

Our colleagues in the Congress will find this report timely and helpful in understanding our interests and opportunities in the Pacific.

EXECUTIVE SUMMARY—PACIFIC PARLIAMENTARY CAUCUS

This report is the Executive Summary of a recent Pacific Parliamentary Caucus which brought together under private auspices Pacific and European legislators who have responsibilities for Pacific policies. The views contained herein are those of the authors and may not reflect the views and opinions on a particular issue of individual participants.

Appreciation is expressed to the staffs of the Pacific Forum and The Atlantic Council of the United States for their support in the preparation and conduct of the Caucus. Particular appreciation is expressed to Rick Greenwood of the Congressional Reference Service and The Atlantic Council, and to Job Dittberner of The Atlantic Council for their assistance in organizing Caucus participation and in coordinating with the North Atlantic Assembly.

A. GENERAL

A Parliamentary Caucus was held in Hawaii on the 9th, 10th and 11th of January 1988. This was the fourth Caucus in a series that have sometimes included legislators from Europe and other times included only participants from Asia-Pacific.

The purpose of these non-partisan exchanges is to: Provide an informal forum for parliamentarians at a time when national legislators are becoming increasingly influential in national policy making; provide a regular means for inter-parliamentary consultation and mutual assessment of international policies; deepen mutual understanding of each other's critical issues, and; contribute fresh insights on shared problems and opportunities critical to national decision making processes.

Participants included 24 parliamentarians from 7 Pacific countries, a special delegation of 12 from the North Atlantic Assembly (NAA), 12 resource specialists, and 9 observers.

The following points summarize the exchanges. They reflect differences as well as areas of agreement. Because of the emphasis on candid and open exchange, not all of the facets of a particular topic might have been raised during the course of a particular discussion. The points capture the essence of a parliamentary dialogue; they should not be viewed as consensus conclusions.

B. HIGHLIGHTS OF THE PRESENTATIONS AND EXCHANGES

1. Economic Issues

a. Economic issues will be the dominant factor in international affairs in the mid-term and will significantly influence political and military developments.

b. There was general acceptance that the three main problems facing the world economy today are: The U.S. trade and budget deficits; the trade surpluses of Japan, the FRG, and the NIC's, and; the burden of developing country debt.

c. The solution to these problems needs to come first from the U.S. (meaningful budget cuts, appropriate tax increases, sustained export expansion) and then be blended with reduction of trade surpluses by others. The boldness of the changes necessary to restore financial confidence increases significantly with time.

d. Most U.S. participants thought that the majority of the changes needed to improve economic performance were internal, not external. Focusing on domestic issues, however, is not synonymous with a retreat to fortress America.

e. The perceptions of the debt problem and feasible solutions varies among economic specialists, public officials, and parliamentarians. Most favor a pragmatic step-by-step approach because it is more realistic politically than solutions that might destabilize the financial and commercial systems.

f. A new attitude is needed regarding LDC debt—that pragmatic partial solutions do not involve just rolling-over the debt because of a series of mini-crises. Developing country leaders and private sector investors need to be convinced that the process underway will actually reduce the debt burden that is limiting growth.

g. A Southeast Asian commented that the developing countries are facing a trilemma: Making adjustments to meet imposed stabilization programs; achieving growth rates that will continue to increase well-being, and; the necessity of implementing social programs such as income or land redistribution to further broaden the process of democratization and ensure stability.

h. The Southeast Asian further held that developed countries are viewed as not fully understanding these problems from developing countries' perspectives. Moreover, industrialized countries are, in general, viewed as reacting to immediate self-interests, rather than formulating and implementing bold policies that would assist developing countries respond to domestic and international realities.

2. The Soviet Union

a. Even though the Soviet Union has continued to improve its military capability in the Pacific, the U.S. and its allies and friends currently enjoy a posture of regional military superiority. This is due to a number of factors: the capability of U.S. forces; access to a network of forward support bases; cooperation of allies and friends through a variety of security and political agreements, and; certain inadequacies and vulnerabilities of the Soviet force posture. This superiority is expected to continue into the foreseeable future but will be influenced by budget considerations.

b. The total dimension of the Soviet threat, however, should include non-military aspects of Soviet behavior, such as subversion, political influence of opposition leaders, increased diplomatic activity, and misinformation. This is particularly true as it related to developing countries, including the South Pacific Islands.

c. There is a cautious optimism in East/West relations created by a series of reform pronouncements by Gorbachev and other Soviet leaders. The parliamentarians, however, believe that the Soviet's intentions and behavior should be tested over time; attitudes and policies should not be altered based only on declaratory reform statements.

d. The parliamentarian's primary interest in Gorbachev's reform policies was in the impact of their success or failure on West/West and East/West relations. What would constitute success or failure of the reforms was not raised during the Caucus discussions.

3. The INF Treaty and Arms Control Negotiations

a. The INF Treaty is universally viewed in more political than military terms. While some find certain flaws in its logic or provisions, it is more comprehensive (especially relating to verification) than the parliamentarians would have predicted several years ago. Its general content is favorably endorsed, and its passage without major change by the U.S. Senate is expected.

b. The next steps in negotiations will be undertaken in several areas—strategic missiles, tactical nuclear forces, and conventional forces. At a minimum, these negotiations should be based on a comprehensive view of the interrelationship of all military, political and economic aspects of East/West relations, including human rights.

c. A clear majority of the parliamentarians thought that linkage issues among negotiations should not be employed to inhibit progress on specific agreements. However, the overall progress of the negotiating process must remain satisfactory and a difficulty encountered in a specific negotiation should not be of such a "unique" nature that it would change the pace or scope of the negotiating process.

d. Arms control negotiations with the Soviet Union should be conducted from a "global" perspective. For example, the SS-20 elimination was not treated as a "Europe only" issue. The INF experience also illustrated the value of Pacific rim countries conveying directly to Moscow their interests relating to specific negotiating issues, when appropriate.

e. Military strength and options should be maintained until arms control negotiations achieve acceptable outcomes. Reductions should follow successful completion of arms control negotiations. Those involved in arms control negotiations believe that the Soviets respect power and real power is a major factor in achieving satisfactory results in negotiations.

f. As has been the case for sometime, not all agree on the credibility and wisdom of the concept of flexible response in NATO. As negotiations proceed further, the impacts of possible arms control outcomes on the flexible response concept need to be publicly explored in order to develop continuing support for NATO's defense strategy.

4. Political Issues

a. The factors with the highest potential for destabilizing regional relationships are a significant worsening of U.S. and Japanese trade frictions and/or passage of a highly protectionist U.S. trade bill.

b. European and Pacific rim parliamentarians believe that Japan must play a broader role in economic affairs than previously. Japan should also provide appropriate political leadership when circumstances warrant.

c. The expansion of Japanese military defense oriented capabilities is viewed by some as an action of considerable importance and priority. Others favor a modest expansion of force levels, and that only following a multilateral coordination of security issues.

d. At a minimum, given the current yen-dollar ratios, the financial support for U.S. forces in Japan by the Japanese should be increased.

e. One factor limiting the Japanese from assuming new and expanded roles is the lack of specific suggestions from allies and friends as to such roles. Moreover, the suggestions would need to be sufficiently coordinated so as to have credibility. They should not be so put in final form, however, that they might be viewed by Japan as "demands."

f. Another factor limiting Japan assuming new roles is the lack of an internally generated "vision" of such responsibilities. Perhaps what is needed is a statement like the MITI "Vision of the 1980s" which was successfully used to shape and guide Japan's international industrial activity.

g. Asia-Pacific parliamentarians had little or no support for continued testing of nuclear weapons by the French in the Pacific Islands. Participation, however, of French parliamentarians in the Caucus dialogues is considered important to develop better mutual understanding of a range of other regional issues.

5. Key Factors Influencing Regional Policy Trends

a. The need is evident for an in-depth evaluation of the factors that will have major impacts on Asia-Pacific political and economic policies over the next decade. Among the most important are: A slow but continuing realignment of relations among Asia-Pacific countries is occurring, particularly as a result of the growth of Japan and the NICs. These changes are altering the relative weights of the elements of national power; the fact that the economic changes have not been accompanied by shifts in military power; the declining value of military conflict as an element of power, a trend that can be expected to continue; the leadership of most Pacific nations can be expected to be of a new type—one that is not rooted in the experiences of the 1940s and 1950s. The mood of these new leaders fits well with the external orientations of their economic strategies, and; regional cooperation in Asia-Pacific will increase but remain non-governmental in nature, strongly influenced by private sector initiatives and interests. The tripartite Pacific Economic Cooperation Conferences is one example of such activities.

b. European parliamentarians tended to be more concerned than their Pacific counterparts about gaps and tensions arising from the lack of a more formal multilateral coordination mechanism than anticipated by those from Asia-Pacific.

c. The realignment of power now underway means, in part, that the industrialized countries must improve their ability to listen to the non-popular perspectives from other countries, especially those from developing countries.

6. European-Pacific Basin Linkages

a. The need to manage Western relations with the Soviet Union and Eastern Bloc will remain the central link between the Pacific Basin's interests and those of Western Europe. A successful GATT Round would also be an important forum for interregional linkage.

b. But, it seems unlikely that a new, comprehensive negotiation will be initiated to move the international financial system beyond "Bretton Woods." Yet, some interregional financial interests are addressed through the G-7 financial ministers' consultation process, and by the U.S. and Japan on a bilateral basis.

c. The role of Western Europe in Asia-Pacific is an economic and political one—helping keep markets open, supporting developing country expansion, and broadening the processes of democratizations. None of the participants thought that an out-of-area security role should be pursued. However, the deployment of European forces to the Mid-East to protect oil tankers reflects a willingness to project forces in situations of critical importance.

7. Parliamentary Exchanges

a. Parliamentary exchanges within Asia-Pacific and between this region and Western Europe should be expanded for several reasons. Among them is the need to clarify differences on key issues. Examples noted during the Caucus discussions include: the Philippine situation (the Europeans were much more pessimistic about political stability than their Asia-Pacific counterparts); next steps in regional cooperation (the Europeans tended to want more formal government involvement than did those from Asia-Pacific); and, differing views on the nature and potential dangers of bilateral U.S. and Japan frictions.

b. The need to strengthen parliamentary exchanges within the Pacific Basic and interregionally should be pursued first within existing mechanisms. The initial exchanges should stress dialog more than consensus building.

At the conclusion of the 1988 Caucuses, it was agreed that the Caucuses was of such high value that they should continue on an annual basis. The format will be expanded so that Asia-Pacific issues can be fully treated as well as common global problems and those of an interregional nature.

PACIFIC PARLIAMENTARY CAUCUS—JANUARY 9-11, 1988

Parliamentarians

CANADA

Mary Collins, MP, Capilano, Progressive Conservative Party; Robert Hicks, MP, Canadian NATO Parliamentary Association, Head, NAA Canadian Delegation; and Fred King, MP, Okanagan-Similkameen, Progressive Conservative Party, NAA Member.

FRANCE

Senator Dick Ukeiwe, Groupe du Rassemblement Pour La Republique (RDR).

INDONESIA

Theo Sambuaga, MP, East Java, Golkar Party, Member, Foreign Affairs Committee.

JAPAN

Reiichi Takeuchi, House of Representatives, Liberal Democratic Party; Motoharu Arima, House of Representatives, Liberal Democratic Party; Motoo Shiina, House of Representatives, Liberal Democratic Party; Shin Sakurai, House of Representatives, Liberal Democratic Party; Eiichi Nagasue, House of Representatives, Democratic Socialist Party; Yasuo Suzukiri, House of Representatives, Komeito Party; Tetsuzo Fuyushiba, House of Representatives, Komeito Party; Hiroko Hayashi, House of Councillors, Liberal Democratic Party; Shigeto Nagano, House of Councilors, Liberal Democratic Party; and Yoshihiko Seki, House of Councilors, Democratic Socialist Party.

MALAYSIA

Y.B. Toh Muda Abdullah Fadzil Che Wan, MP, Deputy Minister of Foreign Affairs.

NEW ZEALAND

Philip Burdon, MP, National Party.

NORTH ATLANTIC ASSEMBLY (NAA)

Ton Frinking, Netherlands, Christian Democrat, NAA President; Manfred Abelein, Federal Republic of Germany, Christian Democrat, Head, NAA FRG Delegation; Lasse Budtz, Denmark, Head, NAA Danish Committee; David Clark, United Kingdom, Labour, Vice Chairman, NAA Civilian Affairs Committee; Peter Corterier, Federal Republic of Germany, Social Democrat, NAA Secretary General; Sir Peter Emery, United Kingdom, Conservative, Chairman, NAA, Scientific and Technical Committee;

Bruce George, United Kingdom, Labour, Chairman, NAA Political Committee; Hans Koschnick, Social Democratic Party, Federal Republic of Germany; Sir Geoffrey Johnson-Smith, United Kingdom, Conservative, Chairman, NAA Military Committee; Sir Julian Ridsdale, C.B.E., United Kingdom, Conservative, Former Vice Chairman, NAA Political Committee; Mr. Giuliano Silvestri, Italy, Christian Democrat, NAA Member; and Ogan Soysal, Turkey, Motherland Party, Vice President, NAA, Head, NAA Turkish Committee.

UNITED STATES OF AMERICA

Representative Robert E. Badham, Republican, California; Representative Doug Bereuter, Republican, Nebraska; Representative Ben Blaz, Republican, Guam; Representative Stephen L. Neal, Democrat, North Carolina; Representative Toby Roth, Republican, Wisconsin; Representative Pat Saiki, Republican, Hawaii; and Representative James H. Scheuer, Democrat, New York.

OTHER PARTICIPANTS AND RESOURCE PERSONS

Morton I. Abramowitz, Assistant Secretary, Intelligence and Research Bureau, Department of State; Tan Sri M. Ghazali bin Shafie, Advisor to Prime Minister, Malaysia; Philip C. Habib, Chairman of the Board, Pacific Forum; Adm. Ronald J. Hays, USN, Commander in Chief, U.S. Pacific Command; Adm. Thomas B. Hayward, USN (Ret.) Vice Chairman of the Board, Pacific Forum; U. Alexis Johnson, Director, The Atlantic Council of the United States;

Saburo Okita, Chairman, Institute for Demestic and International Policy Studies, Japan; Leo J. Reddy, Minister-Counsellor, Department of State Representative on U.S. Delegation for recent INF treaty; Gen. George Seignious, II, USA (Ret.), President, The Atlantic Council of the United States; Ezra Solomon, Dean Witter Professor of Finance, Graduate School of Business, Stanford University; and Lloyd R. Vasey RADM, USN, (Ret.), President, Pacific Forum.

RAPPORTEUR

M. Mark Earle, Jr., Associate Executive Director for Pacific Basin Executive Programs, World Business Division, SRI International.

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AUDIO

Cliff Hinton, KAVECO.

THE POLITICAL RHETORIC HEATS UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 60 minutes.

Mr. SWINDALL. Mr. Speaker, as the November elections approach, the political rhetoric gets hotter and hotter and as I hear the political rhetoric I am reminded a little bit of the story about Sir Winston Churchill. Reportedly, Sir Winston Churchill was listening to the leader of the socialist government in Great Britain go on and on and on extolling the virtues of socialism and the various accomplishments under socialism in Great Britain. After having taken credit for virtually everything from increased milk production and increased egg production, increased hospital bed space and virtually everything imaginable, he then made the statement, "In fact under socialism Great Britain actually increased its population at an unprecedented rate of increase."

At that point, Sir Winston Churchill stood up and said, "At least the last statistic I hope the gentleman will attribute to private enterprise."

I am reminded of that because today one quote that comes to my mind is one made by Jesse Jackson in which he said, "our message is very clear, stop economic violence against the American worker, major corporations should stop merging corporations and purging workers and submerging our economy."

Mr. Jackson's rhetoric is not unlike a lot of rhetoric that we are hearing about the current state of our economy. In fact many economists, the same economists, I might add, that had been projecting and predicting economic recession for 65 consecutive months, now have it seems a vested interest in wanting to have an economic recession, and I dare say that if anyone had spent 65 months predicting a recession and they make a living on the validity of their predictions I can understand why they want to see a recession. But the point is neither Mr. Jackson's comments nor the various economists' comments are borne out by the facts. The truth of the matter is that we are now in the longest economic recovery, peacetime recovery in American history. We are now in our 65th and beginning our 66th consecutive month of economic recovery.

Mr. Speaker, during these 65 months we have seen 15 million new jobs created, more than half of those new jobs being jobs that pay more than $20,000 a year.

We also see that if we look carefully at those jobs they have been created by small businesses, crank-up businesses. In fact none of those jobs have been created by the so-called Fortune

500 companies, the reason being that the Fortune 500 companies have basically maintained a negative or net zero in job growth or job loss. We have seen 4 million new businesses started in the last 65 months.

All of that has contributed to the fact that unemployment has dropped from 10.8 percent in October of 1982 down to the current level of 5.5 percent. That is particularly significant given the fact that every percentage of unemployement equates to roughly $40 billion in deficits. That is a combination of income that is lost because people are not employed and therefore cannot pay taxes so revenues are down, but also to the fact that unemployment benefits are triggered when we have unemployment. So as bad as the deficit is relatively speaking it is actually significantly better than it would have been for the current economic recovery.

In addition though, we find that productivity in the manufacturing sector has been up 4.1 percent each year during this economic recovery.

Perhaps the most positive news is the fact that the real earnings are up 9 percent. That means after we adjust for inflation individual Americans are able to go to the supermarket and buy 9 percent more today than they could in 1981.

Let us also remember that in 1981 many people were elated to find they would get an 8 or 9 percent cost-of-living adjustment in their weekly paychecks only to have it more than eaten up by 13 percent inflation that they found in the supermarket.

What is perhaps most surprising about Mr. Jackson's comments is the fact that 2.4 million new jobs, in other words 16.2 percent of all the jobs created in the last 65 months, were created for black Americans. That is the best economic performance in black history since World War II.

During the 5-year period overall job growth was 2.7 percent per year. For black Americans it was 4.7 percent per year or nearly a 25-percent increase over the 5-year period.

Unemployment for adult black males has dropped from a high of 18.1 percent in 1983 to 11.1 percent in 1987, nearly a 40-percent decline.

Job growth for black teenagers was 8.2 percent per year, up over 40 percent during the 5-year period.

□ 1900

Unemployment for black teenagers is certainly an area that all share great concern for and has dropped from a high of 48.5 percent in 1983 to 34.7 percent in 1987. That is nearly a 30-percent decline. Unemployment for black women dropped from 16.5 percent in 1983 to 10.9 percent in March 1988, a 34-percent decline.

But perhaps the most heartening of all the statistics is that in terms of real income blacks have benefited the greatest of all groups because from 1981 to 1986 real income for black Americans rose 15.5 percent compared to 13.1 percent for white Americans.

I mention all of these statistics in this economic growth pattern as a backdrop for what this Congress is getting ready to do. Mr. Jackson refers to submerging the economy. This Congress is on the verge, quite frankly, of trying to fix something that is not broken because, if you look at the legislative agenda over the remainder of the 100th session of Congress, you will find that we have in place a number of pieces of legislation that, if passed, could cumulatively bring about the very recession that these economists have been predicting.

Let me start by looking at the trade bill which we are going to consider this week. The trade bill, first of all, I think is flawed because it focuses about 95 percent of the so-called solution on what is roughly 15 percent of the problem. According to the Ways and Means Committee's own testimony only about 15 percent of our current trade deficit is directly attributable to unfair trade practices. I will be the first to acknowledge that we need to tackle head on unfair trade competition, subsidies from foreign governments that put our own industries on an uneven playing field, but certainly we have got to be realistic and recognize that at best that is 15 percent of the real problem.

Hidden in this trade bill though are a number of pieces of legislation that could seriously hurt American workers. I would like to focus on one in particular. It is the plant closing legislation.

The proponents of that legislation contend that, if it passed, it will protect American jobs. The reality though is that rather than protecting jobs it will actually eliminate jobs. Here is the reason that it will eliminate jobs:

The idea behind this legislation is that, if a plant foresees that there is a possibility that it will have to close its doors over the next 60 days, it would be required by law, if this trade bill passes in its present form, to notify its employees, and in doing so, needless to say, all of its competition, its suppliers and its purchasers, may well have to close its doors in 60 days.

Well, the net effect of that is that anyone that is supplying raw materials to the plant will immediately either insist on cash payments or shut off shipments to the manufacturing facility. Simultaneously, anyone placing an order with that factory will secondly think whether they want to really take the risk of placing an order that may not be able to be satisfied because the plant may not be there in 60 days, or so the management of the plant says.

In effect, this bill would have basically the same result as any business going down to the Federal courthouse in filing bankruptcy proceedings, and we all know that when bankruptcy proceedings are filed, even if they are reorganization plans, it has a chilling effect on that particular business' likelihood of success. So, what we actually have here is, no matter how well-intended the bill may be, a piece of legislation that would damage the likelihood of that business struggling as it is surviving.

And we only need look at contemporary history in Europe to see that those of our European trading partners and competitors that have embraced the same flawed logic have learned that it has not worked. Why do you think we have created 7½ times more jobs in the last 65 months than all of the other industrialized countries in the world combined? It is because we have not rushed toward the socialistic policies, and all socialism is, let's face it, is centralized planning in a microscopic way what is best for business rather than letting the free market dictate what is best for business.

Another piece of legislation that gives me cause for concern is the minimum wage bill that was to have been considered last week and has now been rescheduled, I understand, for May. There are a number of problems with the minimum wage bill, not the least of which it will most impact the bright teenage unemployment population that we have addressed earlier and concluded is really improving, though it still needs a great deal of improvement. Because we know again from history that, when you raise minimum wages, what you do is you shut out those individuals who have the least experience, who need to enter at the lowest level, and most individuals who enter at the lowest pay schedule rapidly move beyond minimum wage.

But this reminds me a little bit of my own history when I was growing up. My father had a retail furniture business. From time to time he would sell on credit, and I would from time to time have to take credit applications. And inevitably when young teenagers, just married, would come into the store wanting to establish credit, I would have to take the credit application, and 9 times out of 10, before I even asked the question, I knew what the answer was going to be when I would say, "Tell me about your previous credit history," and the young man or woman would say, "Well, I don't have any previous credit history," and then I would have to tell them that the great likelihood is that the application would not be accepted because you first have to have good credit to get credit, and you could see the frustration on the young man's or woman's face when they said, "Well, how do I get credit if you won't give me credit?"

This is kind of like watching a dog chase its tail. I do not know what the answer is, but the point is we are replicating that same frustrating situation in the marketplace when you say to a young teenager who comes in wanting his or her first job, "Well, why should I hire you? I can't afford you at $5.05 an hour because you're unproven," but actually the ramifications go far beyond that.

Mr. Speaker, I spent time in my district in northeast Atlanta yesterday with the administrators of a private hospital, a hospital run by the Catholic Church there called St. Joseph's. They have a fine record in terms of specialization and things like heart transplants, and we were talking about a number of problems which they anticipated legislatively. And they focused my attention on the minimum wage bill because they said that if that passes, it will wreak havoc not only on this hospital, but hospitals throughout the country, because, unless Congress at the same time modifies the Medicare regulations and the Medicare law so as to reflect the increase that will inevitably come in our cost, we are going to be strapped worse than we already are. Specifically, they were referring to what we call DRG's, diagnostic-related groups, which are prescheduled payments based on the diagnosis, and they understand that, if you go in because of congressional meddling and say you now have to raise minimum wage, which inevitably causes every other pay tier to be raised simultaneously, there is a ripple effect that will cause huge inflation, not only in the pay scale of that hospital, but also in the pay scales of the various providers who provide supplies and medical material to the hospital, and all of those impacted by the inflationary hikes are going to have to be passed along to someone.

What they said in short was, "Please don't vote for that bill unless you're prepared at the same time to raise the Medicare payments," and I looked at them and smiled, and I said, "You and I both know that with $150 billion-plus deficits projected this year and next year we can hardly realistically expect any increases in Medicare payments.

So I think it is fairly evident that, if we want to be responsible in this body, we would be very ill-advised to pass a minimum wage hike without looking at the ripple effects throughout not only the entire national economy, but our own budget as well.

Another piece of legislation that concerns me is the so-called Parental Leave Notification Act, another one of these pieces of legislation that we here in Congress advocate so frequently because on first blush it looks so compassionate. What this legislation says is that, if you are an individual in the job market or job place who is also of child-bearing age, you may—in fact, you will be guaranteed by the Federal Government a period of 18 weeks parental leave whereby you may take time to be with your family, which is certainly a desirable objective, and then return to your job at the same pay scale. Sounds good on first blush, but let us look at the real world in which these policies have to be implemented.

What will inevitably happen is that, if you are one of these 4 million new businesses that have just cranked up in the last 5 years, chances are you started like most businesses. You started with a great idea, a lot of enthusiasm, a lot of determination and drive with a core of key employees who are willing to gamble with you. They are willing to gamble that your idea will work, and, like so many individuals who have had that entrepreneurial spirit in the past, you will cash in down the road, and along with you, the entrepreneur, come all of the employees that were faithful and loyal with you. But now we have got the Federal Government saying that, if you hire someone who happens to be of child-bearing age and that individual chooses to take parental leave for up to 18 weeks, you have got to hold their slot open at the same pay. Well, any intelligent employer, no matter how much they may think that one applicant who is of child-bearing age is well qualified and in fact perhaps better qualified than someone else that is competing for a job is going to instantly recognize that they are infinitely better off if they hire the individual that would not pose the potential Federal problem if they take the parental leave, and, lo and behold, when they want to come back, you have already filled that necessary position that is paying say $35,000 a year and now have to create another position for $35,000 a year which you don't need and certainly cannot afford. So the employer will simply, not wanting to do so, but driven by the desire to succeed and avoid this legal morass, choose the person who does not fall into this congressional mandate. And thus the bottom line effect is that you are actually going to adversely impact the very group of individuals whom you say you are trying to help.

Next we have got this legislation called mandated health insurance. This is truly a problem that all of us have to think about because we know the rising, spiraling cost of health is something we all have to grapple with, but we also know that 95 percent of all the businesses in America are already providing health insurance. But here comes the Federal Government. If we are to pass this piece of legislation that is basically consistent with our philosophy in the trade bill of addressing 95 percent of the solution to 15 percent of the problem, we are going to address 100 percent of the so-called solution at 5 percent of the problem. The net effect is the Federal Government will have written half of the contract in an inflexible fashion so that we basically stop many of the individuals who are out there wanting to test an idea in the marketplace without interference from the Federal Government from ever even testing their idea because we have simply put the barriers for starting up that business so high that they could never get over the first hurdle.

□ 1915

Talk to individuals who are out there trying to start up new businesses. They will tell you that the No. 1 obstacle that they face is all of the compliances that they have to worry with that Federal law has in the past put out there for them to have to worry about as a condition precedent to starting their businesses.

Why do we want to put obstacles out there at a time when the current formula is working at an unprecedentedly positive fashion?

Another piece of legislation that we need to look at is the catastrophic health insurance proposal that is now in conference. There has never been a piece of legislation more appropriately entitled than this one because it is truly a catastrophe.

If you look at that legislation, what it does is first of all, in the name of catastrophic health, does not even address the main concern that senior citizens have and that is long-term nursing care.

But worse than that is this bill is going to be financed by a new creature of Congress. It is called a premium but in fact it is a tax. But it is a new tax that focuses exactly on the people who can least afford it, senior citizens.

I say it is a tax, not a premium, because you and I both know that a premium is something that is based on the risk assumed and it is spread equally. A tax, on the other hand, is something that is based on any individual's ability to pay, has no relationship with the risk assumed.

Well, this bill is based on various senior citizen's ability to pay. But the other fallacy to this piece of legislation is the actuarial soundness of the particular proposal is backed up by the same crowd who backed by the actuarial soundness of Medicare in 1965. The same folks who in 1965, before Congress passed Medicare, said that by 1985 the total outlays of Medicare would be roughly $8 billion, only missed the mark by about $62 billion, because rather than having outlays of $8 billion, the 1985 outlays for Medicare were over $70 billion. If they could miss the mark that badly I will bet you a nickel to a doughnut that they have missed the boat just as badly in predicting that this catastrophic health insurance package is actuarially sound.

Well, what happens if it is not actuarially sound? Two things happen. One is that we have to increase the premiums on senior citizens down the road, the tax.

The second thing is we cannot live up to the promises we have made in terms of providing the beneficiaries the benefits that they have been promised.

One other point that I want to touch on is another statement attributed to Mr. Jackson which I think is worthy of note because Mr. Jackson is not the only one who is making this statement. In fact, Mr. Dukakis, I believe, has also stated there is really not much difference between him and Mr. Jackson on the issues; he just has more experience.

But Mr. Jackson makes the statement

> Reagan Tax cuts were based on the notion that the poor had too much money and the rich not enough so they took from the poor and gave to the rich.

That certainly has a lot of appeal but let us look at the facts.

Just last week the IRS released tax data for 1986 which shows that the share of income taxes paid by the top 1 percent of the American taxpayers has soared to 26 percent, a 47-percent increase over the 18 percent that the same group paid in 1981. Quantitatively the top 1 percent has paid taxes at the rate of a $45.7 billion increase, 1986 over 1981.

By contrast, the bottom 50 percent of all the taxpayers in America paid only 6.4 percent of the Federal income taxes in 1986, down sharply from the 7.5 percent that the same group paid in 1981.

While actual taxes paid by the bottom 50 percent have risen only $2.8 billion since 1981, far less than inflation.

So what the IRS numbers show is that the top 1 percent paid more than 25 percent of the total income tax load while the bottom 50 percent paid 6½ percent of the total load; $45.7 billion more for the top 1 percent; and $2.8 billion more for the lower 50 percent.

As Walter Mondale said in 1984, "Where's the beef?"

But that is not enough. Look at one other fact. Since 1981 the top 5 percent of the taxpayers in the United States of America have paid 75 percent of all the new taxes collected, nearly double their share of the adjusted gross incomes that they report.

All that really leads to a point that I think we need to focus on as we move toward November. That is we have to start looking at the difference between the rhetoric and the facts, because the other rhetoric is "we have got to raise taxes in order to address the budget deficit."

When you hear folks say that, remember that they are the same folks who said back in 1986 when we passed the tax reform package that that package was going to result in new fairness, simplicity, and revenue neutrality.

Now I say that recognizing that most Americans last week filled out those new obnoxious forms, they paid their new taxes, and most of the ones that I talked to over the weekend were having a hard time finding the fairness, the simplicity, or the revenue neutrality.

But the same crowd that told us—and that is the majority right here—that somehow we were going to come forth with fairness, simplicity, and revenue neutrality in the Tax Reform Act of 1986 is now telling us we have got to raise taxes to address the deficit.

That is the equivalent of saying, "We need to bring in some gasoline and pour it on a raging fire if we want to put it out." Because the reality is that revenues are up this year more than 50 percent over what they were in 1981, the year we passed the Economic Recovery Act that was supposed to be a tax cut. It was a rate cut but it was not a tax cut.

Revenues are up 53 percent because of two factors: One, the economic recovery has been working; but, two, because Congress has over the last 5 years increased taxes by $1.5 trillion starting with the TEFRA package that passed in 1982 which was a 5-year tax increase, all of which we have absorbed now, of $229 billion.

Then it goes on from there. But while we are talking about TEFRA let us remember that when Congress passed TEFRA it was able to persuade the President of the United States to sign on to that tax increase by saying "Mr. President, if you will sign this tax increase we promise you for every dollar in new revenue we will cut spending 3."

Well, we now have the history to check out the veracity of that particular representation. We find that in fact we did pass not only that $229 billion tax increase but another $1.2 trillion as well. But we find that rather than Congress cutting spending $3 for every dollar of new taxes, Congress actually increased spending by at least $1.38 for every new dollar in taxes.

I guarantee you if we raise taxes again, Congress will match that tax increase with more spending. In fact, Congress has done that every time it has ever raised taxes.

If we want to address the deficit we have got to understand why we have a deficit. If we have increased revenues by 53 percent over the last 5 years—and incidentally, 1986 over 1985 was a $70 billion increase—people say, "Well, if there is a $70 billion increase why do we have a bigger deficit, particularly if Congress had been cutting all this time and freezing?' That is all I hear about, cuts and freezes. You can understand that only if you understand how we in Congress define the cut which is substantially different than the way folks back home describe and define a cut.

Back home most people think a cut means you spend less this year than you spent last year. But here in Congress a cut is defined as spending more than you spent last year but not as much as you wanted to spend. That is the baseline that we are always cutting off. All a baseline is, is the projected spending increases if we kept increasing spending at the same rate that we have been in the past.

But the point is this: In 1960 when John Kennedy was elected President, at a time when we were spending half of the entire budget on defense, 10 percent of what we all earned, on defense, the entire revenues in this country for the Federal Government were 18.3 percent, outlays were roughly the same, 18.3 percent and we had roughly a balanced budget. By 1970, Federal revenues had increased to roughly 19.3 percent, Federal outlays had increased to roughly 19.3 percent; still a balanced budget but up 1 percentage point in terms of percentage of GNP. By the end of the Carter administration, though, revenues were up to 19½ percent but expenditures were up to nearly 25 percent of our collective revenue, income as a country. That is 24-plus percentage points of GNP.

Defense was down to 5 percent of GNP, less than 25 percent of the total budget.

In other words, defense had been cut in half but yet expenditures skyrocketed.

The deficit today is the result of the increase in the percentage of GNP that the Federal Government is not consuming. And every single time the Federal Government increases expenditures it has to take that money out of the American families' budget.

So in 1988 the issue is going to be which budget is more important, the family budget or the Federal budget? Because those two are in irreconcilable conflict with each other.

All I can say is when we know that at this time May 5 is the taxpayer liberation day—what I mean by that is that is how long the average American must work to earn money to pay Federal, State, and local taxes. In fact, we really ought to change the filing date from April 15 to May 5 so people will see how long they have had to work for the Federal, State, and local governments just to pay their tax bills before they can feed their first child or do anything for their family.

□ 1930

That date is May 5 which is where it is now, the latest it has ever been in American history. I think it is time for us here in Congress to say we will pledge to the American people that we will not raise their taxes, but we will cut spending.

I will talk about ways to cut spending in another special order, but I want to close tonight by saying that we have got a lot to be thankful for, not the least of which is an economic recovery and expansion that is unprecedented.

Frankly, I think we can sustain for as long as we have the resolve in this body to let the free marketplace do its business without Federal intervention along the lines of all of these pieces of legislation that are very harmful that we are getting ready to pass in the name of trying to help the American worker and also practice what we preach. Before we ask the American family to tighten its belt one more time, let us tighten our belt right here in Congress.

WHO IS THE ENEMY?

The SPEAKER pro tempore (Mr. Derrick). Under a previous order of the House, the gentleman from Pennsylvania [Mr. Kanjorski] is recognized for 60 minutes.

Mr. KANJORSKI. Mr. Speaker, I have asked for this special order as a means to report to my colleagues in the House of Representatives on a recent trip I had the occasion to take to West Germany on March 25, 26, 27 and 28, together with the gentleman from Pennsylvania [Mr. Foglietta], my fellow colleague.

We flew to West Germany to examine some of the policies of the U.S. Army and Air Force in that area. The questions that we were prepared to face were what was the policy of the American Army and the American Air Force in regard to heating American installations in West Germany, and how did that impact on the American domestic coal industry for, you see, Mr. Speaker, I represent the heart of the American anthracite coal industry in northeastern Pennsylvania.

Most American anthracite comes from my district. My interest in going to Germany was very parochial in nature. It was to see whether or not some effect could be had to improve, or at least maintain, the sales of the anthracite coal industry to the military for purposes of heating military installations in Europe and the anthracite industry itself.

I confess a very parochial intention.

In response to my duties as representing, together with Mr. Foglietta who represents the port of Philadelphia, that we wanted to examine to see whether or not the policy of the U.S. Army and the U.S. Air Force was justified in changing from coal heating sources, of use of American coal, to other sources including natural gas.

The fact of the matter is, Mr. Speaker, and the reason I take this moment to speak to the Congress is that my eyes were not only opened in Germany, I walked away from the discussions with our highest Army and Air Force officers absolutely appalled, appalled at the fact that it was not any question of just what energy source was used to heat military installations in Germany, but the total absence of a decisive analysis and opinion and decisionmaking based on that analysis of what was best for the best interests of the United States.

It seemed to me that it became quite obvious that requests were made to save money, and the narrow scope of what it would cost to use one fuel as opposed to another, what it would cost to change and update the physical facilities to use one fuel as compared to another was the only analysis by the military forces. What they failed to analyze, what they failed to question was what would this do to the self-interest of the United States. How would this affect the relationship of the Soviet Union in the United States?

In fact, what it posed to me, truly, is who is the enemy, and why are we in Europe. It is these questions that I want to bring to the attention of my colleagues.

First and foremost, we found out that over 90 conversions have already been performed in West Germany under legislation that had been passed by the Congress and approved by the administration over the last 3 years. These 90 conversions and the additional ones that are now pending will have been the largest public works program in the Republic of West Germany of any time, past or present.

The fact of the matter is the American taxpayer will have spent over $1 billion to improve the domestic heating systems in many of the municipalities in West Germany and will also serve some of the military installations controlled, owned and operated by the United States forces in West Germany. That was shocking. A billion dollars supposedly in a defense budget that really constitutes public works.

We asked some pertinent questions. We asked who decided that these systems should be changed, because the law says that the host nation, the Central Federal Government of the host country, is the only source where this question can be raised and where the request can be made. In fact, we found in all instances the military informed us that it was the local burgomaster, the mayor of the local community, who decided that he wanted to update his heating facilities, and therefore, requested that the American taxpayer stand the expense.

That wasn't a bad enough question. The next question was who is going to benefit. Well, we knew one thing, the American taxpayer was the last person to benefit, because he was going to pay the bill. But we did find out several people that did benefit. One, our good friends in West Germany. They will end up with some of the most modern technology, most modern central district heating systems in the world, and those systems will be paid for within 10 years even though their life expectancy is well over 40.

Those German businesses and German residences that will use those facilities will be competing against American businesses for the next 40 years with public utilities paid for by the American tax dollars under the guise of national defense.

That is not the worst of it. What that means is that for the next 40 years German industry and German residences that use those district heating plants will have a lower cost of heating compared to any American competitor.

But the worst question is: Where does the fuel come from that heats those German heating districts, that heats American installations and bases and that are paid for by the American taxapayers? Lo and behold, we found out that that natural gas comes from the Soviet Union. Naturally, we shouldn't only help our friends in Europe, the West Germans, to pay for their public utilities, but now it seems that as a matter of American national policy we should help the Soviet Union, our supposed enemy, with hard currency so that they can deal with us, so that they will provide the natural gas to heat American military installations in Germany.

Twenty to 35 percent of the natural gas used in West Germany today comes from the Soviet Union. They get that hard currency out of the American defense budget, and they turn around to buy the missiles and the installations and the methods that force us to provide the standing armies in West Germany to protect West Germany and Europe at some estimated cost as high as $70 or $80 billion a year.

Indeed, Mr. Speaker, I walked away asking the question: Who is the enemy? Who won the war? Indeed, are we, the American people, the only ones that are not aware that the war is truly over?

We cannot dictate what the Government or the people of West Germany do. If they want to buy their natural gas from the Soviet Union, indeed, maybe they have to buy their natural gas from the Soviet Union, but we can dictate as the Congress of the United States and as the administration, the President of the United States, what the policy of this Government should be in regard to helping the enemy or buying energy from the enemy.

It is one thing to buy strategic materials that we are without or that we need for our national defense and another thing to buy energy from the very enemy or supposed enemy that we identify as the evil empire, the one that we are spending $300 billion a year to defend against, the nation that supposedly some of my colleagues earlier today in debate said you cannot trust; they have never kept an agreement. There is no reason in the world that we should ever deal with them.

I do not know the answers to these questions, and I do not want to suggest that I actually know whether or not we should buy or participate in the purchase of natural gas from the Soviet Union.

The only thing I know for certain is the strategy and the policy to do so has not adequately been thought out, and certainly has not been a decision made by the President or by the Members of this Congress but, indeed, by contracting officers in the Pentagon at the request of mayors of West Germany cities, and I think when the American people pay their tax dollars, they not only intend or want, but they should demand, that decisions such as this to underwrite the utilities of West Germany or to purchase the natural gas of the Soviet Union should only be made and decided upon by the elected officials that they send here to Washington, whether it be the President or the Members of this Congress, but certainly not be contracting officers in the Pentagon or on local bases in order to facilitate good public relations. That is what it ends up being.

Worse than that, there are other questions. There is security, integrity. Are these bases secure? What will happen if we have a war between November and April and the Soviet Union decides to cut off the heat, cut off the source of energy for these facilities? Or do we have an understanding with the Soviet Union that we will henceforth not engage in war-like activities in the winter months of Europe? If we have such an understanding, I wish we would let the American people know that.

What some of the other problems posed were: We found the Army determined that they could make these contracts on what they call sole source contracts, that they were provided by German utility companies, and there was no intention to bid or need to bid under the law.

The Air Force, on the other hand, said these couldn't be sole source contracts and had to be bid.

It seems to me that the Army and the Air Force should be able to get together. Whatever the law is, whatever the principles are which are to be followed, both our services should be acting in the same way.

In fact, there are very strong indications that the methods of contracting are inappropriate and possibly improper, and further studies should be had in those areas, too.

Mr. Speaker, we have talked about $800 hammers, we have talked about excessive commode seats. Here is a very simple military expenditure of $1 billion that we enter into with the West German Government that we underwrite entirely with American tax dollars, and we do not have sufficient negotiation.

Why do I say that? Because in a direct question posed to the Army officials, I said, "What are the terms? Under what conditions are the facilities handled? Who does the design work?" The answer was, "Well, under the host nation agreement, the design work is done by a German engineering company for the German Government on American installations." I said, "That is possibly understandable for safety purposes. Who does the construction?" In the 90 instances we studied, these facilities are German design, by the German Government, German constructed by German construction companies, German owned by the German utility companies, but America came in at the end. The American taxpayer paid for it.

I asked the military officials did they not negotiate, and they said, oh, yes, they had negotiated all 90 of these contracts.

My suggestion is we hire a new negotiating team. They have been up to bat 90 times, and 90 times they have failed.

I cannot think of a more perfect record of success for the German Government, or more perfect record of failure for the American Government, but most especially the American taxpayer.

When we talk about spending $1 billion for modernized heating systems in West Germany, just imagine what that could do to the infrastructure here at home. Just imagine what military installation pays for any central heating system in any American city it is located near.

It is the American utility company that pays the capital and provides the service at an equal rate to the U.S. Government for any installations located anywhere in the United States.

It only seems that when we go abroad where we have an open check that we wind up footing the whole bill.

Mr. Speaker, we found other irregularities not only in the definition of who the host country was; in our examination of section 2690 of title X of the United States Code, it says that the host nation is the Federal Government of that nation. But in this instance, we asked, and in none of the 90 contracts awarded did a Federal official of the Republic of West Germany make the request for the conversion, but in every instance it was a mayor of the local community.

The defense in some instances was said that it is the Green Party; they insist on a strong environment. But then we asked if that is the case, why are they burning in some of these new conversion plants German coal which is less effective and less clean than American coal? Of course, their answer was, "Well, Germany subsidizes its coal industry. It will do so for another 6 to 8 years, and then it will deregulate its coal industry, and it will be open to competition." The only problem with that, Mr. Speaker, is by that time the Soviet Union will supply almost all of the gas to West Germany.

□ 1945

Coal will be a product they no longer mine, and American industry will no longer have an edge to compete in to sell that resource.

It seems to me that we have to ask some questions. Out of all these issues that we examined when we were over there, there was only one ever-abiding problem, and that is there was never a real analysis of the economic impact of the decision to buy and use Soviet natural gas for the heating systems of central districts in West Germany that ultimately would heat American military installations.

I think that requires a policy decision at the highest level. That final policy decision may be that that is the only practical thing to do. It may be that it is the most economic thing to do, or it may be a raising of the question, Why are we providing these facilities in West Germany? Why do we not require the Federal Republic of Germany to pay for these installations, to underwrite the capital expenditure of their utilities to provide the facilities we need to maintain forces in Europe?

I suggest that I do not know the answer to this question, but all I know for certain is the Armed Services Committee of this House and the Appropriations Committee of this House when they appropriate and spend and the authorizing committee authorizes the expenditures of a billion dollars of American taxpayers' money that it is appropriate that we provide these answers.

Whether or not it ever has a positive effect on the anthracite coal industry I will never know, but we should know whether or not American coal can better compete with Soviet gas and whether or not it just may be in our national interest to allow it to occur.

Mr. Speaker, I close with only one suggestion of how important this is. Back in 1979 it was this Congress and the President that denied the Caterpillar Corp. from selling tractors and equipment to help build that Soviet pipeline that now the military installations of the United States are one of the largest customers. I wonder why it was of such strategic importance as to now allow American workers to be employed and manufacture the equipment that would have built the pipeline, but it is not of strategic importance or national interest to the United States to be the major customer of that pipeline.

I suggest, Mr. Speaker, that somebody owes an explanation to the American people, but before any explanation can be given or had it requires analysis.

I think the one thing we are guilty of and lacking most of in this Congress and in this administration is proper analysis to arrive at long-term practical decisions in the expenditures of taxpayers' money, and most particularly in the defense budget of this country.

Mr. Speaker, I include the following correspondence:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 7, 1988.

Hon. LES ASPIN,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you are aware, Congressman Thomas Foglietta and I met with senior U.S. Air Force and Army command officers in West Germany, on March 25, 26, and 28, to discuss their past experiences and future plans with conversions from on-base heating plants to district heating facilities operated, in many instances, by local West German municipalities. I am writing to report on various aspects of these discussions and to raise several concerns which I believe the Armed Services Committee should address before any further conversions to district heating are authorized by your Committee.

At the outset, let me say that I went to West Germany primarily concerned over the negative impact these district heating conversions is having upon the anthracite coal industry which is centered in my Congressional District. I was also concerned over on-base security questions at our European military installations arising from conversions to heating systems that rely, in part, on Soviet natural gas.

I want to make it clear, however, that I left my discussions in West Germany with U.S. Army and Air Force personnel with much broader concerns over basic policy questions which may not have been adequately addressed either at the Pentagon or by the Congress of the United States.

This letter report focuses on:

(1) the economic benefits U.S. military conversions in West Germany provide to the Soviet Union by making additional Western hard currencies available to the Soviets,

(2) the economic competitive advantage the Army is providing to the West German economy over the American economy through U.S. taxpayer financed improvements to West German local infrastructures, now and over the long term,

(3) security integrity questions at the individual Army installations,

(4) flaws in the Army's life-cycle cost analyses used to evaluate district heating conversions,

(5) possible contracting irregularities in granting sole-source, non-competitive contracts to implement district heating policy,

(6) the possible inappropriate application of the host country requirement provisions under Sec. 2690 to Title 10 U.S.C.,

(7) the lack of effective opportunities for American companies to participate in the construction activities associated with upgrading and modernizing West German municipal district heating plants associated with U.S. military contracts, and

(8) the negative impact the district heating conversions impose on several U.S. industries.

A summary of these issues and concerns is provided below.

BENEFITS TO THE SOVIET UNION THROUGH THE PROVISION OF HARD CURRENCIES

To date, approximately 90 district heating contracts have been entered into by the Army with West German municipalities, which, when implemented, will result in the elimination of 211 Army on-base heating plants. According to the Army, once the conversions are completed, 40 percent of the total heating for Army facilities will be dependent upon the use of natural gas. The Air Force has apparently also entered into district heating contracts, however, to date, their number is much smaller than the Army's.

Somewhere between 20-35 percent of West Germany's natural gas purchases currently are derived from the Soviet gas pipeline. The remainder comes primarily from the North Sea. When pressed on the question of the natural gas reserves in the North Sea, Army officials acknowledged that there is currently only an 8 to 15 year North Sea natural gas supply. It is reasonable to assume that as North Sea gas reserves are exhausted, West German purchases of Soviet natural gas will increase over the next 8 to 15 years.

Aside from the obvious base security questions of increasing our dependence on municipal heating systems that rely in part on Soviet gas, it was particularly disturbing for me to learn that our increasing indirect purchases of Soviet natural gas is apparently occurring in the absence of any overall policy consideration of the economic benefits the Soviet Union derives by obtaining hard currencies from the West through our purchases of Soviet gas. These currencies are indirectly derived from U.S. taxpayers through our military's purchases of heat generated by West German municipal district heat plants using Soviet natural gas. It is well understood that the Soviet Union desires Western hard currencies.

This apparent policy incongruity is made even more obvious when we recall that the U.S. Congress adopted legislation preventing the U.S.-based Caterpillar Co. from participating in the construction of the Soviet natural gas pipeline. When Congressman Foglietta and I asked, no reason was offered on why the military believes it is acceptable to indirectly purchase natural gas from a pipeline that the Congress barred a U.S. firm from assisting in constructing.

I strongly believe that a policy determination is necessary at the highest Administration levels and by the U.S. Congress on whether it is in this country's best interests to indirectly provide Western hard currencies to the Soviet Union. *Further conversions increasing U.S. military dependence upon Soviet natural gas and increasing the flow of hard currencies to the Soviet Union should be halted until the Pentagon and the Congress have adopted a clear policy position on this important question.*

This unresolved policy question, and recent related developments in West Germany raise the even broader question of the need for, and the posture of, the U.S. armed forces in Europe today. In our conversations in West Germany it appears that the West German economy is increasing its ties and interdependence with the Soviet Union. To date, the justification for the very large U.S. commitment of armed forces in Europe, and the attendent expenses, has been to protect against the Soviet threat. The increasing economic interdependence of European countries with the Soviet Union, raises the crucial basic question of *why are we spending our defense tax dollars to defend countries against the Soviet Union when these same countries are increasing their economic ties to the Soviets.*

The nature and magnitude of the Soviet threat seems to have become confused recently in both Europe and the United States. Consequently our defense posture and West Germany's economic posture (especially as it affects U.S. base security) appears increasingly schizophrenic and possibly in need of fundamental re-evaluation.

ECONOMIC COMPETITIVE ADVANTAGE PROVIDED TO WEST GERMANY

Under the provisions of the Army's district heating contracts, the United States pays for *at least* its pro rata share of the capital investments made to German Municipal district heating plants over a period of *". . . up to 10 years"*. In fact, it has been suggested that at least in some cases, the Army has agreed to pay for much more than its pro-rata share of the often significant capital investments needed by municipal district heating systems to accommodate the large Army demand at numerous facilities.

In our meeting with the Army, they indicated that our investment in the capital improvements to West German municipal district heating plants, under the terms of the 90 contracts which have been entered into to date, comes to about 1.2 billion deutsche marks (DM). With today's exchange rates, that equals $718,562,870. Additionally, under these 90 contracts we will pay approximately $32 million to hook Army facilities up to the municipal systems. Finally, none of this includes the actual cost for the heat that our bases will purchase under the contracts. By any standard, this is an enormous investment in West German municipal systems.

It is our understanding that there are few, if any, comparable Army commitments to underwrite significant portions of infrastructure improvements in U.S. communities where there are nearby bases. Therefore, not only does the investment by U.S. taxpayers in West German municipal district heating facilities provide an important benefit to the German economy, the Army does not even provide a similar economic benefit to U.S. communities located near domestic Army facilities.

Of additional concern is the fact that the West German government has apparently refused on at least several occasions, to assist in offsetting any of the Army's capital investment contractual requirements associated with upgrading or modernizing district heating facilities. I question either the U.S. military's commitment to gaining West German federal government participation in sharing these capital investments, or the negotiating acumen of our team in these discussions with the West German government. Given: (1) that we previously turned over ownership of our bases to the West German government, (2) that the improvements to district heating facilities will contribute substantially to the terms of any sale of these properties by the West German government should the U.S. military no longer have need for individual bases, and (3) the significant competitive advantage which the West German economy realizes from the improvements made to their basic infrastructures, it is difficult for me to understand how any effective negotiating effort could have resulted in zero West German federal government participation in defraying part of the Army's capital investment requirements under the terms of conversion contracts.

This benefit to the West German economy is further illustrated when it is understood that the Army is repaying the capital investments in 10 years or less, while the norm for private customers in West Germany is 20 to 25 years. 20 to 25 years reflects the minimum expected life of these facilities. Often the effective life is closer to 40 years. Should the U.S. close any of these Army facilities in West Germany, any savings which may be achieved following the 10 year capital cost payoff will be lost, while the benefits to the German economy will remain.

Despite the significance of the U.S. investment in West German infrastructures, Congressman Foglietta and I were unable to identify anyone who had evaluated the wisdom of this type of competitive advantage the U.S. taxpayers are providing to the West German economy. Here again, we seem to have allowed incremental, one dimensional, military decison-making to undertake projects which have a broader policy significance, without anyone having ever meaningfully evaluated or weighted the broader policy question of the competitive advantage we are providing the West German economy.

Until this issue has been thoroughly reviewed, I believe the Army should not proceed with any additional district heating contracts and the U.S. Congress should not approve any contracts currently in the pipeline.

BASE SECURITY ISSUES

Army officials assured Congressman Foglietta and me that should the Soviet Union cut off its supply of natural gas to West Germany, the West German shortfall could be met through increased purchases of North Sea gas. In addition, USAREUR officers indicated that U.S. military facilities would receive priority status for obtaining natural gas through the German distribution system.

Despite this assurance, given: (1) the heavy West German dependence on the declining North Sea gas reserves, (2) the likelihood that Soviet gas usage will increase as North Sea reserves are depleted, and (3) the expectation by the Army that our bases will rely on district heat fueled by natural gas for the next 25 years. I am unpersuaded that base security issues have been adequately addressed by the Army. In fact it is extremely disturbing that the availability of North Sea gas has been used by the Army as an answer to supply concerns when it is clear that North Sea gas reserves will be exhausted in the not distant future. Either the Army has done a grossly inadequate job of reviewing this situatiion or the Committee has been deceived on the magnitude of the problem.

In addition, I am concerned that the security of off base heating systems against terrorist or paramilitary attacks has not been adequately considered by the Army. It is my understanding that in many places access to the pipes of the distribution network is open and unsecured.

It should also be noted that the Army revealed that our military facilities are also dependent upon West German electricity, sewage, and water systems, and therefore, increasing U.S. dependence upon West German natural gas systems will not significantly alter the bases security posture. The fact that there may be additional utility security problems for our bases deficiencies.

However, in this context, when asked if the district heat conversion analyses considered that new coal-fired heating plants could easily be designed for cogeneration (which could meet U.S. base electricity needs), the Army admitted that this was not taken into consideration in either the economic savings through reduced electricity purchases or in the consideration of increased base security through safeguards against power interruptions. This suggests that cost efficiencies were not thoroughly evaluated and that steps to increase the security for our military facilities were not examined at all.

FLAWS IN THE ARMY'S LIFE-CYCLE COST ANALYSES

The General Accounting Office's 1987 report pointed out one potentially serious flaw in the economic analyses used by the Army to justify conversions to district heat—changes in the currency exchange for dollars and deutsche marks (DM).

According to the GAO, ". . . the analyses we reviewed did not accurately conduct these sensitivity analyses [for currency fluctuations], or they were not performed. Since these analyses were prepared, currency rates have changed dramatically, highlighting the importance of appropriate consideration of exchange rate variation in reaching a conclusion about the costs of alternative heating options. For example, in one case, Ayers Kaserne, we asked the Army to rerun the computer analysis correcting for several errors. . . . Given the exchange rates in effect at the time of the decision (above 2.90 DM to the dollar in September 1985), this was the proper selection because district heat was the least costly alternative whenever the exchange rates were above 2.80 DM to the dollar. However, under current exchange rates (less than 2.0 DM to the dollar), coal-fired central heating would have been the least costly alternative." [Emphasis added].

Today's exchange rate is under 1.7 DM to the dollar, further obviating the Army's economic analysis at least in this one instance.

The significance of this methodology problem in the Army's analyses should not be underestimated. Unless an accurate analysis is made, it is impossible to project the real costs or savings to the American taxpayers from these conversions. GAO's study demonstrates that with currency exchanges at their current levels, what was calculated as a savings to the taxpayer will end up costing the U.S. more than other heating options. Even if the bottomline conclusion about the cost efficiency of gas district heating is granted, the Army's "savings" have been significantly eroded by the weakening of the dollar.

POSSIBLE CONTRACTING IRREGULARITIES IN GRANTING SOLE SOURCE, NON-COMPETITIVE CONTRACTS

In our conversations with the Air Force and the Army commands in West Germany on the subject of awarding sole source contracts for the provision of district heat for our military facilities, Congressman Foglietta and I were disturbed to find that the two branches of the military apparently have very different views on when sole sourcing is allowable. Specifically, the Army views a municipal district heating facility as a "utility" for purposes of utilizing the competitive bidding exemption for utility services. The Air Force seemed to be unclear on whether a district heating operation met the legal definition of a "utility" for purposes of the competitive bidding waiver.

When meeting with Army officers in Heidelberg it was acknowledged that the vast majority of the contracts entered into thus far have been with local district heating companies and have been sole source contracts. When we asked whether the Army had obtained a legal opinion on whether the utility waiver was appropriate, the answer from Army personnel was vague and strongly suggested that, in fact, they had not sought a legal opinion on the question.

We also asked who had made the decision that sole sourcing was permitted. In the ensuing conversation it was stated that this question had not been run through the Army's contracting headquarters in the Pentagon, as apparently is required under Army regulations, and that the decision was exclusively made within the Heidelberg command.

The issue of whether sole source contracts were appropriate in a number of the Army's contracts is an important one which should be resolved before either the Army or the Air Force proceed with any additional sole source commitments. Similarly, I believe that past Army contracts in this area should be carefully reviewed for any possible appropriate corrective actions.

POSSIBLE INAPPROPRIATE APPLICATION OF THE HOST COUNTRY REQUIREMENT PROVISIONS UNDER SEC. 2690 OF TITLE 10 U.S.C.

Another area of apparent disagreement between the Army and the Air Force centers on the appropriate application of the host country requirement provisions under Sec. 2690 of Title 10 U.S.C. As you are aware, subparagraph (b) of this section states:

"(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil fired facility or to any other energy source facility, unless the Secretary

(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility, and

The Air Force, in the case of West Germany, apparently believes that the application of this provision requires that the federal government in Bonn must impose the conversion requirement. This view is not shared by the Army.

In our conversation with Army personnel they indicated that they had a file full of letters from local governments requiring the Army to make many of the conversions which have been contracted for to date. When we asked whether they had received any communications from Bonn on these conversions, the Army indicated that in no case had the federal government in Bonn taken any action requiring the Army to convert.

In our further discussions on this point we asked if there was some peculiarity in West Germany law which allowed local municipal governments to *de facto* speak for the federal government in requiring these conversions. Army personnel indicated that they were not aware of any provision in German law to this effect. Once again, Congressman Foglietta and I asked whether a legal opinion had been sought to clarify this question and the answer again was that they had not sought or received legal counsel on this issue.

This is an extremely important question as a great many of the conversion requests submitted to your Committee by the Army for approval use this provision of U.S. law as justification for the conversions. I do not know whether these same conversions could have been justified on life cycle cost efficiency grounds. As the GAO report, cited above, suggests, however, using corrected methodology at least one conversion could not be justified on life cycle cost efficiency grounds.

Nevertheless, I believe that the critical issue is that the Army appears to have incorrectly justified, in their submissions to the Congress, a large number of conversions based on a misapplication of the host nation requirement provision of Sec. 2690 of Title 10 U.S.C. This issue should be resolved before any additional conversions citing this provision are approved by your Committee. In addition, the prior approvals made by your Committee should be re-evaluated to determine whether corrective actions are necessary.

AMERICAN COMPANIES LACK EFFECTIVE OPPORTUNITIES TO PARTICIPATE IN THE CONSTRUCTION ASSOCIATED WITH THE MODERNIZATION OF WEST GERMAN DISTRICT HEATING PLANTS NECESSITATED BY U.S. MILITARY CONTRACTS

Another issue raised in Congressman Foglietta's and my meeting with Army staff in Heidelberg related to the procedures used to contract with construction companies to undertake work on upgrading and modernizing West German municipal district heating facilities. Often substantial work has been required so that local district heat companies have the ability to fulfill their contractual commitments to provide heat to U.S. military facilities in West Germany.

According to the Army staff, under the terms of a NATO treaty which the U.S. is a signatory of, the contracting of work of this nature is handled by the host government. Under the system utilized in West Germany, U.S. companies do not have effective opportunities to bid to do the necessary construction work. Unquestionably, there are U.S. based companies with European offices who have the technical expertise to do this work. I believe it would be appropriate for your Committee to investigate this situation and renew the terms of any applicable treaties. If it is established that the situation described above is accurate, this may be an area in which the U.S. may seek treaty renegotiations.

DISTRICT HEATING CONVERSIONS NEGATIVELY IMPACT SEVERAL U.S. INDUSTRIES

As we have discussed in the past, the Army's purchases of U.S. anthracite coal account for 10-25% of the industry's total sales. The conversions to district heating in Europe already contracted for by the Army will result in a significant reduction in the Army's utilization of anthracite coal. In addition, a number of the Army's facilities converted from coal to district heating also used bituminous coal.

There are several promising developments on the horizon for new anthracite coal sales to larger West German utilities once the current West German subsidies for West German coal expire in the 1990's. Despite the Army's allegations that coal will virtually be unburnable in West Germany under that country's new environmental laws, we were informed that this view is not shared by many large West German firms who are currently implementing modern coal combustion technologies and plan to continue using coal as a fuel source in the future.

The anthracite industry's sales to the Army represents a significant portion of its overall business. Unfortunately, the loss of a major portion of these sales to the Army, as a result of its conversions to district heat, raises serious questions over the industry's ability to survive until the West German coal subsidies expire. This situation has been made all the more frustrating in light of the serious questions which have been raised on the accuracy of the Army's life cycle cost analyses of the district heating option, and the potential contracting errors discussed above.

While I am less conversant on the specific problems facing other U.S. industries, it is clear that a significant reduction of the Army's purchase of U.S. coal will negatively affect. (1) the U.S. maritime industry which is involved in the shipment of U.S. coal to American bases in Europe, (2) the U.S. rail industry which transports the coal to American ports, and (3) American workers at U.S. ports through which American coal is shipped.

CONCLUSION

Given the very serious policy and procedural issues raised above, together with the very important negative impact on several sectors of the U.S. economy associated with the conversions of U.S. military bases in Europe to local district heating facilities. I believe the Armed Services Committee should not approve any additional conversions of U.S. overseas bases to district heating until a thorough review of all of these questions has been completed.

In addition, I believe your Committee should carefully review all of the previous submissions for district heating conversions which have previously come before your Committee to determine if there were any irregularities, and if so, what corrective steps are appropriate.

The fact that national policy has not been well articulated in these areas is especially troubling to me. The absence of clear policy guidance may well explain how our military command personnel in Europe have allowed the problems cited in this report to arise in the first place. Without direction, how are our military officers in Europe supposed to determine what actions best serve the overall interests of the United States? I believe that Congress must have a central role in resolving these basic policy questions.

I would be happy to provide you with whatever assistance I can in these undertakings. If you need any additional information or have any questions concerning the meetings Congressman Foglietta and I had with U.S. military commands in Europe, please do not hesitate to let me know.

Sincerely,

PAUL E. KANJORSKI,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAY of Georgia (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SWINDALL) to revise and extend their remarks and include extraneous material:)

Mr. PARRIS, for 60 minutes, on April 27.

Mr. PARRIS, for 60 minutes, on April 28.

Mr. SWINDALL, for 60 minutes, on April 20.

Mr. DORNAN of California, for 60 minutes, on April 20.

Mr. DORNAN of California, for 60 minutes, on April 21.

Mr. DREIER of California, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mrs. BENTLEY, for 60 minutes, on April 26.

Mrs. BENTLEY, for 60 minutes, on April 27.

Mrs. BENTLEY, for 60 minutes, on April 28.

Mrs. BENTLEY, for 60 minutes, on May 3.

Mrs. BENTLEY, for 60 minutes, on May 4.

Mrs. BENTLEY, for 60 minutes, on May 5.

Mrs. BENTLEY, for 60 minutes, on May 10.

Mrs. BENTLEY, for 60 minutes, on May 11.

Mrs. BENTLEY, for 60 minutes, on May 12.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. GONZALEZ, for 60 mintues, on April 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SWINDALL) and to include extraneous matter:)

Miss SCHNEIDER in two instances.

Mr. GALLEGLY.

Mr. KONNYU.
Mr. DREIER of California.
Mr. MOORHEAD.
Mr. SCHULZE.
Mr. CONTE.
Mr. BADHAM.
Mr. BLAZ.
Mr. OXLEY in two instances.
Mr. YOUNG of Florida.
Mr. GREEN.
Mr. HENRY.
Mr. SHUSTER.
Mr. DAVIS of Michigan.
Mr. DORNAN of California.
Mr. COBLE.
Mr. GUNDERSON in two instances.
Mr. GILMAN in three instances.
Mr. DANNEMEYER.
Mr. HERGER.
Mr. PORTER.
Mr. MCDADE in two instances.
Mr. DAUB.
Mr. MARLENEE.
Mr. ROTH.
Mr. FIELD in two instances.
Mr. BROOMFIELD.
Mr. KYL.
Mr. DELAY.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. FAUNTROY.
Mr. TRAFICANT.
Mr. SOLARZ.
Mr. MONTGOMERY.
Mr. TALLON.
Mr. ROSTENKOWSKI.
Mr. BENNETT in three instances.
Mr. FASCELL in two instances.
Mr. VENTO.
Mr. CLAY in two instances.
Mr. WEISS.
Mr. MRAZEK.
Mr. KILDEE.
Mr. LEHMAN of California.
Mr. APPLEGATE.
Mr. TORRICELLI.
Mr. YATRON in three instances.
Mrs. BOXER.
Mr. BILBRAY.
Mr. BORSKI in two instances.
Mr. KANJORSKI.
Mr. SLATTERY.
Mr. KOSTMAYER in two instances.
Mr. KASTENMEIER.

ADJOURNMENT

Mr. KANJORSKI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 20, 1988, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3438. A letter from the Secretary of Defense, transmitting a report on the assessment and evaluations of NATO weapons systems standardization and results achieved, pursuant to 10 U.S.C. 2457(d)(1); to the Committee on Armed Services.

3439. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-173, "District of Columbia Interior Designer Examination Waiver Temporary Amendment Act of 1988", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3440. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-174, "Metropolitan Police Department Compensation System Temporary Act of 1988", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3441. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Review of Disbursements and Accountability of Certain Grant Funds Related to Homeless Programs in the District of Columbia", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3442. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Review of Contract Between Metropolitan Health Associates, Inc. and the Department of Human Services", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3443. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions for Henry F. Cooper, Jr., of Virginia, for rank of Ambassador as United States Negotiator for Defense and Space Arms, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3444. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions for Stephen R. Hanmer, Jr., of Virginia, for rank of Ambassador as United States Negotiator for Strategic Nuclear Arms, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3445. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions for Paul D. Taylor, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Dominican Republic; George E. Moose, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Senagal; Walter L. Cutler, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Saudi Arabia; Rush W. Taylor, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Togo; and Richard N. Holwill, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Ecuador, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3446. A letter from the Secretary of State; transmitting a report on forced detention by the African National Congress and the South African Government, pursuant to Public Law 100-204, section 1223 (101 Stat. 1415); to the Committee on Foreign Affairs.

3447. A communication from the President of the United States, transmitting a report on the April 18, 1988, actions by Armed Forces of the United States in the Persian Gulf (H. Doc. No. 100-181); to the Committee on Foreign Affairs and ordered to be printed.

3448. A letter from the Director, National Park Service, transmitting the 1987 report covering the disposal of surplus Federal real property under the public benefit discount program for parks and recreation purposes, pursuant to 40 U.S.C 484(o); to the Committee on Government Operations.

3449. A letter from the Assistant Attorney General for Administration, transmitting notification of two proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3450. A letter from the Assistant Attorney General for Administration, transmitting notification of two proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3451. A letter from the Chairman, National Labor Relations Board, transmitting a copy of the annual report on the Board's compliance with the Government in the Sunshine Act for the calander year 1987, purusant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3452. A letter from the Director, Selective Service System, transmitting the annual report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3453. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court Officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

3454. A letter from the Acting Assistant Attorney General for Legislative Affairs, transmitting the views of the Department of Justice on H.R. 4222; to the Committee on the Judiciary.

3455. A letter from the Chairman, United States Sentencing Commission, transmitting amendments to the sentencing guidelines and commentary which the Commission adopted on April 12, 1988, pursuant to 28 U.S.C. 994(p); to the Committee on the Judiciary.

3456. A letter from the Comptroller General, General Accounting Office, transmitting a report on the audit of certain presidential and vice presidential expenditures for fiscal year 1986, pursuant to 3 U.S.C. 105(d), 106(b); jointly, to the Committees on Post Office and Civil Service and Government Operations.

3457. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report, entitled "Federal Personnel Policies and Practices—Perspectives from the Workplace", pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

3458. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the fiscal years 1989 and 1990 for the Office of Commercial Space Transportation of the Department of Transportation; and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space and Technology.

3459. A letter from the Deputy Secretary of the Treasury, transmitting the eleventh annual report entitled, "The Operation and Effect of the Domestic International Sales Corporation Legislation" which covers the period July 1, 1981 to June 30, 1983, pursuant to 26 U.S.C. 991 nt.; to the Committee on Ways and Means.

3460. A letter from the Deputy Assistant Secretary of Defense for Administration, transmitting the annual report of agreements and transactions entered into by each Military Department during fiscal year 1987, pursuant to 10 U.S.C. 2349; jointly, to the Committees on Armed Services and Foreign Affairs.

3461. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; jointly, to the Committees on Veterans' Affairs and Armed Services.

3462. A letter from the Chairman, Physician Payment Review Commission, transmitting the Commission's Annual Report, pursuant to 42 U.S.C. 1395w-1(c)(1)(D) (100 Stat. 192); jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Barriers to prenatal care: Can the United States do more with less (Rept. 100-574). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of Texas:

H.R. 4400. A bill to amend section 207 of title 18, United States Code, to disqualify former Members, officers, and senior committee employees of Congress from engaging in certain activities with respect to the legislative branch; to the Committee on the Judiciary.

By Mr. HALL of Texas (for himself, Mr. Bliley, Mr. Moakley, and Mr. Derrick):

H.R. 4401. A bill to amend the Communications Act of 1934 with respect to Dial-a-Porn; considered and passed.

By Mr. BENNETT:

H.R. 4402. A bill to encourage cooperation with law enforcement authorities in the war against drugs by increasing the maximum rewards from the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund for information on controlled substances offenses; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. BONKER (for himself, Mr. Crockett, Mr. Rangel, and Mr. Conyers):

H.R. 4403. A bill providing that the President shall terminate the sanctions imposed against Nicaragua under the International Emergency Economic Powers Act, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CHAPMAN (for himself, Mr. Andrews, Mr. Archer, Mr. Brooks, Mr. Fields, and Mr. Leland):

H.R. 4404. A bill to amend the Federal Water Pollution Control Act to exempt sources of discharges into certain publicly owned treatment works from compliance with pretreatment requirements for pollutants that are adequately removed by such publicly owned treatment works; to the Committee on Public Works and Transportation.

By Mr. DAVIS of Michigan (by request):

H.R. 4405. A bill to authorize appropriations for fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DioGUARDI:

H.R. 4406. A bill to amend title 18, United States Code, to provide for mandatory random drug testing for Federal probationers; to the Committee on the Judiciary.

By Mr. DORNAN of California (for himself and Mr. Dymally):

H.R. 4407. A bill to amend title 10, United States Code, to require that a certain portion of naval vessel modernization, overhaul, repair, and maintenance be carried out at certain public shipyards; to the Committee on Armed Services.

By Mr. FRANK:

H.R. 4408. A bill to exclude foreign reparation payments from consideration as income in determining eligibility and benefits under Federal housing assistance programs; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HATCHER (for himself, Mr. Ray, and Mr. Lowry of Washington):

H.R. 4409. A bill to promote rural economic development, and for other purposes; to the Committee on Small Business.

By Mr. McEWEN:

H.R. 4410. A bill to designate the Federal Building at Spring and High Streets in Columbus, OH, as the "John W. Bricker Building"; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 4411. A bill to reduce the duty on certain fabrics for use in making fire-protection garments for firefighters; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 4412. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 4413. A bill to provide for Federal monetary awards payable to persons who provide information leading to the arrest and conviction of individuals for the unlawful sale, or possession for sale, of a controlled substance or controlled substance analogue; and to provide for the retirement of all United States notes of the denomination of $100 and their replacement with new notes in such denomination; jointly, to the Committees on the Judiciary and Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 4414. A bill to amend title XVIII of the Social Security Act to assure appropriate provision and coordination of emergency medical services under statewide trauma and emergency medical services plans; to the Committee on Ways and Means.

By Mr. THOMAS of California:

H.R. 4415. A bill to extend until January 1, 1994, the existing suspension of duty on certain yttrium ores, materials, and compounds; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. Ford of Michigan, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Perkins, Mr. Martinez, Mr. Robinson, Mr. Atkins, Mr. Gaydos, Mr. Jeffords, Mr. Coleman of Missouri, and Mr. Tauke):

H.R. 4416. A bill to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989; to the Committee on Education and Labor.

By Mr. BILBRAY (for himself, Mr. Wortley, Mr. Berman, Mr. Bevill, Mr. Borski, Mr. de la Garza, Mr. Fawell, Mrs. Byron, Mr. Darden, Mr. Dixon, Mr. Dymally, Mr. Dornan of California, Mr. Craig, Mr. Foglietta, Mr. Fuster, Mr. Dwyer of New Jersey, Mr. Crockett, Mrs. Vucanovich, Mr. Hyde, Mr. Hoyer, Mr. Gray of Illinois, Mr. Jones of North Carolina, and Mr. Roe):

H.J. Res. 542. Joint resolution designating May 1-7, 1988, as "National Immunology Week"; to the Committee on Post Office and Civil Service.

By Mr. ESPY (for himself, Mr. Montgomery, Mr. Dowdy of Mississippi, Mr. AuCoin, Mr. Dickinson, Mr. Aspin, Mr. Courter, Mr. Applegate, Mr. Dymally, Mrs. Boxer, Mr. Bateman, Mr. Biaggi, Mr. Blaz, Mrs. Boggs, Mr. Coleman of Texas, Mrs. Collins, Mr. Daub, Mr. DeFazio, Mr. de la Garza, Mr. DioGuardi, Mr. Evans, Mr. Fauntroy, Mr. Fazio, Mr. Frost, Mr. Garcia, Mr. Gray of Pennsylvania, Mr. Hayes of Illinois, Mr. Holloway, Mr. Horton, Mr. Hoyer, Mrs. Johnson of Connecticut, Mr. Jontz, Mr. Lagomarsino, Mr. Leland, Mr. Lipinski, Mr. Livingston, Mr. Lott, Mr. McCloskey, Mr. McGrath, Mr. Martin of New York, Mr. Matsui, Mr. Mavroules, Mr. Mfume, Mr. Mrazek, Mr. Owens of New York, Mr. Panetta, Mr. Ravenel, Mr. Roe, Mr. Sunia, Mr. Tallon, Mr. Weiss, Mr. Wolf, Mr. Wortley, Mr. Young of Florida, Mr. Sabo, Mr. Hawkins, Mr. Solarz, Ms. Oakar, Mr. Chapman, Mr. Lungren, Mr. Campbell, Mr. Bennett, Mr. Gordon, Mr. Waxman, Mr. Flippo, Mr. Barnard, Mr. Jeffords, Mr. Skelton, Mr. Coleman of Missouri, Mr. Whitten, Mr. Crockett, Mr. Dorgan of North Dakota, Mr. Stenholm, Mr. Vento Ms. Kaptur, Mr. Ackerman, Mr. Nelson of Florida, Mr. Bevill, Mr. Dixon, Mrs. Meyers of Kansas, Mr. Volkmer, Mr. Neal, Mr. Hefner, Mr. Hughes, Mr. Price of Illinois, Mr. Hatcher, Mr. Solomon, Mr. Wilson, Mr. Levin of Michigan, Mr. Wylie, Mr. Davis of Illinois, Mr. Fish, and Mr. Gonzalez):

H.J. Res. 543. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. FLORIO:

H.J. Res. 544. Joint resolution designating July 2, 1988, as "National Literacy Day"; to the Committee on Post Office and Civil Service.

By Mr. HUTTO:

H.J. Res. 545. Joint resolution designating May 8-14, 1988, as "Just Say No Week"; to the Committee on Post Office and Civil Service.

By Mr. SIKORSKI:

H.J. Res. 546. Joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month"; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON (for himself and Mr. Yatron):

H.J. Res. 547. Joint resolution to express the sense of the Congress on the continuing need for humanitarian assistance for the people of Ethiopia; to the Committee on Foreign Affairs.

By Mr. COUGHLIN (for himself and Mr. Montgomery):

H. Con. Res. 283. Concurrent resolution to recognize the vital contribution that U.S. Armed Forces personnel have made to promoting America's security interests in the Persian Gulf and to commend the President for dispatching these forces; jointly, to the Committees on Foreign Affairs and Armed Services.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

314. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to uniform national labeling standards to be used by food manufacturers; to the Committee on Energy and Commerce.

315. Also, memorial of the Senate of the State of Hawaii, relative to requiring registration of any artificial island, installation, structure, or vessel engaged in economic activity in the U.S. Exclusive Economic Zone; to the Committee on Merchant Marine and Fisheries.

316. Also, memorial of the Senate of the State of Hawaii, relative to procedures for evaluating State coastal management programs; to the Committee on Merchant Marine and Fisheries.

317. Also, memorial of the Senate of the State of Hawaii, relative to the application of satellite technology to the fishing industry; to the Committee on Merchant Marine and Fisheries.

318. Also, memorial of the Senate of the State of Hawaii, relative to the establishment of NOAA as an independent agency; enactment of a National Seabed Hard Minerals Act; review and consideration of the Western Legislative Conference's report; to the Committee on Merchant Marine and Fisheries.

319. Also, memorial of the House of Representatives of the State of Oklahoma, relative to emergency bank protection along the South Canadian River by the Corps of Engineers; to the Committee on Public Works and Transportation.

320. Also, memorial of the Senate of the State of Hawaii, relative to a postal inspection program to halt the mailing of parcels containing fruit fly infested fruit, plants and noxious weeds; jointly, to the Committees on Post Office and Civil Service and Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 313: Mr. Dorgan of North Dakota.

H.R. 588: Mr. Green, Mr. Chandler, Mr. Owens of Utah, Mr. Lowery of California, Mr. Packard, and Mr. Lightfoot.

H.R. 592: Mr. Rose, Mr. Hayes of Louisiana, Mr. Ballenger, Mr. Solomon, Mr. Gallo, Mr. Broomfield, Mr. Berman, and Mr. Hammerschmidt.

H.R. 722: Mr. Boehlert.

H.R. 772: Mr. Walgren, Ms. Pelosi, and Mr. LaFalce.

H.R. 817: Mr. Smith of New Hampshire, Mr. Parris, Mr. Eckart, Mr. Marlenee, Mr. Martin of New York, and Mr. Badham.

H.R. 903: Mr. Kastenmeier and Mr. Hochbrueckner.

H.R. 936: Mr. Roe and Mr. Shumway.

H.R. 1016: Mr. Donnelly.

H.R. 1531: Mr. Garcia, Mr. de Lugo, Mr. Pickle, Mr. Crane, Mr. Savage, and Mr. Lipinski.

H.R. 1580: Mr. Traficant, Mr. Dowdy of Mississippi, Mr. Gilman, Ms. Kaptur, Mr. Gonzalez, Mr. Moody, and Miss Schneider.

H.R. 1583: Mr. Rangel, Mr. Davis of Illinois, and Mr. Lipinski.

H.R. 1841: Mrs. Boxer.

H.R. 1901: Mr. Flippo.

H.R. 2125: Mr. Ray.

H.R. 2260: Mr. Pease, Mr. Marlenee, and Mr. Stangeland.

H.R. 2676: Mr. Traxler.

H.R. 2793: Mr. Lujan.

H.R. 2854: Mr. Lantos and Mr. Gejdenson.

H.R. 2883: Mr. Ackerman, Mr. Conyers, and Mr. Martinez.

H.R. 2943: Mr. Markey and Mr. Stokes.

H.R. 2944: Mr. Markey, Mr. Crane, and Mr. Stokes.

H.R. 3071: Mr. Evans and Mr. Bosco.

H.R. 3204: Mr. Davis of Illinois, Mr. DeFazio, and Mr. Evans.

H.R. 3205: Mr. Robert F. Smith and Mr. Rhodes.

H.R. 3215: Mr. Lowery of California, Mr. Packard, and Mr. Lewis of California.

H.R. 3250: Mr. Fascell, Mr. Flippo, Mr. Gregg, Mr. Ravenel, and Mr. Sundquist.

H.R. 3312: Mr. Kyl.

H.R. 3314: Mr. Bereuter, Mr. Horton, Mr. Lott, Mr. Crane, Mr. Dellums, Mr. Clay, Mr. Hunter, Mr. Dixon, and Mr. Conyers.

H.R. 3355: Mr. Ackerman, Mr. Carper, and Ms. Pelosi.

H.R. 3382: Mr. Yatron, Mr. Baker, Mr. Hyde, Mr. Horton, Mr. Owens of New York, Mr. Andrews, Mr. Morrison of Connecticut, Mr. Jacobs, Mr. Studds, Mr. Bereuter, Mr. Lagomarsino, Mr. Courter, Mr. Wise, Mr. Fazio, Mr. Lehman of Florida, Mr. Robert F. Smith, Mr. Green, Mr. Whittaker, Mrs. Martin of Illinois, Mr. Lungren, Mrs. Roukema, Mr. Rhodes, Mr. Oxley, Mrs. Lloyd, Mr. McEwen, Mr. Ballenger, Mr. Hammerschmidt, Mr. Lancaster, Mr. Upton, Mr. Biaggi, Mr. Jones of North Carolina, Mr. Solarz, Mr. Johnson of South Dakota, Mrs. Bentley, Mr. Petri, Mr. Myers of Indiana, Mr. Lewis of California, Mr. Wortley, and Mr. Weiss.

H.R. 3455: Mr. Neal, Mr. Owens of Utah, Mrs. Patterson, and Mr. Harris.

H.R. 3553: Mr. de la Garza and Mr. Badham.

H.R. 3588: Mr. Towns, Mr. Fawell, Mr. Solarz, Mr. Mrazek, Mr. Smith of Florida, Mr. Bryant, Mr. Feighan, Mr. Bilbray, Mrs. Bentley, Mr. Borski, and Mr. Davis of Illinois.

H.R. 3610: Mr. Garcia, Mr. Matsui, Mr. Wolpe, and Mr. Panetta.

H.R. 3628: Mr. Gregg, Mr. Stangeland, Mr. Lent, Mr. Borski, and Mr. Shaw.

H.R. 3695: Mr. Herger.

H.R. 3703: Mr. Lagomarsino, Mr. DeFazio, Mr. Richardson, Mr. Garcia, Mr. Bryant, Mr. Fuster, and Mr. Kostmayer.

H.R. 3719: Mr. Hughes, Mr. Shays, Mr. Morrison of Washington, Mr. Towns, Mr. Gray of Illinois, Mr. Callahan, Mr. Gilman, Mr. Florio, Mr. Berman, Mr. Hawkins, Mr. Miller of Ohio, Mr. Bevill, Mr. Donnelly, Mr. Ravenel, Mr. Kastenmeier, Mr. Lightfoot, Mr. Spratt, Mr. Kolter, Ms. Kaptur, Mr. Roe, Mr. Oberstar, Mr. Burton of Indiana, Mr. Myers of Indiana, Mr. Flake, Mr. Quillen, and Mr. Coleman of Texas.

H.R. 3753: Mr. Ortiz, Mr. Levine of California, Mr. Fuster, Mr. Fazio, and Mr. Dwyer of New Jersey.

H.R. 3769: Mr. Dellums.

H.R. 3865: Mr. Hefley, Mr. Harris, Mr. Foglietta, Mr. Leach of Iowa, Mr. Gordon, Mr. MacKay, Mr. Saxton, and Mr. McHugh.

H.R. 3879: Mr. Staggers, and Mr. Hertel.

H.R. 3892: Mr. Spence.

H.R. 3893: Mr. Boehlert.

H.R. 3900: Mr. Rhodes.

H.R. 3907: Mr. Clarke, Mr. Lehman of California, Mr. Shumway, and Mr. Wyden.

H.R. 4002: Mr. Mack.

H.R. 4025: Mr. McGrath.

H.R. 4032: Mr. Konnyu.

H.R. 4072: Mr. Shays and Mr. Conyers.

H.R. 4074: Mrs. Bentley, Mr. Hughes, and Mr. Nielson of Utah.

H.R. 4136: Mrs. Collins and Mr. Brown of California.

H.R. 4170: Mr. Alexander, Mr. Bateman, Mr. Buechner, Mr. Coats, Mr. Henry, Mr. Lancaster, Mr. Lewis of California, Mr. Madigan, Mr. Ray, Mr. Roberts, Mr. Rowland of Connecticut, Mr. Sundquist, Mr. Taylor, and Mr. Vander Jagt.

H.R. 4178: Mr. Evans.

H.R. 4189: Mr. Ackerman, Mrs. Collins, Mr. Mrazek, Mr. Oberstar, Mr. Moakley, Mr. Neal, Mr. Sabo, Mr. Green, Mr. Hughes, Mr. Fawell, Mr. Borski, Mr. Owens of New York, Mr. Harris, Mr. Rangel, Mr. Fuster, Mr. Beilenson, Mr. Anderson, Mr. Manton, Mr. Roe, Mr. Fascell, Mr. Smith of Florida, Mr. Frank, Mrs. Boxer, Mr. Fauntroy, Mr. Berman, Mr. Brown of California, Mr. Richardson, Mr. Solarz, Mr. Morrison of Connecticut, and Mr. Carper.

H.R. 4213: Mr. Foglietta and Mr. Wolpe.

H.R. 4218: Mr. de Lugo, Mr. Fazio, Mr. Buechner, Mr. Packard, Mr. Olin, Mr. Levine of California, and Mr. Smith of New Hampshire.

H.R. 4230: Mr. Fauntroy, Mr. DeFazio, Mrs. Boxer, Mr. Clinger, Mr. Towns, Mr. Lantos, Mr. Bennett, Mr. Manton, Mr. Ireland, Mr. Downey of New York, Mr. Rinaldo, Ms. Slaughter of New York, Mr. Skelton, Mr. Jontz, Mr. Leath of Texas, Mr. Owens of Utah, Mr. Gray of Illinois, Mr. Dowdy of Mississippi, Mr. Dixon, Mr. Smith of Florida, Mr. Ortiz, Mr. Stark, Mrs. Bentley, Mr. Bryant, Mr. Erdreich, Mrs. Schroeder, Mr. Fazio, Ms. Pelosi, Mr. Mica, Mr. Lewis of Georgia, Mr. Fuster, Mr. de la Garza, and Mr. Hastert.

H.R. 4277: Mr. Swindall, Mr. Penny, and Mr. Beilenson.

H.R. 4289: Mr. Dannemeyer, Mrs. Bentley, and Mr. Dornan of California.

H.R. 4302: Mr. Gekas, Mr. Hunter, Mr. Lagomarsino, Mr. Hastert, Mr. Inhofe, Mr. Ballenger, Mr. Hefley, Mr. Upton, Mr.

Weldon, Mr. Ravenel, Mr. Holloway, Mr. Donald E. Lukens, Mr. Dyson, Mr. Fields, Mr. Solomon, Mr. Lewis of Florida, Mrs. Bentley, Mr. Wortley, Mr. Shumway, Mr. Davis of Illinois, Mr. Livingston, and Mr. Lungren.

H. R. 4308: Mr. Henry and Mr. Swindall.

H.R. 4383: Mr. Armey, Mr. Kyl, and Mr. Davis of Illinois.

H.J. Res. 55: Mrs. Martin of Illinois, Mr. Ravenel, and Mr. Lowry of Washington.

H.J. Res. 137: Mr. Akaka, Mr. English, Mr. Fish, Mr. Hall of Texas, Mr. Hertel, Mr. Kasich, Mr. Livingston, Mr. Mavroules, Ms. Pelosi, Mr. Wilson, Mr. Wortley, Mr. Bliley, Mr. Ownes of New York, Mr. Atkins, Mr. Garcia, Mr. Miller of Washington, Mr. Taylor, Mr. Wolf, Mr. Bunning, Mr. Sweeney, Mr. Oxley, Mrs. Johnson of Connecticut, Mr. Donald E. Lukens, Mrs. Meyers of Kansas, Mr. Wylie, Mr. Craig, Mr. Manton, Mr. Swindall, and Mrs. Bentley.

H.J. Res. 148: Mr. Bryant, Mr. Carr, Mr. Donnelly, Mr. Levine of California, Mr. St Germain, Mr. Savage, and Mr. Yates.

H.J. Res. 289: Mr. Bonior of Michigan, Mr. Callahan, Mr. Crockett, Mr. Darden, Mr. Derrick, Mr. Dingell, Mr. Fawell, Mr. Florio, Mr. Frenzel, Mr. Green, Ms. Kaptur, Mr. Kleczka, Mrs. Lloyd, Mr. Mfume, Mrs. Patterson, Mr. Price of Illinois, Mr. Ravenel, Mr. Spratt, Mr. Vander Jagt, Mr. Weiss, and Mr. Gray of Pennsylvania.

H.J. Res. 321: Mr. Jontz.

H.J. Res. 390: Mr. Borski, Mr. Emerson, Mrs. Lloyd, Mr. Hastert, Mr. Marlenee, Mr. Olin, Mr. Boland, Mr. Beilenson, Mr. Dornan of California, Mr. Horton, Mr. Shays, Mr. Gallegly, Mrs. Collins, Mr. Evans, Mr. Gallo, and Mr. Torricelli.

H.J. Res. 420: Mr. Foglietta, Mr. Henry, Mrs. Meyers of Kansas, Mrs. Martin of Illinois, Mr. Pepper, Mr. Carper, Mr. Donnelly and Mr. Smith of Florida.

H.J. Res. 438: Mr. Kostmayer.

H.J. Res. 442: Mr. Lungren, Mr. Hansen, Mr. Ford of Tennessee, Mr. Moorhead, Mr. Wilson, Mr. Ford of Michigan, Mr. Walgren, Mr. Bustamante, Mr. Murphy, Mr. Saxton, Mr. Scheuer, Mr. Traficant, Mr. Spratt, Mr. Morrison of Washington, Mr. Berman, Mr. Tallon, Mr. Manton, Mr. Kolter, Mr. Lewis of Georgia, Mr. Shumway, Mr. Hiler, Mr. Stallings, Mrs. Morella, Mr. Kleczka, Mr. Henry, Mr. Sabo, Mrs. Meyers of Kansas, Mr. Wortley, Mr. Grandy, Mr. Akaka, Mr. Fawell, Mr. Bilirakis, Mr. Conyers, Mr. Mfume, Mr. Moakley, Mr. Oberstar, Mr. McEwen, Mr. Lewis of Florida, Mr. LaFalce, Mr. Studds, Mr. St Germain, Mr. McCollum, Mr. Kanjorski, Mr. Garcia, Mr. Kasich, Mr. Morrison of Connecticut, Mrs. Martin of Illinois, Mr. Yatron, Mrs. Kennelly, Mr. Richardson, Mr. Tauke, Mr. Valentine, Mr. Volkmer, Mr. Early, Mr. Levine of California, Mr. Ackerman, Mr. Hammerschmidt, Mr. Hayes of Illinois, Mr. Davis of Michigan, Mr. Coelho, Mr. Jeffords, Mr. Savage, and Mr. Stenholm.

H.J. Res. 458: Mr. Gradison, Mr. Morrison of Washington, Mr. de Lugo, Mr. Lagomarsino, Mrs. Bentley, Mr. Fazio, Mr. de la Garza, Mr. Yatron, Mr. Thomas of Georgia, and Mr. Henry.

H.J. Res. 474: Mr. Upton, Mr. Dingell, Mr. Yatron, Mr. Kanjorski, Mr. Fawell, and Ms. Pelosi.

H.J. Res. 485: Mr. Annunzio, Mr. Campbell, Mr. Chapman, Mr. Coelho, Mr. Darden, Mr. de Lugo, Mr. Dwyer of New Jersey, Mr. Fauntroy, Mr. Fazio, Mr. Gray of Illinois, Mr. Green, Mr. Henry, Mr. Hyde, Mr. Lehman of Florida, Mr. Lungren, Mr. McEwen, Mr. Morrison of Washington, Ms. Pelosi, Mr. Rangel, Mr. Ritter, Mr. Robinson, Mr. Towns, Mr. Traxler, Mr. Udall, and Mr. Wolpe.

H.J. Res. 490: Mr. Edwards of California, Mr. Feighan, Mr. Frost, Mr. Garcia, Mr. Kastenmeier, Mr. Kennedy, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Lewis of Georgia, Mr. Panetta, Mr. Rangel, Mr. Studds, Mr. Towns, and Mr. Sawyer.

H.J. Res. 504: Mr. Hughes, Mr. Gray of Illinois, Mr. Borski, Mr. Broomfield, Mr. Carr, and Mr. Hoyer.

H.J. Res. 505: Mr. DeFazio, Mr. Smith of Florida, Mr. Lagomarsino, Mr. Chapman, Mrs. Boxer, Mr. Wheat, Mr. Rowland of Connecticut, Mr. Espy, Mrs. Collins, Mr. Staggers, Mr. Synar, Mr. Rangel, Mr. Bates, Mr. Weiss, Mr. McGrath, Mr. Frost, Mr. Lipinski, Mr. Lehman of Florida, Mr. Foglietta, Mr. Crockett, Mr. Roe, and Mr. Levin of Michigan.

H.J. Res. 506: Mr. Frost, Mr. Mrazek, Mr. Stokes, Mr. Biaggi, Mr. Ortiz, Mr. Pickett, Mr. Hughes, Mr. Darden, Ms. Slaughter of New York, and Mr. Garcia.

H.J. Res. 528: Mr. Thomas of Georgia, Mr. McCloskey, Mr. Fuster, Mr. Dyson, Mr. Dymally, Mr. Moakley, Mr. Carper, Mr. Fauntroy, Mr. Ortiz, Mr. Smith of Florida, Mr. Clay, Mr. DeFazio, Mr. Bosco, Mr. Mavroules, Mr. Lagomarsino, Mr. Dowdy of Mississippi, Mr. Weiss, Mrs. Boxer, Ms. Pelosi, Mr. Kostmayer, and Mr. Levine of California.

H.J. Res. 530: Mr. Espy, Mr. Frost, Mr. Pashayan, Mr. Hansen, Mr. Lungren, Mr. Baker, Mr. Kostmayer, Mrs. Bentley, Mr. Jones of Tennessee, Mr. Sunia, Mr. Marlenee, Mr. Whittaker, Mr. Davis of Michigan, Mr. Ritter, Mr. Upton, Mr. Boulter, Mr. de Lugo, Mr. Vander Jagt, Mr. Lowery of California, Mr. Richardson, Mr. Dowdy of Mississippi, Mr. Murphy, Mr. Schuette, Mr. Rhodes, Mr. Dannemeyer, Mr. Tauzin, Mr. Stangeland, Mr. Jeffords, Mr. Kildee, Mr. Fish, Mr. Ireland, Mr. Young of Alaska, Mr. Dornan of California, Mr. Wolf, Mr. Hughes, Mr. Fields, Mr. Denny Smith, Mr. Petri, Mr. Herger, Mr. Kemp, Mr. Saxton, Mr. Wylie, Mr. DioGuardi, Mr. Smith of New Jersey, Mr. Inhofe, Mr. Skeen, Mr. Goodling, Mr. Rinaldo, Mr. Stump, Mr. Michel, Mr. Quillen, Mr. Blaz, Mr. Rahall, Mr. Regula, Mr. Weldon, Mr. Walgren, Mr. Lott, Mr. Gunderson, Mr. Gallegly, Mrs. Saiki, Mr. Robert F. Smith, Mr. Jones of North Carolina, Mr. Nielson of Utah, Mr. Gallo, Mr. DeLay, Mr. Bliley, Mr. Foley, Mr. Duncan, Mr. Hunter, Mr. Molinari, Mr. Tauke, Mr. Clarke, Mr. Lewis of California, Mr. Pursell, Mr. Hoyer, Mr. Harris, Mr. Craig, Mr. Anderson, Mr. Cooper, Mr. Roe, and Mr. Boucher.

H. Con. Res. 28: Mr. Buechner.

H. Con. Res. 169: Mr. Borski and Mr. Davis of Illinois.

H. Con. Res. 241: Mr. Holloway.

H. Con. Res. 256: Mr. Dornan of California.

H. Con. Res. 260: Mrs. Johnson of Connecticut, Mr. Kolbe, Mr. Mavroules, Mr. Stenholm, Mr. Livingston, Mr. Sundquist, Mr. Stratton, Mr. Fields, Mr. Scheuer, Mr. Frenzel, Mr. Buechner, Mr. Gekas, Mr. Frost, Mr. Coughlin, Mr. Horton, Mrs. Bentley, Ms. Snowe, Mr. Murphy, Mr. Kasich, Mr. St Germain, Mr. Robinson, and Mr. Kemp.

H. Con. Res. 261: Mr. Denny Smith.

H. Con. Res. 262: Mr. Parris, Mr. Obey, Mrs. Patterson, Mr. Udall, Mr. Coyne, Mr. Wortley, Mr. Swindall, Mr. Houghton, Mr. Russo, Mr. Miller of Washington, Mr. Clarke, Mr. Pease, Mr. Tallon, Mr. Buechner, Mr. Wheat, Mr. Moody, Mr. Bustamante, Mrs. Lloyd, Mr. Jeffords, Mr. Donald E. Lukens, Mr. MacKay, Mr. Slattery, Mr. Wyden, Mr. Carper, Mr. Foglietta, Mr. Courter, and Mr. Smith of New Hampshire.

H. Con. Res. 264: Mr. Dyson, Mr. Slattery, Mr. Weber, and Mr. Lightfoot.

H. Con. Res. 273: Mr. Dymally and Mr. Crockett.

H. Con. Res. 276: Mr. Porter, Mr. Young of Alaska, Mr. Hayes of Illinois, Mr. Solarz, Mrs. Collins, Mr. Smith of Florida, Mr. Sundquist, Mr. Gaydos, Mr. Lewis of Florida, Mr. Schuette, Mr. St Germain, Mr. Gunderson, Mr. Thomas of Georgia, Mr. Mazzoli, Mr. Rahall, Mr. Valentine, Mr. Ackerman, Mr. Jontz, Mr. McGrath, Ms. Pelosi, Ms. Kaptur, Mr. Jones of North Carolina, Mr. Shays, Mr. Dymally, Mr. Fazio, Ms. Snowe, Mr. Fauntroy, Mr. Denny Smith, Mr. Foglietta, Mr. Price of Illinois, Mrs. Boxer, Mr. Downey of New York, Mr. Conyers, Mr. Yatron, Mr. DeFazio, Mrs. Vucanovich, Mr. Dornan of California, Mr. DeWine, Mr. Lagomarsino, Mr. de la Garza, Mr. Fish, and Mr. Nichols.

PETITIONS, ETC.

Under clause 1 of rule XXII,

154. The SPEAKER presented a petition of the Board of Chosen Freeholders, County of Essex, NJ, relative to the late Honorable James J. Howard, Representative, Third Congressional District, NJ; which was referred to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4264

By Mr. KANJORSKI:

—At the end of part B of title III of division A (page 41, after line 17), insert the following:

SEC. 316. STUDY ON CONVERSION TO DISTRICT, DIRECT NATURAL GAS AND OTHER HEATING SYSTEMS IN WEST GERMANY.

(a) In General.—The Secretary of Defense, in conjunction with the Secretary of State and the Secretary of Commerce, shall conduct a study of—

(1) the extent of, and the justification for, the economic benefits to the Union of Soviet Socialist Republics that result from the conversion of United States military installations in the Federal Republic of Germany to district heat and direct natural gas systems which utilize Soviet-supplied natural gas;

(2) the extent of, and the justification for, the economic benefits that the United States military is providing to the economy of the Federal Republic of Germany by assisting in financing the development and expansion of district heating facilities and by entering into long-term contracts to purchase heat from West German district heating facilities;

(3) the extent to which the Department of Defense enters into the kind of arrangements described in paragraph (2) with State and local governments and private business-

es located near military installations in the United States;

(4) the national security implications of—

(A) relying on natural gas from the Soviet Union as a source of heating fuel for United States military installations in Europe, particularly the consequences of a supply interruption from the Soviet Union;

(B) relying on natural gas from Libya as a source of heating fuel for United States military installations in Europe, particularly the consequences of a supply interruption from Libya;

(C) the length of time before natural gas supplies from the North Sea are depleted and the resulting increase in reliance on natural gas supplies from the Soviet Union and Libya; and

(D) the level of security provided to district heat facilities and the potential for supply interruptions to United States military installations as a result of terrorist activities;

(5) the accuracy of the Department of the Army's life-cycle cost analysis used to evaluate conversions from existing hearing systems in Europe to district heat and other alternatives, particularly its exchange rates and predictions for the cost of heat provided by district heat facilities;

(6) the policy implications of granting sole-source contracts for district heat facilities in Europe and of the subsequent reliance by United States military installations on only one source for heating when the conversions are complete;

(7) whether the requirements of section 2690 of title 10, United States Code, are being violated by district heat, direct natural gas or other fuel conversions which rely on requirements by local governments rather than by the national government; and

(8) whether companies of the United States are being given an opportunity to participate in or bid on construction and modernization of the heat facilities in Europe which will receive assistance from the United States government.

(b) REPORT.—Not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study conducted under subsection (a).

(c) RESTRICTION ON CONVERSIONS.—Beginning on April 14, 1988, and ending on July 1, 1989, neither the Secretary of Defense nor the Secretaries of the military departments may enter into or implement any agreement or contract to convert a heating facility at a military installation outside the United States to district heat, direct natural gas, or other sources of fuel.

EXTENSIONS OF REMARKS

MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEARS 1989 AND 1990

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DAVIS of Michigan. Mr. Speaker, at the administration's request, I am today introducing legislation which would authorize appropriations for certain maritime programs within the Department of Transportation. While I have cosponsored, with a number of my colleagues, a bill which would make some modifications to the administration's draft proposal, I believe introduction of their proposal will serve a useful purpose in that the authorizing committee can focus their concerns more precisely and obtain a legislative solution of the differences which now exist. These differences, particularly in the treatment of the State academies, pose difficult but not insurmountable problems—but they are problems which I believe the administration understands and will, of course, strive to address.

I insert the following section-by-section analysis of the draft bill prepared by the Department of Transportation following my remarks:

SECTION-BY-SECTION ANALYSIS

A bill to authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purpose.

Section 209 of the Merchant Marine Act, 1936, as amended, ("Act"), states that after December 31, 1967, there are authorized to be appropriated for certain maritime activities of the Department of Transportation only such sums as the Congress may specifically authorize by law. The draft bill authorizes appropriations for those activities listed in section 209 for which the Department of Transportation proposes to seek appropriations for fiscal years 1989 and 1990.

"Sec. 2. Funds are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, for the fiscal year ending September 30, 1989, as follows:"

Authorizes specific amounts to be appropriated for fiscal year 1989 for the following activities.

"(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $248,900,000;"

"(2) Upon enactment of operating-differential subsidy reform legislation, not to exceed $202,370,000 for payment of obligations incurred for operating-differential subsidy under existing contracts, and not to exceed $72,920,000 for new agreements authorized by such legislation;" and

Operating-differential subsidy (ODS) is based upon the difference between U.S. and foreign vessel operating costs and paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services in the U.S. foreign commerce. Operators receiving ODS must operate U.S.-flag vessels manned by American crews.

An estimated $248,900,000 appropriation to liquidate contract authority for ODS will be required under current legislation for U.S.-flag operations in 1989. This requested amount would provide for ongoing support of 81 liner and 23 bulk vessels. Upon enactment of ODS Reform legislation, the Administration will transmit a budget amendment for consideration by the Appropriations Committees to amend the appropriation bill to provide for the new program. The budget amendment would include $202,370,000 for payment of obligations incurred for operating-differential subsidy under existing contracts, and $72,920,000 for new agreements authorized by such legislation. Thus, enactment of each of these amounts is proposed as a ceiling should the authorization bill precede ODS Reform legislation.

"(3) For expenses necessary for operations and training activities, not to exceed $74,100,000; including:"

Operations and training activities include salaries and other expenses for the following:

"(a) For maritime education and training expenses, not to exceed $32,021,000; including not to exceed $22,759,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $8,000,000 for financial assistance to state maritime academies, and $1,262,000 for expenses necessary for additional training;"

The 1989 maritime education and training program (Title XIII of the Act) encompasses operation of the U.S. Merchant Marine Academy, continuing assistance to six state maritime academies, and additional training for eligible merchant marine personnel.

Funding requested for the Merchant Marine Academy will provide an additional $1,850,000 for renovation of the heating system and other facility repairs. The first phase of heating system renovation was proposed in the 1988 Budget, but funds were not appropriated.

The state maritime academies program assists states in the education and training of individuals for service as officers in the U.S. merchant marine. Historically, assistance has been provided to participating states (California, Maine, Massachusetts, Michigan, New York, and Texas) in the form of direct payments to the academies, incentive payments to cadets, and maintenance and repair of ships on loan for use as training ships. Pursuant to the President's Budget, the incentive payments to cadets will be phased out, and the other assistance provided will be limited to those schools that enter into the agreement provided by section 5 of the draft bill. Unlike the 1987 and 1988 budgets, the Administration is not proposing elimination of Federal financial support to the state maritime academies. Two changes in the program are proposed in order to enhance the Federal return on investment and strengthen the Federal commitment to the program. These are (a) sharing of training ships which would avoid future ship replacement costs, and (b) replacement of the Student Incentive Payment (SIP) Program with a more meaningful commitment applicable to all students. As SIPs are phased out, available funds would be dedicated to increased direct payments to the six academies. In addition, as a condition of receiving Federal assistance (direct payments and training ships), the State Schools would require that all graduates pass the exam for a Merchant Marine officer's license and accept, if offered, an appointment in the U.S. Naval Reserve or any other Reserve unit of an armed force of the United States.

Finally, the additional training program provides for costs of administration of the Merchant Marine Academy and state marine school programs at the headquarters level, and provides for training in shipboard firefighting, and operation and maintenance of medium and slow speed marine main propulsion diesel engines.

"(b) For national security support capabilities, not to exceed $12,299,000; including not to exceed $11,101,000 for reserve fleet expenses, and $1,198,000 for emergency planning/operations; and"

The national security support capabilities account is dedicated to meeting expenses associated with the National Defense Reserve Fleet (NDRF) and the emergency planning/operations programs. Each program is directly supportive of the Maritime Administration's national security responsibilities. The reserve fleet program provides for preservation, maintenance and security of ships in the NDRF and for administration of the ship transfer and ship disposal programs.

The NDRF comprises an inventory of ships available to meet requirements for additional shipping capacity in times of national emergency. $2 million is requested for continuation of a multi-year program to renovate and provide adequate facilities at the three national defense reserve fleet sites. The increased level of operational activity and the increased number of large ships in the NDRF and associate RRF program necessitates improvements in the reserve fleet mooring facilities and shore side support facilities to ensure efficient and effective operations and to permit their continued use. The program includes dredging at each of the fleet sites; improvements and expansion of mooring facilities at the James River Reserve Fleet site; and replacement of the crane barge at each fleet site. $500,000 was allocated to the base program from the 1988 appropriation and an additional $2 million is requested in 1989 and subsequent years to complete this program.

Under the emergency planning/operations program, the agency develops and maintains plans and procedures to ensure continuity and control of maritime operations in time of national emergency, and insures seamen and private shipping against loss in time of war.

"(c) For other operations and training expenses, not to exceed $29,780,000; and"

Funding authorized under the category of "other operations and training expenses" provides for the direction and administra-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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tion of other Agency programs and for program costs not separately authorized. The request reflects an increase of $1,000,000 over and above amounts previously appropriated for technical and program studies in fiscal year 1988, such that this activity shall have a total of $2,000,000 in fiscal years 1989 and 1990. This additional funding is required to provide a firm expression of Government interest in support of cooperative programs of the maritime community, especially when major funds are contributed from other sources, and for policy and program studies to improve the management of maritime-related Government programs.

"(4) For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, not to exceed $110,751,000."

The request provides funding for the Ready Reserve Force (RRF), which is comprised of laid up Government-owned, U.S.-flag merchant ships. The RRF is maintained in an advanced state of readiness to meet surge shipping requirements during a national emergency. The 1989 budget proposes to appropriate these funds to the Maritime Administration, which has historically managed the RRF and funded certain RRF base costs in its Operation and Training appropriation. In the past, the Navy has funded the incremental cost of advanced readiness requirements.

Section 8137 of Public Law 100-202 directed that ". . . The President shall submit in his budget proposals to the Congress for fiscal year 1989 an arrangement for the Ready Reserve Fleet in which funding and program responsibilities are consolidated in a single Federal organization . . .". The proposed 1989 consolidation will place the entire funding and program responsibility for RRF ships in one Federal agency, the Maritime Administration. Included in the request is $35,400,000 for fleet additions including both purchase of vessels and upgrade of vessels already owned. In addition, $75,351,000 is requested for maintenance and operations. This includes funds required for ship activation, maintenance and berthing, and special projects.

"SEC. 3. There are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, such sums as may be necessary for fiscal year 1990, to carry out the activities provided for in section 2 of this Act."

This section authorizes to be appropriated such sums as may be necessary for fiscal year 1990 in accordance with 31 U.S.C. 1106.

"SEC. 4. Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271-1279c) is amended by the addition of a new section 1111 as follows: 'Sec. 1111. The authority of the Secretary to enter into a new commitment to guarantee the payment of the interest on, and the unpaid balance of the principal of, any obligation which is eligible to be guaranteed under this title, shall expire on September 30, 1988'."

Section 4 of the draft bill would amend Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271-1279c) to implement the President's fiscal year 1989 budget request for no new Title XI loan guarantee commitments in 1989 and beyond. Pursuant to the Title XI Guarantee Program, the Secretary of Transportation guarantees obligations to finance the construction, reconstruction or reconditioning of U.S.-flag vessels. The Secretary of Commerce has similar authority under that title with respect to fishing vessels and fishery facilities. The Title XI Guarantee Program is one of several Federal credit programs that the Administration proposes to reduce or phase out in order to limit the Government's intervention in the Nation's lending markets. To this end the Administration has proposed that the Secretary's authority to enter into new Title XI loan guarantee commitments shall expire after fiscal year 1988.

"Sec. 5. Section 1304 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c), is amended as follows:

"(1) In subsection (d) by striking 'an amount equal to', and substituting '$400,000' for '$100,000';

"(2) In subsection (f) by: (a) striking 'and' after the semicolon in subparagraph (A); and (b) striking the period at the end of subparagraph (B), and inserting the following: '; and (C) after the date of enactment of this subparagraph, agree in writing to require each U.S. citizen entering the academy in a merchant marine officer preparation program, as a condition for graduation, to (i) pass the examination administered by the United States Coast Guard required for issuance of a merchant marine officer license and (ii) apply for an appointment as, accept if tendered an appointment as, and agree to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least six years following the date of graduation from such state maritime academy of such individual.'; and

"(3) In subsection (g), by the addition to paragraph (7) of the following: 'The authority of the Secretary to enter into an agreement under paragraph (1) of this subsection shall expire on September 30, 1988'."

Section 5 of the draft bill would amend section 1304 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c) as follows:

Subsection (d) would be amended so that reprogrammed SIP funds could be added to the direct payments to these schools.

Subsection (f) would be amended to implement the President's budget recommendation that as a condition of Federal assistance (the Federal payments as well as the availability of training ships) to the state maritime academies, such academies must require all candidates entering a merchant marine officer preparation program to pass the examination administered by the United States Coast Guard required for issuance of a merchant marine officer license as a condition for graduation, and to apply for and accept, if offered, appointment as a commissioned officer in the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least six years following the date of graduation from the State maritime academy of such individual. The purpose of this amendment is to make all state school graduates available as licensed merchant marine officers for purposes of mobilization in a national emergency.

Section (g) would be amended to terminate the authority of the Secretary to enter into Student Incentive Payments after September 30, 1988.

"Sec. 6. Section 362(b) of title 11, United States Code is amended as follows:

"(a) Paragraph (12) is amended by striking 'which was brought', and inserting 'brought or to be brought'; and

"(b) The freestanding paragraph following paragraph (13) is amended by striking 'paragraphs (12) and (13)', and inserting 'paragraph (13)'; and at the end by inserting: 'The rights of the Secretary of Transportation under paragraph (12) shall not be affected or enjoined by any court.' "

Section 6 of the draft bill would amend section 362(b) of title 11, United States Code, concerning bankruptcy. Prior to the enactment of Public Law 99-509, approved October 21, 1986, the Departments of Transportation and Commerce, as mortgagees under the Title XI Guarantee Program, were unable to take timely foreclosure action on a defaulted Title XI mortgage, because almost all of the defaulted Title XI vessels were being operated by their owners under the protection of the bankruptcy courts. Those vessels were being operated in most cases with no capital cost to cover, because the owners had defaulted and the mortgages had been paid off. Their continued operation was causing significant injury to the remainder of the industry, including those Title XI operators who continued to honor their financial commitments. Section 5001 of Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986, amended section 362(b) of title 11, United States Code, by the addition of a paragraph (12), concerning the Secretary of Transportation, and a paragraph (13), concerning the Secretary of Commerce, so that after 90 days they would have the authority to foreclose on a defaulted mortgage even though the mortgagor was in bankruptcy. These 1986 amendments to the bankruptcy code will expire by their terms on December 31, 1989.

Section 362(b)(12) has proved beneficial to the Department of Transportation in the negotiation of Title XI claims with debtors in bankruptcy, and has been applied reasonably and fairly with respect to debtors and their respective competitors. For these reasons, the Department believes that the authority vested in the Secretary under section 362(b)(12) should be made permanent. To this end, the draft bill would delete the 1989 termination date with respect to paragraph (12) that is set forth in the freestanding paragraph following paragraph (13).

Although section 362(b)(12) has been helpful to the maritime industry and the Department of Transportation, there have been a number of occasions when the bankruptcy courts have evidenced a certain confusion in construing the Congressional purpose of this new provision. More particularly, one bankruptcy court mistakenly concluded that the Secretary's rights under section 362(b)(12) only applied to admiralty foreclosures that had been commenced by the Secretary prior to the debtor's filing for bankruptcy. The draft bill would clarify this misunderstanding by a suitable amendment to paragraph (12). Other bankruptcy courts have asserted their bankruptcy authority to reimpose the automatic stay or further stay the Secretary from exercising his authority under section 362(b)(12). The draft bill would remedy this situation by the addition of the following sentence to the freestanding paragraph following paragraph (13): "The rights of the Secretary of Transportation under paragraph (12) shall not be affected or enjoined by any court."

TAX REFORM WAS NOT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. CLAY. Mr. Speaker, as we pass through the second tax paying season since the enactment of the "Tax Reform Act of 1986," most American taxpayers—including those employed by the Internal Revenue Service—remain bewildered and befuddled about the new Tax Code which this body enacted into law under the guise of simplification and reform.

Since the enactment of the 1986 tax bill, I've received a steady flow of communications from my constituents expressing confusion, dissatisfaction, and anger over the new tax laws.

It is clear, as I predicted in December 1986, that the majority of American households have not benefited from the new tax laws. There is also no evidence that the Federal Government has benefited from the new tax laws. I was among the minority of Congressmen who opposed the Tax Reform Act of 1986 and I remain convinced that its enactment was not in the best interests of our Nation. I was pleased to read Judy Mann's column in the Washington Post, April 15, 1988, "They Call This Tax Reform." I recommend this article to my colleagues as it highlights some of the reasons I voted against the tax bill of 1986.

[From the Washington Post, Apr. 15, 1988]

THEY CALL THIS TAX REFORM?

(By Judy Mann)

There is always some risk in attempting to apply business principles to the conduct of government, very much like there is some risk in applying moral principles to the conduct of business. Nonetheless, it is sometimes useful to superimpose an alien framework on a specific situation if for no other reason than to indulge in a fantasy.

Thus, consider what would happen if you were the majority shareholder in a corporation and you and your managers had agreed on a goal and you instructed them to go about implementing it. The goal in this case was to build a car that would cost less and be easier to operate and service than the old model your company had been producing.

That old model had started out sleek and trim, but as each new class of engineers came into the factory they'd added their own bells and whistles and in time the company product was so laden down with frills and widgets that nobody but a mechanic could figure out how to operate it. Obviously, this wasn't good for business because very few consumers wanted to buy something they couldn't operate. So your management redesigned the product, retooled the plant and for the next model year produced an Automotive Reform.

Only there was this little glitch.

The product of your Automotive Reform fell short on two salient points; it cost consumers more and it was even harder to operate than before. What would you do? Well, in Detroit you might give your management a bonus, but in the free market place, where people's careers are supposed to be at least remotely tied to their company's performance, more likely you'd give them the boot.

What brings this to mind in a column appearing on April 15 is the Tax Reform Act, which is looking more and more like one of the biggest frauds ever perpetrated on the American public by those coconspirators, Congress and the Internal Revenue Service. The idea was to lower taxes and to simplify the procedure under which citizens were separated from their hard-earned income each year.

Congress and the administration had a clear mandate; the only person who talked repeatedly about raising taxes, Walter Mondale, was last seen in Minnesota. Thus, for much of 1985 and 1986 tax revision dominated the headlines as the country's managers—that is, Congress and the administration—set about the task of producing a product that is less costly, fairer to the taxpayers and simpler to use.

What they came up with makes the Edsel look like a fine-tuned automotive wonder.

To be fair, there seems to be agreement that poor people did well as a result of tax revision because many of them are now exempt from paying taxes. The only other people I know of who have benefitted under the Tax Reform Act, however, are President Reagan and his wife Nancy, who are getting a $10,754 refund, which they are applying to their 1988 tax bill. The Reagans paid 25.1 percent in taxes on income of $345,359 for 1987, down from 27.5 percent in 1986 and 31.1 percent in 1985.

A lot of married couples who have two good incomes got torpedoed under tax revision: they lost the hard-won tax deduction for married couples that was designed to alleviate the marriage penalty and they also lost the tax exemption for Individual Retirement Accounts. Some did better because the rates went down.

But a majority of the public appears to agree that tax revision is costing them more money and is more confusing to the taxpayers than ever before, if this, in fact, is possible. A Washington Post-ABC news poll taken in March showed that nearly six out of 10 people think their taxes are higher and half of them said the forms were more difficult to fill out this year.

Timing is everything, however, particularly when you are polling people about their income taxes. By this week, a USA Today-CNN poll showed that 85 percent of the people polled think the new tax law is harder to figure, 67 percent said it was more confusing and more than 60 percent think it is benefiting the rich and the special interests.

News accounts are quoting some of the tax revision engineers on the Hill as saying it is going to take some time to get used to. Old Mr. Heart, himself, Rep. Dan Rostenkowski (D-Ill.), who as chairman of the Ways and Means Committee was a principal engineer in this, told USA Today: "You can't make a judgment about how good or bad it is until [you] go through the exercise one or two times."

Perhaps not, but the first spin around the block in this lemon has left people reeling and mad, and it is probably a very good thing for any number of congressional careers that elections are held in November and not now.

DRUG CRIME WHISTLEBLOWER PROTECTION ASSISTANCE ACT OF 1988

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BENNETT. Mr. Speaker, today I have introduced legislation to provide greater assistance to people who provide information on drug offenses. One of the difficulties we have in dealing with drug abuse is the immense profits that can be made by becoming involved in drug dealing. A blessing and curse of our free enterprise system is that people are often driven by the profit motive. Poor young people living in our Nation's ghettos may not want to become involved in drug dealing, but they are often intoxicated by the great sums of money to be had.

The Drug Crime Whistleblower Assistance Act of 1988, which I have introduced would encourage cooperation with law enforcement authorities in the war against drugs by increasing the maximum reward from the Justice Department forfeiture fund and the Customs forfeiture fund to 50 percent of the amount realized by the United States. Currently, the Justice Department reward program is capped at the lesser of $150,000 or one-fourth of the amount realized by the United States from the property forfeited. The Customs cap is $250,000. That's peanuts when compared with the incredible money being made by drug pushers on the streets of America.

This bill would put substantial profit motives on the side of turning in people and providing information on drug offenses. Someone could provide evidence on a drug crime, and have the possibility of getting a great sum of money, and could then be assisted by Federal programs to provide protection to State witnesses. They could even get another identity, if need be.

It is not unheard of for drug dealers to have millions of dollars in assets. If someone, particularly a young, poor person, could expect to get a large share of such assets perhaps he or she would turn States evidence, rather than turn to drug dealing. That would be in the best interest of the problem.

This bill follows in the tradition of our free enterprise system, and could make a considerable dent in the great drug problem we now have. It also would tend to imperil the most powerful drug merchants more than small fry.

The war on drugs needs imaginative solutions. Of course we need better education, better drug interdiction. And maybe we're missing a point. Maybe what we also need is a good old American motive—the profit motive.

GLENDALE BAR ASSOCIATION CELEBRATES LAW DAY WITH THE HONORABLE MALCOLM LUCAS, CHIEF JUSTICE OF THE CALIFORNIA SUPREME COURT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MOORHEAD. Mr. Speaker, each year at this time I take a moment to announce to my colleagues in the U.S. House of Representatives the annual Law Day celebration of the Glendale, CA, Bar Association, which is part of the national celebration of Law Day USA 1988—"Legal Literacy."

While each event is important and special, this years April 29 Law Day has special luster because the keynote speaker is the Honorable Malcolm Lucas, chief justice of the California Supreme Court. I know the members of the Glendale Bar Association look forward to the remarks of the chief justice with as much anticipation as I do.

As many of my colleagues know, Law Day was the idea of Charles Rhyne, former president of the American Bar Association. This idea became a national tradition in 1958, when President Eisenhower proclaimed:

> It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and equality under law. * * * It is our moral and civic obligation as free men and as Americans to preserve and strengthen that great heritage.

Mr. Speaker one must be especially unseeing these days to not notice a certain raveling of the social fabric, which threatens our great heritage of liberty and provides a preview of the chaos that results from casual observance of the law. In a democratic society, liberty and freedom are insured only so long as each of us obeys all the laws both grand and mundane.

Law Day celebrations remind Americans of the essential role law plays in securing our safety and liberty within our homes, communities and national borders. If we take the law for granted, we take these rights for granted. If our respect for law dims, the brightness of liberty dims.

All Law Day celebrations, including the April 29 event sponsored by the Glendale Bar Association, promote respect for law which is absolutely fundamental in a democratic society because a law without respect is no law at all.

WORLD POPULATION AWARENESS WEEK

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Miss SCHNEIDER. Mr. Speaker, because April 17 through April 23, 1988, is being recognized as World Population Awareness Week, I would like to submit for the RECORD a proclamation signed by Gov. Edward DiPrete of the State of Rhode Island. This proclamation reflects the sentiments of my fellow Rhode Islanders in recognizing the importance of population control for the future of the world's human and natural resources. As a member of the Congressional Coalition on Population and Development, I fully support the work of the Population Institute and other organizations in educating the world about the problem of rapid population growth. As Governor DiPrete's proclamation points out, the United States is in a unique position to help millions of people in developing countries obtain access to much needed and desired family planning services.

The text of the proclamation follows:

PROCLAMATION

Whereas, during the week of April 17-23, 1988, the citizens of the State of Rhode Island will observe World Population Awareness Week; and

Whereas, Rhode Islanders are sensitive to the recent great increase in human numbers and recognize that the growing population has caused a need for development of extensive new resources; and

Whereas, the people of the Ocean State have a great concern for all those who have endured deprivation of nourishment, relief or adequate facilities; and

Whereas, the prosperity of America has enabled the citizens of this nation to be among the most capable of assisting, providing and devising ways and means to sufficiently deal with the growing world population; and

Whereas, in order to avert the disastrous consequences that unchecked population growth portends, awareness must be increased about the importance of extending family planning services to the millions of people who need and want them;

Now, therefore, I, Edward D. DiPrete, Governor of the State of Rhode Island and Providence Plantations, do hereby proclaim April 17-23, 1988, as "World Population Awareness Week" in the State of Rhode Island and call on all citizens to join with me in taking cognizance of the burdens of those who suffer due to overpopulation.

COUNCIL ON HEMISPHERIC AFFAIRS ARTICLE ON MANIGAT

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. FAUNTROY. Mr. Speaker, I am pleased to bring to the attention of my colleagues an article put forth by the Council on Hemispheric Affairs regarding United States policy toward Haiti. The Council on Hemispheric Affairs provides useful and insightful information on events and politics in the Western Hemisphere.

This particular article concerning Haiti is authored by Jacqueline Samuda, a research associate with the Council on Hemispheric Affairs here in Washington, DC.

TWO MONTHS INTO MANIGAT'S RULE

(By Jacqueline Samuda)

As the internal political opposition and the international community watch to see what steps former political science professor Leslie Manigat will take to bring the country back under civilian control, Washington policy analysts are speculating on the nature of the new Haitian president's relationship with the military. Will he be a Jose Napoleon Duarte of El Salvador, who has established an entirely dependent working relationship with the military; or a doughty Vinicio Cerezo of Guatemala, who reigns but is not allowed to rule, as he continues an uneasy alliance with the country's armed forces?

Already, Manigat, nicknamed "Manidoc," has shown himself to be under the thumb of the military, whose commander in chief for the next three years is Lt. Gen. Henri Namphy, the head of the now discredited National Governing Council (CNG). Manigat's appointment of former CNG member Gen. Williams Regala as defense minister is critical in that it guarantees that the same military cast of characters who ruled the country through the CNG will continue to play a dominant role in Haitian politics. Moreover, both the appointment of Regala, who is the key link to the country's old-guard military, and Manigat's reluctance to move against Col. Jean-Claude Paul, who was recently indicted by a federal grand jury in Miami on drug-trafficking charges, confirm what many Haitian observers all along have maintained: the shrewd former professor was hand-picked by members of the CNG to rule in its interests, and that a deal was worked out late last year in which Regala would get the defense ministry, and Manigat, the presidency.

In light of the recently concluded hearings into drug-trafficking presided over by Sen. John Kerry (D-MA), there now is more than passing interest in the extent to which senior Haitian government and military officials have been involved with narco-trafficking, as well as how Haiti will deal with another national embarrassment—a recent shipment of toxic waste from Philadelphia that was dumped on the island. The toxic incinerator ash, which was originally represented as being fertilizer, allegedly entered the country through the connivance of two of the brothers of Col. Jean-Claude Paul, one of the country's most important military figures. In addition to his being implicated in a recent scandal involving the toxic waste, which the environmental group Greenpeace has reported as being hazardous to the health of Haitians and to the country's environment, Col. Paul also has been charged with being involved in the drug trade. The colonel commands the Dessaline Battalion which is barracked in facilities across the square from the presidential palace. Along with two other family members, he was indicted in early March by a Miami grand jury in connection with drug smuggling to the United States.

Panama, whose de facto ruler, Gen. Manuel Antonio Noriega, was also indicted by a federal grand jury in Miami on drug trafficking charges, has born the brunt of the administration's anti-drug zeal. Its U.S. bank accounts have been frozen and Canal revenues placed in escrow; and Washington has decertified the country on the grounds that it has not taken effective action to stem the trafficking of drugs. In contrast, the administration has remained silent on the role of Haitian senior officials in narcotics dealings.

The response of Congress and the White House to the current political situation in Haiti has differed widely. On the Hill, there is concern that the issue of the fraudulent Jan. 17 election which gave Manigat his presidential victory, and Haitian policy in general, have been shifted to the back burner. A number of independent experts anticipate that several months down the line, the State Department will, as it did last summer, find that conditions in Port-au-Prince are sufficiently improved, and lobby for a resumption of U.S. aid. Indicative of Washington's attitude toward the present Haitian government and its unquestionable intentions to back it, is one State Department official's interpretation of the White House's positive attitude on the question of Manigat's legality. Shortly after the January vote, the official noted that Washington does not "recognize governments, but countries."

In a move to short-circuit the administration strategy, Representative Dante Fascell (D-FL) introduced a bill on March 15 that would impose a series of trade sanctions against the country until such time as Manigat would take steps to void the fraudulent election that brought him to power and arrange for a new ballot that would lead to a more democratic government. Among other measures, the proposal calls for the continued suspension of U.S. assistance to the Manigat government, the revocation of Haiti's 7,500 ton sugar quota and the investigation into the country's involvement in the transshipment of drugs to the U.S. market.

In Haiti, reports of disappearances and police detentions continue. In early March, three demonstrators protesting the dismissal of Minoterie Flour Mill workers were briefly arrested by the police. On March 30, it was announced that authorities arrested approximately 40 protesters who were marking the first anniversary of the country's constitution which had been approved by an overwhelming number of Haitians. Last summer, journalists began to feel pressure from the authorities as limitations were placed on their reporting, with some journalists having their cameras and other equipment confiscated. Several foreign journalists were shot, and in the case of one Dominican reporter, killed.

This trend toward increased government restrictions on the press continues under Manigat's regime and is typified by the March 7 statement of Information Minister Roger Savain attacking "inappropriate language and the dissemination of erroneous nonsensical, or unverified information." Many, including the Haitian Journalist Association, perceived the communique as a veiled warning to the press and criticized the minister for his action. In a clarification issued after the criticism, Savain claimed that "[t]here were no aggressive intentions on our part . . . we think that among friends, if we sometimes notice things that for one reason or another are not going exactly as they should, we should say: 'Hey, listen; watch out . . .'"

THE FLAG ON THE FRONT PORCH: FOR WHOM DOES IT FLY?

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BLAZ. Mr. Speaker, among the thousands of letters and packages our offices receive each year, there are a few which stand out and deserve extra special attention. Such an example is a copyrighted piece I received from Mr. Joseph Ray, a World War II veteran from Whitesboro, NY, entitled, "The Flag on the Front Porch: For Whom Does It Fly." Mr. Ray's piece exhibits a patriotism and pride in America and the values we as Americans hold so dear—freedom, courage, tolerance, love of country.

Mr. Speaker, I would like to enter into the RECORD Mr. Ray's comments as a tribute to him and those he writes about.

THE FLAG ON THE FRONT PORCH: FOR WHOM DOES IT FLY?

For 239 million Americans—those who worship God in 331,065 churches (great cathedrals to leaky pinewoods chapels)—and those who stay home. For those who coldly ignore it in parades; and for those who do salute it.

For the God-fearing men whose stern rectitude moved them to rank Freedom of Religion First in the U.S. Constitution, followed by Speech, Press and Assembly.

For Jeanette Rankin, only member of the House of Representatives to vote against entering WW2; and for all who voted in favor.

For fireman Fred Burgess, of the USS *Laffey*, wounded in battle off Okinawa, April, 1945; his last request the ship's flag, farewell look homeward to family and country; and, clutching it to his breast, died.

For Mrs. Rosa Parks, who, with the courage of an infantryman, chose to retain her seat on the Montgomery bus in 1955.

For our astronauts who carried it 221,000 miles to the moon; and for millions of Americans who can't carry it 30 feet from closet to front porch on holidays.

For Christian and Jew: indifferent citizen and eager immigrant, believer and nonbeliever—beneficiaries all in the great experiment of Self-Government.

And it flies proudest for our Medal of Honor holders (3,394 since 1863; 247 survive today); quintessential Americans who tarried not to ask what the country could do for them, but gladly placed themselves in harm's way for love of Comrade, Flag and Country.

And it also flies for Vicente Blaz who serves it valiantly—in uniform and out!

AMERICA'S LIBERTY—OUR HERITAGE

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GEJDENSON. Mr. Speaker, I am pleased to have this opportunity to share with my colleagues an essay written by Kimberly Michalski from Deep River, CT. Kimberly was the Connecticut finalist for a Veterans of Foreign Wars Voice of Democracy essay contest. Over 300,000 secondary school students participated in this contest and I am proud to have a constituent from my district as the winning Connecticut representative. The essay theme was "America's Liberty—Our Heritage."

AMERICA'S LIBERTY—OUR HERITAGE

Having grown up in America all their lives most Americans do not realize exactly how lucky they are. Some hold throughout their life a childlike adoration for their country and tend to wrap their patriotism around them like a blanket and do not consider the bad as well as the good. Others are so highly critical that they do not realize that freedoms and liberties are not common occurrences in other parts of the world.

In the Constitution of the United States of America the authors declared that the United States government was formed . . . to secure the blessings of liberty to ourselves and our posterity . . . and also to establish justice. In the Declaration of Independence, it states that Americans have several inalienable rights: life, liberty, and the pursuit of happiness. The Founding Fathers of our country stressed that it was the American people's duty to preserve, protect, and defend these rights for all members of society. Many in today's government would be quick to point out, and rightly so, that there is more equality in America today than when the Constitution was written. However, even though America has made great progress since its birth. It still has much farther to go.

Even after those two great documents were written and though the Declaration stated that all men are created equal, the theory didn't get put into practice, and afterwards, in society people soon began to realize that all men were not created equal. In that time period men did not include "blacks". Lincoln issued the Emancipation Proclamation, which supposedly freed blacks from slavery, but it was some time before that freedom became a reality. Yet, even after that blacks were treated as inferiors. Individually and as a race, being denied voting rights as well as being discriminated against in jobs and education. As years and decades have gone by, blacks have gradually gained a greater level of equality but economically some blacks still have not fully achieved parity. Currently, in politics, with Jesse Jackson running for President many people cannot get past the color of his skin.

Eventually, as time went by women too began to protest over their lack of rights. Society as a whole was not ready to accept this plea but through enterprising women the world began to take notice of women's rights but even today in job opportunities many employers are more likely to choose a man over a woman and not on the basis of the better qualified person. When Geraldine Ferraro was running for vice-president on the democratic ticket many people expressed hesitation at the possibility of a woman holding such a high office.

Society in America is far from perfect. Economically, socially, and politically many people are still discriminated against. However, in American society we are able to press for the continued advancement of the liberties of those who lack the promises of the Declaration and the Constitution unlike in many other countries where such efforts lead to imprisonment and persecution. The fact that I am able to express my views both positive and negative is testimony that America is liberty—a liberty to be protected and perfected.

TAX FAIRNESS FOR ARTISTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. WEISS. Mr. Speaker, last week, Americans across the country dropped their completed income tax forms in the mail and celebrated the end of another tax season. But for many, who have found themselves subject to cumbersome new bookkeeping requirements, the anguish continues.

The 1986 tax overhaul included a footnote that artists, writers, photographers, and independent filmmakers were required to follow uniform capitalization rules when filing their income tax returns. This unfair and unworkable new interpretation, which has yet to be fully explained by the IRS, threatens the very livelihoods of thousands of freelance creators.

On Friday, April 15, I jointed Artists for Tax Equity, an organization formed to urge the repeal of this new interpretation of the uniform capitalization requirements, at a protest rally at the New York Public Library. The text of my remarks follows:

ARTISTS FOR TAX EQUITY RALLY, APRIL 15, 1988

I would like to thank Artists for Tax Equity for inviting me to join the chorus of voices that are demanding a return to tax fairness for the writers, photographers, artists, and independent filmmakers who were adversely affected by the Tax Reform Act of 1986.

Today, millions of Americans will fold and seal their tax returns and breathe a sigh of relief that the turmoil of tax time is over. But for innumerable individuals subject to the new "uniform capitalization" provisions of the 1986 tax reform bill, this day is yet another milestone in a journey of confusion, anger and disbelief. These Americans have no argument with paying their fair share of taxes. But the new tax law has subjected them to burdensome tax rules that may threaten their very careers.

There can be no question that some provisions of the Tax Reform Act are of benefit to low- and middle-income Americans. But the new tax law also contains many provisions that actually harm these taxpayers. When the final version of this legislation was voted on by the House of Representatives, I made clear to my colleagues that I would not support any measure that would "harm average taxpayers." In my statement, I criticized the legislation for eliminating fundamental deductions that serve legitimate needs, and I cast my vote against the tax revision plan.

However, it was difficult to predict at that time just how burdensome the Tax Reform Act would really become for 17th Congressional District residents. The 17th Congressional District contains the largest concentration of artists of all types in the entire country. Each and every one of them has been subjected to the new uniform capitalization requirement. I have heard from hundreds of you—including many who have been faced with the threat of losing your very livelihood.

Unfortunately, no corrective action has yet been taken. It has been my goal and the goal of other similarly-minded representatives to achieve a solution to this problem before the filing season for 1987 tax returns. We thought we would achieve that when corrective provisions were included in last year's omnibus budget reconciliation bill. But the correction was jettisoned before passage as a result of last year's budget summit agreement between the administration and Congressional leaders.

During those budget negotiations—convened after October's stock market crash—the administration demanded that all revenue-losing provisions be removed from the budget agreement. Thus, artists who played no role in creating our nation's federal budget crisis were asked to bear the burden for this crisis.

As a result, the uniform capitalization provision stands for the moment. Worse still, the IRS has provided no reasonable guidance to affected individuals as to how to proceed in this climate of uncertainty. Some accountants have urged their clients to comply with the new law, while others have advised them to file for an extension in the hope that a solution may be in the offing.

Luckily, there is room for optimism at this stage. The committee charged with tax issues, the House Committee on Ways and Means, is expected to meet within the next few weeks to begin consideration of corrections to the 1986 tax law. It is expected that advocates of a repeal of this new interpretation of the uniform capitalization provisions will offer an amendment to accomplish this and I would urge that it apply retroactively. If preserved in the final version passed by the House and the Senate, such an amendment would eliminate the threat of uniform capitalization for all artists, once and for all.

It is my earnest hope that this will indeed be accomplished, and that this onerous provision of the Tax Reform Act will be relegated to the legislative graveyard that it deserves to inhabit. I look forward to the day when the attention of our nation's artists, writers, photographers, and filmmakers will remain on creative expression, rather than on burdensome and unfair tax laws. And I promise to work by your side every step of the way until that day is here.

A.M.E. CHURCH ANNIVERSARY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. CLAY. Mr. Speaker, next month brings the bicentennial anniversary of the African Methodist Episcopal Church. The members of the A.M.E. Church will celebrate this historic event at festivities in St. Louis, MO, the site from which the A.M.E. Church began its "westward expansion." I would like to take this opportunity to salute the congregation of the A.M.E. Church on this special occasion and to share the following proclamation in honor of the African Methodist Episcopal Church's bicentennial anniversary.

Whereas, the African Methodist Episcopal Church was organized in 1787, in the City of Brotherly Love, Philadelphia, Pennsylvania, by a young man of African descent, RICHARD ALLEN, who responded to segregation by leading his fellow black worshippers from the restrictive environs of St. George Episcopal Church; and

Whereas, the ideologies of RICHARD ALLEN propelled the African Methodist Episcopal Church into an independent national body and established a connectional structure which has lasted, with modifications, to this day; and

Whereas, from the early beginning, African Methodists have repeatedly made a concrete impact on American Society by:

Commitment to a ministry of Liberation and Reconciliation; the liberation of persons, and the reconciliation of man with God, of person with person, of persons to history and environment and community to community to include Food Co-Ops, Outreach Centers, Women Resource Centers, Credit Unions, Travel Agencies, Substance Abuse Ministry, Teenage Pregnancy Programs, Energy Co-Ops, Deaf Ministry, Television, Radio and Book Ministries;

Remaining steadfast in the forefront of social change;

Working for the passage of legislation pertaining to the civil rights of all people; and

Whereas, the A.M.E. Church, with its great emphasis on education, has organized fifteen institutions of higher learning, with mission schools in Africa, Haiti, and the British Dominions; and

Whereas, the A.M.E. Church now expands the entire United States, Africa, England, Canada and the Caribbean, with over two million members; and

Whereas, all members of the Fourth and Fifth Episcopal Districts, under the able leadership of Bishop Henry W. Murph and Bishop Samuel S. Morris, relates of the aforementioned Districts, have joined together with Bishop Vinton R. Anderson, Chairperson of the Bicentennial Commission, to celebrate the 200th Birthday of the African Methodist Episcopal Church on May 13, 14, and 15, 1988;

Now, therefore, I William L. Clay, Congressman of the 1st Congressional District, State of Missouri do hereby proclaim May 13-15, 1988, as "African Methodist Episcopal Church Celebration Days in the City of St. Louis." The "Liberating and Reconciling People" of the African Methodist Episcopal Church have demonstrated a deep and abiding commitment to mankind. I commend the members of the A.M.E. Church for 200 years of remarkable contributions and dedicated service to society.

H. FLETCHER MARTIN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BENNETT. Mr. Speaker, I would like to call attention to an article, which recently appeared in the Beaches' Leader, Jacksonville Beach, FL, concerning H. Fletcher Martin. Many years ago, I practiced law in the same law firm as this very distinguished hero of World War I. He is a remarkable man in every respect, and I include this article in the CONGRESSIONAL RECORD as a tribute to him, pointing out that his regimental commander spoke of him in his service record that "The war has not produced a braver man." This tribute was deserved, and he has never let down his high standards of life. I include it herein in the CONGRESSIONAL RECORD:

47TH INFANTRY HONORS WORLD WAR I VETERAN

(By Eleanor Snite)

Almost 64 years after he retired from the Army, Atlantic Beach resident H. Fletcher Martin has been recognized as a distinguished member of his regiment.

The recognition is part of an Army-organized project to link those who served in World War I and World War II with those in the units today. Martin is the fourth man in the nation to be so recognized, according to retired Lt. Col. Joseph H. Williams of Jacksonville.

Martin's link is with the 47th Infantry, which is now stationed in Fort Lewis, Washington. He served with the 4th Division in five major campaigns in Europe and received the Distinguished Service Cross for his actions near Bazoches, France.

According to the DSC citation, Martin was a lieutenant on Aug. 7, 1918, when he was assigned to lead his platoon across the Vesle River. Finding no footbridge to cross the river, Martin swam across, stretched ropes and improvised a pontoon structure, all while under heavy artillery and machine gun fire.

During the action, he noticed two men in danger of being carried away by the current and rescued them while under heavy gunfire from the enemy. Two days later when his company commander was wounded, Martin "fearlessly placed himself at the head of the most exposed unit and led it forward in a determined attack on Bazoches," the citation said.

According to Martin's son retired Col. Stephen G. Martin of Ponte Vedra, the actions mentioned in the citation inspired his regimental commander to write in Martin's service record, "The war has not produced a braver man."

Martin was later wounded in action, but returned to the 47th Infantry for the occupation of Germany. However, his right arm was paralyzed, and in 1924 he had to retire from the Army.

Martin continued his military connections by serving as the first chief of the Veterans Administration for the state of Florida at the office that was then located in Jacksonville.

Prior to volunteering for the Army, Martin was an attorney in Jacksonville. He had graduated first in his law class at Washington and Lee in Virginia, and after several years with the VA returned to private practice where he remained until retiring from the bar in 1980. It took 15 years for him to completely regain the use of his arm.

Martin and his wife, Viola, were married in 1922 and have four children. In addition to their son who served in the Army, their family includes Henry Fletcher Martin, Jr., who now serves as a circuit judge in Jacksonville, and Nancy Carroll of Ponte Vedra, who is well known at the Beaches for her work with Players By-The-Sea.

Their other daughter, Kathleen Boatwright, of Keystone Heights is a schoolteacher and coach, whose girls basketball team recently competed in the state semifinals. The senior Martins also have 15 grandchildren and 10 greatgrandchildren.

The men who are recognized as distinguished members of the regiment are encouraged to visit their old regiment, if they are physically able, to meet the current members, Williams said. However, Martin celebrated his 96th birthday on March 6 and his son doubts he will be able to make the long trip to Washington even though he would love to.

It really is a coincidence that Martin has one son in the Army and one in law. According to Col. Martin, his father encouraged him from the very beginning to join the Army, but it was Judge Martin's wife who encouraged him to take up law.

Even before he was recognized as a distinguished member of the regiment, Martin still kept up on today's Army through various publications and contacts.

Though he practiced law most of his life, H. Fletcher Martin's heart has always been in the Army.

CENTENARIANS HONORED

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MOORHEAD. Mr. Speaker, I rise to pay tribute to the Nation's most senior citizens—the centenarians. While all of our seniors are a cherished resource, I would like to specifically recognize this most special group of Americans.

They are unique and deserving of recognition for no other reason than longevity, but most of the centenarians have much more to offer our society than fivescore years.

Most of these gentle folks have developed a well-defined sense of perspective which on occasion eludes their juniors. They know a tempest when they see it. They know a flutter in a teapot when they hear it. With centenarians, it is not easy to trivialize something important or to make important something trivial. Demagogs would perish in a society of centenarians, their exaggerations falling victim to wisdom and great experience.

In these times of complex issues and conflicting claims, discernment is a great virtue which aids greatly in a long and successful life. We would all do well to practice the discretion of the centenarians in hopes of emulating their tranquility and long life.

Mr. Speaker, I would like to join the American Centenarian Committee in proclaiming May 20 as the annual American Centenarian Day. On this day, the committee coordinates a national effort with Governors and mayors to honor our Nation's centenarian citizens for their lifetime contributions to family, community, and country.

On behalf of all the residents of the 22d Congressional District of California, I would like to express our gratitude and respect to this most treasured group—the centenarians.

ED CONRAD'S DISCOVERIES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. YATRON. Mr. Speaker, I would like to commend to your attention an article which appeared in the Reading Eagle on February 21, 1988 entitled "Revelation? Mahanoy City Native Thinks So." This story recounts the anthropological discoveries of Ed Conrad, a constituent from Shenandoah, who, as the article notes, "has discovered what appears to be petrified bones in 24 sites along the spill banks of two coal viens * * * in the Mahanoy City and Shenandoah area." His findings are on display at the Greater Hazleton Historical Society Museum.

The article follows:

[From the Reading [PA] Eagle, Feb. 21, 1988]

REVELATION? MAHANOY CITY NATIVE THINKS SO

(By Bruce R. Posten)

In the beginning—and we're talking millions and millions of years ago—there was Mahanoy Man.

And where there was Mahanoy Man, there were apparently Mahanoy men, women, and children.

To state the obvious, these Mahanoy people are gone, but not forgotten.

For behold, another Mahanoy Man who lives today in Shenandoah and happens to work for a Hazleton newspaper, has discovered what appears to be petrified bones in 24 sites along the spill banks of two coal veins running 1½ miles wide and 17 miles long in the Mahanoy City and Shenandoah area.

His discoveries in rock have rocked some segments of the scientific world, especially those who have canonized—in the least theological sense of the word—Charles R. Darwin.

Sound incredible? Hold on.

Ed Conrad is the Mahanoy City native's name. He is 49 years old and, in his world, he is respected, objective mustachioed reporter for the Hazleton Standard-Speaker.

After seven years of probing coal banks and collecting all sorts of research, writing reams of letters, and meeting with archaeologists, paleontologists, anthropologists—not to mention politicians—Conrad, himself, has become an amateur archaeologist.

His fossil findings, which have amazed some scientists and shocked others, are on display on the second floor of an old Hazleton firehouse transformed into the Greater Hazleton Historical Society Museum. He has made many local folks proud.

To some, Ed Conrad is a sincere man with a mission. To others, he is a crackpot, a nut.

But if his mission of getting the world to accept petrified mammalian bone in coal is achieved, it could set the scientific world on its head, bringing into question a number of fundamental theories, including Darwin's concerning evolution.

Still sound silly?

On the surface, indubitably!

But . . . wait one minute. Conrad is not surface. He is dogged and persistent, going below the first strata, metaphorically and archaeologically speaking. He also is dead serious.

The cast of characters in this somewhat melodramatic and scientific drama are not to be taken lightly either.

The Smithsonian Institution in Washington, D.C., is serious. Yerkes Regional Primate Research Center, Emory University, Atlanta, Ga., is serious. Teledyne Isotopes, one of America's largest scientific testing laboratories in Westwood, N.J., is serious.

And scientists and professors with names like Krogman, Dart, Pilbeam, Powell, Cuffey, Maisey, and Caroll also are serious.

"When this first started in 1981," said Conrad, sitting in a Hazleton restaurant talking animatedly over a cup of coffee, "I found something that looked like petrified bone, never thinking it was man. I was looking for leaf fossils at the time.

"Now I know what I've found is bone. I have confirmed it is bone . . . and I have outfoxed the foxes. Everything I have points to man being on earth well before the Darwin theory puts him there."

What Conrad has are letters from Yerkes Regional Primate Research Center and Teledyne confirming that specimens they've examined are bone—bone which Conrad found in veins of coal, which science has long claimed are a minimum of 280 million years old.

Naturally, science also has maintained that large animals—let alone man—did not exist during the Carboniferous Age (Coal Age).

So, Conrad wonders, how could man's petrified bones exist in strata that's 280 million years old when man is considered to be only 2 million years old—tops?

Further, Conrad said his petrified fossils, including approximately 80,000 pieces he keeps in his house (mandibles or jaws and anthropoid craniums or skulls etc.), predate the evolutionists' theory that our ancestors were monkeylike primates which existed 60 to 65 million years ago.

Microscopic tests conducted on Conrad's fossils showed that the cell structure in them is similar to human bone.

In a letter to Conrad, Dr. Jeremy F. Dahl at Yerkes referred to Conrad's specimens as "fossilized bone," but stopped short of identifying them as man, noting, "The only nonhuman primates became extinct 20 million years ago."

At Teledyne, Jonathan A. Powell, a geochemist, was more optimistic, writing to Conrad, "Certainly the body of evidence which you have collected combined with the expert opinions of a number of qualified individuals strongly suggests that the specimens are homined (form of man) remains." Powell urged further and more thorough testing.

Bolstering Conrad's theory are the opinions of two anatomists and bone experts, the late Wilton M. Krogman, author of "The Human Skeleton in Forensic Medicine," and Dr. Raymond A. Dart, an anatomist, who examined some of Conrad's fossils.

Dart wrote to Conrad saying, "In my opinion, the vast majority (of specimens he examined) bear the contours of bone and may well be petrified bone. . . . I am of the opinion that your findings warrant intense investigation."

Krogman was even more ecstatic.

"What an impressing—and challenging—array of what appears to be fossilized skeletal items, which, in appearance, point to the possibility of hominid interpretation," Krogman wrote.

However, most of the responses to Conrad's findings have not been that efffusive. Many of the prominent scientists have dismissed the amateur archaeologist out of hand.

"I do not think you have a fossil. I think it is incredible that anyone familiar with fossils would. Any further communication would waste both of our times," wrote David Pilbeam, anthropology professor at Harvard University.

"No scientist in his right mind would attempt to speculate on something as unusual as you suggest," said John G. Maisey, assistant curator of the Department of Vertebrate Paleontology, American Museum of Natural History.

"None of the material is fossilized bone; it never had been originally, and none of the other associated specimens are bone either; all the resemblances to fossil skulls or bone really are coincidental," wrote Roger Cuffey, a paleontologist at the main campus of Pennsylvania State University.

This type of response has not discouraged Conrad.

He believes he has stumbled upon "the greatest anthropological discovery of the century."

"It appears there are important, powerful scientific interests who would like Ed Conrad to go away," Conrad said. "But I will continue to fight for the truth."

At his own expense, Conrad has had a CAT scan performed on one of his human skull-like specimens which he said revealed similarities with human skulls. He also had scanning electronic microscope work done on one specimen that showed surface features of a human skeleton.

Eager to convince visitors to the Hazleton museum that his fossilized objects are, indeed, bone, Conrad has acquired human cadaver bones from a university anthropology department that he thinly slices for inspection under a microscope. He compares the cell structure of those specimens with the structure of his fossils.

In all this, he has shown a persistence beyond most average, mortal men—modern or prehistoric.

Why does he do it?

"I'm doing it because I feel science is corrupt in this one particular discipline about man's past," Conrad said. "I am the one operating like a true scientist."

"Sometimes I wonder, 'Why was this put on my shoulders? Why did I inherit this?' Maybe someone knows I don't give up that easily."

Grasping for historical parallels, Conrad compares himself to a modern-day Galileo.

"He (Galileo) looked through a telescope and said, 'Hey, the earth is not the center of the universe and no one believed him because it would have refuted the teachings of the church."

Speaking of which, Conrad has written a letter to Pope John Paul II, expecting that the Catholic Church might show some interest in a theory that possibly could cast a shadow over Darwin.

"All I was getting back from the Vatican were some notes from a lieutenant (Vatican official)," Conrad said. "I gave up on them."

Nevertheless, Conrad, in search of support, has written hundreds of letters to scientists, authors, bureaucrats, senators, President Reagan, Mikhail Gorbachev . . . Congressman Gus Yatron.

He has four filing cabinets filled with correspondence. His story has been told in a variety of regional newspapers, and this journalist, who worked for papers in Philadelphia, Montreal, and Toronto, has even made the Oct. 27, 1987, edition of the Congressional Record, courtesy of the Hon. Paul E. Kanjorski, area representative. The entry is titled "Man as Old as Coal."

In all this, Conrad contends he is not doing any of his research for self-glory and certainly not for riches.

"It's a labor of love," he said. "I've been doing it for so long. I'm not looking for help now. I'm just looking to get my story out to the public."

And there are apparently many local folks in the coal region who respect Conrad for just that.

That's one of the reason there is a certain price in having Ed Conrad's fossils in the town museum, an all-volunteer operated museum, by the way.

There's also local pride that stems from getting all the famous and not-so-famous responses to this issue neatly framed on the museum walls.

"Congratulations on your findings," wrote Erich von Daniken, author of "Chariots of the Gods." That comment is framed.

An ex-teacher of Conrad writes, "It's easy to see why the so-called experts are confused. Your main problem is that you have outrun the limits of their knowledge.

"What you have makes them uncomfortable. Much of what they have been teaching will have to be undone (if you are right)."

That comment is framed, too.

Right or wrong, better or worse, there is now distinction at the Greater Hazleton Historical Society Museum. Ed Conrad has helped to put it there.

And one little quotation in one little frame sums it up.

"This is the only museum in the world where petrified bone, found between coal veins, is on display."

MARIE BODACK WINNER IN REGIONAL AND STATE ORATORICAL CONTEST BY AMERICAN LEGION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GILMAN. Mr. Speaker, I am delighted to recognize a patriotic and spirited young citizen, Miss Marie Bodack, for her prize-winning essay on the Constitution for the Annual American Legion Oratorical Contest. Marie, a student at Ursuline High School, of New Rochelle, NY, placed first place in both the regional contest, encompassing my 22d Congressional District, and State finals. In the National Finals, she advanced to the second round before bowing out of the contest. Marie Bodack's speech, "We the People," should serve as an inspiration to all Americans during this year of the Bicentennial of the Constitution.

Accordingly, Mr. Speaker, I request that the full text of Miss Bodack's essay be inserted at this point in the RECORD.

WE THE PEOPLE

Many of us here can recite verbatim the preamble of the Constitution. Those of us who have not memorized the entire preamble must know that the first three words are "We the people." But how many of us who know this have ever thought about what those words really mean and how they are reflected in the Constitution, especially in the First Amendment and in today's society.

When all 55 delegates from 12 of the 13 colonies met in Philadelphia in 1787 to amend the Articles of Confederation, they decided that an entirely new document should be drafted. The end result of the convention was a document unique in the history of our country: The United States Constitution. Its uniqueness can be found in its trust in and reliance on the American people reflected in the 26 amendments passed throughout its 200 year history.

The fact that the original document did not contain provisions for the people upset many including Patrick Henry, one of the staunchest opponents of the Constitution, who cried, "What right had they (the framers of the Constitution) to say 'We the people'?" when the people's rights were not recognized. Also angered was the author of the Virginia declaration of rights, George Mason, who asked, "Where is the barrier drawn between the government and the rights of citizens?" Nevertheless, the Constitution was amended and the outcries of citizens' rights supporters continued to be heard. At the time when the Bill of Rights was drawn up, the colonists remembered the oppression they faced while under British rule and feared any form of oppression and so many fought to have their rights recognized in writing. Because of this, ten amendments to the Constitution were drawn up and ratified in 1791. They later became known as the Bill of Rights.

Today, the written words are broadly interpreted by the Supreme Court and their meaning strictly enforced. Among other things, the Bill of Rights protects the rights of the accused, the rights of the citizens to bear arms and the rights of the citizens to be secure in their houses.

Two hundred years after the Constitution was drafted the Amendments are still often cited. Without a doubt, one of the most often cited is the First Amendment, which reads:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press; or the right of the people to peaceably assemble and to petition the government for a redress of grievances."

In our free society today there are often deeper questions pertaining to the legitimacy of the First Amendment—as Jonathan Bartlett in his book, The First Amendment in a Free Society, says, "the battle of the meaning of the First Amendment's guarantee of the right to assemble has been joined over a particularly divisive and as yet unresolved issue." No one would find fault with the public assembling in New York City for the Thanksgiving Day Parade or for a political speech but when the Nazis wanted to march in Skokie (a largely Jewish town in the Chicago suburbs) questions were raised, such as "Is there a limit to freedom of speech and what about the right of the Jews?" In the end, supported by the ACLU, the Nazis were allowed to hold peaceful rallies; however, those questions were never fully answered.

Clearly there are limits to the First Amendment. Even the Court has recognized that. In the Case of Chaplinsky v. New Hampshire (1942) Justice Murphy argued that "there are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their utterance inflict injury or tend to incite an immediate breach of the peace." Justice Holmes beautifully illustrated this point 25 years earlier when he wrote: the most stringent protection of free speech would not protect a man in falsely shouting "fire" in a theater and causing a panic. The words to any legal document mean nothing if they are not carried out. The same holds true for the words of the Constitution, specifically the First Amendment—part of the Supreme law of the land. However, as we see the First Amendment is actively upheld in our society today and is kept alive by the people!

The First Amendment is

What allows us to openly protest the acts of the government;

What allows students of a St. Louis high school to sue the school because articles on sex were censored from the school's newspaper;

What allowed Steven Engel and three other parents to sue the New York State Board of Regents over the issue of a 22-word prayer said daily in public schools;

What allowed Donna Todd, a housewife, to criticize the IRS for the oath on the bottom of tax return forms;

What allows any one of us to worship our own God (or none at all).

Oliver Wendell Homes once said:

"The principal of the Constitution that more imperatively calls for attachment than any other . . . is the principal of free thought—not free thought for those who agree with us but freedom for the thought that we hate."

The first 200 years of the Constitution worked only because the people genuinely cared and stood up for their rights. It will only continue to succeed if people remain doing so, because nothing is as important as our freedom.

TRIBUTE TO EVANGELICAL MANOR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to the Evangelical Manor, a nursing home for the independent elderly of my district, which celebrated its 100th anniversary this past Sunday.

On occasions like this I usually begin by saying "Sto Lat!", which is Polish for "may you live to be a hundred years old." But the Evangelical Manor has already achieved that proud milestone. The Evangelical Manor has a proud history, and deserves our thanks for its commitment to caring for our elderly for a century.

In 1888, it was founded as the German Home for the Aged on Fourth Street. One year later, it moved into this area, to a site at Hunting Park and Old York Road. The Evangelical Home extended its caring commitment to our elderly in the beginning of this century, when to be old often meant unemployment, poverty, and minimal quality of life.

Everyone associated with this home should proudly remember that half a century before Social Security made a pact with our citizens, and 80 years before Medicare brought good health care within reach of our elderly, the Evangelical Home not only knew about the problems of our elderly, but had started working to solve those problems.

The home moved here to Roosevelt Boulevard in 1931, and as you know, those were the years when Social Security was slowly and painstakingly born. As the Congress began to work on a national scale to create programs, the work of your predecessors here translated the work of Congress into the tender care that the residents here have always received.

The operative word here is "home." The Evangelical Home is your home, and has been home for thousands over the years, with a beautiful setting, and the opportunity to live independently, or receive medical support, as the situation dictates.

It seems to me that the goals here are very simple, dignity and independence in living; care and comfort in adversity.

Ladies and gentlemen, I began by wishing you "sto lat," Polish for may you live to be 100. But what my "sto lat" really means is may you live 100 more years.

One hundred more years. That will be 2088. I'll come back, and I expect to see all of you here, too.

Sto lat, and God bless you for your century of charity, kindness, and service to your community.

THE B-1B BOMBER

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DAVIS of Michigan. Mr. Speaker, I appreciate the chance to comment on the B-1B bomber. As a member of the House Armed Services Committee whose district houses two Strategic Air Command bomber bases, I have spent a great deal of time and effort studying this aircraft.

To put it simply, the problems of the B-1B have been greatly overstated. There are problems, of course, as there are with any state-of-the-art weapon system. But those problems will be fixed and the plane, which leading Air Force officials are calling the finest bomber in the world, will get even better.

I have discussed the plane with Gen. John Chain, the commander of SAC, and I have talked to the pilots who fly the plane. They are united in their views that the B-1B is a great airplane that will make our Nation's deterrence even better.

The plane enjoys tremendous bipartisan support. It came in ahead of schedule and underbudget. It is one fine aircraft, and its record speaks for itself.

NATIONAL VOLUNTEERS WEEK

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Miss SCHNEIDER. Mr. Speaker, this week April 17 through April 23, 1988, is being recognized as National Volunteers Week. I would like to take this opportunity to commend all the volunteers of my State of Rhode Island, as well as those who put in valuable time, commitment and concern throughout all of our 50 States.

I don't know if this country fully acknowledges the work of volunteers. Each year nearly 100 million Americans help their neighbors through voluntary service. Voluntarism is both a spirit and tradition in the United States, helping us fulfill our social and cultural needs as well as stopping gaps in service to many needy populations.

Rhode Island's volunteer corps is comprised of organizations too numerous to mention; however, I would like to use the Greater Providence Retired Senior Volunteer Program as an example of Rhode Island's commitment to voluntarism. RSVP's 360 volunteers range in age from 60 to 93 years. They serve 61 area nonprofit agencies—from hospitals and health agencies to literacy programs and community cultural agencies. Last year they put in 70,000 hours of volunteer time! The participants in this truly vital program embody the spirit of our country's honorable tradition of voluntarism. Thanks to all of you for your contribution to society.

SUPPORTING WORLD POPULATION AWARENESS WEEK 1988

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. TORRICELLI. Mr. Speaker, during the course of this day, the world has added nearly one-quarter of a million people to its population. More than 90 percent of those new members of the human family were today born into the nations of the Third World, where fragile developing economies have already been hard pressed to employ, house, educate, and feed burgeoning populations.

Every day and every year the problems relating to world population grow more severe. And yet too few of us realize the challenge that lies in front of us.

With that in mind, I am very pleased to announce that my own State of New Jersey is 1 of more than 40 States that are officially recognizing World Population Awareness Week this year. By proclamation, Gov. Thomas Kean has called on the residents of my State to join with millions of other Americans in taking time during the week of April 17–23 to consider the urgency of the challenge.

The need is made plain by a simple contrast between my State of New Jersey and a not unrepresentative nation of the Third World. Whereas the population of New Jersey, now roughly 7.5 million people, will take well more than 100 years to double at current birth rates, the population of Malawi in eastern Africa will double itself in a short 22 years—scarcely a single generation.

That kind of rapid population expansion creates enormous challenges for developing-world governments. I assure you, if the population of New Jersey doubled over the next 22 years, we would find ourselves quite hard pressed to keep up in terms of creating new jobs, new housing, building new schools, training new teachers, and so on. And if New Jersey, with its industrial base, skilled work force, and rich educational resources, would be pushed to the limit, I hardly need elaborate on the hardships that lie ahead for Malawi and the many other countries similarly situated throughout the Third World.

I am proud that the citizens of my State are helping to contribute to a solution by taking part in the third annual World Population Awareness Week. And I ask that the text of Governor Kean's proclamation be included in the RECORD.

The proclamation follows:

PROCLAMATION

Whereas, the world's population of more than five billion is projected to exceed six billion by the end of the century; and

Whereas, 90 percent of this increase is expected to occur in the poorest least developed countries of the world, which are already struggling to provide their people with adequate food, housing, sanitation facilities, employment, health care and other basic human services; and

Whereas, world overpopulaton is a major cause of problems of malnourishment and hunger, resource shortages, environmental deterioration and ecological degradation that lead to social unrest, rebellion and war; and

Whereas, there are an estimated 500 million people who need and want, but lack access to, voluntary family planning services; and

Whereas, substantial fertility declines have been recorded in many countries where there has been leadership commitment implemented with the assistance of organizations such as the United Nations Fund of Population Activities to enable couples to exercise the human right of voluntarily limiting their family size;

Now, therefore, I, Thomas H. Kean, Governor of the State of New Jersey, do hereby proclaim April 17-23, 1988 as World Population Awareness Week in New Jersey, and call upon the citizens of this State to reflect upon the consequences of overpopulation and what they can do toward assisting in the achievement of population stabilization through humanitarian and voluntary action.

Given, under my hand and the Great Seal of the State of New Jersey, this third day of March in the year of Our Lord one thousand nine hundred and eighty-eight and of the Independence of the United States, the two hundred and twelfth.

THOMAS H. KEAN,
Governor.

MERCK & CO., INC. MAKING A DIFFERENCE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. KOSTMAYER. Mr. Speaker, in today's world, corporations are often criticized for caring too much about market values and profit margins. I rise today to commend a corporation for its charity.

As my colleagues may recall, last October Merck & Co. the New Jersey pharmaceutical company donated its drug Mectizan free of charge to combat the disease "river blindness" in tropical countries of the Third World. As a member of the House Foreign Affairs Committee I applaud this corporate effort to solve this devastating health problem.

Onchocerciasis, or river blindness, afflicts 18 million people worldwide. Most of these people are Africans, South Americans and Middle Easterners who live along river banks. The disease is transmitted by a bite from the black fly. A parasite then develops, which ultimately results in weight loss, skin disfigurement and eventually complete blindness.

The drug Mectizan was originally developed to destroy parasites in livestock. Merck & Co. researchers recently discovered that it could also be used to treat and prevent river blindness. A patient can be treated with one oral dose per year.

Merck also realized that those who required this drug were too poor to afford it. Merck determined that the only realistic way to get the drug to those truly in need was to distribute it, with the help of the World Health Organization [WHO], free of charge.

This action by Merck exemplifies, I think, the best instincts and tradition of America, Mr. Speaker. Americans have been willing to share our resources and knowledge with the impoverished of the world. Merck is to be commended for following this tradition.

Then on Monday of last week, Mr. Speaker, Dr. P. Roy Vagelos, chairman and chief executive officer of Merck announced that it will donate $2.3 million for the construction of the Children's Inn at the National Institutes for Health [NIH].

The inn will be built on the campus of the Warren G. Magnuson Clinical Center in Bethesda. Treatment at the center is experimental and is often the last hope for a child inflicted with a disease for which there is no cure. The clinic treats approximately 1,300 children per year free of charge. Many patients come from all over the world to receive medicines and therapies that they can't get anywhere else.

These children are inflicted with various ailments including cancer, AIDS, heart disease, asthma and neurological and other disorders. Their length of stay varies with the child's condition and treatment results. About 60 percent of the children are suffering from cancer, which often requires chemotherapy treatments on an out-patient basis.

When a child is being treated as an out-patient, the child and family often must live in area motels or local residences, which the social work staff of the NIH help to locate. However, this does not provide the proper setting required for the children. The inn will give these suffering families a "sense of home."

The Children's Inn will be unique because it is located on the grounds of the facility where treatment is rendered, thus providing complete care and convenience to the families. Because of generous funding by Merck and other corporate sponsors, no family will have to pay to live there while their child is being treated.

Mr. Speaker, I commend Merck & Co., and in particular Mr. Vagelos, for these gifts. These two projects, one here at home and one in the impoverished Third World, serve as a model of the cooperation that is possible between business and government to help for the needy and the sick.

NICARAGUAN TRADE EMBARGO

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BONKER. Mr. Speaker, as chairmen of the Foreign Affairs Subcommittees on Western Hemisphere Affairs and International Economic Policy and Trade, GEORGE CROCKETT and I are today introducing, with Representatives CHARLES RANGEL and JOHN CONYERS, legislation to lift the U.S. trade embargo against Nicaragua. We believe that, today, just 2 weeks before the President must renew the embargo, it is important to go on record in opposition to the continuation of these sanctions. We drafted the legislation last year, following hearings by the subcommittees on this matter. As the Central American peace process has begun to make real progress, we believe the time is appropriate for consideration of this bill.

During testimony before the Foreign Affairs Committee in 1985, the administration testified that the President had imposed the limited embargo to signal disapproval of Nicaragua's internal and foreign policies. Unfortunately, he did so without consulting the Congress and without the concurrence of our allies. He waited until the Sandinistas had already begun to wean their economy from the United States. He also permitted the export of U.S. services, travel by U.S. persons, and the maintainence of U.S. diplomatic relations. We would argue that this piecemeal approach was inappropriate and ineffective.

The embargo was imposed with the full realization that the United States had dwindling economic leverage with Nicaragua; Secretary of State George Shultz admitted to our committee when the sanctions were imposed that it would not be "an overwhelming event." At our joint hearing last year, we found there is no consensus, between U.S. agencies or among private organizations, on what real economic impact the embargo has had. Most reports argue that the embargo has been an inconvenience to the Sandinistas and an embarrassment to the United States. The Nicaraguan Government is more reliant now on the Soviet block than it was before—a predictable result—and has a convenient excuse for its domestic economic woes. It can rally its people around the anti-American cause by blaming the U.S. Government for the food shortages, the inflation, and the financial drain caused by the war with the Contras. How is the common citizen to know otherwise? The private sector, made up largely of agricultural producers who were devoutly pro-American, has been most hurt by the embargo. I fail to see how these outcomes further U.S. foreign policy in the region.

At the joint subcommittee hearing last December on the embargo, we specifically looked at the problems U.S. citizen and church groups have had delivering donated humanitarian goods to the people of Nicaragua. It was clear from the testimony received at that hearing that the administration had overstepped the bounds of its authority in policing the export of items sent by the people of the United States to the people of Nicaragua. We are not at war with Nicaragua. Why then should the administration be threatened by the export of seeds, pencils, and farm tools? To clarify congressional intent that American citizens be allowed to send broadly defined humanitarian goods to the people of any country with which the United States is not at war, Chairman CROCKETT and I have also introduced House Concurrent Resolution 230.

The progress that has been made in the region, particularly in the negotiation between the Sandinistas and the Contras, has been due to the existence of the Central American peace plan and the initiatives made by the regional governments, not because of U.S. economic pressures. The Guatemala accord, while imperfect, presents the best approach to the conflict in Central America. It pledges the signatories to uphold the very principles and institutions the Reagan administration has urged the Sandinistas to adopt. But it will certainly fail if the United States continues to undermine the process. Congress' disapproval of additional military aid to the Contras was the first step to take. Lifting an ineffective trade embargo would be an even more timely symbol of our good faith.

I include a copy of the bill in the RECORD at this point:

Whereas on May 1, 1985, the President issued an Executive order declaring a national emergency with respect to Nicaragua and imposing an economic embargo against that country under the authority granted him by the International Emergency Economic Power Act;

Whereas in his message to Congress regarding the embargo, the President criticized the Nicaraguan Government for its aggressive activities in Central America, for its military buildup, for its close military and security ties to Cuba and the Soviet Union, and for its Communist totalitarian internal rule, and called upon that government to honor its commitments to noninterference, nonalignment, respect for democracy, and peace;

Whereas the President of Costa Rica, El Salvador, Honduras, Guatemala, and Nicaragua signed a regional peace accord in Guatemala City on August 7, 1987;

Whereas the Central American peace plan pledges the signatories to the negotiation of cease-fire arrangements, democratization, free elections, termination of support for armed rebel groups in the region, and other measures to bring peace to the region; and

Whereas it is important that the United States lend its full support to the peace process undertaken by the five Central American government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) United States interests in achieving a lasting peace in Central America would be served best by a negotiated settlement such as that embodied in the Guatemala Accord; and

(2) in order to affirm United States support for the Guatemala Accord and the Central American peace process, the President shall terminate the sanctions imposed on Nicaragua under the International Emergency Economic Powers Act and shall take other steps to restore normal economic and trade relations with Nicaragua.

U.S. TRADE STATISTICS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DELAY. Mr. Speaker, as the U.S. Congress prepares to consider the conference report on the omnibus trade legislation in the near future, it is timely to examine the most recent trade statistics between the United States and our largest trading partners. The U.S. trade statistics for the month of February 1988, just released by the Commerce Department, are not at all encouraging. The U.S. deficit with all of our trading partners rose to more than $13 billion in February, the worst monthly result since October of last year.

However, I believe that it is important for us to look behind this aggregate figure to some of the particular facts of trade between the United States and each of our major trading partners.

I would like to note particularly the case of trade figures just released by the Republic of China [Taiwan] for the first quarter of 1988. The first quarter of 1988 statistics show that United States exports to Taiwan increased by 136 percent in the first quarter of 1987. Taiwan's trade surplus with the United States declined to $1.9 billion from the prior year figure of $3.6 billion. Equally important, I would note that March 1988 appears to mark the third consecutive month where United States exports to the ROC were larger than those of Japan.

It appears likely to me that these figures will be confirmed by United States statistics, although the United States calculates value on a c.i.f. basis, Taiwan on an f.o.b. basis.

I would like to congratulate the Government of the ROC for its conscious "buy America policy." It is my belief that these recent trade statistics emphasize the willingness of the people on Taiwan to purchase American-made products. I would like to insert into the RECORD the attached letter from Dr. Fredrick Chien, representative for the Coordination Council for North American Affairs located here in Washington, DC.

COORDINATION COUNCIL FOR
NORTH AMERICAN AFFAIRS,
Washington, DC, April 9, 1988.

Hon. ——— ———,
Washington, DC.

DEAR ——— ———: Once again I would like to bring you up to date of some noticeable improvements in the trade gap between our two nations. It is very encouraging that trade figures just released by the Republic of China (ROC) government on Taiwan for the first quarter of 1988 continue to show a substantial reduction of our trade surplus with the United States. Let me list some of the major findings based on those statistics:

Compared with the same period in 1987, the first quarter of 1988 showed an increase of American exports to the ROC of 136% while the growth of Taiwan exports to the U.S. slowed down to only 7%. This represents a reduction in U.S. trade deficit with the ROC of 46%.

[In millions of U.S. dollars]

	ROC exports to the U.S.	U.S. exports to Taiwan, ROC	Balance
1st quarter 1987	5,091.7	1,477.3	3,614.4
1st quarter 1988	5,446.1 (+7%)	3,481.1 (+136%)	1,965.0 (−46%)

If compared with the immediately previous quarter, the fourth quarter of 1987, the picture is still impressive as U.S. exports to the ROC increased 47% while ROC exports to the U.S. reduced by 8%, narrowing the balance by 44%.

[In millions of U.S. dollars]

	ROC exports to the U.S.	U.S. exports to Taiwan, ROC	Balance
4th quarter 1987	5,912.7	2,373.9	3,538.8
1st quarter 1988	5,446.1 (−8%)	3,481.1 (+47%)	1,965.0 −44%)

A reasonable estimate can therefore be made to the effect that for 1988, the year end U.S. trade deficit with the ROC may just be around $8 billion, about half of the last year's size.

On a monthly basis, March 1988 stands out as the eighth consecutive month in a row that our trade surplus with the U.S. has shrunk drastically (to only $298 million compared with $1,564 million in August 1987, or $825 million in February 1988).

March 1988 also marks the third consecutive month whereupon the U.S. overtook Japan as the largest single source of imports to the ROC.

The records above fully indicate that our efforts in rectifying trade imbalance, most notably the appreciation of the New Taiwan dollar by 41%, have brought about enormously positive results. As our 1988 trade surplus with the U.S. may well be halved, this new trend should render obsolete and invalid some arguments in favor of a tough, protectionist U.S. trade legislation. It is our firm belief that a statisfactory solution to bilateral trade problems can only be worked out through friendship and cooperation instead of coercion and retaliation. This very principle, we hope, will be duly shared by both sides in the future.

With best regards,

Sincerely,

Fredrick F. Chien,
Representative.

LISTEN TO THE BRIDGES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. SHUSTER. Mr. Speaker, even pithy columnist George Will has outdone himself with a superlative piece on the importance of the Nation's infrastructure, appearing in the April 25 issue of Newsweek.

[From Newsweek, Apr. 25, 1988]

LISTEN TO THE BRIDGES

(By George F. Will)

New York, New York, it's a wonderful town [song-writers are not under oath], the Bronx is up and the Battery's down. And so, almost, is the Williamsburg Bridge. That 85-year-old suspension span across the East River connects Manhattan with America, which may not be in the national interest, but nearly a quarter of a million people use in daily. Used it. Since last Tuesday only pedestrians and bicyclists do. It is not quite collapsing—yet—but it is unsafe for vehicular traffic, and that is a considerable defect in a bridge.

The discovery last week of its corroded condition was serendipitous. The discovery occurred while the three surviving Democratic presidential candidates were careering around the Empire State promising to make America into a paradise and, in their spare time, pacify the Middle East. The mere crumbling of a bridge is too mundane a matter to arrest the attention of candidates who are bent on the betterment of all mankind. However, the sounds made by that tired old bridge (it was screeching and squealing ominously) should be listened to. It tells us more about our future than the candidates do. The nation has a huge bill coming due for the neglect of its infrastructure, meaning bridges, roads, airports, waterways, water and sewer systems—all the things that make everything else possible.

This neglect, which reflects a weak ethic of common provision, may be consequence of our individualism. Individually, Americans are exercising more and eating more sensibly to maintain their personal infrastructures while the nation's physical plant deteriorates. In the years dead ahead that physical plant is going to force itself upon our attention. It will be something to think about while we creep along in increasingly congested traffic, or wait for our delayed flights to take off at overburdened airports.

The National Journal reports that one out of four bridges is considered dangerous. More than 4,100 are closed. Every two days a bridge collapses. Sixty-five percent of the Interstate Highway System is in need of rehabilitation. The average age of the 1984 principal locks on the inland waterway system is 40 years. The Army Corps of Engineers says 3,000 dams in populated areas are hazardous. Air traffic has doubled in the 14 years since the last new commercial airport (Dallas-Ft. Worth) opened. Los Angeles needs to spend $111 million more every year just repairing streets or 60 percent of them will be unusable by the end of the century. The Environmental Protection Agency says $108 billion will be needed between now and then just for construction of new sewage treatment plants.

OK, some of these numbers may involve overreaching and attention seizing and an appetite for pork. Still, there are many needs and not enough money. The cost of public-works investment is substantial, but so is the cost of underinvestment. Millions of worker-years are lost as congestion and detours sap economic efficiency. The cost of Los Angeles County congestion is estimated to be nearly half a million hours a day and half a billion dollars' worth of working time (and 72 million gallons of gas) a year. Unfortunately, blocking the road to a solution is a mountain—Mount Deficit.

The deficit is the numerical expression of a cultural tendency, the national tendency to live for the moment and beyond our means, consuming more than we produce and investing too little, heedless about the future. A government devoting 14 percent of its budget to pay interest on its debts—to rent money—has not enough money for the physical prerequisites of efficient and commodious living. Four federal trust funds—highway, transit, aviation and waterways—had a combined cash balance of about $24 billion at the end of 1987, all of it from user fees that can be spent only on infrastructure. But our leaders, ever imaginative at cooking the books to make the deficit seem smaller than it is, are hoarding the money. This is done so that deficit estimates will be smaller and the Gramm-Rudman knife will be easier to avoid.

INTERNAL IMPROVEMENTS

An earlier, more robust America had more energetic leaders regarding "internal improvements." On March 9, 1832, a candidate for the Illinois General Assembly distributed an open letter to the people of his county. The first plank in his platform was: "Time and experience have verified * * * the public utility of internal improvements," such as roads and navigable streams. Lincoln lost, but he soon won and authored a flurry of bills such as those pertaining to "a state road from the Wabash to the yellow banks of the Mississippi River" and "a canal upon the valley of the Sangamon River."

In 1808 Jefferson's Treasury secretary, Albert Gallatin, issued his "Report on Roads and Canals," a proposed network of projects, most of which were built over 60 years. It is unfortunate they were not built sooner. In 1816 John C. Galhoun, who eventually would sow seeds of secession, introduced a bill for internal improvements at federal expense. He warned that New York and other Northern states had public and private financial resources sufficient for such improvements, but that the South did not. Without federal help the South would be consigned to inferiority, and "disunion" might result. President Madison, taking a crabbed view of federal power, vetoed the bill as unconstitutional. Denied federal help, the South's dependence on slavery grew, as did its sense of separateness.

Disunion is not a danger today. Decay is. That is a pity because public works are the sort of things government is good at. The Tennessee Valley Authority and the Interstate Highway System were not just good in themselves, they were good for the morale of government, which periodically needs some inspiriting successes. Alas, in election years we have this sort of dispiriting experience:

You are driving warily down a street cratered with potholes deep enough to serve as silos for the MX missile. Your car radio is emitting the sounds of candidates promising to provide "meaningful jobs" and "a sense of community" in "model cities" in a disarmed world. And you are thinking (if thinking is possible as you jolt along, your radio chattering and radial tires disintegrating): Thanks a lot, but could we please start our trip to utopia on a well-paved street leading to a structurally sound bridge?

WORLD POPULATION AWARENESS WEEK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. SOLARZ. Mr. Speaker, I would like today to call the attention of my colleagues to the statement of the Honorable Mario Cuomo, Governor of New York, proclaiming the week of April 17–23 to be "World Population Awareness Week."

The global problem of overpopulation is one which requires long-term attention and planning. Overpopulation has disastrous consequences, especially for those nations which already face any sort of resource shortage. The problems of inadequate health care, environmental decay, and poverty are worsened when a nation has no strategic population policy.

I commend Governor Cuomo for his recognition of this serious issue.

The following is a proclamation of the State of New York, executive chamber.

PROCLAMATION

The world's population of more than five billion will, at its present growth rate, double in the next 40 years.

More than 90 percent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion.

Rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability.

The massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer.

The tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere.

The disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them.

Now, therefore, I, Mario M. Cuomo, Governor of the State of New York, do hereby proclaim April 17-23, 1988, as "World Population Awareness Week" in New York State, and call upon all of its citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

TO DEFEAT THE RULE ON H.R. 5 AND RETAIN SENATE DIAL-A-PORN LANGUAGE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DANNEMEYER. Mr. Speaker, the rule currently under consideration makes in order the language currently in the conference report and a separate vote on the Senate language banning dial-a-porn as a separate bill. Under the terms of this rule, even if the Senate language passed as a separate bill, it would not become part of the conference report on H.R. 5 and therefore would not be enacted into law at the same time as H.R. 5. or even ensure that the language would ever become law. If this rule is permitted to stand, it will ensure the passage of the "compromise language" as part of H.R. 5. The rule does not state a time certain when the Helms-Bliley language will be considered by either the House or Senate. Even if the House took up this bill immediately following a vote on H.R. 5, there is no assurance that the Senate will either take up this bill, or pass it unamended. For that reason, the rule must be defeated and amended to allow a vote on whether the Senate language may be substituted for the "compromise" language currently in H.R. 5.

For over 4 years, many of us in Congress have attempted to protect children from gaining access to obscenity and indecency over the telephone. This type of communication, commonly known as dial-a-porn, has been a heartache to parents who feel helpless responding to the threat it poses to their children. In response to this problem, my colleague, TOM BLILEY, introduced, and I cosponsored, H.R. 1786, the Telephone Decency Act, to prohibit the transmission of obscene or indecent communications by means of telephone for commercial purposes. The Senate dial-a-porn amendment to H.R. 5, The School Improvement Act of 1987, is identical to this bill.

Legislative action to prohibit dial-a-porn began in 1983 and has continued to this day. Currently the House bill has the support of 163 cosponsors. Among these are 27 out of 42 Members of the Energy and Commerce Committee which has jurisdiction over this legislation.

The original section 223, as passed in 1968, prohibited obscene, lewed, lascivious, filthy, or indecent communications by means of telephone. The law did not state that the maker of the comment must also be the maker of the call, so the dial-a-porn service, in which a caller accesses by telephone a recorded message of a sexually explicit nature, was clearly covered by the language of the statute. However, because "dial-it" services did not exist when the law was enacted, the FCC claimed uncertainty concerning its ability to act on complaints against these services.

A current provision in section 223(d) of the Communications Act of 1934 affirmatively authorizes the operation of dial-a-porn for consenting adults. The problem is that the telephone number for this pornography service is widely circulated among young people and widely utilized.

The Senate amendment basically removes a loophole in current law which permits dial-a-porn to operate. The loophole has two parts. The first part is that the portion of section 223(b)(2) makes dial-a-porn criminal only if it goes to a person under 18 years of age or to a person who has not consented to receive the message. Therefore the Senate amendment makes the prohibition against dial-a-porn apply to everyone, not just minors and consenting adults.

The second part of the loophole which is eliminated by this amendment is a portion of section 223(b)(2) which provides: "It is a defense to a prosecution under this section that defendant restricted access to the prohibited communications to persons 18 years of age or older in accordance with procedures which the Commission shall describe by regulation."

For this reason the Energy and Commerce Committee adopted an amendment to section 223 of the Communications Act to give the FCC unquestionable authority to impose sanctions on telephone pornographers. In November 1983, a largely modified version of this language was incorporated into the FCC reauthorization legislation, H.R. 2755. This language, a mistaken attempt at compromise, legalized dial-a-porn for adults while prohibiting communications to children.

Dial-a-porn first became available in March, 1983. It should have been prosecuted under existing Federal law (47 U.S.C. 223) which provided that "Whoever in . . . interstate or foreign communication by means of a telephone makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious filthy or indecent . . . shall be fined not more than $500 or imprisoned for not more than 6 months or both." The FCC and DOJ declined to enforce section 223 because they interpreted the law to apply only to persons who utter obscene words during calls that they place.

Congress became frustrated with the lack of legal action taken against dial-a-porn and in late 1983 amended section 223 making it a crime to make "any obscene or indecent communication for commercial purposes to any person under 18 years of age or to any other person without that person's consent."

The FCC was charged with the duty of compiling regulations which would deny access to dial-a-porn to persons under 18. Attempts by the FCC to issue regulations have been totally unsuccessful and have been struck down as unconstitutional. Therefore, there is presently nothing in law or regulation which restricts access to minors.

The tragedy of dial-a-porn is particularly evident in the case of Brian T. and Rebecca C. in California. Opponents of this amendment claim that the law prohibits these communications except to "consenting adults." The problem with that logic is that it has proven impossible to stop children from calling these widely advertised numbers and the consequences have been devastating.

Note the following examples:

The first incident occurred on July 26, 1987, and is related below in a letter addressed to a Member of Congress:

> 'Dial-A-Porn" has deeply affected my family and friends. . . . My 13-year-old son, Kevin, called the 900 number. Kevin's friend Don, 15, was over and they were listening to the prerecorded messages. Later when I arrived home from work I immediately made them hang up. Unknown to me, Kevin's 14-year-old brother was listening on another line with his two friends. They continued to listen passing it back and forth. Their sister Jacqueline, 10, was also listening on her extension.
>
> Within 48 hours Don and his 11-year-old brother molested my daughter Jacqueline. The Clio Vienna Township Police were notified and in their investigation revealed the fact that Jacqueline had encouraged them by asking them to touch her and "Do it with her"—phrases she heard on the "Dial-a-porn." Later the same day I learned that Kevin had sexual intercourse with a girl. His response when asked why was "it sounded like fun." I asked him, "What sounded like fun?" and he said "You know the phone call, the $74 phone call."
>
> This phone call has damaged our lives. It has caused strain and distrust in our family. We have had conflict with our neighbors when we had to inform them of their children's involvement. Most of all it has done permanent damage to our daughter. Somehow the proper steps must be taken to eliminate this diseased pornography that is so readily available to children. . . . Please help our children to prevent such occurrence again.

A similar incident occurred in Hayward, CA, in 1987 when Brian T. filed a lawsuit against dial-a-porn alleging that defendants exposed 12-year-old Brian T. to 2½ hours of their sex message products by means of a telephone for commercial purposes. That intensive exposure incited and caused plaintiff Brian T to act on those sex message products and on/or about June 22, 1987 in the city of Hayward, he engaged in unlawful sexual contact with 4-year-old plaintiff Rebecca C. including but not limited to compelling her to orally copulate him.

These incidents can only be called a tragedy.

In the more than four years during which dial-a-porn has purportedly been illegal, this service has thrived and spread from New York to many other major cities around the U.S. At least five of the seven major telephone companies carry this dial-it service. According to Telemarketing, Inc., dial-a-porn telephone sex has achieved astonishing financial growth during the second Reagan administration and now grosses $2.4 billion a year. In addition, half of all phone calls using California's 976 extra-billing prefix are for pornographic taped messages or live pornographic discussion. According to the CA Public Utilities Commission, of the $64.2 million collected by Pacific Bell between July 1986 and May 1987 for 976 calls, $40.1 million went to "adult" services. The PUC is considering methods for complying with state legislation mandating that customers be allowed to block the service from their phones for a minimal fee. Pacific Bell has refunded more than $2.3 million this year to customers who say 976 calls from their phones were made by a minor, an unauthorized person, or a caller without knowledge of the extra billing.

CONSTITUTIONALITY OF THE AMENDMENT

The first objection that will be leveled at this amendment is that it violates the customer's First Amendment right to receive dial-a-porn messages. This objection is without merit.

The Supreme Court has firmly established that obscenity is not protected by the First Amendment (Miller versus California (1973)). While the mere possession of obscene material in the home cannot be made a crime (Stanley versus Georgia, 1967), there is no correlative right to purchase obscenity in the marketplace or have it distributed to your house through commercial channels (*U.S.* v. *12 200-ft Reels*, 413 U.S. 123 (1973)). The Court has clearly held that there is no right to "receive" obscenity in "the privacy of the home" and no right to use "common carriers in interstate commerce" for delivery of obscene material to the home (U.S. versus Orito, (1973)). In addition, in FCC versus Pacifica Foundation (1978), the Court specifically held that radio and T.V. do not have a right to broadcast indecent material into the home and rejected the contention that an individual has a right of access in the home to indecent broadcasts. In so holding, the Court reasoned that such broadcasts are "uniquely acessible to children" and that the government interest in protecting the "well-being of its youth" justified the regulation of otherwise protected speech.

In addition, it cannot be argued that Butler versus Michigan, (1957) protects dial-a-porn. The principle enunciated in that case states that a "harmful to minors" standards cannot be applied to adults and children alike because then it would reduce the adult population to hearing only what is fit for children. This standard is inapplicable to dail-a-porn because it only applies to cases where the distributor of indecent material can readily distinguish between adults and children. This clearly cannot be done when a child calls a tape-recorded message.

Even assuming that the distribution of dial-a-porn to children could be prevented, the Supreme Court has rejected the contention that the distribution or transmission of obscene materials between consenting adults is constitutionally sanctioned. In Paris versus Adult Threater v. Slaton (1973) the Court held that:

> We categorically disapprove the theory that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only . . . We hold that there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even assuming it is feasible to enforce effective safeguards against exposure to juveniles and to passersby. Rights and interests other than those of the advocates are involved.

The Senate amendment to H.R. 5 passed the Senate 98-0 and will have the effect of stopping this abuse if retained. The changes it makes are simple and take into consideration Supreme Court decisions regarding obscene and indecent speech. The amendment does nothing more than restore the original intent of the 1983 amendment which purportedly clarified the law. It was not until 1983 that obscene and indecent communications over the phone became legal. The purpose of the amendment is to restore, not change.

PASTOR DONALD CODDINGTON, GRACE BAPTIST CHURCH, NEWHALL, CA

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MOORHEAD. Mr. Speaker, after serving the ministry of the Baptist Church for 36 years, Pastor Don Coddington has retired.

For the past 11 years, Don Coddington has been the associate minister of the Grace Baptist Church in Newhall, CA. Prior to his service in my district, he blessed the congregations in Skokie, IL, Riverdale, IL, Superior, WI, and Mora MN. In each of those communities, he was also a member of the board of trustees of the Baptist General Conference. During his long ministry he has been involved in three Billy Graham crusades. He has also been a devoted supporter of the "I Found It" telephone crusade sponsored by the Campus Crusade for Christ.

Pastor Coddington, who was born in Middletown, NJ, was a graduate of Moody Bible Institute. He took additional studies at Wheaton College, the Northern Baptist Seminary, Bethel Seminary, the California Graduate School of Theology and Fuller Seminary.

Since 1977, Don Coddington has been a beloved member of the ministerial staff at Grace Baptist Church in Newhall. He has labored tirelessly on behalf of his parishioners and his neighbors. He has devoted himself to their emotional and spiritual well-being. As his affection for his church was great, so was their affection for him. As a gift of gratitude upon his retirement, the congregation presented Pastor Coddington and his wife, Helen, with a recreational vehicle in which they now travel the United States.

Mr. Speaker, I am delighted to recognize the retirement of an exemplary individual, Pastor Don Coddington of the Grace Baptist Church.

READING, PA.'S 1988 CELTIC FESTIVAL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. YATRON. Mr. Speaker, on April 24, 1988, many people from Reading, PA, and from all over the east coast will be descending upon the campus of Alvernia College in Reading for the 1988 Celtic Festival. The festival will give us all an opportunity to learn about the art, culture, and heritage of the countries of the Celtic nation and reflect upon their many contributions to our own heritage.

A number of special events and demonstrations are planned for this year's festival in an effort to provide the widest possible introduction to the richness of the Celtic heritage. The day will begin with folk dancing demonstrations and several concerts of Irish, Scottish, and Welsh music. In addition, lectures on Irish Gaelic and on traditional Celtic crafts will be presented. These presentations will be topped off with a concert by Silly Wizard, one of the finest and most dynamic Scottish bands. With its mix of traditional and original music from Scotland, Silly Wizard has been thrilling audiences throughout Europe and the United States for years. By combining traditional songs with original pieces, Silly Wizard has been able to keep the tradition of Scottish music alive while also expanding the audience to those of us not familiar with this tradition. The band is now on its last U.S. tour so we are especially lucky that they will be coming to weave their special magic at Alvernia College.

Like Silly Wizard, the festival organizers, led by Nina Mollica, seek to keep the Celtic tradition alive while also exposing this heritage to a wider audience. Under Ms. Mollica's outstanding leadership, Alvernia College has been able to attract a number of world and nationally renowned artists to the festival. Through the 1988 Celtic Festival, Alvernia has made an invaluable contribution to education and culture in the Reading area.

This year's festival is the first of its kind for Reading, but I am certain that it will be a big success. We all hope that this can become an annual event for our city. Mr. Speaker, I know that my colleagues will join me in honoring everyone involved with the 1988 Celtic Festival and in wishing them continued success and good fortune in the years to come.

EQUITY FOR THE "NOTCH" SURVIVORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GILMAN. Mr. Speaker, recently I had the opportunity to testify before a Ways and Means Subcommittee on the difficult problem of the Social Security "notch" inequity. As many of my colleagues are aware, this is a problem of grave concern to many of our constituents and to senior citizens throughout our Nation. I feel that it is incumbent upon Congress to correct the injustice which we inadvertently imposed upon senior citizens born between 1917 and 1921, and I request the full text of my testimony be inserted at this point in the RECORD so that my colleagues will have the opportunity to share my views on this issue.

STATEMENT OF REPRESENTATIVE BENJAMIN A. GILMAN, FROM THE 22D DISTRICT OF NEW YORK BEFORE THE SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS, REGARDING THE SOCIAL SECURITY "NOTCH" PROBLEM ON APRIL 14, 1988

Mr. Chairman, Members of the Committee, I would like to take this opportunity to commend you for holding today's hearings on the social security "notch" inequity. As an original co-sponsor of H.R. 1917, the Roybal bill, and as the first Republican cosponsor of H.R. 3788, the Sanford-Ford measure, I welcome the opportunity to testify in support of these legislative initiatives to correct the injustice suffered by Senior Citizens born between the years 1917 and 1921.

Mr. Chairman, the views I present today are shared by many of our constituents, many of our colleagues, and by Senior Citizens throughout our Nation. I thank the Committee, therefore, for its willingness to consider this substantial body of opinion, and I hope that Committee members will be persuaded to see the merit in what our seniors have to say about the notch-year transition. Our Seniors, and many other responsible observers, are telling us that something is wrong with the social security benefit formula enacted in 1977, and we owe it to them to hear their concerns and take some from of corrective action.

The notch-year inequity stems from a Congressional effort to correct an error in the 1972 Social Security Act Amendments that threatened to bankrupt the entire social security system. In an unintentional miscalculation, Congress provides social security recipients with an increase that double-indexed for inflation, accounting for the rise in the cost-of-living not once, but twice.

Let the record show, however, that Congress had intended to provide social security recipients with some form of an increase in 1972. In 1977, when Congress revisited the issue, the intention of enhancing Senior Citizen benefits remained unchanged. In light of this fact, the treatment shown to notch-year recipients seems highly incongruous. Congressional intent is evident in the measures which Congress pursued to minimize the impact of the initial benefit reductions. Congress certainly did not intend to single out notch-year recipients for unfair or discriminatory treatment. Unfortunately, however, in another example of good intentions gone awry, the effect of the transition to the new formula fell disproportionately upon those Senior Citizens born during the notch-years 1917 to 1921.

The transition formula failed to work because it did not take account of earnings made after the age of 61, and it could not predict the double digit inflation suffered throughout the late 1970's and early 1980's. Thus, workers who turned age 63 in the years 1979 to 1983, immediately after the transition rule took effect, were subject to drastic benefit reductions of in some cases as much as 10 to 20 percent. This is certainly not the gradual benefit reduction of 6 to 10 percent which Congress had intended.

Congress did not intend for this transitional period to treat notch-year recipients overly harshly. We certainly did not intend to require benefit disparities of as much as $1,200 for workers born two days apart, simply because one worker was born in the wrong calendar year. The legislation which has been introduced in the 100th Congress, and which enjoys the cosponsorship of more than 150 of our colleagues, would restore a fair and equitable transitional formula. H.R. 1917 and H.R. 3788 restore the original intent which Congress has displayed in both 1972 and 1977, without creating egregious benefit disparities and without threatening the future viability of the social security system.

Accordingly, I urge the Subcommittee to pursue these legislative initiatives which would allow for a more gradual transition to the newly corrected benefit formula. These proposals avoid the mistakes of the past. They would not throw us back to the double-indexed formula of 1972. They would not arbitrarily discriminate against a specific segment of our elderly population merely by virtue of their birth. Most importantly, they would restore confidence in the Federal government's willingness and ability to provide for the retirement years of our Nation's Senior Citizens in a manner which is fair and equitable. Mr. Chairman, I would submit that this is the true intent of social security.

TRIBUTE TO COMMUNITY CARE CENTER OF THE NORTHEAST

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BORSKI. Mr. Speaker, I rise to pay tribute to the Community Care Center of Northeast Philadelphia. Inspiration is what happens when action is wedded with a good purpose. Inspiration is the root of all truly good deeds. Inspiration surrounds you when you walk in the door of Community Care Center of the Northeast at 8112 Frankford Avenue. Their staff of 26 full- and part-time health care professionals, and their dozens of volunteers are "creating a harmony of body and soul" through their hard work, according to Jean Langenbach, the director and founder.

I visited with them a few weeks ago, and accompanied Jean, and Terry Nobel, their assistant director, on two home visits. I was invited to come meet them and find out about their operation after they had contacted my office about a home health care bill which I had sponsored. Once we knew of their program, I was eager to visit them and learn more.

They supply home health care and assistance to the elderly and others who need it in the Holmesburg, Mayfair, Frankford, Rhawnhurst and Oxford Circle areas. But the word "assistance" to them means more than performing medical duties. Their aids and volunteers wash their patients, shop and sometimes cook for their patients. According to their records, their volunteers gave over 8,800 hours last year, and they made over 500 skilled nursing visits at no charge, and another 500 at their usual fee. Over 8,500 home health aid hours were spent aiding people on a sliding scale, according to the patients' ability to pay.

But even telling you that they spent over 17,000 hours helping the people of our community does not quite capture the soul of their effort. Community Care Center was born when Jean Langenbach, an R.N., decided that "when I was ill, only my symptoms were treated." She felt that the recovery of a person's spirit was as important as the recovery of their body, and that while medicine could treat the infirm elderly's physical ailments, only human contact could mend their spirits. Three years ago, the Holmesburg Methodist Community Center helped her bring that inspired vision into a reality of generous and charitable actions.

Jean Langenbach told me that "the greatest disease that our folks face is loneliness. Our people aren't well enough in most cases to go out on their own, and their connections to the rest of the world grow fewer and fewer. We come into their homes, and we become their connection. Our people care, and we have even gotten some of our clients to call each other, and set up a network of friends, who will look after each other."

I saw a striking example of this when I visited the Wesley family with Jean and Terry Nobel, Community Care Center's assistant director. We arrived when Lorraine Sisilia, CCC's worker was with them, and I asked Mrs. Wesley what she would do without Lorraine. She told me that Lorraine had just taken a few days' vacation, "and I missed her the whole time." I heard dozens of stories about this kind of care and compassion from the agencies like Catholic Social Services, which work with them every day.

Kindness, compassion, and inspiration. What a wonderful combination, especially for those who receive them from Community Care Center.

HONORING CHIEF HENRY SMITH ON THE OCCASION OF HIS RETIREMENT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. TORRICELLI. Mr. Speaker, I rise to pay tribute to Chief Henry J. Smith of the Bogota Police Department on the occasion of his retirement. It is with great pleasure and respect that I honor Chief Smith who is retiring with over 37 years of devoted service from the Bogota Police Department in Bogota, NJ.

Chief Smith served 4 years of active duty in the Navy where he advanced to the highest rank of motor machinist first class. After his naval service, he entered the Bogota Police Department in 1950. In addition to serving as the New Jersey State Delegate for the Police Benevolent Association [PBA], Chief Smith also served as president of the local PBA for two terms. He was also named New Jersey policeman of the month.

In addition to this duties as a devoted public servant, Chief Smith has been an active member in his community. A church member for over 40 years at St. Joseph's Roman Catholic Church, he was St. Joseph's Church athletic director for 12 years.

Chief Smith is the devoted husband of Dorothy Lea Otto Smith of Bogota and the father of four children. His two sons are currently on active duty in the armed services, John as a major in the U.S. Army and Michael as a lieutenant commander in the U.S. Coast Guard. Joanne and Barbara, his two daughters, are registered nurses.

I join Chief Smith's family and friends in honoring him on the occasion of his retirement.

TRIBUTE TO THE YOUTH DEVELOPMENT CENTER OF BENSALEM, PA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. KOSTMAYER. Mr. Speaker, I would like to acknowledge and pay tribute to the youth development center in Bensalem, PA, in my congressional district and to the RCA Educational Program at the center, a component of General Electric Co. I visited the RCA-Youth Development Center a short while ago, and was very impressed with the program for disadvantaged youth which is being undertaken there. The youth development center is a very special treatment program that serves the Philadelphia area and has provided quality habilitative and rehabilitative treatment services for delinquent youth for the last 27 years. The center has a history of working with the most difficult adjudicated delinquents from throughout the entire Commonwealth of Pennsylvania.

Currently, the youth development center in Bensalem has two distinct program areas serving the needs of male junvenile offenders. There areas are: First, open residential and second, secure care. These two programs serve as the base on which various specialized treatment components are built. Common to both is the educational component, currently provided by RCA/GE, which has provided educational services for the last 18 years.

The youth development center has responded to the needs of the courts and the public in its attempt to develop specialized treatment services for the special needs of its clients, who include criminal offenders, drug and alcohol abusers, school delinquents and mental health outpatients.

Psychological and psychiatric services, medical and dental services, volunteer resources, theraputic recreational services, religious services and the master case planning system services are all provided at the Bensalem center.

The mission and purpose of the facility is to bring about positive changes in the youth committed to its care. When I visited the center, I saw programs designed to break the cycle of dependency and prepare these youth to return to the community and function within the confines of the law. In order to accomplish this task, the facility is dedicated and committed to providing quality programs and a safe, secure environment in which to live, learn and work.

The core administrative and management personnel are as follows: Executive director of the youth development center, Leon B. Davis; assistant director of open residential program, James D. Jackson; assistant director of secure care treatment, Dorie L. White; program supervisors, Warren T. Knight and Tom Head; business manager, Norman S. Barbieri.

Mr. Speaker, the RCA/GE school has provided over 18 years of quality education and has received six national citations, including the Phi Delta Kappa Award and four State citations for scholarship and discipline. The staff has over 190 years of combined professional experience and is certified in 40 different areas. Eighty percent of the staff hold master's degrees, Mr. Speaker.

This is the only correctional school where security and open residential students attend school together. The programs offered include vocational education, guidance and counseling, bilingual education, computer education, distributive cooperative education, and varsity intrumural sports. The school also has a work program which supplies jobs for over 200 needy students.

I noticed during my visit to the school that there is high staff morale, and commitment to professionalism, and a deep concern for the welfare of the students. The educational program provides an environment conducive to learning for some of the Commonwealth's most difficult juveniles.

RCA/GE administrators involved with the program include: Mike F. Camardo, division vice president and general manager; Al A. Androlewicz, division vice president; Valaida W. Randolph, director of international program; L.C. Cook manager, international projects; Tom Haney, manager, contract administration; Vince Cugini, manager, administration, education and human services; senior corporate attorneys, Ken Statmore and J.J. Cook; and secretaries of education and human services, Marie Whitby, Helen Campbell, Diane Jenkins, Janet Bell, and Joan Walinski.

The staff at the school include: Chief school administrator, Wylie J. Hinson, Jr.; vice principal, Bryant L. Horsley, Sr.; dean of students, William F. Brown; supervisors, Jeanene I. Anker, Nina Apfelbaum, Jeffrey L. Brown, Thomas C. Burst, Ronald V. Edwards, and William R. Simmons; guidance counselors, Alberta V. Myers, Michelle Roberts, and Carol M. Thompson; instructors, John Boyd, Bobby Clark, Samuel Cook, Mary Dunbar, John Funk, Cindy Golden, Warren Hartz III, Tanya M. Morgan, Phillip Pace, Carl Penxa, Cathy A. Robbins, Valerie J. Slott, John Stanley, Rhoda Stein, William Stokes, and Leroy White; secretary, Tracey McDonald; and teacher aids, Craig Hodges, Norman Hodo, James Nash, and Norman Whitehead.

The RCA school is jointly funded by the Pennsylvania Department of Education and the Department of Welfare.

Mr. Speaker, I am proud to represent the RCA-Youth Development Center. The staff, because of its dedication and commitment, is having a positive impact in Pennsylvania, and is helping hundreds of young people become responsible and productive citizens.

WORLD POPULATION AWARENESS WEEK, APRIL 17 to 23, 1988

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BONKER. Mr. Speaker, there are dire predictions for the growth of the world's population, and the difficulty we will face in responding to the needs of this burgeoning population.

We are all familiar with the problems: poverty, famine, disease, pollution, the degradation of our natural resources. We also know that the only way to cope effectively with our future population is to begin preparing now to address the problems we foresee.

I urge my colleagues to take time this week to focus on the global population issue—to think about the ways in which we may begin to avert these predictions of our future.

It is in the spirit of seeking solutions to the population crisis that I commend to my colleagues this proclamation, signed by Booth Gardner, the Governor of the State of Washington.

PROCLAMATION

Whereas, the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas, more than 90 percent of this unprecedented growth takes place in nations of the Third World, which is least able to accommodate such rapid expansion; and

Whereas, rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas, the results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas, family planning services can help the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them;

Now, therefore, I. Booth Gardner, Governor of the State of Washington, do hereby proclaim April 17-23, 1988, as "World Population Awareness Week" in the State of Washington, and I urge all citizens to join me in this observance.

AMBASSADOR MAXWELL M. RABB

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. FASCELL. Mr. Speaker, I am pleased to participate in this special order for our outstanding Ambassador to Italy, the Honorable Maxwell M. Rabb. At the outset I want to commend our colleague, the gentleman from New Jersey, PETER RODINO, for his thoughtfulness in asking for this special order.

Max Rabb is an outstanding public servant who has served his country well in a number of capacities. Whether as Senate staffer, war veteran, Presidential assistant, or Ambassador, he has always reflected credit on the U.S. Government and the objectives our foreign policy has sought.

As chairman of the Foreign Affairs Committee, I have had the opportunity to meet with Ambassador Rabb on a number of occasions. He has been the longest serving U.S. Ambassador to Italy in the history of our diplomatic relations with that country. Max Rabb has helped to sustain and enrich traditionally-close relations between the United States and Italy. He has been at least partially responsible for a number of advancements in bilateral relations, including Italian deployment of modernized intermediate nuclear missiles, which helped pave the way for the elimination of such missiles by the Intermediate Nuclear Force Treaty. With Mr. Rabb's persuasion, the Italian Government has agreed to participate in three multinational peacekeeping forces in the Middle East and accept the stationing of F-16 aircraft recently removed by the terms of the Spanish base agreement.

Ambassador Rabb's extensive achievements have also been acknowledged by the Italian Government. First as Presidential assistant to President Eisenhower, and now as Ambassador, he has received honorary titles seldom given to foreigners for distinguished contributions to the Italian Republic. In the often rough-and-tumble style of Italian politics, issues of foreign policy can sometimes strain bilateral relations. But despite disagreements that can develop, Ambassador Rabb's special practice of diplomacy has helped to smooth over rough spots and enable policymakers to find constructive solutions to often difficult problems.

At 77 years young, the United States is fortunate to have such an able Ambassador as Max Rabb in Rome. I wish him continued success and best health to the Ambassador and his lovely wife, Ruth.

AMERICA'S LIBERTY—OUR HERITAGE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. OXLEY. Mr. Speaker, for the past 41 years, the Veterans of Foreign Wars and its ladies auxiliary have conducted the Voice of Democracy broadcast scriptwriting contest. This year more than 30,000 secondary school students participated in the contest competing for nine national scholarships totaling $42,500.

Ms. Alison M. Phillips, of the Fourth Ohio District, authored Ohio's winning essay. With this year's theme, "America's Liberty—Our Heritage," Alison eloquently reminds us how precious our freedom and liberty is. In her script, Alison points out that while our Nation has witnessed times of strife, it is now stronger than ever and it is up to each one of us to protect our liberties and freedom.

A student at Wynford High School in Bucyrus, OH, Alison has excelled in academics and displayed tremendous leadership potential. I compel to my colleagues attention the work of this fine young woman.

AMERICA'S LIBERTY—OUR HERITAGE

(By Alison M. Phillips)

I have inherited two quilts. One I treasure as a prized possession. It is a piece of art displayed proudly on my wall. The other lies in the linen closet waiting to be packed for a camp-out, taken to a football game, or curled in on the couch. It is no thing of beauty.

The fine quilt was skillfuly patterned and planned. Each tiny stitch was hand sewn precisely and purposefully. The intricate designs bring oohs and ahs of wonder. It has been carefully preserved and treated with reverence. The other was merely pieced together with little more thought than to achieve a rectangle. Its blocks are irregular, its stitches uneven. This quilt is worn and mended, ravelled and dingy. Its creator used what she had—a scrap of an old blanket, a tattered shirt, an out-dated tie.

However much I marvel at the detailed beauty of my lovelier quilt, I must admit, no one has ever snuggled beneath its folds. For all its exquisite beauty, it is no very warm or soft. Instinctively I reach for the ragged one for comfort and security.

Like that much-used and well-loved quilt is liberty. Though sometimes I wish its appearance were more attractive, I realize that its character has been shaped by its many tears and that its strength is reinforced through its repair.

The men and women who stitched our liberty utilized what they had. Great men, led by Jefferson, Adams and Franklin, drew the plans for this unprecedented quilt. Though patterned after the ideas of philosophers like Locke and Montequieu, their plans were sketchy. These men could not be certain how their quilt would look in the end. Indeed, they were not even sure how it could be sewn together. But they clearly stated what the result should be—a blanket of freedom, providing protection from the chill of tyranny and injustice.

It was basted together with the Articles of Confederation until the actual quilting stitches of our Constitution could be put in place. It was a tedious process and many stitches were ripped out and resewn as the inexperienced, but determined quilters of liberty struggled to complete their endeavor.

At last the quilt was fit for use. But even in its newness it was blood-stained from lives pricked by the needle of Revolution. In the next ninety-five years it was repeatedly stained by the blood, tears, and sweat of American patriots, both famous and unknown. Then Civil War threatened to rend liberty's quilt in two. It was snagged by dissent and patched with reconciliation. Its strength was tested in both World Wars. Who had a right to claim this quilt of liberty? Whites wanted it for themselves, while their dark-skinned brothers fought for their share of the heritage. In the battle for civil rights, left singes from the fires of riots and cross burnings. Some thought Korea and Vietnam might rip the quilt to shreds. Political scandals such as the Tea Pot Dome incident and Watergate left it mud-spattered. It has always been marred by poverty and crime. The moth of apathy has time and again threatened to destroy it. And yet it has survived. All of this only makes it more precious to us who share in its inheritance—for it has endured time's tests.

We sometimes display liberty before the world as a flawless system, spotlighting its lofty ideals and shining successes. Like my elegant quilt, we hold it up for admiration. We praise it on the Fourth of July, parade it at the Olympics, and proudly point it out to foreign dignitaries. However, true liberty, which is the essence of our way of life, has proven durable though it bears the marks of use and age.

I have received a precious heritage. I shall wrap myself in the quilt of liberty. I will patch it and use it. I will do my best to protect and preserve it so that the next generation of Americans to whom I bequeath it will find the quilt of liberty proven, sturdy, and dependable still.

A COIN GRADING STANDARD

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BADHAM. Mr. Speaker, I wish to bring to the attention of my colleagues the work being done by the Professional Coin Grading Service, which is headquartered in my district.

PCGS was created to protect the consumer from unscrupulous promoters, who had become a problem in the rare coin industry.

Prior to the founding of PCGS in February 1986, the rare coin market lacked a uniform grading system to provide a standard for the millions of Americans who purchase rare coins for investments or hobbies each year.

Now, PCGS, with more than 255 member coin dealers nationwide, has changed the climate in the rare coin industry. PCGS employs 21 leading coin experts as graders, each working independently to assess the grade or condition of the submitted coin, the grade being one of the most important factors in determining a rare coin's value. After a grade is assigned, the coin is sealed in a holder that is guaranteed to be tamper proof and photographed. The service guarantees its grading.

In 2 years, PCGS has graded 620,000 rare coins, with a declared wholesale value of $520 million. Today, estimates show that more than half of all rare coin transactions involve PCGS-graded coins.

Consumer protection takes many forms, including government advisories and publicity, but in this case protection for consumers is in the product, the guarantee and the reputation of PCGS.

PCGS has set a standard that can protect experts and novices alike. For this they are to be commended, and I am proud to have PCGS in my district.

WORLD POPULATION AWARENESS WEEK

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. CARPER. Mr. Speaker, as a cosponsor of House Joint Resolution 148, designating April 17-23 as World Population Awareness Week, I would like to take the opportunity to commend the Governor of Delaware, Mike Castle, and the people of Delaware for joining the fight to help solve the problem of overpopulation, by proclaiming April 17-23 as World Population Awareness Week in the State of Delaware.

There are over 5 billion people in the world today. The world population is expected to increase to 7 billion in 25 years, at a rate of 87 million people per year. Ninety-two percent of this growth is occurring in the least developed nations of the world, putting a severe strain on their fragile economies.

We cannot afford to ignore the problem and must act now to help Third World nations develop the resources they need to slow the population growth and meet the basic human needs of their citizens.

In recognition of Delaware's commitment to solving the devastating consequences of overpopulation, I ask unanimous consent that the statement by Governor Castle in observance of World Population Awareness Week be published in the RECORD in its entirety.

The statement follows:

STATEMENT IN OBSERVANCE OF WORLD POPULATION AWARENESS WEEK

Whereas, the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas, more than 90 percent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion; and

Whereas, rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas, the massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer; and

Whereas, the tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas, the disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them.

Now, Therefore, I, Michael N. Castle, Governor of the State of Delaware, do hereby proclaim the week of April 17-23, 1988, as: World Population Awareness Week in the State of Delaware, and call upon all of its citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

TEMPLE BETH ABRAHAM TO HONOR FORMER SOVIET JEWISH REFUSENIKS YAKOV AND SVETLANA ALPERT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GILMAN. Mr. Speaker, on April 22, 1988, Temple Beth Abraham in Tarrytown, NY, will be holding a dinner, honoring former Soviet Jewish refuseniks Yakov and Svetlana Alpert. This couple, who had been refused emigration permits for Israel since May 1976 on repeated grounds of state interest, were just recently allowed to reunite with loved ones in Israel.

Yakov Alpert, a renowned physicist, was associated with Soviet Academy of Sciences for 45 years. He was also a professor of radiophysics at Gorky State University and director of Izmiran. His expertise is in space plasma physics, propagation of radiowaves and of the ionsphere. Because of his reputation, he has been offered prestigious positions in France, Great Britain, and the United States. He has accepted a position with the Harvard/Smithsonian Astrological Observatory in the United States.

Active in scientific seminar in Moscow Professor Alpert and his wife, Dr. Svetlana Alpert, endured great hardships over the years, but their long wait has resulted in their presence in our midst at the Temple Beth Abraham dinner in their honor. We wish the Alperts much success and happiness in their new life and endeavors, though ever mindful of the hundreds of thousands of other Soviet Jews who still remain refused.

ETHICS IN CONGRESS ACT OF 1988

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. SMITH of Texas. Mr. Speaker, today I have introduced legislation to extend the revolving door provisions of the Ethics in Government Act of 1988 to the legislative branch.

Americans expect honesty, integrity, and accountability from Members and employees of Congress. Until the legislative branch faces the same laws and standards of accountability as the executive branch, executive branch employees could well quote Benjamin Franklin:

> Clean your fingernails before you point at me.

INTRODUCTION

Our revolving door between private life and Government service is a distinctly American institution.

We benefit from regular infusions into Government of managerial and technical talent from the private sector. Congress has been careful to recognize that these individuals would not be so interested in temporarily working for the Government if their employment opportunities upon returning to the private sector were needlessly restricted.

Thus, the Congress has generally taken great care in crafting revolving door legislation so as not to unintentionally or unnecessarily bar the door.

HISTORICAL BACKGROUND

For nearly a century, legislation has been on the books restricting the relations of former Government employees with their agencies.

As to the needs for these statutes, three general statements emerged out of the congressional debate in 1872 on the first general statute on this subject.

The first was the problem of a former Government employee having inside information. At the time, the Congress was concerned that a former employee could take advantage of knowing what was needed to win a claim against the Government and, if he was unscrupulous, find witnesses to swear to the necessary facts.

A second need focused on the problem of switching sides in the claims process and thus, costing the Treasury money. The example used here is that of a clerk in the post office who discovers that many former postmasters are owed back pay. The clerk resigns and switches sides and represents the postmasters for a percentage.

And third, the debate defined the problem of continuing personal influence. Again, the Government employee resigns and switches sides and represents a claimant against the Government. In this instance, however, it is his particular knowledge of the Government's employees and how they might be pursuaded. One Senator observed:

> He goes right back into the Department hunts up the proper clerk in the bureau, and uses his influence upon him: I do not say always corruptly in the sense of using money, but uses the influence which naturally could be exercised by a man of capacity upon people with whom he had been associated.

These statements of the perceived need for statutes to restrict relations of former Government employees with the government remain the basis for our law today, including the Ethics in Government Act of 1978.

The first law in 1872 provided:

> (I)t shall not be lawful for any person . . . appointed as officer, clerk, or employee in any of the executive departments to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in said Departments while he was said officer, clerk, or employee, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employee.

The statute, 5 U.S.C. section 99, remained virtually unchanged for 90 years.

In 1948, the statute was slightly broadened—section 284 of the Crimes and Criminal Procedure Act. It substituted the term "agency" for "department," included military officers in its coverage, and added misdemeanor criminal penalties.

Through the 1950's in a world radically different from that of the 1870's, a need to broaden the application of the law was gradually recognized and defined. Several important court cases,—particularly United States versus Bergson—were instrumental in doing this.

The case turned on the court's narrow definition of the term "claim" as "a demand against the Government for money or property." Effectively the court held that it would not through judicial interpretation expand the application of the old law.

This narrow definition did not serve to address the growing variety and complexity of the kinds of interests citizens felt they had in their dealings with their Government or the occasions for the exercise of undue influence.

Thus, in 1962, the Bribery, Graft and Conflicts of Interest Act, was enacted. Section 207 of that act is the basis for today's revolving door provisions. The act placed a life time prohibition on former Government officials representing persons on matters in which they participated "personally and substantially * * * through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise * * *."

It also set a 1 year prohibition on activities within one's official responsibility. This applied to direct administrative or operating authority—effectively to approve, disapprove, or otherwise direct Government action.

Also, it made the criminal sanctions felonies.

Then, 16 years later in response to widespread public concern about personal morality in Government, the Ethics in Government Act of 1978 was passed. It amended section 207 to add a cooling off period of 1 year for senior Government officials. They could not lobby their former agencies on any matter during the year.

The cooling off period was based on an assumption that former Government officials could exercise undue influence over former colleagues. For the first time, the law departed from the concept of a separate matter or even "official responsibility."

The bill also extended to 2 years the prohibition on lobbying on matters under one's official responsibility, and expanded the scope of the provison to include "aiding and assisting."

APPLICATION TO LEGISLATIVE BRANCH

It has been 10 years since Congress passed the Ethics in Government Act.

A widespread public perception that former Government employees in both the executive and legislative branches are wrongfully capitalizing on their Government experience for exorbitant fees is underlying a grassroots demand for legislative action.

In addition, there is perception that the Congress has not been willing to apply the laws it writes to itself and its former members.

> (The House of Representatives) can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.—Federalist paper No. 57 (1788).

The question is whether section 207 of the Ethics in Government Act of 1978 should be amended to apply to the Congress.

I believe that it should be.

THE NEED

Our executive branch of Government experienced extraordinary change and growth in the fifties, sixties, and seventies in response to the needs of a changing society. Our legislative branch has gone through a similar restructuring in just the last 10 years.

Today, one bill can be more than a thousand pages. It can involve more taxpayer's money than the entire budget in 1978, the year the Ethics in Government Act was passed.

And along the way legislative conditions and practices have changed dramatically. Much more emphasis is placed on legislative staff to prepare the detailed and intricate documents involved in today's legislation. Reliance on staff is in fact a mandatory condition of the modern legislative process.

In this radically new environment, legitimate concerns may be raised concerning the possibility of undue influence.

For example, a senior staffer on a committee could have difficulty saying no to a former member or staff director who had hired him 5 years earlier. The request might be a slight modification of the committee's bill or report language, something that "didn't need to be run by the committee."

And it is not necessary to assume wrongful intent to realize this kind of potential for an undue influence on policy making. Recall the Senator defining the problem of continuing personal influence in the 1872 debate:

> I do not say corruptly * * * but uses the influence which naturally could be exercised by a man of capacity upon people with whom he had been associated.

Given that such opportunities—if seized upon—would gradually undermine the integrity of our representative form of government, it is the responsibility of the Members of Congress to establish reasonable safeguards to protect the integrity of the legislative branch.

DECISION MAKING

The Ethics in Government Act as it has evolved since 1872 has been applied to the executive branch and independent agencies.

The law has addressed executive kinds of decision making: approvals, disapprovals, and directing Government action on specific matters.

These are quite distinct from traditional perceptions of legislative decision making which is more likely to be characterized by words such as deliberation, debate, and consensus.

But the times they are a changing. And with them so are traditional perceptions of the legislative process. Increasingly, in our extraordinarily complex society much legislation which directly impacts our lives is being drafted at the staff level. It is becoming more and more difficult for the Congress to exercise oversight concerning the detailed provisions of more and more legislation.

And as these changes have overtaken the Congress in the last 10 years, more and more of the drafting has taken on some of the characteristics of executive decisionmaking. Staff members approve and disapprove. They act—sometimes making the final decision—on matters of substantial financial interest to our citizens. They even direct executive branch action.

They do all this as appointees of the people's elected representatives. They are accountable to the Member of Congress who has appointed them. In this regard, they are like their counterparts in the executive branch who are also political appointees but of the President.

Historically, revolving door legislation has been concerned with restricting undue influence on such executive branch administrative-type decisionmaking. It can and should be extended to shelter and assure the integrity of the same type decisionmaking in the legislative branch.

HERE, THE PEOPLE GOVERN

Application of the revolving door provisions must occur, however, with due respect for the Congress as the seat of the people's two elected legislative bodies.

For example, an extension that would prohibit a former Member from lobbying a sitting Member would in my view not serve a constructive public purpose.

Consider that such a provision in the law would necessarily have to be based on a policy assumption that a Member of Congress will violate his sworn public duty and be unduely influenced. In the name of a law—the Ethics Act—that purports to set a standard for public service, such an unfortunate extension of the act to the Congress actually would lower the public standard for representative government.

Trust in our representative form of government is vested in the special, even sacred relationship between the people and their elected representatives. Members are accountable to their constituents.

Such an extension would further tend to put restrictions on the ability of persons to obtain representation to petition their grievances to their Government. That also runs counter to established public policy.

THE ETHICS IN CONGRESS ACT OF 1988

To address the needs identified above while still being responsive to the Congress' constitutional status, I am proposing that former Members be prohibited for 2 years from lobbying staff on the standing committees on which they served during their last term on any matter within the jurisdiction of such committee.

Further, I am proposing that former senior committee staff be prohibited for 2 years from lobbying the staff on the committee on which they last served on any matters within that committee's jurisdiction.

The Ethics in Congress Act of 1988 also would prohibit a former officer of Congress from representing a person before any officer or employee of the House of Congress in which the individual served.

"Lobbying" is defined as in present law. That is, a former Member could contact committee staff on the standing committees on which he or she last served to make inquiries and monitor legislative activity. He could even lobby committee staffers on matters not within the committee's jurisdiction.

Former senior committee staff could contact members on the committees on which they served.

The act most nearly parallels the Ethics in Government Act 2-year prohibition on former executive branch officials. It is based on specific matters. In the instance of the executive branch official, it is matters under his official responsibility. In the instance of the former Member of Congress, it is matters within the jurisdiction of the standing committee on which he last served.

The focus is on restricting the behavior of the former Government official only in the matters in which he was most active while in the Government.

The hope is to address the problems of inside information and the exercise of undue influence.

I am including a copy of the text of the legislation and a comparison of my bill and other pending ethics legislation:

H.R. 4400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Congress Act of 1988".

SEC. 2. DISQUALIFICATION OF FORMER MEMBERS AND SENIOR OFFICERS AND EMPLOYEES OF CONGRESS.

Section 207 of title 18, United States Code, is amended by inserting at the end thereof the following new subsection:

"(d)(1) Whoever, being—

"(A) a former Member of Congress, within 2 years after having been such a Member, represents any person by making any oral or written communication on behalf of any person to any employee of any standing committee upon which such Member served during the last term as such a Member concerning any matter within the jurisdiction of such committee;

"(B) a former officer of Congress, within 2 years after his employment as such an officer has ceased, represents any person by making any oral or written communication on behalf of any person to any officer or employee of the House of Congress in which the individual was so employed; or

"(C) a former senior committee employee, within 2 years after his employment as such an employee has ceased, represents any person by making any oral or written communication on behalf of any person to any employee of such committee concerning any matter within the jurisdiction of such committee;

shall be fined under this title or imprisoned not more than two years, or both.

"(2) As used in this subsection, the term—

"(A) 'Member' or 'Member of Congress' means a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(B) 'officer of Congress' means—

"(i) an elected officer of the Senate or House of Representatives who is not a Member of the Senate or House; or

"(ii) the architect of the Capitol; and

"(C) 'senior committee employee' means an employee of any standing committee of either House of Congress whose basic rate of pay as such an employee is equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of title 5, United States Code.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect nine months after the date of its enactment and shall apply with respect to individuals covered by the amendment and whose term of office or employment with the Congress ends after such effective date.

DIFFERENCES BETWEEN THURMOND BILL AND ETHICS IN CONGRESS ACT OF 1988 AS THEY WOULD APPLY TO MEMBERS OF CONGRESS

PUBLIC POLICY

Thurmond bill: Assumes as a matter of public policy that a member of Congress would ignore his sworn public duties and be unduly influenced by a former colleague.

Smith bill: Assumes that members will abide by their sworn duties.

CONSTITUTIONAL ISSUES

Thurmond bill: Restricts the ability of persons to obtain representation to petition their grievances to their government.

Smith bill: Does not restrict persons from retaining former members to represent them before the Federal Government, including Congress.

FORMER MEMBER'S RIGHTS

Thurmond bill: Restricts former members from pursuing political causes which may have been life-long pursuits.

Smith bill: Does not restrict a former member from pursuing political causes.

SCOPE OF PROPOSED CHANGES

Thurmond bill: Proposes a one year cooling off period. The application is government wide. It includes a bar from using either one's knowledge—general or specific—or one's understanding of process. It is all inclusive. Its scope is so broad as to pose at least an initial threat to former members employment opportunities.

Smith bill: Does not restrict any employment opportunities. Focuses on narrowly defined situations of historically perceived potential exercises of undue influence in representing a person, consistent with the manner in which the law has been applied to the executive branch.

GENUINE THANKFULNESS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DORNAN of California. Mr. Speaker, as the Representative of California's 38th Congressional District, I have the great privilege of representing a constituency with diverse ethnic and cultural backgrounds. One group, which I am extremely proud to represent, are the men, women, and children who fled Communist oppression in Vietnam, and came to the United States with the hope and dream of becoming dedicated and productive citizens of our great country. And indeed they have.

As the representative of a Vietnamese community, I know how grateful they are to the American people for opening our arms and allowing them to share the riches and freedom of our Nation. But for my fellow Americans who have not had the opportunity to know the Vietnamese, I would like to submit into the RECORD a thank you letter to the American people from Yem Pham, a 99-year-old Vietnamese woman who has been able to live her golden years in peace and freedom as a result of America's generosity.

Mr. Speaker, like Yem Pham, I salute the people of our great Nation.

APRIL 5, 1988.

Hon. ROBERT DORNAN,
U.S. Congressional District, Garden Grove, CA.

DEAR CONGRESSMAN DORNAN: Pardon me for my rudeness and primitive behavior in addressing you, but it is just that I can not resist to write about my appreciation to you and your government.

My name is Yem Pham. I was born in May 15, 1888. Certainly you know that I am reaching my centennial birthday very soon. Before I can celebrate this very special occasion, I would like to express my deepest appreciation to you. You have made this possible for me. You have rewarded me with many essential provisions and services. They are the resettlement programs, health care services and the love of American people.

You and your government have given me an opportunity to prolong my life and a chance to live in this beautiful country. My life is enhanced each day and every new day to come. I have realized that at my age there is no ability to pay but to benefit and to receive. Because of my inability to pay, I have to write you and your government the most sincere thankfulness for your health services, assistances and love through many years.

Please accept my genuine thankfulness. May God grant you peace, wisdom and longevity. Your acceptance and response of my appreciation will be rewarding for me, my children, grandchildren, great-grandchildren, great-great-grand-children, great-great-grant-grandchildren and friends. I am looking forward to hearing from you.

Sincerely yours,

YEM PHAM.

A TRIBUTE TO U.S. AMBASSADOR MAXWELL M. RABB

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1988

Mr. STENHOLM. Mr. Speaker, I rise to address the Members of the House today to pay tribute to the longest serving U.S. Ambassador to Italy in the history of our diplomatic relations with that country.

Maxwell M. Rabb's tenure as American Ambassador to Italy began in June 1981. His dedication and respect to his diplomatic role, to the men and women with whom he worked, and most of all, to the country he served has been exemplary. Furthermore, Ambassador Rabb has won friends across the political spectrum, which has served him well during several rather tense moments in his tenure.

Just 2 weeks ago, I had the memorable pleasure and privilege of attending the full honors ceremony in honor of Ambassador Rabb conducted at Camp Ederle. Such a nice tribute seemed most fitting for such a distinguished diplomat who has served with such dignity under Democrats and Republicans alike from President Eisenhower to Johnson.

Most deservingly, Max Rabb has been the recipient of many notable awards and honors over the years. In 1982, he was named Cavaliere di Gran Croce by Italian President Sandro Pertini, an honor awarded to foreigners for distinguished contributions to the Italian Republic.

During his tenure as Ambassador, Italy and the United States have worked closely on several projects of major importance: The deployment of intermediate-range nuclear missiles in Italy; three multinational peace forces sent by Western powers to the Middle East; a new extradition treaty which has permitted joint action in prosecuting internal drug traffickers and organized crime; and numerous bilateral accords in the arts, sciences, and business.

Mr. Rabb has served as President of the U.S. Committee for Refugees, a member of the board of directors of the NAACP Legal Defense and Educational Fund, vice president of the American Immigration and Citizenship Conference, and a member of the boards of directors of many educational, charitable institutions, and business corporations. Moreover, his charming wife, Ruth, has been deeply involved in her own projects dealing with the development of drug rehabilitation programs and coordinating the various stately dinners and engagements held at their magnificent residence, the Villa Taverna.

Mr. Speaker, let me conclude my remarks by extending my appreciation to Max and Ruth Rabb for all they have done—and been—and warmest best wishes for their future.

REMARKS OF SECRETARY FREDERICK P. SALVUCCI ON THE DEATH OF THE HONORABLE JAMES J. HOWARD

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MOAKLEY. Mr. Speaker, I would like to share with my colleagues the remarks of my good friend, Frederick P. Salvucci, secretary of transportation in the Commonwealth of Massachusetts on the occasion of the death of our colleague, Representative James Howard of New Jersey. Fred worked closely with the Massachusetts Delegation and Chairman Howard on a wide variety of transportation-related projects in the Commonwealth and throughout New England in the course of Jim's chairmanship of Public Works and Transportation.

The material follows:

REMARKS OF FREDERICK P. SALVUCCI ON THE DEATH OF CONGRESSMAN JAMES HOWARD

Some men and women, when they are elected to Congress, bring with them a vision of America that is far removed from parochial concerns. These public servants see America as a partnership of truly united states, each with shared goals and mutual interests. Those who have such a vision face the challenge of implementing their ideas, and those who do so become national leaders. Jim Howard was that kind of leader.

Jim Howard was national leader not merely by virtue of his rank in Congress but because he had a forward looking program for America and carried it out. That program was founded on public works and its goal was to build and maintain a national infrastructure that would sustain growth into the next century. He understood that public works projects are essential to the national economy.

He also understood that the bottom line product of all public works projects is service. Whether it be mass transit improvements or water treatment plants or completing the interstate highway system, the real output of public works is service. In this respect, Jim Howard touched the lives of millions of Americans who enjoyed the benefits of a national infrastructure on a par with none other.

Jim Howard was a friend to Massachusetts, but he was more than that. For those of us who shared his vision and enjoyed the generosity of his time, he was an inspiration and our lives as public servants have been forever enriched.

WYOMING VALLEY BOXING HALL OF FAME

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. KANJORSKI. Mr. Speaker, it is a great pleasure for me to bring to your attention three new additions to the Wyoming Valley Boxing Hall of Fame. The home of Joe Palooka, the Wyoming Valley has produced some of the finest boxers of this country. I am glad to take this opportunity to give a brief biographical description of each of the fine men recently chosen to enter the hall of fame.

Mike Bernstein was known as the dean of boxing writers in Pennsylvania. From 1920 to 1955 his weekly column in the Sunday Independent of Wilkes-Barre was read avidly by sports fans throughout the State. As a young boy he was a fixture at local gyms and eventually became a boxing judge.

Charley "Chuckie" Bloss, of Hanover Township, first accompanied his cousin to Joe Rodano's gym when he was just 14. As an amateur for Roy Hatcher he won 90 of 97 fights, then turned pro in 1950. The late Mike Bernstein described him as follows: "The young man is a natural born mittster, with a terrific wallop in both paws. When he unlimbers his heavy artillery, he is really a hurricane in boxing trunks." Mr. Bloss now operates a barbershop in Wilkes-Barre.

Frank Jayne, of Plymouth, had an enviable record of 96 wins, 5 draws, and 29 losses during his 8-year professional career during the "golden years" of boxing in the 1940's. His successful career led the U.S. Army to assign him as a boxing instructor in the special forces in Japan, where he garnered the Far East bantamweight and featherweight sectional championships. Although he retired from boxing in the 1950's, Jayne continued to train boxers from northeastern Pennsylvania.

Mr. Speaker, it is indeed an honor to take this opportunity to draw the attention of my colleagues in the House of Representatives to the accomplishments of these three men whose careers have earned them places of honor in the Wyoming Valley Boxing Hall of Fame.

POST, AT LAST, GOES PUBLIC WITH ANTIFIREARM STAND

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. HOLLOWAY. Mr. Speaker, today I wish to share with my distinguished colleagues my gratitude to the editorial writers of the Washington Post. I must commend the Post for its decision to finally make public its longstanding campaign against firearm ownership. I refer to an editorial in the February 22, 1988 edition of the newspaper.

The article accurately reflects the Post's longstanding antigun sentiment. Accordingly, I am pleased to submit for my colleagues' review a story which appeared in the April issue of the American Hunter. The article, by Mr. J. Warren Cassidy makes clear the antifirearm rhetoric which has regularly appeared in the Washington Post.

POST AT LAST, GOES PUBLIC WITH ANTIFIREARM STAND

They finally came out of the closet.

The Washington Post, in an editorial on February 22 entitled "Why Police Want Gun Laws," at long last dropped all pretense to sympathy for the law-abiding gun owner and stated publicly what they always have believed privately—that the average American should not be allowed to own handguns.

In their third paragraph they write, "The NRA's diehard opponents of reasonable controls on concealable weapons would like you to believe that because police can't be everywhere and protect everyone, the next best thing for any citizen who wants one is a handgun ready to fight back. But how easily should anyone—trained or untrained, sane or insane, with or without criminal convictions—be able to buy a handgun?"

There it is, my friends, in black and white, stripped of all the *Post's* usual drivel on opposing us only for the "extreme stands" we take on issues such as "waiting periods, plastic guns, machine guns, armor-piercing bullets," etc. What they have said is that even if you are trained, sane and law-abiding, it should be difficult, if not impossible, for you to buy a handgun. Worse yet, if you consider protecting yourself by means of a firearm, you're not only suspect, but probably not too intelligent, and even a little immoral.

These editorial hypocrites, in an attempt to split our ranks and upset our historic friendship with law enforcement, have cried for years that if NRA were only "reasonable" about the above issues then all would be well, and they would stop trying to deprive us of our civil rights.

Well, so much for the Post's credibility. No longer should we be subjected to their phony pleas for background checks, psychiatric exams or mandatory testing before firearm purchases can be made. I repeat. They declare that despite training, sanity and respect for the law it should be next to impossible for us to buy guns.

I thank them for finally putting in print their true feelings. Now some of those in Congress who had begun to question the tougher stands we have been forced to take will know that we were not exaggerating about the antigunners' ultimate aim of eliminating the private ownership of all firearms.

Just as important to us will be the light that dawns in the minds of those NRA members who have written to me over many years with the collective opinion that if only NRA would be "fair and understanding of the media" our troubles would go away.

A lesson I learned long ago in our never-ending battle is this: The devout antigunner doesn't pretend that the length of the barrel, the type action, the materials used in manufacture or the length of the waiting period has anything to do with his or her stated purpose. They don't hide behind the hypocritical arguments of Pete Shields, Sarah Brady and Handgun Control, Inc. No, this collection of zealots accepts the undiluted stand of Michael Beard and the National Coalition to Ban Handguns. That is "ban," folks, not "control."

It must be obvious that I'm elated over this public confession on the part of the Post. Our lobbyists will bring it to the attention of every Congressional office, and the exposure will have great impact.

Just as the newspaper has been misleading its readers, so has it misled our country's leaders. This should make our job so much easier.

Thanks, Washington Post. We needed that!

WORLD POPULATION AWARENESS WEEK PROCLAIMED IN FLORIDA APRIL 17 TO 23, 1988

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. LEHMAN of Florida. Mr. Speaker, I would like to commend the Governor of the State of Florida, the Honorable Bob Martinez, and to endorse his efforts in issuing a State proclamation on the occasion of World Population Awareness Week. Special attention will be given to activities during this week of April 17 to 23, 1988, highlighting the consequences of overpopulation on global resources, the environment, health, and poverty. For many years I have supported domestic and international family planning programs which offer voluntary assistance to those who desire it. Indeed, adequate family planning is closely related to maternal and infant mortality as well as to child survival. I am pleased, Mr. Speaker, to bring this State proclamation to the attention of my colleagues by inserting its text into the CONGRESSIONAL RECORD:

PROCLAMATION

Whereas, the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas, more than 90 percent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion; and

Whereas, rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas, the massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the earth's land and waters, and the destruction of its ozone layer; and

Whereas, the tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas, the disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them;

Now, therefore, I, Bob Martinez, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim April 17-23, 1988, as World Population Awareness Week in Florida and call upon all of its citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

TRIBUTE TO WALTER SONDHEIM, JR.; 1988 HOUSING MAN OF THE YEAR

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MFUME. Mr. Speaker, I rise today to pay tribute to one of Baltimore City's longtime housing and community development leader's, Mr. Walter Sondheim, Jr. On Thursday, April 28, 1988, Mr. Sondheim will be honored as the 1988 Housing Man of the Year.

This prestigious award is given annually by the National Housing Conference, in recognition of the accomplishments of those individuals who have taken it upon themselves to promote decent, affordable and available housing for the citizens of their respective communities.

The selection of Mr. Sondheim for this year's award, probably could not have gone to a more deserving candidate. A former chairman of the Baltimore Urban Renewal and Housing Commission, and the Housing Authority of Baltimore City, 1957-63, Mr. Sondheim currently serves as the senior adviser to the Greater Baltimore Committee, and has chaired the Charles Center Inner Harbor Management and Market Center Development Commission, in addition to serving as an executive assistant to the mayor, 1984-86.

A native Baltimorean, Mr. Sondheim's innovative leadership and vision helped fuel the revitalization that has engulfed Baltimore City for most of the past two decades. Baltimore's "renaissance" has become a showcase for contemporary American urban renewal, and has augmented the State's competitive economy by attracting many foreign and domestic businesses to our city. Additionally, through projects such as the Homesteading Program, where low-income and other disadvantaged persons can renovate and later buy available city housing units—housing leaders such as Mr. Sondheim have set out to clear away the barriers toward home ownership, and to build encouraging bridges of support for Baltimore City's citizenry.

In closing, Mr. Speaker, I hope that the entire House will join me in saluting a true American patriot. For his selfless and dedicated support to the citizens and city of Baltimore, I take great pride in honoring Mr. Walter Sondheim, Jr., a man who will long be remembered as a friend to all communities in Baltimore.

H.R. 4397; THE FLAT RATE TAX ACT OF 1988

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DREIER of California. Mr. Speaker, by now, all taxpayers are familiar with the horrors and surprises of filing their tax returns under the new tax system. Congress, in considering the Tax Reform Act of 1986, had one of the few opportunities to bring about real and lasting reform to our Nation's Tax Code.

Instead, the Tax Reform Act, which I opposed, created a complicated maze of new regulations and paperwork for individuals and businesses. There have been 2,704 changes in the Internal Revenue Code, 42 new regulations, 65 new revenue announcements, 32 new revenue rulings, and 48 new tax forms, with no end it sight.

Furthermore, there is no real reduction in the overall tax burden for most Americans. The new code is complex and technical, and it is not fair to many middle-income taxpayers. Tax reform has become frustrating and confusing, and millions of Americans are beginning to show their dissatisfaction.

As a simple and equitable alternative, I have introduced H.R. 4397, the Flat Rate Tax Act of 1988. My bill calls for a flat rate tax system which would broaden the tax base and lower marginal rates for all individuals to 15 percent.

I have come to believe that a flat rate tax system is the best approach for bringing real and genuine reform to the Tax Code. It would eliminate the tremendous complexity that the average taxpayer faces in preparing a tax return. It would also improve the performance of the economy because lower marginal tax rates will create greater incentives for productivity and growth.

With a flat rate tax system, we would have a code that taxpayers will understand and perceive to be fair. Everyone would pay the same rate, with the exception of those families living below the poverty line. It is a reflection of what many people believe is genuine tax reform.

Mr. Speaker, it is imperative that Congress reconsider tax reform because we clearly did not do the job right the first time. In fact, the Tax Reform Act has only hampered our efforts to restore public confidence in our tax system. A flat rate tax system, such as the one incorporated in H.R. 4397, appears to be the best approach for achieving a fair and simple Tax Code.

TRIBUTE TO THE KNIGHTS OF COLUMBUS, NILES, OHIO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Niles Council No. 1681 of the Knights of Columbus of my 17th Congressional District of Ohio. Council No. 1681 recently celebrated 75 years of community service with a special banquet on April 10, 1988.

Since its inception, the council has followed the orders policy toward patriotism by taking part in First World War efforts. During the Second World War, the Niles Council had 37 of its members serving in the U.S. Armed Forces. In 1940, Council No. 1681 had 33 members and steadily grew. Its membership in 1983 reached 483. The Niles Knights of Columbus Ladies was established in 1951 and continues to be an active part of the Knights of Columbus.

The council has always been involved in charitable activities throughout the community. The members organized and operated a blood bank until the Red Cross established one for the entire area. From 1977 through 1979, the members built the Bocchi Building, which is still the finest Bocchi Court in Northeast Ohio. The council is also constantly busy with measure up drives, Ohio charity drives, and other programs in the community.

I had the privilege of attending this special anniversary event and honoring three of the council's most distinguished members. I presented awards to Adone Calderone, Grand Knight; Anthony Yannone, past Grand Knight; and Greg Colucci, past Grand Knight. Like so many of the members who have served in this organization before them, these men have gone out of their way to provide the people of their community with leadership and dedication.

Mr. Speaker, it is with great pride that I pay tribute to the Niles Council No. 1681 of the Knights of Columbus.

TESTIMONY OF WEST COAST EXPORT ASSISTANCE CENTERS, HEARINGS BEFORE THE STATE, JUSTICE, COMMERCE APPROPRIATIONS

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. KONNYU. Mr. Speaker, on behalf of my constituency, I would like to thank Congressman SMITH and the other subcommittee members for this opportunity to submit testimony regarding funding for the establishment and operation of West Coast Export Assistance Centers.

Last year, I cosponsored legislation requiring the Department of Commerce to establish and operate a Western regional export license office. My purpose today is to request the funding for these west coast offices which will provide quick access to advice and counseling on U.S. export control laws.

In fiscal year 1985, the Department of Commerce's Office of Export Administration received 125,000 license requests. Of this number, 25 percent came from California alone. As we begin to see our economy driven by exports, we realize that America's high technology industry permeates every facet thereof. Our high technology industry is the cornerstone of our Nation's economy, and Silicon Valley is the heart and soul of this industry. Within this state-of-the-art technology base lies the key to restoring U.S. competitiveness in the international arena.

Unfortunately foreign competition is not the only factor in gauging the marketability of U.S. products. Export control policy has a major impact on U.S. competitiveness. Over the past decade, the Federal Government has increased the administrative and competitive burden on exporters through stricter licensing requirements, export controls, and total embargoes.

Last year, the National Academy of Sciences documented that the complexity and inherent confusion involved in the export licensing process results in billions of dollars in lost sales each year. Countless small businesses have decided against the option of exporting based solely upon the lack of accessible direction. Instead of discouraging them, we should be welcoming potential exporters with open arms and make it convenient and desirable to make money overseas.

West coast companies are faced with an even greater disadvantage, however, because the only place they can obtain the necessary information and assistance is located in Washington, DC. The lack of qualified commerce personnel on the west coast discriminates against a very large segment of the U.S. high technology industry. With the west coast high technology community generating almost 40 percent of all export licenses, it is apparent what impact such a disadvantage can wield.

Only 7 years ago, the industry had a $27 billion surplus. Yet, this decade marks the first time in American history that the U.S. high technology industry has posted a trade deficit, and 1986 was that fateful year. A resurgence in American exports is being attributed to 1987 being a surplus year.

While the establishment of west coast export assistance centers will not eliminate the U.S. trade deficit, it is a step in the right direction. Increased exports are critical to economic vitality and will result in increased jobs for Americans. I believe it is time that we reinvest in America's efforts to restore U.S. competitiveness in the international market.

BOLEY INC. GIVES MANY IN PINELLAS COUNTY NEW HOPE FOR THE FUTURE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. YOUNG of Florida. Mr. Speaker, it was my privilege earlier this month to take part in ceremonies dedicating the Ruth G. Mosher Apartments in St. Petersburg, FL, which are operated by Boley, Inc., to house mentally handicapped residents of Pinellas County.

The 20 unit complex is one of two recently opened by Boley, Inc., to house 40 mentally handicapped individuals. The second building, located on a different site, is named for Bessie Boley, the founder of Boley, Inc. The project, which was four years in the making, was funded by a $1.5-million grant from the U.S. Department of Housing and Urban Development.

Boley, Inc., began in 1970 as a group home for emotionally disabled men. Since then, it has grown in size and stature, and today is recognized as one of our Nation's leaders in providing services for mentally ill persons. Boley's programs have shown that helping people in the community rather than in State mental institutions can result in a considerable savings to the State and its taxpayers.

In addition to developing a program that saves taxpayer dollars, Boley has also instilled a new sense of pride and excitement in its residents. Through rehabilitative training workshops, vocational training programs, and job placement activities, Boley enables the mentally handicapped to learn skills that give them self-confidence and enable them to become productive, tax paying members of our community.

Mike Scanlon, of the Jacksonville HUD office, and former St. Petersburg mayor Corinne Freeman joined in the ceremonies to dedicate this new project. Together we applauded David T. Richards, president of Boley Inc., the board of directors, Paula Hays, the executive director, and the many individuals who contributed their time and money to make this project and nonprofit organization a success. Boley, Inc., has become the largest agency of its kind in Florida, and through its residential and rehabilitative programs, its clients and residents have a new hope in themselves and in the future.

A CONGRESSIONAL SALUTE TO DR. MILFORD G. WYMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding man in my district, Dr. Milford G. Wyman. Dr. Wyman will be honored on Saturday, April 23, 1988, at the 20th anniversary party of the San Pedro Heart Foundation. I am pleased to have the opportunity to honor him on this auspicious occasion.

Dr. Wyman has been a resident of our community for more than 30 years, active in many facets of community life. But his greatest contribution by far has been the gift of his talents as a doctor of internal medicine, and a specialist in cardiovascular disease. Dr. Wyman's achievements in medicine are almost too numerous to count, but I will attempt to delineate his distinguished career in this address that is all too brief to do him justice.

Dr. Wyman is currently the director of the coronary care unit of the San Pedro Peninsula

Hospital, a position he has held since 1966. In addition to that, he is the senior attending physician of the coronary care unit at the University of Southern California in the Los Angeles Medical Center. Since 1986, he has been the chairman of the Cardiac Care Standards for Coronary Care Units of the American Heart Association.

Dr. Wyman is not only a practicing physician, but an academician as well. From 1956-58, he was an assistant professor in preventive medicine and public health at the University of California at Los Angeles. He was also an assistant clinical professor of medicine at the University of Southern California from 1966-70. He was the senior member of the arrhythmia control team at the University of Southern California at the Los Angeles Medical Center from 1962-75, and is currently the senior attending physician of the coronary care unit at the same hospital. He has written extensively on many aspects of cardiology, and has published more than 50 articles on this subject. In addition, he is a reviewer to the editorial office of several medical journals, including Heart and Lung, Clinician, and the American Heart Journal. He has also been a cardiology consultant to the Rand Corp., the U.S. Army, and the Squibb Executive Advisory Council of 1982.

Besides his practice and his work in academia, Dr. Wyman has committed himself to organizations that promote coronary care and the study of cardiovascular disease. He was the project director of the Coronary Care Physician and Nurse Training Program from 1969 to 1972, the chairman of the Coronary Care Committee of the Los Angeles Heart Association from 1968-1971, and the chairman of the section of cardiovascular disease at San Pedro Peninsula Hospital from 1976 to present. As if that were not enough, he is the founder of the Confederation of Conorary Care Unit Directors, and served as head of that organization from 1969-72.

Dr. Wyman is an incredible man; he has sought to promote coronary care as an administrator, in the world of academia and in practice as a physician. Not many people have the talent, the energy or the ability to work for a cause in three different ways. Dr. Wyman is the exception to that rule. The entire community is fortunate to have such a distinguished individual in their midst. My wife, Lee, joins me in extending our warmest congratulations to Dr. Milford Wyman on this special day. We wish Milford, his wife, Rea, his sons, Matthew, Michael, and Mark, and his grandchildren, Sarah and Emma all the best in the years to come.

A TRIBUTE TO GUNTHER STARKER

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. SCHULZE. Mr. Speaker, Charles F. Kettering once wrote "The person who doesn't know something can't be done will often find a way to go ahead and do it." Such is the story of Gunther Starker, a highly skilled Austrian mountaineer and ski instructor from the famed Kitzbuhel Ski School. This extraordinary individual, who has scaled many a Himalayan peak, first came to southeastern Pennsylvania 25 years ago to establish a ski school in an area where mild temperatures and minimal snowfall often inhibit winter sports. Since that first season in 1963, Mr. Starker returned every year to the Spring Mountain ski area in Upper Salford Township to teach downhill skiing.

Mr. Starker has recently announced his decision to retire as director of the ski school which bears his name and return to Austria. Although Mr. Starker will not be instructing the skiers who brave Spring Mountain next year, he will certainly be present in the minds of those whose lives he has influenced. For in the 25 years Mr. Starker taught skiing at Spring Mountain he touched the hearts and souls of those who came under his instruction. Indeed, he and his school have become institutions to those who ski Spring Mountain.

On behalf of those who have had the pleasure of being acquainted with Mr. Starker, I wish to thank him for his many years of instruction and wish him the best of luck in his future endeavors.

SALUTE TO THE SOUTH CHRISTIAN SAILORS 1988 MICHIGAN CLASS B BASKETBALL CHAMPIONS

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. HENRY. Mr. Speaker, on March 26, 1988, in a tense, filled-to-capacity arena, the South Christian High School Sailors of Grand Rapids, MI, in a fiercely fought battle, came from behind in overtime to win the 1988 Michigan Class B High School Basketball Championship. Dedicated to bringing a State basketball championship to the Grand Rapids area for the first time in 15 years, the Sailors played superbly, much to the delight of thousands of fans dressed in white shorts sporting "Go Sailors" logos.

Led by "Coach of the Year" Tom Dykema and Matt Steigenga, winner of the coveted "Mr. Basketball" award, Michigan's top basketball, honor, the Sailors put on an awesome display of teamwork and coordination in winning the championship. Coming on the heels of an overtime win in a semifinal game the day before, the Sailor's played with a determination and a desire to win equal to none, hitting an amazing 64 percent of their shots from the floor. This phenomenal display of teamwork put the cap on a near perfect season and was a dream come true for the players and coaches alike.

Mr. Speaker, each and every member of the team contributed in his own special way to the successes enjoyed over the 1987-88 basketball season. It gives me great pleasure to honor each of the following players, fine coaching staff and team managers: Jeff Baker, Steve Bonnema, Steve Brinks, Brent Dykema, Chris Fridsma, Daryl Kooiker, Greg Mast, Kevin Smith, Matt Steigenga, Craig Tibbee, Jeff VanNoord, Cam Vostad, Chad Vredevoogd, Tim Werkema, and Mark Wiergenga; coach: Tom Dykema; JV coach: Ken Hiskes; managers: Jack Pott, Alan Slotterbeek, and John Stroo.

Winning the championship takes hard work, determination, spirit, and ability, but most important, a cooperative team effort. Playing their hearts out, these young players succeeded in reaching the pinnacle and to quote Coach Dykema, "It doesn't get any better than this."

Mr. Speaker and colleagues, please join with me in expressing heartiest congratulations to Michigan's 1988 Class B High School Basketball Champions—the Sailors of South Christian High School.

GRATITUDE TO THE RESIDENTS FOR A MORE BEAUTIFUL PORT WASHINGTON

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MRAZEK. Mr. Speaker, I rise today to recognize the accomplishments of a group of concerned citizens in Long Island's Third Congressional District.

Five years ago, the Residents for a More Beautiful Port Washington embarked on a unique cooperative venture with the U.S. Postal Service. Their goal was to beautify their post office facility.

To achieve this, more than 2,000 citizens of Port Washington privately raised more than $5,000 for this project. They worked tirelessly, with the cooperation of Postmaster Ted Augustson, to implement this beautification program.

New trees, benches, shrubbery, and wastebaskets were added to the area surrounding the Port Washington Post Office. The result is one of the most attractive post offices in New York State.

I am proud of this accomplishment. The members of Residents for a More Beautiful Port Washington have demonstrated that the qualities of community spirit and volunteerism are still very much alive and well in America today.

The former U.S. Postmaster General, Preston R. Tisch, also recognized this exemplary project. He recently wrote, "I, too, am proud of this accomplishment, and hope that other citizens' organizations will take the kind of pride in their communities as that expressed by the Residents for a More Beautiful Port Washington."

As a gesture of its gratitude, the Postal Service will hold a Community Appreciation Day to honor this outstanding community organization. I would like to add my appreciation and gratitude to the Residents for a More Beautiful Port Washington, and I hope they continue their vital and necessary community work.

COMMEMORATING THE 150TH ANNIVERSARY OF THE TOWN OF ERVING

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. CONTE. Mr. Speaker, last weekend the town of Erving celebrated its 150th anniversary. I want to offer my sincerest congratulations to Erving on the achievement of this milestone. While the festivities commemorating the town's 150 years will continue all year, last weekend this Franklin County community celebrated in a unique way—in a way that tells us a lot about the town of Erving. Aside from dining and dancing together last weekend, the people of Erving lent historic possessions and photographs for a display at the Erving Elementary School, so that their children may learn more about the origins of their town. Later this year, neighbors will open their historic homes to each other to share in the rich history of this tightly knit community.

It is telling that these good folks came together to celebrate. The citizens of Erving pride themselves on their close community of neighbors. Pride and camaraderie are strong bonds which bring them together to share in the history of this hard-working New England mill town. These are truly American people.

Mr. Speaker, in 1752, John Erving first purchased the land that now bears his name. However, the first settler didn't arrive until 1801, when Col. Asaph White, supervising the construction of the 5th Massachusetts Turnpike, settled in Erving. There he built a house, a sawmill, and a dam across Miller's River. The abundance of lumber and water power attracted other settlers. Its numbers still growing, the town of Erving was incorporated in 1838.

In those early days, Erving was a lumber town, with numerous woodworking shops, a chair factory and a piano case factory. The Erving Paper Co. was founded in 1905 and has grown to become one of Franklin County's major employers. This firm is a principal supplier of paper goods to the Nation and the Nation's Government. Paper napkins from Erving bearing the Great Seal of the United States can be found in American embassies around the world.

This hardworking community has also been a responsible one. The town's commitment to its environment began when the Civilian Conservation Corps first beautified Laurel Lake and the surrounding Erving State Forest in the 1930's. More recently, the town and the industries of Erving have launched a program to clean up the river that has allowed its paper industry to flourish. The town Selectmen, the industries and the Federal Government combined forces to return Miller's River to a clean and natural state so that it could be used for recreation and the enjoyment of all.

I remember the honor of participating in the celebrations marking the opening of the wastewater treatment plant in 1975. This ambitious town wasn't content with resting on its laurels. The same celebration marked the ground-breaking of yet another sewage treatment plant. Just 2 years later, I was back for the opening of that plant, which today refines 30 million gallons of waste water a day from the Erving Paper Mill as well as domestic sewage from the town of Erving.

Since that time Erving has been able to add to these facilities in order to continue the fight against pollution. I proudly salute this town which has committed itself to maintaining a clean, healthy environment, and hold it up to you today as a model for others to follow.

While a look at Erving's past shows a strong history of community spirit, I urge you to visit the town today. It is a real pleasure. The present citizens of Erving are as strong, hard-working, and community-minded as their forebearers, with the same commitment to maintaining the beauty and friendliness of their beloved town.

Mr. Speaker, the celebration planned for this 150th anniversary is yet another example of the commitment felt by the residents of Erving to their community. Without a doubt, the people of Erving have banded together to create a sense of community not found in most areas. The people of Erving have good reason to be proud of their town, and I am pleased to pay tribute to Erving on the occasion of this auspicious 150th anniversary.

JOHN L. DeSMET RECEIVES GEICO PUBLIC SERVICE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. MONTGOMERY. Mr. Speaker, each year since 1980, the Government Employees Insurance Co. [GEICO] has recognized Federal employees for their outstanding contributions to and special achievements in the Federal system. Award recipients represent the very best in Government. GEICO Public Service Award recipients are selected based upon their contribution to the public good and the extent to which they serve as an inspiration to others, thereby bringing credit to the Federal service.

Five times since the award's inception, employees of the Veterans' Administration have been recognized for their particular contributions to that fine system and to our Nation's veterans whom it serves.

This year, on March 14, the GEICO Public Service Award in the field of alcoholism prevention and treatment was given to Mr. John L. DeSmet, chief of the Alcohol and Dependency Treatment Program at the Veterans' Administration Medical Center in Roseburg, OR. Mr. DeSmet was recognized for his contribution both professionally at the VA hospital where he has served since 1975, as well as in the community at large. He has organized VA alcohol and drug treatment programs in his medical district into an informal network to better enable them to respond to patient needs. He has also served on many community boards and task forces oriented toward the problems of alcoholism and drug abuse. And he devotes much of his free time to provide alcohol education in schools and other community settings.

Mr. Speaker, alcoholism touches the lives of some 17 million Americans. The tragedy of this disease cannot be overstated. Therefore, the contributions of John DeSmet and others like him who have devoted their lives to assisting individuals afflicted with alcoholism to help them overcome that burden are most significant.

Mr. Speaker, John DeSmet typifies the outstanding commitment, dedication and skill reflected in the performance of so many Veterans' Administration employees. Their dedication to serving that very special clientele, our Nation's veterans, is an occasion of pride to me personally as chairman of the Veterans' Affairs Committee, and should be for all Americans as well.

THE 90TH ANNIVERSARY OF THE TUNA CLUB

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GALLEGLY. Mr. Speaker, on the occasion of the 90th anniversary of the Tuna Club of Avalon, Santa Catalina Island, CA, I extend my sincere congratulations to the oldest fishing club in the United States.

The Tuna Club board of directors, President B.G. Williams, Vice President Jim Martin, Secretary Harry Westover, Treasurer Albert Herbold, and Director David Denholm, lead a current membership of over 200 honorary, senior, active, and associate members.

The Tuna Club was organized June 15, 1898, by "the little band of six," under the leadership of Dr. Charles Fredrick Holder. Dr. Holder, rightfully called the "father of the Tuna Club," had heard of a wonderful game fish, then called "leaping tuna," that surrounded Santa Catalina Island. He used his experience with salmon to work out tackle that would be of sufficient strength to cope with the mighty fish. It was his desire to give the quarry a better than even chance of survival, matching human skills against the instinct and strength of the fish. On June 1, 1898, Dr. Holder successfully landed a 183-pound tuna with rod and reel, the first such catch on record.

The charter members decided "the object of this club is the protection of game fishes of the State of California and to discourage hand line fishing as unsportsmanlike and against the public interest."

Little has changed in the goals of the Tuna Club in the ensuing 90 years. Current Tuna Club angling and tournament rules state "the underlying spirit of angling should be that it is a sport in which the skill of the angler is pitted against instinct and strength of the fish," to that end, it is common for Tuna Club members to fish for and catch tuna and marlin with line testing 12, 20, or 30 pounds. These fish can weigh in exces of 250 pounds. In addition to fishing with light tackle, Tuna Club members in the interest of conservation, consistently catch and release more game fish annually than they take.

Salt water fishing today is recognized as a multi-million dollar industry. Tackle and fishing gear as well as boats, electronics, travel, and resorts benefit from the thousands of sport fishermen that pursue the sport. In no small part, the Tuna Club of Avalon, with its humble beginning in 1898, has contributed much to the sport.

A TIME FOR ACTION ON CYPRUS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. PORTER. Mr. Speaker, on a number of occasions during the last 14 years, the United States Congress has expressed its frustration over the continuing crisis in Cyprus. Today, despite our efforts and the efforts of the world community generally, Cyprus and its people remain artificially divided. Every day that passes increases the possibility that Cyprus will never celebrate the reunification of its people, the removal of the Turkish occupation force, and the restoration of its sovereignty.

Unlike in times past when I have rose in support of the cause in Cyprus, I am happy to say that there are some positive developments to report. On January 31, 1988, Prime Minister Andreas Papandreou of Greece and Prime Minister Turgut Ozal of Turkey held a historic meeting in Davos, Switzerland, signaling the start of a strengthening of relations between those two important United States allies. While the Cyprus issue was not addressed in a substantive way, the Davos meeting improved the atmosphere for the resolution of the Cyprus problem. Chances for peace were also advanced by the election of George Vassiliou. His eagerness to bring an end to his nation's nightmare should encourage Turkey to take the initiatives necessary to resolve this crisis.

Clearly, the presence of over 30,000 Turkish troops and thousands of Turkish settlers on Cyprus remains a roadblock to a settlement of the Cyprus dispute. Nevertheless, any settlement must include the protection of Turkish Cypriots if there is to be any hope for the resolution of the Cyprus problem.

It is for this reason that I encourage Members of this body to express their strong support for President Vassiliou's efforts to initiate a program that will culminate in the total demilitarization of the Republic of Cyprus. This program envisions Turkey withdrawing all of its occupation force and the removal of Turkish settlers now living in the occupied area.

In return, the Republic of Cyprus would take the unprecedented step of dissolving its own defense system and the Cyprus National Guard. Further, the plan would include the withdrawal of all troops provided under the 1960 Treaty of Alliance—Greek and Turkish contingents. Once the program was implemented, the only forces remaining in the Republic of Cyprus would be an international peace force under the auspices of the United Nations and a small joint Greek-Turkish Cypriot police force, also under United Nations supervision.

This demilitarization program is advantageous to all parties concerned with the Cyprus issue. First, the program would eliminate the only issue preventing the two Cypriot communities from resolving their outstanding differences. Peace on Cyprus would in turn encourage the continuation of the Davos initiative, culminating in the resumption of true peaceful relations between Greece and Turkey. Finally, the restoration of the sovereignty of Cyprus and the bringing together of Greece and Turkey will immeasurably strengthen the southeastern flank of NATO that is so critically important to our security and the security of the entire free world.

This demilitarization initiative is not a new one. United Nations General Assembly Resolutions 34/30 and 37/253, the 1979 agreement between former President Kyprianou and Mr. Denktash, and the American-British-Canadian plan of 1978 all envision the total demilitarization of the Republic of Cyprus. As defenders of freedom and the sovereignty of nations around the world, the Congress should support and encourage this program as the greatest opportunity available to restore peace to the troubled nation of Cyprus.

THE SOCIAL SECURITY RETIREMENT EARNINGS TEST: A PENALTY SENIORS SHOULD NO LONGER BEAR

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. ROTH. Mr. Speaker, it is time to repeal the Social Security retirement test. We have placed an unfair burden on the middle income retiree between ages 65 and 69 who is hit the hardest by the 50 percent tax on Social Security benefits when he or she earns over $8,160 per year. This reduction is especially onerous because any retiree can earn ulimited income from investments upon which no similar ceiling is placed. It is time to stop penalizing the middle-income retiree.

Today, I am introducing legislation to repeal the earnings test in its entirety.

For those aged 65 to 69, earnings of over $8,160 per year mandate reduction of Social Security retirement benefits by $1 for every $2 earned above the limit. This reduction will become $1 for every $3 earned over the limit in 1990.

In the latest year for which statistics are available, the nationwide average Social Security benefit to a retired worker was $491 per month. Accepting that this average benefit is given a middle-income retiree, and not taking into account any pension that person may receive, it is easy to see why a retiree aged 65 to 69—years in which older Americans enjoy increasing vigor—would prefer to work to maximize earnings while he or she has the energy to do so, and is still closely associated with the workplace.

Social Security Administration studies show that most retired beneficiaries continue to work in the same occupations in which they worked prior to reaching retirement age. This means that the majority of retirees who continue to work do not suddenly switch to labor at minimum wage occupations after having been in a skilled employment category. While it is true that most opt for more leisure time upon reaching retirement age, those who can, or perhaps who need to continue working part time in their former occupation at their former wage should not be encouraged by the earnings limitation to accept a lower paying job simply to remain within the income limits. The earnings limitation is a disincentive to work for those who wish to work. Discouraging productivity is not sound public policy under any circumstances.

The affluent retiree can afford to forgo benefits. The middle income retiree cannot. At a time when we are increasingly concerned with the standard of living for older Americans and the long term prospects for an aging population, it is counterproductive to penalize persons of retirement age for working. Our current system allows bank presidents or highly paid professionals to continue in remunerative occupations because they can afford to experience significant reductions in their Social Security benefits. Those who need additional earnings, be they carpenters, secretaries, or mid-level managers, face the spectre of loss of Social earnings.

Allowed to continue to work without penalty, these same people will be paying income and Social Security taxes on earnings over $8,160 per year. They will continue to contribute to their communities and to the Social Security trust fund. Immediate costs of repeal of the earnings limit to the trust fund is estimated at approximately $11 billion during the first year. This bill be in part recouped by increased payroll and income taxes, reductions on Medicare payments and SSA administrative expenses. But, there will be significant costs over and above any recoupments.

Budget considerations may make a repeal at this stage untimely; fairness and common sense, however, dictate repeal of the earnings limit as a major step toward a fundamental policy of freeing lower and middle income retirees from rules dictated by outdated demographics which encouraged the old worker to make room for the new. Today, there are approximately three workers every Social Security beneficiary. That ratio will decrease to 2 to 1 within the next 50 years. When the Social Security program was created, there were 50 workers for every beneficiary. We must face reality, and change the face of the earnings test.

My legislation is in step with demographic realities, sound public policy and a logical assessment of the pressures that will be faced by retired indivduals and those paying into the Social Security system in the future. A shrinking pre-retirement workforce and growing number of beneficiaries demands that we place the Social Security system in a posture of readiness for the future. We must not adhere to policies dictated by 1935 demographics in 1988 and beyond.

Repeal of the earnings test must come. The question is whether we will take this necessary step now, or wait until the needs of retirees and the exigencies attending Social Security finance force us to do so at a time when the costs of repeal will fall much harder on the Social Security trust fund.

NATIONAL BARRIER AWARENESS WEEK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. McDADE. Mr. Speaker, I would like to share with my colleagues some very important information about National Barrier Awareness Week, which is being observed this year in the city of Scranton and throughout Lackawanna County from May 1 through May 7.

The goal of this observance is to make nondisabled persons aware of the many barriers that people with disabilities face every day of their lives. These include architectural, attitudinal, and communication barriers.

As a cosponsor of past congressional legislation declaring "National Barrier Awareness Day," I am pleased that the overwhelming success of last year's 1-day observance prompted the extension of this year's activities to an entire week.

National Barrier Awareness Week will include: Educational programs for public and private school students; encouragement of churches and synagogues to bring attention to barrier awareness; special exhibits, including a wheelchair obstacles course, displays of special equipment for the disabled, and information booths for the general public.

Mr. Speaker, the ultimate objective of barrier awareness programs throughout the country is to achieve a barrier-free environment so that the quality of life for people with disabilities will be equal to that of people without disabilities.

I commend the city of Scranton and the county of Lackawanna for their efforts in promoting this important observance, and urge my colleagues to support National Barrier Awareness Week in their communities.

RECOGNITION OF THE CALIFORNIA SMALL BUSINESS OF THE YEAR

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. LEHMAN of California. Mr. Speaker, today I rise to recognize the vision, commitment and achievement of two very special and dedicated business people. From what started in 1979 as a great idea, with little more than ambition, enthusiasm and knowledge of home health care, Kathy Jensen and Angela Franklin have transformed their idea of affordable, reliable home nursing care into a business so dynamic that it has recently been named California's Outstanding Small Business of the Year for 1988.

Nearly 10 years ago a social worker and a nurse quit their jobs managing a home health care service to strike out on their own. While times were hard at first, relying heavily on convalescent homes seeking relief staff, they have been able to turn their business into an important part of the communities in which they are located. Professional Reliable Nursing Service now employs over 650 full- and part-time people year round who provide home nursing care in five counties; three of which, Calaveras, San Joaquin, and Tuolumne, are in the 18th Congressional District of California.

In addition to providing a much needed basic service the agency has been a leader in pioneering new ideas and approaches to home nursing care. PRN was the first agency in California to provide in-home care to respirator dependent patients who otherwise would have remained in an acute care hospital indefinitely. This effort led directly to a change in the state's medical regulations regarding Medi-Cal benefits for these patients.

PRN also broke new ground with the development of the congregate residential living arrangement for three people who had been hospitalized, but had no home to return to. This agreement with the State allowed PRN to pool the resources of the individuals to meet the rent and utility requirements and contract with the State to provide in-home health care. This arrangement still endures today, several years later.

Patient/clients can also benefit from far more than the expert nursing care provided by PRN. Live-in helpers, housekeeping and handyman services are among the innovative services that have helped to distinguish this home nursing agency from traditional home care firms.

In today's corporate America, where importance is measured in number of overseas offices and percentage of market share, it is important to remember the role that small businesses play in the American economy. Small business employs nearly 50 percent of the work force and contributes up to 40 percent of the national output. In short, the small business concept embodies the ideals that made the American Dream a reality; for Kathy Jensen and Angela Franklin, Professional Reliable Nursing Service's selection as the California Small Business of the Year certainly marks a milestone in their American Dream.

I believe that Kathy and Angela have earned this honor through hard work and dedication. I congratulate them on their fruitful efforts and encourage them to continue to be a model and testament for other small businesses striving for success.

ANN E. CASEY FOUNDATION SALUTED

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DAUB. Mr. Speaker, I want to take a moment to recognize the Ann E. Casey Foundation, which assists cities and States to promote positive changes in child welfare programs and reform of the juvenile justice system.

The founder of UPS, Mr. Jim Casey, named the foundation in honor of his mother, Ann E. Casey. His support of the foundation has helped children in all kinds of situations, and contributions to aid children like the work of this foundation deserve our heartiest thanks and support.

Children face a myriad of problems, and the Federal Government should take note of these programs in order to learn what programs work well for troubled children.

My home State of Nebraska is a finalist for the State grant program, and I want to extend my heartiest congratulations to them for their efforts.

Again, I want to remember Mr. Casey for all his efforts and I urge my colleagues to take note of this extraordinary foundation.

RECOGNIZING TUFTONIA'S DAY, APRIL 19, 1988

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. DEFAZIO. Mr. Speaker, I rise to join and recognize the thousands of my fellow Tufts University alumni throughout the world who today turn their thoughts to alma mater as they celebrate the fourth annual "Tuftonia's Day."

Tuftonia's Day is a university holiday of reminiscence and revelry observed every year on April 19. It is a special day on which the more than 60,000 alumni of this great international institution, located in Medford, MA, celebrate and remember Tufts. It is an occasion each year for Tuftonian's to come together, actually and spiritually, to toast their university.

Tufts University was founded in 1852 and currently enrolls approximately 7,200 students from 48 States and 75 foreign countries. The main campus in Medford, MA, houses the College of Liberal Arts, the College of Engineering, Jackson College, the Boston School of Occupational Therapy, the College of Special Studies, the School of Nutrition and the Fletcher School of Law and Diplomacy. The Boston Campus contains the Schools of Medicine and Dentistry, while the School of Veterinary Medicine, the only one in New England, is located in Grafton, MA.

Tuftonia's Day derives its name from the title of the venerable Tufts football fight song written by E.W. Hayes, class of 1916. Official proclamations recognizing Tuftonia's Day have been issued by the Governor of Massachusetts and the mayors of Boston, Medford, and Sommerville, MA.

The holiday is celebrated in diverse and creative ways. In addition to a formal ceremony on campus, there are local and international observances ranging from small gatherings in restaurants to champagne receptions in museums, art galleries and private homes; from a group trolley ride to a ride on a jumbo elephant in India. This Friday, in New York's Times Square, the famed electronic billboard will flash belated Tuftonia's Day greetings at periodic intervals throughout the day.

Tufts alumni from Hartford to Hong Kong and from San Diego are coming together today to think Tufts, thank Tufts, and toast Tufts. I take this opportunity to recognize Tuftonia's Day and join my fellow alumni in saluting the rich history, great accomplishments and continuing excellence of Tufts University. To Tufts students, faculty, administration, and alumni, happy Tuftonia's Day.

LT. THOMAS EDWARD DOYLE

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. HERGER. Mr. Speaker, recently, a constituent of mine, 1st Lt. Thomas Edward Doyle, died following the crash of his F-16 jet fighter in Forst, West Germany. According to eyewitnesses, Lieutenant Doyle remained in his plane as it went down in an effort to direct it away from the center of the town and toward a remote area on the outskirts of the town, saving an untold number of citizens as a result.

Lieutenant Doyle had distinguished himself as a young man of remarkable talent and good will in his community, and was a source of great pride to his family and friends. As a teenager, he was active in his church, the Civil Air Patrol, and a number of other local organizations. In the eighth grade he set his sights on an Air Force career, and pursued a rigorous academic course of study at Las Plumas High School, focusing on math and science. Appointed to the Air Force Academy, he attended pilot training at Sheppard Air Force Base in Wichita, TX, where he received the Academic Excellence Award for maintaining a 98.6-percent grade average. At the age of 24, he was already a licensed glider pilot, a licensed fixed wing pilot, and a certified flight instructor. His future was as bright as anyone his age could possibly have hoped for.

This nation is fortunate to be served by young men and women of Lieutenant Doyle's caliber, and while this is certainly a time of great sorrow for all who knew him, we can all draw strength from Lieutenant Doyle's memory and remember him for his courage and determination to succeed. It is my hope that his actions will be recognized by the Air Force, and that he will be appropriately honored. His outstanding accomplishments and his unwavering commitment to his family, community, and country provides an example for us all.

TRIBUTE TO VISTA VOLUNTEERS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. GREEN. Mr. Speaker, I rise today to pay tribute to a community service organization working actively in my district as well as nationally. On Tuesday, April 26, 1988, Volunteers In Service to America, VISTA, will hold a VISTA volunteer recognition event at the Lenox Hill Neighborhood Association honoring the VISTA volunteers serving in the New York metropolitan area. At the Lenox Hill Neighborhood Association, as well as the other VISTA projects in New York City, VISTA staffers provide the community with a variety of programs and social services.

Recently, VISTA has opened an Open Congregation Resource Center/International Center for the Disabled on East 24th Street. Its mission is to help congregations in the metropolitan area become more aware of and responsive to the needs of the disabled. In other parts of New York, and the country, VISTA runs many other programs that include drug abuse counseling, family planning, job training, and literacy tutoring.

All the VISTA interns are private citizens who volunteer to help the Nation's poverty problem. They live and work full time in the low-income communities they serve, thus adding a full-time presence and personal involvement to VISTA's battle against poverty.

I ask all of my colleagues to join with me in paying recognition to this fine organization for all of its many community services.

FATHER SYLVESTER J. MULLOY HONORED

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. HYDE. Mr. Speaker, it gives me great pleasure today to honor a man who has given so much of himself to others during his five decades of service to the Roman Catholic Church and its faithful people.

Father Sylvester J. Mulloy will celebrate the 50th anniversary of his ordination on April 23. What a proud moment it is for him and the people of St. Joseph Church in Addison, IL—a church which he has served for almost 32 years.

Born in Milwaukee, WI, Father Mulloy was ordained April 23, 1938, following his studies at Mundelein Seminary. His first pastoral assignment was at St. Justin Church in Chicago. During World War II, Father Mulloy distinguished himself as a chaplain in the U.S. Navy with assignments in the South Pacific. He was honorably discharged from the Navy in 1946, having attained the rank of lieutenant.

During the decade following the completion of his military duty, Father Mulloy returned to Illinois and served in a pastoral role at St. Petronille Church in Glen Ellyn, at Sacred Heart Church in Kinsman, at St. Issac Jogues Church in Hinsdale and at St. Margaret Church in Herscher.

Today, I ask my colleagues to join with me in congratulating Father Mulloy for 50 years of service to the people of his church and the Nation.

CONGRATULATIONS TO MAJ. GEN. PETER T. KEMPF

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BILBRAY. Mr. Speaker, I want to bring to the Member's attention the recent announcement by President Reagan to promote Maj. Gen. Peter T. Kempf to lieutenant general and select him to command the 12th Air Force and U.S. Southern Command Air Forces at Bergstrom Air Force Base in Texas.

General Kempf has been commander of the U.S. Air Force Tactical Fighter Weapons Center at Nellis Air Force Base in southern Nevada since September 1985.

Born in Elizabeth, NJ, he graduated from Whittier Union High School and attended Whittier College in California for 2 years before entering the Air Force as an aviation cadet.

Earning his commission in 1958, General Kempf continued his education by completing a bachelor of arts degree in geography from the University of Nebraska in 1965, and graduated from the Armed Forces Staff College in 1971. He completed the National War College curriculum in 1976.

His 31-year Air Force career has included four overseas tours of duty: two in Japan and two in Southeast Asia. He is a command pilot and navigator, with more than 6,000 flying hours.

During his service in the Air Force, General Kempf assignments have led him to command the 58th Tactical Training Wing at Luke AFB, AZ; the 4th Tactical Fighter Wing at Seymour-Johnson AFB, NC; the 388th Tactical Fighter Wing at Hill AFB, VT; and the 833d Air Division at Holloman AFB, NM, prior to assuming command at Nellis.

He also has served as a military assistant in the office of the Secretary and Deputy Secretary of Defense in our Nation's Capital.

Mr. Speaker, those of us from southern Nevada would like to thank General Kempf for his service at Nellis and wish him the very best in his new assignment.

SMALL BUSINESS RURAL ECONOMIC DEVELOPMENT ACT OF 1988

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. HATCHER. Mr. Speaker, today I am introducing the Small Business Rural Economic Development Act of 1988. This bill would amend the existing Small Business Administration [SBA] 504 loan program. The present 504 program is a successful public/private partnership that has helped promote expansion and job creation in America, and I believe this legislation will help improve and expand this economic development tool throughout our rural areas.

The SBA 503/504 lending program provides for long-term, fixed asset financing to small and medium size businesses. Since its inception, the program has issued more than $800 million in debentures, which in turn has leveraged in excess of $1 billion in private capital to create over 100,000 jobs nationwide. The default rate for the program is less than 3 percent.

The Small Business Subcommittee on Energy and Agriculture, which I chair, held a hearing on October 22, 1987, in order to discuss means in which to aid the economic woes of rural America. Throughout this hearing, a common thread in all the testimony was the need of startup capital in our rural areas. This bill would make the SBA 504 lending program more accessible to rural America.

I am hopeful that my colleagues, seeing the need for economic development in our rural areas, will support this bill.

KILDEE HONORS EARL L. HENRY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in honoring a retiring labor leader from my hometown of Flint, MI. Earl L. Henry is retiring from the General Motors Truck and Bus Plant after 35 years of distinguished service to the hardworking members of UAW Local 598. The membership of UAW Local 598 is honoring Earl Henry by bestowing upon him the Walter P. Reuther Distinguished Service Award on April 24, 1988. It is an award he richly deserves.

Earl L. Henry has truly been a dedicated union activist working diligently for the rank and file he has represented in a number of key positions within the union. Earl has served as president of Local 598 for 3 years, vice president of Local 598 for 3 years, chairman of the shop committee for 4 years, shop committee representative for 7 years, district committee representative for 5 years, and he has served on local union standing committees for several years. Earl has also served as a delegate to the Community Action Program Council and has been chairman of subcouncils 4 and 7A.

Earl L. Henry has also been a dedicated community volunteer, bringing the same commitment to a number of worthy community organizations. He has served as president of the Rankin Park Committee, president of the Ainsworth Elementary Saturday Basketball League, on the Rankin School Boy Scout Committee, president of the Ainsworth High School Cross County Boosters, as a volunteer for the Genesee County Food Bank, on the Michigan Sesquicentennial Committee, on the Carman Ainsworth Community Action Committee, and as a member of the area 13 Michigan Special Olympics Advisory Board.

Earl is also an active member of the Democratic Party as a precinct delegate, a member of the National Association for the Advancement of Colored People, and as an advisor to the Labor Museum of Greater Flint.

Mr. Speaker, it is indeed a great honor and pleasure for me to recognize Earl L. Henry for his tireless efforts on behalf of the labor movement as well as his commitment to his community. Although Earl is retiring after many years of hard work, I have a distinct notion that he will continue to involve himself and leave his mark on the many good causes which make Flint such a great place to live and raise families. Earl has served as an inspiration within organized labor in our community for more than 30 years. His dedication to the labor movement and spirit of solidarity has been a personal inspiration to me during those many times I have sought his counsel. I know the entire U.S. House of Representatives joins me in wishing him continued success in his retirement.

NATIONAL LITERACY DAY 1988

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. FLORIO. Mr. Speaker, I am pleased to introduce today, for the third year in a row, a resolution to designate July 2, 1988 as National Literacy Day. I hope to continue calling attention to the large numbers of Americans that cannot function in our society because they are illiterate.

Mr. Speaker, studies indicate that 27 million Americans cannot read a newspaper, cannot fill out a job application, cannot maintain a checkbook or understand the warning label on a bottle of medicine. In short, our Nation has 27 million people that form a class of functional illiterates that are uneducated, untrainable, and economically dependent. And these numbers are growing every year. The Department of Education estimates that, every year, 2.3 million more illiterates, including high school dropouts, unlettered pass-along graduates and immigrants, are added to our society.

We are paying a high price in our Nation for this unfortunate deficiency. As chairman of the House Subcommittee on Commerce, Consumer Protection, and Competitiveness, I am concerned that our Nation's competitiveness is being eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate. There is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money that is allocated to child welfare costs and unemployment compensation.

Social and economic discrimination problems are propounded because illiteracy is highest among blacks and Hispanics. The high percentage of illiterate juveniles in criminal court indicate that illiteracy fosters crime. Of concern to our Nation's strength is the fact that illiteracy directly impacts our military capability. Millions of dollars of damage is still done to expensive equipment because many men and women in the service are unable to read and comprehend even the simplified manuals.

The total costs related to our Nation's literacy are estimated to exceed $225 billion annually. Chronic unemployment is a further problem that illiterate individuals in our Nation need to deal with. Up to 75 percent of the unemployed lack the basic skills to get a job or be trained for a job.

Disturbingly, Federal funding for literacy programs has not been sufficient to address a problem reaching mass proportions. Federal, State, municipal, and private literacy programs have only been able to reach 5 percent of the total illiterate population. The annual amount of money spent by our Federal Government for this problem amounts to $17 per person for a total of $352 million. The Department of Education estimates that only 2 million people are reached annually by these programs.

The total cost of illiteracy to our Nation cannot be measured accurately. However, our Nation is paying dearly in lost productivity and human misery. We hear of sad stories of people suffering tragedies because they could not read: the industrial worker killed because he could not read a warning sign; the mother who gave her sick child pink detergent instead of stomach medicine because she could not decipher medicine labels; the mother who thought she was signing a routine field trip permission slip for her daughter only to discover that she had relegated her daughter to a home for the retarded.

It is for these reasons that we call attention to the problem of illiteracy in our Nation by designating July 2, 1988 as National Literacy Day.

I urge the support of my colleagues in this worthwhile effort.

NATIONAL VOLUNTEER WEEK

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. APPLEGATE. Mr. Speaker, I would like to invite my colleagues to join me in National Volunteer Week and honor the dedicated volunteers of the Jefferson County Retired Senior Volunteer Program in Steubenville, OH. It is with their continued support that the program continues to serve the community in such a needed capacity.

Since 1973, when the Jefferson County RSVP received their first ACTION grant, the program has become a vital and viable part of the community. The volunteers, all over 60 years of age and retired, serve in area hospitals, nursing homes, nutrition sites, senior centers, mental health and mental retardation centers, governmental units and many other nonprofit agencies such as Red Cross and the Salvation Army. Over 80 nonprofit, governmental and proprietory health care facilities in Jefferson County are served by RSVP volunteers.

With over 600 volunteers, the program contributed 68,643.5 hours of service last year. In dollars, $229,955.73 of services was generated from an ACTION grant in the amount of $32,200. This represents $7 worth of services for every Federal dollar received.

Mr. Speaker, it is with great pride and pleasure that I honor these committee volunteers during National Volunteer Week. The dedication these people show in helping to better their community is what National Volunteer Week is all about and why we honor the people who daily volunteer their services.

TRIBUTE TO CHARLIE HARVILLE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. COBLE. Mr. Speaker, on April 27, 1988, a television legend in my district will celebrate 50 years in broadcasting. I want to congratulate Mr. Charlie Harville for reaching this historic milestone. Charlie is the executive sports director emeritus of WFMY-TV in Greensboro, NC. During his half century of outstanding community service, Charlie Harville has become known and loved by everyone in North Carolina.

Charlie, a native of High Point, received his broadcasting start at a local radio station in his hometown. After serving his country in the Air Force, Charlie resumed his radio career. After stops in Martinsville, VA, Goldsboro, NC, and LaSalle, IL, Charlie moved to Greensboro, NC, to enter the exciting new world of television. Charlie and television grew up together in North Carolina. He was sports director of WFMY-TV from 1949 to 1963. He moved back to his hometown of High Point to be sports director of WGHP-TV from 1963 to 1977. In 1977, Charlie returned to WFMY-TV to become sports director again until his retirement from full-time duties in 1986. Since that time, he has worked for the station on a part-time basis.

Charlie has been much more than a sports reporter. He has been a supporter and active participant in numerous civic and community events. Charlie has worked for many charitable causes during his illustrious career. He was a founding father and the first president of the North Carolina Association of Sports Broadcasters. He did not limit his sights to just the world of television. He is the author of a respected book on the sports history of our State. Charlie is equally well known for his support of amateur athletics.

Ask anyone in North Carolina about Charlie Harville and they will tell you two things—he was the best at his job and they considered him a friend. For 50 years, via radio and television, the people of North Carolina and beyond considered Charlie Harville to be a friend who kept them informed on the world of sports. Charlie was there with a smiling face and cheerful voice to report who won and who lost. For 50 years, we have been the real winners because it was Charlie Harville who kept us informed about our favorite teams and players.

We miss seeing Charlie on TV every night, but we are grateful for his many years of outstanding sports reporting. We hope he has many years of healthy, happy, and fulfilling retirement. But as long as there is a game or race nearby, we know Charlie Harville will be there. It has been our pleasure to know that for the past 50 years, Charlie Harville was there. Charlie's signature closing was: "And that's the best in sports today." For 50 years he has proven that Charlie Harville was and is the best in sports today. Congratulations, Charlie.

INTRODUCTION OF A BILL TO EXTEND TITLES V AND VI OF THE LIBRARY SERVICES AND CONSTRUCTION ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. WILLIAMS. Mr. Speaker, today I am joined by a bipartisan group of my colleagues in introducing legislation to extend the authorization of titles V and VI of the Library Services and Construction Act through fiscal year 1989.

Title V of the Library Services and Construction Act authorizes discretionary grants for the acquisition of foreign language materials directly to state and local public libraries.

Title VI of the Library Services and Construction Act authorizes discretionary grants for library literacy programs.

A one year extension of these programs will bring titles V and VI in line with the reauthorization cycle of the remaining titles of the Library Services and Construction Act.

I urge my colleagues to join me in supporting this legislation.

NATIONAL BARRIER AWARENESS DAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mrs. BOXER. Mr. Speaker, my fellow colleagues, I want to take this opportunity to tell you about a very special event taking place in Larkspur, Marin County on Saturday May 7 in observance of National Barrier Awareness Day. On this day the disabled and nondisabled of my district will come together to share information and experiences in a uniquely informative setting.

At this gathering the disabled members of the community will be educating the nondisabled members about the social, cultural, physical and architectural barriers that exist between these two groups by means of exhibits, entertainment and joint participation in games. At the end of the day, all will have a better understanding of each other's concerns and, hopefully, will have succeeded in breaking down a barrier or two. Certainly, the participants will be the richer for having made the attempt.

Saturday May 7, 1988 is National Barrier Awareness Day—a day of sharing between the disabled and the nondisabled members of all our communities. I hope you will join me in commending the citizens of Marin County for their hard work and care in making their observance of National Barrier Awareness Day a meaningful one. We can all benefit by pausing to focus on the social, cultural, physical, and architectual barriers which exists for the disabled and by participating in the process of breaking down these barriers.

WAR POWERS AND THE PERSIAN GULF

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1988

Mr. BROOMFIELD. Mr. Speaker, April 18 was a dramatic day in the Persian Gulf, with United States forces responding to numerous attacks by Iranian naval forces. The U.S. actions continue to be taken in self-defense while in the course of securing the freedom of navigation in the gulf. Furthermore, the United States response to Iranian military actions are consistently been measured and proportionate.

The U.S. actions are justified under international law. They are also consistent with U.S. law, since—as the President has repeatedly indicated—they are undertaken under his authority as Commander-in-Chief. While there are undeniably hostilities occurring in the region, this does not mean that the War Powers Resolution should be applied.

The War Powers Resolution primarily attempts to address situations in which U.S. forces are placed into "hostilities or situations in which imminent involvement in hostilities is clearly indicated by the circumstances." But under the Constitution, the President has the right to order military operations to protect U.S. interests in the absence of a situation that requires a declaration of war by Congress.

The situation in the Persian Gulf, while threatening, does not require congressional action at this time. While there have been "hostilities" in the commonsense meaning of the term, U.S. forces have at all times undertaken only limited defensive and retaliatory actions in support of the internationally recognized right of freedom of navigation in the gulf.

It is reassuring to see that the congressional reaction to the recent U.S. military actions in the gulf has been overwhelming positive. Few calls have been heard as yet for invocation of the War Powers Resolution. The administration is to be praised, not only for its steadfast policy in the gulf, but for the timely and full consultations with congressional leaders on planned military activities in response to the latest examples of Iranian aggression.

The Constitution is working fine with respect to the situation in the gulf. The President is carefully conducting his responsibilities as Commander-in-Chief, and Congress is receiving the information it needs to discharge its legislative functions. This state of affairs is infinitely preferable to dispute over the War Powers Resolution. Such disagreement would only create division at home, communicate a signal of uncertainty abroad, and lower the morale of U.S. forces in the gulf.

Mr. Speaker, like many members, I initially had doubts about the wisdom of protecting the reflagged Kuwaiti tankers in the Persian Gulf. I have been considerably reassured by the cautious approach of the administration in pursuing this operation in support of maritime freedom, and by the success of the administration's policy in uniting our friends and allies abroad in support of gulf security. It must continue to be recognized, however, that the situation in the gulf will remain volatile for the foreseeable future.

I commend to my colleagues an editorial which appeared in the Wall Street Journal on April 19 with respect to the War Powers Resolution and the situation in the Persian Gulf:

[From the Wall Street Journal, Apr. 19, 1988]

THE UNMENTIONED ACT

President Reagan Sunday night again ordered military action in the Persian Gulf without invoking the War Powers Resolution. The congressional leaders he briefed before the attack made hardly a murmur. Senate Majority Leader Robert C. Byrd, much to his credit, said yesterday he supported the President's decision.

It is to his credit because fellow congressional Democrats had attempted to make a major issue of Mr. Reagan's noncompliance when the U.S. Navy first engaged the Iranians last October. Indeed, a group of 110 congresspersons went to court asking that judges force the President to obey the resolution, an effort that obviously hasn't made much of an impression on the President.

To be sure, there were hints yesterday that the war powers fight had not been forgotten. Also at the Sunday briefing was House Majority Leader Thomas Foley and he later took some pains to point out that the Monday morning raid on two Iranian sea platforms was a "single action, to be a response and a deterrent to further action."

In other words, it was designed to deter hostilities, rather than engage in them. This sounded like a subtle explanation of why Congressman Foley had not made an issue of the President's failure to invoke the resolution. It also could be read as a tacit admission that the provisions of the resolution, even if they were constitutional, are not practical.

A President bound by the resolution could not act with the decisiveness that Mr. Reagan demonstrated Sunday night. Indecisiveness in a Commander in Chief with responsibilities for troops in a war zone is an open invitation for would-be aggressors to try their luck. Mr. Reagan's strike at Iranian platforms last October in retaliation for an Iranian missile attack on a U.S.-flagged Kuwaiti tanker cooled Iran's ardor for sea action for some months and it only has been recently that the ayatollah has decided to have another go.

The War Powers Resolution of 1973 implied a superior congressional wisdom, something that was not especially evident when that body overwhelmingly supported President Johnson's deployments in Vietnam with the Gulf of Tonkin Resolution. It says that the President must report to Congress within 48 hours after U.S. forces are deployed in hostilities or situations where "imminent involvement in hostilities is clearly indicated by the circumstances." If Congress does not authorize the deployment within 90 days, they must be withdrawn.

For one thing, this amounts to a congressional veto, which the Supreme Court says is unconstitutional. More to the point, it limits the necessary and constitutional powers of the Commander in Chief to deploy troops to protect vital U.S. interests.

Let's assume that the President had invoked the resolution last October, as so many congresspersons were demanding, and Congress had failed to act—a plausible supposition given the makeup of this Congress. The world's most powerful navy then would have been required by provisions of the resolution to sail out of the gulf, leaving a vital oil lifeline for Europe and Japan unprotected from the depredations of a minor tyrant, the Ayatollah Khomeini.

The absense of U.S. leadership would have made even more timid the NATO allies who later joined the U.S. in policing the gulf and would have raised questions about U.S. fitness to lead the alliance. Finally, with carte blanche to prey on shipping, the madman of Qum could have set the gulf ablaze, making the intervention of other gulf nations and a spreading of the Iran-Iraq war a possibility.

The U.S. Navy proved Monday morning that it is fully capable of dealing with the ayatollah. It razed the Sirri and Sasson platforms in the southern gulf, knocking out the command and control radar facilities of the Iranian military that come to bear on the Hormuz Strait choke point. It also sank a patrol boat and damaged two Iranian frigates. This was in punishment for the Iranian mine attack last week on the U.S.S. Roberts.

The American Navy was built for the purpose of carrying out those unpleasant tasks that become necessary to preserve some sort of order for the peaceful nations of the world. It was not built, as some congressmen seem to believe, merely for the purpose of providing jobs in shipyards. The Navy is commanded by the President, who is elected by all the American people and responsible to them. Other than a tortured sermon by Jesse Jackson in New York on behalf of his foreign policy of nothingness, we haven't heard many complaints about events of Monday Morning. That absence says a lot.